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July 31, 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

Dear Ms. Dortch:

On July 30, 2015, Mordy Gross of Xchange Telecom LLC and the undersigned met in person with Rebekah Goodheart, Advisor to Commissioner Clyburn. Joseph Farano of Manhattan Telecommunications Corporation d/b/a Metropolitan Telecommunications (“MetTel”) participated by telephone. The meeting was also on behalf of TelePacific Communications, Impact Telecom, New Horizon Communications Corp., and Access Point Inc. The industry parties will be referred to herein as the Wholesale Voice Line Coalition.

The Wholesale Voice Line Coalition members’ representatives explained that all of their companies rely, in whole or in part, on the use of a voice-grade product purchased from ILECs to serve multi-location businesses that have relatively modest needs for voice communications at each location (most frequently 1-10 lines). The locations are widely dispersed, and often in suburban, exurban and rural areas where no competitive carrier has facilities and it is not economical for a CLEC to construct facilities duplicating the ILEC’s, given the very limited demand at each location. Moreover, the local cable company usually cannot construct facilities to reach these businesses on an economical basis. For example, Mr. Farano stated that at a majority of its locations where existing facilities do not exist, the cable company proposed to charge more than \$5,000 for special construction, a price that is well beyond what MetTel or its customer could afford, given the relatively small amount of services needed by the customer. Mr. Farano further stated that MetTel has received bids involving construction costs ranging to the hundreds of thousands of dollars in special construction costs. Only infrequently are such construction costs low enough to make use of cable facilities economically viable.

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We pointed out that absent a requirement that ILECs continue to provide facilities to CLECs on comparable terms to those they currently provide, the customers will not have any competitive choice. For example, Xchange has an average of approximately 3.8 lines per location and MetTel has an average of approximately 3.6 lines per location. The cost of constructing competitive facilities (or extending cable facilities) to serve such small customers could not be recovered in any commercially realistic time frame. It is inevitable that in a post-transition world in which ILECs had no obligation to provide service at wholesale, the ILECs would face no competition to serve these customers. These small business customers would be at the mercy of an unregulated monopolist, which would not be in the interest of the small business customers or in the public interest.

We stated that the Wholesale Voice Coalition supported Chairman Wheeler's proposal, as we understood it, but had some concerns. First, we noted that the Chairman's Fact Sheet emphasizes that the rules to preserve competitive choices are designed "to preserve competition in the enterprise market." We noted that there was no clear definition of enterprise, but the reference to the special access docket suggests that the only competition of concern is DS1 and above. The wholesale Voice Line Coalition believes the rules are needed to preserve competition even for businesses needing a few voice lines (for which a DS1 is more than they need), and for residential customers, and noted that On July 29, 2015, NTIA expressed concern regarding government agencies that only need a few voice lines, and for which substitution with much more costly Ethernet raises real issues of discontinuance. We share those concerns.

We also noted that according to the Fact Sheet, the Order requires ILEC discontinuing a wholesale-only service (such as AT&T's LWC or Verizon's Wholesale Advantage) to conduct a "meaningful evaluation" to determine whether 214 discontinuance process is triggered because the discontinuance would negatively impact retail customers. We recommended that the Order should define or at least suggest what factors should be included in the ILEC's evaluation, that under proper circumstances, the Order should require consultation with wholesale customers, and that there should be a process for a wholesale customer to challenge an ILEC's decision that a 214 application is not required.

We also discussed the duration of the requirements. We noted that while the focus has been on tying duration to the completion of the special access docket, the data gathered in this docket will not provide information sufficient to determine whether CLECs have the ability to compete for small business customers needing only a few voice lines. The data focuses on where competitive carriers have fiber or might be willing to extend fiber. The wholesale Voice Line Coalition expressed the belief that this data will show that in a large percentage of locations of its customers, there is no fiber and the economics does not warrant building fiber. It also noted that even where competitive carriers have fiber, they might not find it economical to serve customers needing only a few voice lines. The data being collected in the special access docket does not

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enable the FCC or the parties to determine whether a fiber provider could economically serve customers needing only a few lines where the fiber provider already has fiber.

We also suggested that the Commission reject the suggestions of some that the relief provided by the NPRM sunset at a date certain, regardless of the completion of the special access docket or any other investigation of whether competitive alternative exist. We opposed this approach. The special access docket has been open since 2005, and there is no reason to believe it will be completed in the near future or in any fixed period of time. We stated that there should not be a presumption that after a specified period of time has passed, the customers served by CLECs will have competitive options other than the ILEC. If anything, the presumption should run the other way. The burden should be on the ILEC to show that other competitive options are available before the Commission eliminates the responsibility to provide reasonably comparable service.

We urged that the Commission move forward with an order that would establish that post-transition, ILECs are required to continue to offer wholesale inputs, including those found in commercial agreements, on rates, terms and conditions equivalent to those they offer today.

Respectfully submitted,

/s/ Eric J. Branfman

Eric J. Branfman
Counsel for the Wholesale Voice Line Coalition

cc: (Via E-Mail)
Rebekah Goodheart
Members of the Wholesale Voice Line Coalition