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February 13, 2015

By ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-A325
Washington, D.C. 20554

Re: ***XO Communications, LLC Ex Parte Submission
Protecting and Promoting the Open Internet, GN Docket No. 14-28;
Framework for Broadband Internet Service, GN Docket No. 10-127.***

Dear Ms. Dortch:

On February 11, 2015, Lisa Youngers, Tom Schlatter, and Sean Kennedy of XO Communications, LLC (“XO”), and Thomas Cohen and Edward A. Yorkgitis, Jr., of Kelley Drye & Warren LLP, Counsel for XO, met with Julie Veach, Matthew DelNero, and Claude Aiken of the Wireline Competition Bureau to discuss the issue of Internet Service Provider (“ISP”) interconnection under a prospective Title II reclassification of broadband Internet access service as raised in the above-referenced proceedings. Messrs. Schlatter, Kennedy, and Cohen participated by telephone.

In the meeting, XO’s representatives described the company’s roles in the Internet ecosystem predominantly as a Tier 1 peer, provider of IP transit on a wholesale basis, and a provider of Direct Internet Access to enterprise-level and wholesale customers. In response to staff’s questions, XO explained that, with one anomalous exception, XO’s peering relationships are settlement free. XO then focused its discussion on the scope of the ISP interconnection proposal in the draft Order, which was described in the Fact Sheet issued by Chairman Wheeler’s office on February 4, 2015, as follows: “For the first time the Commission would have authority to hear complaints and take appropriate enforcement action if necessary, if it determines the interconnection activities of ISPs are not just and reasonable, thus allowing it to address issues

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that may arise in the exchange of traffic between mass market broadband providers and edge providers.” XO requested, should the Commission adopt the Chairman’s proposal, the Commission clearly define the scope and applicability of the new Title II interconnection obligation, in particular the categories of providers who would have the Title II obligations and against whom complaints and enforcement action could be brought. XO stated that it would be useful to the industry as well for the Commission to articulate the categories of peering arrangements and transit arrangements to which the obligations did not apply. XO contended that absent lucid statements of scope and applicability, there would be the potential for confusion and misinterpretation of the rule, leading to needless disputes.

XO noted that some large mass market broadband providers to whom the proposed new Title II obligations would apply may also act as IP transit companies and peering partners and use the same interconnection arrangement for all of these purposes. XO asked the Commission to make clear that in such cases the interconnection arrangement of such large ISPs should be examined as a whole to ascertain whether it is just and reasonable.

Finally, XO raised an issue that has arisen with some of its peering arrangement negotiations, namely that some major peering partners are withholding the terms on which they are willing to peer. XO noted that these practices have frustrated its efforts to negotiate peering arrangements. XO explained that it would like the Commission to encourage Tier 1 peers to make their peering policies and acceptable terms and conditions available to other potential or existing peering partners to facilitate fair and balanced market place negotiations.

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This notice is being filed with the Secretary's office per the FCC's Rules.

Respectfully submitted,



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cc: Julie Veach
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