

800 Services, Inc
P.O. Box 846
Fair Lawn, N.J. 07410

February 12th, 2007

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
Via Email
Deena.Shetler@fcc.gov

FCC Contractor
fcc@bcpiweb.com

Re: WC Docket No. 06-210
CCB/CPD 96-20

**800 SERVICES, INC.'S
COMMENTS REGARDING PETITIONERS REQUEST FOR RECONSIDERATION
AND CLARIFICATION OF THE JANUARY 12, 2007 FCC ORDER**

800 Services, Inc., has read CCI's comments and petitioners comments and 800 Services, Inc., is equally confused. The FCC Jan 12th 2007 Order does state that the FCC believes that the District Court's referral encompassed only the traffic transfer. However, 800 Services, Inc., was led to believe that all Declaratory Ruling Requests requested by petitioners were to be resolved

by the FCC, as long as there were no disputed facts. Petitioners are wrong that it can not bring forth Declaratory Rulings. There was no FCC rule change.

800 Services, Inc., interests are: 1) The shortfall permissibility issue i.e. interpreting the duration of the June 17th 1994 grandfather provision. 2) the illegal infliction of shortfall in excess of the tariffed cap of the discount. 3) the discrimination issues.

800 Services, Inc. also had plans that were properly and timely restructured and despite this shortfall issue still being an open issue in 1995 had charges placed on its plans in November 1995. The November 1995 date was obviously well within three years from June 17th 1997 which would be the end of the June 17th 1994 grandfather period for 3 year plans. Additionally AT&T does not dispute that it was under a FCC Order to grandfather plans from Oct 1995 through Oct 1996. Therefore AT&T's November 1995 application of shortfall charges to 800 Services, Inc's plan was one month after the Oct 1995 start of the grandfather period. 800 Services, Inc., is just discovering that AT&T was in contempt of that Oct 1995 Order and deliberately did not produce it during discovery in 800 Services, Inc., case with AT&T.

800 Services, Inc. carefully reviewed AT&T's comments and AT&T does not at all refute the fact that it was under the Oct. 1995 FCC Order not to inflict shortfall charges. AT&T was totally silent on this fact, not refuting this undeniable fact. The point is if there are no disputed facts why wouldn't the FCC being ruling on this?

In petitioners case AT&T's position is that if it weren't for petitioner's right to a grandfathered restructure in April of 1995, petitioners would have had shortfall assessed against it 1995 and not 1996 as AT&T disputed that petitioners would have made its fiscal year commitment. According to AT&T if the petitioners April 1995 restructure was the second restructure after June 17th 1994 AT&T would have applied shortfall in April of 1995; but since AT&T didn't apply shortfall in April of 1995 AT&T had to be taking the position that the petitioners had at least one restructure to do after the Jan 1995 traffic transfer.

Whether petitioners would have made its commitment at the end of its 1995 fiscal year is of no relevance given the undisputed fact that both parties have agreed that the first time petitioners restructured after June 17th 1994 was in April of 1995. That is the undisputed fact that the FCC needs to assess from that date.--- How many restructures were allowed from that April 1995

point, also taking the FCC Order into account and the first year shortfall credit.

The only thing that petitioners/800 Services, Inc. and AT&T disagree on is a tariff interpretation of how long can a CSTPII be allowed to restructure under the old rules that did not require meeting monthly pro-rata commitments. Both parties agree what transpired; there are no disputed facts. It is a simple tariff interpretation.

AT&T's interpretation is one time. Petitioner's and 800 Services, Inc.'s interpretation is for the remainder of the 3 year CSTPII contract that falls after June 17th 1994; basically when the original commitment was expired given the fact that there was no fresh look offered. 800 Services Inc. has the same issues too and that is why it also needs the FCC's tariff interpretation.

Also what was not refuted by AT&T was the August 29th 1996 first year shortfall credit. Again AT&T is not disputing these facts. It can't. They are undeniable. These are all interpretive issues.

Illegal Application of Shortfall:

800 Services, Inc., also sees absolutely no disputed facts presented by AT&T regarding AT&T's infliction of shortfall charges in excess of the tariffed remedy of reducing the end-users discount. The bills don't lie! The bills are the undeniable facts!

The same thing that AT&T did to petitioners AT&T did to 800 Services, Inc., - placing shortfall charges in multiple times the entire amount of the bill to end-users that caused them to go crazy as AT&T destroyed our reputation and goodwill. AT&T came to their rescue as AT&T took them back to AT&T directly at higher rates. Again the point here is that AT&T did not raise one disputed fact regarding what it did. The bills show what AT&T did. The tariff law states AT&T can only reduce the discount! There are no disputed facts. This is an illegal remedy, pure and simple. AT&T argued that it had the right to put those charges on the bill but that is not a fact of actually what happened. 800 Services Inc., saw that the FCC 2003 Decision already resolved the fact that AT&T admitted that it can not bill end-users who are not their customers. What am I missing here? The facts are all non disputed. It is a simple tariff interpretation.

If the FCC still continues to take the position that petitioners need to go back to the District Court after it made the parties brief these issues, and there are no disputed facts, it will look like one of two things:

A) The FCC is simply looking to reduce its docket and thus turning its head on 12 year old case that it delayed while AT&T was putting all us aggregators out of business.

OR

B) There are FCC personnel that for some reason are protecting AT&T.

800 Services Inc., just read CCI's comments and it was interesting to see the quote of AT&T in which AT&T asserted to the District Court that the shortfall and discrimination issues were open issues at the FCC and DC Circuit.

Can 800 Services, Inc., ask what did the FCC found that was disputed? Or does AT&T just get to say it's disputed without ever providing any reason why and the FCC just has to believe AT&T because it's AT&T.

The FCC needs to clarify what it found that is disputed. CCI is correct; if these issues have to go back to the District Court, the District Court is going to look at these shortfall and discrimination issues, and question what is going on at the FCC?

800 Services, Inc never had the benefit of the FCC's tariff interpretation expertise. AT&T committed fraud in 800 Services Inc., case vs. AT&T, and 800 Services, Inc., will be reinstating the case when the FCC rules on the shortfall issues.

Representing 800 Services, Inc.

/s/ Phillip Okin
Phillip Okin President