

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

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

**JOINT REPLY COMMENTS OF CHARTER COMMUNICATIONS, INC.,
CABLEVISION SYSTEMS CORPORATION, COX COMMUNICATIONS, INC., AND
CEQUEL COMMUNICATIONS, LLC d/b/a SUDDENLINK COMMUNICATIONS**

March 9, 2015

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Charter Communications, Inc. (“Charter”), Cablevision Systems Corporation (“Cablevision”), Cox Communications, Inc. (“Cox”), and Cequel Communications, LLC d/b/a Suddenlink Communications (“Suddenlink”) (collectively, “Commenters”) hereby submit the following comments on the Commission’s Notice of Proposed Rulemaking (“*NPRM*”)¹ regarding various proposals to protect consumers and ensure continued competition during the IP

¹ *In re Ensuring Customer Premises Equipment Backup Power for Continuity of Communications*, Notice of Proposed Rulemaking and Declaratory Ruling 29 FCC Rcd 14,968 (2014).

transition.² Commenters support the Commission’s efforts to ensure that incumbent local exchange carriers’ (“ILECs”) retirement of TDM-based equipment and its replacement by IP-based plant is conducted in a manner that protects consumers and ensures continued competition. While the *NPRM* is primarily focused on the implication of TDM retirement for last-mile ILEC facilities, ensuring IP interconnection for managed voice services has even greater importance, as all competitors—both those using last-mile facilities provided by ILECs and those using their own last-mile facilities—need interconnection with ILECs to reach the public switched telephone network (“PSTN”). As the Commenters previously have explained and as discussed below, the Communications Act requires ILECs to provide IP interconnection for managed voice services on cost-based, reasonable terms and conditions. It is crucial that the Commission clarify those rights as soon as possible and, at the very least, well before ILECs seek to retire TDM interconnection options.³

DISCUSSION

The Commenters, Cox, Charter, Cablevision, and Suddenlink, are the third-, fourth-, fifth-, and seventh-largest cable companies in the United States, respectively, serving millions of their customers with voice services in their respective territories. The Commenters have long supported efforts to transition the nation’s networks to IP, having invested billions to rebuild

² Commenters support the Comments of the National Cable & Telecommunications Association, which has previously commented in this proceeding regarding the Commission’s proposal regarding backup power for customer premises equipment (CPE). *See* Comments of the National Cable & Telecommunications Association (Feb. 5, 2015). However, the Commenters are submitting these Reply Comments separately to additionally address IP interconnection in the context of the IP transition.

³ “Managed” voice traffic means voice traffic that is carried on provider networks and does not traverse the public Internet, enabling providers to ensure quality of service equal to or better than traditional circuit-switched communications. The legal and policy bases for regulating interconnection for such traffic is wholly distinct from the issue of Internet interconnection, which has thrived in an unregulated environment.

their legacy analog plant and to deploy broadband, competitive voice, and advanced video services to their subscribers.

The Commenters' geographic footprints and customer bases give them a particular interest in ensuring the ability to interconnect in IP:

- Charter's voice customers are widely distributed among 27 different states, and, in most of the areas that Charter serves, Charter's voice offering is the only facilities-based alternative to ILEC voice service. Moreover, despite Charter's having a large number of customers on a *national* basis, the ILEC is still the dominant voice provider in every single market Charter serves. Charter thus has direct experience in negotiations and arbitrations over the terms and conditions of interconnection.
- Similarly, Cox provides voice service in 18 states spread across the nation. Cox entered the voice service market in 1997 and competes vigorously with incumbents in its footprint under the interconnection rights conferred by the Telecommunications Act of 1996. Cox also has direct experience in negotiations and arbitrations over the terms and conditions of interconnection. Cox launched voice services with TDM technology but is actively transitioning its own network to provide IP-based voice services.
- Suddenlink operates in 17 states, and serves a number of smaller Tier II or Tier III markets in less densely populated areas of the country. Having recently completed a roll-out of a technology platform for delivering its own voice services, including securing numerous interconnection agreements with large and small ILECs, Suddenlink can attest that the ILECs who continue to serve large portions of the voice market in these areas have shown no willingness to provide IP interconnection for managed voice services.

- Cablevision has also long supported efforts to advance the transition of the nation’s telephone network to IP technology. Cablevision entered the voice market as a competitive local exchange carrier (“CLEC”) shortly after enactment of the 1996 Act, providing circuit-switched services to residential and business customers. Since that time, Cablevision has invested billions of dollars to construct a state-of-the-art fiber network that serves its territory in the tristate area of New York, New Jersey, and Connecticut. Despite Cablevision’s successful voice product in its footprint, the ILECs are still the dominant voice providers in the three states that Cablevision serves.

For these reasons, the Commenters are particularly cognizant that the policies enacted by Congress in the Communication Act of 1996 (“1996 Act”)—to ensure that competitive providers can interconnect to the nation’s phone network and that ILECs not be able to act anti-competitively by exploiting their market position—remain *vital* to continued competition today. Congress recognized that this competition is essential to discipline the rates that consumers and small businesses pay for services and to provide customers with a range of innovative offerings.

The *NPRM* in this docket recognizes the concerns of competitive providers that the IP transition, in particular ILECs’ retirement of outdated TDM-based equipment, creates opportunities for incumbent carriers to act anti-competitively by discontinuing or degrading wholesale services on which competitive providers rely in order to compete with incumbents in retail markets. *See NPRM*, 29 FCC Rcd at 15,011-15 ¶¶ 106-113. While the *NPRM* is primarily focused on wholesale services provided over the “last mile,” such as “DS1 and DS3 special access lines,” *id.* At 15,011 ¶ 106, every competitive carrier—whether serving customers via ILEC last-mile facilities or their own—requires an effective means of interconnecting to the PSTN in order to remain competitively viable.

As the Commenters have on many previous occasions pointed out to the Commission, despite the ongoing transition to IP, most ILECs continue not to offer competitive carriers the option of interconnecting in IP, or do not offer it on cost-based reasonable terms consistent with their interconnection obligations in Section 251 and 252. This impedes progress in moving ILEC-CLEC interconnection points from TDM to IP, not only slowing the IP transition, but creating particular risks of anticompetitive conduct by ILECs as they increasingly retire their own TDM plant, switching their own networks to IP while leaving CLECs reliant upon increasingly outdated interconnection points. The ILECs' position also forces CLECs to bear the cost and operational burden of establishing and maintaining TDM conversion, which penalizes providers (like some of the Commenters) who have already deployed efficient, scalable IP-based networks. Further, the TDM conversion costs fall disproportionately hardest on those competitors with smaller subscriber bases (and fewer voice subscribers). Those costs should fall on ILECs who have also deployed an IP network yet continue to require TDM interconnection, rather than on their IP-based CLEC competitors.

As the IP transition proceeds, these opportunities for anti-competitive behavior by ILECs will only grow more acute. Indeed, permitting ILECs to retire their own TDM plant without clarifying the legal regime governing IP interconnection not only provides increased opportunities for ILECs to frustrate competition by depriving competitive carriers of meaningful interconnection options, but also risks spawning countless disputes due to the absence of FCC guidance regarding the obligations of ILECs to interconnect or to transition existing, outdated TDM interconnections to IP.

The Commenters have advocated in other proceedings that the Commission should make clear that the interconnection regime in the Communications Act applies to interconnection for

managed voice traffic irrespective of the communications protocol in which carriers exchange calls. The Commenters previously have explained the legal arguments for why the Communications Act compels this conclusion as a matter of law, and they incorporate those comments here.⁴ The Commission has already indicated that its forthcoming Order in the *Open Internet* proceeding will exclude managed VoIP services from the scope of the Commission's broadband Internet access service regulations (including with respect to interconnection), thus continuing to leave *unresolved* the rules governing IP interconnection when it relates specifically to managed voice traffic.⁵ Given the focus of this docket on ways to protect consumers and competition as carriers retire TDM plant and complete the IP transition, the time for the Commission to formally address this topic has arrived.

CONCLUSION

The Commenters appreciate the Commission's attention to protecting consumers and competition during the IP transition, and urge it to address promptly the legal regime governing IP interconnection for managed voice service in order to further those goals.

⁴ See Reply Comments of Charter Communications, Inc., GN Docket Nos. 13-5 & 12-353, at 3 (Apr. 10, 2014) (attached as Exhibit A); Reply Comments of Charter Communications, Inc., GN Docket No. 13-5, at 3 (Aug. 7, 2013) (attached as Exhibit B); Reply Comments of Charter Communications, Inc., GN Docket No. 12-353, at 4-6 (Feb. 25, 2013) (attached as Exhibit C); Comments of Charter Communications, Inc., WC Docket 10-90 et al., at 3-9 (Feb. 24, 2012) (attached as Exhibit D); Comments of Cablevision Systems Corp. and Charter Communications, Inc., WC Docket No. 11-119 (Aug. 15, 2011) (attached as Exhibit E); Reply Comments of Cablevision Systems Corp., WC Docket No. 10-90 et al., at 8-9 (May 23, 2011) (attached as Exhibit F); Comments of Cox Communications, Inc., GN Docket Nos. 12-353 & 13-5, at 2-6 (Dec. 22, 2014); Reply Comments of Cox Communications, Inc., GN Docket No. 13-5, at 2-4 (Aug. 7, 2013); Comments of Cox Communications, Inc., GN Docket No. 12-353, at 9-11 (Jan. 28, 2013); Reply Comments of Cox, WC Docket No. 10-90 et al. at 9-11 (Mar. 30, 2012) (attached as Exhibit G); Comments of Cablevision Systems Corp., GN Docket No. 12-253, at 6-7 (January 28, 2013) (attached as Exhibit H).

⁵ See *FCC Adopts Strong, Sustainable Rules to Protect the Open Internet*, at 3 (Feb. 26, 2015), available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2015/db0226/DOC-332260A1.pdf.

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