

October 28, 2015

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**RE: CORRECTED FILING IN GN DOCKET NO. 13-5; RM-11358; WC  
DOCKET NO. 05-25; AND RM-10593.**

Dear Ms. Dortch:

Our October 26 filing in the above-mentioned proceedings lacked a signature line, and was submitted in error. Attached please find the corrected version.

Sincerely,

Meredith Rose  
Attorney  
Public Knowledge

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of

	)	
Technology Transitions	)	GN Docket No. 13-5
	)	
Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers	)	RM-11358
	)	
Special Access for Price Cap Local Exchange Carriers	)	WC Docket No. 05-25
	)	
AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services	)	RM-10593
	)	

**COMMENTS OF PUBLIC KNOWLEDGE, VIRGINIA RURAL HEALTH  
ASSOCIATION, NATIONAL CONSUMER LAW CENTER, CENTER FOR  
RURAL STRATEGIES, TURN, AND THE BENTON FOUNDATION<sup>1</sup>**

**I. ALL 214 CRITERIA MUST BE MET BY A SINGLE SERVICE IN  
ORDER FOR THAT SERVICE TO BE CONSIDERED AN  
ADEQUATE REPLACEMENT**

Any proposal that would allow carriers to “split” their 214 criteria obligations for substitute service over multiple services would run directly counter to the core principal behind the checklist. Allowing for piecemeal compliance creates incentives for providers to balkanize services and offer sub-standard “bare bones” services to vulnerable

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<sup>1</sup> The Benton Foundation is a nonprofit organization dedicated to promoting communication in the public interest. These comments reflect the institutional view of the Foundation and, unless obvious from the text, are not intended to reflect the views of individual Foundation officers, directors, or advisors.

communities, while simultaneously extracting rents from those individuals who rely on assistive technology, interoperability, and other features crucial to a functioning phone network.

All of the factors proposed by the Commission’s tentative checklist are essential components of the existing network. Consumers count on having a reliable, capable service that meets certain criteria. If the Commission allowed a provider to show that adequate replacement services are available by amalgamating available subpar services into one purely imaginary adequate “unicorn” service, it would do little more than incentivize providers to divide and price their services at the most granular level, where they can extract maximum profit from minimum service. By allowing piecemeal optimization of one or two metrics per service, companies could market cut-rate “essential” services, such as one that reliably reaches 911—but does little, if anything, else.

On a practical level this becomes unfeasible for consumers. In order to replicate legacy POTS service, a consumer would have to subscribe to multiple services, possibly from multiple providers, and likely requiring separate lines into the house. While Police Commissioner Gordon certainly found use in a dedicated Bat Phone, it is unlikely that American consumers will find similar appeal in a dedicated 911 phone in one room, with a special high-reliability phone in another, and an assistive technology compatible line in yet another. Under a multiple-source framework, this scenario—an array of substandard services imposing substantial costs on a consumer—could magically pass muster as an “adequate substitute” under section 214. This result is both patently absurd and completely out of line with the intentions of the Commission in holding this proceeding.

## **II. PROVIDERS MUST EDUCATE CONSUMERS AND PROVIDE A VIABLE AVENUE TO ADDRESS THEIR CUSTOMERS' QUESTIONS AND CONCERNS REGARDING THE TECHNOLOGY TRANSITIONS**

Given the scope of the tech transition, consumers will inevitably have questions about its impact on their lives. Providers must ensure that their customers have an accessible, competent, and timely means of receiving answers to questions that they have about the transition. At a minimum, consumers should have a well-publicized method of contacting human beings who can answer these questions. A single mailed letter or online FAQ is unable to answer the specific and often individualized questions that consumers will have during the transition. An interactive and accessible service, such as a telephone hotline, should be made available to answer customers' questions in a competent and timely manner.

Additionally, because providers will be the primary source of notice and information for customers during the transition, it is critical that providers and their agents disseminate only accurate, actionable information. Providers must be held accountable for statements made to consumers by their contractors. Some issues—such as consumer queries about service disruption, or technicians needing access to the premises—are simply too important to get wrong. The prevalence and danger of misinformed customer service representatives is extensively documented at both the retail and subscription levels.<sup>2</sup> Given the enhanced importance of the tech transition and the heightened dangers

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<sup>2</sup> See, e.g., Chris Walters, *AT&T Customer Service Rep Says Store Employees are Commission-Chasing Liars*, CONSUMERIST (Sep. 7, 2010), <http://consumerist.com/2010/09/07/att-customer-service-rep-says-store-employees-are-commission-chasing-liars/>; Laura Northrop, *Sorry, It's Your Problem That AT&T Rep Lied About Smartphone Data Plans*, CONSUMERIST (Dec. 20, 2009), <http://consumerist.com/2009/12/20/sorry-its-your-problem-that-att-rep-lied-about-smartphone-data->

posed by misinformation or ill-trained representatives, providers must be held responsible for the statements issued by their support employees, customer service representatives, and contractors tasked with engaging with the public.

To the extent that the Commission decides to mandate specific language standards for consumer notification, it may find helpful guidance in the FTC's standards for "clear and conspicuous" disclosures.<sup>3</sup> Although these guidelines do not contain concrete standards, they do provide useful guidelines to evaluating the sufficiency of consumer notice.

### **III. AFFORDABILITY SHOULD BE INCLUDED AS A KEY PART OF THE COMMISSION'S COVERAGE EVALUATION**

As the Commission has previously noted in its ongoing Lifeline proceeding, if a service is not affordable, then it is not meaningfully available.<sup>4</sup> As the Commission moves forward in defining its coverage criterion, it should consider the relative price differences between new and legacy services, and to what extent that change would lock out low-income or other portions of the affected community. In many communities, a substantial price increase would create a *de facto* discontinuance of service to those

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plans/; Meg Marco, *Verizon Lies to Consumer to Get Him Off the Phone, Charges ETF*, CONSUMERIST (Feb. 20, 2007), <http://consumerist.com/2007/02/20/verizon-lies-to-customer-to-get-him-off-the-phone-charges-etf/>.

<sup>3</sup> The FTC evaluates the effectiveness of disclosures based on four factors: prominence (is it prominent enough for consumers to read easily?), presentation (is it worded in such a way that consumers can understand?), placement (where is the statement physically located on the document?), and proximity (is it close to relevant information or the claim it modifies?). For a more detailed discussion, see Lesley Fair, *Full Disclosure*, F.T.C. BUSINESS BLOG (Sep. 23, 2014), <https://www.ftc.gov/news-events/blogs/business-blog/2014/09/full-disclosure>.

<sup>4</sup> "We note that 'availability' of voice service includes, but is a broader concept than, the physical deployment of voice networks. Consistent with the Commission's proposals in the *Lifeline and Link Up NPRM*, we find that voice service is only available to low-income consumers to the extent that it is affordable." *In the Matter of Lifeline & Link Up Reform & Modernization Lifeline & Link Up Fed.-State Joint Bd. on Universal Serv. Advancing Broadband Availability Through Digital Literacy Training*, 27 F.C.C. Rcd. 6656, 6671 at para. 28 (2012).

communities who remain wholly dependent on affordable copper access. While a hypothetical 20% rate increase may not affect subscription rates among higher-income neighborhoods, it would preclude access for many in low-income communities.

**IV. THE TENTATIVE CONCLUSIONS REACHED IN THE FNPRM ARE APPROPRIATE AND SHOULD BE ADOPTED**

We support the Commission's continued efforts to safeguard consumers in the ongoing technology transitions. Measures such as establishing clear principles to ensure availability of key functions post-transition; adopting metrics for jitter, packet loss, and through-put; and continued investigation into potential notice and education requirements are all critical to ensuring the smoothest possible transition.

Respectfully submitted,

Public Knowledge  
Benton Foundation  
Center for Rural Strategies  
National Consumer Law Center  
TURN  
Virginia Rural Health Association

By:

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