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June 29, 2012

Marlene Dortch
Secretary
Federal Communications Commission
445 12th St., SW
Washington, DC 20554

FILED/ACCEPTED

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Federal Communications Commission
Office of the Secretary

**Re: AT&T Kansas's and AT&T Mississippi's Annual Eligible
Telecommunications Carrier Reports, Connect America Fund, WC Docket No.
10-90**

Dear Ms. Dortch:

In accordance with the Wireline Competition and Wireless Telecommunications Bureaus' February 3, 2012, Order¹ and the Wireline Competition Bureau's May 8, 2012 Public Notice,² AT&T Inc. (AT&T), on behalf of Southwestern Bell Telephone, L.P. d/b/a AT&T Kansas and BellSouth Telecommunications, LLC d/b/a AT&T Mississippi, hereby submits responsive information that was filed earlier this year or will be filed later this year with these affiliates' respective state commissions. Depending on each state's requirements, AT&T is providing some or all of the information required by new Commission rule 47 C.F.R. § 54.313(a)(2)-(6) for the following Kansas and Mississippi. We are requesting confidential treatment for AT&T Kansas's network outage information.

Please do not hesitate to contact me with any questions.

Sincerely,

/s/ Cathy Carpino
Cathy Carpino

Attachments

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¹ *Connect America Fund*, WC Docket No. 10-90, *et al.*, Order, DA 12-147, ¶ 10 (rel. Feb. 3, 2012).

² *Wireline Competition Bureau Announces Filing Deadline of July 2, 2012, for Eligible Telecommunications Carriers to File Reports Pursuant to Section 54.313(a)(2) through (a)(6) and (h) of the Commission's Rules*, WC Docket Nos. 10-90, *et al.*, Public Notice, DA 12-279 (rel. May 8, 2012).



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June 29, 2012

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St., SW
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Re: REQUEST FOR CONFIDENTIAL TREATMENT
Connect America Fund, WC Docket 10-90
Southwestern Bell Telephone, L.P. d/b/a AT&T Kansas (SAC 415214)
Eligible Telecommunications Carrier Annual Report and
Certification in Compliance with 47 C.F.R. § 54.313(a)

Pursuant to the Commission's decision in *Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, GC Docket No. 96-55 (FCC 98-184), released Aug. 4, 1998 ("*Confidential Information Order*") and in accordance with the Freedom of Information Act ("FOIA") and the Commission's Rules related to public information and inspection of records, e.g. 47 C.F.R. §§ 0.457 and 0.459, AT&T Inc. ("AT&T"), on behalf of itself and its affiliate Southwestern Bell Telephone, L.P. d/b/a AT&T Kansas ("AT&T Kansas"), hereby submits this request for confidential treatment of certain information submitted to the Commission in its Eligible Telecommunications Carrier Annual Report and Certification in Compliance with 47 C.F.R. § 54.313(a) ("*Annual Reporting Requirements for High-Cost Recipients*"). See also *Wireline Competition Bureau Announces Filing Deadline of July 2, 2012, for Eligible Telecommunications Carriers to File Reports Pursuant to Section 54.313(a)(2) through (a)(6) and (h) of the Commission's Rules*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51, CC Docket Nos. 01-92, and 96-45; WT Docket No. 10-208, Public Notice, DA 12-729 (rel. May 8, 2012). This request applies to AT&T Kansas's outage information included in Confidential Exhibit A submitted herewith to the Commission.

Statement pursuant to 47 C.F.R. § 0.459(b)

(1) Identification of the specific information for which confidential treatment is sought.

Included in Confidential Exhibit A is highly sensitive network outage information required by 47 C.F.R. § 54.313(a)(2). Commission Rule 54.313(a)(2) was modeled on the outage reporting requirements in 47 C.F.R. Part 4. When it adopted the Part 4 reporting requirements, the Commission found that such data present national security and competitive concerns and should be deemed confidential when filed with the Commission. *New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, ET Docket No. 04-35, Report and Order and Further Notice of

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Proposed Rulemaking, FCC 04-188, ¶ 3 (rel. August 19, 2004) (“This data, though useful for the analysis of past and current outages in order to increase the reliability and security of telecommunications networks in the future, could be used by hostile parties to attack those networks, which are part of our Nation’s critical information infrastructure. The disclosure of outage reporting information to the public could present an unacceptable risk of more effective terrorist activity. We therefore will treat the information that will be provided as confidential.”) The outage information in Confidential Exhibit A is entitled to be treated as confidential for these same reasons.

(2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission.

The information is being provided to the Commission in response to Commission Rule 47 C.F.R. § 54.313(a)(2) as well as the Commission’s *ETC Designation Order*, 20 FCC Rcd 6371 (2005) and *USF/ICC Transformation Order*, 26 FCC Rcd 17663 (2011).

(4) Explanation of the degree to which the information concerns a service that is subject to competition; and

The information being provided to the Commission is relevant to the various interstate and intrastate telecommunications services provided by AT&T Kansas in competition with other telecommunications providers. Telecommunications is a highly competitive industry, and AT&T Kansas’s services are subject to significant competition. The presence of such competition and the likelihood of competitive injury threatened by release of the information provided to the Commission by AT&T should compel the Commission to withhold the information from public disclosure. *CNA Financial Corp. v. Donovan*, 830 F.2d 1132, 1152 (D.C. Cir. 1987); *Frazee v. U.S. Forest Service*, 97 F.3d 367, 371 (9th Cir. 1996); *Gulf & Western Indus. v. U.S.*, 615 F.2d 527, 530 (D.C. Cir. 1979).

(3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.

(5) Explanation of how disclosure of the information could result in substantial competitive harm.

Exemption 4 requires a federal agency to withhold from public disclosure confidential or privileged commercial and financial information of a person unless there is an overriding public interest requiring disclosure, and the Commission has a longstanding policy of protecting the confidential commercial information of its regulatees under FOIA Exemption 4.

Two lines of cases have evolved for determining whether agency records fall within Exemption 4. Under *Critical Mass*, commercial information that is voluntarily submitted

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to the Commission must be withheld from public disclosure if such information is not customarily disclosed to the public by the submitter.¹ For materials not subject to *Critical Mass, National Parks* establishes a two part test for determining if information qualifies for withholding under Exemption 4.² The first prong asks whether disclosing the information would impair the government's ability to obtain necessary information in the future. The second prong asks whether the competitive position of the person from whom the information was obtained would be impaired or substantially harmed. If the information meets the requirements of either prong, it is exempted from disclosure under Exemption 4. Whether under *Critical Mass* or *National Parks*, the information provided by AT&T falls within Exemption 4.

The information being provided to the Commission in response to the Commission's rules is not customarily released to the public, is maintained on a confidential basis, and is not ordinarily disclosed to parties outside the company. Disclosure of this information would subject AT&T to substantial competitive harm.

Competitors could use the confidential information to assist in targeting their service offerings and enhancing their competitive positions, to the detriment of the competitive position of AT&T Kansas. *See, e.g., GC Micro Corp. v. Defense Logistics Agency*, 33 F.3d 1109 (9th Cir. 1994).

- (6) Identification of any measures taken by the submitting party to prevent unauthorized disclosure; and**
- (7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.**

This information has been maintained on a confidential basis within AT&T and would not ordinarily be disclosed to parties outside the company. Company practices instruct employees not to disclose such information outside the company and restrict such access to this information pursuant to a nondisclosure agreement.

- (8) Justification of the period during which the submitting party asserts that material should not be available for public disclosure.**

The material must be kept confidential for an indefinite period. Confidential treatment must be afforded this information as long as it would provide a basis for AT&T Kansas's

¹ *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992).

² *National Parks & Conservation Assoc. v. Morton*, 498 F.2d 765 D.C. Cir. (1974) ("*National Parks*").

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competitors to gain insight into its business operations. AT&T cannot determine at this time any date on which the information would become “stale” for such a purpose.

Conclusion

For all the foregoing reasons AT&T requests that the Commission withhold from public disclosure pursuant to section 0.459 of the Commission’s Rules the outage information contained in Confidential Exhibit A. If the Commission is unable for any reason to keep this information confidential, AT&T respectfully requests that the Commission return the information to AT&T pursuant to section 0.459(e) of the Rules.

Sincerely,

/s/ Cathy Carpino
Cathy Carpino

Attachments

CERTIFICATE OF SERVICE

I, Toyin Harris, hereby certify that on this 29th day of June 2012, a copy of the foregoing "AT&T Kansas and AT&T Mississippi Annual Eligible Telecommunications Carrier High Cost Filing Report" by AT&T, Inc. for WC Docket No. 10-90 was served hand delivered, to the party listed below:

Universal Service Administrative Company
Attn: David Capozzi, Acting General Counsel
2000 L Street, NW
Suite 200
Washington, DC 20036

/s/ Toyin Harris

Redacted Exhibit A

2. All ETCs must provide detailed information on any outage lasting at least 30 minutes for any facilities that an ETC owns, operates, leases, or otherwise utilizes that potentially affect at least 10% of the end users in a service area, or that could affect 911.

Date of Outage	Time of Outage	Description of the Outage and Resolution	Particular services affected	Geographic Areas Affected	Steps Taken to Prevent Future Recurrences	Number of Customers Affected
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(If necessary, please provide additional pages.)

3. Please provide the number of complaints per 1,000 connections (fixed or mobile). A complaint is any non-duplicative verbal or written complaint received by the company, FCC, and/or KCC.

There were 3.4 complaints per 1,000 retail access lines. To determine duplicates in the mechanized list of complaints would require a manual review of each complaint. SWBT has not conducted such a review.

5. A wireline ETC must certify that it is in compliance with the Commission's quality of service standards and a wireless ETC must certify that it is in compliance with the CTIA Code. Please complete the following, as applicable to your company:

QUALITY OF SERVICE WIRELINE ANNUAL CERTIFICATION
KCC Docket Reference: 06-GIMT-446-GIT
(Please type or print legibly)

1. My title is Assistant Vice President of the Southwestern Bell Telephone Company (Company/ Cooperative). In this capacity, I am in a position of authority to certify whether the Company/ Cooperative is complying with required quality of service standards. I am binding Southwestern Bell Telephone Co. (Company/Cooperative) to the statements made in this certification.

2. By this affidavit, I certify that Southwestern Bell Tel Co. (Company/ Cooperative) is in compliance with the Commission's quality of service standards as adopted in Docket No. 191,206-U.

I certify under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct. (Pursuant to Kan. Stat. Ann. 53-601.) Executed on 6-11-2012 (date).

Lorri K Tener
Signature

Lorri K Tener
Printed/Typed Name

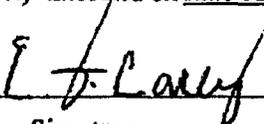
6. An ETC must certify that it will be able to function in an emergency.

ABILITY TO FUNCTION IN AN EMERGENCY ANNUAL CERTIFICATION
KCC Docket Reference: 06-GIMT-446-GIT
(Please type or print legibly)

1. My title is Sr. Vice President – C&E of the AT&T Services (Company/ Cooperative). In this capacity, I am in a position of authority to certify whether the Company/ Cooperative is able to function in an emergency. I am binding AT&T Services (Company/Cooperative) to the statements made in this certification.

2. By this affidavit, I certify that AT&T Services (Company/ Cooperative) is capable of functioning in an emergency.

I certify under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct. (Pursuant to Kan. Stat. Ann. 53-601.) Executed on June 18, 2012.



Signature

Ernie Carey

Printed/Typed Name

Mississippi 2012 Filings (Annual Recertification, Quarterly Reports)

This exhibit includes information from reports filed with the Mississippi Public Service Commission for the 2011 calendar year.

54.313(a)(3): Unfulfilled Service Extension Requests.

1st Quarter ETC Service Extension Requests:

There were no service requests for 1st quarter 2011 that were not completed.

2nd Quarter ETC Service Extension Requests:

There were no service requests for 2nd quarter 2011 that were not completed.

3rd Quarter ETC Service Extension Requests:

There is one service request for third quarter 2011 that was not completed. It is waiting on appropriate permits.

4th Quarter ETC Service Extension Requests:

There is one service request for fourth quarter 2011 that was not completed. It is waiting on appropriate permits.

54.313(a)(4): Complaints per 1000 handsets/subscribers.

1st Quarter Complaints per 1000 handsets/subscribers:

.149 complaints per 1000 customers.

2nd Quarter Complaints per 1000 handsets/subscribers:

.164 complaints per 1000 customers

3rd Quarter Complaints per 1000 handsets/subscribers:

.224 complaints per 1000 customers.

4th Quarter Complaints per 1000 handsets/subscribers:

.155 complaints per 1000 customers.

**Mississippi 2012 Filings
(Annual Recertification, Quarterly Reports)**

54.313(a)(2): Federal Outages.

See paragraph (a) of Attachment 1.

54.313(a)(5): Consumer Protection.

See paragraph (b) of Attachment 1.

54.313(a)(6): Emergency Preparedness Plans.

See paragraph (c) of Attachment 1.

Attachment 1

BEFORE THE MISSISSIPPI PUBLIC SERVICE COMMISSION

DOCKET NO. 2005-AD-662 IN RE: Order Establishing
Requirements for Eligible
Telecommunications Carriers
MISSISSIPPI PUBLIC
SERVICE COMMISSION

MPSC Docket 05-AD-662 required all ETCs to certify to initial eligibility requirements. In a letter dated August 1, 2007 AT&T Mississippi provided this certification. This Order also required that as part of the annual plan filing each ETC certify to certain items as spelled out in the checklist in Exhibit "A" of the Order. AT&T Mississippi submits the following information to comply with this requirement.

- (a) The ETC is able to function in an emergency;
AT&T has in place emergency operations procedures to ensure our ability to continue to operate in the event of an emergency. Backup power through batteries, portable generators and permanent generators is provided throughout the network. Our network is able to reroute traffic around damaged facilities and is capable of managing traffic spikes resulting from emergency situations.

- (b) The ETC is complying with applicable service quality standards and consumer protection rules;
AT&T Mississippi is, and commits to continue to be in compliance with applicable MPSC and FCC rules and regulations and to comply with all applicable federal standards and requirements.

- (c) The ETC is complying with the FCC reporting requirements concerning outages;
AT&T Mississippi hereby commits that it will continue to adhere to the Federal Communications Commission's reporting requirements concerning outages and will provide copies to the MPSC upon request.