

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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In the Matters of)	
)	
AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition)	WC Docket No. 12-353
)	
NTCA Petition for a Rulemaking to Promote and Sustain the Ongoing TDM- to-IP Evolution)	
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COMMENTS OF METROPCS COMMUNICATIONS, INC.

MetroPCS Communications, Inc. (“MetroPCS”),¹ by its attorneys, hereby respectfully submits its comments on the *Public Notice*² released by the Federal Communications Commission (the “FCC” or “Commission”) in the above-captioned proceeding seeking comment on the Petitions filed by AT&T³ and the National Telecommunications Cooperative Association (“NTCA”).⁴ As is set forth in detail below, MetroPCS supports the adoption of policies to promote an orderly transition from time-division multiplexed (“TDM”) to Internet Protocol (“IP”) networks. In the process, the Commission must assure that all carriers, including

¹ For purposes of these Comments, the term “MetroPCS” refers to MetroPCS Communications, Inc. and all of its FCC-licensed subsidiaries.

² *Pleading Cycle Established on AT&T and NTCA Petitions*, Public Notice, WC Docket No. 12-353, DA 12-1999 (rel. Dec. 14, 2012).

³ *AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition*, WC Docket No. 12-353 (Nov. 7, 2012) (“*AT&T Petition*”).

⁴ *Petition of the National Telecommunications Cooperative Association for a Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolution*, WC Docket No. 12-353 (Nov. 19, 2012) (“*NTCA Petition*”).

incumbent local exchange carriers (“ILECs”), are obligated to comply with the Communications Act’s interconnection duties even if such carriers provide services based fully on IP. The following is respectfully shown:

I. INTRODUCTION

The telecommunications industry is evolving rapidly, and providers are transitioning on an accelerating basis from TDM-based networks to all-IP networks. Advanced IP infrastructure enables the industry to serve more consumers with more advanced telecommunications services, and the Commission is serving the public interest by taking steps to facilitate this technological development. As telecommunications networks become increasingly IP-based, however, the Commission must assure that carriers’ important regulatory obligations continue to be met notwithstanding the transition. Of particular importance, carriers cannot be allowed to avoid their interconnection obligations based upon this technical change. Robust interconnection rights provide carriers with needed regulatory certainty and enable consumers to seamlessly communicate across proprietary networks, which is essential to maintaining the rapid, efficient nationwide telecommunications network that the Commission is charged with promoting in Section 1 of the Communications Act of 1934, as amended (the “Communications Act” or “Act”).⁵

Interconnection also is vitally important to the public interest because it promotes competition. When voice providers agree to connect their networks and accept calls from each other’s customers, a level competitive playing field is created. Without interconnection, the benefits of competition are lost because different providers’ customers cannot call each other, giving consumers in the marketplace a powerful incentive to join only the most popular network

⁵ 47 U.S.C. § 151.

so that they can call the greatest number people. Once a critical mass of consumers subscribe to one provider, network effects prevent other providers from attracting or maintaining enough subscribers to compete. Therefore, ubiquitous interconnection is necessary for competition, and the FCC must act to preserve interconnection and competition among voice providers who transition to IP networks.

Specifically, the Commission should definitively state that IP-to-IP interconnection is governed by Section 251(a) of the Communications Act.⁶ Notably, the language in Section 251 of the Act is broad and is not limited by the particular technology that a carrier uses. Further, the Commission should clarify that ILECs will continue to be subject to the interconnection and unbundled access obligations in Section 251(c) of the Act. ILECs should continue to be subject to these enhanced requirements because the requirements are technologically neutral and because ILECs' unmatched resources and subscriber bases give them market power that enables them to thwart competition. By taking these steps, the Commission can facilitate the IP transition while protecting the public interest and continuing to promote competition.

II. UPGRADING TO ALL IP NETWORKS IS EFFICIENT AND IN THE PUBLIC INTEREST

MetroPCS strongly supports Commission policies that promote a rapid, efficient transition from TDM facilities to modern, all-IP networks. IP networks enable telecommunications carriers to increase efficiency, redundancy, and resiliency, and to offer new and innovative services. The Commission has recognized that broadband "is a growing platform

⁶ 47 U.S.C. § 251(a).

over which the consumer accesses a multitude of services, including voice, data, and video in an integrated way across applications and providers.”⁷

IP networks represent a major step forward in communications, making calls less susceptible to disruption and congestion, which benefits both individual consumers and public safety users alike. IP networks are self-healing and redundant and, if an IP route is blocked or unavailable, the network can devise an alternate route on a dynamic basis. This responsiveness is such that “link failure would not necessarily result in the loss of IP-based communications connectivity.”⁸ Therefore, outages in specific locales during emergencies will have less of an impact on the ability of the public and first responders to communicate.

Because of these significant consumer, public safety, and industry benefits, MetroPCS urges the Commission to facilitate and encourage the TDM-to-IP transition. It is important to note, however, that MetroPCS is not asking the Commission to mandate the TDM-to-IP transition.⁹ The significant benefits described above, paired with the Commission action described below, will provide sufficient economic and regulatory incentives to encourage carriers to voluntarily upgrade their networks. In effect, market forces will foster the beneficial change so a regulatory mandate is not required.

⁷ *Comment Sought on Transition from Circuit-Switched Network to All-IP Network*, Public Notice, 24 FCC Rcd 14272, 14272 (2009).

⁸ *The Proposed Extension of Part 4 of the Commission’s Rules Regarding Outage Reporting to Interconnected Voice over Internet Protocol Service Providers and Broadband Internet Service Providers*, Notice of Proposed Rulemaking, PS Docket No. 11-82, ¶ 53 (rel. May 13, 2011).

⁹ If the Commission ultimately does adopt a rule that requires carriers to upgrade their existing networks to IP technology, then that rule should allow more time for smaller carriers to meet any required benchmarks. Smaller carriers have fewer resources and would be unduly burdened if they had to accelerate their transitions ahead of the time frames that their individual economic analyses support.

III. ALL CARRIERS MUST BE REQUIRED TO PROVIDE IP-TO-IP INTERCONNECTION UNDER SECTION 251(A) OF THE ACT

The Commission should encourage the TDM-to-IP transition by affirmatively holding that all carriers must provide IP-to-IP interconnection pursuant to their obligations under Section 251(a) of the Communications Act. Interconnection is important because it “ensure[s] that a consumer is able to make and receive calls to virtually anyone else with a telephone, regardless of service provider, network configuration or location.”¹⁰ The Commission has recognized that “[b]asic interconnection regulations [. . .] have been a central tenet of telecommunications regulatory policy for over a century,” and that “[f]or competition to thrive, the principle of interconnection [. . .] needs to be maintained.”¹¹ Ultimately, interconnection gives consumers a choice among service providers.

By its language, Section 251(a)(1) of the Communications Act is technology-neutral. It reads, “Each telecommunications carrier has the duty to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers.”¹² The FCC agreed with this interpretation when it stated that the interconnection provisions of Section 251(a) “are technology neutral—they do not vary based on whether one or both of the interconnecting providers is using TDM, IP, or another technology in their underlying networks.”¹³ Consistent with its analysis, the Commission has applied Section 251(a)’s interconnection requirement throughout the technological changes from manual, to analog electronic, to digital circuit

¹⁰ Connecting America: The National Broadband Plan, FCC, 49, March 2010, *available at* <http://www.internet2.edu/government/files/national-broadband-plan.pdf>.

¹¹ *Id.*

¹² 47 U.S.C. § 251(a)(1).

¹³ *Connect America Fund*, Further Notice of Proposed Rulemaking, ¶ 1342, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208, FCC 11-161 (rel. Nov. 18, 2011).

switching. MetroPCS seeks nothing more than the continuation of this important obligation once carriers use IP networks to transport telecommunications traffic.

Despite Section 251(a)'s clarity, the industry still needs assurances from the FCC that this important interconnection provision will continue to apply to carriers that have adopted IP technology. NTCA's Petition points out that:

[I]ngering uncertainty surrounding IP interconnection for the exchange of traffic that is otherwise subject to sections 251 [. . .] of the Act in all respects hinders the deployment of IP-enabled networks – in fact, it would seem to create perverse technology choice incentives by *encouraging* retention of TDM-based networks (at least at the points where they interconnect with other networks) simply for the purpose of ensuring a clearer set of 'ground rules' around interconnection.¹⁴

Accordingly, NTCA urges the Commission to confirm “that *all* interconnection for the exchange of traffic subject to sections 251 [. . .] is governed by the Act, regardless of the technology that might happen to be used to achieve such interconnection.”¹⁵

MetroPCS strongly endorses NTCA's position. Based on the statutory language of Section 251(a) of the Communications Act and the practical ends that IP interconnection will serve, MetroPCS urges the Commission to clarify that all carriers must provide IP-to-IP interconnection.

IV. ILECS USING IP NETWORKS MUST BE REQUIRED TO FULFILL THEIR ADDITIONAL OBLIGATIONS UNDER SECTION 251(C) OF THE ACT

MetroPCS further asks the Commission to clarify that ILECs will continue to be subject to the interconnection and unbundled access obligations in Section 251(c) of the Communications Act. ILECs are subject to additional obligations because of their unique market power and ability to harm competition by refusing to interconnect or provide access to

¹⁴ *NTCA Petition* at 14.

¹⁵ *Id.*

competing telecommunications providers. The Commission should affirmatively hold that the Act's protections will survive after ILECs shift to an IP infrastructure.

Section 251(c)(2) of the Act codifies:

[t]he duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network— (A) for the transmission and routing of telephone exchange service and exchange access; (B) at any technically feasible point within the carrier's network; (C) that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection; and (D) on rates, terms, and conditions that are just, reasonable, and nondiscriminatory.¹⁶

Section 251(c)(3) of the Act further requires ILECs "to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory."¹⁷

These two requirements enable competing carriers to exchange traffic with an ILEC's network and to purchase elements of an ILEC's network so that they can provide their own, alternate service to consumers. Competition from smaller carriers is important because it drives prices down and drives innovation forward. AT&T suggests that the Communications Act's interconnection and unbundled access requirements should not continue to apply to ILECs once they adopt IP networks because "other providers currently lead" the "all-IP broadband marketplace."¹⁸ However, AT&T's argument obscures the core issue. While non-ILEC providers might lead the market for overall broadband services, AT&T and other ILECs still have the largest customer bases for voice service. Once the ILECs begin serving their voice

¹⁶ 47 U.S.C. § 251(c)(2).

¹⁷ 47 U.S.C. § 251(c)(3).

¹⁸ *AT&T Petition* at 6.

customers with IP technology, the ILECs will lead the all-IP marketplace for voice services. And although ILECs might not currently have a dominant market position for *all* IP services, they have all of the necessary assets— such as facilities, rights of way, and capital— to be able to shift their dominant market positions to the IP realm.

For these reasons— the ILECs’ dominant market power, their incentives not to interconnect with, or provide network access to, competing providers, and competing providers’ need for interconnection and network access to survive— the Communications Act’s additional requirements should continue to apply to ILECs after they transition from TDM to IP networks. MetroPCS asks the Commission to encourage the IP transition by declaring that the Act will continue to apply to ILECs that use IP technology.

V. CONCLUSION

For the foregoing reasons, MetroPCS asks the Commission to encourage the TDM-to-IP transition by clarifying that Sections 251(a) and (c) of the Communications Act will continue to govern IP interconnection between voice service providers, including ILECs.

RESPECTFULLY SUBMITTED,

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