

STATEMENT OF JOEL E. LUBIN

VICE PRESIDENT-PUBLIC POLICY  
AT&T SERVICES, INC.

Before:

UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON ENERGY & COMMERCE  
SUBCOMMITTEE ON COMMUNICATIONS, TECHNOLOGY AND THE INTERNET

“THE UNIVERSAL SERVICE REFORM ACT OF 2009 [Discussion Draft]”

November 17, 2009

Thank you, Chairman Boucher, Ranking Member Stearns, and members of the Subcommittee for again including AT&T, the largest provider of telephone service to rural America, in this critical step on the path forward to comprehensive Universal Service Reform. We believe this draft legislation is the culmination of a four-year effort to effect meaningful reform, and represents the most significant progress to date. Indeed, the draft in its present form addresses the three pillars of fundamental reform: appropriate contributions methodology; intercarrier compensation reform; and explicit coverage of advanced services, including broadband.

First, with respect to contributions reform, Section 102 of the draft bill would require the Federal Communications Commission to assess contributions to universal service support mechanisms from communications service providers in a manner that is equitable, competitively neutral, nondiscriminatory, and ensures that communications service providers are subject to similar obligations. In doing so, the Commission would be permitted to employ any methodology to assess contributions within these prescribed parameters, including “working telephone numbers used by communications service providers” and “any other current or

successor identifier protocols or connections to the network used by communications service providers.”

The importance of this provision cannot be over-stated as it will mandate the creation of a more sustainable and predictable methodology for determining contributions – something for which there is a desperate need. According to preliminary numbers submitted by the Universal Service Administrative Company to the Commission, consumers are expected to pay over fourteen percent of their interstate telecommunications charges in federal universal fees starting next year– well higher than the highest combined state and local sales tax rates. When I testified before this Committee about reformation of the High Cost funds in March of this year, this percentage was 9.5%. This means that consumers will experience an almost 50% increase in this factor in less than a year. Federal policymakers must necessarily ask how a contribution factor that is rapidly approaching 15% and higher can, on its face, be consistent with the historic underpinnings of universal service policy: ensuring that all Americans have access to affordable communications. They should also ask what a 15% contribution factor means to achieving today’s policy goal of ensuring that each American has access to broadband. These facts underscore the important observations made by Chairman Waxman when this Committee last convened on this topic: the current funding mechanism neither “spreads responsibility for the program as broadly and equitably as possible,” nor, as Chairman Boucher observed, does it identify “other funding sources” that “must be tapped.” In the meantime, “[n]ew technologies and new business plans,” have in fact combined, as Chairman Boucher has observed, to “diminish the long-distance revenues that have historically been relied upon to support universal service,” while demand for high-cost USF funding has increased 54% in the last five years – and the growth is not slowing.

In light of these circumstances, AT&T petitioned the COMMISSION in July for immediate Commission action to reform its USF contribution methodology. We asked the Commission to act on a long-standing proposal by AT&T and Verizon, which is supported by a number of individual companies and industry associations, to implement a telephone numbers-based contribution methodology that would address the problems posed by the overall reduction in the universal service contribution base. The draft Universal Service Reform Act of 2009 would require the Commission to develop an equitable, competitively- and technology-neutral contribution system that would assess contributions from all communications service providers, and which could clearly include the numbers-based proposal currently before the Commission or a similar numbers and connections contribution methodology. We believe that this provision on contribution reform is of critical importance to the goal of providing more explicit support for broadband deployment.

Second, with respect to intercarrier compensation reform, Title III of the Universal Service Reform Act of 2009 would address the critical problems of intercarrier compensation and access charge distortions. Section 301 of the draft measure would require the Commission to complete an initial intercarrier compensation reform proceeding within one year after enactment. Such reform is critical during the transition to the full deployment of broadband, which will accelerate the complete elimination of access charges as a source of universal service fund revenues. We have needed intercarrier compensation reform for years and the importance of the draft measure's requirement that the Commission act within a year to complete its reform initiatives is therefore obvious. Further, Section 303 of the draft bill would both deem the assessment of an access stimulation charge to be an unreasonable practice under the Communications Act and prohibit local exchange carriers from assessing access stimulation

charges. This is a critical and appropriate legislative response to the vexing problem of traffic pumping, and AT&T salutes your leadership in establishing the patent unlawfulness of this practice.

Third, AT&T is pleased that Title I of the measure would create a statutory framework that would once and for all remove any doubt that it is the policy of the United States that federal high cost funding mechanisms should be used to promote the deployment of broadband, and expanded and improved wireless service, in rural areas. Specifically, Section 101 of the draft bill would establish a fundamental policy that access to advanced telecommunications and information services should be provided in all regions of the nation, and are specifically included in the suite of services that should be made available to low-income consumers and those in rural, insular or high cost areas. Section 103 would further permit the use of universal service support for all rural, insular, or high cost areas to include high-speed broadband service, while Section 104 of the measure would establish a framework for a competitive bidding process for mobile wireless communications service providers to provide service to rural, insular or high cost areas.

AT&T believes that fixed and mobile wireless services, including broadband services, should receive universal service support where appropriate, and that eligibility for such support should be completely detached from the amount of support received by ILECs within those areas. We also believe that fixed-location (wireline) broadband Internet access services should be supported, consistent with Chairman Waxman's call that the USF be "forward-looking."

As the legislative reform process moves forward, AT&T urges the Committee to continue to examine the appropriate role that speed should play in determining broadband eligibility. We are wary of elevating broadband speed above all other service criteria, particularly in the context

of encouraging the deployment of broadband to previously unserved or rural areas where a business case for such service could not normally be made. Statutory codification of a specific downlink speed as the determinative factor for defining broadband eligibility may not be optimum from either a policy or a fiscal perspective, because it could eliminate the use of broadband technologies that would otherwise be appropriate.

We also remain concerned that one aspect of the bill may have the inadvertent consequence of limiting funding for broadband services. The draft legislation would attempt to contain costs through a cap. A cap may be, at best, a blunt instrument – a tourniquet to staunch the bleeding until more organic, fundamental reforms are realized. Long term, we must be cognizant of how a funding cap might limit the vision of ensuring that all Americans -- particularly those in areas unserved by broadband today -- have access to broadband services, regardless of where they live, work or travel, by constraining the ability to fully fund advanced services.

The current regulatory context must also be borne in mind as the Committee continues its work on this measure. The Commission, of course, has open proceedings on universal service and intercarrier compensation reform, and is fully engaged in developing and implementing the national broadband plan called for by Congress in the American Recovery and Reinvestment Act of 2009. Indeed, the Commission will deliver its national broadband plan to Congress in just a little more than three months. Because the goals of the national broadband plan must include the availability of broadband services to every American within the near future, fundamental universal service reform is integrally related to the success of that plan. Legislative and regulatory attempts to reform universal service must therefore be carefully calibrated so as not to

impede the development of the national broadband plan, or to result in wasted resources or inefficiencies.

In addition, AT&T has recently urged the Commission to transition all high-cost funding supporting the legacy POTS business model to funding business models that are viable in the hyper-connected digital world in which growing numbers of us live. This transition is fully consistent with, and is in fact necessary for, the preservation and advancement of universal service as required by Congress and the courts. In this transition, we urged the Commission to move toward a support mechanism that is narrowly targeted to areas that are currently unserved by broadband and those areas where providing broadband will always be high-cost. In light of your draft legislation, we recommit to working with you, the COMMISSION, and other stakeholders to find the best path forward.

In sum, we believe, Mr. Chairman, that you and Representative Terry have successfully identified the most critical areas of concern. The draft Universal Reform Act of 2009 is a milestone in the ongoing effort to reign-in out-of-control growth and to establish rational guiding principles for prospective universal service reform.