



**Bruce A. Ney**  
AVP – Senior Legal Counsel

**AT&T Kansas**  
816 Congress Avenue  
Suite 1100  
Austin, Texas 78701

T: 512.457.2311  
F: 512.870.3420  
bruce.ney@att.com

March 23, 2017

Amy L. Green  
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. Green:

Attached you will find the Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T Kansas) Reply in Support of its Motion for Establishment of a Procedural Schedule 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' REPLY IN SUPPORT OF MOTION  
FOR ESTABLISHMENT OF A PROCEDURAL SCHEDULE**

COMES NOW Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T Kansas), pursuant to K.A.R. 82-1-218 and K.A.R. 2015 Supp. 82-1-219, and respectfully submits its Reply in Support of its Motion for Establishment of a Procedural Schedule. AT&T Kansas replies to Staff's Reply to the Motion as follows:

1. AT&T Kansas' Motion asks the Commission to establish a procedural schedule to give structure to this proceeding and move it to a conclusion. Five months have passed since AT&T Kansas filed its Application and AT&T Kansas has answered all of Staff's discovery questions, giving Staff all the data it requested. In that same five-month period, five of the six other states where AT&T ILECs filed to relinquish their ETC status have already granted relinquishment, and the sixth is likely to grant relinquishment soon.<sup>1</sup> Yet in Kansas there is no

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<sup>1</sup> *Southwestern Bell Telephone Company, d/b/a AT&T Missouri's Notice of Relinquishment of its Eligible Telecommunications Carrier Designation Pursuant to 47 U.S.C. §214(e)(4) and Notice of Withdrawal From State Lifeline and Disabled Programs*, File No. IO-2017-0132, at 1 (Mo. P.S.C., Jan. 11, 2017) (Ex. A hereto); *Application of AT&T Oklahoma for Order Confirming Relinquishment of ETC Designation*, Cause No. PUD 201600455, Order No. 661226 (Corp. Comm'n of Oklahoma, Feb. 22, 2017) (Ex. B hereto); *Implementation of Universal Service Requirements of Section 254 of the Telecommunications Act of 1996*, Docket No. 25980 (Ala. P.S.C., Mar. 7, 2017) (Ex. C hereto); *AT&T Notice of Partial ETC Relinquishment*, Docket No. 05-TI-162 (Wis. P.S.C., Mar. 13, 2017) (Ex. D hereto); *Verified Petition for an Order Confirming Relinquishment of its Eligible Telecommunications Carrier Designation in Specified Areas*, TRA Docket No. 16-00123 (Tenn. Reg. Auth., Mar. 24, 2017) (Ex. E hereto). In all of these states except Missouri and Oklahoma, the AT&T ILEC has received and will continue to receive CAF II funding for the census blocks in the retained ETC area. Thus, the fact that AT&T Kansas will continue to receive CAF II funding in the retained area is no reason to delay this proceeding.

schedule and no clear end in sight. AT&T Kansas' proposed schedule would give Staff and any other interested entity a chance to meet and discuss any remaining concerns directly with AT&T and ask follow-up discovery, but also set firm dates to make sure the proceeding goes forward to a resolution rather than sitting in "investigatory" limbo.

2. Staff opposes AT&T Kansas' Motion, but its reasons do not withstand scrutiny. Staff claims it "is not attempting to delay this matter" (Staff Resp. at ¶ 4), but it is difficult to imagine any other motive. By opposing a procedural schedule Staff opposes having any deadlines for anything, which is a recipe for delay. AT&T Kansas has already seen the effect of having no schedule or deadlines, as Staff asked two discovery questions on October 31, 2016, then two more on January 26, 2017, then five more on February 7, 2017, and then two more March 7, 2017, and yet still claims (with no explanation why) that it may need more investigation.<sup>2</sup> Staff also waited four months after the Application was filed to recommend issuing notice to competitive ETCs and invite them to intervene, and now seeks more delay to give ETCs time to mull it over. If no procedural schedule is set, this proceeding will only keep dawdling.

3. Staff also contends that requiring any follow-up discovery to be served within 10 days of the proposed informal meeting "could potentially hinder Staff's investigation, or for that

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<sup>2</sup> Staff wrongfully alleges that because AT&T Kansas took 51 days to answer Staff's first set of data requests, that time is "illustrative of the time it takes to gather the necessary information to complete this investigation." Staff Resp. at ¶ 4. That argument is baseless, as demonstrated by the timely approvals granted by five other state commissions, and must fail. First, AT&T Kansas answered those requests on December 21, 2016, so Staff has had those answers in hand for three months already. It cannot use them as a basis to delay the proceeding now. Moreover, the only reason those responses took so long was that they sought extensive data that AT&T Kansas does not maintain, and therefore had to create. Nor was the work simple: AT&T Kansas' response to those two discovery questions was more than 900 pages long. Second, AT&T Kansas has answered all of Staff's subsequent discovery requests within the allotted time given by Staff, and Staff does not identify any other information it thinks it might possibly need to "complete this investigation." Third, if unexpected delays were to occur Staff could move to amend the schedule. The point of AT&T Kansas' Motion, however, is that there needs to be *some* schedule in place now, with *some* deadlines, in order to move this proceeding forward.

matter, the information available to any party granted intervenor status.” Staff Resp. at ¶ 4.

There is no basis for that concern. As a threshold matter, Staff has had five months to investigate AT&T Kansas’ Application — which turns on the straightforward question of whether other ETCs serve the relinquishment area (*see* 47 U.S.C. § 214(e)(4)). Indeed, Staff admits that it “has had multiple discussions with the Company and understands what it is requesting.” Staff Resp. at ¶ 3. Given those facts, it is unclear how Staff could think it might need any more investigation, but the very reason AT&T Kansas proposes the informal meeting is to give Staff and others a final opportunity to ask questions regarding any additional information they may want, and do so in a more efficient way than written discovery. Allowing 10 more days after the meeting for any follow-up discovery, as AT&T Kansas proposes, further ensures that Staff and others can obtain any relevant information they think they need.<sup>3</sup>

4. Furthermore, Staff’s main concern in its Report and Recommendation involved whether customers in the relinquishment area would still be able to obtain voice service from competitive ETCs once AT&T Kansas was not an ETC. AT&T Kansas’ Reply explained that it will continue to provide all the same services in the relinquishment area that it provides today, so Staff’s concern is moot and there is no need to investigate or rule on the capabilities of the competitive ETCs. The Tennessee Regulatory Authority (TRA) recognized this very point in its recent order granting AT&T Tennessee’s ETC relinquishment. As the TRA found, “AT&T will not cease providing universal service in the specified relinquishment area and therefore, additional requirements on remaining ETCs are not applicable.” Ex. E hereto, at 4. The same analysis applies in Kansas.

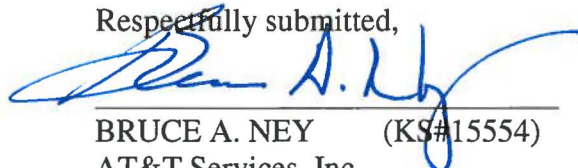
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<sup>3</sup> Notably, AT&T Kansas makes this proposal even though it will result in AT&T Kansas retaining its ETC designation — and its unfunded obligations — beyond the date requested in the Application (which sought an order granting relinquishment by March 31, 2017).

5. Finally, Staff contends that it “would not be in the public interest” to adopt AT&T Kansas’ proposed procedural schedule “without certainty surrounding intervention of affected ETCs or CURB.” Staff Resp. at ¶ 5. But there is no uncertainty. AT&T Kansas did not oppose CURB’s intervention, and it proposed ETC participation in the proposed informal meeting without the procedural necessity of formal intervention. Of course, if any ETCs actually wanted to intervene they would have done so in the five months since the Application was filed, or at least in the month since Staff’s Report and Recommendation suggesting that competitive ETCs be invited to join the proceeding.<sup>4</sup> There is simply no rational or justifiable basis for refusing to adopt a procedural schedule and let this proceeding languish indefinitely on the off chance that some ETC may eventually want to participate.

6. In sum, Staff’s opposition to adopting a procedural schedule for this proceeding has no merit. Congress set up a straightforward test for relinquishing ETC status in an area, based only on whether other ETCs serve the area, and there does not appear to be any question here that AT&T Kansas meets the relinquishment test. For these reasons, the Commission should adopt AT&T Kansas’ proposed schedule to lead this proceeding to a final conclusion.

Respectfully submitted,



BRUCE A. NEY (KS#15554)  
AT&T Services, Inc.  
816 Congress Ave., Suite 1100  
Austin, Texas 78701  
(512) 457-2311 (office-direct)  
(512) 870-3420 (facsimile)  
Attorney for Southwestern Bell Telephone  
Company d/b/a AT&T Kansas

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<sup>4</sup> As explained in AT&T Kansas’ Reply to Staff’s Report and Recommendation, of course, Staff’s proposed method to allow ETC intervention departs from the Commission’s rules and is entirely unnecessary, in addition to delaying the proceeding for no legitimate reason.

# EXHIBIT A

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 11<sup>th</sup> day of January, 2017.

In the Matter of Southwestern Bell Telephone )  
Company, d/b/a AT&T Missouri's Notice of )  
Relinquishment of its Eligible Telecommunications )  
Carrier Designation Pursuant to 47 U.S.C. §214(e)(4) )  
And Notice of Withdrawal from State Lifeline and )  
Disabled Programs )

**File No. IO-2017-0132**

**ORDER CONFIRMING AT&T MISSOURI'S RELINQUISHMENT OF ITS  
ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION**

Issue Date: January 11, 2017

Effective Date: February 10, 2017

On October 28, 2016, Southwestern Bell Telephone Company, d/b/a AT&T Missouri, filed a Notice of Relinquishment of its Eligible Telecommunications Carrier Designation Pursuant to 47 U.S.C. §214(e)(4) and Notice of Withdrawal from State Lifeline and Disabled Programs. The company proposes to stop enrolling new Lifeline and Disabled Program customers by March 31, 2017, and will relinquish its ETC designation effective on July 5, 2017. AT&T Missouri asks the Commission to confirm its relinquishment by order issued by January 13, 2017.

The Commission directed notice of AT&T Missouri's filing to all local exchange carriers in Missouri, and to all telecommunications carriers currently designated as ETCs in Missouri. It also directed that applications to intervene be filed by November 18. No such applications to intervene have been filed.

At the request of its Staff, the Commission also issued a press release to inform the public about AT&T Missouri's proposed relinquishment. Subsequently, the Commission collected multiple comments from the public expressing concern about AT&T's decision.

Staff filed its recommendation about AT&T Missouri's relinquishment decision on December 9. Staff explains that AT&T Missouri has chosen to relinquish its ETC status throughout the country; this decision is not limited to Missouri. According to Staff, recent reforms to the Lifeline program are likely to discourage continued participation in the Lifeline program. The FCC is attempting to refocus the Lifeline program toward making broadband service more affordable for low-income consumers. Consequently, it will be gradually phasing-out federal lifeline support for standalone voice service beginning December 1, 2019, continuing through December 1, 2021. ETCs receiving high-cost federal Universal Service Fund (USF) support will continue to be obligated to offer Lifeline support in those high-cost areas. But AT&T Missouri does not currently receive high-cost support in Missouri, and if it does receive such support in the future, it will only offer Lifeline support in those high-cost areas.

Staff explained that Missouri does not have any statute or regulations regarding relinquishment of ETC status, rather such matters are controlled by federal statute and regulation. 47 U.S.C. Section 214(e)(4) and FCC rule 47 CFR Section 54.205 provide that a state commission "shall permit" an ETC carrier to relinquish its ETC designation in any area served by more than one ETC carrier.

Staff's recommendation indicates there is at least one other ETC in all areas served by AT&T Missouri. However, all such ETCs offer only wireless Lifeline support. There are no other ETCs that offer landline Lifeline support in areas currently served by AT&T



Missouri. Further, Staff indicates it is unclear whether any company in AT&T Missouri's territory will continue to offer voice Lifeline support following recent FCC reforms to the Lifeline program.

Staff explained that AT&T Missouri will also cease to participate in Missouri's Disabled program, which offers a \$6.50 monthly discount for landline service to disabled persons in this state. The Disabled program is a state-funded program in which wireless telecommunications carriers are not eligible to participate. Missouri's regulations do not require AT&T Missouri, or any other carrier, to participate in the Disabled program. When AT&T Missouri ceases to participate in the Disabled program, the 193 customers who currently receive that discount from the company will no longer be able to receive that discount.

Staff concludes that AT&T Missouri has met the limited requirements of federal law in that there are alternative ETCs in the areas it serves. Staff recommends that the Commission acknowledge AT&T Missouri's relinquishment of its ETC status. Staff also recommends that the Commission direct AT&T Missouri to modify its proposed notice to Disabled program customers to ensure those customers are not misled into believing that they may retain their discount through another provider.

Public Counsel responded to Staff's recommendation on December 19. Public Counsel is concerned that AT&T Missouri has not demonstrated that all current Lifeline customers will continue to be served with a comparable service if AT&T Missouri relinquishes its ETC status, as the other ETCs offer only wireless service. Public Counsel asks the Commission to order Staff to further investigate and to order AT&T Missouri to respond to the public comments that the Commission has received. Public Counsel also

asks the Commission to hold local public hearings in areas throughout AT&T Missouri's service areas to gather more public comments.

AT&T Missouri replied to Public Counsel's concerns on December 29. AT&T Missouri reiterates its position that it has met the limited requirements necessary to relinquish its ETC status. It emphasizes that it will not be discontinuing any services in Missouri. All its current customers will be able to retain their current service; they just will no longer receive the Lifeline discount for that service.

The Commission is mindful of the concerns raised by the customers who will be affected by AT&T Missouri's decision, and by the Office of the Public Counsel. But the Commission has only those powers that have been conferred upon it by the legislature and does not have the power to order AT&T Missouri to continue to retain its ETC status, except in the limited circumstances established by law. After reviewing the results of Staff's investigation as described in its recommendation, the Commission finds that AT&T Missouri has met the requirement of federal law to relinquish its ETC status because the areas it currently serves are served by more than one ETC. Under that circumstance, the Commission must permit AT&T Missouri to relinquish its ETC status.

**THE COMMISSION ORDERS THAT:**

1. Southwestern Bell Telephone Company, d/b/a AT&T Missouri may relinquish its Eligible Telecommunications Carrier Designation pursuant to 47 U.S.C. §214(e)(4) and may withdraw from the State Lifeline and Disabled Programs, effective July 5, 2017.
2. Southwestern Bell Telephone Company, d/b/a AT&T Missouri may cease enrolling new customers into the Lifeline and Disabled programs effective March 31, 2017.

3. Southwestern Bell Telephone Company, d/b/a AT&T Missouri shall modify its notice to Disabled program customers to inform them, at least sixty days before July 5, 2017, that they will be unable to retain their “disabled” discount through another provider.

4. The Commission’s data center shall provide a copy of this order to the remaining ETCs providing service in Southwestern Bell Telephone Company, d/b/a AT&T Missouri’s service territory, as identified in Staff’s recommendation.

5. This order shall become effective on February 10, 2017.

**BY THE COMMISSION**



A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

Hall, Chm., Stoll, Kenney,  
Rupp, and Coleman, CC., concur.

Woodruff, Chief Regulatory Law Judge

EXHIBIT B

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA

APPLIJKCATION OF SOUTHWESTERN BELL )  
TELEPHONE COMPANY, D/B/A AT&T ) CAUSE NO. PUD 201600455  
OKLAHOMA FOR ORDER CONFIRMING )  
RELINQUISHMENT OF ELIGIBLE ) ORDER NO. **661226**  
TELECOMMUNICATIONS CARRIER )  
DESIGNATION )

**FINAL ORDER GRANTING RELINQUISHMENT  
OF ETC DESIGNATION**

BY THE COMMISSION:

The Corporation Commission (“Commission”) of the State of Oklahoma being regularly in session and the undersigned Commissioners present and participating, there comes on for consideration and action the Application of Southwestern Bell Telephone Company, d/b/a AT&T Oklahoma (“AT&T Oklahoma”) to voluntarily relinquish its Eligible Telecommunications Carrier (“ETC”) designation throughout its exchanges in State of Oklahoma, effective on July 5, 2017, in accordance with 47 U.S.C § 214(e)(4), 47 C.F.R. § 54.205, and Oklahoma Administrative Code (“OAC”) 165:55.

**I. PROCEDURAL HISTORY**

On October 27, 2016, AT&T Oklahoma filed its Application of AT&T Oklahoma for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation (“Application”) to relinquish its ETC designation throughout its exchanges in the State of Oklahoma, and proposed an effective date of July 5, 2017.

On October 27, 2016, AT&T Oklahoma filed a Motion for Procedural Schedule, Notice of Hearing, and Direct Testimony of Jason E. Constable on behalf of AT&T Oklahoma.

On October 28, 2016, the Oklahoma Attorney General (“AG”) filed his Entry of Appearance.

The Public Utility Division (“PUD”) determined that AT&T Oklahoma’s Application was compliant with 17 O.S. § 139.106(O), given that there are two telecommunications service providers that, in conjunction with their ETC designations, accepted secondary carrier-of-last resort obligations in the AT&T Oklahoma service territory.<sup>1</sup>

**II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Commission makes the following finding of facts and conclusions of law:

1. The Commission has jurisdiction over the subject matter and persons. Notice was given

<sup>1</sup> See, Cause No. PUD 200500304, Order No. 512289 and Cause No. PUD 200600221, Order No. PUD 531813.

as required by law and the rules of the Commission. Authority to grant the Application arises under OKLA. CONST. art. IX, § 18, and 17 O.S. §§ 131, *et seq.*

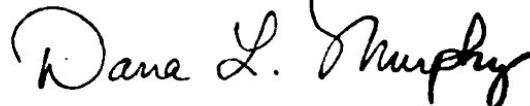
2. AT&T Oklahoma was designated by the Commission as an ETC pursuant to OAC 165:55-23-2(b), and as an ETC by the Federal Telecommunications Act of 1996, both of which designated each incumbent LEC as an ETC for the territory for which it was certified on the date of the adoption of the Federal Telecommunications Act of 1996.
3. AT&T Oklahoma voluntarily filed an Application to relinquish its ETC designation for all state and federal Lifeline programs as well as federal high cost support throughout the State of Oklahoma in accordance with 47 U.S.C § 214(e)(4), 47 C.F.R. § 54.205, and OAC 165:55.
4. In its Application, AT&T Oklahoma stated that it does not receive any federal high-cost universal support in Oklahoma, and it does not receive support from the Oklahoma Lifeline Fund.
5. AT&T Oklahoma's service territory is served by at least twenty-three (23) remaining telecommunications carriers which have been designated as ETCs and which, by virtue of their ETC designations, are required to offer the supported services throughout the AT&T Oklahoma service territory. Two of those ETCs accepted secondary carrier-of-last-resort responsibility in the service territory of AT&T Oklahoma as a condition of receiving their ETC designation.
6. The PUD reviewed the Application and determined that AT&T Oklahoma satisfied all requirements of 47 U.S.C § 214(e)(4), 47 C.F.R. § 54.205, and OAC 165:55 to relinquish its ETC designation throughout its exchanges in the State of Oklahoma.
7. AT&T Oklahoma proposed an effective date of July 5, 2017 for their ETC relinquishment.
8. OAC 165:55-13-12 Extension of facilities delineates the obligations of a carrier-of-last resort. It also limits this obligation to ILECs serving fewer than 75,000 access lines. ATT serves in excess of 75,000 access lines and therefore has no carrier-of-last responsibility to extend its facilities to unserved customers.
9. 47 U.S.C. § 214(e)(4) specifies; "A State commission (or the Commission in the case of a common carrier designated under paragraph (6)) **shall** permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier." (emphasis added.) Because of the number of ETCs designated as eligible to provide service in AT&T Oklahoma's territory, the Commission is required by federal law to permit AT&T Oklahoma to relinquish its ETC designation.
10. AT&T Oklahoma will provide its existing Lifeline customers notice, as revised by PUD and the AG and as attached hereto, at sixty (60) and thirty (30) days prior to its ETC relinquishment effective date. Additionally, AT&T Oklahoma will include the attached bill insert message to its Lifeline customers.

11. AT&T Oklahoma will continue to provide basic local exchange service within its existing service territories, but the federal Lifeline subsidy to its Lifeline customers will cease effective July 5, 2017, upon the effectiveness of AT&T Oklahoma's relinquishment of its ETC designation.
12. The issuance of this final order resolves all filed motions.

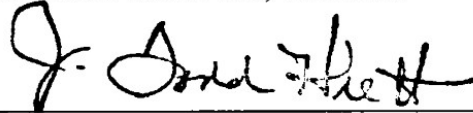
**III. ORDER**

THE COMMISSION THEREFORE ORDERS consistent with the above findings of fact and conclusions of law, that the Application filed by Southwestern Bell Telephone Company, d/b/a AT&T Oklahoma to voluntarily relinquish its Eligible Telecommunications Carrier (“ETC”) designation throughout its exchanges in the State of Oklahoma in accordance with 47 U.S.C § 214(e)(4), 47 C.F.R. § 54.205, and OAC 165:55, effective July 5, 2017, is hereby granted.

OKLAHOMA CORPORATION COMMISSION



DANA L. MURPHY, Chairman




J. TODD HIETT, Vice Chairman

\_\_\_\_\_  
BOB ANTHONY, Commissioner

DONE AND PERFORMED by the Commissioners participating in the making of this order as shown by their signatures above this 22 day of February, 2017.

[seal]

  
\_\_\_\_\_  
PEGGY MITCHELL, Secretary

LANGUAGE FOR MAILED NOTICE

**IMPORTANT INFORMATION ABOUT YOUR LIFELINE DISCOUNT  
ACTION IS REQUIRED TO MAINTAIN A DISCOUNT**

(Customer Name)  
(Mailing Address 1)  
(Mailing Address 2)  
(City, State Zip)

(Date)

Hello (Customer Name),

Beginning July 5, 2017, AT&T will no longer provide the Lifeline discount in Oklahoma through the Lifeline Program. This change is due to our decision to no longer be an eligible telecommunications carrier (ETC) in Oklahoma.

How will this impact you?

While your voice service will not change, you will no longer receive the Lifeline discount on your monthly bill. This will result in an increase in the price you pay each month for your telephone service.

What must you do to continue receiving a Lifeline discount?

In order to retain a Lifeline discount, you must contact another Lifeline service provider. A list of those providers can be found at [lifelinesupport.org](http://lifelinesupport.org) or you can call Universal Service Administrative Company (USAC) at 888.641.8722.

**If you wish to maintain a Lifeline discount you should contact another Lifeline service provider to begin the process of transferring your telephone service as soon as possible to avoid any interruption in the Lifeline discount.**

If you decide to select another Lifeline service provider, you should inquire as to whether that provider charges any associated fees.

If you prefer to continue your telephone service with AT&T without the Lifeline discount, you do not need to take any action.

AT&T has many solutions to fit your voice service needs. If you are interested, please call us at XXX.XXX.XXXX to speak with a representative to find out about other possible solutions. For any additional assistance, you may contact the Consumer Services Division of the Oklahoma Corporation Commission at 405.521.2331 or 800.522.8154.

LANGUAGE FOR BILL MESSAGE

**FINAL NOTICE  
CHANGES TO LIFELINE SERVICE – ACTION REQUIRED**

Beginning July 5, 2017, AT&T will no longer provide a Lifeline discount in Oklahoma because we have decided to no longer be an eligible telecommunications carrier (ETC) in Oklahoma. How will this impact you? While your voice service will not change, this will result in an increase in the price you pay each month for your telephone service, because you will no longer receive the Lifeline discount on your monthly bill. In order to retain your Lifeline discount, you must contact another Lifeline service provider. A list of those providers can be found at [lifelinesupport.org](http://lifelinesupport.org) or you can call Universal Service Administrative Company (USAC) at 888.641.8722.



EXHIBIT C



# STATE OF ALABAMA

ALABAMA PUBLIC SERVICE COMMISSION  
P. O. BOX 304260  
MONTGOMERY, ALABAMA 36130-4260

TWINKLE ANDRESS CAVANAUGH, PRESIDENT

JEREMY H. ODEN, ASSOCIATE COMMISSIONER

CHRIS "CHIP" BEEKER, JR., ASSOCIATE COMMISSIONER

JOHN A. GARNER, EXECUTIVE DIRECTOR

In Re: Implementation of the Universal )  
Service Requirements of Section 254 of the ) Docket No. 25980  
Telecommunications Act of 1996 )

## **ORDER CONFIRMING RELINQUISHMENT OF ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION IN SPECIFIED AREAS**

BY THE COMMISSION:

Pursuant to 47 U.S.C. § 214(e)(4) and 47 C.F.R. § 54.205, AT&T Alabama<sup>1</sup> ("AT&T") seeks a Commission Order confirming relinquishment of its Eligible Telecommunications Carrier ("ETC") designation within specified areas of its Alabama service territory effective July 5, 2017 (the "Petition"). AT&T's request was filed with the Commission on October 27, 2016.

Although AT&T will continue providing telecommunications services within those census blocks wherein it proposes to relinquish its ETC designation, the company will no longer offer the monthly discount on monthly telecommunication charges to Lifeline eligible subscribers. Affected AT&T Lifeline subscribers may retain their existing AT&T telecommunication services absent the Lifeline discount. Otherwise, existing AT&T Lifeline subscribers, as well as those that subsequently qualify for the Lifeline Program, may avail themselves of the monthly Lifeline discount only by subscribing to the telecommunication services of an ETC serving the census block wherein they reside. For those areas within its Alabama service territory wherein AT&T proposes to retain its ETC designation, AT&T will continue offering the Lifeline discount to qualified subscribers.

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<sup>1</sup> BellSouth Telecommunications, LLC d/b/a AT&T Alabama.

In its Petition<sup>2</sup>, AT&T indicated it will ensure that its Lifeline customers in the relinquishment area receive ample notice of the need to select another ETC to continue their Lifeline discount. At least 60 days prior to the relinquishment effective date, AT&T will provide notice in a separate letter via U.S. Mail to each of its affected Lifeline customers explaining that AT&T will no longer offer a Lifeline discount. AT&T will also send each remaining affected Lifeline customer a second notice letter and a bill message at least 15 days prior to the relinquishment date. All notices will inform each affected customer that a Lifeline discount can be obtained from the remaining ETCs in their area and will provide the link to [lifelinesupport.org](http://lifelinesupport.org) through which a customer may obtain carrier specific contact information. AT&T indicates it will stop enrolling customers from the relinquished area in the Lifeline program as of the date the Commission issues an Order or March 31, 2017, whichever is later.

## I. AT&T PETITION

The Petition includes AT&T's justification for requesting a Commission Order confirming relinquishment of ETC designation in specified areas of AT&T Alabama's service territory. The following were also submitted with the Petition:

1. Exhibit A – list of AT&T Alabama wire centers;
2. Exhibit B – list of Alabama CAF II funded census blocks served by Alabama wire centers;
3. Exhibit C – list of competitive ETCs ("CETCs") designated to provide service in Alabama's wire centers;
4. Exhibit D – Sample letters and billing messages for affected customer notification of the change.

## II. BACKGROUND

In accordance with Section 254(e) of the Telecommunications Act, only an eligible telecommunications carrier shall be eligible to receive Federal universal service support. On May 8, 1997, the Federal Communications Commission ("the FCC") released Order No. 97-157, CC Docket 96-45; *In the Matter of Federal-State Board on Universal Service* which implemented the universal services requirements mandated by §254 of the Telecommunications Act of 1996. The

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<sup>2</sup> See pages 6-7.

FCC's Order authorizes states to certify carriers as ETCs provided the states' criteria for doing so are consistent with the FCC's rules. Additionally, the FCC mandated services that ETCs must offer throughout their designated service area in order to qualify for Federal Universal Service Fund ("USF") support. Among them is the Low-income Lifeline Assistance Program. On December 18, 1997, the Alabama Public Service Commission (the "Commission") granted AT&T's request, pursuant to 47 U.S.C. § 214(e)(1), to designate AT&T as an ETC in certain service areas within Alabama<sup>3</sup>.

Prior to 2012, distributions from the USF High Cost Fund primarily supported universal access to voice communications. In 2009, Congress directed the FCC to develop a National Broadband Plan to ensure Americans have broadband access. On November 18, 2011, the FCC released its Connect America Fund ("CAF") Order<sup>4</sup> which revised the FCC objectives for USF High Cost Support and renamed it the CAF. The FCC froze High Cost Support at 2011 levels and, beginning in 2013, implemented a program to transition use of the USF support exclusively for deployment of broadband capable networks. Moreover, the FCC established the framework for additional CAF Phase II ("CAF II") support in specific high-cost areas that are unserved or underserved with respect to broadband network access. The FCC Order required CAF II allocations based upon costs at the census block level of granularity as opposed to costs using statewide averages.

Phase II support will not involve statewide averaging of costs determined by a model, but instead will be determined on a much more granular basis.<sup>5</sup>

The Wireline Competition Bureau was tasked with selecting a specific engineering cost model and identification of associated inputs to be used in future CAF II allocations. The obligation<sup>6</sup> for ETCs to provide Lifeline Service throughout the entirety of their designated service area was nevertheless unaffected<sup>7</sup>.

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<sup>3</sup> Docket No. 25980, In Re: *Implementation of Universal Service Requirements of Section 254 of the Telecommunications Act of 1996*, Fifth Report and Order, dated December 18, 1997.

<sup>4</sup> Report and Order and Further Notice of Proposed Rulemaking, *Connect America Fund*, 26 FCC Rcd. 17663, 2011 ("CAF I Order").

<sup>5</sup> CAF I Order at 155.

<sup>6</sup> 47 U.S.C. § 214(e)(1). See also 47 C.F.R. § 54.201(d)(1)

<sup>7</sup> CAF I Order at 1088.

In 2012 and 2013, the Wireline Competition Bureau adopted a Connect America Model (CAM) platform followed by subsequent modifications to the platform to which the cost-to-serve module of the CAM was applied to geocoded residential and business addresses at the census block level of granularity. On December 11, 2014, the FCC adopted a Report and Order<sup>8</sup> for implementation of Phase II for the Connect America Fund (“CAF II”). The FCC granted limited forbearance on the requirement that price cap carriers offer voice telephony in areas not receiving CAF II support when an unsubsidized competitor exists that is offering voice telephony service at reasonably comparable rates, or there is another ETC with an obligation to offer reasonably comparable voice telephony service.<sup>9</sup> In the FCC’s 2016 Lifeline Modernization Order<sup>10</sup>, the FCC granted forbearance from the obligation for ETCs that are not Lifeline Only to offer “...Lifeline-supported BIAS (broadband internet access service) in areas where they do not commercially offer such service or do not receive high-cost support.”<sup>11</sup> . The FCC has not, however, granted forbearance on the requirement that ETCs offer Lifeline throughout their service area.

USF support for common carriers is available only if the common carrier is designated as an ETC<sup>12</sup>. Because AT&T decided to accept CAF II funding, AT&T seeks to retain ETC status both in the CAF II eligible census blocks (and any portions of those census blocks) that are within its traditional wireline footprint, and in certain extremely high cost census blocks and portions thereof within its traditional wireline footprint for which AT&T is eligible to receive CAF II funding. The shift to CAF II ended high-cost support for all areas other than the census blocks identified in the CAF II program. Therefore, AT&T seeks to relinquish its ETC designation for all census blocks in its service territory for which it is no longer eligible to receive USF support under the terms of the Connect America Fund (formerly the USF High Cost Fund) and retain its ETC designation in those census blocks eligible for CAF II funding.

AT&T’s Petition focuses on the definition of “service area” with respect to the ETC designation granted by the Commission in its December 18, 1997 Order under this Docket. By restricting its ETC service area to those census blocks for which it receives CAF II funding, AT&T

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<sup>8</sup> Connect America Fund et al. WC Docket Nos. 10-90 et al., Report and Order, 29 FCC Rcd 15644, 15685 (“CAF II Order”).

<sup>9</sup> CAF II Order at 54.

<sup>10</sup> Lifeline and Link Up Reform and Modernization et. al. WC Docket No. 11-42 et. al., Third Report and Order, Further Report and Order, and Order On Reconsideration, released April 27, 2016 (“2016 Lifeline Order”)

<sup>11</sup> 2016 Lifeline Order at 311.

<sup>12</sup> See 47 U.S.C. § 214(e)(1).

remains eligible for CAF II funding and may relinquish its ETC designation within those census blocks of its traditional wireline footprint no longer eligible for USF high cost support. The U.S. Code grants State Commissions the authority to define the service area for common carriers seeking ETC designation.

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier **for a service area designated by the State commission.**<sup>13</sup> (Emphasis added)

The term “service area” means a geographic area established by a State commission (or the Commission under paragraph (6)) for the purpose of determining universal service obligations and support mechanisms.<sup>14</sup>

The term “service area” does not necessarily correspond to the carrier’s entire service footprint within the state wherein it is designated an ETC. As defined in § 214(e)(5), an ETC’s service area is a geographic area established “...for the purpose of determining universal service obligations and support mechanisms”. Consequently, state commissions may more narrowly define an ETC’s service area for USF support purposes.

The U.S. Code authorizes carriers to relinquish their ETC designation in any area served by more than one ETC.

A State commission (or the Commission in the case of a common carrier designated under paragraph (6)) **shall permit** an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the State commission (or the Commission in the case of a common carrier designated under paragraph (6)) of such relinquishment.<sup>15</sup> (Emphasis added)

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<sup>13</sup> See 47 U.S.C. § 214(e)(2).

<sup>14</sup> See 47 U.S.C. § 214(e)(5).

<sup>15</sup> See 47 U.S.C. § 214(e)(4).

Heretofore, the Commission has approved carrier requests to relinquish their ETC designation citing § 214(e)(4). However, the petition and approval were for relinquishment of the ETC designation within the entire service area for which the ETC designation was granted. AT&T's Petition differs in that it seeks confirmation for relinquishment of ETC designation in a portion of its service area while retaining the designation for the remainder.

### III. STAFF ANALYSIS

With respect to the Petition, Staff submitted a data request to AT&T on December 16, 2016 and received AT&T's response to its request from AT&T on January 16, 2017, which included the following in Microsoft Excel spreadsheet format:

1. Exhibit A in the Petition – list of AT&T Alabama wire centers;
2. Exhibit B in the Petition – list of Alabama CAF II funded census blocks served by Alabama wire centers;
3. List, by census block number, of Alabama census blocks wherein the Company seeks to relinquish ETC responsibility sorted alphabetically by WC CILI in accordance with the format and content of Exhibit B to the Petition.

Part 47 U.S.C. § 214(e)(4) requires that at least one additional ETC serve the area for which ETC designation relinquishment is sought. In Exhibit C of its Petition, AT&T provided a list of ETCs designated to provide service in AT&T-Alabama's wire centers. Staff evaluated the list and finds that at least two of the ETCs serve every AT&T wire center within the State and that other ETCs on the list serve some of Alabama's wire centers. In its December 16, 2016 data request, Staff inquired how AT&T customer representatives would, in real time, be equipped to advise potential Lifeline subscribers whether their service address is within the service area wherein Lifeline is offered. The Company asserts that customer representatives will have access to a database that cross references service addresses to census block number. Only those whose service address is within a census block wherein AT&T retains its ETC designation are qualified to receive the Lifeline discount.

Wireless ETCs are, by far, the largest recipients of Lifeline subsidies claimed from the Universal Service Administration Company. The top 4 recipients of Lifeline subsidies in the State

are wireless carriers. Staff estimates that Lifeline subscribers of the top 4 subsidy recipients outnumber AT&T Lifeline subscribers in Alabama by a factor of more than 80 to 1. According to the Petition<sup>16</sup>, AT&T Lifeline subscribership has decreased by 86% since 2011. AT&T currently has fewer than 2500 Lifeline subscribers statewide.

Federal law does not require a carrier to either obtain or relinquish ETC designation only for its entire service area or entire wire centers. Section 214(e)(4), which governs relinquishment, is even broader, for it does not use the term “service area.” Rather, Section 214(e)(4) provides that a state commission “shall permit” relinquishment for any area served by more than one ETC. (Emphasis added) Nothing in Section 214 prohibits a carrier from relinquishing its ETC status for only part of its designated service area or part of a wire center. Consequently, there is no legal barrier to AT&T’s relinquishment of its ETC designation in part of its service area or parts of wire centers where it no longer receives support.

Staff concludes that AT&T has met the conditions under 47 U.S.C. § 214(e)(4) for relinquishing ETC designation in certain census blocks within its service area and that the Commission is obligated under Federal law to confirm AT&T’s Petition. Therefore, Staff recommends approval of AT&T’s Petition.

The Commission concurs with the Staff recommendation and finds that AT&T’s Petition should be approved.

IT IS THEREFORE ORDERED BY THE COMMISSION, that the October 27, 2017 Petition of AT&T Alabama for an Order Confirming Relinquishment of its Eligible Telecommunications Carrier Designation in Specified Areas is hereby approved.

IT IS FURTHER ORDERED BY THE COMMISSION, That jurisdiction in this matter is hereby retained by the Commission for any further orders deemed just and reasonable in the premises.

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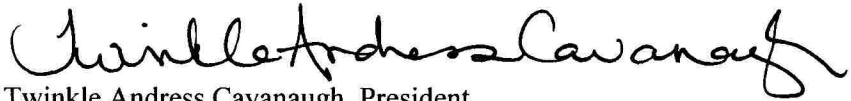
<sup>16</sup> See page 4.



IT IS FURTHER ORDERED BY THE COMMISSION, That this Order shall be effective as of the date hereof.

DATED at Montgomery, Alabama, this <sup>7<sup>th</sup></sup> day of March 2017.


ALABAMA PUBLIC SERVICE COMMISSION



Twinkle Andress Cavanaugh, President

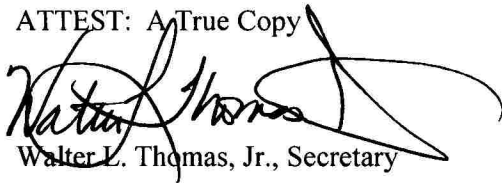


Jeremy H. Oden, Commissioner



Chris "Chip" Beeker, Jr., Commissioner

ATTEST: A True Copy



Walter L. Thomas, Jr., Secretary

## EXHIBIT D

**SERVICE DATE**  
**Mar 13, 2017**

PSC REF#:299166

Public Service Commission of Wisconsin  
RECEIVED: 03/13/2017 10:30:00 AM

**PUBLIC SERVICE COMMISSION OF WISCONSIN**

Request by Wisconsin Bell, Inc., d/b/a AT&T Wisconsin, to Relinquish its Status as an Eligible Telecommunications Carrier in Certain Parts of its Service Territory

6720-TI-225

**FINAL DECISION**

This is the Final Decision in the investigation to determine whether to designate Wisconsin Bell, Inc., d/b/a AT&T Wisconsin (AT&T), as an Eligible Telecommunications Carrier (ETC), pursuant to 47 U.S.C. § 214(e)(2) and Wis. Admin. Code § PSC 160.13, for selected census blocks. AT&T requested to relinquish its ETC designation in all areas of its service territory except for selected census blocks. AT&T's request for ETC designation in selected census blocks is APPROVED, as conditioned by this Final Decision. The ETC relinquishment in any full wire centers will occur automatically. No hearing was required nor held in this docket. A list of parties to this docket can be found in Appendix A.

**Introduction**

Designation as an ETC makes a provider eligible to receive federal and state Universal Service Fund (USF) monies. The Commission designated AT&T, along with all other incumbent providers and a dozen competitors, as an ETC on December 23, 1997, in docket 05-TI-162. On October 27, 2016, AT&T provided notice to the Commission of its intent to relinquish its ETC designation in the entirety of many of its wire centers. ([PSC REF#: 293737.](#)) AT&T supplemented its request on December 23, 2016. ([PSC REF#: 295882.](#)) AT&T's request to relinquish its ETC status in full wire centers is authorized under Wis. Admin. Code

§ PSC 160.13(8) with no Commission action, and will become effective on March 31, 2017, the date requested by AT&T. ([PSC REF#: 293737](#) at 2.)

However, AT&T also requested to remain designated as an ETC in selected census blocks identified in its filing. (*Id.* at 1-2; Exhibits A and B.) In its filing, AT&T explained that “[t]he area in which AT&T seeks to relinquish its ETC designation . . . is the entirety of its current ETC designated area *except* for the census blocks identified in Exhibit B, attached hereto.” (*Id.* at 1-2.) The list of census blocks for which AT&T requested ETC designation is attached to this Final Decision as Appendix B. AT&T’s relinquishment request constitutes a petition for designation as an ETC in areas smaller than wire centers, and therefore requires Commission approval under Wis. Admin. Code § PSC 160.13(5)(b).

### **Findings of Fact**

1. AT&T is an incumbent local exchange carrier certified to provide telecommunications service in Wisconsin.
2. AT&T has been designated as an ETC under 47 U.S.C. § 214(e) and Wis. Admin. Code § PSC 160.13 throughout its service territory since 1997.
3. AT&T has qualified for funding under the federal Connect America Fund Phase II (CAF II) program in the census blocks listed in Appendix B.
4. The Federal Communications Commission (FCC) requires a CAF II funding recipient to be designated as an ETC in the areas in which the provider receives CAF II funding.
5. AT&T has requested designation as an ETC in the entirety of the census blocks listed in Appendix B that lie completely within its service territory boundaries. For those census

blocks that lie partly inside and partly outside AT&T's service territory boundaries, AT&T has requested to be designated as an ETC in the portion of the census block within its service territory.

6. AT&T's request states that it will relinquish its ETC status in all of its service territory except the portions of census blocks listed in Appendix B that also lie within AT&T service territory. Relinquishment of ETC status for complete wire centers is authorized under Wis. Admin. Code § PSC 160.13(8) and will take place without Commission action on March 31, 2017, the date requested by AT&T.

7. AT&T's request to be designated as an ETC in certain census blocks and portions of certain census blocks constitutes a petition for designation on a smaller than wire center basis, and therefore requires Commission approval under Wis. Admin. Code § PSC 160.13(5)(b).

8. It is reasonable and in the public interest to designate AT&T as an ETC for the purpose of receiving Lifeline and high cost support in the census blocks, or portions thereof, lying within AT&T's service territory as shown in Appendix B.

9. It is reasonable to make this ETC designation contingent on AT&T obtaining any necessary approvals from the FCC, as discussed below.

10. It is reasonable to assess costs for this docket to AT&T.

11. It is reasonable that AT&T provide to the Commission the necessary maps, shape files and other relevant information to identify AT&T's existing wire centers and the boundaries for the partial census blocks within each of the wire centers for which AT&T is retaining ETC status.

12. It is reasonable that AT&T share information and programming data and work with Commission staff on the development of a tool to facilitate ETC tracking within the AT&T wire centers and partial census block areas.

### **Conclusions of Law**

1. AT&T is a telecommunications public utility as defined in Wis. Stat. § 196.01(5)(a).
2. The Commission has authority under Wis. Stat. §§ 196.02, 196.016, and 196.218; Wis. Admin. Code ch. PSC 160; and 47 U.S.C. §§ 214 and 254 to issue this Final Decision.
3. The Commission has authority under Wis. Stat. § 196.85 and Wis. Admin. Code ch. PSC 5 to assess reasonable costs to AT&T.
4. The Commission has authority under Wis. Admin. Code § PSC 160.01(2)(b) to adopt different ETC requirements than those provided in Wis. Admin. Code ch. PSC 160.

### **Opinion**

ETC status was created by the 1996 Federal Telecommunications Act and codified in 47 U.S.C. § 214(e)(2). Under FCC regulations 47 U.S.C. § 214(e)(2) and 47 C.F.R. § 54.201(b), state commissions designate providers as ETCs. Designation as an ETC is required if a provider is to receive federal universal service funding. ETC designation is also required to receive funding from the state universal service High Rate Assistance Credit program.

The FCC has established a set of minimum criteria that all ETCs must meet, which is codified in 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.101(a), *et seq.* State commissions have the

authority to adopt additional requirements, provided the additional requirements are “not inconsistent with the [FCC]’s rules to preserve and advance universal service.” 47 U.S.C. § 254(f). The United States Court of Appeals for the Fifth Circuit upheld a state commission’s right to impose additional conditions on ETCs in *Texas Office of Pub. Util. Counsel v. FCC*, 183 F.3d 393, 418 (5<sup>th</sup> Cir. 1999).

The 1996 Federal Telecommunications Act and FCC rules provide the framework in which a provider can be designated as an ETC. The initial FCC rules required that ETCs commit to serving the entirety of the service territory for “rural” incumbent companies, and the entirety of any wire centers served by “non-rural” incumbents. AT&T is a “non-rural” provider, and all of the wire centers it served as of 1996 are still considered “non-rural,” even those sold to smaller providers since 1996. The FCC has since granted forbearance from the service territory requirements for certain types of providers (e.g., wireless companies designated as ETCs only for the purpose of receiving Lifeline support), as well as a number of federal requirements not directly related to ETC status. However, the general federal ETC requirements remain, including deferring to states for the proper definition of a minimum service area for ETC designations.<sup>1</sup>

The Commission promulgated Wis. Admin. Code ch. PSC 160, and specifically Wis. Admin. Code § PSC 160.13, to govern ETC designations and requirements in Wisconsin. These rules establish the process for ETC designation and set forth a minimum set of requirements for providers seeking ETC designation in Wisconsin. These rules have been periodically updated, most recently in Commission docket 1-AC-236.

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<sup>1</sup> 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(a).

Wisconsin Admin. Code § PSC 160.13(5) defines the minimum area in which a provider can be designated as an ETC as either (1) the incumbent local exchange carrier (ILEC) service territory for rural companies or (2) the wire center for non-rural companies. Wisconsin Admin. Code § PSC 160.13(5)(b) allows the Commission to approve ETC designations for areas smaller than wire centers, subject to FCC approval if necessary.

AT&T requested to remain as a valid ETC in the census blocks listed in Appendix B. In its filing, AT&T explained that “[t]he area in which AT&T seeks to relinquish its ETC designation (the ‘relinquishment area’ or ‘covered area’) is the entirety of its current ETC designated area *except* for the census blocks identified in Exhibit B, attached hereto. The relinquishment will be effective on March 31, 2017.” ([PSC REF#: 293737](#) at 1-2.)

As AT&T explained in its supplemental filing, it has been granted considerable funding for broadband expansion as part of the CAF II program. ([PSC REF#: 295882](#).) The FCC has awarded the CAF II broadband expansion grants on a census block basis. The FCC requires recipients of these grants to be designated as ETCs in those census blocks. AT&T is seeking to relinquish ETC status in its entire service territory, except for the census blocks in which it will receive CAF II funding.

AT&T is proposing to relinquish its ETC designation in a number of wire centers that do not contain any census blocks for which it is eligible for CAF II funding. Relinquishment in those census blocks is provided for in Wis. Admin. Code § PSC 160.13(8)(a), and does not require formal Commission action. Since a number of other providers are designated as ETCs in each of those wire centers, AT&T’s request for relinquishment in any full wire centers will be



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automatically granted. That relinquishment will become effective on March 31, 2017, the date requested by AT&T.

AT&T also requested that it remain an ETC in selected census blocks, that is, in areas smaller than the wire centers the Commission approved when granting ETC status to AT&T in docket 05-TI-162. (*Designation of Eligible Telecommunications Carriers Under Part 54 of Title 47 of the Code of Federal Regulations*, Docket No. 05-TI-162 (Pub. Serv. Comm'n of Wis. Dec. 23, 1997, at 4-6.) In addition, AT&T has requested ETC designation for those portions of the census blocks listed in Appendix B that fall inside its service territory. For census blocks lying entirely inside AT&T's service territory, it is requesting designation for the entire census block. For census blocks lying partly inside and partly outside AT&T's service territory, it is requesting designation for the portion of each such census block lying inside its service territory.

The Commission finds it is reasonable and in the public interest to grant AT&T's request to remain an ETC for selected census blocks, or portions thereof as shown in Appendix B, subject to the conditions described below. AT&T has qualified to receive a significant amount of CAF II funding to be used for broadband deployment in Wisconsin. Broadband deployment is of critical importance to the selected census blocks and to the State of Wisconsin in general. As other providers are designated as ETCs in all of AT&T's wire centers, the relinquishment of portions of AT&T's wire centers which are not covered by CAF II funding is approved and will be effective March 31, 2017.

Being designated as an ETC entails certain requirements, such as providing Lifeline service in the area in which the provider is designated as an ETC. To date, both the Commission

and AT&T have identified the areas in which AT&T is providing ETC required services, such as Lifeline, based on the boundaries of AT&T's service territory. Both the Commission and AT&T will need to develop the processes and geographical information databases necessary to allow identification of eligible customers. It is important that both AT&T and the Commission databases identify the same areas. This requires that the computer mapping data, such as shape files, used by both the Commission and AT&T are consistent and correct. To this end, it is reasonable to require AT&T to work with Commission staff and provide access to information and programming data in order for Commission staff to develop a tool to facilitate ETC tracking within AT&T's wire centers and partial census blocks.

Traditionally, designation of a provider as an ETC for an area smaller than the service territory of an incumbent local exchange provider has required a redefinition of that service territory. For rural incumbents, FCC rules are clear that both state and federal approval are necessary for that redefinition. In the past, the Commission has routinely made its ETC designations contingent on FCC approval of these redefinitions. (*See*, order points one and two in the Final Decision in docket 1455-TI-102, dated September 26, 2008, [PSC REF#: 101661](#).)

It is not clear whether FCC approval will be necessary in this docket. This is a matter of federal law and FCC rules, and this Commission does not take a position on these questions. Instead, the Commission makes the designation of AT&T as an ETC on a census block basis contingent on either (1) AT&T obtaining any necessary FCC approvals and providing this documentation to Commission staff or (2) AT&T providing Commission staff documentation from the FCC that no additional approvals are required. All copies of any submissions to the

FCC shall be filed with the Commission. If the FCC fails to timely respond to AT&T's request, AT&T shall notify Commission staff of its efforts to obtain the requested information. Five business days after the Commission's receipt of AT&T's notification of a failure to respond by the FCC, AT&T shall be deemed to satisfy this condition.

The Commission determines that AT&T will be assessed all reasonable costs resulting from this investigation. The reasonable expenses incurred or to be incurred by the Commission resulting from this investigation and the future programming costs associated with identifying and tracking the areas in which AT&T remains an ETC will be assessed against and collected from AT&T in accordance with the provisions of Wis. Stat. § 196.85 and Wis. Admin. Code ch. PSC 5.

The Commission findings in this docket are only applicable to the facts of this case based on the current ETC designations in Wisconsin. Nonetheless, the Commission finds that it is prudent for Commission staff to conduct a review of the ETC landscape in Wisconsin. Commission staff shall monitor the status of other ETC relinquishment requests and begin discussions with other ETCs on the topic of partial ETC relinquishments. Commission staff should also begin the process of obtaining the necessary maps, shape files, or other relevant information from other ETCs to identify existing wire centers and the boundaries for ETCs in Wisconsin. Commission staff should report back its findings to the Commission as necessary.

### **Order**

1. AT&T is required to obtain any necessary FCC approvals for this request. AT&T will either (1) obtain any necessary FCC approvals and provide this documentation to

2. Commission staff or (2) provide Commission staff documentation from the FCC that no additional approvals are required. Copies of the submissions to the FCC made pursuant to this order point shall be filed with the Commission. Should FCC fail to timely respond to AT&T, AT&T shall notify Commission staff of its efforts to obtain the requested information. Five business days after the Commission's receipt of AT&T's notification of the failure to respond by the FCC, AT&T shall be deemed to have satisfied this condition.

3. AT&T is designated as an ETC for the entirety of the census blocks, as shown in Appendix B, that are completely inside AT&T's service territory, contingent on any necessary FCC approvals.

4. AT&T is designated as an ETC, for the portions of the census blocks, as shown in Appendix B, which are only partially inside AT&T's service territory, contingent on any necessary FCC approvals.

5. AT&T is an ETC within the meaning of 47 U.S.C. § 214(c), and is eligible to receive federal low income and high cost USF funding pursuant to 47 U.S.C. § 254. This Final Decision constitutes the Commission's certification to that effect.

6. AT&T is an ETC within the meaning of 47 U.S.C. § 214(c), and is eligible to receive state USF funding consistent with Wis. Admin. Code ch. PSC 160.

7. AT&T is directed to provide any necessary information and programming data to Commission staff to ensure that AT&T's ETC designation area can be correctly identified.

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8. AT&T is directed to work with Commission staff on the development of a tool to facilitate ETC tracking within the AT&T wire centers and partial census block areas.

9. Jurisdiction is retained.

10. This Final Decision takes effect one day after the date of service.

Dated at Madison, Wisconsin, this 10<sup>th</sup> day of March, 2017.

By the Commission:

A handwritten signature in black ink that reads "Sandra J. Paske". The signature is written in a cursive, flowing style.

Sandra J. Paske  
Secretary to the Commission

SJP:KN:PRJ:pc DL:01497561

See attached Notice of Rights

PUBLIC SERVICE COMMISSION OF WISCONSIN  
610 North Whitney Way  
P.O. Box 7854  
Madison, Wisconsin 53707-7854

**NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE  
TIMES ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE  
PARTY TO BE NAMED AS RESPONDENT**

The following notice is served on you as part of the Commission's written decision. This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

*PETITION FOR REHEARING*

If this decision is an order following a contested case proceeding as defined in Wis. Stat. § 227.01(3), a person aggrieved by the decision has a right to petition the Commission for rehearing within 20 days of the date of service of this decision, as provided in Wis. Stat. § 227.49. The date of service is shown on the first page. If there is no date on the first page, the date of service is shown immediately above the signature line. The petition for rehearing must be filed with the Public Service Commission of Wisconsin and served on the parties. An appeal of this decision may also be taken directly to circuit court through the filing of a petition for judicial review. It is not necessary to first petition for rehearing.

*PETITION FOR JUDICIAL REVIEW*

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. In a contested case, the petition must be filed in circuit court and served upon the Public Service Commission of Wisconsin within 30 days of the date of service of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of the date of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Commission serves its original decision.<sup>2</sup> The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

If this decision is an order denying rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not permitted.

Revised: March 27, 2013

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<sup>2</sup> See *Currier v. Wisconsin Dep't of Revenue*, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.

APPENDIX A

This docket proceeding is not a contested case under Wis. Stat. ch. 227, therefore there are no parties as defined in Wis. Stat. § 227.01(8), to be listed or certified under Wis. Stat. § 227.47. However, the persons listed below are defined by Wis. Admin. Code § PSC 2.02(7), (10), and (12) as parties in the docket and participated therein.

Public Service Commission of Wisconsin  
(Not a party but must be served)  
610 North Whitney Way  
P.O. Box 7854  
Madison, WI 53707-7854

Wisconsin Bell, Inc., d/b/a AT&T Wisconsin  
Jim Jermain, Regional Vice President - External Affairs  
316 W Washington Ave Suite 501  
Madison, WI 53703  
Jj8571@att.com

**Appendix B**

Census Blocks for which AT&T is Receiving CAF II Funding, and in which it will be Designated as an Eligible telecommunications Carrier.

| Wire Center | CLLI Code | Census Block #  | Wire Center | CLLI Code | Census Block #  |
|-------------|-----------|-----------------|-------------|-----------|-----------------|
| ALGOMA      | ALGMWI11  | 550291006001107 | LAKE GENEVA | LKGNWI01  | 551270010004060 |
| ALGOMA      | ALGMWI11  | 550291006001109 | LAKE GENEVA | LKGNWI01  | 551270010004061 |
| ALGOMA      | ALGMWI11  | 550291006001110 | LAKE GENEVA | LKGNWI01  | 551270010004062 |
| ALGOMA      | ALGMWI11  | 550291006002055 | LAKE GENEVA | LKGNWI01  | 551270010004078 |
| ALGOMA      | ALGMWI11  | 550291006002065 | LAKE GENEVA | LKGNWI01  | 551270010004086 |
| ALGOMA      | ALGMWI11  | 550291006002068 | LAKE GENEVA | LKGNWI01  | 551270010004093 |
| ALGOMA      | ALGMWI11  | 550291006003061 | LAKE GENEVA | LKGNWI01  | 551270016021014 |
| ALGOMA      | ALGMWI11  | 550291006003065 | LAKE GENEVA | LKGNWI01  | 551270016021054 |
| ALGOMA      | ALGMWI11  | 550291006003067 | LAKE GENEVA | LKGNWI01  | 551270016023120 |
| ALGOMA      | ALGMWI11  | 550291006003068 | LAKE GENEVA | LKGNWI01  | 551270016024006 |
| ALGOMA      | ALGMWI11  | 550291006003069 | LAKE GENEVA | LKGNWI01  | 551270016024101 |
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| CHIPPEWA<br>FALLS | CHFLWI11 | 550170107003113 |  | MAYVILLE | MYVLWI11 | 550279614002019 |
| CHIPPEWA<br>FALLS | CHFLWI11 | 550170107003114 |  | MAYVILLE | MYVLWI11 | 550279614002034 |
| CHIPPEWA<br>FALLS | CHFLWI11 | 550170107003115 |  | MAYVILLE | MYVLWI11 | 550279614002036 |

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| CHIPPEWA FALLS | CHFLWI11 | 550350003012001 |  | NEWBURG        | NWBGWI11 | 550896101012032 |
| CHIPPEWA FALLS | CHFLWI11 | 550350003012002 |  | NEWBURG        | NWBGWI11 | 550896201001008 |
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| CHIPPEWA FALLS | CHFLWI11 | 550350003012023 |  | NEW LONDON | NWLNWI11 | 550870127001032 |
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| COLUMBUS       | CLMBWI11 | 550219711001171 |  | NEW LONDON | NWLNWI11 | 551351008003040 |

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| COLUMBUS | CLMBWI11 | 550279618002125 |  | ROBERTS         | RBRTWI11 | 551091210002026 |
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| DELAVAN | DLVNWII1 | 551270003025053 | RIVER FALLS | RVFLWI11 | 550939602001011 |
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| EVANSVILLE | EVVLI11  | 550459601001072 |  | STOUGHTON | SGTNWI11 | 550250124002036 |
| EVANSVILLE | EVVLI11  | 550459601001073 |  | STOUGHTON | SGTNWI11 | 550250124002052 |
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| EVANSVILLE | EVVLI11  | 551050028001003 |  | STOUGHTON | SGTNWI11 | 550250124002069 |

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| EVANSVILLE | EVVLWI11 | 551050028001004 |  | STOUGHTON       | SGTNWI11 | 550250124002071 |
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| EVANSVILLE | EVVLWI11 | 551050028004004 |  | STOUGHTON       | SGTNWI11 | 551050029005035 |
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| EVANSVILLE | EVVLWI11 | 551050029004093 |  | SHEBOYGAN FALLS | SHFLWI12 | 551170102001032 |
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| EVANSVILLE | EVVLWI11 | 551050029005006 |  | SHEBOYGAN FALLS | SHFLWI12 | 551170106021004 |
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| EVANSVILLE | EVVLWI11 | 551050029005019 |  | SHEBOYGAN FALLS | SHFLWI12 | 551170106021023 |
| EVANSVILLE | EVVLWI11 | 551050029005021 |  | SHEBOYGAN FALLS | SHFLWI12 | 551170106021035 |
| EVANSVILLE | EVVLWI11 | 551050029005022 |  | SHEBOYGAN FALLS | SHFLWI12 | 551170106021036 |
| EVANSVILLE | EVVLWI11 | 551050029005023 |  | SHEBOYGAN FALLS | SHFLWI12 | 551170106021092 |



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| EVANSVILLE  | EVVLWI11 | 551050030024140 |  | SHEBOYGAN FALLS | SHFLWI12 | 551170106022093 |
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| FOND DU LAC | FDULWI01 | 550390414003049 |  | SOMERS       | SMRSWI11 | 550590028001051 |
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| FOND DU LAC | FDULWI01 | 550390414003058 |  | STURGEON BAY | STBYWI11 | 550291004002147 |
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| FOND DU LAC   | FDULWI01 | 550390420002039 |  | STURGEON BAY  | STBYWI11 | 550291009001082 |
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| FORT ATKINSON | FTATWI11 | 550551006022041 |  | STEVENS POINT | STPTWI01 | 550979602001025 |
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## EXHIBIT E

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE  
March 24, 2017

|                                       |   |            |
|---------------------------------------|---|------------|
| IN THE MATTER OF VERIFIED PETITION OF | ) |            |
| AT&T TENNESSEE FOR AN ORDER           | ) | DOCKET NO. |
| CONFIRMING RELINQUISHMENT OF ITS      | ) | 16-00123   |
| ELIGIBLE TELECOMMUNICATIONS CARRIER   | ) |            |
| DESIGNATION IN SPECIFIED AREAS        | ) |            |

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ORDER CONFIRMING AT&T TENNESSEE'S RELINQUISHMENT  
OF ITS ELIGIBLE TELECOMMUNICATIONS CARRIER  
DESIGNATION IN SPECIFIED AREAS

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This matter came before Chairman David F. Jones, Vice Chairman Robin L. Morrison and Director Herbert H. Hilliard of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at the regularly scheduled Authority Conference held on March 13, 2017, for consideration of the *Verified Petition of AT&T Tennessee for an Order Confirming Relinquishment of Its Eligible Telecommunications Carrier Designation in Specified Areas* (the "Petition") filed on October 27, 2016 by AT&T Tennessee<sup>1</sup> ("AT&T") ("Petitioner").

**BACKGROUND AND PETITION**

In Docket No. 97-00888, based upon the request of AT&T, the Authority designated AT&T as an Eligible Telecommunications Carrier ("ETC") in certain service areas within the State of Tennessee pursuant to 47 U.S.C. § 214(e)(2) and Section 254(e) of the Telecommunications Act of 1996 and Federal Communications Commission ("FCC") Order No.

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<sup>1</sup> BellSouth Telecommunications, LLC d/b/a AT&T Tennessee f/k/a BellSouth Telecommunications, Inc.

97-157.<sup>2 3</sup> On October 27, 2016, AT&T filed a *Verified Petition of AT&T Tennessee for an Order Confirming Relinquishment of Its Eligible Telecommunications Carrier Designation in Specified Areas*, in which AT&T seeks to relinquish its ETC designation in specified service areas.<sup>4</sup> In support of its *Petition*, AT&T submitted the following Exhibits to its *Petition*: Exhibit A – list of AT&T Tennessee wire centers; Exhibit B – list of Tennessee CAF II funded census blocks served by Tennessee wire centers (non-relinquishment area); Exhibit C – list of competitive ETCs (“CETCs”) designated to provide service to AT&T Tennessee’s Service Area; and, Exhibit D – Sample letters and billing messages for affected customer notification of change.<sup>5</sup>

AT&T further states in its *Petition* that pursuant to federal law, ETCs are eligible to receive federal universal service funding in exchange for which they are required to offer certain services and meet the obligations associated with the universal service programs in which they participate. Federal universal service funding includes “high cost” support to deploy and maintain networks in rural and other high cost areas, as well as reimbursement from the Lifeline Assistance Program (“Lifeline”) for offering services to eligible low-income consumers at discounted prices.<sup>6</sup> In addition to receiving federal support from the above programs, AT&T has also received funding from the FCC Connect America Fund (“CAF”) to support and deploy broadband-capable networks in certain service areas.<sup>7</sup> AT&T avers that due to the FCC making changes in the “high cost” portion of the universal service funding, changes to the CAF and

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<sup>2</sup> See Order entered on December 17, 1997, in TRA Docket No. 97-00888.

<sup>3</sup> *In re: Verified Petition for an Order from the Tennessee Regulatory Authority Confirming AT&T’s Relinquishment of Its Eligible Telecommunications Carrier Designation in Specified Areas*, Docket No. 16-00123, p. 1, ¶ 2 (October 27, 2016).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 2, ¶ 3.

<sup>7</sup> *Id.* at 2-3, ¶ 6 & at 4, FN 8.



changes in customers' service choices, AT&T now wishes to relinquish its Tennessee ETC status in certain areas (the "relinquishment area").<sup>8</sup>

**STANDARD FOR AUTHORITY APPROVAL**

AT&T filed its *Petition* pursuant to 47 U.S.C § 214(e)(4), which states, in part:

"A State commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier."

Tennessee law expressly states that the "Tennessee regulatory authority is authorized as a matter of state law to receive any jurisdiction delegated to it by the federal 1996 Telecommunications Act, in 47 U.S.C. § 214(e)<sup>9</sup> ...".

The TRA, therefore, has jurisdiction over a request to relinquish an ETC designation under both the federal law provision, 47 U.S.C § 214(e)(4), and the related Tennessee law provision, Tenn. Code Ann. § 65-5-109(m). Exercising jurisdiction in the consideration of a request to relinquish an ETC designation, the TRA is required to determine whether the area in which the petitioner seeks to relinquish such designation is served by other ETCs. The federal law differentiates "service area" as applied to an ETC designation from a carrier's entire service footprint within the state wherein it is designated an ETC.<sup>10</sup> The consideration of relinquishment of ETC designation is not, however, limited to an entire service area. The federal law provision permits relinquishment of the designation in "**any area** served by more than one eligible

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<sup>8</sup> *Id.* at 2-3, ¶ 6 & 7.

<sup>9</sup> Tenn. Code Ann. § 65-5-109(m) (2015).

<sup>10</sup> 47 U.S.C. § 214(e)(2) provides: "A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State Commission."

47 U.S.C. § 214(e)(3) states: "The term "service area" means a geographic area established by a State commission (or the Commission under paragraph (6)) for the purpose of determining universal service obligations and support mechanisms."

telecommunications carrier.” (emphasis added).<sup>11</sup> Certain additional requirements are applicable where a request for relinquishment of an ETC designation includes indication that the carrier will cease to provide universal service.<sup>12</sup> Finally, in the consideration of a request to relinquish, if the TRA determines that the areas in which relinquishment is sought is served by other ETCs, then the federal law requires that request be granted.<sup>13</sup>

### FINDINGS AND CONCLUSIONS

After the hearing and upon consideration of the pleadings and the entire administrative record, the panel found:

AT&T filed a *Petition* requesting relinquishment of its ETC designation in specified areas identified in the Exhibits to its *Petition*. The TRA has jurisdiction over the matters in AT&T’s *Petition* pursuant to 47 U.S.C. § 214(e)(4) and Tenn. Code Ann. § 65-5-109(m). The relinquishment area of the ETC designation sought by AT&T is served by at least eight (8) remaining telecommunications carriers which have been designated as ETCs. AT&T will not cease providing universal service in the specified relinquishment area and therefore, additional requirements on remaining ETCs are not applicable. By its demonstration that the specified relinquishment area is currently served by more than one ETC, AT&T has met the requirement of federal law to relinquish its ETC designation in the relinquishment area. AT&T proposed an effective date of July 5, 2017 for the relinquishment of its ETC designation in the relinquishment

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<sup>11</sup> 47 U.S.C § 214(e)(4).

<sup>12</sup> 47 U.S.C. § 214(e)(4) also provides, in part:

Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the State commission...shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier.

<sup>13</sup> “A State commission *shall* permit an eligible telecommunications carrier to relinquish its designation ...” 47 U.S.C. § 214(e)(4) (emphasis added).

area. Federal law requires that the Authority shall permit AT&T to relinquish its ETC designation upon its finding that the area in which AT&T requests relinquishment is served by more than one ETC.

**IT IS THEREFORE ORDERED THAT:**

The *Verified Petition of AT&T Tennessee for an Order Confirming Relinquishment of Its Eligible Telecommunications Carrier Designation in Specified Areas* filed on October 27, 2016 by AT&T is granted. AT&T may relinquish its ETC designation in the specified relinquishment area pursuant to 47 U.S.C. § 214(e)(4), effective July 5, 2017.

**Chairman David F. Jones, Vice Chairman Robin L. Morrison, and Director Herbert H. Hilliard concur.**

**ATTEST:**

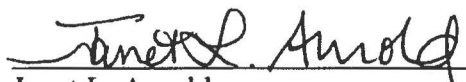


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**Earl R. Taylor, Executive Director**

**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' Reply in Support of Motion for Establishment of a Procedural Schedule, 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 27th day of March, 2017.

  
Notary Public

My appointment expires:



**CERTIFICATE OF SERVICE**

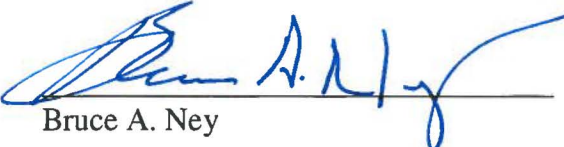
I, the undersigned, hereby certify that a true and correct copy of the above and foregoing AT&T Kansas' Reply in Support of Motion for Establishment of a Procedural Schedule was electronically served this 27<sup>th</sup> day of March, 2017 to:

Michael Neeley  
Ahsan Latif  
Litigation Counsel  
Kansas Corporation Commission  
1500 SW Arrowhead Rd.  
Topeka, KS 66604-4027  
[m.neeley@kcc.ks.gov](mailto:m.neeley@kcc.ks.gov)  
[a.latif@kcc.ks.gov](mailto:a.latif@kcc.ks.gov)

Brian G. Fedotin  
Deputy General Counsel &  
Chief Appellate Counsel  
Kansas Corporation Commission  
1500 SW Arrowhead Rd.  
Topeka, KS 66604-4027  
[b.fedotin@kcc.ks.gov](mailto:b.fedotin@kcc.ks.gov)

David W. Nickel, Consumer Counsel #11170  
Thomas J. Connors, Attorney #27039  
Todd E. Love, Attorney #13445  
Citizens' Utility Ratepayer Board  
1500 SW. Arrowhead Road  
Topeka, KS. 66604  
[d.nickel@curb.kansas.gov](mailto:d.nickel@curb.kansas.gov)  
[tj.connors@curb.kansas.gov](mailto:tj.connors@curb.kansas.gov)

Michael J. Duenes  
Assistant General Counsel  
Office of General Counsel  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, KS. 66604-4027  
[m.duenes@kcc.ks.gov](mailto:m.duenes@kcc.ks.gov)

  
Bruce A. Ney