

REDACTED – FOR PUBLIC DISCLOSURE

**Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of)	
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)	
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)	GN Docket No. 09-137
All Americans in a Reasonable and Timely)	
Fashion)	

COMMENTS OF AT&T INC. – NBP PUBLIC NOTICE # 19

Cathy Carpino
Christopher Heimann
Gary L. Phillips
Paul K. Mancini

AT&T Services, Inc.
1120 20th Street, N.W.
Suite 1000
Washington, D.C. 20036
(202) 457-3046 - telephone
(202) 457-3073 - facsimile

December 7, 2009

Its Attorneys

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Congress has charged the Commission with achieving an ambitious yet plainly achievable goal: ubiquitous broadband for all people of the United States.¹ One of the most potent tools that the Commission has available to help it reach this goal is its universal service support mechanisms. Although these mechanisms were designed for a bygone era and a different objective (i.e., ensuring the nationwide availability of plain old telephone service (POTS)), AT&T believes that the Commission can and should overhaul them – its high-cost and low-income support mechanisms, in particular – and refocus them to support the deployment of broadband infrastructure in unserved areas and to facilitate broadband adoption by extending the Commission’s low-income programs to broadband service. As it seems to acknowledge in this public notice, the Commission cannot dramatically alter its distribution mechanisms – as it should – without fundamentally changing the contribution methodology used to fund those mechanisms. While the task may seem daunting, AT&T has been urging comprehensive universal service reform for a number of years and has filed detailed blueprints with the Commission on how it could modernize both its distribution and contribution mechanisms for the 21st Century. AT&T Inc., on behalf of its affiliates, is pleased to share its recommendations in response to this most recent notice on reforming universal service.

¹ 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).

1. **Size of the Universal Service Fund.**

a. Is the relative size of funding for each support mechanism appropriate to achieve the objective of universalization of broadband?

It is difficult for any party to respond in any meaningful way to this question without knowing what precisely the Commission's broadband objectives are, how quickly it wants to achieve them, and how it proposes to transition legacy universal service support to any new broadband-focused mechanism. While it is possible that the current funding levels for the Commission's existing universal service support mechanisms may be adequate to meet the policy makers' goal of ubiquitous broadband, these mechanisms have been sized for different purposes and, thus, any relation between the current fund size and what might be the appropriate level of funding for broadband-focused programs would be purely accidental.² Instead of beginning its analysis with fund size, AT&T suggests that the Commission should first define its policy objectives, including the speed with which it hopes to achieve them. Once the Commission identifies its broadband goals, it can then have a meaningful discussion about how much additional funding, if any, is necessary to achieve those goals and whether and how the Commission should modify its objectives on account of any anticipated increased funding demands.

b. Some commenters have urged the Commission to take actions that would increase the size of one or more of the support mechanisms, while others have suggested the total fund size should remain the same. To the extent commenters believe funding should be significantly increased for one or more of the support mechanisms, they should address whether they believe funding should be reduced in other mechanisms, and if so, how such changes would advance the goal of universalization of broadband?

AT&T does not support reductions in funding to any particular universal service support mechanism in order to offset any increase in funding to another universal service program. Indeed, AT&T opposes the suggestion made by some that the Commission should eliminate competitive eligible telecommunications carrier (CETC) support altogether and shift all of that legacy support, which is provided mostly to mobile wireless providers, to wireline providers. As AT&T has explained previously, any flash cut in CETC support is inconsistent with section 254(b);³ accordingly, the Commission should transition such support to a new Advanced Mobility Fund.⁴ If the Commission

² As such, the current funding levels may be insufficient to satisfy the universal service principles in section 254(b) of the Communications Act of 1934, as amended (Act), after the Commission refocuses its existing programs to ones that support the deployment of broadband service.

³ See, e.g., Comments of AT&T Inc., *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, WC Docket No. 05-337 and CC Docket No. 96-45, at 23-24, 40 (filed Apr. 17, 2008) (*AT&T April 2008 Comments*); Comments of AT&T Inc., *High-Cost Universal Service Support*, WC Docket No. 05-337 (and related proceedings), at 42-43 (filed Nov. 26, 2008) (*AT&T USF/Intercarrier Compensation Reform FNRPMs Comments*). Since we refer frequently to the *AT&T April 2008 Comments* in this filing, we attach a copy of these comments as Appendix A to facilitate Commission staff review.

⁴ *AT&T April 2008 Comments* at 23-24.

determines that it should significantly increase one or more of its support mechanisms to meet its broadband goals, it must recognize that it can do so through only one of two ways: dramatic offsets to other programs or a fundamental overhaul to its universal service contribution methodology, and that contribution methodology reform clearly is preferable.

2. Contribution Methodology.

With a contribution factor expected to surpass 14 percent in January,⁵ there can be no credible argument for maintaining the Commission's current revenues-based contribution methodology. As we noted in our July 2009 petition urging the Commission to take immediate action to reform its universal service contribution methodology,⁶ the Commission must ask itself how a contribution factor that is approaching 15 percent can be considered consistent with the Commission's statutory mission and the fundamental goal of universal service: ensuring that all Americans have access to affordable communications services.⁷ That the factor would continue its upward trajectory should not surprise anyone since the funding base – comprised of interstate telecommunications revenues – continues to shrink while the funding demand continues to increase. For years, AT&T and many others have warned the Commission about the consequences of these entirely predictable events and have urged the Commission to abandon its revenues-based methodology in favor of a contribution base that is stable, such as one based on telephone numbers or telephone numbers and connections. Merely expanding the contribution base to include intrastate telecommunications revenues, which would require a legislative change to section 254, is not the panacea that some would lead the Commission to believe and it raises a host of other thorny problems that the Commission would have to address.⁸

As we have explained previously, under today's interstate telecommunications revenues-based methodology, the Commission and providers can have little assurance that competitors are contributing to the universal service fund on the same basis, as required by the statute and the Commission's competitive neutrality principle.⁹ It is no simple matter for a provider, particularly a provider of

⁵ Based on the Universal Service Administrative Company's (USAC's) most recent filings, the contribution factor will be 14.1 percent on January 1, 2010. See Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for First Quarter 2010, available at <http://www.usac.org/about/governance/fcc-filings/2010/Q1/1Q2010%20Quarterly%20Demand%20Filing.pdf>; Universal Service Administrative Company, Federal Universal Service Support Mechanisms Quarterly Contribution Base for First Quarter 2010, available at <http://www.usac.org/about/governance/fcc-filings/2010/Q1/1Q2010%20Contribution%20Base%20Filing.pdf>.

⁶ AT&T Petition for Immediate Commission Action to Reform Its Universal Service Contribution Methodology, WC Docket No. 06-122 (filed July 10, 2009) (*AT&T Contribution Methodology Reform Petition*).

⁷ See 47 U.S.C. §§ 151, 254.

⁸ See, e.g., *AT&T Contribution Methodology Reform Petition* at 9-10.

⁹ *AT&T Contribution Methodology Reform Petition* at 16-17; 47 U.S.C. § 254(d); *Universal Service First Report and Order*, 12 FCC Rcd 8776, ¶ 47 (1997) (subsequent history omitted) (establishing the Commission's competitive neutrality principle).

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complex business services, to determine whether particular services are information or telecommunications services and/or to identify the assessable interstate telecommunications components of a bundled service offering. Competitors' good faith interpretations are likely to vary, resulting in providers contributing proportionally different amounts for the same service.¹⁰ As the contribution factor continues to skyrocket, competitors will have a greater incentive to adopt aggressive interpretations of their contribution obligations in an effort to minimize the amount of their contributions.

Last year, AT&T and Verizon filed with the Commission a telephone numbers-based contribution methodology proposal to fund the universal service support mechanisms, telecommunications relay service, and the other funds and fees that rely on revenue information provided on contributors' FCC Forms 499-A.¹¹ In support of this proposal, we filed data demonstrating that, if the Commission adopted this telephone numbers-based proposal, the per telephone number assessment would be about \$1.00/month and residential consumers would pay less on average in federal universal service fees than they do today.¹² This filing detailed both the assumptions and the sources for the data that support these numbers and, for ease of review, we append it to these comments.¹³

In October 2008, AT&T and Verizon offered a connections component to their previously filed telephone numbers proposal.¹⁴ AT&T subsequently suggested a modification to that proposal on October 29, 2008.¹⁵ A contribution methodology that includes some form of connections component has the potential, depending upon how it is designed, to expand the universal service funding base in a manner that more closely reflects the changing cast of providers who benefit from the shift to broadband. AT&T recommends that the Commission use these October 2008 numbers and connections filings as its starting point for developing a new contribution methodology

As the Commission proceeds with developing a new contribution methodology, it should ensure that any such methodology is consistent with its national broadband policy goals of promoting the

¹⁰ See, for example, the record developed in response to *Comment Sought on Request for Universal Service Fund Policy Guidance Requested by the Universal Service Administrative Company*, WC Docket Nos. 05-337, 06-122, CC Docket No. 96-45, Public Notice, DA 09-2117 (rel. Sept. 28, 2009).

¹¹ Letter from Mary L. Henze, AT&T, and Kathleen Grillo, Verizon, to Marlene Dortch, FCC, WC Docket No. 06-122 and CC Docket No. 96-45 (filed Sept. 11, 2008) (September 11, 2008 *Ex Parte*).

¹² Letter from Mary L. Henze, AT&T, and Kathleen Grillo, Verizon, to Marlene Dortch, FCC, WC Docket No. 06-122 and CC Docket No. 96-45 (filed Sept. 23, 2008) (September 23, 2008 *Ex Parte*).

¹³ See Appendix B.

¹⁴ Letter from Mary L. Henze, AT&T, and Kathleen Grillo, Verizon, to Marlene Dortch, FCC, WC Docket No. 06-122 and CC Docket No. 96-45 (filed Oct. 20, 2008).

¹⁵ Letter from Mary L. Henze, AT&T, to Marlene Dortch, FCC, WC Docket No. 06-122 and CC Docket No. 96-45 (filed Oct. 29, 2008).

deployment and adoption of broadband services. In this regard, AT&T suggests that contribution reform should seek to expand the funding base by more closely aligning the contribution obligation to the service providers that are benefitting from the deployment of broadband service and the corresponding exponential growth of the Internet. Thus, the Commission should not impose the contribution obligation solely on network providers that have taken on the task of deploying the broadband infrastructure; instead, the Commission should consider expanding the contribution obligation to providers that operate in service layers that ride the basic broadband Internet access services.

- a. Commenters should explain how their preferred solution would impact end users, who ultimately bear the cost of universal service through carrier pass-through charges. Commenters should identify with specificity all assumptions.**

The AT&T and Verizon contribution proposal is designed to minimize the impact of USF requirements on residential consumers in a number of ways. First, the per telephone/connection charges under the methodology would be reasonable. In the September 23, 2008 *Ex Parte*, AT&T and Verizon demonstrated that, under their proposal, the per telephone number assessment would be \$1.07 per month with the wireless family plan transitional discount and \$1.01 per month without the wireless family plan transitional discount.¹⁶ Under AT&T's October 29, 2008 connections proposal, the per telephone number assessment would be fixed (illustratively at \$0.85/month) and connections would be assessed via a tiering system based on the connection's capacity: in Tier 1, dedicated connections up to and including 25 mbps would be assessed at \$2.00 per connection per month; in Tier 2, dedicated connections over 25 mbps up to and including 100 mbps would be assessed at \$15.00 per connection per month; and in Tier 3, dedicated connections over 100 mbps would be assessed at \$250.00 per connection per month. While the exact per unit assessment rates would vary depending upon the details of the methodology the Commission ultimately adopts, these figures should provide confidence that a plan similar to the AT&T/Verizon proposal would result in reasonable charges to customers.

Second, the design of the contribution proposal and the inherent stability of a number/connection base will result in fewer modifications to consumers' universal service line-item charges and thus less consumer confusion. As proposed, the Commission would recalculate the per number/connection charge only twice a year and it is possible that this interval could be reduced to once a year. Third, consumers will be able to understand for the first time how their universal service line-item charge is calculated: per telephone number and connection assessment multiplied by the number of telephone numbers and connections they have. The predictability and transparency of a numbers- and connections-based methodology will enable consumers to better manage their telecommunications spending. Plainly, this is not the case under today's interstate telecommunications revenues-based methodology, where the quarterly contribution factor can fluctuate wildly from quarter to quarter. The burden that the unpredictability of the Commission's current methodology imposes on consumers cannot

¹⁶ In the September 11, 2008 *Ex Parte*, AT&T and Verizon suggested that the Commission could assess non-primary numbers associated with wireless family share calling plans at 50 percent of the per telephone number charge for a transition period. The primary number associated with these plans would be assessed the full telephone number charge. See September 11, 2008 *Ex Parte*, Direct USF Contribution Methodology at 4.

be overstated. If the Commission decides to increase dramatically the size of the universal service fund to support its broadband initiatives using today's interstate telecommunications revenues-based contribution methodology, doubling (for example) the first quarter 2010 funding demand (from \$2.106 billion to \$4.212 billion) would result in a whopping 33 *percent* contribution factor. This sticker shock would drive consumers (residential and business alike) to abandon traditional telecommunications services in droves in favor of services and technologies that minimize or bypass universal service contribution obligations.

b. Commenters should specify how any proposed modifications would alter the relative share of contributions borne by residential consumers as opposed to business consumers.

Under the current revenues-based methodology, residential consumers pay approximately 48 percent of the universal service fund through fees levied by their interstate telecommunications providers and business customers pay approximately 52 percent.¹⁷ If the Commission adopted a telephone numbers-based methodology as proposed by AT&T and Verizon, the share of contributions borne by residential consumers would drop to 42 percent if the Commission adopts a transitional wireless family plan discount and 45 percent if the Commission does not adopt a wireless family transitional discount.¹⁸

If Congress authorized the Commission to assess contributors based on intrastate revenues, and the Commission were to retain a revenues-based contribution methodology, residential consumers would pay approximately 55 percent of the total universal service fund – a full 10 percentage points more than they would under a telephone numbers-based methodology.¹⁹ By contrast, business customers would receive a break in the form of a lighter contribution obligation if the Commission were permitted to adopt an all-telecommunications revenues methodology.

c. Commenters should address the anticipated impact of universal service pass-through charges under different contribution methodologies on residential households with different consumption characteristics, such as (i) a household with landline voice service, low interstate usage, and no broadband connection, (ii) a household with landline voice service, moderate interstate usage, an average wireless plan, and a broadband connection; and (iii) a household with landline voice service, a wireless family plan with five lines, and a broadband connection. Commenters should specify all assumptions.

In the September 23, 2008 *Ex Parte*, AT&T and Verizon modeled both the residential consumer impact of the proposed telephone numbers-based methodology and the current revenues-based methodology on wireline and wireless subscribers with low, medium, and high long distance usage.

¹⁷ September 23, 2008 *Ex Parte* at Table 1.

¹⁸ *Id.* at Table 2.

¹⁹ *See* Appendix C.

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That information is contained in Table 4 of the filing. The comparison showed that, with the exception of wireline customers with no interstate long distance usage or low (i.e., \$2.50) interstate long distance usage, residential consumers would fare better under a telephone numbers-based assessment. That comparison assumed a contribution factor of 11.4 percent. However, using the anticipated first quarter 2010 contribution factor of 14.1 percent, low-volume interstate long distance wireline users would see a reduction in universal service fees under a telephone numbers-based methodology and the monthly difference between the two methodologies for a wireline customer with no interstate long distance calling shrinks to a *de minimis* \$0.16/month (assuming a \$1.01 per telephone number charge) and \$0.22/month (assuming a \$1.07 per telephone number charge).

Ironically, one of the early criticisms of a telephone numbers-based assessment was that low-volume users of interstate telecommunications services would pay dramatically more than they do under the current interstate revenues-based methodology. While AT&T has demonstrated that this concern is unfounded,²⁰ expanding the contribution base to include intrastate revenues *would* increase low-volume users' federal universal service contributions.²¹ Moreover, if the Commission were permitted to modify the contribution base to include intrastate telecommunications revenues, that modification would expand the base only in the short term as telecommunications service revenues as a whole are stagnant and will likely decline in the long term.²²

In this question, the Commission asks commenters to address the impact of different contribution methodologies on residential households that have certain consumption characteristics, including households that have a broadband connection. AT&T and Verizon did not include residential broadband connections in their telephone numbers and connections proposals. Based on the Commission's most recent data, there are an estimated 79 million residential broadband connections.²³ If the Commission were to apply the same assessment of \$1.01/month on both telephone numbers and residential broadband connections, the inclusion of mass market residential broadband connections in the contribution base would raise an additional \$957 million per year.

²⁰ See September 23, 2008 *Ex Parte*.

²¹ Under today's methodology, a wireline residential consumer who makes only local calls would still contribute indirectly to the federal universal service fund based on the consumer's subscriber line charge (SLC) (i.e., 14.1 percent of no more than \$6.50/month). If the Commission were to begin assessing a provider's intrastate telecommunications service revenues, that consumer's provider would recover its contribution costs by applying a federal universal service fee to that consumer's intrastate telecommunications charges (e.g., \$15 for the consumer's basic local rate), which would be in addition to the federal universal service fee calculated on the consumer's SLC.

²² See, e.g., Letter from Jamie M. (Mike) Tan, AT&T, to Marlene H. Dortch, FCC, WC Docket No. 06-122 (filed Aug. 10, 2009) (demonstrating that wireless telecommunications service revenues have propped up the federal fund over the past several years). Wireless telecommunications service revenues are projected to level off in the next few years while wireless information services, which are outside of the contribution base, will continue to grow.

²³ *High-Speed Services for Internet Access: Status as of June 30, 2008*, Industry Analysis and Technology Division, Wireline Competition Bureau, Table 3 (July 2009), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-292191A1.pdf.

3. Transitioning the Current Universal Service High-Cost Support Mechanism to Support Advanced Broadband Deployment.

- a. One option would be to maintain the existing universal service programs on a transitional basis to support operating expenses of legacy voice-only networks, but that all new investment would be supported from a new broadband fund.**
 - i. What would be an appropriate transition plan and path to the new broadband fund?**

For several years, AT&T has recommended that the Commission use its universal service support mechanisms to provide incentives for the deployment of broadband infrastructure in currently unserved areas.²⁴ Indeed, AT&T believes that, to give full meaning to all of the principles in section 254(b), the Commission is required to refocus its high-cost mechanisms from supporting POTS to supporting broadband infrastructure and services.²⁵ Rather than merely increasing the existing high-cost mechanisms' funding for this purpose, AT&T proposed the establishment of two new broadband funds (one for fixed networks and the other for mobile wireless networks) and the mechanism by which legacy funding would transition to the new funds.²⁶ As AT&T has detailed in numerous filings over the years, the Commission's existing high-cost mechanisms – the so-called “non-rural” high-cost mechanism in particular – are deeply flawed²⁷ and simply throwing more money at these mechanisms for broadband would do nothing to support broadband service in areas that do not receive high-cost funding today.²⁸ For example, AT&T serves over one-quarter of all rural lines in this country yet receives high-cost model support in only three of its 22 ILEC states. Adding broadband to the list of supported services without changing the structure of the non-rural high-cost support mechanism would do nothing to provide AT&T the incentive and ability to expand its deployment of broadband in rural and other high-cost areas in which such deployment is not economic today. Plainly, tinkering with the existing mechanisms will not be sufficient to achieve ubiquitous broadband.

AT&T's proposal to transition legacy CETC support to its proposed Advanced Mobility Fund is simple and should be adopted without delay: the Commission should reduce existing CETC support by

²⁴ Comments of AT&T Inc., *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, WC Docket No. 05-337 and CC Docket No. 96-45 (filed May 31, 2007); Reply Comments of AT&T Inc., *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, WC Docket No. 05-337 and CC Docket No. 96-45 (filed July 2, 2007); *AT&T April 2008 Comments*.

²⁵ See Comments of AT&T Inc., *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, WC Docket No. 05-337 and CC Docket No. 96-45 (filed May 8, 2009) (*AT&T Tenth Circuit USF NOI Comments*).

²⁶ See generally *AT&T April 2008 Comments*.

²⁷ See, e.g., *AT&T Qwest II NPRM Comments*, WC Docket No. 05-337, CC Docket No. 96-45 (filed April 3, 2006).

²⁸ See *AT&T Tenth Circuit USF NOI Comments*.

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20 percent each year and transition that legacy support to the Advanced Mobility Fund.²⁹ For price cap ILECs, AT&T suggested that the Commission transition legacy ETC support to the new Broadband Incentive Fund (for fixed network providers) once a price cap carrier receives full retail pricing deregulation from the state.³⁰ Since AT&T filed this proposal last year, others have suggested more aggressive transitions of legacy ILEC funding. For example, OPASTCO recently recommended that all legacy rate of return ILEC high-cost support be eliminated at the end of seven years and transitioned to a new broadband fund. Under OPASTCO's proposal, a rural carrier could opt in to the new funding mechanism at any time during that seven year period.³¹ At the end of that seven-year period, the "public switched telephone network is fully converted to a broadband network."³² Additionally, Commission staff seemed to suggest that there should be a transition from the PSTN to broadband-only facilities during its national broadband plan presentation in September.³³ In its discussion about the implications of the transition to broadband on the PSTN, Commission staff noted that the "[r]egulatory frameworks designed for the old must be actively reshaped" and the Commission must "[r]edirect resources from propping up the old to efficiently encouraging the new (USF, intercarrier comp...)." ³⁴

So long as the transition from legacy wireline high-cost support to the new broadband fund satisfies the universal service principles of section 254(b) (e.g., by ensuring that support is specific, predictable, and sufficient during the transition as required by section 254(b)(5)), AT&T would be supportive of a more well-defined and aggressive transition than the one it proposed in April 2008. Indeed, AT&T believes that it is appropriate for the Commission to view the length of the transition from POTS to broadband services and from the PSTN to broadband-only infrastructure as one of several dials that it should set when it reforms its universal service and intercarrier compensation regimes. Establishing an aggressive transition period (e.g., two years) might further the Commission's broadband goals but could fail to satisfy at least some of the principles in section 254(b). On the other hand, establishing a more lengthy transition (e.g., ten years) may provide more predictable support, but at the expense of slowing the achievement of policy makers' broadband objectives. In addition, because of the

²⁹ *AT&T April 2008 Comments* at 23-24.

³⁰ *Id.* at 22-23. By contrast, NCTA recently suggested that a carrier lose its high-cost support once it receives partial – not full – pricing flexibility. See *NCTA Petition for Rulemaking, Reducing Universal Service Support in Geographic Areas That Are Experiencing Unsupported Facilities-Based Competition* at 16 (filed Nov. 5, 2009) ("the deregulation trigger may be satisfied even in states that continue to require a stand-alone local service at regulated rates."). Moreover, unlike AT&T's proposal, NCTA would not redirect legacy wireline high-cost support to a broadband fund for fixed network providers. Instead, NCTA recommends that the Commission reduce the overall size of the universal service fund by such amounts. Thus, NCTA's proposal would not only harm ILECs, it would delay the deployment of broadband infrastructure to high-cost areas.

³¹ Letter from Stuart Polikoff, OPASTCO, to Marlene H. Dortch, FCC, GN Docket No. 09-51, WC Docket No. 05-337 and CC Docket Nos. 96-45, 01-92, at 2 (filed Oct. 5, 2009).

³² *Id.*

³³ See Presentation, September Commission Meeting, 141 days until Plan is due, at 77 (dated Sept. 29, 2009), available at http://www.fcc.gov/openmeetings/2009_09_29-ocm.html.

³⁴ *Id.*

flaws in the current contribution methodology, described above, the Commission cannot expedite the transition by simply increasing the size of the universal service fund by billions of dollars to target broadband funding to unserved areas without vastly increasing the burden on consumers.³⁵ As AT&T has explained previously, doing so would jeopardize the affordability of communications service and, thus, violate other principles of section 254(b).³⁶

- ii. **What percentage of overall universal service high-cost support already is being used to upgrade infrastructure that can provide broadband service? For instance, what percentage of funding is being used to extend fiber deeper into networks, condition loops, install soft-switches, deploy advanced wireless technology, and perform other network upgrades to support broadband under the Commission’s “no barriers to advanced services” policy? Conversely, what percentage of existing support is being used to support voice service over networks that are not broadband-capable?**

Several of AT&T’s ILECs that receive high-cost model support (AT&T Alabama and AT&T Mississippi) file certain information with their state commissions regarding their use of this support (e.g., listing network infrastructure projects). In Alabama and Mississippi, the state commissions require AT&T to submit both annual and quarterly filings detailing how federal high-cost support will be used (i.e., the annual filing, subject to state commission approval) and how the support to be used for network infrastructure projects was, in fact, spent (i.e., quarterly filings). While much of this information, which includes the locations of newly deployed equipment, is proprietary and is kept confidential by the state commissions, certain information is made public. For example, each year, the Alabama Public Service Commission files with the Commission a copy of its order approving AT&T Alabama’s and other ILECs’ proposals for utilization of all federal high-cost support for which they will be eligible in the upcoming year. In its most recent filing, the Alabama PSC approved AT&T Alabama’s proposal to spend \$15 million on loop infrastructure improvements and \$0.5 million on switching infrastructure improvements. In particular, AT&T Alabama proposed to spend \$14 million to deploy loop fiber and next generation digital loop carrier (NGDLC).³⁷ The Alabama PSC’s order contains similar information for CenturyLink, the other non-rural carrier operating in Alabama. In Mississippi, AT&T Mississippi files an annual plan for utilization of high-cost funding. In its most recent plan, AT&T proposed to spend approximately 50 percent of its anticipated high-cost funding on deploying loop fiber and NGDLC.³⁸

³⁵ See response to question 2.a. *supra*.

³⁶ See, e.g., 47 U.S.C. § 254(b)(1).

³⁷ Letter from Alabama Public Service Commissioners to Marlene H. Dortch, FCC, CC Docket No. 96-45, Attachment (Further Report and Order) at 2 (filed Sept. 28, 2009).

³⁸ Upon Commission request, AT&T will provide the Commission with copies of AT&T’s confidential state filings.

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It is important to note that the Commission’s “no barriers to advanced services” policy referenced in the question applies only to rural carriers.³⁹ While the Commission noted in its *Rural Task Force Order* that any specific policies it adopts with respect to advanced services “should apply uniformly to all [LECs], rather than as part of a transitional high-cost support mechanism for rural carriers,” over eight years later, the Commission has neglected to extend its “no barriers” statements expressly to non-rural carriers.⁴⁰ The Commission’s silence has raised questions about the appropriateness of non-rural carriers expending high-cost model support on certain facility upgrades and has likely impeded such carriers’ “deployment of modern plant capable of providing access to advanced services.”⁴¹

- b. If the high-cost support mechanism is reformed to support deployment of broadband, how should the new mechanism be structured, e.g., a single fund or multiple funds (mobility and/or fixed, middle mile, last mile)? Through what mechanism or by what criteria should funding be awarded? What would be the impact of designing a broadband support mechanism so that a provider’s competitive loss of a subscriber results in the loss of associated funding?**

As it proposed in April 2008, AT&T continues to believe that there is merit to having separate funds to support advanced mobility service providers and fixed network broadband providers. In that filing, AT&T detailed the criteria that the Commission could use in awarding project-based funding.⁴² We do not repeat that discussion here. Instead, we ask that the Commission incorporate that filing into the instant proceeding. In addition, AT&T suggests that the Commission consider experimenting with broadband-focused pilot programs that are designed to achieve different goals or address different gaps (e.g., low adoption rates where broadband facilities already exist). For example, in addition to establishing funds to support the deployment of broadband infrastructure in unserved areas (*see AT&T April 2008 Comments*), the Commission could create pilot programs that, for example, defray a rural carrier’s middle mile costs, connect anchor institutions and cell sites via a fiber ring or support a low-income broadband end-user customer’s purchasing power. These pilot programs need not be trialed nationally but, instead, could be targeted to one or two regions of the country per pilot. The criteria for awarding funding under these pilot programs would (and should) obviously vary. Additionally, it is important that the Commission promptly review the effectiveness of any pilot program that it may adopt to gauge its success and determine whether it should be expanded to other areas where the same problems or gaps exist.

Finally, the Commission seeks comment on the impact of designing a methodology that results in a provider losing support as it loses a subscriber. The Commission should realize, based on its experience with supporting POTS facilities, that the loss of a subscriber to a competitor does not

³⁹ *Rural Task Force Order*, 16 FCC Rcd 11244, ¶¶ 199-201 (2001).

⁴⁰ *Id.* at ¶ 201.

⁴¹ *Id.* at ¶ 200.

⁴² *See, e.g., AT&T April 2008 Comments* at 10-21.

necessarily result in a corresponding decrease in a provider's actual costs because that provider still must maintain its existing network to fulfill any carrier of last resort (COLR) or other service obligations. AT&T has no reason to believe that this outcome would be any different in a broadband environment. Moreover, while the premise of this Commission question may have a superficial appeal, it is important to note that so long as certain providers – namely, ILECs – have state-imposed COLR obligations, reducing that ILEC's support as it loses subscribers to competitors may cause its high-cost funding to become insufficient for it to continue providing service in that high-cost area, in possible violation of section 254(b)(5). This would occur because it is likely that competitors would target the more densely populated areas of an ILEC's service territory, leaving the ILEC to serve, as it must, the least densely populated areas. ILECs have already experienced such competitive targeting of customers in urban and suburban areas and there is no reason to believe that such entirely rational behavior by competitors, not bound by any COLR obligation, would not occur in rural areas too. It is entirely possible that an incumbent's costs to serve just the least economic areas of its service area that are untouched by competition may be higher than its current costs to serve a much larger area.⁴³

AT&T has suggested that a service provider that elects to take universal service high-cost funding to deploy broadband service to an unserved area should have an obligation to serve *that area* for a specified period of time.⁴⁴ The support available to that provider thus should correspond to the area in which the provider has accepted the obligation to serve and not the number of subscribers or lines it serves in that area at any given time. As a result of this project-based methodology, the support available to that provider should not be affected by the gain or loss of additional lines (whether by demographic trends or the entry of a competitor).

- c. Would the size of any broadband funding mechanism be appreciably different if support were calculated based on a forward-looking cost model designed to calculate the lowest total cost of ownership on a technology-neutral basis, as opposed to individual provider submission of actual costs? Response should identify all assumptions.**

It is difficult to respond to such a query in a vacuum. In crafting its methodology to award support for the deployment of broadband infrastructure, the Commission should be guided by the following goal: to incent a private entity to offer broadband Internet access service in an unserved area where it is otherwise uneconomic to do so while providing the amount of support necessary for that entity to meet its Commission-defined obligation to serve. In striking this balance, the Commission should be careful not to undervalue the importance of providing adequate incentives for providers to enter unattractive markets to provide broadband service. If the Commission is to achieve its national broadband goals, these incentives should be sufficient and well crafted. As noted above, AT&T encourages the Commission to experiment through the use of pilot programs. As part of that experimentation, the Commission could fund the winning applicants of one pilot program through cost

⁴³ In its petition for rulemaking, NCTA assumes continued averaging of high-cost support over a large area and disregards the fact that providing this support on a disaggregated basis could result in the same or, more likely, higher support.

⁴⁴ See, e.g., *AT&T April 2008 Comments* at 11.

model-based support and the winning applicants of another pilot program based on their actual cost submissions. In addition, the Commission could consider clearly defining and potentially limiting the types of actual costs that can be submitted for support.

- d. The current high-cost support mechanism provides a return on net investment (currently 11.25 percent) for rate-of-return carriers, but does not provide direct reimbursement for capital expenditures (capex). Should high-cost broadband funding be limited to supporting a direct one-time reimbursement for new capital expenditures, or should it support both capital and operational expenses? If a new broadband fund did not support broadband operational expenses, how would carriers distinguish between legacy expenses and broadband expenses? If commenters believe support for ongoing operational expenses is necessary, explain why.**

This is yet another area where the Commission could experiment in an effort to determine what works best: for certain pilot programs, the Commission could fund capital expenses only and for other pilot programs, the Commission should support both capital and operational expenses. The Commission should recognize, however, that there are some high-cost areas that would become “unserved” without ongoing operational expense support and thus it should consider adopting some process that would enable a provider to demonstrate that ongoing support is necessary.⁴⁵

- e. If a new high-cost broadband mechanism were to consider all revenues derived from the upgraded plant, what would be the impact and how should those revenues be used in the calculation of support?**

If the Commission adopts AT&T’s proposal to award project-based support through a competitive application process (i.e., applicant identifies the amount of support it requires to meet the Commission’s service obligations in a defined geographic area), it need not concern itself with this issue. Similarly, if the Commission adopted a forward-looking broadband cost model to award support, this Commission proposal is unnecessary. For rate of return carriers, however, the issue raised by this question is one that the Commission will have to address (i.e., what is the appropriate manner in which to allocate the loop and other facilities necessary to provision broadband service).

- f. In disbursing support under a high-cost broadband mechanism, should the Commission take into account broadband grants issued by NTIA or RUS, and, if so, how?**

The Commission certainly should coordinate with other federal agencies and departments when identifying “unserved” areas since it is possible that an area may be unserved today but some entity may have received a grant from NTIA, for example, to build out broadband facilities in part or all of that area in the near future. AT&T has previously suggested that the Commission serve as the repository of

⁴⁵ See, e.g., *AT&T April 2008 Comments* at 21 (suggesting that the Commission establish a process by which a carrier could apply to have a “served” area be declared “unserved” in order to continue receiving support).

information about which entities have received or are receiving federal dollars for broadband build-out and for which geographic areas, regardless of which federal government organization provided the funding.⁴⁶ It is essential that the numerous federal agencies not provide duplicative funding, and thus waste precious taxpayer dollars. For this same reason, AT&T also recommended that the Commission work with the states to obtain similar information concerning state funding for broadband. Finally, the Commission should require applicants for broadband support to identify all sources of government funding (including any state-awarded grants) and provide the details of such funding (e.g., locations where the provider committed to deploying broadband facilities or offering broadband services as a condition of the grant) on their applications.

- g. One option for a broadband mechanism would be to more narrowly target universal service high-cost support to smaller geographic areas and to areas in which broadband service is not available today from any provider. If the Commission were to develop a new broadband support mechanism that is targeted at such areas, what would be the appropriate geographic area for determining the appropriate amount of support? What would be the impact of basing support on the cost of providing broadband in a wire center, a Census Block, a Census Tract, or an area defined by the proposed broadband provider? Explain why the proposed geographic area is preferable to alternatives, and how that would impact the overall size of the high-cost fund. Should the presence of one broadband service provider using any technology preclude support to any provider, or might support still be targeted to a provider offering features that are not available from the existing service, e.g., a mobile broadband service provider where only fixed broadband service is available?**

AT&T supports targeting and calculating high-cost support in a dramatically more geographically precise manner than is done today under the Commission's rules (e.g., statewide averaging for non-rural carriers). For fixed network providers, AT&T suggests that the Commission consider the Census Block within a wire center to be the appropriate geographic area when identifying unserved areas. Under AT&T's proposed competitive application process, applicants would apply to make broadband service substantially available to households in the unserved Census Block(s) within a wire center. Additionally, if the Commission were to apply a broadband forward-looking cost model, the model would calculate the amount of support necessary to serve that unserved Census Block within a wire center. In the *AT&T April 2008 Comments*, AT&T suggested that the Commission permit the first applicants to self-identify unserved areas because we assumed that it would take a number of years for the Commission and other entities to complete their broadband mapping initiatives.⁴⁷ If the Commission completes this mapping effort soon, there is no need for a fixed network applicant to propose some other geographic area. On the other hand, since the service areas covered by mobile wireless providers' licenses bear no relationship to ILEC wire centers, AT&T continues to believe that it

⁴⁶ See AT&T Inc. Comments, *Report on Rural Broadband Strategy*, GN Docket No. 09-29, at 2-3 (filed March 25, 2009).

⁴⁷ *AT&T April 2008 Comments* at 13, 15.

is appropriate for mobile wireless providers to select those unserved areas in which they seek to provide service.⁴⁸

The Commission also seeks comment on whether the presence of one broadband provider, regardless of technology, should preclude support to any provider in that geographic area. As we explained in the *AT&T April 2008 Comments*, we believe that the Commission should consider funding *both* mobile wireless broadband providers and fixed network broadband providers to provide service in areas that are unserved by each of those technologies since these providers serve different functions. For fixed network providers, an unserved area is a Census Block or part of a Census Block that does not have at least one fixed network broadband provider. This is an area where the Commission should consider providing high-cost broadband support in order to incent a broadband provider to enter that market. In addition to targeting high-cost support to areas that are unserved by broadband providers, the Commission should recognize that fixed network providers who currently serve such rural areas are relying upon not just explicit high-cost payments but the implicit subsidies contained in their rapidly disappearing intercarrier compensation payments. Because of the low population and limited revenue opportunity these areas offer, the loss of both intercarrier payments and legacy high-cost support could render these carriers incapable of maintaining broadband service. Continuing high-cost support may be necessary to ensure that these served areas do not fall backward and become unserved.

h. What would be the impact of capping the funding available under such mechanisms? How should any such cap be calculated, and should it apply on a per-carrier basis, or to a geographic area, and why?

Like the first question posed by the Commission in this public notice, AT&T believes that it is premature to discuss capping broadband support mechanisms when the Commission has not even decided what its broadband objectives are or how quickly to achieve them.

i. Certain ETC requirements today are premised on the provision of voice service. If the Commission were to create a new high-cost support mechanism for broadband, should current ETC requirements be revised, and if so, how?

Certainly, many of the Commission's nine supported functionalities and services⁴⁹ are obsolete in a broadband world where voice is simply one of many applications. In the *AT&T April 2008 Comments*, AT&T suggested that broadband funding recipients should provide not only the supported service (broadband) but also access to voice communications capabilities. These voice communications capabilities should include access to and from the PSTN (at least in the near term), access to emergency services, and access to telecommunications relay service by dialing 711.⁵⁰ If the Commission is requesting comment on how to modify its ETC requirements in a more fundamental manner, AT&T recommends that the Commission revise its rules to impose any federal obligation to serve only in those

⁴⁸ *Id.* at 17.

⁴⁹ *See* 47 C.F.R. § 54.101(a).

⁵⁰ *AT&T April 2008 Comments* at 12, 13.

geographic areas in which a provider receives federal high-cost support. We discuss this recommendation in more detail below in response to the Commission’s questions in 5 (Competitive Landscape).

4. Impact of Changes in Current Revenue Flows. Some commenters assert that any significant reductions in current levels of universal service high-cost support and/or intercarrier compensation would jeopardize their ability to continue to serve customers and advance the deployment of next generation broadband-capable networks. Others assert that the current systems of support and compensation have led to regulatory arbitrage and inefficient investment and have undermined the deployment of advanced communications.

a. What factual analyses should the Commission undertake to test the validity of such arguments?

The Commission need not engage in sophisticated financial modeling or other analyses to test the validity of arguments that reductions in universal service support and/or intercarrier compensation has affected the ability of carriers to continue serving their customers and deploy next-generation broadband facilities and services. As AT&T has explained elsewhere,⁵¹ the legacy POTS business model, under which local exchange carriers provide basic local exchange service combined with interexchange access to long distance services, is dying, and taking with it the complex patchwork of implicit subsidies on which local exchange carriers relied to sustain and up-grade their networks, and provide affordable services to rural and other high cost areas, consistent with universal service objectives. If the Commission has any doubts about these developments, it need look no further than the precipitous decline in subscribership to basic local exchange service, and the equally precipitous – if not greater – decline in switched access minutes.⁵² These twin developments, and the lack of universal service and intercarrier compensation reform to replace the implicit subsidies on which providers relied to meet their COLR obligations, have made it difficult, if not impossible, to develop a business case for LECs to upgrade their networks in rural and other high-cost areas to provide advanced telecommunications, information, and other broadband-enabled services. As a consequence, deployment of broadband has lagged significantly in those areas, and plainly will continue to do so as long as ILECs continue to be forced to offer service in those areas at below cost rates, and without the subsidies on which those rates were predicated.

Rather than attempting to validate the obvious, the Commission should focus instead on the transition from the legacy POTS-business model to the new broadband world. Specifically, the Commission should begin the transition of all high-cost universal service support to broadband and implement comprehensive intercarrier compensation reform, as AT&T elsewhere has proposed.⁵³ In

⁵¹ See *AT&T Tenth Circuit USF NOI Comments*.

⁵² *Id.*; Saul Hansell, “Will the Phone Industry Need a Bailout, Too?” *New York Times* (May 8, 2009) (noting that ILECs are losing around 10% of their access lines every year, while their costs of maintaining their facilities is not falling nearly as quickly) (available at: <http://bits.blogs.nytimes.com/2009/05/08/will-the-phone-industry-need-a-bailout-too/>).

⁵³ See, e.g., *AT&T Tenth Circuit USF NOI Comments*.

this regard, it should immediately reform its legacy high-cost support mechanisms by retargeting support to those areas where support is needed to meet universal service objectives using more precise and legally sustainable definitions of key statutory terms; eliminate statewide averaging for so-called “non-rural” carriers, which assumes continued reliance on evaporating implicit subsidies, and target support based on the characteristics of the area served rather than the classification of the carriers serving those areas; establish benchmarks to determine whether and how much support carriers providing service in high-cost areas should receive to meet universal service objectives; condition receipt of such support on reductions in switched access charges; provide additional support to the extent necessary to replace implicit subsidies in switched access charges; and proceed with implementation of comprehensive intercarrier compensation reform.

- b. What would be the financial impact of reducing or eliminating high-cost support for carriers in geographic areas where there already is at least one competitor offering broadband (using any technology) today that does not receive any high-cost support?**
- c. What would be the financial impact of reducing or eliminating high-cost support for carriers in geographic areas where there already are multiple competitors offering broadband (using any technology), with more than one of those providers receiving high-cost service support.**

It is difficult to determine what would be the financial and other impacts of reducing or eliminating high-cost support for carriers with COLR obligations in geographic areas in which one or more competitors are offering broadband service (with or without support). If the Commission were to reduce or eliminate support in those parts of a study area in which a competitor is offering broadband, and keep the per-line support the same in those parts in which there is no competitor, the Commission likely would reduce the size of the fund. Of course, in that event, the incumbent would be left to serve the other, highest cost parts of the study area, without adequate support (insofar as its support would be based on the average, per-line cost of serving all of the lines in the study area, including lower cost lines, rather than the actual cost of serving the highest cost lines in that area). As a consequence, the incumbent ultimately would be unable to maintain and/or upgrade its network in those highest cost areas, and thus could not viably continue providing basic telephone (let alone broadband) services at affordable rates. If, on the other hand, the Commission were to re-calibrate its high-cost support to remove the cost of serving those parts of a study area with competition, and to provide support based on the per-line costs of serving those areas without competition (which are likely to be the highest cost lines in the study area), the amount of support necessary to meet universal service objectives could remain the same, or even go up. If the Commission were to reduce or eliminate high-cost support in areas in which competitors are offering broadband, it should relieve the incumbent of any COLR requirements and other regulatory restrictions (including rate regulation) in those areas.

- h. The Commission seeks to understand how intercarrier compensation payment flows may impact broadband deployment incentives and how any intercarrier compensation reform may alter or change such incentives. We are particularly interested in factual information or data that addresses the question of how the current intercarrier compensation system either supports or inhibits broadband deployment, rather than conclusory assertions that intercarrier compensation should be reformed.**

In this question the Commission seeks, among other things, information on net intercarrier compensation payments. For a company like AT&T, that provides so many different services in so many geographic and product markets, such information is likely to be of limited usefulness to policy makers. Indeed, for a company like AT&T net payment information is likely to obscure the very problem that the Commission must remedy – the persistence of implicit subsidies in legacy voice services. For example, AT&T's toll-free business, which is subject to intense competition, causes AT&T to incur significant intercarrier expenses. It would make little sense for policy makers to “net” those expenses against intercarrier revenues associated with AT&T's local exchange business. Note, AT&T competes with toll-free competitors that do not offer local exchange services and thus could use the potential access savings to compete with the toll-free provider that owns an ILEC. More to the point, the policy needs to identify implicit subsidies and make them explicit to create the proper incentive to invest or maintain current infrastructure in high-cost rural areas.

Accordingly, the following information is requested:

- i. Entities that pay or receive intercarrier compensation should submit data on their total intercarrier compensation minutes of use, payments and revenues for the last 3-5 years in the aggregate as well as separating terminating traffic into three categories: intrastate access, interstate access and reciprocal compensation. Responses should separate originating access revenues and payments from terminating access revenues and payments, and identify net payments.**
- ii. Identify total intercarrier compensation revenues as a percentage of total revenues (total regulated revenues and as a percentage of overall revenues). Identify total intercarrier compensation expenses as a percentage of total expenses (total regulated expenses and as a percentage of overall expenses). Responses should explain any assumptions and any response should include both revenues and expenses.**

See Appendix D, some of which is confidential and thus is redacted in part.

5. Competitive Landscape. [V]irtually all incumbent local exchange companies operating in rural high-cost areas have carrier of last resort (COLR) obligations for voice service, while other providers that are offering voice, video and/or broadband in such areas do not.

- a. How does this disparity in regulatory obligation impact the economics of deploying broadband in rural areas? Should the national broadband plan evaluate whether**

COLR obligations should be revisited in light of the changing competitive landscape? If so, how and why?

The disparity in regulatory obligations caused by the imposition of COLR requirements (including both state COLR obligations and federal ETC requirements) on ILECs, but not other providers of competing voice, video and broadband services, has a significant impact on the incentive and ability of incumbents to deploy broadband in rural areas. Those obligations are a relic of a by-gone era and regulatory compact in which carriers were granted an exclusive franchise and guaranteed a reasonable rate of return in exchange for a commitment to build out their networks and offer high-quality, basic telecommunications services at affordable and nondiscriminatory rates to all consumers in their service territories. That compact relied on a patchwork of implicit subsidies implemented through federally and state regulated rates. While this paradigm was effective in preserving and advancing 20th Century universal telephone service objectives in a monopoly environment, it became unsustainable following the elimination of the government-sanctioned monopolies (and thus the abrogation of the regulatory compact) on which it was predicated, as both Congress and the Commission previously have recognized. In the Telecommunications Act of 1996 (1996 Act), Congress therefore directed both the Commission and the states to overhaul the nation’s universal service support framework and establish support mechanisms to preserve and advance universal service objectives – which expressly include ensuring that consumers across the nation (regardless of where they live) have access to state-of-the-art telecommunications and information services – in a competitive environment.

Notwithstanding this mandate, the Commission and state regulators repeatedly have shied away from undertaking the sort of reform required by the Act. While regulators have proceeded full-bore to implement the market-opening provisions of the Act, they have continued to maintain COLR obligations for ILECs and forced them to continue relying on fast-eroding implicit subsidies to achieve universal service objectives. As a consequence, ILECs have been required to continue serving customers in rural and other high-cost areas at rates significantly below their costs, even as they have lost the implicit subsidies and guaranteed reasonable rate of return on which those low rates were based.

Not surprisingly, in this environment, competitive providers of voice and broadband services, which have no COLR obligations, rationally have opted to deploy their networks and offer such services only in those areas in which it is economic to do so. Thus, while competitive providers (such as cable operators) have obtained franchises and deployed broadband networks to provide voice, video and data services in many rural communities, they have done so only in the most densely populated areas of those communities, leaving ILECs holding the bag to serve the high-cost, low or negative margin customers in those communities at artificially low rates.

Equally unsurprisingly, under this government-mandated price squeeze, ILECs have found it difficult, if not impossible, to develop a positive business case for making the investments necessary to upgrade their networks in rural communities to provide advanced telecommunications, information, and other broadband-enabled services.⁵⁴ As a consequence, deployment of broadband has lagged

⁵⁴ That is particularly true for so-called “non-rural” carriers, which are subject to statewide averaging and, typically, price cap regulation. In contrast, “rural” carriers, which actually serve fewer rural and other high-cost lines than “non-rural” carriers, typically are subject to rate of return regulation, and thus continue receiving

significantly in rural and other high cost areas, and plainly will continue to do so as long as ILECs are forced to offer service in those areas at below cost rates.

The impact of COLR obligations is exacerbated by the fact that, in many states, COLR requirements are defined by reference to a particular technology or include obligations (such as equal access requirements) that presume a particular network architecture – that is, TDM. These requirements effectively force carriers of last resort to continue investing capital to maintain their legacy, TDM networks – capital that could be used to deploy next generation broadband network facilities and services. Insofar as other service providers are not subject to these requirements, they can invest in and maintain only one network using the latest, most advanced and efficient broadband technologies. Disparate COLR obligations thus impose severe competitive distortions, and inhibit incumbents from deploying broadband more broadly in rural and other high cost areas.

It should be obvious, then, that the national broadband plan must consider the impact of COLR obligations (both state and federal) on the incentive and ability of service providers to invest in broadband facilities and services, and propose appropriate reforms, if it is going to achieve Congress's and the Administration's ambitious broadband deployment agenda.

b. Should the broadband plan recommend that COLR obligations be removed or modified if any entity no longer is receiving universal service support?

Yes, the plan should recommend that COLR obligations (including any rate regulations) be eliminated completely for any entity and in any area in which that entity does not receive universal service high-cost support. In AT&T's view, high-cost support should be made available only to the extent necessary to incent a service provider to provide supported services – irrespective of whether those supported services are basic telephone services, as they are today, or broadband services (as AT&T has proposed).⁵⁵ To the extent market conditions are such that a service provider has an incentive to provide such services at a reasonable and affordable rate without a subsidy in a particular geographic area, it will do so without any regulatory compulsion or restraint (such as COLR requirements and rate regulations).⁵⁶ To the extent a service provider cannot provide supported services

support irrespective of whether they lose a line (in that event, their per-line support goes up to ensure that they continue to earn their specified rate of return). Consequently, many of these carriers have been able to deploy broadband facilities and services in their service territories.

⁵⁵ Current ETC obligations should be modified to follow similar principles. High-cost support should be calculated for and distributed to smaller geographic areas that actually require support and the service area to which ETC obligations attach should be limited to these smaller areas.

⁵⁶ In this regard, it does not matter whether that service provider confronts actual competition in the market because, to the extent the service provider were to attempt to impose supra-competitive rates, or unreasonable terms and/or conditions, other providers would have an incentive to enter the market and offer service at a lower (but none-the-less compensatory) rate. Consequently, COLR and other service obligations are not necessary in areas with competition to ensure that consumers have access to competitively-priced, high quality services.

in an area without a subsidy, plainly it should not be required to do so unless it receives adequate universal service support. Thus, any obligation to serve – including any pricing restrictions – should apply only in those areas in which a service provider is receiving high-cost support.

c. What would be the impact of requiring all entities that accept universal service support for broadband to assume some form of COLR obligation for broadband?

Just as AT&T believes that service providers should not be subject to any service obligations (such as COLR requirements and any restriction or other regulation of their rates) in any area in which they do not receive high-cost support, so too it believes there is no justification for providing high-cost support to any provider without some obligation to provide supported service(s) in a particular area. As discussed above, high-cost support should only be made available to the extent necessary to provide incentives for a service provider to make the investments required to offer the supported services at rates (and on terms and conditions) that are consistent with the universal service principles in section 254. Thus, any entity that accepts high-cost support for broadband should be subject to a broadband service obligation in the geographic area in which it receives such support. Only by imposing such a service requirement can the Commission ensure that the objectives of the national broadband plan are met.

That does not mean that a service provider's broadband service obligation should be unlimited in any area in which it receives broadband high-cost support. Rather, its service obligation should be narrowly tailored to the purpose for which such funding is made available. For example, if the Commission were to determine that universal service support is necessary and appropriate to provide incentives for service providers to invest in and provide second mile transmission facilities and services, any service obligation should be limited only to those facilities and services (and should not, for example, extend to last mile facilities and services). Thus, to the extent the Commission establishes different universal service support mechanisms to address different aspects of the problem of ensuring universal deployment of broadband facilities and services to all Americans (such as by separately funding middle mile, last mile, second mile, and backbone facilities and services), any service obligations should be limited only to the specific services for which (and the specific geographic areas in which) such support is provided.

d. What would be the impact of requiring entities that accept universal service support for broadband to offer the underlying transmission on a common carrier basis?

Today, carriers have a choice whether to offer broadband transmission on a common carrier basis, or as part of an integrated broadband Internet access service, and thus as an unregulated information service. To the extent the Commission alters course, and requires entities that accept high-cost support for broadband to offer the underlying transmission on a common carrier basis, it could reduce – perhaps significantly – the number of providers willing to accept support and take on the role of a common carrier, unless the Commission exercised its forbearance authority to limit the Title II

obligations that would otherwise apply.⁵⁷ Additionally, such a requirement could undermine the efficiencies of providing an integrated service offering, again making it less attractive for a service provider to accept support and offer broadband services in high-cost areas. Either way, such a requirement could be inconsistent with national broadband plan objectives. But regardless of whether the Commission were to impose such a requirement, it should clearly delineate any and all conditions, service obligations, or other regulatory requirements associated with or applicable to any broadband universal service support mechanisms so that service providers know up-front what will be required if they accept such support.

- e. How do the COLR obligations vary by state? Do any states have “best practices” that promote deployment and use of alternative technologies?**
- f. Do states permit carriers to satisfy their COLR obligation using wireless or other technologies? If so, which states and should other states be encouraged to do so?**
- g. Do states permit carriers to satisfy their COLR obligations using VoIP? If not, should states be encouraged do so?**
- h. Quantify cost savings, both in capital expenditures and operating expenses, that could be achieved if we permitted carriers of last resort to meet this COLR obligation through wireless and/or interconnected VoIP service. Responses should explain any assumptions and how the estimated savings was calculated.**

State COLR obligations vary, in many cases significantly, from state-to-state. Some states (such as Connecticut) do not have a specific COLR requirement, while others have granted either full or partial relief from COLR obligations under various circumstances.⁵⁸ Some states permit carriers to satisfy COLR obligations using alternative technologies, at least under certain circumstances, while others do not. For example, Alabama, Arkansas, Georgia, Nevada, North Carolina, Indiana and Texas permit LECs to use alternative technologies to meet their COLR obligations (in Texas, the alternative technology must be approved by the relevant state commission). Others (such as Louisiana) do not prescribe a specific service or technology for their COLR requirements, and thus presumably would permit a provider to use alternative technologies to meet those requirements, although the issue has not yet been addressed specifically by the relevant state regulatory authority or courts. Still others have

⁵⁷ For example, the Commission could use its forbearance authority to define any such common carriage obligation to include only the requirements of sections 201 and 202 of the Act, but not the full panoply of Title II obligations.

⁵⁸ For example, Florida has eliminated COLR requirements effective January 1, 2009. Likewise, South Carolina has eliminated COLR obligations in most cases except with respect to grandfathered, stand-alone residential basic POTS customers. Louisiana has eliminated COLR obligations for certain telephone exchanges based on the existence of competition, and has established a procedure by which carriers may obtain relief from COLR obligations in additional exchanges based on a showing of competition. Other states have relieved (or will relieve) providers of COLR obligations based on the economics of providing service. For example, Alabama requires an ILEC to provide basic telephone service to any requesting party if the cost does not exceed \$8,000, but the ILEC cannot deny service on the basis of cost if sufficient universal service funds are available to offset that cost.

adopted rules or other requirements that presume a particular technology, and thus effectively prohibit LECs from using alternative technologies to meet their COLR obligations.⁵⁹

Because of these variations, it is difficult to quantify with any precision what, if any, cost savings could be achieved if the Commission were to permit carriers of last resort to meet their COLR obligations using wireless and/or interconnected VoIP services. However, it is safe to say that, permitting carriers with COLR (or other service) obligations to fulfill those obligations using the technology of their choice could result in significant efficiencies, and thus cost savings. For example, to the extent a carrier has begun to migrate to an all-IP or other packet-switched network architecture, that carrier plainly would operate more efficiently and drastically reduce its costs if it could fulfill any service obligation by providing VoIP services, rather than having to maintain two separate networks (one IP and the other TDM-based) in order to comply with regulatory requirements.

For these reasons, AT&T believes that federal and state universal service policies should be technology neutral and aim to encourage service providers to invest in new technologies and services to serve high-cost areas as efficiently as possible. Establishing technology neutral, flexible COLR or other service obligations would significantly reduce the cost of achieving universal service objectives, and ensure that advanced technologies and services are deployed and made available to all Americans as rapidly as possible. AT&T therefore believes that the national broadband plan should include appropriate measures to replace any traditional COLR requirements with flexible service obligations to provide certain core functionalities using any technology, which should attach only to the extent a service provider receives high-cost support funding.⁶⁰

6. High-Cost Funding Oversight. What appropriate oversight and accountability mechanisms would be needed to minimize waste, fraud and abuse and to ensure that recipients of any broadband high-cost support use the funds as envisioned?

While not an oversight or accountability mechanism, the most effective way for the Commission to ensure that broadband support recipients are using the funds appropriately is for the Commission to issue clear, detailed, and implementable rules as well as to resolve outstanding appeals and controversies in an expeditious and transparent fashion through Commission orders of general applicability. As is evident from the numerous audit appeals pending at the Commission (many filed by AT&T), the lack of clear universal service rules has resulted in erroneous audit findings. Once the FCC has promulgated clear rules, establishing sound and fair audit processes and procedures will go a long way towards minimizing error (and thus waste), fraud, and abuse. Multiple parties have detailed the flaws in the

⁵⁹ For example, Wisconsin effectively prohibits a COLR from using CMRS technologies to satisfy its obligation to provide basic local exchange service because its definition of “basic local exchange service” expressly excludes CMRS.

⁶⁰ Such measures should address any rules or other requirements that effectively lock providers into using a particular technology to meet their service obligations to ensure that both the form and substance of any such requirements permit providers to use alternative technologies.

Commission’s audit programs⁶¹ and we do not repeat them here. These parties, including AT&T, also have suggested audit improvements and we urge the Commission to adopt those recommendations prior to expanding its universal service programs to broadband services.

a. Should the states and/or the federal government adopt new mechanisms to oversee the distribution of any new high-cost funding to support broadband and why?

AT&T does not believe that it is appropriate for the Commission to direct state commissions to adopt new mechanisms to oversee the distribution of federal high-cost funding to support broadband. In addition to arguably being an unfunded mandate, the Commission has already declared broadband Internet access service to be an information service and thus the Commission, not the states, has jurisdiction over this service.⁶² In recognition of the long-standing federal-state partnership on universal service matters, however, AT&T does believe that the states should remain stakeholders in the future of broadband deployment in their states. For that reason, AT&T recommended that states review and rank applications from broadband fixed network providers and broadband mobile wireless providers, and that the Commission give substantial deference to the states’ rankings when it reviews and grants broadband applications.⁶³

7. Lifeline/Link-Up.

AT&T urges the Commission to use this opportunity to conduct a much needed modernization of the entire Lifeline/Link-Up program. The current voice Lifeline program suffers under antiquated rules and requirements that discourage consumers and providers from participating, and are costly and cumbersome for carriers and USAC to administer and audit. As recent audit results, appeals, and petitions highlight, the current program, which was designed for monopoly-era wireline service cannot even accommodate the realities of a world where wireless is rapidly becoming the voice service of choice. Rather than creating a separate low-income broadband program, AT&T believes that the Commission should update and expand the current Lifeline program so that low-income consumers have more options and incentives to obtain voice and/or broadband services. In responding to the questions below we will offer suggestions for changing the program in this more holistic manner.

⁶¹ See, e.g., Letter from Jonathan Banks, USTelecom, and Christopher Guttman-McCabe, CTIA, to Commissioners, FCC, WC Docket No. 05-195, at 5-6 (filed April 24, 2009).

⁶² This is not to suggest, however, that states could not fund their own broadband programs. Clearly, they may and we note that several have already done so. Rather, AT&T does not believe that it is appropriate for the Commission to *impose* obligations on the states that are related to the distribution of federal high-cost broadband support.

⁶³ *AT&T April 2008 Comments* at 18, 20-21.

a. How should any devices necessary for a low-income broadband program be supported?

Based on its read of section 254, AT&T does not believe that the Commission has the authority to support broadband devices through its universal service programs.⁶⁴ The Commission could, of course, use its Title I authority to create a new program that subsidizes broadband devices for eligible consumers but it would have to create a new non-universal service fund to do so. Creating an entirely new fund for this purpose raises a number of challenges, including which entities should be required to contribute and what would be the appropriate contribution methodology? For these reasons, AT&T recommends that the Commission work with other appropriate federal agencies to develop a program, outside the universal service fund, to support eligible devices modeled on the “DTV Converter Box” program, where a qualifying customer would receive a coupon to purchase a broadband device at a discounted price from a participating retailer or manufacturer. In that case, the Commission would subsidize the cost of broadband *service* for qualified consumers through its low income program and the other agency(ies) would subsidize the cost of the device.

i. Who would own such devices, and what would become of these devices should a consumer exit the program or seek to upgrade his/her device?

The participating consumer should own the device that he or she obtained via a broadband equipment coupon. AT&T would strongly oppose any proposal that requires the broadband service provider to repossess the subsidized device if the consumer no longer qualifies for the program. AT&T has detailed its concerns with such a proposal in comments it filed with the Commission last year.⁶⁵ For example, if the device subsidy did not cover the entire price of the device (e.g., \$100 subsidy that the

⁶⁴ AT&T’s view on this point seems to be consistent with the Commission’s interpretation of the statute. For example, in its 1997 *Universal Service First Report and Order*, the Commission stated that it would not support personal computers and other equipment that are not necessary for the transmission of the supported service or the functioning of the network. *Universal Service First Report and Order* at ¶ 460:

We expressly deny support, however, to finance the purchase of equipment that is not needed to transport information to individual classrooms. A personal computer in the classroom, for example, does not provide such a necessary transmission function and would not be supported, consistent with the Joint Board’s recommendation. A personal computer is not intended to transmit information over a distance, unless it is programmed to operate as a network switch or network file server. Thus, a personal computer could not be installed, maintained, purchased, or leased at a discount for which the seller or lessor would be compensated from universal service support mechanisms, unless it was used solely as a switch or file server.

Possibly, the Commission could argue that smartphones (*i.e.*, mobile wireless handsets used to access the Internet) are necessary for the transmission of the supported service (mobile wireless broadband service) though we would expect some to argue that subsidizing only smartphones is not competitively neutral because the Commission would be providing an advantage to mobile wireless broadband providers at the expense of wireline broadband providers. *See id.* at ¶¶ 46-51 (adopting the competitive neutrality principle).

⁶⁵ *AT&T USF/Intercarrier Compensation Reform FNRPMs Comments* at 52-53.

consumer used toward the purchase of a \$1000 personal computer), it is unclear what ability or right a broadband service provider would have to reclaim that device. Even if the subsidy covered the entire cost of the device, it is still not clear what the service provider would do with that repossessed device. Must it be re-used or recycled for the program? May it be resold (in the unlikely event that the device has any value)? What obligations, if any, would the service provider have with respect to the customer's data stored on the device (would the service provider be obligated to protect such data, erase it, or store it on behalf of its former customer), and would the service provider be liable for any breach of such obligations? What happens if the service provider is unsuccessful in reclaiming the device? Obviously, the better policy would be to allow the consumer to retain the device. If the federal government entity that funded the device subsidy decides to recover some part of its costs from a consumer who is no longer eligible to participate in the program, any resulting collection activity should be between that government entity and the consumer, and it should not involve the broadband service provider.

ii. How would consumers purchase such devices – through vouchers, reimbursement, and/or some other means?

Based on the federal government's relative success with DTV converter box coupons, it appears that broadband device coupons may be the best and simplest means of providing a device subsidy that offered eligible consumers the greatest possible flexibility and choice. The eligible consumer would use the coupon at any participating online or conventional retailer with the consumer paying any remaining balance out of his or her own pocket. AT&T does not recommend that the Commission require the service provider to supply the device since many, if not, most non-CMRS broadband providers do not provide Internet access devices to their customers in their regular course of business, and thus lack the systems, procedures, and expertise to distribute, track, maintain, and support such devices.

iii. Should the Commission limit the types of devices available to consumers participating in the program? Commenters should identify with specificity any implementation issues.

The federal agency that ultimately provides the device coupons should not limit the Lifeline broadband devices that qualifying consumers might purchase, except to ensure that the devices are capable of browsing the Internet at broadband speeds as discussed in the next item. Instead, consumers should be permitted to select their own broadband-capable devices, considering their own communications needs and priorities. We would expect some federal government entity to certify what devices consumers may purchase with their broadband device coupons.

b. Commenters should provide estimates of the anticipated demand for a low-income broadband program.

Based on AT&T's experience, we believe that approximately [BEGIN CONFIDENTIAL***
END CONFIDENTIAL] of Lifeline subscribers already purchase broadband service. In the unlikely event that this percentage [BEGIN CONFIDENTIAL
***END CONFIDENTIAL] does not increase after the Commission extends its Lifeline program to cover broadband service, and the Commission subsidizes, for example, \$20/month per subscriber (which is half of the average monthly subscription price for residential broadband service), the Commission should expect an increase of

approximately [BEGIN CONFIDENTIAL*** ***END CONFIDENTIAL] to the fund. If 100 percent of all currently eligible Lifeline subscribers participate in the new Lifeline broadband program (which, again, assumes a subsidy of \$20/month per subscriber), the Commission should expect its fund to increase by \$1.63 billion.⁶⁶ While it does not seem unreasonable to assume that the demand for the low-income broadband program will be somewhere between [BEGIN CONFIDENTIAL*** ***END CONFIDENTIAL] and 100 percent, we do not know where in that range the actual demand will be though it is likely to gradually increase over time.

i. How should the Commission determine the appropriate support amounts for devices and for service? Please provide data supporting the proposed support levels and identify all assumptions.

AT&T strongly recommends that modernization of the Lifeline program include establishment of a flat, fixed dollar discount off the established market price of whatever voice or broadband service the qualifying consumer chooses to purchase. For example, the Commission could establish a \$10 discount for any voice service and a \$20 discount for any broadband service. A flat discount methodology will be easy for consumers to understand and will greatly simplify provider implementation of the benefits, and thus would likely encourage broader participation in the program. Greater provider participation will enhance consumer choice and participation. A percentage-based discount (e.g., 50 percent) or a tiered discount system as is currently used in the existing voice Lifeline program unnecessarily complicates the program for all concerned.

In determining what the appropriate support amount might be for Lifeline and Link-Up broadband service, the Commission could look at the national average percentage of personal consumption expenditures for broadband services. The Commission uses such data today to calculate what percentage of household goods and services expenditures are spent on telephone service.⁶⁷ If the Commission determines that consumers spend, for example, 2 percent of their personal consumption expenditures on broadband services, it could decide that it does not want households that are at or below the poverty level to spend more than, say, 1 percent on broadband service. It would thus subsidize about \$20/month (e.g., half the average monthly cost of broadband service).

ii. Should funding be initially capped for a trial period, and if so, at what level?

As a general matter, AT&T does not believe that capping the Commission's low-income programs is a sound public policy decision and thus, we do not support such a cap even during a trial period.

⁶⁶ See Appendix E.

⁶⁷ *Trends in Telephone Service*, Table 3.3 (which relies on Bureau of Economic Analysis data).

- c. What eligibility requirements should apply to consumers participating in a low-income broadband program?**
- i. Should these eligibility requirements be the same as or different from the eligibility criteria in the existing low-income program?**

AT&T recommends that modernization of the Lifeline program include adopting nationwide eligibility requirements applicable to all services included in the “new” Lifeline program, both voice and broadband. Today’s patchwork of federal and state eligibility requirements and implementation schemes is a source of customer confusion (such as when a consumer moves from one state to another state with different eligibility requirements) and significantly complicates and increases the cost of a provider’s participation. If the Commission’s goal is to increase participation/adoption by both consumers and providers, as AT&T believes it should be, then it should simplify this feature of the program. In other words, there should clearly be the same eligibility requirements for both voice and broadband Lifeline benefits but rather than maintaining the existing eligibility methodologies, the Commission should make eligibility for Lifeline consistent nationwide as well as applicable to both voice and broadband services.

- iv. How should the Commission define “household” and “head of household” for purposes of determining eligibility for any low-income broadband program that the Commission might establish?**

As AT&T explained in comments it recently filed with the Commission,⁶⁸ under its current Lifeline rules, the only time that a “household” is relevant in determining eligibility occurs when a customer seeks to qualify for the program based on his or her income. In that event, the Commission’s rules require consumers to “present documentation of their household income.”⁶⁹ The Commission has not defined either “household” or “head of household” in its Lifeline rules or orders. If the Commission determines that it should use these terms in defining customer eligibility on a prospective basis, AT&T suggests that the Commission review how the federal assistance programs that qualify consumers for Lifeline service (e.g., Supplemental Nutrition Assistance Program (formerly known as food stamps), Temporary Assistance for Needy Families) define these terms. A reasonable definition of a household might be those individuals who are living together and functioning as one economic unit and whose relationship is based upon a blood and/or legal relationship (e.g., marriage, adoption).

- d. How can the Commission provide flexibility to consumers to select the service offerings that meet their needs under a broadband Lifeline/Link Up program?**

As AT&T noted above, we recommend that the Commission transform its Lifeline program to support both voice and broadband via a flat rate discount that can be applied to any service offering available in the marketplace. This methodology will ensure that qualifying consumers have the maximum flexibility to select whichever service offering (broadband and/or voice) best meets their

⁶⁸ Comments of AT&T Inc., *TracFone Request for Clarification of Universal Service Lifeline Program*, WC Docket No. 03-109 (filed Nov. 20, 2009).

⁶⁹ 47 C.F.R. § 54.410(a).

needs. Also, as we discuss immediately below, AT&T believes that qualifying consumers should have the freedom to select any provider they want (ETC and non-ETC alike). Such a decision certainly furthers any Commission objective of providing consumers the flexibility to select the communications service that best meets their needs.

- e. **One option would be to permit carriers who are not eligible telecommunications carriers (ETCs) to be eligible to participate in a low-income broadband program.**
 - i. **What would be the impact of allowing non-ETCs to be eligible to participate?**

In an effort to increase consumer and provider participation, AT&T previously urged the Commission to establish a separate Lifeline provider designation that is detached from the ETC designation.⁷⁰ Doing so, AT&T argued, would improve the level of participation by providers that have traditionally shied away from participating in the Commission's universal service programs (because of, perhaps, non-Lifeline obligations imposed on ETCs) or that were unable to qualify under the current rules. We also explained that the Commission has ample authority to create this new Lifeline Service Provider designation.⁷¹ It seems reasonable to conclude that expanding the pool of eligible providers would increase consumer participation in the program and provide them more choice of services and rates.

Requiring voice and broadband service providers to participate in the Commission's low-income program wherever they already provide voice and/or broadband services is another idea that warrants Commission consideration. To be clear, AT&T is not suggesting that the Commission impose any Lifeline broadband build-out requirements on broadband service providers, which we would oppose. Such an obligation would be inconsistent with efforts to expand Lifeline provider participation. Instead of becoming an ETC, a provider might be required to register as a Lifeline Provider and obtain a registration number similar to the way service providers must now register and obtain a Service Provider Identification Number to participate in the E-rate program. A simple but mandatory Lifeline obligation such as this would promote consumer adoption by creating and fulfilling an expectation that discounts would always be available from any provider offering service in their location.⁷²

⁷⁰ *AT&T April 2008 Comments* at 25-27.

⁷¹ *Id.* at 26-27 (noting that, post-1996 Act, the Commission continued to rely on its preexisting authority under Titles I and II of the Act to modify its existing Lifeline program); *AT&T USF/Intercarrier Compensation FNPRMs Comments* at 53-54.

⁷² AT&T anticipates that participating service providers, of course, would be permitted to evaluate would-be customers using their usual processes (e.g., checking the inquiring customer's credit ratings).

- ii. Should ETCs currently participating in the existing low-income program automatically be eligible to participate in a low-income broadband program? Why or why not?**

All existing ETCs should automatically be registered as Lifeline providers under the proposed new program rules and thus would be required to provide Lifeline discounts in any area where they already offer broadband service as well as the areas where they offer voice.

- iii. What would be the impact of having requirements for carriers participating in a low-income broadband program that differ from the requirements imposed on existing ETCs? If commenters believe there should be different requirements, what should these different requirements be?**

If the Commission adopts AT&T's Lifeline provider designation proposal, the same minimal requirements established as part of the registration process would apply to all providers regardless of whether they provide voice services, broadband services or both.

- iv. What would be the impact of requiring providers participating in a low-income broadband program to conduct outreach to inform potential eligible consumers about the program? Quantify the impact on carriers and identify any operational issues. If such outreach is required, should the outreach be the same as or different from the outreach requirements in the existing low-income program? Why or why not?**

The Commission, USAC, and state and federal agencies that are responsible for administering public assistance programs should be responsible for outreach efforts. With the day-to-day contact that social services agencies, in particular, have with potentially eligible consumers (e.g., informing them about benefits for which consumers may be eligible), these agencies are in the best position to inform such individuals about the Lifeline program. One of the greatest benefits of modernizing the Lifeline program and establishing consistent nationwide requirements is that the program will be easier to understand and thus outreach efforts should be more effective. While it is reasonable to ask Lifeline providers to post on their web sites Commission-supplied information about the voice and broadband Lifeline discounts and ensure that their customer service representatives are knowledgeable about these discounts, it is not appropriate for the Commission to rely on or require providers to advertise this important government program.

- f. How could a newly-established federal low-income broadband program work in concert with existing and/or future state low-income broadband programs? Could the cooperation between the states and the Commission regarding the existing state and federal low-income programs serve as a model for federal-state cooperation in the context of a federal low-income broadband program?**

This question assumes that a broadband Lifeline program would be separate, and thus must operate “in concert” with the existing voice Lifeline program. As AT&T has already made clear, we believe that establishing separate programs would be a mistake and that the Commission instead should

modernize the entire Lifeline program in order to make it suitable for providing support for both voice and broadband services. The “relationship” between state and federal low-income programs that the Commission refers to is an area that needs to be addressed as the Lifeline mechanism is modernized if the program is going to work to the benefit of low-income consumers as we transition to a broadband world. In AT&T’s experience the current nexus between state and federal Lifeline programs is not necessarily a model that should be replicated or retained.

h. If commenters believe that corresponding changes should be made to the existing Lifeline and Link Up programs, what would be an appropriate transition timeline and what implementation issues would need to be addressed and why?

The existing Lifeline program is long overdue for an overhaul. The Commission should take this opportunity to conduct a soup to nuts review of the program and all the rules associated with it. For example, under today’s program, ETCs in most states are required to review certain customer-supplied information to determine whether that customer is eligible for the Lifeline/Link-Up benefit. In a few of the states where AT&T operates as an ETC, the state manages the eligibility review process and informs providers when consumers are eligible to participate in Lifeline. AT&T believes that requiring providers to collect and retain sensitive personal information is inappropriate. In addition, it is also problematic to rely on a variety of service providers to implement Commission rules that have a direct impact on whether a consumer is accepted into a benefit program. As part of the modernization of the entire Lifeline program, AT&T encourages the Commission to require appropriate state agencies to manage the eligibility process. Social services agencies that serve the low-income community are clearly the more appropriate entities to collect (and retain if necessary) personal information from these consumers and make determinations regarding eligibility.

In addition, AT&T suggests that the Commission investigate ways to better use technology and Internet resources to facilitate and streamline the eligibility process. For example, agencies that determine eligibility could provide qualifying customers with a USAC-generated personal identification number (PIN). Those consumers could then provide this PIN to any voice and/or broadband service provider and automatically obtain the discount to which they are entitled. The low-income consumer eligibility determination, verification, and enrollment process is just one of many areas that require modernization and should be the subject of further inquiry and public comment.

i. How can the Commission protect against waste, fraud, and abuse in any low-income broadband program it establishes?
i. Particularly, how can the Commission protect against waste, fraud, and abuse related to any hardware or devices used in the program?

If there is federal government interest in subsidizing broadband devices for eligible consumers, AT&T suggests that the appropriate federal agencies provide broadband device coupons to qualifying consumers. The consumer would have to pay any remaining balance out of his or her own pocket and should own the device outright. Any other approach (e.g., requiring a broadband service provider to try to repossess the broadband device) is likely to be so administratively burdensome that eligible service providers would decline to participate.

ii. How can the Commission ensure that consumers cannot obtain the same supported service from two different providers?

AT&T's PIN suggestion, described above, would enable USAC to ensure that qualifying consumers are not obtaining the same supported service from two different providers.

Respectfully Submitted,

/s/ Cathy Carpino

Cathy Carpino
Christopher Heimann
Gary Phillips
Paul K. Mancini

AT&T Inc.
1120 20th Street NW
Suite 1000
Washington, D.C. 20036
(202) 457-3046 – phone
(202) 457-3073 – facsimile

December 7, 2009

Its Attorneys

APPENDIX A

**Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of)	
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Services)	

COMMENTS OF AT&T INC.

Cathy Carpino
Christopher Heimann
Gary L. Phillips
Paul K. Mancini

AT&T Services, Inc.
1120 20th Street, N.W.
Suite 1000
Washington, D.C. 20036
(202) 457-3046 - telephone
(202) 457-3073 - facsimile

April 17, 2008

Its Attorneys

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COMMENTS OF AT&T INC.

I. INTRODUCTION AND SUMMARY

We live in the midst of the greatest revolution in communications technology in history. In little more than a decade, with computing devices of astonishing power and flexibility, we have become joined together by networks comprised of threads of glass and the ether itself. With those devices and over those networks we can send data, text, sound, and images in every possible combination, and to or from an infinite number of locations. But not all locations. While Moore's Law and Metcalfe's Law have combined to make possible what was previously unimaginable, they have not overcome the laws of supply and demand that, in many cases, can make it unprofitable to deploy costly network facilities in sparsely populated areas.

In these comments, AT&T proposes a framework to encourage investment in and deployment of advanced networks to areas that might otherwise miss out on this revolution. In so doing, AT&T is responding to the demands of policy makers who have articulated the desire to bring advanced broadband and mobility services to all citizens and to every corner and byway

of the country.¹ This ambitious goal can only be achieved if policy makers learn the right lessons from past successes and failures. They must also be prepared to sweep away the vestiges of those universal service support regimes and mechanisms that stand in the way of their goal.² The access charge regime, which continues to be the central pillar of support for plain old telephone service (POTS) infrastructure and affordable basic local service (despite Congress's mandate in section 254 that the Commission and the states eliminate implicit subsidies), is one such mechanism that now must be addressed in order to remove disincentives to the provision of broadband services.³

The existing high-cost support mechanisms were never designed to encourage the universal deployment of broadband services by either fixed network or mobile wireless networks. Rather, they were designed to maintain affordable POTS service over traditional narrowband networks. While these mechanisms succeeded in encouraging widespread deployment of such networks by state-sanctioned monopoly service providers, these mechanisms – the non-rural mechanism in particular – have failed to achieve even this goal in a competitive environment in which new entrants can be allowed to cherry-pick the most lucrative customers, leaving incumbents to serve high-cost customers without the implicit subsidies on which universal service traditionally has been based.⁴ Unsurprisingly, therefore, the existing

¹ See, e.g., *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Public Notice (dated Sept. 6, 2007).

² These include both explicit and implicit support mechanisms.

³ Moreover, the mechanisms that AT&T proposed could be used to transition to a single termination rate for all traffic, including VoIP traffic. The Commission has yet to extend the jurisdictional classification of the *Vonage Order* to non-nomadic VoIP, at least in part, because of the difficult issues related to access charges.

⁴ AT&T notes in this regard that its proposed framework, discussed herein, assumes that the Commission and other policy makers intend to shift the focus of universal service to broadband deployment. To the extent that the Commission maintains the status quo (*i.e.*, retains support for the POTS network and

mechanisms have not encouraged universal broadband deployment. Indeed, under the Commission's current rules, support today is not explicitly available for broadband services at all.⁵

Promoting broadband deployment in high-cost areas will require a shift in focus to universal service support policies and mechanisms that will deliver the benefits of a robust broadband infrastructure to all Americans, regardless of where they live, work, or travel. To successfully accomplish this important policy objective, AT&T hereby proposes a plan that offers incentives that are structured specifically to drive broadband infrastructure deployment and near-term availability of broadband Internet access and VoIP services to unserved areas. This includes effectively managing the transition from today's universal service mechanisms to new tools that support deployment. AT&T's plan immediately restructures the current high-cost support mechanisms to recognize the unique nature of fixed-network technologies and mobile wireless networks.

In particular, AT&T proposes that the Commission transition those mechanisms to a *Broadband Incentive Fund* (for fixed networks) and an *Advanced Mobility Fund* (for mobile wireless networks), which will collectively support the voluntary deployment and offering of broadband service in unserved areas. The plan's defining characteristics are cost control, accountability, state participation, and infrastructure build-out in unserved areas, the very guiding principles recently identified by the Joint Board.

Policy makers must recognize that this revolution in communications technology is rapidly making past business models and their accompanying regulatory superstructure obsolete. In particular, the business model that piles "long distance" service on top of "basic local

narrowband services as the central goal of universal service policies), it will have to complete fundamental reform consistent with the principles of section 254(b), as AT&T previously has advocated.
⁵ 47 C.F.R. § 54.101(a).

exchange service,” and on which the current universal service support mechanisms are based, is increasingly anachronistic. Requiring network providers to maintain this business model via carrier of last resort (COLR) requirements and irrational intercarrier compensation mechanisms will maintain significant barriers to the goal of broadband investment and deployment by forcing providers to divert resources to maintain an increasingly inefficient and obsolete network.

Without the flexibility to make their business models consistent with what consumers want and what technology can deliver, network providers will invest less in advanced technology and may temper their marketing efforts to avoid causing a complete collapse of a business model that they might otherwise not try to maintain.

Under the new Broadband Incentive Fund, the Commission would immediately begin providing project-based funding for investment in infrastructure necessary to provide fixed-location broadband internet access services in unserved areas. Using an auction-like application process, states and the Commission would combine their expertise to select a fixed location provider (wireline and fixed wireless) to deploy and offer the supported broadband Internet access service (*e.g.*, up to 1.5 mbps downstream) for a specified period (*e.g.*, seven years). AT&T recommends that this fund receive an infusion of new dollars in an amount to be determined by the Commission that would depend on both the parameters of the broadband service to be offered (the higher the transmission speed, for example, the higher the cost is likely to be) and the speed with which that service is deployed (the more aggressive the deployment schedule, the greater the need for new dollars). This new money would be supplemented by transitioning funding from the current high-cost mechanisms to the Broadband Incentive Fund.

Operating in parallel to the broadband mechanism, the legacy high-cost mechanisms would direct support solely to designated carriers of last resort (COLR) for as long as they

remain regulated at the state level. Once a state completes full rate deregulation, funding provided to price cap carriers in that state under the legacy high-cost support mechanism would shift to the Broadband Incentive Fund for disbursement in that state. Once the Commission's broadband deployment objectives are achieved in that state, funding would be released for projects in other states.

Recognizing the unique characteristics of wireless technologies, AT&T proposes a separate and distinct Advanced Mobility Fund that would immediately make project-based funding available for the deployment of wireless broadband and voice capabilities in unserved areas. Utilizing an application process similar to the Broadband Incentive Fund, wireless providers would be selected to provide the supported service for a specified period. AT&T recommends that this fund receive an infusion of new money, the amount of which would be determined by the Commission, but also suggests an aggressive and systematic transition mechanism to shift all legacy wireless funding to the Advanced Mobility fund. Upon adoption of this plan, legacy funding going to wireless competitive eligible telecommunications carriers (ETCs) would be capped (if it is not already capped) and, beginning one year after implementation, 20 percent of support per year would automatically be transitioned to the Advanced Mobility Fund. All transitioned money would be earmarked for disbursement to wireless broadband projects in the state from which the funding originated until that state no longer had unserved areas.

In addition to these two new funding mechanisms, AT&T proposes that the Commission undertake several steps to encourage rate of return (ROR) carriers to deploy and market broadband services. ROR incumbent local exchange carriers (ILECs) already have made significant progress in the deployment of broadband, however, many may have been reluctant to

offer and aggressively market broadband for fear that such services could significantly reduce access charge revenues. To address these issues, AT&T suggests that the Commission, among other things, affirm that ILECs can use current high-cost funding for broadband investment and establish an access replacement mechanism to enable ILECs to lower intrastate access charges to interstate levels. Once the pressure to maintain access revenues is eased, these carriers will have far more incentive to deploy and market broadband services. In addition to these incentives, under AT&T's framework, ROR ILECs would have to demonstrate that they have made broadband substantially available in their service area or risk having their USF support capped or their service area opened to other carriers under the Broadband Incentive Fund application process.

This proposal represents a leap forward building on AT&T's broadband and mobility pilot proposed last year, providing a roadmap to transition all Americans from POTS to 21st century broadband.

II. BACKGROUND

The revolution in communications technology described above presents policy makers concerned about the goals of section 254 with a thorny set of problems. In some ways, the simplest solution might be to quarantine the comparability objectives of the Act to narrowband voice services. AT&T does not in these comments presume to advise policy makers on the fundamental decision of whether to pursue the goal of bringing advanced fixed and mobile broadband services to high-cost areas. However, given a clear desire on the part of many policy makers to pursue that goal, AT&T sets out in these comments a framework about how to rationally pursue that goal. Those proposals arise from a particular understanding of the problem of universal service in this time of rapid technological and market change.

Our first premise is that the combination of broadband and Internet Protocol (IP) has unleashed a profound change in the communications business model. The narrowband world of the 20th century was characterized by a network optimized to provide a single service, POTS. Thus, the business model for that network was inevitably tied to that single service. Broadband IP networks are, by comparison, infinitely flexible in the services (or applications) that can run over them. This flexibility tends to drive the business model for broadband away from particular applications. Indeed, the trend is toward a model in which applications are provided on an optional basis and often at little or no incremental cost to the customer.

Second, this tendency toward a business model built on broadband connectivity as the core service is in conflict with existing universal service mechanisms. Those mechanisms, including COLR requirements, intercarrier compensation regimes, and state and federal explicit subsidy mechanisms focus on the offering of a particular service (POTS telephony) in a particular way (flat-rated “local” plus usage-sensitive “access/long distance”). As broadband penetration rises, these legacy universal service mechanisms and the POTS business model upon which they are based become increasingly will unsustainable. Switched access demand will inexorably decline to a level close to zero. Demand for, and thus the policy rationale to require or support, standalone, fixed-location voice service will also decline to a very low level.

Third, ILECs of all sizes may be in the best position to provide broadband because of the reach of their existing networks in high-cost areas. These same carriers, however, have significant disincentives to invest in broadband because they bear the burdens associated with COLR requirements and rate regulations, as well as face instability in their compensation and subsidy mechanisms.

Fourth, the POTS business model and its associated universal service support regime constitute a barrier to investment in broadband networks in high-cost areas that depend on rapidly evaporating implicit subsidies and explicit support flows. The growing instability of that business model presents both a risk and an opportunity to policy makers focused on broadband. The risk is that the growing subsidy needed to maintain narrowband voice networks will drain funds that might otherwise be available to promote broadband investment and deployment. The opportunity is that the declining viability of the POTS business model makes it feasible to provide a measured transition to the broadband business model.

Fifth, the relatively rapid declines in usage of the POTS network as compared to the less rapid (though consistent and steep) access line loss, makes it possible to temporarily extend the viability of the POTS business model by reforming the usage side of the equation, *i.e.*, intercarrier compensation. AT&T has consistently supported comprehensive intercarrier compensation reform. In these comments AT&T proposes that, at a minimum, policy makers should unify interstate and intrastate terminating access rates at or below the current level of interstate rates.

III. DISCUSSION

Consistent with the Joint Board's recommendation, AT&T urges the Commission to establish two new funds, a Broadband Incentive Fund and an Advanced Mobility Fund, and transition funding from the existing high-cost support mechanisms to these funds. The purpose of the Broadband Incentive Fund will be to provide incentives for broadband deployment in areas where Internet access service meeting the definition of "advanced telecommunications capability"⁶ is not available. The purpose of the Advanced Mobility Fund is to encourage mobile wireless broadband deployment in areas where such service is not available. Because the

⁶ See 1996 Act, § 706(c)(1).

mechanics and many of the details of these funds are similar or identical, AT&T will discuss these new funds together but will highlight and explain their differences, where appropriate. Critically, AT&T also proposes the means by which legacy high-cost funding should transition to these two new funds.

AT&T also recommends that the Commission establish a Lifeline-only ETC designation to ensure that, as support becomes targeted to provide broadband and advanced mobility services to unserved areas, low-income consumers continue to have access to affordable voice service regardless of where they live. AT&T further encourages the Commission to establish an access replacement mechanism to enable ILECs to lower intrastate access charges to interstate levels. Finally, AT&T provides its comments on the issues raised in the three Notices of Proposed Rulemaking (NPRMs).

Policy makers have increasingly advocated shifting the focus of the Commission's high-cost support mechanisms to broadband deployment – particularly in unserved areas. AT&T's proposal is designed to achieve that goal. If however, the Commission determines that high-cost support should continue to explicitly fund only POTS, the Commission must recognize that, as AT&T has articulated in several Commission and court proceedings, the current high-cost mechanisms will not ensure that consumers in rural and high-cost areas continue to receive such services in today's increasingly robustly competitive marketplace, consistent with congressional objectives in section 254(b) of the Act.

A. Establishment of New Broadband Funds

1. Funding

To the extent that the Commission shifts the focus of federal universal service support to broadband deployment, AT&T recommends that all support currently received by price cap and

wireless ETCs be transitioned to the two new funds, which should be designed to provide project-based funding to construct new facilities to provide broadband Internet access service and voice communications capability in unserved areas. Wireline legacy support should be transitioned to the Broadband Incentive Fund and mobile wireless legacy support should be transitioned to the Advanced Mobility Fund, according to the processes and timelines discussed in further detail below. Each new fund should also receive an infusion of new dollars in amounts to be determined by the Commission, at least during the early years of the transition, to jump start broadband deployment in unserved areas. In determining the appropriate levels of funding for each program, AT&T suggests that the Commission consider factors such as how quickly it wants broadband service deployed to unserved areas and the attributes and parameters of the supported service (*e.g.*, minimum data speeds). In its *Recommended Decision*, the Joint Board suggested that about \$1 billion of funding per year be distributed through the new mobility fund (for mobile wireless voice but not mobile broadband services).⁷ The Joint Board also suggested \$300 million for its proposed new broadband fund, but some deemed this amount inadequate.⁸ The Commission should weigh these and other recommendations in light of national broadband service and deployment goals.

2. Eligible Participants, Supported Services, and Support Payments

Participation in both the Broadband Incentive Fund and the Advanced Mobility Fund should be voluntary, with fixed network (Broadband Incentive Fund) and wireless network (Advanced Mobility Fund) applicants submitting applications to the state commission or the

⁷ *High-Cost Universal Service Support; Federal State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision, 22 FCC Rcd 20477, para. 28 (2007) (*Recommended Decision*).

⁸ *Id.* at para. 29. See also Statement of Commission Michael J. Copps to the *Recommended Decision* (“Instead of bold recommendations to implement our historic decision, the Joint Board only suggests that \$300 million of federal dollars be dedicated to this challenge.”).

Commission for project-based funding to construct new broadband facilities in unserved areas.⁹ An “unserved area” is one in which broadband Internet access, as defined separately below for each fund, is not available.

In its application for one-time funding to construct broadband facilities, an applicant should be required to identify the support it believes will be necessary to deploy and maintain the infrastructure necessary to provide the supported services in the designated area for the service term. If selected, the applicant must commit to making those services substantially available throughout that designated area within a two-year period and then continuing to make those services available for five years thereafter. An applicant should not have to be an existing ETC, but if it is selected as a winning applicant, the Commission would have to designate the applicant as an ETC participating in the Broadband Incentive Fund or the Advanced Mobility Fund before the applicant could receive federal support.¹⁰ USAC will disburse broadband funding to the winning applicant through a one-time payment or appropriately prorated payments.

a. Broadband Incentive Fund

The Broadband Incentive Fund should provide funding for investment in and deployment of fixed network technologies and infrastructure (including those using fixed wireless technology) capable of providing broadband Internet access service consistent with Commission-defined parameters (*i.e.*, the supported service). These parameters should include providing

⁹ Applicants are also required to participate in the Commission’s Lifeline and Link-Up programs, the funding for which is provided by those programs. *See* 47 C.F.R. §§ 54.400 *et seq.*

¹⁰ In its *Reverse Auctions NPRM*, the Commission tentatively concluded that participants in an auction must already be ETCs based on section 254(e)’s requirement that only ETCs designated under section 214(e) “shall be eligible to receive” universal service support. *High-Cost Universal Service Support; Federal State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1495, para. 12 (2008) (*Reverse Auctions NPRM*). AT&T believes that the requirements of section 254(e) are satisfied so long as the Commission designates an applicant upon selecting its application and before the applicant receives support.

users with advanced telecommunications capability, as defined in section 706 of the Telecommunications Act of 1996,¹¹ and any other pre-defined criteria specified by the Commission, such as minimum downstream transmission capability (*e.g.*, an advertised downstream transmission capability of up to 1.5 mbps). Applicants seeking funding through the Broadband Incentive Fund would have to provide not only the supported service but also access to voice communications capabilities and Lifeline service.¹²

These voice communications capabilities should not necessarily replicate today's universal service definition. Rather, the Commission should consider whether streamlined voice functionality requirements for broadband funding recipients are appropriate because market realities and technological advances may have rendered it unnecessary to continue to mandate all of the existing nine supported voice features in the existing universal service definition.¹³ At a minimum, however, the core voice functionalities that the Commission should require broadband grant recipients to provide should include access to and from the public switched telephone network (PSTN), access to emergency services, and access to telecommunications relay service (TRS) by dialing 711.

b. Advanced Mobility Fund

If selected for funding under this new fund, an applicant would be required to provide mobile wireless broadband Internet access service and mobile wireless voice communications capabilities in the unserved area. More specifically, the applicant must provide users with “advanced telecommunications capability” as defined in section 706 of the Act and consistent

¹¹ 47 U.S.C. § 157 nt.

¹² As discussed herein, a provider's “Lifeline service” obligation is the obligation to participate in the Commission's low-income programs set forth in section 54.400 *et seq.* of its rules.

¹³ 47 C.F.R. § 54.101(a).

with the Commission's current broadband definition.¹⁴ Mobile providers should also be required to provide mobile wireless voice communication capabilities, which, as discussed above with respect to the Broadband Incentive Fund, would not necessarily have to replicate the functionalities required under the Commission's current universal service definition. Finally, mobile wireless providers must provide Lifeline service to eligible customers.

3. Areas Eligible for Support and Allocating Funding Among States

Providers of fixed location and wireless broadband Internet access service will apply, respectively, to the Broadband Incentive Fund or the Advanced Mobility Fund to provide the supported services in "unserved" areas. In identifying and mapping which areas are "unserved," the Commission may rely on information that it gathers from fixed location and wireless broadband providers,¹⁵ information otherwise compiled by other sources,¹⁶ and information provided by the applicants.¹⁷ AT&T suggests that the Commission consider permitting

¹⁴ The Commission currently defines "advanced telecommunications capability" (*i.e.*, broadband) as services and facilities with an upstream and downstream transmission speed of 200 kbps or greater. *See, e.g., Availability of Advanced Telecommunications Capability in the United States*, GN Docket No. 04-54, Fourth Report to Congress, 19 FCC Rcd 20540, 20551-52 (2004). Mobile broadband Internet access service speeds that are commercially available today are generally lower than fixed network speeds, but technological advances continue.

¹⁵ *See Press Release to Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership*, WC Docket 07-38, Report and Order and Further Notice of Proposed Rulemaking, FCC 08-89 (2008). Although the Commission has not yet released this order, according to its press release, the Commission will require broadband providers to report numbers of broadband subscribers by Census Tract, broken down by speed tier, and technology type, and will improve the accuracy of information it gathers about mobile wireless broadband deployment (available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-280909A1.pdf).

¹⁶ For example, the non-profit organization Connected Nation produces street-level broadband infrastructure mapping and also works in partnership with public and private entities to stimulate demand for broadband services to provide market-based incentives for infrastructure deployment.

¹⁷ Whatever data the Commission elects to use to determine whether a given area is unserved, it is essential that the source for these data is able to keep confidential any proprietary data provided to it for

applicants to self-identify unserved areas, at least at the inception of the new mechanisms, until the more comprehensive broadband service mapping work is completed. Of course, the Commission or the states would have to verify that the applicant has, in fact, proposed to serve an unserved area.

Under AT&T's proposal, the Commission first would determine, by state, how much support will be made available to fund applications. The most heavily weighted criterion for each fund that the Commission should use when performing this apportionment of funding should be the extent to which a state has unserved areas for fixed and mobile wireless services, respectively. As explained in more detail below, the Commission may also consider how much legacy high-cost support providers receive in each state. AT&T suggests that the Commission also set aside a certain percentage of funding to approve meritorious applications that would otherwise not be funded because of limits on the amount of funding allotted to that state.

The Commission should make available information about the unserved areas (*e.g.*, location, size of the unserved area, population density, any available information on planned future development in the area) and the amount of funding available in each state as expeditiously as possible following the effective date of a Commission order establishing these new funds so that would-be applicants can evaluate whether to apply for support to serve those areas. The following sections describe further how the Commission would identify areas eligible for support and how it would allocate funding among the states under each program.

this purpose. For example, because Connected Nation is structured as a non-profit 501(c)(3) corporation, it is not required to publicly disclose the proprietary broadband information that AT&T and other providers provide to it. This fact and a non-disclosure agreement between providers and Connected Nation allows for the sharing of broadband availability data, which in turn leads to accurate broadband coverage maps. If the Commission performs the data gathering and mapping functions, it is imperative that a provider's proprietary data be protected from any disclosure requirements. *See Center for Public Integrity v. FCC*, 505 F.Supp.2d 106 (D.D.C. 2007) (upholding the Commission's determination that FOIA exemptions apply to Form 477 data).

a. Broadband Incentive Fund

- *Unserved Area.* Under the Broadband Incentive Fund, the areas eligible for support are those areas within a price cap ILEC's service area where there is no fixed location broadband Internet access service available that meets the definition of advanced telecommunications capability. The minimum area covered by an application should be all unserved areas within a wire center. AT&T believes that it is appropriate to target this broadband support to unserved areas within a price cap ILEC's service areas because, among other reasons, ROR carriers set their rates on a cost-plus basis, which means that they generally have been able to recover much of the cost of deploying broadband loop infrastructure by simply including the cost of such facilities in their rate bases.
- *Determination of Unserved Area.* As noted above, AT&T suggests that the Commission permit applicants to self-identify unserved areas at least at the start of the new Broadband Incentive Fund to account for the time it will take to compile the mapping information regarding unserved areas. The Commission or state commission would have to verify that the applicant identified all of the unserved areas in that wire center.¹⁸ If the state commission or Commission identifies additional unserved areas in a wire center, the applicant would have to modify its application in order to ensure that it will make the supported services substantially available to the unserved households in that wire center.
- *Apportionment of Funding among States.* As discussed above, the Commission should apportion funding among the states based on identified criteria (including the extent and population of unserved areas in each state) while setting aside some funding for meritorious applications that would not otherwise receive funding based on the

¹⁸ During this self-identification period, the state commission could request public comment on whether the proposed area for service is in fact "unserved" in order to verify an applicant's claim.

Commission's per state funding. Alternatively, the Commission could set aside funding to encourage states to establish matching fund programs. That is, the Commission would make available additional funding for Broadband Incentive Fund applications to provide service in a state if that state matches federal dollars up to a certain amount. In addition, the Commission could make available additional funding to support applications in a state if that state takes steps to assist carriers in its state to lower intrastate access rates to interstate levels prior to the Commission implementing the access replacement mechanisms discussed below.¹⁹

b. Advanced Mobility Fund

- *Unserved Area.* If the Commission's goal is to ensure that all Americans have mobile wireless coverage wherever they live, work or travel for public safety or other reasons, it should consider making support available in the near term for both CDMA and GSM technologies. Present mobile wireless technologies do not allow CDMA customers to roam on GSM networks (and vice versa). For example, if a CDMA customer is in an area where service is available only using GSM technologies, that customer would not be able to make a wireless call to 911, call home, or check e-mail.²⁰ If this is the case, for purposes of the Advanced Mobility Fund, an unserved area is an area in which mobile wireless broadband Internet access service is not available at all or is available using CDMA or GSM mobile wireless technologies, but is not available from both.

¹⁹ As mentioned earlier, high intrastate access rates are a form of universal service support that Congress and the Commission have recognized must be made explicit.

²⁰ The Commission should closely monitor technological and market developments. If mobile wireless carriers move to a common network technology that allows all customers to roam on all carriers' networks in the future, it may well be possible to transition further to a single supported mobile wireless carrier in area(s) that continue to need support to ensure mobile wireless coverage.

Applicants would apply to provide service to unserved areas that they select.

Unlike the Broadband Incentive Fund, AT&T believes that this flexibility is appropriate for mobile wireless providers because the service areas covered by their licenses bear no relationship to ILEC wire centers or study areas, which by definition are a function of ILEC network architecture and deployment.²¹

- *Determination of Unserved Area.* As mentioned above, the Commission should identify areas where there is no mobile wireless broadband Internet access service and where this service is available only via one technology (CDMA or GSM). To make this determination, the Commission could rely on information provided by applicants (*e.g.*, drive test data), information that it otherwise gathers from providers,²² providers' publicly-available coverage maps,²³ and other reliable sources (*e.g.*, information developed by organizations such as Connected Nation). Moreover, as mentioned previously, the Commission could permit applicants to self-identify unserved areas (although the Commission would have to verify that such areas are, in fact, unserved), in

²¹ A CMRS (*e.g.*, cellular or PCS) license can cover several wire centers and/or portions of wire centers (potentially of more than one non-rural ILEC) or may cover only a portion of a single wire center; may not cover all of a single study area (particularly in the case of non-contiguous study areas) and could cover several study areas and/or portions of study areas (potentially of multiple rural ILECs); and may cover some combination of wire center(s) and study area(s), or portions thereof, of several different ILECs, both rural and non-rural.

²² See 477 Report; *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report & Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, Twelfth Report, FCC 08-28 (rel. Feb. 8, 2008) (*Twelfth Report*). For example, the Commission has estimated, of the approximately 8 million census blocks in the U.S., the census blocks with broadband service available from CDMA-path technologies, from GSM-path technologies, and the number of mobile wireless broadband providers serving each census block. *Twelfth Report* at paras. 142-51; Maps B-39 – B-44.

²³ CMRS providers covering most mobile wireless subscribers in the U.S. have detailed maps showing street-level coverage posted to their websites today. See, *e.g.*, <http://www.wireless.att.com/cell-phone-service/welcome/index.jsp>, click on “Coverage Viewer”, and enter a street address. Click on “Show 3G Coverage” to see where mobile wireless broadband service is available.

order to speed mobile wireless broadband deployment while more comprehensive mapping is completed.

- *Apportionment of Funding among States.* Similar to the Broadband Incentive Fund, the Commission should determine beforehand the criteria it will use to allocate funding among the states, such as, for example, the population to be covered in unserved areas within each state and, because many areas unserved by mobile wireless broadband Internet access service may well also be without mobile wireless voice service, the amount of unserved miles along federal and state highways and other public roads.²⁴ In addition, the Commission should factor how much legacy wireless support will be earmarked for states in accordance with the transition procedures discussed below. For example, the Commission could target Advanced Mobility Fund support to those states where competitive ETCs collectively receive relatively less high-cost support than in other states (*e.g.*, less than \$10 million or \$20 million in total competitive ETC support per year).

4. Application Process

Interested providers would submit applications to either the relevant state commission or the Commission to provide the supported service in unserved areas. An applicant would submit its application to the Commission for review if the state commission determines that it has no jurisdiction to review applications to provide broadband Internet access service.²⁵ Applicants may combine unserved areas in one application to appropriately recognize any economies of

²⁴ AT&T's proposal is consistent with the Joint Board's recommendation, which suggested that the Commission should base its funding allocation decisions for the new mobility fund, in part, on the number of residents in each state who reside in unserved areas. *Recommended Decision* at para. 17.

²⁵ See 47 U.S.C. § 214(e)(6).

scale or scope. Applicants should include the following information and commitments in their applications:

- the applicant's project proposal, which should identify the number of unserved households and, for wireless providers, information such as the population and amount of unserved highway mileage covered by the application, and public safety or other needs that would be met by the application;
- the amount of requested one-time funding to deploy and maintain the supported services in the area for the term of the award;
- the facilities proposed to be deployed;
- the applicant's build-out plan (which should include a deployment schedule not to exceed two years);
- financial information that is sufficient for the state or the Commission to evaluate whether the applicant will have the ability to meet its commitment to serve for the term of the award;
- a commitment to make the supported services substantially available to households (for Broadband Incentive Fund applicants) in the unserved area or to substantially all of the unserved area (for Advanced Mobility Fund applicants) within two years and, then, for five years thereafter;
- a commitment to provide the supported services at rates, terms and conditions that are reasonably comparable to those services offered in urban areas; and
- for mobile wireless applicants, a commitment to negotiate in good faith with providers using other technologies to deploy their own wireless transmission facilities at any new

cell sites constructed with Advanced Mobility Fund support, to the extent feasible and on a nondiscriminatory basis.

5. Application Review and Selection Process

The Commission should establish clear and detailed criteria that states (or the Commission, as the case may be) will follow in reviewing and ranking applications. These criteria should include, among other things, the requested amount of support per number of unserved households (for Broadband Incentive Fund applicants) or per population (for Advanced Mobility Fund applicants) covered by the application, financial qualification requirements, a minimum population density per square mile or a minimum population to be covered by the application, and the amount of time to build-out the unserved area.²⁶ For applications proposing to provide mobile wireless service, the criteria should also include a minimum amount of unserved mileage along federal or state highways, or other frequently traveled roads, and an explanation of any other unfulfilled public safety, homeland security or other needs that may warrant funding.

Based on these Commission-specified criteria, the states should rank applications that would result in the greatest utilization of the supported services (for example, those projects that target the greatest population density and/or unserved mileage along highways) above applications that propose to serve less densely populated areas and/or fewer highway miles. Moreover, when ranking mobile wireless applications using the criteria mentioned above, AT&T recommends that areas and applications be prioritized in the following descending order: areas without mobile wireless *voice* service from any provider; areas where mobile wireless *voice*

²⁶ In certain areas, based on population or other factors, anticipated usage may be sufficiently small that the expenditure of federal support cannot be justified. To the extent that state policy makers believe it is important to make service available in such areas, states should consider establishing their own state funds to provide incentives for fixed network and/or mobile wireless services in such areas.

service is available from just one technology (*i.e.*, CDMA or GSM); areas where mobile wireless *broadband* service is not available at all; and lastly, areas where mobile wireless *broadband* service is available from one but not both technologies.

After reviewing and ranking applications, states would forward all of the applications to the Commission. The Commission should provide substantial deference to the states' ranking in reviewing and granting applications.²⁷ The Commission may only fund one fixed broadband provider per unserved area and up to one CDMA and one GSM wireless mobile broadband provider per unserved area. After the Commission selects the applicants that will receive project-based support, it would have to designate them as ETCs before the applicants could receive funding.

6. Evolution of the Broadband Funds

Periodically, the Commission should reevaluate the size of the new broadband funds, the supported services, whether any program changes are needed, and whether the stated goals of these funds have been met (at which time, future funding might no longer be necessary). In addition, at the end of the term of service, each funding recipient should have the opportunity to petition the Commission to treat a "served" area as "unserved" if continued support is necessary to maintain service to that area and no other provider offers service in that area.²⁸ That

²⁷ As mentioned earlier, in calculating its per state funding amounts, AT&T recommends that the Commission set aside a portion of total available funding so that it may select meritorious applications for funding that were not ranked high enough by a state commission to receive funding based on the amount of support earmarked for that state. Alternatively, for the Broadband Incentive Fund, the Commission could establish a state matching fund program, whereby the Commission could award supplemental funding for applicants proposing to provide service in a state if that state matches federal dollars up to a certain amount.

²⁸ This proposal is consistent with the Joint Board's recommendation, which explained that a secondary purpose of its new Broadband and Mobility Funds would be to "provide continuing operating subsidies to broadband Internet providers serving areas where low customer density would suggest that a plausible economic case cannot be made to operate broadband facilities, even with a substantial construction subsidy" and to "provide continuing operating subsidies to carriers serving areas where service is

provider's "unserved" area would be re-bid using the application processes described above and the Commission would evaluate whether to select that provider's application for additional support using the procedures also described earlier.

B. Transition of Legacy Support to New Broadband Funds

1. Price Cap ILECs

Under today's high-cost mechanisms, price cap ILECs receive approximately \$756 million in federal support.²⁹ AT&T proposes that all of the price cap legacy wireline support be transitioned to the Broadband Incentive Fund. This transition should occur on a state-by-state basis when the relevant state commission grants a price cap ILEC complete retail pricing deregulation.³⁰ The period of time over which the legacy wireline support will be redeployed to the Broadband Incentive Fund will correspond to the amount of time over which the state fully phases in pricing deregulation.³¹ State retail pricing deregulation is an appropriate trigger to start this transition because, once price cap ILECs obtain the ability to price all services at market-based levels, those ILECs would no longer need support under the existing high-cost mechanisms to continue providing basic service to high-cost areas. Once an ILEC has full

essential but where usage is so slight that a plausible economic case cannot be made to support construction and ongoing operations, even with a substantial construction subsidy." *Recommended Decision* at paras. 12, 16.

²⁹ Under AT&T's proposal, this legacy funding would now be available solely to the carriers that perform COLR functions.

³⁰ For purposes of this proposal, by "complete" or "full" retail pricing deregulation, AT&T means complete pricing flexibility with respect to all retail services, including basic residential and business access lines. An ILEC does not have complete retail pricing deregulation if, for example, it operates under a cap or is unable to increase its rates above a certain percentage each year.

³¹ The Commission would need to establish a transition for wireline competitive ETCs operating in these areas. The Commission could consider, for example, a transition that would occur at the *earlier* of a 20 percent/year redeployment over five years or the amount of time set by the state for phasing in pricing deregulation for that wireline competitive ETC.

pricing flexibility, therefore, legacy support should be redeployed to the new Broadband Incentive Fund.

Under AT&T's proposal, when a state grants such relief to price cap ILECs operating in a state, the legacy support provided to those ILECs should be redeployed to the Broadband Incentive Fund. This support, however, will be earmarked for that state until that state no longer has any unserved areas or areas in which fixed location broadband service is available but does not satisfy the Commission-specified criteria for the supported service (*e.g.*, the available service is not at an advertised downstream transmission speed of up to 1.5 mbps). Only after that state has no unserved areas and no areas where the available fixed location broadband service does not meet the Commission's broadband criteria would that funding be redirected to the general Broadband Incentive Fund for use in any state.

2. Wireless Competitive ETCs

Wireless competitive ETC funding provided under the current high-cost mechanisms (*i.e.*, the \$1.3 billion that the Commission is considering capping on an industry-wide basis) should be transitioned over five years to the Advanced Mobility Fund. Immediately after the Commission adopts AT&T's proposal and it becomes effective, neither the Commission nor the states should approve any further ETC applications for federal funding under the current high-cost mechanisms. Beginning one year after the effective date of the Commission's order, the Commission should reduce all legacy wireless support by twenty percent per year (approximately \$260 million per year) over five years. That twenty percent of funding should be redeployed to the Advanced Mobility Fund but earmarked for the state in which such support was provided under the legacy support mechanisms until that state has no unserved areas, at which time such support should be released to fund advanced mobile services in unserved areas

in other states. This reduction in legacy wireless support should continue each year at the same rate until all such support has been redirected to the new fund. Scheduling the reduction in this manner affords recipients of current legacy wireless support predictability, consistent with section 254(b)(5) of the Act.³²

C. Rate of Return Carrier Broadband Incentives

Rate of return (ROR) ILECs have made significant progress in the deployment of broadband facilities in areas they serve.³³ These companies have in large part accomplished this progress primarily through the funding they receive from the existing federal high-cost mechanisms. However, for reasons explained below, many of these companies may be reluctant to offer broadband services such as Internet access and VoIP services because these broadband services affect these companies' access charge revenue streams. Moreover, it has not been entirely clear that the Commission's rules permit this funding to be used for the recovery of broadband investment.

AT&T suggests several incentives for ROR ILECs to offer broadband services to customers they serve. As an initial matter, the Commission should affirm that ILECs can use funding derived from the existing federal high-cost support mechanisms to recover broadband investment. Such a statement should remove any lingering doubt about this matter that may have affected a carrier's willingness to offer broadband services. As described below, the Commission could add an access replacement mechanism that will provide explicit support to ROR ILECs when they reduce their intrastate access charges to interstate levels. Under AT&T's

³² As this funding is reduced, the Commission may decide to establish a process to permit a mobile wireless provider to retain limited funding beyond this five-year transition if a currently served area is at risk of becoming unserved.

³³ See, e.g., NTCA 2007 Broadband/Internet Availability Survey Report (Sept. 2007) (99 percent of survey respondents offer broadband to some part of their customer base).

framework, access replacement mechanism funding is targeted to the carrier that performs the COLR functions for its service area. Relieving some of the pressure on access charge revenue streams in this manner will remove one of the disincentives ROR ILECs have to offer broadband services to the customers they serve. The Commission could also re-index the current high-cost loop fund after an appropriate period of time (*e.g.*, three years) as an additional incentive to offer broadband services. Re-calibrating the high-cost loop mechanism will provide ROR ILECs that have a high-cost loop infrastructure with an additional cost recovery opportunity, which, in turn, will provide a further incentive for these companies to offer broadband services to their customers.

To determine whether this explicit funding has successfully met the Commission's broadband goals, the Commission could require ROR ILECs to demonstrate that they have made the supported broadband Internet access service substantially available to their customers and have aggressively marketed this service within three years of implementation of AT&T's proposal.³⁴ If a ROR ILEC fails to meet this requirement, the Commission could take the following actions: (1) cap a significant portion of its existing federal support; (2) establish an application process, similar to the process that applies to price cap ILEC service territory, for the purpose of encouraging alternative broadband providers to offer service households in the ROR ILEC's service territory; and (3) restrict the ROR ILEC from participation in the application process. AT&T proposes these measures to ensure that companies understand the urgency of achieving the Commission's broadband objectives.

D. Lifeline ETC Designation

Under AT&T's proposal, the Commission would target universal service funding to areas that lack broadband Internet access service altogether or have broadband service that does not

³⁴ A company may request a two-year extension of this requirement by making a good cause showing.

meet Commission-specified criteria. While AT&T proposes that broadband funding recipients provide Lifeline service in these unserved areas, low-income consumers obviously reside in areas that do receive broadband Internet access service today. To ensure that low-income consumers are able to participate in the Commission's low-income programs regardless of where they live, AT&T recommends that the Commission establish a stand-alone ETC designation for Lifeline/Link-Up providers. In light of the Commission's action last week to grant TracFone's request to become a Lifeline-only ETC,³⁵ it seems particularly timely for the Commission to revisit its current ETC framework.³⁶

Permitting applicants to participate only in the Commission's low-income programs, without regard to participation in the existing high-cost mechanisms or proposed broadband incentive mechanisms, may well expand the base of willing participants to include other providers of voice communications service such as cable and other prepaid wireless companies that have, to date, been unwilling to offer Lifeline service (because of the many non-Lifeline-related obligations applicable to ETCs designated for high-cost support) or otherwise unable to qualify under the current rules. AT&T believes that its proposal is thus consistent with one of the Commission's primary objectives for its low-income programs: to increase participation. Moreover, the Commission has ample authority to create a Lifeline Service Provider designation

³⁵ See *Federal-State Joint Board on Universal Service; TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier*, CC Docket No. 96-45, Order, FCC 08-100 (rel. April 11, 2008).

³⁶ This action would be consistent with that taken by several states, which have permitted carriers to apply for and receive Lifeline-only ETC designations with the understanding that those carriers were not permitted to request or receive federal high-cost support.

under sections 1, 4(i), 201 and 205 of the Act³⁷ that could be applied to a broader array of voice communications providers (*e.g.*, VoIP providers that clearly offer voice service but do so as an interstate information service).

To ensure that low-income consumers will always have at least one provider of Lifeline/Link-Up service, AT&T proposes that, at some appropriate point during the transition periods for price cap ILECs and wireless competitive ETCs described above, these providers be permitted to become Lifeline-only ETCs (Lifeline Service Providers). This conversion should be mandatory if there is no other Lifeline provider in the area covered by that legacy provider's service area. The conversion from legacy ETC to Lifeline Service Provider should be optional (*i.e.*, at the election of the legacy provider) if there is at least one Lifeline Service Provider already in the area covered by the legacy provider's service area.

E. Access Charge Harmonization

The Commission and state regulators historically have relied on above-cost access charges to support the POTS infrastructure and the availability of affordable basic local service. Because broadband Internet access and VoIP services have largely avoided access charges, depriving ILECs of revenues on which they have relied to offer below-cost POTS service, the failure of regulators to eliminate the implicit subsidies in those charges may have discouraged carriers in those high-cost areas from offering broadband services. The existence of high access charges have created a disincentive to broadband investment because the broadband Internet access and VoIP services made possible by that investment have avoided access charges, depriving ILECs of these important revenue streams on which they rely to offer below-cost

³⁷ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, paras. 329-40 (1997) (explaining that the Commission was relying on its preexisting authority under Titles I and II of the Act to modify its existing Lifeline program).

POTS service where such broadband services are offered.³⁸ Consequently, if policy makers wish to allow market forces (rather than regulatory policy) to determine where broadband is offered, taking steps to reduce those implicit subsidies would eliminate a significant disincentive for offering broadband service. Given policy makers' stated objective of encouraging broadband service deployment, AT&T offers here a framework to address this issue.

Specifically, the Commission should reduce and replace access charge revenues with alternative recovery mechanisms that are more compatible with a broadband connectivity business model. As an initial step, AT&T proposes mechanisms that would enable carriers to reduce intrastate originating and terminating access charges to interstate access levels. Ultimately, these mechanisms could also be utilized to transition to a single terminating intercarrier compensation rate for all traffic, including VoIP traffic, which would clear a major hurdle that has confronted the Commission in the IP-Enabled proceeding should it decide, as AT&T has recommended, to extend the *Vonage Order* to non-nomadic VoIP.

Such alternative recovery mechanisms would apply to price cap and ROR ILECs. As explained above, legacy price cap ILECs' support will migrate to the Broadband Incentive Fund. This migration will also apply to the access charge replacement funding established for price cap ILECs.

1. Intrastate originating and terminating access charges will be reduced to interstate access charge levels.
2. This reduction in access revenue (*i.e.*, the access shift) will be offset by alternative recovery mechanisms, which could include some combination of increases to federal

³⁸ This occurs, for example, when the subscriber obtains voice service from an over-the-top VoIP provider as a substitute for traditional long distance service, because VoIP providers do not pay terminating access charges to ILECs for calls terminated on ILEC networks.

- subscriber line charges (SLCs) and additional federal access universal service funding.
3. A federal benchmark mechanism would be used to determine how much of the access shift should be recovered through the SLC versus additional federal access universal service funding. The benchmark mechanism functions as follows:
 - a) For each company in a state, the total of the company's basic local service rate, the current SLC, and its state high cost funding (expressed on a per line basis) would be compared to a federal benchmark. If this total is less than the federal benchmark, then the SLC would be increased to help offset the access shift before a company is eligible for additional federal universal service support..
 - b) If the company's total of basic local service rate, current SLC and state high-cost funding (expressed on a per line basis) is greater than the federal benchmark, then the access shift would be offset by additional federal universal service support.
 4. The Commission should determine what the appropriate levels should be for the SLC and the federal benchmark in order to accomplish this transition in a financially responsible manner. These two elements are used to generate the revenues needed to offset the access shift and therefore affect the amount of additional federal universal service support that will be needed.

F. Relationship between AT&T's Proposal and the Tenth Circuit Proceeding

In these comments, AT&T offers a framework for shifting legacy high-cost universal service support mechanisms to new broadband support mechanisms to spur investment in and deployment of next-generation networks in rural and high-cost areas. Through the application

process described above, applicants would determine how much subsidy they would require to construct and operate facilities to provide broadband Internet access service and voice communications capabilities to unserved areas for a defined period of time. Applying Commission-established criteria, such as the requested amount of support per household, the Commission would select the applications that best satisfy these criteria. This targeted support, based on the provider's evaluation of its costs to make the supported services available in these demonstrably high-cost areas, does not suffer from the deficiencies of the current non-rural high-cost mechanism.

If the Commission decides, for whatever reason, not to shift the focus of federal high-cost support to broadband, as the Joint Board and others have recommended, and instead to continue to target support to legacy POTS networks and services, it must recognize that (as AT&T previously has shown) the current high-cost support mechanisms have failed to (and indeed cannot) promote universal service objectives (as set forth in section 254(b)) in a competitive environment. The Commission further must recognize that, even if it shifts the focus of federal high-cost support to broadband, if the states do not act to give price cap ILECs complete pricing deregulation and the transition trigger applicable to price cap carriers thus is not activated, the Commission will have to address the fundamental flaws in its existing high-cost mechanisms. Obviously, if the Commission adopts AT&T's access replacement mechanism proposal, it will go a long way toward ameliorating the inherent problems in the current system.

Consequently, if the states fail to implement fully pricing deregulation within some reasonable period of time, the Commission would have to issue final rules in its pending *Qwest II* rulemaking, if it has not already done so.³⁹ In that event, among other things, the Commission

³⁹ *Federal-State Joint Board on Universal Service; High-Cost Universal Service Support*, CC Docket No. 96-45, WC Docket No. 05-337, Notice of Proposed Rulemaking, FCC 05-205 (2005).

should conclude that all carriers providing service to high-cost rural areas should receive support on the same basis, regardless of the carrier's size. In particular, the Commission should, as AT&T has proposed, eliminate its use of statewide averaging for determining eligibility for high-cost support for non-rural carriers, and, instead calculate support on a disaggregated basis (*e.g.*, by wire center) so that a "non-rural" carrier's costs of serving a particular high-cost area are recognized and not netted out. Additionally, the Commission will have to face up to the fact that the current amount of funding provided to non-rural carriers is inadequate for these carriers to continue providing affordable POTS services to their millions of customers in high-cost rural areas.

While AT&T's proposal is not intended to serve as the panacea for all that ails the Commission's non-rural high-cost mechanism, which was not the subject of the three recent NPRMs, clearly there are concepts in the framework that could be applied to improve the existing mechanism. Through the use of statewide averaging, only ten states receive "high-cost model" support (the non-rural counterpart to rural carrier's high-cost loop support). Applying AT&T's proposal, a non-rural price cap carrier could petition the state commission or the Commission to declare certain of its high-cost wire centers to be "unserved" if continued or new targeted support is necessary to maintain service in the area at affordable rates. Moreover, carriers would identify the amount of support necessary to provide voice service in its high-cost areas so that there would be no question about the sufficiency of this support.

G. Comments on the *Recommended Decision* and the *Reverse Auctions* and *Identical Support NPRMs*

1. Joint Board's *Recommended Decision*

AT&T's proposal embraces the market-based solution to broadband deployment advanced by the Joint Board in its *Recommended Decision*. In that order, the Joint Board

recommended that states award grants to broadband providers to construct new facilities in unserved areas. The Joint Board indicated that the states should be permitted to use any suitable procedure for awarding broadband support, including requests for proposals to serve or reverse auctions.⁴⁰ AT&T suggests that the Commission instead adopt an application process that would not vary among the states. Adhering to the Commission’s bright-line selection criteria will leave state actions less susceptible to challenge. Moreover, many would-be broadband and mobile wireless participants, such as AT&T, operate in numerous states and having to comply with as many different procedures and selection criteria would pose an unnecessary burden upon applicants that may act as a disincentive for participation in the programs.

AT&T also has concerns with the Joint Board’s proposal to convert the high-cost mechanism into a “block grant” under which the Commission would allocate and transfer a certain amount of dollars to each state, and the states would review applications and award winning providers federal funding. As recognized by the Joint Board, administering federal grants is an “unusual role” for state commissions.⁴¹ Indeed, AT&T believes that delegating this role to the states would be inefficient for that very reason. Moreover, it is by no means clear that the Commission would have the authority to delegate this function to the states.⁴² In contrast, AT&T’s proposal to have Commission select winning applicants builds upon the Commission’s expertise gained through its rural health care pilot program, in which the Commission reviewed

⁴⁰ *Recommended Decision* at para. 15.

⁴¹ *Recommended Decision* at para. 48.

⁴² Under the current ETC framework (set forth in section 214(e)(2)), states designate applicants to be ETCs. After a state grants a provider’s ETC application, the ETC completes certain forms depending on whether the provider is an ILEC or a competitive ETC. Based on the information set forth in the provider’s forms, USAC, using Commission-established formulas, calculates the amount of support the ETC will receive. Under the Joint Board’s proposal, states – not the Commission, through the application of its created formulas – would determine how much support a provider should receive.

and selected applications for one-time funding submitted by interested health care providers, while providing an appropriate vehicle for state participation and input in the process.⁴³

In its *Recommended Decision*, the Joint Board offered several creative suggestions to encourage states to provide their own funding to speed the deployment of broadband and wireless services to unserved areas. In particular, the Joint Board recommended that the Commission establish a state matching fund process so that if a state provided funding in excess of a certain percentage, the state would be eligible to receive additional federal dollars.⁴⁴ Matching state funds could be used to promote broadband deployment objectives, but only under certain conditions. First, state and federal dollars should not be commingled. In other words, if the Commission establishes a state match mechanism, the state funding should be made available to providers through the state's own broadband deployment and advanced wireless funds. The Commission could select additional applications because of the supplemental federal funding but it would not include state funding in its total allocation for that state. Second, states should ensure that their broadband and wireless funding serves as a complement to the federal program, so that, for example, the federal and state programs do not provide duplicative support for the same facilities and costs.

2. *Reverse Auctions NPRM*

AT&T supports the goals that the Commission seeks to achieve through reverse auctions, specifically: to use a market-based, competitive approach to determine funding; to encourage providers to voluntarily compete for universal service funding so that providers have incentives

⁴³ See generally *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 22 FCC Rcd 20360 (2007).

⁴⁴ *Recommended Decision* at paras. 50-52.

to seek the least possible support necessary, and thus control fund growth and encourage the use of efficient technologies.

The application process AT&T has described herein achieves these goals. One of the stated benefits of reverse auctions is that direct market signals are used in lieu of historical cost accounting data or forward-looking cost models to allocate federal universal service support dollars.⁴⁵ As the Commission notes in its *Reverse Auctions NPRM*, if a number of bidders compete in the auction to provide service in the same area, the winning bid might be close to the minimum level of subsidy necessary to provide supported services in that area.⁴⁶ The same rationale and resulting benefit is true for an application process. The winner of a reverse auction is determined based solely on price. An application process, on the other hand, allows the Commission to consider factors in addition to price in awarding grants, such as the speed at which the provider will complete its build-out of new facilities and the proposed information transfer rates. Moreover, there exist significant unanswered questions surrounding a universal service reverse auction but these questions do not apply to AT&T's proposed application process.

One of the thornier issues raised by the Commission's reverse auction proposal is what happens to the losing ILEC's obligation to serve if it is not selected as the winning bidder. Although the Commission suggests that the winning bidder would inherit the COLR obligations from the ILEC that is currently providing service in that area,⁴⁷ it is unclear whether the Commission has the authority to relieve a losing ILEC bidder of its COLR obligations. States

⁴⁵ *Reverse Auctions NPRM* at para. 11.

⁴⁶ *Reverse Auctions NPRM* at para. 11.

⁴⁷ *Reverse Auctions NPRM* at para. 24.

impose COLR obligations on ILECs and unless the Commission believes it can and should preempt the states under section 253(d) (and AT&T is not advocating that the Commission do so), an ILEC could be placed in the untenable position of having its COLR obligations under state law continue but without any federal universal service support if the relevant state does not grant the ILEC COLR relief.⁴⁸ Under AT&T's proposal, even if an ILEC's application is not selected to provide the supported service to an unserved area, states have an appropriate incentive to grant price cap ILECs retail pricing deregulation – because doing so would enable them to receive more funding for broadband deployment in their state (by allowing providers in their state to obtain federal funding to deploy broadband in underserved areas). And granting a price cap carrier pricing flexibility would ensure that the ILEC would not be forced to continue providing service in a high-cost area without any federal support and at rates that are artificially below its costs.

In its *Reverse Auctions NPRM*, the Commission tentatively concludes that the total amount of support that may be awarded for an ILEC's study area should be capped at the current study area amount.⁴⁹ If adopted, this tentative conclusion ensures that “non-rural” carriers that provide service in high-cost rural areas and that do not currently receive high-cost support, never will. Such a conclusion, enshrining the current flawed and unlawful disparate treatment between

⁴⁸ Another equally unpalatable option is for the losing ILEC to request forbearance from ILEC regulation (e.g., sections 251(c) and 271(c)). To the extent that the winning bidder is a LEC, the Commission could, of course, subsequently declare that the winning LEC should be treated as an ILEC. This process, however, has proven to be a complicated and lengthy one. See *Petition of Mid-Rivers Telephone Cooperative, Inc. for Order Declaring it to be an Incumbent Local Exchange Carrier in Terry, Montana Pursuant to Section 251(h)(2)*, CC Docket No. 02-78, Report and Order, 21 FCC Rcd 11506 (2006); Qwest Petition for Forbearance under 47 U.S.C. § 160(c) from Resale, Unbundling and other Incumbent Local Exchange Requirements Contained in Sections 251 and 271 of the Telecommunications Act of 1996 in the Terry, Montana Exchange, WC Docket No. 02-78 (filed Jan. 22, 2007).

⁴⁹ *Reverse Auctions NPRM* at para. 39.

“non-rural” and “rural” carriers, could not be sustained in court. As the Tenth Circuit has twice found, support to non-rural carriers and their customers under the Commission’s current mechanisms is not sufficient and fails to comport with the requirements of section 254(b). AT&T’s proposal squarely addresses the inadequate funding provided to certain carriers by virtue of their size and without regard to the carriers’ costs of providing service to rural America. AT&T’s proposal makes available new funding, through the Broadband Incentive Fund, to award support to providers willing to deploy broadband in unserved areas that are located in price cap ILEC service areas.

As explained above, AT&T believes it is important for states to remain stakeholders in the future of broadband deployment in their states. AT&T’s proposal accomplishes this goal in two ways: by allowing states to review and rank broadband and mobile wireless applications and recommending that the Commission give substantial deference to the states’ ranking, and by giving states the tools to speed broadband deployment in their states. The Commission’s *Reverse Auctions NPRM* does not seem to contemplate a role for the states.⁵⁰ AT&T agrees with the Joint Board that universal service is a federal-state partnership⁵¹ and therefore urges the Commission to maintain a central role for the states under the new Broadband Incentive Fund.

3. *Identical Support NPRM*

AT&T applauds the Commission’s commitment to eliminating the so-called “identical support” rule, through which a competitive ETC receives the same per line support as the ILEC, without regard to the competitor’s costs. While the Commission’s goals in establishing this rule

⁵⁰ Indeed, at most, it appears that the Commission may coordinate with the states should the Commission decide to conduct an auction in a geographic area that is different than a rural carrier’s study area. *Reverse Auctions NPRM* at para. 22 (citing 47 U.S.C. § 214(e)(5)).

⁵¹ See, e.g., *Recommended Decision* at para. 45.

may have been laudable, the rule is largely responsible for the explosive growth in the Commission's high-cost fund. AT&T's proposal, detailed above, would eliminate this rule but does so in an administratively simpler and more effective fashion than contemplated in the Commission's *Identical Support NPRM* and GVNW's "WiCAC Proposal."⁵²

Under AT&T's proposal, beginning one year after the effective date of an order adopting AT&T's plan, all wireless competitive ETC funding provided under the current high-cost mechanisms would be reduced by 20 percent per year. This reduction would continue at the same pace over a five-year period until all legacy wireless high-cost support is redeployed to the Advanced Mobility Fund. Under this new fund, the Commission would award project-based funding to mobile wireless providers to provide the supported services in areas that are currently unserved by mobile wireless broadband service. The amount of support that would be awarded to mobile wireless providers under this new fund would have no relation to the legacy support received by the ILEC in that area. Rather, mobile wireless providers would apply for funding based solely on their evaluation of the costs of deploying and maintaining facilities in previously unserved areas. In a mere five years, no wireless carrier would receive any high-cost support that is tethered to ILEC support.

AT&T's proposal is consistent with the Commission's tentative conclusion that wireless competitive ETCs should receive support based on their own costs.⁵³ AT&T respectfully disagrees that the most effective way to fund wireless competitive ETCs based on their own

⁵² In addition, as AT&T has noted previously, Commission adoption of an industry-wide competitive ETC cap order eliminates the identical support rule though, of course, it does not provide the roadmap to reducing legacy wireless competitive ETC support down to zero as does AT&T's proposal.

⁵³ *High-Cost Universal Service Support; Federal State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1467, para. 12 (2008) (*Identical Support NPRM*).

costs is to require these providers to submit detailed cost data to the Commission or to the states on an annual basis.⁵⁴ Such a requirement would be an overly regulatory response that would do nothing to further universal service. AT&T's proposal offers a simpler solution for all parties that can be easily implemented, unlike any of the actual cost proposals pending before the Commission.⁵⁵

AT&T has previously described the fundamental flaws of GVNW's purportedly simple proposal to require mobile wireless providers to report costs by 23 accounts.⁵⁶ CMRS providers today maintain their financial books and records in accordance with generally accepted accounting principles (GAAP). CMRS providers are not required to maintain their financial records in accordance with any regulatory accounting requirements, nor are they required to separately book their costs and revenues to the interstate and intrastate jurisdictions. For example, many CMRS providers like AT&T Mobility do not maintain their financial records on a state-by-state geographic basis much less by specific study area. Generally, CMRS providers maintain cost accounting records based on the geographic areas covered by their CMRS licenses, which often cross state borders and may only partially cover the geographic boundaries of a state.⁵⁷

⁵⁴ *Id.* at para. 13.

⁵⁵ Moreover, AT&T's proposal would more clearly create a greater incentive for wireless investment in rural and other high-cost areas. *Id.* at para. 5.

⁵⁶ See Letter from Mary Henze, AT&T, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 05-337 (filed Oct. 4, 2007). In addition, GVNW's description of the WiCAC model requiring only 23 accounts oversimplifies the process and fails to acknowledge the numerous sub-accounts within the proposed main accounts. For example, main account 32.8171 requires individual inputs for: Wireless Switching (line 260), Operator System Equipment (line 265), Wireless Transmission (line 270), Spectrum Acquisition (line 280); account 32.8176 requires four sub-accounts, etc.

⁵⁷ For example, cellular licenses are granted based on MSAs and RSAs (metropolitan statistical areas and rural service areas). Many MSAs cover multiple states (*e.g.*, the Cincinnati MSA covers portions of

As the transition to the Part 32 System of Accounts for wireline carriers amply demonstrates, adopting a system of accounts as GVNW proposes is not only unnecessary but also likely would be very time-consuming and prohibitively expensive. In May 1986, the Commission required the transition from a former Uniform System of Accounts (Parts 31 and 33) to the current Part 32 USOA.⁵⁸ The Commission initiated the proceeding nearly eight years before the rules were ultimately adopted.⁵⁹ The further NPRM alone took 15 months to complete.⁶⁰ Even though carriers were already reporting costs pursuant to one uniform standard, the Commission gave these carriers 18 months to implement the new Part 32.⁶¹ Carriers also submitted information in that proceeding indicating the costs to implement the updated accounting system would range between \$685 million to \$1.1 billion in 1986 dollars.⁶²

In this NPRM, the Commission further seeks comment on whether and how wireless CETC support should be modified to account for the type of ILEC that also provides service in that area. For example, the Commission sought comment on whether CETCs should be able to recover costs for different network components for non-rural areas than for rural service areas⁶³

Ohio, Kentucky, and Indiana; and the Memphis MSA covers portions of Tennessee, Arkansas, and Mississippi). Furthermore, wireless carriers are not required to maintain their books on a state-by-state basis, such that record keeping is based on operational needs, *e.g.*, partnerships, market clusters.

⁵⁸ *Revision of the Uniform System of Accounts & Financial Reporting Requirements for Class A & Class B Telephone Companies (Parts 31, 33, 42, & 43 of the FCC's Rules)*, CC Docket No. 78-196, Report and Order, FCC 86-221, 51 Fed. Reg. 43498 (1986).

⁵⁹ *Id.* at para. 5 (stating the Commission issued the NPRM initiating the proceeding to revise the uniform system of accounts in July 1978).

⁶⁰ *Id.* at para. 6 (stating that the Commission released the First Supplemental NPRM in August 1979).

⁶¹ *Id.* at paras. 162-165 (ordering paragraphs making new uniform system of accounts effective January 1, 1988).

⁶² *Id.* at para. 9 (discussing implementation cost estimates).

⁶³ *Identical Support NPRM* at para. 15.

and whether the Commission should apply the same benchmarks that it uses for non-rural and rural carriers to determine whether a CETC should receive high-cost support.⁶⁴ AT&T cannot support any proposal that would perpetuate the current flawed high-cost framework that is premised on the size of the ILEC rather than the areas and consumers it serves. AT&T's proposal more appropriately targets unserved areas for universal service support and an applicant's proposed costs of serving such an area would have little correlation to the size of that applicant. AT&T's proposal thus does not suffer from the potential legal infirmities that would attend any Commission order that continues the fiction that a provider's support should be based on its size rather than the costs of providing service to high-cost areas.

Finally, the Commission tentatively concludes that CETCs should no longer receive Interstate Access Support (IAS) and Interstate Common Line Support (ICLS) and has further inquired whether Local Switching Support should also be eliminated for CETCs.⁶⁵ For its actions to be consistent with the principles in section 254(b) (particularly, section 254(b)(5)), the Commission would most likely have to reduce or eliminate this support over a period of years (versus a flash-cut). AT&T's proposal would rationally and predictably reduce *all* legacy high-cost funding received by wireless CETCs over a period of five years and redeploy that support to the new project-based Advanced Mobility Fund. AT&T believes that its proposal would more

⁶⁴ *Identical Support NPRM* at para. 20.

⁶⁵ *Identical Support NPRM* at para. 23 (citing an AT&T *ex parte* submission filed on Mar. 22, 2007). Last March, AT&T submitted a one-year, high-cost interim stabilization proposal for Joint Board consideration. In light of the rapid escalation in the size of the high-cost program attributable to competitive ETCs, the interim stabilization proposal was designed to provide the Commission and stakeholders with necessary breathing room on an emergency basis to implement comprehensive high-cost reform. In it, AT&T recommended that the Commission impose, among other things, a 25 percent reduction in wireless ETCs' IAS and ICLS support, not an immediate, complete elimination of this support.

effectively achieve the Commission's goals of providing wireless competitive ETCs high-cost support based on their own costs and promoting investment in rural and other high-cost areas of the country.⁶⁶

⁶⁶ *Identical Support NPRM* at para. 5.

IV. CONCLUSION

In these comments, AT&T proposes the roadmap to transition universal service support mechanisms that were designed to ensure ubiquitous POTS to mechanisms designed to meet the needs of Americans in the 21st Century: access to affordable broadband service wherever we live, work or travel. In contrast to other proposals, AT&T's market-based broadband proposal can be implemented in a timely fashion, is appropriately targeted to unserved areas, and its transition provides predictability to the current recipients of legacy support. AT&T also suggests a process to remove the current disincentive that many ILECs have to deploy and actively market broadband service. By reducing and replacing access charge revenues with explicit support, AT&T's proposal would further Congress's mandate to eliminate implicit subsidies while satisfying the policy makers' goal to make broadband service ubiquitous in rural America. AT&T's proposed framework will inject economic rationality and discipline into the universal service funding mechanisms and will bring universal service out of the era of the black rotary phone and into the 21st Century.

Respectfully Submitted,

/s/ Cathy Carpino

Cathy Carpino

Christopher Heimann

Gary Phillips

Paul K. Mancini

AT&T Inc.

1120 20th Street NW

Suite 1000

Washington, D.C. 20036

(202) 457-3046 – phone

(202) 457-3073 – facsimile

April 17, 2008

Its Attorneys



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Federal Communications Commission

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APPENDIX B

September 23, 2008

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

***Re: In the Matter of Universal Service Contribution Methodology,
WC Docket No. 06-122; In the Matter of Federal-State Joint Board
on Universal Service, CC Docket No. 96-45***

Dear Ms. Dortch,

Yesterday, AT&T and Verizon met with Wireline Competition Bureau staff to review the supporting data analysis for the Direct USF Contribution Methodology Plan filed jointly on September 11, 2008. Attending the meeting for the companies were Kathleen Grillo, Chris Miller, and Catherine Palcic of Verizon and Hank Hultquist, Joel Lubin, Mary Henze, Cathy Carpino, Saikat Sen, and Mike Tan of AT&T. FCC staff participating were Jeremy Marcus, Rodger Woock, Erica Myers, Carol Pomponio, Cindy Spiers, Craig Stroup, Michael Goldstein, James Eisner, Jim Lande, and Greg Guice.

During the meeting the companies reviewed the supporting data analysis for the Plan, including Consumer vs. Business Share of USF, Estimated Per-Telephone Number Charge, and an illustrative Estimated Consumer Impact. The parties noted that the analysis had been updated since the September 10th meeting and that the Consumer vs. Business Share percentages had changed slightly as a result. All material used during the meeting is attached.

Should you have any questions about this letter or the attached, please feel free to contact either one of us.

Sincerely,

/s/ Mary L. Henze
Mary L. Henze
AT&T Services, Inc.

/s/ Kathleen Grillo
Kathleen Grillo
Verizon

Attachment

Cc: Jeremy Marcus
Rodger Woock
Erica Myers
Carol Pomponio
Cindy Spiers
Craig Stroup
Michael Goldstein
James Eisner
Jim Lande
Greg Guice

Direct USF Contribution Methodology

Supporting Data Analysis

- Table 1** **Consumer vs. Business Share of USF: Revenues-based System**
This analysis uses historical end-user interstate and international revenue data and various industry sources in order to allocate current contributions between consumer and business customers under today's revenue-based system. This analysis concludes that under today's revenues-based system, consumers pay approximately 48% of the total Universal Service fund.
- Table 2** **Consumer vs. Business Share of USF: Direct USF Contribution Methodology**
This analysis uses NRUF reported "assigned" telephone numbers as a surrogate for "Assessable Numbers" under the Plan and relies upon various industry sources to estimate the impact of the adjustments proposed by the Plan. This analysis concludes that under the Direct USF Contribution Methodology Plan, consumers would pay a smaller percentage of the USF than they do today. According to this analysis, consumers would pay approximately 42% of the total Universal Service fund including the wireless family plan transitional discount and 45% of the total Universal Service plan without the family plan transitional discount.
- Table 3** **Estimated Per-Telephone Number Charge**
This analysis uses NRUF "assigned" telephone numbers as a surrogate for "Assessable Numbers" under the Plan and USAC Universal Service Fund Size projections. This analysis estimates that the per telephone number charge under the Direct USF Contribution Methodology Plan would be \$1.07 per month including the wireless family plan transitional discount and \$1.01 per month without the wireless family plan transitional discount.
- Table 4** **Estimated Consumer Impact: Revenues vs. Numbers**
This analysis compares USF surcharges for low, medium, and high usage customers of both wireline and wireless services under the current revenues-based system to estimate USF surcharges under the Direct USF Contribution Methodology Plan. This analysis concludes that the majority of consumers would pay less in USF monthly fees under the Direct USF Contribution Methodology Plan than they do today.

Table 1: Consumer vs. Business Share of USF: Revenues-based System

Type of Contributor	2006 Interstate & Int'l. End-user Telecommunications Revenues (\$M) ¹	Percent Allocation ³		Allocated Revenues (\$M)	
		Consumer	Business	Consumer	Business
RBOCs	\$13,481	39.1%	60.9%	\$5,275	\$8,206
Other ILECs	\$2,604	44.4%	55.6%	\$1,156	\$1,448
CAPs/CLECs	\$4,115	27.7%	72.4%	\$1,138	\$2,977
Other Competitive Local Service Providers	\$434	44.4%	55.6%	\$193	\$241
Interconnected VoIP	\$209	83.5%	16.5%	\$175	\$34
Payphone	\$29	0.0%	100.0%	\$0	\$29
Wireless Telephony	\$26,857	76.8%	23.2%	\$20,626	\$6,231
Wireless Data	\$88	46.1%	53.9%	\$41	\$47
Paging/Messaging	\$77	10.0%	90.0%	\$8	\$69
Specialized Mobile Radio Dispatch	\$40	76.8%	23.2%	\$31	\$9
IXCs ²	\$21,351	25.0%	75.0%	\$5,338	\$16,013
Operator Service Providers	\$143	25.0%	75.0%	\$36	\$107
Prepaid Calling Card Providers	\$1,689	100.0%	0.0%	\$1,689	\$0
Satellite Service Providers	\$276	25.0%	75.0%	\$69	\$207
Toll Resellers and Other Toll Carriers	\$7,784	25.0%	75.0%	\$1,946	\$5,838
All Contributors	\$79,177	48%	52%	\$37,718	\$41,459

Notes on Data Sources

1 - Interstate/International Telecommunication Revenues - "Universal Service Monitoring Report" released December, 2007 (Table 1.9)

2 - Includes revenue data for AT&T and the former MCI

3 - RBOCs, ILECs, and CLECs: Allocation derived from composite percentages from Form 499A Reports and the FCC's Local Competition Report (rel. 9/08).

Interconnected VoIP: Allocation was derived from 2007 VoIP Revenues from Ovum's April 2008 Report

Wireless Voice & Data: Allocation was derived from IDC's estimates for 2007 ("U.S. Total and Business Wireless Service Revenues," (Table 3))

Paging: Allocation of 10% Consumer, 90% Business is an estimate.

IXCs/Toll Carriers: Allocation is from "Trends in Telephone Service" Report, released Aug. 2008 (Table 9.3)

Table 2: Consumer vs. Business Share of USF: Direct USF Contribution Methodology

NRUF Filers	Telephone Numbers¹ (K): Total	Consumer	Business
ILECs ²	294,213	81,812	
CLECs ²	78,825	12,054	
<i>Estimated Data Variance⁹</i>	(18,652)	0	(18,652)
VoIP ³ (ILECs/CLECs)	<i>(Included in above)</i>	14,200	
Sub-Total: ILECs/CLECs ¹⁰	354,386	108,066	246,320
Cellular/PCS ⁴	260,143	199,009	61,134
Toll-Free Numbers ¹	24,488	0	24,488
Paging ⁵	5,854	585	5,269
Total Assigned Numbers Base	644,871	307,660	337,211
Proposed Adjustments			
Prepaid Wireless adjustment ⁶	(21,306)	(21,306)	0
Wireless family plan adjustment ⁷	(35,021)	(35,021)	0
Lifeline adjustment ⁸	(6,938)	(6,938)	0
Total Adjustment to Base	(63,265)	(63,265)	0
Consumer / Business Allocation (with family plan adjustment)		42%	58%
Consumer / Business Allocation (without family plan adjustment)		45%	55%

Notes:

1 - Source: "Numbering Resource Utilization in the United States NRUF data as of 12/31/07" (Tables 1 and 20)

2 - Allocation of ILEC/CLEC numbers based on allocation of residential lines from Local Telephone Competition: Status as of December 31, 2007 (Table 2).

3 - Source: Yankee Group Forecast of North American Consumer VoIP Market released August 2008

4 - Source: IDC Report, "U.S. Consumer and Business Wireless Subscribers, 2006 - 11" (Table 2)

5 - Allocation of 10% Consumer, 90% Business is an estimate.

6 - This figure represents an estimate of the number-equivalent impact of calculating prepaid wireless contributions on a per-minute of usage basis. (This is estimated to have a dollar impact equivalent to a reduction of 21,306K numbers.)

7 - This figure represents an estimate of the number-equivalent impact of providing a 50% discount for non-primary wireless family plan subscribers. (This is estimated to have a dollar impact equivalent to a reduction of 35,021K numbers.)

8 - Source: "Universal Service Monitoring Report" (Table 2.1) released December, 2007

9 - Estimated data variance between NRUF assigned telephone numbers for ILECs and CLECs and expected aggregate monthly count submissions under the Plan.

10 - Consumer/Business allocation at "Subtotal" level is a residual calculated by subtracting residential numbers from total numbers.

Table 3: Estimated Per-Telephone Number Charge

Telephone Numbers ¹	Numbers (w/ family plan)	Numbers (w/o family plan)
ILEC	294,213,000	294,213,000
CLEC	78,825,000	78,825,000
<i>Estimated Data Variance ⁵</i>	(18,651,900)	(18,651,900)
Toll-free	24,487,982	24,487,982
Wireless	260,143,000	260,143,000
Paging	5,854,000	5,854,000
Total Assigned Numbers Base	644,871,082	644,871,082
Proposed Adjustments		
Prepaid Wireless Adjustment ²	(21,305,712)	(21,305,712)
Wireless family plan Adjustment ³	(35,020,971)	
Lifeline Adjustment ⁴	(6,937,516)	(6,937,516)
Total Adjustment to Base	(63,264,199)	(28,243,228)
Net Assessable Telephone Numbers (with family plan adj.)	581,606,883	
Net Assessable Telephone Numbers (w/out family plan adj.)		616,627,854
Universal Service Fund Size (2008) ⁶	\$7,491,090,000	\$7,491,090,000
Per Number Assessment Per Month (with family plan adj.)	\$1.07	
Per Number Assessment Per Month (w/out family plan adj.)		\$1.01

Notes:

1 - Source: Assigned Numbers from "Numbering Resource Utilization in the United States NRUF data as of 12/31/07" (Tables 1 and 20)

2 - This figure represents an estimate of the number-equivalent impact of calculating prepaid wireless contributions on a per-minute of usage basis. (This is estimated to have a dollar impact equivalent to a reduction of 21,306K numbers.)

3 - This figure represents an estimate of the number-equivalent impact of providing a 50% discount for non-primary wireless family plan subscribers. (This is estimated to have a dollar impact equivalent to a reduction of 35,021K numbers.)

4 - 2006 Data, Table 2.1 "Universal Service Monitoring Report" released December, 2007

5 - Estimated data variance between NRUF assigned telephone numbers for ILECs and CLECs and expected aggregate monthly count submissions under the Plan.

6 - USF Contribution Factor Public Notices for 1st, 2nd, 3rd, and 4th Quarters of 2008

Table 4: Estimated Consumer Impact: Revenues vs. Numbers

Customer Type:	Monthly Charges ¹	Federal Subscriber Line Charge (SLC)	LD Charges (Intrastate, Interstate, and International) ²	Current Assessment @ 11.4% ³	Consumer Impact @ \$1.07	Consumer Impact @ \$1.01
Wireline - Zero LD Use	\$15.00	\$6.00	\$0.00	\$0.68	\$0.39	\$0.33
Wireline - Low LD Use	\$15.00	\$6.00	\$5.00	\$0.97	\$0.10	\$0.04
Wireline - Medium LD Use	\$15.00	\$6.00	\$10.00	\$1.25	(\$0.17)	(\$0.24)
Wireline - High LD Use	\$15.00	\$6.00	\$50.00	\$3.53	(\$2.46)	(\$2.52)
Lifeline Subscriber - Low	\$15.00	\$0.00	\$5.00	\$0.29	(\$0.29)	(\$0.29)
Lifeline Subscriber - Medium	\$15.00	\$0.00	\$10.00	\$0.57	(\$0.57)	(\$0.57)
Lifeline Subscriber - High	\$15.00	\$0.00	\$50.00	\$2.85	(\$2.85)	(\$2.85)
VoIP Subscriber (Interconnected) ⁴	\$25.00	\$0.00	\$0.00	\$1.85	(\$0.78)	(\$0.84)
Wireless Subscriber-Low ⁵	\$30.00	\$0.00	\$0.00	\$1.27	(\$0.20)	(\$0.26)
Wireless Subscriber-Medium ⁵	\$50.00	\$0.00	\$0.00	\$2.11	(\$1.04)	(\$1.10)
Wireless Subscriber-High ⁵	\$99.00	\$0.00	\$0.00	\$4.19	(\$3.12)	(\$3.18)

Notes:

1 - Monthly charges for wireline customers represent an estimate of basic local and other miscellaneous charges. For wireline and Lifeline customers, these are state and local charges that are not subject to FUSF contribution under a revenues-based methodology.

2 - This column contains estimated charges of long distance service representative of typical customers of various usage levels. For assessment estimates, 50% of long distance charges were assumed to be interstate.

3 - Federal USF Contribution Factor from 3rd/4th Quarter 2008 FCC Public Notice.

4 - For assessment estimates of VoIP customers, assumed FCC VoIP safe harbor of 64.9%.

5 - For assessment estimates of wireless customers, assumed FCC Wireless safe harbor of 37.1% interstate.



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APPENDIX C

Consumer-Business Allocation of Historic Intrastate, Interstate, and International Revenues Billed to End Users Reported for 2007*

\$ in Millions	Historic 2007	Percent Allocator		Allocated Revenues	
	Enduser Revenues	Consumer	Business	Consumer	Business
RBOCs	\$ 50,993	37.04%	62.96%	\$ 18,888	\$ 32,105
Other ILECs	\$ 10,124	38.66%	61.34%	\$ 3,914	\$ 6,210
CAPs/CLECs	\$ 13,815	26.32%	73.68%	\$ 3,636	\$ 10,179
Other Competitive Local Service Providers	\$ 1,011	38.66%	61.34%	\$ 391	\$ 620
Interconnected VoIP	\$ 1,887	83.50%	16.50%	\$ 1,576	\$ 311
Payphone	\$ 284	0.00%	100.00%	\$ -	\$ 284
Wireless Telephony	\$ 116,602	76.80%	23.20%	\$ 89,550	\$ 27,052
Wireless Data	\$ 149	46.10%	53.90%	\$ 69	\$ 80
Paging/Messaging	\$ 518	10.00%	90.00%	\$ 52	\$ 466
Specialized Mobile Radio Dispatch	\$ 124	76.80%	23.20%	\$ 95	\$ 29
IXCs	\$ 29,755	25.00%	75.00%	\$ 7,439	\$ 22,316
Operator Service Providers	\$ 558	25.00%	75.00%	\$ 140	\$ 419
Prepaid Calling Card Providers	\$ 1,700	100.00%	0.00%	\$ 1,700	\$ -
Satellite Service Providers	\$ 351	25.00%	75.00%	\$ 88	\$ 263
Toll Resellers and Other Toll Carriers	\$ 9,792	25.00%	75.00%	\$ 2,448	\$ 7,344
ALL FILERS	\$ 237,663	55%	45%	\$ 129,984	\$ 107,679

* From Table 1.9 of the 2008 Universal Service Monitoring Report

Notes:

For Toll Carriers -- used 75% Business and 25% Consumer Split from Table 9.3 of the Trends in Telephone Service Report released Aug. 2008

For Wireless Voice and Data used IDC's estimates for 2007 from Table 3, "U.S. Total and Business Wireless Service Revenues.

For RBOCs, ILECs, and CLECs used composite percentages derived from Form 499A Reports

For Interconnected VoIP used 2007 VoIP Revenues from Ovum's April 2008 Report

APPENDIX D

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Data in Billions	Year 2008*	% of Total 2008 Revenue	
Total Operating Revenue	\$ 124.0	Wireless	40%
		Consumer	18%
		Business	37%
		Local Search/Other	5%
Total Operating Expense	\$ 101.0		

* AT&T Inc. 2008 Annual Report

APPENDIX E

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