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James J. R. Talbot
Senior Attorney

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Room 3247F3
295 North Maple Avenue
Basking Ridge, NJ 07920
908 221-8023
FAX 908 953-8360

April 28, 1999

Ex Parte

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Attention: Ken Stanley & Kathy O'Brien, International Bureau.

**Re: Petition for Enforcement of International Settlements Benchmark Rates
for Services with Kuwait, DA 99-479, IB Dkt. No. 96-261**

Dear Ms. Salas:

In further support of the above-referenced Petition of AT&T Corp. ("AT&T"), MCI WorldCom, Inc. and Sprint Communications Company L.P., AT&T submits herewith the Affidavit of Sharif Fahmy demonstrating that Kuwait is now threatening to take retaliatory steps because of AT&T's efforts to negotiate benchmark rates.

By fax messages dated April 10, 1999 and April 18, 1999, AT&T's foreign correspondent in Kuwait, the Ministry of Communications for the State of Kuwait ("MOC"), informed AT&T that it will terminate all AT&T USA Direct services with Kuwait on May 1, 1999 unless AT&T agrees to new arrangements that would substantially increase the cost of these services. As demanded by MOC, AT&T would be required to pay Kuwait's high domestic collection rates for these calls and receive a settlement rate -- instead of existing procedures under which these calls are billed and settled as U.S.-originated traffic and AT&T pays only the normal settlement rate.

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List A B C D E

Kuwait has also stated to AT&T that it is taking these actions in retaliation for AT&T's efforts to obtain benchmark rates in conformity with the Commission's Report and Order in *International Settlement Rates*, 12 FCC Rcd. 19806 (1997), *aff'd sub nom. Cable & Wireless P.L.C. v. F.C.C.*, No. 97-1612, (D.C. Cir., Jan. 12, 1999) ("*Benchmarks Order*"). Mr. Fahmy was informed by representatives of MOC on April 21, 1999 that these actions were being taken because of AT&T's position on benchmark rates. (See Affidavit of Sharif Fahmy, ¶ 4.)

AT&T respectfully requests the Commission to support its efforts to negotiate benchmark rates with Kuwait and other countries by: (1) taking expeditious action to enforce the applicable benchmark on this route by requiring all U.S. carriers to pay settlement rates no higher than \$0.15 effective January 1, 1999; and (2) making clear that it will not allow foreign carriers to retaliate against benchmarks by any actions, including the imposition of higher charges for services such as USA Direct.

I would be pleased to answer any questions on these matters.

Two copies of this letter are being submitted to the Secretary in accordance with Section 1.1206(a)(1) of the Commission's Rules.

Respectfully submitted,

James J. R. Talbot /ha

AFFIDAVIT OF SHARIF FAHMY

STATE OF NEW JERSEY)
) ss:
COUNTY OF MORRIS)

SHERIF FAHMY, being duly sworn, deposes and says:

1. My name is Sherif Fahmy. I am Settlements Manager in the International Traffic Management division of AT&T Corp. ("AT&T"), and have held this position since October 1, 1998. In this position, I am directly engaged in negotiating settlement rates with various AT&T foreign correspondents, including the correspondent in Kuwait, the Ministry of Communications for the State of Kuwait ("MOC"). I am closely involved in AT&T's efforts to negotiate settlement rates with MOC in accordance with the benchmark rates established by the Commission's Report and Order in *International Settlement Rates*, 12 FCC Rcd. 19806 (1997), *aff'd sub nom. Cable & Wireless P.L.C. v. F.C.C.*, No. 97-1612, (D.C. Cir., Jan. 12, 1999) ("*Benchmarks Order*").

2. Since October 1998, I have been in contact with MOC on five separate occasions in furtherance of AT&T's efforts to negotiate the \$0.15 benchmark rate for traffic between the U.S. and Kuwait effective January 1, 1999, including one meeting in Kuwait on March 21, 1999. During these contacts, MOC has repeatedly emphasized that it is not prepared to offer the benchmark rate to AT&T.

3. By fax messages dated April 10, 1999 and April 18, 1999 (copies of which are attached hereto), MOC informed AT&T that it will terminate all AT&T USA Direct services with Kuwait on May 1, 1999 unless AT&T agrees to pay MOC's normal collection rates for these calls and to receive a settlement rate for U.S. termination. By this request, MOC is seeking to change AT&T's USA Direct service

arrangements with Kuwait in ways that would adversely affect U.S. consumers by applying Kuwait's high domestic collection rates to these calls. Under AT&T's existing agreement with MOC, AT&T USA Direct services are billed and settled as U.S.-originated traffic, with MOC receiving only the normal settlement rate.

4. MOC has made clear to AT&T that it is taking these actions in retaliation for AT&T's efforts to reduce settlement rates with Kuwait to the Commission benchmark. On April 21, 1999, Mr. Hani Morcos of AT&T and I expressed AT&T's strong concern with MOC's new demands in a telephone call to Mr. Jaseem Al-Wazzan and Ms. Hind Abdul Razzaq of MOC. During this call, I asked the reason for these demands and was informed by Ms. Abdul Razzaq that MOC was taking these actions because of AT&T's position on benchmark settlement rates.

Affidavit of Sharif Fahmy

I declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge and belief.



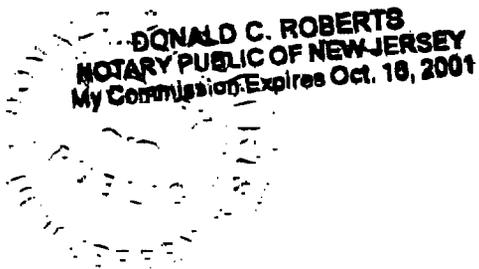
Sherif Fahmy

Sworn to before me this

28 day of April, 1999



Notary Public



دولة الكويت



دولة الكويت
وزارة المواصلات

STATE OF KUWAIT
Ministry of Communications

Dept. :

Date :

Ref. :

إدارة :

التاريخ :

الرقم :

FAX MESSAGE

TO : AT&T USA **Fax: 1 973 644 8930**
Attn: Mr. Sherif Fahmy, Managing Director,
 International Settlements.

Copy to : Mr. Nabeel Al-Salamah **Fax: 4832333**
 Under Secretary for International Service Sector

Mr. Mohammed Al-Dualj **Fax: 2409905**
 Director of International Sector

From : MOC, Kuwait **Fax: 965 4832394**

O/Ref : 504/99/Tariffs **dt. 10/4/99**

SUBJECT: AT&T USA Direct - International 800 Service

Contrary to what has been followed for accounting the International 800 Service, Kuwait administration wishes to bill and account the subject service in the following manner.

Effective 1/5/99, All the International 800 Service calls that originates from Kuwait to your country will be billed and accounted at MOC Kuwait and 50% of the total accounting rate will be credited to your administration through monthly statement of accounts.

The normal local collection charge of KD: 0.550 p.m. will be applied from 7.00 AM to 7.00 PM daily and the reduced rate of KD: 0.450 p.m. will be from 7.00 PM to 7.00 AM daily and for 24 hours on Fridays and public holidays.

Please let us have your agreement before 19/4/99.

Incase however, if you do not agree with our above proposal, we will be forced to stop the services w.e.f. 1/5/99.

Thanks and best regards,

UNDER SECRETARY


JASEEM AL-MAZZAN
 Asst. U. S. Fed. Commercial
 Telecommunication Sector.

MOC. TF&INTL. ACTS

STATE OF KUWAIT

Ministry of Communications

Tel. Exch: 4819033

Telex No: US 22197 KT

Dept:

دولة الكويت
وزارة الاتصالات

هاتف بدالة : ٤٨١٩٠٣٣

تلكسي : ٢٢١٩٧ - كويت

إدارة:

التاريخ:

الرقم:

FAX MESSAGE

To : AT&T USA Fax: 1 973 644 8930
Attn. Mr. Dherif Fahamy, Managing Director,
International Settlements.

Copy to : (1) Mr. Nabeel Al-Salamah Fax: 4832333
Under Secretary for International Service Director
(2) Mr. Mohammed Al-Duaij Fax: 2409905
Director of International Sector.

From : M.O.C., Kuwait, Fax : 965 4832 394.

O/Ref. MC/FA/ITA/072/99 date : 18/04/99

Subject: AT&T USA Direct - International 800 Service

With reference to your fax message dated 12th April 1999 in regards to accounting the International 800 Service, Kuwait administration wishes to clarify and confirm the second and third paragraphs of our message to specify that instead of billing the International 800 Service calls that originates from Kuwait to your country were billed and accounted in your statements (our incoming traffic monthly statements) which hereafter MOC Kuwait wishes to bill and account all the International 800 Service calls that originates in Kuwait to your country will be accounted like the normal International calls at MOC Kuwait and 50% of the total accounting rate will be credited to your administration through our monthly statement of accounts with effective 1/5/99. (That is our normal International telephone calls plus the International 800 Service calls)

Also the third paragraph of our message specify that the local collection charges which MOC Kuwait applies for the billing will be for the normal local collection charge of KD: 0.350 p.m. will be applied from 7.00 AM to 7.00 PM and the reduced rate of KD: 0.450 p.m. will be applied from 7.00 PM to 7.00 AM on normals days and on Fridays and public holidays the reduced rate of KD: 0.450 p.m. will be applied for 24 hours, accordingly your administration should billed your 800 services customers at your end.

We hope the above clarification may suffice your request, we await to have your agreement before 18/4/99. However if you do not agree with our above proposal, we will be forced to take necessary action to stop the services on 1/5/1999.

Thanks and best regards,