



8951 Complex Drive
San Diego, CA 92123

Via ECFS

December 3, 2018

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

Re: USTelecom Forbearance Petition, WC Docket No. 18-141

Dear Ms. Dortch:

U.S. TelePacific Corp., Mpower Communications Corp., and Arrival Communications, Inc. all d/b/a TPx Communications ("TPx") file this ex parte letter regarding the lack of information about commercial arrangements that incumbent local exchange carriers ("LECs") intend to offer if the Commission grants forbearance from legacy unbundled network element ("UNE") and resale obligations.

Competitive LECs rely on UNEs and resold services to provide millions of voice and broadband connections.¹ AT&T has stated on the record that it will "begin discussions [as early as November] with wholesale customers on a proposed commercial product to replace DS0 unbundled loops."² CenturyLink also has indicated a willingness to discuss commercial replacement products but has not offered a timetable. TPx commits that it will negotiate in good faith with AT&T and CenturyLink when their baseline proposals are made available to the industry.

AT&T and CenturyLink stand in stark contrast to Verizon and Frontier. Both carriers have told TPx that they will not offer any such details until *after* the Commission grants USTelecom's Petition.

The Commission cannot make a reasoned analysis of the impact forbearance would have on competition, or determine whether granting forbearance would be in the public

¹ See Opposition of U.S. TelePacific Corp., Mpower Communications Corp., and Arrival Communications, Inc., WC Docket No. 18-141, p. 23 (filed Aug. 6, 2018) ("TPx Opposition"). See also U.S. TelePacific Corp., Mpower Communications Corp., and Arrival Communications, Inc. Support for Motion for Summary Denial, WC Docket No. 18-141, p. 6 (filed Sept. 5, 2018) ("TPx Summary Denial Support").

² Letter from Jacquelyne Flemming, AVP-External Affairs/Regulatory, AT&T Services, Inc. to Ms. Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 18-141 (filed Oct. 15, 2018).

interest, without evaluating the incumbent LECs' planned post-forbearance offerings.³ The refusal of Verizon and Frontier to provide those offerings while asking the FCC to eliminate their competitors' statutory right to access UNEs according to a defined pricing methodology shows that if the Petition is granted they will flex their market power to impose drastic price increases. Competitive providers will have little option but to pass those costs on to their end users for the simple reason competitive alternatives do not exist for UNE loops and resold services. The Commission should not forget that the initial filing requested that the **FCC increase** what competitors pay for the equivalent of UNEs by 15 percent in what the ILECs argue is a competitive market. It defies the laws of economics that a 15 percent rate increase would occur in a truly competitive market.

The Commission should mandate that the incumbent LECs submit their baseline offerings to the industry and the FCC for review. That deadline should give the Commission and wholesale customers at least a few months to evaluate the potential impact of the post-forbearance terms. TPx also recommends that the Commission exercise its right to extend the statutory period to review the Petition by the full three months.⁴

Sincerely,

A handwritten signature in black ink, appearing to read "Craig Maloof", is written over a horizontal line.

Craig Maloof
Vice President Network Planning

**U.S. TelePacific Communications
Corp., Mpower Communications Corp,
and Arrival Communications, Inc. all
d/b/a TPx Communications**

³ See Reply Comments of U.S. TelePacific Corp., Mpower Communications Corp., and Arrival Communications, Inc., WC Docket No. 18-141, p. 15-16 (filed Sept. 5, 2018). See also TPx Summary Denial Support, p. 6 (stating that the Commission will be left to make an uninformed judgment as to whether wholesale and retail rates will remain just and reasonable if it were to grant forbearance); Opposition of Access Point, Inc., BullsEyeTelecom, Inc., Matrix Telecom, LLC dba Impact Telecom, New Horizon Communications Corp., and Xchange Telecom LLC, WC Docket No. 18-141, pp. 5-6 (filed Aug. 6, 2018) (stating that absent information about replacement commercial services and prices "it is impossible for the Commission to conduct a meaningful cost-benefit analysis").

⁴ See 47 U.S.C. § 10.



8951 Complex Drive
San Diego, CA 92123

cc (via e-mail): Sue McNeil
Eric Ralph
Michelle Berlove
Terri Natoli
Daniel Kahn
Claudia Pabo
Shelby Martin
Megan Capasso
Arielle Roth
Travis Litman
Jamie Susskind
Nirali Patel
William P. Hunt, Esq.
Tamar E. Finn, Esq.