

**A report by the Staff of the  
Public Utilities Commission of Ohio**

Petition of AT&T Ohio to Relinquish ETC Designation  
Case Number 17-1948-TP-UNC

February 8, 2019

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

Asim Z. Haque, Chairman  
M. Beth Trombold, Commissioner  
Thomas W. Johnson, Commissioner  
Lawrence K. Friedeman, Commissioner  
Daniel R. Conway, Commissioner

To the Honorable Commission:

The Staff of the Public Utilities Commission of Ohio (PUCO) has conducted its investigation in the above matter and hereby submits its results and recommendations to the Commissioners of the PUCO (Commission) in this Staff Report. The Staff Report has been jointly prepared by the Telecommunications and Technology Division and the GIS and Operations Division in the Rates and Analysis Department.

Copies of the Staff Report have been filed with the Docketing Division of the PUCO and served upon all parties to the case.

The Staff Report is intended to present for the Commission's consideration the results of the Staff's investigation. It does not purport to reflect the views of the Commission nor should any party to the proceeding consider the Commission as bound in any manner by the representations or recommendations contained within.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tamara S. Turkenton". The signature is fluid and cursive, with a large initial "T" and "S".

Tamara Turkenton

Director, PUCO Rates and Analysis Department

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## Introduction

On September 7, 2017, AT&T Ohio (AT&T) filed a Petition requesting an Order from the Commission to confirm relinquishment of its Eligible Telecommunications Carrier (ETC) designation in certain portions of its service area in Ohio.<sup>1</sup>

A carrier designated by a state commission or the Federal Communications Commission (FCC) as an ETC is eligible to receive universal service support in accordance with 47 U.S.C. 254, including the current \$9.25 per line reimbursement for the monthly discount provided to eligible low-income customers through the federal Lifeline program.<sup>2</sup> By relinquishing its ETC designation, AT&T may withdraw its Lifeline discount in those areas that the relinquishment is granted. AT&T states it is not discontinuing any legacy voice service and that its ETC designation relinquishment will not affect the availability of any of its legacy voice service in any area of the state. The only consumer impact, according to AT&T, is that consumers in the relinquishment area will no longer receive the federal Lifeline discount or the state waiver of the non-recurring charge on AT&T's voice service. AT&T states that Lifeline customers in the relinquishment area can continue to receive legacy voice service at standard AT&T prices<sup>3</sup> or they can choose another ETC to provide the Lifeline service and discount. Moreover, AT&T submits that it will provide ample advance notice to all affected customers.<sup>4</sup>

## Background

Congress delegated the authority to designate telephone company common carriers as ETCs to the state commissions. ETCs are designated by this Commission in accordance with 47 U.S.C. 214(e)(1). AT&T is an incumbent local exchange carrier (ILEC) granted an ETC designation on December 18, 1997, within its ILEC service area in Ohio.<sup>5</sup> This designation allows ETCs, such as AT&T, to receive federal Universal Service Fund (USF) support for the Lifeline and High Cost programs.

The Lifeline program helps low-income households obtain voice service by providing a monthly discount. Prior to 2012, the High Cost Program, a component of USF, was utilized by ETCs to provide Lifeline voice service. The High Cost program is now known as the Connect America Fund (CAF), which has been used by the ETCs since 2012 to deliver broadband to high cost areas identified by the FCC.<sup>6</sup> The CAF is intended to expand access to voice and broadband services in areas where they are presently unavailable. CAF support is provided through multiple phases. Under Phase II, known as CAF-II, support is provided over the course of a six-year program.<sup>7</sup> Carriers receiving CAF-II support are subject to numerous public interest obligations, such as speed and deployment, as well as an obligation to continue providing Lifeline service in supported areas.<sup>8</sup> CAF-II funding is now made available by census blocks instead of service areas and wire centers, as was done previously. This allows the FCC to ensure high-cost support is reaching its

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<sup>1</sup> *In the Matter of the Petition of AT&T Ohio for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas and Request for Waiver*, Case No. 17-1948-TP-UNC, Petition (filed Sep. 7, 2017) (Petition).

<sup>2</sup> The discount can be applied to both basic local exchange service (BLES) and package services. Many competitive ETCs have presumably developed business models that allow them to cover their cost and a profit margin with the \$9.25 reimbursement and, thus, provide free service to their customers.

<sup>3</sup> AT&T's residential BLES rate is currently \$24.25. PUCO No. 20, Part 4, Section 2, Pages 2.2.1-2.2.5.1, 19.

<sup>4</sup> Petition at 2.

<sup>5</sup> *In the Matter of the Commission Investigation of the Intrastate Universal Services Discounts*, Case No. 97-632-TP-COI, Supplemental Finding and Order (issued Dec. 18, 1997).

<sup>6</sup> FCC 11-161, WC Docket No. 10-90, Connect America Fund, Report and Order and Further Notice of Proposed Rulemaking, ¶20, (rel. Nov. 18, 2011) (CAF Order).

<sup>7</sup> Federal Communications Commission, Connect America Fund Phase II FAQs available at <https://www.fcc.gov/consumers/guides/connect-america-fund-phase-ii-faqs> (Jan. 24, 2018).

<sup>8</sup> FCC 14-190, WC Docket No. 10-90, Connect America Fund, Report and Order, ¶¶13-70, (rel. Dec. 18, 2014).

intended target and not being used to support broadband in areas already served by other broadband providers, or in areas where it is commercially feasible to provide broadband without a subsidy.<sup>9</sup>

Since 2009, Ohio's Lifeline customers have had the option of obtaining service from competitive Lifeline service providers (known as competitive ETCs or CETCs) in addition to the Lifeline services offered by their traditional ILECs.<sup>10</sup> Most CETCs are non-facilities based resellers of wireless service. In December of 2017, the FCC issued a notice of proposed rulemaking (NPRM) in which it proposed eliminating Lifeline support for non-facilities based Lifeline service offerings.<sup>11</sup> While the importance and effect of this proposal will be discussed in greater detail later in this report, it is necessary to recognize from the outset that this potential action by the FCC provides a backdrop for staff's analysis of AT&T's relinquishment request.

## Review of AT&T's Petition

AT&T states that it must retain its ETC designation and continue to offer the Lifeline discount in the census blocks for which it has accepted CAF-II funding, in addition to other extremely high-cost census blocks.<sup>12</sup> According to AT&T, because of its six-year term participation in the CAF-II program, it will be able to bring high-speed broadband services to nearly 37,000 high-cost, mostly rural locations in its retained area in Ohio. AT&T is seeking to relinquish its ETC designation in the rest of its service territory, because it is no longer eligible to receive high-cost universal support in those areas.<sup>13</sup> The retained area, which contains 359 AT&T Lifeline customers, is identified in Exhibit B of AT&T's Petition. The relinquishment area contained 10,482 AT&T Lifeline customers as of the end of 2016.<sup>14</sup> On August 23, 2018, AT&T submitted a Supplemental Filing updating its total number of Lifeline customers in all of its service area to 7,946 as of July 1, 2018.<sup>15</sup> Staff was subsequently able to determine that there are 7,684 Lifeline customers in the relinquishment area and 262 in the retained area. In its Petition, AT&T stated that 11 alternative ETC's presently serve the areas in which it seeks to relinquish its ETC designation.<sup>16</sup> As further support of its Petition, AT&T conveys that marketplace and customer demand is also a driver of its ETC relinquishment since customers are increasingly replacing its traditional wireline residential services with other options. AT&T submitted data indicating that the number of traditional ILEC residential wireline customers in Ohio substantially decreased by 74 percent between 2005 and 2015. Likewise, AT&T's number of Lifeline customers has declined by 94 percent between 2008 and 2016 due to those customers obtaining the Lifeline

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<sup>9</sup> Petition at 5.

<sup>10</sup> *In the Matter of the Commission Investigation of the Intrastate Universal Service Discounts*, Supplemental Finding and Order (issued May 21, 2009). Tracfone Wireless Inc. dba SafeLink Wireless was the first competitive ETC designated by the Commission. Since that time, the Commission has designated several other competitive ETCs. There are currently 11 competitive ETCs offering service in Ohio.

<sup>11</sup> *In the Matter of Lifeline and Link Up Reform Modernization*, FCC WC Docket No. 11-42, et al., Notice of Proposed Rulemaking at ¶¶ 67-73 (rel. Dec. 1, 2017). (NPRM)

<sup>12</sup> *Id.* at 5-6. AT&T's Petition refers to the CAF-II census blocks plus other extremely high-cost census blocks as "the retained area," and in this report Staff will make the same reference.

<sup>13</sup> *Id.* AT&T's Petition refers to the area in which it is requesting relinquishment of its ETC designation as "the relinquishment area," and in this report Staff will make the same reference.

<sup>14</sup> *Id.* at 8.

<sup>15</sup> *In the Matter of the Petition of AT&T Ohio for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas and Request for Waiver*, Case No. 17-1948-TP-UNC, Supplemental Filing (filed Aug. 23, 2018). (Supplemental Filing) In its Supplemental Filing, AT&T did not distinguish between Lifeline customers within the relinquishment area and those outside of it. The number provided is for the entire service territory.

<sup>16</sup> See Petition at 13 and Exhibit C. The 11 alternative ETCs are: Boomerang Wireless, LLC; Tempo Telecom, LLC; American Broadband & Telecommunications; i-wireless, LLC; Air Voice Wireless, LLC; Telrite Corporation; Global Connection Inc. of America; Sage Telecom Communications, LLC; Tracfone Wireless Inc.; Q Link Wireless, LLC; and Virgin Mobile USA LP.

discount from other ETCs.<sup>17</sup> In its Supplemental Filing, AT&T states that the number of Lifeline customers continued to decline by 13% in 2017 and 16% thus far in 2018.<sup>18</sup>

## Customer Notice

In the Petition, AT&T indicates it will provide ample notice to its Lifeline customers by sending written notice in a letter via U.S. mail at least 60 days prior to the relinquishment effective date and a second written notice in a letter and in a bill message at least 15 days prior to the relinquishment effective date. Further, AT&T states the notices will explain the loss of the AT&T Lifeline discount, that standard AT&T prices will apply if another ETC is not selected, and how to contact the Universal Service Administrative Company (USAC) for general Lifeline questions as well as include a list of other ETCs in the state, a list of ETCs in AT&T's service territory, and a link to AT&T's website listing those ETCs by city/town based on publicly-available information. Finally, AT&T asserts it will stop enrolling customers in the relinquishment area five days after the Commission issues an Order, to prevent a newly-enrolled Lifeline customer from having to switch to another ETC so quickly after enrollment.<sup>19</sup> Until the Commission issues an order, AT&T is obligated as an ETC to continue enrolling Lifeline customers. Thus, as of February 12, 2018, AT&T has enrolled 598 Lifeline customers and de-enrolled 1,623 since filing the Petition.

## Staff Investigation

Staff's investigation included several data requests to gather additional information to determine if AT&T's Petition meets the statutory requirements found in 47 U.S.C. 214(e)(4). Staff solicited the following information from AT&T:

- Wire center and census block data in the area AT&T has requested to relinquish its ETC designation.<sup>20</sup>
- Identification of a mapping discrepancy between the PUCO and AT&T's service territory boundary files.<sup>21</sup>
- The addresses of all Lifeline customers in the AT&T area in which it is seeking ETC relinquishment.<sup>22</sup>
- The addresses of all Lifeline customers in the AT&T area in which it is seeking ETC relinquishment after AT&T submitted its August 23, 2018, Supplemental Filing indicating the total number of Lifeline customers had decreased since the Petition was filed.<sup>23</sup>

AT&T submitted the responses to the first two data requests on November 2, 2017, in the Petition docket. The responses to the third and fourth data requests, received on December 7, 2017, and September 11, 2018, respectively, contained data and information noted by AT&T as proprietary and confidential.

On June 28, 2018, the Commission issued an Entry allowing interested persons the opportunity to comment on AT&T's relinquishment Petition. In addition, AT&T was directed to publish notice of its relinquishment in newspapers of general circulation throughout the relinquishment area with proof being submitted to the Commission by AT&T by August 7, 2018. Lastly, the Commission directed the 11 alternative ETCs identified in AT&T's Petition to submit comments advising whether they are willing and able to serve all

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<sup>17</sup> *Id.* at 6-7. According to AT&T, the total number of Lifeline customers increased in Ohio during this same period of time.

<sup>18</sup> Supplemental Filing at 1.

<sup>19</sup> *Id.* at 14-15.

<sup>20</sup> Staff Data Request #1 sent to AT&T on Sep. 21, 2017.

<sup>21</sup> Staff Data Request #2 sent to AT&T on Oct. 20, 2017.

<sup>22</sup> Staff Data Request #3 sent to AT&T on Nov. 20, 2017.

<sup>23</sup> Staff Data Request #4 sent to AT&T on Aug. 27, 2018.

AT&T Lifeline customers in their respective service areas and, if so, provide an explanation of how the Lifeline service would be provisioned.<sup>24</sup>

The 11 alternative ETCs responded that they are able to serve qualifying Lifeline subscribers in AT&T's relinquishment areas barring any future FCC prohibition of wireless resellers in the Lifeline program.<sup>25</sup> Staff will address the pending FCC proceeding referenced by the alternative ETCs in more detail later in this report. Of the 11 confirming ETCs, Virgin Mobile USA LP (Virgin Mobile) is the only facilities-based wireless ETC in Ohio.<sup>26</sup>

Comments were also received from various stakeholders. The AARP recommends denial of the Petition because it believes that AT&T has not made an affirmative case to relinquish its ETC obligation. Further, it points out that the pending FCC proceedings cast doubt on the future availability of Lifeline from the wireless reseller ETCs listed in AT&T's Petition and emphasizes the importance of preserving AT&T as a facilities-based wireline Lifeline provider.<sup>27</sup>

The Greater Edgmont Community Coalition, Ohio Association of Community Action Agencies, Ohio Poverty Law Center, Southeastern Ohio Legal Services, and The Office of the Ohio Consumers' Counsel collectively filed comments recommending the Commission deny AT&T's Petition. The groups claim AT&T's Petition does not sufficiently verify that other Lifeline providers can actually serve customers in the relinquishment areas. In their view, this should be determined through a granular examination at the customer's residence, which AT&T has not done. Further, the groups assert that the Commission should not act until after the pending FCC proceeding is decided to ensure, in furtherance of state telecommunications policy, that Lifeline customers maintain their Lifeline service.<sup>28</sup>

Moreover, approximately 2,946 comments have been docketed from the general public. All except one oppose AT&T's Petition. Most comments state that the Lifeline program is necessary for the sick, disabled, elderly, and poor to maintain communications to vital contacts such as emergency services, family, and medical facilities, which, without Lifeline support, they could not otherwise afford to do.<sup>29</sup> Some comments from actual Lifeline customers claim AT&T is the only ETC offering wireline Lifeline service in their area. Further, some commenters state that the Lifeline wireline phone was a help in saving lives during an emergency while others point out that they are unable to use wireless services due to medical reasons or they simply cannot afford phone service without the Lifeline discount.<sup>30</sup>

Lastly, State Senator Vernon Sykes, Ph.D., of Ohio's 28<sup>th</sup> District filed a letter in the docket strongly urging the Commission to oppose AT&T's exit from the Lifeline program because thousands of low-income

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<sup>24</sup> *In the Matter of the Petition of AT&T Ohio for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas and Request for Waiver*, Case No. 17-1948-TP-UNC, Entry (issued June 28, 2018).

<sup>25</sup> *In the Matter of the Petition of AT&T Ohio for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas and Request for Waiver*, Case No. 17-1948-TP-UNC, ETC Comments (filed July 30, Aug. 27, Aug. 29, Aug. 30 and Aug. 31, 2018, respectively).

<sup>26</sup> *In the Matter of the Petition of AT&T Ohio for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas and Request for Waiver*, Case No. 17-1948-TP-UNC, Virgin Mobile USA LP Comments (filed July 27, 2018).

<sup>27</sup> *In the Matter of the Petition of AT&T Ohio for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas and Request for Waiver*, Case No. 17-1948-TP-UNC, AARP Comments (filed Aug. 30, 2018).

<sup>28</sup> *In the Matter of the Petition of AT&T Ohio for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas and Request for Waiver*, Case No. 17-1948-TP-UNC, Consumer Advocate Comments (filed Aug. 31, 2018).

<sup>29</sup> *In the Matter of the Petition of AT&T Ohio for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas and Request for Waiver*, Case No. 17-1948-TP-UNC, Public Comments (filed from July 2-Aug. 31, 2018).

<sup>30</sup> *Id.*

Ohioans may lose access to their only means of communication.<sup>31</sup> State Senator Sykes serves a portion of Summit County and the metro Akron area.

## Intervenors

The Office of the Ohio Consumers' Counsel (OCC) and the Greater Edgemont Community Coalition (Edgemont) filed Motions to Intervene representing low-income residential customers who will be affected by AT&T's ETC relinquishment.<sup>32</sup> The OCC and Edgemont joined to ask the Commission to hold this case in abeyance or to establish a procedural schedule allowing interested parties to comment. The parties cite the NPRM in which the FCC is proposing to limit Lifeline support to facilities-based broadband service providers that also support voice service. This proposal, if adopted, would eliminate support for non-facilities-based networks regardless of whether or not they are capable of offering both voice and broadband services. As a result, some Lifeline providers could cease operations and leave low-income customers with no provider in some parts of the state.<sup>33</sup>

## Requirements for ETC Relinquishment

Relinquishment of ETC designation has been delegated to state commissions by the FCC and Congress pursuant to 47 U.S.C. 214(e)(4), which states in part:

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 designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the State commission...of such relinquishment.

AT&T believes it is entitled to relinquish its ETC designation because it has demonstrated, in Exhibit C of its Petition, that at least four other designated ETCs provide Lifeline service in the relinquishment area wire centers.<sup>34</sup> Further, AT&T avers that these ETCs are obligated to provide Lifeline service to eligible customers in their designated areas upon reasonable request.<sup>35</sup>

According to AT&T, federal law does not treat ETC designation by an ILEC any differently than relinquishment by any other ETC, nor does the law require relinquishment in the ILEC's entire service area, but permits it for "any area" served by more than one ETC. AT&T continues that nothing in 47 U.S.C. 214 prohibits a carrier from partial relinquishment since Congress recognized there is no guarantee that other ETCs will be designated for that carrier's entire service area.<sup>36</sup> For further justification of its request for a partial relinquishment of its ETC designation, AT&T points to Ohio Adm. Code 4901:1-6-09(D)(2), which reads:

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<sup>31</sup> *In the Matter of the Petition of AT&T Ohio for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas and Request for Waiver*, Case No. 17-1948-TP-UNC, Correspondence for State Sen. Vernon Sykes (filed Aug. 31, 2018).

<sup>32</sup> *In the Matter of the Petition of AT&T Ohio for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas and Request for Waiver*, Case No. 17-1948-TP-UNC, Motions to Intervene (filed Nov. 8, 2017 and Nov. 20, 2017 respectively).

<sup>33</sup> *In the Matter of the Petition of AT&T Ohio for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas and Request for Waiver*, Case No. 17-1948-TP-UNC, Motion (filed Jan. 4, 2018).

<sup>34</sup> AT&T lists the following ETCs to be designated in its current ETC service area: I-Wireless, Air Voice, American Broadband and Telecommunications Company, Virgin Mobile USA LP, Boomerang, LLC, Global Connection Inc. of America, Q Link Wireless, Sage Wireless, Tracfone Wireless, Telrite Corporation, and Tempo. Petition at Exhibit C.

<sup>35</sup> *Petition* at 13.

<sup>36</sup> *Id.* at 10-11.



An ETC may seek to relinquish its ETC designation for *an area* [emphasis added] pursuant to 47 C.F.R. 54.205 through the filing of a non-automatic application with the commission under the case purpose code TP-UNC. An ETC will not be relieved of its ETC designation until the commission issues an order granting the request.

According to AT&T, this rule is identical to 47 U.S.C. 214(e)(4) in that it authorizes relinquishment in “an area” which is less than the entire service area of the carrier. In AT&T’s view, no legal barrier prohibits it from partially relinquishing its ETC designation. AT&T points out that it has already been granted partial ETC relinquishment in the following states: Alabama, Florida, Georgia, Illinois, Kentucky, Mississippi, North Carolina, South Carolina, South Dakota, Tennessee, Washington, and Wisconsin.<sup>37</sup> Additionally, AT&T had pending applications in Louisiana, Indiana, Texas, Kentucky, and Illinois that were granted partial relinquishment after the Ohio Petition was filed.<sup>38</sup>

Pursuant to 47 U.S.C. 214(e)(4), a state commission shall permit an ETC to relinquish its designation as such a carrier in any area served by more than one ETC. Before a state commission may permit the ETC to relinquish, it must determine that:

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...

Therefore, the Commission first needs to determine whether there is at least one other ETC present in each census block of the relinquishment area. In addition, the Commission shall require the remaining ETC(s) to ensure that all Lifeline customers served by the relinquishing carrier will continue to be served. As noted in the statute and further FCC interpretation,

The section 214(e)(4) relinquishment process allows for the states (or the [FCC], if applicable) to conduct an inquiry at a sufficiently granular level to ensure that the customers in that area ‘will continue to be served.’ *The relinquishment process not only entails an evaluation of what service providers are present in an area at a given point in time, but of the practical ability of those providers to take on additional consumers as might be needed once the relinquishing carrier is no longer an ETC subject to associated obligations in that area* [emphasis added].<sup>39</sup>

Competitive ETCs are granted ETC authority at the exchange or wire center level, not by census block. In addition, those ETCs must have a “practical ability” to serve the current customers in the relinquishment area. Therefore, Staff reviewed ETC service at the census block level, and the ETCs’ practical ability to provide service to AT&T’s current Lifeline customers in the relinquishment area.

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<sup>37</sup> *Id.* at 12-13.

<sup>38</sup> *In the Matter of the Petition of AT&T Ohio for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas and Request for Waiver*, Case No. 17-1948-TP-UNC, Further Supplemental Authority (filed Mar. 26 and Aug. 20, 2018).

<sup>39</sup> *In the Matter of Connect America Fund*, WC Docket No. 10-90, Memorandum Opinion and Order, at ¶ 111, (rel. Dec. 28, 2015). (Forbearance Order).

## Analysis of ETC Service

### Determination of Relinquishment Area

In its Petition, AT&T defined the relinquishment area as the remaining areas outside of its retained area in which it is currently designated an ETC. In a data request, Staff requested a list of the census blocks in AT&T's proposed relinquishment area.<sup>40</sup> In order to determine which census blocks would be relinquished, AT&T selected all census blocks that intersect its wire center boundaries from its records. AT&T's boundaries differ slightly from the service territory on record with the PUCO. As a result, there are 809 census blocks that intersect the PUCO's service territory files that did not intersect AT&T's boundaries, and 1,239 census blocks that intersect AT&T's boundaries but not the PUCO's.<sup>41</sup>

AT&T confirmed that they have customers, including two Lifeline customers, in some of the 809 census blocks that intersect the PUCO's service territory file, but were left out of AT&T's list in its response to the data request. In order to move forward with this case, PUCO Staff pursued an analysis of all census blocks selected by both boundary files, referred to in this document as "relinquishment census blocks." As such, "relinquishment area," as used in this document, refers to the combined area of AT&T's service territory, using both the PUCO and AT&T boundary files, except the area covered by those census blocks listed in AT&T's "retained area" in its Petition. A map of the relinquishment area considered by Staff for this Staff Report is included in Appendix A. The table below summarizes Staff's recommended relinquishment and retained areas for consideration.

Table 1 – Staff-Recommended Areas for Consideration

	<b>Lifeline Customers</b>	<b>Census Blocks</b>
<b>Retained Area</b>	262	6,705
<b>Relinquishment Area</b>	7,684	146,811

### Determination of ETC Service Areas

In July 2017, PUCO Staff surveyed all wireless-based ETCs currently designated in Ohio.<sup>42</sup> This survey instructed carriers to provide a list of the telephone exchanges they serve, their underlying mobile network operator(s), network technologies, and any geographic data available to indicate quality and coverage of service. Based on the ETC survey responses and other filings, Staff has determined that all AT&T exchanges have other ETCs that claim to offer service in the exchange.

### Determination of Practical Ability to Serve

All of the ETCs serving AT&T's territory are mobile virtual network operators (MVNOs); therefore, their ability to serve an area depends on the wireless signal coverage of the underlying mobile networks they are using. Most of these wireless ETCs have listed their service area as statewide, but subject to the existence of the underlying carrier's facilities and corresponding coverage. As such, in order to evaluate whether these wireless ETCs have the practical ability to serve the proposed relinquishment area, it is necessary to evaluate the wireless signal coverage area of their underlying carriers.

<sup>40</sup> Staff Data Request #1 sent to AT&T on Sep. 21, 2017.

<sup>41</sup> This selection was performed using Geographic Information System (GIS) software, by selecting all census blocks that geographically intersect AT&T's service territory.

<sup>42</sup> Companies varied in their ability to respond to the wireless survey. Q-Link Wireless is the only company, however, that did provide some type of response to the survey requests for total lines by exchange or geodatabase/shapefiles indicating availability and location areas in Ohio where the company can provide service to customers.

For this evaluation, Staff used wireless signal coverage data from the FCC, which collects coverage data from the underlying wireless carriers. The FCC specifies that the carrier submit an area “depicting their network coverage areas for commercially-available mobile voice service... [that] should reflect where users should expect to be able to make, maintain, and receive voice calls.”<sup>43</sup> However, all of the carriers’ published coverage maps contain disclaimers stating that the published coverage areas are not guarantees of service.<sup>44</sup> In addition, the FCC recently announced that they were launching an investigation into the accuracy of wireless coverage maps submitted for the Mobility Fund Phase II reverse auction, following the filing of over 20 million speed tests across 37 states, challenging the coverage maps.<sup>45</sup>

## Census Block Analysis

The FCC uses this coverage data to generate a percentage of area covered, by carrier and technology, for every census block in Ohio.<sup>46</sup> The four underlying carriers are AT&T Mobility, Sprint, T-Mobile, and Verizon Wireless. Based on the ETC survey responses and filings, at least one wireless ETC is using each of these underlying carriers’ networks, offering statewide service. Therefore, if one of these underlying carriers has 100 percent coverage in a census block, at least one wireless ETC should, in theory, be able to provide service in all of that census block.

The table below shows the number of census blocks in AT&T’s relinquishment area where no carrier has 100 percent wireless coverage, at different technology levels, based on the FCC’s “actual area methodology” geographic analysis of wireless coverage data.<sup>47</sup> Because many of the census blocks are only partially within AT&T’s territory, the table also includes the percentage of the area of those census blocks that is within AT&T’s territory.

Table 2 - Wireless Coverage in Relinquishment Census Blocks

Coverage Criteria	Number of Census Blocks	Total Number of Households	Area of Census Blocks in AT&T Territory
No carriers with 100% coverage, any technology	488	2,569	19.9%
No carriers with 100% coverage, LTE, 4G, or 3G	497	2,584	20.0%
No carriers with 100% coverage, LTE or 4G	720	4,163	23.5%
No carriers with 100% coverage, LTE	1,585	11,685	37.5%

As shown in the table above, 488 census blocks in the relinquishment area do not have 100 percent coverage from any carrier’s network. This number makes up 0.3 percent of the 146,811 census blocks in the

<sup>43</sup> Federal Communications Commission, “How Should I Format my Mobile Voice Deployment Data?” Dec. 2016, p.1: accessed Jan. 11, 2018, [http://www.fcc.gov/form477/MVD/formatting\\_mvd.pdf](http://www.fcc.gov/form477/MVD/formatting_mvd.pdf).

<sup>44</sup> Sample coverage map disclaimer: “These maps are not a guarantee of coverage and contain areas of no service, and are a general prediction of where rates apply based on our internal data. Wireless service is subject to network and transmission limitations, including cell site unavailability, particularly near boundaries and in remote areas. Customer equipment, weather, topography and other environmental considerations associated with radio technology also affect service and service may vary significantly within buildings. Some information on service outside the Verizon Wireless proprietary network, and we can not vouch for its accuracy.” (Verizon Wireless, accessed Dec. 5, 2017, <https://www.verizonwireless.com/featured/better-matters/?intmcp=INT-SEA-NON-SE-coverage-051614-DE-SR-LP-T#maps>)

<sup>45</sup> Federal Communications Commission, “FCC Launches Investigation into Potential Violations of Mobility Fund Phase II Mapping Rules,” Dec. 7, 2018: accessed Feb. 6, 2019: <https://docs.fcc.gov/public/attachments/DOC-355447A1.pdf>.

<sup>46</sup> Federal Communications Commission, “Mobile Deployment Form 477 Data,” Dec. 2016: accessed Dec. 5, 2017, <https://www.fcc.gov/mobile-deployment-form-477-data>.

<sup>47</sup> Federal Communications Commission, “FCC Releases Data on Mobile Broadband Deployment as of December 31, 2015 Collected Through FCC Form 477,” Sep. 30, 2016: accessed Dec. 5, 2017, [https://apps.fcc.gov/edocs\\_public/attachmatch/DA-16-1107A1\\_Rcd.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DA-16-1107A1_Rcd.pdf).

relinquishment area. The number of census blocks without 100 percent coverage from at least one carrier increases slightly when looking at newer signal technologies; however, these technologies are not required for provision of basic voice service.

## **Geographic Analysis**

Many of the census blocks included in the analysis above are only partially within AT&T's service territory. In order to exclude the portions of the relinquishment census blocks that are outside of AT&T's service territory, Staff created a geographic area by removing from the relinquishment census blocks those areas that fall outside of the AT&T service territory boundary. The result is shown on the map in Appendix A and represents the actual area under consideration for relinquishment in this Staff Report.

To further evaluate wireless coverage within this relinquishment area, Staff downloaded the geographic wireless signal coverage files from the FCC and compared them geographically with the relinquishment area. This comparison shows that 99.85 percent of the relinquishment area is covered by at least one carrier. A map of wireless coverage in Ohio and the relinquishment area is included in Appendix B.

Staff also requested and received the addresses of all current AT&T Lifeline subscribers within the relinquishment area. Staff compared these 10,482 address locations with the wireless coverage data and found two addresses that were outside the coverage area of all of the underlying wireless carriers. These two addresses were within 250 feet of areas shown as covered by at least one carrier. Staff repeated this analysis with the address data provided by AT&T following the filing of its supplement. Again, all but two addresses were within the coverage area of at least one underlying carrier.

Due to potential inaccuracy with the wireless coverage areas and location of the addresses, it is difficult to say with certainty whether or not these customers, and others near the edges of wireless signal coverage areas, will have access to service from a wireless ETC at their home. However, the vast majority of current AT&T Lifeline subscribers are in urban areas, well within the coverage area of multiple wireless carriers. Staff searched for Lifeline customer addresses within one mile of areas with no coverage from any carrier and found only 12. In other words, all but 12 of AT&T's current Lifeline customers in the relinquishment area are more than one mile inside at least one wireless carrier's coverage area.

## **Summary of ETC Service**

Based on Staff's review of ETC service areas and wireless signal coverage of their underlying carriers, at least one other ETC is likely able to provide federal Lifeline service to existing Lifeline customers in all of the AT&T relinquishment area, with the exception of two addresses for which Staff was unable to determine with accuracy whether service is available. Thus, for the vast majority of the relinquishment area, AT&T meets the federal requirement to be granted the authority to relinquish its ETC designation in the requested census blocks of its current service territory.

## **Consideration of FCC NPRM**

Staff believes that the FCC's NPRM, which was alluded to in the background section of this report, has the potential, if adopted, to significantly impact those current AT&T Lifeline customers in the relinquishment area who will be forced to choose another ETC to continue to receive the Lifeline discount or be required to forfeit the discount should they remain an AT&T customer. As also noted, this concern has also been raised by the intervenors in this case. In the NPRM, the FCC is proposing to discontinue Lifeline support for services provided over non-facilities-based networks, in order to focus the support on broadband

service provided over facilities-based networks that also support voice service.<sup>48</sup> Should this proposal be adopted, the non-facilities-based Lifeline providers in Ohio may discontinue providing service in the state because they would lose the funding they receive from the federal Lifeline program.

Ten of the 11 competitive Lifeline ETCs listed in AT&T's Petition are wireless, Lifeline-only, non-facilities-based ETCs. The one wireless, Lifeline-only ETC that is arguably facilities-based is Virgin Mobile, a wholly-owned subsidiary of Sprint Nextel Corporation, which utilizes the Sprint network as the underlying carrier.<sup>49</sup> Virgin Mobile offers service in most but not all of AT&T's wire centers in the relinquishment area.<sup>50</sup> Although it is a subsidiary of Sprint Nextel Corporation, Virgin Mobile is nonetheless an MVNO as previously noted. At this time, it is unclear whether the FCC will change the definition of "facilities-based" to exclude subsidiary companies like Virgin Mobile.<sup>51</sup>

If all of the non-facilities based, competitive, Lifeline-only ETCs listed in AT&T's Petition leave all or parts of the Ohio market due to future FCC action in the NPRM or otherwise, then Virgin Mobile could be left as the sole Lifeline-only ETC in Ohio. Staff determined that Virgin Mobile is not listed in 45 of the 254 wire centers AT&T lists in its Exhibit C, leaving approximately 636 Lifeline customers who may not have access to another Lifeline ETC if AT&T relinquishes its ETC designation in those wire centers.<sup>52</sup> In addition, Lifeline customers outside of Virgin Mobile's (i.e., Sprint's) wireless coverage area would not have another option. Using the addresses submitted by AT&T following the filing of its supplement, there are 172 current Lifeline customers that are outside of Sprint's wireless coverage area. These customers are spread across 43 AT&T exchanges in 19 counties.

In its U.S. Telecom Forbearance Order, the FCC recognized that part of the relinquishment process includes evaluating the remaining service providers' capability to take on additional customers once the relinquishing carrier is no longer an ETC.<sup>53</sup> If these carriers lose their federal USF support, their ability to serve Lifeline customers will be greatly affected. This possibility could easily occur should the FCC proceed with the action contemplated in the NPRM. As an unintended consequence, such action by the FCC would result in violating the universal service principle set forth in 47 U.S.C. 254(b)(3), which states, in part, that, "Consumers in all regions of the Nation, *including low-income consumers* [emphasis added] and those in rural, insular, and high cost areas, should have access to telecommunications and information services..."

An additional concern raised by Tracfone Wireless Inc. (Tracfone) in its comments warrants further discussion in that it has a reasonable possibility of becoming a future reality. Tracfone notes that the nation's top facilities-based wireless carriers (Verizon Wireless and T-Mobile U.S.A.) have already relinquished their ETC designations in many states and Sprint Corporation (Sprint) may also follow suit if regulators approve its proposed merger with T-Mobile U.S.A. (T-Mobile).<sup>54</sup>

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<sup>48</sup> NPRM at ¶¶ 67-73.

<sup>49</sup> *In the Matter of Virgin Mobile USA, L.P. Petition for Limited Designation as a Nonrural Eligible Telecommunications Carrier*, Case No. 10-0429-TP-UNC, Petition at 2 (filed Apr. 2, 2010).

<sup>50</sup> See Petition at Exhibit C.

<sup>51</sup> See NPRM at 67.

<sup>52</sup> See Appendix C of this report. Some of these wire centers are in rural parts of Ohio in or near the Appalachian mountains, which is a known area for poor, spotty, or no wireless coverage.

<sup>53</sup> See *Forbearance Order*, FCC 15-166, ¶ 111.

<sup>54</sup> *In the Matter of the Petition of AT&T Ohio for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas and Request for Waiver*, Case No. 17-1948-TP-UNC, Tracfone Wireless, Inc. Comments filed August 31, 2018 at 3.

Verizon Wireless was never an ETC in Ohio. T-Mobile had two ETC designations in Ohio as T-Mobile Central LLC dba T-Mobile and Voice Stream Pittsburgh, Limited Partnership dba T-Mobile, both of which were approved by the Commission for ETC relinquishment on December 17, 2014.<sup>55</sup>

On June 14, 2018, T-Mobile and Sprint notified the FCC of their intent to merge their respective companies. If approved by regulators, this merger would result in Sprint transferring control of its licenses and authorizations as well as those of its wholly owned subsidiaries to T-Mobile.<sup>56</sup> Nearly four years ago, T-Mobile relinquished its ETC designation in Ohio. If the proposed merger goes forward, T-Mobile may decide to relinquish the ETC designation of Virgin Mobile (presently, a Sprint subsidiary) in Ohio, as it previously did with its other ETCs. This possibility, along with the pending FCC proceeding noted above, presents a future scenario in which none of the alternative ETCs presently offering Lifeline service in AT&T's service territory will continue to do so. Should this occur, low-income customers' access to telecommunications and information services will be greatly impacted.

## Conclusion and Recommendations

Staff has determined that there are other ETCs in the relinquishment area that claim to offer service in each of the AT&T exchanges. In addition, at least one other ETC likely has the practical ability to serve AT&T's current Lifeline customers. As such, Staff recommends approval of AT&T's request to relinquish its ETC designation in all of its service territory, except those census blocks listed in Exhibit B of its Petition.

Due to the lack of certainty in determining wireless signal coverage for 100 percent of AT&T's current Lifeline customers in the relinquishment area and to allow time for those customers who may have special medical needs, Staff recommends that a minimum 60-day grace period be implemented after the effective relinquishment date. There are likely current Lifeline customers with medical devices or services that may require at least 60 days, perhaps more, to find an alternative ETC, if available, should there be a compatibility issue related to their medical device and/or service resulting from the transition from wireline to wireless service.

During this grace period, any AT&T Lifeline customer in the relinquishment area who is unable to obtain Lifeline service at their residence from another ETC would have the opportunity to contact the PUCO Call Center to request assistance in finding another ETC. If the PUCO Staff is unable to find another ETC serving the Lifeline customer's specific address in the relinquishment area, then the Commission has the authority pursuant to 47 U.S.C. 214(e)(2)(3) to determine which common carrier(s), including AT&T, are best able to serve an unserved community or portion thereof and may order and designate the carrier(s) as an ETC to do so. In reply comments filed on September 26, 2018, AT&T acknowledged the Commission's authority under 47 U.S.C. 214(e)(3) to order a common carrier to serve an unserved area as an eligible telecommunications carrier.<sup>57</sup> While AT&T has recognized the Commission's authority under section

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<sup>55</sup> *In the Matter of the Joint Petition of T-Mobile Central LLC and Voicestream Pittsburgh, Limited Partnership dba T-Mobile for Designation as Low-Income Competitive Eligible Telecommunications Carriers*, Case Nos. 11-5726-TP-UNC and 11-5727-TP-UNC, Entries (issued Dec. 17, 2014).

<sup>56</sup> Public Notice, FCC WT Docket No. 18-197, DA 18-625, June 15, 2018. Applications for merger with the FCC have a 180-day timeline. As of September 11, 2018, which was day 55, the FCC paused the clock to allow for a more thorough staff and third-party review of newly submitted modeling by the Applicants. <https://docs.fcc.gov/public/attachments/DOC-354053A1.pdf>

<sup>57</sup> *In the Matter of the Petition of AT&T Ohio for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas and Request for Waiver*, Case No. 17-1948-TP-UNC, AT&T Reply Comments at 7 (September 26, 2018). (AT&T Reply Comments) In its reply comments, AT&T stated "[i]f a circumstance should ever arise where an Ohio community or consumer is left unserved, Congress has provided the remedy. Under 47 U.S.C. 214(e)(3), the FCC and/or this Commission would be empowered to 'determine which carrier or carriers are best able to provide such service to the requesting unserved community or portion thereof' and 'shall order such carrier or carriers to provide such service for that unserved community or portion thereof' as an ETC. This is a powerful tool to deal with unserved areas, should any ever arise."

214(e)(3), its reply comments give reason to believe that AT&T interprets “unserved” to require a complete unavailability of service rather than simply the unavailability of Lifeline service.<sup>58</sup>

Moreover, according to AT&T’s Petition, “After relinquishment, AT&T will continue to offer and provide service in the relinquishment area. All customers in the relinquishment area, including former AT&T Lifeline customers who choose to keep their AT&T service, will have access to services offered by AT&T at standard AT&T prices, including all applicable surcharges, fees and taxes”.<sup>59</sup> Therefore, Staff recommends that AT&T be designated as the ETC by the Commission for those particular Lifeline customers in the AT&T relinquishment area who are unable to receive Lifeline service from another ETC at their residence. AT&T already has facilities to the Lifeline customer’s address and is continuing to offer service there after relinquishment, which establishes it as the common carrier best suited to provide the requested Lifeline service. Thus, the only change to AT&T is that it would have to continue providing the Lifeline discount and state waiver of the non-recurring charge for that particular Lifeline customer.

Staff believes that AT&T’s proposal for providing notice to Lifeline customers is sufficient. Nonetheless, in order to inform Lifeline customers in the relinquishment area that they may contact the PUCO if they are unable to find another ETC to service their address, Staff recommends AT&T add the following language to all of its customer notices:

If you have contacted other Lifeline providers for voice service and find that you are unable to obtain Lifeline service at your residence from another provider, you may contact the Public Utilities Commission of Ohio at (800) 686-7826 to report your problem until (*insert date 60 or more days after relinquishment effective date*).

Despite the stated concerns regarding the FCC NPRM, Staff recommends granting the request for relinquishment at this time. In order to address the scenario of the FCC deciding to eliminate Lifeline support for non-facilities based Lifeline service providers as a result of the NPRM or some other proceeding, Staff recommends that the Commission direct AT&T to work with Staff to address the concern for current Lifeline customers being affected by AT&T’s relinquishment. Further, Staff notes the Commission maintains its authority under 47 U.S.C. 214(e)(2)(3) to investigate and designate the common carrier best able to serve an unserved area as an ETC which could include AT&T.

As an ETC, AT&T is obligated to continue enrolling Lifeline customers until the Commission grants its request to relinquish its ETC designation. Consequently, AT&T has continued to enroll customers into the Lifeline program after filing its Petition to relinquish its ETC designation. Because the number of AT&T Lifeline customers is constantly changing with customers both joining and leaving the program, any Lifeline customers enrolled after AT&T filed the supplement to its Petition on August 23, 2018, were not included in Staff’s investigation. Regardless of whether the new Lifeline customers are in the retained or relinquishment areas, those customers should continue receiving Lifeline service. If a new Lifeline customer is in a retained area, then AT&T will continue to provide Lifeline service to that customer. If a new Lifeline customer is in a relinquishment area, Staff’s investigation has determined that more than one ETC is present and the new customer should be able to obtain Lifeline service through another ETC. Nonetheless, new Lifeline customers should receive the same customer notice from AT&T as those included in the staff analysis advising them to contact the PUCO should they find that alternate Lifeline service is not available to them.

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<sup>58</sup> See AT&T Reply Comments at 4-5, 7-8.

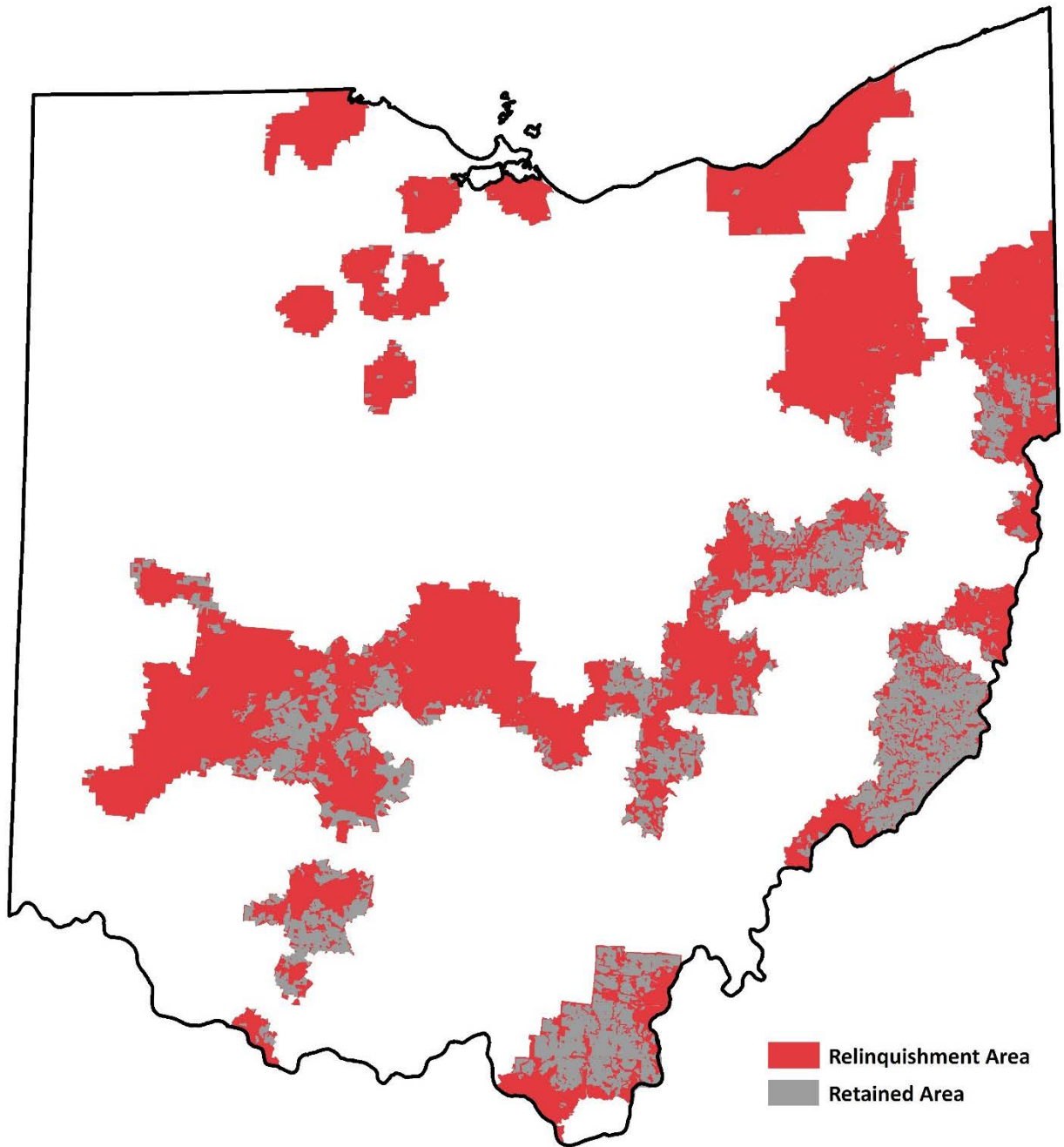
<sup>59</sup> Petition at 9.

Lastly, ETC designation includes certain requirements, such as providing Lifeline service in the area in which the provider is designated. Both PUCO Staff and AT&T have identified areas in which AT&T is providing ETC-required services outside of the recorded boundaries of AT&T's service territory. There is currently a discrepancy between AT&T and the PUCO's boundary data. Since it is important that both AT&T and the PUCO identify the AT&T service territory correctly and consistently, it is reasonable to require AT&T to work with PUCO Staff to create one data file that accurately reflects AT&T's service territory. Therefore, Staff recommends that the Commission order AT&T to file all necessary applications to change boundary (ACB) and/or map corrections within 60 days of the issuance of the Commission order for its ETC relinquishment Petition.



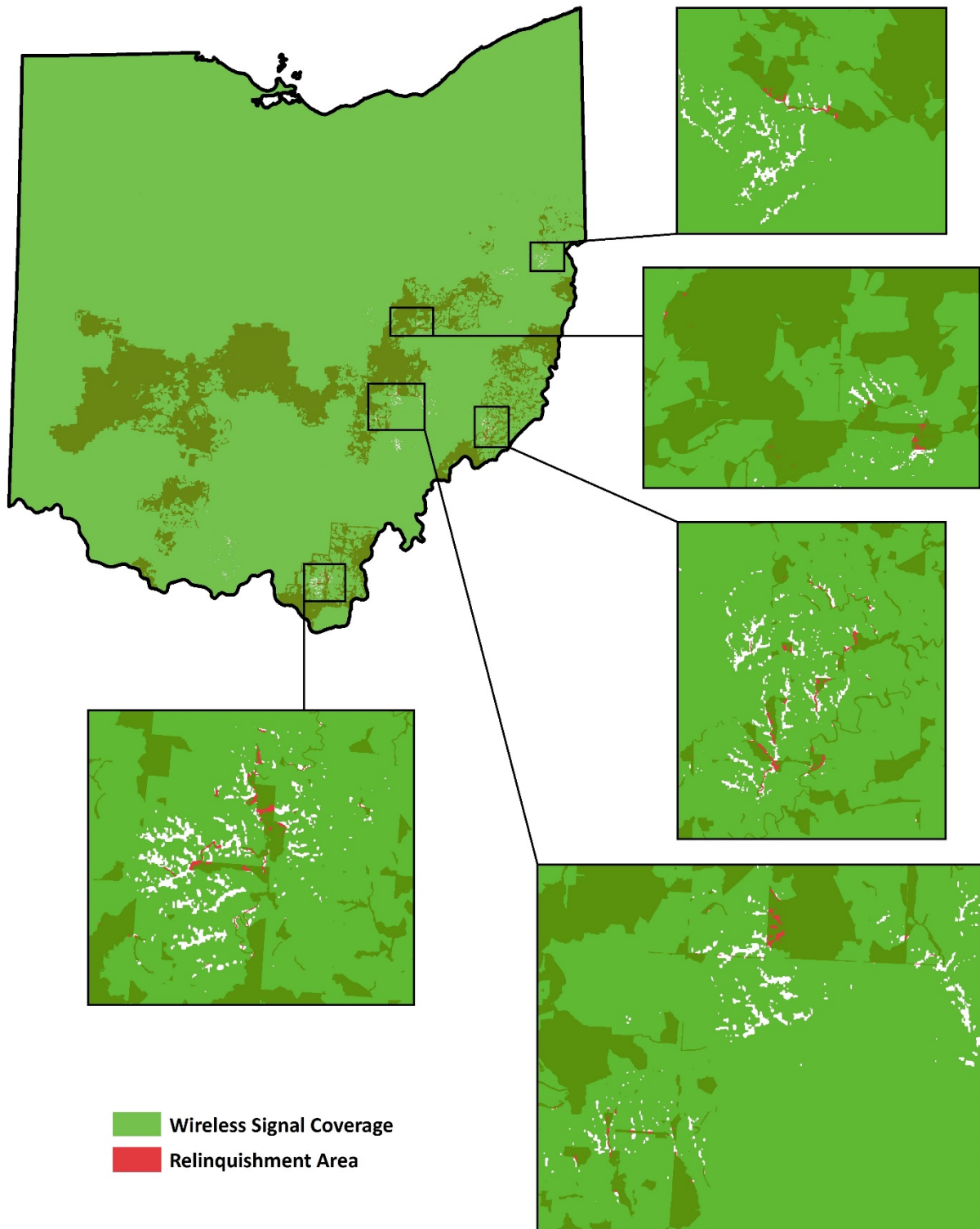
## Appendix A – Map of Relinquishment Area

Relinquishment area based on the combined AT&T Ohio service territory from both the PUCO and AT&T Ohio boundary files and the list of retained census blocks from AT&T Ohio.



## Appendix B – Map of Wireless Coverage

Detail of the AT&T Ohio relinquishment area where there is no wireless coverage, using FCC Form 477 data for underlying carriers in Ohio.



## Appendix C – AT&T Ohio Wire Centers in which Virgin Mobile is not Listed as an ETC

Based on Exhibit C of AT&T Ohio's Petition and Staff analysis after the August 23, 2018, AT&T Supplemental Filing.

Wire Center CLLI	Exchange	# of Lifeline Customers	Wire Center CLLI	Exchange	# of Lifeline Customers
ABRDOH79	ABERDEEN	3	MEWYOH84	MEDWAY	12
BEVLOH92	BEALLSVILLE	0	MRFYOH68	MARTINS FERRY-BRIDGEPORT	61
BLFSOH76	BELFAST	2	MYCYOH76	MURRAY CITY	2
BLLROH67	BELLAIRE	55	NRWCOH87	NORWICH	3
BLNGOH35	BLOOMINGVILLE	0	NWCMOH49	NEWCOMERSTOWN	12
BLPROH42	BELPRE	10	NWLXOH34	NEW LEXINGTON	11
BRTOOH83	BURTON	5	NWMTOH86	NEW MATAMORAS	5
BRVIOH42	BARNESVILLE	22	RPLYOH39	RIPLEY	2
BRVIOH42	SOMERTON	1	RVNNOH02	RAVENNA	35
BTHSOH48	BETHESDA	5	SAVLOH67	SALINEVILLE	3
CATNOH45	CLARINGTON	0	SGGVOH74	SUGAR GROVE	1
CSTNOH62	COSHOCTON	32	SHWNOH39	SHAWNEE	11
DANHOH28	DANVILLE	0	SMRTOH74	SOMERSET	3
DFFYOH48	DUFFY	3	TRCYOH96	TREMONT CITY	0
DNFLOH67	PHILO	13	TRENOH98	TRENTON	7
FVPWOH88	CENTERVILLE	4	UHVLOH92	UHRICHSVILLE	22
FVPWOH88	FRANKLIN	16	VNTNOH38	VINTON	2
GLFROH65	GLENFORD	0	WHHSOH87	WHITEHOUSE	3
GYVLOH93	GRAYSVILLE	1	WLFYOH54	WEST LAFAYETTE	6
IRTNOH53	IRONTON	63	WLVLOH53	WELLSVILLE	15
LWVLOH56	LEWISVILLE	1	WNCHOH69	WINCHESTER	3
LYTPOH25	LEROY	2	WOFDOH47	WOODSFIELD	18
MCVLOH25	GUYAN	6			
				<b>Total Exchanges</b>	<b>Total Lifeline Customers</b>
				<b>45</b>	<b>481</b>

The Public Utilities Commission of Ohio  
Asim Z. Haque, Chairman

180 E. Broad Street, Columbus, Ohio 43215-3793  
(800) 686-PUCO (7826)

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