



July 5, 2016

Ex Parte Notice

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

RE: *Technology Transitions, GN Docket No. 13-5; Petition of USTelecom for Declaratory Ruling that Incumbent Local Exchange Carriers are Non-Dominant in the Provision of Switched Access Services, WC Docket No. 13-3; Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers, RM-11358*

Dear Ms. Dortch:

On Thursday, June 30, 2016, the undersigned, together with Joshua Seidemann, Vice President – Policy, and Jesse Ward, Industry & Policy Analysis Manager, met separately on behalf of NTCA–The Rural Broadband Association (“NTCA”), with Claude Aiken, legal advisor to Commissioner Mignon Clyburn; Amy Bender, legal advisor to Commissioner Michael O’Rielly; and Travis Litman, legal advisor to Commissioner Jessica Rosenworcel to discuss matters in the above-referenced proceedings.

As an initial matter, NTCA noted its long-standing support as evidenced by multiple filings in the above-referenced proceedings and others for “clear rules of the road” that, even through a transition of underlying network technologies, can and will govern the delivery of services to consumers, ensure seamless transmission and exchange of data between network operators, provide regulatory certainty, and promote core public policy principles. *See, e.g., Petition of the National Telecommunications Cooperative Association for a Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolution*, GN Docket No. 12-353 (filed Nov. 19, 2012); *Comments of NTCA*, GN Docket No. 13-5 (filed July 8, 2013); *Comments of NTCA, et al.*, GN Docket No. 13-5, *et al.* (filed Oct. 26, 2015). NTCA observed, however, that the efforts to develop such “rules of the road” should be undertaken carefully, with a narrow focus upon what is needed to update existing rules – rather than using technological evolution as cause or excuse to rewrite rules in broad and sweeping ways that actually create uncertainty and thus undermine innovation. For example, we noted that to the extent “discontinuance” rules are recast to capture even those technological transitions whereby a carrier pledges to continue offering a service subject to the same tariffed rates, terms, and conditions, this creates a climate of uncertainty that will deter and delay investments in network upgrades. *See Comments of NTCA*, PS Docket No. 14-174 (Feb. 5, 2015), at n. 18 (noting the lack of clarity regarding whether a rural local exchange carrier that deploys fiber-to-the-premise technology and provides IP-enabled voice as a local exchange service (and offers related exchange access services) subject to the very same state and federal regulations and tariffs as the day before might still constitute a “discontinuance”).

Marlene H. Dortch

July 5, 2016

Page 2 of 2

On a related note, NTCA raised concerns regarding the use of technology transitions as a vessel to impose *new* regulatory requirements where none existed previously. To be clear, to the extent the Federal Communications Commission (the “Commission”) desires to explore whether certain requirements on the offering of services are necessary to protect the public interest consistent with a proper exercise of statutory authority, NTCA noted the Commission can of course undertake such an examination pursuant to notice-and-comment rulemaking. But the Commission should not use “service discontinuance” as a vessel to attach new obligations to a replacement service where the predecessor service itself was *not* subject to such requirements; such an approach goes far beyond the plain and obvious meaning of “discontinuance” – because nothing of the kind is actually being “discontinued” – and is something more appropriately addressed via separate rulemaking. For these reasons, NTCA objected, for example, to the imposition of new cybersecurity requirements on replacement services to qualify for streamlined treatment in connection with discontinuance requests. NTCA explained that it has been and remains deeply involved in industry working groups aimed at enabling tailored implementation of the *voluntary* cybersecurity framework, and that incorporation of this framework as a “requirement” for purposes of processing discontinuance requests in a certain manner risks undermining the carefully designed *voluntary* nature of the framework and the ability for carriers to evolve in implementing and applying aspects of that framework over time.

Finally, NTCA urged the Commission not to neglect other essential aspects of the technology transitions debate. In particular, issues arising out of the transmission and exchange of data between *all* underlying networks are just as important to the ultimate consumer experience as the practices of any “last-mile” network operator or retail service provider. NTCA explained that the statutory goal of universal service will be undermined if interconnection rules in a post-transition environment are not clearly defined. A lack of defined policies could levy all of the costs of transporting quality voice traffic, managed service data, and other data to and from distant gateways and interconnection points upon rural consumers. Moreover, as the rural call completion epidemic demonstrates, market forces alone cannot be relied upon to ensure the seamless transmission of data between rural and urban areas in the absence of some “regulatory backstop.” NTCA described efforts it is undertaking to assess the cost, capacity, and service quality burdens associated with interconnection issues for rural consumers in a post-transition world, and urged the Commission to not lose sight of such issues as part of a broader agenda with respect to technology transitions.

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission’s rules, a copy of this letter is being filed via ECFS.

Sincerely,

/s/ Michael R. Romano

Michael R. Romano

Senior Vice President – Policy

cc: Claude Aiken
Amy Bender
Travis Litman