

The background features a stylized globe with a network of lines connecting various points. Overlaid on the globe are several city names in a light blue, semi-transparent font, including Sweden, Bogotá, Austria, Buenos Aires, Hong Kong, Ireland, Norway, Switzerland, Perú, New York, The Netherlands, Denmark, Romania, Amster, France, Slovenia, London, Beijing, Brussels, Croatia, Norway, Spain, Sao Paulo, and Boston. The text "Ohio's Network Transitions Collaborative Preserving the Network Compact" is prominently displayed in the center-right of the slide.

## Ohio's Network Transitions Collaborative Preserving the Network Compact

Pamela Hollick, Associate General Counsel  
February 23, 2016

# Comments Supported by MACC

Midwest Association of Competitive Communications Providers





The *Midwest Association of Competitive Communications (MACC)* is a coalition of telecommunications companies dedicated to preserve competition through policies that protect state regulatory oversight over the wholesale market.

---

MACC fully supports:

1. Communications policies that spur competition, private investment, deployment of next-generation technologies and networks that meet the dynamic needs of the global marketplace.
2. Technologically neutral interconnection of networks for voice traffic and the public filing and approval of Interconnection Agreements.
3. State Commission's maintaining the authority to act as a regulatory backstop to settle unresolved differences between carriers and continued oversight over wholesale market.
4. An open dialogue with state commissions on the level of current competition and the impact of the transition to next generation technologies and networks.
5. The significant role states play in ensuring that consumers benefits from the robust benefits that competition brings.

## What's the IP Transition all about?

### ILECs are Upgrading to Contemporary Technology

- CLECs have been leading the transition to IP-based technologies for more than a decade.
  - We provide IP-based data and voice services
  - We provide wide area Ethernet services
  - We provide data and cloud-based solutions
- CLECs entered the market with contemporary technology
- Concern: There are 2 transitions -
  1. Network or Facility Layer: ILECs are replacing copper with fiber.
  2. Protocol/Transmission: ILECs are changing transmission protocols used to provide voice and other services. IP networks use copper, coaxial cable, wireless and other fiber as the physical infrastructure.



shutterstock · 61526641

### CONFUSION.

\*Opportunity for ILECs to cast it as a need to change the regulatory rules.

\*ILECs Use Transition as a refusal to Engage in Negotiations for Interconnection unless the resulting agreement is “Commercial”.

Competitive Carriers should not be forced to incur an increase in costs for last-mile or be denied access simply because the ILEC replaces copper with fiber or changes the transmission protocols used to provide service.

## Preserving the Network Compact

### Preserve Competition Where It Exists Today

For the last 20 years, competition has survived because state Commissions exercised their oversight to ensure all networks were interconnected through

- approved non-discriminatory interconnection agreements
- established metrics for wholesale performance, and
- pricing for wholesale products.



Today, with the technology transition, the lack of transparency of carrier-to-carrier agreements, and uncertainty over terms, conditions and availability of products for wholesale purchase, competition faces its toughest battle yet. We, as CLECs, have invested hundreds of millions of capital dollars in deploying facilities, creating products and services that offer competitive alternatives to the ILECs over the last 20 years. For competitors to continue to thrive in this new paradigm shift and compete for many years to come, regulatory backstops that were intended to protect consumers must continue.

- No impairment of service delivery, quality or availability
- Reasonably comparable wholesale replacement product must be available
- Price per Mbps should not increase
- Wholesale rates should not exceed retail rates
- No backdoor price increases
- No degradation in service delivery or quality levels

## Wholesale Marketplace – Wires Still Matter

### Access to Last Mile Network from ILECs

The heart of the wireless network is all about the wired connection. (Diagram below)

And for business customers to have a real choice in their communications services, multiple providers must have access to the individual customer's building. But they don't – just substitute a business building for the Tower in diagram below. The majority of business locations face either monopoly or duopoly ownership over connectivity.

CLECs do construct these facilities, but they face higher thresholds than ILECs for fiber loop construction, enterprise competition and in some places, there are barriers that preclude construction. CLECs need wholesale fiber last mile access facilities at reasonable rates, terms and conditions to compete.



## Last Mile Access

### FCC Rules on Copper Retirement and 214 Process

#### Retirement Rules

- ✓ Extends notice period for interconnecting carriers to ensure time to upgrade networks (6 months), and updates process by which carriers share technical info.
- ✓ For first time, ensures that copper is not allowed to be de facto retired via neglect without public notice.
- ✓ Requires notice of copper retirements to public safety, state, and Tribal authorities for the first time.

#### 214 Discontinuance

- ✓ Clarifies that carriers must determine if discontinuing service to wholesale carrier-customers will result in discontinuance of service to end-users, including a carrier-customers' retail end-users.
- ✓ ILECs must conduct a meaningful evaluation that requires consultation, review of financial and technical factors affecting the carrier-customer may be relevant.
- ✓ Alternative inputs must allow CLEC to maintain existing service without material difficulty or costs
- ✓ State Commissions should be engaged in this process

## Last Mile Access

### Unbundled Network Elements (UNEs) and Special Access

Transition to IP, ILEC must maintain reasonably comparable wholesale access



- Must ensure ILECS offer rates to wholesale customers that reflect discounts from actual retail rates as required by the 1996 Act, and products are offered under reasonably comparable rates, terms and conditions.
  - Windstream has a petition for a declaratory ruling pending at the FCC on the continued availability of UNEs - unbundled DS1 and DS3 loops - when provisioned over fiber or transmitting traffic in IP format.
  - Special Access (Business Broadband) services are dedicated high-capacity connections used by businesses, carriers and institutions to transmit voice and data. FCC has an open proceeding to evaluate the market and regulations applicable to it but has ordered in the interim if an ILEC seeks 214 discontinuance for a TDM service, it is required to offer wholesale access reasonably comparable to that previously provided.

## Reasonably Comparable Wholesale Access

### FCC Criteria

1. Will the price per Mbps Increase? Will the price per Mbps of the IP replacement product exceed the price per Mbps of the TDM product that otherwise would have been used to provide the comparable special access service.
2. Will a Provider's Wholesale Rates Exceed its Retail Rates?
3. Will Reasonably Comparable Basic Wholesale Voice and Data Services Be Available? The FCC expects that the efficiencies inherent in the provision of IP services will ensure that rates equal to or below TDM rates will allow ILECs to recover their investment.
4. Will Bandwidth Options be Reduced?
5. Will Service Delivery or Quality be Impaired? Includes a review of service functionality, quality, OSS efficiency, installation intervals and a comparison between what incumbent delivers for its own or affiliates' operations.

\*Several of these criteria are valuable for determining if retail product replacement is comparable as well.

**Thank you.**

**Questions?**

**Pamela Hollick**

**317-713-8977**

**[Pamela.Hollick@Level3.com](mailto:Pamela.Hollick@Level3.com)**