

**DESCRIPTION OF TRANSACTION,
PUBLIC INTEREST SHOWING
AND RELATED DEMONSTRATION**

INTRODUCTION AND EXECUTIVE SUMMARY

In 1984, at the time of the Bell System divestiture, the principal telecommunications technology was the narrowband, circuit-switched wireline network, and the principal competitive issue was whether the separation of local service (considered to be a natural monopoly) from interexchange service would allow the latter to flourish as a separate competitive market. Today, the nation's voice, data and video needs are met by numerous competing wireless and wireline networks. No one thinks of local service as a natural monopoly. And no one thinks long distance is a separate, standalone market. Business and mass market customers alike want mobility and broadband, and they have an increasing array of choices for both.

In approving the SBC/AT&T and Verizon/MCI transactions, this Commission concluded that “the proposed transaction is likely to generate several significant merger-specific public interest benefits,”¹ including provision to the government of “additional security and routing efficiency for vital and sensitive government communications,”² efficiencies related to “vertical integration of the largely complementary networks and facilities,”³ significant economies of scale and scope,⁴ and substantial cost savings.⁵ This transaction will bring these benefits to the customers of BellSouth, which is the only

¹ *In re Applications of SBC Commc'ns Inc. & AT&T Corp.*, Memorandum Opinion and Order, WC Dkt. No. 05-65, FCC 05-183, ¶ 182 (Nov. 17, 2005) (“*SBC/AT&T Merger Order*”); *In re Applications of Verizon Commc'ns Inc. & MCI, Inc.*, Memorandum Opinion and Order, WC Dkt. No. 05-75, FCC 05-184, ¶ 193 (Nov. 17, 2005) (“*Verizon/MCI Merger Order*”).

² *SBC/AT&T Merger Order* ¶ 186; *Verizon/MCI Merger Order* ¶ 197.

³ *SBC/AT&T Merger Order* ¶ 191; *Verizon/MCI Merger Order* ¶ 203.

⁴ *SBC/AT&T Merger Order* ¶¶ 193-95; *Verizon/MCI Merger Order* ¶¶ 205-07.

⁵ *SBC/AT&T Merger Order* ¶¶ 196-204; *Verizon/MCI Merger Order* ¶¶ 208-14.

BOC without long distance facilities of national scope. It also will bring additional unique benefits in the areas of wireless, video and public safety.

Wireless. AT&T's and BellSouth's wireless operations already are jointly owned through Cingular, which is operated as a separate company with separate management. Although Cingular has been successful, it faces increasing challenges due to its tripartite management structure, particularly as it addresses critical technology choices and invests in new services that merge traditional landline and wireless services. For example, AT&T, BellSouth and Cingular are at various stages in constructing IP-based networks to enable advanced capabilities. This merger will permit integration of those separate networks into a single IP network to carry local and long distance voice, data and wireless traffic, making it possible to offer "follow me" converged wireless/wireline services that will provide voice, data and video content to residential, business and government customers seamlessly across wireless and wireline telephones, personal computers, televisions and myriad other devices.

Video. Although BellSouth is in the midst of deploying a fiber-rich network that is capable of providing IP video services, it has no present plans to provide such services over that network. AT&T, by contrast, is committed to providing a broad array of video programming and other services on an integrated IP platform and already has completed much of the work that will make such services possible. By combining BellSouth's fiber-rich network with AT&T's investments in IPTV technology and content, the combined company will have the resources to deploy video services more quickly in the BellSouth region than would have occurred absent the merger, reduce the per-subscriber

costs of IPTV, spur broadband adoption, and increase the amount and diversity of programming available to the public.

National Security/Disaster Recovery. The Commission found that the SBC/AT&T merger would enhance service to U.S. government agencies and promote national security by creating a “strong, full-service, facilities-based provider capable of delivering integrated end-to-end services to the government on a national or international basis.”⁶ Likewise, by enabling network integration and more efficient routing on a broader scale and across a broader geographic scope, this merger will both improve the merged company’s ability to respond expeditiously and effectively to the government’s evolving needs and enhance communications security and reliability. As the Commission recognized in the *SBC/AT&T* and *Verizon/MCI Merger Orders*, these efficiencies must be taken “extremely seriously.”⁷

The merger also will enhance the ability of the combined company to prepare for, and respond to, natural disasters, acts of terrorism and other emergencies. As the White House recently observed in a comprehensive review of the federal response to Hurricane Katrina, disaster preparedness has become a national imperative.⁸ The merger will enable the combined company to respond more effectively to disasters that affect the communications infrastructure than could either company standing alone by combining AT&T’s unique disaster recovery capabilities and assets developed to meet the needs of

⁶ *SBC/AT&T Merger Order* ¶ 187.

⁷ *Id.* ¶ 186; *Verizon/MCI Merger Order* ¶ 197.

⁸ *See The Federal Response to Hurricane Katrina: Lessons Learned*, at 3 (Feb. 2006), available at <http://www.whitehouse.gov/reports/katrina-lessons-learned.pdf> (“*Federal Response to Hurricane Katrina*”).

government and enterprise customers that demand extraordinary reliability and responsiveness for their networks with BellSouth's experience in responding to hurricanes and other disasters. The merger also will permit joint planning in advance of catastrophes, enabling faster deployment of personnel and equipment after disasters occur, more rapid restoration of critical communications capabilities, and more effective coordination with the Commission's newly established Public Safety and Homeland Security Bureau, the National Communications System and other key government agencies.

Efficiencies/Consumer Benefits. In approving the SBC/AT&T merger, the Commission recognized that there would be significant efficiencies in combining the complementary operations of the two companies.⁹ The new AT&T is already significantly ahead of schedule in recognizing those efficiencies and bringing those benefits to its customers. The efficiencies from combining AT&T's and BellSouth's complementary wireless and wireline operations are equally significant. The Applicants estimate that this merger will produce total efficiencies of \$18 billion, after accounting for the costs of integration and other implementation costs. Those cost savings will allow a stronger network, enable more research and development, enhance service quality and lower costs for consumers.

Lack of Competitive Harms. While the merger will bring clear and specifically identifiable public interest benefits, it will not harm competition or consumers in any market. There is little competitive overlap between the two companies and, as the

⁹ *SBC/AT&T Merger Order* ¶¶ 190-92.

Commission concluded in the *SBC/AT&T Merger Order* and intervening market developments confirm, competition is well established in the markets where AT&T and BellSouth traditionally have operated. Indeed, the merger of AT&T and BellSouth involves virtually no increase in horizontal concentration in any relevant market.

Mass Market. The merger will in no way reduce mass market competition for the same reasons that underlay the Commission's conclusion that the merger of AT&T and SBC would not adversely affect mass market competition. Mass market competition in BellSouth's region has taken hold and is growing exponentially. Rapid advances in IP technology permit cable companies to offer voice services to their customers. By bundling telephone services with their dominant video and data services, cable companies have won approximately 5.5 million telephone customers, and their telephone subscribership is growing by more than 50 percent per year. Meanwhile, the number of wireless subscribers exceeds the number of wireline customers, wireless carriers have become leading long distance providers, many wireless customers are "cutting the cord" and giving up their landline phones altogether, and competitive local exchange carriers ("CLECs") also continue to compete for mass market customers.

AT&T is not an active competitor in BellSouth's region. Before its merger with SBC, AT&T Corp. made a unilateral business decision to dismantle its legacy mass market business, a process that has continued since the merger. In the last three years, two-thirds of the legacy AT&T's mass market customers have found another provider. Thus, as the Commission found, "[r]egardless of what role AT&T played in the past, we conclude that AT&T's actions to cease marketing and gradually withdraw from the mass

market mean it is no longer a significant provider (or potential provider) of local service, long distance service, or bundled local and long distance service.”¹⁰

The only arguable overlap between AT&T and BellSouth in the mass market involves the AT&T CallVantage VoIP service, and that overlap is not competitively significant. AT&T CallVantage is one of dozens of over-the-top VoIP services that can be provided interchangeably over DSL, cable modem or other broadband connections. The AT&T CallVantage service has less than one-tenth of the leading VoIP provider’s customer base nationwide and fewer than 14,000 customers in BellSouth’s region.

Retail Enterprise Services. There is likewise limited horizontal overlap in the provision of enterprise services. In BellSouth’s region, AT&T focuses mainly on serving the largest retail business customers. For its part, BellSouth lacks a national network and other assets required to provide integrated nationwide service to this market segment and has little organic ability to become a more serious competitor. In any event, as the Commission recently found in the *SBC/AT&T Merger Order*, the enterprise segment is populated by sophisticated customers and a wide and growing range of competitors that now includes national interexchange carriers, international carriers, CLECs, IP/data network providers, cable companies, VoIP providers, equipment vendors and systems integrators. There is no prospect that the merged company could dominate the fiercely competitive enterprise space.

Wholesale Dedicated Access Services. AT&T is a fringe supplier of wholesale dedicated access services in the BellSouth region. Its focus is almost entirely on serving

¹⁰ *SBC/AT&T Merger Order* ¶ 103.

retail commercial customers. The incidental wholesale local services that AT&T provides are declining and could readily be replaced by other facilities-based providers. AT&T has local fiber connections to more than ten buildings that are not already served by other CLECs in only two metropolitan areas in BellSouth's ILEC territory. Those dense urban areas (Atlanta and Miami/Fort Lauderdale) are served by many other facilities-based CLECs, and in each of those MSAs, all but about 25 of AT&T's fiber-connected buildings are competitively insignificant under criteria accepted in the SBC/AT&T and Verizon/MCI mergers.

Internet. In the *SBC/AT&T Merger Order*, the Commission concluded that the merger would not cause anticompetitive effects in the Internet backbone market. That analysis applies with at least equal force here. BellSouth is not a Tier 1 backbone competitor. Furthermore, as with the SBC/AT&T merger, the presence of numerous other Tier 1 providers, together with the ability of Internet service providers to switch backbone providers, dispel any competitive concerns.

Size and Scope of Local Operations. Finally, the combination of AT&T's local telephone operations in the legacy SBC region, and BellSouth's local operations in its region, raises no legitimate concerns. Regulatory conditions imposed on mergers in the immediate aftermath of the 1996 Act have proved unnecessary and costly and, in any event, could not be justified in today's environment in which local markets are irreversibly open to competition and VoIP, cable, and wireless companies now provide vigorous intermodal competition across all services and market segments. Combining the non-overlapping local operations of AT&T and BellSouth will have straightforward results – efficiencies that better position the merged company to compete.

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Attachments:

- Appendix A: Description of Applicants
- Appendix B: Description of Selected Competitors
- Declaration of James S. Kahan
- Declaration of Christopher Rice
- Declaration of William L. Smith
- Declaration of Barry L. Boniface
- Declaration of Robert W. Bickerstaff
- Declaration of Dennis W. Carlton and Hal S. Sider

**DESCRIPTION OF TRANSACTION,
PUBLIC INTEREST SHOWING
AND RELATED DEMONSTRATIONS**

I. OVERVIEW

These applications seek the Commission's approval for the transfer of control of authorizations held by BellSouth Corporation ("BellSouth") and its subsidiaries to AT&T Inc. ("AT&T"). As detailed below, the merger of AT&T and BellSouth will provide numerous public interest benefits without raising any competitive concerns. It is in the public interest to approve these transfer of control applications quickly, and the Commission should do so.

II. DESCRIPTION OF THE APPLICANTS AND THEIR EXISTING BUSINESSES

A. AT&T

AT&T provides domestic and international voice, data and Internet services for residential, business and government customers. AT&T's network operations are supported by AT&T Laboratories, a world-leading source of research and development. AT&T also owns 60 percent of Cingular Wireless. A more detailed description of AT&T's business is provided in Appendix A hereto.

B. BellSouth

BellSouth's core business is wireline communications, and its largest customer segment is the retail consumer. Through its subsidiaries, BellSouth provides wireline local exchange, access, intra- and interLATA long distance and Internet services, almost exclusively within a nine-state region in the southeastern United States. BellSouth also

owns 40 percent of Cingular Wireless. A more detailed description of BellSouth's business is provided in Appendix A hereto.

C. Cingular

Cingular is a joint venture between AT&T and BellSouth that provides mobile wireless voice and data services nationwide. Each parent has a 50 percent voting interest.

A more detailed description of Cingular's business is provided in Appendix A hereto.

D. AT&T Is Qualified To Control These Authorizations, and There Is No Issue with Respect to BellSouth's Character or Qualifications

The Commission has concluded repeatedly that AT&T has the qualifications required by the Communications Act to control Commission authorizations,¹¹ and nothing has changed to disturb this conclusion. Nor can there be any question about BellSouth's character or qualifications to hold Commission authorizations.¹²

¹¹ *SBC/AT&T Merger Order* ¶¶ 173-76; *In re Applications of AT&T Wireless Servs., Inc. & Cingular Wireless Corp.*, Memorandum Opinion and Order, 19 FCC Rcd. 21522, 21580-82 ¶¶ 152-56 (Oct. 26, 2004) ("*Cingular/AT&T Wireless Merger Order*"); *In re Applications of Ameritech Corp. & SBC Commc'ns Inc.*, Memorandum Opinion and Order, 14 FCC Rcd. 14712, 14950 ¶¶ 571-73 (Oct. 8, 1999) (subsequent history omitted) ("*SBC/Ameritech Merger Order*").

¹² *See, e.g., Wireless Telecomms. Bureau Assignment of License Authorization Applications, Transfer of Control of Licensee Applications, De Facto Transfer Lease Applications & Spectrum Manager Lease Notifications Action*, Public Notice, Rep. No. 2276A, 2005 WL 2456026 (Oct. 5, 2005) (granting assignment of various licenses to BellSouth Mobile Data, Inc.); *Wireline Competition Bureau Grants Consent for Acquisition of Certain Assets of Adelphia Bus. Solutions by BellSouth*, Public Notice, 18 FCC Rcd. 11438 (June 6, 2003) (finding that transfer of Section 214 authorizations to BellSouth would serve the public interest); *In re BellSouth Corp.*, Order, 18 FCC Rcd. 15135 (July 17, 2003) ("[W]e conclude that there are no substantial and material questions of fact as to whether BellSouth possesses the basic qualifications, including its character qualifications, to hold or obtain any FCC licenses or authorizations."); *In re BellSouth Corp.*, Order, 15 FCC Rcd. 21756 ¶ 4 (Nov. 2, 2000) (same).

III. DESCRIPTION OF THE TRANSACTION

AT&T will acquire BellSouth. At closing, a wholly owned subsidiary of AT&T, ABC Consolidation Corporation, will be merged with and into BellSouth, with BellSouth being the surviving entity. Each share of BellSouth common stock will be converted into 1.325 shares of AT&T common stock. BellSouth thus will become a wholly owned subsidiary of AT&T. BellSouth will continue to own the stock of its subsidiaries, and BellSouth and its subsidiaries will continue to hold all of the FCC authorizations that they hold prior to the merger. While AT&T will become the new parent of BellSouth, there will be no assignment of licenses or transfer of direct control of the FCC authorizations, since the current licensees will continue to hold their authorizations.

IV. THE STANDARD OF REVIEW

In deciding whether to grant these applications under sections 214(a) and 310(d) of the Communications Act of 1934, as amended,¹³ and section 2 of the Cable Landing License Act,¹⁴ the Commission must determine whether doing so is in the public interest.¹⁵ Specifically, section 214(a) requires the Commission to find that the “present or future public convenience and necessity require or will require” AT&T to operate the acquired telecommunications lines and that “neither the present nor future public convenience and necessity will be adversely affected” by the discontinuance of service

¹³ Communications Act, 47 U.S.C. §§ 214(a), 310(d) (2000).

¹⁴ An Act Relating to the Landing and Operation of Submarine Cables in the United States, 47 U.S.C. § 35 (2000); *see generally id.* §§ 34-39 (“Cable Landing License Act”).

¹⁵ *SBC/AT&T Merger Order* ¶ 16. As a threshold matter in this review, the Commission must determine whether AT&T has the requisite qualifications to hold and transfer control of licenses. 47 U.S.C. § 310(d). As discussed in Part II.D above, there can be no question on this score.

from an independent BellSouth.¹⁶ Similarly, section 310(d) mandates that the Commission decide whether “the public interest, convenience and necessity will be served thereby.”¹⁷

The Applicants bear the burden of demonstrating that the transaction is in the public interest.¹⁸ The Commission has described the questions it considers in applying the public interest test as follows:

In making this determination, we first assess whether the proposed transaction complies with the specific provisions of the Communications Act, other applicable statutes, and the Commission’s rules. If the proposed transaction would not violate a statute or rule, the Commission considers whether it could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Communications Act or related statutes. The Commission then employs a balancing test weighing any potential public interest harms of the proposed transaction against the potential public interest benefits. The Applicants bear the burden of proving, by a preponderance of the evidence, that the proposed transaction, *on balance*, serves the public interest.¹⁹

“In conducting this analysis, the Commission may consider technological and market changes, and the nature, complexity, and speed of change of, as well as trends within, the

¹⁶ 47 U.S.C. § 214(a).

¹⁷ *Id.* § 310(d). The Cable Landing License Act contains different language – providing that approval may be granted “upon such terms as shall be necessary to assure just and reasonable rates and service in the operation and use of cables so licensed.” Cable Landing License Act § 35. However, the Commission has equated that language with its public interest test. *See, e.g., In re WorldCom, Inc. & Its Subsidiaries (Debtors-in-Possession) & MCI, Inc.*, Memorandum Opinion and Order, 18 FCC Rcd. 26484, 26492 ¶ 12 (Dec. 19, 2003) (“*MCI Bankruptcy Exit*”).

¹⁸ *SBC/AT&T Merger Order* ¶ 16.

¹⁹ *Id.* (emphasis added; footnote omitted); *accord MCI Bankruptcy Exit* ¶ 12; *Cingular/AT&T Wireless Merger Order* ¶ 40; *In re Applications of Tele-Comm’ns, Inc. & AT&T Corp.*, Memorandum Opinion and Order, 14 FCC Rcd. 3160, 3168 ¶ 13 (Feb. 18, 1999) (“*AT&T/TCI Merger Order*”); *SBC/Ameritech Merger Order* ¶ 48.

communications industry.”²⁰ Among other factors, this balancing requires “an analysis of the potential competitive effects of the transaction, as informed by traditional antitrust principles.”²¹

It is clear that this transaction does not violate any law or rule. Likewise, as shown below, it does not impede the realization of the objectives of the Communications Act or the Commission’s ability to implement the Act. To the contrary, this transaction will benefit the public interest in a number of ways without harming competition and, accordingly, should be approved by the Commission expeditiously and without conditions.

V. THE MERGER WILL PRODUCE NUMEROUS PUBLIC INTEREST BENEFITS

The Commission has recognized the significant public interest benefits that flow from the integration of a local network with a long distance network. As the Commission stated in approving the SBC/AT&T merger, “[w]e find that significant benefits are likely to result from the vertical integration of the largely complementary networks and facilities of SBC and AT&T.”²² This transaction will bring similar benefits to the customers of BellSouth, the only RBOC without long-distance facilities of national scope. While those efficiencies are sufficient standing alone for this transaction to be in the public interest, they are only some of the important public interest benefits that will

²⁰ *SBC/AT&T Merger Order* ¶ 17 (citing *Cingular/AT&T Wireless Merger Order* ¶ 40).

²¹ *SBC/Ameritech Merger Order* ¶ 49; accord, *MCI Bankruptcy Exit* ¶ 12; *In re Applications of NYNEX Corp. & Bell Atl. Corp.*, Memorandum Opinion and Order, 12 FCC Rcd. 19985, 20003 ¶ 32 (Aug. 14, 1997) (“*Bell Atlantic/NYNEX Merger Order*”).

²² *SBC/AT&T Merger Order* ¶ 191.

flow from the merger of AT&T and BellSouth. The numerous public interest benefits are described below.

A. Unification of Cingular's Ownership Will Enable a Quicker Roll Out of New Converged Services and Enhance Efficiency

The Cingular Wireless joint venture between AT&T and BellSouth has been successful by every measure. The combination of the two regional wireless networks made possible the creation of a nationwide "one rate" plan with free nationwide roaming and resulted in substantial efficiencies that reduced costs and thus furthered the aggressive price and feature competition in the wireless business that the Commission has repeatedly recognized. Now, the merger of Cingular's two parents will enable Cingular to become an even more efficient and innovative competitor. As such, Cingular will deliver more value to consumers and drive its competitors to do the same.²³

1. The Highly Competitive and Rapidly Converging Wireless Business Requires Streamlined Management of Cingular

Since 2000, Cingular has been at the forefront of an explosion of competition in wireless services in the United States. Inasmuch as BellSouth and AT&T already share ownership and control of Cingular, the proposed merger will not change the structure of the wireless marketplace and thus will have no adverse effect on competition with respect to today's mobile wireless services. To the contrary, the merger will further intensify mobile service competition. Wireless providers today operate in a vigorously competitive environment that has delivered major innovations in devices, services and pricing plans, as well as enormous investments in network upgrades and new

²³ Kahan Decl. ¶¶ 17, 26.

technologies, while producing rapidly declining prices and increased demand. As the Commission has noted, competition among wireless providers has “foster[ed] continuing experimentation with a variety of different pricing options, service packages and policies on handset subsidies.”²⁴

In such a fiercely competitive environment, wireless operators have worked hard to differentiate themselves and their offerings from other providers, and to “compete vigorously on the basis not only of price, but also of other numerous non-price features such as call quality, thoroughness of geographic coverage and plan features (*e.g.* PTT).”²⁵ In addition, as the wireless companies have faced off against one another, network investment, including “the deployment of competing second-generation (“2G”) and next-generation network technologies has emerged as an important dimension of non-price rivalry among U.S. mobile telephony providers.”²⁶ Consumers have benefited from these investments and from the diverse offerings of the various providers, enjoying features such as push-to-talk, “rollover minute” pricing, free nights and weekends, and increasingly, services offered across broader geographic areas.

As noted recently in the Commission’s *Tenth Annual CMRS Competition Report*, “robust competition” in the marketplace “continues to compel carriers to introduce innovative pricing plans and service offerings, and to match the pricing and service

²⁴ *Cingular/AT&T Wireless Merger Order* ¶ 63.

²⁵ *In re Applications of Nextel Commc’ns, Inc. & Sprint Corp.*, Memorandum Opinion and Order, 20 FCC Rcd. 13967, 14002 ¶ 95 (Aug. 8, 2005) (“*Sprint/Nextel Merger Order*”).

²⁶ *Cingular/AT&T Wireless Merger Order* ¶ 64.

innovations introduced by rival carriers.”²⁷ High demand and frequent switching by customers have driven declining prices for wireless service: “Consumers have contributed to pressures for carriers to compete on price and other terms and conditions of service by freely switching providers in response to perceived differences in the cost and quality of service,” while prices have “dropped sharply and steadily” and “lower prices have stimulated rapid growth in the demand for mobile telephony services.”²⁸ In particular, the Commission has credited national wireless providers like Cingular with driving prices downward by providing uniform, rival price plans to most U.S. consumers and permitting head-to-head price comparison.²⁹

The introduction of “3G” technology by Cingular and other wireless carriers has enabled a host of new services, including music downloads, mobile video and others. The next challenge for Cingular and its parents is to meet a growing demand for “converged” solutions that integrate wireless technology and service with wireline communications.³⁰ The merger will result in substantial efficiencies that will facilitate the development and delivery of next-generation services, particularly those that involve

²⁷ *In re Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993 -- Annual Report & Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, Tenth Report, FCC 05-71 ¶¶ 3, 204 (Sept. 30, 2005).

²⁸ *Cingular/AT&T Wireless Merger Order* ¶¶ 66-67.

²⁹ *Cingular/AT&T Wireless Merger Order* ¶ 155 (“[W]e believe that national wireless pricing innovations have been a major driver of price rivalry in the U.S. mobile telephony market . . .”).

³⁰ See, e.g., Press Release, In-Stat, Demand is Growing for Integrated Telecom Services (May 9, 2005), available at: <http://www.instat.com/press.asp?ID=1322&sku=IN0502208IA>.

wireless/wireline converged applications, as well as other synergies that will benefit consumers.³¹

2. Cingular's Management Is at a Crossroads

Even though Cingular has been successful, it increasingly is facing challenges due to its joint venture management structure.³² Cingular was formed as a limited liability company in 2000 when SBC and BellSouth contributed their respective wireless assets to form a new wireless company with national scope. While AT&T has a 60 percent equity stake, Cingular is managed by Cingular Wireless Corp., in which AT&T and BellSouth each has a 50 percent ownership interest. AT&T and BellSouth each appoint three directors to the Cingular Wireless Corp. Board of Directors. All of Cingular's key strategic decisions must be approved by a Strategic Review Committee, which has three representatives each from AT&T and BellSouth. Cingular's organizational documents authorize it to provide mobile wireless voice and data communications services, but do not permit it to sell wireline or fixed wireless services, and the parents are not permitted to sell mobile wireless services other than through or on behalf of Cingular.

Cingular's management structure has worked well and has enabled it to become a highly competitive national wireless player, but it has inherent limitations going forward in a rapidly changing service and technical environment. Not only is technology evolving and competition increasing, but the operating profiles of Cingular's parents have diverged during the five years since its creation. AT&T is a national and

³¹ Kahan Decl. ¶¶ 17-18; Rice Decl. ¶¶ 18-23.

³² Carlton/Sider Decl. ¶¶ 43-44, 48.

international provider of a broad suite of communications services. AT&T's share of Cingular's revenues constitutes only 24 percent of AT&T's total revenues. By contrast, BellSouth has remained a regional wireline carrier.³³ BellSouth's share of Cingular's revenues constitutes 41 percent of BellSouth's total revenues.

Unified ownership and management will accelerate key technology and service decisions facing Cingular. For example, converged services typically require seamless exchanges between the wireless and broadband IP networks. Such "seamless mobility" likely will result in a migration of some minutes of usage *off* the wireless network and onto the lower-cost broadband network. In a structure involving three companies, decisions relating to technology choices, utilization of multiple networks and when and where to make certain essential investments become more difficult and, of even greater importance in a rapidly changing market, slower. By combining these businesses, the merger will align incentives and focus in a manner that facilitates a more efficient decision making and investment structure.³⁴

An example of the issues raised under the current ownership structure involves the companies' various efforts to develop a dual-mode (wireless/broadband VoIP) voice service.³⁵ A call using this service would be placed over a handset that would seamlessly transition the call from Cingular's GSM wireless network to any available WiFi hotspot. Benefits for the consumer are lower costs due to lower usage of the relatively more expensive wireless network and improved signal coverage over available broadband

³³ Boniface Decl. ¶ 5.

³⁴ Kahan Decl. ¶¶ 17-21; Carlton/Sider Decl. ¶ 48.

³⁵ Rice Decl. ¶ 27; Kahan Decl. ¶ 23.

connections. AT&T is investing heavily in IP networks and sees this as a way to drive demand for IP services and a logical extension of its suite of offerings to both residential and business customers. BellSouth is exploring similar capabilities with Cingular; however, the need to build capability in each company's network and attempt to create features that operate seamlessly across their networks is technically complex. Working through these issues has significantly delayed deployment of the service. Even though AT&T (then SBC) began working with Cingular on this project in late 2002, AT&T still does not have a handset commitment and the service is not yet scheduled to be commercially available. By contrast, T-Mobile started working on this service in 2003, made a handset commitment in late 2004/early 2005 and will reportedly have a commercially available service this year.³⁶

Because of the rapidly changing environment in which Cingular must operate, the challenges inherent in any joint venture have become increasingly more prominent in the management and strategic focus of Cingular. These challenges will only become more significant and complex with the increasing convergence of wireless and wireline telecommunications services. By unifying Cingular's ownership and management, the combined company will be much more efficient and effective in providing new services that will benefit consumers.³⁷

³⁶ See Tim Horan, *U.S. Wireless Carrier to Enable Wi-Fi Calling*, Daily Datatimes, Feb. 10, 2006, at 3; see also Amol Sharma & Li Yuan, *AT&T Deal Could Speed Move to Wireless Internet Calling*, Wall St. J., Mar. 6, 2006, at B1, available at www.kineto.com/news/industry_articles/att_wsj.html ("T-Mobile USA Inc. has already kicked off a limited trial of an Internet calling service in Seattle and is expected to roll out a commercial offering later this year.").

³⁷ The Commission recognized in the *AT&T/MediaOne Merger Order* that a full merger can be superior to a joint venture by "creat[ing] an alignment of the parties' economic interests that will reduce the areas of friction between the two companies." *In*
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3. The Merger Will Facilitate the Deployment of Wireline/Wireless Converged Services
 - a. The Merger Will Enable the Creation of a Single IMS Network

AT&T, BellSouth and Cingular each has announced that it will be deploying IP Multimedia Subsystems (IMS) to deliver new IP-based services.³⁸ IMS allows network interoperability to provide voice, data and video services and applications in any combination, on any network (fixed or mobile). IMS networks can deliver services or features to any device over any type of IP network, and will customize delivery to the device and bandwidth utilized. For example, the same video signal will be formatted differently for a wireless handset screen versus a broadband connection to a television or a computer screen connected via a WiFi hotspot.³⁹ New offerings based on IMS technology will include devices and services marrying the best attributes of wireline and wireless platforms, providing content to consumers, businesses and governments

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re Applications of MediaOne Group, Inc. & AT&T Corp., Memorandum Opinion and Order, 15 FCC Rcd. 9816, 9891 ¶ 175 (June 6, 2000) (“*AT&T/MediaOne Merger Order*”). The economic literature similarly recognizes the inherent limits on the effectiveness of any joint venture, including delays in decision-making. *See, e.g.*, Bruce Kogut, *The Stability of Joint Ventures, Reciprocity and Competitive Rivalry*, 38 J. Indus. Econ. 183 (1989). One study concluded that more than 80% of joint ventures end with one joint venture partner buying out the other. Joel Bleeke & David Ernst, *Is Your Strategic Alliance Really a Sale?*, 73 Harv. Bus. Rev. 97 (1995); *see also* Carlton/Sider Decl. ¶ 44.

³⁸ *See* Press Release, Cingular, Cingular Wireless Selects Lucent Technologies' IMG-based Solution for Evolution to Next-Generation Services Solution will Enable Cingular to Rapidly Develop and Launch Exciting New End-User Applications Over its 3G Network (Oct. 17, 2005), *available at* http://cingular.mediaroom.com/index.php?s=press_releases&item=1343; Press Release, AT&T, SBC to Deliver Innovative New IP Applications on Subscribers' Wireline and Mobile Devices (Oct. 18, 2005), *available at* <http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=21842>; Press Release, Lucent Technologies, BellSouth Selects Lucent Technologies' Next-Generation Solution to Enable a Range of Advanced Consumer IP Services (Nov. 8, 2005), *available at* <http://www.lucent.com/press/1105/051108.coa.html>.

³⁹ Rice Decl. ¶ 26.

seamlessly across telephone, personal computer and television (the “three screens”)⁴⁰ at a cost that reflects the most efficient delivery route for any given application.⁴¹

Due to the constraints inherent in the Cingular joint venture, however, each of the three companies must design and build its own IMS network. Each company is controlling its own IMS architecture, and each company has selected among the numerous features that are contained in an IMS system. Thus, capital is being spent on three systems instead of one, and each parent is attempting to implement separately – through the joint venture structure – the necessary interoperability between that parent’s IMS network and Cingular’s IMS network, adding a further layer of complexity and cost as Cingular attempts to create interoperability with two separate networks.

The need to deploy three separate IMS networks not only increases cost and complexity but also can affect the interoperability that is a key benefit of many next-generation services. For example, one of the key attributes of many converged services is the ability to locate and identify customers by their devices and services.⁴² Thus, each IMS network has a customer information repository with detailed real-time information about that company’s customers. Under the current structure, which respects the separateness of AT&T and BellSouth, Cingular’s parents do not have access to customer

⁴⁰ Kahan Decl. ¶¶ 26-28; Rice Decl. ¶¶ 20-21.

⁴¹ Rice Decl. ¶ 19.

⁴² See Imen Grida Ben Yahia et al., *Service Definition for Next Generation Networks* ¶ 5.1 (IEEE International Conference on Networking, Mauritius, Apr. 2006), available at <http://www.int-evry.fr/rs2m/cgi-bin/publi/Biblio?A=Disp&Id=2006P002> (“[IMS] [p]rovide the ability for the home network to manage presence information of a user’s device, service or service media even while roaming.”).

information (for example, presence, location and device parameters) from Cingular's network, and vice versa.⁴³

Combining AT&T and BellSouth will allow AT&T, BellSouth and Cingular to use the same IMS network architecture and a single customer repository. That outcome is simply not feasible with three separate engineering organizations and three separate sets of decisionmakers with different business plans. The single, unified IMS network that will result from the merger will deliver new applications more effectively as well as more efficiently.

b. New Applications for Consumers

The increased efficiency and effectiveness of an integrated, unified IMS network will facilitate deployment of a host of new, converged services that will change the way consumers communicate and give them new options for accessing advanced video and music content.⁴⁴ For example, the merged firm will be in a better position to offer converged applications such as:

⁴³ See Rice Decl. ¶¶ 24-25.

⁴⁴ See *id.* ¶ 20; Kahan Decl. ¶¶ 29, 31; Carlton/Sider Decl. ¶¶ 49-50; see, e.g., Peter Cohen, *Macworld Expo Live Keynote Coverage*, Macworld, Jan. 10, 2006, available at <http://www.macworld.com/news/2006/01/10/livekeynote/index.php> (stating that iTunes Music Store has sold 8 million video downloads since the video service went online in mid-October 2005 and detailing innovative new video products, including a video capable iPod as well as iMovie and iDVD); Alana Semuels, *Tech Me Out to the Ballgame*, Pittsburgh Post-Gazette, May 9, 2005, available at 2005 WLNR 7246245 (reporting 850,000 subscribers to Major League Baseball's Advanced Media Service that allows subscribers to view baseball games online); R. Thomas Umstead, *Widespread Baseball Wears on Fox*, Multichannel News, May 9, 2005, available at <http://www.multichannel.com/article/CA600098.html?display=Top+Stories> (describing goal of giving viewers access to baseball games through new delivery mechanisms, including PDAs); Don Steinberg, *Welcome to a Mad, Mad Multimedia World*, Phila. Inquirer, Oct. 18, 2005, available at 2005 WLNR 16828804 (describing multiple ways for viewers to watch or listen to sports programming, including local radio and television, national cable

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- Common services and content across the three screens – TV, PC and mobile. A customer can select streaming video content on a PC, watch part of it on a TV,⁴⁵ then leave home and watch the rest of the program from a mobile phone.
- A consolidated address book and calendar that sits out on the network and can be accessed by all three devices.⁴⁶
- The provision of video to wireless handsets, music downloads, the use of wireless handsets to control digital video recorders (“DVRs”) and other home appliances.⁴⁷
- The creation of new convergence devices. As one analyst noted, “The mobile industry continues to look for ways to incorporate consumer electronics such as the camcorder, the still camera, audio player, with wireless, bluetooth, WiFi, UWB technology all onto the cell phone. And digital TV is the next step.”⁴⁸

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networks, satellite radio, live audio of games over mobile phone, the Internet and on-demand video packages).

⁴⁵ See, e.g., Mark Ward, *Cebit 2006: Gadget round-up*, BBC News, Mar. 10, 2006, available at <http://news.bbc.co.uk/1/hi/technology/4794204.stm> (“US firm Lucent is showing off at Cebit a concept for the days when we get our TV piped via the net rather than through the old-fashioned airwaves. Called MiViewTV, the idea aims to let people watch the TV channels and programs to which they have subscribed no matter where they are. Lucent spokesman Eric Kamp said it aimed to operate just like webmail services such as Hotmail and Gmail which let users read their messages no matter which computer they use. Similarly, by the use of a login, the MiViewTV idea aims to let people sit down in front of any IP-enabled TV system and watch as if they were at home.”).

⁴⁶ See, e.g., Press Release, Lucent Techs., Lucent Technologies Expands Industry-Leading IMS Portfolio with New IP Services for Next-Gen Mobile and Wireline Networks (June 7, 2005), available at <http://www.lucent.com/press/0605/050607.cof.html> (“Lucent June 7, 2005 Press Release”) (announcing a series of enhancements to its IMS solution that would allow a common unified phonebook that would incorporate presence and location data for subscribers’ buddies, peer-to-peer streaming video conference and personalized location-based service offerings).

⁴⁷ See, e.g., *In re Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Twelfth Annual Report, FCC 06-11, MB Docket No. 05-255, ¶ 16 (Mar. 2006) (“12th Annual Report”) (describing V-Cast, a service launched by Verizon in 2005 to offer video programming to cellular telephone users); Saul Hansell, *New Place for Google and Yahoo: TV Screen*, N.Y. Times, Jan. 7, 2006, available at 2006 WLNR 423982 (describing deals between Google and Yahoo and cellular telephone manufacturers to expand and make more prominent the video content services they make available to wireless users).

⁴⁸ UPI, *Watch Out iPod, Mobile TV is Under Way*, Jan. 25, 2006, available at www.physorg.com/news10206.html; see also Tash Shrifren, *Smart Phones Eclipse PDAs*, *Says IDC*, July 28, 2005, available at <http://www.computerweekly.com/Articles/>

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- New functionality, such as a single voicemail or email mailbox for wireless, wireline and broadband that is accessible from any computer link or phone device,⁴⁹ distinctive wireless/wireline ring tones,⁵⁰ customized caller ID (e.g., family calls interrupt at home but business calls interrupt at the office, differing treatment if in a car versus in an airport terminal or coffee shop),⁵¹ and variable voicemail prerecorded messages depending on who the caller is and where the called party is.⁵²
- A single bucket of minutes to be used across all access devices with a single monthly bill.⁵³

c. New Managed Services for Business Customers

A unified IMS network also will offer significant benefits to business customers who want complete managed services that use a single device to provide mobile services that previously only were available in the office.⁵⁴ Whether in the office, at home or

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 2005/07/28/211139/Salesofhandheldcomputersfall.htm.

⁴⁹ See AT&T, Small Business Services: Full wireless capabilities, *available at* <http://www.sbc.com/gen/general?pid=7475>; Unified Communications, Interactive Voice and Value-Added-Services Solutions, *available at* <http://www.unifiedcomms.com/article.cfm?id=72>; Press Release, BroadSoft, BroadSoft's BroadWorks Application Helps Provide Fixed/Mobile Convergence for Midwest Wireless Subscribers (June 29, 2005), *available at* <http://www.broadsoft.com/Newsroom/Press2005/MidwestWireless629a.htm>.

⁵⁰ See Press Release, Telcordia Adds Ringback Tones and Location Based Services, Enabling Personalized Subscriber Services (Jan. 10, 2006), *available at* http://www.lbszone.com/index2.php?option=com_content&do_pdf=1&id=673.

⁵¹ See Press Release, Lucent Techs., Lucent Technologies Highlighting IP-Based NGN Voice, Video, Data and Multimedia Communications Solutions at TelecomNext (Jan. 10, 2006), *available at* <http://www.lucent.com/press/0306/060314.coa.html>; Press Release, Lucent, Lucent Highlights IMS, IPTV, Hosted VoIP, WiMAX, Converged Core Solutions (Mar. 9, 2006), *available at* <http://www.lucent.com/press/0306/060309.coc.html>; Carol Wilson, *NCTA: Siemens adds caller ID feature to cable VoIP*, Telephony Online, Apr. 5, 2005, *available at* http://telephonyonline.com/voip/news/ncta_siemens_voip_040505/.

⁵² See PhoneValet Message Center, *available at* <http://www.parliant.com/phonevalet/>; Xen Mail: Xen IPK Integrated Digital Voice Mail System, *available at* http://www.necbs.com.au/docs/Xen_IPK_Mail_Brochure_-_July05.pdf.

⁵³ See Kahan Decl. ¶ 31.

⁵⁴ See, e.g., Phil Stanhope, *Going Mobile Isn't Just Doing the Same Old Thing Without Wires*, July 2005, *available at* <http://www.pocketpcmag.com/archives/Jul05/goingmobile.aspx> (“According to IDC, there will be 105 million mobile workers by 2006. The Meta Group projects that in the future 75% of the US workforce will be mobile 25% of the time Applications must be integrated and synchronized. Building on the provisioning capabilities, always-available applications need to be

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anywhere else, the IMS platform will allow a business customer to use a single device that serves as a home phone, work phone and mobile phone, and that provides office features such as four-digit dialing, business email, combined voicemail, calendar and contacts.⁵⁵ This new tool will facilitate field force management (to manage and monitor assets, employees and services), field service automation (to provide mobile technicians with access to software designed to automate core business processes and coordinate work orders and related activities via handheld devices) and sales force automation (to provide off-site sales personnel access to the customer relationship management system).⁵⁶

4. New Services for Government and National Security/Homeland Security Users

As discussed more fully in Part V.C, below, converged services available over an integrated IMS network also will be important to government officials, including national

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integrated, managed, and synchronized across all of the devices (and relational data stores) that an application is supported on.”).

⁵⁵ See Kahan Decl. ¶ 29; see also, e.g., Press Release, Lucent Techs., Lucent Technologies Expands Industry-Leading IMS Portfolio with New IP Services for Next-Gen Mobile and Wireline Networks (June 7, 2005), available at <http://www.lucent.com/press/0605/050607.cof.html> (announcing a series of enhancements to IMS solution that would allow a common unified phonebook that would incorporate presence and location data for subscribers’ buddies, peer-to-peer streaming video conference and personalized location-based service offerings).

⁵⁶ See Salesforce.com, *Sales Force Automation: Proven Sales Results With the On-Demand CRM Leader*, available at <http://www.salesforce.com/products/sales-force-automation.jsp>; Oracle/Siebel CRM OnDemand, *Sales Force Automation*, available at <http://www.crmondemand.com/products/sales/sales-force-automation/index.jsp>; Netsuite, *Sales Force Automation*, available at <http://www.netsuite.com/portal/products/netsuite/sfa.shtml>; Cingular, *Sales Force Automation*, available at <http://www.cingular.com/midtolarge/salesforce>; HP, *Wireless and Mobility-Sales Force Automation Solutions*, available at http://www.hp.com/sbso/wireless/sales_force_automation.html; QualComm, *Wireless Business Solutions*, available at <http://www.qualcomm.com/qwbs/solutions/index.shtml>.

and state leaders, first responders and others providing essential public services. These capabilities will be particularly important in national security crisis or disaster preparation and recovery situations. For example, push-to-talk, WLAN, unified communication and wireless data support for emergency services will enable a quick and reliable way to contact mobile workers and obtain access to resources in emergency situations.⁵⁷

5. The Merger Will Result in Operational and Marketing Efficiencies

In addition to allowing a unified IMS network, the merger will enable the combined company to integrate Cingular offerings in ways that are not possible with Cingular subject to joint ownership and control.⁵⁸ It also will enable integration of customer care and support functions to meet the requirements of customers that desire a single point of contact and integrated billing for all the long-distance and local voice, wireless, data and – ultimately – video services they purchase.⁵⁹

⁵⁷ See, e.g., F4W, *Tactical Wireless Emergency Broadband*, available at <http://www.freedom4wireless.com/documents/tweb.pdf>; TMCnet, *F4W Provides Tactical Wireless Emergency Phones and Broadband Internet Services for Areas Devastated by Hurricane Katrina*, Business Wire, Sept. 1, 2005, available at <http://www.tmcnet.com/usubmit/2005/sep/1178200.htm>; Winlab, *Focus Projects: Infostations for Emergency Applications*, available at <http://www.winlab.rutgers.edu/pub/docs/focus/Infostations.html>; Intrado, *V9-1-1 Mobility Service*, available at <http://www.intrado.com/images/flash3/player.html>; Ulticom, *Services Enabled by Signalware*, available at <http://www.ulticom.com/html/products/services-enabled-location.asp>; Telenity, *Corporate Fact Sheet*, available at http://www.telenity.com/pdf/Telenity_CorporateFactSheet_v2.2.pdf; Paul Korzeniowski, *VoIP, Wireless Communications Challenge 911 Systems*, Tech News World, Sept. 1, 2005, available at <http://www.technewsworld.com/story/44394.html>; CML Emergency Service Inc., *Sentinel Enhanced ALI 2.0: Solutions for Public Safety Networks*, available at <http://206.191.61.200/PDFS/SentinelEnhancedALI.pdf>.

⁵⁸ Carlton/Sider Decl. ¶¶ 51-53.

⁵⁹ Kahan Decl. ¶¶ 30-31.

The merged firm will be able to offer enterprise customers a single sales channel, a single source of customer care, comprehensive contracts with Service Level Agreements (“SLAs”) covering all the services they buy, common branding, consolidated billing, comprehensive spending reports to facilitate cost management and volume discounts applicable to their entire spend (including their employees’ individually billed use). Likewise, the merged firm will be able more widely to offer mass-market customers the conveniences of a single bill and a one-stop shop for purchasing communications services. It will be able to offer prepaid products that permit consumers to apply their credits to a full range of services.⁶⁰

The merger also will enable AT&T, BellSouth and Cingular to consolidate separate ordering and provisioning systems and obviate the need for AT&T and BellSouth customers to be transferred back and forth to Cingular to activate their wireless service. The merger permits the creation of consolidated ordering and provisioning systems, with links between ordering, provisioning and configuration. The result will be quicker and more reliable device configuration and provisioning through a single point of contact and easier repairs and returns using the consolidated organization of the merged firm. In addition, the merged firm will be able to offer a single point of contact and a single trouble handling center for all telecommunications services.⁶¹

⁶⁰ *See id.*

⁶¹ *See id.* ¶¶ 29-30.

B. The Merger Will Enhance MVPD and Programming Competition

The merger will make the combined company a more effective wireline video competitor, enable AT&T to accelerate the deployment of IPTV services in BellSouth's service area and increase competition in the market for programming. These three effects will bring enormous benefits to consumers.

As the Commission has recently recognized, overbuild video competition against the cable incumbent results in lower prices and new and better services for all consumers.⁶² Indeed, the GAO has found that cable rates are from 15-41 percent lower where the incumbent cable company faces competition from a wireline video provider.⁶³ The GAO's findings were confirmed by the dramatic decreases in cable rates that followed Verizon's launch of its competing video service in certain markets. There too cable rates declined from 28-40 percent.⁶⁴ This transaction will allow the new AT&T to

⁶² See 12th Annual Report ¶ 7 (describing competitive efforts among cable operators and DBS providers to offer expanded channel line ups, bundled services and advanced services).

⁶³ See U.S. General Accounting Office, *Wire-Based Competition Benefited Consumers in Selected Markets, Report to the Subcomm. on Antitrust, Competition Policy and Consumer Rights, Comm. on the Judiciary, U.S. Senate*, at 4 (Feb. 2004) ("GAO Wire-Based Competition Report"); see also *id.* at 13 (reporting that one incumbent cable operator offered a package of cable and Internet service at a 45% discount to the same package offered by the operator in a market without a competing broadband service provider, and noting that other incumbent cable providers responded to BSP competition by improving customer service, including by initiating door-to-door customer visits); *cf. In re Implementation of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992*, Statistical Report on Average Rates for Basic Service, Cable Programming Service, and Equipment, Report on Cable Industry Prices, 20 FCC Rcd. 2718, 2721 ¶ 12 (Feb. 4, 2005) (finding 7.3% competitive differential in monthly cable rates between communities in which cable operators are subject to effective competition and communities in which cable operators are not subject to effective competition).

⁶⁴ See Marguerite Reardon, *Telecoms, Cable Firms Take Franchise Fight to D.C.*, CNET News.com, Feb. 15, 2006, available at http://news.com.com/2102-1036_3-6040231.html?tag=st.util.print (reporting that in markets Verizon has launched its advanced video services "cable operators have cut prices between 28 percent and 42 percent"); Marguerite Reardon, *Will Bigger AT&T Spur a Broadband TV Price War?*, CNET News.com, Mar. 8, 2006, available at [Footnote continued on next page](http://news.com.com/2102-1034_3-</p></div><div data-bbox=)

deploy IPTV more efficiently in its region due to reduced operating costs and bring the benefits of new video competition to millions of consumers on an accelerated basis.

1. AT&T Is Nearing Commercial Launch of IPTV, While BellSouth Has Not Yet Determined Its IPTV Plans

a. AT&T

AT&T has launched a massive effort to expand in-region consumers' video choices through deployment of Project Lightspeed, an initiative to provide an advanced suite of voice, video and Internet access services over AT&T's upgraded fiber network. As part of the Lightspeed implementation, AT&T expects to spend more than \$4 billion in network-related deployment costs and capital expenditures beginning in 2006 through 2008. AT&T will add approximately 40,000 miles of new fiber to its existing communications network as part of Lightspeed's initial deployment. This upgrade will expand the high-speed broadband capabilities of the network and will enable AT&T to provide a broad array of video programming and other services on an integrated IP platform.⁶⁵

Hundreds of AT&T employees have spent the last three years preparing for widespread commercial launch of the Lightspeed IPTV service, which is being offered under the U-versesm brand. These efforts include the following: (1) identifying and

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6047385.html?tag=st.util.print (reporting that in markets where Verizon has rolled out its video product, cable operators have introduced special offers that are very close in price to Verizon's prices); *see also* Carlton/Sider Decl. ¶¶ 55-63.

⁶⁵ Kahan Decl. ¶ 14. Lightspeed is a highly interactive, two-way switched network that requires subscriber interaction in order for a particular subscriber to receive programming. The network efficiently manages bandwidth and enables AT&T to provide consumers with a broad menu of program choices and content controls. *See id.* ¶ 13.

purchasing video-specific network facilities and equipment; (2) managing construction activities across a 13-state area, including, among other things, the construction of a “super hub” facility and the on-going construction of video hub offices; (3) developing and modifying an in-region deployment schedule; (4) working out the technical aspects of the IP-based platform and associated middleware; (5) acquiring a full range of video content; (6) developing marketing materials and an overall marketing strategy; (7) training employees in video sales, marketing and customer service; (8) entering into contracts for network and customer premise equipment; and (9) developing scalable back office activities and business support systems, including billing, ordering, customer service and support necessary to provide IPTV services to millions of customers.⁶⁶

AT&T is undertaking a controlled launch of the U-versesm video service in San Antonio, Texas, and is moving toward a roll-out to multiple geographic areas, reaching approximately 2.7 million households this year, which includes 2.5 million households served by fiber to the node and a forecasted 175,000 households served by fiber to the premises. By the end of 2008, AT&T expects that U-versesm will be available to approximately 18 million households in its 13-state region as part of its initial deployment.⁶⁷

⁶⁶ See *id.* ¶ 33.

⁶⁷ See *id.* ¶ 15. AT&T has also made significant investments in the development and deployment in its territory of HomeZone, an innovative offering that integrates DSL, satellite television, Internet and home electronics capabilities to enable the delivery of advanced video, data and voice services that will be comparable to those provided over Project Lightspeed facilities. A commercial trial is currently underway for HomeZone. Together, Project Lightspeed and HomeZone will enable AT&T to provide advanced video services to nearly 80% of the consumers served by AT&T's local telephone facilities. See *id.* ¶ 39.

b. BellSouth

BellSouth is investing \$2.2 billion over a five year period to upgrade substantially its broadband access network and core network infrastructure, which will have the bandwidth necessary to support an IPTV service. BellSouth, however, has not yet decided whether to make the substantial additional investment that would be required to offer a commercial IPTV service.⁶⁸ As BellSouth has made clear in recent filings before the Commission, it is still evaluating the feasibility of commercial deployment of IPTV.⁶⁹

2. AT&T's Head Start in Deployment of IPTV Will Enable AT&T To Accelerate Launch of IPTV in BellSouth's Region, Reduce Costs and Bring the Benefits of New Video Competition to BellSouth Customers

The merger will enable AT&T to bring IPTV, which AT&T will roll out in the former SBC region, to the millions of customers in BellSouth's region. By combining the fiber-rich BellSouth network with the investments AT&T already has made to support a broad roll out of IPTV and AT&T's commitment to the IPTV service, the

⁶⁸ Smith Decl. ¶¶ 5-6. BellSouth's fiber upgrade will permit speeds of 24 Mbps and higher through a substantial portion of its footprint. Approximately 50% of BellSouth's households will be capable of being served by this fiber by the end of 2007, and approximately 75% of BellSouth households will be capable of being served by the end of 2009.

⁶⁹ See *In re Implementation of Section 621(a)(1) of the Cable Commc'ns Policy Act of 1984, as amended by the Cable Television Consumer Protection & Competition Act of 1992*, Comments of BellSouth Corporation and BellSouth Entertainment, LLC, MB Docket No. 05-311, at 21 n.24 (Feb. 13, 2006) ("Although BellSouth has not made any decisions at this time regarding a commercial launch of IPTV, any decision to proceed will depend on the results of continued testing and trials, a full assessment of the business opportunity of IPTV, and getting the right regulatory structure in place."). After initiating a limited technical trial in August 2005, BellSouth began an expanded technical trial to approximately 280 homes in December 2005 and plans to start a limited commercial trial to approximately 1000 homes in late 2006 to run through 2007. Smith Decl. ¶¶ 7-9. Today BellSouth provides MVPD service via cable "overbuild" to approximately 40,000 customers in 14 localities (in three states) but has no plans to expand its video service using that technology platform. *Id.* ¶ 59.

merger will enable AT&T to roll out U-versesm services quickly in the BellSouth region, assuming local franchising authorities do not create barriers to such deployment.

AT&T's investment in developing IPTV technology and preparing for commercial launch will speed the deployment of IPTV in the BellSouth territory and avoid duplication of time and expense because:

- The merger will make it unnecessary for BellSouth to construct and equip two “super hub office” facilities to support IPTV service, one for primary use and the other as a backup facility, because the two super hub offices that AT&T will use to provide service in its region can be used to provide that service in the BellSouth region. Since only two facilities would be needed, rather than the four if the companies do not merge, the result would be a cost savings of tens of millions of dollars.⁷⁰
- The merger will eliminate the need for BellSouth to negotiate IPTV content agreements necessary for the commercial roll out of IPTV. The negotiation of programming contracts can take months, if not years. IP program negotiations are quite complex and time-consuming, particularly because the feature-rich experience of U-versesm involves acquiring rights to use content in numerous applications over multiple forms of communication.⁷¹
- The merged firm would expect to be a more attractive partner to content providers and be able to obtain more favorable terms in the future as a result of offering content owners a larger potential customer base with greater geographic reach. Pursuing content acquisition in combination with Cingular also may improve the merged firm's negotiating position.⁷²
- AT&T already has developed scalable back office systems to support an IPTV service, including ordering, billing, customer care, troubleshooting and other systems. AT&T has spent several hundred million dollars on these systems. The merger will allow BellSouth to avoid further investment in developing these IT systems needed to support IPTV service.⁷³

⁷⁰ Smith Decl. ¶ 24; Kahan Decl. ¶ 38.

⁷¹ Smith Decl. ¶ 13; Kahan Decl. ¶ 36. Although BellSouth has agreements to carry programming on its legacy “cable” systems, most content providers have taken the position that those agreements will not permit BellSouth to distribute content over IPTV, and BellSouth would need to negotiate new agreements. Smith Decl. ¶ 17.

⁷² Kahan Decl. ¶ 37.

⁷³ Smith Decl. ¶ 12; Kahan Decl. ¶ 35.

- BellSouth will benefit from AT&T's experience in constructing video hub offices ("VHOs"). AT&T has developed procedures, protocols and controls to govern VHO construction that can be applied to the construction of VHOs in BellSouth's region.⁷⁴
- The merged company will be in a position to achieve cost savings from larger-volume purchases of set-top boxes and other equipment and services.⁷⁵
- The merged company will be in a position to attract more national advertisers because its combined service area will include more important large markets. Advertising is an important source of revenue both for AT&T and for the programmers it carries.⁷⁶

All of these factors mean, not only accelerated deployment in BellSouth's region, but a more efficient, lower cost video competitor across AT&T's entire customer base.

3. The Transaction Will Promote Competition in the Markets for MVPD Services and Video Programming

By creating a more efficient and ubiquitous competitor to cable, the transaction will not only promote competition in the market for MVPD services, but also, correspondingly, in the market for video programming. Indeed, as a significant purchaser of video programming, the combined company likely will be a more attractive partner for content providers than either company could have been but for the merger. A more competitive MVPD market should result in lower prices, more choice and higher quality service for consumers. In addition, the presence of a new MVPD entrant with the type of switched, interactive IP-based technology used by the U-versesm service has the potential to increase the amount and diversity of programming available to the public.

At present, AT&T's costs of acquiring programming are generally higher than the costs faced by most cable operators and DBS providers, which have very large existing

⁷⁴ Kahan Decl. ¶ 38.

⁷⁵ *Id.* ¶¶ 35, 38.

⁷⁶ *Id.* ¶ 37.

customer bases and which therefore have an advantage over new entrants such as AT&T.⁷⁷ MVPDs often are able to negotiate volume discounts and other favorable terms based in part on the size of their subscriber base.⁷⁸ In addition to the fiber-based IPTV customers the combined company can reach, Cingular is now offering video content over its 3G wireless network.⁷⁹ The combination of the companies, and the ability to offer content over “three screens” (cell phone, television and computer), likely will make AT&T a more attractive partner for content companies and enable creative new deals. Given that programming expenses represent a substantial portion of the cost of entering the MVPD market and operating as a video provider, these benefits are extremely important to the long-term ability of the combined entity to compete against the cable incumbents and DBS.⁸⁰

⁷⁷ *Id.* ¶ 37; Smith Decl. ¶¶ 26-27.

⁷⁸ *See In re Applications for Consent to the Transfer of Control of Licenses from Comcast Corp. & AT&T Corp., Transferors, to AT&T Comcast Corp., Transferee*, Memorandum Opinion and Order, 17 F.C.C. Rcd. 23246, 23258 ¶ 36 (Nov. 14, 2002) (“*Comcast/AT&T Merger Order*”) (“MVPDs can negotiate substantial discounts based on the number of subscribers to which the network will be transmitted, as well as other factors such as the network’s placement on a particular tier.”); *12th Annual Report* ¶ 172 (describing numerous commenters that discuss the favorable discounts and rates received by large MSOs when purchasing programming).

⁷⁹ *See* Marguerite Reardon, *Cingular Launches New Mobile TV Service*, CNET News.com, Mar. 6, 2006, *available at* http://news.com.com/2102-1039_3-6046551.html?tag=st.util.print (describing new video service that will allow subscribers to select three to five-minute video clips from 18 different channels, including Cartoon Network, NBC and ESPN); Cingular, *available at* <http://www.cingularsource.com/entertainment/hbo.asp> (announcing partnership between Cingular and HBO Mobile and HBO Family); Press Release, Cingular, *Cingular Wireless Launches Cingular Video™ with Exclusive Content Consumers Can Soon Customize Phones with More Wireless Services and Entertainment Options* (Dec. 15, 2005), *available at* http://cingular.mediaroom.com/index.php?s=press_releases&item=1401.

⁸⁰ Kahan Decl. ¶ 37.

4. The Merger Will Increase Program Diversity and Availability

The merger is likely to stimulate the development of video programming and increase the diversity of such programming. As a new video service provider with a large potential subscriber base and broad geographic reach, the combined company will help check the incumbent cable provider's market power with respect to video programming. Because competition introduces greater discipline into the market generally, the presence of a new competitor should improve the bargaining power of new, smaller and regional programmers that are not affiliated with an MVPD, in their negotiations with the large national MVPDs.⁸¹ Accelerated and more effective wireline video competition in BellSouth's region will force *all* distributors to be more responsive to consumers' video programming interests and reduce the influence of incumbent cable operators' vertical integration on decisions about which programming gets developed and distributed.

A broader geographic base and more potential subscribers also open up new possibilities for more foreign language, ethnic and other niche programming. For example, adding BellSouth's subscriber base in Florida to those of AT&T in Texas and California may make AT&T a particularly attractive distributor for Spanish language programmers.⁸² The increased national reach from coast to coast coupled with AT&T's

⁸¹ The 12th Annual Report noted the problems described by independent programmers attempting to obtain carriage on networks of vertically integrated MSOs. *See 12th Annual Report* ¶ 173. One programmer complained of discriminatory rates, preference for carriage of affiliated programs, and the ability of the third largest MSO to determine which programmers survive and which do not. *Id.*

⁸² Kahan Decl. ¶ 37.

robust IPTV network may enhance programmers' ability to reach their target markets and to attract advertising.

The merger also will promote programming diversity and availability by making available AT&T's IPTV service to BellSouth customers. AT&T's IPTV service will entail a switched, two-way, client server architecture designed to send each subscriber only the programming the subscriber chooses to view at a particular time. Unlike the all-at-once broadcast model of traditional cable systems, AT&T's IPTV service will provide subscribers with maximum flexibility in customizing what they see and when they see it by untethering subscribers from the confines of a programmer's pre-set schedule. And, while the ultimate breadth and scope of such capabilities will be a function of a number of factors, including arrangements with content owners and other programming vendors, AT&T's IPTV service will utilize an architecture designed to give customers additional choices in video programming that are not available today.⁸³

C. The Merger Will Substantially Improve Services to Government Customers, Strengthen National Security and Enhance the Merged Company's Ability To Prepare for and Respond to Disasters

The merger of AT&T and BellSouth will provide significant benefits to government customers and strengthen national security by creating a stronger, more efficient U.S.-owned and U.S.-controlled supplier of critical communications capabilities. The Commission has recognized that these factors, which promote the

⁸³ See *id.* ¶ 37. To be clear, the programming that a distributor offers, and the manner in which it can be viewed, is not just a function of technology, it is also a function of the rights of and business relationships with broadcasters and other programming vendors. Like any other distributors, AT&T will be bound by these rights and relationships, as well as copyright rules. Nonetheless, the architecture that AT&T is deploying is designed to offer consumers – as well as the programmers and content owners – maximum flexibility. See *id.*

safety and welfare of all Americans, are significant public interest benefits.⁸⁴ The merger also will enhance the ability of the combined company to prepare for and respond to natural disasters and other emergencies, which the White House and Chairman Martin likewise have identified as a key national priority.⁸⁵

1. The Merger Will Result in Better Service to Government Customers and Will Strengthen National Security

The merged company will be better able to provide integrated end-to-end services on a national and international basis than either company could alone. By enabling network integration and more efficient routing on a broader scale and across a broader geographic scope, the merger will both improve the merged company's ability to respond to the government's evolving communications needs and enhance communications security and reliability, "which in turn should benefit national defense and homeland security."⁸⁶ As the Commission recognized in both the *SBC/AT&T Merger Order* and the *Verizon/MCI Merger Order*, "additional security and routing efficiency for vital and sensitive government communications" are merger efficiencies that must be taken "extremely seriously."⁸⁷

⁸⁴ See *SBC/AT&T Merger Order* ¶¶ 186-89; see also *Federal Response to Hurricane Katrina*.

⁸⁵ See *Federal Response to Hurricane Katrina*; Written Statement of Kevin J. Martin, Chairman, FCC, Hearing on Public Safety Commc'ns from 9/11 to Katrina: Critical Public Policy Lessons, Before the Subcomm. on Telecomms & the Internet, Comm. on Energy & Commerce, U.S. House of Representatives (Sept. 29, 2005).

⁸⁶ See *SBC/AT&T Merger Order* ¶¶ 2, 186-88, 189 ("[S]ignificant efficiencies arising from vertical integration . . . are likely to improve the quality of services that SBC provides to government customers."); see also *Verizon/MCI Merger Order* ¶¶ 2, 197-201.

⁸⁷ *SBC/AT&T Merger Order* ¶ 186; *Verizon/MCI Merger Order* ¶ 197.

AT&T is a significant provider of telecommunications and information technology services to a broad range of federal customers, including the White House, the Department of State, the Department of Homeland Security, the Department of Defense (including most branches of the armed forces) and the Department of Justice.⁸⁸ BellSouth, as well as Cingular, also provides important telecommunications and information technology services to the federal government, including many military bases in BellSouth's nine-state local service area.

Combining the AT&T, BellSouth and Cingular IP networks will strengthen national security and, more broadly, improve the quality of service to the government for several reasons:

First, the merger will enable a unified end-to-end IP-based network, which will be "capable of delivering integrated end-to-end services to the government on a national or international basis."⁸⁹ The combined networks will provide more efficient routing for government communications, with fewer hops, reduced network latency and a lower rate of packet loss.⁹⁰ These reductions are particularly important for "real time" services such as essential high-speed data and national security communications.

Second, the merger will allow the reengineering of separate local, long-distance and wireless IP networks into integrated end-to-end IP networks, which will "provide the government with additional security and routing efficiency for vital and sensitive

⁸⁸ See AT&T, About AT&T Government Solutions, *available at* http://www.att.com/gov/about_ags/. AT&T performs various classified contracts, and thousands of its employees hold government security clearances.

⁸⁹ *SBC/AT&T Merger Order* ¶ 187.

⁹⁰ See Part V.A.3, *infra*.

government communications.”⁹¹ The combined company will have more alternative routings available, will be able to redistribute traffic more efficiently in response to isolated network problems and will be better able to ensure secure transmission.⁹²

Third, the combined company will provide a single point of contact to the government in the BellSouth and AT&T regions during and after an emergency – in contrast to the current procedure, which often requires agencies in that region to work separately with AT&T, BellSouth and Cingular. The availability of a single point of contact will be particularly beneficial in meeting the needs of government customers, such as FEMA, which rely upon National Security/Emergency Preparedness (“NS/EP”) communications.

Fourth, the increased scale and scope of the combined network will allow faster and more efficient deployment of advanced facilities and networks, both in the United States and overseas, resulting in greater innovation and more rapid reductions in unit costs.⁹³ An obvious and direct beneficiary will be the Federal Enterprise Architecture (“FEA”) program, a government-wide network architecture being developed for improved communications and data sharing among federal agencies and federal, state and local governments.⁹⁴

⁹¹ *SBC/AT&T Merger Order* ¶ 186; *see also* Kahan Decl. ¶ 32.

⁹² *See* Kahan Decl. ¶ 32.

⁹³ *See id.*

⁹⁴ *See, e.g.*, Executive Office of the President, *Enabling Citizen-Centered Electronic Government: 2005-2006 FEA PMO Action Plan*, at 2, 5-6, 11-12 (Mar. 2005), available at http://www.whitehouse.gov/omb/egov/documents/2005_FES_PMO_Action_Plan_FINAL.pdf.

Fifth, the government can expect better overall service from the combined company, as its sales and service functions will have a broader geographic reach. The Commission has previously found that such efficiencies “are likely to improve the quality of services that [AT&T] provides to government customers.”⁹⁵

Finally, the merger will allow government customers in BellSouth’s region to take advantage of AT&T’s unique expertise in addressing classified issues of national security.⁹⁶ Moreover, BellSouth’s experienced and highly specialized teams for dealing with hazardous material disasters will bring national security benefits to AT&T’s customers.⁹⁷

In the *SBC/AT&T Merger Order*, the Commission found that enhancements to national security and government services were among the “potential public interest benefits from the proposed merger.”⁹⁸ The Commission should make the same finding here.

2. The Merger of AT&T and BellSouth Will Enhance Substantially the Combined Company’s Ability To Prepare for and Respond to Natural Disasters and Other Emergencies

“The FCC has an obligation to promote ‘safety of life and property’ and to ‘encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure’ for public safety.”⁹⁹ The

⁹⁵ *SBC/AT&T Merger Order* ¶¶ 188, 191; *see also Verizon/MCI Merger Order* ¶¶ 199, 203.

⁹⁶ Smith Decl. ¶ 30.

⁹⁷ *Id.* ¶ 32.

⁹⁸ *SBC/AT&T Merger Order* ¶ 210.

⁹⁹ *Sprint/Nextel Merger Order* ¶ 144 (quoting 47 U.S.C. § 151).

Commission has recognized the importance of these core responsibilities by voting to establish a Public Safety and Homeland Security Bureau that will address the Commission's public safety, homeland security, national security, emergency management and preparedness, disaster management and related functions.¹⁰⁰ The AT&T/BellSouth merger will serve this critical mandate by substantially enhancing the ability of the combined company to prevent or minimize service disruption following natural or man-made disasters.¹⁰¹

The federal government has made disaster preparedness a major imperative,¹⁰² and has particularly emphasized the need to maintain operation of our communications infrastructure after a disaster strikes.¹⁰³ As the White House recently observed, telecommunications is among the handful of industries, along with transportation, electricity, banking and food and water supply, that make up the nation's "critical infrastructure."¹⁰⁴ The nation relies on these industries "to maintain its defense, continuity of government, economic prosperity, and quality of life," and "their disruption [can] have a debilitating impact on national security, the economy, or public health and safety."¹⁰⁵

¹⁰⁰ Press Release, FCC, FCC Adopts Plan To Establish a Public Safety and Homeland Security Bureau (Mar. 17, 2006), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-264395A1.pdf.

¹⁰¹ Carlton/Sider Decl. ¶ 67.

¹⁰² *See Federal Response to Hurricane Katrina*, at 3 ("Katrina creates an opportunity – indeed an imperative – for a national dialogue about true national preparedness, especially as it pertains to catastrophic events.").

¹⁰³ *Id.*

¹⁰⁴ *Id.* at 81.

¹⁰⁵ *Id.*

Last summer's hurricane season emphasizes the critical need to maintain and enhance telecommunications carriers' ability to respond to disasters. Hurricane Katrina, for example, caused "[t]he complete devastation of the communications infrastructure" in the region and "left emergency responders and citizens without a reliable network across which they could coordinate."¹⁰⁶ Despite the enormous dedication and efforts of the communications providers in the affected areas, the lack of reliable communications severely impeded the disaster response of governments and rescue organizations.¹⁰⁷ "[D]amaged local police radio systems made it much harder for emergency personnel to help those in need,"¹⁰⁸ and "[e]fforts to get food, water and electricity to the hundreds of thousands of survivors" were hampered by the "[i]n]ability of aid groups, citizens and even the phone companies to communicate with one another."¹⁰⁹

¹⁰⁶ *Id.* at 55; *see also id.* (noting that the storm "debilitated 911 emergency call centers, disrupting local emergency services").

¹⁰⁷ *See* Chairman Kevin J. Martin, Remarks at the Second Meeting of the FCC's Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks, at 2 (Mar. 6, 2006), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-264196A1.pdf.

¹⁰⁸ Arshad Mohammed, *Telecom Damage Tops \$400 Million*, Wash. Post, Sept. 6, 2005, at D6, *available at* <http://www.washingtonpost.com/wp-dyn/content/article/2005/09/05/AR20050905D1231.html>.

¹⁰⁹ Ken Belson, *Millions Said to Be Lacking Phone Service of Any Kind*, N.Y. Times, Sept. 1, 2005, at C7, *available at* 2005 WLNR 13732236; *see also, e.g.*, David Rohde, *Storm and Crisis: The Victims Vulnerable, and Doomed in the Storm*, N.Y. Times, Sept. 19, 2005, at A1, *available at* 2005 WLNR 14708431 ("Nearly all communication systems collapsed, leaving hospital administrators to guess if help was on the way."); Laura Maggi, *Lack of Communication During Katrina Proved Crippling; Rescue, Safety, Recovery Efforts Were Hindered*, New Orleans Times-Picayune, Sept. 12, 2005, at A10, *available at* 2005 WLNR 16679266 ("Practically from the moment Hurricane Katrina barreled across the New Orleans area, state officials complained that one of the major problems with rescue, safety and recovery efforts was the sheer inability to communicate. . . . Local officials, including emergency personnel, often were unable to contact the state and even had problems communicating with one another within a parish.").

Protecting communications networks from disasters and responding promptly to restore damaged networks are major undertakings requiring substantial investment and resources. Natural disasters like Hurricane Katrina cause massive damage not only to telephone lines, but also to the central offices and nodes that contain switching and power equipment. While members of the industry have a long history of helping each other in times of crises -- for example, AT&T Corp., SBC and Verizon provided assistance to BellSouth in the aftermath of Katrina, and it is expected that members of the industry will continue to work together in similar times in the future -- the combination of the unique skills of BellSouth and AT&T will dramatically improve the capabilities of the combined company to address such emergencies.

BellSouth has done a remarkable job in the face of unprecedented natural disasters, including Hurricanes Wilma, Katrina and Rita. AT&T likewise has responded effectively to hurricanes, mudslides, earthquakes, tornados and wildfires, as well as acts of terrorism, including the Oklahoma City bombing and the 9-11 attacks. But, despite the successes that BellSouth and AT&T have achieved in preparing for and recovering from disasters in the past, the merger holds the promise of dramatic improvements in the future.¹¹⁰ Both AT&T and BellSouth have unique capabilities and assets that, when combined, will greatly enhance communications services following any disaster.¹¹¹

¹¹⁰ To further assist in its disaster planning and recovery efforts, AT&T recently filed with the Commission a petition to engage in integrated planning and response. *In re Petition of AT&T Inc. for Special Temp. Authority and Waiver To Support Disaster Planning & Resp.*, Petition of AT&T Inc., WC Dkt. No. 06-63 (Mar. 10, 2006), available at http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6518331118.

¹¹¹ Rice Decl. ¶¶ 36-43; Smith Decl. ¶ 26.

First, BellSouth has a wealth of expertise that the merger will unleash for the benefit of AT&T, Cingular and their customers. BellSouth, for example, has teams with unique and highly specialized training and experience for responding to hazardous material disasters. These specialized skills already have proved to be instrumental in responding to a recent train derailment involving hazardous materials and in hazardous material incidents caused by Hurricane Katrina. BellSouth also has a wealth of experience dealing with the planning for and recovery from the severe hurricanes that have struck BellSouth states (22 in the last 10 years), and equipment and personnel that can be deployed to aid recovery wherever disasters strike.¹¹²

Second, the establishment of unified control over the local exchange operations in the BellSouth and AT&T states will accelerate the restoration of service following a disaster. While the RBOCs historically have entered into voluntary mutual aid agreements, and this system has worked well, everything will flow faster and better when management of the affected company has to deal primarily with only its own networks, its own equipment and its own employees.¹¹³ In that event, management will know in advance the characteristics of equipment that is threatened or destroyed, will immediately know whether its warehoused substitute equipment is compatible, will know the workloads of its technicians, and will have greater latitude under collective bargaining

¹¹² As a few examples, this team and technology was used to respond to the aircraft crash site in the Florida Everglades, floods in Kentucky and Tennessee, and damage caused by Hurricane Katrina. BellSouth also deployed microwave technology after Hurricane Katrina, which is still in use today to provide backhaul for cellular and wireline connectively in and around the New Orleans area. Smith Decl. ¶ 37.

¹¹³ Smith Decl. ¶ 28; Rice Decl. ¶ 35.