



Robert W. Quinn, Jr.  
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July 2, 2007

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St., SW, Room TWB-204  
Washington, DC 20554

Re: *WT Docket Nos. 96-86, 06-150, 06-169; PS Docket No. 06-229*  
**EX PARTE**

Dear Ms. Dortch:

I write to correct the record in the wake of recent *ex parte* communications filed by Frontline Wireless LLC (“Frontline”) and to re-confirm AT&T’s position regarding the Frontline proposal.

On June 27, 2007, in an attempt to bolster its proposal for the Upper 700 MHz E Block, Frontline filed with the Commission an article written by Brendan McGarry, a blogger with whom I spoke by telephone recently.<sup>1</sup> In that conversation, I stated repeatedly that, like any other potential bidder in the 700 MHz auction, AT&T would examine the Commission’s final service rules and, after review of those rules, would determine whether and if so, to what extent to participate in the upcoming auction.<sup>2</sup> Frontline represented to the Commission, however, that the McGarry blog “confirms” that (1) “lots of bidders” will be attracted to a conditioned E Block license, (2) operating the E Block on a wholesale, open access basis is a workable business model, and (3) the conditions it proposes are not “poison pills.” These claims are overreaching.

To be clear, AT&T’s position regarding Frontline’s proposal has not changed and was fully set forth in our comments and reply comments in this proceeding. As we have stated for the record in our comments in this proceeding, mandated wholesale requirements or “open access” conditions placed on the Upper 700 MHz E Block or any other licenses in the 700 MHz band should be rejected by the Commission, as should the “poison-pill” laden proposal put forth by Frontline. Furthermore, we stated in our comments that AT&T believes that the Commission should continue to allow market forces, and not regulatory fiat, to shape the development of

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<sup>1</sup> See *Ex Parte* Letter from Gerard J. Waldron, counsel to Frontline, to Marlene H. Dortch (June 27, 2007).

<sup>2</sup> Indeed, in response to a follow-up communication from Mr. McGarry, AT&T made clear its position again with respect to the upcoming auction. See attached email exchange between Michael Balmoris of AT&T and Mr. McGarry on Monday June 25, 2007. Mr. McGarry’s blog post the following day completely mischaracterized the conversation and the email attempting to turn a non-position (AT&T will decide whether and how to participate in this auction *after* we see the final rules) into a newsworthy blog post writing that AT&T is considering bidding on spectrum that would be subject to wholesale, open access and public safety requirements.

telecommunications services.<sup>3</sup> The Frontline proposal is inconsistent with this principle and forces public safety agencies to rely on an untested business plan.

As AT&T has noted, the conditions proposed by Frontline are designed to discourage auction participation.<sup>4</sup> AT&T supports maximum eligibility and participation in the 700 MHz auction. The Commission therefore should designate three commercial blocks in the Upper 700 MHz band (two 11 MHz blocks and one 10 MHz block). By splitting the Upper 700 MHz band in three commercial blocks, the Commission will provide opportunities for a wider variety of entities to use the auction process to attempt to achieve their different business plans, acquiring sufficient spectrum to offer the full panoply of innovative wireless services capable of being deployed over this spectrum. Retaining a single large 20 MHz (or 22 MHz) block in the Upper 700 MHz band (along with a possible 10 MHz block for a public-private partnership) will discourage participation in the upcoming auction and inhibit the development of new competition in this band.

Finally, Frontline has repeatedly but erroneously claimed that AT&T and others intend to “warehouse” 700 MHz spectrum to block competition.<sup>5</sup> It must be pointed out that Frontline offers no evidence of past warehousing to back up this claim. Indeed, as AT&T demonstrated in its comments in this proceeding, allegations of warehousing are without any record basis.<sup>6</sup> To the contrary, at least as far as AT&T is concerned, our history belies any warehousing concerns. Over 20 plus years since the first cellular licenses were awarded by the Commission, we have transformed ourselves from a regional carrier into the largest national wireless service provider by putting spectrum to use to serve consumers. Our network’s nationwide footprint has been established through the investment of billions of dollars to develop infrastructure and to acquire licenses for fair market value in numerous arm’s length transactions reviewed and approved by the Commission. Along the way, AT&T has introduced a wide variety of new and innovative products and services. In short, far from demonstrating an inclination to warehouse spectrum, AT&T’s history is one of the best examples of the marketplace working to put spectrum to its best and fullest use – all to the benefit of consumers.

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<sup>3</sup> See AT&T Comments (filed May 23, 2007), at 12-13.

<sup>4</sup> See AT&T Reply Comments (filed June 4, 2007), at 11-12.

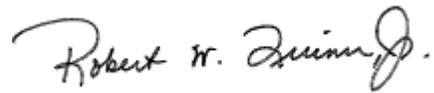
<sup>5</sup> Frontline has made this accusation in its reply comments in this proceeding (at 3-4), and in meetings with Commissioner Tate on June 20<sup>th</sup> (see attachment to *ex parte* letter filed June 21, 2007), and with Commissioners Adelstein and McDowell on June 22<sup>nd</sup> (see attachment to *ex parte* letters filed June 22, 2007).

<sup>6</sup> See AT&T Comments (filed May 23, 2007), at 28-29.

Marlene H. Dortch, Secretary  
July 2, 2007  
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In accordance with Section 1.1206 of the Commission's rules, an electronic copy of this letter is being submitted via the Commission's Electronic Comment Filing System.

Sincerely,

A handwritten signature in black ink that reads "Robert W. Quinn, Jr." The signature is written in a cursive style with a large, stylized initial 'R' and a distinct 'J' at the end.

Robert W. Quinn, Jr.



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## ATTACHMENT

**From:** McGarry, Brendan [mailto:bmcgarry@publicintegrity.org]  
**Sent:** Monday, June 25, 2007 10:01 AM  
**To:** michael.balmoris@att.com  
**Subject:** 700 MHz

Michael,

I spoke with Bob Quinn last week about the Randall Stephenson's meeting with Jonathan Adelstein at the NXTcomm conference in Chicago. I didn't end up filing a story for our blog. But I did want to follow up with him or you about comments Bob made regarding AT&T considering bidding for 700 MHz spectrum as a wholesaler. I just wanted to confirm the gist of what he said -- that AT&T may be interested in the spectrum even if it comes with public safety and open-access restrictions attached. Please give me a call whenever you have a moment. Thanks!

Regards,  
Brendan McGarry  
Researcher/Writer  
The Center for Public Integrity  
910 17th Street, NW, 7th Floor  
Washington, DC 20006  
(202) 481-1231 (phone)  
(202) 466-1101 (fax)  
bmcgarry@publicintegrity.org

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**From:** BALMORIS, MICHAEL F (ATTSI)  
**Sent:** Monday, June 25, 2007 12:15 PM  
**To:** 'McGarry, Brendan'  
**Subject:** RE: 700 MHz

Brendan - The gist of his comments were basically that we need to see what the rules for the auction are before we decide to participate or not. If you need an on the record comment, you can use this...

"Our position is that we need to see the specific rules the FCC adopts for the auction before determining our level of participation."

If you need anything else, give me a call on my cell phone at 202.457.6453.

Michael Balmoris  
202.457.3008  
[michael.balmoris@att.com](mailto:michael.balmoris@att.com)

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**ATTACHMENT (cont.)**

**From:** BALMORIS, MICHAEL F (ATTSI)  
**Sent:** Monday, June 25, 2007 12:26 PM  
**To:** 'McGarry, Brendan'  
**Subject:** RE: 700 MHz

Brendan, here's link to our comments...as you'll see, our comments are very distinct in rejecting a requirement for open access, but also leaving such decisions up to the license winner:

[http://gulfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native\\_or\\_pdf=pdf&id\\_document=6519415243](http://gulfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6519415243)

From Page 8 of the filing:

Having not yet completed the information-gathering process initiated in that inquiry, it is premature for the Commission to conclude that open access requirements are needed in the 700 MHz Band.

The Commission has already made clear that its policy is to maintain technical and service neutrality, leaving those decisions to licensees and market forces.

The Commission wisely recognized that leaving such decisions to the licensee would allow the market to determine “the band’s suitability for uses ranging from wideband mobile communications to innovative, fixed wireless Internet access services and new broadcast-type services.”<sup>11</sup> The advocates of “open access,” however, are seeking to replace market forces with regulation, requiring that commercial 700 MHz licenses be used to offer only standardized, completely unbundled broadband Internet access.

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