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VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Accelerating Wireline Broadband Deployment By Removing Barriers to Infrastructure
Deployment, WC Docket No. 17-84

Dear Ms. Dortch:

The Draft Order in this proceeding¹ threatens to disrupt vital alarm monitoring services and creates an unfair competitive advantage for incumbent local exchange carrier (ILEC) alarm company affiliates competing with ADT and other alarm companies. The tilted playing field results from a confluence of changes in the draft order relating to network change notifications, particularly for copper retirement. These changes will enable ILECs to inform their affiliates of copper retirement or other network changes long before a customer's existing chosen outside provider like ADT would be given notice, providing an unfair head start for the ILEC-affiliated companies to plan for such changes and to engage in marketing campaigns focused on converting and upselling their services.

ADT provides alarm monitoring services for nearly 7 million consumers, many of which are still using traditional TDM services over copper loops. Often, the alarm equipment connected to these copper wires must be replaced or modified when the copper is retired and replaced with fiber or wireless services. Sometimes the alarm equipment is installed incorrectly by the telecommunications provider or the customer, leaving the customer unknowingly unprotected. Under current copper retirement rules, each entity that directly interconnects with an incumbent LEC must be directly notified 180 days in advance, and ADT's residential customers must be directly notified of copper retirement plans 90 days in advance. (Business customers are given 180 days' notice). This affords time for ADT to work with the ILEC and its customers to make

¹ Accelerating Wireline Deployment by Removing Barriers to Infrastructure Investment, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, WC Docket No. 17-84, FCC-CIRC1711-04 (rel. Oct. 26, 2017)(Draft Order).

necessary adjustments to the alarm monitoring equipment without losing service, and allows the customer time to make an informed decision with regard to his or her service.

In addition to providing notice, the current rules also prevent ILECs from unfairly advantaging their affiliated service providers. Section 51.325(c) bars ILECs from disclosing planned network changes to anyone, including their own affiliates, until public notice has been given. Current rules provide additional protections against unfair marketing advantages by requiring ILECs, when they notify their customers that copper wires will be retired, to provide a neutral statement of services and refrain from using this notification as a marketing opportunity. As stated by the Commission when adopting this rule, “the requirement of a neutral statement of product offerings and the prohibition on attempts at upselling in a copper retirement notice are intended to promote the substantial government interest of protecting retail customers, especially vulnerable ones such as the elderly, from aggressive and confusing upselling by incumbent LECs at the same time the carriers are informing those customers of changes in facilities.”²

All of these protections are being swept away or substantially revised in a way that will be highly prejudicial to entities reliant on ILEC networks and also competing with ILEC-affiliated companies in the same line of business. Although the draft order recognizes “the reliance consumers place on the functioning of equipment that connect to incumbent LECs’ legacy networks, such as . . . alarm systems, and health monitoring devices,”³ the order fails to meaningfully grapple with the harm that its rule revisions will cause these consumers and the companies that seek to serve them. In justifying the elimination of direct notification requirements, for example, the draft order seeks to minimize the possibility of disruption by claiming that alarm systems and other devices will continue to function over fiber facilities as long as the ILEC offers TDM-based services over the fiber connection. But this ignores the fact that fiber replacement is typically accompanied by a switch from TDM to IP-based services. This entire proceeding is predicated on advancing the move toward IP services and suggesting that consumers and providers will not be harmed because ILECs may continue to offer TDM services ignores the fundamental goal of the proceeding.

The Draft Order’s justification for eliminating direct notice to entities directly interconnected with ILECs except for telephone exchange service providers similarly misses the mark. The draft order first justifies this revision by claiming that the current rule is overbroad in that it requires notification to entities “not affected by copper retirements.”⁴ The draft order, however, does not explain why elimination of direct notification to entities that are critically effected by copper retirement, such as alarm companies, should not be of concern.

² *In the Matter of Technology Transitions et al.*, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 30 FCC Rcd 9372, 9406, ¶ 58 (2015).

³ Draft Order at ¶ 46.

⁴ Draft Order at ¶ 53.

The Draft Order succinctly states the problem that lack of direct notice creates when explaining the importance of retaining direct notice for telephone exchange service providers:

Because an incumbent LEC's copper retirement could significantly impact an interconnected competitive carrier's ability to continue providing certain services to its customers, [direct notification] remains an important requirement. Requiring every competitive LEC to monitor every notice of network change published by the Commission, as would be necessary absent a direct notice requirement, would be unreasonable for these service providers. Moreover, because we are shortening the notice period for copper retirement today, continuing to require direct notice strikes an appropriate balance between facilitating network changes and the needs of affected interconnecting carriers. Ensuring that interconnecting service providers will continue to receive copper retirement notices directly from incumbent LECs will afford those entities as much time as possible to convey necessary information to their customers who will be impacted by the incumbent's planned copper retirement.⁵

Each and every concern identified above for retaining the direct notice requirement for telephone exchange service providers applies equally to alarm monitoring companies. It is just as "unreasonable" to require alarm companies, many of which are small companies with limited resources, to "monitor every notice of network change" as it is for competing telephone companies. And they are just as affected by the reduction in the notice period from 180 to 90 days as telephone companies. It would be arbitrary and capricious for the Commission to eliminate the direct notice requirement for directly interconnected alarm companies while maintaining it for telephone companies when both are equally impacted by planned copper retirements.

The harm caused by elimination of direct notice is compounded by the Draft Order's removal of the ban on advanced notice of network changes and the elimination of any marketing restrictions. The Draft Order justifies these changes by claiming that it will allow ILECs to engage sooner with competing providers and customers, which would in turn "be especially useful to mitigating concerns raised by certain commenters regarding the impact our revised copper retirement process might have on particular users."⁶ ADT certainly hopes that ILECs will use this new-found ability of early notification to work with ADT and other alarm companies and their customers to ensure a smooth transition. Just as likely, however, the ILEC will simply give advanced notice to its alarm company affiliate while unaffiliated companies like ADT must await public notice, which now would be shortened to 90 days, to begin prepare itself and its customers in the affected region. These preparations could include the identification of effected customers, provision of necessary equipment, hiring technicians needed to deal with the increased workload and communications to impacted customers.

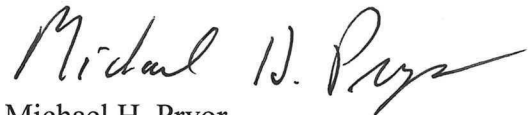
⁵ Draft Order at ¶ 59.

⁶ Draft Order at ¶ 28.

As the Draft Order recognizes, the current ban on advanced notice was designed to prevent ILECs from giving their affiliates "a competitive advantage through early disclosure."⁷ The Draft Order, however, construes this preservation of competition as having relevance only to the long distance market and to equipment manufacturing, neither of which the Draft Order finds requires continuing protection in light of market developments.⁸ The Draft Order, however, wholly ignores the competitive advantage early disclosure would give to other services provided by ILEC affiliates, such as alarm monitoring services. The Draft Order recognizes that ILECs must interact with its customers in advance of retiring copper, but fails to appreciate the advantage that such contacts confer on ILECs eager to upsell their own alarm monitoring or other competing services. There is nothing in the Draft Order to prevent such behavior.

A more level playing field can be restored without wholesale revisions to the Draft Order. The Commission could, for example, lift the ban on providing advanced notice generally, but preclude ILECs from giving advance notice to their affiliates that provide services in competition with unaffiliated service providers reliant on the ILEC's network and that are clearly impacted by copper retirement, such as alarm monitoring companies. ADT respectfully urges the Commission to consider this minor modification to the Draft Order.

Sincerely,



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⁷ Draft Order at ¶ 27.

⁸ Draft Order at ¶ 27.