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January 22, 2014

**EX PARTE NOTICE**

VIA ECFS

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

Re: Special Access Rates for Price Cap Local Exchange Carriers, WC Docket No. 05-25, RM-10593; Technology Transitions Policy Task Force, GN Docket No. 13-5; Petitions to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353; Connect America Fund, WC Docket No. 10-90.

Dear Ms. Dortch:

On January 17, 2014, the undersigned from COMPTTEL met with Jon Sallet and Stephanie Weiner of the Commission's Office of General Counsel.

In the meeting COMPTTEL discussed the negative impact to business consumers if the Commission does not revisit its last mile access policies as the industry transitions from using TDM to IP technology. The vast majority of competition in the business market comes from traditional CLECs that rely, to a substantial extent, on the competitive provision of the Act in providing consumers the competitive services they need.<sup>1</sup> Robust competition is needed to encourage carriers to address the unique needs, circumstances and problems faced by small to medium size businesses. Moreover, COMPTTEL explained that wholesale last mile access at just, reasonable terms and conditions is also needed for business customers with multiple locations, but that want a single provider, to have a choice in that provider. Competitors build—using private investment—where it is economically viable to do so. As the Commission is aware, however, it is not economically viable for competitors to replicate the ILEC network in its entirety; so in order to compete (particularly for multi-location customers) competitors must supplement their reach, by purchasing from large ILECs wholesale last mile access as provided by the Communications Act. Where access to last mile facilities is not available and/or special access rates are unreasonable, consumers' ability to have a choice in a provider is thwarted.

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<sup>1</sup> See COMPTTEL Ex Parte Letter, WC Docket No. 05-25 et al, pp. 2-3, filed Dec. 20, 2013.

In addition, we discussed some of the legal issues surrounding the interconnection so critical to achieving the transition of the PSTN to IP technology. Specifically COMPTEL discussed the fact that the nature of the service offered via managed VoIP service is the same as voice service offered via TDM technology. As the Commission has found consumers view interconnected VoIP services the same as traditional voice telephone services.<sup>2</sup> In fact, AT&T recently responded to Congress that its own market research shows that in many cases consumers who use VoIP do not even realize that they are using a VoIP service (as compared to plain old telephone service).<sup>3</sup> As the Commission has determined, IP telephony services “enable real-time voice *transmission*.”<sup>4</sup> Therefore, managed VoIP services meet the statutory definition of a telecommunications service and the Commission should confirm that the interconnection provisions of the Act apply to IP interconnection for voice services.<sup>5</sup>

COMPTEL also noted that the Commission has some real world evidence of what happens if the interconnection provisions of the Act are not applied. Competitors have been asking the Commission for years to address the ILECs’ refusal to interconnect at any technically feasible point on their networks (i.e., existing points that would accommodate IP interconnection for voice services) in accordance with the Act.<sup>6</sup> In all that time, until state

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<sup>2</sup> See Report and Order and Further Notice of Proposed Rulemaking, *Connect America Fund et al*, WC Docket No. 10-90 *et al*, FCC 11-161, ¶ 946, n. 1906 (2011) (“ICC/USF Transformation Order and FNPRM”), *citing Telephone Number Requirements for IP-Enabled Services Providers; et al.*, WC Docket Nos. 07-243, 07-244, 04-36, CC Docket No. 95-116, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, 22 FCC Rcd 19531, 19547, ¶ 28 (2007) (recognizing that interconnected VoIP services increasingly are viewed by consumers as a substitute for traditional telephone services).

<sup>3</sup> See Letter from Keith K. Krom, AT&T, to Charlotte Savercool, Committee on Energy and Commerce, Mr. James Cicconi’s Responses to the Questions for the Record, at 3 (Jan. 16, 2014).

<sup>4</sup> Report and Order and Further Notice of Inquiry, *Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996*, WT Docket No. 96-198, FCC 99-181, ¶ 177 (1999).

<sup>5</sup> The Commission recently quantified the benefit consumers will experience as a result of one interconnection provision under the Act – reciprocal compensation for the exchange of traffic – due to its recent reform. “Our reforms will bring numerous and significant benefits to consumers. As with past intercarrier compensation reforms, we anticipate savings from intercarrier compensation payments will result in more robust wireless service, more innovative offerings, and cost savings to consumers.... Indeed, we estimate, based on conservative assumptions, that once our ICC reform is complete, mobile and wireline phone consumers stand to gain benefits worth over \$1.5 billion dollars per year.” *ICC/USF Transformation Order and FRNPM* at ¶654.

<sup>6</sup> In a 2009 *ex parte* letter, a group of competitors asked the Commission to “make clear that the interconnection and traffic exchange obligations of the Telecommunications Act continue to apply even as networks transition from circuit-switched to packet-based technology.” Letter of William H. Weber, Cbeyond, *et al*, to Marlene Dortch, GN Docket No. 09-51, p. 1, filed Sept. 22, 2009.

commissions began actively looking at the issue,<sup>7</sup> of the three largest ILECs, we are only aware that one – Verizon – had entered into one, non-formalized agreement (i.e., it was only reduced to written form last month) for IP interconnection, and this agreement was with its marketing partner Comcast. Moreover, Verizon refuses to, in accordance with the Act, make the terms of this interconnection agreement - which they voluntarily enter into - publicly available so that other providers may review and potentially opt-into the terms that Verizon presumably deemed to be commercially reasonable.<sup>8</sup>

In sum, in order for consumers, particularly business consumers, to have a choice in providers - and reap all the innovation and pricing benefits that accompany having such a choice - the Commission must confirm the interconnection provision of the Act apply to IP interconnection for voice services and revisit its last mile access policies.

Sincerely,

/s/

Karen Reidy

cc: Jon Sallet  
Stephanie Weiner

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<sup>7</sup> Now that state commission are acting on this issue, Verizon claims to have executed a couple more agreements, the terms of which are undisclosed and therefore cannot be assessed for reasonableness or available for opt-in by other carriers or even provide verification that such agreements are, in fact, traffic exchange agreements for local (or other) voice traffic. *See* Letter of Maggie McCready, Verizon to Marlene H. Dortch, GN Docket No. 13-5, filed Jan. 10, 2014.

<sup>8</sup> *See* Opposition of Verizon MA to “Motion to Comply”, *Investigation by the Department on its Own Motion to Determine whether an Agreement entered into by Verizon New England Inc., d/b/a Verizon Massachusetts is an Interconnection Agreement under 47 U.S.C. § 251 Requiring the Agreement to be filed with the Department for Approval in Accordance with 47 U.S.C. § 252*, Commonwealth of Massachusetts Department of Telecommunications and Cable, D.T.C. 13-6, Dec. 16, 2013.