

Merger of  
AT&T Inc.  
and  
Centennial Communications Corp.

**Description of Transaction,  
Public Interest Showing and  
Related Demonstrations**

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## **INTRODUCTION AND EXECUTIVE SUMMARY**

The Commission should swiftly approve the transfer of control of the authorizations and spectrum leases held by Centennial Communications Corp. (“Centennial”) to AT&T Inc. (“AT&T”). This transaction will advance the public interest by enhancing telecommunications services in the rural areas and small cities that make up most of Centennial’s service area. These include parts of six states in the Midwest and South, plus the U.S. Virgin Islands, where Centennial provides wireless service, and Puerto Rico, where Centennial provides both wireless and wireline broadband service. By becoming a part of AT&T, Centennial will gain access to expertise and resources, which will allow it to serve these communities even better than it does now. The transaction also will enhance disaster preparedness and result in significant cost savings. These advances for consumers in rural areas and small cities and the other public interest benefits that will flow from this transaction can be achieved without raising any competitive concerns.

The transaction will give Centennial’s wireless customers access to the full range of capabilities available on AT&T’s network, which covers more than 290 million people in 13,000 communities in the United States. Centennial’s wireless customers thus will enjoy: a wider variety of rate plans; a more robust set of data services; an expanded scope for mobile-to-mobile calling without using monthly minutes; rollover minutes; additional prepaid offerings; expanded choice of handsets with advanced services capabilities; an open applications policy; enhanced international roaming; opportunities to obtain discounts for wireless/wireline bundles; and, for customers with dual-mode phones, free access to Wi-Fi hotspots at more than 17,000 locations across the country. The transaction also will enable a broader deployment of 3G and 4G networks in Centennial’s service area, which will allow for dual-mode phones with integrated

Wi-Fi and GPS navigation, mobile video and broadband, and other next generation services. In addition, AT&T's wireless customers will benefit from a network with expanded scope. This will eliminate the need for roaming in some areas and result in better reception and signal quality, fewer dropped calls, and improved data speeds and feature performance.

The transaction also has significant benefits for wireline customers in Puerto Rico. AT&T currently lacks a wireline network presence in Puerto Rico (other than a node and submarine cable assets) and must rely on third parties for on-island connectivity. This transaction will combine Centennial's extensive wireline broadband infrastructure in Puerto Rico with AT&T's global network and advanced service offerings, and allow for end-to-end service over a single network. Upgrading the communications network in this way will enhance Puerto Rico's competitiveness and help to make Puerto Rico a more attractive location for multinational businesses.

Disaster preparedness will be improved as a result of this transaction. Centennial has extensive experience in responding to hurricanes and other natural disasters, and combining this experience with AT&T's resources will enhance response capabilities. In addition, emergency personnel will benefit from the upgraded network that will result from the transaction.

Cost savings from the transaction will be substantial. Internalization of roaming expenses alone will save tens of millions of dollars each year. There also will be savings from more efficient billing functions, optimizing network facilities and elimination of general and administrative costs.

These public interest benefits can be achieved without any harm to competition. The wireless market is, and will remain, intensely competitive. New spectrum bands, such as AWS-1, 700 MHz and BRS/EBS, are being put into use. After the transaction, the merged firm will

remain below the applicable spectrum aggregation screen everywhere within Centennial's footprint, with only de minimis exceptions. Additional competitors, such as Clearwire and Cox, are entering the marketplace, and existing competitors, such as Leap and MetroPCS, are expanding their service territories. Innovative devices continue to be introduced. New and differentiated pricing plans are being offered, and churn remains substantial. This transaction will only heighten this competition by allowing the combined company to offer an even more robust service than AT&T and Centennial do now. This transaction also will enhance wireline competition in Puerto Rico, where the combined company will become a more formidable competitor to the much larger incumbent carrier, other competitive carriers and global services providers.

The merger of AT&T and Centennial will deliver numerous public interest benefits, especially for consumers in rural areas and small cities, without any harm to competition, and the Commission should act quickly to approve it.

**TABLE OF CONTENTS**

**I. OVERVIEW ..... 1**

**II. DESCRIPTION OF THE APPLICANTS AND THEIR EXISTING BUSINESSES ..... 1**

A. AT&T..... 1

B. Centennial..... 1

C. AT&T Is Qualified To Control These Authorizations, and There Is No Issue with Respect to Centennial’s Character or Qualifications..... 2

**III. DESCRIPTION OF THE TRANSACTION..... 2**

**IV. THE STANDARD OF REVIEW ..... 3**

**V. THE TRANSACTION WILL SERVE THE PUBLIC INTEREST ..... 4**

A. The Transaction Will Improve the Customer Experience and Expand the Variety and Scope of Wireless Services Available to Consumers ..... 5

B. The Transaction Will Improve the Combined Company’s Disaster Preparedness ..... 14

C. The Transaction Will Enable a Broader Deployment of 3G and 4G Services to Consumers..... 16

D. The Transaction Will Expand Network Coverage for Both AT&T’s and Centennial’s Customers ..... 18

E. The Transaction Will Result in Substantial Additional Cost Synergies ..... 20

**VI. THE TRANSACTION WILL HAVE NO ADVERSE EFFECT ON COMPETITION.....23**

A. The Merger Will Not Harm Competition in the Provision of Mobile Telephony/Broadband Services ..... 23

B. The Merger Will Not Harm Competition in the Provision of Wireline Services ..... 42

**VII. RELATED GOVERNMENTAL FILINGS ..... 45**

**VIII. MISCELLANEOUS REGULATORY ISSUES ..... 45**

A. After-Acquired Authorizations ..... 45

B. Trafficking..... 46

C. Blanket Exemption to Cut-Off Rules ..... 47

**IX. CONCLUSION**..... 47

**Attachments**

Appendix A: Spectrum Aggregation Chart

Appendix B: Competitors Chart

Declaration of Rick L. Moore

Declaration of David A. Christopher

Declaration of José J. Dávila

Declaration of Francis P. Hunt

Declaration of Robert D. Willig, Jonathan M. Orszag, and J. Loren Poulsen

**DESCRIPTION OF TRANSACTION,  
PUBLIC INTEREST SHOWING  
AND RELATED DEMONSTRATIONS**

**I. OVERVIEW**

These applications seek the Commission's approval for the transfer of control of authorizations and spectrum leases held by Centennial Communications Corp. and its subsidiaries ("Centennial") from Centennial to AT&T Inc. ("AT&T"). As detailed below, the merger of AT&T and Centennial will result in numerous public interest benefits without raising any competitive concerns. It is in the public interest for the Commission to approve these transfer of control applications quickly.

**II. DESCRIPTION OF THE APPLICANTS AND THEIR EXISTING BUSINESSES**

A. AT&T

AT&T is a leading provider in the United States of wireless, high-speed Internet access, video, local and long distance voice, and directory publishing and advertising services, as well as a leading worldwide provider of IP-based communications services to businesses.

B. Centennial

Centennial is a regional wireless and broadband telecommunications service provider. In the mainland United States, Centennial provides wireless telephone services to approximately 660,000 retail customers in small cities and rural areas in two geographic clusters covering parts of Indiana, Michigan and Ohio in the Midwest and parts of Louisiana, Mississippi and Texas in the Southeast, covering a population of approximately 9 million. Centennial also provides wireless service to about 440,000 customers in Puerto Rico and the U.S. Virgin Islands and, in Puerto Rico, is a fully-integrated service provider offering fiber broadband services to business

and, to a lesser extent, residential customers. These areas cover a population of approximately 4 million.

C. AT&T Is Qualified To Control These Authorizations, and There Is No Issue with Respect to Centennial's Character or Qualifications

The Commission has concluded repeatedly that AT&T has the qualifications required by the Communications Act to control Commission authorizations,<sup>1</sup> and nothing has changed to disturb this conclusion. There is also no question about Centennial's character or qualifications to hold Commission authorizations.<sup>2</sup>

### III. DESCRIPTION OF THE TRANSACTION

AT&T will acquire control of Centennial. At closing, a wholly-owned subsidiary of AT&T, Independence Merger Sub Inc., will be merged with and into Centennial, with Centennial being the surviving entity. Each share of Centennial common stock will be converted into the right to receive \$8.50 in cash. Centennial will thus become a wholly-owned subsidiary

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<sup>1</sup> See *In re Application of Aloha Spectrum Holdings Company LLC and AT&T Mobility II LLC Seeking FCC Consent for Assignment of Licenses and Authorizations*, Memorandum Opinion and Order, 23 FCC Rcd. 2234, 2236, ¶ 8 (2008) (“AT&T Mobility/Aloha Order”); *In re Applications of AT&T Inc. and Dobson Comm'cns Corp. for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 22 FCC Rcd. 20,295, 20,303, ¶ 11 (2007) (“AT&T/Dobson Order”); *In re AT&T Inc. and BellSouth Corp. Application for Transfer of Control*, Memorandum Opinion and Order, 22 FCC Rcd. 5662, 5758, ¶ 194 (2007) (“AT&T/BellSouth Order”); *In re SBC Commc'ns Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, Memorandum Opinion and Order, 20 FCC Rcd. 18,290, 18,379-81, ¶¶ 173-76 (2005) (“SBC/AT&T Order”); *In re Applications of AT&T Wireless Servs., Inc. and Cingular Wireless Corp. for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 19 FCC Rcd. 21,522, 21,548, ¶ 48 (2004) (“Cingular/AT&T Wireless Order”); *In re Applications of SBC Commc'ns Inc. and BellSouth Corp.*, Memorandum Opinion and Order, 15 FCC Rcd. 25,459, 25,465-66, ¶¶ 14-17 (WTB & IB 2000) (“Cingular Order”); *In re Applications of Ameritech Corp. and SBC Commc'ns Inc.*, Memorandum Opinion and Order, 14 FCC Rcd. 14,712, 14,950, ¶¶ 571-73 (1999) (subsequent history omitted) (“SBC/Ameritech Order”).

<sup>2</sup> See *Wireless Telecomms. Bureau Assignment of License Authorization Applications, Transfer of Control of Licensee Applications, and De Facto Transfer Lease Applications, and Designated Entity Reportable Eligibility Event Applications Accepted for Filing*, Public Notice, Rpt. No. 3427 (rel. Sept. 5, 2007).

of AT&T. Centennial will continue to own the stock of its subsidiaries, and Centennial and its subsidiaries will continue to hold all of the FCC authorizations and spectrum leases that they held prior to the merger. While AT&T will become the new parent of Centennial, there will be no assignment of licenses or transfer of direct control of the FCC authorizations held by Centennial and its subsidiaries.

#### **IV. THE STANDARD OF REVIEW**

In deciding whether to grant these applications under sections 214(a) and 310(d) of the Communications Act of 1934, as amended,<sup>3</sup> the Commission must first assess whether the proposed transaction complies with the specific provisions of the Communications Act, other applicable statutes, the Commission's rules, and federal communications policy. The Commission then weighs any potential public interest harms of the proposed transaction against the potential public interest benefits. The Applicants bear the burden of proving, by a preponderance of the evidence, that the proposed transaction, on balance, serves the public interest.<sup>4</sup>

This transaction does not violate any law or rule. Moreover, as discussed below, it does not impede the realization of the objectives of the Communications Act or the Commission's ability to implement the Act. To the contrary, this transaction will result in a number of public interest benefits without harming competition and, accordingly, should be approved by the Commission expeditiously.

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<sup>3</sup> See 47 U.S.C. §§ 214(a), 310(d).

<sup>4</sup> See, e.g., *AT&T/Dobson Order* at 20,302, ¶ 10; *AT&T/BellSouth Order* at 5672, ¶ 19; *SBC/AT&T Order* at 18,300, ¶ 16; *Cingular/AT&T Wireless Order* at 21,543, ¶ 40.

## V. THE TRANSACTION WILL SERVE THE PUBLIC INTEREST

The merger of AT&T and Centennial will enable the combined firm to offer Centennial's customers, especially those in rural areas, advanced services that Centennial does not currently offer, accelerate the provision of broadband and other next-generation wireless services, expand each party's network coverage, improve customers' wireless calling experience and create substantial economies of scale and scope that will benefit subscribers.<sup>5</sup> The Commission has repeatedly credited near-term, verifiable, transaction-specific public interest benefits like these in prior merger analyses and should do so here.<sup>6</sup>

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<sup>5</sup> Declaration of Robert D. Willig, Jonathan M. Orszag & J. Loren Poulsen (Nov. 21, 2008) ¶¶ 12, 20-21 ("Willig et al. Decl.").

<sup>6</sup> In the *Verizon/ALLTEL Order*, the Commission concluded that that transaction was likely to result in transaction specific public interest benefits very similar to those that will result here, including increased network coverage, expanded and improved services and features, roll-out of next generation services, improvements in service quality, and efficiencies and economies of scale and scope. See *In re Applications of Cellco P'ship d/b/a Verizon Wireless and Atlantis Holdings LLC for Consent to Transfer Control of Licenses, Authorizations, and Spectrum Manager and De Facto Transfer Leasing Arrangements and Petition for Declaratory Ruling that the Transaction is Consistent with Section 310(b)(4) of the Commc'ns Act*, WT Dkt No. 08-95, Memorandum Opinion and Order and Declaratory Ruling, FCC 08-258, ¶ 156 (rel. Nov. 10, 2008) ("*Verizon/ALLTEL Order*"). See also *In re Applications of Cellco P'ship d/b/a Verizon Wireless and Rural Cellular Corp. for Consent to Transfer Control of Licenses, Authorizations, and Spectrum Manager Leases and Petitions for Declaratory Ruling that the Transaction Is Consistent with Section 310(b)(4) of the Commc'ns Act*, 23 FCC Rcd. 12,463, 12,504-06, ¶¶ 91-95 (2008) ("*Verizon/RCC Order*"); *AT&T/Dobson Order* at 20,330-32, ¶¶ 73-77; *In re Midwest Wireless Holdings, L.L.C. and ALLTEL Commc'ns, Inc. for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 21 FCC Rcd. 11,526, 11,564-66, ¶¶ 105-109 (2006) ("*Midwest Wireless Order*"); *In re Applications of Nextel Commc'ns, Inc. and Sprint Corp. for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 20 FCC Rcd. 13,967, 14013-14, ¶¶ 129-130 (2005) ("*Sprint/Nextel Order*"); *In re Applications of W. Wireless Corp. and ALLTEL Corp. for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 20 FCC Rcd. 13,053, 13,100-02, ¶¶ 132-137 (2005) ("*Western Wireless Order*"); *Cingular/AT&T Wireless Order* at 12,599-600, ¶¶ 201-06.

A. The Transaction Will Improve the Customer Experience and Expand the Variety and Scope of Wireless Services Available to Consumers

AT&T's nationwide and global network provides AT&T's wireless customers a level and variety of services that Centennial currently cannot offer. The merger will give Centennial's subscribers access to the full range of services available on AT&T's national network, which covers more than 290 million people in 13,000 communities in the United States.<sup>7</sup> Through AT&T's international roaming partners, Centennial's subscribers will be able to make and receive voice calls in 211 countries and access data services in 131 countries.<sup>8</sup>

The Commission has on numerous occasions recognized the public interest benefits that accrue to customers of a regional wireless carrier from the expanded geographic reach created by that carrier's merger with a national carrier.<sup>9</sup> Centennial's customers will enjoy these same benefits as a result of the proposed merger of Centennial and AT&T.

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<sup>7</sup> AT&T Inc., 2007 Annual Report at 8 (2008) ("AT&T 2007 Annual Report"), available at [http://www.att.com/Investor/ATT\\_Annual/downloads/07\\_ATTar\\_FullFinalAR.pdf](http://www.att.com/Investor/ATT_Annual/downloads/07_ATTar_FullFinalAR.pdf); News Release, AT&T Inc., AT&T Announces Purchase of EDGE Wireless (Dec. 3, 2007).

<sup>8</sup> Declaration of Rick Moore, Senior Vice President, AT&T Inc. (Nov. 21, 2008) ¶ 8 ("Moore Decl."); AT&T 2007 Annual Report at 16.

<sup>9</sup> See, e.g., *In re Applications of T-Mobile USA, Inc. and SunCom Wireless Holdings, Inc. for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 23 FCC Rcd. 2515, 2519, ¶ 10 (2008) (finding that "the proposed transaction would enable T-Mobile to expand its wireless footprint in the Southeast United States, Puerto Rico and the U.S. Virgin Islands."); *Western Wireless Order* at 13,108, ¶ 150 (stating that "we believe that the transaction is likely to enable the merged entity to achieve certain economies of scope and scale and operating synergies of the type asserted and that, absent the transaction, the Applicants individually could not have achieved."); *In re Applications of Pacific Wireless Techs., Inc. and Nextel of Cal., Inc.*, Memorandum Opinion and Order, 16 FCC Rcd 20,341 (2001); *Wireless Telecomms. Bureau and Int'l Bureau Grant Consent for Transfer of Control or Assignment of Licenses from Telecorp PCS, Inc. to AT&T Wireless Servs., Inc.*, Public Notice, 17 FCC Rcd. 2383 (2002).

This transaction will enable the provision of the following new and improved services to customers:<sup>10</sup>

1. Diverse Rate Plans

The combined company will be able to offer a wider variety of rate plans to Centennial's customers, including those in rural areas, than Centennial can offer on its own.<sup>11</sup> In addition, the merger will permit Centennial's customers to communicate with a much larger wireless customer base without using their monthly minutes than is possible under Centennial's mobile-to-mobile service plan.<sup>12</sup> Indeed, Centennial's mobile customers with national rate plans will see their mobile-to-mobile calling population expand from a little over one million to approximately 75 million subscribers.<sup>13</sup> In addition, Centennial's mainland customers will be able to take advantage of AT&T's unlimited rate plans and a variety of prepaid offerings Centennial does not offer.<sup>14</sup>

AT&T is also one of the few wireless carriers that permits its customers to roll over unused minutes to the next month.<sup>15</sup> Centennial does not allow customers to roll over unused

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<sup>10</sup> See *Verizon/ALLTEL Order* ¶¶ 128-135, 143-45 (describing Applicants' claimed benefits of expanded and improved services and features).

<sup>11</sup> Declaration of Francis P. Hunt, Senior Vice President and Controller, Centennial Commc'ns Corp. (Nov. 21, 2008) ¶ 10 ("Hunt Decl."); see also *AT&T Bolsters Branding in Former Dobson Territory*, *Wireless News*, Dec. 9, 2007 (reporting that AT&T introduced portfolio of wireless handsets and offers, including mobile-to-mobile plans and rollover minutes, throughout former Dobson territory shortly after AT&T/Dobson merger was approved).

<sup>12</sup> Moore Decl. ¶ 9; Hunt Decl. ¶ 12.

<sup>13</sup> News Release, AT&T Inc., AT&T to Acquire Centennial Communications, Enhance Service for Wireless Customers and Businesses (Nov. 7, 2008); see also Hunt Decl. ¶¶ 4, 12.

<sup>14</sup> Hunt Decl. ¶¶ 10, 12.

<sup>15</sup> See AT&T.com, Rollover® Minutes, <http://www.wireless.att.com/learn/why/rollover.jsp?wtSlotClick=1-0018VS-0-1&WT.svl=title> (last visited Nov. 18, 2008).

minutes.<sup>16</sup> Centennial's customers also will benefit from AT&T's customer-friendly policies, such as its open applications policy that allows third-party developers to bring innovative applications to consumers.<sup>17</sup>

## 2. Handsets with Advanced Services Capabilities

The combined company will be able to offer Centennial's mainland customers handsets with a variety of features that Centennial currently does not offer because it does not have 3G capability.<sup>18</sup> Centennial has not commercially deployed 3G technology in its mainland U.S. markets to date<sup>19</sup> and current economic conditions are likely to affect its ability to do so quickly throughout its 9 million population footprint. Centennial has stated that "in some of our markets, our wireless data offerings are not as robust as those offered by some of our competitors, and may never be."<sup>20</sup> For example, Centennial does not offer its subscribers mobile video and music subscription services, or location-based services, nor does Centennial offer the range of advanced and multimedia features available to AT&T's subscribers.<sup>21</sup> It would be very challenging in

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<sup>16</sup> Hunt Decl. ¶ 12.

<sup>17</sup> Moore Decl. ¶ 8; Hunt Decl. ¶ 10; *see also* News Release, AT&T Inc., ChaCha's "Mobile Answers" Text-Based Search Application Wins AT&T Mobile Developer Contest (Apr. 4, 2008).

<sup>18</sup> Moore Decl. ¶ 11; Hunt Decl. ¶ 11; *see also* *AT&T Bolsters Branding in Former Dobson Territory*, *Wireless News*, Dec. 9, 2007 (reporting that AT&T introduced portfolio of wireless handsets to former Dobson customers shortly after AT&T/Dobson merger was approved).

<sup>19</sup> In 2008, Centennial began a limited trial of UMTS 3G technology in its Fort Wayne, Indiana market. While it has announced plans to deploy a 3G UMTS network in parts of its U.S. wireless service area in fiscal year 2009, these plans are in the early stages and Centennial is constrained by its limited spectrum holdings. Hunt Decl. ¶ 14; Centennial Commc'ns Corp., Annual Report (Form 10-K), at 1, 8 (July 30, 2008) ("Centennial 10-K"). Centennial has deployed a 3G CDMA/EV-DO REV A technology network in Puerto Rico and the U.S. Virgin Islands. Centennial 10-K at 2, 3.

<sup>20</sup> Centennial 10-K at 17.

<sup>21</sup> Hunt Decl. ¶ 11. For instance, AT&T offers a LaptopConnect card that enables customers to use their laptops wirelessly over AT&T's 3G, EDGE and Wi-Fi networks. AT&T.com, LaptopConnect Cards, <http://www.wireless.att.com/businesscenter/solutions/wireless-laptop/modem-cards.jsp> (last visited Nov. 18, 2008); News Release, AT&T Inc., AT&T to

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today's financial climate for Centennial on its own to upgrade its networks throughout its footprint to offer these kinds of services as quickly as AT&T can.<sup>22</sup>

As discussed in Section V.C below, however, the proposed transaction will enable AT&T to extend 3G services to Centennial's customers. AT&T's experience in rolling out these advanced services will permit it to begin rolling out such services as early as 2010, if not before.<sup>23</sup> Thus, the proposed merger will allow AT&T to offer Centennial's customers dual-mode phones with integrated Wi-Fi and GPS navigation, as well as other innovative features and services that Centennial currently does not offer, such as the free access AT&T customers with Wi-Fi enabled handsets have at Wi-Fi hotspots at more than 17,000 locations, including Starbucks and McDonald's, across the country.<sup>24</sup>

### 3. Wireless/Wireline Integration

Centennial serves a number of areas that are served by AT&T's wireline network but not its wireless network, such as areas in Indiana, Louisiana, Michigan and Mississippi.<sup>25</sup> The merger will enable the combined company to integrate the wireless/wireline networks serving those customers, including those in rural areas.<sup>26</sup> Such integration of wireline and wireless

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Footnote continued from previous page  
Acquire Centennial Communications, Enhance Service for Wireless Customers and Businesses (Nov. 7, 2008).

<sup>22</sup> Hunt Decl. ¶ 10.

<sup>23</sup> Moore Decl. ¶ 23.

<sup>24</sup> *Id.* ¶ 11; Centennial 10-K at 16-17; Andrew Lavalley, *AT&T to Acquire Wi-Fi Company*, Wall St. J., Nov. 7, 2008; Alana Semuels, *AT&T Has Free Wi-Fi Lure*, Seattle Times, Oct. 31, 2008, available at 2008 WLNR 20862064 (describing hotspots); News Release, AT&T Inc., AT&T Expands Wi-Fi Service to More Than 40 McDonald's Restaurants in Austin (Mar. 8, 2006).

<sup>25</sup> Moore Decl. ¶ 14.

<sup>26</sup> Moore Decl. ¶ 14; Willig et al. Decl. ¶ 18.

networks not only creates capital and operational efficiencies, which will reduce costs and spur competition, but also results in benefits to customers in service offerings, pricing and billing.<sup>27</sup>

For example, the merger will enable Centennial customers who reside in AT&T's wireline service area to take advantage of free calling between and among AT&T's wireline and wireless subscribers pursuant to AT&T's Unity Plans.<sup>28</sup> These Centennial customers thus will be able to join the nation's largest free-calling community of more than 120 million AT&T wireless and wireline residential and business phone numbers.<sup>29</sup> In addition, among other benefits, customers will be able to take advantage of AT&T's unified billing, which offers the convenience of one bill, and a discount for having both wireline and wireless service.<sup>30</sup> AT&T also offers special DSL pricing for customers receiving wireless and wireline service.<sup>31</sup> Business customers also will benefit from AT&T's ability to offer one-stop shopping and a single point of contact for both wireless and wireline services.<sup>32</sup>

#### 4. International Roaming

The proposed merger will enable Centennial's customers to benefit from a substantial increase in the availability of international roaming at lower rates.<sup>33</sup> Centennial's U.S. and

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<sup>27</sup> Moore Decl. ¶ 14; Willig et al. Decl. ¶ 19.

<sup>28</sup> Moore Decl. ¶ 9. The merger will enable AT&T to offer the Unity Plans to its wireline customers located in wireless territory served by Centennial but not AT&T. See AT&T.com, AT&T Unity Frequently Asked Questions, <http://www.wireless.att.com/learn/why/unity/faq.jsp> (last visited Nov. 18, 2008).

<sup>29</sup> See *AT&T Bolsters Branding in Former Dobson Territory*, Wireless News, Dec. 9, 2007; AT&T.com, About AT&T Unity, <http://www.wireless.att.com/learn/why/unity/more-information.jsp> (last visited Nov. 18, 2008); AT&T.com, AT&T Unity Frequently Asked Questions, <http://www.wireless.att.com/learn/why/unity/faq.jsp> (last visited Nov. 18, 2008).

<sup>30</sup> Moore Decl. ¶ 14.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* ¶ 17.

<sup>33</sup> Hunt Decl. ¶ 9.

Caribbean wireless operations maintain roaming agreements that provide for direct interconnection with local providers in only a small number of countries internationally.<sup>34</sup>

Additional countries are covered through participation in clearinghouse relationships, where a wholesaler provides Centennial with access to roaming in a particular country, often at much higher rates than those available through direct interconnection.<sup>35</sup>

Centennial currently provides its U.S. mainland customers with roaming capability only in Canada, Mexico, Jamaica, the Bahamas and Italy through direct relationships with carriers in those countries.<sup>36</sup> Centennial currently provides its Caribbean customers with roaming services through direct relationships with carriers in the following areas: United States, Canada, Dominican Republic, Mexico, Curacao, Bonaire, St. Maarten, British Virgin Islands, Cayman Islands, Aruba, Antigua, St. Kitts & Nevis, St. Lucia, Turks & Caicos, Saba and Statia.<sup>37</sup> In addition, Centennial's international roaming relationships include data capabilities only in a minority of the countries covered.<sup>38</sup> Once the proposed merger enables Centennial's customers to become part of AT&T's network, they will have access to AT&T's more than 630 international roaming agreements, which provide roaming for voice services in 211 countries and for data services in 131 countries.<sup>39</sup>

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<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> Moore Decl. ¶ 16.

5. Improved Reception and Signal Quality

Integrating AT&T's and Centennial's networks in the areas where both currently operate also will result in better reception and signal quality for customers of both companies.<sup>40</sup> Greater cell site density will improve coverage by reducing places where customers experience dropped calls, dead spots and coverage gaps; enabling faster data speeds; and enhancing in-home coverage.<sup>41</sup> Network integration and expanded network coverage resulting from the merger also will eliminate the need for customers to roam when moving to or from areas where the companies have adjacent coverage, such as in parts of Michigan, Indiana, Louisiana, Texas and Mississippi.<sup>42</sup> The integration of the networks and improvements and upgrades to Centennial's network will lead to more seamless service and a better customer calling experience, including fewer dropped calls and improved data speeds and feature performance.<sup>43</sup>

The merger also will permit more efficient use of complementary spectrum held – and networks operated – by each. In areas where Centennial has 850 MHz spectrum and AT&T does not, including large areas in Michigan, Indiana and Louisiana, AT&T will be able to provide services to its customers more efficiently.<sup>44</sup> The combined network also will realize spectral efficiencies from improved cell site configuration.<sup>45</sup>

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<sup>40</sup> See *Verizon/ALLTEL Order* ¶¶ 137-139 (describing Applicants' claims that merger will improve service quality, spectral efficiency and service reliability).

<sup>41</sup> Moore Decl. ¶ 12; Willig et al. Decl. ¶ 21.

<sup>42</sup> Moore Decl. ¶ 12.

<sup>43</sup> *Id.*; Willig et al. Decl. ¶ 20. Centennial and AT&T have enjoyed a mutually satisfactory roaming relationship, and the expected improvements in the customer calling experience will not be because either company denied to the other company in the past the technology to ensure a seamless roaming experience. Hunt Decl. ¶ 8.

<sup>44</sup> Moore Decl. ¶ 13.

<sup>45</sup> *Id.*

6. Benefits for Business Customers

The combined company will be in a better position to provide wireless services to business customers. AT&T currently serves most of the Fortune 100 and Fortune 500 companies.<sup>46</sup> AT&T's network is attractive to these businesses because of its nationwide and global reach and the innovative services AT&T offers to business customers.<sup>47</sup>

AT&T offers services which Centennial cannot match in terms of variety or features, such as AT&T's Premier Enterprise Portal Wireless Management Center, which helps streamline the procurement and management of a business' wireless program.<sup>48</sup> AT&T also offers Enterprise on Demand, which is a unique wireless program for qualified customers that permits ordering and real-time activation, and online trouble ticket management and reporting.<sup>49</sup> In addition, AT&T offers business customers AT&T's Wi-Fi service.<sup>50</sup>

The combined company will be better positioned to serve wireline customers as well. As noted above, AT&T provides global services to many high-end, large multinational corporations, a number of which depend on AT&T to provide telecommunications services to their offices and properties in Puerto Rico. Many of these customers prefer one-stop shopping for their telecommunications services, but AT&T does not own "last mile" telecommunications facilities in Puerto Rico and must rely instead on local services provided by third parties that AT&T does

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<sup>46</sup> AT&T Inc., 2006 Annual Report at 6 (2007) ("AT&T 2006 Annual Report"), available at [http://www.att.com/Investor/ATT\\_Annual/2006/downloads/ATT\\_2006\\_Annual\\_Report.pdf](http://www.att.com/Investor/ATT_Annual/2006/downloads/ATT_2006_Annual_Report.pdf).

<sup>47</sup> Moore Decl. ¶ 17-18.

<sup>48</sup> See *id.* ¶ 18.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* Centennial does not have Wi-Fi service in its U.S. mainland areas. It does have some Wi-Fi hot spots in Puerto Rico that allow business users to access the network. Hunt Decl. ¶ 11.

not manage or control.<sup>51</sup> After the merger, AT&T will be able to offer these customers a single point of contact for complete telecommunications service within Puerto Rico, thereby enabling AT&T to have better control of the experience offered its multinational customers and to provide service more economically and efficiently.<sup>52</sup> Such end-to-end capability will assist business customers with the development of integrated supply chains, sophisticated tracking systems and competitive cost structures.<sup>53</sup>

Centennial's wireline enterprise customers in Puerto Rico also will benefit by gaining access to business services not offered by Centennial.<sup>54</sup> Customers seeking off-island services will be able to take advantage of AT&T's global service offerings, including global Internet service, Enhanced VPN and other advanced managed services.<sup>55</sup> Law enforcement and other customers seeking secure services will be able to purchase AT&T's security and firewall management services.<sup>56</sup> Centennial customers will benefit from now having a single point of contact, full end-to-end connectivity, diverse routes and efficiencies resulting from their ability to travel on one network as opposed to several networks.<sup>57</sup>

The Commission has on numerous occasions recognized the public interest benefits that accrue to customers of a regional wireless carrier from the expanded geographic reach created by that carrier's merger with a national carrier.<sup>58</sup> Centennial's customers will enjoy these same

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<sup>51</sup> Moore Decl. ¶ 36.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* ¶ 37.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> Moore Decl. ¶ 37.

<sup>58</sup> *See, e.g., Applications of T-Mobile USA, Inc. and SunCom Wireless Holdings, Inc. for*

Footnote continued on next page

benefits as a result of the proposed merger of Centennial and AT&T.

B. The Transaction Will Improve the Combined Company's Disaster Preparedness

In recent years, disaster preparedness has become a national imperative.<sup>59</sup> The merger will enhance the ability of the combined company to prepare for, and respond to, natural disasters, acts of terrorism and other emergencies.<sup>60</sup> For example, the merger will enable the combined company to respond more effectively to disasters that affect the communications infrastructure for Centennial's customers.<sup>61</sup> The merger also will enhance AT&T's unique disaster recovery capabilities and assets by adding Centennial's experience in responding to hurricanes and other disasters.<sup>62</sup>

Centennial customers also would benefit from the many resources AT&T has available for deployment in emergency situations, including two mobile command centers, a fleet of

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*Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 23 FCC Rcd 2515, 2519, ¶ 10 (2008) (finding that “the proposed transaction would enable T-Mobile to expand its wireless footprint in the Southeast United States, Puerto Rico and the U.S. Virgin Islands”); *Western Wireless Order* at 13,108, ¶ 150 (stating that “we believe that the transaction is likely to enable the merged entity to achieve certain economies of scope and scale and operating synergies of the type asserted and that, absent the transaction, the Applicants individually could not have achieved.”); *In re Applications of Pacific Wireless Techs., Inc. and Nextel of Cal., Inc.*, Memorandum Opinion and Order, 16 FCC Rcd 20,341 (2001); *Wireless Telecomms. Bureau and Int'l Bureau Grant Consent for Transfer of Control or Assignment of Licenses from Telecorp PCS, Inc. to AT&T Wireless Servs., Inc.*, Public Notice, 17 FCC Rcd. 2383 (2002).

<sup>59</sup> See Frances Fragos Townsend, White House, *The Federal Response to Hurricane Katrina: Lessons Learned 3* (2006), available at <http://www.whitehouse.gov/reports/katrina-lessons-learned.pdf>.

<sup>60</sup> Moore Decl. ¶ 19; Hunt Decl. ¶ 16; cf. *Verizon/ALLTEL Order* ¶¶ 140-42 (describing Applicants' public interest arguments that merger would enhance combined company's emergency preparedness).

<sup>61</sup> Moore Decl. ¶ 19.

<sup>62</sup> Hunt Decl. ¶ 16.

mobile generators and mobile cell sites that are satellite or landline connected.<sup>63</sup> Emergency personnel in Centennial's service areas also will be able to take advantage of AT&T's 3G network, which Centennial does not offer as part of its U.S. mainland network.<sup>64</sup> Such resources have proven critical during emergencies.

During Hurricane Ike that struck Galveston, Texas earlier this year, for example, AT&T was able to deploy 500 portable generators to power its cell sites and set up five mobile cell sites linked to satellites.<sup>65</sup> In addition, AT&T was able to double the capacity of its 3G network in the Galveston area during the hurricane to ensure that emergency personnel had reliable voice and data services. Emergency personnel were able to connect their laptops to AT&T's 3G network for data services.<sup>66</sup> AT&T also dedicated a team of its employees to travel around the area with emergency personnel teams to ensure that they had the communications tools needed to effectively respond to situations as they developed.<sup>67</sup>

AT&T also has dozens of wireless call centers compared to one for Centennial's domestic operations and one primary call center for its Caribbean operations.<sup>68</sup> If an impending hurricane or other natural disaster required AT&T to shut down several call centers, calls to those centers would be routed to one of the many other call centers.<sup>69</sup>

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<sup>63</sup> Moore Decl. ¶ 19; Willig et al. Decl. ¶ 22.

<sup>64</sup> Moore Decl. ¶ 19.

<sup>65</sup> *Id.* AT&T also had 15 additional mobile cell sites available for deployment had there been need. *Id.*

<sup>66</sup> Moore Decl. ¶ 19.

<sup>67</sup> Moore Decl. ¶ 19.

<sup>68</sup> *Id.*; Hunt Decl. ¶ 16.

<sup>69</sup> Moore Decl. ¶ 19.

C. The Transaction Will Enable a Broader Deployment of 3G and 4G Services to Consumers

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The merger will enable AT&T to provide 3G and 4G services to more of Centennial's customers than Centennial could do on its own.<sup>70</sup> Centennial only recently began a trial of 3G service in one U.S. mainland market and has plans for only a limited rollout in its U.S. mainland markets in 2009.<sup>71</sup> Moreover, Centennial has no current plans for the introduction of 4G services to its customers in the U.S. mainland markets or in Puerto Rico.<sup>72</sup> In most areas, Centennial may not have sufficient spectrum to make the transition to 4G while providing a satisfactory quality of service, including meeting the growing demand for bandwidth-intensive services.<sup>73</sup>

The merger will enable AT&T to provide Centennial's customers 3G services throughout its footprint that Centennial may be unable to provide, particularly in today's economic climate.<sup>74</sup> Moreover, the merger will enable AT&T to provide 4G services in areas where neither company may have provided services absent the merger.<sup>75</sup>

For example, the addition of Centennial's network infrastructure or 850 MHz spectrum, if not both, will enable AT&T to deploy 3G technology more broadly and more quickly than it could have absent the merger.<sup>76</sup> AT&T may be in a position to begin rolling out 3G service to

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<sup>70</sup> Hunt Decl. ¶¶ 14-15; *cf. Verizon/ALLTEL Order* ¶¶ 135-36 (describing Applicants' assertions that merger will enable LTE deployment and expanded roll out of broadband and next generation services).

<sup>71</sup> Centennial 10-K at 8; Hunt Decl. ¶ 14. As mentioned above, Centennial has deployed 3G to its CDMA network in Puerto Rico. Hunt Decl. ¶ 14.

<sup>72</sup> Hunt Decl. ¶ 15.

<sup>73</sup> *Id.*

<sup>74</sup> Hunt Decl. ¶ 14.

<sup>75</sup> Moore Decl. ¶¶ 21-22.

<sup>76</sup> *Id.* ¶ 23.

such areas in 2010, if not earlier, depending on the timing of regulatory approvals.<sup>77</sup> Because AT&T already has rolled out 3G services to over 320 cities, it has the experience, infrastructure, resources and supplier contracts in place to permit the swift rollout of 3G services.<sup>78</sup> Moreover, AT&T has the motivation to roll out 3G service to these additional areas to permit its customers with 3G handsets to obtain broadband service over a broader geographic area.<sup>79</sup>

AT&T has proven that it can quickly deploy 3G service. For example, in November 2007, AT&T acquired Dobson, a wireless carrier that principally served rural and suburban communities.<sup>80</sup> This year, AT&T has deployed – and will continue to deploy – 3G services in portions of 29 Cellular Market Areas (“CMAs”) that were part of the Dobson footprint.<sup>81</sup> In 2009, AT&T tentatively plans to deploy 3G in portions of 43 CMAs that were part of the Dobson footprint.<sup>82</sup>

The merger also will enable AT&T to roll out 4G technology (LTE) faster in those Centennial service areas where AT&T may have or has applied for AWS or 700 MHz spectrum, but does not yet have the towers or infrastructure in place to use the spectrum.<sup>83</sup> AT&T will not experience the delay necessary to obtain permits and construct towers.<sup>84</sup>

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<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> News Release, AT&T Inc., AT&T Completes Acquisition of Dobson Communications to Enhance Wireless Coverage (Nov. 15, 2007).

<sup>81</sup> Moore Decl. ¶ 23.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.* ¶ 22.

<sup>84</sup> *Id.*

The combined company also will have enough spectrum to migrate to 4G technology without jeopardizing the quality of service provided to its customers.<sup>85</sup> With its current spectrum limitations, Centennial likely would face difficulties converting its network to the 4G technology it selects or could be significantly delayed in doing so.<sup>86</sup> AT&T similarly lacks sufficient spectrum in some areas served by Centennial to simultaneously support existing customers while converting to LTE where it does not have 700 MHz or AWS spectrum.<sup>87</sup> Absent the merger, the transition to LTE would require AT&T to set aside part of its spectrum for conversion in these areas while supporting its existing customer base on the remaining spectrum.<sup>88</sup> In certain Centennial areas, the merger may give AT&T sufficient spectrum to roll out 4G technology.<sup>89</sup> The combined company will be in a position to dedicate a portion of its spectrum holdings to the LTE conversion while continuing to provide high quality service to each company's existing customer base.<sup>90</sup> AT&T's greater access to, and ability to coordinate with, manufacturers of 4G technology also will benefit Centennial's subscribers.<sup>91</sup>

D. The Transaction Will Expand Network Coverage for Both AT&T's and Centennial's Customers

The Commission has long recognized that expanding the geographic reach of a wireless carrier's network is in the public interest,<sup>92</sup> and that is clearly the case here. Centennial today

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<sup>85</sup> *Id.* ¶ 20.

<sup>86</sup> Hunt Decl. ¶ 15.

<sup>87</sup> Moore Decl. ¶¶ 20-21.

<sup>88</sup> *Id.*

<sup>89</sup> Moore Decl. ¶ 21.

<sup>90</sup> *Id.* ¶ 20.

<sup>91</sup> *Id.* ¶ 21.

<sup>92</sup> *See, e.g., Midwest Wireless Order* at 11,566-67, ¶¶ 111-12; *Western Wireless Order* at 13,102-04, ¶¶ 138-40; *Cingular/AT&T Wireless Order* at 21,604-05, ¶¶ 216-20.

provides facilities-based service in a territory encompassing parts of six states, Puerto Rico and the U.S. Virgin Islands, and covering 13 million people, most of whom live in rural areas or small cities.<sup>93</sup> AT&T, in contrast, provides facilities-based coverage in all of the country's top 100 major metropolitan areas, and its network currently covers 290 million people.<sup>94</sup> Combining the two networks and eliminating roaming between them will benefit current AT&T and Centennial customers when they leave their home areas by enabling more consistent access to features, fewer dropped calls, and increased data speeds.<sup>95</sup> For Centennial's subscribers, the "in-network" footprint will increase from 9 million POPS in the mainland U.S. and 4 million POPS in the Caribbean<sup>96</sup> to over 290 million POPS.<sup>97</sup>

Moreover, the elimination of roaming between AT&T and Centennial will lead to the internalization of roaming expenses as well as the elimination of the transaction costs that both companies now incur to administer this roaming. As a result, the marginal cost of providing service will be lower.<sup>98</sup> AT&T and Centennial have an extensive roaming relationship, with AT&T accounting for approximately 70 percent of Centennial's roaming revenues in 2007.<sup>99</sup> In 2008, it is estimated that AT&T's net payment to Centennial for roaming will be approximately

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<sup>93</sup> Centennial 10-K at 1.

<sup>94</sup> Moore Decl. ¶ 4; AT&T 2007 Annual Report at 8.

<sup>95</sup> Hunt Decl. ¶ 8; Moore Decl. ¶ 12; *cf. Verizon/ALLTEL Order* ¶¶ 122-23 (describing Applicants' claims that merger will expand network coverage). As noted above, however, AT&T and Centennial have engaged in a mutually beneficial roaming relationship, and improvements related to the elimination of roaming will not be because one company denied to the other technology to improve the roaming experience. *See supra* n.43.

<sup>96</sup> Centennial 10-K at 1; Hunt Decl. ¶ 4.

<sup>97</sup> Moore Decl. ¶ 4.

<sup>98</sup> Willig et al. Decl. ¶ 14; Moore Decl. ¶ 6.

<sup>99</sup> Hunt Decl. ¶ 7.

\$23 million.<sup>100</sup> This should result in a reduction of roaming fees in excess of \$100 million within five years after consummation of the merger.<sup>101</sup> The Commission has consistently found that such reductions in marginal costs for wireless carriers are “likely to benefit consumers through lower price and/or increased service.”<sup>102</sup>

These benefits are clear, demonstrable and merger-specific. The total amount of annual roaming costs represents a significant reduction in marginal cost that will be achieved quite quickly as a result of the merger.<sup>103</sup> Integration of the networks also can proceed quickly, especially in comparison to the time required to build out new facilities, particularly in the U.S. markets where both companies use GSM/EDGE technology.<sup>104</sup> Moreover, AT&T clearly has the experience, management team and resources necessary to achieve a seamless and rapid integration of the two networks.<sup>105</sup>

E. The Transaction Will Result in Substantial Additional Cost Synergies

In addition to the compelling direct benefits to customers described above, the merger of AT&T and Centennial also will result in substantial additional savings in costs of operations. These savings will benefit customers by making the combined company a more effective competitor and freeing resources to support the combined company’s introduction of innovative new features and services.

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<sup>100</sup> Moore Decl. ¶ 6.

<sup>101</sup> *Id.*; Willig et al. Decl. ¶ 14.

<sup>102</sup> *Cingular/AT&T Wireless Order* at 21,605, ¶ 219; *accord Western Wireless Order* at 13,108, ¶ 151 (“ALLTEL’s merger with WWC would reduce its roaming costs in geographic markets where ALLTEL and WWC’s service areas do not overlap, and the elimination of roaming agreements in these markets would directly benefit . . . its customers . . .”); *see also* Willig et al. Decl. ¶ 14.

<sup>103</sup> Willig et al. Decl. ¶ 14.

<sup>104</sup> Moore Decl. ¶ 7.

<sup>105</sup> *Id.*

AT&T estimates that the transaction will result in significant merger-specific synergies.<sup>106</sup> The expected synergies are based on AT&T's past experience in achieving cost savings resulting from mergers.<sup>107</sup> The cost savings to the combined company will result from, among other things, reduced per-subscriber costs of acquiring customers; the reduction of general and administrative costs; the consolidation of cell sites; the reduction of network operating expenses; and the consolidation of customer billing functions.<sup>108</sup> The Commission has credited similar synergies in prior transactions.<sup>109</sup>

The combined company will be able to spread marketing and advertising costs over a larger subscriber base and thereby achieve significant savings.<sup>110</sup> These benefits will come from consolidating to a single brand, more efficient retail distribution, reduction in duplicative advertising spending and similar reductions in fixed and variable costs due to increased scale.<sup>111</sup>

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<sup>106</sup> *Id.* ¶ 24.

<sup>107</sup> AT&T and its corporate predecessor SBC Communications Inc. have an outstanding record of meeting, and indeed exceeding, synergies projections in connection with previous transactions. For example “[s]ynergies from the BellSouth merger are . . . expected to be higher and realized earlier than in the company’s prior projections. AT&T . . . expects total synergies to be \$0.8 billion to \$1.2 billion in 2007, up from its earlier expectation of \$0.5 billion to \$0.8 billion. In 2008, total synergies are . . . expected to reach \$2.6 billion to \$3.0 billion, compared with an earlier view of \$1.9 billion to \$2.4 billion. In 2009, total BellSouth merger synergies are expected to be in the \$3.3 billion to \$3.8 billion range, up from an earlier projection of \$2.6 billion to \$3.1 billion. AT&T’s estimate of the net present value of the synergies is now approximately \$22 billion, up from its earlier estimate of approximately \$18 billion.” *See* Press Release, AT&T, Inc., AT&T Posts Strong Fourth-Quarter Earnings (Jan. 25, 2007).

<sup>108</sup> Moore Decl. ¶¶ 24-33.

<sup>109</sup> *See SBC/Ameritech Order* at 14,489, ¶ 326 (“For example, elimination of duplicative or redundant administrative functions, or the reduction in future equipment purchases, are direct consequences of the merger.”); *see also Cingular Order* at 25,480, ¶ 47 (“Alloy will be able to generate efficiencies by consolidating national advertising media [and] reducing customer service and billing costs . . .”).

<sup>110</sup> Moore Decl. ¶ 27.

<sup>111</sup> *Id.* ¶ 26.

The transaction also will lead to substantial reductions in general and administrative expenses.<sup>112</sup> Cost savings will result from elimination of redundant administrative costs and a reduction in other corporate expenses.<sup>113</sup> Also, as a general matter, because Centennial has a much smaller customer base than AT&T, its general and administrative costs account for a larger portion of its annual expense per customer than AT&T's expense per customer.<sup>114</sup> AT&T enjoys economies of scale that will permit it to absorb Centennial's operations at a lower cost per subscriber than Centennial could achieve absent the transaction.<sup>115</sup>

AT&T projects that the combined entity can achieve substantial savings in network operating expenses.<sup>116</sup> Among other reductions, the combined company will decommission redundant towers where it is possible to do so without adversely affecting customer service, such as where cell sites are on the same tower or in close proximity to one another.<sup>117</sup> Tower decommissioning will not interfere with the increase in cell density described above.<sup>118</sup>

The combined company also will achieve significant customer care savings as a result of the consolidation or elimination of duplication in billing functions.<sup>119</sup> Because of its scale, AT&T is able to operate its billing system at a much lower cost per subscriber than Centennial, which uses a third-party vendor, is able to achieve.<sup>120</sup> The combined company will experience a

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<sup>112</sup> *Id.* ¶¶ 28-29.

<sup>113</sup> *Id.* ¶ 28.

<sup>114</sup> *Id.* ¶ 29.

<sup>115</sup> Moore Decl. ¶ 29

<sup>116</sup> *Id.* ¶ 30.

<sup>117</sup> *Id.*

<sup>118</sup> *Id.*

<sup>119</sup> *Id.* ¶¶ 31-32.

<sup>120</sup> *Id.* ¶ 32.

significant reduction in billing expenses as Centennial's customers are migrated to AT&T's billing system.<sup>121</sup>

## VI. THE TRANSACTION WILL HAVE NO ADVERSE EFFECT ON COMPETITION

As the Commission has consistently found, the market for wireless services is robustly competitive. The combination of these two wireless carriers will not change that. There is no relevant market where the proposed transaction will adversely affect competition in the provision of mobile telephony/broadband services, and in fact it will foster increased competition due to the merger-specific efficiencies described above. Further, the proposed merger will not adversely affect competition in the provision of wireline services in Puerto Rico.

### A. The Merger Will Not Harm Competition in the Provision of Mobile Telephony/Broadband Services

#### 1. Market Definition

##### a. Product Market

The Commission defines relevant product markets by including all services that are reasonable substitutes for each other in the eyes of consumers.<sup>122</sup> While the Commission has traditionally defined the product market for wireless transactions as mobile telephony services, the Commission recently revisited the product market definition because of the rapidly evolving market for mobile broadband data services.<sup>123</sup> In the *Verizon/ALLTEL Order* and the

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<sup>121</sup> *Id.* ¶¶ 31-32.

<sup>122</sup> See *Western Wireless Order* at 13,067, ¶ 25 (“When one product is considered by consumers to be a reasonable substitute for another product, it is included in the relevant market.”); *Cingular/AT&T Wireless Order* at 21,557, ¶ 71 (“[W]hen one product is a reasonable substitute for the other in the eyes of consumers, it is to be included in the relevant market.”).

<sup>123</sup> *Verizon/ALLTEL Order* ¶¶ 45-48; *In re Sprint-Nextel Corp. and Clearwire Corp. Applications for Consent to Transfer Control of Licenses, Leases, and Authorizations*, WT Dkt No. 08-94, Memorandum Opinion and Order, FCC 08-259, ¶¶ 38-45 (rel. Nov. 7, 2008) (“*Sprint/Clearwire Order*”).

*Sprint/Clearwire Order*, the Commission defined the relevant product market as the combined “mobile telephony/broadband services” product market, which is comprised of “mobile voice and data services, including mobile voice and data services provided over advanced broadband wireless networks (mobile broadband services).”<sup>124</sup> This market includes the less advanced, earlier generation services, such as 2G and 2.5G, wireless networks; a wide array of mobile data services, such as mobile Internet access services for laptop users; and mobile voice and data services provided over advanced wireless broadband, such as 3G and 4G, networks.<sup>125</sup>

The Commission adopted this market definition for various reasons, including the ability to assess hypothetical competitive harm in a separate mobile data market.<sup>126</sup> The same is true here, where carriers offering mobile voice services generally offer at least some data services.<sup>127</sup> The Commission also recognized that the mobile telecommunications industry is transitioning

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<sup>124</sup> *Verizon/ALLTEL Order* ¶ 45.

<sup>125</sup> *Id.* ¶¶ 46-47.

<sup>126</sup> *Verizon/ALLTEL Order* ¶ 47.

<sup>127</sup> In addition, providers of mobile data services may face competition, now or in the near future, from additional firms that offer wireless data services but provide limited, if any, mobile voice services. See *In re Implementation of Section 60002(B) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Mkt. Conditions with Respect to Commercial Mobile Servs.*, Twelfth Report, 23 FCC Rcd. 2241, 2258, ¶¶ 25-26 (2008) (“*Twelfth Annual CMRS Report*”); see also, e.g., DigitalBridgeCommunications.com, Our Towns: BidgeMAXX Provides Home Town Service, Giving You Home Town Connections, <http://www.digitalbridgecommunications.com/OurTowns/tabid/69/Default.aspx> (last visited Nov. 18, 2008) (offering wireless Internet service in Idaho, Indiana, Montana, Virginia, South Dakota, and Wyoming); KeyOn.com, About: KeyOn Communications, <http://www.keyon.com/about.html> (last visited on Nov. 8, 2008) (offering wireless Internet service in Nevada, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Nebraska, Ohio, South Dakota, and Texas); PlateauTel.com, Internet, <http://www.plateautel.com/internet.asp> (last visited Nov. 8, 2008) (offering wireless Internet service in New Mexico and Texas); Speedconnect.com, SpeedNet High Speed Wireless Internet, <http://www.speedconnect.com/> (last visited Nov. 8, 2008) (offering wireless internet service in Michigan); Watchtv.net, Watch Communications: Watch, Browse, Talk, <http://www.watchtv.net/index.php?p=b> (offering wireless Internet service in Ohio) (last visited Nov. 18, 2008).

from delivering mobile voice and data services over earlier generation networks to mobile broadband networks.<sup>128</sup>

b. Input Market for Spectrum

In the *Verizon/ALLTEL Order* and the *Sprint/Clearwire Order*, consistent with its revised product market definition, the Commission defined an input market for the total spectrum that the Commission finds to be suitable for the provision of wireless broadband over broadband networks and for mobile voice and data services.<sup>129</sup> Accordingly, the Commission defined an input market for spectrum of up to 425.5 MHz. This includes all holders of cellular, PCS and SMR spectrum, as well as 80 MHz of 700 MHz spectrum, and may include holders of AWS-1 and up to 55.5 MHz of Broadband Radio Service (“BRS”) spectrum if that spectrum is available for mobile telephony/broadband service.<sup>130</sup> This definition of the input market for spectrum

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<sup>128</sup> *Verizon/ALLTEL Order* ¶ 47 (identifying EV-DO, Wideband CDMA/High Speed Downlink Packet Access (WCDMA/HSDPA), mobile Worldwide Interoperability for Microwave Access (“WiMAX”) and LTE networks); *see also* U.S. Dep’t of Justice, *Voice, Video and Broadband: The Changing Competitive Landscape and Its Impact on Consumers* 21 (Nov. 2008) (“Mobile wireless services are the fastest growing broadband segment.”), *available at* <http://www.usdoj.gov/atr/public/reports/239284.pdf>. The Commission’s prior orders also hold that there may be separate relevant product markets for mobile telephony services offered to residential customers and those offered to enterprise customers, although, once again, the Commission has not found it necessary to distinguish between the two for purposes of competitive analysis. *Western Wireless Order* at 13,068, ¶ 28 (“[W]e do not find it necessary to conduct our analysis in this transaction by distinguishing . . . enterprise subscribers from residential subscribers.”); *Cingular/AT&T Wireless Order* at 21,560, ¶ 79 (“[W]e believe that an analysis based on combined mobile telephony services is unlikely to understate potential competitive harm to the market for enterprise services.”). Nothing in the *Verizon/ALLTEL Order* or *Sprint/Clearwire Order* disturbs this approach. Here, the same conclusion holds, especially since Centennial is comparatively less significant in providing mobile services to enterprises, particularly in the U.S. markets. Hunt Decl. ¶ 6.

<sup>129</sup> *Verizon/ALLTEL Order* ¶ 53; *Sprint/Clearwire Order* ¶ 53.

<sup>130</sup> *Verizon/ALLTEL Order* ¶ 53; *Sprint/Clearwire Order* ¶ 53. Specifically, the Commission concluded that it was appropriate to include for purposes of the market-specific screen 55.5 MHz of contiguous BRS spectrum (excluding spectrum associated with the Middle Band Segment, BRS Channel 1, and the J and K guard bands) in markets in which the transition has been completed. The Commission also concluded that the 90 MHz of AWS-1 spectrum should be included in a market-specific spectrum screen in markets where the spectrum has been cleared and is available for use by AWS-1 licensees.

properly reflects that competitors are increasingly using AWS-1 and BRS spectrum to compete in the delivery of mobile telephony/broadband services.

Based on this input market for spectrum, the Commission relies on an initial spectrum aggregation screen, applied on a market-by-market basis, that is approximately one-third of the suitable spectrum, which will vary depending on whether BRS, AWS-1 or both are available in a particular market.<sup>131</sup> If AWS-1 and BRS spectrum are available, the Commission applies a 145 MHz spectrum screen. If AWS-1 is available, but BRS is not available, the Commission applies a 125 MHz spectrum screen. If BRS is available, but AWS-1 is not available, the Commission applies a 115 MHz spectrum screen. For markets in which neither BRS nor AWS-1 is available, the Commission applies a 95 MHz spectrum screen.<sup>132</sup> This initial screen based on

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<sup>131</sup> It was appropriate for the Commission to adopt its revised screen in the *Sprint/Clearwire Order*. The Commission's spectrum aggregation screen is a decisional tool used in adjudicatory proceedings. The Commission, like all agencies, has broad discretion to act by rulemaking or adjudication. *Securities and Exchange Comm'n v. Chenery Corp.*, 332 U.S. 194, 202-03 (1947). It is appropriate for the Commission to develop standards on a case-by-case basis, particularly in that instance given the fact intensive nature of the competitive analysis required in merger proceedings. *Id.* at 203; *see also Cassell v. FCC*, 154 F.3d 478, 486 (D.C. Cir. 1998) (stating that it was proper in an adjudication for the Commission to establish a benchmark to interpret what constituted "substantial accordance" with license requirements); *Busse Broad. Corp. v. FCC*, 87 F.3d 1456, 1463-64 (D.C. Cir. 1996) (finding a waiver of the duopoly rule was properly handled in an adjudication).

<sup>132</sup> *Verizon/ALLTEL Order* ¶ 64; *Sprint/Clearwire Order* ¶ 74. The Commission has stated that it will consider spectrum to be a relevant input if it meets the criteria for suitable spectrum within two years. *Verizon/ALLTEL Order* ¶ 62. Under that test, additional spectrum should be included in the input market for spectrum. For instance, EBS spectrum, while subject to eligibility restrictions for licensing purposes, is frequently leased to commercial service providers to transmit material other than educational programming and should be included in the screen. While lessees are subject to certain restrictions requiring a portion of spectrum capacity or time to be used for the spectrum's primary educational purposes, EBS spectrum is integral to the next-generation mobile telephone services that commercial service providers offer and will continue to offer. ATC/MSS spectrum also is being used for mobile services and should be included in the screen. Also, 3650-3700 MHz spectrum may be used to deploy mobile services and to the extent such services become substitutes for mobile telephony/broadband services within the near term, the Commission should include it in the input market for spectrum. Moreover, once service rules for the AWS-2 and -3 spectrum have been adopted, inclusion of these spectrum bands in the input market for spectrum may be appropriate. Likewise, if the current rules for the

Footnote continued on next page

spectrum aggregation is only the first step in the Commission's competitive analysis, and does not alone support a finding of anticompetitive effects.<sup>133</sup>

The Commission also has noted that a merger such as this one does not take spectrum away from any competing carriers – that is, no competitor is made worse off by the transaction – and has focused its review on whether competitors would be able to compete effectively at a later point in the deployment of next-generation services.<sup>134</sup> Given that the Commission has recognized that up to 425.5 MHz of spectrum may be available for mobile telephony/broadband services in a market, this transaction will not lead to concerns about new entry or the ability of competitors to provide next-generation services.

After this transaction, the merged firm will remain below the applicable screen virtually everywhere within Centennial's footprint. About four percent of the population of one CMA (Mississippi 8 -- Claiborne -- RSA 500) lives in an area where the spectrum screen is exceeded, and about seventeen percent of the population of another CMA (Michigan 6 -- Roscommon -- CMA 477) lives in an area where the spectrum screen is reached.<sup>135</sup> In the aggregate, about 32,000 persons, or about one quarter of one percent of the 13 million persons in Centennial's footprint, live in these areas. This is clearly de minimis and creates no conceivable concern about other competitors' access to spectrum.

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Footnote continued from previous page  
Wireless Communications Service ("WCS") spectrum are amended to permit mobile operation, it too should be included.

<sup>133</sup> *Verizon/ALLTEL Order* ¶ 75. In addition to the screen, the Commission also examines the effect of the transaction on market concentration using the Herfindahl-Hirschman Index ("HHI"). *Id.* ¶ 45.

<sup>134</sup> *Cingular/AT&T Wireless Order* at 21,577, ¶ 140.

<sup>135</sup> *See* Appendix A.

c. Geographic Market

In past mergers of wireless carriers, the Commission has defined the relevant market as being no smaller than CMAs or, alternatively, Component Economic Areas (“CEAs”).<sup>136</sup> As explained below, even when considered on that basis, the proposed transaction will not have an adverse effect on competition in any local area. Nonetheless, the evidence shows that the predominant forces driving competition among wireless carriers operate at the national level. Therefore, examining market structure in areas as small as CMAs or CEAs does not accurately account for the competitive forces that will constrain the behavior of the merged firm and assure continued intense competition in all the local areas affected by the merger.

As the Commission has recognized, rate plans of national scope, offering nationwide service at a single price without roaming charges, have become the standard in the wireless industry.<sup>137</sup> These plans are offered by the large national carriers as well as regional carriers, such as Centennial and U.S. Cellular.<sup>138</sup>

In the mainland U.S., AT&T establishes its rate plans and pricing on a national basis, without reference to market structure at the CMA level.<sup>139</sup> One of AT&T’s objectives is to develop its rate plans, features and prices in response to competitive conditions and offerings at

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<sup>136</sup> See *Verizon/ALLTEL Order* ¶ 49; *Verizon/RCC Order* at 12,485, ¶ 41; *AT&T/Dobson Order* at 20,310, ¶ 25; *Midwest Wireless Order* at 11,545-49, ¶¶ 35-43; *Western Wireless Order* at 13,072-75, ¶¶ 44-51; *Sprint Nextel Order* at 13,991-95, ¶¶ 57, 63-67; *Cingular/AT&T Wireless Order* at 21,567-69, ¶¶ 104-112.

<sup>137</sup> *Twelfth Annual CMRS Report* at 2292, ¶ 112.

<sup>138</sup> *Id.*; see also Centennial 10-K at 1; U.S. Cellular Corp., Annual Report (Form 10-K), at 10 (Feb. 29, 2008).

<sup>139</sup> Declaration of David A. Christopher, Chief Marketing Officer, AT&T Mobility LLC (Nov. 21, 2008) ¶ 3 (“Christopher Decl.”).

the national levels – primarily the plans offered by the other national carriers.<sup>140</sup> Centennial’s pricing is an inconsequential factor in AT&T’s competitive decision-making.<sup>141</sup>

Although it is a regional carrier, because it generally competes against the national carriers throughout its footprint, Centennial looks to the offerings of the national carriers when setting its prices and plans.<sup>142</sup> It sets uniform plan features and prices across its mainland U.S. service areas and currently offers only national rate plans to new subscribers in the mainland U.S.<sup>143</sup>

In Puerto Rico and the U.S. Virgin Islands, in addition to its national rate plans, AT&T offers unlimited island-wide rate plans, as do all other carriers serving those areas.<sup>144</sup> It offers the same plans and prices in Puerto Rico and in the U.S. Virgin Islands.<sup>145</sup> Many rate plans in Puerto Rico and the U.S. Virgin Islands also include free incoming calls.<sup>146</sup> Like AT&T, Centennial offers different plans in these areas than it does on the mainland.<sup>147</sup> However, AT&T focuses far more on Claro, T-Mobile and Sprint than Centennial in setting its prices and plans in both Puerto Rico and the U.S. Virgin Islands.<sup>148</sup>

The merger will thus not reduce any of the competition that affects AT&T’s pricing and service offerings.

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<sup>140</sup> *Id.* ¶ 5.

<sup>141</sup> *See id.*

<sup>142</sup> Hunt Decl. ¶ 17.

<sup>143</sup> *Id.* ¶¶ 17-18. Centennial formerly offered multi-state regional plans as well, but these are no longer offered to new customers. *Id.* ¶ 17.

<sup>144</sup> Declaration of José J. Dávila, Vice President & General Manager for Puerto Rico and the United States Virgin Islands, AT&T Mobility LLC (Nov. 21, 2008) ¶ 5 (“Dávila Decl.”).

<sup>145</sup> *Id.* ¶ 3

<sup>146</sup> *Id.* ¶ 5.

<sup>147</sup> Hunt Decl. ¶ 20.

<sup>148</sup> Dávila Decl. ¶ 5.

## 2. Competitive Effects

The wireless industry in the United States is vigorously competitive and will remain so after this transaction. At the national level, the merger will have no impact on market structure and competition.<sup>149</sup> Centennial's approximately 1.1 million retail subscribers account for less than one-half of one percent of the approximately 266 million subscribers to wireless services nationwide.<sup>150</sup> Numerous competitors, including the four largest national carriers, will remain to serve wireless customers.<sup>151</sup> Moreover, in each CMA in which AT&T and Centennial compete, there will be sufficient facilities-based competition, as well as competition from MVNOs and resellers, to assure that there will be no harm to competition.<sup>152</sup>

Cable television operators are among the latest entrants in the mobile telephony/broadband business, leveraging their ability to bundle wireless service with their

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<sup>149</sup> Where national competitive forces determine prices and the same products are offered nationwide at the same price, the relevant geographic market is national, rather than local. *See, e.g., United States v. Grinnell Corp.*, 384 U.S. 563, 575 (1966) (finding that relevant market for security services was nationwide where defendants had a "national schedule of prices, rates, and terms."); *see also In re Bell Atl. Mobile Sys., Inc. and NYNEX Mobile Commc'ns Co. Application for Transfer of Control of Eighty-Two Cellular Radio Licenses to Cellco P'ship*, Order, 10 FCC Rcd. 13,368, 13,374-75, ¶ 20 n.28 (1995) (citing *Grinnell Corp.*, 384 U.S. at 575-76).

<sup>150</sup> *See* CTIA.org, CTIA - The Wireless Association, <http://www.ctia.org> (last visited Nov. 18, 2008) (estimating over 266 million wireless subscribers as of November 2008).

<sup>151</sup> *Twelfth Annual CMRS Report* at 2254-55, ¶ 18.

<sup>152</sup> Willig et al. Decl. ¶¶ 29, 42. The Commission has noted that "mobile virtual network operators [MVNOs] present even more competition to traditional facilities-based carriers" and that "resale competition has been growing." *See Twelfth Annual CMRS Report* at 2256-57, ¶ 21 (quoting Comments of CTIA - The Wireless Association to the *Notice of Inquiry* in WT Dkt. No. 07-71, at 14 (May 7, 2007)); *In re Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Mkt. Conditions with Respect to Commercial Mobile Servs.*, Eleventh Report, 21 FCC Rcd. 10,947, 10,960, ¶ 28 (2006) ("Eleventh Annual CMRS Report"). According to the Commission's *Twelfth Annual CMRS Report*, the number of subscribers receiving mobile service from an MVNO or resale provider reached approximately 15 million at the end of 2006, up from 13.4 million at the end of 2005. *Twelfth Annual CMRS Report* at 2257, ¶ 21.

video, high-speed Internet and voice offerings.<sup>153</sup> Recently, three of the largest cable MSOs, Comcast, Time Warner Cable and Bright House Networks, as well as Intel and Google, collectively agreed to invest \$3.2 billion into the New Clearwire venture that will combine Sprint and Clearwire's next-generation wireless broadband businesses.<sup>154</sup> The new company will expedite the deployment of a nationwide WiMAX network.<sup>155</sup> In addition, several investors in New Clearwire, including Comcast, Time Warner Cable and Bright House Networks, plan to become MVNOs of New Clearwire's WiMAX service and directly compete with the new company as well as improve their own products and services with wireless broadband mobility.<sup>156</sup>

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<sup>153</sup> See Marin Perez, *Customers Prefer Bundles from Telecoms*, Information Week, Oct. 1, 2008, available at <http://www.informationweek.com/news/telecom/business/showArticle.jhtml?articleID=210605175> (stating that cable companies without wireless services are not "future-proofing their bundles"); see also John Curran, *Sprint Nextel, Clearwire to Combine Wireless Broadband Operations*, Telecomm. Rep., May 15, 2008, available at 2008 WLNR 8633822 (quoting Comcast and Time Warner's CEOs discussing their desire to introduce wireless mobility); see also Joseph Menn, *Sprint to Beef Up Wireless Venture*, L.A. Times, May 7, 2008, available at 2008 WLNR 8511864 ("quadruple play would help [cable companies] compete with phone companies that are also rolling out pay-TV service" and suggesting that cable companies may "push video content packages for souped-up phones or a new generation of devices that are somewhere between phones and laptops"); Todd Spangler, *Pivot Gets Tabled, Operators Plot Next Mobile Move*, Multichannel News, Apr. 28, 2008, available at 2008 WLNR 7856597 (describing cable operators' prior joint venture with Sprint, called Pivot, to bundle wireless services with cable's other services).

<sup>154</sup> See News Release, Sprint Nextel Corp., XOHM, Intel and WiMAX Partners Celebrate New 4G Broadband Era in Baltimore (Oct. 8, 2008), available at [http://newsreleases.sprint.com/phoenix.zhtml?c=127149&p=irol-newsArticle\\_newsroom&ID=1206942&highlight=clearwire](http://newsreleases.sprint.com/phoenix.zhtml?c=127149&p=irol-newsArticle_newsroom&ID=1206942&highlight=clearwire); News Release, Sprint Nextel Corp., Sprint and Clearwire to Combine WiMAX Businesses, Creating a New Mobile Broadband Company (May 7, 2008), available at [http://newsreleases.sprint.com/phoenix.zhtml?c=127149&p=irol-newsArticle\\_newsroom&ID=1141088](http://newsreleases.sprint.com/phoenix.zhtml?c=127149&p=irol-newsArticle_newsroom&ID=1141088).

<sup>155</sup> See News Release, Sprint Nextel Corp., XOHM, Intel and WiMAX Partners Celebrate New 4G Broadband Era in Baltimore (Oct. 8, 2008); News Release, Sprint Nextel Corp., Sprint and Clearwire to Combine WiMAX Businesses, Creating a New Mobile Broadband Company (May 7, 2008).

<sup>156</sup> *Sprint/Clearwire Order* ¶ 120.

Cox Communications is also planning to compete directly with AT&T, Verizon and others by offering wireless services beginning in 2009.<sup>157</sup> Cox is the incumbent cable operator in Lafayette, Louisiana, one of the CMAs in which AT&T and Centennial overlap, and has 700 MHz spectrum there. Cox has spent more than \$500 million on spectrum, but will initially partner with Sprint in order to quickly launch a 3G service next year.<sup>158</sup> Cox plans to build out its own 3G network with future plans for 4G technology so that it can control its entire wireless operation.<sup>159</sup> Cox's initial network will be based on CDMA technology, but Cox also will test LTE for possible future use.<sup>160</sup>

The Commission has consistently found that the wireless industry in the United States is vigorously competitive, and that finding remains true as the industry has undergone dynamic change and expansion.<sup>161</sup> Most recently, as the Commission concluded in its *Twelfth Annual CMRS Report*:

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<sup>157</sup> Sinead Carew, *Cox to Offer Wireless in '09 Using Sprint Network*, Reuters, Oct. 27, 2008 (“Carew article”).

<sup>158</sup> *Id.*; Stephen Lawson, *Cox to Build Its Own Cellular Network*, N.Y. Times, Oct. 27, 2008 (“Lawson article”).

<sup>159</sup> Carew article; Chloe Albanesius, *Cox to Bundle Sprint Wireless Service*, PCMag.com, Oct. 27, 2008.

<sup>160</sup> Lawson article.

<sup>161</sup> See *Twelfth Annual CMRS Report* at 2245, 2270, ¶¶ 1, 61-62 (concluding that there is “effective competition in the CMRS market” and discussing recent changes in market participation); *Eleventh Annual CMRS Report* at 10,950, ¶ 2 (stating that “although the mobile telephone market has become more concentrated as a result of these mergers, none of the remaining competitors has a dominant share of the market, and the market continues to behave and perform in a competitive manner”); *In re Implementation of Section 6002(B) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Mkt. Conditions with Respect to Commercial Mobile Servs.*, Tenth Report, 20 FCC Rcd. 15,908, 15,911, ¶ 2 (2005) (stating that “the Commission concludes that even with fewer nationwide mobile telephone carriers there is still effective competition in the CMRS marketplace.”); *In re Implementation of Section 6002(B) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Mkt. Conditions with Respect to Commercial Mobile Servs.*, Ninth Report, 19 FCC Rcd. 20,597, 20,600, ¶ 2 (2004); *In re Implementation of Section 6002(B) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive*

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U.S. consumers continue to benefit from effective competition in the CMRS marketplace. During 2006, the CMRS industry experienced another year of strong growth, demonstrating the continuing demand for and reliance upon mobile services. As of December 2006, we estimate there were approximately 241.8 million mobile telephone subscribers, which translates into a nationwide penetration rate of roughly 80 percent. Consumers continue to increase their use of mobile telephones for both voice and data services. Partly because of the prevalence of mobile service packages with large buckets of inexpensive minutes, the average amount of time U.S. mobile subscribers spend talking on their mobile phones rose to 714 minutes per month in the second half of 2006, an increase of six minutes from a year earlier.... Survey evidence also indicates that U.S. mobile subscribers have experienced an improvement in call quality in the past year.<sup>162</sup>

Greater subscriber choice and improved wireless service are increasingly available across the United States. In July 2007, approximately 96 percent of the population lived in census blocks served by three or more wireless operators, and 90 percent lived in census blocks served by four or more operators.<sup>163</sup> Network coverage has consistently expanded; wireless carriers reported an addition of over 10,000 cell sites from June 2007 to June 2008, with the total number of cell sites growing nearly 50 percent in the last five years.<sup>164</sup>

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*Mkt. Conditions with Respect to Commercial Mobile Servs.*, Eighth Report, 18 FCC Rcd. 14,783, 14,791, ¶ 12 (2003).

<sup>162</sup> *Twelfth Annual CMRS Report* at 2353, ¶ 290.

<sup>163</sup> *See id.* at 2263, ¶ 39; *see also id.* at 2262, Table 1 (showing that as of July 2007, 272,480,505 people have three or more different operators offering mobile telephone service in the census blocks in which they live); *see also id.* at 2265, Table 5 (showing that as of July 2007, 98 percent of the U.S. population lived in counties served by three or more wireless operators).

<sup>164</sup> *See* CTIA - The Wireless Ass'n, Annualized Wireless Industry Survey Results, June 1985 to June 2008, [http://files.ctia.org/pdf/CTIA\\_Survey\\_Mid\\_Year\\_2008\\_Graphics.pdf](http://files.ctia.org/pdf/CTIA_Survey_Mid_Year_2008_Graphics.pdf); *see also* News Release, Sprint Nextel Corp., Chicagoland Customers Can Do More With Wireless: Sprint Enhanced Wireless Coverage and Network Capacity (Feb. 19, 2008), *available at* [http://newsreleases.sprint.com/phoenix.zhtml?c=127149&p=irol-newsArticle\\_newsroom&ID=1109603&highlight=](http://newsreleases.sprint.com/phoenix.zhtml?c=127149&p=irol-newsArticle_newsroom&ID=1109603&highlight=).

Wireless customers also continue to receive new and better services at increasingly lower costs. As the Commission has noted, “[t]he continued rollout of differentiated pricing plans also indicates a competitive marketplace.”<sup>165</sup> The Commission has observed “independent pricing behavior, in the form of continued experimentation with varying pricing levels and structures, for varying service packages.”<sup>166</sup> Moreover, the Commission has examined rural areas, such as many involved in this transaction, and found that competition in those areas was no less vigorous than in more populous areas.<sup>167</sup> Wi-Fi and WiMAX also provide mobile users with additional options, and major providers have jumped into the fray.<sup>168</sup> In addition, the expansion by a number of newer carriers (*e.g.*, Leap Wireless and MetroPCS) to more nationwide service offerings will provide subscribers with additional facilities-based competitive alternatives.<sup>169</sup>

Customers who are dissatisfied with the pricing, service or features they are receiving from their existing wireless carrier can and frequently do switch carriers, facilitated by wireless local number portability. The Commission reported that carriers experienced monthly churn rates of 1.5 to 3 percent per month in the first quarter of 2007.<sup>170</sup> The high frequency of

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<sup>165</sup> *Twelfth Annual CMRS Report* at 2292, ¶ 112.

<sup>166</sup> *Id.*

<sup>167</sup> *See id.* at 2291, ¶¶ 109-10.

<sup>168</sup> T-Mobile has 8,500 “hotspots” where its customers can get connectivity, while Sprint has 8,000 hotspot locations. *Id.* at 2343-44, ¶ 254 (citation omitted). As discussed above, AT&T has 17,000 Wi-Fi hotspots.

<sup>169</sup> *See* Press Release, MetroPCS Commc’ns Inc., MetroPCS Launches MetroPCS Unlimited Nationwide<sup>SM</sup> (Nov. 6, 2008), *available at* <http://investor.metropcs.com/phoenix.zhtml?c=177745&p=NewsArticle&id=1223573>; Press Release, Leap Wireless Int’l Inc., Leap’s Cricket Service Now Offers Free, Unlimited Messaging in All Plans - New Plans Include Nationwide Calling and Free Unlimited Text, Picture and Instant Messaging (Apr. 3, 2007), *available at* <http://phx.corporate-ir.net/phoenix.zhtml?c=95536&p=irol-newsArticle&ID=981169&highlight=>

<sup>170</sup> *Twelfth Annual CMRS Report* at 2318, ¶ 187.

customer switching demonstrates that carriers must compete aggressively to retain the patronage of their customers. AT&T, for example, must attract roughly 1.27 million new customers every month simply to replace the customers it loses to churn.<sup>171</sup>

### 3. Competition Will Remain Intense After This Transaction

Even if each CMA is assumed to be its own relevant geographic market, the proposed transaction will not harm competition. The merged firm will continue to face vigorous competition after the merger on the U.S. mainland from all three national carriers and various regional carriers.<sup>172</sup> Wireless services in Puerto Rico also are intensely competitive, with six carriers currently providing facilities-based service and strong coverage throughout the island: AT&T, Centennial, Sprint, T-Mobile, Claro and Open Mobile, a carrier owned by two large private equity investors, Columbia Capital and MC Ventures, both of which have substantial experience in the wireless market.<sup>173</sup> In the U.S. Virgin Islands, AT&T, Sprint, Innovative/VITELCO, Centennial and T-Mobile operate networks.<sup>174</sup> Taken together with the dynamics of competition in the wireless industry, and as explained in the Declaration of Robert

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<sup>171</sup> As of September 30, 2008, AT&T served 74.9 million wireless customers and, in the third quarter of 2008, its monthly wireless churn rate was 1.7 percent. AT&T Inc., Quarterly Report (Form 10-Q), at 17 (Nov. 5, 2008) (the number of customers (74.9 million) multiplied by the churn rate (1.7 percent) equals approximately 1.27 million, which is therefore roughly the number of new customers that AT&T must attract each month to replace the customers lost to churn).

<sup>172</sup> Willig et al. Decl. ¶ 29.

<sup>173</sup> Christopher Decl. ¶ 9. T-Mobile provides service on its own network in the U.S. Virgin Islands but does not currently sell plans to customers there. It could do so without expending significant sunk costs and therefore should be considered a current market participant. Dep't. of Justice & Fed. Trade Comm'n, Commentary on the Horizontal Merger Guidelines (Mar. 2006), available at <http://www.usdoj.gov/atr/public/guidelines/215247.pdf>.

<sup>174</sup> Christopher Decl. ¶ 9.

D. Willig et al., these facts ensure that the merger will not lead to either unilateral or coordinated anticompetitive effects in any market.<sup>175</sup>

a. Unilateral Effects on Retail Mobile Telephony/Broadband Services Are Unlikely

The Commission has recognized that a merger of wireless carriers will lead to the possibility of unilateral anticompetitive effects only under highly specific conditions. The accompanying Declaration of Robert D. Willig et al. sets out in detail the ten factors that must be analyzed to determine whether unilateral anticompetitive effects from a merger are likely.<sup>176</sup> In general these fall into four major categories: (1) the number of competitors and share of the merged firm; (2) whether the merging firms' offerings are close substitutes for one another; (3) the ease with which existing and new competitors can take customers away from the merged firm; and (4) the impact of competitive forces outside the CMA on the behavior of the merged firm. Each of these factors separately, and all of them collectively, lead to the conclusion that unilateral anticompetitive effects from this transaction are unlikely in any CMA.<sup>177</sup>

(i) Numerous Competitors Offer Comparable Service in All Areas Affected by the Transaction

There is a sufficient number of competitors operating and providing service in every CMA affected by the transaction to guard against unilateral exercise of market power. This is especially true because existing competitors face no barriers to expansion in these CMAs due to spectrum availability. In each CMA where AT&T and Centennial both operate today, their existing rivals have access to enough spectrum to compete effectively and to expand their service

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<sup>175</sup> Willig et al. Decl. ¶¶ 29-54.

<sup>176</sup> *Id.* ¶¶ 29-48.

<sup>177</sup> *Id.* ¶¶ 38-49.

in the event of a unilateral price increase.<sup>178</sup> As the Commission has recognized, as a general matter, wireless carriers will be able to add customers quickly because excess capacity is often available and can be utilized quickly by existing networks.<sup>179</sup> In the less populous areas involved in this transaction, it is especially true that firms can provide a competitive constraint with comparatively modest allocations of spectrum.

(ii) Centennial and AT&T Are Not Close Substitutes

Unilateral effects also are unlikely because the services of Centennial and AT&T are not especially close substitutes. The Commission has previously recognized that wireless carriers are differentiated along such dimensions as quality, coverage and plan features.<sup>180</sup> If customers consider the merging parties “to be more distant substitutes for one another in the spectrum of differentiated choices available, or if there are multiple choices available to customers that they view as similarly close substitutes for one another, then anticompetitive unilateral effects may be less likely to occur or may be less significant.”<sup>181</sup> That is the case here.

As discussed above, AT&T focuses on the other national carriers in its competitive decision-making and does not consider Centennial in deciding on pricing and service offerings.

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<sup>178</sup> The Commission has recognized the significance of spectrum availability in a market-by-market analysis of competition. *See, e.g., In re Union Tel. Co., Cellco P'ship d/b/a Verizon Wireless Applications for 700 MHz Band Licenses, Auction No. 73, File No. 0003371176, Memorandum Opinion and Order, FCC 08-257, ¶ 18 (rel. Nov. 13, 2008)* (factors to be considered in assessment of market conditions include “(1) the total spectrum available for mobile telephony use; (2) the particular applicant’s portion of available spectrum; (3) licensees in the market and their spectrum holdings; (4) licensees currently providing service in the market; (5) whether current service providers, who may be capacity constrained in the near-term, can access additional spectrum in the market either through auction or on the secondary market; and (6) licensees currently holding spectrum that could enter the market to provide service.”); *see also AT&T Mobility/Aloha Order* at 2237, ¶ 12.

<sup>179</sup> *See, e.g., Cingular/AT&T Wireless Order* at 21,576, ¶ 135.

<sup>180</sup> *Cingular/AT&T Wireless Order* at 21,572-73, ¶ 123.

<sup>181</sup> *Id.* at 21,571, ¶ 117; *see also Willig et al. Decl.* ¶ 31.

Furthermore, additional handset, plan and service choices and a vastly larger home network of coverage will be made available to Centennial customers as a result of the transaction.<sup>182</sup>

Consumers who most value these offerings today are looking to AT&T and other national carriers and not to Centennial.<sup>183</sup> Indeed, Centennial targets customers who live, work and play in its footprint and does not seek to acquire customers who travel frequently outside of its footprint.<sup>184</sup>

(iii) Competitors and New Entrants Can Rapidly Win Customers from Incumbents

Another reason unilateral anticompetitive effects are unlikely is, as the Commission has acknowledged, the ease with which customers of the merged carrier could switch to rival carriers in the event of a unilateral price increase.<sup>185</sup> The significant customer churn indicates that carriers have little ability to retain their customers if they are not providing competitive pricing, service and features.<sup>186</sup> Thus, the merged firm could not unilaterally increase price without losing customers to other wireless competitors offering comparable service.

(iv) Metropolitan Areas in Proximity to Overlap CMAs Will Restrain the Merged Firm's Ability To Raise Prices Unilaterally

As noted above, both AT&T and Centennial, and most other wireless carriers, set prices on a national basis and not at the level of individual CMAs. In any event, any effort to

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<sup>182</sup> Hunt Decl. ¶¶ 8, 10-11; *see also* Willig et al. Decl. ¶¶ 16, 21.

<sup>183</sup> Willig et al. Decl. ¶ 34.

<sup>184</sup> Hunt Decl. ¶ 19.

<sup>185</sup> *See, e.g., Cingular/AT&T Wireless Order* at 21,575, ¶ 132.

<sup>186</sup> *Twelfth Annual CMRS Report* at 2319, ¶ 188; *Eleventh Annual CMRS Report* at 10,950, ¶ 4 (“Consumers continue to pressure carriers to compete on price and other terms and conditions of service by freely switching providers in response to differences in the cost and quality of service.”).

discriminate in price on a very local level would be defeated by competitors present in adjacent larger metropolitan areas. Many of the CMAs where AT&T and Centennial both operate are adjacent to or near larger metropolitan areas.<sup>187</sup> For example, CMA 460 (Louisiana 7 - West Feliciana) is just north of two metropolitan areas, Baton Rouge and New Orleans; CMA 458 (Louisiana 5 - Beauregard) abuts the Baton Rouge, Lafayette and Lake Charles metropolitan areas; CMA 501 (Mississippi 9 - Copiah) is adjacent to and just south of Jackson, Mississippi; CMA 101 (Beaumont-Port Arthur, Texas) is just east of the Houston metropolitan area; CMAs 408 (Indiana 6 - Randolph), 405 (Indiana 3 - Huntington), 217 (Anderson, Indiana), 236 (Muncie, Indiana) and 271 (Kokomo, Indiana) surround the Indianapolis metropolitan area to the north and east; CMA 480 (Michigan 9 - Cass) is west of two metropolitan areas, Detroit and Toledo; and CMA 403 (Indiana 1-Newton) is east of the Chicago metropolitan area.<sup>188</sup>

Residents of these CMAs often commute to the nearby metropolitan areas for work, shopping or entertainment and are exposed to the same media advertising as metropolitan area residents. As a result, these consumers can and do purchase wireless service from additional providers in the metropolitan area, which cover the CMA through roaming. The availability of these providers imposes an additional competitive constraint on the merged firm. If a critical number of consumers would buy wireless services in a metropolitan area adjacent to the CMA in the event of a unilateral post-merger price increase, such a price increase would be constrained.<sup>189</sup> As a result, the merged firm cannot consider a price increase without taking into

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<sup>187</sup> Moore Decl. ¶ 5; Hunt Decl. ¶ 5.

<sup>188</sup> Hunt Decl. ¶ 5.

<sup>189</sup> Willig et al. Decl. ¶¶ 43-45; *Twelfth Annual CMRS Report* at 2266, 2331, ¶¶ 51, 221 (stating that Economic Areas (“EAs”) “capture[s] the area in which the average person shops for and purchases a mobile phone, most of the time” and finding that EAs include “the place of work and the place of residence of its labor force.”).

account the response of competitors that operate in Economic Areas that encompass the overlap CMAs, nor could it effectively target a price increase.<sup>190</sup> Proximity to the larger area means that consumers in the outlying CMA benefit from competitive conditions in the metropolitan area.

b. Coordinated Effects Are Unlikely

This transaction also will not result in coordinated anticompetitive effects. In reviewing previous mergers of wireless carriers, the Commission has found that necessary conditions for successful coordination depend on “the ability to reach terms of coordination that are profitable for each of the firms involved” and “the ability to detect and punish deviations that would undermine the coordinated interaction.”<sup>191</sup> A number of conditions in the current marketplace for wireless services make it unlikely that successful coordination would occur, including the following:<sup>192</sup>

- Product heterogeneity. Competition among wireless carriers takes a variety of different forms. Carriers compete not only on the basis of rate plan pricing, but also on plan features, handset offerings and pricing, unique content offerings and service quality, among other things.<sup>193</sup> The Commission has previously found that coordination is more difficult where products are diverse.<sup>194</sup>

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<sup>190</sup> Willig et al. Decl. ¶ 43.

<sup>191</sup> *Cingular/AT&T Wireless Order* at 21,580, ¶ 151; *see also Verizon/RCC Order* at 12,496, ¶ 67; *AT&T/Dobson Order* at 20,321-22, ¶ 48; *In re Applications for the Assignment of License from Denali PCS, L.L.C. to Alaska DigiTel, L.L.C. and the Transfer of Control of Interests in Alaska DigiTel, L.L.C. to Gen. Commc’n, Inc.*, Memorandum Opinion and Order, 21 FCC Rcd. 14,863, 14,896, ¶ 77 (2006) (“*Denali/Alaska DigiTel Order*”); *Midwest Wireless Order* at 11,554, ¶ 60; *Sprint/Nextel Order* at 13,995, ¶ 69.

<sup>192</sup> Willig et al. Decl. ¶¶ 49-54.

<sup>193</sup> *Twelfth Annual CMRS Report* at 2245, 2292-98, ¶¶ 1, 112-14, 116-25 (observing “independent pricing behavior, in the form of continued experimentation with varying pricing levels and structures, for varying service packages, with various handsets and policies on handset pricing,” discussing handset offerings, national rate pricing plans, family plans, “unlimited” calling plans, prepaid service plans, and content offerings such as text, photo, and video messaging, web browsing, and other cell phone content, and noting the non-price rivalry fueled by providers selecting a variety of next-generation networks based on competing technological standards.). Carriers compete with a wide variety of plans, offerings, subsidies, and rebates including handset subsidies, free minutes, peak and off-peak periods, roaming charges, free long distance, free mobile-to-mobile calls, group and family calling plans, and many others. *See id.* at

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- Excess capacity and ease of expansion. Competitors that possess excess capacity could readily increase their output of wireless services in order to take advantage of the increased demand that would result if carriers attempted to elevate prices through tacit or explicit coordination.<sup>195</sup>
- Cheating would be easy to accomplish and difficult to detect. Cheating would be difficult for rivals to punish.<sup>196</sup> For example, facilities-based competitors could cheat on a coordinated pricing or market division-type agreement among carriers by selling cheaply to a reseller, or by signing roaming agreements. Each of those approaches would have the effect of increasing the carrier’s output – the minutes of use that customers enjoy on their networks – without changing the prices or terms of service on their own plans. Increases in output exert downward pressure on prices.<sup>197</sup>
- Uncertainty of future demand. In the wireless industry, in which there is rapid technological change and rollout of new services, including mobile broadband, mobile video, Wi-Fi, WiMAX, and others, there is likely to be uncertainty about future levels of demand for any given service.<sup>198</sup> Coordination may be more difficult in a market with relatively frequent demand or cost fluctuations among firms.<sup>199</sup>

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2292, ¶ 112 (national pricing plans, free long distance and roaming, and family plans); at 2292, ¶ 113 (“unlimited” plans); at 2293, ¶ 115 (reduction in early termination fees); at 2293-94, ¶¶ 116-17 (prepaid service plans); at 2294-97, ¶¶ 118-23 (mobile data pricing and content offerings); at 2292, 2320, 2322, ¶¶ 112, 192, 196 n.495 (handset pricing).

<sup>194</sup> *Cingular/AT&T Wireless Order* at 21,582, ¶ 156; *see also Denali/Alaska DigiTel Order* at 14,893, ¶ 68 n.206; *Midwest Wireless Order* at 11,549, ¶ 46 n.173; *Sprint/Nextel Order* at 13,997, ¶ 75; U.S. Dep’t of Justice, *Voice, Video and Broadband: The Changing Competitive Landscape and Its Impact on Consumers* 31 n.155 (Nov. 2008).

<sup>195</sup> Willig et al. Decl. ¶ 52; *see also Cingular/AT&T Wireless Order* at 21,576, ¶ 135 (“[I]t will generally be feasible for firms to add customers quickly because excess capacity is often available and because non-trivial increases in the capacity to serve customers can be realized rapidly.”).

<sup>196</sup> Willig et al. Decl. ¶ 53.

<sup>197</sup> Dep’t. of Justice & Fed. Trade Comm’n, *Commentary on the Horizontal Merger Guidelines* 27 (Mar. 2006), *available at* <http://www.usdoj.gov/atr/public/guidelines/215247.pdf> (“[T]he Agencies consider whether proposed mergers would, once consummated, likely provide the incentive to restrict capacity or output significantly and thereby drive up prices.”).

<sup>198</sup> Willig et al. Decl. ¶ 54.

<sup>199</sup> Dep’t. of Justice & Fed. Trade Comm’n, *Horizontal Merger Guidelines* § 2.12 (1992, *am.* 1997), *available at* <http://www.ftc.gov/bc/docs/horizmer.htm>.

In light of all these conditions in the marketplace, there is no reason for concern that the acquisition of Centennial by AT&T would result in coordinated effects, whether tacit or explicit. As the Declaration of Robert D. Willig et al. explains, it would be too easy to deviate from the terms agreed upon by a hypothetical cartel and too hard to punish such deviation, and the profits of such “cheating” would simply be too great for coordination to be sustained.<sup>200</sup>

B. The Merger Will Not Harm Competition in the Provision of Wireline Services

In addition to its wireless business, Centennial provides fiber broadband services primarily to business and, to a lesser extent, residential subscribers as a CLEC in Puerto Rico.<sup>201</sup> Those services include the provision of voice, data and Internet solutions.<sup>202</sup> Centennial also provides wholesale services to carriers in Puerto Rico.<sup>203</sup> In addition to the much larger incumbent wireline carrier, TELPRI, other facilities-based competitors in Puerto Rico include WorldNet and Prepa.net, which is an affiliate of the local electric power company.<sup>204</sup>

AT&T does not have wireline network facilities in Puerto Rico (other than a node and submarine cable assets), although it serves certain enterprise customers there through arrangements with local providers.<sup>205</sup> AT&T primarily serves, and markets exclusively to, the Puerto Rican operations of large, multinational enterprises, offering a range of enterprise data and voice services including VPN and managed network services, delivered over the facilities of local carriers in Puerto Rico.<sup>206</sup> In that business, AT&T’s principal competitors are other global

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<sup>200</sup> Willig et al. Decl. ¶¶ 52-53.

<sup>201</sup> Hunt Decl. ¶ 21.

<sup>202</sup> *Id.*

<sup>203</sup> *Id.* ¶ 22.

<sup>204</sup> *Id.* ¶ 21.

<sup>205</sup> Moore Decl. ¶ 34.

<sup>206</sup> *Id.* ¶ 35.

enterprise providers such as Verizon and BT, and Centennial is not a significant competitor.<sup>207</sup>

To the extent Centennial serves enterprise customers, its focus is providing local connectivity on its fiber network.<sup>208</sup> AT&T does not actively market to medium and small business customers in Puerto Rico.<sup>209</sup>

There will be no adverse effect on competition because, as noted above, AT&T and Centennial do not compete with each other in this market to any meaningful degree, and the merged firm will continue to face substantial competition from the ILEC, TELPRI, and the other CLECs in Puerto Rico, WorldNet and Prepa.net.<sup>210</sup> WorldNet has deployed soft switching and other broadband network equipment and has stated that it plans to become a facilities-based competitor to the ILEC.<sup>211</sup> Over the past three years, it has invested \$40 million to build its own infrastructure.<sup>212</sup> In addition, Prepa.net has deployed fiber facilities and has data switching capability to carry IP traffic.<sup>213</sup>

Thus, the combined company, with its global reach and financial strength, will be well-positioned to serve as a strong competitor to other wireline providers, including to provide more

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<sup>207</sup> *Id.*

<sup>208</sup> Moore Decl. ¶ 35; *see* Hunt Decl. ¶ 21.

<sup>209</sup> Moore Decl. ¶ 39. AT&T also does not actively market stand-alone long distance services in Puerto Rico. After the transaction, customers in Puerto Rico will continue to have numerous alternatives to AT&T for long distance, including Telefónica Larga Distancia de Puerto Rico (TLD), PRT-Larga Distancia, Sprint, Verizon, and cable VoIP providers.

<sup>210</sup> Willig et al. Decl. ¶¶ 56-58.

<sup>211</sup> M.J. Richer, *In the Caribbean, the Reseller-Turned-CLEC Goes Fishing for New Customers and Revenue Opportunities*, Tellabs Emerge, Winter 2006/07, available at [http://www.tellabs.com/news/reprints/emerge\\_winter06-07\\_widernet-reprint.pdf](http://www.tellabs.com/news/reprints/emerge_winter06-07_widernet-reprint.pdf).

<sup>212</sup> Worldnetpr.com, History, <http://www.worldnetpr.com/english/history.htm> (last visited Nov. 17, 2008).

<sup>213</sup> Hunt Decl. ¶ 21.

reliable end-to-end connections to the numerous Fortune 1000 and Forbes Global 2000 companies with operations in Puerto Rico.<sup>214</sup>

There are currently five main undersea cables connecting Puerto Rico to the mainland United States: (1) the Emergia cable system, (2) ARCOS-1, (3) Americas-2, (4) GCN/Global Crossing MAC and (5) Taino/Americas-1. Centennial owns or leases capacity on three of the five cables, with the exception of the Emergia and Americas-1 cables.<sup>215</sup> AT&T also has capacity on these cable systems and on others serving Puerto Rico.<sup>216</sup> Both companies use their submarine cable capacity for the traffic requirements of their own commercial customers. Neither markets submarine cable capacity, although they may, from time to time, make submarine cable capacity available to other carriers on an individual case basis.<sup>217</sup> Thus, AT&T and Centennial do not compete in the provision of submarine cable services for carriers.<sup>218</sup>

Further, the capacity of these cable systems is vast, with almost 100,000 E-1s as of 2006.<sup>219</sup> Other cables systems, including Americas-1 and Columbus 2, Antillas, and MAC/SAC, with a combined capacity, as of 2006, of over 138,000 E-1s, also serve these points.<sup>220</sup> Many of the largest telecommunications companies in the world have significant undersea capacity on these cables, including Verizon, Sprint, Telefónica and Global Crossing.<sup>221</sup> Most of these cable

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<sup>214</sup> Moore Decl. ¶ 38.

<sup>215</sup> Hunt Decl. ¶ 23.

<sup>216</sup> Moore Decl. ¶ 40.

<sup>217</sup> *Id.*; Hunt Decl. ¶ 23.

<sup>218</sup> Moore Decl. ¶ 40; Hunt Decl. ¶ 23.

<sup>219</sup> See Int'l Bureau, FCC, 206 Section 43.82 Circuit Status Data 32 (Feb. 2008).

<sup>220</sup> *Id.*

<sup>221</sup> Hunt Decl. ¶ 23

systems can be upgraded and several are scheduled to be upgraded.<sup>222</sup> In short, this merger will not have any adverse impact on the ability of others to acquire needed capacity along any of the routes on which Centennial and AT&T have capacity.

## **VII. RELATED GOVERNMENTAL FILINGS**

The Department of Justice will conduct its own review of the competitive aspects of this transaction pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976<sup>223</sup> and the rules promulgated thereunder. The Applicants are submitting a pre-merger notification form and an associated documentary appendix to the Department and the Federal Trade Commission, and they fully expect that this review will confirm that the merger of AT&T and Centennial is in the public interest and not anticompetitive.

## **VIII. MISCELLANEOUS REGULATORY ISSUES**

In addition to seeking the Commission's approval of the transfers of control of the authorizations and spectrum leases covered in these applications, the Applicants also request approval for the additional authorizations described below.

### **A. After-Acquired Authorizations**

While the list of call signs and file numbers referenced in each application or notification is intended to be complete and to include all of the licenses, authorizations and spectrum leases held by the respective licensees or lessees that are subject to the transaction, Centennial licensees or lessees may now have on file, and may hereafter file, additional requests for authorizations for new or modified facilities which may be granted or may enter into new spectrum leases before the Commission takes action on these transfer applications. Accordingly, the Applicants request

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<sup>222</sup> *Id.*

<sup>223</sup> 15 U.S.C. § 18a.

that any Commission approval of the applications filed for this transaction include authority for AT&T to acquire control of: (1) any authorization issued to the respective licensees/transferees during the pendency of the transaction and the period required for consummation of the transaction; (2) any construction permits held by the respective licensees/transferees that mature into licenses after closing; (3) any applications or lease notifications that are pending at the time of consummation; and (4) any leases of spectrum into which Centennial subsidiaries enter as lessees during the pendency of the transaction and the period required for consummation of the transaction. Such action would be consistent with prior decisions of the Commission.<sup>224</sup> Moreover, because AT&T is acquiring Centennial and all of its FCC authorizations, AT&T requests that Commission approval include any authorizations that may have been inadvertently omitted.

B. Trafficking

To the extent any authorizations for unconstructed systems are covered by this transaction, these authorizations are merely incidental, with no separate payment being made for any individual authorization or facility. Accordingly, there is no reason to review the transaction from a trafficking perspective.<sup>225</sup>

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<sup>224</sup> See, e.g., *SBC/AT&T Order* at 18,392, ¶ 212; *Cingular/AT&T Wireless Order* at 21,626, ¶ 275; *In re Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from S. New Eng. Telecomms. Corp. to SBC Commc'ns, Inc.*, Memorandum Opinion and Order, 13 FCC Rcd. 21,292, 21,317, ¶ 49 (1998); *In re Applications of NYNEX Corp. and Bell Atl. Corp.*, Memorandum Opinion and Order, 12 FCC Rcd. 19,985, 20,097-98, ¶¶ 246-56 (1997); *In re Applications of Pac. Telesis Group and SBC Commc'ns, Inc.*, Memorandum Opinion and Order, 12 FCC Rcd. 2624, 2665, ¶ 93 (1997); *In re Applications of Craig O. McCaw and Am. Tel. & Tel. Co.*, Memorandum Opinion and Order, 9 FCC Rcd. 5836, 5909, ¶ 137 n.300 (1994), *aff'd sub nom. SBC Commc'ns Inc. v. FCC*, 56 F.3d 1484 (D.C. Cir. 1995), *recons. in part*, 10 FCC Rcd. 11,786 (1995).

<sup>225</sup> See 47 C.F.R. § 1.948(i) (noting that the Commission *may* request additional information regarding trafficking if it appears that a transaction involves unconstructed authorizations that were obtained for the principal purpose of speculation); *id.* § 101.55(c)-(d) (permitting transfers

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C. Blanket Exemption to Cut-Off Rules

The public notice announcing this transaction will provide adequate notice to the public with respect to the licenses involved, including any for which license modifications are now pending. Therefore, no waiver needs to be sought from sections 1.927(h) and 1.929(a)(2) of the Commission's rules to provide a blanket exemption from any applicable cut-off rules in cases where the Applicants file amendments to pending applications to reflect the consummation of the proposed transfers of control.<sup>226</sup>

**IX. CONCLUSION**

For the foregoing reasons, the Commission should conclude that the merger of AT&T and Centennial serves the public interest, convenience and necessity and should expeditiously grant the applications to transfer control of Centennial's FCC authorizations to AT&T.

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of unconstructed microwave facilities that are "incidental to a sale of other facilities or merger of interests").

<sup>226</sup> See *In re Applications of Ameritech Corp. and GTE Consumer Servs. Inc.*, Memorandum Opinion and Order, 15 FCC Rcd. 6667, 6668, ¶ 2 n.6 (WTB 1999); *In re Applications of Comcast Cellular Holdings, Co. and SBC Commc'ns, Inc.*, Memorandum Opinion and Order, 14 FCC Rcd. 10,604, 10,605 ¶ 2 n.3 (WTB 1999).