

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

In the Matter of	)	
	)	
Ensuring Customer Premises Equipment Backup Power for Continuity of Communications	)	PS Docket No. 14-174
	)	
Technology Transitions	)	GN Docket No. 13-5
	)	
Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers	)	RM-11358
	)	
Special Access for Price Cap Local Exchange Carriers	)	WC Docket No. 05-25
	)	
AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services	)	RM-10593
	)	

**COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION**

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February 5, 2015

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Competitive Carriers Association (“CCA”) hereby submits these comments in response to the *Notice of Proposed Rulemaking and Declaratory Ruling* (“NPRM”) issued in the above-captioned dockets.<sup>1</sup> CCA represents the interests of more than 100 competitive wireless carriers, many of which are small carriers who serve otherwise underserved portions of rural America. CCA also represents almost 200 associate members who include vendors and suppliers that

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<sup>1</sup> *Ensuring Customer Premises Equipment Backup Power for Continuity of Communications; Technology Transitions; Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers; Special Access for Price Cap Local Exchange Carriers; AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, Notice of Proposed Rulemaking and Declaratory Ruling, PS Docket No. 14-174, GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593, 29 FCC Rcd 14968 (2014) (“NPRM”).

provide products and services throughout the mobile communications supply chain. CCA focuses its comments on updates to the Commission's regulations that are needed to facilitate the transition from legacy time-division multiplexing ("TDM") technology to all-Internet Protocol ("IP") networks and services, as well as the importance of avoiding the imposition of unnecessary customer premises equipment ("CPE") backup power requirements.

## **INTRODUCTION AND SUMMARY**

CCA welcomes this opportunity to comment on the Commission's oversight of the ongoing TDM-to-IP transition, and applauds the Commission's focus on the need to protect competition, particularly with respect to competitive carriers' continued access to interconnection and wholesale inputs both during and after the transition. CCA's members are significant purchasers of high-capacity telecommunications services, given the need to backhaul traffic from cell sites to mobile switches. CCA therefore has a vital interest in ensuring that procompetitive rules remain in place to enable competitive carriers to offer cost-effective solutions to mobile service providers.

As reflected in CCA's previous submissions in this proceeding, CCA has long supported the transition from legacy telecommunications facilities to IP-based networks, including the technology transition experiments authorized by the Commission's *2014 Technology Transitions Order*, to facilitate more efficient interconnection arrangements between incumbent local exchange carriers ("ILECs") and competitive carriers. At the same time, CCA has emphasized the need to ensure that ILECs do not use the deployment of IP networks and services as a means to stymie competition. CCA therefore has sought Commission confirmation, as a threshold matter, that the technology-neutral interconnection and arbitration provisions under Sections 251 and 252 of the Communications Act of 1934, as amended (the "Act") continue to apply to ILECs

notwithstanding any reliance on IP technology. CCA urges the Commission to provide this confirmation in any order it adopts in this proceeding.

CCA further agrees that the Commission should update the regulatory processes relevant to the transition to IP technology—namely, the service discontinuance and network change rules. As the NPRM appropriately recognizes, these rules are outdated and inadequate to address the serious concerns facing competitive carriers that are interconnected with, and rely on, the ILECs' networks.

Finally, CCA urges the Commission to ensure that any battery backup requirement for CPE does not inhibit the convenience and functionality of services and equipment consumers demand today.

## DISCUSSION

### I. THE COMMISSION SHOULD CONFIRM THAT THE INTERCONNECTION AND ARBITRATION MANDATES OF SECTIONS 251 AND 252 APPLY DURING AND AFTER THE TDM-TO-IP TRANSITION

Despite recognizing the technology-neutral nature of the obligations set forth in Sections 251 and 252,<sup>2</sup> the Commission declined to resolve the “legal issues around interconnection” in the *2014 Technology Transitions Order*.<sup>3</sup> As a result, significant uncertainty remains for competitive carriers and their customers regarding their ability to obtain IP-based interconnection and services from ILECs on reasonable terms and conditions. As the

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<sup>2</sup> *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 ¶ 1342 (2011) (“*USF/ICC Transformation Order and FNPRM*”) (finding that the requirements of Section 251 “do not vary based on whether one or both of the interconnecting providers is using TDM, IP, or another technology in their underlying networks”); *see also id.* ¶¶ 1011, 1352.

<sup>3</sup> *Technology Transitions et al.*, Order, Report and Order and Further Notice of Proposed Rulemaking, Report and Order, Order and Further Notice of Proposed Rulemaking, Proposal for Ongoing Data Initiative, 29 FCC Rcd 1433 ¶ 61 (2014) (“*2014 Technology Transitions Order*”).

Commission prepares for the long-term transition from TDM to IP-based networks and services, now is the time to eliminate such uncertainty for competitive carriers and their customers—whose businesses rely on interconnection with ILECs—by making clear that Sections 251 and 252 apply fully to IP-to-IP interconnection.<sup>4</sup>

The record before the Commission leaves no doubt regarding the scope of Sections 251 and 252, and thus the Commission’s authority to confirm that the provisions apply to IP-to-IP interconnection is clear. As CCA and other parties have shown, the language of Sections 251 and 252 plainly applies to the interconnection of voice networks and the exchange of voice traffic between telecommunications carriers irrespective of the technology they use.<sup>5</sup> In fact, the requirements of Sections 251(a), (b), and (c) are technology-neutral and thus apply fully to carriers’ IP-based telecommunications networks and traffic.<sup>6</sup>

The Commission itself has recognized that the interconnection obligations set forth in Section 251 “do[] not depend upon the network technology underlying the interconnection,

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<sup>4</sup> Mobile competitive carriers face incredible uncertainty in today’s market, including, most pressing for rural carriers, whether the FCC will preserve and protect investment in rural America through robust universal service funding that maintains and expands mobile broadband service in high-cost parts of the country. *See* Comments of Competitive Carriers Association, WT Docket No. 10-208, WC Docket Nos. 10-90, 14-58, 07-135, CC Docket No. 01-92 (filed Aug. 8, 2014); Reply Comments of Competitive Carriers Association, WT Docket No. 10-208, WC Docket Nos. 10-90, 14-58, 07-135, CC Docket No. 01-92 (filed Sept. 8, 2014).

<sup>5</sup> *See, e.g.*, Reply Comments of Competitive Carriers Association, GN Docket Nos. 12-5, 12-353, at 4-5 (filed Aug. 7, 2013) (“CCA Reply Comments”); Letter from Ross Lieberman, ACA, Karen Reidy, COMPTTEL, Rebecca Murphy Thompson, CCA, and Catherine R. Sloan, CCIA, to Marlene H. Dortch, FCC, GN Docket No. 12-353 (filed Mar. 21, 2013); Comments of Cablevision Systems Corporation, GN Docket No. 12-353, at 6-7 (filed Jan. 28, 2013).

<sup>6</sup> 47 U.S.C. §§ 251(a)-(c).

whether TDM, IP, or otherwise.”<sup>7</sup> Similarly, the Commission held several years ago that IP-based voice traffic is “‘telecommunications’ traffic, regardless of whether retail interconnected VoIP service were to be classified as a telecommunications service or information service.”<sup>8</sup>

The Commission also has held that competitive LECs may obtain interconnection for the specific purpose of routing IP-originated and IP-terminated telephone exchange and exchange access traffic and that the *retail* classification of a particular service has no bearing on carriers’ *wholesale* interconnection obligations.<sup>9</sup> Moreover, the record makes clear that ILECs cannot rely on separate affiliates to evade their statutory obligations under Sections 251 and 252.<sup>10</sup>

ILECs thus have no basis to claim that their ongoing transition to all-IP networks and services

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<sup>7</sup> *USF/ICC Transformation Order and FNPRM* ¶ 1011; *see also id.* ¶¶ 1342, 1352 (confirming technology-neutral nature of Section 251 obligations).

<sup>8</sup> *Connect America Fund et al.*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 26 FCC Rcd 4554 ¶ 615 (2011) (emphasis added) (*citing Universal Service Contribution Methodology et al.*, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518 ¶¶ 39-41 (2006)).

<sup>9</sup> *See Petition of CRC Communications of Maine, Inc. and Time Warner Cable Inc. for Preemption Pursuant to Section 253 of the Communications Act, as Amended*, Declaratory Ruling, 26 FCC Rcd 8259 ¶ 26 (2011); *Time Warner Cable Request for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection Under Section 251 of the Communications Act of 1934, as Amended, to Provide Wholesale Telecommunications Services to VoIP Providers*, Memorandum Opinion and Order, 22 FCC Rcd 3513 ¶ 15 (WCB 2007).

<sup>10</sup> *See Ass’n of Commc’ns Enters. v. FCC*, 235 F.3d 662, 666-67 (D.C. Cir. 2001), *amended by Ass’n of Commc’ns Enters. v. FCC*, No. 99-1441, 2001 U.S. App. LEXIS 1499 (D.C. Cir. Jan. 18, 2001) (“[T]o allow an ILEC to sideslip § 251(c)’s requirements by simply offering telecommunications services through a wholly-owned affiliate seems to us a circumvention of the statutory scheme.”); *id.* at 667 (rejecting the use of “the successor and assign *limitation* as a form of legal jujitsu to justify ... *relaxation* of § 251(c)’s restrictions”); *see also* CCA Reply Comments at 5; Comments of Cox Communications, Inc., GN Docket Nos. 12-353, 13-5, at 3 (filed Dec. 22, 2014); Letter from Howard J. Symons, Counsel to Cablevision Systems Corp., to Marlene H. Dortch, FCC, WC Docket No. 10-90 *et al.*, at 2-5 (filed Oct. 20, 2011) (citing the Act and D.C. Circuit and Commission precedent, all of which lead to the “inevitabl[e] ... conclusion that ILEC IP affiliates should be treated as ILECs for purposes of section 251(c)”).

somehow should relieve them of their basic interconnection obligations, and the Commission should confirm as much.

Likewise, the policy rationale for the interconnection mandates and arbitration provisions of Sections 251 and 252 remains as strong as ever. Sections 251 and 252 were founded on concerns over the ability of ILECs to exercise market power and undermine voice competition as a result of their ubiquitous networks. The Commission therefore has recognized that “[f]or competition to thrive, the principle of interconnection . . . needs to be maintained,”<sup>11</sup> and it has declined to relieve dominant carriers of their basic interconnection obligations, even in areas where robust facilities-based competition between ILECs and cable telephony providers has emerged.<sup>12</sup>

The ubiquity of ILEC networks remains unique, and because competitive LECs cannot come close to matching the geographic coverage of the ILECs’ networks, access to those networks remains critical to maintaining the competitive developments made possible under the Telecommunications Act of 1996. In short, the Commission is on solid ground, both as a legal and a policy matter, to conclude that ILECs’ obligations under Sections 251 and 252 continue to apply to traffic delivered in IP format. The Commission therefore should dispel any lingering doubt and find that ILECs must continue to satisfy these obligations during and after the TDM-to-IP transition.

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<sup>11</sup> FCC, Omnibus Broadband Initiative, *Connecting America: The National Broadband Plan*, at 49 (2010).

<sup>12</sup> See, e.g., *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160 in the Omaha Metropolitan Statistical Area*, Memorandum Opinion and Order, 20 FCC Rcd 19415 ¶ 86 (2005) (“*Qwest Forbearance Order*”) (recognizing that, even though the emergence of facilities-based competition in Omaha justified forbearance from unbundling requirements, granting forbearance from interconnection requirements would be inappropriate because the ILEC, as “the only carrier . . . [with] a ubiquitous network,” would retain “the ability to exercise market power over interconnection”).

## **II. THE COMMISSION SHOULD TAKE STEPS TO ENSURE THAT ILECS DO NOT USE THE TDM-TO-IP TRANSITION TO UNDERMINE COMPETITION**

In addition to documenting ILECs' refusal to enter into more efficient, cost-effective IP-to-IP interconnection agreements pursuant to Sections 251/252, numerous stakeholders have expressed serious concerns that ILECs will use the TDM-to-IP transition as an opportunity to engage in practices that undermine competition.<sup>13</sup> The Commission's current service discontinuance and network change rules could facilitate such anticompetitive practices, as the rules do not address the needs of competitive carriers that rely on wholesale access to ILEC networks and services. CCA therefore urges the Commission to update its rules to preserve competition and provide greater transparency and certainty to competitive carriers. *First*, the Commission should adopt the proposed "equivalency" standard for ILECs that discontinue legacy wholesale services—*i.e.*, such ILECs should be required to offer equivalent IP-based wholesale service on equivalent rates, terms, and conditions. *Second*, the Commission should adopt a bright line rule that requires all ILECs—in all cases—to seek authority before discontinuing TDM-based wholesale service. *Third*, the Commission should update its notice and certification requirements applicable to network changes and service discontinuances to account for the needs of competitive LECs and their customers.

### **A. The Commission Should Require ILECs To Offer Equivalent IP-based Wholesale Service on Equivalent Rates, Terms, and Conditions.**

Perhaps the greatest uncertainty facing competitive LECs in the context of the TDM-to-IP transition relates to the IP wholesale services that will replace the ILECs' TDM-based

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<sup>13</sup> See, e.g., Comments of Competitive Carriers Association, GN Docket Nos. 13-5, 12-353, WC Docket No. 13-97 (filed Mar. 31, 2014) ("CCA AT&T IP-Transition Trials Comments") (describing AT&T's refusal to provide information regarding its continuing provision of wholesale services during and following its proposed IP transition trial); NPRM ¶¶ 57, 106 (describing concerns of competitive LECs).

wholesale services. As the NPRM acknowledges, “[c]ompetitive LECs are concerned that, if incumbent LECs discontinue TDM-based services in the transition from TDM to IP-based services, competitive LECs will lose the ability to access last-mile facilities necessary to serve their customers.”<sup>14</sup> These fears are not idle; CCA and other stakeholders have detailed how existing ILEC transition proposals—including those proposals submitted *after* the Commission adopted the *2014 Technology Transitions Order*, which requires ILEC IP-transition trials to maintain wholesale access—lack specific information regarding the IP-based alternatives that the ILECs intend to offer during and after the proposed transition.<sup>15</sup>

Competitive carriers, as well as their customers, need certainty that the wholesale inputs on which they rely to serve end users will continue to be available on a seamless and uninterrupted basis during and following the transition to all-IP networks and services. CCA therefore applauds the Commission’s commitment that the TDM-to-IP transition “must not harm or undermine competition” and its proposals to ensure continued wholesale access to the ILECs’ networks.<sup>16</sup> In particular, CCA supports the NPRM’s proposal to require ILECs seeking authority to discontinue TDM-based wholesale service to offer “equivalent wholesale access on

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<sup>14</sup> NPRM ¶ 106.

<sup>15</sup> *See, e.g.*, CCA AT&T IP-Transition Trials Comments at 3 (explaining that AT&T’s proposed IP-transition trial “fails to provide the specific details that must be evaluated to ensure that competitive carriers that interconnect with AT&T and obtain wholesale inputs will be protected during and after the transition to IP”); *Ex Parte* Letter from Windstream Communications, Inc., to Marlene H. Dortch, FCC, GN Docket No. 13-5, WC Docket No. 15-1, at 1 (filed Jan. 7, 2015) (explaining that Windstream objects to Cincinnati Bell’s proposed migration from copper to fiber infrastructure due to the ILEC’s refusal to provide “any assurances that it will continue to make available DS1 capacity unbundled loops”). *See also* Comments of Cox Communications, Inc., GN Docket Nos. 12-353, 13-5, at 4 (filed Dec. 22, 2014) (explaining that CenturyLink’s IP-transition trial proposal attempts “to exempt [CenturyLink] from existing regulatory obligations insofar as it attempts to place IP interconnection agreements outside the technology-neutral Section 251/252 framework established by Congress”).

<sup>16</sup> NPRM ¶ 110.

equivalent rates, terms, and conditions.”<sup>17</sup> CCA also supports the principles proposed by Windstream as a way to ensure an objective evaluation of whether an ILEC’s IP replacement services satisfy the equivalency standard.<sup>18</sup>

Such basic obligations would ensure that ILECs do not use the TDM-to-IP transition as an opportunity to degrade, or deny access to, critical wholesale inputs on which their competitors rely, and thus will be key to preserving the competitive marketplace. For example, the retail wireless services offered by CCA’s members rely on cellular backhaul, special access, and other high-capacity telecommunications services provided by competitive LECs. In some cases, ILECs are unwilling to offer these services on reasonable terms and conditions to small and medium-sized businesses like CCA’s members. The ability of competitive LECs to access wholesale inputs from ILECs not only fosters competition between *wireline competitive carriers* and ILECs, but also enables *wireless service providers* such as CCA’s members to compete with the wireless offerings of the ILECs’ affiliates.

Moreover, whether the Commission adopts the equivalency standard as an affirmative rule or a condition authorizing discontinuance, the obligation to offer equivalent IP replacement service should not be time limited.<sup>19</sup> As discussed above, ILECs continue to possess significant market power in light of their uniquely ubiquitous networks, and such market power is particularly prevalent in the marketplace for wholesale connectivity.<sup>20</sup> And as the *NPRM* notes, “the overwhelming majority of competition in the business broadband market comes from

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<sup>17</sup> *Id.* ¶ 110.

<sup>18</sup> *Id.* ¶ 111.

<sup>19</sup> *See id.* ¶¶ 110-11 (seeking comment on whether ILECs’ obligations should be “indefinite” or “dependent upon the outcome of [the] special access proceeding”).

<sup>20</sup> *See Qwest Forbearance Order* ¶ 86.

competitive carriers that rely substantially on last-mile inputs from the incumbent LEC.”<sup>21</sup> In light of such marketplace realities, it would be unproductive and burdensome for the Commission to place an artificial time limit on ILECs’ obligations to offer equivalent IP replacement services, only to force competitive LECs to seek repeated extensions of such obligations that the Commission (or Wireline Competition Bureau) inevitably would find warranted. The Commission instead should adopt the equivalency standard for an indefinite duration and remove it only when ILECs can demonstrate that they lack sufficient market power to dominate the wholesale marketplace.

**B. The Commission Should Require ILECs To Obtain Authority To Discontinue TDM-based Wholesale Service in All Cases.**

The NPRM proposes to adopt a rebuttable presumption “that where a carrier seeks to discontinue, reduce, or impair a wholesale service, that action will discontinue, reduce, or impair service to a community or part of a community such that approval is necessary pursuant to section 214(a).”<sup>22</sup> Although CCA certainly agrees with the goal animating the proposal, CCA submits that, rather than a rebuttable presumption, the Commission should adopt a bright line rule that requires ILECs to seek prior Commission approval in *any* situation involving the discontinuance of TDM-based wholesale service.<sup>23</sup>

The discontinuance of a wholesale service inevitably impacts end users, because a competitive LEC purchases wholesale service from an ILEC either to serve end users on its own,

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<sup>21</sup> NPRM ¶ 106 (*quoting* Letter from Angela Kronenberg, COMPTel, to Marlene H. Dortch, FCC, GN Docket No. 13-5 *et al.*, at 5 (filed Apr. 2, 2014)).

<sup>22</sup> *Id.* ¶ 103.

<sup>23</sup> In particular, the use of a rebuttable presumption essentially shifts the burden onto the receiving party to challenge the ILEC’s determination that there is no impact on retail customers. *See id.* The approach proposed by CCA above not only provides more certainty, but also places the burden (and costs) of making this showing on the ILEC—where it properly belongs.

or to sell connectivity to downstream service provider(s) that is then used to offer service to end users. By way of example, competitive LECs routinely utilize wholesale access to ILEC networks not only to facilitate their own retail offerings to end users, but also to provide cellular backhaul, special access, and other services to wireless providers, including CCA's members. These services are critical to the retail wireless offerings of CCA's members. Discontinuing a TDM-based wholesale service necessarily "discontinue[s] . . . service to a community[] or part of a community"—whether directly or indirectly—thus requiring prior Commission authorization under Section 214(a) in all situations.<sup>24</sup>

CCA also is concerned that a mere rebuttable presumption would create needless uncertainty and risk for competitive carriers and their customers. Because wholesale service inevitably is used to serve end users, as discussed above, the Commission should not leave it up to an ILEC to assess whether and how discontinuance of a wholesale service will affect retail customers. ILECs could rely on such discretion (together with willful ignorance of the retail services dependent on access to the wholesale inputs they provide) as a pretext to circumvent the application process and discontinue service prematurely. In such cases, even if the Commission subsequently determined that the ILEC should have sought discontinuance authority, the damage to competition already would have been done in the form of degraded service or a lapse in service.

**C. The Commission Should Require ILECs To Provide Adequate Notice to Competitive LECs in Advance of Retiring Copper Facilities or Discontinuing TDM-based Service.**

The Commission's rules related to network changes and service discontinuances are not sufficient to enable competitive LECs to prepare for an ILEC's broad-scale transition to an all-IP

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<sup>24</sup> 47 U.S.C. § 214(a).

network, as the NPRM implicitly recognizes.<sup>25</sup> The Commission therefore should update its notice requirements to ensure that competitive LECs and their customers are not harmed by the retirement of copper facilities or the discontinuance of TDM-based services.

*Copper Retirement.* CCA supports the NPRM’s proposal to adopt more robust notice requirements applicable to network changes. CCA urges the Commission to require ILECs to provide a minimum of 180 days’ advance notice of any planned copper retirements.<sup>26</sup> Relatedly, CCA supports the Commission’s proposal to require ILECs to prepare and submit annual forecasts of expected copper retirements.<sup>27</sup> In some cases, even 180 days may not provide competitive carriers with sufficient lead time to make the upgrades or reconfigurations necessary to complete a seamless transition to IP-based service, or to make alternative arrangements. The Commission therefore should consider requiring ILECs to include a planned copper retirement in an annual forecast *before* giving individual notice to affected carriers under Part 51 of the Commission’s rules.<sup>28</sup> But at a minimum, the Commission should require ILECs to complete annual forecasts and to make the forecasts available to competitive LECs with which they are interconnected.

As for the content of each notice, CCA agrees that notice of a network change should include “a description of the expected impact of the planned changes” that is specific to each competitive LEC customer, as well as notice of any “changes in prices, terms, or conditions that

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<sup>25</sup> See NPRM ¶¶ 58-59 (stating that “[c]ompetitive providers require adequate notice in order to plan for the elimination of copper-based facilities” and seeking comment on whether the existing 90-day notice requirement for network changes “should be extended”).

<sup>26</sup> *Id.* ¶ 59.

<sup>27</sup> *See id.* ¶ 57.

<sup>28</sup> *See* 47 C.F.R. § 51.325 *et seq.*

will accompany [the network retirement].”<sup>29</sup> In addition, CCA submits that each notice should provide the name, telephone number, and email address of a contact person who will be responsible for acting as a liaison throughout the transition and to whom the competitive LEC may address questions and/or identify potential issues or disputes.<sup>30</sup> CCA also urges the Commission to adopt the *NPRM*’s proposal to require incumbent LECs to certify that they have complied with all applicable regulatory requirements associated with copper retirement. As part of such certification, ILECs should include a copy of (i) each written notice provided, and (ii) a certificate of service for each carrier notified.<sup>31</sup>

*Discontinuance.* In the same vein, CCA urges the Commission to adopt appropriate notice requirements in the discontinuance context. The Commission’s existing rules do not prescribe the amount of time an ILEC must provide to its customers when it intends to discontinue service. The rules instead provide that a carrier may be allowed to discontinue service as early as 60 days (for dominant carriers) or 31 days (for non-dominant carriers) after filing a discontinuance application.<sup>32</sup>

Even assuming that a competitive carrier relying on wholesale access to an ILEC’s network received actual notice 31 or 60 days prior to a discontinuance of service, such notice would be inadequate in many cases for a competitive LEC to make appropriate network changes or alternative service arrangements, and thus could result in lapses of service (or degraded service) to the carrier’s customers. Particularly as the industry continues to consolidate, CCA’s members have fewer and fewer competitive options for vital service inputs to cellular backhaul

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<sup>29</sup> *NPRM* ¶ 57.

<sup>30</sup> *See id.* (seeking comment on “action[s] to encourage incumbent LECs to meet with or more collaboratively communicate with entities to which they provide notice”).

<sup>31</sup> *Id.* ¶¶ 81-82.

<sup>32</sup> *See* 47 C.F.R. § 63.71.

and other high-capacity telecommunications services. Given the significant competitive implications at stake, a specific notice requirement is warranted. CCA therefore suggests that the Commission adopt identical notice and certification requirements for copper retirements and service discontinuances, in line with the recommendations set forth above, as a means to simplify the regulatory framework.

### **III. THE COMMISSION SHOULD NOT APPLY CPE BACKUP POWER RULES TO VOICE SERVICES THAT ARE INTENDED TO BE MOBILE**

CCA understands that the ongoing migration to all-IP networks raises certain issues regarding the ability to access voice services in the event of a power outage.<sup>33</sup> Consumers understand, however, that mobile services necessarily rely on battery power. As a result, access to mobile voice and data services generally is more limited, or may be unavailable altogether, during power outages.

If backup power requirements for CPE are warranted, the Commission should exempt wireless services that are not primarily “market[ed] as a replacement for traditional landline service in the home.”<sup>34</sup> Specifically, the Commission’s rules should *not* apply to CPE used to facilitate or enhance wireless service that primarily is intended for mobile use, notwithstanding any fixed applications of such service. For such CPE, compliance with any backup power requirements not only is unnecessary in light of consumer expectations but would be particularly burdensome for mobile carriers, could thwart innovation in this space, and could threaten the mobility of the underlying service.

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<sup>33</sup> See NPRM ¶ 32 (“As technology transitions, it is important that lines of responsibility for provisioning CPE backup power are clearly delineated and understood by providers and consumers alike, so that performance can meet expectations and continuity of communications can be ensured.”).

<sup>34</sup> *Id.* ¶ 33 n.108 (describing Verizon’s Voice Link service).

## CONCLUSION

CCA applauds the Commission's continued efforts to prepare for and facilitate the transition to all-IP telecommunications networks. Providing regulatory certainty to parties affected by the transition is a critical first step. CCA therefore urges the Commission to confirm continued applicability of Section 251/252 requirements to ILECs post-transition and to ensure that the transition cannot be used as a means to undermine competition by denying critical wholesale inputs to competitive carriers. In addition, the Commission should revise and update existing network change and service discontinuance rules to take account of the needs of competitive LECs that are interconnected with ILECs and rely on wholesale access to the ILECs' networks. Finally, CCA urges the Commission to recognize that consumer expectations obviate the need for CPE backup power requirements for mobile services.

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