

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File No. EB-06-TC-3715
)	File No. EB-07-TC-13231
AT&T Inc.)	File No. EB-07-IH-4088
)	File No. EB-08-TC-1005
Compliance with the Commission's)	NAL/Acct. No. 200932080017
Rules and Regulations Governing Customer)	FRN: 0005193701
Proprietary Network Information and Universal)	
Service Fund Line-Item Charges)	
)	

ORDER

Adopted: January 9, 2009

Released: January 13, 2009

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (the "Bureau") and AT&T, Inc., on behalf of its affiliates (collectively "AT&T" or "the AT&T Companies").¹ The Consent Decree terminates the enforcement proceedings initiated by the Enforcement Bureau against the AT&T Companies for possible violation of section 222(c)(1) of the Communications Act of 1934, as amended ("Act"),² and sections 64.2007, 64.2008(a), 64.2008(d)(3)(ii), 64.2008(d)(3)(v) and 64.2009(a) of the Federal Communication Commission's ("Commission") rules³ relating to the confidentiality of customer proprietary network information, and sections 201(b) and 254 of the Act,⁴ and sections 54.712(a), 69.131 and 69.158 of the Commission's rules⁵ relating to the recovery of universal service fund contributions from end-user customers.

2. The Bureau and the AT&T Companies have negotiated the terms of the Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigations.

¹ "AT&T" or "The AT&T Companies" means AT&T Inc., AT&T Connecticut (formerly known as The Woodbury Telephone Company), AT&T Corp., AT&T Mobility, LLC (formerly known as Cingular Wireless and/or AT&T Wireless), BellSouth Telecommunications, Inc., Illinois Bell Telephone Company, Indiana Bell Telephone Company, Inc., Michigan Bell Telephone Company, The Ohio Bell Telephone Company, Wisconsin Bell Telephone Company, SBC Long Distance, LLC, Southwestern Bell Telephone Company, Pacific Bell Telephone Company, Nevada Bell Telephone Company and SNET America, Inc. and their predecessors-in-interest and successors-in-interest.

² 47 U.S.C. § 222(c)(1).

³ 47 C.F.R. §§ 64.2007, 64.2008(a), 64.2008(d)(3)(ii), 64.2008(d)(3)(v) and 64.2009(a).

⁴ 47 U.S.C. §§ 201(b) and 254.

⁵ 47 C.F.R. §§ 54.712(a), 69.131 and 69.158.

4. In the absence of material new evidence relating to this matter, we conclude that the Bureau's investigations raise no substantial or material questions of fact as to whether the AT&T Companies possess the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Act,⁶ and sections 0.111 and 0.311 of the Commission's Rules,⁷ the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigations **ARE TERMINATED**.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Cathy Carpino, General Attorney, AT&T Services Inc., 1120 20th Street, N.W., Suite 1000, Washington, D.C. 20036.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

⁶ 47 U.S.C. § 154(i).

⁷ 47 C.F.R. §§ 0.111, 0.311.

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Rules and Regulations Governing Customer)	
Proprietary Network Information and Universal)	FRN: 0005193701
Service Fund Line-Item Charges)	

CONSENT DECREE

I. INTRODUCTION

1. The Enforcement Bureau (“the Bureau”) of the Federal Communications Commission (the “Commission” or “FCC”) and AT&T Inc. on behalf of its affiliates (collectively “AT&T” or “the AT&T Companies”), by their authorized representative, hereby enter into this Consent Decree for the purpose of terminating Bureau investigations into whether the AT&T Companies violated section 222(c)(1) of the Communications Act of 1934, as amended (the Act)¹ and sections 64.2007, 64.2008(a), 64.2008(d)(3)(ii), 64.2008(d)(3)(v) and 64.2009(a) of the Commission’s rules² relating to the confidentiality of customer proprietary network information and whether the AT&T Companies hereby violated sections 201(b) and 254 of the Act,³ and sections 54.712(a), 69.131 and 69.158 of the Commission’s rules⁴ relating to the recovery of universal service fund contributions from end-user customers.

II. DEFINITIONS

2. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) “Adopting Order” means an Order of the Commission adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) “AT&T” or “The AT&T Companies” means AT&T Inc., AT&T Connecticut (formerly known as The Woodbury Telephone Company), AT&T Corp., AT&T Mobility, LLC (formerly known as Cingular Wireless and/or AT&T Wireless), BellSouth Telecommunications, Inc., Illinois Bell Telephone Company, Indiana Bell Telephone Company, Inc., Michigan Bell Telephone Company, The Ohio Bell Telephone Company,

¹ 47 U.S.C. § 222(c)(1).

² 47 C.F.R. §§ 64.2007, 64.2008(a), 64.2008(d)(3)(ii), 64.2008(d)(3)(v) and 64.2009(a).

³ 47 U.S.C. §§ 201(b) and 254.

⁴ 47 C.F.R. §§ 54.712(a), 69.131 and 69.158.

Wisconsin Bell Telephone Company, SBC Long Distance, LLC, Southwestern Bell Telephone Company, Pacific Bell Telephone Company, Nevada Bell Telephone Company and SNET America, Inc. and their predecessors-in-interest and successors-in-interest.

- (d) “AT&T Investigation (EB-07-IH-4088)” means the investigation commenced by the Bureau’s March 13, 2007 Letter of Inquiry⁵ and Supplemental Letters of Inquiry.⁶
- (e) “AT&T Investigation (EB-07-TC-13231)” means the investigation commenced by the Bureau’s August 14, 2007 Letter of Inquiry to AT&T.
- (f) AT&T Investigation (EB-08-TC-1005)” means the investigation commenced by the Bureau’s January 31, 2008 Letter of Inquiry to AT&T.
- (g) “BellSouth Investigation (EB-06-TC-3715)” means the investigation commenced by the Bureau’s November 22, 2006 Letter of Inquiry to BellSouth.
- (h) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
- (i) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
- (j) “Compliance Plan” means the program described in this Consent Decree at paragraph 11.
- (k) “Effective Date” means the date on which the Commission releases the Adopting Order.
- (l) “Parties” means the AT&T Companies and the Commission.
- (m) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

III. BACKGROUND

CPNI Investigations

3. Section 222 imposes the general duty on all telecommunications carriers to protect the confidentiality of their subscribers’ proprietary information.⁷ The Commission has issued rules implementing section 222 of the Act.⁸ Approval is required before a telecommunications carrier may use,

⁵ See Letter from Trent B. Harkrader, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, FCC, dated March 13, 2007 (“March 13, 2007 LOI” or “LOI”).

⁶ See Letters from Hillary DeNigro, Chief, Investigations & Hearings Division, Enforcement Bureau, FCC, to Mary Henze, Assistant Vice President Federal Regulatory, AT&T Inc. and Cathy Carpino, Senior Counsel, AT&T Services Inc., dated September 13, 2007 and October 30, 2007 (“Supplemental LOI” and “Second Supplemental LOI,” respectively).

⁷ 47 U.S.C § 222(a).

⁸ In the Matter of Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information and Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, CC Docket Nos. 96-115 and 96-149, FCC 98-27, Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 8061 (1998)

disclose, or permit access to its customers' individually identifiable CPNI.⁹ Prior to soliciting such approval, however, carriers must provide customers with notice informing them of their right to restrict the use of, disclosure of, and access to their CPNI.¹⁰ Opt-out approval means that "a customer is deemed to have consented to the use, disclosure, or access to the customer's CPNI if the customer has failed to object thereto within the waiting period described in § 64.2009(d)(1) after the customer is provided appropriate notification of the carrier's request."¹¹ If a carrier is using e-mail to provide "opt-out" notices, as is the case here, it must allow customers the ability to reply directly to those e-mails in order to opt-out.¹² Carriers are obligated to implement a system to track customers' CPNI approval before using CPNI.¹³

4. **BellSouth Investigation (EB-07-TC-3715):** On July 28, 2006, BellSouth Telecommunications, Inc. ("BellSouth") filed with the Commission, a Third Supplemental Response to the Enforcement Bureau's Letter of Inquiry ("LOI") dated January 27, 2006,¹⁴ reporting failures in its CPNI opt-out mechanism that resulted in the unauthorized use of certain customers' CPNI in its marketing campaigns.¹⁵ The affected customers included those who had elected to restrict the use of their CPNI using a means other than by calling the prescribed 800 number as instructed in the CPNI opt-out notice (*i.e.* by calling the Bellsouth business office or by opting out when they signed up for service).¹⁶ Also included were new customers whose accounts should have been noted as CPNI restricted until BellSouth's 75-day opt-out period had expired. On November 22, 2006, the Bureau sent an LOI to

("CPNI Order"); see also, In the Matter of Implementation of The Telecommunications Act of 1996 Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, Order on Reconsideration and Petitions for Forbearance, 14 FCC Rcd 14409 (1999); In The Matter of Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, Biennial Regulatory Review -- Review of Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, Third Report and Order and Third Further Notice of Proposed Rulemaking, 17 FCC Rcd 14860 (2002).

⁹ 47 C.F.R. § 64.2007; see also 47 U.S.C. § 222(c)(1); except that carriers may "use, disclose, or permit access to CPNI for the purpose of providing or marketing service offerings among the categories of service (*i.e.*, local, interexchange, and CMRS) to which the customer already subscribes from the same carrier, without customer approval." 47 C.F.R. § 64.2005(a).

¹⁰ 47 C.F.R. § 64.2008(a).

¹¹ 47 C.F.R. § 64.2003(i).

¹² 47 C.F.R. § 64.2008(d)(3)(ii).

¹³ 47 C.F.R. § 64.2009(a).

¹⁴ See Letter from Colleen Heitkamp, Chief, Telecommunications Consumers Division, Enforcement Bureau, to Michelle Thomas, AT&T Inc. (EB File No. EB-06-TC-049, January 27, 2006). On December 29, 2006, subsequent to the initiation of this investigation, the Commission approved the merger between AT&T and Bellsouth. Accordingly, we will hereafter refer to the Company as Bellsouth for matters concerning the Bureau's investigation and AT&T for any agreements contained herein between the Company and the Commission.

¹⁵ See Letter from Bennett L. Ross, General Counsel – DC, BellSouth Corporation, to Colleen Heitkamp, Chief, Telecommunications Consumers Division, Enforcement Bureau ("July 28, 2006 Opt-Out Failure Notice").

¹⁶ *Id.*

BellSouth requesting further information regarding the CPNI opt-out failures.¹⁷ BellSouth provided its response to the LOI on December 8, 15, and 19, 2006.¹⁸

5. **AT&T Investigation (EB-07-TC-13231)**: On July 9, 2007, AT&T reported that certain new, local service customers in its southwest region were sent CPNI notices electronically via e-Confirmations, but were not provided with the ability to reply electronically to the notices in order to opt-out.¹⁹ On August 6, 2007, AT&T submitted its annual Compliance Report²⁰ in accordance with the terms of the July 7, 2006 Consent Decree executed between the Commission and AT&T.²¹ The Compliance Report detailed a similar inability by some new customers in AT&T Midwest's region to reply electronically to the CPNI notices received in the e-Confirmations.²² Additionally, some new customers in AT&T's western region did not receive the necessary link in their e-Confirmation notices, which would have directed them to the CPNI notice page.²³ On August 14, 2007, the Bureau sent an LOI to AT&T requesting further information regarding these issues.²⁴ AT&T provided its response to the LOI on September 13, 2007.²⁵

6. **AT&T Investigation (EB-08-TC-1005)**: On January 18, 2008, AT&T reported another failure in its CPNI opt-out mechanism in its west and southwestern regions.²⁶ AT&T directed these customers to call a toll-free number to opt out through its CPNI Interactive Voice Response ("IVR") application.²⁷ However, because AT&T migrated the IVR application associated with that number to a different server, between December 7, 2007 and January 10, 2008, customers dialing the toll-free number

¹⁷ See Letter of Inquiry from Marcy Greene, Deputy Division Chief, Telecommunications Consumers Division, Enforcement Bureau, to Bennett L. Ross, General Counsel – DC, BellSouth Corporation (November 22, 2006).

¹⁸ See Letters from Bennett L. Ross, General Counsel – DC, BellSouth Corporation to Colleen Heitkamp, Chief, Telecommunications Consumers Division, Enforcement Bureau (December 8, 2006) (December 15, 2006) and (December 19, 2006).

¹⁹ See Notification Under Section 64.2009(f), CC Docket No. 96-115, Letter from Davida Grant, Senior Attorney, AT&T Inc., to Christi Shewman, Chief, Competition Policy Division, Wireline Competition Bureau, and Erica McMahon, Chief, Consumer Policy Division, Consumer & Governmental Affairs Bureau, Federal Communications Commission ("July 9, 2007 Opt-Out Failure Notice").

²⁰ See Annual CPNI Compliance Report, File Nos. EB-05-TC-047 and EB-06-TC-059, Letter from Davida Grant, Senior Attorney, AT&T Inc., to Colleen Heitkamp, Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission (August 6, 2007) ("Compliance Report").

²¹ *In the Matter of AT&T Inc., Compliance with the Commission's Rules and Regulations Governing Customer Proprietary Network Information*, Order, 21 FCC Rcd 7732 (2006) ("July 7, 2006 Consent Decree").

²² Compliance Report at 6.

²³ *Id.* at 5.

²⁴ See Letter of Inquiry from Marcy Greene, Deputy Division Chief, Telecommunications Consumers Division, Enforcement Bureau, to Jackie Flemming, Executive Director, Federal Regulatory, AT&T Inc. (August 14, 2007).

²⁵ See Letter from Davida Grant, Senior Attorney, AT&T Inc., to Colleen Heitkamp, Chief, Telecommunications Consumers Division, Enforcement Bureau (September 13, 2007).

²⁶ See Notification Under Section 64.2009(f), CC Docket No. 96-115, Letter from Davida Grant, Senior Attorney, AT&T Inc., to Christi Shewman, Chief, Competition Policy Division, Wireline Competition Bureau, and Erica McMahon, Chief, Consumer Policy Division, Consumer & Governmental Affairs Bureau, Federal Communications Commission ("January 18, 2008 Opt-Out Failure Notice").

²⁷ *Id.*

to opt out could not get through, but instead received a busy signal.²⁸ On January 31, 2008, the Bureau sent an LOI to AT&T requesting further information regarding this matter.²⁹ AT&T provided its response to the LOI on February 21, 2008.³⁰

Universal Service Investigation

7. The Commission's rules require that entities providing interstate telecommunications services and certain other providers of interstate telecommunications contribute to the federal universal service fund ("USF") based upon their interstate and international end-user telecommunications revenues.³¹ The Commission does not require contributors to recover their universal service contributions from their customers.³² Instead, the Commission allows contributors to recover their universal service contributions from their customers, subject to certain requirements.³³ Specifically, section 54.712 of the Commission's rules provides that contribution costs passed through to end-user customers as federal universal service line-item charges may not exceed the interstate telecommunications portion of the customers' bills multiplied by the relevant contribution factor.³⁴ In addition, section 201(b) requires that all carrier charges, practices, classifications, and regulations "for and in connection with" interstate communications services be just and reasonable, and gives the Commission jurisdiction to enact rules to implement that requirement.³⁵

8. Sections 69.131 and 69.158 of the Commission's rules also prohibit certain types of contributors from recovering universal service contribution costs from customers participating in the Lifeline program,³⁶ whereby qualifying low-income consumers may receive telecommunications service at reduced charges.³⁷ The Commission has determined that prohibiting recovery of universal service contributions from Lifeline customers helps to increase subscribership by reducing qualifying low-income

²⁸ *Id.*

²⁹ See Letter of Inquiry from Marcy Greene, Deputy Division Chief, Telecommunications Consumers Division, Enforcement Bureau, to Davida Grant, Senior Attorney, AT&T Inc. (January 31, 2008).

³⁰ See Letter from Davida Grant, Senior Attorney, AT&T Inc., to Colleen Heitkamp, Chief, Telecommunications Consumers Division, Enforcement Bureau (February 21, 2008).

³¹ See generally 47 C.F.R. §§ 54.706 – 54.713 (outlining requirements for contributions to the federal universal service support mechanisms). See also *Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, Truth-in-Billing and Billing Format*, Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952 (2002) ("*Interim Contribution Order*").

³² See *Federal-State Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 9210-11, para. 853 (1997) (subsequent history omitted) ("*Universal Service Order*").

³³ *Id.*

³⁴ 47 C.F.R. § 54.712.

³⁵ 47 U.S.C. § 201(b).

³⁶ 47 U.S.C. 254(b); 47 C.F.R. §§ 69.131, 69.158.

³⁷ 47 C.F.R. §§ 54.400 *et seq.*

consumers' monthly basic local service charges, consistent with the universal service goals of the Act and the Commission's rules.³⁸

9. AT&T Inc. is the holding company of various telecommunications companies, including the AT&T Companies, providing service in the United States. The AT&T Companies offer interstate telecommunications services and are subject to the requirements discussed in paragraphs 7 and 8 above.

10. On February 2, 2007, the AT&T Companies voluntarily disclosed that one of the AT&T Companies had apparently recovered federal USF contribution costs from end-user customers in excess of the amounts permitted under section 54.712 of the Commission's rules. On March 13, 2007, the Bureau initiated an investigation into whether the AT&T Companies may have violated the Commission's rules governing the recovery of universal service contributions.³⁹ During the course of the investigation, AT&T discovered and revealed that, at various times between 2002 and 2008, other AT&T Companies also recovered their USF contributions in amounts greater than allowed under the Commission's rules, including the recovery of contributions from Lifeline customers. The AT&T Companies assert that such recoveries were inadvertent and were the result of billing errors. The AT&T Companies have refunded to existing customers the money collected from them in excess of that permitted under Commission rules; however, the AT&T Companies have not provided refunds to certain of their former customers, according to the AT&T Companies, because of the cost and difficulty of locating those customers and administering refunds, given the small amounts owed to each of them.

IV. TERMS OF AGREEMENT

11. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

12. **Jurisdiction.** The AT&T Companies agree that the Commission has jurisdiction over them and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

13. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the date on which the Bureau releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other Order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission Order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission Order.

14. **Termination of Investigations.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate its investigations. The Parties further agree that this Consent Decree reflects a compromise and was entered into by AT&T to avoid further cost and inconvenience of the investigations. In consideration for the termination of said investigations, the AT&T Companies agree to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence the Bureau will not use the facts developed in the investigations through the Effective Date of the Consent Decree, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against the AT&T Companies concerning the matters that were the subject of the investigations. The Bureau also agrees that it will not use the facts

³⁸ *Interim Contribution Order*, 17 FCC Rcd at 24982, para. 62.

³⁹ *See* LOI.

developed in this investigation through the Effective Date of this Consent Decree, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against the AT&T Companies with respect to the AT&T Companies' basic qualifications, including their character qualifications, to be a Commission licensee or authorized common carrier or hold Commission authorizations.

15. **Compliance Plans.** The AT&T Companies agree that they will develop, within sixty (60) calendar days from the Effective Date, internal Compliance Plans, consistent with the requirements set forth below, to help ensure the AT&T Companies' future compliance with the Act, the Commission's rules, and the Commission's orders governing telecommunications carriers' recovery of universal service contributions from end-user customers and confidentiality of customer proprietary network information. Those Compliance Plans shall remain in effect for the period specified below and shall thereafter automatically sunset.

(a) **BellSouth Investigation (EB-06-TC-3715) Compliance Plan:**

- a. This Compliance Plan shall be applicable to BellSouth.
- b. AT&T agrees that prior to changing the update mechanism for CPNI opt-out indicator updates, it shall identify applicable work groups involved in the current and planned update method, verify that the mechanism ensures that the CPNI status indicator for each customer is appropriately updated in system, and verify that the mechanism ensures that for a 30-day minimum period of time after giving notice and an opportunity to opt-out, new customers will be excluded from marketing lists where CPNI approval is required.
- c. AT&T shall report any non-compliance with this Compliance Plan to the Enforcement Bureau within 30 days after the discovery of non-compliance.
- d. This Compliance Plan shall remain in effect for two years.
- e. AT&T will certify at the end of the two (2) year term that it is in compliance with the terms of the Plan. Such certification must be mailed within fifteen (15) days after the two-year anniversary of the Effective Date of this Consent Decree.

(b) **AT&T Investigation (EB-07-TC-13231) Compliance Plan:**

- a. This Compliance Plan shall be applicable to Southwestern Bell Telephone Company, Pacific Bell Telephone Company, Nevada Bell Telephone Company, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Michigan Bell Telephone Company, The Ohio Bell Telephone Company, and Wisconsin Bell, Inc.
- b. Designation of CPNI Expert: AT&T shall designate an internal CPNI subject matter expert whose work activities shall focus on CPNI issues and who shall develop CPNI opt-out notices. This CPNI expert shall be used as a resource on CPNI questions within the company.
- c. Establishment of CPNI Compliance Oversight Committee: AT&T shall establish a CPNI Compliance Oversight Committee, who shall review the status of, and open issues regarding, CPNI projects that are in progress.

- d. Reminder Notices to Comply with Plan: AT&T shall distribute an annual officer-level communication to its internal marketing organizations responsible for managing distribution of CPNI opt-out notices reinforcing their obligation to comply with the provisions of the Plan.
- e. Training: AT&T shall provide annual training to employees of its internal marketing organizations responsible for managing the distribution of CPNI opt-out notices. This training will focus on federal CPNI opt-out requirements and the terms of this Plan.
- f. AT&T shall report any non-compliance with this Compliance Plan to the Enforcement Bureau within 30 days after the discovery of non-compliance.
- g. This Compliance Plan shall remain in effect for two years.
- h. AT&T will certify at the end of the two (2) year term that it is in compliance with the terms of the Plan. Such certification must be mailed within fifteen (15) days after the two-year anniversary of the Effective Date of this Consent Decree.

(c) **AT&T Investigation (EB-08-TC-1005) Compliance Plan:**

- a. This Compliance Plan shall be applicable to Southwestern Bell Telephone Company, Pacific Bell Telephone Company, and Nevada Bell Telephone Company.
- b. AT&T agrees that prior to migrating an Interactive Voice Response application used for CPNI opt-out, it shall identify and notify applicable work groups involved in the current and planned migration and perform the necessary validation tests to ensure the successful connection of the migrated switch to the new server.
- c. AT&T shall report any non-compliance with this Compliance Plan to the Enforcement Bureau within 30 days after the discovery of non-compliance.
- d. This Compliance Plan shall remain in effect for two years.
- e. AT&T will certify at the end of the two (2) year term that it is in compliance with the terms of the Plan. Such certification must be mailed within fifteen (15) days after the two-year anniversary of the Effective Date of this Consent Decree.

(d) **AT&T Investigation (EB-07-IH-4088) Compliance Plan:**

- a. This Compliance Plan shall be applicable to the AT&T Companies.
- b. Compliance Training Program. The AT&T Companies will establish and maintain a federal USF ("FUSF") compliance training program for employees who are directly responsible for aspects of billing the FUSF charge. This training program shall address FCC's regulations governing FUSF charge requirements, and the application of those requirements to the services provided by the AT&T Companies and the potential ramifications of failing to comply with the charge requirements. Training sessions will be conducted at least annually for such employees to ensure compliance with the Act and the FCC's regulations and

policies and, for new employees who are engaged in such activities, within the first sixty (60) days of employment. AT&T shall update and enhance the foregoing training as appropriate and necessary.

- c. Internal Controls Over Billing the FUSF Charge. AT&T has established, and shall maintain, internal control processes designed to ensure accurate billing of the FUSF charge.
 - i. AT&T has established procedures for determining the applicability of the FUSF charge to new services, including volume and/or term discount.
 - ii. AT&T has established, and shall maintain, an FUSF oversight team that will serve as a resource for resolving questions related to AT&T compliance with applicable FUSF charge rules and act as a central point of contact for FUSF charge requirements throughout the company. The oversight team will also oversee the development and dissemination of training material and will monitor changes in FUSF rules to make sure those changes are documented and disseminated appropriately. The oversight team includes representatives of the AT&T legal department and the AT&T corporate compliance department.
- d. AT&T shall report any non-compliance with this Compliance Plan to the Enforcement Bureau within 30 days after the discovery of non-compliance.
- e. This Compliance Plan shall remain in effect for two years.
- f. AT&T will file a compliance report with the Commission twenty-four (24) months after the Effective Date. The compliance report shall include a compliance certificate from an officer, as an agent of the AT&T Companies, stating that the officer has personal knowledge that AT&T has established operating procedures intended to ensure compliance with this Consent Decree, together with an accompanying statement explaining the basis for the officer's compliance certification.

16. **Compliance Reporting.** All compliance reports and certifications shall be submitted to the Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554 and the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

17. **Termination Date.** Unless stated otherwise, the requirements of this Consent Decree will expire twenty-four (24) months after the Effective Date or, with respect to those requirements pertaining to the resolution of the CPNI investigations (AT&T Investigation (EB-07-TC-13231), AT&T Investigation (EB-08-TC-1005) and BellSouth Investigation (EB-06-TC-3715)), upon the termination of the opt-out requirements set forth in sections 64.2001-2009 of the Commission's rules, 47 C.F.R. §§ 64.2001-2009, whichever is earlier.

18. **Section 208 Complaints; Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to section 208 of the Act against the AT&T Companies or their affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent

the Commission from investigating new evidence of noncompliance by the AT&T Companies of the Act, the rules, or the Adopting Order.

19. **Voluntary Contribution.** The AT&T Companies agree that they will make a voluntary contribution to the United States Treasury in the amount of ten million eighty thousand six hundred dollars (\$10,080,600) within thirty (30) days after the Effective Date. The AT&T Companies have already refunded overcharges directly to existing customers. The voluntary contribution includes, among other amounts, certain overcharges that the AT&T Companies assert they were unable to refund to certain of their former customers. AT&T asserts that it would not be cost-effective to pursue additional direct refunds, because the small amount at issue relating to each individual former customer (e.g., \$0.72 per former subscriber) would be far less than the cost of locating these former customers and administering further refunds. AT&T therefore asserts that it is more appropriate for the AT&T Companies instead to remit these amounts to the United States Treasury. The payment must be made by check or similar instrument, payable to the Order of the Federal Communications Commission. The payment must include the Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money Order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payments by wire transfer may be made to ABA Number 021030004, receiving bank Federal Reserve Bank of New York, and account number 27000001. The AT&T Companies will also send electronic notification on the date said payment is made to Johnny Drake at Johnny.Drake@fcc.gov and to Michele Levy Berlove at Michele.Berlove@fcc.gov.

20. **Waivers.** The AT&T Companies waive any and all rights they may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order adopting this Consent Decree, provided the Commission issues an Order adopting the Consent Decree without change, addition, modification, or deletion. The AT&T Companies shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither the AT&T Companies nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and the AT&T Companies shall waive any statutory right to a trial *de novo*. The AT&T Companies hereby agree to waive any claims they may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

21. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which the AT&T Companies do not expressly consent) that provision will be superseded by such Commission rule or Order.

22. **Successors and Assigns.** The AT&T Companies agree that the provisions of this Consent Decree shall be binding on their successors, assigns, and transferees.

23. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. The Parties further agree that this Consent Decree does not constitute either an admission of liability, an admission of noncompliance, an adjudication on the merits, or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the Commission's Rules and Orders.

24. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

25. **Paragraph Headings.** The headings of the Paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

26. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

27. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

Kris A. Monteith
Chief, Enforcement Bureau
Federal Communications Commission

Paul Mancini
Senior VP & Assistant General Counsel
AT&T Inc., on behalf of the AT&T Companies

Date

Date