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Subject: Comments of AT&T Services, Inc.
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Attached please find the Comments of AT&T Services, Inc. in response to the Broadband Opportunity Council Notice and Request for Comment, published on April 29, 2015.

Please do not hesitate to contact me with any questions regarding the attachment.

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**DEPARTMENT OF AGRICULTURE
Rural Utilities Service
DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration**

**Broadband Opportunity Council Notice
and Request for Comment**

**Docket No. 1540414365–5365–01
RIN 0660–XC019**

COMMENTS OF AT&T SERVICES, INC.

INTRODUCTION AND SUMMARY

AT&T respectfully submits these comments in response to the Broadband Opportunity Council’s (“BBOC”) Request for Comments released on April 29, 2015, and in support of the BBOC’s objective of identifying regulatory barriers unduly impeding broadband deployment, adoption, or competition.

The *Presidential Memorandum* that established the BBOC to coordinate the work of federal agencies in furthering the national goal of expanding broadband deployment and adoption clearly identified the keys to achieving that important objective. Specifically, the *Presidential Memorandum* describes the Federal Government’s role in promoting the deployment and adoption of high speed Internet as including “*breaking down regulatory barriers, and encouraging further investment.*”¹ Neither the linkage of those two goals, nor their sequence, is an accident. Heavy-handed, uncoordinated and obsolete regulations at all levels of government directly and adversely affect private investment in broadband networks. Identifying and dismantling those regulatory obstacles is thus a critical step in encouraging companies to risk the substantial capital necessary to expand access to high speed Internet services to all

¹ Presidential Memorandum – Expanding Broadband Deployment and Adoption by Addressing Regulatory Barriers and Encouraging Investment and Training, March 23, 2015 (“*Presidential Memorandum*”) (emphasis added).

Americans, including those in rural and underserved areas. To that end, the *Presidential Memorandum* makes it the policy of all federal agencies to, first and foremost, “identify and address regulatory barriers that may unduly impede either wired broadband deployment or the infrastructure to augment wireless broadband deployment.”²

The marketplace evidence vividly illustrates the importance of this policy objective and its impact on private investment in broadband networks. Efforts by private providers to build fiber networks capable of delivering high speed Internet services to consumers historically have been hamstrung by inefficient permitting and licensing processes, delayed access to rights of way, and uneconomic ubiquitous build-out and service requirements. Recently, however, that paradigm has begun to change. Google Fiber, for example, has made clear that government cooperation – through, among other steps, expediting permitting processes, providing better access to government-owned rights of way, and allowing Google to geographically target its build-out to “fiberhoods” that have demonstrated sufficient demand for service to support the necessary investment – is a key determinant in its decision to offer high speed fiber-based broadband service in a particular city. As one Google executive emphasized in a speech earlier this year, “If you make it easy, we will come.”³

As AT&T and other providers who have long experience with the substantial costs of building and running next generation broadband networks know all too well, there is nothing truly easy about that process. Nevertheless, the steps certain municipalities in fact have taken to make it “easy” for Google Fiber have also essentially established a template for lowering existing regulatory barriers in other jurisdictions. That template, in turn, has allowed other

² *Id.*

³ Jeff John Roberts, “Want Fiber? Do more to get it, Google exec tells cities,” Gigaom, Feb. 24, 2015, *available at* <https://gigaom.com/2015/02/24/want-fiber-do-more-to-get-it-google-exec-tells-cities/>

providers to accelerate and broaden their plans for deploying the infrastructure necessary to provide high speed Internet service.

This has certainly been true for AT&T. For example, encouraged by the recognition of government officials that policies that eliminate unnecessary regulation, lower costs and speed infrastructure deployment can be a meaningful catalyst to additional investment in advanced networks, AT&T in 2014 reached agreement with the North Carolina Next Generation Network (“NCNGN”) to deploy its 1 gigabit service within six municipalities and four leading research universities in the Research Triangle and Piedmont regions,⁴ and then subsequently announced a major initiative to expand its ultra-fast fiber network to up to 100 candidate cities and municipalities nationwide.⁵

The lesson here is clear: farsighted regulatory policies, and specifically those that work to relieve existing regulatory barriers, have a direct and positive effect on providers’ incentives to undertake the massive private investment necessary to deploy next generation networks. And the winners in this process are just as clear: consumers, who not only benefit from the enhanced and expanded availability of competitive alternatives for high speed Internet services, but also from the economic growth, expanded tax base, and increased employment opportunities that flow from the investment in advanced networks.

The BBOC thus should ensure that, in implementing the President’s policy, the federal agencies that comprise the Council focus on adopting initiatives that in fact reduce regulatory

⁴ “U-verse® with AT&T GigaPower(SM) Launches Today in parts of the Research Triangle and Winston-Salem”, available at <http://www.prnewswire.com/news-releases/u-verse-with-att-gigapowersm-launches-today-in-parts-of-the-research-triangle-and-winston-salem-300005791.html>.

⁵ “AT&T Eyes 100 U.S. Cities and Municipalities for its Ultra-Fast Fiber Network,” Press Release, April 21, 2014, available at http://about.att.com/story/att_eyes_100_u_s_cities_and_municipalities_for_its_ultra_fast_fiber_network.html#sthash.eEoHBH1n.dpuf.

burdens and incentivize private investment in broadband networks. To that end, AT&T has identified several actions that the BBOC and its component agencies can undertake immediately to facilitate broadband deployment and adoption, to the ultimate benefit of consumers.

First, the BBOC and its component agencies should take steps to coordinate and streamline the processes for applying and obtaining approval for siting wireless infrastructure, such as antennae and towers, on federal properties. This includes expediting the effort currently pending before the GSA to develop common forms and fee schedules, master contracts, and uniform processes for deploying broadband facilities on Federal lands, buildings, rights-of-way, Federally-assisted highways, and Tribal lands. It also would entail having federal agencies, such as the Department of Defense and its components, the Bureau of Land Management, the U.S. Forest Service, the U.S. Fish and Wildlife Service, and the National Park Service, that currently apply their own individual review processes to tower siting applications to adopt a common set of procedures and fee schedules and to ensure that those processes are applied consistently and expeditiously at individual military bases and other federal properties.

Second, the BBOC should endorse a set of “best practices” that will help communities both attract providers that are interested in deploying advanced networks and expedite the activities necessary to make access to high speed Internet services a reality. That model should include such steps as establishing a single point of contact within the local government to address issues that may arise during construction, ensuring neutral and nondiscriminatory treatment on all terms and conditions, including access to city rights of way and easements and fee waivers, and providing diligent and expeditious review of permit requests and rapid turnaround on key municipal-controlled construction activities.

Third, just as federal agencies were critical anchor tenants of the Internet, the agencies that comprise the BBOC must take a hard look at their practices *as customers* of broadband services to facilitate the transition to next generation, Internet Protocol-based networks. It has been AT&T's experience that many federal agencies simply have not taken the necessary steps to prepare themselves for the effect that the inevitable retirement of increasingly obsolescent circuit-switched, copper-based networks and facilities and their related services will have on their missions and requirements. This failure not only deprives these agencies and their clients of the benefits inherent in the enhanced capabilities of all-IP networks, it adversely affects broadband customers more generally, as broadband providers must divert capital they otherwise would invest in deploying modern IP networks to maintain outdated and far less capable equipment and facilities. Rather than slowing the transition by clinging to familiar, but obsolete, technology, federal agencies – as large purchasers of services – could be a positive force for driving network modernization. In short, federal agencies must devote the contracting resources necessary to accelerate their readiness for the IP transition, because those efforts will directly accelerate the benefits of broadband deployment to consumers generally.

A final note of caution is in order. At the same time that the BBOC and its component agencies are engaging in the salutary effort to identify and eliminate regulatory barriers to the deployment and adoption of broadband networks and services, they must be alert to taking any steps that would interfere with work already being undertaken by other agencies directed towards the same goals, such as the universal service support and broadband adoption programs being implemented by the Federal Communications Commission.⁶ Instead, the BBOC and its component agencies should coordinate their activities with the work of the independent agencies

⁶ See, e.g., *Connect America Fund et al.*; WC Docket Nos. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (“*USF/ICC Transformation Order*”) *aff’d sub nom.*, *In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014).

to leverage the reforms those entities are undertaking to promote deployment and adoption of broadband services.

DISCUSSION

I. FEDERAL AGENCIES SHOULD COORDINATE AND STREAMLINE THEIR PROCESSES TO EXPEDITE WIRELESS FACILITY SITING APPLICATIONS ON FEDERAL LANDS AND FACILITIES.

There is no better candidate for implementing the *Presidential Memorandum* than reforming the disjointed and inefficient processes that the various federal agencies themselves employ in addressing wireless carrier applications to emplace antenna and other critical infrastructure on federal lands and facilities. The unnecessary and prolonged delays in the current processes not only deprive the agencies and their employees of wireless broadband service, they adversely affect other consumers – such as family members living on military bases, tourists in national parks, and clients, contractors and customers of the federal facility – who would benefit from the expanded deployment of wireless broadband service. This is especially true in rural or remote areas with fewer broadband options.

To be sure, several agencies already are taking steps to address these issues. For example, GSA currently is considering proposals for developing common forms and fee schedules, master contracts, and uniform processes for deploying broadband facilities on Federal lands, buildings, rights-of-way, Federally-assisted highways, and Tribal lands. The BBOC should expedite that process. But the fact that all component agencies are now subject to a common policy of reducing regulatory barriers to broadband deployment also presents the BBOC with the opportunity of establishing a set of “best practices” for those

agencies to employ in order to expeditiously resolve wireless infrastructure siting applications. Those practices include the following points:

- **All Federal Agencies should use a common application form.** Consistent with the requirements of Section 6409(b)(2) of the Middle Class Tax Relief and Job Creation Act of 2012,⁷ the application currently being developed by GSA for wireless siting requests should be used by all executive agencies, not just for facilities controlled by the GSA.
- **Establish common timelines for responding to applications.** Agencies should be required to process and respond to each wireless siting application within a specified time period. PCIA has suggested a period of no more than 60 days from an agency's receipt of an application. Agencies also should be required to notify carriers of the need to amend or supplement applications that are found to be incomplete within 10 days of receipt. The BBOC also should prohibit any agency – and for that matter, individual facilities and bases – from imposing a moratorium on accepting wireless siting applications.
- **Wireless siting applications should be presumed to be consistent with each agency's mission and property use.** Wireless carrier applications should be approved unless they are determined, on the basis of all relevant evidence, to be in direct and serious conflict with an agency's mission. The existence of other carriers' wireless facilities at the application site provides a strong presumption that similar installations are consistent with the agency's mission and use of its

⁷ Public Law 112–96, Feb. 22, 2012, §6409(b)(2) (“(2) APPLICATION.—The Administrator of General Services shall develop a common form for applications for easements and rights-of-way under paragraph (1) for all executive agencies that shall be used by applicants with respect to the buildings or other property of each such agency.”). Under §6409(b)(2), the Administrator of the GSA also is charged with developing a master contract for all federal agencies to use for wireless equipment siting.

property. If an application is rejected, the agency should be required to provide that decision in writing, including all factual, policy and legal grounds for rejection, and provide a point of contact for escalation.

- **Wireless applicants should be permitted to opt into the rates, terms and conditions applicable to other carriers already located at the federal property.** Once a federal property is opened for any wireless carrier, or wireless infrastructure provider, *i.e.* tower company, then the property must be open to any and all other carriers or tower companies, without delay, on a non-discriminatory basis.
- **Typical federal procurement bidding requirements should not be misapplied.** Unlike a typical federal procurement, where the objective usually is to identify one winning bidder, the objective in this process is to maximize the number of competitive broadband providers on a facility. That brings the benefits of competition and offers service to a broader range of customers on the installation. Accordingly, the BBOC should clarify that a wireless facilities siting application does not trigger or require a Request For Proposal or Information, or any other type of competitive bidding procedure that might otherwise apply to a federal procurement. Instead, once an application is received by an agency, the agency should provide online notice of the application at FedBizOpps.gov within 30 days of receipt of the application. This online BizOps notice should be deemed to satisfy the competitive procedures requirement in 10 USC §2667(h).
- **Executive Agencies May Utilize Easements or Leases With 25 Year Terms for Wireless Siting Requests.** Executive agencies should be notified that leases

are not required for wireless installations, but that easements are an acceptable legal transaction for the placement of wireless facilities on federal property.

Agencies should be notified that it is in the public interest for applications to lead to leases or, preferably, easements with terms as long as 25 years.

- **Agencies should use online mechanisms to track applications.** Each executive agency should employ an online application tracking mechanism so that both the Agency and Wireless Carrier Applicants can efficiently track the progress and status of an application request.

II. THE BBOC SHOULD ADOPT A SET OF BEST PRACTICES FOR MUNICIPALITIES TO EMPLOY IN ORDER TO ENCOURAGE PRIVATE INVESTMENT IN ADVANCED NETWORKS.

As was described above, the ability of providers like AT&T to undertake the investment necessary to aggressively deploy the fiber facilities that support high speed Internet service is directly and positively influenced by steps taken by municipal governments to eliminate legacy regulatory barriers. Cities and municipalities such as the communities that make up North Carolina's Research Triangle already have recognized that policies that eliminate unnecessary regulation and speed infrastructure deployment result in concrete benefits to their citizens. The BBOC should take the opportunity to develop lessons learned from these successes that other communities nationwide can adopt to help make themselves "broadband ready."⁸ Based on AT&T's experience these best practices would include the following:

- **Neutral and Nondiscriminatory Treatment.** The municipality must ensure that all benefits, terms and conditions applicable to one provider's deployment of

⁸ See *Notice and Request for Comments*, III.A.1 ("How can the federal government promote best practices in broadband deployment and adoption?").

advanced network facilities will be no less favorable than those available to other current, or future, network-based broadband providers.

- **Coordination and Advocacy.** A cooperative and transparent working relationship between the municipal government and the broadband provider is essential throughout the planning and construction process. To that end, the municipality should designate one person within the government to facilitate the network deployment and to step in expeditiously to resolve problems that may arise. The municipality can also contribute to the success of the deployment by participating with the provider in educational outreach to the public regarding the build-out of the network itself and the availability of broadband services over it.
- **Facilitating the Infrastructure Build Out.** Obviously, the municipality's ultimate objective is a successful and timely build-out of an advanced broadband network. Accordingly, the municipality must be prepared to provide expeditious turn-around on key network construction activities that will pave the way for delivering high speed Internet services to the community. Updating processes applicable to both pre- and post-construction is critical. This should include:
 - Providing non-discriminatory access, including terms, conditions and rates, to municipal rights-of-way/utility easements, infrastructure, poles, and other physical assets, including city-owned river/bridge crossings.
 - Diligent and expeditious review of permit requests, with no greater than a seven calendar day turnaround.
 - Timely and expeditious inspection and approval of construction sites and structures, including electrical inspections.

- Use of electronic transmittal and signatures for all documentation, including permit requests, inspections and related approvals.

In addition, there may be certain city-specific issues that will need to be addressed and resolved, such as requirements for approval at City Council level or higher.

III. THE FEDERAL AGENCIES MUST TAKE IMMEDIATE STEPS AS CUSTOMERS OF BROADBAND SERVICES TO PREPARE FOR AND FACILITATE THE TRANSITION TO NEXT GENERATION NETWORKS.

The Federal Communications Commission recognized in the *National Broadband Plan* that “the convergence of all communications around IP-based networks and the innovative services those networks support” will bring “extraordinary opportunities to improve American life and benefit consumers”⁹ Indeed, for more than a decade the FCC has viewed encouraging ubiquitous deployment of next generation broadband infrastructure as one of its central missions under the 1996 Act.¹⁰ To further this mission, FCC has set an “express goal” of facilitating the transition from traditional, TDM-based networks to all-IP networks and services,¹¹ and the Commission’s Technology Advisory Council has recommended that the TDM-based PSTN be retired by 2018.¹²

⁹ FCC, *Connecting America: The National Broadband Plan*, at 59 (2010) (“*National Broadband Plan*”).

¹⁰ See Notice of Proposed Rulemaking, Order and Notice of Inquiry, *Numbering Policies for Modern Communications et al.*, FCC 13-51, ¶ 54 (rel. Apr. 18, 2013) (“*2013 Numbering NPRM*”).

¹¹ See Report and Order and Further Notice of Proposed Rulemaking, *Connect America Fund et al.*, 26 FCC Rcd 17663, 17926 ¶ 783 (2011) (“*USF/ICC Transformation Order*”) (vowing to “facilitate the transition” away from the TDM-based network and toward the all-IP network of the future); *id.* at ¶ 1335; *2013 Numbering NPRM* at ¶ 54 (“The Commission has already set its goal to ‘facilitate the transition to an all-IP network . . .’”).

¹² See Technology Advisory Council, *Status of Recommendations*, at 11, 15-16 (June 29, 2011), <http://transition.fcc.gov/oet/tac/TACJune2011mtgfullpresentation.pdf>.

The transition from TDM-to-IP based services in fact is irreversibly under way and proceeding apace, spurred by strong consumer demand for mobile and IP services. This migration is not only an identified public policy priority of the Obama Administration, but from a technology standpoint it is inevitable. Indeed, manufacturers have stopped making TDM equipment, spare parts are increasingly difficult to source, and the workforce that has the expertise to support TDM services and equipment is aging and retiring. For that reason, the issue is not whether the nation undertakes the transition, but how.

To that end, AT&T, under the FCC's supervision, has commenced trials in wire centers in Alabama and Florida that are designed to reveal what will happen while TDM is being phased out and, ultimately, when the TDM-based PSTN is shut down completely and any remaining TDM customers are transitioned to alternative services, as the broader transition necessarily will entail. Perhaps most importantly, the trials are intended to allow carriers to identify any operational issues posed by transitioning TDM customers to alternative services and to devise solutions that minimize the adverse impact of the transition on those customers. In other words, AT&T's trials are about finding ways to make the transition as transparent and minimally disruptive as possible for consumers.

One fact that the trials already have revealed is that federal agencies are not prepared for the transition – or at least say they are not. To be sure, in comments filed with the FCC concerning AT&T's wire center trials the Department of Defense and all other Federal Executive Agencies (jointly, "DoD/FEA") acknowledge that the transition to all IP-networks will lead to "a more efficient, reliable, and functionally robust telecommunications network across the United States."¹³ But even as these agencies state that they "embrace[] advances in telecommunications

¹³ Comments of United States Department of Defense and All Other Executive Agencies, GN Docket 13-5, at 1 (filed July 8, 2013), available at <http://apps.fcc.gov/ecfs/document/view?id=7520928837>.

technologies and services, and applaud[] the efforts of the [FCC] and service providers to promote these advances,” they nevertheless express reservations about the transition because they continue “to rely heavily on wireline TDM-based networks and services and will do so for the foreseeable future.”¹⁴ Similarly, although the FAA has begun efforts through its “NextGen” Programs to upgrade the National Airspace System to communications interfaces based upon Internet Protocol (IP) standards, the FAA’s systems integrator asserts that the overwhelming majority of circuits it uses to support the agency’s operations are currently TDM-based and will continue to be for the foreseeable future.¹⁵

Thus, if the federal government hopes to meet its ambitious goal of retiring the legacy communications network by 2018 in as seamless a fashion as possible, then the federal agency stakeholders must take more proactive steps to make it happen. Indeed, federal agencies should be leading the way on modernization efforts. The consequences of inaction are not limited to these agencies, but in fact will resonate to the detriment of all customers. Forcing carriers to maintain obsolete TDM facilities for just a small set of government customers would divert resources that could be used to deploy advanced networks sooner, and that would benefit all customers. As the *National Broadband Plan* stated, “requiring an incumbent to maintain two networks” both “reduces the incentive for incumbents to deploy” next-generation facilities and “siphons investments away from new networks and services.”¹⁶

The BBOC has the opportunity to avoid that result. In keeping with the policies established in the *Presidential Memorandum*, it should use this process to encourage all federal

¹⁴ *Id.*

¹⁵ Comments of Harris Corporation, GN Docket No. 12-353, at 6-7 (filed Jan. 28, 2013), available at <http://apps.fcc.gov/ecfs/comment/view?id=6017160541>.

¹⁶ *National Broadband Plan* at 49, 59.

agencies to expedite the work they need to undertake to facilitate the transition to and adoption of broadband networks.

CONCLUSION

The Broadband Opportunity Council and its component federal agencies should take action consistent with these comments to reduce and eliminate regulatory barriers to broadband network deployment and adoption to encourage private investment in advanced networks and services.

Respectfully submitted,

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