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	)	WC Docket No. 12-353
	)	

Reply Comments of AARP

April 10, 2014

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Introduction

AARP continues to believe that AT&T's Plan is incomplete and fails to address key issues identified in the *Trials Order*.[1] The parties have been placed in the awkward position of being asked to respond to a partial plan—with the actual details emerging at unspecified later dates. If the Commission does not reject AT&T's Plan, AARP believes that this Commission must amend the timeline associated with the *Trials Order* to enable further comment on details of AT&T's plan as those details become available.

AARP does not believe that AT&T's Plan as proposed is a reasonable technology trial, or one that is consistent with the provisions of the *Trials Order.* Until the missing details are known, and the public has the opportunity to respond to the entirety of AT&T's plan, the Commission should not issue final approval of AT&T's proposal. Alternatively, the Commission could now reject AT&T's proposal as untimely and instruct AT&T to file for its trial when it can inform the public and this Commission of the actual details associated with the characteristics and performance of the technologies that will be utilized in the trials, and firm dates on which the trials will begin.

Given the short time available for reply, AARP does not intend to address each and every issue raised in the opening comments. To the extent that these comments do not address specific issues raised by a party, this should not be taken as agreement by AARP. In addition, AARP

[1] *In the Matter of Technology Transitions AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, Connect America Fund, Structure and Practices of the Video Relay Service Program, Telecommunications Relay Services And Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Numbering Policies for Modern Communications*, GN Docket No. 13-5, GN Docket No. 12-353, WC Docket No. 10-90, CG Docket No. 10-51, CG Docket No. 03-123, WC Docket No. 13-97, Order, Report and Order and Further Notice of Proposed Rulemaking, Report and Order, Order and Further Notice of Proposed Rulemaking, Proposal for Ongoing Data Initiative, January 31, 2014, ¶2. Hereinafter *Trials Order.*

will use this opportunity to briefly address the extension of confidentiality claims raised by AT&T in an *ex parte* presentation filed with the Commission on March 26, 2014.

Other Parties Point to the Flaws in AT&T's Proposal

The Lack of Information on Replacement Service Prices and Performance

With regard to retail services, AARP pointed to the lack of clarity in AT&T's Plan associated with service performance and service prices.[2] On the wholesale side, XO Communications states that a similar situation exists:

> Thus, the "TBD" status of some of the wholesale alternatives, prevents the Commission and competitors from fully considering whether those alternatives will be comparable in rates, terms and conditions. Moreover, even for the limited set of wholesale alternatives designated in AT&T's proposal, AT&T has not provided terms and pricing information and sought overly broad confidential treatment of the deadlines for its proposed transition and sunsetting of TDM wholesale services. Given the short transition timeframe proposed unsuccessfully by AT&T at the end of 2013 in modifying its federal special access tariffs, XO has no confidence that AT&T's proposal would provide adequate transition time for competitors. As AT&T points out, "wholesale access, and other issues, are likely to be contentious, and will spark much debate over the next few years." *For this reason, XO submits it is critical that all of the details regarding its proposed transition of wholesale services be made public, including pricing, terms and conditions of AT&T's proposed alternative services as well as proposed deadlines for grandfathering and sunsetting the current TDM wholesale services.*[3]

AARP agrees that for both retail and wholesale services that pricing, terms and conditions of AT&T's proposed alternative services, as well as proposed deadlines for grandfathering and sunsetting the current TDM wholesale services must be made public.

AARP raised the issue of retail consumer choice with regard to ongoing consumer selection of DSL, as opposed to current wireless broadband options.[4] AARP also pointed to the lack of

[2] AARP Comments, pp. 9-20.
[3] XO Comments, pp. 10-11, emphasis added, footnotes omitted.
[4] AARP Comments, p. 18.

information regarding the "catch product" for current DSL customers as being a significant problem with AT&T's plan.[5] In a similar vein, COMPTEL points to the importance of consumer sovereignty, and the lack of detail regarding the impact of AT&T's plan on consumer choice in both retail and wholesale product space.

> Consumer sovereignty is an important feature of a market economy, for by revealing their own preferences through the services they select, carriers (including COMPTEL members) are forced to accommodate the native demand of their customers. If the AT&T "catch products" were actual substitutes, then we would see more customers choosing – indeed preferring – them over the services that AT&T proposes to eliminate. New technologies should expand choice and empower customers, not be used as an excuse to withdraw products that consumers' desire. Clearly, there are no technical issues to be tested in the provision of these services and, more importantly, if these services were adequate replacement products for the DSn services, wholesale customers would already have switched to these products on a large scale. That is not the case. This is because, as discussed below, these "catch products" are not similarly priced, functionally equivalent services.[6]

The People of the State of Illinois raise similar concerns regarding consumer sovereignty, and point to ongoing problems for AT&T customers with IP transition in that state:

> Some consumers find the new U-verse Voice service to be unreliable and there are reports that the voice service is less clear than their former TDM service and more like a cell phone. While it is undisputed that IP-based telephone service may provide more functions than TDM service, the Commission should take special steps to assess the quality of service provided by IP voice. The clear quality of traditional TDM service is well known. The Commission and the carriers should require no less of IP based service.[7]
>
> The most common complaint from consumers is that telephone service charges are not what the consumer expected after a switch to IP-based service. Consumers have complained that when they call the carrier to see if they can reduce their telephone service charges, they are encouraged to take IP-based service, in AT&T's case, U-verse Voice. Another customer stated: "every month they try to charge me more and more." The carrier charged the consumer a $99.00 installation fee to switch her service to U-verse Voice, and the terms and conditions changed significantly, resulting in an unstable and higher than expected bill. Upon investigation, it became clear that instead of being

[5] *Id.*
[6] COMPTEL Comments, pp. 13-14, footnotes omitted.
[7] People of the State of Illinois, p. 14, footnotes omitted.

charged on a *per call* basis for local calls, she was charged on a *per minute* basis for local calls, although this billing practice was not explained to the customer at the time that she was switched to U-verse. This is a major change from the way local calls are billed in Illinois, and resulted in the unstable and increasing charges she experienced.[8]

Changes to the terms and conditions of service are not always clearly communicated to consumers either online, in online "chat" conversations, or in direct conversations with customer service representatives. AT&T describes of AT&T U-verse Voice 200 as providing 200 minutes of use, as follows:

> Unlimited calling to other Uverse Voice customers, plus 200 minutes of anytime calling to anyone else in the U.S., Puerto Rico, the U.S. Virgin Islands, Guam, and the Northern Marianas. Additional minutes billed at 7¢ per minute.

In other words, U-verse Voice is unlimited to some customers, but other calls, local or long distance, are treated like "toll calls" subject to minutes of use charges. This term of service treats calls to U-verse Voice customers more favorably than it treats calls to other numbers, raising the question of unreasonable or undue discrimination and preference. While calling plans are not new, the cost for the call is ordinarily linked to location or distance rather than which carrier serves the called party, a factor that is not generally known to most consumers.[9]

Consumers who have been encouraged or directed to change their DSL service for U-verse data have complained of being charged an early termination charge when they terminate U-verse service in less than a year. AT&T's web site states that a one-year commitment is required for U-verse data service, although the size of the early termination fee is only included in the "see offer details" link for 13 various offers. Notice of this fee is often not clearly communicated to the customer, and raises equity concerns when the consumer is directed to change from DSL to U-verse. As one consumer stated in his complaint to the Illinois Attorney General:

> At the end of May [2013] ATT sent me a letter stating that I was REQUIRED [to] change to their U-verse Network. I did not ask for the change. The result was a disaster. I cancelled my service and moved to another provider. However, when I cancelled I was informed that I had a new CONTRACT when I changed to U-verse. I was never told about a contract, did not agree to one, was not requesting anything but rather was required to make a change. … ATT waived the cancellation costs when I 'reacted' so I do not have anything to recover but this practice cannot be permissible under the law."

[8] People of the State of Illinois, pp. 17-19, footnotes omitted, emphasis in the original.
[9] People of the State of Illinois, p. 18, footnotes omitted.

> The imposition of early termination fees for a new service that the customer has not requested raises significant equity concerns because not all customers have the time or ability to dispute the charges in the event they encounter problems with the new service.[10]

The Commission must ensure that the trials do not impose similar problems on consumers in the trial areas, and should also ensure that the trials result in a technology transition model that results in consumers facing minimal disruption, high quality alternatives, and similar prices to the pre-trial environment.

No Customers Should be Unserved Following the Technology Transition

In opening comments, AARP raised the issue of AT&T's plan for the four percent of living units in the Carbon Hill wire center, customers currently served by AT&T's TDM platform that AT&T indicates that it cannot make a "business case"[11] to serve with either its wireline or wireless options. AARP recommended that under no circumstances should these customers lose service as the result of a trial.[12] AARP also pointed to AT&T's plan to sunset TDM-based services as premature and inconsistent with the *Trials Order*.[13] The National Consumer Law Center raises similar concerns:

> Unfortunately, AT&T has devoted considerable attention to its intent to walk away from its universal service obligations, including offering Lifeline. Effective the first day of "Stage 1" of its trials, AT&T plans to file for relief of its universal service obligations. AT&T also states that it cannot economically extend its next generation wireline and wireless broadband footprint to reach all its customers in its 22-state wireline service area. It is particularly disturbing that AT&T has signaled to the Commission that it has no ready plan for replacement services for 4 percent of its customers in Carbon Hill, Alabama. The Commission should demand AT&T provide more than a shoulder shrug for this 4 percent and require AT&T to submit a more concrete plan, otherwise it risks

[10] People of the State of Illinois, p. 21, footnotes omitted.
[11] "AT&T Proposes IP Transition Trials for Rural, Suburban Wire Centers," *TRDaily*, February 28, 2014.
[12] AARP Comments, pp. 19-20.
[13] AARP Comments, pp. 33-34.

> sending a message that there is a tolerance for a company leaving 4 percent of a customer base behind.[14]

The "Bundle-Only" Approach will Harm Consumers

In comments, AARP raised issues with the expensive replacement services proposed by AT&T, and the lack of stand-alone wireline voice.[15] National Consumer Law Center raises similar concerns.

> AT&T also refuses to offer a standalone wireline voice product because it is more cost effective for the company to offer wireline voice is as part of a bundle with broadband Internet access and/or video services, or as an application provided over a broadband Internet access service. While this may be more cost effective for the company, for low-income or fixed income consumers who just want wireline voice service, the cost of a bundle could be unaffordable. Instead, AT&T is offering Wireless Home Phone as the sole standalone voice product. Setting aside the questions about whether Wireless Home Phone product will be equivalent or better than what customers have now, with wireless service AT&T can raise rates whenever it wants and however much it wants. For low-income, fixed-income and cash-strapped households on tight budgets, the cost of Wireless Home Phone could become unaffordable at a moment's notice. After the trials, what assurances will consumers have that AT&T will continue to offer a Wireless Home Phone type of product?[16]

The Commission must ensure that affordability of services is addressed in any trial, and beyond during the IP transition.

Data Collection Needs to be Improved

With regard to data collection, among other factors, AARP pointed to the appropriateness of a dedicated call center for the trials, so that consumers would not face standard queues.[17] The Alarm Industry Communications Committee makes a similar recommendation:

> AT&T also should provide dedicated customer service numbers, with dedicated, specially trained personnel to handle complaints and inquiries from customers to properly collect

[14] National Consumer Law Center, p. 3.
[15] AARP Comments, pp. 21-22.
[16] National Consumer Law Center, p. 3.
[17] AARP Comments, pp. 24-25.

> data on the trials. In addition, AT&T should provide a contact for alarm companies and other service providers or manufacturers that have an issue with the trials, as general customer service numbers usually require the caller to validate a premise number before taking an inquiry or complaint.[18]

In summary, many of the key points raised by AARP in opening comments were raised by other parties, and AARP believes that its recommendations make sense in light of the comments made by other parties.

AT&T's March 26th Ex Parte Expands the Scope of AT&T's Inappropriate Confidentiality Assertions

In response to questions from the Commission's Staff, AT&T met with Staff, and filed an ex parte presentation on March 26th. Staff raised some of the same questions that AARP posed in its opening comments. For example, Staff posed questions related to service coverage, the performance of AT&T's Wireless Home Phone service, the impact of the proposed trials on DSL services, and service prices.[19]

AARP raised the issue of AT&T's assertions of confidentiality in opening comments.[20] AARP believes that AT&T has again inappropriately asserted confidentiality in the ex parte. For example, AT&T has now asserted that the "Rack Prices" of its DSL Line Share, Stand-Alone DSL, Wireless Home Phone and Internet, and Mobile Hot Spot services are confidential.[21] The outcome from masking its "publicly available" rates will be to obfuscate the record in this proceeding. For example, FCC Staff inquires about the prices of current DSL plans, and the prices of AT&T's proposed replacements. AT&T asserts that such a comparison is confidential, even though it is providing nothing more than "rack prices." It appears that what is actually

[18] Alarm Industry Communications Committee, p. 10.
[19] AT&T March 26th ex parte, *passim.*
[20] AARP Comments, p. 8.
[21] AT&T March 26th ex parte, pp. 2-3.

confidential may be AT&T's plan to dramatically increase rates for current DSL customers by migrating them to measured and costly wireless alternatives, as discussed in AARP's comments.[22]

In AARP's opening comments, it was noted that AT&T describes its Wireless Home Phone service as a CMRS product, and AARP urged AT&T to report on whether Wireless Home Phone service is an IP-based service.[23] Staff also requested information on the technology that AT&T's Wireless Home Phone Service utilizes today, and whether it is based on Voice over LTE.[24] Here again AT&T asserts that the answer is "confidential." Thus, apparently, not only will the public not be informed of the prices of the services AT&T will utilize in the trials, but also the nature of the technology that the customer will purchasing will also be kept secret. This is unacceptable and inconsistent the framework contained in the *Trials Order*. Does AT&T envision the trial unfolding with customers unable to discern what they will pay, or the technologies available in a trial? AT&T's inappropriate confidentiality claims for these basic matters provides another reason for the Commission to reject the entirety of AT&T's proposal at this time.

Conclusion

In closing AARP again provides its recommendations to the Commission. AARP believes that the current shortfalls in AT&T's Plan should lead to its rejection by the Commission. However, should the Commission move forward with a trial, the following recommendations are offered.

- AT&T should be required to remove the confidential designation of the dates associated with the trials. AT&T should also remove the confidential designation of any "confidential" information that AT&T has discussed publicly. AT&T should be required to reveal all prices associated with replacement products proposed for the trials. AT&T should fully and publicly describe the technological characteristics of products proposed

[22] AARP Comments, pp. 20-21, discussing AT&T's rack prices, as shown on AT&T's web site, for DSL and wireless data alternatives.
[23] AARP Comments, pp. 16-17.
[24] AT&T March 26th ex parte, p. 3.

for the trials. In general, AT&T should strive to be as transparent as possible regarding information associated with the trials.

- The Commission should utilize an independent third-party to verify the performance of AT&T's Wireless Home Phone service prior to granting final approval for any trial, and the Commission should confirm that there is no service quality degradation associated with the use of that platform, as required by the *Trials Order*. This includes ensuring that backup power is properly provisioned at cell sites involved in the trials.
- For any wireless replacement service included in a trial, the Commission should verify, using an independent third-party, that wireless signal strength is sufficient for indoor coverage throughout the trial areas. This is especially important given the more complex topology associated with the Carbon Hill wire center.
- Before authorizing any trial that involves wireless services, the Commission must establish that AT&T's wireless service operates during commercial power outages in a manner similar to the current level of reliability of TDM services. Given that AT&T indicates that the *wire centers* that deliver TDM services involved in these trials currently have fixed backup generators, as well as battery backup,[25] the antenna located in the cell sites involved in the trials should be similarly provisioned to ensure that wireless services deliver similar levels of reliability.
- AT&T should explain to the Commission whether its Wireless Home Phone service is an IP-based service.
- AT&T should be required to identify the price impact, based on representative current customer bills, of the services to which AT&T proposes to migrate customers during the trials. The Commission should not approve the trial unless there are no increases in customer bills, or decreases in service functionality.
- AT&T should be required to identify the catch product for DSL customers who will be migrated to wireless broadband alternatives during the trial. The Commission should not approve the trial unless there is no increase in the bills of former DSL customer's broadband bills, or decreases in service functionality resulting from the wireless broadband migration envisioned by AT&T.
- The Commission should require AT&T to better explain its plan for the four percent of living units in the Carbon Hill wire center, customers currently served by AT&T's TDM platform that AT&T indicates that it cannot make a "business case"[26] to serve with either its wireline or wireless options. Under no circumstances should these customers lose service as the result of a trial.
- AT&T's Plan calls for the sunset of services once the trials begin. The Commission should not accept AT&T's sunset timeline as submitted, and should remind AT&T that any initial grant of 214 authority for interstate services is temporary.[27]
- AT&T should be required to use a uniform customer-outreach approach in trial wire centers, not the disparate approach described in its plan.

[25] AT&T Plan, p. 32.
[26] "AT&T Proposes IP Transition Trials for Rural, Suburban Wire Centers," *TRDaily*, February 28, 2014.
[27] *Trials Order*, ¶79.

- AT&T should be required to provide customer notice that clearly explains the price impact of participating in a trial, as well as any differences in service level. Customers should be informed that as part of the trials, AT&T intends to seek relief from Eligible Telecommunications Carrier obligations, and that this could translate into AT&T refusing to serve customers in the future.
- Prior to granting final approval to AT&T's Plan, AT&T should be required to identify the proposed "control" wire centers, and should be required to provide side-by-side comparisons of the characteristics of the control and trial wire centers, including their service quality performance over the twelve months prior to AT&T's application.
- The Commission should modify the data collection and reporting component of AT&T's plan—as presented, this aspect of AT&T's plan is unacceptable. Some of the improvements the Commission should require include:
    - AT&T should provide real-time information regarding the progress of trials, and summarize that information in monthly, rather than quarterly, reports.
    - AT&T should report performance information based on customer class.
    - AT&T should provide comparable metrics for the performance of wired and wireless technologies; if IP- and non-IP services are deployed in any trial, their performance should also be reported in a manner consistent with side-by-side comparisons of performance.
    - Detailed data on individuals with disabilities should be collected during the trials.
    - Customer surveys in the trial and control areas should be administered by independent third parties.
    - Voice quality should be verified by independent third-party testers.
    - All service outages associated with trials should be reported. AT&T's proposal to report only those that meet the NORS thresholds is unacceptable.