

NOV 07 2013

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COMMISSION

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November 7, 2013

Mark R. Overstreet  
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**HAND DELIVERED – EMERGENCY RELIEF REQUESTED**

Jeff R. Derouen  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, KY 40602-0615

**RE: *AT&T Corp. v. Mountain Rural Telephone Cooperative Corp., et al.***

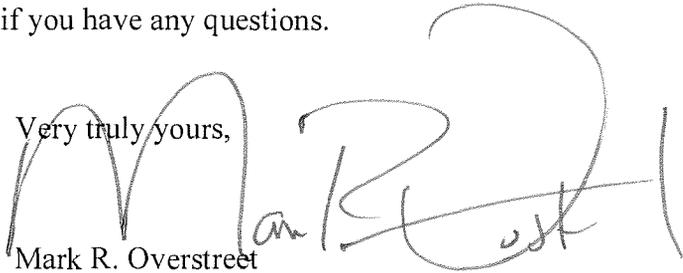
Dear Mr. Derouen:

Enclosed please find and accept for filing the original and ten copies of the following filings by AT&T Corp.: (1) Complaint and Motion for Emergency Relief; and (2) Motion For Expedited Telephonic Informal Conference Or Hearing To Be Conducted November 7, 2013.

Because of the imminence of the threatened November 11, 2013 termination of access service by the Defendants to AT&T Corp., the fact the Commission will be closed on November 11, 2013, and because of the unavailability of local counsel for AT&T Corp. on November 8, 2013 because of previously scheduled surgery, AT&T is requesting that Staff or the Commission conduct all proceedings, or otherwise act today, November 7, 2013, to block the threatened termination of access service by the Defendants.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

  
Mark R. Overstreet

MRO

cc: John E. Selent  
Edward T. Depp  
J.E.B. Pinney

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**RECEIVED**  
NOV 07 2013  
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In the Matter of:

AT&T Corp. )  
 )  
                  COMPLAINANT )  
v. )  
 )  
Mountain Rural Telephone Cooperative Corp. )  
 )  
and )  
 )  
Thacker-Grigsby Telephone Co., Inc. )  
 )  
                  DEFENDANTS )

Case No. 2013-00 \_\_\_\_\_

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**Complaint And Motion For Emergency Relief**

AT&T Corp. for its complaint and motion for emergency relief pursuant to KRS 278.260 and 807 KAR 5:001, Section 20 states:

Parties

1. The name of the Complainant is AT&T Corp (“AT&T). Its Kentucky post office address is 601 West Chestnut Street, 4<sup>th</sup> Floor East, Louisville, Kentucky 40203.
2. The name of the first defendant is Mountain Rural Telephone Cooperative Corp. Its post office address is 405 West Main Street, P.O. Box 399, West Liberty, Kentucky 41472-0399.
3. The name of the second defendant is Thacker-Grigsby Telephone Co., Inc. Its post office address is P.O. Box 789, Hindman, Kentucky 41822.

Introduction

4. AT&T seeks expedited emergency relief to prevent the significant disruption of service to customers in the Commonwealth that will result if the Defendants (collectively the

“Carriers”) act on their stated intent to terminate intrastate access traffic exchanged between the Carriers and AT&T Kentucky because of an unresolved, good-faith billing dispute between the companies.

#### Factual Background

5. Both of the Carriers are “issuing carriers” under the Duo County Telephone Cooperative Corp. Access Tariff (“Tariff”) on file with the Commission. The Carriers have submitted certain bills for access services they provide to AT&T pursuant to the Tariff, AT&T has notified each Carrier in writing that it disputes these bills, and AT&T has explained in writing its good-faith reasons for its disputes.

6. As permitted by the Tariff, AT&T has withheld payment of the amounts it disputes. Each Carrier, however, claims that these disputed amounts became due when it unilaterally “denied” the disputes, and each Carrier has threatened to terminate the access services it provides to AT&T under the Tariff unless AT&T pays the disputed amounts it is entitled to withhold on or before November 11, 2013 (which is a holiday).

7. The threatened termination of service would indisputably and irreparably harm AT&T, its customers, and the Carriers’ customers. If these access services are terminated: AT&T’s long distance customers could no longer place AT&T long-distance calls to, or receive long distance calls from, the Carriers’ customers; and the Carriers customers who have chosen AT&T as their long-distance provider could no longer make or receive long distance calls over AT&T’s network. The Carriers’ threatened termination of service in response to AT&T’s good faith billing dispute is at odds with the practices of this Commission, and would also violate the FCC’s long-standing prohibition on call blocking.<sup>1</sup>

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<sup>1</sup> The FCC maintains a longstanding prohibition on carriers blocking, choking, reducing or otherwise restricting traffic. *See, e.g., Establishing Just and Reasonable Rates for Local Exchange Carriers; Call Blocking by*

A. The Dispute.

8. The Tariff provides that AT&T (and all other access customers) “will be subject to a Non-Traffic Sensitive Revenue (NTSR) charge”<sup>2</sup> which is developed by “dividing [each Carrier’s] annual NTS Revenue Requirement<sup>3</sup> by the total terminating rated access minutes *for all [access] customers.*”<sup>4</sup> AT&T is assessed a monthly NTSR charge computed by the Carriers. This billing is subject to a “true-up calculation for [AT&T and every other access customer] on an annual basis” once the actual “total terminating rates access minutes for all [access] customers” is determined.<sup>5</sup> AT&T has paid all monthly NTSR charges that have been billed – its dispute relates to the annual true-up charges the Carriers billed for 2011 and 2012.<sup>6</sup>

9. The true-up amounts the Carriers billed AT&T for 2011 and 2012 reflect an unprecedented increase in AT&T’s share of the NTSR.<sup>7</sup> AT&T is concerned that this unprecedented increase may be the result of an attempt to recover billings to other access customers that the Carriers perceive to be uncollectible, or to assign AT&T responsibility to pay

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*Carriers*, WC Docket No. 07-135, 22 FCC Rcd 11629, 11631 paras. 1, 6 (WCB 2007) (*2007 Call Blocking Declaratory Ruling*).

<sup>2</sup> See Attachment A (Tariff, Page 3-21, §3.9).

<sup>3</sup> This annual NTS Revenue Requirement is a fixed amount.

<sup>4</sup> *Id.*, Page 3-23, §3.9.3(B)(emphasis added).

<sup>5</sup> *Id.*, §3.9.3(B).

<sup>6</sup> AT&T is paying Mountain Rural a good-faith estimate of the true-up payments that may be due for 2011 and 2012. This payment is being made under protest, and is subject to AT&T’s right to seek a refund of any overpayment based on a final resolution of AT&T’s billing disputes. AT&T disputes and is withholding all other true-up amounts Mountain Rural has billed AT&T for 2011 and 2012. AT&T owes no true-up payments to Thacker-Grigsby – to the contrary, a significant true-up amount is due AT&T. Accordingly, AT&T disputes and withholding all true-up amounts Thacker-Grigsby has billed AT&T for 2011 and 2012.

<sup>7</sup> See Attachment B (October 16, 2013 Letter from AT&T to Thacker-Grigsby) at 1; Attachment C (October 16, 2013 letter from AT&T to Mountain Rural) at 1. The true-up amounts the Carriers billed AT&T for 2011 and 2012 are approximately 400% and 1,200% (respectively) higher than the true-up amounts they billed AT&T for 2010.

NTSR charges that should be the responsibility of other carriers.<sup>8</sup> AT&T has been, and remains, willing to discuss and attempt to amicably resolve this concern with the Carriers. To date, however, the limited information the Carriers have provided AT&T does not address its concerns.

B. The Tariff Dispute Provision.

10. Section 2.4.1(D) of the applicable tariff clearly contemplates that parties to a billing dispute may withhold payment of disputed amounts pending resolution of the dispute:

(D) Billing Disputes Resolved In Favor Of The Telephone Company

Late payment charges will apply to amounts withheld pending settlement of the dispute.

The Tariff contemplates billing disputes, and it allows AT&T to: (1) pay the total billed amount subject to dispute (in which case the Carrier will refund any overpayment);<sup>9</sup> or (2) withhold payment of disputed amounts “*pending settlement of the dispute*” (in which case AT&T must pay late payment charges and/or penalty interest if the dispute is resolved in favor of the Carrier).<sup>10</sup>

11. AT&T has chosen the second option of disputing amounts the Carriers have billed pursuant to the Tariff and is withholding only those disputed amounts pending settlement of the dispute.<sup>11</sup> The Carriers, however, claim that because they have purportedly “responded to

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<sup>8</sup> See *Id.* As the Commission is aware, Halo originated a great deal of access traffic that was terminated by carriers across the Commonwealth during 2011 and 2012, and it subsequently filed for bankruptcy. If the Carriers did not include Halo’s terminating rates access minutes in the “total terminating rates access minutes for all [access] customers” calculation for 2011 and 2012, or if the Carriers are somehow attempting to assign responsibility for the Halo traffic to AT&T, this would result in improperly assigning all or part of Halo’s share of the fixed Non Traffic Sensitive Revenue Requirement to AT&T.

<sup>9</sup> See Attachment D (Tariff, Page 2-32, §2.4.1(E)).

<sup>10</sup> *Id.*, Page 2-31, §2.4.1(D)(emphasis added).

<sup>11</sup> See Attachment B (October 16, 2013 Letter from AT&T to Thacker-Grigsby) at 1 (stating that “AT&T has disputed the Thacker-Grigsby’s true up billing of the Intrastate Non-Traffic Sensitive Revenue for both 2011 and 2012,” explaining the reasons for the dispute, noting that the Tariff allows for withholding disputed amounts, and noting that the threatened termination of service violates the FCC’s long-standing prohibition on call blocking); Attachment C (October 16, 2013 letter from AT&T to Mountain Rural) at 1 (same); Attachment E (October 25, 2013 from counsel for Thacker-Grigsby to AT&T) at 1 (“It is our understanding that AT&T disputed Thacker-

AT&T's concerns to the fullest extent that [they] could," they can somehow deny that a billing dispute exists and that they can terminate service unless AT&T pays the amounts it disputes.<sup>12</sup> As recently as November 6, 2013, the Carriers confirmed their intent to terminate service unless AT&T pays the disputed amounts on or before November 11, 2013.<sup>13</sup>

12. The merits of this good-faith billing dispute must be determined by the Commission after a hearing – not by the whim of the Carriers.

13. Nothing supports the Carriers' contention that they can appoint themselves judge, jury, and executioner in this manner. To the contrary, as explained above, the terms of the Tariff clearly allow AT&T to withhold payment of disputed amounts "*pending settlement of the dispute*,"<sup>14</sup> and these provisions are consistent with long-standing Kentucky practice. As explained in Paragraphs 8-9 above, AT&T has a good-faith basis for disputing these bills. Accordingly, AT&T is allowed to withhold amounts associated with those disputes until either the parties amicably resolve the disputes or the Commission determines the merits of the disputes.

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Grigsby's true-up billing of intrastate non-traffic sensitive revenue ("NTSR") for both 2011 and 2012."); Attachment F (October 25, 2013 letter from counsel for Mountain Rural to AT&T) at 1 (same).

<sup>12</sup> See Attachments E and F.

<sup>13</sup> See Attachment G (November 6, 2013 termination notices).

<sup>14</sup> See Attachment D (Tariff, Page 2-31, §2.4.1(D)(emphasis added).

Count 1

14. The Carriers' threat to terminate service in response to AT&T's good-faith billing dispute violates the tariff and is inconsistent with Kentucky practice. The Carriers' threatened self-help measures are also antithetical to, if not proscribed by, the Commission's Orders and regulations. For example, 807 KAR 5:006, Section 12 provides that "[w]ith respect to a billing dispute to which Section 11 of this administrative regulation [meter errors] does not apply, a customer account shall be considered to be current while the dispute is pending if the customer continues to make undisputed payments and stays current on subsequent bills." This is just such a dispute. In addition, the Commission in its May 20, 2003 Order in *In the Matter of: Customer Billing and Notice Requirements*, Case No. 2002-00310 at 7-8 (Ky. P.S.C.) made clear the Commission's strong preference for carriers to bring matters to the Commission's attention well before taking any action that could interfere with service to end users.

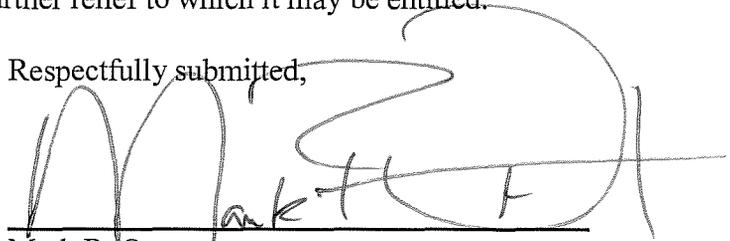
15. The Commission need not decide the merits of the underlying billing dispute in order to grant the relief AT&T requests in this Petition, and AT&T is not asking it to do so in addressing its Motion for Emergency Relief. It is clear, however, that AT&T has a valid basis for concern and has disputed and withheld amounts associated with that concern in good faith, as permitted by the Tariff. Accordingly, the Commission should order the Carriers not to carry through with their threats to terminate service to AT&T in response to its good-faith billing dispute.

Wherefore, for the reasons set forth above, AT&T respectfully requests the Commission to enter an Order:

1. Prohibiting the Carriers from terminating, interfering with, or otherwise discontinuing access services to AT&T for nonpayment of the disputed amounts pending further order of the Commission; and

2. Granting AT&T all further relief to which it may be entitled.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark R. Overstreet', is written over a horizontal line. The signature is stylized and somewhat cursive.

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COUNSEL FOR AT&T CORP.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served by first class mail, postage prepaid, and by e-mail transmission on counsel, upon the following parties, this 7<sup>th</sup> day of November, 2013.

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Mountain Rural Telephone Cooperative Corp.  
405 West Main Street  
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West Liberty, Kentucky 41472-0399

Thacker-Grigsby Telephone Company, Inc.  
P.O. Box 789  
Hindman, Kentucky 41822



Mark R. Overstreet

# **ATTACHMENT A**

AccESS SERVICE

3. Carrier Common Line Access Service

The Telephone Company will provide Carrier Common Line Access Service (Carrier Common Line Access) to customers in conjunction with Switched Access Service provided in Section 6. of this tariff or the appropriate Switched Access Service section of other Access Service tariffs.

3.1 General Description

Carrier Common Line Access provides for the use of end users' Telephone Company provided common lines by customers for access to such end users to furnish Intrastate Communications.

Premium Access is (1) Switched Access Service provided to customers under this tariff which furnish intrastate MTS/WATS, and (2) Switched Access Service in an end office converted to equal access.

Non-Premium Access is Switched Access Service provided in an end office not yet converted to equal access to customers that do not furnish intrastate MTS/WATS.

A Special Access Surcharge, as set forth in 17.3.1 following, will apply to intrastate Special Access Service provided by the Telephone Company to a customer, in accordance with regulations as set forth in 7.3 following.

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PURSUANT TO 807 KAR 5.011,  
SECTION 9 (1)

BY: Stephan O Bell  
SECRETARY OF THE COMMISSION

Issued: September 20, 1999  
By: W.W. Magruder, Executive Vice President

Effective: November 1, 1999

ACCESS SERVICE

3. Carrier Common Line Access Service (Cont'd)

3.2 Limitations

3.2.1 Exclusions

Neither a telephone number nor detail billing are provided with Carrier Common Line Access. Additionally, directory listings and intercept arrangements are not included in the rates and charges for Carrier Common Line Access.

3.2.2 Access Groups

All line side connections provided in the same access group will be limited to the same features and operating characteristics.

All trunk side connections provided in the same access group will be limited to the same features and operating characteristics.

3.2.3 WATS Access Lines

Where Switched Access Services are connected with Special Access Services at Telephone Company Designated WATS Serving Offices for the provision of WATS or WATS-type Services, Switched Access Service minutes which are carried on that end of the service (i.e., originating minutes for outward WATS and WATS-type services and terminating minutes for inward WATS and WATS-type services) shall not be assessed Carrier Common Line Access per minute charges with the following exception. Carrier Common Line Access per minute charges shall apply when Feature Group A or Feature Group B switched access is ordered from a non-equal access telephone company office that does not have measurement capabilities and the assumed average access minutes, as set forth in Section 6.5.4, are used.

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ACCESS SERVICE

3. Carrier Common Line Access Service (Cont'd)

3.3 Undertaking of the Telephone Company

3.3.1 Provision of Service

Where the customer is provided Switched Access Service under other sections of this or other Access Service tariffs, the Telephone Company will provide the use of Telephone Company common lines by a customer for access to end users at rates and charges as set forth in 17.1.1 following.

3.3.2 Interstate and Intrastate Use

The Switched Access Service provided by the Telephone Company includes the Switched Access Service provided for both interstate and intrastate communications. The Carrier Common Line Access rates and charges as set forth in 17.1.1 following apply to intrastate Switched Access Service access minutes in accordance with the rate regulations as set forth in 3.8.4 following (Percent Interstate Use - PIU).

3.4 Obligations of the Customer

3.4.1 Switched Access Service Requirement

The Switched Access Service associated with Carrier Common Line Access shall be ordered by the customer under other sections of this tariff.

3.4.2 Supervision

The customer facilities at the premises of the ordering customer shall provide the necessary on-hook and off-hook supervision.

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ACCESS SERVICE

3. Carrier Common Line Access Service (Cont'd)

3.5 Determination of Usage Subject to Carrier Common Line Access Charges

Except as set forth herein, all Switched Access Service provided to the customer will be subject to Carrier Common Line Access charges.

3.5.1 Determination of Jurisdiction

When the customer reports interstate and intrastate use of Switched Access Service, the associated Carrier Common Line Access used by the customer for intrastate will be determined as set forth in 3.8.4 following (Percent Interstate Use-PIU).

3.5.2 Cases Involving Usage Recording By the Customer

Where Feature Group C end office switching is provided without Telephone Company recording and the customer records minutes of use used to determine Carrier Common Line Access charges (i.e., Feature Group C operator and calls such as pay telephone sent-paid, operator-DDD, operator-person, collect, credit-card, third number and/or other like calls), the customer shall furnish such minutes of use detail to the Telephone Company in a timely manner. If the customer does not furnish the data, the customer shall identify all Switched Access Services which could carry such calls in order for the Telephone Company to accumulate the minutes of use through the use of special Telephone Company measuring and recording equipment.

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## ACCESS SERVICE

3. Carrier Common Line Access Service (Cont'd)
- 3.5 Determination of Usage Subject to Carrier Common Line Access Charges (Cont'd)

## 3.5.3 Local Exchange Access and Enhanced Services Exemption

When access to the local exchange is required to provide a customer service (e.g., MTS/WATS-type, telex, Data, etc.) that uses a resold Special Access service, Switched Access Service Rates and Regulations, as set forth in Section 6. following will apply, except when such access to the local exchange is required for the provision of an enhanced service. Carrier Common Line Access rates and charges as set forth in 17.1.1 following apply in accordance with the resale rate regulations as set forth in 3.6.4 following.

## 3.6 Resold Services

## 3.6.1 Scope

Where the customer is reselling MTS and/or MTS-type service(s) on which the Carrier Common Line and Switched Access charges have been assessed, the customer may, at the option of the customer, obtain Feature Group A, Feature Group B or Feature Group D Switched Access Service under this tariff as set forth in Section 6. following for originating and/or terminating access in the local exchange. Such access group arrangements whether single lines or trunks or multiline hunt groups or trunk groups will have Carrier Common Line Access charges applied as set forth in 17.1.1 following in accordance with the resale rate regulations set forth in 3.6.4 following. For purposes of administering this provision:

Resold intrastate terminating MTS and MTS-type service(s) shall include collect calls, third number calls and credit card calls where the reseller pays the underlying carrier's service charges; and shall not include interstate minutes of use.

Resold intrastate originating MTS and MTS-type service(s) shall not include collect, third number, credit card or interstate minutes of use.

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## ACCESS SERVICE

## 3. Carrier Common Line Access Service (Cont'd)

## 3.6 Resold Services (Cont'd)

## 3.6.2 Customer Obligations Concerning the Resale of MTS and MTS-type Services

When the customer is reselling MTS and/or MTS-type service as set forth in 3.6.1 preceding, the customer will be charged Carrier Common Line Access charges in accordance with the resale rate regulations as set forth in 3.6.4 following if the customer or the provider of the MTS service furnishes documentation of the MTS usage and/or the customer furnishes documentation of the MTS-type usage. Such documentation supplied by the customer shall be supplied each month and shall identify the involved resold MTS and/or MTS-type services.

The monthly period used to determine the minutes of use for resold MTS and/or MTS-type service(s) shall be the most recent monthly period for which the customer has received a bill for such resold service(s). This information shall be delivered to the Telephone Company, at a location specified by the Telephone Company, no later than 15 days after the bill date shown on the resold MTS and/or MTS-type service bill. If the required information is not received by the Telephone Company, the previously reported information, as described preceding, will be used for the next two months. For any subsequent month, no allocation or credit will be made until the required documentation is delivered to the Telephone Company by the customer.

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SECTION 9(1)

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Effective: November 1, 1999

ACCESS SERVICE

3. Carrier Common Line Access Service (Cont'd)

3.6 Resold Services (Cont'd)

3.6.3 Resale Documentation Provided By the customer

When the customer utilizes Switched Access Service as set forth in 3.6.2 preceding, the Telephone Company may request a certified copy of the customer's resold MTS or MTS-type usage billing from either the customer or the provider of the MTS or MTS-type service. Requests for billing will relate back no more than 12 months prior to the current billing period.

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ACCESS SERVICE

3. Carrier Common Line Access Service (Cont'd)

3.6 Resold Services (Cont'd)

3.6.4 Rate Regulations Concerning the Resale of MTS and MTS-type Services

When the customer is provided an access group to be used in conjunction with the resale of MTS and/or MTS-type services as set forth in 3.6.1 preceding, subject to the limitations as set forth in 3.2 preceding, and the billing entity receives the usage information required as set forth in 3.6.2 preceding, to calculate the adjustment of Carrier Common Line Access charges, the customer will be billed as set forth in (D), (E) or (F) following, depending upon, respectively, whether the usage is from non-equal access offices, equal access offices or a combination of the two.

(A) Apportionment and Adjustment of Resold Minutes of Use

When the customer is provided with more than one access group in a LATA in association with the resale of MTS and/or MTS-type services, the resold minutes of use will be apportioned as follows:

(1) Originating Services

The Telephone Company will apportion the resold originating MTS and/or MTS-type services and originating minutes of use for which the resale credit adjustment applies, among the access groups. Such apportionment will be based on the relationship of the originating usage for each access group to the total originating usage for all access groups in the LATA. For purposes of administering this provision:

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3. Carrier Common Line Access Service (Cont'd)

3.6 Resold Services (Cont'd)

3.6.4 Rate Regulations Concerning the Resale of MTS and MTS-type Services (Cont'd)

(A) Apportionment and Adjustment of Resold Minutes of Use (Cont'd)

(1) Originating Services (Cont'd)

Resold originating MTS and/or MTS-type services minutes shall be only those attributable to intrastate originating MTS and/or MTS-type minutes and shall not include collect, third number, credit card or interstate minutes of use.

The resale credit adjustment shall apply for resold originating MTS and MTS-type services and minutes of use, provided Carrier Common Line and Switched Access Charges have been assessed on such services.

(2) Terminating Services

The Telephone Company will apportion the resold terminating MTS and/or MTS-type services and terminating minutes of use for which the resale credit adjustment applies, among the access groups. Such apportionment will be based on the relationship of the terminating usage for each access group to the total terminating usage for all access groups in the LATA. For purposes of administering this provision:

Resold terminating MTS and/or MTS-type services minutes shall be only those attributable to intrastate terminating MTS/MTS-type (i.e., collect calls, third number calls, and credit card calls) and shall not include interstate minutes of use or MTS/MTS-type minutes of use paid for by another party.

The resale credit adjustment shall apply for resold terminating MTS and MTS-type services and minutes of use, provided Carrier Common Line and Switched Access Charges have been assessed on such services.

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PURSUANT TO 807 KAR 5:011, assessed on such services.  
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ACCESS SERVICE

3. Carrier Common Line Access Service (Cont'd)

3.6 Resold Services (Cont'd)

3.6.4 Rate Regulations Concerning the Resale of MTS and MTS-type Services (Cont'd)

(B) Same State/Telephone Company/Exchange Limitation

In order for the rate regulations to apply as set forth in (D), (E) or (F) following, the access groups and the resold MTS and/or MTS-type services must be provided in the same state (except when the same extended area service arrangement is provided in two different states by the same telephone company) in the same exchange, provided by the same Telephone Company and connected directly or indirectly. For those exchanges that encompass more than one state, the customer shall report the information by state within the exchange.

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3. Carrier Common Line Access Service (Cont'd)

3.6 Resold Services (Cont'd)

3.6.4 Rate Regulations Concerning the Resale of MTS and MTS-type Services (Cont'd)

(C) Direct and Indirect Connections

Each of the access group arrangements used by the customer in association with the resold MTS and/or MTS-type services must be connected either directly or indirectly to the customer designated premises at which the resold MTS and/or MTS-type services are terminated. Direct connections are those arrangements where the access groups and resold MTS and/or MTS-type services are terminated at the same customer designated premises.

Indirect originating connections are those arrangements where the access groups and the resold originating MTS and/or MTS-type services are physically located at different customer designated premises in the same exchange. Such different customer designated premises are connected by facilities that permit a call to flow from access groups to resold MTS and/or MTS-type services.

Indirect terminating connections are those arrangements where the access groups and resold terminating MTS and/or MTS-type services are physically located at different customer designated premises in the same exchange. Such different customer designated premises are connected by facilities that permit a call to flow from resold terminating MTS and/or MTS-type services to access groups.

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ACCESS SERVICE

3. Carrier Common Line Access Service (Cont'd)

3.6 Resold Services (Cont'd)

3.6.4 Rate Regulations Concerning the Resale of MTS and MTS-type Services (Cont'd)

(D) Access Groups - Non Equal Access Offices Only

The adjustments as set forth here and in (E) and (F) following will be computed separately for each access group.

When all the usage on an access group originates from and/or terminates at end offices that have not been converted to equal access, the Non Premium Access Charge per minute as set forth in 17.1.1 following will apply. The Access Minutes which will be subject to Carrier Common Line Access charges will be the adjusted originating intrastate access minutes plus the adjusted terminating intrastate access minutes for such access groups.

The adjusted originating access minutes will be the originating intrastate access minutes less the reported resold originating MTS and/or MTS-type service minutes of use as set forth (A) (1) preceding; but not less than zero. The adjusted terminating access minutes will be the terminating intrastate access minutes less the reported resold terminating MTS and/or MTS-type service minutes of use as set forth in (A) (2) preceding; but not less than zero.

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ACCESS SERVICE

3. Carrier Common Line Access Service (Cont'd)

3.6 Resold Services (Cont'd)

3.6.4 Rate Regulations Concerning the Resale of MTS and MTS-type Services (Cont'd)

(E) Access Groups - Equal Access Offices Only

When all the usage on an access group originates from and/or terminates at end offices that have been converted to equal access, the Premium Access Charge per minute as set forth in 17.1.1 following will apply. The minutes billed Carrier Common Line Access Service charges will be the adjusted originating intrastate access minutes and the adjusted terminating intrastate access minutes for such access groups.

The adjusted originating access minutes will be the originating intrastate access minutes less the reported resold originating MTS and/or MTS-type service minutes of use as set forth in (A) (1) preceding; but not less than zero. The adjusted terminating access minutes will be the terminating intrastate access minutes less the reported resold terminating MTS and/or MTS-type service minutes of use as set forth in (A) (2) preceding; but not less than zero.

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## ACCESS SERVICE

## 3. Carrier Common Line Access Service (Cont'd)

## 3.6 Resold Services (Cont'd)

## 3.6.4 Rate Regulations for the Resale of MTS and MTS-type Services (Cont'd)

## (F) Access Groups - Non-Equal Access and Equal Access Offices

When an access group has usage that originates from and/or terminates at both end offices that have been converted to equal access and end offices that have not been converted, both premium and non premium per minute charges as set forth in 17.1.1 following will apply respectively. The minutes billed Carrier Common Line Access Service charges will be the adjusted originating intrastate access minutes plus the adjusted terminating intrastate access minutes for such access groups.

The adjusted originating access minutes will be the originating intrastate access minutes less the reported resold originating MTS and/or MTS-type service minutes of use as set forth in (A) (1) preceding; but not less than zero. The adjusted terminating access minutes will be the terminating intrastate access minutes less the reported resold terminating MTS and/or MTS-type service minutes of use as set forth in (A) (2) preceding; but not less than zero.

The adjusted originating access minutes and the adjusted terminating access minutes will be apportioned between premium and non premium access minutes using end-office specific usage data when available, or when usage data are not available, the premium and non premium ratios developed as set forth in 6.4.1(C) (4) following. The Premium and Non Premium per minute charges set forth in 17.1.1 following will apply to the respective premium and non premium access minutes determined in this manner.

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ACCESS SERVICE

3. Carrier Common Line Access Service (Cont'd)

3.6 Resold Services (Cont'd)

3.6.4 Rate Regulations Concerning the Resale of MTS and  
MTS-type Services (Cont'd)

(G) When the Adjustment Will Be Applied to Customer  
Bills

The adjustment as set forth in (D), (E) and (F) preceding will be made to the involved customer account no later than either the next bill date, or the one subsequent to that, depending on when the usage report is obtained.

(H) Conversion of Billed Usage to Minutes

When the MTS and/or MTS-type usage is shown in hours, the number of hours shall be multiplied by 60 to develop the associated MTS and/or MTS-type minutes of use. If the MTS and/or MTS-type usage is shown in a unit that does not show hours or minutes, the customer shall provide a factor to convert the shown units to minutes.

(I) Percent Interstate Use (PIU)

The adjustment as set forth in (D), (E) and (F) preceding will be made to the involved customer account after making the adjustments to the customer account as set forth in 3.8.4 following (PIU).

3.7 Reserved for Future Use

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ACCESS SERVICE

3. Carrier Common Line Access Service (Cont'd)

3.8 Rate Regulations

3.8.1 Billing of Charges

Carrier Common Line charges will be billed to each Switched Access Service provided under this tariff in accordance with the regulations as set forth in 3.8.5 following (Determination of Premium and Non-Premium Charges) except as set forth in 3.6.4 preceding (Resale) and 3.8.4 following (PIU).

3.8.2 Measuring and Recording of Call Detail

When access minutes are used to determine Carrier Common Line charges, they will be accumulated using call detail recorded by Telephone Company equipment except as set forth in 3.8.3 following (Unmeasured FGA and B Usage) and Feature Group C operator and automated operator services systems call detail such as pay telephone sent-paid, operator-DDD, operator-person, collect, credit-card, third number and/or other like calls recorded by the customer. The Telephone Company measuring and recording equipment, except as set forth in 3.8.3 following (Unmeasured FGA and B Usage), will be associated with end office or local tandem switching equipment and will record each originating and terminating access minute where answer supervision is received. The accumulated access minutes will be summed on a line by line basis, by line group or by end office, whichever type of account is used by the Telephone Company, for each customer and then rounded to the nearest minute.

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ACCESS SERVICE

3. Carrier Common Line Access Service (Cont'd)

3.8 Rate Regulations (Cont'd)

3.8.3 Unmeasured Feature Group A and B Usage

When Carrier Common Line Access is provided in association with Feature Group A or Feature Group B Switched Access Service in Telephone Company offices that are not equipped for measurement capabilities, assumed average intrastate access minutes will be used to determine Carrier Common Line Access charges. These assumed access minutes are as set forth in the exchange carriers' access tariffs.

3.8.4 Percent Interstate Use (PIU)

When the customer reports interstate and intrastate use of in-service Switched Access Service, Carrier Common Line charges will be billed only to intrastate Switched Access Service access minutes based on the data reported by the customer as set forth in 2.3.11 preceding (Jurisdictional Reports), except where the Telephone Company is billing according to actuals by jurisdiction. Intrastate Switched Access Service access minutes will, after adjustment as set forth in 3.6.4 preceding (Resale), when necessary, be used to determine Carrier Common Line Charges as set forth in 3.8.5 following.

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ACCESS SERVICE

3. Carrier Common Line Access Service (Cont'd)

3.8 Rate Regulations (Cont'd)

3.8.5 Determination of Premium and Non-Premium Charges

After the adjustments as set forth in 3.6.4 and 3.8.4 preceding have been applied, when necessary, to Switched Access Service access minutes, charges for the involved customer account will be determined as follows:

- (A) Access minutes for all premium rated Switched Access Service subject to Carrier Common Line charges will be multiplied by the Premium Access per minute rate as set forth in 17.1.1 following.
- (B) Access minutes for all non-premium rated Switched Access Service subject to Carrier Common Line charges will be multiplied by the Non-Premium Access per minute rate as set forth in 17.1.1 following.
- (C) Access minutes for all FGB Access Services with an Abbreviated Dialing Arrangement (ADA) subject to Carrier Common Line Charges will be multiplied by the Premium Access per minute rate as set forth in 17.1.1 following. In non-equal end offices, the result is then multiplied by the ADA rate factor as set forth in 17.2.4 following.
- (D) Carrier Common Line charges shall not be reduced as set forth in 3.6.1 preceding unless Switched Access Charges, as set forth in Section 6. following, are applied to the customer's Switched Access Services.
- (E) Terminating Premium Access or Non-Premium Access, per minute charge(s) apply to:

all terminating access minutes of use;

-- less those terminating access minutes of use associated with Wireless Switching Centers (WSCs).

all originating access minutes of use associated with FGA Access Services where the off-hook supervisory signaling is forwarded by the customer's equipment when the called party answers;

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ACCESS SERVICE

3. Carrier Common Line Access Service (Cont'd)

3.8 Rate Regulations (Cont'd)

3.8.5 Determination of Premium and Non-Premium Charges  
(Cont'd)

(E) (Cont'd)

all originating access minutes of use associated with calls placed to 700, 800 series and 900 numbers, less those originating access minutes of use associated with calls placed to 700, 800 series and 900 numbers for which the customer furnishes for each month a report of either the number of calls or minutes or a report of the percent of calls or minutes that terminate in a Switched Access Service that is assessed Carrier Common Line charges.

When the customer makes this report available to the Telephone Company in advance of billing, these minutes of use will be charged on the current bill as originating minutes of use as set forth in (F) following. If a billing dispute arises concerning the customer provided report, the Telephone Company will request the customer to provide the data the customer used to develop the report. The Telephone Company will not request such data more than once a year. The customer shall supply the data within 30 days of the Telephone Company request.

When this report is not available to the Telephone Company until after billing, it shall be used by the Telephone Company to calculate and post a credit to the customer's account. The credit shall be posted to the customer's account within 30 days of receipt of the report. The credit shall be calculated by multiplying the number of access minutes of use for which a credit is determined to be applicable, times the difference between the terminating and originating Carrier Common Line charges in effect when the calls were completed.

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3. Carrier Common Line Access Service (Cont'd)

3.8 Rate Regulations (Cont'd)

3.8.5 Determination of Premium and Non-Premium Charges  
(Cont'd)

(F) The originating Premium Access or Non-Premium  
Access, per minute charge(s) apply to:

all originating access minutes of use;

-- less those originating access minutes  
of use associated with FGA Access  
Services where the off-hook  
supervisory signaling is forwarded by  
the customer's equipment when the  
called party answers;

-- less all originating access minutes of  
use associated with calls placed to  
700, 800 and 900 numbers;

-- less those originating access minutes  
of use associated with Wireless  
Switching Centers (WSCs).

-- plus all originating access minutes of  
use associated with calls placed to  
700, 800 series and 900 numbers for  
which the customer furnishes for each  
month a report of either the number of  
calls or minutes or a report of the  
percent of calls or minutes that  
terminate in a Switched Access Service  
that is assessed Carrier Common Line  
charges, and for which a corresponding  
reduction in the number of terminating  
access minutes of use has been made as  
set forth in (E) preceding.

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ACCESS SERVICE

3. Carrier Common Line Access Service (Cont'd)

3.9 Non-Traffic Sensitive Revenue Charge

All customers of the Telephone Company's Switched Access Services provided in Section 6, excluding Feature Group A Access Service provided to end users for intraLATA Foreign Exchange (FX) service, will be subject to a Non-Traffic Sensitive Revenue (NTSR) charge.

3.9.1 General Description

The NTSR charge is developed from the Telephone Company's Non-Traffic Sensitive (NTS) Revenue Requirement per access line per month rate, as set forth in Section 17.1.2 following.

The NTSR charge will apply to all intrastate interLATA and intrastate intraLATA terminating minutes of use for all customers. For the purpose of determining the NTSR charge, terminating minutes are defined to be those minutes to which the terminating carrier common line rate would be applied as indicated in Sections 3.2.3 and 3.8.5(E) preceding. These minutes will be referred to as terminating rated access minutes in this section.

The NTSR charge will not be reduced by the MTS and MTS-type resale credits described in Section 3.6.

3.9.2 Determination of Monthly NTS Revenue Requirement

During 1991, the Telephone Company will determine its monthly NTS Revenue Requirement by multiplying the NTS Revenue Requirement per access line per month rate, as set forth in Section 17.1.2 following, by the number of Telephone Company access lines in service on June 30, 1990.

For each subsequent calendar year, the Telephone Company will determine its monthly NTS Revenue Requirement by multiplying the NTS Revenue Requirement per access line per month rate, as set forth in Section 17.1.2 following, by the number of Telephone Company access lines in service on December 31st of the previous year.

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ACCESS SERVICE

3. Carrier Common Line Access Service (Cont'd]

3.9 Non-Traffic Sensitive Revenue Charge (Cont'd)

3.9.2 Determination of Monthly NTS Revenue Requirement (Cont'd)

The access lines used in the calculation shall be the same access lines reported by the Telephone Company to the National Exchange Carrier Association.

If the number of access lines decreases during subsequent years, the monthly NTS Revenue Requirement shall not decrease below from the prior period revenue requirement.

3.9.3 Billing of the NTSR Charge

The Telephone Company may select one of the billing methods, as set forth in (A) and (B) following, to calculate the monthly NTSR charge applicable to each customer. The Telephone Company will notify the customer which of the billing methods will be used.

(A) Percent Distribution Method

The Telephone Company will determine each customer's monthly intrastate terminating rated access minutes, as set forth in Section 3.9.1 preceding. The sum of all customers' monthly intrastate terminating rated access minutes will be used by the Telephone Company to determine the percent distribution for each customer.

The monthly NTSR charge for each customer will be determined by multiplying the Telephone Company's monthly NTS Revenue Requirement by the customer's percent distribution, as calculated above.

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ACCESS SERVICE

3. Carrier Common Line Access Service (Cont'd)

3.9 Non-Traffic Sensitive Revenue Charge (Cont'd)

3.9.3 Billing of the NTSR Charge (Cont'd)

(B) Per Minute Rate Method

The Telephone Company will develop an NTSR rate per terminating rated access minute by dividing its annual NTS Revenue Requirement by the total terminating rated access minutes for all customers. The total terminating rated access minutes for all customers shall be either the previous year's historical total or a Telephone Company forecasted total.

The monthly NTSR charge for each customer will be determined by multiplying the NTSR rate per terminating rated access minute, developed above, by each customer's monthly terminating rated access minutes as set forth in Section 3.9.1 preceding.

To facilitate the billing of the monthly NTSR charge, the Telephone Company may, at its option, combine with the NTSR rate per terminating rated access minute the terminating Carrier Common Line rate set forth in Section 17.1.1, in its billing system. The Telephone Company may exercise this option only when using the Per Minute Rate Method.

This billing method will require the Telephone Company to perform a true-up calculation for each customer on an annual basis. The sum of all customers' actual annual intrastate terminating rated access minutes will be used by the Telephone Company to determine the annual percent distribution for each customer.

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ACCESS SERVICE

- 3. Carrier Common Line Access Service (Cont'd)
  - 3.9 Non-Traffic Sensitive Revenue Charge (Cont'd)
    - 3.9.3 Billing of the NTSR Charge (Cont'd)
      - (B) Per Minute Rate Method (Cont'd)

The annual total of the monthly NTSR billing to each customer will be adjusted to an amount that is equal to the Telephone Company's annual NTS Revenue Requirement multiplied by the customer's annual percent distribution.

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# **ATTACHMENT B**



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October 16, 2013

*Via Electronic Mail*

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Thacker-Grigsby Telephone, Inc.  
P.O. Box 789  
Hindman, KY 41822  
[k.jones@tgtel.com](mailto:k.jones@tgtel.com)

RE: Disconnect Notice to AT&T

Dear Mses. Watts and Jones:

This letter is in response to your letter of September 30, 2013, on behalf of Thacker-Grigsby Telephone Co., Inc., threatening to disconnect services if AT&T does not render payment by November 10, 2013.

As you are aware, AT&T has disputed the Thacker-Grigsby's true up billing of the Intrastate Non-Traffic Sensitive Revenue ("NTSR") for both 2011 and 2012. Although AT&T has made numerous attempts to obtain information from your firm in order to assess the validity of these charges, Thacker-Grigsby has repeatedly failed to provide that information. This is particularly troublesome since AT&T believes that the unprecedented increase in its share of the NTSR may be the result of an attempt to recover billings to other carriers that Thacker-Grigsby perceives as uncollectable. Although AT&T is committed to pay all appropriate charges and has paid all other access charges, we cannot, as you have suggested, accept your assessment with out verification.

The applicable tariff clearly contemplates a customer withholding payment pending the resolution of a dispute. Section 2.4.1 (D) of the Duo County Telephone Cooperative Corp. tariff (for which Thacker-Grigsby is an issuing carrier), sets forth the treatment of late payment charges for withheld disputed amounts upon the resolution of such disputes.

Further, any action by Thacker-Grigsby to attempt to disconnect or block service between AT&T and its end users in response to AT&T's good faith billing dispute would violate the FCC's long-standing prohibition on call blocking. Fundamental to that prohibition is the importance of maintaining the ubiquity and reliability of the public switched telephone network. There can be

Ms. Loretta Watts  
Ms. Kimberly Jones  
Thacker-Grigsby Telephone, Inc.  
October 16, 2013  
Page 2

no doubt that an intentional disconnection of service under these circumstances would unjustifiably harm both AT&T's and Thacker-Grigsby's customers.

AT&T remains willing to work with Thacker-Grigsby to review the underlying records and reach an appropriate resolution of this dispute. However, AT&T reserves all rights to pursue appropriate legal action at the Kentucky Public Service Commission or other forums in the event Thacker-Grigsby unlawfully terminates service to AT&T and its customers. Please feel free to contact either me or Hal Thompson, of AT&T's Access Management organization, if you would like to proceed with discussions on this matter.

Very truly yours,



Deborah S. Waldbaum  
General Attorney  
AT&T Services, Inc.

cc: Hal Thompson  
Tony Taylor  
John Tyler, Esq.  
Edward T. Depp, Esq., *via electronic mail and US Mail*  
Eileen M. Bodamer

# **ATTACHMENT C**



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October 16, 2013

*Via Electronic Mail*

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405 Main Street  
P.O. Box 399  
West Liberty, KY 41472-0399

RE: Disconnect Notice to AT&T

Dear Ms. Bodamer:

This letter is in response to your letter of September 30, 2013, on behalf of Mountain Rural Telephone Cooperative ("MRT"), threatening to disconnect services if AT&T does not render payment by October 31, 2013.

As you are aware, AT&T has disputed the MRT's true up billing of the Intrastate Non-Traffic Sensitive Revenue ("NTSR") for both 2011 and 2012. Although AT&T has made numerous attempts to obtain information from MRT in order to assess the validity of these charges, MRT has repeatedly failed to provide that information. This is particularly troublesome since AT&T believes that the unprecedented increase in its share of the NTSR may be the result of an attempt to recover billings to other carriers that MRT perceives as uncollectable. Although AT&T is committed to pay all appropriate charges and has paid all other access charges, we cannot, as you and your client have suggested, accept your assessment with out verification.

The applicable tariff clearly contemplates a customer withholding payment pending the resolution of a dispute. Section 2.4.1 (D) of the Duo County Telephone Cooperative Corp. tariff (for which MRT is an issuing carrier), sets forth the treatment of late payment charges for withheld disputed amounts upon the resolution of such disputes.

Further, any action by MRT to attempt to disconnect or block service between AT&T and MRT's end users in response to AT&T's good faith billing dispute would violate the FCC's long-standing prohibition on call blocking. Fundamental to that prohibition is the importance of maintaining the ubiquity and reliability of the public switched telephone network. There can be no doubt that an intentional disconnection of service under these circumstances would unjustifiably harm both AT&T's and MRT's customers.

AT&T remains willing to work with MRT to review the underlying records and reach an appropriate resolution of this dispute. However, AT&T reserves all rights to pursue appropriate

Eileen M. Bodamer  
Mountain Rural Telephone Cooperative  
October 16, 2013  
Page 2

legal action at the Kentucky Public Service Commission or other forums in the event MRT unlawfully terminates service to AT&T and its customers. Please feel free to contact either me or Hal Thompson, of AT&T's Access Management organization, if you would like to proceed with discussions on this matter.

Very truly yours,



Deborah S. Waldbaum  
General Attorney  
AT&T Services, Inc.

cc: Hal Thompson  
Tony Taylor  
John Tyler, Esq.  
Edward T. Depp, Esq., *via email and US Mail*

# **ATTACHMENT D**

ACCESS SERVICE

2, General Regulations (Cont'd)

2.4 Payment Arrangements and Credit Allowances

2.4.1 Payment of Rates, Charges and Deposits

(A) Deposits

The Telephone Company will only require a customer which has a proven history of late payments to the Telephone Company or does not have established credit, to make a deposit prior to or at any time after the provision of a service to the customer. No such deposit will be required of a customer which is a successor of a company which has established credit and has no history of late payments to the Telephone Company. Such deposit will not exceed the actual or estimated rates and charges for the service for a two month period. The fact that a deposit has been made in no way relieves the customer from complying with the Telephone Company's regulations as to the prompt payment of bills. At such time as the provision of the service to the customer is terminated, the amount of the deposit will be credited to the customer's account and any credit balance which may remain will be refunded.

Such a deposit will be refunded or credited to the account when the customer has established credit or, in any event, after the customer has established a one-year prompt payment record at any time prior to the termination of the provision of the service to the customer. In case of a cash deposit, for the period the deposit is held by the Telephone Company, the customer will receive interest at the same percentage rate as that set forth in (C) (2) (a) or in (C) (2) (b) following, whichever is lower.

The rate will be compounded daily for the number of days from the date the customer deposit is received by the Telephone Company to and including the date such deposit is credited to the customer's account or the date the deposit is refunded by the Telephone Company. Should a deposit be credited to the customer's account, as indicated above, no interest will accrue on the deposit from the date such deposit is credited to the customer's account.

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ACCESS SERVICE

2. General Regulations (Cont'd)

2.4 Payment Arrangements and credit Allowances (Cont'd)

2.4.1 Payment of Rates, Charges and Deposits (Cont'd)

(B) Bill Dates

The Telephone Company shall bill on a current basis all charges incurred by and credits due to the customer under this tariff attributable to services established or discontinued during the preceding billing period. In addition, the Telephone Company shall bill in advance charges for all services to be provided during the ensuing billing period except for charges associated with service usage and for the Federal Government which will be billed in arrears. The bill day (i.e., the billing date of a bill for a customer for Access Service under this tariff), the period of service each bill covers and the payment date will be as follows:

(1) Presubscription

For Presubscription Service, the Telephone Company will establish a bill day each month for each end user account or advise the customer in writing of an alternate billing schedule. Alternate billing schedules shall not be established on less than 60 days notice or initiated by the Telephone Company more than twice in any consecutive 12 month period. Any applicable Presubscription Charges, any known unbilled charges for prior periods and any known unbilled adjustments for prior periods for Presubscription Service will be applied to this bill. Such bills are due when rendered.

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE

NOV 1 1999

PURSUANT TO KRS 263.011,  
SECTION 9 (1)

BY: Stephan D. Bell  
SECRETARY OF THE COMMISSION

Issued: September 20, 1999  
By: W.W. Magruder, Executive Vice President

Effective: November 1, 1999

ACCESS SERVICE

2. General Regulations (Cont'd)

2.4 Payment Arrangements and Credit Allowances (Cont'd)

2.4.1 Payment of Rates, Charges and Deposits (Cont'd)

(B) Bill Dates (Cont'd)

(2) Access Services Other Than Presubscription

For Service other than Presubscription Service, the Telephone Company will establish a bill day each month for each customer account or advise the customer in writing of an alternate billing schedule. Alternate billing schedules shall not be established on less than 60 days notice or initiated by the Telephone Company more than twice in any consecutive 12 month period.

The bill will cover nonusage sensitive service charges for the ensuing billing period for which the bill is rendered, any known unbilled nonusage sensitive charges for prior periods and unbilled usage charges for the period after the last bill day through the current bill day. Any known unbilled usage charges for prior periods and any known unbilled adjustments will be applied to this bill. Payment for such bills is due in immediately available funds by the payment date, as set forth in (C) following. If payment is not received by the payment date, a late payment penalty will apply as set forth in (C) following.

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE

NOV 1 1999

PURSUANT TO KAP 5011,  
SECTION 9(1)

BY: Stephan D. King  
SECRETARY OF THE COMMISSION

Issued: September 20, 1999  
By: W.W. Magruder, Executive Vice President

Effective: November 1, 1999

ACCESS SERVICE

2. General Regulations (Cont'd)

2.4 Payment Arrangements and Credit Allowances (Cont'd)

2.4.1 Payment of Rates, Charges and Deposits (Cont'd)

(C) Payment Dates and Late Payment Penalties

- (1) All bills dated as set forth in (B) (2) preceding for service other than Presubscription Service, provided to the customer by the Telephone Company are due 31 days (payment date) after the bill day or by the next bill date (i.e., same date in the following month as the bill date), whichever is the shortest interval, except as provided herein, and are payable in immediately available funds. If the customer does not receive a bill at least 20 days prior to the 31 day payment due date, then the bill shall be considered delayed. When the bill has been delayed, upon request of the customer the due date will be extended by the number of days the bill was delayed. Such request of the customer must be accompanied with proof of late bill receipt.

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE

NOV 1 1999

PURSUANT TO KRS 501.011,  
SECTION 9(1)

BY: Stephen R. ...  
SECRETARY OF PUBLIC SERVICE COMMISSION

Issued: September 20, 1999

Effective: November 1, 1999

By: W.W. Magruder, Executive Vice President

ACCESS SERVICE

2. General Regulations (Cont'd)

2.4 Payment Arrangements and Credit Allowances (Cont'd)

2.4.1 Payment of Rates, Charges and Deposits (Cont'd)

(C) Payment Dates and Late Payment Penalties (Cont'd)

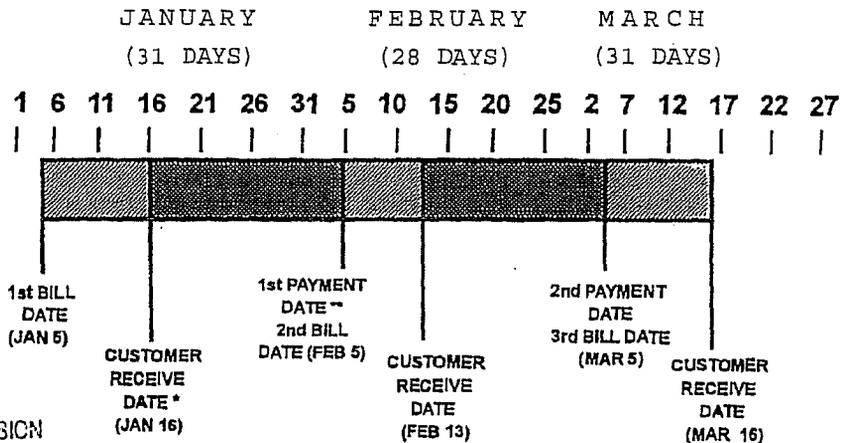
(1) (Cont'd)

If such payment date would cause payment to be due on a Saturday, Sunday or Legal Holiday, payment for such bills will be due from the customer as follows:

If the payment date falls on a Sunday or on a Legal Holiday which is observed on a Monday, the payment date shall be the first non-Holiday day following such Sunday or Legal Holiday.

- If the payment date falls on a Saturday or on a Legal Holiday which is observed on Tuesday, Wednesday, Thursday or Friday, the payment date shall be the last non-Holiday day preceding such Saturday or Legal Holiday.

EXAMPLE: CALCULATION OF PAYMENT DATES



PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE

NOV 1 1999

PURSUANT TO 807 KAR 5011,  
SECTION 9(1)

By: Stephan D. Reel  
SECRETARY OF THE COMMISSION

\* IF CUSTOMER DOES NOT RECEIVE BILL BY THE RECEIVE DATE THE PAYMENT DATE MAY BE EXTENDED AS SET FORTH PRECEDING.

\*\* IF THE PAYMENT DATE IS ON A SATURDAY, SUNDAY OR HOLIDAY, THE PAYMENT DATE WILL BE CHANGED AS SET FORTH PRECEDING.

LEGEND:  
 PERIOD IN WHICH TELEPHONE COMPANY PREPARES AND DELIVERS BILL  
 PERIOD DURING WHICH CUSTOMER BILL IS DUE

Issued: September 20, 1999  
By: W.W. Magruder, Executive Vice President

Effective: November 1, 1999

ACCESS SERVICE

2. General Regulations (Cont'd)

2.4 Payment Arrangements and Credit Allowances (Cont'd)

2.4.1 Payment of Rates, Charges and Deposits (Cont'd)

(C) Payment Dates and Late Payment Penalties (Cont'd)

(2) Further, if no payment is received by the payment date or-if a payment or any portion of a Payment is received by the Telephone Company after the payment date as set forth in (1) preceding, or if a payment or any portion of a payment is received by the Telephone Company in funds which are not immediately available to the Telephone Company, then a late payment penalty shall be due to the Telephone Company. The late payment penalty shall be the payment or the portion of the payment not received by the payment date times a late factor. The late factor shall be the lesser of:

- (a) the highest interest rate (in decimal value) which may be levied by law for commercial transactions, compounded daily for the number of days from the payment date to and including the date that the customer actually makes the payment to the Telephone Company, or
- (b) 0.000292 per day, compounded daily for the number of days from the payment date to and including the date that the customer actually makes the payment to the Telephone Company.

(D) Billing Disputes Resolved in Favor of the Telephone Comany

Late payment charges will apply to amounts withheld pending settlement of the dispute. Late payment charges are calculated as set forth in (C) (2) preceding except that when the customer disputes the bill on or before the payment date and pays the undisputed amount on or before the payment date, the penalty interest period shall not begin until 10 days following the payment date.

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE

NOV 1 1999

PURSUANT TO KRS 90.011,  
SECTION 1

BY Shirley G. Goff

Effective November 1, 1999

Issued: September 20, 1999

By: W.W. Magruder, Executive Vice President

ACCESS SERVICE

2. General Regulations (Cont'd)

2.4 Payment Arrangements and Credit Allowances (Cont'd)

2.4.1 Payment of Rates, Charges and Deposits (Cont'd)

(E) Billing Disputes Resolved in Favor of the Customer

If the customer pays the total billed amount and disputes all or part of the amount, the Telephone Company will refund any overpayment. In addition, the Telephone Company will pay to the customer penalty interest on the overpayment. When a claim is filed within 90 days of the due date, the penalty interest period shall begin on the payment date. When a claim is filed more than 90 days after the due date, the penalty interest period shall begin from the date of the claim or the date of overpayment, whichever is later.

The penalty interest period shall end on the date that the Telephone Company actually refunds the overpayment to the customer. The penalty interest rate shall be the lesser of:

- (1) the highest interest rate (in decimal value) which may be levied by law for commercial transactions, compounded daily for the number of days from the first date to and including the last date of the period involved, or
- (2) 0.000292 per day, compounded daily for the number of days from the first date to and including the last date of the period involved.

(F) Proration of Charges

Adjustments for the quantities of services established or discontinued in any billing period beyond the minimum period set forth for services in other sections of this tariff will be prorated to the number of days based on a 30 day month. The Telephone Company will, upon request, furnish within 30 days of a request and at no charge to the customer such detailed information as may reasonably be required for verification of any bill.

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE

NOV 1 1999

PURSUANT TO KY KAR 6011,  
SECTION 9(1)

BY: Stephan Bell

Issued: September 20, 1999  
By: W.W. Magruder, Executive Vice President

Effective: ~~NOVEMBER 17, 1999~~ NOVEMBER 17, 1999

ACCESS SERVICE

2. General Regulations (Cont'd)

2.4 Payment Arrangements and Credit Allowances (Cont'd)

2.4.1 Payment of Rates, Charges and Deposits (Cont'd)

(g) Rounding of Charges

When a rate as set forth in this tariff is shown to more than two decimal places, the charges will be determined using the rate shown. The resulting amount will then be rounded to the nearest penny (i.e., rounded to two decimal places).

2.4.2 Minimum Periods

The minimum period for which services are provided and for which rates and charges are applicable is one month except for the following, or as otherwise specified:

- Switched Access usage rated services
- Directory Assistance usage rated services
- Switched Access High Capacity DS3 Entrance Facility and Direct Trunked Transport
- Switched Access Synchronous Optical Channel OC3 and OC12 Entrance Facility and Direct Trunked Transport
- Special Access Part-time Video
- Special Access Program Audio
- Special Access High Capacity Service
- Special Access Synchronous Optical Channel Service
- Frame Relay Access Service

The minimum period for which service is provided and for which rates and charges are applicable for a Specialized Service or Arrangement provided on an individual case basis as set forth in Section 12. following, is one month unless a different minimum period is established with the individual case filing.

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE

NOV 1 1999

PURSUANT TO KY KAR 5.011,  
SECTION 9(1)

BY: Stephan R. ...  
SECRETARY OF THE COMMISSION

Issued: September 20, 1999

Effective: November 1, 1999

By: W.W. Magruder, Executive Vice President

ACCESS SERVICE

2. General Regulations (Cont'd)

2.4 Payment Arrangements and Credit Allowances (Cont'd)

2.4.2 Minimum Periods (Cont'd)

When a service is discontinued prior to the expiration of the minimum period, charges are applicable, whether the service is used or not, as follows:

- (A) When a service with a one month minimum period is discontinued prior to the expiration of the minimum period, a one month charge will apply at the rate level in effect at the time service is discontinued.
- (B) When a service with a minimum period greater than one month is discontinued prior to the expiration of the minimum period, except for Special Access High Capacity Service, Special Access Synchronous Optical Channel Service, and Frame Relay Access Service Optional Rate Plans as set forth in 7.2.8 and 16.1.3 following, the applicable charge will be the lesser of (1) the Telephone Company's total nonrecoverable costs less the net salvage value for the discontinued service or (2) the total monthly charges, at the rate level in effect at the time service is discontinued, for the remainder of the minimum period.

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE

NOV 1 1999

PURSUANT TO KY KAR 5011,  
SECTION 9(1)

BY Stephan D. Reiff  
SECRETARY OF THE COMMISSION

Issued: September 20, 1999  
By: W.W. Magruder, Executive Vice President

Effective: November 1, 1999



# **ATTACHMENT E**



*Legal Counsel.*

DINSMORE & SHOHL LLP  
101 South Fifth Street ^ Suite 2500 ^ Louisville, KY 40202  
www.dinsmore.com

Edward T. Depp  
502-540-2347  
tip.depp@dinsmore.com

October 25, 2013

**U.S. MAIL**

Deborah S. Waldbaum  
General Attorney  
AT&T Services, Inc.  
2535 East 40<sup>th</sup> Avenue, #B1476  
Denver, CO 80205

*Re: Disconnect notices to AT&T*

Dear Ms. Waldbaum:

We are counsel to Thacker-Grigsby Telephone Company, Inc. (“Thacker-Grigsby”) of Hindman, Kentucky. This letter is in response to your letter dated October 16, 2013 regarding the disconnect notice Thacker-Grigsby provided to AT&T on September 30, 2013. In the future, please direct all correspondence related to this matter to our office.

It is our understanding that AT&T disputed Thacker-Grigsby’s true-up billing of intrastate non-traffic sensitive revenue (“NTSR”) for both 2011 and 2012. Thacker-Grigsby reviewed and denied those disputes. As justification for continuing to withhold payment from Thacker-Grigsby, you indicate that “AT&T has made numerous attempts to obtain information” in order to assess the validity of the true-up calculation, and that Thacker-Grigsby has repeatedly failed to provide that information. This is incorrect.

Thacker-Grigsby has provided invoices pertaining to switched access charges, and AT&T is itself in possession of the access records for the same traffic that AT&T delivered to Thacker-Grigsby’s access tandem over its AT&T-dedicated trunk group. AT&T evaluated the invoices prior to initiating its disputes. Upon initiation of AT&T’s disputes, Thacker-Grigsby responded to AT&T’s concerns to the fullest extent that it could do so. Where AT&T questioned specific items regarding the accuracy of Thacker-Grigsby’s billing, Thacker-Grigsby investigated and confirmed its billing to be correct. Upon denial of AT&T’s disputes, the disputed amounts became due.

You point to Section 2.4.1 (D) of Duo County Telephone Cooperative Corporation, Inc.’s tariff (for which Thacker-Grigsby is an issuing carrier) as justification for continuing to withhold payment despite denial of the dispute. This section provides that late payment charges will apply to amounts withheld pending resolution of a dispute; it is not a ratification of or acquiescence in AT&T’s improper withholding of the amounts due under the access tariff following denial of the dispute. More importantly, the applicable tariff expressly provides for discontinuance of service

Ms. Deborah S. Waldbaum  
October 25, 2013  
Page 2

when a customer refuses to comply with tariff provisions regarding payment and billing. (*See infra.*)

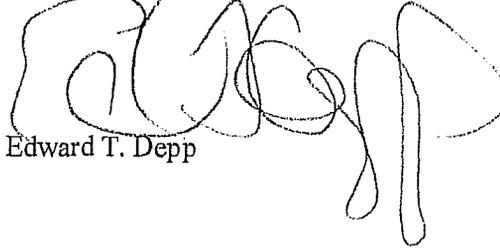
You also contend that disconnection would violate the FCC's prohibition on call-blocking, citing "the importance of maintaining the ubiquity and reliability of the public switched telephone network." A review of recent FCC jurisprudence on the matter (including a number of pronouncements employing that quoted language) reveals no indication that disconnection of a customer for failure to render payment violates the prohibition on call blocking.<sup>1</sup> Rather, the FCC's concern in these rulings is the selective blocking, choking, and restriction of traffic by interexchange carriers for the purpose of avoiding rural access charges. AT&T is simply a customer who has refused to pay its bills following denial of a dispute. Disconnection of such customers does not constitute call-blocking; it constitutes compliance with Thacker-Grigsby's tariff, which it (like AT&T) is obligated at law to follow.

AT&T, like any other customer of Thacker-Grigsby, is subject to the tariffed rates, policies, and procedures approved by the Kentucky Public Service Commission. Unless AT&T pays the tariffed access charges it has incurred, AT&T will be subject to disconnection pursuant to Section 2.1.8 (A) of the tariff for failure to comply with Section 2.4.1 of the tariff ("Payment of Rates, Charges, and Deposits"). As stated in its letter of September 30, 2013, Thacker-Grigsby will proceed with disconnection if AT&T does not render payment by November 10, 2013.

Please contact us if you have any further questions.

Sincerely,

DINSMORE & SHOHL LLP



Edward T. Depp

Cc: Kimberly Jones  
Eileen M. Bodamer  
John E. Selent, Esq.  
Joseph A. Newberg, Esq.

1104029v1

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<sup>1</sup> See, e.g., *In the Matter of Rural Call Completion*, Notice of Proposed Rulemaking, 28 FCC Rcd 1569 (February 7, 2013); *In the Matter of Developing a Unified Intercarrier Compensation Regime, Establishing Just and Reasonable Rates for Local Exchange Carriers*, Declaratory Ruling, 27 FCC Rcd 1351 (February 6, 2012); *In the Matter of Establishing Just and Reasonable Rates for Local Exchange Carriers, Call Blocking By Carriers*, Declaratory Ruling and Order, 22 FCC Rcd 11629 (June 28, 2007).

# **ATTACHMENT F**



*Legal Counsel.*

DINSMORE & SHOHL LLP  
101 South Fifth Street ^ Suite 2500 ^ Louisville, KY 40202  
www.dinsmore.com

Edward T. Depp  
502-540-2347  
tip.depp@dinsmore.com

October 25, 2013

**U.S. MAIL**

Deborah S. Waldbaum  
General Attorney  
AT&T Services, Inc.  
2535 East 40<sup>th</sup> Avenue, #B1476  
Denver, CO 80205

***Re: Disconnect notice to AT&T***

Dear Ms. Waldbaum:

We are counsel to Mountain Rural Telephone Cooperative Corporation, Inc. ("Mountain Rural") of West Liberty, Kentucky. This letter is in response to your letter dated October 16, 2013 regarding the disconnect notice Mountain Rural provided to AT&T on September 30, 2013. In the future, please direct all correspondence related to this matter to our office.

It is our understanding that AT&T disputed Mountain Rural's true-up billing of intrastate non-traffic sensitive revenue ("NTSR") for both 2011 and 2012. Mountain Rural reviewed and denied those disputes. As justification for continuing to withhold payment from Mountain Rural, you indicate that "AT&T has made numerous attempts to obtain information" in order to assess the validity of the true-up calculation, and that Mountain Rural has repeatedly failed to provide that information. This is incorrect.

Mountain Rural has provided invoices pertaining to switched access charges, and AT&T is itself in possession of the access records for the same traffic that AT&T delivered to Mountain Rural's access tandem over its AT&T-dedicated trunk group. AT&T evaluated the invoices prior to initiating its disputes. Upon initiation of AT&T's disputes, Mountain Rural responded to AT&T's concerns to the fullest extent that it could do so. Where AT&T questioned specific items regarding the accuracy of Mountain Rural's billing, Mountain Rural investigated and confirmed its billing to be correct. Upon denial of AT&T's disputes, the disputed amounts became due.

You point to Section 2.4.1 (D) of Duo County Telephone Cooperative Corporation, Inc.'s tariff (for which Mountain Rural is an issuing carrier) as justification for continuing to withhold payment despite denial of the disputes. This section provides that late payment charges will apply to amounts withheld pending resolution of a dispute; it is not a ratification of or acquiescence in AT&T's improper withholding of the amounts due under the access tariff following denial of the disputes. More importantly, the applicable tariff expressly provides for

Ms. Deborah S. Waldbaum  
October 25, 2013  
Page 2

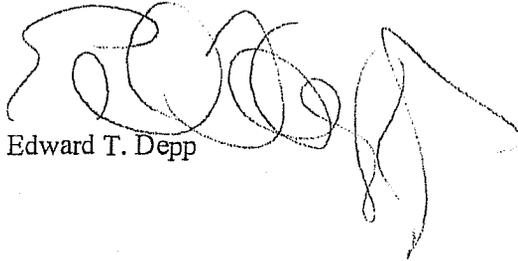
discontinuance of service when a customer refuses to comply with tariff provisions regarding payment and billing. (*See infra.*)

You also contend that disconnection would violate the FCC's prohibition on call-blocking, citing "the importance of maintaining the ubiquity and reliability of the public switched telephone network." A review of recent FCC jurisprudence on the matter (including a number of pronouncements employing that quoted language) reveals no indication that disconnection of a customer for failure to render payment violates the prohibition on call blocking.<sup>1</sup> Rather, the FCC's concern in these rulings is the selective blocking, choking, and restriction of traffic by interexchange carriers for the purpose of avoiding rural access charges. AT&T is simply a customer who has refused to pay its bills following denial of a dispute. Disconnection of such customers does not constitute call-blocking; it constitutes compliance with Mountain Rural's tariff, which Mountain Rural (like AT&T) is obligated at law to follow.

AT&T, like any other customer of Mountain Rural, is subject to the tariffed rates, policies, and procedures approved by the Kentucky Public Service Commission. Unless AT&T pays the tariffed access charges it has incurred, AT&T will be subject to disconnection pursuant to Section 2.1.8 (A) of the tariff for failure to comply with Section 2.4.1 of the tariff ("Payment of Rates, Charges, and Deposits"). As stated in its letter of September 30, 2013, Mountain Rural will proceed with disconnection if AT&T does not render payment by October 31, 2013. Please contact us if you have any further questions.

Sincerely,

DINSMORE & SHOHL LLP



Edward T. Depp

Cc: Shayne Ison  
Eileen M. Bodamer  
John E. Selent, Esq.  
Joseph A. Newberg, Esq.

1104027v1

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<sup>1</sup> See, e.g., *In the Matter of Rural Call Completion*, Notice of Proposed Rulemaking, 28 FCC Rcd 1569 (February 7, 2013); *In the Matter of Developing a Unified Intercarrier Compensation Regime, Establishing Just and Reasonable Rates for Local Exchange Carriers*, Declaratory Ruling, 27 FCC Rcd 1351 (February 6, 2012); *In the Matter of Establishing Just and Reasonable Rates for Local Exchange Carriers, Call Blocking By Carriers*, Declaratory Ruling and Order, 22 FCC Rcd 11629 (June 28, 2007).

# **ATTACHMENT G**



November 6, 2013

**U.S. MAIL**

Hon. Jeff Derouen  
Executive Director  
Kentucky Public Service Commission  
211 Sower Blvd., P.O. Box 615  
Frankfort, KY 40602-0615

***Re: Disconnect notice to AT&T***

Dear Mr. Derouen:

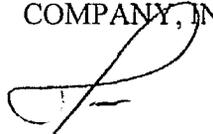
On September 30, 2013, Thacker-Grigsby Telephone Company, Inc. ("Thacker-Grigsby") sent the attached disconnect notice to AT&T in response to AT&T's failure to pay certain tariffed charges. Thacker-Grigsby intends to disconnect AT&T on Monday, November 11, 2013 if AT&T does not render payment.

Thacker-Grigsby has investigated, addressed, and resolved the disputes presented by AT&T. Having done so, Thacker-Grigsby properly denied the disputes regarding outstanding balances. AT&T's continued refusal to render payment leaves us with no choice but to terminate service pursuant to Section 2.1.8 (A) of the applicable access tariff.

Please contact us if you have any further questions.

Sincerely,

THACKER-GRIGSBY TELEPHONE  
COMPANY, INC.



Kimberly Jones

Enclosure

Cc: Eileen M. Bodamer



*Thacker-Grigsby Telephone Co., Inc.*  
P.O. BOX 789  
HINDMAN, KENTUCKY 41822

DATE: OCTOBER 3, 2013

TO: ATT  
CONNECTIVITY BILLING MGMT BILL  
ATTN:CABS  
P.O. BOX 981828  
EL PASO TX, 79998-1828

SUBJECT: **DEFAULT IN PAYMENT**

**FINAL DISCONNECT NOTICE**

YOUR ACCOUNT IS SERIOUSLY PAST DUE. WE HAVE NOT RECEIVED  
PAYMENT FOR APR 1, 2013 FGD INVOICE.

THE INVOICE NUMBER IS 04090288D.

PURSUANT TO STATE AND FEDERAL TARIFFS, IF THE TOTAL FOR ALL PAST  
DUE INVOICES ARE NOT RECEIVED IN FULL **BY NOVEMBER 10, 2013**, THE  
SERVICES WHICH ARE IN DEFAULT OF PAYMENT  
**WILL BE DISCONNECTED.**

THERE WILL BE NO OTHER NOTICES REGARDING THIS INVOICE.

IF YOU HAVE QUESTIONS PLEASE CALL AT 606-785-2213 OR E-MAIL ME AT  
[L.WATTS@TGTEL.COM](mailto:L.WATTS@TGTEL.COM)

Loretta Watts  
Thacker-Grigsby Telephone Co., Inc.



Telephone: (606)743-3121  
Facsimile: (606)743-3635  
Post Office Box 399  
West Liberty, Ky. 41472-0399

November 6, 2013

**U.S. MAIL**

Hon. Jeff Derouen  
Executive Director  
Kentucky Public Service Commission  
211 Sower Blvd., P.O Box 615  
Frankfort, KY 40602-0615

***Re: Disconnect notice to AT&T***

Dear Mr. Derouen:

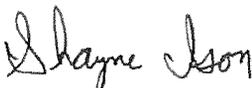
On September 30, 2013, Mountain Rural Telephone Cooperative Corporation, Inc. ("Mountain Rural") sent the attached disconnect notice to AT&T in response to AT&T's failure to pay certain tariffed charges. Mountain Rural intends to disconnect AT&T on Tuesday, November 12, 2013<sup>1</sup> if AT&T does not render payment.

Mountain Rural has investigated, addressed, and resolved the disputes presented by AT&T. Having done so, Mountain Rural properly denied the disputes regarding outstanding balances. AT&T's continued refusal to render payment leaves us with no choice but to terminate service pursuant to Section 2.1.8 (A) of the applicable access tariff.

Please contact us if you have any further questions.

Sincerely,

MOUNTAIN RURAL TELEPHONE  
COOPERATIVE CORPORATION, INC.

  
Shayne Ison

Enclosure

Cc: Eileen M. Bodamer

***Your Rural  
Cooperative***



<sup>1</sup> The September 30 disconnect notice indicates October 31, 2013 as the date of disconnection. As a courtesy, Mountain Rural has postponed until the date indicated above.



415 Hepplewhite Dr.  
Johns Creek, GA 30022  
770-649-1886 / fax 770-645-6545  
[www.bodamer.com](http://www.bodamer.com)

Connectivity Billing Mgmt Bill  
ATTN: CABS  
P O Box 981828  
El Paso TX 79998-1828

## DISCONNECT NOTICE

September 30, 2013

Via Certified Mail

**RE: Unpaid Invoices Accounts**

**BILL NO.: 0414D028801**

To Whom It May Concern:

I have been retained by Mountain Rural Telephone Cooperative (OCN 0414) to assist in recovery of unpaid invoices.

Pursuant to State and / or Federal Tariffs applicable to the provision of access services by Mountain Rural Telephone Cooperative to your company, this letter is to notify you that your account is now delinquent and must be paid in full within 30 calendar days to avoid termination of service. A summary of past due amounts is included in the attachment to this letter.

**Failure to pay all amounts owed in full on or before October 31, 2013 will result in full service disconnection effective on that date.**

**Amounts owed for unpaid balances total: [REDACTED]**

Any deposits on file with the company will be applied to any unpaid balances on the disconnect date. Please note that should the Company disconnect you on this date, it will be a full disconnect and you will be required to apply for new service and incur installation and whatever other fees are required, including new or additional deposits, at that time.

Payment should be made to: Mountain Rural Telephone Cooperative  
405 Main Street or P.O. Box 399  
West Liberty, KY 41472-0399

-2-

The Company will further pursue whatever avenues available to it, including filing of complaints with the appropriate regulatory commissions, to pursue collections of unpaid balances following service termination.

Please call me at 770-649-1886 or email me at [Eileen@Bodamer.com](mailto:Eileen@Bodamer.com) regarding payments on this invoice.

Sincerely,

A handwritten signature in cursive script that reads "Eileen M Bodamer".

Eileen M Bodamer  
Enclosure

Cc: Angie Pennington, MRTC, via email  
Hal Thompson, ATT, via email

**Mountain Rural Telephone Cooperative (OCN 0414)**

**ATT Statement of Past Due Balances.**

<b>Bill Date</b>	<b>Invoice</b>	<b>Billed Amount</b>	<b>Adjustment</b>	<b>Paid</b>	<b>Owing</b>
	Credit balance				
	0414D028801.073				
	0414D028801.087				