Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054

In the Matter of	)	
	)	
Request for Review by Qwest Communications International, Inc. of Decision of Universal Service Administrator	)))	WC Docket No. 03-109

COMMENTS OF AT&T INC.

AT&T Inc. (AT&T), on behalf of its affiliates, supports Qwest's request for review of three Universal Service Administrative Company (USAC) audit findings and urges the Commission to reject USAC's conclusions as inconsistent with the Commission's rules.[1] The three issues concern Qwest's practice of not seeking pro-rated support for Lifeline customers who entered or left the Lifeline program during the month, Qwest's reliance on self-certifications, made under penalty of perjury, that Enhanced Lifeline participants reside on a reservation, and Qwest's implementation of a Commission recordkeeping rule on its effective date. Qwest has persuasively demonstrated that none of these findings has merit and its request should be granted.

Commission's Rules Do Not Require ETCs to Report Their Numbers of Partial Month Lifeline Subscribers. USAC's auditors erroneously concluded that Qwest, like AT&T, must report its number of partial month Lifeline subscribers (*i.e.*, subscribers who entered or left the Lifeline program during a particular month) on Line 9 of FCC Form 497 despite the fact that using Line 9 is voluntary.[2] The Commission should reject USAC's conclusion for reasons

[1] Request for Review by Qwest Communications International, Inc. of Decision of Universal Service Administrator, WC Docket No. 03-109 (filed April 25, 2008) (Qwest Request).

[2] Qwest Request at 3-6.

detailed in Qwest's Request, AT&T's request for review of the same audit finding, and the record that was developed in response to AT&T's request.[3] While AT&T does not repeat those arguments here, as AT&T and Qwest both demonstrate, USAC's audit finding is based on an interpretation of Line 9 of FCC Form 497 and the accompanying instructions that is at clear odds with the plain language of the form and instructions.[4] Moreover, as detailed by AT&T and Qwest, such an interpretation ignores the history of this form in which the Commission clearly decided *not* to require eligible telecommunications carriers (ETCs) to report their numbers of partial month Lifeline subscribers.[5] Finally, as explained by both carriers, any perceived benefit of mandated partial month reporting is far outweighed by the burdens associated with such an undertaking.[6]

Self-Certification Appropriate to Confirm Eligibility for Enhanced Lifeline Support. AT&T agrees with Qwest that its policy of obtaining certifications from Enhanced Lifeline participants, requiring them to state that they are eligible for this benefit under penalty of perjury and to identify the reservation where they live, is an appropriate and reasonable means to implement the applicable Commission rules.[7] Indeed, in 2004, the Commission recognized the

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[3] Request for Review by AT&T Inc. of Decision of Universal Service Administrator, WC Docket No. 03-109 (filed Jan. 7, 2008) (AT&T Request) (included as Attachment 7 to Qwest's Request). AT&T asks that the Commission incorporate by reference the record that was developed in response to the Commission's request for comment on AT&T's filing. *See Comment Sought on AT&T Request for Review of a Decision of the Universal Service Administrative Company Concerning FCC Form 497, Pleading Cycle Established*, WC Docket No. 03-109, Public Notice, DA 08-855 (rel. April 14, 2008).

[4] AT&T Request at 4-5; AT&T Reply Comments at 2; Qwest Request at 4-5.

[5] AT&T Request at 3-5; AT&T Reply Comments at 2-3; Qwest Request at 5.

[6] AT&T Request at 6-7; AT&T Reply Comments at 3-4; Qwest Request at 5-6.

[7] *See, e.g.*, 47 C.F.R. § 54.409(c) (which requires ETCs to obtain the customer's signature on a document certifying under penalty of perjury that the consumer receives benefits from a particular program and lives on a reservation).

benefits of self-certifications, stating that "the ease of self-certification encourages eligible consumers to participate in Lifeline/Link-Up" and "certification of qualified program participation, under penalty of perjury, serves as an effective disincentive to abuse the system . . ."[8] To AT&T's knowledge, the Commission has not reversed its view of self-certifications; therefore, Qwest's and other ETCs' reliance on self-certifications remains valid.

USAC's auditors apparently concluded that self-certifications are inadequate to "determine" whether an applicant actually resides on a reservation.[9] AT&T believes that USAC's sole reliance on a sentence contained in the "Procedural Matters" section of a 2000 Commission order is misplaced.[10] If the Commission intended ETCs to take additional steps to "determine" whether an applicant lives on a reservation, it would have provided *some* guidance and it certainly would not have relegated such a requirement to the "Procedural Matters" section of its order. AT&T is unsure what additional information ETCs should obtain to "determine" that a particular Enhanced Lifeline recipient is actually residing on a reservation. Indeed, as Qwest points out in its Request, USAC auditors offered no suggestions.[11] AT&T, which also relies on self-certifications for Enhanced Lifeline eligibility,[12] agrees with Qwest that if the

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[8] *Lifeline and Link-Up*, WC Docket No. 03-109, FCC 04-87, para. 27 (2004).

[9] *See* Qwest Request at Attachs. 3 & 4, Finding # 4 (USAC Audit Report citing *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, para. 180 (2000)).

[10] *Id.* (quoting the following sentence from para. 180: "Ascertainment of applicant eligibility will entail determining whether a particular applicant is (1) a low-income applicant, under the criteria for income eligibility set forth above; and (2) living on or near a reservation.").

[11] Qwest Request at 8 & n.15.

[12] While AT&T is an ETC in several states where the state commission's vendor informs ETCs which of their subscribers are eligible for Lifeline, only one of its states – Texas – also informs ETCs which of their customers are eligible for Enhanced Lifeline. In AT&T's other states with reservations in its service area, AT&T must rely on self-certifications, which require the applicant to certify under penalty of

Commission believes that self-certifications are no longer sufficient, which it should not, it should conduct a rulemaking so that ETCs could inform the Commission about what information, if any, is available to them to verify an applicant's certification that he or she lives on a reservation.[13]

Imposing Recordkeeping Requirements Retroactively is Impermissible. The Commission should also reject USAC's attempt to impose recordkeeping requirements retroactively on Qwest.[14] As explained in Qwest's filing, as of May 12, 2005, ETCs are required to maintain applications containing self-certifications as long as the subscriber obtains Lifeline service, plus three years after the subscriber discontinues such service.[15] Prior to that date, Qwest placed a permanent note on customer accounts indicating that the customer's Lifeline request was processed through a certain Qwest center where trained personnel and company policies ensured that a signed self-certification had been received prior to the company providing Lifeline discounts.[16] USAC found fault with Qwest's failure to produce certifications prior to date that the rule became effective.

Despite its assertion to the contrary, USAC is attempting to penalize Qwest for implementing a Commission rule on its effective date. Qwest explained that prior to May 12, 2005, it did not retain self-certifications so, for a subscriber whose Lifeline service predates May

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perjury that he or she is eligible for this benefit and identify the reservation where he or she resides (or county in the case of Oklahoma).

[13] Unless a governmental entity (federal or state) informs ETCs whether particular addresses are located on a reservation, AT&T is unsure that it could verify that an address is on a reservation even if it were to do a truck roll to the location.

[14] Qwest Request at 10-12.

[15] *Id.* (citing 47 C.F.R. § 54.417(a)).

[16] *Id.* at 10-11.

12, 2005, Qwest can only provide auditors with a copy of the permanent note on the customer's account. In order to comply with USAC's demand, Qwest (and all ETCs) would have to ask all of their Lifeline subscribers who have had this benefit pre-May 12, 2005 to resubmit their Lifeline applications, and certify that the revised Lifeline application covered that prior period. Such a requirement would clearly confuse affected Lifeline subscribers and, perhaps, many would be reluctant to certify under penalty of perjury as to the exact start date of service because of their uncertainty about the precise date in which they commenced Lifeline service years earlier. AT&T sees no benefit in requiring such an exercise particularly given the Commission's clear intention to make the new recordkeeping requirement prospective.[17]

For the foregoing reasons, AT&T requests that the Commission grant Qwest's request in its entirety.

Respectfully Submitted,

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June 16, 2008

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[17] As Qwest notes, it took over one year for the Commission's rules to become effective after the Commission adopted them. *Id.* at 10.