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November 13, 2018

VIA ECFS

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

Re: *Ex Parte Notice: WC Docket No. 18-141*

Dear Ms. Dortch,

On November 8, 2018, the undersigned from INCOMPAS had a meeting with Nirali Patel, Wireline Advisor to Chairman Pai, regarding the above-referenced proceeding.

In the meeting the undersigned discussed the importance of the competition policies at stake in this proceeding to fostering economic growth through technological advancement and the deployment of broadband networks throughout the country. Specially, the competitive provisions of the Telecommunications Act of 1996 are crucial to the provision of faster broadband service to rural, underserved urban, and residential areas;¹ the availability of competitive options for those with lower capacity needs;² the obtainability of more innovative and customized services across the country for schools, libraries, charities, medical facilities and smaller entities often ignored by the incumbent providers;³ and, the option for multi-location customers to have one provider for all locations.⁴ The undersigned also discussed the

¹ See, e.g., Declaration of Jeff Buckingham ¶¶ 2-3 (appended as Attachment 6 to Opposition of INCOMPAS et al., WC Docket No. 18-141 (filed Aug. 6, 2018)) (“INCOMPAS Opposition”) (Digital West relies on UNE loops to provide broadband service to rural parts of San Luis Obispo County where DSL service is not available from the ILEC.); see also, Declaration of Daniel Friesen ¶¶ 2, 4-7 (appended as Attachment 11 to INCOMPAS Opposition) (Using UNE dark fiber transport, IdeaTek builds out fiber loops and offers the only broadband service available in rural communities in south central Kansas in the incumbent territories of AT&T and CenturyLink.); Declaration of Brian Worthen ¶¶ 2, 10-12 (appended as Attachment 13 to INCOMPAS Opposition) (Mammoth relies on UNEs to serve rural communities in Colorado, Wyoming, and Montana, including to hospitals, PSAPs, and local governments as their only route redundant option.); Declaration of R. Matthew Kohly ¶¶ 3, 7-11, 17 (appended as Attachment 16 to INCOMPAS Opposition) (Socket uses UNEs and avoided cost resale to serve rural parts of Missouri, including areas where DSL serve is unavailable from the ILEC.).

² Declaration of Russell Shipley ¶¶ 8-9 (appended as Exhibit 1 to Opposition of U.S. TelePacific Corp., WC Docket 18-141 (filed Aug. 6, 2018)) (“TPx Decl.”); Declaration of Margi Shaw ¶ 18 (appended to Opposition of First Communications, LLC, WC Docket No. 18-141 (filed Aug. 6, 2018)) (“First Communications Decl.”).

³ See, e.g., Declaration of John Hoehne ¶¶ 8-10, 13-15 (appended as Attachment 3 to INCOMPAS Opposition) (“Access One Decl.”).

⁴ Declaration of Larry Antonellis ¶¶ 4, 7 (appended as Attachment A to Opposition of Granite Telecommunications, LLC, WC Docket No. 18-141 (filed Aug. 6, 2018); Access One Decl. ¶ 16; see Declaration of William H. Oberlin

importance of the avoided-cost resale provision to serving multi-location customers that rely on functionality only available in traditional TDM services.

In addition, the undersigned discussed the fact that the competitive provisions of the Act are a valuable tool in the race to 5G. Chairman Pai recently explained that the 5G networks will rely heavily on more densely deployed small cells and the need for “a lot more fiber optic lines to connect all these small cells to the networks’ core.”⁵ As the record shows, unbundled network elements provide a bridge to the build out of fiber networks in rural, underserved urban and residential areas, adding potential sources of supply for that fiber, particularly in predominately residential and light commercial areas. During the meeting, the undersigned referred to charts from an economic study in the record showing that competitors using unbundled network elements as a stepping stone are deploying more fiber in the areas where they operate than the incumbent LEC or cable companies.⁶

The attached image of competing fiber networks in San Francisco illustrates the potential of these competitive carriers in providing the fiber rich networks for fronthauling of small cells in residential areas outside the financial districts. Specifically, Zayo’s publically available network map shows, in blue lines, its reach in business buildings in and around the financial district.⁷ But Sonic Telecom’s network (green and red lines) provides unique reach for the residential portions of the city to the west. As Sonic has explained in the record, Sonic’s fiber deployment is only possible with the use of unbundled network elements as a stepping stone to its fiber build out.⁸

As the Chairman has stated, “infrastructure policy is critical.” The fiber revolution is taking place from the competitive industry, not the incumbents, and it is these competitive fiber builders that will help bridge the digital divide and spur further economic development. A grant of the USTelecom petition would be a drastic reversal from the Commission’s, so far, strong broadband deployment agenda. Moreover, it would lead to a loss of critical services for consumers (from governmental entities to residential customers) across the country. Significantly, thousands of residential and business from various industries, especially small businesses, have expressed concern with the impact forbearance would have on their operations and their ability to grow in their respective marketplaces, noting the faster speed, better quality of service, more affordability, and a willingness to accommodate the unique needs of growing businesses offered by competitors.

¶¶ 4, 8-9 (PRI) (attached as Appendix G to Comments of the Michigan Internet and Telecommunications Alliance, WC Docket No. 18-141 (filed Aug.6, 2018)).

⁵ Ajit Pai, Chairman, FCC, *5G is in reach. But only if we set the right policies*, WASH. POST, September 26, 2018, available at https://www.washingtonpost.com/opinions/5g-is-in-reach-but-only-if-we-set-the-right-policies/2018/09/26/9d5c322e-c1c7-11e8-8f06-009b39c3f6dd_story.html?utm_term=.8024c885ec2c.

⁶ Declaration of William P. Zarakas ¶¶ 5-9 and Tables 1-2 (appended as Attachment 2 to INCOMPAS Opposition).

⁷ The attached map of Zayo’s downtown San Francisco network is taken from Zayo’s website at <https://www.zayo.com/solutions/global-network/building-lists-kmz-files/>, specifically Zayo’s US-Canada network map located at <https://www.zayo.com/wp-content/uploads/2018/02/ZAYO%20US-CANADA%20NETWORK%20EXTERNAL-%202-15-18.kmz.zip>.

⁸ See, e.g., Letter from Julie A. Veach, Counsel to Sonic Telecom, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-141, at 1 (filed Oct. 15, 2018) (“Sonic’s business model—and ability to deploy fiber—relies on the availability of UNEs.”).

Respectfully submitted,

/s/ Karen Reidy

Karen Reidy
Vice President, Regulatory

Attachment

cc: Nirali Patel