

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
Applications of AT&T Inc. and DirecTV) MB Docket No. 14-90
to Transfer Control of FCC Licenses and)
Other Authorizations)

Late-Filed Comments of California Emerging Technology Fund
to Application Relating to Public Interest Benefits

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Table of Contents

Summary	3
I. The California Emerging Technology Fund Has Standing to File These Late-Filed Comments	5
II. Background of the California Emerging Technology Fund	5
III. If the Commission Approves the Proposed Transaction, It Should Impose Conditions to Protect the Public Interest	8
A. Applicants Assert the Proposed Transaction Will Generate Substantial Public Interest Benefits Which Should Be Monitored	8
B. The Public Interest Will Be Served By a Low Cost Stand-alone Broadband Rate	9
1. The \$9.95 Broadband Rate Should Be Unbundled Until 80% of Population is Connected	9
2. Terms of Service Should Not Be Onerous	10
3. A Performance Goal of 45% of the Eligible Population Should Be Established and Accountability to Meet This Goal Required	10
4. An Independent Oversight Committee Should Be Established to Monitor Progress	10
5. A Fund Should Be Established for Experienced CBOs to Assist With Outreach and Actual Signups to the Target Underserved Communities	11
6. Sufficient Advertising by Applicant Should Be Required in Target Communities	12
C. AT&T Should Make Commitments to High-Speed Broadband Deployment to Unserved and Underserved Areas in California	13
IV. Conclusion	15

Attachment A: Adopted Position by CETF on Comcast Acquisition of Time Warner Cable

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Summary

A non-profit organization dedicated to bridging the Digital Divide in California established by the California Public Utilities Commission in 2006, the California Emerging Technology Fund (CETF) requests permission to make late-filed comments in this docket. CETF does not opine on whether the transaction should be approved or denied, but only on promises made by AT&T Inc. (AT&T) as to public interest benefits from this transaction if approved by the FCC. To be specific, CETF’s Comments are restricted to Applicants’ commitment “to guarantee pricing for three years after closing for stand-alone wireline IP broadband service in areas where AT&T currently offer wireline broadband.”¹ We believe our comments are unique on this topic of a stand-alone wireline broadband service offer.

In the event that the above-referenced application is approved, CETF respectfully requests that the Commission mandate the following five requirements as public interest benefit conditions:

¹ Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations (filed June 11, 2014) (hereinafter “Application”), at 50.

1. Stand-Alone \$9.95 Wireline Broadband Offer Until 80% of Low-Income Population Connected: Require AT&T to offer for at least three years or until 80% of the eligible persons in the targeted underserved communities are connected, a stand-alone wireline broadband offer at \$9.95. This Commission could decide to require the offer by AT&T be made to all Americans, or to limit eligibility to low-income persons, seniors (people over 65 years of age), people with disabilities, and returning veterans.
2. Establish a National Goal: Set a 45% national goal for AT&T to reach the eligible persons in the targeted underserved communities within three years in its service areas, and to continue the offer until 80% of the target low-income population is achieved in its service areas.
3. Require Collaboration with States, a Written Broadband Plan and an Outreach Fund: Require AT&T to collaborate with states, such as California, containing major markets and to have a written strategic plan to close the Digital Divide in each state. Additionally, the FCC should require AT&T to dedicate a sufficient amount to an independently-managed fund to engage experienced CBOs in outreach and actual signups for broadband adoption in the targeted communities to achieve the specific adoption subscribership goals set forth above in (2).
4. Establish a National Advisory Oversight Committee: An independent national advisory committee overseeing this broadband program would provide feedback and input to the FCC in monitoring actual performance each year, establishing annual milestones, and progress to reach the goals.
5. Deployment of High Speed Broadband in Priority Areas. AT&T should be required to deploy high-speed broadband into ten priority unserved or underserved areas adjacent to

or near its service areas, as designated by the California Public Utilities Commission (CPUC) relating to the California Advanced Services Fund (CASF) program in its Resolution T-17443² and to continuously upgrade its network to meet service and performance requirements set by regulatory agencies to meet current applications.

I. The California Emerging Technology Fund Has Standing to File These Late-Filed Comments

CETF hereby seeks permission to file these late-filed Comments in the above-referenced Application proceeding. CETF only retained FCC Counsel in this docket on September 30, 2014, after the initial September 16, 2014 comment/petition deadline had passed. Due to its role in California as a non-profit organization dedicated to closing the Digital Divide, CETF believes it has an important and unique voice that should be heard in this proceeding on the narrow topic of public interest benefits proposed by AT&T as to a stand-alone wireline IP broadband offer contained in the Application. CETF wishes to comment on this proposal based on its deep knowledge and expertise as to the California broadband environment. Further, CETF has commented on similar issues as to the pending Comcast-Time Warner Cable application before the Commission.³ In fairness and due to its technology neutral approach, CETF wishes to make similar arguments here because AT&T is a dominant broadband provider in California, both as a wireline and wireless Internet service provider.

II. Background of the California Emerging Technology Fund (CETF)

² CPUC Resolution No. T-17443, Implementation of New Timelines for California Advanced Services Fund Applicants, at Appendix 4, “Broadband Infrastructure Priority Areas” (June 26, 2014)(Resolution T-17443).

³ The CETF Board has approved of the five recommendations made in this pleading, as to the Comcast – Time Warner merger, but they have equal applicability to this merger of AT&T – DirecTV as to Digital Divide issues. See Attachment A.

CETF was founded in 2007 as a non-profit organization at the direction of the CPUC after the mergers of SBC-AT&T and Verizon-MCI in 2005. As a CPUC condition of approval for the mergers to provide a public benefit, AT&T and Verizon were required to contribute a total of \$60 million to CETF over 5 years “for the purpose of achieving ubiquitous access to broadband and advanced services in California, particularly in underserved communities, through the use of emerging technologies by 2010.” An independent governing board sets the priorities and approves the programs of the CETF with advice from a board of experts. CETF has offices in Northern California (San Francisco) and Southern California (Los Angeles).

The mission of CETF is to close the Digital Divide in California by breaking down barriers to high-speed Internet access at home. The CETF goal is to reach 98% of all residences with broadband infrastructure and to achieve 80% home adoption by 2017. Since inception, CETF has provided more than \$31 million in grants to CBOs and public agencies for programs promoting broadband deployment and adoption to serve unconnected Californians, with a focus on rural communities, low-income disadvantaged neighborhoods, and people with disabilities. An example is the early work by CETF in the multi-lingual “*Get Connected!*” campaign targeting underserved communities in Southern California and the Central Valley.⁴ CETF also is a founder and major funder of the California Telehealth Network,⁵ a \$22.1 million grantee of the FCC Rural Health Care Pilot Program and one of the largest statewide telehealth networks in the nation.

Additionally, CETF assumed a leadership role related to the American Recovery and Reinvestment Act (ARRA) broadband projects, assisting the Governor’s Office, the CPUC, the

⁴ See description of CETF grant process for Get Connected: <http://www.cetfund.org/investments/GC-Grant-Overview>

⁵ <http://www.caltelehealth.org/about>

State Legislature, and the California Congressional delegation to develop and secure ARRA broadband grants for the state.⁶ CETF received and managed two ARRA broadband grants with 19 CBO partners totaling \$14.3 million from the Department of Commerce National Telecommunications and Information Agency (NTIA). One grant focused on building broadband awareness and adoption and the second grant concentrated on workforce preparation improving training and access to careers in technology.⁷ CETF managed 19 sub-grantees resulting in more than 200,000 new broadband adoptions and over 2,700 jobs for low-income residents.

Beginning in 2008, CETF commissioned an Annual Statewide Survey to measure broadband adoption and hold itself accountable to metrics for reaching its goals. While CETF focused efforts over the last seven years have resulted in significant progress in connecting the poorest Californians to the Internet, the latest statewide survey by Field Research Corporation (Field) shows that California is still falling short of the 80% adoption goal. According to the 2014 Annual Statewide Survey, 25% of California households (fully one-quarter) do not have high-speed Internet at home. The following are the percentage of Californians with broadband at home by key categories:

- 46% of households with Spanish-speakers
- 53% of households earning under \$20,000 a year
- 47% of adults age 65 or older
- 59% of people with disabilities
- 32% of non-high school graduates

Thus, there continues to be significant broadband adoption work to do in California. CETF has set an ambitious home broadband adoption goal of 80% by 2017, with no single demographic group (for example, low-income residents, Latino families, seniors, and people with disabilities)

⁶ http://www.cetfund.org/files/Website%20Statement%2042409%20_2__0.pdf

⁷ CETF Annual Report, 2013, at page 20. <http://www.cetfund.org/files/CETF2012-2013ARwebRGB.pdf>

or region below 70%. It is clear to CETF that this goal cannot be met without focused programs funded by major and rural ISPs, the FCC, state and local governments, and CBOs to achieve broadband adoption for underserved communities. Further, CETF takes a technology neutral approach as to the solution.

III. If the Commission Approves the Proposed Transaction, It Should Impose Conditions to Protect the Public Interest

A. Applicants Assert the Proposed Transaction Will Generate Substantial Public Interest Benefits Which Should Be Monitored

In its Application, AT&T argues that there will be substantial public interest benefits if the transaction is granted.⁸ CETF limits its Comments on the offered commitment of AT&T to guaranteed pricing for three years for stand-alone wireline IP broadband services in areas where AT&T currently offers wireline broadband.⁹ Should this application be granted by the Commission, CETF urges the Commission to require this commitment as a condition of the merger for at least three years, and in fact to continue the obligation until 80% of the eligible persons in the targeted underserved communities are connected to broadband.

Since the 1997 merger of predecessors Pacific Telesis and SBC, AT&T has not offered a stand-alone broadband rate at the level of the Comcast Internet Essentials rate of \$9.95/month. This failure to offer a low cost plan has been a serious detriment to closing the Digital Divide for low-income households in our State.¹⁰ CETF recommends that the Commission “put some teeth” into this commitment with specific goals, accountability, oversight, and specific eligibility involving the communities most underserved by broadband in the nation.

⁸ These include uniting complementary businesses, providing each player with missing bundle components for integrated services (broadband, video and wireless) to be an alternative to cable service providers, guaranteed pricing for 3 years for stand-alone wireline IP broadband services in areas where AT&T currently offers wireline broadband, and continuing to offer DirecTV’s video service on a stand-alone basis with guaranteed nationwide pricing for three years after closing. Application, at 23, 29-33, 50.

⁹ Application, at 50.

¹⁰ It appears that the lowest AT&T broadband rate is \$14.99 in some markets.

B. The Public Interest Will Be Served By a Low Cost Stand-alone Broadband Rate

Given the 2014 Field Study findings on broadband adoption in California described above, CETF recommends that the Commission require a stand-alone broadband rate to be offered by AT&T for three years to the general public. If this Commission wishes to limit this rate to a particular underserved groups, CETF suggests (1) low-income persons (including but not limited to non-English speaking households and households headed by non-high school graduates), (2) seniors (age 65 and over), and (3) people with disabilities. CETF also believes that returning veterans is also a category that should be considered for eligibility.

1. The Broadband Rate Should Be Unbundled and at a Rate of \$9.95/Month

CETF recommends the AT&T broadband rate should be unbundled from any other service such as voice, video or wireless, and must be a stand-alone offer. The broadband rate should be affordable for low-income persons at a broadband speed that allows quality access to current applications. A benchmark rate that has worked well in recent years is the \$9.95 per month rate offered by Comcast for its Internet Essentials program for low-income families with K-12 school children approved by this Commission relating to Comcast's merger with NBCU.¹¹ In California broadband studies CETF has had conducted by independent third parties since its formation in 2006, it has found that a \$10-\$15 monthly broadband rate is within the range of "affordable" by the low-income population here. The rate should be offered at least three years, and extended until 80% of the target eligible underserved population is connected.

¹¹ In the Matter of Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licenses, Memorandum Opinion and Order, MB docket 10-54, (Rel. Jan. 20, 2011).

2. Terms of Service Should Not Be Onerous

In setting up the program, CETF cautions that there should not be onerous terms of service that make the broadband subscription out of the reach of low-income persons. These may include but are not limited to the following: long term service contracts, onerous deposits, requirement of a social security number, credit checks, charges for installation, deposits for equipment, and requiring online sign up. It is vital that wireless modems be provided in conjunction with the service to be compatible with most computing devices being issued by schools and to enable more than one member of the household (especially school children) to be online at the same time.

3. A Performance Goal of 45% of the Eligible Population Should Be Established and Accountability to Meet This Goal Required as a Condition

CETF recommends that a performance goal of 45% of the eligible populations should be established for a three-year stand alone, broadband offer program beginning with the closing of the instant transaction.¹² A long term goal of 80% of broadband subscription in low-income neighborhoods in its major service areas should be established by AT&T. This 80% level of broadband adoption is a goal that CETF would find acceptable, and comparable to the position it took in the pending Comcast-Time Warner Cable merger proceeding.

Further, it is critical that this Commission establish accountability of AT&T to make progress towards meeting this goal each year of the program. It is not enough that the FCC require annual reports on the commitment, but it should also set a numeric goal and hold AT&T accountable for the results.

¹² This is the same performance goal CETF requested for the Comcast Internet Essentials program in the Comcast-Time Warner Cable merger docket now pending before this Commission.

4. An Independent Oversight Committee Should Be Established to Monitor Progress

An independent oversight committee should be established to monitor AT&T's progress on this effort. It would meet periodically to review the company's progress, make suggestions, provide feedback, and make recommendations to the FCC on the program's effectiveness and improvements. Further, the Commission should require AT&T to collaborate with states, such as California, that are its major markets and to draft a specific strategic plan to close the Digital Divide as to broadband services.

The oversight committee should include senior executives from AT&T, regulators, state officials, experienced non-profit organizations with a track record of accomplishment in closing the Digital Divide, and consumer representatives. Additional members may include experts knowledgeable about Digital Literacy, effective use of technology in education, integration of information and communications technology (ICT) skills in workforce preparation, and telehealth-telemedicine. The national advisory oversight committee should request regular reports on progress from the independently-capitalized and administered state fund discussed immediately below in (5).

5. A Fund Should Be Established for Experienced CBOs to Assist with Outreach and Actual Signups to the Target Underserved Communities

Accountability should be required, and the best way to achieve this is for the FCC to require AT&T to capitalize an independently-managed fund within those states that are major AT&T markets. The FCC should require AT&T to have written plans of how it intends to help close the Digital Divide, in its major service areas including California. The administrator of the fund should be selected by an appropriate State agency through an open competitive process

limited to no more than 10% of CBO funding with CBOs provided grants pursuant to performance.

This independently-managed fund will be charged with engaging experienced Community Based Organizations (CBOs) in broadband adoption to perform outreach and obtain actual broadband sign-ups in target low-income, senior, disabled, and veteran communities to achieve the specific adoption subscribership goals described in the section above. Such a fund must require CBO's to not only perform outreach *but to meet actual subscription targets in order to receive the funding*. It is CETF's experience over the years (including its Get Connected program and the successful ARRA programs it ran) that CBOs with broadband outreach experience are the most effective groups to perform adoption work, as they are "trusted messengers" in the targeted communities and can perform the numerous personal interactions that are necessary to obtain a successful broadband subscription for this group.

The FCC should calculate the size of a fund necessary to bridge the Digital Divide by looking at the number of unconnected persons in the cumulative AT&T service areas. Using 45% as the 3-year goal, the FCC can calculate the size of the fund necessary. Experienced CBOs report an average cost of \$480 per sustainable broadband adoption, but this amount can be driven down to \$250 per adoption with a sincere partnership of AT&T in this effort.

The FCC may ask why CBO's are necessary for success. CETF has learned in its Get Connected program and ARRA broadband adoption efforts that Internet Service Providers like AT&T and Comcast are reluctant to widely offer low cost broadband offers which will help low-income Americans get online. Such ISPs are reluctant to promote offers for these stand-alone broadband plans. CETF quotes from reports filed with it by two of its CBO grantees on the topic:

OTX-West: “Another challenge was in finding and maintaining low-cost Internet options for customers. It is particularly disappointing that the carriers (particularly AT&T and Comcast) only have market rate offerings. Credit checks make access even more difficult for low-income families. OTX-West did have success with the One Economy program with AT&T (AccessAll), but AT&T withdrew the low-cost offer with the switch to U-verse.”

CDTech: “Unfortunately, as we continued to enroll [low-income] families in the program, the vast majority of the applicants were informed by the service provider (AT&T) that high-speed DSL could not be made available to them. At this point, CDTech’s credibility in the community was being negatively affected by this denial of service and we discontinued the broadband outreach and orientation program until the problem could be resolved.

CDTech recruited, trained and followed-up with clients to assist them install the modem in their home. The staff heard from the majority of these clients, 216 of which 100 were allowed to subscribe. After talking to AT&T directly, the CDTech staff learned that applicants were being denied the service because even though 1,000 slots had been allotted to the South [Los Angeles] region, only 100 were available at any given time for the free internet service introductory offer. This is outrageous and caused CDTech to share misleading information [with the community].”

6. Sufficient Advertising by Applicant Should Be Required in Target Communities

CETF recommends that this Commission to require AT&T to provide sufficient advertising in the targeted communities to make them aware of the stand-alone broadband offer and low rate, including by advertising in minority media outlets and community gatherings, using in-language methods, and not requiring sign ups to be “on-line”.

C. AT&T Should Make Commitments to High-Speed Broadband Deployment to Unserved and Underserved Areas in California

CETF further recommends that AT&T be required to deploy high-speed broadband into priority unserved or underserved areas adjacent to or near its service areas (after any application grant), as designated by the California Public Utilities Commission (CPUC) relating to the California Advanced Services Fund (CASF) program in its Resolution T-17443.¹³ At present, AT&T has discretion whether and when to build out to unserved or underserved broadband

¹³ CPUC Resolution T-17443, Implementation of New Timelines for California Advanced Services Fund Applicants, at Appendix 4, “Broadband Infrastructure Priority Areas” (June 26, 2014)(CPUC Resolution T-17443).

areas. In Appendix 4 of Resolution T-17443, the CPUC in partnership with 13 regional broadband consortia has designated unserved and underserved areas that are priority areas for new broadband builds in the state. CETF requests that this Commission require AT&T to choose ten of the priority areas designated by the CPUC that are adjacent or near AT&T service areas and require they be built out in three years.¹⁴ This requirement would represent a true public benefit to rural and suburban populations who desire broadband for economic development and societal benefits, but have been denied it by the incumbent broadband providers (typically the incumbent telephone company or the cable operator).

This proposal would meet the Section 706 of the Telecommunications Act of 1996¹⁵ objectives of encouraging “the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans (including, in particular elementary and secondary schools and classrooms) by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment.” The FCC should also order AT&T to explore how its facilities can support back haul and other services relating to FirstNet, the nation’s public safety network.

Finally AT&T should be required to continuously upgrade its network to meet service and performance requirements set by the CPUC for wireline broadband services.

¹⁴ CETF has made a comparable request as to Comcast in the Comcast-Time Warner Cable merger proceeding before this Commission and the CPUC.

¹⁵ Section 706(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, §706, 110 Stat. 56, (1996), as amended by the Broadband Data Improvement Act, Pub. L. No. 110-122, Stat. 4096 (2008), is now codified in Title 47, Chapter 12 of the USC, at 47 U.S.C. §1302.

IV. Conclusion

The proposed AT&T-DirecTV transaction has far-reaching implications for the nation and poses a significant risk by threatening to leave behind at an accelerating pace 25% of the population who are on the other side of the Digital Divide. People living in low-income neighborhoods are facing a wall of poverty they cannot escape without purposeful intervention and focused attention by policymakers to get them the 21st century tools to participate in our society, including obtaining government services online, performing school or work online, and performing research on health and other critical information. We respectfully request that this Commission craft tangible public interest obligations of the Applicants herein in a manner that will truly benefit those on the wrong side of the Digital Divide.

Respectfully submitted,

/s/ Sunne Wright McPeak

Sunne Wright McPeak

President and CEO

California Emerging Technology Fund

Attachment A

ADOPTED POSITION BY CETF ON
COMCAST ACQUISITION OF TIME WARNER CABLE

Certificate of Service

I, Rachelle Chong, Outside Counsel to CETF, hereby certify that on this day, I have electronically filed a copy of the foregoing “Late-Filed Comments of California Emerging Technology Fund to Application Relating to Public Interest Benefits” on the parties of record via electronic filing in this FCC docket In the Matter of Applications of AT&T Inc. and DirecTV to Transfer Control of FCC Licenses and Other Authorizations in MB Docket No. 14-90.

Dated: October 14, 2014.

Location: San Francisco, California

/s/ Rachelle Chong

Rachelle Chong