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

REPLY COMMENTS OF GRANITE TELECOMMUNICATIONS, LLC

I. Introduction and Summary

Granite Telecommunications, LLC ("Granite") provides these comments in reply to the comments of AT&T Services Inc. ("AT&T"), United States Telecom Association ("USTelecom"), Independent Telephone & Telecommunications Alliance ("ITTA") and CenturyLink, Inc. ("CenturyLink") (together, "ILEC Commenters") regarding the duration of the Commission's requirement that following the transition from TDM to IP, incumbent local exchange carriers ("ILECs") must continue to provide competitors that purchase wholesale platform services with reasonably comparable wholesale access on reasonably comparable rates, terms and conditions.[1] As discussed in detail below, in their comments, the ILEC Commenters re-argue positions rejected by the Commission in its *Technology Transitions Order* and offer no

[1] *See Technology Transitions et al.*, GN Docket No. 13-5 et al., Report and Order, Order on Reconsideration and Further Notice of Proposed Rulemaking, 30 FCC Rcd 9372, at ¶ 132 (2015) ("*Technology Transitions Order*").

rationale for linking an "end date" for the reasonably comparable wholesale access requirement for wholesale platform services to the Commission's ongoing special access proceeding. For these reasons, the Commission should (i) reject the ILEC Commenters' positions, (ii) conclude that it is unnecessary to link the wholesale access requirement for platform services to issuance of final rules in the special access proceeding, and (iii) conclude that it is not necessary to establish any "end date" for this requirement because other methods for obtaining relief already exist.

II. The Commission Has Rejected Arguments Raised by the ILEC Commenters Regarding the Need for the Reasonably Comparable Wholesale Access Requirement.

In their comments, the ILEC Commenters spend considerable time arguing that the requirement for comparable wholesale access at reasonably comparable rates, terms and conditions is unnecessary for wholesale platform services. However, this issue was fully argued and decided in the *Technology Transitions Order* and reexamining the issue is not part of the Further Notice of Proposed Rulemaking ("FNPRM"). Rather, in the FNPRM, the Commission requested comment on, among other things, whether the reasonably comparable wholesale access requirement as applied to wholesale platform services should be limited to a specific time period.[2] As Granite noted in its comments, the Commission should not establish an end date for providing reasonably comparable wholesale access for wholesale platform services unless and until it determines, based on a market power analysis, that an ILEC's obligations to provide wholesale voice under §§ 201, 202, 251 and 271 (*i.e.*, the statutory requirements which form the basis of wholesale platform services agreements) are no longer necessary.[3] Therefore, if an ILEC makes a showing of substantial competition for wholesale platform services in a specific

[2] *Technology Transitions Order* at ¶ 244.

[3] Granite Comments at 6.

market or markets through a request for a rule change, petition for forbearance or other procedural vehicle, the Commission can act on the request if appropriate.[4] This form of relief renders the need for a specific end date unnecessary, particularly where, as here, the proposed end date does not have a logical connection to the rule.

Instead, in their comments, the ILEC Commenters attempt to re-argue whether the reasonably comparable wholesale access requirement itself is appropriate. USTelecom asserts incorrectly that a finding of "impairment" is required before the Commission can impose a reasonably comparable wholesale access requirement.[5] Likewise, AT&T argues incorrectly that the requirement is inappropriate because wholesale platform arrangements are "voluntary," and are not Title II offerings or interstate services.[6] CenturyLink's arguments go even further afield and assert that the Commission had no legal authority to impose the wholesale access requirement at all as it restricts providers from exiting the market.[7] All of these arguments are without merit and should be rejected.

In the *Technology Transitions Order*, the Commission clearly addressed its authority to impose the reasonably comparable wholesale access requirement. The Commission stated:

> We find the Commission has authority under section 214 to condition an incumbent LEC's authorization to discontinue TDM-based services by requiring the incumbent LEC to offer the IP replacement wholesale service on reasonably comparable rates, terms, and conditions and therefore disagree with arguments to the contrary. Section 214(c) states the Commission "may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require." The Commission has the discretion to condition a 214 authorization and regularly does so when necessary to protect the public interest.[8]

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[4] *Id.*

[5] USTelecom Comments at 18.

[6] AT&T Comments at 19, 18.

[7] CenturyLink Comments at 36.

[8] *Technology Transitions Order* at ¶ 153 (internal footnotes omitted).

The Commission likewise rejected the ILEC argument that it is precluded from taking action pertaining to "voluntary" agreements by stating "section 214(a) requires carriers to obtain Commission authority to discontinue, reduce, or impair service to a community, or part of a community, without respect to whether the service was initially provided on a voluntary basis."[9] Lastly, Granite completely agrees with the Commission's concern that "[i]f we were to fail to adopt any wholesale access requirement, we risk allowing the benefits of competition to be lost irrevocably."[10] Therefore, the Commission should reject the ILEC Commenters' arguments as simply re-arguing points already discussed and rejected in the *Technology Transitions Order*.

III. The ILEC Commenters Do Not Provide Any Rationale to Support Linking the End Date for the Reasonably Comparable Wholesale Access Requirement for Wholesale Platform Services to the Commission's Special Access Proceeding.

Of all the ILEC Commenters, only ITTA argues that conclusion of the special access proceeding should serve as the end date for the reasonably comparable wholesale access requirement for wholesale platform services. Although ITTA acknowledges that "commercial wholesale platform services are not special access services,"[11] ITTA asserts incorrectly that because the special access proceeding will entail an evaluation of competition, it should serve as the end point for the reasonably comparable wholesale access requirement for wholesale platform services.[12] However, as Granite noted in its comments, the evaluation of competition in the special access proceeding will not include an evaluation of competition for wholesale

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[9] *Id.* ¶ 149. As Granite discussed in its comments, agreements for wholesale platform service are not wholly voluntary agreements. These agreements fulfill obligations that arise under §§ 201, 202, 251 and 271, and therefore their discontinuance or modification pose a serious threat to competition and consumer welfare. Granite Comments at 5.

[10] *Technology Transitions Order* at ¶ 141.

[11] ITTA Comments at 17.

[12] *Id.* at 17-18.

platform services.[13] Therefore, conclusion of the Commission's special access proceeding does not serve as the appropriate end point for the reasonably comparable wholesale access requirement for wholesale platform services. As Granite noted, if the Commission determines that a specific end date is required (as opposed to the relief available through a showing of substantial competition for wholesale platform services, as discussed above), then addressing the issue as part of the Commission's *IP-Enabled Services* proceeding is a logical option.

IV. Conclusion

For the reasons set forth above, the Commission should reject the arguments of the ILEC Commenters, conclude that there is no need to link the reasonably comparable wholesale access requirement for wholesale platform services to the special access proceeding, and conclude that there is no need to establish a specific end date for this requirement given existing alternate methods for obtaining relief.

Respectfully submitted,

Michael B. Galvin, General Counsel
Paula Foley, Regulatory Counsel
Granite Telecommunications, LLC
100 Newport Avenue Ext.
Quincy, MA 02171
(617) 745-5168

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[13] Granite Comments at 2.