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**VIA ECFS**

Marlene Dortch  
Secretary  
Federal Communications Commission  
45 L Street NE  
Washington, DC 20554

**Re: Improving Competitive Broadband Access to Multiple Tenant  
Environments, GN Docket No. 17-142.**

Dear Ms. Dortch:

On March 28, 2024, Graham Grunow of GiGstream, Jennifer Richter of Akin, and the undersigned met with Lauren Garry, legal advisor to Commissioner Carr over videoconference, to discuss the above-referenced proceeding.

GiGstream highlighted for Ms. Garry that bulk-billing arrangements for broadband services in multi-tenant environments (“MTEs”) take many forms, and do not universally deprive tenants of the ability to choose other internet service providers (“ISPs”). In fact, some of these arrangements are very pro-consumer, providing:

- high-speed broadband service to tenants in excess of FCC standards (often providing symmetrical gigabit service);
- more ISP choice for tenant broadband services;
- ubiquitous wireless broadband access in MTE common areas for the benefit of all tenants and guests; and
- whole-building wireless connections for IoT devices used by the infrastructure in the MTE, saving energy, dollars, and time.

In view of the benefits to tenants resulting from some bulk-billing arrangements, the Commission should not take a one size fits all approach to the regulation of bulk-billing in MTEs. Indeed, some bulk billing arrangements offer *more* benefits to consumers than consumers could achieve when contracting with ISPs directly, and these arrangements should be exempt from bans or prohibitions that the Commission may be considering.

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As part of the upcoming notice of proposed rulemaking (“NPRM”), GiGstream would like the Commission to consider if MTE arrangements including some or all of the following six (6) factors, or other factors, should be exempt from any bulk-billing bans:

1. **The Bulk-Billed Broadband Meets or Exceeds FCC Standards for Broadband:** The bulk-billed broadband is offered at speeds at or greater than the new definition of broadband—100/20 Mbps. Providing competitive broadband speeds, most typically offering many multiples of 100/20 Mbps, helps bridge the digital divide.
  - When competitive providers deploy broadband systems at higher speeds in an MTE it drives competition as it is a catalyst for “legacy” competitors to upgrade existing systems, and compete for the business of, the modern consumer.
2. **The Bulk-Billed Broadband is Charged to the Building Owner based on a Fixed Fee and Does Not Vary Based on Occupancy:** The bulk-billed broadband to the building is a flat fee and does not vary based upon occupancy (i.e., the presence of empty apartments does not lower the cost of broadband for the building, nor does it increase the cost to other individual tenants). In such a flat fee or fixed-cost scenario, the broadband cost for the building does not vary, similar to other onsite services or facilities, regardless of tenancy, such as the costs associated with providing a pool, gym, community center, etc.
  - A tenant that chooses to live in the MTE necessarily opts into the choices made by the MTE owner as to the services and facilities offered, with no expectation of receiving a credit if the service or facility is not used by the tenant.
3. **The Bulk-Billed Broadband for the Building is not Functionally or Financially Separable from the Broadband Enjoyed by the Tenants:** The bulk-billed broadband for the building provides many benefits, functioning beyond service to individual tenants, and is not separable from other benefits received by the building.
  - In this scenario, bulk-billed broadband not only benefits tenants in their units, but also provides wireless broadband service throughout the campus and common areas of the building, which in turn provides connections for critical IoT services for the MTE infrastructure such as wireless security, thermostats, water meters, smart locks, HVAC monitoring, etc. Many of these benefits improve overall building efficiency.

4. **Tenants Can Choose Other Broadband Subscription Services To Serve Their Needs and Still Be Afforded Access to the Bulk-Billed Broadband in the Building:** Tenants have access to the bulk-billed broadband even if they decide to subscribe to services of an alternate provider in the building. Tenants are not prohibited from subscribing to services provided by alternative providers. Tenants will not have to opt-in or opt-out of the building's broadband, because it is always on.
  - The bulk-billed service does not in any way hinder the provision of service by other providers. Here, services by other broadband providers are allowed and tenants are not penalized – they still have access to building-wide broadband service.
5. **The Terms of Bulk-Billed Broadband are Transparent For Tenants:** The features of building wide broadband, which is bulk billed, are transparent to tenants and include: (1) upfront disclosure of the building-wide broadband service that is always-on and always available to tenants similar to other amenities in the building (gyms, pools, common areas); (2) clear, conspicuous contact information for the broadband provider that will respond to service issues; and (3) disclosure that tenants have choice, need not rely solely on the building-provided broadband, and are free to obtain their own subscription services from other providers without sacrificing access to the building-wide broadband.
6. **The Bulk-Billed Broadband is Offered By a Competitive Provider, and Not an Incumbent Provider of Broadband Services in the Local Market:** Bulk-billing arrangements between building owners and competitive providers of broadband should be supported. Many competitive providers of bulk-billed broadband for MTEs are overbuilding broadband that already exists in a property. These competitive providers are winning MTE contracts because they are providing better broadband services with greater functionality than incumbents have been providing. New, overbuilt service in an MTE places competitive pressure on incumbent providers, which can result in improved service offerings and lower prices for consumers. This competition is important for consumers and the Commission should not discourage this kind of investment and competition for MTEs.

Additionally, we discussed the potential interference with private contracts. If the Commission were to prohibit bulk-billing for broadband services to MTEs, the existing contracts must be grandfathered for the term of those contracts. The investments made by competitive broadband providers to enable building-wide broadband service must be respected by the

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government, and the Commission should not undermine providers' reasonable investment-backed expectations. These bulk-billing arrangements should be grandfathered until the agreements expire by their terms. As a policy matter, nullification of existing private contracts between providers and MTEs will have a chilling effect on investment, which will further delay the closing of the digital divide.

GiGstream respectfully requests that the Commission include in the NPRM questions that will assist the Commission in exploring, as GiGstream suggests here, whether there are bulk-billing arrangements that provide enhanced benefits to consumers. As GiGstream suggests, there are at least six (6) factors that could be considered by the Commission in devising a pro-consumer exemption to a bulk-billing ban.

Sincerely,

Joseph S. Calascione  
*Counsel to GiGstream*

CC: Lauren Garry