Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition of Granite Telecommunications, LLC	)	WC Docket No. 15-114
for Declaratory Ruling Regarding the	)	
Separation, Combination, and Commingling of	)	
Section 271 Unbundled Network Elements	)	

COMMENTS OF ACN COMMUNICATION SERVICES, INC. IN SUPPORT OF PETITION FOR DECLARATORY RULING

ACN Communication Services, Inc. ("ACN") submits these Comments in support of the Petition of Granite Telecommunications, LLC ("Granite") for Declaratory Ruling.[1] Like Granite and many other CLECs, ACN provides voice service to its customers by purchasing combinations of loops, shared transport and switching pursuant to commercial agreements with the Bell Operating Companies ("BOCs"). ACN provides a valuable competitive alternative to the BOC for many residential customers who desire wireline voice service.

Most of ACN's customers either have no facilities based wireline alternative to the ILEC or else the only facilities based wireline alternative to the ILEC is the cable operator. In the 19 years since the Telecommunications Act of 1996 opened the markets for local telephone service to competition, there has been virtually no construction of competitive networks to serve residential customers, and for good reason. It is simply uneconomical to construct last-mile facilities to serve residential customers. Even in those cases in which the cable operator competes with the ILEC to provide residential voice service, the result would be a duopoly if ACN and other CLECs were not permitted to use the ILEC's facilities on a reasonable commercial basis. The Commission has recognized that duopolies present harms to competition in telecommunications markets and are unlikely sufficient to ensure that consumers receive

[1] *Petition of Granite Telecommunications, LLC, for Declaratory Ruling Regarding the Separation, Combination, and Commingling of Section 271 Unbundled Network Elements*, WC Docket No. 15-114 (filed May 4, 2015) ("Granite Petition").

the full benefits of competition.[2] Thus, ACN believes that public policy should favor a continued requirement that BOCs provide combinations of loops, shared transport and switching pursuant to commercial agreements at just and reasonable rates, terms and conditions.

ACN agrees with Granite that the Commission has sufficient grounds to conclude that the BOCs' § 251 and § 271 obligations include a requirement to provide a § 251 UNE loop commingled with § 271 local switching and shared transport. The Commission should clarify any ambiguity regarding the BOCs' obligation to provide access to a voice line arrangement consisting of a § 251 UNE loop commingled with switching and shared transport under § 271, as Granite has requested, ruling that BOCs must provide such an arrangement because the Commission requires BOCs to provide § 271 checklist items on rates, terms and conditions consistent with §§ 201(b) and 202(a).[3]

Sections 201(b) and 202(a) together obligate BOCs to provide in combined form checklist items that are already combined. It would be discriminatory and in violation of § 202(a) for BOCs to provide a combination of loop, switching and shared transport to their own retail customers while withholding such combinations from CLECs.[4] It would also be unjust and unreasonable under § 201(b) for BOCs to separate elements that are already combined.

Similarly, §§ 201(b) and 202(a) require BOCs to combine checklist items upon a CLEC's request unless the BOC has a reasonable basis for refusing such request. Refusal to combine § 271 checklist items for CLECs that the BOC ordinarily combines for itself is unreasonably discriminatory in violation of § 202(a) and an unjust and unreasonable practice under § 201(b).

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[2] Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Phoenix, Arizona Metropolitan Statistical Area, 25 FCC Rcd 8622, 8637-8643 ¶ 29-37 (2010), aff'd *Qwest Corp. v. FCC*, 689 F.3d 1214 (10th Cir. 2012).

[3] *See* Granite Petition at 8.

[4] *See* Granite Petition at 9.

Under §§ 201(b) and 202(a), CLECs may obtain a UNE commingled with a combination of checklist items consistent with the Commission's definition of "commingling" in 47 C.F.R. § 51.5.

The Commission should clarify these obligations pursuant to Granite's Petition for Declaratory Ruling and apply such clarification in any section 214 order in which a BOC seeks to discontinue CLECs' wholesale voice line arrangements. Such clarification is necessary in order to ensure that ILECs do not use the technology transition as a device enabling them evading their wholesale obligations under §§ 251 and 271, and thereby stifling competition from ACN and others.

Respectfully submitted,

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