

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Technology Transition) GN Docket No.13-5
)
AT&T Petition to Launch a Proceeding Concerning) GN Docket No. 12-353
the TDM-to-IP Transition)
)

**COMMENTS OF THE NATIONAL CONSUMER LAW CENTER, ON BEHALF OF ITS
LOW-INCOME CLIENTS ON AT&T’S PROPOSAL FOR WIRE CENTER TRIALS**

The National Consumer Law Center, on behalf of its low-income clients (“NCLC”) respectfully submits these opening comments¹ on AT&T’s proposal for two TDM to all-IP trials in two wire centers in Alabama and Florida.²

The National Consumer Law Center® (NCLC) is a nonprofit that works for economic justice for low-income and other disadvantaged people in the U.S. through policy analysis and advocacy, publications, litigation, and training. NCLC has long been involved in the policy issues around the design of the Lifeline program as part of its work to ensure affordable, reliable access to essential utility service for consumers with limited means.

I. Introduction

The Chairman refers to the IP-transition as a “move from the circuit-switched networks of Alexander Graham Bell to the new networks of the Internet Revolution.”³ AT&T begins its proposal with a description of how the IP transition is transforming “the way we communicate, educate our children, deliver healthcare, consumer energy, obtain news and other information, engage in commerce, and interact with government.”⁴ Consumers are being promised a more robust communications platform as the voice-centric networks of yesterday are transitioned to

¹ Per DA 14-283 (rel. February 28, 2014).

² AT&T Proposal for Wire Center Trials (Redacted -- for Public Inspection) (February 27, 2014)(“AT&T Proposal”).

³³ Statement of Chairman Wheeler, FCC 14-5, 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, In the Matter of Technology Transitions et al, GN Docket No. 13-5 et al, (rel. Jan.31, 2014)(“Technology Transitions Order”) at 104.

⁴ AT&T proposal at 2.

more general broadband transport networks. Yet, the glide path being set forth in AT&T's trial proposal risks leaving those with very, modest means and those living in more rural and remote parts of the country further behind. The availability of affordable voice service is not guaranteed after these trials and, even more important, there is a missed opportunity to start closing the broadband divide by ensuring the consumers in these trial areas have access to affordable broadband services. We are concerned those consumers in the two trial centers will not be better off at the end of the trial and that this will become a game plan for other carriers to get out from universal service obligations.

II. AT&T's Proposal Walks Away From Universal Access

The Commission unanimously embraced a framework of presumptions and conditions for IP transition trials that protects enduring "core, statutory values of public safety, universal access, competition, and consumer protection" in its January 2014 order.⁵ These comments focus primarily on AT&T's proposed trials shortcomings with universal access and affordability.

The Commission devoted considerable attention in the January order to the critical importance of universal access to communication services:

50. Ensuring that all Americans have access to communication services – the value of universal access – is central to our statutory mission. A cornerstone of the Communications Act of 1934 that established the Commission, [cite omitted] universal access policies helped to make telephone service ubiquitous throughout the country and accessible to all Americans. The Telecommunications Act of 1996 expanded our universal access mandate to include increased access to both telecommunications and advanced services – such as high-speed Internet – for all consumers at just, reasonable and affordable rates. The Act established principles specifically focused on increasing access to evolving services for consumers living in rural and insular areas and for consumers with low-income.

51. As networks transition, we must protect and promote universal access. The transitions hold tremendous promise for enhancing universal access, and we seek through these experiments to learn how best to accelerate the delivery of these benefits to all Americans.[cite omitted]⁶

54. *Protect Specific Populations.* We require that service-based experiments protect the interests of any specific populations that are potentially at risk, including ensuring that no consumer loses access to service or critical functionalities as a result of the experiment. We have a statutory responsibility to help advance network-based communications for *all* the people of the United

⁵ Technology Transition Order at paras. 37-69.

⁶ Technology Transition Order at paras. 50-51.

States.[cite omitted] . . . As the Leadership Conference on Civil and Human rights has emphasized, the Commission must ensure that all consumers and, in particular, underserved communities will continue to have access to reliable service and consumer protections during and after the technology transitions.[cite omitted] ⁷

Unfortunately, AT&T has devoted considerable attention to its intent to walk away from its universal service obligations, including offering Lifeline.⁸ Effective the first day of “Stage 1” of its trials, AT&T plans to file for relief of its universal service obligations.⁹ AT&T also states that it cannot economically extend its next generation wireline and wireless broadband footprint to reach all its customers in its 22-state wireline service area.¹⁰ It is particularly disturbing that AT&T has signaled to the Commission that it has no ready plan for replacement services for 4 percent of its customers in Carbon Hill, Alabama.¹¹ The Commission should demand AT&T provide more than a shoulder shrug for this 4 percent and require AT&T to submit a more concrete plan, otherwise it risks sending a message that there is a tolerance for a company leaving 4 percent of a customer base behind.

AT&T also refuses to offer a standalone wireline voice product because it is more cost-effective for the company to offer wireline voice as part of a bundle with broadband Internet access and/or video services, or as an application provided over a broadband Internet access service.¹² While this may be more cost effective for the company, for low-income or fixed-income consumers who just want wireline voice service, the cost of a bundle could be unaffordable. Instead, AT&T is offering Wireless Home Phone as the sole standalone voice product.¹³ Setting aside the questions about whether Wireless Home Phone product will be equivalent or better than what customers have now, with wireless service AT&T can raise rates whenever it wants and however much it wants. For low-income, fixed-income and cash-strapped households on tight budgets, the cost of Wireless Home Phone could become unaffordable at a moment’s notice. After the trials, what assurances will consumers have that AT&T will continue to offer a Wireless Home Phone type of product?

The network transformation is one from a network that was designed primarily for voice calls to one where voice is one of many applications on the network. Thus, there should be more

⁷ Technology Transition Order at para. 54.

⁸ AT&T Wire Center Trial Operating Plan, Redacted – For Public Inspection (Feb. 27, 2014)(“Wire Center Plan”) at 39 -42.

⁹ Wire Center Plan at 39.

¹⁰ Wire Center Plan at 43.

¹¹ AT&T Proposal at 14; Wire Center Plan at 43.

¹² Wire Center Plan at 41-42.

¹³ WireCenter Plan at 12.

emphasis on affordable broadband service in the two wire centers.¹⁴ The Commission states in its unanimously passed Order that:

We presume that any applicants in any experiment that we would authorize would continue to provide the same or better levels of Internet access regardless of the technology used. [cite omitted] Congress has tasked the Commission with encouraging the deployment of broadband on a reasonable and timely basis to all Americans. [cite omitted] As stated in the *USF/ICC Transformation Order*, “[a]ll Americans should have access to broadband that is capable of enabling the kinds of key applications that drive our efforts to achieve universal broadband, including education (e.g., distance/online learning), health care (e.g., remote health monitoring) and person-to-person communications (e.g., VoIP or online video chat with loved ones services overseas).”[cite omitted]. While technology transitions usually involve trade-offs, we do not believe reducing broadband access should be among the acceptable costs of network modernization.¹⁵

Broadband bundles can be unaffordable to low-income, fixed-income and cash-strapped households. Most of the customers in rural Carbon Hill, Alabama who want broadband will be offered Wireless Home Phone with Internet.¹⁶ In general, wireless data plans have data caps and pricing tiers that can limit the utility of the broadband service. Without an emphasis on affordable broadband, consumers who only get the Wireless Home Phone will be left out of the promise of improved lives from the “direct and spillover effects of the technology transition, including innovations that cannot even be imagined today.”¹⁷

III. Conclusion

AT&T has made clear its intent to seek permission to walk away from its universal service obligations effective day 1 of “Stage 1” of the trials.¹⁸ AT&T has not set forth a plan to transition to affordable, accessible voice AND broadband service. Universal service is a dynamic concept that adapts to the evolving changes in how use technologies to communicate with each other.¹⁹ The Commission recently modernized the High Cost program to maintain voice service while extending broadband-capable infrastructure to unserved and underserved areas in the country.²⁰ The Commission also adopted a broadband Lifeline pilot to gather data on how the Lifeline

¹⁴ Note the Commission has set out parameters for voice and broadband service, including speed, pricing and usage allowances with the Connect America Fund. *See* Report and Order, In the Matter of Connect America Fund, WC Docket No. 10-90, DA 13-2115 (rel.Oct.31, 2013).

¹⁵ Technology Transition Order at para. 56.

¹⁶ AT&T has no replacement products for 4 percent of Carbon, Hill customers.

¹⁷ Technology Transition Order at para. 2

¹⁸ Wire Center Plan at 39.

¹⁹ *See* 47 U.S.C. sect. 254(c)(1)(definition of universal services).

²⁰ *See* Connect America Fund et al, WC Docket No. 10-89 et al, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC 17663 (2011).

program could be structured to promote broadband adoption by low-income households.²¹ The federal Universal Services programs have been part of a larger fabric of universal services which included Eligible Telecommunications Carriers (ETCs) to help ensure the communications network served everyone. AT&T's pilots are a game book for how to walk away from the network compact. We respectfully urge the Commission to reject this current iteration of AT&T's Wire Center Trials and require AT&T to include a low-cost, basic broadband package available to all customers in both wire centers, especially the 4 percent left out of the Carbon Hill Plan.

Respectfully Submitted,

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²¹ See Public Notice, Wireline Competition Bureau Announces Application Procedures And Deadline For Applications To Participate In The Broadband Adoption Lifeline Pilot Program, WC Docket No. 11-4, DA 12-683 (rel. Apl.30, 2012).