

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

In the Matter of a Repository Case in Which to)
Gather Information About the Lifeline Program)
And Evaluate the Purposes and Goals of the)
Missouri Universal Service Fund)
File No. TW-2014-0012

AT&T'S INITIAL COMMENTS

AT&T,¹ in accordance with the Commission's July 26, 2013 Notice of Opportunity to Comment on several questions, respectfully submits its initial responses to those questions:

a. What should be the purposes and goals of the Missouri USF ("MoUSF")?

The purposes of the MoUSF are presently identified by § 392.248, RSMo. Since the statute directs that funds from the fund may only be used for limited purposes, the Commission's goal should be to ensure that its MoUSF rules remain consistent with those stated purposes.

Having said that, several developments have occurred both in the federal regulatory arena and in the competitive and technology-driven communications marketplace since § 392.248 was enacted in 1996. These considerations should generate worthwhile discussion regarding whether the purposes and goals of the MoUSF should be maintained, enlarged or restricted. Such a discussion may be of interest to a number of stakeholders and other interested parties whose input would be valuable. AT&T looks forward to participating in workshops in the instant proceeding where input can be shared among all interested parties.

b. What problems should be addressed in the administration and operation of the MoUSF?

The Commission should move forward expeditiously in its pending rulemaking proceeding (Case No. TX-2013-0324) to ensure that its rules applicable to administering the MoUSF are made generally consistent with the FCC's federal universal service requirements, particularly those adopted in the FCC's *USF/ICC Transformation Order*² and *Lifeline Reform Order*.³

In its *USF/ICC Transformation Order*, the FCC established a Connect America Fund ("CAF") to spur the build out of fixed and mobile broadband networks in areas of the country that are uneconomic to serve. In its later *Lifeline Reform Order*, the FCC, building on recommendations received from the Federal-State Joint Board on Universal Service and various proposals, input and comments from over 100 private and public parties, took several steps to

¹ Southwestern Bell Telephone Company d/b/a AT&T Missouri ("AT&T").

² *Connect America Fund et al.*, WC Dkt. No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) ("*USF/ICC Transformation Order*"), *pets. for review pending*, *Direct Commc'ns Cedar Valley, LLC v. FCC*, No. 11-9581 (10th Cir. filed Dec. 8, 2011) (and consolidated cases).

³ *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. February 6, 2012) ("*Lifeline Reform Order*"),

“comprehensively reform and begin to modernize the Universal Service Fund’s Lifeline program.”⁴ As the FCC noted, “the reforms adopted in [the *Lifeline Reform Order*] substantially strengthen protections against waste, fraud, and abuse; improve program administration and accountability; improve enrollment and consumer disclosures; initiate modernization of the program for broadband; and constrain the growth of the program in order to reduce the burden on all who contribute to the Universal Service Fund.”⁵

The Commission has recognized that its MoUSF rules should be generally consistent with the FCC’s rules. For example, when the FCC amended its rules to require all states to utilize, at a minimum, the income and program criteria currently utilized by federal default states,⁶ the MoPSC moved quickly to reflect the changes in its own rules. In particular, finding “a compelling governmental interest,” the Commission adopted an emergency amendment to bring its own rules “into conformity with” those of the FCC by adding the income component of the FCC’s rules to the low-income eligibility criteria reflected in its own rules.⁷

Other amendments to several of the Commission’s rules could and should be made in order to bring them “into conformity with” those of the FCC. AT&T encourages the Commission to do so at its earliest opportunity, following its consideration of AT&T’s upcoming comments in Case No. TX-2013-0324.⁸

c. What changes should be made to the MoUSF?

The rule amendments now proposed in the Commission’s pending rulemaking proceeding -- which were meant largely to track the FCC’s own rule changes -- were thoroughly vetted in workshops held last fall among affected stakeholders, and several received consensus support. As AT&T’s upcoming comments in Case No. TX-2013-0324 will explain, many of the proposed amendments should be adopted.

One example is illustrative. In the *USF/ICC Transformation Order*, the FCC eliminated its former list of nine supported services and amended section 54.101(a) of its rules to specify that “voice telephony service” is supported by the federal high-cost and low income universal service support mechanisms.⁹ The Commission proposes to take the same course in its own MoUSF low-income/disabled rules. More specifically, one proposed amendment in the Commission’s pending rulemaking proceeding would delete the list of services presently reflected in the present definition of “essential local telecommunications services” (4 CSR 240-31.010(6)) and make that definition “synonymous with ‘voice telephony service’ as defined by 4 CSR 240-31.010(18).” Next, another amendment would define “voice telephony service” in the same way as the FCC has defined the term.¹⁰

⁴ *Lifeline Reform Order*, ¶ 1.

⁵ *Lifeline Reform Order*, ¶ 1.

⁶ *Lifeline Reform Order*, ¶ 65.

⁷ 37 Mo. Reg. 1003, July 2, 2012.

⁸ AT&T understands that comments in Case No. TX-2013-0324 must be received by the Commission on or before October 16 and that a public hearing is scheduled for October 21.

⁹ *Lifeline Reform Order*, ¶ 45, citing, *USF/ICC Transformation Order*, ¶ 78.

¹⁰ Compare, proposed 4 CSR 240-31.010(18) with 47-C.F.R §§ 54.101(a); 54.401(a).

In the Commission's pending rulemaking proceeding, AT&T plans to express its support for these and other amendments that would bring the Commission's MoUSF rules into conformity with those of the FCC. AT&T also looks forward to participating in workshops in the instant proceeding, where perhaps other potential amendments may be discussed among all stakeholders.

d. Should wireless carriers be required to contribute to the MoUSF and also be able to receive Missouri USF support?

Any determination regarding whether (and to what extent) wireless carriers should be required to contribute to the MoUSF and be able to receive MoUSF support necessitates informed input from all interested parties.¹¹ AT&T anticipates that workshops in the instant proceeding will provide the best avenue for obtaining and vetting this input.

e. Should the Lifeline program be expanded in Missouri to ensure qualifying low-income consumers have access to broadband service? If so, how?

It would be premature to undertake such an expansion at this time. The MoUSF, not unlike Lifeline programs in other states, is closely intertwined with the federal Lifeline program. At present, broadband service is not a supported service at the federal level. Rather, "voice telephony service," as defined in § 54.101(a) and 54.401(a)(2) of the FCC's rules, is the service eligible for Lifeline support.

In addition, several activities are underway at the federal level that would provide valuable information regarding whether (and if so, how) the Lifeline program should be expanded to encompass broadband service, including:

- **FCC Pilot Program:** The FCC has instituted a Low-Income Broadband Pilot Program ("Pilot Program").¹² The Pilot Program is in the process of conducting 14 broadband pilot projects of 18 months in duration to develop data on the issue of how broadband discounts can optimally be structured to increase broadband adoption among consumers eligible for Lifeline service. These projects are being conducted in rural, urban, and suburban areas spanning 21 states and Puerto Rico, and they include both fixed location and mobile wireless broadband services. Given its implementation of the Pilot Program, the FCC has expressly declined to amend its definition of Lifeline at this time to include broadband for the existing low-income program. Instead, it has concluded that "it is preferable to develop data that will allow the Commission and participating ETCs to

¹¹ Of course, no companies are specifically required to provide Missouri Lifeline Service. As the Commission has recognized, "while under FCC rules all eligible telecommunications carriers must offer Lifeline service[,]...[n]either the state statute nor the rules require such companies to participate [in the state Lifeline program]; rather, they must apply to the administrator to receive funds." Report and Order Establishing Low-Income/Disabled Fund, Case No. TO-98-329, March 21, 2002, at 4.

¹² *Lifeline Reform Order*, ¶¶ 323-354. More information on the FCC's Lifeline broadband Pilot Program can be found at <http://www.fcc.gov/document/14-projects-chosen-lifeline-broadband-pilot-program-competition> (posting the FCC's December 19, 2012 Order in which the FCC selects the 14 projects that will participate in the Pilot Program and indicates that the 18-month trial period will begin February 1, 2013).

evaluate how best to structure the program in the future, with the added benefit of helping to close the adoption gap for consumers that participate in the pilot.”¹³

- **Potential FCC Trials/Survey:** Recently, the FCC asked whether it should have a “trial that focuses on how to improve access to communications services for low-income Americans,” as well as “trials to collect data on ways to further improve [the] Lifeline program.”¹⁴ AT&T recommended that the FCC survey Lifeline-eligible consumers to obtain data regarding their communications needs and preferences, to allow the FCC to make informed decisions about how the Lifeline program can optimally be structured. AT&T also recommended that the FCC conduct a limited trial of the use of electronic vouchers to subsidize eligible low-income consumers’ purchase of voice or broadband or a bundle that includes such services – because none of the current pilots are testing the use of vouchers. The FCC has not yet issued any formal decision on these matters.

Data and information developed through the various pilot projects, any Lifeline consumer trials or survey undertaken, and an e-voucher pilot project are needed to determine whether or not the Lifeline program should be expanded to include access to broadband service.¹⁵

f. Should Lifeline eligibility criteria be expanded? If so, how?

Lifeline eligibility criteria need not be expanded at this time. AT&T recommends that the MoUSF’s low-income eligibility criteria continue to mirror the federal eligibility criteria.

The low-income criteria governing eligibility for MoUSF Lifeline discounts have historically been “program participation-based” (wherein qualifying programs are the same as those under the FCC’s rules). Consistent with this approach, late last year, the Commission amended its rules to add a “Federal Poverty Guidelines” eligibility criterion, after Staff explained that “the chief purpose of the amendment is to make permanent a federally mandated change in Missouri’s income-based eligibility criterion for the Lifeline program to match federal eligibility standards.”¹⁶

Since the MoUSF low-income criteria (in 4 CSR 240-31.010(11)) and the federal low-income criteria (in 47 C.F.R. 54.409(a)) are now aligned, nothing more needs to be done to

¹³ *Lifeline Reform Order*, ¶ 323.

¹⁴ See Public Notice, *Technology Transitions Policy Task Force Seeks Comment on Potential Trials*, GN Docket No. 13-5, at 1 (rel. May 10, 2013), at 11-12.

¹⁵ Separately, the present MoUSF framework may not support “broadband service.” MoUSF funds may only be used to support “essential telecommunications services,” § 392.248.2, RSMo, but the term “telecommunications service” does not include interconnected voice over Internet protocol service. § 386.020(54)(j). RSMo.

¹⁶ 37 Mo. Reg. 1649 (November 15, 2012). Under the Commission’s present rules, therefore, the term “low-income customer” is defined as: “Any customer who requests or receives residential essential local telecommunications service and whose household income, as defined in section (9) above, is at or below one hundred thirty-five percent (135%) of the Federal Poverty Guidelines or who participates or has a dependent residing in the customer’s household who participates in a program pursuant to 42 U.S.C. sections 1396–1396v, food stamps (7 U.S.C. section 51), Supplementary Security Income (SSI) (42 U.S.C. section 7), federal public housing assistance or Section 8 (42 U.S.C. section 8), National School Lunch Program’s free lunch program (42 U.S.C. section 13), Temporary Assistance for Needy Families (42 U.S.C. section 7(IV)), or Low Income Home Energy Assistance Program (LIHEAP) (42 U.S.C. section 94).” *Id.*, at 1650; see also, 4 CSR 240-31.010(11).

ensure consistency insofar as eligibility criteria are concerned. Moreover, as a practical matter, Lifeline is primarily a federal program. If the Commission were to add additional eligibility programs, the result would be that similarly-situated consumers may or may not be eligible for Lifeline discounts depending on what state they live in. This would raise fair questions of equity, fairness and even-handedness.

g. Should the MoUSF support amount of \$3.50 be increased, decreased or remain the same?

Setting a support amount at any particular level may warrant a fresh look. Prior to the FCC's *Lifeline Reform Order*, in order for consumers in a given state to be eligible for the maximum available federal Lifeline support, state-mandated Lifeline support in a specific amount would first have to be in place. More specifically, so-called "Tier Three" federal support provided "an amount equal to one-half the amount of any state-mandated Lifeline support or Lifeline support otherwise provided by the carrier, up to a maximum of \$1.75 per month in federal support."¹⁷ When the Commission established the Low Income/Disabled Fund in 2002, it set the support amount at \$3.50, specifically based on its "goal" to set the support amount "at the level necessary to gain the maximum Federal Universal Service support."¹⁸

The setting of the MoUSF support amount at \$3.50 in 2002 can no longer be justified on the basis of maximizing a federal matching amount. The FCC's *Lifeline Reform Order* eliminated all federal support comprised of so-called "Tiers One, Two and Three and replace[d] them with a flat rate [of \$9.25 per line per month]."¹⁹

AT&T takes no position at this time on whether the Missouri USF Lifeline support amount should be changed (assuming a specific amount may be justified by reasons other than obtaining a federal matching amount).

h. Do you anticipate the FCC's reforms, when fully implemented, will adequately address fraud, abuse and waste within the Lifeline program? Why or why not?

AT&T is optimistic that the FCC's reforms will advance their intended purpose and believes that the measures the FCC adopted, which are pending implementation at this time, would aid in further curbing waste, fraud and abuse.

The FCC has taken many steps to address waste, fraud and abuse in the Lifeline program and some of the most significant are just beginning to be implemented. These include:

- The establishment of a National Lifeline Accountability Database ("NLAD") to detect, weed out and otherwise prevent Lifeline customers from obtaining duplicative discounts from multiple Lifeline providers.²⁰ As the FCC noted: "This action represents an

¹⁷ *Lifeline Reform Order*, ¶ 53.

¹⁸ Report and Order Establishing Low-Income/Disabled Fund, Case No. TO-98-329, March 21, 2002, at 4. As the Commission then noted, "Existing Commission rules require setting the amount of state support to maximize federal funding. This requirement established state support of \$3.50 per customer per month which would provide an additional \$1.75 in federal funding." *Id.*

¹⁹ *Lifeline Reform Order*, ¶ 58. The current non-Tribal Lifeline support amount in all states remains \$9.25 per month.

²⁰ *Lifeline Reform Order*, ¶¶ 182-209; see also, 47 C.F.R. § 54.404.

important step in addressing potential waste, fraud, and abuse in the program; addressing the concerns the Commission has identified in the last eighteen months; and responding to recommendations made by the Government Accountability Office.”²¹ The NLAD, which will be national in scope,²² is targeted to be operational by the 4th quarter of this year;²³

- The establishment of a fully-automated means for verifying consumers’ initial and ongoing Lifeline eligibility from governmental databases.²⁴ The FCC found that “establishing a fully automated means for verifying consumers’ initial and ongoing Lifeline eligibility from governmental data sources would both improve the accuracy of eligibility determinations, ensuring that only eligible consumers receive Lifeline benefits, and reduce burdens on consumers as well as ETCs.”²⁵ Initially, this automated process will cover the three most common programs through which consumers qualify for Lifeline (Medicaid, Supplemental Nutrition Assistance Program (“SNAP”) and Supplemental Security Income (“SSI”).²⁶

These are significant and important steps. In addition, however, there are two other important steps AT&T has recommended that the FCC implement:

- AT&T has recommended that the FCC’s ultimate goal should be a single comprehensive national Lifeline database designed to serve several different, but related, purposes: (1) enable providers, through one, single interface and process that covers all states, DC, and US territories to check consumers’ eligibility for Lifeline, (2) enable providers to check consumers’ duplicate status, to confirm the consumer is not obtaining the Lifeline benefit from some other provider, and (3) allow USAC to use information in the database to calculate a Lifeline service provider’s reimbursement amount in lieu of service providers submitting monthly reimbursement claims (thus cutting down on the risk of error or fraud while streamlining the reimbursement process). Lifeline providers should not have any role in making consumer eligibility determinations. AT&T knows of no other government program under which private sector providers, who stand to benefit financially from the decision, make such determinations. Instead, government agencies or their designees, or USAC, should make consumer eligibility determinations. The Lifeline providers’ role should be limited to checking a list (or database) to determine whether a consumer has been found to be eligible for Lifeline.²⁷
- AT&T has recommended that the FCC conduct a limited trial of the use of electronic vouchers to subsidize eligible low-income consumers’ purchase of voice or broadband or a bundle that includes such services. USAC would reimburse directly any participating providers based on consumers from whom the provider has received an e-voucher.

²¹ *Lifeline Reform Order*, ¶ 182.

²² *Lifeline Reform Order*, ¶ 209.

²³ *Lifeline Reform Order*, ¶ 185. For further information regarding the NLAD, presented by the Universal Service Administrative Company (“USAC”), please see <http://www.universalservice.org/li/tools/nlad/default.aspx>.

²⁴ *Lifeline Reform Order*, ¶ 97.

²⁵ *Lifeline Reform Order*, ¶ 97.

²⁶ *Lifeline Reform Order*, ¶ 97 & n. 264.

²⁷ In the Matter of Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, et al., Comments of AT&T, April 2, 2012, at 3-10.

Because providers would not have to file line counts with USAC for Lifeline customers served, this process would eliminate another potential area for waste, fraud, and abuse.²⁸

AT&T suggests that the MoPSC take the opportunity to support these recommendations made to the FCC.

i. What specific compliance efforts would be easy to implement to ensure companies and consumers comply with Lifeline program requirements?

AT&T would respectfully refer to its previous recommendations made in response to Questions b and h, above.

j. Should the State of Missouri strive to implement a data base to confirm Lifeline subscriber eligibility? If yes, how should it be funded?

Missouri need not implement such a database. As a preliminary matter, the FCC and USAC are already working to establish the NLAD to address duplication in Lifeline support by multiple providers. As noted above in connection with Question h, the NLAD is targeted to be operational by the 4th quarter of this year. The deadline for states to opt out of NLAD participation has passed,²⁹ so Missouri cannot opt out to establish its own process to prevent duplicative federal (and therefore, state) support. In any event, AT&T believes that maximizing use of the national NLAD process will maximize efficiency, limit duplicative state processes, and therefore, minimize implementation and ongoing costs.

For similar reasons, AT&T does not recommend that Missouri establish its own database to confirm Lifeline subscriber eligibility. The FCC ordered the establishment of a fully-automated means for verifying consumers' initial and ongoing Lifeline eligibility from governmental databases, initially to cover the three most common programs through which consumers qualify for Lifeline (Medicaid, SNAP, and SSI).³⁰ One should expect that the greater the usage of this centralized national process, the greater that efficiency and cost-effectiveness will be maximized. Further, as was noted above, AT&T has also recommended that the FCC establish a comprehensive national Lifeline database. AT&T urges this Commission to support its recommendation to the FCC.

If states proceed to establish their own eligibility database processes for this federal program, they may find later that they must modify their state processes based on the federal requirements. Such an outcome would be unnecessarily duplicative, inefficient, and costly. Moreover, if states get ahead of the FCC's planned process, states could well drive lower usage of the federal process, resulting in a less efficient and cost-effective process for government agencies and providers alike.

In sum, Lifeline is primarily a federal program. Until results and experience are acquired regarding NLAD implementation and until more is known regarding the FCC's planned automated eligibility process, Missouri should not set about establishing its own database.

²⁸ In the Matter of Technology Transitions Policy Task Force Seeks Comment on Potential Trials, GN Docket No. 13-5, Comments of AT&T, July 8, 2013, at 36-37.

²⁹ 47 C.F.R. § 54.404(a).

³⁰ *Lifeline Reform Order*, ¶ 97.

k. What other issues should be considered in this workshop proceeding?

AT&T remains open to fairly considering all informed input offered in the workshop proceeding.

Respectfully submitted,


SOUTHWESTERN BELL TELEPHONE COMPANY

BY 

LEO J. BUB #34326
ROBERT J. GRYZMALA #32454
Attorneys for Southwestern Bell Telephone Company
d/b/a AT&T Missouri
One AT&T Center, Room 3556
St. Louis, Missouri 63101
314-235-6060 (tn)/314-247-0014 (fax)
robert.gryzmala@att.com

CERTIFICATE OF SERVICE

Copies of this document and all attachments thereto were served on the following by e-mail on August 30, 2013.


Robert J. Gryzmala

General Counsel
Kevin Thompson
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
gencounsel@psc.mo.gov
kevin.thompson@psc.mo.gov

Office Of The Public Counsel
P.O. Box 7800
Jefferson City, MO 65102
opcservice@ded.mo.gov