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May 12, 2014

VIA ECFS

EX PARTE NOTICE

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

Re: *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; Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; Developing an Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Petition of tw telecom inc. et al. to Establish Regulatory Parity in the Provision of Non-TDM-Based Broadband Transmission Services, WC Docket No. 11-188; Petition for Declaratory Ruling That tw telecom inc. Has the Right to Direct IP-to-IP Interconnection Pursuant to Section 251(c)(2) of the Communications Act, as Amended, for the Transmission and Routing of tw telecom's Facilities-Based VoIP Services and IP-in-the-Middle Voice Services, WC Docket No. 11-119; Business Broadband Marketplace, WC Docket No. 10-188; Cbeyond, Inc. Petition for Expedited Rulemaking to Require Unbundling of Hybrid, FTTH, and FTTC Loops Pursuant to 47 U.S.C. § 251(c)(3) of the Act, WC Docket No. 09-223; Policies and Rules Governing Retirement Of Copper Loops by Incumbent Local Exchange Carriers, RM-11358; Special Access for Price Cap Local Exchange Carriers, WC Docket No. 05-25*

Dear Ms. Dortch:

On May, 8, 2014, Thomas Jones from Willkie Farr and Gallagher LLP and Angie Kronenberg and the undersigned from COMPTTEL met with Linda Oliver, of the Commission's Office of General Counsel, and Randy Clarke, Jamie Susskind, Tim Stelzig, Lisa Gelb, Matt DelNero, Deena Shetler and Kalpak Gude (on phone) of the Wireline Competition Bureau.

In the meeting, we discussed the timeline for Commission action in the above-references proceedings, as outlined in the *ex parte* letter and proposed managerial framework COMPTTEL

submitted on April 2, 2014.¹ We emphasized that these issues have been pending for a number of years and are in need of speedy resolution to ensure a competitive marketplace, especially with respect America's businesses, and to provide a stable investment environment for all carriers and their investors.

The conversations focused on three issues that the Commission should address this year – adopting rules to prevent the exclusionary impact of special access term and volume discount agreements, confirming IP interconnection rights for the exchange of voice traffic, and revisiting the existing copper retirement rules.

We explained the exclusionary impact of the larger ILECs' lock-up term and volume special access agreements and how these agreements prevent carriers from being able to buy from competing providers of special access services (to the extent one is available), which ultimately diminishes competing carriers' incentive to build facilities. An example of such a term is requiring a ridiculously high percentage of special access purchase volume to be purchased from the ILEC in order to receive the discounted rate and/or circuit portability. We confirmed that the Commission has sufficient data to address this issue, pending overall reform of the special access regime. We specifically referred them to an earlier filing made by competitive carriers that includes an economic analysis that substantiates the harms that result from these arrangements.²

We also discussed the importance of the Commission confirming IP interconnection rights for the exchange of voice traffic pursuant to Sections 251(c)(2) and 252 of the Act. We emphasized that this issue should be addressed given that large ILECs continue to refuse to negotiate such interconnection arrangements in good faith within the framework established in Sections 251/ 252 of the Act and alerted them to the gamesmanship the ILECs attempt to play through affiliates and the need for the Commission to confirm that Section 251/252 rights and obligations extend to affiliate providers.

Finally, with regard to the rules regarding copper retirement, we explained that existing rules are insufficient to protect the public interest. In particular, they only provide for notification that the copper loop will no longer be available for competitive services without ensuring an alternative form of access to last mile facilities. This creates substantial harm, particularly to small and medium size businesses that rely on competitors to provide the affordable broadband services they need to run and grow their business. We also referenced the letter filed by Windstream that emphasizes the need for a last mile access solution to ensure that competition will not be harmed as networks transition to IP.³

Please do not hesitate to contact us if you have any questions about this submission.

¹ COMPTTEL *Ex Parte* Letter to Marlene H. Dortch, FCC, filed in GN Docket No. 13-5 *et al.*, dated Apr. 2, 2014.

² See Comments of BT Americas *et al.*, WC Docket No. 05-25 and RM-10593, filed Feb. 11, 2013.

³ See Windstream *Ex Parte* Letter to Jonathan Sallet and Julie Veach, GN Docket No. 13-5 *et al.*, dated Apr. 28, 2014.

Respectfully submitted,

/s/ Karen Reidy

cc: Linda Oliver
Randy Clarke
Jamie Susskind
Tim Stelzig
Lisa Gelb
Matt DelNero
Deena Shetler
Kalpak Gude