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Mr. Adam Teitzman
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: AT&T Florida's Post-Workshop Comments Regarding Eligible
Telecommunications Carriers

Dear Mr. Teitzman:

Enclosed are BellSouth Telecommunications, Inc. d/b/a AT&T Florida's (AT&T Florida) post-workshop comments regarding the Commission's request for information on Eligible Telecommunications Carriers. At the workshop, the Staff proposed a series of questions. The Staff requested that written responses to the questions be filed by August 31, 2007. Set forth below are AT&T Florida's comments.

AT&T FLORIDA'S COMMENTS

1) What is the role and authority of the FPSC in the USF process?

As the Commission recently found it has authority to consider applications by CMRS providers for ETC designation¹, the FPSC's role is to determine whether the designation of a carrier as an Eligible Telecommunications Carrier ("ETC") is in the public interest and if the FPSC finds that it would be in the public interest to designate the carrier as an ETC, to grant such status upon the carrier, or if it is not in the public interest, to deny a carrier request for ETC status. The FPSC also has the role of annually certifying that a carrier will use the high cost support received as required by 47 C.F.R §54.313 and §54.314.

2) How many ETCs should be designated in a rural wire center?

The current federal rules do not specify a certain number of ETCs that should be designated in a rural wire center. Instead designation of a carrier as an ETC in a wire

¹ Docket No. 060582-TP, Order No. PSC-07-0288-PAA-TP (issued April 3, 2007).

center/study area should be conditioned on whether the designation would serve the public interest. The FCC's March 2005 ETC Order set forth criteria for making the evaluation.

In addition, there is activity occurring at the federal level to consider whether there should be a completely new approach for designating competitive ETCs ("CETCs").

- The FCC and the Joint Board² are considering many issues related to comprehensive reform of the existing high-cost universal service program, including issues related to the question posed. The Florida Commission should allow the Joint Board and the FCC's to address these issues.
- AT&T has long advocated fundamental reform of the federal high-cost support program to ensure that it preserves and advances the full range of congressional universal service objectives set forth in Section 254(b) of the Federal Communications Act in light of the rapid growth of competition and the sharp increase in duplicative federal high cost support paid to multiple competitive ETCs.
- Under the current high cost support program, many rural areas of the country receive no support whatsoever. Conversely, however, a virtually unlimited number of providers may receive support in other areas. This simply is not efficient.
- AT&T thus strongly believes that the existing federal high cost support program must be reformed so that all rural areas are adequately supported, without wasting limited public money by supporting multiple networks.
- AT&T has further proposed pilot programs to target support for the build-out of broadband and wireless services where none are available.

3) How many ETCs should be designated in a non-rural wire center?

[See comments re #2]

4) If a limit is set on the number of ETCs designated in a wire center, how should it be decided which ETC(s) serve it? (e.g., one wireline & one wireless?)

The existing federal rules and law do not specify a limit on the number of ETCs, thus any limit on designations would be need to be the result of a finding by the Commission that additional, or even some of the current, ETC designations were not in the public interest. As for determining which ETC or ETC applicant should serve a wire center, the use of a "first in" gets to be the ETC methodology could result in a less desirable, for the public interest, carrier preventing another carrier from meeting the public needs. If the Commission instead chose to switch out ETCs as a "better" carrier came along, the support might not be predictable or sufficient enough for a carrier to be able to plan to provide adequate service. The designation of a carrier should be based on whether the carrier's designation is in the public interest, not on the number of ETCs, until the FCC

² Chairman Edgar is a member of the Joint Board

rules provides a limit on the number of ETC via a reverse auction or some other process, this Commission should evaluate each application on a case by case basis and not set a fixed number of ETC per wire center.

5) How should “Public Interest” be determined for ETC designation in a rural area?

AT&T suggests that the Commission should utilize the public interest standards set forth by the FCC in its March 17th ETC Order³. Specifically, the Commission should review the benefits of increased customer choice, and the unique advantages and disadvantages of a carrier’s service offering, amount of high-cost support per line to be received by the ETC along with the requirements in the order – service quality improvement plan and responding to any reasonable request for service per the FCC’s criteria.

6) Can a state apply a “Public Interest” standard found in § 214(e)(2) of the Telecommunications Act of 1996, to carriers seeking ETC status in non-rural study areas? If so, how should “Public Interest” be determined for ETC designation in a non-rural area?

Yes, “[U]nder the statute, an applicant should be designated as an ETC only where such designation serves the public interest, regardless of whether the area where designation is sought is served by a rural or non-rural carrier.”⁴ The state should apply the same public interest standard as discussed above for rural area.

7) What additional criteria should be required to obtain ETC status for high-cost funds? (e.g., USF funds must be invested in Florida? USF funds must be used in unserved areas?)

The Commission should extend its adoption of the FCC’s ETC designation/certification requirements to wireless ETC applicants, subject to the following 3 changes:

1. The FCC rules require carriers applying for ETC status before the FCC to submit a 5-year plan that describes with specificity proposed improvements or upgrades to the applicant’s network. (See 47 CFR 54.202(a)(1)(ii). AT&T believes that FL should only require a 2-year plan as a wireless carriers planning cycle is usually not more than 1 or 2 years.
2. The FCC rules require an ETC applicant to certify that it acknowledges that The Commission may require it to provide equal access to long distance carriers in the even that no other ETC is providing equal access within the service area. (See 47 CFR 54.202(a)(5). AT&T believes that state commissions do not have the jurisdiction to require wireless carriers to provide equal access. 47 U.S.C. 332(c)(8)
3. The FCC rules require an ETC to provide an annual report on any outages based on specifically defined criteria. (See 47 CFR 54.209(2)). AT&T believes that the state commission should instead adopt outage reporting requirements consistent with 47 CFR Part 4.

³ FCC’s 3/05 ETC Order, ¶ ____

⁴ Id at 3

8) Pursuant to § 214(e)(1), should an entity be required to establish its ability to serve all customers of the current ETC, if the incumbent ETC relinquishes its designation?

No. §214(e)(1) requires an ETC to “offer the services that are supported by Federal universal service support mechanisms”. §214(e)(4) provides an ETC time to purchase or build out its network to meet its ETC obligation. Further it has been determined carriers are not required to provide ubiquitous service at time of ETC designation. [see FCC 00-248]

9) In Order No. PSC-07-0288-PAA-TP, the FPSC concluded that “... we now have jurisdiction to consider CMRS applications for ETC designation.” Given that the FCC’s jurisdiction to designate a carrier as an ETC, in § 214(e)(6) of the Telecommunications Act of 1996, is premised on a state commission not having jurisdiction, can the FCC designate any additional carriers within Florida?

No. The presumption in §214 is that the state commission will grant ETC designations. It is only in the case that a carrier is not subject to the jurisdiction of a State Commission for the purpose of ETC designation that the FCC will grant such designations. See §214(e)(6). Before the FCC will act on a carrier’s request for ETC status, the FCC requires an Order from the state commission that the state commission does not have jurisdiction.

10) Can the FCC continue to perform annual certification of carriers that it has designated if it no longer has jurisdiction under §214(e)(6) of the Telecommunications Act of 1996?

No. For five components⁵ of the high-cost mechanism, the annual certification is only performed by the FCC if the state lacks jurisdiction over ETC designations. Otherwise, the ETC must provide the information required by the state commission to the state commission and then the state must file an annual certification with the FCC and USAC within the appropriate timelines. See 47 C.F.R. 54.313(a)&(b) and 54.314(a)&(b).

To receive Interstate Access Support (IAS) and Interstate Common Line Support (ICLS), ETCs must continue to file a certification with the FCC and the Universal Service Administration Company (USAC) stating that the carrier will only use support for the provision, maintenance and upgrading of the facilities and services for which support was intended. See 47 CFR 54.809 and 54.904.

11) Should an ETC be required to offer all support services pursuant to 47 C.F.R. §54.101(a)(1), not just, e.g., Lifeline and Link-Up?

Yes, this is mandatory as a condition of being an ETC for receipt of federal universal service support per the referenced FCC rule, not a discretionary matter for FL to decide. 47C.F.R §54.201 (d) “A common carrier designated as an eligible telecommunications carrier under this section shall be eligible to receive universal service support in

⁵ High Cost Model, High Cost Loop, Safety Valve, Safety Net and Local Switching Support

accordance with section 254 of the Act and shall, throughout the service area for which the designation is received: (1) Offer the services that are supported by federal universal service support mechanisms under subpart B.” Subpart B includes §54.101(a)(1-9).
[Emphasis added]

12) If an ETC uses its ETC designation only for the purposes of providing Lifeline service, should a waiver be sought of other requirements to offer services? What is the extent of the FPSC’s authority to grant such waivers?

This is not an option or the purpose of receipt of *federal* universal service funds under the FCC’s ETC rules. Florida, however, could establish its own *state* lifeline-like program to provide discounted services to customers with low incomes fund and corresponding requirements, such as granting a carrier status to only provide *state* lifeline service. Although if this were the case, the carrier would not be eligible for Lifeline reimbursement, or federal high cost support, from USAC and would not be an ETC under Section 214 of the 96 Act

13) What can Florida do to relinquish its role as being the number one net contributor to the USF fund?

The FCC has long been considering issues relating to contribution methodology reform and as discussed above has put forth solutions for both interim and long-term relief.

As background, AT&T supports a contribution methodology based on numbers and connections instead of the current interstate/international revenue-based system.

14) In considering the “Public Interest” standard for ETC designation, to what degree should the following aspects be considered:

- a. The benefits of increased customer choice?
- b. The impact of the designation on the universal service fund?
- c. The unique advantages and disadvantages of the competitor’s service offering?

As stated above, AT&T believes that these are the components that should be evaluated when determining whether a designation is in the public interest.

To be sure, the growing size of the federal USF is a concern for policymakers that the Joint Board and the FCC are working diligently to address, but this is more appropriately a matter for consideration in the context of comprehensive nationwide USF reform. Recognizing these concerns, AT&T supports the Joint Board’s proposal to impose an interim, emergency cap on high-cost support available to CETCs as a necessary first step to long term reform, even though the cap will impose some burdens on CETCs - including AT&T - by reducing the amount of high-cost funding available to them, at least in the short-term. But because the cap could result in significant decreases in support available to existing CETCs, potentially with little notice, AT&T has proposed a modification with respect to timing regarding the cap.

15) How should the comparable local usage requirement of ETC designation be considered?

The FCC in its March 2005 ETC adopted the requirement that an ETC applicant demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which the applicant seeks designation. The FCC, however, declined to adopt a specific local usage threshold and instead stated that an ETC applicant's local usage plans should be evaluated on a case-by-case basis. AT&T believes that this Commission should do the same.

16) Should the amount of per line support received by the incumbent LEC be a consideration in designation?

As stated above, AT&T believes that this should be one factor doing a public interest evaluation of an ETC's application.

17) Should a requirement of one line per household for USF be imposed? Does the FPSC have the authority to take such action?

One line or connection per household is a reoccurring topic of discussion at the federal level; the resolution of the matter needs to occur at the federal level. Such action is beyond the scope of this Commission's authority. [See #2]

18) Should ETCs be required to list the projects and locations of all projects for which USF funds will be used in the five-year plans? Should ETCs be required to provide an explanation if a project isn't completed by the time of the next annual recertification?

As stated above, AT&T believes the Commission should adopt those requirements set forth by the FCC in the March 2005 Order. Specifically, a carrier should submit a plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed designated service area. Further the applicant should demonstrate how signal quality, coverage or capacity will improve due to the receipt of high-cost support; the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support; the specific geographic areas where the improvements will be made; and the estimated population that will be served as a result of the improvements. (See 47 CFR 54.202(a)(1)(ii))

As stated in response to question 7, AT&T believes that instead of requiring carriers to submit a 5-year plan, the Commission should only require a 2-year plan.

19) How should the benefit be measured of adding plant in a wire center using USF funds (e.g., more customer? more handsets? better coverage?)

The Commission should mirror the FCC's review of this issue, considering how proposed improvements or upgrades improve signal quality, coverage or capacity due to the receipt of high cost support; and the estimated population that will be served as a result of the improvements. See 47 C.F.R. §54.202(a)(6)(ii).

20) What criteria should be used to determine if an ETC is meeting the Lifeline and Link-Up advertising requirements?

Although the FCC has not set forth specific requirements, the FCC has provided guidelines to carriers to meet the Lifeline and Linkup advertising requirements. These guidelines are the appropriate criteria. The FCC is refreshing the record on Lifeline advertising in *The matter of Lifeline and Link-up* (WC Docket No. 03-109) and will determine if specific advertising requirements are needed.

21) What criteria should be met if an ETC decides it wishes to relinquish its ETC designation?

Congress has clearly provided a mechanism to allow a carrier, without restriction, to relinquish its ETC status.

§214 (4) Relinquishment of universal service

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. 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 of such relinquishment. 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. The State commission shall establish a time, not to exceed one year after the State commission approves such relinquishment under this paragraph, within which such purchase or construction shall be completed. [references to paragraph 6 (FCC designated ETCs) removed]

22) What are the differences in the requirements to be an ETC versus the requirements of a carrier of last resort (COLR)?

The Federal ETC requirements include offering the nine supported services⁶ throughout a carrier's designated service area; advertise and offer Lifeline and Link-up service (passing through the available federal and state discounts). The requirement to offer service is not technology specific, nor does it prescribe the price at which the service must be offered. The Florida universal service statutory requirement, which leads to the carrier of last resort obligation, requires a specific product, which because of the rate regulation of the incumbent (either price cap or rate of return) is at a specific pricepoint. The Florida statute (Section 364.025) requires that "until January 1, 2009, each local exchange telecommunications company shall be required to furnish basic local exchange telecommunications service within a reasonable time period to any person requesting such service within the company's service territory." The Statute defines basic local telecommunications:

As used in this chapter: (1) "Basic local telecommunications service" means voice-grade, flat-rate residential, and flat-rate single-line business local exchange services which provide dial tone, local usage necessary to place unlimited calls within a local exchange area, dual tone multifrequency dialing, and access to the following: emergency services such as "911," all locally available interexchange companies, directory assistance, operator services, relay services, and an alphabetical directory listing. For a local exchange telecommunications company, the term shall include any extended area service routes, and extended calling service in existence or ordered by the commission on or before July 1, 1995.

23) Do the responsibilities associated with ETC designation differ from those afforded a COLR under state law? If so, what are the differences and similarities?

The responsibility associated with COLR is to provide a basic local exchange telecommunications service (as that term is defined in the Statute) within a reasonable time period to any person requesting such service within the company's service territory. The responsibility associated with ETC designation is to offer through out its designated service area the nine support services, and to advertise and offer Lifeline and Link-up service (passing through the federal and state discounts). The service can be provided "by using its own facilities or by using a combination of its own facilities and resale of another carrier's services (including the services offered by another ETC)."⁷

24) Should a company which is a reseller and who also leases network elements be required to have a certain percentage of customers served by the leasing of network elements to meet the "own facilities" requirement?

No, resell is one of the three forms of entry into the market provide for in the 96 Act, "Pursuant to section §214(e)(1), a common carrier designated as an ETC must offer the services supported by the federal universal service mechanisms throughout the designated service area either by using its own facilities or by using a combination of its own facilities and resale of another carrier's services (including the services offered by

⁶ 47 C.F.R. §54.101(a)(1-9)

⁷ ETC Order para 7

another ETC).”⁸ The federal rules do not set a required level of “own facilities.” An ETC who uses resell as a method of provisioning its network does not receive FUSF support for the lines it provides via resell.

25) What percentage of wireless CETC support should go to new tower in unserved areas?

The PSC should view the build out plan as a whole and understand that supporting operating expenses in high cost areas is important to the provision of service in high cost areas.

A cell site is only one component of a wireless network. As an initial matter, it is not clear what is meant by “tower”. If “tower” is simply referring to the monopole upon which the antennas are mounted, then there are many other components that comprise the cell site – antennas, radios, cabinets, cables, etc. In addition, to a wireless cell site, there are also microwave facilities and/or T-1s that carry the traffic from the cell site to the BSC (base station controller) and then the mobile switching center (wireless switch).

26) What other issues need to be addressed when considering ETC policy?

At this time, AT&T Florida does not have any additional issues that the Commission should address in the context of ETC policy.

In conclusion, AT&T Florida thanks the Staff for the opportunity to present its written comments on the ETC issues discussed above and looks forward to working with the Commission further on these issues.

Respectfully submitted,

 for
Tracy Hatch

cc: Jerry Hendrix

James Meza III

⁸ *Id*