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VIA ELECTRONIC SUBMISSION

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW – Lobby Level
Washington, D.C. 20554

Re: Review of AT&T Inc. and BellSouth Corp. Application for Consent to
Transfer Control, WC Docket No. 06-74

Dear Ms. Dortch:

On May 9, Fones4All filed an *ex parte* letter claiming that AT&T is wrongfully withholding reciprocal compensation payments it owes Fones4All while simultaneously suing Fones4All for a refund of overpayments already made. Without providing any of the relevant facts, Fones4All asserts that these actions represent an abuse by AT&T of “its dominant position in the California telecommunications marketplace” and should be considered by the Commission in its review of the BellSouth merger.

Fones4All’s claims are incomplete, misleading, and inaccurate, and in all events, raise no issues that are even remotely relevant to the proposed merger of BellSouth and AT&T. In fact, the litigation between AT&T and Fones4All stems from: (1) Fones4All’s failure to pay invoices for UNEs purchased under its interconnection agreement with AT&T; and (2) Fones4All’s improper overbilling of reciprocal compensation charges. The United States District Court for the Central District of California already has rejected Fones4All’s request for a temporary restraining order and preliminary injunction in connection with its failure to pay amounts due for its use of UNEs. AT&T’s complaint regarding reciprocal compensation overcharges, which arises from Fones4All’s failure to use actual call data in billing such charges and its reliance, instead, on “assumptions” that are belied by actual call data, is currently pending before the California Public Utilities Commission.

AT&T would be happy to present additional facts regarding these matters to the Commission if the Commission so requests. A full airing of the facts will only underscore the frivolous nature of Fones4All’s assertions. AT&T submits, however, that these claims have no place in this merger proceeding, nor should this proceeding be a vehicle for carriers to seek leverage with respect to these disputes. As the Commission has held repeatedly, it “will not consider arguments in [merger] proceeding[s] that are better addressed in other Commission

proceedings, or other legal fora[.]”¹ Were it otherwise, no merger could ever be approved in anything close to a timely basis.

AT&T already has demonstrated that its merger with BellSouth will further the public interest, convenience and necessity and intends to respond in full to any facially substantive arguments to the contrary made by merger opponents. Fones4All’s claims relating to its failure to pay its bills and to bill others properly do not, however, deserve such a response.

If you have any further questions or seek additional information about this matter, please do not hesitate to contact me.

Sincerely,
/s/
Gary L. Phillips

¹ *Applications of Craig O. McCaw and American Tel. & Tel. Co.*, Memorandum Opinion and Order, 9 FCC Rcd. 5836, 5904, ¶ 123 (1994); *see also Applications of SBC Communications Inc. & AT&T Corp.*, Memorandum Opinion and Order, 20 FCC Rcd. 18290, 18380 & n.493 (2005); *AT&T Wireless Servs, Inc. & Cingular Wireless Corp.*, Memorandum Opinion and Order, 19 FCC Rcd. 21522, 21547-21549, 21551, ¶¶ 49-51, 56 n.222; *Applications of Gen. Motors Corp., Hughes Elec. Corp., & the News Corp.*, Memorandum Opinion and Order, 19 FCC Rcd. 473, 605-607, 609, ¶¶ 304-09. 313-14 (2004); *Applications of Ameritech Corp. & SBC Communications Inc.*, Memorandum Opinion and Order, 14 FCC Rcd. 14712, 14925, 14942-14943, ¶¶ 518, ¶¶ 557-59 (1999).