

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

In the Matter of)	
)	
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
)	
Numbering Policies for Modern Communications)	WC Docket No. 13-97

COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION

Competitive Carriers Association (“CCA”) hereby submits these comments in response to the Proposal for Wire Center Trials submitted by AT&T on February 27, 2014 in the above-captioned proceeding.¹ CCA is concerned that, after months of planning and preparation for the proposed IP-transition trial, the Proposal still lacks specific information regarding the wholesale IP replacement services that AT&T intends to offer during and after the proposed transition. CCA respectfully requests that the Commission direct AT&T to supplement its Proposal to provide the additional detail necessary to ensure that competitive carriers will continue to have adequate and efficient wholesale access and interconnection opportunities throughout the proposed trial and thereafter. Only then can the Commission and any potentially impacted carriers meaningfully evaluate the merits of the AT&T Proposal. Furthermore, CCA applauds the Commission’s proposal to fund and conduct research on potential concerns as numbering moves into an all-IP world. However, competitive carriers are disadvantaged today by

¹ See AT&T Proposal for Wire Center Trials, GN Docket Nos. 13-5, 12-353 (filed Feb. 27, 2014) (“Proposal”); *Commission Seeks Comment on AT&T’s Proposal for Service-Based Technology Transitions Experiments*, Public Notice, DA 14-285 (rel. Feb. 27, 2014).

unnecessary geographic constraints on number portability. CCA therefore urges the Commission—in advance of undertaking any research on future systems—to direct the North American Numbering Council (“NANC”) and the Local Number Portability Administrator (“LNPA”) to remedy this issue immediately.

DISCUSSION

I. **COMPETITORS CANNOT MEANINGFULLY ASSESS AT&T’S TRANSITION PROPOSAL ABSENT DETAILS REGARDING THE TERMS AND CONDITIONS OF AT&T’S CONTEMPLATED WHOLESALE IP REPLACEMENT SERVICES**

As expressed in previous filings in this proceeding, CCA supports the Commission’s efforts to accelerate the transition from legacy TDM networks to IP technology and believes that conducting service-based experiments is an appropriate way to advance that goal.² However, clarity and stability in the regulatory framework, both during and after the IP transition trials, are vital to maintaining competitive carriers’ access to dominant incumbent local exchange carrier (“ILEC”) networks. As the Commission has acknowledged, “[f]or competition to thrive, the principle of interconnection . . . needs to be maintained.”³ Recognizing this principle, the Commission has made clear that ILECs cannot avoid their core interconnection obligations under Sections 251 and 252 of the Communications Act of 1934, as amended (the “Act”) by initiating transition trials. The Commission has imposed conditions on IP transition trial proposals to preserve the core value of competition, include maintaining wholesale access and maintaining

² See Comments of Competitive Carriers Association, GN Docket No. 12-353, at 2-3 (filed Jan. 28, 2013); see also Reply Comments of Competitive Carriers Association, GN Docket Nos. 13-5, 12-353, at 7 (filed Aug. 7, 2013).

³ FCC, Omnibus Broadband Initiative, *Connecting America: The National Broadband Plan*, at 49 (2010) (“National Broadband Plan”).

the status quo in interconnection.⁴ The Commission should similarly require carriers to interconnect and exchange traffic efficiently, through a reasonable number of points of interconnection (POIs). A thorough evaluation of the Proposal is necessary to ensure that neither efficiency nor the pro-competitive safeguards of Sections 251 and 252 are undermined in the course of the proposed IP transition.

Currently, the Proposal fails to provide the specific details that must be evaluated to ensure that competitive carriers that interconnect with AT&T and obtain wholesale inputs will be protected during and after the transition to IP. While AT&T represents that involvement by wholesale customers in the trial will be entirely voluntary, AT&T is unequivocal about its intention to withdraw all TDM-based wholesale services in later phases of the trial.⁵ Moreover, AT&T indicates that it is working to develop IP replacement services, but neglects to provide any meaningful information regarding these IP-based alternatives. AT&T's repeated representations that it has satisfied the requirements in the *Transition Trials Order* to maintain wholesale access and interconnection accordingly miss the mark. In essence, wholesale customers are left with an untenable choice of either (1) opting out of participating in AT&T's wire center trials and continuing to purchase TDM services that AT&T has made clear will be discontinued, or (2) electing to participate without any concrete information about the terms and conditions of such participation.

Even more troubling is AT&T's suggestion that, while it will continue to meet its wholesale obligations under Section 251 with respect to legacy TDM services, it has no intention of complying with the interconnection mandates and arbitration requirements with respect to

⁴ *Technology Transitions, AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition*, GN Docket Nos. 13-5, 12-353, Order, FCC 14-5 ¶¶ 59-62 (rel. Jan. 31, 2014) ("*Transition Trials Order*").

⁵ Proposal at 28.

whatever IP replacement services it chooses to introduce.⁶ Although AT&T cites the conditions in the *Transition Trials Order* that aim to preserve the “core value” of competition,⁷ nothing in the Proposal indicates that AT&T intends to implement these conditions with respect to any IP replacement services offered to wholesale customers that may choose to participate in the transition trials.⁸ AT&T’s purported justification for failing to address these obligations is the Commission’s statement in the *Transitions Trial Order* that it does not intend to resolve legal and policy questions resulting from the transitions in the context of any trials.⁹ This argument is unconvincing for several reasons.

First, the Commission predicated that statement on the condition that any proposed experiment may not result in the “cessation or impairment” of service for providers that are interconnected in a wire center that is a subject of an experiment,¹⁰ reflecting its longstanding recognition that ensuring interconnection on just, reasonable, and nondiscriminatory terms is vital to developing and maintaining robust competition.¹¹ Thus, AT&T’s current plan for discontinuing legacy TDM services at a later phase of the trial runs afoul of the Commission’s basic framework for the IP transition trials, as the elimination of existing services without any

⁶ *Id.* at 29.

⁷ *See Transition Trials Order* at ¶ 58.

⁸ Indeed—in comments in response to another service-based trial in these very dockets—AT&T claims that “not only are there sound policy reasons for the Commission to refrain from extending the statutory and regulatory interconnection obligations applicable in the TDM world to IP-enabled services, *it would be contrary to law.*” *See* Comments of AT&T Services, Inc. on Proposal of Iowa Network Services, Inc. for Service-Based Technology Transitions Experiment, GN Docket Nos. 13-5, 12-353 at 5, n.11 (filed Mar. 21, 2014) (emphasis added).

⁹ Proposal at 29, *citing Transition Trials Order* at ¶ 8.

¹⁰ *Transition Trials Order* at ¶ 62.

¹¹ *See, e.g., National Broadband Plan* at 49.

assurance of an adequate replacement would jeopardize competitive carriers' access to wholesale inputs on just and reasonable terms.

By the same token, AT&T's assertion that the supposedly "anachronistic concepts" embodied in Section 251 will not apply to IP replacement services flies in the face of the Commission's requirement to preserve wholesale access and interconnection through the transition trials. Indeed, the Commission has made clear that the interconnection duties set forth in Section 251(c) are technology-neutral.¹² For instance, under Section 251(c), ILECs have a duty to "negotiate in good faith" for interconnection,¹³ and this duty "does not depend upon the network technology underlying the interconnection, whether TDM, IP, or otherwise."¹⁴ Therefore, AT&T should not be permitted to declare itself free from regulation with respect to IP replacement services. As CCA and others have explained in previous filings, Sections 251 and 252 apply to AT&T's IP-based networks and services; thus, to the extent that the Commission approves AT&T's IP transition proposal, it should explicitly reject AT&T's unilateral efforts to determine the regulatory status of IP interconnection arrangements.

Finally, while in certain parts of the Proposal AT&T sidesteps discussion of legal and policy questions, in other places it makes bold assertions about its current and future obligations pursuant to Section 251. For example, AT&T claims that "any equal access obligations that are now captured in the provisions of the 1996 Act will no longer apply in an all-IP environment," and then goes on to disavow any responsibility for dialing parity requirements under Section

¹² *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 ¶ 1342 (2011) (finding that the requirements of Section 251 "do not vary based on whether one or both of the interconnecting providers is using TDM, IP, or another technology in their underlying networks") ("*CAF FNPRM*").

¹³ 47 U.S.C. § 251(c)(1).

¹⁴ *CAF FNPRM* at ¶ 1011.

251(b)(3).¹⁵ AT&T can't have it both ways—defer providing answers about service offerings when convenient under the guise of following Commission directives, meanwhile making broad policy assertions in other parts of its proposal where it suits AT&T's business needs.

Accordingly, to ensure that the IP transition trials do not prejudice the Commission's ability to safeguard competition going forward, the Commission should direct AT&T to provide additional information regarding the IP replacement services it intends to introduce, including in particular the terms and conditions that will apply and how they compare to the terms of existing TDM arrangements. AT&T's vague assurances about the continued availability of interconnection and wholesale services during the trials provide cold comfort given the complete absence of detail. AT&T has failed to explain what its future services will be, the rates it will charge, and other relevant terms and conditions of those offerings. Thus, the Commission and competitive carriers are left wondering which requirements, if any, AT&T plans to comply with. Competitive carriers, therefore, could be subject to significant cost increases and/or diminutions in service quality. AT&T's transparent efforts to escape all regulation are only supported by its "trust us" approach. Neither competitive carriers nor the Commission can begin to evaluate AT&T's transition proposal without far more detail regarding the wholesale IP services AT&T intends to offer. Further, carriers must be able to evaluate AT&T's proposal with assurances that these trials will occur under the current regulatory regime—not the regime of AT&T's choosing.

II. THE COMMISSION SHOULD DIRECT THE NANC AND THE LNPA TO PROVIDE SEAMLESS NATIONWIDE PORTING OF WIRELESS NUMBERS TODAY

Apart from CCA's concerns regarding the Proposal, CCA applauds the Commission's recognition of the need to explore numbering management in the future as the world moves to

¹⁵ See AT&T Wire Center Trial Operating Plan, attached to the Proposal, at 49, n.111.

Voice over IP, Voice over LTE and other packet-based voice communications.¹⁶ The FNPRM asks whether the Commission should seek the NANC’s input on what sort of research needs to be conducted or if it should solicit other numbering-related research proposals.¹⁷ CCA submits that one area not requiring additional research, but which can be and should be addressed today, is the inability of competitive wireless carriers to seamlessly port numbers from disparate parts of the country onto their networks. Rather, the Commission should direct the NANC and the LNPA to provide seamless, nationwide number portability for wireless-to-wireless ports today.

In 2003, in response to a request for clarification by wireless carriers on wireless-to-wireless porting issues, the Commission ruled that “nothing in the rules provides that wireless carriers must port numbers only in cases where the requesting carrier has numbering resources and/or a direct interconnection in the rate center associated with the number to be ported and wireless carriers may not demand that carriers meet these conditions before porting.”¹⁸ In making this determination, the Commission noted that “limiting wireless-to-wireless porting . . . would undermine the competitive benefits of wireless [local number portability].”¹⁹

Unfortunately, despite there being no technical or policy justification, wireless-to-wireless number portability has not been applied in the broad manner intended by the Commission in its Memorandum Opinion and Order. Significantly, neither the NANC recommendations nor the Commission’s rules contain a prohibition on number porting over a broader geographic area. Yet several CCA members have come up against obstacles when

¹⁶ *Transition Trials Order* at ¶ 201.

¹⁷ *Id.*

¹⁸ *Telephone Number Portability; Carrier Requests for Clarification of Wireless-Wireless Porting Issues*, CC Docket No. 95-116, Memorandum Opinion and Order, 18 FCC Rcd 20971, 20977 ¶ 21 (2003), *aff’d*, *Cet. Tex. Tel. Coop., Inc. v. FCC*, 402 F.3d 205 (D.C. Cir. 2005).

¹⁹ *Id.* at 20978, ¶ 22.

requesting to port-in an existing number for a new customer, resulting in lost business opportunities. CCA's understanding of the current mechanics of the LNPA system is that the United States and its territories are broken into several regions, and that today a requesting carrier can only port-in a number if it has access to numbering resources within the geographic region from where the customer is being ported-out. If the Commission were to provide a directive to the NANC and the LNPA to break down these artificial barriers—again, for which there are no technical or legal justifications—competition and enhanced mobility would be further promoted through the local number portability system. This is an issue which does not require additional research or analysis from the NANC or others, but rather could and should be done in short order.

Thus, CCA urges the Commission to direct the NANC and the LNPA to facilitate nationwide seamless wireless-to-wireless number portability immediately, or as soon as feasibly possible.²⁰

CONCLUSION

CCA remains a strong supporter of the Commission's efforts to transition legacy TDM services to more efficient IP-based networks. However, the AT&T Proposal should not be approved until the Commission and potentially impacted carriers can conduct a meaningful review of the IP replacement wholesale services and interconnection terms that AT&T intends to offer. In addition, CCA urges the Commission to direct the NANC and the LNPA to facilitate nationwide porting of numbers from one wireless provider to another. CCA respectfully requests

²⁰ The Commission can address this issue *sua sponte* without any further action by CCA. Out of an abundance of caution, however, CCA is considering filing a formal petition for declaratory ruling seeking the relief requested herein.

consideration of these comments as the Commission continues its work to bring about an all-IP ecosystem that thrives under vigorous competition.

Respectfully submitted,

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