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April 2, 2007

AZ CORP COMMISSION  
DOCUMENT CONTROL

Via Overnight Mail

Docket Control Center  
ARIZONA CORPORATION COMMISSION  
1200 W. Washington Street  
Phoenix, AZ 85007

Re: Investigation into Preferred Carrier Arrangements and Other Potentially  
Anti-Competitive Practices Involving Service to Residential or Business  
Developments (Docket No. T-00000K-04-0927)

Enclosed please find an original and 13 copies of the individual objections and  
responses of AT&T Corporation of the Mountain States, Inc., TCG Phoenix, and  
SBC Long Distance LLC, d/b/a AT&T Long Distance Services ("AT&T AZ CLECs")  
to Staff's Second Set of Data Requests dated March 12, 2007 in the above-  
referenced proceeding.

On March 19, 2007 Dan Foley and Maureen Scott agreed to an extension until  
April 2, 2007 for AT&T AZ CLECs to respond.

Please contact me if you have any questions or need additional information.

Sincerely,

Janice L. Ono  
Associate Director - Regulatory

Enclosures

cc: Wilfred Shand (via email and Overnight Mail)  
Armando Fimbres (via email and Overnight Mail)  
Constance Fitzsimmons (via email and Overnight Mail)

Arizona Corporation Commission

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**Question:** Please provide copies of all marketing compensation schedules that were included in final agreements. (For the purposes of this data request, please assume that a marketing compensation schedule is any description of revenue sharing terms and conditions or payments to developers by providers for services intended to increase or facilitate the penetration of telecommunications products and services.)

**Response:** **OBJECTION:** The question is vague and ambiguous. The question utilizes several undefined terms. Further, neither the geographic scope nor the time period covered by the data request is specified. Therefore, in responding to these data requests, unless specifically indicated to the contrary, the responses are limited to the AT&T local exchange carrier operations in Arizona, which are SBC Long Distance, Inc., AT&T Communications of the Mountain States, Inc., and TCG Phoenix ("AT&T AZ CLECs"). Further, the term "agreements" is interpreted to mean preferred carrier agreements with developers of residential communities or multi-tenant business developments or mixed use developments. The term "agreements" is assumed not to include standard agreements regarding rights-of-way, easements and licenses that AT&T entities operating in Arizona must negotiate and enter to cross a landowner's property with cabling and other facilities. Thus, for example, the term is interpreted as not being directed at easements obtained by AT&T to deploy its inter-city network or fees charged by building owners to access a customer in a multi-tenant building.

**RESPONSE:** Subject to the objections and clarifications stated above, the AT&T AZ CLECs have not entered preferred carrier agreements with developers in Arizona; therefore, they do not have "marketing compensation schedules" responsive to the request.

**Responsible Persons:** Sam Maropis (SBC Long Distance, LLC)  
Area Manager – Regulatory

Corbin E. Coombs (AT&T Consumer)  
Director-Product Marketing

Alanna Chandler  
Sr. Project Manager – Network Tech./Engr. (AT&T and TCG)

Question: Has your company ever entered into service agreements that included capital contributions provided to your company or any affiliates? If yes, please provide the following:

- (1) the amount of capital contribution.
- (2) the name of the developer.
- (3) the name of the corresponding development for which the capital contribution applies.

Response: **OBJECTIONS & RESPONSE:** Subject to the same objection and definition of "agreements" as referenced in STF 2.1, AT&T AZ CLECs have not entered into "service agreements" with developers in Arizona that provided them with preferred carrier status. Further, AT&T AZ CLECs have not entered into agreements with developers where capital contributions were made by developers to AT&T AZ CLECs.

Responsible Persons: Sam Maropis (SBC Long Distance, LLC)  
Area Manager – Regulatory

Corbin E. Coombs (AT&T Consumer)  
Director-Product Marketing

Alanna Chandler  
Sr. Project Manager – Network Tech./Engr. (AT&T and TCG)

**Question:** Has your company ever engaged in discussions with developers that included any form of private easement? If yes, please explain:

- (1) the timeframe of such discussions.
- (2) the name of the developers involved in such discussions.
- (3) the name of the developments corresponding to such discussion.
- (4) the name(s) of any consultant(s) who participated in such discussions.
- (5) the name of the company who contracted the consultants.

**Response:** **OBJECTION:** The question is unduly burdensome and vague. As a telecommunications carrier with physical facilities deployed throughout the state of Arizona, AT&T AZ CLECs and their affiliates have negotiated and entered into multiple rights-of-way agreements, private easements and licenses with landowners for the purpose of crossing the landowners' properties with cabling and installing other equipment. It is certainly possible that some of these easements and licenses could have been obtained from developers. However, in order to respond to the question, AT&T AZ CLECs would be required to perform an exhaustive search of all their easements and licenses for the entire state of Arizona. Further, even if such a search is performed, AT&T may still be unable to identify the instances when the named grantor or licensor is a developer. Such a search would be unduly burdensome and unlikely to yield any information germane to the investigation. Further, AT&T AZ CLECs also object to "engaged in discussions" since few, if any, records are kept of possible discussions that occur in the field and there is no centralized depository of such records, if they exist. Further, AT&T AZ CLECs also object to question because there are no time parameters for the question.

**RESPONSE:** If the question is limited to an easement or license provided in conjunction with a preferred carrier agreement with a developer as described in the Objection & Response to STF 2.1, AT&T AZ CLECs has not entered into a preferred carrier agreement with a developer in Arizona.

**Responsible Persons:** See responsible persons for response to STF 2.1.

Question: Has your company ever entered into agreements with developers that included any form of private easement? If yes, please explain:

- (1) the timeframe of such agreements.
- (2) the name of the developers involved in such agreements.
- (3) the name of the developments corresponding to such agreements.
- (4) the name(s) of any consultant(s) who participated in the development of such agreements.
- (5) the name of the company who contracted the consultants.

Response: **OBJECTION & RESPONSE:** See objection and response to data request STF 2.2.

Responsible Persons: See responsible persons for response to STF 2.3.

Question: If the answer to the preceding request is yes, please provide samples of all private easement documents.

Response: Based on prior response, the request to not applicable.

Responsible Persons: Not applicable

Question: Has your company ever engaged in discussions with developers that included any form of license fees required to provide telecommunications services? If yes, please explain:

- (1) the timeframe of such discussions.
- (2) the name of the developers involved in such discussions.
- (3) the name of the developments corresponding to such discussion.
- (4) the name(s) of any consultant(s) who participated in such discussions.
- (5) the name of the company who contracted the consultants.

Response: **OBJECTION & RESPONSE:** See response to data request STF 2.3.

Responsible Persons: See responsible persons for response to STF 2.3.

Question: Has your company ever entered into agreements with developers that included any form of license fees required to provide telecommunications services? If yes, please explain:

- (1) the timeframe of such agreements.
- (2) the name of the developers involved in such agreements.
- (4) the name of the developments corresponding to such agreements.
- (5) the name(s) of any consultant(s) who participated in the development of such agreements.
- (6) the name of the company who contracted the consultants.

Response: OBJECTION & RESPONSE: See response to data request STF 2.3.

Responsible Persons: See responsible persons for response to STF 2.3.

Question: If the answer to the preceding request is yes, please provide samples of all license fee documents.

Response: Based on prior response, the request to not applicable.

Responsible Person: Not applicable

Question: For each development in which your company provides telecommunications services but is not or was not the preferred carrier, please provide the following information in excel, spreadsheet, electronic file format. (Each item named below should be taken to represent a column heading in an excel spreadsheet.)

- (1) The name of the development.
- (2) The date when your company initiated service in the development.
- (3) The name of the preferred provider serving the development.
- (4) Are services provided via resale, facilities-based or both?
- (5) The number of residential units, family homes, main accounts or lines being served by your company in the development.

Response: OBJECTION & RESPONSE: AT&T AZ CLECs do not have information responsive to the data request. Although, AT&T AZ CLECs have paid landlords to obtain access to a customer's premise in a multi-tenant building or development, they would not generally be aware if there is a "preferred carrier" for the building or development.

Responsible Persons: Sam Maropis (SBC Long Distance, LLC)  
Area Manager – Regulatory

Corbin E. Coombs (AT&T Consumer)  
Director-Product Marketing

Alanna Chandler  
Sr. Project Manager – Network Tech./Engr. (AT&T and TCG)

Question: Is your company aware of any States that regulate exclusive access agreements? If yes, please provide such names.

Response: AT&T has not performed an exhaustive review and analysis of the current status of all state laws on the issue of regulation and/or prohibition of exclusive access arrangements. However, it is generally aware of the following: The states of Arkansas, California, Connecticut, Indiana, Kansas, Louisiana, North Carolina, Nevada, Ohio, Oklahoma, South Carolina, Texas, and Tennessee have statutes that appear to prohibit exclusive access agreements for telecommunication service providers. The prohibition generally applies to the carriers as opposed to a restriction on the developer. There may be exceptions, for example, Kansas has a restriction that applies to landlords.

Responsible Person: Dan Foley  
General Attorney & Assistant General Counsel, AT&T Services

Question: Is your company aware of any States that regulate exclusive marketing agreements?  
If yes, please provide such names.

Response: Other than the information provided in response to STF 2.10 regarding exclusive access arrangements, AT&T AZ CLECs are not aware of states that regulate exclusive marketing agreements.

Responsible Person: Dan Foley  
General Attorney & Assistant General Counsel, AT&T Services

Question: Do you believe area code boundary changes for developments that cover multiple area codes are in the public interest? If yes, please explain as completely as possible.

Response: AT&T believes that such an area code boundary change may well be in the public interest. If confronted with such a situation, the Commission should put such an area code boundary change recommendation out for public comment so the interests of consumers and telephone companies can be represented relative to the specifics of such a plan. Of particular interest to telephone companies will be the effect on existing customers, facilities and local service/exchange boundaries.

Responsible Person: Mark Lancaster (AT&T – Legacy T)  
Senior Technical Staff

Question: Would your company support the elimination of preferred provider agreements under any circumstance? If yes, please explain as completely as possible.

Response: With respect to video services and telecommunications services, AT&T opposes any effort to enter agreements which grant discriminatory access to property or which discriminate as between providers with respect to the rates, terms or conditions of access to the property for the purpose of installing facilities or equipment or to provide service. AT&T supports the ability of property owners/developers/managers to enter agreements with providers which permit the owner/developer/manager to engage in preferential advertising, distribution of sales literature or other marketing activities for an individual provider's services.

Responsible Persons: Michael Alarcon  
Executive Director – Regulatory Policy

Douglas A. Berg (AT&T Southeast)  
General Manager – Network Regulatory – OSP

Question: Has your company ever considered but not proceeded with filing a complaint before any Commission or taking legal action in matters concerning a preferred provider agreement or the provision of services for a planned development? If yes, please explain:

- (1) The name of the development.
- (2) The relevant date(s) or timeframe.
- (3) Why the company chose not to file a complaint before the Commission or take legal action.

Response: OBJECTION: The question is vague and ambiguous. It is certainly possible that various employees may have considered filing a complaint, but such thoughts are not tracked by the corporation. Also, any internal discussions and analysis regarding potential legal actions against an adverse party are likely privileged and constitute attorney work product.

Responsible Person: No response is being provided due to objection.

Question: Has your company ever filed a complaint with any Commission or taken legal action in matters concerning a preferred provider agreement or the provision of services for a planned development? If yes, please provide:

- (1) the name of the development.
- (2) the date action or actions were taken
- (3) a copy of each application filed with the Commission and/or each legal proceeding.

Response: OBJECTION: No time period is specified in the request and therefore a reasonable time period is assumed. "Taken legal action" is interpreted as meaning filing a civil lawsuit or a complaint at the Arizona Corporation Commission or a similar state public utility.

RESPONSE: AT&T AZ CLECs cannot recall a situation where they filed a lawsuit in civil court or a complaint at a state PUC regarding preferred carrier agreement. However, because the question was not limited to Arizona, counsel did survey several other AT&T regulatory attorneys and identified the following instances when complaints and/or lawsuits were filed in what may be fairly viewed as a preferred carrier arrangement: (Note: This list is based on the recollections of the attorneys surveyed and may not be all inclusive.)

a) Florida -1

(1) Name of the development: Villages of Avalon, Phase II, Hernando County, Florida

(2) The date action or actions were taken: February 2, 2007

(3) A copy of each application filed with the Commission and/or each legal proceeding: See attached, Response to STF 2.15 – Attachment A (FL 1).

b) Florida - 2

(1) Name of the development: Nocatee, Duval and St. John's Counties, Florida

(2) The date action or actions were taken: December 22, 2006

(3) A copy of each application filed with the Commission and/or each legal proceeding: See attached, Response to STF 2.15 -- Attachment B (FL- 2).

c) Missouri

(1) Name of the development: St. Louis Mills Mall

(2) The date action or actions were taken: September 8, 2003

(3) A copy of each application filed with the Commission and/or each legal proceeding: See attached, Response to STF 2.15 – Attachment C (MO).

d) Tennessee

(1) Name of the development: Adelpia Coliseum

(2) The date action or actions were taken: July 28, 1999

(3) A copy of each application filed with the Commission and/or each legal proceeding: See attached, Response to STF 2.15 -- Attachment D (TN).

Responsible Party: Jim Lamoureux  
General Attorney, AT&T Services

Note: Copies of the four attachments were sent to the requesting Arizona Corporate Commission staff members electronically. Because of the size of the four documents, approximately 200 pages in total, paper copies are not being filed. If any person wishes to obtain a copy of the attachments, please contact AT&T by calling Dan Foley at (775) 333-4321 or [dan.foley@att.com](mailto:dan.foley@att.com).