

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Petition of Choice One Communications of Massachusetts )
Inc., Conversent Communications of Massachusetts Inc., )
CTC Communications Corp. and Lightship Telecom LLC ) D.T.C. 10-2
For Exemption from Price Cap on Intrastate Switched )
Access Rates as Established in D.T.C. 07-9 )

AT&T'S MOTION TO COMPEL

Pursuant to 220 CMR 1.06(6)(c)4, AT&T Communications, Inc. ("AT&T"), by its attorneys, respectfully moves to compel the petitioners (collectively, "OneComm") to provide complete responses to certain of AT&T's Information Requests in this proceeding. Complete responses to these requests are necessary to enable AT&T to audit OneComm's cost study, prepare its own testimony in response to that cost study, and test the validity of OneComm's assertions, as explained further below. AT&T has limited and focused its requests to seek data directly pertinent to determining the facts in this matter and evaluating OneComm's cost study and claims. Given that AT&T's testimony is due on November 1, 2010, AT&T requests that OneComm be compelled to provide complete responses no later than October 27, 2010, or else that AT&T be given an opportunity to file supplemental testimony (limited to those responses) once complete responses are provided. In support of this motion, AT&T states as follows:

1. AT&T served its first set of Information Requests on OneComm and OneComm served objections and responses on September 28, 2010, 2010.<sup>1</sup> AT&T served its second set of Information Requests on OneComm and OneComm served objections and responses on October 12, 2010.

<sup>1</sup> Good cause exists to grant this motion as to the first set of Information Requests, in that OneComm will suffer no prejudice from any perceived delay in raising the issue of its failure to respond to legitimate discovery and the burden of responding is not great, since OneComm should have the requested information readily available.

2. AT&T engaged in “meet and confer” discussions regarding the Information Requests discussed below on October 12, 2010 and October 14, 2010, but on October 15, 2010 OneComm stated that it would not answer or supplement its responses to the requests at issue. Accordingly, each of the requests at issue is discussed below, with requests being grouped together where possible. All of the referenced requests and OneComm’s responses and objections are attached hereto as Exhibit A.

3. **AT&T requests 1-2, 1-3, 2-7, 2-8, 2-11, and 2-12** ask OneComm to provide data on the minutes of use (“MOUs”) and revenues billed in 2009 for various types of switched access calls by various types of carriers. OneComm objected and declined to answer the requests on the ground that its revenues and MOUs were not relevant to its cost of service. AT&T disagrees. Data on switched access MOUs and revenues in 2009 (and historical data from 2006-08) are relevant to test and respond to OneComm’s assertions that rates set below a certain level would be “confiscatory” and not allow OneComm to recover its costs. *See* Webber Direct Testimony at 53; Ankum Direct Testimony at 16. Indeed, OneComm made that data relevant by having Mr. Webber expressly rely on that very kind of data in purporting to show OneComm’s 2009 revenues and MOUs under different rate “scenarios” in an attempt to support OneComm’s claim that its proposed rates are justified. Webber Direct Testimony at 53. AT&T is entitled to the information from 2006 through 2009 to test the accuracy of Mr. Webber’s testimony and underlying data, to evaluate his theory with data from more than one year, and to investigate OneComm’s claims regarding rate levels in general.

OneComm has not asserted that this information would be difficult or burdensome to produce, so it should not be difficult to provide to AT&T. Revenue and MOU information is routinely and readily available to OneComm. As to the jurisdiction of minutes, OneComm’s

model uses total minutes from all jurisdictions (local, intrastate, and interstate) and calculates a single cost per minute for each. OneComm therefore has injected the issue of interstate and local minutes, and AT&T is entitled to investigate the universe of traffic that OneComm itself has defined as relevant to its model.

4. **AT&T request 1-4** asks OneComm to identify the rate(s) it charges for termination of intraMTA wireless calls. OneComm objected and declined to answer on the ground that this information was irrelevant. As with the requests just discussed, this request seeks information bearing on OneComm's assertion that rates set below a certain level will be confiscatory. The rates that OneComm charges other carriers today, or has agreed to charge other carriers, would be relevant to assessing the validity of that claim, especially when OneComm has admitted in its response to AT&T 1-1(d) that it performs the same functions and employs the same facilities for wireless call termination as it does for termination of wireline long distance calls for which switched access charges are imposed. AT&T has no way to obtain the requested information other than from OneComm itself.

5. **AT&T request 1-8, subparts (b) and (c)** ask OneComm to identify all instances, and provide supporting documentation, where end-users have requested access to long distance service as a stand-alone service (*i.e.*, divorced from local exchange service) from OneComm or any affiliate in Massachusetts, and to identify all instances and provide supporting documentation for Dr. Ankum's suggestion in his testimony that OneComm end users in Massachusetts initially request lines for the purpose of long distance service rather than local service. OneComm objected that this request was vague and overly burdensome and stated that it does not track or compile the requested information. That objection is invalid and the response is incomplete.

AT&T's request was triggered by Dr. Ankum's claim, in his direct testimony, that end users may establish loop connections "*for [the] sake of long distance services*" as opposed to local service. Ankum Direct Testimony at 37. Dr. Ankum presumably had some basis for making that claim. AT&T is simply seeking the information and documents, if any, that support or formed the basis for Dr. Ankum's claim. OneComm should either have that information readily available (having previously provided it to Dr. Ankum), or else state that it does not have any responsive information to support Dr. Ankum's assertion. AT&T does not believe that such examples exist, because local-only service exists but local exchange carriers do not offer switched-access-only service which is not bundled or tied to local exchange service. The question is not vague and the answer is not difficult – OneComm either has supporting data or examples or it doesn't.

6. **AT&T requests 1-15 and 1-16** ask OneComm to "provide the total original purchase price for the last three 5ESS Hosts installed in One Communications territory (excluding Massachusetts)" and the total purchase price "for the last three 5ESS Host additional/growth installations in One Communications territory (excluding Massachusetts)." OneComm refused to answer, objecting that information related to switches not used in NUCA and not located in Massachusetts are irrelevant and it would take substantial effort to locate the requested information. Those objections are not valid.

OneComm's NUCA cost model uses switch prices from 1999, eleven years ago. AT&T is entitled to test whether those prices are still valid and reflect the most current prices available to OneComm. The fact that the last three switch purchases may have been outside Massachusetts makes no difference, for OneComm presumably contracts for switching at the parent level to obtain a volume discount (as other carriers do), meaning that the switch vendor's

price would be the same regardless of the state where the switch will be used. Nor is the request burdensome. AT&T is only seeking information on the three most recent switch purchases, and for each purchase OneComm presumably would have an invoice for the switch, similar to the confidential one-page invoice it provided in response to AT&T request 1-17.

7. **AT&T request 1-18** asks OneComm to provide the relative mix of replacement/new and growth lines (“replacement/growth mix”) in Massachusetts and in other states where OneComm operates.<sup>2</sup> OneComm objected to providing information related to other states, and as to Massachusetts simply said that NUCA does not reflect a calculated replacement/growth mix. There is no doubt that OneComm can provide the relative mix of replacement and growth lines that underlies its proposed switching costs. OneComm computed its total switching costs by summing the costs of past switching purchases, which would include purchases of both replacement and growth lines. Thus, all it needs to do to compute the relative mix is look at the invoices from the jobs showing the number of each type of line associated with each purchase.

Moreover, the relative mix of replacement and growth lines is critical to assessing the validity and reasonableness of OneComm’s proposed switching costs, as well as the prudence of OneComm’s switching purchases and operation of its network. Replacement and growth lines have very different prices. Replacement lines are on new switches, which are purchased in a competitive market involving multiple switch vendors offering relatively lower prices to try to win the contract. Growth lines that add to an existing switch, by contrast, are purchased on a non-competitive basis and carry a much higher price, because once a carrier buys a switch from one vendor it is “locked in” to that vendor to buy all future augmentations to add growth lines to

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<sup>2</sup> A “replacement” line is one on a new switch that entirely replaces an existing switch. A “growth” line is one added to an existing switch. Switching is typically priced and purchased on a “per-line” basis, with materially different prices for a replacement line and a growth line, with replacement lines being much cheaper.

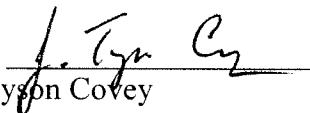
that switch. Thus, the price for a replacement line is far less than the price for a growth line. Because of this disparity, the relative mix of replacement and growth lines that OneComm uses to model its costs is undeniably relevant, for if that mix is skewed highly toward the more expensive growth lines, then the proposed cost for switching may well be overstated. Dr. Ankum and QSI are well aware of this issue and the significance of the replacement/growth mix, having litigated it in numerous cost dockets involving ILEC switching costs for many years, where it has been a core dispute, yet OneComm now refuses to provide any information on this critical cost driver.

8. **AT&T request 2-2** asked OneComm to provide the “Initial Cost investment dollar amount” for each piece of equipment displayed on Model Tab (Column E) Springfield 5E Cost Model QSI. This Model Tab reflected total purchase costs for “replacement” switching equipment, but did not break the costs down to the initial purchase price or each piece of equipment – even though the cost study included that very kind of itemized breakdown for “growth” switching purchases. AT&T therefore merely asked for the same kind of itemized breakdown for replacement purchases. OneComm refused to provide the breakdown, asserting that the NUCA model did not use that level of granularity. This is not a valid objection. Whether NUCA used it or not, OneComm has the invoices that would allow it to provide this information, just as it provided it for growth equipment. AT&T is entitled to this information to audit the validity of OneComm’s alleged total costs for replacement equipment, and to compute the relative discount that OneComm receives for replacement equipment versus growth equipment. That discount is usually significant, and AT&T is entitled to the information needed to compute it, which will enable it to estimate how much of a difference it would make in

OneComm's alleged costs if one adjusted the implicit replacement/growth mix assumed in the cost study.

For the reasons stated herein, the Department should compel OneComm to fully answer the requests addressed above by October 27, 2010, or else give AT&T an opportunity to file supplemental testimony, limited to addressing those responses, once complete responses are provided.

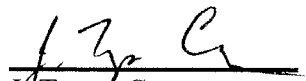
Respectfully submitted,

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Mary Burgess  
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Albany, New York 12210

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day, October 19, 2010, served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 220 CMR 1.05(1), by e-mail and first-class mail.

  
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Tyson Covey  
Counsel for AT&T

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# **EXHIBIT A**

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE  
D.T.C 10-2

Responses Of One Communications To AT&T's 1st Set Of Information Requests

**AT&T- OneComm- 1-2** For 2009, or the most recent full calendar year for which data are available, provide, and in (a) thru (d) specifically identify and group the revenues in a matrix by (1) type of provider

(CLEC/ILEC, mobile wireless services provider, cable VoIP services provider, and non-cable VoIP services provider), and by (2) each tariffed rate element billed:

- a. Total *intrastate, terminating* switched access revenues billed and MOUs;
- b. Total *intrastate, originating* switched access revenues billed and MOUs;
- c. Total *interstate, terminating* switched access revenues billed and MOUs;
- d. Total *interstate, originating* switched access revenues billed and MOUs;
- e. Please provide the work papers for the rate elements, volumes, revenues and associated calculations for (a) through (d) above in electronic/Excel format.

**Response:**

- a. Objection. The request seeks information that is not relevant to this proceeding and not likely to lead to the discovery of admissible evidence. The scope of this proceeding is to determine One Communications' cost of providing switched access services. One Communications' billed revenues and minutes are simply unrelated to One Communications' cost of providing the aforesaid service.
- b. See a.
- c. See a.
- d. See a.
- e. See a.

**Respondent(s):** Counsel to One Communications

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE  
D.T.C 10-2**

**Responses Of One Communications To AT&T's 1st Set Of Information Requests**

- AT&T- OneComm- 1-3** For 2009, or the most recent full calendar year, for which data are available, provide the following:
- a. Volumes of intraMTA minutes terminated on behalf of all wireless carriers, and dollars billed for such terminating intraMTA minutes;
  - b. Volume of intrastate, interMTA minutes terminated, on behalf of wireless carriers, and dollars billed for such intrastate, interMTA minutes;
  - c. Volume of local minutes terminated and dollars billed for wireless traffic as reciprocal compensation for such traffic;
  - d. Volume of local minutes terminated, and dollars billed for non-wireless traffic as reciprocal compensation for such traffic.

**Response:**

- a. Objection. The request seeks information that is not relevant to this proceeding and not likely to lead to the discovery of admissible evidence. The scope of this proceeding is to determine One Communications' cost of providing switched access services. One Communications' revenues and minutes billed under specific intercarrier compensation arrangements are simply unrelated to One Communications' cost of providing the aforesaid service.
- b. See a.
- c. See a,
- d. See a.

**Respondent(s):** Counsel to One Communications

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE  
D.T.C 10-2

Responses Of One Communications To AT&T's 1st Set Of Information Requests

**AT&T- OneComm- 1-4**      What rate(s) does OneComm charge for termination of intraMTA wireless calls?

Provide the source showing the basis for each such rate(s).

**Response:**

Objection. The request seeks information that is not relevant to this proceeding and not likely to lead to the discovery of admissible evidence. The scope of this proceeding is to determine One Communications' cost of providing switched access services. One Communications' rates billed under specific intercarrier compensation arrangements are simply unrelated to One Communications' cost of providing the aforesaid service.

**Respondent(s):**

Counsel to One Communications

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE  
D.T.C 10-2

Responses Of One Communications To AT&T's 1st Set Of Information Requests

- AT&T- OneComm- 1-8      With respect to Dr. Ankum's statement, on p. 38 of his direct testimony, that "Any assertions that a loop connection is established *only* because an end user customer orders 'local service' is wrong and inconsistent with industry practices"
- a. Does OneComm or any of its affiliates offer long distance service as a stand-alone service in MA (i.e., not as part of a bundle or packaged with other services)?
  - b. Identify all instances, including supporting documentation (ASR forms, LSR forms, etc.) where end users have requested long distance service as a stand-alone service from OneComm or any of its affiliates in MA.
  - c. Identify all instances, including supporting documentation (ASR forms, LSR forms, etc.) that support Dr. Ankum's suggestion that OneComm end users in MA initially request long distance service before local service and that initial long distance request triggers the need to incur the cost of a loop.
  - d. Identify the number of end-users who have requested long distance service as a stand-alone service from OneComm or any of its affiliates for 2005-2009 (by residence and business).

**Response:**

- a. CTC provides service to some long distance only customers in Massachusetts; however, it is a service that CTC does not presently offer or market.
- b. Objection, the request is overly vague and unduly burdensome in that it is not limited in terms of the timeframe over which this information is requested. Without waiving this objection, One Communications responds that it does not track nor compile information in a manner that would be responsive to this request.
- c. Objection, the request is overly vague and unduly burdensome in that it is not limited in terms of the timeframe over which this information is requested. Without waiving this objection, One Communications responds that it does not track nor compile information in a manner that would be responsive to this request.

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE  
D.T.C 10-2**

**Responses Of One Communications To AT&T's 1st Set Of Information Requests**

- d. One Communications does not track nor compile information in a manner that would be responsive to this request

**Respondent(s):**

Pamela Hintz, One Communications  
Vice President of Regulatory Compliance

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C 10-2

Responses Of One Communications To AT&T's 1st Set Of Information Requests

**AT&T- OneComm- 1-15** Please provide the total original purchase price for the last three SESS Hosts installed in One Communications territory (excluding Massachusetts). Please itemize each piece of equipment installed.

**Response:** Objection. The request seeks information that is not relevant to this proceeding and not likely to lead to the discovery of admissible evidence. The question asks for original purchase details related to switches that are not used in the NUCA and that do not reside in Massachusetts. The questions specifically seeks detail for switches in the Company's territories "excluding Massachusetts." NUCA did not use that information. The request is further objectionable because the requested information has not been compiled and it is believed that it would take substantial effort for One Communications to locate that information.

**Respondent(s):** Counsel to One Communications

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE  
D.T.C 10-2

Responses Of One Communications To AT&T's 1st Set Of Information Requests

**AT&T-OneComm- 1-16** Please provide the total purchase price for the last three SESS Host additional/growth installations in One Communications territory (excluding Massachusetts). Please itemize each piece of equipment installed.

**Response:** Objection. The request seeks information that is not relevant to this proceeding and not likely to lead to the discovery of admissible evidence. The question asks for original purchase details related to switches that are not used in the NUCA and that do not reside in Massachusetts. The questions specifically seeks detail for switches in the Company's territories "excluding Massachusetts." NUCA did not use that information. The request is further objectionable because the requested information has not been compiled and it is believed that it would take substantial effort for One Communications to locate that information.

**Respondent(s):** Counsel to One Communications

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE  
D.T.C 10-2

Responses Of One Communications To AT&T's 1st Set Of Information Requests

**AT&T-OneComm- 1-18** Please provide the calculated 5ESS replacement/new, growth mix for One Communications in Massachusetts. Also provide the calculated 5ESS replacement/new, growth mix for One Communications in all states were One Communications operates.

**Response:** One Communications objects to this request to the extent it seeks information regarding switching resources outside of Massachusetts. Despite that objection, One Communications answers as follows:

NUCA does not include a "calculated 5ESS replacement/new, growth mix for One Communications in Massachusetts." Please see *One Communications NUCA – Trunk-to-Trunk Switching Module.xls* at tab **5E EF&I** (provided in response to Verizon request VZ-One Comm-1-1) for costs related to the 5ESS switching platform. See also, *Springfield 5ECost Model QSI (PROPRIETARY INFORMATION).xls* (provided in response to Verizon request VZ-One Comm-1-3) at tabs **Original Purchase** and **Cost Model Per Unit** for new installation and additions costs.

**Respondent(s):** James Webber, QSI Consulting

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE  
D.T.C 10-2**

**Responses Of One Communications To AT&T's 2nd Set Of Information Requests**

**AT&T-One Comm-2-2**      For each and every piece of equipment displayed on the Model Tab (Column E) Springfield 5ECost Model QSI (PROPRIETARY INFORMATION).xls, please populate or estimate the Initial Cost investment dollar amount for each.

**One Communications Response:**

Please see the **Original Purchase** tab of the referenced worksheet for original purchase price detail as provided by the vendor. In that tab, the original purchase costs are separated into the following sub categories: Material, RTU, Spares, Engineering, Installation, and Transport. No further level of granularity was provided or utilized within the NUCA.

**Respondent(s):**      James Webber, QSI Consulting, Inc.

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE  
D.T.C 10-2**

**Responses Of One Communications To AT&T's 2nd Set Of Information Requests**

- AT&T-One Comm-2-7** For each of the years 2008, 2007, and 2006, please provide the following, and in
- (a) thru (d) specifically identify and group the revenues in a matrix by (1) type of provider (CLEC/ILEC, mobile wireless services provider, cable VoIP services provider, and non-cable VoIP services provider), and by (2) each tariffed rate element billed:
  - (a) Total *intrastate, terminating* switched access revenues billed and MOUs;
  - (b) Total *intrastate, originating* switched access revenues billed and MOUs;
  - (c) Total *interstate, terminating* switched access revenues billed and MOUs;
  - (d) Total *interstate, originating* switched access revenues billed and MOUs;
  - (e) Please provide the work papers for the rate elements, volumes, revenues and associated calculations for (a) through (d) above in electronic/Excel format.

**One Communications Response:**

Objection. The request seeks information that is not relevant to this proceeding and not likely to lead to the discovery of admissible evidence. The scope of this proceeding is to determine One Communications' cost of providing switched access services. One Communications' billed revenues and minutes are simply unrelated to One Communications' cost of providing the aforesaid service.

**Respondent(s):** Counsel to One Communications

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE  
D.T.C 10-2**

**Responses Of One Communications To AT&T's 2nd Set Of Information Requests**

**AT&T-One Comm-2-8** For each of the years 2008, 2007, and 2006, provide the following:

(a) Volumes of intraMTA minutes terminated on behalf of all wireless carriers, and dollars billed for such terminating intraMTA minutes; (b) Volume of intrastate, interMTA minutes terminated, on behalf of wireless carriers, and dollars billed for such intrastate, interMTA minutes. (c) Volume of local minutes terminated and dollars billed for wireless traffic as reciprocal compensation for such traffic; (d) Volume of local minutes terminated, and dollars billed for non-wireless traffic as reciprocal compensation for such traffic;

**One Communications Response:**

Objection. The request seeks information that is not relevant to this proceeding and not likely to lead to the discovery of admissible evidence. The scope of this proceeding is to determine One Communications' cost of providing switched access services. One Communications' billed revenues and minutes are simply unrelated to One Communications' cost of providing the aforesaid service.

**Respondent(s):** Counsel to One Communications

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE  
D.T.C 10-2**

**Responses Of One Communications To AT&T's 2nd Set Of Information Requests**

- AT&T-One Comm-2-11** For One Comm's operation in MA, for each calendar year 2006 through 2009, and for the most recent date available, please identify the total number of revenue-producing access lines (separately both for wholesale and retail) that One Comm provides in Massachusetts for the following:
- (a) Standalone basic local residential service access lines, (i.e., offered separately and not combined with any other services or features).
  - (b) The total number of residential lines of all kinds.

**One Communications Response:**

Objection. The request seeks information that is not relevant to this proceeding and not likely to lead to the discovery of admissible evidence. The scope of this proceeding is to determine One Communications' cost of providing switched access services. One Communications' revenue producing access lines are simply unrelated to One Communications' cost of providing the aforesaid service.

**Respondent(s):** Counsel to One Communications

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE  
D.T.C 10-2**

**Responses Of One Communications To AT&T's 2nd Set Of Information Requests**

- AT&T-One Comm-2-12** For each calendar year 2003 through 2009, and for the most recent date available, please identify the total number of revenue-producing access lines (separately both for wholesale and retail) that One Comm provides in Massachusetts for the following:
- (a) Single-line residential lines;
  - (b) Single-line business lines;
  - (c) Multi-line residential lines;
  - (d) Multi-line business lines;
  - (e) Other revenue-producing access lines not included in (a) to (d).

**One Communications Response:**

Objection. The request seeks information that is not relevant to this proceeding and not likely to lead to the discovery of admissible evidence. The scope of this proceeding is to determine One Communications' cost of providing switched access services. One Communications' revenue producing access lines are simply unrelated to One Communications' cost of providing the aforesaid service.

**Respondent(s):** Counsel to One Communications