Before the
Federal Communications Commission
Washington, D.C. 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 USTELECOM – THE BROADBAND ASSOCIATION

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USTelecom – The Broadband Association ("USTelecom")[1] hereby submits these comments in response to the Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding. We appreciate the Commission's efforts to examine "deregulatory options to encourage providers to build, maintain, and upgrade their networks" to deliver high-speed broadband and to "take a long overdue comprehensive look at [its] rules implementing section 214(a) of the Communications Act"[2] — a provision Congress enacted in the telegraph era.

I. Introduction and Summary

USTelecom strongly supports the Commission's goal of promoting network modernization. Reform is necessary to accelerate the deployment of better, faster, and more innovative services that consumers want — placing reform squarely in the public interest. The Commission has made great strides in reducing regulatory burdens that force broadband

[1] USTelecom is the premier trade association representing service providers and suppliers for the communications industry. USTelecom members provide a full array of services, including broadband, voice, data, and video over wireline and wireless networks. Its broad membership ranges from international publicly traded corporations to local and regional companies and cooperatives, serving consumers and businesses across the country.

[2] Notice of Proposed Rulemaking, *Reducing Barriers to Network Improvements and Service Changes*, WC Docket Nos. 25-209, 25-208, FCC 25-37, ¶¶ 2-5 (rel. July 25, 2025) ("*NPRM*").

providers to waste significant resources maintaining legacy services typically provided over copper telephone lines that faded from relevance — and consumer demand — long ago. USTelecom applauds these recent actions, and as the NPRM recognizes, and as Chairman Carr has explained, there is more work to be done "to free up billions of dollars for new networks, instead of forcing providers to keep investing in old ones."[3]

First, further reforms to Section 214's discontinuance process will go a long way toward achieving the Commission's aims in this proceeding. While USTelecom appreciates the Commission's proposal to further streamline the rules governing discontinuances as part of technology transitions, conditional forbearance offers a better way forward. By eliminating the application process in instances where alternative voice services are available to legacy-voice-service customers — but retaining the customer-notice requirement — the Commission can best facilitate and enhance providers' investments in modernizing their networks and offerings while still maintaining protections for consumers.

Second, the NPRM seeks to identify additional ways the Commission can facilitate the transition to next-generation networks and advanced communications services. There are two particular state requirements that interfere with the Commission's goals in that respect: (1) state carrier of last resort ("COLR") obligations; and (2) state refusals to promptly process applications to relinquish eligible telecommunications carrier ("ETC") status. While subject to COLR obligations or holding ETC status, providers effectively cannot discontinue legacy voice services, even where the Commission has granted approval to discontinue those services. The Commission should declare that federal law preempts state COLR obligations where the

[3] Remarks of FCC Chairman Brendan Carr, *A Build Agenda for America* at 3 (July 2, 2025) ("Carr Remarks"), https://docs.fcc.gov/public/attachments/DOC-412663A1.pdf.

conditions for discontinuance are satisfied. The Commission should also adopt a rule clarifying the criteria that states must apply when faced with a carrier's application to relinquish its ETC status.

Third, USTelecom agrees that the Commission's Section 214 rules should make it easier for carriers to permanently discontinue services following a discontinuance due to an emergency. But the Commission should go further than its proposal and not limit the ability to permanently discontinue services only to instances where the carrier no longer has any customers following the emergency discontinuance. That situation is already addressed in an existing Commission rule. Instead, carriers should be permitted to convert an emergency discontinuance into a permanent one by certifying that a comparable service is available throughout the affected area.

Fourth, USTelecom supports the Commission's additional proposals to accelerate network modernization, including by: (1) codifying the waiver of application requirements to grandfather legacy services; (2) defining the "lower-speed data telecommunications services" subject to streamlined grandfathering and discontinuance to encompass all legacy data services, including DS3s; (3) codifying the Commission's waiver of network change disclosure filing requirements; and (4) forbearing from or eliminating several outdated Section 214 requirements to allow for more streamlined and focused applications whenever applications are still required.

II. The Commission Should Facilitate Technology Transitions Through Conditional Forbearance or, Alternatively, by Modifying Its Proposed Rule to Avoid Potential Delays in the Streamlined Discontinuance Process

USTelecom supports the Commission's efforts to reform its grandfathering and discontinuance rules to accelerate network modernization. Such reform will serve the public interest by enabling providers to cease devoting resources to outdated services that consumers do not want and to invest those resources in the modern, IP-based services that consumers actually want. As discussed herein, USTelecom urges the Commission to use conditional forbearance —

rather than a further rule change — as the most efficient and durable means of achieving this Commission's network modernization goals.

To be sure, merging the Commission's Adequate Replacement Test and Alternative Options Test into a single standard, as the NPRM proposes, would be a substantial step in the right direction. But better still would be for the Commission to conditionally forbear from enforcing Section 214(a)'s Commission-approval requirement where (1) marketplace alternatives exist for the discontinued service, and (2) providers have notified their remaining customers of the planned discontinuance of the legacy service. Such conditional forbearance would better achieve the NPRM's goals — by streamlining the process and removing the potential for unnecessary delays — than the proposed rule changes. If the Commission nevertheless proceeds through rule changes rather than forbearance, it should make the additional modifications to its proposed rule suggested below to remove the potential for unnecessary delays in the streamlined discontinuance process.

A. The Commission Should Forbear from Section 214(a)'s Discontinuance Requirements for Technology Transitions

Forbearing from Section 214(a)'s discontinuance requirements for technology transitions is the best way to achieve the Commission's technology-acceleration goals and serve the public interest.

1. Section 214(a)'s Requirement of Commission Approval Before Discontinuing Services Is No Longer Necessary for Technology Transitions

Given the proliferation of alternative voice service options in the marketplace, the pre-approval requirement in Section 214(a) for discontinuing legacy voice services is no longer necessary. Congress's intent in enacting Section 214(a) was to protect communities from the adverse effects of service discontinuance, ensuring that the members of the community are not

left without *any* communications service. Congress's goal was not to create impediments to marketplace changes to particular services as newer offerings replace older ones, as such regulatory delays are antithetical to the public interest.

The origins and purpose behind the public notice requirement in Section 214(a) demonstrate that its protections are no longer necessary.[4] Section 214 was enacted in 1943,[5] as part of broader legislation designed to facilitate mergers between telegraph companies.[6] Congress added the discontinuance language to ensure that the merged telegraph companies would not cut communities off from the outside world, particularly during times of war.[7] The congressional debates over Section 214(a) reflect that its purpose was to protect communities' continued access to the nation's communications networks while preserving carriers' ability to upgrade their technologies.[8]

Because Congress enacted Section 214(a) to protect communities from the elimination of *all* telecommunications services — and thereby cutting the community off from the world — the only proper ground for preventing a carrier from discontinuing a particular service is where there is no sufficient alternative available to members of the community. Section 214(a) was not

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[4] *See NPRM* ¶¶ 6-7 (noting that "early networks operated independently of and did not interconnect with one another," and "section 214(a) of the Act was intended 'to prevent useless duplication of facilities that could result in increased rates being imposed on captive telephone ratepayers' ").

[5] An Act to Amend the Communications Act of 1934, Pub. L. No. 4, § 2, 57 Stat. 5, 11 (1943) (codified at 47 U.S.C. § 214(a)).

[6] *See* S. Rep. No. 78-13, at 1-4 (1943); H.R. Rep. No. 78-69, at 3 (1943); 1943 Act, 57 Stat. 5; H.R. Rep. No. 78-69, at 1.

[7] Memorandum Opinion and Order, *Western Union Telegraph Co. Petition for Order to Require the Bell System to Continue to Provide Group/Supergroup Facilities*, 74 F.C.C.2d 293, ¶ 6 n.4 (1979) ("[O]ne of Congress' main concerns was that such mergers might result in a loss or impairment of service during this war time period.").

[8] *See*, *e.g.*, 89 Cong. Rec. 786 (1943) (statement of Rep. Brown) ("I do not believe that the Congress or the country is interested in whether the telegraph company should abandon or take out a certain insulator or pole or even close down one office, if the community is adequately served by another office.").

intended to make it generally more difficult for carriers to cease providing legacy services, especially those that very few Americans still prefer to use.

The concerns that animated Congress to enact Section 214 are absent today. Providers are eager to sell voice and data services using many modern technologies. There has been a boom in offerings available to consumers — both in terms of quality and quantity of choice. In the *2024 Communications Marketplace Report*,[9] the Commission found that there are "a multitude of . . . voice service options for consumers in the United States," acknowledging dynamism in and the competitiveness of the marketplace.[10] Yet despite prior efforts to streamline the discontinuance process, persistent hurdles have forced carriers to maintain legacy services and facilities despite the availability of alternatives, resulting in inefficient costs that raise consumer prices and divert resources from investment in modern broadband networks.

2. Conditional Forbearance Is the Best Way to Streamline the Discontinuance Process

The NPRM correctly notes that the Adequate Replacement Test and Alternative Options Test have not lived up to their promise of streamlining the discontinuance process.[11] The tests are unduly complicated and costly for applicants. Notably, until recently, the difficulty in satisfying the conditions of those tests has meant that very few discontinuance applications were filed. And while recently filed applications have been successful, these few applications

[9] 2024 Communications Marketplace Report, *Communications Marketplace Report*, 39 FCC Rcd 14116 (2024) ("*2024 Communications Marketplace Report*").

[10] *Id.* ¶¶ 154-159.

[11] *NPRM* ¶¶ 26-27. In 2016, the Commission intended for the Adequate Replacement Test's "objective criteria" to result in a "streamlined approach [that] will promote clarity, certainty, and efficiency." Declaratory Ruling, Second Report and Order, and Order on Reconsideration, *Technology Transitions*, 31 FCC Rcd 8283, ¶¶ 64, 66 (2016) ("*2016 Technology Transitions Order*"). As the NPRM recognizes, that did not occur.

demonstrate the harms from not allowing carriers to discontinue legacy services that customers no longer want without having to navigate complicated, bureaucratic test procedures and filings.

For example, AT&T spent significant time and resources developing a formal test plan to demonstrate that its next generation voice solution (AT&T Phone – Advanced, or "AP-A") is an adequate replacement for legacy TDM-based voice service. AT&T worked with the Commission's staff for months to develop this plan, eventually submitting it in July 2024, with public notice of the plan issued in September 2024. That public notice generated *no comments* — and the testing confirmed what many thousands of existing customers already knew: AP-A is a more-than-adequate replacement for POTS. AT&T then filed a discontinuance application relying on AP-A as its adequate replacement service, which was granted in December 2024.[12] The time and resources that AT&T invested into this process came at the expense of rolling out *better* features to consumers *faster*.

Things are improving, fortunately, thanks to the Commission's recent efforts. Specifically, in recognition of the failures of the Adequate Replacement Test and Alternative Options Test to lead to an increased number of discontinuance applications, the Bureau issued a number of helpful waivers and clarifications in March 2025, which enabled more applications.[13] For example, the Bureau clarified that formal testing is one way to show an alternative service is

[12] *See* Public Notice, *Comments Invited on AT&T's Section 214 Application to Grandfather and Discontinue Legacy Voice Service as Part of a Technology Transition*, 39 FCC Rcd 12405 (2024) (accepting AT&T's application for filing and establishing an automatic grant date of December 21, 2024).

[13] *See*, *e.g.*, Order on Clarification, *Technology Transitions*, 40 FCC Rcd 2014 (Wireline Comp. Bur. 2025) ("*Technology Transitions Clarification Order*"); Order, *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, 40 FCC Rcd 2026 (Wireline Comp. Bur. 2025); Order, *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, 40 FCC Rcd 2019 (Wireline Comp. Bur. 2025) ("*March 2025 Grandfathering Order*"); Order, *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, 40 FCC Rcd 1999 (Wireline Comp. Bur. 2025).

an adequate replacement, but not the only way.[14] Pursuant to that order, in May 2025, Lumen filed a discontinuance application for POTS service in part of Colorado and showed the availability of an adequate replacement service — Verizon's mobile wireless voice service — by relying on the FCC's maps showing service availability and without resorting to burdensome network testing.[15] Mobile wireless voice service is clearly an adequate replacement for POTS: nearly 79% of American adults live in households that rely solely on cell phones for voice calling.[16]

Although the March 2025 waivers have helped streamline discontinuance applications, more can be done, as the NPRM recognizes. Conditional forbearance is the best way to further streamline Section 214(a)'s discontinuance process and achieve the Commission's goals. Specifically, the Commission should forbear from enforcing Section 214(a)'s requirement of Commission approval of a discontinuance application for a technology transition where a carrier attests in a notice filed with the Commission that (1) marketplace alternatives exist for the discontinued service throughout the service area, and (2) it has notified its remaining customers of the planned discontinuance of the legacy service.

Conditional forbearance is a better way to advance network modernization than the Commission's proposed rule amendments for several reasons. First, forbearance eliminates the application process, which imposes significant costs in terms of time and resources. Second, forbearance eliminates the possibility of delays in the provision of public notice of an

[14] *See Technology Transitions Clarification Order* ¶ 6.

[15] *See* Section 63.71 Application of Qwest Corporation d/b/a CenturyLink QC, WC Docket No. 25-177 (filed May 16, 2025) ("CenturyLink Section 63.71 Application").

[16] Nat'l Ctr. for Health Stat., *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July-December 2024*, at 1 (June 2025), https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless202506.pdf.

application. Third, forbearance eliminates the possibility of the discontinuance application being removed from streamlined treatment without adequate reasoning. Accordingly, forbearing from Section 214 best advances the Commission's goal of eliminating outdated and counterproductive regulation.[17]

3. The Criteria for Forbearance Are Readily Met

The Commission must forbear if it determines that: (1) enforcement of a regulatory requirement is not necessary "to ensure that the charges, practices, classifications, or regulations" for the carrier or service in question "are just and reasonable and are not unjustly or unreasonably discriminatory"; (2) enforcement of a regulatory requirement is not necessary "for the protection of consumers"; and (3) forbearance is consistent with the public interest.[18] Each of these three statutory requirements is satisfied here.

a. Section 214(a) Discontinuance Applications Are Not Necessary to Ensure Just, Reasonable, and Nondiscriminatory Rates

The requirement to file Section 214 applications and gain Commission approval to discontinue POTS services as part of a technology transition is not needed to ensure that carriers' rates and practices are just and reasonable. Demand for legacy voice services has plummeted and, in some places, there is no demand. De minimis usage of these dying services certainly is not driving or sustaining price competition where it otherwise would not exist.

Consumer demand for POTS service has been shrinking dramatically for more than a decade. As of June 2024, there were 18 million POTS lines in service, compared to 65 million

[17] *See* Public Notice, *Delete, Delete, Delete*, 40 FCC Rcd 1601, 1603 (2025) (seeking comments on "existing rules that have outlived their usefulness, for which there is no longer any (or only substantially diminished) need").

[18] 47 U.S.C. § 160(a).

VoIP lines and 388 million wireless lines.[19] That reflects a loss of 12 million POTS lines between December 2020 and December 2023, following a loss of more than 70 million lines over the prior 10 years.[20] And as the Commission recently noted, "[t]he number of fixed retail switched-access lines declined over the past three years at a compound annual rate of 15.7%, while interconnected VoIP subscriptions decreased at a compound annual growth rate of 1.6%."[21]

Yet as the demand for POTS declines, competition to provide consumers with voice, or services that enable voice, remains fierce between cable companies and telephone companies offering fixed VoIP service, other providers offering over-the-top VoIP, mobile and fixed wireless services, and satellite broadband services. These alternatives — which provide high-quality voice service with a range of features not offered with POTS — are driving and sustaining the forces of competition that yield just and reasonable rates for voice services, as well as for other services that consumers demand.[22] And as the Commission has long recognized, robust competition "is the most effective means of ensuring that the charges, practices, classifications, and regulations with respect to [a telecommunications service] are just and reasonable, and not unjustly or unreasonably discriminatory."[23]

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[19] FCC, Indus. Analysis Div., Off. of Econ. & Analytics, *Voice Telephone Services: Status as of June 30, 2024*, at 2 & fig. 1 (May 2025) ("*June 2024 Voice Telephone Services Status Report*"), https://docs.fcc.gov/public/attachments/DOC-411462A1.pdf.

[20] FCC, Indus. Analysis & Tech. Div., Wireline Comp. Bur., *Local Telephone Competition: Status as of December 31, 2010*, at 5 fig. 4 (Oct. 2011), https://docs.fcc.gov/public/attachments/DOC-310264A1.pdf.

[21] *See 2024 Communications Marketplace Report* ¶ 156.

[22] As discussed in Part II.A.3.b, the rates for these competitive alternatives are often lower than the rates for POTS.

[23] Memorandum Opinion and Order, *Petition of US WEST Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance*, 14 FCC Rcd 16252, ¶ 31 (1999); Memorandum Opinion and Order, *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Phoenix, Arizona Metropolitan Statistical Area*, 25 FCC Rcd 8622, ¶ 41 (2010).

b. *Enforcement of the Requirement to File Section 214(a) Applications and Obtain Commission Approval Is Not Necessary to Protect Consumers*

Eliminating the requirement to file Section 214 applications and obtain Commission discontinuance approval — where alternatives exist *and* after providing notice to customers — will not adversely impact consumers. Consumers, by their own actions in the marketplace, have established that there are numerous sufficient (and superior) replacements for legacy voice service. And any customers remaining on a legacy voice service will have ample notice of the planned discontinuance, affording an opportunity to bring to the Commission any legitimate concerns about the availability of replacement voice service. Consumers are best protected by the robust competition in the communications marketplace, not by the Commission's Section 214(a) discontinuance application requirements.

Marketplace Alternatives. As the Commission recognizes, the marketplace has changed substantially over time, and now most U.S. adults live in wireless-only households.[24] Voice calls require limited bandwidth (100 Kbps or less), so that any service offering with higher download and upload speeds and less than 200 ms mouth-to-ear latency enables a more-than-sufficient alternative to legacy voice service. The Commission should adopt a technical standard for what constitutes a suitable replacement voice service. Mouth-to-ear latency below 200 ms is imperceptible during a voice call, and most available broadband services are more than capable of handling many simultaneous calls.[25] The Commission should therefore find that a

[24] *NPRM* ¶ 8.

[25] As the Commission has recognized, "consumers are 'very satisfied' with the quality of VoIP calls up to a mouth-to-ear latency of approximately 200 milliseconds." *2016 Technology Transitions Order* app. B, ¶ 16 & n.12. Because voice calls require only 80-100 Kbps of bandwidth, 25/3 Mbps is more than enough to support them. *See*, *e.g.*, FCC, *Broadband Speed Guide* (July 18, 2022), https://www.fcc.gov/consumers/guides/broadband-speed-guide (stating that a minimum download speed

replacement voice service satisfies this condition for forbearance if it is provided over any commercially available broadband network that offers less than 200 ms mouth-to-ear latency. Many alternative services meet this threshold, and adopting a technical standard will allow further innovation without requiring the Commission to adjust its conditional forbearance every time a new technology becomes available for providing voice service.

These ubiquitous alternatives compare favorably to legacy voice services in pricing. For example, AT&T's AP-A voice service is available for $45 per month, plus taxes, surcharges, and fees.[26] And consumers who want facilities-based mobile voice service could choose T-Mobile's unlimited voice/text mobile plan for only $20 per month, or a Visible by Verizon mobile voice and data plan for only $19 per month.[27] The dwindling minority of consumers who prefer facilities-based wireline voice could select, for instance — depending on where they live — standalone modern voice options for $20 or $30 per month.[28] These prices compare favorably with legacy voice pricing as USTelecom members offer unlimited full-featured local and long-

of less than 0.5 Mbps is required for VoIP calls); Vonage, *VoIP Bandwidth: How Much Do I Need?* (June 22, 2025), https://www.vonage.com/resources/articles/voip-bandwidth/ (calculating 80 Kbps per call).

[26] AT&T, *New AT&T Phone – Advanced*, https://perma.cc/9HHZ-N337.

[27] T-Mobile, *Unlimited Talk & Text Only Plan*, https://perma.cc/S8U3-NYED; Visible, *Get Visible for $19/mo for 1 year*, https://perma.cc/VTS2-RNUR.

[28] Cox, *Home Phone*, https://perma.cc/BGT7-ZPH6 (Voice Preferred for $20 a month); Fidium, *Fidium Fiber*, https://perma.cc/83D7-YVRR (based on sample address input, price for the first year with auto-pay); CenturyLink, *Digital Phone Service*, https://perma.cc/29PL-C2CN (Connected Voice for $30 per month).

distance legacy voice service for $45 per month,[29] $54 per month,[30] and $87 per month, respectively.[31]

Bundled offerings that include voice service are also price competitive. Consumers can choose a bundled voice and broadband option for $45 or $50 per month.[32] Rise Broadband's phone service offering costs $26.95 a month, plus the cost of broadband, which starts at $30 a month at 50 Mbps.[33] Kinetic by Windstream offers internet and phone service for $50.99 a month.[34]

Customers could also choose to add an over-the-top VoIP service (including from a provider such as Ooma, which offers free service, apart from fees and taxes, after purchase of a device)[35] to the competitively priced home broadband service they are already purchasing, whether wired, terrestrial wireless, or satellite. Nextlink, for instance, offers fixed wireless broadband service at speeds of 100/20 Mbps at $70 a month.[36] And Starlink's "Residential Lite"

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[29] *See*, *e.g.*, Qwest Corporation d/b/a CenturyLink QC, Price List, Exchange and Network Services, Utah, § 5.11.6.D (Sept. 10, 2021), https://www.centurylink.com/content/dam/home/about-us/tariff/documents/ut_qc_ens_pl.pdf (first year $45 price, offered in all states in incumbent local exchange carrier territory); Brightspeed of Northwest Wisconsin, LLC, Exchange and Network Services Tariff, State of Minnesota, § 5.9.22.D (June 25, 2025), https://www.brightspeed.com/content/dam/brightspeed/tariffpdfs/mn_bs_nw-wi_ens_t.pdf (Brightspeed's tariffs frequently include an all-distance TDM bundle for $45 per month).

[30] *See* Ziply Fiber, *Ziply Fiber Tariffs & Price List*, https://perma.cc/ELS8-62H4.

[31] *See* Section 63.71 Application of AT&T at 36, WC Docket No. 24-220 (Nov. 1, 2024) ("AT&T Section 63.71 Application") (stating that the cost of its unlimited all-distance service in the area in question was "approximately $87 per month, plus taxes, surcharges, and fees").

[32] Kinetic, *Fiber Internet*, https://bit.ly/4m1xV8r (price for the first year with autopay); Kinetic, *Home Phone*, https://bit.ly/46gWybx (requires broadband subscription); Spectrum, *Home*, https://perma.cc/92YA-H6WZ (price for the first year); Spectrum, *Home Phone*, https://perma.cc/WY83-ZXK3 (voice price for three years when bundled with broadband and TV or mobile).

[33] *See* Rise Broadband, *ActivePhone*, https://bit.ly/4nj5jZp.

[34] *See* Kinetic, *Home phone + Internet for you*, https://perma.cc/F8UR-3W2R (price for the first year).

[35] Ooma, *Home Phone Service*, https://perma.cc/GKU6-S8RY.

[36] Nextlink, *Broadband Facts, Nextlink Internet* at 12, https://nextlinkinternet.com/wp-content/uploads/2025/08/Labels-080625-Res080625.pdf.

offering costs $80 a month ($49 with promotional pricing),[37] and offers download speeds between 45-130 Mbps and upload speeds between 10-20 Mbps.[38] Recent data suggests the speed and latency of low earth orbit satellite broadband options have been consistently more than sufficient to support voice calling.[39]

The Commission itself found years ago that lower-speed broadband is sufficient to support voice.[40] And given that fixed wireless and satellite broadband have been found to be acceptable solutions for certain locations in NTIA's Broadband Equity Access and Deployment (BEAD) program — which requires minimum speeds of 100/20 Mbps — fixed wireless or satellite broadband are more than sufficient to support voice calling (a narrowband service).

Customer Notice. The Commission should also condition forbearance on the carrier providing advance written notice to customers of any planned discontinuance of the legacy service. When a carrier seeks to discontinue a service that most customers have abandoned, actual notice to the remaining customers — not an application filed with the Commission — will

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[37] Starlink, *Service Plans*, https://perma.cc/ZP5Y-46MG.

[38] *See* Starlink, *What is the Residential Lite service plan?*, https://perma.cc/V6FN-AVAJ.

[39] *See*, *e.g.*, Sue Marek, Ookla, *Starlink's U.S. Performance is on the Rise, Making it a Viable Broadband Option in Some States* (June 10, 2025), https://www.ookla.com/articles/starlink-us-performance-2025; Starlink, *Starlink Network Update*, https://www.starlink.com/updates/network-update (showing speeds over 25 Mbps since 2024 and median peak hour round-trip latency in the United States of 25.7 ms as of June 2025). Likewise, Amazon's Project Kuiper will soon offer low-earth-orbit satellite broadband with speeds up to 100 Mbps. Amazon expects to offer the service at competitive pricing, as "affordability is a key principle of Project Kuiper." Thomas Kohnstamm, Amazon, *Everything you need to know about Project Kuiper, Amazon's satellite broadband network* (June 3, 2025), https://www.aboutamazon.com/news/innovation-at-amazon/what-is-amazon-project-kuiper; Eric Lagatta, *What is Project Kuiper? Everything to know about Bezos, Amazon satellite internet service*, USA Today (June 16, 2025), https://www.usatoday.com/story/news/nation/2025/06/16/project-kuiper-amazon-satellites-bezos-musk/84224911007.

[40] *See* 2015 Broadband Progress Report, *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, 30 FCC Rcd 1375, ¶ 45 (2015); FCC, *Broadband Speed Guide* (July 18, 2022), https://www.fcc.gov/consumers/guides/broadband-speed-guide.

best ensure that those consumers have necessary information about their current communications service and available alternatives. Such notice also provides consumers with the information necessary to contact the Commission in the event a carrier seeks to discontinue service where no alternatives exist.

To implement this aspect of the conditional forbearance, the Commission should amend Section 63.71(a)(5)(i) and (ii) of its rules — which specifies the language carriers include in those customer notices — to read, in pertinent part:

> If you wish to object, you should file your comments as soon as possible, but no later than 45 days after ~~the Commission releases public~~ receiving this notice of the proposed discontinuance. You may file your comments electronically by emailing them to discontinuance@fcc.gov ~~through the FCC's Electronic Comment Filing System using the docket number established in the Commission's public notice for this proceeding~~, or you may address them to the Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, Washington, DC 20554, and include in your comments a reference to the ~~§ 63.71 Application of (carrier's name)~~ carrier's name and the date of the notice.

Should any such comments be provided — and should they raise substantial concerns about the carrier's attestation of the existence of alternative voice services within the area subject to discontinuance — the Commission can forward those comments to the attesting carrier, which can then respond. Only after receiving the response and finding it lacking could the Commission conclude that the carrier must file an application to discontinue the legacy voice service.

To benefit from the conditional forbearance, the Commission should require providers to attest that they have provided notice to all remaining customers of the service to be discontinued. That attestation, along with the attestation that one or more alternative voice services exist throughout the area subject to discontinuance, must be emailed to the Commission at a designated inbox, for example, discontinuance@fcc.gov. The discontinuance would be effective 60 days after the provider emails its attestation to the Commission, though a provider could

choose a later effective date, and providers should be permitted to start discontinuing service as of the effective date.

c. Forbearance from Section 214(a)'s Application Requirements Is in the Public Interest

Granting conditional forbearance from the Section 214 discontinuance application requirement for technology transitions is in the public interest. The same benefits to competition and consumers discussed above benefit the public, and it is in the public interest to eliminate unnecessary regulations that impose costs on the industry that delay and undermine the provision of services that consumers actually want. Additionally, forbearance from Section 214(a) discontinuance applications will not affect consumers' access to emergency services, nor will it affect the applications and functionalities that the Commission in the past has identified as key for legacy voice consumers.

Freeing Wasted Provider Resources for Deployment. Forbearance will promote competition in the marketplace and free up resources for deployment of next-generation networks and further innovation, as the Commission explains in the NPRM.[41] Maintaining legacy networks is costly. For example, in 2023 alone, AT&T spent more than $1 billion on its POTS network and associated legacy services in California,[42] and approximately $6 billion in total on its POTS network and associated legacy services nationwide.[43] Those are resources that

[41] *NPRM* ¶ 42.

[42] *See* Opening Testimony of Dr. Mark Israel ¶¶ 19-33, A.23-03-003 (Cal. Pub. Utils. Comm'n Dec. 19, 2023).

[43] *See* Acielle Gucela, iFax, *AT&T Copper Network Retirement*, https://www.ifaxapp.com/analog-to-digital-fax/att-copper-network-retirement (discussing national costs); Application of Pacific Bell at 15-16, *Application of Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C) for Targeted Relief from Its Carrier of Last Resort Obligation and Certain Associated Tariff Obligations*, A.23-03-003 (Cal. Pub. Utils. Comm'n filed Mar. 3, 2023), https://docs.cpuc.ca.gov/publisheddocs/efile/g000/m502/k977/502977267.pdf (discussing costs in California specifically).

AT&T could not deploy elsewhere, including toward the modern networks that can deliver the services consumers are demanding. Other USTelecom members report that AT&T's experience is typical; each year, billions of dollars are spent to support services that have been eclipsed by modern offerings.

Further, forced maintenance of the copper networks that typically underlie legacy voice services that are largely unused is energy intensive,[44] as it costs more to power a copper network than alternatives such as a passive optical fiber network. Copper is also more vulnerable to weather conditions (e.g., flooding) than fiber,[45] and it takes longer to restore than alternative services like wireless, which can run on a portable temporary cell tower (a "cell on wheels"). And it is becoming increasingly more difficult to work on equipment that has not been manufacturer-supported in decades, as replacement parts, even if available, are often found only on the secondary market, at premium prices and in varying conditions. In some instances, carriers have even resorted to buying these parts on eBay.

Copper is also vulnerable to theft, as the value of copper cable has risen substantially in the last 20 years — imposing increased risk on carriers and increased costs to guard against the real possibility of violence.[46] Between June and December 2024, the telecommunications

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[44] *See* GeSI, *Digital Infrastructure Modernization for an AI Future: Opportunities and Challenges Ahead* 11-12, 15 (2024), https://www.gesi.org/wp-content/uploads/2024/12/Digital-Infrastructure-Modernization-for-an-AI-Future-GeSI-2024-December-Updated.pdf (noting that, per average subscriber, the transition from copper to fiber-optic wire leads to "a staggering 97% reduction in power consumption and emissions"); Ramboll, *Greener Connections: Understanding the Environmental Impacts of Fiber and Copper Communications Networks* 11 (Jan. 31, 2025) ("*Greener Connections*"), https://ustelecom.org/wp-content/uploads/2025/01/Greener-Connections_Final.pdf ("The operation of fiber optic lines requires significantly less energy, both on a per length and per unit of data transferred basis, than copper lines.").

[45] *See Greener Connections* at 13 ("fiber optic lines . . . are less susceptible to weather / climate-related events, such as flooding," than copper lines).

[46] *See* Fed. Rsrv. Bank of St. Louis, *Global Price of Copper*, https://fred.stlouisfed.org/series/PCOPPUSDM (showing the price of copper grew from $3,168 per metric ton in 2005 to $9,835 in 2025); *see also* NCTA, USTelecom et al., *Protecting the Nation's Critical Communications Infrastructure from*

industry reported nearly 6,000 incidents of copper theft and infrastructure vandalism nationwide.[47] In the first six months of 2025, Ziply, a mid-sized provider in four Western states, experienced more than $3 million in copper theft from its networks in total. Lumen has also faced logistical and financial strain from repeated copper thefts in the same areas, which undermines the repair process. Among recent examples, separate incidents of theft of copper wire in a wire center in Portland, Oregon left more than 500 customers without service — meaning Lumen needed to seek multiple Section 63.63 emergency impairment authorizations — and the area continued to experience copper theft during the repair process. In California alone, AT&T has seen a more than 3,500% increase in copper theft incidents from 2020 to 2024.[48]

Not only must providers guard against these increasing thefts, but copper theft can also require emergency applications to discontinue service, adding to the costs and burdens such thefts cause.[49] It makes little sense to require providers to continue replacing stolen copper when fewer and fewer customers rely on this outdated technology. In such circumstances, providers are effectively forced to throw good money after bad, particularly given the replacement services that are available. Forbearance will promote lower prices and better services for consumers by freeing wasted resources that could instead be invested in modern networks.

No Adverse Impact on Public Safety. Eliminating the requirement to file Section 214(a) discontinuance applications and obtain Commission discontinuance approval will not harm

Theft & Vandalism: Spring 2025 (Nov. 2024, rev. Apr. 2025), https://www.ncta.com/wp-content/uploads/2025/04/Vandalism_2025_Report.pdf.

[47] Lynn Follansbee, USTelecom, *The Growing Crisis of Copper Theft* (Apr. 9, 2025), https://ustelecom.org/the-growing-crisis-of-copper-theft/.

[48] *See* AT&T, *Teaming Up to Tackle Copper Theft* (July 16, 2025), https://www.attconnects.com/teaming-up-to-tackle-copper-theft/.

[49] *See*, *e.g.*, Section 63.71 Application of AT&T, WC Docket No. 25-250 (filed Aug. 14, 2025).

public safety. In fact, facilitating faster network modernization will enhance public safety, as alternative voice services are more resilient and reliable.

First, alternative voice services enable 911 calling. In fact, 80% of all 911 calls today are made over wireless phones.[50] And all providers of alternative voice services must comply with the Commission's 911 rules.[51] Because discontinuance will occur only where these alternative services are available, customers still using the discontinued voice services will have alternatives (likely many), all of which can transmit their 911 calls.

Second, further streamlining discontinuance for legacy data services such as DS3s — as we urge the Commission to do, *see infra* Part V.B — will not preclude 911 calls from getting delivered to Public Safety Answering Points ("PSAPs"). As the Commission has recognized, "[l]ike communications networks generally, dedicated 911 networks are evolving from Time Division Multiplexing (TDM)-based circuit-switched architectures to Internet Protocol (IP)-based architectures."[52] The Commission is actively working with the public safety community, states, and carriers to ensure 911 service is uninterrupted during this transition.

As the transition to modern, IP-based 911 services continues, the need for legacy business data services like DS1s and DS3s to carry 911 calls to PSAPs will eventually disappear. In the meantime, however, ILECs that have sought to discontinue their DS1 and DS3 offerings have reasonably accommodated the DS1/DS3 services used to connect 911 calls to PSAPs including in circumstances where the 911 purpose was not identified when initially procuring the

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[50] CTIA, *A Decade of Technology Improvements in 9-1-1 Location Accuracy Helps First Responders Save Lives* (Apr. 16, 2024), https://www.ctia.org/news/a-decade-of-technology-improvements-in-9-1-1-location-accuracy-helps-first-responders-save-lives; NENA, *9-1-1 Statistics*, https://www.nena.org/page/911statistics.

[51] *See* 47 C.F.R. § 9.10.

[52] Report and Order, *Facilitating Implementation of Next Generation 911 Services (NG911)*, 39 FCC Rcd 8137, ¶ 1 (2024).

services.[53] Nor could ILECs discontinue such services under a conditional grant of forbearance (or the Commission's technology transitions rules), until the affected PSAPs can receive IP-based 911 calls.

Key Consumer Applications and Functionalities Will Remain. In 2016, when adopting the Adequate Replacement Test, the Commission identified a list of "key applications and functionalities" then associated with legacy voice service — such as fax machines and medical monitoring devices — that applicants relying on that test would need to show would work with the proposed replacement service.[54] The Commission recognized, however, that "consumer preferences will evolve as part of technology transitions," and that carriers should not have to "provide access to these capabilities in perpetuity."[55] The Commission also specified that the 2016 list of functionalities sunsets this year.[56] Today, these functionalities are no longer "key" and, to the extent consumers rely on them, they have been replaced by IP-based and wireless options that do not rely on POTS networks. And, even for those customers who still want to use older applications or functionalities, they will continue to have non-POTS options that permit them to do so.

Smartphones and wireless networks provide each of the applications and functionalities, such as faxing, that the Commission in 2016 identified as "key" and that consumers previously accessed through legacy voice service. Smartphones can capture and send documents —

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[53] *See*, *e.g.*, Reply of AT&T Services, Inc. at 9, *Section 63.71 Application of AT&T Services, Inc.*, WC Docket Nos. 25-45 et al. (filed Feb. 25, 2025).

[54] *2016 Technology Transitions Order* ¶¶ 157-158.

[55] *Id.* ¶ 157.

[56] *Id.* ¶ 170 ("[T]he approach we announce today will sunset in 2025 . . . at which point the interoperability requirement will no longer be part of our Section 214 analysis."); *see also* CenturyLink Section 63.71 Application at 19 ("[T]he Commission questioned the need for an interoperability requirement, in declining to include this requirement in the Alternative Options Test.").

whether in PDF format or as images — in multiple ways, including through messages or in attachments to emails. The high-resolution cameras on smartphones take pictures of documents that are sharper than the scanners in fax machines and can capture and transmit color documents, which most fax machines cannot. There are also multiple internet-based fax services that provide users with that functionality at a reasonable cost.[57]

Additionally, home security alarms today rely on wireless networks and built-in wireless antennas (rather than analog phone lines) to connect the alarm system to a monitoring service.[58] Those systems can also use customers' home internet connections — relying on either ethernet or WiFi — to communicate with a monitoring service and with servers that allow customers to use their smartphones (and wireless or WiFi connections) to self-monitor their alarm systems. Smartphones also offer point-of-sale terminals[59] and medical monitoring services.[60] And smartphones today come with built-in captioning and live transcription for use during phone calls, video conference calls, or in-person conversations. Android phones offer both Live

[57] *See*, *e.g.*, Jill Duffy & Michael Muchmore, *The Best Online Fax Services for 2025*, PCMag (Jan. 15, 2025), https://www.pcmag.com/picks/the-best-online-fax-services; *see also* FaxZero, https://faxzero.com/.

[58] *See*, *e.g.*, Aliza Vigderman & Gabe Turner, Security.org, *The Best Security Systems with Apps in 2025*, https://www.security.org/home-security-systems/best/smartphone-app/.

[59] *See*, *e.g.*, Square, *Powering 4 million businesses globally. Ready for yours*, https://www.squaradv.com; Ana Cvetkovic, *Mobile POS Systems in 2024: What They Are and Their Benefits*, Shopify Blog (Apr. 10, 2023), https://www.shopify.com/retail/mobile-pos-system; Square, *Tap to Pay on iPhone*, https://squareup.com/us/en/payments/tap-to-pay; Verizon, *Modern payments, easier than ever*, https://thingspace.verizon.com/partner/fiserv/.

[60] *See*, *e.g.*, Charlotte Wells & Carolyn Spry, *An Overview of Smartphone Apps*, 2 Canadian J. Health Techs. 8 (Feb. 2022), https://canjhealthtechnol.ca/index.php/cjht/article/view/eh0098/eh0098.

Transcribe and Live Caption.[61] iPhones now include Live Captions.[62] In addition, many third-party applications enable live transcription of telephone calls.[63] Finally, consumers that switch to IP-based services will benefit from IP networks' greater ability to prevent illegal robocalls, which cause billions of dollars in consumer fraud. Indeed, many non-POTS voice services have the capability to block unwanted robocalls before they even reach a consumer's phone.[64]

Furthermore, for those few customers who continue to rely on fax machines or alarm systems that connect to monitoring services over POTS lines, options will remain even after POTS is discontinued. For example, in filing its successful applications under the Adequate Replacement Test, AT&T explained that its AP-A service is compatible with each of the applications the Commission identified as key in 2016.[65] Ooma's AirDial is also capable of working with legacy fax machines and similar equipment that relies on POTS lines.[66]

In sum, key consumer applications and functionalities will remain after conditional forbearance from Section 214(a)'s discontinuance application requirement.

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[61] Google, Android Accessibility Help, *Live Caption*, https://support.google.com/accessibility/android/answer/9350862; *see also* Samsung, *Use Live Caption and Live Transcribe on Your Galaxy Device*, https://www.samsung.com/us/support/answer/ANS10003704/.

[62] Apple, iPhone User Guide, *Get Live Captions of Spoken Audio on iPhone*, https://support.apple.com/guide/iphone/get-live-captions-of-spoken-audio-iphe0990f7bb/ios.

[63] *See*, *e.g.*, Debbie Clason, *Top-Rated Caption Apps: Our top picks for smartphone apps that can live caption speech*, Healthy Hearing (July 31, 2024), https://www.healthyhearing.com/report/47850-The-best-phone-captioning-apps-for-the-hearing-impaired.

[64] *See*, *e.g.*, Verizon, *Call Filter*, https://www.verizon.com/solutions-and-services/add-ons/protection-and-security/call-filter/ (automatically block spam calls and report unwanted numbers); Ooma, *Blocking Unwanted Calls: What you can do about robocalls and telemarketers*, https://www.ooma.com/blog/home-phone/what-you-can-do-about-robocalls-and-telemarketers/ (offering a customizable call-blocking technology); *see also* AT&T Section 63.71 Application at 16-17 (describing AP-A's robocall-prevention blocking feature).

[65] AT&T Section 63.71 Application at 7.

[66] Ooma, *POTS Line Replacement*, https://www.ooma.com/business/airdial-pots-line-replacement/.

For the foregoing reasons, conditional forbearance satisfies each of the statutory requirements in Section 10(a) of the Act. And this approach is the best way to streamline Section 214(a)'s discontinuance process and achieve the Commission's goals.

B. In the Alternative, the Commission Should Amend and Simplify Its Proposed Rule for Technology Transition Discontinuances

If the Commission does not forbear from requiring Section 214 applications and approval before discontinuance, USTelecom agrees that the Commission should amend its rules to replace the Adequate Replacement Test and the Alternative Options Test with one simplified rule for technology transition discontinuances — with the additional amendments discussed below.

The Adequate Replacement and Alternative Options Tests are complicated, costly for applicants, and interfere with the Commission's goal of ensuring consumers receive the benefits of technology transitions with "all reasonable efficiency."[67] USTelecom agrees with the Commission's proposed amendments to a new consolidated rule. The proposed rule will allow a carrier to certify that one or more specified "replacement services" exist throughout the area, accelerating the application process because carriers will not need to establish what is already known: that these services are adequate replacements for POTS. Most importantly, this certification process will protect legacy service consumers because they will have these replacement service options available to them when the legacy service is discontinued.

1. The Commission Should Adopt Additional Specified "Replacement Services" That Satisfy a Carrier's Certification Requirement

To best achieve the NPRM's goals, the Commission should expand the list of "replacement services" that a carrier may rely on to meet the certification requirement. That list should include any voice service that, as discussed above, is provided over a broadband network

[67] *NPRM* ¶ 27.

with less than 200 ms mouth-to-ear latency.[68] The Commission should specify that this includes voice service provided over (1) fixed terrestrial broadband networks, (2) satellite broadband service that meets that standard, and (3) 4G LTE and 5G wireless networks when those networks meet that standard. As explained above, the Commission has already correctly found that such networks are more than sufficient to support VoIP services.[69] Therefore, both fixed terrestrial broadband and satellite broadband services that meet this standard are platforms that can provide adequate replacement services for legacy voice service.

2. The Commission Should Establish a Set Timeline and Clear Standards for Processing Section 214 Applications

If the Commission does not forbear from requiring Section 214(a) discontinuance applications and instead adopts its proposed rule for technology transitions, it should make two additional and related rule changes to encourage prompt transitions to new technologies.

First, the Commission should amend Section 63.71(f) of its rules so that the 31-day period before streamlined applications are granted by operation of law begins once the provider *files* a Section 214 application. Currently, the 31-day period begins only when the Bureau issues a public notice that the application meets the FCC's requirements for streamlined processing; there is no deadline by which the Bureau must review the application and issue a public notice.

Absent such a deadline, the public notice process adds unnecessary — and often unpredictable — delays to the streamlined process. And future Commissions could use that

[68] *See supra* Part II.A.

[69] *See supra* note 25; *see also* CenturyLink Section 63.71 Application at 9 (relying on Verizon's 4G LTE and 5G NR mobile broadband network as an adequate replacement voice service). Likewise, Hughes Network Systems, LLC — a satellite broadband and VoIP service provider — was designated as an ETC in New York during the Connect America Fund Phase II Auction, which requires "the technical and financial ability to provide voice and broadband services." Order, *Telecommunications Carriers Eligible for Universal Service Support*, 34 FCC Rcd 11085, ¶ 13 (Wireline Comp. Bur. 2019).

process to frustrate streamlined discontinuance application procedures by refusing to issue public notices for properly filed applications. Indeed, in the past, many carriers experienced substantial delays in public notice of their meritorious discontinuance applications.[70] Such delays require carriers to continue incurring the substantial costs of providing services (or being ready to provide services) that customers are no longer demanding.

Because the Commission's rules will continue to require that written notice to customers precedes an application, those customers who would be affected by a discontinuance application will already have actual notice. There is no need for an FCC public notice on top of that to start the discontinuance "clock" running. The Commission should also amend Section 63.71(a)(5)(i) and (ii) of its rules to adopt a single rule, as follows, setting forth the language carriers must include in customer notices to account for the elimination of the FCC public notice step:

> If you wish to object, you should file your comments as soon as possible, but no later than 15 days after ~~the Commission releases public~~ receiving this notice of the proposed discontinuance. You may file your comments electronically by emailing them to discontinuance@fcc.gov ~~through the FCC's Electronic Comment Filing System using the docket number established in the Commission's public notice for this proceeding~~, or you may address them to the Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, Washington, DC 20554, and include in your comments a reference to the § 63.71 Application of (carrier's name).[71]

Second, the Commission should adopt a rule that sets clear standards for when discontinuance applications can be removed from streamlined treatment, and a timeline for the

[70] *See* Notice of Proposed Rulemaking and Declaratory Ruling, *Ensuring Customer Premises Equipment Backup Power for Continuity of Communications Technology Transitions*, 29 FCC Rcd 14968 (2014) (statement of Commissioner Pai, dissenting in relevant part) (noting that Section 214 discontinuance is not "a speedy process" and that "[t]he FCC sometimes sits on these requests for months or even years").

[71] While under the current version of Section 63.71(a)(5)(i) and (ii) of the Commission's rules, different periods apply depending on whether the provider is non-dominant (15 days) or dominant (30 days), the Commission should adopt a uniform 15-day period for all carriers. There is no reason to maintain this distinction in this context.

Bureau to act after the application has been removed. This is essential to ensure lasting reform. Without clear standards in place, in the future, Commission staff could remove filings from streamlined treatment without explanation or justification. Because there is no deadline to act on an application once it is removed from streamlined treatment, removal is how past Commissions did — and future Commissions could — de facto deny applications without any public action.

To eliminate the possibility of such delays and denials, the Commission should adopt a rule making clear that the Bureau may remove from streamlined processing an application that meets all requirements only if a commenter presents credible evidence that an alternative service is not, in fact, available to customers currently subscribing to the legacy service. Likewise, the Commission should establish a clear timeline for the Bureau to act once an application is pulled from streamlined treatment, such as: At least seven days before a provider's Section 214 application would have been deemed granted, the Bureau must notify the provider that it will remove the application from streamlined treatment and provide detailed reasons for such removal; the provider would then have 30 days to reply, and the Bureau must take further action within 30 days of the provider's reply or the original filing will be deemed granted.

III. The Commission Should Relieve Service Providers from State Roadblocks to Efficient Network Modernization

The Commission invites comment on any "potential revisions to our section 214 discontinuance regulations that might help facilitate the transition to next-generation networks and advanced communications services."[72] Specifically, it asks whether there are any "state, or local requirements that inhibit or impede the transition to next-generation networks and services" and would "conflict with the Commission's goals" of accelerating technology transitions.[73]

[72] *NPRM* ¶ 125.

[73] *Id.*

There are two state requirements in particular that the Commission should consider in this proceeding: (1) state COLR obligations; and (2) state refusals to promptly process applications to relinquish ETC status.

Both state requirements have the same effect — providers cannot discontinue legacy voice services under Section 214 — even where Commission approval has been granted — in areas where they remain under a state-law COLR obligation or a federal ETC obligation to offer that service. By refusing to remove COLR status or let a carrier relinquish its ETC status, therefore, states can effectively force providers to preserve costly, outdated copper network infrastructure and continue offering POTS, even where the Commission grants discontinuance of that service — thereby undermining Commission policy.

ETC status and COLR obligations are historical holdovers from an era when voice communications involved a single provider per jurisdiction, copper wires, and rotary phones. These state regulations were intended to be regulatory "sticks" to the "carrots" of federal or state funding. Applying these onerous regulations to those incumbent providers today — effectively forcing them to preserve costly, outdated copper network infrastructure and continue offering POTS service that fewer and fewer Americans want, even as the corresponding funding sources have dwindled — undermines those providers' investments in next-generation fiber and wireless networks and the communications services provided over them.

The solutions to these issues are different, but equally important for the Commission to adopt. The Commission should declare that federal law preempts COLR obligations for jurisdictionally mixed services that meet the Commission's criteria for discontinuance. The Commission should also adopt a rule clarifying the circumstances and timing for state approvals of applications to relinquish ETC status.

A. The Commission Should Preempt State COLR Obligations for Services It Allows Carriers to Discontinue

State COLR regulations are frustrating federal authority by counteracting the relief that carriers would otherwise receive from the Commission through Section 214 discontinuance. For example, California has maintained COLR status on legacy incumbent telephone companies,[74] which means that even in areas where the Commission authorizes carriers to discontinue POTS service, these states take the position that carriers must maintain a network capable of providing POTS service to all locations in those areas. When the Commission determines the criteria for Section 214 are met — or that forbearance is appropriate — there are already alternative providers available and there is no public interest justification for a state to continue to impose COLR obligations in that same area. Yet despite the explosive growth of wireless and IP-based competitors, and the dwindling or non-existent subsidy funding incumbent providers receive to offset service costs,[75] some states continue to impose anachronistic COLR obligations, hobbling incumbent providers.

State COLR obligations effectively force these carriers to continue providing service even in areas where Commission rules allow the carrier to discontinue the legacy service because there are competitors in the area providing alternative services. Some states, like California, have refused efforts to revise COLR obligations and instead insist that the legacy provider

[74] *See*, *e.g.*, Decision Dismissing with Prejudice the Application of AT&T California To Withdraw as a Carrier of Last Resort, A.23-03-003, D.24-06-024 (Cal. Pub. Utils. Comm'n June 20, 2024) ("COLR Dismissal"), https://bit.ly/3F5BnzA (rejecting AT&T's application to discontinue its COLR obligations in areas where there was a demonstrated alternative provider of voice service).

[75] For example, California's high-cost fund provided $352 million to carriers subject to COLR obligations in 1996 (about $725 million adjusted for inflation), but only $22 million for 2020-2021 (about $27 million in today's dollars) — a more than 95 percent decline in real terms. *See* Order Instituting Rulemaking Proceeding To Consider Changes to the Commission's Carrier of Last Resort Rules, R.24-06-012, 2024 Cal. PUC LEXIS 359, at *6 n.13 (Cal. Pub. Utils. Comm'n June 28, 2024).

continue to serve that role, regardless of the other services available in the area. Indeed, California would only allow the incumbent legacy provider to cease being a COLR if some other carrier volunteered to take on the COLR obligations in its place.[76] But, of course, no company would voluntarily assume such obligation, which would compel it to offer rate-regulated telephone service throughout its service territory while subsidies for doing so have dwindled to almost nothing. Therefore, it is functionally impossible to get out of the COLR obligation.

State COLR regulations thus frustrate Section 214 of the Act by depriving the Commission's approval of a carrier's proposed discontinuance of any effect. The Commission should confirm that inconsistent state COLR obligations are preempted when a carrier could otherwise discontinue service under federal law. Just as the Commission preempted state tariffing requirements for customer premises equipment ("CPE") — also jointly used in interstate and intrastate communications — following its decision to de-tariff CPE, it can also preempt state COLR rules.[77] State COLR obligations, therefore, improperly compel providers to continue providing services that qualify for discontinuance under the Commission's rules or conditional forbearance and deny providers the benefits of such discontinuance.

The case for preemption is even stronger if the Commission forbears from Section 214 requirements. Section 10(e) expressly prohibits the states from enforcing federal rules from which the Commission has forborne.[78] A state cannot continue to enforce a nearly parallel regulation when the Commission has determined that regulation is no longer necessary. State

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[76] COLR Dismissal at 6. Likewise, Oregon Public Utility Commission staff interpret COLR obligations to require there to be a COLR in every service area.

[77] *See Comput. & Commc'ns Indus. Ass'n v. FCC*, 693 F.2d 198, 214-18 (D.C. Cir. 1982) (concluding that the FCC may preempt state CPE tariffing regulations to promote a federal policy of fostering competition in the market for CPE); *see also Pub. Serv. Comm'n of Maryland v. FCC*, 909 F.2d 1510, 1515-17 (D.C. Cir. 1990).

[78] 47 U.S.C. § 160(e).

COLR obligations effectively negate the Commission's judgment that forbearance serves the public interest.

In addition, state COLR requirements violate Section 254 of the Act when they are not paired with "specific, predictable, and sufficient" funding to cover the additional costs that COLR obligations impose on carriers. State regulations are permissible only if they are "not inconsistent with the Commission's rules to preserve and advance universal service."[79] And state regulations designed to advance universal service must include "specific, predictable, and sufficient mechanisms to support" the obligations those rules impose, without "rely[ing] on or burden[ing] Federal universal service support mechanisms."[80] COLR obligations are inconsistent with both the Commission's rules and the affirmative mandate in the statute when, as in California for example, they impose costs on carriers without providing commensurate funding.[81] The Commission can and should find COLR obligations preempted for this reason as well.

B. The Commission Should Adopt a Rule Clarifying States' Obligations to Allow Carriers to Relinquish ETC Status

Section 214(e)(4) of the Act provides that a state commission "*shall* permit an [ETC] to relinquish its designation as such a carrier in any area served by more than one [ETC]."[82] Yet even when Section 214's relinquishment requirements are otherwise satisfied, some states significantly delay approval of a carrier's request to relinquish its ETC status, which functionally turns "shall" into "may." For example, some ETC relinquishment proceedings have been

[79] *Id.* § 254(f).

[80] *Id.*

[81] *See supra* note 75.

[82] 47 U.S.C. § 214(e)(4) (emphasis added).

ongoing for years.[83] The statute directs that the ETC relinquishment process is meant to be a simple and straightforward one: the state need only determine whether another ETC serves the relevant area. But some states have turned this process into lengthy, multi-year-long proceedings that entail substantial data requests and public hearings. To ensure a consistent and efficient process, the Commission should establish a timeline for a state to approve applications to relinquish ETC status.

The Commission should also issue the following clarifications regarding what actions states may take regarding ETC status:

First, the Commission should adopt a 60-day shot clock from the "advance notice" that Section 214(e)(4) requires, which is consistent with other shot clocks it has adopted.[84] And it is consistent with the rest of Section 214(e)(4), which recognizes that, after a carrier's ETC status in a state has been relinquished, remaining ETCs will have a limited period of time (one year) to supplement their networks. The one-year timeline provided in the statute implies that states should approve relinquishment requests quickly. *Second*, to prevent state commissions from second-guessing whether an ETC is actually providing service to an area, the Commission should clarify that an ETC "serves" an area for the purposes of Section 214(e)(4) if it has been designated as an ETC in that area. *Third*, state commissions should not distinguish between

[83] For example, in March 2023, AT&T applied to relinquish its ETC status in California, effective December 2023, but the application is still pending. *See* Application of Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C) To Relinquish Its Eligible Telecommunications Carrier Designation, A.23-03-002 (Cal. Pub. Utils. Comm'n filed Mar. 3, 2023), https://bit.ly/3SvWyhd.

[84] *See*, *e.g.*, Report and Order, *Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, 29 FCC Rcd 12865, ¶¶ 206, 211, 212, 215 & app. B (2014) (providing that a state or local government must approve an eligible facilities request within "60 days of the date on which an applicant submits the request"); Declaratory Ruling and Third Report and Order, *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, 33 FCC Rcd 9088, ¶ 106 (2018) (establishing a "60-day shot clock for processing collocation applications for Small Wireless Facilities").

wireline and wireless ETCs, because nothing in Section 214 gives them the authority to do so, and the distinction is not relevant to the underlying purpose of an ETC designation.

Some states have also added conditions beyond what Section 214(e)(4) requires, mandating that an area be served by one or more ETCs of a particular type before a carrier can relinquish its status as an ETC. For example, the Kansas Corporation Commission decided that an incumbent local telephone company can relinquish its ETC status only in areas in which another so-called "full ETC" — one that is eligible for support in high-cost rural areas — is present.[85] That means wireless carriers, which are Lifeline-only ETCs, do not count and therefore a carrier cannot relinquish its ETC status based on the presence of such ETCs. This makes little sense: the statutory requirement of the presence of another ETC ensures access to voice services. It is not there to ensure a provider eligible for USF high-cost support is in the area.

The Commission should clarify in this proceeding that "more than one [ETC]" means what it says: if any ETC, even a Lifeline-only ETC serves the area, then the condition for ETC status relinquishment in Section 214(e)(4) is satisfied, and the state must promptly allow a carrier to relinquish its ETC status.[86]

[85] *See* Order on AT&T's Request to Relinquish Its Eligible Telecommunications Carrier (ETC) Designation, No. 17-SWBT-158-MIS, ¶¶ 42, 53 (Kan. Corp. Comm'n Mar. 14, 2019).

[86] In the alternative, the Commission should forbear from the high-cost universal service obligations for any LEC ETC when it is no longer receiving high-cost support, expanding the forbearance the Commission previously granted to ILEC ETCs that did not receive high-cost support in certain areas. *See* Report and Order, *Connect America Fund*, 29 FCC Rcd 15644, ¶ 3 (2014) ("We also forbear from the federal high-cost universal service obligation of price cap carriers to offer voice service in low-cost areas where they do not receive high-cost support, in areas served by an unsubsidized competitor, and in areas where the price cap carrier is replaced by another eligible telecommunications carrier.").

IV. The Commission Should Allow Carriers That Have Obtained Emergency Discontinuance Authority to More Easily Convert Those Discontinuances into Permanent Discontinuance

USTelecom agrees that the Commission should amend its Section 214 rules to make it easier for carriers to permanently discontinue a service following an emergency discontinuance. The Commission currently proposes to allow such permanent discontinuances where the carrier has no customers or requests for service for the past 60 days in an area in which the carrier obtained an emergency discontinuance.[87] However, the Commission should — using the logic of its proposal — do more.

The Commission has already implemented a rule, Section 63.71(g), that allows a provider to discontinue service if it has had no customers or reasonable requests for service in the past 30 days.[88] Accordingly, a provider with no customers (and no requests for service) can already discontinue service after 30 days, whether it has prior emergency discontinuance authorization or not. As a result, any carrier that could benefit from the Commission's newly proposed "no-customers-or-requests-within-60-days" rule for converting emergency discontinuances into permanent ones could have already discontinued the service under the existing 30-day rule. While the Commission stated, in adopting Section 63.71(g), that its "action does not impact the requirements associated with emergency discontinuances where a carrier's existing customers are without service for a period of time exceeding 30 days,"[89] the rule itself contains no such limitation — nor would imposing one make sense. If, due to an emergency, a provider is unable to offer service and all of its former customers decide to switch to other voice providers without

[87] *NPRM* ¶ 95.

[88] 47 C.F.R. § 63.71(g).

[89] Second Report and Order, *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, 33 FCC Rcd 5660, ¶ 15 n.46 (2018).

requesting to return once service is restored (i.e., there is also no reasonable request for service during the 30-day period), then this situation qualifies for relief under Section 63.71(g).

Therefore, instead of proceeding with its 60-day proposal, the Commission should allow providers to convert an emergency discontinuance into a permanent one by certifying that: (1) a comparable service is available in the affected area, and (2) the carrier has notified the customers of its intent not to restore service. In the experience of USTelecom members, customers often do not affirmatively cancel their service, even when faced with extended outages due to an emergency and the information that their service is not going to be restored. In other words, a carrier may have no requests for service over a 60-day period during an outage, and service may be out for all existing customers over that same period, but those existing customers remain "customers."

USTelecom's proposed revision to the rules — allowing certifying providers to convert emergency discontinuances into permanent ones — would avoid unnecessary filings and prevent carriers from waiting indefinitely for customers to voluntarily cancel their service before officially discontinuing a service, even when it is clear that service is not going to be restored. When legacy voice service facilities have been impaired or destroyed during a natural disaster or other emergency, it would be costly and inefficient to require carriers to rebuild legacy services for which there is little-to-no demand and for which there are comparable services in the area. It is likewise inefficient to require providers to make a second filing to the Commission or await a second decision on permanent discontinuance.

V. USTelecom Supports the Commission's Additional Proposals to Accelerate Network Modernization

USTelecom supports the Commission's other proposals in the NPRM, including: (1) codifying the ability to grandfather legacy services without filing an application;

(2) redefining "lower-speed data telecommunications service" to include services up to DS3 speeds, to allow more streamlined applications to grandfather legacy services; (3) codifying the Commission's waiver of the network change disclosure filing requirement; and (4) modernizing several Section 214 rules so that any required Section 214 applications are focused on information the Commission would find useful.

A. The Commission Should Codify the Waiver for Grandfathering Legacy Services and Extend It to All Interconnected VoIP Services

USTelecom supports the Commission's proposal to codify the Bureau's waiver of the requirement that a carrier seeking to grandfather a legacy service file a Section 214(a) application.[90] The Commission should further extend that waiver to all interconnected VoIP services, regardless of transmission medium.

As the Bureau has recognized, the current Section 214(a) application requirements for grandfathering a legacy service are costly and unnecessary; waiving them will conserve limited resources of both the Commission and carriers.[91] Without a permanent waiver in place, the Bureau in the future has discretion to remove grandfathering applications from streamlined treatment, which creates regulatory unpredictability for businesses and undermines the durability of the current Commission's approach. Any delays in approval do not serve the public interest. When grandfathering a legacy voice service, all current customers are entitled to maintain their services, so the only consumers who would be affected are potential new customers. Those customers are not currently buying the legacy service, likely have no interest in buying that service, and have many other options in the marketplace (beyond their current service), such as

[90] *NPRM* ¶ 69; *March 2025 Grandfathering Order*; Order, *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, 40 FCC Rcd 3357 (Wireline Comp. Bur. 2025) ("*May 2025 Grandfathering Order*").

[91] *March 2025 Grandfathering Order* ¶¶ 4, 12.

wireless or satellite voice service. A permanent waiver will not harm the public interest because providers will still provide notice to existing POTS customers that their service will be grandfathered as of a certain date, sent by ordinary means of customer contact, such as a bill message.

While the Bureau's waiver was limited to VoIP service positioned over copper lines,[92] the Commission should waive the obligation to file grandfathering applications for all interconnected VoIP services, regardless of transmission medium.[93] As the Bureau recognized,[94] consumers are rapidly adopting interconnected VoIP service, with interconnected VoIP lines from all transmission mediums now accounting for more than 78% of all wireline retail voice service connections in 2024.[95] Given the highly competitive marketplace in which interconnected VoIP providers operate, there is no need for the Commission to oversee grandfathering of any of these services, and the logic underlying the Bureau's waiver for interconnected VoIP over copper lines applies with equal force to interconnected VoIP over all transmission mediums. Waiving the rules only for those providing VoIP over copper also risks creating unintended regulatory advantages for such providers. Providers that offer interconnected VoIP over other mediums would still need to file resource-intensive Section 214 applications, putting them at a cost disadvantage relative to competitors providing VoIP over copper lines, even though all VoIP options offer a comparable service to POTS customers.

[92] *May 2025 Grandfathering Order* ¶ 1.

[93] *NPRM* ¶ 69.

[94] *March 2025 Grandfathering Order* ¶ 10.

[95] *June 2024 Voice Telephone Services Status Report* at 3 fig. 2.

B. The Commission Should Redefine "Lower-Speed Data Telecommunications Service" to Expand Network Modernization Options

USTelecom also supports the Commission's proposal to redefine "lower-speed data telecommunications service" to enable the Commission to consider a variety of network modernization options.[96] Specifically, the Commission should redefine "lower-speed data telecommunications service" to include those with speeds at or below 45 Mbps symmetrical, which would include DS3 service (hereinafter "TDM Data Services"). This broadened definition would accelerate the Commission's streamlining of applications to grandfather services that are no longer necessary given the readily available alternatives.

The Commission already recognized in 2017 that TDM Data Services were "becoming obsolete" because there were higher bandwidth packet-based services in the marketplace, including Ethernet services.[97] "[A]s a result of more substitutes in the market, incumbent LECs face declining sales in TDM services, notably DS1s and DS3s, including customer loss to cable operators and other providers."[98] The equipment supporting TDM Data Services is also now decades old, whereas modern networks are IP-based and "can generally offer much higher capacities."[99]

Maintaining these older TDM networks is costly and energy intensive, and they are difficult to repair given the declining number of technicians with expertise in these legacy networks and the limited equipment replacement options available. Likewise, vendors for the

[96] *NPRM* ¶ 69.

[97] Report and Order, *Business Data Services in an Internet Protocol Environment*, 32 FCC Rcd 3459, ¶ 3 (2017).

[98] *Id.* ¶ 68; *see also* Notice of Proposed Rulemaking, Third Further Notice of Proposed Rulemaking, and Order, *Price Cap Business Data Services*, WC Docket Nos. 21-17, 17-144, FCC 25-44, app. B tbl. 1 (rel. Aug. 8, 2025) ("*Price Cap Business Data Services Order*") (finding only 464 out of 1,264 total markets including copper, cable, and fiber would be found non-competitive under the competitive market tests).

[99] *Price Cap Business Data Services Order* ¶ 5.

equipment are no longer providing software updates or product support. And given the overall age of the TDM-based equipment, there is a higher rate of failure than for modern, IP-based equipment. Accordingly, maintaining TDM equipment in parallel to the modern IP-based networks adds both complexity and costs. Many former TDM Data Services customers have shifted to higher-speed optical or Ethernet services. These higher-speed options provide more-than-adequate alternatives for those customers who have not yet switched from TDM Data Services to more modern IP-based alternatives.

C. The Commission Should Codify Its Waiver of the Network Change Disclosure Filing Requirements

USTelecom agrees that the Commission should eliminate all filing requirements currently set forth in its network-change disclosure rules.[100] Earlier this year, the Bureau waived these filing requirements,[101] meaning that carriers may now provide the public notice that Section 251(c)(5) requires by posting such notice on their websites. As the Bureau correctly found, eliminating these filing requirements will result in a more efficient transition from legacy networks and will reduce unnecessary regulatory burdens.

D. The Commission Should Forbear from Several Unnecessary Section 214 Application Requirements

USTelecom agrees with the Commission's proposal to forbear from Section 214(b)'s requirement to submit copies of discontinuance applications to both the Secretary of Defense and the Governor of the state in which the application is filed.[102] The Commission should also forbear from the requirement to notify federally recognized Tribal Nations and the state public

[100] *NPRM* ¶ 12.

[101] Order, *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, 40 FCC Rcd 2026 (Wireline Comp. Bur. 2025).

[102] *NPRM* ¶¶ 90-91.

utility commission. The notification requirements no longer serve any real purpose because customers receive discontinuance notifications directly. Accordingly, making and mailing the additional copies drains time and resources of all involved without serving the public interest. Requirements like Section 214(b) are the exact type of unnecessary red tape the Commission has aimed to eliminate.[103]

Similarly, USTelecom supports the Commission's proposal to review and eliminate several of its Section 214(a) rules, such as those related to public toll stations, telephone exchanges at military establishments, and trunk lines.[104] As the Commission recognizes, these rules are "remnants of a bygone era," and some are duplicative of other statutory requirements.[105] Eliminating such unnecessary hurdles will ensure that any Section 214 application required under the Commission's rules is focused on material that goes to the purpose of Section 214.

VI. Conclusion

USTelecom's members support the Commission's goal of "reduc[ing] regulatory barriers that prevent much-needed investment in and deployment of broadband and thus hinder" network modernization.[106] The best way to achieve this goal is to forbear from enforcing Section 214(a)'s discontinuance requirements when there are alternatives to legacy voice service and any remaining POTS customers have notice of the discontinuance. For the reasons we discuss, the Commission should also take steps to prevent state COLR and ETC obligations from frustrating the Commission's actions in this proceeding. Finally, the Commission should modify its rules to

[103] *See*, *e.g.*, Carr Remarks at 6 (describing a "comprehensive initiative to eliminate rules and regulations that are unlawful, outdated, or simply no longer necessary").

[104] *NPRM* ¶¶ 103-124.

[105] *Id.* ¶¶ 102, 113-115.

[106] *Id.* ¶ 2.

make it easier for carriers to permanently discontinue services following emergency discontinuance and adopt its other proposals to accelerate network modernization. These measures are, together, necessary to advance the Commission's "Build America" agenda and will best serve the public interest.

Respectfully submitted,

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