

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

In the Matter of)	
)	
Technology Transitions Policy)	GN Docket No. 13-5
Task Force)	
)	
AT&T Petition to Launch a Proceeding)	GN Docket No. 12-353
Concerning the TDM-to-IP Transition)	
)	
)	

COMMENTS OF GRANITE TELECOMMUNICATIONS, LLC

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I. Introduction and Summary

Granite Telecommunications, LLC respectfully submits these Comments in response to the Commission's February 28, 2014 Public Notice¹ in these dockets inviting comments on AT&T's Proposal for Wire Center Trials,² following the Commission's invitation for such experiments in the *Technology Transitions Order*.³ Granite welcomes AT&T's submission and hopes to participate in the trials, but finds that AT&T's proposal falls well short of the benchmarks the Commission established. The most pressing problem with AT&T's proposal is its lack of detail regarding how it will meet its wholesale obligations during the trial, and thus how the proposed trial will promote competition.

In November, 2012, AT&T submitted a Petition asking the Commission to consider trials of the transition from legacy TDM-based services to next generation IP-based services.⁴ Shortly thereafter, the National Telecommunications Cooperative Association ("NTCA") petitioned the Commission to initiate a rulemaking proceeding to promote the evolution of the Public Switched Telephone Network from TDM to IP.⁵ The Commission requested comments on these petitions and as a result of the record developed, issued a Public Notice in May 2013 requesting comment

¹ Public Notice, *Commission Seeks Comment On AT&T's Proposal For Service-Based Technology Transitions Experiments*, GN Docket Nos. 12-353 and 13-5, DA 14-285 (Feb. 28, 2014).

² See AT&T Proposal for Wire Center Trials, GN Docket Nos. 13-5, 12-353, filed Feb. 27, 2014 ("AT&T Proposal").

³ *Technology Transitions*, et al., GN Docket No. 13-5 et al., Order, Report and Order and Further Notice of Proposed Rulemaking, FCC 14-5, rel. Jan. 31, 2014 ("Technology Transitions Order").

⁴ AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353, filed Nov. 7, 2012 ("AT&T Petition").

⁵ Petition of the National Telecommunications Cooperative Association for Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Transition, GN Docket No. 12-353 (filed Nov. 19, 2012).

on potential trials covering IP interconnection, the transition of wireline service to wireless service, a Next Generation 911 Trial and AT&T's wire-center based trials.⁶

Granite filed comments and reply comments at each stage of this process. In those comments, Granite urged the Commission to ensure that any trials conducted adequately address the right of customers to continue receiving services from competitors, including those competitors that rely on AT&T for inputs crucial to delivering service to the customer.⁷

Consistent with those concerns, Granite and other competitive carriers urged the Commission to modernize its competition policies to accommodate the transition to IP-based broadband networks.⁸ To preserve these competition policies, the Commission must ensure continued wholesale access to reasonably priced last-mile facilities capable of providing voice and broadband, regardless of the ILEC's preferred underlying technology.⁹ Granite urged the Commission to ensure that any technology transition trials do not disturb the competitive choices made by customers; therefore, CLECs must continue to have access to wholesale inputs without regard to the type of physical transmission media selected by the ILEC.¹⁰

Granite further emphasized that for its customers – large and mid-sized multi-site businesses or governmental agencies with numerous locations dispersed throughout every region of the country, including more than two thirds of the Fortune 100 – competition, including

⁶ *Technology Transitions Policy Task Force Seeks Comment on Potential Trials*, GN Docket No. 13-5, Public Notice, 28 FCC Rcd 6346 (2013).

⁷ Granite Telecommunications, LLC Comments, GN Docket No. 13-5, p. 6 (filed July 8, 2013) (“Granite 13-5 Comments”).

⁸ Granite Telecommunications, LLC Comments, GN Docket No. 12-353, p. 5 (filed Jan. 28, 2013) (“Granite 12-353 Comments”).

⁹ Granite Telecommunications, LLC GN Docket No. 12-353 Reply Comments, pp. 11-12 (filed Feb. 25, 2013) (Granite 12-353 Reply Comments”).

¹⁰ Cbeyond *et al.* GN Docket No. 12-353 Comments, p. 26 (filed Jan. 28, 2013) (“Cbeyond GN Docket No. 12-353 Comments”).

intramodal competition, was vital.¹¹ Granite explained that at the vast majority of locations it serves, the customer typically needs a small number of voice lines and a data line.¹² Granite serves these customers primarily through a combination of a loop, switching and common transport obtained as a package from the ILECs under the commercial agreements that replaced UNE-P after switching was eliminated as a UNE.¹³ In the vast majority of instances, there is no alternative to the ILEC last-mile connections as the small number of lines required at each location do not justify the investment in competitive facilities at hundreds or thousands of customer locations.¹⁴ Thus, Granite's customers, and Granite, in turn, are reliant on the ILEC for service. Granite's customers value the service provided because Granite provides a single point of contact for securing the telecommunications services needed at their disparate locations. Granite also noted that in many cases, wireless was not a substitute for the wireline services its customers used because of their needs for multi-line hunting and the ability to send data for credit card processing at point-of-sale terminals as well as other concerns over quality and reliability of such services.¹⁵

Nonetheless, to continue to promote advancements in technologies and service, Granite indicated that it would be willing to participate in the trials envisioned, provided the trial plan adequately safeguarded its customers' ability to select competitors to the ILEC and preserved access to reasonably-priced wholesale replacement products where robust competition from

¹¹ Granite 13-5 Comments at p. 5-7; 13.

¹² Granite 12-353 Comments at p. 2.

¹³ Granite 12-353 Comments at p. 3. In AT&T's 22 state footprint this service is called Local Wholesale Complete" ("LWC").

¹⁴ *Id.* at 26.

¹⁵ *Id.* at 25-26.

multiple facilities-based suppliers had yet to take root.¹⁶

On January 31, 2014, the Commission released the *Technology Transitions Order* and invited companies to propose service-based experiments. The Commission emphasized that proposed experiments must not undermine the “enduring values”, which include promoting “competition.”¹⁷

In that respect, in the *Technology Transitions Order*, the Commission indicated that it expected that an incumbent trial applicant would notify wholesale customers regarding their ability to participate in the experiment voluntarily and the types of replacement services that would be available during the trial.¹⁸ Similarly, the *Technology Transitions Order* indicated that trial proposals should “offer to replace wholesale inputs with services that offer substantially similar wholesale access” “at equivalent prices, terms, and conditions.”¹⁹

The Commission further required an applicant to explain:

- Its “plan to ensure that the same type of wholesale customers can continue to use its network”
- “[T]hat the access provided during the experiment...is functionally equivalent to that provided immediately before the experiment”
- “[T]he applicant’s plan to ensure that neither the prices or costs of such access do not increase”
- How “neither wholesale nor retail customers [will be] penalized as a result of the experiment.”²⁰

Like the notice requirement applicable to retail customers, the *Technology Transitions Order* requires that wholesale customers receive “clear, timely and sufficient notice of any

¹⁶ Granite 13-5 Comments at p. 2-4.

¹⁷ *Technology Transitions Order*, ¶ 23.

¹⁸ *Id.* at ¶ 59.

¹⁹ *Id.*

²⁰ *Id.* at Appx. B, ¶ 35.

service-based experiment,” observing that such notice “is critical” to “fulfilling” the Commission’s consumer protection responsibilities as well as [its] responsibilities to protect and promote competition.”²¹

we require applicants to demonstrate that they will provide notice of: the nature of any relevant network changes; whether customers may opt in or opt out of the experiment after it has begun; the timing of any changes; what features of the provider’s existing technology will no longer be available on the new technology and how that may impact third-party devices and services the customer uses (e.g., medical monitoring services); how the provider’s services will change including any differences in prices, terms and conditions; where a customer may go for more information; and any other details regarding the experiment that likely will be of relevance to customers.²²

While the rhetoric in AT&T’s application conveys its recognition of the importance of competition and wholesale services,²³ AT&T’s trial plan is at best vague and incomplete regarding wholesale replacement products and timeframes, and lacks the assurances requested under the *Technology Transitions Order*.

II. AT&T’s Trial Proposal Fails To Ensure Continued Competitive Access To Reasonably-Priced Wholesale Replacement Products During The Transition Experiment

For an undefined part of the trial period, AT&T will provide wholesale customers with current TDM-based wholesale products. AT&T, however, clearly intends to grandfather and then discontinue those products. The replacement or “catch” wholesale products or services that are equivalent to the current wholesale services, with similar rates, terms and conditions are nowhere described in AT&T’s proposal.

²¹ *Id.* at ¶ 70.

²² *Id.* at Appx. B ¶ 46.

²³ *See* AT&T Proposal, p. 5. n. 2.

A. AT&T's Proposal Fails to Provide Information Regarding Wholesale Replacement Services

AT&T's proposal, while acknowledging its wholesale obligations, fails to provide the Commission with detailed information regarding its IP-based replacement wholesale services. Although stating that "[r]etirement of wholesale service ... remain[s] a critical issue in the conversion to an all-IP world,"²⁴ AT&T's application is devoid of substantive detail regarding wholesale replacement services, including product information, rates, terms and conditions, and timing of availability.

AT&T acknowledges that competing carriers "currently are purchasing wholesale services in both proposed test wire centers."²⁵ In Carbon Hill, "the bulk of the wholesale services" purchased are either LWC or resale.²⁶ In Kings Point, AT&T explains that CLECs purchase wholesale services in greater volume, noting that the purchased services include LWC as well as Ethernet, UNE loops and resold residential and business services.²⁷ Granite currently serves customers in both wire centers through the purchase of LWC from AT&T.

AT&T claims that it has "included in this plan a description with details of how we intend to proceed with respect to wholesale issues."²⁸ AT&T further maintains that it

endeavored to identify the extent to which wholesale customers are active in the two trial wire centers, as well as the legacy TDM products and services they are obtaining and their IP-based replacements, and to develop plans for engaging those customers in the trials and encouraging them to purchase the replacement products and services.²⁹

²⁴ AT&T Proposal, p. 10.

²⁵ AT&T Wire Center Trial Operating Plan, p. 45 ("AT&T Operating Plan").

²⁶ *Id.*

²⁷ *Id.* at 46.

²⁸ AT&T Proposal, p. 10.

²⁹ *Id.* at 27.

But AT&T's plans for how it will proceed with respect to wholesale issues are not included in its proposal. Instead, AT&T's plan asserts only that AT&T is "working diligently to develop IP replacement services that it will make available" and it expects to "complete those development efforts, as well as those aimed at developing an IP-based alternative to the LWC product, as soon as possible, although it is likely the final commercial products will not be available until the trials already are underway."³⁰

One thing that is clear about AT&T's plans for addressing the wholesale aspect of its business is that AT&T seeks to get a head start over its wholesale competitors. In fact, AT&T describes three specific different catch products for Message and Flat Rate business plans in both Kings Point and Carbon Hill – "New Product-A," "New Product-B" and "IP Flex Reach," which will offer business customers IP-based products for voice calling.³¹ AT&T offers no explanation of why the functionally equivalent wholesale products will not be available to wholesale competitors at the outset of the trial, or when they will become available. AT&T apparently proposes to offer its retail customers new IP-based products in the trial wire centers before its wholesale customers can offer such products. This aspect of its proposal is in utter conflict with the requirement of the *Technology Transitions Order* that wholesale customers not be "penalized as a result of the experiment."³²

³⁰ *Id.* at 29.

³¹ See AT&T Proposal Ex. E, Product Data Sheets for Carbon Hill & Kings Point Business. AT&T's analysis of these products also purports to reflect the number or percentage of so-called "Competitive Catch Products" offered within each trial area, portions of which are redacted, which makes it difficult for Granite to fully comment upon. *Id.* However, AT&T reports those products are stated to be offered by cable, satellite and wireless carriers (3G & LTE), whose products and services generally lack specific features and functionality that Granite's customers require in Carbon Hill, Kings Point and elsewhere, or which cannot be offered at reasonably competitive prices or without large upfront costs, as Granite has explained previously. See Granite 12-353 Comments, pp. 25-27.

³² *Technology Transitions Order* Appx. B, ¶ 35.

Despite the lack of specificity with respect to other aspects of its wholesale plans, AT&T suggests that it “will proactively engage [its] wholesale customers in these wire centers to offer them the opportunity to voluntarily migrate from their existing TDM-based services to... replacement products.”³³ This process will include not only industry-wide letters but “direct outreach by sales teams.”³⁴ Rather than identify specific product details and pricing, AT&T states that it expects that compliant wholesale services would derive from “negotiations” with CLECs.³⁵ AT&T speculates that the “end results of ...negotiations would likely encompass terms such as those identified by the Commission in Appendix B” of the *Technology Transitions Order*.³⁶

AT&T’s proposal lacks adequate detail and is far too heavily redacted to comply with the *Technology Transitions Order*. For example, it is unclear as to the basis for AT&T’s redaction of its service transition timeline, which does not address UNEs or LWC at all.³⁷ And while AT&T provides “Product Data Sheets” for LWC in both King’s Point and Carbon Hill, these sheets are heavily redacted, making it impossible for commenting parties to determine whether they contain any useful information.³⁸

It is remarkable that sixteen months after petitioning the Commission to start the trial process, AT&T proposes trials that do not explain to its wholesale customers or the Commission what wholesale products it intends to offer, or what rates, terms and conditions will apply to those services should the customer elect to participate in the trial — as Granite would prefer to

³³ AT&T Operating Plan, p. 46.

³⁴ *Id.*

³⁵ *Id.* at 47.

³⁶ *Id.*

³⁷ *See* Exhibit D.

³⁸ *See* Exhibit E.

do. While AT&T promises to contact wholesale customers using direct sales outreach, it is difficult to understand what the substance of such outreach might be considering the lack of detail AT&T has provided to date.

Because this experiment is designed to provide the Commission with data regarding the impact of the technology transition on the core values underlying the Communications Act,³⁹ the details of replacement products cannot be left hidden behind the assertion that AT&T will offer to enter into “commercial” agreements and unsubstantiated claims that wholesale customers will be able to “drive a hard bargain.”⁴⁰

In the business market, AT&T “retain[s] [its] market power advantages ... due to lack of alternative customer access facilities for these types of users in most cases.”⁴¹ For example, the Commission has concluded that competitive deployment of last mile access facilities has generally not occurred except in areas with significant concentration of business demand.⁴² Nor is self-provisioning last mile facilities to Granite’s business customer locations an economic option since all competitive carriers, including cable companies, “face extensive economic barriers” to the deployment of competitive facilities where they lack existing facilities needed to serve the customer.⁴³ A technology transition trial will not eliminate AT&T’s market power

³⁹ *Technology Transitions Order*, ¶ 23.

⁴⁰ AT&T Operating Plan, p. 47.

⁴¹ Comments of XO Communications, LLC GN Docket No. 12-353, p. 6 (filed Jan. 28, 2013).

⁴² See *Special Access for Price Cap Local Exchange Carriers*, WC Docket 05-25, AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services, RM-10593, Report and Order, 27 F.C.C. Rcd. 10557, 10582, FCC 12-92 ¶ 49 (rel. Aug. 22, 2012) (“*Special Access Order*”).

⁴³ *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Phoenix, Arizona Metropolitan Statistical Area*, 25 FCC Rcd 8622, 8670 ¶ 90 (2010) *aff’d* *Qwest Corp. v. FCC*, 689 F.3d 1214 (10th Cir. 2012) (citing *Review of the Section 251 Unbundling*

advantages. In fact, without adequate protective measures, the technology trial poses significant risks to competition in the business market, where competitors are reliant on the ILEC for transmission facilities. The Commission recognized this danger in adopting the requirements regarding wholesale access in the *Technology Transitions Order*. Therefore, the Commission should insist that AT&T identify its proposed wholesale rates, terms and conditions so they can properly be considered within the trial framework.

AT&T's lack of attention to its wholesale obligations appears to reflect AT&T's rhetoric that the advent of IP somehow alters the fundamental reality that deploying competitive last-mile networks to every residential and business location in the country is not economic.⁴⁴ The transition from copper to fiber or from TDM to IP does nothing to alter this reality. Thus, the Commission must remain vigilant and ensure that AT&T honors its statutory obligations with respect to the promotion of competition through the provision of wholesale services.

Granite recognizes that significant policy issues will not and should not be resolved by the trial. The Commission should, however, demand that AT&T provide the detail required in the *Technology Transitions Order* even if wholesale customer participation in the experiment is voluntary. Valuable trial information can be gained from the participation of CLECs in the trials. Granite has customers with locations in both wire centers, and has already indicated its desire to participate in the trials, and thus allow the Commission to evaluate the trials based on facts rather than unsupported promises. Without CLEC participation at any level, the Commission obtain no insight regarding how the technology transition impacts ILECs' relationship with their wholesale customers and CLECs' relationships with their retail customers served using the ILEC's

Obligations of Incumbent Local Exchange Carriers ("TRO"), 18 FCC Rcd 16978 ¶¶ 85-91 (2003) *Subseq. Hist. Omitted*).

⁴⁴ See AT&T Petition, p. 16.

wholesale inputs.

B. AT&T's Proposal is Vague Regarding the Level of Wireline Competition in Areas Where AT&T Intends to Cease Offering Wireline Service

AT&T's proposal indicates that there are areas in both wire centers where it will not be able to provide wireline service after the transition concludes.⁴⁵ AT&T's proposal fails, however, to provide a sufficient level of detail regarding wireline competitive alternatives at those locations. In its supplemental response to the Commission, AT&T responded to the Commission's inquiry regarding the "percentage of customer locations outside the wireline footprint have available a wireline alternative provided by someone other than AT&T."⁴⁶ In other words, at the end of the transition, when AT&T expects to cease offering wireline TDM-based services and retire its TDM-based network facilities such as copper loops, what percentage of customers will have only a choice of wireless service?

This question is pertinent to businesses that purchase service from Granite or Granite's CLEC competitors because they likely have customers located outside of AT&T's future wireline footprint. As Granite has explained, for most business customers, wireless is not a substitute.⁴⁷ The Commission is obligated to consider what percentage of customers will lose their ability to obtain wireline services upon AT&T's exit from that market. But AT&T's answer to the staff's question does not provide useful information because it does not distinguish between wireline services provided over a competitor's own facilities and wireline service provided over AT&T's last mile facilities (such as UNE loops, LWC or special access). The

⁴⁵ AT&T Proposal, pp. 10-11.

⁴⁶ Ex Parte Letter from C. Heimann, AT&T to J. Reel, FCC, GN Docket Nos. 13-5; 12-353 p. 12 (filed Mar. 26, 2014).

⁴⁷ Granite 12-353 Comments, p. 3.

Commission should require AT&T to revise its response to exclude non-affiliated competitors that rely on AT&T's wireline inputs to serve these locations.

C. AT&T's Plan Does Not Adequately Address Data Collection

The Commission requires applicants to identify the "specific data [it] proposes to collect during the experiment."⁴⁸ The Commission indicated it would seek data on issues such as network capacity, service coverage and more importantly "the specific methods and metrics that will be used to measure consumers' experiences during the experiment."⁴⁹ AT&T's application is silent regarding data collection, despite this requirement. In a subsequent submission, AT&T stated that it is willing to meet with the Commission to discuss its data collection plans. As discussed below, the Commission should provide some guidance to AT&T regarding data collection, and require that AT&T amend its application to include an appropriate plan for collecting data.

In previous comments, Granite emphasized the need for the Commission to collect data based on specific markets, recognizing that residential and business customers require different products and services. Even within the business market, there are significant differences between business customers that use a small number of voice lines and large enterprise customers that demand high bandwidth services. In its proposed experiment, AT&T should disaggregate its data to cover at least the following discrete customer segments: residential, business locations with fewer than 8 lines, separately for retail and wholesale; and all other business locations, also separated into wholesale and retail categories.

⁴⁸ *Technology Transitions Order*, ¶ 74.

⁴⁹ *Id.* ¶ 74.

D. AT&T’s Redacted Filing Does Not Show AT&T’s Anticipated Implementation Timeline

The Commission seeks to ‘foster a robust public discussion’ about the transition to future networks through a “fact-based and data driven” dialogue.⁵⁰ AT&T’s heavily redacted application, conflicts with these “open” principles and makes it difficult for parties to understand the Trial Plan.⁵¹ This is particularly problematic for Granite since it has customers in both wire centers and thus will be directly affected by AT&T’s proposal. Redacting the timeline for AT&T’s transition plan leaves AT&T’s customers, including wholesale customers, in the dark regarding their own transition planning. AT&T’s and Granite’s customers need to be able to plan for the changes AT&T intends to introduce as well. The Commission should require AT&T to disclose publicly its trial timeline for both Kings Point and Carbon Hill, consistent with the principles articulated in the *Technology Transitions Order*.

III. Conclusion

AT&T’s trial proposal is incomplete. The Commission should require AT&T to provide the missing information regarding its wholesale replacement products within 60 days, so that the Commission will be positioned to assess how AT&T will continue to meet its wholesale obligations and to promote competition.

⁵⁰ *Technology Transitions Order*, ¶ 73.

⁵¹ *See id.*

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