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9/14/07
Commission's Secretary
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Federal Communications Commission
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Via Email
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FCC Contractor
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Re: WC Docket No. 06-210
CCB/CPD 96-20

800 SERVICES, INC.'S
COMMENTS

Dear Commission

800 Services, Inc. has been reviewing all filings and the fact that it has not filed in a while should not be taken as 800 Services, Inc has lost interest in petitioner's Declaratory Ruling requests.

Now that the petitioner's have clearly pointed out that under 2.1.8 transferee PSE is:

- A) only responsible for "all obligations of the former customer" not the customer, and
- B) the remaining jointly and severally liable provision, only pertains to the former customer, not the customer.

2.1.8 now makes perfect sense. Until petitioners pointed this out 2.1.8 was very confusing.

The Former Customer compared to the Customer interpretation makes perfect sense. Additionally the tariff definition of the Main Billed Telephone Number is also consistent with petitioners 2.1.8 interpretation. If the Main Billed Telephone Number does not transfer the **customer** and its plan remains a **customer** not a former customer. (See tariff definition for Main Billed Telephone Number as exhibit A in petitioners 8/23/07 FCC comments)

Main Billed Account- an account associated with a Customer's service to which WATS charges are billed.

What 800 Services, Inc., also found conclusive was the control aspect. It is a non disputed fact that a transferor which remains jointly and severally liable no longer owns, or is responsible for control of a plan and is therefore a former customer not a customer. So it makes perfect sense under 2.1.8 that the remaining jointly and severally liable clause only pertains to the **former** customer. The remaining jointly and severally liable clause can **not** pertain to a customer because a customer still owns and is responsible for the control of its CSTPII/RVPP WATS-- here the CSTPII/RVPP plan.

The letter from the AT&T manager in petitioners comments Date Received/Adopted: 09/05/07 at exhibit A regarding “control” of a plan (adding and deleting and changing service) is an obvious AT&T concession as well. Finally regarding the customer and not the “former” customer being responsible and being in control, the tariff section 2.4.1 states at tariff exhibit C in petitioners comments Date Received/Adopted: 09/05/07:

:

“The **customer** is responsible for placement of all orders”

Petitioner’s owner Mr Inga may have been the only AT&T customer that could actually decipher the 2.1.8 code. That’s why the law requires the tariff to be explicit so mere mortals like me can understand it. All AT&T customers understood that only when you transfer your plan does the revenue commitment/shortfall and termination obligation transfer, but just looking at 2.1.8 you would think that 2.1.8 **only allowed** “traffic only” transfers.

This is because the only two obligations listed within 2.1.8 (indebtedness and unexpired portion of the minimum payment period) are obligations that are associated with the end-user account traffic as opposed to the revenue commitment/shortfall and termination obligations which are associated with the customer commitment as a CSTPII/RVPP plan holder.

Hindsight is always 20-20 now that petitioners have broken the 2.1.8 code with its Former Customer/Customer analysis and its analysis of 2.1.8’s remaining jointly and severally liable clause. Now you sit back and say “How could I have missed that, it now makes perfect sense”. It is so simple. Under petitioners tariff analysis 2.1.8 could be used for plan transfers as well as “traffic only” transfers due to petitioner’s tariff analysis.

Anyone can now understand the difference between a “Former” Customer and a “Customer”. Anyone would understand that if the transferor is a former customer that obviously means the transferor used to be a Customer Specific Term Plan owner! In the case at hand CCI is **not** a former customer it remained a “Customer”. Therefore when 2.1.8 applies “all obligations of the **former** customer” and applies the joint and several liability clause to only the **former** customer CCI, the shortfall and termination liability are exempt as per 3.3.1.Q para 10 are Customer responsibilities not “**Former** Customer” responsibilities.

Therefore under 2.1.8 shortfall and termination obligations do not transfer on a traffic transfer, only on a plan transfer.

There are yet additional **non-**disputed facts that conclusively show that shortfall and termination obligations do not transfer on “traffic only” transfers. The CSTPII/RVPP plan is **not transferring** and by tariff definition, each CSTPII/RVPP must have a **revenue commitment** between \$600,000 and \$33 million for an aggregator 3 year Enhanced Billing Option (EBO) plan Option B in which AT&T does the end-user billing. Previously exhibited by petitioners as exhibit A page 8 in its comments Date Received/Adopted: 09/07/07.

It is also non disputed, as previously exhibited by petitioners, that under the tariff shortfall and termination obligations are both “integrated” or if you will based upon the CSTPII/RVPP plans revenue commitment, which under the tariff must stay with the CSTPII/RVPP plan.¹

Because the revenue commitment under the tariff must stay with the **plan** and because the shortfall and termination obligations must stay with the **revenue commitment**, the shortfall and termination obligations must stay with the **plan**. Just like math: Since A=B and B=C then A=C.

AT&T itself nicely ties in 1) the plans revenue commitment, 2) the shortfall obligation 3) the CSTPII plan and 4) Customer not Former Customer obligations

See AT&T’s brief to the FCC in 1996 on page 3 fn.1

Shortfall charges refer to the tariffed charges assessed on “customers”, upon each anniversary date **under a multi-year term plan such as CSTPII Plans**, for the amount of the **revenue commitment** to which the customer committed but failed to generate during that plan year.

That says it in a nut shell.

AT&T also commented on termination liability:

¹ See petitioners tariff exhibit A page 5 in its comments filed Date Received/Adopted: 09/07/07
3. Penalty for Shortfalls - The Customer must meet the net annual **revenue commitment** after the discounts are applied. If a Customer does not meet the **annual revenue commitment** in any one year, after discounts are applied, the Customer must pay the difference between the Customer’s actual billed revenue and **the annual revenue commitment**.

See petitioners tariff exhibit A page 6 in its comments filed Date Received/Adopted: 09/07/07
5. Discontinuance of AT&T’s 800 Customer Specific Term Plan II-With Liability - When a Customer has AT&T 800 Services covered under the plan, disconnection of any one of the services does not constitute discontinuance of the plan. Except for conditions covered in Section 3.3.1.Q.4., preceding, discontinuance of all service furnished under the CSTP II prior to the expiration of the applicable term, constitutes discontinuance of the plan and will result in Customer liability as specified following. The amounts due to the Company upon discontinuance will be:
- 35% of the remaining term plan revenue commitment.

“Termination liability” refers to payment of tariffed charges that apply if a **term plan** is discontinued before the expiration of the term. Section 3.3.1.Q of AT&T’ Tariff F.C.C. No.2 Payment of termination charges is not at issue here.

This traffic transfer issue is now clear as can be and 800 Services, Inc., now fully understands how 2.1.8 worked not just from the same way that AT&T from 1995 through 2005 and all AT&T customers interpreted it.

However 800 Services also agrees that further delay is not necessary because the issue is moot. The way that 800 Services, Inc, sees it is that CCI and PSE **agreed in writing** on AT&T’s own authorized and issued Transfer of Service Agreement (TSA) that mirrors 2.1.8 that CCI was transferring and PSE was assuming **all obligations of the former customer**. That is the only thing that matters. They did what AT&T’s 2.1.8 tariff required of them.

It is undeniable:

**Whatever those Obligations are that are Required by the Tariff
to be Transferred on “Traffic Only” Transfer---
CCI Transferred them and PSE assumed them.
So how can AT&T Even Argue?**

The parties did exactly as the AT&T issued TSA requested. Because 2.1.8 allowed both “traffic only” transfers as well as plan transfers and the AT&T issued TSA was used for both types of transfers, it was necessary to indicate to AT&T what type of transfer was being ordered so AT&T wouldn’t screw up.

The obligations transferred are whatever they are for the service selected for transfer and AT&T was obligated to do what its tariff mandated. PSE and CCI did exactly what section 2.1.8 and the AT&T issued TSA required.

The TSA’s that CCI and PSE used are the same AT&T TSA’s that all AT&T customers used. Under 2.1.8 if AT&T had an objection to the order it had 15 days to raise it and from what 800 Services, Inc. sees in the record AT&T failed to object by this 2.1.8 statute of limitations date.

Given the fact that under 2.1.8 CCI agreed to transfer and PSE agreed to assume “all obligations of the former customer” and 2) CCI agreed and PSE agreed to adhere to 2.1.8’s joint and several liability provision. No matter what AT&T now believes the joint and several liability provision means CCI and PSE signed the AT&T TSA and agreed to comply with it.

Now that **WAR AND PEACE** needed to be typed to fully understand the **four paragraph 2.1.8; attention now needs to be placed on the shortfall issues.**

800 Services, Inc., also wanted to transfer its traffic to PSE but AT&T management advised 800 Services, Inc., that 2.1.8 doesn’t allow traffic transfers; the same way that Joyce Suek advised the Inga Companies that 2.1.8 no longer allowed traffic transfers.

Then 800 Services, Inc., attempted to delete the accounts off its plan so the end-users would not get hit with the charges that AT&T alleged were permissible against 800 Services, Inc.

Now that 2.1.8 has been made explicit by petitioners, 800 Services, Inc., interests are:

- 1) The interpreting of the duration of the June 17th 1994 grandfather provision.
- 2) the infliction of shortfall in excess of the tariffed cap of the discount.

800 Services, Inc. also had CSTPII/RVPP plans that were properly and timely restructured and despite the fact that this shortfall issue was still an open issue in 1995 800 Services, Inc. had charges placed on its end-users 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, which 800 Services had.

Also, AT&T does not dispute that it was under a FCC Order to grandfather plans from Oct 1995 through Oct 1996. The Inga Companies exhibited this in one of its filings. Therefore AT&T's November 1995 application of shortfall charges to 800 Services, Inc.'s, end-users was one month after the Oct 1995 start of the FCC Ordered grandfathered period.

AT&T was obviously 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. has carefully reviewed AT&T's comments and AT&T did not and can not refute the fact that it was under the Oct. 1995 FCC Order not to inflict shortfall and termination charges.

There are no disputed facts. The only thing that petitioners/CCI/800 Services, Inc. and AT&T dispute is the tariff interpretation of how long can a CSTPII/RVPP plan 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 that a one time restructures (discontinuation without liability) after June 17th 1994 are permitted. 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. In reading Inga's briefs 800 Services also has picked up on the fact that if AT&T interpreted restructures for only allowing one year but within the middle of the Customers long term 3 year contract that this would be a violation under some section of the FCC law as being unreasonable.

800 Services Inc. has these same June 17th 1994 issues too and that is why it also needs the FCC's tariff interpretation.

Illegal Application of Shortfall and Termination Charges

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 same thing that AT&T did to CCI and Inga's customers AT&T did to 800 Services, Inc., -- placing shortfall and termination charges in multiple times the entire amount of the bill to the end-users, which caused them to go crazy as AT&T destroyed 800 Services, Inc.'s, reputation and goodwill.

AT&T came to the end-users rescue as AT&T took the end-users 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 AT&T 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. However, even if AT&T believed that it had the right to put charges on 800 Services, Inc.'s end-users bills, AT&T was constrained by its tariffed remedy, and this it failed to do.

800 Services, Inc respectfully asks the Commission to interpret the shortfall issues otherwise 800 Services, Inc will support the petitioners DC Circuit request to refer the shortfall issues to the FCC. The DC Circuit will understand that it is just not petitioners that want the shortfall issues decided.

Respectfully submitted,

800 Services, Inc.
/S/ Phillip Okin
Phillip Okin President