

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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| In the Matter of |) | |
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| Technology Transitions |) | GN Docket No. 13-5 |
| |) | |
| USTelecom Petition for Declaratory Ruling That Incumbent Local Exchange Carriers Are Non-Dominant in the Provision of Switched Access Services |) | WC Docket No. 13-3 |
| |) | |
| |) | |
| Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers |) | RM-11358 |
| |) | |
| |) | |

**OPPOSITION OF USTELECOM
TO PETITION FOR RECONSIDERATION OR CLARIFICATION OF THE
NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION**

USTelecom opposes the petition¹ filed by the National Telecommunications and Information Administration (NTIA) seeking reconsideration of the Federal Communications Commission’s (FCC or Commission) *Second Report and Order* in the above-referenced dockets.² Although NTIA claims to fully support “tech transitions,” it proposes additional Commission actions that could, if implemented, strike a significant blow against the progress of such transitions by making it more complicated, timely, and costly for providers to discontinue antiquated legacy services and replace them with newer services utilizing next-generation technologies that are necessary to support the nation’s current and future telecommunications needs. NTIA’s suggestions and proposals are not necessary to safeguard federal government

¹ Petition for Reconsideration or Clarification of the National Telecommunications and Information Administration, GN Docket No. 13-5, WC Docket No. 13-3, RM-11358 (filed Oct. 12, 2016) (Petition).

² *Technology Transitions, et al.*, 31 FCC Rcd 8283 (2016) (*Technology Transitions Order*).

agencies against the “particular challenges [they face] as customers of telecommunications services”³ and are otherwise unwarranted because they create burdens for providers that are not outweighed by any practical benefits.

I. CONCERNS ABOUT ANY GOVERNMENT AGENCY EXPERIENCING SERVICE DISRUPTIONS WITHOUT WARNING ARE UNWARRANTED.

In general, any concerns about a federal government agency experiencing service disruptions without reasonable warning are unwarranted. In practice, no provider would jeopardize upsetting or losing a government customer. Moreover, in the normal course of business, carriers discuss service changes that will impact their government customers well before the changes are implemented. Further, even if a provider receives authority to discontinue or reduce a particular service, there may still be contractual requirements that would govern how a particular government customer is handled. These contractual specifications are often specifically negotiated to best meet the particular needs of the government agency or situation. Thus, the Commission need not try to incorporate any customer-specific requirements into its discontinuance framework.

We also note that the adequate replacement framework will only apply to applicants seeking streamlined treatment for a voice service discontinuance in connection with a technology transition (e.g. wireline-to-wireless or TDM-to-IP). In all other cases, the FCC will still apply its 5-factor test to weigh whether a service may be discontinued under the existing auto-grant process, ensuring that federal government agencies and other customers will have the same notice and other safeguards as they would have in the normal course.

³ Petition at 2.

II. THE COMMISSION NEED NOT CLARIFY THE TERM “LEGACY VOICE SERVICE” IN THIS PROCEEDING.

In its Petition, NTIA asks the Commission to clarify the term “legacy voice service,” which it states is undefined except for the statement that it does not include “legacy data services.”⁴ The term is self-explanatory, and we find it to be sufficiently clear for providers and their customers to determine what services are potentially subject to the new adequate replacement framework. For example, the Commission acknowledges “the special and long-standing importance of voice service to consumers” in explaining its choice of terminology.⁵ Moreover, the Commission has consistently referred to existing voice services that use TDM technology as “legacy,” and there is no need to think it has imported some other meaning into that term for this purpose.

The Commission further explains that a technology transition is implicated with “applications seeking to discontinue a legacy TDM-based voice service as part of a transition to a new technology, whether IP, wireless, or another type.”⁶ Thus, to the extent the services identified by NTIA involve, for example, data services, they are expressly outside the scope of the new requirements.⁷

Most importantly, applicants for discontinuance are required to describe the service they seek to discontinue with specificity, so the Commission need not clarify or modify this term to enumerate specific services. NTIA and any other party that has a genuine question of fact about whether a particular service is a “legacy voice service” can address that question in the context of

⁴ Petition at 6.

⁵ *Technology Transitions Order* at ¶ 64, n.173.

⁶ *Id.* at ¶ 64.

⁷ Other services outside the scope of section 214 (e.g., intrastate services) likewise would not be included in the definition of legacy voice service.

a particular discontinuance proceeding, or is free to seek a declaratory ruling or other Commission guidance to that effect.

III. THE COMMISSION NEED NOT EXPAND THE LIST OF LOW-SPEED MODEM DEVICES SUBJECT TO THE ADEQUATE REPLACEMENT FRAMEWORK.

There is no need to expand the enumerated list of “widely adopted low-speed modem devices” that applicants for discontinuance must demonstrate are interoperable with a replacement service.⁸ In response to comments in the record, the Commission recognized that there may be other applications and functionalities for which interoperability is critical, and in response balanced the need for interoperability with the practical need and desire not to unduly inhibit technology transitions. Moreover, its requirement for limited interoperability until 2025 signaled its commitment not to sacrifice technology transitions in favor of enabling consumers and businesses to avoid much-needed upgrades of their end-user equipment. Additionally, by directing the Office of Engineering and Technology to propose additions to the device list, the Commission has given NTIA and others the ability to seek to expand the list for specific devices that are not enumerated in the order.

It is important to keep the list of enumerated devices narrow to ensure that providers have predictability in planning their service transitions. For that reason, the Commission deliberately chose only to require compatibility for “widely available” devices. It would be obstructionist and overly burdensome to saddle providers with having to know or predict every possible device its customers might put to use with its service, no matter how specialized or obscure. The more rational outcome would be to encourage all voice service customers, including federal government agencies, to update and upgrade their equipment, which will be increasingly

⁸ *Technology Transitions Order* at ¶ 159.

important for reasons including security and privacy as more and more aspects of our lives become interconnected and dependent on IP-based technologies.

IV. THE COMMISSION SHOULD PRESERVE LIMITED TESTING FOR SMALL CARRIERS.

The Commission’s decision to provide smaller carriers with more flexibility in how they demonstrate network performance requirements is well-supported in the record. The Commission, for example, found concerns raised about burdensome testing to be credible enough to balance that burden against the need to ensure that new services meet customers’ needs.⁹ At the same time, the Commission encouraged smaller carriers to nevertheless share with the Commission any probative information regarding their network performance, and there is no reason to believe such carriers will not comply with this request. Because any performance issues can be addressed between smaller carriers and their customers as part of the notice process, there is no compelling need for the Commission to reverse itself on this aspect of its decision.

V. THE COMMISSION NEED NOT MANDATE INCREASED COMMUNICATION BETWEEN CARRIERS AND FEDERAL AGENCIES.

Regarding NTIA’s final request that the Commission use its public interest review authority to “encourage greater communication between carriers and federal agencies,”¹⁰ you will likely find no voice service provider that disputes the notion that communication with, notification to, and transparency for its customers are shared goals. After all, these are all hallmarks of a good customer service relationship. Good communication is not only necessary for customers, but is in the best interest of providers who recognize that unsatisfied customers

⁹ *See id.* at ¶ 110.

¹⁰ Petition at 12.

will not likely be happy (or long-term) customers. Meeting these and other customer service goals is no less important in the context of a voice service discontinuance; especially for government customers who typically have multiyear contracts for a large volume of services with built-in additional communication and notification obligations. It is therefore unnecessary for the Commission to mandate any specific changes to the current notice process to accommodate federal government agencies or other customers.

For the reasons set forth herein, the Commission should deny NTIA's Petition.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Karen Rena Stephens, hereby certify that on December 8, 2016, I caused a copy of the foregoing *Opposition of USTelecom* to be served by electronic mail to the following:

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