

Before the  
FEDERAL COMMUNICATIONS COMMISSION

Washington, DC 20554

|   |   |                            |
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| In the Matter of  | ) |                            |
|   | ) |                            |
|   | ) |                            |
| Technology Transitions  | ) | GN Docket No. 13-5         |
|   | ) |                            |
|   | ) |                            |
| Verizon New York Short-Term Network Change<br>(Belle Harbor, New York)      | ) | Report Nos. NCD-2351, 2353 |
|   | ) |                            |
| Verizon Virginia Short-Term Network Change<br>(Ocean View, Virginia)        | ) | Report Nos. NCD-2352, 2354 |
|   | ) |                            |
| AT&T Petition to Launch a Proceeding Concerning<br>the TDM-to-IP Transition | ) | GN Docket No. 12-353       |
|   | ) |                            |

**Note: This document is also being filed in Docket Nos. WC 10-188, GN 09-51 and RM-11358, and is being submitted as a comment to the FCC blog.**

**MOTION OF THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER  
ADVOCATES  
FOR STAY PENDING RESOLUTION OF OTHER PROCEEDINGS;  
INTERIM OBJECTIONS, COMMENTS AND REMARKS ON VERIZON NETWORK  
CHANGE NOTIFICATIONS**

The National Association of State Utility Consumer Advocates (“NASUCA”)<sup>1</sup> moves  
the Federal Communications Commission (“FCC” or “Commission”) to stay action on the

<sup>1</sup> NASUCA is a voluntary association of advocate offices in more than 40 states and the District of Columbia, incorporated in Florida as a non-profit corporation. NASUCA’s members are designated by laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts.

above-captioned Verizon change notifications.<sup>2</sup> The FCC should suspend the filing until the later of the following:

- Issuance of Report and Order in WC Docket No. 10-188 (copper retirement rules),
- Completion of IP Trials (GN Docket No. 13-5), or
- Completion of the investigation requested by Public Knowledge, et al. regarding forcing customers off copper-based service.<sup>3</sup>

Further, given the very-much-interlinked nature of these proceedings, and the public interest that goes far beyond earlier typical Network Change applications, NASUCA asks that the Verizon proceedings be placed on the Commission's Electronic Comment Filing System ("ECFS"), or that Verizon and the information service and telecommunications providers that file objections serve all filings electronically on interested parties.

This is a perfect storm. We had the Commission's Internet transition trials order (in GN 13-5), and the AT&T experiments proposed for Alabama and Florida in that docket.<sup>4</sup> There has been the Public Knowledge, et al. filing requesting investigation of copper retirements, referred to above. Now, among other things, we have Verizon's proposals to retire the copper loops in wire centers in New York and Virginia, and then to retire the switches there after moving the traffic to softswitches. Regardless of how such changes have been handled in the past,<sup>5</sup> at this point in time the Commission needs to take a step back and examine Verizon's proposed changes with a broader perspective.

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Members operate independently from state utility commissions as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (e.g., the state Attorney General's office). NASUCA's associate and affiliate members also serve utility consumers but are not created by state law or do not have statewide authority.

<sup>2</sup> See Report Nos. NCD-2351 through 2354.

<sup>3</sup> See GN Docket No, 12-353, et al., ex parte filing (May 12, 2014). NASUCA and four of its members signed on to the ex parte.

<sup>4</sup> AT&T has acknowledged its experiments as part of the Commission's review of the IP transition. Verizon, on the other hand, appears to be trying to accomplish much the same end as AT&T through standard FCC procedures.

<sup>5</sup> NASUCA has not researched this history.

Indeed, the Public Notices and the Commission’s rules mention objections to the network change only from information service providers and telecommunications service providers,<sup>6</sup> as if end-use consumers might not have objections to changes with these implications. It should be noted that the Telecom Act contains no such limitations.<sup>7</sup> The recent blog entry by the Chief of the Wireline Competition Bureau stated that the FCC “want[s] to hear from every kind of customer—residential, small or large business, wholesale, and those served by wholesale customers—about the potential benefits and/or harms that could come from the retirement of these copper facilities.”<sup>8</sup>

Therefore, in addition to these motions, NASUCA submits the following interim objections, comments and remarks.<sup>9</sup>

Verizon is proposing to provide service over fiber when it retires copper facilities. In 2003, the Commission declined to require unbundling of fiber facilities under 47 USC § 251(c)(3), because it did not find impairment as required by § 251(d)(2).<sup>10</sup> In the absence of the copper facilities, there will of necessity be impairment for competitors. Thus where Verizon retires the copper, fiber must be unbundled, at TELRIC rates.

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<sup>6</sup> See 47 CFR § 51.333(c).

<sup>7</sup> 47 USC § 214(a)-(d).

<sup>8</sup> <http://www.fcc.gov/blog/protecting-consumers-transition-copper-networks>.

<sup>9</sup> NASUCA has previously expressed concerns about the informal nature of such FCC staff requests (see NASUCA remarks on FCC processes, [http://nasuca.org/nwp/wp-content/uploads/2014/02/NASUCA\\_Amended\\_Submission-1-7-14.docx](http://nasuca.org/nwp/wp-content/uploads/2014/02/NASUCA_Amended_Submission-1-7-14.docx), and comments <http://nasuca.org/nwp/wp-content/uploads/2014/02/NASUCA-Comments-on-FCC-Procedures-Docket-No-14-25-.pdf>). Nonetheless, this filing is also being made pursuant to the procedure in Ms. Veach’s blog.

<sup>10</sup> See *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, 18 FCC Rcd 16978, 17145, para. 278 (2003) (Triennial Review Order), corrected by Errata, 18 FCC Rcd 19020 (2003) (Triennial Review Order Errata), vacated and remanded in part, affirmed in part, *United States Telecom Ass’n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) (USTA II).

Further, the loss of copper means no standalone digital subscriber line service (“DSL”), which removes a broadband option and is not good for consumers. Removing DSL limits the competitive options for consumers for Internet access and other broadband services.

As an eligible telecommunications carrier (“ETC”), Verizon is obligated to provide basic telephone service.<sup>11</sup> The Public Notices give no indication that these network changes implicate this ETC obligation. But it does not appear to have been officially been determined that voice service over fiber – such as available through Verizon’s FiOS product – meets the requirements of the ETC obligation. Further, the substitution of FiOS leads to the possibility of abusive or deceptive marketing, so that consumers are “upsold” to services that have fewer consumer protections.

Another consumer issue is back-up power. The FCC should ensure that the fiber network has adequate back-up power, and make clear that states have jurisdiction to impose back-up power requirements for both the local network and the customer premises.<sup>12</sup>

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<sup>11</sup> 47 USC § 214E.

<sup>12</sup> Given the complex nature of these proceedings – part of the reason for the instant motions – NASUCA reserves the right to make further motion, objections, comments and/or remarks in the above Dockets and Report Numbers.,