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November 30, 2006

**VIA ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
The Portals  
445 12th Street, S.W.  
Washington, D.C. 20554

**Re: *Ex Parte* of Neutral Tandem, Inc. on AT&T/BellSouth Proposed Transit Service Merger Conditions; WC Docket No. 06-74**

Dear Ms. Dortch:

Neutral Tandem, Inc. ("Neutral Tandem") files this letter in response to AT&T and BellSouth's proposed **transit service merger conditions** outlined in the Commission's Public Notice<sup>1</sup> and Erratum<sup>2</sup> in the above-referenced proceeding. Neutral Tandem understands the concerns that gave rise to this proposed condition, but cautions that implementation of the condition as proposed could have unintended consequences that may negatively impact the United States telecommunications market. Therefore, the proposed merger condition, if adopted, should be carefully crafted by the Commission to ensure no such harm to the public interest results.

In determining whether, and under what conditions, to approve the proposed AT&T and BellSouth merger, the Commission should ensure that the merger does not harm the public interest by damaging competition in the wholesale services market. Neutral Tandem understands and appreciates the concern of carriers that rely on ILEC-provided transit service about the pricing of those services. In areas where there is no transit competition, carriers could be subject to monopoly pricing in the absence of regulatory constraints on prices. However, this concern does not exist in markets where competitive transit services have been deployed.

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<sup>1</sup> *Commission Seeks Comment on Proposals Submitted by AT&T, Inc. and BellSouth Corporation*, Public Notice, WC Docket No. 06-74, DA 06-2035 (rel. Oct. 13, 2006).

<sup>2</sup> *Erratum, Commission Seeks Comment on Proposals Submitted by AT&T, Inc. and BellSouth Corporation*, Public Notice, WC Docket No. 06-74 (Oct. 16, 2006).

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A freeze in transit service rates in these areas would stunt the development of the competitive transit service market, and the attendant benefits that competitive market brings to the telecommunications industry.

Competitive transit services, including those provided by Neutral Tandem, provide numerous benefits to the competitive telecommunications market. First and foremost, alternative transit service arrangements, especially those provided over new and redundant transit facilities, enhance network diversity and homeland security by providing carriers an additional avenue to terminate calls, especially during natural or man-made disasters.<sup>3</sup> Transit competition also reduces prices, reduces barriers to entry, and allows carriers the flexibility needed to grow more rapidly.

**Recognizing service providers' desire to freeze transit rates in markets where AT&T and/or BellSouth are the only choice for transit services, Neutral Tandem urges that any transit rate freeze should be fashioned so as to avoid unintended consequences, including freezing the development of competitive transit services. Neutral Tandem (and potentially other competitive transit carriers), as common carriers, have verifiable service territories, so that it should be feasible to impose any merger condition only in territories where no competition exists.**

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<sup>3</sup> See *Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks, Notice of Proposed Rulemaking*, EB Docket No. 06-119, Appendix B, Report and Recommendations to the Federal Communications Commission, at 13-14.

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Pursuant to the Commission's Rules, this letter is being filed in the above-captioned proceedings for inclusion in the public record. Should you have any questions, please do not hesitate to contact the undersigned.

Sincerely,



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