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July 1, 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; 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; CenturyLink's Petition for Forbearance Pursuant to 47 U.S.C. Section 160(c) from Dominant Carrier and Certain Computer Inquiry Requirements on Enterprise Broadband Services, WC Docket No. 14-9*

Dear Ms. Dortch,

On June 27, 2014, Chip Pickering, Angie Kronenberg and the undersigned from COMPTTEL and Thomas Jones from Willkie Farr and Gallagher LLP (by phone) met with Jonathan Sallet, the Commission's General Counsel, Linda Oliver and Jennifer Tatel, of the Office of General Counsel, and Matt DelNero, of the Wireline Competition Bureau. In the meeting, we discussed the importance of timely action by the Commission in addressing two particularly critical issues: last mile access and interconnection. These issues must be resolved for the preservation and promotion of competition and, in particular, competitors' ability to meet the variety of consumer needs as carriers transition their networks.

We discussed last mile access both in the context of the special access rulemaking/forbearance proceedings and potential 214 discontinuance applications. We discussed the various classes of business customers (wireless backhaul, small/medium, and large enterprise, as well as multi-locations enterprise customers) and how the market for special access services is not a one-size-fits-all. Consequently, in determining if a carrier has market power, the Commission needs to evaluate the market by, *among other things*, the availability at just, reasonable terms and conditions of the various products (e.g., Ethernet at various capacity levels) that correspond to the needs of the various types of customers. In particular, we support the application of the traditional market power test the Commission applied in the *Qwest Phoenix*

*Order*¹ - which begins with a delineation of the relevant product and geographic markets - to the CenturyLink petition for forbearance from dominant carrier regulations for enterprise broadband services. This approach should also be applied to the Commission's review of previous grants of similar forbearances requests.

In terms of an ILEC seeking to discontinue a service for which it is regulated as a dominant carrier, we emphasized the need for the Commission to ensure the availability of comparable replacement products prior to the grant of discontinuance, for example replacement products for DS1s and DS3s. We support the standard the Commission articulated in the *Transition Order*² and urged the Commission to proceed – with carrier input – in defining products that meet that standard and applying that standard to all discontinuance applications by dominant carriers, not just those pursuant to an experimental trial. We also briefly discussed the impact of the Commission's existing copper retirement rules, explaining the loss in competitors' ability to offer affordable Ethernet demanded by business consumers via Ethernet-over-Copper. As COMPTTEL has previously stated, the Commission should, among other things, prohibit incumbent LECs from removing, disabling, or failing to maintain copper unless the Commission makes an affirmative finding that such action is in the public interest, and such public interest standard should ensure the availability of functionally equivalent comparable wholesale services at equivalent prices, terms and conditions.³

Additionally, we emphasized the importance of the Commission confirming IP interconnection rights for the exchange of managed voice traffic pursuant to Sections 251(c)(2) and 252 of the Act. We provided them the attached diagram and briefly discussed the different traffic flows, noting in particular the distinction between managed VoIP traffic and Internet traffic. We also noted that while the diagram depicts VoIP interconnection at the Session Boarder Controller, it could occur at other technically feasible points in the network such as the router or equipment at a carrier hotel.

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

¹ *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Phoenix, Arizona Metropolitan Statistical Area*, Memorandum Opinion and Order, WC Docket No. 09-135, FCC 10-113 (2010) (“Qwest Phoenix Forbearance Order”).

² 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, *Technology Transitions, et al*, GN Docket No. 13-5, *et al*, FCC 14-5, ¶ 59 (Jan. 31, 2014) (“*Technology Transitions Order*”).

³ Letter from Angie Kronenberg, COMPTTEL, to Marlene H. Dortch, FCC, GN Docket No. 13-5 *et al*, at 10-11 (filed Apr. 2, 2014).

Respectfully submitted,

/s/ Karen Reidy

Attachment

cc: Jonathan Sallet
Linda Oliver
Jennifer Tatel
Matt DelNero