

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Technology Transitions Policy Task Force	)	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
	)	

**VERIZON OPPOSITION  
TO THE U.S. TELEPACIFIC CORP. PETITION FOR RECONSIDERATION**

TelePacific asks the Commission to “clarify” its *Technology Transitions Order*<sup>1</sup> to address what TelePacific claims is a possible “unintended consequence” that could arise when providers retire copper facilities.<sup>2</sup> TelePacific argues that if a provider decides to retire copper that a competitor also uses to provide services; and if that competitor decides not to continue offering a particular service following that retirement; and if the competitor timely files an application for discontinuance of that particular service; and if the Commission takes that

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<sup>1</sup> See *Technology Transitions, et al.*, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 30 FCC Rcd 9372 (2015) (“*Technology Transitions Order*” or “*Order*”).

<sup>2</sup> See Petition for Clarification of U.S. TelePacific Corp., GN Docket No. 13-5, *et al.* (Nov. 18, 2015) (“TelePacific Petition”).

application off of the automatic grant track; and if that application is not granted at the time the copper is actually retired, then the competitive provider might have to discontinue service without receiving authorization to do so. TelePacific's request presupposes that a series of potential events will occur in every copper retirement, each of which is contingent at best and none of which is certain to occur in practice. The Commission has already considered and rejected the threat of these possible contingencies when balancing the provisions of the *Technology Transitions Order*. Thus, TelePacific has not established any need to modify the Commission's *Order*.

Even if there were a need to modify the *Technology Transitions Order*, however, TelePacific's suggestion that the Commission modify its timeline to create additional delays for copper retirement should be denied. The Commission carefully considered the appropriate schedule when it revised the copper retirement timeline in the *Technology Transitions Order*. Allowing the timeline to be delayed still longer would upend the Commission's determination of the proper balance between the needs of providers to move forward with their business plans and the needs of interconnecting carriers and their customers.<sup>3</sup> Instead, should the entire chain of events that TelePacific supposes come to pass, the Commission should at most, as TelePacific alternately proposes, automatically grant a timely filed pending discontinuance application at the time the copper is retired.

**A. The Commission Should Not Modify the Order's Copper Retirement Timeline**

TelePacific suggests that in instances where an application to discontinue service is still pending at the time copper is to be retired, the Commission should consider delaying copper

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<sup>3</sup> *Technology Transitions Order*, ¶ 29.

retirement.<sup>4</sup> While TelePacific's purported conflict is unlikely to arise in practice, the Commission has already rejected proposals to extend the timeline for copper retirement.

First, TelePacific's hypothetical chain of events is unlikely to happen for two reasons. As an initial matter, providers that retire copper may continue to offer services over other facilities that could meet the needs of competing carriers. Alternately, other providers in the area may offer a competing option, or a carrier may decide to invest in its own facilities.

Second, competitors have substantial time to respond to a copper retirement. Under the Commission's new timeline, providers must give at least six months' advance notice of proposed copper retirement to interconnecting carriers.<sup>5</sup> In contrast, the Section 214 process for a carrier in the position TelePacific posits to discontinue a service usually takes just 60 days.<sup>6</sup> Thus, a carrier such as TelePacific will have at least four months in which to determine whether any services it currently provides will be affected when copper is retired, whether those services might be provisioned in another manner, such as through self-provisioning or via another provider, or whether it prefers to discontinue them. Thus, even if a competitive carrier decides for its own reasons that it will cease offering a particular service in a specific area, the *Technology Transitions Order's* current timeline establishes a more than adequate amount of time to prepare and file a Section 214 discontinuance application in time for the FCC to complete the Section 214 process before copper is retired.

Further, the Commission has already reviewed and rejected similar claims to the one TelePacific raises here. TelePacific proposes that the Commission could require copper retirement to be delayed indefinitely until the time that the competitive carrier's Section 214

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<sup>4</sup> TelePacific Petition at 9.

<sup>5</sup> *Technology Transitions Order* ¶¶ 6, 29.

<sup>6</sup> 47 C.F.R. ¶ 63.71.

application is approved. But the Commission has correctly noted that uncertainty about the timeline for copper retirement would hamstring providers who seek to upgrade their network. Rejecting an approach that would allow delay and uncertain timeframes, the *Technology Transitions Order* holds that “fixing a single time period following the Commission’s release of public notice,” will “provide all parties certainty” necessary for making network planning decisions.<sup>7</sup> And the Commission had already held that the appropriate notice period is one of 180 days, a length that “strikes an appropriate balance between the planning needs of interconnecting carriers and their customers and the needs of incumbent LECs to be able to move forward in a timely fashion with their business plans.”<sup>8</sup>

Additionally, the Commission has refused to introduce a requirement that copper retirement notices be “approved,” as TelePacific’s proposal would essentially require. Correctly relying on the statute’s requirements that parties must provide only “reasonable public notice of changes,” the Commission has held that the process to retire copper should be solely notice-based.<sup>9</sup> Adopting TelePacific’s suggestion that a provider’s copper retirement notice be held up until a Section 214 application – submitted by another carrier and over which the provider has no control – is approved would undermine that conclusion and create inappropriate opportunities for other parties to inject delay and uncertainty.

**B. At Most, the Commission Should Automatically Grant A Pending Discontinuance Application For Services that Are Provisioned on Another Provider’s Copper Once the Copper Is Retired**

Should the Commission take any action here at all, it should at most hold only that in the rare circumstance in which a competitor decides to discontinue a service following the retirement

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<sup>7</sup> *Technology Transitions Order* ¶ 31.

<sup>8</sup> *Id.* ¶ 29.

<sup>9</sup> *Id.* ¶ 14, and n.50 (citing 47 U.S.C. § 251(c)(5)).

of copper on which that service was provisioned, a timely filed Section 214 application will be granted automatically if it remains pending at the time the copper is actually retired. Under these circumstances, so long as an application is filed at least sixty days before copper retirement is contemplated, the carrier filing the application will not be held to account for discontinuing the service without permission if the copper is retired before the application is granted. This approach does not risk harm to end users, as carriers who end up being in this situation not only will provide their end users with notice at the time they file their discontinuance application, but could also notify their end users at the time they receive the copper retirement notification four months prior.

Respectfully submitted,

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