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H.6. The Applicants have stated that the merged entity “will have strong incentives to reduce prices” (Reply Comments, p. 22). What specific evidence supports a view that the proposed merger will result in reduced prices?

The Applicants believe the merger will help to moderate increases in their programming and other expenditures as compared to pre-merger costs, which will result in consumer prices increasing at a slower pace than they would have absent the merger.⁵² This does not mean that the merger will cause absolute consumer prices to decrease. Instead, it means that, for any given time period, consumer prices should be lower than they otherwise would have been absent the merger.

The quoted text appears in the Declaration of Professor Howard A. Shelanski. Professor Shelanski concluded that, “because AT&T Comcast will have strong incentives to reduce prices and expand output to customers, savings from the merger will result in savings and other benefits for consumers.”⁵³ The Shelanski Declaration further sets forth the economic analysis underlying the pass-through of savings, including the following key points:

- The anticipated efficiencies include reductions in both fixed and marginal costs. One of the reductions in marginal costs arises from savings in video programming costs. That is, as a result of the transaction, AT&T Comcast may pay less per subscriber for certain programming.
- This reduction in per subscriber programming costs is not the result of monopsony power, as AT&T and Comcast have explained in detail. Instead the reduction is simply a matter of better bargaining. As Professor Shelanski explained: “If a larger buyer can get a better price from a seller, that generally only means that the seller is taking a lower, but still positive, profit on the transaction. No harm flows from such bargaining power and, to the contrary, it may create substantial consumer benefits.”⁵⁴
- A profit maximizing cable operator will pass along to its subscribers at least part of the reduction in marginal costs, such as the reduction in per subscriber programming costs.

⁵² See Application at 31-35; Reply Comments at 22-23; Shelanski Declaration ¶¶ 40-44.

⁵³ Shelanski Declaration ¶ 40.

⁵⁴ *Id.* ¶ 46.

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- Any firm maximizes profits by passing through a portion of marginal cost savings to consumers. For, as costs decline, the profit-maximizing level of output expands and the profit-maximizing price accordingly declines.⁵⁵ There is, consequently, always going to be some pass-through of cost savings for consumers so long as a firm can increase its output and hence its sales.
- Because cable operators face competition from many sources, including DBS, they are not monopolists. This means that the cable operator will pass along a greater percentage of the cost decrease than would a monopolist.
- Thus, a merger that expands the number of customers over which programming costs can be distributed and that allows cost savings in the procurement of that programming will result in the operator lowering relative prices, which will in turn expand output. This expanded output can take the form of new subscribers as well as existing subscribers viewing more programs.
- Professor Shelanski's conclusions are consistent with prior Commission precedent. *See, e.g., Application of Motorola, Inc., Transferor, and American Mobile Satellite Corporation, Transferee*, 13 FCC Rcd. 5182, ¶ 75 (1998) (finding that the merger would lead to "significant merger-specific efficiencies" and indicating a belief the applicants would "likely need to pass along a significant portion of these potential cost savings in the form of lower prices to be competitive in new markets").

Consistent with this analysis, the Applicants have indicated that they expect that the synergies and efficiencies resulting from the merger will help to moderate (but not eliminate) increases in costs.⁵⁶

In addition, cost savings such as these, along with the other synergies and scale economies created by the merger that are described in the Application (at 28-47), will enhance AT&T Comcast's ability to undertake the significant risks and costs in developing and deploying new, facilities-based services to customers. As Professor Shelanski further concluded, these new and better services clearly benefit consumers, too: "[Consumer] welfare also increases as a result of longer-term investments that improve the quality and range of services a cable operator

⁵⁵ See generally Robert S. Pindyck & Daniel L. Rubinfeld, *Microeconomics* at 256 (Prentice-Hall, Inc. ed. 2001) ("The rule that profit is maximized when marginal revenue is equal to marginal cost holds for all firms, whether competitive or not."), 259 ("[N]ote that at a lower output . . . marginal revenue is greater than marginal cost; profit could thus be increased by increasing output . . . At a higher output . . . marginal cost is greater than marginal revenue; thus, reducing output saves a cost that exceeds the reduction in revenue.").

⁵⁶ See Pick Declaration ¶¶ 25-28.

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provides to its subscribers. Increased operational efficiencies add to the resources available for such investment, which provides a second avenue through which merger efficiencies will be passed through to consumers.”⁵⁷

- a. **Did AT&T lower rates or hold down rate increases for any services after its merger with Media One? If so, please quantify these merger-related rate effects and explain how they resulted directly from the merger.**

[REDACTED]

Most significantly, as AT&T Broadband showed recently in the Reply Comments, its programming costs have risen dramatically while its average prices for cable service have risen by a modest 4.8%.⁵⁸

[REDACTED]

In the Reply Comments, AT&T Broadband demonstrated that such cost savings can be expected to be passed along to consumers.⁶⁰ And, the Commission’s 2001 Price Survey of cable

⁵⁷ Shelanski Declaration ¶ 44.

⁵⁸ See Reply Comments at 108 n.335. The Commission has repeatedly recognized that price increases for cable service are primarily attributable to increases in programming costs. See *Report on Cable Industry Prices*, 17 FCC Rcd. 6301, ¶ 28, Table 7 (2002) (“2001 Price Survey”).

[REDACTED]

⁶⁰ See Shelanski Declaration ¶¶ 41-43 (“Thus, a merger that expands the number of customers over which programming costs can be distributed and that allows cost-savings in the procurement of that programming will give an operator the opportunity to offer its greater pool of customers more programs at lower prices.”).

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prices confirms that the average rate increases for AT&T Broadband's Basic Service and the Standard Cable Package (the combination of Basic and CPST tiers) are below the average rate increases for the cable industry.⁶¹ For example, in 2001, AT&T increased its Standard Cable Package prices at an overall average rate of 4.8% while the industry averaged 7.3%.⁶² Similarly, AT&T Broadband's per-channel prices were below the industry average.⁶³

This response addresses AT&T Broadband's owned and operated and consolidated systems. AT&T Broadband does not have relevant information for systems in Parnassos Communications, L.P., CC VIII, L.L.C., Insight Midwest L.P., Kansas City Cable Partners, Texas Cable Partners, L.P., US Cable of Coastal - Texas, L.P., Midcontinent Communications, and Century - TCI California Communications, L.P.

- b. Please provide any documents, memoranda, or analyses in your possession which project consumer rates subsequent to the merger and discuss the merger's potential effect on consumer rates.**

Documents responsive to this request are being concurrently filed under separate cover with the Commission and bear bates numbers starting with the prefix "AT&T Broadband-FCC-H.6." In responding to this document request, the Applicants searched the relevant files of the following individuals: for AT&T – Ron Cooper, Allan Singer, and Connie Campbell; for Comcast – Mike Tallent, Robert Pick, and Gregg Goldstein. AT&T and Comcast each believes that the individuals it has designated are the most likely to have custody of documents responsive to this request. Comcast's search produced no documents responsive to this request.

This response addresses AT&T Broadband's owned and operated and consolidated systems. AT&T Broadband does not have relevant information for systems in Parnassos Communications, L.P., CC VIII, L.L.C., Insight Midwest L.P., Kansas City Cable Partners, Texas Cable Partners, L.P., US Cable of Coastal - Texas, L.P., Midcontinent Communications, and Century - TCI California Communications, L.P.

⁶¹ 2001 Price Survey ¶ 28, Table 7.

⁶² See *id.* ¶ 4 (noting that "the average monthly rate for BST and CPST programming services . . . increased 7.3%" between July 1, 2000 and July 1, 2002). With regard to the actual video equipment and installation rates, many of the MediaOne systems enjoyed lower rates subsequent to the merger as a result of moving them to AT&T Broadband's equipment averaging methodology. Typically, the hourly service charge and corresponding installation rates were lower under the AT&T Broadband methodology as compared to the MediaOne approach. MediaOne systems tended to have lower non-basic only converter prices compared to the AT&T Broadband systems at least for one year as a result of switching to the AT&T Broadband equipment averaging methodology.

⁶³ Reply Comments at 108 n.335 (citing 2001 Price Survey ¶ 26, Tables 4 & 5).

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L. Section 652 Compliance

- L.1. The Applicants have stated that the proposed merger complies with Sections 652(a) and (b) of the Communications Act of 1934, as amended, and the Commission's rules implementing these provisions of the Act. Please provide a map or other data which will allow us to verify compliance with these provisions of the Act and the Commission's rules.**

The joint response to this request was previously submitted under separate cover on June 29, 2002.

**Names and Titles of Individuals Whose Files Were Searched in Response to
June 11, 2002 Document and Information Request
MB Docket No. 02-70**

For AT&T:

Bogh, Renae, Vice President, Business Affairs
Braden, Gregory, Executive Vice President – Strategy and Business Development
Campbell, Connie, Senior Vice President – Finance
Casey, Kevin, Executive Vice President
Cooper, Ron, Chief Operating Officer
Fellows, David, Chief Technology Officer
Field, Charlotte, Senior Vice President – Technical & Network Operations
Grain, David, Senior Vice President – Northeast Region
Hamilton, Sue, Vice President – Programming
Huseby, Mike, Executive Vice President & Chief Financial Officer
Kilstrom, Cathy, Senior Vice President – Customer Care
Singer, Allan, Senior Vice President – Programming
Smith, Trey, Executive Vice President
Traver, Gary, Senior Vice President, Video Services

For Comcast:

Banse, Amy, VP, Programming Investments
Burke, Steve, Executive VP & President, Comcast Cable
Chandler, Russ, Senior Director, Programming Investments
Coblitz, Mark, Senior VP, Strategic Planning
Craddock, Steve, VP Cable Division New Media
Dusto, Brad, COO & Executive VP, Engineering Operations
Goldstein, Gregg, Director, Corporate Development
Nadell, Jordan, Director, Financial Analysis
Pick, Robert, Senior VP, Corporate Development
Roberts, Brian, President and Director
Tallent, Mike, CFO and EVP, Finance and Administration,
Watson, Dave, EVP, Marketing, Sales, and Customer Support

ATTACHMENTS NO. 2 THROUGH 26

**CONFIDENTIAL INFORMATION –
SUBJECT TO PROTECTIVE ORDER
IN MB DOCKET NO. 02-70**

**REDACTED IN FULL –
FOR PUBLIC INSPECTION**

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December 21, 2001

Richard R. Green
President and Chief Executive Officer
Cable Television Laboratories, Inc.
400 Centennial Parkway
Louisville, Colorado 80027-1266

Dear Dick:

In meetings at the FCC, you have been asked how the cable industry intends to carry out its commitment to implement CableLabs Open Cable Applications Platform (OCAP) middleware. With our support, CableLabs has developed specifications for OCAP middleware, which will operate in home devices to permit downloading and execution of applications, such as program guides, that we will provide to our subscribers.

By this letter, we express our intention to take all reasonable steps so that our systems will support CableLabs-certified, OCAP-enabled devices once such equipment becomes commercially available. This commitment includes CableLabs-certified set-top boxes, integrated digital TV (DTV) receivers and other OCAP-enabled devices.

These devices, with appropriate capability, can provide the services we make available to our customers using the set-tops we lease. By being commercially available, these devices will advance Congress's goal to permit a cable customer to purchase equipment, including integrated DTV receivers, instead of leasing a set-top box from the operator in order to receive the services the operator provides.

This commitment is a follow-on from industry-wide commitments to support the interoperability of our systems with devices compliant with the OpenCable specifications adopted prior to adoption of the OCAP specifications. Those devices, which include an OpenCable compliant point-of-deployment (POD)-Host interface, may be made available at retail, are portable, and function on our upgraded digital systems.

The commitment embodied in this letter takes the process of retail availability of navigation devices to the next level, to include CableLabs-certified, OCAP-enabled devices. We trust it will provide you with a more specific commitment from the undersigned companies in communicating the cable industry's position at the FCC regarding these OCAP-enabled devices.

Richard R. Green
December 21, 2001

Page Two

Sincerely,

/s/ James Rigas
James Rigas, Exec. Vice President
Adelphia Cable Communications Corp.

/s/ William Schleyer
William Schleyer, President and CEO
AT&T Broadband

/s/ Carl Vogel
Carl Vogel, President and CEO
Charter Communications, Inc.

/s/ Brian Roberts
Brian Roberts, President
Comcast Corporation

/s/ James Robbins
James Robbins, President and CEO
Cox Communications, Inc.

/s/ Robert Miron
Robert Miron, President
Advance/Newhouse Communications

/s/ Joseph Collins
Joseph Collins, Chairman and CEO
AOL Time Warner Interactive Video

/s/ Scott Chambers
Scott Chambers, President
Chambers Communications Corp.

/s/ Glenn Britt
Glenn Britt, Chairman and CEO
Time Warner Cable

ATTACHMENTS NO. 28 THROUGH 32

**CONFIDENTIAL INFORMATION –
SUBJECT TO PROTECTIVE ORDER
IN MB DOCKET NO. 02-70**

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News Release

FOR IMMEDIATE RELEASE: May 6, 2002

AT&T BROADBAND TO LAUNCH HIGH DEFINITION TELEVISION IN CHICAGO

CHICAGO – AT&T Broadband will launch high definition television (HDTV) service to Chicago area customers this summer, the company said today. AT&T Broadband will offer HDTV feeds of FOX, NBC, HBO and Showtime to digital cable customers who live in certain areas of the Greater Chicago Market (see attachment for the specific list of communities).

High definition feeds of local FOX and NBC affiliates will be available as part of the company's cable offerings to all customers in areas that have been upgraded to 750 megahertz. Customers who subscribe to HBO and Showtime will also receive these networks' HDTV signals as part of their premium programming package. In order to receive these HDTV signals, customer will require a digital cable set-top box and a special HDTV decoder. AT&T Digital cable customers will be able to lease the required decoder for \$10.95 per month.

"We're pleased that Chicago will be the first AT&T Broadband market to offer high definition television services," said Joe Stackhouse, senior vice president of AT&T Broadband Greater Chicago Market. "Chicago consumers are on the leading edge of technology, and we are pleased to be able to deliver high definition content to customers who have invested in HD-capable TV monitors. HDTV represents the next generation of in-home entertainment, and our technical staff in Chicago will work diligently during the next few months to prepare our network for the addition of these new HDTV channels."

Additional high definition programming will be added to the Chicago offering in the future. AT&T Broadband will make announcements about HDTV offerings in additional markets later this year.

About AT&T Broadband

AT&T Broadband, a business unit of AT&T, is the nation's largest broadband services company, providing television entertainment services to about 14 million customers across the nation. The company also provides advanced services including digital cable, high-speed cable Internet services and competitive local phone service. More information on AT&T Broadband services can be found at www.attbroadband.com. AT&T is the world's leader in telecommunications services and technology.

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This press release contains "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. These include, but are not limited to, statements regarding the Company's plans, intentions and expectations. Such statements are inherently subject to a variety of risks and uncertainties that could cause actual results to differ materially from those projected. These risks include increased levels of competition, shortages of cellular handsets and other key equipment, restrictions on the Company's ability to finance its growth and other factors. A more extensive discussion of the risk factors that could impact these areas and the Company's overall business and financial performance can be found in the Company's reports filed with the Securities and Exchange Commission. Given these concerns, investors and analysts should not place undue reliance on forward-looking statements.

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AT&T Broadband Communities To Receive High Definition Television at Launch

Illinois

Alsip, Arlington Heights, Bannockburn, Bartlett, Beach Park, Bedford Park, Beecher, Bensenville, Unincorporated Bensenville, Berkley, Blue Island Bolingbrook, Brandywine, Bridgeview, Broadview, Buffalo Grove, Burbank, Burnham, Burr Ridge, Calumet City, Calumet Par/Riverdale

Chicago 60609, 60613,60614, 60615, 60618, 6062060621, 60622, 60624, 60625, 60626, 60629, 60630 (portions), 60632, 60634, 60635, 60636, 60637, 60638, 60639, 60640, 60641, 60644, 60645, 60646 (portions), 60647, 60651, 60652, 60657, 60659, 60660, 60661

Chicago Heights, South Chicago, Chicago Ridge, Cicero, Clarendon Hills, Country Club Hills, Countryside, Unincorporated Countryside, Crest Hill, Creston, Darien, Deerfield, DesPlaines Unincorporated, Dixmoor, Harvey, Dolton, Downers Grove, East Hazel Crest, East Joliet, Elk Grove Village, Elmhurst, Unincorporated Elmhurst, Elmwood Park, Evanston, Evergreen Park, Ford Heights, Forest Park, Forest View, Fort Sheridan, Frankfort, Frankfort Township, Franklin Park, Forest Park, Glencoe, Unincorporated Glenview, Glenwood, IN (portions), Golf, Green Oaks, Gurnee, Hanover Park, Hickory Hills, Highland Park, Highwood, Hillcrest, Hillside, Hines Hospital, Hinsdale, Unincorporated Hinsdale, Hodgkins, Hoffman Estates, Homer, Homer Township, Hometown, Homewood, Unincorporated Inverness, Joliet Township, Unincorporated Joliet, Justice, Kankakee, Kenilworth, Lake Bluff (portions), Lake Forest (portions), Lemont, Lincolnshire, Lincolnwood, Lockport, Lockport Township, Lombard, Unincorporated Lombard, Lyons, Unincorporated Lyons Township, Manteno, Maywood, McCook, Merrionette Park, Midlothian, Crestwood, Mokena, Monee, Morton Grove, Mt. Prospect, Unincorporated Mount Prospect, New Lenox, New Lenox Township, New Trier Township, Niles, North Chicago (portions), North Riverside, Unincorporated Northbrook, Northfield, Norwood, Nottingham Park, Oak Brook, Oak Brook Terrace, Oak Forest, Oak Lawn, Oak Park, Orland Hills, Palatine, Palos Heights, Palos Hills, Park City (portions), Park Ridge, Peotone, Posen, Plainfield, Plainfield Township, Prospect Heights, Provision Township, River Forest, River Grove, Riverdale, Riverwoods, , Rockdale, Rolling Meadows, Romeoville, Rosemont, Sauk Village, Schaumburg, Schiller Park, Shorewood, Skokie, South Chicago Heights, South Holland, Steger, Stone Park, Streamwood, Summit/Bedford Park, Unincorporated Thornton Township, Tinley Park, Unincorporated Tinley Park, Troy Township, Villa Park, Warrenville, Waukegan, West Chicago, West Joliet, Westchester, Westmont, Wheatland Township, Wheeling, Unincorporated Will County, Willow Springs, Willowbrook, Wilmette, Winfield, Winnetka, Winthrop Harbor, Woodridge, Worth, Zion

Indiana

Chesterton/Porter, East Chicago, Hammond, Lake of the Four Seasons, LaPorte, Michigan City, Lynwood, Rolling Prairie, Union Mills, Valparaiso, Shorewood, Westville, Whiting