

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 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 FRONTIER COMMUNICATIONS CORPORATION

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I. INTRODUCTION AND SUMMARY

Frontier Communications Corporation (“Frontier”) submits the following reply comments to the Federal Communications Commission’s (“Commission”) *Further Notice of Proposed Rulemaking* (“FNPRM”) considering additional rules for ILECs as they deploy next-generation services.¹ Like many other commenters, including ITTA – The Voice of Mid-Size Communications Companies (“ITTA”),² the United States Telecom Association

¹ *In the Matter of Technology Transitions; Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers; Special Access for Price Cap Local Exchange Carriers; AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, Report and Order, Order on Reconsideration and Further Notice of Proposed Rulemaking, 30 FCC Rcd 9372 (2015) (“FNPRM”).

² See Comments of ITTA – The Voice of Mid-Size Communications Companies, GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593 (Oct. 26, 2015) (“ITTA Comments”).

(“USTelecom”),³ AT&T,⁴ CenturyLink,⁵ Verizon,⁶ Alaska Communications Systems,⁷ and others,⁸ Frontier believes that the Commission should streamline its Section 214 discontinuance process and avoid adopting complex additional criteria that would effectively only apply to next generation voice services deployed by incumbent local exchange carriers (“ILECs”).

In the current dynamic and competitive communications marketplace, adopting the additional criteria proposed in the *FNPRM* risks deterring next-generation deployments without corresponding benefits. The Commission considers adding many complex criteria to the Section 214 process to determine whether to authorize a service discontinuance for TDM voice services – including criteria related to network capacity and reliability; service quality; device and service interoperability; service for those with disabilities; PSAP and 9–1–1 service; cybersecurity; service functionality; and coverage.⁹ However, three-quarters of consumers of voice services have already migrated from time-division multiplexed (TDM) services to Voice over Internet Protocol (“VoIP”) and commercial wireless services without any need for the Section 214 process or these additional criteria. Likewise, the Commission itself has modernized the universal service program to focus on funding broadband deployment instead of TDM voice services. This migration indicates that there should be limited concern with transitioning additional customers to IP-based services or other next generation technology. In addition, the proposed changes in the *FNPRM* effectively only apply to ILECs, thus creating an uneven

³ See Comments of the United States Telecom Association, GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593 (Oct. 26, 2015) (“USTelecom Comments”).

⁴ Comments of AT&T, GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593 (Oct. 26, 2015) (“AT&T Comments”).

⁵ Comments of CenturyLink, GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593 (Oct. 26, 2015) (CenturyLink Comments”).

⁶ Comments of Verizon, GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593 (Oct. 26, 2015)

⁷ See Comments of Alaska Communications Systems, GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593 (Oct. 26, 2015).

⁸ See Comments of NTCA – The Rural Broadband Association, WTA – Advocates for Rural Broadband, Eastern Rural Telecom Association, and the National Exchange Carrier Association, GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593 (Oct. 26, 2015).

⁹ See *FNPRM* ¶ 208.

playing field and a disadvantage for ILECs seeking to deploy broadband and next generation services.

With so many consumers already transitioned from TDM voice services and with so many competitive service alternatives available, the Commission has an opportunity to collect more information regarding whether action is necessary and take a case-by-case approach under the existing Section 214 process to the extent any issues arise. The FCC will have plenty of opportunity to revisit these issues if there are any problems. If the FCC nonetheless believes some action is necessary, streamlining the Section 214 process could promote deployment of next generation services and would better encourage a level playing field.

II. A LARGE MAJORITY OF CONSUMERS HAVE ALREADY TRANSITIONED FROM TDM VOICE SERVICES WITHOUT COMMISSION INTERVENTION.

As many commenters recognize, with approximately three-quarters of consumers having already chosen alternatives to TDM voice services, consumers have shown that the current process sufficiently protects consumers and Commission action is unnecessary.¹⁰ Approximately 75% of consumers have voluntarily transitioned from price cap switched voice services to interconnected VoIP and wireless voice services with little to no involvement from the Commission. Although this transition has occurred largely outside of the Section 214 discontinuance process with consumers voluntarily migrating to alternative services, this transition shows that additional Commission action is unnecessary because there are such robust and extensive alternative services that consumers are voluntarily choosing.

The Commission's current Section 214 rules explicitly recognize consumers are protected and discontinuance should be routinely authorized where reasonable alternative services, such as interconnected VoIP and wireless, are available. According to the Section 214 rules,

¹⁰ See AT&T Comments at 7; USTelecom Comments at 5; ITTA Comments at 3; CenturyLink Comments at 1.

discontinuance is “normally authorize[d] . . . unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected.”¹¹ Based on the record, consumers view interconnected VoIP and wireless voice services to be substitutes for TDM voice services.¹² As USTelecom explains, the fact “that consumers have overwhelmingly chosen services based on newer technology is conclusive proof that they are adequate substitutes.”¹³

Indeed, the FCC is actively promoting this transition as part of the Connect America Fund (“CAF”) program. With CAF, the FCC has transitioned universal service funding from support for legacy voice networks to next generation broadband networks, which also frequently entails carriers transitioning from TDM service to IP services. The Commission recognizes this transition as part of CAF, and as explained in depth by CenturyLink, the Commission has found that interconnected VoIP service is eligible for USF support.¹⁴ According to the Commission, this change “benefit[s] both providers (as they may invest in new infrastructure and services) and consumers (who reap the benefits of the new technology and service offerings).”¹⁵

With this background, as many commenters recognize, the Commission’s existing process more than adequately protects consumers.¹⁶ The longstanding Section 214 process ensures that consumers will have a reasonable substitute service before discontinuation is authorized. In virtually all cases, a reasonable substitute – wireless or interconnected VoIP –

¹¹ See 47 C.F.R. § 63.71(a)(ii).

¹² See, e.g., CenturyLink Comments at 2.

¹³ USTelecom Comments at 11.

¹⁴ CenturyLink Comments at 18 (citing *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform - Mobility Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 ¶¶ 62-63 (Nov. 18, 2011) (“*USF/ICC Transformation Order*”).

¹⁵ *USF/ICC Transformation Order* ¶ 78.

¹⁶ See, e.g., USTelecom Comments at 8, 11; ITTA Comments at 4.

exists. As, for example, USTelecom notes, “[t]he appropriate inquiry is not whether any harm will ensue, but rather whether customers would be subject to undue hardship.”¹⁷

III. THE COMMISSION’S PROPOSALS RISK SLOWING THE DEPLOYMENT OF NEXT GENERATION SERVICES.

Additional rules and obligations, such as those proposed in the *FNPRM*, create additional costs for the transition to next generation services, which ultimately harms consumers. As USTelecom explains, “[j]ust as digital TV opened up an unprecedented level of quality and options for video consumers, modern networks and services have connected more Americans to the services and content of their choice, bringing new and improved communications services to the marketplace.”¹⁸ With the promise of next-generation services on the horizon, the Commission should examine “to what extent will technology transitions be held up to ensure that customers who choose to use outdated equipment and services that are not compatible with newer technologies (rather than making modest changes such as equipment upgrades or other work-arounds) do not lose access to such equipment and services.”¹⁹ Additional regulatory hoops will not promote the transition to new services.

Indeed, the *FNPRM*’s proposed additional criteria and processes undercut the Commission’s stated goals of promoting competition and expanding broadband deployment. With, for example, the CAF program, the Commission has made great strides in promoting broadband deployment. Likewise, the Chairman has prioritized competition as the centerpiece of his agenda. The proposed additional criteria, however, risk adding additional processes as ILECs deploy next generation networks and risk hampering the primary fixed broadband competitor to the dominant provider – cable.

¹⁷ USTelecom Comments at 8.

¹⁸ *Id.* at 5.

¹⁹ *Id.* at 13-14

IV. STREAMLINING THE SECTION 214 PROCESS OFFERS THE COMMISSION THE OPPORTUNITY TO PROMOTE NEXT GENERATION SERVICES.

Because so many consumers have already voluntarily transitioned from TDM services, the Commission has an opportunity to streamline the Section 214 process with little corresponding risk of harming consumers. Many commenters, including USTelecom, CenturyLink, and Verizon propose methods for streamlining the 214 process, any one of which could facilitate next generation services while avoiding the pitfalls in the *FNPRM*.

For instance, USTelecom proposes that the Commission “adopt a presumption that any substitute service that is offered in the affected community and that has a significant number of end users subscribed to and using the service is adequate for purposes of network capacity and reliability, and service quality.”²⁰ By leveraging the choices consumers have already voluntarily made, the Commission can rely on the wisdom of the masses to ensure that additional customers have access to reasonable substitute services.

Similarly, CenturyLink proposes that “the Commission should establish a rebuttable presumption that each of these services – interconnected VoIP, 3G/4G wireless, ‘CAF-qualifying’ fixed wireless service, and TDM voice service – is a reasonable substitute for traditional telephone service.”²¹ As CenturyLink explains, the Commission could amend Section 63.71 to provide that if a carrier “seeking to discontinue TDM voice service in a given area certifies that all affected retail customers will have access to one or more of these services, . . . its application will be reviewed under Section 63.71’s streamlined processes.”²²

²⁰ *Id.* at 11.

²¹ CenturyLink Comments at 3.

²² *Id.* at 3.

Likewise, Verizon proposes a safe harbor approach that would enable automatic grant based on the customer's ability to continue to contact 911 and a series of factors, any one of which show that the service is in need of an upgrade.²³

At a minimum, the streamlined process should apply when a carrier upgrades from copper to fiber and provides a wireline interconnected VoIP service. Such an upgrade should be welcomed by the Commission for the additional benefits consumers receive without significant change to their voice service. The concerns that arose in, for example, the Fire Island situation simply are not present when a carrier deploys wireline connected VoIP – as so many carriers have done. As CenturyLink explains, “[i]n most cases, a carrier seeking to discontinue traditional telephone service will be replacing that service with interconnected VoIP service, and most, if not all, affected consumers will also have access to cable-provided VoIP service, a choice of 3G/4G wireless providers, and, in some cases, a fixed wireless or some other alternative.”²⁴ Indeed, the Commission actively encourages such upgrades to networks, as is clear by its funding of fiber deployments as part of the CAF program. Streamlining the Section 214 process will help promote next generation services by avoiding additional burdens to an already costly process.

V. IMPOSITION OF NEW REGULATIONS AND ADDITIONAL BURDENS ONLY ON ILECS AND NOT OTHER BROADBAND PROVIDERS WILL HARM COMPETITION AND DELAY NETWORK UPGRADES.

Many of the proposals in the *FNPRM* would only apply to ILECs as essentially the only provider of TDM services. As AT&T, for example, explains, “[a]ll of the metrics the Commission proposes will only apply to incumbent LECs, and not to the providers that already

²³ Verizon Comments at 4.

²⁴ CenturyLink Comments at 6-7.

serve the vast majority of the households in the AT&T-ILEC region.”²⁵ In other words, cable and wireless carriers effectively would not be subject to these regulations.

In a highly competitive, dynamic telecommunications market, additional regulations on just one type of provider – ILECs – skews competition and unfairly advantages another set of providers – cable networks and new providers. This discriminatory regulation that chooses winners and losers disrupts the natural competition that exists among voice providers and that has led to a robust, innovative market. The proposed action is especially problematic here because the Commission is focusing all new regulation on the non-dominant provider in the market while the dominant provider remains unhindered by additional requirements. As the Commission has recognized, cable providers are effectively the dominant provider of high speed broadband where they choose to provide service.²⁶ Meanwhile, ILECs and Frontier in particular are aggressively competing and deploying broadband throughout their designated footprints. Frontier has committed to deploy at least 10 Mbps / 1 Mbps to 660,000 households in rural unserved and underserved areas as part of the CAF program,²⁷ and 25 Mbps / 2-3 Mbps to 750,000 homes throughout its footprint.²⁸ But adding additional regulations to how Frontier and other ILECs deploy next generation services risks slowing further deployment.

Many commenters expressed concern that the proposals disadvantage ILECs and favor cable providers. According to USTelecom, its “concern is that any piecemeal development of additional, and possibly different, requirements related to public safety and consumer protection that only apply to ILECs in the particular context of section 214 service discontinuances will result in disparate treatment and requirements for different providers.”²⁹ Similarly, CenturyLink

²⁵ AT&T Comments at 7.

²⁶ *See, e.g.*, Prepared Remarks of FCC Chairman Tom Wheeler, NCTA – INTX 2015, Chicago, IL (May 6, 2015), available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-333357A1.pdf.

²⁷ *See* Letter from Daniel McCarthy, CEO, Frontier, to Marlene H. Dortch, Docket No. 10-90 (June 15, 2015).

²⁸ *See* Letter from Daniel McCarthy, CEO, Frontier, to Chairman Tom Wheeler, Docket No. 15-44 (Aug. 11, 2015).

²⁹ USTelecom Comments at 12.

explains, “the requirements contemplated by the FNPRM would render ILECs’ offerings more expensive than their competitors’, placing a heavy thumb on the economic scale and effectively reducing competition.”³⁰ ITTA raises similar “concerns with an FCC regulatory approach that, in application, predominantly impacts ILECs. Such an approach perpetuates competitive disparities, ignores the current state of the marketplace, and undermines the Commission’s technology transition and broadband deployment goals.”³¹ If competition is the goal, Commission action should seek to level the playing field rather than further favor one type of provider over another.

Indeed, it is the very absence of regulation for interconnected VoIP and wireless services coupled with a robustly competitive market that has ensured the high level of services in today’s market. As AT&T explains, “the market dictated the requirements of a successful voice service, and cable and other providers designed their voice services to meet that demand, or face the consequences of the market.”³²

Based on extensive competition, commenters agree that new requirements must be addressed in a competitively neutral manner on an industrywide basis.³³ For instance, according to AT&T, “these values should be addressed through rules of general applicability, not through the section 214 process for the small percentage of households that continue to subscribe to ILEC-provided TDM voice services.”³⁴ Likewise, CenturyLink explains that “[s]uch industry-wide questions are properly considered in industry-wide proceedings.”³⁵ To date, the Commission has addressed any issues with VoIP – including access to 9-1-1 service; disability

³⁰ CenturyLink Comments at 5.

³¹ ITTA Comments at 2.

³² AT&T Comments at 10.

³³ *See, e.g.*, ITTA Comments at 4.

³⁴ AT&T Comments at 3-4.

³⁵ CenturyLink Comments at 28.

access, outage reporting; number portability, and CALEA – on an industrywide basis.³⁶ It should continue to do so.

VI. EXTENDING COMMERCIAL WHOLESALE PLATFORM REGULATION IS UNNECESSARY AND WOULD UNFAIRLY BURDEN PRICE CAP CARRIERS.

The Commission need not take any action with respect to commercial wholesale platform services in this proceeding. As, for example, USTelecom notes, “ILECs have been offering these services on a voluntary basis for some time, without regulatory compulsion or interference.”³⁷ As such, the need for any proposed additional regulation in this area is unclear. Just like other requirements in the *FNPRM* that would only apply to one set of competitors, this proposal would harm competition. According to USTelecom, this proposal would “unfairly require one segment of the industry to offer services they are not currently required to provide in an environment in which multiple alternatives are available.”³⁸ At a minimum, to the extent the Commission considers these types of wholesale obligations, it needs to do so as part of an industrywide proceeding that includes all competitors – especially the competitor the Commission considers the dominant provider of high-speed broadband services. Regardless, to the extent that the Commission believes action here may be necessary, it should only proceed after it evaluates the data in the special access proceeding.³⁹

³⁶ *Id.* at 30; AT&T Comments at 4; USTelecom Comments at 12.

³⁷ USTelecom Comments at 17.

³⁸ *Id.* at 18.

³⁹ *See, e.g.*, ITTA Comments at 17-18.

VII. CONCLUSION

The Commission has recognized that expanding broadband service is central to its mission, and with programs like CAF, the Commission continues to encourage expansion of life-changing broadband service. Frontier is eager to further build on these successes and continue expanding broadband throughout its service area. The Commission's proposals in the *FNPRM*, however, risk discriminating against Frontier and other price cap carriers in favor of others, including the dominant providers of broadband.

Fortunately, there is no pressing need for the Commission to act in this proceeding. With over three-quarters of consumers having already transitioned from TDM services, immediate action related to the Section 214 process is unnecessary. The Commission can continue to observe the marketplace and rest assured that consumers have many reasonably comparable services. If the Commission's goals are truly to encourage competition and promote broadband deployment, the Commission should seek to create a level playing field among broadband providers and, at the very least, in this proceeding, the Commission should avoid placing additional burdens on just one class of broadband providers.

Respectfully submitted,

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