

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE PETITION OF  
AT&T OHIO SEEKING TO RELINQUISH  
ITS ELIGIBLE TELECOMMUNICATIONS  
CARRIER DESIGNATION IN A PORTION OF  
ITS SERVICE TERRITORY.

CASE No. 17-1948-TP-UNC

## FINDING AND ORDER

Entered in the Journal on March 13, 2019

### I. SUMMARY

{¶ 1} The Commission approves the petition of The Ohio Bell Telephone Company dba AT&T Ohio seeking authority to relinquish its eligible telecommunications carrier designation in a portion of its service territory subject to the specified conditions set forth in this Finding and Order.

### II. BACKGROUND

{¶ 2} The Ohio Bell Telephone Company dba AT&T Ohio (AT&T Ohio or Company) is an incumbent local exchange carrier (ILEC) pursuant to R.C. 4927.01(A)(5) that is an eligible telecommunications carrier (ETC) offering Lifeline service under R.C. 4927.13. As such, AT&T Ohio's provision of Lifeline service is subject to Commission jurisdiction.

{¶ 3} AT&T Ohio was designated as an ETC offering Lifeline service throughout its traditional service area on December 18, 1997. *In the Matter of the Commission Investigation of the Intrastate Universal Services Discounts*, Case No. 97-632-TP-COI, Supplemental Finding and Order (Dec. 18, 1997). This designation allows AT&T Ohio to receive federal Universal Service Fund (USF) support for its provision of Lifeline service to customers in Ohio.

{¶ 4} On September 7, 2017, AT&T Ohio filed a petition, pursuant to 47 USC 214(e)(4), seeking to relinquish its designation as an ETC for purposes of USF support for a majority of its service area in Ohio.

{¶ 5} AT&T Ohio explains that it is participating in the Federal Communications Commission (FCC) Connect America Fund Phase II (CAF II) high-cost program and that, as a condition of participation, the Company must retain its Lifeline ETC designation in the census blocks for which it is eligible to receive CAF II funding (retained area). However, AT&T Ohio proposes to relinquish its designation for all remaining areas in which it is currently designated as an ETC in Ohio (relinquishment area).

{¶ 6} As support for its relinquishment petition, AT&T Ohio points out that there have been changes in the telecommunications marketplace and customer demand. For example, AT&T Ohio states that customers today are increasingly replacing traditional residential wireline voice services with numerous other options, including wireless and voice over Internet protocol (VoIP) services. According to AT&T Ohio, this transition is illustrated by the fact that between 2005 and 2015, the number of traditional ILEC residential wireline customers in Ohio decreased by 74 percent, from 3,760,000 to 972,000 lines.

{¶ 7} Similarly, AT&T Ohio contends that it has experienced a decline in the number of Lifeline customers as customers have preferred to obtain their Lifeline service from competitive eligible telecommunications carriers (CETCs). To illustrate this point, AT&T Ohio notes that it had 10,841 Lifeline customers at the end of 2016. As of year-end 2017, that number declined to 9,412 and by July 1, 2018, the number declined to 7,946.

{¶ 8} AT&T Ohio explains that it is not seeking to discontinue any legacy voice service, and, in fact, the Company will continue to offer and provide legacy voice service in all of its service territory. However, the Company explains, once the petition is approved, customers in the relinquishment area will no longer receive the federal Lifeline discount of \$9.25 per month on voice service, or the state waiver of the nonrecurring charge on AT&T Ohio's voice service. The Company submits that the discount can be retained by the customer if the customer switches to another ETC designated in the customer's service area.

{¶ 9} AT&T Ohio states that pursuant to 47 U.S.C. 214(e)(4), a state commission shall permit an ETC to relinquish its ETC designation in any area served by more than one ETC.

Prior to permitting an ETC to cease providing universal service in an area served by more than one ETC, the state commission shall require the remaining ETCs 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 the remaining ETC(s). The state commission shall establish a time, not to exceed one year, within which such purchase or construction shall be completed.

{¶ 10} As further justification of its request for a partial relinquishment of its ETC designation, AT&T Ohio points to Ohio Adm.Code 4901:1-6-09(D)(2), which provides that:

An ETC may seek to relinquish its ETC designation for an area 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.

{¶ 11} The Company claims that every wire center in the relinquishment area is served by at least 4 other CETCs, and in some cases as many as 11 other CETCs. Of the 11 other ETCs, the Commission is aware that one is a facilities based wireline carrier, one is a facilities based wireless carrier, and the remaining 9 are non-facilities based wireless carriers.

{¶ 12} In support of its relinquishment petition, AT&T Ohio asserts that over the past eight years, its Ohio Lifeline subscribership has decreased by 94 percent and that by the end of 2016, the Company was serving just 2.1 percent of the Lifeline subscribers in the state. At the time of the petition, the Company avers that AT&T affiliates had successfully relinquished their ETC designations in ten states.<sup>1</sup>

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<sup>1</sup> Those ten states are Alabama, Florida, Georgia, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, and Wisconsin. AT&T Ohio has since supplemented the record by providing notice that relinquishment applications have also been granted to AT&T affiliates in Indiana, Kentucky, Louisiana, and Texas.

{¶ 13} AT&T Ohio seeks to define the retained and relinquishment areas by census blocks. AT&T Ohio explains that, unlike federal USF funding in the past in which subsidies were provided based on wire centers or service areas, CAF II funding is made available based on smaller census blocks. These are statistical areas bounded by visible features, such as streets, roads, streams, and railroad tracks, and by nonvisible boundaries such as selected property lines and city, township, school district, and county limits. Census block boundaries and wire center boundaries do not coincide; thus, some wire centers may be only partially relinquished or retained. The Company states that as of the end of 2016, there were 359 AT&T Ohio Lifeline customers in the retained area and 10,482 AT&T Ohio Lifeline customers in the relinquishment area.

{¶ 14} To ensure a smooth customer transition, AT&T Ohio proposes to provide customer notice via U.S. mail to each of its affected customers at least 60 days prior to the effective date of the relinquishment. The notice will explain the impact of the relinquishment on the customer, inform the customer that the discount can continue to be obtained from the remaining ETCs in the area, and include a list of designated ETCs in the customer's service area. AT&T Ohio will send a second notice letter and bill message at least 15 days prior to the relinquishment date. Finally, to avoid customer confusion, AT&T Ohio will stop enrolling customers in the Lifeline program in the relinquishment area five days after the Commission issues an order or on December 8, 2017, whichever is later.

### III. MOTION FOR INTERVENTION

{¶ 15} On October 17, 2017, the office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene in this matter. OCC states that, pursuant to R.C. Chapter 4911, it has authority to represent the interests of AT&T Ohio's residential customers. As an advocate for residential utility customers, OCC asserts that it has a real and substantial interest in this proceeding, inasmuch as the Commission is considering to allow AT&T Ohio to stop providing Lifeline service to low-income residential customers in portions of its service area. OCC also claims that its interest is unique compared to that of any other party in that it is interested in ensuring that Ohioans have access to adequate telephone service at affordable

rates. Further, OCC states that its advocacy for residential customers will include advancing the position that low-income customers should not lose their telephone service without having access to an adequate substitute. OCC concludes by claiming that its intervention will not unduly prolong or delay the proceeding, and that its intervention will significantly contribute to the full development and equitable resolution of the factual issues in this case.

{¶ 16} On November 20, 2017, the Greater Edgemont Community Coalition (Edgemont) filed a motion to intervene. In support of its motion, Edgemont explains that it is a non-profit corporation based in a low-income neighborhood in Dayton, Ohio. Edgemont states that it represents low-income residents in the neighborhood, and that many of these individuals qualify for and/or receive Lifeline service. Edgemont notes that its predecessor organization, the Edgemont Neighborhood Coalition, has actively participated over the past twenty-five years in numerous telecommunications cases before the Commission. Edgemont submits that its membership may be adversely affected if AT&T Ohio Lifeline service is discontinued in the Dayton area. Specifically, Edgemont asserts that if AT&T Ohio is allowed to withdraw Lifeline service, and non-facilities based providers are ineligible to provide Lifeline-supported services, many of its members will be left without access to Lifeline service.

{¶ 17} OCC's and Edgemont's motions for intervention are reasonable and should be granted, inasmuch as each entity has demonstrated a real and substantial interest in AT&T Ohio's petition to withdraw Lifeline service, and their participation will contribute to the just and expeditious resolution of the issues in this matter.

#### IV. MOTION FOR ABEYANCE

{¶ 18} On December 21, 2017, OCC and Edgemont (Joint Movants) jointly filed a motion to hold this case in abeyance, or, in the alternative, to establish a procedural schedule. Specifically, OCC and Edgemont submit that prior to acting on AT&T Ohio's petition in this docket, the Commission should take into consideration a recent FCC proposal in *In re Lifeline and Link Up Reform Modernization*, FCC WC Docket No. 11-42, et al.,

Notice of Proposed Rulemaking (NPRM) (rel. December 1, 2017), ¶¶67-73, to discontinue Lifeline support for non-facilities based services and only provide Lifeline support to broadband service provided over facilities based networks that also support voice service.

{¶ 19} Based on their analysis of the possible impact of the FCC's proposed rulemaking, OCC and Edgemont opine that 10 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 service, and, therefore, are at risk to lose their federal Lifeline funding. Additionally, OCC and Edgemont submit that the one facilities based competitive Lifeline provider (Virgin Mobile) is not available in all of the census blocks listed in the petition. Therefore, OCC and Edgemont aver that currently, the Commission is unable to fulfill its obligation under 47 U.S.C. 214(e)(4), to ensure that competitive Lifeline providers can serve AT&T Ohio's Lifeline customers before allowing AT&T Ohio to withdraw its Lifeline service.

{¶ 20} AT&T Ohio responds that the Commission should deny Joint Movants' motion, inasmuch as its petition demonstrates that the Company meets the existing federal standard in all areas for which it is relinquishing its ETC designation. Specifically, AT&T Ohio notes that pursuant to 47 U.S.C. 214(e)(4), an ETC may relinquish its ETC designation for any area that is served by at least one other ETC and that the statute does not distinguish between facilities based and resale ETCs. AT&T Ohio notes that whereas the FCC's NPRM is nothing more than a proposal, its petition in this case is ripe for decision today based on the current law and undisputed facts. Additionally, AT&T Ohio points out that if OCC and Edgemont want to comment on the NPRM, they can file comments with the FCC.

{¶ 21} After reviewing the arguments set forth by Joint Movants and AT&T Ohio, the Commission finds that the "Motion to Hold this Case in Abeyance" should be denied. In reaching this determination, the Commission finds that absent a stay, it is obligated to perform its duties under 47 U.S.C. 214(e)(4) based on existing market conditions. As noted

by AT&T Ohio, if OCC and Edgemont want to comment on the FCC's current NPRM, they can file the applicable comments with the FCC.

{¶ 22} Pursuant to its Entry of June 28, 2018, the Commission determined that interested persons should have the opportunity to comment on AT&T Ohio's relinquishment petition. The Commission highlighted that among the issues that commenters may wish to address include:

- 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.<sup>2</sup>
- The duty of wireless providers to ensure that all customers served by AT&T Ohio will continue to be served with the federal Lifeline discount.

{¶ 23} AT&T Ohio was also directed to publish, within 20 days of the June 28, 2018 Entry, a notice in the non-legal notice sections of newspapers of general circulation throughout the relinquishment area seeking comment on AT&T Ohio's petition.

{¶ 24} Further, the Commission directed the 11 carriers identified by AT&T Ohio as CETCs in the relinquishment areas [i.e., Air Voice Wireless, LLC (Air Voice); American Broadband and Telecommunications Company dba American Assistance (American Broadband); Boomerang Wireless, LLC dba enTouch Wireless (Boomerang Wireless); Global Connection Inc. of America dba Stand Up Wireless (Global Connection); i-wireless dba K-Wireless LLC dba Access Wireless (i-wireless); Q Link Wireless, LLC (Q Link); Sage Wireless dba TruConnect (Sage); Telrite Corporation dba Life Wireless (Telrite); Tempo

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<sup>2</sup> See, *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 (adopted Nov. 16, 2017, released Dec. 1, 2017) where 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.

Telecom, LLC (Tempo); TracFone Wireless, Inc. dba Safelink Wireless (TracFone); and, Virgin Mobile USA, LP dba Assurance Wireless (Virgin Mobile)] to submit comments by August 31, 2018, indicating their willingness and ability to ensure that all Lifeline customers currently served by AT&T Ohio will continue to be served with the federal Lifeline discount in the event that the Commission grants AT&T Ohio's request to relinquish its ETC designation in the requested portions of its service area. Additionally, the companies were directed to identify whether such Lifeline service will be provided on a wireline or wireless basis and on a facilities or resale basis.

## V. CETC COMMENTS

{¶ 25} In their respective comments filed in response to the Commission's Entry of June 28, 2018, Air Voice, American Broadband, Boomerang Wireless, Global Connection, i-wireless, Q Link, Sage, Telrite, and TracFone each represent that it intends to continue to make available its wireless resale Lifeline service with the federal discount to its current subscribers and all qualifying applicants in its respective service area, provided that the FCC does not take action to ban or limit the participation of wireless resellers in the Lifeline program. Tempo also will to continue to provide wireless Lifeline service within its designated service area, and will offer Lifeline service to former AT&T Ohio customers should they choose to apply for wireless Lifeline service.

{¶ 26} Virgin Mobile states that it is a facilities based wireless provider using its parent's (Sprint Corporation) network to provide Lifeline service to its customers. According to Virgin Mobile, it stands ready to serve any customers within its designated service area who qualify for Lifeline service.

## VI. CONSUMER GROUPS AND AARP COMMENTS

{¶ 27} Edgemont, Ohio Association of Community Action Agencies, Ohio Poverty Law Center, Southeastern Ohio Legal Services, and OCC (collectively, Consumer Groups) jointly filed comments in response to the June 28, 2018 Entry. Consumer Groups highlight that AT&T Ohio is seeking to stop providing Lifeline telephone service in all or parts of 118



of its 192 exchanges, which are areas where it receives no CAF II funding to help AT&T Ohio bring broadband to high-cost, primarily rural areas in Ohio.

{¶ 28} Consumer Groups assert that ensuring that all of AT&T Ohio's customers will be served by a Lifeline provider is necessary to further state telecommunications policy consistent with R.C. 4927.02(A)(1) and (10). Consumer Groups aver that the Commission cannot approve AT&T Ohio's petition unless it ensures that all customers affected by the petition will continue to receive Lifeline service. Relative to this point, Consumer Groups note that at least 10 of the 11 other Lifeline providers identified by AT&T Ohio are not facilities based and, therefore, will unlikely continue to offer Lifeline service if the FCC eliminates Lifeline support for resellers, as discussed below.

{¶ 29} Additionally, Consumer Groups argue that while alternative Lifeline providers identified by AT&T Ohio have expressed their intent to continue to offer Lifeline services, this is not the same as demonstrating that they are currently providing Lifeline service throughout the entirety of the specified exchanges. Further, Consumer Groups opine that rather than relying on the prior representations and coverage maps of alternative providers, the Commission must perform a more granular examination in order to ensure that all Lifeline customers in the area to be relinquished by AT&T Ohio will have Lifeline service available to their specific homes. In support of their positions, Consumer Groups note that wireless signals may be affected by a variety of factors and may not be available throughout an exchange in its entirety.

{¶ 30} While recognizing that this is the first case in Ohio where an ILEC proposes to stop providing Lifeline service to some customers, Consumer Groups recommend that the Commission utilize a standard, similar to that adopted in *In re the Implementation of H.B. 218 Concerning Alternative Regulation of Basic Local Exchange Service of Incumbent Local Exchange Telephone Companies*, Case No. 05-1305-TP-ORD, Entry on Rehearing (May 3, 2006), in order to demonstrate that an alternative provider is actually serving residential customers

in that exchange. This demonstration includes evidence that the alternative provider has actually had telephone numbers ported to it.

{¶ 31} Consumer Groups also reference the standard set forth in R.C. 4927.10(B)(1) whereby an ILEC cannot withdraw basic service without the Commission first ensuring that all affected customers have a reasonable and comparatively priced alternative to their telephone company's basic service available at their home. Consumer Groups advocate that a similar examination occur in response to an application to withdraw Lifeline service.

{¶ 32} AARP submits that 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. Further, AARP states that AT&T Ohio has not put forth an adequate demonstration to suggest that administering Lifeline service throughout the affected areas is so burdensome as to outweigh the public benefit provided by the Lifeline program.

{¶ 33} While recognizing that Virgin Mobile represents that it is a facilities based, wireless Lifeline provider, AARP contends that, like the 10 other Lifeline resellers in AT&T Ohio's serviced territory, Virgin Mobile is wholly dependent on the facilities of its parent provider (Sprint). Further, AARP avers that none of the CETCs identified by AT&T Ohio are a facilities based providers serving residential customers.

{¶ 34} AARP expresses concern regarding the possible reduction in the number of CETCs due to the FCC's pending consideration of limiting Lifeline support to facilities based providers, and the FCC's policy of transitioning Lifeline support from basic voice to broadband. AARP also references FCC WC Docket No. 18-141, *In re the Petition 47 U.S.C. 160(c) to Accelerate Investment in Broadband and Next-Generation Networks*, in which AARP states that ILECs have requested the FCC to forbear from enforcing the unbundled network element and resale requirements of the 1996 Act.

{¶ 35} AARP highlights that although wireless providers have been permitted to seek CETC status and participate in the Lifeline program, they are subject to significantly different regulatory oversight than wireline providers. For example, AARP believes that states lack jurisdiction over entry and exit regulation and rates, and have no effective means of ensuring service quality. AARP believes that the Commission should seriously examine whether each of the wireless resellers can be relied upon to ensure that all customers served by AT&T Ohio will continue to be served with the federal Lifeline discount.

{¶ 36} From AARP's perspective, an ILEC's obligation to provide Lifeline service should be considered independent of an ILEC's receipt of high-cost support and that the participation in the Lifeline program should not necessarily end when an ILEC no longer draws high-cost support in a particular portion of its service territory. AARP is also concerned that AT&T Ohio's requested relinquishment of its ETC status may be a precursor for further withdrawal of service.

{¶ 37} In response to Consumer Groups' argument that there should be a requirement for AT&T Ohio to provide more proof that other CETCs will actually provide Lifeline service in each exchange being relinquished, AT&T Ohio responds that, pursuant to 47 U.S.C. 214(e)(4), the only thing a carrier must show in order to relinquish its ETC designation is that the relinquishment area is served by another ETC. AT&T Ohio asserts that it meets this standard, inasmuch as there are 4 to 11 CETCs designated to provide Lifeline service in each exchange where it is requesting relinquishment of Lifeline service. AT&T Ohio submits that the requirement to "serve" simply means that the CETC holds itself out as ready to provide service in an area upon request and does not signify that the CETC must actually have customers in each exchange. In support of its position, AT&T Ohio states that none of the other 15 states that have granted an AT&T ILEC's request to relinquish its ETC status required evidence of CETCs having actual customers in each exchange. Further, AT&T Ohio contends that the Commission has not required such proof from other relinquishing CETCs. As further support for its position, AT&T Ohio notes that it has lost 94 percent of its Lifeline subscribers between 2008 and the end of 2016, while

Lifeline subscribership grew 83 percent during that same time period. Therefore, AT&T Ohio submits that the lost Lifeline subscribers are now being served by the operating CETCs.

{¶ 38} AT&T Ohio rejects Consumer Groups' contention that it should have to make a customer-by-customer demonstration that the remaining CETCs will be able to serve each AT&T Ohio Lifeline customer. AT&T Ohio asserts that the record demonstrates that its Lifeline customers will continue to have many options for voice service, including the 11 CETCs that submitted responses in this docket and the continued offering of AT&T Ohio's legacy service. AT&T Ohio emphasizes that the focus of 47 U.S.C. 214(e)(4) is to ensure that an ETC's customers will continue to have access to telephone service.

{¶ 39} AT&T Ohio notes that to the extent that a Lifeline subscriber is left unserved, the FCC and/or the Commission, pursuant to 47 U.S.C. 214(e)(3), is empowered to determine which common carrier is best able to provide such service to the unserved community as an ETC.

## VII. STAFF REPORT

{¶ 40} On February 8, 2019, the Staff of the Public Utilities Commission (Staff) filed a report in response to AT&T Ohio's petition in this proceeding (Staff Report). Staff's investigation included several data requests to gather additional information to determine if AT&T Ohio's petition meets the statutory requirements set forth in 47 U.S.C. 214(e)(4).

{¶ 41} The Staff Report reflects that 2,946 comments have been docketed from the general public in response to AT&T Ohio's petition. According to Staff, all except one comment, oppose AT&T Ohio's petition and 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. According to Staff, some Lifeline customers claim that AT&T Ohio is the only wireline Lifeline service provider in their area and that

they are unable to use wireless services due to medical reasons or that they simply cannot afford phone service without a Lifeline discount.

{¶ 42} Staff recognizes that while CETCs are granted authority at the exchange or wire center level, CAF II funding is rendered on a census block level, which are smaller areas in order to ensure that high-cost support is reaching its intended targeted areas. According to Staff, consistent with 47 U.S.C. 214(e)(4), the Commission must first determine whether there is at least one CETC present in each census block of the relinquishment area, and that the remaining CETCs must ensure that all Lifeline customers served by the relinquishing carrier will continue to be served. Therefore, Staff reviewed the identified CETCs' ability to provide service at the census block level and the CETCs practical ability to provide service to AT&T Ohio's current Lifeline customers in the relinquishment area.

{¶ 43} According to Staff, AT&T Ohio selected all census blocks that intersect its wire center boundaries from its records in order to identify a list of the census blocks in its proposed relinquishment area. Staff notes that AT&T Ohio's boundaries differ slightly from the service territory on record with the Commission. Specifically, there are 809 census blocks that intersect the Commission's service territory files that do not intersect AT&T Ohio's boundaries, and 1,239 census blocks that intersect AT&T Ohio's boundaries but not the Commission's. In order to move forward with this case, Staff pursued an analysis of all census blocks selected by both boundary files. This analysis was performed based on the record as August 23, 2018. Specifically, the relinquishment area consists of 146,811 census blocks and 7,684 Lifeline customers. The retained area consists of 262 Lifeline customers and 6,705 census blocks.

{¶ 44} As part of its evaluation of AT&T Ohio's petition, Staff recognizes that all of the identified CETCs are mobile virtual network operators. In order to evaluate whether the wireless CETCs have the practical ability to serve the proposed relinquishment area, it is necessary to evaluate the wireless signal coverage area of their underlying carriers. Staff relied on wireless signal data from the FCC, which collects coverage data from underlying

wireless carriers in order to generate a percentage of area covered by carrier and technology for every census block in Ohio.

{¶ 45} Based on the data analyzed by Staff, 488 census blocks in the relinquishment area do not have 100 percent coverage from any one underlying carrier's network. This represents 0.3 percent of the 146,811 blocks in the relinquishment area. To further evaluate wireless coverage within the relinquishment area, Staff downloaded the geographic wireless signal coverage files from the FCC and compared them geographically with the relinquishment area. The comparison showed that 99.85 percent of the relinquishment area is covered by at least one of the underlying carriers utilized by the CETCs identified in this case. When comparing the address of all 10,482 AT&T Ohio Lifeline subscribers within the relinquishment area with the wireless coverage data, Staff identified only 2 addresses that were outside the coverage area of any of the underlying wireless carriers. Staff also searched for Lifeline customer addresses within one mile of areas with no coverage from any carrier and found only 12 such addresses.

{¶ 46} Based on its analysis, Staff concludes that for the vast majority of the relinquishment area, AT&T Ohio meets the federal requirements to relinquish its ETC designation in the requested census blocks of its current service territory. In reaching this conclusion, Staff has determined that there are CETCs in the relinquishment area that claim to offer services in all of the AT&T Ohio's affected exchanges and that at least one CETC has the practical ability to serve AT&T Ohio's current Lifeline customers.

{¶ 47} Due to the lack of certainty in determining wireless signal coverage for 100 percent of AT&T Ohio's current Lifeline customers in the relinquishment area, Staff recommends that a minimum 60-day grace period be implemented after the effective relinquishment date in order to allow Lifeline customers with medical devices or services to find an alternative ETC, in the event that there is a compatibility issue related to their medical device and/or service resulting from the transition from wireline to wireless service.

{¶ 48} During this grace period, Staff proposes that any AT&T Ohio Lifeline customer in the relinquishment area who is unable to obtain Lifeline service at their residence from a CETC should have the opportunity to contact the Commission's Call Center to request assistance in finding a CETC. Staff notes that if it is unable to find a CETC 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), to determine which common carrier(s), including AT&T Ohio, are best able to serve an unserved community or portion thereof, and may order and designate carrier(s) as an ETC to do so.

{¶ 49} Staff recommends that AT&T Ohio 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 the relinquishment effective date).

{¶ 50} Additionally, Staff recommends that all Lifeline customers, regardless of whether they became customers subsequent to the filing of AT&T Ohio's petition in this case, should receive the requisite customer notice.

{¶ 51} In light of the discrepancy between AT&T Ohio and Staff boundary data discussed above, Staff requests that AT&T Ohio be required to work with Staff to identify the AT&T Ohio service territory correctly in order to create one data file that accurately reflects AT&T Ohio's service territory. Therefore, Staff recommends that the Commission order AT&T Ohio to file all necessary applications to change its boundary and/or map corrections within 60 days of the issuance of the Commission's order in this case.

{¶ 52} Staff believes that the FCC's NPRM has the potential, if adopted, to significantly impact those current AT&T Ohio customers in the relinquishment area,

inasmuch as non-facilities based Lifeline providers may discontinue providing service in Ohio because they would lose the funding they receive from the federal Lifeline program. 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 pending FCC NPRM or some other proceeding, Staff recommends that the Commission direct AT&T Ohio to work with Staff to address the concern of current Lifeline customers being adversely affected by AT&T Ohio's relinquishment. Further, Staff notes that the Commission maintains its authority under 47 U.S.C. 214(e) to investigate and designate the common carrier best able to serve an unserved area as an ETC, which could include AT&T Ohio.

{¶ 53} On February 15, 2019, AT&T Ohio responded to the Staff Report. AT&T Ohio agrees with Staff's recommendation to include language in its customer notices informing customers that they can contact the Commission if they cannot locate another ETC offering the federal Lifeline discount in their area. AT&T Ohio also agrees with Staff's recommendation that any AT&T Ohio Lifeline subscribers added in the relinquishment area after August 23, 2018, receive the exact same notice as all other affected AT&T Ohio Lifeline subscribers.

{¶ 54} AT&T Ohio proposes modifications to Staff's recommendation that AT&T Ohio be designated by the Commission as the CETC for those Lifeline customers in the relinquishment area who are unable to receive Lifeline service from another CETC at their residence. While AT&T Ohio is willing to offer a discount to any former Lifeline customers in the relinquishment area who cannot find another CETC, it does not believe that it is appropriate or viable for the Commission to require that AT&T Ohio be designated as an ETC on an individual customer basis. In support of its position, AT&T Ohio submits that Staff's proposal is inconsistent with the federal law and goes further than is required to achieve Staff's objectives. Rather than Staff's proposal, AT&T Ohio makes the following commitment:



If the Commission issues an Order granting the petition for ETC relinquishment and, if within 60 days after AT&T Ohio stops providing Lifeline discounts pursuant to that Order, Staff confirms that a customer currently receiving a Lifeline discount from AT&T Ohio residing in the relinquishment area is eligible for a Lifeline discount but cannot find another ETC offering the Lifeline discount to the customer's location, AT&T Ohio will, at a minimum, provide that customer courtesy credits in the amount of \$9.25 per month or the then-current FCC Lifeline discount, until the earlier of (a) the date another ETC is available to provide a Lifeline discount to that customer, or, (b) one year after the effective date of AT&T Ohio's relinquishment.

{¶ 55} AT&T Ohio acknowledges that the Commission retains jurisdiction to resolve any complaints arising from AT&T Ohio's relinquishment of its ETC designation in the relinquishment area that are filed with the Commission after the relinquishment takes effect.

{¶ 56} AT&T Ohio also responds to Staff's concerns regarding the potential that the FCC may disqualify resellers from receiving reimbursements for Lifeline discounts offered to their customers. While AT&T Ohio speculates that it is unlikely that the FCC will take such action, the Company commits to offer a discount to its former Lifeline customers in the relinquishment area in the event that the FCC determines that resellers are no longer eligible to receive Lifeline reimbursement.

{¶ 57} Specifically, for 120 days after such reseller reimbursement is no longer available, AT&T Ohio will offer a discount equal to the prevailing federal Lifeline discount to any of its former Lifeline customers who reside in an AT&T Ohio service area in which AT&T Ohio is no longer an ETC. Pursuant to AT&T Ohio's commitment:

- a. the customer must assert in writing to the Commission and/or its Staff that, as a consequence of the FCC rule change, the customer cannot find a Lifeline provider serving the customer's residence;
- b. the customer subscribes to an AT&T Ohio residential local exchange service for which the Lifeline discount was available in the relinquishment area prior to the granting of AT&T's Ohio's petition; and,
- c. Staff notifies AT&T Ohio in writing that the customer meets the eligibility criteria for the federal Lifeline discount but resides in an area for which the Commission has not designated an ETC eligible for Lifeline reimbursement under the FCC's rule change.

For such customers, AT&T Ohio will provide the discount set forth at 47 C.F.R. 54.403(a)(2) for one year (during which the customer's discount will decline coincident with reductions established by the FCC rule), or until the customer no longer meets the eligibility criteria for the federal Lifeline discount, or until December 1, 2021, or until the Commission designates another ETC eligible to receive Lifeline reimbursement for the area in which the customer resides, whichever occurs first. In the event the Commission designates another ETC for the area in which the customer resides, AT&T Ohio will stop providing the discount when the customer begins receiving a Lifeline discount from the other ETC, or 60 days after AT&T Ohio notifies the customer of the availability of the new ETC, whichever occurs first.

{¶ 58} In response to Staff's recommended action to address its concerns regarding the accuracy of AT&T Ohio's exchange boundaries, the Company recommends that the parties first attempt to resolve any issues, and only bring matters to the Commission if they cannot be resolved.

## VIII. DISCUSSION

{¶ 59} On March 8, 2019, Consumer Groups filed a reply to the Staff Report and AT&T Ohio's response to the Staff Report. In order to avoid consumer confusion and the

likelihood that consumers might have to change Lifeline carriers twice, Consumer Groups recommend that the Commission not act on the petition until the FCC has determined whether to withdraw Lifeline funding from providers who do not have their own facilities.<sup>3</sup> In response to AT&T Ohio's contention that all Lifeline discounts for voice services will be phased-out by December 1, 2021, Consumer Groups note that the FCC, in its NPRM, is considering to continue Lifeline support for facilities based voice service in areas with only one Lifeline provider and in rural areas.

{¶ 60} If the Commission does allow AT&T Ohio to stop providing Lifeline service in the relinquishment area, Consumer Groups encourage the Commission to provide consumers with at least the same amount of time (i.e., 120 days) as the General Assembly has required for telephone companies that withdraw basic telephone service. In support of their position, Consumer Groups contend that Lifeline service is a form of basic telephone service and that 60 days is an insufficient amount of time for consumers to find another Lifeline provider. As further support, Consumer Groups note that the Staff Report does not address the possible need for alternative providers to have additional time to purchase or construct facilities necessary to serve some Lifeline customers. In particular, Consumer Groups reference the fact that 47 U.S.C. 214 (e)(4) provides up to one year for alternative providers to purchase or construct adequate facilities to serve customers.

{¶ 61} Consumer Groups support the Staff's recommendation that AT&T Ohio be designated as an ETC for those particular customers in the relinquishment area who do not have another Lifeline provider available at their homes. According to Consumer Groups, this result is consistent with 47 U.S.C. 214 (e)(3), which authorizes a state commission to order a particular common carrier to be designated as an ETC and be required to provide intrastate service to the unserved area, regardless of the size of the area or the number of affected customers. Consumer Groups urge the Commission to designate AT&T Ohio as an

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<sup>3</sup> This recommendation was also made by the Communications Workers of America, District 4 (CWA) in its public comment submitted on March 11, 2019.

ETC for all unserved areas within the relinquishment area rather than designating AT&T Ohio as an ETC for each individual address that does not have an alternative Lifeline provider available.

{¶ 62} Consumer Groups assert that AT&T Ohio's offer of providing Lifeline discounts as a non-ETC to consumers who do not have an alternative provider available at their homes is contrary to the law and harmful to consumers. Specifically, Consumer Groups object to the fact that AT&T Ohio's proposal will allow the Company, and not the Commission, to determine when the Lifeline discounts to unserved customers and its ETC obligations should end.

{¶ 63} AT&T Ohio filed its response on March 11, 2019. AT&T Ohio argues that there is no reason to deny or delay granting the Company's petition to relinquish its designation as an ETC throughout the relinquishment area.

{¶ 64} Ohio Adm.Code 4901:1-6-09(D)(2) and federal law, 47 U.S.C. 214(e)(4) and 47 C.F.R. 54.205, provide that a state commission shall permit an ETC to relinquish its designation in any area served by more than one ETC. Pursuant to these provisions, prior to permitting an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier, the state commission shall require the remaining ETCs to ensure that all customers served by the relinquishing carrier will continue to be served.

{¶ 65} Upon consideration of the petition, the Commission finds that the vast majority of AT&T Ohio's Lifeline customers in the relinquishment area will have one or more ETCs to choose from for their Lifeline service. Therefore, consistent with Ohio Adm.Code 4901:1-6-09(D)(2) and federal law, 47 U.S.C. 214(e)(4) and 47 C.F.R. 54.205, AT&T Ohio's request to exit the Lifeline service market in the relinquishment area is approved with an effective date of 90 days from the date of this Order (relinquishment date). This approval is conditioned upon AT&T Ohio complying with the conditions set forth below. Additionally, notwithstanding the legal arguments raised in AT&T Ohio's February 15,

2019 response, the Commission accepts the commitments made by AT&T Ohio in its filing and conditions its approval on AT&T Ohio satisfying those commitments.

{¶ 66} The relinquishment date will provide AT&T Ohio with sufficient time to complete the two-phase letter notice and bill message set forth as Exhibit F and discussed in the application. The letter notice should include the additional language recommended by Staff, as discussed in paragraph 49 as well as the 60-day grace period discussed in paragraph 54 of this Finding and Order. The notification process should be provided to all of its Lifeline customers, throughout the relinquishment area, including those that have been approved subsequent to the filing of AT&T Ohio's petition. The Company should file a verification of its completion of the customer notification process. AT&T Ohio shall cease marketing its Lifeline service and accepting new Lifeline applications in the relinquishment area as of the date of this Finding and Order.

{¶ 67} In approving this petition, the Commission references the commitments of the 11 CETCs identified in this docket who intend to continue to offer Lifeline service within the relinquished area. The Commission also relies on Staff's determination that 99.85 percent of the relinquishment area is covered by at least one of the underlying carriers utilized by the CETCs identified in this case. Additionally, the Commission notes that when comparing the address of all 10,482 AT&T Ohio Lifeline subscribers within the relinquishment area with the wireless coverage data, Staff determined that only 2 addresses were outside the coverage area of any of the underlying wireless carriers.

{¶ 68} Consistent with Staff's recommendation, a 60-day grace period following the effective relinquishment date should be provided to all Lifeline customers, including Lifeline customers with medical devices or services. This grace period will provide time for these customers to find an alternative ETC, if available, and determine if there is a compatibility issue related to their medical device and/or service resulting from the transition from wireline to wireless service.

{¶ 69} During this grace period, any AT&T Ohio Lifeline customer in the relinquishment area who is unable to obtain Lifeline service at their residence from a CETC should contact the Commission's Call Center to request assistance in finding a CETC. If the Commission is unable to find a CETC serving the Lifeline customer's specific address in the relinquishment area, then AT&T Ohio should provide a credit consistent with paragraph 54.

{¶ 70} Upon the Commission-approved relinquishment date, AT&T Ohio should promptly de-enroll any remaining relinquishment area subscribers in the National Lifeline Accountability Database and release the phone numbers of those remaining customers.

{¶ 71} In light of the discrepancy between AT&T Ohio and Staff boundary data discussed above, AT&T Ohio is required to work with Staff to correctly identify its service territory.

{¶ 72} To the extent that the FCC disqualifies resellers from receiving reimbursements for Lifeline discounts, AT&T Ohio should comply with its commitments set forth in paragraph 57.

{¶ 73} As a final matter, the Commission determines that the Consumer Groups' March 8, 2019 reply comments do not provide a basis for denying or delaying a decision on AT&T Ohio's relinquishment petition. The Commission notes that the FCC's NPRM was issued on December 1, 2017, and the FCC has yet to take any further action on its proposals. The Commission determines that delaying a decision on AT&T Ohio's petition when it is uncertain when or even if the FCC will ever act on the proposals contained therein is unwarranted. As to the Consumer Groups' recommendation that Lifeline customers have 120 days to find another provider, the Commission points out that Lifeline customers already are being provided 150 days from the date of the Finding and Order to find another provider of Lifeline service.

{¶ 74} Lastly, in granting AT&T Ohio's petition, the Commission notes that Lifeline customers throughout the relinquishment area have sufficient protections in place. Specifically, the Commission recognizes its continued oversight authority pursuant to Ohio Adm.Code 4901:1-6-09, 47 U.S.C. 214, and 47 C.F.R. 54.205.

#### IX. ORDER

{¶ 75} It is, therefore,

{¶ 76} ORDERED, That the petition for relinquishment be approved consistent with the provisions set forth in this Finding and Order. It is, further,

{¶ 77} ORDERED, That AT&T Ohio provide customer notification in accordance with this Finding and Order. It is, further,

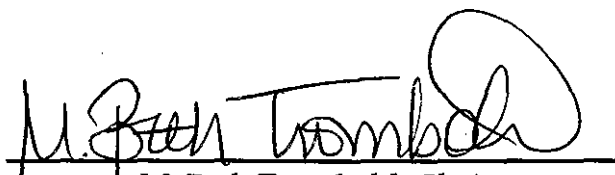
{¶ 78} ORDERED, That AT&T Ohio file verification of the customer notification referenced in paragraph 66. It is, further,


{¶ 79} ORDERED, That consistent with the directives of this Finding and Order, AT&T Ohio work with Staff to identify its service territory. It is, further,

{¶ 80} ORDERED, That AT&T Ohio de-enroll relinquishment area subscribers from the National Lifeline Accountability Database consistent with this Finding and Order. It is, further,

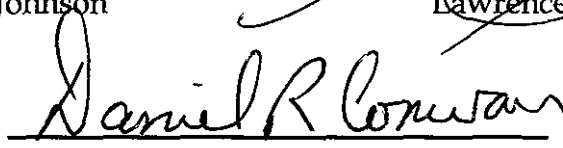
{¶ 81} ORDERED, That notice of this Finding and Order be served via the telephone industry listserv and that a copy of the Finding and Order be served on all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
M. Beth Trombold, Chair


  
Thomas W. Johnson

  
Lawrence K. Friedeman

  
Daniel R. Conway

JSA/mef

Entered in the Journal  
MAR 13 2019



Tanowa M. Troupe  
Secretary