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May 9, 2014

Via Electronic Submission

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: ***Ex Parte Communication - 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***

Dear Ms. Dortch:

Chairman Wheeler recently announced that the Commission is planning to draft “a managerial framework that will chart the process by which [it] will decide the large-scale legal, regulatory and policy issues arising from the IP transition.”¹ In response, COMPTTEL submitted a thoughtful, detailed proposed framework to guide the transition and ensure that the Commission continues to promote its core values of competition, consumer protection, universal service, and public safety.²

Sprint supports COMPTTEL’s call for a managerial framework that addresses the need for the Commission to take action on last-mile access, copper retirement, and IP interconnection. As Sprint has said repeatedly in its comments in various pending proceedings, the IP transition is going forward despite reluctance by some that have vested interests in delaying the inevitable in efforts to preserve legacy revenues and enhance their market power.³ The IP transition has been led by competitive carriers that have already deployed IP networks and seek now merely to retain what has been taken for granted since the passage of the ‘96 Act, namely interconnection rights and access to last-mile facilities owned by the incumbents at reasonable rates, terms and conditions.

COMPTTEL recognizes that last-mile access remains a bottleneck facility dominated by the incumbents, even as copper loops are being replaced by fiber optics. More than a decade ago, the incumbents obtained regulatory relief on unbundling obligations for packet-based technology, based on the argument that because competitive carriers had access to legacy TDM-based networks and copper facilities, their ability to compete was not hampered by excluding

¹ *Technology Transitions; AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition; Connect America Fund et al.*, Order, Report and Order, and Further Notice Proposed Rulemaking, Docket No. 13-5 (2014), Statement of Chairman Wheeler at 2.

² *Ex Parte*, Letter from Angie Kronenberg to Marlene Dortch (April 2, 2014) (“COMPTTEL Managerial Framework”).

³ *See, e.g.*, Comments of Sprint Corporation, Docket No. 13-5 (filed July 8, 2013) and Reply Comments of Sprint Corporation, Docket No. 13-5 (filed August 7, 2013).

them from access to IP-based fiber networks.⁴ Now that the incumbents are planning to decommission and retire their TDM networks,⁵ it is incumbent on the Commission to establish the rules going forward so that competitive carriers can continue to obtain the essential inputs that remain under the control of the incumbents. Otherwise, competitive carriers will be unable to plan their operations with any certainty because they will not know how and when they can provide service and their ability to compete with the incumbents will be greatly diminished.

Although copper is rapidly being supplanted by fiber, copper loops remain a viable platform on which to provide IP-based services to small and medium businesses. As COMPTEL and Windstream⁶ have pointed out, for smaller business customers, the cost of running fiber remains prohibitive, and the incumbents' pricing of Ethernet wholesale services is exorbitant for customers that do not require high capacity. Particularly for customers that need only a fraction of the bandwidth and could be adequately served by packet-based services over copper loops, ILEC pricing of Ethernet services is not cost-based and is thus neither reasonable nor sustainable from the perspective of fostering a competitive marketplace. Nonetheless, the incumbents are eager to remove copper from the ground and off poles. COMPTEL's suggestion that the incumbents be prohibited from retiring copper until there is a replacement at equivalent prices, term, and conditions is a sensible approach that the Commission should endorse.

Finally, the incumbents continue to question the ability of carriers to demand IP interconnection under sections 251 and 252 of the '96 Act, despite the Commission's statements in the Connect America Fund order that interconnection obligations under 251 are "technology neutral."⁷ Sprint has described its ongoing efforts to exchange traffic with the incumbents in IP format in previous filings.⁸ COMPTEL's managerial framework provides additional detail supporting Sprint's arguments as to why IP voice interconnection is mandated by the '96 Act and appropriately calls on the Commission to resolve this controversy.

Sprint is also supportive of Windstream's comments on the proposed managerial framework. As Windstream points out, the shift from TDM to IP does not change the fundamental balance as to the ability of competitive carriers to compete with incumbents on their own turf. The basic economics of network deployment and the high fixed costs of conduits, trenches, and rights-of-way needed to install last-mile connections to small and medium business does not depend on the network protocol used once the cables are installed. The incumbents have a marked advantage due to their embedded infrastructure, and the incumbents are attempting to stifle competition by using complex purported discount pricing schemes, volume and revenue commitments, and early termination fees that make it extraordinarily expensive for competitors to shift technologies and support what little competition exists in the special-access market.

COMPTEL's managerial framework proposal highlights the need for Commission action to ensure that the IP transition does not result in the abandonment of the Commission's core values. Competition cannot thrive if non-incumbent carriers are left without access to the inputs necessary to provide service as a result of the pointless protection of their legal rights to

⁴ See Triennial Review Order, 18 FCC Rcd 16978, ¶ 273 (2003) ("Triennial Review Order")

⁵ See, e.g., AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353 (filed Nov. 7, 2012); Letter from Verizon Vice President Maggie McCreedy to Marlene Dortch, GN Dockets No. 12-353 & 13-5 (Jan. 15, 2013).

⁶ Letter from Windstream to Jonathan Sallet & Julie Veach, GN Dockets No. 12-353 & 13-5 (April 28, 2014).

⁷ Connect America Fund, et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, WC Docket No. 10-90, 26 FCC Rcd. 17663 (2011) ¶ 1342.

⁸ See note 3, *supra*.

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technologies and facilities that no longer exist. The Commission must prevent any backsliding to the ILECs' virtual monopoly over last-mile facilities that existed prior to 1996.

Sincerely,

/s/ Charles W. McKee
Charles W. McKee

cc: Jonathan Sallet
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