



VIA ELECTRONIC DELIVERY

November 5, 2007

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Room TW-B204  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: Ex Parte Communication, In the Matter of Policies and Rules Governing Retirement of Copper Loops By Incumbent Local Exchange Carriers; Petition of XO Communications, LLC, et al., for a Rulemaking to Amend Certain Part 51 Rules Applicable to Incumbent LEC Retirement of Copper Loops and Copper Subloops; Petition of BridgeCom International, Inc. et al., Petition for Rulemaking and Clarification, RM-11358**

Dear Ms. Dortch:

Comments in the above-captioned proceeding were filed on February 28, 2007, and reply comments were filed on April 2, 2007. The National Association of State Utility Consumer Advocates (“NASUCA”)<sup>1</sup> did not file either comments or reply comments, not for lack of interest, but for lack of resources.

Some six months after the filing of the reply comments, the Federal Communications Commission (“FCC” or “Commission”) has not acted on the Petitioners’ request for the Commission to open a rulemaking “to establish strengthened safeguards to protect against ILEC anticompetitive copper loop retirement.”<sup>2</sup> NASUCA takes this opportunity to urge the Commission to grant the petitions, and open a rulemaking to constrain ILEC copper retirement.

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<sup>1</sup> NASUCA is a voluntary association of advocate offices in more than 40 states and the District of Columbia, incorporated in Florida as a non-profit corporation. NASUCA’s members are designated by laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts. See, e.g., Ohio Rev. Code Chapter 4911; 71 Pa. Cons. Stat. Ann. § 309-4(a); Md. Pub. Util. Code Ann. § 2-205(b); Minn. Stat. § 8.33; D.C. Code Ann. § 34-804(d). Members operate independently from state utility commissions as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (e.g., the state Attorney General’s office). NASUCA’s associate and affiliate members also serve utility consumers but are not created by state law or do not have statewide authority.

<sup>2</sup> BridgeCom, et al., Petition at 1.

Customers benefit from the continued availability of copper loops that competitive local exchange carriers (“CLECs”) use to provide broadband and other services. This broadband service is a competitive alternative to the broadband service -- whether copper-based or fiber-based -- provided by incumbent local exchange carriers (“ILECs”). Under the current regulatory structure, ILECs can retire their copper loops with virtually no oversight, and CLECs effectively have the burden to demonstrate why the loops should not be retired.<sup>3</sup> The ILECs can thus use the process to thwart competition by indirectly denying consumers this competitive alternative.

Establishing rules to govern copper retirements will not prevent ILECs from deploying broadband services of their own, especially in areas that currently have no broadband service.<sup>4</sup> And establishing rules to govern copper retirements will ensure that the benefits of the existing copper network will continue to accrue to consumers.<sup>5</sup> The Commission should expeditiously open a rulemaking so that ILECs -- at the very least -- are not incited to push retirements due to FCC inaction.

NASUCA urges the Commission to open the rulemaking requested in the Petitions.

Respectfully submitted,

/s/ David C. Bergmann

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<sup>3</sup> See *Verizon Telephone Companies Short Term Network Change*, Report Nos. NCD-1396, 1397, 1399, BridgeCom International, Inc., et al. Objection (April 19, 2007) at 2.

<sup>4</sup> See Verizon Reply Comments (April 2, 2007) at 2-3; Embarq Reply Comments (April 2, 2007) at 1; GVNW Reply Comments (April 2, 2007) at 3.

<sup>5</sup> See letter from Consumers Union and Consumer Federation of America (April 2, 2007) at 2.