

July 27, 2015

The Honorable Tom Wheeler  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, NW  
Washington, DC 20554

**Re: Technology Transitions, GN Docket No. 13-5**

Dear Chairman Wheeler:

Last year, the Federal Communications Commission (“Commission”) issued a *Notice of Proposed Rulemaking* (“NPRM”) regarding the ongoing technological transition of our communications networks.<sup>1</sup> The Commission held that its copper network retirement process failed to sufficiently protect the core values of competition, consumer protection, universal service, and public safety and national security, particularly given the increasing frequency and volume of copper retirements and the growing impact on consumers and competition.<sup>2</sup>

The fundamental values of the network compact and the Commission’s statutory obligations do not disappear with the transition from copper to new technologies, and the Commission recognized the need to define carriers’ responsibilities when discontinuing legacy services to ensure the values that have governed our communications networks are carried forward without regard to the underlying technology. As part of its inquiry into how to accomplish this goal, the Commission sought comment on what constitutes an adequate substitute for “a retail service being discontinued, reduced, or impaired.”<sup>3</sup>

Public Knowledge has consistently urged the Commission to establish metrics to compare the services that carriers are discontinuing with the replacement services.<sup>4</sup> These metrics will enable policymakers to determine whether the services are truly comparable. Without ensuring that new services are actually substitutes for the services being phased out, there is a risk that entire communities could lose critical functionality in the communications network.

The *NPRM* adopted Public Knowledge’s proposal, concluding that it would be beneficial for both the public and industry for the Commission to establish criteria to evaluate what

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<sup>1</sup> Ensuring Customer Premises Equipment Backup Power for Continuity of Communications, Technology Transitions, Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers, Docket No. 29 FCC Rcd 14976 ¶ 14.

<sup>2</sup> *Id.* at 29 FCC Rcd 14976 ¶ 14.

<sup>3</sup> *Id.* at 29 FCC Rcd 15006 ¶ 92.

<sup>4</sup> See e.g., Comments of Public Knowledge, et. al.; PS Docket No. 14-174, GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593, WC Docket No. 15-1; at 8-10 (filed Feb. 5, 2015) (“Public Interest Comments”); Reply Comments of Public Knowledge; PS Docket No. 14-174, GN Docket No. 13-5, FM-11358, WC Docket No. 15-1, WC Docket No. 09-109, CC Docket No. 95-116; at 3-6 (filed Mar. 10, 2015); Letter from Jodie Griffin, Senior Staff Attorney, Public Knowledge, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 12-353 et. al., at 1 (filed Sept. 17, 2014); Letter from Harold Feld, et. al., Senior Vice President, Public Knowledge, to Tom Wheeler, Chairman, FCC, GN Docket No. 12-353 and 13-5, at 3 (filed Jan. 13, 2014).

constitutes an adequate substitute service, for consumers, for a discontinued retail service. Additionally, the Commission sought comment on factors it should consider in evaluating Section 214 filings concerning discontinuance of retail services.<sup>5</sup>

In response to the *NPRM*, Public Knowledge, along with other public interest groups, submitted a report assessing some the tests that are likely to be necessary to examine the effect of the technology transitions on core network functions.<sup>6</sup> Public Knowledge also suggested the Commission reach out to technical and industry groups for examples of applicable standards, and that wholesale contracts for large scale users could provide a starting point in determining useful quality standards.<sup>7</sup> Lastly, in the absence of other proposals in the record, Public Knowledge has urged the Commission use six-months of real-time performance metrics—three months before the discontinuance of TDM service, and three months after—as an interim requirement to ensure functional substitutability.<sup>8</sup>

To further develop the record on metrics to compare services, Public Knowledge hereby submits the attached documents, which include potential alternative standards and metrics. The Commission may wish to adopt one or more of these standards directly, or seek comment on these standards or similar alternatives in a Further Notice of Proposed Rulemaking.

In accordance with Section 1.1206(b) of the Commission’s rules, an electronic copy of this letter is being filed in the above-referenced docket. Please contact me with any questions regarding this filing.

Sincerely,

/s/ Phillip Berenbroick  
Counsel, Government Affairs  
Public Knowledge

Cc: Commissioner Mignon Clyburn  
Commissioner Michael O’Reilly  
Commissioner Ajit Pai  
Commissioner Jessica Rosenworcel  
Daniel Alvarez, Legal Advisor to Chairman Wheeler  
Rebekah Goodheart, Legal Advisor to Commissioner Clyburn  
Amy Bender, Legal Advisor to Commissioner O’Reilly  
Nicholas Degani, Legal Advisor to Commissioner Pai  
Travis Litman, Legal Advisor to Commissioner Rosenworcel  
Matthew DelNero, Chief, Wireline Competition Bureau

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<sup>5</sup> *NPRM* at 29 FCC Rcd 15006-07 ¶¶ 93-94.

<sup>6</sup> Public Interest Comments, Appendix, A (filed Feb. 5, 2015).

<sup>7</sup> Notice of *Ex Parte* of Public Knowledge; PS Docket No. 14-174, GN Docket No. 13-5, RM-11358; at 1 (filed June 24, 2015).

<sup>8</sup> Notice of *Ex Parte* of Public Knowledge; PS Docket No. 14-174, GN Docket No. 13-5, RM-11358; at 3 (filed July 23, 2015).