



815 Connecticut Avenue, N.W. , Suite 610
Washington, D.C. 20006

December 1, 2006

Via Electronic Filing

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

RE: Notice of Written *Ex Parte* Communication

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

Dear Ms. Dortch:

Clearwire Corporation (“Clearwire”), a licensee, lessee, and operator of 2.5 GHz spectrum hereby submits this letter in the above referenced AT&T/BellSouth merger proceeding. Since the commencement of this proceeding in April of this year, Clearwire has raised its concerns regarding the critical swath of 2.5 GHz spectrum rights currently held by BellSouth in the Southeastern part of the country. Clearwire has explained how the merged entity (“AT&T”) will have both the incentive and ability to warehouse and/or underutilize this 2.5 GHz spectrum to create critical coverage gaps for mobile wireless broadband competitors deploying open–standard WiMax technology spectrum to provide a nationwide 2.5 GHz mobile wireless broadband platform. Clearwire has explained that the merged entity will have unrivaled control over the largest wireline DSL broadband network, the largest national narrowband voice/data network, the largest HSDPA-capable wireless network *and* a nearly nationwide 2.3 GHz spectrum footprint,¹ yet the limited 2.5 GHz spectrum rights which it will hold in roughly 11 BellSouth markets, while insufficient to enable AT&T to develop a standalone alternative mobile wireless broadband platform, *are essential* to Clearwire and others rapidly deploying an independent alternative 2.5 GHz nationwide broadband platform.

In response to commenters/opponents addressing the merged entity’s 2.5 GHz spectrum holdings, AT&T subsequently proposed a voluntary commitment, advanced on October 13,

¹ Clearwire stresses that it has not sought divestiture of the merged entity’s 2.3 GHz spectrum, nor does Clearwire believe that such divestiture is necessary to address Clearwire’s merger-related concerns surrounding BellSouth’s 2.5 GHz spectrum holdings. Indeed, as Clearwire explained recently, were AT&T to make the BellSouth 2.5 GHz spectrum available to an entity currently deploying mobile WiMax broadband networks throughout the country so that this spectrum could become the key Southeastern component of an independent alternative nationwide mobile wireless broadband platform available to all US consumers, the merged entity could use its 2.3 GHz spectrum to directly compete head-to-head with a 2.5 GHz mobile wireless broadband platform should AT&T decide to *deploy an open standard mobile WiMax-compatible technology at 2.3 GHz in the future*. See, Notice of Oral *Ex Parte* Communications, Clearwire Corporation, WC Docket No. 06-74, filed October 20, 2006 at Attachment. See also Comments of Clearwire in Response to Public Notice, WC Docket No. 06-74, filed October 24, 2006 at p. 13 (indicating AT&T can use its 2.3 GHz spectrum, as well as unlicensed spectrum to satisfy any current wireless broadband needs in may have, for example in Alaska).

2006, to initiate ten new 2.3 or 2.5 GHz spectrum trials by the end of 2007. Clearwire has explained to the Commission why this broad “Wireless” voluntary commitment does not address or minimize the anticompetitive incentives and adverse impact that will occur to existence of an alternative independent intermodal 2.5 GHz nationwide wireless broadband platform.² While AT&T has yet to offer additional 2.5 GHz-related commitments beyond those initially offered, in the spirit of compromise so as to remove the 2.5 GHz spectrum issue from the list of those remaining unresolved merger issues, Clearwire offers two alternatives to Commission-ordered divestiture of this spectrum as a resolution that AT&T can offer, at its option:

1. AT&T’s voluntary agreement to sell all of the 2.5 GHz spectrum rights to a financially viable and operationally capable 2.5 GHz operator capable of providing wireless broadband services; or
2. AT&T’s voluntary agreement to substantially strengthen its October 13, 2006 “Wireless” commitment so as to address Clearwire’s 2.5 GHz concerns as follows:
 - i. Consistent with the Sprint/Nextel voluntary merger commitment regarding 2.5 GHz spectrum, AT&T commits to buildout a wireless broadband network that permits interoperability with other wireless broadband networks using the same technology on its post-merger 2.5 GHz spectrum holdings to cover a number of Americans within its southeastern US footprint commensurate with the conditions imposed in the Sprint/Nextel merger for a nationwide build-out, within a 4 year timeframe consistent with the end of the 2.5 GHz Transition to the new band plan (the “Completion Date”) and prior to the 2011 Substantial Service date for 2.5 GHz licenses.
 - ii. AT&T agrees that, should it fail to meet these commitments within the timeframe specified, it will divest the 2.5 GHz spectrum consistent with Alternative 1 above not being utilized within twelve months of the Completion Date.³

² See Comments of Clearwire in Response to Public Notice, WC Docket No. 06-74, filed October 24, 2006.

³ See *Ex Parte* Letter from Sprint Nextel, WT Docket No. 05-63, August 2, 2005 (agreeing to similar enforcement action should it fail to meet its 2.5 GHz merger commitment).

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, this presentation is being filed electronically. If you have any questions regarding this matter, please do not hesitate to contact the undersigned at 202-429-0107 or at Terri.Natoli@Clearwire.com.

Sincerely,

A handwritten signature in black ink that reads "Terri B Natoli". The signature is written in a cursive, flowing style.

Terri B. Natoli

Cc:
Chairman Kevin J. Martin
Commissioner Michael J. Copps
Commissioner Jonathan S. Adelstein
Commissioner Deborah Taylor Tate
Michelle Carey
Fred Campbell
Jessica Rosenworcel
Scott Deutchman
Bruce Gottlieb
John Branscome
Barry Ohlson
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