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VIA ECFS

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c);
Support of Motions for Summary Denial
WC Docket No. 18-141**

Uniti Fiber submits this letter in support of the Motions for Summary Denial filed in the above-referenced docket ("Motions").¹ Uniti Fiber opposes the anti-competitive proposals in the US Telecom Petition for Forbearance ("Petition"),² which, if adopted, will allow the incumbent LECs to increase prices on the inputs that drive broadband deployment, and even remove the availability of inputs necessary for Uniti Fiber and other competitors to operate their networks.

Uniti Fiber is facilities based competitive network provider. The company deploys cell site backhaul and small cell solutions for the nation's wireless carriers, as well as "wired" data transport, Internet access, and other network solutions. The company currently operates 1.5 million fiber strand miles connecting over 16,000 customers across dozens of states. In addition to serving small businesses, enterprises, and residential customers, we also serve local governments, federal agencies, charities, and first responders. The company is also a leader in the E-Rate program, and connects hundreds of schools and libraries in many rural and remote locations primarily throughout the Gulf Coast region. A look at Uniti Fiber's network map (available at <https://uniti.com/network?map=fiber>) quickly demonstrates the breadth of our network. While we deploy in urban and suburban markets, we also serve many rural and hard to reach areas, many in areas that other providers cannot, or will not serve with high-capacity broadband services. Uniti Fiber relies on unbundled network elements ("UNEs") as a means of supporting the deployment of its network and services.

¹ See *Motion for Summary Denial filed by FISPA, MACC, NTA and INCOMPAS*, WC Docket No. 18-141 (filed Aug. 6, 2018). See also *Motion for Partial Summary Denial and Comments of Cox Communications, Inc.*, WC Docket No. 18-141 (filed Aug. 6, 2018).

² *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) to Accelerate Investment in Broadband and Next-Generation Networks*, WC Docket No. 18-141 (filed May 4, 2018) ("Petition").

Uniti Fiber concurs with the Motions with respect to the legal failings of the USTA Petition, and submits that the Commission should deny the Petition for failing to meet the standards for forbearance relief.

The Petition does not provide supporting data with respect to the product and geographic markets in which CLECs utilize UNEs. Taking the Petition on its face, the Commission is provided scant evidence with which to draw a conclusion on the Category 1 and Category 2 requirements. In fact, the Petition does not even provide a fulsome description of the UNEs at issue or the public interest benefits of its proposals.

Further, the Petition is overbroad. It requests sweeping changes to the telecommunications industry, covering all unbundled elements, but completely lacks the analytical support for those requests. It provides no analysis on an element-by-element basis. It also assumes a nationwide uniformity of the state of competition and the barriers of entry. It does not distinguish between wholesale and retail markets. But the Commission is well-aware that competition (and the barriers to competitive entry) varies widely between geographic areas, as well as between different service markets, and different unbundled elements needed for entry into such markets. The Petition of course also throws away the analytical framework that the Commission has used for decades when reviewing forbearance petitions. Aside from its failure to provide any analysis of the specific elements for which it broadly seeks forbearance relief, the Petition's failure to assess competition in the relevant product as well as specific geographic markets. These are fatal flaws, and each standing alone justifies a summary denial of the Petition.

Finally, the Petition, in part, relies upon the FCC's prior decisions in the *BDS Order*.³ The *BDS Order* didn't find nationwide competition with which to support the Petition's requests. Further, given the Eighth Circuit's recent remand of the portions of the *BDS Order* concerning the TDS transport market,⁴ the Petition's reliance on that portion of that decision is now left wholly unsupported.

Sincerely,



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Uniti Fiber

³ See Petition, at 13.

⁴ See Order, *Citizens Telecomm's Co. of Minn. v. FCC et al.*, Nos. 17-2296, 17-2342, 17-2344 & 17-2685 (8th Cir. Aug. 28, 2018).