Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Technology Transitions	)	GN Docket No. 13-5
	)	
Policies and Rules Governing Retirement Of Copper Loops by Incumbent Local Exchange Carriers	)	RM-11358
	)	
Special Access for Price Cap Local Exchange Carriers	)	WC Docket No. 05-25
	)	
AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services	)	RM-10593

COMMENTS OF THE
MICHIGAN PUBLIC SERVICE COMMISSION

On August 7, 2015, the Federal Communications Commission (FCC or Commission) released a Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking (FNPRM) in the above-captioned proceedings seeking comment on clear standards for transitioning from legacy or existing service to an all-Internet Protocol (IP) environment with the goal of ensuring public safety, consumer protection, universal service and competition. Specifically, the FNPRM requests comment on proposed criteria with which the Commission can measure the adequacy of substitute or alternative services that a carrier plans to use to replace legacy services when making a technology transition. The criteria should ensure that the fundamental features of the legacy service such as connection quality and

persistence, 9-1-1 service, and services for those with disabilities, are safeguarded. The Michigan Public Service Commission (MPSC) offers the following comments regarding the specific questions discussed in the FNPRM.

Establishing Clear Standards to Streamline Transition to an All-IP Environment

The MPSC supports establishing clear criteria for determining an adequate substitute service and believes that limiting uncertainty will encourage innovation while protecting consumers. The FCC has proposed that carriers who demonstrate that a substitute or alterative service meets certain criteria be eligible for an automatic grant pursuant to section 63.71(d) of the Commission's rules, thus speeding up the discontinuance application process. The FCC proposes eight criteria: (1) network capacity and reliability; (2) service quality; (3) device and service interoperability, including interoperability with vital third-party services (through existing or new devices); (4) service for individuals with disabilities, including compatibility with assistive technologies; (5) Public Safety Answering Point (PSAP) and 9-1-1 service; (6) cybersecurity; (7) service functionality; and (8) coverage.[1]

The MPSC supports the use of the criteria for carriers switching from a time division multiplexed (TDM)-based legacy service to a non-TDM alternative service whether those alternative services are IP-based, wireless or other newer emerging

[1] FNPRM pg. 109, par 208: http://transition.fcc.gov/Daily_Releases/Daily_Business/2015/db0925/FCC-15-97A1.pdf

technologies. The MPSC also supports the FCC's proposal that applications which do not qualify for the automatic grant be subject to the traditional process involving a multi-factor determination where the availability of substitute or alternative services would play a part in that determination. The flexibility in the application process will also help to encourage technological innovation.

The MPSC is concerned that using more than one alternative service to fulfill the criteria may be problematic. A scenario where one carrier by itself could not meet the coverage requirement but two carriers, each of which met all other criteria, could jointly satisfy the condition may not be problematic, but there are concerns with this approach. In scenarios where the criteria are met by multiple carriers, public safety and consumer protections could be seriously compromised, or cause customers to have to purchase multiple services. In these instances a more critical review may be necessary and removing multiple carrier applications from the automatic grant process may be required. While the MPSC agrees that a carrier may use an existing third party service to meet the criteria, there should be a transition plan in place to facilitate the customer's move to the new carrier and ensure that there is not a disruption in service.

While application of national bright-line criteria may be desirable, it may be difficult to implement across all states; especially when considering demographics, geography and the unique challenges that some states may have (as noted in the MPSC's March 31, 2014 comments in GN-Dockets Nos. 13-5 and 12-353). As a result, there may be a need for some discretion on this issue or a referral to the

states. Local testing may be the only way to ensure that the new service works as a replacement for traditional phone service. A possible approach might be to require providers to file monthly reports on certain service metrics, either with the FCC or the state commissions, for a period of one year after transitioning customers in an area before final approval is given.

Network Capacity and Reliability

The MPSC agrees with the Commission that Network Capacity and Reliability is imperative. The criteria should include capacity and reliability requirements that meet or exceed legacy capabilities. Customers have long relied on their phones to place calls in emergencies and it is essential for public safety that in times of crises the phone system is able to handle the increase in calls that may occur and that the reliability of the system to complete those calls is unaffected.

Service Quality

The MPSC believes it is important that service quality be maintained or exceeded with the transition to a substitute or alternative service and supports that standards be included in the criteria. Michigan is a state that no longer has service quality standards due to deregulation. For this reason the MPSC is especially concerned that the criteria provides some measurement with which to ensure the transition does not impair quality and reliability. Standards and reporting requirements must be established to address premium thresholds for call quality, responding to and resolving complaints, protection from false and misleading advertisements and offerings, ensuring that 911 services work properly and that

callers' locations are identifiable, as well as requiring that service standards are established and enforced for installation, repairs and requests for disconnections.

Device and Service Interoperability

It is important that the transition to a substitute or alternative service does not cause customers to lose the functionality of their equipment, either temporarily or permanently. Device and Service Interoperability is important to the function of numerous customer devices and includes features such as Caller ID and voicemail, as well as specifications necessary for the function of essential public safety devices such as medical alert services and assistive devices for the hearing impaired. Device interoperability is important to business consumers for the operation of essential business equipment such as credit card and fax machines. The telephone network supports a wide range of various devices and it would be unreasonable and potentially harmful if customers had to replace, modify, or be unable to use these devices due to a lack of interoperability. Device and Service Interoperability is a serious concern and should be included in the criteria. While there may be other criteria the FCC should consider, the MPSC agrees with the CTC report cited in the FNPRM that conforming to standard modem technology and the International Telecommunication Union (ITU) T.38 standard should at least be a starting point for developing criteria. The CTC report recommends lab testing to determine that new technology conforms to the appropriate criteria and the MPSC agrees that

these tests should be completed before a provider is permitted to use that technology to replace existing services.

Service for Individuals with Disabilities

It is fundamental that individuals with disabilities have access to the communications network. All possible measures should be taken to ensure that the customer's current assistive equipment is compatible with the substitute or alternative service. It is our understanding that Text Telephone Service (TTY) may not work with an IP network, and this may be a major hurdle that the FCC needs to address. The importance of ensuring that the replacement service provides at least equivalent assistance for consumers with disabilities highlights the need for its inclusion in the criteria. If the substitute or alternative service is not compatible with customer devices and a transition to alternative equipment is required, or if voice quality is degraded, then the application should not be granted until the provider can demonstrate to the FCC and state regulatory bodies that the substitute or alternative service provides the equivalent or better services than what is currently being provided to the customer. Additionally, if the customer must purchase new equipment (a smart phone, etc.) to accommodate the new service, the issue of who will be responsible for the cost needs to be addressed.

Real time text (RTT) over IP networks is where technology is heading and has some advantages over TTY service. Therefore, as part of the transition to substitute or alternative services it would be beneficial to include a requirement for RTT services. As part of any mandate, it is important to ensure that RTT be

interoperable with other services. However, as we discussed earlier, it is our understanding that TTY may not work with an IP network. The plan to transition to IP should include measures to ensure that customers that were previously using TTY devices have the necessary equipment and knowledge to transition to RTT. The MPSC agrees with the Commission that it is important to address RTT equipment and education standards as essential components of a transition to IP. In addition, it should be established that the customer can reach 9-1-1 through RTT in each transition area. Also, prior to these changes, it should be determined how the transition to RTT will: 1) impact the Federal Telecommunications Relay Service Fund; and 2) affect TTY laws/funds in the states.

In addition, hard of hearing customers should be afforded the opportunity to participate in the benefit of high definition (HD) voice that comes with the transition to IP networks. Any chance to reduce reliance on services such as captioned telephone service not only has the potential to improve quality of life but also allows for faster and enhanced communications when calling 9-1-1 or other emergency services. It is an important benefit of the transition to IP networks and should be a required feature.

PSAP and 9-1-1 Services

The MPSC agrees that the availability, reliability, and functionality of 9-1-1 service are important and should be a criterion in any adequate substitute test adopted. Customers expect and rely on the ability to call 9-1-1. Any substitute or alternative service should be required to provide equivalent or better service and

resiliency as compared to the legacy system it is replacing. Substitution or alternative service should comply with all federal and state laws and regulations pertaining to 9-1-1. The FCC should also exercise special care when considering retirement of 911 network components. The replacement service should provide automatic location information that is comparable to the legacy system it is replacing. It is not acceptable to allow new technologies to impair the existing 9-1-1 system by not providing essential location information. Additionally, it is critical that customers continue to be able to make calls during power outages. The FCC has addressed some issues with regard to power outages and battery back-up in PS Docket No. 14-174, but it should be reiterated here that before any substitute service is allowed to replace a legacy service, it should establish that it has the ability to provide dial tone for a minimum of at least eight hours for residential customers. Consideration should also be given to business and enterprise customers and for first responders and PSAPs to ensure that discontinuance of TDM based services will not affect their abilities to receive reliable service during an outage—reliability that these customers are accustomed to with the legacy network. It is also critical that customers have a clear understanding of any power limitations of the new technology. Customer education programs should be in place to help customers understand these issues and take the necessary actions to ensure they have sufficient power to meet their needs.

Communications Security

Communications Security is integral to the service quality and reliability of the telephone network and should be included in the criteria. Local and network denial of service, eavesdropping, impersonation, loss of control over connected devices and fraud are serious security concerns and should be addressed within the application process. The MPSC agrees with Public Knowledge's comments that an assessment of network vulnerabilities and a comparison of mitigation efforts to industry best practice and standards should be completed as part of the review to determine the security of the new technologies.[2]

Service Functionality

Service Functionality is an essential aspect of the phone system and should be included in the criteria. Customers expect features such as call-waiting, caller ID, collect and calling card capabilities, as well as third-party non-call functionality. Comparable features should be available from a substitute service seeking to replace legacy services. Additionally, if compatibility issues arise from the new technology, the application should then not qualify to be automatically granted. As described in our comments on Device and Service Interoperability, there are numerous devices supported by the telephone network and customers should not

[2]Page 118, footnote 700 of the Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking: http://transition.fcc.gov/Daily_Releases/Daily_Business/2015/db0925/FCC-15-97A1.pdf

lose the benefit of their devices because of a technology transition decision made by the carrier.

Service functionality should be seen as comprising all the capabilities of the previous service, including all vertical services currently being offered, whether or not those capabilities are currently being utilized by the customers. Customers have the expectation that the functionality of the phone service will be available when it is needed. For example, medical alert monitoring systems are expected to be available if additional assistance is needed, or credit card processing is expected to be available if opening or expanding a business.

Coverage

The MPSC agrees that Coverage should be a criterion in any adequate substitute test. Loss of service due to lack of coverage should not be accepted. Substitute or alternative service carriers must be required to provide service to all persons for whom the legacy service was available. People rely on the phone system for 9-1-1, reaching loved ones and running businesses. Phone service and the functionality available from that service, is integral to people's daily lives and should not be limited due to a *de minimis* threshold.

Another aspect of Coverage is the ability to fully access the service within the home or business. For example, customers should not experience difficulty making a phone call in some rooms of the home due to a lack of a wireless signal. To satisfy the Coverage criterion, coverage should be on par with the legacy wireline service regardless of the type of technology being utilized.

As stated in our prior comments, "education during the copper transition is critical to alleviate misunderstandings and confusion for consumers and supports requiring initiatives similar to the digital television (DTV) transition to allow the copper transition to move along more smoothly." Education initiatives for the telephone transition are more critical than the DTV transition because telephone communications, including 911 services, plays such an essential role in our daily lives".[3]

Other Criteria

The MPSC notes that the Commission has declined to consider affordability in its criteria in the section 214 process because "the evaluation process in this context should focus on the nature of the service and because cost is not part of the equation in determining whether an available alternative service constitutes an adequate substitute for the service sought to be discontinued."[4] While price is not a functional component of the service itself, retail pricing and affordability is a crucial factor in a customer's decision to continue using a service. The MPSC is concerned that Plain Old Telephone Service (POTS) may be discontinued and replaced with big-package bundles. These big-package bundles would be more expensive than POTS and would give some customers more features than they requested, wanted

[3] MPSC Battery Pg. 5 - http://www.dleg.state.mi.us/mpsc/orders/fcc/comments/comments-02-05-15.pdf

[4] Page 121 of the Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking: http://transition.fcc.gov/Daily_Releases/Daily_Business/2015/db0925/FCC-15-97A1.pdf

or needed. Some customers may only want, or afford, stand-alone voice service, so it is important that this service remains an option and continues to be affordable. In the event that stand-alone voice does not continue to exist, it is important that voice and broadband bundles are offered at affordable prices without the need for customers to be forced into obtaining a triple or quad play-package bundle. Not taking affordability and comparable pricing of a replacement service into consideration could lead to *de-facto* discontinuance by customers in that particular market if no other service providers are available in that area. The MPSC asks the Commission to reconsider adding Affordability as one of the criteria for measuring the adequacy of substitute or alternative services.

Section 214(a) Discontinuance Process

Section 63.71 (b) allows customer notice to be given on the day the application is filed. Applications that are automatically granted are approved in 31 or 60 days, giving the customer very little time to respond. More time may be appropriate. As stated in the MPSC's prior comments, "reaching customers may be more difficult than reaching interconnected providers. Interconnected providers are more likely to be prepared and anticipating copper retirements, unlike subscribers that may be inexperienced in dealing with regulatory matters and totally caught off guard and unable to digest the information as easily as interconnected providers".[5] Carriers know well in advance that they will be transitioning their service, so it

[5] MPSC Battery comments pgs. 4-5
http://www.dleg.state.mi.us/mpsc/orders/fcc/comments/comments-02-05-15.pdf

should not be unduly burdensome for them to provide advanced notice to those affected prior to filing their applications. Advanced notification also has the advantage of not delaying the application process.

As part of the discontinuance process, carriers may send email notification, but email notice alone is not sufficient unless procedures are in place to ensure that the email is received and the message is seen. Email may go to a junk folder or to an email address that is not currently being monitored. Without an email verification method to ensure that customers are notified, notice should be sent through postal mail. End user customers are likely not expecting a message of this nature so regardless of the delivery method, the language used should be clear and direct.

Section 214(a) Discontinuance Notice to Tribal Governments

The MPSC supports the inclusion of a requirement to notify Tribal governments of any discontinuance, reduction, or impairment of service in their state. Tribal governments should be afforded this notification along with the Governor of the State and the Secretary of Defense so as to better prepare for community concerns or issues.

Copper Retirement Process –
Good Faith Communication Requirement

The FCC adopted procedures that require ILECs that are eliminating copper service to work in good faith to provide the information that interconnecting carriers need regarding the transition. It would be beneficial and hasten the

transition process if there were specific objective criteria to evaluate the good faith requirement. If an interconnecting LEC feels that the criteria are not being met, and the Commission agrees, then the transition process should be extended 90 days so that all necessary information needed to accommodate the transition with no disruption of service to end user customers can be provided to and assessed by the interconnecting entity.

Termination of Interim Reasonably Comparable Wholesale Access Condition

The preservation of commercial wholesale platform services while providing important services to customers and businesses also facilitates competition and should be preserved throughout and after the transition to substitute services. According to the most recent report issued by the MPSC on "The Status of Telecommunications Competition in Michigan" 8.8%, or over 80,000 of the CLEC lines reported to the MPSC as of 12/31/2013 are served using commercial wholesale platform services. This is a significant number of end users that would potentially be affected by these services being discontinued. To maintain the competitive environment, the FCC should require that wholesale access continue at least until a Commission proceeding can assess the impact to end users and competition due to the transition of services.

Conclusion

The MPSC appreciates the opportunity to provide comments on such an important matter. While the transition to new technologies provides an opportunity

for many customer benefits, it is important that the fundamental features of the legacy system are safeguarded and that no one that depends on that legacy service gets left behind. It is imperative that the Commission and state regulatory authorities have information available to them regarding the availability and location of broadband and IP technologies in order to make sound decisions on discontinuance of TDM based services for replacement services such as wireless and IP based services. As has been articulated before, in Michigan and other states, there are unserved and underserved areas for broadband technologies. Inadequate broadband combined with terrain and weather issues makes some of the replacement technologies not practical at this time. As we move toward an IP based system, all of these issues need to be considered and evaluated before and during the IP transition.

Respectfully submitted,

MICHIGAN PUBLIC SERVICE COMMISSION

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