April 2, 2007

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
Office of the Secretary  
445 Twelfth St., SW  
Washington, DC 20554

Re: RM 11358  
Petition for a Rulemaking to Amend Certain Part 51 Rules Applicable to Incumbent LEC Retirement of Copper Loops and Copper Subloops

Dear Ms. Dortch:

On behalf of Consumers Union and Consumer Federation of America, we write to urge the Federal Communications Commission to initiate a rulemaking to consider whether amendments to Part 51 rules applicable to the retirement of copper loops and copper subloops by incumbent local exchange carriers (ILECs) are necessary to protect the public interest, as requested in RM-11358 by petitioners XO Communications, LLC, et al., Petition for a Rulemaking to Amend Certain Part 51 Rules Applicable to Incumbent LEC Retirement of Copper Loops and Copper Subloops; and BridgeCom International Inc., et al., Petition for Rulemaking and Clarification.

1 Consumers Union is a nonprofit membership organization chartered in 1936 under the laws of the state of New York to provide consumers with information, education and counsel about good, services, health and personal finance, and to initiate and cooperate with individual and group efforts to maintain and enhance the quality of life for consumers. Consumers Union's income is solely derived from the sale of Consumer Reports, its other publications and from noncommercial contributions, grants and fees. In addition to reports on Consumers Union's own product testing, Consumer Reports with more than 5 million paid circulation, regularly, carries articles on health, product safety, marketplace economics and legislative, judicial and regulatory actions which affect consumer welfare. Consumers Union's publications carry no advertising and receive no commercial support.

2 The Consumer Federation of America is the nation’s largest consumer advocacy group, composed of over 280 state and local affiliates representing consumer, senior, citizen, low-income, labor, farm, public power an cooperative organizations, with more than 50 million individual members.
While reserving comment on the specific proposals made by petitioners, we strongly endorse petitioners' request that the Commission consider anew whether existing Part 51 rules adequately safeguard the public interest. ILEC retirement of copper loops and subloops implicates significant public interest issues including but not limited to serious public safety concerns. Fiber deployments that are replacing retired copper systems eliminate availability of the most rudimentary communications service — a functioning phone line — during power outages lasting longer than backup battery life, leaving our nation's most vulnerable citizens without access to emergency services once their backup battery expires. Copper retirement also eliminates redundancy in our communications systems that may be needed during natural disasters or national emergencies. The Commission should consider these public interest issues explicitly in a new proceeding.

In addition, the Commission should evaluate the implications of reduced consumer choice when access to competitive providers that may rely on and have a right to access copper loops is foreclosed by retirement. Further, the Commission should evaluate in a rulemaking whether ILECs are undertaking involuntary termination of copper in contravention of subscriber wishes, and if so, whether such mandatory retirement should be prohibited. Involuntary retirement raises significant public interest concerns.

Under the limited oversight provided by existing FCC rules, the serious issues of public safety, consumer choice and competition are rarely considered. We therefore strongly urge the FCC to initiate a rulemaking to consider amendments to Part 51 rules applicable to ILEC retirement of copper loops and subloops to explicitly consider whether the current rules serve the public interest.

Sincerely,

/s/
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