

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

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

**Reply Comments of  
Communications Workers of America**

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The Communications Workers of America (“CWA”),<sup>1</sup> consumer organizations,<sup>2</sup> state regulatory commissions,<sup>3</sup> and public safety associations<sup>4</sup> support Commission proposals to facilitate the transition to high-speed broadband networks, protect consumers, and promote public safety by upgrading Commission rules regarding back-up power, network changes, and service discontinuance. Initial comments in this proceeding also emphasize three fundamental realities that should frame the Commission’s policies in these areas. *First*, incumbent local exchange carriers’ (“ILECs”) are no longer the dominant providers of either voice telephony or broadband services.<sup>5</sup> *Second*, all consumers, businesses, and institutions in rural as well as urban communities need high-speed wireline networks to meet data- and video-intensive communications needs today and in the future.<sup>6</sup> *Third*, reasonable Commission rules and oversight are necessary to ensure that all Americans benefit from the technology transition because competition alone will not drive investment to all communities and all types of customers.

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<sup>1</sup> See Comments of Communications Workers of America, Feb. 5, 2015 in PS Docket No. 14-174, GN Docket No. 13-5, RM-1358, WC Docket No. 05-25, RM-10593 (“CWA Comments”).

<sup>2</sup> See Comments of AARP, Feb. 5, 2015; Comments of Public Knowledge, Common Cause, National Consumer Law Center, TURN, et al (“Comments of Public Interest Commenters”); Comments of the Appalachian Regional Commission, Feb. 5, 2015 in Feb. 5, 2015 (“Appalachian Regional Commission Comments”) in PS Docket No. 14-174, GN Docket No. 13-5, RM-1358, WC Docket No. 05-25, RM-10593.

<sup>3</sup> See Initial Comments of the New York Public Service Commission, Feb. 5, 2015 (“NY PSC Comments”); Comments of Pennsylvania Public Utility Commission, Feb. 5, 2015 (“PA PUC Comments”) in PS Docket No. 14-174, GN Docket No. 13-5, RM-1358, WC Docket No. 05-25, RM-10593.

<sup>4</sup> See Comments of the National Association of State 911 Administrators, Feb. 5, 2015 in PS Docket No. 14-174, GN Docket No. 13-5, RM-1358, WC Docket No. 05-25, RM-10593 (“NASNA Comments”).

<sup>5</sup> Verizon Comments, pp. 1-3; AT&T Comments, pp. 10-11; CenturyLink, pp.2-3.

<sup>6</sup> Appalachian Regional Commission Comments, pp. 1-2 (“[W]e do have a concern over the substitution of wireless connections in place of landline connections...If the telco landline is removed (and replaced with a wireless substitute) then there will be no chance of obtaining a landline based internet services...Wireless may be an acceptable substitute for a wireline connection for voice services. It is questionable whether it is acceptable for broadband.”); Verizon Comments, p.5. (“[F]iber provides the best and most reliable platform to meet consumers’ communications needs now and in the future.”)

Consistent with this framework, many commentators support updating Commission rules on back-up power, copper retirement, and service discontinuance along the lines of the road map that CWA provided in our initial comments. The central elements of that road map include: 1) minimum standards of back-up power, beginning with eight hours but moving towards a minimum of 24 hours; 2) updating the Commission’s network change notification process to include retail as well as wholesale customers; 3) establishing clear functional criteria for Section 214 discontinuance that ensure consumers continue to have access to essential, quality communications services; 4) enforcement of Commission rules on providers that engage in “*de facto*” copper retirement and discontinuance through failure to maintain their networks; and 5) re-institution of the Commission’s ARMIS service quality reporting program applicable to all communications providers.

***Back-up Power.*** The Commission has the statutory obligation to promote public safety through our nation’s communications networks.<sup>7</sup> The Commission unanimously concluded that protecting public safety is one of the core principles that must guide its policies during the technology transition.<sup>8</sup> Because IP-enabled wireline technologies do not have line-power, the Commission proposes that providers provision a minimum of eight hours back-up power for periods of power outages. CWA and other commentators support this proposal as the bare minimum requirement; in addition, we concur with the National Association of State 911 Administrators that 24 hours would be a “more useful” standard.<sup>9</sup> AARP supports a 12-hour minimum for wireline VoIP providers. CWA concurs with AARP that wireless phones play a

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<sup>7</sup> Congress created the Commission, in part, “for the purpose of promoting safety of life and property through the use of wire and radio communications.” 47 U.S.C. Section 151.

<sup>8</sup> *Technology Transitions, et al.* GN Docket No. 13-5, et al., Order, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 1433, Para. 1 (2014) (“*Technology Transitions Order.*”)

<sup>9</sup> National Association of State 911 Administrators Comments, p.2.

critical role during power outages, and therefore the Commission should require 24-hour back-up power for wireless network macrocells (defined as antenna systems that are mounted on ground- or building-based towers) and central offices serving macrocells.<sup>10</sup> Finally, CWA agrees with commentators that Commission oversight is essential to encourage transparency, disclosure, and consumer education about the limits and capabilities of battery-provided back-up power.

***Network Change Notification.*** CWA and other commentators differentiate between a network change that represents an upgrade in service, such as the change from copper to fiber, and a network change that represents a downgrade in service, such as the change from landline to fixed wireless. The Commission’s notice rules should apply to network upgrades only; a network change that results in a service that is “discontinued, impaired, or reduced” should be subject to the Section 214 discontinuance rules.<sup>11</sup> Because carriers may not accurately differentiate in their communication to customers as well as to this Commission between a network change and a service discontinuance or impairment, Commission rules should provide retail as well as wholesale customers the opportunity to comment on any network change that represents a downgrade in service; this procedure will give the Commission the opportunity to evaluate whether a Section 214 application is required.

CWA and other commentators agree with Commission policy that LECs should not be required to operate both copper and fiber networks indefinitely.<sup>12</sup> However, network changes from copper to fiber and/or from circuit to IP switching impact the functionality of services and

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<sup>10</sup> AARP Comments, pp. 13-19.

<sup>11</sup> CWA Comments, pp. 6-12. *See also* Verizon Comments, p.13 (“[I]f an interstate telecommunications service is to be discontinued, reduced, or impaired at the same time as copper is being retired, a separate Section 214 application may be required. There is an important difference between changing facilities, such as by retiring copper, and discontinuing a service, and any blurring of this distinction will result in confusion and duplicative regulatory processes.”)

<sup>12</sup> *See* FCC, *Connecting America: The National Broadband Plan*, 2010, pp. 48-49; Verizon Comments, p. 11.

certain CPE equipment. Therefore, it is critically important that carriers provide adequate advance written notice to all retail as well as wholesale customers regarding network changes that will impact the functionality of their service. The National Association of State 911 Administrators explains: “The notice must provide retail customers with the information they need to understand what copper retirement will mean for them in a practical way, i.e. whether they will receive the same functionalities and features as the service they currently purchase. If not, the provider needs to explain *exactly* what will change. If the change involves electrical power, the consumers need to be informed of what their options will be as well as what the consequences will be in a long-term power outage of not having backup power or additional charged batteries.”<sup>13</sup> The process should not be burdensome. CenturyLink explains that in Omaha, for example, it provides multiple notices to customers of the change from a copper to fiber network via written letter, door hanger, follow-up phone call, and online information.<sup>14</sup>

***Section 214 Service Discontinuance.*** In the *Notice of Proposed Rulemaking*, the Commission correctly explained that identification of the criteria that the Commission will use to evaluate a Section 214 service discontinuance petition will facilitate the technology transition

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<sup>13</sup> NASNA Comments, p. 3. *See also* NY PSC Comments, pp. 6-7 (“Copper retirements cannot be a vehicle for LECs to diminish existing minimum consumer protections under state laws or obligations to provide high-quality basic telephone service subject to state regulations and tariffs.”); *See also* AARP Comments, p. 6 (“An affected retail customer is anyone who will need new or modified customer premise equipment, who will experience changes to line power arrangements, who will experience changes in the functionality of or access to third-party devices or services, or who will otherwise be negatively impacted by the planned network change.”); Public Interest Commenters Comments, p. 32 (“The Commission should require that such notices be delivered to all customers in an affected area, because the ILECs by their own admission do not necessarily know what CPE or third-party services each customers uses. Notices must therefore be sent to all potentially affected customers that include a description of the types of CPE or third-party services that may not be supported after the network change, so customers have meaningful notice of how network changes will impact them.”)

<sup>14</sup> CenturyLink Comments, pp. 32-33.

while protecting consumers.<sup>15</sup> CWA and other commentators agree.<sup>16</sup> CWA proposed six criteria to establish “what constitutes an adequate substitute for consumers for a discontinued *retail* service:” 1) reliable and accurate access to E911; 2) constant availability, including during storms and emergencies; 3) adequate call quality; 4) compatibility with health and safety services that use the network; 5) adequate data transmission capability; and 6) affordable to consumers.<sup>17</sup> These criteria are consistent with factors the Commission previously articulated in the Voice Link *Public Notice*<sup>18</sup> and *Southwestern Bell Discontinuance of Dark Fiber Service*.<sup>19</sup>

Commentators provide strong and compelling legal and policy arguments to refute the Commission’s discontinuance proposals regarding *wholesale* service. Congress instructed the Commission to promote competition, not to protect specific competitors. But the impact of the Commission’s proposed replacement-service mandate that would require incumbent LECs to provide competitive carriers with wholesale access on equivalent rates, terms, and conditions would have such an impact. Similarly, as AT&T explains, the Commission’s proposed rebuttable presumption that any discontinuance, reduction, or impairment in service to wholesale customers

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<sup>15</sup> Notice of Proposed Rulemaking and Declaratory Ruling, In the Matter of Ensuring Customer Premises Equipment Backup Power for Continuity of Communications, Technology Transitions, et al, PS Docket No. 14-174, GN Docket No. 13-5 et al, Nov. 25, 2014 (rel), para. 93.

<sup>16</sup> See AARP Comments, pp. 40-43; Public Interest Commenters Comments, pp. 8-21.

<sup>17</sup> CWA Comments, pp. 12-20.

<sup>18</sup> In the Voice Link *Public Notice*, the Commission states that it considers, among other factors, 1) whether customers or other end users are able to receive the service or a reasonable substitute from another carrier; 2) whether the public convenience and necessity is otherwise adversely affected; 3) the need for the service; 4) the need for the particular facilities; 5) the existence, availability, and adequacy of alternatives; and 6) increased charges for alternative services. FCC, *Public Notice*, Comments Invited on Application of Verizon New Jersey Inc. and Verizon New York Inc. to Discontinue Domestic Telecommunications Services, WC Docket No. 13-150, Comp. Pol. File No. 115, June 28, 2013.

<sup>19</sup> Memorandum Opinion and Order, *Southwestern Bell Tel. Co. Applications for Authority Pursuant to Section 214 of the Communications Act of 1934 To Cease Providing Dark Fiber Service*, 8 FCC Rcd 2589, para 54 (1993) (The relevant factors include “1) the financial impact on the common carrier of continuing to provide the service; 2) the need for the service in general; 3) the need for the particular facilities in question; 4) the existence, availability, and adequacy of alternatives; and 5) increased charges for alternative services, although this factor may be outweighed by other considerations.”)

represents discontinuance, reduction or impairment to a community or part of a community violates Commission precedent that differentiates between carrier-to-carrier relationships and carrier-to-retail customer relationships. The Commission should not permit wholesale carriers to freeze the technology transition simply to preserve their business model.<sup>20</sup>

***De Facto Copper Retirement and De Facto Service Discontinuance.*** AARP and Public Interest Commenters agree with CWA that telecommunications providers are engaged in *de facto* copper retirement and discontinuance through failure to maintain and invest in their copper networks. Specifically, CWA in our initial comments provided powerful evidence of Verizon’s effective abandonment of copper networks and customers in many regions – urban as well as rural – where it has not deployed its all-fiber network.<sup>21</sup> State regulatory commissions concur that inadequate maintenance of copper facilities is copper retirement.<sup>22</sup>

Public Interest Commenters concur with CWA that the Commission should “ensure its enforcement procedures and remedies sufficiently deter carriers from engaging in harmful behavior, including failing to maintain adequate service quality or respond to consumer complaints.”<sup>23</sup> Public Interest Commenters note that the number of complaints regarding poor copper service has been “alarming,” emphasizing that “[if] the copper facility or a portion thereof is rendered inoperable due to the carrier’s neglect or failure to repair the network, the

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<sup>20</sup> See AT&T Comments, pp. 49-64; Verizon Comments, pp. 26-30.

<sup>21</sup> CWA Comments, pp. 20-32.

<sup>22</sup> Pennsylvania Public Utility Commission Comments, p. 11 (“...if it is alleged and proven that a provider is failing to maintain its copper network or neglecting it in such a fashion to the point where it is no longer reliably usable or arises to the functional equivalent of a ‘disabling’ of the copper network, that should fall within the purview of ‘copper retirement’ (or what the Commission terms as ‘*de facto*’ retirement in association with the ‘adequate maintenance of facilities.’)); New York PSC Comments, p. 12 (“...the NYPSC recommends that ILECs be reminded of their obligation under federal and state laws to maintain levels of service for copper-based customers that are consistent with existing Federal and State laws, rules, regulations and standards during the copper retirement transition period up to its conclusion.”)

<sup>23</sup> Public Interest Commenters Comments, p.20.

carrier is effectively retiring its copper and should go through the necessary regulatory process to do to.”<sup>24</sup> Public Interest Commenters cite numerous statutory provisions that give the Commission broad enforcement authority to ensure carriers do not engage in *de facto* service retirement or discontinuance.<sup>25</sup>

Finally, AARP and Public Interest Commenters concur with CWA that the Commission should require carriers to report on service quality, consumer complaints, and repair and response times. AARP agrees with CWA’s recommendation that the Commission re-introduce its ARMIS service quality reporting in order to document the extent of the problem. CWA urges the Commission to adopt its own recommendation in the 2008 *Service Quality Data Order* to collect this information on an industry-wide basis.<sup>26</sup>

**Conclusion.** There is broad consensus that the Commission should continue to encourage the upgrade of networks to high-speed broadband networks, and at the same time ensure that carriers are not permitted to abandon (either legally or unlawfully through neglect) the provision of high-quality affordable service to all communities. Updating the Commission’s back-up power, network change, service discontinuance, and service quality data reporting rules in a reasonable manner – and taking action to enforce rules to prevent “de facto” copper retirement and discontinuance – will facilitate the technology transition in a manner that benefits consumers and workers in the industry.

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<sup>24</sup> Public Interest Commenters Comments, pp. 19-20; *See also* AARP Comments, p. 29 (“The *de facto* ‘retirement’ of copper that is associated with poorly maintained plant and inadequate investment is an area of vital concern”).

<sup>25</sup> Public Interest Commenters Comments, pp. 19-20 citing 47 U.S.C. Sections 208, 501-504, 47 C.F.R. Sections 1.80-1.95; 47 U.S.C. Section 201(a); 47 U.S.C. Section 201(b); 47 U.S.C. Section 202; 47 U.S.C. Section 214(a).

<sup>26</sup> CWA Comments, pp. 34-38; *See also* AARP, 29-33.

Respectfully Submitted,



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