

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

In the Matters of)	
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
International Comparison and Consumer)	
Survey Requirements in the Broadband)	GN Docket No. 09-47
Data Improvement Act)	
)	
Inquiry Concerning the Deployment of)	
Advanced Telecommunications Capability to)	
All Americans in a Reasonable and Timely)	
Fashion, and Possible Steps to Accelerate Such)	GN Docket No. 09-137
Deployment Pursuant to Section 706 of the)	
Telecommunications Act of 1996, as Amended)	
by the Broadband Data Improvement Act)	

COMMENTS OF AT&T INC. — NBP PUBLIC NOTICE #1

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AT&T Inc., on behalf of itself and its affiliates (collectively, “AT&T”), respectfully submits these comments in response to the Commission’s August 20, 2009 Public Notice,¹ which seeks comment on how “broadband” should be defined in the National Broadband Plan mandated by the American Recovery and Reinvestment Act of 2009 (“Recovery Act”).²

DISCUSSION

The Commission has asked for comment on how it should define “broadband” for the specific purpose “of the Commission’s development of a National Broadband Plan” and in the specific context of the American Recovery and Reinvestment Act of 2009.³ While the Commission suggests that the definition adopted here might inform its interpretation of the term in other contexts,⁴ the Commission’s analysis in this proceeding must be guided by the very specific goals Congress expressed in the Recovery Act. Specifically, the Commission must first define the discrete set of applications and online capabilities that must be made available to all Americans to achieve the Recovery Act’s goals. As discussed below, for residential customers those services should include basic web-browsing capability, email, and online services that will further the Recovery Act’s goals of making broadband a tool for advancing education, energy efficiency, healthcare, and public safety. Other services and applications may be essential to permit business, industrial, and public-safety customers to further the Act’s goals. Thus, the task at hand really is not about “defining broadband” in the abstract. The goal is the more limited one of setting goals and priorities for implementing the Recovery Act. Only after the Commission

¹ Public Notice, *Comment Sought on Defining “Broadband,” NBP Public Notice #1*, DA 09-1842 (rel. August 20, 2009) (“*Public Notice*”).

² American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115, div. B, tit. VI, § 6001(k)(2) (Feb. 17, 2009) (“*Recovery Act*”).

³ *Public Notice* at 1.

⁴ *Id.* at 2.

establishes those goals and priorities can the Commission identify the specific service parameters that should be used to define relevant “broadband” capabilities for purposes of the Plan.

In adopting the broadband provisions of the Recovery Act, Congress’s chief concerns were achieving *widespread deployment* of broadband services in areas that are currently *unserved or underserved* and encouraging *widespread adoption* of broadband services by those who have been left behind on the information superhighway. While the Commission is correct that defining particular broadband capabilities is critical to evaluating where those capabilities are lacking, the agency also must bear in mind that the Plan—including its definition of relevant broadband capabilities—must be designed to facilitate achievement of the Act’s objectives. In other words, the definition of broadband must comprise services that can practicably be deployed in unserved and underserved areas—and must comprise services that today’s unserved Americans can and will actually adopt.

There are a host of aspirational broadband services that are beginning to emerge in this country, as well as myriad sophisticated applications involving streaming video, real-time voice, and the like. All are no doubt “broadband” services. But for Americans who today have no terrestrial broadband service at all, the pressing concern is not the ability to engage in real-time, two-way gaming, but obtaining meaningful access to the Internet’s resources and to reliable email communications and other basic tools that most of the country has come to expect as a given. Fulfilling that need is the appropriate national priority at this time. That is not to say that the market and the Commission’s policies should not drive deployment of more sophisticated, higher-speed and lower-latency services. But it does mean that the Commission must be careful to ensure that its definition of broadband in this context embraces those services that can be deployed most cost-effectively in areas that have been unable to support financially viable

broadband services to date. Similarly, the definition must include those services that Americans actually need and want—and can afford—to participate in the Internet-driven economy. In other words, broadband must be defined in a manner that ensures that the Act’s goals are *achievable*—and that the services that are deployed are *meaningful* to the unserved citizens who sorely need them.

Of course, over time, services that are too costly to deploy today may become more practicable even in hard-to-serve areas. And the basic services that Americans need may evolve to the point where, for example, meaningful participation in the economy is not possible without real-time IP video or voice. As such evolutions occur, the baseline definition of broadband should evolve as well, as the Commission recognizes in the *Public Notice*.⁵ But the notion of continuing evolution should not immobilize policymakers today: Industry, anchor institutions, and government can capitalize on the best of *today’s* technologies, and the innovation and services that can be provided using those tools, to bring immediate and significant advances to communities across America. This is the most concrete and prompt means of pursuing the universal connectivity the Recovery Act mandates—and after achieving this immediate goal, the Commission can and should evaluate on an ongoing basis whether the time has come to modify the definition of broadband for purposes of the Plan and the Act, so that it continues to capture the evolving standard of service that Americans will expect and need in the years to come.

I. Form, Characteristics, and Performance Indicators

The Commission has asked what “form” its definition of broadband should take, and whether a single definition or multiple definitions are appropriate.⁶ As noted above, AT&T believes that the Commission should bear in mind that it is not tasked with developing a

⁵ *Id.* at 3.

⁶ *Id.* at 2.

definition of “broadband” for all times and all purposes, but instead one that is uniquely tailored to achieve the specific goals that Congress instructed the Commission to further through the Plan. Thus, the Commission might very well have different definitions of “broadband” in different regulatory contexts. In the current context, the definition should take the form of a baseline definition of the capabilities needed to support the applications and services Americans must access to participate in the Internet economy—to learn, train for jobs, and work online, as the Act envisions.⁷

Setting that baseline too high would thwart Congress’s intent to ensure universal availability and adoption of broadband services. As AT&T has explained in earlier comments, for example, setting an excessively high throughput requirement would make deployment of broadband extremely expensive and render it impossible for providers to roll out broadband services in high-cost areas.⁸ The same is true of a definition that sets goals that are too ambitious for latency, jitter, or reliability: Deployment of services like satellite or mobile broadband that are most likely to be deployed most quickly in hard-to-serve areas may be deterred entirely—just at the time when national policy dictates that providers be given incentives to supply unserved Americans with meaningful connectivity as quickly as possible.

To be sure, some broadband applications *do* require fairly stringent performance characteristics with little jitter, low latency, and high reliability. But these applications—real-

⁷ See, e.g., Recovery Act § 6001(g)(4), (k)(2)(D).

⁸ Comments of AT&T Inc., *A National Broadband Plan for Our Future*, GN Docket No. 09-51, at 15-20 (filed June 8, 2009) (“*AT&T Broadband NOI Comments*”); Reply Comments of AT&T Inc., *A National Broadband Plan for Our Future*, GN Docket No. 09-51, at 76-80 (filed July 21, 2009); Comments of AT&T Inc., *American Recovery and Reinvestment Act of 2009 Broadband Initiatives*, NTIA Docket No. 090309298–9299–01, at 9-11 (filed Apr. 13, 2009) (attached as Exhibit A to Submission of AT&T Inc., *Federal Communications Commission’s Consultative Role in the Broadband Provisions of the Recovery Act*, GN Docket No. 09-40 (filed Apr. 13, 2009)).

time VoIP or streaming video, for example—are not necessarily mandatory components of the connectivity that unserved Americans sorely need today, nor are they necessarily components for which all Americans wish to pay.⁹ Thus, as the Commission suggests, it may be quite sensible to adopt “application-specific” definitions of broadband,¹⁰ which turn on the set of applications the Commission deems critical to achieving the Recovery Act’s goals. But this means that the Commission must *first* determine the minimal set of applications that Americans must have to be universally “connected” and participate in the Internet economy. Only after that step has been completed can the Commission determine which performance parameters are relevant to ensuring that all of the applications deemed essential are in fact made available to unserved and underserved Americans.

For residential customers, that minimal set of applications should include the ability to exchange emails, participate in instant messaging, and engage in basic web-browsing. It also should include the ability to engage in Internet-based education programs, interact with Internet-based government services, and participate in online energy, healthcare, and public-safety programs. If the Commission determines that this is the correct set of capabilities, then a simple definition of broadband based on a reasonably achievable throughput minimum might be appropriate, and concerns about jitter and latency might be less relevant. As AT&T has explained previously, other applications and capabilities may be essential for business, industrial, and public-safety customers, such as mobile connectivity or secure data-sharing.¹¹ Indeed, the

⁹ Indeed, because of this, some applications tend to evolve over time to accommodate a range of broadband capabilities and service characteristics. And when so many consumers use, and video player applications support, “download and play” for video viewing, there is no reason that national policy must prefer and support only streaming video capabilities.

¹⁰ *Public Notice* at 3.

¹¹ *See, e.g., AT&T Broadband NOI Comments* at 8-9, 16-17, 32.

service characteristics needed to support machine-to-machine communications, for example (e.g., RFID inventory tracking, smart meters, or remote health monitoring), may be more focused on coverage and/or mobility than on latency and throughput. Accordingly, the Commission also should be cognizant of the appropriate baseline parameters specific to the applications needed by relevant categories of non-residential broadband users. Until sets of minimum applications are defined for customers, there is no way to determine which specific parameters should be required or included in the definition/s of broadband.¹²

II. Thresholds

For the reasons just discussed, it is not possible to select specific thresholds without first identifying the minimum sets of applications that should be available to consumers. Different applications require that the underlying service have different performance characteristics. As also discussed, the Commission's goal should be to identify a basic minimum acceptable threshold. It is unclear why multiple, escalating thresholds are necessary at this time to advance the universal connectivity goals Congress articulated.¹³ Services that exceed the minimum thresholds will still be deployed, and incentivizing them may be a very legitimate policy goal. But the immediate goals of the Recovery Act are more practical: Congress charged the Commission with ensuring 100% broadband availability and enabling 100% broadband adoption, both of which require a broadband definition that sets a baseline threshold that all Americans have a right to expect.

¹² Whatever parameters are set should likely measure performance from the access link to the customer, since no carrier can control the full "end-to-end path." See *Public Notice* at 3.

¹³ *Public Notice* at 3.

III. Updates

The Internet and the services and devices used to access it are constantly evolving, as are consumer expectations. Over time, the set of applications deemed to be essential for all Americans will no doubt expand and change. Higher speeds may, in fact, become a basic necessity; the way we conduct business and run our economy may become more dependent on real-time video or VoIP. That future evolution should not stand in the way of unserved or underserved Americans getting what they need *today*, however. Here, the Commission should define broadband in a way that facilitates achievement and evaluation of *immediate* progress towards universal connectivity. But over time, the Commission should revisit that analysis in order to make recommendations about what, if anything, needs to be done to move the country on to the next phase in broadband communications.

The Commission's pre-existing Section 706 inquiry process provides a ready-made vehicle for conducting this analysis. That process provides the Commission with the opportunity to evaluate the types of services that providers offer, the relevant thresholds and how prevalent they have become, and whether disparities exist in terms of which Americans have access to certain services. Further, as AT&T has suggested elsewhere,¹⁴ Census Bureau surveys could be modified to seek consumer views on the services that Americans want and need.

¹⁴ See, e.g., *AT&T Broadband NOI Comments* at 34-35.

Respectfully Submitted,

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