

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

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
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Petitions for Forbearance from )  
Application of Section 272 of the )  
Communications Act of 1934, )  
as Amended, to Previously )  
Authorized Services )  
\_\_\_\_\_ )

CC Docket No. 96-149  
DA 98-690

AT&T CORP. REPLY COMMENTS

Pursuant to the Public Notice released April 9, 1998, AT&T Corp. ("AT&T") hereby replies to the comments of other parties on BellSouth Corporation's ("BellSouth") April 2, 1998 petition for reconsideration of the Memorandum Opinion and Order<sup>1</sup> ("Order") in this proceeding. Even a brief review of the record makes plain that BellSouth's claims are meritless and should be denied.

SBC is the sole commenter to support the Petitioner's argument that the Order applied an incorrect nondiscrimination standard. Tellingly, SBC's comments follow BellSouth's lead by failing even to attempt to address the plain language of the Order. AT&T's and MCI's comments demonstrate that the Order, by its express terms, correctly applied the nondiscrimination standard of § 10(a).<sup>2</sup> SBC's argument to the contrary, like BellSouth's, rests

<sup>1</sup> Petitions For Forbearance From The Application Of Section 272 Of The Communications Act Of 1934, As Amended, To Certain Activities, Memorandum Opinion and Order, CC Docket No. 96-149, DA 98-220, released February 6, 1998 ("Order").

<sup>2</sup> See AT&T, pp. 1-7; MCI, pp. 4-11.

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on nothing more than the Commission's observation that the conditions that § 10(a) requires in this case happen to mirror those that § 272(c) would have required as to the BOCs' use of listing data.<sup>3</sup> Those BOCs do not -- and cannot -- explain why the requirements of § 10(a) and § 272(c) must be mutually exclusive in all their applications.<sup>4</sup>

In all events, as both AT&T and MCI also showed, if the Commission were to conclude that the Order applied an incorrect nondiscrimination standard and that it would not be "unjust and unreasonable" for a BOC to provide E911 or RDA data to competing carriers on less favorable terms that it provides them to itself, the Commission then would be required to rescind its grant of forbearance and apply § 272 to those services. The Order's findings that both E911 and RDA satisfied the § 10(a)(3) "public interest" criterion was expressly contingent on the presence of the conditions the Commission imposed on its forbearance grant, and BellSouth has not sought reconsideration of that holding.<sup>5</sup> Accordingly, if the Commission finds for any reason that § 10 does not permit it to require the conditions established in the Order, then the statutory prerequisites for forbearance are not satisfied, and the BOCs therefore must comply with the full panoply of § 272 requirements in order to offer E911 and RDA on an interLATA basis.

SBC also argues that the Commission did not allow sufficient time for it to comply with the conditions imposed in the order.<sup>6</sup> In support of this claim, SBC, like BellSouth, offers

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<sup>3</sup> See SBC, p. 2.

<sup>4</sup> Moreover, neither BellSouth nor SBC even attempts to argue that the Commission could not forbear from some subsections of § 272 while electing to continue § 272(c) in effect. See AT&T, pp. 5-6, n. 14.

<sup>5</sup> See AT&T, pp. 6-7; MCI, pp. 11-13.

<sup>6</sup> See SBC, pp. 4-5. SBC (like BellSouth) does not seek a waiver or stay of the Order, and has not made the requisite showing to obtain such relief. See AT&T, pp. 8-9, n. 19.

only vague, generalized protests that are wholly inadequate to support a decision to postpone the effective date of the Order. Further, it is simply impossible to credit either SBC's or BellSouth's complaints in light of the fact that Congress required the BOCs to provide both E911 and RDA pursuant to the much more demanding terms of § 272 no later than February 6, 1997.<sup>7</sup>

At a bare minimum, the BOCs have failed to provide any evidence to show that they cannot download a machine-readable copy of the directory data in their E911 and RDA systems, as well as periodic updates to those data, in order to provide that information to requesting carriers. Even if the Commission permits the BOCs to defer some of the Order's requirements, it should in no event permit them to continue to deny competitors access to this crucial information on the pretext that additional time is required to sort out accounting categories and modify adjunct computer systems.<sup>8</sup>

Finally, SBC attempts to re-litigate one of the fundamental issues of this proceeding, arguing that E911 service is not subject to § 272's separate affiliate requirements.<sup>9</sup> SBC's comments, however, provide no information or argument that the Commission has not already considered and properly rejected. The Order unequivocally concluded that E911 is an interLATA information service, and that therefore "Sections 272(a)(1) and (a)(2)(C) direct that these services be provided through a separate subsidiary."<sup>10</sup> SBC's two-paragraph rehashing of its

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<sup>7</sup> See 47 U.S.C. §§ 272(a)(2)(C), 272(h).

<sup>8</sup> Cf., BellSouth v. FCC, No. 97-1113, 1998 WL 242244 (D.C. Cir. May 15, 1998), \*12 (rejecting claim that § 274 structural separation requirements imposed an "enormous" burden, on ground that BellSouth "offers neither detail nor quantitative evidence to support this characterization.")

<sup>9</sup> See SBC, pp. 4-5.

<sup>10</sup> Order, ¶ 20.

arguments against this finding is simply not an adequate basis for reconsideration, even apart from its evident lack of merit. SBC argues that it is somehow unreasonable or unfair to impose even the limited conditions in the Order on E911 services. That argument simply ignores the fact that Congress imposed significantly more stringent requirements on E911 in § 272.

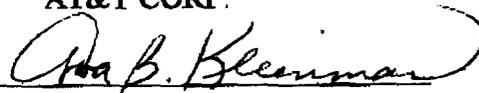
CONCLUSION

For the foregoing reasons and the reasons stated in AT&T's comments, the Commission should deny BellSouth's petition for reconsideration of the Memorandum Opinion and Order in the above-captioned proceeding.

Respectfully submitted,

AT&T CORP.

By



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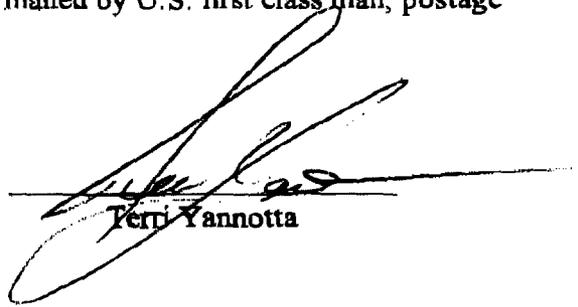
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May 27, 1998

**CERTIFICATE OF SERVICE**

I, Terri Yannotta, do hereby certify that on this 27<sup>th</sup> day of May, 1998, a copy of the foregoing "AT&T Corp. Reply Comments" was mailed by U.S. first class mail, postage prepaid, to the parties on the attached service list.

  
Terri Yannotta

May 27, 1998

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