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July 23, 2015

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, D.C. 20554

Re: *Technology Transitions, GN Docket No. 13-5, Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers, RM-11358*

Dear Ms. Dortch:

On July 21, 2015, Lisa Youngers of XO Communications LLC (“XO”) and the undersigned, Edward A. Yorkgitis, Jr., of Kelley Drye & Warren LLP, counsel for XO, met with Nicholas Degani, Legal Advisor to Commissioner Ajit Pai, and Commission intern Trey O’Callaghan in regard to the above-referenced proceedings.¹ The XO representatives expressed appreciation that the Commission is addressing pro-competitive issues in the *Technology Transitions* proceeding. They discussed the aspects of interest to XO of the draft order on circulation, as set forth in the Commission’s Fact Sheet containing the Chairman’s proposals and the Chairman’s July 10, 2015, blog post regarding the item.

Copper Retirement Notices – The XO representatives reiterated that competitive providers, like XO, and the incumbent local exchange carriers (“incumbents” or “ILECs”) make abundant use of Ethernet over Copper (“EoC”) and integrated voice/data services that are based on maximizing the use of the copper in the network. In many locations, fiber is not yet available, and EoC is the only way that many retail customers can obtain Ethernet service today. XO is not seeking and has never sought to stand in the way of ILEC retirement of copper facilities (or require prior Commission approval), but, because XO uses ILEC copper loops to provide EoC, XO requires adequate notice and information that improves business certainty, similar to arrangements found in normal commercial relationships between vendors and customers. XO has sought sufficient and longer notice before copper retirements take effect to allow XO to

¹ *Technology Transitions, et al.*, Notice of Proposed Rulemaking and Declaratory Ruling, FCC 14-184 (rel. Nov. 25, 2014) (“*NPRM*”).

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identify and implement suitable alternatives for their end user customers in a timely fashion. The XO representatives discussed XO's positions in the record on copper retirement process, and expressed their appreciation that a minimum of six months' notice for non-residential copper-based retirements has been proposed by the Chairman. XO also supports the Chairman's proposals to require notice of retirements when any element of the copper portion of the network is retired, not just home run loops, and to clarify that copper facilities cannot be retired through neglect but only following actual notice.

Section 214 Approval – The XO representatives discussed their understanding that ILECs, before discontinuing a service that only has wholesale carrier customers, will be required under the Chairman's proposal to engage in a "meaningful evaluation" to determine whether the action would negatively impact retail users served by the wholesale customers. XO supports the clarification set forth in the Fact Sheet that where there is such adverse impact, the carrier must follow the statutory application and approval process for discontinuance. The Fact Sheet also explains that the Chairman's proposals would provide that, on an interim basis, where a service is discontinued pursuant to Section 214 approval, ILECs will have to offer replacement services on "reasonably comparable" rates terms and conditions to the discontinued services. The XO representatives expressed support that the proposals incorporate the Windstream principles for evaluating whether a replacement service satisfies the "reasonably comparable" standard. XO discussed the possibility of Commission examination of the sufficiency of such replacement services as part of a Section 214 review, rather than in a post-grant complaint posture.

Please contact the undersigned if there are any questions or if you require further information.

Respectfully submitted,



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