

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

In the Matter of)	
)	
Business Broadband Marketplace)	WC Docket No. 10-188
)	
In the Matter of)	
)	
AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition;)	WC Docket No. 12-353
)	
Petition of the National Telecommunications Cooperative Association for a Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolution)	
)	
In the Matter of)	
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
In the Matter of)	
)	
Technology Transitions Policy Task Force)	GN Docket No. 13-5
)	
In the Matter of)	
)	
Petitions for Rulemaking and Clarification Regarding the Commission's Rules Applicable to Retirement of Copper Loops and Copper Subloops)	RM-11358
)	

**DECLARATION OF NANCY LUBAMERSKY ON BEHALF OF
MPOWER COMMUNICATIONS CORP. AND U.S. TELEPACIFIC CORP.
IN SUPPORT OF THE REQUEST TO REFRESH RECORD AND TAKE
EXPEDITED ACTION TO UPDATE COPPER RETIREMENT RULES TO
PROMOTE AFFORDABLE BROADBAND OVER COPPER**

1. I am Nancy Lubamersky, Vice President, Public Policy and Strategic Initiatives for U.S. TelePacific Corp., which, together with its affiliate Mpower Communications Corp., offers competitive broadband service under the “TelePacific” brand. I am also the Co-Chair of the California Association of Competitive Telecommunications Companies (“CALTEL”).

2. The purpose of my declaration is to provide factual support for the “Request to Refresh Record and Take Expedited Action to Update Copper Retirement Rules to Promote Affordable Broadband Over Copper” filed by TelePacific and other parties in WC Docket Nos. 10-188, 12-353; GN Docket Nos. 09-51, 13-5 and RM-11358. In particular, this Declaration provides information from TelePacific and other CLECs operating in the state of California who have invested in the deployment of Ethernet over Copper equipment and are now using those investments to provide broadband and other communications services to their consumer and business customers.

3. I have personal knowledge of all facts stated in my declaration.

Competitive Ethernet over Copper Deployment

Background

4. In December 2012, I asked member companies in CALTEL to identify the wire centers in California where the companies have invested in and deployed Ethernet-over-Copper (“EoC”) transmission equipment in order to provide the Federal Communications Commission (“FCC”) with data regarding the continued value of the

ILECs' copper loop plant in providing broadband services to customers, including consumers and small and medium sized business ("SMB") customers.¹

5. TelePacific, through its outside counsel at Bingham McCutchen LLP, engaged Michael Mulkey to assist TelePacific in collecting and analyzing the information provided by California CLECs pursuant to my request.

6. I provided Mr. Mulkey with information regarding the wire centers where TelePacific has invested in and deployed EoC transmission equipment in order to provide broadband to its business customers. I received similar EoC deployment information from Sonic Telecom, Inc., who offers broadband Internet service to residential consumers and small business customers, and provided that information to Mr. Mulkey as well.

7. Mr. Mulkey received similar EoC deployment information from seven other responding CLECs: Blue Rooster Telecom, Inc.; Cbeyond Communications, Inc.; Impulse Advanced Communications, LLC; MegaPath Corporation; Norcast Communications Corporation; Rural Broadband Now! LLC and XO Communications Services.

8. Mr. Mulkey then aggregated the information provided by each CLEC,² he provided the aggregated information to me, and I combined this information with data from a GeoResults³ database of California businesses to identify SMBs (defined for

¹ These customers, SMBs, for purposes of this analysis are defined as a business having between 10-249 employees at a given location.

² Non-disclosure agreements protect the confidentiality of such sensitive business information and limit its use for advocacy before the FCC.

³ GeoResults is a database marketing and consulting firm (<http://www.georeresults.com>) serving the telecommunications industry. TelePacific had previously purchased GeoResults data for many of the ILEC wireline central offices in California.

purposes of this analysis as 10-249 employees in a given location) within 12,000 feet (on an airline mileage basis) of a CLEC EoC equipped wire center.⁴

9. Based on the combination of the aggregated CLEC wire center list with GeoResults' counts of SMBs within 12,000 feet from the serving ILEC central offices, Mr. Mulkey prepared summary spreadsheets displaying the availability and ubiquity of CLEC EoC service alternatives in the state of California. Based on the aggregated list of EoC locations and the GeoResults data, TelePacific prepared coverage maps of the EoC served cities by participating CLECs statewide.

Analysis of the Data

10. The data I have compiled shows that the ten CLECs participating in this exercise have invested in and installed EoC capability in 343 different wire centers in California.

11. In those 343 wire centers, approximately 250,000 SMBs can purchase broadband services via EoC provided by one or more of the CLECs that provided data.

12. In more than one-third of these wire centers, there are at least three different CLECs to choose from for EoC-based broadband service.

13. Attached to my declaration are several exhibits identifying these wire centers.

14. Exhibit A shows the list of all 343 wire centers.

15. Exhibit B shows that out of the 343 wire centers covered by these 9 CLECs, there are 84 where two CLECs have deployed EoC; 62 where three CLECs have

⁴ It is possible that in a few instances where wire centers are adjacent, using the 12,000 feet radius could double count certain businesses within 12,000 feet of more than one wire center.

deployed EoC; 37 where four CLECs have deployed EoC; sixteen where five CLECs have deployed EoC and one wire center where six CLECs have deployed EoC.

16. Also attached as Exhibit C is a statewide map of California showing the dispersal of the 343 wire centers across the state.

TelePacific Alternative Last Mile Access Survey

17. TelePacific has contractual arrangements with 27 alternative (non-incumbent) providers to buy last mile access to reach customer locations. These alternative providers include fiber companies, cable companies, and competitive telecommunications carriers.

18. I directed my staff to review a random group of thirty wire centers, at least one in each LATA in California where TelePacific provides service, and collect current customer addresses from each of the 30 wire centers selected using this sampling method.

19. My staff compared this current customer address list to the list of on-net buildings we have received from our 27 alternative providers to determine whether TelePacific could request last mile access to the customer location from an alternative (non-ILEC) provider.⁵

20. Only 12.5% of the current customer addresses included in our survey were listed as on-net buildings for the 27 alternative providers.

21. Declarant sayeth no more.

⁵ Although a provider's list of on-net buildings indicates that they offer service to a particular building, in practice, a provider may not have available capacity to fulfill a specific service request.

I declare under penalty of perjury that the foregoing is true and correct.



Nancy Lubamerksy
Vice President, Public Policy and Strategic Initiatives
U.S. TelePacific Corp.

Executed on: January 25, 2013
Larkspur, California