

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

WASHINGTON D.C. 20554

In the Matter of:)	
)	WC Docket No. 13-3
Petition of US Telecom for Declaratory)	
Ruling that Incumbent Local Exchange)	
Carriers are Non-Dominant in the)	
Provision of Switched Access Services)	
_____)	

**COMMENTS OF THE
MICHIGAN PUBLIC SERVICE COMMISSION**

On January 21, 2016, a Public Notice was issued by the Federal Communications Commission (FCC) seeking comment to refresh the record on a petition filed by the United States Telecom Association (USTelecom) on December 19, 2012. In the petition, USTelecom requests a declaratory ruling that incumbent local exchange carriers (ILECs) are non-dominant in the provision of switched access services.

The Michigan Public Service Commission (MPSC) offers the following comments on USTelecom’s petition.

The data reported and used by USTelecom is too broad to be considered for any declaratory purposes by the FCC. The petition cites that “...approximately 40% of U.S. households have ‘cut the cord’ and rely on wireless for their voice service.”¹

¹ Petition, pg. 7.

This percentage is based on national surveys that do not take into account individual areas where wireless service can be unreliable or non-existent. USTelecom also cites a finding from a recent survey that “at least 20 states have adopted legislation in the past few years that significantly deregulate traditional ILEC voice services based upon the availability of competitive alternatives, and many additional state regulatory commissions have implemented alternative regulatory mechanisms for ILECs in their states.”² The petition fails to consider that this sampling is too small to be applied to the entire nation. Broad survey results should not be applied to states with rural or underserved areas that rely on wireline services. In these areas, ILECs remain the dominant provider because customers may not have access to “competitive alternatives” that would allow them to “cut the cord.”

USTelecom also uses outmoded data to support their petition. Many of the statistics and projections cited are up to five years old. USTelecom asserts that “it is reasonable to project that by the end of 2012 approximately 40% of households will no longer subscribe to a wireline service.”³ As discussed elsewhere in these comments, this assertion is based on data for the United States as a whole and doesn’t necessarily reflect the telecommunications landscape in every state. In addition, there is data available that is more current which will give a clearer

² Petition, pg. 18.

³ Petition, pg. 31.

understanding of households still subscribing to wireline services without relying on the projections of USTelecom. The claim by USTelecom that “less than one in three households subscribes to an ILEC switched access service...this figure is likely to be closer to one-in-four households by the end of 2012”⁴ is based upon data collected in 2011. The Commission should not rely on outdated statistics and projections when current data is available. USTelecom should be tasked with reporting current data to substantiate their claims. The FCC should require USTelecom to obtain and report current data before they consider the request for declaratory ruling.

USTelecom asserts “that ILECs are no longer in any way ‘dominant’ when providing voice services over their traditional switched access networks.”⁵

USTelecom includes a lengthy discussion of alternative services available that have pushed the ILECs out of their dominant position. Among these alternatives, USTelecom emphasizes the growth of mobile and Internet Protocol (IP)-based networks. While mobile wireless use continues to increase every year, many customers are in areas that are considered underserved. The 18th Annual Mobile Wireless Competition Report from the FCC shows detailed mapping of Nationwide Mobile Wireless Coverage for July 2015.⁶ The map clearly shows areas of the country where wireless service is unreliable. Michigan in particular has areas of the Upper Peninsula that show unpredictable wireless service. Because wireless

⁴ Petition, pg. 44.

⁵ Petition, pgs. 3-4.

⁶ <http://wireless.fcc.gov/competition-reports/mobile-wireless/mw-18/report-assets/>

service is not regulated in the same way as traditional wireline services, coverage is not consistent in all areas. Customers in these areas rely on ILECs for telephone service when wireless is not available. The regulations in place for ILECs as dominant carriers ensure that customers in these underserved areas still have the option of affordable wireline service.

Similarly, IP-based network use continues to expand as more customers utilize this technology for communication. As with wireless services, however, many areas are still underserved by this option. Broadband connectivity, an indispensable service in order to provide IP-based voice service, is not yet available to all customers. Connect Michigan tracks and reports broadband service availability for the state of Michigan. The Connect Michigan Final Grant Report (March 2015) shows mapping of broadband growth and availability in Michigan.⁷ Many areas in Michigan, particularly the Upper Peninsula, have no access to broadband services. Because broadband is not currently subject to the same regulations as wireline service, other areas in Michigan show unreliable service and areas where service has been removed. ILEC services are particularly important for these underserved areas as the only option for voice communication. Limiting ILEC regulations could mean that these underserved areas would face yet another option becoming unavailable to customers.

⁷ <http://www.connectmi.org/final-grant-report>

For many regions, ILEC services remain the dominant carrier. Customers rely on ILECs to provide voice services when there are limited or unreliable options. The regulatory mandates that are in place for ILECs ensure that these customers retain services at reasonable rates. USTelecom seeks relief from three specific dominant carrier regulations.⁸

1) Dominant carriers are subject to price-cap or rate-of-return regulation, and must file tariffs with applicable cost support for services on a minimum notice of seven days or more.

The MPSC believes that customers in rural and underserved areas are protected from unfair price increases through this regulation. Because ILECs are the only choice for voice communication in these areas, dominant carrier regulations must remain in place to safeguard customers with no other options.

2) Dominant carriers are subject to a 60-day waiting period for applications to discontinue, reduce, or impair services to be granted.

This regulation also protects customers in rural and underserved areas and allows for a longer comment period prior to discontinuance, reduction, or impairment of services than required for a non-dominant provider. ILECs must apply to the FCC and obtain approval to discontinue service before taking action.

⁸ Petition, pgs. 9-10.

This process protects customers from arbitrarily losing their only option for voice communication.

3) Dominant carriers are eligible for presumptive streamlined treatment for fewer types of transfers of control under Section 214 of the Communications Act of 1934. (47 USC § 214).

Transfers of control regulations also protect customers. USTelecom complains that dominant carriers are subject to more stringent regulations than non-dominant carriers in this respect. For customers in rural and underserved areas, these regulations serve as a safeguard against unfair business practices. Loosening these types of regulations on dominant carriers would leave customers vulnerable, especially in areas without voice alternatives.

Because areas still exist where ILECs are the only choice for voice services, it is vital that dominant carrier regulations remain intact. Customers in rural and underserved areas have little choice when it comes to voice communication. Removing these regulations would allow ILECs to operate unchecked. In an unregulated environment, customers in these underserved areas could find themselves with unreliable or grossly overpriced service; or without service at all. Dominant carrier regulations continue to serve to protect the public and ensure voice communication for many customers.

USTelecom reports “(a) large number of states have already recognized the public interest in eliminating unnecessary regulations on ILECs in response to the

availability of competitive alternatives offered by wireless and VoIP providers.”⁹ It cites alternative state regulatory mechanisms for ILECs, as well as state support for deregulation. The petition states that the FCC “should be leading [the states] by example”¹⁰ and issue a declaration removing dominant carrier regulations from ILECs. It is unnecessary at this time for the FCC to make such a declaration. States that determine ILECs are no longer dominant carriers are free to reduce these regulations on their own. States such as Michigan, where ILECs continue to be dominant carriers for many areas, should not be constrained by a national FCC ruling that does not consider the unique conditions that exist in some states. By allowing each state to individually decide whether ILECs in their state remain dominant carriers, the FCC can avoid the detrimental impact over-broad deregulation may have on many customers.

The MPSC appreciates the opportunity to provide comments on this important issue. The FCC should deny USTelecom’s petition. ILECs remain dominant carriers in the provision of switched access services. The data provided in the petition is outdated and not applicable to every area. Although wireless and broadband technologies continue to experience growth, not every customer currently has access to these options. ILEC carriers remain the most reliable, and in many cases the only option for customers in rural and underserved areas. The FCC

⁹ Petition, pg. 18.

¹⁰ Petition, pg. 20.

should not limit a state's ability to protect customers. Due to the extent of the relief requested, the MPSC will continue to evaluate the impact that USTelecom's request will have on Michigan customers and companies.

Respectfully submitted,

MICHIGAN PUBLIC SERVICE COMMISSION



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