

October 7, 2005

Marlene H. Dortch
Secretary, Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Re: WC Docket No. 05-65

Dear Ms. Dortch:

Applicants SBC and AT&T submit this letter in response to the September 21, 2005, *ex parte* letter filed by XO Communications ("XO"). XO there claims that a survey report prepared by the Yankee Group shows that AT&T has over \$1 billion in sales of wholesale local private line services (and a 9% share of the overall special access market). But XO's claims and the Yankee Group's report are simply wrong.

The reason Yankee Group has to use surveys to estimate market share is that the Yankee Group does not have access to the actual facts. The Commission, however, does not labor under this same burden. We have put into the record sworn testimony and other hard evidence based upon extensive and detailed internal records that show AT&T's actual wholesale local private line sales – both nationally, and in SBC's region – are a tiny fraction of those claimed by XO based upon the unverified Yankee Group report. *See SBC-AT&T Joint Opposition, Fea et al. Dec. ¶ 43; 7/15/05 SBC-AT&T Ex Parte at 3-5; 8/1/05 SBC-AT&T Ex Parte at 1-2 & App. A at 1-5.* We have further demonstrated that even these limited revenues overstate AT&T's competitive importance as a supplier to CLECs such as XO, for the substantial majority of AT&T's wholesale local private line sales are not made to CLECs but rather to other purchasers such as ISPs, wireless carriers, and IXCs. Finally, we have shown that these AT&T wholesale revenue figures include AT&T's revenues from the provision of *all* of its wholesale dedicated local access services – *i.e.*, loops, interoffice transport, entrance facilities, and combinations of such facilities.

This hard evidence cannot be called into question by the surmise of analysts who have no access to AT&T's (or any other carrier's) underlying financial data and have instead offered mere estimates based on an unexplained "survey" methodology. Indeed, Applicants have shown that the other similar estimates advanced by the Yankee Group radically overstated AT&T's wholesale local private line sales by, for example, attributing local private line sales to AT&T in MSAs where AT&T has *no* local fiber facilities and *no* wholesale local private line sales at all. *7/15/05 SBC-AT&T Ex Parte at 5; 8/1/05 SBC-AT&T Ex Parte at 2.*

Finally, while the Yankee Group study is erroneous, it nevertheless confirms that elimination of AT&T as an independent supplier will have no adverse effect on competition. The Yankee Group report itself states that that the "Tier 1" markets served by AT&T "experience enormous competition" (Yankee Group Survey at 13) and that a substantial majority of companies say that they use non-ILECs as their "first choice" for wholesale local private line service (*id.* at 31). The study thus confirms that XO and other CLECs have many choices other

than AT&T for their access needs and that a combined SBC-AT&T will have no ability to raise prices as a result of the merger.

In short, the Commission's determinations must be based on actual facts and data when they are available, and such hard facts and data cannot be impeached by uninformed survey reports that are based on unverified secondary evidence. The reliable evidence in the record here shows that AT&T is only an insignificant supplier of wholesale local private line services in the SBC region.

Sincerely,

SBC Communications Inc.

AT&T Corp.

/s/ Gary L. Phillips

/s/ Lawrence J. Lafaro

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