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AT&T Texas  
September 25, 2012

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COMPLAINT OF THE CITY OF  
HOUSTON AGAINST  
SOUTHWESTERN BELL TELEPHONE  
COMPANY d/b/a AT&T TEXAS

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PUBLIC UTILITY COMMISSION  
OF TEXAS

**AT&T TEXAS' RESPONSE TO  
THE CITY OF HOUSTON'S AMENDED COMPLAINT, MOTION TO DISMISS AND  
OBJECTION TO MOTION FOR REFERRAL TO SOAH**

COMES NOW Southwestern Bell Telephone Company d/b/a AT&T Texas ("AT&T") and files this response to the City of Houston's ("the City") Amended Complaint, Motion to Dismiss and Objection to Motion for Referral to the State Office of Administrative Hearings ("SOAH").

**I.  
Response**

AT&T incorporates by reference AT&T's Response to Complaint of the City filed on February 8, 2012, as if fully set forth herein.

In addition, AT&T is not liable to the City to the extent that AT&T has already issued credits to the City for claims that make the basis of the City's Amended Complaint and to the extent that the City failed to mitigate its claims by failing and/or refusing to initiate orders to request that AT&T disconnect the City's Overlapping Service.

**II.**  
**Motion to Dismiss**

In Order No. 2, the Commission Administrative Law Judge (“ALJ”) ordered, in part, that Mark Wilder “submit proof of his authority to represent the holders of accounts: 713-227-3100, 713-437-5200, 713-849-9330, and 713-869-7657.”<sup>1</sup> However, instead of submitting **affirmative proof** that he is authorized to represent these specific account holders in this proceeding, Mr. Wilder submitted a “limited letter of agency” from the City Controller Audit Division and Information Technology Department that indicates that Southwestern Tariff Analyst (“STA”)—Mr. Wilder’s employer—is not authorized to place orders or make changes to service.<sup>2</sup> Mr. Wilder also submitted an “authorization letter” that fails to conclusively prove that STA (or Mr. Wilder) has authority to represent the holders of accounts: 713-227-3100, 713-437-5200, 713-849-9330, and 713-869-7657.<sup>3</sup>

Again, AT&T has reason to believe that neither STA nor Mr. Wilder have the authority to place orders or make changes to these specific accounts or appear on behalf of these specific account holders.<sup>4</sup> Because Mr. Wilder has failed to comply with Order No. 2 in that he did not affirmatively prove that he is authorized to represent the holders of accounts: 713-227-3100, 713-437-5200, 713-849-9330, and 713-869-7657 as required by P.U.C. Procedural Rule 22.101(a), AT&T asks that any and all claims associated with these accounts be dismissed from the City’s Amended Complaint.

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<sup>1</sup> Order No. 2 at 4 (Sept. 6, 2012).

<sup>2</sup> City of Houston’s Response to Order No. 2, Amendment of Complaint, and Motion for Referral to SOAH at 13, (Sept. 18, 2012).

<sup>3</sup> *Id.* at 15.

<sup>4</sup> None of these accounts are billed to the City. These are all separate billing entities.

**III.**  
**Objection**


AT&T objects to the City's Motion for Referral to SOAH. The resolution of the City's Amended Complaint does not require the determination of any fact issues at this time. As a result, the City's Amended Complaint should remain with the Commission and not be referred to SOAH up until such time as the Commission ALJ makes a determination on the City's compliance with the requisites of Order No. 2 and a determination of AT&T's Motion to Dismiss.

**IV.**  
**Conclusion**

For the reasons stated above, the Commission ALJ should dismiss any and all claims associated with accounts: 713-227-3100, 713-437-5200, 713-849-9330, and 713-869-7657 and sustain AT&T's objection to the City's Motion for Referral to SOAH. AT&T asks for such other and further relief to which it may show itself justly entitled.

Respectfully submitted,

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General Attorney and Associate General  
Counsel



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**CERTIFICATE OF SERVICE**

I, Christie M. Villarreal, General Attorney for AT&T Texas, certify that a true and correct copy of this document was served on all parties of record on September 25, 2012, via: U.S. Certified Mail, electronic mail, facsimile, or overnight delivery.



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Christie M. Villarreal