NASUCA

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

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

June 30, 2014

Re: Technology Transitions, GN Docket No. 14-28; AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353; WC Docket No. 10-188, GN Docket No. 09-51 and RM-11358 **EX PARTE COMMUNICATION**[1]

Dear Ms. Dortch:

The Federal Communications Commission ("FCC" or "Commission") has recently received quite a bit of information about the AT&T Internet Protocol ("IP") Transition Trials. This information includes AT&T's May 27, 2014 ex parte on consumer outreach and data collection; AT&T's May 30 ex parte on unbundling, network and service retirement, and its plans for copper loops; AT&T's June 6 ex parte on "the Internet interconnection ecosystem"; and

[1] This document will also be submitted as a comment to the FCC blog, http://www.fcc.gov/blog/protecting-consumers-transition-copper-networks.

Commission Staff's presentation at the June 13, 2014 Open Meeting.[2] The National Association of State Utility Consumer Advocates ("NASUCA")[3] submits this combined response to these presentations.

The FCC Staff reported that the AT&T trial is in "Phase 0," where there is "no impact on customers' options in the test areas." Phase 1, allowing grandfathering of retail customers' accounts, will be "preceded by Sec. 214 applications and public process." AT&T acknowledged the need for such process in the May 27 ex parte.[4] Further, AT&T said it did not expect to seek approval to withdraw "any TDM service earlier than the second half of 2015."[5]

The FCC initiated the trials with some sound requirements: The trials are experiments, so there need to be control groups outside the experiment area. The trials are reversible, with the FCC retaining the authority to end the trial and put customers back to their pre-experiment status. There are important reporting requirements.

This timeline and these requirements, including the public process and the timeline associated with public process, give the Commission flexibility to ensure that the public safety and other vital public needs are addressed without customers being placed at risk. Equally importantly, these requirements give the Commission an ability to assess the implications of

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[2] See http://www.fcc.gov/document/technology-transitions-update-june-13-2014-fcc-open-meeting; see also http://www.telecompetitor.com/tt-wants-to-replace-dsl-with-wireless-in-tdm-to-ip-transition-trials/

[3] NASUCA is a voluntary association of advocate offices in more than 40 states and the District of Columbia, incorporated in Florida as a non-profit corporation. NASUCA's members are designated by laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts. Members operate independently from state utility commissions as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (e.g., the state Attorney General's office). NASUCA's associate and affiliate members also serve utility consumers but are not created by state law or do not have statewide authority.

[4] See http://apps.fcc.gov/ecfs/document/view?id=7521152146.

[5] *Id.*

AT&T's plans, for Carbon Hill, for Ocean Shores and for the rest of AT&T's territory.[6] The Commission must also reaffirm that none of AT&T's actions can be irreversible.

But the Staff slides show clearly that the intention of AT&T's proposal is **not** just for a transition to IP. What AT&T is seeking is a post-transition network in which it can jettison *the customers in higher-cost, lower-revenue areas* within exchanges. In Carbon Hill, for example, 4% of the 4388 occupied units in Carbon Hill -- 175 households or businesses – will be abandoned. And AT&T will "migrate" 41% of its Carbon Hill customers -- 1800 -- to AT&T wireless. Similarly, in Kings Point FL, 14% of customers will be relegated to wireless. That is almost 7,000 customers.[7]

In the parts of the wire centers where AT&T plans to withdraw wireline service, it will simply abandon the copper wire that is located there, after trying to sell it to the CLECs under a an apparently rigid process.[8] It appears safe to presume that, if AT&T cannot get a CLEC to buy the copper, the copper will be abandoned. So with no service and no lines, AT&T will no longer have a carrier of last resort ("COLR") responsibility in those parts of its current service area. That directly conflicts with 47 USC § 214(e).[9]

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[6] Putting aside its Connecticut territory, proposed to be sold off to Frontier; the sale is under federal and state regulatory review. See Connecticut PURA Docket Number 14—1-46; FCC WC Docket Ni. 14-22.

[7] The Staff's slides indicate that AT&T wants to retain 74% of its wired territory, and put 25% on wireless, with 1% "TBD."

[8] AT&T May 30 ex parte.

[9] AT&T cannot simply transfer eligible telecommunications carrier ("ETC") § 214(e) responsibility for those "abandoned" areas to its wireless affiliate, without the affiliate also qualifying as an ETC.

And AT&T will have less of an unbundling responsibility than it does now.[10] AT&T's summary of the rationale for not requiring unbundling of fiber[11] cites to the network of eleven years ago, and depends on an interpretation of 47 USC § 706 that is obsolete.[12]

But more importantly, what does this part of the AT&T business plan have to do with transitioning to an all-IP network? Abandoning customers who buy retail services, competitors who buy wholesale services, and whole swathes of the copper network should not be the result of the transition, and are certainly not inevitable results of the transition to IP.

AT&T, while not yet proposing network modification, discusses the Commission's network modification rules. Crucial for the discussion is 47 CFR § 51.333(b), currently being used by Verizon.

Verizon is using the FCC's "short-term network change" process to retire the copper and the switches in exchanges where it already has allowed the copper to deteriorate or go unrepaired, beginning with Farmingdale NJ, Hummelstown PA, Lynnfield MA, Oceanview VA and Rockaways NY. Verizon defends its practices.[13] Verizon's replacement of copper with fiber (and deletion of switches) does mean that the wire center will be all-IP. But, according to Verizon, customers who want it will continue to receive POTS service over the fiber.[14]

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[10] AT&T May 30 ex parte.

[11] Id.

[12] See http://www.phoenix-center.org/PolicyBulletin/PCPB35Final.pdf. Interestingly, Phoenix Center's support for § 706 does not weaken the argument for regulation of Internet access under Title II.

[13] See GN Docket No. 13-5, et al., Verizon ex parte (June 2, 2014) http://apps.fcc.gov/ecfs/document/view?id=7521160923 (). But see Bruce Kushnick's piece at New Networks: http://newnetworks.com/2013/07/verizons-wireless-voice-link-as-a-replacement-of-the-wires-the-downgrading-and-disconnecting-of-americas-communications-networks/.

[14] GN Docket No. 13-5, et al., Verizon ex parte (June 2, 2014)

The mechanical process used by Verizon may have been appropriate in the past, but now, **in the midst of the transition,** the FCC's steps must be measured, and cannot, as NASUCA has urged before, allow any company's business plan to dictate the public interest, or to define the reach of the enduring values of the Communications Act.[15] Thus the Commission must put such applications on hold, pending determination of the impact on the Commission's enduring values. [16]

Likewise, the Commission must also carefully consider these issues in the AT&T trials. The trials are not what they purport to be – not a transition to IP but instead an effort to cast aside a significant number of people and render poorer service to many others. For that reason, AT&T's plans should be rejected unless and until it adequately addresses the concerns.

Respectfully submitted,

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[15] See FCC 14-5, ¶ 9.

[16] It is good that AT&T agreed to the Commission's condition on the trials that they be reversible, i.e., that consumers could be restored to the *status quo ante* at the end of the trial. AT&T Proposal at 10-11, 27-29.