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June 26, 2008

Filed Via ETFS

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

Re: July 1, 2008 Annual Access Charge Tariff Filings, WCB/Pricing File No. 08-14

Dear Ms. Dortch:

Pursuant to the March 28, 2008 Order of the Pricing Policy Division, WCB/Pricing File No. 08-14, AT&T Corp. today filed via ETFS the attached Petition of AT&T Corp. seeking suspension and investigation of certain annual access tariffs filed on 7 days notice on June 24, 2008. All correspondence related to this filing should be sent to Safir Rammah, Director-Finance, AT&T, Room B-J16.21, 3033 Chain Bridge Road, Oakton, VA, 22185, (703) 691-6186 (tel.), (703) 222-5676 (fax).

Sincerely,

/s/ Christopher T. Shenk

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

In the Matter of

July 1, 2008

Annual Access Charge Tariff Filings

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WCB/Pricing File No. 08-14

PETITION OF AT&T CORP.

Pursuant to section 204(a)(1) of the Communications Act, 47 U.S.C. § 204(a)(1), section 1.773 of the Commission's Rules, 47 C.F.R. § 1.773, and the Commission's Order, DA 08-758, released March 28, 2008,¹ AT&T Corp. ("AT&T") respectfully requests that the Commission suspend for one day, investigate and issue an accounting order for the individual interstate access tariffs filed by the South Dakota Network ("SDN"), Iowa Network Services ("INS"), and KIN Networks, Inc. ("KINNET").² As detailed below, the interstate access tariffs filed by these local exchange carriers ("LECs") rely on unexplained and undocumented predictions that radically depart from historical trends and that significantly inflate rates by millions of dollars.

¹ Order, *July 1, 2008 Annual Access Charge Filings*, WCB/Pricing File No. 08-14, DA 08-758 (rel. March 28, 2008) (setting procedures and filing dates for the 2008 annual access charge filings).

² In particular, the Commission should suspend for one day and investigate the following Annual Access Tariffs: South Dakota Network ("SDN"), Transmittal No. 5, FCC Tariff No. 1; Iowa Network Services ("INS"), Transmittal No. 26, FCC Tariff No. 1, and KIN Networks, Inc., ("KINNET"), FCC Tariff No. 1, Letter filing, dated June 24, 2008. *See* Attachment 1, hereto. Suspension and investigation are appropriate where a tariff raises substantial issues of lawfulness. *See, e.g.,* Order, *July 2007 Annual Access Tariff Filings*, 22 FCC Rcd. 11619, ¶ 3 (2007) ("*2007 Suspension Order*").

I. SDN SIGNIFICANTLY UNDERSTATES ITS DEMAND AND OVERSTATES ITS REVENUE REQUIREMENT RESULTING IN SUBSTANTIALLY INFLATED RATES.

In its 2006 Annual Tariff Filing, SDN set rates for the 2006/2007 and 2007/2008 tariff periods (*i.e.*, from July 2006 through June 2008) based on an estimated revenue requirement for the two year period of about \$6.4 million and projected demand of slightly over 1 billion minutes.³ Although SDN has not yet reported actual data for the entire two year period, it is clear that its demand projections were far off the mark, resulting in significant overcharges. Indeed, SDN's data show that its demand for only 12 of the 24 months in the two year period (the 2007 calendar year) was 1.3 billion minutes and that it collected in that period more than \$7 million from ratepayers.⁴ And, based on SDN's bills to AT&T, its demand is up more than 50 percent in the first half of 2008 compared to the same period in 2007. Thus, although SDN has yet to report 2008 demand, it is clear that SDN's demand for the two year period for July 2006 through June 2008 will be at least double what it predicted in its 2006 tariff filing and that SDN will collect more than twice its revenue requirement.

In its 2008 Annual Access Tariff filing, SDN has again substantially understated its demand projections, which will again result in substantial overcharges if those projections are not corrected. SDN predicts that its 2008/2009 demand will actually *decrease by 36 percent* compared to 2007.⁵ But SDN's own historical trend data show that its demand has steadily and substantially *increased* each year from 2003 through 2006, and that it increased by more than 100 percent in 2007.⁶ And, although SDN has not yet provided data showing its actual demand

³ See Exhibit A (these two-year estimates are the one-year estimates multiplied by two).

⁴ See *id.*

⁵ See Exhibit B.

⁶ See *id.*

for the first half of 2008, its bills to AT&T for the first five months of 2008 show an increase in demand of more than 54 percent compared to the same period in 2007. SDN has provided no explanation or documentation as to why it is projecting a 36 percent decrease in demand when all historical trends predict substantial increases. SDN's demand projections thus raise significant questions as to the accuracy and lawfulness of its 2008 Annual Access Tariff filing that merit suspension and investigation.⁷

In addition to substantially understating projected demand in its 2008 Annual Tariff Filing, SDN also implements a substantial unexplained and undocumented increase in its revenue requirement of nearly \$2 million (or 56 percent),⁸ which further inflates its rates. Again, SDN provides no explanation whatsoever for this increase, raising serious questions as to the lawfulness of its tariffs that merit suspension and investigation.

SDN is a rate-of-return carrier that files rates pursuant to Section 61.38 of the Commission's rules, and its rates therefore are computed as a function of its estimated revenue requirement divided by its total projected demand. Therefore, by overstating its revenue requirement (the numerator) and understating its demand projections (the denominator), SDN's proposed rates are substantially inflated. Using SDN's billings to AT&T to estimate industry-wide annual demand suggests that SDN's centralized equal access service rate per minute should be no higher than \$0.002245, not \$0.005975.⁹ AT&T thus estimates that SDN's understated

⁷ That SDN's demand projections for access services are vastly understated is consistent with its history of significantly understating projected demand. In 2004, its projected demand was 10.62 percent below its reported actual demand, and in 2006 its projected demand was 45.32 percent below its reported actual demand. *See* Exhibit B.

⁸ *Compare* Exhibit A, line 1 to Exhibit C, line 7.

⁹ *See* Exhibit C. SDN tariffs have two usage rates: (1) a centralized equal access service rate and (2) an access transport rate. SDN bills AT&T only the centralized equal access service rate.

demand projections and corresponding inflated rates result in potential industry-wide overcharges of at least \$7 million – and that is before making an adjustment for its overstated revenue requirement.¹⁰

II. IOWA NETWORK SERVICES PROPOSES A 73% INCREASES IN THE REVENUE REQUIREMENT THAT RAISES SUBSTANTIAL QUESTIONS OF LAWFULNESS AND ITS COST ALLOCATIONS APPEAR TO VIOLATE THE COMMISSION’S *FREEZE ORDER*.

Since 2004, Iowa Network Services (“INS”) has leveraged a supposed “modernization” program (which began in 2000) to seek extraordinary increases in its revenue requirement. In 2004 it relied on this program to seek a revenue requirement increase of 9.6 percent; in 2006 it again relied on this program to seek another revenue requirement increase of 22.8 percent; and now in 2008 it again relies on this program to seek an extraordinary 73 percent revenue requirement increase.¹¹ Indeed, since 2002 INS has relied on its modernization program to more than double its revenue requirement – from \$8.2 million to \$19.2 million¹² – resulting in significant rate increases. But INS has not provided data or other information sufficient to allow the Commission or ratepayers to confirm that its modernization program has actually resulted in cost changes that justify its repeated and quite significant revenue requirement increases. Accordingly, the Commission should suspend and investigate INS’s 2008 Annual Access Tariffs to ensure that the substantial increases it seeks to make to its revenue requirement – and hence its rates – are just and reasonable.

Accordingly, AT&T’s estimated overcharges do not reflect overcharges associated with access transport rates caused by SDN’s understated demand and inflated revenue requirement errors.

¹⁰ *Id.*

¹¹ *See* Exhibit D.

¹² *See id.*

INS's tariff should be suspended and investigated for a second independent reason: It appears that INS has steadily increased its allocation of costs to the interstate jurisdiction since 2005,¹³ thus violating the Commission's *Freeze Order*, which required carriers to freeze such allocations at 2000 levels.¹⁴ As a result of these apparent unlawful allocations, the costs assigned to the interstate jurisdiction are overstated, thus inflating INS's revenue requirements and hence its interstate rates.

III. KIN NETWORKS' PROJECTED DEMAND IS SIGNIFICANTLY UNDERSTATED RESULTING IN SUBSTANTIALLY INFLATED RATES.

KIN Networks, Inc., ("KINNET") is an independent network operator that tariffs rates pursuant to Section 61.38 of the Commission's rules, 47 C.F.R. § 61.38. However, KINNET has not filed a tariff with revised rates since February 23, 2004. Instead, KINNET has filed letters with the Commission asserting that its costs have not changed since February 2004 and that no rate changes are therefore required.¹⁵ KINNET did so again this year.¹⁶ But, if it is true, as KINNET claims, that its costs have not changed since 2004, then its rates almost certainly are substantially inflated above reasonable levels. Although KINNET has not disclosed its actual demand since February 2004 (because it has not filed revised annual access tariffs since then), the demand reported by other similarly situated independent network operators confirm that KINNET's demand almost certainly has significantly increased since then. For example, the

¹³ INS has increased its interstate allocations for plant investment and associated expenses, including its COE switching expenses, from 39% in 2005, to 51% in 2007 to 71% in its 2008 filing.

¹⁴ Report and Order, *Jurisdictional Separations and Referral to the Federal-State Joint Board*, 16 FCC Rcd. 11382 (2001); Order And Further Notice of Proposed Rulemaking, *Jurisdictional Separations and Referral to the Federal-State Joint Board*, 21 FCC Rcd. 5516 (2006).

¹⁵ See Letter filings dated June 25, 2004, June 26, 2006, and June 24, 2008.

¹⁶ *Id.*

Minnesota Independent Exchange Access Carrier reports that its demand has increased by more than 159% since 2004; as noted, SDN reports demand increases of more than 180% since 2004; and INS reports demand increases of more than 103% since 2004. Thus, if it is true that KINNET's costs have not changed since 2004, then its current rates – which do not reflect the significant demand increases since then – are almost certainly substantially inflated above just and reasonable levels because KINNET's rates are inversely proportional to demand. Accordingly, the Commission should suspend and investigate KINNET's tariffs (which were effectively transmitted to the Commission by its June 24, 2008 letter filing) to determine the extent to which KINNET's rates should be reduced to account for increases in its demand.

CONCLUSION

For the reasons stated above, the Commission should suspend for one day and investigate the tariff revisions filed by SDN, INS and KINNET, as detailed in Attachment 1, and impose an accounting order.

Respectfully submitted,

AT&T Corp.

By /s/ M. Robert Sutherland

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June 26, 2008

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of June, 2008, I caused true and correct copies of the foregoing Petition of AT&T Corp. to be served on all parties as shown on the attached Service List.

Dated: June 26, 2008
Washington, D.C.

/s/ Christopher T. Shenk

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ATTACHMENT 1

**TARIFFS THAT THE COMMISSION SHOULD
SUSPEND AND INVESTIGATE**

<u>COMPANY</u>	<u>FCC TARIFF NO.</u>	<u>TRANSMITTAL NO.</u>
South Dakota Network ("SDN")	1	5
Iowa Network Services ("INS")	1	26
KIN Networks, Inc., ("KINNET")	1	Letter Dated June 24, 2008

NOTE: The above rate-of-return LEC tariffs should be suspended for one day.

EXHIBITS

**South Dakota Network
Comparison of SDN Projections With Actual Results**

Exhibit A

A	B	C	D	E	F
Line	SDN Transmittal No.	Date Filed	Description	Source	
1	Letter	6/26/06	Prospective 2006/2007 Revenue Requirement	COS-2, Row 130	\$3,281,944
2			Prospective 2006/2007 MOUS*	Cost Support-Access Rate Development	544,315,073
3	T-5	6/24/08	Actual 2007 Revenue	COS-2, Row 230	\$7,746,604
			Actual 2007 MOUS	DMD-1, P1 of 3, Row 220, Tandem Switching	1,327,775,942

* Combined Equal Access & Transport Demand

**South Dakota Network
Historical Forecasts and Actual Demand**

Exhibit B

A	B	C	D	E	F	G (Yt-Yt-1)/Yt-1	H	I (Yt+Yt-1)/2	J	K (J - I)	L (K / I)
Line	SDN Transmittal No.	Date Filed	Source	Year	Actuals as filed	Yr/Yr Growth	Tariff Period	Tariff Period Actuals	Forecast as filed	Forecast vs Actuals Difference	Percent Difference
1	T-4	6/24/04	DMD-1, P3 of 3, T-4, 6/24/04	2003	448,712,031		2004/2005	505,976,609	452,264,507	(53,712,102)	-10.62%
2			DMD-1, P24 of 32, Ltr, 6/26/06	2004	472,804,427	5.37%	2005/2006	601,145,787	n/a		
3	Letter	6/26/06	DMD-1, P24 of 32, Ltr, 6/26/06	2005	539,148,790	14.03%	2006/2007	995,459,363	544,315,073	(451,144,290)	-45.32%
4			DMD-1, P24 of 31, T-5, 6/24/08	2006	663,142,784	23.00%	2007/2008	n/a	n/a		
5	T-5	6/24/08	DMD-1, P24 of 31, T-5, 6/24/08	2007	1,327,775,942	100.22%	2008/2009	n/a	855,000,000		
			SDN Projected Decrease From 2007 Actuals to 2008/2009 Projected			-35.61%					

South Dakota Network
Corrected Rate and Revenue Over-Recovery

Exhibit C

Line		Source/Calculation	Terminating Transport Rate Development
1	Actual 2007 MOUs	T-5, 6/24/08, DMD-1, Page 24 of 31	1,327,775,942
2	Estimated 2008 MOUs	Annualized Industry MOUs based on 5 months of AT&T Billing	1,882,531,584
4	2008 over 2007 Percent Growth	$(L2-L1)/L1$	41.78%
5	Additional 6 mos growth thru 6/30/09	$L4/2$	20.9%
6	Projected 2008/2009 MOUs	$L2 * (1+L5)$	2,275,800,126
7	Prospective 2008/2009 Rev Rqmt	T-5, 6/24/08 COS-2, Row 130	\$5,108,709
8	Corrected Rate	$L7/L6$	\$0.002245
9	Proposed Rate	T-5, 6/24/08, Access Rate Development	\$0.005975
10	Percent Difference	$(L9-L8)/L8$	166.2%
11	Rate Difference	$L9-L8$	\$0.003730
12	Revenue Difference	$L11*L6$	\$7,022,410

Iowa Network Services
Test Period Revenue Requirement

Exhibit D

Tariff Period	Source	Test Period Revenue Requirement	Y/Y Gr
2002/2003	Ltr, 6/17/02, Schedule A	\$8,240,648	
2004/2005	T-22, 6/24/04, Sec 2, Sched A	\$9,033,947	9.6%
2006/2007	T-25, 6/26/06, Sec 2, Sched A	\$11,092,328	22.8%
2008/2009	T-26, 6/24/08, Sec 2, Sched A	\$19,226,283	73.3%