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February 25, 2010

Ex Parte

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: ***National Broadband Plan,* GN Docket No. 09-51; *Petitions for Rulemaking and Clarification Regarding the Commission's Rules Applicable to Retirement of Copper Loops and Copper Subloops,* RM-11358**

Dear Ms. Dortch:

Yesterday, William Johnson and the undersigned of Verizon met with Christi Shewman of Commissioner Baker's office to discuss why the FCC should continue to encourage more widespread availability of next-generation broadband networks for consumers by maintaining its long-standing policies allowing the retirement of duplicative copper facilities (subject to network disclosure requirements) following the deployment of all-fiber networks. The discussion was consistent with the attached ex parte letter, which Verizon filed on February 12, 2010. In particular, we explained that proposals to prohibit retirement of duplicative copper facilities would harm the business case for investment in fiber, be inefficient and substantially increase costs – costs ultimately borne by consumers. Moreover, any backtracking on these rules at this time would come late in the game, after companies have invested tens of billions of dollars in fiber infrastructure in express reliance upon the Commission's policy, while also standing as a direct obstacle to the Commission's longstanding broadband goals by discouraging the substantial, future investments needed for widespread availability of next-generation broadband facilities.

The Commission's current policies are designed to facilitate — and, indeed, have facilitated — investment in cutting-edge broadband infrastructure. The changes to the existing copper-retirement rules that some seek, in contrast, would entrench the legacy copper network at the expense of next-generation facilities. Other companies would have little incentive to deploy their own fiber facilities as long as they are guaranteed indefinite access to the copper network. And the companies deploying fiber would have less incentive to make new investments in fiber networks. Moreover, we discussed why the benefits of fiber deployment – and, in turn the business case for making such investments in the first place – would be greatly diminished if the company deploying the fiber was also required to bear the significant expense associated with maintaining a redundant and less-efficient copper network solely for the benefit of its competitors.

Sincerely,

Donna Epps

Attachments

cc: Christi Shewman

ATTACHMENT

Donna Epps
Vice President
Federal Regulatory Affairs

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February 12, 2010

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: National Broadband Plan, GN Docket No. 09-51

Dear Ms. Dortch:

As the Commission concludes its work on the National Broadband Plan, it is important for the focus to remain on the Plan's core objectives of promoting the continued deployment and adoption of broadband. In particular, the Commission should ensure that the Plan preserves providers' incentives to continue the existing massive, on-going investment in broadband deployment. However, some continue to urge the Commission to take steps that would undermine those incentives and hamper those efforts. In particular, some propose that the Commission use the Plan to reverse its current policy that allows companies to retire copper facilities (subject to the Commission's network disclosure requirements) where they have deployed fiber, including new fiber-to-the-premises ("FTTP") lines.[1] Those proposals — which would change the rules late in the game, after companies have invested tens of billions of dollars in fiber infrastructure in express reliance upon the Commission's policy — stand as a direct obstacle to the Commission's longstanding goal of providing high-speed broadband access to all Americans over next-generation broadband facilities.

Since the Commission's decisions eliminating unbundling requirements for FTTP and refusing to restrict the ability of companies deploying fiber facilities to retire redundant copper network facilities, Verizon alone has committed more than $23 billion in investment to its all-fiber FiOS network, which currently offers up to 50 Mbps download speeds — as well as plans offering small businesses up to 35 Mbps symmetrical upload and download speeds — to roughly 15.4 million premises. That all-fiber network will ultimately reach millions of additional premises and support much higher broadband speeds, thus enabling application developers to create, and customers to enjoy, new applications and services that take advantage of these ever

[1] *See* Letter from William A. Haas, PAETEC, to Marlene H. Dortch, GN Dockets No. 09-47 et al. (filed Dec. 6, 2009); Letter from Regina M. Keeney, Attorney for XO Communications to Marlene H. Dortch, GN Docket Nos. 09-47 et al. (filed Jan. 29, 2010).

increasing broadband speeds. In making this massive investment, Verizon directly relied upon the Commission's decisions. Indeed, the ability to retire copper plant and equipment when it makes economic sense to do so and to avoid the cost of maintaining redundant facilities was — and remains — *critical* to the business case for Verizon's investment in its next-generation FTTP network.

If the Commission were to reverse its long-standing refusal to limit the retirement of duplicative copper facilities for only one category of providers, as some have urged, it would artificially skew competition in the broadband marketplace by imposing a unique — and significant — burden on incumbent LECs, alone among competing broadband providers. Cable operators, fixed and mobile wireless providers, facilities-based CLECs, satellite providers, and other providers could all focus on exactly one task — bringing the best possible broadband services to their customers. Incumbent LECs, in contrast, would be forced to maintain a costly, redundant, legacy network — which they would not be using for their own retail operations — in addition to their next-generation fiber facilities.

Moreover, the benefits of fiber deployment — and, in turn, the business case for making such investments in the first place — would be greatly diminished if the company deploying the fiber was also required to bear the significant costs associated with maintaining a redundant and less-efficient copper network solely for the benefit of its competitors. This would not be as simple as just leaving copper lines in the ground. In addition to the lines themselves, Verizon and other companies deploying fiber would be forced to maintain related network equipment such as load coils, terminals, service wires, pedestals, and feeder distribution interface cabinets. They would also have to maintain legacy operations systems for inventory, service orders, cost assignment, and wholesale billing, even though, in Verizon's case at least, none of those systems is used with its next-generation FiOS network. Forcing companies to maintain copper facilities after they deployed fiber would be like requiring a factory to continue operating its old machines after it purchased new, state-of-the-art equipment. Such a rule would be wasteful and inefficient, and would create a substantial disincentive to investing in new technologies in the first place, at a time when the Commission seeks to encourage *greater* investment in next-generation broadband networks. And, of course, the added costs imposed by maintaining the duplicate networks and systems beyond when it makes business sense to do so ultimately would be borne by consumers.

In addition, by reducing providers' incentives to invest in fiber networks, these added costs would ultimately harm consumers and undermine the Commission's broadband goals. Regardless of any improvements in technology using legacy copper facilities, it remains the case that copper will never offer the capacity or robustness of fiber, both because of copper's inherent limitations and because real-world copper facilities cannot duplicate speeds that are reached in laboratory experiments. Fiber networks are faster, more efficient, and more reliable than the legacy copper network. For example, fiber lines require no mid-span equipment or electronics (*e.g.*, repeaters, terminals, remotes, etc.), which means that they are cheaper to maintain and have fewer potential points of failure than copper lines. Fiber lines are also more durable and require fewer repairs. For example, as Verizon has previously explained, the rate of maintenance dispatches in 2007 was *eighty percent* lower for FiOS lines than for copper lines. When fiber is deployed, consumers gain faster speeds and more reliable service, and carriers gain a more efficient, greener network that is much easier to operate and maintain. A requirement on one class of providers to maintain redundant copper facilities will mean less fiber overall, and less access to the advanced services that fiber enables, harming residential and small-business consumers alike.

Finally, some have urged the Commission to alter its rules to allow companies to retire copper facilities only where they physically remove the copper wires from the ground, or to require them to sell retired copper facilities. Such proposals simply seek to accomplish indirectly what the Commission has refused to do directly — namely, prohibit copper retirement, as a practical matter — by making retirement more expensive than maintaining the duplicative facilities. Most existing copper wire is either buried in the ground or lashed to other cables on telephone poles; a requirement that carriers physically remove this wire would impose such high costs that it would be the functional equivalent of a ban on retirement. Similarly, forcing companies to sell retired copper facilities would impose costs similar to those posed by unbundling mandates. There would be no clear or administrable way to price retired copper facilities and — given that copper lines run through central offices — companies would still have to maintain separate systems for operations, interconnection, billing, and account management.

In sum, the Commission's current policies are designed to facilitate — and, indeed, *have* facilitated — investment in cutting-edge broadband infrastructure. The changes to the existing copper-retirement rules that some seek, in contrast, would entrench the legacy network at the expense of next-generation facilities. Other companies would have little incentive to deploy their own fiber facilities as long as they are guaranteed indefinite access to the copper network. And the companies deploying fiber would have less incentive to make new investments in fiber networks, while such a rule change would also arbitrarily reduce the value of past investments made in reliance on the Commission's decision not to prohibit copper retirement. Consistent with the Commission's goal of encouraging broadband investment and innovation in order to increase the capabilities of our Nation's broadband infrastructure, the Commission should reject calls to reverse course on its long-standing decision not to restrict the ability to retire redundant copper facilities. Such a reversal would only increase the costs and decrease the incentives to deploy new fiber facilities, thereby harming consumers and undermining the core goals of the Plan.

Sincerely,

Donna Epps

Your submission has been accepted

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Proceeding

Name	Subject
09-51	In the matter of a National Broadband Plan for Our Future.

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