December 3, 2017

Commission’s Secretary

Marlene H. Dortch

Office of the Secretary

Federal Communications Commission

445 12th Street, SW

Room TW-A325

Washington, DC 20554

Deena Shetler: deena.shetler@fcc.gov

FCC Contractor: fcc@bcpiweb.com

Re: WC Docket No. 06-210

CCB/CPD 96-20

**ADDITIONAL DECLARATORY RULINGS**

**Of 800 Services, Inc.**

**Winback & Conserve Program, Inc., 800 Discounts, Inc., One Stop Financial, Inc. and Group Discounts, Inc.**

**BASED ON & RELIANCE UPON COMMENTS IN CASE 06-210**

1) My firm is counsel for Group Discounts, Inc., Winback & Conserve Program Inc., 800 Discounts, Inc., and One Stop Financial, Inc., herein further referred to as the “Inga Companies,” and 800 Services, Inc. The Inga Companies and 800 Services, Inc. are filing the following declaratory ruling requests based upon the non-disputed facts outlined within these comments.

2) The following declaratory ruling requests cover controversies and uncertainties that the FCC in 2003 did not address or in 2003 advised the NJFDC to resolve because *at the time* the controversies involved undeveloped or disputed facts. Additionally, these controversies and uncertainties were not addressed by the NJFDC.

3) In the 14 years since the FCC’s *October 17, 2003 Order* petitioners have made many attempts to have both NJFDC Judges Bassler and Judge Wigenton address issues covered herein that the FCC 2003 Order referred to the NJFDC. However, both NJFDC’s Judges Bassler and Wigenton wanted the FCC to decide all issues. It is understood that the 2006 created controversy of which obligations transfer under 2.1.8 was addressed by the FCC in its FCC *January 12, 2007 Order,* but Judge Wigenton didn’t even address that *Order* which was presented to her Court. Perhaps at the time the 06-210 case was still on FCC Circulation and has since been removed from Circulation as of January 2017. The FCC Commissioners have agreed with the Inga Companies that the June 2006 Judge Bassler Referral did not expand the scope of the Third Circuit Referral, as AT&T created a new defense 10 years into the case. Additionally, the new AT&T defense had no evidentiary support as it was a fraud. The Inga Companies have not notified NJFDC Judge Wigenton that the Commissioners have removed the moot Judge Bassler June 2006 referral off FCC circulation. The Inga Companies have decided to address ethics issues with State Bars and will soon address sanctions in NJ.

The facts surrounding the below controversies have now been substantially developed and there are no longer any disputes as to these facts. At the time of the 2003 Order the FCC may have overlooked that the Inga Companies continued to have Letter of Agency (LOA) control over all end-user locations even after the plan transfer. It was the Inga Companies that received the phone calls from irate end-user locations in June 1996 despite having transferred the plans to CCI by the Judge Politan’s 1st District Court Order May 19, 1995.

4) Let’s start here with the discrimination and unreasonable practice claims:

FCC October Order pg. 13 footnote 87:

For example, petitioners claim that AT&T engaged in unlawful **discrimination in violation of section 202** because its **consistent practice was to permit aggregators to transfer locations without plans**. *See* Petition at 23, 25. Petitioners also argue that AT&T engaged in an **unreasonable practice in violation of section 201** because, when it refused to effect the transfer of locations, it enforced an unwritten rule. *See* Petition at 22-23. Petitioners filed voluminous documents with the Commission, many of which also were filed with the district court, which petitioners claim support their theory of the case. **AT&T has not attempted to rebut these individual claims, asserting, instead, that the facts regarding these claims are disputed and arguing that declaratory relief is not appropriate when all relevant facts are not clearly developed before the Commission and essentially undisputed.** *See Cascade Utilities, Inc., American Telephone and Telegraph Company Petition for Declaratory Ruling*, Memorandum Opinion and Order, 8 FCC Rcd 781, 782 para. 11 (CCB 1993) (cited in Opposition at 10 (additional citations omitted)). **As noted above, we agree that declaratory relief is inappropriate when the facts are disputed.**

5) Since October 2003 the case facts have become crystal clear. The Commission is now well aware that Tariff No 2 Section 2.1.8 has always allowed traffic only transfers both prior to and after the January 1995 traffic only transfers (Inga to PSE and CCI to PSE).

(I) Petitioners would like to think that its post DC Circuit oral argument brief statement was relied upon by the DC Circuit to show NJFDC District Court Judge Politan’s findings that the evidence shows AT&T has allowed traffic only transfers under 2.1.8:

Intervenors Post Oral Brief to Correct the Record of the Case: pg. 9 para 19:

The record also shows additional evidence of account assignments. (*See* Robert Collett Certification at J.A. at 204 and others at J.A. at 225 and 484-488).

(II) Petitioners have now submitted into this 06-210 case 6 additional certifications from other AT&T aggregators in which all stated AT&T allowed their businesses to transfer traffic without the plan. They all certified that the non-transferred plans revenue and time commitment stayed with the non-transferred plan.

(III) Additional public comments have been filed **since 2006** in which AT&T’s own executives claimed that section 2.1.8 allowed traffic only transfers and the revenue and time commitment stayed with the non-transferred plan.

IV) Of course, after the FCC’s *October 17, 2003 Order* the Commission was provided 2.1.8 tariff analysis which confirmed [“any number(s) of locations can be transferred not all numbers] and the “former customer” tariff analysis.] So the Commission now understands why AT&T was allowing traffic only to transfer and understood why AT&T never transferred the non-transferred plans revenue and time commitments. These were non-controversial issues in 1995. The issue was the size of the traffic only transfer and that became a non-issue when the FCC denied the 3 defenses under Tr8179 in 1995 and AT&T thus withdrew it on June 2, 1995.

V) Judge Bassler recognized that other AT&T customers were being allowed traffic only transfers but not petitioners. Judge Bassler Oral Argument. See Petitioners NJFDC Reply Brief filed in FCC file 06-210.

9 THE COURT: Let's assume it goes back to the agency and

10 **it agrees with your position.** Still going to have this issue of

11 **discrimination in this Court. Right?**

12 MR. GUERRA: **You would, your Honor. I believe you**

13 **would**.

14 THE COURT: So we would then –

6) Judge Bassler noted that *even if* the FCC agreed with AT&T’s new 2006 fraud that plan obligations transfer on a traffic only transfer Judge Bassler still remarked that AT&T still engaged in discrimination as it allowed other AT&T customers traffic only transfers under 2.1.8.

7) AT&T of course never presented any evidence to show that traffic only transfers require plan obligations to transfer—because as the Commission now understands no evidence exists. It was all an intentional fraud on Judge Bassler starting in 2006 and continues on Judge Wigenton’s Court today. Since the time of the FCC’s *October 2003 Order* the skies have opened with explicit clarity as to the language of 2.1.8 and the lack of evidence by AT&T. Obviously if the norm was to transfer plan obligations AT&T would have in its possession tens of thousands of examples to support its post DC Circuit Court intentional fraud on the NJFDC and the attempted fraud on the FCC since 2006. Petitioners discrimination claims do not need a tariff interpretation. The only requirement that needs to be satisfied is that AT&T allowed others to transfer traffic without the plan but refused petitioners. AT&T shut down 2.1.8 and 3.3.1Q Bullet 4 (Delete and ADD) only for petitioners and 800 Services, Inc., but not for any non-aggregator/ reseller customers. The FCC can now simply conclude the case on discrimination under Section 202 of the 1934 Communications Act. Obviously if the FCC issues Public Notice on the discrimination issue AT&T will not be able to provide any evidence to support its “all obligations” position. As the Commission is witnessing AT&T will no longer comment as it understands the FCC knows AT&T is involved in an intentional fraud. The Commission should release Public Notice and force AT&T to defend its many frauds.

FCC October 17, 2003 Decision Page 13:

We disagree, however, with AT&T’s contention that *all* of the issues upon which **petitioners seek declaratory relief** – **or** the court’s primary jurisdiction referral – involve disputed material issues of fact. **The language of the tariff is undisputed.** …..These undisputed facts form the basis for our grants of declaratory relief.

8) Now that it is an undisputed fact that 2.1.8 allows traffic only transfers and petitioners were denied **but other AT&T customers were allowed** this is obvious grounds for **discrimination** under Section 202 of the 1934 Communications Act. AT&T will not be able to provide any evidence to support its position as these declaratory ruling requests are based upon **actual transactions** routinely processed by AT&T.

9) Therefore, given the fact that the NJFDC Judge Bassler and Judge Wigenton wanted the FCC to decide “all open issues” the discrimination issue and others should also be addressed:

**Declaratory Ruling Request XII**

Did AT&T engage in discrimination under 202 of the 1934 Communications Act by not processing both of the January 1995 traffic only transfers to PSE in which the non-transferred plans revenue and time commitments did not transfer; when the evidence is now overwhelming that AT&T’s consistent practice was to process other AT&T customers traffic only transfers and its plans revenue and time commitments of the non-transferred plan did not transfer.

**Declaratory Ruling Request XIII**

Did AT&T engaged in an unreasonable practice in violation of section 201 of the 1934 Communications Act because when it refused to affect the transfer of locations under both sections 2.1.8 and section 3.3.1.Q bullet 4, did AT&T enforce an unwritten rule?

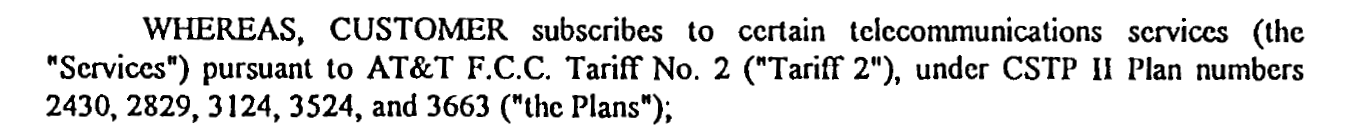
**Declaratory Ruling Request XIV Background**

10) In June of 1996 AT&T claimed that ***one*** of several plans owned by petitioners did not meet its revenue and time commitments and the non-disputed fact is AT&T stopped paying petitioners on ***all*** plans. As the FCC October 2003 Order states there were initially 9 plans involved in the traffic only transfer.

FCC *October 2003 Order* page 2:

The Inga Companies committed to aggregate $54 million worth of 800 services per year under their nine CSTP II plans. This volume of traffic qualified for a discount of 28 percent off AT&T’s regular tariffed rates – a 23 percent discount under the CSTP II plan, combined with an additional 5 percent discount available under the tariffed Revenue Volume Pricing Plan (RVPP).

11) From January 1995 through June 1996 several plans were combined and restructured and eventually there were only 5 plans left in July 1997 when the plans were terminated. AT&T/Settlement agreement page 1 para 2:



The plans earned a total of approximately 28% discount (23% CSTPII discount and about a 6% RVPP discount applied after the CSTPII discount.)[[1]](#footnote-1)

12) The money AT&T paid petitioners MAIN BILLED ACCOUNT is the difference between what petitioners gave end-user locations under **each plan** and the total earned by each plan. AT&T claimed it had the right to use the discounts from the plans that it conceded were **not in commitment default** to pay off the plan AT&T claimed was in default.

13) The other plans that AT&T conceded were not in commitment default were not even close to their fiscal year end commitments. Each CSTPII/RVPP ID has its own commitments and based upon the time each was ordered may have been under different terms and conditions. Even if 1 plan was in default the tariff does not allow AT&T to use one plans commitments/obligations to satisfy other plans commitments. **The same way that excess revenue above revenue commitment on one plan is not considered to aid any plan that is under revenue commitment** -----likewise AT&T can’t use all the plans not in default to satisfy 1 plan AT&T erroneously claimed was in default.

14) In the CCI to PSE traffic only transfer in which CCI held the plans under the JOINT PETITION it did not matter that CCI was one AT&T customer ---as each plan has its own commitments. In the Inga Companies to PSE traffic only transfer there were 4 separate corporate entities. So ***even if*** AT&T could unlawfully assert CCI was a common corporate entity-------AT&T would have no possibility of using such “faulty logic,” against the 4 separate Inga Companies.

15) If the June 1996 plan owned by Winback & Conserve Program, Inc. were actually in default, AT&T could not possibly **pierce the corporate veil** and assert the other 3 separate corporations (Group Discounts, Inc., 800 Discounts, Inc., and One Stop Financial, Inc.,) must pay for Winback & Conserve Program, Inc! Every CSTPII/RVPP plan must be treated on its own. The reason why there were 4 separate Inga Companies was AT&T advised to create 3 additional companies because at the time the revenue being generated by One Stop Financial, Inc greatly exceeded the tariffs top $33 million per year CSTPII/RVPP commitment level. AT&T advised to create the new companies in 1993 as portability of toll free service started on May 1st 1993.

16) The new CSTPII/RVPP plans were ordered in 1993 and of course section 2.1.8 was used to transfer locations from One Stop Financial, Inc. to the other 3 companies plans. Of course the plan commitments never transferred under 2.1.8. and each plan had its own commitments.

Thus the following declaratory Ruling Request needs to be addressed by the Commission:

**Declaratory Ruling Request XIV**

In June of 1996 AT&T claimed that ***one*** of many CSTPII/RVPP EBO plans did not meet its revenue and time commitments. In June 1996 AT&T conceded none of the ***other*** plans were in default, however, AT&T stopped rebate discount payments to petitioners on ***all*** CSTPII/RVPP (EBO) plans. Did AT&T violate its Tariff No 2 in ***cross applying*** obligations to all plans that were each under separate AT&T Network Services Commitments to meet tariffed requirements? Should AT&T be precluded from raising any defense as per not meeting revenue commitments for having used this illegal “cross plan” remedy.

**Declaratory Ruling Request XV – Background**

17) AT&T’s sole defense in 1995 was fraudulent use section 2.2.4. It was based upon AT&T’s mere speculation that petitioners would not meet the revenue commitment on the non-transferred plan. AT&T saw the contractual agreement in 1995 called for the return of the traffic from PSE if petitioners needed to meet any revenue commitment.

FCC *October 17, 2003 Order* Page 6 footnote 44:

We note that the agreement between CCI and PSE expressly provided for the return of accounts to CCI upon request. *See* Exhibit G to Petition.

FCC October 17, 2003 Order Page 9 para 11:

Once all of its traffic was moved to PSE, CCI might have needed to amass new traffic in order to meet its commitments under its CSTP II plans. AT&T’s apparent **speculation** that CCI would fail to meet these commitments and would be judgment-proof did **not justify** its refusal to transfer the traffic in question.

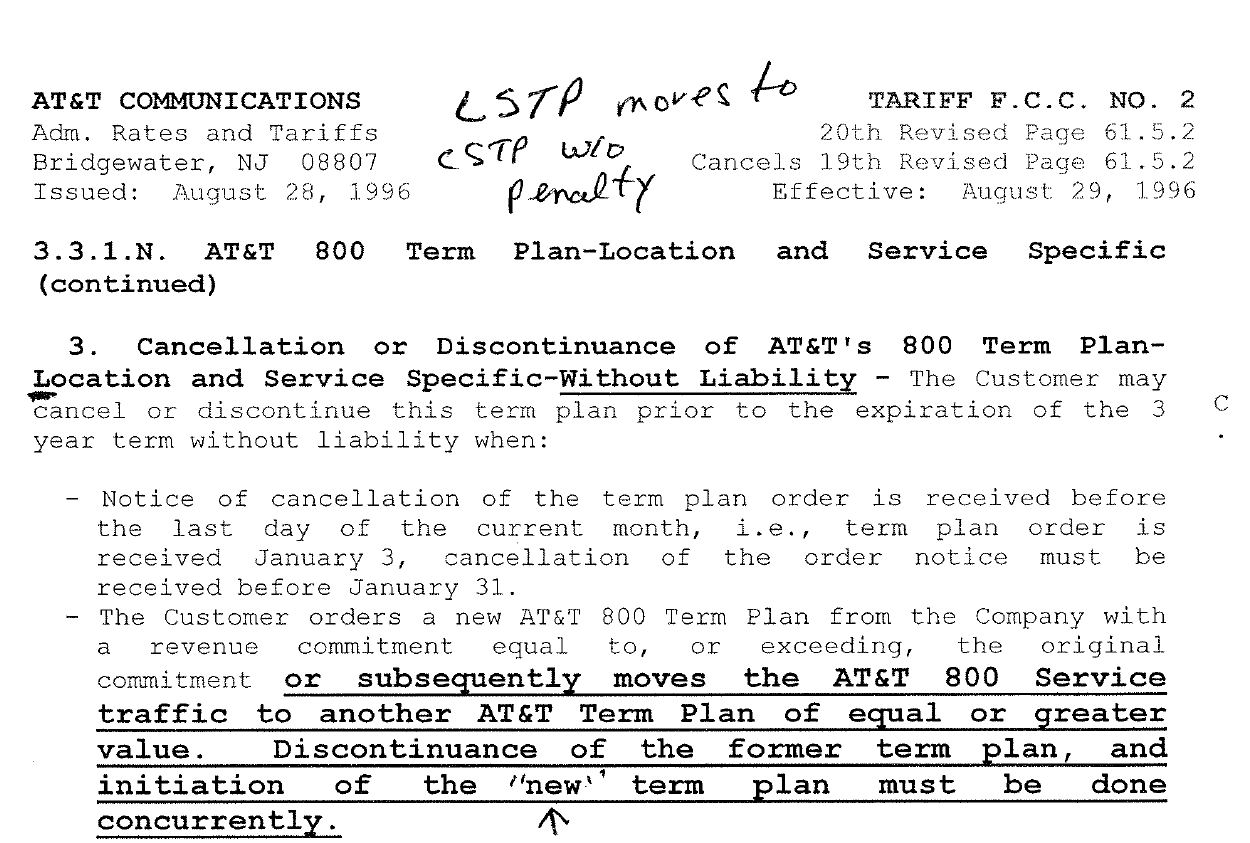
18) The plans were also pre June 17, 1994 grandfathered but use of that exemption meant that petitioners would need to upgrade its overall commitment and extend in time the contractual obligation to AT&T. In any event AT&T explicitly understood the non-disputed fact showed petitioners had already met its fiscal year revenue commitments in January 1995 and made contractual arrangements to get its traffic back to its non-transferred plans to meet fiscal year end revenue commitments. The obvious intent was to meet the revenue commitments.

**Declaratory Ruling Request XV**

Was it an **“unjust and unreasonable practice”** under Section 201(b) of the 1934 Communications Act for AT&T to invoke 2.2.4“fraudulent use” by **merely suspecting** intent to avoid revenue commitments when the non-disputed facts show petitioners had already met its fiscal year end revenue commitment and the evidence is explicit that petitioner’s **intent** was to get its traffic back to meet its revenue commitments?

**Declaratory Ruling Request XVI—Background**

19) Under the FCC *October 1995 Order* AT&T had to meet the substantial cause test when there was an objection and controversy surrounding tariff changes made during the one-year period after the effective date of this Order. On August 29th 1996 AT&T made changes to 3.3.1.N AT&T’s 800 Term Plan –Location and Service Specific Term Plans (LSTP’s)



20) Under AT&T’s tariff end-user locations could move to petitioners CSTPII/RVPP plan if petitioners were ordering a new plan. **There was an objection ---controversy—and uncertainty---with AT&T as to the terms and conditions for what constituted a new plan.** AT&T said restructured/upgraded discontinuation without liability were NOT NEW so petitioners could not enroll LSTP’s without penalty; however **simultaneously** claimed restructured plans were NEW to lose their pre June 17, 1994 grandfathered exemption!

**Here as EXHIBIT A** is the May 24th 1996 letter to AT&T that was right before the June 1996 penalty infliction. This letter covers this controversy regarding whether or not a restructured CSTP was a new plan in order to absorb LSTP’s without penalty. There have been many other exhibits within this case that have covered this new plan vs old plan controversy. All the audio tapes that AT&T has covered argument whether or not restructured CSTPII/RVPP EBO plans were new or not new.

21) The key here is AT&T was under the FCC *October 1995 Order* to go to the FCC and meet the substantial cause test when this LSTP tariff change was made within the 1-year period covered by that 1995 *Order*. If AT&T went to the FCC, there would have been an explicit rendering of what the terms and conditions were and not allow AT&T to simultaneously assert restructures were new and not new –always of course to its benefit.

22) Therefore, the following should be interpreted:

**Declaratory Ruling Request XVI**

AT&T filed its LSTP tariff change that was objected to by petitioners when AT&T was under the FCC’s October 1995 Order to meet the substantial cause test. Should AT&T be precluded from raising any defense as to the CCI and Inga Companies transfers for (1) not meeting its revenue commitment or (2) should AT&T been ordered to enroll the LSTP’s onto its CSTPII/RVPP plan without penalty for AT&T’s failure to not meet the substantial cause test.

**Declaratory Ruling Request XVII**

It is a non-disputed fact that AT&T relied upon the July 28,1994 version of sections 2.2.4 and 2.8.2. It is a non-disputed fact that 4 Inga companies and 800 Services, Inc., signed it's AT&T Network Services Commitment Forms prior to the July 28, 1944 effective date. Three traffic only transfers were held up based upon AT&T’s reliance of non-relevant evidence.

1. CCI to PSE January 13, 1995
2. Inga to PSE January 30, 1995
3. 800 Services, Inc to PSE April 26, 1995.

Additional non-disputed facts to consider as per the CCI and Inga traffic only transfers.

1. At the time of the traffic only transfers the parties had already met its fiscal year revenue commitments and were still under the pre-June 17, 1994 terms and conditions to discontinue without liability—also referred to as an upgrade or restructure.

Additionally, consider the non-disputed fact that Inga Companies owned the accounts and had Letter of Agency Status on each account after the plan transfer to Combined Companies Inc., and could have the accounts returned within 30 days.

Considering the above was AT&T in violation of its tariff by:

1. not allowing a delete of accounts from one plan and the addition of those accounts to PSE plan as per 3.3.1Q bullet 4--- considering its assertion that it would not allow the delete and add based upon AT&T reliance on the non-relevant sections of 2.2.4 and 2.8.2?
2. not permitting the 2.1.8 traffic only transfers by failing to provide within 15 days as per 2.1.8 (c) a written denial that was based upon AT&T’s reliance on the non-relevant sections of 2.2.4 and 2.8.2?

Consider whether AT&T violated 201, or 202, or 203 or any other rules or regulations by not transferring the traffic within 15 days based upon reliance of non-relevant 2.2.4 and 2.8.2 evidence.

The following evidence supports the above Declaratory Ruling Request:

**AT&T’s Counsels Submitted Bogus 2.2.4 & 2.8.2 Evidence**

Two weeks ago it was discovered that not only were AT&T Tariff Sections 2.2.4 & 2.8.2 **defeated under Tr8179**, but AT&T submitted bogus versions that were relied upon by the FCC and the DC Circuit Court. The FCC had denied 2.2.4 and 2.8.2 in regard to the direct 2.1.8 traffic only transfers. Judge Politan wanted to know if there were any other sections of the tariff besides 2.1.8 that either allowed or did not prohibit traffic only transfers. The FCC was evaluating fraudulent use 2.2.4 and 2.8.2 (the remedies) because petitioners had submitted an additional declaratory ruling request as per section 3.3.1 Q Bullet 4 (Delete and ADD) besides the 2.1.8 direct transfer. The FCC determined AT&T used an illegal remedy and denied AT&T’s fraudulent use defense.

AT&T counsel Richard H. Brown III has been emailed many times regarding the bogus evidence and asked to upload to the FCC server the proper sections, so the record is accurate. Although the fraudulent use defense has been defeated, the record needs to be accurate and it is still an ethics issue to have misrepresented it still had this defense and then on top of that provide bogus evidence. Below is an email that the Inga Companies sent to AT&T and many FCC staff and Commissioners addressing AT&T’s bogus evidence relied upon by the FCC and DC Circuit Court. What may have happened is AT&T made changes in 2.2.4 and 2.8.2., and use the newer versions because the relevant versions would be less favorable to AT&T’s assertions.

**From:** SNAP Dining   
**Sent:** Saturday, November 25, 2017 10:32 AM  
**To:** 'Brown, Richard H.' <rbrown@daypitney.com>; ray@grimes4law.com  
**Cc:** Phillip Okin (pokin@giantpackaging.com) <pokin@giantpackaging.com>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'Frank Arleo' <Frank.Arleo@arleodonohue.com>; 'Nicholas.Degani@fcc.gov' <Nicholas.Degani@fcc.gov>; 'nick.degani@fcc.gov' <nick.degani@fcc.gov>; 'Amy.Bender@fcc.gov' <Amy.Bender@fcc.gov>; 'Deanne.Erwin@fcc.gov' <Deanne.Erwin@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'MeredithAttwell.Baker@fcc.gov' <MeredithAttwell.Baker@fcc.gov>; 'Jo Ann Dobransky' <JoAnn.Dobransky@arleodonohue.com>; 'Phillip Okin' <pokin@giantpackaging.com>; Phillip Okin (pokin@giantpackaging.com) <pokin@giantpackaging.com>; 'Pamela Arluk' <Pamela.Arluk@fcc.gov>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'Deena Shetler' <Deena.Shetler@fcc.gov>; Phillip Okin (pokin@giantpackaging.com) <pokin@giantpackaging.com>; 'phillo@giantpackage.com' <phillo@giantpackage.com>  
**Subject:** RE: Richard Brown-- Please address bogus 2.2.4 and 2.8.2 evidence

Richard Brown (Please confirm receipt)

As you are aware the FCC took the case off circulation back in January because-- as per the Administrative Procedures Act ---it only resolves controversies and uncertainties that are within the scope of the case. You are aware the FCC January 12, 2007 Order pointed out for the District Court: “The district court's June 2006 order does not expand the scope of the issue previously presented.”

Thus, Judge Bassler’s referral as petitioners pointed out to Judge Wigenton was determined moot. There was no controversy in 1995 under 2.1.8 as to allocation of obligations. All three defenses under Tr8179 were all premised on the fact that on a traffic only transfer the revenue and time commitment must stay with the non-transferred Customer of Record plan. Of course, only on a **PLAN** transfer as in the Inga Companies to CCI plan transfer does the revenue and time commitments transfer. Plaintiffs are not interested in going back to Judge Wigenton at this point and lifting the stay and going to damages. The Inga Companies would like to first address the ethics issues. As you are aware the Texas Bar has already determined AT&T engaged in ethical misconduct but could not do anything due to its 4-year statute of limitations.

We recently discovered that AT&T’s submitted to the FCC on August 26, 1996 tariff evidence 2.2.4 and 2.8.2 **that did not govern** the January 1995 traffic only transfers of CCI to PSE and Inga to PSE or 800 Services, Inc. to PSE.

We have emailed you several times –my counsel Ray Grimes is included---over the last two weeks and asked for you to confirm receipt, but you have refused to even acknowledge the request.

The submission of false evidence that was relied upon by the FCC and DC Circuit Court is a very serious issue. Even though it did not affect the case in that the DC Circuit believed it would only be fraudulent use if a customer did not assume any of the obligations—and DC Circuited explicitly stated in fn 11 that PSE assumed all the obligations enumerated within 2.1.8 ---this is still a very serious ethics issue.

It is explicit that Tr8179 included all AT&T’s defenses and as AT&T’s counsels Richard Meade’s 11.28.95 NJFDC certification, David Carpenters Third Circuit argument, and all 1996 AT&T counsels conceded Tr8179 was FCC denied and thus AT&T withdrew Tr8179 on June 2, 1995. That 2.2.4/2.82 fraudulent use defense and its remedies was included in the FCC denied Tr8179.

We are not accusing AT&T counsels on August 26, 1996 of intentionally providing bogus versions of 2.2.4 and 2.8.2. We are simply asking you to adhere to NJ Bar Rules and provide what would have been the correct versions of 2.2.4 and 2.8.2 had the FCC not denied that defense and AT&T thus withdrew it on June 2, 1995.  When we do file to lift the stay we want an accurate record and there are ethics issues to deal with. When the FCC took the case off circulation in January 2017 and determined the January 12, 2007 Order was correct that Bassler’s Referral was moot ---that also confirms AT&T had to have scammed Judge Bassler into referring a question that “does not expand the scope of the issue previously presented.”

You tried to pull the fraud off on the FCC starting in 2006—even sending in teams of counsels for personal chit-chats imploring the FCC to rule—but the Commission understood AT&T was trying to scam it. Imagine a defendant so anxious to have the FCC rule. You best scam was on NJFDC Judge Wigenton when you graciously advised her Court that AT&T would not oppose the Inga Companies filing a writ of mandamus with the DC Circuit to force the FCC to rule. Of course, AT&T would not oppose getting another bite at the apple in a case it already lost and defenses that had already been FCC denied and AT&T withdrawn.

AT&T counsels really scammed Judge Wigenton good on that one, including a bunch of other intentional frauds on her Court. Such as why AT&T didn’t have **any evidence** to support its case. Of course, AT&T presented no evidence as no evidence exists. Plaintiffs informed you many months ago that it would drop its case, if AT&T provided the FCC 1 single traffic only transfer in which the revenue and time commitments transferred. AT&T counsel raped the integrity Judge Wigentons Court on the Tr9229 explicit tariff evidence.  As AT&T counsel Meade certified the security deposits against potential shortfall was requested of the holder of the non-transferred plan that kept the tariffed revenue and time commitments. It answered Judge Bassler’s referred question, even though the referred question was moot.

Please review and respond…

<https://www.judiciary.state.nj.us/attorneys/assets/rules/rpc.pdf>

Page 25:

(4) offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to know of its falsity, the lawyer shall take reasonable remedial measures

The FCC and DC Circuit relied upon 2.2.4 & 2.8.2 versions effective **July 28, 1994.**

**FCC 2003 Order Pg. 9** providing the version of 2.2.4 that AT&T scammed the FCC and DC Circuit on:

Using fraudulent means or devices, tricks, [or] schemes (FN63) **FN 63:**

**FCC 2003 Order Footnote 63:**

See Exhibit 7 to Reply; Attachment 4 to AT&T Further Comments (AT&T Tariff FCC No. 2 at § **2.2.4 (Fraudulent Use**), 11th rev. p. 21 **(eff. July 28, 1994),** 5th rev. p. 22 (eff. July 28, 1994)); see also Opposition at 5, 9-14; AT&T Further Comments at 10.

**FCC 2003 Order Pg. 9** below shows the version of the remedies:

When a violation results in the temporary suspension of service … [this] restriction[] will be removed when the Customer is in compliance with the [tariffed] regulations and so advises the Company FN 65

FCC 2003 Order Footnote 65:

See AT&T Further Comments at Attachment 5 (AT&T Tariff FCC No. 2 at § 2.8.2 **(Interference, Impairment or Improper Use),** 6th rev. p. 44  **(eff. July 28, 1994))** (emphasis added); see also id. § 2.8.1 ….

The version of 2.2.4 fraudulent use & 2.8.2 remedies that would be relevant to the Inga Companies plans and 800 Services, Inc.’s plans would be May 1, 1994 which obviously would be prior to the July 28, 1994 versions AT&T used and FCC and DC Circuit relied upon. The Inga plans were all pre-June 17, 1994**:**

“Prior to June 17, 1994, the Inga Companies completed and signed AT&T’s “Network Services Commitment Form” for WATS under AT&T’s Customer Specific Term Plan II (CSTP II), a tariffed plan, which offered volume discounts off AT&T’s regular tariffed rates.” **FCC 2003 Order page 2 para 1**

For 800 Services, Inc. the versions of 2.2.4 2.8.2 would be prior to **September 1, 1993**. 800 Services, Inc August 1, 1994 was **an upgrade** in the second year of a three-year commitment that originally started September 9.1.13 1993. **Not only had 2.2.4 already been defeated under Tr8179**--AT&T counsel Richard Meade bogusly relied upon the **July 28, 1994** version of 2.2.4 in its Tr8179 FCC filing.

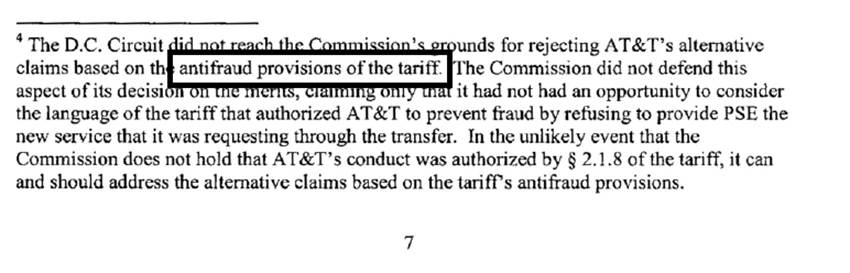
Then after it had been defeated AT&T counsels **(Mark C. Rosenblum, Ava B. Kleinman and Aryeh S. Friedman)** in AT&T FCC comments August 26, 1996 relied upon the **July 28, 1994 versions** –not the version prior to 9.1.93 for 800 Services, Inc., or prior to May 1, 1994 for the Inga Companies. The 800 Service, Inc to PSE transaction was 4.26.95, AT&T was still arguing Tr8179 which included its fraudulent use defense. In April 1995 AT&T couldn’t have relied upon the July 28, 1994 versions of 2.2.4 and 2.8.2.

After Tr8179 was FCC Defeated/AT&T withdrawn on June 2, 1995 there was no reason to prohibit the transfer. All AT&T’s counsels since Dec. 20, 2006 Counsels**: (Joseph R. Guerra, Richard H. Brown, Paul K. Mancini, Gary L. Phillips, Peter H. Jacoby, Lawrence J. Lafaro)** are **engaged in an ethics violations** by not only misrepresenting it still has fraudulent use defense, when it has already been denied, but also violating ethics by delaying the legal process by arguing the FCC still needs to interpret 2.2.4:

Despite AT&T counsels Meade and Carpenter conceding the FCC denied all its Tr8179 defenses and thus AT&T withdrew TR8179, AT&T counsels continued to misrepresent that AT&T had defenses that were already defeated **in order the delay the legal process**:

“A lawyer shall make reasonable efforts **to expedite litigation** consistent with the interests of the client and shall treat with courtesy and consideration **all persons** involved in the legal process.”

Below AT&T’s FCC comments page 7 fn 4 claim the already FCC defeated 2.2.4 defense filed under Tr8179 that the FCC already interpreted, and the DC Circuit Court already reviewed needed to argue again. AT&T was insisting on a defense that was no longer tenable and never had any evidentiary support. When AT&T filed Tr8179 AT&T claimed it was implicit that 2.2.4 allowed it to prohibit the traffic only transfers but this so called implicit/routine/common understanding was never used by AT&T. Fraudulent Use deals with **USE**. Not suspecting that sometime in the future AT&T is going to be deprived of collecting charges for SERVICES NOT EVEN RENDERED (i.e. shortfall) NO USE.



Thank you for your time

Al Inga President

Group Discounts, Inc.

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**AT&T has not responded to email as of this filing.**

AT&T had 15 days to provide a written denial of the January 13, 1995 CCI to PSE and January 30, 1995 Inga to PSE and April 26, 1995 800 Services, Inc to PSE traffic only transfers. AT&T initially advised the DC Circuit that AT&T provided a written denial on January 27, 1995 as to the CCI-PSE transfer. That of course was a lie.

AT&T then misrepresented that a different letter with a date of January 23, 1995 from Meric Bloch was a written denial---but that wasn’t a denial of the traffic only transfer of CCI to PSE. It was a “we will see about obligations” letter after the security deposit issue is resolved.

AT&T claimed the February 6, 1995 letter from Fred Whitmer was the denial of the Inga Companies to PSE transfer but that was a fraudulent use warning letter and did not deny anything.

Now we find out that Meade’s Tr8179 filing on February 16, 1995 ---over 15 days- after both the CCI-PSE and Inga -PSE traffic only transfers were relying upon a defense under 2.2.4 issued July 28, 1994 that **did not govern the terms and conditions** of the Inga/Plans or the 800 Services, Inc plans.

Checking with CCMI and BCPIWEB we believe the July 28, 1994 section of 2.2.4 **is the first time** this section appears within AT&T tariff No 2. However even if it is not the first time and there was a previous version that controlled that version was not presented within 15 days.

I also found the following very “interesting.”

Uploaded and screenshot below is AT&T’s 2003 FCC comments with the July 28, 1994 exhibit (see page 24-25 of the attached PDF.)

Uploaded and screenshot below is AT&T counsel Richard Meade’s Tr8179 submission to the FCC on February 16, 1995 see page 12 of the pdf.

The July 28, 1994 section 2.2.4 was in effect for plans that were subscribed to after July 28, 1994. As the FCC 2003 Order states the Inga plans were ordered prior to June 17, 1994. The evidence shows the 800 Services, Inc. plans on July 22, 1994 were UPDGRADED and in its SECOND YEAR of a 3-year contract----thus July 28,1994 tariff page submitted by the 2003 AT&T counsels was bogus evidence.

In 1995 Richard Meade’s FCC Tr8179 pleading was obviously **reading from the tariff pages pages** as he entered into his substantial cause pleading letter **“section 2.2.4.B.2 under Tariff No 1 and the 2.2.4.A.2 under tariff No 2.**” He certainly did not “remember” sections and sub sections under Tariff No 1 and Tariff No 2.

If you notice Richard Meade’s substantial cause pleading, **he failed to submit the 2.2.4 tariff page**. Meade only makes reference to those pages. Meade’s Tr8179 pleading statement as per 2.2.4 **match up exactly** with the non-controlling July 28, 1994 version of 2.2.4.

No attorney in the world that has the tariff pages in his hand, leaves tariff pages out of a substantial cause pleading to the FCC, unless **Meade clearly understood the effective date was non-controlling**.

He was willing to scam the Commission and hope he did not get caught. Meade understood this case was “all about” pre-June 17, 1994 plans and I have no doubt that Meade believed that a sharp guy like the FCC’s R.L. Smith would immediately look at the **effective date** if Meade submitted the tariff page.

It certainly appears as if AT&T counsel Meade knowingly defrauded the Commission.

Whether or not he intentionally misled the FCC is not relevant. The only thing that is relevant is AT&T cannot rely upon its fraudulent use defense as per 2.1.8 or 3.3.1Q bullet 4 (DELETE and ADD) due to not supplying a substantiated written denial using RELEVANT evidence within 15 days as per 2.1.8 (c).

We know Meade within the Tr8179 certainly misrepresented the tariff with his “all obligations” claim. That was pure stupidity; simultaneously asserting to –of all people R.L. Smith---that the plan obligations do and don’t transfer under 2.1.8 on a traffic only transfer. R.L. Smith must have just laughed at that “all obligations” fraud and properly denied it.

The FCC 2003 Order stated AT&T’s only defense was fraudulent use but that was due to the fact that the FCC had not interpreted 3.3.1.Q Bullet 4 (Delete and Add). The FCC did not have to interpret 2.2.4 as per the direct 2.1.8 traffic only transfer as that was FCC denied in 1995 by FCC staff that included (R.L Smith, Deborah Sabourin and David Nall) and AT&T withdrawn on June 2, 1995.

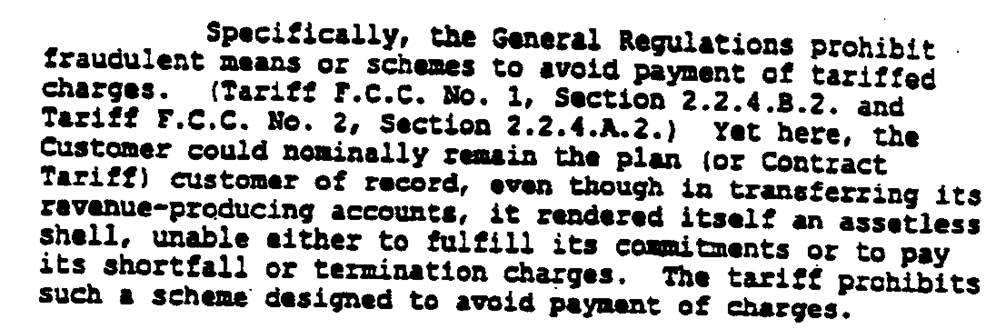
So not only was the 2.2.4 defense under Tr8179 denied by the FCC and thus AT&T’s withdrawn, now we find AT&T scammed the FCC and NJFDC by exhibiting non-relevant evidence, so AT&T can’t rely upon a defense not asserted within 15 days. Even if AT&T at this point produces 2.2.4 and 2.8.2 that it believes would have controlled the plans—AT&T is almost 23 years late. AT&T for having relied upon bogus evidence can no longer rely upon 2.2.4. or 2.8.2.

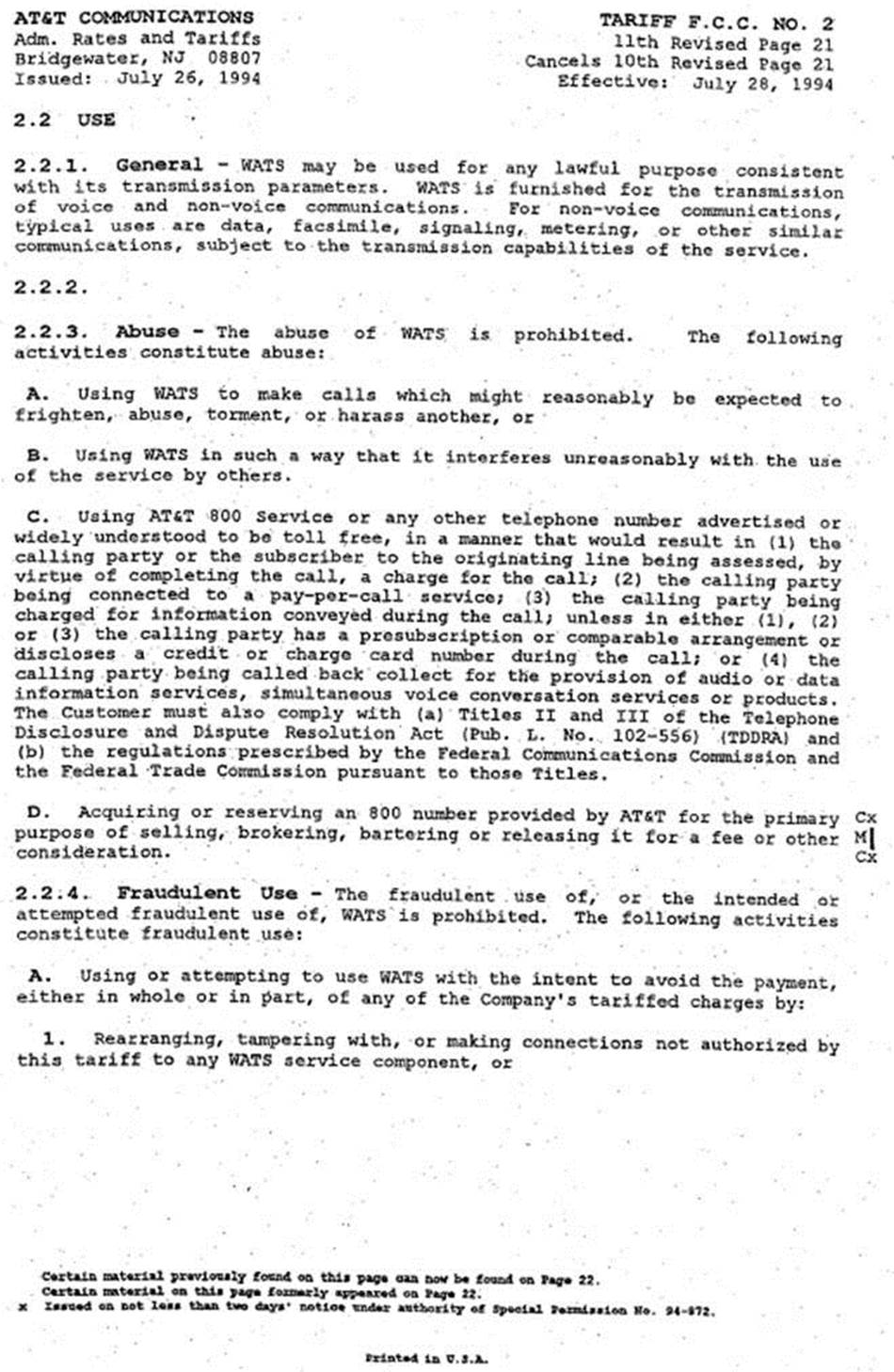
So, whether or not, the FCC requires AT&T to produce the relevant 2.2.4 and 2.8.2 at this point is not relevant as AT&T can’t insert evidence into the case in 2017 for why it denied the transfers in 1995. Additionally, the DC Circuit Court has already ruled against AT&T on the fraudulent use. If it had to rule again there would be no defense to rule upon as 2.2.4 defense is now null and void.

Realistically here we are talking serious ethics issue---not only by Meade by intentionally leaving out the tariff page, but the 2003 AT&T counsels that submitted the non-controlling 2.2.4 and 2.8.2 tariff pages.

While it is not relevant at this point it will be interesting to see what earlier versions of 2.2.4 and 2.8.2 look like or whether the July 28, 1994 version was the first time 2.2.4 appeared within Tariff No 2.   I do know that it has now been 2 weeks addressing this issue and AT&T has not commented.

Below is screen shots of Meade’s Tr8179 referencing 2.2.4 but not submitting the tariff page to the FCC. Below this is the non-relevant July 28, 1994 tariff page submitted by AT&T April 2, 2003.





**Declaratory Ruling Request XVIII**

Rule 61.54(j) required that “[a] special rule, regulation, exception or **condition** affecting a particular item or rate must be specifically referred to in connection with such item or rate.” 47 C.F.R. § 61.54 (1994)

It is a non-disputed fact that AT&T claimed that it prohibited both 3.3.1Q Bullet 4 (Delete and ADD) account movement and 2.1.8 direct transfer based upon section 2.2.4 fraudulent use. Did AT&T violate its Tariff No 2 or any rule or regulation by imposing conditions upon the two account movement sections (3.3.1Q Bullet 4 & 2.1.8) **without explicitly referring to** and mandating that section 2.2.4 first needed to be satisfied as a condition to use section 3.3.1Q Bullet 4 or section 2.1.8?

**Declaratory Ruling Request XXIX 29**

AT&T counsel Charles Fash and Joyce Suek confirmed that section 2.1.8 was totally shut down for any traffic only transfers. Previous declaratory ruling request focused on the 203 violation. Additionally, section 3.3.1Q bullet 4 was shut down to any traffic only transfers. Here we ask the FCC to decide whether it was a 201 or 202 violation as well given the fact that AT&T concedes 2.1.8 and 3.3.1Q bullet 4 were never shut down for any other AT&T customer. AT&T simply engaged in an unreasonable practice under 201 and discrimination under 202 by totally shutting down any account movement without the plan being transferred.

**Declaratory Ruling Request XXX (30)**

Given the non-disputed fact that (a) AT&T could still charge its customer ---the plan holder --any shortfall and termination charges and (b) as per the tariff only the customer (plan holder) was responsible for shortfall and termination charges ---did AT&T violate section 2.8.2 by using 2.8.2 to take remedial action when there was no circumvention of AT&T’s ability to charge for its services as specified in section 2.2.4 (Fraudulent Use) preceding?”

**Declaratory Ruling Request XXXI (31)**

Given the non-disputed fact that (a) AT&T could still charge its customer ---the plan holder --any shortfall and termination charges and (b) as per the tariff only the customer (plan holder) was responsible for shortfall and termination charges ---did AT&T violate section 2.2.4 fraudulent by using 2.2.4 to assert being deprived of collecting shortfalls and termination charges when there was no circumvention of AT&T’s ability to charge for its shortfall and termination charges services as per section 2.8.2?

**Declaratory Ruling Request XXXII (32)**

Given the non-disputed fact that (a) AT&T could still charge its customer ---the plan holder --any shortfall and termination charges and (b) as per the tariff only the customer (plan holder) was responsible for shortfall and termination charges ---did AT&T violate section 2.1.8 by asserting the plans needed to be transferred to transfer the revenue and term commitments because AT&T would be deprived of collecting shortfall and termination charges when there was no circumvention of AT&T’s ability to charge for its shortfall and termination charges services as per section 2.8.2?

**Declaratory Ruling Request XXXIII (33)**

Given the non-disputed fact that (a) AT&T could still charge its customer ---the plan holder --any shortfall and termination charges and (b) as per the tariff only the customer (plan holder) was responsible for shortfall and termination charges ---did AT&T violate section 3.3.1 Q bullet 4 ( delete and add) by asserting AT&T would be deprived of collecting shortfall and termination charges under 2.2.4 fraudulent use when there was no circumvention of AT&T’s ability to charge for its shortfall and termination charges services as per section 2.8.2 if accounts were deleted and added?

**Declaratory Ruling Request XXXIIV (34)**

Given the non-disputed facts that AT&T did not temporarily suspend phone service to Combined Companies Inc., or the Inga Companies or 800 Services, Inc. in their traffic only transfers to PSE, is AT&T prohibited from relying upon a defenses under 2.1.8, 2.2.4, 3.3.1.Q Bullet 4 (Delete & Add locations) and which were premised on suspecting being deprived of charging for shortfall and/or termination charges?

Consider the following. The FCC in 2003 asked:

“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 “[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.”**

The FCC determined in 2003 that AT&T **used an illegal remedy** by permanently denying service instead of **temporarily suspending** service. However, the FCC made an error by stating AT&T had the ability **to temporarily suspend** service.

AT&T could only temporarily suspend service if a customer:

**“Circumvents the Company's ability to charge for its services as specified in section 2.2.4 (Fraudulent Use) preceding”**

The remedy section was **no**t applicable to shortfall charges as AT&T **still had the ability to inflict shortfall charges**. AT&T’s customer is responsible for shortfall charges not the end-user locations.

CSTPII Definition: **Shortfall and/or termination liability are the responsibility of the Customer.**

FCC 2003 page 7 FN 52

“See generally AT&T Tariff FCC No. 2; AT&T Contract Tariff FCC No. 516. As AT&T concedes, the end-users or “locations,” were CCI’s customers, not AT&T’s. See AT&T Further Comments at 6-10 (citing, inter alia, AT&T Corp. v. Winback & Conserve Program, Inc., 16 FCC Rcd at 16075, para. 3; First District Court Opinion at 3); see also MCI Telecommunications Corp v. AT&T, File No. E-90-28, Order, 7 FCC Rcd 5096, 5100, para. 20 (CCB 1992). Because these end-users did not choose AT&T as their primary interexchange carrier, **AT&T had neither proprietary interest in these individual end-user locations nor an expectation of revenue from them.** See Hi-Rim Communications, Incorporated v. MCI Telecommunications Corporation, File No. E-96-14, Memorandum Opinion and Order, 13 FCC Rcd 6551, 6559 para. 13 (CCB 1998). Accordingly, AT&T could not refuse to move them out of CCI’s CSTP II and into PSE CT 516. The fact that CCI sought to move all of its end-user locations, rather than just one or a few locations, did not confer a right on AT&T where none otherwise existed.”

AT&T counsel Friedman confirms that even though AT&T was doing the billing there was no relationship. See bottom of page 1 into page 2:

AT&T’s 2003 Further Reply Comments to FCC page 1:

"AT&T did not have **any carrier relationship with Petitioners’ customers** (the “end-users”). Petitioners do not dispute the accuracy of these statements; just to the contrary, they repeatedly concede that they and not AT&T had the exclusive carrier-customer relationship with the end-users. Similarly, the Petitioners acknowledge that "**although AT&T also rendered bills to Winback & Conserves end-users on the behalf of the latter entity, the billing arrangement selected by the reseller did not create any carrier–customer relationship between AT&T and the end-users.”**

Therefore, it doesn’t make difference as to the number of locations remaining on the non-transferred plans. These locations were not AT&T’s customer’s and AT&T had no expectation of revenue from them and that includes the potential for AT&T in the future to collect shortfall and termination charges from CCI/Inga Companies /800 Services, Inc. on their traffic only transfers on January 13, 1995, January 30, 1995 and April 26, 1995 respectively.

As per the tariff there was **no circumvention** of AT&T’s ability to charge its customer that chose to keep its plans and its continued Customer or Record revenue and term commitments. The reason the FCC denied Tr8179 in 1995 was because it was not implicit that AT&T could use any of the three defenses it raised under Tr8179.

Even if traffic was moved it did not circumvent AT&T’s ability to “charge for its services as specified in section 2.2.4 (Fraudulent Use) preceding.” Thus 2.2.4 could not apply to being deprived of collecting charges for services, NOT RENDERED

(i.e. shortfall charges). Fraudulent use was about USE. Not about NON-USE (shortfall).  If there is no remedy, there can be no violation.

AT&T used the improper sections….July 28, 1994 and August of 1994. If you look at the July and August FCC filings notice the  “C:” designations for change in the terms and conditions.  AT&T used tariff pages in which AT&T had made changes to the terms and conditions of these tariff sections and then relied on the non-governing revised versions.

1. Fraudulent Use was denied by FCC under Tr8179 as it was not implicit, and AT&T provided no evidence that it had ever used 2.2.4 to prohibit a 2.2.8 or a 3.3.1 Q Bullet 4 delete and add location movement due to being “deprived of collecting sometime in the future charges for non-rendered service (shortfall)
2. It was filed by AT&T on February 16, 1995 after 15 days as per 2.1.8 (c)
3. AT&T submitted the non-controlling revisions versions of 2.2.4 and 2.8.2 and thus cannot rely upon it.
4. **There was no remedy under the tariff as 2.8.2 only applied if AT&T could not charge for its services!!!**
5. Sections 2.1.8 and 3.3.1 Q Bullet 4 were not conditioned on first meeting 2.2.4 fraudulent use if it did apply. Rule 61.54(j) required that “[a] special rule, regulation, exception or condition affecting a particular item or rate must be specifically referred to in connection with such item or rate.”  47 C.F.R. § 61.54 (1994)
6. If AT&T could not charge, then AT&T must only temporarily suspend service –not permanently deny service.
7. AT&T had no merit to raise a 2.2.4 fraudulent use defense as the plans had already met their fiscal year revenue commitment and the locations could be returned within 30 days.
8. AT&T had no merit to raise a 2.2.4 fraudulent use defense as the plans were all pre-June 17, 1994 Ordered.
9. Under AT&T’s “remaining jointly and severally liable” tariff interpretation, there would be no reason to suspect being deprived of shortfall as AT&T’s interpretation asserts it could pursue shortfall against PSE or the holder of the plan

(CCI/Inga/800 Services, Inc)

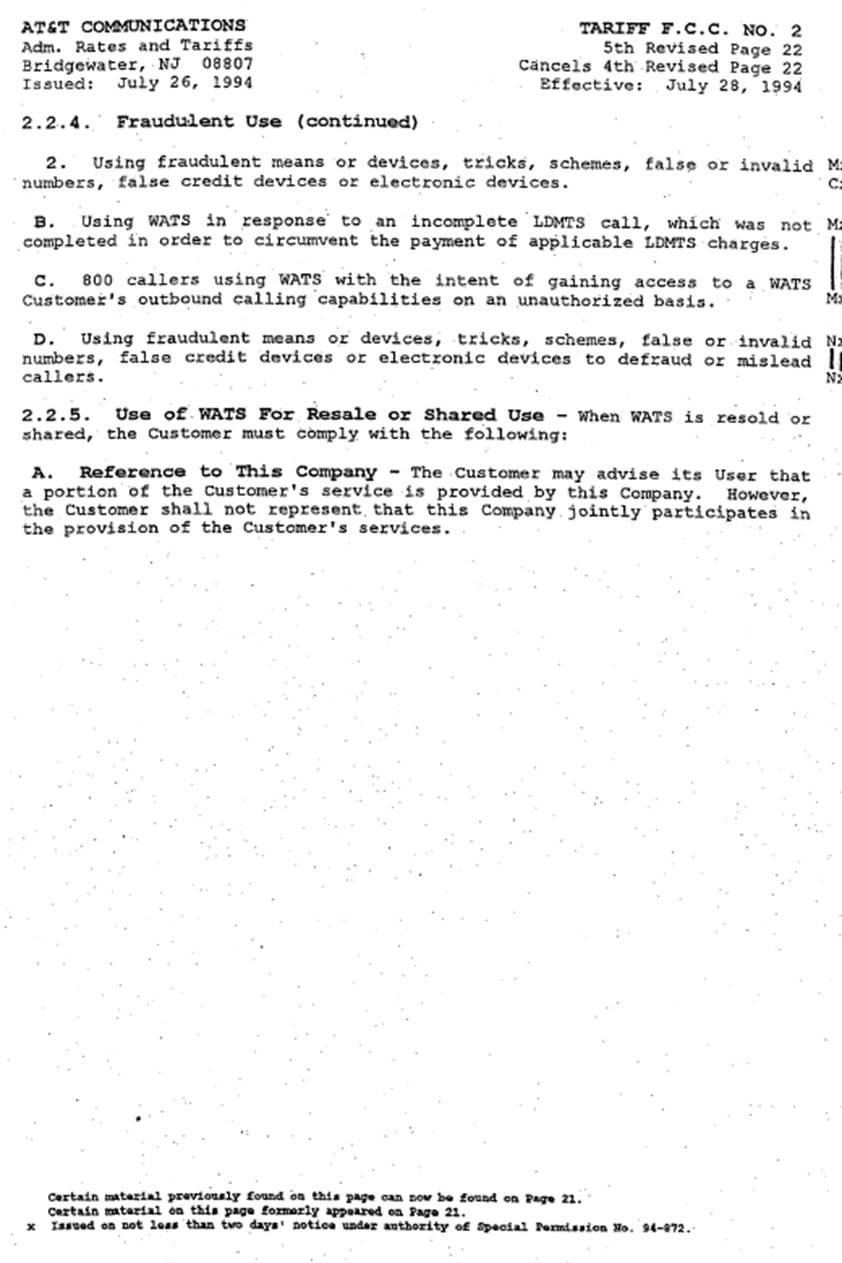
AT&T understood that even if these sections applied the versions that governed the transaction would be:

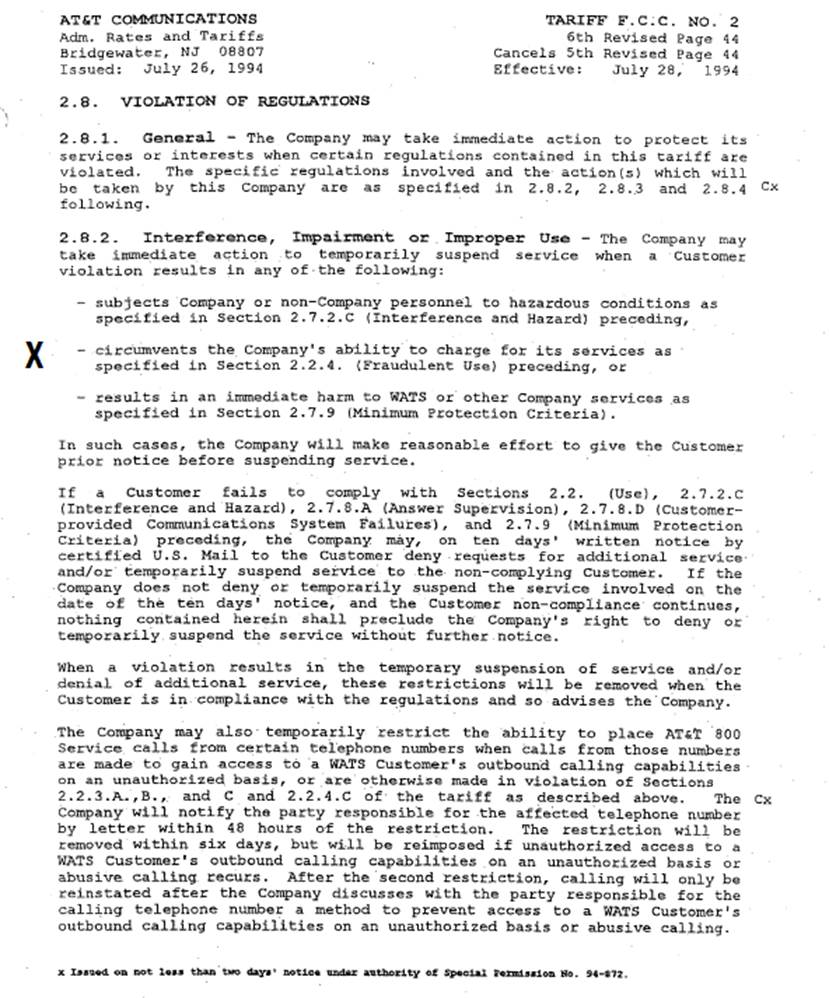
Section 2.8.2, 5th revised page 44, effective **3/11/94** (for 1 of the 8 Inga plans)

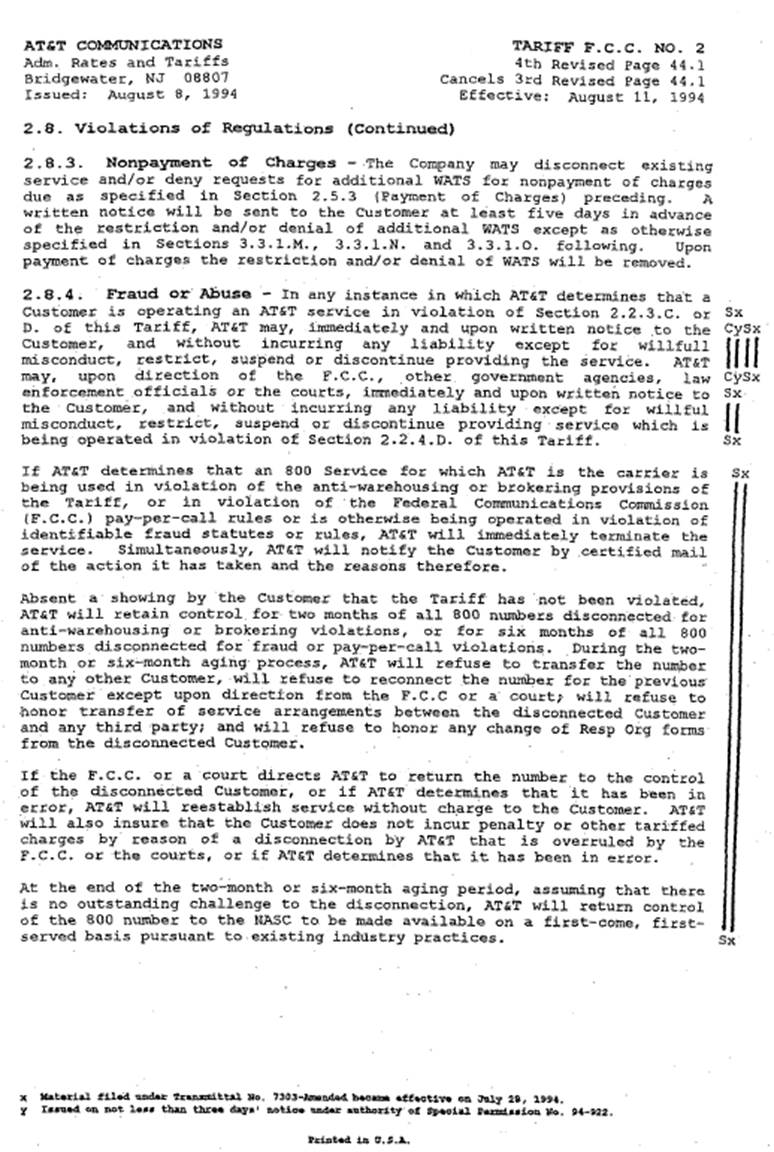
Section 2.8.2, 4th revised page 44, effective **5/7/92**  (for 800 Services, Inc., and the remaining Inga plans.

AT&T decided to use Non-Controlling Revised versions because it had a better shot of pulling off the fraud on the FCC.

**See below FCC submission in 2003 by AT&T’s counsels. Submitted non-governing versions that had multiple CHANGES….**





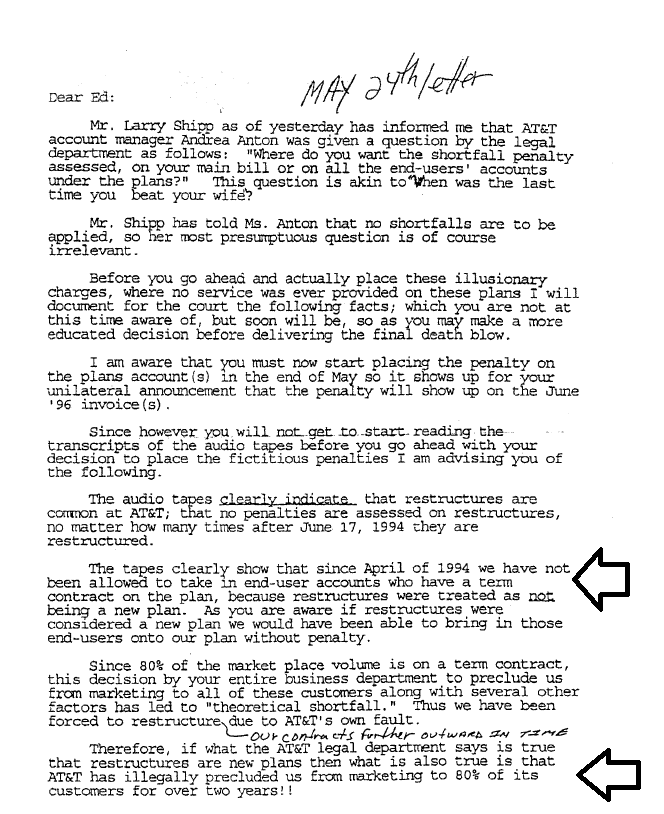


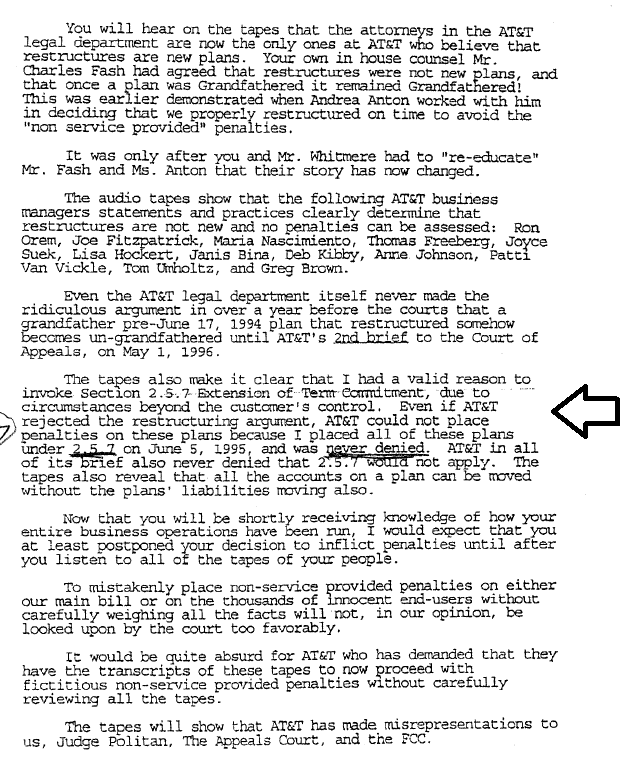
While petitioners deal with State Ethics Bars we ask the Commission to review the above declaratory ruling requests and issue a Public Notice for Comments on these declaratory ruling requests.

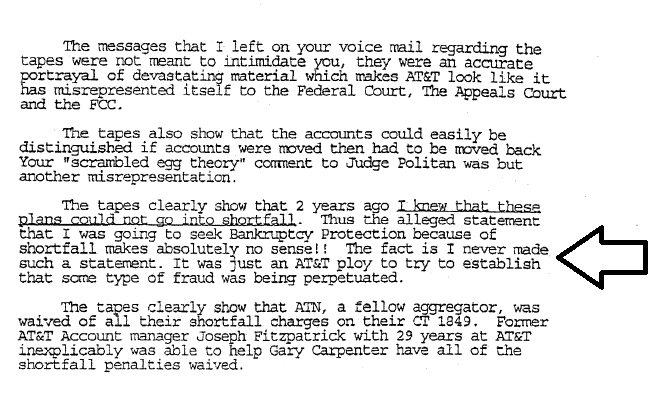
Respectfully

Raymond A. Grimes esq.

**EXHIBIT A**

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1. The RVPP discount was a bucketed discount in which the first $25,000 of revenue was not discounted, then a 4% discount was applied to $25,000 to $100,000 and then 5% applied to $100,000 to $250,000 and 6% applied on the volume above $250,000. The higher the volume the closer to 6% overall was provided (5.9% in petitioner’s case), however the RVPP discount was applied on the volume after the CSTPII 23% was applied so the overall discount was about 28%. **FOR EACH PLAN** the RVPP credits minus bad debt of the pool went to the end-users based upon the percentage of the pool each made up based each customer’s volume. [↑](#footnote-ref-1)