

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)

Petition for Emergency Relief in 3G Sunset)
Transition for Central Station Alarm)
Subscribers)

GN Docket No. 21-304

REPLY COMMENTS OF AT&T

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AT&T¹ files this reply to the limited number of comments filed in connection with the petition of the Alarm Industry Communications Committee (“AICC”) to delay AT&T’s long-announced plans to sunset its 3G network in February 2022. The handful of commenters supporting AICC’s petition largely ignore AICC’s alarm-industry-specific arguments. Instead, they make unsupported claims regarding the 3G sunset’s impact on other industries and raise irrelevant, generalized concerns about the 3G sunset plans of other wireless carriers. They provide no basis for the Commission to grant AICC’s petition.

1. Commenters Identify No Policy Basis for Granting AICC’s Petition.

Only four commenters filed in support of AICC’s petition seeking a delay in AT&T’s 3G sunset date for its alarm industry members. But no commenter offers evidence relevant to AICC’s arguments for the alarm industry, such as the sufficiency of the repeated notices AT&T gave to the alarm companies of its 3G sunset between 2016 and February 2019 (its official 3G sunset announcement), the extent to which those companies have had access to customers’ homes despite the COVID-19 pandemic, and the extent to which alarm companies have been able to obtain the chipsets necessary to upgrade their particular alarm monitoring systems.²

AARP largely parrots AICC’s petition, offering no new grounds to delay and no evidence to support a delay in the 3G sunset.³ Two other commenters, the Alliance for Automotive Innovation (“AAI”) and Alcohol Monitoring Systems, Inc. (“AMS”), likewise offer no evidence to support AICC’s petition. They focus instead on their supposed difficulties upgrading entirely different types of equipment, not equipment used for the alarm monitoring services that are the

¹ AT&T Services Inc. files this reply on behalf of itself and all affiliates (collectively “AT&T”).

² See generally Opposition of AT&T, GN Docket No. 21-304 (filed Aug. 30, 2021) (“AT&T Opp.”).

³ See generally Comments of AARP, GN Docket No. 21-304 (filed Aug. 30, 2021).

basis for AICC’s petition. Even if their bare allegations were relevant to AICC’s petition, which they are not, they would still be meritless because AAI and AMS make no effort to meet their burden of providing actual *evidence* to support those allegations or of justifying the extreme relief they seek and the harms that relief would cause.

AAI’s Claims Are Wholly Unsupported. AAI offers generalized complaints that “a fair number of vehicles” could be impacted by AT&T’s 3G sunset and that more time is necessary to upgrade those older vehicles using 3G technology.⁴ But it makes no attempt to identify the vehicles makes, the vehicle models, the vehicle model years, the 3G dependent services they provide, or even the approximate total number of vehicles that might be implicated.⁵ Nor does it provide any data on the extent to which automobile manufacturers or consumers, especially for older vehicles, actually utilize their vehicles’ connected service. Tellingly, AAI does not even commit that all of its members would, in fact, upgrade the 3G radios in their vehicles, regardless of how much time is provided.

AAI also does not deny that automobile manufacturers have been on notice of AT&T’s 3G sunset for years, but it generally asks for still more time because the COVID pandemic and the microchip shortage have made this “expedited transition . . . that much more difficult.”⁶ In fact, AAI’s members had much longer than three years’ notice, and their efforts to make this transition have been anything but expedited. As with AT&T’s alarm industry customers, AT&T’s contracts with many AAI members dating back to at least 2017—long before AT&T’s

⁴ Comments of the Alliance for Automotive Innovation, GN Docket No. 21-304, at 3 (filed Aug. 30, 2021) (“AAI Comments”).

⁵ AAI provides a single example, the Jaguar Land Rover, which it claims accounts for 1% of the U.S. market, with no evidence as to how many of the other 99% of automobiles support services using 3G, how many of those vehicles are still used, or what particular IoT-based capabilities they provide. *See id.* at 2 n.1.

⁶ *Id.* at 3.

February 2019 official 3G sunset notice to all IoT customers—put the industry on notice that AT&T could sunset its 3G network as early as December 31, 2021. AT&T’s 4G LTE network was operational and available for customer migrations during that time.

AAI provides no discussion of the steps automobile manufacturers have taken since being notified of the need to upgrade their 3G devices—or even when they started their transition efforts in earnest, if they have in fact done so. It does not explain why its members could not have upgraded devices in their customers’ vehicles before the COVID pandemic or how that pandemic has prevented consumers from bringing their cars into dealerships to perform the necessary upgrades, even as the rest of the U.S. economy has rebounded. And AAI does not even attempt to explain why major automobile manufacturers—certainly, some of the largest chip purchasers in the world—are unable to obtain a sufficient quantity of the needed chipsets to upgrade their 3G devices (as opposed to perhaps having to pay more for them). In short, AAI’s comments entirely omit the most basic proof points needed to substantiate its claims.

AMS Offers No Evidence of Any Widespread Impact. AMS, which provides court-ordered electronic monitoring services, asserts that it has not had sufficient time to make certain of its devices 4G compatible.⁷ Like AAI, AMS provides no actual evidence to support its claim. Although AMS does not acknowledge the fact, it is not even an AT&T wireless customer for 3G IoT devices; it is instead an end-user customer of two of AT&T’s resellers. Nonetheless, AT&T has engaged directly with AMS to assist it in obtaining new devices and securing the necessary certifications on an expedited basis, and with AT&T’s support AMS is now enjoying some success in its efforts. AMS’s comments suggest that it first focused on converting its devices that

⁷ Comments of the Alcohol Monitoring Systems, Inc., GN Docket No. 21-304, at 5 (filed Aug. 30, 2021) (“AMS Comments”).

utilize Verizon’s 3G CDMA network rather than prioritizing devices that use AT&T’s UMTS network.⁸ But the implications of that unexplained, company-specific choice are hardly a basis for delaying AT&T’s 3G sunset.

In all events, AMS appears to be one of many providers of electronic person-monitoring services.⁹ Though AMS seeks to attribute its complaints to the whole electronic monitoring industry,¹⁰ none of its rivals or government customers have filed in the record to express any concerns about meeting the 3G sunset. While no one would argue that a technology transition is without effort, the lack of widespread objection suggests that the 3+ year transition timeline provided was achievable. And AMS’s rivals would presumably be able to step in to supply alternative electronic monitoring services to AMS’s customers if AMS were in fact unable to meet the February 2022 deadline.

Public Knowledge’s Mass-Market-Focused Comments Miss the Mark. Public Knowledge, in contrast, barely addresses the AT&T IoT services at issue in the AICC petition; it focuses instead on mass-market wireless services that AT&T and other wireless carriers offer to consumers even though AICC never mentions those services.¹¹ Public Knowledge expresses

⁸ See AMS Comments at 4.

⁹ See, e.g., *OM400 GPS Trackable Ankle Monitor*, Sentinel, <https://www.sentineladvantage.com/om400/> (last visited Sept. 10, 2021); *Global Positioning Satellite “GPS,”* House Arrest Servs., Inc., <https://housearrest.com/products/global-positioning-satellite-gps/> (last visited Sept. 10, 2021); *Offender Monitoring*, Sierra Wireless, <https://www.sierrawireless.com/products-and-solutions/managed-iot-services/omnilink-offender-monitoring-solution/> (last visited Sept. 10, 2021).

¹⁰ See AMS Comments at 2-3.

¹¹ Public Knowledge has no credible basis for suggesting that AT&T’s shutdown of its legacy 3G network may be “influence[d]” by a desire to advantage AT&T’s own alarm services business. See Comments of Public Knowledge *et al.*, GN Docket No. 21-304, at 7 (filed Aug. 30, 2021) (“Public Knowledge Comments”). AT&T has only a limited presence in the alarm services market, is not actively engaged in customer acquisition, and is dwarfed by leading providers such as ADT. Alarm service customers disaffected by the loss of service would be substantially more likely to purchase service from AT&T’s competitors, including alarm companies that may obtain wireless service from providers other

concern “that the current timetables for the shut-down of 3G networks may not be in the public interest,”¹² but AT&T has an even stronger interest than Public Knowledge in ensuring that its existing wireless customers retain the ability to make and receive calls and access the internet after the 3G sunset. AT&T knows that consumers of its mass-market wireless services will vote with their feet and switch providers if they are given inadequate opportunities to upgrade their devices or those opportunities are inconvenient or costly.

As a result, AT&T has made enormous investments in keeping those customers by helping them manage the transition. Since it announced plans to sunset its 3G network, AT&T has been working diligently to help customers with 3G-dependent devices upgrade to LTE and better wireless devices. Its 3G sunset communication plan involves using multiple modes of communication to repeatedly alert affected customers of the transition, the need to upgrade 3G dependent devices, and the means to perform that upgrade.¹³

In that regard, AT&T has offered and provided impacted customers with upgrades to new smartphones and feature phones at a discount and/or *for free*. Postpaid customers seeking a different phone from the one they receive for free can also receive a credit toward the 4G- or 5G-capable phone of their choice based on the value of their traded-in device. Notwithstanding Public Knowledge’s unelaborated claims about chip shortages in the abstract,¹⁴ AT&T has—and

than AT&T. Public Knowledge’s claim is also self-defeating, as it implicitly concedes that it would be feasible to transition existing alarm services customers to current technology, contrary to AICC’s claims.

¹² Public Knowledge Comments at 1.

¹³ Specifically, AT&T has been informing customers of the coming 3G sunset via email, text messaging, bill inserts, direct mail, outbound calling, voice messages, and customer service engagement. AT&T has also launched a dedicated webpage with resources to help customers determine if their phones will still work post-sunset and information on how to upgrade to a new phone. *See Act Now - 3G Is Going Away in 2022*, AT&T, <https://www.att.com/support/article/wireless/KM1324171/> (last updated Sept. 9, 2021).

¹⁴ Public Knowledge Comments at 9-10.

anticipates it will continue to have—enough 4G- or 5G-capable smartphones and feature phones available to upgrade outdated devices currently used by AT&T wireless customers. Finally, no customer that chooses to switch wireless carriers due to AT&T’s 3G sunset will be assessed early termination fees.

As a result of these efforts, only approximately 2.7% of AT&T’s postpaid and prepaid consumer subscribers still rely on 3G-dependent devices, substantially less than the 15-20% number Public Knowledge cites from a 2019 article.¹⁵ AT&T’s experience disproves Public Knowledge’s unsupported assumptions that rural, elderly, and low-income customers would be disproportionately affected.¹⁶

Public Knowledge also suggests, without any evidentiary support, that AT&T’s network transition will result in a substantial loss of coverage.¹⁷ That is incorrect. AT&T’s wireless network covers more than 99% of all Americans and will continue to do so after the 3G sunset, and its 4G LTE network currently covers more than 330 million people. Of course, customers that upgrade their devices to current technologies are likely to have a *better* mobile experience than they have today.

2. The Commission Lacks Jurisdiction to Grant AICC’s Petition.

As AT&T discussed in its opening comments, this Commission lacks jurisdiction to grant AICC’s petition in the first place. Public Knowledge nonetheless asserts that the Commission has jurisdiction under its “expansive Section 201(b) authority” to grant AICC’s petition.¹⁸ The

¹⁵ Public Knowledge Comments at 3 & n.4.

¹⁶ *See id.* at 4-7.

¹⁷ *Id.* at 5.

¹⁸ *Id.* at 12.

Commission has this authority, Public Knowledge asserts, because AT&T’s “UMTS network” is a “Title II Commercial Mobile Radio Service[.]”¹⁹

This is a fundamental misunderstanding of the Communications Act. “Technologies” are not classified; services are. Title II applies only “to the extent” that a provider is offering “telecommunications service.”²⁰ Thus, the same technology can be used to provide both a common carrier “telecommunications service” as well as services that are individually negotiated on non-standardized terms. Only the former are subject to Title II.

As explained in AT&T’s Opposition, the enterprise IoT services that alarm companies purchase from AT&T are *not* common carrier services subject to Title II regulation.²¹ These services are private carriage services sold to sophisticated businesses on an individualized basis. As noted, Title II applies only “to the extent” that a provider is offering “common carrier services” to the public at large on standardized terms. Likewise, the IoT services provided to alarm companies are not interconnected with the public switched network, and are thus “private mobile service[s]” that are categorically exempt from common carrier regulation.²²

That said, this Commission’s intervention is unnecessary. AT&T has offered substantial technical support to the alarm industry to help it meet the February 2022 transition date. AT&T has no interest in losing the business of any alarm company, and it is taking every feasible measure to help such companies keep their customers connected via AT&T’s network after the

¹⁹ *Id.*

²⁰ 47 U.S.C. § 153(51).

²¹ AT&T Opp. at 6-9.

²² *See* 47 U.S.C. § 332(c)(2). AT&T provides voice services subject to Title II, but that fact cannot grant the Commission otherwise absent authority to act on AICC’s petition. That petition is predicated on supposed difficulties that *alarm companies* face in transitioning customers to 4G/5G compatible devices, not on the supposed difficulties that wireless voice customers have in obtaining new handsets.

3G sunset. With AT&T's support, mutual competition among alarm companies will induce each alarm company to take the steps needed to meet AT&T's long-announced 3G sunset.

3. Granting AICC's Petition Would Threaten the Public Interest.

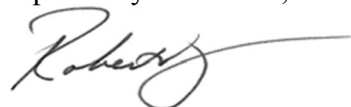
Finally, the commenters supporting the AICC petition, like AICC itself, also ignore the substantial harms the public would incur if AT&T were now forced to delay retirement of its 3G network. As AT&T explained,²³ to meet demand for 5G connectivity, AT&T must promptly repurpose from 3G to 5G all of its 850 MHz spectrum—with its long-range propagation and penetration characteristics—to prevent service degradation for its customers. In particular, if AT&T is unable to upgrade its current 5x5 megahertz channels of 850 MHz spectrum into 10x10 megahertz channels that support 5G, the rate of busy-hour “blocking” in cell sectors will increase across virtually all geographic markets. In affected areas, the result would be more blocked and dropped calls and a decrease in data throughput.

CONCLUSION

The alarm industry's petition for a delay in AT&T's 3G sunset should be denied.

²³ AT&T Opp. at 9-12.

Respectfully submitted,



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