



July 30, 2009

Ms. Marlene H. Dortch
Secretary to the
Federal Communications Commission
Washington, D.C. 20554

Re: *Ex Parte* Presentation
Universal Service Assessment- Automotive Telematics
CC Docket Nos. 96-45, WC Docket No. 06-122

Dear Ms. Dortch:

On July 10, 2009, AT&T filed a petition urging the Commission's immediate action to reform the Universal Service Fund (USF) contribution method by adopting AT&T's proposal to assess each telephone number a \$1.00 monthly fee. Applied to all users, the proposal violates the law's fair and non discriminatory standard and is not competitively neutral. It will stop critical public safety features now being deployed across the automotive industry. The ATX Group urges the Commission to reject an across the board \$1.00 monthly fee and ensure that any USF fee parallels a service's use of the network.

ATX, a unit of Cross Country Automotive Services, serves markets in North America and Western Europe. ATX integrates wireless communications, location technology, computer capability and live operators to respond to emergencies and other driver needs. ATX technology locates precisely where an individual facing an emergency is, communicates with the vehicle and its occupants, provides assistance and notifies emergency response agencies for help to be dispatched. Telematics is the only wireless offering providing the location of every call to a 9-1-1 center, even where the center cannot receive Phase II location information.

ATX telematics include automatic crash notification (ACN) and Mayday in-vehicle button response and were developed around the cellular network. From this core technology, the range of location-based emergency capabilities -ACN, Mayday button response, Remote Door Unlock, Stolen Vehicle Recovery and Roadside Assistance- are provided. The investment of original equipment manufacturers (OEMs), ATX and its competitors replicates the Commission's objective to bring location capability to wireless phones, yet without government mandate but with market demand and private investment.

In using the cellular network, each telematics vehicle is assigned a phone number. ATX, or its OEM partner, purchases airtime from a carrier. The airtime is distributed among all telematics vehicles served by the system. Communications are limited to data or voice transmissions between the vehicle and call center. The communication, if it takes place at all, is of very short duration. The cost, of which

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airtime constitutes only an incremental part, is in most circumstances recouped by a subscription purchased by the vehicle owner, not through the vehicle's sale price.

A telematics phone number reflects neither network use nor ability to communicate beyond the call center and vehicle. In these proceedings ATX has presented a model, extrapolated from its own and customer records, showing that the average number of calls per year from each vehicle is less than 2 and the average annual use per subscriber amounts to less than 15 minutes. A hypothetical 300,000 telematics equipped vehicle fleet using 700,000-1,000,000 minutes per month involves an average cost per minute of \$.10. The monthly USF assessment under the current structure is approximately \$10,000. Under AT&T's proposal of \$1.00 per month per telephone number, the assessment will be \$300,000 per month. The additional \$3.4 million per year in costs provides no additional features or efficiency to the vehicle owner, OEM or telematics provider. It must be added to the cost of operating the telematics system. That the fee will approach or exceed the cost of the airtime presents a confounding contradiction and results in a market determining factor.¹

Section 254(b)(4) of the Communications Act establishes the standard for the Commission to assess the fees supporting the USF. That standard requires that contributions be "equitable and non discriminatory." This underlying premise of any contribution mechanism requires fairness in allocating contribution duties. A wide disparity among users means that each cannot be assessed the same fee. AT&T's proposal, with one exception, disregards this premise. It ignores that while automotive telematics is assigned a large number of phone numbers, the extent and frequency of network use is extremely confined. The exception involves AT&T and other carriers prepaid calling services. These services involve a handset device, a telephone number and access to the entire public switch network. Other than administrative convenience, AT&T does not distinguish why such should be assessed a fee based on network use and services such as telematics are not.

Automotive telematics is now being deployed to the broader and more price sensitive mass market vehicle. ATX is currently launching telematics-based safety features on three, new, mass-market vehicle platforms. This path encompasses providing low-cost data centric features, with ACN its core feature, priced significantly lower than telematics initial offerings. This rollout relies on convincing large numbers of vehicle owners; the additional \$12.00 annual fee will be devastating to an offering that does not anticipate an interstate call for virtually all vehicles. The fee will have a profound effect and dictate decisions that should be left to the consumer.²

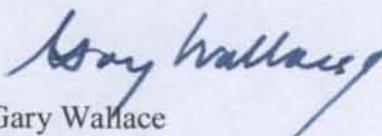
¹ *Ex Parte* Communication of ATX Group, Inc., (March 16, 2006) and *Ex Parte* Communication of ATX Group, Inc., (April 19, 2006) set forth in CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116 and 98-170.

² Comments of Toyota Motor Sales, Inc. (November 26, 2008), Comments of Volvo Group North America and WirelessCar North America (November 26, 2008), Comments of OnStar Corporation (November 26, 2008) and Comments of the ATX Group, Inc. (November 26, 2008) set forth in CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116 and 98-170.

The Commission recognizes automotive telematics value in shaping wireless location responsibilities³ as have associations dedicated to improving emergency response.⁴ ATX recently began delivering emergency phone calls with electronic, vehicle location data from embedded, cellular-connected vehicles to all 9-1-1 centers in California and to most 9-1-1 centers in 27 other states. ATX is also now demonstrating an innovative, speech-enabled texting service that keeps driver interaction brief and easy to use, minimizing the risk of distracting the driver away from focusing on the safe operation of the vehicle. That next generation telematics offerings will deploy data transmission directly to the 9-1-1 center, with critical accident and incident data factors relayed, shows how investment producing more innovation and efficient technology at lower costs, will be choked by the disproportionate \$1.00 monthly fee.

The enormous challenge associated with reforming USF funding is made more so by proposals that cast aside the law's strictures and halt the rollout of critical driver safety features. The expanse of network users and their varying circumstances underlies the law's requirement that a USF fee to be equitable and recognize level of use. Where a wide disparity exists between users, each cannot be assessed the same fee. ATX urges the Commission to adhere to the law and promote, not deter emergency response. Automotive telematics services should not be assessed \$1.00 per month USF fee.

Respectfully,



Gary Wallace
Vice President, Corporate Relations

³ In the Matter of Revision of the Commission's rule to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, *Report and Order and Second Further Notice of Proposed Rulemaking*, CC Docket No. 94-102, IB Docket No. 09-67 FCC 03-290 at paragraph 72 (2003).

⁴ Letter of the Association of Public Safety Communications Officials, International (APCO) and National Emergency Number Association (NENA), November 25, 2008, set forth in WC Docket 06-122 and CC Docket 96-45.