

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

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In the Matter of )

Technology Transitions Policy )  
Task Force )

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GN Docket No. 13-5

**COMMENTS OF MATRIX TELECOM, INC.**

Eric J. Branfman  
Joshua M. Bobeck  
Bingham McCutchen LLP  
2020 K St., NW  
Washington, D.C. 20006  
202.373.6000 (Tel.)  
202.373.6001 (Fax)  
eric.branfman@bingham.com  
josh.bobek@bingham.com

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*Counsel for Matrix Telecom, Inc.*

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## **I. Introduction and Summary**

Matrix Telecom Inc. (“Matrix”), respectfully submits these Comments in response to the Commission’s Public Notice of May 10, 2013. In comments previously filed in the related proceeding, GN Docket No. 12-353, Matrix and other CLECs have urged the Commission to fulfill recommendations made in the National Broadband Plan to update competition policy for the age of the all-IP network.<sup>1</sup> Central to updating this policy, Matrix urged the Commission to ensure continued wholesale access to reasonably priced last mile facilities capable of providing voice and broadband, regardless of the ILEC’s preferred underlying technology.<sup>2</sup> Other competitors have urged the Commission to mandate IP Interconnection for voice service.<sup>3</sup> CLECs also urged the Commission not to perform “all-IP” trials, as proposed by AT&T, noting that it is unlikely that such trials could accurately measure how ILECs would behave with respect to competition should they be granted significant deregulation and further expressed concern that such trials would cause immediate harm to customers in the trial wire centers that have exercised their choice to select competitive providers, as well as to competition.<sup>4</sup> Thus, CLECs suggested that if the Commission were to conduct such trials, as proposed by AT&T, it should ensure that such trials did not disturb the competitive choices made by customers and allowed CLECs access to wholesale inputs needed to serve their current customers.<sup>5</sup>

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<sup>1</sup> See Joint Reply Comments of Access Point, Inc. and Matrix Telecom, Inc., GN Docket No. 12-353, filed February 25, 2013 (Matrix GN 12-353 Reply Comments).

<sup>2</sup> *Id.*, p. 5.

<sup>3</sup> T-Mobile GN Docket No. 12-353 Comments at p. 5 (filed Jan. 28, 2013).

<sup>4</sup> Matrix GN 12-353 Reply Comments, pp. 3-4.

<sup>5</sup> *Id.*

Now that the Commission seeks further comment on three specific trials,<sup>6</sup> Matrix continues to stress that competition must not be sacrificed during the trials. The trials must permit end users to retain the ability to select and retain their current competitive providers and CLECs must retain the same rights to access reasonably priced wholesale inputs that they have under current rules.

## **II. Principles to Guide Potential Trials**

As the Commission considers trials to assess the impact of certain technology transitions on communications services, it should establish basic principles to guide such trials. One basic underlying principle is that the Commission's central goal is to protect the public interest., which encompasses protecting consumers, and, consistent with the Commission's pro-competitive regulatory framework, preserving and fostering competition.

### **A. Participation in the Trial Must Be Voluntary for all Carriers**

The *Notice* states that the Commission is “mindful of the fact that, while participation in any trial would be voluntary for providers, all consumers in trial regions would likely be affected, either directly or indirectly.”<sup>7</sup> Matrix agrees with this fundamental proposition, and urges that the Commission takes steps to ensure that participation be truly voluntary for all providers, including competitive providers that use the facilities of the ILEC, whether purchased at wholesale through interconnection agreements, commercial contracts, or pursuant to tariff.

The *Notice* does not clearly establish that such competitive providers may decline to participate in the trial and continue to use the ILEC's facilities. That should be permitted; otherwise the trial is not voluntary for the provider. Absent such a requirement, if a customer

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<sup>6</sup> Public *Notice*, DA 13-1016, Technology Transitions Policy Task Force Seeks Comment On Potential Trials, GN Docket No. 13-5 (May 10, 2013) (“*Notice*”).

<sup>7</sup> *Notice*, p. 3.

served by a CLEC currently using an ILEC's last mile facilities pursuant to a contract or tariff arrangement, the customer will not be able to continue to use its chosen carrier if the ILEC intends in the trial to "retire" the network facilities currently used by the CLEC to serve the customer. This could arise either in an IP transition trial in which the ILEC wants to retire certain copper facilities currently used by CLECs or in a wireline-to-wireless trial in which the ILEC intends to shift lines from wireline to wireless transmission.

The Commission should adopt several guidelines for trials, in order to protect consumers and competition:

- Retail customers should be notified regarding the proposed trial and provided the option of not participating in the trial without losing their current service;
- Trials should be voluntary for competitors as well; thus, wholesale customers should be notified regarding the proposed trial and provided the option of not participating in the trial without losing their current wholesale service;
- Customers should not have to choose between participating in the trial and continuing to have a choice of service providers.
- Competitors must be given an opportunity to participate in the planning of the trials. For example, in the wireline to wireless trials, if the proposed wireless service will deny end users some of the functionality they currently enjoy, their current service providers should be aware of it, so that they can offer the end user the choice of participating in the trial or keeping their current functionality, which is the same choice the end user should have if it currently purchases service directly from the ILEC.
- CLECs using wholesale inputs obtained from the ILEC should continue to have wholesale access to underlying facilities or their functional equivalent on terms and conditions similar to current access, regardless of the transmission medium. The ILEC can elect whether to provide access to existing facilities or to provide access to substitute facilities provided they offer, at a minimum, the same functionality as current facilities at similar rates, terms and conditions.

#### **B. Selection of Trial Markets**

The key principle regarding the selection of the geographic areas where trials occur should be that the geographic areas collectively serve to test conditions applicable to the vast

majority of the country's telephone customers. Ultimately, the goal of any trial is to create "lessons learned" for the Commission, state regulators and other carriers engaged in or considering similar technology shifts. It makes little sense for the Commission to allow an ILEC to select a market for trial if that market lacks characteristics shared with other markets. These characteristics could include population density; unusual topographic and climactic conditions; and the mix between residential and business users, among others. Likewise, it is important for the test to be long enough in duration for it to experience unusual climactic conditions that may interfere with any new technologies, such as fixed wireless, that are being tested.

The final decision as to the geographic areas to host trials should ultimately rest with the Commission. The Commission could establish, after a notice and comment rulemaking, objective criteria for use in evaluating ILEC proposals. The Commission should evaluate ILECs' nomination of certain areas, based on the criteria, after consultation with the affected state commission and also receipt of public comment on the specific areas under consideration. Matrix advocates that the Commission consult with the affected state commissions because they and their staffs have superior knowledge as to the characteristics of each proposed trial area that can assist the Commission in determining whether a particular area is an appropriate choice, in conjunction with other areas having different characteristics.

Following these overarching principles, Matrix suggests that the Commission limit the trials to the three proposed in the *Notice*: IP-IP interconnection; Public Safety and Wireline-to-Wireless. Matrix will comment only on the proposed IP interconnection and Wireline-to-Wireless trials. Matrix opposes AT&T's "all-IP" trial, which the Commission did not include within the three proposed trials, as premature. Instead, the Commission should seek additional comment from AT&T and other proponents of an "all IP" trial so that it and other participants

can evaluate whether such a trial could be useful later in the transition process.

### III. IP Interconnection Trial

The record the Commission has compiled to date in related proceedings<sup>8</sup> indicates that a technical trial is not necessary for IP interconnection.<sup>9</sup> Numerous carriers have already stated that they have agreements with other carriers to govern the exchange of voice traffic in IP.<sup>10</sup> Every sector of the industry, including many ILECs, has offered support for mandatory IP interconnection.<sup>11</sup> The issue that must be addressed is regulatory, not technical. Specifically, the remaining impediment is the refusal of the RBOCs to negotiate agreements for IP interconnection pursuant to the framework of sections 251 and 252 of the Act.

The RBOCs' intransigence on IP interconnection need not be repeated here.<sup>12</sup> Given the RBOCs' continued market power,<sup>13</sup> should the Commission authorize a trial of IP

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<sup>8</sup> See, e.g., GN Docket No. 12-353; WC Docket No. 10-90.

<sup>9</sup> See, e.g., *Ex Parte* Letter from Samuel L. Feder, Counsel for Cablevision Systems Corp and Charter Communications, Inc. to Marlene H. Dortch, GN Docket No. 12-353 et al (May 8, 2013).

<sup>10</sup> See US TelePacific and Mpower Comments, WC Docket No. 10-90 et al, p. 21 (filed Feb. 24, 2012) ("IP interconnection has already been undertaken by carriers, demonstrating that IP interconnection is 'technically feasible.'"); Charter Communications Comments, WC Docket No. 10-90 et al, 4-5 (filed Feb. 24, 2012) ("There is no dispute that IP-to-IP interconnection is 'technically feasible,' as it is commonly used in interconnection arrangements between VoIP service providers today.").

<sup>11</sup> For example, mandatory IP interconnection is supported by wireless carriers (Sprint GN Docket 12-353 Comments at pp. 27-28, (filed Jan. 28, 2013) MetroPCS GN Docket 12-353 Comments at p. 5 (filed Jan. 28, 2013); T-Mobile GN Docket 12-353 Comments at p. 5 (filed Jan. 28, 2013)); by cable VoIP providers (Cox Communications GN Docket No. 12-353 Comments at pp. 9-10 (filed Jan. 28, 2013); Cablevision GN Docket No. 12-353 Comments at pp. 4-6 (filed Jan. 28, 2013)); and by ILECs (Nebraska Rural Independent GN Docket No. 12-353 Comments at p. iii, 8 (filed Jan. 28, 2013); NECA and OPASTCO GN Docket No. 12-353 Comments at p. 7 (filed Jan. 28, 2013)).

<sup>12</sup> See BullsEye Telecom. Inc. GN Docket No. 12-353 Reply Comments at pp. 13-14 (filed Feb. 25, 2013).

<sup>13</sup> See Cablevision/Charter May 8, 2013 *Ex Parte*.

interconnection involving an ILEC and CLECs, it must be conducted under the section 251/252 framework. In establishing such a trial, the parties would negotiate an agreement subject to the backstop of sections 251 and 252, with any disagreements subject to arbitration before a state commission. While the *Notice* expresses concern that the RBOCs may not participate in such a trial,<sup>14</sup> other ILECs have taken the sensible position that the Act covers IP interconnection, and could participate. Both the NTCA and NECA have urged the Commission to find that sections 251 and 252 cover IP interconnection and have members that could surely participate in such a trial. The Commission should not allow the largest carriers to control the ground rules for the trial through its unwillingness to participate in a trial that is not to their liking in every respect.

#### **IV. Wireline to Wireless Trial**

The Commission also proposes a trial to allow ILECs to substitute wireless technology for existing wireline services. At this stage some of the proposals are vague. For instance, the precise contours of the proposed wireless services are not clear. It is also unclear whether a trial would involve wireless substitution for an entire geographic area or just some portion of an area. For example, Verizon has already proposed to eliminate wireline service on Fire Island, New York in response to the damage to the island's wireline network during Hurricane Sandy.<sup>15</sup> The tariff that Verizon has filed detailing its Voice Link replacement service but leaves many questions unanswered.<sup>16</sup> These comments focus on important guidelines that should accompany

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<sup>14</sup> *Notice* at n.23.

<sup>15</sup> See Public Notice, DA 13-1475, *Comments Invited on Application of Verizon New Jersey Inc. and Verizon New York Inc. to Discontinue Domestic Telecommunications Services*, WC Docket No. 13-150 (rel. June 28, 2013); Letter from Frederick E. Moacdieh, Executive Director – Federal Regulatory Affairs, Verizon, to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, Attach. (filed June 7, 2013).

<sup>16</sup> See generally NYPSA Case No. 13-C-0197, *Tariff filing by Verizon New York Inc. to introduce language under which Verizon could discontinue its current wireline service offerings in a specified area and instead offer a wireless service as its sole service offering in the area.*

any such trials including competition and customer rights and notifications during any trial.

**A. Competition**

While the *Notice* and recent statements by Commission officials note the importance of continued competition,<sup>17</sup> the discussion of the wireless trial in the *Notice* fails to discuss how customers served by competitors will be treated during the course of a trial. The Commission should not assume that all end users affected by a trial will be served by a single entity, because that is not how they are served today. Rather, numerous companies rely on the ILEC last mile facilities for providing their services. Matrix, for example, purchase a package of services from the ILEC that includes use of an unbundled loop to provide voice and data services to customers, as do many other CLECs.

The most important threshold questions are whether customers that are currently served by a non-ILEC using ILEC facilities will be required or permitted to participate in the trial and will be permitted to retain their current carrier. No end user should be deprived of its choice of carrier simply because the ILEC has chosen to participate in a trial of wireless replacement service. Such a customer must have the ability to maintain its current competitive choice even if the ILEC wants to replace its wireline services to the customer's geographic area with wireless services.

As has been previously shown, some DS-0 agreements purport to eliminate the ILEC's obligation to provide service where the loop is transitioned to another technology besides copper.<sup>18</sup> The Commission should require the ILEC to choose which path it prefers. The ILEC should be required either to allow the CLEC to continue using its wireline network to serve the

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<sup>17</sup> Remarks of FCC Technology Transitions Policy Task Force Acting Director Sean Lev, TIA Network Transition Event, p. 3 (June 21, 2013).

<sup>18</sup> Granite Telecommunications, LLC, GN Docket No. 12-353 Comments, pp. 4-5 (filed Jan. 28, 2013).

customers and forego subjecting such lines to the trial or the if ILEC prefers to subject its lines that are being used by CLECs to the trial, it must waive any contractual impediments and provide the CLEC with a functionally equivalent wireless service without any material change to the terms and conditions of its current agreement with the CLEC. This protects consumers and competition by allowing consumers to maintain their choice of suppliers. At the same time, it permits the ILEC to choose how it will conduct such trial.

#### **B. Data Collection**

The Commission should also collect other data regarding the trial of wireless service, including data regarding network outages, dropped calls, network congestion and network busy messages. Wireless networks are more susceptible to such issues because of the shared nature of wireless spectrum and propagation characteristics associated with wireless transmission. Measuring how such services function as substitute for the nearly always available, self-powered, wireline network, both under normal conditions and under unusual topographic and climactic conditions, is an important tool for evaluating a wireless trial. Because unusual climactic conditions are seasonal and, by definition, occur infrequently, the trial should be of long enough duration to provide a reasonable test of the technology under such conditions.

#### **V. All IP Trials**

As discussed above, the *Notice* asks for comment regarding three discrete trials. Matrix supports the Commission's process for evaluating how to proceed with those three trials. While the *Notice* also asks for comment regarding the "All-IP" trial originally proposed by AT&T,<sup>19</sup> Matrix believes that the three proposed trials are sufficient and there is nothing else in the AT&T "All-IP" proposal that the Commission should pursue at this time.

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<sup>19</sup> *Notice* at p. 10.

Matrix also supports the Commission's request for more detailed proposals from any party interested in pursuing an "all-IP trial."<sup>20</sup> Matrix believes that an all-IP trial is not necessary, and the Commission should make sure that those proposing such a trial address the following issues before the Commission entertains any specific all-IP trial proposal.

- First, and as discussed above in conjunction with the wireless trial, would such an "all-IP" trial be voluntary or mandatory for customers, including retail and wholesale customers?
- Competition must be preserved in an "all-IP" trial. Thus, carriers that are wholesale customers of the ILEC must be permitted to continue to serve their end users, either through the existing technology or the new technology, at current rates, terms and conditions.
- Regardless of whether customer participation would be mandatory, the Commission should make sure that no customer is required to purchase additional CPE in order to participate in the IP trial. If the ILEC intends to offer a service requiring new CPE, the ILEC should bear that cost itself.
- While copper retirement is not a predicate for an IP trial, as parties have produced data showing that copper networks can be used to provide IP-based services, the ILEC must be clear on its copper retirement plans. The Commission should also consider whether any copper retirement is necessary. For purpose of a trial, it is not burdensome, in a confined geographic area, to require the ILEC to retain its copper plant, at least temporarily, if it overbuilds with another technology.

## **VI. Evaluation Criteria for Trials**

The Commission should, subject to public notice and comment procedures, adopt a detailed set of benchmarks for use in assessing the success of any trial.

### **A. Consumer Experience**

The central question of the trial, regardless of the technology being evaluated, is whether the transition can be conducted without adversely affecting the customer. In some cases, parties suggest that the new services will enhance the customer experience.<sup>21</sup> The Commission must

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<sup>20</sup> *Notice* at p. 10.

<sup>21</sup> *See e.g.*, Verizon GN Docket No. 12-353 Comments, p. 3 (filed Feb. 25, 2013).

develop benchmarks that can measure whether and how the transition has affected the customer experience. For example, measurements of call quality, dropped calls, customer complaints, increased busy signals and network congestion are indicative of the customer experience. Further, to the extent customers have the ability to elect whether to participate in a trial or to opt out of a trial once underway, the data regarding opt-outs will provide the Commission with insight into the trial's impact.

### **B. Service Quality**

While service quality is certainly integral to assessing the customer experience it is also worth measuring for its own sake. In particular, for the fixed wireline-to-wireless trials, there are issues that customers tolerate with mobile wireless service — dropped calls, increased interference, signal noise, network congestion, that they would not tolerate if the service were to replace, rather than supplement, the usually reliable wireline service with which customers are more familiar. Measuring technical performance along these lines should be part of any potential wireline-to-wireless trial.

### **C. Public Safety**

Wireline services are a key part of the public safety framework since the copper network supports centrally provided power. Today, customers experiencing power outages can still use landline phones to contact emergency services or friends and family. These advantages may be lost when the customer switches to a fiber-based or wireless service. For such services, carriers must provide other arrangements to replace the backup power that is native to the copper-based network. The Commission should develop measures to determine whether these alternative power arrangements are effective and identify their limits, so that both providers and customers understand the impact of the shift away from copper networks.

