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July 21, 2015

**Via ECFS**

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

**Re:   *Technology Transitions, GN Docket No. 13-5; GN Docket No. 12-353; Retirement of Copper Loops by Incumbent Exchange Carriers, RM-11358***

Dear Ms. Dortch:

This letter responds, on behalf of Xchange Telecom LLC (“Xchange”) to three *ex parte* letters submitted by Maggie McCready of Verizon in the above referenced dockets, dated July 15, 2015, July 16, 2015, and July 20, 2015. In each of the letters, Verizon takes the position that “*de facto* copper retirement” is “a myth.” In Xchange’s recent experience attempting to order copper loops from Verizon, *de facto* copper retirement is reality, not a myth.

As reflected in Verizon’s July 15 letter, Verizon’s position is that its copper network is “healthy,” and therefore presumably available for customers desiring service over copper. That is not consistent with Xchange’s experience, as a competitive LEC seeking to order copper loops to serve its retail residential and business customers in New York under its interconnection agreement with Verizon. Attached are five strings of email correspondence between Xchange and Verizon typifying the repeated problems Xchange has had getting Verizon to provide functioning copper loops to serve Xchange’s end user customers.

In Attachment A, Verizon informed Xchange that Verizon had referred the customer “for a fiber migration” due to defective [copper] cable.”

In Attachment B, Verizon cancelled its ticket to repair a copper circuit, stating that “fiber is the only solution here.”

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In Attachment C, Verizon informed Xchange that “the copper is failing,” suggesting that Xchange should order fiber service under an exception for chronic problems, as at the time, Verizon did not permit Xchange to order service over fiber.

In Attachment D, Verizon simply informed Xchange that “there is NO copper in the block and no adjoining street/hwy terminals to wire out the customer” and therefore the only available option was FiOS. As Xchange had told Verizon, the customer could not use fiber and as a result, Xchange lost this customer.

In Attachment E, Verizon informed Xchange that the copper serving Xchange’s customer was defective and there were no spares available. Verizon therefore recommended that the customer be served by fiber instead of copper.

Since July 2014, Verizon has canceled, changed or otherwise modified over 180 orders placed by Xchange because of lack of copper facilities in the New York City metro area. The five attached examples are but a few of many examples. Based on Xchange’s experience, as part of its unilateral tech transition, Verizon is, without seeking FCC approval pursuant to Section 214 or otherwise, allowing its copper network in New York City to deteriorate to the point of unavailability in many instances, and in other instances Verizon has simply removed its copper network altogether.

The bottom line is that when copper pairs are not maintained or restored, they are not available—forcing Xchange and its customers to higher-priced alternatives or simply making it impossible for Xchange to compete for the business of the customer. For example, because of unavailability of copper loops, Xchange may have to purchase service over a fiber voice grade circuit under its Wholesale Advantage Service Agreement (“WASA”) with Verizon, at a significantly higher price than the price at which it was purchasing the copper loop that is no longer available. Although the WASA service also includes switching and shared transport, there are no real savings to Xchange, which is in no position to jettison its own switching and transport simply because Verizon is now providing some loops under WASA. Under these circumstances, the Commission should consider ordering Verizon to provide the WASA service at the same rates as the copper loop service.

When copper pairs are not maintained or restored, they are not available. Xchange recommends that if an ILEC removes or disables loop, subloop or feeder, it should follow the copper retirement process set out in the Commission’s Rules, but if service is also retired, the ILEC should file a Section 214 discontinuance. Unless a loop has been retired, the ILEC has an obligation to restore copper to serviceable use. 47 C.F.R. 51.319(a)(3)(iii)(B). It appears that Verizon is not always complying with this obligation.

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Respectfully submitted,

*/s/ Eric J. Branfman*

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