

**Eric Fryson**

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**From:** Jon Moyle [jmoyle@moylelaw.com]  
**Sent:** Wednesday, November 07, 2012 7:59 AM  
**To:** Filings@psc.state.fl.us  
**Cc:** Adam Teitzman; Charles Murphy; th9467@att.com; sm6526@att.com  
**Subject:** RE: Budget Prepay Inc. Response to AT&T's Notice of Commencement of Collection Action  
**Attachments:** Budget Response to AT&T Notice of Commencement of Collection Action.pdf

Electronic Filing

a. Person responsible for this electronic filing:

Jon Moyle  
Moyle Law Firm  
The Perkins House  
118 North Gadsden Street  
Tallahassee, FL 32301  
(850) 681-3828  
[jmoyle@moylelaw.com](mailto:jmoyle@moylelaw.com)

b. Docket No. 120231-TP

In re: Complaint of Budget Prepay, Inc. against AT&T Florida

c. Documents being filed on behalf of Budget Prepay, Inc.

d. There are a total of 60 pages.

e. The document attached for electronic filing is Budget's Response to AT&T's Notice of Commencement of Collection Action. Please let me know if you need any additional information or have questions.

Jon Moyle  
[jmoyle@moylelaw.com](mailto:jmoyle@moylelaw.com)



Moyle Law Firm, P.A.  
The Perkins House  
118 N. Gadsden St.  
Tallahassee, FL 32301  
850-681-3828 (Voice)  
850-681-8788 (Fax)

DOCUMENT NUMBER-DATE  
07494 NOV-7 09  
FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Complaint of BUDGET PREPAY, INC. Against  
BellSouth Telecommunications, LLC d/b/a AT&T  
Florida

DOCKET NO. 120231- TP

Filed: November 7, 2012

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**BUDGET'S RESPONSE TO AT&T'S NOTICE  
OF COMMENCEMENT OF COLLECTION ACTION**

Budget Prepay, Inc. ("Budget"), by and through its undersigned counsel, files this response to the "Notice of Commencement of Collection Action" ("Notice") filed by BellSouth Telecommunications, LLC d/b/a AT&T Florida ("AT&T") on October 19, 2012. AT&T's Notice encroaches on this Commission's ability to resolve the pending billing dispute. Budget's Complaint tees up for the Commission's consideration a two-year dispute over the resale of bundled promotional offerings that were made available to AT&T local service customers but that AT&T unlawfully restricted resale to Budget. Such dispute relates to a specific amount of money that AT&T claims Budget owes to it for local service and Budget claims should be credited to its bills pursuant to AT&T's resale obligations under the Telecommunications Act of 1996 (the "Act") and the parties' interconnection agreement ("ICA"). Thus, the dispute is a "billing dispute" under the ICA, and Budget is entitled to withhold the amount in dispute pending resolution of the dispute.

AT&T's request for bond or escrow payment would amount to the Commission materially changing the terms of the parties' ICA, which expressly allows for withholdings, is

improper and should be denied. Further, any disconnection of Budget's local service customers by AT&T pending resolution of the billing dispute would be an additional breach of the ICA by AT&T that the Commission should prohibit to protect Budget's home phone customers and the public in general, who benefit from competition.

Budget – not AT&T – has taken appropriate steps to informally resolve the billing dispute. Budget – not AT&T – initiated proceedings before this Commission and seven other state commissions in order to formally resolve the billing dispute.<sup>1</sup> Further, Budget has served extensive discovery on the AT&T's affiliate Louisiana incumbent local exchange carrier (“ILEC”) that requests information related to all AT&T ILECs' anti-competitive behavior and improper relationships with affiliated long distance service providers. AT&T's accusations of dilatory tactics are misplaced and disregard key facts – particularly Budget's actions to pursue resolution of the billing dispute.

## I.

### **Factual Background**

Budget is a competitive local exchange carrier (“CLEC”) that has provided low-cost prepaid home phone (“wireline”) services to Florida residents for 14 years. Currently, Budget provides home phone services throughout 16 states. The continued success of its home phone services has allowed the company to grow into one of the nation's largest prepaid products companies, with a range of products available across the continental United States. Budget has

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<sup>1</sup> Budget has also initiated proceedings to address the same billing dispute subject of its Complaint against AT&T Florida in Alabama, Arkansas, Kentucky, Louisiana, North Carolina, Oklahoma, and Tennessee.

significant operations in Florida and provides “wireline” service to approximately 1,500 Florida residents and businesses.

Budget also owns switching facilities in Dallas, Texas and Shreveport, Louisiana, and has invested millions of dollars in software development, including its own customized, user-friendly point-of-sale software. Nationwide, Budget provides telecommunications services (including home phone and/or mobile services) throughout forty-six (46) states.

Consistent with the 1995 Florida Legislature’s express finding that competitive telecommunications services are in the public interest,<sup>2</sup> and Congress’ passage of the Act, Budget is competing against AT&T and others in the business of providing telecom services. A chief goal of both the Florida Legislature and Congress was to foster competition in the telecommunications market and prevent monopolistic, anti-competitive behavior.<sup>3</sup> The ability of Budget and other CLECs to compete with ILECs, such as AT&T, is essential to serving the purpose of the Act and the goal of the Florida Legislature and Congress.

Against this backdrop, this case involves a billing dispute between Budget and AT&T. On March 21, 2010, AT&T began offering and providing retail residential customers in Florida a cash-back promotion available to certain qualifying new and existing customers and subscribers, and applicable to purchases of certain bundled qualifying services that included local service and long distance service (the “Bundled Promotions”). The Bundled Promotions were marketed by

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<sup>2</sup> See Ch. 95-403, §5, Laws of Florida; Section 364.01(3), Florida Statutes.

<sup>3</sup> The Supreme Court has stated: “The 1996 Act is, in an important respect, much more ambitious than antitrust laws. It attempts ‘to eliminate the monopolies enjoyed by the inheritors of AT&T’s local franchise’.” *Verizon Communications, Inc. v. Law Offices of Curtis V. Trinko, LLP*, 540 U.S. 398, 415 (2004), citing *Verizon Communications Inc. v. FCC*, 535 U.S. 476 (2002). See also, generally, *Telecommunications Reform and the Death of the Local Exchange Company*, Comment by Miles W. Hughes, Florida State University Law Review, 1996.

“AT&T,” and provided that customers subscribing to certain AT&T service offerings shall qualify for a \$100 or \$50 reward or credit. The service offerings included in the Bundled Promotions specifically required that AT&T local services be purchased by the customer. The promotional offerings were not available to customers without the customer’s purchase of local service provided by the AT&T ILEC. Shortly after Budget filed complaints against AT&T with several state utility commissions, AT&T ceased offering the Bundled Promotions.

Tellingly, at all relevant times that Bundled Promotions were made available to AT&T’s retail local service customers, AT&T did not make available the Bundled Promotions at resale to Budget, as required by the parties’ ICA and applicable law.<sup>4</sup> AT&T purportedly restricted the Bundled Promotions from resale to Budget on grounds that the promotion was offered by an affiliated AT&T long distance service company, even though the service offerings underlying the Bundled Promotions specifically required the provision of local service by an AT&T ILEC.

Budget – not AT&T – filed a complaint with this Commission on August 28, 2011 to resolve this billing dispute. On September 17, 2012, AT&T answered Budget’s complaint and asserted a counterclaim. Budget moved to dismiss AT&T’s counterclaim on October 8, 2012. AT&T responded to Budget’s motion to dismiss on October 15, 2012 and filed its Notice of Commencement of Collection Action on October 19, 2012.

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<sup>4</sup> Specifically, the parties’ ICA provides: “Subject to effective and applicable FCC and Commission rules and orders, BellSouth shall make available to [Budget] for resale those telecommunications services BellSouth makes available, pursuant to its General Subscriber Services Tariff and Private Line-Services Tariff, to customers who are not telecommunications carriers.” See also, 47 U.S.C. § 251(c)(4)(A) that states that an ILEC has the duty “to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers.” Further, 47 USC § 251(c)(4)(B) provides that an ILEC has the duty “not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of such telecommunications service ....”

## II.

### AT&T's "Notice"

AT&T's recent threat to disconnect Budget, as detailed in the Notice of Commencement of Collection,<sup>5</sup> imperils Budget's more than 1,500 Florida households, and continued competition in the Florida telecommunications marketplace. If AT&T senses that it can create a "dispute" with a CLEC, demand the "disputed" monies or seek to have those monies encumbered by having the funds escrowed (despite contractual provisions that allow for withholdings of disputed amounts), then proceed to disconnect the CLEC while the CLEC attempts to put the facts of the dispute before the Commission for resolution, this Commission's annual report to the Florida Legislature concerning the status of competition in the telecommunications industry will undoubtedly be a quick read.

AT&T's decision to take adverse action against Budget before the parties meet face-to-face in an effort to resolve their differences, discover key facts, identify issues in dispute, prepare and file testimony, and have the Commission decide the matter on a fully developed evidentiary record is not only anti-competitive and heavy handed, but also can be viewed as disrespectful of Budget and arguably the process established by Congress under the Act to resolve disputes. Not only are Budget's withholdings authorized under the parties' ICA, the total amount of Budget's withholdings are a fraction of the total amount paid by Budget to AT&T ILECs for local services. Moreover, AT&T's alleged exposure from Budget's withholdings will not continue to

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<sup>5</sup> On October 19, 2012, AT&T also served Budget with a "Notice of Suspension and Discontinuation – Florida Resale Accounts." AT&T stated that "absent payment *or a Commission ruling directing otherwise*, AT&T will suspend service no earlier than close of business on November 27, 2012."

grow, as AT&T ceased offering the Bundled Promotions soon after Budget commenced the administrative proceeding at the Commission.

AT&T's concern for its alleged exposure to financial loss due to Budget's withholdings is disingenuous. If AT&T was concerned about the alleged "risk of loss" from the withholdings, AT&T could have initiated collection actions at any time since Budget began withholding the disputed amounts in February 2011. However, AT&T instead received Budget's credit requests through its Exclaim web portal, which is the system used by AT&T ILECs to process CLECs local service claims, assigned each claim an Exclaim File ID, and considered each claim an open dispute. AT&T's attempt to force Budget to pay or escrow the disputed amount pending resolution of the billing dispute by threatening disconnection of Budget's Florida customers is yet another way that AT&T seeks to stifle competition in the state through anti-competitive and unlawful tactics.

The Commission should send AT&T a message that such tactics are tiresome and unwelcome. This case should be prepared properly, subject to full discovery, tried and decided before Budget is disconnected and summarily shoved off a cliff by AT&T while Budget is seeking to have its proverbial day in court, which will be before the Commission.

*A. AT&T's Notice of Commencement of Collection Action Encroaches On This Commission's Ability to Resolve the Pending Billing Dispute.*

AT&T's "Notice of Commencement of Collection Action" filed with the Commission on October 19, 2012 improperly intrudes upon this Commission's ability to adjudicate the pending dispute between Budget and AT&T. AT&T's threat to discontinue service to Budget, if

implemented, would be an additional breach of the parties' ICA, disrupt the lives of approximately 1,500 Floridians who receive telecommunications services from Budget, and degrade the ability of this Commission to determine billing disputes consistent with the parties' ICA and the Act.

The gist of AT&T's "Notice" is an awkward and unauthorized attempt to argue the merits of its case, something more appropriately done in post-hearing briefs following an evidentiary hearing. (See, e.g., section 120.57(1)(b), Florida Statutes). However, to make clear that AT&T's overreaching threat to disconnect Budget and its 1,500 residential customers from telecommunications service is not supported by the parties' agreement or public policy, Budget must make a number of points, arguments and observations demonstrating that it has properly followed the "billing dispute" provision of the ICA.<sup>6</sup>

- *Budget has reported to AT&T a specific amount of money that AT&T has actually and improperly billed and overcharged to Budget by its failure to make credits available for the Bundled Promotions;*
- *Budget has submitted the billing dispute claims monthly since February 2011 via AT&T's Exclaim dispute web portal, which is the system that AT&T ILEC requires CLECs to use for filing local service claims, and all such claims for credits have received AT&T File IDs and are considered by AT&T as an open dispute in the Exclaim system;*
- *Budget has clearly explained the dispute in good faith in its monthly billing dispute submissions and in correspondence to AT&T;*
- *Budget has supported the disputes with written documentation in its monthly dispute submissions which show the basis for disputing charges;*
- *Budget has paid all undisputed amounts due AT&T;*

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<sup>6</sup> The "billing dispute" provision of the parties' ICA is found in Attachment 7, Section 2.2. (See Attachment A hereto.)



- *AT&T has coordinated with Budget on its payment approach so that the disputed amounts were properly reflected as being in dispute in the various states, and AT&T's own spreadsheets specifically refer to "Disputed Amounts"; and*
- *Budget is allowed to withhold "disputed amounts" pursuant to the ICA.*

**1. This is a billing dispute subject to the terms of the parties' ICA.**

This case involves a billing dispute between the parties under the terms of the ICA, a fact arguably admitted previously by AT&T in its correspondence with Budget. During efforts to resolve this matter, the parties previously corresponded about "the disputed amounts." Specifically, Budget provided a number of written notices and claims of credits to AT&T Florida for promotional credits associated with AT&T's local service offerings. Starting in February 2011, Budget attempted to resolve informally the "billing disputes," sending several letters to AT&T corporate representatives in which Budget referenced the specific "billing disputes." (See Attachment B hereto). On or about December 2011, AT&T (Marc Cathey) contacted Budget to coordinate details of the ongoing claim submissions and withholdings by Budget in the BellSouth states. AT&T was seeking to coordinate with Budget on its payment approach in the BellSouth states so that disputed amounts were properly reflected as being in dispute in the various jurisdictions. To accomplish this, follow-up emails and discussion ensued between AT&T (Marc Cathey) and Budget. Thad Pellino, on behalf of Budget, describes this exchange in an affidavit attached to this response. (See Attachment C hereto.) Moreover, in its records, AT&T itself identified the specific amounts of money in dispute as "disputed amounts." (See Attachment D hereto.) It is illogical and inconsistent for AT&T to contend that the matter at

hand is not a billing dispute when AT&T referenced the “disputed amounts” when corresponding with Budget.

Further, in a 2010 case, AT&T filed a petition against LifeConnex Telecom, LLC, regarding “promotional credits.” This Commission and AT&T correctly treated the issue of “promotional credits” due and owing as a “billing dispute” under the terms of the parties’ ICA. (See Docket No. 100021-TP, AT&T Florida Complaint and Petition for Relief at 1-2 (Jan. 8, 2010) (AT&T requested the Commission convene a docket for the purposes of resolving billing disputes between AT&T and LifeConnex).) AT&T cannot have it both ways, invoking this Commission’s jurisdiction by treating a prior “promotional credit” contest as a billing dispute when it was advantageous to AT&T, and then contending that a similar “promotional credit” issue involving Budget is not a billing dispute. The issue of “promotional credits” is a billing dispute, plain and simple.

## **2. Budget is entitled to withhold “disputed amounts” pursuant to its ICA.**

AT&T tries to tie this case to the LifeConnex case to suggest that the Commission has determined – as a policy matter – that a CLEC should post a bond in the amount of the dispute pending a Commission determination. However, the LifeConnex case provides no such precedent. The ICA in the LifeConnex case contained express contractual provisions that stated that LifeConnex “shall make payment to AT&T for all services billed **including disputed amounts**.... Payment for service provided by AT&T, **including disputed charges**, is due on or before the next bill date.” (Emphasis original as quoted in Order No. PSC-10-0457-PCO-TP at p.

6.) The ICA between AT&T and Budget does not have such a provision. To the contrary, the ICA between AT&T and Budget contains express language that allows Budget to retain monies in dispute until resolved by the Commission. The Budget-AT&T ICA provides, unambiguously, that Budget “**may withhold disputed amounts until the dispute is resolved.**” (Emphasis added.) (See ICA, Attachment 7, page 8.) AT&T is bound by this clear language of its ICA, and it should be enforced as written.

AT&T next argues that the ICA should be narrowly construed to limit a “billing dispute” to a specific amount of money actually billed by either party and that AT&T has not billed Budget for long distance offerings. (See AT&T Notice of Commencement of Collection Action, page 4.) This suggested interpretation of a billing dispute, besides being contrary to the position of AT&T and this Commission in the LifeConnex matter, is in error. AT&T, in their Answer to Budget’s Complaint, had no problem identifying a specific amount of money that is in dispute. (See AT&T Answer and Counterclaim, page 4). Surely, those sums were “billed” as AT&T’s counterclaim seeks to recover these disputed monies.

When interpreting a contract, it is proper to consider the entire document and the context in which the agreement was entered. The Court in *Paddock v. Bay Concrete Indus., Inc.* said it well:

The cardinal criterion by which a court will be guided in construing a contract is to be found within the rule that, to ascertain the intent of the parties, the court will regard the total instrument and not particular provisions nor disjointed parts. The meaning is not to be gathered from any one expression but from a general view of the whole writing, with all of its parts being compared, used, and construed, each with reference to the others. 154 So.2d 313, 315-6 (Fla. 2d 1963), citing *United States Rubber Products, Inc. v. Clark*, 1941, 145 Fla. 631, 200 So. 385; *Lalow v.*

*Codomo*, Fla.1958, 101 So.2d 390; and *Townsend v. First Federal Savings & Loan Ass'n.*, 1943, 153 Fla. 535, 15 So.2d 199.

AT&T's suggested reading of this contractual provision is myopic and a blatant attempt to sidestep the ICA's express language allowing Budget to withhold payment pending the Commission's resolution of the dispute. AT&T's position is not supported by the facts, and is contrary to case law addressing contractual interpretation.

### **3. Budget's Complaint does not seek damages from AT&T.**

AT&T suggests that the current disagreement between the parties is not subject to the ICA and is not a billing dispute because the contract provides "claims by the billed party for damages of any kind will not be considered a billing dispute..." (See AT&T Answer and Counterclaim, page 4.) Budget recognizes that the Florida Legislature has not vested this Commission with authority to award damages analogous to the authority of a Florida court empowered by Article V of the Florida Constitution to award damages. Budget is asking this Commission to decide a *breach of contract* matter as contemplated by the Act, not to award damages.

The ICA allows that claims for "damages", may be brought against a Party, in the case of willful misconduct or gross negligence, such as "indirect, incidental, or consequential damages, including, but not limited to, economic loss or lost business or profits ...."<sup>7</sup> However, Budget's claim in this matter is not for "damages" as allowed by the ICA. Rather, Budget claims credits

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<sup>7</sup> See ICA, General Terms and Conditions, Section 7.3.4. (See Attachment E hereto.)

for amounts billed and overcharged for local service. Thus, ATT's argument is misplaced and incorrect. In contrast to claims for "damages," the ICA provides in pertinent part that, except in the case of gross negligence or willful misconduct, each Party's liability to the other for any claim or liability, including reasonable attorneys' fees relating or arising out of any omission in its performance of the Agreement, whether in contract or in tort, shall be limited to a "credit" for the actual cost of the services or functions not performed or improperly performed.<sup>8</sup> Budget's claims are for "credits" due to ATT's improper performance of the ICA, and are not "damages" pursuant to the ICA. Budget has not requested damages or engaged in self-help to withhold damages. Rather, Budget claims that AT&T has breached the ICA and violated federal law by imposing an unreasonable, and thus unlawful restriction on resale of local services.

Further, AT&T's argument would remove any dispute over restrictions on resale of promotional offerings from the scope of a billing dispute. That is inconsistent with past treatment of disputes over restrictions on resale of promotions<sup>9</sup> and counter to the determination that promotions offered for greater than 90 days affect the "fee" charged the reseller,<sup>10</sup> which is of course invoiced to resellers through "bills." A dispute over a promotion offered for more than 90 days implicates the "fee" for telecommunications services charged to a reseller and is

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<sup>8</sup> *Id.* at Section 7.3.1.

<sup>9</sup> See Docket No. 100021-TP, AT&T Florida Complaint and Petition for Relief at 1-2 (Jan. 8, 2010).

<sup>10</sup> See *BellSouth v. Sanford*, 494 F.3d 439, 442 (4<sup>th</sup> Cir. 20078) ("*Sanford*"). The U.S. Court of Appeals for the Fourth Circuit affirmed a decision of the North Carolina Utilities Commission ("NCUC"). In so doing, the Court held that "telecommunications service" referred to in the Act's resale provisions describes *both* sides of the service contract between an ILEC and a consumer, including (1) the "telecommunications" offered by the provider; *and* (2) the 'fee' paid by the consumer. The Court agreed with the NCUC that "*incentives may nonetheless implicate the fee for telecommunications* - the retail rate or consideration given by the consumer in exchange for telecommunications-and thereby affect the incumbent LECs' resale duty." *Id.* at 449-450 (emphasis added.)

properly categorized as a billing dispute. So, according to *Sanford*, the value of a promotional offer is a telecommunications service; thus, AT&T's failure to provide the promotional credit on a bill for the local service is what violates the Act and creates a "billing dispute." Construing a bill only to include charges and not to include credits owed that would reduce those charges (and thus change the total amount of the bill) is simply nonsensical.<sup>11</sup>

In sum, AT&T's strained attempt to argue that the Bundled Promotions are not a billing dispute is without merit for the following reasons: 1) AT&T, in a similar case, the LifeConnex case, *supra*, invoked this Commission's jurisdiction to resolve a billing dispute regarding promotional credits; 2) AT&T has referred to the parties' disagreement as a billing dispute in written correspondence; 3) AT&T filed a counterclaim in this very case asking the Commission to resolve the parties' billing dispute; 4) contrary to AT&T's suggestion, the amount in dispute has been identified and AT&T has billed Budget; and 5) Budget is not requesting damages; and 6) AT&T's suggestion that amounts billed do not include incentives that implicate the fee charged to the reseller is contrary to case law and the rules of construction that prohibit contracts from being interpreted in a way that would lead to an absurd result.

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<sup>11</sup> Contracts will not be construed to render an absurd result. "Looking to the other provisions of a contract and to its general scope, if one construction would lead to an absurd conclusion, such interpretation must be abandoned and that adopted which will be more consistent with reason and probability." *Paddock*, *supra*, at 315-316; *Kipp v. Kipp*, 844 So.2d 691, 693 (Fla. 4th DCA 2003).

***B. AT&T's Request that the Commission Revise the ICA to Require a Bond or Escrow Payment is Improper and Should be Denied.***

Unhappy that the existing ICA provides Budget with the unambiguous contractual right to “withhold disputed amounts until the dispute is resolved,” AT&T unabashedly asks this Commission to order “Budget to post a bond sufficient to ensure recovery of withheld amounts or pay into escrow all amounts it has wrongfully withheld pending the outcome of this proceeding.” (See AT&T Notice of Commencement of Collection Action, page 7.) This request is tantamount to asking the Commission to rewrite key provisions of the ICA to the benefit of AT&T and to the detriment of Budget and is contrary to the express requirements in the ICA for modifying terms of the ICA.<sup>12</sup>

**1. The Parties must negotiate in good faith to modify terms of the ICA.**

The parties know how to negotiate terms related to how funds in dispute will be handled. For example, the ICA between Budget and AT&T governing the provision of telecommunications services in Arkansas provides that Budget will pay AT&T any disputed monies while the dispute is litigated, similar to the provision in the LifeConnex case, *supra*. In Arkansas, while lodging a similar complaint with the Arkansas Commission concerning the Bundled Promotions matter, Budget has not withheld disputed amounts, consistent with the

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<sup>12</sup> The ICA requires the parties to negotiate in good faith mutually acceptable new terms should legislation, regulatory judicial or other legal action materially affect any material terms of the ICA. See ICA, General Terms and Conditions, Section 14.3. Further, no modification, amendment, supplement to or waiver of the ICA shall be effective or binding unless made in writing and signed by the parties. *Id.* at Section 14.2. (See Attachment F hereto.)

terms of Budget's ICA with AT&T Arkansas, and instead paid AT&T the disputed sums, subject to refund. Should AT&T seek to modify the ICA, it must do so pursuant to the ICA and federal law, which require AT&T to negotiate with Budget in good faith and not pressure Budget to pay lawfully withheld disputed amounts by threatening disconnection of its customers.<sup>13</sup>

To briefly reiterate a key point, here, the ICA at issue contains nothing requiring Budget to pay the disputed sums to AT&T, to deposit the disputed funds into an escrow account, or to secure a litigation bond. To the contrary, the ICA states affirmatively in Section 2.2 of Attachment 7 to the parties ICA that Budget "may withhold disputed amounts until the dispute is resolved."

Importantly, other than the LifeConnex case, AT&T cites no legal or contractual authority to support its misguided request that the Commission order Budget to post a litigation bond or pay funds into escrow. The Florida Legislature knows how to impose upon a litigant the requirement that security be provided as a condition to proceeding with litigation. (*See, e.g.,* section 72.011(3); *Department of Revenue v. Nu-Life Health & Fitness Center*, 623 So.2d 747 (Fla. 1<sup>st</sup> DCA 1992) (requiring that litigant challenging tax assessment provide security for the amount of the taxes in dispute).)

This Commission derives its power and jurisdiction solely from the Florida Legislature. (*See Florida Bridge Co. v. Bevis*, 363 So.2d 799, 802 (Fla.1978).) Furthermore, the Florida Supreme Court has said that, when reviewing decisions of the Commission, the first order of business is to identify the specific grant of legislative authority by which the Commission acted.

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<sup>13</sup> *Id.* See also 47 USC § 251(c)(1).



(See *Sprint-Florida, Inc. v. Jaber*, 885 So.2d 286, 290 (Fla. 2004) (“At the threshold, we must establish the grant of legislative authority to act...”).) Florida statutes and case law do not suggest, respectfully, that the Commission has been granted the statutory or injunctive power to require the posting of litigation bonds or the ability to order that monies be paid into an escrow account pending the resolution of a breach of contract claim. AT&T has failed to point to any provision in the Act that empowers a state commission to require security be posted before resolving a contractual dispute.

Florida courts, including the Florida Supreme Court, have viewed an order requiring the payment of monies into escrow in the absent of an escrow agreement as unauthorized injunctive relief. (See *Van Vorgue v. Rankin*, 41 So.3d 849, 852-53 (Fla. 2010); *Leight v. Berkman*, 483 So.2d 476, 477 (Fla. 3d DCA 1986); *Supreme Serv. Station Corp. v. Telecredit Serv. Ctr., Inc.*, 424 So.2d 844, 844 (Fla. 3d DCA 1982) (an injunction cannot be used to restrain the use of a party's unrestricted assets prior to the conclusion of an action at law).)

In reversing a trial court order that required one party to put monies in escrow without the parties having previously established an escrow fund, the Court in *Konover Realty Assocs. v. Mladen* relied on the following principle:

It is entirely settled by a long and unbroken line of Florida cases that in an action at law for money damages, there is simply no judicial authority for an order requiring the deposit of the amount in controversy into the registry of the court or indeed for any restraint upon the use of a defendant's *unrestricted* assets prior to the entry of judgment. 511 So.2d 705, 706 (Fla. 3d DCA 1987)(emphasis added)(citations omitted).

If circuit courts, which have jurisdiction to award damages and grant injunctions, are not permitted to impose a restraint on a party's unrestricted assets before a decision is made as to

liability, this Commission, which does not have the power to award damages or grant injunctions, should summarily reject AT&T's ill-founded request to require Budget to place monies in escrow or spend its unrestricted assets procuring a litigation bond. The Commission should sternly decline AT&T's inappropriate invitation to commit legal error by requiring Budget to pay monies into escrow or post a bond. (*See Gonzalez v. Martinez*, 897 So.2d 525, 528 (Fla. 3<sup>rd</sup> DCA 2005) (declining invitation to create a per se reversible error).)

**2. Unlike the AT&T-LifeConnex ICA, Budget's ICA permits withholdings of disputed amounts pending resolution of the dispute.**

To distinguish the only authority cited by AT&T to support its request, as detailed above, the LifeConnex case is an apple and this case is an orange. The contractual provisions about how monies in dispute are handled could not be more different: the LifeConnex contract says monies in dispute must be paid; the Budget contract says monies in dispute may be withheld. Given the clear contractual obligation to pay disputed monies in the LifeConnex case, it appears that the Commission felt warranted ordering that certain sums be paid into escrow, as it is presumed those sums were not paid. (“[W]e are taking this action under our authority to issue an interim procedural order under our clear jurisdiction to enforce the terms of the ICA and to resolve matters in dispute.” Order No. PSC-10-0457-PCO-TP at page 9.)

For the reasons set forth above, AT&T's request that the Commission order Budget to place its unrestricted funds into escrow or use its unrestricted funds to secure a litigation bond should be denied.

***C. AT&T's Accusations of Dilatory Tactics Are Misplaced and Disregard Key Facts.***

AT&T makes the bold assertion that, “AT&T Florida should not bear the risk of loss while this case is slow-rolled through the Commission, especially since the ICA does not even arguably allow Budget to withhold payment under these circumstances.” (See AT&T Notice of Commencement of Collection Action, page 7.) AT&T apparently needs to be reminded that legal action to address this billing dispute was initiated by Budget. Typically, a party seeking to avoid the proverbial “judgment day” does not file and pursue a formal complaint designed to resolve the issue in question. Moreover, Budget’s withholdings are a fraction of its overall payments to AT&T ILECs. Budget has paid AT&T ILECs approximately \$23 million overall for local services related to the Bundled Promotions during the pendency of this billing dispute.

AT&T next suggests that its own failure to follow the terms of the ICA regarding dispute resolution and Budget’s well-founded Motion to Dismiss premised upon AT&T’s failure to adhere to a contractual condition precedent (*i.e.*, the dispute resolution provisions of the ICA) puts it at increased risk. As the parties have never sat down face to face to discuss their differences, something contemplated by the ICA’s dispute resolution provisions, Budget’s Motion to Dismiss and requested relief (*i.e.*, dismissing AT&T’s counterclaim or holding the case in abeyance so that a face-to-face meeting may occur) is hardly damaging and could be a worthwhile event. Indeed, if AT&T was so concerned about timing, it could have simply answered Budget’s complaint – or could have pursued its dispute with Budget by initiating a complaint proceeding instead of responding to Budget’s attempt to seek formal resolution of its billing dispute.

Finally, AT&T criticizes Budget for seeking to conduct discovery before identifying issues, and notes that Budget has not served any discovery in this case. AT&T conveniently fails to point out that Budget has filed similar complaints in other jurisdictions, that discovery has been served in the Budget complaint against AT&T Louisiana (Louisiana Public Service Commission Docket No. 32508) and that AT&T has delayed responding to that discovery. (See Attachment G hereto.) Specifically, in the Louisiana case, AT&T has delayed providing Budget with answers to 30 interrogatories and requests for production of documents, seeking 34 additional days in which to respond to discovery requests that were originally due on October 6, 2012. The discovery requests seek information relevant to all states subject to the Bundled Promotions, including Florida. For example, to what extent did AT&T benefit from the promotions that bundled AT&T Florida's local service with its affiliate's long-distance service; how much of the revenue realized from those bundled promotions was directly related to the sale of local service; and to what extent did AT&T's customers benefit and receive reduced prices for local service through the bundled promotions? The discovery responses are due November 9, 2012, and it is not yet known the extent to which AT&T will fully and completely respond or what additional follow-up discovery will be needed. Budget has also notified AT&T that it is seeking to depose AT&T witnesses in the Louisiana case in late November and/or early December 2012.

Budget has avoided sending AT&T discovery in Florida that parrots pending discovery in Louisiana to avoid inefficiencies. The discovery eventually provided in Louisiana will be useful

in framing issues, performing follow-up discovery and determining what issues are in dispute. Budget is not sitting on its hands as AT&T would suggest.

### III

#### Conclusion

AT&T is a tough, hard-nosed competitor.<sup>14</sup> While an underdog, Budget has opted to compete in the telecom business. Budget has done so successfully for 14 years in Florida.

Budget has respectfully responded to AT&T's Notice of Commencement of Collection Action by pointing out the faulty logic of AT&T's flimsy contention that this case does not involve a billing dispute, provided the Commission with ample case law which makes clear the unlawful nature of AT&T's suggested escrow and litigation bond relief, and highlighted key facts that refute AT&T's contention that Budget does not wish to move forward to hearing in this matter. The Commission should prohibit AT&T from threatening Budget with anti-competitive tactics while Budget pursues resolution of the billing dispute at the Commission. This case and

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<sup>14</sup> In fact, in several cases, state commissions throughout the country have concluded that AT&T crossed the competitive line and has improperly engaged in anti-competitive behavior. See *dPi Teleconnect, LLC v. BellSouth Telecomms, Inc. d/b/a AT&T North Carolina*, Docket No. P55, Sub 1744, 2010 WL 1922679 at \*9 (North Carolina Utilities Commission May 7, 2010) and *dPi Teleconnect, LLC v. BellSouth Telecomms, Inc. d/b/a AT&T Kentucky*, Case No. 200900127, 2010 WL 182217 at \*5 (Kentucky Public Service Commission Jan. 19, 2010) (both commissions holding that AT&T must make available cash-back promotional discounts for resale as restricting cash-back promotions from resale puts resellers at a competitive disadvantage and is thus unreasonable); *In re: BellSouth's provision of ADSL Service to end-users over CLEC loops Pursuant to the Commission's directive in Order U-22252-E, Order R-26173* (Jan. 24, 2003) (holding that the anti-competitive effects of AT&T's ADSL policy were inconsistent with the LPSC's policy to promote competition). Moreover, the federal Department of Justice has charged AT&T with anti-competitive behavior that violates federal anti-trust laws. See *United States v. American Tel. & Tel. Co.*, 552 F.Supp. 131, 141 (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983). ("AT&T" was originally "American Telephone and Telegraph Company.")

these facts offer this Commission an opportunity to, *sua sponte*, use its jurisdiction under 364.01 to protect the public interest, ensure fair competition and prevent anti-competitive behavior.

s/ Jon C. Moyle, Jr. \_\_\_\_\_

Jon C. Moyle, Jr.  
[jmoyle@moylelaw.com](mailto:jmoyle@moylelaw.com)  
Moyle Law Firm, PA  
118 North Gadsden Street  
Tallahassee, FL 32301  
(850) 681-3828 (Voice)  
(850) 681-8788 (Facsimile)

Katherine King  
[Katherine.king@keanmiller.com](mailto:Katherine.king@keanmiller.com)  
Randy Young  
[Randy.young@keanmiller.com](mailto:Randy.young@keanmiller.com)  
Randy Cangelosi  
[Randy.cangelosi@keanmiller.com](mailto:Randy.cangelosi@keanmiller.com)  
Carrie R. Tournillon  
[Carrie.tournillon@keanmiller.com](mailto:Carrie.tournillon@keanmiller.com)  
Kean Miller LLP  
400 Convention Street, Suite 700  
Baton Rouge, Louisiana 70802  
(225) 389-3723 (Voice)  
(225) 405-8671 (Facsimile)

**Attorneys for Budget PrePay, Inc.**

**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Complaint has been furnished by Electronic Mail (\*) to the following, this 7<sup>th</sup> day of November 2012:

(\*) Adam Teitzman  
(\*) Charles Murphy  
Office of the General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
[ATeitzma@PSC.STATE.FL.US](mailto:ATeitzma@PSC.STATE.FL.US)

(\*) Tracy Hatch  
(\*) Suzanne L. Montgomery  
AT&T  
150 South Monroe Street, Suite 400  
Tallahassee, FL 32301  
[Th9467@att.com](mailto:Th9467@att.com)  
[sm6526@att.com](mailto:sm6526@att.com)

s/ Jon C. Moyle, Jr. \_\_\_\_\_

Jon C. Moyle, Jr.

- 1.8.5 In the event Level 3 fails to remit to BellSouth any deposit requested pursuant to this Section, service to Level 3 may be terminated in accordance with the terms of Section 1.7 of this Attachment, and any security deposits will be applied to Level 3's account(s). In the event Level 3 defaults on its account, service to Level 3 will be terminated in accordance with the terms of Section 1.7 and any security deposits will be applied to Level 3's account.
- 1.9 Notices. Notwithstanding anything to the contrary in this Agreement, all bills and notices regarding billing matters, including notices relating to security deposits, disconnection of services for nonpayment of charges, and rejection of additional orders from Level 3, shall be forwarded to the individual and/or address provided by Level 3 in establishment of its billing account(s) with BellSouth, or to the individual and/or address subsequently provided by Level 3 as the contact for billing information. All monthly bills and notices described in this Section shall be forwarded to the same individual and/or address; provided, however, upon written request from Level 3 to BellSouth's billing organization, the notice of discontinuance of services purchased by Level 3 under this Agreement provided for in Section 1.7.2 of this Attachment shall be sent via certified mail to the individual(s) listed in the Notices provision of the General Terms and Conditions of this Agreement.
- 1.10 Rates. Rates for Optional Daily Usage File (ODUF), Access Daily Usage File (ADUF), Enhanced Optional Daily Usage File (EODUF) and Centralized Message Distribution Service (CMDS) are set out in Exhibit A to this Attachment. If no rate is identified in this Attachment, the rate for the specific service or function will be as set forth in the applicable BellSouth tariff or as negotiated by the Parties upon request by either Party.
- 2. BILLING DISPUTES**
- 2.1 Each Party agrees to notify the other Party in writing upon the discovery of a billing dispute. Level 3 shall report all billing disputes to BellSouth using the Billing Adjustment Request Form (RF 1461) provided by BellSouth. In the event of a billing dispute, the Parties will endeavor to resolve the dispute within sixty (60) calendar days of the notification date. If the Parties are unable within the 60 day period to reach resolution, then the aggrieved Party may pursue dispute resolution in accordance with the General Terms and Conditions of this Agreement.
- 2.2 For purposes of this Section 2, a billing dispute means a reported dispute of a specific amount of money actually billed by either Party. The dispute must be clearly explained by the disputing Party in good faith, and supported by written documentation as set forth in Section 2.1 above, which clearly shows the basis for disputing charges. A billing dispute will not include the refusal to pay all or part of a bill or bills when no written documentation is provided to support the dispute,



nor shall a billing dispute include the refusal to pay other undisputed amounts owed by the billed Party until the dispute is resolved. Level 3 may withhold disputed amounts until the dispute is resolved. Claims by the billed Party for damages of any kind will not be considered a billing dispute for purposes of this Section. If the billing dispute is resolved ultimately in favor of the billing Party, the disputing Party will make immediate payment of any of the disputed amount owed to the billing Party or the billing Party shall have the right to pursue normal treatment procedures. Any credits due to the disputing Party, pursuant to the billing dispute and including any late payments applied to the disputed amounts, will be applied to the disputing Party's account by the billing Party immediately upon resolution of the dispute in accordance with this section 2. In the event the billing dispute is ultimately resolved in favor of the disputing party, the disputing Party shall not be liable for any of the disputed amounts or any of the associated late payments

- 2.3 If a Party disputes a charge and does not pay such charge by the payment due date, or if a payment or any portion of a payment is received by either Party after the payment due date, or if a payment or any portion of a payment is received in funds which are not immediately available to the other Party, then a late payment charge and interest, where applicable, shall be assessed. For bills rendered by either Party for payment, the late payment charge for both Parties shall be calculated based on the portion of the payment not received by the payment due date multiplied by the late factor as set forth in the following BellSouth tariffs: for services purchased from the General Subscribers Services Tariff for purposes of resale and for ports and non-designed loops, Section A2 of the General Subscriber Services Tariff; for services purchased from the Private Line Tariff for purposes of resale, Section B2 of the Private Line Service Tariff; and for designed network elements and other services and local interconnection charges, Section E2 of the Access Service Tariff.

### 3. RAO HOSTING

- 3.1 RAO Hosting, Calling Card and Third Number Settlement System (CATS) and Non-Intercompany Settlement System (NICS) services provided to Level 3 by BellSouth will be in accordance with the methods and practices regularly applied by BellSouth to its own operations during the term of this Agreement, including such revisions as may be made from time to time by BellSouth.
- 3.2 Level 3 shall furnish all relevant information required by BellSouth for the provision of RAO Hosting, CATS and NICS.
- 3.3 Charges or credits, as applicable, will be applied by BellSouth to Level 3 on a monthly basis in arrears. Amounts due (excluding adjustments) are payable within thirty (30) days of receipt of the billing statement.

# Budget PrePay<sup>INC.</sup>

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February 23, 2011

AT&T Contract Management  
ATTN: Notices Manager  
311 S. Akard, 9<sup>th</sup> Floor  
Dallas, TX 75202-5398

AT&T Business Markets Attorney  
Suite 4300  
675 W. Peachtree Street  
Atlanta, GA 30375

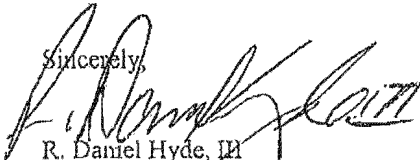
RE: Budget Prepay, Inc./Credits for Bundled Cash Back Promotion

Dear Notices Manager:

Budget PrePay, Inc. ("Budget") is a certified reseller of telecommunications services in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee. Budget contracts with AT&T's subsidiary operating companies in each of those states<sup>1</sup> (collectively "AT&T") to resell AT&T's services pursuant to the Telecommunications Act of 1996.

Despite Budget's request, AT&T has failed to provide an electronic template procedure for Budget to be able to seek appropriate credits associated with the resale of services for which AT&T has and is offering a bundled cash back promotion to its retail customers. Notwithstanding AT&T's failure to provide a template procedure, Budget submitted to AT&T a notice of billing dispute and claim for such credits for resale rights due Budget by electronic Exclaim Portal submission on February 17, 2011. Budget likewise submits this additional written notice of such dispute.

In light of AT&T's failure to timely and appropriately provide required procedures and apply appropriate credits to Budget's invoices for the bundled promotions, Budget has and will withhold amounts until all such credits are redeemed.

Sincerely,  
  
R. Daniel Hyde, III  
Budget PrePay, Inc.

<sup>1</sup> BellSouth Telecommunications, Inc., d/b/a AT&T Alabama, AT&T Florida, AT&T Georgia, AT&T Kentucky, AT&T Louisiana, AT&T Mississippi, AT&T North Carolina, AT&T South Carolina and AT&T Tennessee ("AT&T").

# Budget PrePay<sup>INC.</sup>

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April 1, 2011

CERTIFIED MAIL NO. 70110470000053652010  
RETURN RECEIPT REQUESTED

AT&T Contract Management  
ATTN: Notices Manager  
311 S. Akard, 9<sup>th</sup> Floor  
Dallas, TX 75202-5398

AT&T Business Markets Attorney  
Suite 4300  
675 W. Peachtree Street  
Atlanta, GA 30375

RE: Budget Prepay, Inc./Credits for Bundled Cash Back Promotion

Dear Notices Manager:

Budget PrePay, Inc. ("Budget") submits this notice of appointment of designated representative as follow-up to its previously submitted notice of billing dispute and claim for credits associated with the resale of services for which AT&T has and is offering a bundled cash back promotion to its retail customers. Budget submitted notice of such dispute and claim by electronic Exelaim Portal submission on February 17, 2011, and by letter dated and mailed February 23, 2011.

The Interconnection Agreement in effect between Budget and AT&T requires that if the parties are unable to resolve issues relating to a dispute within thirty days after delivery of notice, each of the parties shall appoint a designated representative who has the authority to settle the dispute and who is at a higher level of management than the persons with direct responsibility for administration of the agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute.<sup>1</sup>

Budget appoints as its designated representatives:

David Donahue  
Chief Financial Officer  
Budget PrePay, Inc.  
1325 Barksdale Blvd  
Bossier City, LA 71111  
(318) 671-5706  
(318) 671-5024 fax

Thad Pellino  
Smart Telecom Concepts LLC  
2300 Cabot Drive, Suite 410  
Lisle, IL 60532  
Office: 630-245-9070

<sup>1</sup> Interconnection Agreement between Budget PrePay, Inc. and Bellsouth Communications, Inc., October 2, 2008, Section 10, Resolution of Disputes.

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# Budget PrePay<sup>INC.</sup>

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April 1, 2011  
Page 2

Budget requests that AT&T likewise appoint and notify Budget of its designated representative.

Budget is a certified reseller of telecommunications services in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee. Budget contracts with AT&T's subsidiary operating companies in each of those states<sup>2</sup> to resell AT&T's services pursuant to the Telecommunications Act of 1996.

Thank you for your attention to this matter.

Sincerely,



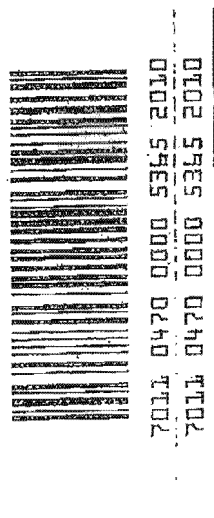
R. Daniel Hyde, III  
Budget PrePay, Inc.

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<sup>2</sup> Bellsouth Telecommunications, Inc., d/b/a AT&T Alabama, AT&T Florida, AT&T Georgia, AT&T Kentucky, AT&T Louisiana, AT&T Mississippi, AT&T North Carolina, AT&T South Carolina and AT&T Tennessee ("AT&T").

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature <span style="float: right;"><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</span></p> <p>X</p> <p>B. Received by (Printed Name) <span style="float: right;">C. Date of Delivery</span></p>
<p>1. Article Addressed to:</p> <p>AT&amp;T Contract Management ATTN: Notices Manager 311 S. Akard 9th Floor Dallas, TX 75202-6398</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> O.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7011 0470 0000 5365 2010</p>

PS Form 3811, February 2004      Domestic Return Receipt      102695-02-M-1540



U.S. Postal Service <b>CERTIFIED MAIL RECEIPT</b> <small>(Domestic Mail Only; No Mailpiece Covering Provided)</small>											
<a href="http://www.usps.com">http://www.usps.com</a> <b>OFFICIAL USE</b>											
<table border="1"> <tr><td>Postage</td><td>\$</td></tr> <tr><td>Certified Fee</td><td></td></tr> <tr><td>Return Receipt Fee (Endorsement Required)</td><td></td></tr> <tr><td>Restricted Delivery Fee (Endorsement Required)</td><td></td></tr> <tr><td>Total Postage &amp; Fees</td><td>\$</td></tr> </table>	Postage	\$	Certified Fee		Return Receipt Fee (Endorsement Required)		Restricted Delivery Fee (Endorsement Required)		Total Postage & Fees	\$	Postmark Here
Postage	\$										
Certified Fee											
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Restricted Delivery Fee (Endorsement Required)											
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<p>Sent To: <u>AT&amp;T Contract Management</u>            Street, Apt. No., or PO Box No.: <u>311 S Akard 9th Floor</u>            City, State, ZIP+4: <u>Dallas TX 75202</u></p>											

# Budget PrePay<sup>INC.</sup>

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May 12, 2011

Janice K. Mullins  
AT&T Wholesale Customer Care  
Sr. Carrier Account Manager (SrCAM)

RE: Budget Prepay, Inc./Credits for Bundled Cash Back Promotion

Dear Ms. Mullins:

As a follow-up to our telephone discussion on April 27, 2011, the following provides the response of Budget PrePay, Inc. ("Budget") to your letter of April 25, 2011 on behalf of AT&T, regarding the captioned matter.

As background, Budget submitted notice of billing dispute and claim for credits associated with resale rights due Budget for the retail value of bundled promotions offered by AT&T, minus the avoided cost discount percentage, for the period August 29, 2010 forward, via Exclaim Portal submissions beginning in February 2011, for the BellSouth states (Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee), and in Michigan, Oklahoma, Kansas, Illinois, Texas, Arkansas, Indiana, Missouri, Ohio and Wisconsin. The dates of each of the Exclaim Portal notices are confirmed by such submissions. Following initial notice by Exclaims Portal, Budget submitted additional written notice of dispute, including that Budget would withhold amounts due until appropriate credits are redeemed, by letter to AT&T dated February 23, 2011 for the BellSouth states, and by separate letters for Michigan, Oklahoma and Kansas dated March 31, 2011. Also, for the BellSouth states, Budget submitted notice of appointment of a designated representative regarding the billing dispute and claim by letter to AT&T dated April 1, 2011. As we discussed during our telephone call, Budget has to date implemented withholding of amounts due in only the BellSouth states.

Also, as confirmed during our call, the billing dispute and Budget's claim relates to a bundled promotion offered by AT&T effective beginning March 21, 2010, and continuing thereafter through multiple extensions by AT&T to date. The AT&T promotion provides that customers subscribing to certain service offerings provided by AT&T shall qualify for a \$100 or \$50 reward. The AT&T service offerings included in the promotion require local service to be provided to the customer by an AT&T affiliated Incumbent Local Exchange Carrier ("ILEC").

2394200-1

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**ATTACHMENT B**

# Budget PrePay<sup>INC.</sup>

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As AT&T is aware, Budget's claim is fully supported by the Federal Telecommunications Act and the Interconnection Agreements entered between Budget and AT&T pursuant thereto. ILECs have the duty to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers.<sup>1</sup> ILECs have a duty not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of such telecommunications service.<sup>2</sup> Only the following types of restrictions on resale may be imposed: (i) cross-class selling; (ii) short term promotions of a duration of 90 days or less; and (iii) a restriction that the ILEC has proved to the state commission is reasonable and non-discriminatory.<sup>3</sup> Promotional offerings greater than 90 days in duration must be offered for resale at wholesale rates.<sup>4</sup> An ILEC shall make its telecommunications services available for resale to requesting telecommunications carriers on terms and conditions that are reasonable and non-discriminatory.<sup>5</sup> Except as provided in 47 C.F.R. § 51.613, an ILEC shall not impose restrictions on the resale by a requesting carrier of telecommunications services offered by the ILEC.<sup>6</sup> Moreover, the FCC has confirmed that: "Section 251(c)(4) provides that incumbent LECs must offer for resale at wholesale rates 'any telecommunications service' that the carrier provides at retail to noncarrier subscribers. This language makes no exception for promotional or discounted offerings, including contract and other customer-specific offerings. We therefore conclude that no basis exists for creating a general exemption from the wholesale requirement for all promotional or discount service offerings made by incumbent LECs. A contrary result would permit incumbent LECs to avoid the statutory resale obligation by shifting their customers to nonstandard offerings, thereby eviscerating the resale provisions of the 1996 Act."<sup>7</sup> The FCC has also concluded that: ". . . the plain language of the 1996 Act requires that the incumbent LEC make available [to competing carriers] at wholesale rates retail services that are actually composed of other retail services, i.e., bundled service offerings."<sup>8</sup>

In this matter, AT&T has unilaterally restricted bundled promotions from resale, contrary to Federal law and the Interconnection Agreement between AT&T and Budget. The telecommunications services offered by AT&T as part of the bundled promotions are subject to resale. Federal law prohibits AT&T from evading its resale obligations by placing these telecommunications services in bundles, discounting these services, and then restricting the promotional offering from resale. A contrary result would permit AT&T to avoid the statutory resale obligation by shifting their retail customers to bundled offerings, thereby eviscerating the resale provisions of the Telecommunications Act.

<sup>1</sup> 47 U.S.C. § 251(c)(4)(A).

<sup>2</sup> 47 U.S.C. § 251(c)(4)(B).

<sup>3</sup> 47 C.F.R. § 51.613(a)(2).

<sup>4</sup> 47 U.S.C. § 251(c)(4)(A).

<sup>5</sup> 47 C.F.R. § 51.603(a).

<sup>6</sup> 47 C.F.R. § 51.605(e).

<sup>7</sup> FCC Order 96-325, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Docket Nos. 96-98 and 95-185, 11 FCC Rec. 15499, ¶¶ 948 (August 8, 1996).

<sup>8</sup> FCC Order 96-325, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Docket Nos. 96-98 and 95-185, 11 FCC Rec. 15499, ¶¶ 877 (August 8, 1996).

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# Budget PrePay<sup>INC.</sup>

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No basis exists for the arguments by AT&T contained in your letter which suggest that the referenced promotion is not subject to resale under the Telecommunications Act, or that Budget's claim has no merit or does not have a legitimate basis under the Interconnection Agreements between the parties. Additionally, notice of dispute and withholding of credits by Budget pursuant to the terms of the Interconnection Agreements does not in any manner constitute a breach of the Agreements. Withholding provisions are specifically set forth in the Interconnection Agreements for the BellSouth states as well as for Michigan, Oklahoma and Kansas.

Regarding dispute resolution, Budget is always receptive to meaningful efforts to resolve disputes in an amicable and timely manner and we welcome AT&T to proceed as such in addressing this matter. However, please note that Budget does not agree to the proposal contained in your letter that would expand Interconnection Agreement provisions that are applicable in one state to become effective in other states, relative to dispute resolution or otherwise. Budget reserves and maintains all of its rights and options provided under each and every Interconnection Agreement between AT&T and Budget, without limitation, including Budget's rights to pursue complaint filings in applicable jurisdictions.

Please feel free to contact me if you have any additional questions regarding Budget's claim, or if AT&T would like to pursue meaningful efforts toward resolution of this matter.

Sincerely,



R. Daniel Hyde, III  
Budget PrePay, Inc.

2394200-1



# Budget PrePay<sup>INC.</sup>

..... telecommunications :: clear :: simple

May 20, 2011

Janice K. Mullins  
AT&T Wholesale Customer Care  
Sr. Carrier Account Manager (SrCAM)

RE: Budget Prepay, Inc./Credits for Bundled Cash Back Promotion

Dear Ms. Mullins:

Based on your reply letter dated May 18, 2011, it is clear that a billing dispute exists between AT&T and Budget PrePay, Inc. ("Budget") pursuant to the Interconnection Agreements ("ICA") between the parties. Budget disagrees with the interpretations of law and facts that you have outlined in your letter. For example, as acknowledged by AT&T in your letter, the bundled cash back promotions "require that the end user have local service from an AT&T ILEC". Moreover, AT&T is marketing the bundled cash back promotions to specifically include local service as part of advertisements by and from "AT&T." Thus, Budget respectfully disagrees with AT&T's claims that the bundled promotions are somehow attributable only to AT&T long distance affiliates and are not subject to ICAs with the AT&T ILECs or the resale requirements of the Telecommunications Act.

Your letter advises that if Budget has past due balances under any of the ICAs associated with this issue and it does not cure those balances by May 31, 2011, the AT&T ILEC intends to pursue available remedies, including but not limited to commencing the process to suspend and ultimately disconnect Budget's service under the ICAs. As Budget indicated in its previous letter of May 12, 2011, it is currently withholding payment of amounts in the BellSouth states as relates to the billing dispute over the bundled cash back promotion being offered by AT&T. The amounts being withheld by Budget are disputed amounts pursuant to the ICA with BellSouth, and the ICA specifically allows for such withholding in the event of a billing dispute. Accordingly, please be advised that Budget intends to maintain and avail itself of all rights and protections available pursuant to the ICA and state and federal laws, rules and regulations as to such disputed amount and to defend against any efforts by AT&T to suspend or disconnect service to Budget in the BellSouth states and any other states as applicable.

Your letter also suggests that the parties are at an impasse and that going forward with efforts at resolution will not be effective for either party, and you invite Budget to let you know by May 20, 2011 if we can agree that informal dispute resolution efforts have been exhausted and that both parties are free to pursue whatever remedies they believe are appropriate under the ICAs or otherwise. Budget does not agree. While notices of billing dispute have been submitted pursuant to the ICAs, and several letters have been sent by the parties to exchange information

2422587-1

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**ATTACHMENT B**

# Budget PrePay<sup>INC.</sup>

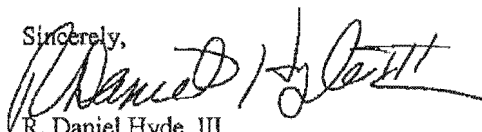
..... telecommunications :: clear :: simple

regarding the dispute, there has not yet been any meaningful effort to attempt to resolve the problem.

Accordingly, Budget recommends that the parties schedule a meeting to address the billing dispute and attempt resolution. Budget further requests that the meeting be attended in-person by a designated representative for AT&T who has authority to settle the dispute, as provided for in the ICAs. As you know, Budget and AT&T have enjoyed a long business relationship and have been successful at working through and resolving disputes in the past. A meeting between the parties on this billing dispute may likewise be effective and lead toward resolution. Budget's representatives are available to schedule the meeting on June 14, 15 or 16, 2011, at a location in Bossier City or Shreveport.

Please contact me to discuss scheduling a meeting between the parties and if you have any further questions regarding Budget's claim.

Sincerely,



R. Daniel Hyde, III  
Budget PrePay, Inc.

2422587-1

1325 Barksdale Boulevard • Bossier City, LA 71111 • 888-424-6588 • budgetprepay.com

**ATTACHMENT B**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Complaint of BUDGET PREPAY, INC. Against  
BellSouth Telecommunications, LLC d/b/a AT&T Florida

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DOCKET NO. 120231- TP

**AFFIDAVIT OF THAD PELLINO**

**STATE OF ILLINOIS**


**COUNTY OF DUPAGE**

Before me, the undersigned authority, on this day personally appeared the person known by me to be Thad Pellino who, after being sworn by me, stated as follows:


1. My name is Thad Pellino. I am employed by Smart Telecom Concepts LLC as Managing Member.
2. I have worked with Budget PrePay, Inc. ("Budget") since August 1, 2004 and have personal knowledge of Budget's billing dispute submissions with AT&T.
3. Budget's claims for credits are directly associated with telecommunication services provided by AT&T ILECs as a local service not long distance service.
4. Two thirds of the monthly retail cost of the telecommunication service associated with the Bundled promotion is for local service sold by AT&T ILECs.
5. Budget's claims for credits are directly associated and related to invoices issued by AT&T ILECs for local service resold to Budget.
6. Budget disputes the amounts billed by AT&T ILECs to Budget for local service because AT&T ILECs failed to apply promotional credits associated with ILEC local service that is required for the Bundled promotion. The effect of the failure to make the promotion available to Budget has an anti-competitive effect on Budget in the industry.
7. Budget's claims for credits have all been submitted via AT&T's Exclaim dispute web portal since February 17, 2011 for invoice periods September 28, 2010 through the current invoice period with no escrow required by AT&T. AT&T's

Exclaim web portal is the system that AT&T ILEC requires CLECs to use for filing local service claims. All claims for credits filed for the Bundled promotion via AT&T's Exclaim web portal have received AT&T File IDs. Once Exclaim File IDs are received, AT&T ILECs consider the claim an open dispute in the Exclaim system.

8. On February 3, 2012 and April 26, 2012, Marc Cathey, Sales Assistant Vice President for AT&T ILEC, sent via email spreadsheets produced by AT&T ILECs that reflected Budget's Bundled promotion claims as local service disputes. These spreadsheets included AT&T ILECs' accounts receivable balances that determined a "Collectible Balance" by deducting the Bundled promotion dispute amounts from total balance due amounts for AT&T ILEC local service billing accounts. Again, no escrow amounts were ever required by AT&T.
9. Creating an escrow requirement would further cause AT&T to gain a competitive advantage.
10. For the local service invoices dated September 29, 2010 through September 28, 2012, Budget has been paying AT&T ILECs monthly what it appropriately owes for local service, and has withheld payment of the Bundled promotion disputes and associated late payment charges.
11. Budget overall has paid AT&T ILECs more than twice as much for local service as the amount of credits it has claimed for the bundled promotions pursuant to its interconnection agreements with ATT - - Budget has paid more than \$23 million and claimed credits for approximately \$11 million.
12. For the states in which Budget has filed a complaint regarding the bundled promotion, Florida has among the lowest dispute amounts for the credits.

  
\_\_\_\_\_  
Thad Pellino

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned notary on this the 5<sup>th</sup> day of Noven ber 2012.

  
\_\_\_\_\_  
Notary Public in and for  
The State of Illinois  
**"OFFICIAL SEAL"**  
MARY B. VANA  
Notary Public, State of Illinois  
My Commission Expires Feb. 4, 2015

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**From:** CATHEY, MARC [mailto:mc1070@att.com]  
**Sent:** Friday, February 03, 2012 1:09 PM  
**To:** Thad Pellino  
**Subject:** RE: Following up for Danny at BudgetPhone  
**Attachments:** Budget Prepay Billing Data 02-C3-12.xlsx

Thad, this includes Budget's last payment and still reflects the earlier allocation on moving the \$ between the states. The total due adding up the states containing an undisputed balance is \$ [REDACTED].

Marc

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**From:** Thad Pellino [mailto:TPellino@smarttelecomconcepts.com]  
**Sent:** Thursday, February 02, 2012 11:48 AM  
**To:** CATHEY, MARC  
**Cc:** Danny Hyde; David Donahue  
**Subject:** RE: Following up for Danny at BudgetPhone

Marc,

We would like to request an update to the spreadsheet you sent on 1/11 so that we can review the most recent amounts. Budget recently paid the 12/28 invoice (by BAN) and there should have been two months of outstanding promo credits posted which should impact the state level balances.

Thanks,

Thad

-----Original Message-----

**From:** CATHEY, MARC [mailto:mc1070@att.com]  
**Sent:** Wednesday, February 01, 2012 1:10 PM  
**To:** Thad Pellino  
**Cc:** Danny Hyde; David Donahue  
**Subject:** RE: Following up for Danny at BudgetPhone

Thad,

We did prorate Budget's payment based on the bill's current charge amounts. Had we not done this, the non-disputed balances at a state level would have been \$ [REDACTED] instead of the \$ [REDACTED] I sent earlier. If Budget is agreeable to cover these higher balances per the terms of their ICA, we will look at the additional LPCs billed based on AT&T optimizing the payments.

Please let me know how you would like for us to proceed.

Marc

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**From:** Thad Pellino [mailto:TPellino@smarttelecomconcepts.com]  
**Sent:** Monday, January 30, 2012 4:02 PM  
**To:** CATHEY, MARC  
**Cc:** Danny Hyde; David Donahue  
**Subject:** RE: Following up for Danny at BudgetPhone

Marc,

In reviewing the 12/28/11 invoice adjustments in more detail, it appears that AT&T had made some balance transfers across BANS:

State	BAN	Debit/Credit Adj
MS	[REDACTED]	\$ [REDACTED]
LA	[REDACTED]	\$ [REDACTED]
TN	[REDACTED]	(\$ [REDACTED])
AL	[REDACTED]	(\$ [REDACTED])
NC	[REDACTED]	(\$ [REDACTED])
SC	[REDACTED]	(\$ [REDACTED])
FL	[REDACTED]	(\$ [REDACTED])
KY	[REDACTED]	(\$ [REDACTED])
GA	[REDACTED]	(\$ [REDACTED])
FL	[REDACTED]	(\$ [REDACTED])
FL	[REDACTED]	(\$ [REDACTED])
GA	[REDACTED]	(\$ [REDACTED])
Total		\$ [REDACTED]

In checking with Budget, they had not directed nor authorized the balance transfers. Do you know what methodology was used to complete these balance transfers? It also should be noted that these balance transfers created an increase in the LPCs to \$ [REDACTED]

Thanks,

Thad

-----Original Message-----

**From:** CATHEY, MARC [mailto:mc1070@att.com]  
**Sent:** Tuesday, January 24, 2012 9:55 AM  
**To:** Thad Pellino  
**Cc:** Danny Hyde  
**Subject:** FW: Following up for Danny at BudgetPhone

Thad, what's the status of this?

Marc

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**From:** CATHEY, MARC  
**Sent:** Wednesday, January 11, 2012 11:24 AM  
**To:** Thad Pellino  
**Cc:** Danny Hyde  
**Subject:** RE: Following up for Danny at BudgetPhone

Thad sorry for the delay but we wanted to post the January payments which just came in using the allocation authorized by Budget. This snap shot reflects what is due by Budget at the end of this month in their normal payment cycle.

Let me know if you have questions.

Marc

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**From:** Thad Pellino [<mailto:TPellino@smarttelecomconcepts.com>]  
**Sent:** Monday, January 09, 2012 12:05 PM  
**To:** CATHEY, MARC  
**Subject:** Following up for Danny at BudgetPhone

Hi Marc,

I hope all is well.

Danny had asked that I follow up with you directly regarding the voicemail that you had left him before the holidays. Do you have some time this afternoon to discuss? If this afternoon doesn't work, let me know about tomorrow (only time bad for me tomorrow is 11:30 – 12:30 EST).

Thanks,

**Thad Pellino**  
**Smart Telecom Concepts**  
**2300 Cabot Drive, Suite 410**  
**Lisle, IL 60532**  
**Office: 630.245.9070**  
**Cell: 630.215.7947**

Budget Prepay  
Original "5299" Accounts

State	Last Bill	Previous Balance	Payments	Adjustments	Past Due Balance	Current Charges	LPC's	Total Due	Disputed Amounts	Payment Posted 2/2/2012	Collectible Balance (Total Past Due less Disputed & Payment)
AL	Jan. 29, 2012										
FL	Jan. 29, 2012										
GA	Jan. 29, 2012										
KY	Jan. 29, 2012										
LA	Jan. 29, 2012										
MS	Jan. 29, 2012										
NC	Jan. 29, 2012										
SC	Jan. 29, 2012										
TR	Jan. 29, 2012										
TOTALS											



- 7.2 Liability for Acts or Omissions of Third Parties. Neither BellSouth nor Level 3 shall be liable for any act or omission of another telecommunications company providing services to either Party.
- 7.3 Limitation of Liability
- 7.3.1 Except for any indemnification obligations of the Parties hereunder, or except in the case of gross negligence or willful misconduct, each Party's liability to the other for any loss, cost, claim, injury, liability or expense, including reasonable attorneys' fees relating to or arising out of any negligent act or omission in its performance of this Agreement, whether in contract or in tort, shall be limited to a credit for the actual cost of the services or functions not performed or improperly performed.
- 7.3.2 Limitations in Tariffs and Contracts. A Party may, in its sole discretion, provide in its tariffs and contracts with its End Users and third parties that relate to any service, product or function provided or contemplated under this Agreement, that to the maximum extent permitted by Applicable Law, such Party shall not be liable to the End User or third party for (i) any loss relating to or arising out of this Agreement, whether in contract, tort or otherwise, that exceeds the amount such Party would have charged that applicable person for the service, product or function that gave rise to such loss and (ii) consequential damages. To the extent that a Party elects not to place in its tariffs or contracts such limitations of liability, and the other Party incurs a loss as a result thereof, such Party shall indemnify and reimburse the other Party for that portion of the loss that would have been limited had the first Party included in its tariffs and contracts the limitations of liability that such other Party included in its own tariffs at the time of such loss. Any such tariff term or condition shall not contradict or modify the obligations of the Parties to each other under this Agreement. In the event a term of the tariff conflicts with a term in this Agreement, this Agreement shall control.
- 7.3.3 Neither BellSouth nor Level 3 shall be liable for damages to the other Party's terminal location, equipment or End User premises resulting from the furnishing of a service, including, but not limited to, the installation and removal of equipment or associated wiring, except to the extent caused by a Party's negligence or willful misconduct or by a Party's failure to ground properly a local loop after disconnection.
- 7.3.4 Except in the case of willful misconduct or gross negligence, under no circumstance shall a Party be responsible or liable for indirect, incidental, or consequential damages, including, but not limited to, economic loss or lost business or profits, damages arising from the use or performance of equipment or software, or the loss of use of software or equipment, or accessories attached thereto, delay, error, or loss of data. In connection with this limitation of liability, each Party recognizes that the other Party may, from time to time, provide advice, make recommendations, or supply other analyses related to the services or facilities described in this Agreement, and, while each Party shall use diligent

Party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis until the delay, restriction or interference has ceased); provided, however, that the Party so affected shall use diligent efforts to avoid or remove such causes of non-performance and both Parties shall proceed whenever such causes are removed or cease. Each Party agrees to act in a nondiscriminatory manner with regard to a Force Majeure event.

**13. Adoption of Agreements**

BellSouth shall make available, pursuant to 47 USC § 252 and the FCC rules and regulations regarding such availability, to Level 3 any interconnection, service, or network element provided under any other agreement filed and approved pursuant to 47 USC § 252, provided a minimum of six months remains on the term of such agreement. The Parties shall adopt all rates, terms and conditions concerning such other interconnection, service or network element and any other rates, terms and conditions that are legitimately related to or were negotiated in exchange for or in conjunction with the interconnection, service or network element being adopted. The adopted interconnection, service, or network element and agreement shall apply to the same states as such other agreement. The term of the adopted agreement or provisions shall expire on the same date as set forth in the agreement that was adopted.

**14. Modification of Agreement**

- 14.1 If either Party changes its name or makes changes to its company structure or identity due to a merger, acquisition, transfer or any other reason, it is the responsibility of that Party to notify the other Party in writing of said change and request that an amendment to this Agreement, if necessary, be executed to reflect said change.
- 14.2 No modification, amendment, supplement to, or waiver of the Agreement or any of its provisions shall be effective and binding upon the Parties unless it is made in writing and duly signed by the Parties.
- 14.3 In the event that any effective legislative, regulatory, judicial or other legal action materially affects any material terms of this Agreement including, but not limited to, BellSouth practices or procedures, or the ability of Level 3 or BellSouth to perform any material terms of this Agreement, Level 3 or BellSouth may, on thirty (30) days' written notice, require that such terms be renegotiated, and the Parties shall renegotiate in good faith such mutually acceptable new terms as may be required. In the event that such new terms are not renegotiated within ninety (90) days after such notice, the Dispute shall be referred to the Dispute Resolution procedure set forth in this Agreement.

**15. Non-waiver of Legal Rights**

**BEFORE THE  
LOUISIANA PUBLIC SERVICE COMMISSION**

BUDGET PREPAY, INC.	)	DOCKET NO. U-32508
	)	
v.	)	<i>Petition for Declaratory Ruling</i>
	)	<i>Prohibiting AT&amp;T from Imposing</i>
BELLSOUTH TELECOMMUNICATIONS,	)	<i>an Unlawful Restriction on Resale</i>
LLC d/b/a AT&T LOUISIANA	)	<i>and Requiring AT&amp;T to Offer</i>
	)	<i>Bundled Promotion for Resale</i>

**Budget PrePay, Inc.'s First Set of Data Requests to AT&T**

Budget PrePay, Inc. ("Budget") hereby serves upon BellSouth Telecommunications, LLC d/b/a AT&T Louisiana ("AT&T") the following interrogatories and requests for production of documents. Budget requests that the following information and documents, or copies thereof, be provided to Budget's counsel of record in the captioned proceeding, Randy Young of Kean Miller LLP, at II City Plaza, 400 Convention Street, Suite 700, Baton Rouge, Louisiana 70802, within 15 days of service.

**Definitions**

For purposes of these data requests, the following terms have the meanings provided herein:

1. "And" and "or" shall be construed both disjunctively and conjunctively as necessary to make the request inclusive rather than exclusive.
2. "Any" shall be construed to include "all" and "all" shall be construed to include "any."
3. "AT&T Company" or "AT&T Companies" means any company or companies held by AT&T Inc. or considered under the AT&T Inc. corporate umbrella that provide a service included in a Bundled Promotion.

4. "Bundled Promotion" means a promotion that issues a Reward to customers who purchase a combination of AT&T's Local Service and the long distance service of an AT&T-affiliated long distance service provider.
5. "BellSouth States" means the states in the operating area of the BellSouth Corporation, including Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee.
6. "Competitive Local Exchange Carrier" or "CLEC" means a telecommunications services provider, except a competitive access provider, offering and/or providing local telecommunications services in competition with an incumbent local exchange carrier ("ILEC").
7. "Complaint" includes any and all notices of unsatisfactory service or other grievances against AT&T or its owners, officers, employees or contractors, including but not limited to formal complaints filed with any regulatory agency or other third-party organizations and notices of unsatisfactory service and/or other grievances provided directly to AT&T or any of its owners, officers, employees or contractors.
8. "Document" or "Documents" are used in their broadest sense to include, by way of illustration and not limitation, all written or graphic matter of every kind and description whether printed, produced or reproduced by any process; whether visually, magnetically, mechanically, electronically, or by hand; whether final or draft, original or reproduction; and whether or not in your actual or constructive possession, customer or control. The terms include writings, correspondence, telegrams, memorandum, studies, reports, survey, statistical compilations, notes, calendars, tapes, computer disks, data on computer drives, e-mail, cards, recordings, contracts, agreements, invoices, licenses, diaries, journal, accounts, pamphlets, books, ledgers, publications, microfilm, microfiche, and any other data compilations from which information can be obtained and translated, by you if necessary, into reasonable usable form. The terms shall also include every copy of a document where the copy contains any commentary or notation of any kind that does not appear on the original or any other copy.
9. "Each" shall be construed to include the word "every" and "every" shall be construed to include the word "each."
10. "Including" means and refers to "including but not limited to."
11. "Local Service" means telecommunications services that are traditionally provided by an ILEC as local service, including but not limited to, exchange access services, private line services, basic local service, and public pay phone services.

12. "New Local Customer" means any subscriber that was not already receiving Local Service from an AT&T Company when signing up for telecommunications services required in a Bundled Promotion.
13. "Reseller" means a local telecommunications service provider that purchases telecommunications services from another provider for resale to end users for a fee.
14. "Reward" or "Rewards" means any cash or gift card, or other thing of value issued to a new and/or existing customer for signing up for services included in a Bundled Promotion.
15. "Service" means the offering and/or providing of telecommunications for compensation or monetary gain to the public, or to such classes of users as to be effectively available to the public regardless of the facilities used to transmit the telecommunications.
16. "You" or "Your" means BellSouth Telecommunications, LLC d/b/a AT&T Louisiana ("AT&T") and its owners, officers, and employees, including both contractors and company employees and personnel.

#### Instructions

Responses are due within 15 days of service of these data requests. Interrogatories and requests for production are continuing in nature and must be supplemented as required by law. Each data request should be numbered and responded to individually and on a separate page. Please identify the sponsoring witness of each data response and the person preparing the response. If any data request is confusing, unclear, or overly burdensome, please contact Budget's counsel of record in this matter for clarification.

**Interrogatories and Request for Production of Documents**

- 1-1 Please provide copies of any and all Bundled Promotions issued by an AT&T Company from January 1, 2005 through 2012.
- 1-2 Please provide an organizational chart that includes and identifies any and all AT&T Companies involved in providing services required by a Bundled Promotion and any and all CLECs owned by AT&T Inc. or an AT&T Company.
- 1-3 For the Bundled Promotion(s) that was issued by an AT&T Company prior to March 21, 2010, please answer the following – for each state in which an AT&T Company issued the Bundled Promotion – and provide any and all supporting Documents:
- a) Identify the specific AT&T Company that provided the Local Service;
  - b) Identify the specific AT&T Company that provided the long distance service;
  - c) Provide a detailed description of the Local Service required in the Bundled Promotion, including but not limited to any and all components;
  - d) Provide a detailed definition of what constitutes “long distance service” as used in the Bundled Promotion:

- e) Identify:
  - i. The retail cost of the Local Service required in the Bundled Promotion.
  - ii. The AT&T Company that received the revenue for the Local Service included in the Bundled Promotion, and
  - iii. The AT&T Company that paid the expense of the Local Service included in the Bundled Promotion;
- f) State the retail cost of the long distance service required in the Bundled Promotion;
- g) State the dollar amount of the Reward that was associated with the Local Service portion of the Bundled Promotion;
- h) State the dollar amount of the Reward that was associated with the long distance portion of the Bundled Promotion;
- i) Provide the total number of customers receiving Rewards by qualifying for a Bundled Promotion;
- j) For each state's number provided in response to 1-3(i) above, provide the number of New Local Customers that received a Reward by qualifying for a Bundled Promotion;
- k) State the total dollar amount of the Rewards that were issued by each AT&T Company identified in response to 1-3(a) above;
- l) State the total revenue generated to date by each by each AT&T Company identified in response to 1-3(a) above, from the New Local Customers identified in 1-3(j) above;

- m) Identify the specific AT&T Company, department and employees and/or officers, including the employee and/or officer's name, position and description of job responsibilities, involved in and responsible for the following:
  - i. Developing the Bundled Promotion;
  - ii. Approving the implementation of the Bundled Promotion;
  - iii. Implementing the Bundled Promotion; and
  - iv. Promoting the Bundled Promotion;
- n) For each AT&T Company identified in 1-3(m) above, please state where the company falls in the organization chart of AT&T Inc; and
- o) For each AT&T Company identified in 1-3(m)(ii) above, please describe and provide copies of:
  - i. The approval process used within each company; and
  - ii. The documentation process used for such approval.

- 1-4 For the Bundled Promotion(s) that was issued by an AT&T Company after March 21, 2010, please answer the following – for each state in which an AT&T Company issued the Bundled Promotion – and provide any and all supporting Documents:
- a) Identify the specific AT&T Company that provided the Local Service;
  - b) Identify the specific AT&T Company that provided the long distance service;
  - c) Provide a detailed description of the Local Service required in the Bundled Promotion, including but not limited to any and all components:



- d) Provide a detailed definition of what constitutes “long distance service” as used in the Bundled Promotion;
- e) Please identify:
  - i. The retail cost of the Local Service required in the Bundled Promotion,
  - ii. The AT&T Company that received the revenue for the Local Service included in the Bundled Promotion, and
  - iii. The AT&T Company that paid the expense of the Local Service included in the Bundled Promotion;
- f) State the retail cost of the long distance service required in the Bundled Promotion;
- g) State the dollar amount of the Reward that was associated with the Local Service portion of the Bundled Promotion;
- h) State the dollar amount of the Reward that was associated with the long distance portion of the Bundled Promotion;
- i) Provide the total number of customers receiving Rewards by qualifying for a Bundled Promotion;
- j) For each state’s number provided in response to 1-4(i) above, provide the number of New Local Customers that received a Reward by qualifying for a Bundled Promotion;
- k) State the total dollar amount of the Rewards that were issued by each AT&T Company identified in response to 1-4(a) above;

- l) State the total revenue generated to date by each AT&T Company identified in response to 1-4(a) above, from the New Local Customers identified in 1-4(j) above;
- m) Identify the specific AT&T Company, department and employees and/or officers, including the employee and/or officer's name, position and description of job responsibilities, involved in and responsible for the following:
  - i. Developing the Bundled Promotion;
  - ii. Approving the implementation of the Bundled Promotion;
  - iii. Implementing the Bundled Promotion; and
  - iv. Promoting the Bundled Promotion;
- n) For each AT&T Company identified in 1-4(m) above, please state where the company falls in the organization chart of AT&T Inc; and
- o) For each AT&T Company identified in 1-4(m)(ii) above, please describe and provide copies of:
  - i. The approval process used within each company; and
  - ii. The documentation process used for such approval.

1-5 For the "Competitive Acquisition \$50 Cash Back Promotion" that required only Local Service that was issued by an AT&T Company prior to March 21, 2010, please answer the following – for each state in which an AT&T Company issued the promotion – and provide any and all supporting Documents:

- a) Identify the specific AT&T Company that provided the Local Service:

- b) Provide a detailed description of the Local Service required in the promotion, including but not limited to any and all components:
- c) Please identify:
  - i. The retail cost of the Local Service required in the promotion, and
  - ii. The AT&T Company that paid the expense of the Local Service included in the promotion;
- d) State the dollar amount of the Reward that was associated with the promotion;
- e) Provide the total number of customers receiving Rewards by qualifying for the promotion;
- f) For each state's number provided in response to 1-5(e) above, provide the number of New Local Customers that received a Reward by qualifying for the promotion;
- g) State the total dollar amount of the Rewards that were issued by each AT&T Company identified in response to 1-5(a) above;
- h) State the total revenue generated to date by each AT&T Company identified in response to 1-5(a) above, from the New Local Customers identified in 1-5(f) above;

- i) Identify the specific AT&T Company, department and employees and/or officers, including the employee and/or officer's name, position and description of job responsibilities, involved in and responsible for the following:
  - i. Developing the promotion;
  - ii. Approving the implementation of the promotion;
  - iii. Implementing the promotion; and
  - iv. Promoting the promotion;
- j) For each AT&T Company identified in 1-5(i) above, please state where the company falls in the organization chart of AT&T Inc; and
- k) For each AT&T Company identified in 1-5(i)(ii) above, please describe and provide copies of:
  - i. The approval process used within each company; and
  - ii. The documentation process used for such approval.

1-6 In regards to your response to data request 1-3(l) above, please identify the specific AT&T Company who reports or reported the revenue on financial statements for the following and provide any and all supporting Documents:

- a) Local service product; and
- b) Long distance service product.

1-7 In regards to your response to data request 1-4(l) above, please identify the specific AT&T Company who reports or reported the revenue on financial statements for the following and provide any and all supporting Documents :

- a) Local Service product; and
- b) Long distance service product.

1-8 In regards to your response to data request 1-3(l) above, please identify the specific AT&T Company who reports or reported the expense of the Bundled Promotion on financial statements for the following and provide any and all supporting Documents:

- a) Local Service product; and
- b) Long distance service product.

1-9 In regards to your response to data request 1-4(l) above, please identify the specific AT&T Company who reports or reported the expense of the Bundled Promotion on financial statements for the following and provide any and all supporting Documents:

- a) Local Service product; and
- b) Long distance service product.

- 1-10 In regards to your response to data request 1-5(h) above, please identify the specific AT&T Company who reports or reported the revenue for the Local Service product on financial statements and provide any and all supporting Documents.
- 1-11 In regards to your response to data request 1-3(j) above, please identify the specific AT&T Company who provides customer service to the New Local Customers and provide any and all supporting Documents.
- 1-12 In regards to your response to data request 1-4(j), please identify the specific AT&T Company who provides customer service to the New Local Customers and provide any and all supporting Documents.
- 1-13 Please provide a list of the current Board of Directors of AT&T Inc. and of each of the AT&T Companies, and identify any common directors among the boards.
- 1-14 Please provide a list of the current officers of AT&T Inc. and of each of the AT&T Companies, and identify any common officers among the companies.
- 1-15 Please state who owns the stock of each of the AT&T Companies, including whether they are owned by AT&T Inc.

- 1-16 Please provide a detailed explanation of how revenues from Local Service sold by AT&T Companies are distributed through the AT&T Companies.
- 1-17 Please provide a detailed explanation of how revenues from long distance service sold by AT&T Companies are distributed through the AT&T Companies.
- 1-18 Does AT&T Inc. or any of its AT&T Companies own any Competitive Local Exchange Companies ("CLECs") in any of the BellSouth States?
- 1-19 If AT&T Inc. or any of its AT&T Companies own any CLECs in any of the BellSouth States, please provide the following:
- a) The name(s) of the CLEC(s):
  - b) Whether the CLEC is owned by AT&T Inc. or an AT&T Company and which AT&T Company:
  - c) Whether those CLECs identified in 1-19(a) have received any Rewards from the Bundled Promotion issued prior to March 21, 2010:
  - d) Whether those CLECs identified in 1-19(a) have received any Rewards from the Bundled Promotion issued after March 21, 2010.
- 1-20 Please identify any and all CLECs that have objected to or disputed any portion of the Bundled Promotion issued by an AT&T Company.

- 1-21 Please identify any and all CLECs that have submitted a Complaint related to any portion of the Bundled Promotion issued by an AT&T Company.
- 1-22 As used in the Bundled Promotion available prior to March 21, 2010 and referenced on pages 1-2 of Attachment A to these data requests, please explain what was meant by the words "qualified local service." [Please see Attachment A, page 2.]
- 1-23 As used in the Bundled Promotion available after March 21, 2010 and referenced on pages 3-4 of Attachment A to these data requests, please explain what was meant by the words "qualified service(s)." [Please see Attachment A, page 4.]
- 1-24 Please state whether You provide the following services to your interLATA affiliates and provide any and all supporting Documents:
- a) InterLATA service; and
  - b) IntraLATA service.
- 1-25 Please state whether AT&T Long Distance is an InterLATA affiliate of Yours.



1-26 In regards to the Bundled Promotion issued by AT&T Companies prior to March 21, 2010, please answer the following:

- a) Is the Local Service required for the subscriber to receive \$50 cash back the same as the Local Service Required for the subscriber to receive \$100 cash back by bundling the Local Service with long distance service?
- b) If Your response to 1-22(a) above is anything than an unqualified "yes," please explain any and all differences between the two Local Services.

1-27 Do any of the AT&T long distance companies identified in response to 1-3(b) and 1-4(b) above resell Local Service of the affiliated ILEC identified in 1-3(a) and 1-4(a) above?

1-28 In regards to any and all ILECs that have previously combined their Local Services offering with an affiliated long distance carrier in a promotion issued by the affiliated long distance carrier. please provide the following along with any and all supporting Documents:

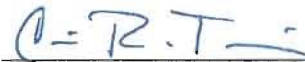
- a) The name(s) of the ILEC;
- b) The names of the long distance carrier affiliated with each of the ILECs identified in 1-24(a), with whom the long distance service was bundled in a promotion;
- c) Whether Local Service was required in the promotion;

d) Whether any Resellers filed any Complaints regarding the ILEC's failure and/or refusal to resell the promotion to a Reseller. If yes, please identify the reseller and provide a copy of any document(s) of the Complaint or evidencing the Complaint.

1-29 Please provide a detailed explanation as to how AT&T long distance acquires PAMAS from You the ILEC?

1-30 Please provide copies of all agreements between You the ILEC and your AT&T long distance affiliate relating to the acquisition of Local Service.

Respectfully submitted:



Katherine W. King (#7396)

Randy Young (#21958)

Randal R. Cangelosi (#23433)

Carrie R. Tournillon (#30093)

KEAN MILLER LLP

Post Office Box 3513

Baton Rouge, LA 70821

(225) 387-0999

*Attorneys for Budget PrePay, Inc.*

#### Certificate of Service

I hereby certify that a copy of Budget Prepay, Inc.'s First Set of Data Requests was served on this the 21<sup>st</sup> day of September 2012 on all parties of record via electronic mail and first class U.S. mail, postage prepaid.



Carrie R. Tournillon

**Hurry! Act Now!**  
**Call us toll free**  
**1-866-653-2395**

**You can't count on just any phone service provider.**

With AT&T, you have access to even more top-of-the-line services at everyday low prices. And in this economy, it's nice to know you can get the services you need and save some money. That's why every day more and more customers switch to AT&T.

**For less than \$20 per month, you'll get:**

- **Unlimited local calling** that keeps you connected all the time
- **An everyday low price**, not a short-term promotional price
- **Dependable service** for security systems and 911 emergencies
- **Predictable billing** every month that eliminates surprises

Plus, if you're looking for affordable high-speed internet service, check out **FastAccess® DSL** for only **\$19.95 per month.**

**Best of all, get up to \$325 CASH BACK** when you sign up for other qualifying services.

Sincerely,

Deborah Peoples  
Vice President, AT&T Consumer Sales & Service

**call** | **1-866-653-2395**

**click** | **att.com/connect**  
and enter invitation code **60562799730.**

Si prefiere comunicarse con nosotros en español, por favor llámenos al **1-866-792-7941.**

(See reverse side for important information.)

WIRELESS • HIGH SPEED INTERNET • HOME PHONE • ADVANCED TV



**UNLIMITED Local Calling**

Less than

**\$20** per month<sup>1</sup> *EVERYDAY LOW PRICE*

- Enjoy security and peace of mind with a reliable connection at home
- Get the network with 99.9% reliability

**UNLIMITED Long Distance Calling**

Just

**\$14** per month<sup>2</sup> *EVERYDAY LOW PRICE*

- Talk as much as you want, anytime you want

**FastAccess® DSL**

Just

**\$19.95** per month<sup>3</sup> *EVERYDAY LOW PRICE*

- 24-month price guarantee and no term commitment
- Access the nation's largest Wi-Fi network, including Starbucks!
- No activation fees

– PLUS –

**Get up to \$325 CASH BACK** when you switch to AT&T and sign up for other qualifying services.\*

0809/NAL



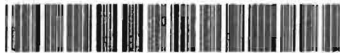
Call AT&T today for value, choice and reliability.

**1-866-653-2395**

Si prefiere comunicarse con nosotros en español,  
por favor llámenos al **1-866-792-7941**.

Mon. - Fri. 8 a.m. - 7 p.m. EST and  
Sat. 8 a.m. - 5 p.m. EST

Your world. Delivered.




<sup>1</sup>Rollover Minutes: Unused Anytime Minutes expire after the 12<sup>th</sup> billing period. Night and Weekend and Mobile to Mobile minutes do not roll over. <sup>2</sup>Based on non-municipal company owned and operated hotspots. AT&T Wi-Fi Basic service not included with AT&T Worldnet service. Wi-Fi enabled device required. Other restrictions apply. See [www.attwifi.com](http://www.attwifi.com) for additional services, details and locations. Wi-Fi at Starbucks available at U.S. company-operated Starbucks locations equipped with a hotspot.

<sup>3</sup>Rate excludes taxes, surcharges, subscriber line, extended area service, installation and universal service fund fees. <sup>4</sup>Up to \$325 Cash Back Offer: \$50 Cash Back for Local Service OR \$100 Cash Back for Local Service and Long Distance: Customers who switch local telephone service to AT&T and purchase qualifying local service (Complete Choice<sup>®</sup> Basic, Complete Choice<sup>®</sup> Enhanced or Consumer's Choice Plus) receive \$50 cash back. Customers who switch service to AT&T and purchase qualifying local service (Complete Choice Basic, Complete Choice Enhanced or Consumer's Choice Plus) and a qualifying domestic Unlimited Long Distance plan receive \$50 cash back for the purchase of Unlimited Long Distance and \$50 for the purchase of local service. Offer ends 9-30-09. <sup>5</sup>\$100 Cash Back: \$50 each for purchase of \$39.99 or higher wireless plan with 2-year agreement and qualifying handset: DIRECTV<sup>®</sup> CHOICE XTRA<sup>™</sup> package or higher with either HD Access or DVR Service from AT&T | DIRECTV. Requires AT&T local and long distance service. Long distance not required with online orders at [www.att.com](http://www.att.com) or for wireless orders. Must be new customer to qualifying service(s). Offer ends 9-19-09. <sup>6</sup>\$125 Cable Switch Cash Back: \$125 cash back reward available to residential customers switching existing cable internet service to any speed of FastAccess<sup>®</sup> DSL. Offer excludes FastAccess DSL Lite service with a term commitment. Subscription to AT&T local service required. Customer must satisfy all outstanding obligations with current cable provider. Only one high-speed internet cable switch offer per local telephone bill. Online redemption required. May not be combined with other internet service cash back offers. Offer ends 9-19-09. Cash back redemption requires customer to retain qualifying service(s) a minimum of 30 days and at time processing of reward is completed. Checks will be sent within 4 to 6 weeks to eligible customers following redemption of reward. Checks may not be used to pay for local telephone service provided by AT&T. Cash back offers may not be combined with other AT&T promotional offers on the same services. <sup>7</sup>Unlimited Local Calling: Rates vary depending on state service area. Rates are subject to change. <sup>8</sup>AT&T Unlimited Nationwide Calling<sup>™</sup> Advantage 2: This plan is for residential customers who switch or return to AT&T for local phone service, and provides unlimited domestic direct-dialed long distance. Available only with the purchase of ALL DISTANCE<sup>®</sup> or a basic access line. Plan is for residential, non-business use only. Plan cannot be used for long distance or local toll access to the Internet or for business purposes such as telemarketing, auto-dialing, or commercial or broadcast facsimile (FAX) where any of these calls would be long distance or local toll calls. If plan is used for unauthorized purposes, the Company may immediately suspend, restrict or cancel the customer's service. Quoted rate excludes a monthly Carrier Cost Recovery Fee of \$1.99 per month for long distance. This fee is not a government required charge. Availability, rates, terms and conditions are subject to change. <sup>9</sup>FastAccess<sup>®</sup> DSL Service requires DSL modem/router and qualifying local service. Quoted price is for FastAccess DSL Lite (768k) with no term commitment. Other Charges: Taxes, excessive usage and other charges may apply. Other terms: Speed claim(s) represent maximum downstream and/or upstream speed capabilities which may vary and are not guaranteed. Many factors can affect actual speeds. Advertised internet speed options not available in all areas. <sup>10</sup>Guaranteed Price for 24 Months: Price guarantee applies to monthly recurring charge for a period of 24 months from date of service, and does not include taxes, fees or excessive bandwidth usage charges. Offer excludes FastAccess<sup>®</sup> DSL Lite service with a term commitment. Offer ends 9-19-09. Altering, suspending or terminating service will cancel price guarantee. All Offers: Advertised services not available in all areas. Offers may be modified or discontinued at any time without notice. Other conditions apply to all offers. Offers valid for one service line at the intended local service address. ©2009 AT&T Intellectual Property. All rights reserved. AT&T, the AT&T logo and all other AT&T marks contained herein are trademarks of AT&T Intellectual Property and/or AT&T affiliated companies. Subsidiaries and affiliates of AT&T Inc. provide products and services under the AT&T brand. DIRECTV service is provided by DIRECTV.

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Call Today -

Rethink Possible 

Re: Your service at 311 W Quilly St, Griffin, GA 30223  
If this address is not correct, please call us at 1-877-273-9696

\*\*\*\*\*AUTO\*\*MIXED AADC 607

Talk all you want, enjoy high-speed Internet action.

		
As low as <b>\$14<sup>95</sup></b> a month†	Only <b>\$20</b> or less a month†	For only <b>\$14</b> a month††
High Speed Internet from AT&T (see details inside)	UNLIMITED Local Calling	UNLIMITED Long Distance Calling

Get up to **\$300 back** in promotion cards from AT&T with other qualifying services at non-promotional prices.\*



# talk is cheap so is surfing the net

Enjoy these services at great low prices. In this economy, it's nice to know you can get the services you need and save some money — up to \$300 back in promotion cards from AT&T! Your cable company talks the talk, but do they walk the walk?

 **surf the net**  
High Speed Internet  
from AT&T  
As low as  
**\$14<sup>95</sup>**  
a month  
for 12 months†

*Hurry!*  
Limited-Time  
Offer

- Downstream speeds up to 3 Mbps
- Includes on-the-go access to the entire national AT&T Wi-Fi Hot Spot network at no extra charge\*\* (1-year term required)

 **talk it up**  
UNLIMITED Local Calling

Only  
**\$20**  
or less  
a month†

- Enjoy the security and peace of mind that come with a reliable connection at home
- Get the network with 99.9% reliability

**Everyday Low Price**

 **keep talking**  
UNLIMITED Long Distance Calling

For only  
**\$14**  
a month††

- Pay one small price for UNLIMITED nationwide calling
- Call and talk as much as you want

**Everyday Low Price**

## take action

Get each of these services at a great low price. Plus, find out how you can get up to **\$300 back** in promotion cards from AT&T when you switch and choose other qualifying services at non-promotional prices.\*

**call** 1-877-273-9696

**click** [att.com/connect](http://att.com/connect)  
and enter Invitation code **60989409709**.

Si prefiere comunicarse con nosotros en español, por favor llámenos al **1-877-998-5512**.

(See reverse for details)

0511/DSL  
ACT1003e  
ACT1EQ00-10 MA L3 D1 GA



U-32508, Budget's First Set of **ATTACHMENT A**  
**ATTACHMENT A, Page 3**

### It's time to switch to AT&T!

- Only Wireless from AT&T offers Rollover Minutes\* allowing you to keep your unused minutes month to month and avoid overage charges.†
- Get high-speed Internet at home and on-the-go with access to the entire national AT&T Wi-Fi Hot Spot network at no extra charge.\*\*
- AT&T home phone service, with 99.9% network reliability, provides a connection you can count on.
- Record and play back with your DVR in 100% digital picture and sound with TV service from AT&T.

WIRELESS • HIGH SPEED INTERNET • HOME PHONE • DIGITAL TV



Get a deal cable just doesn't offer — get AT&T!

**1-877-273-9696**

Si prefiere comunicarse con nosotros en español, por favor llámenos al **1-877-998-5512**.

Mon. - Fri. 8 a.m. - 7 p.m. EST and  
Sat. 8 a.m. - 5 p.m. EST

**†Rollover Minutes\*:** Unused Anytime Minutes expire after the 12<sup>th</sup> billing period. Night and Weekend and Mobile to Mobile Minutes do not roll over. \*\*Access includes AT&T Wi-Fi Basic. Wi-Fi enabled device required. Other restrictions apply. See [www.attwifi.com](http://www.attwifi.com) for details and locations. Use of Wi-Fi at home will count toward your AT&T High Speed Internet usage allowance.

**Rate** excludes taxes, surcharges, subscriber line, extended area service, installation and universal service fund fees. **†Up to \$300 Offer:** Must be new customer to qualifying service(s). **Long Distance Offers (End 9-30-11):** Customers switching to AT&T long distance receive a **\$100** promotion card for purchase of an unlimited long distance plan or **\$50** for an AT&T ONE RATE<sup>SM</sup> plan. Must be new or existing AT&T local service customer. Customer eligible for one promotion card (whether \$50 or \$100) per 12 month period. **DIRECTV<sup>SM</sup> service and Cable Switch Offers from AT&T (End 7-16-11):** **\$50 card** for combined purchase of qualifying high-speed Internet service and DIRECTV<sup>SM</sup> CHOICE XTRA<sup>SM</sup> Package or higher with HD Access or DVR service from AT&T | DIRECTV. **\$100 card** when switching from existing cable internet service to a qualifying high-speed Internet plan from AT&T. Online redemption and AT&T local service required. **Offer Redemption Terms:** Card redemption required. Card sent 4-6 weeks after redemption to customers who retain qualifying service(s). Not redeemable for cash, for use at automated gasoline pumps or for cash withdrawal at ATMs. Card expires 90 days after issuance. **For cardholder agreement/terms and conditions go to <http://rewardcenter.att.com/myrewardcard/agreement.pdf>.** Cards issued by U.S. Bank National Association, pursuant to a license from Visa U.S.A. Inc. **Wireless \$50 AT&T Promotion Card** for purchase of a select handset from a participating AT&T sales channel through 7-16-11 with a new 2-yr wireless voice rate plan of \$39.99 or higher. Must maintain qualifying services for a minimum of 30 consecutive days to receive card. Redemption requests must be received by 8-16-11. Allow 60 days for fulfillment. Card may be used only in the U.S., is valid for 120 days after issuance date, but is not redeemable for cash and cannot be used for cash withdrawal at ATMs or automated gasoline pumps. See terms at [www.att.com/wirelessrebate](http://www.att.com/wirelessrebate).

**†Unlimited Local Calling:** Rates vary depending on state service area and are subject to change.

**†AT&T Unlimited Nationwide Calling<sup>SM</sup> Advantage 2** plan is available to residential customers who switch to AT&T for local phone service and provides unlimited domestic direct-dialed long distance for residential, non-business use only. Plan cannot be used for long distance or local toll access to the Internet or for business purposes such as telemarketing, auto-dialing, or commercial or broadcast facsimile (FAX) where any of these calls would be long distance or local toll calls. If plan is used for unauthorized purposes, the Company may immediately suspend, restrict or cancel the Customer's Service. Quoted rate excludes a monthly Carrier Cost Recovery Fee of \$1.99 per month for long distance. This fee is not a government required charge.

**High Speed Internet from AT&T Promotion:** DSL modem and local access line required. Quoted price for speeds up to 30 Mbps after bill credits. First two bill credits will be applied on same bill within the first three bill cycles. Taxes and other charges apply. DSL price includes 150 GB of data/mo. Additional \$10 charge per each 50 GB of data usage in excess of allowance. For more information, go to <http://MyUsage.att.com>. New customers only. After 12 months, standard rates apply unless canceled by customer at the end of 12 months. Early termination fee applies. Speed claim(s) represent maximum downstream and/or upstream speed capabilities which may vary and are not guaranteed. Offer expires 7-16-11. Other conditions apply. **All Offers:** Advertised services not available in all areas. Offers may be modified or discontinued at any time without notice. Other conditions apply to all offers. Offers valid for one service line at the intended local service address. AT&T employees or retirees may not be eligible for promotional offers. ©2011 AT&T Intellectual Property. All rights reserved. AT&T, the AT&T logo and all other AT&T marks contained herein are trademarks of AT&T Intellectual Property and/or AT&T affiliated companies. Subsidiaries and affiliates of AT&T Inc. provide products and services under the AT&T brand. DIRECTV service is provided by DIRECTV.

Offer Code: BE18 610E  
ACTJEG60-10-MA-13-01-GA



U-32506, Budget's First Set of **ATTACHMENT A**  
**ATTACHMENT A, Page 4**