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SENT VIA ELECTRONIC MAIL AND MESSENGER

April 6, 2009

Mr. Robert J. Wullenjohn
Division of Communications
California Public Utilities Commission
505 Van Ness Avenue, Room 3207
San Francisco, CA 94102-3214

Re: Reply of AT&T California (U 1001 C) to the Joint Comments of DRA and TURN
Regarding Draft Resolution T-17203

Dear Mr. Wullenjohn:

Pursuant to the Communication Division's March 17, 2009 Notice of Availability, AT&T California replies to the joint comments of the Division of Ratepayer Advocates and The Utility Reform Network ("DRA/TURN") regarding Draft Resolution T-17203 ("Draft Resolution"). The Draft Resolution approves AT&T California's request in Advice Letter 33423, as supplemented, to detariff services pursuant to the authorization granted by the Commission in Ordering Paragraph 3 of D.07-09-018.

Rather than identifying factual, legal, or technical errors in the draft Resolution, as required by the Notice of Availability,¹ DRA/TURN's Comments instead take issue with the detariffing policies and rules the Commission established in D.07-09-018. They complain about the Commission's policy established in D.07-09-018 not to adopt rules

¹ "Comments shall focus on factual, legal, or technical errors in the draft Resolution." Notice of Availability, p. 2 (Mar. 17, 2009).

governing the content of contracts, and they propose that the Commission impose a host of new detariffing requirements.² DRA/TURN's Comments are not only procedurally inappropriate, they are wholly unwarranted.

In D.07-09-018, the Commission established a comprehensive framework for detariffing services. The Commission determined that existing statutes and rules, coupled with the additional safeguards (such as notice and website publishing requirements) adopted in D.07-09-018, provide consumers with ample protection in a detariffed environment.³ While ensuring that sufficient consumer safeguards were in place, the Commission avoided imposing rules that would micromanage how carriers operate in a competitive, detariffed environment. For example, the Commission rejected TURN/DRA's call for the Commission to mandate the content of contracts entered into between carriers and customers as a replacement for tariffs, recognizing that in a competitive environment, carriers differentiate themselves from competitors by offering different terms and conditions.⁴ As the Draft Resolution points out, this policy promotes carrier innovation and responsiveness to customer needs.⁵ Thus, the Draft Resolution reflects the Commission's recognition of the realities of today's dynamic, competitive marketplace, in which customers are better served by allowing the market to operate unimpeded by unnecessary regulatory restrictions.⁶ DRA/TURN's proposal for new, unnecessary detariffing

² DRA/TURN Comments, pp. 2-4.

³ D.07-09-018, *mimeo*, pp. 37-49.

⁴ *Id.* at 61.

⁵ Draft Resolution, p. 7.

⁶ The Commission has recognized that state and federal telecommunications statutes and policies encourage reliance on competition as the means to promote broad consumer interests. D.06-08-030, *mimeo*, pp. 31-41.

requirements is at odds with the realities of today's competitive market, and an improper collateral attack on the Commission's established policies reflecting those realities.⁷

As noted above, TURN/DRA propose a series of new, specific mandates. It appears TURN/DRA would have these new regulations apply to all carriers, even though AT&T California is the party in this advice letter proceeding.⁸ As discussed above, TURN/DRA's proposed micromanagement is contrary to Commission policy and unwise. Moreover, it is unnecessary. Competitive forces and existing Commission requirements are more than adequate to allay TURN/DRA's concerns, as demonstrated by the fact that AT&T California has already addressed each of the areas identified in TURN/DRA's proposals:

- Proposal to post residential service agreement ("RSA") on website with "clear and conspicuous" link on specified website pages: AT&T California posts its RSA on AT&T's website, and clearly identifies the link to access the RSA in the package of RSA materials sent to all customers. TURN/DRA have identified no valid reason for the Commission to mandate that this link appear on a particular page of AT&T's website.
- Proposal to make RSA available in hard copy within 5 days of request: Hard copies of the RSA will be mailed to all customers, and an additional copy will be provided upon request. In addition, the RSA will be posted on AT&T's website.
- Proposal to clearly disclose covered services, right to "opt-out" of RSA, and availability of basic service: The RSA, and its accompanying materials, clearly disclose which services are covered, and not covered, by the RSA. AT&T California advises customers that basic service is not covered by the RSA, and that customers can choose not to accept the terms of the RSA by cancelling their service.
- Proposal to inform customers of changes to RSA and right to cancel: The RSA clearly informs customers that they will be given 30 days notice of any change imposing more restrictive terms. Customers have the right to cancel service before the change takes effect if they do not agree with it.
- Proposal to archive changes to RSA on AT&T's website for "period of years": As required by Telecommunications Industry Rule 5.2 of General Order 96-B, AT&T California will maintain a three-year archive of changes to the RSA.

⁷ See D.07-09-018, *mimeo*, pp. 39-45, 65-67.

⁸ DRA/TURN Comments, p. 3 ("[T]he Draft Resolution approves AT&T's request with no additional safeguards to avoid a repeat performance by another carrier or by AT&T....").

- Proposal to provide “clear and conspicuous” link to Guidebook on specified website pages: AT&T California posts its Guidebook on AT&T’s website, and clearly identifies the link to access its Guidebook in both the RSA and accompanying materials provided to all customers. Again, TURN/DRA have identified no valid reason for the Commission to mandate that this link appear on a particular page of AT&T’s website.
- Proposals to make Guidebook more “user-friendly”: AT&T California is committed to continue to enhance the user-friendliness of its Guidebook, and the presentation of this information on AT&T’s website. The Guidebook already contains tables of contents and is searchable. Certain “technical” tariff language has been retained to make clear that those terms and conditions are not changing. Website development is an ongoing process, and is based on both internal analysis and external user interaction. AT&T California has been assessing several enhancements that will ease navigation and include additional information useful for its customers, and it is committed to making these changes over the next few months. In the future, AT&T California expects to further refine its Guidebook, as it has the RSA.

In sum, TURN/DRA’s Comments are inappropriate and fail to identify any problems that require or justify the imposition of new regulations. Thus, consistent with Commission policy, no new regulations should be established. The competitive market is working. AT&T California is striving to meet the needs of its customers—as it must in order to succeed.

Sincerely,

 /s/
 Michael D. Sasser
 General Attorney

cc: Dana S. Appling, Director, DRA
 Mark W. Toney, Ph.D., General Director, TURN
 Attached Service List (via electronic mail only)

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused a copy of the foregoing document, "Reply of AT&T California (U 1001 C) to the Joint Comments of DRA and TURN Regarding Draft Resolution T-17203," to be served by U.S. Mail, electronic mail or hand delivery on the attached Service List for Draft Resolution T-17203, and on the Commissioners and their advisors, the Chief Administrative Law Judge, the Commission's General Counsel, and the Director of the Communications Division, as follows:

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Executed at San Francisco, California, on the 6th day of April 2009.

/s/
Linda Cheng
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AL33423 (03/17/2009)

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