

June 8, 2015

**VIA ECFS**

***EX PARTE NOTICE***

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

**Re: *Technology Transitions, GN Docket No. 13-5; Policies and Rules Governing the Retirement of Copper Loops by Incumbent Local Exchange Carriers, RM-11358; PS Docket No. 14-174; Special Access Rates for Price Cap Local Exchange Carriers, WC Docket No. 05-25 and RM-10593; Windstream Petition for Declaratory Ruling, WC Docket No. 15-1***

Dear Ms. Dortch,

On June 4, 2015 John Bergmayer, Phillip Berenbroick and Meredith Rose of Public Knowledge; Olivia Wein of the National Consumer Law Center (by phone); Colleen Boothby of Levine, Blaszak, Block & Boothby, LLP on behalf of the Ad Hoc Telecom Users Committee; Jamie Belcore Saloom of the Small Business Administration; Lisa Youngers of XO Communications; Keith Buell of Sprint Corporation; Eric Einhorn and Jennie Chandra of Winstream Communications; Paula Foley of Granite Telecommunications; Roger Fleming of Northfork Strategies on behalf of Integra Telecom; Joe Cavender of Level 3 Communications; Thomas Jones of Willkie Farr and Gallagher on behalf of Level 3, Birch and COMPTEL, and the undersigned from COMPTEL met with Matt DelNero, Carol Matthey, Deena Shetler, Daniel Kahn, John Visclosky, Pam Arluk, David Zesiger, Bakari Middleton (by phone) and Michele Berlove (by phone) of the Wireline Competition Bureau.

During the meeting representatives of public interest groups, business users, competitive carriers, incumbent carriers, and wireless carriers expressed strong support for the Commission's proposed actions in the Notice of Proposed Rule Making in the Emerging Wireline Networks and Services proceeding<sup>1</sup> in furtherance of its goal of preserving the principles of competition, consumer protection, universal service, and public safety and national security.

Specifically, representatives expressed strong support the following proposals of the Commission:

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<sup>1</sup> Notice of Proposed Rulemaking and Declaratory Ruling, *Technology Transitions et al*, GN Docket No. 13-5, FCC 14-185 (2014) ("NPRM").

1) Establishing criteria to evaluate replacement technologies when a carrier files an application to discontinue a retail service pursuant to section 214(a).<sup>2</sup> So that residential consumers are able to obtain functionally equivalent services as the networks transition to IP technology, the Commission should establish a Section 214 checklist for residential service. In particular, the following ten attributes should be evaluated in determining the adequacy of substitute residential services: (1) Network capacity; (2) Call quality; (3) Device interoperability; (4) Service for the deaf and disabled; (5) System availability; (6) PSAP and 9-1-1 service; (7) Cybersecurity; (8) Call persistence; (9) Call functionality; and (10) Wireline coverage.<sup>3</sup>

2) Adopting the Commission’s proposed rebuttable presumption and tentative conclusion for wholesale input services. So as to ensure business consumers of all sizes have a choice in providers and continue to obtain the innovative and tailored services they have come to rely on to operate their businesses, it is critical for the Commission to, at a minimum, ensure wholesale input rates do not increase as a result of the transitions in technology. As such, the Commission should i) adopt its proposed rebuttable presumption<sup>4</sup> that a Section 214 application is required for the discontinuance of wholesale service offerings, including for Wholesale Complete/Advantage Products and special access term discount plans; and ii) adopt the Commission’s tentative conclusion<sup>5</sup> that an incumbent LEC must offer a replacement product that provides at least equivalent wholesale access on equivalent rates, terms, and conditions in order to be granted a discontinuance application for a wholesale input service offering. With regard to the equivalency standard, the Commission should adopt Windstream’s proposed six principles (as modified in the attachment to ensure that products such as Wholesale Complete and Wholesale Advantage are adequately addressed) to evaluate whether replacement offerings meet the equivalency standard.<sup>6</sup>

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<sup>2</sup> *NPRM* at ¶ 93.

<sup>3</sup> *Id.* at ¶ 94.

<sup>4</sup> *See id.* at ¶ 103, “where a carrier seeks to discontinue, reduce or impair a wholesale service, there will be a rebuttable presumption that that action will discontinue, reduce or impair service to a community or part of a community such that approval is necessary pursuant to Section 214(a).”

<sup>5</sup> *See id.* at ¶ 110, the Commission tentatively concludes that it “require an incumbent LECs that seek Section 214 authority to discontinue, reduce, or impair a legacy service used as a wholesale input by competitive providers to commit to providing equivalent wholesale access on equivalent rates, terms, and conditions.”

<sup>6</sup> *See NPRM* at ¶ 111. Representatives also expressed support for granting the petition for declaratory ruling filed by Windstream. *See* Petition of Windstream Corporation for a Declaratory Ruling, WC Docket No. 15-1, GN Docket No. 13-5 (filed Dec. 29, 2014) (Windstream Petition); *See also*, FCC Public Notice, DA 15-4, rel. Jan. 6, 2015.

3) Improving the “copper retirement process to better promote competition and protect consumers.”<sup>7</sup> In particular, the Commission should adopt revisions to the notification and procedural rules for copper retirement so that wholesale and end-users consumers are informed of their options and impact.<sup>8</sup>

Please do not hesitate to contact me if you have any questions about this submission.

Respectfully submitted,

*/s/ Karen Reidy*

cc: Meeting participants

Attachment

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<sup>7</sup> *Id.* at ¶ 49.

<sup>8</sup> Also discussed was a series of specific proposals COMPTEL members have made on improving the wholesale copper retirement process, *see e.g.*, Letter from Thomas Cohen, Counsel to XO Communications, LLC, to Marlene H. Dortch, GN Docket No. 13-5 et al. (June 5, 2015), and alternatives to the bare copper loop as an unbundled element, *see e.g.*, COMPTEL Comments at 28-33, filed Feb. 5, 2015 and Comments of Birch *et al* at 33, filed Feb. 5, 2015. Additionally, we noted the overwhelming support for Commission confirmation that incumbent LECs have a duty to provide IP-IP interconnection for the exchange of facilities-based voice traffic under Section 251 of the Act.