

REDACTED – FOR PUBLIC INSPECTION

September 20, 2006

BY HAND DELIVERY

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: AT&T Inc. and BellSouth Corporation Applications for Approval of Transfer of Control, WC Docket No. 06-74

Dear Ms. Dortch:

On September 1, 2006, AT&T supplemented the information provided in its response to Specification 14.b of the Commission's Initial Information and Document Request.¹ After applying the competitive analysis previously employed by the Commission and the Department of Justice to the BellSouth region buildings where AT&T has local fiber connections, we demonstrated that there is no substantial basis for any competitive or public interest concerns in the very small number of scattered buildings that remain. We noted that we were continuing to collect additional data in Miami and elsewhere and would provide any material additional information to the Commission as it became available.²

The purpose of this letter is to provide such information both with respect to Miami and with respect to the 12 buildings that were listed in AT&T's response to Specification 14.a.5, but not its response to Specification 14 b., because those buildings were added (or planned to be added) to AT&T's building database after AT&T pulled the data for its response to Specification 14.b. The updated Attachments and Exhibits attached hereto reflect this additional information and replace those provided with the Sep. 1 AT&T Letter.³

¹ See *Ex Parte Letter* from Gary L. Phillips (AT&T) to Marlene H. Dortch (FCC), WC Docket No. 06-74 (filed Sep. 1, 2006) ("Sep. 1 AT&T Letter").

² *Id.* at 2, n.4 & 4, n.12.

³ Information in Attachment 2 and information in portions of this letter are both commercially and financially sensitive and is proprietary information that AT&T would not in the normal course of business reveal to the public or its competitors. The exhibits and portions of this letter effectively disclose the identity of specific customers (by providing building addresses) and provide "detailed or granular engineering capacity information." *In re AT&T Inc. & BellSouth Corp. Applications for Approval of Transfer of Control*, WC Dkt No. 06-74, Second Protective Order, DA 06-1415, at 2 ¶ 5 (rel. July 7, 2006) (defining "Highly Confidential Information") ("Second Protective Order"). AT&T is designating such information as Highly Confidential pursuant to the Second Protective Order. In addition to the Highly Confidential Information just described, Attachment 2, Revised Supplemental Exhibits 14.b.4-7 contain information supplied to AT&T by third parties under confidentiality agreements. AT&T is designating the latter type of information as Confidential Information pursuant to the First Protective Order. *In re AT&T*

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First, further investigation of the 12 buildings listed in AT&T’s response to Specification 14.a.5 demonstrates that 8 of these buildings are irrelevant to any analysis of buildings that both AT&T and BellSouth serve with local fiber connections. In particular, Applicants have determined that: (1) BellSouth has no local fiber connections to five of these buildings, two of which are in Sprint, not BellSouth, incumbent franchise areas **[begin highly confidential]** **[end highly confidential]**, and three of which, although within BellSouth franchise areas, are not connected to BellSouth’s local networks **[begin highly confidential]** **[end highly confidential]**, and (2) AT&T has no local fiber connections to three of the buildings **[begin highly confidential]** **[end highly confidential]**. Accordingly, the merger cannot, by definition, reduce competition in any of these buildings: both before and after the merger, these buildings will be served by either AT&T or BellSouth, but not both.⁴

The remaining 4 buildings likewise raise no competitive concerns. Three of the four buildings are already served by local fiber connections of other facilities-based CLECs **[begin highly confidential]** **[end highly confidential]**

[end highly confidential]. The final building **[begin highly confidential]** **[end highly confidential]** has extraordinarily large (OC96 or greater) demand that justified construction of more than 10 miles of fiber by AT&T, and it is less than two miles from the existing local fiber of other CLECs. In any event, this building is the only building in the Birmingham area that remains after application of the competitive screens employed in the prior mergers and for the reasons described in the Sep. 1 AT&T Letter, no remedy could be necessary to address a single building in an entire metropolitan area.⁵

Second, Applicants can now provide a complete analysis of the AT&T buildings reported in the response to Specification 14.b that includes the buildings in South Florida communities in

Inc. & BellSouth Corp. Applications for Approval of Transfer of Control, WC Dkt No. 06-74, Protective Order, DA 06-1032 (rel. May 12, 2006) (“First Protective Order”). Further, Attachment 1 contains information derived from the Highly Confidential and Confidential information in Attachment 2, and is so sensitive that it should not be copied by anyone. Accordingly, AT&T is designating Attachment 1 Confidential and Copying Prohibited pursuant to the First Protective Order. *Id.*

⁴ See, e.g., Plaintiff United States’ Response to Public Comments, *United States v. SBC Communications Inc. and AT&T Corp.*, Civil Action No. 1:05CV02102(EGS), at 25-26 (D.D.C. filed March 21, 2006) (“the likely competitive problem is limited to the provision of Local Private Line and related services in certain 2-to-1 buildings”); *id.* at 31 (“the competitive harm likely to result from the proposed merger is limited to a set of 2-to-1 buildings”); *id.* at 31-32 (noting that “[i]n the vast majority of buildings, the RBOC is the only firm owning a last-mile connection” and finding no merger-specific harm in these buildings because “the merger does not change this”).

⁵ Sep. 1 AT&T Letter, at 9-13.

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the Miami, Fort Lauderdale and West Palm Beach areas. *See* Attachments 1 & 2. For the reasons set forth in the Sep. 1 AT&T Letter, there is no competitive concern that merits any special access remedy here.

In accordance with the Protective Orders and the directions of the Staff, under separate transmittal letters, we are providing five (5) unredacted paper copies and fifteen (15) unredacted CD-ROM copies of this letter and its exhibits to the Staff; we are filing one (1) unredacted CD-ROM copy with your office; and we are filing a redacted copy via ECFS. The unredacted letter and exhibits will be made available for inspection, pursuant to the terms of the Protective Orders at the offices of Crowell & Moring LLP. Counsel for parties to this proceeding should contact Jeane Thomas of that firm at (202) 624-2877 to coordinate access.

Very truly yours,

/s/ Gary L. Phillips
Gary L. Phillips

Attorney for AT&T Inc.