



The voice of mid-size communications companies

April 20, 2015

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

Re: *Ex Parte* Communication: PS Docket No. 14-174, GN Docket No. 13-5, RM-11358, WC Docket Nos. 05-25, and RM-10593

Dear Ms. Dortch:

On April 16, 2015, AJ Burton of Frontier Communications, Jeff Lanning of CenturyLink (by phone), and the undersigned of ITTA met with Matt DelNero, Daniel Kahn, Michele Levy Berlove, Jean Ann Collins, and Heather Hendrickson (by phone) of the Wireline Competition Bureau to discuss the Commission's Notice of Proposed Rulemaking ("*NPRM*") seeking comment on copper retirement, backup power for customer premises equipment ("CPE"), and related issues in connection with the ongoing TDM-to-IP transition.¹

We expressed concern that several of the proposals in the *NPRM* single out incumbent local exchange carriers ("ILECs") for disparate regulatory treatment and would continue to place ILECs at a competitive disadvantage in comparison to their cable and wireless competitors. These requirements are unwarranted and unnecessary in light of the current state of the communications marketplace in which ILECs are no longer dominant in the provision of residential or business voice services. We urged the Commission to refrain from adopting needless and intrusive regulations that will stifle innovation and investment and undermine its goals of facilitating the IP transition and advancing broadband deployment to consumers throughout the United States. Rather, the Commission's IP transition policies should be focused on ensuring regulatory parity and technological neutrality so as to stimulate competition, reflect marketplace realities, and promote the Commission's technology transition and broadband deployment objectives.

¹ *In the Matter of Ensuring Customer Premises Equipment Backup Power for Continuity of Communications; Technology Transitions; Policies and Rules Governing Retirement Of Copper Loops by Incumbent Local Exchange Carriers; Special Access for Price Cap Local Exchange Carriers AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, PS Docket No. 14-174, GN Docket No. 13-5, WC Docket No. 05-25, RM-11358, RM-10593, Notice of Proposed Rulemaking, FCC 14-185 (rel. Nov. 25, 2014) ("*NPRM*").

Wholesale Access

We observed that the Commission's proposals relating to wholesale access and additional notice to competitive local exchange carriers ("CLECs") are premature and inconsistent with Section 214 of the Communications Act. The Commission's comprehensive review of the special access marketplace is well underway and the Commission has indicated that it intends to complete its evaluation by the end of this year. The Commission should continue to move forward with this process. We are confident the Commission's analysis will show sufficient competition in the market for special access services, such that adopting the proposals in the *NPRM* would be premature and wholly unnecessary. Indeed, the FCC's examination could very well lead the Commission to identify areas where regulation should be removed to encourage innovation.

We also pointed out that Section 214 is not an appropriate vehicle for the Commission to adopt its proposals relating to wholesale access. It is well established that the Section 214 discontinuance process cannot be used to challenge changes in rates, terms, and conditions of service. Thus, a discontinuance process that includes an evaluation of the prices, terms, and conditions of service (e.g., by precluding ILECs from adjusting their rates for various components of the IP replacement product, requiring ILECs to offer a minimum number of bandwidth options, and limiting changes ILECs may wish to make with respect to service delivery options and other terms and conditions that take into account the nature of the IP replacement product) cannot be squared with the statute.

Retail Notice and Related Disclosures

The extensive retail customer notice requirements proposed in the *NPRM* are unnecessary. In many cases, copper retirements have little or no practical impact on retail customers and providing them notice would be unnecessary or confusing. In situations where notice to retail customers could be beneficial, such as when copper retirement requires the provider to replace or install CPE on a customer's premises or eliminate line power, there is every incentive for carriers to provide consumers with the necessary information to understand how such changes may affect them.

To the extent the Commission adopts retail notice requirements, it should ensure providers have adequate flexibility to exercise their reasonable discretion. It should not specify the form, content, and timing of notices, adopt onerous document retention requirements, or require notice to additional entities.

The Commission also should refrain from placing burdensome restrictions on ILECs regarding how they interact with customers about the services available for purchase as a result of the transition to upgraded facilities. The presence of significant competition from other voice providers provides sufficient marketplace constraints to address any concerns relating to "upselling." Placing additional restrictions specifically on ILECs would diminish competition by inhibiting their ability to compete, particularly given that 60%-70% of households do not purchase ILEC voice services today. Such requirements also could be detrimental to consumers by limiting transparency and increasing their costs. For example, to the extent ILECs cannot

