



Frank S. Simone
Executive Director-
Federal Regulatory

AT&T Services Inc. T: 202.457.2321
1120 20th Street, NW F: 832.213.0282
Suite 1000
Washington, DC 20036

September 13, 2007

EX PARTE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D. C. 20554

Re: *Petition of AT&T Inc. and BellSouth Corporation for Forbearance Under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Its Broadband Services, WC Docket No. 06-125*

Dear Ms. Dortch:

On September 12, 2007, Robert Quinn, Senior Vice President - Federal Regulatory, Jack Zinman, General Attorney, and the undersigned, on behalf of AT&T, met with Scott Bergmann, Legal Advisor to Commissioner Jonathan Adelstein, and discussed AT&T's position on matters pending in the above-captioned proceeding.

During the meeting we discussed how, on prior occasions, the Commission has acknowledged the competitive market conditions for packet-switched broadband services, such as Frame Relay, ATM and Ethernet services¹ and that optical-level services, such as SONET services, are subject to significant competition. We explained that Ethernet services can be provisioned over TDM loops, such as the DS-1 and DS-3 special access services that are *not* subject to AT&T's forbearance request. In fact, Time Warner Telecom, Inc. ("TWTC") has raved about its ability to use TDM loops with Ethernet electronics to "cost effectively deliver our industry-leading Ethernet portfolio to customers *anywhere*" – even where "it may be uneconomical to directly connect" to TWTC's network.²

As AT&T has noted previously, "TWTC tells this Commission a tale of a dead Ethernet market with no competition and where competitors cannot offer commercially viable Ethernet services without access to wholesale finished Ethernet services from AT&T [. . .] But TWTC tells its customers and current and potential investors a

¹ See *AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, WC Docket No. 06-74, Memorandum Opinion and Order, FCC 06-189, ¶ 80 (released Mar. 26, 2007) (*AT&T-BellSouth Merger Order*); *AT&T-BellSouth Merger Order* ¶ 65 n.183; Memorandum Opinion and Order, *SBC Communications Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, WC Docket No. 05-65, FCC 05-183, ¶ 59 n.169 (released Nov. 17, 2005); *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, 18 FCC Rcd 19020 ¶ 538.

² Time Warner Telecom, June 6, 2006 Press Release at 1 ("*Overture Release*"), available at <http://www.twttelecom.com/Documents/Announcements/News/2006/Overture.pdf>. (emphasis added)

markedly different story, yet it does not even acknowledge these recent investor reports – where it admits both that the Ethernet services marketplace is, in fact, highly competitive and that TWTC continues to enjoy great success in that marketplace without purchasing *any* tariffed Ethernet service from AT&T [. . .]”³

In addition, AT&T noted that a recent Vertical Systems Group report indicated that through mid-year 2007 no single company possesses even a twenty percent market share in the Business Ethernet Services marketplace (a press release announcing the study is attached to this notice).

Pursuant to section 1.1206 of the Commission’s Rules, this letter is being filed electronically with the Commission.

If you have any questions, please contact me at (202) 457-2321.

Sincerely,



cc: S. Bergmann

³ See Letter to Marlene H. Dortch, Secretary, FCC, from Gary L. Phillips, AT&T Inc., and Bennett L. Ross, BellSouth Corporation, *AT&T Inc. and BellSouth Corporation Applications for Approval of Transfer of Control*, WC Docket No. 06-74, Dec. 5, 2006. (footnote omitted)

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Vertical Systems Group: Mid-Year 2007 Market Share Results for U.S. Business Ethernet Services

WESTWOOD, MA, FOR IMMEDIATE RELEASE...Two of the top three providers of retail Business Ethernet Services in the U.S. gained port share for mid-year 2007 as compared to year-end 2006 results, according to Vertical Systems Group's latest market analysis. In addition, an MSO entered into the top tier for the first time, while several other major providers had share declines.

"As anticipated, competition in the Business Ethernet Services market heated up during the first half of 2007, resulting in considerable port share fluctuation," said Rick Malone, Principal at Vertical Systems Group.

"The dense availability of low cost metro services boosted share for many regional U.S. Ethernet providers, including MSOs. Additionally, the aggressive deployment of new fiber infrastructure for residential applications enabled broader accessibility of native Ethernet services for adjacent business sites."

AT&T, Verizon Business and Time Warner Telecom are the top three U.S. retail Business Ethernet Services providers. AT&T, including BellSouth (acquired in December 2006) holds the leading position with a 19.5% share of mid-2007 ports. AT&T's share declined as compared to the combined year-end 2006 shares for AT&T (13.6% port share) plus BellSouth (8.5%). Verizon Business is second overall with a 15.8% port share, up from 12.2% at year-end 2006. In third position is Time Warner Telecom with 13.7% of ports, a jump from 10.7% in 2006.

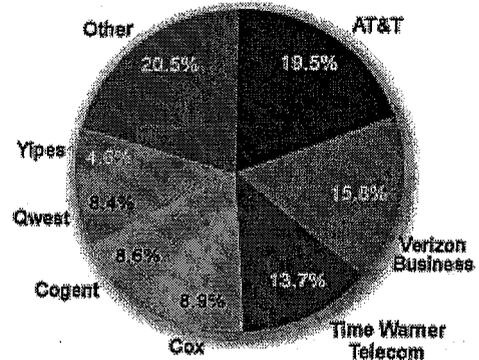
Cox Business, holding a port share of 8.9%, makes a debut in fourth position as the first MSO in the top tier of U.S. Business Ethernet providers. Cogent is fifth with an 8.6% share of the market, an increase from 8.2% at year-end 2006. Qwest (including OnFiber) is sixth at 8.4%, down from a 9.9% port share. Yipes is seventh with a share of 4.6%, a decline from 5.4% at year-end. Yipes recently announced its acquisition by Reliance Communications and will operate as a business unit within the company's FLAG Telecom operations.

Other Business Ethernet Services providers comprise an aggregate 20.5% of the market, including AboveNet, American Fiber Systems, Alpheus Communications, American Telesis, Arialink, Balticore, Bright House Networks, Charter Business, CIFNet, Cincinnati Bell, Comcast Business, CT Communications, Electric Lightwave, Embarq, Expedient, Exponential-e, Fibernet Telecom Group, FiberTower, Global Crossing, Globix, IP Networks, Level 3 (including Broadwing), LS Networks, Masergy, Met-Net, Neopolitan Networks, NTELOS, NTT/Verio, Optimum Lightpath, Orange Business, RCN, Savvis, Spirit Telecom, Sprint, SuddenLink, Surewest, Time Warner Cable, US LEC, US Signal, Verocity, Virtela, Windstream, XO, and others.

About Emerging Networks Service (ENS) Research Programs

Detailed statistics for the Business Ethernet Services market are available exclusively through Vertical Systems Group's **ENS Research Programs**, which feature analyst support time plus unlimited web-based access to hundreds of research topics. Research content for the Ethernet Services market covers

**Retail Business Ethernet Services
Mid-Year 2007 U.S. Port Share**



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segmentation by application, target opportunity analysis, migration analysis for 10+ Mbps and Sub-10 Mbps services, revenue and port projections by speed (1+ Gbps, 100 Mbps, 10 Mbps, Sub-10 fiber, Sub-10 copper), fiber statistics, service pricing by segment and speed, market shares, a directory of service offerings worldwide, plus directories of service providers and equipment vendors. All research data is organized in an easy-to-use, interactive format using color graphics and key stats, with data tables designed for direct export to Excel. **ENS** (*Emerging Networks Service*) is a comprehensive "real world" resource that delivers in-depth coverage of network services markets coupled with extensive analysis of legacy to emerging services data that is more defensible than forecasts from a discrete "survey" or single market report. [Contact us now](#) for more information on a program that fits your organization's needs.

About Vertical Systems Group

Vertical Systems Group (<http://www.verticalsystems.com>) is recognized worldwide as a leading market research and strategic consulting firm specializing in defensible quantification of the networking industry. **ENS** is the industry's authoritative resource for "real world" analysis on broadband services, including *Ethernet, IP VPNs, MPLS / VPLS, Frame Relay, ATM, Private Lines, Access, Fiber* and more. To speak with an analyst at Vertical Systems Group, call Elizabeth Swanson at +1.781.329.0900 ext. 213 or eswanson@verticalsystems.com.

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