

Dec 27th 2006

Dear Ms. Shetler

- 1) Judge Bassler's far reaching statement that he wanted resolved: **"any other issues left open,"** lead petitioners to believe that petitioners would not have to actually argue "what is on the table," to be argued. Petitioners believed the FCC would only be concerned with the merits of each of the Declaratory Rulings filed; not whether they are on the table for argument.
- 2) The FCC's General Counsel, Mr. Austin Schlick advised petitioners in writing that the petitioners could file any Declaratory Rulings it wanted, **even if the District Court didn't specifically ask well before the NJ District Court's latest referral.** The FCC was given a copy of the email from FCC General Counsel Austin Schlick.
- 3) The record is also absolutely clear that Judge Hedges stayed petitioners 1997 Supplemental Complaint dealing with permissibility and infliction of shortfall and termination charges. The record is also clear that petitioners attempt to separate the case into two was not allowed by the District Court's Judge Bassler. The traffic transfer issue and the shortfall permissibility issue are indeed separate and distinct issues, however the interpretation of the same exact tariff law is common and relevant to both issues. We will explain in depth when we reply.
- 4) The Oct 17th 2003 Declaratory Ruling on pg14 footnote 94 clearly states that the 190 end-users who complained about AT&T's infliction of shortfall and termination charges in 1996 were included within the Declaratory Ruling Process that also

sought to adjudicate the 1995 traffic transfer issue. The 1995 traffic transfer issue may not have needed to focus on the shortfall charges and how the charges were applied but the record is still there to now address the 1996 issues to answer all the 2006 Declaratory Ruling Requests of petitions.

FCC Excerpt:

After receiving AT&T's bills for shortfall charges, 190 of CCI's end users sent letters to the Commission in June and early July of 1996. The Consumer Protection Branch of the Enforcement Division of the Common Carrier Bureau informed these end users that their letters would be treated **as informal comments in this declaratory ruling proceeding**. After the original billing, however, in a letter dated June 27, 1996, AT&T informed CCI's end-users that the shortfall charges would be "transferred to a bill directed to CCI itself." AT&T filed a copy of this letter with the Commission in a section 208 formal complaint proceeding that it filed against petitioner Winback & Conserve in October 1996. *See* Complaint, Exhibit A, Attachment E, *AT&T Corp. v. Winback and Conserve Program, Inc.*, E-97-02 (filed Oct. 25, 1996). **Accordingly, we surmise that AT&T made no further attempt to bill or collect these charges from CCI's end-users and therefore conclude that the propriety of imposing shortfall charges on CCI's end-users is a moot issue.**

5) The **propriety** of imposing shortfall on the end-users went far beyond AT&T no longer attempting to collect charges from these end-users. 1) AT&T stopped all payments to petitioners and effectively put petitioners out of business due to bogus shortfall and termination charges. **Therefore permissibility is still a major issue.** 2) The end-users relationship with petitioners was totally destroyed due to AT&T's illegal remedy. Even if the shortfall charges were permissible AT&T's remedy was simply to reduce the end-users discount, not charge shortfall and termination charges 10 times higher than the actual bill! This caused the end-user outrage! The transferring of shortfall charges from the end-users to CCI's main account occurred after the petitioner/end-user relationship was **already destroyed.** The FCC Ruling

was only thinking of the propriety as it related to the traffic transfer issue. However the FCC must now also address all Declaratory Rulings, and focus on the propriety of imposing shortfall in regards to the destruction of the CSTPII/RVPP plans (permissibility) and the destruction of the relationship between petitioners and its end-users, (illegal billing remedy).

6) The facts are clear and there is no need for additional discovery. The 190 end-users bills submitted all clearly show AT&T charging end-users far in excess of the discount that the tariff caps. These facts are abundantly clear and there can be no dispute as to what occurred. The 1996 shortfall charge infliction issues must be addressed by the FCC this time.

7) Both the IRS and the Florida Department of Revenue also believed that all Declaratory Rulings filed by petitioners were on the table before the FCC to be resolved. AT&T is under investigation for possible massive tax evasion by the Internal Revenue Service (IRS) and the Florida Department of Revenue. AT&T is being investigated for massive tax evasion in which it maybe determined that it attempted to hide the tax evasion within a non disclosure agreement, before the agreement was leaked. There is little wonder why AT&T does not want to address the permissibility issue. Both of these taxing authorities believed that petitioners Declaratory Rulings addressed their interests and therefore chose not to file public comments. Both taxing authorities want to determine if the telecom issues of whether the June 1996 end-user inflicted shortfall charges were permissible in the first place, so as to then apply their tax rates if the FCC determined the shortfall and termination charges permissible as to these particular CSTPII/RVPP plans. Of course if the shortfall charges were determined not permissible AT&T also losses

the telecom issue to petitioners. AT&T simply does not want the permissibility issue resolved either way!

8) The following is an email from Florida Department of Revenue regarding whether it was filing public comments. Florida chose not to file public comments because **it believed its interests were covered:**

----- Original Message -----

From: REDACTED

To: EzyStudentFunds

Sent: Wednesday, December 20, 2006 1:33 PM

Subject: Re Are you filing electronically or by paper?

AI:

I apologize for the delay in responding, but I needed to wait on our decision regarding sending comments.

After careful consideration and discussion of how we might comment, for various reasons we have decided not to provide comments to the FCC.

We do, of course, retain an interest in the FCC's rulings.

REDACTED

Senior Attorney

Technical Assistance & Dispute Resolution

Florida Department of Revenue

PHONE NUMBER REDACTED

9) Additionally, 800 Services, Inc., and Combined Companies, Inc., (CCI) filed public comments based upon petitioners Declaratory Rulings, also with the understanding that the issue of whether or not the shortfall and termination charges were permissible; and if permissible were these charges properly applied, was to be decided by the FCC. Additionally there are many more aggregators that AT&T may have also illegally put out of business which also want to have these issues decided.

10) AT&T's position that none of the issues other than the traffic transfer issue is before the FCC is totally bogus. For both parties to spend time arguing "what is to

be argued” then months later when the FCC rules have one party complaining is a tremendous waste of the FCC’s time and certainly is not in the best interests of judicial economy. What’s on the table to be argued may be able to be clarified by the District Court now.

11) We therefore ask the FCC for an extension of time to file reply comments so petitioners and AT&T can seek District Court guidance for the FCC as to whether the District Court wants just the traffic only transfer issue resolved or all other issues. If the District Court does not want the 1997 Supplemental Complaint issues resolved now the District Court may decide to resolve the issue itself or do additional fact finding which AT&T believes is needed.

12) The District Court may decide not to address “what’s on the table” but at least this is a much better approach than going ahead and arguing at the FCC “what’s on the table to argue” before we get to square one--- the actual merits of the case.

13) As to what date to request an extension, that depends upon the speed of the feedback from the NJ District Court. For now an additional month may be long enough, so petitioners respectfully request that reply comments due date be extended to February 16th 2007. Petitioners will file a letter with the District Court the week of Jan 1st 2007.

14) I have already contacted CCI, and 800 Services, Inc., the only other parties that have filed public comments, and both parties are in agreement that guidance from the District Court is needed if the FCC can not currently state at this point that it will be addressing all Declaratory Rulings.

17) If the FCC believes that it does not have to adhere to the statement of its General Counsel Mr. Schlick, nor believe that Judge Basslers statement was

encompassing of all issues, we ask the FCC to grant the extension to file to have parties send a letter to the District Court.

18) However, if the FCC intends to resolve all petitioners Declaratory Ruling requests, we ask the FCC to state this now so going to the District Court is not necessary. If the FCC doesn't intend to address all Declaratory Ruling requests please let AT&T, petitioners, 800 Services, Inc., CCI, Florida Department of Revenue and the IRS all know now, and allow us to seek guidance from the District Court and or file additional Declaratory Rulings.

Respectfully Submitted,

_____/s/ Al Inga/____

Al Inga President

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