

Appendix B.

Communications
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March 5, 2013

By ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: In the Matter of AT&T Petition to Launch 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

Dear Ms. Dortch:

The Communications Workers of America (“CWA”) submits this letter in the Commission’s proceeding established in response to petitions submitted by AT&T and the National Telecommunications Cooperative Association (“NCTA”) urging the Commission to alter policies to respond to the ongoing technological transition of voice networks.¹ Specifically, the AT&T Petition requests that the Commission conduct trials in select wire centers chosen by participating incumbent local exchange carriers (“ILECs”) “to understand the technological and policy dimensions of the TDM-to-IP transition and, in the process, to identify the regulatory reforms needed to promote consumer interests and preserve private incentives to upgrade America’s broadband infrastructure.”² The NCTA Petition asks the Commission to “initiate a rulemaking to examine the means of promoting the ongoing evolution of the Public Switched Network” from TDM to IP, and to seek comment on which regulations should be eliminated, retained, or changed to ensure the statutory objectives of consumer protection, competition, and universal service.³

¹ Public Notice, “Pleading Cycle Established on AT&T and NTCA Petitions,” GN Docket No. 12-353.

² AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353, Nov. 7, 2012, at 1 (“AT&T Petition”).

³ Petition of the National Telecommunications Cooperative Association for a Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolutions, GN Docket No. 12-353, Nov. 19, 2012, at 1 (“NCTA Petition”).

CWA represents 700,000 workers in communications, media, airlines, manufacturing, and public service. CWA represents employees in all segments of the communications industry, including wireline, wireless, and cable companies providing voice, data, and video services. CWA members and their families have a vital interest in this proceeding as workers in the industry and as consumers of communications services.

More than six years ago, CWA launched our Speed Matters campaign to promote the deployment of affordable, quality high-speed broadband networks to all Americans.⁴ While our nation has made much progress in the intervening years, the United States still trails 32 other nations in the capacity and reach of our high-speed broadband networks.⁵ As the Commission has acknowledged, broadband deployment is “*the great infrastructure challenge of the early 21st century,*”⁶ one our nation must address to ensure economic growth and to unleash the unlimited potential of the Internet to improve education, health care, public safety, environmental protection, civic participation, and make the vast knowledge of human society available to people almost instantaneously over the Internet. Most important for our democracy and our nation’s commitment to equal economic opportunity, our public and private policies must ensure that all households, businesses, schools, libraries, medical facilities, first responders, government agencies, and other community anchor institutions have affordable access to truly high-speed networks, regardless of geography, race, or income. Promoting job-creating investment in universal, affordable, high quality wired and wireless broadband is truly *the great infrastructure challenge of the early 21st century.*

In the United States, it is largely private capital that will finance the hundreds of billions of dollars necessary to build-out and maintain high-speed broadband networks. Therefore, it is critical that our nation’s regulatory policies create the appropriate environment to support job-creating investment in next-generation high-speed broadband networks. For example, it makes no sense in this highly competitive environment to maintain rules that apply differently to carriers that provide the same service simply because the carrier historically was regulated

⁴ See Speed Matters: High Speed Internet for all Americans at <http://www.speedmatters.org>

⁵ According to Speedtest.net, the average download speed in the United States is 15.93 Mbps, which trails 32 other countries including Lithuania (36.76 Mbps), South Korea (35.68 Mbps), Japan (33.38 Mbps), Romania (28.16 Mbps), Sweden (28.11 Mbps), United Kingdom (19.26 Mbps), Germany (18.46 Mbps) and Canada (16.15 Mbps). See Speedtest.net. Speedtest.net describes its methodology as follows: “Based on millions of recent test results from [Speedtest.net](http://www.speedtest.net), this index compares and ranks consumer download speeds around the globe. The value is the rolling mean throughput in Mbps over the past 30 days where the mean distance between the client and the server is less than 300 miles. See speedtest.net (available at <http://www.netindex.com/>), accessed Feb. 25, 2013. It is likely that Speedtest.net overstates the average download speed in the United States. According to the FCC’s most recent report, 42 percent of residential U.S. Internet users’ fixed connections are less than 3 Mbps download, 769 kbps upload, while another 19 percent connect at speeds between 3 and 6 Mbps download, 1.5 Mbps upload. See FCC, *Internet Access Services: Status as of Dec. 31, 2011*, Figure 2 at 3, Feb. 2013.

⁶ FCC, *Connecting America: The National Broadband Plan*, 2010, at 3 (“National Broadband Plan”).

under a different Title of the Communications Act. Similarly, it makes no sense to require some industry players to meet important public safety and network reliability obligations, service quality standards, and measures to protect consumers while other industry players are not required to meet these standards. In addition, it makes no sense to require incumbent local exchange carriers to maintain TDM networks simply for purposes of technology-specific interconnection rules. These legacy policies distort the market and allow carriers to engage in regulatory arbitrage. The AT&T and NCTA Petitions provide the Commission and interested parties the opportunity to reform the current regulatory framework to set a level playing field that applies to all providers of communications services.

As the Commission evaluates the appropriate regulatory framework for an all-IP world, the statutory public interest goals of communications policy to ensure network reliability, public safety, universal affordable quality service, and job-creating investment remain as relevant as ever. CWA concurs with consumer, public interest, and state regulatory commission commentators who explain that these goals are technology neutral; they do not go away simply because the switching technology or network facilities change.⁷ The starting point for the Commission remains, as always, the purposes articulated in the 1934 Communications Act and later updated in the Telecommunications Act of 1996. As stated in the 1934 Communications Act, the purpose of the Act is to regulate

“...interstate and foreign commerce in communications by wire and radio so as to make available, so far as possible, to all the people of the United States...a rapid, efficient, Nationwide, and world wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communications.”⁸

The Telecommunications Act of 1996 reaffirmed these basic goals, and made explicit that the purpose of the Act is “to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.”⁹

CWA believes that Six Public Interest Principles should guide the Commission as it re-examines the regulatory framework appropriate for an all-IP competitive communications system. The Six Public Interest Principles should guide Commission policies to: 1) stimulate investment in high-speed networks; 2) support quality jobs in the telecommunications

⁷ See Comments of AARP, Comments of Free Press, Comments of Public Knowledge, Comments of National Association of Regulatory Utility Commissioners, WC Docket No. 12-353, all dated Jan. 28, 2013.

⁸ 47 U.S.C. Sec. 151(1).

⁹ Preamble to Telecommunications Act of 1996, Public Law 104-104, Feb. 8, 1996.

industry; 3) promote quality, affordable service to all Americans; 4) ensure network reliability; 4) promote public safety; and 4) protect consumers. We elaborate below.

1. Stimulate investment in high-speed networks. Despite progress, there are still 19 million U.S. households with no broadband access at home. Most U.S. broadband networks are too slow for the video- and data-rich applications available today and in the near-future. The U.S. ranks 33rd in the world in average broadband speed, only 40 percent of U.S. households can access broadband at the speeds used by the FCC in its definition of broadband, and fewer than four percent have a broadband connection at 25 Mbps or greater download speed.¹⁰

Since it is private capital that will build, upgrade, and maintain our next-generation networks, the Commission must ensure that our public policies incent providers to invest in higher-capacity wired and wireless networks, and most important, to push fiber deeper and deeper into the neighborhood. Even our wireless networks depend upon getting fiber deeper into the network. As AT&T CEO Randall Stephenson recently explained: “[T]he more wireless we become, the more fixed-line dependent we become...All of those cell sites [are] connected by fiber and Ethernet. Basically all you’re doing is building this big massive fixed-line network with wireless antennas hanging on the end. So the ability to have all this fiber deployed around the country is really powerful.”¹¹

2. Support Quality Jobs in the Telecommunications Industry. Today, over 1.1 million men and women work directly in the telecommunications industry, building, maintaining, and servicing networks. About half this number (564,000) work in wired telecommunications and the other half (541,000) are employed in wireless, satellite, and other telecommunications services. About one-third of these workers are women, 14 percent are African American, about 10 percent are Hispanic, and about six percent are Asian.¹² Historically, telecommunications provided relatively high-wage, career employment for workers, partly because of the skilled nature of the work, but also because of the relatively high union density.

With the transition from TDM to IP switches and other facilities, the jobs for workers in the industry will change. Change is a constant in the high-tech telecommunications industry. The question is whether change will benefit or displace workers in the industry. Over the years, CWA has negotiated provisions with our employers to train workers on new technologies and to adopt other adjustment policies so workers have been able to grow their careers rather than

¹⁰ FCC, *Internet Access Services: Status as of Dec. 31, 2011*, Figure 11 at 31 (for residential connection speeds), Feb. 2013 and FCC, *Eighth Broadband Progress Report*, Aug. 21, 2012 at 12 (for number of households without broadband access).

¹¹ Connie Guglielmo, “AT&T’s Big Call: Randall Stephenson on the I-Phone, His Wireless Ambitions, and the Next Best Thing,” *Forbes*, Jan. 2, 2013 (available at <http://www.forbes.com/sites/connieguglielmo/2013/01/02/atts-big-call-randall-stephenson-on-the-iphone-his-wireless-ambitions-and-the-next-big-thing/>).

¹² U.S. Bureau of Labor Statistics, Current Population Survey, 2012.

suffer unemployment and displacement. The IP transition should be no different. The introduction of new technology must not be an excuse to displace workers or send work to outside vendors, including those located offshore.

The Commission can help ensure that the IP Transition benefits workers in the industry by collecting data on employment developments. In particular, any trial of the TDM to IP transition should include a workforce deployment plan with the goal of maximizing the employment opportunities and minimizing the displacement of current workers.

3. Promote Quality, Affordable Service to all Americans. The core principle that all Americans should have access to quality, affordable advanced communications services is essential to maintain a vibrant democracy, equitable economy, and socially engaged polity. Moreover, the principles are statutorily mandated in the 1996 Telecommunications Act.¹³ The Commission began the process of updating this mandate for a competitive environment with its recent *ICC/USF Reform Order*.¹⁴ The AT&T Petition proposes substituting a procurement model for existing “federal and state service-obligation rules,” such as state-mandated carrier-of-last resort obligations and federal ETC obligations.¹⁵ The Commission should proceed cautiously with such proposals; besides the jurisdictional issues this raises regarding state commission authority,¹⁶ a procurement model poses difficult issues regarding stranded investment and the potential that a successful bidder might later choose to abandon its obligations, leaving consumers without critical communications infrastructure.

4. Ensure Network Reliability. Wireless and IP networks do not provide the same level of reliability as the copper circuit-switched network, with its connections to a power source in the central office. Other commentators have noted the critical failure of networks in the recent *derecho* storm in the Mid-Atlantic portion of the country and during Superstorm Sandy in the fall of 2012. In light of global warming, such environmental disasters will only increase in the years ahead. The Commission has initiated investigations and hearings about these network failures as a first step toward developing more comprehensive standards to ensure and enforce network reliability.

5. Promote Public Safety. The failure of Verizon’s 911 service during the summer 2012 *derecho* highlights the need to ensure regulatory oversight over emergency services and to update the rules for IP and wireless networks.

¹³ 47 U.S.C. Sec. 254, 706.

¹⁴ See Report and Order and Further Notice of Proposed Rulemaking, *Connect America Fund et al.*, 26 FCC Rcd 17663, 2011.

¹⁵ AT&T Petition at 15-19.

¹⁶ See Comments of the National Association of Regulatory Commissioners, WC Docket No. 12-353, Jan. 28, 2013.

6. Protect Consumers. Consumer protections such as slamming and cramming rules, truth-in-billing, quality of service benchmarks, and data reporting should apply to all service providers, regardless of technology. CWA has been particularly concerned about the Commission's failure to update its service quality reporting rules to apply to all carriers, depriving consumers and policymakers of critical information needed to ensure quality service.¹⁷ During a period of regulatory experimentation, it is especially important for the Commission to collect data and make it available to the public in order to assess the impact of rule changes.

The AT&T and NCTA Petitions, and the comments of other parties, raise other important issues, including the regulatory definition of VoIP service and the role for state regulatory authority over VoIP and other IP-enabled services. In the *IP-Enabled Services* proceeding, CWA submitted extensive comments to demonstrate that VoIP is a telecommunications service under the terms of the Communications Act, as amended, and state jurisdiction over voice communications does not evaporate with VoIP service. CWA requests that those comments be incorporated into the record in this proceeding.¹⁸

Finally, CWA looks forward to the opportunity to supplement these general comments with more specific recommendations as the Commission moves forward in consideration of the AT&T and NCTA petitions.

Respectfully submitted,



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Communications Workers of America

¹⁷ In its 2008 *Service Quality Data Order*, the Commission concluded that it would be valuable to collect service quality data from all carriers, but has not acted on that conclusion and in 2010 allowed incumbent local exchange carriers to stop submitting certain service quality data to the Commission. See CWA Comments, In the Review of Wireline Competition Bureau Data Collection Practices, WC Docket No. 10-132, Aug. 13, 2010. See also In the Matter of Petition of Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, Petition of Qwest Corporation for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, Petition of Embarq Local Operating Companies for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, Petition of for Forbearance Frontier and Citizens ILECs Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, Petition of Verizon for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, *Memorandum Opinion and Order and Notice of Proposed Rulemaking*, WC Dockets Nos. 08-190, 07-139, 07-204, 07-273; Sept. 6, 2008 (rel), para 12 ("Service Quality Data Order").

¹⁸ Comments of Communications Workers of America, *In the Matter of IP-Enabled Services*, WC Docket no. 04-36, May 28, 2004.