

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
1998 Biennial Regulatory Review –	)	CC Docket No. 98-171
Streamlined Contributor Reporting	)	
Requirements Associated with	)	
Administration of Telecommunications	)	
Relay Service, North American Numbering	)	
Plan, Local Number Portability, and	)	
Universal Service Support Mechanisms	)	
	)	
Telecommunications Services for	)	CC Docket No. 90-571
Individuals with Hearing and Speech	)	
Disabilities, and the Americans with	)	
Disabilities Act of 1990	)	
	)	
Administration of the North American	)	CC Docket No. 92-237
Numbering Plan and North American	)	NSD File No. L-00-72
Numbering Plan Cost Recovery	)	
Contribution Factor and Fund Size	)	
	)	
Number Resource Optimization	)	CC Docket No. 99-200
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
Truth-in-Billing and Billing Format	)	CC Docket No. 98-170

**AT&T PETITION FOR EXPEDITED WAIVER**

Pursuant to Section 1.3 of the Commission’s Rules,<sup>1</sup> AT&T Corp. (“AT&T”) hereby requests that the Commission grant it a very limited waiver from Sections 54.706 and 54.709 of

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<sup>1</sup> 47 C.F.R. § 1.3.

the Commission's rules,<sup>2</sup> as they will be effective April 1, 2003, to allow AT&T to continue its current practice of not charging customers on AT&T's Lifeline program for any universal service contribution recovery. Because of the new limitations on universal service recovery that will take effect April 1, 2003, AT&T will begin assessing a universal service recovery line item on its Lifeline customers' usage charges as of April 15, 2003, unless the Commission grants this waiver by April 10, 2003.

AT&T has its own Lifeline program for long distance for its customers that attest that they are Lifeline-certified by their local exchange carrier. These customers are billed for their usage-based charges. This is a voluntary program that AT&T initiated, and AT&T does not receive any federal or state universal service support for this long distance Lifeline program. Under this program, AT&T has not heretofore charged a universal service recovery fee to AT&T Lifeline customers even when they have usage charges.

Under the rules currently in effect, AT&T recovers its universal service contributions that are attributable to usage by its AT&T Lifeline customers through its general universal service recovery charge. Under new rules that were adopted in the *Interim USF Contribution Order* and that become effective April 1, 2003,<sup>3</sup> AT&T can no longer recover its contribution in this manner, as it is precluded from averaging recovery among customers, even within the same customer class, and cannot charge a recovery charge that exceeds the FCC's prescribed universal

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<sup>2</sup> 47 C.F.R. §§ 54.706, 54.709.

<sup>3</sup> *In re Federal-State Joint Board on Universal Service; 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms; Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990; Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size; Number Resource Optimization; Telephone*

service contribution factor. AT&T therefore requests this waiver, because without it, AT&T will have to discontinue its practice of not assessing universal service contribution on these Lifeline customers, as of April 15, 2003.

In order to minimize charges to these very-low-income households, AT&T therefore asks that the Commission grant it a waiver of Sections 54.706 and 54.709 of the Commission's rules to allow AT&T to exclude from its reportable projected, collected interstate and international end user telecommunications revenues the usage-based charges to AT&T Lifeline customers. The amount of revenue that would be excluded from the universal service contribution base would be tiny – well less than 0.02 percent. No change to the Second Quarter 2003 contribution factor would be necessary, especially in light of the Commission's decision to restate the contribution factor to 3 decimal places, rounding up to 9.1 percent.<sup>4</sup> Grant of the waiver would necessitate a small revision to the circularity discount factor, but any change to the circularity discount factor could easily be trued-up in later USAC invoices.

Section 1.3 provides that the Commission may waive its rules “if good cause therefor is shown.”<sup>5</sup> Generally, a waiver is appropriate if “special circumstances warrant deviation from the general rule and such deviation will serve the public interest.”<sup>6</sup> Because of the important “safety

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*Number Portability; Truth-in-Billing and Billing Format, Report & Order & Second Further Notice of Proposed Rulemaking, FCC No. 02-329 (rel. Dec. 13, 2002) (“Interim USF Order”).*

<sup>4</sup> Public Notice, *Revised Second Quarter 2003 Universal Service Contribution Factor*, CC Docket No. 96-45, DA 03-851 (March 21, 2003).

<sup>5</sup> 47 C.F.R. § 1.3.

<sup>6</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *see also WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

valve” function that waivers perform, it is well established that the Commission must give requests for waivers a “hard look.”<sup>7</sup>

There can be no doubt that the requested waiver arises from unique circumstances that warrant deviation from the general rule. The Commission did not generally contemplate that carriers may have beneficial, socially conscious programs in place that could be adversely affected by its limitations on USF line-item recovery. The requested waivers are clearly in the public interest. The customers in question are very low income. It is not good public policy to increase the burden on these very-low-income customers, and the impact will not be trivial: adding the USF contribution line-item will increase their interstate and international bills by over 9 percent. This is especially counterproductive when studies generally indicate that high toll bills are a significant contributor to loss of telephone service.<sup>8</sup>

This requested waiver is both consistent with the objectives of the Lifeline support program and analogous in effect to the result with respect to LEC charges for the Lifeline line. The waiver will prevent an increase in the burden on these very-low-income customers that are already receiving support for their basic connection. Moreover, if the waiver is granted AT&T will not be assessed universal service contribution, and thus will not assess a USF contribution recovery line item on the long distance usage charges for its Lifeline customers, just as local exchange carriers (“LECs”) do not contribute to USF for the interstate USF support that they receive in lieu of subscriber line charge (“SLC”) revenues for Lifeline customers, and thus do not charge a USF line item recovery fee to those customers for those interstate revenues.<sup>9</sup> In both

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<sup>7</sup> *WAIT Radio*, 418 F.2d at 1157.

<sup>8</sup> *See* Comments of the Coalition for Sustainable Universal Service in CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, & 98-170 (filed Apr. 22, 2002), at 71-72.

<sup>9</sup> *See In re Federal-State Joint Board on Universal Service; 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of*

instances, the bottom line is making interstate telecommunications services available to qualified Lifeline customers without the additional burden of USF charges. Unlike the PIC Change and other interstate charges for which the Commission permits Lifeline contributors to be assessed a universal service recovery line item, universal service contributions associated with interstate long distance charges by Lifeline customers will be “substantial,” not “minimal,” if the Lifeline customer is a heavy toll user.<sup>10</sup>

Accordingly, AT&T requests that the Commission, on an expedited basis, grant it (and any similarly situated party) the limited waiver discussed herein.

Respectfully submitted,

AT&T Corp.

By: \_\_\_\_\_ /s/

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*Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms; Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990; Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size; Number Resource Optimization; Telephone Number Portability; Truth-in-Billing and Billing Format, Order & Second Order on Reconsideration, FCC 03-58, 2003 FCC LEXIS 1325, at \*13 & n.21 (¶ 11) (rel. Mar. 14, 2003).*

<sup>10</sup> See *id.* at \*13 (¶ 11).