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May 31, 2016

Via Electronic Submission

Ex parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Portals II, Room TW-A325
Washington, DC 20554

Re: *Technology Transitions,* GN Docket No. 13-5*; AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition,* GN Docket No. 12-353

Dear Ms. Dortch:

On May 26, 2016, Frank Simone, Terri Hoskins, Melissa Waksman, Ola Oyefusi, Josh Woodbridge and the undersigned of AT&T met with Carol Mattey, Dan Kahn, Peter Saharko, Michele Berlove, Alexis Johns, Megan Capasso and Taliesin Gabriel of the Wireline Competition Bureau concerning the above-captioned matters. The purpose of the meeting was to discuss the Commission's FNPRM, Establishing Clear Standards to Streamline Transitions to an All-IP Environment.[1] During this meeting AT&T discussed the attached proposal (Attachment 1) and the chart depicting the statewide change in housing units and ILEC residential lines (Attachment 2). AT&T's proposal outlines an alternate framework to the Commission's approach in the Further Notice. The proposal would facilitate the technology transition by providing greater efficiency, robust customer protections and Commission oversight to the discontinuance process.

Please do not hesitate to contact me with any questions regarding this matter.

Sincerely,

/s/ David L. Talbott

ATTACHMENT

cc: C. Mattey
D. Kahn
P. Saharko
M. Berlove
M. Capasso
A. Johns
T. Gabriel

[1] FCC 15-97, Rel. August 6, 2015

ATTACHMENT 1

AT&T's Proposal to Streamline the Discontinuance Process for Technology Transitions

I. Framework

AT&T proposes the following changes to the § 214 discontinuance process when a service provider discontinues an interstate service associated with a technology transition. A service provider could utilize the existing § 214 process (with the modifications as described below) or it could pursue a more streamlined approval process by certifying that:

1. the service provider has zero-demand for the legacy service in the geographic area where the legacy service is being discontinued;
2. the service provider offers a substitute service for the legacy service that meets pre-determined criteria; or
3. the service provider's discontinuance application is substantially similar to a discontinuance of service that was previously approved.

The service provider selects the discontinuance option based on the applicable documentation and/or certification requirements.

If the Commission finds that the applicable requirements are not met for a certified application, the Commission will remove the application from the certification process and will apply the existing five factor test in considering a § 214 grant.

The Commission would be subject to new deadlines for releasing a Public Notice concerning the application and deciding the application when the Commission removes an application from the streamlined approval process. (These are discussed more fully below in Section II.)

The Commission will permit customer notice via email. Written notice would be sent to customers for whom the applicant lacks an email address.

II. Existing 214 Process (with modifications)

A § 214 application would meet the current filing requirements set forth in 47 CFR § 63.71 and would be automatically granted unless the Commission removes the application from the streamlined approval process.

The Commission issues a Public Notice that includes an invitation for the public to comment.

The Commission will continue to use the traditional five factors to determine whether to grant discontinuance. These factors include:

1. the financial impact on the common carrier of continuing to provide the service;
2. the need for the service in general;
3. the need for the particular facilities in question;
4. the existence, availability, and adequacy of alternatives (using the current analysis for the adequacy of alternatives) ; and
5. increased charges for alternative services.

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Proposed Time Frame Modifications:

- The Commission will release a Public Notice within 15 days from the date the application is filed, and the due date for comments shall be 15 days following the release of the Public Notice.
- If the Commission removes the application from the streamlined approval process, the Commission may suspend the automatic approval process by issuing a second Public Notice. Once suspended, the Commission will have an additional 30 days from the release of the second Public Notice to consider the application. After the 30 day suspension period, the Commission must issue an Order resolving the application, or the application would be deemed automatically granted.
- The Commission should impose these same § 214 time frames regardless of whether the carrier has dominant or non-dominant regulatory status.

Proposed Modification for Customer Notice:

- The Commission will permit customer notice via email. Written notice would be sent to customers for whom the applicant lacks an email address.

III. Additional Streamlined Process:

Before filing a discontinuance application, the service provider must provide notice to existing customers of the service, the state PUCs, and the Department of Defense as currently required in § 63.71(a). In addition to the requirements in § 63.71(a), the notice to existing customers must also include: (1) a list available service substitutes and (2) a description of how to transition their service to a substitute service.

Service Providers continue to submit discontinuance applications with the Commission using existing filing requirements contained in § 63.71(c), and may include one of the following certifications:

1. The service provider certifies that it currently has no customers subscribed to the legacy service in the geographic area where the legacy service is being discontinued, and that it did not provide the legacy service to any customers in the applicable geographic area in the preceding six months;
2. The service provider certifies that it offers a substitute service for the legacy service that meets the pre-determined criteria (discussed below); or
3. The service provider certifies that the discontinuance application is substantially similar to a discontinuance of service that was previously approved by the Commission.

The Commission will release a Public Notice within 15 days from the date the application is filed.

Comments are due within 15 days following the release of the Public Notice, except the Commission will not seek comments on discontinuance applications where the service provider certifies that it has no existing customers.

Unless the Commission suspends the streamlined approval process, the application is deemed granted 30 days following the release of Public Notice.

If the Commission removes the application from the streamlined approval process, the Commission may suspend the automatic approval process by issuing a second Public Notice. Once suspended, the Commission will have an additional 30 days from the release of the second Public Notice to consider the application. After the 30 day suspension period, the Commission must issue an Order resolving the application, or the application would be deemed automatically granted.

IV. Special Considerations for the Certification Process

Where the Service Provider submits certification #1 (no customers subscribe to the service), no customer notice is required.

Where the Service Provider submits certification #2 (provider offers substitute service that meets certain criteria), the following criteria will apply to the substitute services:

The substitute for a voice service must meet the following criteria:

1) Coverage;
2) PSAP and 9-1-1 Service
3) Service for individuals with disabilities
4) Device and service interoperability (this criterion will sunset in 2025).

The substitute for a data service must meet the following criteria:

1) Coverage; and
2) Device and service interoperability

(A description of these criteria and the standards for meeting them can be found below in Sections V. & VI.)

The Commission will take public comment solely on the question of whether the supporting documentation shows that the substitute criteria are met.

Where the Service Provider submits certification #3 (substantially similar to an earlier approved discontinuance), the Service Provider must demonstrate that the new discontinuance application is substantially similar to a prior discontinuance application that was granted by the Commission. To satisfy this requirement, the two applications must have the same or similar:

1) legacy service to be discontinued;
2) replacement service; and
3) coverage.

The Commission will take public comment solely on the question of whether the application is not substantially similar to a prior application that was approved. Comments objecting to the standard the Commission used in awarding a prior grant would not be considered, unless that standard was not considered in the prior grant.[1]

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[1] For example, if no commenter raised a concern about interoperability with fax machines in the first application, and a commenter raised that concern in the subsequent application, then the Commission could consider interoperability with fax machines in the subsequent application.

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Minimum Discontinuance Periods for Certifications #2 & #3
The 214 application is subject to minimum discontinuance periods.

- The grandfather effective date is on or after 30 days following the release of the Public Notice.
- The sunset effective date is on or after 180 days following the release of the Public Notice.

V. Substitute Criteria for Voice Services under the Certification Process

Where the Service Provider submits certification #2, it is certifying that the substitute service(s) it proposes to offer in lieu of the service being discontinued will meet the following standards:

Voice Coverage
The Applicant's substitute service must be available to every living unit in the geographic area where the applicant seeks to discontinue service.

Public Safety & 9-1-1 Standard
AT&T proposes two criteria to establish that public safety and 911 access will not be impaired by the transition from a legacy voice service.

1) The substitute service must provide access to 9-1-1 emergency service.
2) The substitute service must automatically provide registered street address location information associated with the subscriber placing a 911/E911 call.

A CMRS device will be deemed acceptable when it is being used as a fixed service replacement and sends the registered street address location of the subscriber placing the 911/E911 call to the appropriate PSAP. The CMRS device must automatically determine the registered address or must automatically ensure the user provided address is correct. When used while in motion, the device will provide comparable 9-1-1 functionality to CMRS devices.

Service for Individuals with Disabilities
The Applicant's substitute service must provide ***similar*** accessibility, usability, and compatibility with assistive technologies with the service being discontinued.

An Applicant should not be required to provide the *same* technology or solution that was provided by the legacy service, because new technologies may have the potential to provide a more effective means to deliver similar functionality. For this reason, Real-Time Text and HD Voice proposals are more effectively dealt with in a general rulemaking.

Device and Service Interoperability Standard

The Applicant's substitute service must be compatible with widely-adopted low-speed modem devices. AT&T proposes that such devices would be limited to fax machines, home security alarms, medical monitoring devices, analog-only caption telephone sets, and point-of-sale terminals that are widely-adopted. *This criterion would sunset in 2025.*

The use of legacy devices is rapidly declining and IP versions of these low-speed modem devices are available today. Because there are still low-speed modem devices in use today, AT&T proposes to provide interoperability with those devices for a limited time period, with this

requirement sunsetting in 2025. This would provide manufacturers and users more than sufficient time to effect this transition.

VI. Substitute Criteria for Data Services under the Certification Process

Coverage Standard

AT&T's proposal for coverage for data services is the same as for voice services as described above.

Device and Service Interoperability Standard

To ensure device and service interoperability for data services, the Applicant's substitute service must have a low latency option.

Ethernet is offered with classes of service options which meet even the most stringent speed requirement proposed in the comments. Even broadband Internet service will meet many user latency requirements with latency performance between 40 and 65ms.[2]

[2] *See* Fierce Telecom , May 11, 2016, "AT&T, Consolidated, Verizon put to the test on network latency, throughput, availability"; http://www.fiercetelecom.com/special-reports/att-consolidated-verizon-put-test-network-latency-throughput-availability (last checked May 25, 2016).

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Commission-Proposed Substitute Criteria that Should Not Be Adopted

The Commission should not adopt the proposal to create substitute criteria for Network Reliability, Service Quality, Service Functionality, or Network Security for the reasons discussed below:

Network Reliability, Service Quality, and Service Functionality

There is no need to adopt these criteria because they are all fundamental to success in the modern telecommunications industry and the current technology transformation. In fact, the marketplace itself provides overwhelming evidence that existing IP-based services have satisfied these criteria, as almost 91% of all housing units in states where AT&T operates as an ILEC will have moved away from AT&T's legacy POTs service to an IP or wireless replacement by end of 2016 (up from 86% by end of 2015).[3]

Further, the data demonstrates that in the last decade or more, telecommunications usage, fiber network deployment, and investment in wireless and broadband technologies has drastically increased due to increased demand for these services. For example:

U.S. broadband network operators have invested $1.4 trillion between 1996 and 2014 according to OECD data.[4]
Public telecommunications investment per capita increased by 32% between 1997 and 2013.[5]
Text messaging increased by about 2200% between 2005 and 2015.[6]
Wireless data usage has exploded.[7]
Wireless voice traffic increased by almost 5,000% between 1996 and 2013.[8]

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[3] *See* Attachment 2, Statewide Change in Housing Units and ILEC Residential Lines
AT&T States, December 1999 - December 2016. This data includes all ILEC lines that operate in the same states as AT&T's ILECs.

[4] "Broadband Investment Gains Continued in 2014," USTelecom Research Brief, (July 24, 2015) (http://www.ustelecom.org/sites/default/files/documents/Investment-2014-Research-Brief-July-2015.pdf)(last checked May 26, 2016).

[5] *See* Organisation for Economic Co-operation and Development (OECD) 2015 Digital Economy Outlook Tables, Table 2.31 http://www.oecd.org/sti/deo-tables-2015.htm (last checked May 26, 2016).

[6] *See* CTIA Annual Wireless Survey Report, data as of December 2015, http://www.ctia.org/your-wireless-life/how-wireless-works/annual-wireless-industry-survey. (last checked May 26, 2016) (As of December 2005, annual text message volumes were "just" 81.21 billion. By December 2015, those annual volumes were 1.89 trillion – a growth of 2227% from 2005).

[7] See "Americans' Data Usage More Than Doubled in 2015", May 23, 2016, http://www.ctia.org/resource-library/press-releases/archive/americans-data-usage-more-than-doubled-in-2015 (last checked May 26, 2016).

[8] See Table 2.32 at http://www.oecd.org/sti/deo-tables-2015.htm

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Communications Security

Cyber security should not be considered as a criterion in assessing whether a substitute service is an adequate alternative.

First, it is unclear how the Commission would determine if a service provides "comparably effective" security to another service. For this reason, the FCC's Communications, Security, Reliability and Interoperability Council ("CSRIC") recommended that the FCC focus on *outcomes*, not on measuring comparable security for security's sake.[9]

In addition, Cyber security doesn't lend itself to a rigid "checklist" of standards and such a "checklist" would be counter-productive.[10] Complying with "fixed" standards rather than focusing on risk management would limit a provider's ability to manage its networks effectively in response to changing cyber threats, and it would remove their incentive to innovate.

In fact, Chairman Wheeler acknowledged that regulation in this space would be completely ineffective. In a speech at the 2015 RSA security conference, the Chairman described the "new paradigm" of the CSRIC working group # 4 plan as: "proactive and accountable self-governance within mutually agreed parameters. This isn't an ideological matter, but simply a logical conclusion. Things change so fast in the cyber world that prescriptive regulations could never hope to keep pace."[11]

Finally, service providers have a wide variety of market-based incentives to protect their networks and services from attack.

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[9] Cybersecurity Risk Management And Best Practices Working Group 4: Final Report, March 2015, at p. 25, https://transition.fcc.gov/pshs/advisory/csric4/CSRIC_IV_WG4_Final_Report_031815.pdf (last checked May 25, 2016).

[10] *Id*.

[11] Remarks of FCC Chairman Tom Wheeler As Prepared for Delivery, RSA Conference, April 21, 2015 San Francisco, CA, https://apps.fcc.gov/edocs_public/attachmatch/DOC-333127A1.docx (last checked May 26, 2016)

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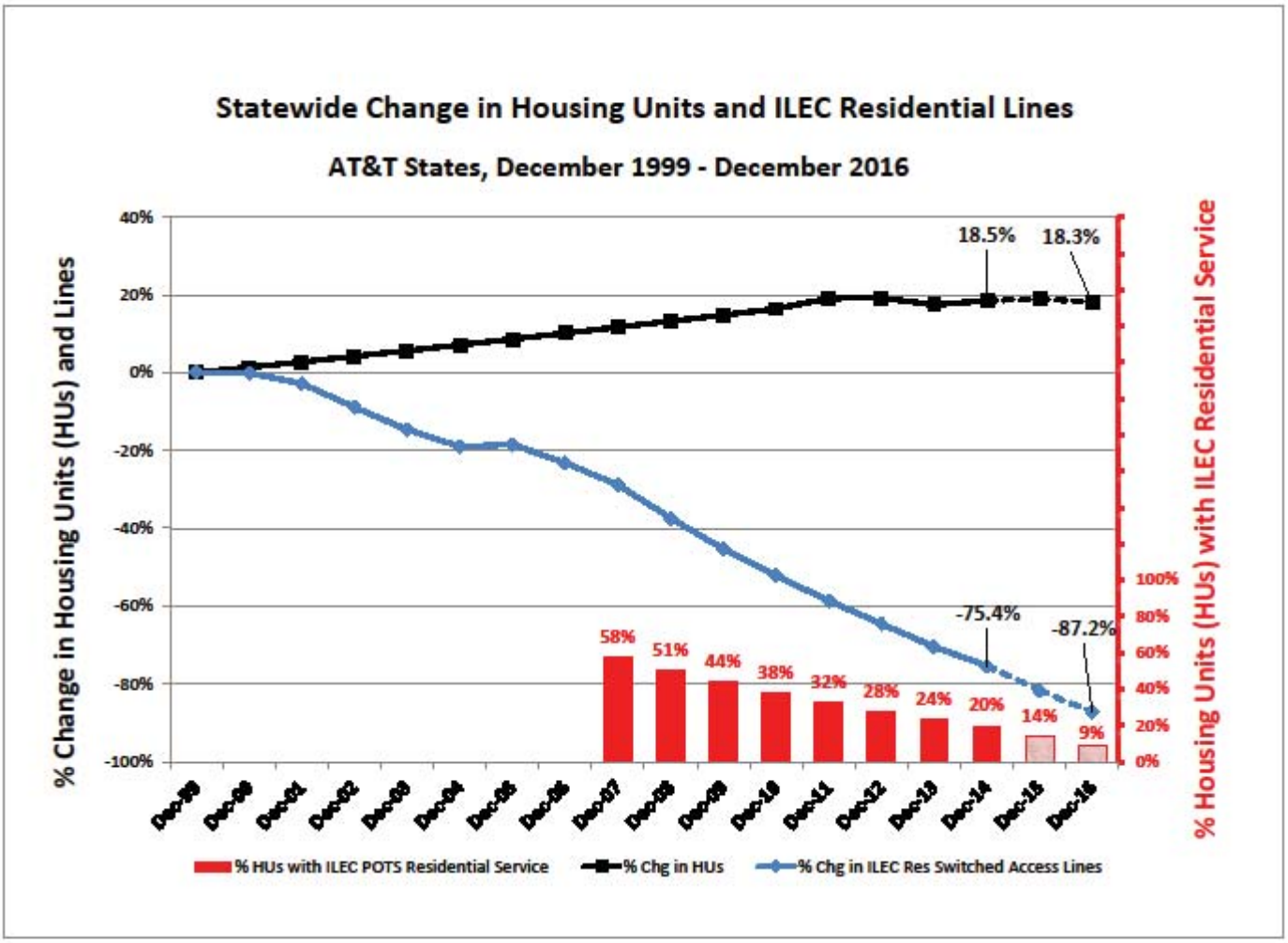

Data Source:

- ILEC Res Lines from FCC Local Telephone Competition Reports
- Housing Units are linear plots of values from 1990, 2000, 2010 Census plus ACS 2011 thru 2014 1 Yr Estimates
- Data for 2015 and 2016 are estimates using linear trending