BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of a Repository Case in Which to	)	
Gather Information About the Lifeline Program	)	File No.TW-2014-0012
And Evaluate the Purposes and Goals of the	)	
Missouri Universal Service Fund	)	

AT&T'S RESPONSES TO STAFF REQUEST FOR FEEDBACK

AT&T[1] respectfully submits the following responses to Missouri Public Service Staff's ("Staff's") January 10, 2014, request for feedback on several questions concerning the possible implementation of a Missouri Universal Service Fund ("USF") high-cost program:

STAFF QUESTIONS

1. Does Missouri need a state high-cost fund? If yes, please try to address the following questions in your response: a. Why is the federal high-cost program insufficient? b. How much state funding is needed? c. What consequences, if any, are anticipated if the Missouri Commission fails to establish a high-cost fund?

AT&T Response: It is premature to address this question. Sufficient information currently is not available to determine whether a need exists for the creation of a state high-cost fund. The FCC, through the Connect America Fund ("CAF") proceedings, which began with the November 18, 2011, release of the *USF/ICC Transformation Order*[2] (and continues today), has committed billions of dollars in federal resources to address broadband availability needs in high-cost areas that would likely lack a business case for private sector facility deployment. The FCC has since made, and continues to make, significant progress toward implementing the CAF support mechanisms, but work remains. In this regard, the specific amount of funds that will be awarded

[1] Southwestern Bell Telephone Company, d/b/a AT&T Missouri and its affiliates will be referred to in this pleading as "AT&T."
[2] *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order*), *pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. filed Dec. 18, 2011).

to specific carriers, in specific areas of specific states has not been determined at this time. While CAF Phase I, and Mobility Phase I funds have been awarded, work remains for the FCC on the development of the funding mechanisms before it can begin work on determining eligibility for distribution of the bulk of the CAF funds. The FCC's efforts in the CAF proceedings are generally summarized below. Until this work is completed, Missouri policy makers will have no way to know whether unmet needs continue to exist in the state.

The FCC CAF Proceeding. The *USF/ICC Transformation Order* comprehensively reformed and modernized the high-cost universal service and inter-carrier compensation systems to maintain voice service and extend broadband-capable infrastructure. There, the FCC adopted a framework for the new fund to provide support in the territories of price cap carriers and their rate-of-return affiliates based on a combination of a forward-looking cost model and competitive bidding.[3] Even then, the FCC recognized that developing a new cost model and bidding mechanism could be expected to take some time.[4]

CAF Phase I. The FCC provided for two phases of funding. To support the expansion of broadband-capable networks even as those funding mechanisms were being developed, the Commission established Connect America Phase I to transition support from the old high-cost support mechanisms for price cap carriers to the new Connect America Phase II mechanism. In Phase I, the FCC froze existing high-cost support for price cap carriers and provided up to $300 million of additional, incremental support in 2012 in order to advance deployment of broadband-capable infrastructure until Phase II could be implemented.[5]

Under the Commission's rules for the first round of Phase I, carriers that participated were required to deploy broadband-capable infrastructure within three years to a number of locations,

[3] *USF/ICC Transformation Order*, 26 FCC Rcd 17729-33, paras. 171-79.
[4] *Id.* at 17715, para. 132.
[5] *USF/ICC Transformation Order* at 17715-17, para. 133-38.

currently unserved by fixed, terrestrial Internet access with minimum speeds of 768 kbps downstream and 200 kbps upstream (768 kbps/200 kbps, *i.e.* only dial-up Internet access), equal to the amount of incremental support the carrier accepted divided by $775.[6] For the first round of Phase I incremental support, the $300 million available was allocated among price cap carriers using a formula to estimate wire center costs based on the prior high-cost proxy model.[7] Price cap carriers were required to declare how much of their allocated support they planned to accept and to identify the locations to which they would deploy broadband capable infrastructure in order to meet their deployment obligations.[8] Approximately $115 million was accepted.[9]

CAF Phase I, Round 2. The *USF/ICC Transformation Order* also specified that further rounds of Phase I incremental support would become available in subsequent years, as necessary, until Phase II is implemented.[10] In its *Round* 2 *Order*,[11] the FCC provided a maximum of $300 million for this second round of Phase I incremental support, to occur in 2013, using the same allocation system used in the first round of Phase I (although indicating that if the total demand of all carriers exceeds $300 million, it would authorize up to an additional $185 million in funding).[12] In doing so, the FCC also expanded eligibility for Phase I support to any location that lacks 3 Mbps/768 kbps Internet access (recognizing that carriers evaluate the economics of extending fiber to an area on a project-by-project basis, with each project potentially containing some customers lacking 768 kbps/200 kbps, some lacking 1.5 Mbps/768 kbps, and others lacking 3 Mbps/768

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[6] *Id.* at 17715, para. 133.
[7] *Id.*; *see also Wireline Competition Bureau Announces Support Amounts for Connect America Fund Phase One Incremental Support*, WC Docket Nos. 10-90, 05-337, Public Notice, 27 FCC Rcd 4203 (Wireline Comp. Bur. 2012) (*Phase I Support Announcement PN*).
[8] *Phase I Support Announcement PN*, 27 FCC Rcd at 4206, para. 10.
[9] Press Release, FCC, FCC Releases New, Interactive Map Illustrating States Set to Receive "Connect America Fund" Support to Bring 400,000 Americans High-Speed Broadband (July 26, 2012).
[10] *USF/ICC Transformation Order*, 26 FCC Rcd at 17722, para. 148.
[11] *Connect America Fund,* WC Docket No. 10-90, Report and Order, FCC 13-73,12 & n.30 (rel. May 22, *2013) (Round* 2 *Order).*
[12] *Round* 2 *Order,* paras. 9-11 (the additional $185 million in support would come from the unclaimed funds remaining from the first round of Phase I).

kbps).[13] The FCC also adopted a process to challenge the eligibility of particular census blocks, establish two different per-location support amounts based on the existing level of Internet access ($550 for homes with low-speed Internet access and $775, as in the first round, for homes with only dialup access), and make certain other rule changes to encourage participation and ensure accountability and oversight.[14] Carriers wishing to accept Phase I, Round 2 funding were required to make their elections in late August, 2013.

CAF Phase II. Through its *USF/ICC Transformation Order's* CAF Phase II proceeding, the FCC seeks to advance its goal of maintaining voice service and expanding broadband availability to millions of unserved Americans within the next five years (aiming to close this gap entirely within a decade). Explaining CAF Phase II, the FCC Wireline Competition Bureau, in a Report and Order released April 22, 2013, stated:

> Through Phase II, the Commission introduced targeted, efficient support for broadband-capable networks in these unserved rural areas as part of its efforts to close the rural-rural divide and direct funding to parts of rural America where it is most needed. Specifically, the Commission will provide support through "a combination of competitive bidding and a new forward-looking model of the cost of constructing modern multi-purpose networks." Using the cost model to "estimate the support necessary to serve areas where costs are above a specified benchmark, but below a second 'extremely high-cost' benchmark," the Commission will offer each price cap local exchange carrier (LEC) "a model-derived support amount [for a period of five years] in exchange for a commitment to serve all locations in its service territory in a state that, based on the model, fall within the high-cost range and are not served by an competing, unsubsidized provider."[15]

To effectuate this effort, the FCC delegated to the Wireline Competition Bureau "the task of selecting a specific engineering cost model and associated inputs that meet the criteria specified" by the FCC.[16] In its April 22, 2013, Report and Order, the Bureau indicated that it plans to adopt a model to estimate forward-looking costs in two separate orders: the first was the April 22, 2013,

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[13] *Id.* para. 15.
[14] *Id.* paras. 2, 22-25, and 28-33.
[15] *Connect America Fund; High-Cost Universal Service Support*, WC Docket Nos. **10-90**, 05-337, Report and Order, 28 FCC Rcd 5301 (Wireline Comp. Bur. 2013) ("*April 22, 2013 Wireline Comp. Bur. Order*") (brackets in original, internal citations omitted).
[16] *USF/ICC Transformation Order*, 26 FCC Rcd 17725, para. 157; *see also id.* at 17737, para. 192.

Report and Order primarily addressing the model platform (the basic framework for the model consisting of key assumptions about the design of the network and network engineering), and addressing certain framework issues relating to inputs.[17] The FCC has devoted considerable time and resources to the development of the cost model. At this point, the Bureau has released nine versions of the model and continues to refine it.[18]

The Bureau also indicated that it subsequently expects to adopt a second order addressing input values for the model (e.g., the monthly cost of network components such as fiber and electronics, plant mix, various capital cost parameters, and network operating expenses). It noted that together, the two orders should resolve the technical and engineering assumptions necessary for the CAM to estimate the cost of providing service at the census block and state level.[19] In addition, the Bureau stated that in order to determine the amount of support to be offered to specific price cap carriers, the Bureau will also need to address other issues, such as "where to set the upper and lower benchmarks, the number of locations that will be required to offer broadband service at speeds of at least 6 Mbps downstream/1.5 Mbps upstream, and the treatment of carriers serving areas outside the contiguous United States." The FCC took comments in 2013 regarding the identification of areas served by an unsubsidized competitor (and therefore, would be ineligible for CAF II support) as well as various issues relating to CAF II recipients' service obligations. The final CAF II rules (regarding obligations, unsubsidized competitor determinations, model, etc.), and therefore implementation, remain pending.

CAF support for rural ILEC Areas. Rural local exchange carrier ("RLEC") associations are advocating at the FCC for changes to the CAF rules applicable to RLECs. For example, RLEC

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[17] *April 22, 2013 Wireline Comp. Bur. Order*, 28 FCC Rcd 5303, para. 2.
[18] *See* Public Notice, Wireless Competition Bureau Announces Availability of Version 4.0 of the Connect America Fund Phase II Cost Model and Seeks Comment on Adopting Current Default Inputs in Final Version of Model (December 2, 2013).
[19] *April 22, 2013 Wireline Comp. Bur. Order*, 28 FCC Rcd 5306, para. 10.

associations (NTCA, WTA, USTA, NECA) have requested the FCC to consider the development of targeted programs to refine universal service support mechanisms in areas served by RLECs to facilitate consumer choice and stimulate adoption of broadband. In comments to the FCC, the RLECs filed proposed rules detailing how such targeted updates could aid the transition from current support mechanisms to a Connect America Fund ("CAF") for RLECs.[20] In a recent ex parte filing, the RLEC association proposed replacing the RLEC quantile regression analysis (QRA) adopted in the *USF/ICC Transformation Order* with a "Capital Budget Mechanism" (CBM) to support broadband capable networks and stimulate consumer broadband adoption. They also proposed making support available for stand-alone broadband sold without voice service, in accordance with the mechanisms described in the ex parte (today voice continues to be the sole supported service; ETCs must make broadband meeting the specifications identified by the FCC available as a condition for receipt of high-cost support).[21] At this point, it is not clear what impact these proposals would have on the federal high-cost support available to RLECs, nor the implications the proposals might have with respect to the need to establish a state high-cost fund in Missouri.

CAF Mobility Fund (mobile wireless voice and broadband) - In the *USF/ICC Transformation Order*, the FCC comprehensively reformed and modernized the high-cost component of the USF to help ensure the universal availability of fixed and mobile communication networks capable of providing voice and broadband services where people live, work, and travel. The reforms include a commitment to fiscal responsibility, accountability, and the use of market-based mechanisms, such as competitive bidding, to provide more targeted and efficient support than in the past. The FCC established a universal service support mechanism dedicated expressly

[20] *See* Comments of NTCA, *et al*., WC Docket No. 10-90 (filed June 17, 2013), at 1-10 and Attachment 1.
[21] The rural LEC associations' (i.e., NTCA, WTA, USTA, NECA) current CAF proposals are contained in the 11/26/2013 ex parte available through the following link: http://apps.fcc.gov/ecfs/document/view?id=7520959650

to mobile services – the Mobility Fund. Phase I of the fund will provide up to $300 million in one-time support to address gaps in mobile services availability by supporting the build-out of current- and next-generation mobile networks in areas where these networks are unavailable (the support offered under Phase I is in addition to any ongoing support provided under existing high-cost universal service program mechanisms).[22] The FCC completed the Mobility Fund Phase I Auction on September 27, 2012, with approximately $300M in one-time Phase I Mobility support awarded.[23]

Phase II of the Mobility Fund will provide $500 million annually for ongoing support of mobile services.[24] It is intended to expand and sustain mobile voice and broadband services in communities in which service would be unavailable absent federal support.[25] It contemplates a larger budget, payable annually over a multi-year term, to bring service to areas that cannot be sustained with one-time support.[26] In the FNPRM that was part of the *USF/ICC Transformation Order*, the FCC sought comment on the overall design for Phase II of the Mobility Fund.[27] The FCC received comments on these details in 2012 and 2013. The final rules remain under consideration by the FCC.

CAF Remote Areas Fund - Within Connect America, the FCC in the *USF/ICC Transformation Order* created a Remote Areas Fund with a budget of "at least $100 million annually" to ensure that even Americans living in the most remote areas of the nation, where the

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[22] Mobility Fund Phase I Auction Scheduled for September 27, 2012; Notice and Filing Requirements and Other Procedures for Auction 901, *Public Notice*, AU Docket No. 12-25, DA 12-641, 27 FCC Rcd 4725, paras.6 - 7 (May 2, 2012) ("*Auction 901 Procedures Public Notice*").
[23] Mobility Fund Phase I Auction Closes; Winning Bidders Announced for Auction 901, AU Docket No. 12-25, *Public Notice*, DA 12-1566, 27 FCC Rcd 12031 (2012) ("*Auction 901 Closing Public Notice*").
[24] *Auction 901 Procedures Public Notice,* para. 7.
[25] *USF-ICC Transformation Order*, 26 FCC Rcd at 17778–79, para. 314 (differentiating between the purposes of Phase I and Phase II). See also *Fourth Order on Reconsideration*, 27 FCC Rcd 8814 (2012) ("*Fourth Order on Reconsideration*"), para. 8.
[26] *USF-ICC Transformation Order* at 17824, paras. 493–94. In the Further Notice of Proposed Rulemaking ("FNPRM") portion of the *USF/ICC Transformation Order*, the Commission proposed a fixed term of support of 10 years. *Id.* at 18074, para. 1138.
[27] *USF/ICC Transformation Order*, 26 FCC Rcd at 18077–78, paras. 1157–60.

cost of providing terrestrial broadband service is extremely high, can obtain service.[28] In the accompanying *FNPRM*, the FCC sought comment on various issues relating to the Remote Areas Fund, including how to define the remote areas eligible for support from the Remote Areas Fund, qualifications for participating providers, the public interest obligations of these providers, as well as administrative issues.[29] Based on comments received in 2012 in response to the *FNPRM*, the Wireline Competition Bureau in January 2013 sought further comment on issues relating to the implementation of the Remote Areas Fund as a portable consumer subsidy program (specific issues included defining the areas where Remote Areas funding will be available, how to set the consumer subsidy, consumer eligibility, measures to keep the program within a defined annual budget, service provider participation, performance requirements, and accountability and oversight).[30] The Bureau received these comments in 2013. The final rules for the Remote Areas Fund remain under consideration.

E-Rate 2.0 initiatives. The FCC's E-Rate 2.0 initiative to provide high speed broadband to schools and libraries will have a secondary effect of also improving the business case for providing broadband to surrounding locations. In a NPRM released on July 23, 2013, the FCC has initiated a thorough review and update of the E-rate program (more formally known as the schools and libraries universal service support mechanism). During the past 15 years, the financial support provided by the E-rate program has helped revolutionize schools' and libraries' access to modern communications networks.[31] Among other things, the FCC in the NPRM has sought comment on ways to modernize and reform the E-rate program to better ensure eligible schools and libraries have affordable access to high-capacity broadband. In this regard, the FCC has proposed to focus E-rate funds on supporting high-capacity broadband to and within schools and libraries, and sought

[28] *Id.* at 17837-38, paras. 533-34.
[29] *Id.* at 18093- 107, paras. 1229- 90.
[30] Wireline Competition Bureau Seeks Further Comment on Issues Regarding the Design of the Remote Areas Fund, WC Docket No. 10-90, *Public Notice*, DA 13-69, (January 17, 2013).
[31] *See Modernizing the E-rate Program for Schools and Libraries,* WC Docket No. 13-184, Notice of Proposed Rulemaking, 28 FCC Rcd 11304, para. 1 (2013).

comment on updating the list of services eligible for E-rate support.[32] It has also sought comment on potential options to focus additional state, local, and federal funding on school connectivity and to lower the costs of new high-capacity broadband deployment to schools and libraries. Initial and reply comments were due by September 16, 2013 and October 16, 2013, respectively.[33]

2. What issues need to be addressed by the Missouri Commission in order to establish a high-cost fund?

AT&T Response: Sufficient information currently is not available to determine whether a need exists for the creation of a state high-cost fund. Until the federal CAF mechanisms are implemented and determinations are made concerning the CAF funding that will be made available, it is premature to be able to identify the issues the MoPSC might need to address in order to establish a state high-cost fund in Missouri. See AT&T's response to Question No. 1.

3. What service(s) should be supported?

AT&T Response: Sufficient information currently is not available to determine whether a need exists for the creation of a state high-cost fund. Until the federal CAF mechanisms are implemented and determinations are made concerning the CAF funding that will be made available, it is premature to be able to identify the services that should be supported by a state high-cost fund in Missouri. See AT&T's response to Question No. 1.

4. What type(s) of providers should be able to receive high-cost support? *(Should funding be limited to landline providers? Does a provider need to somehow own facilities? If so what type of facilities? Should wireless or broadband providers be able to draw support?)*

AT&T Response: Sufficient information currently is not available to determine whether a need exists for the creation of a state high-cost fund. Until the federal CAF mechanisms are implemented and determinations are made concerning the CAF funding that will be made available, it is premature to be able to identify the service providers that should be able to receive support from a state high-cost fund in Missouri. See AT&T's response to Question No. 1.

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[32] *Id*. para. 12.
[33] *Id*. para. 333.

5. How should high-cost fund disbursements be determined? *(For example, how will it be determined if an area or provider needs high-cost support and if so, how much?)*

AT&T Response: Sufficient information currently is not available to determine whether a need exists for the creation of a state high-cost fund. Until the federal CAF mechanisms are implemented and determinations are made concerning the CAF funding that will be made available, it is premature to be able to determine the disbursement method for state high-cost funds. See AT&T's response to Question No. 1.

6. What state(s), if any, have a state high-cost fund that Missouri should strive to mirror? Explain why.

AT&T Response: Sufficient information currently is not available to determine whether a need exists for the creation of a state high-cost fund. Until the federal CAF mechanisms are implemented and determinations are made concerning the CAF funding that will be made available, it is premature to identify another state on which to model or benchmark a state high-cost fund for Missouri. See AT&T's response to Question No. 1.

7. Should an attempt be made to limit the size of the fund? *(For instance should the fund's total annual disbursement amount be capped? Should the fund have a sunset provision or phase-out provision?)*

AT&T Response: Sufficient information currently is not available to determine whether a need exists for the creation of a state high-cost fund. Until the federal CAF mechanisms are implemented and determinations are made concerning the CAF funding that will be made available, it is premature to attempt to determine the size of a state high-cost fund in Missouri. See AT&T's response to Question No. 1.

8. What accountability requirements, if any, should be established to ensure a company is appropriately using state high-cost support?

AT&T Response: Sufficient information currently is not available to determine whether a need exists for the creation of a state high-cost fund. Until the federal CAF mechanisms are implemented and determinations are made concerning the CAF funding that will be made available, it is premature to establish accountability requirements to ensure appropriate use of state high-cost support. See AT&T's response to Question No. 1.

9. Is there a need to revise how the Missouri USF is funded to accommodate a high cost fund?

AT&T Response: Sufficient information currently is not available to determine whether a need exists for the creation of a state high-cost fund. Until the federal CAF mechanisms are implemented and determinations are made concerning the CAF funding that will be made available, it is premature to determine whether revisions need to be made in the method of funding the Missouri USF. See AT&T's response to Question No. 1.

10. What revisions, if any, are needed to Missouri statutes if the Missouri Commission intends to implement a high-cost fund?

AT&T Response: Sufficient information currently is not available to determine whether a need exists for the creation of a state high-cost fund. Until the federal CAF mechanisms are implemented and determinations are made concerning the CAF funding that will be made available, it is premature to identify specific statutory revisions that may be needed to implement a state high-cost fund in Missouri. See AT&T's response to Question No. 1. However, once the CAF mechanisms are in place and the necessary determinations made, it is likely that statutory changes would need to be made if the Commission were to embark on the creation of a high-cost fund. Moreover, the USF statute is over 15 years old and does not reflect the current state of technology, competition and services.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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