



November 9, 2017

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: *Accelerating Wireline Broadband Deployment by Removing Barriers to
Infrastructure Investment* (WC Docket No. 17-84)

Dear Ms. Dortch:

On November 8, 2017, Diane Holland (USTelecom), Jeb Benedict (CenturyLink), Fred Moacdieh (Verizon), and Ola Oyefusi (AT&T) met with Lisa Hone, Daniel Kahn, Michele Berlove, Terri Natoli, Zachary Ross, and John Visclosky of the Wireline Competition Bureau to discuss the draft order scheduled for consideration at the Federal Communications Commission's (FCC or Commission) November Open Agenda Meeting in the above-referenced proceeding.¹ We expressed general support for the overall direction taken in the draft order, which if adopted will bring needed predictability and stability to processes that are essential to achieving successful technology transitions and accelerated broadband deployment.

We discussed a recent filing by the National Telecommunications and Information Administration (NTIA) that seeks additional measures "to ensure that the discontinuance and copper retirement processes can accommodate the needs of federal communications users."² We noted that NTIA and Harris Corporation had previously raised these same issues in this and prior proceedings, and observed that the draft item fully considers and addresses them. We also noted that providers regularly – as a matter of business practice and pursuant to contractual requirements – work with customers including federal users to coordinate service or facilities transitions. Thus, there is no need for the Commission to mandate specific information sharing or extended notice or grandfathering procedures to accommodate federal government customers.

We further expressed our support for the draft's proposal to address public safety and mission critical safety concerns on a "case-by-case" basis. We also noted that none of the examples of issues faced by federal government customers cited in NTIA's filing appear to have

¹ *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, FCC-CIRC1711-04 (rel. Oct. 26, 2017) (*Wireline Broadband Agenda Draft*).

² Ex Parte Comments of the National Telecommunications and Information Administration, WC Docket No. 17-84 (Oct. 27, 2017) (NTIA Ex Parte Comments).

resulted in any actual harms; in fact, they demonstrated that parties are typically able to negotiate agreements to maintain mission critical services until a replacement solution can be provisioned.³

We also discussed a filing from the California Association of Competitive Telecommunications Companies (CalTel) asking the Commission to maintain the 180-day notice period for copper retirements and to seek comment on, rather than adopting provisions that allow providers flexibility to deal with emergency conditions due to natural disasters or acts of terrorism (*force majeure* events).⁴ We explained that the draft order correctly concludes that 90 days' notice, coupled with reinstatement of objection procedures, will adequately protect customers, given the public's increased familiarity with the process of migrating from copper to fiber facilities.

We likewise oppose CalTel's request to seek further comment on the Commission's *force majeure* exemption proposal, as there is ample support in the record for granting providers more flexibility to restore service as quickly as possible after an unforeseen event. In response to the staff's question whether AT&T has ever invoked the *force majeure* waiver process and failed to complete a facilities rebuild or repair within 180 days, AT&T states that the Gatlinburg, Tennessee fire event was the first time the waiver process was invoked since it was adopted by the FCC in response to Hurricanes Katrina and Rita. In that case, the restoration was completed within the allotted 180 days, consistent with AT&T's goal to restore facilities as quickly as possible after a disaster. Staff also asked whether CLECs have complained or expressed confusion in response to any of the companies' use of the *force majeure* waiver process. USTelecom and the companies are not aware of any systemic CLEC confusion or complaints relating to *force majeure* notices.

Finally, we addressed a filing by ADT asking the Commission not to grant ILECs relief from section 51.325(c), which bars ILECs from disclosing planned network changes before public notice is given. As an initial matter, ADT apparently is not and does not claim to be an "interconnecting carrier," and thus it is not entitled to direct notice even in instances where its customers are subject to a service discontinuance. Moreover, ADT seems to suggest that service providers should be required to continue to support service functionalities rather than the services described in their tariffs or contracts, a position the draft order squarely – and properly – rejects.⁵

USTelecom also responds to written ex parte filings by Public Knowledge *et al.*⁶ and by the Pennsylvania Public Utility Commission (Pa. PUC).⁷ Public Knowledge largely restates what it previously argued in its comments and in related proceedings, but these arguments have

³ See NTIA Ex Parte Comments at 10, note 27.

⁴ Letter from California Association of Competitive Telecommunications Companies to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84 (Nov. 1, 2017).

⁵ See *Wireline Broadband Agenda Draft* at ¶ 127 (reversing the functionality test for determining whether a service is being discontinued).

⁶ See Written Ex Parte of Public Knowledge *et al.*, WC Docket No. 17-84 (Nov. 9, 2017).

⁷ Letter from the Pennsylvania Public Utility Commission to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84 (Nov. 7, 2017)

Ms. Marlene Dortch

November 9, 2017

Page 3

been appropriately addressed by the Commission in its draft order which, if adopted, would appropriately streamline both copper retirement and service discontinuance processes after adequate notice and consideration. Public Knowledge and the Pa. PUC also encourage the Commission to retain the requirement to notify retail customers and state PUCs, governors and tribal entities of copper retirements. The record shows, and the draft order concludes, that notice to state PUCs, governors, and tribal entities is not necessary to protect customers. Moreover, there is evidence that the retail customer notification requirement has resulted in customer confusion because providers already notify their impacted customers about service discontinuances. These filings ignore the substantial record evidence demonstrating that providers do and will continue to communicate with their customers, often multiple times, when migrating services from copper facilities to fiber.

Sincerely,

A handwritten signature in black ink, appearing to read 'Diane Holland', with a stylized flourish at the end.

Diane Holland
Vice President, Law & Policy

cc: Lisa Hone
Daniel Kahn
Michele Berlove
Terri Natoli
Zachary Ross
John Visclosky