

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Petition of USTelecom for Declaratory Ruling
That Incumbent Local Exchange Carriers Are
Non-Dominant in the Provision of
Switched Access Services

WC Docket No. 13-3

COMMENTS OF VERIZON AND VERIZON WIRELESS

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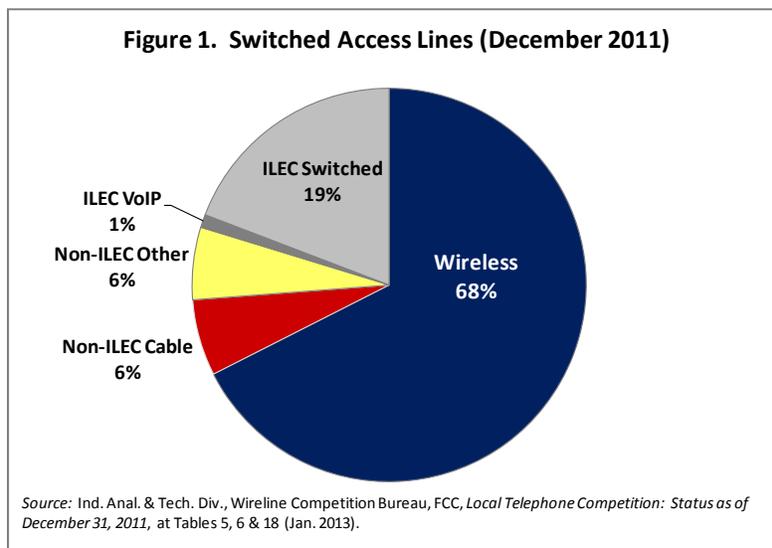
The Commission should grant the Petition.² Market conditions have changed profoundly since 1980, when the Commission subjected AT&T to dominant carrier regulation because it found AT&T's switched access facilities were bottleneck facilities. More than 30 years later, cable providers, wireless providers, competitive LECs, and other new IP-enabled services provide a range of options from which to obtain switched access or a substitute. Incumbent LECs do not control a bottleneck facility.³ In fact, incumbent LECs have lost more than 60 percent of their switched access lines and an even greater share of this traffic – trends that will continue and accelerate. There is simply no basis to perpetuate the fiction – and an outdated, unequal regulatory regime – that incumbent LEC switched access services are “dominant.” By

¹ In addition to Verizon Wireless, the Verizon companies participating in this filing are the regulated, wholly owned subsidiaries of Verizon Communications Inc. (collectively, “Verizon”).

² Petition for Declaratory Ruling of the United States Telecom Association, *Petition of USTelecom for Declaratory Ruling That Incumbent Local Exchange Carriers Are Non-Dominant in the Provision of Switched Access Services*, WC Docket No. 13-3 (FCC filed Dec. 19, 2012) (“Petition”).

³ See Figure 1.

any objective measure they are not dominant, and it is past time for the Commission to recognize as much.



I. As a result of dramatic changes in the communications marketplace, incumbent LECs are no longer dominant in the provision of switched access services

Switched access is the use of switched local exchange facilities to originate and terminate interstate and intrastate toll calls.⁴ The Commission first declared incumbent LECs dominant in the provision of switched access service during the Bell System era, when AT&T “control[led] access to over 80% of the nation’s telephones.”⁵ The Commission concluded that, “[s]ince many of AT&T’s competitors must have access to this network if they are to succeed, AT&T possesses control of bottleneck facilities. Therefore, we believe that AT&T must be treated as dominant.”⁶

⁴ See *Access Charge Reform*, Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry, 11 FCC Rcd 21354, ¶ 24 (1996).

⁵ *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor*, First Report and Order, 85 FCC 2d 1, ¶ 62 (1980) (“*Competitive Carrier First Report and Order*”).

⁶ *Id.*

The Commission explained that “[c]ontrol of bottleneck facilities is present when a firm or group of firms has sufficient command over some essential commodity or facility in its industry or trade to be able to impede new entrants. Thus bottleneck control describes the structural characteristic of a market that new entrants must either be allowed to share the bottleneck facility or fail.”⁷

In the three decades since, marketplace conditions have changed profoundly.⁸ Most consumers choose no longer to rely on simple voice services delivered over the PSTN. Instead they demand access to IP-enabled communications services that a wide range of competitors provide over wireline and wireless broadband networks. These networks and providers offer substitutes for incumbent LEC switched access, and they deliver a wide array of technologies and applications not even imagined 30 years ago. As a result, most voice connections and traffic no longer originate on the traditional copper network. In fact, since the peak, ILECs have lost more than 60 percent of their switched access lines and an even greater share of this traffic.⁹

Competition from cable operators by itself sufficiently demonstrates that incumbent LECs cannot be considered dominant in the provision of switched access, because there is no longer a “bottleneck” in the local exchange. Cable operators have invested \$200 billion to

⁷ *Id.* ¶ 59.

⁸ See Petition at 24-43; Comments of Verizon and Verizon Wireless at 5-21, *AT&T Petition To Launch a Proceeding Concerning the TDM-to-IP Transition*, GN Docket No. 12-353 (FCC filed Jan. 28, 2013).

⁹ Compare *Competitive Carrier First Report and Order* ¶ 62 (AT&T “control[led] access to over 80% of the nation’s telephones”) with Ind. Anal. & Tech. Div., Wireline Competition Bureau, FCC, *Local Telephone Competition: Status as of December 31, 2011*, at Tables 5, 6 & 18 (Jan. 2013), http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-318397A1.pdf (“December 2011 Local Competition Report”) (84.745 million ILEC end-user switched access lines as of December 2011, or 19 percent of wireless, switched access, and interconnected VoIP lines).

upgrade their video distribution networks to offer two-way voice and broadband services, and cable broadband services are now available to at least 93 percent of U.S. households as well as a high percentage of businesses.¹⁰ Cable operators offer their own voice services to virtually all of the households to which they make broadband available.¹¹ According to the Commission's data, of the approximately 64 percent of U.S. households that still obtain wireline voice service,¹² approximately one-third obtain voice service from a cable operator.¹³

¹⁰ Comments of the National Cable & Telecommunications Association (“NCTA”) at 1 n.1, *Connect America Fund*, WC Docket No. 10-90 (FCC filed Jan. 28, 2013) (“The cable industry is the nation’s largest provider of broadband service after investing \$200 billion since 1996 to build two-way interactive networks with fiber optic technology.”); NCTA, *Data: Availability (as of June 2012)*, <http://www.ncta.com/StatsGroup/Availability.aspx>.

¹¹ See, e.g., Comcast Corp., *2012 Trending Schedule* at 4, <http://files.shareholder.com/downloads/CMCSA/2330049782x0x635080/f72c419e-2874-4fdb-a4bd-892e9d441572/Comcast4Q12%20Trending%20Schedule.pdf> (reporting Comcast voice penetration of all homes and businesses passed); Time Warner Cable Inc., *2012 Trending Schedule*, at 6 (Jan. 31, 2013), <http://ir.timewarnercable.com/files/TWC%20Trending%20Schedules%20Q4%202012%20FINA.L.pdf> (reporting 29.076 million voice services homes passed and 29.469 million high-speed data services homes passed); Charter Communications, Inc., *3Q 2012 Trending Schedule*, at 1 (Nov. 6, 2012), <http://phx.corporate-ir.net/phoenix.zhtml?c=112298&p=irol-finlanding> (reporting 11.04 million estimated phone homes passed and 11.665 million estimated Internet homes passed); Cox Communications, Inc. Press Release, *Cox Digital Telephone Now Offered in All Cox Markets* (Oct. 30, 2006), <http://cox.mediaroom.com/index.php?s=43&item=131> (Cox “has [] launched telephone service in all Cox markets”); *Q4 2003 Cablevision Systems Corp. Earnings Conference Call – Final*, FD (Fair Disclosure) Wire, Transcript 030204av.717 (Mar. 2, 2004) (Cablevision Systems Corporation, President, CEO, Jim Dolan: “In the fourth quarter [of 2003], Cablevision became the first cable company in the nation to offer voice over cable throughout its entire footprint.”).

¹² See Stephen J. Blumberg & Julian V. Luke, Div. of Health Interview Statistics, Nat’l Ctr. for Health Statistics, Centers for Disease Control and Prevention, *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, January-June 2012*, at 1, 2 (Dec. 2012), <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201212.PDF> (“CDC *Wireless Substitution Report*”) (data as of the first six months of 2012).

¹³ See NCTA, *Data: Operating Metrics*, <http://www.ncta.com/StatsGroup/OperatingMetric.aspx> (citing SNL Kagan data as of September 2012 for 26.4 million cable telephony subscribers); Ind. Anal. & Tech. Div., Wireline Competition Bureau, FCC, *Internet Access Services: Status as of December 31, 2011*, at 12,

Wireless service provides another source of facilities-based competition that renders obsolete the notion of a wireline voice bottleneck. A large, steadily increasing number of consumers rely entirely on wireless networks for voice – and, increasingly, for data and other services. There are now more than 300 million wireless subscribers, well more than double the number of wireline access lines.¹⁴ According to the Centers for Disease Control and Prevention (“CDC”), approximately 36 percent of U.S. households have foregone wireline service entirely and now rely exclusively on a wireless device.¹⁵ An additional 16 percent of households have both wireline and wireless phones but receive all or almost all calls on their wireless phones.¹⁶ Moreover, widespread deployment and adoption of 4G LTE technology, which provides consumers with a wireless broadband connection comparable to or even faster than their wireline connection, will further accelerate this process.¹⁷ These wireless connections provide consumers

n.16 (Feb. 2013), http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0213/DOC-318810A1.pdf (estimating 120.8 million U.S. households as of June 2011).

¹⁴ See *December 2011 Local Competition Report* at 12, Table 1 & 29, Table 18 (143.5 million switched access lines and VoIP subscriptions, and 298 million wireless subscribers as of the end of 2011). According to CTIA, there were 321.7 million wireless subscriber connections as of June 2012. CTIA, *Wireless Quick Facts*, http://www.ctia.org/media/industry_info/index.cfm/AID/10323 (“*CTIA Wireless Quick Facts*”).

¹⁵ *CDC Wireless Substitution Report* at 1, 4 (data for the first six months of 2012).

¹⁶ *Id.*

¹⁷ Verizon Wireless 4G LTE broadband customers – working in real-world, fully-loaded network environments – have experienced typical download speeds of 5 to 12 Mbps and typical upload speeds of 2 to 5 Mbps. See Verizon Wireless News Release, *Verizon Wireless Introducing High-Speed 4G LTE Data Network in Redding, California* (Aug. 16, 2012), <http://news.verizonwireless.com/news/2012/08/pr2012-08-16k.html>. Independent testing of Verizon Wireless’s 4G service in 15 cities nationwide confirmed average download speeds as high as 15.2 Mbps and upload speeds of 7.97 Mbps. Bill Moore, *Solving the LTE Puzzle: Comparing LTE Performance*, Gigaom (Apr. 14, 2012), <http://gigaom.com/2012/04/14/solving-the-lte-puzzle-comparing-lte-performance/>. Other third-party tests likewise showed average download speeds in excess of the Commission’s threshold, and within the average range cited by

an alternative means of “access” to interexchange and any-distance services and are a competitive constraint on switched access prices.

Consumers also can use their cable broadband connection to obtain over-the-top VoIP service from a wide array of providers. Vonage, the largest over-the-top VoIP competitor, serves approximately 2.2 million subscribers in the United States.¹⁸ Microsoft, which acquired Skype in October 2011, reports that Skype “continue[s] its rapid growth and now has over 280 million users” worldwide.¹⁹ Every day, Skype users worldwide spend 700 million minutes talking for free with other Skype users, 30 million minutes on Skype calls to mobile phones and landlines, and 300 million minute of Skype video calls.²⁰ And Facebook, which has more than 180 million active users in the U.S. and Canada as of December 2012, up from one million users worldwide

Verizon Wireless. See, e.g., Sascha Segan, *Fastest Mobile Networks 2012*, PCMag (June 18, 2012), <http://www.pcmag.com/article2/0,2817,2405597,00.asp> (“Verizon’s LTE swept the board” in 30 test cities, with an average download speed of 8.89 Mbps and an average upload speed of 6.46 Mbps); Mark Sullivan, *3G and 4G Wireless Speed Showdown: Which Networks Are Fastest?*, PCWorld (Apr. 16, 2012), http://www.pcworld.com/article/253808-5/3g_and_4g_wireless_speed_showdown_which_networks_are_fastest.html (Verizon LTE averaged 7.35 Mbps for downloads and 5.86 Mbps for uploads in 13 test cities).

¹⁸ See Vonage Holdings Corp., Form 10-K, at 24, 33 (SEC filed Feb. 13, 2013), <http://www.sec.gov/Archives/edgar/data/1272830/000127283013000018/a10-k2012.htm> (customers in the U.S. represented 93 percent of Vonage’s 2.4 million subscriber lines as of Dec. 31, 2012).

¹⁹ Microsoft Corp., Form 10-K, at 66 (SEC filed July 26, 2012), <http://www.sec.gov/Archives/edgar/data/789019/000119312512316848/d347676d10k.htm>; Microsoft Press Release, *Microsoft Reports First-Quarter Results* (Oct. 18, 2012), <http://www.microsoft.com/en-us/news/press/2012/oct12/10-18fy13Q1earningsPR.aspx>.

²⁰ Skype, *A Day in the Life of Skype* (Sept. 6, 2011), <http://visual.ly/day-life-skype>.

in December 2004,²¹ recently released two new voice services: VoIP calling to iPhone and iPod Touch users, and free voice messaging for iPhone, iPod Touch, and Android users.²²

Further, many devices and applications that use IP-enabled broadband connections to connect to the Internet instead of switched access have replaced consumers' dependence on wireline telephones. According to one recent study, the average U.S. household owns five devices connected to the Internet via Wi-Fi, wired, or cellular networks, and more than six percent of households own *more than 15* connected devices.²³ Consumers are now using text messaging, e-mail, and instant messaging in place of wireline telephone calls. More than 184 billion text messages are sent each month – or nearly 2.3 trillion text messages annually – an 843-percent increase over the 240.8 billion text messages sent annually just five years ago.²⁴ By

²¹ See Facebook, *Key Facts*, <http://newsroom.fb.com/Key-Facts> (one billion monthly active users as of December 2012; approximately 82 percent of which are outside the U.S. and Canada); Facebook, *Timeline*, <http://newsroom.fb.com/Timeline> (Facebook reached one million users in December 2004).

²² See, e.g., Robert Baldwin, *Facebook Could Sink Skype with Video Call App Update*, *Wired* (Jan. 18, 2013), <http://www.wired.co.uk/news/archive/2013-01/18/facebook-video-calling> (“On 16 January, Facebook added a free voice calling feature to its iOS Messenger app in the United States.”); Josh Constine, *Facebook Adds Voice Messaging to Messenger for iOS and Android, Tests Open Source VoIP in Canada*, *TechCrunch* (Jan. 3, 2013), <http://techcrunch.com/2013/01/03/facebook-voice-messaging/> (“Today [Facebook] released an update for its standalone Messenger for iOS and Android apps that lets users send up to one-minute voice messages.”).

²³ Olga Kharif, *Average Household Has 5 Connected Devices, While Some Have 15-Plus*, *Bloomberg* (Aug. 29, 2012), <http://go.bloomberg.com/tech-blog/2012-08-29-average-household-has-5-connected-devices-while-some-have-15-plus/>.

²⁴ See *CTIA Wireless Quick Facts* (monthly and annualized text messages, June 2007 and June 2012).

one estimate, the average e-mail user receives 147 messages per day.²⁵ Consumers are also using social media in place of telephone calls. For example, Facebook reports that approximately 68 percent of its monthly active users use Facebook mobile products.²⁶ Google+, which competes with Facebook and other social media sites, now has more than 135 million monthly active users of its website and mobile app, up from 100 million in September 2012.²⁷

Traditional CLECs provide yet further competition. These carriers have deployed extensive fiber networks that connect to tens of thousands of office buildings.²⁸ Many CLECs

²⁵ Laura Vanderkam, *Stop Checking Your Email, Now*, CNNMoney.com (Oct. 8, 2012), <http://management.fortune.cnn.com/2012/10/08/stop-checking-your-email-now/> (citing an analysis by Baydin, an e-mail management service).

²⁶ Facebook, *Key Facts*, <http://newsroom.fb.com/Key-Facts>.

²⁷ Amir Efrati, *Google+ Announces 135 Million Users, Debuts Instagram Competitor*, Wall St. J. Digits Blog (Dec. 6, 2012), <http://blogs.wsj.com/digits/2012/12/06/google-announces-135-million-users-debuts-instagram-competitor/>.

²⁸ See, e.g., tw telecom inc., Form 10-K, at 4 (SEC filed Feb. 15, 2013), <http://www.sec.gov/Archives/edgar/data/1057758/000105775813000008/twtc201210-k.htm> (as of the end of 2012, tw telecom's fiber network "spanned approximately 29,000 route miles (including approximately 22,000 metropolitan route miles), connecting to 17,948 buildings served directly by [tw telecom's] local fiber facilities."); XO Communications, *The XO Network* (Aug. 13, 2012), <http://www.xo.com/SiteCollectionDocuments/carrierservices/Network%20Overview.pdf> (XO's network includes 9,000 metropolitan route miles in 41 U.S. cities, with more than 3,300 buildings on-net); Zayo Group News Release, *Zayo Marks 10,000 On-Net Building Milestone* (Nov. 27, 2012), <http://www.zayo.com/news/zayo-marks-10000-net-building-milestone> (Zayo Group's fiber network reaches 10,000 buildings in 45 states and Washington, D.C.); Level 3 Communications, *2011 Annual Meeting of Stockholders Presentation*, at 3 (May 19, 2011), http://files.shareholder.com/downloads/LVLT/2168870475x0x469486/f0c304e5-b9ea-4c17-a9b6-bd3a8088c521/Level%203%20Communications%20Annual%20Meeting_May%202011_FINAL.pdf ("[o]ver 100,000 enterprise buildings" are "within 500 ft." of Level 3's U.S. network); Cogent Communications, *Service Locations*, http://www.cogentco.com/?continent=North+America&country=United+States&state=&metro=&city=&site_type=OB&action=search&option=com_content&view=article&id=40; Cogent Communications, *Solutions for Carriers and Service Providers*, <http://www.cogentco.com/en/products-and-services/solutions/solutions-for-carriers-and-service-providers> (Cogent's network reaches 1,280 corporate office buildings in the United States, including "the most prestigious office buildings in North America."); Fibertech Networks

supplement these fiber connections using fixed wireless technology, which provides last-mile connections to many additional locations.²⁹

Verizon's own experience demonstrates consumers' rapid transition from the PSTN to IP-enabled broadband networks and services. In the last three years, Verizon's switched access lines declined by an average of 14 percent per year.³⁰ In 2012 alone, Verizon's switched access lines declined by approximately 2 million lines.³¹ Morgan Stanley forecasts a 65-percent decline in Verizon's consumer switched access lines from 2012 to 2017.³² Other analysts similarly

Press Release, *Fibertech Networks To Build Five New Markets in Ohio; Increase Existing Network in Columbus* (Dec. 3, 2012), <http://www.fibertech.com/news-events/press-archive/pressArchive.cfm?ID=244> (there are more than 6,400 buildings on-net and nearly 2,100 cell sites on Fibertech's fiber-only infrastructure).

²⁹ See, e.g., XO Communications, *Fixed Wireless Access*, http://www.xo.com/SiteCollectionDocuments/business-services/data-and-internet-services/Broadband_Wireless/Broadband_Wireless_PS.pdf ("Your business can take advantage of our fixed wireless capabilities to directly connect to the XO nationwide fiber network without the additional costs and time of deploying fiber directly to your business locations. . . . Fixed Wireless Access helps fill the gap between fiber- and copper-based facilities, with carrier-grade reliability and the capacity to accommodate fluctuating network traffic."); FierceTelecom, *Taking a New Look at Wireless Backhaul with Ron Mudry of Tower Cloud* (Nov. 15, 2011), <http://www.fiercetelecom.com/special-reports/taking-new-look-wireless-backhaul-ron-mudry-tower-cloud> (Tower Cloud President and CEO Ron Mudry: "Typically, we reach 80 percent of the sites we serve with fiber and we supplement that coverage with microwave to get out to the harder to reach areas.").

³⁰ See Verizon Communications, *Financial & Operating Information as of December 31, 2012*, at 16, http://www22.verizon.com/investor/DocServlet?doc=vz_4q_foi_pdf_2012_v1.pdf (primary residence switched access connections as of 4Q 2012); Verizon Communications, *Financial and Operating Information as of December 31, 2011*, at 16, http://www22.verizon.com/investor/DocServlet?doc=2011_q4_foi_pdf_v2.pdf (primary residence switched access connections and net adds at 1Q 2010).

³¹ See Verizon Communications, *Condensed Consolidated Statements of Income*, http://www22.verizon.com/idc/groups/public/documents/adacct/vz_4q_fs_pdf_2012.pdf.

³² Simon Flannery *et al.*, Morgan Stanley Research, *Telecom Services: Bells' Wireline Consumer Revenue Growth Looks Sustainable*, at 11-12 (Sept. 28, 2012) (also projecting a 57 percent decline in AT&T's access lines during this same period).

report that consumer access lines are declining at a rate of approximately 10 percent per year,³³ as “[c]ustomers are increasingly replacing their traditional phone lines with wireless and data services or switching to competing carriers.”³⁴

In light of these facts, there is no credible argument that incumbent LECs have “market power” in the provision of switched access services. Incumbent LECs do not control a “bottleneck” facility. There are instead a wide variety of other ways that consumers and interexchange service providers obtain switched access or switched access substitutes. These marketplace forces are more than sufficient to ensure that interstate switched access charges, practices, classifications, and regulations are just and reasonable and not unjustly or unreasonably discriminatory.

II. Continued disparate treatment of incumbent LECs jeopardizes advanced broadband deployment

The Commission is already familiar with the need to adapt old regulation to new marketplace realities. In the *USF-ICC Transformation Order*, the Commission replaced the “outdated” universal service and intercarrier compensation systems to “address[] the communications infrastructure challenges of today and tomorrow.”³⁵ Those systems were “based on decades-old assumptions that fail to reflect today’s networks, the evolving nature of

³³ See, e.g., David Barden *et al.*, Bank of America Merrill Lynch, *Wireline & Wireless Telecom Services: 3Q12 Results Preview & Model Book – Let’s All Settle Down*, at 3 (Oct. 12, 2012).

³⁴ Michael Hodel, Morningstar Equity Research, *Verizon Wireless Adds to Already Strong Spectrum*, at 7 (Dec. 2, 2011).

³⁵ *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, ¶ 1 (2011) (“*USF-ICC Transformation Order*”).

communications services, or the current competitive landscape.”³⁶ The Commission should take similar steps here to encourage and facilitate the transition to IP-based broadband networks by eliminating legacy regulations that would otherwise impede it.

There is no reason to continue to subject incumbent LECs to dominant carrier regulation while treating other competitive carriers – which the Commission has found have the ability to set price – as non-dominant. Similarly situated providers of all types should compete on a level playing field. The Commission has long held that “disparate treatment of carriers providing the same or similar services is not in the public interest as it creates distortions in the marketplace that may harm consumers.”³⁷

The regulations at issue impose burdens on incumbent LECs that competing carriers do not face. Incumbent LECs should not be required to provide greater notice of new tariffs or to file cost-support information with those tariffs; this information is burdensome to prepare and having to provide it with greater notice reduces the flexibility to offer new services.³⁸ Moreover, because incumbent LECs do not have market power, there is no legitimate concern that greater time or information is needed to review their rates before they take effect. Incumbent LECs also should not be subject to longer waiting periods for discontinuing, reducing, or impairing

³⁶ *Id.* ¶ 6.

³⁷ *Petition of ACS of Anchorage, Inc. Pursuant to Section 10 of the Communications Act of 1934, as Amended (47 U.S.C. § 160(c)), for Forbearance from Certain Dominant Carrier Regulation of Its Interstate Access Services, and for Forbearance from Title II Regulation of Its Broadband Services, in the Anchorage, Alaska, Incumbent Local Exchange Carrier Study Area*, Memorandum Opinion and Order, 22 FCC Rcd 16304, ¶ 129 (2007).

³⁸ 47 C.F.R. §§ 1.773(a)(ii), 61.23(c); *Tariff Filing Requirements for Non-Dominant Carriers*, Order, 10 FCC Rcd 4074 (1995).

service.³⁹ This requirement was premised on the concern that consumers would lose telephone service if their provider decided to stop offering service for whatever reason.⁴⁰ Although consumers are entitled to reasonable notice, there is no reason why incumbent LECs should have to provide greater notice than competitive carriers, which likewise reduces the flexibility needed to respond to consumer demand for new and different services. Incumbent LECs also should be placed on equal footing with respect to presumptive streamlined treatment for transfers of control.⁴¹ This streamlined treatment will reduce filing and associated burdens, thereby enabling incumbent LECs more efficiently to adapt their business to the needs of consumers.

Allowing regulatory disparity to persist can introduce distortions in the marketplace and have unintended and unforeseen consequences, including affecting the incentives of carriers to invest in advanced broadband networks. As the Commission has recognized, in order to encourage and “enable carriers to invest modern, IP networks” it is necessary to have a level regulatory playing field with respect to access charges.⁴² The Commission has already taken important steps in this regard by reforming and modernizing the intercarrier compensation system, including reductions in terminating access charges. Similarly, the Commission should find that incumbent LECs are non-dominant in the provision of interstate switched access services and establish greater parity among competing providers of these services.

³⁹ 47 C.F.R. § 63.71(c).

⁴⁰ *See, e.g., IP-Enabled Services*, Report and Order, 24 FCC Rcd 6039, ¶ 6 (2009) (the Commission “normally will authorize the proposed discontinuance ‘unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier.’”).

⁴¹ 47 C.F.R. § 63.03(b).

⁴² *USF-ICC Transformation Order* ¶ 9.

III. Conclusion

For the foregoing reasons and those presented in the Petition, the Commission should find that incumbent LECs are non-dominant in the provision of interstate mass-market and enterprise switched access services, and grant the requested relief.

Respectfully submitted,

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