



## Summary

XO Communications, LLC (“XO”) hereby replies to comments on the FCC’s above-captioned *Notice of Inquiry* regarding the development of a comprehensive national broadband plan for the United States (“*Broadband NOI*”). In response to the *Broadband NOI*, hundreds of parties filed comments commending Congress and the FCC for initiating this effort to develop a much needed comprehensive national broadband strategy. XO agrees with these commenters that the development of a national broadband plan promises great benefits for citizens, consumers, and businesses throughout the United States.

In its own comments, XO urged the FCC to make pro-competitive policies the centerpiece of its national broadband strategy. Numerous parties, including leading public interest organizations, agree that a pro-competitive framework encompassing all segments of broadband networks, including last mile connections to residential and business customers and middle mile connections linking local networks to interstate backbone facilities, will foster robust competition and innovation in broadband services and serve the interests of consumers. Like XO, these commenters believe that vigorous competition is integral to expanding broadband deployment throughout the United States. By relying on the pro-competitive paradigm of the Telecommunications Act of 1996, the FCC can ensure affordable broadband rates and the efficient deployment of high-quality, innovative service offerings.

As XO pointed out in its comments, a variety of impediments continue to delay and deter the efforts of carriers seeking to compete with the incumbent local exchange carriers (“LECs”) in the provision of broadband services. Numerous parties agree that to

give these carriers the tools they need to compete fairly and effectively in providing broadband, the FCC must design its broadband plan to eliminate these obstacles. The FCC has already identified a number of these barriers to greater broadband competition in its pending rulemaking proceedings, and commenters believe that the FCC has the legal authority – and indeed has the obligation – to address these issues. In particular, XO and other commenters urge the FCC to increase competitive access to unbundled network elements, reform special access pricing, and adopt new rules for copper plant retirement.

**Table of Contents**

**I. THE FCC SHOULD MAKE PRO-COMPETITIVE POLICIES THE CENTERPIECE OF ITS NATIONAL BROADBAND STRATEGY .....2**

**II. COMMENTERS AGREE THAT THE FCC SHOULD TAKE AGGRESSIVE ACTION TO GIVE COMPETITIVE CARRIERS THE TOOLS THEY NEED TO DEVELOP COMPETITIVE BROADBAND OFFERINGS .....4**

**A. The FCC Must Ensure that All Competitive Providers Have a Reasonable Opportunity to Gain Efficient Access to Unbundled Network Elements.....6**

**B. Numerous Commenters Agree that the FCC Should End Incumbent LECs’ Unjust and Unreasonable Special Access Prices and Practices .....8**

**C. Commenters Agree that the FCC Should Prevent Incumbent LECs from Unilaterally Retiring Copper Plant.....11**

**III. CONCLUSION .....15**



**I. THE FCC SHOULD MAKE PRO-COMPETITIVE POLICIES THE CENTERPIECE OF ITS NATIONAL BROADBAND STRATEGY**

In response to the *Broadband NOI*, hundreds of parties filed comments with the Commission commending Congress and the FCC for initiating this effort to develop a much needed comprehensive national broadband plan. XO agrees with these commenters that such a plan promises great benefits for citizens, consumers, and businesses throughout the United States.

XO and many other commenters, including leading public interest organizations, urged that in developing and implementing this comprehensive national broadband strategy, the FCC should focus on policies that will serve consumers by driving vigorous competition among providers of high-speed data services. These commenting parties agree that the FCC should promote robust broadband competition as an integral way of expanding broadband deployment throughout the United States. Free Press, for example, states that “[t]he FCC must begin the development of a national broadband plan by focusing on the issue of competition.”<sup>2</sup> Public Knowledge proposes “regulatory structures that promote competition,”<sup>3</sup> while the Consumer Federation of America says that the FCC “will have to focus its attention on pro-competitive policies to revive competition on the platform.”<sup>4</sup> Sprint Nextel asserts that “the Commission should seek to promote efficient, effective competition among different broadband technologies and

---

<sup>2</sup> Comments of Free Press at 257 (“Free Press Comments”). (Unless otherwise indicated, all comments cited herein were filed in GN Docket No. 09-51 on June 8, 2009.)

<sup>3</sup> Comments of Public Knowledge, Media Access Project, The New America Foundation, and U.S. PIRG at 21 (“Public Knowledge Comments”).

<sup>4</sup> Comments of the Consumer Federation of America and Consumers Union at 31 (June 9, 2009) (“CFA Comments”).

services,”<sup>5</sup> and COMPTTEL argues that “[a]ny National Plan to increase the availability and affordability of broadband services must incorporate a commitment to promote competition in the broadband market.”<sup>6</sup>

These commenters recognize that vigorous competition will spur broadband deployment to the benefit of consumers. NATOA states that greater competition “will result in better customer service, lower prices, and new innovative service offerings.”<sup>7</sup> Sprint Nextel says similarly that “[m]arketplace forces will encourage rival broadband providers to reduce their costs, introduce new offerings in response to consumer demand, improve their existing networks and expand their networks to unserved areas when it is economic to do so.”<sup>8</sup> COMPTTEL asserts “[c]ompetition will afford consumers a choice of providers, a choice of services and lower rates, all of which are likely to increase the take rate for broadband services.”<sup>9</sup>

Like XO, numerous commenters point to the pro-competitive approach of the Telecommunications Act of 1996 as an appropriate paradigm for the FCC as it develops its national broadband strategy. Free Press states “[a]t the heart of the 1996 Act is a progressive, pro-competition regulatory structure – one that was intended to break open the bottlenecks in local communications networks.”<sup>10</sup> It believes that “Congress intended for this pro-competition regulatory structure to facilitate competition in the emerging

---

<sup>5</sup> Comments of Sprint Nextel Corporation at 6 (“Sprint Nextel Comments”).

<sup>6</sup> Comments of COMPTTEL at 1 (“COMPTTEL Comments”).

<sup>7</sup> Comments of the National Association of Telecommunications Officers and Advisors, *et al.*, at 39 (“NATOA Comments”).

<sup>8</sup> Sprint Nextel Comments at 7.

<sup>9</sup> COMPTTEL Comments at 14.

<sup>10</sup> Free Press Comments at 21.

Internet market,” and that the FCC should develop its broadband plan “with the pro-competitive framework of the 1996 Act as a guide.”<sup>11</sup> The Consumer Federation of America states that “[t]he 1996 Act clearly intended for there to be vigorous competition [with] the incumbent network,”<sup>12</sup> and Sprint Nextel agrees that this pro-competitive approach is “[c]onsistent with the 1996 amendments to the Communications Act.”<sup>13</sup>

The unbundling and other pro-competitive provisions of the 1996 amendments evince Congress’s intent to encourage intramodal wireline competition. As Free Press correctly observes, an effective pro-competitive approach to broadband development “means promoting both inter-modal and intra-modal platform competition – that is, competition between different technologies, and competition within certain technologies from the incumbent provider and wholesale providers.”<sup>14</sup> As demonstrated by their comments to the FCC on such issues as unbundled network elements (“UNEs”) and copper retirement (discussed *infra*), numerous parties similarly believe that the FCC should fulfill the promise of the 1996 Act by encouraging intramodal competition in broadband services.

## **II. COMMENTERS AGREE THAT THE FCC SHOULD TAKE AGGRESSIVE ACTION TO GIVE COMPETITIVE CARRIERS THE TOOLS THEY NEED TO DEVELOP COMPETITIVE BROADBAND OFFERINGS**

As XO pointed out in its comments, a variety of impediments continue to delay and deter the efforts of carriers seeking to compete with the incumbent LECs in the

---

<sup>11</sup> *Id.* at 257.

<sup>12</sup> CFA Comments at 30.

<sup>13</sup> Sprint Nextel Comments at 6.

<sup>14</sup> Free Press Comments at 263.

provision of broadband services.<sup>15</sup> To give these carriers the tools they need to compete fairly and effectively in providing broadband, the FCC's broadband strategy must eliminate these obstacles. Sharing this view, Cbeyond asserts that "the national broadband plan must include sound analytical frameworks for identifying broadband markets in which the incumbent LEC remains dominant and for imposing appropriate regulations (e.g., price cap regulation for special access and unbundling requirements) to spur competition in such markets."<sup>16</sup>

The FCC has the legal authority – and indeed has the obligation – to address the key barriers to greater broadband competition. The Commission has identified already a number of these obstacles in its pending rulemaking proceedings. As COMPTTEL states, "the Commission must take action on a myriad of rulemaking and declaratory ruling proceedings that have been gathering dust for years – proceedings that have the potential to level the playing field for broadband providers."<sup>17</sup> XO urges the FCC to heed this advice and give carriers utilizing a range of technologies and business plans the tools they need to develop competitive broadband offerings.

---

<sup>15</sup> Comments of XO Communications, LLC at 12-33 ("XO Comments").

<sup>16</sup> Comments of Cbeyond, Inc., Integra Telecom, Inc., One Communications Corp., and tw telecom inc. at 5 ("Cbeyond Comments").

<sup>17</sup> COMPTTEL Comments at 1. The FCC recently took a significant step toward a fairer regulatory environment for broadband by adopting new procedural rules for the Section 10 forbearance process. *Petition to Establish Procedural Requirements to Govern Proceedings for Forbearance Under Section 10 of the Communications Act of 1934, as Amended*, WC Docket No. 07-267, Report and Order, FCC 09-56 (rel. June 29, 2009) ("*Forbearance Order*"). As XO and other parties urged in their comments, the FCC found that forbearance petitions must now be complete as filed, that forbearance petitioners bear the burden of proof, and that the Commission alone has the authority to decide whether a particular forbearance proceeding will conclude with any action other than an FCC order. *Forbearance Order* ¶¶ 11-23, 35-38. XO commends the FCC for this action, and urges it to move quickly to a pro-competitive decision in the other broadband-related proceedings identified in this reply.

**A. The FCC Must Ensure that All Competitive Providers Have a Reasonable Opportunity to Gain Efficient Access to Unbundled Network Elements**

In its comments, XO pointed out that incumbent LECs today remain dominant in the provision of access to last mile broadband connections and that, as a result, the FCC must ensure that all competitive providers have a reasonable opportunity to gain efficient access to these UNEs on an economic, non-discriminatory basis in areas where competing alternatives are not available. Numerous commenters agree with XO regarding the need for competitive access to UNEs. NASUCA believes that “some form of *effective* unbundling is necessary,”<sup>18</sup> while NATOA states that the FCC “should reinstitute some common carrier provisions and local loop unbundling.”<sup>19</sup> Covad posits that the FCC “can foster innovation and competition over [incumbent LEC] networks by establishing wholesale open access requirements,”<sup>20</sup> while COMPTTEL points to the “need for the Commission to promote competition in the provision of broadband service by reinstating meaningful wholesale network access and rate regulation.”<sup>21</sup>

A number of commenters point out that competitors today lack the access to UNEs that Congress intended when it passed the 1996 Act. The Consumer Federation of America, for example, cites the FCC’s “fail[ure] to implement network unbundling in a manner that effectively opened the incumbent monopoly telecommunications platform to

---

<sup>18</sup> Comments of the National Association of State Utility Consumer Advocates at 62 (“NASUCA Comments”).

<sup>19</sup> NATOA Comments at 40.

<sup>20</sup> Comments of Covad Communications Company at 10 (“Covad Comments”).

<sup>21</sup> COMPTTEL Comments at 4.

competition for services,”<sup>22</sup> while NASUCA says that “the FCC eliminated virtually all of the access sharing and unbundling obligations imposed on incumbent [LECs] by [the 1996 Act].”<sup>23</sup> Other parties point to specific decisions in recent years that have limited competitive access to UNEs. For instance, Free Press and Cbeyond both support reversal of the FCC’s forbearance from dominant carrier regulation of the non-TDM-based special access inputs that are necessary for the delivery of packetized enterprise broadband services.<sup>24</sup> XO agrees that, as part of its national broadband plan, the FCC should revisit these UNE policy issues.

In support of the FCC’s return to a vigorous, pro-competitive incumbent network unbundling approach, numerous commenters also point to the greater level of broadband deployment in those countries that have implemented and maintained incumbent network unbundling policies. NASUCA points out that “other countries that have required the sort of open-access, line-sharing requirements eschewed by the FCC saw their broadband penetration levels rise, broadband transmission speeds increase, and broadband prices drop – while those that, like the U.S., pursued less proactive, competition-forcing policies saw much less impressive gains in these regards.”<sup>25</sup> The Consumer Federation of America states that “[i]t is noteworthy that many of the nations that have passed the U.S. by in broadband did so by effectively implementing competition on the incumbent platform.”<sup>26</sup> Free Press observes that, in contrast to the United States, “our foreign

---

<sup>22</sup> CFA Comments at 30.

<sup>23</sup> NASUCA Comments at 8.

<sup>24</sup> Free Press Comments at 259, 268; Cbeyond Comments at 8-10.

<sup>25</sup> NASUCA Comments at 10.

<sup>26</sup> CFA Comments at 30.

counterparts maintained their commitment to the very pro-competitive policies pioneered in the 1996 Act. And they saw their broadband Internet markets blossom, while ours withered.”<sup>27</sup> In its own comments, XO identified the Netherlands and New Zealand as countries where incumbent network unbundling policies have proven successful in promoting broadband deployment. XO and other parties also point specifically to Japan, South Korea, France, Sweden, and England as countries that have achieved high levels of broadband service at least in part through the unbundling of incumbents’ copper and fiber facilities.<sup>28</sup> XO urges the FCC to examine the unbundling policies implemented elsewhere and determine whether those policies can be adapted to the U.S. marketplace.

**B. Numerous Commenters Agree that the FCC Should End Incumbent LECs’ Unjust and Unreasonable Special Access Prices and Practices**

Numerous commenters agree that the FCC’s national broadband plan must address the longstanding inability of competitive broadband providers to obtain efficient access to the special access offerings of the Bell Operating Companies (“BOCs”) and other incumbent LECs at reasonable prices. Incumbent LECs’ excessive special access prices and exclusionary practices stifle competition and make it more difficult for competitive LECs like XO to deploy reasonably priced competitive broadband alternatives to incumbent LEC services. As BT Americas succinctly states, “[b]y any measure, the high capacity access and backhaul markets are broken.”<sup>29</sup> The New Jersey Division of Rate Counsel similarly observes that “[t]he special access market is not

---

<sup>27</sup> Free Press Comments at 18.

<sup>28</sup> See New America Foundation, “Residential High-Speed Internet Comparison Pricing in the U.S. and Japan,” *available at*: <[http://www.newamerica.net/publications/policy/u\\_s\\_vs\\_japan\\_residential\\_internet\\_service\\_provision\\_pricing](http://www.newamerica.net/publications/policy/u_s_vs_japan_residential_internet_service_provision_pricing)> (June 23, 2009).

<sup>29</sup> Comments of BT Americas Inc. at 8 (“BT Americas Comments”).

functioning efficiently, the effect of which is, among other things, to stymie the development of an affordable broadband infrastructure.”<sup>30</sup>

As XO and others explain in their comments, for the transmission circuits needed to link their end user customers and local network facilities to their nationwide networks, competing broadband providers rarely have alternatives to incumbent LECs’ special access.<sup>31</sup> Free Press confirms that “even though these lines are used to provision services that generate substantial revenues, there are only limited and very specialized cases of deployment by non-incumbents.”<sup>32</sup> T-Mobile further indicates that “[t]he current reality is that for many markets, ILECs are the only practical suppliers of specialized backhaul through their special access services.”<sup>33</sup>

Numerous parties further point out that in the absence of effective pricing controls imposed by regulation or the marketplace, the BOCs and other incumbent LECs have taken full advantage of the FCC’s Phase II pricing flexibility and increased their special access rates to unjust and unreasonable levels. The Consumer Federation of America states that “[w]ith inadequate competition, incumbent [LECs] have been abusing their market power and extracting monopoly rents.”<sup>34</sup> Free Press notes that “[t]hese incumbents, freed by the FCC from price constraint and access regulations, have abused their market power to an obscene extent. . . . So in much of the country, incumbents are free to charge just about anything they wish for access to these essential communications

---

<sup>30</sup> Comments of the New Jersey Division of Rate Counsel at 40 (“New Jersey Rate Counsel Comments”).

<sup>31</sup> XO Comments at 22-27.

<sup>32</sup> Free Press Comments at 120.

<sup>33</sup> Comments of T-Mobile USA, Inc., at 18.

<sup>34</sup> CFA Comments at 24 n.31.

inputs.”<sup>35</sup> Free Press further points out that these excessive special access rates lead to rates of return “at such a high level that even the most stalwart monopolist would blush.”<sup>36</sup> The AdHoc Telecommunications Users Coalition states that it “repeatedly has demonstrated that the BOCs’ interstate special access rates are excessive by showing that the BOCs’ earnings from those services grossly exceed levels that would be considered reasonable.”<sup>37</sup>

As the New Jersey Division of Rate Counsel states, these “[a]rtificially high special access rates jeopardize the nation’s ability to achieve ubiquitous broadband deployment.”<sup>38</sup> Competitive LECs like XO are captive special access customers and must simply accept these excessive rates and attempt to pass these costs along to their own customers. As Covad points out, “[i]f special access was ubiquitously used as an input for competitive services, competitors would be faced with a classic cost-price squeeze that would not allow them to compete in the market.”<sup>39</sup>

The multitude of commenters addressing special access agree that it is time for the FCC to take meaningful action in its four year old rulemaking to curb the incumbent LECs’ dominance in the provision of special access services.<sup>40</sup> CFA states that “[t]he Commission has clear authority and a long-standing open docket, in which the evidence

---

<sup>35</sup> Free Press Comments at 119, 122.

<sup>36</sup> *Id.* at 124.

<sup>37</sup> Comments of the AdHoc Telecommunications Users Committee at 20 (June 3, 2009).

<sup>38</sup> New Jersey Rate Counsel Comments at 44.

<sup>39</sup> Covad Comments at 6.

<sup>40</sup> *Special Access Rates for Price Cap Local Exchange Carriers; AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, Order and Notice of Proposed Rulemaking, 20 FCC Rcd 1994 (2005).

shows overwhelmingly that competition has not prevented rampant pricing abuse.”<sup>41</sup> Public Knowledge states that “the Commission must conduct a thorough review of its policies regarding competition and prices in the special access market and ensure that incumbent providers make bandwidth available at reasonable and non-discriminatory prices.”<sup>42</sup> By adopting reforms to reduce rates to more reasonable levels and to proscribe exclusionary practices that deter competitive entry, the FCC can help “guarantee that consumers are benefited in terms of choice, price and quality of broadband services and that efficient investment in broadband infrastructure is encouraged.”<sup>43</sup>

**C. Commenters Agree that the FCC Should Prevent Incumbent LECs from Unilaterally Retiring Copper Plant**

In its comments, XO urged the FCC to accord an integral role to the United States’ existing copper infrastructure. As XO pointed out, this valuable ubiquitous nationwide infrastructure has played and continues to play an essential role in building businesses, improving the nation’s standard of living, and ensuring the availability of telecommunications services during public safety and homeland security crises. With the ongoing development and evolution of copper-based technologies, copper plant can now deliver substantially more bandwidth than it could just five years ago; in fact, in the relatively near future, copper may be capable of supporting transmission speeds of 100 Mbps or greater.<sup>44</sup> Thus, contrary to AT&T’s recent claim in the FCC’s special access

---

<sup>41</sup> CFA Comments at 24.

<sup>42</sup> Public Knowledge Comments at 29.

<sup>43</sup> *Id.* at 29. As XO stated in its comments, the FCC should now take steps that would reduce prices in Phase II pricing flexibility areas to reasonable level, such as reinitializing the rates and adopting an interim X-factor of 5.3%.

<sup>44</sup> XO Comments at 9.

rulemaking that copper will only have a limited function in the future, the existing copper infrastructure will in fact play an integral role in the deployment of next-generation broadband service throughout the United States.<sup>45</sup> Indeed, legacy copper plant is the most widely deployed broadband infrastructure currently in use, providing far greater reach than fiber facilities installed to date.

Other commenters echo XO's view regarding the importance of the existing copper infrastructure. Covad states that "[n]early all small businesses are already connected to copper last-mile facilities. These existing copper connections are currently the main broadband medium for small business customers, and will continue to be so for the next several years."<sup>46</sup> COMPTTEL points out that "[c]opper loops remain almost ubiquitous and can be conditioned to provide high speed data and video broadband services. As such, copper loops – where they remain available – can provide a robust competitive alternative to fiber and cable."<sup>47</sup> Cbeyond notes that "as a result of evolving compression and transmission standards, competitors have been providing more innovative, higher bandwidth broadband services, such as Ethernet over copper, to business customers."<sup>48</sup>

---

<sup>45</sup> Letter from James Cicconi, AT&T, attached to letter from Frank Simone, AT&T, to Marlene Dortch, Secretary, FCC, WC Docket No. 05-25, at 1 (June 22, 2009) (citing the allegedly "limited role" that "copper, TDM-based services likely will play in a telecommunications environment in which millions of end users will possess wireless devices capable of accessing the Internet at speeds in excess of 10 Mbps and home computing devices capable of speeds 5 or 10 times greater.").

<sup>46</sup> Covad Comments at 4.

<sup>47</sup> COMPTTEL Comments at 20.

<sup>48</sup> Cbeyond Comments at 19.

As it detailed in its comments, XO and other competitive carriers are moving forward with the deployment of Ethernet over copper (“EoC”) and other copper-based technologies, with the goal of providing an end-to-end competitive alternative to incumbent LECs’ services. These efforts, however, are increasingly threatened by incumbent LECs’ unnecessary and unilateral retirement of copper plant. Currently, the FCC’s rules do little to prevent this practice or protect the copper infrastructure for the benefit of consumers. Incumbent LECs are not required to justify their retirement of copper plant. Moreover, as Covad points out, “it is socially inefficient to allow the removal of copper, as the local phone company has to actually incur labor and capital expenses to remove competitive choices – *i.e.*, copper loops – from small businesses and other customers. While local telephone companies may argue that they should not have to incur maintenance expenses, this plea is easily addressed by allowing competitive carriers the option to maintain the copper. Indeed, maintenance charges are already often included in existing rates under which competitors access copper. Any such concerns are therefore easily addressed by permitting cost-based, wholesale access to legacy copper.”<sup>49</sup>

The incumbent LECs’ current copper plant retirement practices can cause substantial competitive harm. Prematurely retiring copper plant can prevent competitive providers from using that plant to offer broadband, video, high-speed data, and other advanced services to millions of customers. As COMPTTEL states, “[a]s ILECs replace copper loops with fiber to the home and fiber to the curb, they remove a viable transmission medium that competitors can use to deliver broadband service to

---

<sup>49</sup> Covad Comments at 5-6.

customers,” thereby diminishing competition.<sup>50</sup> Covad points out further that copper retirement “not only removes the physical infrastructure through which competitive services may be provided, but also stifles the incentive for competitive providers to expand and develop the technologies that utilize copper for the benefit of consumers in both the short and long-term.”<sup>51</sup>

Accordingly, as a key part of its national broadband strategy, the FCC should prevent incumbent LECs from squandering copper plant and deterring effective competition from new providers. Commenters agree with XO that the FCC should conduct a formal, case-by-case review of incumbent LEC requests to retire copper infrastructure. COMPTTEL urges the FCC to “establish a formal process to determine whether it serves the public interest and national security interest for the ILECs to continue to retire valuable copper loops and subloops at their sole discretion.”<sup>52</sup> Meanwhile, Cbeyond asks the FCC to “require incumbent LECs to seek prior approval for copper loop retirement, and, as part of the agency’s review of retirement requests, interested parties should be given a meaningful opportunity to explain why such a request should be denied.”<sup>53</sup> Accordingly, XO again urges the FCC to adopt the copper retirement procedures proposed by XO and other carriers in their 2007 rulemaking

---

<sup>50</sup> COMPTTEL Comments at 21.

<sup>51</sup> Covad Comments at 5.

<sup>52</sup> COMPTTEL Comments at 21.

<sup>53</sup> Cbeyond Comments at 19.

petition, either as part of a comprehensive broadband rulemaking following its report to Congress or in that pending rulemaking.<sup>54</sup>

### III. CONCLUSION

XO urges the FCC to make pro-competitive policies the centerpiece of its national broadband plan. A pro-competitive framework encompassing all segments of broadband networks will foster robust competition and innovation in broadband services, and serve the interests of consumers.

Respectfully submitted,

/s/ Heather Burnett Gold  
Heather Burnett Gold  
Senior Vice President  
heather.b.gold@xo.com

Lisa R. Youngers  
Vice President, Federal Affairs  
lisa.r.youngers@xo.com

XO Communications, LLC  
13865 Sunrise Valley Drive  
Herndon, VA 20171  
703-547-2000

Regina M. Keeney  
Stephen J. Berman  
Lawler, Metzger, Keeney & Logan, LLC  
2001 K Street, NW, Suite 802  
Washington, DC 20006  
(202) 777-7700  
Counsel for XO Communications, LLC

July 21, 2009

---

<sup>54</sup> Petition for Rulemaking to Amend Certain Part 51 Rules Applicable to Incumbent LEC Retirement of Copper Loops and Copper Subloops, XO Communications, LLC; Covad Communications Group, Inc.; NuVox Communications; and Eschelon Telecom, Inc., RM-11358 (Jan. 18, 2007).

### **Certificate of Service**

I hereby certify that on this 21st day of July, 2009, I caused true and correct copies of the foregoing Reply Comments of XO Communications, LLC, to be mailed by electronic mail to:

Competition Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
cpdcopies@fcc.gov

and

Best Copy and Printing, Inc.  
fcc@bcpiweb.com

/s/ Ruth E. Holder  
Ruth E. Holder