

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Petition of AT&T Ohio for)
an Order Confirming Relinquishment of Eligible) Case No. 17-1948-TP-UNC
Telecommunications Carrier Designation in)
Specified Areas and Request for Waiver.)

**MOTION TO HOLD THIS CASE IN ABEYANCE OR, IN THE ALTERNATIVE,
TO ESTABLISH A PROCEDURAL SCHEDULE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL
AND
GREATER EDMONT COMMUNITY COALITION**

This case is about whether low-income Ohioans may lose their provider of the basic local telephone service known as Lifeline. AT&T Ohio wants to stop providing Lifeline service in all or parts of 118 of its 192 exchanges where presently there is at least one other carrier providing service.¹ But before ruling on AT&T Ohio's petition, the PUCO should consider a recent Federal Communications Commission ("FCC") proposal to discontinue Lifeline support for non-facilities based services that are not capable of offering voice and broadband.² If the FCC eliminates Lifeline support for non-facilities based service, some Lifeline providers will likely cease operations. This may mean that, with AT&T Ohio's withdrawal, there could be no Lifeline providers to serve low-income customers located in some areas of the state.

The Public Utilities Commission of Ohio ("PUCO") should not move forward with the petition until it has had an opportunity to examine the effect of the FCC's

¹ See Petition (September 7, 2017), Exhibit A.

² See *In the Matter of Lifeline and Link Up Reform Modernization*, FCC WC Docket No. 11-42, et al., Notice of Proposed Rulemaking (adopted November 16, 2017, released December 4, 2017) ("NPRM"), ¶¶67-73.

proposed rule on low-income consumers in Ohio. The Office of the Ohio Consumers' Counsel and Greater Edgemont Community Coalition ask the PUCO to hold this case in abeyance until the FCC has completed its rulemaking. In the alternative, the PUCO should establish a procedural schedule in this case to allow interested parties to comment on the petition in light of the FCC's proposed rule. The reasons why the PUCO should grant this Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

Lifeline is a telephone assistance program that makes basic local telephone service more affordable for income-eligible families across Ohio.³ Lifeline helps low-income Ohioans get and maintain telephone service through discounts on monthly bills and installation charges. AT&T Ohio has asked the PUCO for authority to stop providing Lifeline in some areas of Ohio.⁴

AT&T Ohio participates in the federal Connect America Fund II (“CAF II”) program, which provides funding for AT&T Ohio to bring broadband to high cost, primarily rural, areas in Ohio.⁵ A condition of its participation in this program requires AT&T Ohio to provide Lifeline in the census blocks for which it is eligible to receive CAF II funding.⁶ AT&T Ohio is seeking authority to cease providing Lifeline in those areas for which it receives no CAF II money.

AT&T Ohio claims it has a right under federal law to terminate its Lifeline service in those areas where there is at least one other Lifeline provider.⁷ Any “right”

³ See <http://www.puco.ohio.gov/be-informed/consumer-topics/lifeline-telephone-assistance-program-help-with-paying-your-telephone-bill/#sthash.vmR94oaj.dpbs>.

⁴ See Petition at 1.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 2.

AT&T Ohio might have to terminate its Lifeline service is subordinate to the PUCO's specific obligations under federal law to protect consumers. Section 214(e)(4) of the U.S. Code requires that before allowing a carrier to cease providing Lifeline, the PUCO must require the remaining provider(s) to ensure that all Lifeline customers served by the relinquishing carrier will continue to be served. The law also requires that the remaining Lifeline provider(s) receive sufficient notice to allow the purchase or construction of adequate facilities to serve the customers, and have up to one year to purchase or construct the facilities. This requirement has taken on added importance because of a recent FCC action.

On November 16, 2017, the FCC acted in several dockets concerning Universal Service reform. Included in the FCC's action was a rulemaking notice concerning the role of states in Lifeline program administration and the issues of waste, fraud, and abuse of the Lifeline program.⁸ As part of this rulemaking, the FCC is considering providing Lifeline funding only to broadband service provided over facilities-based networks that also support voice service.⁹ Lifeline funding for non-facilities based providers (i.e., resellers of Lifeline service) would be discontinued.

Most competitive Lifeline providers are not facilities based and thus could lose the federal money they rely on to provide service to low-income consumers. It appears that ten of the 11 competitive Lifeline carriers identified in AT&T Ohio's petition are not facilities based or use a combination of their own facilities and resale to provide

⁸ See NPRM, ¶53.

⁹ See *id.*, ¶67.

service.¹⁰ The operations of these competitive Lifeline providers might be jeopardized if the FCC were to cut off their federal funding. Low-income consumers in some areas may lose Lifeline service altogether if AT&T Ohio's service is withdrawn. This could negate many of the claims made by AT&T Ohio in its petition.

Under U.S.C. §214(e)(4), the PUCO has an obligation to ensure that competitive Lifeline providers can serve AT&T Ohio's Lifeline customers *before* allowing AT&T Ohio to withdraw its service. Given the FCC's proposal to discontinue funding for non-facilities based providers, the PUCO cannot meet this obligation at this time.

Therefore, to protect consumers the PUCO should hold this case in abeyance pending the outcome of the FCC's rulemaking. Only then will the PUCO know whether it can meet its statutory obligation to ensure that all AT&T Ohio Lifeline customers will be able to continue receiving Lifeline service if AT&T Ohio withdraws it.

At the very least, the PUCO should seek public comment, including reply comments, on AT&T Ohio's petition. The Lifeline providers listed in Exhibit C to the petition should be encouraged to participate, as they may be able to provide particular insight into the effect of the FCC's proposal on their Ohio operations. The PUCO should provide at least 30 days for comments and at least 30 days for replies.

¹⁰ Tempo Telecom (Case No. 13-1527-TP-UNC, Application (June 27, 2013) at 2); Air Voice (Case No. 13-952-TP-UNC, Application (April 17, 2013) at 2); Sage Telecom (Case No. 13-514-TP-UNC, Application (February 22, 2013), Application form at 2); Telrite (Case No. 13-173-TP-UNC, Application (January 10, 2013) at 5); Boomerang (Case No. 12-2428-TP-UNC, Application (September 4, 2012) at 8); Q-Link (Case No. 12-2379-TP-UNC, Application (August 24, 2012) at 3); Global (Case No. 12-2253-TP-UNC, Application (August 7, 2012) at 3); American Broadband and Telecommunications, wireless service (Case No. 12-1714-TP-UNC, Application (May 31, 2012) at 2-4); i-wireless (Case No. 11-571-TP-UNC, Application (February 3, 2011) at 12-13); TracFone (Case No. 97-632-TP-COI and Case No. 10-614-TP-UNC, Application (September 5, 2008) at 7-8).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion was served on the persons stated below
via electronic transmission this 20th day of December 2017.

/s/ Terry L. Etter

Terry L. Etter

Assistant Consumers' Counsel

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Summary: Motion Motion to Hold this Case in Abeyance or, in the Alternative, to Establish a Procedural Schedule by The Office of the Ohio Consumers' Counsel and Greater Edgemont Community Coalition electronically filed by Ms. Jamie Williams on behalf of Etter, Terry Mr.