UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALL AMERICAN TELEPHONE COMPANY, INC., a Nevada corporation, CHASECOM, a California corporation, e-PINNACLE COMMUNICATIONS, INC., a Utah corporation, GREAT LAKES COMMUNICATION CORP., an Iowa corporation,	:	1:07-cv-00861-WHP
Plaintiffs,	:	**ECF CASE**
v.	:	
AT&T CORP., a New York corporation,	:	
Defendant.	:	

ANSWER OF DEFENDANT AT&T CORP.
TO PLAINTIFFS' FIRST AMENDED COMPLAINT

Defendant AT&T Corp. ("AT&T") by its undersigned counsel, Sidley Austin LLP, as for its answer and defenses to Plaintiffs' First Amended Complaint ("Complaint"), dated March 7, 2007, states as follows:

AT&T denies Plaintiffs' prayer for relief, as well as any matters contained in the headings or any text that is not contained in a numbered paragraph, none of which constitute a proper allegation.

1. AT&T denies the allegations of paragraph 1 of the Complaint.

2. To the extent the allegations in paragraph 2 of the Complaint purport to characterize rules, regulations, and orders of the Federal Communications Commission ("FCC"), federal and state statutes, regulatory requirements of the Iowa Utilities Board ("IUB"), and the "filed rate doctrine," AT&T respectfully refers the Court to such rules, regulations and orders of the FCC, federal and state statutes, regulatory requirements of the IUB, and the "filed rate

doctrine" for an accurate and complete statement of their contents, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 2 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 2 of the Complaint.

3. AT&T admits that the Court has subject matter jurisdiction over this action. AT&T further states that Plaintiffs' claims constitute compulsory counterclaims that should properly be heard in *AT&T Corp. v. Superior Tel. Cooperative et al.*, No. 4:07-cv-43-JEG-CFB (filed S.D. Iowa Jan. 29, 2007) (hereinafter, the "Iowa Action") (attached as Exhibit A). AT&T denies all remaining allegations in paragraph 3 of the Complaint.

4. To the extent the allegations in paragraph 4 of the Complaint purport to characterize rules, regulations, orders, and decisions of the FCC, AT&T respectfully refers the Court to such rules, regulations and orders of the FCC for an accurate and complete statement of their content, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 4 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 4 of the Complaint.

5. AT&T admits that it may be found in the Southern District of New York and asserts that Plaintiffs' claims constitute compulsory counterclaims that should properly be heard in the Iowa Action. AT&T denies all remaining allegations in paragraph 5 of the Complaint.

6. Upon information and belief, AT&T admits that All American Telephone Company, Inc. ("All American") is a Nevada corporation with its principal place of business in

Las Vegas, Nevada and that All American is a CLEC. AT&T lacks knowledge and information sufficient to form a belief as to the remainder of paragraph 6 of the Complaint, and therefore AT&T denies all remaining allegations in paragraph 6 of the Complaint.

7. Upon information and belief, AT&T admits that Chase Com ("Chase Com") is a California corporation with its principal place of business in Santa Barbara, California and that Chase Com is a CLEC. AT&T lacks knowledge and information sufficient to form a belief as to the remainder of paragraph 7 of the Complaint, and therefore AT&T denies all remaining allegations in paragraph 7 of the Complaint.

8. Upon information and belief, AT&T admits that e-Pinnacle Communications, Inc. ("e-Pinnacle") is a Utah corporation with its principal place of business in Provo, Utah and that e-Pinnacle is a CLEC. AT&T lacks knowledge and information sufficient to form a belief as to the remainder of paragraph 8 of the Complaint, and therefore AT&T denies all remaining allegations in paragraph 8 of the Complaint.

9. Upon information and belief, AT&T admits that Great Lakes Communication Corp. ("Great Lakes") is an Iowa corporation with its principal place of business in Spencer, Iowa and that Great Lakes is a CLEC. AT&T lacks knowledge and information sufficient to form a belief as to the remainder of paragraph 9 of the Complaint, and therefore AT&T denies all remaining allegations in paragraph 9 of the Complaint.

10. AT&T admits that AT&T Corp. is a New York corporation with its principal place of business in Bedminster, New Jersey. AT&T admits that it provides services in this judicial district. AT&T admits that it has common carrier lines that run through this judicial district. AT&T admits that it is an interexchange carrier ("IXC"). AT&T admits that it is a common carrier with respect to the provision of certain, but not all, services. To the extent the

allegations in paragraph 10 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 10 of the Complaint.

11. AT&T lacks knowledge and information sufficient to form a belief as to the truth of the allegations of paragraph 11 of the Complaint that Plaintiffs are telecommunications common carriers and that Plaintiffs' service offerings are subject to the jurisdiction of the FCC. AT&T admits that it is a common carrier with respect to the provision of certain, but not all, services and that certain of AT&T's offerings are subject to FCC jurisdiction. To the extent the allegations in paragraph 11 state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 11 of the Complaint.

12. On information and belief, AT&T admits that Plaintiffs are competitive local exchange carriers ("CLECs") that provide local and long distance telephone services in their territory. AT&T denies the remaining allegations in paragraph 12 of the Complaint.

13. AT&T admits that it is and has been a provider of long-distance telephone service. AT&T admits that it is and has been an IXC. AT&T admits that for many customers it provides and has provided a service that enables a customer in one locality to make a telephone call to another person in a distant location. AT&T admits that it provides and has provided an interexchange service to certain customers. AT&T admits that interexchange service generally includes long-distance service that involves connecting a calling party in one local service area, or telephone exchange area, with a called party in another local telephone exchange area. AT&T denies all remaining allegations in paragraph 13 of the Complaint.

14. AT&T admits that affiliates of AT&T, but not AT&T Corp. itself, provide local telephone service in some areas and that in some areas affiliates of AT&T are classified as incumbent local exchange carriers ("ILECs"). To the extent the allegations in paragraph 14 of the Complaint purport to characterize Plaintiffs' Complaint, AT&T respectfully refers the Court to the Complaint for an accurate and complete statement of its contents, and AT&T denies all inconsistent allegations. AT&T denies all remaining allegations in paragraph 14 of the Complaint.

15. AT&T admits its long-distance network does not extend to all end-user customers' homes or businesses. AT&T admits that local exchange carriers can have facilities that connect to end users' homes or businesses. AT&T lacks knowledge and information sufficient to form a belief as to the allegations about Plaintiffs' and other local exchange carriers' networks and services, and therefore AT&T denies all such allegations. To the extent the allegations in paragraph 15 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 15 of the Complaint.

16. To the extent the allegations in paragraph 16 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 16 of the Complaint.

17. To the extent the allegations in paragraph 17 of the Complaint purport to characterize rules, regulations and orders of the FCC, AT&T respectfully refers the Court to such rules, regulations and orders of the FCC for an accurate and complete statement of their content, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 17 state

conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 17 of the Complaint.

18. To the extent the allegations in paragraph 18 of the Complaint purport to characterize rules, regulations and orders of the FCC, AT&T respectfully refers the Court to such rules, regulations and orders of the FCC for an accurate and complete statement of their contents, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 18 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 18 of the Complaint.

19. To the extent the allegations in paragraph 19 of the Complaint purport to characterize rules, regulations and orders of the FCC, AT&T respectfully refers the Court to such rules, regulations and orders of the FCC for an accurate and complete statement of their contents, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 19 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 19 of the Complaint.

20. To the extent the allegations in paragraph 20 state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T admits that the IUB does not prescribe the access rates for CLECs. AT&T denies all remaining allegations in paragraph 20 of the Complaint.

21. AT&T admits that Great Lakes has purported to concur in a tariff maintained by the Iowa Telecommunications Association ("ITA"). AT&T lacks knowledge or

information sufficient to form a belief as to the truth of the allegations of paragraph 21 of the Complaint that such conduct is a common practice in Iowa, that the ITA boasts 153 incumbent and competitive telecommunications carriers within Iowa as active members, that many of these 153 members has concurred in the ITA tariff, and that the ITA tariff has been effective in Iowa since the 1980s, and therefore AT&T denies such allegations. To the extent the allegations in paragraph 21 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 21 of the Complaint.

22. To the extent the allegations in paragraph 22 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T lacks knowledge or information sufficient to form a belief as to the remaining allegations of paragraph 22 of the Complaint.

23. To the extent the allegations in paragraph 23 of the Complaint purport to characterize decisions of federal courts, AT&T respectfully refers the Court to those decisions for an accurate and complete statement of their contents, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 23 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 23 of the Complaint.

24. To the extent the allegations in paragraph 24 of the Complaint purport to characterize decisions of federal courts, AT&T respectfully refers the Court to those decisions for an accurate and complete statement of their contents, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 24 of the Complaint state conclusions of

law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 24 of the Complaint.

25. To the extent the allegations in paragraph 25 of the Complaint purport to characterize rules, regulations, or decision of the FCC, AT&T respectfully refers the Court to such rules, regulations, or decisions for an accurate and complete statement of their contents, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 25 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 25 of the Complaint.

26. To the extent the allegations in paragraph 26 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T lacks knowledge or information sufficient to form a belief as to the remaining allegations of paragraph 26 of the Complaint.

27. AT&T denies the allegations of paragraph 27 of the Complaint.

28. AT&T admits that it stopped paying for MGC Communications, Inc.'s ("MGC") access services, which were priced at 8.5 cents per minute, a rate that the FCC later found to be unjust and unreasonable. AT&T admits that MGC filed a formal complaint against AT&T at the FCC. AT&T admits that a dispute relating to access charges existed between AT&T and MGC, and that prior to the dispute AT&T had paid amounts to MGC for services purportedly provided to AT&T. AT&T denies all remaining allegations in paragraph 28 of the Complaint.

29. To the extent the allegations in paragraph 29 of the Complaint purport to characterize rules, regulations, or orders of the FCC, AT&T respectfully refers the Court to such

rules, regulations or orders for an accurate and complete statement of their contents, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 29 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 29 of the Complaint.

30. AT&T admits that it sought reconsideration of the Common Carrier Bureau's decision. To the extent the allegations in paragraph 30 of the Complaint purport to characterize rules, regulations, or orders of the FCC, AT&T respectfully refers the Court to such rules, regulations and orders for an accurate and complete statement of their contents, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 30 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 30 of the Complaint.

31. AT&T admits that it litigated a number of access charge disputes in federal courts in the years 1998 through 2001. To the extent the allegations in paragraph 31 of the Complaint purport to characterize rules, regulations, or orders of the FCC, AT&T respectfully refers the Court to such rules, regulations, and orders for an accurate and complete statement of their contents, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 31 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 31 of the Complaint**.**

32. To the extent the allegations in paragraph 32 of the Complaint purport to characterize court decisions, AT&T respectfully refers the Court to such decisions for an

accurate and complete statement of their contents, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 32 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 32 of the Complaint.

33. To the extent the allegations in paragraph 33 of the Complaint purport to characterize a court decision, AT&T respectfully refers the Court to that decision for an accurate and complete statement of its contents, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 33 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 33 of the Complaint.

34. To the extent the allegations in paragraph 34 of the Complaint purport to characterize rules, regulations, or orders of the FCC, AT&T respectfully refers the Court to such rules, regulations, and orders for an accurate and complete statement of their contents, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 34 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 34 of the Complaint.

35. AT&T admits that all of the competitive local exchange carriers ("CLECs") that were plaintiffs in the court actions in the Federal District Courts of the District of Columbia and the Eastern District of Virginia settled with AT&T. AT&T lacks knowledge or information sufficient to form a belief as to the remainder of paragraph 35 of the Complaint, and therefore AT&T denies all remaining allegations in paragraph 35 of the Complaint.

36. To the extent the allegations in paragraph 36 of the Complaint purport to characterize a federal court decision or a provision of the Communications Act, AT&T respectfully refers the Court to that decisions and provisions of the Communications Act for an accurate and complete statement of their contents, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 36 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 36 of the Complaint.

37. To the extent the allegations in paragraph 37 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 37 of the Complaint.

38. To the extent the allegations in paragraph 38 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T lacks knowledge or information sufficient to form a belief as to the remaining allegations of paragraph 38 of the Complaint.

39. To the extent the allegations in paragraph 39 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 39 of the Complaint.

40. To the extent the allegations in paragraph 40 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 40 of the Complaint.

41. To the extent the allegations in paragraph 41 of the Complaint purport to characterize Plaintiffs' tariffs, AT&T respectfully refers the Court to such tariffs for an accurate and complete statement of their content, and AT&T denies all inconsistent allegations. AT&T admits that Plaintiffs have submitted invoices to AT&T that purport to seek payment for access charges. AT&T lacks sufficient information to form a belief as to whether Plaintiffs provided access services. AT&T asserts, however, that Plaintiffs did not provide access services in connection with the overwhelming majority of AT&T traffic delivered to Plaintiffs for which Plaintiffs billed AT&T access charges. Plaintiffs improperly treated traffic that was not access traffic as access traffic. AT&T denies all remaining allegations in paragraph 41 of the Complaint.

42. AT&T admits that it has disputed and not paid certain of Plaintiffs' bills. AT&T lacks sufficient information to form a belief as to whether Plaintiffs provided or are providing access services. AT&T asserts, however, that Plaintiffs did not provide access services in connection with the overwhelming majority of AT&T traffic delivered to Plaintiffs for which Plaintiffs billed AT&T access charges. Plaintiffs improperly treated traffic that was not access traffic as access traffic. AT&T denies all remaining allegations in paragraph 42 of the Complaint.

43. AT&T admits that All American filed a tariff with the FCC that purports to have become effective on or about July 1, 2005. To the extent the allegations in paragraph 43 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 43 of the Complaint.

44. To the extent that the allegations in paragraph 44 purport to characterize an All American tariff, AT&T respectfully refers the Court to such tariff itself for an accurate and complete statement of its content, and AT&T denies all inconsistent allegations. AT&T admits that All American has billed AT&T for purported interstate access charges. AT&T lacks sufficient information to form a belief as to whether All American provided interstate access services. AT&T asserts, however, that All American did not provide interstate access services in connection with the overwhelming majority of AT&T traffic delivered to All American for which All American billed AT&T interstate access charges. All American improperly treated traffic that was not interstate access traffic as interstate access traffic. AT&T denies all remaining allegations in paragraph 44 of the Complaint.

45. AT&T admits that it paid certain of All American's bills. To the extent that the allegations in paragraph 45 purport to characterize an All American tariff, AT&T respectfully refers to the Court to such tariff itself for an accurate and complete statement of its content, and AT&T denies all inconsistent allegations. AT&T denies all remaining allegations in paragraph 45 of the Complaint.

46. AT&T admits that it has disputed and not paid certain of All American's bills. To the extent the allegations in paragraph 46 of the Complaint purport to characterize an All American FCC tariff, AT&T respectfully refers the Court to such tariff for an accurate and complete statement of its content, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 46 state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 46 of the Complaint.

47. AT&T lacks knowledge and information sufficient to form a belief as to the allegation that All American sent letters on or about October 2, 2006 and November 10, 2006, and therefore AT&T denies all such allegations. To the extent the allegations in paragraph 47 of the Complaint purport to characterize the content of those letters, AT&T respectfully refers the Court to the letters themselves for an accurate and complete statement of their content, and AT&T denies all inconsistent allegations. AT&T denies all remaining allegations in paragraph 47.

48. AT&T denies the allegations of paragraph 48 of the Complaint.

49. AT&T denies the allegations of paragraph 49 of the Complaint.

50. AT&T admits that Chase Com filed a tariff with the FCC that purports to have become effective on or about October 13, 2005. To the extent the allegations in paragraph 50 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 50 of the Complaint.

51. To the extent that the allegations in paragraph 51 purport to characterize a Chase Com tariff, AT&T respectfully refers the Court to such tariff itself for an accurate and complete statement of its content, and AT&T denies all inconsistent allegations. AT&T admits that Chase Com has billed AT&T for purported interstate access charges. AT&T lacks sufficient information to form a belief as to whether Chase Com provided interstate access services. AT&T asserts, however, that Chase Com did not provide interstate access services in connection with the overwhelming majority of AT&T traffic delivered to Chase Com for which Chase Com billed AT&T interstate access charges. Chase Com improperly treated traffic that was not

interstate access traffic as interstate access traffic. AT&T denies all remaining allegations in paragraph 51 of the Complaint.

52. AT&T admits that it has disputed and not paid certain of Chase Com's bills. To the extent the allegations in paragraph 52 of the Complaint purport to characterize a Chase Com FCC tariff, AT&T respectfully refers the Court to such tariff for an accurate and complete statement of its content, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 52 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 52 of the Complaint.

53. AT&T lacks knowledge and information sufficient to form a belief as to the allegation that Chase Com sent letters on or about October 2, 2006 and November 10, 2006, and therefore AT&T denies all such allegations. To the extent the allegations in paragraph 53 of the Complaint purport to characterize the content of those letters, AT&T respectfully refers the Court to the letters themselves for an accurate and complete statement of their content, and AT&T denies all inconsistent allegations. AT&T denies all remaining allegations in paragraph 53.

54. AT&T denies the allegations of paragraph 54 of the Complaint.

55. AT&T denies the allegations of paragraph 55 of the Complaint.

56. To the extent the allegations in paragraph 56 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T lacks sufficient information to form a belief as to whether e-Pinnacle filed a tariff with the FCC on or about October 12, 2005 or that such tariff became

effective on October 13, 2005, and therefore AT&T denies all such allegations. AT&T denies all remaining allegations in paragraph 56 of the Complaint.

57. To the extent that the allegations in paragraph 57 purport to characterize an e-Pinnacle tariff, AT&T respectfully refers the Court to such tariff itself for an accurate and complete statement of its content, and AT&T denies all inconsistent allegations. AT&T admits that e-Pinnacle has billed AT&T for purported interstate access charges. AT&T lacks sufficient information to form a belief as to whether e-Pinnacle provided interstate access services. AT&T asserts, however, that e-Pinnacle did not provide interstate access services in connection with the overwhelming majority of AT&T traffic delivered to e-Pinnacle for which e-Pinnacle billed AT&T interstate access charges. e-Pinnacle improperly treated traffic that was not interstate access traffic as interstate access traffic. AT&T denies all remaining allegations in paragraph 57 of the Complaint.

58. AT&T admits that it paid certain of e-Pinnacle's bills. To the extent that the allegations in paragraph 58 purport to characterize an e-Pinnacle tariff, AT&T respectfully refers the Court to such tariff itself for an accurate and complete statement of its content, and AT&T denies all inconsistent allegations. AT&T denies all remaining allegations in paragraph 58 of the Complaint.

59. AT&T admits that it has disputed and not paid certain of e-Pinnacle's bills. To the extent the allegations in paragraph 59 of the Complaint purport to characterize an e-Pinnacle FCC tariff, AT&T respectfully refers the Court to such tariff for an accurate and complete statement of its content, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 59 of the Complaint state conclusions of law, AT&T denies the

allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 59 of the Complaint.

60. AT&T lacks knowledge and information sufficient to form a belief as to the allegation that e-Pinnacle sent letters on or about October 2, 2006 and November 10, 2006, and therefore AT&T denies all such allegations. To the extent the allegations in paragraph 60 of the Complaint purport to characterize the content of those letters, AT&T respectfully refers the Court to the letters themselves for an accurate and complete statement of their content, and AT&T denies all inconsistent allegations. AT&T denies all remaining allegations in paragraph 60.

61. AT&T denies the allegations of paragraph 61 of the Complaint.

62. AT&T denies the allegations of paragraph 62 of the Complaint.

63. AT&T admits that Great Lakes filed a tariff with the FCC that purports to have become effective on or about September 2, 2005. To the extent the allegations in paragraph 63 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 63 of the Complaint.

64. AT&T lacks sufficient information to form a belief as to whether Great Lakes has a certificate of public interest and necessity granted by the IUB. To the extent the allegations in paragraph 64 of the Complaint purport to characterize a certificate of public interest and necessity, AT&T respectfully refers the Court to that certificate of public interest and necessity for an accurate and complete statement of its contents, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 64 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law

are for the Court to reach. AT&T denies all remaining allegations in paragraph 64 of the Complaint.

65. AT&T admits that Great Lakes has purported to concur in a tariff maintained by the ITA. To the extent the allegations in paragraph 65 of the Complaint purport to characterize the rules of the IUB and contents of a filed notice, AT&T respectfully refers the Court to the rules of the IUB and such filed notice for an accurate and complete statement of its content, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 65 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 65 of the Complaint.

66. To the extent that the allegations in paragraph 66 of the Complaint purport to characterize a Great Lakes tariff, AT&T respectfully refers the Court to such tariff itself for an accurate and complete statement of its content, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 66 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T lacks sufficient information to form a belief as to whether Great Lakes provided intrastate exchange access services. AT&T asserts, however, that Great Lakes did not provide intrastate access services in connection with the overwhelming majority of AT&T traffic delivered to Great Lakes. AT&T denies all remaining allegations in paragraph 66 of the Complaint.

67. To the extent that the allegations in paragraph 67 purport to characterize a Great Lakes tariff, AT&T respectfully refers the Court to such tariffs themselves for an accurate and complete statement of their content, and AT&T denies all inconsistent allegations. AT&T admits that Great Lakes has billed AT&T for purported interstate and intrastate access charges.

AT&T lacks sufficient information to form a belief as to whether Great Lakes provided such services. AT&T asserts, however, that Great Lakes did not provide interstate or intrastate access services in connection with the overwhelming majority of AT&T traffic delivered to Great Lakes for which Great Lakes billed AT&T interstate and intrastate access charges. Great Lakes improperly treated traffic that was not interstate or intrastate access traffic as interstate and intrastate access traffic. AT&T denies all remaining allegations in paragraph 67 of the Complaint.

68. AT&T admits that it paid certain of Great Lake's bills. To the extent that the allegations in paragraph 58 purport to characterize a Great Lakes tariff, AT&T respectfully refers the Court to such tariff itself for an accurate and complete statement of its content, and AT&T denies all inconsistent allegations. AT&T denies all remaining allegations in paragraph 68 of the Complaint.

69. AT&T admits that it has disputed and not paid certain of Great Lakes' bills. To the extent the allegations in paragraph 69 of the Complaint purport to characterize Great Lakes' FCC tariff or its Iowa state tariff, AT&T respectfully refers the Court to those tariffs for an accurate and complete statement of their content, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 69 state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 69 of the Complaint.

70. AT&T lacks knowledge and information sufficient to form a belief as to the allegation that Great Lakes sent letters on or about October 2, 2006 and November 10, 2006, and therefore AT&T denies all such allegations. To the extent the allegations in paragraph 70 of the Complaint purport to characterize the content of those letters, AT&T respectfully refers the

Court to the letters themselves for an accurate and complete statement of their content, and AT&T denies all inconsistent allegations. AT&T denies all remaining allegations in paragraph 70.

71. AT&T denies the allegations of paragraph 71 of the Complaint.

72. AT&T denies the allegations of paragraph 72 of the Complaint.

73. AT&T repeats and realleges each and every response set forth in the foregoing paragraphs as if fully set forth herein.

74. AT&T lacks sufficient information to form a belief as to whether Plaintiffs provided interstate access services in connection with any AT&T traffic delivered to Plaintiffs. AT&T asserts, however, that Plaintiffs did not provide interstate access services in connection with the overwhelming majority of AT&T traffic delivered to Plaintiffs for which Plaintiffs billed AT&T interstate access charges. To the extent the allegations in paragraph 74 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations of paragraph 74 of the Complaint.

75. AT&T denies the allegations of paragraph 75 of the Complaint.

76. AT&T denies the allegations of paragraph 76 of the Complaint.

77. AT&T repeats and realleges each and every response set forth in the foregoing paragraphs as if fully set forth herein.

78. To the extent the allegations in paragraph 78 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations of paragraph 78 of the Complaint.

79. AT&T denies the allegations of paragraph 79 of the Complaint.

80. To the extent the allegations in paragraph 80 purport to characterize provisions of the Communications Act, AT&T respectfully refers the Court to the Act itself for an accurate and complete statement of its content, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 80 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 80 of the Complaint.

81. AT&T denies the allegations of paragraph 81 of the Complaint.

82. AT&T denies the allegations of paragraph 82 of the Complaint.

83. AT&T denies the allegations of paragraph 83 of the Complaint.

84. AT&T denies the allegations of paragraph 84 of the Complaint.

85. AT&T denies the allegations of paragraph 85 of the Complaint.

86. AT&T repeats and realleges each and every response set forth in the foregoing paragraphs as if fully set forth herein.

87. To the extent the allegations in paragraph 87 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations of paragraph 87 of the Complaint.

88. AT&T denies the allegations of paragraph 88 of the Complaint.

89. To the extent the allegations in paragraph 89 purport to characterize provisions of the Communications Act, AT&T respectfully refers the Court to the Act itself for an accurate and complete statement of its content, and AT&T denies all inconsistent allegations. To the extent the allegations in paragraph 89 of the Complaint state conclusions of law, AT&T

denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations in paragraph 89 of the Complaint.

90. AT&T denies the allegations of paragraph 90 of the Complaint.

91. AT&T denies the allegations of paragraph 91 of the Complaint.

92. AT&T denies the allegations of paragraph 92 of the Complaint.

93. AT&T denies the allegations of paragraph 93 of the Complaint.

94. AT&T repeats and realleges each and every response set forth in the foregoing paragraphs as if fully set forth herein.

95. AT&T lacks sufficient information to form a belief as to whether Plaintiff provided interstate access services in connection with any AT&T traffic delivered to Plaintiff. AT&T asserts, however, that Plaintiff did not provide interstate access services in connection with the overwhelming majority of AT&T traffic delivered to Plaintiff for which Plaintiff billed AT&T interstate access charges. To the extent the allegations in paragraph 95 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law are for the Court to reach. AT&T denies all remaining allegations of paragraph 95 of the Complaint.

96. AT&T denies the allegations of paragraph 96 of the Complaint.

97. AT&T denies the allegations of paragraph 97 of the Complaint.

98. AT&T repeats and realleges each and every response set forth in the foregoing paragraphs as if fully set forth herein.

99. To the extent the allegations in paragraph 99 of the Complaint state conclusions of law, AT&T denies the allegations and further responds that all conclusions of law

are for the Court to reach. AT&T denies all remaining allegations of paragraph 99 of the Complaint.

100. AT&T denies the allegations of paragraph 100 of the Complaint.

101. To the extent the allegations in paragraph 101 purport to characterize provisions of the Iowa Code, AT&T respectfully refers the Court to the Iowa Code itself for an accurate and complete statement of its content, and AT&T denies all inconsistent allegations. AT&T denies all remaining allegations in paragraph 101 of the Complaint. AT&T denies all remaining allegations in paragraph 101.

102. AT&T denies the allegations of paragraph 102 of the Complaint.

103. AT&T repeats and realleges each and every response set forth in the foregoing paragraphs as if fully set forth herein.

104. AT&T lacks sufficient information to form a belief as to whether Plaintiffs provided access services in connection with any AT&T traffic delivered to Plaintiffs. AT&T asserts, however, that Plaintiffs did not provide access services in connection with the overwhelming majority of AT&T traffic delivered to Plaintiffs for which Plaintiffs billed AT&T access charges. AT&T denies all remaining allegations of paragraph 104 of the Complaint.

105. AT&T lacks sufficient information to form a belief as to whether Plaintiffs provided access services in connection with any AT&T traffic delivered to Plaintiffs. AT&T asserts, however, that Plaintiffs did not provide access services in connection with the overwhelming majority of AT&T traffic delivered to Plaintiffs for which Plaintiffs billed AT&T access charges. AT&T denies all remaining allegations of paragraph 105 of the Complaint.

106. AT&T denies the allegations of paragraph 106 of the Complaint.

107. AT&T denies the allegations of paragraph 107 of the Complaint.

DEFENSES

AT&T Corp. asserts the following additional defenses without assuming the burden of proof on such defenses that would otherwise rest on the Plaintiffs and reserves its rights to assert additional defenses when, and if, appropriate.

FIRST DEFENSE

The Complaint fails to state a claim upon which relief may be granted.

SECOND DEFENSE

Plaintiffs' claims are barred in whole or in part by their inequitable conduct and unclean hands.

THIRD DEFENSE

Plaintiffs may not obtain relief under any state or federal tariff because Plaintiffs are in violation of such tariffs.

FOURTH DEFENSE

Plaintiffs' claims for terminating access charges are barred because Plaintiffs did not provide such services.

FIFTH DEFENSE

Plaintiffs' claims are barred because they have engaged in ongoing violations of the Telecommunications Act, including, but not limited to, 47 U.S.C. §§ 201 and 203.

SIXTH DEFENSE

Plaintiffs' claim for quantum meruit is barred because Plaintiffs' purported right to recover proper and lawful access charges, if any, is governed by tariff.

SEVENTH DEFENSE

Plaintiffs' claims are barred because they are compulsory counterclaims, Fed. R. Civ. P. 13(a), that are subject to transfer to the Southern District of Iowa pursuant to 28 U.S.C. § 1404.

EIGHTH DEFENSE

Great Lakes' claims are barred because of its fraudulent conduct which has been set forth with particularity in paragraphs 58-65 of AT&T's counterclaims, which AT&T incorporates by reference.

Wherefore, AT&T requests that the Complaint be dismissed with prejudice, and that the Court enter judgment in its favor and against the Plaintiffs, award AT&T attorneys' fees, costs and expenses, and grant AT&T such further relief as is just and equitable.

COUNTERCLAIMS OF AT&T

AT&T Corp., for its counterclaims against All American, ChaseCom, e-Pinnacle, and Great Lakes, states as follows:

INTRODUCTION

1. The Plaintiffs' action here, and these Counterclaims, are inextricably related to another telecommunications action that AT&T previously filed in the United States District Court for the Southern District of Iowa. In the Iowa action, AT&T alleged that Great Lakes violated federal law, Iowa law and its own federal and Iowa tariffs by billing AT&T for access charges in connection with a variety of "traffic pumping" schemes with various website-based companies. Great Lakes, along with the other Counterclaim Defendants, subsequently brought the present action against AT&T in this forum based on the same transactions – *i.e.*, their complaint seeks to force AT&T to pay bills associated with the calls that AT&T alleges were placed as part of the unlawful schemes. Great Lakes' claims in this forum are no more than compulsory counterclaims that should be asserted against AT&T in the Iowa action, *see* Fed. R. Civ. P. 13(c), and the other Counterclaim Defendants' claims raise identical issues. Therefore, AT&T reserves all rights to file appropriate motions in the instant matter and/or the Iowa action so that all claims may be heard in the Iowa action. AT&T nonetheless includes these Counterclaims out of an abundance of caution, and to preclude any subsequent argument that AT&T was required to raise these counterclaims as compulsory counterclaims.

JURISDICTION AND VENUE

2. This Court has original jurisdiction over this action under 28 U.S.C. §§ 1331, 1337, and 47 U.S.C. § 207 because AT&T's claims arise under the federal Communications Act, a law of the United States. This Court has jurisdiction over AT&T's state

law claims under 28 U.S.C. § 1332. In addition, this Court also has supplemental jurisdiction over the state law claims asserted in this action under 28 U.S.C. § 1367(a). Finally, this Court has jurisdiction over AT&T's requests for declaratory relief under 28 U.S.C. §§ 2201 and 2202.

3. To the extent that this Court finds that venue is proper in this district regarding the claims in the Complaint, then venue is proper in this judicial district under 28 U.S.C. § 1391 as to AT&T's counterclaims against Great Lakes, All American, ChaseCom, and e-Pinnacle.

PARTIES

4. Defendant/Counterclaim Plaintiff AT&T is a New York corporation that provides communications and other services to U.S.-based and foreign-based customers and has its principal place of business in Bedminster, New Jersey. AT&T is a wholly-owned subsidiary of AT&T, Inc.

5. Plaintiff/Counterclaim Defendant All American Telephone Company, upon information and belief, is a Nevada corporation with its principal place of business in Las Vegas, Nevada. Upon information and belief, it is a competitive local exchange carrier that provides local exchange and other services in Nevada and other rural areas in the United States.

6. Plaintiff/Counterclaim Defendant Chase Com, upon information and belief, is a California corporation with its principal place of business in Santa Barbara, California. Upon information and belief, it is a competitive local exchange carrier that provides local exchange and other services in Utah and other rural areas in the United States.

7. Plaintiff/Counterclaim Defendant e-Pinnacle Communications, Inc., upon information and belief, is a Utah corporation with its principal place of business in Provo, Utah.

Upon information and belief, it is a competitive local exchange carrier that provides local exchange and other services in Utah and other rural areas in the United States.

8. Plaintiff/Counterclaim Defendant Great Lakes Communication Corp., upon information and belief, is an Iowa corporation with its principal place of business in Spencer, Iowa. Upon information and belief, it is a competitive local exchange carrier that provides local exchange and other services in and near Spencer, Iowa.

BACKGROUND

9. Traditionally, telephone calls have been divided into local calls and long distance calls. Local calls are placed within a designated local calling area, sometimes called an "exchange." An exchange is served by one or more local exchange carriers (LECs). LECs typically own wires and switches used to initiate calls from and to complete telephone calls to their customers. Thus, when a caller calls a neighbor living down the street, that call originates and terminates within the same local exchange and the caller may use local exchange service provided by the LEC serving that local calling area.

10. There are two types of local exchange carriers: "incumbent" local exchange carriers, which are the traditional providers of local exchange services in an area, and "competitive" local exchange carriers, which are new entrants that offer local services in competition with incumbent LECs. All four Counterclaim Defendants are CLECs.

11. Domestic long distance calls are carried from one local calling area (or local exchange) to another local calling area (or local exchange) either within the same state or between different states. Long distance carriers, also known as "interexchange carriers" or "IXCs," typically carry these types of calls from the originating exchange to the terminating

exchange. Thus, when a Superior, Iowa resident calls a friend in New York, the Superior resident must use a long distance service.

12. AT&T and its affiliates provide both local and long distance services. However, AT&T and its affiliates do not own local exchange facilities throughout the country. In those areas where AT&T does not operate local exchange facilities, AT&T typically uses "access services" to originate and terminate long-distance calls that are provided by LECs that operate local exchange facilities in the areas where the calls originate and terminate.

13. For example, a long distance telephone call placed from an AT&T long distance customer in New York to a resident of Des Moines, Iowa, may be routed as follows: When the caller in New York dials the phone number of the Des Moines resident, the call is first routed by a local carrier in New York from the building where the caller is located to AT&T's long distance network, which has a "point of presence" in that local area. This LEC service is called "originating" access service, and the New York LEC bills AT&T for that originating access service. AT&T then carries the call over its long distance network to an AT&T point of presence in Des Moines, Iowa. AT&T then hands the call off to a local carrier, and the call is then terminated to the Des Moines resident in the LEC's local service area. This LEC service is called "terminating" access service, and the Des Moines LEC bills AT&T for that terminating access service.

14. The rates for these access services can vary widely. In much of the country (including AT&T's LEC service areas), for example, interstate access charges are less than a penny per minute. Certain of the Counterclaim Defendants, however, operate in remote and sparsely populated rural service areas of ILECs that have some of the highest rates for

terminating access service in the country, and certain of the Counterclaim Defendants' set their terminating access rates to match those of the ILECs in whose service area they operate.

15. In particular, All American, Chase Com, and e-Pinnacle all operate in the service area of an ILEC named Beehive Telephone Company ("Beehive"), which is located in very remote and sparsely populated areas straddling the Utah/Nevada state line. Beehive has a long history of extraordinarily high access rates. *See, e.g.*, *AT&T Corp.* v. *Beehive Tel. Co.*, 17 FCC Rcd. 11641, 11644, ¶ 5 (2002); *see also, e.g.*, *Beehive Tel. Co., Inc.*, 14 FCC Rcd. 1224, 1232 (¶ 22) (1998); *Beehive Tel. Co. Inc.*, 13 FCC Rcd. 2736, 2746 (¶¶ 25-26) (1998).

16. Upon information and belief, these CLECs exist for the sole purpose of executing "traffic pumping" schemes, not to offer wireline local telephone service to the residents of these sparsely populated rural areas. Indeed, one of the Counterclaim Defendants, Chase Com, in reports that it is required to file with the Utah Public Service Commission, has indicated that it has no customers other than itself.

17. Under the Communications Act of 1934, 47 U.S.C. § 151 *et seq.* (the "Act"), LECs typically offer interstate access services (*i.e.*, access services for the origination and termination of interstate long-distance calls) pursuant to federal tariffs filed with the FCC. LECs typically offer intrastate access services (for calls that both originate and terminate in the state) via state tariffs typically filed with state public utility commissions.

COUNTERCLAIM DEFENDANTS' UNLAWFUL CALLING SCHEMES

18. The Counterclaim Defendants operate a variety of unlawful calling schemes that depend for their viability on charging AT&T (and other long distance carriers) terminating access charges that the Counterclaim Defendants do not actually provide to AT&T. Specifically, Great Lakes operates a scheme for "free" international calling, and on information

and belief, the Counterclaim Defendants operate similar schemes, such as "free" conferencing and "free" chat lines.

19. As one example, Great Lakes operates an unlawful international calling scheme, which it executes through an arrangement with one or more companies that operate an Internet website, such as Free Call Planet ("Website Companies"). The Website Companies advertise "free" international voice calls to anyone willing to dial an intermediate Iowa-based number. The originating callers dial an Iowa number supplied by Great Lakes, and then are asked to enter the international long distance number. The Website Companies do not assess any additional charges on the caller for the international call. Instead, Great Lakes and the Website Companies fund this "free" international calling (and their own profits) by billing AT&T and other long distance carriers exorbitant per-minute rates for "terminating access services" as if the calls actually terminated to end users in Iowa, even though these international voice calls in fact terminate in foreign countries.

20. The Website Companies advertise a "free" international calling service and instructed callers to call an "Iowa-based" "gateway access number." With respect to the particular Website Companies associated with Great Lakes, the "gateway access number" would be a number in the 712 area code associated with the local exchange network of Great Lakes. The Website Companies instruct the caller that when the gateway answers, the caller should enter 011 then the country code and number he intends to call.

21. Ordinarily, international voice calls placed over standard long distance facilities are priced significantly higher than domestic long distance calls. However, under Great Lakes' scheme, the callers are able to make "free" international calls simply by dialing the domestic long distance number listed on the website – *i.e.*, by dialing an Iowa number.

22. Great Lakes does not bill callers anything for placing the international call. The caller need only pay his long distance or wireless provider the charges applicable to a domestic long distance phone call to Iowa.

23. When callers use cellular phones that have no additional charges for long distance calls or if they subscribe to a flat-rate long distance plan, the caller may incur *no* costs at all to make these international voice calls.

24. By way of example, and on information and belief, an international voice call by an AT&T long distance customer from Los Angeles to Shanghai, China routed pursuant to this scheme would travel the following path. An AT&T long distance customer in Los Angeles, California would dial the Iowa number advertised on the Internet by a Website Company such as Free Call Planet. The LEC serving the Los Angeles area would carry the call from the customer's home to the LEC switch, which routes the call to AT&T's long distance point of presence in Los Angeles. AT&T would incur originating access charges for that portion of the call. AT&T then would carry the call to its point of presence in Iowa, which connects (directly or indirectly) to the network of Great Lakes. Great Lakes then would route the call to the international gateway, the customer would enter the desired Shanghai number, and the call would be routed to and terminated in Shanghai through an arrangement with another carrier or carriers. Finally, Great Lakes would bill AT&T terminating access charges as if the call had been terminated to a customer in the Great Lakes local service area in Iowa.

25. Great Lakes treats these international voice calls as if they terminated at the Free Call Planet gateway in Iowa (rather than in a foreign country) and thus they charge AT&T terminating access services for these calls. The more callers that use the scheme, and the longer they talk, the larger the terminating access fees that Great Lakes bills to AT&T for these

voice calls. AT&T believes that Great Lakes has entered into agreements with, at a minimum, the following Website Companies: Free Call Planet, asia-works.com, freecallstomexico.com, freecallstogermany.com, freecallstochina.com, freecallstoargentina.com, freecallstouk.com, callchinaforfree.com, and freecalltheworld.com.

26. All of the Counterclaim Defendants also operate very similar unlawful chat line and conference calling schemes. Like the free international calling scheme, the service and the profits are funded through exorbitant terminating access charges that are unlawfully imposed on AT&T and other long distance carriers.

27. In these schemes, upon information and belief, the Counterclaim Defendants have entered into arrangements with various Website Companies. Upon information and belief, the Website Companies offer various types of "free" calling services, such as conferencing services and chat lines (including pornographic chat lines). The Website Companies instruct their users to call a domestic long distance number to connect to the service. The Website Companies use Iowa numbers that have been assigned to the Counterclaim Defendants' local exchange network and are obtained from the Counterclaim Defendants. Once the caller has dialed the domestic long distance number to connect to the service, the Counterclaim Defendants then use simple telecommunications equipment to create a conferencing or chat line bridge.

28. Neither the Counterclaim Defendants nor the Website Companies assess any additional charges on the caller for the conferencing or chat line calls. Instead, the Counterclaim Defendants and the Website Companies fund these "free" conferencing or chat line services (and their own profits) by billing AT&T and other long distance carriers exorbitant

terminating access charges, as if all of these calls were actually being terminated to end users in these remote and sparsely populated towns in rural Iowa, Utah, or Nevada.

COUNT I

(Violation of Federal Tariffs and 47 U.S.C. § 203(c))

29. AT&T repeats and re-alleges each and every allegation contained in paragraphs 1 through 28 of its Counterclaims as if set forth fully herein.

30. Section 203(c) of the Communications Act provides, in relevant part, that "[n]o carrier . . . shall engage or participate in [interstate or foreign wire or radio] communication unless schedules have been filed and published in accordance with the provisions of this chapter and with the regulations made thereunder" and that "no carrier shall (1) charge, demand, collect, or receive a greater or less or different compensation for such communication, or for any service in connection therewith, . . . than the charges specified in the schedule then in effect . . . ." *Id.*

31. The Counterclaim Defendants' federal access schedules (*i.e.*, tariffs) set forth the rates for and terms and conditions under which they assess interstate access services. The Counterclaim Defendants' federal access tariffs define access services as providing the ability to terminate long distance calls from a long distance carrier's point of presence to an end-user, and those tariffs thus provide for the assessment of terminating access charges for long-distance calls that actually terminate in the Counterclaim Defendants' local exchanges in Iowa, Utah, or Nevada

32. The international voice, conferencing, and chat line calls at issue do not fall within the scope of the Counterclaim Defendants' federal access tariffs because those calls do not terminate in their service areas, and because the Counterclaim Defendants do not provide

the elements of switched access service to process such calls and such calls do not terminate over a local exchange network that is functionally equivalent to the ILEC's network.

33. The Counterclaim Defendants' federal access tariffs do not permit them to bill carriers for terminating access services that they did not provide.

34. By charging, demanding, and collecting compensation under rates and conditions which are not set forth in their filed tariffs, the Counterclaim Defendants violated their federal access tariffs and the Act. *See, e.g.*, 47 U.S.C. § 203.

35. AT&T has been damaged by the Counterclaim Defendants' violation of their federal access tariffs, and prays for damages in an amount to be determined at trial, interest, attorneys' fees, court costs, declaratory relief, injunctive relief and such other relief as the Court may deem just and reasonable.

COUNT II

(Unreasonable Practice in Violation of 47 U.S.C. § 201(b))

36. AT&T repeats and re-alleges each and every allegation contained in paragraphs 1 through 35 of the Counterclaims as if set forth fully herein.

37. Section 201(b) of the Communications Act provides that "all . . . practices" for and in connection with interstate services "shall be just and reasonable," and "any such . . . practice . . . that is unjust and unreasonable is hereby declared to be unlawful." 47 U.S.C. § 201(b).

38. Under the Communications Act and the FCC's rules, access services are provided "for the origination or termination of an interstate or foreign communication." 47 C.F.R. § 69.2; *see* 47 U.S.C. § 153(16).

39. The international, conferencing, and chat line voice calls at issue do not terminate at the Iowa gateway or bridge located in the Counterclaim Defendants' service territories.

40. Even though the Counterclaim Defendants are not providing AT&T with terminating access services in connection with these calls, the Counterclaim Defendants are billing AT&T for terminating access service in connection with these voice calls.

41. Billing for services that a carrier has not provided constitutes an unjust and unreasonable practice that is unlawful under Section 201(b) of the Act.

42. It is also an unreasonable practice under Section 201(b) to establish a sham CLEC for the purpose of executing traffic pumping schemes such as the international calling, chat line, and conferencing schemes, whose purpose is to generate massive terminating access charges at the expense of IXCs rather than to provide local telephone service to the residents of the remote, rural areas in which the CLEC is established.

43. By executing the international calling, chat line, and conferencing schemes, the Counterclaim Defendants have established sham CLEC arrangements that constitute an unjust and unreasonable practice under Section 201(b) and the FCC's CLEC access charge rules.

44. AT&T has been damaged by the Counterclaim Defendants' unlawful practices, and prays for damages in an amount to be determined at trial, interest, attorneys' fees, court costs, declaratory relief, injunctive relief and such other relief as the Court may deem just and reasonable.

COUNT III

(Violation of State Tariffs – Great Lakes)

45. AT&T repeats and re-alleges each and every allegation contained in paragraphs 1 through 44 of the Counterclaims as if set forth fully herein.

46. The intrastate access tariffs of Great Lakes sets forth the rates, terms and conditions of their provision of intrastate access services.

47. Great Lakes' intrastate tariffs define switched access services as providing the ability to terminate long distance calls over a local exchange network from a long distance carrier's point of presence to an end-user.

48. The international voice, conferencing, and chat line calls at issue here do not fall within the scope of Great Lakes' state access tariffs because those calls do not terminate in its service areas and because those calls are not completed using the telecommunications elements of a switched access service.

49. Great Lakes' state access tariffs do not permit them to bill for terminating access services they did not provide.

50. By charging, demanding, and collecting compensation under rates and conditions which are not set forth in their filed tariffs, Great Lakes violated its state access tariffs and Iowa law.

51. AT&T has been damaged by Great Lakes' violation of its state access tariffs, and prays for damages in an amount to be determined at trial, interest, attorneys' fees, court costs, declaratory relief, injunctive relief and such other relief as the Court may deem just and reasonable.

COUNT IV

(Unjust Enrichment)

52. AT&T repeats and re-alleges each and every allegation contained in paragraphs 1 through 51 of the Counterclaims as if set forth fully herein.

53. On information and belief, the Counterclaim Defendants and the Website Companies have entered into a scheme or schemes whereby some or all of the Counterclaim Defendants (i) bill AT&T for interstate and intrastate terminating access services for the international voice calls even though they do not provide AT&T with terminating access services; and (ii) bill AT&T for interstate and intrastate terminating access charges with regard to conferencing and chat line calls for which imposition of such access charges is unjust, unreasonable or unlawful.

54. Upon information and belief, the Counterclaim Defendants share with the Website Companies the revenues from the access charges that they wrongfully billed to AT&T.

55. By paying access charges to the Counterclaim Defendants, a portion of which are then paid to the Website Companies, AT&T has conferred a benefit upon both the Counterclaim Defendants and the Website Companies.

56. Retention of that benefit by the Counterclaim Defendants would be unjust because, *inter alia*, AT&T did not receive the access services for which it is being billed.

57. AT&T has been damaged by the actions of the Counterclaim Defendants, and prays for damages and/or restitution in an amount to be determined at trial, interest, attorneys' fees, court costs, declaratory relief, injunctive relief and such other relief as the Court may deem just and reasonable.

COUNT V

(Fraudulent and Negligent Misrepresentation)

58. AT&T repeats and re-alleges each and every allegation contained in paragraphs 1 through 57 of the Counterclaims as if set forth fully herein.

59. The Counterclaim Defendants issued to AT&T bills for interstate and intrastate access services purporting to inform AT&T of its access charge liability in each of those months.

60. The access bills contained false information because they included charges for interstate and intrastate terminating access charges on international, chat line, and conferencing voice calls that did not terminate in the relevant state and for which the Counterclaim Defendants provided no terminating switched access services to AT&T.

61. The Counterclaim Defendants knew, or should have known, that it did not provide terminating access services on the international, chat line, and conferencing calls.

62. The Counterclaim Defendants knew, or should have known, that AT&T would rely upon the bills they submitted for access charges.

63. AT&T justifiably relied upon the false information presented in the above-identified access charge bills from the Counterclaim Defendants that AT&T paid.

64. AT&T incurred damages as a result of its justifiable reliance on statements by the Counterclaim Defendants that it knew or should have known were false.

65. AT&T prays for damages from the Counterclaim Defendants in an amount to be determined at trial, interest, attorneys' fees, court costs, declaratory relief, injunctive relief and such other relief as the Court may deem just and reasonable.

COUNT VI

(Civil Conspiracy)

66. AT&T repeats and re-alleges each and every allegation contained in paragraphs 1 through 65 of the Counterclaims as if set forth fully herein.

67. Upon information and belief, the Counterclaim Defendants and one or more of the Website Companies agreed to an illicit arrangement or arrangements as follows: (i) the Website Company would place a "gateway" or conferencing bridge in the Counterclaim Defendant's service territory, (ii) and Counterclaim Defendant would assign a telephone number to the gateway or bridge; (iii) the Counterclaim Defendant would bill AT&T for terminating access charges on long distance calls made by users of the calling service that was routed through the Iowa gateway or bridge; and (iv) the Counterclaim Defendant would share with the Website Company a portion of the monies billed to or received from AT&T.

68. As explained above, the Counterclaim Defendants' conduct in billing AT&T for terminating access services for these calls violates the terms of the Counterclaim Defendants' federal and Iowa access tariffs, federal law and state law.

69. The agreement or agreements reached between each Counterclaim Defendant and one or more of the Website Companies thus constitute an agreement or agreements to take unlawful actions.

70. The unlawful actions taken during and in furtherance of the unlawful agreements between each Counterclaim Defendant and one or more of the Website Companies have injured AT&T.

71. The agreement between each Counterclaim Defendant and one or more of the Website Companies is a civil conspiracy or conspiracies, and the Counterclaim Defendants are liable for the harm caused by the unlawful acts taken in furtherance of the conspiracy.

72. AT&T prays for damages against the Counterclaim Defendants in an amount to be determined at trial, interest, attorneys' fees, court costs, declaratory relief, injunctive relief and such other relief as the Court may deem just and reasonable.

COUNT VII

(Declaratory Ruling)

73. AT&T repeats and re-alleges each and every allegation contained in paragraphs 1 through 72 of the Counterclaims as if set forth fully herein.

74. The bills rendered by the Counterclaim Defendants to AT&T contain charges that purport to assess AT&T with terminating access charges for free international calling, chat line and conferencing call schemes, for which the Counterclaim Defendants did not actually provide switched terminating access services.

75. The inclusion of these access charges in bills submitted to AT&T violates the Counterclaim Defendants' federal and state access tariffs, the Communications Act, the FCC's implementing rules and state law.

76. AT&T is entitled to judgment under 28 U.S.C. § 2201(a) declaring that (i) the Counterclaim Defendants are not providing terminating switched access services to AT&T in connection with the international calling, chat line, and conferencing schemes, (ii) the interstate and intrastate access charges that appear in the bills rendered by the Counterclaim Defendants to AT&T violate their interstate and intrastate tariffs, the Communications Act and the FCC's implementing rules, and Iowa law, and (iii) AT&T is not obligated to pay the interstate or

intrastate access charges that appear in the bills rendered by the Counterclaim Defendants to AT&T that contain charges for chat line or conferencing calls or other calls made using the service of a Website Company.

WHEREFORE, for the reasons stated above, AT&T respectfully requests that judgment be entered for AT&T on each and all of its claims, together with appropriate damages, declaratory relief, injunctive relief, reasonable costs and fees, including attorneys' fees and expert fees, and interest together with such other and further relief as the Court may deem just and equitable under the circumstances.

Dated: New York, New York
March 26, 2007

SIDLEY AUSTIN LLP

By: /s/ Steven M. Bierman

Steven M. Bierman (SB-6615)
Benjamin R. Nagin (BN-0539)

787 Seventh Avenue
New York, New York 10019
(212) 839-5300

Attorneys for Defendant
AT&T Corp.

Of Counsel:
James F. Bendernagel, Jr.
David L. Lawson
Paul J. Zidlicky
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000

David W. Carpenter
Brian A. McAleenan
Sidley Austin LLP
One South Dearborn Street
Chicago, IL 60603
(312) 853-7000

Brian W. Moore
AT&T Corp.
One AT&T Way
Bedminster, New Jersey 07921
(908) 234-6263

CERTIFICATE OF SERVICE

I, Steven M. Bierman, hereby certify that on the 26th day of March 2007, I caused the foregoing Answer to Plaintiffs' Amended Complaint to be filed and served via the Court's ECF system upon the following counsel:

Robert I. Steiner
Kelly Drye & Warren LLP
101 Park Avenue
New York, NY 10178

Anjna R. Kapoor
Kelly Drye & Warren LLP
101 Park Avenue
New York, NY 10178

/s/ Steven M. Bierman
Steven M. Bierman (SB-6615)