Received & Inspected
JUL 10 2008
FCC Mail Room

R & L Associates

A WASHINGTON, D.C. FIRM – 163 Mitchells Chance Rd., #121, Edgewater, MD 21037

Fax: (206)-350-5585
Michael Lovern, Sr.
Direct Dial: (410)-956-8079
Direct Dial: (206)-338-6377
pl_rla_dc@myway.com

July 7, 2008

Secretary, FCC
Marlene Dortch
FCC
445 12th Street S.W.
Washington, D.C. 20554

RE: Bellsouth AT&T Merger Docket # 06-74
First Amendment to Petition For Reconsideration Still Pending

Dear Ms. Dortch:

Enclosed is an Original and 4 Copies of my First Amendment to my Petition For Reconsideration that is still pending, having never been ruled on. This is being filed in a timely fashion, please log this in the record and docket it.

Also enclosed, is one original and four copies of my notice of change of address.

Thank you.

Michael Lovern, Sr.

No. of Copies rec'd 0+4
List ABCDE

Received & Inspected

JUL 1 0 2008

FCC Mail Room

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

In the Matter of Applications
for Consent to the Transfer
of Control of Licenses and
Section 214 Authorizations from

BELLSOUTH CORPORATION
Transferor

To

WC Docket No. 06-74

AT&T INC.
Transferee

MICHAEL LOVERN, SR.'S NOTICE OF CHANGE OF ADDRESS

MICHAEL LOVERN, SR. ("Petitioner") respectfully submits his NOTICE OF CHANGE OF ADDRESS TO his **still pending** PETITION FOR RECONSIDERATION ("PETITION") with respect to the subject transfer proceeding. There is no legal Final Order in this case.

Petitioner's new address is:

Michael Lovern, Sr.
R&L Associates
163 Mitchells Chance Road -#121
Edgewater, MD 21037
(206)-202-9074

Respectfully submitted,

Michael Lovern, Sr.
163 Mitchells Chance Rd., #121
Edgewater, MD 21037
(206)-202-9074
pratgen@myway.com

CERTIFICATE OF SERVICE

I, Michael Lovern, Sr., hereby certify that on this 7th day of July 2008, a copy of this First Amendment to Petition For Reconsideration Reply was sent to the following parties:

Matthew C. Hammond,
Telecom & Media Section, Antitrust Division
U.S. Department of Justice
matthew.hammond@usdoj.gov

T. Michael Payne
AT&T Corp.
ad1968@att.com

John Thorne
Verizon Communications Inc.
john.thorne@verizon.com

Melissa E. Newman
Qwest
Fax: (202)-293-0561 – Ph: (202)-429-3120

Michael Lovern, Sr.
163 Mitchells Chance Rd., #121
Edgewater, MD 21037
(206)-202-9074
pratgen@myway.com

July 7, 2008

Received & Inspected

JUL 10 2008

FCC Mail Room

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

In the Matter of Applications
for Consent to the Transfer
of Control of Licenses and
Section 214 Authorizations from

BELLSOUTH CORPORATION
Transferor

To

WC Docket No. 06-74

AT&T INC.
Transferee

MICHAEL LOVERN, SR.'s FIRST AMENDMENT TO HIS PENDING PETITION FOR RECONSIDERATION BASED ON NEW EVIDENCE; and, REQUEST FOR an IMMEDIATE HEARING

MICHAEL LOVERN, SR. ("Petitioner") respectfully submits his FIRST AMENDMENT to his **still pending** PETITION FOR RECONSIDERATION ("PETITION") with respect to the subject transfer proceeding. Petitioner can now bring expert testimony from a former AT&T / U.S. West Employee who will testify that he has first hand knowledge of the Conspiracy between AT&T, the RBOCs, Bellcore, certain FCC employees, et al, to prove the RBOCs provided AT&T premeditated, illegal, preferential billing & collection (B&C) services post divestiture, that resulted in Billions of Dollars in damages to AT&T's Competitors, and Hundreds of Billions of Dollars in damages to Consumers, Businesses and Government Agencies. This witness was in the room, in the meeting in St' Louis the day the RBOCs told AT&T about how the RBOCs would provide LEC billing of inter/intra state AT&T long distance to AT&T at a cost and

service level not available to AT&T's Competitors, and, in violation of, but not limited to, Judge Greene's "Modified Final Judgment" (MFJ). The meeting was held with only the RBOC account executives present [the RBOC lawyers stayed away for obvious reasons {the witness had been told by Sr. Management that what was being done was legal}] – and the purpose was to discuss how the RBOCs could retain the AT&T - B&C revenues for as long as possible – [the InterCompany Settlement System inherently was / is capable of billing inter/intra – it doesn't care – its all how the revenues are booked]. AT&T had threatened to take away the B&C Revenue stream from the RBOCs unless they lowered their price to between $.03 -.$05 per message with inquiry, which was significantly lower than what was being offered to AT&T's competitors. The RBOCs were informed by A. Marvin Roscoe, Jr., Division Manager - AT&T Billing Services – that it was AT&T's intention to take away B&C from the RBOCs – each RBOC then created a B&C proposal – and new pricing for AT&T. AT&T subsequently enjoyed a level of service for B&C identical to pre-divesture at a savings of between 400-1200% over their competition, which included 100% ON-NET, which meant AT&T could bill every telephone in North America without having to negotiate B&C contracts. Their Competitors had to go out and negotiate contracts with each LEC at an upfront cost of Millions, and no one ever achieved 100% ON-NET other than AT&T, even today.

Because the respective LECs were required to purchase AT&T's receivables, AT&T enjoyed much lower uncollectables than their competition. The method of receivable purchase for RBOC billed messages was known as "REVERSE TRANSLATION" – designed by Bellcore, whereby AT&T's messages were transferred

to Cincinnati Bell (CB) by the other RBOCs and CB sold the receivables on paper to AT&T who then sold them back to CB [on paper], and CB entered them into the InterCompany Settlement System (ICS) coded 000, which fooled the system into thinking the message was transported by CB instead of AT&T [keep in mind that at this time CB did not transport any calls outside Ohio, yet they were entering interstate / interlata calls transported from all over the country as if they transported the calls].

As for the AT&T Special Calling Cards, issued by Bellsouth that replaced AT&T's original line based AT&T - RBOC issued calling card, [as part of divestiture the DOJ ordered AT&T to cancel all RBOC AT&T Calling cards] – these new scrambled calling cards issued by Bellsouth with scrambled Caribbean RAO numbers - when they were entered into the ICS by an AT&T Competitor who accepted the card, once again the RBOCs transferred all those cards to Bellsouth, who then once again sold the receivable to AT&T who would unscramble the call record providing Bellsouth with a billable call record that included a recognizable RAO. [Toward the end of Bellcore, {early 90s}, all the RBOCs were billing these calls]. The receivable was then entered into the ICS by the appropriate RBOC / CB, or SNET who controlled B&C for that particular AT&T Customer. Once again, it appeared in the system as if that particular RBOC, CB or SNET transported the call. The fraud on all these calls was that the 7 RBOCs, who controlled entry into the Centralized Message Distribution System (CMDS) / ICS, would do what was called front end edits when AT&T's Competitors entered any calls into CMDS / ICS, and when they received the new AT&T Calling Card calls the RBOCs would send them back to the owner marked "UNBILLABE- Caribbean LEC Calling Card, NO B&C,"

which was nothing but a scam. End result, the rightful owner lost their revenue yet the RBOCs and AT&T billed and collected the revenue stealing it from AT&T's Competitors. Petitioners lost several hundred thousand dollars like this even though he traced his money to AT&T. [Petitioner was able to do a trace audit because he has the codes that allowed him to unscramble the call records]. AT&T admitted they had Petitioner's money but they refused to give it back. Petitioner filed a complaint with the FCC who covered up the entire episode. AT&T Competitors lost Hundreds of Millions of Dollars connected to this illegal scheme.

In addition, there is a second witness, former AT&T / Bell Labs / Bellcore Employee, who is an industry expert, subject matter / B&C expert, who will corroborate the first witness. The same predispositions for intentional violations of U.S. Antitrust Laws, etc, still exist today inside the new AT&T. There is no legal Final Order in this case. [See Petitioner's Original, still pending, Petition For Reconsideration and Response Motion to AT&T's Motion in Opposition in this case].

The Commission still has not ruled on Petitioner's Original Reconsideration Petition filed and docketed January 26, 2007. New evidence has come to light and Petitioner now requests that the Commission amend his Original Petition to include this Amendment and immediately schedule a hearing on the merits of this Amendment, inclusive of his original grounds for reconsideration in this case, and the new evidence brought before the Commission in this Motion. The Commission completely failed to consider and discuss the matters raised in Petitioner's two Comments filed and dated May 10, 2006, and, October 23, 2006, BUT, more important the Commission's vote and

subsequent Order dated March 26, 2007, cannot be final. To say it is would be illegal as the action (or rather inactions) of the Commission have been arbitrary and capricious, and in direct violation of the Administrative Procedure Act (APA), the Communications Act of 1934, as amended (Communications Act), and its own Rules and Regulations, as outlined in Petitioner's original Reconsideration Petition, which has never been ruled on by the Commission.

The Order in this case cannot be Final Order per the Rule of Law established by the U.S. Supreme Court and the FCC's own definition of "Final Order."

(e) **"Final Order" means an Order that is no longer subject to administrative or judicial reconsideration, review, appeal, or stay.** [Underline added for emphasis].

The U.S. Supreme Court says;

> **"two conditions must be satisfied for agency action to be "final": First, the action must mark the "consummation" of the agency's decision making process, *Chicago & Southern Air Lines, Inc. v. Waterman S. S. Corp.*, 333 U.S. 103, 113 (1948). And second, the action must be one by which "rights or obligations have been determined," or from which "legal consequences will flow," *Port of Boston Marine Terminal Assn. v. Rederiaktiebolaget Transatlantic*, 400 U.S. 62, (1970).** Bennett v. Spear, 520 U.S. 154, 178 (1997).

The definition of consummation is – "the act of consummating; completion." The Merger proceedings before the FCC in this case are not final, not completed, and not effective. In the case cited by AT&T, Washington *supra,* 665 F. 2d 1264, **the Court chastised the FCC for their conduct;**

> **"The FCC has by no means served as an exemplar of proper agency procedures in this case. Were the issues related to the Top 50 Policy and the effective dates of agency action not moot, we would remand the proceedings to the Commission and require it to accord to WATCH full party status."** [underline added for emphasis].

Petitioner's *Petition* For Reconsideration has never been ruled on, hence, the Commission's has not issued a Final Order in this case. THEREFORE, Petitioner now Amends his Original Petition and Reply to AT&T's Motion in Opposition to include this Amendment.

I

NEW CORROBORATION OF OLD EVIDENCE

In 1994, Petitioner provided the following information to the FCC, DOJ Antitrust, [exclusive of the 2004 updates], and he also provided it to all State Regulatory Agencies when he spoke at the NARUC National Convention in Reno Nevada:

"Speech" – BY: MICHAEL LOVERN, SR.
given at "National Association of Regulatory Utility Commissioners" (NARUC) - National Convention, November 1994, Reno, Nevada

"NOTE: 2004"...is information added in 2004, not part of the speech.

Today marks the 10th year, 11th month, and 12th day since Divestiture. What has changed in the telecommunications industry, as far as reshuffling the wealth since the first day of January, 1984 has been remarkable; however, what has not changed in the telecommunication industry since the first day in January, 1984, is the continuing AT&T dominance through its ability to exclusively offer RAO based *"Special Number Calling Cards"* and to receive preferential premium billing services from all US telephone companies.

The importance of these two issues is this:

AT&T has dominated the calling card market, making billions of dollars over the years, through a special calling card arrangement with Cincinnati Bell and Bell South. This special arrangement has allowed AT&T to receive,

*** preferential treatment and premium billing services, as if the card had been issued by a Bell Operating Company ("BOC") or Independent Telephone Company ("ITC") and,**

*** no other competitive interexchange carrier has received such preferential treatment and today 10 years, 11 months and 12 days after Divestiture, no competitive interexchange carrier has been able to market an intraLATA and interLATA calling card that is accepted by virtually the entire telephone industry in the United States.**

What is this arrangement I am referring to?

SPECIAL BILLING NUMBER (RAO) CALLING CARDS

Here's what that includes;

1. Exclusive use of Cincinnati Bell's RAOs. AT&T has been able to issue Special Calling Cards (approximately 4 million) using 308 and 077 (077 appears as 677 on the actual calling card - per Bellcore specifications).

2. Exclusive use of Caribbean RAOs. AT&T has been able to issue Special Calling Cards (approximately 8 million) using RAO codes 503, 506, 507, 508. Each of these RAO codes - having been assigned by Bellcore to specific Caribbean countries - were never intended to be used for the issuance of calling cards, let alone calling cards for AT&T.

The use of these RAOs enables AT&T to issue 12 million, fully honored and completely billable calling cards that have generated billions of dollars over the course of the past few years, inclusive of an enormous amount of money for calls transported over other IC networks, charged to one of these cards, yet AT&T was paid for the call instead of the IC who actually transported the call.

Let's examine the preferential treatment that goes along with this arrangement.

BILLING & COLLECTION

AT&T has received premium billing services since day one of Divestiture. AT&T believes they paid too much money for the service, but the rewards have been enormous. EXAMPLES;

* What competitive interexchange carrier can say that they have 100% market presence in non-equal access as well as equal access telephone companies?

* What competitive interexchange carrier can market a calling card that is universally accepted by virtually every US Telephone Company - for intraLATA, interLATA, and international calling?

* What competitive interexchange carrier receives the comprehensive detail level Billing & Collection ("B&C") reports TODAY that AT&T has been receiving before, during and after Divestiture?

* What competitive interexchange carrier can boast that Bellcore actually changed the Bellcore CIID assignments document, for the entire Bellcore Client Companies [BOCs as you know them] to legitimize AT&T's blatant misuse of Cincinnati Bell and the Caribbean RAOs that have resulted in the issuance of up to 12 million AT&T exclusive calling cards?

* And what competitive interexchange carrier has their own unique version of the Exchange Message Interface ("EMI") that is used by the telephone industry to maintain premium billing services for AT&T?

I am referring to the AT&T - EMI or Exchange Standards Reference Document, or AT&T ESRD. [published and put out by AT&T, not Bellcore]

To summarize there are two systems for billing and collection services. A premium system, or Rolls Royce for AT&T and the BOCs, [BCCs, which includes SNET & CBT] then there is the Chevrolet for everyone else. Oddly the Chevrolet costs as much as a 1200% more to use than the Rolls Royce system and guess who pays for it all, the American Consumer, via the rates associated with LEC Billing.

Most people think AT&T divested themselves of their original billing system (System). Not true, they transferred ownership of replicated versions of their billing systems and kept the original for themselves. ***Alex Abjornson*** [the man who designed, implemented, and wrote the Bellcore Manuals for the System], installed the replicated version at Southwestern Bell in Kansas City. The original CMDS and CATS systems have been alive and well for the last 10 years, 11 months, and 12 days, still controlled by AT&T.

HISTORY ON THE BELL COMPANIES AND DIVESTITURE

It is important to understand the history of billing services, as offered by the Regional Bell Operating Companies or ("RBOCs").

As a result of Divestiture the Access Service Tariff came into existence.

The initial intent of the Tariff was to structure how the RBOCs would be compensated for carrier use of BOC facilities.

Billing and Collection services were not directly a part of local access considerations and were defined as "Ancillary Services."

RBOC analysis determined that under Divested conditions, End User Billing [B&C] could be more than an ancillary requirement of Divestiture.

RBOC awareness as to the revenue potential of Billing & Collection grew, and as a result the RBOCs directed the CSO [later became Bellcore] in September, 1982, to form a Task Force to evaluate billing as a line of business or "LOB."

It should be noted that the development of Billing as a LOB was constrained by the historical regulated rate of return philosophy until April 1983.

In April, 1983, because of the FCC Third Report and Order, Docket 78-72, it became evident that even the short run potentials for Billing as a LOB were theoretically expanded considerably. [HUGE PROFITS]

This resulted in the creation of a new CSO (Bellcore) Task Force to evaluate the potential.

At this time in history, spring of 1983, B&C was no longer subject to regulation.

This meant that if B&C revenues were above or below the FCC allowed rate of return for the other Access Services, whatever B&C earned [more than or less than the normal FCC allowed rate of return] would not impact other Access Service revenues.

In essence, as of April 1983, B&C was allowed to make as much money as it could - **AN IMPORTANT POINT TO REMEMBER.**

[THIS RESULTED IN THE CREATION OF A NEW TASK FORCE TO EVALUATE THE REVENUE POTENTIAL FOR THE BOCS.]

The Task Force met between April 28th through May 29th, 1983. The product of this Task Force was the compilation of over 300 pages of significant data that provided National Parameters from which the RBOCs could utilize for their regional "price driving".. B&C models.

TASK FORCE RESULTS & CONCLUSIONS

A couple of the key recommendations from this Task Force are as follows:

1. Billing & Collection should be considered a LOB by the RBOCs.

2. The mechanism to be used by the RBOCs for determining prices should be based upon the J. Goldberg cost model, generally referred to as the "Top Down Methodology." This process would allow each RBOC to quickly ...calculate revenue maximizing prices. [they artificially inflated costs associated with B&C]

Through the allocation of costs to the various billing elements, each RBOC could assign various costs. What this means is;

1. Billing & Collection rates were manipulated to fully recover the money that RBOCs were receiving from AT&T before Divestiture.

2. There was no consideration by the RBOCs of pricing B&C services competitively - because there were no other competitors.

INTERCOMPANY SETTLEMENTS AND THE CMDS I SYSTEM

At the same time the Task Force was developing AT&T and B&C rates, the RBOCs and CSO [Bellcore] were creating what I refer to as the *Country Club* billing system, the Rolls Royce, the second system, the "circle within the circle."

This secret billing system for the telephone industry was fully functional in every way to the Tariffed billing system being presented to the FCC, except for the COSTS. THE RATES WERE SIGNIFICANTLY LOWER. HOW LOW? Originally the rate per message for billing was set at $.10 per message.

This rate was immediately lowered by 50% to $.05 per message including inquiry inclusive of Rolls Royce reporting system. This still exists today as we speak. This is the Intercompany Settlement System ("ICS") which is facilitated through the Centralized Message Distribution System ("CMDS I") and BOC (BCC) CATS, controlled by Bellcore and the BOCs, operated by Southwestern Bell and it has been operating in full swing since Divestiture.

Imagine $.05 per message [a nickel], inclusive of all services including inquiry and full premium reporting [Rolls Royce] versus $.20, $.30, $.40 per message, even higher, from the Chevrolet which provides inadequate reporting.

QUESTION NO. 1 FOR THE COMMITTEE

Why, when the RBOCs and Bellcore have a fully functional means of providing B&C services through ICS at $.05 per message did the FCC approve B&C Tariffs that reflected rates to the interexchange carrier [IXC] market that were as much as 1200% greater than the rates the RBOCs charged themselves?

WHAT WAS SOME OF THE IMPACT OF TWO B&C SYSTEMS

As a result of AT&T having to pay the Tariffed B&C rates, the RBOCs were able to fully recover pre-Divestiture revenues, in essence - WINDFALL PROFITS.

At the same time the RBOCs have maintained a monopolistic [oligopoly] intercompany settlement billing system for their own use, at a fraction of the cost being charged to the IXC industry. How many of the IXCs in the industry today have B&C rates of $.05 per message, with inquiry, detail reporting and, ***100% ON NET CAPABILITY?***

The artificially inflated costs associated with B&C, which were part of the 1983 tariffs filed at the FCC, pursuant to Divestiture, were essentially the same tariff structures and rates that the BOCs filed in each of your states during this time frame. The ITCs also used the same poison data as the CSO filed the tariffs for the ECA ["NECA" as you know it today], based on the cost information compiled by the infamous Task Force. This affected every consumer in the country as these artificially inflated B&C costs resulted in higher rates. **[Note: 2004 - As of 2004, estimated overcharges to consumers {wireline only}, inclusive of 6% compound interest, exceeds $650,000,000,000.00]**

POST DIVESTITURE RESULTS

The Task Force, via the J. Goldberg costing methodology, had already shifted ALL B&C service costs down into the basic rate elements of the service, so regardless of the rate of return, windfall profits would exist, corrupting the FCC's decision to place a 12.75 maximum rate of return on billing services.

On February 17, 1984, the FCC released Memorandum Opinion and Order, CC Docket No. 83-1145, [FCC 84-51, 34298], Investigation of Access and Divestiture Related Tariffs.

In this document the FCC states that the common line rate elements represent a $10.8 Billion revenue requirement, of which the BOCs claim $8.53 Billion or 79%. This is the ... "best estimate of future costs"... represented in the BOCs tariffs, however the FCC stated and I quote,

"The budget view is a list of 59 items relating to unseparated investment, expenses, taxes, and reserves listed in work papers. However, no documentation is presented to explain the source for all the figures which are used to derive interstate amounts, and thus the basis for all the access costs and rates, the discussion of the budget view occupies less than two and a half pages in each BOC filing."

They went on to say;

"...it is not possible from these filings to evaluate or verify the figures in the budget view. First, the sources of the budget view figures are not clearly specified and cannot be checked."

The FCC then predicted the future by stating that if the figures are wrong the whole industry would be affected. [Fruit from the poison tree], I quote again;

"As we pointed out, the budget view is of crucial importance in these filings as the direct basis for the BOC's claimed revenue requirements, is the root for every individual rate. It is additionally important because of the BOC and ECA top - down methodology. Any errors in the budget view would affect essentially every rate under this approach."

To my knowledge, at no time has the FCC or any other Federal agency ever fully investigated or audited the component costs of the RBOC billing services to determine if the costs applied to the billing elements were true, reasonable, and not overstated.

The FCC went on to say;

" ...that given their inability to understand and evaluate these rates, they were going to determine whether billing and collection should be detariffed."

Billing & Collection Services were subsequently detariffed under CC Docket No. 85-88. effective January 1, 1987. **[NOTE: 2004 - The Bert Halprin Doctrine, which made him a rich man in post FCC service, representing the BOCs].**

[NOTE: 2004 - Keep in mind that the MFJ required the Bell operating Companies to provide AT&T's competitors the same services as AT&T were receiving in *"...like, quality, and price."*

QUESTION NO. 2 FOR THE COMMITTEE

Considering the overwhelming evidence that indicates the costs associated with Billing & Collection were intentionally artificially inflated, costing consumers hundreds of billions of dollars in higher rates, why hasn't anyone audited the BOCs component costs associated with billing services? I hope this committee will also ask why the FCC just walked away, or turned their heads from what they new to be an obvious problem and will you [NARUC] investigate?

AT&T new it was a problem, that's why they were filing emergency petitions in late 1983 and early 1984. AT&T said they would loose roughly 60% of there interstate revenue based on the costs and tariffs filed by the BOCs and ECA.

To calm AT&T the BOCs settled with AT&T outside the FCC and the BOCs gave AT&T a present to sooth the wound. That present was called "Stargate". Cincinnati Bell was AT&T's sponsoring LEC into the CMDS I / BOC CATS billing system. This included access to the ICS system and the $.05 price.

In 1987, the Department of Justice investigated SNAFA ("Shared Network Access Facilities Agreement"). For some reason DOJ [Philip Sauntry] completely missed ???? the entire calling card scheme. They missed the fact that AT&T still maintained their original billing system CMDS & CATS. Someone was asleep at the wheel, or ????.

By 1988, AT&T was now issuing calling cards based on Cincinnati Bell's ("CBT") RAOs and Caribbean LECs RAO numbers. Mass marketing began on these new AT&T joint use calling cards. AT&T's use of the RAOs assigned to CBT and the Caribbean LECs went unchallenged by Bellcore or the BOCs.

In 1989, Card Issuer Identifier ("CIID" Numbers) were being talked about by Bellcore as a solution for universal calling cards.

In 1990, CIID Numbers are assigned to requesting carriers.

In 1991, the FCC finds CBT guilty of discrimination for violating Title Two of the Communications Act, in connection with there refusal to supply validation information about the AT&T Special Number calling cards to other IXCs. CBT's response is they will get out of the Calling card business, yet Bellcore reassigns CIID numbers to AT&T that just happen to match AT&T's RAO based Special Number joint use calling cards, issued in connection with CBT and the Caribbean LECs. This brings us to;

QUESTION NO. 3 FOR THE COMMITTEE

Why is it that no other IXC, other than AT&T and now UNITEL a Canadian Long distance carrier, have a universally accepted calling card based on any Bellcore assigned CIID numbers almost 11 years after Divestiture. This is an important question as I know it's not because no other IXC wants to go to market with one.

In closing, I urge the committee and NARUC to launch an investigation into the anti-competitive barriers put up by the BOCs which have prevented any other IXC from being able to compete head to head with AT&T, the LECs, and now UNITEL in the lucrative calling card business. The monopoly by which the BOCs control Billing & Collection has got to be disassembled. The bottleneck on billing services is worse today than in 1984.

The MFJ not only required divestiture of the Bell System local exchange operations, but also required the dissolution of the partnership arrangements among the Bell System Companies. Preferential partnership arrangements between AT&T and the BOCs have cost consumers Hundreds of billions of dollars in overcharges.

The industry has lost hundreds of billions of dollars because of anti-competitive barriers controlled by the BOCs and something you probably don't know, most states and the federal government, have lost an incredible amount of tax dollars due to the inflated costs associated with billing services which have been used to wrongfully deduct expenses from tax returns. This has happened at every telephone company in America.

I urge this committee and NARUC to begin a thorough investigation into the BOCs and AT&T regarding their preferential partnership agreements that violate the MFJ and prevent the rest of the industry from enjoying the right to compete in a free market, void of antitrust and anti-competitive behavior.

It is important that you look at Billing & Collection as it is the most misunderstood, yet probably the most important aspect of the entire telecommunication industry. B&C services are not even close to being competitive. The BOCs bottleneck controls everyone accept AT&T as no one is allowed to use the system as the court originally intended, accept the BOCs. Everyone else, except AT&T, is being held hostage, some have been put out of business for challenging the BOCs control, while attempting to compete.

[Note: 2004 -- It was American TeleDial Corp (ATC) & National TeleProcessing, Inc. (NTI) that were illegally put out of business for legally accessing the ICS (InterCompany Settlement System), via Fidelity Telephone, beginning in March 1992. It is the Fidelity court settlement [lawsuit filed by ATC as litigation manager on behalf of Fidelity that has been voided by Petitioner who owned ATC & NTI]. Fidelity assigned, via contract in 1992, all of their legal claims over to ATC].

If the BOCs had been given approval to go into the interstate long distance business, no one, and I emphasize NO ONE would be able to compete head to head with them accept AT&T because each BOC has installed their own version of the billing system locally for their own control region by region. This is why all new deals between AT&T and the BOCs are now locally negotiated whereas before AT&T worked primarily through CBT and Bell South.

[NOTE: 2004 – Vol 1`q1`q2P is going to eliminate the cash cow known as ICS, however the SINS for 20 years of abuse are enormous. With the voiding of the Fidelity settlement, and by combining wireline overcharging associated with the ICS with wireless overcharging associated with the ICS, the defendants in the upcoming class actions are looking at over *ONE TRILLION DOLLARS* in "Joint & Several" liability. Unless a resolution is obtained the industry will be eventually destroyed, along with a lot of lawyers, executives, and federal employees.

When you sell a service to the general public it's important to be able to collect your money in an efficient manner. Billing services are not competitive today, they never have been competitive, and we are 10 years, 11 months, and 12 days after Divestiture and the "Country Clubs" strangle hold on the industry is tighter than ever. The evidence of foul play warrants your attention and the attention of Washington, inclusive of Congress.

I hope you take appropriate steps to protect the consumers and the industry from further erosion. The Supreme Court said it best in the case *International Salt Co. V. United States;*

> "it is not necessary that all of the untraveled roads to [anticompetitive conduct] be left open and that only the worn one be closed. The usual ways to the prohibited goals may be blocked against the proven transgressor."

To put it all in perspective, had MCI been given the same billing services and opportunities as AT&T, their roadside billboards claiming how much money they have saved consumers would have to be twice as wide to accommodate the extra zeros.

Ladies and Gentlemen you know who the proven transgressors are, you also know about anti-competitive conduct. I hope you will do something about it. [End of Speech].

II

HEARING REQUIRED

Now that the former AT&T [pre-divestiture] U.S. West [post divestiture] Employee, subject matter expert, industry expert, Billing & Collection Expert, who worked directly with the InterCompany Settlement System [pre and post divestiture] has now agreed to testify before the Commission, and any Court, to corroborate and verify everything that is in the above speech, and more, inclusive of the fact that he was lied to by Senior Management at U.S. West as to the legality of AT&T's preferential billing treatment, the Commission is required to schedule a hearing to allow this new evidence to be brought out in an open forum, whereby the second witness can testify, and who knows, other former AT&T / RBOC / Bellcore Employees may come forward too.

The Commission cannot ignore this development as we are talking about in excess of a **Trillion Dollars** stolen from AT&T Competitors, Consumers [Consumers / Businesses / Government Agencies overpaid for B&C – the difference between what they were being charged and the actual cost to AT&T for B&C {keep in mind that <u>not all states</u> deregulated B&C}], and, State & Federal Governments, in conjunction with the billing & collection of long distance. The MFJ is not the only law violated by AT&T, Cincinnati Bell, RBOCs, SNET, specific FCC Employees, specific DOJ Antitrust Lawyers, et al. Numerous federal and state laws have been violated since divestiture in connection with this Conspiracy. The main culprit in the cover-up is Ed Whitacre, former CEO & Chairman of SBC / AT&T.

What the Commission needs to understand is that this is not going to go away as Petitioner has the legal option to re-open these legal issues in a number of former federal court proceedings, going all the way back to 1992, U.S. District Court, Kansas City, Mo., up to current proceedings in U.S. District Court in D.C. - headed to the D.C. Court of Appeals, via the fact that numerous AT&T, RBOC, BELLCORE, et al Lawyers have committed "FRAUD ON THE COURT[s]." With the new witnesses, Petitioner can re-open the legal issues associated with the InterCompany Settlement System as there is no statute of limitations on Fraud on the Court. ***Hazel-Atlas Glass Co., v. Hartford-Empire Co.*, 322 U.S. 238.** The Commission would be much better served keeping this in-house due to the fact that its own house is not clean in this matter. The FCC, just like DOJ Antitrust, has former rogue employees who covered- this up, hence, Petitioner suggests the Commission clean up its own mess, otherwise, Petitioner will clean it up for them in federal court, inclusive of illegal acts by FCC Officials in this proceeding. If the Commission does not address these issues now, personal liability will attach to the Commissioners via 42 U.S.C., § 1986.

The Commission needs to know that Petitioner provided the Virginia State Corporation Commission (VSCC) the same evidence in sworn testimony [video taped] in the Bell Atlantic / NYNEX Merger proceedings before the VSCC, yet, like everyone else, Petitioner's testimony was ignored. No Regulatory Body, or Court, can ignore Petitioner anymore as there are expert witnesses with first hand knowledge now available to testify to corroborate the injustices perpetrated on the Public-at-Large by the Parties in this case, and their many Co-Conspirators.

CONCLUSION

WHEREFORE, in light of these compelling circumstances, Petitioner respectfully ask that the Commission AMEND his Original Petition For Reconsideration to include the information in this Motion and schedule a hearing immediately in this case.

Respectfully submitted,

Michael Lovern, Sr.
163 Mitchells Chance Rd., #121
Edgewater, MD 21037
(206)-202-9074
pratgen@myway.com

July 7, 2008

CERTIFICATE OF SERVICE

I, Michael Lovern, Sr., hereby certify that on this 7th day of July 2008, a copy of this First Amendment to Petition For Reconsideration Reply was sent to the following parties:

Matthew C. Hammond,
Telecom & Media Section, Antitrust Division
U.S. Department of Justice
matthew.hammond@usdoj.gov

T. Michael Payne
AT&T Corp.
ad1968@att.com

John Thorne
Verizon Communications Inc.
john.thorne@verizon.com

Melissa E. Newman
Qwest
Fax: (202)-293-0561 – Ph: (202)-429-3120

Michael Lovern, Sr.
163 Mitchells Chance Rd., #121
Edgewater, MD 21037
(206)-202-9074
pratgen@myway.com

July 7, 2008