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VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Commission's Rules Applicable to Retirement of Copper Loops and Copper Subloops, RM-11358; Technology Transitions Policy Task Force, GN Docket No. 13-5; Technological Transition of the Nations Communications Infrastructure, GN Docket No. 12-353; Special Access for Price Cap Local Exchange Carriers; WC Docket No. 05-25, RM-10593

Dear Ms. Dortch:

Three days before Sunshine, Verizon filed a letter¹ proposing for the first time two safe harbors for *de facto* copper retirements. U.S. TelePacific Corp. d/b/a TelePacific Communications (“TelePacific”) urges the Commission to reject Verizon’s last-minute attempt to escape its obligation to restore a copper loop to serviceable use.² Defining copper retirement to include the functional equivalent of removing or disabling a loop, subloop, or feeder does not impose a new burden or cost on incumbent LECs and will not result in unmanageable loop-by-loop retirements. Instead, it will force incumbent LECs to choose between complying with their existing obligation to return a copper loop to serviceable use upon request, or retiring it. Moving a customer with chronic troubles to Verizon fiber may be the best choice for Verizon,³ but Verizon should not be permitted to arrogate to itself the right to decide what is the best choice for a retail customer or for competition.

¹ *Ex Parte* Letter from Maggie McCready, Verizon to Marlene Dortch, Secretary, *Technology Transitions*, GN Docket No. 13-5 *et al.* (filed July 28, 2015) (“*McCready July 28 Ex Parte*”).

² 47 C.F.R. 51.319(a)(3)(iii)(B).

³ See Verizon Delivers Double-Digit Adjusted Earnings Growth and Strong Cash Flows in Second Quarter (July 21, 2015), available at <http://www.verizon.com/about/news/verizon-delivers-double-digit-adjusted-earnings-growth-strong-cash-flows-2q-2015> (“In second-quarter 2015, Verizon migrated 50,000 customers who had been using copper connections, toward a full-year goal of 200,000.”).

TelePacific supports the transition to fiber, but based on its April 2015 survey, fiber is only available to 11% of its customers' service locations. In the absence of fiber, TelePacific relies in part on copper loops to offer Ethernet over Copper ("EoC") at speeds up to 100 Mbps and averaging nearly 20 Mbps on all new orders. As the Communications Workers of America note, from 2008 to 2014, Verizon spent a paltry 0.39 percent of its total wireline capital expenditures to maintain⁴ a copper network of tens of millions of lines.⁵ Under Verizon's first proposed safe harbor, it appears to suggest that if an ILEC's fiber network is in the general vicinity ("area") of the customer, the ILEC would be excused from repairing its copper loop even if TelePacific's customer is not connected to such fiber. Under Verizon's second proposed safe harbor, if an ILEC meets one service quality measure—Network Trouble Reports Per Hundred Lines—*statewide*, the ILEC would be excused from repairing a copper loop used to provide a competitive broadband service or complying with copper retirement requirements, even if every single copper loop in a particular community had been *de facto* retired. Any metric that relies on a statewide average says nothing, particularly in a large state such as California, about conditions in any given "community" or "part of a community," which is the geographic area that must be considered under Section 214, or in any given "location," which must be included in the notice of network change. Grossly excessive trouble reports in one "community" or location could be easily offset by a reasonable level of trouble reports elsewhere in the state.

Under both of the safe harbors proposed by Verizon, because a particular loop/subloop/feeder would be *de facto* retired, TelePacific's customer could lose its current broadband service, be forced to choose a more expensive (DS-3) or lower bandwidth option (bonded T-1s at up to about 10 Mbps), lose a competitive broadband option, or lose symmetric broadband altogether (if fiber was not deployed to the customer location). Because most of TelePacific's small and medium-sized business, school, healthcare and community anchor institution customers require symmetric broadband with service level guarantees, "best efforts" broadband, even if it were available, may not meet their needs.

The Commission also should reject Verizon's claim that out of service ("OOS") repair metrics are "unrelated to network reliability." The California Public Utilities Commission's Alternate Proposed Decision noted that staff found OOS restoration times, in addition to trouble reports,

⁴ Although Verizon states it has "spent more than \$200 million on its copper network" since 2008 (McCready July 28 *ex parte* at 1), during that time period, Verizon told investors it was not repairing copper in FiOS areas. See THOMSON REUTERS STREETEVENTS EDITED TRANSCRIPT VZ – Verizon at Oppenheimer Holdings, Inc. Technology, Internet & Communications Conference, at 12 (dated Aug. 15, 2012), available at http://www.verizon.com/idc/groups/public/documents/adacct/oppenheimer_vz_transcript.pdf ("So if you are a voice copper customer and you call in that says you are having trouble on your line, when we go out to repair that we are actually moving you to the FiOS product. **We are not repairing the copper anymore.**") (emphasis added).

⁵ *Ex Parte* Letter from Debbie Goldman, Communications Workers of America to Marlene Dortch, Secretary, GN Docket No. 13-5 *et al*, at 2 (filed July 27, 2015).

are “particularly important.”⁶ The Commission cannot, without a record, pick one state service quality standard as the best indicator of network reliability and ignore other standards adopted by a state commission. As the California Staff Report explains:

This [Out of Service Repair Interval] measurement assesses the average interval, in hours and minutes, from the time of the reporting carrier’s receipt of the OOS trouble reports to the time *service is restored* for residential and small business customers.⁷

Although Verizon’s corrective actions to improve this metric included implementing “employee engagement network rehabilitation initiative to require technicians to document report and track any deteriorating plant facilities,” Commission “reliance on the carrier’s corrective action plans has not been an effective means to improve service quality performance.”⁸ Moreover, staff noted that wholesale repair times for similar measures are significantly longer.⁹

Because not all states continue to measure service quality, TelePacific would welcome the Commission’s consideration of a national benchmark against which copper network reliability could be measured. Public Knowledge has suggested numerous metrics for consideration and a further NPRM could build a record on which the Commission could adopt a *de facto* retirement safe harbor based on key metrics. Additional metrics could include repeat trouble/repair reports, a key metric to determine whether incumbent LECs are fixing their plant,¹⁰ or compliance with Telcordia Standards such as:

- GR-3108: Generic Requirements for Network Equipment in the Outside Plant
- GR-2834: Generic Requirements for Basic Electrical, Mechanical & Environmental Criteria for Outside Plant Equipment

⁶ *Order Instituting Rulemaking to Evaluate Telecommunications Corporations Service Quality Performance and Consider Modification to Service Quality Rules*, Alternate Proposed Decision, Cal. P.U.C Rulemaking No. 11-12-001, at 4 (dated July 3, 2015). Available at <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M152/K971/152971963.PDF>

⁷ *California Wireline Telephone Service Quality Pursuant to General Order 133-C Calendar Years 2010 through 2013*, Communications Division Staff Report (Public/Redacted Version) at 6 (emphasis added) (Sept. 2014). Available at <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M108/K540/108540852.PDF>

⁸ *Id.* at 17.

⁹ *Id.* at 19.

¹⁰ Verizon tracks repeat and chronic trouble reports and AT&T tracks repeat repair reports. *See Responses of Verizon California Inc. to the May 18, 2012 Administrative Law Judge Ruling Requiring Telecommunications Corporations to Provide Data* at A-7 (filed June 14, 2013); *Response of AT&T California and Certain of its Affiliates to the Administrative Law Judge Ruling Requiring Telecommunications Corporations to Provide Data* at 7 (filed June 14, 2012), Cal. P.U.C. Rulemaking No. 11-12-001.

- FR-METALLIC-01: Generic Requirements for Telecommunications Broadband Metallic Wire and Cable
- GR-421: Generic Requirements for Metallic Telecommunications Cables
- GR-3163: Generic Requirements for Metallic Telecommunications Service and Distribution Drop Wires
- FR-SONET-O1: Generic Requirements for SONET Transport and Synchronization Criteria¹¹

Unless and until the Commission develops a record that supports adoption of a particular standard, however, it should reject Verizon's proposals.

Hundreds of customers have submitted letters asking the Commission to preserve the availability of competitive services. The *de facto* retirement of copper loops impacts the competitive environment by limiting the choices of competitive carriers who have relied, justifiably, on copper loops to serve their customers and who may have no comparable ability to use fiber as an alternative. The Commission therefore should address *de facto* retirement to preserve competition by forcing incumbent LECs to choose between complying with their existing obligation to return a copper loop to serviceable use upon request, or retiring it.

Respectfully submitted,

/s/ Tamar E. Finn

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Attachment

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¹¹ See, *Comments of the California Association of Competitive Telecommunications Companies*, Cal. P.U.C. Rulemaking No. 11-12-001 (filed Jan. 12, 2012), available at <http://docs.cpuc.ca.gov/PublishedDocs/EFILE/CM/159017.PDF>

Marlene H. Dortch, Secretary
July 30, 2015
Page 5

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