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May 20, 2024

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

Re: *Ex Parte Presentation of Summit Broadband*  
GN Docket No. 17-142

Dear Ms. Dortch:

This letter provides notice that Kurt Van Wagenen (Chief Executive Officer, Summit Broadband), Randall Covard (SVP-Legal Operations, Summit Broadband), and the undersigned, as outside counsel to Summit Broadband, met via videoconference in separate meetings with each of the following officials: (1) Justin Faulb, Chief of Staff and Legal Advisor to Commissioner Starks; (2) Elizabeth Cuttner, Legal Advisor to Chairwoman Rosenworcel; (3) Hayley Steffen, Legal Advisor to Commissioner Gomez; and (4) Adam Cassady, Legal Advisor to Commissioner Simington. The meeting with Mr. Faulb took place on May 16, and each of the other three meetings took place on May 17. In each meeting, the Summit Broadband representatives discussed the proposed Notice of Proposed Rulemaking in GN Docket No. 17-142, which is currently on circulation before the Commission. The Summit Broadband representatives also shared and discussed the attached presentation.

For over 30 years, Summit Broadband has connected households and businesses in Florida with broadband, video, and voice services. As a facilities-based provider that competes head-to-head against telecom and cable incumbents, Summit Broadband has learned much about the telecommunications needs and interests of the households and communities it serves in Central, West and Southwest Florida.

In particular, Summit Broadband serves many households represented by homeowners associations (“HOAs”), and it has seen firsthand that many HOAs prefer to procure broadband service via bulk billing arrangements. Bulk billing arrangements enable internet service providers (“ISPs”) competing to serve an HOA to offer the best possible prices, service level guarantees, dedicated customer service, and other benefits to all households within the HOA.

For example, in its bulk billing agreements, Summit Broadband is able to offer 1 Gigabit symmetrical (and above) broadband service at prices that often are approximately *half* of typical retail rates. Competitive providers like Summit Broadband are able to offer 1 Gig-and-above symmetrical speeds at below-retail pricing in bulk billed arrangements for a simple reason: the contractual commitment from the HOA justifies investment in new network builds and makes it more likely that the ISP will eventually recoup the high upfront costs of deploying fiber to and throughout the HOA's community.

HOAs benefit substantially from competition in negotiating these bulk billing arrangements. In Summit Broadband's experience, there typically will be up to six ISPs competing for a new bulk billing agreement as part of an HOA-run competitive process. HOAs often will appoint a subcommittee of residents to develop a detailed Request for Proposal ("RFP"), solicit responses, select, interview and negotiate with two or three finalists, and negotiate a contract with the finalist—all subject to the final approval by the HOA board.<sup>1</sup>

This competitive process gives an HOA the ability to determine which contractual terms to prioritize in a negotiation. Among other terms, the HOA is free to require that competing ISPs agree to an "opt out" provision for individual homes represented by the HOA. Because this reduces certainty for the ISPs, however, the HOAs likely will see higher per-household prices offered by the bidding ISPs and probably fewer bidders—this simply is a tradeoff of priorities that occurs in any arms-length negotiation. In fact, in Summit Broadband's experience, most HOAs negotiating bulk billing agreements choose *not* to require an opt out, as they have prioritized other terms (including price and guaranteed service levels) more highly, along with other benefits such as ensuring all homeowners have broadband service.

In contrast, were the Commission to *mandate* opt outs, it would override HOAs' negotiating judgment and force HOAs to artificially prioritize opt outs over other contractual terms, including price and service level guarantees. These mandatory opt out provisions would cause ISPs to raise prices to recoup potential lost revenues and could push some providers to exit the HOA marketplace altogether, leading to less facilities-based competition. This outcome would be contrary to the Commission's own goals of attracting private investment to build fiber networks and provide affordable broadband service to households.

In light of the above, the Summit Broadband representatives urged that if the Commission were to adopt an NPRM on this topic, it should exercise caution and refrain from making tentative conclusions that new rules are necessary or appropriate, particularly in the HOA context. In addition, the Summit Broadband representatives

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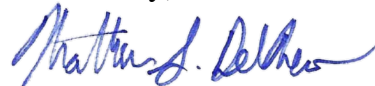
<sup>1</sup> The Summit Broadband representatives noted that while in some cases the company has competed to serve a new development, more often Summit Broadband is competing to serve (or to continue serving) existing developments for which the HOA (not a developer) has decision-making authority.

encouraged the Commission to ensure that any NPRM it may adopt in this proceeding seek comment on, among other topics:

- The distinctions between different categories of bulk billing purchasers.
- Whether any new rules that may be adopted should exempt bulk billing agreements entered into by HOAs and service providers, given that there is no “landlord” involved in an HOA and the homeowners have representation and a voice in the decisions of the HOA.
- The ways that bulk billing can incentivize new fiber builds at lower, per-household prices for households in an HOA.
- The settled expectations of both HOAs and their ISPs in existing bulk billing agreements.

Please direct any questions to the undersigned.

Sincerely,



Matthew S. DelNero  
*Counsel to Summit Broadband*

cc: Meeting attendees



**summit**  
BROADBAND<sup>®</sup>

*Made To  
Connect*

**Kurt Van Wagenen**, Chief Executive Officer, Summit Broadband

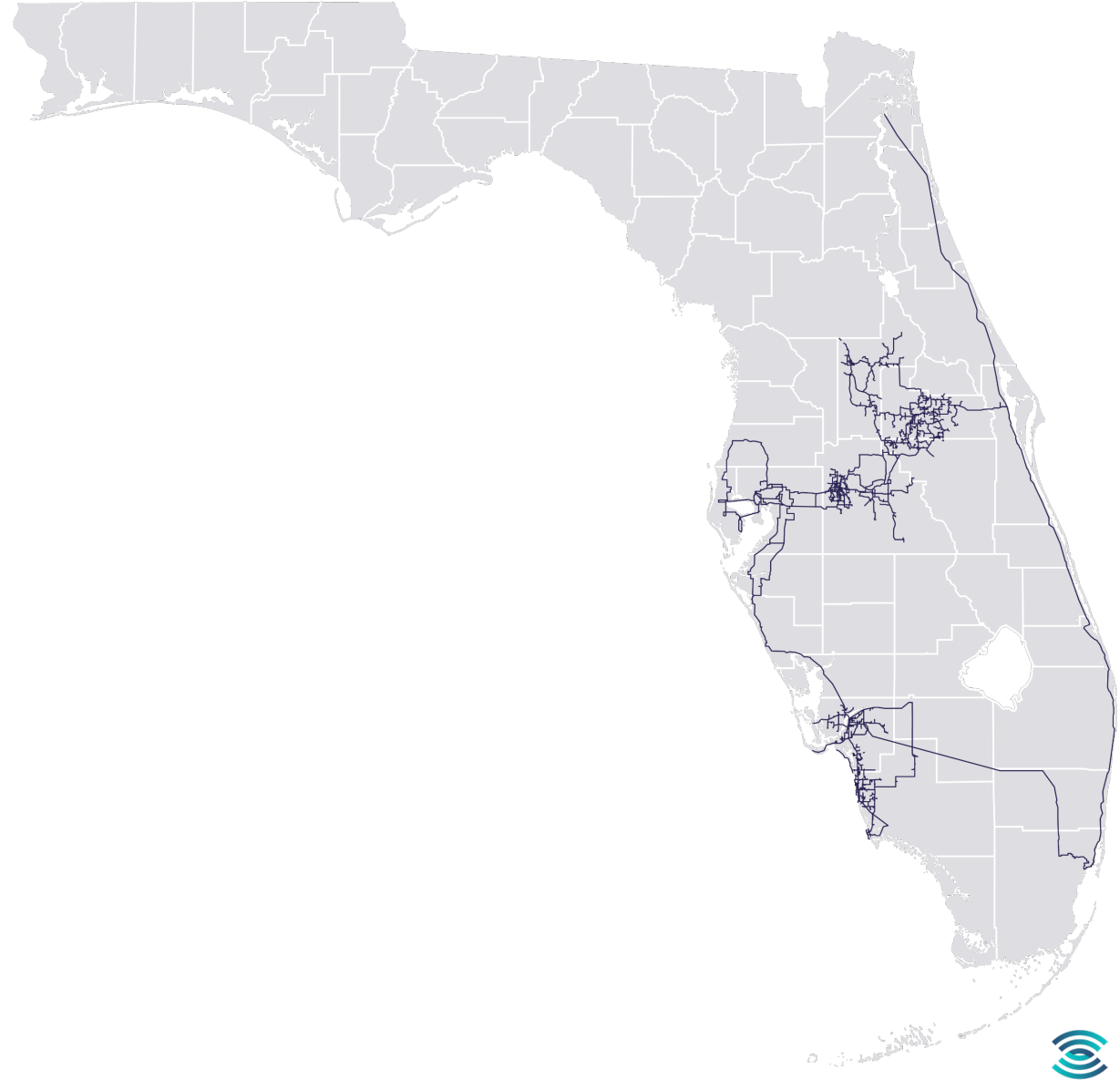
**Randall Covard**, SVP Legal Department, Summit Broadband

**Matt DeNero**, Covington & Burling LLP, outside counsel

**FCC Ex Parte Presentation in GN Docket No. 17-142 (May 2024)**

# Orlando Telephone Company dba Summit Broadband, Inc.

- Serving Florida for 30 Years
  - Central, West and Southwest
- Fiber-Focused. Florida Based.
  - 300+ US-based employees including dedicated customer contact center
- Over 4,300 route miles of high-density fiber-optic cable
  - Internet, Video, and Telephone Services
  - Residential and business customers
  - Largely Homeowners Associations (HOAs)
- Privately held and funded



# Made to Connect

We provide custom-built networks and purposeful solutions for all connectivity needs.



## Residential

Bulk HOA, ROE, FTTH



## Enterprise

>20,000  
serviceable buildings within  
1,000 feet of our fiber



## Hospitality

Hotels, Vacation Rentals,  
and Resorts



## Wholesale

Wholesale, Carrier  
400+ cell tower  
sites on-net



# Advantages of Residential Bulk Billing to HOAs and Homeowners

- **Superior Pricing, Access and Technology**
  - Bulk rate for 1 Gig Internet averages half of the retail rate
    - 50% cost savings to subscribers
  - Bulk pricing includes new customer equipment, oftentimes with regular upgrades
  - Households receive best-in-class technology and Internet speeds
  - Additional value-added services
    - Common space Wi-Fi, video, gate access and security
- **Dedicated Customer Service**
  - Residential contact center with prioritized call center queues
    - Guaranteed Service Level Agreements are common
  - Dedicated Community Account Managers maintain professional relationships with regular and proactive community outreach
  - Personalized installation and troubleshooting assistance



# Advantages of Bulk Billing to HOAs and Homeowners

## **Bulk Billing Facilitates Private Investment in Broadband Deployment**

- Contractual commitment justifies investment in new network builds
- Wiring and serving HOAs with all-fiber network is expensive; longer-term contracts help recoup these costs
- Attracting private capital is essential to meeting U.S. broadband goals

## **Bulk Billing is Highly Competitive and Directly Benefits Homeowners**

- Volunteer HOA boards negotiate on behalf of owner residents; no “landlord” involved
- Highly competitive process preferred by many residents and HOA boards in Florida
- Multiple providers compete against each other through RFP process
- Opportunity for residents (through elected board) to negotiate specific needs and unique benefits for the community





# Eliminating Bulk Billing, Imposing Opt-Out Would Disserve Homeowners

- **Bulk Billing Promotes Broadband Deployment and Affordability**
  - Provides high-speed reliable broadband Internet connection for many consumers at desirable price points
  - Remains a highly competitive and heavily negotiated arms-length transaction negotiated by homeowners and their representatives
- **Mandatory Opt-Out Will Not Serve HOAs or the Homeowners They Represent**
  - HOAs today are free to negotiate with ISPs for bulk contracts with opt-out terms, but most choose not to do so
    - By contracting to include service for all homes in the HOA, the HOA is able to negotiate better overall prices and other preferred contractual terms with ISPs while ensuring 100% of residents are served
    - In other cases, HOA may insist on an opt-out if that is preference of the homeowners, in exchange for a higher price point or other tradeoffs. Today, HOAs have choice in which contractual terms they prioritize in a negotiation/RFP process.
  - Mandatory opt-out would override HOAs' negotiating judgment and would force ISPs to price in uncertainty for opt-out
  - Mandatory opt-out could force some providers to exit HOA marketplace altogether, leading to less competition to serve HOAs

