

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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ALL AMERICAN TELEPHONE COMPANY,	:	<b>07 CV 861 (WHP)</b>
INC., et al.	:	<b>ECF Case</b>
	:	
<i>Plaintiffs,</i>	:	
	:	
v.	:	
	:	
AT&T CORP.,	:	
	:	
<i>Defendant.</i>	:	
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**JOINT STATUS REPORT**

Pursuant to the Court’s Order dated January 20, 2015, Plaintiffs All American Tel. Co., e-Pinnacle Communications, Inc. and Chasecom, and Defendant AT&T Corp. (“AT&T”) (jointly, “the Parties”) hereby provide the following joint status report regarding proceedings at the Federal Communications Commission (“FCC”).

On October 24, 2014, AT&T filed with the FCC a supplemental complaint for damages against Plaintiffs.<sup>1</sup> AT&T’s supplemental complaint also addressed the remaining issues referred by the Court that have not yet been addressed by the FCC, namely issues number 2, 3, 5(a), 5(c), 5(d) and 5(e).<sup>2</sup>

On December 1, 2014, Plaintiffs filed with the FCC their Answer and Affirmative Defenses, a Motion to Dismiss, a Petition for Declaratory Ruling, and a Legal Analysis in

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<sup>1</sup> Supplemental Compl. for Damages, File No. EB-09-MD-010, ¶¶ 4-5, 36-52 (Oct. 24, 2014) (“AT&T Suppl. Compl.”). AT&T’s Complaint included (i) the expert report of Dr. David I. Toof, in support of AT&T’s damages and (ii) other supporting material required by the FCC’s rules.

<sup>2</sup> AT&T Suppl. Compl., ¶¶ 55-98; see *AT&T Corp. v. All American Tel. Co.*, 28 FCC Rcd. 3477, ¶ 1 & n.4; ¶ 23 n.99; ¶ 45 (2013) (“*Liability Order*”) (noting that Count III of AT&T’s Amended FCC Complaint effectuates issues 2, 3, 5a, 5c, 5d, and 5e of the Court’s Referral Order dated Feb. 5 2010, and will be addressed in the damages phase).

Support of these papers.<sup>3</sup> In these papers, Plaintiffs denied that AT&T was entitled to damages, , *see, e.g.*, Pls. Answer; Pls. Legal Analysis, §§ II-VII, and also addressed the remaining the remaining issues referred by the Court that have not yet been addressed by the FCC, namely issues number 2, 3, 5(a), 5(c), 5(d) and 5(e). *See* Pls. Legal Analysis, § I; Pls. Pet. for Decl. Ruling.

On December 22, 2014, AT&T filed with the FCC its Reply to the Answer, its Reply Legal Analysis, its Opposition to the Motion to Dismiss, its Opposition to the Petition for Declaratory Ruling, and other supporting filings required by the FCC’s rules.<sup>4</sup> AT&T denied that Plaintiffs’ affirmative defenses had merit and replied in support of its damages claims and the remaining referred issues. AT&T Reply Legal Analysis, at 1-27, 31-36.

On January 20, 2015, as required by the FCC’s rules, the Parties submitted to the FCC a Joint Statement of Stipulated Facts, Disputed Facts, and Key Legal Issues, as well as a Joint Statement Pursuant to 47 C.F.R. §§ 1.733(b)(1)(i)-(iv), addressing further proceedings before the FCC.

On February 13, 2015, the FCC Staff issued an additional Letter Order, in which it stated that “in light of the parties’ submissions in this case – including the Complaint, Answer, Reply and Joint Statements, we have determined that a status conference is not necessary. In addition,

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<sup>3</sup> [Plaintiffs’] Answer and Affirmative Defenses re AT&T Corp.’s Supplemental Complaint for Damages, File No. EB-09-MD-010 (Dec. 1, 2014) (“Pls. Answer”); [Plaintiffs’] Motion To Dismiss, File No. EB-09-MD-010 (Dec. 1, 2014); [Plaintiffs’] Petition for Declaratory Ruling To Respond to Court Referral, File No. EB-09-MD-010 (Dec. 1, 2014) (“Pls. Pet. for Decl. Ruling”); [Plaintiffs’] Legal Analysis, File No. EB-09-MD-010 (Dec. 1, 2014) (“Pls. Legal Analysis”). Plaintiffs also requested certain discovery of AT&T, and made other supporting filings required by the FCC’s rules.

<sup>4</sup> AT&T Reply to Answer, File No. EB-09-MD-010 (Dec. 22, 2014); AT&T Reply Legal Analysis, File No. EB-09-MD-010 (Dec. 22, 2014); AT&T Opp. to Motion to Dismiss, File No. EB-09-MD-010 (Dec. 22, 2014); AT&T Opp. to Pet. for Decl. Ruling, File No. EB-09-MD-010 (Dec. 22, 2014). AT&T also objected to Plaintiffs’ proposed discovery.

the submissions demonstrate that, at this time, there is no need for discovery. Accordingly, . . . the parties may not submit [further] briefs.”<sup>5</sup>

In these circumstances, the Parties jointly state that it would be appropriate for the Court to leave the stay in this case in place, and to require an additional status report from the parties in six months. If the FCC issues an order addressing the merits of any issues before that time, the Parties will promptly apprise the Court of the FCC’s ruling.

Respectfully submitted,

/s/ Jonathan E. Canis

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February 27, 2015

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<sup>5</sup> Letter Order, from Lisa Griffin, FCC, to Counsel for AT&T and for Plaintiffs (Feb. 13, 2015).