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**Via Electronic Filing**

Marlene H. Dortch, Secretary

Office of the Secretary

Federal Communications Commission

445 12th Street, SW

Washington, DC 20554

**Re: Notice of Ex Parte** In the Matters of Technology Transitions, GN Docket No.

I 3-5; AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN

Docket No. I 2-353; Protecting and Promoting the Open Internet, GN Docket No. 14-28

Dear Ms. Dortch,

With respect to allowing Cable and Telecommunications providers to self regulate themselves and not establish FCC regulatory control under title II of the communications act<sup>1</sup>. No more is the need for FCC regulation on the matters currently before the commission in GN Docket No 14-29 net-neutrality, and AT&T Petition to Launch TDM-IP Transition GN Docket No. I 2-353. necessary considering the number of widespread nationwide outages that AT&T has had in the past two years. Considering that AT&T and other communications companies have

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<sup>1</sup> <http://benton.org/node/172880> - The Buck Stops at the FCC submitted by former FCC chairman Michael Copps to the Benton Foundation and common cause.

and continue to aggressively lobby <sup>2</sup>in a number of states in order to de-regulate internet and VoIP (voice over internet protocol) services, arguing that AT&T is not a telephone communications services provider, but rather a data provider (who is providing phone services over the internet). All the while, U-Verse and other next generation telephony services are deployed by American Telegraph & Telephone Company (AT&T), leaving Public Utility commissions and other regulatory agencies with limited to no control over uptime and reliability of telecom services that AT&T and other cable and traditional wire-line providers offer.

To outline just a few of the widespread residential and business class DSL (digital subscriber line) and U-Verse voice/internet outages. On January 27, 2014 one of the nation's largest telecommunications providers, AT&T, suffered a broadband outage affecting AT&T u-verse customers all across the nation. These broadband services are vital for consumer as well as business customers and will continue to be more vital as AT&T begins plans to phase out DSL (Digital Subscriber Line) services over the next couple of years.

For a growing number of Americans, broadband services are increasingly becoming vital for industry and business operations as employees and corporate executives take the office with them and work from home. Furthermore, information technology companies like AT&T, IBM, Hitachi Data Systems, Computer Associates and other IT companies have a number of employees who telecommute and do not have a physical office they go to; these employees depend on fast, reliable connections, to corporate VPNs and corporate WANS to perform their jobs. Moreover, broadband services are vital for life saving services; such as home automation, life alert products for seniors and the disabled, security systems and telepresence services, that rely on some type of internet connection to contact a monitoring center. What is even more troubling however, is the fact that in many cases, due to AT&T's direct lobbying efforts and ability to increase transit costs passed onto regional competitors, the vast majority of customers in many of these areas have only one or two choices for internet connectivity providers (AT&T or Comcast, and in some locations Time Warner Cable) and are forced to use AT&T Internet Protocol (IP) services like Uverse. More troubling is the fact that AT&T and it's executives lead by AT&T CEO Randall Stephenson and Senior VP and General Counsel for AT&T have reaffirmed a commitment to transition AT&T customers to all IP based services; that provide a mixture of Internet, Voice and Television services to consumer and business customers. This is despite objection from a number of leading independent consumer advocacy groups, including Public Knowledge and AARP (American Association of Retired Persons).

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<sup>2</sup> <http://www.kentucky.com/2014/01/30/3060737/senate-panel-approves-att-bill.html> - Kentucky senate passes 'AT&T bill' to further deregulate phone service

For millions of broadband customers who cannot choose a local carrier, these outages by AT&T are unacceptable. According to Lightreading<sup>3</sup> an online telephony publication, AT&T's latest outage affected customers in several states and metropolitan areas, resulting in over 1000 reported and tracked complaints. Including Texas which is where SBC Telecommunications d/b/a AT&T corporate Headquarters is located in. The total number of affected customers and clients of AT&T in these areas is significantly more, as not everyone may be at home or work in an office that relies on AT&T U-VERSE service at the time of the outage(s). According to reports U-verse services were affected in California, Texas, New York, Chicago, Missouri and several other city and states.

In this case AT&T was able to address the situation and eventually fix the problem. However, this outage and several others, illustrates the greater need for government oversight, to protect consumers and businesses in order to protect this vital national telecommunications infrastructure. In a prepared statement AT&T released the largest telecommunications provider in the US and world stated:

*A limited number of AT&T customers across multiple states may have experienced a disruption with U-Verse high speed internet service due to a third-party web hosting service issue.*

This statement and outage is troubling for many reasons, with the greatest concern being that broadband services across the entire country can be impeded by a single third-party supplier that AT&T apparently relies on to provide services.

This is why it is vital that there remains government oversight to protect the telecommunications and internet infrastructure. And to further investigate why the world's largest telecommunications provider relies on a single third party vendor and thus single point of failure and what if any measures have been taken or are considering being implemented to prevent another national outage on the AT&T U-Verse product/service?

The second Major outage occurred; on January 21, 2013 AT&T faced another similar national outage, which affected customers in Louisiana, Kentucky, Texas, Georgia, Tennessee, Florida and Arkansas. Customers eventually had to turn to AT&T's Facebook page and twitter on Martin Luther King Day in 2013, to find out why they lost internet connectivity and when services would be restored. AT&T eventually did make another public apology to affected consumers this time expressing:

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<sup>3</sup> [http://www.lightreading.com/atandt-u-verse-suffers-nationwide-outage/d/d-id/707438?f\\_src=lightreading\\_gnews](http://www.lightreading.com/atandt-u-verse-suffers-nationwide-outage/d/d-id/707438?f_src=lightreading_gnews)

A limited number of AT&T customers in some markets may be experiencing issues with U-Verse service. A team of engineers<sup>4</sup> and technicians are working to resolve the issue, and we apologize for any inconvenience to our customers<sup>5</sup>.

The third major outage occurred on February 22, 2012 affecting customers across the Chicago metro area. This outage lasted six hours and affected virtually all users across the Chicago area. According to Crain's Chicago<sup>6</sup> business report a leading business and trade publication covering Chicago. AT&T issued the following statement:

*The outage began around 3 a.m. due to a "network issue" and was resolved by 9 a.m.*

There are numerous other examples of widespread service or network outages, which AT&T has yet to provide a definitive answer to in regards to what is being done to correct the ongoing national problems that have plagued AT&T's network. On several occasions I [Joseph Libuszowski] have expressed serious concern about regarding these issues; to a number of first tier, second tier employees of AT&T and have got nowhere. Even our attorneys and corporate clients, who have had similar issues, also have had no response from the telecommunications company even when they have been threatened with litigation, if the company cannot provide reasonable service reliability on the carrier's network. It is such a serious issue, that we have also raised the matter to AT&T's executives both in New Jersey as well as Dallas Texas including but not limited to AT&T Chief Security Officer Edward Amoroso<sup>7</sup> and AT&T's Group President and Chief Strategy Officer John T. Stankey<sup>8</sup> regarding the service outages.

There is clear need for redundancy/failover protection on AT&T's PPOE (point to point protocol over Ethernet) authentication servers in the case of the DSL outage and AT&T u-verse authentication servers, to prevent any future nationwide "third party service outages." As of this date May 13, 2014 neither AT&T nor its network operations center has implemented such solutions to the best of our knowledge. While we understand that technology sometimes fails and emergency repairs need to be made, the repeated failures suggest that the issue(s) have not

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<sup>4</sup> <http://www.dslreports.com/shownews/ATT-UVerse-Suffering-Large-National-Outage-122841>

<sup>5</sup> <http://www.pcworld.com/article/2026174/atandt-users-slam-uverse-outage.html>

<sup>6</sup> <http://www.chicagobusiness.com/article/20120222/NEWS08/120229941/at-t-internet-service-outage-lasting-6-hours>

<sup>7</sup> <http://networkingexchangeblog.att.com/bio/ed-amoroso/>

<sup>8</sup> <http://www.att.com/gen/investor-relations?pid=9816>

been adequately addressed as they should. It is unacceptable when the vast majority of AT&T residential and business customers have to rely on AT&T telecommunications services that simply are not reliable. Moreover when service issues affect such a widespread and diverse part of the United States and consumers are largely forced to rely on these providers, it makes things burdensome on customers of these carriers.

As an example, several of our IP attorneys and I have worked in the telecommunications field for a number of years both at large nationwide carriers like AT&T as well as smaller national carriers and regional carriers like McLeodUSA which through a M&A was purchased by Paetec Communications<sup>9</sup> which through another M&A was purchased by Windstream<sup>10</sup> Communications. While employed at McLeodUSA we had a similar issue where parts of Michigan were unable to access the internet, due to an update on a Cisco router becoming corrupt and as a result technicians had to reload the router tables. However, after that issue the company (McLeodUSA) created a remediation and plan to prevent issues, from occurring in the future. So we fully understand that issues do occur and cause downtime and pain for business as well as retail residential customers.

However, what we do not understand and what is increasingly troubling, is the continued downtime and issues and seemingly the inability to have any redundancy built-in to AT&T's systems to prevent these problems from continuing to occur. If these problems occurred a single time and were fixed and plans and procedures were put into place to prevent a single point of failure from occurring, that is acceptable. But when a provider is unable to provide reliable service, and has no redundancy built-in to basic systems such as their PPOE authentication server(s) or "third-party web hosting service issue", not only are these problems troubling, but can actually be deadly for people that rely on connectivity to power their alarm systems, and other emergency medical devices. Especially since, there are several police and fire departments and small doctors and medical offices that rely on services from AT&T, Verizon & Comcast to provide reliable and dependable services.

Respectfully Submitted,

/s/ Joseph A. Libuszowski

Joseph Libuszowski

Sr. Telecommunications Legal Analyst

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<sup>9</sup> [http://www.paetec.com/static-assets/about-us/press-releases/2007/PAETEC\\_McLeodUSA\\_091707.PDF](http://www.paetec.com/static-assets/about-us/press-releases/2007/PAETEC_McLeodUSA_091707.PDF)

<sup>10</sup> [http://dealbook.nytimes.com/2011/08/01/windstream-to-buy-paetec-for-891-million/?\\_php=true&\\_type=blogs&\\_r=0](http://dealbook.nytimes.com/2011/08/01/windstream-to-buy-paetec-for-891-million/?_php=true&_type=blogs&_r=0)