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May 30, 2002

BY FEDERAL EXPRESS

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
9300 East Hampton Drive
Capital Heights, MD 20743

Re: In the Matter of Applications for Consent to the Transfer of Control of Licenses to AT&T Comcast Corporation, MB Docket No. 02-70

Dear Ms. Dortch:

Enclosed, for filing with the Federal Communications Commission, are one original and four copies of the Reply of Blawnox, Pennsylvania to the Opposition filed by Comcast Corporation and AT&T Corp. in the above-referenced proceeding.

Please have the Commission date-stamp the enclosed copy of this letter and return it to me in the enclosed self-addressed, stamped envelope.

Thank you for your assistance.

Very truly yours,

Frederick A. Polner

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MAY 31 2002

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Applications for Consent to the Transfer of Control of Licenses	)	MB Docket No. 02-70
	)	
Comcast Corporation and AT&T Corp., Transferors	)	
	)	
To	)	
	)	
AT&T Comcast Corporation, Transferee	)	

REPLY TO OPPOSITION

Filed on behalf of:
Borough of Blawnox, Pennsylvania

Frederick A. Polner, Esquire
Rothman Gordon, P.C.
Grant Building, 3rd Floor
310 Grant Street
Pittsburgh, PA 15219
(412) 338-1111

5/29/02 2:24 PM

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MAY 31 2002

FCC - MAILROOM

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Applications for Consent to the Transfer of Control of Licenses	)	MB Docket No. 02-70
	)	
Comcast Corporation and AT&T Corp., Transferors	)	
	)	
To	)	
	)	
AT&T Comcast Corporation, Transferee	)	

REPLY TO OPPOSITION

The Borough of Blawnox, Pennsylvania (the "Borough" or "Blawnox"), by and through its counsel, submits this Reply in response to the Opposition filed on May 21, 2002 by Comcast Corporation ("Comcast") and AT&T Corp. ("AT&T").

Reply

The facts of this case are described in detail in the Petition of Blawnox, Pennsylvania to Deny or Dismiss the Applications in this proceeding (the "Blawnox Petition"). The Blawnox Petition alleges that AT&T intentionally filed a false document with the FCC on February 6, 2001. A copy of such document is attached to the Blawnox Petition, together with evidence showing that the document is false on its face.

In their Opposition filed with the Commission on May 21, 2002 (the "Applicants' Opposition"), the Applicants do not deny the allegations set forth in the Blawnox Petition. Nor

do the Applicants set forth alternative facts concerning the filing of the false notice with the FCC. Instead, the Applicants simply ask the Commission to ignore the Blawnox Petition, without addressing in any way the serious and material allegations set forth therein. The Applicants' failure to deny the facts contained in the Blawnox Petition is tantamount to an *admission* of the facts alleged by Blawnox. Given the serious nature of the facts set forth in the Blawnox Petition, and the apparent admission of those facts by the Applicants, it is appropriate for the Commission to deny or dismiss the captioned applications.

In the Blawnox Petition, the Borough asked the Commission to hold a hearing concerning the character of AT&T and Comcast pursuant to the doctrine of Jefferson Radio Company, Inc. v. FCC, 340 F.2d 781 (D.C. Cir. 1964). In Jefferson Radio, the FCC decided that it could not consider an application to transfer a construction permit to a third party if the party transferring the permit lacked the requisite qualifications to hold the permit in the first place. Here, the Borough has brought to the attention of the FCC facts showing that both AT&T and Comcast have committed an intentional misrepresentation in connection with a matter before the FCC; and, therefore, that both AT&T and Comcast lack the requisite character to hold the licenses to be transferred in this proceeding. The Applicants do not deny that the doctrine of Jefferson Radio is controlling in this proceeding.

In their Opposition, AT&T and Comcast (the "Applicants") argue that neither AT&T nor Comcast had a motive to file a false notice with the FCC. In reality, both parties had a compelling reason to mislead the FCC: the Applicants were seeking to protect Comcast from civil and criminal liability that it might incur if it were listed as the party responsible for the Blawnox cable system. In light of its Management Agreement,[1] Comcast could face serious

[1] A copy of the Management Agreement is attached to the Blawnox Petition as Exhibit "A".

penalties due entirely to the day to day operational decisions made by another entity, i.e. AT&T. These civil and criminal penalties are set forth in the Communications Act at 47 U.S.C. § 501 et. seq. Thus, there is ample reason for the Applicants to hide from the FCC evidence of Comcast's responsibility for the Blawnox cable system. In effect, in exchange for obtaining all revenue, AT&T has agreed to shield Comcast.

The facts alleged by Blawnox are sufficient evidence to require a hearing under federal law. According to 47 U.S.C. § 309(d), the Commission must follow a two-step test to determine whether to hold a hearing in connection with the transfer of a license. First, a party-in-interest must establish a "prima facie" case showing that the proposed transfer of the licenses is not in the public interest. Second, if there is a "substantial and material question of fact," then the Commission must hold a hearing to resolve the issue. See Astroline Communications Co. v. FCC, 857 F.2d 1556, 1561-62 (1988). In this case, the Borough has presented evidence meeting these burdens.

The evidence presented by Blawnox goes directly to the issue of character, which federal law *specifically* requires the FCC to consider.[2] In the past, the FCC has considered character in a wide variety of matters similar to the applications pending before the Commission.[3]

In their Opposition, the Applicants allege that Blawnox has filed its petition in this proceeding in an effort to gain "leverage" with the Applicants in connection with certain unrelated matters. This assertion is a feeble attempt to impugn the credibility of Blawnox, Pennsylvania. Blawnox filed its comments in this proceeding because the Borough was aware of

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[2] 47 U.S.C. § 308(b).

[3] In the Matter of Policy Regarding Character Qualifications in Broadcast Licensing, 102 FCC2d 1179 (1986).

material facts relating to the character and qualifications of the Applicants. The fact that Blawnox may have business dealings with one of the Applicants is entirely irrelevant. The FCC has previously recognized that a dispute between two private parties "is not purely private where a licensee's compliance with Commission rules is called into question."[4] In addition, at no time has the Borough asked the Commission to rule on any private benefit to the Borough or to its residents. The Borough is acting in its capacity as an interested party seeking to ensure that the proposed transfer of licenses in this proceeding is in the best interest of the Borough's residents and the people of the United States.

AT&T and Comcast do not dispute the serious nature of the allegations raised by the Borough in the Blawnox Petition. In addition, by misleading the Commission about the ownership of the Blawnox cable system, the Applicants have placed the health and safety of the Borough's citizens in danger. For example, many of the FCC's rules for cable systems pertain to life and safety.[5] If these rules were not enforced or could not be enforced against the party responsible for the cable system, then significant harmful problems could result. Thus, it is critical to the enforcement of the Commission's rules and to the integrity of the FCC's regulatory authority that notifications to the FCC of the identity of the cable operator at a particular community be truthful and of the utmost seriousness.

Even at this late date, AT&T and Comcast have not yet updated the FCC's database of information with the correct information for the Blawnox cable system. (A print-out of the incorrect information in the database, in effect as of May 24, 2002, is attached as Exhibit A.) This cavalier attitude raises further questions as to whether either of the Applicants, or the new

---

[4] In re Applications of Speer and Silver Management Co., 11 FCC Rcd 18393, 18413 (1996).

[5] See, e.g., 47 C.F.R. § 76.610 et. seq. (seeking to prevent harmful interference to aeronautical navigation caused by signal leakage).

combined entity of the two, AT&T Comcast Corp. (the transferee in this proceeding), can be trusted to follow the law.

WHEREFORE, the Borough respectfully requests that the Commission (i) hold a hearing to determine whether Comcast and AT&T are qualified to hold the licenses subject to the above-captioned proceeding, and (ii) deny or dismiss the applications of AT&T and Comcast for the reasons set forth in the Blawnox Petition.[6]

Rothman Gordon, P.C.

By _____
Frederick A. Polner, Esquire

Grant Building, Third Floor
310 Grant Street
Pittsburgh, PA 15219
(412) 338-1111

May 29, 2002

Attorneys for the Borough

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[6] On May 3, 2002, the Commission issued an Erratum and Order Extending Filing Deadline in this proceeding. According to the Erratum, any party who failed to file comments or petitions to deny by the April 29, 2002 deadline due to the FCC's provision of incorrect information in the March 29, 2002 public notice will not be penalized or prejudiced in any way. On April 29, 2002, the Borough attempted tender of the Blawnox Petition at the Commission's Twelfth Street location, but was unable to effect such tender. On April 30, 2002, the Borough delivered it comments to the FCC at its office in Crofton, Maryland. See Affidavit of Elliott J. Schuchardt, attached hereto as Exhibit B. Accordingly, the Borough requests that its petition be considered as a timely filed petition to deny and not as an informal objection.

PA0713	RESERVE	Incorporated Township	ALLEGHENY	TCI OF PENNSYLVANIA INC	TCI OF PENNSYLVANIA INC	1 020273
PA0714	ROSS	Incorporated Township	ALLEGHENY	TCI OF PENNSYLVANIA INC	TCI OF PENNSYLVANIA INC	1 020273
PA0715	ROSTRAVER	Incorporated Township	WESTMORELAND	TCI OF PENNSYLVANIA INC	TCI OF PENNSYLVANIA INC	1 002398
PA0716	SHALER	Incorporated Township	ALLEGHENY	TCI OF PENNSYLVANIA INC	TCI OF PENNSYLVANIA INC	1 020273
PA0717	STOWE	Incorporated Township	ALLEGHENY	TCI OF PENNSYLVANIA INC	TCI OF PENNSYLVANIA INC	1 000824
PA0718	UPPER MACUNGIE	Incorporated Township	LEHIGH	RCN Telecom Services Inc	RCN Telecom Services Inc	1 000421
PA0719	UPPER SAUCON	Incorporated Township	LEHIGH	RCN Telecom Services Inc	RCN Telecom Services Inc	1 000421
PA0720	HELLERTOWN	Incorporated Borough	NORTHAMPTON	RCN Telecom Services Inc	RCN Telecom Services Inc	1 000421
PA0721	CHAPMAN	Incorporated Borough	NORTHAMPTON	RCN Telecom Services Inc	RCN Telecom Services Inc	1 000421
PA0722	BRADY	Incorporated Township	CLEARFIELD	HENDERSON COMMUNITY ANTENNA TELEVISION INC	HENDERSON COMMUNITY ANTENNA TELEVISION INC	1 007604
PA0723	VERONA	Incorporated Borough	ALLEGHENY	TCI OF DAYTON INC	TCI OF DAYTON INC	1 003769
PA0724	OAKMONT	Incorporated Borough	ALLEGHENY	TCI OF DAYTON INC	TCI OF DAYTON INC	1 003769
PA0725	BLAWNOX	Incorporated Borough	ALLEGHENY	TCI OF DAYTON INC	TCI OF DAYTON INC	1 003769
PA0726	SPRINGDALE	Incorporated Township	ALLEGHENY	TCI OF DAYTON INC	TCI OF DAYTON INC	1 003769
PA0727	HARMAR	Incorporated Township	ALLEGHENY	TCI OF DAYTON INC	TCI OF DAYTON INC	1 003769
PA0728	WASHINGTON	Incorporated Township	WESTMORELAND	TCI OF PENNSYLVANIA INC	TCI OF PENNSYLVANIA INC	1 002889
PA0729	PARKS	Incorporated Township	ARMSTRONG	TCI OF PENNSYLVANIA INC	TCI OF PENNSYLVANIA INC	1 002889
PA0730	KISKIMINETAS	Incorporated Township	ARMSTRONG	TCI OF PENNSYLVANIA INC	TCI OF PENNSYLVANIA INC	1 002889
PA0731	GILPIN	Incorporated Township	ARMSTRONG	TCI OF PENNSYLVANIA INC	TCI OF PENNSYLVANIA INC	1 002889
PA0732	GILBERTON	Incorporated Borough	SCHUYLKILL	SERVICE ELECTRIC COMPANY	SERVICE ELECTRIC COMPANY	1 001714
PA0733	MAHANOY	Incorporated Township	SCHUYLKILL	SERVICE ELECTRIC COMPANY	SERVICE ELECTRIC COMPANY	1 001714
PA0734	WEST PENN	Incorporated Township	SCHUYLKILL	BLUE RIDGE CABLE TECHNOLOGIES	BLUE RIDGE CABLE TECHNOLOGIES	1 004293
PA0735	WEISSPORT	Incorporated Borough	CARBON	BLUE RIDGE CABLE TECHNOLOGIES	BLUE RIDGE CABLE TECHNOLOGIES	1 004293
PA0736	PARRYVILLE	Incorporated Borough	CARBON	BLUE RIDGE CABLE TECHNOLOGIES	BLUE RIDGE CABLE TECHNOLOGIES	1 004293
PA0737	MAHONING	Incorporated Township	CARBON	BLUE RIDGE CABLE TECHNOLOGIES	BLUE RIDGE CABLE TECHNOLOGIES	1 004293
PA0738	LOWER TOWAMEMSING	Incorporated Township	CARBON	BLUE RIDGE CABLE TECHNOLOGIES	BLUE RIDGE CABLE TECHNOLOGIES	1 004293
PA0739	FRANKLIN	Incorporated Township	CARBON	BLUE RIDGE CABLE TV INC	BLUE RIDGE CABLE TV INC	1 004293
PA0740	EAST PENN	Incorporated Township	CARBON	BLUE RIDGE CABLE TECHNOLOGIES	BLUE RIDGE CABLE TECHNOLOGIES	1 004293
PA0741	BOWMANSTOWN	Incorporated Borough	CARBON	BLUE RIDGE CABLE TECHNOLOGIES	BLUE RIDGE CABLE TECHNOLOGIES	1 004293
PA0742	HEIDELBERG	Incorporated Township	LEHIGH	BLUE RIDGE CABLE TECHNOLOGIES	BLUE RIDGE CABLE TECHNOLOGIES	1 004293
PA0743	WASHINGTON	Incorporated Township	LEHIGH	BLUE RIDGE CABLE TECHNOLOGIES	BLUE RIDGE CABLE TECHNOLOGIES	1 004293
PA0744	ROSS	Incorporated Township	MONROE	BLUE RIDGE CABLE TECHNOLOGIES	BLUE RIDGE CABLE TECHNOLOGIES	1 004292
PA0745	EAST STROUDSBURG	Incorporated Borough	MONROE	BLUE RIDGE CABLE TECHNOLOGIES	BLUE RIDGE CABLE TECHNOLOGIES	1 004292
PA0746	SMITHFIELD	Incorporated Township	MONROE	BLUE RIDGE CABLE TECHNOLOGIES	BLUE RIDGE CABLE TECHNOLOGIES	1 004292
PA0747	HAMILTON	Incorporated Township	MONROE	BLUE RIDGE CABLE TECHNOLOGIES	BLUE RIDGE CABLE TECHNOLOGIES	1 004292
PA0748	STROUD	Incorporated Township	MONROE	BLUE RIDGE CABLE TECHNOLOGIES	BLUE RIDGE CABLE TECHNOLOGIES	1 004292
PA0749	DELA WATER GAP	Incorporated Borough	MONROE	BLUE RIDGE CABLE TECHNOLOGIES	BLUE RIDGE CABLE TECHNOLOGIES	1 004292
PA0750	WEST MAHANOY	Incorporated Township	SCHUYLKILL	SHEN HEIGHTS TV ASSOCIATES INC	SHEN HEIGHTS TV ASSOCIATES INC	1 003034
PA0751	BUTLER	Incorporated Township	BUTLER	ARMSTRONG UTILITIES INC	ARMSTRONG UTILITIES INC	1 007532
PA0752	CENTER	Incorporated Township	BUTLER	ARMSTRONG UTILITIES INC	ARMSTRONG UTILITIES INC	1 007532
PA0753	KOPPEL	Incorporated Borough	BEAVER	ARMSTRONG UTILITIES INC	ARMSTRONG UTILITIES INC	1 007531
PA0754	FRANKLIN	Incorporated Township	BEAVER	ARMSTRONG UTILITIES INC	ARMSTRONG UTILITIES INC	1 007531
PA0755	NORTH SEWICKLEY	Incorporated Township	BEAVER	ARMSTRONG UTILITIES INC	ARMSTRONG UTILITIES INC	
PA0756	CONNELLSVILLE	Incorporated Township	FAYETTE	ARMSTRONG UTILITIES INC	ARMSTRONG UTILITIES INC	
PA0757	SOUTH CONNELLSVILLE	Incorporated Borough	FAYETTE	ARMSTRONG UTILITIES INC	ARMSTRONG UTILITIES INC	
PA0758	DUNBAR	Incorporated Borough	FAYETTE	ARMSTRONG UTILITIES INC	ARMSTRONG UTILITIES INC	

1/1/71 00:00:00		5630	DENVER	CO	80217
12/1/70 00:00:00		5630	DENVER	CO	80217
7/1/70 00:00:00		5630	DENVER	CO	80217
1/1/71 00:00:00		5630	DENVER	CO	80217
3/1/67 00:00:00		5630	DENVER	CO	80217
8/1/71 00:00:00	105 CARNEGIE CTR PB 8568		PRINCETON	NJ	08540
6/1/70 00:00:00	105 CARNEGIE CTR PB 8568		PRINCETON	NJ	08540
9/1/70 00:00:00	105 CARNEGIE CTR PB 8568		PRINCETON	NJ	08540
7/1/71 00:00:00	105 CARNEGIE CTR PB 8568		PRINCETON	NJ	08540
8/1/64 00:00:00	1 NORTH MAIN STREET		COUDERSPORT	PA	16915
12/1/71 00:00:00		5630	DENVER	CO	80217
1/1/72 00:00:00		5630	DENVER	CO	80217
1/1/72 00:00:00		5630	DENVER	CO	80217
12/1/71 00:00:00		5630	DENVER	CO	80217
6/1/69 00:00:00		5630	DENVER	CO	80217
1/1/66 00:00:00		5630	DENVER	CO	80217
1/1/66 00:00:00		5630	DENVER	CO	80217
2/1/67 00:00:00		5630	DENVER	CO	80217
3/1/67 00:00:00		5630	DENVER	CO	80217
6/1/48 00:00:00	201 W CENTRE STREET		MAHANOY CITY	PA	17948
6/1/48 00:00:00	201 W CENTRE STREET		MAHANOY CITY	PA	17948
5/1/63 00:00:00	613 THIRD STREET	215	PALMERTON	PA	18071
3/1/53 00:00:00	613 THIRD STREET	215	PALMERTON	PA	18071
8/1/60 00:00:00	613 THIRD STREET	215	PALMERTON	PA	18071
3/1/53 00:00:00	613 THIRD STREET	215	PALMERTON	PA	18071
12/1/51 00:00:00	613 THIRD STREET	215	PALMERTON	PA	18071
3/1/54 00:00:00	613 THIRD STREET	215	PALMERTON	PA	18071
8/1/53 00:00:00	613 THIRD STREET	215	PALMERTON	PA	18071
4/1/53 00:00:00	613 THIRD STREET	215	PALMERTON	PA	18071
11/1/71 00:00:00	613 THIRD STREET	215	PALMERTON	PA	18071
4/1/52 00:00:00	613 THIRD STREET	215	PALMERTON	PA	18071
5/1/71 00:00:00	613 THIRD STREET	215	PALMERTON	PA	18071
12/1/52 00:00:00	613 THIRD STREET	215	PALMERTON	PA	18071
12/1/65 00:00:00	613 THIRD STREET	215	PALMERTON	PA	18071
2/1/70 00:00:00	613 THIRD STREET	215	PALMERTON	PA	18071
5/1/63 00:00:00	613 THIRD STREET	215	PALMERTON	PA	18071
2/1/65 00:00:00	613 THIRD STREET	215	PALMERTON	PA	18071
10/1/50 00:00:00	38 NORTH MAIN STREET		SHENANDOAH	PA	17976
12/1/64 00:00:00	ONE ARMSTRONG PLACE		BUTLER	PA	16001
5/1/71 00:00:00	ONE ARMSTRONG PLACE		BUTLER	PA	16001
1/1/71 00:00:00	ONE ARMSTRONG PLACE		BUTLER	PA	16001
10/1/71 00:00:00	ONE ARMSTRONG PLACE		BUTLER	PA	16001
1/1/71 00:00:00	ONE ARMSTRONG PLACE		BUTLER	PA	16001
5/1/67 00:00:00	ONE ARMSTRONG PLACE		BUTLER	PA	16001
5/1/67 00:00:00	ONE ARMSTRONG PLACE		BUTLER	PA	16001
12/1/70 00:00:00	ONE ARMSTRONG PLACE		BUTLER	PA	16001

Exhibit B

AFFIDAVIT OF ELLIOTT J. SCHUCHARDT, ESQ.

1. I, Elliott J. Schuchardt, am an attorney at Rothman Gordon, P.C.

2. On April 26, 2002, Rothman Gordon, P.C. sent a copy of the Petition of Blawnox, Pennsylvania to Deny or Dismiss Applications (the "Blawnox Petition") to the Federal Communications Commission at the following address by means of Federal Express:

William F. Caton, Acting Secretary
Federal Communications Commission
445 12th Street, S.W., TW-B204
Washington, D.C. 20024

3. Federal Express attempted to deliver the Blawnox Petition at the above address on Monday, April 29, 2002, but was unable to do so.

4. On Tuesday, April 30, 2002, Federal Express delivered the Blawnox Petition to the FCC at the following address:

William F. Caton, Acting Secretary
Federal Communications Commission
9300 Hampton Drive
Crofton, MD 21114

5. I declare under penalty of perjury that the foregoing is true and correct.

Elliott Schuchardt

Elliott J. Schuchardt, Esq. 5/30/02

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Reply to Opposition was served upon the persons listed on the attached list in the manner described on such list on this 28th day of May 2002.

Frederick A. Polner

Service List

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Comcast Corporation **(Via U.S. Mail)**

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Regina M. Keeney
Charles W. Logan
A. Renee Callahan
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Federal Communications Commission

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Office of the Secretary
Federal Communications Commission
9300 East Hampton Drive
Capital Heights, MD 20743

Linda Senecal, Industry Analysis Division **(Ten copies via Federal Express)**
Federal Communications Commission, Media Bureau **(One copy via Electronic Mail)**
9300 East Hampton Drive
Capital Heights, MD 20743
e-mail address: lsenecal@fcc.gov

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Room CY-B402
Washington, DC 20554

Roger Holberg **(Via U.S. Mail)**
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David Sappington, Chief Economist **(Via U.S. Mail)**
Federal Communications Commission Office of Plans and Policy
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James Bird, Office of General Counsel **(Via U.S. Mail)**
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Common Carrier Bureau
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