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October 5, 2004

Mr. Jeffrey J. Carlisle
Chief, Wireline Competition Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: AT&T's Objections to BellSouth's October 1, 2004 Designation of
Employees to Have Access to Confidential Information (WC Docket No.
04-313, CC Docket No. 01-338)

Dear Mr. Carlisle:

Pursuant to Paragraph 8 of the Commission's August 20, 2004 *Protective Order*,¹ AT&T files this letter to object to BellSouth's additional designations of employees to have access to Confidential Information in this proceeding. AT&T also withdraws its prior objections to BellSouth's designation of Lisa Foshee and Bennett L. Ross.

The *Protective Order* provides that Confidential Information may be provided to In-House Counsel or employees of such counsel *only* if such employees are not involved in "competitive decisionmaking." *Protective Order* ¶ 2. "Competitive decisionmaking" is further 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." *Id.* Based on this limitation, certain employees designated by BellSouth are not eligible to receive Confidential Information.

Specifically, AT&T objects to BellSouth's designation of Jon Banks and Glenn T. Reynolds as BellSouth employees who will to have access to Confidential Information in this proceeding.² Mr. Banks is a BellSouth "Executive Vice President" and Mr. Reynolds is a

¹ 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*").

² See Letter from Theodore R. Kingsley, BellSouth Corporation, to Jeffrey J. Carlisle, Chief, Wireline Competition Bureau, WC Docket No. 04-313, CC Docket No. 01-338 (FCC filed October 1, 2004).

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BellSouth "Vice President." AT&T believes that the nature of Mr. Banks' position as an Executive Vice President and chief regulatory advocate, by its very nature, involves him in giving advice that informs BellSouth's business strategies and decisions. Likewise, AT&T believes that Mr. Reynolds, as Vice President and a senior regulatory advocate, also provides advice informing BellSouth's business strategies and decisions.

The Commission's Policy and Programming Division has held that employees with positions nearly identical to Messrs. Banks and Reynolds are exactly the type of executives that give "advice to inform business strategies or decisions" that should not be permitted access to competitively sensitive information filed with the Commission.³ In that case, a protective order, like the *Protective Order* here, barred Sprint's in-house "Vice President, Federal Regulatory Affairs" and "Director, State Regulatory/East" from receiving Confidential Information because they gave "advice to inform [Sprint's] business strategies or decisions." *GTE Corporation* ¶ 2. "Given their high positions within the company and the scope of federal and state regulation over the communications industry," disclosure of Confidential Information to such corporate officers "pose[d] an unacceptable opportunity for inadvertent disclosure." *Id.* For the same reasons, Confidential Information submitted in this proceeding should not be disclosed to Messrs. Banks and Reynolds.

Finally, based on representations made by BellSouth in its response to AT&T's earlier objections to Lisa Foshee and Bennett L. Ross, AT&T hereby withdraws its objections to BellSouth's designations of those individuals.

Respectfully submitted,

/s/ David S. Petron

cc: Attached Service List

³ *In the Matter of GTE Corp., Transferor and Bell Atlantic Corp., Transferee; For Consent to Transfer of Control*, 14 FCC Rcd. 3364 (1999).

CERTIFICATE OF SERVICE

I hereby certify that on this 5th 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 5, 2004
Washington, D.C.

/s/ Peter M. Andros

Peter M. Andros

SERVICE LIST

Marlene H. Dortch, Secretary
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¹ Filed electronically