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April 6, 2021

**Electronic Filing Only**

Aida Camacho-Welch, Secretary  
New Jersey Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
P.O. Box 350  
Trenton, New Jersey 08625-0350

Re: AT&T Corp.'s Notice of Intention to Withdraw Residential Local Service and  
Request for Waiver of N.J.A.C. 14:10-12.1 et seq.  
**BPU Docket No.: TO21020385**

Dear Board Secretary:

The New Jersey Division of Rate Counsel ("Rate Counsel") has reviewed the above referenced filing of AT&T Corp. ("AT&T") providing notice of discontinuance of service to the New Jersey Board of Public Utilities ("Board") and seeking a waiver of the Board's mass migration rules, N.J.A.C. 14:10-12.1.<sup>1</sup> Rate Counsel submits the within comments on this matter for the Board's consideration. Kindly acknowledge receipt of Rate Counsel's electronic filing for our records. Based on the reasons and conditioned on the recommendations discussed below, Rate Counsel would not oppose a Board finding that AT&T has complied with the Board's regulations for service providers exiting a service market or that a waiver is in the public interest under the fact specific circumstances.

**Filings**

On February 10, 2021, ("February filing") via motion, AT&T notified the Board that it planned to exit its landline residential telephone market on May 3, 2021 and requested the Board either

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<sup>1</sup>AT&T March 10, 2021 filing p. 1.

not apply or waive the Board’s mass migration rules. N.J.A.C. 12:10-12.1 et seq.<sup>2</sup> In its February filing AT&T asserts that as it is not migrating any customers, but rather, withdrawing its resold residential landline services, the Board’s mass migration rules do not apply.<sup>3</sup> In the alternative, AT&T submits that “application of the rules could only cause customer confusion, as customers may believe that they are going to be migrated to a different carrier or platform, and that will not be the case.”<sup>4</sup>

Thereafter, on March 10, 2021, AT&T filed a Notice of Intention to withdraw its residential local service on May 3, requesting that the Board’s migration rules be waived under the specific circumstances underlying the pending discontinuance of service plan (“March filing”). In New Jersey AT&T serves approximately 7065 local residential lines, none of those customers are Lifeline customers.<sup>5</sup> The March filing states AT&T’s decision to withdraw from its residential landline voice services in New Jersey was based on a 61% drop in residential subscribership in landline voice service (from 2015 to date), noting annual reductions of 15% in subscribership.<sup>6</sup> AT&T further asserts that “the abandonment of these resold services will facilitate AT&T’s efforts to operate in the most efficient manner possible, to the ultimate benefit of New Jersey customers of AT&T’s other telecommunications services.”<sup>7</sup>

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<sup>2</sup> *Motion of AT&T Corp. Regarding Non-Applicability of N.J.A.C 12:10-12.1 et seq. Mass Migration Rules*, BPU Docket No.: TO21020385, (“February Filing”).

<sup>3</sup> February filing, p. 1.

<sup>4</sup> Id., p.2.

<sup>5</sup> March filing, p. 4.

<sup>6</sup> February filing, p. 2.

<sup>7</sup> Id.

The March filing details both customer notices effectuated to date (at the time of the March filing) and planned in the weeks prior to the final discontinuance of service and AT&T's market exit.<sup>8</sup> The March filing confirms (at Exhibits A and B attached to the filing) that customers received the initial notice over 90 days prior to the discontinuance of service on or about January 25, 2021.<sup>9</sup> Additionally, the March filing notes affected customers will receive a minimum of four customer notices, consisting of customer notice letters, bill page message inserts, and automated calls detailing AT&T's discontinuance of service and alerting customers to seek service from other available area service providers.<sup>10</sup>

In addition, AT&T reasserts that the Board's mass migration rules do not apply to its market exit as there is no proposed transfer of assets or control and other subsections of the regulations are inapplicable.<sup>11</sup> AT&T affirms it will continue to offer residential toll, long distance and business services in the New Jersey.<sup>12</sup> Moreover, AT&T notes that customers are not being compelled to retain landline telephone service or move to a particular provider or choose other service options for voice service.<sup>13</sup> AT&T also asserts that requiring AT&T to

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<sup>8</sup> March filing, p. 2. AT&T notes that in "2020, AT&T similarly exited the residential local market in 16 states where it offered such services and is planning to pursue a similar approach in other states." *Id.*

<sup>9</sup> March filing, pp. 2-3.

<sup>10</sup> *Id.*, noting "AT&T has begun the process of providing written notice to customers via a Notice Letter and Bill Page Messages ("BPMs"), and following up with automated calls, as follows: First notice letters were mailed to all New Jersey residential local service customers on or about January 25 through February 4, 2021. (See Exhibit B.); AT&T will mail additional notice letters on or about March 25 and April 19, 2021; BPMs will appear on the impacted customers' bills for 2 months (March and April 2021); and Automated telephone calls to the customer with a recorded message will begin about six weeks before the target date (on or about March 23, 2021)." March filing, pp. 2-3. *See also*, Exhibits A and B: customer letter/notice mailed.

<sup>11</sup> March filing, p. 3.

<sup>12</sup> *Id.*, p. 2.

<sup>13</sup> March filing, p. 4.

operate under the Board’s mass migration rules may “cause customer confusion and create false impression that they are being steered toward a particular service or provider.”<sup>14</sup>

Rate Counsel additionally notes that on March 19, 2021, AT&T filed a Section 63.71 Application with the Federal Communications Commission seeking approval under Section 214 to discontinue the provision of service in eight states: Delaware, Massachusetts, Maryland, New Jersey, Pennsylvania, Rhode Island, Virginia, and West Virginia effective May 3, 2021.<sup>15</sup> The federal filing confirms customer notices dated January 25, 2021 and notes that “Verizon continues to offer TDM-based local voice service throughout AT&T’s service area included in this discontinuance, except in West Virginia where Frontier is the incumbent local exchange carrier and continues to provide TDM-based local voice service.”<sup>16</sup> The federal filing will provide customers (after the FCC releases the Public Notice in the matter) a minimum time period usually no less than 30 days for the filing of comments with the FCC.<sup>17</sup>

### Discussion

In New Jersey, discontinuance of service by a service provider triggers certain customer notice requirements under N.J.A.C. 14:10-12.3. A service provider exiting the market is required to file with the Board its intent to discontinue service, a request for permission to exit the market and an exit plan, filed a minimum of 60 days prior to departing the market. N.J.A.C.

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<sup>14</sup> March filing, p. 4..

<sup>15</sup> *In the Matter of Section 63.71 Application of AT&T Corp., AT&T Communications of Virginia, LLC For Authority Pursuant to Section 214 of The Communications Act of 1934, As Amended, To Discontinue the Provision of Service*, File No. <https://ecfsapi.fcc.gov/file/1031979102908/ATT%20214%20TCorpVoice%20VZ-FR%20states%20031921.pdf>

<sup>16</sup> *Id.*, p. 2, *fn* 1.

<sup>17</sup> Rate Counsel was unable to locate the FCC’s Public Notice release regarding this matter.

14:10-12.3(b). Additionally, the regulation requires that the service provider's discontinuance filing address the items listed under N.J.A.C. 14:10-12.3(b)(1)(2)i-xi. The rule ensures that customers affected by the service provider's exit of the market will be provided with meaningful notice, and sufficient time and opportunity to obtain similar services with another service provider prior to the discontinuance of service by the exiting service provider. Rate Counsel notes that certain requirements under N.J.A.C. 14:10-12.3(b)(2) may not be applicable to AT&T's market exit. For example, as noted by AT&T in its March filing, AT&T does not obtain its own numbers for the affected customers, N.J.A.C. 14:10-12.3(b)(2)vi and does not control customer numbers for E911. N.J.A.C. 14:10-12.3(b)(2)xi. However, the inapplicability of certain subsections of the regulations would not relieve a departing service provider from compliance with the remainder of applicable subsections of the regulations. Therefore, service providers exiting the market must comply with customer notice requirements under N.J.A.C. 14:10-12.5(a) and (b) requiring letter notice to customers a minimum of 30 days prior to exit and meeting the specifications under N.J.A.C. 14:10-12.5(c), (d) and (e). See also, 47 CFR § 64.1120(e)(3).

Rate Counsel notes that both the February and March filings contained Exhibits A and B, the initial customer notice letter dated January 25, 2021, providing notice to customers over 90 days from the discontinuance of service date (May 3, 2021). Additionally, the March filing states AT&T will "mail additional notice letters on or about March 25 and April 19, 2021; Bill Page Messages ("BPMs") will appear on the impacted customers' bills for 2 months (March and April 2021); and Automated telephone calls to the customer with a recorded message will begin about

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six weeks before the target date (on or about March 23, 2021).”<sup>18</sup> Rate Counsel recommends the Board require AT&T to file copies of the additional customer notice letters mailed, the customer BPMs mailed in customer bills and automated telephone call scripts (noting the dates and logged call times if available) accompanied by an attestation by an officer of the company that such notice has been made to all affected customers as required under N.J.A.C. 14:10-12.5(c). Additionally, AT&T should provide the Board with confirmation that notice of its exit of the market has been provided to the incumbent local exchange carriers (“ILECs”) in its service territory as required under N.J.A.C. 14:10-12.5(c).

Based on the discussion herein and conditioned on the recommendations above, Rate Counsel would not oppose either a Board finding that AT&T has complied with the Board’s regulations or that given the facts herein a waiver to cure deficiencies is warranted, not detrimental to end user customers and is in the public interest.

Thank you for the opportunity to comment, your consideration and attention to this matter.

Respectfully submitted,

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DIRECTOR  
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*/s/ Maria T. Novas-Ruiz*  
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Assistant Deputy Rate Counsel

MNR/td  
c: Service List

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<sup>18</sup> March filing, pp 2-3.

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