

**STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY,  
CONCURRING IN PART AND DISSENTING IN PART**

Re: *Ensuring Customer Premises Equipment Backup Power for Continuity of Communications*, PS Docket No. 14-174, *Technology Transitions*, GN Docket No. 13-5, *Policies and Rules Governing Retirement Of Copper Loops by Incumbent Local Exchange Carriers*, RM-11358, *Special Access for Price Cap Local Exchange Carriers*, WC Docket No. 05-25, *AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, RM-10593.

I want to be clear about something that all too often gets lost in discussions about technology transitions: they are positive advances that ought to be encouraged. Innovation generally leads to more choices, lower costs, and better functionalities. Many consumers have recognized these benefits and have already transitioned to new technologies, services, and apps. As I have said before, every day and in every market, consumers are moving to IP-technologies all without the heavy-handed creation of new Commission rules.

I thank the Chairman and staff for their willingness to work with me on parts of this item. The changes enable us to seek comment on issues without heading down regulatory rabbit holes, such as requiring providers to check battery inventories at commercial retail outlets or obligating carriers to provide their customers with information about their competitors' services. While I continue to have significant concerns about where this proceeding is ultimately headed, the current Notice is now somewhat balanced so that all parties can have a productive dialogue on the issues. In addition, the Notice seeks comment on the costs and benefits of the various proposals, and I encourage interested parties to provide data on these points. As a result of these changes, I am able to concur on this portion of the item.

On the other hand, I cannot support the unbounded Declaratory Ruling, which appears to require carriers to file section 214 discontinuance applications for services they don't even know they are offering. Instead of defining a service based on the terms of a carrier's tariff, the Commission will take into account "the totality of the circumstances from the perspective of the relevant community or part of a community, when analyzing whether a service is discontinued, reduced, or impaired under section 214." In other words, a carrier has to guess how the service is being used, what the community thinks about such uses, and whether the FCC would require a filing in such instances. Moreover, it has to figure out what a "part of a community" means. Such a nebulous standard appears nowhere in the Act and has no basis in wireline precedent, and for good reason: it provides no guidance whatsoever. It is telling that staff was unable to provide me with a single scenario that would not require a filing. Moreover, this is another example of the Commission regulating to seemingly avoid hypothetical harms.

The entire Declaratory Ruling sets a stage to force providers to either maintain their legacy networks and every last service, or file applications only to see them bogged down in a subjective review process. In the end, I suspect that providers will probably continue to migrate willing customers to advanced communications platforms and services separate from this scheme and do just enough to maintain their existing copper network. What a waste. Instead of embracing new technologies we are telling providers that they are subject to the whims of a regulatory body operating behind the times. And consumers will pay higher rates in the end for "protections" that many do not want or need.