

May 15, 2015

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: GN Docket No. 12-353, Comment Sought on the Technological Transition of the Nation’s Communications Infrastructure; GN Docket No. 13-5, Technology Transitions; PS Docket No. 14-174, Ensuring Customer Premises Equipment Backup Power for Continuity of Communications; RM-11358, Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers; WC Docket No. 11-42, Lifeline and Link Up Reform and Modernization.**

Dear Ms. Dortch:

On May 13, Mimi Pickering, Director of the Community Media Initiative at Appalshop (Appalshop); Randy MacDonald, Public Safety Liaison of the Broadband Alliance of Mendocino County (Broadband Alliance); Regina Costa, Telecommunications Director at The Utility Reform Network (TURN); Whitney Kimball-Coe, Coordinator of the National Rural Assembly (Rural Assembly); Sharell Harmon, member of the National Council of Young Leaders from YouthBuild, USA (YouthBuild); Dee Davis, President of the Center for Rural Strategies (Rural Strategies); Raza Panjwani, Policy Counsel at Public Knowledge (PK); and Edyael Casaperalta, Internet Rights Fellow at Public Knowledge and Coordinator of the Rural Broadband Policy Group (RBPG); met with the following staff from the Wireline Competition Bureau: Carol Mattey, Deputy Bureau Chief; Randy Clarke, Competition Policy Division Chief; Daniel Kahn, Competition Policy Deputy Division Chief; Michele Berlove, Heather Hendrickson, John Visclosky, Bakari Middleton, and Richard Hovey from the Competition Policy Division; Jonathan Lechter, Telecommunications Access Policy Acting Deputy Division Chief; Virginia Metallo from the Office of the General Counsel; and Jean Ann Collins from the Public Safety and Homeland Security Bureau to discuss the technology transitions.

The traditional telephone network is a great success story in the history of communications service in the United States. Its ubiquity, affordability, reliability, and openness stimulated economic growth, helped those in need reach emergency first responders, facilitated civic engagement, and allowed millions of people to keep in touch with loved ones regardless of their physical distance. Americans have come to trust and rely on the telephone network, but the underlying technology of the network is now changing – a process we have come to reference as the “Technology Transitions.”

Telephone providers have used Time-Division Multiplexing (TDM) technology over copper wires to bring telephone service to homes and businesses. Today, with the advent of new technologies, providers have begun to switch to Internet Protocol (IP) technology over fiber and

wireless networks. Changing the underlying technology of the telephone network has important implications for Americans living in rural communities. As technologies evolve, we are faced with the responsibility to ensure any transition in technology is a step forward for all Americans.

The Rural Broadband Policy Group and Public Knowledge support the technology transitions and encourage all stakeholders, including the Commission, to reaffirm the fundamental values of our communications network – universal service, reliability, consumer protection, public safety, and competition. The rural delegates present at the meeting with FCC staff shared their perspective about how various policy issues implicated in the technology transitions impact rural communities. The delegates explained their concerns with the following policy issues and offered recommendations that we encourage the Commission to adopt regarding: 1) service availability, 2) network reliability and public safety, 3) rural call completion, 4) consumer education and outreach, and 5) the Lifeline program. Documents shared with staff present addressing each of these issues are also submitted in this ex parte.

**The Commission’s § 214(a) Process Is Crucial to Ensure Americans Continue to Access Basic Telephone Service, Especially In States that No Longer Apply Carrier of Last Resort Obligations.**

A change in technologies could change the services available to consumers. A provider might want to stop using its copper lines and offer wireless or IP-based voice services. But, many rural consumers live in areas with spotty cell phone reception or where Internet service is simply not available and have long relied on Carrier of Last Resort (COLR) providers to obtain telephone service. Retiring copper lines has been a central focus of both state legislation and the Federal Communications Commission’s tech transitions efforts. Ensuring that consumers can still access reliable, affordable, basic telephone service even when a carrier decides to retire its copper lines has been a critical concern for rural advocates.

Mimi Pickering spoke about the experience of advocates in Kentucky to stop legislation that would deregulate telephone service and fail to assure continued access to reliable basic phone service for Kentuckians. According to Mimi and testimony from the Kentucky Resources Council, Senate Bill 3 and House Bill 152, which became known as “the AT&T Bills” by telecommunications access advocates, allowed “AT&T, Windstream (where it is the ILEC), and Cincinnati Bell to immediately stop offering stand-alone basic telephone service to new and existing customers in any phone exchange with over 15,000 housing units” and withdrew the jurisdiction of the Public Service Commission to investigate and resolve consumer complaints or require compliance regarding the availability, reliability, and quality of telephone service.<sup>1</sup> The AT&T Bill effectively abandoned COLR obligations and left rural and low-income Kentuckians without the right to affordable, reliable, stand-alone telephone service. The bill goes into effect July 1<sup>st</sup> of this year.

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<sup>1</sup> See Testimony from Tom Fitzgerald, Director at Kentucky Resources Council, found on the World Wide Web at <http://www.kyrc.org/webnewspro/142317132645800.shtml> and <http://www.kyrc.org/webnewspro/142419614321897.shtml>

Ms. Pickering stated that in this new deregulated state, carriers will not be required to honor new requests for basic local service through a landline unless the carrier had previously installed landline facilities in that unit, and the carrier could offer less reliable and functional wireless voice service where there is no existing landline. Additionally, the carrier can choose to offer a wireless or IP-based service to a customer even where a landline exists, and customers who had landline service but chose to try wireless or IP voice service only have 60 days to request to be switched back, which is not sufficient time for a consumer to grasp the effect of a change in technology and take action to revert to landline service. Abandoning COLR obligations was premature and dangerous for rural Kentuckians because the state ranks 46<sup>th</sup> in broadband availability and has very low access in rural areas.

Ms. Pickering explained that Kentuckians want to move to new technologies, but the persistent digital divide will leave rural and poor communities behind. And, where new services are available, people want to have the same protections and quality that landlines traditionally afforded the American public. Ms. Pickering urged the Commission to uphold the fundamental values of the communications network in the transition to new technologies. She discussed the deregulated landscape in Kentucky to highlight the critical role the Commission plays in protecting rural consumers during and after the transition. Today, as states adopt deregulation plans that leave their residents without communications certainty, the federal §214(a) process is crucial to ensure carriers do not retire reliable, affordable, stand-alone telephone service without the guarantee of a service that provides rural consumers with the communications certainty they have come to rely on. RBPG supports PK's assertions that the Commission has and should use its broad authority to implement strong enforcement mechanisms for the technology transitions, should establish such enforcement mechanisms to effectuate technology transitions rules, and should proceed with § 214(a) guidance.<sup>2</sup>

### **The Commission Must Ensure Rural Americans are not Left Without Reliable Access to 911**

Randy MacDonald, 2<sup>nd</sup> Assistant Fire Chief for the Comptche Volunteer Fire Department in Comptche, California and Public Safety Liaison for the Broadband Alliance of Mendocino County, spoke about the importance of maintaining a reliable communications network that prioritizes public safety and guarantees 911 connectivity. Mr. MacDonald warned that new technologies are introducing vulnerabilities to the 911 system in rural areas. For example, 911 location data lists shrink daily because new technologies do not provide the exact location of a caller and emergency responders are not equipped with the necessary information to quickly respond to the emergency.

Mr. MacDonald also said that rural areas are losing essential network redundancy, with potentially disastrous results. As an example, Mr. MacDonald related a fiber outage incident near his hometown in rural northern California. On August 3, 2014, a truck hit an aboveground fiber optic cable, breaking it and shutting down all telecommunications services across a 40-mile

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<sup>2</sup> See Public Knowledge's Notice of Ex Parte filed on May 6, 2015 at <http://apps.fcc.gov/ecfs/comment/view?id=60001031002>

section of Mendocino County. The outage left 17,000 residents without services, including 911, for 45 hours. At the same time, a wild fire broke out near the area and the Fire Chief could not use Reverse 911 to reach residents about safety measures. Had the Fire Chief needed to relay evacuation orders, Reverse 911 would not have been available for him to warn residents. Mr. MacDonald stated that this break caused a total loss of communications services because AT&T did not have a backup network (copper or otherwise) that would work when the fiber cable went out of commission. This lack of redundancy left a fiber network that was neither resilient nor reliable. A detailed report of this incident authored by the Broadband Alliance of Mendocino County can be found in the tech transitions docket.<sup>3</sup>

Mr. MacDonald also discussed the problems his emergency response team has faced with AT&T in getting information that could help improve public safety. He said that AT&T refused to share information about network redundancy with county officials who wanted to identify the vulnerable places of the network after the August fiber outage. AT&T told county officials to go through elected officials to get the information. Regina Costa, who is also from the region and familiar with the difficulty to access information about network redundancy, added that carriers believe that reporting an outage to the FCC is sufficient action. She stated that not collaborating with public safety officials jeopardizes public safety.

Mr. MacDonald urged the Commission to put public safety first in the technology transitions, to address the need for network resiliency and redundancy especially in rural areas, and to inform citizens of the changes that are afoot so they can be prepared. Mr. MacDonald added that public safety agencies can be very helpful and effective in informing citizens of how technology changes impact their safety, but that in order to help the agencies need to be able to access information about outages and areas where there is no network redundancy. Mr. MacDonald reminded the Commission that the questions before it are matter of life or death for all Americans.

### **Telephone Carriers Are Better Equipped to Provide Backup Power to the Premises, and Should Provide A Minimum of Seven Days.**

Edyael Casaperalta, representing the Rural Broadband Policy Group, discussed the importance of ensuring consumers are well prepared during commercial power outages. At this stage in the technology transitions, carriers are the best-positioned stakeholders to take on the responsibility of guaranteeing backup power. Currently, consumers are largely uninformed of the need for backup power with new technologies, and batteries are not available in the market at competitive prices that would allow all consumers to afford safety, especially poor consumers. Shifting responsibility for backup power to consumers at this stage is not advisable, and could even be hazardous, because an educational campaign that imbeds this responsibility into emergency preparedness culture has not taken place. Backup power is too urgent a matter to have telephone carriers test it out on the field or suddenly place the responsibility on consumers.

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<sup>3</sup> See Broadband Alliance of Mendocino County's Notice of Ex Parte and "Incident Report on Internet and Phone Outages in Mendocino County" filed on October 20, 2014 at <http://apps.fcc.gov/ecfs/comment/view?id=60000973425>

RBPG believes that a telephone carrier that chooses to use a technology that does not carry its own electricity must make necessary arrangements to ensure a minimum of seven days and an ideal of two weeks worth of backup power during commercial outages. Americans have come to trust and expect basic telephone service to work indefinitely, particularly during power outages caused by natural disasters and public safety emergencies. While natural disasters can last only a few hours, they can devastate the infrastructure of a community for weeks. Americans should not be additionally burdened by a communications network that fails to connect them to their family, 911, and medical emergency resources during times of extreme danger. Furthermore, as residents take on the task of rebuilding their communities after a natural disaster, their efforts should not be obstructed by a broken communications network that keeps their businesses and economy from getting back on their feet. For these reasons, the Commission's proposal to require service providers to ensure eight to twenty four hours of backup power is not sufficient. The time frame proposed is a short-term solution, and the RBPG asks the Commission to consider the long-term solution needed to guarantee safety in rural communities.

### **The Commission Has Authority to Tackle Rural Call Completion.**

Regina Costa, TURN's Telecommunications Director, spoke about the potential of rural call completion to be exacerbated by the technology transitions. Where new technologies enable business practices, like least-cost routers, that can decrease the reliability of the network, federal and state authorities must take action to ensure everyone in the country continues to have a functioning network, regardless of where they live. Ms. Costa stated that both the Commission and states have authority to tackle rural call completion. Title II is an important source of authority to establish and enforce call completion requirements, and the Commission should use that authority to investigate the causes of rural call completion issues and take appropriate steps to prevent the problem.

### **The Commission Must Make Reporting Data Accessible to States.**

TURN also encouraged the Commission to allow states to access data reports on call quality that the Commission receives directly from carriers, and to provide more time for state authorities to review it. Ms. Costa stated that Iowa and Minnesota have declared that such data would be useful and they would closely examine it, but it is unclear if they will have access to it. TURN encourages the Commission to make this reporting data automatically available to states that request it. This source of data is particularly important for states where telephone service has been deregulated and the Public Utilities Commission is no longer allowed to collect data on service quality. Ms. Costa reminded the FCC that, in these states, the data that the FCC collects about service quality is crucial to their ability to track and solve the problem at the state level.

### **The Commission Must Ensure Consumers are Informed About the Technology Transitions.**

Whitney Kimball-Coe, Coordinator for the National Rural Assembly (Rural Assembly), encouraged the Commission to work with all stakeholders to find out what information rural residents need about the technology transitions, and to create and distribute information that

educates consumers. We are in the midst of this transition, and carriers are becoming more aggressive in seeking to transition their networks. Now is when rural residents most need the Commission to reach out to help them understand how the technology transitions will affect the communications services available to them. The Rural Assembly, a gathering of diverse stakeholders coming together to engage in policy solutions, conducted a survey with its members about the technology transitions, and found out most did not know this was happening.

Ms. Kimball-Coe urged the Commission to identify and assess the information currently available to consumers regarding the technology transitions. She stressed the importance of finding out what carriers, of all sizes, are truly doing to fully inform their customers about technology changes and how these changes impact the services they use. This concern rises after reports that carriers are not informing consumers of their option to maintain basic stand-alone telephone service and instead try to push bundled or new services on the consumer without explaining that some of the features of the traditional technology are not available with the new technology.<sup>4</sup> The Commission must require all carriers interested in making a technology change to inform their customers. The proposal that rural LECs should be exempt from reporting technology changes to their customers is unacceptable. All consumers, particularly rural consumers who typically have less access to information, have to be informed of the technology transitions and how a change in transitions will impact the services they rely on. Ms. Kimball-Coe urged the Commission to hold companies accountable to full transparency with their customers during and after the transitions.

Ms. Kimball-Coe commended the Commission's 2015 Rural Tour ("Tour") as a way to inform rural communities about the critical work of the Commission. She encouraged the Commission to utilize the Tour as a learning opportunity to find out what consumers know about the technology transitions, what information is needed, and as a space where educational materials can be distributed. She also encouraged the Commission to attend the National Rural Assembly gathering in September to share insights from the Tour and reach out to more rural stakeholders about the technology transitions. She stated that the Rural Assembly would be interested in exploring ideas to collaborate with the Commission on efforts to inform rural consumers about these changes.

### **The Continued Digital Divide Exacerbates the Need for a Responsible Transition that Does Not Leave Rural America Behind.**

Dee Davis, President of the Center for Rural Strategies (Rural Strategies), reminded the Commission of the persistent digital divide that disproportionately affects rural America. Mr. Davis cited a study his organization commissioned about what happens to rural communities without broadband access.<sup>5</sup> The study found that while broadband access does not guarantee prosperity, not having it guarantees a community will not prosper. Mr. Davis stated that broadband access is an existential question for rural America because it impacts every aspect of

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<sup>4</sup> See Public Knowledge, TURN, et. al, letter to the FCC, <http://apps.fcc.gov/ecfs/comment/view?id=6017635315>.

<sup>5</sup> Strover, S. (Ed.). (2011). *Scholars' Roundtable: The Effects of Expanding Broadband to Rural Areas*. Published by the Center for Rural Strategies. Retrieved from [www.ruralstrategies.org/sites/all/files/Broadband\\_Investment.pdf](http://www.ruralstrategies.org/sites/all/files/Broadband_Investment.pdf)

the economy and society. Access to broadband has become a critical issue about planning for the next generation that will live in rural communities. He urged the Commission to move forward with closing the digital divide.

**The Commission Should Include Broadband Service in the Lifeline Program.**

Sharell Harmon represented the YouthBuild USA Rural Caucus. YouthBuild USA is a national education and job-training model where low-income young people ages 16 to 24 work toward their General Education Development Certificate (“GED”) or high school diplomas while learning job skills by building affordable housing in their communities. At the program’s completion, participants are placed in college, jobs, or both. YouthBuild USA’s Rural & Tribal Development Initiative convenes an annual Rural Caucus of young leaders.

Ms. Harmon is a recipient of the Lifeline phone program and told Ms. Sohn about her experiences using her Lifeline wireless phone to communicate with her children’s daycare, social workers, and employers. She thanked the Commission for creating a program that helps in her daily life and encouraged the Commission to “clone” the program for broadband service. Currently, Ms. Harmon cannot afford internet access at home because her financial situation requires her to prioritize rent, utilities, and groceries. She explained that many low-income youth like her are missing out on opportunities because they cannot afford access to the internet. She said that cost is the number one barrier for rural communities, and that a Lifeline Internet program would allow many youth like her to take classes online and pursue their goals.

Ms. Harmon presented a document outlining the YouthBuild Rural Caucus’ recommendations for a Lifeline Internet program that supports access to affordable Internet in rural communities. The recommendations include: recipient choice in wireless and wired services, preventing data caps, funding digital literacy, no restrictions on websites, protecting recipient’s privacy, funding hardware, collaborating with state and federal agencies, and maintaining the eligibility requirements of the telephone program. She requested Mr. Litman to consider their recommendations and include broadband service in the Lifeline program. Please see the YouthBuild Rural Caucus Lifeline Recommendations document attached.

The rural delegates present at the meeting were in D.C. to participate on a briefing for Congress staff about various policy issues implicated in the technology transitions. They are grateful for the opportunity to meet with Mr. Litman to talk about the issues that matter to them and their rural communities as our telephone network transitions.

Respectfully submitted,

/s/ Edyael Casaperalta

*Coordinator*

RURAL BROADBAND POLICY GROUP

*Internet Rights Fellow*

PUBLIC KNOWLEDGE