

March 26, 2014

EX PARTE NOTICE

VIA ECFS

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

Re: Technology Transitions, GN Docket No. 13-5; AT&T
Petition to Launch a Proceeding Concerning the TDM-to-IP
Transition, GN Docket No. 12-353.

Dear Ms. Dortch:

On March 24, 2014, Marti Doneghy of AARP, Olivia Wein of the National Consumer Law Center, Jodie Griffin of Public Knowledge, Matt Wood of Free Press, Eric Einhorn of Windstream, Julia Strow on behalf of Cbeyond Communications, LLC, Lisa Youngers of XO Communications, Susan Butler of Capitol Resources on behalf of COMPTTEL, and the undersigned from COMPTTEL met with Daniel Alvarez of the Chairman's office, Amy Bender of Commissioner O'Rielly's office, and Commissioner Rosenworcel and her legal advisor Priscilla Argeris. Thomas Jones of Willkie Farr & Gallagher LLP attended the meetings with Ms. Bender and Commissioner Rosenworcel and Ms. Argeris on behalf of Cbeyond Communications, LLC, EarthLink, Inc., Integra Telecom, Inc., Level 3 Communications, LLC, and tw telecom inc. Sarah Morris of the Open Technology Institute at the New America Foundation also attended the meeting with Commissioner Rosenworcel and Ms. Argeris.¹

In the meeting, the participants reiterated that the purpose of the technology transitions trials is for the Commission to obtain objective, measurable data to inform the Commission about the potential benefits and risks of new technologies for residential, business, and wholesale consumers, as well as to inform the Commission's public interest review during its consideration of future Section 214 applications. We raised particular concerns about AT&T's two proposed trials in several respects, and we emphasized that the Commission should only approve these trials if the following issues are adequately addressed.

First, as the Commission unanimously adopted the principle of universal service as a value that must remain during and after the technology transitions, we noted that universal service is at risk. The Commission must carefully evaluate the impact on consumers as a result of the fact that the only standalone voice product offered to new customers during the proposed

¹ Mr. Einhorn, Ms. Doneghy, Ms. Butler, and Ms. Strow were unable to attend the meeting with Commissioner Rosenworcel and Ms. Argeris.

trials would be wireless based. Similarly, where access to broadband will become wireless only, affordability will be at risk. This is especially so for low-income consumers. We particularly noted that the loss of access to 800 numbers would be problematic for this customer segment given that many social services now rely upon 800 number access, as well as access to broadband, to provide services to help meet the basic needs of these consumers. The IP transition holds many promises for consumers, but losing access to affordable voice and broadband services cannot be part of that bargain. While AT&T lists competitive alternatives in its filing, none of those companies has the same legal obligations to provide voice or broadband services to the community, or last mile access or interconnection with competitors. As such, the Commission must conduct a close and careful evaluation of the availability, affordability, and substitutability of the services for residential, business, and wholesale consumers. Indeed, without significant improvements throughout the proposed trials, the information obtained will be inadequate for the Commission to rely upon.

Second, we discussed the limitations of the proposed trial locations. Neither of the wire centers reflects the diverse issues that the nation will face during the technology transitions. There are only a handful of schools and libraries that will be impacted, and there appear to be no other governmental entities, including municipal/county government buildings, PSAPs, airports, or military installations encompassed by the trials. Similarly, both of these communities are largely rural and suburban, with little racial and ethnic diversity. English is the primary language spoken by 99% of those in Carbon Hill and 81% in Kings Point, meaning that it will be difficult to measure the effectiveness of efforts to inform non-English speaking communities about any transition. The trials should also encompass urban areas too, including diverse populations, as well as a state with a Commission that continues to have oversight of telecommunications and can participate in the experiment process.

Third, AT&T describes many replacement products for TDM services as still in process or to be determined (“TBD”). For example, the wireless business phone product and alarm monitoring over wireless are still under development. The local wholesale complete product that at least one COMPTTEL member relies upon to serve customers in both wire centers is TBD. Similarly, the price, terms, and conditions for the DSn replacement products have not been identified. AT&T stresses the voluntary nature of these trials for wholesale customers, but we believe it is important that AT&T actually propose replacement arrangements, test them, and prove their viability prior to discontinuance of established services. That is the only way the Commission can preserve competition and ensure that consumers continue to have choices available to them, consistent with the Commission’s finding that competition should be maintained.

Fourth, the information AT&T plans to collect is inadequate. A third party should be designated to collect and report on the relevant information, and we believe that this should include information on all replacement products for customers, not just replacements for its voice service. We believe that network reliability, not just whether calls are blocked or dropped, should be assessed, especially where wireless is the only option. This testing should include latency and jitter, and data also should be collected on problems related to call routing, CPE, sound quality, or volume, even if the call is still connected. If the Commission goes forward with only two wire centers, more real-time information should and could be collected on the network’s performance. Consumers also should be surveyed by a third party about their transition experience. Reliance solely on customer complaints received by AT&T are not likely to reflect the full range of experiences consumers may have.

Fifth, we raised concerns about AT&T submitting some of the information about its trials confidentially, including the schedule for the trials. We believe this is inconsistent with the need for a transparent process and AT&T's position that the trials should inform all stakeholders of "valuable information to ensure that the historic transition from 20th Century TDM technology to next-generation IP networks and services proceeds as smoothly as possible, and in a way that is faithful to ensuring social values—ensuring universal connectivity, consumer protection, public safety, reliability and competition—that must continue to provide the foundation for communications policies in the 21st Century."² We also noted that some information that was submitted confidentially, such as the geographic area in Carbon Hill that will be wireless only, were published in the TR Daily on February 28. As such, it should no longer be treated confidentially by the Commission.

In closing, we reiterated the points we made earlier in the proceeding that the Commission should address the outstanding legal and policy issues. Without doing so, there is a significant risk that the Commission will not be able to ensure that these transitions will benefit all consumers; that the networks continue to work for all consumers; that reliable and affordable services are available for all consumers; that all network users are better off as a result of the transitions; and that there are meaningful competitive alternatives that remain as a result of continued access to last mile access and interconnection at equivalent prices, terms, and conditions.

Sincerely,

/s/ Angie Kronenberg
Angie Kronenberg

cc: Commissioner Rosenworcel
Daniel Alvarez
Priscilla Argeris
Amy Bender

² See AT&T Proposal for Wire Center Trials, at 2.