

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

In the Matter of )  
 )  
Local Telephone Competition and ) WC Docket No. 04-141  
Broadband Reporting )  
 )

**REPLY COMMENTS OF AT&T CORP.**

AT&T Corp. (“AT&T”) submits these reply comments in response to the comments filed regarding the Commission’s Notice of Proposed Rulemaking (“*Notice*”) in the above-captioned proceeding.

**INTRODUCTION**

The comments support AT&T’s position that the data currently supplied by carriers in their Form 477 submissions provide the Commission with more than sufficient information to monitor local telephone competition and broadband deployment. With one notable exception (SBC), those entities that would actually have to collect and provide the additional information proposed by the *Notice* report that the expanded requirements offer little appreciable benefit, but would significantly increase the burdens already imposed on carriers. These burdens would be especially great with respect to the Commission’s proposals to require detailed reporting by broadband tiers and by zip codes, and such proposals should not be adopted. The comments also confirm that the proposed reporting of broadband data by actual data transfer rates would be unworkable. The commenters, including the California Public Utilities Commission, overwhelmingly urge the Commission to retain the confidentiality of filed data, and, like AT&T, SBC and

Verizon call for an extension of the reporting obligations for less than the proposed five years.

**I. THE EXISTING FORM 477 REPORTING REQUIREMENTS SHOULD NOT BE EXPANDED.**

With the exception of SBC, which is pursuing its own regulatory gamesmanship, all entities that would actually have to collect and provide the additional information proposed by the *Notice* agree that the Commission should not adopt its expanded reporting requirements because they offer little appreciable benefit, but would significantly increase the burdens already imposed on carriers. As NTCA states (pp. 3-4):

The proposed Form 477 intends to gather a significantly greater quantity of information. While all of this information will certainly provide the Commission with a clearer picture of the state of the industry, the information presented in the NPRM does not suggest a compelling need for such a detailed, labor-intensive form.<sup>1</sup>

OPASTCO similarly states (p. 2) that “there is no need to increase the granularity of the data collected or to lower the reporting threshold, as sought in the NPRM.” As Verizon concludes (p. 3), “the current types of data currently captured are sufficient to meet the Commission’s purpose of helping the Commission and the public understand the extent

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<sup>1</sup> See also BellSouth, p. 2 (“additions to the report will be burdensome to track” and the Commission has offered “no justification for why this additional information is needed”); CTIA, p. 4 (“the Commission needs to consider the cumulative effect of its various information collections on telecommunications providers”); EchoStar, p. 4 (“While the costs of compliance with Form 477 requirements are likely to increase exponentially, the benefits of having the additional information the Commission seeks . . . may be marginal in comparison to the cost”);

of local telephone competition and broadband deployment,” and “the Commission should not impose further burdens on providers by expanding the collection program.”<sup>2</sup>

The unnecessary burden that would be imposed by the proposed expanded reporting requirements is exacerbated by the fact that filers would have to develop new systems and implement new processes to capture and report the additional information. As Verizon points out (p. 1, emphasis added), “[t]he proposed additional data . . . are not necessary for the proper performance of the functions of the Commission and will have little practical utility. In addition, *much of the proposed additions are not kept in the ordinary course of business nor readily available . . .*” BellSouth likewise notes (p. 3) that such proposals “will be difficult to implement and there is no expressed need for such data.” On behalf of its cable members, NCTA similarly cautions (p. 2) that “[e]xcessively intrusive reporting obligations may require broadband providers to specially develop reporting systems at considerable cost, without significant benefits.”

Because the data currently reported in Form 477 are sufficient to track the extent of local telephone competition and broadband deployment, and expansion of those reporting obligations would impose unwarranted burdens on service providers, the Commission should not adopt its proposed increase in the reporting requirements.<sup>3</sup>

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<sup>2</sup> See also Sprint, p. 2 (“Sprint opposes the proposed additional reporting requirements because the burden such requirements will place on carriers will outweigh the benefits associated with the new data and the Commission currently collects enough information to carry out its duty to monitor local telephone competition and broadband deployment”).

<sup>3</sup> SBC is the only service provider to call for an increase in the reporting requirements. However, SBC’s request is part and parcel of its unsubstantiated charge that all competitive providers are deliberately under-reporting the extent of their facilities-based lines. Although SBC concedes that CLECs’ “resale and UNE-P counts are at least ‘in the ballpark,’” it accuses CLECs of deliberately misstating their voice grade equivalent lines because the reported numbers do not square with numbers

## II. THE COMMISSION SHOULD NOT REQUIRE REPORTING BY BROADBAND TIERS OR BY ACTUAL TRANSFER RATES.

AT&T demonstrated in its comments that the Commission should not adopt its proposal to have broadband providers submit data on their broadband services according to five different tiers based on data transfer rates because the proposed break points do not appear to be related to any services presently offered to residential and small business customers, and filers should not be forced to incur the enormous burden of attempting to provide such a breakout when there would be little public benefit from such information.<sup>4</sup> The comments filed by broadband service providers validate AT&T's position. Sprint, for example, contends that:

[T]he current categories provide sufficient information concerning the speeds of broadband facilities being used, and . . . maximum transfer rates are the typical and appropriate way of identifying facilities. . . . Broadband facilities exceeding 2.5 mbps are generally used by business

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purportedly derived from E911 listings. SBC, p. 3. Yet, as AT&T demonstrated in the *Triennial Review Proceeding*, E911 listings consistently overstate, and do not provide an accurate portrayal of, actual lines in service. See Lancaster/Morgenstern Reply Declaration in CC Docket No. 01-338, ¶¶ 8-16, attached hereto as Attachment A. SBC also criticizes the alleged “failure” of CLECs to report lines they serve with ILEC special access circuits, and to convert high-capacity lines into voice-grade equivalent lines. SBC, pp. 4-5. Contrary to SBC's bald assertion, AT&T reports in Part II-A of Form 477 voice-grade equivalent lines for high capacity lines that are channelized to provide voice-grade service as required by the Commission's instructions and, in particular, the note for reporting channelized service (p. 5 of the instructions). Moreover, SBC should be aware that special access lines (and private lines) that are not reported as broadband lines in Part I of Form 477 are reported – as AT&T does – on Part II, Line C.II-6 of the form. Furthermore, the instructions to Line C.II-6 require filers to report the actual number of lines billed to the customer, and specifically mandate that filers “**Do not** convert into voice-grade equivalent measures any high-capacity lines reported on Lines C.II-4 through C.II-6.” Emphasis in original. In short, SBC accuses filers of deliberate misrepresentation when they have merely complied with the Commission's express directions.

<sup>4</sup> The Vermont PSD's proposal (p. 6) that filers should report their broadband services by eight different price ranges would impose similar burdens and also should not be adopted.

customers, not mass market consumers. The Commission provides no explanation as to how this additional business-oriented information will be used in the development of policy for broadband deployment in rural and non-rural service areas or why the information currently provided is insufficient.

On behalf of its wireless members, CTIA asserts (p. 5) that “the Commission should only request data on whether services it has defined as ‘advanced’ are being deployed, nothing more. The Commission does not also need to require filers to report on broadband connections in four categories of speed above 200 kbps.” And NCTA states that “[b]roadband providers should not be required to report optimum speed either by company or by zip code, or speeds actually realized,” because “[r]equiring reporting of broadband connections at this level of detail [in five speed bands] is not necessary to support the ‘study of broadband deployment pursuant to section 706.’” NCTA, pp. 3, 12-13.

The comments also confirm AT&T’s position that a requirement to report actual data transfer rates would be unworkable. Regardless of whether one is dealing with wireline, wireless or cable broadband services, the actual data transfer rate varies from moment to moment and cannot effectively be captured and reported. As Verizon points out (p. 13) “there is simply no way of tracking the transfer rates actually observed by end users. For DSL, the actual transfer rates observed by the end user vary based on the distance from the end user to the switch.”<sup>5</sup> Similarly, “[w]ireless broadband connection speeds can vary from moment to moment and location to location depending on factors such as the distance from the nearest cell site, number of other simultaneous users in the user’s current cell site, and the speed at which the user is traveling.” CTIA p. 3. With

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<sup>5</sup> See also BellSouth p. 2 (“product speeds could vary depending on the time of day, material that is being downloaded, or websites that the customer may visit”).

respect to cable broadband services, NCTA urges (p. 14) the Commission not to adopt its proposal, because “there is no industry standard or practice to collect data to measure actual speeds at which data packets are transmitted. . . . Actual speeds vary at any moment in time.”

The California Public Utilities Commission aptly summarizes (p. 4) the reasons the Commission should not require broadband providers to attempt to report actual transfer rates:

It would be very difficult and costly for providers to obtain transfer rate information actually observed by each and every subscriber and there are many factors that could influence actual speeds delivered to end users. . . . Thus, it appears that the potential burden that would be imposed on the filers seems to outweigh any potential benefit this categorization may have on the FCC or states.

The Commission should heed the CPUC and not require the reporting of actual data transfer rates.

### **III. THE COMMISSION SHOULD NOT REQUIRE DETAILED REPORTING BY ZIP CODES.**

In its original *Data Gathering Order*,<sup>6</sup> the FCC considered and rejected requiring subscribership data by zip code because the burdens imposed on filers would be far greater than the benefits that would be realized:

Not only would providers have to identify data at those levels of detail, but we think that a reporting requirement that requires a national service provider to complete over 30,000 zip-code based forms would impose costs far greater than the benefits to be derived.

*Data Gathering Order* at 7745, ¶ 53. Nothing has changed in the intervening four years, and the Commission should not require such reporting. As Sprint states (p. 5), “to

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<sup>6</sup> *Local Competition and Broadband Reporting*, CC Docket No. 99-301, Report and Order 15 FCC Rcd 7717 (2000) (“*Data Gathering Order*”).

produce a report by Zip Code would require a significant amount of software development to match information about the customer's type and number of connections with the customer's Zip Code retrieved from the billing system, to aggregate this information by Zip Code and to produce the report by Zip Code."<sup>7</sup>

Developing the systems and processes needed to provide the detailed zip code reports the *Notice* envisions would impose enormous costs on service providers. Verizon thus reports (p. 11) that it "has no way of readily quantifying the number of high-speed connections by technology in each zip code or to specify the number of connections by technology and by speed tiers in each zip code." In order to provide such reports, Verizon would have to redesign its systems "at a cost of millions of dollars." *Id.*<sup>8</sup>

The Commission got it right in 2000. Requiring filers to report subscribership and services data by zip code would impose costs on providers far greater than the benefits that would be derived.<sup>9</sup> Rather than requiring broadband services providers to develop new systems and processes, the Commission should require filers simply to provide a list of zip codes in which they have at least one business customer and another list of zip codes in which they have at least one residential customer.<sup>10</sup>

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<sup>7</sup> Indeed, "the customer's billing address, and therefore the Zip Code, may not correspond with the location of the broadband service." Sprint, p. 5.

<sup>8</sup> See also NCTA, p.13 ("Development of this information will require new reporting systems that may result in considerable expense and the diversion of resources better used for other purposes").

<sup>9</sup> For the same reasons, the KCC's proposal (p. 3) that filers report broadband deployment by cities or "other social economic boundary" should not be adopted.

<sup>10</sup> AT&T, p. 4. See also CTIA, p. 5 (Entities should be "required to report only on the geographic areas where services are available, rather than on the specific number of customers that subscribe to such services").

#### IV. THE COMMISSION SHOULD MAINTAIN ITS CONFIDENTIAL TREATMENT OF FILED DATA.

In the *Notice*, the Commission asks whether it can publicly release historical information that it initially treats as confidential, suggesting that such data may no longer be competitively sensitive after a year or two. *Notice* ¶ 12. The commenters overwhelmingly urge the Commission not to adopt such an approach.<sup>11</sup> Indeed, the California Public Utilities Commission – which uses the publicly available Form 477 data to formulate public policy – urges the Commission *not* to modify its existing confidentiality protections. As the CPUC advises (p. 5):

The aggregated data is sufficient for policy makers to know the extent of broadband subscribership and the availability of broadband service offerings at a local level. It is not necessary to publish the names of individual companies or the number of customers for each of those companies to obtain the benefit of the aggregated data. Furthermore, there is little to no benefit of disclosing the true values of old data.

“Sprint is strongly opposed, however, to the Commission’s proposal to release competitively sensitive information after one or two years. Sprint believes that the information it has provided remains competitively sensitive even after two years because such information continues to reflect the filer’s market entry strategy and deployment plans and may provide competitors insights into the filer’s future competitive direction.”

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<sup>11</sup> Cingular, p. 6 (“The Commission should not change its policy of reporting only aggregated data. ... Any move by the Commission to release company specific data would clearly damage competition, and would force service providers to take legal steps to protect their data against disclosure to their competitors”); CTIA, pp. 6-7 (“such information should be released only on an aggregated basis. Any publication of individual company data would seriously compromise carriers’ confidentiality and would harm the competitive marketplace”); NCTA, p. 5 (“The Commission should not adopt its proposal to make company-specific Form 477 information publicly available after a limited period of confidentiality”); Verizon, p. 17 (the Commission should not modify its existing policy, because reported data “does not automatically lose their sensitivity after a set period of time”).

Sprint, p. 6. The Commission therefore should retain its confidential treatment of submitted data because such data “may remain competitively-sensitive for far longer than the two years at which the Commission proposes to cap its protection.” EchoStar, p. 5. Moreover, an assessment of confidentiality “depends in part upon the individual circumstances, and cannot appropriately be the subject of a blanket time limit on protection.” *Id.*<sup>12</sup> And, as Verizon cautions (p. 17), if the Commission were to adopt a policy of automatic disclosure after a certain period, “filers will be chilled from providing candid and detailed information regarding their highly sensitive competitive data.” In addition, if the Commission expands the Form 477 reporting requirements, the increased granularity of the reported data further supports confidential treatment.<sup>13</sup>

As the comments confirm, the Commission should retain its existing confidential treatment of filed data, and should not impose an automatic time limit on confidentiality protection.

**V. ANY EXTENSION OF THE REPORTING PERIOD SHOULD BE LIMITED.**

In the *Notice*, the Commission proposed to extend the Form 477 reporting requirements, including any modifications thereto, for an additional five years. AT&T suggested that the Commission should limit any such extension to no more than three years, in light of the extensive changes that are taking place in the communications industry. Only two commenters specifically commented on the length of the extension.

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<sup>12</sup> See also CTIA, p. 7 (“Some data would remain commercially sensitive for a short period of time while other information would continue to be commercially sensitive for several years”).

<sup>13</sup> See, e.g., EchoStar, p. 4 (“Such protection will be all the more important if the Commission decides to require broadband service providers to submit more granular data”); Sprint, p. 6 (“the more granular the data, the greater the risk to carriers associated with disclosure”).

Verizon suggests (p. 7 n.11) limiting the extension to one year, while SBC argues (p. 2) for an extension of no more than three years. AT&T agrees with these commenters that any extension should be limited in duration, and no more than three years. At the end of the extension period, the Commission can determine whether continuation of the reporting program makes sense based on then-existing market conditions.

### CONCLUSION

The comments confirm that the information currently reported by competitive providers meets the Commission's needs and that the Commission should not impose additional burdens on CLECs. In addition, detailed reporting based on speed tiers and by zip codes would be especially burdensome because such information is not kept in the ordinary course of business and new systems and processes would have to be developed and deployed to capture such data. Furthermore, the proposed actual data transfer rate requirement is simply unworkable. Finally, the Commission should continue its confidential treatment of filed information, including historical data.

Respectfully submitted,

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July 28, 2004

**ATTACHMENT A**

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Review of the Section 251 Unbundling	)	
Obligations of Incumbent Local Exchange	)	CC Docket No. 01-338
Carriers	)	
	)	
Implementation of the Local Competition	)	
Provisions of the Telecommunications Act of	)	CC Docket No. 96-98
1996	)	
	)	
	)	CC Docket No. 98-147
Deployment of Wireline Services Offering	)	
Advanced Telecommunications Capability	)	

**REPLY DECLARATION OF MARK J. LANCASTER  
AND DALE C. MORGENSTERN  
ON BEHALF OF AT&T CORP.**

**I. QUALIFICATIONS**

1. **Mark J. Lancaster.** My name is Mark J. Lancaster. My business address is 1100 Walnut Street, Kansas City, Missouri 64106. I am employed by AT&T as a Technical Support Manager in the Local Services Division. My primary responsibilities are to provide strategic network planning expertise to internal AT&T clients, and to work with state regulatory commissions and industry representatives to encourage competitive opportunities for AT&T in the provision of telecommunications service.
2. I received a Bachelor of Science degree in Psychology from Northwest Missouri State University in 1976 and a Master of Arts degree in Education from the

University of Missouri-Kansas City in 1978. I am currently working towards a Masters of Business Administration degree from Keller Graduate School of Management in Kansas City, Missouri.

3. My career with AT&T began in 1979, when I was hired by Southwestern Bell Telephone Company as a Service Consultant in the Marketing organization. I worked extensively with plant, engineering, accounting, and the business office in support of sales to customers in the utilities and data processing industry. In 1982, I accepted a position in AT&T's Long Lines Engineering organization. I held various positions in AT&T, including Engineering Systems Design, Switch Planning, and Material Management. In 1990, I accepted a position in State Government Affairs developing Network and Access costs in support of AT&T's intrastate service filings. My duties also included analysis, intervention, and negotiations related to local exchange company service filings. In 1993, I joined the Access Management organization and worked in all phases of access rate design and intervention, primarily in Arkansas, Kansas, and Missouri. I accepted my current position in 1996.

4. **Dale C. Morgenstern.** My name is Dale C. Morgenstern. My business address is 900 Route 202, Bedminster, New Jersey 07921. I am employed by AT&T as District Manager – Numbering & 911 Planning. Since January 1999, I have been responsible for numbering and 911 planning and implementation for various AT&T local network services and for AT&T's internal test network. My 911 responsibilities focus on ensuring that AT&T's internal network is in compliance with state and local regulatory requirements.

5. I received a Bachelor of Arts degree in Mathematics from Syracuse University in 1974 and a Masters degree in Mathematics from the same school in 1975.
  
6. I began my career with AT&T in 1976 in the company's Network Service Distribution organization. From 1976 to 1981, I was employed in the Circuit Administration and Transmission Engineering departments of that organization and was involved in designing and implementing performance measurement plans for transmission and trunk administration. In 1981, I began a rotational assignment in AT&T's New York Telephone unit. From 1984 to 1988, I was employed in the Network Service Field Support and Technical Regulatory Planning departments of AT&T's Network Operations organization, where my responsibilities included the development of dialing and routing plans for "National Security-Emergency Preparedness" government networks. In 1988, I moved to AT&T's Consumer Communications Services unit, where I held a succession of jobs in the New Business Development, Consumer Information Management, and Consumer Video Services departments. From 1994 until I accepted my current job in January 1999, I was employed in AT&T's Customer Connectivity organization, where my responsibilities included operations planning and implementation for AT&T Customer Network Service Centers as well as number administration and local number portability implementation.

## **II. INTRODUCTION AND SUMMARY**

7. The purpose of this declaration is to rebut the contention in the ILECs' "UNE Fact Report 2002" ("ILEC Report") that the listings of telephone numbers in Enhanced 911 ("E911") databases are a reliable source from which to determine

the number of business lines currently served by CLECs using their own facilities. Although the volume of numbers in use by any one carrier's customers may suggest competitive entry, its relationship to the service provided and the facilities used to provide such service is, at best, tenuous.

### **III. ANALYSIS**

8. The sole purpose of including telephone numbers in the E911 database is to ensure proper emergency response for 911 users. The methods and procedures used by each carrier and the industry guidelines for database population both are designed strictly for the limited (albeit important) purpose of facilitating accurate identification of a caller. Therefore, to the extent these databases are "maintained with scrupulous care," it is to promote effective emergency response, not to catalogue correctly the number of telephone lines provided by any one carrier or the facilities they use in providing such service.
  
9. E911 databases serve as the foundation for the provision of emergency services. When a customer dials 911, the call is directly routed to the Public Safety Answering Point ("PSAP") charged with responding to emergency calls within the area where the customer is located. When the PSAP receives a call, the call is accompanied by Automatic Location Identification ("ALI") that provides the caller's telephone number, the address or location of the telephone the caller is using, and supplemental emergency services information. This information is maintained by the ALI Database Management Systems Provider, and it is accessed by PSAPs in order to enable them to link the caller's telephone number with the information maintained in the database. Although the ILECs originally

served as ALI Database providers and therefore had control of the databases, more recently this function has been provided by third-party vendors, who allow individual carriers to make their own judgments on database population.

10. The National Emergency Number Association (“NENA”), an organization that includes industry experts from both the public and private sectors, defines standard practices to ensure the compatibility of 911 technologies and increase the effectiveness of 911 systems. NENA’s standards reflect industry consensus and provide the basis for agreements among 911 jurisdictions, local exchange carriers, and the ALI Database Management System Provider. However, because NENA has no authority to enforce compliance, the standards it promulgates are merely recommendations. In fact, there are many factors that suggest that the number of lines identified by a direct count of telephone numbers in the ALI Database is likely to be significantly different from the number of voice grade equivalent lines provided by each local exchange carrier.
11. When a carrier provisions local service, the carrier is responsible for electronically populating the ALI Database with the Master Street Address Guide (“MSAG”) valid address of the customer. Although NENA guidelines set forth the criteria for telephone numbers to be included in the ALI Database, each carrier populates the database using its own protocol for record creation, maintenance, and deletion.
12. For example, NENA guidelines recommend that carriers not include telephone numbers for classes of service that do not generate dial tone, such as direct inward

dial (“DID”) numbers. However, when a customer with a large volume of numbers migrates to AT&T’s services from another carrier, AT&T has no easy way to determine the details of the customer’s PBX configuration. Because it is not clear which numbers should be included, in order to implement the purposes of the E911 system (to assure prompt and accurate access to emergency assistance), AT&T takes the conservative approach of including *all* ported numbers, including DID numbers. As a result, AT&T’s listings in the ALI Database include a significantly larger number of telephone numbers than the actual facilities needed to provide emergency service.<sup>1</sup>

13. Area code splits can also cause CLEC telephone numbers to be overstated during the permissive dialing period. It is not uncommon for carriers to provide duplicate listings reflecting both the old and new area codes. This assures the continuation of emergency access for customers even if there are routing errors that occur during the overlay transition.
14. Telephone numbers can also remain in the ALI Database even though the number is no longer active. NENA guidelines provide mechanisms for the removal of inactive telephone numbers, but inactive numbers can remain in the ALI database without interfering with the accurate operation of the service. Therefore, it is not uncommon for a carrier not to delete a particular number concurrently with its

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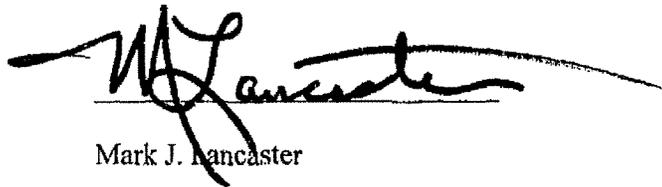
<sup>1</sup> AT&T network engineering standards allow for up to 500 DID numbers for each DS-1 facility purchased by a customer. AT&T does not include DID numbers when a customer uses telephone numbers from a block of numbers assigned to AT&T that was originally provisioned by AT&T, because in those cases, AT&T has specific information regarding the status of each number.

termination, instead completing the function on a regular interval of up to several months, or even yearly. Further, because database reconciliations and audits are not required, it is possible for deactivated numbers to remain undetected for extended periods.

15. Another factor that undermines the accuracy of an ALI database count for the purposes the ILECs identify is that a number of CLECs have withdrawn from the market and abandoned telephone numbers. Not surprisingly, these carriers have few resources, and even less motivation, to do the work necessary to "clean up" the ALI database, and consequently blocks of inactive numbers remain in the database.
16. As a result of these factors, and because of the critical link between carriers' ALI database population and the delivery of emergency services to customers, it is likely that the E911 database will overstate the number of lines served by CLECs. Therefore, the database is an inaccurate and unreliable measure of competition in the local market.

VERIFICATION

I, Mark J. Lancaster, declare under penalty of perjury that the foregoing is true and correct. Executed on July 16, 2002.

A handwritten signature in black ink, appearing to read "Mark J. Lancaster", written over a horizontal line. The signature is stylized and cursive.

Mark J. Lancaster

VERIFICATION

I, Dale C. Morgenstern, declare under penalty of perjury that the foregoing is true and correct. Executed on July 18, 2002.

Dale C. Morgenstern

Dale C. Morgenstern

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 28<sup>th</sup> day of July, 2004, a copy of the foregoing Reply Comments of AT&T Corp. was served by U.S. mail, postage prepaid, on the following:

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