

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Petition )  
of AT&T Ohio Seeking to Relinquish )  
its Eligible Telecommunications ) Case No. 21-917-TP-UNC  
Carrier Designation in the )  
Remainder of its Service Territory. )

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**AT&T OHIO’S REPLY COMMENTS**

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Introduction

AT&T Ohio submits this reply to the comments filed by the Consumer Groups on March 21, 2022. The Consumer Groups’ comments provide no reason to deny or delay granting AT&T Ohio’s Petition to relinquish its designation as an eligible telecommunications carrier (“ETC”) in the specified areas. The Consumer Groups repeat many of the arguments they have advanced over the span of four years in the previous case and earlier in this case. In the previous case, they sought to hold the case in abeyance and then sought rehearing of the Commission order granting the requested relief, subject to conditions. Case No. 17-1948-TP-UNC, Motion, December 20, 2017, and Application for Rehearing, April 12, 2019. Both efforts failed. No new substantive arguments are raised here. Thus, the Commission can – and must – stay the course and grant AT&T Ohio’s Petition, subject to the public interest commitments the Company has made.<sup>1</sup>

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<sup>1</sup> In responding to Staff Data Request No. 5, the Company stated as follows:

AT&T Ohio cannot confirm that there is an alternative ETC(s) at the seven addresses listed in Staff Data Request #5. These addresses are at or near boundaries of AT&T Ohio exchanges and are in areas that may have weak or no wireless coverage. Given these facts, AT&T Ohio offers the following commitment, similar to the one it made in the previous case, Case No. 17-1948-TP-UNC:

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, the Commission

The Consumer Groups' comments recall an old legal adage: "If the facts are against you, argue the law. If the law is against you, argue the facts. If the law and the facts are against you, pound the table and yell like hell."<sup>2</sup> All the Consumer Groups offer here is argument, unsupported by the facts or the law, as demonstrated below.

### The Consumer Groups Repeat Their Requests To Deny Or Delay Action On The Petition

In another attempt to get traction for their failed strategy of the past four years, the Consumer Groups repeatedly ask the Commission to deny - - or at least delay - - action on the Petition. CG, pp. 2, 3, 4, 6, 7, 11. Notably, they also suggest that the Staff should "review and address the impact of AT&T Ohio's abandonment Lifeline service on consumers." CG, p. 3. They call for a "comprehensive review." CG, p. 7. That is precisely what the Staff has done in its Report. What more could it do, should it do, consistent with the applicable guidelines?

The Consumer Groups selectively quote the Staff Report's phrases "lack of certainty," "actual quality of service," and "less reliable Lifeline voice services" in advocating denial or delay of the Petition. CG, p. 3, 6. These phrases, however, do not form a proper basis for denial

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Staff confirms that a customer currently receiving a Lifeline discount from AT&T Ohio 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 \$5.25 per month (or the then-current FCC Lifeline discount) until the earliest of (a) the date another ETC is available to provide a Lifeline discount to that customer; (b) the date the FCC Lifeline discount is no longer in effect; or (c) one year after the effective date of AT&T Ohio's relinquishment.  
AT&T Ohio's Response to Staff Data Request No. 5, February 16, 2022, p. 2.

<sup>2</sup> Attributed to Carl Sandburg. <https://www.goodreads.com/quotes/918291-if-the-facts-are-against-you-argue-the-law-if>

or delay. They are not part of the legal test: “*As long as another ETC serves the relinquishment area, a relinquishment request must be approved.*”<sup>3</sup> Even so, the Company’s public interest commitments meet these phrases head-on and address them in a reasonable manner.

The Consumer Groups urge the Commission to conduct an “independent study,” by no less than an “independent consultant,” to address what they see as weaknesses in the Staff Report. CG, pp. 7, 11. The Commission should reject the Consumer Groups’ unfair and unjust criticism of the Staff’s Report. There is simply no need for an independent study by an independent consultant.

#### The Consumer Groups Rely On Rhetoric, Not Facts, Concerning The Affected Customers

From the start, the Consumer Groups claim it is a “bad idea” to end the Lifeline discount to “impoverished” customers. CG, p. 1. While Lifeline service is means-tested, the Consumer Groups do not provide any facts supporting the claim that all the affected customers are “impoverished.” AT&T’s current federally supported Lifeline discount is \$5.25 per month. This equates to \$63 per year. The federal poverty guideline for an individual is \$13,590.<sup>4</sup> The Lifeline discount represents *less than one-half of one percent* of that income threshold.<sup>5</sup> For a family of four, that percentage drops to *less than one-quarter of one percent* of the applicable

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<sup>3</sup> In a faint glimmer of accuracy, the Consumer Groups contend: “Simply put, there either is an alternative eligible telephone company other than AT&T Ohio capable of serving consumers, or there is not.” CG, p. 9.

<sup>4</sup> <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/> .

<sup>5</sup> \$13,590/\$63 = 0.46%.

income threshold.<sup>6</sup> The Consumer Groups' argument here is an academic one: the federal law and rules do not consider the relative wealth or poverty of the Lifeline recipients in connection with an ETC abandonment petition. Their argument that "access to lifeline is a *necessity* for some consumers" rings hollow and is simply not relevant here. CG, p. 2 (emphasis added).

Another red herring is the Consumer Groups' reliance on the coronavirus pandemic as an excuse to delay or deny the Petition. CG, pp. 1, 4. This argument is both time-worn and irrelevant. While the FCC relied, in part, on the pandemic to extend the Lifeline benefit for one year, the existence of a pandemic is not a proper part of the legal analysis here. ***"As long as another ETC serves the relinquishment area, a relinquishment request must be approved."*** AT&T Ohio has met the legal requirements and should, consistent with its public interest commitment, be permitted to relinquish its ETC status in the remainder of its service territory.

Similarly, the Consumer Groups latch onto the stale argument about alleged compatibility issues related to medical devices. CG, p. 4. The Staff Report does not identify any. Here, the Consumer Groups simply raise "issues," label them "serious," and then call for an investigation to address their self-styled "serious issues." CG, p. 4. There is no reasonable foundation for a further investigation. However, if such issues arise, AT&T Ohio will work with the affected customers and the Staff to address them.

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<sup>6</sup>  $\$27,750/\$63 = 0.227\%$ .

The Consumer Groups question the affordability of Lifeline service from the alternative ETCs, and argue that customers *may* have to pay more for a bundle of services from an alternative ETC. CG, p. 5. The marketplace has shown that consumers overwhelmingly prefer Lifeline service from the alternative ETCs over that provided by AT&T Ohio. In the previous case, AT&T Ohio reported that it served nearly 186,000 Lifeline customers at the end of 2008. Case No. 17-1948-TP-UNC, AT&T Ohio’s Response to the Staff Report, February 15, 2019, p. 2 and note 3.<sup>7</sup> Remarkably, that number now stands at 118. SR, p. 3. This equates to a loss of 99.94% of the Company’s Lifeline customers. But there is no cause for concern about the remaining 0.06% segment: the Company’s proposed public interest commitments address their potential situations and those of other, yet unidentified customers who may be similarly situated. If adopted by the Commission, the Company’s public interest commitments will end the debate.

#### The Consumer Groups Would Impose Additional Requirements On The Applicable Test

Not content with their arguments for denial or delay, the Consumer Groups employ another time-worn tactic: impose additional requirements on the applicable test. Federal law prescribes an objective standard for relinquishment of an ETC designation. As long as another ETC serves the relinquishment area, a relinquishment request must be approved. 47 U.S.C. § 214(e)(4). Applying that test, 19 states have already approved full or partial ETC relinquishment requests by AT&T ILECs since March 2017, and no states have denied an AT&T ILEC request. Moreover, AT&T Ohio’s ETC relinquishment more than meets the controlling standard, because

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<sup>7</sup> “Here in Ohio, AT&T Ohio lost over 96% of its Lifeline subscribers in the ten year span from the end of 2008 (when it served nearly 186,000 Lifeline subscribers) to the end of November, 2018 (when it served only 7,248), and that decline is expected to continue.”

every wire center in the relinquishment area is served by at least four, and in some instances eleven, other ETCs.

The Consumer Groups would require AT&T Ohio to “ensure the existence of reliable Lifeline service by alternative eligible telephone companies *before* the PUCO allows AT&T Ohio to abandon Lifeline service.” GC, pp. 2, 10. That is not part of the legal test: “***As long as another ETC serves the relinquishment area, a relinquishment request must be approved.***”

Similarly, the Consumer Groups assert that consumers “may receive *less reliable* Lifeline voice services – or no service at all – through the alternative wireless eligible telephone companies.” CG, p. 6. Reliability, though, is not part of the applicable test here. The Consumer Groups are simply speculating about service quality issues related to the alternative providers. There has been no showing made that *actual* issues *actually* exist.

Lastly, the Consumer Groups would impose additional burdens on the Company. They would require the Company to have the burden to prove that consumers will not be harmed before proceeding. CG, p. 7. They would also require the Company to ensure that all Lifeline customers would continue to be served. CG, p. 10. They go even further in suggesting that the Company should continue to be the ETC until *it* can arrange a reliable alternative. *Id.* None of these conditions is part of the applicable test in this case. “***As long as another ETC serves the relinquishment area, a relinquishment request must be approved.***” And it must be recalled in this context that AT&T Ohio will continue to provide the same basic voice services it provides

today (albeit without a Lifeline discount) unless or until AT&T Ohio receives permission to discontinue such service in accordance with FCC and Commission rules, thereby ensuring that no existing AT&T Ohio Lifeline customer will be left without voice service.

Conclusion

For all of the foregoing reasons, the Consumer Groups' arguments should be rejected and the Petition filed by AT&T Ohio should be approved, subject to the public interest commitments made by the Company.

Respectfully submitted,

AT&T Ohio

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Its Attorney

Dated: April 1, 2022

**21-0917-TP-UNC  
CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been served on April 1, 2022 by U.S. Mail and/or electronic mail on the parties shown below.

/s/ Jon F. Kelly

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