

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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Policy and Rules Concerning the )  
Interstate, Interexchange Market )  
)  
Implementation of Section 254(g) )  
of the Communications Act of 1934, )  
as amended )

CC Docket No. 96-61

COMMENTS OF AT&T CORP.

Pursuant to the Commission's Public Notice, DA 00-1028, released May 9, 2000, AT&T Corp. ("AT&T") respectfully submits these comments proposing certain modifications to the transition plan for the implementation of mandatory detariffing for domestic interstate interexchange services.<sup>1</sup> AT&T also responds to the Commission's request for comment on how quickly IXCs with websites should be required to comply with the web posting requirement adopted in the Second Order on Reconsideration.

<sup>1</sup> Policy and Rules Concerning the Interstate, Interexchange Marketplace, Second Report and Order, 11 FCC Rcd. 20730 (1996); Order on Reconsideration, 12 FCC Rcd. 15014 (1997); Second Order on Reconsideration, 14 FCC Rcd. 6004 (1999). AT&T and other carriers have previously demonstrated that the adoption of mandatory detariffing will increase industry costs, particularly for mass market offerings. To mitigate these cost increases, AT&T has urged the Commission to adopt permissive detariffing. In rejecting AT&T's position, the Commission stated that it did not expect that implementation of mandatory detariffing would not impose "undue burdens" on carriers or "substantially increase their costs." Second Report and Order, 11 FCC Rcd. 20730, para. 57. The modifications AT&T seeks here are intended to minimize the inefficiencies that will result from a detariffing regime, consistent with the Commission's expectations.

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## I. TARIFFING RULES FOR BUNDLED DOMESTIC AND INTERNATIONAL SERVICE OFFERINGS

The Notice (p. 4) seeks comment on “whether permissive tariffing should be permitted during all or part of the nine month transition period for bundled domestic and international service offerings.” AT&T believes that permissive tariffing should be permitted for such bundled offerings until the later of (i) the expiration of the nine month transition period, or (ii) the effective date of a Commission decision to detariff the international component of bundled offerings. This will afford carriers and customers the option of choosing a single instrument to govern their integrated service arrangements -- an option that both carriers and customers have unanimously and consistently supported.

More specifically, in prior phases of this proceeding, carriers and customers alike expressed unanimous support for AT&T’s request that the domestic and international components of unified services packages be subject to similar tariffing regimes.<sup>2</sup> These commenters confirm that customers and carriers negotiate and consider these packages as single, integrated arrangements, and would prefer them to be governed by a single instrument. Customer feedback has confirmed to AT&T

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<sup>2</sup> See Comments of ABC, Inc., CBS, Inc., National Broadcast Company, Inc. and Turner Broadcasting, Inc. (“Networks”), CC Docket 96-61, January 28, 1997, at 5; Comments of Ad Hoc Telecommunications Users Committee, the California Bankers Clearing House Assoc., the New York Clearing House Assoc., ABB Business Services and the Prudential Insurance Company of America, (“Ad Hoc”), CC Docket No. 96-61, January 28, 1997, at 2-3; Petition for Reconsideration of American Petroleum Institute, CC Docket No. 96-61, filed December 23, 1996, at 6; Comments of Competitive Telecommunications Association, CC Docket 96-61, January 28, 1997, at 9.

that there will be significant confusion created by the need for both a tariff and a contract for a single deal, and about the need for and relationship between separate instruments that are intended to deliver an integrated network solution.

To ensure that the same tariffing rules apply to the domestic and international components of bundled offerings, the Commission has several options, including mandatory or permissive detariffing of all components of such offerings. Customers have generally supported the former, arguing that the same considerations upon which the Commission relied in detariffing domestic services apply no less to international services, including especially international components of bundled offerings. As API stated in its Petition for Reconsideration of the Second Report and Order (p. 2), “[i]nternational services are part and parcel of many negotiated service arrangements, and there is no rational basis not to detariff these international offerings.” Indeed, API has observed (p. 8) that the current rules “require end users that negotiate customer-specific arrangements encompassing both domestic and international telecommunications services [to] contend with an artificial partition between tariffed and detariffed contract provisions.” The SDN Users Group (p. 1) has likewise opined that “as a result of vigorous competition in this market, there is no policy reason not to allow detariffing of individual customer arrangements.”

In its Order on Reconsideration, the Commission did not dispute any of these observations, but stated that it lacked sufficient information to conclude that international services should be detariffed, and deferred a decision on that issue to

another proceeding.<sup>3</sup> AT&T respectfully submits that to avoid the confusion and disruption that would be created during the interim period while the Commission considers permanent detariffing of international services (or international components of bundled offerings), it provide carriers and customers with the option of using either a single tariff or a single contract to govern the terms of bundled offerings.<sup>4</sup> No party has identified any harm that would be inflicted upon consumers or the public interest by such an approach, particularly in the interim.

At a minimum, however, in the event that the Commission rejects the temporary permissive detariffing proposal for bundled offerings set forth above, the Commission should allow carriers to comply with the detariffing mandate for domestic services until the later of (i) the expiration of the nine month transition period, or (ii) the release of a Commission decision whether to adopt detariffing for international services, by including in any new or refiled (i.e., amended) tariff for bundled offerings a disclaimer stating that the information therein pertaining to

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<sup>3</sup> Order on Reconsideration, 12 FCC Rcd. 15014, para. 51.

<sup>4</sup> The Commission should not be concerned about the possibility of a carrier invoking the filed rate doctrine to prevent customers from receiving the benefits of a contract then entered into for a bundled offering during the period when permissive detariffing is in effect. As AT&T has previously demonstrated, and no one has disputed, the Commission's order adopting permissive detariffing for this limited period could address this concern by stating, pursuant to Section 203(c), that the terms of the tariff are superseded by any contract between the carrier and customer. AT&T Ex Parte Presentation, "Permissive Detariffing and the Filed Rate Doctrine," CC Docket No. 96-61, at 2-3 (July 17, 1996). As an additional safeguard, the Commission could require the carrier's tariffs to recite this fact.

domestic service is advisory only, and that all AT&T domestic interstate services are furnished under a separate non-tariffed arrangement. The inclusion of such a disclaimer would be the practical and legal equivalent of “canceling the entire tariff and refiling a new tariff for only those services that remain subject to tariff filing requirements” (i.e., international services). Notice, at 3. Although far less preferable in AT&T’s view to a permissive detariffing approach to bundled offerings, this alternative would at least minimize the disruption and delay that would be caused by requiring carriers to immediately disaggregate and then file only the international portions of bundled offerings. More importantly, it would provide a vehicle by which carriers and customers could continue to negotiate and memorialize their deal through a single document.

## II. SYNCHRONIZATION OF THE TARIFFING RULES FOR MASS MARKET DOMESTIC AND INTERNATIONAL SERVICES

The Notice (p. 4) seeks comment on whether the Commission should consider “any other modifications to the Transition.” AT&T respectfully requests that the Commission modify the existing transition period to allow carriers to implement detariffing simultaneously for domestic and international offerings.

Since the early days of this docket, commenters have argued that the same policy considerations underlying the Commission’s decision to adopt detariffing for domestic services apply to international services, and the Commission stated that it would consider this issue in “a separate proceeding.”<sup>5</sup> No party had then or has

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<sup>5</sup> Order on Reconsideration, 12 FCC Rcd. 15014, para. 51.

since identified any substantive reason to retain a tariff requirement solely for international services. Thus, the Commission should be able to complete its consideration of detariffing for international services relatively quickly.

A transition period that allows for simultaneous implementation of detariffing for domestic and international services will ease the transition to a detariffing regime for both carriers and customers, and eliminate one of the major inefficiencies inherent in maintaining separate, inconsistent tariff regimes for domestic and international services. Under AT&T's proposal, once the Commission releases a ruling that adopts detariffing for international services, carriers would be required to file, revise or eliminate their tariffs, as necessary to comply with the Commission's order, effective upon the expiration of the revised transition period.<sup>6</sup> In the interim, the Commission should adopt permissive detariffing for the period during which the Commission considers the detariffing of international services.

Both carriers and customers alike will benefit from an approach to tariffing that does not differ for domestic and international services. Many of the same concerns regarding customer confusion and increased costs described above with respect to different tariffing rules for different components of integrated offerings apply to mass market, non-bundled offerings. Most residential and some business

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<sup>6</sup> In the event (unlikely in AT&T's view) that the Commission concludes that detariffing of international services is not warranted, the Commission could require carriers to comply with the Commission's prior orders upon the expiration of the revised transition period.

customers have long received and continue to receive domestic and international services under separate tariffs. AT&T is concerned that many of these customers will be confused by a regime under which domestic services will be governed by contracts, and international services will be governed by tariffs. These customers will be even further confused if and when, as many customers have urged, the Commission establishes a separate schedule for the implementation of detariffing of international services.

In addition, synchronizing the implementation of mandatory detariffing for domestic services with implementation for international services will minimize undue burdens on carriers, and reduce costs. More specifically, the industry is now faced with the prospect of having to implement detariffing, and educate customers, at least twice: once to implement the Commission's ruling on domestic services, and again when the Commission adopts detariffing for international services. Such an approach could require separate mailings, and require carriers to prepare for and field multiple waves of customer inquiries (and duplicate training of customer service personnel), as part of the multiphase implementation process. Clearly, it would be much more efficient and less costly if carriers were able to move to detariffing for all of their services provided to the same customers at the same time.

In contrast to these benefits, there are no countervailing costs or other considerations that should cause the Commission to decline to extend the transition period until the Commission decides whether to adopt detariffing for international services. Under permissive detariffing, carriers and customers will have the

flexibility to choose contracts or tariffs for domestic services. Any concern about the filed rate doctrine can be addressed completely by a Commission statement in its order that the terms of any tariff will be superseded by a contract between the carrier and customer. See n.4, supra.

### III. THE WEB POSTING REQUIREMENT

The Notice (p. 4) seeks comment on “how quickly the IXCs that currently have websites should be required to come into full compliance with the web posting requirement adopted on the Second Order on Reconsideration.”

AT&T believes that the Commission should require compliance with the web posting requirement no sooner than thirty days after the expiration of the transition period. Carriers are now engaged in the resource-intensive process of determining how to establish and maintain binding relationships with customers in the absence of tariffs, for an array of different services, including not only basic residential service, but so-called casual calling services (e.g., collect calls, billed to third party calls.) AT&T, which began work on the website prior to release of the Notice, estimates that it will need at least an additional ten months to complete development, testing and loading of the website. Because carriers will continue to utilize tariffs during the transition period, moreover, consumers will have sources of information about carrier rates and services other than a website. Thus, particularly during this period, website posting is not necessary to protect consumers. Further, the additional time to comply with the web posting

requirement will allow carriers to develop and implement a website that satisfies the Commission's rules and is easily accessible and useable by customers.<sup>7</sup>

Respectfully submitted,

By: \_\_\_\_\_



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<sup>7</sup> In all events, consistent with the Section 42.10 of the Commission's Rules, the Commission should not require carriers to comply with the web posting requirement for a particular service prior to the date such service is detariffed. As to services for which detariffing is effective today (i.e., new or revised long term service arrangements), AT&T will be able to comply with the web posting requirement by August 1, 2000.