

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

WASHINGTON D.C. 20554

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| In the Matter of: |) | |
| |) | GN Docket No. 13-5 |
| Potential Trials Relating to the Ongoing |) | |
| Transitions from Copper to Fiber, |) | |
| From Wireline to Wireless, and from |) | |
| Time-Division Multiplexing (TDM) to IP. |) | |
| _____ |) | |

**COMMENTS OF THE
MICHIGAN PUBLIC SERVICE COMMISSION**

On May 10, 2013, the Federal Communications Commission (FCC or Commission) issued a Public Notice seeking comment on a proposal from the Technology Transitions Policy Task Force (Task Force) to move forward with potential real-world trials to obtain data that will be helpful to the Commission. The goal of any trials would be to gather a factual record to help determine what policies are appropriate to promote investment and innovation while protecting consumers, promoting competition, and ensuring that emerging all-IP networks remain resilient. In particular, the Commission seeks comment on several potential trials relating to the ongoing transitions from copper to fiber, from wireline to wireless, and from time-division multiplexing (TDM) to IP.¹ The Commission seeks more specific comment with respect to conducting trials in the above-named categories that touch on several aspects of the transition, including technology and interconnection, public safety concerns, impact on consumers, geographic area,

¹ FCC Public Notice DA 13-1016, GN Docket No. 13-5, released May 10, 2013, p 1.

design and structure, the roles of state and tribal governments, and legal issues in the course of conducting these trials.

In accordance with the directive of the Public Notice and the pleading cycle established therein, the Michigan Public Service Commission (MPSC) submits these initial comments regarding the potential trials.

The MPSC recognizes the ongoing evolution and transition of customers from the landline network to wireless and broadband technology alternatives and the opportunities and innovation that these technologies can bring. The trials proposed by the Task Force are extensive and present several potential and far reaching challenges in many respects for the parties involved in these trials, which include the state commissions and tribal governments, public safety agencies, customers, and competitive carriers among the most notable and significant. The safety of its citizens and reliability and quality of the telecommunications network in Michigan are of the utmost concern for the MPSC.

To that end, the MPSC herein addresses some questions proposed by the FCC in its Public Notice, and will provide further comment or elaboration on its initial comments in the Reply Comment phase of this proceeding if necessary. The MPSC's silence on a particular proposal or question raised in the Public Notice does not indicate its support or opposition with regards to that proposal or question.

DISCUSSION

I. Technology Trials

The FCC raises several questions and seeks comment regarding issues that would surround a trial involving voluntary VoIP interconnection between providers.

The lack of clarity as to whether VoIP is classified as telecommunications service or an information service is a concern for this issue. If the FCC were to determine that the VoIP is a telecommunications service, then the standards for negotiation and interconnection as set forth under Sections 251 and 252 of the Act should apply without question.

The MPSC also supports the application of Sections 251 and 252 of the Act regardless of the technology used to interconnect carriers' networks. Review and approval of these agreements by the state commissions would allow the states to more closely follow the process of the proposed trials in our state and provide neutral assistance for any issues or disputes arising with regard to these agreements. Additionally, extension of the obligations under Sections 251/252 for voice traffic would allow state commissions to arbitrate any disputes occurring during the process of negotiation. The MPSC notes that the Michigan Telecommunications Act was amended in 2011 to exclude interconnected VoIP from the list of services the MPSC has authority over. MCL § 484.2401(1). But, under Michigan Telecommunications Act, any modification under Section 401 does not affect, "The authority of a provider or the commission to act pursuant to or enforce 47 USC 251, 47 USC 252, any lawful and applicable tariff, or any state law, regulation, or order related to wholesale rights and obligations, including the rights and obligations of local exchange carriers to interconnect and exchange voice traffic." MCL § 484.2401(3)(a).

Typically, providers also negotiate or have some obligatory level of performance measures woven into these agreements as well. The MPSC believes

that some level of performance measurements are necessary to alleviate any public safety concerns or the risk of customers being left without service during these potential trials. Although there are some technological differences between VoIP interconnection versus traditional interconnection under Sections 251/252 of the Act, there are measures that can accommodate both types of interconnection. But, regardless of the type of interconnection, the FCC should make it clear that the requirement to pass traffic on with no alteration still applies. Because of the voluntary nature of these trials by carriers, the MPSC presumes that any interconnection agreements already in place where carriers are operating in the trial areas will continue without needed alteration.

The MPSC remains more guarded in the approach of wireline to wireless trials. As the Public Notice notes, AT&T has indicated that it intends to seek authority to service millions of wireline customers in rural areas with a wireless only product. While wireless only is already a preferred option for many, any trials conducted dealing with transitioning from a wireline to wireless product should initially be on a customer voluntary basis only and customers should not be required to participate in the trial until other issues of concern are addressed such as reception, reliability, battery back-up power, and home alarm system connections. Additionally, the trials could be detrimental to businesses that rely on multi-line phone systems or other technologies if a wireline to wireless trial were to be mandated. The MPSC is aware that the New York Public Service Commission has conditionally approved a trial for Verizon to replace its wireline service in a portion of Fire Island with its wireless Voice Link offering. The results of this trial

could provide the FCC with some further information on how to proceed with additional trials.

Most importantly, any trials, whether VoIP or wireline, and any data gathered from these trials should be shared with the respective state commission in which the trials take place. The MPSC continuously receives calls from customers on services that it does not regulate, and if trials are conducted, it will continue to get calls if there are any issues that cannot be resolved with the carrier on their own. If there are any complaints in these trial areas, the FCC may wish to establish a two-way information/complaint sharing system so that these complaints may be resolved expeditiously and so that both the FCC and state commissions are aware of any problems.

Along with wireless trials, the MPSC believes that any all-IP trials conducted should also include a roadmap from carriers that the state commissions and the FCC can follow. Cooperation and information sharing between providers, the FCC, and the respective state commissions, will be of utmost importance in the process of any potential trials. Providers should provide clear details on how and when the trials are happening and provide key contact information to the state commissions so that any questions or issues that arise can be addressed in a timely and thorough fashion. Providers often try to make the case that they can cooperate with the states without the need of unnecessary regulatory interference, and these trials present an opportunity for them to do such.

The MPSC hopes that any trials will encompass all types of geographic areas such as occur within the state of Michigan, including urban areas as well as rural

areas where technologies are limited, to obtain a true picture of whether or not these trials would work in certain areas of our state. The MPSC cautions again, however, that these trials should be voluntary in nature to the customers and that participation not be required by customers in geographic areas where the trials are conducted. Preliminary to conducting any geographic trials, carriers volunteering to participate in the trials should provide the MPSC with the potential exchanges that are under consideration so that the MPSC can evaluate whether a trial in that area may be concerning. Notification and complete disclosure to customers and customer feedback will be critical in these trials as well. Any results of such trials should be made available to all states regardless of whether their state participated in the trial. It is important for all to know the results before the trials are fully evaluated and potentially expanded.

II. Role of State & Tribal Governments

The MPSC commends the FCC for recognizing its commitment to coordinate with NARUC's Presidential Task Force on Federalism and Telecommunications as well as other state efforts as effectively as possible.² The MPSC has expressed its support for the state's roles in conducting these trials within these comments and believes the state's roles are critical in the success of any such trials, however, it reiterates its concern regarding its statutorily limited role in addressing any issues in these trials for unregulated services. This is why the FCC should develop a clear process for referring any wireless/VoIP/IP transition complaints and issues from the states to the FCC to work to resolve those issues in a timely manner. Again, this is

² Public Notice GN Docket No. 13-5, p. 12.

where the importance of two-way data sharing between the states and the FCC might be useful.

III. Legal Issues

When moving forward, the MPSC requests that the FCC take into consideration the fact that regulation is different in each state. And, in particular, the statutory authority of some state commissions may not grant or allow for the necessary oversight of the proposed trials. As each state has very different state laws, there may need to be changes in state laws to accommodate such trials. This is important to ensure that the proper safeguards are in place for these transitions to adequately protect the public.

Moreover, it is important that despite the technology change that these potential trials involve in the delivery of services to customers, the role of state oversight of intrastate voice services and carrier of last resort obligations remain. The FCC should not consider preemption of these state roles when determining how to proceed in conducting these voluntary trials. The FCC should also continue its role in consumer protection when weighing any potential waiver from or forbearance of rules in order to conduct these trials.³ Although the MPSC does not support required participation for any trials, if the FCC elects to do such, it should extend any consumer protection rules afforded to customers affected by any wireline to wireless, or wireline to VoIP trials. The MPSC also supports that the FCC clarify

³ See FCC Decision In the Matter of Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations, WC Docket No. 12-61 et. al., released May 17, 2013. Specifically the FCC's determination on USTA's request to forbear from Sec. 214 discontinuance of service requirements, pp. 57-61.

the classification of VoIP service, and that the standards for negotiating interconnection agreements under Sections 251 and 252 of the Act apply.

CONCLUSION

The MPSC thanks the Commission for the opportunity to comment on these potential trials and looks forward to reviewing the comments of other parties and participating in this proceeding.

Respectfully submitted,

**MICHIGAN PUBLIC SERVICE
COMMISSION**

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