Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
July 1, 2006	)	WCB/Pricing File No. 06-15
Annual Access Charge Tariff Filings	)	
	)	

OPPOSITION OF CONSOLIDATED COMMUNICATIONS TO PETITION AND TO AMENDED PETITION OF AT&T INC.

Pursuant to Section 1.773 of the Commission's rules, 47 C.F.R. § 1.773, and to the March 24, 2006 Order (DA 06-649) establishing a procedural schedule, Consolidated Communications,[1] by counsel, hereby responds to the Petition of AT&T Inc. and to the Amended Petition of AT&T Inc. in the above-captioned proceeding.[2]

As is discussed in more detail below, AT&T's assertions that Consolidated Communications improperly developed rates and overstated charges are unfounded. Moreover, AT&T's analysis of Consolidated Communications' rates is flawed.

I. Consolidated Communications Properly Calculated its ADSL Costs and Revenues, and Properly Calculated its Special Access Rates

The ADSL rates for Consolidated Communications -- Texas and for Consolidated Communications – Fort Bend were calculated based upon a study of the unit long run incremental cost of providing ADSL service. That study previously was provided to the Commission on a confidential basis in support of rates that are now being adjusted for the

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[1] The Consolidated Communications family of companies includes the companies referred to as Consolidated Communications – Texas, Consolidated Communications – Fort Bend, and Illiniois Consolidated in the Petition of AT&T Inc. and in the Amended Petition of AT&T Inc.

[2] AT&T filed the Petition of AT&T Inc. on June 23, 2006 and filed the Amended Petition of AT&T Inc. on June 26, 2006 to correct certain errors and omissions in the Petition of AT&T Inc.

first time.[3] Neither AT&T nor anyone else challenged those studies or the rates derived therefrom.

The methodology Consolidated Communications used in the cost studies supporting its existing, unchallenged rates and supporting its proposed rates involves a "bottom-up" analysis of investment and costs. Investment is determined by identifying the actual network equipment used to provide ADSL service. Costs are determined by identifying the business activities associated with supplying ADSL service. The unit LRIC is determined by expressing the long run incremental cost of ADSL on the basis of a single unit of demand, *i.e.* per ADSL line.

Unit LRIC inherently is volume sensitive. Accordingly, to develop the revenue requirements and rates for purposes of the 2006 Access Filing, Consolidated Communications updated its cost study to account for current subscribership levels. The proposed rates for Consolidated Communications – Texas and for Consolidated Communications – Fort Bend reflect that update.

Consolidated Communications' methodology provides for an extremely accurate identification of unit investment and costs, which in turn enables accurate calculation of revenue requirements and rates.

In contrast, the methodology that AT&T used in support of its criticisms of the proposed ADSL rates for Consolidated Communications – Texas and for Consolidated Communications – Fort Bend is much less accurate. AT&T's methodology is based on assumptions about costs rather than the careful analysis of actual costs that Consolidated Communications has conducted.

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[3] TXU Communications Company Transmittal #18 (Dec. 16, 2003) and JSI Transmittal #90 (December 16, 2003).

Critically, AT&T incorrectly assumes that all investment in Categories 4.11 and 4.12 is associated with ADSL.[4] To the contrary, those Categories also include investment necessary to provide other services in those categories.[5] For example, Category 4.11 includes investment in channel termination facilities for wide band special access services other than ADSL. For ratemaking purposes, Consolidated Communications determines the revenue requirement for Categories 4.11 and 4.12 on a consolidated basis and then segregates out the ADSL revenue requirement. The residual revenue requirement is then used to establish special access rates.

AT&T's assertions of cross subsidization similarly are unfounded. Apart from the fact that those assertions are based on inaccurate assumptions that result in AT&T miscalculating revenue requirements, the unit LRIC methodology reduces the likelihood that cross subsidization will occur. Cross subsidization occurs, in economic terms, when the rate for a service recovers less than the long run incremental cost of providing that service. Thus, the existence of a cross subsidy can be determined by comparing the rate charged for that service to its unit LRIC. Setting rates above the unit LRIC virtually eliminates the possibility that rates will be set too low.

At bottom, AT&T's assertions are based on inaccurate assumptions and on a less accurate methodology than that employed by Consolidated Communications. Consolidated Communications' unit LRIC methodology ensures an accurate identification of investment, costs, revenue requirements, and rates. AT&T's assertions,

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[4] This is evident from the fact that AT&T applied estimated annual carrying charges to the total investment in categories 4.11 and 4.12 to arrive at its estimated revenue requirements for ADSL. *See*, *e.g.* Amended Petition at p. 6 and Exhibit 2B.

[5] Category 4.11 includes costs of wideband exchange line circuit equipment. Category 4.12 includes costs for both wideband and non-wideband exchange trunk circuit equipment. 47 C.F.R. § 36.126(c)(1) and (2).

therefore, provide no reasonable or lawful basis for suspending the proposed ADSL rates for Consolidated Communications – Texas and Consolidated Communications – Fort Bend. Contrary to AT&T's erroneous assertions, those rates are just and reasonable.

II. AT&T Offers No Lawful Basis to Suspend Rates of Illinois Consolidated and Consolidated Communications – Fort Bend

AT&T's assertions of systematic bias in rate-making methodologies employed by Illinois Consolidated and Consolidated Communications – Fort Bend rely upon inaccurate statements of the Commission's orders and rules cited in support of those assertions.

As an initial matter and contrary to AT&T's assertions, 47 C.F.R. § 65.700 does not even address the level of scrutiny applicable in tariff review proceedings.[6] Instead, that section establishes 11.25 percent as the target rate of return and provides for a buffer zone around that target for various categories of service. AT&T's citation to Commission orders adopting the 11.25 target and buffer zones is similarly misguided. Indeed, AT&T does not even cite the page of those orders that it purports to support its assertions about the appropriate level of scrutiny.[7]

More troublesome is AT&T's characterization of the *1997 Tariff Order*.[8] The mere fact that AT&T's analysis demonstrates the possibility of some error in rate-making methodology is sufficient to justify suspension of the particular rates AT&T dislikes.

The Commission clearly stated in the *1997 Tariff Order* that it found certain rates to be unlawful after statistical analysis raised the question of whether a rate was just and

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6 *See* Amended Petition at n. 20.

7 *Id*.

8 1997 Annual Access Tariff Filings, Memorandum Opinion and Order, CC Docket 97- 149, FCC 97-403 (rel. Dec. 1, 1997) ("1997 Tariff Order").

reasonable, *and* the carrier proposing the rate (1) failed to offer an adequate explanation of the apparent bias[9] or (2) had not made changes that corrected past errors.[10] Moreover, the Commission expressly declined to find proposed rates to be unjust or unreasonable until after it had reviewed fully the explanations that the subject carriers provided regarding the prior inaccurate projections.[11] Lastly, the Commission conducted its analysis based on data that had been adjusted to account for known issues, other than forecasting errors by the carriers, that could have adversely impacted the carriers' ability to make accurate forecasts.[12]

AT&T's statistical analysis, therefore, is inconclusive of whether the rates AT&T dislikes are unjust or unreasonable.

At the same time, consistent with the *1997 Tariff Order*, Consolidated Communications has corrected prior errors and has identified underlying causes that have contributed to prior overearnings. In addition, Illinois Consolidated's rate of return for traffic sensitive switched access is trending toward the authorized rate of return due to improved forecasting. Following is a more detailed discussion regarding each of the Consolidated Communications companies and rates to which AT&T applied its statistical analysis.

<u>Illinois Consolidated Traffic Sensitive Switched Access</u>

Illinois Consolidated also has taken significant steps toward correcting historical errors. Since the merger of Illinois Consolidated and the former TXU Texas properties,

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9 *1997 Tariff Order* at ¶20.

10 *Id.* at ¶21.

11 *Id.* at ¶49.

12 *Id*. at ¶19.

Consolidated Communications has been working diligently to standardize and to improve processes, including rate-making processes. These efforts are reflected in the increased corporate operations expense that AT&T singles out for criticism in footnote 19 of the Amended Petition. These efforts also are responsible for the remaining "anomalies" and "inexplicable" changes against which AT&T rails in footnote 19 of its Amended Petition.

As is discussed in the Description and Justification contained in the 2006 Access Filing,[13] Illinois Consolidated has corrected historical miscoding of plant among various categories.[14] This has resulted in plant being shifted among categories and has enabled Illinois Consolidated to improve its calculations of revenue requirements and rates. Illinois Consolidated also is implementing processes and procedures to ensure that similar coding errors are not repeated.

Notwithstanding AT&T's efforts to cast these improvements in a bad light, it is in no way surprising that these corrections, which have shifted investment and depreciation among categories, also have impacted rates of return reported for prior periods. Nor should it be surprising that improvements to the processes for tracking investment would improve rate setting.

Moreover, prior reported rates of return were affected by volatility in demand and in expenses. With respect to demand, ever growing reductions in switched minutes of use ("MOU") has complicated forecasting. Since 2003, Illinois Consolidated has experienced an overall reduction in MOU of 14%. Between 2004 and 2005, switched

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[13] *See* Description and Justification at p. 5.

[14] The miscoding was uncovered when Consolidated Communications internal analyses revealed that investment data did not correlate well to line count data.

MOU declined 11.4%. Illinois Consolidated has experienced a corresponding decline in revenue totaling $1.3 million or 25% between 2003 and 2005.

Corporate operations expense has been another area of volatility because of the expenses associated with aligning Texas and Illinois operations in the post merger period. Further, Illinois Consolidated did not realize the same level of cost savings from employee headcount reductions as the Texas properties in the post-merger period. Thus, Illinois Consolidated has not been able to offset increased costs with cost reductions to the same degree as the Texas properties. This has resulted in a net increase in corporate operations expense for Illinois Consolidated.

Contrary to AT&T's assertion, the growth in this expense is 75.6%, not 200%.[15]

The two largest factors in the increased expenses are the continuing information technology integration and conversion projects and compensation and benefits. Fortunately, compensation and benefits expense is stabilizing, which has allowed Illinois Consolidated to keep total corporate operations expense projections flat for the 2006 - 2008 period. Stabilization of this expense should aid in setting rates to better target the authorized rate of return.

Accordingly, AT&T's statistical analysis of prior overearnings provides no basis for suspending or investigating the currently proposed rates. Illinois Consolidated has identified and corrected past errors, and has implemented processes and procedures to prevent similar errors from occurring in the future.

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[15] Corporate operations expense was $22,659,984 in 2005 and was $12,905,779 in 2004. Thus, this expense increased by $9,754,205 or 75.4% between 2004 and 2005.

Consolidate Communications – Fort Bend Special Access

As with Illinois Consolidated, Fort Bend has corrected miscoding of investment within various categories. Since 2002, Fort Bend has invested approximately $11 million in central office and transmission equipment. Over $10 million of the new investment was improperly coded. Fort Bend has corrected the miscoding by adjusting balances of the affected categories, including Categories 4.11 and 4.12 as discussed in the prior sections.

These corrections were made to the years from 2002 forward because the most recent prior central office equipment study was conducted based on 2002 data. The miscoding appears to predate 2002, however, and the cumulative effect of the miscoding undoubtedly contributed to erroneous rate projections in the past.

In a further effort to improve rate projections in the future, Consolidated Communications – Fort Bend is implementing procedures to better monitor accounting for plant and to improve categorization processes.

By correcting historical errors and improving procedures to ensure that past errors are not repeated, Consolidated Communications – Fort Bend has taken adequate measures to address issues that undoubtedly contributed to prior overearnings. Accordingly, there is no basis to suspend or to investigate the currently proposed rates on the basis of AT&T's statistical analysis of prior overearnings.

III. CONCLUSION

For the reasons stated herein, AT&T has presented no lawful basis for suspending or investigating the proposed rates at issue in AT&T's petition and in its amended petition.

Respectfully submitted,

CONSOLIDATED COMMUNICATIONS

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June 29, 2006