

Before the
FEDERAL COMMUNICATIONS COMMISSION

Washington, DC 20554

In the Matter of)	
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)	
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

**REPLY COMMENTS OF THE NATIONAL ASSOCIATION OF STATE UTILITY
CONSUMER ADVOCATES
ON AT&T INTERNET TRANSITION TRIALS PROPOSALS¹**

In response to the invitation of the Federal Communications Commission (“FCC” or “Commission”),² AT&T filed a proposal for Internet Transition Trial experiments in Alabama and Florida.³ The FCC then asked for comment on AT&T’s proposal.⁴ The National Association of State Utility Consumer Advocates (NASUCA), among many others, provided comments.⁵ These reply comments respond to most of the initial comments filed.

¹ These comments should also be viewed as in reply to AT&T’s comments on the Iowa Network Services trial proposal (AT&T INS Comments). The AT&T INS Comments were filed in these dockets on March 21, 2014.

² See FCC 14-5 (rel. January 31, 2014) (“Transition Trials Order”), ¶ 30.

³ AT&T Proposal at 13. AT&T states that the locations are “one rural and one suburban.” AT&T INS Comments at 1-2.

⁴ DA 14-285 (rel. February 28, 2014).

⁵ As noted in the initial comments, NASUCA has a state member in Alabama and one in Florida. As stated therein, because of recent changes in state laws deregulating telecommunications, neither member takes a specific position with respect to these issues.

AT&T did not file comments in support of its proposal. Few others did.⁶ The Communications Workers of America's support is given in a context that echoes NASUCA's concerns. CenturyLink also supports. Some commenters ventured that AT&T's experiments might produce useful data, but had serious concerns about long-run policy implications.⁷

Those raising serious questions about the terms of the experiments included, in addition to NASUCA, the People of the State of Illinois⁸ and the Michigan Public Service Commission.⁹ The Pennsylvania Public Service Commission raises concerns; the Vermont Department of Public Service agrees and supplements Pennsylvania's comments.

For consumers, AARP's comments raise seven crucial points (discussed below) that argue against allowing AT&T's experiments to proceed without substantial changes.¹⁰ The National Consumer Law Center raised low-income concerns.¹¹ Public Knowledge, the New America Foundation's Open Technology Institute, and the Benton Foundation (Public Knowledge, et al.)¹² also raise substantial concerns about the experimental design being proposed by AT&T.¹³

On the industry side, XO Communications, LLC (XO) found the terms of AT&T's experiments "fatally flawed."¹⁴ Cbeyond, Integra, Level3 and Time Warner Communications

⁶ Some support can be found in comments by Ericsson and by Harris Corporation (that AT&T's experiments will not conflict with aircraft requirements. That should be fundamental to any experiment. The Telecommunications Industry Association (TIA) was not clear about what part of this proceeding it was commenting on, but cannot be said to be giving AT&T substantial support.

⁷ HyperCube Telecom, LLC Comments at 1-2.

⁸ Represented by NASUCA member the Public Interest Division of the Illinois Attorney General's Office.

⁹ Urging the FCC to be cautious (at 2).

¹⁰ AARP is a NASUCA member. See also, AARP, et al. ex parte (April 4, 2014).

¹¹ NCLC is a NASUCA member.

¹² Public Knowledge, et al. also filed their comments as replies in INS.

¹³ See also Interisle Communications Carriers Group Comments.

¹⁴ XO Comments at 1.

condemn aspects of the AT&T proposal, and insist on fixes before the experiments can proceed. On the competitive side, wholesale and interconnection issues are raised.¹⁵ These are hardly insignificant.

On the public safety side, the Alarm Industry Communications Committee points out that AT&T cannot proceed without resolving public safety issues. The Texas 9-1-1 Entities raised 9-1-1 issues that they said AT&T had not addressed in its proposals.¹⁶ Some raised accessibility issues.¹⁷

Comments challenged the extent to which AT&T had prejudged the legal and policy issues that the Commission determined were not going to be addressed by the experiments.¹⁸ As discussed by NASUCA, AT&T's comments on INS ignored that the Commission had proposed **experiments**, in order to answer the very questions that AT&T claimed must be decided in advance for INS's -- but not AT&T's -- proposal.¹⁹

The Alabama Public Service Commission proposes a public process for the experiment in that state, including technical advice and public forums in the local area. These proposals make eminent sense, and we await AT&T's response to the state commission.

As noted above, AARP's comments show the many problems in AT&T's proposals. AARP's points are as follows (with NASUCA's responses interwoven *in Italic type*).

AARP states:

¹⁵ Competitive Carriers Association; COMPTTEL; Granite Telecommunications, LLC; Manhattan Telecommunications Corporation d/b/a Metropolitan Telecommunications; Sprint Corporation Comments; T-Mobile Comments; Windstream Corporation Comments;

¹⁶ Clearly, these are not issues that can be deferred to the general policy discussions.

¹⁷ The Samuelson-Glushko Technology Policy Law Clinic (TPLC), et al. raised these issues in reply on the INS proposal, but these comments should also apply to AT&T's proposal.

¹⁸ See Pennsylvania Public Utilities Commission Comments at 2-3.

¹⁹ See AT&T INS Comments at 2 ff. As NASUCA noted, however, AT&T itself consistently, definitively and forcefully asserted AT&T's position on legal and policy issues in the INS Comments..

Key deficiencies of AT&T's plan include:

□ AT&T indicates that the Wireless Home Phone service that it proposes to offer as a replacement has performance shortfalls that it is seeking to remedy, indicating that the proposed technology fixes will be available at an unspecified later date. Thus, AT&T cannot at this time inform the Commission of the performance of the technology that it proposes will replace TDM-based services in the trials. Unknown factors include the level of performance associated with 911 services, alarm systems, and medical monitoring devices. AT&T also indicates that it will not commence Phase I of the trials until the performance shortfalls associated with the Wireless Home Phone service are remedied. This may suggest an extended delay associated with the start of the trials, making AT&T's application untimely.²⁰

Allowing an "experiment" that has these flaws puts consumers at risk, and violates the enduring social values on which these experiments are to be based.²¹

□ AT&T's Plan overlooks the provisioning of backup power at cell sites. Given the reliance of AT&T's Plan on wireless-only alternatives, network reliability will decline from current levels during the trials.²²

This is another public safety concern, and in itself grounds for rejecting or altering the AT&T proposals.

□ AT&T's Plan will eliminate wireline-based DSL broadband for customers in the trial wire centers. However, *AT&T does not even specify the wireless "catch product" for current DSL customers.* Furthermore, to the extent that current DSL customers are migrated to wireless data plans, AT&T provides no projections of the price impact of the elimination of DSL service. It is clear, however, that wireless data plans are measured-rate and more costly than DSL-based wireline broadband.²³

This part of AT&T's proposal "transitions" AT&T customers from wireline broadband to an inferior and more expensive wireless product. In this respect, AT&T's proposal is similar to Verizon's moves in response to Superstorm Sandy on New York's Fire Island and the New Jersey Barrier Islands, although Verizon's strategy was not experimental and had not been reviewed by the Commission before implementation.

□ AT&T's Plan does not adequately address the impact of the technology transition on prices and customer bills for non-DSL customers. The Commission should require any trial proposal, including AT&T's, to provide information that

²⁰ AARP Comments at 2 (footnotes omitted).

²¹ FCC 14-135 (rel. January 31, 2014) (Transitions Trial Order), paras. 37-69.

²² AARP Comments at 2

²³ Id. (emphasis in original).

would enable a clear understanding of the price impact on representative customers. AT&T selected the trial wire centers to be located in states where state authority over matters associated with the trials has been eliminated. As a result, these trials will not reflect the experience in any state where state authority over matters associated with a trial, such as carrier of last resort obligations, is ongoing.²⁴

AARP confirms NASUCA's suspicions about why AT&T picked these two locations for its experiments.²⁵ AARP properly asks the Commission to consider the services of customers in the experimental locations who do not happen to subscribe to AT&T's DSL. (Those customers may subscribe to another wireline broadband service, (i.e., from the cableco.

Customer notice and outreach proposed by AT&T are inconsistent across the two proposed trial wire centers.²⁶

AT&T should not be testing the adequacy of customer notice in these first two experiments. Customer notice should be at the highest level in both locations.

AT&T's Plan does not include adequate data reporting, nor does it specify the "control" wire centers required by the Commission in the *Trials Order*.²⁷

On March 26, AT&T indicated that it is still working at selecting control wire centers to propose.²⁸ Selecting the controls is a crucial predicate to beginning an experiment. As noted above, inadequacy of data reporting is a wide-based criticism of AT&T's proposals.

In conclusion, the record shows that AT&T should be sent back to the drawing board to come back with proposals that better meet the terms the Commission established. As NASUCA stated,

The FCC is talking about a transition that will impact every consumer in the country, from those in the two areas covered by the AT&T trials, to other AT&T customers around the Nation, to customers of other companies that will have to adapt to AT&T's plans, to all of the remaining telecom consumers in the U.S. This transition will take several years.²⁹

²⁴ Id. at 2-3.

²⁵ Compare NASUCA Comments at 5-6 to AARP Comments at 2, fn.5.

²⁶ AARP Comments at 3.

²⁷ Id.

²⁸ AT&T ex parte (March 26, 2014) at 11.

²⁹ NASUCA Comments at 2 (footnotes omitted).

Throughout the transition, NASUCA will stress again that

[v]oluntariness is crucial for consumers. Although AT&T notes that participation in its trials will be voluntary, that voluntarism is limited and short-lived. For wholesale customers (and those carriers' customers), it's voluntary until AT&T wants to take it away. For AT&T retail customers, the trial is voluntary until AT&T asks the Commission to remove the requirement.³⁰

The FCC must pay proper attention to the **public** interest. In this transition to an all-IP network, the public interest requires a re-examination of the cost foundation of current rates, both TDM and IP. More and more services are being provided over the network, but rates, especially rates for residential telephone service, keep going up.

In the end, the Commission cannot push ahead in the transition under an artificial self-imposed deadline in the face of inadequately-planned experiments by AT&T, which has, given its earlier Petition, had plenty of time to think about transition trials.³¹

Charles A. Acquard
Executive Director

NASUCA
8380 Colesville Road, Suite 101
Silver Spring, MD 20910
Phone (301) 589-6313
Fax (301) 589-6380

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³⁰ Id. at 3 (footnotes omitted).

³¹ And also time to think about divesting itself of the carrier-of-last-resort (COLR) obligations.