

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC PETITION OF AT&T KENTUCKY)	
FOR AN ORDER CONFIRMING THE)	CASE NO.
RELINQUISHMENT OF ELIGIBLE)	2021-00375
TELECOMMUNICATIONS CARRIER)	
DESIGNATION IN SPECIFIED AREAS)	

ORDER

BellSouth Telecommunications, LLC d/b/a AT&T Kentucky (AT&T Kentucky), on September 22, 2021, filed a petition requesting that the Commission permit AT&T Kentucky to relinquish its designation as an Eligible Telecommunications Carrier (ETC) in the portions of its territory where it was still designated as an ETC. AT&T Kentucky requested an Order from the Commission by December 1, 2021.

The Commission designated AT&T Kentucky as an ETC on November 26, 1997.¹ Almost two decades later, the Commission permitted AT&T Kentucky to relinquish its ETC designation in approximately 87.5 percent of its service territory, but retain its designation in the census blocks in which AT&T Kentucky was participating in the Federal Communications Commission's (FCC) Connect America Fund Phase II (CAF II).² AT&T Kentucky, by participating in CAF II, received federal high-cost support in order to provide

¹ Case Nos. 355 and 360, *An Inquiry into Local Competition, Universal Service, and the Non-Traffic Sensitive Access Rate, and Inquiry into Universal Service and Funding Issues* (Ky. PSC Nov. 26, 1997).

² Case No. 2017-00416, *Petition of AT&T Kentucky for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas* (Ky. PSC Mar. 23, 2018).

broadband and voice services. CAF II funding expires on December 31, 2021,³ and AT&T Kentucky now seeks to relinquish its ETC designation in the remaining portions of its territory in which it did not relinquish its designation in Case No. 2017-00416.

AT&T Kentucky states that it will not discontinue any service by relinquishing its remaining ETC designation, nor will it affect the availability of legacy voice service in AT&T Kentucky's provision of legacy voice services.⁴ AT&T Kentucky also notes that this will not affect its remaining 111 Lifeline customers,⁵ noting that federal voice Lifeline support, on December 1, 2021, will be reduced to \$0 in areas with more than one ETC, and that there at least 13 other ETCs in AT&T Kentucky's territory.⁶

AT&T Kentucky claims that customer notice is not required due to the expiration of federal Lifeline support for voice-only service on December 1, 2021, as well as the end of AT&T Kentucky's CAF II obligations on January 1, 2022. AT&T Kentucky asserts that should federal rules for voice-only Lifeline support change and support continues after December 1, 2021, AT&T Kentucky will provide its remaining Lifeline customers notice of the relinquishment, the other services available from AT&T Kentucky, and how to contact USAC to obtain a list of ETCs in the state.⁷

³ Petition for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas (filed Sept. 22, 2021) (Petition) at 5.

⁴ *Id.* at 2.

⁵ According to the records of the Universal Service Administrative Company (USAC), AT&T Kentucky reported 111 Lifeline customers for October 2021. <https://apps.usac.org/li/tools/disbursements/results.aspx> (Last accessed Nov. 4, 2021).

⁶ *Id.* citing 47 CFR § 54.403(a)(2)(iv) and (v)

⁷ Petition at 8.

A state commission, pursuant to 47 U.S.C. § 214(e)(4), shall permit a carrier to relinquish its ETC designation in any area served by more than one ETC. Following relinquishment of AT&T Kentucky's ETC designation, there will continue to be at least 22 ETCs that provide Lifeline service throughout AT&T Kentucky's territory.⁸ Because other ETCs currently serve AT&T Kentucky's service territory, notice need not be provided to those carriers to permit them to purchase or construct facilities to ensure that customers will continue to receive service.

47 U.S.C. § 214(e)(4) provides, in pertinent part, that:

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.

Based on the evidence and having been sufficiently advised, the Commission finds that, pursuant to 47 U.S.C. § 214(e)(4), there is more than one ETC in AT&T Kentucky's

⁸ *Id.*, Exhibit A at 6.

service territory, those carriers have sufficient facilities for the provision of service, and, pursuant to 47 U.S.C. § 214(e)(4), AT&T Kentucky should be permitted to relinquish its designation as an ETC.

The FCC, on November 5, 2021, issued an Order in which it, *inter alia*, paused the phase out of voice-only support until at least December 1, 2022.⁹ Based upon the FCC's actions, the Commission finds that AT&T Kentucky, as it described in its Petition,¹⁰ should provide notice to its Lifeline customers of AT&T Kentucky's relinquishment of its ETC designation.

The Commission notes that, as of the date of entry of this Order, AT&T Kentucky has not notified the Commission that the FCC had postponed the phase out of voice-only Lifeline support. The Commission, because AT&T Kentucky relied upon the phase out of support as part of its justification for relinquishing its ETC designation, is displeased that AT&T Kentucky did not update its petition to inform the Commission of this change in the law. The Commission is further disappointed, while acknowledging that AT&T Kentucky legally qualifies for relinquishment of its ETC designation, that AT&T Kentucky is taking action during a pandemic that will impose a burden on its existing Lifeline customers to find other, and will reduce the overall numbers of Lifeline providers in Kentucky. Despite the Commission's disappointment and concern, the Commission may not impose any

⁹ *In the Matter of: Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect American Fund*, WC Docket Nos. 11-42, 09-197, 10-90, (WCB Nov. 5, 2021).

¹⁰ Petition, Exhibit B.

requirement on an ETC that exceeds that of federal law,¹¹ and AT&T Kentucky may still relinquish its ETC designation.

IT IS THEREFORE ORDERED that:

1. AT&T Kentucky's request to relinquish its designation as an ETC is granted.
2. AT&T Kentucky, if it has not already done so, shall provide notice as described in its Petition to its current Lifeline customers.
3. A copy of this Order shall be served on the Federal Communications Commission and the Universal Service Administration Company.
4. This case is closed and removed from the Commission's docket.

¹¹ KRS 278.54611(4).

By the Commission

ENTERED
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KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2021-00375

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