

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

In the Matter of	)	
	)	
Unbundled Access to Network Elements	)	WC Docket No. 04-313
	)	
Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers	)	CC Docket No. 01-338
	)	
	)	

**OBJECTION OF AT&T CORP. TO BELLSOUTH'S DESIGNATION OF EMPLOYEES  
TO HAVE ACCESS TO AT&T'S AND OTHER PARTIES' CONFIDENTIAL  
INFORMATION**

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October 1, 2004

Pursuant to Paragraph 8 of the Commission's August 20, 2004 *Protective Order*,<sup>1</sup> AT&T objects to the disclosure of Stamped Confidential Documents to three of the 25 individuals that BellSouth has designated to review such documents.

The *Protective Order* provides that confidential information filed with the Commission in this proceeding may be provided to "In-House Counsel" or "employees of such counsel . . . assisting counsel in this proceeding," *Protective Order* ¶ 5, "provided that" they are not involved in "competitive decision making," which is defined as "advice and participation in any or all of the client's business decisions made in light of similar or corresponding information about a competitor." *Protective Order* ¶ 2 (emphasis in original).

Parties seeking access to confidential information in this proceeding must designate the persons that will have access to such confidential information by submitting an "Acknowledgement of Confidentiality" for each person stating, among other things, the person's employment position. *Protective Order* ¶¶ 2, 8. Each party submitting confidential information in this proceeding may "object" to any such designation. *Id.* ¶ 8.

In a letter dated September 29, 2004, BellSouth submitted "Acknowledgements of Confidentiality" for twenty (20) persons, and on September 30, 2004, BellSouth submitted "Acknowledgements of Confidentiality" for an additional five (5) persons. Three (3) of those persons appear to be individuals that are *not* eligible to obtain or review confidential information submitted in this proceeding. Accordingly AT&T objects to those acknowledgments and

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<sup>1</sup> Order, *Unbundled Access to Network Elements; Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313, CC Docket No. 04-313, DA 04-2603, Appendices A & B (rel. Aug. 20, 2004) ("*Protective Order*").

requests that the Commission preclude those persons from reviewing confidential information submitted in this proceeding.

First, AT&T objects to the disclosure of confidential information in this proceeding to Eric Fogle, BellSouth Director-Interconnection. Based on communications with BellSouth, AT&T understands that Mr. Fogle assists with developing BellSouth's policies and position with regard to broadband and other products that are at issue in this proceeding. The *Protective Order* states that individuals that "participat[e] in any or all of the client's business decisions made in light of" the type of confidential information provided in this proceeding, are precluded from access to confidential information submitted in this proceeding. Accordingly, Mr. Fogle is not eligible to obtain confidential information in this proceeding.

Second, AT&T objects to the disclosure of confidential information in this proceeding to Lisa Foshee and Bennett L. Ross, who are BellSouth's General Counsels for Georgia and Washington, D.C., respectively. It is AT&T understanding that persons, such as Ms. Foshee and Mr. Ross, who hold the position of state General Counsel in the BellSouth organization provide advice that goes well beyond regulatory matters and includes a wide range of business-related decisions that are made in light of the types of competitive information that will be submitted in this proceeding and that they hence are likely "involved in [BellSouth's] competitive decision-making." *Protective Order* ¶ 2. For example, AT&T understands that these BellSouth General Counsel participate in numerous other corporate and general litigation matters relevant to competitive matters. Moreover, AT&T understands that these General Counsel may provide other general "competitive" advice to BellSouth in the context of regulatory or other litigation matters that could be affected by the confidential information presented by AT&T and other

parties in this proceeding. Accordingly, Lisa Foshee and Bennet L. Ross do not appear eligible to receive confidential information under the *Protective Order*.

For the foregoing reasons, the Commission should not permit the following persons to have access to confidential information provided in this proceeding: Lisa Foshee, Bennett L. Ross, and Eric Fogle.

Respectfully submitted,

/s/ Lawrence J. Lafaro

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 1<sup>st</sup> day of October, 2004, I caused true and correct copies of the forgoing Objection of AT&T Corp. to BellSouth's Designation of Employees to be served on all parties by mailing, postage prepaid to their addresses and by facsimile to the numbers listed on the attached service list.

Dated: October 1, 2004  
Washington, D.C.

/s/ Peter M. Andros

Peter M. Andros

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<sup>1</sup> Filed electronically