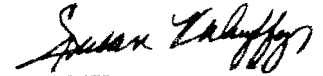


**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

SEP 03 2010

In the Matter of Staff's Motion to the)
Commission to Commence a Generic)
Proceeding to Address Issues Concerning)
the Kansas Lifeline Service Program.)

Docket No. 10-GIMT-658-GIT



INITIAL COMMENTS OF AT&T

COMES NOW Southwestern Bell Telephone Company d/b/a AT&T Kansas ("SWBT"); AT&T Communications of the Southwest, Inc. ("ATTSW"); TCG Kansas City, Inc. ("TCG"); New Cingular Wireless PCS, LLC d/b/a AT&T Mobility ("ATTM") (hereinafter collectively "AT&T"), pursuant to the Commission's June 18, 2010 Order Commencing A Generic Proceeding to Address Issues Concerning the Kansas Lifeline Service Program (hereinafter the "June 18th Order"). The Commission's June 18th Order established a schedule for parties to the proceeding to comment on four initial areas of concern identified by the Commission's staff. Accordingly, AT&T hereby submits its initial comments on the areas of concern identified by the KCC Staff and the Commission in the June 18th Order.

COMMENTS

A. Retention of Lifeline Program Eligibility Documents

1. In its Memorandum to the Commission as part of its motion asking the Commission to initiate this proceeding, the Commission's staff identified the retention of Lifeline program eligibility documents as an issue for review and consideration. Staff's memorandum correctly points out that this issue was most recently raised in Docket No. 08-SWBT-041-KSF, in conjunction with an audit of SWBT by the Kansas Universal Service Fund ("KUSF") administrator at the time, Solix. As the audit noted, SWBT was following the Federal Communications Commission's ("FCC") record keeping rules

contained in the FCC's Lifeline and Link-Up Report and Order and Further Notice of Proposed Rule Making.¹

2. The Audit Report specifically concluded:

SWBT does follow the record keeping requirements identified in the Federal Communications Commissions FNPR released April 29, 2004. SWBT does maintain as ordered: 1) the customer self certification documents; 2) documentation that demonstrates it has given the customer the appropriate discount; 3) proof of advertising and Lifeline service; and 4) billing records. SWBT also maintains Lifeline methods and procedures.²

SWBT did not, however, retain any other supporting or corroborating income-eligibility documentation received from Lifeline customers because it did not believe it was required to retain such documentation under the Federal rules. In concluding the audit, the Commission found that SWBT's reporting procedures were not materially deficient.³ SWBT continues to follow the FCC rules set forth in the FNPRM. AT&T believes the Commission should clearly adopt a position that tracks and follows the FCC's FNPRM Lifeline record retention rules in this proceeding.

3. In the Commission's Order Opening Docket and Establishing New Lifeline Service Program Eligibility Requirements and Guidelines Effective June 22, 2005,⁴ the Commission concluded that even though Kansas is not a federal default state, it has generally adhered to the federal default requirements.⁵ Accordingly, the Commission

¹ Report and Order and Further Notice of Proposed Rulemaking, *In the Matter of Lifeline and Link-Up*, WC Docket No. 03-109, FCC 04-87, Rel. April 29, 2004 (hereafter the "FNPRM").

² Southwestern Bell Telephone Company Final KUSF Audit Report, Docket No. 08-SWBT-041-KSF, May 1, 2008, at p. 2 of 5.

³ Order Finding SWBT KUSF Reporting Without Material Deficiency and Closing Docket, Docket No. 08-SWBT-041-KSF, July 10, 2008, at ¶5.

⁴ Order Opening Docket and Establishing New Lifeline Service Program Eligibility Requirements and Guidelines Effective June 22, 2005, *In the Matter of the Implementation of New Lifeline Service Program Eligibility Guidelines and Requirements*, Docket No. 05-GIMT-1039-GIT, dated May 19, 2005 (hereafter the "Kansas Lifeline Order").

⁵ *Id.* at ¶¶ 3, 5.

adopted as its own the FCC's requirements concerning proof of eligibility in default states.⁶ The Commission also followed the FCC's lead in adopting requirements for the officer of an Eligible Telecommunications Carrier ("ETC") to certify "in accordance with FCC rules, 'that the ETC is in compliance with state Lifeline/Link-Up income certification procedures.'"⁷

4. Because the Commission adopted and so closely follows the FCC requirements for income-level eligibility self-certification established in the FNPRM, AT&T believes it should not be necessary for carriers to retain a Lifeline customer's income documentation supporting their eligibility certification. In fact, the language of FNPRM ¶ 31 adopted by the Commission requiring ETC officer certification specifically states that the retention of supporting documentation is not required.

Moreover, ***our rules do not require ETCs to retain the consumers corroborating documentation.*** ETCs need only retain records of their self-certifications and those made by the applicant.⁸

5. The FCC's intent on the retention of consumer supporting or corroborating documentation was clearly stated again in FNPRM ¶ 35:

As with certification of income-based eligibility, ***ETCs need not retain documentation of income;*** however, an officer of the ETC must certify, under penalty of perjury, that the ETC has income verification procedures in place and that, to the best of his or her knowledge, the company was presented with corroborating documentation and retain these records.⁹

⁶ Order at ¶ 4 (adopting FNPRM ¶ 30 requirements).

⁷ Order at ¶ 5 (adopting FNPRM ¶ 31 requirements).

⁸ FNPRM at ¶ 31. (Emphasis added).

⁹ FNPRM at ¶ 35. (Emphasis added).

AT&T believes the FCC's language in the FNPRM leaves little room for argument that in default states ETCs, like SWBT, are not and should not be required to retain supporting or corroborating income documentation.

6. The FCC's implementation of the ETC officer verification requirement was in response to well stated concerns by ETCs and some state public utility commissions about the burdensome nature of the income-based eligibility certification procedures.¹⁰ The FCC noted the intent of its rules was not to impose "difficult computations or interpretations" on ETCs certifying customers for Lifeline support.¹¹ Thus, the officer verification requirement eliminated the undue burden that would fall to ETCs to maintain potentially voluminous and highly sensitive customer supporting or corroborating documentation. The fact that Kansas is a non-default state does not change this burden. This Commission should allow its requirement for ETC officer verification to operate in the same manner in Kansas and consistently with the federal guidelines.

7. The Commission's Order adopting the operative portions of the FNPRM to govern self-certification in Kansas, a non-default state, makes clear that Kansas will adhere closely to the federal guidelines.¹² While the Order breaks with the federal guidelines on the income-level necessary for Lifeline eligibility;¹³ the Commission's Order never states that, unlike the FNPRM guidelines and requirements it was adopting, it would require Kansas ETCs to retain supporting or corroborating income documentation. AT&T believes that if the Commission feels it must address this issue, its determination should be consistent with the FNPRM guidelines. Following a

¹⁰ FNPR at ¶ 31 (citing comments in fn 126 of AT&T (prior to its acquisition and merger with SBC) and the Oklahoma Corporation Commission).

¹¹ *Id.*

¹² Order at ¶ 3, 5.

¹³ Order at ¶ 3.

methodology that is consistent with these guidelines, streamlines the operation of the program for companies like AT&T who operate in multiple state jurisdictions.

8. An additional factor that did not exist at the time of SWBT's 2008 audit by Solix, and which the Commission must now take fully into account when considering this issue, is the availability of Lifeline auto-enrollment in Kansas. Enacted by the Kansas legislature in 2008, K.S.A. 2009 Supp. 66-2006(b) provides the terms by which Kansans that participate in certain state programs may be automatically enrolled in the Kansas Lifeline services program ("KLSP"). Under the statute, carriers such as AT&T are provided with a list of persons the Kansas Department of Social and Rehabilitative Services ("SRS") has determined qualify for participation in the KLSP. Carriers like AT&T receive no other eligibility supporting documentation from SRS. In 2009, almost one-third of SWBT's new enrollments and recertification's for Lifeline service came through the auto-enrollment process. For the first half of 2010, that new enrollment and recertification percentage remains virtually unchanged. This means for those thousands of Kansans taking advantage of the convenience of auto-enrollment and the benefits of the KLSP, carriers like AT&T will have received no supporting income eligibility documentation other than the electronic list of names and telephone numbers provided by SRS. The Commission should not burden the successful auto-enrollment process, SRS or the carriers participating in the process, with unnecessary document retention or production policies.

9. AT&T urges the Commission to conclude, much as the FCC did, that because an officer of the ETC must now certify, subject to the penalty of perjury, that it has income verification procedures and practices in place, retention of supporting or corroborating documentation is unnecessary. Retaining such information is a financial

and logistical burden not only on AT&T, but on any ETC. Retaining a customer's highly personal and sensitive information, such as tax returns, social security information, tribal documents or even divorce decrees, among other things, is simply something AT&T should not be required to do. The cost of handling, retaining and securing such information for up to three years or more would be an undue burden on any carrier. Under its present procedures, AT&T destroys any such customer information after it has been used to verify the customer's Lifeline eligibility. AT&T is not required to and does not retain such supporting or corroborating documentation in any other state where it provides Lifeline service. AT&T asks the Commission to adopt the FCC's rules on this issue and conclude that consistent with the process adopted in its prior Order, the retention of supporting or corroborating documentation is neither necessary nor required.

B. Annual Certification Requirements for ETCs

10. AT&T, as with all ETCs, is presently required to file an Annual Lifeline Certification and Verification form for non-federal default states, such as Kansas, with the Universal Service Administrative Company ("USAC"). AT&T is not opposed, if the Commission deems it necessary, to filing the same Lifeline Certification and Verification form with the Commission, verifying that AT&T is in compliance with the state's Lifeline income certification procedures. Once again, AT&T urges the Commission to maintain requirements in this regard that are consistent with the FCC's verification and certification requirements.

C. Expansion of Programs Triggering Lifeline Eligibility

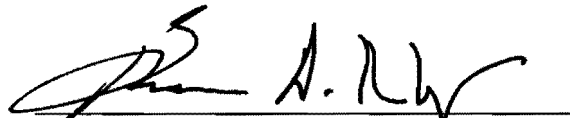
11. AT&T is not opposed to efforts by the Commission to ensure that low-income Kansans have access to the KLSP. However, without knowing more details

about which programs the Commission Staff is considering, commenting on the merits of including those programs is difficult. Certainly there is the possibility that any new programs, especially any with a narrow scope, may cover individuals that are already eligible under broader programs or the income eligibility level. AT&T would also urge the Commission to consider the impact of any such expansion on the size of the KUSF and the impact on non-KLSP consumers.

D. Time for Application of Lifeline Discounts

12. AT&T is unaware of any specific complaints concerning the time frame in which it applies the Lifeline discount to a consumer's account. AT&T strives to have the applicable discount timely applied to the consumer's bill in no more than two (2) billing cycles following immediately following verification of eligibility.

Respectfully submitted,



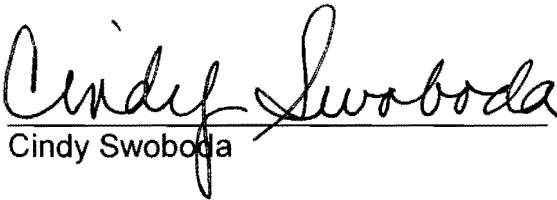
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VERIFICATION


STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

I, Cindy Swoboda, of lawful age, and being first duly sworn, now state: I am Area Manager – Regulatory Relations, and have read AT&T’s Initial Comments, and verify the statements contained herein to be true and correct to the best of my knowledge and belief.


Cindy Swoboda

Subscribed and sworn to before me this 3rd day of September, 2010.




Notary Public

My Appointment Expires: January 26, 2011

CERTIFICATE OF SERVICE

I hereby certify that a correct copy of AT&T's Initial Comments was sent via U.S. Mail or hand-delivered on this 3rd day September, 2010.

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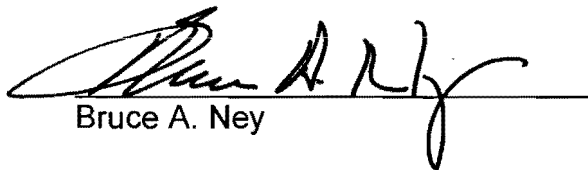
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September 3, 2010

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STATE CORPORATION COMMISSION

SEP 03 2010

Re: KCC Docket No. 10-GIMT-658-GIT

Dear Ms. Duffy:

Enclosed you will find an original and seven copies of AT&T's Initial Comments for filing in the above referenced docket.

Sincerely,

Bruce A. Ney
General Attorney

BAN:jw
Enclosures

cc: Parties of Record