

May 18, 2009

**BY ECFS**

Marlene H. Dortch, Esq.  
Secretary  
Federal Communications Commission  
445 Twelfth St., S.W.  
Washington, D.C. 20554

**Re: Request for Second Protective Order**  
***In re AT&T Inc. and Centennial Communications Corp. Applications for***  
***Consent to the Transfer of Control of Commission Licenses, Authorizations,***  
***and Spectrum Leasing Arrangements, WT Dkt No. 08-246***  
**REDACTED FOR PUBLIC INSPECTION**  
**IN WT DOCKET NO. 08-246 before the Federal Communications**  
**Commission**

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Dear Ms. Dortch:

AT&T Inc. (“AT&T”) and Centennial Communications Corp. (“Centennial”); collectively, the “Applicants”) hereby request issuance of a second protective order in WT Docket No. 08-246 to provide additional protection beyond that afforded in the Commission’s March 3, 2009 protective order<sup>1</sup> to certain information that the Applicants intend to submit in their response to the Commission’s General Information Request dated April 30, 2009. The Applicants’ response will include some of their most sensitive business data, release of which would place them at a significant disadvantage in the highly competitive market for CMRS services.<sup>2</sup> In past merger proceedings, the Commission has issued second protective orders to exclude access to such information by other parties’ inside counsel who are not involved in competitive decision-making:

The Commission will grant more limited access to those materials which, if released to competitors, would allow those competitors to gain a significant advantage in the marketplace. For example, a company’s list of specific customers or customer data (including revenues associated with the specific

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<sup>1</sup> See *Applications of AT&T Inc. & Centennial Communications Corp. for Consent to Transfer Control of Licenses, Authorizations, & Spectrum Leasing Arrangements*, WT Dkt No. 08-246, Protective Order, DA 09-541 (rel. Mar. 3, 2009).

<sup>2</sup> See generally *Implementation of Section 6002(b) of the Omnibus Reconciliation Act of 1993: Annual Report & Analysis of Competitive Mkt. Conditions with Respect to Commercial Mobile Servs.*, WT Dkt No. 08-27, Thirteenth Report, DA 09-54 (rel. Jan. 16, 2009).

customer or group of customers) disaggregated to a relatively detailed level, and competitive analyses including specific future pricing, product or marketing plans could all allow competitors to target customers and gain an unfair competitive advantage if they were to obtain the information.<sup>3</sup>

Similar protections are warranted in this proceeding.

The Applicants specifically request that the second protective order cover information they plan to produce in response to particular requests in the General Information Request where such information falls into the following categories of information. The Commission has protected each of these categories (or a variant thereof) under one or more prior second protective orders.

Category of Information	Request Number(s)
Information that discloses the identity or characteristics of specific customers or of those with whom a company is negotiating. <sup>4</sup>	III.15
Information that provides revenues and numbers of customers broken down by customer type (e.g., CMRS customers) and relatively narrow geographic area (the cellular market area (“CMA”), regional cluster, or state). <sup>5</sup>	II.1, III.6.a, III.10, IV.7

<sup>3</sup> *AT&T Inc. & BellSouth Corp. Applications for Approval of Transfer of Control*, Second Protective Order, 21 FCC Rcd. 7282, 7282-83, ¶ 3 (WCB 2006) (citation omitted) (“*AT&T/BellSouth Second Protective Order*”); see *Verizon Communications Inc. & MCI, Inc. Applications for Approval of Transfer of Control*, Second Protective Order, 20 FCC Rcd. 10420, 10420-21, ¶ 3 (WCB 2005) (citation omitted) (“*Verizon/MCI Second Protective Order*”); *Applications for the Transfer of Control of Licenses and Authorizations from Nextel Communications, Inc. & Its Subsidiaries to Sprint Corp.*, Second Protective Order, 20 FCC Rcd. 9280, 9280-81, ¶3 (WTB 2005) (citation omitted) (“*Sprint/Nextel Second Protective Order*”); *SBC Communications Inc. & AT&T Corp. Applications for Approval of Transfer of Control*, Second Protective Order, 20 FCC Rcd. 8876, 8876-77, ¶ 3 (WCB 2005) (citation omitted) (“*SBC/AT&T Second Protective Order*”); *News Corp., Gen. Motors Corp., & Hughes Elecs. Corp.*, Second Protective Order, 18 FCC Rcd. 15198, 15199, ¶ 3 (MB 2003) (“*News Corp./GM/Hughes Second Protective Order*”); *EchoStar Comm’cns Corp., Gen. Motors Corp., & Hughes Elecs. Corp.*, Second Protective Order, 17 FCC Rcd. 7415, 7416, ¶ 3 (MB 2002) (“*EchoStar/GM/Hughes Second Protective Order*”).

<sup>4</sup> *SBC/AT&T Second Protective Order* at 8877, ¶ 4; *AT&T/BellSouth Second Protective Order* at 7283, ¶ 5; *Verizon/MCI Second Protective Order* at 10421 ¶ 4.

<sup>5</sup> See *SBC/AT&T Second Protective Order* at 8877, ¶ 4; *AT&T/BellSouth Second Protective Order* at 7283, ¶ 5; *Verizon/MCI Second Protective Order* at 10421 ¶ 4; *News Corp./GM/Hughes Second Protective Order* at 15199, ¶ 3; *EchoStar/GM/Hughes Second Protective Order* at 7416, ¶ 3.

<b>Category of Information</b>	<b>Request Number(s)</b>
Information that discusses in detail the Submitting Party's future plans to compete for a customer or specific groups or types of customers ( <i>e.g.</i> , CMRS customers), including the Submitting Party's future procurement strategies, pricing strategies, product strategies, or advertising or marketing strategies. <sup>6</sup>	III.4.b, III.5, III.6.a, III.6.c-d, III.12.a, III.14.a, IV.7
Information that discusses in detail the number or anticipated changes in the number of customers or amount of traffic. <sup>7</sup>	II.1, III.6.a, III.10, IV.7
Information that discusses in specific detail or provides disaggregated quantification of merger integration benefits or efficiencies. <sup>8</sup>	III.14.a-b, III.16, IV.7
Information that provides granular information about a Submitting Party's current costs, market share, marginal revenue, and firm-specific price elasticities. <sup>9</sup>	III.14.a-b, III.15, III.16, IV.7

As detailed below, the Applicants' response to the General Information Request will include information falling within the categories of information that the Commission has previously deemed worthy of protection under a second protective order:

Question II.1: This question calls for the Applicants to provide subscriber counts in certain CMAs, both by CMA and further broken down by whether a subscriber is postpaid or prepaid, and AT&T also will be providing a separate figure for "hybrid" customers. Knowledge of such granular figures would enable competitors to forecast the Applicants' capital and other investments in those CMAs, target their marketing more precisely, and otherwise adjust their efforts, which would give them an unfair advantage against the Applicants.

Question III.4.b: In the response to this question, AT&T provides its current estimate of the length of time it will require to integrate its GSM network with Centennial's network, the number of cell sites in each state where AT&T's and Centennial's footprints overlap at which AT&T plans to deploy UMTS in 2009, and the amount of time by which AT&T estimates the merger will speed up the deployment of UMTS to Centennial territories. Knowledge of AT&T's

<sup>6</sup> See *id.*; *Sprint/Nextel Second Protective Order* at 9281, ¶ 3.

<sup>7</sup> See *SBC/AT&T Second Protective Order* at 8877, ¶ 4; *Verizon/MCI Second Protective Order* at 10,421, ¶ 4; see also *News Corp./GM/Hughes Second Protective Order* at 15,199, ¶ 3; *EchoStar/GM/Hughes Second Protective Order* at 7416, ¶ 3.

<sup>8</sup> *SBC/AT&T Second Protective Order* at 8877, ¶ 4; *AT&T/BellSouth Second Protective Order* at 7283, ¶ 5; *Sprint/Nextel Second Protective Order* at 9281, ¶ 4; *Verizon/MCI Second Protective Order* at 10,421, ¶ 4.

<sup>9</sup> *Sprint/Nextel Second Protective Order* at 9281, ¶ 4.

network integration and 3G deployment plans would enable competitors to target their pricing, advertising, and marketing as well as their capital plans in a way that would advantage them unfairly against the Applicants.

Question III.5: In the response to this question, AT&T will provide its current estimates for when it will begin and end each of the following network integration steps: site modifications – such as swaps, dual banding, and sectorization – and E911 integration; core network integration – common systems readiness (power and the digital access and cross-connect system); mobile switching center expansion; base station controller expansion; transport readiness work; signaling work; integration of the mobility network readiness center (*i.e.*, the NOC) and national dispatch center; and re-homing of Centennial sites to the AT&T core network. Knowledge of the timing of these network integration plans would enable competitors to target their pricing, advertising, and marketing as well as their capital plans in a way that would give them an unfair advantage against the Applicants.

Question III.6.a: *[Begin Confidential]*

*[End Confidential]*

Questions III.6.c-d: In the responses to these questions, AT&T discusses its plans for serving Centennial's existing and potential CDMA roaming customers, which are themselves competitors of AT&T. With knowledge of AT&T's plans, AT&T's competitors will be able to forecast the Applicants' capital investments in Puerto Rico and the U.S. Virgin Islands, and, in response, adjust their network investment plans or otherwise adapt in ways that will give them an unfair advantage with AT&T in competing for end-user customers. Moreover, giving CDMA roaming customers advance notice of AT&T's plans would provide them with an unfair advantage in any negotiations with AT&T about the future contours of their roaming relationship in Puerto Rico and the U.S. Virgin Islands.

Question III.10:<sup>10</sup> In the response to Question III.10, the Applicants list the number of businesses and mobile subscriber lines Centennial serves in Puerto Rico; the number of business customers in Puerto Rico to which Centennial provides switched voice services, private line services, and data services. They also list the number of businesses and access lines AT&T serves in Puerto Rico. Knowledge of such granular figures would enable competitors to forecast the Applicants' capital and other investments in those CMAs, make judgments about entry into new lines of business, target their marketing more precisely, and otherwise adjust their efforts to give them an unfair advantage in competing against the Applicants.

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<sup>10</sup> The Applicants are providing an integrated response to both parts of Question III.10, rather than separating their response to Question III.10.a from their response to Question III.10.b.

Question III.12.a: In the response to this question, the Applicants identify the prerequisites for Centennial to offer 3G service in its mainland U.S. service territories and 4G service there or in Puerto Rico and the U.S. Virgin Islands. The Applicants also describe AT&T's recent 3G deployment and plans for additional 2009 deployment in the areas where it overlaps with Centennial. These descriptions include the amount of capital expenditures by year (including the 2009 plan), the number of cell sites upgraded or slated to be upgraded in 2009 by state, and the population covered by such upgrades. Knowledge of such granular figures would enable competitors to forecast Centennial's deployments of new technology and AT&T's continued rollout of UMTS service in Centennial territories. With such data, competitors will be able to make more-informed decisions about their capital and other investments in those CMAs, target their marketing more precisely, and otherwise adjust their efforts, which would put the Applicants at a significant competitive disadvantage.

Questions III.14.a: In the response to this question, AT&T identifies the net present value of the synergies it expects to achieve from the transaction and breaks down this figure into the following categories: network savings, general and administrative costs, capital expenditures, billing and customer care expenses, bad debt expenses, sales and marketing costs, advertising expenditures, and other expenses. AT&T also identifies the amount it projects saving from a particular wholesale carrier relationship, itemizes its and Centennial's per-bill and per-customer care expenses, and discusses its future network plans in Puerto Rico. Knowledge of this information would enable competitors to have a better understanding of AT&T's cost structure and where they have room to improve. Such knowledge could facilitate competitors' strategic judgments about pricing their services. Knowledge of AT&T's future network plans in Puerto Rico will enable AT&T's competitors to adjust their network investment and marketing plans. Therefore, possessing such information will give other companies an unfair advantage in competing against AT&T.

Question III.15: In the response to this question, the Applicants disclose the volume of the voice and data traffic generated by their customers roaming on each others' networks and the rates each company pays the other for such roaming. Such information would be extremely valuable to other companies seeking to negotiate roaming agreements with either of the Applicants or with third parties. As the Applicants would not have equivalent information about these other companies, they would be disadvantaged in such negotiations. Moreover, knowledge of the Applicants' cost structure could facilitate competitors' strategic judgments about pricing their services and otherwise provide them with unfair competitive advantages against the Applicants.

Question III.16: In the response to this question, the Applicants disclose how much each pays to acquire certain makes and models of handsets, the amounts and types of subsidies that the Applicants provide to lower the costs of handsets to customers, the number of handset models offered in 2008, and the number of handsets sold during that period. Information about the prices paid by the Applicants and the amounts of subsidies could enable competitors to obtain better rates from vendors, diminishing any cost advantage the Applicants may have been able to negotiate. It also could facilitate competitors' strategic judgments about pricing their services and otherwise provide them with unfair competitive advantages against the Applicants.

Question IV.7: This question requests the production of documents submitted in response to Item 4(c) of the Premerger Notification and Report Form (“4(c) documents”), which generally represent documents prepared or reviewed by officers and directors analyzing the proposed acquisition.<sup>11</sup> Because of the level at which they are prepared or reviewed, 4(c) documents typically are among the most sensitive from the standpoint of allowing competitors to discern the merging parties’ competitive strategies. Therefore, Congress has judged that the competitive sensitivity of these documents warrants an absolute bar from disclosure by the government in response to a request under the Freedom of Information Act.<sup>12</sup> Respect for the congressional judgment supports according the maximum possible degree of confidentiality to 4(c) documents. Moreover, most of the information contained in the 4(c) documents fits within one of the traditional categories of information protected by second protective orders. They contain information about the filer’s future plans to compete for types of customers, disaggregated current and projected revenues and churn data by customer type and relatively narrow geographic area, detailed information about current and projected numbers of subscribers and market shares for prepaid and postpaid wireless customers, detailed and disaggregated quantification of merger integration benefits and efficiencies in over ten different categories, and granular information about the filer’s costs. Access to this information would provide the filer’s competitors with a wide window into its competitive strategies and an unfair roadmap for competing against it.

In sum, the information the Applicants are seeking to guard through a second protective order would provide competitors with a significant marketplace advantage if they were to come to possess it. For this reason, in past proceedings where it has sought such sensitive information, the Commission has accorded it the enhanced protections of a second protective order. Consistent with those precedents, the Commission should do so in this proceeding as well. The Applicants therefore respectfully request that the Commission issue a second protective order along the lines discussed herein as soon as possible.

Respectfully submitted,

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<sup>11</sup> Item 4(c) of the Premerger Notification and Report Form (generally called the HSR Form) requires the production of all studies, surveys, analyses, and reports which were prepared by or for any officer(s) or director(s) for the purpose of evaluating or analyzing the acquisition with respect to market shares, competition, competitors, markets, potential for sales growth, or expansion into product or geographic markets..

<sup>12</sup> See 15 U.S.C. § 18a(h) (exempting such information from disclosure under 5 U.S.C. § 552).

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