

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

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| In the Matter of |) | |
| |) | |
| Southwestern Bell Telephone Company, |) | |
| d/b/a AT&T Missouri’s, Notice of |) | Case No. IO-2017-0132 |
| Relinquishment of Its Eligible |) | |
| Telecommunications Carrier Designation |) | |
| Pursuant to 47 U.S.C. §214(e)(4) and Notice |) | |
| of Withdrawal From State Lifeline and |) | |
| Disabled Programs |) | |

**AT&T MISSOURI’S REPLY¹
TO PUBLIC COUNSEL**

Public Counsel’s objection misapplies the standard federal law sets for relinquishing an Eligible Telecommunications Carrier (“ETC”) designation, and raises concerns that have no relevance to the inquiry the Commission is to make under that standard.

No AT&T subscriber will be left without service.

Public Counsel objects to AT&T’s relinquishment of its ETC status by arguing AT&T “has not yet proven all customers will be served if they are allowed to no longer participate in this program . . .”² That argument both misstates the applicable federal standard and reflects a fundamental misunderstanding of AT&T’s request.

AT&T is not discontinuing *any* service as a result of this filing. All existing AT&T Missouri services will continue to be available to any AT&T customer, including its current Lifeline subscribers. The only difference is that AT&T Missouri will no longer offer Lifeline discounts (the state and federal Lifeline programs simply provide discounts off standard service

¹ AT&T submits this Reply pursuant to 4 CSR 240-2.080(13).

² The Office of the Public Counsel’s Objection, filed December 19, 2016, in Case No. IO-2017-0132 (“OPC Objection”) at p. 4.

rates). Affected AT&T subscribers will be able to keep their AT&T service if they wish (but without the Lifeline discounts), obtain a Lifeline discount from any of the other Lifeline providers designated as an ETC for the area where they live, or make some other arrangement that meets their needs. AT&T will be giving all of its affected Lifeline subscribers ample notice and information to help them decide whether to select another Lifeline provider, choose another AT&T service that may better meet their needs, or retain their existing service without the Lifeline discount.

Federal law entitles AT&T to relinquish its ETC designation so long as at least one ETC is present; every wire center for which AT&T is relinquishing its ETC status has at least 10 other ETCs, and some have as many as 20.

47 USC § 214(e)(4) requires a state commission allow a requesting ETC to relinquish its ETC designation for any area that has at least one other ETC:

A State commission (or the Commission in the case of a common carrier designated under paragraph (6)) shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the State commission (or the Commission in the case of a common carrier designated under paragraph (6)) of such relinquishment. Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the State commission (or the Commission in the case of a common carrier designated under paragraph (6)) shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The State commission (or the Commission in the case of a common carrier designated under paragraph (6)) shall establish a time, not to exceed one year after the State commission (or the Commission in the case of a common carrier designated under paragraph (6)) approves such relinquishment under this paragraph, within which such purchase or construction shall be completed.³ (emphasis added)

³ FCC Rule 47 C.F.R. § 54.205 sets out similar requirements:

Public Counsel focuses its attention on the portion of 47 USC § 214(e)(4) directing the Commission “to ensure all customers . . . will continue to be served.” That provision does not apply here, however, because AT&T is not eliminating any of its services as a result of its ETC relinquishment. If AT&T were both relinquishing its ETC status and eliminating various services, Public Counsel might have a point, but all AT&T is doing is relinquishing its ETC status and ending its participation in the Lifeline program in the relinquished areas. As AT&T expressly stated in its October 28 Notice of Relinquishment (at pp. 4, 6), and as it reiterates here, AT&T is not eliminating any of its services. Every AT&T Lifeline customer served today “will continue to be served” because they can continue to utilize the same service if they wish, just not with a Lifeline discount. Every AT&T customer will continue to have AT&T services available after AT&T’s ETC designation is relinquished.

For the same reasons, the language in § 214(e)(4) concerning the “purchase or construction of adequate facilities by any remaining eligible telecommunications carrier” also has no applicability here. That sentence would apply in a circumstance where a provider was both relinquishing its ETC status and withdrawing its services from the market, but that is not

§ 54.205 Relinquishment of universal service.

(a) A state commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the state commission of such relinquishment.

(b) Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the state commission shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The state commission shall establish a time, not to exceed one year after the state commission approves such relinquishment under this section, within which such purchase or construction shall be completed.

occurring here, because AT&T is not discontinuing any of its services or eliminating any of its facilities.

Staff's independent analysis confirms that AT&T's request meets the applicable federal standard for ETC relinquishment.

As demonstrated in its Notice, and confirmed by Commission Staff's Recommendation,⁴ AT&T has met the standard under 47 U.S.C. § 214(e)(4) and 47 C.F.R. § 54.205 for relinquishment of its ETC designation by showing the presence of at least one other ETC everywhere AT&T is relinquishing its ETC status.

Indeed, the Staff was able to confirm through data not available to AT&T that other ETCs are present throughout the areas where AT&T is relinquishing its ETC status. Staff was able to obtain proprietary data from Universal Service Administrative Company ("USAC")⁵ to conduct a detailed review of both AT&T's Lifeline subscribers and Lifeline subscribers served by other Missouri ETCs. The USAC data confirmed that other ETCs already serve Lifeline subscribers in the same zip codes where AT&T's Lifeline subscribers reside in virtually all instances. For three zip codes where the USAC data showed no Lifeline subscribers served by another ETC, Staff researched the websites of the other ETCs offering service in Missouri and

⁴ Staff Recommendation, filed December 9, 2016, in Case No. IO-2017-0132 ("Staff Recommendation"), attached "Memorandum," p. 4 ("... "the presence of at least one ETC in all AT&T exchanges suggests AT&T currently meets the basic criteria for relinquishing ETC designation as identified in 47 U.S.C. §214(e)(4) and FCC rule C.F.R. §54.205").

⁵ USAC is the independent not-for-profit company designated by the FCC to administer the federal Universal Service Fund and the National Lifeline Accountability Database (which contains the names, addresses and other information associated with all Lifeline subscribers). With the guidance of policy created by the FCC, USAC annually collects and delivers almost \$10 billion in funding through four programs: the Schools and Libraries (E-rate) Program; the Rural Health Care Program; the Lifeline Program; and the High Cost Program. The data USAC provided to Staff are proprietary to the various carriers and are not available to AT&T Missouri.

“found multiple ETCs offer Lifeline service in these three zip codes.”⁶ This allowed Staff to conclude in its Recommendation that “the presence of at least one ETC in all AT&T exchanges suggests AT&T currently meets the basic criteria for relinquishing ETC designation as identified in 47 U.S.C. §214(e)(4) and FCC rule C.F.R §54.205.”⁷

Public Counsel’s subjective judgements about wireless carriers are at odds with both the law and the market.

Public Counsel complains about AT&T’s reliance on the presence of wireless ETCs, questioning whether coverage is sufficient in parts of the state and “why cell phone technology should not be considered a viable solution for elderly customers.”⁸

That observation is plainly at odds with what has been happening in the market. As AT&T explains in the Notice (at pp. 3-4), from 2008 through 2015 AT&T Missouri lost 86% of its Lifeline subscribers at a time when Lifeline subscribership was increasing by 119%. At the end of 2015, AT&T Missouri served only about 4% of Missouri Lifeline subscribers, and, according to Staff’s analysis, AT&T’s share of Lifeline subscribers in a significant number of markets, particularly the larger ones, is even lower.⁹ Contrary to whatever notions and prejudices Public Counsel has about wireless services, Missouri consumers have demonstrated a strong preference for obtaining their Lifeline discounts from wireless providers.

⁶ Only four AT&T Lifeline customers (located in three zip codes) - - out of AT&T’s total 6,877 Lifeline customers (as of June 30, 2016) - - resided in zip codes where other ETCs had no Lifeline subscribers at the time the data were gathered, two in Annada (63330); one in Poplar Bluff (63901) and one in Westphalia(65085). Staff Recommendation, filed December 9, 2016, in Case No. IO-2017-0132 (“Staff Recommendation”) at p. 1 and Attachment C-HC to Staff’s Recommendation. Staff confirmed that other ETCs offer Lifeline in those three zip codes. *Id.*, p. 6, fn. 23.

⁷ Staff Recommendation, attached “Memorandum,” p. 4.

⁸ OPC Objection, pp. 2-3.

⁹ Staff Recommendation, Attachment C-HC, pp. 5-7.

Public Counsel’s prejudices against wireless service also conflict with the plain language of 47 USC § 214. Section 214 states that as long as there is one other ETC serving an area -- and in all areas AT&T is relinquishing there are at least 10 other ETCs, sometimes as many as 20 -- a state commission *shall permit* a carrier to relinquish its ETC designation. 47 U.S.C. § 214(e)(4) and 47 C.F.R. § 54.205. Nothing in the statute or FCC rules permits the Commission to differentiate between landline and wireless ETCs when considering a relinquishment request. Under the law, so long as another ETC is present, regardless of the technology that the ETC uses to serve its customers, a state commission must allow a carrier to relinquish its ETC designation upon request. The Missouri Commission itself has adhered to this framework when it previously considered other carriers’ ETC relinquishment filings.¹⁰

More to the point, the concerns Public Counsel raises about wireless coverage are completely irrelevant here, simply because they deal with portions of the state that are not even in AT&T Missouri’s service territory. The areas Public Counsel portrays as “seemingly” having “limited to no cell phone coverage” (areas “south of Fort Leonard Wood as well as east of Ava”)¹¹ are in CenturyLink territory and encompass parts of Mark Twain National Forest. AT&T Missouri does not serve those areas and is not a designated ETC for them.

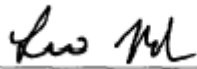
¹⁰ See *e.g.*, orders granting requests to relinquish ETC designations in Case Nos. RD-2016-0234, issued April 8, 2016 (Nexus Communications, Inc., d/b/a Reachout Wireless); RA-2015-0219, issued April 23, 2015 (Cricket Communications, Inc.); RA-2016-0308, issued June 5, 2015 (Aegis Telecom, Inc. d/b/a Off The Hook Telecom); TO-2015-0136, issued December 1, 2014 (ExOp of Missouri d/b/a FairPoint Communications); and RA-2015-0091, issued November 21, 2014 (T-Mobile Central, LLC).

¹¹ OPC Objection, p. 3.

WHEREFORE, having demonstrated that it meets the requirements for relinquishment of its ETC designation, and that Public Counsel's objections have no merit, AT&T respectfully requests the Commission issue an order confirming its ETC relinquishment and its withdrawal from the voluntary state Lifeline and Disabled programs as soon as possible, but no later than January 13, 2017, so that AT&T can provide ample notice to its affected Lifeline and Disabled program customers prior to the relinquishment effective date of July 5, 2017.

Respectfully submitted,

Southwestern Bell Telephone Company
d/b/a AT&T Missouri

BY  _____

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CERTIFICATE OF SERVICE

Copies of this document and all attachments were served on the following by e-mail on December 29, 2016.



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