

November 15, 2019

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

Re: Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services, WC Docket No. 19-308.

Dear Ms. Dortch:

On November 13, 2019, I spoke via telephone with Austin Bonner, Wireline Advisor to Commissioner Starks. On November 15, 2019 I spoke via telephone with Travis Litman, Chief of Staff to Commissioner Rosenworcel and, separately, with Nirali Patel, Wireline Advisor to Chairman Pai. Each conversation addressed the draft Notice of Proposed Rulemaking¹ (“NPRM”) in the above-captioned proceeding.

I explained that the current UNE regime remains critical to helping competitive providers serve customers and bring competition to the marketplace. Competitive providers often initially use UNEs to serve customers while building their own facilities. Curtailing access to UNEs will reduce competition, hurting consumers, while also impairing the deployment of next generation broadband networks. These fiber networks will be essential for the widespread deployment of 5G wireless networks. The NPRM’s proposals would thus hinder two of the Commission’s goals: 1) promoting deployment of fiber networks, and 2) speedy build-out of 5G wireless networks.

I also explained that the data the Commission collects using Form 477 is unreliable and not granular enough for the agency to make useful or accurate determinations regarding which locations have access to broadband and where competition exists. Similarly, data collected by the Commission’s 2013 Business Data Services data collection is likely to be unhelpful. In fact, leading cable and incumbent telecommunications carriers claimed the 2013 BDS data was already stale and outdated by 2016. The Commission is likely to make significant mistakes and overstate the availability of broadband networks or the existence of competition if it relies on Form 477 data or the BDS data to make decisions regarding revamping the agency’s unbundling obligations.

¹ Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services, WC Docket No. 19-308, *Notice of Proposed Rulemaking*, FCC-CIRC1911-04 (draft rel. Oct. 29, 2019).

Last, I explained that the Commission should not reduce access to UNEs based on the prospect of future competition or the predicted benefits of 5G wireless services. The Commission's prior efforts to predict future competition and justify deregulation based on potential competition have been a failure. Thus, the Commission's determinations regarding whether markets are competitive and whether unbundling obligations can be removed should be based on actual competition, not the specter of potential competition.

In accordance with Section 1.1206(b) of the Commission's rules, this letter is being filed with your office. If you have any further questions, please contact me at (202) 861-0020.

Respectfully submitted,

/s/ Phillip Berenbroick

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cc: Travis Litman
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