REDACTED

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Section 63.71 Application of AT&T Services, Inc., on behalf of its affiliates BellSouth Telecommunications, LLC, d/b/a AT&T Florida, AT&T Kentucky, and AT&T Tennessee; Michigan Bell Telephone Company, d/b/a AT&T Michigan; The Ohio Bell Telephone Company, d/b/a AT&T Ohio Authority Pursuant to Section 214 of The Communications Act of 1934, As Amended, To Grandfather the Provision of Service	**File No.**

SECTION 63.71 APPLICATION OF AT&T

AT&T[1] applies for authority under Section 214(a) of the Communications Act, as amended, 47 U.S.C. § 214, and Section 63.71 of the Federal Communications Commission's ("Commission") rules, 47 C.F.R. § 63.71, to grandfather DS1 and DS3 services in sections of nine wire centers located in five states.

INTRODUCTION

The communications industry has undergone and is continuing to undergo a seismic shift away from antiquated technologies that customers no longer demand toward next-generation, innovative solutions that customers crave. The speed and scale of this transition, along with its importance to the Commission, policymakers, and the general public, is only growing by the day.

[1] AT&T Services, Inc. files this application on behalf of its affiliates BellSouth Telecommunications, LLC, d/b/a AT&T Florida, AT&T Kentucky, and AT&T Tennessee; Michigan Bell Telephone Company, d/b/a AT&T Michigan; The Ohio Bell Telephone Company, d/b/a AT&T Ohio.

AT&T is intent on moving this transition forward by delivering new solutions to meet its customers' rapidly evolving needs, in the face of fierce competition from both legacy providers and a multitude of new entrants unencumbered by anachronistic regulatory constraints.

In furtherance of that goal, AT&T is simultaneously filing several applications to grandfather certain legacy services provided in 60 wire centers located in sections of 13 states where there is virtually no demand for the services. In this application, AT&T seeks to grandfather DS1 and DS3 services (the "Affected Services") in nine of those wire centers. Grandfathering these services, which are outdated and unduly expensive for AT&T to maintain, will benefit the public and serve as important step toward meeting both the Commission's goals of advancing the IP revolution.

The benefits of facilitating this transition in these specific wire centers are particularly pronounced given the extreme lack of demand for the Affected Services in the area ("Affected Service Area"). As the Commission recognized over half a decade ago, DS1 and DS3 technologies would soon become "obsolete" in the face of significant advancement in competing services and changes in customer demand.[2] In the Affected Service Area, AT&T has only eight customers for the Affected Service, purchasing a total of 29 DS1 and DS3 Circuits, a 58.6% decline since 2020. Once the services are grandfathered, the small group of current customers that have not already abandoned the Affected Services will be able to keep their current service. Only prospective customers in the Affected Service Area will be unable to purchase the Affected Services, and there are virtually no such prospective customers. In fact, AT&T has received *no* new orders for the Affected Services in the Affected Service Area over the last year.

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[2] Report and Order, *Business Data Services Order in an Internet Protocol Environment*, 32 FCC Rcd 3459, ¶ 3 (2017), vacated in part on other grounds, *Citizens Telecomms. Co. of Minn. v. FCC*, 901 F.3d 991 (8th Cir. 2018) ("*Business Data Services Order*")

Businesses in the Affected Service Area have many cost-effective alternative options to choose from as replacements for the Affected Service Area. In the Affected Service Area, existing and prospective DS1 and DS3 customers, including wholesale customers, have the ability to secure cost effective alternatives through AT&T Switched Ethernet as well as other AT&T products that are superior to the Affected Services. In addition, there are an array of competitive offers available in the Affected Service Area, which many businesses have already selected in lieu of the Affected Services. These available alternatives include services offered over cable, fiber, fixed wireless, mobile wireless, and satellite technologies.

A. AT&T Is Committed to Furthering the Commission's Goal of Providing Advanced Communications Solutions to the American Public

As the Commission has recognized, "[t]echnological innovation and private investment have revolutionized American communications networks," and "[a]s part of this transformation, consumers are increasingly moving away from traditional telephone services . . . and towards next-generation technologies using a variety of transmission means, including copper, fiber, and wireless spectrum-based services."[3] The effects of the technological transition are difficult to overstate, not only for the communications inwdustry, but also for the economy and American society as a whole.

The emergence of mass-market broadband has been a catalyst for these systemic changes in how customers receive their communications. Today, companies that provide voice services through legacy facilities — the primary regulated entities under the Telecommunications Act of 1996 — compete with a panoply of cable companies, fixed-wireless providers, mobile-wireless

[3] Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, 32 FCC Rcd 11128, ¶ 1 (2017) ("*Accelerating Wireline Broadband Deployment Order*").

providers, satellite providers, and other operators that have come to *dominate* the market for broadband services. IP technology has underwritten the explosion of the information economy, unleashing dynamic growth and enabling the emergence of entirely new industries. Across the country, retail and enterprise consumers have voted with their feet to abandon legacy technologies and embrace the myriad improvements in efficiency, innovation, and creativity that IP platforms offer. Already, the IP transition has transformed the way we communicate, educate our children, deliver healthcare, consume energy, obtain news and other information, engage in commerce, and interact with the government — and there is much more progress to be made.[4]

The manifold impacts of this transition — its potential to improve American lives and benefit consumers, as well as its attendant demand for regulatory adaptation — have been well-recognized by the Commission. Since at least 2014, the Commission has made clear that its "over-arching purpose . . . is to speed technological advances,"[5] and it has taken steps to help "eliminate unnecessary delays" in the discontinuance of legacy services that customers heading

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[4] As the Commission has observed, broadband also "plays an important role in solving the country's energy and environmental challenges." FCC, Energy and Environment, https://www.fcc.gov/general/energy-and-environment. Further, because fiber networks use unpowered (passive) optical splitters and generate less heat overall (thereby requiring less cooling), replacing copper with fiber improves energy efficiency by more than two thirds. *See ABI Research Identifies 30 Sustainability Action Items for Telco Operators*, ABI Research (Apr. 21, 2022), https://www.abiresearch.com/press/purchasing-renewable-energy-removes-co2-emissions-equal-to-20-million-barrels-of-oil-a-year-for-leading-telco-operators (estimating 85% improved efficiency). Modern IP switches are also very efficient and can be housed in much smaller facilities, with correspondingly smaller energy needs, than the huge facilities that legacy TDM switches require. *See* Tom Wheeler, Chairman, FCC, Keynote Address at the Brookings Institution: Maximizing the Benefits of Broadband at 6 (June 26, 2015), https://www.brookings.edu/wpcontent/uploads/2015/06/20150626_fcc_wheeler_broadband_transcript.pdf (noting that software defined networks "can save up to 60 percent on energy costs").

[5] Order, Report and Order and Further Notice of Proposed Rulemaking, Report and Order, Order and Further Notice of Proposed Rulemaking, Proposal for Ongoing Data Initiative, *Technology Transitions*, 29 FCC Rcd 1433, ¶ 23 (2014) ("*2014 Technology Transitions Order*").

toward a "world without copper" have "largely . . . abandoned."[6] In 2016, for example, the Commission adopted a test for streamlined treatment of applications seeking to discontinue legacy voice services.[7] And in 2018, the Commission adopted multiple "streamlin[ed]" approaches for discontinuance of legacy services, including the elimination of any requirement to file a discontinuance application on "a service for which the requesting carrier has had no customers or reasonable requests for service" for the last 30 days.[8]

As the Commission has explained, allowing carriers to promptly discontinue legacy services that are no longer in demand "enabl[es] carriers to redirect resources . . . to more rapidly bring[] next-generation services and networks to all customers."[9] With this modernization, carriers "can dramatically reduce network costs, allowing providers to serve customers with increased efficiencies that can lead to improved and innovative product offerings and lower prices."[10] These changes allow for "further investments in innovation that both enhance existing products and unleash new services, applications and devices, thus powering economic growth."[11]

These transformative changes have occurred at an extraordinary pace. As the Commission has repeatedly explained, "[i]n the voice marketplace, incumbent LECs face competition from facilities-based providers, including cable companies offering VoIP and fixed

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[6] *Accelerating Wireline Broadband Deployment Order* ¶¶ 22, 33, 81.

[7] *See* Second Report and Order, *Technology Transitions*, 31 FCC Rcd 8283, ¶ 65 (2016) ("*Second Technology Transitions Order*").

[8] Second Report and Order, *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, 33 FCC Rcd 5660, ¶ 5, App. A ¶ 2 (2018) ("*Second Accelerating Wireline Broadband Deployment Order*").

[9] *Id.* ¶ 20.

[10] *2014 Technology Transitions Order* ¶ 2.

[11] *Id.*

wireless providers, as well as from mobile wireless providers."[12] POTS subscriptions provided by incumbent LECs amounted to *less than 5% of all voice subscriptions nationwide* — and POTS subscriptions "declined at a compound annual growth rate of 12.9% per year" over the preceding three-year period.[13] Nationwide, more than 70% of adults and more than 80% of children live in households that have replaced wireline phone service (whether VoIP or POTS services) with wireless service exclusively.[14] As competition has swelled, including from cable providers, incumbent providers serve an ever-shrinking minority of residential and business wireline voice subscriptions.[15] As the Commission summarized in 2020, American consumers have embraced the "transition[] to newer technologies, increasingly moving from fixed legacy voice to fixed or nomadic voice over Internet protocol (VoIP) and mobile voice services, and from DSL to broadband provided over fiber and fixed and mobile wireless" — a transition that

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[12] Notice of Proposed Rulemaking, *Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services*, 34 FCC Rcd 11290, ¶ 21 (2019) ("*Modernizing Unbundling and Resale Requirements NPRM*").

[13] *See* FCC, *Voice Telephone Services: Status as of June 30, 2022*, at 2-3 (August 2023), https://docs.fcc.gov/public/attachments/DOC-396138A1.pdf ("*Voice Telephone Services*").

[14] *See* Stephen Blumberg & Julian Luke, Nat'l Ctr. for Health Stats., *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July-December 2022* (May 2023), https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless202305.pdf.

[15] *See Voice Telephone Services* Tables 1-2 (showing that incumbent LECs provide approximately 32 million wireline retail voice connections nationwide, out of 462 million overall retail voice telephone connections); *see also id.* (showing that incumbent LEC switched access lines only account for 25.8% of residential wireline voice subscriptions and 19.9% of business wireline voice subscriptions, that incumbent LEC VoIP accounts for 14.5% and 8.3% of residential and business wireline voice subscriptions, respectively, and that non-incumbent LEC VoIP accounts for 58% and 62.3% of residential and business wireline voice subscriptions, respectively).

"will only accelerate" with the "widespread deployment of 5G wireless networks."[16] The declines in subscribership that the Commission has recognized show no sign of slowing.[17]

Policymakers have similarly embraced the task of accelerating the IP transition and ensuring that all Americans have access to affordable, reliable, high-speed broadband. In the American Rescue Plan Act, Congress created both the $10 billion Capital Projects Fund and the $7.17 billion Emergency Connectivity Fund.[18] As of September 2023, nearly $8 billion from the capital fund has been disbursed to support broadband and related projects in 47 states and three territories,[19] while nearly $7 billion from the connectivity fund is committed to support approximately 18 million students, 11,200 schools, and 1,000 libraries nationwide.[20] States are currently in the process of submitting their plans for drawing on the $42.5 billion Broadband Equity, Access, and Deployment Program to fund the deployment of new networks to bring broadband to unserved and underserved areas of the country.[21]

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[16] *Modernizing Unbundling and Resale Requirements Order* ¶ 23.

[17] *See, e.g.*, FCC, *2022 Communications Marketplace Report*, FCC 22-103, at ¶ 170 (rel. Dec. 30, 2022) (noting that "[t]he number of fixed retail switched-access lines declined [nationwide from December 2018 to December 2021] at a compound annual rate of 12.3%," "while interconnected VoIP services continue[d] to increase").

[18] *See* American Rescue Plan Act of 2021, Pub. L. No. 117-2, tit. IX, § 9901, 135 Stat. 4, 233 (2021); *see also id.*, tit. VII, § 7402, 135 Stat. at 109.

[19] *See* Press Release, U.S. Dep't of the Treasury, *Treasury Department Announces Approval of Federal Funds to Help Close Digital Divide in Puerto Rico as Part of President Biden's Investing in America Agenda* (Sept. 6, 2023), https://home.treasury.gov/news/press-releases/jy1713.

[20] *See* Press Release, Federal Communications Commission, *FCC Announces $7 Million in Emergency Connectivity Funding for Schools and Libraries* (Sept. 6, 2023), https://docs.fcc.gov/public/attachments/DOC-396704A1.pdf.

[21] *See* Broadband USA, *Public Notice Posting of State and Territory BEAD and Digital Equity Plans/Proposals*, https://broadbandusa.ntia.doc.gov/public-notice-posting-state-and-territory-bead-and-digital-equity-plansproposals.

AT&T is investing significantly to continue to be an industry leader in this IP transition, devoting $100 billion to spectrum acquisitions and capital infrastructure improvements over a three-year period.[22] Last year marked the company's fifth straight year with 1 million or more net additions for AT&T Fiber.[23] AT&T leads the industry in bringing fiber to new homes; by the end of last year, AT&T has the ability to serve more than 19 million consumer locations, and more than 3 million business locations over last-mile fiber facilities.[24] And as the company announced to shareholders in its 2022 Annual Report, AT&T is on track to reach its goal of 30-million-plus total locations for AT&T Fiber by the end of 2025.[25]

On the wireless side, AT&T's investments have been exponential. In 2022, the company successfully deployed enough mid-band 5G spectrum to reach *more than 150 million people*, more than double the company's original year-end coverage target.[26] By the end of 2023, AT&T will reach *more than 200 million* people with mid-band 5G spectrum.[27] As the Commission knows, that mid-band spectrum provides an ideal combination of capacity and penetration to power the 5G services, including home broadband, that consumers and businesses are demanding.

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[22] John T. Stankey, CEO, AT&T, Remarks at the Goldman Sachs Communacopia + Technology Conference (Sept. 6, 2023), https://investors.att.com/~/media/Files/A/ATT-IR-V2/events-and-presentations/t-usq-transcript-2023-09-06.pdf ("John T. Stankey Remarks").

[23] AT&T Inc., 2022 Annual Report (Feb. 13, 2023), at 2, https://investors.att.com/~/media/Files/A/ATT-IR-V2/financial-reports/annual-reports/2022/2022-complete-annual-report.pdf.

[24] *See id.*

[25] *See id.*

[26] *See id.*

[27] *See* John T. Stankey Remarks.

In tandem, AT&T is investing in new technologies that leverage its wireless network to ensure that landline voice customers have continued access to reliable and affordable voice service. AT&T has recently deployed its next-generation AT&T Phone – Advanced and AT&T Phone for Business – Advanced ("AP-A" and "AP-A Business") services, which AT&T specifically designed as cost-effective alternatives to POTS. AP-A and AP-A Business are designed for maximum convenience, enhanced functionality, and better reliability. Customers may use their existing TDM-based telephones, inside wiring, and phone jacks to make and receive voice calls, which are then transmitted using either AT&T's wireless spectrum or an existing wired broadband connection. AP-A and AP-A Business provide reliable service with superior voice quality, security, and lower maintenance costs than legacy copper-based voice service. These offerings are also interoperable with an array of other technologies. These innovative solutions help ensure that customers can make a seamless transition from legacy TDM-based voice services to next-generation technologies.

In areas where AT&T is required to continue to provide legacy services, though, AT&T effectively has to maintain two parallel networks: one cutting-edge and the other dating to the origins of the Bell System. Maintaining the copper network, with its legacy telephone technology and outdated equipment, drains resources away from AT&T expanding its state-of-the-art broadband network and offerings.

B. AT&T Is Filing Several Applications to Grandfather Antiquated Services in Certain Areas that Are in Low Demand to Prioritize Investment in Advanced Communications Solutions

Against this backdrop, AT&T today is filing this application and three others to grandfather certain legacy services that it provides over legacy facilities in 60 wire centers located in sections of 13 states. This application concerns AT&T DS1 and DS3 services offered

by AT&T in nine of those 60 wire centers. The other three applications concern Residential Local Service and AT&T Business Local Exchange Access Line Service (AT&T's POTS services); certain VoIP services provided over copper; and Remote Call Forwarding. Grandfathering and then, through a separate, future application pursuant to the applicable Commission rules, discontinuing these services will enable AT&T to retire its copper networks in these 60 wire centers, where the decline in the customer base and cost of maintaining an antiquated legacy network are particularly dramatic.

Pursuant to 47 C.F.R. § 63.71(g), AT&T has already discontinued *all* services provided over legacy facilities in broad identifiable areas within the footprint of many of these wire centers, because no customers were purchasing the services and AT&T had received no reasonable requests for the services for a 30-day period immediately preceding discontinuance.[28] In addition, AT&T has discontinued services addressed in these applications under § 63.71(g) throughout the entirety of a wire center, where there is no demand for those services in the wire center. For example, AT&T has discontinued, or will soon discontinue, certain VoIP services provided over copper in 51 out of the 60 wire centers. Thus, AT&T's application relating to those VoIP services — AT&T Phone Service and AT&T Phone for Business Service — only relates to nine wire centers. Similarly, as relevant to this application, AT&T has discontinued, or will soon discontinue, DS1 and DS3 services in the vast majority of the 60 wire centers, because AT&T has no customers and received no reasonable requests for either service in the preceding

[28] As the Commission explained in adopting this "no demand" regulation, "neither current nor future customers will be harmed by forbearing from applying discontinuance obligations for services with no customers." *Second Accelerating Wireline Broadband Deployment Order* ¶¶ 15, 19.

30 days. Thus, this application relates to DS1 and DS3 services offered in only nine wire centers.[29]

In the small sections of the wire centers where any customers buy these legacy services from AT&T, the overwhelming majority of residents and businesses have abandoned AT&T's legacy products for competitive alternatives. In fact, less than 3.2% of living units in those areas subscribe to any of the AT&T services subject to these four applications, and new demand for the services is virtually nonexistent. For example, in the last year, AT&T has received three new orders for AT&T Residential Local Service (AT&T's consumer POTS service), *no* new orders for AT&T Phone for Business (AT&T's business VoIP service) provided over copper, and *no* new orders for DS1 or DS3 services in any of the wire centers subject to the respective applications that AT&T is filing today.

As discussed in more detail in each respective application, current and prospective customers of all these services have numerous cost-effective alternatives to choose from, including, for voice services, AT&T's newly deployed AP-A and AP-A Business services. In addition to the cost-effective and superior alternatives that AT&T offers, Commission data shows that at least one cable provider or fiber provider provides high-speed broadband to living units within affected areas in all 60 wire centers, and 48 of the 60 wire centers are served by three or more cable or fiber providers. Fixed Wireless providers, including T-Mobile and Nextlink, provide high-speed broadband across the vast majority of wire centers, and satellite service provided by HughesNet, Viasat, and Starlink is also available in all 60 wire centers.

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[29] AT&T does not currently have both DS1 and DS3 customers in each of the nine wire centers at issue in this application. However, for administrative simplicity, AT&T includes Affected Services with no customers in some (but not all) wire centers within the Affected Service Area in this grandfathering application.

Individuals and businesses in the affected areas can also receive mobile wireless service (voice and broadband) from providers including T-Mobile, Verizon, and/or AT&T.

Because the costs of providing legacy services in these areas is largely fixed, it has become prohibitively costly for AT&T to maintain these services for the very small number of customers continuing to purchase them in these 60 wire centers. In the past year alone, AT&T has lost *millions of dollars* providing these legacy services in the areas affected by the applications it is filing today, and it will only become even more uneconomic to provide these services as the number of subscribers continues to decline.[30] Once these services are grandfathered, *all current customers will be able to keep their* current services but prospective customers will no longer be able to purchase them.

AT&T has demonstrated its commitment to leading the industry in establishing an orderly and deliberate structure for completing this technological transition. We strongly urge the Commission to embrace this structure so that those consumers who have not already completed this transition through their own choices are treated fairly and AT&T is not hamstrung against its competitors through a lack of regulatory parity.[31] By approving these grandfathering applications and the eventual discontinuance of these legacy services, the Commission will facilitate this important technological advancement and further the public interest.

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[30] The Commission anticipated this development in the *Business Data Services Order*, observing that "the costs directly attributable to . . . maintaining this legacy technology" would "begin to rise" as the "[a]s demand for DS1 and DS3 services continues to fall." *Business Data Services Order* ¶ 233.

[31] The Commission has routinely stated that regulatory parity is important to maintaining a competitive marketplace. *See, e.g., Business Data Services Order* ¶ 157 (describing how "lack of regulatory parity among broadband data services . . . has created barriers to entry and impeded competition").

C. This Application Seeks to Grandfather DS1 and DS3 Services in Nine Wire Centers Where Almost All Customers Have Already Cancelled Their Subscriptions to the Affected Services in Favor of Cost-Effective Alternatives

This application concerns AT&T DS1 and DS3 services (the "Affected Services"). AT&T has notified the customers of the Affected Services of the planned grandfathering to occur on or after December 31, 2023, and *all current customers will be able to keep their current service* after that date. Once grandfathered, the Affected Services will no longer be available for purchase by new customers in the Affected Service Area.

The Commission recognized over half a decade ago that DS1 and DS3 technologies would soon become "obsolete" in the face of significant advancement in competing services and changes in customer demand.[32] That prediction has come to fruition. As noted above, the demand for DS1 and DS3 services is largely nonexistent. AT&T has already discontinued DS1 and DS3 services in the vast majority of the 60 wire centers that are subject to any of the four applications AT&T is filing today, because there were no customers or demand for DS1 or DS3 services in those areas.

This application concerns nine wire centers that have at least one remaining customer for DS1 or DS3 service. Almost all businesses in the affected area ("Affected Service Area") have already switched to alternative providers, and there are many cost-effective options for customers in these areas to choose from, as evidenced by AT&T's declining customer base. Across the entire Affected Service Area — portions of nine wire centers — only eight customers receive the Affected Services, accounting for a small fraction of the businesses in the

[32] *Business Data Services Order* ¶ 3.

Affected Service Area.[33] These eight customers purchase a total of 29 DS1 and DS3 circuits (28 DS1 circuits and 1 DS3 circuit).[34] *See* Ex. 1 (providing detail on the number of Affected Services in each affected wire center). That is a 58.6% decline in the number of circuits since 2020. In total, in the Affected Service Area, AT&T has six retail customers of DS1, who purchase a total of 10 DS1 circuits; one wholesale customer of DS1, who purchases 18 DS1 circuits; and one retail customer of DS3, who purchases one DS3 circuit. As the table at Exhibit 1 shows, for all of the wire centers within the Affected Service Area, there is less than a de minimis number of Affected Services still in service. In fact, one-third of the affected wire centers serve only a single DS1 or DS3 circuit. Most importantly, in the last year there have been ***no*** new customers for any of the Affected Services in the affected Service Area.

Prospective and current customers in the Affected Service Area have many options to choose from in lieu of the Affected Services. These former customers are still receiving services in the Affected Service Area, but they are no longer receiving such services from AT&T's TDM-based products because they have chosen other options.

Former customers that still use wired services are likely purchasing from cable providers, such as Charter or Xfinity, among others.[35] According to Commission data, cable providers

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[33] In the Affected Service Area, there are 17,367 Living Units. Living Units include both residents and businesses.

[34] Some of these DS1 customers purchase DS1 services in more than one of wire centers located within the Affected Service Area.

[35] More than six years ago, the Commission identified "[t]he entry of cable into business data services provisioning" as "the most dramatic change in the market over the past decade," noting "the fact that every increment of additional investment in cable networks brings fiber facilities closer to nearby business data services demand and lowers the cost of building to meet that demand." *Business Data Services Order* ¶¶ 55-56. The Commission recognized that carriers — including AT&T — were losing business customers to broadband services from cable companies and noted the expected continued growth of cable business service offerings. *Id.* ¶¶ 30-31, 55-62.

and/or competitive providers of fiber offer broadband in all nine of the wire centers subject to this application. The Commission has recognized that Switched Ethernet serves as an effective and superior substitute to DS1 and DS3 services.[36] Other customers in the Affected Service area may be instead purchasing services through fixed wireless providers, such as T-Mobile and/or Verizon. Still others may have switched to other wireless options in lieu of wired services, such as AT&T Wireless Broadband; mobile wireless service (voice and broadband) from providers including T-Mobile, Verizon, and/or AT&T; or service from satellite providers such as Viasat, HughesNet, or Starlink. The Commission accurately predicted over half a decade ago that "given the very high capacity of 5G networks, they have the potential to represent a significant additional source of competition for the provision of business data services."[37] And the Commission accurately noted that "[s]atellite providers also offer business data services that are currently relied upon by many end users as acceptable substitutes for all or part of their broadband demand requirements."[38] All these services are regularly advertised as cost-effective (and often superior) alternatives to the services subject to this application.[39]

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[36] In the *Business Data Services Order*, the Commission concluded that "TDM and packet-based services are broadly interchangeable in the business data services realm" and that packet-based services "are more efficient than a circuit-based network where transmission capacity is reserved," and that they "provide the same, if not better, level of security, reliability, and symmetrical speeds as a DS1 or DS3 service." *Business Data Services Order* ¶¶ 23-24. For these reasons, the Commission observed that "[s]ubstitution between these two services . . . is generally one directional," as new customers are "choosing to purchase Ethernet services." *Id.* ¶ 25. Moreover, the Commission correctly observed that "[t]here is no evidence suggesting Ethernet customers are switching to DS1s and DS3s" and as a policy matter the Commission would not want that "to occur as the technology transition is moving towards the eventual termination of TDM service offerings altogether." *Id.*

[37] *Id.* at ¶ 38.

[38] *Id.* at ¶ 36.

[39] *See, e.g.*, Comcast – Business Internet, https://business.comcast.com/learn/internet/business-internet (last visited Oct. 14, 2023) (advertising "fast Business Internet to power all your devices" at speeds of 100 Mbps for $69.99 per month); Spectrum – Spectrum Business,

Most importantly, in the Affected Service Area, existing and prospective DS1 and DS3 customers, including wholesale customers, also have the ability to secure cost effective alternatives through AT&T Switched Ethernet, AT&T Dedicated Internet, AT&T Dedicated Ethernet Service (ADE). AT&T Business Fiber is also broadly available in the Affected Service Area.

AT&T Switched Ethernet (ASE) Service is a switched Ethernet transport service used by business, government, and educational entities to connect two or more locations using Ethernet networking technology by using fiber and copper facilities and a switched Ethernet core network. It is a cost-effective alternative for all customers and prospective customers of DS1 and DS3 services in the Affected Service Area. ASE provides a port with full duplex transport of data signals between a customer's premises and an Ethernet switch in an AT&T central office which then may be interconnected with other ports.[40] ASE provides scalable duplex bandwidth up to 100 Gbps. As noted above, the Commission recognized in the *Business Data Services Order* that Switched Ethernet is a superior alternative to DS1 and DS3 services.[41] And in AT&T's

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https://www.spectrum.com/business/internet (last visited Oct. 14, 2023) (advertising "Lightning-Fast Spectrum Business Internet" at speeds of 300 Mbps starting at $49.99 per month, noting its "speed + reliability"); T-Mobile – Business Internet, https://www.t-mobile.com/business/solutions/business-internet-services/business-internet (last visited Oct. 14, 2023) (offering "[r]eliable business internet . . . nationwide" starting at $30 per month); Verizon – Business internet services and plans, https://www.verizon.com/business/products/internet (last visited Oct. 14, 2023) (advertising "Internet that's fast, affordable, reliable and available virtually anywhere you do business . . . with plans starting at $69/mo."); Starlink for Business, https://www.starlink.com/business (offering "reliable high-speed internet for business" with speeds from 40-220 Mbps download and 8-25 Mbps upload).

[40] *See* AT&T, *AT&T Ethernet Service Guide: AT&T Switched Ethernet Service*, https://cpr.att.com/pdf/es/0003-0001.pdf.

[41] *Business Data Services Order* ¶¶ 23-24; *see also* Section 214 Application of Farmers Telecommunications Cooperative, Inc. for Authority to Discontinue Certain Services (Mar. 6, 2023), WC Docket No. 23-95, https://www.fcc.gov/ecfs/document/10306430310593/1 (discontinuing T1/DS1 service where Ethernet was available as a replacement service).

experience, customers switching from AT&T's TDM Special Access Services to Ethernet often incur a substantial discount in their total price per Mbps.

Further, as noted above, existing and prospective DS1 and DS3 customers in the Affected Service Area also have the ability to secure cost effective alternatives through AT&T Dedicated Ethernet Service (ADE), and AT&T Dedicated Internet. AT&T Dedicated Ethernet is a fiber based, point-to-point, Ethernet service that allows customers to transport data signals between two locations.[42] ADE permits business, government, and educational entities to connect two locations with dedicated and physically separate fiber facilities. ADE supports both Ethernet and Optical Transport Network technologies and is available in bandwidths up to 100 Gbps. Most ADE customers negotiate individualized rates and terms that reflect their unique circumstances. AT&T Dedicated Internet provides managed connectivity to the Internet through access facilities.[43] AT&T Business Fiber, which is also broadly available for current and prospective customers of the Affected Services is a broadband access service in AT&T Fiber Ready buildings that uses advanced, IP-based technology to connect computers and smart devices to the internet. AT&T Business Fiber provides speeds up to 5Gbps. As noted above, the Commission has long recognized the substitutability and superiority of Ethernet services over DS1s and DS3s.[44] Each of these offerings from AT&T serves as a cost-effective alternative for DS1 and DS3s in the Affected Service Area.

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[42] *See* AT&T, *AT&T Business Service Guide: AT&T Dedicated Ethernet (TCAL)*, https://serviceguidenew.att.com/sg_CustomPreviewer?attachmentId=00P8a00002EIabgEAD.

[43] *See* AT&T, *AT&T Business Service Guide: AT&T Dedicated Internet (ADI)*, https://serviceguidenew.att.com/sg_CustomPreviewer?attachmentId=00P8a00002EIab5EAD.

[44] *Business Data Services Order* ¶¶ 23-25.

Because there are numerous cost-effective, superior alternatives for prospective customers in the Affected Service Area to choose from and because most customers have already left for such alternatives in droves, grandfathering the Affected Services in this area will not impair the public convenience or necessity.

APPLICATION

As required by Section 63.71 of the Commission's rules, AT&T provides the following information:

Name and Address of Carriers:

BellSouth Telecommunications, LLC, d/b/a AT&T Florida, AT&T Kentucky, and AT&T Tennessee;

Michigan Bell Telephone Company, d/b/a AT&T Michigan;

The Ohio Bell Telephone Company, d/b/a AT&T Ohio.

The address for purposes of this application is:

208 South Akard Street
Dallas, TX 75202

Date of Planned Service Grandfathering:

Effective on or after December 31, 2023, pending regulatory approval, AT&T's Affected Services will be grandfathered and will no longer be available for purchase by new customers.

Points of Geographic Areas of Service Affected:

AT&T plans to grandfather the Affected Services in the Affected Service Area set forth below. The list below identifies the wire centers in each State that include any service areas that

fall within the Affected Service Area.[45] The *shaded* portions of Exhibits 3 through 11 identify the sections of each wire center included within the Affected Service Area. In the last year, there have been *no* new customers for any of the Affected Services in the Affected Service Area. The Affected Service Area impacted by this application comprises:

Sections of Florida: Certain areas currently served by the following wire centers: Big Pine (BGPIFLMA) (Ex. 3), Fort George (FTGRFLMA) (Ex. 4), Fort Lauderdale (FTLDFLAP) (Ex. 5);

Sections of Kentucky: Certain areas currently served by the following wire center: Ghent (GHNTKYMA) (Ex. 6);

Sections of Michigan: Certain areas currently served by the following wire center: Belleville (BLVLMINE) (Ex. 7);

Sections of Ohio: Certain areas currently served by the following wire center: Brook Park (BKPJOH97) (Ex. 8);

Sections of Tennessee: Certain areas currently served by the following wire centers: Hornbeak (HRNBTNMT) (Ex. 9), Nashville (NSVLTNAA) (Ex. 10), and Troy (TROYTNMT) (Ex. 11).

Brief Description of Type of Service Affected:

AT&T plans to grandfather DS1 and DS3 services in the Affected Service Area. As indicated above, the number of DS1 and DS3 circuits in service is depicted in Exhibit 1, and there have been *no* new customers for any of the Affected Services in the last year. The Affected Services do not have any residential customers.

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[45] In some instances, an entire wire center is included in the Affected Service Area. In many instances, only specific sections of service area within a wire center, called "Distribution Areas" or "DAs," are included in the Affected Service Area.

DS1 Service provides a point-to-point channel for the transmission of isochronous serial digital data at rates of 1.544 Mbps.[46] This service has only seven customers across the Affected Service Area. Six of these customers are retail customers, who have a total of 10 DS1 circuits in service. The other customer is a wholesale customer, who has 18 DS1 circuits in service.

DS3 Service provides a point-to-point channel for the transmission of isochronous serial digital data at rates of 44.736 Mbps.[47] This service only has a single customer in the Affected Service Area, who has one DS3 circuit in service.

As explained in the Introduction, the public convenience and necessity will not be impaired by the grandfathering of these services. The Commission recognized over half a decade ago that DS1 and DS3 technologies would soon become "obsolete" in the face of significant advancement in competing services and changes in customer demand.[48] The demand for these services and the other Affected Services is very low. New customer orders for the Affected Services have disappeared, and the very small base of existing customers has been steadily declining. As a result, it is prohibitively expensive for AT&T to continue to make the Affected Services available for new customers. Active customers of the Affected Services will not be losing service with this filing, and prospective customers (if any) have many alternative services to choose from (as explained above at pages 14-18).

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[46] Depending on the location, DS1 Service may be sold under different names. In Florida, Kentucky, and Tennessee, DS1s are sold as "DS1 (a.k.a BellSouth SPA DS1)." In Michigan and Ohio, DS1s are sold as "DS1 Service."

[47] Depending on the location, DS3 Service may be sold under different names. In Florida, Kentucky, and Tennessee, DS3s are sold as "LightGate 1 Service (a.k.a. BellSouth SPA Point to Point Network 1 DS3 capacity)," "LightGate 2 Service (a.k.a. BellSouth SPA Point to Point Network 3 DS3 capacity)," "LightGate 3 Service (a.k.a. BellSouth SPA Point to Point Network 12 DS3 capacity)," and "LightGate 4 Service (a.k.a. BellSouth SPA Point to Point Network 24 DS3 capacity)."

[48] *Business Data Services Order* ¶ 3.

Brief Description of the Dates and Method of Notice to All Affected Customers:

Customer notices were sent via U.S. Mail on October 31, 2023.[49] Copies of this Application are being sent via first class U.S. Mail to the governor, public utility commission, federally recognized tribes (if any) in the Affected Service Area, and to the Special Assistant for Telecommunications to the Secretary of Defense, as required by 63.71(a) of the Commission's rules.[50]

Regulatory Classification of Carrier:

AT&T offers the Affected Services pursuant to non-dominant carrier regulation.

Questions about this application may be addressed to Joshua Woodbridge, AT&T Services, Inc., Director – Federal Regulatory, 601 New Jersey Ave NW, Suite 400, Washington, DC, (202) 709-0554.

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[49] An example notice is attached at Exhibit 2. Exhibit 2 is a representative example of the notice sent to subscribers of DS1 or DS3 service in the Affected Service Area. AT&T meets the criteria under 47 CFR § 63.71(*l*) for grandfathering DS1 services on an expedited basis, because ASE is offered throughout the Affected Service Area, but for administrative simplicity to address DS1 and DS3 in the same application, AT&T's customer notices provided an additional five days for commenting under 47 CFR § 63.71(a)(5)(i).

[50] Section 63.71(a) directs applicants to submit a copy of the application to the Secretary of Defense, Special Assistant for Telecommunications. However, due to restructuring within the Department of Defense, that position no longer exists. Commission staff has advised that a copy of the application be sent instead to the Department of Defense Chief Information Officer.

CONCLUSION

As discussed above, the public convenience and necessity will not be adversely affected by the grandfathering of the Affected Services. AT&T respectfully requests the Commission approve its Section 63.71 Application to grandfather services.

By: /s/ Brett Farley

BRETT FARLEY
DAVID CHORZEMPA
DAVID LAWSON
AT&T SERVICES, INC.
601 New Jersey Ave NW, Suite 400
Washington, DC 20001

SCOTT H. ANGSTREICH
KEVIN D. HORVITZ
JONATHAN I. LIEBMAN
KELLOGG, HANSEN, TODD,
FIGEL & FREDERICK, P.L.L.C.
1615 M Street, N.W., Suite 400
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(202) 326-7900
sangstreich@kellogghansen.com
khorvitz@kellogghansen.com
jliebman@kellogghansen.com

Exhibit 1

Customer Data for Affected Services

Data as of 10/25/2023[1]

Wire Center (CLLI)	State	DS1 Service — Circuit Count	DS3 Service — Circuit Count
Big Pine Key (BGPIFLMA)	FL	3	0
Fort George (FTGRFLMA)	FL	1	0
Fort Lauderdale (FTLDFLAP)	FL	9	1
Ghent (GHNTKYMA)	KY	1	0
Belleville (BLVLMINE)	MI	2	0
Brook Park (BKPKOH97)	OH	2	0
Hornbeak (HRNBTNMT)	TN	3	0
Nashville (NSVLTNAA)	TN	6	0
Troy (TROYTNMT)	TN	1	0
Total		**28**	**1**

[1] A single customer in a wire center can and often does order multiple circuits. Further, the same business might receive service in multiple wire centers. Across the Affected Service Area, there are only *seven* unique DS1 customers (six retail customers and one wholesale customer). The six retail customers of DS1 Service receive service through 10 DS1 circuits, and the one wholesale customer of DS1 Service receives service through 18 DS1 circuits. In the Affected Service Area, there is *one* customer of DS3 Service, a retail customer who receives service through one DS3 circuit.

Exhibit 2

AT&T Business

October 31, 2023

[redacted]

Important Notice Regarding Interstate DS1 and DS3 Service
Change in Service Effective on or after December 31, 2023

Thank you for using AT&T[1] for your business service needs. We want to make you aware of planned changes to interstate DS1 Service and DS3 Service in certain AT&T wire centers (collectively, the 'Affected Services').[2] Our records indicate that you currently purchase at least one of the Affected Services within at least one of the AT&T wire centers impacted by these changes.[3]

DS1 Service provides a point-to-point channel for the transmission of isochronous serial digital data at rates of 1.544 Mbps. DS3 Service provides a point-to-point channel for the transmission of isochronous serial digital data at rates of 44.736 Mbps.

Effective on or after December 31, 2023, pending regulatory approval, the Affected Services will no longer be available for purchase by new or existing customers in certain AT&T wire centers. As a *current* AT&T customer, you may retain your existing service(s) subject to the following changes:

- **Effective on or after December 31, 2023, AT&T will no longer allow new orders, renewal of service agreements, or requests for physical changes to your service (including moves to different service addresses), unless your contract expressly allows such orders or changes. Following the expiration of your current term agreement, AT&T will provide service on a month-to-month basis. During any month-to-month service period, AT&T may change the rates, terms, and conditions of the service upon notification.**

AT&T offers AT&T Switched Ethernet Service, AT&T Dedicated Ethernet Service, AT&T Dedicated Internet, AT&T Business Fiber, and AT&T Wireless Broadband as replacements for DS1 and DS3 services.

Your AT&T Service Representative will contact you to begin discussions regarding alternative solutions that meet your business communication needs.

We appreciate your understanding and look forward to serving your future business needs.

Sincerely,
AT&T Business Services
208 S. Akard Street
Dallas, TX 75202

(Over)

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[1] The Affected Services are provided by the following AT&T entities: BellSouth Telecommunications, LLC, d/b/a AT&T Florida, AT&T Kentucky, and AT&T Tennessee; Michigan Bell Telephone Company, d/b/a/ AT&T Michigan; and The Ohio Bell Telephone Company, d/b/a AT&T Ohio.
[2] Depending on the location, DS1 service and DS3 service may be sold under different names. In Florida, Kentucky, and Tennessee, DS1s are sold as "DS1 (a.k.a BellSouth SPA DS1)" and DS3s are sold as "LightGate 1 Service (a.k.a. BellSouth SPA Point to Point Network 1 DS3 capacity)," "LightGate 2 Service (a.k.a. BellSouth SPA Point to Point Network 3 DS3 capacity)," "LightGate 3 Service (a.k.a. BellSouth SPA Point to Point Network 12 DS3 capacity)," and "LightGate 4 Service (a.k.a. BellSouth SPA Point to Point Network 24 DS3 capacity)." In Michigan and Ohio, DS1s are sold as "DS1 Service."
[3] Here is a full list of AT&T wire centers affected by this notice: **Florida**: Big Pine (BGPIFLMA), Fort George (FTGRFLMA), Fort Lauderdale (FTLDFLAP); **Kentucky**: Ghent (GHNTKYMA); **Michigan**: Belleville (BLVLMINE); **Ohio**: Brook Park (BKPKOH97); **Tennessee**: Hornbeak (HRNBTNMT). Nashville (NSVLTNAA), Troy (TROYTNMT).

AT&T is required by the FCC to provide the following statement:

The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments as soon as possible, but no later than 15 days after the Commission releases public notice of the proposed discontinuance. You may file your comments electronically through the FCC's Electronic Comment Filing System using the docket number established in the Commission's public notice for this proceeding, or you may address them to the Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, Washington, DC 20554, and include in your comments a reference to the § 63.71 Application of BellSouth Telecommunications, LLC, d/b/a AT&T Florida, AT&T Kentucky, and AT&T Tennessee; Michigan Bell Telephone Company, d/b/a/ AT&T Michigan; and The Ohio Bell Telephone Company, d/b/a AT&T Ohio. Comments should include specific information about the impact of this proposed discontinuance (or reduction or impairment) upon you or your company, including any inability to acquire reasonable substitute service.

Service Addresses in Areas Impacted by this Notice:

SERVICE ADDRESS	SERVICE CITY	SERVICE STATE	SERVICE ZIP
[redacted]	[redacted]	[redacted]	[redacted]

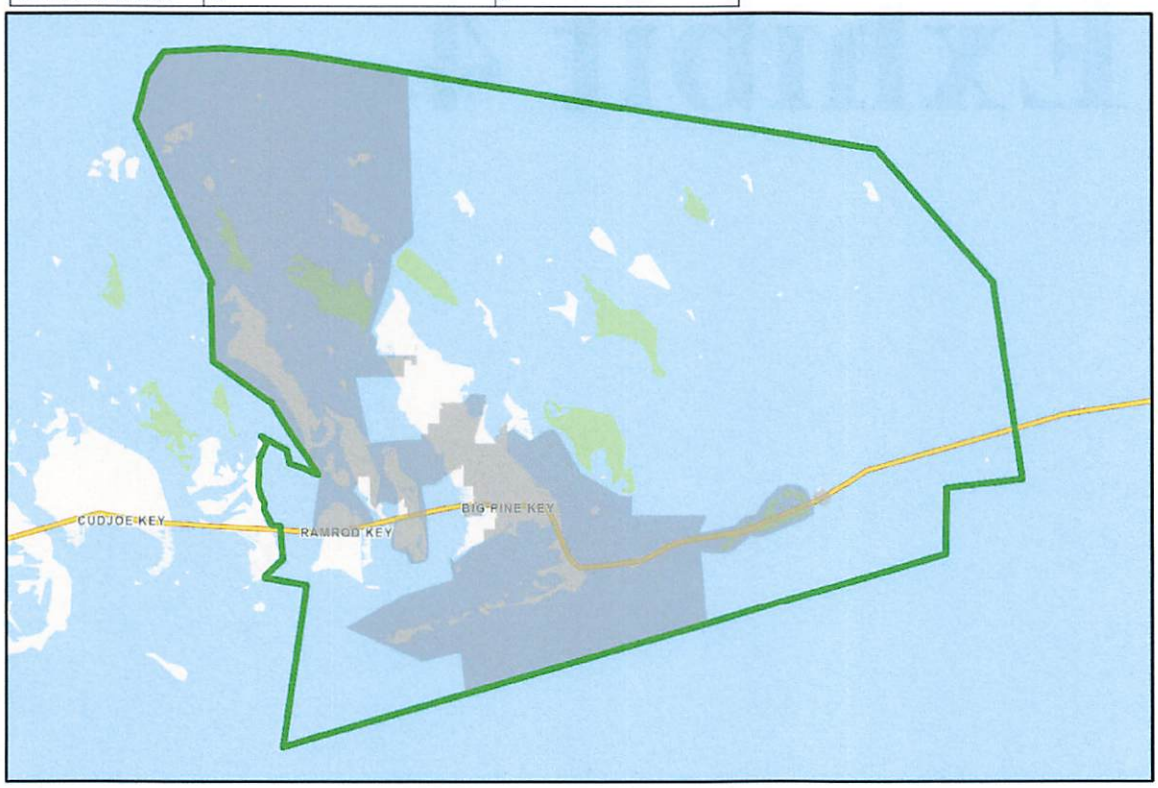
 Please do not send inquiries or payments to the return address on this notice. If you have comments or questions, please contact AT&T Customer Service at the toll-free number on your bill.

Exhibit 3

BIG PINE WIRE CENTER, FL (BGPIFLMA)

As of 25 OCT 2023

Service	DS1 Service	DS3 Service
Number of Circuits	3	0



Center: 81°19'52"W 24°42'26"N

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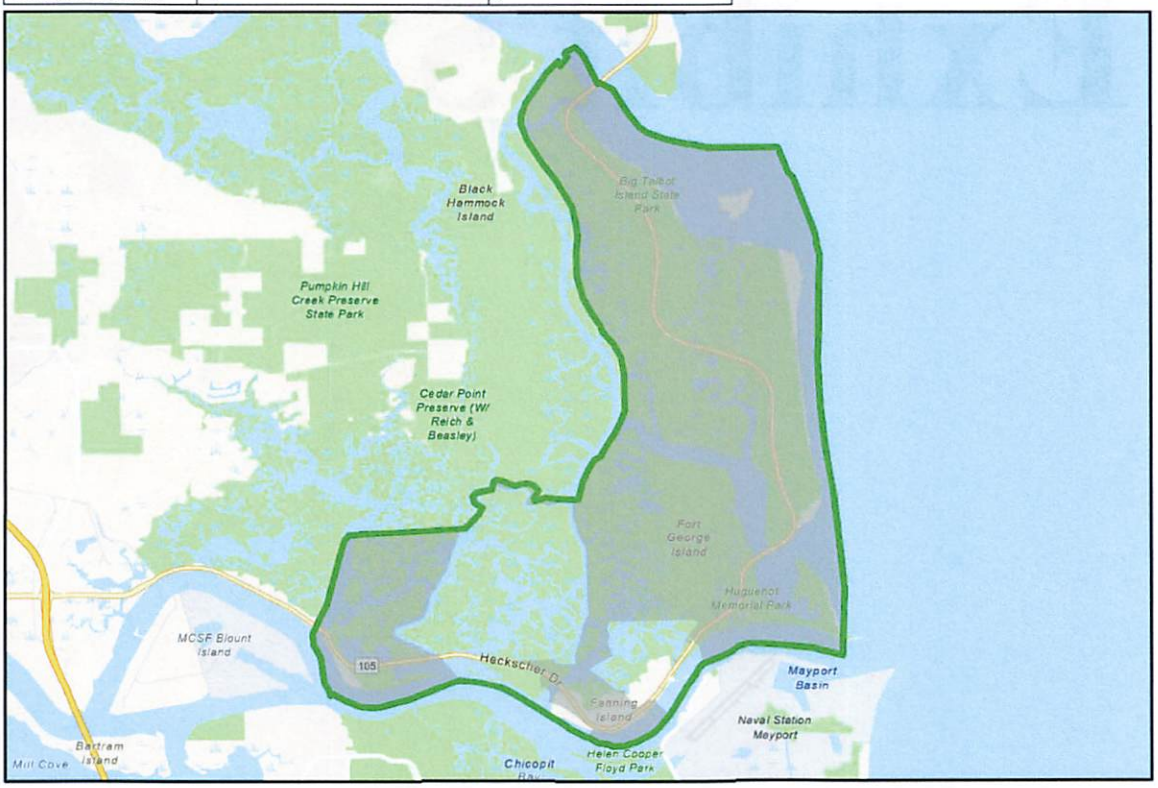
Exhibit 4

FORT GEORGE WIRE CENTER, FL (FTGRFLMA)

As of 25 OCT 2023

Service	DS1 Service	DS3 Service
Number of Circuits	1	0



Center: 81°27'20"W 30°27'11"N

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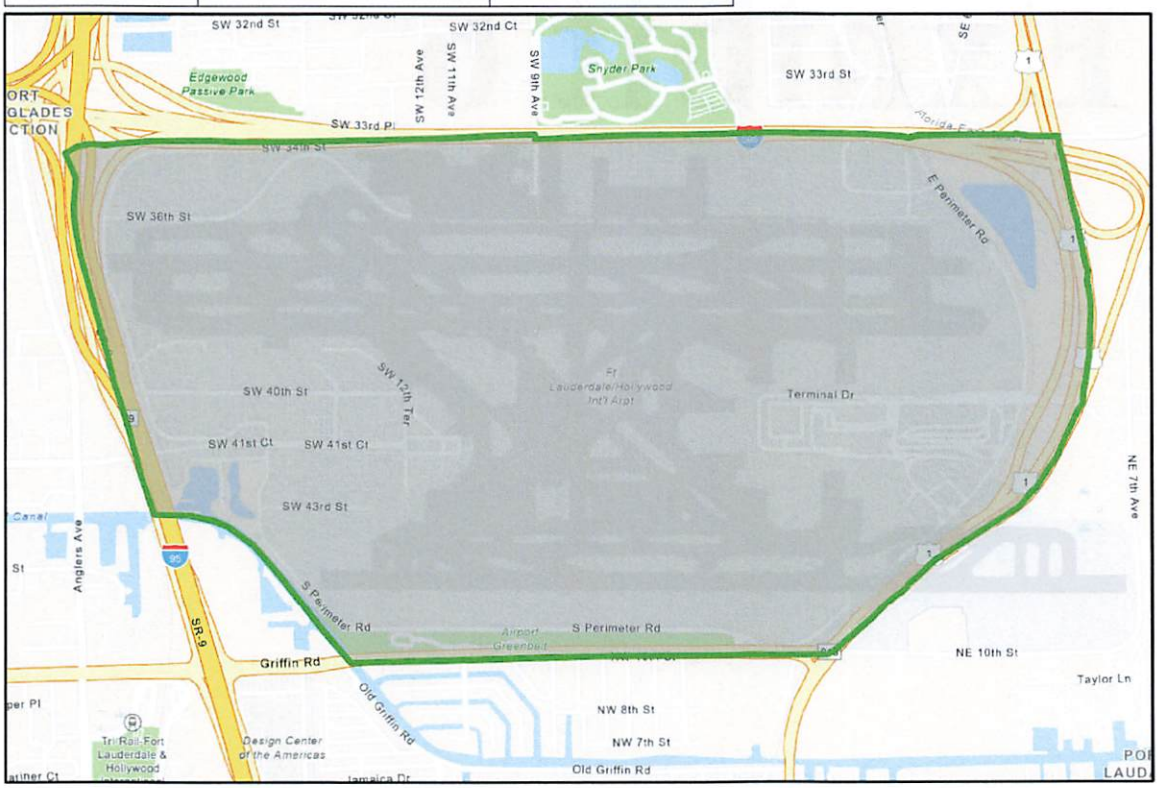
Exhibit 5

AIRPORT WIRE CENTER, FL (FTLDFLAP)

As of 25 OCT 2023

Service	DS1 Service	DS3 Service
Number of Circuits	9	1



Center: 80°9'4"W 26°4'20"N

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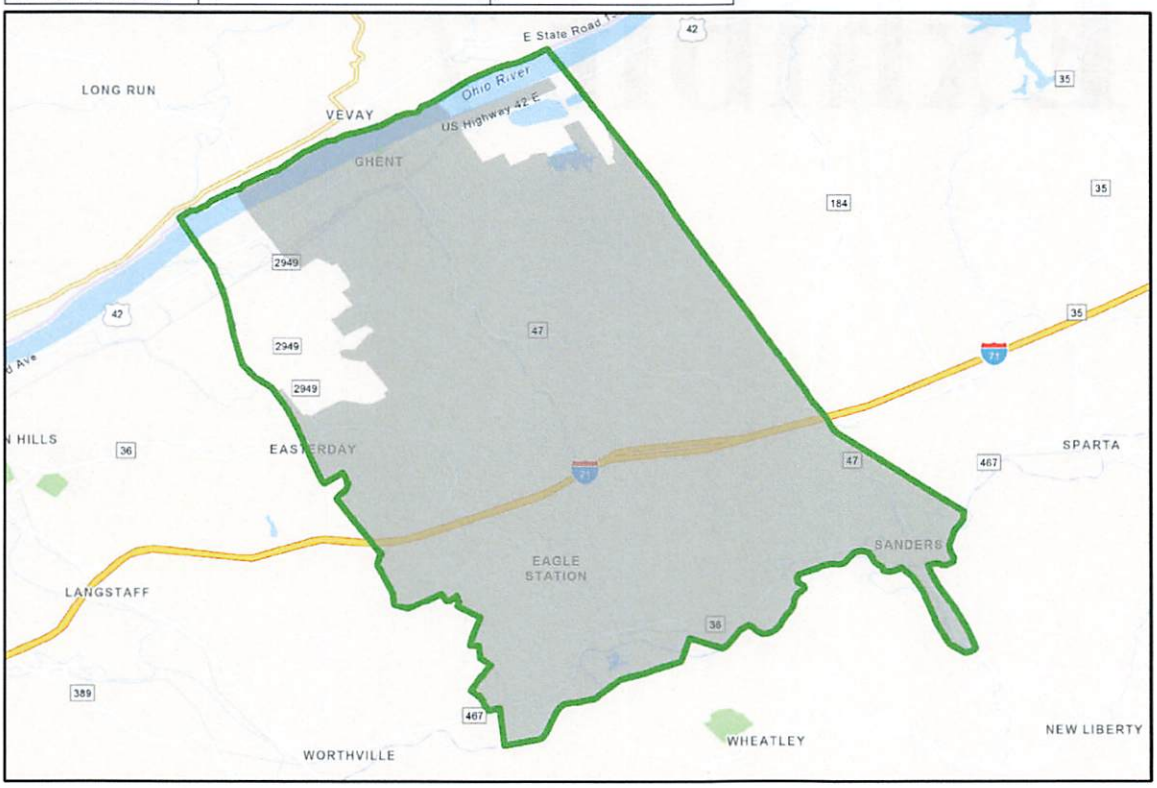
Exhibit 6

GHENT WIRE CENTER, KY (GHNTKYMA)

As of 25 OCT 2023

Service	DS1 Service	DS3 Service
Number of Circuits	1	0



Center: 85°1'3"W 38°41'12"N

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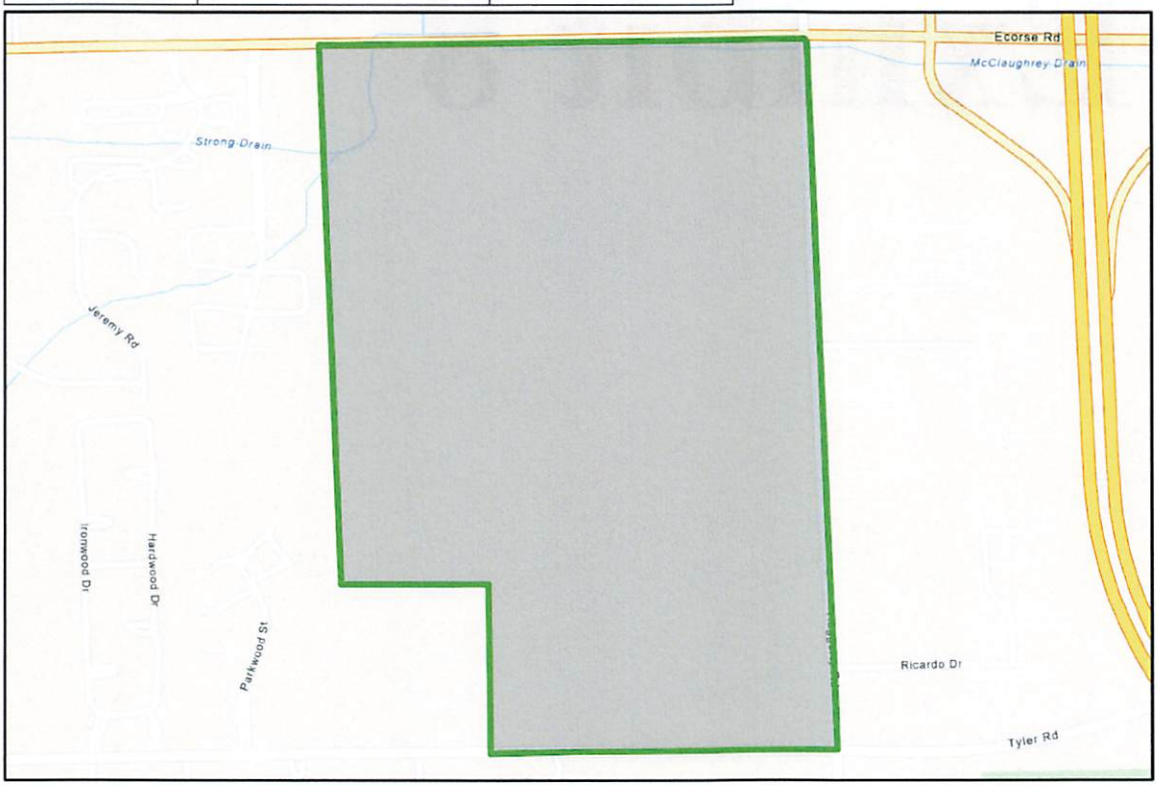
Exhibit 7

BELLEVILLE NE WIRE CENTER, MI (BLVLMINE)

As of 25 OCT 2023

Service	DS1 Service	DS3 Service
Number of Circuits	2	0



Center: 83°27'1"W 42°14'31"N

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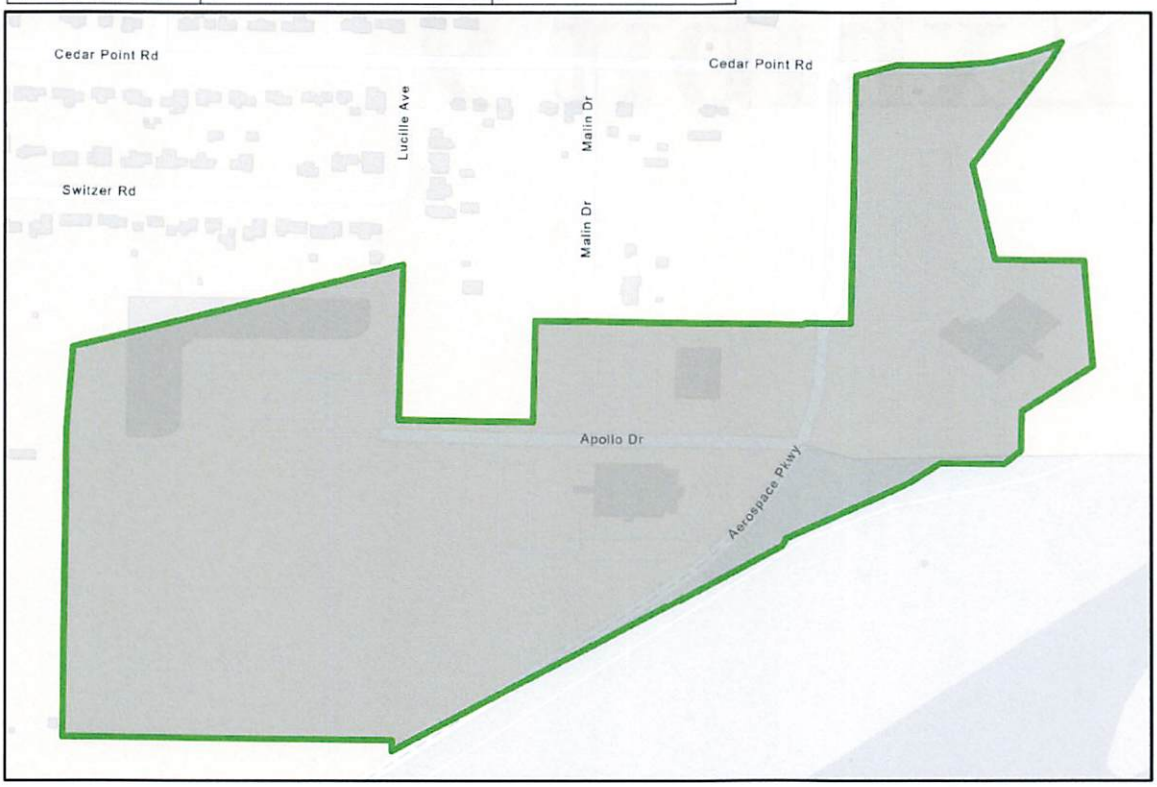
Exhibit 8

BROOK PARK AEROSPACE WIRE CENTER, OH (BKPKOH97)

As of 25 OCT 2023

Service	DS1 Service	DS3 Service
Number of Circuits	2	0



Center: 81°52'28"W 41°24'14"N

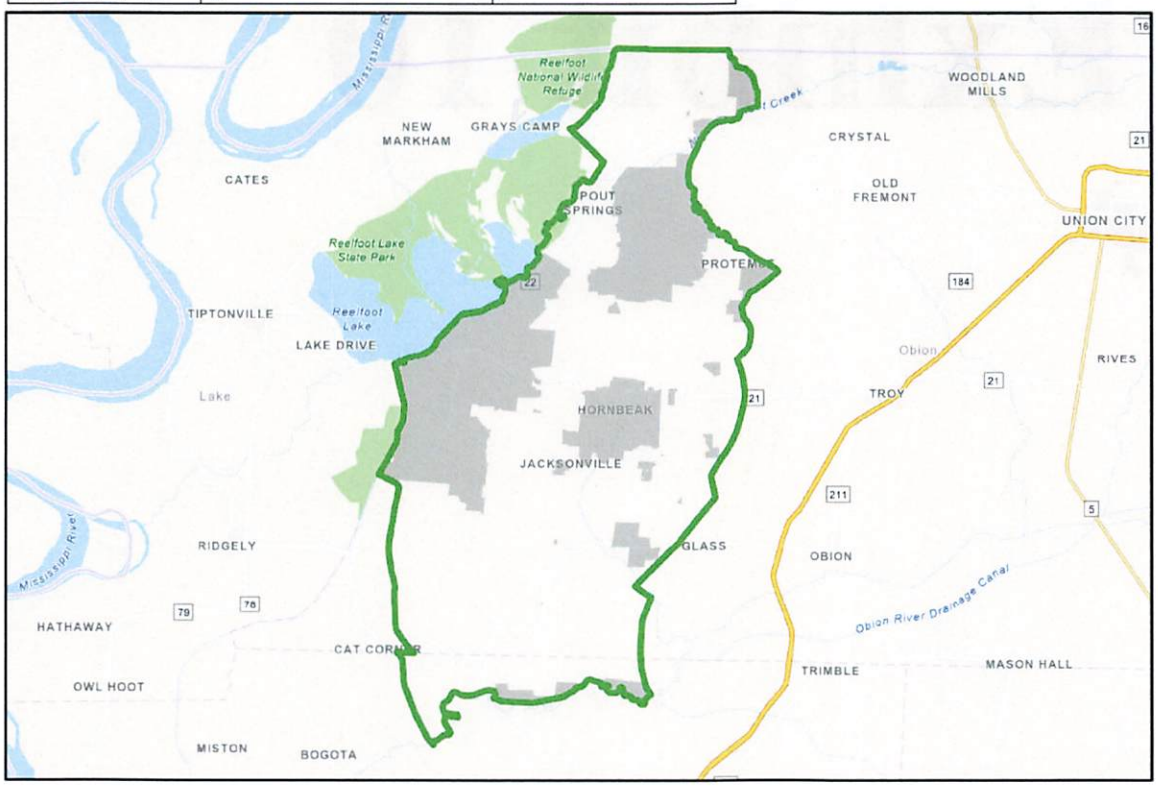
AT&T

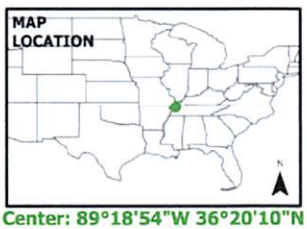
Exhibit 9

HORNBEAK WIRE CENTER, TN (HRNBTNMT)

As of 25 OCT 2023

Service	DS1 Service	DS3 Service
Number of Circuits	3	0





Center: 89°18'54"W 36°20'10"N

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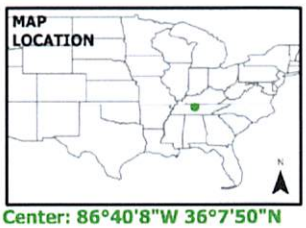
Exhibit 10

AIRPORT AUTHORITY WIRE CENTER, TN (NSVLTNAA)

As of 25 OCT 2023

Service	DS1 Service	DS3 Service
Number of Circuits	6	0



Center: 86°40'8"W 36°7'50"N

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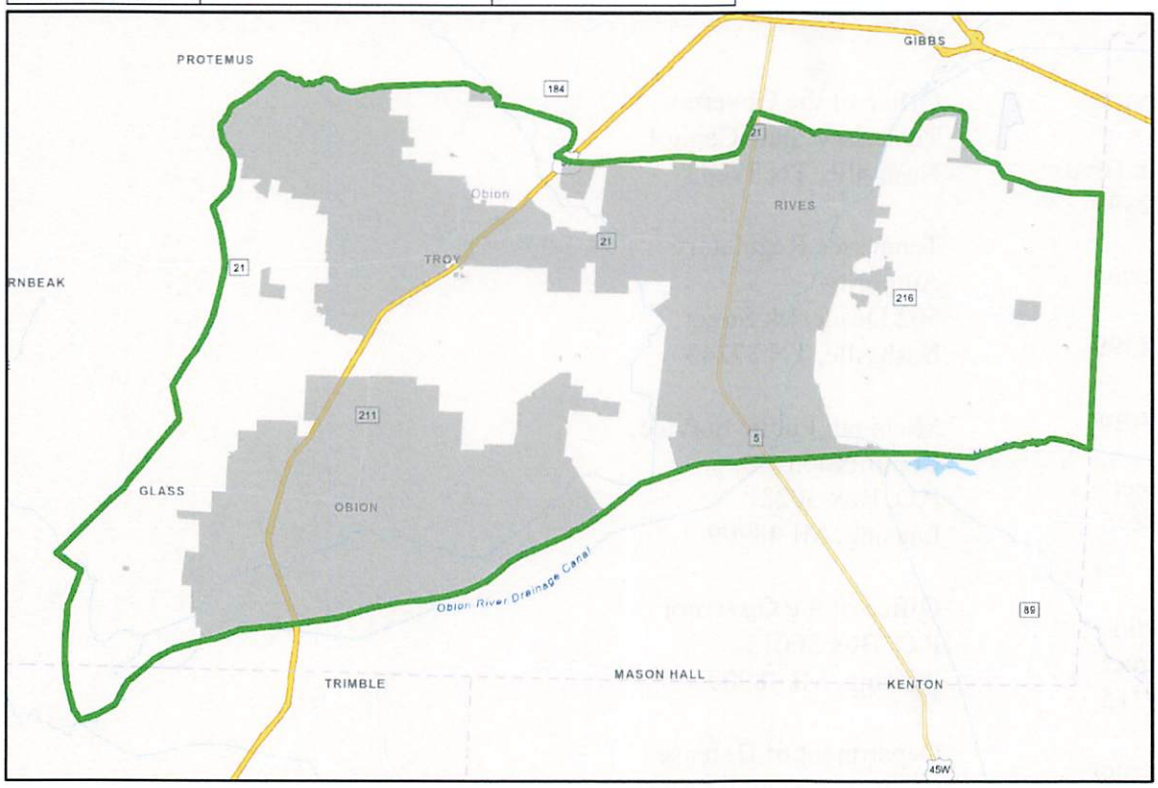
Exhibit 11

TROY WIRE CENTER, TN (TROYTNMT)

As of 25 OCT 2023

Service	DS1 Service	DS3 Service
Number of Circuits	1	0



Center: 89°7'12"W 36°17'39"N

AT&T

CERTIFICATE OF SERVICE

I, **Kevin D. Horvitz**, certify that I have, on November 16, 2023, served a copy of the foregoing Section 63.71 Application of AT&T by U.S. Mail postage prepaid to the addresses below.

/s/ Kevin D. Horvitz
Kevin D. Horvitz

Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

Office of the Governor
The Capitol
Tallahassee, FL 32399

Office of the Governor
30th Floor
77 South High Street
Columbus, OH 43215

Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43215

Office of the Governor
700 Capital Avenue
Suite 100
Frankfort, KY 40601

Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

Office of the Governor
Tennessee State Capitol
Nashville, TN 37243

Tennessee Regulatory Authority
502 Deaderick Street
Nashville, TN 37243

Michigan Public Service Commission
P.O. Box 30221
Lansing, MI 48909

Office of the Governor
P.O. Box 30013
Lansing, MI 48909

Department of Defense
Chief Information Officer
6000 Defense Pentagon
Washington, D.C. 20301