Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Petition for Declaratory Ruling to Clarify That Technology Transitions Do Not Alter The Obligation of Incumbent Local Exchange Carriers to Provide DS1 and DS3 Unbundled Loops Pursuant to 47 U.S.C. § 251(c)(3)

WC Docket No. 15-1

GN Docket No.13-5

REPLY COMMENTS OF THE VERMONT PUBLIC SERVICE BOARD & VERMONT PUBLIC SERVICE DEPARTMENT

Vermont's Public Service Board ("Board") and Department of Public Service ("Department") hereby submit these reply comments in response to the Federal Communications Commission's ("Commission") Public Notice in WC Docket No. 15-1 and GN Docket No. 13-5.\(^1\)

The Board is a three member, quasi-judicial board that supervises the rates, quality of service, and overall financial management of Vermont's public utilities: electric, gas, telecommunications, and private water companies. The Board also supervises certain aspects of cable television companies in matters not preempted by federal authority.

The Department is an agency within the executive branch of Vermont state government and is charged with representing the public interest in energy, telecommunications, water, and wastewater utility matters.

INTRODUCTION & SUMMARY

On December 29, 2014, Windstream Corporation petitioned the Commission to issue a declaratory ruling holding that the obligation of incumbent local exchange carriers ("ILECs") to provide DS1 and DS3 capacity loops on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3)

and 47 C.F.R. §§ 51.319(a)(4)-(5) are not changed or eliminated by the replacement of copper with fiber or by the conversion of transmission from time division multiplexing ("TDM") to Internet Protocol ("IP") format.²

On February 5, 2015, the Pennsylvania Public Utility Commission ("PAPUC") submitted comments on the Windstream Corporation's petition.³ The Board and Department support and endorse the PAPUC's comments. In particular, we support the PAPUC's comments, which generally support a finding that the ILECs’ obligations to provide DS1 and DS3 capacity loops on an unbundled basis or its functional equivalent remain intact even when copper loops have been retired. Accordingly, the PAPUC requests the Commission to confirm that its unbundling ruling for DS1 and DS3 capacity loops set forth in the Triennial Review Remand Order is technology neutral and will remain operative and intact when copper network facilities that are utilized for wholesale access purposes undergo a technology transition and are replaced with fiber optic circuits by the ILECs, or where relevant wholesale access transmission facilities cease to utilize the TDM communications protocol in favor of IP.⁴

DISCUSSION

The Commission should confirm that the unbundling obligation for DS1 and DS3 capacity loops contained in the *Triennial Review Remand Order* remains intact during the transition from copper to fiber. The failure to adopt and enforce technology-neutral wholesale policies threatens the ability of competitive carriers to obtain wholesale access to last-mile facilities.

The PAPUC comments, and we agree, that competitive LECs ("CLECs") continue to rely on wholesale access to the last-mile facilities of the ILECs. The unbundling rule ensures that the ILECs continue to provide cost-effective last-mile access in areas where copper loops have been...

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⁴. Comments at 2.
or are being replaced with FTTH/FTTP or where network access facilities are being converted from the TDM protocol to IP.\textsuperscript{5}

The Commission should guarantee that customers who currently depend on legacy services continue to have appropriate access to adequate legacy or IP-based service alternatives to interconnect. Failure to maintain an unbundling requirement for DS1 and DS3 capacity loops or a functional equivalent will undermine the competition that both state and federal regulators have sought to encourage.

**Conclusion**

For the foregoing reasons, the Board and Department respectfully urge the Commission to confirm that the unbundling obligation for DS1 and DS3 capacity loops that is set forth in the *Triennial Review Remand Order* remains intact during the transition from copper to fiber.

Dated at Montpelier, Vermont, this 27\textsuperscript{th} day of February, 2015.

\[\text{s/ James Volz }\]
\[\text{PUBLIC SERVICE}\]
\[\text{s/ John D. Burke }\]
\[\text{BOARD}\]
\[\text{s/ Margaret Cheney }\]
\[\text{OF VERMONT}\]

\[\text{s/ James Porter }\]
\text{Senior Policy & Telecommunications Director}
\text{Vermont Department of Public Service}

\textsuperscript{5}. Comments at 3.