IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SOUTHWESTERN BELL TELEPHONE COMPANY, BELLSOUTH TELECOMMUNICATIONS, INC., NEVADA BELL TELEPHONE COMPANY, and PACIFIC BELL TELEPHONE COMPANY,	)	Civil Action No. __________
Plaintiffs,	)	
v.	)	
TOUCH-TEL USA, LLC.	)	
Defendant.	)	

COMPLAINT

1. Plaintiffs Southwestern Bell Telephone Company, BellSouth Telecommunications, Inc., Nevada Bell Telephone Company, and Pacific Bell Telephone Company (collectively "Plaintiffs") now file this Complaint seeking declaratory, injunctive and monetary relief from Defendant Touch-Tel USA, LLC. ("Touch-Tel" or "Defendant").

2. This case involves Defendant's attempts to evade paying Plaintiffs the compensation federal law requires when Defendant's customers make long-distance telephone calls using Plaintiffs' network facilities. Plaintiffs operate telecommunications networks in their designated areas and give other long-distance telecommunications providers access to their networks so that their customers can initiate calls. In return for access to Plaintiffs' networks, long-distance telecommunications providers are required by law and Plaintiffs' federal and state tariffs to pay "switched access service" charges to Plaintiffs. As detailed below, Defendant has implemented a scheme through which it disguises its customers' long-distance calls as local

calls, which are not subject to switched access service charges, and thereby evades its obligations to pay Plaintiffs the compensation to which they are entitled. Plaintiffs request that the Court (i) declare that Defendant is in violation of the FCC's orders regarding access charges and in violation of Plaintiffs' lawful interstate and intrastate tariffs, (ii) enjoin Defendant from further violations, (iii) order Defendant to provide an accounting of the access charges it has unlawfully evaded, and (iv) order Defendant to compensate Plaintiffs for their damages, including the recovery of access charges and applicable late payment charges that Defendant has unlawfully evaded. In further support of this Complaint, Plaintiffs state as follows:

I. THE PARTIES

3. Plaintiff Southwestern Bell Telephone Company ("Southwestern Bell") is a Missouri corporation, and has its principal place of business in Dallas, Texas. Southwestern Bell does business in five different states under the following names: AT&T Arkansas, AT&T Kansas, AT&T Missouri, AT&T Oklahoma, and AT&T Texas. Southwestern Bell is an incumbent local exchange carrier ("ILEC"), as defined by 47 U.S.C. § 251(h), in certain defined service territories within those states. Among other things, Southwestern Bell provides telecommunications services within local exchange areas, and it provides "exchange access" service for calls between local exchange areas, in those states where it does business.

4. Plaintiff BellSouth Telecommunications, Inc. ("BellSouth") is a Georgia corporation, and has its principal place of business in Atlanta, Georgia. BellSouth does business in nine states under the following names: AT&T Alabama, AT&T Florida, AT&T Georgia, AT&T Kentucky, AT&T Louisiana, AT&T Mississippi, AT&T North Carolina, AT&T South Carolina and AT&T Tennessee. BellSouth is an ILEC, as defined by 47 U.S.C. § 251(h), and

provides local exchange telecommunications services and exchange access services in the above-referenced states.

5. Plaintiff Nevada Bell Telephone Company (d/b/a AT&T Nevada) is a Nevada corporation and has its principal place of business in Reno, Nevada. Nevada Bell Telephone Company is an ILEC, as defined by 47 U.S.C. § 251(h), and provides local exchange telecommunications services and exchange access services in Nevada.

6. Plaintiff Pacific Bell Telephone Company (d/b/a AT&T California) is a California corporation and has its principal place of business in San Francisco, California. Pacific Bell Telephone Company is an ILEC, as defined by 47 U.S.C. § 251(h), and provides local exchange telecommunications services and exchange access services in California.

7. Defendant Touch-Tel is a Texas corporation and has its principal place of business in Houston, Texas. Touch-Tel provides telecommunications services and products, including prepaid and rechargeable calling card services.

II. JURISDICTION AND VENUE

8. This is a civil action arising under the laws of the United States, including § 203 of the Communications Act, 47 U.S.C. §§ 151 *et seq*. Plaintiffs seek to enforce federal tariffs filed with the Federal Communications Commission ("FCC") pursuant to 47 U.S.C. § 203, and orders entered by the FCC. This Court accordingly has jurisdiction under 28 U.S.C. §§ 1331 and 1337 and 47 U.S.C. § 207. Supplemental jurisdiction over Plaintiffs' parallel state tariff claims is proper pursuant to 28 U.S.C. § 1367.

9. Venue in this district is proper pursuant to 28 U.S.C. § 1391(b), as Defendant has agents and transacts business in this district and because a substantial part of the events or omissions giving rise to the claim occurred in this district.

III. BACKGROUND

A. Overview of Access Charges

10. Plaintiffs operate local exchange networks in their designated service areas, originating, transporting and terminating local telecommunications traffic (such as telephone calls between two persons in the same local area). In addition to carrying local calls, Plaintiffs also help long-distance carriers originate and complete their long-distance calls, as explained further below. In exchange for giving long-distance carriers "access" to their local networks to provide their long distance call services, Plaintiffs are entitled to "switched access charges" by law and under Plaintiffs' effective federal and state tariffs.

11. When a customer makes a traditional long-distance (or "interexchange") call, he or she typically dials the number 1, followed by the "area code" for the number to be called, and then the seven-digit phone number. For example, a customer of AT&T Texas in Dallas' 214 area code who wants to call someone in New York's 212 area code would dial "1-212-NXX-XXXX" where "NXX-XXXX" is the desired phone number. The calling customer's local exchange carrier (in this example, AT&T Texas) then transports the call over its network to the point of presence (POP) of the calling customer's long-distance carrier for that area. From there, the long-distance carrier transports the interexchange call to its POP in the area of the called party. Then, it delivers the call to the local exchange carrier that serves the called party, and that carrier finishes delivering the call to the called party. The long-distance carrier bills the calling party for the call.

12. For such interexchange calls, long-distance providers are obligated to pay the local exchange carriers (*e.g.*, Plaintiffs) international, interstate or intrastate access charges at each end of the call, depending on the location of the calling and called parties. The local

exchange carrier that serves the customer that placed or "originated" the call – in the above example, the customer in Dallas who obtains local phone service from AT&T Texas – is entitled to "originating" access charges. Based on the Dallas area code and phone number of the customer that originated the call, and the New York area code and phone number that the customer dialed, the local exchange carrier can tell it is a long-distance call and can bill the long-distance carrier for "originating access charges" to obtain compensation for the use of its network. (The local exchange carrier that serves the customer at the receiving end of the call in New York is entitled to "terminating" access charges. This Complaint, however, is concerned only with the switched access service charges that Defendant evaded on the originating side of the call.)

13. *International* access charges apply to calls that begin (or "originate") in the United States and end (or "terminate") in a different country. The rates, terms, and conditions of Plaintiffs' international access charges are set forth in Plaintiffs' respective tariffs filed with the FCC.

14. *Interstate* access charges apply to calls that originate in one state and terminate in a different state, for instance the above-described call from a customer in Dallas, Texas to a person in New York. The rates, terms, and conditions of Plaintiffs' interstate access charges are set forth in Plaintiffs' respective tariffs filed with the FCC.

15. *Intrastate* access charges apply to calls that originate and terminate in different local calling areas within the same state, for instance a call from a customer in Dallas, Texas to a person in Houston, Texas. The rates, terms, and conditions of Plaintiffs' intrastate access charges are set forth in Plaintiffs' respective state tariffs filed with the applicable state commissions.

B. Prepaid Calling Card Services

16. Defendant provides long-distance phone service through prepaid calling card services, which allow, among other things, a customer to pay in advance for long-distance calls.

17. Defendant's calling card services employ a prepaid debit system: a customer purchases a "card" with a specific balance and the cost of any call is then deducted from this balance. From the perspective of the end user, a long-distance call made via Defendant's prepaid calling card services is functionally the same as a traditional long-distance call: in each case, the customer makes a call to a home or business in a different state or a different local exchange. A prepaid calling card call reaches that result in the following way. First, the customer gains access to the calling card service provider's platform, traditionally by dialing a toll-free (*e.g.* 1-800) number. Once the customer is connected to the calling card service provider's platform, the customer is typically prompted to enter a personal identification number in order to authenticate the card and the available balance. After this validation, the customer dials the number of the party he or she wants to call. Typically, prepaid calling card services are used for long-distance or international calls. And because the customer dials a number beginning "1-800" the local exchange carrier knows that access charges are applicable.

18. Access charges apply to "1-800" calls in the same way they apply to traditional long-distance calls. While 1-800 calls are "toll-free," because the person placing the call does not receive a separate long-distance charge for that call on his or her bill, they are not literally "free." The long-distance provider simply receives its revenue in a different way. In this case, the long-distance provider (*e.g.*, Defendant Touch-Tel) receives its revenue up front, when the customer pays for the prepaid calling card service. Likewise, the local service provider (*e.g.*

AT&T Texas) still incurs costs to provide network access to the long-distance provider, and is still entitled to compensation from the long-distance provider.

19. Just as with a traditional long-distance call, each Plaintiff provides switched access services for prepaid calls of the type offered through Defendant's services. Plaintiff transports the call from its starting point (the phone used by the calling customer to place the call) to the point of interconnection ("POI") between Plaintiff and the carrier to which the telephone number dialed is assigned. After Plaintiff hands off the call at the POI, the call is handled by that carrier and the long-distance calling card provider so that the calling customer can make a long-distance call through the calling card service provider's platform. In return for providing this "access" and use of their networks, Plaintiffs are entitled by law and their effective state and federal tariffs to receive compensation, in the form of switched access service charges, from the long-distance calling card service provider.

C. <u>FCC Orders</u>

20. The FCC has made clear that all calling card service providers must pay the tariffed access charges for their customers' long-distance calls. In a February 2005 order, the FCC stated that a particular prepaid calling card service was a "telecommunications service" as defined by the Telecommunications Act of 1996. *AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced Prepaid Calling Card Services*, 20 FCC Rcd. 4826, ¶ 14 (rel. Feb. 23, 2005). The FCC then initiated a rulemaking to consider more generally the classification and jurisdiction of "new forms of prepaid calling cards." *Id.* at ¶ 2.

21. After receiving additional evidence and comments, the FCC decided that "all" prepaid calling card providers must pay the applicable interstate or intrastate access charges on long-distance calls made via their platforms. *In re Regulation of Prepaid Calling Card Services*,

21 FCC Rcd. 7290, ¶¶ 1, 27 (rel. June 30, 2006). In particular, the FCC held that interstate access charges apply when a call made via a calling card originates in one state and terminates in another, while intrastate access charges apply when a call made via a calling card originates and terminates in different areas within the same state. *Id.* ¶ 27. The FCC issued this straightforward rule in order to eliminate any "incentives for [calling card service] providers to reduce exposure to charges they may owe or evade them altogether." *Id.* ¶ 8. Moreover, the FCC wanted to provide "a level regulatory playing field for calling card providers," so that providers could not engage in a "'gaming' of the system" and gain an unfair advantage by rigging their service to evade access charges. *Id.*

22. The FCC further established certification and reporting requirements so that "calling card providers and their underlying carriers" would not have the "ability to avoid intrastate access charges." *Id*. at ¶ 31.

D. <u>Defendant's Attempts to Game the System and Avoid Compensating Plaintiffs Through Access Charges</u>

23. Notwithstanding the FCC's clear requirement that "all" calling card service providers must pay access charges, Defendant has used Plaintiffs' networks for its customers' long-distance calls without paying Plaintiffs the required access charges. Defendant has avoided paying access charges by disguising certain long-distance calls as local calls.

24. Defendant sells calling card services that use telephone numbers that are considered "local" in the area in which those cards are sold (rather than the traditional 1-800 numbers) so that its customers can originate international, interstate and intrastate interexchange prepaid calling card calls to their calling card platforms. The local phone numbers are assigned to Defendant by competing local exchange carriers ("CLECs") that provide local exchange telecommunications service within Plaintiffs' service areas. In this manner, calls made through

Defendant's calling card services appear to be local calls. Accordingly, Plaintiffs route calls made to the calling card's local telephone number over local interconnection facilities to the CLEC from which Defendant obtained the local telephone number. For example, a Dallas customer with a 214 area code might place a call to New York from a phone line provided by AT&T Texas by dialing a platform number that also begins with a 214 area code. While the call is in reality an interstate long-distance call to New York, it would look to AT&T Texas like a local call from one Dallas phone to another Dallas phone. Thus, AT&T Texas would transmit the call to the CLEC through which the call is transported to Defendant's calling card platform, but not charge Defendant for access services, because it does not know the true non-local destination of the call.

25. Defendant has, at a minimum, constructively ordered access service from Plaintiffs' effective tariffs. Either directly or through CLECs, Defendant offers service and is interconnected with Plaintiffs' networks in such a way that it can expect to receive calls that originate on Plaintiffs' networks (and thus, originating access service). As far as Plaintiffs are aware, Defendant has not taken steps to prevent the receipt of calls originating on Plaintiffs' networks (and in fact, solicits end users generically and without any apparent limitations to avoid the receipt of such calls) or to prevent the receipt of originating access services from Plaintiffs. Moreover, Defendant has in fact received calls that originate on Plaintiffs' networks, and has in fact received originating access services from Plaintiffs.

26. Defendant's use of locally assigned numbers has prevented Plaintiffs from determining that calls that appeared to be local calls were in fact long-distance calls. Because Defendant's use of "local" numbers led Plaintiffs to believe that the calls were local in nature, Plaintiffs routed the calls over local interconnection trunks to other local carriers, and Plaintiffs

were unable to bill Defendant for the applicable access charges required by law. This is precisely the type of "'gaming' of the system" that the FCC sought to prevent in its calling card orders. *In re Regulation of Prepaid Calling Card Services*, 21 FCC Rcd. 7290, ¶ 8 (released June 30, 2006).

27. Defendant has evaded hundreds of thousands, and potentially millions, of dollars of access charges that should have been paid to Plaintiffs for long-distance calls. Defendant's use of "local" numbers, however, has prevented Plaintiffs from determining the full extent of the access charges Defendant was able to evade.

IV. CLAIMS ASSERTED

COUNT I
(VIOLATION OF FEDERAL TARIFFS)

28. Plaintiffs incorporate by reference as though fully set forth herein the allegations of the preceding paragraphs of this Complaint.

29. Plaintiffs' rates, terms, and conditions for switched access service charges for interstate and international long-distance calls are set forth in effective tariffs filed with the FCC.

30. Defendant has at a minimum constructively ordered access service from Plaintiffs' effective tariffs.

31. For the reasons set forth above, and pursuant to the FCC's decisions and Plaintiffs' effective federal tariffs, Defendant is liable to Plaintiffs for its failure to pay switched access service charges on international and interstate interexchange traffic that originated on Plaintiffs' networks using Defendant's prepaid calling cards.

32. Plaintiffs fully performed their relevant obligations under the federal tariffs, except those they were prevented from performing, those they were excused from performing, or those that were waived by Defendant's misconduct as alleged herein.

33. Defendant has not paid Plaintiffs for interstate and international switched access services in accordance with Plaintiffs' effective federal tariffs and the FCC's order on calling card services.

34. Defendant has materially violated, and is materially violating, Plaintiffs' federal tariffs and the FCC's order on calling card services by avoiding payment of the tariffed rates for the services Defendant has used.

35. Plaintiffs have been damaged in an amount to be determined by this Court.

36. Plaintiffs are entitled to an accounting by Defendant to determine the amount of damages, as only Defendant knows the full extent of switched access service charges it has avoided through its unlawful actions.

37. Absent injunctive relief, Plaintiffs will be irreparably harmed. If Defendant is allowed to continue avoiding the payment of access charges, Plaintiffs would be forced to initiate a multitude of legal proceedings against Defendant to determine the amount of charges Defendant should have paid them on an ongoing basis.

COUNT II
(VIOLATION OF STATE TARIFFS)

38. Plaintiffs incorporate by reference as though fully set forth herein the allegations of the preceding paragraphs of this Complaint.

39. The rates, terms and conditions for Plaintiffs' intrastate switched access service charges are set forth in effective intrastate access tariffs filed with the applicable state commissions.

40. Defendant has at a minimum constructively ordered access service from Plaintiffs' effective tariffs.

41. For the reasons set forth above, and pursuant to the FCC's decisions and Plaintiffs' effective state tariffs, Defendant is liable to Plaintiffs for its failure to pay intrastate switched access service charges on intrastate interexchange traffic that originated on Plaintiffs' networks using Defendant's prepaid calling cards.

42. Plaintiffs fully performed their relevant obligations under their respective state tariffs, except those they were prevented from performing, those they were excused from performing, or those that were waived by Defendant's misconduct as alleged herein.

43. Defendant has not paid Plaintiffs for intrastate switched access services in accordance with Plaintiffs' effective state tariffs.

44. Defendant has materially violated, and is materially violating, Plaintiffs' state tariffs by avoiding payment of the tariffed rates for the services Defendant has used.

45. Plaintiffs have been damaged in an amount to be determined by this Court, including applicable interest and late payment fees.

46. Plaintiffs are entitled to an accounting by Defendant to determine the amount of damages, as only Defendant knows the full extent of switched access service charges it has avoided through its unlawful actions.

47. Absent injunctive relief, Plaintiffs will be irreparably harmed. If Defendant is allowed to continue to avoid paying access charges, Plaintiffs would be forced to initiate a multitude of legal proceedings against Defendant to determine the amount of charges Defendant should have paid them on an ongoing basis.

COUNT III
(UNJUST ENRICHMENT)

48. Plaintiffs incorporate by reference as though fully set forth herein the allegations of the preceding paragraphs of this Complaint.

49. By providing switched access services to Defendant for use in originating prepaid long-distance calls for which Defendant has received substantial revenues, Plaintiffs conferred a benefit on Defendant. Defendant has unjustly retained that benefit by evading the payment of switched access service charges required by law to compensate Plaintiffs for switched access services. Defendant's continued retention of that benefit would violate the principles of justice, equity, and good conscience.

50. Plaintiffs are entitled to restitution from Defendant, computed as the amount of tariffed switched access service charges that Defendant has evaded, with interest and late payment fees.

51. Plaintiffs are entitled to an accounting by Defendant to determine the amount of restitution to which they are entitled, as only Defendant knows the full extent of switched access service charges it has avoided through its unlawful actions.

52. Absent injunctive relief, Plaintiffs will be irreparably harmed. If Defendant is allowed to continue to avoid paying access charges, Plaintiffs would be forced to initiate a multitude of legal proceedings against Defendant to determine the amount of charges Defendant should have paid them on an ongoing basis and the amount of unjust enrichment Defendant has unlawfully obtained.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request the following relief:

(a) Declaratory relief finding that Defendant is in violation of the FCC's orders regarding access charges and in violation of Plaintiffs' effective international, interstate and intrastate tariffs;

(b) preliminary and permanent injunctive relief enjoining Defendant from continuing to engage in the misconduct complained of;

(c) a full accounting of the number of interexchange minutes improperly disguised as local traffic that should have been treated as long-distance access traffic, and for which Defendant should have paid international, interstate or intrastate switched access service charges but evaded payment;

(d) monetary damages (or in the alternative, restitution) in the amount of the international, interstate and intrastate switched access service charges (including interest and late payment fees) that Plaintiffs are entitled to pursuant to their lawful federal and state tariffs and which Defendant has failed to pay; and

(e) such other and further relief for Plaintiffs as the Court finds reasonable under the circumstances.

Dated: August 20, 2010

Respectfully submitted,

PLAINTIFFS

By: /s/ Timothy A. Whitley

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JS 44 (TXND Rev. 2/10)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Southwestern Bell Telephone Company, et al.

(b) County of Residence of First Listed Plaintiff Dallas
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Timothy A. Whitley, State Bar No. 00797660, Southwestern Bell Telephone Company, 6500 W. Loop South, Zone 5.5, Bellaire, TX 77401, Telephone 713-567-8114

DEFENDANTS

Touch-Tel USA, LLC

County of Residence of First Listed Defendant ____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 463 Habeas Corpus - Alien Detainee
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☒ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (**Do not cite jurisdictional statutes unless diversity**):
47 USC Section 151 et seq.

Brief description of cause:
Plaintiffs are seeking to enforce federal tariffs filed with the FCC and orders entered by the FCC

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23

DEMAND $ Declaratory Judgment

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☑ No

VIII. RELATED CASE(S) PENDING OR CLOSED: (See instructions)

JUDGE Jorge A. Solis / Reed O'Conner

DOCKET NUMBER 309CV01268P 310CV01498C

DATE August 21, 2010

SIGNATURE OF ATTORNEY OF RECORD /s/ Timothy A. Whitley

FOR OFFICE USE ONLY

RECEIPT # ____ AMOUNT ____ APPLYING IFP ____ JUDGE ____ MAG. JUDGE ____