ATTACHMENT K

STATE OF FLORIDA
FLORIDA PUBLIC SERVICE COMMISSION

AFFIDAVIT AND CERTIFIED COPY OF A COMMISSION RECORD

BEFORE ME, the undersigned Notary Public of the State of Florida, on this 15th day of October, 2010, personally appeared Ann Cole, known to me to be a credible person and of lawful age, who being by me first duly sworn, on her oath, deposes and says:

1. I am the Commission Clerk of the Office of Commission Clerk for the Florida Public Service Commission, State of Florida.

2. In my capacity as Commission Clerk, I hereby certify the attached Information Background for September 7, 2010 Meeting with ATMS (4 pages) is a true and correct copy of such record found in the official records of the Florida Public Service Commission.

ATTESTED THIS 15th day of October, 2010, in Leon County, State of Florida.

Ann Cole, Commission Clerk
Office of Commission Clerk

State of Florida
County of Leon

Sworn to (or affirmed) and subscribed before me this 15th day of October, 2010.

(Signature of Notary Public - State of Florida)
Personally Known XX

JANE FAUROT
MY COMMISSION # DD 814477
EXPIRES: August 6, 2013
Bonded Thru Notary Public Underwriters

EXHIBIT
K

Information Background for September 7, 2010 Meeting with ATMS

I) ***Failure to Provide Accurate Information to Regulators***

i) *Paul Watson, Chief Operating Officer of ATMS, provided Direct Testimony on February 8, 2010, to the South Carolina PSC stating that LifeConnex had not been audited by USAC or any other entity pertaining to Lifeline and Link-Up (See South Carolina Docket 2009-414-C). (In a subsequent June 23, 2010 meeting with the South Carolina PSC, ATMS admitted that a USAC audit of LifeConnex had been going on for approximately three years.)*

ii) *In a August 20, 2010 letter to the PSC Director of the Regulatory Analysis Division, ATMS responded to Thomas Biddix's statements that "LifeConnex passed the USAC audit with flying colors." The ATMS letter states that "at no time before or after the purchase of LifeConnex on September 1, 2009, was Mr. Biddix led to believe by USAC staff that there were any issues or problems regarding the audit." (The USAC audit results were e-mailed to Thomas Biddix on February 12, 2010 E-mail correspondence provided to the PSC by ATMS show Thomas Biddix forwarded the audit results to Paul Watson, ceo@telecomgroup.com, Angie Watson, and Steve Watson on February 13, 2010.)*

iii) [redacted]

iv) *ATMS companies may not be providing correct revenue information on their PSC regulatory assessment fee (RAF) returns or paying the correct amount of RAFs (possible violation of Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code). The Florida Gross Operating Revenue on LifeConnex's 2009 RAF Return showed a huge decrease from 2008. After staff questioned the large revenue change, LifeConnex filed an amended RAF return adjusting the gross revenue for 2009 and paying more RAFs.*

v) *The July 29, 2010 ATMS Motion to Quash states that "BLC does not have any Florida Lifeline customers." BLC Management responses to staff data requests on March 22, 2010 and May 7, 2010 show BLC appears to have Lifeline customers in the State of Florida. A September 3, 2010 check of BLC Management's Web site also shows a Florida Lifeline application.*

vi) *ATMS refused staff's request to provide a copy of a Universal Service Administrative Company audit completed on LifeConnex Telecom, a*

Information Background for September 7, 2010 Meeting with ATMS

ATMS company in Alabama which also provides service in Florida (possible violation of Section 364.183(1), Florida Statutes).

II) ***Questionable Activities***

i) *The Florida Real Estate Commission found Thomas Biddix guilty of violating Section's 475.25(1)(a), 475.25(1)(b), 475.25(1)(e), 475.25(1)(k), 475.42(1)(b), and 475.42(1)(d), Florida Statutes, for depositing an escrow check in his personal checking account (FDPR case No. 9281261). Subsequent to that finding, Mr. Biddix was found guilty of failure to timely follow the provisions of a lawful order of the Florida Real Estate Commission in violation of § 475.25(1)(e), Florida Statutes, for not enrolling in a licensure course as ordered. Mr. Biddix's Florida Real Estate license was suspended twice and is now null and void.*

ii) *BLC Management d/b/a Angles Communications (BLC), had its CLEC certificate cancelled for failure to pay regulatory assessment fees (see PSC-08-0617-TX). BLC is presently doing business in Florida without a competitive local exchange certificate (possible violation of Rule 25-24.805. Florida Administrative Code.) BLC did not file and/or maintain a company price list at the PSC (possible violation of Rule 25-24.825, Florida Administrative Code.)*

iii) *The PSC Bureau of Consumer Assistance has received multiple consumer complaints regarding improper disconnects, slamming, and improper bills by ATMS companies in possible violations of Rule 25-4.118, Florida Administrative Code, 47 C.F.R. §64.1120, Rule 25-4.083(2), Florida Administrative Code, and Section 364.107, Florida Statutes.*

iv) *Complaints forwarded to ATMS companies by the PSC Bureau of Consumer Assistance are not being responded to within a 15-day period (possible violation of Rule 25-22-032, Florida Administrative Code).*

v) *Staff has concerns over the findings of the Universal Service Administrative Company Universal Service Low-Income audit of an ATMS company, LifeConnex Telecom in Alabama. After ATMS refused to provide a copy of the findings to staff, a copy of the audit findings was obtained from the Federal Communications Commission (see Docket No. 100000-OT. Confidential Document No. 07330-10).*

vi) *Staff has concerns over an ATMS vendor, Database Engineers, Inc., whose officers include Christopher Watson and Brian Cox. The FBI began investigating Database Engineers in 2009, and the U.S. Department of Justice in Tampa filed a lawsuit against Database Engineers, Inc. in May 2010, charging criminal copyright infringement regarding six websites.*

Information Background for September 7, 2010 Meeting with ATMS

III Allegations Received by the PSC

i) *ATMS is "Cycloning" customers between sister companies for the purpose of claiming duplicate Link-up subsidies and duplicate non-recurring toll limitation service (TLS) subsidies after 30-45 days of service resulting in overpayment of Universal Service Funds (possible violations of Rule 25-4.118, Florida Administrative Code, 47 C.F.R. §64.1120, Rule 25-4.083(2), Florida Administrative Code, and Section 364.107, Florida Statutes.)*

ii) *ATMS companies pass customer information (including self certification forms) to wholly-controlled marketing companies for the purpose of "Cycloning" customers to another wholly-controlled phone company (possible violation of Section 364.107, Florida Statutes.)*

iii) *USA Freephone, an ATMS marketing company, receives calls from end users and places the Lifeline applicant with any ATMS company USA Freephone chooses (possible violations of Rule 25-4.118, Florida Administrative Code, and Section 364.107, Florida Statutes).*

iv) [redacted]

v) *ATMS does not provide written notices of disconnection to customers (possible violation of Rule 25-24.825, Florida Administrative Code).*

vi) *ATMS is violating CPNI requirements by sharing wholesale customer information with sister ATMS companies (possible violations of Section 364.107, Florida Statutes and 47 C.F.R. § 64.2005).*

vii) *ATMS companies are receiving Link-Up reimbursement from USAC but do not charge new applicants a hook-up fee resulting in overpayment of Universal Service Funds (possible violation of 47 C.F.R. §54.413(b).)*

viii) *Lifeline subscriber numbers submitted to USAC by ATMS companies for reimbursement on Form 497 may not match actual number of subscribers resulting in overpayment of Universal Service Funds (possible violation of 47 C.F.R. §54.407.)*

ix) *Resold Lifeline lines purchased from and claimed at USAC by the underlying carrier are possibly being claimed by ATMS companies resulting in overpayment of Universal Service Funds (possible violation of 47 C.F.R. §54.201.)*

x) *ATMS companies provide Lifeline Service to consumers and collect USF funds for customers before Lifeline applicants sign a Lifeline certification*

form certifying that they participate in a qualifying program and are eligible to receive Lifeline resulting in overpayment of Universal Service Funds (possible violation of 47 C.F.R. §54.401(a)(1)

xi) *Some ATMS companies designated as ETCs provide the required nine services using 100% resale service (possible violation of 47 C.F.R. §54.201(d)(1)).*

xii) *All ATMS associated companies have not been disclosed (possible violation of Section 364.183(1), Florida Statutes).*

xiii) *All owners and officers of ATMS have not been disclosed (possible violation of Section 364.183(1), Florida Statutes.)*

xiv) *ATMS companies are operating as a single entity which appears to be a contradiction to an ATMS data request response stating that each of the ATMS companies are independent and stand on their own.*

ATTACHMENT L

ATTACHMENT L

A Mathematically Correct Application of the Discount Does Not Impede Resellers from Competing

Retail Price	$ 32.50
Price Reseller Charges	$ 30.50
Cashback	$ 50.00
Resale Disount	14.8%

Impact on AT&T First Month

Receives from Customer	$ 32.50
Pays to Customer	$ (50.00)
Impact	$ (17.50)

Impact on Reseller First Month

Receives from Customer	$ 30.50
Pays to Customer	$ (50.00)
Receives from AT&T	$ 14.91
Impact	$ (4.59)

ATTACHMENT M

ATTACHMENT M

A Mathematically Correct Application of the Discount Does Not Impede Resellers from Competing

Retail Price	$ 32.50
Price Reseller Charges	$ 48.00
Cashback	$ 50.00
Resale Disount	14.8%

Impact on AT&T First Month

Receives from Customer	$ 32.50
Pays to Customer	$ (50.00)
Impact	$ (17.50)

Impact on Reseller First Month

Receives from Customer	$ 48.00
Pays to Customer	$ (50.00)
Receives from AT&T	$ 14.91
Impact	$ 12.91

ATTACHMENT N

ATTACHMENT N

A Mathematically Correct Application of the Discount Does Not Impede Resellers from Competing

Retail Price	$ 32.50
Price Reseller Charges	$ 48.00
Cashback	$ 50.00
Resale Disount	14.8%

Impact on AT&T First Month

Receives from Customer	$ 32.50
Pays to Customer	$ (50.00)
Impact	$ (17.50)

Impact on Reseller First Month

Receives from Customer	$ 48.00
Pays to Customer	$ -
Receives from AT&T	$ 14.91
Impact	$ 62.91

ATTACHMENT O

ATTACHMENT O
Resellers' Method 2 Improperly Overstates the Avoided Cost Estimate

Service	Standard Price
A	$ 110.00
B	$ (10.00)
Total Revenue	$ 100.00
Correct Avoided Cost Estimate	**$ 14.80**

AT&T's Estimate of Avoided Costs

Service A	$ 16.28
Service B	$ (1.48)
Total	$ 14.80

Estimate of Avoided Costs Using Resellers' Method 2

Service A	$ 16.28
Service B	$ 1.48 *
Total	$ 17.76

* dPi's Method 2 changes the sign of the avoided cost estimate when the "standard price" is negative

ATTACHMENT P

ATTACHMENT P

Proper Application of the Discount Consistently Yields a 14.8% Difference in the Aggregate Over Time

Monthly Price	$ 30.00
Resale Discount	14.8%

	Months Service is Kept					
	1	2	3	4	5	6
AT&T Retail Customer						
Total Amount Paid	$ 30.00	$ 60.00	$ 90.00	$ 120.00	$ 150.00	$ 180.00
Reseller						
Total Amount Paid	$ 25.56	$ 51.12	$ 76.68	$ 102.24	$ 127.80	$ 153.36
% Difference from Net Retail	14.8%	14.8%	14.8%	14.8%	14.8%	14.8%

ATTACHMENT Q

ATTACHMENT Q

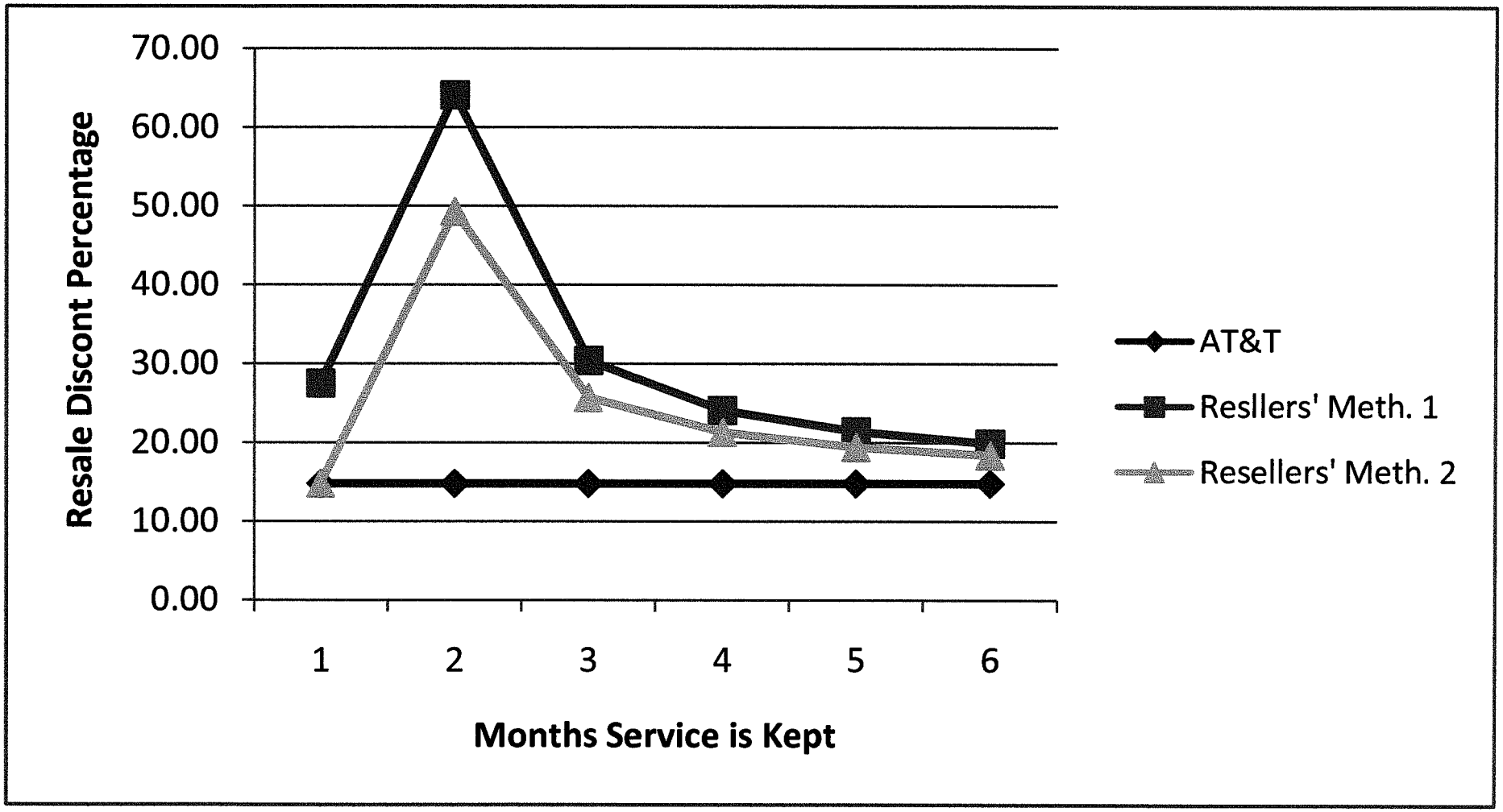
AT&T's Proposal Consistently Yields a 14.8% Difference in the Aggregate Over Time
Resellers' Proposals Do Not -- They Yield Higher Differences

Monthly Price	$	32.50
Cashback Amount	$	50.00
Resale Discount		14.8%

Months Service is Kept

	1	2	3	4	5	6
AT&T Retail Customer						
Total Amount Paid	$ 32.50	$ 65.00	$ 97.50	$ 130.00	$ 162.50	$ 195.00
Total Cashback	$ (50.00)	$ (50.00)	$ (50.00)	$ (50.00)	$ (50.00)	$ (50.00)
Net Amount Paid	$ (17.50)	$ 15.00	$ 47.50	$ 80.00	$ 112.50	$ 145.00
Proposed Wholesale Price						
AT&T's Method						
Total Paid	$ 27.69	$ 55.38	$ 83.07	$ 110.76	$ 138.45	$ 166.14
Total Cashback	$ (42.60)	$ (42.60)	$ (42.60)	$ (42.60)	$ (42.60)	$ (42.60)
Net Amount Paid	$ (14.91)	$ 12.78	$ 40.47	$ 68.16	$ 95.85	$ 123.54
% Difference from Net Retail	14.8%	14.8%	14.8%	14.8%	14.8%	14.8%
Resellers' Method 1						
Total Paid	$ 27.69	$ 55.38	$ 83.07	$ 110.76	$ 138.45	$ 166.14
Total Cashback	$ (50.00)	$ (50.00)	$ (50.00)	$ (50.00)	$ (50.00)	$ (50.00)
Net Amount Paid	$ (22.31)	$ 5.38	$ 33.07	$ 60.76	$ 88.45	$ 116.14
% Difference from Net Retail	27.5%	64.1%	30.4%	24.1%	21.4%	19.9%
Resellers' Method 2						
Net Amount Paid*	$ (20.09)	$ 7.60	$ 35.29	$ 62.98	$ 90.67	$ 118.36
% Difference from Net Retail	14.8%	49.3%	25.7%	21.3%	19.4%	18.4%

	First Month	Subsequent Months
Net Retail	$ (17.50)	$ 32.50
14.8% Lower	$ (20.09)	$ 27.69


70.00
60.00
50.00
40.00
30.00
20.00
10.00
0.00
Resale Discont Percentage
1
2
3
4
5
6
Months Service is Kept
AT&T
Resllers' Meth. 1
Resellers' Meth. 2

ATTACHMENT R

ATTACHMENT R

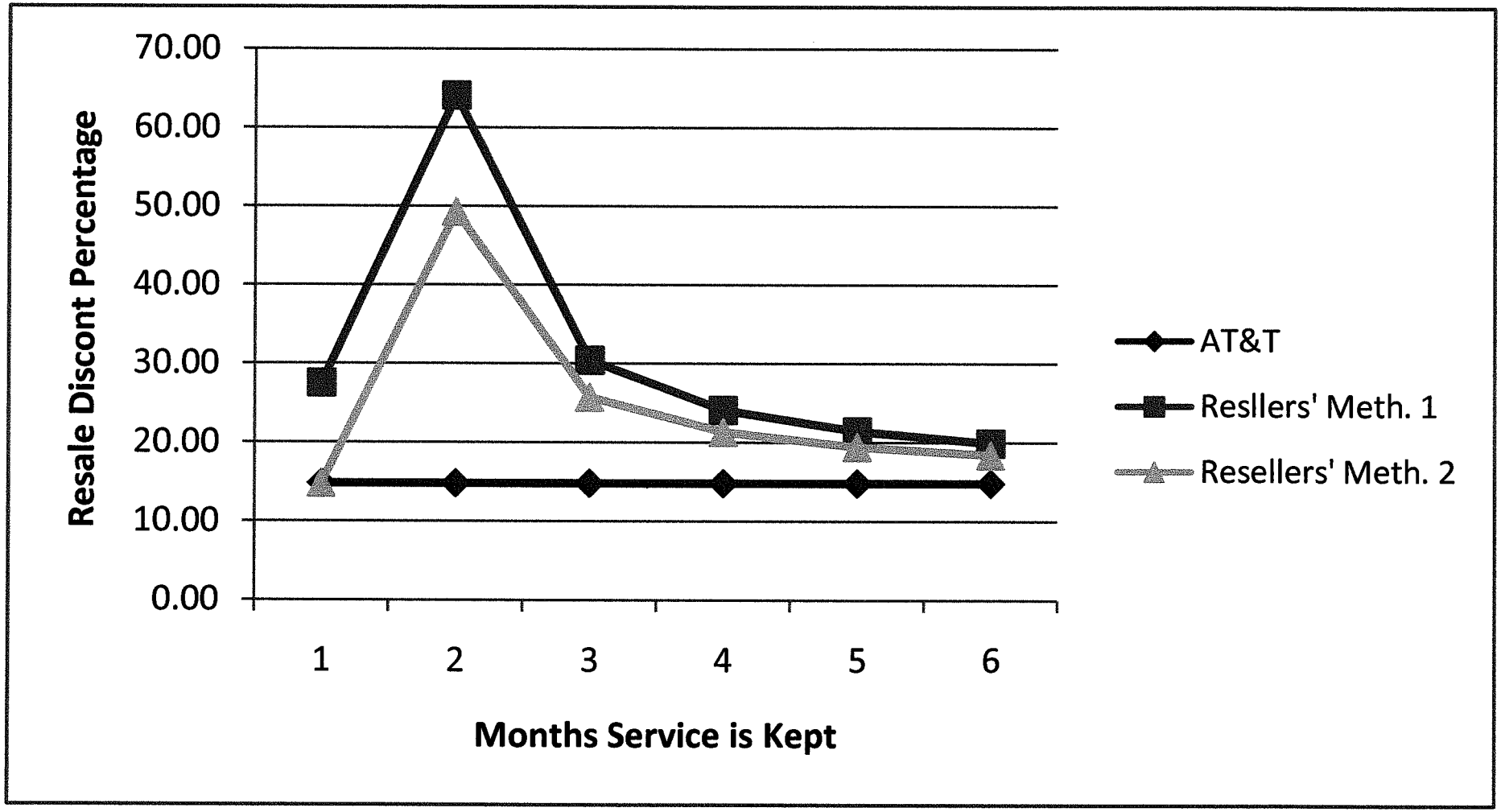
AT&T's Proposal Consistently Yields a 16.79% Difference in the Aggregate Over Time
Resellers' Proposals Do Not -- They Yield Higher Differences

Monthly Price	$	48.00
Cashback Amount	$	100.00
Resale Discount		14.8%

Months Service is Kept

	1	2	3	4	5	6
AT&T Retail Customer						
Total Amount Paid	$ 48.00	$ 96.00	$ 144.00	$ 192.00	$ 240.00	$ 288.00
Total Cashback	$ (100.00)	$ (100.00)	$ (100.00)	$ (100.00)	$ (100.00)	$ (100.00)
Net Amount Paid	$ (52.00)	$ (4.00)	$ 44.00	$ 92.00	$ 140.00	$ 188.00
Proposed Wholesale Price						
AT&T's Method						
Total Paid	$ 40.90	$ 81.79	$ 122.69	$ 163.58	$ 204.48	$ 245.38
Total Cashback	$ (85.20)	$ (85.20)	$ (85.20)	$ (85.20)	$ (85.20)	$ (85.20)
Net Amount Paid	$ (44.30)	$ (3.41)	$ 37.49	$ 78.38	$ 119.28	$ 160.18
% Difference from Net Retail	14.8%	14.8%	14.8%	14.8%	14.8%	14.8%
Resellers' Method 1						
Total Paid	$ 40.90	$ 81.79	$ 122.69	$ 163.58	$ 204.48	$ 245.38
Total Cashback	$ (100.00)	$ (100.00)	$ (100.00)	$ (100.00)	$ (100.00)	$ (100.00)
Net Amount Paid	$ (59.10)	$ (18.21)	$ 22.69	$ 63.58	$ 104.48	$ 145.38
% Difference from Net Retail	13.7%	355.2%	48.4%	30.9%	25.4%	22.7%
Resellers' Method 2						
Net Amount Paid*	$ (59.70)	$ (18.80)	$ 22.10	$ 62.99	$ 103.89	$ 144.78
% Difference from Net Retail	14.8%	370.0%	49.8%	31.5%	25.8%	23.0%

	First Month	Subsequent Months
Net Retail	$ (52.00)	$ 48.00
14.8% Lower	$ (59.70)	$ 40.90


70.00
60.00
50.00
40.00
30.00
20.00
10.00
0.00
Resale Discont Percentage
1
2
3
4
5
6
Months Service is Kept
AT&T
Resllers' Meth. 1
Resellers' Meth. 2

ATTACHMENT S

1 **MR. TURNER:** go with me to page --

2 **MR. GILLAN:** Excuse me a moment, Mr. Turner, I have tried to be as clear as I
3 can -- and admittedly when I see this typed out, it's easier to evaluate sitting here,
4 the answer hinges on when you look at this fact pattern, is this a $20 or $120
5 product. In real time, I gave you the answer in the deposition, the deposition
6 transcript is what it is. As I'm sitting here today, I am making clear to you that as
7 I look at it, it really goes to what -- is this a $20 product or a $120 product. I
8 know in the case of the Sanford example, we know it's a $20 product. This -- it's
9 a real judgment call and quite frankly, it's a jump -- I jumped one way in the
10 deposition as I look at it here I see this looks more like a $20 product under the
11 way you've described it and I'm treating like a $20 product.

12 **MR. TURNER:** And Mr. Gillan, my question is simply this, given what you just
13 said about a jump-off, can we agree that the answer you gave on the stand today is
14 different than the answer that you gave in the deposition?

15 **MR. GILLAN**: Yes, it is much more expansive, and hopefully erudite, if that's a
16 word.

17 **JUDGE FINNEGAN:** It is.

18 **MR. TURNER:** And do I understand, Your Honor I would like to ask Counsel if
19 we do have an agreement that we will put the deposition transcripts in the record,
20 if we do, I'm finished with is line of questioning. If we don't, I need to follow up
21 with one more.

22 **MR. GUARISCO:** We have no objection to putting the deposition into the
23 record.