

07 CV 859

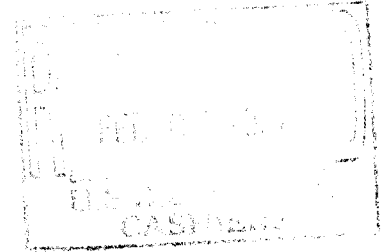
Robert I. Steiner (RS 5143)  
Anjna R. Kapoor (AK 3024)  
KELLEY DRYE & WARREN LLP  
101 Park Avenue  
New York, New York 10178  
Phone (212) 808-7800  
Fax (212) 808-7897

Judge Pauley

ECF CASE

Attorneys for Plaintiffs The Farmers' Telephone Company  
of Riceville, Iowa, Inc. and Superior Telephone Cooperative

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**



Civil Action No. 07-859

COMPLAINT

THE FARMERS' TELEPHONE COMPANY OF  
RICEVILLE, IOWA, INC., an Iowa corporation and  
SUPERIOR TELEPHONE COOPERATIVE, an Iowa  
cooperative association,

*Plaintiffs,*

v.

AT&T, INC., a Delaware Corporation,

*Defendant.*

**COMPLAINT**

Plaintiffs The Farmers' Telephone Company of Riceville, Iowa, Inc., and Superior Telephone Cooperative, by their attorneys, Kelley Drye & Warren LLP, bring this Complaint against Defendant AT&T Inc. ("AT&T" or "Defendant") and allege as follows:

**INTRODUCTION**

1. This is a collection action arising from Defendant's refusal to pay legally required fees, known as "access charges," for its use of Plaintiffs' local network services to complete long distance calls. AT&T has deliberately flouted its legal obligations, which arise

under lawfully-filed tariffs, established case law, the Communications Act of 1934, as amended (the “Act”) and the Federal Communications Commission’s (“FCC” or “Commission”) implementing rules and policies, to pay almost \$8.9 million for services that it undisputedly received from the Plaintiffs.

2. AT&T’s self-help campaign violates the “filed rate doctrine” and associated FCC decisions, which require all communications carriers and their customers to pay rates set forth in tariffs filed with the FCC. Settled FCC orders prohibit carriers from engaging in self-help by refusing to pay tariffed rates. Rather, if AT&T has any legitimate complaint against Plaintiffs – and it does not – relief is lawfully available to it through the dispute resolution provisions of Plaintiffs’ tariffs and the formal complaint process (47 U.S.C. § 208) at the FCC. By choosing not to avail itself of either of these means of resolving disputes, but instead simply refusing to pay Plaintiffs for the services it has taken from them, AT&T is plainly engaging in unlawful conduct that has inflicted significant, and ongoing, harm to Plaintiffs.

### **PARTIES**

3. Plaintiff The Farmers’ Telephone Company of Riceville, Iowa (“Farmers Telephone”) is an Iowa corporation with its principal place of business in Nora Springs, Iowa. It is an incumbent local exchange carrier (“ILEC”) that provides interstate and intrastate exchange access service, as well as local, long-distance and enhanced services, to business and residential customers in Iowa.

4. Plaintiff Superior Telephone Cooperative (“Superior”) is an Iowa cooperative association with its principal place of business in Superior, Iowa. It is an incumbent local exchange carrier (“ILEC”) that provides interstate and intrastate exchange access service, as well as local, long-distance and enhanced services, to business and residential customers in Iowa.

5. Defendant AT&T Inc. is a Delaware corporation with its principal place of business in San Antonio, Texas. At all relevant times, AT&T provided, and provides, services in this judicial district and its common carrier lines ran, and run, through this judicial district. AT&T is an interexchange carrier (“IXC”) and a common carrier subject to the provisions of the Communications Act. 47 U.S.C. § 151 *et seq.*

### **JURISDICTION**

6. This Court has jurisdiction over this action pursuant to: (a) 28 U.S.C. § 1331, because Plaintiffs’ claims arise under the Communications Act; (b) 28 U.S.C. § 1332, because the parties are citizens of different states and the amount in controversy exceeds \$75,000; and (c) 47 U.S.C. § 207, which vests the district courts with jurisdiction over suits seeking monetary damages under the Communications Act. This Court has supplemental jurisdiction of Plaintiffs’ state law claims pursuant to 28 U.S.C. § 1367.

7. This Court’s jurisdiction over collection actions such as this case has been confirmed in decisions such as *U.S. Telepacific Corp. v. Tel-American of Salt Lake City, Inc.*, 19 FCC Rcd 24552, ¶ 8 (Dec. 14, 2004), in which the Commission concluded that “[t]he proper forum for recovery of unpaid access charges that are allegedly due under the terms of a federal tariff . . . is the federal district court.” See *AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced Prepaid Calling Card Services*, 20 FCC Rcd 4826, n.58 (Feb. 23, 2005) (“[t]he Commission has held that it does not act as a collection agent for carriers with respect to unpaid tariff charges”).

### **VENUE**

8. Venue is proper pursuant to 28 U.S.C. § 1391(b) because AT&T does business in this judicial district and is thus subject to personal jurisdiction in this district.

## **BACKGROUND**

### **A. THE ACCESS CHARGE REGIME**

9. Plaintiffs and AT&T are telecommunications common carriers, and their interstate service offerings are subject to the jurisdiction of the FCC.

10. Plaintiffs are local telephone companies that provide local and long-distance telephone services in their service territories. They are known as “incumbent” local exchange carriers because they have historically been the principal carriers providing local services in the communities they serve.

11. At all times relevant to this complaint, AT&T has been a provider of long-distance telephone service, also known as an “interexchange carrier” or “IXC.” As such, AT&T provides service that enables a customer in one locality to make a telephone call to another person in a distant location. Because this long-distance service involves connecting a calling party in one local service area, or “telephone exchange area,” with a called party in another local telephone exchange area, the service AT&T provides is known in the telecommunications industry as “interexchange” service.

12. Since its mergers with SBC Communications Inc. and BellSouth Corporation, AT&T also provides local telephone service, and in doing so, is classified as an incumbent local exchange carrier, or ILEC, in the local markets that those companies serve. However, this complaint refers exclusively to unlawful actions in which AT&T has engaged in its capacity as an IXC.

13. Outside of the local service areas of the former SBC and BellSouth, the long distance network of AT&T (like other IXCs) does not extend to the so-called “last mile” to end-user customers’ homes or businesses. In contrast, local exchange carriers, including Plaintiffs’ and AT&T’s ILEC operations, have extensive local telephone networks that extend

the last mile to reach customers in the local exchanges that they serve. Plaintiffs – like all local exchange carriers – provide this service, which is known as “switched access service,” to AT&T and other IXCs. In return, AT&T is required to pay “access charges” to the Plaintiffs for the services they provide in originating and terminating interexchange, long distance calls for AT&T.

14. Federal and state regulators have jurisdiction over the access charges that apply to any given interexchange call, depending upon whether the call is interstate or intrastate. If the call originates in one state and terminates in another state, the access charges that apply fall exclusively under the FCC’s jurisdiction. All of the access charges referred to in this complaint are interstate access charges, which fall within the exclusive jurisdiction of the FCC.

15. The FCC actively regulates the access charge rates imposed by ILECs. It implemented comprehensive access charge and universal service reform for price cap ILECs based, in part, on a proposal submitted by the Coalition for Affordable Local and Long Distance Service (the “CALLS Plan”) to be implemented over a five-year period. *See Access Charge Reform*, 15 FCC Rcd 12962 (aff’d in part, rev’d in part, and remanded in part), *Texas Office of Public Utility Counsel v. FCC*, 265 F.3d 313 (5th Cir. 2001), *Access Charge Reform*, CC Docket No. 96-262, *Order on Remand*, FCC 03-164 (July 10, 2003) (“*CALLS Plan Order*”).

16. The FCC separately addressed the unique universal service and interstate access needs of rate-of-return carriers through the adoption of the Multi-Association Group Plan (the “MAG Plan”). One of the Commission’s stated goals in adopting the MAG Plan was to address “the specific challenges faced by small local telephone companies serving rural and high-cost areas.” *See Multi-Association Group (MAG) Plan for Regulation of Interstate*

*Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, 16 FCC Rcd 19613 (Nov. 8, 2001) (“*MAG Plan Order*”).

17. The FCC has found ILEC access charge rates to be reasonable. *See Calls Plan Order*, ¶¶ 41, 61, 176, 177. At all times relevant to this Complaint, Plaintiffs’ tariffed rates have been fully compliant with the FCC’s rules.

**B. THE “DEEMED LAWFUL” PROVISION OF THE COMMUNICATIONS ACT**

18. The Communications Act includes a provision to provide certainty and eliminate unnecessary litigation over ILEC access charges. Under § 204(a)(3), local exchange carriers such as Plaintiffs are permitted to file tariffs with the FCC on a “streamlined” basis. This means that if the carrier is filing a rate increase, the new rate and associated provisions are deemed lawful and effective 15 days after the tariff is filed with the Commission, unless the Commission takes action prior to the end of that period. Specifically,

“[a] local exchange carrier may file with the Commission a new or revised charge, classification, regulation, or practice on a streamlined basis. Any such charge, classification, regulation, or practice **shall be deemed lawful** and shall be effective 7 days (in the case of a reduction in rates) or 15 days (in the case of an increase in rates) after the date on which it is filed with the Commission unless the Commission takes action under paragraph (1) before the end of that 7-day or 15-day period, as is appropriate. 47 U.S.C. § 204(a)(3) (emphasis added).

19. Thus, “deemed lawful” means that rates tariffed pursuant to Section 204(a)(3) are just and reasonable under the Act, and may not be contested retroactively. If a carrier does choose to file a complaint with the FCC, it may seek only a prospective change to the filed rate(s).

C. THE FILED RATE DOCTRINE

20. The filed rate doctrine, also known as the filed tariff doctrine, is a common law construct that originated in judicial and regulatory interpretations of the Interstate Commerce Act, and was later applied to the Communications Act. It has been applied consistently to a variety of regulated industries for almost a century. The filed rate doctrine stands for the principle that a validly filed tariff has the force of law, and may not be challenged in the courts for unreasonableness, except upon direct review of an agency's endorsement of the rate. See, e.g., *Maislin Industries, U.S. v. Primary Steel, Inc.*, 497 U.S. 116, 117 (1990); *Telecom International America, Ltd. v. AT&T Corp.*, 67 F. Supp. 2d 189, 216-17 (S.D.N.Y. 1999); *MCI Telecommunications Corp. v. Dominican Communications Corp.*, 984 F. Supp. 185, 189 (S.D.N.Y. 1997).

21. The filed rate doctrine is motivated by two policies. First, it prevents carriers from engaging in price discrimination between ratepayers. Second, it preserves the exclusive role of federal agencies in approving 'reasonable' rates for telecommunications services by keeping courts out of the rate-making process. *Marcus v. AT&T Corp.*, 138 F.3d 46, 58 (2<sup>nd</sup> Cir. 1998). Thus, if a carrier acquires services under a filed tariff, only the rate contained in the tariff for that service will apply. The filed rate doctrine is applied strictly, and it requires a party that receives tariffed services to pay the filed rates, even if that party is dissatisfied with the rates or alleges fraud. *Marcus*, 138 F.3d at 58-59. Rather, a party seeking to challenge a tariffed rate must pay the rate in the tariff and then file a complaint with the FCC challenging the rate.

22. The FCC reaffirmed the filed rate doctrine and expressly applied it to access charges in its *Access Charge Reform Order*, explaining that "[t]ariffs require IXCs to pay the published rate for tariffed C[ompetitive] LEC access services, absent an agreement to the contrary or a finding by the Commission that the rate is unreasonable." *Reform of Access*

*Charges Imposed by Competitive Local Exchange Carriers*, 16 FCC Rcd 9923, ¶ 28 (Apr. 27, 2001). While this decision specifically addressed CLEC access charges, it fully applies to ILEC access charges as well.

23. The Plaintiffs currently have valid tariffs on file with the FCC. At all times relevant to this Complaint, Plaintiffs had valid tariffs on file with the FCC.

**D. AT&T HAS A LONG HISTORY OF UNLAWFUL SELF-HELP AGAINST SMALLER CARRIERS**

24. Defendant has a long history of unlawfully engaging in self-help. AT&T has repeatedly refused to pay small carriers for the access services it has purchased from them for at least the last eight years.

25. Beginning in late 1998, AT&T abruptly ceased paying access charges for services it took from a local exchange carrier called MGC Communications, Inc. (“MGC”). AT&T had been taking MGC’s service – and paying MGC’s tariffed rates – for about the previous six months. MGC filed a formal complaint against AT&T before the FCC.

26. On July 16, 1999, the FCC’s Common Carrier Bureau issued an order granting MGC full payment of its access charges, plus interest. *MGC Communications, Inc. v. AT&T Corp.*, 14 FCC Rcd 11647 (1999). In so doing, the agency held that:

AT&T’s refusal to pay for the originating access service that it has received since August 22, 1998, amounts to impermissible self-help and a violation of section 201(b) of the Act. We accordingly grant MGC’s complaint in this matter and hold that AT&T is liable to MGC, at MGC’s tariffed rate, for the originating access service that it received from August 22, 1998, through the date of this order. *Id.* at 11659.

27. AT&T sought reconsideration of the Common Carrier Bureau’s decision, which was denied. In *MGC Communications, Inc. v. AT&T Corp.*, 15 FCC Rcd 308 (1999), the FCC affirmed the Bureau’s decision in all respects. Furthermore the full Commission found as a



formal matter that AT&T's conduct was motivated by its desire to maintain the status quo while it attempted to negotiate reductions to MGC's access rates. *Id.* at 309.

28. Despite the FCC's unequivocal statement of the law and its policies prohibiting self-help refusals to pay access charges, AT&T actually amplified its unlawful conduct. In late 1998, AT&T initiated a campaign in which it illegally withheld access charge payments from dozens of local exchange carriers – virtually the entire competitive local exchange carrier industry – ultimately denying payment of hundreds of millions of dollars. This action spawned a series of CLEC complaints before federal courts that ensued over the next three years.

29. The first of those actions was before the U.S. District Court for the Eastern District of Virginia in *Advantel, L.L.C. d/b/a Plan B Communications et al. v. AT&T Corp.*, No. 00-643-A. The second action resulting from AT&T's unlawful self-help efforts was a class action before the U.S. District Court for the District of Columbia, captioned *Conversent Communications, L.L.C. v. AT&T*, No. 1:01-cv-01198.

30. In 2000, the judge in the *Advantel* case referred two questions of law to the FCC, one of which was whether AT&T could lawfully refuse to carry traffic subject to access charges. *Advantel, L.L.C. v. AT&T Corp.*, 105 F. Supp. 2d 507 (E.D. Va. 2000).

31. On October 22, 2001, the FCC issued a Declaratory Ruling responding to that case. While that ruling did not deal expressly with refusals to pay access charges, it did confirm that IXCs were not allowed to refuse to carry traffic out of an objection that the associated access rates were excessive: “[W]here rates charged for an access service are presumptively reasonable at the time the service is offered, an IXC cannot refuse to exchange originating or terminating traffic with the CLEC, because such a practice would threaten to

compromise the ubiquity and seamlessness of the nation's telecommunications network." *AT&T and Sprint Petitions for Declaratory Ruling on CLEC Access Charge Issues*, 16 FCC Rcd 19158, 19163 (Oct. 22, 2001).

32. Within five months of the issuance of the Commission's Declaratory Ruling, AT&T settled with all of the approximately 30 CLECs that were plaintiffs in the court actions in the Federal District Courts of the District of Columbia and the Eastern District of Virginia.

33. On June 14, 2002, the Declaratory Ruling was reversed on appeal in *AT&T Corp. v. FCC*, 292 F.3d 808 (D.C. Cir. 2002). That ruling did not take issue with the Commission's policies against self-help and disruption of traffic, but rather vacated the Commission's unrelated interpretation of Section 201(b) of the Communications Act, 47 U.S.C. § 201(b).

#### **FACTS COMMON TO ALL PLAINTIFFS**

34. Plaintiffs provide interstate exchange access and other services in the United States under federal tariffs. These tariffs are properly filed with the FCC pursuant to Section 203 of the Act, 47 U.S.C. § 203.

35. Plaintiffs' tariffs have been in full force and effect during the time that Plaintiffs have been providing access services to AT&T.

36. The Plaintiffs filed their tariffs on 15 days' notice, thus, their rates are deemed lawful under 47 U.S.C. § 204(a)(3).

37. Pursuant to the tariffs, the Plaintiffs have submitted invoices to Defendant for access charges associated with the access services they provided to AT&T.

38. AT&T continues to take access services from Plaintiffs, while withholding payment for the services they provide.

**FACTS SPECIFIC TO EACH PLAINTIFF**

**Access Charges Unlawfully Withheld from The Farmers' Telephone Company of Riceville, Iowa, Inc.**

39. The Farmers' Telephone Company of Riceville, Iowa, Inc. ("Farmers Telephone") filed its federal tariff with the FCC on or about June 16, 2005. The tariff was filed on 15 days' notice, pursuant to Section 204(a)(3) of the Communications Act, 47 U.S.C. § 204(a)(3).

40. Farmers Telephone has been providing interstate access service to AT&T for more than 20 years, and has billed AT&T for these access charges, as prescribed in Farmers Telephone's interstate access tariff filed with the FCC. Prior to October 1, 2006, AT&T paid these bills at Farmers Telephone's tariffed rate.

41. Beginning on or about October 1, 2006, AT&T ceased paying for the access services it took from Farmers Telephone. At the time it ceased payment, AT&T offered no explanation for its actions, and did not follow the dispute resolution provisions of Farmers Telephone's FCC tariff.

42. By letter dated January 22, 2007, Farmers Telephone, through its attorney, formally demanded payment of the amounts withheld by AT&T.

43. By failing to pay the full amount invoiced in Farmers Telephone's bills, AT&T is in breach of its obligations under Farmers Telephone's FCC tariff.

44. Because of AT&T's refusal to pay its bills, Farmers Telephone has thus far been damaged in the amount of approximately \$1,826,617.97, inclusive of late payment penalties. Additional damages are accruing daily as AT&T continues to withhold amounts due for interstate access services rendered by Farmers Telephone.

**Access Charges Unlawfully Withheld from Superior Telephone Cooperative**

45. Superior Telephone Cooperative (“Superior”) filed its federal tariff with the FCC on or about June 16, 2006. The tariff was filed on 15 days’ notice, pursuant to Section 204(a)(3) of the Communications Act, 47 U.S.C. § 204(a)(3).

46. Superior has been providing interstate access service to AT&T for more than 20 years, and has billed AT&T for these access charges, as prescribed in Superior’s interstate access tariff filed with the FCC. Prior to October 1, 2006, AT&T paid these bills at Superior’s tarified rate.

47. Beginning on or about October 1, 2006, AT&T ceased paying for the access services it took from Superior. At the time it ceased payment AT&T offered no explanation for its actions, and did not follow the dispute resolution provisions of Superior’s FCC tariff.

48. By letter dated January 22, 2007, Superior, through its attorney, formally demanded payment of the amounts withheld by AT&T.

49. By failing to pay the full amount invoiced in Superior’s bills, AT&T is in breach of its obligations under Superior’s FCC tariff.

50. Because of AT&T’s refusal to pay its bills, Superior has thus far been damaged in the amount of approximately \$7,071,820.27, inclusive of late payment penalties. Additional damages are accruing daily as AT&T continues to withhold amounts due for interstate access services rendered by Superior.

**COUNT I**  
**(Collection Action Pursuant To Federal Tariff)**

51. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 to 50 of this Complaint as if fully set forth herein.

52. Plaintiffs have provided interstate switched access services to Defendant. Defendant is required to pay Plaintiffs' access charges as set forth in their federal tariffs.

53. AT&T has failed to pay the access charges Defendant owes under the tariffs, and the associated late fees.

54. Plaintiffs have been, and continue to be, damaged directly and consequentially, by Defendant's refusal to pay the access charges it owes, plus late fees as called for in the tariffs. Plaintiffs are entitled to recover these amounts, or such other damages as may be established at trial.

### **COUNT II**

#### **(Violation of Section 201 of the Communications Act, 47 U.S.C. § 201)**

55. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 to 54 of this Complaint as if fully set forth herein.

56. Defendant is required to pay Plaintiffs' switched access charges as set forth in their federal tariffs.

57. AT&T has failed to pay the access charges Defendant owes under the tariffs, and the associated late fees.

58. Section 201(b) of the Communications Act, 47 U.S.C. § 201, imposes upon common carriers the duty that their practices in connection with communication services be "just and reasonable," and provides that all unjust and unreasonable practices are unlawful.

59. Defendant has engaged in unreasonable, unjust and unlawful self-help by refusing to pay to Plaintiffs the access charges that AT&T lawfully owes.

60. Defendant's refusal to pay the lawful access charges associated with services it has taken, and continues to take, from Plaintiffs constitutes an unreasonable practice in violation of Section 201(b) of the Act and the FCC's implementing decisions.

61. As a result of Defendant's unreasonable practice of refusing to pay for lawfully-tariffed services, Plaintiffs have been damaged in the amounts previously set forth or such other damages as may be established at trial.

62. Because Defendant's conduct is willful and malicious and includes, *inter alia*, an intentional refusal to abide by filed tariffs, disregard of controlling orders of the FCC, and illegal self-help, Plaintiffs are entitled to an award of punitive damages.

63. Because Defendant's conduct constitutes a violation of Section 201(b) of the Act, Plaintiffs are entitled to recover their reasonable attorneys' fees pursuant to Section 206 of the Act, 47 U.S.C. § 206.

### **COUNT III**

#### **(Violation of Section 203 of the Communications Act, 47 U.S.C. § 203)**

64. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 to 63 of this Complaint as fully set forth herein.

65. Defendant is required to pay Plaintiffs' switched access charges as set forth in their federal access tariffs.

66. AT&T has failed to pay the access charges Defendant owes under their tariffs, and the associated late fees.

67. Section 203 of the Communications Act, 47 U.S.C. § 203, imposes upon common carriers the duty to file tariffed rates for regulated communications services and to pay the tariffed rates for such services. Section 203(c) states that no carrier shall "charge, demand, collect, or receive a greater or less compensation, for such communication [than the tariffed rate]."

68. Defendant has engaged in an unreasonable practice of refusing to pay Plaintiffs their tariffed rates for the access services it has utilized, thereby "demanding" and

“receiving” a rate less than the tariffed rate, in violation of Section 203(c) of the Act and the FCC’s implementing decisions. *MCI Telecommunications Corporation, American Telephone and Telegraph Company and the Pacific Telephone and Telegraph Company*, 62 F.C.C. 2d 703 (1976).

69. As a result of Defendant’s unreasonable practice of refusing to pay for lawfully-tariffed services, Plaintiffs have been damaged in the amounts set forth above or such other damages as may be proved at trial.

70. Because Defendant’s conduct is willful and malicious and includes, *inter alia*, an intentional refusal to abide by filed tariffs, disregard of controlling orders of the FCC and illegal self-help, Plaintiffs are entitled to an award of punitive damages.

71. Because Defendant’s conduct constitutes a violation of Section 203(c) of the Act, Plaintiffs are entitled to recover their reasonable attorneys’ fees pursuant to Section 206 of the Act, 47 U.S.C. § 206.

**COUNT IV**  
**(Quantum Meruit)**

72. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 to 71 of this Complaint as if fully set forth herein.

73. Plaintiffs have provided, and continue to provide, valuable switched access services to Defendant.

74. Defendant accepted, used and enjoyed the access services that Plaintiffs have provided, and continue to provide, to Defendant.

75. It was at all times foreseeable that Plaintiffs expected to be paid for the access services they provided to Defendant.

76. The reasonable and fair market value of the services for which AT&T has refused to pay is established by Plaintiffs' tariffed switched access charge rates. AT&T would be unjustly enriched were it permitted to use Plaintiffs' access services without paying the reasonable value thereof.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that this Court:

(1) enter judgment against Defendant for all direct and consequential damages incurred by Plaintiffs, in an amount to be determined at trial, but no less than the access charges that Defendant owes Plaintiffs, together with the associated tariffed late fees and prejudgment interest;

(2) award Plaintiffs reasonable attorneys' fees and the costs of this action, pursuant to 47 U.S.C. § 206;

(3) award Plaintiffs punitive damages as a result of Defendant's willful, wanton, malicious and reckless behavior;

(4) issue a preliminary and permanent injunction barring Defendant from continuing to engage in the conduct alleged herein and directing Defendant to pay access charges in the future if Defendant continues to use Plaintiffs' services; and

(5) grant such other relief as this Court deems just and proper.



**JURY DEMAND**

Plaintiffs demand a trial by jury on all issues so triable.

Dated: New York, New York  
February 5, 2007

Respectfully submitted,

KELLEY DRYE & WARREN LLP

By: 

Robert I. Steiner (RS 5143)  
Anjna R. Kapoor (AK 3024)  
101 Park Avenue  
New York, New York 10178  
Phone (212) 808-7800  
Fax (212) 808-7897

Attorneys for Plaintiffs The Farmers'  
Telephone Company of Riceville, Iowa,  
Inc. and Superior Telephone Cooperative

Of Counsel:

Glenn B. Manishin  
Jonathan E. Canis  
KELLEY DRYE & WARREN LLP  
3050 K Street, N.W., Suite 400  
Washington, DC 20007-5108  
Phone (202) 342-8400  
Fax (202) 342-8451