



**Gary L. Phillips**  
General Attorney and  
Associate General Counsel

AT&T Services, Inc.  
1120 20<sup>th</sup> Street, N.W.  
Suite 1000  
Washington, D.C. 20036

202.457.3055 Phone  
202.457.3074 Fax  
[Gary.L.Phillips@att.com](mailto:Gary.L.Phillips@att.com)

**REDACTED -- FOR PUBLIC INSPECTION**

October 28, 2011

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

Re: *Applications of AT&T Inc. and Deutsche Telekom AG for Consent to Assign or Transfer Control of Licenses and Authorizations*, WT Docket No. 11-65

Dear Ms. Dortch:

On October 11, 2011, the Rural Telecommunications Group (“RTG”) filed an *ex parte* memorializing the substance of a meeting with FCC staff in which RTG claimed that AT&T is engaged in various “anticompetitive actions” against RTG members that are contrary to the public interest and the interest of AT&T’s own subscribers. Specifically, RTG asserts that AT&T has: (1) reduced its “dependence” on RTG members for roaming and restricted AT&T subscribers from engaging in 3G roaming in order to drive RTG members out of business and acquire their spectrum; (2) established roaming rates that are “uniformly commercially excessive”; and (3) “allow[ed] other carriers to 3G roam on AT&T only with key conditions” (which RTG does not even identify). Although RTG cites numerous documents in ostensible support of these claims, not one of these documents actually offers even a shred of corroboratory evidence. Rather, as these and other documents make clear, AT&T has sought to reduce its reliance on roaming in areas where it has its own facilities for the very unremarkable reason that doing so would save unnecessary expense. There is nothing even remotely unlawful or anticompetitive in that. Furthermore, AT&T, which pays more than it receives, in domestic roaming fees has sought to *reduce* roaming rates, while making them more uniform. And AT&T fully recognizes its 3G roaming obligations, has made concerted efforts to sign 3G roaming agreements on commercially reasonable terms, and has been successful in that endeavor. In short, RTG’s claims are baseless.

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**AT&T has reduced its dependence on roaming for the obvious reason that doing so saves money**

The crux of RTG's *ex parte* is the charge that AT&T seeks to reduce its roaming costs in order to drive smaller carriers out of business and acquire their spectrum. RTG purports to find support for this claim in two sets of documents which RTG blatantly mischaracterizes: (1) an August 9, 2010, power point deck which describes AT&T's LTE spectrum needs and acquisition strategy; and (2) a series of monthly reports which describe and track the results of AT&T's initiative to reduce its reliance on roaming in areas where it has its own facilities - *i.e.*, "home-on-home" roaming. RTG also claims that AT&T's efforts to reduce its roaming spend with [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] were really tactics to weaken [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION], not save money, although it offers no evidence for that theory either.

RTG's reliance on the August 9 power point stems entirely from a single bullet in that fifteen-page document, which states: [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] According to RTG, this bullet "articulate[s] AT&T's decision to utilize a singular roaming strategy that would help it acquire spectrum." But this bullet simply recognizes the reality that the business plans of some rural carriers are predicated on roaming revenues that are not sustainable. It certainly does not state that AT&T's roaming policies are designed and intended to hurt rural providers. [BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY CONFIDENTIAL INFORMATION] RTG's inference that these roaming policies are not based on these legitimate business considerations, but, rather are designed to harm smaller carriers, is completely baseless. And its claim that its "members (past and present) have experienced the outcome" of this supposedly nefarious policy is facially absurd given that AT&T has only just begun offering LTE service.

RTG reliance on the monthly tracking reports for AT&T's efforts to reduce home-on-home roaming (in part, by negotiating LAC restrictions in its roaming contracts) is even more absurd. Far from demonstrating anticompetitive intent, those documents make clear that this program was put in place in order to reduce unnecessary costs. Indeed, each of these reports

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simply tracks on a monthly basis the extent to which AT&T has reduced its home-on-home roaming spend and identifies the five markets with the highest spend and hence the greatest potential for savings. Nothing in these documents even remotely supports the notion that this program was intended to hurt smaller carriers, much less that it was part of a spectrum acquisition strategy, and that was certainly not the case.<sup>1</sup>

AT&T fully understands that some small, rural carriers rely heavily on roaming revenues and seek high roaming rates. But it makes no sense for AT&T to pay another carrier high roaming rates to carry traffic that AT&T can carry over its own facilities, and it is certainly under no regulatory obligation to do so. To the contrary, the Commission's roaming orders expressly recognize that roaming should encourage facilities-based investment, not render it superfluous.<sup>2</sup> And, far from requiring carriers to purchase home-on-home roaming, the Commission lists "whether the requesting carrier is seeking roaming for an area where it is already providing facilities-based service" as a factor relevant to whether roaming must even be offered.<sup>3</sup>

**[BEGIN HIGHLY CONFIDENTIAL INFORMATION]**

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<sup>1</sup> RTG also tries to argue that AT&T's efforts to negotiate "LAC restrictions" in its roaming contracts were somehow improper. As RTG notes, a LAC is a subset of a mobile network comprised of one or more cell sites in a given market. RTG states that "[p]lacing a LAC restriction on another carrier's network allows AT&T to pick and choose certain roamed-on sections for its customers to use instead of having the other carrier's entire network available for roaming." RTG letter at 3. While RTG does its best to make this sound like a bad thing, LAC restrictions are used in the industry to limit roaming to areas in which carriers do not have their own facilities. In other words, they are a principal means by which carriers can reduce their use of Home-on-Home roaming.

<sup>2</sup> See, e.g., *Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services*, Second Report and Order, 26 FCC Rcd 5411 (2011) at ¶ 1 ("The deployment of mobile data networks is essential to achieve the goal of making broadband connectivity available everywhere in the United States, and the availability of data roaming will help ensure the viability of new wireless data network deployments and thus promote the development of competitive facilities-based service offerings for the benefit of consumers."); *Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services*; Order on Reconsideration, 25 FCC Rcd 4181 (2010) at ¶ 32 ("Carriers deploying next generation networks will still have incentives to build out to ensure that their subscribers receive all of the benefits of the carriers' own advanced networks. We find that, as a practical matter, the relatively high price of roaming compared to providing facilities-based service will often be sufficient to counterbalance the incentive to "piggy-back" on another carrier's network.")

<sup>3</sup> Order on Reconsideration, *supra* at ¶ 39.

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**[END HIGHLY CONFIDENTIAL INFORMATION]**

Although RTG asks the Commission to leap to the conclusion that AT&T's goal all along was to obtain this spectrum, not reduce its roaming spend, that is simply false, and RTG offers no evidence to support this theory.<sup>4</sup>

**AT&T has sought to *lower* roaming rates and fully complies with its 3G roaming obligations**

RTG further claims that AT&T is intent on "establishing roaming rates that are uniformly commercially excessive" and "allowing other carriers to 3G roam on AT&T only with key conditions." But RTG barely even tries to support these claims. Its entire argument rests on the following two bullets, which appear in a 57 page deck under the heading, **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]**

**[END HIGHLY CONFIDENTIAL INFORMATION]** From this, RTG posits "[t]hese principles are aimed at achieving the goal of driving smaller wireless carriers out of business[.]"

**[BEGIN HIGHLY CONFIDENTIAL INFORMATION]**

**[END HIGHLY CONFIDENTIAL INFORMATION]**

Thus, RTG's speculation about this project is just flat-out wrong. And finally, with respect to 3G roaming, AT&T has entered into **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]**  
**[END HIGHLY CONFIDENTIAL INFORMATION]** 3G roaming agreements, to date,

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<sup>4</sup> Perhaps because it cannot substantiate these claims, RTG has never availed itself of the Commission's complaint process to raise them.

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including with roaming partners that do not have network facilities comparable to AT&T's 3G network, even though the FCC's data roaming order would allow AT&T to insist on that requirement. AT&T also is currently in negotiations with several other carriers for 3G roaming.

In short, RTG's allegations of improper actions by AT&T are demonstrably false. The evidence presented by RTG does, indeed, show that AT&T has sought to reduce its home-on-home roaming expense, but RTG offers no evidence to support its claim that this was somehow anticompetitive in design or purpose. At the end of the day, therefore, RTG is simply arguing that AT&T should not be allowed to use its own facilities in lieu of roaming on third parties, and that claim is flatly inconsistent with the Commission's longstanding efforts to promote facilities-based investment and, therefore, contrary to the interests of consumers. Accordingly, RTG's suggestion that its allegations warrant denial of the merger or a merger commitment requiring AT&T to purchase roaming services in areas in which AT&T has its own facilities should be rejected.

Pursuant to the Second Protective Order in this proceeding,<sup>5</sup> we are submitting this letter to you on a CD-ROM. In addition, we are submitting a redacted version of this letter in ECFS. Finally, we are submitting two copies of the unredacted version of this letter to Kathy Harris of the Wireless Telecommunications Bureau staff or her designee.

Respectfully Submitted,

/s/

Gary L. Phillips

cc: Best Copy and Printing, Inc. (redacted version)  
Kathy Harris, Esq. (unredacted and redacted versions)  
Ms. Kate Matraves (redacted version)  
Jim Bird, Esq. (redacted version)

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<sup>5</sup> *In re Applications of AT&T Inc. and Deutsche Telekom AG for Consent to Assign or Transfer Control of Licenses and Authorizations*, Second Protective Order (Revised), 26 FCC Rcd. 8801, *modified*, DA 11-1214 (WTB rel. July 19, 2011) ("Second Protective Order").