AT&T California's Comments on the Commission's Universal Service Public Policy Programs Workshop

I Introduction

AT&T welcomes the opportunity to participate in the upcoming proceeding under the leadership of Commissioner Chong, to update the operation of public policy programs, and ensure their continued viability and responsiveness to the needs of California consumers. In light of the tectonic shifts in the telecommunications marketplace in California and the relentless pace of change driven by technology and consumer preferences, the initiation of this proceeding is both timely and critical to safeguarding and promoting California's universal service goals.

California's Universal Service Public Policy Programs ("PPPs") have been generally successful in promoting the state's universal service goals. The Universal Lifeline Telecommunication Services ("ULTS") program, the Deaf and Disabled Telecommunication Program ("DDTP), and the California Teleconnect Fund ("CTF") were designed and administered to improve (a) the subscribership rate of basic service to all customer groups, (b) access to telecommunications for eligible deaf, hearing impaired or disabled consumers, and (c) access to advanced services for eligible schools, libraries, hospitals and community based organizations ("CBOs").[1]

Since the PPPs were initiated, telecommunications technology and the telecommunications market have changed drastically. The current PPPs, on the other hand, have remained relatively static since 1996, when the Commission adopted Decision 96-10-066. While the PPPs were appropriately designed to meet the needs of consumers in 1996, they have not been updated to reflect the new technologies and telecommunications markets that have emerged over the last several years. As a result, the PPPs are now in serious jeopardy of failing to accomplish the goals of universal service and offering continued access to modern, affordable, high quality telecommunications service.

The Commission's Staff Report aptly identifies concerns regarding the continued efficacy of the PPPs in light of the changing market environment for telecommunications services and agrees that a comprehensive review of the PPPs is necessary to ensure that the programs remain viable, transparent, technology neutral, well managed, and widely available. AT&T California agrees that the PPPs should be reviewed and, as appropriate, redesigned to optimize telecommunication access for California's eligible low-income households, ensure state-of-the-art telecommunications technology availability to the deaf and disabled community, and ensure access to needed telecommunications services by educational institutions, health care institutions, and CBOs.

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[1] While the Staff Report and the Commission's proposed procedural plans intend to address California High Cost Funds A and B separately, these PPPs are similarly designed to support the availability of telecommunications services in high-cost areas at affordable prices.

AT&T supports the Commission's initiation of an Order Instituting Rulemaking ("OIR") for the purpose of conducting a comprehensive review of the operations and funding of California's PPPs. AT&T further believes that such a review should lead to program modifications that will:

- Redesign the funding mechanism for all PPPs in order to ensure continued and adequate funding resources that will maintain the viability and effectiveness of the PPPs, while remaining cognizant of the important role of federal funding made available by the FCC's Universal Service Fund ("USF");

- Recognize the critical importance of designing incentives not only for consumer but also for service provider participation in the programs – this is especially important in light of jurisdictional constraints;

- Ensure ease and efficiency in program administration and participation so as to promote maximum participation by service providers – complexity and delay produce costs that are not absorbable in competitive markets; and

- Improve the existing structures of ULTS, DDTP and CTF to recognize rapidly expanding consumer choice.

These comments are designed to provide the Commission with AT&T's preliminary response to the issues identified in the Staff Report.[2]

II Guiding Principles

AT&T California urges the Commission to follow these guiding principles when drafting its OIR, conducting its comprehensive evaluation of the PPPs, and designing program modifications:

a. Conformity with the Commission's Objectives underlying its Uniform Regulatory Framework ("URF").

The Commission's comprehensive evaluation of the PPPs should be conducted in conformance with the objectives underlying the Commission's Uniform Regulatory Framework, which is currently being developed in OIR 05-04-005. Indeed, any revisions to the administration and/or management of the PPPs must be designed to achieve the same goals:

> Any regulatory framework adopted by the Commission should achieve several objectives. Most importantly, the adopted framework should ensure, to the extent practical, that every person and business in California has access to modern, affordable, and high quality telecommunications services. The adopted framework should also be competitively and technologically neutral. In addition, the adopted framework should

[2] See pages 29 - 36 of Staff Report.

encourage technological innovation, economic development, and employment in California.[3]

b. Consistency with FCC Rules and Requirements governing the Federal Universal Service Fund.

It is vital that any changes to the PPPs comport with the FCC's rules and requirements governing the federal USF. The USF provides a significant contribution toward meeting California's universal service needs. Any changes to the programs that risk non-compliance could result in the loss of millions of funding dollars. ULTS, alone, relies on over $300 million in annual support from the federal Lifeline/Link-Up programs.

AT&T also urges the Commission to consider a process whereby the administration of PPPs can be altered in a timely manner following any changes to the federal USF. Streamlined procedures that implement new FCC rules under the PPPs would ensure timely compliance with the USF so as to protect essential federal resources. Building in such flexibility is all the more important in light of the FCC's concurrent efforts to update federal USF parameters.

c. Implementation of a Funding Mechanism consistent with the FCC.

As the Staff Report recognizes, California's existing funding mechanism may not be viable in the face of emerging technologies and potential customer migration to new technologies that are not within state jurisdiction.[4] Funding-reform is essential for ensuring proper funding on a long term basis. This OIR is an appropriate forum for reviewing this pressing concern and designing funding reform. As such, AT&T urges the Commission to consider funding-reform as a priority when reviewing and modifying ULTS, DDTP and CTF.

The FCC is in the process of implementing funding-reform for USF. In adopting funding reform in California, the Commission must ensure continued compliance with all FCC rules. AT&T has proposed a plan to the FCC to broaden and stabilize the base of contributions to USF by replacing the current percentage charge with a simple monthly fee in the range of $1 per connection. This approach would require every company that offers telephone services using telephone numbers and connections, regardless of technology, to pay into the USF.

AT&T recommends that the Commission consider modifying its funding mechanisms for ULTS, CTF and DDTP to track AT&T's proposed USF funding reforms.[5] A numbers-based plan appears fairer to consumers and would serve to protect the Commission's funding resources.

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[3] See page 3 of OIR 05-04-005.
[4] See page 25 of Staff Report.
[5] Funding reform for California's High Cost Fund will also be reviewed in a separate OIR to be released shortly. AT&T recommends that the funding mechanisms for all five PPPs remain consistent.

d. Competitively and Technologically Neutral Administration of the PPPs.

Competitive and technological neutrality enables the competitive process itself to provide California's population and businesses access to modern, affordable, and high quality services. Establishing PPPs that are competitively and technologically neutral will also compel firms to bring that technology and competitive fervor to that portion of the consumers' market targeted by the PPPs.

The Commission has already recognized the necessity of competitive and technological parity in URF for encouraging the industry to advance technological innovation, economic development and employment. This essential principle must be incorporated into the redesign of the PPPs.

e. Voluntary Participation depends on a Hands-Off Approach.

It is clear that in order to meet the goals of universal service in today's market, the PPPs must offer greater access to innovative telecommunications services, including those that are not regulated by the Commission. The providers of non-regulated or lightly regulated services could play an important role in the PPPs' future. In order to ensure that these innovative services are part of the PPPs' future, the Commission must make clear that a provider's participation in the programs would not make the participant subject to the Commission's jurisdiction. Carriers and/or providers of these non-regulated or lightly-regulated services will simply have no incentive to offer their products under the PPPs if that comes with any threat of regulation.

f. Administrative Efficiency through the use of Third Party Administrators.

Any modifications to the PPPs must include improving administrative efficiencies. Currently, for example, programs such as CTF and CHCF-B burden service providers with unreasonable obstacles to reimbursement. Carriers participating in the programs wait months, sometimes years, for adequate reimbursement of discounts appropriately distributed to participants. Delays in fund disbursements (and sometimes unfounded disallowances of claims) serve as a serious disincentive for many providers considering participation in the PPPs.

The most obvious means by which such deficiencies can be improved is through the use of a third party administrator ("TPA"). With input from participating carriers, providers, and Telecom Division Staff, a TPA can devise efficient systems for verifying program-eligibility and disbursing appropriate payments that are consistent with the Commission's financial responsibilities. Providers will no longer be saddled with burdensome administrative procedures, claim processes, or lengthy delays in payment currently faced under the PPPs.

III AT&T's General Proposals

AT&T provides the following preliminary proposals for reviewing the PPPs and designing modifications that will expand access of innovative telecommunications services to PPP participants.

A. Jurisdiction.

Jurisdiction concerns permeate the critical issues of expanding consumers' options under the PPPs and access to innovative telecommunications services. AT&T California recommends that the Commission encourage voluntary participation by all service providers whether or not the Commission has jurisdiction over the provider and/or the particular services it provides. The Commission should institute a policy of limiting its authority over providers that participate in the PPPs to the extent necessary for administering the programs, i.e. fund collection and claim reimbursement, and make clear that those providers are not otherwise subjecting themselves to Commission jurisdiction by participating in any program.

B. Expanding Services available under ULTS.

ULTS currently offers discounts for "basic service." The Commission should consider expanding the telecommunications services available to ULTS participants beyond basic service. However, it is vital that any expansion of the program conform to the guidelines and framework of the federal Lifeline/Link-Up programs. Modifications should not risk the federal funds received currently or in the future.

Furthermore, it is critical that inclusion of non-regulated and/or lightly-regulated services or providers does not make those services or providers subject to the Commission's jurisdiction to regulate.

C. Funding Reform.

AT&T California proposes a funding mechanism similar to what it has proposed to the FCC as a USF funding mechanism, which is based on telephone numbers and connection capacity. This proposal is technology and services neutral and should enable the Commission to maintain the base of carrier support for contribution to the funds.

A per-connection assessment mechanism based on *working* telephone numbers would broaden the contribution base, providing desperately needed stability and predictability for consumers and carriers. Moreover, because all *working* telephone numbers would be identifiable and assessable, such a system would be transparent and technologically neutral as well as much simpler to administer and enforce than a revenue-based system.

Further, AT&T encourages the Commission to mirror the funding mechanism ultimately adopted by the FCC to ensure administrative and cost efficiency.

D. Adopting a Means Testing Criteria for DDTP.

Currently, DDTP offers participants limited equipment that often does not meet the needs of people with disabilities. DDTP must enhance its benefits by offering innovative equipment available in today's market, such as video relay services, wireless telephones and PDAs. DDTP should also implement marketing efforts to reach the population most in need of its services.

AT&T California believes that a first step towards revising the framework of DDTP to enhance its offerings is to incorporate a means-test criterion for accessible equipment eligibility. Targeting the distribution of services to those most in need, i.e. low income households, would allow DDTP to focus its budget on only those who cannot afford to buy adaptive technology. As a result, there will be more funds available to purchase better equipment and conduct marketing outreach to low income households.

E. Rebate System.

Currently, providers apply discounts to the bills of PPPs' participants.[6] The providers in turn seek reimbursement from the Commission. AT&T California believes that revamping the current system of discounts and reimbursements may offer participants greater access to innovative technologies in some programs.

AT&T recommends that the Commission consider, at least for some of the PPPs, providing rebates to participants, rather than discounts, that can be used to pay for the qualified services that meet their individual needs. This system could increase the choices available to customers by giving consumers access to products over which the Commission has no, or limited, jurisdiction. For example, for entities participating in CTF, such a rebate system would allow them to utilize the funds for payment of non-regulated services such as DSL. Moreover, this system could resolve the payment delays that have plagued the administration of CTF.

The use of a TPA may be ideal for such a rebate system where it would be responsible for certifying all participants and distributing funds under the guidance of the Commission. Any system adopted by the Commission must be administratively and cost efficient and all processes must be done electronically.

As the Commission evaluates the benefits of a rebate system for each program, it must be mindful of the need to stay within the federal USF rules in order not to jeopardize federal funding, as well as consider the impact of rebates on providers with carrier of last resort obligations.

F. Additional Modifications for Expanding Access to Telecommunications Services under the PPPs.

1. Cost Recovery

In order to encourage the widest number of providers to participate in the PPPs, the Commission must ensure that the providers' costs of administering the programs are reimbursed. Under ULTS, carriers are compensated for costs incurred from the administration of the program. Small telephone carriers can administer the program with as much ease as any other carrier.

[6] For DDTP, participants receive equipment benefits directly from the Commission's agent.

AT&T believes that cost recovery system of ULTS should be maintained in order to encourage an effective program that serves as many customers as possible. Moreover, AT&T recommends that the same cost recovery system be implemented for all PPPs.

2. Reporting Requirements

Instituting additional reporting requirements for participating providers will serve as a disincentive for participation. The additional costs of administering such reports will certainly reduce any advantages to participation. More importantly, increasing reporting requirements would be perceived as unacceptable regulatory oversight by non-regulated or lightly-regulated providers. Alternatively, the Commission could rely on the TPA to track information and to produce various reports, consistent with the PPPs that they are supporting.

G. ULTS' Discount Amounts, which are based on AT&T Tariffed Rates for Basic Service, must be Modified.

Section 874 of the Public Utilities Code requires that, "the lifeline service rates shall be not more than 50 percent of the rates for basic flat rate service" or, where measured service is available, the subscriber may elect a lifeline telephone rate of "not more than 50 percent of the basic rate for measured service." The Commission has implemented this requirement in General Order 153 by setting the rate paid by the ULTS customer for lifeline service at the lesser of one-half the utility's tariffed rate that the customer would otherwise pay, or one-half of AT&T's tariffed rate.

Consistent with adopting principles of competitive and technological neutrality and the ultimate transition to market-based pricing for communications services, AT&T recommends that the Commission consider revising its implementation of Section 874 by eliminating AT&T's tariffed rates as the basis for ULTS rates.

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