

IN THE CIRCUIT COURT
OF THE CITY OF ST. LOUIS,
STATE OF MISSOURI

STATE OF MISSOURI, at the relation and)
to the use of the CITY COLLECTORS OF)
WELLSTON and WINCHESTER, MISSOURI;)
CITY OF UNIVERSITY CITY, MISSOURI;)
CITY OF WELLSTON, MISSOURI; and)
CITY OF WINCHESTER, MISSOURI;)

On behalf of themselves and all)
others similarly situated,)

Plaintiffs,)

Cause No. 044-02645

Division No. ~~X~~ 31

v.)

SBC COMMUNICATIONS, INC. n/k/a AT&T,)
INC.; SBC LONG DISTANCE INC., f/k/a)
SBC COMMUNICATIONS SERVICES, INC.;)
SOUTHWESTERN BELL TELEPHONE, L.P.,)
d/b/a SBC MISSOURI and AT&T MISSOURI;)
and SBC LONG DISTANCE, LLC;)

Defendants.)

**JOINT MOTION FOR CLASS CERTIFICATION FOR PURPOSES OF SETTLEMENT
AND FOR PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION
SETTLEMENT**

COME NOW Plaintiffs, the Cities and Collectors of University City, Missouri, Wellston, Missouri and Winchester, Missouri (collectively, "Plaintiffs"), and Defendants, Southwestern Bell Telephone Company d/b/a AT&T Missouri, f/k/a Southwestern Bell Telephone, L.P., SBC Long Distance, LLC d/b/a AT&T Long Distance, AT&T Messaging, Inc., AT&T Inc., American Information Technologies Corporation (Nevada), American Telephone and Telegraph Company, Ameritech Information Industry Services, Inc., Ameritech Publishing, Inc., Ameritech Services, Inc., AT&T Advanced Solutions, Inc. (now merged into AT&T Corp.), AT&T Advertising, L.P., AT&T Broadband Services Purchasing and Leasing, LLC, AT&T Capital Holdings

International, Inc., AT&T Capital Holdings, Inc., AT&T Capital Services, Inc., AT&T Communications - East, Inc., AT&T Communications of the Southwest, Inc., AT&T Consulting Solutions, Inc., AT&T Corp., AT&T Credit Holdings, Inc., AT&T DataComm, Inc., AT&T Foundation, AT&T Global Network Services, LLC, AT&T Government Solutions, Inc., AT&T Information Systems, Inc., AT&T Labs, Inc., AT&T Management Services, L.P., AT&T Messaging, LLC, AT&T Network Procurement L.P., AT&T Operations, Inc., AT&T Services, Inc., AT&T Solutions, Inc., AT&T Technical Services Company, Inc., AT&T Technologies, Inc., AT&T Video Services, Inc., Bell South Long Distance, Inc. d/b/a AT&T Long Distance Service, L.M. Berry & Company, Missouri Bell Telephone Company, Pacific Bell Telephone Company, Resort WiFi Operating Corp., SBC Asset Management, Inc., SBC Global Services, Inc., SBC Internet Services, Inc., SBC Telecom, Inc., SBC Tower Holdings, LLC, SBCSI Purchasing & Leasing Limited Partnership, SNET of America, Inc. d/b/a AT&T Long Distance East, Southwestern Bell Yellow Pages, Inc., Southwestern Bell Yellow Pages Resources, Inc., Sterling Commerce (America), Inc., Sterling Commerce, Inc., SWBT Purchasing & Leasing Limited Partnership, TCG America, Inc., TCG Kansas City, Inc., TCG St. Louis, Inc., Teleport Communications Group, Inc., Wayport, Inc., and YellowPages.com, LLC (collectively, "Defendants," or together with "Plaintiffs," collectively, the "Settling Parties"), by their respective counsel, and having executed and submitted the Settlement Agreement to the Court, hereby move this Court for certification of this Action as a class action for purposes of settlement only and for preliminary approval of the proposed Settlement Agreement attached hereto and incorporated herein by reference. In support of their Joint Motion for Class Certification for Purposes of Settlement and for Preliminary Approval of Proposed Class Action Settlement ("Motion"), the Settling Parties respectfully state as follows:

1. All capitalized terms used but not defined herein have the meanings ascribed to them in the Settlement Agreement.

2. This suit was initiated on August 18, 2004. The Consolidated Master Petition alleges, *inter alia*, that Defendants are liable to Plaintiffs and other Municipalities under their respective Business License Tax ordinances on revenues derived from Carrier Access (interstate and intrastate), End User Common Line surcharges (“EUCL”), private line services (interstate and intrastate), long-distance toll services (interstate and intrastate), federal and state universal service fee surcharges (“FUSF” and “SUSF”), and other revenues upon which Business License Taxes are not currently being paid by Defendants, and for interest and/or penalties thereon. Defendants have denied and continue to deny any and all liability with respect to the allegations raised against them in the various lawsuits involving the applicability of Plaintiffs’ and other Municipalities’ respective Business License Tax ordinances to Defendants’ products and services.

3. After extensive arm’s length settlement negotiations, a Settlement Agreement has been reached. The Settling Parties and their respective counsel submit that the proposed Settlement provides substantial benefits to the Settlement Class, and that the terms of the Settlement Agreement are fair, reasonable and adequate.

4. Under the terms of the Settlement Agreement, the proposed Settlement Class consists of:

All Municipalities in the State of Missouri that, on or before June 26, 2009, have imposed a Business License Tax and in which AT&T Missouri or SBC Long Distance, LLC derived gross receipts from the provision of telephone, exchange telephone, public utility, or telecommunications services, or related services. Excluded from the Settlement Class is the City of Springfield, Missouri.

5. This Motion is not made with and is not intended to affect Plaintiffs' Claims against any of the defendants not expressly named above and defined as Defendants.

6. The Settling Parties stipulate that this action is certifiable as a class action for settlement purposes only pursuant to Missouri Rule 52.08(a) in that:

- A. the Settlement Class is so numerous that joinder of all members is impracticable;
- B. there are questions of law or fact common to the Settlement Class;
- C. the claims of the Class Representatives are typical of the claims of the Settlement Class; and
- D. the Class Representatives will fairly and adequately protect the interests of the Settlement Class.

7. The Settling Parties also stipulate for settlement purposes only that, within the meaning of Rule 52.08(b)(1), (b)(2) and (b)(3):

- A. the prosecution of separate actions by or against individual members of the Settlement Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Settlement Class;
- B. Defendants have heretofore acted or refused to act on grounds generally applicable to the Settlement Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Settlement Class as a whole;
- C. questions of law or fact common to members of the Settlement Class predominate over any questions affecting individual members; and
- D. a class action is superior to other available methods for the fair and

efficient adjudication of the controversy.

8. Plaintiffs request that the Court appoint them to serve as Class Representatives, and that the Court appoint John F. Mulligan, Jr., Howard Paperner, John W. Hoffman and Douglas R. Sprong to serve as Class Counsel.

9. The Settling Parties have submitted to the Court a proposed Notice of AT&T Class Action Settlement and Approval Hearing ("Notice") as Exhibit A to the Settlement Agreement, along with a proposed notice plan contained within the Settlement Agreement. The Settling Parties submit that this is the best notice practicable to Missouri municipalities under the circumstances and constitutes due and sufficient notice to Missouri municipalities of the pendency of the Action, preliminary certification of the Settlement Class, the terms of the Settlement Agreement, and the Final Fairness Hearing, and complies fully with the requirements of Rule 52.08, the Constitution of the State of Missouri, the United States Constitution, and all other applicable laws, and constitutes due and sufficient notice to all Persons entitled to receive notice. The Settling Parties, therefore, request that the Court approve the Notice and authorize Defendants to notify Missouri municipalities of the pending Settlement in accordance with the terms of the Settlement Agreement, by mailing the Notice to each municipality in the State of Missouri via first-class mail, and authorize the Settling Parties to notify Missouri municipalities by posting the Notice on the Internet website maintained by the Missouri Municipal League at <http://www.mocities.org>.

10. The Settling Parties request that the Court approve the AT&T Municipal Tax Settlement Claim Form ("Claim Form") submitted herewith as Exhibit B to the Settlement Agreement and authorize Defendants to submit the Claim Form to Missouri

municipalities and to receive claims prior to final approval.

11. The Settling Parties have agreed, and request that the Court's preliminary and final approval orders reflect that, if, for any reason, the Settlement Agreement terminates, the Court fails to grant preliminary or final approval of the Settlement as provided in the Settlement Agreement, or the Court's approval of the Settlement is reversed or rendered void as a result of an appeal, then: (a) the Settlement Agreement shall be considered null and void; (b) neither the Settlement Agreement nor any of the related negotiations shall be of any force or effect; (c) the certification of the class for settlement purposes, as requested herein, shall be vacated and any findings regarding the certification shall not be used or admissible for any purpose in this action, or any other proceedings involving the subject matter of the action; and (d) all Settling Parties shall stand in the same position, without prejudice, as if the Settlement Agreement had neither been entered into nor filed with the Court.

12. A proposed Preliminary Approval Order is attached hereto for the Court's convenience.

WHEREFORE, the Settling Parties respectfully request that the Court preliminarily approve the attached Settlement Agreement as being sufficiently fair, reasonable, adequate, and in the best interest of all Settlement Class members, as falling within the range of possible final approval, and as meriting submission to Missouri municipalities for their consideration. The Settling Parties respectfully request that the Court enter an Order:

A. Certifying, for settlement purposes only, the following Settlement Class:

All Municipalities in the State of Missouri that, on or before June 26, 2009, have imposed a Business License Tax and in which AT&T Missouri or SBC Long

Distance, LLC derived gross receipts from the provision of telephone, exchange telephone, public utility, or telecommunications services, or related services. Excluded from the Settlement Class is the City of Springfield, Missouri;

B. Appointing the Plaintiffs to serve as Class Representatives;

C. Appointing and retaining the following lawyers as Class Counsel for the

purpose of representing the Settlement Class members in this Action:

John W. Hoffman, # 41484
Douglas R. Sprong, # 39585
Korein Tillery, LLC
One US Bank Plaza
505 N. 7th Street, Suite 3600
St. Louis, MO 63101

John F. Mulligan, Jr., #34431
1600 South Hanley, Suite 101
Richmond Heights, MO 63144

Howard Paperner, P.C. #23488
9322 Manchester Road
St. Louis, MO 63119;

D. Approving the Notice attached as Exhibit A to the Settlement Agreement and authorizing Defendants to disseminate the Notice as provided in the Settlement Agreement;

E. Approving the Claim Form attached as Exhibit B to the Settlement Agreement and authorizing Defendants to submit the Claim Form to Missouri municipalities as part of the Notice and to receive claims submitted on the approved Claim Form;

F. Finding, for purposes of effectuating the Settlement only, that each element for certification of the Settlement Class pursuant to Rule 52.08 is met;

G. Establishing a deadline for filing Requests for Exclusion from the

Settlement Class and objections to the proposed Settlement as provided in the Settlement Agreement;

H. Establishing a schedule for the filing of all briefs in support of, or objecting to, final approval of the proposed Settlement and any request for attorneys' fees and costs;

I. Establishing a date for the Final Fairness Hearing, at which the Settling Parties and all interested persons who have properly reserved their rights as provided in the Settlement Agreement may be heard regarding the proposed Settlement, and at which the Court shall make a final determination as to the fairness, reasonableness, and adequacy of the Settlement;

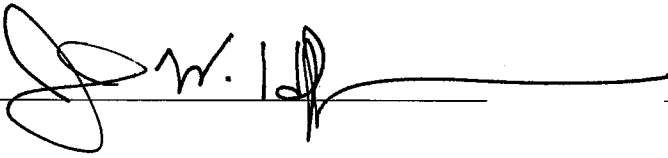
J. Staying all proceedings related to the Defendants in this Action and enjoining all Municipalities (except Springfield, Missouri) from commencing or continuing any action or proceeding in any court or tribunal asserting any claims encompassed by the Settlement Agreement unless the Municipality files a valid and timely Request for Exclusion; and

K. For such further relief as the Court deems just.

Respectfully Submitted By:

PLAINTIFFS

By Their Authorized Representatives:




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DEFENDANTS

By Their Authorized
Representatives:



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