

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of	)	
	)	
Verizon Telephone Companies	)	Transmittal No. 430
	)	
Revisions to Tariffs F.C.C. No. 1	)	
	)	

**PETITION OF AT&T CORP.**

Pursuant to Section 1.773 of the Commission's rules, 47 C.F.R. § 1.773, AT&T Corp. ("AT&T") petitions the Commission to reject or suspend and investigate the above-captioned tariff revisions filed by Verizon Telephone Companies ("Verizon") on April 14, 2004, under Transmittal No. 430.<sup>1</sup> In this transmittal, Verizon proposes to introduce Additional Labor charges to cover testing and maintenance with other telephone companies and any other labor not specifically itemized within the tariff. These charges do not offer customers an increased range of options, as compared to those that exist under Verizon's tariff today, and Verizon's filing is thus a "restructure" under

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<sup>1</sup> A tariff is subject to rejection when it is *prima facie* unlawful, in that it demonstrably conflicts with the Communications Act or a Commission rule, regulation or order. *See, e.g., American Broadcasting Companies, Inc. v. AT&T*, 663 F.2d 133, 138 (D.C. Cir. 1980); *MCI v. AT&T*, 94 F.C.C.2d 332, 340-41 (1983). Suspension and investigation are appropriate where a tariff raises substantial issues of lawfulness. *See AT&T (Transmittal No. 148)*, Memorandum Opinion and Order, 56 RR2d 1503 (1984); *ITT (Transmittal No. 2191)*, 73 F.C.C.2d 709, 716, n.5 (1979) (*citing AT&T (Wide Area Telecommunications Service)*, 46 F.C.C.2d 81, 86 (1974)).

the Commission's rules.<sup>2</sup> As a result, Verizon must provide the requisite supporting information to demonstrate that its rates do not exceed applicable price cap index limits.<sup>3</sup>

Currently, Verizon's Tariff F.C.C. No. 1 includes regulations for Testing and Maintenance with other telephone companies in Section 13.2.4 of its tariff. Also, Other Labor not specifically itemized within the regulations for additional labor is found in Section 13.2.5 of its tariff. Thus, the new charges proposed by Verizon do nothing more than increase the rate for these types of labor charges from \$0 to anywhere from \$30 to \$120 depending on the type of additional labor required by the customer. Under these circumstances, Verizon's proposed Additional Labor Charges clearly do *not* constitute a "new service" because they do *not* enlarge the range of service options already available to ratepayers, but rather constitute a "restructure" of an existing service.<sup>4</sup> The Commission's rules define a restructured service as an "offering which represents the modification of a method of charging or provisioning a service; or the introduction of a new method of charging or provisioning that does not result in a net increase in options available to customers."<sup>5</sup> Verizon's Additional Labor Charges meet the definition of a restructured service because Verizon's tariff revisions would increase the existing rate from \$0 to anywhere from \$30 to \$120 per half hour or fraction thereof depending on the type of Additional Labor required by the customer.

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<sup>2</sup> 47 C.F.R. § 61.3(l).

<sup>3</sup> 47 C.F.R. § 61.47(d).

<sup>4</sup> The Commission's rules define a new service offering as a "tariff filing that provides for a class or sub-class of service not previously offered by the carrier involved and that enlarges the range of service options available to ratepayers." 47 C.F.R. § 61.3(x).

<sup>5</sup> 47 C.F.R. § 61.3(l).

Pursuant to the Commission's rules, price cap LECs that restructure their access charges are required to demonstrate that the restructure results in rates that do *not* exceed applicable price cap index limits.<sup>6</sup> In general, this requirement is satisfied if the rate restructure change is, on the whole, revenue neutral, assuming (as is the case here) that Verizon is priced at its cap for special access services.<sup>7</sup> At a minimum, Verizon should be required to re-file its Additional Labor Charges portion of Transmittal No. 430 as a restructured service. This would include the requirement for a tariff review plan ("TRP") and rate detail to demonstrate that the rates do not exceed the applicable price cap index limits. Verizon must also include cost support showing the development of its proposed Additional Labor rates. As filed, Verizon's tariff fails to comply with Commission rules and must be rejected.

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<sup>6</sup> 47 C.F.R. § 61.49(e).

<sup>7</sup> Verizon Transmittal No. 358, filed September 16, 2003, TRP, IND-1.

**CONCLUSION**

For the reasons stated above, the Commission should reject or, in the alternative, suspend and investigate Verizon's Transmittal No. 430 for the full five months and impose an accounting order.

Respectfully submitted,

AT&T CORP.

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April 21, 2004

**CERTIFICATE OF SERVICE**

I, Judy Sello, do hereby certify that on this 21st day of April, 2004, a copy of the foregoing "Petition of AT&T Corp." was served by facsimile and U.S. first class mail, postage prepaid, on the party named below.

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/s/ Judy Sello  
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