

CONFIDENTIAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DECLASSIFIED

MA 2-29-08

**In Re:)
Complaint by BellSouth)
Telecommunications, Inc. against)
Thrifty Call, Inc. regarding practices)
in the reporting of percent interstate)
usage for compensation for)
jurisdictional access services)**

Case No 000475-TP

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Direct Testimony

Of

Timothy J Gates

On Behalf of Thrifty Call, Inc.

February 7, 2008

DOCUMENT NUMBER-DATE

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MA

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DECLASSIFIED**Introduction**

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2
3
4 A. My name is Timothy J Gates. My business address is QSI Consulting, 819
5 Huntington Drive, Highlands Ranch, Colorado 80126.

6
7 **Q. WHAT IS QSI CONSULTING, INC. AND WHAT IS YOUR POSITION**
8 **WITH THE FIRM?**

9 A. QSI Consulting, Inc. ("QSI") is a consulting firm specializing in traditional and
10 non-traditional utility industries, econometric analysis and computer aided
11 modeling. QSI provides consulting services for regulated utilities, competitive
12 providers, various types of government agencies (including public utility
13 commissions) and industry organizations. I currently serve as Senior Vice
14 President.

15
16 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
17 **WORK EXPERIENCE.**

18 A. I received a Bachelor of Science degree from Oregon State University and a
19 Master of Management degree with an emphasis in Finance and Quantitative
20 Methods from Willamette University's Atkinson Graduate School of
21 Management. Since I received my Masters, I have taken additional graduate-level
22 courses in statistics and econometrics. I have also attended numerous courses and
23 seminars specific to the telecommunications industry, including both the NARUC

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1 Annual and NARUC Advanced Regulatory Studies Programs.

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3 Prior to joining QSI, I was a Senior Executive Staff Member at MCI WorldCom,
4 Inc. ("MWCOM"). I was employed by MCI and/or MWCOM for 15 years in
5 various public policy positions. While at MWCOM I managed various functions,
6 including tariffing, economic and financial analysis, competitive analysis, witness
7 training and MWCOM's use of external consultants. Prior to joining MWCOM, I
8 was employed as a Telephone Rate Analyst in the Engineering Division at the
9 Texas Public Utility Commission and earlier as an Economic Analyst at the
10 Oregon Public Utility Commission. I also worked at the Bonneville Power
11 Administration (United States Department of Energy) as a Financial Analyst
12 doing total electric use forecasts while I attended graduate school. Prior to doing
13 my graduate work, I worked for ten years as a reforestation forester in the Pacific
14 Northwest for multinational corporate and government organizations. Exhibit
15 TJG-1, attached hereto to this testimony, is a summary of my work experience
16 and education.

17
18 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE FLORIDA**
19 **PUBLIC SERVICE COMMISSION ("COMMISSION")?**

20 **A.** Yes. I have testified in a number of Florida proceedings, including Docket Nos.
21 930330-TP¹, 031047-TP,² 000084-TP,³ 000907-TP⁴ and 050119-TP/050125-TP.⁵

¹ *Investigation into IntraLATA Presubscription.* On Behalf of MCI.

² *Petition of KMC Telecom for Arbitration with Sprint Communications.* On Behalf of KMC Telecom III, L.L.C, KMC Telecom V, Inc., and KMC Data, L.L.C.

1 I have testified more than 200 times in 44 states and Puerto Rico and filed
2 comments with the FCC on various public policy issues ranging from costing,
3 pricing, local entry and universal service to strategic planning, merger and
4 network issues.

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5
6 **Q. ON WHOSE BEHALF IS THIS TESTIMONY FILED?**

7 A. This testimony is filed on behalf of Thrifty Call Communications, Inc., (“Thrifty
8 Call” or “TCP”).

9
10 **Q. ARE ANY OTHER WITNESSES FILING TESTIMONY ON BEHALF OF**
11 **THRIFTY CALL?**

12 A. Yes. Mr. Harold Lovelady, who was the President of Thrifty Call between 1991
13 and 2000, is filing direct testimony at this time. His testimony addresses: (1)
14 Thrifty Call’s PIU reporting procedures; (2) BellSouth’s tariff as it pertains to PIU
15 related disputes; (3) BellSouth’s request for an audit pursuant to the tariff; and (4)
16 the status of Thrifty Call’s Petition for Declaratory Ruling from the FCC seeking
17 clarification of the meaning and application of certain provisions of BellSouth’s
18 tariffs.

³ *Petition of BellSouth for Arbitration with US LEC of Florida, Inc. On Behalf of US LEC.*

⁴ *Petition of Level 3 for Arbitration with BellSouth. On Behalf of Level 3.*

⁵ *Joint Petition by TDS Telecom d/b/a TDS Telecom/Quincy Telephone, et al objecting to and requesting suspension and cancellation of proposed transit tariff filed by BellSouth Telecommunications, Inc./Petition and complaint for suspension and cancellation of Transit Traffic Service Tariff no. FL2004-284 filed by Bellsouth Telecommunications, Inc., by AT&T Communications of the Southern States, LLC. On Behalf of the Competitive Carriers of the South, Inc.*

1 **Q. PLEASE PROVIDE A BRIEF HISTORICAL BACKGROUND TO THIS**
2 **CASE.**

3 A. I understand that Thrifty Call operated in the state of Florida from 1998 until early
4 2000. During that time it exchanged traffic with BellSouth⁶ and, when doing so,
5 reported its Percentage Interstate Use (“PIU”) at 98% (i.e. that 98% of the traffic
6 it terminated to BellSouth was interstate in nature while only 2% was intrastate in
7 nature). Hence, BellSouth’s billing and Thrifty Call’s payments reflected that
8 most Minutes of Use (“MOUs”) were billed at the Company’s interstate switched
9 access rates, which are considerably lower than its intrastate rates.

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10 Following what AT&T describes as a sudden increase in usage during the middle
11 part of 1999, the Company apparently became concerned that the 98% PIU it had
12 used for billing purposes up to that point may be inaccurate. Mr. Lovelady
13 testifies that the Company sought an audit pursuant to its tariff on January 18,
14 2000. He also testifies that Thrifty Call was a willing participant and that it went
15 so far as to name an independent auditor, Ernst & Young. I further understand
16 that AT&T refused Thrifty Call’s choice of auditors, stopped the audit and shortly
17 thereafter filed the complaint⁷ which initiated this proceeding.

⁶ BellSouth Telecommunications, Inc. is currently doing business as AT&T Florida. I will refer to BellSouth Telecommunications, Inc. and AT&T Florida as “AT&T Florida,” “AT&T”, or “Company” throughout the remainder of this testimony.

⁷ See complaint filed April 21, 2000.

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1 Several years have passed since the initial filing in this proceeding. To the best of
2 my knowledge AT&T never conducted the audit contemplated by its tariff. The
3 Commission's Staff, however, conducted an audit of Thrifty Call's usage records
4 in 2004 and has reported its results within the context of this proceeding.⁸ That
5 audit was conducted pursuant to the Commission's authority under Florida
6 Statutes and the Florida Administrative Code to audit the financial records of the
7 companies it regulates. Thrifty Call was notified by letter dated October 22, 2001
8 from the PSC Auditing Staff that the audit would be conducted.

9
10 AT&T now seeks more than \$2.44M in principal amounts from the 1998-2000
11 time period in addition to more that \$9.8M in penalties that its tariff would not
12 have allowed for if the PIU audit procedures were followed back in January of
13 2000 when Thrifty Call agreed to an audit with AT&T and when it identified an
14 independent auditor for such purposes.

15
16 Order No. PSC-07-1027-PCO-TP, dated December 28, 2007, directed the Parties
17 to file direct testimony which addresses, among other issues, the following
18 questions:

- 19 1. What are the terms and conditions of the tariff associated with
20 correcting and backbilling misreported PIU?

⁸ See *Thrifty Call, Inc. Actual Percentage Interstate Usage: Audit Twelve Month Period Ending March 31, 2000*. Florida Public Service Commission, Division of Regulatory Compliance and Consumer Assistance, Bureau of Auditing, Tallahassee District Office. August 4, 2004. Despite the time period identified in the title of the audit report, the Staff's conclusions go to PIU for the months July 1999 through December 1999.

1 Q. PLEASE SUMMARIZE YOUR CONCLUSIONS AND
2 RECOMMENDATIONS.

3 A. Despite that AT&T's tariff provides for PIU audits and billing adjustments
4 consistent with such audits, the Company never performed an audit and now
5 seeks back-billing for a time period which is substantially longer that would be
6 provided for pursuant to the tariff. Moreover, although the tariff does not appear
7 to contemplate interest and/or penalties in association with a PIU audit which
8 ultimately requires billing adjustments in the Company's favor, it has requested
9 penalties in excess of \$9.8M in this case.

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10
11 My recommendation is that if the Commission finds any amounts are due AT&T
12 that those amounts be calculated with the following in mind: (1) any calculations
13 should be based on actual usage during the July 1999 through June 2000 time
14 period; (2) any billing adjustments should be based on actual PIU for the period
15 July 1999 through December 1999; and, (3) actual PIU should be calculated
16 consistent with the FCC's Entry-Exist Surrogate methodology.

17
18
19
20 **AT&T Florida's Request For Unpaid Principal Amounts Is Not**
21 **Supported By The Company's Tariffed Jurisdictional**
22 **Reporting Requirements**
23
24

1 **Q. PLEASE SUMMARIZE YOUR UNDERSTANDING OF AT&T'S**
2 **DEMAND AS TO UNPAID PRINCIPAL AMOUNTS.**

3 A. AT&T's tariff contains procedures for dealing with billing disputes. Specifically,
4 there are procedures identified to address interexchange carrier's Percent
5 Interstate Use ("PIU") filings in cases where the Company believes them to be
6 inaccurate. Unfortunately, it appears that AT&T is not using that procedure here.
7 Instead, AT&T seeks the right to back-bill Thrifty Call for certain PIU reporting
8 errors it believes took place during the entirety of the carriers' 28 month
9 relationship.

10
11 **Q. HOW MUCH DOES AT&T SEEK FROM THRIFTY CALL?**

12 A. AT&T has put multiple numbers into the record on this point. Most recently,
13 however, AT&T claimed it was due a principal sum of \$2,443,940 and that it was
14 also entitled to at least \$9.8M in penalties. The Company's affidavit, testimony
15 and briefs, however, do not contain any supporting documentation as to these
16 estimates, nor do they include the mathematics behind the \$2.44 million demand
17 or the \$9.8M in penalties. Hence, as of the writing of this testimony, I have not
18 been able to review AT&T's calculations or supporting workpapers in any
19 detail.¹⁰

20
21 **Q. TO THE BEST OF YOUR KNOWLEDGE, HOW WERE AT&T'S**
22 **FIGURES CALCULATED?**

¹⁰ My understanding is that Thrifty Call has sought discovery pertaining to AT&T's estimates and supporting workpapers but the relevant responses have not yet been available for my review.

1 A. Footnote No. 2 to Mr. Potteiger's affidavit states that the principal sum of
2 \$2,443,940 was "calculated by multiplying minutes of actual intra-state usage
3 times the Florida intrastate access rate in effect during the relevant period, and
4 subtracting the amount Thrifty Call paid BellSouth during that same period of
5 time." Mr. Harper's direct testimony clarifies that the "number of minutes from
6 Thrifty Call that were billed at the interstate terminating access rate, were
7 recalculated using the intrastate terminating access rate."¹¹ Hence, it appears that
8 whereas 98% of the minutes had previously been rated, billed and paid for at the
9 interstate rate, the Company now seeks to have all of those minutes back-billed at
10 the higher intrastate rate. Indeed, the Company seeks intrastate payment on all
11 minutes that came from Thrifty Call over the 28 month period from January 1998
12 through April 2000.¹² Again, AT&T has not yet provided its calculations or the
13 documents it relied upon in order to determine the amount of its demand.

14
15 **Q. DO YOU AGREE THAT 28 MONTHS OF BACK-BILLING WOULD BE**
16 **APPROPRIATE UNDER THE COMPANY'S TARIFF PROVISIONS?**

17 A. No, not under any circumstance that I'm aware of. I discuss billing adjustments
18 that may happen in accordance with a PIU audit later in this testimony.
19 Ultimately, the Company's tariff allows for two quarter's worth of adjustments in
20 such cases.

21

¹¹ See direct testimony of Mike Harper at p.18. Note that Mr. Harper initially sought a lesser amount, \$2,201,515.00 for January 1998 through April 2000, whereas Mr. Potteiger now seeks \$2.4M for that same time period.

¹² See direct testimony of Mike Harper at p.18.

1 **Q. HAS AT&T PROVIDED ANY DESCRIPTION, EVIDENCE OR**
2 **DOCUMENTATION DEMONSTRATING THAT THRIFTY CALL'S PIU**
3 **WAS INACCURATE 28 STRAIGHT MONTHS?**

4 A. No, it has not. In fact, Mr. Harper's testimony indicates that Thrifty Call
5 suddenly began terminating nearly 22 million minutes of use ("MOUs") in June
6 1999 and that it was "unlikely that such a sudden increase in minutes would not
7 exhibit a different interstate percentage."¹³ Hence, the implication is that the PIU
8 prior to that point was likely accurate. Despite these statements, however, Mr.
9 Harper testified that AT&T adjusted all MOUs from January 1998 through April
10 2000 as if they were all inaccurately reported and billed.

11
12 **Q. IF AT&T CAN SHOW THAT THRIFTY CALL'S INVOICES WERE**
13 **BILLED AT THE INCORRECT RATES, WOULD YOU OPPOSE A**
14 **CORRECTION TO WHAT IS OWED BY THRIFTY CALL?**

15 A. No. This testimony is meant to support an accurate accounting, not to oppose any
16 adjustment whatsoever. It does appear that there was some incorrect reporting
17 and those inaccuracies should be corrected consistent with the tariff.

18
19 **Q. HAS AT&T PROVIDED ANY EVIDENCE THAT 100% OF THE**
20 **MINUTES OF USE FROM THRIFTY CALL WERE INTRASTATE IN**
21 **NATURE?**

¹³ See Mr. Harper's direct testimony at P.10.

1 A. No, it has not. Mr. Harper initially stated that a majority¹⁴ of traffic from Thrifty
2 Call, at least for a certain period of time, appeared to be intrastate in nature. Mr.
3 Potteiger later indicated that about 20% of the traffic was interstate.¹⁵ It is unclear
4 why AT&T's back-billing proposal recommends re-rating 100% of the traffic
5 despite these opinions. Similarly, it's unclear why AT&T has proposed to apply
6 adjustments to all time periods of the relationship between the companies rather
7 than limiting its adjustments to the period of time it analyzed certain sampled data
8 or that time period addressed by the Commission Staff audit. Indeed, there is no
9 evidence in this record to suggest that the PIU for a specific number of days or
10 months would be equal across all months, particularly when that figure is 0% as is
11 now proposed by AT&T. In this regard, the Company's proposal is wholly
12 unsupported.

13
14 **Q. PLEASE DESCRIBE THE PIU DISPUTE PROCEDURES IN THE**
15 **COMPANY'S TARIFF AND, IN DOING SO, PLEASE ALSO DISCUSS**
16 **THE TARIFF'S PARAMETERS ON HOW MANY MONTHS' BILLING**
17 **COULD BE IMPACTED BY A PIU AUDIT.**

18 A. As has been noted in prior filings made by AT&T Florida, the Company's
19 intrastate access services tariff speaks to jurisdictional reports and their use within
20 Section E 2.3.14. ("Jurisdictional Report Requirements").

21
22 **Q. WHAT DOES SECTION E.2.3.14(A) REQUIRE?**

¹⁴ A majority does not comprise all MOUs.

¹⁵ Again, for a sub-set of the 28 month period.

1 A. Section E.2.3.14 (B) 1 provides that when a dispute arises between the Company
2 and the carrier customer -- in this case Thrifty Call -- pertaining to the PIU, the
3 Company may require the customer "to provide the data the IC or End User used
4 to determine the projected interstate percentage." At Section E.2.3.14 (B) 2, the
5 tariff indicates that such audits will be required no more than once per year.

6 Section E.2.3.14(D) 1 provides in pertinent part that

7 The Company will adjust the IC or End User's PIU based upon the
8 audit results. The PIU resulting from the audit shall be applied to
9 the usage for the quarter the audit was completed, the usage for the
10 quarter prior to completion of the audit, and to the usage for two
11 (2) quarters following the completion of the audit.
12

13 The tariff also requires customers to maintain relevant data for the most recent six
14 month period.¹⁶ Hence, in April of 2000, when this complaint was filed, Thrifty
15 Call's usage data for the fourth quarter of 1999 and the first quarter of 2000
16 would have been available for purposes of an audit pursuant to the tariff.

17
18 My understanding is that AT&T Florida requested an audit on January 18, 2000
19 and, as a result, I would expect that data for the third and fourth quarters of 1999
20 would have been available and utilized for an audit should one have been
21 performed per the tariff at that time. Moreover, to the extent that the results of
22 such an audit were to have been used to update AT&T's invoices to Thrifty Call,
23 the tariff dictates that the invoices for the third and fourth quarters of 1999 would
24 have been potentially impacted.¹⁷ Similarly, the tariff provides that the revised

¹⁶ See AT&T's intrastate access services tariff at Section E.2. 3.14(C) 1.

¹⁷ See AT&T's intrastate access services tariff at Section E.2. 3.14(D) 1.

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1 PIU would be used for the two quarters following the audit.¹⁸ Indeed, all invoices
2 pertaining to usage from July 1999 through June 2000 would have been
3 potentially impacted by the audit results. This twelve month period is clearly
4 much shorter than the 28 month period seemingly contemplated within AT&T's
5 demand for \$2.44 million in unpaid principal amounts.¹⁹

6
7 **Q. DOES THE AT&T TARIFF SUPPORT AT&T'S POSITION ON BACK-**
8 **BILLING?**

9 A. No. AT&T's tariff does not allow for back-billing as the Company has proposed.
10 Rather, the tariff contemplates billing adjustments that span a much shorter period
11 of time in addition to adjusting the PIU on a going-forward basis. The bulk of
12 the 28 month time period contemplated in AT&T's demand is outside the tariff
13 parameters.

14
15 **Amount Due Pursuant to the Tariff**

16
17 **Q. USING AT&T'S DEMAND FOR \$2.44 MILLION AS A STARTING**
18 **POINT, WHAT AMOUNTS, IF ANY, WOULD THRIFTY CALL HAVE**
19 **BEEN REQUIRED TO PAY AT&T FLORIDA EITHER THROUGH**
20 **BILLING ADJUSTMENTS AND/OR GOING FORWARD PIU CHANGES**

¹⁸ See AT&T's intrastate access services tariff at Section E.2. 3.14(D) 1.

¹⁹ See Potteiger affidavit at para.9.

1 **HAD AN AUDIT BEEN CONDUCTED IN JANUARY OF 2000 WHEN IT**
2 **WAS ORIGINALLY SOUGHT?**

3 A. Based upon what little AT&T has provided in terms of explanation, calculations
4 and supporting documentation, it would appear that, if an audit had been
5 conducted under the tariff, AT&T would have been entitled to a billing
6 adjustment of, at most, approximately [REDACTED].²⁰ To remain consistent with the
7 Company's tariff, its back-billing proposal should have been limited to that
8 amount.

9
10 **Q. HOW DID YOU CALCULATE THE [REDACTED] AMOUNT?**

11 A. Table 1.0 below includes AT&T's proposed back-billed amounts in addition to
12 three adjustments which are necessary to adjust the Company's proposal to
13 comport with its tariff. Specifically, I adjusted the Company's calculation such
14 that it: (1) is based upon Staff's estimated PIU for the period July 1999 through
15 December 1999²¹; (2) is based upon 12 – rather than 28 – months; and, (3)
16 contemplates adjustments only to the traffic which is known to be intrastate.

²⁰ I say "at most" here because it remains a legal question as to whether the Company is required to conduct an audit before filing the complaint in this proceeding. My analysis assumes, for the sake of argument, that no such requirement exists and proceeds as if the Staff's audit can be used for purposes contemplated within the tariff. The legal question is not addressed within my testimony.

²¹ See *Thrifty Call, Inc. Actual Percentage Interstate Usage: Audit Twelve Month Period Ending March 31, 2000*. Florida Public Service Commission, Division of Regulatory Compliance and Consumer Assistance, Bureau of Auditing, Tallahassee District Office. August 4, 2004. Despite the time period identified in the title of the audit report, the Staff's conclusions go to PIU for the months July 1999 through December 1999.

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Table 1.0

<u>Line No.</u>	<u>Category</u>	<u>Cumulative Impact</u>
1	Amount Alleged to have been Underpaid	\$ [REDACTED]
2	PIU Adjustment	(\$ [REDACTED])
3	Timing Adjustment	(\$ [REDACTED])
4	Unidentified Traffic Adjustment	(\$ [REDACTED])
Maximum Due		\$ [REDACTED]

These figures are subject to change upon inspection of the analyses and supporting data to be provided by AT&T in response to discovery.

Q. PLEASE DESCRIBE THE PIU ADJUSTMENT IN GREATER DETAIL.

A. A review of the Company's filings to date make clear that its estimates simply assume 100% of the traffic having been exchanged between the carriers was intrastate rather than relying upon the results of an audit conducted pursuant to the tariff or, for that matter, the percent which the Commission Staff determined to be intrastate when it audited some of the relevant data. I used the Staff percentage in order to adjust the Company's calculations in this regard.²² That adjustment comprises a decrease in back-billed amounts of nearly [REDACTED].

Q. HOW DOES THE TIMING ADJUSTMENT RELATE TO AT&T'S INTRASTATE ACCESS SERVICES TARIFF?

A. As described above, the tariff would have only allowed for billing adjustments to

²² See A:SS4 Percent of Grand Total . 123 of *Thrifty Call, Inc. Actual Percentage Interstate Usage: Audit Twelve Month Period Ending March 31, 2000.*,

1 impact the last two quarters of 1999. It would have also allowed for going
2 forward PIU adjustments to impact the next two quarters (i.e., the first two
3 quarters of 2000). Hence, this adjustment contemplates that only 12 of 28 months
4 of the relationship could have been re-rated.²³ This interpretation of the tariff is
5 consistent with the fact that audits are only allowed once in a 12 month period as
6 discussed above.

7
8 **Q. PLEASE DISCUSS THE UNIDENTIFIED TRAFFIC ADJUSTMENT IN**
9 **GREATER DETAIL?**

10 A. Staff's audit report indicates that a certain percentage of Thrifty Call's traffic
11 cannot be reconciled as either intrastate or interstate. All such traffic – about [REDACTED]
12 - has been removed from AT&T's figures.²⁴

13
14 **Q. DOES THIS ADJUSTMENT RELY UPON THE FCC'S EES RULES²⁵?**

15 A. In part, yes, it does. It also relies upon common sense and the approach an
16 auditor might utilize under the Generally Accepted Auditing Standards. To the
17 extent an adjustment is to be made which foists charges upon another carrier, it
18 seems unreasonable to make such an adjustment without evidence supporting
19 whether the adjustment is warranted and/or accurate.

20

²³ This figure will be updated upon review of AT&T's monthly calculations, which have not yet been provided to Thrifty Call.

²⁴ See A:SS4 Percent of Grand Total . 123 of *Thrifty Call, Inc. Actual Percentage Interstate Usage: Audit Twelve Month Period Ending March 31, 2000.*

²⁵ The issues pertaining to the FCC's EES rules are also addressed in Mr. Lovelady's direct testimony

1 **Q. CAN THE CALCULATIONS ABOVE BE EMPLOYED SEPARATELY TO**
2 **ADJUST AT&T'S PROPOSED BACK-BILLING?**

3 A. Not without adjustment; no. Ultimately, the adjustments contemplated within
4 Table 1.0 are built assuming all three are employed simultaneously. Hence, if
5 taken separately, their effects would be different. For example, if the PIU
6 adjustment was not employed prior to the timing adjustment, the impact of the
7 timing adjustment would be substantially greater than it otherwise would be.
8 Table 2.0 below includes each adjustment as if implemented separately.

Table 2.0

Line No.	Category	Separate Amounts
1	PIU Adjustment	\$ [REDACTED]
2	Timing Adjustment	\$ [REDACTED]
3	Unidentified Traffic Adjustment	\$ [REDACTED]

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AT&T's Request For \$9.8M In Penalties Is Unsupported And Inconsistent With The Tariff

Q. PLEASE SUMMARIZE YOUR UNDERSTANDING OF AT&T'S DEMAND AS TO PENALTIES.

A. Thus far, AT&T has not provided its calculations, the documents supporting its calculations or the rationale used to support its claim for penalties. Indeed, Mr. Potteiger's affidavit simply refers to Section E8.2.3A(2) and states "pursuant to the Tariff, late payment penalties continue to accrue at a rate of 1.77% per

1 month.”²⁶ This section contemplates end user uncollectible amounts in
2 circumstances wherein the Company and the customer²⁷ have entered into a
3 billing and collections arrangement. Furthermore, it is my understanding that the
4 principal amount upon which AT&T’s penalty calculations are based has not been
5 billed and is not overdue. Hence, penalties of this type do not seem applicable per
6 the tariff.

7

8 While it is clear from the Staff Audit that the bills need some adjustment,
9 AT&T’s proposed penalties remain undocumented and unsupported.

10

11

12 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

13 **A.** Yes, it does.

14

15

²⁶ Affidavit at footnote No.3.

²⁷ In this case, Thrifty Call.