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

| | | |
|---|---|---|
| In the Matter of | ) | |
| July 1, 2007 | ) | WCB/Pricing File No. 07-10 |
| Annual Access Charge Tariff Filings | ) | |
| Alliance Communications Cooperative, Inc. | ) | Transmittal No. 7 |
| Tariff F.C.C. No. 2 | ) | |
| Broadband Network Group, LLC | ) | Transmittal No. 1 |
| Tariff F.C.C. No. 1 | ) | |
| Arthur Mutual Telephone Company | ) | |
| Bascom Mutual Telephone Company | ) | |
| Benton Ridge Telephone Company | ) | |
| Buckland Telephone Company | ) | |
| Fort Jennings Telephone Company | ) | |
| Glandorf Telephone Company, Inc. | ) | |
| Kalida Telephone Company, Inc. | ) | |
| Middle Point Home Telephone Company | ) | |
| Ottoville Mutual Telephone Company | ) | |
| Ridgeville Telephone Company | ) | |
| Sherwood Mutual Telephone Association, Inc. | ) | |
| Vaughnsville Telephone Company | ) | |
| Consortia Consulting Tariff F.C.C. No. 1 | ) | Transmittal No. 1 |
| Beresford Municipal Telephone Company | ) | |
| McCook Cooperative Telephone Company | ) | |
| Roberts County Tel. Coop. Ass'n / RC Comms., Inc. | ) | |
| Western Telephone Company | ) | |
| Elsie Communications, Inc. | ) | Transmittal No. 1 |
| Tariff F.C.C. No. 1 | ) | |
| Farmers Mutual Telephone Company | ) | Transmittal No. 1 |
| Tariff F.C.C. No. 1 | ) | |
| ICORE, Inc. | ) | Transmittal No. 80 |
| Tariff F.C.C. No. 2 | ) | |
| Jordan-Soldier Valley Telephone Company | ) | |
| Killduff Telephone Company | ) | |
| Lynnville Telephone Company | ) | |
| Northeast Iowa Telephone Company, Inc. | ) | |

| | | |
|---|---|---|
| Reasnor Telephone Company | ) | |
| Sully Telephone Association | ) | |
| | ) | Transmittal No. 130 |
| John Staurulakis, Inc. | ) | |
| Tariff F.C.C. No. 1 | ) | |
| Chesnee Telephone Company | ) | |
| Gearheart Communications Company, Inc. d/b/a | ) | |
| Coalfields Telephone Company | ) | |
| Skyline Telephone Membership Corp. | ) | |
| Yadkin Valley Telephone Membership Corp. | ) | |
| | ) | Transmittal No. 1 |
| Royal Telephone Company | ) | |
| Tariff F.C.C. No. 1 | ) | |
| | ) | |
| Union Telephone Company | ) | Transmittal No. 77 |
| Tariff F.C.C. No. 2 | ) | |
| | ) | |

**PETITION OF AT&T CORP. TO SUSPEND AND INVESTIGATE LEC TARIFFS FILED PURSUANT TO SECTION 61.39**


David L. Lawson
James P. Young
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 2005
Tel. (202) 736-8088
Fax (202) 736-8711

Peter Jacoby
Gary L. Phillips
Paul K. Mancini
AT&T Inc.
1120 20th Street, N.W.
Suite 1000
Washington, D.C. 20036
Tel. (202) 457-3043
Fax (202) 457-3073

*Attorneys for AT&T Corp.*


June 22, 2007

**TABLE OF CONTENTS**

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

| | | |
|---|---|---|
| In the Matter of | ) | |
| July 1, 2007 | ) | WCB/Pricing File No. 07-10 |
| Annual Access Charge Tariff Filings | ) | |
| Alliance Communications Cooperative, Inc. | ) | Transmittal No. 7 |
| Tariff F.C.C. No. 2 | ) | |
| Broadband Network Group, LLC | ) | Transmittal No. 1 |
| Tariff F.C.C. No. 1 | ) | |
| Arthur Mutual Telephone Company | ) | |
| Bascom Mutual Telephone Company | ) | |
| Benton Ridge Telephone Company | ) | |
| Buckland Telephone Company | ) | |
| Fort Jennings Telephone Company | ) | |
| Glandorf Telephone Company, Inc. | ) | |
| Kalida Telephone Company, Inc. | ) | |
| Middle Point Home Telephone Company | ) | |
| Ottoville Mutual Telephone Company | ) | |
| Ridgeville Telephone Company | ) | |
| Sherwood Mutual Telephone Association, Inc. | ) | |
| Vaughnsville Telephone Company | ) | |
| Consortia Consulting Tariff F.C.C. No. 1 | ) | Transmittal No. 1 |
| Beresford Municipal Telephone Company | ) | |
| McCook Cooperative Telephone Company | ) | |
| Roberts County Tel. Coop. Ass'n / RC Comms., Inc. | ) | |
| Western Telephone Company | ) | |
| Elsie Communications, Inc. | ) | Transmittal No. 1 |
| Tariff F.C.C. No. 1 | ) | |
| Farmers Mutual Telephone Company | ) | Transmittal No. 1 |
| Tariff F.C.C. No. 1 | ) | |
| ICORE, Inc. | ) | Transmittal No. 80 |
| Tariff F.C.C. No. 2 | ) | |
| Jordan-Soldier Valley Telephone Company | ) | |
| Killduff Telephone Company | ) | |
| Lynnville Telephone Company | ) | |
| Northeast Iowa Telephone Company, Inc. | ) | |

| | | |
|---|---|---|
| Reasnor Telephone Company<br>Sully Telephone Association | ) | |
| | ) | Transmittal No. 130 |
| John Staurulakis, Inc.<br>Tariff F.C.C. No. 1<br>Chesnee Telephone Company<br>Gearheart Communications Company, Inc. d/b/a<br>Coalfields Telephone Company<br>Skyline Telephone Membership Corp.<br>Yadkin Valley Telephone Membership Corp. | ) | |
| | ) | Transmittal No. 1 |
| Royal Telephone Company<br>Tariff F.C.C. No. 1 | ) | |
| | ) | |
| Union Telephone Company<br>Tariff F.C.C. No. 2 | ) | Transmittal No. 77 |

**PETITION OF AT&T CORP. TO SUSPEND AND INVESTIGATE LEC TARIFFS FILED PURSUANT TO SECTION 61.39**

Pursuant to section 204(a)(1) of the Communications Act, 47 U.S.C. § 204(a)(1) and section 1.773 of the Commission's Rules, 47 C.F.R. § 1.773, AT&T Corp. ("AT&T") respectfully requests that the Commission suspend for one day, investigate and issue an accounting order for the above-captioned individual interstate access tariffs filed by rate-of-return local exchange carriers ("LECs") pursuant to 47 C.F.R. § 61.39. There is unquestionably a high probability that the tariffs will be found unlawful after investigation, that those unreasonable rates will not corrected in a subsequent filing, and that suspension, investigation and entry of an appropriate accounting order are necessary to protect the public interest and prevent irreparable harm to ratepayers.

## INTRODUCTION AND SUMMARY

Section 204 of the Communications Act grants the Commission broad authority, on its own initiative or upon request, to suspend and investigate tariff filings that propose rates that are

of questionable lawfulness. As the Commission has recognized, suspension and investigation of tariffs is an especially essential element of the core mandate to ensure just and reasonable rates where, as here, highly suspect tariffs raising substantial questions of lawfulness are filed on a streamlined basis. *See, e.g., July 1, 2004, Annual Access Charge Tariff Filings*, 19 FCC Rcd 23877, ¶ 7 (2004) ("*NECA Order*") ("When tariffs . . . are filed pursuant to the 'deemed lawful' provisions of the statute . . . it is incumbent upon us to suspend and investigate the tariff filing if it may reflect unjust and unreasonable rates").

If ever there were a case for the Commission to exercise its suspension authority, this is it. The streamlined tariff filings at issue here are by a group of small rate-of-return regulated incumbent LECs that have elected to leave the NECA traffic sensitive "pool" tariff used by over 99 percent of small LECs and to incur the expense of filing their own individual switched access tariffs. In a typical year, no more than a handful of LECs exit the pool to file tariffs pursuant to Rule 61.39. This year, an astounding twenty-nine LECs have done so, and it is common knowledge that this mass exodus is not for any legitimate purpose contemplated by the Commission's tariffing rules, but instead is an opportunistic response to the illicit "traffic pumping" schemes that certain unscrupulous LECs used during the last two-year tariff effectiveness period as a means of extracting multi-million dollar windfalls from access ratepayers.

The Commission is well aware of the mechanics of these traffic-pumping schemes: (1) the LEC leaves the NECA pool and files an individual tariff under Rule 61.39 that establishes high terminating access charges based on the false pretense that its traffic volume will continue at historically low levels commensurate with the very small population it serves; (2) the LEC enters into kickback arrangements with communications service providers offering (usually

"free") chat and other domestic and international calling services, which results in millions of calls between non-residents of the rural communities the LEC serves being routed through the LEC's exchange; and (3) the LEC bills its access customers terminating access charges for these calls, generating revenues and returns that exceed the LEC's cost of service and authorized return by orders of magnitude.

As AT&T and others have demonstrated, these traffic pumping schemes are already causing myriad serious public interest harms that go well beyond the patently unjust and unreasonable rates they have spawned.[1] But the "rewards" available to any LEC that can get away with traffic pumping are enormous. For example, in 2005 Superior Telephone, a rural Iowa LEC that serves about 200 households, exited the NECA pool, raised its terminating access rate to more than 13 cents per minute, and entered into traffic pumping arrangements with communications service providers that, among other things, advertised free international calls to China and free access to Hot Live Sex Chat lines by dialing Iowa numbers supplied by Superior. Within months, Superior's *monthly* switched access billings to AT&T alone skyrocketed from about $2,000 to more than *$2 million*. In 2006 Sully Telephone Company, another small Iowa incumbent LEC, spun off a single exchange that served less than 300 lines as the new Reasnor Telephone Company. Reasnor's traffic-pumping schemes were already well underway when it

[1] *See*, *e.g.*, Letter from James W. Cicconi (AT&T) to Kevin J. Martin (FCC), dated April 4, 2007 ("These schemes are transparently designed to evade core Communications Act protections against unjust and unreasonable rates and practices, as well as protections against the exposure of children to pornographic content" and "[t]hey make a mockery of the universal service system given that these very same LECs are receiving federal universal service subsidies even as they earn staggering returns" from their schemes); Letter from Chester J. Culver (Governor, Iowa) to Kevin J. Martin (Chairman, FCC), dated April 30, 2007 ("Recent activities by a voice over Internet service provider, partnering with rural ILECs, providing free voice mail boxes to customers nationwide via the Internet has had a dramatic impact on numbering resources in two of Iowa's area codes").

filed its FCC tariff – a fact that Reasnor concealed by unlawfully basing its approximately 10-cent per minute switched access rate on its 2004 traffic volumes – and access charge billings to AT&T for the Reasnor exchange quickly increased several hundredfold.

Not surprisingly, telecommunications "consultants," citing the experience of Superior, Reasnor and other existing traffic-pumping LECs, have been hyping these "get rich quick" schemes to small LECs throughout the country. Thus, just as current LEC perpetrators concentrated in Iowa are poised to hop back into the NECA pool to avoid any rate consequences of their traffic-pumping schemes, the Commission and the industry are now faced with 29 new tariff filings under Rule 61.39. Small LECs from South Dakota, Ohio, Nebraska, Kentucky and several other states all have exited the NECA pool and have filed new rates that, in many instances, are *hundreds* of percent higher (and for some rate elements many *thousands* of percent higher) than their previous NECA rates.[2] These LECs are all now apparently hoping that the Commission will look the other way while they replicate the traffic pumping schemes that their Iowa brethren have used to earn millions of dollars above their Commission-prescribed interstate returns.

There cannot be any serious doubt that these tariffs raise such grave questions of lawfulness that they demand suspension and investigation. To ensure that the rates of all rate-of-return carriers are "just and reasonable" under Section 201(b) of the Act, 47 U.S.C. § 201(b), the Commission has prescribed an authorized rate of return, and "[v]iolations of rate of return

[2] For example, Vaughnsville Telephone Company's new tariff raises its local switching rate from about 1.9 cents per minute to more than 9.2 cents per minute (a 383% increase), and it raises tandem switched transport facilities rate from less than .02 cents to more than more than 1.6 cents (more than a *ten thousand* percent increase).

prescriptions are *per se* violations of the duty to charge only 'just and reasonable' rates.'"[3] Nor can it seriously be doubted that there is an extraordinarily high probability that these small LECs are leaving the NECA pool to engage in traffic pumping and thereby earn returns that far exceed the Commission-prescribed levels. *Every* small LEC that has left the NECA pool under Rule 61.39 in the past two years has done just that, with traffic pumping volume increases of more than *four thousand percent* on average.[4] Some of the small LECs that are now leaving the NECA pool have even engaged in traffic pumping in the past (or are affiliated with other LECs that have done so), and, based upon recent increases in access charge billings, it appears that some of these LECs may have already have initiated traffic pumping schemes in anticipation of their tariff filings. Indeed, the LECs no longer even seriously attempt to disguise their motivations.[5]

The Commission clearly has inherent authority (and indeed, the obligation) under § 204 to suspend and investigate the tariffs in these circumstances and, as discussed below, it has repeatedly exercised that authority in far less egregious situations. The Commission's inherent authority to enforce the Act's just and reasonable rate requirement and its own rate-of-return prescription is not at all affected by the mere fact that a LEC's tariff may technically comply with one of the multiple procedural options under which a small LEC may file tariffs, because both the LEC and the Commission have an overriding duty to ensure that such tariffs comply with § 201 and the rate-of-return prescription. In all events, as AT&T demonstrates below, the

[3] *Virgin Islands Tel. Corp.* v. *FCC,* 444 F.3d 666, 669-70 (D.C. Cir. 2006).

[4] *See* Exhibit 1, attached hereto.

[5] *See* Letter from J. Dupree (NECA) to Secretary (FCC), Application No. 308, dated June 5, 2007 (discussing the advice of "consultants" who now recommend that certain LECs avoid such schemes because "the regulatory climate has changed").

four-part test for tariff suspension upon the motion of a third party under Section 1.773(a)(1)(iii) is easily satisfied here.

Whether the Commission suspends and investigates these tariffs on its own motion or pursuant to a petition by AT&T or third parties, the Commission should, as part of the investigations: (1) compel these LECs to disclose sufficient information to ensure that they will not engage in traffic pumping schemes that will result in unjust and unreasonable returns, and, in particular, to disclose any existing or planned access kickback arrangements (or "marketing agreements" as the LECs and their traffic pumping partners refer to these arrangements) and (2) ask these LECs to certify that they will not participate in any such arrangements or traffic pumping schemes during the period in which the tariff at issue is in effect. If a LEC fails to so certify, the Commission should conclude the investigation of that LEC's tariff by prescribing a rate formula to be incorporated into the tariff, whereby the tariffed rate would be automatically recalculated to reflect the updated demand according to the same simple formula the LEC used to set the rates initially if the LEC's traffic levels increase over historical levels by more than 100% in any quarter. Finally, the Commission should conclude the investigations of the tariffs of any of these LECs that do certify that they will not engage in such traffic-pumping schemes by finding that the rates are merely "legal" and not "lawful," thereby preserving the indisputable availability of refunds if a LEC subsequently engages in traffic pumping that renders its rates unjust and unreasonable.

In addition to these 29 LECs leaving the NECA traffic-sensitive pool this year, two other LECs that exited the pool in prior years have also filed Rule 61.39 rates that raise such crucial questions of lawfulness that those filings should be suspended and investigated. First, the Commission should suspend the tariff of Reasnor, one of the most notorious traffic-pumping

LECs. Instead of hopping back into the NECA pool at the end of its tariff review period like most other traffic pumpers, Reasnor has filed a new tariff that keeps its terminating access rates high by instituting a radical increase in its common transport rate to offset mandated reductions to its local switching rate. As explained below, Reasnor's attempt to maintain high overall switched access rates is based on a gross abuse of the average schedule formula, which produces plainly unjust and unreasonable results when applied to LECs with an established history of traffic pumping. Second, the Commission should suspend and investigate the tariff of Union Telephone Company, Inc. ("Union"), because the rates in Union's tariffs are substantially inflated by its use of historical demand figures that are less than half of the actual demand that Union itself previously reported.

## ARGUMENT

### I. THE COMMISSION SHOULD SUSPEND AND INVESTIGATE THE TARIFFS OF THE 29 LECS LEAVING NECA UNDER 47 C.F.R. § 61.39.

"To enforce [Section 201(b)], the Commission has prescribed an authorized rate of return of 11.25 percent for rate of return carriers."[6] The rate of return prescription applies to all LECs that file tariffs under 47 C.F.R. § 61.39, regardless of whether the carrier was a "cost of service" or "average schedule" carrier under NECA. As explained by the Commission, rates filed in tariffs under 47 C.F.R. § 61.39 "remain subject to the rate of return" prescription established by the Commission.[7] And, it is settled that "[v]iolations of rate of return prescriptions are *per se*

[6] *NECA Order* ¶ 8.

[7] *Regulation of Small Tel. Cos.*, 2 FCC Rcd. 3811, ¶ 14 (1987) ("*Small Carrier Tariff Order*"); *see also id.* ¶ 18 n.27 (small LECs "electing to use" § 61.39 to compute rates "would compute rate[s] based on the target [*i.e.*, prescribed] rate of return"); *id.* ¶ 7 (stating that § 61.39 "should not permit or provide incentives for small companies to file access tariffs producing excessive returns"); *id.* ¶ 18 ("we emphasize that these carriers remain subject to the rate-of-return (continued…)

violations of the duty to charge only 'just and reasonable' rates.'"[8] As the D.C. Circuit has explained, "[t]he idea of a rate prescription under section 205 is that the agency has proclaimed that a certain situation – here a return in excess of 10% – is unlawful and shall not occur."[9]

Accordingly, the Commission has consistently suspended and investigated tariffs when it appears that a small LEC's tariffed rate may result in returns that substantially exceed the rate-of-return prescription. For example, in 1997, AT&T challenged the rates of a small LEC (Beehive Telephone Company) that, like the LECs here, had exited NECA and filed rates pursuant to 47 C.F.R. § 61.39.[10] AT&T contended that "given Beehive's . . . alleged ongoing efforts to manipulate the existing rate setting procedures, it is unclear whether Beehive's proposed rate reductions comply with the Commission's prescribed rate of return."[11] The Common Carrier Bureau ("Bureau") agreed that Beehive's tariff "raises significant questions of lawfulness, including whether it . . . contains any unjust and unreasonable charge . . . in violation

---

(…continued)
prescription in effect at the time the rates are effective. Therefore, if the actual return of an exempted carrier [*i.e.*, exempted from the *automatic* refund obligations that then applied to other rate-of-return regulated LECs] exceeds the authorized return, the Commission reserves the right, at its discretion, to enforce its rate of return prescription by appropriate action, included the imposition of refunds"); 47 C.F.R. § 61.39(c) ("rates must be calculated based on the [LEC's] prescribed rate of return applicable to the period during which the rates are effective").

[8] *Virgin Islands Tel.*, 444 F.3d at 669-70. *See also Global Crossing Telecommunications, Inc.* v. *Metrophones Telecommunications, Inc.*, 127 S. Ct. 1513, 1519-20 (2007) (permitting Commission to "treat a violation of the [rate-of-return] prescription as a *per se* violation of the requirement of the Communications Act that a common carrier maintain 'just and reasonable' rates").

[9] *NETCO* v. *FCC*, 826 F.2d 1101, 1106 (D.C. Cir. 1987); *see also id.* ("Certainly carriers cannot intentionally try to violate an outstanding prescription, but that does not mean that they may achieve through inadvertence what they are forbidden from doing by design").

[10] *See* Suspension Order, *Beehive Tel. Co., Inc., Beehive Tel., Inc. Nev., Tariff F.C.C. No. 1, Transmittal No. 6*, 12 FCC Rcd. 11695 (1997).

[11] *Id.* ¶ 3.

of Section 201(b) of the Communications Act," and the Bureau therefore suspended Beehive's tariff, and set it for investigation and an accounting.[12]

The tariffs at issue here present an even clearer case for suspension and investigation. The Commission has more than sufficient cause to question whether these tariffs will produce returns that far exceed the governing rate-of-return prescription and that are thus unjust and unreasonable in violation of 47 U.S.C. § 201(b). As noted, in the past two years *all* of the small LECs that have filed their own FCC tariffs under Rule 61.39 after exiting the NECA pool have engaged in traffic pumping schemes, producing traffic volumes on average more than *four thousand percent* higher than the traffic volumes they used to set their tariffed switched access rates, and thus earning returns orders of magnitude higher than their authorized returns.[13]

These traffic pumping schemes follow a well-established pattern. The first step is to leave the NECA pool – as these LECs have now done – because participation in the NECA pool tariff limits a LEC's ability to profit from illicit traffic pumping schemes. The second step is to file an interstate tariff under Rule 61.39 with terminating access rates based on historical traffic volumes.[14] In particular, the rates are set to recover the LEC's costs including the authorized

---

[12] *Id.* ¶ 6.

[13] *See* Exhibit 1, attached hereto. In a recent letter to the Commission LECs admitted that traffic volumes should not ordinarily exceed historic volumes "by more than 50%" and certainly "all filers realize volumes that do not [ordinarily] exceed historic averages by more than 100%." Letter from Robert Soat (Superior Telephone Co.), Ronald Laudner (Farmers and Riceville Telephone Cos) and Michael Weiss (Interstate 25 Telephone Co.) to FCC Commissioners, entitled "Letter of Iowa Rural ILECs Proposing Clarification of § 61.39 Tariffing Rules," dated June 4, 2007.

[14] Rule 61.39 has different requirements for "cost of service" and "average schedule" LECs. "Cost of service" LECs previously participated in NECA and filed cost studies with NECA. "Average schedule" LECs previously participated in NECA but did not file such cost studies and instead received "settlements" based on a NECA formula. Upon exiting NECA, a cost of service LEC that chooses to file tariffs pursuant to 47 C.F.R. § 61.39 must file a cost study supporting the rates in the tariff, but that cost study may rely on historic traffic volumes from the previous (continued…)

return assuming the LEC will "sell" the same amount of terminating access services (assuming the same amount of traffic) that it sold in the past. Here, this practice yields new rates for many of these LECs that are hundreds of percent higher (and thousands of percent higher for certain specific rate elements) than the rates they were permitted to charge while participating in NECA.[15] The final step is to establish one or more traffic pumping arrangements with communications service providers – pornographic chat lines and "free" international calling services are particularly popular variants – to route millions of additional calls through the LEC's exchange (in return for access charge kickbacks). The LEC then "sells" far more terminating access services than it sold in the past but at the same high rates, thus earning dramatically higher returns. Applying these schemes, all of the small LECs that left NECA in the past two years under Rule 61.39 were able to earn returns that exceed the lawful, Commission-prescribed return by orders of magnitude.

This history is especially relevant to several of these 29 LECs, because some of these LECs have left NECA before to engage in traffic pumping schemes. For example, Lynnville Telephone Company has been hopping into and out of the NECA pool every two years since 1998, with its traffic increasing exponentially each time it exits (*e.g.*, 500,000 minutes in 2002, versus 68.5 million minutes in 2004 after Lynnville left the pool).[16] Similarly, Sully Telephone Company left the pool in 2003 and its traffic increased by more than 1500 percent. Indeed, Sully

(…continued)
12 months. *Id.* § 61.39(b)(1). An average-schedule LEC may charge rates sufficient to allow the LEC to earn the revenues it would have earned if it had stayed in NECA. *Id.* § 61.39(b)(2). These rates are effectively based on historical data because they reflect the amount of traffic used by NECA, which does not tend to increase dramatically from period to period.

[15] *See* Exhibit 2, attached hereto.

[16] *See* NECA and USAC Data, Network Usage By Carrier, available at www.fcc.gov.

has spun off some of its exchanges into separate affiliates, so that it can consistently swap affiliates into and out of NECA and maintain at least one affiliate outside of NECA at all times for the purpose of traffic pumping. Searsboro Telephone Company, Killduff Telephone Company, and Reasnor are all Sully affiliates that have exited or are currently exiting the NECA pool.[17] And Sully itself is exiting the pool this year, and, according to AT&T's records, has jumped the gun and is already engaging in substantial traffic pumping.

But even setting that history aside, the mere fact that 29 LECs are suddenly seeking to leave NECA by itself justifies suspension and investigation of these tariffs. Typically, only a few LECs leave NECA in any given year and file their own tariffs under Rule 61.39. That is because participating in the NECA pool has significant advantages. As explained by the Commission, "[b]y participating in the NECA pool, small telephone companies avoid the administrative costs and burdens of filing and maintaining their own interstate access tariffs, while reducing their risks and virtually guaranteeing themselves a steady interstate return." *Small Carrier Tariff Order* ¶ 2. The sheer number of small LECs that are suddenly willing to forgo the substantial cost savings offered by the NECA pool is so grossly disproportionate to the historic norm that the only logical explanation is that they intend to engage in traffic pumping schemes.[18]

The Commission (or the Bureau, *see* §§ 0.91, 0.291) clearly has independent authority pursuant 47 U.S.C. § 204 to suspend and investigate tariffs on its own motion where, as here,

---

[17] *See July 2007 Annual Access Charge Tariff Filings*, Petition of Verizon to Suspend and Investigate Tariff Filings, WCB/Pricing File No. 07-10, at 10-11 (filed June 19, 2007).

[18] Because access ratepayers have identified some of these schemes (albeit at significant expense) and have brought lawsuits for damages and to stop such schemes, some of the LECs that initially sought to leave NECA this year to engage in these schemes have returned to NECA after all, citing changes in the "regulatory climate" and the potential for "costly litigation." *See* (continued…)

there are significant questions concerning the lawfulness of the tariffs.[19] And, the mere fact that these LECs' tariffs, by relying on historic traffic volumes, may comply with the technical procedural requirements of the tariffing rule under which they have chosen to file, *i.e.*, 47 C.F.R. § 61.39, does not shield the tariffs from suspension. As a preliminary matter, LECs are not *required* to file tariffs under § 61.39; rather they have the *option* to do so.[20] A LEC that believes that setting rates under the § 61.39 procedures would result in unjust and unreasonable rates, therefore, has a duty to use the traditional tariff filing procedures pursuant to 47 C.F.R. § 61.38, which requires LECs to set rates based on projected and not historical demand.[21]

If such a LEC nonetheless chooses to file rates pursuant to § 61.39, the Commission has expressly retained authority to suspend and investigate those rates. The procedures set forth in 47 C.F.R. § 61.39 that allow small LECs to compute rates using historical demand do not rest on any substantive finding that rates based upon historic demand will necessarily be just and

---

(…continued)
Letter from J. Dupree (NECA) to Secretary (FCC), Application No. 308, dated June 5, 2007.

[19] *See* Memorandum Opinion and Order, *Investigation of Access and Divestiture Related Tariffs*, CC Docket No. 83-1145, 1983 FCC LEXIS 396, ¶ 8 n.6 (1983) (rejecting argument that a "request for suspension should be denied as premature and not in compliance with Section 1.773" and finding that the Commission "need not reach these arguments, since the Commission has the authority on its own motion to suspend and investigate tariffs, 47 U.S.C. § 204(a), and we [the Commission] have concluded that the circumstances of this case warrant such suspension").

[20] 47 C.F.R. § 61.38(a); *Small Carrier Tariff Order* ¶ 16 ("[i]f a small company believes that using future projections to set its rates is important, it can of course elect to use that method").

[21] If the LEC knows or has reason to believe that historical data will not be a "close and unbiased substitute" for prospective data, Section 201 of the Act and the rules themselves prohibit the LEC from relying on historical data. *See also* 47 C.F.R. § 61.39(a) (authorizing Commission to "require any carrier to submit such information as may be necessary for review of a tariff filing"); 47 C.F.R. § 1.17(a) (prohibiting omission of material information in tariff proceedings); *RKO Gen., Inc.* v. *FCC*, 670 F.2d 215, 232 (D.C. Cir. 1981) (statute gives the Commission "an affirmative obligation" to perform certain tasks in "the public interest," and "[a]s a result, the Commission must rely heavily on the completeness and accuracy of the submissions made to it, and its applicants in turn have an affirmative duty to inform the Commission of the facts it needs (continued…)

reasonable in compliance with Section 201, but on a predictive judgment that "historical data is *likely* to be a close and unbiased substitute for prospective data" in most cases. *Small Carrier Tariff Order* ¶ 12 n.22; *see id.* ¶ 14 (rates set pursuant to § 61.39 "remain subject to the rate of return" prescription). Accordingly, the mere fact that a LEC has relied on historic demand data does not require (or, indeed, permit) the Commission to conclude that the tariff complies with the rate prescription and § 201.[22]

Under the circumstances presented here, of course, historical data will not be a "close and unbiased substitute for prospective data" as the Commission expected, and the actual traffic levels these LECs will experience during the period of the tariff will exceed those historical levels by orders of magnitude. In such circumstances, the Commission has made clear that it "stand[s] ready to undertake necessary corrective measures." *Small Carrier Tariff Order* ¶ 14. Indeed, the Commission has recognized that such prophylactic measures are especially appropriate when tariffs are filed under the streamlined procedures of § 204(a)(3).[23] And the Commission has accordingly suspended tariffs where the LECs were in technical compliance

(…continued)
in order to fulfill its statutory mandate"); *see also FCC* v. *WOKO, Inc.*, 329 U.S. 223 (1946).

[22] *See also id.* ¶ 14 ("this proposal only allows a simplified *filing* mechanism, and the rates are only presumed to be lawful. Moreover, the carriers remain subject to the rate of return (although not the enforcement mechanism) for local exchange carriers as determined in Docket No. 84-800. Carriers remain subject to the Act's requirement that rates be reasonable, and the presumption can be rebutted" (emphasis added)); *id.* ¶ 18 n.27 (small LECs "electing to use" § 61.39 to compute rates "would compute rate[s] based on the target [*i.e.*, prescribed] rate of return"); *id.* ¶ 7 (stating that § 61.39 "should not permit or provide incentives for small companies to file access tariffs producing excessive returns"); 47 C.F.R. § 61.39(c) ("rates must be calculated based on the [LEC's] prescribed rate of return applicable to the period during which the rates are effective").

[23] *NECA Order* ¶ 1.

with the rules but nonetheless proposed rates that were unjust and unreasonable in violation of § 201(b).[24]

Rule 1.773(a)(1)(iii), 47 C.F.R. § 1.773(a)(1)(iii), is no obstacle to suspension of these tariffs. The Commission does not have to wait for a third party to seek suspension pursuant to 47 C.F.R. § 1.773. Rather, the Commission has specifically held that it retains inherent authority under § 204(a) to suspend and investigate a tariff regardless of whether a third party has made the showing that the tariffs should be suspended and investigated under 47 C.F.R. § 1.773.[25] In all events, the four-part showing of 47 C.F.R. § 1.773 is undeniably satisfied here.

Pursuant to § 1.773 of the Commission's rules, 47 C.F.R. § 1.773, the Commission will suspend a tariff filed under Rule 61.39 if a third party shows that (1) "there is a high probability that the tariff would be found unlawful after investigation"; (2) "any unreasonable rate would not

---

[24] For example, the Commission suspended and investigated tariffs in which price cap LECs did not apply the "add-back" principle, even though the tariff filing rules at the time did not require them to do so. *See Verizon Tel. Cos.* v. *FCC*, 453 F.3d 487, 499 (D.C. Cir. 2006) (§§ 201 & 204 do "not contemplate that any choices the LECs make will be immunized from § 204(a)(1) and deemed 'just and reasonable' absent explicit guidance to the contrary from the FCC"); *1993 Annual Access Tariff Filings*, 19 FCC Rcd. 14949, ¶ 17 (2004) (LECs do not satisfy their burden under § 204 "merely by showing that they have not violated explicit regulatory provisions. To the contrary, the LECs must affirmatively show that their tariffed 'charges, practices,' . . . are 'just and reasonable' under the Act"); *see also Policy and Rules Concerning Rates for Dominant Carriers*, 5 FCC Rcd. 6786, ¶¶ 293, 295 (1990) (the "no suspension zone" and presumption of lawfulness "does not survive if the tariff is set for investigation"; rather after the Commission designates a tariff for investigation "it is the carrier's responsibility to demonstrate the justness and reasonableness of the rates at issue"); *Tariffs Implementing Access Charge Reform*, 13 FCC Rcd. 14683, ¶¶ 80-81 (1998) ("a tariff investigation is a rulemaking of particular applicability under the APA" and the Commission "routinely makes significant policy and methodological decisions based on the records developed in tariff investigations").

[25] *See* First Report and Order, *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor*, 85 F.C.C.2d 1, ¶ 108 n.95 (1980) ("AT&T mistakenly reads our rules as precluding an investigation of a tariff filing of a non-dominant carrier if the four-part suspension standard is not met. As always, we may consider whether tariff proposals of these carriers should be investigated, either on the basis of the petition or on our own initiative even though the petitioner fails to demonstrate that a tariff should be (continued…)

be corrected in a subsequent filing"; (3) "irreparable injury will result if the tariff is not suspended"; and (4) "the suspension would not otherwise be contrary to the public interest." 47 C.F.R. § 1.773(a)(1)(iii).

*First*, as demonstrated above, there is an exceedingly high probability that these tariffs will, after investigation, be found to be unlawful. Experience demonstrates that traffic-pumping produces access billings tens, hundreds or even thousands of times higher than the billings produced by tariffs based on demand that fails to reflect the traffic pumping. Returns are accordingly many times higher than the Commission's prescription and the rates therefore are patently unjust and unreasonable by any standard.

*Second*, it is extremely unlikely that these LECs' unreasonable rates would be corrected in subsequent filings. Recent experience confirms that these traffic-pumping LECs will not make mid-course rate corrections during the tariffing period. Indeed, the entire purpose of the traffic-pumping scheme is to pump as much traffic as possible at the highest possible rates for the two-year period in which the tariff remains in effect – and given the enormous magnitude of the traffic increases even a mid-course correction to a zero rate generally could not cure the overearnings.

Nor will such LECs make corrections at the end of the tariffing period in subsequent tariffs, because experience demonstrates that they will simply hop back into the NECA pool when their current tariffs expire. When the Commission initially adopted Rule 61.39 (which permits but does not require the use of historical demand), it recognized that "rates might theoretically be inaccurate because of changed circumstances," but the Commission predicted

(…continued)
suspended").

that rates "should also be self-correcting . . . because current actuals [traffic volumes] would be used in subsequent periods to set rates." *Small Carrier Tariff Order* ¶ 12. Traffic-pumping LECs do not conform to these Commission expectations: again, recent experience confirms that these LECs will simply jump back into the NECA pool, rather than use "current actuals" to set their new rates (which would require massive rate decreases in the subsequent period). Thus, these LECs' inaccurate use of historical demand data will not be "self-correcting."

*Third*, numerous parties will suffer irreparable injury if the Commission does not suspend these tariffs. The Commission has made clear that the standard for irreparable injury under this rule is not as stringent as the standard in federal court. *See, e.g., Policy and Rules Concerning Rates for Dominant Carriers*, 4 FCC Rcd. 2873, ¶ 457 (1989). Allowing these rates to go into effect would result in substantial irreparable harms by forcing long distance carriers to subsidize the enormous unlawful windfall profits of traffic pumping LECs and the pornographic chat-line and other communications providers that are participating in these scams. Moreover, unless these tariffs are suspended, access ratepayers will be forced to incur substantial costs that cannot later be recouped. AT&T and other carriers are currently engaged in extensive litigation with numerous traffic-pumping LECs and, absent suspension, AT&T will inevitably be forced to bring additional actions in federal court. Moreover, simply identifying and tracking these schemes is also burdensome and costly; these LECs' website partners are constantly shifting the phone numbers they use, or increasingly employing new tactics to hide the numbers they use (by requiring users to register), and as soon as one website is shut down two more pop up. The Commission should nip all of this in the bud by suspending these tariffs and unambiguously eliminating the "deemed lawful" status that emboldens these LECs to try these schemes.

But these schemes also cause other collateral harms that are both substantial and irreparable. For example, recent experience confirms that these traffic-pumping schemes can overwhelm the existing facilities serving these small rural communities and cause substantial traffic congestion. The result is that legitimate calls to and from the residents of these communities are dropped.[26]

*Fourth*, suspension of these tariffs will not otherwise be contrary to the public interest. Truly law-abiding LECs that have no intention of engaging in traffic-pumping schemes have nothing to fear from suspension and investigation. But the rates of return generated by these schemes are in gross violation of the Communications Act, and the public interest *harms* of these traffic-pumping schemes are immense and growing and can no longer be ignored. The rapidly increasing popularity of these schemes is imposing hundreds of millions of dollars of costs on long-distance carriers and their customers causing increasingly serious distortions of traffic flows, and that force long-distance carriers and their customers to subsidize the "free" international, chat-line and conferencing calls of a subset of customers. The public interest manifestly requires suspension.[27]

---

[26] Recent experience also confirms that LECs frequently carry out these traffic-pumping schemes by partnering with websites offering "free" pornographic chat-lines. The fact that these chat-lines can be reached for "free" through a simple 1+ long-distance call means that these tariffs are facilitating widespread (and growing) evasion of the protections of Telephone Disclosure and Dispute Resolution Act ("TDDRA"), by making free pornographic chat-lines available to children with no ability for parents to block calls. Indeed, one of the central elements of TDDRA is to mandate that telephone customers have "the option of blocking access from their telephone number to all, or certain specific, prefixes, [and] area codes," 47 U.S.C. § 228(c)(5)(A), to allow parents to protect against calls to such numbers.

[27] Even if the Commission believed that Rule 1.773 was a barrier to suspension, the Commission has ample authority under the special circumstances here to waive that rule and suspend, investigate and order an accounting of these tariffs. The Commission has broad authority on its own motion to suspend, waive or amend its rules for good cause. *See, e.g.*, 47 C.F.R. § 1.3; (continued…)

Whether the Commission suspends and investigates these tariffs on its own motion or pursuant to Rule 1.773, the investigations should, at a minimum, include the following components. Foremost, the Commission, pursuant to its authority to "require any carrier to submit such information as may be necessary for review of a tariff filing," 47 C.F.R. § 61.39(a), should compel these LECs to disclose sufficient information to ensure that they will not engage in traffic pumping schemes that will result in unjust and unreasonable returns. In particular, these LECs should be compelled to disclose (i) any existing traffic pumping kickback arrangements, and (ii) any actual or planned discussions with any potential "customer" regarding such arrangements. The Commission also should ask each such LEC to certify that it will not participate in any such arrangements during the period in which the tariff at issue is in effect.

If a LEC fails to convince the Commission that it has not entered into any revenue sharing arrangement and that it will not do so during the tariff period – by, for example, refusing to so certify – the Commission should conclude the investigation of that LEC's tariff by

---

(…continued)
*Beehive Tel., Inc.* v. *The Bell Operating Cos.*, 12 FCC Rcd. 17930, ¶¶ 13-14 (1997); *Omnipoint Corp.* v. *FCC*, 78 F.3d 620, 631 (D.C. Cir. 1996). The Commission or the Bureau Chief can issue blanket waivers or suspensions of its rules in circumstances like these. *See* Memorandum Opinion and Order, *Access Filings of Small Tel. Cos.*, 3 FCC Rcd. 7173, ¶ 8 (1988). Under the special circumstances present here, both the public interest and the purposes of the Commission's rules governing small LEC tariffs would be better served by waiving whatever special showings may be required by Section 1.773. The Commission provided streamlined tariff review procedures, and required heightened showings by parties challenging such tariffs, in an effort to ease the regulatory burdens on small LECs. In recent years, however, some small LECs have been abusing the limited review provided by this rule by filing tariffs with increased rates in anticipation of engaging in traffic-pumping schemes that result in grossly unjust and unreasonable rates. Ensuring that carriers do not charge unjust and unreasonable rates – especially rates as grossly unreasonable as traffic-pumping LECs' rates – is among the Commission's most important statutory duties, and therefore the highly unusual circumstances occasioned by these traffic-pumping schemes requires the Commission to waive any streamlined review of these new tariffs. Because these traffic-pumping schemes inflict massive harm on the public interest, the need for careful review and investigation of such rates vastly outweighs any (continued…)

prescribing a rate formula to be incorporated into that LEC's tariff. Under this prescription, if the LEC's traffic levels increase over historical levels by more than 100% in any quarter during the period of the tariff, the rate would be recalculated according to the same simple formula the LEC used to set the rates initially using the updated demand and keeping the revenue requirement constant.[28]

Further, given the recent experience that all small LECs that have left the NECA pool have engaged in traffic pumping, the Commission should conclude the investigations of the tariffs of any of these LECs that do certify that they will not engage in such traffic-pumping schemes by finding that the rates are merely "legal" and not "lawful," thereby preserving the indisputable availability of refunds if a LEC subsequently engages in traffic pumping that renders its rates unjust and unreasonable. *See, e.g.*, *July 1, 2004 Annual Access Charge Filings*, 19 FCC Rcd. 23877, ¶ 1 (2004) ("we conclude that NECA has not sufficiently justified the rates filed in its annual access tariff to permit us to determine that the rates are just and reasonable and should be accorded lawful status. Rather, we conclude that, given the support NECA provided, the rates are not unjust or unreasonable so long as the rates remain legal rates that are subject to

(…continued)
potential benefits to these small LECs from streamlined review and a presumption of lawfulness.

[28] The D.C. Circuit has repeatedly upheld an agency's authority to prescribe or approve charges to be determined by a tariffed formula under the Interstate Commerce Act and its cognates (such as the Communications Act). *NSTAR Elec. & Gas Corp.* v. *FERC*, 481 F.3d 794, 801 (D.C. Cir. 2007); *Pub. Utils. Comm'n of the State of California* v. *FERC*, 254 F.3d 250, 254 n.3 (D.C. Cir. 2001); *Transwestern Pipeline Co. v. FERC*, 897 F.2d 570, 578 (D.C. Cir. 1988); *Nader* v. *FCC*, 520 F.2d 182, 203 (D.C. Cir. 1975). The Commission itself has previously endorsed the use of rate formulas in tariffs. *E.g., Western Union Telegraph Co.*, 68 F.C.C.2d 98 (1978); *Western Union Telegraph Co. Revisions To Tariff FCC Nos. 240 and 258, et seq.*, 71 F.C.C.2d 621, ¶ 16 n.11 (1979). The Commission would have ample grounds to conclude here that, in light of recent experience, such a rate formula is necessary to ensure that rates are just and reasonable, while protecting the ability of honest LECs to leave the NECA pool and set their own rates.

potential refund if NECA should overearn during the relevant monitoring period. This achieves the fairest result based on the record before us, ensuring that NECA does not overearn and that its access customers do not overpay. As merely legal rates, refunds may be due to NECA's customers if it is determined that NECA has overearned in a complaint proceeding brought pursuant to section 208").

## II. THE COMMISSION SHOULD ALSO SUSPEND AND INVESTIGATE THE TARIFFS OF REASNOR AND UNION.

Reasnor Telephone Company, LLC ("Reasnor") and Union Telephone Company ("Union") also filed tariffs that raise substantial questions of lawfulness. The Commission should suspend and investigate these tariffs as well.

**Reasnor.** Reasnor Telephone Company, LLC ("Reasnor") was created in 2006 for the purpose of engaging in traffic pumping schemes. Prior to 2005, Sully Telephone ("Sully") owned and operated the local exchange in Reasnor, Iowa (among other areas). Sully and Reasnor, however, devised a plan whereby Sully would transfer its Reasnor exchange – which had approximately 275 telephone access lines – to a newly formed company (Reasnor). In January 2006, the newly-formed Reasnor filed a proposed tariff with the Commission for interstate access services. In direct violation of the Commission's rules, 47 C.F.R. § 61.39(b)(1), Reasnor did not file rates based on the demand for the previous 12 months – which would have reflected at least some of the additional demand associated with the Reasnor exchange traffic pumping schemes that Sully and Reasnor initiated well before the tariff filing – but instead computed rates based on calendar year 2004 (before the traffic pumping schemes were initiated). Consequently, the actual number of minutes to which Reasnor applied its rates was more than ten times the number of minutes on which its tariffed rate was based – indeed, Reasnor's bills to AT&T alone were more than ten times that amount. Consequently, for the past year and a half,

Reasnor has been earning returns that grossly exceed the Commission-prescribed return of 11.25%.

Under the Commission's rules, the new rates in Reasnor's July 1, 2007 tariff filing are supposed to account for the extraordinary increase in demand that Reasnor has actually experienced as a result of its traffic pumping schemes, thereby resulting in significant rate decreases because Reasnor's costs will be spread over a much larger volume of traffic. While Reasnor's proposed local switching rates have declined, Reasnor appears to have more than offset these rate reductions with significant increases in other rate elements. For example, Reasnor is proposing to increase rates for tandem switching and tandem switched termination by more than *1000 percent.*[29]

To obtain these massive rate increases, Reasnor used the average schedule formulas proposed by NECA and adopted by the Commission. These formulas, however, were designed to compute reasonable revenue requirements and rates for very small LECs with traffic volumes that do not significantly fluctuate. They were not designed to compute just and reasonable revenue requirements and rates for traffic pumping LECs like Reasnor. Indeed, Reasnor's tariff starkly illustrates the problem with mechanically applying the average schedule formulas to the volumes of traffic reported by Reasnor and other traffic pumping LECs.

On June 5, 2006, Reasnor filed rates for common transport, which includes two rate elements: tandem switched termination and tandem switched facilities. That filing was based on 900,938 minutes for tandem switched termination and 4,504,690 minutes for tandem switched

[29] *See* Exhibit 3-a, attached hereto.

access facilities.[30] Using the average schedule formula then applicable, Reasnor was permitted a cost of $1,247 for local transport, and rates of $0.000687/minute for tandem switched termination and $0.000139/minute for tandem switched facilities.[31] Reasnor now claims that, in less than two years' time, its transport costs have increased to an annual average more than $1.3 million.[32] Reasnor thus proposes to increase the switched tandem rates by over 1,000 percent, to $0.007670 and $0.001556 respectively.[33]

These rate increases are absurd on their face. Reasnor is claiming that it has experienced an incredible 107,236 percent increase in costs, even though its access minutes of use *grew* 12,717 percent.[34] Use of the average schedule formula is obviously producing nonsensical results for LECs such as Reasnor that have seen astronomical traffic growth; the formula indicates that its costs are growing much faster than demand itself, even though a LEC undoubtedly would realize substantial economies of scale from such traffic increases resulting in a much *lower* unit of cost.

The Commission should therefore suspend Reasnor's tariff and investigate the proper application of the average schedule formula to LECs such as Reasnor that have experienced enormous growth in traffic. Moreover, the Commission has ample authority to suspend these rates even though Reasnor may have technically complied with the Commission's rules

[30] *See* Exhibit 3-a, attached hereto.

[31] *See id.*.

[32] *See id.*

[33] *See id.*

[34] *See id.*

governing how average schedule carriers that have left NECA are to compute their rates.[35] As explained above, the Commission always retains inherent authority under § 204 to suspend and investigate rates that raise questions of lawfulness, and Reasnor's rates here are based on an analysis that is so glaringly incorrect that suspension is warranted.[36] In all events, the Commission could also suspend and investigate these tariffs under the four-part test of Rule 1.773(a)(1)(iii), because that test is satisfied for the reasons discussed herein.

Finally, Reasnor's tariff should be suspended for two additional reasons. First, Reasnor has used questionable data in the development of its settlement results; indeed, it appears that Reasnor has used the same set of demand reported by Readlyn Telephone Company for January through December 2005, rather than its own demand for that year. This is in clear violation of the rules as a carrier cannot use another's carrier demand for rate-setting purposes. Reasnor's filed rates should be suspended for this action alone. Second, Reasnor significantly overstates its revenue requirement for, and hence the rates associated with, interstate circuits and circuit miles. Reasnor's July 1, 2007 tariff filing computes rates based on Reasnor's revenue requirements and rates from 2005 and 2006. When estimating its revenue requirements for interstate circuits and

[35] Reasnor actually applied the same, now superseded average schedule formula that it applied in 2006. NECA recently modified the relevant portions of the formula, Order, *National Exchange Carrier Association, Inc. 2007 Modification of Average Schedules*, DA 07-2400, released June 8, 2007, but even the modified formula produces absurd results for carriers such as Reasnor. AT&T recalculated Reasnor's transport settlement using the new average schedule formula, and the result is an estimated annual transport settlement for Reasnor of $708,037. *See* Exhibit 3-a. While this result certainly is an improvement over the 107,236 percent increase requested by Reasnor in the current filing, it is still several thousand percent above the actual costs Reasnor will indeed incur. *See id.*

[36] *See* Suspension Order, *Beehive Tel. Co.*, 12 FCC Rcd. 11695, ¶ 6; *NECA Order* ¶ 4; *see also Tariffs Implementing Access Charge Reform*, 13 FCC Rcd. 14683, ¶ 81 ("a tariff investigation is a rulemaking of particular applicability under the APA" and the Commission "routinely makes significant policy and methodological decisions based on the records developed in tariff investigations").

circuit miles, Reasnor erroneously assumed that its 2005 demand was the same as its 2006 demand. In fact, in 2005 Reasnor had less than *one tenth* the demand that Reasnor had in 2006 (in 2005 Reasnor's demand was about 832,000 minutes per month, whereas in 2006 Reasnor's demand was 8.7 million minutes per month). Consequently, Reasnor's assumption vastly overstates the 2005 circuit and circuit mile revenue requirements, which in turn greatly inflates the rates associated with interstate circuit and circuit mile rates in Reasnor's July 1, 2007 tariff filing.

**Union.** Union is another telephone company that previously exited NECA and has filed tariffs pursuant to Rule 61.39, and that has apparently been engaged in traffic pumping. Since 2004 Union's average annual demand has more than doubled.[37] In its July 1, 2007 tariff filing, Union was supposed to set rates for local switching and directory information using 2005 and 2006 demand figures, but Union instead used much lower demand figures that substantially understate Union's actual demand for those years, thus substantially inflating Union's rates for local switching and directory information. Accordingly, Union's tariff should be suspended and set for investigation.

Union is required to set rates based on its average minutes of use ("MOU") demand for the years 2005 and 2006. *See* 47 C.F.R. § 61.39. According to data reported by Union to NECA and the Universal Service Administrative Company ("USAC"), Union's average MOU demand for these years was 83,407,298 minutes (Union reported 75,717,427 MOUs for 2005 and 91,097,168 MOUs for 2006).[38] But the rates for local switching and directory information in

[37] *See* Exhibit 4, attached hereto (showing demand for the years 2005 and 2006 to be more than double the demand for the years 2002 through 2004).

[38] *See id.*

Union's July 1, 2007 tariff filing are based on average MOU demand of only 32,597,941, a difference of 50.8 million minutes.[39] According to AT&T's calculations, these errors result in rates that are overstated by about $2.4 million.[40] The Commission therefore should suspend and investigate Union's tariff.

[39] *See* Exhibit 5, attached hereto

[40] *See id.*

## CONCLUSION

For the reasons stated above, the Commission should suspend for one day and investigate the tariffs filed by the above-captioned small LEC tariffs and impose an accounting order.

Respectfully submitted,

AT&T Corp.

By: /s/ Peter Jacoby


Peter Jacoby
Gary L. Phillips
Paul K. Mancini
AT&T Inc.
1120 20th Street, N.W.
Suite 1000
Washington, D.C. 20005
Tel. (202) 457-3043
Fax (202) 457-3073

David L. Lawson
James P. Young
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 2005
Tel. (202) 736-8088
Fax (202) 736-8711

*Attorneys for AT&T Corp.*

***Please Also Fax Replies To:***

Safir Rammah
Fax: (703) 691-6057


June 22, 2007

## CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of June, 2007, I caused true and correct copies of the forgoing Petition of AT&T Corp. to Suspend for One Day And Investigate Small LEC Tariffs Filed Pursuant to Section 61.39 to be served on all parties as described below.

Dated: June 22, 2007
Washington, D.C.

/s/ Christopher T. Shenk

By Electronic Mail

Thomas Navin, Chief
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
Thomas.Navin@fcc.gov

Best Copy and Printing, Inc.
Portals II
445 12th Street, S.W.
Room CY-B402
Washington, DC 20554
fcc@bcpiweb.com

Albert Lewis, Division Chief
Pricing Policy Division
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
Albert.Lewis@fcc.gov

Raj Kannan
Pricing Policy Division
Federal Communications Commission
445 12th Street, SW, Room 5-A221
Washington, DC 20554
raj.kannan@fcc.gov

By Facsimile and U.S. Mail

Doug Eidahl
Vantage Point Solutions, Inc.
1801 N. Main
Mitchell, SD 57301
Fax: (605) 995-1778

Richard Jordan
Broadband Network Group, LLC
P.O. Box 2038
Wapakoneta, OH 45895
Fax: (419) 739-3154

Cindy Grosvenor
Consortia Consulting
9300 Underwood Avenue, Suite 310
Omaha, NE 68114
Fax: (402) 398-0065

Jovanka Mersman
Elsie Communications, Inc.
1180 Golden Hills Road
Colorado Springs, CO 80919
Fax: (720) 222-1984

Gary Davis
Farmers Mutual Telephone Co.
319 S.W. 3rd Street
Fruitland, ID 83619
Fax: (208) 452-5341

Scott Duncan
John Staurulakis Inc.
7852 Walker Drive, Suite 200
Greenbelt, MD 20770
Fax: (301) 577-5575

Gerard J. Duffy
Blooston, Mordkofsky, Dickens,
Duffy & Predergast LLP
Union Telephone Company
2120 L St., N.W.
Washington, D.C. 20337
Fax: (202) 828-5568

Tina Bobbyn
ICORE, Inc.
326 South Second Street
Emmaus, PA 18049
Fax: (610) 928-5036

Jeff E. Gough
GVNW Consulting, Inc.
3220 Pleasant Run
Springfield, IL 62711
Fax: (217) 698-2715

# ICOs Exiting NECA Pool in 2005 and 2006 To Engage In Traffic Pumping

**Exhibit 1**

| A | B | C | D | E | F | G | H | I | J = (I - F)/F |
|---|---|---|---|---|---|---|---|---|---|
| **SAC** | **ST** | **61.39 Revenue Requirement** | **Company** | **Exited NECA** | **Rate Setting Demand** | **2004 Industry AMOUS*** | **2005 Industry AMOUS*** | **2006 Industry AMOUS*** | **Percent Growth Over Filed Demand** |
| | | | **LECs Exiting T.S. Pool 7/1/2005 & 2006** | | | | | | |
| 351150 | IA | A.S. | Dixon Tel Co (1) | 7/1/2005 | 1,427,421 | 1,425,557 | 30,836,944 | 211,115,428 | 14690% |
| 351166 | IA | A.S. | Farmers & Merchants Mutual Tel Co (1) | 7/1/2005 | 1,474,944 | 1,420,625 | 33,122,646 | 339,846,656 | 22941% |
| 351177 | IA | A.S. | Farmers Tel Co-Riceville (1) | 7/1/2005 | 4,281,178 | 1,420,646 | 33,018,138 | 214,618,371 | 4913% |
| 371553 | NE | Cost | Glenwood Tel Membership (5) | 7/1/2005 | 5,057,350 | 4,927,706 | 10,539,930 | 57,616,243 | 1039% |
| 351209 | IA | A.S. | Interstate 35 Tel Co (1) | 7/1/2005 | 2,867,478 | 2,777,230 | 39,743,523 | 241,192,909 | 8311% |
| 351292 | IA | A.S. | Searsboro Tel Co Inc (2) | 7/1/2005 | 1,589,223 | 1,557,458 | 11,167,303 | 56,991,254 | 3486% |
| 411831 | KS | Cost | South Central Telephone Assoc Inc (3) | 7/1/2005 | 8,746,139 | 8,643,407 | 35,057,417 | 73,018,687 | 735% |
| 411847 | KS | Cost | Wheat State Tel Inc (4) | 7/1/2005 | 5,305,694 | 5,185,860 | 12,252,115 | 52,209,833 | 884% |
| 351307 | IA | A.S. | Superior Telephone (6) | 7/1/2006 | 556,726 | 588,417 | 524,641 | 58,146,936 | 10344% |
| | | | **LECs receiving waivers** | | | | | | |
| 350739 | IA | A.S. | Reasnor | 1/20/2006 | 450,469 | 450,469 | 9,876,694 | 96,258,035 | 21268% |
| | | | **Sum of Recent LECs Exiting NECA** | | **31,756,622** | **28,397,375** | **216,139,351** | **1,401,014,352** | **4312%** |

* 2004, 2005, and 2006 Industry Demand is reported by NECA in "NECA and USAC Data", Network Usage By Carrier, See FCC.gov

(1) Kiesling Associates, Transmittal No. 4, June 16, 2005
(2) ICORE, Transmittal No. 70, June 16, 2005
(3) Transmittal No. 14, June 16, 2005
(4) Transmittal No. 1, June 16, 2005
(5) Transmittal No. 1, June 16, 2005
(6) Transmittal No. 1, June 16, 2006

# Rate Change Comparison
# 61.39 Average Schedule Companies Leaving NECA in 2007

**Exhibit 2**

| | | A | B | C | D | E | F | G | H | I = (E/A)-1 | J = (F/B)-1 | K = (G/C)-1 | L = (H/D)-1 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Old Rate | | | | New Rate | | | | Percent Change | | | |
| | Name | Tandem Sw Trans-Fac | Tandem Sw Trans-Term | Tandem Swtg Rate | LS Rate | Tandem Sw Trans-Fac | Tandem Sw Trans-Term | Tandem Swtg Rate | LS Rate | Tandem Sw Trans-Fac | Tandem Sw Trans-Term | Tandem Swtg Rate | LS Rate |
| 1 | FORT JENNINGS TEL CO | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.044390 | $ 0.051489 | N/A | $ 0.048599 | 27471% | 6377% | | 154% |
| 2 | BASCOM MUTUAL TEL CO | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.020579 | $ 0.049218 | N/A | $ 0.029059 | 12682% | 6091% | | 52% |
| 3 | VAUGHNSVILLE TEL CO | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.016795 | $ 0.016331 | N/A | $ 0.092540 | 10332% | 1954% | | 383% |
| 4 | GLANDORF TEL CO | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.009085 | $ 0.010559 | N/A | $ 0.043044 | 5543% | 1228% | | 125% |
| 5 | MIDDLE POINT HOME | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.008556 | $ 0.009181 | N/A | $ 0.042923 | 5214% | 1055% | | 124% |
| 6 | BUCKLAND TEL. CO. | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.005216 | $ 0.007049 | N/A | $ 0.037902 | 3140% | 787% | | 98% |
| 7 | LYNNVILLE TEL. CO. | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.009577 | $ 0.004485 | $ 0.022108 | N/A | $ 0.016661 | 2686% | 2681% | | 74% |
| 8 | RIDGEVILLE TEL CO | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.003809 | $ 0.005143 | N/A | $ 0.025014 | 2266% | 547% | | 31% |
| 9 | KILLDUFF | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.003504 | $ 0.017274 | N/A | $ 0.034373 | 2076% | 2073% | | 79% |
| 10 | BENTON RIDGE TEL CO | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.003503 | $ 0.010399 | N/A | $ 0.029703 | 2076% | 1208% | | 55% |
| 11 | KALIDA TEL CO | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.003380 | $ 0.005145 | N/A | $ 0.024323 | 1999% | 547% | | 27% |
| 12 | THE ARTHUR MUTUAL | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.002501 | $ 0.005885 | N/A | $ 0.020006 | 1453% | 640% | | 4% |
| 13 | ROYAL TEL CO | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.002380 | $ 0.014860 | N/A | $ 0.021460 | 1378% | 1769% | | 12% |
| 14 | ALLIANCE-BALTIC | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.013407 | $ 0.001680 | $ 0.005900 | $ 0.001841 | $ 0.001963 | 943% | 642% | -36% | -85% |
| 15 | SHERWOOD MUTUAL TEL | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.001552 | $ 0.004873 | N/A | $ 0.028250 | 864% | 513% | | 47% |
| 16 | OTTOVILLE MUTUAL | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.001516 | $ 0.003982 | N/A | $ 0.030295 | 842% | 401% | | 58% |
| 17 | GEARHEART-COALFIELDS | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.009577 | $ 0.001220 | $ 0.006016 | $ 0.008901 | $ 0.009200 | 658% | 657% | 208% | -4% |
| 18 | JORDAN SOLDIER VLY | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.000942 | $ 0.004643 | N/A | $ 0.022673 | 485% | 484% | | 18% |
| 19 | ELSIE COMM., INC. | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.000681 | $ 0.003357 | N/A | $ 0.074657 | 323% | 322% | | 290% |
| 20 | SKYLINE MEMBERSHIP | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.013407 | $ 0.000531 | $ 0.002620 | N/A | $ 0.012000 | 230% | 230% | | -10% |
| 21 | SULLY TEL ASSOC | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.005745 | $ 0.000518 | $ 0.002554 | $ 0.003722 | $ 0.013749 | 222% | 221% | 29% | 139% |
| 22 | BERESFORD MUNICIPAL | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.000434 | $ 0.002141 | N/A | $ 0.015433 | 170% | 169% | | -19% |
| 23 | MCCOOK COOP TEL CO | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.000434 | $ 0.002141 | N/A | $ 0.015433 | 170% | 169% | | -19% |
| 24 | ROBERTS COUNTY COOP | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.013407 | $ 0.000434 | $ 0.002141 | N/A | $ 0.015433 | 170% | 169% | | 15% |
| 25 | WESTERN TEL CO. | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.000434 | $ 0.002141 | N/A | $ 0.015433 | 170% | 169% | | -19% |
| 26 | FARMERS MUTUAL TEL | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.000347 | $ 0.001712 | N/A | $ 0.048753 | 116% | 115% | | 155% |
| 27 | NORTHEAST IOWA TEL | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.019153 | $ 0.000154 | $ 0.000761 | $ 0.000734 | $ 0.021446 | -4% | -4% | -75% | 12% |
| 28 | CHESNEE TEL CO | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.011492 | $ 0.000146 | $ 0.000718 | N/A | $ 0.009500 | -9% | -10% | | -17% |
| 29 | YADKIN VALLEY TEL | $ 0.000161 | $ 0.000795 | $ 0.002888 | $ 0.013407 | $ 0.000032 | $ 0.000156 | $ 0.001444 | $ 0.013500 | -80% | -80% | -50% | 1% |

# Reasnor Telephone Company
# Comparison of Average Schedule Formula Results

**Exhibit 3-a**

| | a | c=b/2 | d=(c-a)/a | f | g=(f-a)/a |
|---|---|---|---|---|---|
| | **Current Formula** | | | **2007-2008 Av Sch Formula** | |
| | As Filed Revenue Requirement January 5, 2006 ICORE T-74 2004 | As Filed Revenue Requirement June 15, 2007 (2005/2006) Annualized | Compare to January 5, 2006 Rev Rqmt & Rates Percent Change | June 15, 2007 Revenue Requirement Recalculated 2006 | Compare to January 5, 2006 Rev Rqmt Percent Change |
| **Reasnor** | | | | | |
| Tandem Sw Term Rev Rqmt | $619 | $885,619 | 142972% | $515,653 | 83204% |
| Tandem Sw Facility Rev Rqmt | $628 | $449,119 | 71416% | $192,384 | 30534% |
| Total Transport | $1,247 | $1,334,737 | 106936% | $708,037 | 56679% |
| Tandem Sw Term Minutes | 900,938 | 115,470,665 | 12717% | | |
| Tandem Sw Facility Minutes | 4,504,690 | 288,676,663 | 6308% | | |
| Local Swtg Minutes | 450,469 | 57,735,333 | 12717% | | |
| Tandem Sw Term Rate | $0.000687 | $0.007670 | 1016% | | |
| Tandem Sw Facility Rate | $0.000139 | $0.001556 | 1016% | | |

Note: Calculations and sources are shown on Exhibit 3-b, attached hereto.

# Reasnor Telephone Company
# Transport Settlement based on 2007/2008 Average Schedule Formulas

**Exhibit 3-b**

**Line Haul Distance Sensitive Formula**

Settlement = [(Circuit Mi Rate * IS Circuit Miles) + ($0.001472 * AMOUS)] * Density Factor

*AMOUS up to but not exceeding 330 per line monthly

Circuit mi rate is based on study area average IS circuit miles per IS ciruit (CM/C):

Circuit Mile Rate =:
if CM/C > 100 0.038530 + 17.8974 / CM/C

If CM/C < 330, then Density Factor is based on study area average IS circuits per Exchange (C/E)

Density Factor=:
if C/E ≥ 600 **0.411869**

**Line Haul Non-Distance Sensitive Formula**

For study areas with circuit terms per exchange (CT/E) ≥ 70:

Settlement per IS circuit termination = **$19.12**

| | **a** | **b** | **c** | **d** | **e** | **f=c/b** | **g** | **h=b/f** | **i=(e*c) + (.001472*a)** | **j=i*Density Factor** | **k=d/f** | **l=d*$19.12** | **m=i+k** |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | Transport | | | | |
| Month | AMOUS | Interstate Circuits | Interstate Ckt Miles | Interstate Ckt Terms | Circuit Mile Rate Factor | **CM/C** | No of Exchanges | C/E | w Circuit Mi Rate | w Density Factor | **CT/E** | Termination | Total Transport |
| Jan | 4,241,366 | 1,123.72 | 152,101.07 | 2,247.44 | 0.170756 | **135.35** | 1 | 1,123.72 | $32,215 | $13,269 | **2,247.44** | $42,971 | $56,240 |
| Feb | 5,107,385 | 1,123.72 | 152,101.07 | 2,247.44 | 0.170756 | **135.35** | 1 | 1,123.72 | $33,490 | $13,794 | **2,247.44** | $42,971 | $56,765 |
| Mar | 8,420,646 | 1,123.72 | 152,101.07 | 2,247.44 | 0.170756 | **135.35** | 1 | 1,123.72 | $38,367 | $15,802 | **2,247.44** | $42,971 | $58,773 |
| Apr | 9,110,790 | 1,123.72 | 152,101.07 | 2,247.44 | 0.170756 | **135.35** | 1 | 1,123.72 | $39,383 | $16,221 | **2,247.44** | $42,971 | $59,192 |
| May | 9,164,807 | 1,123.72 | 152,101.07 | 2,247.44 | 0.170756 | **135.35** | 1 | 1,123.72 | $39,463 | $16,253 | **2,247.44** | $42,971 | $59,225 |
| June | 9,070,151 | 1,123.72 | 152,101.07 | 2,247.44 | 0.170756 | **135.35** | 1 | 1,123.72 | $39,323 | $16,196 | **2,247.44** | $42,971 | $59,167 |
| Jul | 10,074,349 | 1,123.72 | 152,101.07 | 2,247.44 | 0.170756 | **135.35** | 1 | 1,123.72 | $40,802 | $16,805 | **2,247.44** | $42,971 | $59,776 |
| Aug | 9,260,447 | 1,123.72 | 152,101.07 | 2,247.44 | 0.170756 | **135.35** | 1 | 1,123.72 | $39,604 | $16,311 | **2,247.44** | $42,971 | $59,283 |
| Sep | 10,743,272 | 1,123.72 | 152,101.07 | 2,247.44 | 0.170756 | **135.35** | 1 | 1,123.72 | $41,786 | $17,210 | **2,247.44** | $42,971 | $60,182 |
| Oct | 10,583,955 | 1,123.72 | 152,101.07 | 2,247.44 | 0.170756 | **135.35** | 1 | 1,123.72 | $41,552 | $17,114 | **2,247.44** | $42,971 | $60,085 |
| Nov | 10,710,006 | 1,123.72 | 152,101.07 | 2,247.44 | 0.170756 | **135.35** | 1 | 1,123.72 | $41,737 | $17,190 | **2,247.44** | $42,971 | $60,161 |
| Dec | 9,106,797 | 1,123.72 | 152,101.07 | 2,247.44 | 0.170756 | **135.35** | 1 | 1,123.72 | $39,377 | $16,218 | **2,247.44** | $42,971 | $59,189 |
| | | | | | | | | | Settlement based on 2007/2008 AS Formulas | $192,384 | | $515,653 | $708,037 |
| | | | | | | | | | Settlement as filed on Jan 5, 2006, ICORE Transmittal No. 74 | $619 | | $628 | $1,247 |
| | | | | | | | | | Compare Settlement based on 2007/2008 AS Formulas to Jan 5, 2006 Settlements | | | | 56679% |
| | | | | | | | | | Settlement as filed on June 15, 2007, ICORE Transmittal No. 80 annualized | $885,619 | | $449,119 | $1,334,737 |
| | | | | | | | | | Compare June 15, 2007 Settlements to Jan 5, 2006 Settlements | | | | 106936% |

**Exhbit 4**

**MOU DATA NECA TIER 2 COST COMPANIES 2002 - 2006**

| SAR-ID | SAR-ABBR | TIER | MOU 2002 | MOU 2003 | MOU 2004 | MOU 2005 | MOU 2006 |
|---|---|---|---|---|---|---|---|
| 512297 | UNION TELEPHONE CO | C | 32,402,576 | 32,440,633 | 41,182,731 | 75,717,427 | 91,097,168 |

| | |
|---|---|
| ***MOU 2005 & MOU 2006 Average =** | **83,407,298** |

Source: www.fcc.gov/wcb/iatd/neca.html
Network Usage by Carrier. Annual submission by NECA MOU DATA NECA TIER 2 COST COMPANIES 2002 – 2006 of access minutes of use.

* MOU 2005 + MOU 2006 / 2

# Union Telephone Company
# Excessive Revenue From Incorrect Demand

**Exhibit 5**

## Local Switching

| | A | B | C | D | E = D - C |
|---|---|---|---|---|---|
| **Line** | **Description** | **Source** | **Union Tel Filed** | **As Reported To NECA By Union Tel** | **Demand Shorfall (Correct Demand - Union filed Demand)** |
| 1 | Adjusted Local Switching Revenue Requirement | Input* | $1,427,033 | $1,427,033 | |
| 2 | Local Switching Minutes of Use | Input ** | 32,597,941 | 83,407,298 | 50,809,357 |
| 3 | Local Switching Rate Per Minute | Input *** | $0.043777 | $0.017109 | |
| 4 | Union Filed Rate | Input *** | | | $0.043777 |
| **5** | **Excess Local Switching Revenue** | **Ln2 * Ln4** | | | **$2,224,270** |

* Union Tel Development of Local Switching Rate in its 2007 Annual Filing Line 3
** Col C = Union Tel Development of Local Switching Rate in its 2007 Annual Filing Line 4, Column D = See AT&T Calc Below
*** Col C = Union Tel Development of Local Switching Rate in its 2007 Annual Filing Line 5, Column D = Line 1/Line 2

## Directory Information Surcharge

| | A | B | C | D | E = D - C |
|---|---|---|---|---|---|
| **Line** | **Description** | **Source** | **Union Tel Filed** | **As Reported To NECA By Union Tel** | **Demand Shorfall (Correct Demand - Union filed Demand)** |
| 1 | Directory Information Surcharge Revenue Requirement | Input* | $97,391 | $97,391 | |
| 2 | Local Switching Minutes of Use | Input ** | 32,597,941 | 83,407,298 | 50,809,357 |
| 3 | Directory Information Surcharge Premium Rate Per 100 Minutes | Input *** | $0.298764 | $0.116766 | |
| 4 | Union Filed Rate | | | | $0.298764 |
| **5** | **Excess Directory Information Surcharge Premium Revenue (Ln7/100)*Ln4** | | | | **$151,800** |

**Total Excessive Traffic Sensitive Revenue (Ln5 Local Switching + Ln5 Info Surcharge) $2,376,070**

* Union Tel Development of Information Surcharge Rate in its 2007 Annual Filing Line 3
** Col. C = Union Tel Development of Local Switching Rate in its 2007 Annual Filing Line 4, Column D = See AT&T Calc Below
*** Col. C = Union Tel Development of Information Surcharge Rate in its 2007 Annual Filing Line 5, Column D = Line 1/Line 2

AT&T's Calculation of Correct Local Switching MOUs for Union Telephone

| a | b | c = (a+b)/2 |
|---|---|---|
| LS MOU 2005 | LS MOU 2006 | Correct LS MOUs |
| 75,717,427 | 91,097,168 | 83,407,298 |

* Demand source for corrected rate calculation: www.fcc.gov/wcb/iatd/neca.html
Network Usage by Carrier. Annual submission by NECA MOU DATA NECA TIER 2 COST COMPANIES 2002 – 2006 of access minutes of use.