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VIA HAND DELIVERY

filed electronically in docket office on 09/06/07

Hon. Eddie Roberson, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Complaint of Hilton Suites Brentwood Against BellSouth
Telecommunications, Inc.*
Docket No. 06-00223

Dear Chairman Roberson:

Enclosed are the original and four copies of AT&T Tennessee's Response to the Amended Complaint of Hilton Suites Brentwood.

Copies of the enclosed are being provided to counsel of record.

Very truly yours,

Guy M. Hicks

GMH:ch

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *Complaint by Hilton Suites Brentwood Against BellSouth Telecommunications, Inc.*

Docket No. 06-00223

**AT&T TENNESSEE'S RESPONSE TO AMENDED COMPLAINT
OF HILTON SUITES BRENTWOOD**

BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee ("AT&T Tennessee") hereby files this response to the Amended Complaint ("Complaint") filed by Hilton Suites Brentwood ("Hilton") on August 7, 2007. In its Complaint, Hilton asserts various causes of action against AT&T Tennessee in an attempt to inappropriately recoup amounts Hilton paid to AT&T Tennessee (then known as BellSouth) for services provided by AT&T Tennessee -- despite the fact that for years Hilton failed to dispute the charges that it now seeks to recoup. As explained herein, Hilton is not entitled to any relief whatsoever. Accordingly, the Tennessee Regulatory Authority ("TRA" or "Authority") should issue an Order dismissing the Complaint.

Although styled an "Amended Complaint," the underlying facts and allegations are no different from the filing made by Excelsior Communications Services, Inc. on behalf of Hilton in August 2006. Accordingly, AT&T Tennessee's Response to the August 2006 filing, which summarized AT&T Tennessee's (then

known as BellSouth) investigation into the matter, remains relevant and is incorporated herein by reference.

SUMMARY OF AT&T TENNESSEE'S INVESTIGATION AND POSITION

Hilton seeks to recover charges it paid AT&T Tennessee for account (615) 370-4077-212. Such charges were not timely disputed by Hilton (as required by applicable TRA-approved tariff). Rather, such charges were properly billed by AT&T Tennessee and paid by Hilton.

This matter was originally submitted to the Consumer Services Division in March 2006 by a consultant working for Hilton. The consultant originally contended that AT&T Tennessee had failed to port a telephone number when requested by Hilton. After investigating that contention, however, it became clear that the number at issue was not one of those that Hilton requested to have ported, and the contention changed to the present contention, which is that Hilton neither requested nor utilized this service. In addition, the consultant alleged that this number did not exist at the hotel or on the PRI circuit prior to the disconnection/port of their other services.

AT&T Tennessee's records indicate service with telephone number 615 370-4077 was installed for Hilton on September 23, 1997, nearly five years prior to Hilton's request for porting of numbers to another carrier. Initially, the charges for this service (Primary Rate ISDN) were billed to the main account number (615) 370-0111-212. On March 2, 2002, AT&T Tennessee (then known as BellSouth)

established a new billing account, (615) 370-4077-212 for the number (615) 370-4077, because the main billing number, (615) 370-0111-212 was linked to one of several numbers ported to another local service provider as requested by Hilton.

It is not uncommon for AT&T Tennessee to port some of a customer's numbers to a new local service provider, while continuing to provide some services to the customer. Many businesses use more than one telecommunications provider, often choosing to do so for the purpose of redundancy for voice or data services. Indeed Hilton alleges that it retained AT&T Tennessee's services. *See* Complaint at ¶ 7. If Hilton did not intend to retain any AT&T Tennessee service after porting numbers to another carrier, then Hilton should have objected when AT&T Tennessee continued to bill for the service in place. Hilton did not raise any dispute during the two and a half years that AT&T Tennessee (then known as BellSouth) issued monthly bills to the customer. Rather, Hilton paid for that service each month.

AT&T Tennessee's records do not indicate any dispute for these charges until August 8, 2005. At the customer's request, AT&T Tennessee disconnected the service on September 8, 2005, with an effective date of August 18, 2005. There is simply no evidence that Hilton was charged for services it did not request or intend to continue receiving. Rather, Hilton's long course of action in paying the charges with no dispute or question provides strong evidence that Hilton was aware of the service and intended to keep the service throughout that time.

Finally, Hilton failed to timely dispute the charges as required by the applicable tariff provisions. Specifically, per the tariff, *A.2.4.3.A Payment for Service*, if a subscriber disputes a bill, AT&T Tennessee will investigate the bill and take appropriate action. In addition, per the tariff *A.2.5.5 Period for the Presentation of Claims*, AT&T Tennessee shall not be liable for damages or statutory penalties in any case where a claim is not presented in writing within sixty days after the alleged delinquency occurs.

RESPONSE TO COMPLAINT

AT&T Tennessee responds to the specific allegations of the Complaint as follows:

1. Paragraph 1 of the Complaint requires no response from AT&T Tennessee.
2. The allegations of paragraph 2 of the Complaint are admitted with one clarification. BellSouth now conducts business in Tennessee as AT&T Tennessee.
3. AT&T Tennessee denies that the Authority has jurisdiction over Count II (intentional misrepresentation/promissory fraud), Count III (negligent misrepresentation), Count IV (conversion), and Count V (unjust enrichment/assumpsit/money had and received) of the Complaint.
4. To the extent the allegations contained in paragraphs 4, 5, and 6 of the Complaint are inconsistent with the "SUMMARY OF AT&T TENNESSEE'S INVESTIGATION AND POSITION" portion of this Response, such allegations are denied and strict proof demanded thereof.

5. Responding to the allegations contained in paragraph 7 of the Complaint, AT&T Tennessee admits only that Hilton continued to receive services from AT&T Tennessee (then known as BellSouth) subsequent to January 31, 2002.

6. To the extent the allegations contained in paragraphs 8, 9, 10, 11, 12, 13, 14, and 15 of the Complaint are inconsistent with the "SUMMARY OF AT&T TENNESSEE'S INVESTIGATION AND POSITION" portion of this Response, such allegations are denied and strict proof demanded thereof.

7. AT&T Tennessee lacks knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs 16 and 17 of the Complaint and therefore denies the same.

8. To the extent the allegations contained in paragraphs 18, 19, 20, and 21 of the Complaint are inconsistent with the "SUMMARY OF AT&T TENNESSEE'S INVESTIGATION AND POSITION" portion of this Response, such allegations are denied and strict proof demanded thereof.

9. Paragraph 22 of the Complaint requires no response from AT&T Tennessee.

10. To the extent the allegations contained in paragraph 23 of the Complaint are inconsistent with the "SUMMARY OF AT&T TENNESSEE'S INVESTIGATION AND POSITION" portion of this Response, such allegations are denied and strict proof demanded thereof.

11. Responding to the allegations set forth in paragraph 24 of the Complaint, AT&T Tennessee incorporates by reference the "SUMMARY OF AT&T TENNESSEE'S INVESTIGATION AND POSITION" portion of this Response as well as paragraphs 1 through 10 of this Response.

12. AT&T Tennessee denies the allegations set forth in paragraphs 25, 26, 27, and 28 of the Complaint and demands strict proof thereof.

13. Responding to the allegations set forth in paragraph 29 of the Complaint, AT&T Tennessee incorporates by reference the "SUMMARY OF AT&T TENNESSEE'S INVESTIGATION AND POSITION" portion of this Response as well as paragraphs 1 through 12 of this Response.

14. AT&T Tennessee denies the allegations set forth in paragraphs 30, 31, 32, 33, and 34 of the Complaint and demands strict proof thereof.

15. Responding to the allegations set forth in paragraph 35 of the Complaint, AT&T Tennessee incorporates by reference the "SUMMARY OF AT&T TENNESSEE'S INVESTIGATION AND POSITION" portion of this Response as well as paragraphs 1 through 14 of this Response.

16. AT&T Tennessee denies the allegations set forth in paragraphs 36, 37, 38, and 39 of the Complaint and demands strict proof thereof.

17. Responding to the allegations set forth in paragraph 40 of the Complaint, AT&T Tennessee incorporates by reference the "SUMMARY OF AT&T TENNESSEE'S INVESTIGATION AND POSITION" portion of this Response as well as paragraphs 1 through 16 of this Response.

18. AT&T Tennessee denies the allegations set forth in paragraphs 41, 42, and 43 of the Complaint and demands strict proof thereof.

19. Responding to the allegations set forth in paragraph 44 of the Complaint, AT&T Tennessee incorporates by reference the "SUMMARY OF AT&T TENNESSEE'S INVESTIGATION AND POSITION" portion of this Response as well as paragraphs 1 through 18 of this Response.

20. AT&T Tennessee denies the allegations set forth in paragraphs 45, 46, 47, 48, and 49 of the Complaint and demands strict proof thereof.

21. Responding to the allegations set forth in paragraph 51 of the Complaint, AT&T Tennessee incorporates by reference the "SUMMARY OF AT&T TENNESSEE'S INVESTIGATION AND POSITION" portion of this Response as well as paragraphs 1 through 20 of this Response.

22. AT&T Tennessee denies the allegations set forth in paragraph 52 of the Complaint and demands strict proof thereof.

23. All allegations of the Complaint not specifically admitted are denied.

24. Responding to the "WHEREFORE" portion of the Complaint, AT&T Tennessee denies that Hilton is entitled to any relief whatsoever.

AFFIRMATIVE DEFENSES

25. Hilton has failed to state a claim upon which relief can be granted.

26. Hilton's claims are barred by the applicable tariff provisions as Hilton failed to timely dispute the charges it now seeks to recover.

27. Hilton's claims are barred by the doctrine of laches, estoppel, and waiver.

WHEREFORE, having responded to the Complaint, AT&T Tennessee respectfully requests that the Authority issue an Order dismissing the Complaint and granting such further relief as the Authority deems just and proper.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.
d/b/a AT&T TENNESSEE

By: 

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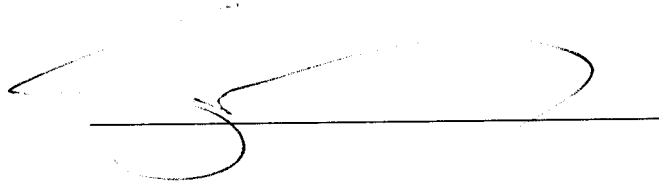
Robert A. Culpepper
AT&T Midtown Center
675 W. Peachtree Street
Atlanta, GA 30375

CERTIFICATE OF SERVICE

I hereby certify that on September 6, 2007, a copy of the foregoing document was served on the parties of record, via the method indicated:

- ☐ Hand
- ☐ Mail
- ☐ Facsimile
- ☐ Overnight
- ☒ Electronic

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A handwritten signature in black ink, appearing to be 'Melvin Malone', is written over a horizontal line.