

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. )

AARP Ohio appreciates the opportunity to submit comments in this proceeding. Of the estimated 11,658,609 people in Ohio, 16.7% (approximately 1,946,988) are 65 and older.<sup>1</sup> AARP's Ohio membership includes 1,509,733 adults. Older Ohioans are more likely than other segments of the population to rely on wireline service.<sup>2</sup> Likely reasons for this ongoing reliance are the familiarity and ease of use of wireline handsets and the reliability of the wireline platform. Older Ohioans are among those that would be directly and adversely affected by AT&T Ohio's proposed discontinuance of Lifeline service to low-income customers in the majority of its Ohio service territory.

In its June 28, 2018 Entry (Entry), the Public Utilities Commission of Ohio (PUCO or Commission) requests comments on the AT&T Ohio’s (AT&T Ohio or Company) petition seeking to relinquish its Eligible Telecommunications Carrier (ETC) status in a selected portion of its Ohio service area. AT&T’s petition, which was filed on September 7, 2017, asked that the Commission grant the requested relief by December 4, 2017, and that the proposed relinquishment take effect March 16, 2018. The Commission has, instead, resisted rushing into the requested relief and provided an opportunity for a more deliberative

<sup>1</sup> <https://www.census.gov/quickfacts/OH>

<sup>2</sup>See, generally, Pew Research Center, “Tech Adoption Climbs Among Older Adults, May 17, 2017, which finds that the use of wireless devices, including smartphones, continues to grow among older Americans, but still lags significantly behind adults ages 18-64.

process to occur.<sup>3</sup> The Entry (at paragraph 12) directs attention to several issues (while not precluding a broader focus):

- Any concerns associated with 9 of the 11 remaining ETCs in the relinquishment area being non-facilities based wireless providers.
- Pending proceedings at the FCC that may impact the ability of non-facilities based wireless providers to retain their ETC designation.
- The duty of wireless providers to ensure that all customers served by AT&T Ohio will continue to be served with federal lifeline discount.

AARP will address each of these issues, as well as some additional public interest considerations that the Commission should consider in evaluating AT&T Ohio's request. AARP recommends that AT&T Ohio be required to continue serving Lifeline customers as an ETC in Ohio, at least until PUCO can be assured that there is an ongoing, stable, and reliable alternative source of Lifeline service of basic voice – and going forward, broadband – service for low-income households in Ohio.

#### **I. No affirmative case for AT&T Ohio's withdrawal from its ETC obligation**

In support of its request, AT&T notes that its Ohio Lifeline subscribership has dropped steadily over recent years, such that as of 2016, the Company share of the state's Lifeline customers had dropped to 2.1 percent. Specifically, based on year-end 2016 numbers, 10,482 of AT&T Ohio's Lifeline customers resided in the proposed relinquishment area, while 359 would continue to be served in the retained area. AT&T Ohio's market share loss with respect to Lifeline service is not entirely coincidental or simply a matter of market conditions outside of its control. In Ohio and elsewhere, AT&T does the

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<sup>3</sup> AARP notes that on December 20, 2017, The Office of the Ohio Consumers' Counsel (OCC) and The Greater Edgemont Community Coalition (Edgemont) jointly filed with the Commission a "Motion to Hold This Case in Abeyance or, in the Alternative, to Establish a Procedural Schedule." In these comments, AARP lends support to many of the concerns that have previously been raised by the OCC and Edgemont.

bare minimum to comply with its Lifeline obligations, while various wireless resellers have actively sought to expand Lifeline participation.

AT&T Ohio's Petition fails to explain about why, after decades of accepting federal and state support for providing service to low-income customers, the Company cannot continue its participation. It does not put forth an affirmative case to suggest that administering Lifeline throughout the affected areas is so burdensome as to outweigh the clear public benefits that gave rise to the program nearly 40 years ago and that have sustained it to the present day. Without any affirmative justification, it is hard to fathom what is motivating AT&T's decision to end Lifeline service to more than 10,000 low-income households in Ohio.

## **II. Pending FCC proceedings that cast doubt on the future availability of Lifeline service from other Ohio ETCs.**

PUCO has identified a key FCC proposal, still pending, that would undermine the status of many of the CETCs that AT&T has identified as alternative providers of Lifeline in the proposed relinquishment area. As noted in the Commission's Entry (see footnote 2), the FCC has an open docket in which it has proposed to end the participation of resellers (most of whom are wireless resellers) in the Lifeline program when support is transitioned to broadband (end of 2021).<sup>4</sup> Although PUCO identifies one of the 10 wireless CETCs operating in the proposed relinquishment area as being "facilities-based," AARP has some doubt that any of the 10 wireless providers genuinely fits that description.<sup>5</sup> The FCC's most recent CMRS Report identifies only 4 nationwide facilities-based wireless providers: AT&T, Verizon, Sprint, and T-Mobile. Virgin Mobile USA is owned by Sprint, but, like other resellers, it is wholly dependent on the facilities of an underlying provider. To the best of AARP's knowledge, Virgin

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<sup>4</sup> In the Matter of Lifeline and Link Up Reform Modernization et al., WC Docket 17-287 et al., In the Matter of Bridging the Digital Divide for Low-Income Consumers, Notice of Proposed Rulemaking, at paras. 67-73.

<sup>5</sup> Exhibit C of AT&T's petition identifies 11 CETCs as operating in various parts of the proposed relinquishment area, but it does not specifically characterize the operating platform or status of these providers as "facilities-based" vs. resellers.

Mobile USA owns no spectrum, towers, etc., in its own right. Moreover, Sprint has been on shaky financial grounds for years.<sup>6</sup> Should Sprint collapse or, as is more likely, merge (as currently proposed) with T-Mobile,<sup>7</sup> there is no telling what will happen to Virgin Mobile USA in the process. Thus, there is no reason to presume that Virgin Mobile USA would be treated any differently from other wireless resellers under the FCC's proposed decertification of non-facilities-based providers.

The Entry (at paragraph 8) also suggests that one CETC identified by AT&T is a facilities-based wireline carrier. AARP is not certain which of the "home phone" providers on the list of CETCs provided by AT&T the Commission is suggesting is "facilities-based." The most likely candidate is American Broadband and Telecommunications (ABT)<sup>8</sup>. AARP strongly doubts, however, that ABT is serving Lifeline customers over its own facilities, even if it may provide some limited service to large (commercial or governmental) users over owned facilities. In all likelihood, any wireline service that ABT is providing to residential customers (including those who qualify for Lifeline) is resold ILEC service. Moreover, on its website, ABT specifically references only a *wireless* Lifeline offering, whereas the nature of its other "home solutions" is not clearly indicated.<sup>9</sup> The only other Ohio CETC with a "home phone" offering – Global Connection – is clearly using resale, as the offerings are specifically defined as relating to those of an underlying ILEC (e.g., AT&T).<sup>10</sup> The FCC's proposed revisions to its Lifeline rules would make support available to facilities-based providers and would decertify carriers who rely on the underlying networks of facilities-based providers, including both wireline and wireless

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<sup>6</sup> See, e.g., <https://seekingalpha.com/article/4061565-sprints-mountain-debt>.

<sup>7</sup> On April 29, 2018, T-Mobile US, Inc. (T-Mobile), and Sprint Corporation (Sprint) announced an agreement to merge in an all-stock transaction. On June 14, 2018, T-Mobile and Sprint informed the Commission that on June 18, 2018, they plan on filing applications seeking Commission approval to transfer control to T-Mobile of the licenses and authorizations held by Sprint and its wholly-owned and controlled subsidiaries. Public Notice, WT Docket 18-197, DA 18-625, June 15, 2018.

<sup>8</sup> When ABT applied to PUCO to become a CETC in Ohio, it represented that it "provide[d] local exchange, exchange access, and broadband services using its own switching and DSL network facilities and a combination of unbundled network elements provided by AT&T Ohio and Verizon North that allows for the end-to-end delivery of calls and the resale of those companies [sic] services." PUCO Case No. 97-632-TP-COM, In the Matter of the Commission Investigation of the Intrastate Universal Service Discounts, entered January 27, 2010, at para. 3 (citing Application at 2, 9).

<sup>9</sup> Compare, <https://www.ambt.net/lifeline-wireless/> with <https://www.ambt.net/home-solutions/>.

<sup>10</sup> See, [https://connectwithglobal.com/home\\_services.html](https://connectwithglobal.com/home_services.html).

resellers. Under this rule, AARP concludes that neither ABT nor Global Connection would continue to qualify as CETCs offering Lifeline service in Ohio.

The FCC's policy of transitioning Lifeline support from basic voice service to broadband is also likely to shrink the pool of available providers. The current wireless (and wireline) resellers will have to figure out how to provide an affordable broadband offering to low-income customers, using the same \$9.25 per month subsidy that presently is applied to basic voice service. At this point, no one knows how many of the current providers will be able to overcome this challenge. This is yet another reason for PUCO to exercise caution with regard to AT&T's relinquishment request.

The Commission should also consider the potential impact of another pending FCC docket, WC 18-141: in that proceeding, incumbent ILECs, through USTA and TCA, have asked the FCC to forbear from enforcing the unbundled network element (UNE) and resale (also referred to as "total service resale" or "TSR") requirements of the 1996 Act.<sup>11</sup> AT&T is an influential member of USTA and has already participated in *ex parte* meetings at the FCC in support of this petition.<sup>12</sup> Forbearance petitions are, by law, on a fast track at the FCC. On August 3, 2018, PUCO filed comments in this proceeding urging the FCC to be very cautious in evaluating the impact of the proposed relief on competition in various markets. Clearly, should this petition be granted, it would place wireline CETCs that depend on UNEs or resale to serve residential customers completely at the mercy of AT&T Ohio. Even if American Broadband and Telecommunications were not deemed a reseller under the FCC's proposed Lifeline rule, it could end up being non-viable as a wireline provider if AT&T ceases to have an obligation to offer UNEs or resell its wireline services.

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<sup>11</sup> Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) to Accelerate Investment in Broadband and Next-Generation Networks, WC Docket No. 18-141 (filed May 4, 2018).

<sup>12</sup> See, Letter dated July 23, 2018 disclosing AT&T *ex parte* meeting with various staff of the FCC's Wireline Competition Bureau on July 20, 2018.

### **III. The importance of preserving a facilities-based wireline platform for Lifeline service and AT&T Ohio's unique position as ILEC in its Ohio service territory.**

At the time that the FCC first incorporated Lifeline (originally established in 1984) into the Universal Service Fund mechanisms adopted pursuant to the 1996 Telecommunications Act, the ILEC's ETC obligation extended throughout its entire service area. Likewise, under Ohio law (R.C. 4927.13), ILEC ETCs are obligated to implement lifeline service "throughout the carrier's traditional service area." The proposed relinquishment areas represent a significant "carve-out" from AT&T Ohio's overall service area.

AT&T's reasoning about its entitlement to stop serving Lifeline customers based on relinquishing its ETC designation is irrational. It is only relatively recently that high-cost support has been awarded based on census blocks, rather than a study area basis. Lifeline existed long before the FCC modified its USF high-cost support system to a census-block based award. It also arose from different objectives and statutory authority: the FCC has specifically stated that its authority to establish the Lifeline program exists independently of the high-cost mechanism or the specific mandate in Section 254 of the 1996 Telecommunications Act.<sup>13</sup> Current FCC rules require an ETC who accepts Connect America Fund (CAF) support in a census block to also offer Lifeline there – but there is no reason that the converse should hold true, that is, that participation in Lifeline should end when the ILEC no longer draws high-cost support in a particular portion of its service territory. There is no logical nexus between eligibility or the receipt of high-cost support and the purposes for which the Lifeline program was designed and which it continues to serve some 33 years after its inception. Nonetheless, AARP acknowledges that such an illogical outcome may be permitted under the FCC Rules.

Even if federal law permits AT&T to withdraw as an ETC on a geographically selective basis in portions of its traditional service territory, the PUCO should exercise caution in considering the impact of having the state's largest ILEC withdraw from participating in the Lifeline program. AARP also urges

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<sup>13</sup> See, In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, FCC 97-145, released May 8, 1997, at paras. 140, 369.



the PUCO to carefully evaluate the possible collateral impacts of AT&T's proposed relinquishment of its ETC status. AT&T protests that it is not proposing to discontinue voice service in the proposed relinquishment areas, but there is the possibility that relinquishing ETC status is intended to lay the groundwork for a further withdrawal of service.

By contrast, although wireless providers (including wireless resellers) have been permitted to seek CETC status and participate in the Lifeline program, as carriers they are subject to significantly different regulatory oversight than wireline providers. States lack jurisdiction over entry and exit regulation and rates, and they have no effective means of ensuring service quality. Even under federal jurisdiction, facilities-based wireless providers are often treated differently than their wireline counterparts. Under these circumstances, PUCO is well-justified in taking a hard look at whether each of the wireless resellers AT&T Ohio has identified can be relied upon to ensure that all customers served by AT&T Ohio will continue to be served with the federal Lifeline discount.

#### **IV. Conclusion and recommendation**

AARP urges PUCO to reject AT&T's proposed relinquishment of ETC status as a means of ending its obligation to participate in the federal Lifeline program and offer discounted basic service to low-income households in Ohio. At a minimum, AARP strongly recommends that PUCO defer granting AT&T's request until after a final resolution of the pending FCC proceedings discussed above, which, collectively, could eliminate the state's 11 remaining ETCs – either by ending their eligibility as Lifeline CETCs or by undermining their viability as providers in the residential market. Optimally, PUCO should postpone further consideration of AT&T Ohio's request until after the transition to broadband Lifeline has occurred.

Respectfully submitted,



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AARP Ohio Volunteer

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Summary: Testimony Official testimony representing the views of AARP Ohio. electronically filed by Mr. Jason C Smith on behalf of AARP Ohio