

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

AT&T Inc.
Petition for Waiver of
Section 61.42(g) of the
Commission's Rules

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FILED/ACCEPTED

MAR 12 2007

Federal Communications Commission
Office of the Secretary

**AT&T INC. PETITION FOR WAIVER
EXPEDITED TREATMENT REQUESTED**

Pursuant to Sections 0.91(b) and 1.3 of the Commission's rules, AT&T Services Inc., on behalf of the Pacific Bell Telephone Company, Southwestern Bell Telephone Company, The Ameritech Operating Companies, The Southern New England Telephone Company, and Nevada Bell Telephone Company (collectively "AT&T"), requests a limited waiver of Section 61.42(g) to permit AT&T to exclude its TIPToP service from any price cap basket in this year's annual filing. The Wireline Competition Bureau ("Bureau") has delegated authority to waive the requirements of Part 61 of the Commission's rules. As demonstrated herein, there is good cause for the Bureau to grant the waiver relief requested here. Expedited treatment of this Petition is requested.

I. BACKGROUND

True IP to PSTN ("TIPToP") Service is a telecommunications service offered by the AT&T incumbent LECs that provides Internet Protocol Voice Information Service Providers (IP-VIS Providers) with connectivity between the IP-VIS provider's (TIPToP customer's) network and the AT&T network. This service is provided through one-way or two-way port interfaces that provide trunking and switching components in a single easy to use time division multiplexed interface for the customer. With this simplified

interface, the TIPToP customer gets trunking, switching and routing connectivity to AT&T users or non-AT&T users that are connected through (subtended by) AT&T Access Tandems.

TIPToP was tariffed by the AT&T ILECs on November 24, 2004. As a result, pursuant to the Commission's rules, AT&T was required to include this service in the affected price cap basket in the 2005 Annual Price Cap Tariff Filing. AT&T previously requested, and the Bureau granted AT&T, a waiver to exclude TIPToP from price cap regulation in year 2005 and 2006. AT&T is required to include TIPToP in price cap regulation this year, absent an additional waiver.

II. DISCUSSION

The Wireline Competition Bureau, pursuant to delegated authority, may waive the Commission's rules if special circumstances warrant a deviation from the general rules and such deviation would better serve the public interest than would strict adherence to the rules.¹ The Bureau has exercised such authority on numerous occasions and waived Commission rules under Part 61, including Section 61.42(g).²

Pursuant to Section 61.42(g), price cap carriers are required to include all new services in the affected basket in the first annual price cap filing after the based period in which the service was introduced.³ AT&T obtained a limited waiver last year and in 2005 to exclude TIPToP from price cap regulation. AT&T now requests an additional

¹ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969). 47 C.F.R. § 0.91.

² See Verizon Petition for Interim Waiver of Section 61.42(g) of the Commission's Rules, 18 FCC Rcd 6498 (2003); Verizon Petition for Interim Waiver of Sections 61.42(g), 61.38 and 61.49 of the Commission's Rules, Order, WCB/Pricing No. 02-16 (2002).

³ 47 C.F.R. § 61.42(g).

limited waiver to exclude TIPToP from this year's annual filing. As AT&T demonstrates below, special circumstances warrant a grant of such relief.

First, as previously explained, TIPToP is an, innovative service that consists of both switching and trunking elements. Thus, TIPToP does not fit squarely within either the traffic sensitive or trunking basket. The Commission is fully aware of this issue and is currently working to determine the most appropriate price cap treatment for these hybrid services. Until such conclusions are reached, grant of this limited waiver will allow for maintenance of the *status quo*.

There certainly is precedent for the Bureau to grant limited waivers until the Commission resolves critical issues. The Bureau, for example, has granted Verizon multiple waivers of Section 61.42(g) to exclude its advanced services from price cap regulation until the Commission resolves the issues raised in the *Title II Proceeding*.⁵ While there is no formal proceeding to resolve the issues relating to TIPToP, the analysis applies equally here. Rather than force AT&T to include TIPToP in a basket at this juncture, that may or may not ultimately be the best fit, the Bureau should grant this additional limited waiver to allow AT&T to continue to work with the Bureau to determine where TIPToP should reside and, to the extent necessary, the proper regulatory vehicles to accomplish that goal.

Second, grant of this limited waiver would not prove detrimental to the public interest. To date, AT&T has only one customer for the service which is an affiliate. As an excluded service, TIPToP would not affect any services under price cap regulation. Further, AT&T would be required during this limited period to file any revisions to

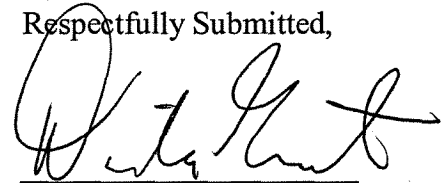
⁵ *Id.*

TIPToP on 15-days notice with cost support, unless it receives a waiver of the foregoing from the Bureau. While AT&T believes that a waiver of those requirements for future revisions would be warranted, the critical point here is the Bureau would continue to maintain oversight of TIPToP, thereby safeguarding the public interest.

III. CONCLUSION

For the reasons set forth herein, AT&T requests that the Commission grant AT&T a limited waiver of Section 61.42(g) so that it may exclude TIPToP from price cap regulation in the 2007 annual price cap tariff filing.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Davida Grant", is written over a horizontal line.

Davida Grant
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READ INSTRUCTIONS CAREFULLY
BEFORE PROCEEDING

FEDERAL COMMUNICATIONS COMMISSION
REMITTANCE ADVICE

Approved by OMB
3060-0589
Page 1 of 1

(1) LOCKBOX #		SPECIAL USE ONLY	
		FCC USE ONLY	
SECTION A - PAYER INFORMATION			
(2) PAYER NAME (if paying by credit card enter name exactly as it appears on the card) Davida Grant/AT&T Services Inc.		(3) TOTAL AMOUNT PAID (U.S. Dollars and cents) \$775.00	
(4) STREET ADDRESS LINE NO. 1 1120 20 th Street NW			
(5) STREET ADDRESS LINE NO. 2 Suite 1000			
(6) CITY Washington		(7) STATE DC	(8) ZIP CODE 20036
(9) DAYTIME TELEPHONE NUMBER (include area code) 202-457-2045		(10) COUNTRY CODE (if not in U.S.A.)	
FCC REGISTRATION NUMBER (FRN) REQUIRED			
(11) PAYER (FRN) 0008644056		(12) FCC USE ONLY	
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C) COMPLETE SECTION BELOW FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET			
(13) APPLICANT NAME			
(14) STREET ADDRESS LINE NO. 1			
(15) STREET ADDRESS LINE NO. 2			
(16) CITY		(17) STATE	(18) ZIP CODE
(19) DAYTIME TELEPHONE NUMBER (include area code)		(20) COUNTRY CODE (if not in U.S.A.)	
FCC REGISTRATION NUMBER (FRN) REQUIRED			
(21) APPLICANT (FRN)		(22) FCC USE ONLY	
COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET			
(23A) CALL SIGN/OTHER ID	(24A) PAYMENT TYPE CODE CQK	(25A) QUANTITY	
(26A) FEE DUE FOR (PTC)	(27A) TOTAL FEE \$775.00	FCC USE ONLY	
(28A) FCC CODE 1		(29A) FCC CODE 2	
(23B) CALL SIGN/OTHER ID	(24B) PAYMENT TYPE CODE	(25B) QUANTITY	
(26B) FEE DUE FOR (PTC)	(27B) TOTAL FEE	FCC USE ONLY	
(28B) FCC CODE 1		(29B) FCC CODE 2	
SECTION D - CERTIFICATION			
CERTIFICATION STATEMENT I, <u>Davida Grant</u> , certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief.			
SIGNATURE <u>Davida Grant</u>		DATE <u>3-12-07</u>	
SECTION E - CREDIT CARD PAYMENT INFORMATION			
ACCOUNT NUMBER <u>[REDACTED]</u> MASTERCARD <input checked="" type="checkbox"/> VISA <input type="checkbox"/> AMEX <input type="checkbox"/> DISCOVER <input type="checkbox"/>			
EXPIRATION DATE <u>[REDACTED]</u>			
I hereby authorize the FCC to charge my credit card for the service(s) authorization herein described.			
SIGNATURE <u>Davida Grant</u>		DATE <u>3-12-07</u>	

SEE PUBLIC BURDEN ON REVERSE

FCC FORM 159

FEBRUARY 2003 (REVISED)