

**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)	RM-11358
Of Copper Loops by Incumbent Local)	
Exchange Carriers)	
)	
Special Access for Price Cap Local)	WC Docket No. 05-25
Exchange Carriers)	
)	
AT&T Corporation Petition for Rulemaking)	RM-10593
To Reform Regulation of Incumbent Local)	
Exchange Carrier Rates for Interstate Special)	
Access Services)	

COMMENTS OF SONIC TELECOM, LLC

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Sonic Telecom, LLC (“Sonic”) is a CLEC operating in the state of California that has deployed Ethernet over Copper (“EoC”) to bring broadband to small and medium sized businesses and residential customers. Sonic has made extensive investments to use copper loops to bring broadband to business customers who lack access to broadband over fiber (including via Ethernet). The Commission should take steps necessary to ensure that consumers are not deprived of their choice of broadband supplier. Consistent with U.S. TelePacific’s (“TelePacific”) Petition for Clarification filed on November 18, 2015,¹ the Commission should clarify how its section 214(a) discontinuance rules will work for CLECs who may have to discontinue service due to an ILEC’s retirement of working copper loops. Such clarification will impact whether CLECs continue to invest in using existing copper infrastructure to expand the availability of reasonably priced broadband where fiber is not currently available or economic to deploy.

Sonic offers residential and business services throughout California using EoC and other copper based broadband, DSL, POTS and VoIP technologies. Sonic has collocated EoC equipment in 195 central offices in California. Sonic is currently deploying gigabit fiber-based broadband to a handful of communities in Northern California. In parts of six communities in California, Sonic is building fiber-to-the-premise services, including residential and business services. While fiber is a key part of Sonic's future, copper services are available today in 125 communities, so copper remains an essential technology for delivery of broadband and voice services and will be essential for the mid-term future. Sonic’s broadband network passes 4.5 million residences in California, offering services in the entire greater Bay Area from Mendocino to San Jose; the greater Sacramento area and most of Los Angeles.

¹ Petition for Clarification of U.S. TelePacific Corp., GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593 (filed Nov. 18, 2015) (“Petition”).

For residential customers, who represent approximately two thirds of Sonic's customers, it offers residential broadband at up to 75 Mbps download/10 Mbps upload, depending upon distance, traditional home phone service and features with unlimited nationwide calling. For business customers, predominantly small businesses that are among the remaining one third of all of Sonic's accounts, it offers ADSL2+/POTS — branded as FusionSM Broadband service — utilizing two copper loops capable of delivering speeds of 150 Mbps down/20 Mbps upload, depending upon distance, at a monthly rate of \$89.95 (plus voice service taxes and fees) on a no-contract, month-to-month basis. For business customers with higher bandwidth requirements, Sonic offers FlexLink[®] Ethernet, a business class service available at 5-100 Mbps symmetric speeds or 50-500 Mbps asymmetric speeds, starting at a monthly rate of \$249.00, and offering Quality of Service (QoS) to prioritize time sensitive traffic, such that data and voice bandwidth are handled dynamically. For enterprise level businesses, product offerings include Internet access, as well as site to site wide area networking, and reliable hosting for servers, with flexible bandwidth on demand, backup power, redundant cooling and biometric security. Sonic also provides Gigabit download speeds via its FTTP platform to residential and business customers in a handful of California communities including a few office parks. Sonic is in the process of expanding this network to other parts of California.

Access to copper loops is critical to Sonic's ability to provide broadband to residential and small and medium sized business customers. Sonic agrees with TelePacific that where fiber deployment is not likely, other technologies, such as DS1 loops, remain poor substitutes for copper loops because of bandwidth limitations and cost.²

In the *Technology Transitions Order*, the Commission revised its copper retirement rules

² Petition at 5-7.

to provide competitors reliant on copper loops improved notice of an ILEC's plan to retire copper loops, including those currently in use to serve customers.³ While the Commission also clarified the applicability of its Section 214(a) discontinuance process to ILECs providing wholesale inputs such as copper loops to CLECs,⁴ it only requires the ILEC to provide a replacement service when the ILEC is replacing TDM services with IP-based services.⁵ This means that most CLECs losing access to copper loops will not have access to reasonably comparable wholesale inputs, whether provided by third parties or the ILEC.

As TelePacific discussed in its Petition, it is thus conceivable that CLECs faced with such loss of access to copper loops will not be able to continue serving their existing customers.⁶ This is plainly inconsistent with the objective of the *Technology Transitions Order* to “facilitate continued availability of existing competing options,”⁷ so that end users do not “face higher communications costs and less competitive choice.”⁸ Nonetheless, in such cases, under the Commission's rules, CLECs must comply with the Commission's service discontinuance rules even though the precipitating event — the copper retirement— was not initiated by the CLEC.

TelePacific's petition asks the Commission to clarify an apparent gap in the revised rules adopted in the *Technology Transitions Order*, regarding ILEC copper retirement and discontinuance pursuant to Section 214(a). As TelePacific explained, if a CLEC is providing

³ *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, 9384 ¶ 16 (2015) (“*Technology Transitions Order*”) *pet. rev. pending sub nom USTA v. FCC*, DC Cir. Case No 15-1414 (filed Nov. 12, 2015).

⁴ *Id.* at 9428-29 ¶ 102.

⁵ *Id.* at 9443-44 ¶ 132; 47 C.F.R. § 63.71(c)(1).

⁶ Petition at 5-7.

⁷ *Technology Transitions Order*, 30 FCC Rcd at 9443 ¶ 131.

⁸ *Id.* at 9446 ¶ 135.

broadband via EoC over a loop the ILEC seeks to retire, it is possible that even while the CLEC is requesting Section 214(a) discontinuance authority and working to transition customers to alternative providers, the CLEC could be forced to discontinue its retail broadband service before Commission approval if the ILEC retires its copper before the end of the CLEC's discontinuance process.⁹

Sonic supports TelePacific's petition asking the Commission to harmonize the discontinuance and copper retirement processes. Sonic agrees the Commission should clarify that it will time the grant of a CLEC's Section 214 application based on a pending copper retirement on the scheduled retirement date, so long as the CLEC submitted its Section 214(a) application at least sixty days in advance of that date.¹⁰ Alternatively, the Commission could find that when faced with this scenario, it would consider requiring a delay in the ILEC copper retirement until the CLEC's discontinuance no longer creates "an unreasonable degree of customer hardship" that the Commission sought to avoid through its revised rules issued in the *Technology Transitions Order*. Sonic agrees with TelePacific that clarification regarding these matters is important to preserve customer choice for broadband service during the transition from copper to fiber networks. The Commission should grant TelePacific's Petition and clarify its rules as requested.

Respectfully submitted,

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⁹ Petition at 5.

¹⁰ See Petition at 9.