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September 17, 2003

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
TW-A325
Washington, D.C. 20554

Re: Choice Coalition Emergency Joint Petition for Stay, CC Docket Nos. 01-338, 96-98, 98-147; WC Docket Nos. 03-167, 03-138

Dear Ms. Dortch:

AT&T Corp. submits this letter in support of the Choice Coalition's petition for an emergency stay of the *Triennial Review Order*. In the *Triennial Review Order*, the Commission decided to phase-out "line sharing" on the grounds that "data LECs" could partner with "voice LECs" using a "line splitting" arrangement. The current reality, however, quite plainly demonstrates that adequate, non-discriminatory line-splitting processes exist in very few jurisdictions. The Commission should use the opportunity presented by the Choice Coalition filing to put in place appropriate incentives which are designed to ensure that line-splitting is actually available to competitive carriers before beginning the process of phasing out line-sharing in the states.

As AT&T and others have explained in the recent Ameritech section 271 proceedings (WC Docket Nos. 03-16, 03-138 and 03-167),¹ SBC does not support line splitting in a way that

¹ See Joint Declaration of Sarah DeYoung and Timothy Connolly, WC Docket No. 03-16 (Feb. 6, 2003); Joint Declaration of Sarah DeYoung and Walter Willard, WC Docket No. 03-16 (Feb. 6, 2003); Joint Reply Declaration of Sarah DeYoung and Walter Willard, WC Docket No. 03-16 (March 4, 2003); Joint Supplemental Declaration of Sarah DeYoung and Walter Willard, WC Docket No. 03-16 (March 25, 2003); Ex Parte Letter from Amy Alvarez, AT&T, to Marlene Dortch, FCC, WC Docket No. 03-16 (filed Apr. 11, 2003); Declaration of Sarah DeYoung, WC Docket No. 03-138 (filed July 2, 2003); Declaration of Sarah DeYoung, James Henson and Walter Willard, WC Docket No. 03-167 (filed Aug 6, 2003); Ex Parte Letter from Richard

(continued . . .)

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allows competitive carriers to partner and offer commercially viable bundles of voice and data services. Absent that ability, competitive carriers will increasingly be placed at a competitive disadvantage for those growing number of customers that demand voice and data service over a single line.

First, SBC's operation support systems ("OSS") effectively prevent line splitting. As AT&T showed in the first Michigan section 271 proceeding,² for example, SBC's line splitting processes are ill-defined and require cumbersome submission of multiple interrelated orders and manual handling. Moreover, SBC fails to relate the separate orders and issues erroneous order rejections. Indeed, its unworkable processes resulted in test customers losing dial tone for several days at a time.³

AT&T also has demonstrated that SBC fails to provide nondiscriminatory access to line splitting.⁴ SBC, for example, does not have sufficient processes in place to ensure that a line splitting customer's address is accurately retained in the 911 database.⁵ Moreover, SBC discriminatorily requires a competitive carrier to order an entirely new loop whenever it is converting a customer from a line splitting arrangement to UNE-P, rather than changing out the cross-connects using the existing loop that is already in service.⁶ In contrast, when a customer of

(. . . continued)

Young, AT&T, to Marlene Dortch, FCC, WC Docket No. 03-138 (filed Aug 15, 2003); Ex Parte Letter from James Young, AT&T, to Marlene Dortch, FCC, WC Docket No 03-138 (filed Aug. 27, 2003).

² See Joint Declaration of Sarah DeYoung and Timothy Connolly, WC Docket No. 03-16, ¶¶ 136-57 (Feb. 6, 2003); Joint Declaration of Sarah DeYoung and Walter Willard, WC Docket No. 03-16, ¶¶ 136-57 (Feb. 6, 2003); Joint Reply Declaration of Sarah DeYoung and Walter Willard, WC Docket No. 03-16, ¶¶ 94-100 (March 4, 2003); Joint Supplemental Declaration of Sarah DeYoung and Walter Willard, WC Docket No. 03-16, ¶¶ 152-61 (March 25, 2003).

³ Moreover, SBC's versioning policy requires that the "data" and "voice" carriers in a line splitting arrangement must use the same version of a particular EDI release in order for their separate orders for a line splitting arrangement to provision successfully. Currently, under this policy, SBC rejects orders if the two partnering competitive carriers use different versions of the particular EDI release, which is often the case. Although SBC indicated that it will modify its ordering procedures to eliminate this problem, that fix will not be available until March 2004 at the earliest.

⁴ Declaration of Sarah DeYoung, James Henson and Walter Willard, WC Docket No. 03-167 (filed Aug 6, 2003).

⁵ *Id.* ¶¶ 38-47.

⁶ *Id.* ¶¶ 22-25.

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SBC's data affiliate drops its DSL service and retains SBC voice service, it is able to keep the same loop. SBC's discriminatory policy creates the unnecessary and real risk of significant service outages and requires competitive carriers to incur an unnecessary and substantial non-recurring charge for the establishment of the new loop.⁷ Finally, SBC has failed to establish TELRIC-compliant non-recurring charges for line splitting.⁸ Rather, to the extent that SBC has even stated what non-recurring charges will apply, it is clear that its charges reflect the costs of activities that are unnecessary for line splitting and double count legitimate costs. *Id.* These excessive non-recurring charges – which SBC does not incur when it offers a combined voice-data service – erect a severe barrier to entry that precludes meaningful competition for bundled offerings of voice and data services.

Line splitting processes offered by other BOCs are also flawed. For example, in the BellSouth region, ordering processes for competitive carriers that use their own splitters are entirely manual. Qwest's processes are similarly manual and, in all states but one, no measures that capture Qwest's line splitting performance exist. Declarations filed by Covad representatives in support of the Coalition's petition outline other deficiencies as well.⁹

In sum, the Commission should require that just, reasonable, and non-discriminatory line-splitting processes and procedures are actually available in a state that permit "partnering" competitive carriers to offer a commercially viable voice-data bundle before permitting certain parts of the line-sharing transition period to commence as requested by the Choice Coalition. This will insure that the incumbent LECs maintain the appropriate incentives to create those processes where they do not exist today and guarantee that line splitting capability is available to competitors before line-sharing is withdrawn as described in the Triennial Review Order.

⁷ *Id.*

⁸ *Id.* ¶¶ 55-73.

⁹ *See, e.g.*, Emergency Joint Petition for Stay by the Choice Coalition (filed Aug. 27, 2003), Joint Declaration of Valerie Evans and Michael Clancy ¶¶ 6-17 (outlining various Verizon deficiencies) Joint Declaration of William Weber and Colette Davis ¶¶ 22-31 (outlining numerous BellSouth deficiencies); Joint Declaration of William Weber and Michael Zulevic ¶¶ 39-42 (outlining numerous Qwest deficiencies)

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Sincerely,

/s/ C. Frederick Beckner III

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