

June 23, 2015

Via Electronic Filing

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

RE: Technology Transitions, GN Docket No. 13-5; Policies and Rules Governing the Retirement of Copper Loops by Incumbent Local Exchange Carriers, RM-11358

Dear Chairman Wheeler:

The Office of Advocacy, U.S. Small Business Administration (“Advocacy”) respectfully submits this *ex parte* letter to the Federal Communications Commission (FCC) regarding the above-referenced Notice of Proposed Rulemaking in the Emerging Wireline Networks and Services proceeding. Advocacy encourages the Commission to adopt policies governing network transitions that will ensure the ability of small competitive carriers to meet the demand that small businesses have for competitive choices in wireline service.

The Office of Advocacy

Congress established the Office of Advocacy under Pub. L. 94-305 to represent the views of small entities before Federal agencies and Congress. Advocacy is an independent office within the Small Business Administration (“SBA”), so the views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration. Part of our role under the Regulatory Flexibility Act (“RFA”) is to assist agencies in understanding how regulations may impact small businesses, and to ensure that the voice of small business is not lost within the regulatory process.¹ Congress crafted the RFA to ensure that, while accomplishing their intended purposes, regulations did not unduly inhibit the ability of small entities to compete, innovate, or to comply with the regulation.²

Background

On November 25, 2014, the Commission released a Notice of Proposed Rulemaking and Declaratory Ruling seeking to address issues related to ongoing network technology changes.

¹ Pub. No. 96-354, 94 Stat. 1164 (1980).

² Pub. L. 96-354, Findings and Purposes, Sec. 2 (a)(4)-(5), 126 Cong. Rec. S299 (1980).

Specifically, the FCC sought comment on proposals that would govern incumbent local exchange carriers' (ILEC) obligations with regard to both consumers and competitive carriers when modernizing their networks. The FCC stressed that technology transitions must preserve the principles of the Communications Act that have defined the relationships between those who build and operate networks and those who use them—competition, consumer protection, universal service, public safety and national security. Advocacy has consistently advocated for FCC policies that would preserve these values and has urged the FCC in several instances to address issues related to both the ability of small competitive carriers to participate in the telecommunications market and the availability of competitive choices for small business consumers. Advocacy strongly supports the FCC's goal of preserving competition as network technology evolves.

Advocacy's Comments

In October of 2010, Advocacy published a congressionally requested study titled "The Impact of Broadband Speed and Price on Small Business" (Columbia Telecommunications Corporation, 2010). From the study, we learned that small businesses believe broadband service is as important to their businesses as basic utilities like electricity. We also learned that small businesses are largely dissatisfied with the affordability and choices offered to them in the broadband market. The results of our broadband study affirmed the efforts of our office to advocate for telecommunications policies that promote the kind of competition in the marketplace that will meet the growing small business demand for affordable telecommunications services. Advocacy encourages the FCC to educate and engage further with small business consumers to learn how they will be impacted by future technology transitions to ensure that the policies the FCC adopts preserve and promote choice for small business consumers.

The FCC can make some decisions now that will both encourage the modernization of our nation's telecommunications infrastructure, and preserve consumer access and choice. Specifically, Advocacy encourages the FCC to adopt a rebuttable presumption requiring applications for the discontinuance of wholesale service offerings, under the FCC Section 214 copper retirement rules. Because of the potential harm to consumers, including small businesses, incumbent carriers should not be permitted to retire infrastructure that is currently in use without FCC oversight. To prevent incumbents from raising barriers to competition when modernizing their networks, the FCC should also adopt its proposal to require incumbent providers to offer equivalent wholesale rates, terms, and services to competitive providers when it grants such applications. This is particularly important given that the FCC is still evaluating whether current pricing, terms and conditions for special access are reasonable.

Competitive carriers have made a strong case that their ability to purchase wholesale access to incumbent networks is necessary to provide small business consumers with meaningful choices among various service providers for their broadband and voice needs. Competitive carriers offer services and products to small businesses that incumbent providers do not offer, and may lack the incentive to offer without any competitive pressure to do so. Current data shows that competitive carriers provide nearly one-third of the wireline services consumed by

small businesses.³ Incumbent carriers should not be allowed to remove these choices from small business consumers by charging competitive carriers higher wholesale rates or demanding more onerous contract terms when modernizing their network technology. Competitive carriers and small business consumers have supported the continued investments of incumbents in our nation's telecommunications infrastructure, and they should not be left behind as that infrastructure evolves. The FCC should ensure that small businesses will not lose access to affordable, tailored products that meet their unique needs.

Advocacy strongly encourages the FCC to preserve and promote small business choice by adopting the two proposals discussed above. For additional information or assistance, please contact Jamie Saloom at (202) 205-6890 or Jamie.Saloom@sba.gov.

Respectfully submitted,

A handwritten signature in blue ink that reads "Jamie Belcore Saloom". The signature is written in a cursive style and is placed on a light blue rectangular background.

Jamie Belcore Saloom
Assistant Chief Counsel
SBA Office of Advocacy

cc: FCC Chairman Tom Wheeler
Commissioner Mignon Clyburn
Commissioner Jessica Rosenworcel
Commissioner Ajit Pai
Commissioner Michael O'Rielly
Jonathan Sallet, FCC General Counsel
Matthew NelNero
Howard Symons
Gigi Sohn

³ See Comments of Windstream Corporation, GN Docket No. 13-5, at Figure 2 (February 5 2015).