

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
AT&T Inc. and BellSouth Corporation) WC Docket No. 06-74
Applications for Approval of)
Transfer of Control)
)
Protective Order)

COMMENTS OF THE GEORGIA PUBLIC SERVICE COMMISSION

I. Introduction

Comes now, the Georgia Public Service Commission (“GPSC”), by and through its counsel, the Attorney General for the State of Georgia, and files these comments in the above-styled proceeding in response to the applications of AT&T Inc. (“AT&T”) and BellSouth Corporation (“BellSouth”) (collectively “the Applicants”) for the transfer of control to AT&T of licenses and authorizations held directly and indirectly by BellSouth. The GPSC requests that the Federal Communications Commission (“Commission”) require, as conditions of any approval of the Applications for Transfer of Control, that network neutrality be maintained and that AT&T offer stand-alone digital subscriber line (“DSL”) service in BellSouth’s service territory as AT&T currently offers in other states.

The request made by the GPSC is both reasonable and beneficial to consumers. Both of the measures proposed are narrowly tailored to ensure that the ability of consumers to take advantage of technological advancements in telecommunications services is not jeopardized by mergers and acquisitions that reduce the number of competitors from which customers may choose. Without imposing any undue burden on the Applicants, the requested conditions would protect against discrimination and enhance customer choice.

II. Network Neutrality

As this Commission is aware, network neutrality is a principle that maintains the freedom of consumer choice regarding content on or access to the network, without discriminating against any particular data or applications. If large telecommunications and cable companies are permitted to be gatekeepers of internet content, then they will have the power to discriminate against their competitors. Consumers may be required to purchase their provider's applications or suffer through much slower access and having to pay additional amounts for adequate access.

GPSC submits that the risk posed by this type of discrimination is heightened in the context of an industry in which major competitors are merging or being acquired by one another. Customers with fewer providers to choose from will have fewer alternatives to the discriminatory service offered by a large telecommunications company. Network neutrality is essential to promote competition and protect customer choice. The maintenance of net neutrality is a concept that should be made a condition of any approval of the application for transfer of control.

III. Stand-Alone DSL

GPSC also requests that Applicants be required to offer stand-alone DSL service in BellSouth's service territory as a condition of any approval of the application for transfer of control. Currently, BellSouth does not offer its DSL service on a stand-alone basis. In fact, in order to receive BellSouth's DSL service, a customer must receive BellSouth's voice service as well. The anticompetitive impact of this policy is exacerbated in an environment where major competitors merge and customers have fewer competitive options.

Including this requirement as a condition of approving the application is reasonable as demonstrated by the fact that AT&T already offers stand-alone DSL in Southwestern Bell's

territory. Stand-alone DSL service is obviously technically feasible. Moreover, the GPSC is not requesting that the Commission set a cost-based rate for the service. If the acquisition is approved with this condition, then AT&T would have the opportunity to earn a profit from providing stand-alone DSL service to customers that wish to choose that option.

Without this condition, consumers will be deprived of a competitive option for which they may not be able to find an alternative. Such consumers will be forced to purchase a service they may not need or want in order to receive the desired service. In reviewing the Applications, the Commission must consider the relationship between this policy and diminishing competitive options for consumers. In the interests of consumers and fair competition, it is reasonable to impose the modest and technically feasible condition that stand-alone DSL service be required as a condition of approving the acquisition.

IV. Conclusion

The GPSC respectfully requests that the Commission require, as conditions of any approval of the applied for Transfer of Control, that network neutrality be maintained and that AT&T offer stand-alone digital subscriber line service in BellSouth's service territory. These conditions are necessary in order to protect consumers against anticompetitive and discriminatory practices. These conditions are also reasonable in that compliance with the conditions is technically feasible and does not deprive the Applicants of the opportunity to earn a profit from the services they provide.

Respectfully submitted,

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