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

REPLY COMMENTS OF THE MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Commonwealth of Massachusetts
Department of Telecommunications and Cable

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The Massachusetts Department of Telecommunications and Cable ("MDTC")[1] respectfully submits these reply comments in response to the Notice of Proposed Rulemaking ("NPRM") released by the Federal Communications Commission ("FCC") on November 25, 2014, and comments filed on February 5, 2015, in the above-referenced docket.[2] Through the

[1] The MDTC regulates telecommunications and cable services within Massachusetts and represents the Commonwealth before the FCC. MASS. GEN. LAWS ch. 25C, § 1; GEN. LAWS ch. 166A, § 16.

[2] *In re Ensuring Customer Premises Equip. Backup Power for Continuity of Commc'ns; Tech. Transitions; Policies & Rules Governing Retirement Of Copper Loops by Incumbent Local Exch. Carriers; Special*

NPRM, the FCC seeks comment on issues related to the preservation of the fundamental principles of competition, consumer protection, universal service, and public safety embodied in the Communications Act ("Act") during the technological transitions from "networks based on time-division multiplexed ("TDM") circuit-switched voice services running on copper loops to all-Internet Protocol ("IP") multi-media networks using copper, co-axial cable, wireless, and fiber as physical infrastructure."[3] Specifically, the FCC proposes and seeks comment on revisions to its rules and policies concerning customer premises equipment ("CPE") backup power, copper retirement, and service discontinuances under 47 U.S.C. § 214.[4]

The MDTC[5] urges the FCC to maintain its commitment to a collaborative approach with the States in setting rules and policies for and after the technology transitions. The MDTC also believes that when transitioning technologies, carriers should fully inform their customers and general consumers of the effect the transitions will have on service quality, service offerings, and CPE. As such, the MDTC, to the extent stated below, supports the comments of the New York Public Service Commission ("NYPSC") and the Pennsylvania Public Utilities Commission ("Pa. PUC") with regard to proposed improvements to the FCC's revised copper retirement rules to better notice and inform consumers.[6] Further, to provide for flexibility in the delivery of technology transitions information while ensuring its accuracy and effectiveness, carriers should

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Access for Price Cap Local Exch. Carriers; AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exch. Carrier Rates for Interstate Special Access Servs., PS Docket No. 14-174 *et al.*, Notice of Proposed Rulemaking & Declaratory Ruling, FCC 14-185 (rel. Nov. 15, 2014) ("*NPRM*").

3 *NPRM*, ¶ 1.

4 *Id*. ¶ 10.

5 The MDTC's silence on any particular issue presented by the FCC should not be construed as rejection or support of that issue.

6 *See NPRM*¸ N.Y. Pub. Serv. Comm'n ("NYPSC") Comments (Feb. 5, 2015) ("NYPSC Comments") at 5-12; *NPRM*, Pa. Pub. Util. Comm'n ("Pa. PUC") Comments (Feb. 5, 2015) ("Pa. PUC Comments") at 10.

develop outreach and education plans in coordination with State, local, and Tribal agencies and community organizations.

I. THE FCC SHOULD REMAIN COMMITTED TO COLLABORATING WITH THE STATES DURING AND AFTER THE TECHNOLOGY TRANSITIONS.

The MDTC has for many years encouraged the FCC to remain committed to collaborating with the States as this country's communications networks undergo technology transitions.[7] To that end, the MDTC supports the National Association of Regulatory Utility Commissioners' ("NARUC") February 18, 2015 resolution urging the FCC to reaffirm its commitment to collaborating with States during the technology transitions.[8] The MDTC also agrees with the FCC in recognizing that it is "not the only governmental authority with important responsibilities with respect to technology transitions" and "[i]n particular, States serve a vital function in safeguarding the values of the Network Compact."[9] Accordingly, the MDTC supports the FCC's proposal requiring Incumbent Local Exchange Carriers ("ILECs") to "provide notice of planned copper retirements to the public utility commission and to the Governor of the State(s) in which the network change is proposed."[10] The proposal is similar to a previous MDTC recommendation to the FCC that it update and streamline network and service notification requirements by "requiring ILECs to notify state commissions of their requests to

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7 *See e.g.*, MDTC Reply Comments, *In re Connect Am. Fund et al*., WC Docket No. 10-90 et al. (Sept. 8, 2014) at 2-7; MDTC Comments, *In re Tech. Transition et al.*, GN Docket No. 13-5 et al. (Mar. 31, 2014) at 3-5; MDTC Comments, *In re Tech. Transition*, GN Docket No. 13-5 (July 5, 2013) at 2-3; MDTC Comments, *In re Comments Sought on the Tech. Transitions of the Nation's Commc'ns Infrastructure et al.* GN Docket No. 12-353 et al. (Mar. 5, 2013) ("MDTC Copper Retirement Comments") at 3 n.9.

8 *See* NARUC, *Resolution Urging the FCC to Partner with States to Protect Residential & Business Consumers During the Tech. Transition*, (Feb. 18, 2015) at 5-6, *available at* http://www.naruc.org/Resolutions/15-0218-Final-Resolutions-as-Passed-by-the-Board.pdf.

9 *NPRM*, ¶ 79.

10 *Id*.

retire, replace, or discontinue the use of copper loops or copper subloops and permit states to object to those requests."[11]

II. CUSTOMERS AND CONSUMERS SHOULD BE FULLY INFORMED OF THE EFFECT THE TECHNOLOGY TRANSITIONS WILL HAVE ON SERVICE QUALITY, SERVICE OFFERINGS, AND CPE.

In addition to proposing new copper retirement notice requirements to include State commissions, the FCC proposes: defining copper retirements; expanding notice requirements to interconnecting competitors of ILEC's planned network retirement; expanding notice and comment opportunities for affected consumers, while limiting upselling to those consumers; expanding notice to other government entities; updating compliance certification requirements for ILECs; and potentially requiring the attempted sale or auction of copper facilities prior to being permitted to retire such facilities.[12] The MDTC agrees generally with the comments of the Pa. PUC and the NYPSC that the FCC should adopt new rules to provide additional and improved notice to consumer regarding copper retirement.[13] The MDTC also supports the NYPSC's recommendation "that retail and wholesale customers/consumers be provided written documentation explaining what copper facilities retirement means in terms of existing services and post-retirement service options."[14]

The MDTC emphasizes, however, that written notice to customers is only a portion of the consumer outreach and education needed in the technology transitions. In the NPRM, the FCC seeks comment on whether ILECs should undertake additional measure beyond written notice to

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[11] MDTC Copper Retirement Comments at 3-5.

[12] *NPRM*, ¶¶ 49-91.

[13] NYPSC Comments at 9; Pa. PUC Comments at 13-14.

[14] NYPSC Comments at 6.

their customers and other possible consumer education requirements.[15] As the technology changes, consumers may need to replace their CPE,[16] experience alterations in their phone networks service quality,[17] see confusing product offerings from their carriers. These types of changes will likely have the same disruptive effect as the digital television ("DTV") transition, and the FCC should apply what it learned about effective consumer outreach and education from the DTV transition to these technology transitions. To be sure, consumers need education and reminders about the differences between existing communications networks and equipment and the new IP-networks and equipment. The CPE backup power issue raised in the NPRM is a prime example of the type of change for which ongoing consumer outreach is essential. Ongoing consumer outreach is well established for public safety equipment. One example of ongoing consumer outreach is reminders for consumers to replace the batteries in their smoke alarms.[18] Like smoke alarms, IP equipment have similar importance to personal and public safety and is usually dependent upon the user for periodic testing and battery replacement. Another example is reminders for consumers to have extra batteries for flashlights and radios in emergency kits for prolonged power outages and other emergencies.[19] Like all battery-powered equipment, IP equipment only works until the batteries run out of power. Industry and other stakeholders need

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15 *NPRM*, ¶¶ 74-75.

16 CPE that may need to be replaced includes telephones, text telephone devices ("TTYs"), facsimile machines, pacemaker monitoring systems, and home alarm systems.

17 Some consumers transitioning from copper based TDM networks to wireless or fiber based IP network may see a change in voice quality, service availability, and the loss of copper network line power with new reliance on battery backup CPE.

18 *See e.g.*, United States Consumer Product Safety Commission, *Daylight Saving Time = Replace Batters in Smoke and Carbon Monoxide Alarms*, http://www.cpsc.gov/en/Newsroom/News-Releases/2013/Daylight-Saving-Time--Replace-Batteries-in-Smoke-and-Carbon-Monoxide-Alarms (last visited Feb. 27, 2015).

19 *See e.g.*, Massachusetts Emergency Management Agency, *Emergency Kits*, http://www.mass.gov/eopss/agencies/mema/ready-massachusetts/emergency-kit.html (last visited Feb. 27, 2015).

to develop outreach and education plans that inform and remind consumers of the need to test and replace their equipment so that it works in an emergency and reminds them that the equipment's backup battery power is limited.

As the carriers appear to be transitioning the technology on a wire center or community basis, carriers should be developing consumer outreach and education plans with State, local, and Tribal agencies and community organizations to notify all consumers in a service territory of the transitions.[20] Outreach and education initiatives would complement the notice requirement, and may address concerns that the notice requirement is too rigid[21] by ensuring that consumers receive notice through various media, and limiting the concerns of upselling through the involvement of governmental agencies and community organizations. If concerns of consumer confusion or ability to make informed choices remain, the FCC could task the next Consumer Advisory Commission to develop guidelines and practices for educating and reaching out to consumers concerning the technology transitions.[22] Accordingly, the FCC should clarify that in addition to notice requirement, it expects carriers to develop consumer education and outreach plans in coordination with State, local, and Tribal agencies and community organizations to inform and protect consumers as technologies transitions.

III. CONCLUSION

The MDTC is concerned with the preservation of the fundamental principles of competition, consumer protection, universal service, and public safety during the technological

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20 *See NPRM*, ¶¶ 17-18.

21 *See NPRM*, Verizon Comments (Feb. 5, 2015) ("Verizon Comments") at 14-15 (Requesting flexibility in communication network changes to traditional voice customers); NYPSC Comments at 11 (Seeking modification of the proposed rule Section 51.332(c)(3) to include guideline for providing translation services or allowing for a disclaimer in multiple languages on the notice for obtaining translation service).

22 *See FCC Announces Renewal of Consumer Advisory Committee & Solicits Membership Applications*, Pub. Notice, DA 14-1806 (rel. Dec. 10, 2014).

transitions. These fundamental principles will be best maintained through continued collaboration between the FCC and the States in setting rules and policies for the technology transitions. To protect and better inform consumers, the MDTC agrees with the NYPUC and Pa. PUC that the FCC should adopt new rules to provide additional and improved notice to consumer regarding copper retirement, and should consider and incorporate the discussed recommendations of those commissions into its revised rules. In considering the broader technology transitions, the FCC should expect carriers to develop consumer outreach and education plans in coordination with State, local, and Tribal agencies and community organizations to inform and protect consumers.

Respectfully submitted,

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