

REQUEST: Please provide a list of all of AT&T's domestic affiliates that provide telecommunications services, information services, and CMRS services to retail and / or wholesale customers, identifying for each affiliate listed whether it: (i) is an ILEC; (ii) provides telecommunications services, information services, or CMRS services; and (iii) serves retail endusers, wholesale end-users, or both.

RESPONSE: Objection. This request is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, the following domestic AT&T affiliates operate in Kentucky:

- (a) BellSouth Telecommunications, Inc., d/b/a AT&T Kentucky, is an ILEC that provides telecommunications and information services, and serves both retail and wholesale customers.
- (b) AT&T Communications of the South Central States, LLC, is a CLEC and an interexchange carrier ("IXC") that provides telecommunications and information services and serves retail customers.
- (c) BellSouth Long Distance, Inc. d/b/a AT&T Long Distance Service is an IXC that provides telecommunications services, and serves retail customers.
- (d) SBC Long Distance, LLC d/b/a AT&T Long Distance, is an IXC that provides telecommunications services, and serves retail customers.
- (e) TCG Ohio is a CLEC that provides telecommunications and information services, and serves retail end users.
- (f) New Cingular Wireless PCS, LLC d/b/a AT&T Mobility is a wireless carrier that provides wireless services, and serves retail and wholesale customers.
- (g) Cincinnati SMSA Limited Partnership d/b/a AT&T Mobility is a wireless carrier that provides wireless services, and serves retail and wholesale customers.

REQUEST: Has AT&T produced, assessed, reviewed or analyzed any elasticity of demand information, including but not limited to cross-elasticity of demand information, (whether produced by AT&T or obtained from other sources by AT&T) to determine how much any increases to local retail wireline rates will affect customer subscription or line counts related to wireline service? If so, please provide in detail the results of such review/analysis and the documents reviewed.

RESPONSE: Objection. This request is overly broad in its scope and to the extent it encompasses elasticity studies for other carriers, it requests information that AT&T does not have. Without waiving this objection, AT&T does not have an elasticity of demand study, and does not believe one is necessary in this case. The proposed reform is only intended to move the LECs' local rates closer to cost – a natural aspect of a well-functioning market that leads to robust competition, and that is to the ultimate benefit of Kentucky consumers. The revenue neutral rate rebalancing that AT&T proposes will also mean that the LECs' services are being supported more so by the rates charged to their own consumers, and less so by hidden, implicit and unfair subsidies extracted from other companies' customers. As a result, all consumers will receive the correct price signals and would be free to make the best decisions for them vis-à-vis the alternative services in the market. The result of such natural rate restructuring is superior to any artificial outcome from the existing implicit subsidy systems.

REQUEST: For each calendar year 2005 through 2010, please identify in detail the total number of revenue-producing access lines (separately both for wholesale and retail) that AT&T provides in Kentucky for the following:

- a. Standalone basic local residential service;
- b. The total number of residential lines of all kinds;
- c. Standalone basic local business services; and
- d. The total number of business lines of all kinds.

RESPONSE: Objection. The information requested is not relevant or reasonably calculated to lead to the discovery of admissible evidence. The number of access lines and basic access lines AT&T Kentucky had in each of the past five years has no bearing on the intrastate access rates of the RLECs requesting this information. AT&T has indicated it has no access revenue shift for which it is requesting recovery. Without waiving this objection, AT&T states the information requested is proprietary and confidential pursuant to KRS 61.878, and will be provided pursuant to an appropriate non-disclosure agreement with the RLECs. Accordingly, and concurrent with its response to this Data Request, AT&T Kentucky is filing a Petition for Confidentiality with the Kentucky Public Service Commission.

- a. AT&T Kentucky will provide the total number of standalone basic local residential service lines to the extent it is available as a supplemental response to this request.

- b. The total numbers of residential lines of all kinds for each of the following years are:

AT&T Kentucky	Dec-05	Dec-06	Dec-07	Dec-08	Dec-09	Dec-10
Retail Residential Lines	██████	██████	██████	██████	██████	██████
Wholesale Residential Lines	██████	██████	██████	██████	██████	██████

- c. AT&T Kentucky will provide the total number of standalone basic local business services to the extent it is available as a supplemental response to this request.
- d. The total numbers of business lines of all kinds for each of the following years are:

AT&T Kentucky	Dec-05	Dec-06	Dec-07	Dec-08	Dec-09	Dec-10
Total Retail Business Lines	██████	██████	██████	██████	██████	██████
Total Wholesale Business Lines	██████	██████	██████	██████	██████	██████

Contains AT&T Proprietary Information

REQUEST: For each calendar year 2005 through 2010, how many of AT&T's customers in Kentucky, by number and percentage of its total Kentucky customer base, purchased or are purchasing bundles of services? For purposes of this question, "bundles of services" is defined as local service plus any other type of telephone or information service.

RESPONSE: Objection. The information requested is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, AT&T will provide as a supplemental response to this request the number of AT&T Kentucky's customers that purchase bundles of services in Kentucky to the extent that such information is available after reasonable search.

REQUEST: For each calendar year 2005 through 2010, please provide in detail the following information:

- a. Volume of intraMTA calls that AT&T terminated in Kentucky on behalf of all wireless carriers;
- b. Volume of minutes and dollars that AT&T billed wireless carriers in Kentucky for reciprocal compensation;
- c. Volume of minutes and dollars that AT&T billed wireless carriers in Kentucky for intrastate access;
- d. Volume of minutes and dollars that AT&T billed for intrastate wireline access services
 - i. Terminating; and
 - ii. Originating;
- e. Volume of minutes and dollars that AT&T was billed for intrastate wireline access services
 - i. Terminating; and
 - ii. Originating.

RESPONSE: The information requested is proprietary and confidential pursuant to KRS 61.878, and will be provided pursuant to an appropriate non-disclosure agreement with the RLECs. Accordingly, and concurrent with its response to this Data Request, AT&T Kentucky is filing a Petition for Confidentiality with the Kentucky Public Service Commission.

- a. AT&T does not track call volumes so does not have the information requested.

b. The volumes of minutes and dollars that AT&T billed wireless carriers in Kentucky for reciprocal compensation for each of the following years are:

	MOUs	Dollars
2006	[REDACTED]	[REDACTED]
2007	[REDACTED]	[REDACTED]
2008	[REDACTED]	[REDACTED]
2009	[REDACTED]	[REDACTED]
2010	[REDACTED]	[REDACTED]

c. The volumes of minutes and dollars that AT&T billed wireless carriers in Kentucky for intrastate access for each of the following years are:

	MOUs	Dollars
2006	[REDACTED]	[REDACTED]
2007	[REDACTED]	[REDACTED]
2008	[REDACTED]	[REDACTED]
2009	[REDACTED]	[REDACTED]
2010	[REDACTED]	[REDACTED]

d. The volumes of minutes and dollars that AT&T billed for intrastate wireline access services for terminating and originating for each of the following years are:

	MOUs	Dollars
2006	[REDACTED]	[REDACTED]
2007	[REDACTED]	[REDACTED]
2008	[REDACTED]	[REDACTED]
2009	[REDACTED]	[REDACTED]
2010	[REDACTED]	[REDACTED]

Contains AT&T Proprietary Information

e. AT&T will provide as a supplemental response to this request the volumes of local switched minutes and dollars that AT&T was billed for intrastate wireline access services for terminating and originating for each of the years requested to the extent they are available.

REQUEST: Please provide separate estimates of the percentage of terminating intercarrier traffic AT&T and any of the entities identified in response to Request No. 1 above receive both in Kentucky and nationwide that lacks sufficient call detail or signaling information to either:

- a. Identify the carrier financially responsible for intercarrier charges; or,
- b. Apply the proper compensation regime for interstate access, intrastate access, and reciprocal compensation (such traffic is generally and collectively known as “phantom traffic”).

RESPONSE: Objection. The information requested is overly broad and unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, AT&T states that it does not have any data upon which to formulate a response to this request.

REQUEST: Has AT&T produced, assessed, reviewed or analyzed any information (whether produced by AT&T or obtained from other sources by AT&T) regarding the so-called “subsidy” the RLECs receive in providing Kentucky intrastate access service? If so, please provide in detail the results of such review/analysis and the documents reviewed.

RESPONSE: Objection. This request is overly broad and is unclear as to what is being requested. Without waiving this objection, AT&T states that during the monopoly era, states set prices for some services (such as intrastate long-distance toll service, and local service for business customers) above cost, to subsidize below-cost prices for other services (such as residential local exchange service) in order to promote the goal of universal service and increase basic telephone penetration. That implicit subsidy still remains in the switched access rates that RLECs charge. No study is necessary to understand this historical fact, and one can simply refer to the RLECs’ access tariffs and note (for example) the NTSRR charge that is purely a subsidy element. An additional implicit subsidy is produced by the rate differentials in other access elements, which can be identified by comparison of the RLECs’ state and federal tariffs. AT&T has not performed an analysis to estimate the total magnitude of the RLECs’ subsidies, but such an analysis is not necessary. The Commission can be confident that removing the amount of implicit subsidies associated with the difference between the RLECs’ state and federal switched access rates is a great first step in the right direction, and even federal switched access rates themselves will still include some amount of implicit subsidy that the FCC plans to address.

REQUEST: Does AT&T or any of the entities identified in response to Request No. 1 above that operate in any other state mirror their interstate and intrastate access rates or any individual rate elements? If so:

- a. Please list all states where the appropriate AT&T entity mirrors these rates or rate elements;
- b. Please describe the proceedings or legislation that led the AT&T entity to mirror these rates and list the applicable docket numbers or code citations;
- c. Please state whether the affected AT&T entity appealed any order of any State commission or challenged any statute involved in (a) or (b) above. If yes, please identify each appeal or challenge; and,
- d. If the response to (c) is anything other than an unqualified no, please describe the disposition of each appeal or challenge.

RESPONSE:

- a. AT&T ILECs' intrastate access rates either mirror or are less than their interstate access rates in the following states: Georgia, Kentucky, Tennessee, Mississippi, Kansas, Texas, Nevada, Indiana, Ohio, Michigan, Wisconsin, and Illinois.

AT&T CLECs are subject to capping rules constraining their intrastate access rates in the following 28 states: Alaska, California, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New Mexico, New York, Ohio, Pennsylvania, San Diego, Tennessee, Texas, Virginia, Washington, West Virginia, and Wyoming.

- b. *See* Attachment 1, which is a summary of those states that have either a cap or a limitation on CLEC Intrastate Access rates; Attachment 2, which is a map detailing the current state of access reform through the 50 states; and Attachment 3, which is a document outlining the states that have intrastate and interstate access rate parity.
- c. *See* AT&T's Response to RLEC Data Requests Item No. 8b, Attachment 1 that contains citations to relevant publicly available information. Any appeals, if one was filed, can be found in the public records of the cases cited therein.
- d. *See* AT&T's Response to RLEC Data Requests Item No. 8b, Attachment 1 that contains citations to relevant publicly available information.

REQUEST: Please indicate when AT&T Kentucky began to mirror its interstate rates for intrastate access rates or any individual rate elements.

RESPONSE: AT&T Kentucky began mirroring its intrastate switched access rates to its interstate switched access rates or individual rate elements effective January 2, 1996, and eliminated the NTSRR element on October 1, 2000.

REQUEST: With respect to AT&T's response to Request No. 9 above, did AT&T produce, assess, review or analyze any information (whether produced by AT&T or obtained from other sources by AT&T) estimating or calculating the financial impact of mirroring prior to its decision to mirror its rates? If yes, please provide in detail the results of such review/analysis and the documents reviewed.

RESPONSE: Objection. The information requested is irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, and has no value since AT&T Kentucky has no access shift to be recovered. Without waiving its objection, AT&T Kentucky states that pursuant to Commission orders well over a decade ago, AT&T Kentucky made the appropriate filings to move its intrastate switched access rates to mirror its interstate access rates (including the elimination of the NTSRR charge to carriers). Quite simply, AT&T Kentucky is supporting access reform that requires the remaining Kentucky ILECs and CLECs to do the same, albeit over a decade later.

REQUEST: Has AT&T produced, assessed, reviewed or analyzed any information (whether produced by AT&T or obtained from other sources by AT&T) comparing or contrasting the cost methodology used by the RLECs in providing Kentucky intrastate access service with the cost methodology used by the RLECs in providing interstate access service as regulated by the Federal Communications Commission (the "FCC")? If so, please provide the results of such review/analysis and the documents reviewed.

RESPONSE: AT&T has not reviewed any RLEC's cost study or their methodology. Engaging in such activities would be fruitless as such costs are irrelevant to the investigation into the RLEC switched access rates especially when the proposed reduction in access rates would be rebalanced in a revenue neutral manner. Moreover, the RLECs perform materially the same function for providing interstate switched access service as they do for providing intrastate switched access service, and regardless of what methodology the RLECs use to calculate those costs such costs are virtually identical. The RLECs have been charging their interstate rates for all interstate traffic since 2001, and AT&T is not aware of any instance where the RLECs have successfully claimed that those rates are not compensatory. AT&T has only suggested that the Commission order the RLECs to charge the same compensatory rates for their intrastate traffic. AT&T does not propose that those rates be reduced to, or below, cost. The AT&T Plan, as proposed, raises no concern with respect to cost recovery because it proposes that the RLECs only reduce their intrastate rates to their corresponding interstate levels, which are above costs, and provides the RLECs the opportunity to fully rebalance any resulting revenue reductions.

REQUEST: Has AT&T produced, assessed, reviewed or analyzed any information (whether produced by AT&T or obtained from other sources by AT&T) quantifying the nature, methodology, and calculation of how to ensure reductions in access rates are reflected in rates paid by long distance service end users? If so, please provide the results of such review/analysis and the documents reviewed.

RESPONSE: Intrastate switched access charges are a principal component of the wholesale costs that wireline long distance carriers incur when they provide retail long-distance service. In fact, today in certain instances AT&T must pay per-minute intrastate access charges that are *higher* than its per-minute retail prices for long-distance service. Obviously, high wholesale costs drive up retail prices; conversely, it is just as obvious that decreases in the wholesale costs of providing a service lead to decreases in retail prices for that service. The FCC has reduced switched access rates for interstate calls, and over 20 states have tracked the FCC's reforms on the intrastate side.

See Attachment 1 that depicts 19 state charts showing that AT&T long distance prices declined faster than access rate reductions over time in various states. The information requested is proprietary and confidential pursuant to KRS 61.878, and will be provided pursuant to an appropriate non-disclosure agreement with the RLECs. Accordingly, and concurrent with its response to this Data Request, AT&T Kentucky is filing a Petition for Confidentiality with the Kentucky Public Service Commission.

There have been several studies over the years that have reached the same conclusion as depicted in these charts, *i.e.*, decreases in the wholesale costs of providing a service lead to decreases in retail prices for that service. See *e.g.* "Regulatory Policy and the Reverse Cellophane Fallacy," Debra J. Aron and David E. Burnstein, *Journal of Competition Law and Economics* (2010) 6(4): 973-994. See also, "INTERCARRIER COMPENSATION: A White Paper To The State Members Of The Federal-State Joint Board On Universal Service" by Dr. Robert Loube and Labros E. Pilalis, February 7, 2011, page 11, which can be found at: <http://www.naruc.org/special/Intercarrier%20Compensation%20White%20Paper%202011%2002%2007.pdf>

REQUEST: Has AT&T produced, assessed, reviewed or analyzed any information (whether produced by AT&T or obtained from other sources by AT&T) quantifying the nature, methodology, calculation, and level of retail rate benchmarks for Kentucky? If so, please provide the results of such review/analysis and the documents reviewed.

RESPONSE: The process to set a benchmark level depends on several factors that could vary from state to state, so the concept of any particular study may not be applicable generally. For example, a benchmark rate could be justified by calculating: i) the rates that would have been charged had the RLECs adjusted their retail rates by inflation rates since their local rates were first established or last revised, or ii) the product of the highest urban retail rate times an escalation factor such as 125%, 135%, 110%, etc., to allow additional headroom for future rate flexibilities. The Commission could determine with any of these approaches the appropriate statewide benchmark in this proceeding for all LECs by applying the following guidelines:

(1) first ensure that the benchmark allows as much recovery of the access reduction from end users as possible subject to any concern about the impact on consumers. This will encourage the right consumer incentives and at the same time limit the burden on the Kentucky USF (which will ultimately be funded by all Kentucky consumers); and

(2) narrow the gap between urban and rural retail rates to ensure that when urban consumers (who currently pay higher retail rates) are being asked to help pay the costs of serving rural consumers, the rural consumers' rates must first be reasonably comparable to similar services in urban areas. For example, consumers currently paying \$18.95 in Lexington should not be overburdened with an oversized Kentucky USF surcharge just so other consumers, for example, those in Brandenburg, could continue to pay heavily-subsidized retail basic rates as low as \$5.60 per month.

AT&T has not proposed a Kentucky specific benchmark, but note that some of the highest urban retail rates tend to range between \$18.00 and \$24.00, so a benchmark in this range provides a good starting point for discussion and analysis.

REQUEST: Has AT&T produced, obtained, assessed, reviewed or analyzed any information (whether produced by AT&T or obtained from other sources by AT&T) quantifying the impact of access rate arbitrage in Kentucky? For purposes of this request, “access rate arbitrage” means the intentional or erroneous rating of a telephone call that masks its actual point of origination in order to take advantage of a lower access rate (whether interstate or intrastate). If so, please provide the results of such review/analysis and the documents reviewed.

RESPONSE: Carriers that pay high intrastate access charges have an incentive to evade them if the interstate-intrastate differential is too great. For example, high switched access rates could encourage “buying” carriers to route traffic in such a way that makes it difficult or impossible to determine its jurisdiction. AT&T is currently investigating a potential arbitrage situation and will supplement this request with any relevant and responsive documents at the appropriate time.

Other carriers may fail to provide the necessary information required to apply the proper charges, either access for long distance traffic or reciprocal compensation for the exchange of local traffic, a practice known as “phantom traffic.” Carriers that receive high access charges also have an incentive to generate increased traffic volumes. “Traffic pumping” schemes, designed to drive massive volumes of traffic to adult chat lines and similar services via rural LECs and CLECs with high switched access rates, serve to highlight the potential for abuse. *See In the Matter of: Complaint of Sprint Communications Company L.P. v. Bluegrass Telephone Company Inc. d/b/a Kentucky Telephone Company for the Unlawful Imposition of Access Charges*, Ky. PSC Case No. 2010-00012 (alleging a traffic pumping scheme). *See also* Attachment 1, AT&T Letter dated October 27, 2009, to Honorable Henry A. Waxman (Chairman, Committee on Energy and Commerce), Honorable Rick Boucher (Chairman, Sub-Committee on Communications, Technology, and the Internet), and Honorable Bart Stupak (Chairman, Committee on Oversight and Investigation), regarding traffic pumping schemes.



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October 27, 2009

The Honorable Henry A. Waxman
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The Honorable Rick Boucher
Chairman
Subcommittee on Communications, Technology and the Internet
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The Honorable Bart Stupak
Chairman
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Dear Chairmen Waxman, Boucher, and Stupak:

I am responding to your letter to our Chairman and CEO, Randall Stephenson, dated October 14, 2009. AT&T is pleased to assist the Committee in its review of traffic pumping abuses of the access charge regime that governs compensation for the termination of long distance calls to the local premises of actual end users.

Traffic pumping schemes involve unscrupulous incumbent local exchange carriers ("ILECs"), as well as "competitive" local exchange carriers ("CLECs"), many established for the sole purpose of engaging in scams, that: (i) establish grossly excessive access charges under false pretenses; (ii) offer kickbacks to operators of calling services that agree to advertise their services (typically for "free") to anyone who dials telephone numbers assigned by the LECs; and (iii) bill AT&T and other interexchange carriers ("IXCs") "terminating" access charges for millions of calls and billions of minutes of communications between non-residents of the small communities the LECs purport to serve. AT&T and others are engaged in litigation with many current perpetrators for their violations of existing law, but given the ease with which these schemes are implemented and shifted rapidly to other locations, it is clear that after-the-fact, case-by-case litigation could never fully protect the public interest. Accordingly, AT&T and others have also sought action from the FCC and state commissions to put an end to these

practices. Legitimate competitive LECs and conference service providers have likewise urged the FCC to put an end to traffic pumping abuses.¹

The enormous public harms from these schemes are well-documented and indisputable. By significantly inflating long distance carriers' costs, traffic pumping forces ordinary long-distance customers throughout the nation to fund the schemers' windfall profits. The lure of those windfall profits has diverted the resources and focus of real LECs away from their proper role of providing high quality local services to actual residents. These schemes have depleted already strained universal service fund resources, as traffic pumping LECs ("TP LECs") seek and obtain millions of dollars in high-cost Universal Service Fund ("USF") support on the basis of "access lines" they claim to provide to their free calling service partners. Traffic pumping can degrade service to ordinary customers by clogging up transport and switching facilities. And, because these schemes use ordinary telephone numbers, they provide ungated access to "free" pornographic content, thus circumventing the laws designed to ensure that parents can prevent their children from accessing such content.²

One need only consider the case of Aventure Communications Technology, LLC to understand the nature and scope of the traffic pumping problem. To obtain its Certificate of Public Convenience and Necessity and its eligibility for universal service support, Aventure represented to the Iowa Utilities Board ("IUB") that it intended to provide local exchange service in numerous rural exchanges in Iowa and aggressively to market those services to the Iowa residents of those communities. Instead, Aventure set up chat and other traffic pumping schemes – which it did exclusively for more than two years, without constructing a local exchange network and without serving a single real Iowa resident Iowa residential service customer. To inflate its access revenues even further, Aventure concocted a truly absurd call routing scheme that had it billing for more than 200 miles of "local" transport through three states. Aventure has received further windfalls in the form of millions of dollars in USF high-cost support by representing that it would use moneys it received to provide USF-supported services and by misrepresenting the number of lines it served.

Traffic pumping schemes are unlawful in many respects, as the Iowa Utilities Board ("IUB") recently concluded after an exhaustive review of an extensive factual record developed in a two year proceeding involving eight incumbent and competitive LECs operating in rural

¹ See, e.g., Ex parte letter from Counsel to the Rural Independent Competitive Alliance to FCC filed October 23, 2008 in FCC Docket No. 07-135 ("RICA agrees that the access stimulation issues may be addressed by establishing a requirement for CLECs to revise and reduce their tariff access rates in the event that traffic exceeds specified thresholds"); Ex Parte letter from David Frankel, CEO of ZipDX LLC to FCC, filed August 28, 2009 in FCC Docket No. 07-135 ("the abuse of rural access charges has been allowed to linger for far too long. . . . This undermines fragile funding mechanisms and will impede broadband enhancements. Rule clarifications proposed by ZipDX are non-controversial for any legitimate player not attempting to game the system").

² See 47 U.S.C. § 228.

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areas of Iowa that have been a hotbed of traffic pumping activity. The IUB found that these TP LECs violated their own tariffs, violated the law and, in a failed effort to hide their unlawful behavior, even fabricated and backdated documents in an attempt to transform their free calling partners into “end user customers” and their own switching facilities where the chat and conferencing equipment was located into “end user premises.”

As described in more detail below, the IUB proceeding, which addresses Iowa *intrastate* access charges, is one of many ongoing proceedings currently pending before federal courts and the FCC in which the lawfulness of the LECs’ access charge billings in connection with traffic pumping schemes is being litigated. To be clear, AT&T is complying with the FCC’s June 2007 declaratory ruling that prohibits call blocking.³ Rather, AT&T continues to deliver calls associated with the traffic pumping schemes, and, in accordance with the TP LECs’ own tariffs and established law, has followed accepted industry practices by disputing the charges and withholding payment pending resolution of those disputes.

Against this backdrop, we respond below to your specific questions.

1. **Is your company currently engaged in any disputes with rural ILECs or other rural carriers over the payment of terminating access charges?**
 - a. **If so, please describe the nature and basis of such disputes and provide the Committee with the names of those companies and the total disputed dollar amount at issue in each dispute with each company.**
 - b. **Please describe all steps your company has taken in these disputes. For example, is your company currently involved in litigation or regulatory proceedings related to the disputes?**

AT&T is currently involved in a number of access charge disputes with traffic pumping LECs. In 2006 the traffic volumes and corresponding billings of certain LECs located in very rural areas inexplicably began to skyrocket. These rural areas are sparsely populated (often only a few hundred people) and have typical call volumes of only a few thousand minutes per month. Yet, suddenly, and with no explanation, some LECs began billing AT&T for millions – even tens of millions – of minutes per month for calls to these rural areas. Even if every resident of these areas spent every waking minute of every day on long-distance calls, the resulting call volumes still would not even begin to approach the billed call volumes. As just one example, a “competitive” LEC that was supposedly serving customers in very sparsely populated areas on the border of Utah and Nevada suddenly began in April 2006 to bill AT&T terminating access for more than *ten million* minutes of calls in a single month.

³ See Declaratory Ruling and Order, Establishing Just and Reasonable Rates for Local Exchange Carriers, 22 FCC 2d. 11629, ¶ 5 (2007) (“carriers cannot engage in self help by blocking traffic to LECs allegedly engaged in the [traffic pumping] conduct described herein”).

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AT&T began investigating these unusual calling volumes and discovered that virtually all of these calls were placed to only a few telephone numbers. AT&T personnel called these numbers and determined that they were associated with so-called “free” chat and conference services, international calling, and other services. Several of the “chat lines” offered obscene and pornographic content and allowed as many as 270 out-of-state callers simultaneously to conduct conversations by calling a single telephone number, typically with the capability for callers to access a “back room” to conduct one-on-one conversations. Other telephone numbers provided “free” international calling by allowing callers to dial an Iowa (or Minnesota, Utah or South Dakota) telephone number and then enter an international telephone number to which the TP LEC would then route the call. At least one TP LEC appeared to be using autodialing equipment to place tens of thousands of calls to both wireless and wireline customers in an attempt to entice them (*e.g.*, by offering commercial credit cards, often *without* the knowledge of the credit card company) to call a telephone number in the TP LEC’s local exchange, and when such customers placed those calls, the TP LEC billed terminating access service fees to the long distance carrier that delivered the call. None of the high volume telephone numbers AT&T investigated appeared to be associated with any actual residential or business customers of these LECs. And for each minute associated with these schemes, the TP LECs were billing extremely high access charges, typically 3 to 10 cents/minute (and in one case more than 23 cents/minute).

Upon discovering that these TP LECs were engaged in these traffic pumping schemes, AT&T informed them that it was disputing their charges, and, in early 2007, AT&T initiated litigation in Iowa against many of the TP LECs and calling service providers engaged in these schemes. This was the first of many lawsuits, some initiated by AT&T and/or other interexchange carriers and some initiated by TP LECs. Some of these disputes have since been settled under confidential terms, but others continue to be actively litigated.

In July 2007, the FCC suspended the tariff filings of a number of incumbent LECs suspected of engaging in (or preparing to engage in) traffic pumping, ordering them either to prove that their charges were lawful by providing cost justification or to return to the National Exchange Carriers Association (“NECA”) tariff “pool,” where they could no longer profitably engage in such schemes (because any earnings would then be shared with the hundreds of other LECs that participate in the NECA pool, making it impossible for the TP LEC to pay the necessary kickbacks to its free calling partners).⁴ Although traffic pumping activity by incumbent LECs has fallen off dramatically in the wake of this FCC decision, supposed “competitive” LECs, which operate under different rules, have more than made up the difference – indeed, there are now individual “rural” CLECs that are generating more than 100 million minutes of traffic pumping calls *each month*.

⁴ See Order Designating Issues for Investigation, *Investigation of Certain 2007 Annual Access Tariffs*, 22 FCC Rcd. 16109 (2007). The FCC also provided the LECs with a third option under which they were required to add terms to their tariffs that they would immediately and significantly reduce their access rates if their traffic volumes increased significantly, thus significantly reducing incentives to engage in traffic pumping. *Id.*

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Federal Court Litigation. Today AT&T is involved in the following federal court lawsuits against traffic pumping LECs: (i) in the Southern District of New York, AT&T is involved in litigation with All American Telephone Company, Chase.Com and E-Pinnacle (all Utah/Nevada CLECs); discovery is ongoing in this dispute that involves approximately \$15 million in access billings to AT&T; (ii) in the Southern District of Iowa, AT&T is involved in litigation with Aventure Communications Technology, LLC (an Iowa CLEC); this case, which involves approximately \$15 million in access billings to AT&T, is currently stayed pending action by the FCC; and (iii) in South Dakota District Court, AT&T is involved in litigation with Sancom Inc. and Northern Valley Communications, LLC (both South Dakota CLECs); discovery is ongoing in this dispute that involves approximately \$25 million in access billings to AT&T.

State Public Utility Commission Proceedings. AT&T is also a party to ongoing proceedings related to the Iowa Utilities Board's September 21, 2009 Order.⁵ In that order, the IUB – after more than two years of proceedings that included depositions and document discovery from traffic pumping LECs, thousands of pages of briefing and expert testimony, and live hearings – found that the traffic pumping LECs had “manufacture[d] evidence, after the fact” and “concealed truths from the Board and the FCC” to make it appear that their free calling service partners’ (“FCSPs”) bridging and other equipment were “end users” and that the LEC central offices where that equipment was located were “end user premises” that justified the billing of terminating access charges for calls to such equipment. *Id.* at 30, 34. The IUB found that, in truth, “none of the FCSCs associated with the [LECs] were end users for purposes of the [LECs’] intrastate exchange access tariffs, none of the intrastate toll traffic associated with the FCSCs terminated at the end user’s premises, and much of the intrastate toll traffic associated with the FCSCs did not terminate in the Respondents’ certificated local exchange area.” *Id.* at 53-54. The IUB thus concluded that “intrastate access charges did not apply to calls to the FCSCs and should not have been billed to the IXC for calls to numbers assigned to the FCSCs.” *Id.*⁶

AT&T is a participant in additional proceedings before the IUB that have been initiated in response to this IUB Order. First, the traffic pumping LECs have filed petitions for reconsideration of the order, and AT&T is opposing those petitions. Second, pursuant to the IUB

⁵ See, e.g., *Qwest v. Superior Tel. Coop.*, Final Order, Docket No. FCU 07-2, at 61-62 (Iowa Utilities Board, Sep. 21, 2009) (“IUB Order”).

⁶ The IUB was especially troubled by the fact that the LECs had “partnered with FCSCs that provided free calling services for indecent or pornographic content” and that “there were no technological measures in place to protect minors from making calls to access these pornographic services, such as a 1-900 number, which enables parents to place a block on the call.” IUB Order At 61-62. The Board found this “lack of any mechanism for parents to regulate their minor children’s access to pornographic or indecent services over the telephone is contrary to the public interest.” *Id.* In addition, the IUB further found that these traffic pumping schemes led to “other schemes, such as the improper backdating of invoices and contracts, traffic laundering, telephone numbering abuses, and potentially misrepresented universal service fund (USF) certifications.” *Id.* at 8.

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Order, there are ongoing proceedings to determine the amount of refunds that the Iowa traffic pumping LECs owe to AT&T and other long-distance carriers. Third, the IUB has opened a rulemaking proceeding to adopt rules designed prospectively to discourage traffic pumping.

AT&T is also a participant in proceedings that the Public Service Commission of Utah has initiated to assess whether All American's state authorization should be rescinded. The certificate that Utah granted to All American in 2006 was expressly conditioned on All American's representation that it would not provide service in rural portions of the state. In fact, All American has operated *solely* in the areas it said it would not serve, has no real customers, and has done nothing but engage in traffic pumping.

FCC Proceedings. AT&T is also a party to three ongoing FCC proceedings involving traffic pumping. First, AT&T is opposing frivolous petitions filed by Iowa TP LECs seeking to have the FCC preempt the IUB Order. The IUB Order addressed *intrastate* terminating access charges that Congress placed squarely within the jurisdiction of the IUB.

Second, AT&T is participating in a rulemaking proceeding initiated by the FCC in 2007 in response to allegations of traffic pumping to assess the need for rule changes to ensure that "rules governing the tariffing of traffic-sensitive switched access services by local exchange carriers (LECs) are ensuring that rates remain just and reasonable, as required by section 201(b) of the Communications Act of 1934, as amended (the Act)."⁷

Third, pursuant to a referral order by the United States District Court for the Southern District of New York, AT&T has filed a complaint with the FCC against All-American, Chase.Com, and e-Pinnacle for engaging in a scheme to create sham entities solely for the purpose inflating access charges. Under this scheme, an ILEC called Beehive Telephone Company and its traffic pumping partner Joy Enterprises – an adult chat line operator – devised a plan to avoid the FCC rules that would have required Beehive to reduce its access rates to reflect the enormous amount of Joy-related traffic volumes it was generating. The plan was to create "competitive" LECs to bill the access charges for the traffic pumping minutes, so that those additional volumes would not be attributed to Beehive. To accomplish the shift, Beehive and Joy made a few paper changes, such as reassignment of Beehive's telephone numbers and facilities to All American, Chase.Com and e-Pinnacle, so that these CLECs would then bill AT&T for the traffic associated with the Beehive/Joy traffic pumping schemes. As AT&T's complaint explains, it has long been settled that creating "a company that purport[s] to be a bona fide carrier but which instead [is] simply a sham creation, designed to facilitate an arrangement among several entities to capture access revenues that could not otherwise be obtained by lawful tariffs" is an unjust and unreasonable practice that violates the Communications Act.⁸

⁷ Notice of Proposed Rulemaking, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, 22 FCC Rcd 17989, ¶ 1 (2007).

⁸ *AT&T and Sprint Petitions for Declaratory Ruling on CLEC Access Charge Issues*, 16 FCC Rcd. 19158, ¶ 22, n.33 (2001) ("*CLEC Access Declaratory Ruling*"); see *Establishing Just and Reasonable Rates for Local Exchange Carriers*, 22 FCC Rcd. 11629, ¶ 6 n.20 (the

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2. Has your company withheld payment of access charges relating to disagreements about the appropriate rate?

a. If so, when did your company begin withholding payments and how much was withheld or is being withheld from whom?

As permitted by established FCC precedent and the TP LECs' tariffs, AT&T has disputed and withheld payment of certain access charge billings associated with traffic pumping.⁹ AT&T is currently withholding payment of terminating access charges from the following TP LECs: All American Telephone Company (as of April, 2006), Aventure Communications Technology (as of October, 2006), Chase.Com (as of April, 2006), E-Pinnacle (as of April, 2006), North County (as of September, 2008), Northern Valley Communications (as of January, 2008), Sancom (as of January, 2008), Spencer Municipal Communications Utility (as of January, 2008), and Capital Telephone Company (as of July 2007). The total amount of disputed charges that AT&T has withheld pending resolution of the disputes is approximately \$60 million as of September 30, 2009.

3. What do you estimate the actual cost of terminating traffic to be on a per minute basis?

Although traffic pumping LECs have not disclosed their costs associated with their traffic pumping schemes, the public filings of NECA confirm that, to the extent they incur any costs at

Commission has "found that an arrangement between a chat line service provider and competitive access provider (formed by an ILEC for purposes of the arrangement) that did not provide local exchange service and had no customers other than the chat line was a sham"); *AT&T Corp. v. FCC*, 317 F.3d 227, 233 (D.C.Cir. 2008) ("the entire arrangement was devised solely in order to circumvent regulation . . . [and] deserves to be treated as a sham").

⁹ It is well established that the "responsibility for correct billings remains with the carriers" providing the service, e.g., *Tele-Valuation, Inc. v. AT&T Corp.*, 73 F.C.C.2d 450, ¶ 8 (1979), and that access customers are not obligated to pay for tariffed services that were not actually provided. See, e.g., *Iowa Network Servs., Inc. v. Qwest*, 385 F.Supp. 2d 850, 903-04 (S.D. Iowa 2005), *aff'd* 466 F.3d 1090 (8th Cir. 2006) (carrier under no obligation to pay where services were not provided under a "valid and applicable tariff"). Certain TP LECs have claimed that prior FCC decisions have held that it is illegal "self-help" to withhold payment for tariffed services, but those decisions arose in circumstances where, unlike here, it was undisputed that the tariffed services were actually provided and properly billed pursuant to an applicable tariff. See, e.g., *Business WATS, Inc. v. AT&T*, 7 FCC Rcd. 7942, ¶ 2 (1992). Indeed, the TP LECs' tariffs expressly contemplate that an access customer may withhold payment of terminating access charges pending the resolution of a dispute over whether service has been provided and charges have been properly assessed, see, e.g., Northern Valley Commc'ns L.L.C., F.C.C. Tariff No. 2, § 2.4.1(D)(4) (effective Nov. 16, 2004), and the language in these tariffs is indistinguishable from the language in other tariffs that the FCC has authoritatively interpreted, concluding that "a customer may withhold payment of disputed charges pending resolution of the dispute." See *AT&T v. Beehive*, 17 FCC Rcd. 11641, ¶ 26 & n.91 (2002).

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all, the per minute costs incurred by traffic pumping LECs (even accounting for a reasonable return) to deliver traffic to the bridging equipment of their free calling partners is exceedingly small (and certainly much less than one tenth of a penny per minute).

NECA represents rural ILECs subject to FCC cost of service regulation. Pursuant to the FCC's rules, NECA makes annual filings with the FCC that report the costs of its member ILECs. The highest cost annual report submitted by NECA ("Band 8") reports the costs and computes rates for the smallest rural ILECs. As of June 2009, there were 490 rural ILECs represented in the Band 8.¹⁰ These ILECs have an average of 1,500 lines¹¹ serving widely dispersed residential and business customers that generate an average of less than 500 minutes of exchange access traffic per month per line.¹²

Based on this network cost structure – one designed to serve widely dispersed residential and business customers that make relatively few calls – NECA has developed a per minute access rate that allows Band 8 ILECs to recover these costs plus an 11.25 percent return. To compute these rates, NECA estimates the average cost of the switches, lines, and other infrastructure used by such LECs to serve their residential and business customers and spreads those costs over the total number of annual access minutes that Band 8 ILECs are expected to serve, which for 2009 is 3.5 million minutes.¹³ Based on these calculations, NECA reported to the FCC in 2009 that Band 8 LECs must charge about 3.3 cents per minute to recover their

¹⁰ See National Exchange Carrier Association, Inc., Access Service Tariff F.C.C. No. 5, Transmittal NO. 1245, (filed with the FCC, June 15, 2009).

¹¹ The most recent publicly available report showing the number of lines for NECA band 8 ILECs is for 2007 from a report filed on Sep. 30, 2008 (*see* NECA's Overview of Universal Service Fund, USF08AF.ZIP, available at <http://www.fcc.gov/wcb/iatd/neca.html>). The 2009 report has not yet been submitted to the FCC. However, the line counts are not likely to change significantly because the number of lines served by band 8 ILECs has historically varied very little.

¹² To compute the average monthly minutes per line for Band 8 LECs, AT&T divided the total number of minutes generated by Band 8 ILECs in 2008 as reported by NECA (*see* Network Usage by Carrier, Annual submission by NECA of Access Minutes of Use, NETWU08.ZIP, available at <http://www.fcc.gov/wcb/iatd/neca.html>) by 12 (to obtain average monthly minutes) and then AT&T divided that amount by the number of lines for Band 8 LECs.

¹³ To compute the average minutes per year for Band 8 LECs, AT&T divided the total number of minutes generated by Band 8 ILECs in 2008 as reported by NECA (*see* Network Usage by Carrier, Annual submission by NECA of Access Minutes of Use, NETWU08.ZIP, available at <http://www.fcc.gov/wcb/iatd/neca.html>) by the total number of NECA members reported by NECA as of June 2009 (*see* National Exchange Carrier Association, Inc., Access Service Tariff F.C.C. No. 5, Transmittal NO. 1245 (filed with the FCC, June 15, 2009)).

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facilities costs and earn an 11.25 percent return.¹⁴ This is the rate “mirrored” by many so-called rural CLECs that are engaged in traffic pumping.

Given these calculations, it is clear that, even if traffic pumping LECs had the same cost structure as the Band 8 NECA ILECs (in fact, as shown below traffic pumping LECs’ incur much, much lower costs to the extent they incur any real costs at all), the per minute rates that traffic pumping LECs need to recover those costs would be a tiny fraction of the NECA rate. Whereas Band 8 LECs must spread their costs over an average of only about 3.5 million minutes per year, the pornographic chat and other services offered by traffic pumpers routinely generate that much traffic each *month* (and often much more). A traffic pumping LEC with typical NECA band 8 cost structure that generates monthly volume of 3.5 million minutes could recover its costs and a reasonable return by charging less than one third of a cent per minute.¹⁵

But even that greatly overstates the rate needed by TP LECs to recover their costs and earn a return, because the cost structure for TP LECs is not remotely similar to that of Band 8 ILECs. Whereas Band 8 ILECs have built out actual network infrastructure with lengthy wire “loops” buried or strung on poles to serve hundreds of widely dispersed residences and businesses located in their services areas, many TP LECs have built virtually nothing to serve their free calling partners. Rather, such LECs typically co-locate bridging and other equipment in the central office near the switch, so that connecting their partners’ equipment requires only few feet of cables. Some traffic pumpers even avoid the cost of the switch by collocating their traffic pumping equipment in a central office of another LEC and by relying on that other LEC’s switch to direct their traffic pumping calls to their equipment. Consequently, the costs that traffic pumping LECs must recover through their per minute rates are only a tiny fraction of the costs that must be recovered by Band 8 ILECs, which means that the actual per minute rates that traffic pumping LECs need to recover their costs are extremely small, and certainly well below a tenth of a penny per minute.

4. Do you charge other carriers to terminate traffic on your network? If so, how much do you charge for terminating access on a per minute basis? If you charge different rates in different areas, please provide a range of charges.

AT&T provides and charges others for both interstate and intrastate terminating access services, as follows:

¹⁴ See National Exchange Carrier Association, Inc., Access Service Tariff F.C.C. No. 5, Transmittal NO. 1245, Vol 5, Exhibit 12, Workpaper 1 of 12 (filed with the FCC, June 15, 2009).

¹⁵ As the FCC has pointed out, the additional costs of serving more minutes are very low or zero. See, e.g., Notice of Proposed Rulemaking, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-136, ¶ 14 (released Oct. 2, 2007) (“It is well established that there is a large fixed cost to purchasing a local switch and that the marginal or incremental cost of increasing the capacity of a local switch is low (some contend that it is zero.”).

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Within AT&T's 22 state franchise service areas, AT&T operates both as an ILEC and, to a limited extent, as a CLEC. AT&T's interstate rates are governed by federal law. AT&T's ILEC per minute interstate terminating access rates, for example, are governed by the FCC's "CALLS Order."¹⁶ AT&T's intrastate access charges are subject to applicable state laws. Some states require that AT&T's intrastate terminating access rates mirror its interstate rates, and other states provide for different intrastate access rates. Overall AT&T's statewide average per minute terminating access charges within AT&T's franchise service areas fall within the range of about a tenth of a penny up to about a half a penny per minute.

Outside of AT&T's franchise territory, AT&T operates only as a CLEC. Rates vary by and within states. Overall, AT&T's statewide average per minute terminating access charges outside of AT&T's franchise area range from about four tenths of a penny to about 1.3 cents per minute.

5. How much do you receive annually in terminating access charges?

The total amount of terminating access charges that AT&T ILECs and CLECs receive can depend upon many factors. For the calendar year 2008 the AT&T ILECs and CLECs provided, in total, between \$700 million and \$800 million in per minute terminating access services to their access customers to allow them to complete calls over AT&T's local telephone networks that provide wireline connections to tens of millions of residences and businesses.

6. How much do you pay to others in terminating access charges?

The total amount of terminating access charges that AT&T pays to others can depend upon many factors. For the calendar year 2008 AT&T paid to others between \$700 million and \$800 million in per minute terminating access charges.

* * * *

We trust that the foregoing information aids in your understanding of these issues. We respectfully suggest that, to ensure that you have a comprehensive view of the ways in which the legacy access charge regime suffers from and enables fraud and abuse, you not limit your inquiry by focusing on either the providers of end-user calling services, such as Google Voice, or the LECs that engage in traffic pumping schemes. Calling services like Google Voice, MagicJack and Speakeasy are enabled by wholesale transport providers partners like Bandwidth.com and YMax. These transport providers play an increasingly central role in the transiting of traffic, but the manner in which they assess and pay access charges is often unclear and potentially inconsistent with existing rules and limitations; therefore, they, too, deserve your thoughtful attention. For instance, it would be helpful to understand whether, in connection with Google Voice, Bandwidth.com or any other CLEC assesses originating or terminating switched access on calls in-bound to a Google Voice number or on 8YY toll-free calls placed by a Google Voice

¹⁶ Sixth Report and Order, Access Charge Reform, *Price Cap Performance Review for Local Exchange Carriers*, 15 FCC Rcd. 12962 (2000).

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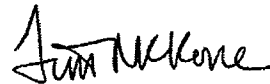
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user and, if so, whether the assessment is for the entire duration of the calls, which network facilities are used in each circumstance, and what, if any, access functions are actually performed. This type of information would better inform you, the FCC and other stakeholders regarding the best way to guard against further abuses of the access charge framework. In this regard, it is important to understand the disproportional impact of traffic pumping on inter-exchange carriers such as AT&T given that providers such as Google Voice, MagicJack and Speakeasy take the position that they are not subject to the FCC order prohibiting the blocking of calls to high cost rural areas.

Please let me know if we can be of further assistance in connection with these matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim McKone". The signature is written in a cursive, slightly slanted style.

cc: The Honorable Joe Barton, Ranking Member
The Honorable Cliff Stearns, Ranking Member
Subcommittee on Communications,
Technology, and the Internet
The Honorable Greg Walden, Ranking Member
Subcommittee on Oversight and
Investigations

REQUEST: Has AT&T produced, obtained, assessed, reviewed or analyzed any information (whether produced by AT&T or obtained from other sources by AT&T) quantifying the nature, methodology, and the appropriate rate to be paid for the use of excess capacity on a network? If so, please provide the results of such review/analysis and the documents reviewed.

RESPONSE: Objection. AT&T is unsure of what this request is asking and does not see how the information requested is relevant as it does not appear to be reasonably calculated to lead to the discovery of admissible evidence.

REQUEST: Has AT&T produced, assessed, reviewed or analyzed any information (whether produced by AT&T or obtained from other sources by AT&T) that would support a finding that the intrastate rates of all ILECs in Kentucky, including those operating in rural areas, will be just and reasonable if their intrastate access rates are required to mirror interstate access rates? If so, please provide the results of such review/analysis and the documents reviewed.

RESPONSE: It is just and reasonable to require all ILECs to have unified interstate and intrastate switched access rates, which is what AT&T proposes. First, the ILECs have been charging their current rates for interstate switched access for years, and neither the FCC nor any court has found these interstate switched access rates are below their relevant costs, and the ILECs have not made any such claim. Given that switched access for intrastate calls involves the same functions (and costs) as for interstate calls, interstate rates will also be more than sufficient to cover the ILECs' costs for intrastate calls. Second, long distance calls terminate in the same manner as local calls (using either end office or tandem office facilities) and the routing activity performed by the ILECs in termination of all types of calls is identical, so the cost of terminating a local call is the same in all material respects as the cost of terminating a long-distance call. Moreover, the local call termination rates are generally lower than the interstate rates even though the functions are materially the same. Therefore AT&T's proposed plan that ILECs reduce their intrastate rates to their interstate levels is a more conservative approach than reducing intrastate switched access rates to reciprocal compensation levels or the ISP-bound traffic compensation rate of \$.0007 per minute of use. In addition, the current intrastate rate structure, which is well above interstate rates, is unjust and unreasonable because it harms Kentucky consumers, drives up long-distance prices, distorts competition, encourages arbitrage, discourages investment in advanced networks, and is unsustainable in today's competitive markets.

REQUEST: In those states where AT&T or any of the entities identified in response to Request No. 1 above operate, has AT&T produced, assessed, reviewed or analyzed any evidence (whether produced by AT&T or obtained from other sources by AT&T) of consumer benefits in the form of lower longer distance rates or other service benefits as a result of the adoption of intrastate access reform measures similar to the ones AT&T proposes here? If so, please identify the specific consumer benefit that resulted, and please provide the results of such review/analysis and the documents reviewed.

RESPONSE: *See AT&T's Response to RLECs First Data Requests Item No. 12.*

REQUEST: In AT&T's plan, it proposes a five year glide path for intrastate access reform to be implemented in Kentucky. Has AT&T produced, assessed, reviewed or analyzed any information (whether produced by AT&T or obtained from other sources by AT&T) that would support a finding that five years is the appropriate glide path for intrastate access reform in Kentucky? If so, please provide the results of such review/analysis and the documents reviewed.

RESPONSE: The "glide path" proposed by AT&T in Kentucky is for ILEC USF and local rate transition and assumes the AT&T proposed plan is used to implement switched access reform in Kentucky. A copy of AT&T's proposed plan is attached as Exhibit A to Comments of AT&T filed December 17, 2010, in this docket.

To gain the immediate benefits of access reform as proposed in the AT&T plan, intrastate access rates would immediately mirror interstate rates. The shift in access revenue would be made up via the ability to rebalance local rates and a Kentucky USF. Over the rebalance transition period, the Kentucky USF would decrease and ILECs would have the ability to adjust local rates to offset the decreasing USF.

AT&T will provide more detail (as appropriate) in its testimony once actual data from the RLECs and other parties are provided in response to data requests.

REQUEST: In those states that have implemented intrastate access reform where AT&T or any of the entities identified in response to Request No. 1 operate, please provide the following:

- a. The cost savings per state, per year that AT&T has experienced as a result of intrastate access reform. Cost savings is defined for purposes of this question (including b., c., and d. below) as the dollar amount saved as a result of the reduction in other ILECs' intrastate access rates;
- b. An accounting for how its alleged cost savings per state, per year have been allocated – to its subscribers in the form of reduced rates, to its shareholders in the form of profits, or to investment in broadband, other advanced network technologies, or otherwise;
- c. How any alleged or expected cost savings would be allocated (between subscribers, shareholders, and broadband investment) under the AT&T Plan in Kentucky; and
- d. If AT&T has invested cost savings from reduced intrastate access rates into broadband or other advanced network technologies, please explain in detail in what broadband or advanced network technologies in which it has invested.

RESPONSE: a. Objection. This request is overly broad and unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving its objection, AT&T states that to the extent the question implies that consumers did not benefit from past access reform, any alleged AT&T cost savings would have been zero since the market scenario described in response to Item No. 12 requires that providers will reduce retail prices when their wholesale costs decline. Therefore, consumers will benefit from access reform as previous reforms have shown.

b. See AT&T's Response to RLEC First Data Requests Item No. 32.
c. See AT&T's Response to RLEC First Data Requests Item No. 32.
d. See AT&T's Response to RLEC First Data Requests Item No. 32.

REQUEST: In Section 6.1 of the plan, AT&T proposes that “[a]ll providers having Kentucky retail intrastate telecommunications revenues would contribute to the KUSF, including wireline ILECs, CLECs, wireless carriers and IXC.” Please explain in detail AT&T’s position in Section 6.1 as it relates to whether VoIP providers should also be required to pay into a proposed KUSF.

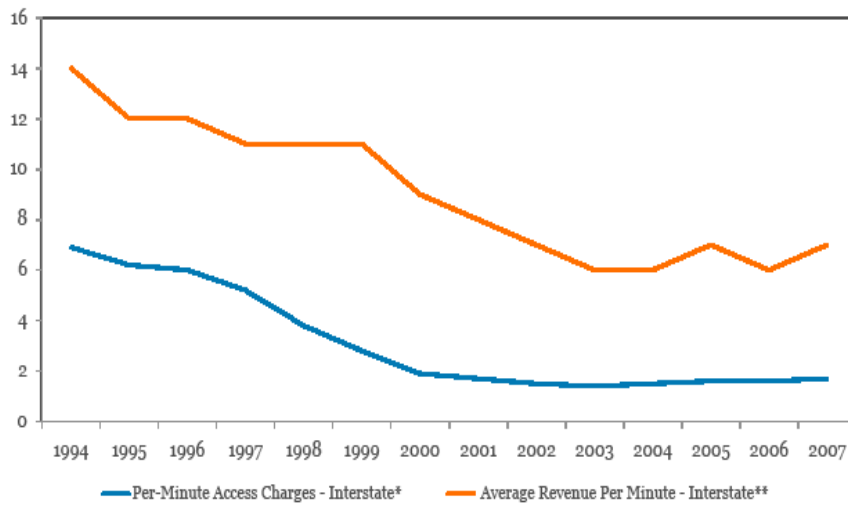
RESPONSE: To the extent authorized by federal and state laws, it is AT&T’s position that state universal service contribution obligations should be applied in a competitively neutral manner to all providers.

REQUEST: In those states that have implemented intrastate access reform where AT&T or any of the entities identified in response to Request No. 1 above operate, have AT&T or any of the entities identified in response to Request No. 1 above increased their interstate access toll rates even after intrastate access reform had been implemented? If so, please provide the names of these states and the amount of the increase(s).

RESPONSE: The interstate and intrastate toll markets are undoubtedly competitive and have remained increasingly so for many years. It is inconceivable to contemplate, as this question implies, that any company operating in such a competitive market will be able to raise or maintain rates higher than the market price. Public data from the FCC show that consumers have received substantial benefits from access reform in the form of lower interstate long-distance prices, and this is evident from the trends that show that interstate toll prices have consistently declined, thus tracking the FCC's access reforms. Attachment 1 depicts the trends noted in this response.

These results are not surprising. It is an elementary economic principle that when the incremental cost of providing a service goes down, the provider will increase sales and maximize its profits by reducing its retail price. This principle applies even to a pure, unregulated monopolist; the competitive pressures of today's communications markets reinforce this economics concept. Since competition for long distance service is even more robust now than in the past, it is clear that decreases in intrastate access charges will lead to lower long-distance prices for Kentucky consumers.

Industry Interstate Data Clearly Indicates That Long-Distance Prices Closely Followed Access Charges



* Interstate Per-Minute Access Charges (National Average in Cents per Minute) from Table 7.8 of the Universal Service Monitoring Report, 2009

** Average Revenue per Minute (All Carriers All Interstate Switched Services) from Table 7.6 of the Universal Service Monitoring Report, 2009



REQUEST: Has AT&T produced, assessed, reviewed or analyzed any information (whether produced by AT&T or obtained from other sources by AT&T) regarding the average per line cost of providing service in the RLECs' service territories in Kentucky? If so, please provide the results of such review/analysis and the documents reviewed.

RESPONSE: AT&T has not reviewed or calculated the "average per line cost" for any RLEC because engaging in such activities will be fruitless and irrelevant to the investigation into the RLEC switched access rates. AT&T's plan only requires the RLECs' intrastate rates to mirror their corresponding interstate levels and the proposed reduction in access revenue would be rebalanced in a revenue neutral manner. AT&T does not seek to reduce the RLECs' rates to cost. Therefore, there is no need to review the RLECs' average per line cost of providing service in their territories.

REQUEST: Please provide AT&T's company-wide return on equity percentage for the years 2005 through 2010.

RESPONSE: Objection. This request seeks information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and is overly broad to the extent it seeks information for states other than Kentucky. Without waiving these objections, AT&T states it is not rate-or-return regulated and does not have these values readily available. AT&T's Annual Reports for the past five years are publicly available at AT&T's Investor Relations website:

<http://www.att.com/gen/investor-relations?pid=9186>

REQUEST: Explain in detail why AT&T's plan does not propose that cost studies or earnings tests be required in order for ILECs to prove their costs of providing service in their respective service territories.

RESPONSE: AT&T's plan has only proposed that ILEC intrastate rates be reduced to mirror their interstate levels, not to cost, and to the extent necessary that a revenue neutral rebalancing be permitted to recover the shift in revenue. Therefore, no cost study review or earnings test would be necessary to implement AT&T's proposal because the revenue neutral provisions of the plan will provide the ILECs the opportunity to maintain their earnings positions.

If there are any issues regarding any RLECs' earnings that seriously require the Commission's attention, it would not arise from AT&T's plan and is not ripe for discussion in this docket.

REQUEST: Explain in detail how AT&T proposes that the Commission make a factual determination that current intrastate access rates are unjust or unreasonable when compared to an ILEC's actual cost of providing service if the Commission does not have resort to cost studies or earnings tests.

RESPONSE: The Commission can make such factual determination easily without engaging in any review of any ILEC's cost studies. For starters, the Commission can recognize the *fact* that certain Kentucky ILECs currently charge intrastate switched access rates that are several multiples of their corresponding interstate switched access rates. Considering that interstate and intrastate functions are materially the same, such a rate difference is unjust and unreasonable. Regardless of what these ILECs assert their costs to be, these ILECs cannot claim those costs are not materially the same for interstate and intrastate switched access services, and therefore charging intrastate rates that are higher than interstate rates is unjust and unreasonable.

REQUEST: Has AT&T produced, assessed, reviewed or analyzed any information (whether produced by AT&T or obtained from other sources by AT&T) that would support the assumption in Section 2 of its plan that the KUSF will be fully funded within 180 days after final Commission order? If so, please provide the results of such review/analysis and the documents reviewed.

RESPONSE: There are no documents responsive to this request. AT&T's plan did not indicate that the KUSF would be fully funded within 180 days. For sake of clarity, Section 2 of the AT&T plan states:

“One-hundred eighty (180)¹ days following the Commission Order, each ILEC shall implement intrastate switched access rates that are identical, in the rate level and rate structure, to the ILEC's interstate switched access rates. Whenever changes occur to an ILEC's interstate switched access rates and/or structure, the ILEC shall implement identical changes to its provision of intrastate switched access services.”

¹. The additional 150 days (five months) provided to ILECs would be used to implement a Kentucky Universal Service Fund (“KUSF”).

As proposed, AT&T's plan anticipates that a detailed time line on the establishment and funding of a KUSF will be determined during the proposed 180 days, at which time the Commission will create the fund and establish some level of funding sufficient to meet initial needs of fund recipients. The administrative parameters of the KUSF would include the payout intervals and timing, and the schedule for future contributions beyond the initial fund support money. AT&T believes it is a realistic possibility for these parameters to be established in 90 days so that at least 90 days of contributions would have been accumulated by the 180-day mark. Depending upon the payout parameters, it is possible that additional funding months may be available.

REQUEST: Explain in detail how AT&T proposes that the KUSF will be applied or funded after AT&T's proposed five-year glide path is complete. Include in this explanation a particular discussion as to how the KUSF will continue to support the high cost of providing service experienced by the RLECs and assist them in maintaining their carrier of last resort obligations on a continuing basis.

RESPONSE: As provided for in paragraph 7 of AT&T's proposal, future RLEC funding needs and the process for applying for any funding after the five-year glide path is complete should be determined by the Kentucky Commission no later than December 1 of year five of the plan. During review and reevaluation of the KUSF by the Kentucky Commission, the RLECs, as well as other interested parties, should have the opportunity to comment on the need for and structure of future KUSF support, and to provide the Commission with information to support their respective positions.

REQUEST: Has AT&T produced, assessed, reviewed or analyzed any information (whether produced by AT&T or obtained from other sources by AT&T) that would identify all states that have implemented intrastate access rate reform specifically by requiring that intrastate access rates mirror interstate access rates? If so, please provide the results of such review/analysis and the documents reviewed.

RESPONSE: Objection. The information requested is as easily obtainable by the RLECs as by AT&T. Without waiving this objection, *see* AT&T's Response to RLECs First Data Requests Item No. 8b, Attachment 1, for a summary of states that have required some level of switched access reform.

REQUEST: Has AT&T produced, assessed, reviewed or analyzed any information (whether produced by AT&T or obtained from other sources by AT&T) that would identify all states that have required intrastate access rates mirror interstate access rates where AT&T or any of the entities identified in response to Request No. 1 above operate? If so, please provide the results of such review/analysis and the documents reviewed.

RESPONSE: Objection. The information requested is as easily obtainable by the RLECs as by AT&T. Without waiving this objection, *see* AT&T's Response to RLECs First Data Request Item No. 28.

REQUEST: Explain in detail what the result was for AT&T or any of the entities identified in response to Request No. 1 above as it relates to basic local, broadband, intrastate long distance, and interstate long distance rates in those states identified in response to Request No. 28 above, including specifically whether rates went up, down or remained the same and, if they went up or down, by how much, and over what time period.

RESPONSE: Objection. This request is overly broad and unduly burdensome. The information requested can be researched by the RLECs. Without waiving this objection, *see* AT&T's Responses to RLECs First Data Requests Item Nos. 12 and 21.

REQUEST: Identify the glide path followed and benchmark used (exclusive of line charges and USF or USF-related charges) in the states that AT&T identified in response to Request No. 28 above.

RESPONSE: Objection. This request is overly broad and unduly burdensome. Whether a state has chosen to use a benchmark or a transition time period may be researched utilizing the information provided in AT&T's Response to RLECs First Data Request Item No. 8b. Without waiving this objection, AT&T states that it does not readily have available a comprehensive summary that is responsive to this request. Each state adopting access reform has made its own decision on whether there will be a benchmark and/or a transition to access reform. There could be other types of access reform that are not readily known to AT&T.

REQUEST: How, specifically, does AT&T plan to invest the access savings it anticipates through intrastate access reform in order to improve broadband infrastructure or advanced network technologies? Include specifically the economic model that AT&T relies upon to support its proposal.

RESPONSE: AT&T has not prepared a study, nor could it given that there is no way to anticipate all of the things that will happen in a competitive market. As explained in AT&T's Response to RLECs First Data Requests Item No. 12, however, switched access is the largest single incremental cost of long distance so reduction in billings from RLECs for intrastate access charges would mean a decline in toll cost, and since competition for long distance service is even more robust now than in the past, it is clear that decreases in intrastate access charges will lead to lower long-distance prices for Kentucky consumers.

From an economic perspective, the proposed reform in general should have a significant positive effect on broadband adoption as providers (including AT&T) compete on a level playing field and react to the pro-market incentives that are generated by eliminating implicit subsidies from the RLECs' rates and simultaneously encouraging retail rates to restructure according to consumer preferences. Specifically, the best (*i.e.*, most valued) use of a society's scarce resources is when they are committed to uses that respond to consumer preferences. Today, Kentucky consumers have begun to change their preferences in favor of broadband and other technologies, and are moving away from the traditional Public Switched Telephone Network ("PSTN"), therefore the current system that appears to be perpetuating implicit subsidies is obsolete. Eliminating implicit subsidies and artificially low prices for wireline local service will provide the proper price signals for consumers to transition to broadband and other advanced technologies. In turn, providers will have increased incentives to invest in and encourage broadband adoption as competition intensifies, thus providing additional benefits for Kentucky consumers.

REQUEST: Has AT&T produced, assessed, reviewed or analyzed any information or evidence (whether produced by AT&T or obtained from other sources by AT&T) that would support its position that the RLECs' intrastate access rates are unjust, unreasonable or otherwise out of line with their costs? If so, please provide the results of such review/analysis and the documents reviewed.

RESPONSE: *See AT&T's Response to RLECs First Data Requests Item No. 25.*

REQUEST: With respect to AT&T's proposed acquisition of T-Mobile, identify all of the conditions relating to or involving backhaul, special access, and facility deployment that AT&T has proposed to the Department of Justice and / or the Federal Trade Commission in order to obtain approval of the proposed acquisition.

RESPONSE: Objection. AT&T Mobility's proposed acquisition of T-Mobile is irrelevant to the issues that are the subject of this docket and the information requested is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST: Explain in detail how AT&T's acquisition of T-Mobile, if approved, will affect broadband deployment, development, and availability in rural areas of Kentucky?

RESPONSE: Objection. AT&T Mobility's proposed acquisition of T-Mobile is irrelevant to the issues that are the subject of this docket and the requested information is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, information about 4G LTE deployment can be found at www.mobilizeeverything.com.

REQUEST: Identify the areas in Kentucky, by county and/or exchange, where there is more than one provider delivering broadband at the FCC's proposed target of 4 Mbps or above.

RESPONSE: Objection. The information requested is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in this docket that is addressing intrastate switched access rates, and is as easily obtainable by the RLECs as by AT&T. Without waiving this objection, AT&T states that the Commonwealth of Kentucky, through its Office of Technology, maintains a state broadband map according to the terms of the Broadband Data Improvement Act and the State Broadband Data and Development Grant Program which can be found at the following link:

<http://www.bakerbb.com/kybroadbandmapping/>

AT&T cannot confirm that the map includes all broadband providers or accurately displays all broadband information.

REQUEST: Identify the areas in Kentucky, by county and/or exchange, where AT&T provides broadband at an average level of 4 Mbps or above.

RESPONSE: Objection. The information requested is highly competitive information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in this case addressing intrastate switched access rates. Without waiving these objections, see AT&T's Response to RLECs First Data Requests Item No. 36 for a link to a statewide map maintained by the Commonwealth of Kentucky through its Office of Technology according to the terms of the Broadband Data Improvement Act and the State Broadband Data and Development Grant Program.

REQUEST: Provide the annual amount, in dollars, that AT&T has invested in its broadband infrastructure in Kentucky, broken down by county and/or exchange, since 2005. Explain in detail how the investment identified in each year was spent.

RESPONSE: Objection. The information requested is highly confidential information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, AT&T states that from 2008 through 2010, AT&T invested over \$525M in its wireless and wireline networks across the Commonwealth of Kentucky.

REQUEST: Identify the percentage of AT&T's subscribers in Kentucky, by county and/or exchange that had access to broadband prior to 2005.

RESPONSE: Objection. The information requested is highly confidential information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST: Identify the percentage of AT&T's subscribers in Kentucky, by county and/or exchange, that as of January 1, 2011 had access to broadband. (If data is not available for that date, then specify the closest contemporaneous date and provide the data requested for that date.)

RESPONSE: Objection. The information requested is highly confidential information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST: Please provide updates to any responses provided herein that would materially change due to AT&T's receipt of new information, analysis, or any other act or action realized by AT&T during the course of these proceedings.

RESPONSE: Updates will be provided to any responses that materially change as a result of AT&T's receipt of new information, analysis, or any other act or action during the course of these proceedings.