

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of AT&T Ohio,	)	
	)	
Complainant,	)	
	)	Case No. 08-690-TP-CSS
v.	)	
	)	
	)	
Global NAPs Ohio, Inc.,	)	
	)	
Respondent.	)	

**AT&T Ohio's Motion To Compel**

Ohio Bell Telephone Company d/b/a AT&T Ohio ("AT&T Ohio") hereby respectfully moves the Commission to compel Global NAPs Ohio, Inc. ("Global") to produce copies of all responses to the subpoenas previously issued by the Commission upon Global's application in this proceeding. The Commission previously issued subpoenas to Sage Telecom, Global Crossing, NOS Communications, and Qwest, upon the application of Global. Global has refused to provide AT&T Ohio with copies of the responses to the subpoenas, and AT&T Ohio thus requests that the Commission compel Global to share the responses.

**Background**

As the Commission is aware, one issue in this proceeding concerns the nature of the traffic Global delivers to AT&T Ohio. In particular, Global contends the traffic is Voice over Internet Protocol ("VoIP") or other "enhanced" traffic. In response to AT&T Ohio's submission of testimony demonstrating that at least a significant portion of Global's traffic is ordinary traffic originating on the public switched telephone network of AT&T incumbent local exchange carriers, Global requested that the Commission delay the hearing and permit Global to engage in certain additional discovery. Global's request was granted.

On February 26, 2009, Global requested that the Commission issue the four subpoenas, asserting that the four subpoenaed persons “allegedly handle a large number of calls” that were eventually delivered by Global to AT&T Ohio, and the subpoenaed information was necessary to determine, among other things, “what type of traffic these calls were or became.” Global Motion to Issue Subpoenas at p.4. The Attorney Examiner issued the subpoenas on February 26, 2009. A revised subpoena was subsequently issued to Qwest to clarify the identity of the subpoenaed person.

On May 27, 2009, AT&T Ohio and Global entered into a Protective Agreement to protect the confidentiality of information exchanged by the parties. The next day, counsel for AT&T Ohio wrote to Global’s counsel requesting “a copy of the information that you have received from all of the subpoenas.” Attachment 1 hereto (5/28/09 email from M. Fenlon to M. Yurick).

Global, however, has refused to provide AT&T Ohio with copies of the responses to the subpoenas. At the same time, Global has indicated that it intends to rely upon information produced in response to at least two of the subpoenas, to Sage Telecom and Qwest, in the supplemental testimony it will file shortly.

### **Argument**

The Commission should compel Global to provide AT&T Ohio with copies of all responses, including correspondence, documents, and other information, to the subpoenas issued by the Commission. As a matter of routine practice, parties are generally entitled to obtain upon request copies of responses to subpoenas issued on behalf of another party. Such a practice makes eminent sense, because Global can claim no exclusive right to the information yielded by a subpoena – after all, the subpoenas are issued by the Commission, not Global. *See* Ohio Admin. Code § 4901-1-25(A).

In any event, Global is obligated to produce the information it has obtained from the subpoenas pursuant to AT&T Ohio's prior discovery responses. Ohio Admin. Code § 4901-1-16(D)(5) provides that discovery responses must be supplemented when "[r]equests for the supplementation of responses are submitted prior to the commencement of the hearing." AT&T Ohio has requested that Global produce the subpoena responses as a supplementation of its prior discovery responses, to which the subpoenaed information is plainly responsive.

For example, in its July 14, 2008 Answer to paragraph 7 of the Complaint, Global stated:

As to the allegations set forth in paragraph 7 of the Complaint, Global Ohio admits that it has delivered Voice over Internet Protocol ("VoIP") or Internet Telephony traffic (as the term is used in Section 16.9 of the Reciprocal Compensation Appendix to the Interconnection Agreement) to AT&T for completion to AT&T Ohio's customers . . . .

In its July 25, 2008 discovery requests to Global, AT&T Ohio thus asked:

**AT&T Ohio Request 1-27:**

Please identify all facts and produce all documents upon which Global Ohio relies for its "admission" that "it has delivered Voice over Internet Protocol ('VoIP') or Internet Telephony traffic (as the term is used in Section 16.9 of the Reciprocal Compensation Appendix to the Interconnection Agreement) to AT&T for completion to AT&T Ohio's customers."

In response, Global replied:

Upon execution of a confidentiality agreement between the parties, contracts with and for customers providing traffic for exchange out-bound to AT&T in Ohio, and to the extent they exist, other responsive documents will be provided.

*See Attachment 2 hereto (Global's Discovery Responses).*

The parties subsequently executed a confidentiality agreement, yet Global has not produced additional documents. To the extent Global intends to rely on the subpoena responses to support its assertion that its traffic is VoIP or Internet Telephony – and according to Global it

does intend to rely upon the subpoena responses – that information must be provided as a supplement to its initial response to Request 1-27.

In addition, in Request 1-32, AT&T Ohio asked Global for all facts and all documents upon which Global relies for the assertion in its Answer that AT&T Ohio's complaint failed to state a claim for which relief could be granted. Global responded, *inter alia*:

AT&T Ohio's Complaint fails to state a claim upon which relief [sic] because inter alia, Global does not carry local or intraLATA toll traffic, it restricts the exchange of traffic in Ohio to Internet traffic that is jurisdictionally interstate, i.e., in-bound Internet Service Provider traffic and out-bound Enhanced Service Provider traffic.

*See* Attachment 2 hereto (Global's Discovery Responses).

Again, to the extent Global intends to rely on the subpoena responses in support of its position that its traffic is not local or intraLATA toll traffic, and is Enhanced Service Provider traffic, Global must produce the responses as a supplement to its prior response. *See also* Att. 2, Global's Response to Request 1-26 ("Global NAPs Ohio, Inc. carries neither local nor intraLATA toll traffic. It restricts the exchange of traffic in Ohio to Internet traffic," including "out-bound Enhanced Service Provider traffic").

Finally, even if Global were not already obligated to produce the subpoena responses to AT&T Ohio, the Commission should now obligate Global to produce the responses. Just six days before the hearings scheduled for January 28, 2009, Global requested that the Commission postpone the hearings and permit Global to engage in additional discovery. The Commission granted Global's request, and subsequently issued the four subpoenas upon Global's application. As a matter of fairness, even if discovery has been closed as to AT&T Ohio and was reopened only for Global (as Global is likely to contend in response to this motion), the Commission should reopen discovery to permit AT&T Ohio to propound its single document request – that Global provide copies of everything it received in response to the four subpoenas (including the

revised subpoena to Qwest). The requested material, including material that Global chooses *not* to use, is potentially relevant, as it may tend to disprove Global's position. *See* Ohio Evid. R. 401 ("‘Relevant evidence’ means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence."). Moreover, this request merely involves copying materials that Global and/or its counsel already have at hand, and thus cannot burden Global or delay this proceeding in any way.<sup>1</sup>

### **Conclusion**

For the reasons explained above, the Commission should compel Global to produce all responses, including correspondence, documents, and other information, it has received to the subpoenas issued by the Commission in this matter.

Respectfully submitted,

AT&T OHIO

By: /s/ Mary Ryan Fenlon

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<sup>1</sup> AT&T Ohio is, of course, willing to treat the materials as confidential under the Protective Agreement to the extent they have been designated as such.

**CERTIFICATE OF SERVICE**

I hereby certify that this Motion was served upon the filing by electronic service and First Class postage prepaid service the 10<sup>th</sup> day of July 2009.

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/s/ Mary Ryan Fenlon

Mary Ryan Fenlon

**FENLON, MARYKAY R (Legal)**

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**From:** Germann, Hans [HGermann@mayerbrown.com]  
**Sent:** Monday, July 06, 2009 1:13 PM  
**To:** FENLON, MARYKAY R (Legal); DROMBETTA, SUSAN A (ATTSI)  
**Subject:** FW: GNAPs subpoenas

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

From: FENLON, MARYKAY R (Legal) [mailto:mf1842@att.com]  
Sent: Thursday, May 28, 2009 10:09 AM  
To: Mark S. Yurick  
Cc: Germann, Hans  
Subject: GNAPs subpoenas

Mark,

AT&T would like a copy of the information that you have received from all of the subpoenas. Please let me know how soon this can be put together. Thanks.

Thanks.

Mary K. Fenlon  
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Case No. 08-690-TP-CSS

Defendant Global NAPs Ohio, Inc. (“GN-OH” or “Global”), by and through its undersigned counsel, hereby submits their Objections and Responses to the Interrogatories, Set 1, from Ohio Bell Telephone Company, Inc.

1. Global objects to Plaintiff's Definitions, Instructions, Interrogatories and Requests (herein collectively "Requests") to the extent that they seek to alter or expand the requirements of the Federal Rules, the Local Rules, or any other applicable statute or law.
2. Global objects to the Requests to the extent they seek discovery relevant to future attempts to collect any damage award that may be entered in this case.
3. Global objects to Plaintiff's demand that it produce documents in the custody and control of others, specifically "corporate affiliates, subsidiaries, parent corporations, successor corporations, or any other related business entity, as well as the officers, directors, employees, agents or representatives of Defendants or such related business entities" on the ground that it seeks to impose burdens on Global beyond those permitted by the Rules in effect in Ohio.
4. Global objects to the instructions given by Plaintiff concerning the manner of



production on the ground that they seek to impose burdens beyond those permitted by the Ohio Rules and to limit the manner of production in ways the Ohio Rules do not permit.

5. Global objects to the Requests to the extent that they call for information that is neither relevant to the subject matter of this Action, nor reasonably calculated to lead to the discovery of admissible evidence.

6. Global objects to the Requests to the extent that they fail to include a temporal limitation or seek information for an unreasonable and irrelevant period of time, and they call for information concerning times and events not relevant, material or necessary for either the prosecution or defense of this action.

7. Global objects to the Requests to the extent that they seek information that is more properly obtained through other forms of discovery, including but not limited to interrogatories or depositions of appropriate witnesses.

8. Global objects to the Requests to the extent that they call for information that is not in the possession, custody or control of Global.

9. Global objects to the Requests to the extent that they are so vague and ambiguous that they do not properly advise Global as to the information requested.

10. Global objects to the Requests to the extent that they purport to impose upon Global obligations to respond or supplement responses to the Requests beyond those which are required by the Ohio Rules.

11. Global objects to the Requests to the extent that they assume or assert the accuracy of facts not established in the action, including but not limited to, the accuracy of the specific definitions provided with the Requests. Any use of Plaintiff's Definitions and Instructions by Global for purposes of responding to the Requests does not constitute a waiver of

such objection.

12. Global objects to the definitions “GNAPs Affiliates” to the extent the Requests employing those definitions seek to impose burdens on Global beyond those permitted by the Ohio Rules.

13. Global objects to the Requests to the extent that they call for disclosure of confidential, proprietary or trade secret information, which will only be disclosed, if at all, subject to the Protective Order entered in this action.

14. Where two or more Requests call, or arguably call, for the same information, an objection made to one Request shall be deemed to be made as to all Requests which seek the same information or category of information. Documents responsive to two or more Requests may be produced in response to either Request or both.

15. All responses and objections are made without in any way waiving or intending to waive, but to the contrary, preserving:

- a. all objections as to competency, materiality, privilege and admissibility as evidence for any purpose in this action or any subsequent action or trial, all of which objections are hereby expressly reserved;
- b. the right to object on any ground to the use of any of these responses, or the subject matter thereof, in this action or any subsequent action or trial;
- c. the right to supplement and/or amend these responses based upon the discovery of additional information and/or documents after further investigation; and
- d. all rights to object on any ground to any Interrogatory or further responses to these Requests or any other requests for documents, or other discovery

requests involving or related to the subject matter of these requests.

16. Global objects to the Requests to the extent they seek attorney work product, information or communications protected by the attorney-client privilege or any other applicable rule of privilege, confidentiality, or immunity provided by law, trial preparation materials, identification or production of documents prepared in anticipation of litigation and/or after the commencement of this litigation, and/or documents beyond the scope of this proceeding.

17. Global objects to the Requests to the extent that they are overbroad as to time and geographic scope.

18. Global objects to the Requests to the extent that any Request, or the information it seeks, is overly broad, unduly burdensome, vexatious, harassing or the procurement thereof would impose an unreasonable expense upon Global.

19. Global objects to the Plaintiff's demand that electronically stored information be produced in its native form on the grounds that it is impractical and not reasonably calculated to lead to the discovery of admissible evidence and not required by the Ohio Rules. Global will agree only to produce responsive electronically stored information, if any, in a reasonably useable form.

20. Global objects to the Plaintiff's demand that Global produce e-mail in archived form with metadata intact on the ground that it is impractical, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Global will agree only to produce responsive e-mail, if any, in a reasonably useable form.

21. Each and every response to these Requests is made subject to the foregoing General Objections, regardless of whether a General Objection or specific objection is stated in the response. The explicit reference to a General Objection or the making of a specific objection

in response to a particular interrogatory or document request is not intended to constitute a waiver of General Objections that are not specifically referred to in that response.

22. Global expressly reserves the right to supplement and/or amend its responses and objections to these Requests and discovery as may be appropriate in light of additional information and/or documents obtained or reviewed in connection with their continuing investigation of this case, and to use such information or documents in any hearing or proceeding.

23. A response that Global will provide information or responsive documents is not an indication that such information or documents exist, but only a representation that, subject to and limited by the objections (specifically including all General Objections), non-privileged responsive documents will be made available if they do exist.

24. In accordance with the General Objections and the objections and responses set forth below, and subject to the protective order in this Action, Global will make the documents identified below available for inspection and copying at such reasonable time, place, and manner as agreed to by counsel for the parties.

25. Global objects to the Requests on the ground that the Commission lacks subject matter jurisdiction over this case.

26. Global objects to the Requests on the ground that they are unduly burdensome and harassing.

## **II. SPECIFIC OBJECTIONS AND RESPONSES TO INTERROGATORIES**

### **AT&T Ohio Request 1-1:**

**Please produce all Access Service Requests (“ASR”) submitted to AT&T Ohio by or on**

**behalf of Global Ohio.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Global does not have ASRs. However sheet 2 of the attached excel spreadsheet (OH Cleveland forecast 1.xls), reflects such information as may be responsive to this request.

**AT&T Ohio Request 1-2:**

**Please produce all ASRs submitted to AT&T Ohio by Global NAPs, Inc.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Global objects to this request to the extent it suggests that any service request was submitted on behalf of an entity other than GN-OH. Subject to this specific objection Global refers to its response to Request 1-1

**AT&T Ohio Request 1-3:**

**Please produce all ASRs submitted to AT&T Ohio by Global NAPs Networks, Inc.**

Refer to response 1-1.

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Global objects to this request to the extent it suggests that any service request was submitted on behalf of an entity other than GN-OH. Subject to this specific objection Global refers to its response to Request 1-1

**AT&T Ohio Request 1-4:**

**Please produce all documents reflecting any complaints or notices received by Global Ohio, Global NAPs, Inc., or Global NAPs Networks, Inc. that any of the traffic any of those entities handed off to AT&T Ohio was not delivered by AT&T Ohio to the called party, or to the terminating carrier if AT&T Ohio was not the terminating carrier.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Global is currently aware of no such documents and typically does not receive such complaints because it does not serve residential customers.

**AT&T Ohio Request 1-5:**

**Please identify every fact and produce all documents on which Global Ohio relies for its denial that it has no employees. Please identify the number of current employees of Global Ohio and identify each such employee.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Although there are no documents or facts which can establish the negative of the subject of this request, Global has no information or documents reflecting the existence of, payment to or compensation of a Global employee. Global contacted Select and Pay (via e-mail on 7-28-08) to verify that there are no, nor were there any, Global Ohio employees by crosschecking payroll records.

**AT&T Ohio Request 1-6:**

**Please identify the number of employees that Global Ohio had in (a) 2007, (b) 2006, (c) 2005, (d) 2004, (e) 2003, and (f) 2002. Identify each such employee.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

:

- a. 2007: 0
- b. 2006: 0
- c. 2005: 0
- d. 2004: 0
- e. 2003: 0
- f. 2002: 0

**AT&T Ohio Request 1-7:**

**Please identify every fact and produce all documents on which Global Ohio relies for its denial that it has no customers. Please identify every customer that Global Ohio currently has, and produce all contracts between Global Ohio and each of its current customers.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Although there are no facts that prove this negative, all customers served by the Global NAPs affiliated corporations are currently customers of Global NAPs Networks, Inc. Global works in conjunction with affiliated Global NAPs entities to provide necessary services.

**AT&T Ohio Request 1-8:**

**Please identify every fact and produce all documents on which Global Ohio relies for its denial that it has no revenues. Please identify Global Ohio's revenues for each of the years 2002 through 2007 and all the sources of Global Ohio's revenue in the pertinent year. In addition, please produce all documents evidencing those revenues.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

**Specific Objections:**

In addition to its General Objections, Global specifically objects to this request upon the grounds that it seeks information that is not relevant to and is beyond the scope of any issue properly raised in this proceeding.

**AT&T Ohio Request 1-9:**

**Please identify every fact and produce all documents on which Global Ohio relies for its denial that it has no assets. Identify each asset that Global Ohio owns and produce all documents evidencing that ownership.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

**Specific Objections:**

In addition to its General Objections, Global specifically objects to this request upon the grounds that it seeks information that is not relevant to and is beyond the scope of any issue properly raised in this proceeding.

**AT&T Ohio Request 1-10:**

**Please identify any and all plant or equipment owned by Global Ohio.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections:

In addition to its General Objections, Global specifically objects to this request upon the grounds that it seeks information that is not relevant to and is beyond the scope of any issue properly raised in this proceeding. Subject to this specific objection Global NAPs Ohio, Inc. does not own any plant or equipment.

**AT&T Ohio Request 1-11:**

**Please identify every fact and produce all documents on which Global Ohio relies for its denial that the Global NAPs corporations do not generate separate financial statements and, until very recently, did not maintain separate accounting records.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections:

In addition to its General Objections, Global specifically objects to this request upon the grounds that it seeks information that is not relevant to and is beyond the scope of any issue properly raised in this proceeding.

**AT&T Ohio Request 1-12:**

**Please identify every fact and produce all documents upon which Global Ohio relies for its denial that it does not have any actual business operations. Please identify any actual business operations of Global Ohio.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections:

In addition to its General Objections, Global specifically objects to this request upon the grounds that it seeks information that is not relevant to and beyond the scope of any issue properly raised in this proceeding. Further, it seeks information relating to Global's denial that it does not have any "actual business operations" which is broad and undefined.

**AT&T Ohio Request 1-13:**

**Please identify every fact and produce all documents upon which Global Ohio relies for its denial that it has failed or refused to provide AT&T Ohio with any evidence showing that the traffic it has handed off to AT&T Ohio for termination to AT&T Ohio's end users over local facilities is not local and, thus, not subject to the Interconnection Agreement's**



**reciprocal compensation requirements. Identify all evidence that Global Ohio has provided to AT&T Ohio that the traffic that Global Ohio delivers to AT&T Ohio over trunks reserved for local and intraLATA toll traffic is, in fact, not local or intraLATA toll traffic.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Although there are no facts which can prove the negative, Global shall produce such customer contracts and dispute forms and/or spreadsheets regarding disputed charges as may be responsive.

**AT&T Ohio Request 1-14:**

**Please identify all bank accounts currently open in the name of Global Ohio.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections:

In addition to its General Objections, Global specifically objects to this request upon the grounds that it seeks information that is not relevant to and is beyond the scope of any issue properly raised in this proceeding.

**AT&T Ohio Request 1-15:**

**Please identify the amount of Global Ohio's cash reserves, if any.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific objections

In addition to its General Objections, Global specifically objects to this request upon the grounds that it seeks information that is not relevant to and beyond the scope of any issue properly raised in this proceeding. Further, the term "cash reserves" is undefined and vague.

**AT&T Ohio Request 1-16:**

**Please state whether Global Ohio maintains any accounting records, and if so, describe the**

**records maintained and identify the custodian and location of the records.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections and Response:

In addition to its General Objections, Global specifically objects to this request upon the grounds that it seeks information that is not relevant to and is beyond the scope of any issue properly raised in this proceeding. Notwithstanding its objections, the location of the records is 10 Merrymount Road, Quincy, MA and the custodian is Michael Couture.

**AT&T Ohio Request 1-17:**

**Please identify any person that has guaranteed the debts or other monetary obligations of Global Ohio at any time between July 2002 and the present; describe the guaranty and its duration; and provide copies of all documents creating or describing the guaranty**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objection and Response;

In addition to its General Objections, Global specifically objects to this request upon the grounds that it seeks information that is not relevant to and is beyond the scope of any issue properly raised in this proceeding. Subject to its objections Global states there are no such guarantees.

**AT&T Ohio Request 1-18:**

**Please identify and provide copies of all contracts for financing between Global Ohio and any other person.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections and Response:

In addition to its General Objections, Global specifically objects to this request upon the grounds that it seeks information that is not relevant to and is beyond the scope of any issue properly raised in this proceeding. Subject to its objections Global states there are no such financing contracts.

**AT&T Ohio Request 1-19:**

**Please identify every fact and produce all documents upon which Global Ohio relies for its denial that its principal place of business is located at 10 Merrymount Road, Quincy,**

**Massachusetts.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections and Response:

In addition to its General Objections, Global specifically objects to this request upon the grounds that it seeks information that is not relevant to and beyond the scope of any issue properly raised in this proceeding. Further, it seeks information relating to Global's denial regarding the location of its "principal place of business" which is broad and undefined. Subject to its objections Global states that its operations are managed from an office located at 10 Merrymount Road, Quincy, Massachusetts.

:

**AT&T Ohio Request 1-20:**

**Please identify where Global Ohio's principal place of business is located.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

See Specific Objections and Response to Request 1-19

**AT&T Ohio Request 1-21:**

**Please identify every fact and produce all documents upon which Global Ohio relies for its denial that it does not serve "residential or other customers in Ohio."**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Global NAPs Ohio, Inc. provides service to residences and businesses in Ohio. However, these are not its customers. Its customers are enhanced service providers (ESPs), which are nationally based, that rely on Global to exchange such traffic with AT&T *aka* Ohio Bell Telephone Company. Thus, although Global does not provide dial-tone end user services in Ohio, by exchanging traffic with AT&T, it serves residences and businesses in Ohio.

**AT&T Ohio Request 1-22:**

**Please identify each end-user in Ohio to whom Global Ohio provides services.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

See Specific Objections and Response:

Global objects to this request to the extent the term "end user" is broad and undefined subject to

its objections. Subject to its objections see response to Request 1-21

**AT&T Ohio Request 1-23:**

**Please identify each end-user in Ohio that subscribes to or purchases service from Global Ohio.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

See Specific Objections and Response to 1-21 and 1-22.

**AT&T Ohio Request 1-24:**

**Please identify every fact and produce all documents upon which Global Ohio relies for its denial that it has not established any E 911 trunks in Ohio.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections and Response :

In addition to its General Objections, Global specifically objects to this request upon the grounds that it seeks information that is not relevant to and is beyond the scope of any issue properly raised in this proceeding. Further Global objects to the extent this request suggests Global has any duty to provide such trunks, as it provides no dial tone service for calls originating in Ohio. Subject to its objections Global states it has no E911 trunk in Ohio.

**AT&T Ohio Request 1-25:**

**Please identify each E911 trunk that Global Ohio has established in Ohio.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections and Response

See Specific Objections and Response Refer to Request 1-24.

**AT&T Ohio Request 1-26:**

**Please identify every fact and produce all documents upon which Global Ohio relies for its denial that Section 5.3 of Appendix ITR of the parties' interconnection agreement provides for use of the same trunks to carry both local and intraLATA toll traffic.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

**Global NAPs Ohio, Inc. carries neither local nor intraLATA toll traffic. It restricts the exchange of traffic in Ohio to Internet traffic that is jurisdictionally interstate, i.e., in-bound Internet Service Provider traffic and out-bound Enhanced Service Provider traffic.**

**AT&T Ohio Request 1-27:**

**Please identify all facts and produce all documents upon which Global Ohio relies for its “admission” that “it has delivered Voice over Internet Protocol (“VoIP”) or Internet Telephony traffic (as the term is used in Section 16.9 of the Reciprocal Compensation Appendix to the Interconnection Agreement) to AT&T for completion to AT&T Ohio’s customers.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

**Upon execution of a confidentiality agreement between the parties, contracts with and for customers providing traffic for exchange out-bound to AT&T in Ohio, and to the extent they exist, other responsive documents will be provided.**

**AT&T Ohio Request 1-28:**

**Please identify all facts and produce all documents upon which Global Ohio relies for its denial of the allegations of paragraph 10 of the Complaint.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

**Specific Objections:**

In addition to its general objections Global objects to this request as it improperly requests facts and documents regarding Global’s denial of the numerous allegations set forth in a paragraph of the complaint which are not facts but merely vague characterizations of nonspecific communications ATT purportedly “routinely” transmitted to Global

**AT&T Ohio Request 1-29:**

**Please identify all facts and produce all documents upon which Global Ohio relies for its denial that “any amounts are due and owing to AT&T.”**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

**Specific Objections and Response:**

In addition to its General Objections, Global specifically objects on the ground that it improperly seeks to discover mental impressions of counsel, legal theories and work product. Subject to its objections, see Objections and Responses to Requests Nos.1-13, 1-26, 1-27,1-32, 1-34, 1-35, 1-36,1-38, 1-39, 1-41 and 1-42.

**AT&T Ohio Request 1-30:**

**Please identify every fact and produce all documents sufficient to show Global Ohio's corporate structure, including any meeting minutes of its board of directors.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections:

In addition to its General Objections, Global specifically objects to this request upon the grounds that it seeks information that is not relevant to and is beyond the scope of any issue properly raised in this proceeding

**AT&T Ohio Request 1-31:**

**Please identify Global Ohio's current officers and directors.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections:

In addition to its General Objections, Global specifically objects to this request upon the grounds that it seeks information that is not relevant to and is beyond the scope of any issue properly raised in this proceeding

**AT&T Ohio Request 1-32:**

**Please identify every fact and produce all documents upon which Global Ohio relies for its assertion that AT&T Ohio's Complaint fails to state a claim upon which relief can be granted.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections and Response:

In addition to its General Objections, Global specifically objects on the ground that it improperly seeks to discover mental impressions of counsel, legal theories and work product. Subject to its objections Global states that AT&T Ohio's Complaint fails to state a claim upon which relief because inter alia, Global does not carry local or intraLATA toll traffic, it restricts the exchange of traffic in Ohio to Internet traffic that is jurisdictionally interstate, i.e., in-bound Internet Service Provider traffic and out-bound Enhanced Service Provider traffic. Accordingly the bills submitted by AT&T Ohio violate state and federal law, and the Commission lacks

subject matter jurisdiction over this dispute. Further the dispute which is the subject of the complaint is subject to mandatory arbitration

**AT&T Ohio Request 1-33:**

**Please identify every fact and produce all documents upon which Global Ohio relies for its assertion that AT&T Ohio's Complaint is barred or strictly limited by AT&T Ohio's federal and state tariffs.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections and Response:

In addition to its General Objections, Global specifically objects on the ground that it improperly seeks to discover mental impressions of counsel, legal theories and work product. Subject to its objections see Specific Objections and Response to Request 1-32.

**AT&T Ohio Request 1-34:**

**Please identify every fact and produce all documents upon which Global Ohio relies for its assertion that AT&T Ohio is barred from relief by the doctrines of estoppel, laches, and/or waiver.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections

In addition to its General Objections, Global specifically objects on the ground that this request improperly seeks to discover mental impressions of counsel, legal theories and work product. Global further objects to this request on the ground that it is premature. Such facts and documents as may be responsive to this request are within the possession of AT&T and accordingly Global is not in a position to respond at this time.

**AT&T Ohio Request 1-35:**

**Please identify every fact and produce all documents upon which Global Ohio relies for its assertion that AT&T Ohio is barred from relief by the doctrine of mistake.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

In addition to its General Objections, Global specifically objects on the ground that this request improperly seeks to discover mental impressions of counsel, legal theories and work product.

Global further objects to this request on the ground that it is premature. Such facts and documents as may be responsive to this request are within the possession of AT&T and accordingly Global is not in a position to fully respond at this time. Subject to its objections Global states that AT&T Ohio clearly entered into the ICA under a misapprehension as to the nature and Global's traffic and its import on the applicability of the terms of the ICA.

**AT&T Ohio Request 1-36:**

**Please identify every fact and produce all documents upon which Global Ohio relies for its assertion that the bills submitted to Global Ohio by AT&T Ohio violate state and federal law.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections and Response:

In addition to its General Objections, Global specifically objects on the ground that this request improperly seeks to discover mental impressions of counsel, legal theories and work product.

**AT&T Ohio Request 1-37:**

**Please identify every fact and produce all documents upon which Global Ohio relies for its assertion that AT&T Ohio's claims are subject to a mandatory agreement to arbitrate.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections and Response

In addition to its General Objections, Global specifically objects on the ground that this request improperly seeks to discover mental impressions of counsel, legal theories and work product. Global further objects to this request on the ground that it is premature. Subject to its objections See, ICA at 10. DISPUTE RESOLUTION.

**AT&T Ohio Request 1-38:**

**Please identify every fact and produce all documents upon which Global Ohio relies for its assertion that AT&T Ohio failed to mitigate its damages.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections and Response:

In addition to its General Objections, Global specifically objects on the ground that this request improperly seeks to discover mental impressions of counsel, legal theories and work product. Global further objects to this request on the ground that it is premature. Global objects to this



Request on the ground that it is premature. Such facts and/or documents as may show what if any efforts at mitigation were undertaken by AT&T are peculiarly in possession of AT&T, and Global has not had disclosure of such specific information. It is currently believed that AT&T may not have provided appropriately sized trunks or lowest cost routing.

**AT&T Ohio Request 1-39:**

**Please identify every fact and produce all documents upon which Global Ohio relies for its assertion that AT&T Ohio's claims are not ripe because it has failed to satisfy conditions precedent to bring its action, namely that the parties engage in informal dispute resolution prior to bringing formal dispute resolution.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections and Response

In addition to its General Objections, Global specifically objects on the ground that this request improperly seeks to discover mental impressions of counsel, legal theories and work product. Global further objects to this request on the ground that it is premature. Subject to its objections See, ICA at 10. DISPUTE RESOLUTION.

**Please identify every fact and produce all documents upon which Global Ohio relies for its assertion that AT&T Ohio lacks standing to seek revocation of Global Ohio's certificates of service authority.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections and Response:

In addition to its General Objections, Global specifically objects on the ground that this request improperly seeks to discover mental impressions of counsel, legal theories and work product. Subject to its objections Global relies, at least in part but not exclusively, upon the following publicly available documents:

Minnesota Public Utilities Commission et al v FCC et al No. 05-1069 (8<sup>th</sup> Circuit, 2007)

Vonage Holdings Corp. et al v. Nebraska Public Service Commission et al, Case No. 4:07 CV 3277 Memorandum and Order March 3, 2008 ( D. Nebraska)

TVC Albany, Inc. v. Global Naps, Inc. Case 07-C-0059 Public Service Commission of New York, Order issued March 20,2008.

**AT&T Ohio Request 1-41:**

**Please identify every fact and produce all documents upon which Global Ohio relies for its assertion that the Commission lacks subject matter jurisdiction.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

Specific Objections and Response:

In addition to its General Objections, Global specifically objects on the ground that this request improperly seeks to discover mental impressions of counsel, legal theories and work product. Subject to its objections Global relies, at least in part but not exclusively, upon the following publicly available documents:

Minnesota Public Utilities Commission et al v FCC et al No. 05-1069 (8<sup>th</sup> Circuit, 2007)

Vonage Holdings Corp. et al v. Nebraska Public Service Commission et al, Case No. 4:07 CV 3277 Memorandum and Order March 3, 2008 ( D. Nebraska)

TVC Albany, Inc. v. Global Naps, Inc., Case 07-C-0059 Public Service Commission of New York, Order issued March 20, 2008.

**AT&T Ohio Request 1-42:**

**Please identify every fact and produce all documents upon which Global Ohio relies for its assertion that AT&T Ohio has unclean hands and is therefore barred from relief.**

**SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:**

In addition to its General Objections, Global specifically objects on the ground that this request improperly seeks to discover mental impressions of counsel, legal theories and work product. Global further objects to this Request on the ground that it is premature. At this time such facts and documents as may be responsive to this request are within the possession of AT&T and accordingly Global is not in a position to fully respond at this time and reserves the right to amend and/or augment this response as discovery proceeds. Subject to its objections Global states that it is presently believed that the information in AT&T's possession will show that AT&T mislead Global concerning the necessity for submission of certain ASRs, wrongfully interrupted the effect of such ASR submissions against Global, provided and purported to charge Global for more expensive trunks with capabilities exceeding the capacity needed, improperly charged Global under tariff instead of ICA, refused to recognize traffic as VoIP, and conducted harassing lawsuits and improperly brought claims in wrong fora requiring additional outlay for legal defense by Global.

**AT&T Ohio Request 1-43:**

Please provide copies of Global Ohio's responses to discovery requests propounded by any other party (including Staff) to this proceeding including, but not limited to, copies of written responses and copies of any documents or other attachments provided with the responses. This is an ongoing request that includes Global Ohio's responses to other parties' data requests that Global Ohio has already answered, as well as Global Ohio's responses to other parties' data requests that it answers subsequent to the date of this data request.

SUBJECT TO ITS GENERAL OBJECTIONS GLOBAL REPLIES AS FOLLOWS:

Global will do so to the extent required by the rules and practice of the Commission.

Respectfully submitted,

*James R. J. Scheltema / per name*  
*msf*

James R. J. Scheltema  
Vice President-Regulatory Affairs  
Global NAPs, Inc.  
1311 East La Rua Street  
Pensacola, FL 32501  
(617) 504-5513  
jscheltema@gnaps.com

CERTIFICATE OF SERVICE

I, *W. Mark Smith*, Attorney for Global NAPs, Inc. on behalf of Global NAPs Ohio, Inc., certify that a true and correct copy of this document was served to all parties of record on *August 28*, 2008, via U.S. mail, electronic mail, facsimile, or overnight delivery.

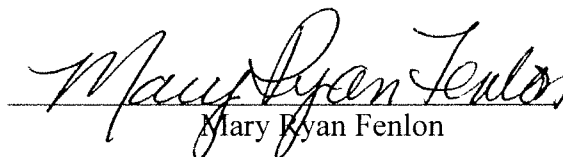
State of Ohio            )  
                                  ) ss.  
County of Franklin    )

AFFIDAVIT OF MARY RYAN FENLON

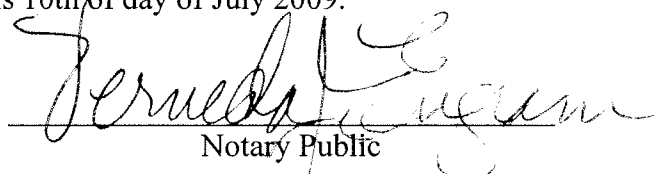
Mary Ryan Fenlon, being duly cautioned and sworn, states as follows:

1. I am counsel for the Complainant, AT&T Ohio, in the case entitled In the Matter of the Complaint of AT&T Ohio v. Global NAPs Ohio, Inc., PUCO Case No. 08-690-TP-CSS.
2. I sent an email on May 28, 2009 to Respondent GNAPs' local counsel, Matthew White, to request any information obtained pursuant to the subpoenas issued by the PUCO relevant to this case. See Attachment 1.
3. On July 6, 2009, I contacted Mr. White by telephone to ask about the status of the response to the discovery request. Mr. White advised me that two carriers, Sage and Qwest, provided information to GNAPs pursuant to the subpoenas, and that GNAPs would be using some of the information in its Supplemental Testimony that was due to be filed at the PUCO on July 24, 2009, but that GNAPs would not release the information to AT&T Ohio.

Further affiant sayeth naught.

  
Mary Ryan Fenlon

Verneda J. Engram, being duly cautioned and sworn before me, a notary public in Franklin County, Ohio, subscribed the foregoing this 10th of day of July 2009.

  
Notary Public

**Verneda J. Engram**  
**Public Notary**  
**Commission Expires 12-23-2011**

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**7/10/2009 10:20:52 AM**

**in**

**Case No(s). 08-0690-TP-CSS**

Summary: Motion to Compel electronically filed by Ms. Mary K. Fenlon on behalf of AT&T Ohio