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REDACTED FOR PUBLIC INSPECTION

FILED/ACCEPTED

April 8, 2011
Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

APR - 8 2011

Federal Communications Commission
Office of the Secretary

Re: *In the Matter of Developing a Unified Intercarrier Compensation Regime, et al.*, CC Docket No. 01-92, WC Docket Nos. 05-337, 07-135 and 10-90, and GN Docket No. 09-51.

Dear Ms. Dortch:

At the request of Commission staff, AT&T Services, Inc., on behalf of its operating companies and affiliates, hereby submits data concerning AT&T's intercarrier compensation revenues and expenses, and the number of switched access lines served by AT&T ILECs for inclusion in the record in the above-referenced proceeding.

As discussed herein, these data are some of AT&T's most commercially sensitive information, the disclosure of which would place AT&T at a significant competitive disadvantage. Accordingly, AT&T has designated the data as "Confidential Information" subject to the protections of the *Protective Order* in the above-referenced docket, including the limitations on access to such information.¹ Consistent with the terms of that order, AT&T has clearly identified the portions of its filing that contain Confidential Information, and is submitting herewith two redacted copies of the filing, which do not contain Confidential Information.

In addition, out of an abundance of caution, AT&T also is claiming protection from disclosure for the information submitted herewith pursuant to exemption 4 of the Freedom of Information Act (FOIA), and the Commission's rules, and requests that such information be withheld from public inspection except as provided in the *Protective Order*.² Specifically, pursuant to the Commission's decision in *Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, GC Docket No. 96-55 (FCC 98-184), released Aug. 4, 1998 ("*Confidential Information Order*") and in accordance

¹ *In the Matter of Developing a Unified Intercarrier Compensation Regime, et al.*, CC Docket 01-92, WC Docket No. 05-337, 07-135 and 10-90, and GN Docket No. 09-51, Protective Order, DA 10-1749, 25 FCC Rcd 13160 (Chief, WCB 2010) (*Protective Order*).

² 5 U.S.C. § 552(b)(4); 47 C.F.R. § 0.457(d) (exempting from disclosure "[t]rade secrets and commercial or financial information obtained from any person and privileged or confidential").

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with FOIA and the Commission's Rules related to public information and inspection of records, e.g. 47 C.F.R. §§ 0.457 and 0.459, AT&T, on behalf of itself and its affiliates, hereby submits this request for confidential treatment of all of the information submitted herewith to the Commission.

Statement pursuant to 47 C.F.R. § 0.459(b)

(1) Identification of the specific information for which confidential treatment is sought.

All of the information being submitted in response to the *Public Notice* is confidential commercial information under Exemption 4 of the FOIA, 47 U.S.C. § 552(b)(4). Accordingly, pursuant to Commission Rule 0.459(a), AT&T requests that such information not be made routinely available for public inspection except as provided in the *Protective Order* in the above-referenced docket. The information includes, *inter alia*, information regarding AT&T's intercarrier compensation revenues and expenses, and the number of switched access lines served by AT&T ILECs.

(2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission.

The information is being provided to the Commission at the request of Commission staff for inclusion in the record in the above-referenced proceeding.

(4) Explanation of the degree to which the information concerns a service that is subject to competition; and

The records being provided to the Commission involve telecommunications services provided by AT&T in competition with other carriers and service providers. Telecommunications is a highly competitive industry, and AT&T's services are subject to significant competition throughout the country. The presence of such competition and the likelihood of competitive injury threatened by release of the information provided to the Commission by AT&T should compel the Commission to withhold the information from public disclosure, except as provided in the *Protective Order*. *CNA Financial Corp. v. Donovan*, 830 F.2d 1132, 1152 (D.C. Cir. 1987); *Frazee v. U.S. Forest Service*, 97 F.3d 367, 371 (9th Cir. 1996); *Gulf & Western Indus. v. U.S.*, 615 F.2d 527, 530 (D.C. Cir. 1979).

(3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.

The data requested by the Commission contain some of AT&T's most commercially sensitive financial information (including information regarding its intercarrier compensation expenses and revenues, and the number of switched access lines it serves), the disclosure of which could competitively harm AT&T.

(5) Explanation of how disclosure of the information could result in substantial competitive harm.

Exemption 4 requires a federal agency to withhold from public disclosure confidential or privileged commercial and financial information of a person unless there is an overriding public interest requiring disclosure, and the Commission has a longstanding policy of protecting the confidential commercial information of its regulatees under FOIA Exemption 4.

Two lines of cases have evolved for determining whether agency records fall within Exemption 4. Under *Critical Mass*, commercial information that is voluntarily submitted to the Commission must be withheld from public disclosure if such information is not customarily disclosed to the public by the submitter.³ For materials not subject to *Critical Mass*, *National Parks* establishes a two part test for determining if information qualifies for withholding under Exemption 4.⁴ The first prong asks whether disclosing the information would impair the government's ability to obtain necessary information in the future. The second prong asks whether the competitive position of the person from whom the information was obtained would be impaired or substantially harmed. If the information meets the requirements of either prong, it is exempted from disclosure under Exemption 4. Whether under *Critical Mass* or *National Parks*, the information provided by AT&T falls within Exemption 4.

The data being provided to the Commission at its request are not customarily released to the public, are maintained on a confidential basis, and are not ordinarily disclosed to parties outside the company. Disclosure would subject AT&T to substantial competitive harm.

The data being provided to the Commission contain information pertaining to AT&T's intercarrier compensation revenues and expenses, as well as the number of switched access lines served by AT&T ILECs, and thus represent confidential commercial information that should not be released under the FOIA, except as provided in the *Protective Order*. Competitors could use the confidential information to assist in targeting their service offerings and enhancing their competitive positions, to the detriment of the competitive position of AT&T. *See, e.g., GC Micro Corp. v. Defense Logistics Agency*, 33 F.3d 1109 (9th Cir. 1994).

Commission precedent has clearly found this type of information to be competitively sensitive and withholdable under Exemption 4.⁵ Specifically, the Commission has recognized that competitive harm can result from the disclosure of confidential business information that gives competitors insight into a company's costs, pricing plans, market strategies, and customer identities. *See In re Pan American Satellite Corporation*, FOIA Control Nos. 85-219, 86-38, 86-

³ *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992).

⁴ *National Parks & Conservation Assoc. v. Morton*, 498 F.2d 765 D.C. Cir. (1974) ("National Parks").

⁵ *See e.g. In Matter of Pacific Bell Telephone Company Petition for Pricing Flexibility for Special Access and Dedicated Transport Services*, CCB/CPD No. 00-23, DA 00-2618, November 20, 2000 (supporting confidentiality for collocation data); *Local Exchange Carrier's Rates, Terms and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport; Southwestern Bell Telephone Company*, 13 FCC Rcd 13615 (1998)(keeping administrative operating expenses confidential because it would provide insight into business strategies); *AT&T/McCaw Merger Applications* 9 FCC Rcd 2610 (1994)(keeping confidential accounting records showing account balance information); *NAACP Legal Defense Fund on Request for Inspection of Records* 45 RR 2d 1705 (1979)(keeping confidential records that contained employee salary information); *Mercury PCS II, LLC (Request for Inspection of Records) Omnipoint Corporation (Request for Confidential Treatment of Documents)*, FCC 00-241 (July 17, 2000)(keeping confidential marketing plans and strategy information).

41, (May 2, 1986).⁶ The protective procedures established by the Commission and other governmental agencies recognize the need to keep such information confidential to the maximum extent possible. The Commission has provided the assurances that it is “sensitive to ensuring that the fulfillment of its regulatory responsibilities does not result in the unnecessary disclosure of information that might put its regulatees at a competitive disadvantage.”⁷ Accordingly, AT&T requests that the information submitted herewith be withheld from public inspection except as provided in the *Protective Order* in the above-referenced dockets.

If you have any questions concerning the foregoing, please contact the undersigned at 202-457-3058 or Brian Benison, Director – Federal Regulatory at 202-457-3065.

Sincerely,

/s/ Christopher M. Heimann

⁶ Further, the Commission has ruled that not only should such data be protected, but also that information must be protected through which the competitively sensitive information can be determined. *Allnet Communications Services, Inc. Freedom of Information Act Request*, FOIA Control No. 92-149, Memorandum Opinion and Order (released August 17, 1993) at p. 3. The Commission’s decision was upheld in a memorandum opinion of the U.S. Court of Appeals for the D.C. Circuit, which affirmed a U.S. District Court decision protecting the information. *Allnet Communications Services, Inc. v. FCC*, Case No. 92-5351 (memorandum opinion issued May 27, 1994, D.C. Cir.).

⁷ *Confidential Information Order* at ¶ 8.

This file has four tabs of AT&T's Intercarrier Compensation related data. These tabs are:

Total AT&T	Contains Total Company Access & Reciprocal Compensation Revenues and Expenses by Major Categories
ILEC Access Revenue by State	Contains Intra and Inter-State Access Revenues Received by AT&T ILECS by Major Switched Access Elements
ILEC Local & SLC Rates	Contains Local Residential Rates and Federal Subscriber Line Charges (SLC) by AT&T ILEC. SLC rates are provided by various line types.
ILEC SLC Line	Contains Switched Access Lines by Line Types by State. These are annual lines which have to be divided by 12 to derive average access lines per month.

PUBLIC VERSION- SUBJECT TO PROTECTIVE ORDER IN CC DOCKET NO. 01-92, WC DOCKET NOS. 05-337,07-135, 10-90 AND GN DOCKET NO. 09-51 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

2009 AT&T Switched Access & Reciprocal Compensation Revenue and Expense Summary (Data in Millions)														
Switched Access Revenue	Interstate Originating MOU	Interstate Terminating MOU	Interstate Originating Revenue	Interstate Terminating Revenue	Intrastate Originating Mou	Intrastate Terminating MOU	Intrastate Originating Revenue	Intrastate Terminating Revenue	Total Interstate MOU	Total Interstate Revenue	Total Intrastate MOU	Total Intrastate Revenue	Grand Total MOU	Grand Total Revenue
AT&T ILEC (CABS Billed)														
AT&T CLEC														
Total Switched Access Revenue														

Switched Access Expense	Interstate Originating MOU	Interstate Terminating MOU	Interstate Originating Expense	Interstate Terminating Expense	Intrastate Originating Mou	Intrastate Terminating MOU	Intrastate Originating Expense	Intrastate Terminating Expense	Total Interstate MOU	Total Interstate Expense	Total Intrastate MOU	Total Intrastate Expense	Grand Total MOU	Grand Total Expense
AT&T Wholesale Platform used by AT&T LD (SBC LD/BSLD)														
AT&T Wholesale Platform used by AT&T Mobility														
AT&T LD Retail														
AT&T CLEC Retail														
AT&T ILEC Retail														
Total Switched Access Expense														

Reciprocal Compensation Revenue	Local and IntraMTA Terminating MOU	Local and IntraMTA Terminating Revenue	Grand Total MOU	Grand Total Revenue
AT&T ILEC				
AT&T Mobility				
AT&T CLEC				
Total Reciprocal Compensation Revenue				

Reciprocal Compensation Expense	Local and IntraMTA Terminating MOU	Local and IntraMTA Terminating Expense	Grand Total MOU	Grand Total Expense
AT&T ILEC				
AT&T Mobility				
AT&T CLEC				
Total Reciprocal Compensation Expense				

AT&T ILEC Switched Access Revenue By Major Rate Elements By State -- 2009 Data in Millions												
State	End Office		CCL	Tandem Transport		Dedicated Transport		Entrance Facilities		PICC/RIC	Total	
	Interstate Revenue	Intrastate Revenue	Intrastate Revenue	Interstate Revenue	Intrastate Revenue	Interstate Revenues	Intrastate Revenue	Interstate Revenue	Intrastate Revenue	Intrastate Revenue	Interstate Revenue	Intrastate Revenue
AL												
AR												
CA												
CT												
FL												
GA												
IL												
IN												
KS												
KY												
LA												
MI												
MO												
MS												
NC												
NV												
OH												
OK												
SC												
TN												
TX												
WI												
Total												

PUBLIC VERSION

- SUBJECT TO PROTECTIVE ORDER IN CC DOCKET NO. 01-92, WC DOCKET NOS. 05-337,07-135, 10-90 AND GN DOCKET NO. 09-51 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

AT&T ILEC Basic Local Residential Rate and Federal Subscriber Line Charge

AT&T ILEC Study Area	State	Weighted Average Basic Residential Local Rate Including Mandatory EAS	Primary Residential	Non - Primary Residential	Lifeline	Single Line Business	PRI ISDN	Multi-line Business	Centrex	BRI ISDN
		Per Line per Month	Federal Subscriber Line Charge Per Line Per Month*							
SO CENTRAL BELL-AL	AL		\$6.50	\$6.63	\$6.50	\$6.50	\$33.15	\$6.63	\$6.63	\$6.63
SOUTHWESTERN BELL-AR	AR		\$5.30	\$5.30	\$5.30	\$5.30	\$26.50	\$5.30	\$5.30	\$5.30
PACIFIC BELL	CA		\$4.40	\$4.40	\$4.40	\$4.40	\$22.00	\$4.40	\$4.40	\$4.40
SOUTHERN NEW ENGLAND	CT		\$5.77	\$5.77	\$5.77	\$5.77	\$28.85	\$5.77	\$5.77	\$5.77
SOUTHERN BELL-FL	FL		\$6.50	\$6.63	\$6.50	\$6.50	\$33.15	\$6.63	\$6.63	\$6.63
SOUTHERN BELL-GA	GA		\$6.50	\$6.63	\$6.50	\$6.50	\$33.15	\$6.63	\$6.63	\$6.63
ILLINOIS BELL TEL CO	IL		\$4.53	\$4.53	\$4.53	\$4.53	\$22.65	\$4.53	\$4.53	\$4.53
INDIANA BELL TEL CO	IN		\$5.56	\$5.56	\$5.56	\$5.56	\$27.80	\$5.56	\$5.56	\$5.56
SOUTHWESTERN BELL-KS	KS		\$5.30	\$5.30	\$5.30	\$5.30	\$26.50	\$5.30	\$5.30	\$5.30
SO CENTRAL BELL-KY	KY		\$6.50	\$6.63	\$6.50	\$6.50	\$33.15	\$6.63	\$6.63	\$6.63
SO CENTRAL BELL-LA	LA		\$6.50	\$6.63	\$6.50	\$6.50	\$33.15	\$6.63	\$6.63	\$6.63
MICHIGAN BELL TEL CO	MI		\$5.38	\$5.38	\$5.38	\$5.38	\$26.90	\$5.38	\$5.38	\$5.38
SOUTHWESTERN BELL-MO	MO		\$5.30	\$5.30	\$5.30	\$5.30	\$26.50	\$5.30	\$5.30	\$5.30
SO CENTRAL BELL-MS	MS		\$6.50	\$6.63	\$6.50	\$6.50	\$33.15	\$6.63	\$6.63	\$6.63
SOUTHERN BELL-NC	NC		\$6.50	\$6.63	\$6.50	\$6.50	\$33.15	\$6.63	\$6.63	\$6.63
NEVADA BELL	NV		\$4.83	\$4.83	\$4.83	\$4.83	\$24.15	\$4.83	\$4.83	\$4.83
OHIO BELL TEL CO	OH		\$5.42	\$5.42	\$5.42	\$5.42	\$27.10	\$5.42	\$5.42	\$5.42
SOUTHWESTERN BELL-OK	OK		\$5.30	\$5.30	\$5.30	\$5.30	\$26.50	\$5.30	\$5.30	\$5.30
SOUTHERN BELL-SC	SC		\$6.50	\$6.63	\$6.50	\$6.50	\$33.15	\$6.63	\$6.63	\$6.63
SO. CENTRAL BELL -TN	TN		\$6.50	\$6.63	\$6.50	\$6.50	\$33.15	\$6.63	\$6.63	\$6.63
SOUTHWESTERN BELL-TX	TX		\$5.30	\$5.30	\$5.30	\$5.30	\$26.50	\$5.30	\$5.30	\$5.30
WISCONSIN BELL	WI		\$5.10	\$5.10	\$5.10	\$5.10	\$25.50	\$5.10	\$5.10	\$5.10

* As filed by AT&T ILECs in their July, 2010 Annual Interstate Access Filings.

PUBLIC VERSION - SUBJECT TO PROTECTIVE ORDER IN CC DOCKET NO. 01-92, WC DOCKET
NOS. 05-337,07-135, 10-90 AND GN DOCKET NO. 09-51 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

2009 AT&T ILEC Annual SLC Lines as Reported in their July 2010 Annual Interstate Access Filings*											
State	Primary Residential	Non - Primary Residential	Lifeline	Single Line Business	PRI ISDN	Multi-line Business	Centrex	BRI ISDN		Residential Footnote 1	Business Footnote 2
AL	9,720,310	546,812	553,721	371,919	244,527	3,489,810	694,990	1,138		10,820,843	4,802,384
AR	3,922,928	243,834	244,761	214,615	20,380	2,021,783	477,706	20,130		4,411,523	2,754,614
CA	49,180,219	12,764,569	17,145,556	2,939,593	398,142	37,572,063	13,578,678	548,842		79,090,344	55,037,318
CT	9,215,111	1,632,824	435,886	168,417	43,026	3,162,993	1,439,819	83,195		11,283,821	4,897,450
FL	24,978,540	2,921,569	1,898,164	1,148,928	690,641	12,070,152	2,055,830	3,485		29,798,273	15,969,036
GA	15,389,906	1,613,344	1,821,849	681,066	618,875	7,089,332	2,498,036	3,900		18,825,099	10,891,209
IL	22,882,215	2,649,588	859,685	1,692,114	171,983	13,366,895	4,819,227	178,619		26,391,488	20,228,838
IN	10,170,861	494,483	402,789	453,583	43,684	2,730,696	3,094,685	40,620		11,068,133	6,363,268
KS	3,963,832	244,247	230,071	223,912	28,221	2,299,338	683,943	36,582		4,438,150	3,271,996
KY	4,843,919	196,216	365,534	231,077	123,267	2,281,088	389,313	576		5,405,669	3,025,321
LA	9,634,635	845,728	607,815	438,884	185,045	4,434,228	1,187,863	1,195		11,088,178	6,247,215
MI	14,245,499	879,494	791,281	1,254,061	96,806	7,873,950	3,525,532	128,855		15,916,274	12,879,204
MO	10,763,196	805,954	589,851	464,831	60,170	4,584,564	1,151,132	63,544		12,159,001	6,324,241
MS	5,908,034	307,723	1,018,799	330,302	88,999	2,634,617	690,464	285		7,234,556	3,744,667
NC	9,321,861	717,278	622,816	467,817	246,298	4,404,773	1,740,368	1,670		10,661,955	6,860,926
NV	1,565,552	215,084	152,395	37,399	7,910	498,167	576,458	1,829		1,933,031	1,121,763
OH	13,099,713	922,114	2,009,123	927,204	94,854	4,864,691	2,892,529	84,855		16,030,950	8,864,133
OK	5,782,534	399,280	561,193	319,044	32,430	2,802,705	656,125	22,010		6,743,007	3,832,314
SC	6,626,918	395,195	686,086	282,709	161,040	2,507,414	616,951	641		7,708,199	3,568,755
TN	11,461,973	788,768	1,192,070	454,119	300,596	4,625,103	641,715	15,934		13,442,811	6,037,467
TX	30,833,532	3,442,705	7,899,019	1,747,771	304,347	19,206,983	2,843,024	476,583		42,175,256	24,578,708
WI	6,476,961	449,790	436,214	389,540	67,216	2,923,768	1,662,569	52,322		7,362,965	5,095,415
Total	279,988,249	33,476,599	40,524,678	15,238,905	4,028,457	147,445,113	47,916,957	1,766,810		353,989,526	216,396,242

* These numbers have to be divided by 12 in order to derive Average Access Line Per Month.

Footnote

- 1 Residential Lines Include: Primary Residential/Non-Primary Residential/Lifeline
- 2 Business Lines Include: Single Line Business/PRI ISDN/Multiline Business/Centrex/BRI ISDN