

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

In the Matter of	)	
	)	
AT&T Inc.	)	WCB/Pricing File No. 07-08
Petition for Waiver of	)	
Section 61.42(g) of the	)	
Commission's Rules	)	

**REPLY COMMENTS OF AT&T INC.**

AT&T Inc., on behalf of the Ameritech Operating Companies, Nevada Bell Telephone Company, Pacific Bell Telephone Company, Southern New England Telephone Company and Southwestern Bell Telephone L.P., (collectively "AT&T"), hereby files these reply comments in response to the Opposition of the Ratepayers' Association of New Jersey ("Association"). For the reasons detailed below, the Commission should deny the Association's Petition and grant AT&T the requested waiver.

The Association claims that AT&T has failed to justify its need for a waiver. Specifically, the Association argues that AT&T's request in essence is based on an erroneous assumption that the Wireline Bureau is authorized to determine which price cap basket is appropriate for AT&T's TIPTop Service. According to the Association, the issue is a novel one that can only be addressed by the Commission, with the requisite notice and comment period.

To the contrary, AT&T has sufficiently demonstrated its need for a waiver. As AT&T explained in its Petition, TIPTop does not fit squarely in the trunking or traffic sensitive basket, a fact the Association does not deny. Consequently, it is not clear under

the existing price cap rules whether AT&T could fully incorporate TIPTop in either basket. Given the intricacies of the TIPTop product, any reasonable allocation between the two baskets could be quite difficult. TIPTop consists of two rate elements, a port charge and usage charge, both of which are comprised of multiple trunking basket and traffic sensitive basket services. The amount of use of these services will vary significantly depending on the customer and its specific transport needs. Any one-size-fits-all allocation method therefore would not make sense for TIPTop customers as a whole.<sup>1</sup>

The Association is correct that AT&T has sought guidance from and is working with Bureau staff to determine where TIPTop and other innovative, hybrid services like TIPTop should reside under the existing price cap regime, and the appropriate regulatory vehicle. While the Bureau likely does not have authority to adopt a new basket or service category for hybrid services like TIPTop, the Bureau does have authority to waive the Commission's rules until the Commission acts to determine where innovative, hybrid services like TIPTop should reside under the price caps regime. AT&T is only requesting that the Commission exercise such authority here.

Moreover, the Association obviously misunderstands the current regulatory oversight applicable to TIPTop. Any rate increases or change in terms or conditions for TIPTop must be filed on 15-days notice *with cost support*. Thus, the Bureau would continue to maintain significant regulatory oversight over TIPTop, and importantly, more

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<sup>1</sup> AT&T recognizes that to date it only has one such customer. But any methodology required would extend to future customers as well. Further, given that there is only one customer, the time, effort, and resources necessary to develop a sensible allocation method far outweigh any potential benefit.

regulatory oversight than over most services subject to price cap regulation.<sup>2</sup> Such oversight would effectively thwart any opportunity for AT&T to engage in discriminatory or anti-competitive pricing.

### **CONCLUSION**

For the foregoing reasons, the Commission should expeditiously grant AT&T's request for waiver to exclude TIPTop from this year's annual filing.

Respectfully Submitted,

/s/ Davida Grant

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<sup>2</sup> For example, carriers are permitted to file changes to price cap services without cost support.