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December 13, 2013

**EX PARTE NOTICE**

VIA ECFS

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

Re: Special Access Rates for Price Cap Local Exchange Carriers, WC Docket No. 05-25, RM-10593; Technology Transitions Policy Task Force, GN Docket No. 13-5; Petitions to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353; Connect America Fund, WC Docket No. 10-90; Universal Service Contribution Methodology, WC Docket No. 06-122; Modernizing the E-Rate Program for Schools and Libraries, WC Docket No. 13-184

Dear Ms. Dortch:

On December 13, 2013, Angie Kronenberg and the undersigned from COMPTTEL met with Daniel Alvarez, Legal Advisor to Chairman Wheeler. The attached presentation provides the basis for our discussions wherein we stressed the continued need and importance of the wholesale wireline provisions of the Act throughout, and upon completion of, the IP transition.

Competitive carriers have been at the forefront of the IP transition, investing in IP networks and offering IP-based services to their customers for well over a decade.<sup>1</sup> Indeed, some of COMPTTEL's members are all IP. Nonetheless, there are two critical factors to ensuring that competition will not be stifled as a result of the technology transitions that are well underway. First, access to consumers is required. Competitors build—using private investment—where it is economically viable do so. As the Commission is aware, however, it is not economically viable for competitors to replicate the ILEC network in its entirety; so in order to compete (particularly for multi-location customers) competitors must supplement their reach, by purchasing from large ILECs wholesale last mile access as provided by the Communications Act. Where access to last mile facilities is not available and/or special access rates are unreasonable, competition is thwarted. COMPTTEL believes that the Commission

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<sup>1</sup> COMPTTEL referenced information provided during a December 4 New America Foundation panel with regard to innovative competitive service offerings. The panel can be viewed at [http://www.newamerica.net/events/2013/make\\_the\\_network\\_work](http://www.newamerica.net/events/2013/make_the_network_work) (last visited Dec. 6, 2013).

must finally reform its current approach which the Commission itself recognized as “a hodgepodge of wholesale access rights and pricing mechanisms that were developed without the benefit of a consistent, rigorous analytical framework”<sup>2</sup> and that (1) ignored the technology neutral provisions of Sections 251 and 252 for access to incumbent LEC facilities and (2) failed to use the traditional market power test in evaluating and addressing the next generation wholesale service market necessary for competition.

Second, COMPTTEL asserted that the Commission could speed the IP transition and spur benefits to consumers by confirming that IP interconnection for voice services falls under Sections 251 and 252 of the Act. With respect to the major ILECs’ refusal to negotiate IP interconnection agreements in accordance with the Act, even though the Commission determined in the *USF/ICC Transformation Order* that the interconnection provisions of the Act are technology neutral and carriers must negotiate in good faith, we discussed the ongoing investigation before the Massachusetts Department of Telecommunication and Cable of the IP interconnection agreement Verizon has with Comcast. We also discussed the fact that the interconnection provisions are not onerous and described the benefits of Sections 251 and 252 negotiations, including the fact that the provisions promote good faith negotiations, avoid standstill and bad faith tactics, address uneven bargaining power, and prevent discrimination through public disclosure and opt-in. Additionally, the ability to opt-in to an existing agreement creates efficiencies for all providers.

Moreover, in discussing the importance of the interconnection provisions of the Act, such as the reciprocal compensation provision in Section 251(b), we explained our concern that the Commission’s policy decisions in the *USF/ICC Transformation Order* may be undermined by large ILECs that could use their market power in commercial negotiations (i.e., those without the Sections 251/252 protections) by imposing charges on smaller carriers to complete calls. The Commission adopted bill and keep for the transport and termination of voice traffic in order to facilitate IP interconnection and rid the current system of arbitrage, recognizing that both parties of a phone call benefit from the delivery and termination of the traffic. Any suggested intent by the ILECs to impose any asymmetric charges on smaller carriers for managed voice traffic exchanged in IP format demonstrates the importance of the application of Section 251(b), and the Commission’s implementing rules, to IP interconnection arrangements for voice traffic.

We also briefly mentioned that COMPTTEL filed reply comments in the E-rate proceeding and that COMPTTEL, along with one of our members, has met with staff to discuss the reform. We emphasized the need for competitive bidding to remain in the program and that, to the extent that the Commission raises the cap, it cannot fail to consider the impact on the contribution rate. Moreover, as more of the Universal Service Fund is used to pay for broadband networks and services, the inequities in the current contribution base is problematic. The Commission should finish its outstanding contribution reform to address those inequities.

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<sup>2</sup> Federal Communications Commission, National Broadband Plan at 47.

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Should you have any questions concerning the foregoing, please do not hesitate to contact me.

Sincerely,

/s/

Karen Reidy

Attachment

cc: Daniel Alvarez