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July 27, 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; AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353; Policies and Rules Governing the Retirement of Copper Loops by Incumbent Local Exchange Carriers, RM-11358; Special Access Rates for Price Cap Local Exchange Carriers, WC Docket No. 05-25 and RM-10593*

Dear Ms. Dortch,

On July 23, 2015, Harold Feld, Phillip Berenbroick and Meredith Rose of Public Knowledge, Lauren Wilson of Free Press, Eric Einhorn of Windstream, Paula Foley of Granite Telecommunications, Keith Buell of Sprint Corporation, Roger Fleming of Northfork Strategies on behalf of Integra Telecom, Thomas Jones of Willkie Farr and Gallagher on behalf of Level 3, Birch, TDS Metrocom and COMPTTEL, Tamar Finn of Morgan Lewis on behalf of U.S. TelePacific Corp., and Angie Kronenberg and the undersigned from COMPTTEL met with Rebekah Goodheart of Commissioner Clyburn's office. During the meeting we expressed our support for the Commission's bipartisan unanimous determination that the technology transition proceeding should ensure that the network values of competition, consumer protection, universal service and public safety should continue.

We discussed a number of issues related to wholesale services. For one, we expressed support for adoption of the requirement that an incumbent LEC must offer a replacement product that is reasonably comparable to the existing product in order to be granted a discontinuance application for a wholesale service offering. The adoption of this standard is needed so that business end-users can continue to receive the tailored, innovative and affordable service they need to operate their businesses. The need of competitors to reach their end-user customers through incumbent wholesale last mile access services is not altered by the transition from TDM to IP. If incumbent LECs were allowed to discontinue legacy services without preserving the availability of affordable last-mile connections to non-profits, anchor institutions, and business customers, then competition to serve these end users would be harmed. Indeed, as discussed in the meeting, there are close to 300 letters in the docket from end-user customers asking the Commission to preserve competitive choice. They are a diverse representation of education centers, health care provides, school districts, fire fighters, financial institutions, and "mom & pop" companies. The letters from these end-users discuss the importance of the customized and affordable service – and the good customer service – they receive from competitive carriers.

Additionally, we discussed the need for the Commission to improve the “copper retirement process to better promote competition and protect consumers.”¹ Competitive providers have, through innovation, developed technologies to use the copper loop infrastructure to support broadband deployment at ever-increasing transmission speeds. This has facilitated a degree of competition and more affordable offerings in the Ethernet market, particularly for smaller businesses—often providing 100 Mbps offerings. The Commission should adopt revisions to improve the notification and procedural rules for copper retirement so that wholesale and end-users consumers are informed of their options and have sufficient notice of retirements to allow them to consider fully alternatives and can take informed steps to mitigate the impact without retail customers suffering undue disruption. We also expressed our support for the Commission defining copper retirement to include disabling or removal of the loop or feeder and ask that the Commission remind incumbents of the obligation to return copper facilities to service upon request if they haven’t been retired.

We also discussed several issues related to residential service. First, we explained that the Commission's proposal on back-up power for residential customers should require carriers to provide a commercially available back-up power option, such as D cell batteries, so that customers can stockpile batteries ahead of power outages. Customers seeking to ensure they have adequate back-up power should have options other than purchasing a proprietary battery from their service provider; additionally, customers should not be reliant on carriers to recharge their back-up power source. Relegating customers to relying exclusively on their carrier for proprietary batteries and recharging is a significant threat to public safety. Carriers should also be obligated to offer residential customers the option to purchase back-up power at any time, not just at the point of sale, not as rental or subscription service, and not with the condition that the customer renews the service or purchases additional services or upgrades.

Second, we reiterated our concern with reports of carriers allowing copper networks to degrade to the point of de facto discontinuance of service, without seeking approval from the Commission under 214. We support defining "retirement" to prevent carriers from retiring their networks by neglect.

Third, we emphasized that the Commission should clarify when a carrier's obligations under Section 214 are triggered following the destruction of copper facilities due to natural disaster. The Commission's Declaratory Ruling discusses the destruction Hurricane Sandy caused to Verizon's network on Fire Island, NY and Verizon's subsequent 214 filing; however, consumers and carriers require greater clarity regarding when Verizon's obligation to make the 214 filing was triggered.

Finally, we urged the Commission to establish appropriate technical standards to define "comparable" service for the purpose of copper retirement and Section 214. We support the establishment of clear, engineering-based metrics to determine whether new technologies are comparable to the TDM service that a carrier proposes to retire.

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

¹ Notice of Proposed Rulemaking and Declaratory Ruling, *Technology Transitions et al*, GN Docket No. 13-5, FCC 14-185 (2014) at ¶ 49.

Respectfully submitted,

/s/ Karen Reidy

cc: Rebekah Goodheart