Before the
The Federal Communications Commission
Washington, D.C. 20544

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
	)	
	)	

COMMENTS OF THE
PENNYLVANIA PUBLIC UTILITY COMMISSION

The Pennsylvania Public Utility Commission (Pa. PUC) files these Comments in response to the Notice issued by the Federal Communications Commission (Commission or FCC) at GN Docket Nos. 12-353 and 13-5 on February 28, 2014.[1] The FCC Notice seeks comments by March 31, 2014, and reply comments by April 10, 214, on AT&T's February 27, 2014, submission of "a Proposal for Wire Center Trials (the 'AT&T Proposal') for experiments involving the transition of two [AT&T] wire centers — one rural and one suburban — to all IP [Internet Protocol] services and, in part, to wireless-based service."[2]

The Pa. PUC appreciates the opportunity to submit its Comments in this proceeding. These Comments should not be construed as binding on any matter pending before the Pa. PUC. The positions taken herein could change in response to later events, including developments in state or federal law and appropriate review of other comments, reply comments, and ex parte filings submitted in this or other dockets. The Pa. PUC's participation in this proceeding is without prejudice to the ongoing appellate litigation involving the FCC's *USF/ICC Transformation Order* currently pending before the U.S. Court of Appeals for the 10th Circuit.[3]

[1] FCC Public Notice, GN Docket Nos. 12-353 and 13-5, *Commission Seeks Comment on AT&T's Proposal for Service-Based Technology Transitions Experiments*, DA 14-285, rel. February 28, 2014 (FCC Notice).
[2] FCC Notice, at 2.
[3] *In re Connect America Fund, et al.*, WC Docket No. 10-90 *et al.*, (FCC, Rel. Nov. 18, 2011), Report and Order and Further Notice of Proposed Rulemaking, *slip op.* FCC 11-161, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order* collectively with Reconsideration and Clarification Orders), *appeals pending sub nom In re FCC 11-161* (10th Cir., No. 11-9900).

A. Prior Pa. PUC Positions

The Pa. PUC wishes to reiterate its previously stated positions in relation to the IP Transition that were originally submitted in the context of the original November 7, 2012, AT&T Petition, as well as in other proceedings. The Pa. PUC has consistently urged the FCC: (1) to preserve the structure of the joint federal-state regulation premised on constitutional and cooperative federalism; (2) to retain a modified form of common carriage on networks providing information to consumers regardless of the technology or the provider; (3) to promote reasonable access to networks by incumbents and competitors on comparable terms regardless of technology so that consumers obtain the benefits of effective competition in the delivery of traditional and advanced services; (4) to ensure that networks providing information to consumers are safe and reliable, and (5) provide quality of service at reasonably comparable rates while supporting universal service, Telecommunications Relay Service (TRS) and 911/E911 access, and other important policy mandates of the states or the U.S. Congress.[4]

The Pa. PUC also reiterates its previous positions that the IP Transition process, inclusive of experiments that are being sought and the FCC may authorize, cannot rewrite existing statutory law including the federal Telecommunications Act of 1996 (TA-96). Nor can IP Transition process experiments redefine the existing federal-state relationship of a joint and cooperative federalism in areas where states have an inherent and important role. These areas include the preservation and enhancement of universal service, wholesale interconnection under Sections 251 and 252 of TA-96, 47 §§ 251 and 252, and the designation of eligible telecommunications carriers (ETCs).[5]

B. The Approval of Technical Experiments and Regulatory Issues

The Commission has specifically stated in its *IP Transition Trials Order* the following:

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[4] *In re Petition of National Telecommunications Cooperative Association for a Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolution*; *In re Petition of AT&T to Launch a Proceeding Concerning the Time-Division-Multiplexing To Internet Protocol Transition*, GN Docket No. 12-353, Comments of the Pennsylvania Public Utility Commission, January 28, 2013, at 2-3 (footnotes omitted but incorporated by reference).

[5] Comments of the Pennsylvania Public Utility Commission, GN Docket No. 12-353, January 28, 2013, at 5-6.

> We state again that these service-based experiments are not intended to test technologies *per se* or to resolve legal or policy debates.
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> We therefore emphasize that decisions about how to address or resolve a problem or dispute during an experiment will not constitute a determination by the Commission or service providers that such an approach represents binding legal or policy obligations outside the context of the experiment.
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> The data generated as a result of these experiments will deepen our understanding of the effects of the technology transitions on consumers, with respect to core statutory objectives. This understanding will enable the Commission to make data-driven legal and policy choices that protect consumers and our enduring values, while also advancing and accelerating the technology transitions.

In re Technology Transitions, et al., GN Docket Nos. 13-5 and 12-353 *et al.*, (FCC, Rel. January 31, 2014), Order, Report and Order and Further Notice of Proposed Rulemaking, Proposal for Ongoing Data Initiative, *slip op.* FCC 14-5, ¶ 25, at 10 (*IP Transition Trials* Order, footnotes omitted).

In view of the above-referenced Commission directive, outstanding legal and regulatory issues that are already pending before the Commission in a number of proceedings cannot find a substantive and permanent resolution in the context of the intended IP Transition technical experiments. The PA PUC submits that AT&T's arguments on how a state's ETC designation process should or should not operate in relation to the available federal universal service fund (USF) and Connect America Fund (CAF) support mechanisms are misplaced and detract from the primary focus of AT&T's IP Transition proposed technical experiments.[6] To the extent that AT&T's preexisting ETC designations for the wire centers that will be involved in the Company's IP Transition experiments present any material issues during the contemplated three-year time horizon for these experiments, AT&T can seek proper relief from the appropriate state utility commissions.[7]

Similarly, AT&T's assumption that its "VoIP services are properly classified as *information* services"[8] is equally misplaced. The Commission has refrained from classifying VoIP services either as Title II common carrier telecommunications services or as information

[6] AT&T Proposal – Wire Center Trial Operating Plan, GN Docket Nos. 13-5 and 12-353, at 40-41.
[7] *See also In re Connect America Fund, et al.*, WC Docket Nos. 10-90 and 05-337, US Telecom ex parte legal paper "Modernizing the Eligible Telecommunications Carrier Designation," submitted March 14, 2014.
[8] AT&T Proposal – Wire Center Trial Operating Plan, GN Docket Nos. 13-5 and 12-353, at 51 (emphasis added).

services in a number of its proceedings including its *USF/ICC Transformation Order*.[9] Therefore, AT&T cannot simply create "facts on the ground" as part of its proposed IP Transition technical experiments that VoIP services are information services. Such assumptions are totally unnecessary, and AT&T should be prepared to follow not only the Commission's "truth-in-billing (and concomitantly the Commission's slamming and cramming) requirements throughout the trial,"[10] including any applicable state requirements in these areas that may exceed the Commission's standards.

C. 911/E911 Access and Public Safety

AT&T acknowledges that its "Wireless Home Phone and Wireless Home Phone and Internet… do not [currently] provide E-911 with street address" and nor "does Wireless Home Phone and Wireless Home Phone and Internet currently support alarm monitoring, medical alert and credit card validation applications." AT&T is in the process of "developing enhancements that will provide all of these applications (*i.e.*, E-911 with street address, as well as alarm monitoring, medical alert and credit card applications)," which AT&T plans to introduce within a certain time frame classified as confidential.[11] Until such technical enhancements are effectively introduced, adequately tested, and operationally deployed, the marketing of AT&T's Wireless Home Phone and Wireless Home Phone and Internet to prospective residential and business customers should be accompanied with clear and detailed disclosures as to the 911/E911, alarm monitoring, medical alert, and credit card validation limitations. In addition, there should be a specific emphasis for clear disclosures to prospective customers of these services among more vulnerable segments of the population such as the elderly, the impaired, and the disabled. Finally, the individual states where the planned AT&T IP Transition experiments will take place must be an integral part of the process that would provide the expected full 911/E911 access functionalities for the Wireless Home Phone and Wireless Home Phone and Internet services.

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[9] *USF/ICC Transformation Order*, n. 1906, *slip op.* at 346, 26 FCC Rcd 17663, 18009 (2011) ("[a]s in prior Orders, we use the term 'traditional telephone service' here colloquially as distinct from VoIP service without reaching any conclusions regarding the classification of VoIP services").
[10] AT&T Proposal – Wire Center Trial Operating Plan, GN Docket Nos. 13-5 and 12-353, at 51.
[11] AT&T Proposal – Wire Center Trial Operating Plan, GN Docket Nos. 13-5 and 12-353, at 15.

D. Back-Up Power

AT&T points out that the reserve battery back-up power pack that supports the U-verse VoIP service "automatically provides backup power for approximately four hours."[12] AT&T also acknowledges a "significant difference between the network architecture of the TDM [time division multiplexing] network and the IP network" in "that the IP network is more distributed, meaning that not all of the critical network elements are found within the confines of a wire center," and that the "backup power for distributed network elements runs from approximately four to eight hours."[13] For that matter, wireline network central offices (COs) can themselves power traditional TDM-based voice services at the customer's premises when commercial power fails, assuming that wireline links between the CO and the customer's premises have not been severed or otherwise rendered inoperative.

In view of prolonged interruptions of commercial power caused by severe weather, e.g., 2012 Hurricane Sandy, residential premises battery packs that provide only four (4) hours of back-up power for wireline VoIP services that include critical 911/E911 public safety access functionalities may be insufficient. The Pa. PUC explained its concerns in this area in its May 13, 2013, Comments to the FCC in the proceeding addressing improvements to 911/E911 network reliability.[14] The AT&T proposed experiments provide the Commission with the opportunity to address the sufficiency of battery packs that will provide back-up power of adequate duration for residential retail VoIP services during prolonged commercial power interruptions because of extreme weather conditions or other circumstances that may affect public safety on a regional basis. Such a pronouncement does not need to be of general applicability at this time, but it must provide adequate guidance for the conduct of the AT&T proposed technical experiments. Further, as stated in the Pa. PUC's May 13, 2013, comments on 911/E911 network reliability and a relevant Pa. PUC April 20, 2013, Order,[15] we submit that the

[12] AT&T Proposal – Wire Center Trial Operating Plan, GN Docket Nos. 13-5 and 12-353, at 33.
[13] AT&T Proposal – Wire Center Trial Operating Plan, GN Docket Nos. 13-5 and 12-353, at 32.
[14] *In re Improving 9-1-1 Reliability, et al.*, PS Docket Nos. 13-75 and 11-60, Comments of the Pennsylvania Public Utility Commission, May 13, 2013, at 18-24.
[15] *In re Eileen F. Floyd v. Verizon Pennsylvania LLC*, Docket No. C-2012-2333157, (Pa. PUC Order entered April 30, 2013).

Commission should encourage providers of retail VoIP services to clearly communicate, through reasonable means, the necessary steps for consumers to make a 911/E911 call, especially during extenuating circumstances such as prolonged commercial power outages.[16]

E. Dialing Parity and Switched Carrier Access Services

The AT&T Proposal will not maintain "1+" dialing parity for outgoing long-distance (intrastate, interstate, and international) calls for subscribers of its U-verse Voice or Wireless Home Phone services that will act as substitutes for conventional wireline telephone services that operate under the requirements of Section 253(b)(3) of TA-96, 47 U.S.C. § 253(b)(3). AT&T states that "assuming it is even technically feasible" to maintain such "1+" dialing parity for outgoing toll calls, "imposing such a requirement on these IP-based services would be prohibitively expensive and fundamentally at odds with the 'any distance' nature of IP services themselves."[17] In short, end-users engaging these services will be confined to AT&T's bundled service packages that would include intrastate, interstate, and international long-distance call capabilities. This may not provide the most optimal pricing solution for end-user subscribers that engage in small volumes of long-distance calls but nevertheless still need to make such calls in the first place, e.g., certain consumers would not need to subscribe to AT&T's U-verse International with Internet for a minimum price of $56 per month in order to make $8 worth of international toll calls per month.

Further, the Commission should also examine in detail AT&T's Proposal to eventually sunset its switched carrier access services.[18] The provision of switched carrier access services or their equivalent falls within the broad wholesale interconnection obligations, e.g., Sections 251 and 252 of TA-96, 47 U.S.C. §§ 251 and 252. The potential elimination of such services must be subjected to an in-depth examination in light of the existing statutory requirements and public policy.

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[16] The Pa. PUC recognizes that AT&T "provides customers" with "information regarding the battery backup for the terminal equipment used with AT&T's VoIP services online at its U-verse Voice Support web page." AT&T Proposal – Wire Center Trial Operating Plan, GN Docket Nos. 13-5 and 12-353, at 32.

[17] AT&T Proposal – Wire Center Trial Operating Plan, GN Docket Nos. 13-5 and 12-353, at 48-49. AT&T appears to classify its Wireless Home Phone as an "IP-based" service while Wireless Home Phone largely functions as a fixed wireless service between the subscriber's premises and the nearest AT&T Mobility cell tower through the use of a mobile communications protocol.

[18] AT&T Proposal – Wire Center Trial Operating Plan, GN Docket Nos. 13-5 and 12-353, at 15-16.

The Pa. PUC appreciates the opportunity provided by the Commission for the submission of these Comments.

Respectfully Submitted On Behalf Of,
The Pennsylvania Public Utility Commission

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Dated: March 31, 2014