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***Via Web Portal***

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Executive Director and Secretary  
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**Re: Docket UT-190437**

Enclosed for filing are the Comments to the Notice of Opportunity to File Written Comments by AT&T Corp., Teleport Communications America, LLC and New Cingular Wireless PCS, LLC (collectively "AT&T") in the above-mentioned docket.

Sincerely,

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Cynthia Manheim  
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**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

Rulemaking to consider amending and        )  
adopting rules in WAC 480-123,                ) **Docket UT-190437**  
universal service, to implement legislation )  
amending and extending the state            )  
universal communications service            )  
program,    )

**COMMENTS OF AT&T**

AT&T Corp., Teleport Communications America, LLC and New Cingular Wireless PCS, LLC (collectively “AT&T”) respectfully submit these comments in response to the Washington Utilities and Transportation Commission (“Commission”) Notice of Opportunity to File Written Comments issued on August 9, 2019 (“Notice”). The Commission seeks comments from interested persons on the scope and nature of the rules the Commission must adopt in compliance with SSSB 5511 (Broadband Bill). AT&T provides responses to some of the questions asked by the Commission and looks forward to participating in this docket.

*1. Broadband Bill Section 11(1) (c) defines “Broadband service” as “any service providing advanced telecommunications capability, including internet access and access to high quality voice, data, graphics, or video.” This definition does not include a minimum speed. However, Section 18 requires the Commission to set support amounts for maintaining systems that meet federal or state broadband speed guidelines (25/3 Mbps). Should the definition of broadband service in the rule include a specific speed or should it allow flexibility to accommodate future changes to the definition of advanced telecommunications?*

**Response:** To ensure that entities petitioning the Commission for program support know and understand the program requirements, the definition of broadband service should include a specified speed. Given the direction taken by the FCC, it is reasonable for the state program to focus on funding recipients that offer retail fixed internet of at least 25 Mbps download/3Mbps upload (25/3 Mbps). This speed provides more than enough bandwidth for the typical American household with three users or devices to *simultaneously* browse the web, use social media applications, make a voice call, listen to the radio and stream high definition video.<sup>1</sup> Providers should only be required to provide a minimum broadband speed of 25/3 Mbps to retail end users for those areas that receive Washington universal service fund program support.

2. *Section 12(1) of the Broadband Bill states that the purpose of the program is to “support continued provision of basic telecommunications services under rates, terms and conditions established by the commission and the provision, enhancement, and maintenance of broadband services.”*

a) *Should the Commission interpret “provision” in the context of broadband, to include deployment of broadband where it currently does not exist?*

b) *Should the Commission interpret “enhancement” in the context of broadband to mean improvement of the reliability or speed of a current internet connection?*

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<sup>1</sup> See <https://www.fcc.gov/reports-research/guides/broadband-speed-guide> (last viewed September 9, 2019).

c) *Should the Commission interpret “maintenance” in the context of broadband to mean ongoing repair and expenses related to offering broadband services as currently being provided?*

**Response:**

- a) The Commission should interpret “provision” in the context of broadband to include deployment of broadband service where it currently does not exist or is anticipated, and compliments, but does not duplicate, the funding for broadband service deployment providers are receiving from other state and federal funds.
- b) The Commission should interpret “enhancement” to mean the improvement of retail broadband service speeds. Recognizing that available support dollars are limited, funding should first be prioritized to those retail customers that lack access to broadband service and then to those that do not have broadband service with speeds of at least 10/1 Mbps, as these locations have the least functionality from broadband service and thus have the most urgent broadband service needs. The Commission should further require funding recipients to offer broadband service speeds of 25/3 Mbps, but not faster, as the supported service, recognizing that there is generally a financial tradeoff between the broadband service speed available and the number of new locations that can obtain broadband service.
- c) The Commission should allow expenses related to the ongoing offering of broadband service. Allowing program support to be used for operating expenses provides for a fund that is more technologically neutral which should be a goal of the Commission. Wired network deployment costs are predominantly capital expenses; whereas, fixed wireless providers experience a greater proportion of

network costs as operating expenses (e.g., backhaul from the cell site purchased from other facility-based providers along with cell site and real property leases). Because fixed wireless broadband service often allows robust retail broadband service at a cost per location that is less than wired technologies, state programs should not disadvantage wireless relative to wired technologies in competing for funding. The overall goal of any broadband funding program should be to maximize the number of locations that can be served with limited program dollars.

3. *On August 1, 2019, the Federal Communications Commission (FCC) conducted an Open Meeting in which it considered a Report and Order that establishes Digital Opportunity Data Collection. Under that Order, geospatial broadband coverage data will be collected from fixed providers and will ultimately be used in a two-phase reverse auction that will target \$20.4 billion to bring high-speed broadband to unserved areas (those lacking 25 megabits per second down and 3 megabits per second up, or 25/3 Mbps). Should the Commission rules be structured to include new data, ideas, or concepts identified through this, or other, data collection processes? If so, how?*

**Response:** AT&T supports the objective of the FCC's Digital Opportunity Data Collection/Form 477 Data Program Modernization rulemaking proceeding, which is to improve the accuracy of broadband deployment data reporting, and ultimately use that data to effectively target federal and state funding dollars to areas that lack broadband. AT&T recommends that Washington structure its program rules so that it can incorporate the improved federal broadband deployment data into its program funding decisions, once these changes are adopted and the new data is collected by the FCC. In the interim, Washington

should use the current FCC Form 477 broadband deployment data in making its state funding program decisions.

4. *Under the current rules, a company's rate of return and return on equity are analyzed (among other factors) to determine if a company is eligible to receive support from the fund. Should this continue to be a factor in determining eligibility? What other information should be a factor in the Commission's determination of provider eligibility?*

**Response:** In general, the Commission must ensure that providers are not receiving duplicative support from other state and federal funding sources for broadband service for the same network facilities and services in the same geographic areas. Further, the Commission should not allow providers to over-recover funding for deploying broadband service to retail end-users.

5. *The Broadband Bill requires a company seeking support to adopt a plan to provide, enhance, or maintain broadband services in its service area. Please comment on Commission Staff's preliminary recommendation that the broadband plan should include, at a minimum, the information listed below:*

- *A five-year investment plan;*
- *Locations where, using geospatial coverage data, the company proposes to undertake or is currently undertaking specific work to provide, enhance, or maintain broadband services at speeds that meet state or federal requirements;*
- *High-quality fixed broadband coverage polygons depicting the areas where the company has a broadband-capable network and makes fixed broadband*

*service available to end-user locations. The plan must include the maximum download and upload speeds actually made available in each area and the technology used to provide the service. The plan also should differentiate between residential-only, business-only, or residential and business broadband services. The company must submit a broadband coverage polygon for each combination of download speed, upload speed, and technology.*

- *The company's Form 477 Subscription Data at the census tract level. Data should be provided in the same form as it is provided to the FCC.*

**Response:** AT&T does not have any comments at this time.

6. *Once location-specific data are available, a portion of program support could be distributed based on a company's ability to deploy to locations where the company does not provide 25/3 Mbps broadband service.*

a) *What portion of program support, if any, should the Commission direct solely at deploying 25/3 Mbps broadband service?*

b) *Should the Commission focus support on areas that are either "unserved" or "underserved"?*

- *Should "underserved" be defined in this context as a location with an available speed less than 25/3 Mbps (or another speed, as determined by the Commission), but faster than 10/1 Mbps (or another speed, as determined by the Commission)?*

- *Should “unserved” in this context be defined as a location with an available speed equal to or less than 10/1 Mbps (or another speed, as determined by the Commission)?*

**Response:** In awarding program support for broadband service, the Commission should prioritize funding for service to end users with the least amount of broadband service speed from their current connection – areas that lack at least broadband service and then those with a speed of less than 10/1 Mbps; this corresponds to the “unserved” areas described in the question. Further, to ensure that the program provides meaningful broadband service to the most locations, we recommend that 25/3 Mbps retail broadband service be the supported service for the program. This recognizes that there is generally a financial tradeoff between the speed and the number of locations served by broadband service.

7. *Broadband Bill, Section 12(3)(b) enables companies other than incumbent local exchange carriers (ILECs) to receive support from the fund under specified circumstances. What data/information should the Commission require of a non-ILEC communication provider to demonstrate that it is able to provide the same or comparable services at the same or similar service at a lower price than the existing ILEC?*

a) *How quickly should the Commission require a non-ILEC company to provide the applicable service?*

b) *Should the Commission enable a company to “submit” to Commission regulation of its service as if it were an ILEC?*

c) *How should the Commission regulate applicable service provided by a non-ILEC?*



**Response:** The Commission should not require a non-ILEC to submit to the Commission's general jurisdiction to receive support from the state program. Instead, to allow providers to decide whether to petition the Commission for support from the program, the Commission should specify in advance the eligible geographic areas and all service and technical obligations that program recipients are required to satisfy, including the retail broadband speed required, the provider's term of service (years), any monthly usage allowance and pricing requirements, and any reporting requirements. The recipients of program funds must voluntarily agree to abide by the stated requirements in order to receive a distribution from the state program.

The Commission should allow a reasonable period of time for the non-ILEC company to deploy the network facilities needed to provide the retail broadband service. The Commission may want to specify that the funding recipient's obligation to offer retail broadband service to end users begins a specific period of time after the applicant receives the applicable permits to buildout the required broadband infrastructure which should take into account timeframes required for licensing and permitting.

8. *The current distribution amount a company receives is the sum of the amount a provider received in 2012 from the former traditional Universal Service Fund established in Docket U-85-23, et al. and the cumulative reduction in support from the FCC's Connect America Fund. Should these two historical components continue to be used in calculating the future distribution amount an eligible company receives?*

**Response:** In general, the Commission must ensure that providers are not receiving duplicative support and/or revenues from the state program or receiving funding from other

state or federal programs for the same network/facilities in the same geographical area funded by the state program. The Commission should not allow any provider to over-recover for providing broadband services.

9. *Should the distribution criteria have a multi-pronged approach? That is, should there be two components: one for maintaining broadband and another for deployment of broadband to new locations? If so, should there be a transitional period?*

**Response:** Any support provided from the state program should be coordinated with and directed in a manner that compliments the federal Connect America Fund along with other state and federal broadband programs for broadband service.

10. *What build-out requirements should the Commission adopt? How should build-out requirements be established? Because companies will be receiving additional funding, should companies have build-out requirements above and beyond their current federal build-out requirements? Should build-out requirements be uniform or company specific?*

**Response:** AT&T does not have any comments at this time.

11. *WAC 480-123-110 outlines the information that must be included in a company's petition. Should the Commission revise that rule to modify the requirement to provide any of that information? If so, what information should the Commission remove or add, and why?*

**Response:** AT&T does not have any comments at this time.

12. WAC 480-123-130 outlines a provider's reporting requirements. Should the Commission revise this rule to modify any of these requirements? If so, which requirements should the Commission remove or add, and why?

**Response:** AT&T does not have any comments at this time.

13. Available data on broadband deployment are currently limited to what companies report on the FCC's Form 477 data. Should the Commission require this data set to be expanded to include other information that the FCC or other third parties have, or will have in the future? If not, why not?

**Response:** See response to question number 3.

14. Should the Commission require companies to provide geocoded data as part of their compliance report to show how and where they propose to invest to enhance, maintain, or provide broadband services? If not, why not? Should the Commission require companies to provide any additional or other information to enable the Commission and the legislature to understand how companies are using program support?

**Response:** AT&T does not have any comments at this time.

15. Once a company receives program support, should the Commission require the company to continue voice and broadband reporting throughout the program's operation, even if the company does not receive support in subsequent years, to ensure the Commission can timely identify served, unserved, and underserved locations.

**Response:** The Commission should identify any and all obligations prior to accepting petitions for program support, including a reasonable time period during which

reporting requirements would apply. This will allow the provider to make a rational determination as to whether to seek funding from the program.

16. *The Advisory Board constituted under the current rules includes representatives from different types of stakeholders, including, but not limited to communications providers and consumers. What other stakeholders should serve on the Board under revised rules?*

**Response:** The Commission may want to consider stakeholders from the broadband industry. In addition, the Commission should add someone from the governor's statewide broadband office.

AT&T appreciates the opportunity to comment and participate further in this docket.

Submitted this 9th day of September, 2019



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