



July 18, 2018

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street, Southwest
Washington, DC 20554

Re. Accelerating Wireline Broadband Deployment, WC Docket No. 17-84

Dear Chairman Pai:

The National Telecommunications and Information Administration (NTIA), as the President's principal adviser on telecommunications and information policy, applauds the Commission's continuing actions to accelerate the ongoing modernization of the Nation's communications infrastructure, by promoting the transition from legacy networks and services to next-generation networks and services (the so-called IP transition). NTIA has consistently supported network modernization because it will both significantly reduce carriers' operating and maintenance costs and enable carriers to expand and enhance the services they can offer subscribers.¹ NTIA remains concerned, however, that streamlined regulatory requirements may place federal departments and agencies that rely on services subject to discontinuance in the untenable position of losing access to critical national security and public safety communications functionality.

As an initial matter, NTIA continues to believe that, in most instances, the transition from legacy to next-generation networks and services will be seamless for residential and business customers.² Accordingly, lowering regulatory hurdles for grandfathering and discontinuance applications generally will allow the Nation to reap the benefits of a more capacious, reliable, and flexible communications infrastructure more quickly, without significant customer disruptions. For that reason, we support the Commission's decision to extend the streamlined processing rules it adopted last November for legacy voice and data services operating at speeds less than 1.544 Mbps to carrier applications to discontinue data services at speeds below 25/3 Mbps.³ Further, NTIA welcomes the Commission's decision to retain the "adequate replacement

¹ See Ex Parte Comments of the National Telecommunications and Information Administration in WC Dkt. No. 17-84, at 2 (filed Oct. 27, 2017) (*NTIA Comments*), available at <https://ecfsapi.fcc.gov/file/1027783422501/NTIA%20Ex%20Parte%20Comments%20in%20WC%20Dkt.%20No.%2017-84.pdf>; Letter from Assistant Secretary for Communications and Information to FCC Chairman Wheeler, at 1, Gen. Dkt. No. 13-5 (filed July 29, 2015) (*NTIA Letter*), available at <https://ecfsapi.fcc.gov/file/60001119091.pdf>.

² See *NTIA Comments* at 4-6.

³ See *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, Second Report and Order*, WC Dkt. No. 17-84, FCC 18-74, ¶¶ 7-14 (rel. June 8, 2018) (*Second Report*), available at <https://docs.fcc.gov/public/attachments/FCC-18-74A1.pdf>; *Accelerating Wireline Broadband*

test” it adopted in 2016 as a precondition, in certain circumstances, to streamlined processing of carrier applications to discontinue legacy voice services.⁴ Having retained the adequate replacement test, NTIA encourages the Commission to put in place a process to enable expanding as necessary the list of protected key applications and functionalities.⁵ We also anticipate that the Commission will soon address NTIA’s pending request to expand the list of “low-speed modem devices” identified in the *2016 Technology Transitions Order* to include similar devices commonly used by federal agencies.⁶

NTIA has described to the Commission the problems that the IP transition has created, and will present, for federal users in particular situations.⁷ We appreciate the Commission’s recognition last year of “the budget and procurement challenges that government customers face, as well as other challenges associated with transitioning strategic government applications that use legacy services to alternative next-generation services.”⁸ We also appreciate the Commission’s view that, as a predominant buyer of communications services, the federal government generally is well-positioned to protect its interests through large-scale service contracts with carriers, such as the General Service Administration (GSA)-negotiated contracts underlying the Networx and its replacement, Enterprise Infrastructure Solutions (EIS), communications platforms.⁹ However, as the Commission knows, many federal agencies have offices and installations in remote or less populated areas, or receive services outside of Networx or EIS. In such contexts, they must purchase services outside of GSA contracts, often from carriers that do not face the competitive pressures that the Commission sees in other parts of the country, or in the marketplace generally. Oftentimes, carriers in these areas lack the incentives that exist in more populated areas and, thus, negotiation alone may not produce the contractual provisions that adequately serve federal users’ needs.¹⁰

In that regard, NTIA is encouraged by the Commission’s statement that it expects carriers to continue “to collaborate with their [enterprise or government] customers, especially utilities and public safety and other government customers, to ensure that they are given sufficient time to accommodate the transition to [next-generation services] such that key functionalities are not

and Further Notice of Proposed Rulemaking, 32 FCC Rcd 11128, 11160-68, ¶¶ 80-107 (2018) (*First Report*).

⁴ *Second Report* ¶¶ 29, 33-34. As the Commission notes, one prong of that test requires that any proposed replacement service preserve “interoperability and compatibility” with a specified list of key applications and functionalities. *Second Report* n.91. See also *Technology Transitions, Declaratory Ruling, Second Report and Order, and Order on Reconsideration*, 31 FCC Rcd 8283, 8305, 8341-42, ¶¶ 65, 157-59 (2016) (*2016 Technology Transitions Order*).

⁵ See *2016 Technology Transitions Order*, 31 FCC Rcd at 8342-43, ¶¶ 160-66.

⁶ See *Petition for Reconsideration or Clarification of the National Telecommunications and Information Administration* at 7-10, GN Dkt. No. 13-5 (filed Oct. 12, 2016) (*NTIA Petition*), available at <https://ecfsapi.fcc.gov/file/1012477410931/NTIA%20Pet%20for%20Recon%20101216.pdf>.

⁷ See, e.g., *NTIA Comments* at 6-7, 10 and n.27; *NTIA Petition* at 6-7, 9; *NTIA Letter* at 2-3.

⁸ See *First Report*, 32 FCC Rcd at 11168, ¶ 106.

⁹ *Second Report* ¶ 38; *First Report*, 32 FCC Rcd at 11148-49, 11168, ¶¶ 47, 107.

¹⁰ The term “federal user” includes not only federal agencies, but also private contractors that procure, assemble, aggregate, and manage networks for federal users and agencies. See *NTIA Comments* at 3 n.6.

lost during this period of change.”¹¹ We understand the Commission’s decision not to adopt specific protections for federal users rests on its confidence in carriers’ “incentives and a long history of accommodating government customers to avoid costly and dangerous disruptions of service.”¹² Further, in the case of service discontinuances involving multiple locations – a major concern for federal users – the Commission specifically relied on carriers’ “strong incentives to work with its customers to establish a transition schedule that is seamless, physically attainable,” and consistent with any applicable contractual obligations.¹³

A broad range of critical national security and public safety functions of the Federal government rely on reliable telecommunications services, and it is in the national interest to ensure that those functions can be maintained as our country’s communications providers make the welcome transition to modern technology. NTIA appreciates that if carriers’ conduct impairs those agencies’ critical national security and public safety functions, the Commission retains “flexibility to address these circumstances on a case-by-case basis.”¹⁴ As the Commission states, “customers are able to file comments in opposition to a discontinuance application and seek to have the Commission remove the application from streamlined processing.”¹⁵ We construe that language as a commitment to sanction conduct impinging on those critical functions when it occurs.¹⁶ In particular, the Commission should hold in abeyance any copper retirement if a federal user credibly alleges that the carrier’s proposed retirement date does not give the user “sufficient time to accommodate the transition to new network facilities such that key functionalities are not lost.”¹⁷

I am confident that the Commission will continue to recognize and address the specific needs of federal government users during the IP transition and look forward to working together to ensure no disruption to their communications, particularly in the areas of national security and

¹¹ *Second Report* ¶ 38 (quoting *First Report*, 32 FCC Rcd at 11149, ¶ 48).

¹² *First Report*, 32 FCC Rcd at 11167-68, ¶ 106. See also *Second Report* ¶ 38; *NTIA Comments* at 8-9.

¹³ *First Report*, 32 FCC Rcd at 11166, ¶ 97.

¹⁴ *Id.* ¶ 98 (referring to “specific applications that raise public safety or other mission-critical safety concerns, where the discontinuance timeframe is too short to accommodate [a customer’s] transition needs, or where a carrier is not working cooperatively to effectuate such a transition”).

¹⁵ *Second Report* ¶ 38.

¹⁶ For example, if a federal user credibly claims that a carrier has not discussed a proposed service discontinuance with affected federal customers, and taken all reasonable steps to ensure the continuity of critical agency networks, systems, and services, the relevant discontinuance application should not qualify for expedited review until the Commission is satisfied that the carrier has taken such steps.

¹⁷ See *First Report*, 32 FCC Rcd at 11149, ¶ 48.

public safety. Thank you for your consideration of these views. If you have any questions, please contact either me or John Morris of my staff at (202) 482-1880.

Sincerely,

A handwritten signature in blue ink, consisting of a large, stylized 'D' followed by 'J. Redl'.

David J. Redl

cc: Commissioner Michael O’Rielly
Commissioner Brendan Carr
Commissioner Jessica Rosenworcel