



PUBLIC NOTICE

Federal Communications Commission
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DA 03-436

Released: February 13, 2003

**FURTHER COMMENT REQUESTED ON THE JOINT PETITION FOR
DECLARATORY RULING ON THE ASSIGNMENT OF ACCOUNTS (TRAFFIC)
WITHOUT THE ASSOCIATED CSTP II PLANS UNDER AT&T TARIFF FCC NO. 2**

PLEADING CYCLE ESTABLISHED

Internal File No. CCB/CPD 96-20

COMMENTS: March 6, 2003
REPLY COMMENTS: March 17, 20003

On May 31, 1996, the United States Court of Appeals for the Third Circuit referred to the Commission, under the doctrine of primary jurisdiction, a question concerning the interpretation of AT&T's Tariff FCC No. 2 raised in a related civil action involving Petitioners Combined Companies, Inc., Winback & Conserve Program, Inc., One Stop Financial, Inc., Group Discounts, Inc., and 800 Discounts, Inc. (Petitioners) and AT&T.¹ On July 15, 1996, Petitioners filed a Joint Motion for Expedited Consideration and a Joint Petition for Declaratory Ruling, and on July 25, 1996, the Commission released a Public Notice seeking comment on the Motion and Petition.² AT&T filed Comments in Opposition on August 26, 1996 and Petitioners filed Reply Comments on September 23, 1996.

This Public Notice invites the parties to file additional comments on two issues, which relate to AT&T's Tariff FCC No. 2 in effect in January 1995. Specifically, we first seek comment on the nature of the relationship, if any, between AT&T and the end-user customers of AT&T's customers, under AT&T's Tariff FCC No. 2 generally, and specifically under the tariff provisions governing the RVPP and CSTP II Plans at issue in this matter. Second, we seek comment on the remedy that AT&T's Tariff FCC No. 2 specifies that AT&T may exercise if AT&T has reason to believe that its customer is violating section 2.2.4.A.2 of that tariff by

¹ *Combined Co., Inc., et al. v. AT&T Corp.*, No. 96-5185, slip op. (3d Cir. May 31, 1996); *see also Combined Companies, Inc., et al. v. AT&T Corp.*, CA No. 95-908, letter op. (D.N.J. May 19, 1995).

² *Joint Motion for Expedited Consideration of the Joint Petition for Declaratory Ruling on the Assignment of Accounts (Traffic) Without the Associated CSTP II Plans Under AT&T Tariff F.C.C. No. 2*, Internal File No. CCB/CPD 96-20, Public Notice, 11 FCC Rcd 8738 (1996).

“[u]sing or attempting to use WATS with the intent to avoid the payment, either in whole or in part, of any of the Company’s tariffed charges by ... [u]sing fraudulent means or devices, tricks, [or] schemes.” We ask the parties to provide citations to specific sections of the tariff.

Ex parte presentations in this proceeding continue to be governed by the procedures set forth in Section 1.1206 of the Commission’s rules, 47 C.F.R. § 1.1206, covering “permit-but-disclose” proceedings. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required. See 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

FILING PROCEDURES

Parties submitting comments in response to this Public Notice must file initial comments by March 6, 2003 and reply comments by March 17, 2003. When filing comments, please reference the internal file number: CCB/CPD 96-20. An original plus four (4) copies of all comments shall be addressed to Marlene H. Dortch, Secretary, Federal Communications Commission, 445 12th Street, SW, Room TW-B204, Washington, DC 20554. A courtesy copy should be addressed to Chief, Pricing Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-A225, Washington, DC 20554 and emailed to jnitsche@fcc.gov. A courtesy copy should also be addressed to Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

Comments can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail:

If you are sending this type of document or using this delivery method -- Hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to: Vistrionix, Inc., 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002 (8:00 a.m. to 7:00 p.m.). All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

If you are sending this type of document or using this delivery method -- Documents sent by commercial overnight mail (other than United States Postal Service Express Mail and Priority Mail) must be sent to: 9300 East Hampton Drive, Capitol Heights, MD 20743 (8:00 a.m. to 5:30 p.m.).

If you are sending this type of document or using this delivery method -- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be sent to: 445 12th Street, SW, Washington, DC 20554.

The following chart summarizes this information:

TYPE OF DELIVERY	PROPER DELIVERY ADDRESS
Hand-delivered paper filings	236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002 (Weekdays - 8:00 a.m. to 7:00 p.m.)
Messenger-delivered documents (e.g., Federal Express) including documents sent by overnight mail (this type excludes USPS Express and Priority Mail)	9300 East Hampton Drive, Capitol Heights, MD 20743 (Weekdays - 8:00 a.m. to 5:30 p.m.)
USPS First-Class, Express, and Priority Mail	445 12 th Street, SW Washington, DC 20554

Filings and comments in CCB/CPD File No. 96-20 are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

For further information regarding this proceeding contact Judith Nitsche, Pricing Policy Division, Wireline Competition Bureau, (202) 418-1540.

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