

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

Federal-State Joint Board on
Universal Service

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) CC Docket No. 96-45
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COMMENTS OF AT&T CORP.

Pursuant to the Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, and its Public Notice (FCC 03-120) released June 9, 2003, and published in 68 Fed. Reg. 42,333 (July 17, 2003), AT&T Corp. ("AT&T") submits these comments on the *Recommended Decision* of the Joint Board as to how the Commission's Lifeline and Link-Up programs can be improved so as to increase subscribership among low-income individuals.¹

AT&T suggests that the Commission make two modifications to its Lifeline and Link-Up programs to ensure competitive neutrality in the administration of these programs and thereby promote subscribership by low-income residential customers. First, the Commission should streamline the rules for carrier eligibility to receive federal Low Income Support so that the broadest set of carriers can be compensated for their Lifeline and Link-Up services, and thereby have the incentive to market those services to eligible consumers. In this regard, the Commission should *reject* the

¹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 18 FCC Rcd. 6589 (2003) ("*Recommended Decision*").

recommendation of the Joint Board that telephone companies that are not fully certified eligible telecommunications carriers (“ETCs”) under the current unified process should not receive Lifeline/Link-Up support. *Recommended Decision* ¶ 63. Rather, as explained below, there should be a separate Low Income ETC designation process that is *not* tied to a requirement that the carrier offering Lifeline/Link-Up service serve the entire state. Second, consistent with the Joint Board’s recommendations, the Commission should encourage state commissions to identify customers eligible for these programs. The Commission should also make Lifeline support portable between qualified carriers.

I. THE RULES REGARDING ETC DESIGNATION SHOULD BE SUBSTANTIALLY STREAMLINED TO ALLOW MORE CARRIERS TO PARTICIPATE IN THE LIFELINE AND LINK-UP PROGRAMS.

The Commission requires carriers to be certified as eligible telecommunications carriers (“ETCs”) *once* for both Lifeline/Link-Up (collectively Low Income Support) and High Cost Support. Section 214(e) requires ETCs to offer and advertise their supported services throughout the service area. The High Cost Support mechanisms and Low Income Support mechanisms, however, serve very different purposes. High Cost Support is meant to support carriers serving high-cost areas, and is a substitute for previous regulatory techniques such as geographic rate averaging and implicit support from access charges.² Even with geographic disaggregation of High Cost

² See, e.g., *MAG Order*, 16 FCC Rcd. 19, 613, 19,625 (2001) (noting that, “historically, [access in high-cost areas] has been achieved both through explicit monetary payments and implicit support flows to enable carriers to serve high-cost areas at below cost rates” and that “Congress established . . . the principle that the Commission should create explicit universal service support mechanisms that will be secure in a competitive environment”).

Support, there has still been concern about the potential for a carrier to “cherry-pick,” *i.e.*, to receive support for serving customers in high cost areas while actually providing service only in the lower cost portions of a service area.

Lifeline/Link-Up Support, by contrast, aims to reduce the price of local service for the low-income consumer, who may be urban or rural. There is no geographic “cherry-picking” opportunity with respect to Low Income Support, because the support is not tied to high costs of service. So long as the customer chooses a particular carrier as its low-income service provider (and that carrier provides the low-income consumer with rate discounts commensurate with the amount of Low Income Support it would receive), that carrier should be eligible for Low Income Support on behalf of the customer.

There are a variety of reasons why a new entrant might opt out of seeking ETC designation for High Cost Support. For example, a carrier may have resource constraints or deem the administrative burdens associated with seeking such support to be too great. Yet, there is no reason why an entrant that seeks to serve only low-cost urbanized areas of a state (including low-income consumers) should be denied Low Income Support simply because it chooses not to enter the state more broadly and seek High Cost Support. This is particularly the case in those states (*e.g.*, Minnesota, Pennsylvania and Wisconsin) that require *all* LECs (whether or not ETCs) to provide reduced Lifeline rates—meaning that non-ETCs must provide service at lower rates to eligible Lifeline customers, but are ineligible for Low Income Support. Especially in such states, denying Low Income Support to competitive entrants (while granting such support to incumbents) is not competitively neutral, and restricts consumer choice among

service providers to ensure seamless support if a low-income consumer elects to change local carriers.

AT&T thus supports *separate* ETC designations for the High Cost and Low Income Support Mechanisms. Instead of unified ETC designation, the Commission should allow receipt of federal Low Income Support whenever a carrier agrees to provide the supported services as defined by the Commission's rules, 47 C.F.R. § 54.101, *or* has qualified for support under parallel state programs. This would ensure that carriers willing to provide the federally defined services become, at a minimum, eligible for *federal* Low Income Support, and it would also eliminate the current anomalous situation where, for example, AT&T is a recipient of certain state Lifeline/Link-Up funds but has not been certified as a federal ETC because of the overly restrictive requirements of Section 214(e).³ Moreover, because, as noted above, some states require carriers to provide Lifeline service as a condition of local entry, AT&T and other new local entrants are competitively disadvantaged as compared to the incumbent because they are required to provide a discounted service in competition with the incumbent yet only the incumbent's discount is subsidized by low-income support. Furthermore, any carrier that is eligible for a *state* Lifeline/Link-Up fund should automatically be granted *separate* ETC status for the *federal* Low Income support.

³ To the extent that some states (*e.g.*, Texas) have adopted the federal ETC criteria for eligibility for state low-income programs, the Commission should encourage the states to similarly eliminate this overly-restrictive qualification so as to enhance carriers' ability to gain access to *state* support.

As the *Recommended Decision* (¶ 61) points out, the Commission determined, in the *Universal Service Order*,⁴ that it had authority under sections 1, 4(i), 201, 205 and 254 of the Communications Act (47 U.S.C.) to extend Lifeline support to include carriers other than ETCs, although it declined to do so at that time for the sake of administrative convenience with a single administrator following a single set of rules. AT&T believes that there would *not* be a significant administrative burden if the *federal* ETC designation – made by the states in most instances – conformed to separate eligibility for *federal* Lifeline support. Additionally, if a carrier meets *state* Lifeline carrier eligibility criteria, it should automatically qualify for *federal* Lifeline support. To the best of AT&T’s knowledge because all states with their own Lifeline programs seek to avail themselves of additional federal support, the states themselves incorporate the FCC’s *definition* of the supported services a Lifeline carrier must be willing to provide to be eligible for state support. This being so, the Joint Board’s additional concern that carriers that seek federal Lifeline support should agree to fulfill the service obligation specified by 47 C.F.R. § 54.101 of the Commission’s rules would be addressed.

To the extent some states have onerous criteria for carriers to become eligible for state Lifeline support, that should *not* preclude certification for federal support. For example, Texas and West Virginia have auto-enroll requirements for their state Lifeline programs. The costs for new entrants to modify their systems so that they can auto-enroll customers may be cost-prohibitive relative to the number of Lifeline

⁴ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 12 FCC Rcd. 8776, 8971, ¶ 369 (1997).

customers they expect to serve. And, in Wisconsin, recipients of state Lifeline funds must offer public interest payphones to qualify for support. Even if a carrier cannot comply with these types of state requirements, it should have the right to receive *federal* Low Income Support if it is providing the federally-defined supported services.

Sound public policy strongly counsels that a carrier entering the local exchange market only in low-cost areas should be eligible to obtain federal support for low-income consumers living in those areas, particularly when the state has found the carrier to be eligible for corresponding state support. Carriers wishing to provide Lifeline and Link-Up services should be encouraged rather than stymied in their efforts to obtain universal service support so as to maximize the availability of these programs and increase subscribership.

II. THE COMMISSION SHOULD ENCOURAGE STATES TO IDENTIFY INDIVIDUALS IN NEED OF LOW-INCOME SUPPORT AND SHOULD MAKE LIFELINE PORTABLE.

To further enhance subscribership by low-income individuals, the Commission should encourage states to identify eligible customers rather than imposing this duty on carriers. As the Joint Board found, “Lifeline/Link-Up take rates have been the highest in states that provide matching funds and engage in proactive targeted efforts such as automatic enrollment, aggressive outreach and intrastate multiagency cooperation.” *Recommended Decision* ¶ 9. States have ready access to necessary information and thus are in a far better position than carriers to target advertise Lifeline and Link-Up services to the proper set of consumers. By contrast, because carriers do not have access to data sources identifying low-income consumers, carriers would need to

advertise much more broadly to make consumers aware of these programs. Thus, it is much more efficient for the states to perform this identification and advertising function and then recover the associated costs through their state universal service fund.

In addition to having the state identify and advertise to apparently qualified customers, it would be very helpful if the states were to handle the consumer Lifeline application process and screen consumers to confirm the Lifeline applicant's eligibility for low-income support. Because the state would already have targeted the customer for advertising, it is in a superior position to determine the consumer's actual eligibility for Low Income Support. If the state were to handle the application process and refer interested eligible customers to the customer's selected carrier, such streamlining would make it easier for eligible applicants to obtain Lifeline and Link-Up service. Of course, the additional expenses incurred by the state to perform this function would likewise be added to the state universal service fund, but it minimizes each carrier's direct expenses and is shared equally by all carriers.

Finally, again to minimize the burden on carriers and to make Lifeline support seamless, Lifeline support should be fully portable to any carrier that has been deemed eligible for such support. Thus, if a customer had Lifeline support from a LEC (or CLEC), it would be automatically entitled to continue as a Lifeline-supported customer with the follow-on carrier (so long as that carrier is Lifeline qualified) and the latter would be entitled to draw Lifeline support from the USF. Of course, for portability and state-administered certification to work, states would need to have the ability to interface with and refer customers across multiple carriers through a simplistic referral process.

CONCLUSION

For the reasons stated above, the Commission should: (1) streamline its rules for carrier eligibility to receive federal Lifeline and Link-Up support, (2) encourage state commissions to identify consumers eligible for these programs, and (3) make Lifeline portable as between qualified carriers.

Respectfully submitted,

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August 18, 2003