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State Corporation Commission
of Kansas

July 21, 2017

Ms. Lynn M. Retz
Secretary to the Commission
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604-4027

Re: KCC Docket No. 17-SWBT-158-MIS

Dear Ms. Retz:

Attached you will find AT&T Kansas' Brief on Additional Questions for electronic filing in the above referenced docket.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bruce A. Ney".

Bruce A. Ney
AVP - Senior Legal Counsel

Attachment

cc: Parties of Record

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

In the Matter of the Application of Southwestern)	
Bell Telephone Company d/b/a AT&T Kansas for)	
an Order Confirming Relinquishment of Its Eligible)	Docket No. 17-SWBT-158-MIS
Telecommunications Carrier Designation in Specified)	
Areas, and Notice Pursuant to K.S.A. 2015 Supp.)	
66-2006(d) of Intent to Cease Participation in the)	
Kansas Lifeline Services Program.)	

**AT&T KANSAS' BRIEF
ON ADDITIONAL QUESTIONS**

Southwestern Bell Telephone Company d/b/a AT&T Kansas ("AT&T") respectfully submits its Brief on Additional Questions in response to the five questions set forth in the Commission's July 11, 2017 Order Requesting Additional Briefing From the Parties.

INTRODUCTION

1. The remaining dispute in this proceeding is narrow. Staff agrees that AT&T meets the test to relinquish its ETC designation throughout the entire relinquishment area when it comes to Lifeline service, and also in all but 932 census blocks when it comes to the so-called "high-cost" ETC obligation to provide voice service upon reasonable request.¹ Because AT&T has customers in only 408 of those 932 census blocks Staff's concern actually applies to only 408 census blocks and only to AT&T's 1,156 non-Lifeline lines in those census blocks.²

2. The undisputed facts show that AT&T has met the relinquishment test under Section 214(e)(4) in the 932 census blocks, because every exchange containing the 932 census

¹ Staff Second Report and Recommendation at 1-2 (May 4, 2017) ("Staff Second Report"). As addressed in prior pleadings, AT&T continues to oppose Staff's view that ETC relinquishment must be evaluated separately by each "type" of ETC designation, which is not required by Section 214(e)(4).

² AT&T Kansas' Response to Staff's Second Report and Recommendation, ¶ 4 (May 18, 2017) ("AT&T Response to Staff Second Report"). In a motion filed on July 19, AT&T explained that it is reviewing its census block data to ensure, among other things, that census blocks that the FCC assigned to AT&T as part of its Connect America Fund Phase II proceeding are, indeed, in AT&T's service territory. After that review is complete, AT&T may revise the census block exhibits previously submitted to the Commission. Any such change does not affect the substance of AT&T's responses provided below, but the numbers (*e.g.*, 932 census blocks) may change.

blocks is served by at least two other ETCs. Staff Second Report at 6. The undisputed facts also show that the remaining ETCs in the relinquishment area, as well as AT&T itself, will ensure that every AT&T customer in that area will continue to be served after relinquishment, and, indeed, that all AT&T non-Lifeline customers will have *all the same legacy voice service options they have today*. AT&T Response to Staff Second Report, ¶¶ 3, 12, 18 (citing Exs. 2 and 3 to Staff Second Report).

3. The five questions in the July 11 Order relate to Sections 201, 202, 214(a), and 214(e)(4) of the federal Communications Act (47 U.S.C. §§ 201, 202, and 214), but the purpose of the questions is unclear. AT&T's Application seeks relief under Section 214(e)(4) alone, and Sections 201, 202, and 214(a) do not change the standard for ETC relinquishment. Rather, AT&T has cited those provisions in prior pleadings only because they provide further assurance – in addition to the facts of record – that all AT&T customers in the 932 census blocks will continue to be served after relinquishment. Specifically, AT&T and the other ETCs in the 408 census blocks are “common carriers,” and Sections 201 and 202 require common carriers to provide communication service to all customers in their service territory upon reasonable request, including non-Lifeline customers. 47 U.S.C. §§ 201(a)-(b), 202(a). Section 214(a), in turn, precludes AT&T or other carriers subject to Section 214(a) from discontinuing legacy voice service without FCC permission. Given the facts and safeguards, there is no risk that any AT&T non-Lifeline customer will lose access to legacy voice service as a result of relinquishment.

RESPONSES TO QUESTIONS

(a) **How should 47 U.S.C. Sections 201, 202 and 214(a) be harmonized with Section 214(e)(4), such that *all* of Section 214(e)(4) is accounted for?**

4. The purpose of this question is unclear, because AT&T's Application does not depend on any particular interpretation of Sections 201, 202, or 214(a). Nor has AT&T

discussed those provisions in any way that conflicts with Section 214(e)(4) or fails to account for “*all* of Section 214(e)(4).” To the contrary, AT&T’s focus has been on the requirements of Section 214(e)(4) itself. Section 214(e)(4) requires that another ETC serve the relinquishment area. AT&T’s presentation and Staff’s investigation have shown that every exchange in the 932 census blocks is served by at least two other ETCs. Staff Second Report at 1-2. Section 214(e)(4) also requires the Commission to require the remaining ETCs to ensure that all AT&T customers in the relinquishment area will continue to be served. The facts show they will. Staff issued discovery asking the Lifeline-only ETCs in the relinquishment area whether they would be able to serve AT&T’s *non-Lifeline* customers after relinquishment, and the Lifeline-only ETCs responded that they *would* be able to do so. See Attachment A hereto (summarizing responses); AT&T Response to Staff Second Report, ¶ 18; Staff Second Report, Ex. 3 (responses to Staff data request 12(e)). Moreover, AT&T itself will continue to provide the same legacy voice service it provides today to non-Lifeline customers throughout the relinquishment area.

(b) What protections do consumers in the 932 census blocks receive by AT&T’s retention of its ETC designation for those census blocks that those consumers *do not* receive by AT&T’s adherence to Sections 201, 202 and 214(a)?

5. If AT&T were to retain its ETC designation in the 932 census blocks, AT&T customers in those census blocks still would be able to obtain Lifeline-discounted service from AT&T. However, Staff agrees that AT&T meets the test to relinquish its ETC designation for Lifeline service in these census blocks (Staff Second Report at 1-2), and AT&T therefore understands this question to relate only to the so-called “high-cost” ETC designation.

6. There do not appear to be any additional protections for consumers that would arise from AT&T being a “high-cost” ETC in these census blocks, as opposed to only being a common carrier under Sections 201-202. Whether AT&T is a high-cost ETC or only a common

carrier, both it and other common carriers would be obligated to provide legacy voice service upon reasonable request and on rates, terms, and conditions that are nondiscriminatory and just and reasonable. 47 U.S.C. §§ 201-202. As stated in prior pleadings, AT&T will provide its non-Lifeline customers in the relinquishment area with access to all the same legacy voice service options after relinquishment as before relinquishment.

7. Turning to the only statute at issue here, the protection for consumers under Section 214(e)(4) comes from the requirements that there be another ETC serving the relinquishment area and that the state commission ensure that the relinquishing ETC's existing customers in that area "will continue to be served." Both protections exist here. As noted above and in prior pleadings, several ETCs other than AT&T serve the relinquishment area, and those ETCs, along with AT&T, have made plain that they can and will continue to offer voice service to AT&T's non-Lifeline customers throughout the relinquishment area.

(c) **If, after ETC relinquishment, a carrier is required under Sections 201-202 to provide all of the same voice service it provides before relinquishment to all consumers throughout its service area upon reasonable request, on a non-discriminatory basis, with just and reasonable rates and terms, then what is the point or benefit of ETC relinquishment for that carrier?**

8. As a threshold matter, AT&T's obligations in the 932 census blocks after relinquishment would not be the same, because it would no longer be obligated to provide a Lifeline discount on legacy voice service. Assuming the question relates only to AT&T's so-called "high-cost" ETC obligation, the benefits of relinquishment are that AT&T would no longer be designated as a high-cost ETC in the relinquishment area. That would mean, among other things, that AT&T would not be subject to any new obligations that Congress or the FCC may impose on ETCs in the future and it would not be at risk of being unable to relinquish if it became the last ETC left in a given area. In addition, high-cost ETCs are subject to various FCC

reporting requirements, and, if they receive funding, are subject to USAC audits in addition to whatever obligations apply to the specific type of funding that they receive. Relinquishment would relieve AT&T of any such obligations in these areas. Every regulatory obligation comes with costs and risks, and there is a benefit to being relieved of those costs and risks.

9. That being said, this question has no clear bearing on AT&T's Application. Section 214(e)(4) does not require there to be a specific "point or benefit" to relinquishing an ETC designation. Nor could the Commission deny relinquishment based on its view of what benefit the relinquishment might have for AT&T. The only thing an ETC must show under Section 214(e)(4) is that the relinquishment area is served by at least one other ETC. As Staff has concluded based on its own granular analysis, every exchange in the relinquishment area here is served by at least two ETCs other than AT&T. Staff Second Report at 6.

(d) If remaining ETCs are common carriers, and thus are legally required to serve all customers in their service area – including non-Lifeline customers - upon reasonable request, pursuant to Sections 201-202, then what is the purpose of the remaining ETCs having an ETC designation with its concomitant obligation to serve? And what good would it do to be a "Lifeline-only" ETC if Sections 201-202 obligated you to serve non-Lifeline customers?

10. Like question (c), this question has no clear bearing on AT&T's Application, because it has nothing to do with whether at least one ETC other than AT&T serves the relinquishment area, or even with whether AT&T's non-Lifeline customers in the relinquishment area will continue to be served after relinquishment. Moreover, these questions require speculation about the motivations of carriers other than AT&T, which neither AT&T nor Staff can address. The most relevant statements of the remaining ETCs are their responses to Staff data request 12(e), where they confirmed that they are able to serve AT&T's non-Lifeline customers in the relinquishment area. Attachment A hereto; Staff Second Report, Ex. C.

11. AT&T nevertheless will answer to the extent it can. As for the second part of the question – what is the benefit of being a Lifeline-only ETC if you still have a common-carrier duty to serve non-Lifeline customers – the likely answer is that there is or was federal funding available to provide Lifeline service. The question seems to assume that being a Lifeline-only ETC should relieve an ETC of its common-carrier obligations under Sections 201-202, but that is not what the law requires. To the contrary, when the FCC granted forbearance in certain areas from the federal requirement that price-cap carriers offer voice telephony throughout their service areas as part of their ETC duties under Section 214(e)(1)(A), which would make those price-cap carriers become Lifeline-only ETCs, it emphasized that those price-cap carriers would remain subject to the Section 201-202 common-carrier obligations, including the obligation to provide voice telephony throughout their territory. *2014 Forbearance Order*, ¶¶ 51, 58.³ The FCC therefore saw no disconnect in being both a Lifeline-only ETC and a common carrier with an obligation to serve non-Lifeline customers.⁴

12. The first part of the question seems to ask why a carrier would want to be designated as a “high-cost” ETC if it already has a common-carrier obligation to serve under Sections 201-202. The most likely answer is that some carriers became ETCs so that they could be eligible for federal high-cost support under the FCC’s old high-cost support mechanisms, which awarded support to competitive ETCs based on the amount of support the incumbent local exchange carrier was receiving. Those carriers may have desired that funding at the time, and either may not have adjusted their plans since the FCC revised its funding mechanisms or may

³ *Connect America Fund*, 29 FCC Rcd. 15499 (rel. Dec. 18, 2014).

⁴ The question also seems to assume that all Lifeline-only ETCs provide only Lifeline service. As the Lifeline-only ETCs’ responses to Staff data request 12(e) show, however, most or all of them also provide non-Lifeline service and responded that they would be able to serve AT&T’s non-Lifeline customers in the relinquishment area. Attachment A hereto; Staff Second Report, Ex. C.

prefer to remain an ETC for other reasons. AT&T cannot know the answer – but, more importantly, the answer does not matter under Section 214(e)(4), which does not turn on carriers’ motivations or perceived purposes in being an ETC.

- (e) **How can the assertion that Lifeline-only ETCs cannot be forced to undertake the voice obligations of serving all reasonable requests for service within their designated service area for non-Lifeline customers be harmonized with Sections 201-202 and 214(a)?**

13. AT&T is not aware of any party asserting that Lifeline-only ETCs cannot be forced to fulfill all reasonable requests for voice service by non-Lifeline customers. Section 201 would require any common carrier, including a Lifeline-only ETC, to fulfill such requests.

14. While Staff has not made the assertion stated in the question, it asserted that “Lifeline-only ETCs . . . do not have an *ETC obligation* to serve non-Lifeline customers.”⁵ (Emphasis added). That is true, but irrelevant. Section 214(e)(4) does not require the Commission to ensure that remaining ETCs have an “ETC obligation” to serve AT&T’s customers in the relinquishment area. Rather, Section 214(e)(4) merely requires the Commission to ensure that those customers “will continue to be served” by the remaining ETCs. The remaining ETCs have confirmed they are fully able to serve AT&T’s non-Lifeline customers (Attachment A hereto), and even if they had not, Section 201 would require them to do so.

CONCLUSION

15. For all the reasons stated above and in prior pleadings, the Commission should grant AT&T Kansas’ Application as filed for the entire relinquishment area – just as nine other state commissions have already done for other AT&T ILECs.⁶

⁵ Staff Response to AT&T Kansas’ Response to Staff’s Second Report and Recommendation, ¶ 19 (May 25, 2017).

⁶ See AT&T Response to Staff Second Report at 1 n.1. Since that filing the Florida Commission also has unanimously voted to grant AT&T Florida’s request for relinquishment and the North Carolina Commission has issued an order granting AT&T North Carolina request for relinquishment.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Bruce A. Ney", is written over a horizontal line.

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ATTACHMENT A: SUMMARY OF RESPONSES TO STAFF DATA REQUEST 12(e)

Staff discovery request 12(e) asked all of the Lifeline-only ETCs serving in the relinquishment area, “[W]ould your company be able to ensure that all non-Lifeline customers served by AT&T would continue to be served if the Commission grants AT&T’s request”? Second Report, Ex. 2 (listing Lifeline-only ETCs) and Ex. 3 (Competitive ETC responses to Staff Data Request 12). The table below shows their responses:

Lifeline-Only ETCs in the Relinquishment Area	Response to Staff Data Request 12(e)
Boomerang Wireless	“Generally, yes, subject to wireless coverage availability (see response to (a) above) and subject to the terms and conditions of the Company’s non-Lifeline plan offerings.” Boomerang’s response to (a) indicated just two wire centers where it would not be able to serve AT&T’s non-Lifeline customers.
Budget PrePay	Budget PrePay answered “No” to Staff question 12(e). <i>However</i> , in response to Staff question 12(a), which asked whether, for each exchange where Budget PrePay is an ETC, it would “be able to ensure that all customers served by AT&T would continue to be served” after relinquishment, Budget PrePay answered “Yes.” Thus, its answer to 12(e) should have been “Yes” as well.
Cox Kansas Telcom, LLC	“No, Cox is not able to ensure all non-Lifeline customers served by AT&T would continue to be served if the Commission grants AT&T’s request. <i>Cox is able to serve some non-Lifeline customers served by AT&T to the extent Cox is built out to serve the customers, within the wire centers.</i> ” (Emphasis added).
Global Connection Inc. of America	No answer provided to Staff question 12(e), but Global Connection’s website lists several service plans available to non-Lifeline customers in AT&T’s area. http://www.connectwithglobal.com/home_services.html .
i-wireless, LLC	“As noted in response to subpart b., i-wireless is a non-facilities based wireless reseller and offers prepaid wireless service which could be utilized to serve non-Lifeline customers, with reasonable exception due to the discrepancies in coverage area between AT&T and Sprint.”
Q Link Wireless LLC	“Relinquishment of AT&T’s ETC designation will not affect Q LINK WIRELESS LLC’s (“Q LINK”) ability to provide prepaid wireless service (Lifeline or non-Lifeline) throughout its designated service areas. It is Q LINK’s understanding that non-Lifeline

Lifeline-Only ETCs in the Relinquishment Area	Response to Staff Data Request 12(e)
	customers would not be affected by an ETC relinquishment.”
Sage Telecom Communications, LLC	“Sage would be able to provide wireless services to AT&T’s non-Lifeline customers.”
TAG Mobile, LLC	“No, not at this time. TAG is a Lifeline-only ETC and can only support Lifeline-only customers. Additional time and expense would be required to update or replace OSS/BSS systems to serve non-Lifeline customers.” <i>However</i> , in response to Staff question 12(a), which asked whether, for each exchange where TAG Mobile is an ETC, it would “be able to ensure that all customers served by AT&T would continue to be served” after relinquishment, TAG Mobile answered “Yes.” Thus, its response to 12(e) should have been “Yes” as well.
Telrite Corporation d/b/a Life Wireless	“Generally, yes, subject to wireless coverage availability (see response to (a) above) and subject to the terms and conditions of the Company’s non-Lifeline plan offerings.”
Tempo Telecom, LLC	Tempo’s response to Staff question 12(e) said “No. Tempo is a wireless reseller and provides only wireless services.” <i>However</i> , being a wireless reseller does not mean Tempo Telecom cannot or would not serve non-Lifeline customers in the relinquishment area. More importantly, Tempo Telecom’s website indicates that it offers both Lifeline and non-Lifeline voice service. https://mytempo.com/tempo-home-phone .
TracFone Wireless, Inc.	“TracFone service will be available to non-Lifeline customers residing within AT&T’s service area in AT&T exchange areas.”
Virgin Mobile USA, LLP	“Virgin Mobile is a Lifeline-only ETC. However, Virgin Mobile and its parent company Sprint offer prepaid and postpaid wireless service throughout Kansas. Sprint’s wireless service coverage area maps can be found at https://coverage.sprint.com/IMPACT.jsp .”
YourTel America, Inc. (TerraCom)	“TerraCom can serve the customer regardless of their ability or inability to qualify for lifeline.”

VERIFICATION

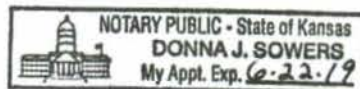
I, Janet L. Arnold, of lawful age, and being first duly sworn, now state: I am Area Manager-External Affairs, and have read AT&T Kansas' Brief on Additional Questions, and verify the statements contained herein to be true and correct to the best of my knowledge and belief.


Janet L. Arnold

Subscribed and sworn to before me this 21st day of July, 2017.


Notary Public

My appointment expires:



CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing AT&T Kansas' Brief on Additional Questions was electronically served this 21st day of July, 2017 to:

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