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January 25, 2013

## VIA ECFS

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

**Re: Notice of Ex Parte Presentation - AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition; Petition of the National Telecommunications Cooperative Association for a Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolution, GN Docket No. 12-353; Technology Transitions Policy Task Force, GN Docket No. 13-5**

Dear Ms. Dortch:

On January 23, 2013, the undersigned of Bingham McCutchen LLP (“Bingham”), representing Granite Telecommunications LLC (“Granite”), Samuel J. Kline, Senior Vice President-Corporate Strategy of Granite, Michael B. Galvin, General Counsel of Granite, Kevin Joseph of The Joseph Group, and Eric Branfman of Bingham met with the following members of the Commission’s Technology Transitions Policy Task Force (“Task Force”) regarding the above-referenced proceedings: Sean Lev, General Counsel, Rebekah Goodheart, of the Wireline Competition Bureau, Gene Fullano of the Public Safety and Homeland Security Bureau, Steve Wildman of the Office of Strategic Policy, and Charles Mathias, Legal Advisor to Chairman Genachowski.

Granite began by discussing its unique position as a CLEC in serving national, multi-location businesses. Granite explained that it serves approximately 1,250,000 million lines at approximately 250,000 business locations across the country. The typical Granite customer will purchase several voice lines at each location and frequently a DSL line.

Granite explained that it obtains these lines from the RBOCs primarily through multi-state UNE-P replacement “commercial” agreements and separate agreements to furnish DSL services. In other locations where the non-RBOC ILEC does not provide Granite UNE-P replacement service at commercial rates, Granite obtains services using its right to obtain resold telecommunications service under section 251(c)(4). Granite explained that because it is a non-facilities-based competitor, it differentiates its service by allowing customers to receive service on a month-to-month basis instead of long-term contracts and that it provides customers with customized billing and personal service that other providers do not offer. Further, Granite’s national customers value the ability to receive

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their local voice service for their nationwide retail locations from a single provider on a single bill, with a single point of contact for resolving problems.

Granite explained that while it supports the transition to next generation networks it is concerned that, absent pro-competitive action by the Commission, its customers, who have minimal telecommunications requirements at each retail location but have hundreds or thousands of locations in every corner of the country, will be left without a choice of service providers and will have no ability to obtain service at all of their locations from a single provider. In support, Granite noted that businesses have been slow to adopt VoIP, as shown in the recent Telecommunications Industry Association submission.<sup>1</sup>

Granite explained that VoIP is typically not an option for Granite's business customers because any VoIP provider seeking to serve such customers would first have to ensure that each location had a broadband connection to the Internet. Nor is wireless a viable substitute because the type of multi-line hunt capability that Granite's customers typically demand is not available over mobile wireless. Nor are the cable companies or other national carriers like AT&T and Verizon competing in the DS0 market outside of their ILEC territories.

Granite urged the Commission to take steps to preserve competition as it facilitates the transition to IP networks, particularly because in the business market — which must be analyzed separately from the residential market consistent with the Commission's *Phoenix Forbearance Order*<sup>2</sup> — there will be many locations where the ILEC faces no competition from a facilities-based provider. Granite noted that the RBOCs' commercial agreements typically deny CLECs access to circuits provisioned over technology other than copper, even where the transition to a non-copper technology results from natural events rather than planned copper retirement.<sup>3</sup> Granite also noted that the proposal to classify all VoIP services as information services could be used to claim the ILECs no longer have an obligation to provide resold service under section 251(c)(4).

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<sup>1</sup> See *Ex Parte* letter from Brian Scarpelli, Manager, Government Affairs, Telecommunications Industry Association, to Marlene H. Dortch, GN Docket No. 12-353 (Jan. 11, 2013), Attachment, "Public Switched Telephone Network in Transition" at p. 3; see also "Local Telephone Competition: Status as of December 31, 2011", Industry Analysis and Technology Division, Wireline Competition Bureau, January 2013 at p. 3, figure 2.

<sup>2</sup> See *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Phoenix, Arizona Metropolitan Statistical Area*, 25 FCC Rcd 8622, 8645-47 ¶¶ 41-45 (2010) *aff'd* *Qwest Corp. v. FCC*, 689 F.3d 1214 (10th Cir. 2012).

<sup>3</sup> See letter of William Roughton, General Attorney, AT&T, to Marlene H. Dortch, January 6, 2012, extending term through Dec. 31, 2014, June 2, 2009 Agreement between AT&T and EveryCall Communications, Inc. and amendment, at § 1.7.

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Further, Granite expressed its concerns about AT&T's proposed trials. In particular, Granite observed that AT&T's trial may interfere with the services Granite currently provides its customers. Granite further observed that AT&T's Petition does not propose to hold CLECs harmless. Rather, it is clear that its proposed trial would deprive CLECs of an ability to demand service from the ILEC, whether in TDM or under current law where CLECs are precluded from accessing unbundled loops provisioned over fiber or "packetized" hybrid loops. Thus, Granite explained that AT&T's proposed trial was premature, but at a minimum any such trial needs to accommodate competitive access to bottleneck last mile facilities.

Respectfully submitted,

*/s/ Joshua M. Bobeck*

Joshua M. Bobeck

Counsel for Granite Telecommunications, LLC

cc: (via email): Meeting participants

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