

SouthEast Telephone

October 19, 2006

Marlene Dortch
Secretary
Federal Communications Commission
445 – 12th St., SW
Washington, DC 20554

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

Dear Ms. Dortch,

In order to protect rural consumers and preserve competition in high-cost areas, additional merger conditions are urgently needed beyond those proposed by AT&T and BellSouth.

SouthEast Telephone is a CLEC operating exclusively in a rural Appalachian mountain region of southeastern Kentucky, including 56 counties extending from our Pike County base of operations as far west as Nelson County. We serve approximately 48,000 residential and small-business customers. To our knowledge, SouthEast is one of only two CLECs still actively competing to serve residential customers anywhere in Kentucky, and in our rural service area, we are the only alternative to BellSouth for local and all-distance telephone service, dial-up and broadband Internet services, and other telecommunications and information services. While we have begun to build out our own network facilities in a few locations, we face extremely high costs in deploying facilities in our sparsely populated area. As a practical matter, we cannot serve the vast majority of our customer base or compete effectively without leasing network elements from BellSouth.

BellSouth has been extraordinarily uncooperative with SouthEast, and has refused to make available network elements at just, reasonable, and nondiscriminatory rates, terms and conditions – even though the FCC has confirmed that Section 271 requires them to do so independent of any Section 251 analysis. Since the *Triennial Review Remand Order*, BellSouth has refused to engage in good faith negotiations with us, has threatened to terminate our service and disconnect our customers, and has degraded the quality of our service.

We have turned to the Kentucky Public Service Commission to protect our rights under Section 271, but BellSouth has resisted the PSC's authority at every turn. The proposed merger with AT&T could make matters worse because, by eliminating one of the only other companies operating in Kentucky with the financial clout and expertise to potentially construct competitive network facilities that we could lease, the merger would take away one of our last sources of clout to constrain BellSouth's anticompetitive conduct.

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SouthEast respectfully requests that the Commission reject the merger unless the applicants agree that they will not challenge the concurrent authority of the state public service commissions, as well as the FCC, to oversee their provision of Section 271 elements at just, reasonable, and nondiscriminatory rates, terms, and conditions. This is particularly important because, for purposes of merger analysis, the FCC has held that “the relevant geographic market for mass market local, long distance, and bundled local and long distance services is the customer’s location. We then aggregate customers facing similar competitive choices.” *SBC/AT&T Merger Order*, ¶97. The PSCs are in a good position to evaluate the unique local conditions that rural CLECs like SouthEast face, and the unreasonableness of BellSouth’s Section 271 rates, terms, and conditions in this context.

Thus, this merger should be conditioned on AT&T/BellSouth’s agreement to recognize the state PSCs’ authority to arbitrate agreements concerning the provision of network elements required under Section 271, including combinations of such elements with one another and with Section 251 UNEs. This is particularly critical in rural areas – *i.e.*, areas defined as “Zone 3” for UNE and USF purposes, and/or areas defined as “rural” for CLEC access charges under 47 CFR §61.26(a)(6). The applicants also should be required to agree not to seek forbearance or any other ruling altering the status of network elements currently subject to Section 271.

Respectfully submitted,

Darrell Maynard
President

cc: Michelle Carey
Scott Deutchman
Scott Bergmann
Ian Dillner
Thomas Navin