Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of:	)	
	)	
Expedited Consideration for Declaratory Rulings	)	
On the transfer of traffic only under AT&T	)	
Tariff Section 2.1.8., and Related Issues	)	
	)	
Primary Jurisdiction Referral	)	
From the NJ District Court	)	WC Docket No. 06-210
	)	
One Stop Financial, Inc.	)	
Group Discounts, Inc.	)	
Winback & Conserve Program, Inc.	)	
800 Discounts, Inc.	)	
	)	
Petitioners	)	
and	)	
	)	
AT&T Corp.	)	
Respondent		

REPLY COMMENTS OF AT&T

AT&T Corp. ("AT&T") submits these Reply Comments in response to the August 31, 2016 comments that were submitted by counsel for the four Inga Companies (*i.e.*, One Stop Financial, Inc., Group Discounts, Inc., Winback & Conserve Program, Inc., and 800 Discounts, Inc.) (collectively, "Petitioners") and 800 Services, Inc. in the above-captioned docket. In this two-page filing, Petitioners and 800 Services make three allegations: (1) that AT&T violated the Commission's *October 1995 Order*[1] because AT&T did not file a substantial cause pleading with the Commission within six days of Petitioners objecting to the manner in which AT&T was

[1] Order, *Motion of AT&T Corp to be Reclassified as a Non-Dominant Carrier*, 11 FCC Rcd. 3271 (1995) (the *"October 1995 Order"*).

interpreting its tariff; (2) that Section 2.1.8.C of AT&T's tariff required AT&T to issue a written denial of Petitioners' proposed "traffic-only" transfer within 15 days of their request or AT&T would forfeit any arguments against the transfer; and (3) that there are no disputed facts regarding any of the issues presented for declaratory ruling. Petitioners and 800 Services are wrong on all three counts.

First, the claim that AT&T was required to file a substantial cause pleading is baseless. As AT&T explained in its *September 1 Comments*,[2] the *October 1995 Order's* "grandfathering" provision required that, for a 12-month period, AT&T would provide five days' notice before AT&T made "any *change* to an existing term plan," and 14 days' notice for "*changes* to discontinuance without liability . . . or transfer or assignment of service."[3] Consequently, this provision has no application to AT&T's efforts to enforce a *pre-existing tariff provision*. Indeed, neither Petitioners nor 800 Services have identified anything in the *October 1995 Order* that even arguably imposes on AT&T an obligation to make a substantial cause filing simply because a customer objects to AT&T enforcement of an *existing* tariff provision. Moreover, it is equally nonsensical for Petitioners to contend that AT&T's response to tariff transfer requests that were proposed in *late 1994 and early 1995* could trigger an obligation that did not become effective until *November 1995*.[4]

---

[2] Comments of AT&T, *Expedited Consideration for Declaratory Rulings On The Transfer of Traffic Only Under AT&T Tariff Section 2.1.8 and Related Issues*, WC Docket No. 06-210 (Sept. 1, 2016) ("*September 1 Comments*" or "*AT&T Comments*").

[3] *See* AT&T Response to Petitioner's Motion to Temporarily Suspend the Proceeding, WC Docket No. 06-210 (Feb 1, 2016) at 6; *see also October 1995 Order* ¶ 134 (emphases added).

[4] *See* AT&T Comments at 36.

Second, the claim that section 2.1.8 imposed a 15-day "statute of limitations" on AT&T's ability to deny an invalid transfer is the product of a blatant misreading of AT&T's tariff.[5] As AT&T has previously explained, that provision allowed proposed transfers if (1) the customer of record "requests in writing" that AT&T make a transfer or assignment to the new customer, (2) the new customer "*notifies* [AT&T] in writing that it agrees to assume *all obligations* of the former Customer at the time of transfer or assignment," and (3) "within 15 days of receipt of *notification*," AT&T "acknowledges the transfer or assignment in writing."[6] Thus, the 15-day notice period did not begin until the "new" customer notified AT&T in writing that it was agreeing to assume all obligations of the "former" customer.[7] Because PSE never notified AT&T in writing that it was willing to assume Petitioners' obligations for shortfall and/or early termination liability in connection with the alleged January 31, 1995 request for a direct "traffic only" transfer from the Inga Companies to PSE, AT&T had no obligation to process that request or acknowledge it within 15 days.[8] In any event, the record shows that by letter dated February 6, 1995, AT&T made clear that it would object to any attempt by Petitioners to transfer substantially all of the traffic on their plans to a transferee that would not agree to assume all obligations.[9]

---

[5] *See id*. at 31.

[6] AT&T Tariff No. 2, § 2.1.8. A-C (emphases added).

[7] *See* Brief of AT&T Corp. In Opposition to Plaintiffs' Motion to Lift Stay And to Schedule Damages, *Combined Companies, Inc. v. AT&T Corp.*, Civ. No. 95-908, at 20-21 (D.N.J. Mar. 21, 2016), attached as Exhibit 8 to AT&T's *September 1 Comments*.

[8] *See AT&T Comments* at 31.

[9] *Id.* at 30 n.117; *see also* Letter from F. Whitmer (AT&T Counsel) to H. Curtis Meanor (Inga Companies counsel) (Feb. 6, 1995) (attached as Exhibit X to Petitioners' Request for Declaratory Rulings, *Expedited Consideration for Declaratory Rulings on The Transfer of Traffic Only Under AT&T Tariff Section 2.1.8 and Related Issues*, CCB/CPD 96-20; WC Docket No. 06-210 (posted Nov. 22, 2006)). As regards to the proposed CCI to PSE traffic only transfer, AT&T notified the parties that AT&T would not process that transfer by letter dated January 23, 1995. *See* Exhibit 8 to AT&T's *September 1 Comments* at 20 & n.15 (citing 1/23/95 letter from M. Bloch, Esq. to C. Boothby, Esq.).

Finally, the claim that there are no disputed facts with regards to any of the issues raised in the petitions for declaratory rulings is simply false. As AT&T explained in its *September 1 Comments*, there are disputed facts with regards to virtually every declaratory ruling issue raised by Petitioners and 800 Services in this proceeding.[10]

For these reasons, and the reasons set forth in AT&T's Comments, the Commission should deny the June 30, 2016 and July 11, 2016 petitions for declaratory rulings.

Respectfully submitted,

/s/ Christi Shewman

Christi Shewman
Gary L. Phillips
David L. Lawson
AT&T Services, Inc.
1120 20th Street, NW
Suite 1000
Washington, DC 20036
(202) 457-3090

Attorneys for AT&T Corp.

James F. Bendernagel, Jr.
Joseph R. Guerra
SIDLEY AUSTIN LLP
1501 K Street, NW
Washington, DC 20005
(202) 736-8000

Richard H. Brown
DAY PITNEY LLP
1 Jefferson Road
Parsippany, NJ 07054
(973) 966-6300

September 12, 2016

[10] *See, e.g., id*. at 21, 30-31, 33-34.