

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
AT&T Inc. and Atlantic Tele-Network, Inc. Seek)
FCC Consent to the Transfer of Control and) WT Docket No. 13-54
Assignment of Licenses, Spectrum Leasing)
Authorizations and an International Section 214)
Authorization)

To: The Commission

REPLY COMMENTS OF THE RURAL TELECOMMUNICATIONS GROUP, INC.

The Rural Telecommunications Group, Inc. (“RTG”) hereby responds to the *Joint Opposition* of the Applicants¹ in the above-captioned proceeding.² In its comments³, RTG asserted that the spectrum deals contemplated by AT&T and ATNI perpetuate a demonstrably tilted marketplace: a marketplace that favors entrenched nationwide mobile carriers like AT&T and allows them to hold a disproportionate amount of all suitable and available spectrum, which in turn prevents small and rural operators from being able to effectively compete. In this

¹ AT&T Inc. (“AT&T”) and Atlantic Tele-Network, Inc. (“ATNI”) (together, “Applicants”). ATNI operates as Allied Wireless Communications Corporation and advertises under the iconic ALLTEL brand.

² *In the Matter of AT&T, Inc. and Atlantic Tele-Network, Inc. Seek FCC Consent to the Transfer of Control and Assignment of Licenses, Spectrum Leasing Authorizations, and an International Section 214 Authorization*, Joint Opposition of AT&T Inc. and Atlantic Tele-Network, Inc. to Petitions to Deny and Reply to Comment, WT Docket No. 13-54 (filed April 15, 2013) (“*Joint Opposition*”).

³ *In the Matter of AT&T, Inc. and Atlantic Tele-Network, Inc. Seek FCC Consent to the Transfer of Control and Assignment of Licenses, Spectrum Leasing Authorizations, and an International Section 214 Authorization*, Comments of the Rural Telecommunications Group, Inc., WT Docket No. 13-54 (filed March 5, 2013) (“*RTG Comments*”).

particular instance, not only is AT&T amassing large swaths of spectrum (including prized low-frequency spectrum), it is removing yet another rural/regional carrier from the marketplace of competition and consumer choice.

In response to the *RTG Comments*, the Applicants assert that RTG and other petitioners have not “meaningfully challenged” the Applicants’ claims and “present no facts showing transaction-specific harms and, therefore, no basis for the purported remedies they seek.”⁴ To the contrary, RTG’s challenges demonstrate the public interest harms that will result from AT&T adding more licenses to its spectrum vault and the complete removal of ALLTEL from the competitive landscape. As highlighted in the *RTG Comments*, both the Federal Communications Commission (“FCC” or “Commission”) and the U.S. Department of Justice (“DOJ”) have recognized the competitive harms stemming from spectrum concentration resulting in less than four nationwide carriers.⁵ Indeed, since RTG filed its comments earlier this month, DOJ has reiterated its desire to see the Commission adopt “rules that ensure the smaller nationwide networks, which currently lack substantial low-frequency spectrum, have an opportunity to acquire such spectrum.”⁶ AT&T fails to adequately address the stark fact that due to the FCC’s use of an antiquated spectrum screen (a spectrum screen which results in no heightened scrutiny for spectrum holdings below one-third of all suitable and available spectrum), nothing prevents it and Verizon Wireless from slowly and methodically taking collective control of at least two-thirds of all suitable and available spectrum in any given market. Under the current regulatory

⁴ *Joint Opposition* at p. 1.

⁵ *RTG Comments* at p. 3.

⁶ *In the Matter of Policies Regarding Mobile Spectrum Holdings, Ex Parte* Submission of the United States Department of Justice, WT Docket No. 12-269 (filed April 11, 2013) (“*DOJ Ex Parte*”) at p. 23.

environment, the Twin Bells of AT&T and Verizon Wireless are also able to maintain collective control of at least two-thirds all suitable and available spectrum below 1 Gigahertz (“GHz”) in any given market – the same exact disproportionate accumulation of “low frequency” spectrum DOJ expressed concern about in its recent *ex parte*. Spectrum concentration resulting from deals such as the AT&T takeover of ALLTEL, in turn, leaves precious little spectrum for a third or fourth carrier (whether a nationwide, regional or rural carrier) to effectively compete against the Twin Bells, let alone a fifth or sixth competitive carrier in a given market.

There is no publicly stated timetable for when the Commission’s proceeding on spectrum holdings will conclude, and even more importantly, when new rules limiting spectrum holdings will come into effect. Unfortunately, the negative repercussions stemming from ineffective competition due to disproportionate spectrum holdings have persisted up to now and will continue to fester so long as the status quo remains intact. Each incremental addition to the spectrum coffers of AT&T and Verizon Wireless strengthens their duopoly position and debilitates all of the smaller carriers in the country. The best way to temporarily halt potentially irreversible spectrum consolidation is to have the Commission hold the Applicants’ applications in abeyance until such time that the Commission issues an order addressing the country’s spectrum holdings rules, as proposed by Public Knowledge.⁷

AT&T contends that RTG, through its comments, is merely rehashing “the very same proposals” that RTG proposed in the Commission’s spectrum holdings proceeding.⁸ AT&T further argues that RTG and other petitioners “point to no transaction-specific harms that their

⁷ Petition to Deny of Public Knowledge and the Writers Guild of America, West at pp. 1-2.

⁸ *Joint Opposition* at pp. 11-12.

proposed conditions⁹ purportedly would address.”¹⁰ RTG disagrees. The record clearly reflects that the harms resulting from spectrum consolidation by the country’s largest mobile carriers (at the ultimate expense of smaller carriers) are indeed real. Furthermore, the lack of access to spectrum at auction or in the secondary marketplace makes smaller carriers (and their customers) more heavily reliant on other tangential components to a successful mobile experience; these components include access to commercially reasonable data roaming and unhindered access to mobile devices that are interoperable within a frequency band. The more AT&T commandeers access to suitable and available spectrum, the more necessary it becomes for customers of competing carriers to have access to cost-effective data roaming and a functioning mobile device when those customers leave the service area of the competing regional, small or local carrier. Were AT&T to agree to some manner of data roaming and device interoperability provision as a condition precedent in order to proceed with the spectrum swap, then this would in turn limit the impact of having the Twin Bells control over one-half and in some cases over two-thirds of suitable and available spectrum in various markets. Just because some of the conditions proposed by RTG and other petitioners also happen to be conditions proposed in other FCC rulemaking proceedings does not in any way make them conditions deemed unsuitable or premature to correct harms that would arise from excessive spectrum holdings by AT&T and the elimination of ALLTEL should this proposed transaction be approved in full.

The *RTG Comments* explain in simple terms how: (1) the FCC’s current manner of reviewing cases of spectrum aggregation is at best outdated, and at worst, flawed; (2) the FCC and especially DOJ recognize the need to maintain no fewer than four mobile carriers in a

⁹ RTG and other petitioners have proposed conditions related to data roaming, device interoperability, device exclusivity, early termination fees, special access and backhaul.

¹⁰ *Id.*

market; and (3) deals such as the proposed takeover of ALLTEL by AT&T would make it mathematically impossible for four (or more) mobile carriers in a market to at least have a fair *chance* to access up to one-quarter of the suitable and available spectrum in a market. Rather than addressing these present day and quite real characteristics of the mobile wireless marketplace (which will be further exacerbated by the removal of ALLTEL) the Applicants pressure the Commission to turn a blind eye to present problems in hopes of a possible solution sometime down the road. At no time has RTG asked AT&T to divest itself of current spectrum holdings. Rather, RTG has requested that AT&T agree to certain conditions should it proceed with the takeover of ALLTEL while the Commission ponders various other factors that all have a role to play in fairness and competition within the mobile industry.

Respectfully submitted,

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