

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)	
)	
Application Pursuant to Section 214 of the Communications Act of 1934 and Section 63.04 of the Commission's Rules for Consent to the Transfer of Control of BellSouth Corporation to AT&T, Inc.)	WC Docket No. 06-74 DA 06-2035

COMMENTS OF FONES4ALL CORPORATION

Fones4All Corporation (“Fones4All”), pursuant to the Public Notice issued by the Federal Communications Commission (“FCC” or “Commission”) in the above-captioned proceeding,¹ by counsel, hereby provides its comments on the proposed conditions submitted by AT&T Inc. (“AT&T”) and BellSouth Corporation (“BellSouth”) (jointly, the “Applicants”) in the above captioned proceeding.

I. INTRODUCTION

Notably absent from the Applicants’ proposed conditions was any language responsive to the record in this proceeding demonstrating that low-income, largely minority Lifeline customers will be the biggest losers if the proposed transaction is approved as proposed. As Commissioner Copps noted in his statement on² on September 28, 2006, “According to our own data, the

¹ *Commission Seeks Comment on Proposals Submitted by AT&T Inc. And BellSouth Corporation*, Public Notice, DA 06-2035 (reel. Oct. 13, 2006). Specific file numbers related to the proposed transaction are hereby incorporated by reference.

² See Concurring statements of Commissioners Adelstein and Copps *Fones4All Corp. Petition for Expedited Forbearance Under 47 U.S.C. § 160(c) and Section 1.53 from Application of Rule 51.319(d) to Competitive Local Exchange Carriers Using Unbundled Local Switching to Provide Single Line Residential Service to End Users Eligible for State or Federal Lifeline Service*, Memorandum Opinion and Order, WC Docket No. 05-261 (Sept. 28, 2006).

percentage of households that subscribe for telephone service hit its lowest point in 2005 in over fifteen years. The importance of home telephone service is self-evident as consumers, particularly low income consumers, rely heavily on home phones to stay connected with their families, make important calls to employers and doctors, and in an emergency to make that life-saving call.” Similarly, Commissioner Adelstein noted that: “Congress made clear in Section 254 of the Act that ‘consumers in all regions of the Nation, including low-income consumers . . . should have access to telecommunications and information services’ and I have repeatedly supported efforts to expand the availability of our Lifeline and Link-Up programs. Access to basic telephone service has long since moved from the category of luxury to necessity, yet there remains much more work to be done. As the Commission recently found, only approximately one third of eligible low income households actually subscribe to the Lifeline program.”³ As noted in the Public Notice, the “record [in WC Docket No. 06-74] raises serious questions about whether the combination [of AT&T and BellSouth] as proposed would satisfy the public interest, convenience, and necessity.”

Nonetheless, the Applicants’ proposed conditions did not address how they intend to mitigate the harms of the merger on low-income, Lifeline eligible consumers. Accordingly, Fones4All herein reiterates the need for the Commission to address the issue of competitive choice for low-income consumers by adopting the merger condition proposed herein.

II. Promoting Universal Service for Lifeline Consumers

³ See Concurring Statement of Commissioner Adelstein, *Fones4All Corp. Petition for Expedited Forbearance Under 47 U.S.C. § 160(c) and Section 1.53 from Application of Rule 51.319(d) to Competitive Local Exchange Carriers Using Unbundled Local Switching to Provide Single Line Residential Service to End Users Eligible for State or Federal Lifeline Service*, Memorandum Opinion and Order, WC Docket No. 05-261 (Sept. 28, 2006).

The record of this proceeding is replete with evidence that the proposed merger will harm the public interest by decreasing competition in the market for residential consumers who qualify for Lifeline service.⁴ As the Commission has acknowledged, and as the record of this proceeding reflects, telephone penetration in the United States is falling, and only one-third of low income consumers whom are eligible for the Lifeline program are actually enrolled.⁵ As Commissioner Copps recently noted:

According to our own data, the percentage of households that subscribe for telephone service hit its lowest point in 2005 in over fifteen years. The importance of home telephone service is self-evident as consumers, particularly low income consumers, rely heavily on home phones to stay connected with their families, make important calls to employers and doctors, and in an emergency to make that life-saving call. The importance of the [competitive Lifeline] services being offered by the petitioner cannot be understated, particularly at a time when the universal service fund's Lifeline/Link-Up program assists only one-third of eligible households.⁶

Nonetheless, in only one of the applicants' filings did they address in any way how they intended to mitigate the anticompetitive effects of the merger upon low-income consumers. In a letter filed early in the consideration of the merger application, the applicants make known their "intent to make Project Lightspeed video services available within three years to 5.5 million households."⁷ Aside from the very tentative nature of the "commitment," limited as it is by the applicants' "intent," the "commitment" is spread over three years, and limited to only 5.5 million low income households to whom AT&T "plans" to make available Project Lightspeed, which is a

⁴ See e.g., Letter from League of United Latin American Citizens to Marlene Dortch, WC Docket 05-261 (Sept. 6, 2006) (filed Oct. 5, 2006 in WC Docket 06-74)

⁵ See Fones4All Ex Parte (Oct. 6, 2006); Fones4All Ex Parte (Sept.

⁶ See Concurring Statement of Commissioner Copps, WC Docket 05-261, FCC 06-145 (Sept. 29, 2006).

⁷ See Letter from Joan Marsh to Marlene Dortch (May 9, 2006).

miniscule number when one considers the 22 state reach of the merged entity and the fact that California alone has 3.46 million Lifeline customers.⁸ There is nothing in the current proposal that addresses the needs of these consumers. In light of AT&T's "harvesting" strategy, and the applicants announcement of their strategy to shift market focus away from the residential wireline market, COMPTTEL urges the Commission to ensure that low income consumers are not left behind in this process. Accordingly, COMPTTEL urges the Commission to adopt the below proposal to encourage competitive choice for low income residential consumers who qualify for Lifeline service. Moreover, despite the announcement of the "Lifeline Across America" program last year, the FCC has done nothing more than seek informal comments from carriers regarding "best practices." In light of the dismal statistics, more action is needed by the Commission. Accordingly, the FCC should ensure that the competition for Lifeline customers, especially in states where there are large numbers of such customers, like California, Georgia, and Texas, is robust. Accordingly, Fones4All proposes the following condition:

Proposed Condition

Promoting Universal Service for Lifeline Consumers

AT&T/BellSouth, in all states where the merged entity operates as an incumbent LOC, shall provide a revenue-neutral wholesale product consisting of a local loop, combined with local switching and shared transport (the Lifeline product) to allow requesting carriers to serve single line residential end users who are eligible for participation in the Lifeline program. This condition will ensure that the public interest benefits of the merger extend to all consumers, including low income consumers. This condition also will further the Commission's goal of increased participation in the Lifeline program from the one third of eligible households who do so today.

⁸ See California Public Utilities Commission Report to the California Legislature: Universal Telephone Service to Residential Consumers (July 2006) available at <http://www.cpuc.ca.gov/PUBLISHED/Graphics/57534.PDF>.

IV. CONCLUSION

It is clear that the combination of AT&T and BellSouth will substantially reduce competition in virtually all telecommunications product markets in the AT&T and BellSouth regions and cannot be found to be in the public interest.

Respectfully submitted,

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