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October 16, 2012

VIA ECFS

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;** ***Petitions for Rulemaking and Clarification Regarding the Commission's Rules Applicable to Retirement of Copper Loops and Copper Subloops,*** **RM-11358;** ***Business Broadband Marketplace,*** **WC Docket No. 10-188**
Notice of Ex Parte Communications

Dear Ms. Dortch:

On October 12, 2012, Nancy Lubamersky, Vice President Public Policy of U.S. TelePacific Corp. d/b/a TelePacific Communications ("TelePacific" or "Company") and the undersigned met with Christine Kurth, Policy Director & Wireline Counsel to Commissioner Robert McDowell.

TelePacific explained that it has made substantial investments in deploying Ethernet over Copper ("EoC") capabilities and it needs regulatory certainty in order to continue making such investments. With EoC, TelePacific has used bare copper loops to bring broadband speeds of 10 to 50 Mbps to its small and medium sized business customers. For example, TelePacific was able to switch a school in Los Angeles from two T-1s providing 3 Mbps to EoC using 8 copper pairs that now offer 35 Mbps. Importantly, the price increase for this change was minimal. On average, the underlying cost of provisioning EoC using UNE loops is approximately one-tenth of that similar bandwidth provided over fiber. EoC also has the advantage of using existing plant so that carriers can avoid the time and expense of going through the permitting process and digging up streets to install new fiber. TelePacific believes that EoC has the potential to bring affordable broadband to small businesses, especially community and anchor institutions such as schools, libraries, and rural health care providers, who cannot afford fiber-based broadband. In short, EoC has the potential to speed up broadband deployment by using existing plant and increase broadband adoption rates where price is the primary reason for lack of adoption.

Under current FCC rules, if an ILEC retires the copper feeder TelePacific uses to serve the Los Angeles school, for example, it is not clear that TelePacific is permitted to object to such retirement.[1] Even if the ILEC retires the entire copper loop, if the FCC

[1] *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, and Deployment of Wireline Services Offering*

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does not act on TelePacific's objection with 90 days, it is deemed denied and the ILEC may retire the copper, forcing TelePacific to look for other broadband solutions, some of which its customers may not be able to afford. This uncertainty hinders investment in affordable broadband over copper.

The California Commission requires an ILEC retiring copper to enter into good faith negotiations with its competitor-customer if the competitor seeks to purchase the copper loop or obtain access at negotiated rates.[2] While these rules provide competitive carriers and their EoC customers more procedural options, both FCC and California rules need to be updated to take into account the broadband capabilities that new technology makes possible over copper. TelePacific looks forward to working with the FCC and industry to update the rules so that they promote deployment of affordable broadband for small business customers.

Sincerely,

/s/ *electronically signed*

Tamar E. Finn

Counsel for U.S. TelePacific, Corp. d/b/a TelePacific Communications

cc: (via E-Mail)

Christine Kurth

Advanced Telecommunications Capability, 18 FCC Rcd 16978 at para. 283, n.829. (2003).

[2] California Public Utilities Commission, *Rulemaking Regarding Whether to Adopt, Amend or Repeal Regulations Governing the Retirement by Incumbent Local Exchange Carriers of Copper Loops and Related Facilities Used to Provide Telecommunications Services,* Decision No. 08-11-033 (Nov. 6, 2008).