Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, DC 20554

In the Matter of	)	
	)	
Reducing Barriers to Network Improvements and Service Changes	)	WC Docket No. 25-209
	)	
	)	
Accelerating Network Modernization	)	WC Docket No. 25-208

COMMENTS OF PUBLIC KNOWLEDGE AND COMMUNICATIONS WORKERS OF AMERICA

Harold Feld
Senior Vice President
Nicholas Garcia
Senior Policy Director

PUBLIC KNOWLEDGE
1818 N St, NW
Suite 410
Washington, DC 20036
(202) 861-0020

Nell Geiser
Director of Research
Hooman Hedayati
Sr. Strategic Research Associate for Telecommunications Policy

COMMUNICATIONS WORKERS OF AMERICA
501 3rd ST NW
Washington, DC 20001
(202)434-1198

September 29, 2025

TABLE OF CONTENTS

Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, DC 20554

In the Matter of	)	
	)	
Reducing Barriers to Network Improvements and Service Changes	)	WC Docket No. 25-209
	)	
	)	
Accelerating Network Modernization	)	WC Docket No. 25-208

COMMENTS OF PUBLIC KNOWLEDGE
AND
COMMUNICATIONS WORKERS OF AMERICA

Public Knowledge[1] and Communications Workers of America[2] (PK/CWA) submit the following timely filed comments in the above captioned proceeding.

SUMMARY AND INTEREST OF PARTIES

PK and CWA share common goals of promoting universal access to broadband while preserving the existing universal voice connectivity that remains essential to all Americans. Since the Federal Communications Commission first sought comment on the "sunset of the

[1] Public Knowledge promotes freedom of expression, an open internet, and access to affordable communications tools and creative works. PK works to shape policy on behalf of the public interest. PK envisions a creative and connected future for everyone, where all people can use the internet and technology to realize their full potential, create authentic communities, and hold the powerful accountable.

[2] CWA is a labor union representing workers in telecommunications and technology, news media, broadcast and cable television, the airline industry, public service, manufacturing, and other fields. This includes more than 115,000 employees who build, upgrade, and service networks in wireline and wireless telecommunications. CWA has long supported universal communications services as a federal policy priority.

Public Switched Telephone Network" as part of the National Broadband Plan,[3] PK and CWA have consistently participated in the various proceedings surrounding the retirement of copper networks and the end of the legacy TDM network for over a decade. In each proceeding, PK and CWA, separately and jointly, have stressed the need to simultaneously encourage the rapid, universal deployment of affordable high-speed broadband ***and*** protect American's fundamental right to remain connected to affordable, reliable voice service that not only reaches 911 when needed, but connects every American to each other. Indeed, Congress created the FCC for this purpose.[4]

Part I briefly reviews the centrality of universal service and access to 911 to the Communications Act and the purpose of the Commission. The Commission may not – as the Bureau did when granting the two-year waiver of the Stand-alone Service Requirement[5] – trade protecting universal access to emergency services solely to encourage deployment of new networks.

Part II opposes forbearance from all network change notifications, particularly network change notifications that may impact 911. Because these notifications remain necessary to protect consumers, and to avoid unannounced changes that may disrupt traffic to public safety access points (PSAPs) because PSAP managers have insufficient warning to prepare, the proposed forbearance cannot meet the statutory requirements for forbearance. Furthermore,

---

[3] *In re A National Broadband Plan for Our Future*, GN Docket No. 09-51, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, at ¶¶ 15-16, (rel. Oct. 27, 2011) ("[F]ederal and state regulators must reconsider how legacy regulatory obligations should evolve as service providers accelerate their transition from the Public Switched Telephone Network (PSTN) to an all IP world.").

[4] Communications Act of 1934, as amended, Section 1. Codified at 47 U.S.C. § 151.

[5] *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84; *Technology Transitions*, GN Docket No. 13-5, Order (WCB March 20, 2025). ("*WCB Waiver Order"*).

without evidence that notification requirements create a barrier to deployment, in light of the potential harm to communities from failure of adequate notice, forbearance would not serve the public interest.

Part III addresses particular proposals to modify the existing adequate replacement test and the process of Commission review that would seriously imperil the ability of consumers to maintain basic voice service and 911 access. Specifically, adopting additional streamlining would deprive communities of service of adequate time to respond to an application for discontinuance. With regard to the test itself, the proposed blanket approval of 4G or 5G mobile service, absent enhanced equipment such as AT&T's AT&T Phone - Advanced, cannot provide an adequate replacement. Coverage to individual homes within the mobile footprint is too uncertain, and even where coverage is available call quality and call persistence cannot be guaranteed. Satellite service likewise has coverage and quality issues owing to difficulty penetrating thick foliage, problems with deep valleys, difficulty penetrating severe rain or snow or even especially thick cloud cover, and other technical constraints. Additionally, the Commission cannot deregulate or forbear in the expectation of future deployment or as yet unproven technologies such as direct to cell (D2C). Even if the Commission is correct that these replacements will be deployed ***eventually***, the Commission cannot allow carriers to terminate service until an actual adequate replacement is available. Finally, the Commission should not allow an emergency discontinuance to become a backdoor for a complete discontinuance without showing the existence of an adequate replacement.

Part IV explains why the Wireline Bureau erred in granting the two-year waiver of the SSR, and that the Commission should not make this waiver permanent. The SSR is an important feature for ensuring affordability.

Part V explains why none of the proposed forbearances can meet the statutory requirements for forbearance. The rules remain necessary to prevent unjust and unreasonable discrimination between high-cost areas and urban areas, are necessary to protect consumers (particularly with regard to 911 access), and forbearance would be contrary to the public interest.

Finally, PK/CWA take the opportunity in Part VI to remind the Commission that it must resolve the legal classification of facilities-based voice-over-IP service before the complete retirement of copper TDM networks makes it impossible for the Commission to regulate facilities-based VOIP pursuant to ancillary jurisdiction. Over three years ago, PK/CWA (and others) filed a Petition for Declaratory Ruling asking the Commission to resolve this classification issue – but the Commission has yet to put this Petition out for public comment. If the Commission genuinely intends to accelerate the transition to all IP services, it must know what authority it will have, and what regulations of facilities-based VOIP will persist, post-transition.

I. IT WOULD VIOLATE THE COMMUNICATIONS ACT TO DISCONNECT RURAL AMERICANS, LOW-INCOME COMMUNITIES, AND OTHER VULNERABLE POPULATIONS TO ACCELERATE NETWORK INVESTMENT.

PK/CWA fully support the goal of deployment of broadband and other "advanced telecommunications capabilities" to all Americans "in a reasonable and timely manner."[6] Nevertheless, the Commission must not abandon its central purpose, ensuring that all Americans remain connected to voice service, which continues to be the most important way to communicate with emergency services, and the primary means of communication for many elderly Americans, rural Americans, and other vulnerable populations. As Congress reasserted

[6] 47 U.S.C. § 1302.

with passage of the Improving Rural Call Quality and Reliability Act of 2017,[7] maintaining quality voice service to rural America remains essential even in the Internet Age. Sadly, while the Notice of Proposed Rulemaking pays lip service to the concept of preserving universal service, the changes proposed in the NPRM threaten to terminate legacy services without providing a universally accessible substitute.

Importantly, while Congress intended the Telecommunications Act of 1996[8] "to encourage the rapid deployment of new telecommunications technologies," it did not intend for the Commission to sacrifice the principles of universal access to achieve this. To the contrary, the 1996 Act affirmatively reinforced the principles of universal service central to the creation of the FCC in multiple provisions. First, Congress expanded the non-discrimination principle of Section 1 by expressly prohibiting discrimination on the basis of race, color, religion, national origin, or sex.[9] Further, Congress expressly adopted specific principles of universal service as part of the creation of the current Universal Service Fund.[10] Of greatest relevance here, Congress charged the FCC with ensuring that "rural, insular, and high cost areas, should have access to telecommunications and information services . . that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas."[11] Finally, the 1996 Act requires the FCC (and state Commissions) to "encourage reasonable and timely deployment" of broadband to all Americans."[12]

---

[7] Pub. L. 115-129.
[8] Pub. L. 104-104 ("1996 Act").
[9] *Id.* § 104.
[10] *Id.* § 101(a), codified at 47 U.S.C. § 254.
[11] 47 U.S.C. § 254(b)(3).
[12] Now codified at 47 U.S.C. § 1302(a).

The NPRM states that 75% of Americans live in wireless only households as a reason to believe that Americans generally do not rely on wireline service and a justification for accepting purely wireless solutions as adequate. This fails for several reasons. Even taking this statistic at face value, the fact that even this statistic shows that 25% of Americans refuse to give up wireline voice service demonstrates that a very significant number of Americans still find wireless an inadequate substitute for wireline – even if they primarily use wireless for voice communications. But this statistic substantially under-appreciates the extent to which Americans still rely on wireline. As the Pew Research Center found in 2024, 80% of households maintain a wireline broadband connection.[13] This demonstrates that the vast majority of Americans view wireless and wireline as complementary technologies. The Commission should recognize that Americans are not prepared to give up their wired connection to the world.

II. THE COMMISSION SHOULD NOT ELIMINATE OR FORBEAR FROM NETWORK DISCLOSURE REQUIREMENTS THAT PUT 911 CALLS AT RISK.

PK/CWA acknowledge that incumbent LECs unfairly bear the burden of mandated notice requirements when other providers do not have to comply with such mandates. However, the solution is not wholesale elimination of all section 251(c)(5) network change disclosure requirements. Public notice of such network changes remains important in ensuring that consumers, businesses, and government agencies using services that interconnect with other carriers are not harmed. This is even more important considering that, as the NPRM notes, many 911 calls to public safety answering points (PSAPs) are still taking place via TDM-based infrastructure that is susceptible to network change disruptions.[14]

---

[13] Risa Gelles-Watnick, "American's Use of Mobile Technology and Home Broadband," Pew Research Center (2024). Available at: https://www.pewresearch.org/internet/2024/01/31/americans-use-of-mobile-technology-and-home-broadband/

[14] NPRM at ¶ 20.

The Commission should require advanced notice of network changes that may disrupt traffic to PSAPs, and should reserve the right to delay 251(c)(5) network changes to prevent disruptions to PSAPs. This is particularly important in the context of major incumbent telecommunications providers' plans for large-scale retirement of their copper infrastructure in the coming years.[15] As an initial matter, this demonstrates that the current notification requirements do not stand as a significant barrier to retirement and, under the logic of the NPRM, subsequent investment in new services. But more importantly, it is prudent for the Commission to take a more cautious approach in the midst of this generational transition in the industry to prevent unintended disruptions that might be caused because of such network changes.

For these reasons, the Network change notification remains necessary to provide consumers adequate time to prepare and thus avoid significant disruption in their lives. Similarly, small businesses must have time to seek alternatives if the copper retirement disrupts their existing service. The existing rule therefore remains necessary to protect consumers.[16] Because the forbearance may also interfere with emergency services and first responders, the rule remains necessary to protect the public interest.[17] Forbearance as proposed by the NPRM would therefore violate Section 10.[18]

III. THE FCC SHOULD NOT FURTHER WATER DOWN THE CONSUMER PROTECTIONS OF THE TECHNOLOGY TRANSITION.

---

[15] *See for example*, AT&T, press release, "AT&T Outlines Strategic Plan to Drive Sustainable Growth and Enhanced Shareholder Returns" (December 3, 2024), https://about.att.com/story/2024/analyst-and-investor-day-2024.html. [Announcing that AT&T is actively working to exit its legacy copper network operations across the large majority of its wireline footprint by the end of 2029].
[16] *Cf.* 47 U.S.C. § 160(a)(2).
[17] *Cf.* 47 U.S.C. § 160(a)(3).
[18] 47 U.S.C. § 160.

By the end of 2016, the Commission adopted a set of rules for the transition that recognized the importance of protecting those still dependent on legacy copper, TDM service and facilitating transition to IP-based technologies. Importantly, these protections included adequate notification of the end of TDM based service so that subscribers could participate in the FCC's review of the first use of a new, adequate replacement technology and make whatever other adjustments were necessary to ensure a smooth transition. Twice since then, the Commission relaxed these protections on a theory that doing so would speed the transition without compromising service to consumers.[19] Despite the announced plans of multiple carriers to retire their copper, and the success of AT&T in creating an approved alternative replacement technology, the Commission proposes to further dilute the notice requirements and the protections the rules provide to consumers.

A. The Commission Should Not Apply Streamlined Treatment to All Discontinuance Applications.

The Commission's supposition that it has "failed" because protecting people from discontinuances takes more time than simply allowing providers to terminate legacy service before communities become aware of their intention does not justify cutting corners or sacrificing existing subscribers. The Communications Act exists ***because*** serving rural areas and vulnerable populations is hard. It is not something that a rational profit-maximizing firm would do without a requirement.[20] Even wireless coverage in rural areas requires a greater investment

[19] *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment,* WC Docket No. 17-84, Report & Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, 32 FCC Rcd 11128 (2017); *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Second Report and Order, 33 FCC Rcd 5660 (2018).

[20] *See, e.g., Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996; Petition for Forbearance of the Independent Telephone & Telecommunications Alliance*, CC Docket No. 97-11, Report and Order, 14 FCC Rcd 11364, 11380 (1999) ("*ITTA Forbearance*"). (Noting that as markets become increasingly competitive, ILECs will have incentive to drop less profitable areas.)

of towers, power and backhaul capability than more densely populated urban areas hence the need for build-out obligations. But even with these obligations, rural areas (and Tribal lands) have significant unserved areas. For this reason, the Commission and states previously used a combination of rules and subsidies to require ILECs to provide service to the high cost and difficult to deploy areas– and to maintain adequate service in low-income communities.

Therefore, as the Commission previously recognized,[21] the end of the existing legacy network requires focused attention and care. The Commission should not dilute the remaining notice requirements. Impacted customers ***already*** face little notice and short timelines for the opportunity to urge the Commission to remove an application from streamlined treatment. Automatic streamlined treatment, as the NPRM proposes through various mechanisms, will make it practically impossible for residents, businesses or local governments to bring to the attention of the Bureau critical facts which may demonstrate that "the present [or] future public convenience and necessity will be adversely affected."[22]

The existing use of streamlining allows the Bureau to evaluate the adequacy of a proposed replacement service while allowing a bare minimum time for members of the community of service to alert the Bureau to facts which may make streamlined treatment inappropriate. There is no indication that the time needed for this process serves as a deterrent to providers. The Commission should therefore decline to either change the existing rules or to forbear from the existing processing rules.

[21] *See Technology Transitions,* GN Docket No. 13-5, Order, Report and Order, R&O/FNPRM, 29 FCC Rcd 1433, 1436 8 (2014).
[22] 47 U.S.C. § 214(a)

B. The Commission Should Retain the Existing Adequate Replacement Test.

AT&T's creation and testing of its AT&T Phone - Advanced (AT&TP-A) for both residential[23] and business customers[24] shows that carriers are capable of developing a wireless product that meets the necessary standard to protect consumers. AT&T submitted engineering data demonstrating that AT&TP-A offers approximately the same level of quality as copper loop service, integrates into the public switched telephone network seamlessly from the customer's perspective, provides interoperability with key applications and functionalities, and – most importantly – reliably reaches 911.[25] The Bureau approved the technology via its streamlined process, and AT&T is now prepared to retire its legacy wire centers in parts of 17 states[26] and, as observed above, has announced that it expects to retire its entire legacy copper network by 2029.[27] With this technology now available on the market, there exists no reason to lower the existing standards by replacing the Adequate Replacement Test and the Alternatives Options Test with "one simplified rule."

Again, Section 214(a) requires the Commission to protect communities of service from impairment. The Commission has consistently recognized the importance of this responsibility. The objective is not to lower the standards until carriers are satisfied that they can terminate legacy service without providing customers in high cost areas or low-income communities

---

[23] https://www.att.com/home-phone/phone-advanced/
[24] https://www.business.att.com/content/dam/attbusiness/briefs/att-phone-for-business.pdf
[25] *See* Section 63.71 Application of AT&T, WC Docket No. 24-220, 39 FCC Rcd 12405 (filed November 1, 2024); Comments of NENA: The 9-1-1 Association (filed December 4, 2024).
[26] *Id.*
[27] "AT&T Outlines Strategic Plan to Drive Sustainable Growth and Enhanced Shareholder Returns" (Dec. 3, 2024). Available at:https://about.att.com/story/2024/analyst-and-investor-day-2024.html; Luke Bouma, "AT&T Unveils Cellular Home Phone Service as It Shuts Down Its Traditional Copper Phone Service by 2029," Cord Cutters News (March 15, 2025). Available at: https://cordcuttersnews.com/att-unveils-cellular-home-phone-service-as-it-shuts-down-its-traditional-copper-phone-service-by-2029/

services that are "reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas."[28] Accordingly, complaints such as those made by USTelecom that requirements necessary to protect consumers add cost[29] do not justify changing the existing Adequate Replacement Test or Alternative Options Test.

1. None of the Specific Alternatives Discussed By the NPRM Constitute Reasonable Replacement Services.

PK/CWA oppose the inclusion of several options in the proposed replacement test that would allow a carrier to discontinue service in cases when there is availability of only a facilities-based mobile wireless service, or a voice service that has been available from the applicant throughout the affected service area for the previous six months and for which the carrier has at least a certain number of existing subscribers, or a widely adopted alternative voice service.[30]

Mere availability of a voice service and its use by some customers is overly broad, very vague, and does not address the service's long-term reliability to justify its use as a replacement service. This is why the Commission requires testing – to ensure that the proposed alternative will actually provide the necessary quality of service. Under the language of the NPRM, a carrier could "make available" a service of poor quality and – without regard to any customer experience, or even use by a single customer – certify it as a replacement service.

A facilities-based mobile wireless service is not a suitable replacement for a wireline voice service. Wireless network coverage is adversely affected by line-of-sight obstructions, including buildings, trees, and seasonal foliage, geological structures (valleys, hills, and

[28] 47 U.S.C. 254(b)(3).
[29] NPRM at Par. 64.
[30] NPRM at Para. 26.

mountains), weather, and interference from other radio frequency (RF) signals in the area.[31] Furthermore, a wireless signal is a shared medium, and only a certain number of devices can connect to a single antenna before congestion begins to degrade a service.[32] This limitation is particularly critical during emergencies, when a larger than usual number of users attempt to use a mobile network.[33] It's also difficult to verify the availability of reliable mobile wireless service coverage at a customer's property, as carriers' coverage maps are often exaggerated. The Commission's own Mobile LTE coverage map page discloses that "[b]ecause the coverage map is based on propagation modeling, a user's actual, on-the-ground experience may vary due to factors such as the end-user device used to connect to the network, cell site capacity, and terrain."[34]

Similar to mobile wireless, satellite service is also susceptible to weather vulnerabilities and service interruptions. Unlike wireline voice services, which are largely immune to weather-related disruptions (especially if it is deployed underground through conduit), satellite signals degrade in bad weather, especially in areas with heavy cloud cover or precipitation.[35] Additionally, satellite service, including low-Earth orbit (LEO) service, has capacity constraints. Like wireless, satellite is a shared medium of limited capacity. This means that use by a

---

[31] CTC Technology & Energy, "Mobile Broadband Service Is Not an Adequate Substitute for Wireline," (Oct. 2017). Available at: https://www.ctcnet.us/wp-content/uploads/2017/10/CTC-Mobile-Broadband-White-Paper-final-20171004.pdf [hereinafter "CTC Report"]; *See also*, CTC Technology & Engineering, "Fixed Wireless Technologies and Their Suitability for Broadband Delivery", 51 (June 2022). Available at: https://www.benton.org/sites/default/files/FixedWireless.pdf.

[32] CTC Report at 16-17.

[33] *Id.*

[34] FCC, "Mobile LTE Coverage Map." Available at: https://www.fcc.gov/BroadbandData/MobileMaps/mobile-map#:~:text=It%20is%20not%20meant%20to%20reflect%20where,the%20network%2C%20cell%20site%20capacity%2C%20and%20terrain.

[35] *See, e.g.*, Starlink, "Does weather impact my service quality?" Available at: https://www.starlink.com/support/article/529bf751-3cad-f460-d653-4af162f195da.

sufficiently large number of customers can cause quality degradation and calls to fail, even under the most favorable atmospheric conditions.[36]

Finally, to the extent the NPRM proposes reliance on facilities not yet built and technologies not yet deployed – such as broadband deployment based on BEAD or USF, or D2C services combined with terrestrial wireless – the Commission should reject this approach. Asking communities to wait for access to 911 or other emergency services in the expectation that an adequate replacement service will appear places lives at risk. Will the Commission seriously ask entire communities to avoid heart attacks, serious accidents or pregnancies that might require calling for an ambulance (or at least a midwife) until such time as the hoped for replacement service becomes reality?

This is not a situation where the Commission can rely on its predictive judgment regarding the lag between discontinuance of existing service and the arrival of a functioning alternative. As the DC Circuit has observed, the Commission has a statutory duty to consider the impact of its decisions on life and safety.[37] Whether or not the Commission accurately predicts that services will someday be deployed or untested technologies will work out, it knows for certain that between the day predicted and the discontinuance of legacy services the community must do without 911 access.

2. The Commission Should Not Make Emergency Discontinuance a Backdoor to Permanent Discontinuance.

The Commission proposes to allow a carrier to permanently discontinue a service when: (1) the carrier has previously obtained emergency discontinuance authority for the service in

[36] Newsweek, "Satellite May Sound Like the Future, But it Could Stick Broadband Users in the Past," Available at: www.newsweek.com/satellite-may-sound-like-future-it-could-stick-broadband-users-past-1824701.

[37] *Mozilla Corp. v. FCC*, 940 F.3d 1, 59-60 (D.C. Cir. 2019).

question; (2) the service is one for which the requesting carrier has had no customers or reasonable requests for service during the 60-day period immediately preceding the permanent discontinuance; and (3) a comparable service is available in the affected service area.[38]

PK/CWA oppose the adoption of the second criterion, which is overly broad and incapable of meaningful verification through carrier self-certification. Customers may face significant barriers to demonstrating their interest in continuing their service, such as difficulty reaching a live representative by telephone or temporary displacement during an emergency. Moreover, a carrier may still have existing customers or have received service requests during the relevant period while asserting otherwise.

CWA technicians regularly receive reports from customers that carriers misrepresent the availability of service when customers attempt to restore it. In particular, carriers have at times refused to reconnect customers because they do not wish to invest in upgrading the network to fiber and view the repair of copper facilities as too costly. Carriers have informed customers that service will not be reconnected at their property, pressured customers to migrate to another provider, or directed them toward less reliable wireless or satellite alternatives. In some cases, carriers have even offered financial incentives to induce customers to relinquish regulated service.[39] While some customers have succeeded in having their service restored through persistent complaints to the carrier or by filing with their state public utility commission, these avenues are increasingly limited. A majority of state commissions have eliminated or curtailed oversight of telecommunications services, often on the premise that the Commission would still safeguard consumers' access to voice service. Consequently, customers today have few, if any, meaningful remedies to challenge carrier attempts to discontinue service. If the Commission

[38] NPRM at Para. 95.

[39] CenturyLink has been offering $500 gift cards to some customers experiencing service interruptions if they agree to disconnect their phone service.

nevertheless retains criterion (2), it should, at a minimum, extend the relevant period from 60 days to six months and require carriers to affirmatively contact each of their customers during that time to obtain explicit consent prior to any permanent discontinuance.

IV. THE COMMISSION SHOULD KEEP THE STAND-ALONE SERVICE REQUIREMENT.

The NPRM seeks comment on whether to make the two-year waiver of the Stand-Alone Service Requirement (SSR) permanent.[40] Granting the waiver was a grave error. If anything, the Commission should reverse this ill-advised action by the Bureau. Certainly the Commission should not make the waiver permanent.

The SSR serves an important role in making services affordable and ensuring the reliability of the alternative replacement. The Bureau's justification, changes in the broader marketplace, is virtually a non-sequitor. As noted above, the entire point of the Communications Act's universal service statutes, including Section 1, Section 214, and Section 254, is to ensure service "with adequate facilities and reasonable charges," where the market ***will not*** provide adequate incentive. The question is not simply whether a consumer could cobble together an amalgamation of services – perhaps not even from the same provider – to replace the existing TDM service. Rather, to avoid impairment to the community, as required by Section 214(a), a customer must be able to replace the existing service with a single, readily available similar service. The customer of a discontinued service should not be required to pay for additional services that customer may not want.

It does not help to tell consumers that the voice service is now "cheaper" as a bundled service if the total subscription price the customer pays for the package is higher than the previous stand alone price. Customers are not economists. What matters to low-income

[40] NPRM at ¶¶ 57-59.

customers is the total dollar number they pay on a monthly basis, not some imaginary number they cannot get because they cannot buy the "cheaper" voice service separately.

As noted above, the Commission may not ignore its core obligation to protect rural and low-income Americans in order to encourage deployment of advanced services. But even if it could, neither Petitioner USTelecom nor the Bureau Order granting the requested waiver provided any evidence that offering the replacement service on a stand-alone basis added any significant burden to providers beyond the inability to charge subscribers for additional services whether they want them or not. Requiring the most vulnerable to pay for more expensive bundles for the ability to reach 911 hardly seems like a trade that serves the "public convenience and necessity." Carriers are free to ***offer*** consumers bundled services, and consumers may find these bundles desirable. But carriers should not be allowed to ***force*** consumers to take services they do not want for more money than they had been paying.

If nothing else, the Commission has two years to assess the impact of the waiver before it needs to make a decision. The Commission should therefore take the prudent course and wait to see the impact of the waiver on consumers (not merely carriers) before it makes a decision on whether or not to make the waiver permanent.

V. NONE OF THE PROPOSED USES OF FORBEARANCE PASS STATUTORY MUSTER, AND FORBEARANCE SHOULD NOT REPLACE NOTICE-AND-COMMENT RULEMAKING.

The NPRM proposes that instead of standard notice-and-comment rulemaking, the Commission could instead forbear from various provisions. Doing so would be an abuse of the forbearance process. For the reasons given above, forbearance from the existing rules fails every one of the three statutory conditions set by Section 10.[41] Carriers that cannot meet the existing adequate replacement test almost definitionally face no competition and nothing to constrain them from charging unjust and unreasonable rates, or engaging in unreasonably discriminatory practices – such as refusing to serve customers in high-cost rural areas or in low-income communities. The regulations are critical to protecting consumers from impairment of service as a consequence of discontinuance, including potential loss of services entirely. Such forbearance is certainly not in the public interest, as forbearing from Section 214 discontinuance undermines the core responsibility of the Commission to protect universal service. As the Commission has long observed when considering the necessity of retaining or imposing Section 214 discontinuance requirements, Section 214 plays a critical role in ensuring that the Commission has an adequate understanding of where services are no longer available, and in protecting the community of service from loss of life-saving services on which a great deal of social and economic activity still depends.[42]

This is not to say that forbearance is never appropriate. For example, for over 20 years the Commission has considered transition from copper to fiber an upgrade, and has not required

[41] 47 U.S.C. § 160(a).
[42] *Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(C) From Enforcement Of Certain Legacy Telecommunications Regulations*, 28 FCC Rcd 7627, 7685 131 (2013).

service discontinuance provided the carrier offers TDM-over-fiber.[43] The Commission could consider forbearing from the obligation to continue to offer TDM once fiber is deployed and permit carriers to move customers from TDM to IP-based service without the need to file a discontinuance.

In any event, there is no reason to use forbearance rather than rulemaking. Congress did not intend for Section 10 to replace Notice-and-Comment rulemaking, but to provide the Commission with a precision tool to respond to changing market conditions and the emergence of new technologies Congress could not foresee. As the NPRM observes, recent decisions of the Supreme Court, such as *Loper Bright* and *McLaughlin Chiropractic*, mean that the Commission cannot rely either on deference to its reading of the statute or on past precedent when applying forbearance. Any record which would support forbearance would support modifying the existing rules, and a record inadequate to support rulemaking would be equally inadequate to support forbearance. Therefore, for reasons of both law and policy, if the Commission is determined to act to further weaken the existing discontinuance safeguards, it should act through its rulemaking authority rather than forbearance.

VI. COMMISSION NEEDS TO RESOLVE AUTHORITY OVER FACILITIES-BASED VOIP

The NPRM focuses on managing the transition away from legacy TDM and copper-based networks. Since that transition is well underway, the Commission must also consider the state of the market once the transition is complete. Today, the Commission retains clear authority because incumbent carriers continue to operate legacy TDM facilities. But once those networks are retired, the Commission risks losing jurisdiction over the voice services that remain. As the

[43] *Technology Transitions*, Report & Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 30 FCC Rcd. 9372 (2015). (Carrier retiring copper loop does not need to file discontinuance unless retirement also triggers discontinuance of a service.)

PK/CWA *Amended Petition for Declaratory Ruling that Facilities-Based Interconnected VoIP Is a Title II Service* ("Amended VoIP Petition") explains, the Commission has historically relied on "ancillary jurisdiction" tethered to its authority over Title II services.[44] When the public switched telephone network ("PSTN") is fully sunseted, that basis for ancillary jurisdiction disappears, leaving interconnected VoIP—and, by extension, the entire voice ecosystem—outside the reach of the Commission's essential and longstanding authority over voice service. The Commission must ensure that the end state of this transition does not leave consumers, competition, and public safety unprotected.

The Amended VoIP Petition details the consequences of failing to resolve VoIP's classification. Without Title II authority, the Commission risks losing all oversight of virtually all communications infrastructure. That means not only the loss of consumer protections such as truth-in-billing, privacy, and accessibility requirements, but also the erosion of competition safeguards, license transfer review, and pole attachment rights.[45] Critically, public safety obligations—from outage reporting to 911 reliability—depend on Title II authority.[46] The Amended VoIP Petition further notes that the failure to classify interconnected VoIP has already produced harms, including "unregulated interconnection policies [that] break STIR/SHAKEN protocols intended to prevent caller identification spoofing."[47] States, too, have been left in limbo by conflicting court decisions about whether FCC silence preempts their ability to regulate VoIP in the public interest.[48]

---

[44] Amended Petition for Declaratory Ruling that Facilities-Based Interconnected VoIP Is a Title II Service, RM-____ (filed Mar. 2, 2022; amended Aug. 11, 2022) ("Amended VoIP Petition"), at 26–27.
[45] Id. at 29–49.
[46] Id. at 47–49.
[47] Id. at 51.
[48] Id. at 55–56.

Facilities-based interconnected VoIP squarely meets the statutory definition of a telecommunications service. As the Amended VoIP Petition emphasizes, "VoIP services squarely fall within the definition of a telecommunications service under the Telecommunications Act."[49] Consumers use interconnected VoIP "like a traditional telephone service and expect them to function exactly the same."[50] The technology is invisible to the end user; from their perspective, they are simply making a phone call. The Commission itself has long recognized this functional equivalence by imposing Title II–style obligations on interconnected VoIP providers on an ad hoc basis, including E911, Universal Service Fund contributions, Customer Proprietary Network Information rules, and outage reporting requirements.[51] The only logical step is to formally classify facilities-based interconnected VoIP as a telecommunications service under Title II, thereby aligning legal classification with technical reality and consumer experience.

To safeguard the public interest during the IP transition, the Commission must first resolve VoIP's classification. Without this, any deregulatory action risks leaving the Commission powerless and consumers exposed. The Commission should act on the Amended VoIP Petition and classify facilities-based interconnected VoIP as a telecommunications service under Title II. Without a clear classification, the Commission will be unable to fulfill its core responsibilities to preserve universal service, competition, interconnection, and public safety protections for voice service after the transition away from legacy networks.

CONCLUSION

For nearly 100 years, the United States phone network has been the envy of the world. We are the nation that put a phone on every farm, achieving nearly 100% penetration of voice services. That did not happen by accident. It happened as a consequence of Congress creating the

[49] Id. at 59–60.
[50] Id. at 66.
[51] Id. at 67–69.

FCC expressly for this purpose. Throughout this history, the FCC has shepherded the agency through multiple transitions – both market transitions and technology transitions. At no time did the FCC ***ever*** turn its back on the core principle of universal service for which Congress designed it. It must not do so here.

Certainly the transition from legacy networks takes time. It is a massive undertaking that requires careful planning and meticulous execution. Unfortunately, since 2016, the Commission has consistently created a moral hazard to carriers moving forward. By adopting policies of deregulation, the Commission has given carriers incentive to delay until the Commission dissolves the last effective guardrails to protect rural communities and other vulnerable populations from losing access to essential services "with adequate facilities at reasonable charges."

The success of AT&T in developing its AT&TP-A, a genuinely adequate replacement technology,[52] shows that the Commission does not need to sacrifice subscribers to achieve the transition. If the Commission will simply stop tinkering with the rules and allow the transition to go forward, carriers will retire their legacy networks and deploy new technologies. The Commission must not abandon its mission of universal service but instead work to update it for the IP-enabled world.

[52] AT&T noted in its 214 discontinuance application that its tests and performance in many cases exceeded the Commission's benchmarks. Application, *supra* n. 25 at 20-22.

Respectfully submitted,

x Harold Feld
Senior Vice President

x Nicholas Garcia
Senior Policy Director

Public Knowledge
1818 N St, NW
Suite 410
Washington, DC 20036
(202) 861-0020

x Nell Geiser
Director of Research

x Hooman Hedayati
Sr. Strategic Research Associate for
Telecommunications Policy

Communications Workers of America
501 3rd ST NW
Washington, DC 20001
(202)434-1198

September 29, 2025