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Ex Parte

December 1, 2010

Marlene Dortch
Secretary
Federal Communications Commission
445 12th St., SW
Washington, D.C. 20554

**Re: High-Cost Universal Service Support, WC Docket No. 05-337; Federal-State
Joint Board on Universal Service, CC Docket No. 96-45**

Dear Ms. Dortch:

Yesterday, on behalf of AT&T Mobility, I met with Trent Harkrader, Amy Bender, Ted Burmeister, and Joe Cavender of the Telecommunications Access Policy Division of the Wireline Competition Bureau (Bureau) to discuss two competitive eligible telecommunications carrier (CETC) issues. First, I asked the Bureau to provide written guidance to the Universal Service Administrative Company (USAC) or issue a decision on implementation of the AT&T/Dobson and Alltel company-specific caps on CETC high-cost support.¹ The Bureau sought and received comment on whether to implement these two company-specific caps over a year ago.² Consistent with the comments that we filed last year, I asked that the Bureau respond expeditiously to this USAC request and I reiterated that the Bureau must apply that decision equally to AT&T and Verizon, which acquired Alltel in 2008.³

Second, I expressed concern over the Bureau's August 24, 2010 letter to USAC, which AT&T Mobility personnel only discovered last month while reviewing other information on USAC's web site.⁴ In this letter, the Bureau directs USAC to modify – over two years after fact

¹ See *AT&T/Dobson Merger Order*, 22 FCC Rcd 20295, ¶ 72 (2007); *Alltel/Atlantis Order*, 22 FCC Rcd 19517, ¶ 9 (2007).

² 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) (explaining that USAC requested written guidance from the Bureau on whether to implement these two carriers' caps on CETC high-cost support).

³ AT&T Comments, WC Docket Nos. 05-337, 06-122, CC Docket No. 96-45, 25-27 (filed Oct. 28, 2009) (also asking that, if the Bureau directs USAC to implement these two caps, it direct USAC to apply the methodology that USAC, AT&T, and Alltel agreed upon in early 2008).

⁴ See <http://www.usac.org/res/documents/hc/pdf/2010-reminders/InterimCapAdjustmentLetter.pdf>. To our knowledge, this letter does not appear on the Commission's web site and the Bureau has issued no public notice alerting CETCs of the letter's existence.

– the CETC state-specific caps to account for ILEC prior period adjustments to interstate common line support (ICLS) and local switching support.⁵ Instead of directing USAC to make these ILEC prior period adjustments to CETCs’ support outside of the caps, the Bureau directs USAC to adjust the March 2008 capped amounts themselves. Using USAC’s terminology, this methodology will result in “substantial” reductions to AT&T Mobility’s support in several states (and to other CETCs operating in those states).⁶ I explained how, prior to the August 24, 2010 letter appearing sometime this Fall on USAC’s web site, neither the Commission nor USAC made CETCs aware that USAC will be clawing back a significant amount of funding going back to the inception of the industry-wide CETC interim cap (i.e., August 2008).⁷ I noted that AT&T Mobility has spent this money, consistent with its state commission- or Commission-approved build-out plans. Applying the methodology set forth in the Bureau’s August 28, 2010 letter thus would have a punitive effect on AT&T Mobility and other CETCs. Instead, I asked staff to consider a different methodology in which USAC would still apply prior period adjustments to CETC support, as it has in years past. Those adjustments, however, would not affect the March 2008 state-specific caps, which would be frozen, but would be made outside of those capped amounts. This approach would be more equitable and predictable than the Bureau’s methodology, and is consistent with the methodology that USAC, AT&T, and Alltel agreed upon in early 2008 for how to implement the AT&T and Alltel caps. Another alternative, not discussed at the meeting, would be for the Bureau to direct USAC to implement these prior period adjustments by lowering the March 2008 state-specific caps *on a prospective basis*, beginning, for example on January 1, 2011.⁸

If the Bureau declines to modify its methodology, I asked that it direct USAC to provide CETCs with their individual, state-specific adjustment amounts no later than December 10, 2010, so that CETCs have the opportunity to reflect these liabilities on their books before the close of the year. Finally, I asked that the Bureau permit USAC to recover these prior period adjustments over an extended period of time, which is consistent with USAC’s practice when USAC has recovered, for a variety of reasons, substantial sums from ETCs.

⁵ The Bureau also directs USAC to make adjustments to these state-specific caps to reflect errors in data identified by CETCs or USAC, and the impact of Bureau waivers granted in 2008 and 2009. These adjustments were not the subject of my discussion with staff.

⁶ <http://www.usac.org/hc/tools/latest-news/default.aspx#083110c>.

⁷ I also relayed that AT&T Mobility personnel had questions about some of the published ILEC figures (e.g., in Puerto Rico, the sole ILEC’s ICLS per-line support has been frozen since 2007, the true-up to which should have been generated by the ILEC’s December 31, 2008 filing, not its December 31, 2009 filing). These questions highlight the lack of visibility that CETCs have had about the substance of the Bureau’s August 24, 2010 letter (and the existence of the letter itself).

⁸ While the Commission did not waive any rules to implement its *CETC Interim Cap Order* (e.g., 47 C.F.R. §54.309), to implement this particular alternative, the Commission could, if it deemed it necessary, waive section 54.309 of its rules on its own motion to allow the ILEC prior period adjustments to be applied prospectively to capped CETC support.

Please do not hesitate to contact me at (202)457-3046 with any questions.

Sincerely,

/s/ Cathy Carpino

cc: Trent Harkrader
Amy Bender
Ted Burmeister
Joe Cavender