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13-1532-TP-CSS

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June 27, 2013

Public Utilities Commission of Ohio
Docketing Division
180 East Broad Street
Columbus, Ohio 43215-3793

RECEIVED-DOCKETING DIV
2013 JUN 27 AM 11:40
PUCO

Re: In the Matter of Complaint of Mr. and Mrs. Robert E. Murray
and Brenda L. Murray

To Whom It May Concern:

Enclosed please find an original and 11 copies of the above Complaint for filing in the above-captioned case. Please kindly return a file stamped copy with the runner to my attention.

Thank you for your attention to this request.

Sincerely,



Gary L. Pasheilich

Enclosures

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business
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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

13-1532-TP-CSS

In the Matter of Complaint of)
Mr. and Mrs. Robert E. Murray and)
Brenda L. Murray,)
Complainants,)

Case No. _____

v.)

AT&T,)

Respondent.)

PUCO

2013 JUN 27 AM 11:40

RECEIVED-DOCKETING DIV

COMPLAINT AND REQUEST FOR RELIEF

Now comes Complainants Mr. and Mrs. Robert E. Murray and Brenda L. Murray ("Mr. and Mrs. Murray"), pursuant to R.C. 4905.22, 4905.26, and 4927.21 and associated rules, and bring this Complaint against Respondent AT&T regarding its failure to meet adequate service requirements, violation of truth in billing requirements, and engaging in unfair or deceptive acts and practices.

General Allegations

1. AT&T is a corporation duly authorized to conduct business in the State of Ohio, which provides residential telecommunication services to residents in the State of Ohio.
2. AT&T is a provider of telecommunication services to residential customers within the jurisdiction of the Commission pursuant to R.C. 4927.02 and 4927.04.
3. Mr. and Mrs. Murray are residential telephone customers of AT&T under the terms of a Residential Service Agreement, a true and accurate copy of which is attached as Exhibit A hereto.

4. AT&T has failed to provide adequate telephone service to Mr. and Mrs. Murray by repeatedly failing to connect telephone calls properly dialed to their residential telephone number. Such failures continue to this day.

5. From at least 2011 to the present, AT&T has improperly billed Mr. and Mrs. Murray for thousands of dollars in charges which should not have been billed to their residential telephone account.

6. AT&T is a "public utility" as defined by R.C. 4905.02 and 4905.03, and a "telephone company" as defined by R.C. 4905.03 and 4927.01(A)(13).

7. The Public Utilities Commission of Ohio ("Commission") has jurisdiction pursuant to R.C. 4927.02, 4927.04 and 4927.06.

8. R.C. 4905.22 and Commission regulations promulgated thereunder require public utilities to furnish necessary and adequate service and facilities, and that all charges made or demanded for any service rendered shall be just, reasonable and not more than the charges allowed by law or by order of the Commission.

9. R.C. 4905.26 provides, *inter alia*, that any person may file a written complaint to the Commission where any rate, fare, charge or service rendered, charged, demanded, exacted or proposed to be rendered, charged, demanded or exacted, is in any respect unjust, unreasonable or in violation of law.

10. R.C. 4927.21 provides, *inter alia*, that any person may file with the Commission a complaint against a telephone company where any rate, practice, or service of the company is unjust, unreasonable or in violation of or in noncompliance with any provision of sections 4927.01 to 4927.20 of the Revised Code or a rule or order adopted or issued thereunder.

11. The regulations in Ohio Adm. Code Chapter 4901:1-6 are promulgated pursuant

to R.C. 4927.03.

COUNT I: Failure to Meet Service Requirements

12. The allegations in Paragraphs 1 through 11 above are incorporated by reference as if fully restated herein.

13. Ohio Adm. Code 4901:1-6-12(A) provides: "A local exchange carrier (LEC) providing basic local exchange service (BLES) shall conduct its operations so as to ensure that the service is available, adequate, and reliable consistent with applicable industry standards."

14. AT&T is a local exchange carrier providing basic local exchange service and therefore is subject to the requirements of Ohio Adm. Code 4901:1-6-12(A).

15. AT&T has failed to conduct its operations so as to ensure that the service provided to Mr. and Mrs. Murray was and is available, adequate and reliable, consistent with applicable industry standards as required by Ohio Adm. Code 4901:1-6-12(A).

16. Consequently, Mr. and Mrs. Murray are entitled to relief against AT&T including but not limited to monetary damages, restitution, credits, injunctive relief and other appropriate remedies.

COUNT II - Violation of Truth in Billing Requirements

17. The allegations in Paragraphs 1 through 16 above are incorporated by reference as if fully restated herein.

18. Ohio Adm. Code 4901:1-6-17(A) provides: "Every telephone company shall comply with the federal communications commission's truth in billing requirements in 47 C.F.R. 64.201 and shall, in conformance with those requirements, accurately identify on every bill all services rendered, the providers of those services, and all billed charges, fees, and taxes so that they are clear and not misleading."

19. AT&T's billing practices in connection with the provision of residential telephone service to Mr. and Mrs. Murray failed to comply with the requirements of Ohio Adm. Code 4901:1-6-17(A).

20. Consequently, Mr. and Mrs. Murray are entitled to relief against AT&T including but not limited to monetary damages, restitution, credits, injunctive relief and other appropriate remedies.

COUNT III - Unfair or Deceptive Acts and Practices

21. The allegations in Paragraphs 1 through 20 above are incorporated by reference as if fully restated herein.

22. R.C. 4927.06 and Ohio Adm. Code 4901:1-6-16(A) prohibit telephone companies from committing "any unfair or deceptive act or practice in connection with the offering or provision of any telecommunications service in this state."

23. Ohio Adm. Code 4901:1-6-16(C) provides: "Nothing in this rule precludes the commission from finding additional acts or practices, in addition to those identified in paragraph (B) above, to constitute an unfair or deceptive act or practice in connection with the offering or provision of telecommunications service in this state ... through an adjudication under section 4927.21 of the Revised Code."

24. AT&T's billing practices in connection with the provision of residential telephone service to Mr. and Mrs. Murray constitutes an unfair or deceptive act or practice prohibited by Ohio Adm. Code 4901:1-6-16(A).

25. Consequently, Mr. and Mrs. Murray are entitled to relief against AT&T including but not limited to monetary damages, restitution, credits, injunctive relief and other appropriate remedies.

Prayer for Relief

WHEREFORE, for the reasons stated herein, Mr. and Mrs. Murray respectfully request that the Commission issue a ruling that:

a. AT&T failed to ensure that its service to Mr. and Mrs. Murray was available, adequate, and reliable consistent with applicable industry standards, in violation of Ohio Adm. Code 4901:1-6-12(A);

b. AT&T failed to comply with the FCC's "truth in billing" requirements under 47 C.F.R. 64.201 and other billing requirements under Ohio Adm. Code 4901:1-6-17(A);

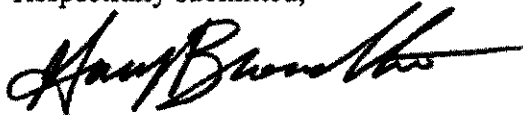
c. AT&T committed unfair and deceptive acts or practices in violation of R.C. 4927.06 and Ohio Adm. Code 4901:1-6-16;

d. the charges imposed on Mr. and Mrs. Murray by AT&T were unjust, unreasonable and unlawful;

e. awards Mr. and Mrs. Murray all appropriate monetary damages, restitution and/or credits to which they are entitled; and

f. orders such injunctive relief or other relief against AT&T as the Commission deems just and appropriate.

Respectfully submitted,



Michael O. McKown (0013378)

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gbroadbent@coalsource.com

Attorneys for Complainants



AT&T Residential Service Agreement

Note: See Section 18 for additional or different requirements in your state.

This AT&T Residential Service Agreement ("Agreement") applies to all AT&T services you subscribe to, except for those provided under: 1) a tariff or 2) another agreement, unless that agreement references this Agreement ("Services"). When you receive this Agreement, your subsequent purchase or use of Services or your payment for them is your agreement to the terms and conditions of this Agreement.

PLEASE READ THIS AGREEMENT CAREFULLY. THIS AGREEMENT CONTAINS AN ARBITRATION PROVISION THAT GOVERNS DISPUTES BETWEEN YOU AND AT&T (SEE SECTION 9). HOWEVER, INSTEAD OF ARBITRATION, YOU HAVE THE RIGHT TO BRING ANY DISPUTE YOU MAY HAVE TO THE FEDERAL COMMUNICATIONS COMMISSION, STATE PUBLIC UTILITY COMMISSION, OR SMALL CLAIMS COURT, IF THE CLAIM IS WITHIN THE AGENCY'S OR COURT'S JURISDICTION. THIS AGREEMENT ALSO ESTABLISHES LIMITATIONS OF LIABILITY IN THE EVENT OF A DISPUTE (SEE SECTION 8). FOR CUSTOMERS RECEIVING SERVICES IN SOUTH CAROLINA, TO THE EXTENT THERE IS A FINAL, NON-APPEALABLE DECISION THAT THE FEDERAL ARBITRATION ACT DOES NOT APPLY, THIS AGREEMENT IS SUBJECT TO ARBITRATION IN ACCORDANCE WITH THE SOUTH CAROLINA UNIFORM ARBITRATION ACT SECTION 15-48-10, ET SEQ.

1. DEFINITIONS

Terms not otherwise defined in this Agreement have the following meanings:

"AT&T", "the Company", "we", "our" and "us" mean the AT&T companies providing your detariffed services under this Agreement.

"Detariffed" means that the description, price, and other terms and conditions for the service are no longer governed by tariffs filed with a state public utility commission (intrastate services) or the Federal Communications Commission (interstate and international services).

"Force Majeure" means causes beyond our control that prevent or hinder the

delivery of any Service, such as fire; flood; lightning; meteorological phenomena; earthquakes; volcanic action; power failures or blackouts; severe weather; explosions; wars or armed conflicts; national, state or local emergencies; civil disobedience; shortage of labor or materials; labor disputes, strikes, or other concerted acts of workers (whether of AT&T or others); embargoes; acts of God; and acts of terrorism.

“Service(s)” are all the detariffed AT&T services you subscribe to that are provided under this Agreement.

“Guidebooks” are documents that contain the description, price, and other terms (terms of service) and conditions for each detariffed service. They may be called “Service Guides”, “Catalogs”, or “Service Descriptions and Price Lists” in some states. Guidebooks are available online at att.com/servicepublications. If you do not have web access, you may call AT&T for assistance.

“Tariffs” are documents that are filed with state public utility commissions (intrastate services) or the Federal Communications Commission (interstate and international services). They contain certain services, prices, and other terms and conditions that have not been detariffed. Tariffs are available online at att.com/servicepublications. If you do not have web access, you may call AT&T for assistance.

“You” means the person subscribing to the Services provided under this Agreement.

2. GUIDEBOOKS AND TARIFFS INCORPORATED BY REFERENCE

In some states, including California and Iowa, certain generally applicable terms and conditions remain in Tariffs and also govern the Services. The Guidebooks and such generally applicable Tariffs are incorporated into this Agreement by reference. In the event of a conflict between an applicable Tariff, the Guidebooks, and this Agreement, the Tariffs control, followed by the Guidebooks, then this Agreement.

3. USE OF SERVICES

You agree not to use the Services for any illegal, unlawful, abusive, or fraudulent purpose. You understand and agree that you are responsible for use of the Services by all persons you authorize to use the Services. You also understand and agree that the Services are to be used for residential household purposes and not for business purposes.

4. CHARGES AND PAYMENT

a. General. You agree to pay all applicable charges for Services purchased or used by you or by anyone you authorize. This includes governmental charges, including taxes, that we are required to bill you (“Mandatory Fees”) or are permitted to recover from you

("Discretionary Fees"). Discretionary Fees are designed, in a commercially reasonable manner, to recover local, state and/or federal charges we are required to pay to governmental entities, including, but not limited to, Universal Service Fund charges, some of which can change quarterly or more often. It is presumed that all calls dialed from your home were authorized by you. Any mathematical error made by AT&T or any of our representatives does not constitute an offer and thus may subsequently be corrected by the Company.

You also understand and agree that you may purchase other goods and services from AT&T and other persons or entities that may be billed to your AT&T bill and that may or may not be telecommunications related. You agree to pay all applicable charges, including Mandatory and Discretionary Fees, for such goods and services purchased or used by you or by anyone you authorize.

You agree to pay no later than the "due by" date specified on your bill. Monthly recurring charges may be billed one month in advance. Usage-based charges may be billed after the charges are incurred. Calls billed on a per-minute basis may be billed by rounding up to the next full minute for any fractional minutes. When a percentage discount is applied, the resulting discount may be rounded down to the nearest cent. Your first bill may include charges for the partial month in which Services began and for the following month. If you pay by phone, a reasonable convenience fee may apply. If your payment is dishonored, we may charge you an insufficient funds or returned check fee. If you do not pay by the due date, we may charge you a collections fee, late payment charge, and/or an interest charge. The amounts of applicable charges and fees are available either in Tariffs; Guidebooks; on your bill; or, in the case of the convenience fee, by phone prior to incurring it. Our acceptance of late or partial payment (even if marked, "PAID IN FULL" or similar words) or late payment charges shall not constitute waiver of any of our rights to collect the full amount due under this Agreement.

b. Credit. Based on your credit worthiness, we may require that you make an advance payment or deposit and/or we may set a credit limit or approved usage threshold on your account at any time. If you fail to pay for the Services when due, we may apply the deposit, other security, or advance payment to the amount you owe us.

c. Notice of Price and Fee Increases. We will provide at least thirty (30) days' notice of price increases to all affected customers, by bill insert, as a message printed on your bill, in a separate mailing, or by any other reasonable method permitted by law. For increases in Mandatory and Discretionary Fees, we will provide notice as required by law.

When notice is required, we may, where permitted, provide notice of increases in Discretionary Fees by web posting only. If we provide notice by web posting only, we will advise you of that fact by bill insert, bill message or other reasonable method (other than web posting) at the time you receive this Agreement or within a reasonable period

of time thereafter, or prior to the time that we initiate notice by web posting only. We will also send you a reminder, at least once a year, to regularly check our web site for such increases. Where commercially reasonable, we will post notice to the web site thirty (30) days prior to the effective date. Otherwise, we will post notice within a commercially reasonable time after we receive notice from the governmental entity. If you do not have web access, you may call us for such information at the AT&T telephone number shown on your bill for our Services. If you are notified that notice for increases in Discretionary Fees is by web posting only, you agree to check our web site at least once a month if you want to stay current on such increases.

For increases in prices associated with transaction-based calls, including, but not limited to, calls billed to a calling card/credit card and operator-assisted calls, and for increases in prices of international calls not covered by a calling plan and international mobile termination charges, we may provide notice by web posting or in newspapers of general circulation only, where permitted.

d. Expiration of Promotional Prices. Promotional pricing and terms shall expire in accordance with the terms applicable to each promotion, without further notice to you.

e. Collection Fee. In the event you fail to pay billed charges when due and it becomes necessary for AT&T to refer your account(s) to a third party for collection, AT&T will charge a collection fee at the maximum percentage permitted by applicable law, but not to exceed 18% to cover the internal collection-related costs AT&T has incurred on such account(s) through and including the date on which AT&T refer(s) the account(s) to such third party.

f. Who May Contact and By What Method(s). You expressly authorize, and specifically consent to allowing, AT&T and/or its outside collection agencies, outside counsel, or other agents to contact you in connection with any and all matters relating to unpaid past due charges billed by AT&T to you. You agree that, for attempts to collect unpaid past due charges, such contact may be made to any mailing address, telephone number, cellular phone number, e-mail address, or any other electronic address that you have provided, or may in the future provide, to AT&T. For attempts to collect unpaid charges, you agree that in addition to individual persons' attempting to communicate directly with you, any type of contact described above may be made using, among other methods, pre-recorded or artificial voice messages delivered by an automatic telephone dialing system, pre-set e-mail messages delivered by an automatic e-mailing system, or any other pre-set electronic messages delivered by any other automatic electronic messaging system.

5. SUSPENDING AND CANCELING SERVICES

a. Cancellation of Services by You. You may cancel all or a portion of your Services by calling the applicable AT&T phone number on your bill. The Guidebooks specify conditions applicable to cancellation of Services, including termination fees, if any. If you

do not call to cancel, you agree to pay for all Services you order, use, or pay for, and those Services continue to be governed by this Agreement.

b. Discontinuance, Suspension, or Cancellation of Services by AT&T. We reserve the right to discontinue providing Services in all or part of a service area at any time, subject to applicable law and regulation, by providing thirty (30) days' notice to affected customers. If we believe the Services are being used fraudulently, abusively, illegally, or unlawfully, we reserve the right to immediately and without notice suspend, restrict, or cancel them. If you do not pay the undisputed portion of your bill by the required due date, we may suspend, restrict, or cancel the Services with advance notice to you. If

you violate any other term or condition of this Agreement, we may suspend, restrict, or cancel the Services if the violation is not remedied within a reasonable period of time after we provide notice to you. If you ask us to reinstate your Services following suspension or cancellation for any of the above reasons, we may require you to pay a deposit or a reconnection fee, or both. We may suspend or terminate any Services affected by a Force Majeure event, without notice to you.

c. Repair of Services. We have the right at any time to suspend or interrupt Services to make necessary repairs or changes in our facilities. We may refuse to repair Services if we determine that the conditions at your premises are unsafe for us, our agents, and/or our contractors.

6. INDEMNIFICATION

You agree to indemnify and hold harmless AT&T, our employees, officers, directors, affiliates, subsidiaries, assignees and agents for any claims, demands, actions, causes of action, suits, proceedings, losses, damages, costs and expenses, including reasonable attorney fees, arising from or relating to any use of any Services by you or any person you authorize or permit to use any Services, including but not limited to claims relating to: incorrect, incomplete or misleading information; defamation, libel or slander; invasion of privacy; identity theft; infringement of a copyright, trade name, trademark, service mark, or other intellectual property; any defective product or service sold or otherwise distributed through or in connection with any Services or any injury or damage to person or property caused thereby; or violation of any applicable law or regulation (collectively "losses"), unless such claims are based on or arise from our willful misconduct or gross negligence. This provision will continue to apply after the cancellation or termination of this Agreement.

7. DISCLAIMER OF WARRANTIES

AT&T DOES NOT WARRANT THAT ANY SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. ALL SERVICES ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY

OR FITNESS FOR A PARTICULAR PURPOSE (OTHER THAN THOSE WARRANTIES, IF ANY, THAT ARE IMPLIED BY AND INCAPABLE OF EXCLUSION, RESTRICTION, OR MODIFICATION UNDER THE LAWS APPLICABLE TO THIS AGREEMENT), ALL SUCH WARRANTIES BEING EXPRESSLY DISCLAIMED. AT&T DOES NOT AUTHORIZE ANYONE, INCLUDING BUT NOT LIMITED TO AT&T EMPLOYEES, AGENTS, OR REPRESENTATIVES, TO MAKE A WARRANTY OF ANY KIND ON AT&T'S BEHALF, AND YOU AGREE THAT YOU WILL NOT RELY ON ANY SUCH STATEMENT.

8. LIMITATION OF LIABILITY

a. You acknowledge and understand that – due to the nature of the Services – calls, messages, or service may be lost for many reasons, including but not limited to: dialing errors, power failures (including power failures at your residence), malfunctioning of Services and equipment, electronic interference, and Force Majeure events.

Therefore, except as set forth in Subsection 8b below, your monetary remedy for loss or damage caused by the provision, operation, or use of any Services or for the delay, malfunction, or partial or total failure of any Services, including such loss or damage caused by AT&T's negligence, shall not exceed the credit specified in the applicable Tariff or Guidebook, or, if no credits are specified, shall not exceed the amount of the charges paid or owed by you to AT&T for such Services for the period of such delay, malfunction, or failure (except to the extent additional monetary remedies are provided for in Section 9). You also acknowledge and understand that AT&T is not responsible for any loss or damage caused by the interruption or other absence of commercial power and that it is your responsibility to maintain any desired backup power, including battery backup, at your residence in the event of a power outage.

b. The limitations of liability in Subsection 8a do not apply if it is determined that AT&T's gross negligence or willful misconduct caused you damage. In that event, AT&T will be liable only for the direct damages for which it is found responsible.

c. In no event will AT&T be liable or responsible for indirect, incidental, special, punitive, or consequential damages arising out of, resulting from, or in connection with the provision, operation, or use of the Services, or for the delay, malfunction, or partial or total failure of any Services, including but not limited to loss of revenue, profit or other economic loss; emotional distress; harm to reputation; loss of consortium; and/or pain and suffering, regardless of whether AT&T knew or should have known of the possibility of such damages and regardless of whether AT&T's negligence caused such damages.

d. The provisions in this Section 8 will survive and continue to apply after this Agreement terminates. As used in this Section 8, AT&T means AT&T, its employees, officers, directors, affiliates, subsidiaries, assignees, agents, and suppliers. The disclaimers and limitations of liability in this Section 8 apply unless prohibited by applicable law.

9. DISPUTE RESOLUTION BY BINDING ARBITRATION

Instead of arbitration, you have the right to bring any dispute you may have with us to the Federal Communications Commission, state public utility commission, or small claims court, if the claim is within the agency's or court's jurisdiction.

Summary of Arbitration Agreement (which is set forth below in detail):

Most customer concerns can be resolved quickly and to the customer's satisfaction by calling AT&T's customer service center. **In the unlikely event that AT&T's customer service center is unable to resolve a complaint you may have to your satisfaction (or if AT&T has not been able to resolve a dispute it has with you after attempting to do so informally), we each agree to resolve those disputes through binding arbitration or small claims court instead of in courts of general jurisdiction.**

Arbitration is more informal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, allows for more limited discovery than in court, and is subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. **Any arbitration under this Agreement will take place on an individual basis; class arbitrations and class actions are not permitted.** For any non-frivolous claim that does not exceed \$75,000, AT&T will pay all costs of the arbitration. Moreover, in arbitration you are entitled to recover attorneys' fees from AT&T to at least the same extent as you would be in court. In addition, under certain circumstances (as explained below), AT&T will pay you more than the amount of the arbitrator's award and will pay your attorney (if any) twice his or her reasonable attorneys' fees if the arbitrator awards you an amount that is greater than what AT&T has offered you to settle the dispute.

Arbitration Agreement:

a. AT&T and you agree to arbitrate all disputes and claims between us. This agreement to arbitrate is intended to be broadly interpreted. It includes, but is not limited to:

- **claims arising out of or relating to any aspect of the relationship between us, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory;**
- **claims that arose before this or any prior Agreement (including, but not limited to, claims relating to advertising);**
- **claims that are currently the subject of purported class action litigation in which you are not a member of a certified class; and**

- claims that may arise after the termination of this Agreement.

In this Section, references to "AT&T", "you", and "us" include our respective subsidiaries, affiliates, agents, officers, employees, predecessors in interest, successors and assigns, as well as all authorized or unauthorized users or beneficiaries of services or equipment under this or prior Agreements between us. Notwithstanding the foregoing, either party may bring an individual action in small claims court. **You agree that, by entering into this Agreement, you and AT&T are each waiving the right to a trial by jury and to participate in a class action.** This Agreement evidences a transaction in interstate commerce, and thus the Federal Arbitration Act governs the interpretation and enforcement of this provision. This arbitration provision shall survive termination of this Agreement.

b. A party who intends to seek arbitration must first send to the other, by certified mail, a written Notice of Dispute ("Notice"). The Notice to AT&T should be addressed to: Office for Dispute Resolution, AT&T, 1025 Lenox Park Blvd., Atlanta, GA 30319 ("Notice Address"). The Notice must (1) describe the nature and basis of the claim or dispute; and (2) set forth the specific relief sought ("Demand"). If AT&T and you do not reach an agreement to resolve the claim within thirty (30) days after the Notice is received, you or AT&T may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by AT&T or you shall not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which you or AT&T is entitled.

You may download or copy a form notice and a form to initiate arbitration from here: att.com/residentialarbitration

c. After AT&T receives notice at the Notice Address that you have commenced arbitration, it will promptly reimburse you for your payment of the filing fee, unless your claim is for greater than \$75,000. (The filing fee currently is \$125 for claims under \$10,000, but is subject to change by the arbitration provider. If you are unable to pay this fee, AT&T will pay it directly upon receiving a written request at the Notice Address.) The arbitration will be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by this Agreement, and will be administered by the AAA. The AAA Rules are available online at www.adr.org, by calling the AAA at 1.800.778.7879, or by writing to the Notice Address. The arbitrator is bound by the terms of this Agreement. All issues are for the arbitrator to decide, except that issues relating to the scope and enforceability of the arbitration provision are for the court to decide. Unless AT&T and you agree otherwise, any arbitration hearings will take place in the county (or parish) of your billing address. If your claim is for \$10,000 or less, we agree that you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing as established by the AAA Rules. If your claim exceeds \$10,000, the right to a hearing will be determined by the AAA Rules. Regardless of the manner in

which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. Except as otherwise provided for herein, AT&T will pay all AAA filing, administration and arbitrator fees for any arbitration initiated in accordance with the Notice requirements above. If, however, the arbitrator finds that either the substance of your claim or the relief sought in the Demand is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all such fees will be governed by the AAA Rules. In such case, you agree to reimburse AT&T for all monies previously disbursed by it that are otherwise your obligation to pay under the AAA Rules. In addition, if you initiate an arbitration in which you seek more than \$75,000 in damages, the payment of these fees will be governed by the AAA Rules.

d. If, after finding in your favor in any respect on the merits of your claim, the arbitrator issues you an award that is greater than the value of AT&T's last written settlement offer made before an arbitrator was selected; then AT&T will:

- pay you the amount of the award or \$10,000 ("the alternative payment"), whichever is greater; and
- pay your attorney, if any, twice the amount of attorneys' fees, and reimburse any expenses (including expert witness fees and costs) that your attorney reasonably accrues for investigating, preparing, and pursuing your claim in arbitration ("the attorney premium").

If AT&T did not make a written offer to settle the dispute before an arbitrator was selected, you and your attorney will be entitled to receive the alternative payment and the attorney premium, respectively, if the arbitrator awards you any relief on the merits. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees, expenses, and the alternative payment and the attorney premium at any time during the proceeding and upon request from either party made within fourteen (14) days of the arbitrator's ruling on the merits.

e. The right to attorneys' fees and expenses discussed in Subsection 9d supplements any right to attorneys' fees and expenses you may have under applicable law. Thus, if you would be entitled to a larger amount under the applicable law, this provision does not preclude the arbitrator from awarding you that amount. However, you may not recover duplicative awards of attorneys' fees or costs. Although under some laws AT&T may have a right to an award of attorneys' fees and expenses if it prevails in arbitration, AT&T agrees that it will not seek such an award.

f. The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. **YOU AND AT&T AGREE THAT EACH MAY BRING CLAIMS**

AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both you and AT&T agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. If this specific proviso is found to be unenforceable, then the entirety of this arbitration provision shall be null and void.

g. Notwithstanding any provision in this Agreement to the contrary, we agree that if AT&T makes any change to this arbitration provision (other than a change to the Notice Address) during the period of time that you are receiving Services, you may reject any such change by sending us written notice within thirty (30) days of the change to the Arbitration Notice Address provided above. By rejecting any future change, you are agreeing that you will arbitrate any dispute between us in accordance with the language of this provision.

10. CHANGES TO THIS AGREEMENT

From time to time, we may change this Agreement, including the terms and conditions of the Guidebooks and Tariffs which are part of this Agreement. If any such change results in more restrictive terms or conditions, we will provide you at least thirty (30) days' notice, by bill insert, as a message printed on your bill, in a separate mailing, or by any other reasonable method permitted by law.

11. MISCELLANEOUS

After receipt of any notice required by Sections 4, 10, and/or 18, your purchase or use of Services or your payment for them is your agreement to the changes described therein, as of their effective date. Services are provided subject to billing and technical limitations, and not all Services are available in all areas. This Agreement does not give any third party a remedy, claim, or right of reimbursement. You understand that it may be possible for unauthorized third parties to monitor data traffic. If you desire to secure your transmissions in connection with any Services, you shall procure, at your own cost, encryption software or other transmission protection. You assume full responsibility for the establishment of appropriate security measures to control access to your equipment and information. You agree that we may call you about the Services we provide you under this Agreement and the services that other AT&T affiliates provide you under separate agreements, whether such calls are automated, handled by a live attendant, or are provided through other means.

12. ASSIGNMENT

Except as otherwise may be provided under any applicable state laws or requirements, we reserve the right to assign or otherwise transfer by merger or operation of law all or part of our rights or duties under this Agreement without notice. You may not assign this

Agreement or the Services to which you subscribe without our prior written consent, which will not be unreasonably withheld.

13. ENTIRE AGREEMENT

This Agreement, which incorporates by reference applicable Guidebooks and Tariffs, sets forth the entire agreement between you and AT&T and, with respect to the Services covered by this Agreement, takes the place of all previous agreements, understandings, statements, proposals, and representations between us, whether written or oral. This Agreement can be amended solely as provided in Section 10.

14. SURVIVABILITY

The terms and conditions contained in this Agreement that by their sense and context are intended to survive the performance hereof by either or both parties shall so survive the completion of performance, cancellation, or termination of this Agreement. Waiver by either party of any default by the other party shall not be deemed a continuing waiver of such default or a waiver of any other default.

15. SEVERABILITY

Except as provided in Section 9, if any provision, phrase or wording of this Agreement is determined to be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the remainder of this Agreement, but rather the entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision, phrase or wording and the rights and obligations of the parties to this Agreement shall be construed and enforced accordingly.

16. GOVERNING LAW

Section 9 is governed by federal law. To the extent the federal law governing section 9 refers to state law, and for all other provisions of this Agreement, the law of the state in which you reside (or, in the case of multiple residences, the state in which the residence receiving the Services is located) applies, without regard to its conflict of law principles, except to the extent that such law is preempted by applicable federal law.

17. STATE LAW

You may have certain rights under state law. To the extent that applicable state laws do not permit this Agreement to supersede such rights, those state rights will govern, except where such state law is preempted by applicable federal law, such as the Federal Arbitration Act.

18. ADDITIONAL/DIFFERENT STATE REQUIREMENTS

The following terms and conditions apply in the following states, in addition to the terms and conditions provided above and/or instead of any conflicting terms and conditions provided above.

Alabama, Louisiana, and Mississippi Customers: Section 10. CHANGES TO THIS AGREEMENT shall be amended to read as follows:

From time to time, we may change this Agreement, including the rates, terms and conditions of the Guidebooks, Price Lists, Service Descriptions, Service Guides, and Tariffs which are part of this Agreement. In such event, we will provide you with at least thirty (30) days' prior written notice, by bill insert, as a message printed on your bill, in a separate mailing, or by any other reasonable method permitted by law, of any such modification and the proposed effective date. Upon receipt of such notice, you may elect to terminate your Services by contacting us within the thirty (30) day time period. Your continued use of the Services or your continuation of the account after the thirty (30) day time period has elapsed shall constitute your assent to the modifications in rates, terms and conditions.

California Customers: This Agreement does not apply to customers who reside in California.

Kentucky Customers: Your Services may contain a Basic local exchange service and optional features that are on file with the Kentucky Public Service Commission and that are also available separately. Should you desire to purchase a Basic local exchange service and any such optional feature without additional products or services, you may purchase them individually at prices posted at att.com/servicepublications or filed with the Kentucky Public Service Commission.

Missouri Customers: Notwithstanding the provisions of this Agreement, including Section 4 (CHARGES AND PAYMENT), your Services shall continue to be bound by any Tariffs filed with the Missouri Public Service Commission, which relate to the adding to your bill or charges for Services, any taxes, fees or surcharges (including but not limited to any franchise, occupation, business, license, excise, privilege or other similar tax, fee or charge) now or hereafter imposed upon AT&T by any taxing body or authority whether by statute, ordinance, law or otherwise and whether presently due or to hereafter become due.

South Carolina Customers: This Agreement is deemed to have been received by you three (3) business days after it was deposited in the U.S. Mail, first-class delivery. **Within thirty (30) days from that date**, you have a right to terminate your Services by contacting the AT&T company/companies providing Services to you under this Agreement and to pay off your account in the same manner and under the same rates, terms, and conditions as set forth in this Agreement. This Agreement relates back to the date it was sent to you (existing customers) or to the date you requested service (new

customers). If you do not terminate the Agreement as described, your use of the Services or the continuation of your AT&T account for Services after the thirty (30) day period expires constitutes your assent to all the rates, terms and conditions of this Agreement. If, at the time you receive this Agreement, you are purchasing Services under a pre-existing Tariff or agreement for a specific term, the rates, terms and conditions of that Tariff or agreement will control until the end of the term, at which time the rates, terms and conditions of this Agreement will control.

Tennessee Customers: Your Bundled Offering contains telecommunications services that are also available separately. Should you desire to purchase only the telecommunications services included in your Bundled Offering, without additional products or services, you may purchase those telecommunications services individually at prices posted at att.com/servicepublications or filed with the Tennessee Regulatory Authority.

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