

May 12, 2014

Julie A. Veach
Chief, Wireline Competition Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353; Technology Transitions, GN Docket No. 13-5; Petitions for Rulemaking and Clarification Regarding the Commission's Rules Applicable To Retirement of Copper Loops and Copper Subloops, RM-11358; Letter of US TelePacific Corp. et al. Requesting Commission to Refresh Record and Take Expedited Action to Update Copper Retirement Rules to Promote Affordable Broadband Over Copper, WC Docket No. 10-188; A National Broadband Plan for Our Future, GN Docket No. 09-51

Dear Ms. Veach:

Public Knowledge, The Utility Reform Network, the National Association of State Utility Consumer Advocates (NASUCA), Office of the People's Counsel, District of Columbia, Maryland Office of People's Counsel, State of New Jersey, Division of the Rate Counsel, Appalshop, Inc., the Benton Foundation,¹ the Center for Media Justice, the Center for Rural Strategies, Kentucky Resources Council, Inc., The National Consumer Law Center, on Behalf of Its Low-Income Clients, and the Rural Broadband Policy Group write to the Federal Communications Commission today to express concern about reports that have surfaced across the country indicating carriers are forcing customers off of traditional copper-based phone service. Complaints often state that customers are being involuntarily moved to fiber or IP-based service (or some combination thereof), even if those new technologies fail to serve all of the user's needs or will be more expensive. Denying basic phone service to people who have relied on the network for decades violates the network compact that has successfully guided our communications policy for one hundred years. A Commission investigation of these complaints is necessary to ensure the continued vitality of the fundamental values that underlie our network, including universal service.

As the nation's communications networks undergo a transition to IP-based technology and new physical infrastructure, the Commission has made it clear this transition must be conducted responsibly and must leave everyone better off. This is why the Commission has

¹ The Benton Foundation is a nonprofit organization dedicated to promoting communication in the public interest. These comments reflect the institutional view of the Foundation and, unless obvious from the text, are not intended to reflect the views of individual Foundation officers, directors, or advisors.

undertaken initiatives like the technical trials and is creating a managerial framework for the policy decisions ahead.² The Commission has also confirmed that it will continue to ensure all new technologies serve the fundamental values underlying our phone network, and will specifically examine areas where fiber service may still fail to support the features and reliability users expect.³ But now, the Commission is at risk of losing control of the network transition by allowing carriers to push their customers off of the traditional networks—in violation of their obligations as telecommunications carriers—simply to cut costs or push customers into higher-cost services or packages, generating more revenue for the carrier.

The Commission must begin investigating this issue quickly, lest inaction send carriers the message that abandoning customers in violation of their legal obligations is acceptable. Delay will only lead to carriers hanging up on more customers at a time when basic communications service is more important than ever.

The Commission's leadership in protecting people's access to basic communications service is especially important in areas where state legislatures have removed state-level authorities' ability to ensure customers continue to have meaningful access to the basic communications service they have always relied on at affordable prices. Where states have limited their authority over telephone service, often in reliance on continuing Commission oversight, the Commission's leadership is even more crucial.

Reports of carriers pushing customers off of the traditional phone network have sprung up across the country. If there ever was a time when the Commission could dismiss any of these incidents as an anomaly, that time has surely passed. The nationwide pattern of complaints that has arisen makes it incumbent on the Commission to investigate these allegations and ensure no customer is being wrongfully denied basic phone service. The Commission must act to protect network users nationwide, in states both with and without relevant state regulatory authority.

For example, The Utility Reform Network (TURN) has filed a motion before the California Public Utilities Commission (CPUC) asking the CPUC to prevent Verizon from letting the quality of its copper network deteriorate and from pushing customers from copper-

² See *Technology Transitions*, GN Docket No. 13-5, *AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition*, GN Docket No. 12-353, *Connect America Fund*, WC Docket No. 10-90, *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, *Numbering Policies for Modern Communications*, WC Docket No. 13-97, Order, Report and Order and Further Notice of Proposed Rulemaking, Report and Order, Order and Further Notice of Proposed Rulemaking, Proposal for Ongoing Data Initiative (rel. Jan. 31, 2014).

³ Julie Veach, *Protecting Consumers in the Transition from Copper Networks*, OFFICIAL FCC BLOG (May 7, 2014), <http://www.fcc.gov/blog/protecting-consumers-transition-copper-networks>.

based service to FiOS or Voice Link.⁴ TURN's motion also sets out evidence that Verizon's actions in California are part of a national strategy affecting customers, including in New York, New Jersey, and the District of Columbia.⁵ Previously, a CPUC Communications Division report in 2011 found that in California AT&T, Verizon, and Frontier, among other carriers, did not meet the Out-of-Service repair standard during any month in 2010.⁶ Based on this report and other complaints from consumer advocates, the CPUC issued an Order Instituting Rulemaking to ensure California residents have access to service that meets at least a basic level of service quality.⁷

In Maryland, the Communications Workers of America, AFL-CIO filed a letter with the Maryland Public Service Commission alleging, upon information and belief, that Verizon was planning to deploy Voice Link as a replacement for copper-based service in parts of Maryland.⁸ The Maryland Office of People's Counsel (Maryland OPC) has also previously testified that Verizon routinely migrates customers from the copper network to unregulated services with inadequate procedures for customer notice and consent.⁹ The Maryland OPC's review of complaints filed with the Maryland Public Service Commission and the Maryland Office of Attorney General since 2011 has revealed a number of customer complaints about inadequate notice and consent to the migration, and complaints about service quality and lack of comparability to copper-based service.

⁴ Emergency Motion of The Utility Reform Network (TURN) Urging the Commission to Take Immediate Action to Protect Verizon Customers and Prevent Further Deterioration of Verizon's Landline Network, *Order Instituting Rulemaking to Evaluate Telecommunications Corporations Service Quality Performance and Consider Modifications to Service Quality Rules*, Public Utilities Commission of the State of California, R.11-12-001 (filed Mar. 17, 2014) ("TURN Emergency Petition") (Exhibit A); Amended Response of the Communications Workers of America, District 9, in R.11-12-001 (filed Apr. 16, 2014) (Exhibit B).

⁵ *TURN Emergency Petition* at 26-31.

⁶ *Telephone Carrier Service Quality Report*, California Public Utilities Commission Communications Division, at 3, 7-8 (Mar. 2011) (Exhibit C). The Communications Division noted that the smallest competitive local exchange carriers (CLECs) repaired service outages the fastest, while the biggest incumbent local exchange carriers (ILECs) had the worst performance.

⁷ *Order Instituting Rulemaking to Evaluate Telecommunications Corporations Service Quality Performance and Consider Modification to Service Quality Rules*, Rulemaking 11-12-001, Order Instituting Rulemaking (Cal. Public Utilities Comm'n Dec. 12, 2011) (Exhibit D).

⁸ Letter from Vincent Trivelli to David J. Collins, Executive Secretary, Public Service Commission of Maryland, Case Nos. 9133 and 9114 (July 15, 2013) (Exhibit E).

⁹ Pre-Filed Direct Testimony of Scott C. Lundquist on Behalf of the Maryland Office of People's Counsel, *In the Matter of the Commission's Inquiry into Verizon Maryland Inc.'s Provision of Local Exchange Telephone Service Over Fiber Optic Facilities*, Case No. 9123, at 12-61 (June 19, 2008) (Exhibit F); Direct Testimony and Exhibits of Annie M. Eckert on Behalf of the Staff of the Public Service Commission of Maryland, Case No. 9123 (June 19, 2008) (Exhibit G).

In New York, the State Attorney General has asked the New York Public Service Commission (NYPSC) to stop Verizon from moving customers in the Catskills to the fixed wireless service Voice Link instead of repairing its copper lines.¹⁰ The New York Attorney General noted that customers report Verizon has asked them to switch from the copper network to Voice Link without fully disclosing the limitations of Voice Link, such as the lack of Internet access or support for alarm systems, medical alerts, and fax machines.¹¹ Verizon also attempted to replace its copper network with Voice Link in Fire Island, New York after Superstorm Sandy, until consumer outcry and regulatory investigations led Verizon to instead deploy fiber.¹² Beyond that, the New York Attorney General sounded the alarm that customers elsewhere in New York were being pushed onto Voice Link unless the customers objected strenuously and repeatedly. Indeed, when the NYPSC held public hearings about Voice Link, no fewer than eight members of the public testified that Verizon did not repair their copper line when they reported problems.¹³ Additionally, press reports have indicated that residents in East Harlem have been told by Verizon that they must upgrade to FiOS to receive any phone service.¹⁴

Although Verizon has agreed to replace its copper network with fiber in Fire Island, areas in New Jersey that were similarly moved to Voice Link after Superstorm Sandy have not even

¹⁰ Emergency Petition of New York Attorney General Eric T. Schneiderman for an Order Preventing Verizon from Illegally Installing Voice Link Service in Violation of Its Tariff and the Commission's May 16, 2013 Order, State of New York Public Service Commission, Case No. 13-C-0197 (June 26, 2013) (Exhibit H).

¹¹ Comments on Trials and Data Collection of the People of the State of Illinois and the People of the State of New York, *Technology Transitions*, GN Docket No. 12-5, *AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition*, GN Docket No. 12-353, *Connect America Fund*, WC Docket No. 10-90, *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, *Numbering Policies for Modern Communications*, WC Docket No. 13-97, at 25-26 (Apr. 1, 2014) ("Illinois and New York Attorneys General Comments") (Exhibit I).

¹² Public Knowledge, *The Phone Network Transition: Lessons from Fire Island* (Mar. 7, 2014), <http://www.publicknowledge.org/news-blog/blogs/the-phone-network-transition-lessons-from-fire-island> (Exhibit J).

¹³ Illinois and New York Attorneys General Comments at 13 ("Several witnesses testified that they were told by Verizon service personnel: 'I can't fix your line. I have been told I can't fix your line.'"); Temporary Use of Verizon's Voice Link Service on Fire Island, Transcript of August 24, 2013 Public Hearing at Ocean Beach Community House, Ocean Beach, New York, NY PSC Case No. 13-C-0197, *Tariff filing by Verizon New York Inc. to discontinue its current wire line service offerings in a specified area and instead offer a wireless service as its sole service offering in the area*, at 37, 42, 45, 54, 72, 78, 82, 91 (Exhibit K).

¹⁴ Jan Ransom, *Verizon Customers Fight Fiber Optic Push*, N.Y. DAILY NEWS (Mar. 13, 2014), <http://www.nydailynews.com/new-york/uptown/verizon-fiber-optic-force-fuels-customer-fury-article-1.1721067>.

had that option.¹⁵ AARP has consequently formally requested the New Jersey Board of Public Utilities to investigate Verizon's plans to deploy Voice Link in place of copper-based service and to develop a record examining Voice Link service.¹⁶

The Illinois Attorney General's Office has also told the Commission that complaints received by their office indicate some customers "are being moved off TDM service when the quality of service deteriorates, and some are being told that TDM, or traditional telephone service, is no longer available to them."¹⁷ For example, according one complaint, a customer was moved off her basic phone service to AT&T's IP U-verse Voice service when she requested repair for static on her line, resulting in a \$99.00 connection fee and substantially higher monthly bills.¹⁸ The Illinois Attorney General's Office also reported complaints over service quality issues like noise, static, lack of dial tone, phantom outbound calls, inaccurate or inoperable special features, and multiple people on the same line.¹⁹ Complaints in Illinois also indicated customers have been told they could not purchase standalone basic phone service,²⁰ and marketing efforts from the carriers to consumers indicated they had no choice but to move onto new networks.²¹

Finally, in the District of Columbia, the Office of the People's Counsel (OPC-DC) has petitioned the D.C. Public Service Commission (DC PSC) to conduct an investigation to broadly examine numerous service-related issues, including the causes and resolution of telephone outages and the reported poor quality of telecommunications services. OPC-DC's petition was prompted by reports of recurring service outages and interference on telephone lines, followed by Verizon's refusal to repair or upgrade its infrastructure, which hindered D.C. residents' ability

¹⁵ Edward Wyatt, *On a New Jersey Islet, Twilight of the Landline*, N.Y. Times (Oct. 14, 2013), <http://www.nytimes.com/2013/10/15/technology/on-a-new-jersey-islet-twilight-of-the-landline.html>.

¹⁶ Jeff Abramo, *AARP Calls on Christie Administration to Investigate Verizon's Plan to Abandon High Quality, Landline Phone Service at the NJ Shore and Replace it with Voice Link*, AARP (July 31, 2013), <http://states.aarp.org/no-second-class-services-at-the-jersey-shore/>.

¹⁷ Illinois and New York Attorneys General Comments at 13.

¹⁸ Illinois OAG File No. 2014 CONSC 00370133.

¹⁹ Illinois and New York Attorneys General Comments at 14; Illinois OAG File Nos. 2014 CONSC 00369693, 2014 CONSC 00369069, 2014 CONSC 00369668.

²⁰ Illinois OAG Complaint 2014 CONSC 00370650 (customer reporting he was told "in order to get a landline, it would be required to also bundle with another service, e.g. cable tv, Landline regular phone service was not available by itself.").

²¹ Illinois and New York Attorneys General Comments at 17. One marketing example told customers: "**We are excited to tell you that within the next 45 days, we'll be moving your Internet service to the AT&T U-verse network!**" *Id.* (citing Illinois OAG Complaint 2013 CONSC 00357797) (bold in original).

to use the copper lines for voice service, Life Alerts, and other important services.²² The DC PSC granted the DC-OPC's request, conducted evidentiary hearings, and ordered Verizon to submit remedial plans to remedy repeated service issues on the copper network.²³ In addition, the DC-OPC first raised the issue about customer migration from copper to digital networks in the quality of service investigation when it informed the DC PSC of the urgent need to investigate the information consumers were allegedly being given about what happens to their copper wire when FiOS is installed.

The problems that have garnered public attention so far are geographically widespread, and the Commission must take seriously the likelihood that these problems are occurring in many more states, leaving an unknown number of people with substandard basic communications service. This state of affairs is unacceptable. The Commission must now assert its leadership in this area, work with states where consumers are being denied adequate basic service, investigate places where customers are losing reliable basic voice service, and ensure that our country is living up to its commitment to provide basic communications service to everyone.

Respectfully submitted,

Jodie Griffin
Senior Staff Attorney
PUBLIC KNOWLEDGE

Regina Costa
Telecommunications Research Director
THE UTILITY REFORM NETWORK

²² See Petition of the Office of the People's Counsel for an Investigation into the Reliability of Verizon's Telecommunications Infrastructure in the District of Columbia, Formal Case No. 1090 (Aug. 26, 2011) (Exhibit L); Affidavit of Ernest L. Thomas in Support of the Office of the People's Counsel's Petition for an Investigation into the Reliability of Verizon's Telecommunications Infrastructure in the District of Columbia, Formal Case No. 1090 (Sept. 29, 2011) (Exhibit M); Affidavit of Phyllis Stewart-Thompson in Support of the Office of the People's Counsel's Petition for an Investigation into the Reliability of Verizon's Telecommunications Infrastructure in the District of Columbia, Formal Case No. 1090 (Sept. 26, 2011) (Exhibit N); Affidavit of Martha Thomas in Support of the Office of the People's Counsel's Petition for an Investigation into the Reliability of Verizon's Telecommunications Infrastructure in the District of Columbia, Formal Case No. 1090 (Sept. 23, 2011) (Exhibit O).

²³ See *In the Matter of the Investigation Into the Reliability of Verizon Washington, DC's Telecommunications Infrastructure*, Formal Case No. 1090, Order (D.C. Public Service Commission, Feb. 24, 2014) (Exhibit P).

Charles A. Acquard
Executive Director
THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES (NASUCA)

Sandra Mattavous-Frye, Esq.
D.C. People's Counsel
OFFICE OF THE PEOPLE'S COUNSEL, DISTRICT OF COLUMBIA

Paula Carmody
Maryland People's Counsel
MARYLAND OFFICE OF PEOPLE'S COUNSEL

Stefanie A. Brand
Director
STATE OF NEW JERSEY, DIVISION OF THE RATE COUNSEL

Mimi Pickering
Director, Community Media Initiative
APPALSHOP, INC.

Amina Fazlullah
Director of Policy
THE BENTON FOUNDATION

amalia deloney
Associate Director
CENTER FOR MEDIA JUSTICE

Edyael Casaperalta
Program Associate
CENTER FOR RURAL STRATEGIES
RURAL BROADBAND POLICY GROUP

Tom FitzGerald
Director
KENTUCKY RESOURCES COUNCIL, INC.

Olivia Wein
Attorney
THE NATIONAL CONSUMER LAW CENTER, ON BEHALF OF ITS LOW-INCOME CLIENTS