COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INQUIRY INTO THE STATE	)	CASE NO. 2016-00059
UNIVERSAL SERVICE FUND	)	

AT&T KENTUCKY'S COMMENTS ON REHEARING

In compliance with the Commission's Order of April 20, 2017, AT&T Kentucky[1] respectfully submits its Comments regarding the impact of Senate Bill 10 on the Commission's Order of March 10, 2017 ("the March 10 Order").

I. SUMMARY OF COMMENTS

By passing Senate Bill 10 with overwhelming bi-partisan support,[2] the General Assembly made clear Kentucky's public policy of supporting its citizens' desire for modern communications services and encouraging deployment and adoption of the modern communications technologies that are necessary for the Commonwealth and its citizens to prosper. The March 10 Order (which was entered before Senate Bill 10 was signed into law) conflicts with this public policy by depriving Kentucky Lifeline consumers who adopt modern wireless communications services of Kentucky Universal Service Fund ("KUSF") support. And because the overwhelming majority of Kentucky's Lifeline consumers (including the elderly and those living in rural areas) already have chosen modern wireless services over legacy landline services, the Order harms the very Lifeline consumers the Commission considers "most vulnerable." The Commission, therefore, should reconsider its decision to no longer provide KUSF support for wireless services. Instead, and consistent with the public policy embodied by

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1 BellSouth Telecommunications, LLC d/b/a AT&T Kentucky.

2 This legislation passed the Senate by a vote of 35-1, and it passed the House by a vote of 79-13.

Senate Bill 10, it should allow all Lifeline consumers (including those who prefer modern wireless services) to receive an equal amount of KUSF support, even if that amount is less than the current $3.50 per month.

AT&T Kentucky also submits comments to correct and put in proper perspective certain allegations in the Joint Motion for Reconsideration filed on behalf of various wireless carriers on March 31, 2017 ("Joint Motion").[3]

II. CONTRARY TO THE PUBLIC POLICY EMBODIED BY SENATE BILL 10, THE MARCH 10 ORDER DISCOURAGES LIFELINE CONSUMERS FROM ADOPTING MODERN COMMUNICATIONS SERVICES AND HARMS THE VERY LIFELINE CONSUMERS THE COMMISSION CONSIDERS "MOST VULNERABLE."

Senate Bill 10 "was passed by both houses of the General Assembly on March 8, 2017, and signed by the Governor on March 20, 2017, ten days after the Commission entered its March 10, 2017 Order."[4] As such, it embodies the General Assembly's most recent public policy decisions regarding communications services. It is both appropriate and wise for the Commission to reconsider and revise its March 10 Order to conform to that public policy, which clearly encourages the deployment and adoption of modern technologies and services.

A. Kentucky consumers in general, and Kentucky Lifeline consumers in particular, overwhelmingly prefer modern wireless services to legacy landline services.

Between 2005 and 2015, the number of legacy ILEC residential landline customers in Kentucky decreased by 62%, from 1.22 million lines to 468,000 lines.[5] AT&T's legacy residential retail lines in Kentucky decreased by nearly 78% during the same period, and during

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[3] This Joint Motion was filed on behalf of Airvoice Wireless, American Broadband and Telecom. Co., LLC, Budget Wireless, i-wireless LLC, Ready Wireless, SI Wireless, LLC, and Telrite Corp.

[4] April 20, 2017 Order at 6.

[5] *See* FCC Local Competition Reports (2005-2013) and FCC Voice Telephone Services Reports (2014-2015).

2016 alone, AT&T Kentucky's residential line count dropped nearly 18% from what had been in service at the end of 2015. Clearly, Kentucky consumers in general prefer wireless and other modern communications technologies to legacy landline services.

Lifeline consumers also overwhelmingly prefer more modern services, like wireless, to legacy landline services. In Comments filed in this case on April 3, 2017, CTIA noted federal data suggesting that "nearly 93% of Kentucky Lifeline consumers have chosen wireless for their communications needs."[6] AT&T Kentucky's experience is consistent with this data. Even as the total number of Lifeline consumers in the Commonwealth has grown, AT&T Kentucky's number of Lifeline customers has plummeted as consumers have demonstrated a strong preference for obtaining their Lifeline discount from other, primarily wireless, eligible telecommunications carriers ("ETCs").[7] From 2008 through 2016, the number of AT&T's retail Lifeline customers declined by more than 90%, such that by the end of 2016, AT&T served less than 1% of Kentucky's Lifeline subscribers.

B. The elderly and rural Lifeline consumers the Commission considers "most vulnerable" also prefer wireless service to legacy landline service.

Like Lifeline consumers in general, the Lifeline consumers the Commission considers "most vulnerable" (the elderly and those who live in rural areas with purportedly limited wireless

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6 CTIA Comments at 3 (citing to data gathered from the February 2017 breakdown of USAC funding, using the USAC Funding Disbursement Tool (http://usac.org/li/tools/disbursements/default.aspx), and noting that of the $2,094,677 total federal Lifeline support for Kentucky, 92.6% goes to wireless carriers.

7 This is not surprising in light of findings by the Centers for Disease Control that "[a]dults living in poverty (66.3%) and near poverty (59.0%) [are] more likely than higher income adults (48.5%) to be living in households with only wireless telephones." Center for Disease Control, "Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July–December 2016" May 2017 at 3 (available at http://cdc.gov/nchs/data/nhis/earlyrelease/wireless201705.pdf). Additionally, adults living in the South (55.5%) are more likely than those living in the West (53.4%), the Midwest (53.0%), and the Northeast (34.2%) to live in households with only wireless phones. *Id.* at 3.

coverage)[8] also are more likely to choose wireless service instead of legacy landline service. Elderly consumers are overwhelmingly adopting wireless services,[9] and nothing in the record suggest deficiencies in wireless coverage that are causing Kentucky Lifeline consumers in rural (or other) areas to choose legacy landline services instead of the wireless services they prefer. To the contrary, according to National Broadband Map statistics, 99% of Kentucky consumers can access not just wireless voice, but wireless 3G or better services as of mid-2015.[10] And in the nearly 160 AT&T Kentucky exchanges with less than 15,000 access lines (which are the exchanges that were not deemed "urban" by the General Assembly in the 2015 deregulation legislation),[11] AT&T Kentucky serves only about 800 Lifeline customers, or roughly 5 Lifeline customers per exchange on average. These figures clearly validate the General Assembly's policy of encouraging the deployment and adoption of more modern technologies and services,

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8 *See* March 10 Order at 9.

9 CTIA Comments at 7, citing Macher, Jeffrey T. and Mayo, John W. The Wireless Revolution: Are the Elderly Keeping Up? Georgetown University, May 2012, *available at* https://cbpp.georgetown.edu/sites/cbpp.georgetown.edu/files/Mayo_Macher-wireless-revolution-are-elderly-keeping-up.pdf (last accessed March 27, 2017), at 4 ("The adoption of wireless telephony by the elderly has been pronounced, especially over the past decade. Although cellular telephony was first introduced in 1983, only 41 percent of elderly households possessed wireless subscription service in 2003. But by 2010, wireless adoption among the elderly has grown to nearly 80 percent. Four out of five elderly households today possess wireless service as an alternative to traditional landline service. Second, the growth of wireless only elderly households has been significant: from one percent in 2003 to 14.5 percent by 2010. Among the nominally most vulnerable elderly households—those living in poverty—we find that roughly 22 percent have "cut the cord" by dropping their landline telephone subscription all together. While it is still true that the level of wireless only elderly households is lower than the average across all other U.S. households, this demographic segment is indeed embracing the wireless revolution and "catching up" to the younger population.").

10 *See* National Broadband Map: Kentucky Summary, available at https://www.broadband.gov/summarizey/state/kentucky.

11 See 2015 Acts Ch. 2, sec. 1 (codified at 278 KRS §5435 and removing regulatory obligations on basic local exchange service offered in "all exchanges served by the modifying utility which, as of January 1, 2015, contained fifteen thousand (15,000) or more housing units based on United States Census data current as of January 1, 2015.").

and they dispel any anecdotal suggestions that the elderly and those living in rural areas are somehow "at a disadvantage compared to other Lifeline customers."[12] After all, if elderly or rural Lifeline consumers really were unable to obtain Lifeline support from wireless carriers that meet their needs, the number of AT&T Lifeline customers in these non-urban exchanges undoubtedly would be much higher.

C. The Commission should revise its March 10 Order to allow all Lifeline consumers (including those who prefer wireless services) to receive an equal amount of KUSF support.

Clearly, the Commission's March 10 Order conflicts with the public policy embodied by Senate Bill 10, which was signed into law ten days later. The March 10 Order discourages Kentucky Lifeline consumers from adopting modern communications services by depriving them of KUSF support when they do. Additionally, it denies KUSF support to the majority of elderly and rural Lifeline consumers who already have chosen modern wireless services over legacy landline services, despite the fact that these are the consumers the Commission considers "most vulnerable." Accordingly, the Commission should revise its March 10 Order and allow all Lifeline consumers (including those who prefer wireless services) to continue receiving an equal amount of KUSF support, even if that means reducing the current $3.50 monthly support amount to a lower amount the Commission finds to be more sustainable.

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[12] *See* March 10 Order at 9.

III. THE JOINT MOTION IS WRONG IN CERTAIN RESPECTS AND, EVEN WHEN CORRECTED, MUST BE CONSIDERED IN THE CONTEXT OF SIGNIFICANT CHANGES THAT ARE TAKING PLACE IN THE COMMUNICATIONS INDUSTRY.

A. The Joint Motion is simply wrong in alleging that Senate Bill 10 will halt the installation of landline services by AT&T Kentucky.

The Joint Motion for Reconsideration filed on behalf of several wireless providers on March 31, 2017, alleges that Senate Bill 10 "will effectively halt the installation of 'landline' service statewide, as its proponents will fill future service orders using other voice technology, including wireless service."[13] Obviously, none of the wireless providers supporting the Joint Motion are authorized to speak on behalf of AT&T Kentucky or other landline service providers impacted by Senate Bill 10. AT&T Kentucky, however, will briefly address this allegation here because it relates to the impact of Senate Bill 10 on the Commission's March 20 Order, and more importantly, because it is simply wrong as it relates to AT&T Kentucky.

The passage of Senate Bill 10, in and of itself, will not result in the discontinuance of any legacy voice service offered by AT&T Kentucky, and it will not affect the availability of any AT&T Kentucky legacy voice service in any area of the Commonwealth. AT&T Kentucky will continue to offer and provide legacy voice service in all of its service territory, and it will continue to comply with applicable service obligations of federal law in its service territory unless and until it separately obtains any necessary permission from the Federal Communications Commission ("FCC") to stop providing retail legacy voice service.

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[13] Joint Motion for Reconsideration (various wireless entities) at 1. The Joint Motion also erroneously alleges that "[e]ffective September 1, 2017 AT&T Kentucky is no longer required to provide 'landline' service anywhere in Kentucky, including in the rural areas that, according to the March 10 order, lack landline competition." *Id.*, at 6.

B. The Commission should consider the allegations in the Joint Motion, as well as its March 20 Order, in the context of significant changes that are taking place in the communications industry.

In addressing the allegations in the Joint Motion, the Commission's April 20 Order correctly notes that AT&T Kentucky currently is designated as an ETC in certain areas of Kentucky and has "the responsibilities attendant to that designation under federal law."[14] That said, and as noted in its Petition for Rehearing, "AT&T Kentucky is evaluating its approach to the Lifeline program in general" in light of the substantial changes to the federal USF program and AT&T Kentucky's very low number of Lifeline customers.[15] As a result of similar evaluations, AT&T ILECs have petitioned to relinquish their ETC designations in certain areas of several states. To date, seven State commissions have approved AT&T's relinquishment (Alabama, Mississippi, Missouri, Oklahoma, South Carolina, Tennessee and Wisconsin), and Petitions are pending in Georgia, Florida, Indiana, Kansas and North Carolina.[16]

AT&T is evaluating whether and when to file similar relinquishment Petitions in other states, including Kentucky. If and when AT&T Kentucky relinquishes its ETC designation in certain portions of its Kentucky service area, its Lifeline customers in those portions will no

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[14] April 20 Order at 6.

[15] AT&T Kentucky's April 3, 2017 Petition for Rehearing at 1, n. 2.

[16] Even with these relinquishments, however, ***the AT&T ILEC is not discontinuing legacy voice service in any of these states***, and these relinquishments will not affect the availability of any AT&T ILEC legacy voice service in any area of these states. The only change for AT&T ILEC customers in the affected areas of these states is that federal and state (in those states that provide state Lifeline support) Lifeline support will no longer be available from the AT&T ILEC. After relinquishment, the AT&T ILEC will continue to offer and provide service in the relinquishment area. The AT&T ILEC also will continue to fulfill any retail service obligations imposed by non-ETC provisions in applicable law, unless and until it separately obtains any necessary permission to stop providing service. All customers in the affected areas, including former AT&T ILEC Lifeline customers who choose to keep their AT&T ILEC service, will have access to services offered by the AT&T ILEC at standard AT&T ILEC prices, including all applicable surcharges, fees and taxes.

longer receive either federal or KUSF support from AT&T Kentucky. Affected AT&T Kentucky Lifeline customers, of course, will be free to continue receiving service from AT&T Kentucky at standard prices or to obtain federal (and, to the extent it is available, KUSF) support from any of the numerous other ETCs offering service in the Commonwealth. Under the Commission's March 20 Order, however, affected AT&T Lifeline customers could only receive KUSF support if another landline ETC provides service in their area and they prefer that landline ETC's service to either their existing AT&T service or to wireless services offered by several wireless ETCs. In contrast, if the Commission revises it March 10 Order consistent with AT&T Kentucky's comments, affected AT&T Kentucky Lifeline customers could receive both federal and KUSF support regardless of whether they choose to receive service from another landline ETC or from one of many wireless ETCs.

CONCLUSION

Based on the foregoing, the Commission should revise its March 20 Order and allow all Lifeline consumers (including those who prefer wireless services) to continue receiving an equal amount of KUSF support, even if that means reducing the current $3.50 monthly support amount to a lower amount the Commission finds to be more sustainable.

Respectfully submitted,

/s/Cheryl R. Winn

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FILING NOTICE AND CERTIFICATE

The undersigned herby certifies that the foregoing is a true and accurate copy of the same document being filed in paper medium with the Commission within two business days; that the electronic filing was transmitted to the Commission on May 10, 2017; and that there are currently no parties that the Commission has executed from participation by electronic means in this proceeding.

/s/Cheryl R. Winn