



AT&T Services, Inc.
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December 22, 2017

Jennifer Anders-Gable, Esq.
Western States Pension Assistance Project
501 12th Street
Sacramento, CA 95814

Re: Overpayment Waiver for [REDACTED] (Plan Participant)

Dear Ms. Anders-Gable:

In accordance with your written request on behalf of Mr. [REDACTED] received on November 2, 2017, please be advised that the Benefit Plan Committee (the "Committee"), pursuant to provisions of the West Program of the AT&T Pension Benefit Plan (the "Plan"), completed the review of your client's appeal on December 15, 2017. After thoroughly examining the file compiled with respect to the review of Mr. [REDACTED]'s denied claim, including any materials you submitted with his appeal, the Committee denied his appeal. The Committee determined that under the provisions of the Plan, the facts and circumstances of this appeal, and in the exercise of its fiduciary authority, he is not eligible to have the overpayment of \$26,257.25 that occurred on his account waived. However, the Committee decided not to pursue further collection attempts of the overpayment amount at this time, without waiving any rights to resume the collection process in the future.

Plan Provisions

Mandatory Portability Agreement Effective January 1, 1985

Section 1.15:

"1.15 The words "Former Interchange Company" shall mean the Interchange Company with which a covered employee was last employed prior to employment by a Hiring Interchange Company (whether or not such covered employee had any intervening period of employment with a non-covered company or any other company). A company may be both a Former Interchange Company and a Hiring Interchange Company, under the applicable circumstances, depending on whether a covered employee's



accumulated plan benefit is transferred from or to such Interchange Company's pension plan."

Section 1.16:

"1.16 The words "Former Interchange Company Pension Plan" shall mean a pension plan qualified under Section 401(a) of the Code, and its associated trust or trusts, exempt from federal income tax under Section 501(a) of the Code, maintained by a Former Interchange Company or by a non-covered company which is a subsidiary of such Former Interchange Company and under which a covered employee has an accumulated plan benefit which is transferred to a Hiring Interchange Company Pension Plan, in accordance with the provisions of this Agreement. A plan may be both a Former Interchange Company Pension Plan and a Hiring Interchange Company Pension Plan, under the applicable circumstances, depending on whether the accumulated plan benefit of a covered employee is transferred from or to such plan."

Section 1.17:

"1.17 The words "Hiring Interchange Company" shall mean the Interchange Company which employs a covered employee subsequent to employment with a Former Interchange Company. A company may be both a Former Interchange Company and a Hiring Interchange Company, depending on whether, under the applicable circumstances, a covered employee's accumulated plan benefit is transferred from or to such Interchange Company's pension plan."

Section 1.18:

"1.18 The words "Hiring Interchange Company Pension Plan" shall mean a pension plan, qualified under Section 401(a) of the Code, and its associated trust or trusts, exempt from federal income tax under Section 501(a) of the Code, maintained by a Hiring Interchange Company and to which a covered employee's accumulated plan benefit is transferred, in accordance with the provisions of this Agreement. A plan may be both a Former Interchange Company Pension Plan and a Hiring Interchange Company Pension Plan, under the applicable circumstances, depending on whether the accumulated plan benefit of a covered employee is transferred from or to such plan."



Section 2.1:

“2.1(a) Each Hiring Interchange Company,

- (i) in determining the pension service credit and years of service of any covered employee who becomes employed by it after calendar year 1984 and who was previously an employee of a Former Interchange Company, shall, for purposes of participation in and the vesting and accrual of benefits under the Hiring Interchange Company Pension Plan, allow full credit for and grant recognition of such covered employee’s pension service credit and years of service as recognized under the Former Interchange Company Pension Plan in which the covered employee last previously was a participant and...
- (ii) in determining the term of employment and years of service of any covered employee who becomes employed by it after calendar year 1984 and who was previously an employee of a Former Interchange Company, shall, for purposes of participation in and/or vesting and accrual of benefits under any other employee benefit plan, as defined by ERISA (and not referred to in Subdivision (1) above), and for purposes of all other personnel related matters, allow full credit for and grant recognition of such covered employee’s term of employment and years of service as recognized by the Former Interchange Company last employing such covered employee as described in more detail in Section 2.3(a).”

Paragraph 2.1(d):

“2.1(d) In any case in which a Hiring Interchange Company Pension Plan recognizes the pension service credit and/or term of employment of a covered employee relating to periods of employment previously included in the pension service credit and/or term of employment under a Former Interchange Company Pension Plan, such Former Interchange Company Pension Plan shall have no further obligation, under this Agreement, to recognize such pension service credit and/or term of employment...”

Section 2.2:

“2.2(a) If the Hiring Interchange Company Pension Plan provides for the computation of pension benefits in a different manner than that provided under the Former Interchange Company Pension Plan, the covered employee’s pension benefit under such Hiring Interchange Company Pension Plan shall equal the greater of (1) sum of (a) the pension benefit



determined for all service included in the pension service credit under the Former Interchange Company Pension Plan, in accordance with the provisions of such plan as in effect on the last date such employee was covered by such plan, plus (b) the pension benefit determined, for all periods of service such covered employee was covered by the Hiring Interchange Company Pension Plan, in accordance with the provisions of such plan, or (2) the pension benefit determined, for all service included in such covered employee's pension service credit under the Former Interchange Company Pension Plan and all service during which such employee was covered by the Hiring Interchange Company Pension Plan, in accordance with the provisions of such latter plan; provided, however, that if the Former Interchange Company Pension Plan and the Hiring Interchange Company Pension Plan provide for substantially different participation eligibility standards (other than age and service requirements) for employees of each such Interchange Company, respectively, then the covered employee's pension benefit under the Hiring Interchange Company Pension Plan shall be computed solely in accordance with the provisions of (l) (a) and (b) above of this Paragraph 2.2(a) until such covered employee has completed three years of continuous employment with the Hiring Interchange Company. The provisions of this Paragraph 2.2(a) shall only apply with respect to Interchange Company Pension Plans which are defined benefit pension plans as defined in Section 3(35) of ERISA."

Section 3.1:

"Section 3.1 Actuarial Determinations

- 3.1 (a) Date for Transfer of Obligation. In any case in which the provisions of Paragraph 2.1 (a) of this Agreement are applicable, the obligation with respect to each covered employee's accumulated plan benefit under a Former Interchange Company Pension Plan shall be transferred to the Hiring Interchange Company Pension Plan as of December 31 of the year of transfer; provided, however, that if the covered employee dies or retires prior to the first of the full month prior to such December 31 date, the obligation with respect to such covered employee's accumulated plan benefit under the Former Interchange Company Pension Plan shall be transferred to the Hiring Interchange Company Pension Plan on the first day of the month following month of death or retirement. The amount of the obligation, and assets relating to such obligation, to be transferred from the Former Interchange Company Pension Plan to the Hiring Interchange Company Pension Plan shall be determined in accordance with the provisions of Paragraphs 3.1 (b) or 3.1 (c) below.



3.1 (b) Amount of Assets and Obligations. The amount of the obligation (based on the obligation, contingent or otherwise, to provide the covered employee and/or certain surviving beneficiaries in case of the employee's death with future pension and/or death benefits based upon his pension service credit under the Former Interchange Company Pension Plan) and associated assets, relating to the accumulated plan benefits with respect to each covered employee, transferred from a Former Interchange Company Pension Plan to a Hiring Interchange Company Pension Plan shall, unless otherwise specified herein, be determined in accordance with the provisions of this Paragraph 3.1 (b) of Article III.

(1) Determination of Obligation to be Transferred.

The amount of the obligation, relating to each covered employee who transfers to or becomes employed or reemployed by a Hiring Interchange Company, that shall be transferred shall equal such covered employee's accumulated plan benefit, as of the date of such covered employee's employment or reemployment by such Hiring Interchange Company. The term "accumulated plan benefit" shall mean benefits that are attributable under the provisions of a pension plan to the employee's service. For certain types of benefits, where the accumulated plan benefit is not specifically defined or clearly implied by the plan provisions, the guidelines to Interpretation 2 of the American Academy of Actuaries for determining accrued benefits are to be used..."

AT&T Pension Benefit Plan Amended and Restated Effective as of January 1, 2013

Section 22.14:

"22.14 RECOVERY OF OVERPAYMENT. If any benefit is paid to a Participant, or as applicable Surviving Spouse, Legally Recognized Partner, or Designated Beneficiary in an amount that is greater than the amount payable under the terms of the Plan, the Plan will recover the excess benefit amount by eliminating or reducing the Participant's or as applicable Surviving Spouse's, Legally Recognized Partner's or Designated Beneficiary's future benefit payments. If no further benefits are payable to the Participant or as applicable Surviving Spouse, Legally Recognized Partner, or Designated Beneficiary under the Plan, the Plan may employ such means as are available under applicable law to recover the excess benefit amount from



the Participant or as applicable Surviving Spouse, Legally Recognized Partner, or Designated Beneficiary.”

Facts

Mr. [REDACTED] was hired by The Pacific Telephone and Telegraph Company, now known as Pacific Bell Telephone Company, on June 1, 1971, as a bargained employee eligible to participate in the Plan for Employees’ Pensions, Disability Benefits and Death Benefits, which became the Pacific Telesis Group Pension Plan, now known as the West Program, a component of the Plan. Mr. [REDACTED] remained employed by Pacific Bell Telephone Company until his termination of employment on October 31, 1997. As of the termination of employment, he had accrued enough service to be entitled to a Pacific Telesis Group Deferred Vested Pension (“DVP”) benefit.

On November 10, 1997, Mr. [REDACTED] was hired by US WEST Communications, Inc., which later became part of Qwest Corporation, now owned by CenturyLink. During his period of service with US WEST Communications, Inc., his assets and service related to his Term of Employment (“TOE”) with Pacific Bell Telephone Company, from June 1, 1971 through October 31, 1997, transferred to US WEST Communications, Inc. under the terms of the Mandatory Portability Agreement (“MPA”). As such, Mr. [REDACTED] DVP benefit earned under the Pacific Telesis Group Pension Plan would have transferred to and been payable under the US WEST/Qwest Pension Plan. Mr. [REDACTED] remained employed by US WEST/Qwest until his termination of employment on November 19, 2008.

The prior recordkeeper (The Prudential) for the Pacific Telesis Group Pension Plan mailed a Preliminary Pension Benefit Calculation to Mr. [REDACTED] on December 9, 1997, based on his October 31, 1997 termination date, which confirmed a DVP benefit from the Pacific Telesis Group Pension Plan, in the amount of \$1,203.29, payable as a Single Life Annuity (“SLA”), upon his attainment of age 65. However, on March 16, 1998, The Prudential mailed a letter to Mr. [REDACTED] notifying him that his Pacific Bell Telephone Company pension assets were in the process of being transferred to US WEST Communications, Inc., and as such, he would no longer be entitled to a pension benefit from Pacific Bell Telephone Company. Mr. [REDACTED] was informed that future payment of any pension he was entitled to would be the liability of US WEST Communications, Inc. since he was currently working for this company and his pension assets were being transferred there.

The Fidelity Service Center became the recordkeeper for the West Program participant accounts in April 2006, and Mr. [REDACTED] indicative data was transferred to the Fidelity Service Center on a feed of information from ACS/Mellon. Mr. [REDACTED] account was established to reflect his period of Pacific Bell Telephone Company service from June 1, 1971 through October 31, 1997; however, an Accrued Benefit was not loaded upon conversion. No additional data elements were provided at conversion indicating that Mr. [REDACTED] prior Pacific Bell Telephone Company service and assets had already transferred under the terms and conditions of the MPA. In November 2006, an Accrued Benefit of \$1,203.28 was loaded



to Mr. [redacted] record as a result of a review of accounts for those participants that had accrued enough service to be vested in a pension benefit but did not have an Accrued Benefit loaded at conversion.

On August 20, 2012, the Fidelity Service Center received a Social Security Administration (“SSA”) Potential Private Pension Benefit Information letter in the mail from Mr. Amerine. He inquired if a DVP benefit was still due from the Plan. The Fidelity Service Center mailed an Accrued Benefit confirmation letter to Mr. [redacted] on August 27, 2012 verifying an estimated pension benefit from the West Program, in the amount of \$1,203.08, payable as an SLA upon his attainment of age 65, namely February 6, 2015. Mr. Amerine was also advised to contact the Fidelity Service Center approximately 180 days prior to his projected Benefit Commencement Date (“BCD”), namely February 6, 2015, in order to initiate the commencement of his pension benefit from the West Program.

On December 2, 2014, Mr. [redacted] contacted the Fidelity Service Center to initiate the commencement of his pension benefit from the West Program. Mr. [redacted] processed and saved a Pension Benefit Modeling Statement online via NetBenefits, which confirmed a vested pension benefit, in the amount of \$1,203.28, payable as an SLA, for a February 6, 2015 BCD. Additionally, Mr. [redacted] completed his Pension Benefit Election Authorization form online via NetBenefits and elected to receive his West Program pension benefit in the form of an SLA, as of a February 6, 2015 BCD, for a monthly amount of \$1,203.28. Mr. [redacted] received his initial pension payment distribution from the Fidelity Service Center on February 28, 2015, which corresponded to the month in which he attained age 65.

In June 2016, during a review of accounts for participants that may have ported or transferred their AT&T benefits to other Interchange Companies under the terms of the MPA, the Fidelity Service Center received confirmation on June 23, 2016 from CenturyLink, the recordkeeper for the US West/Qwest Pension Plan, that Mr. [redacted] service, from June 1, 1971 through October 31, 1997, was being recognized under the US WEST/Qwest Pension Plan and that he was already receiving a pension benefit from US WEST/Qwest in the form of a monthly annuity, in the amount of \$2,356.43, which took into consideration his entire period of service from June 1, 1971 through November 19, 2008.

The Fidelity Service Center discontinued payment of Mr. [redacted] SLA following his November 30, 2016 payment and mailed an overpayment notification letter to him on December 9, 2016, advising that he was not entitled to a pension benefit from the West Program and had therefore been overpaid by \$26,257.25 from the Plan.

$$\begin{aligned} 23 \text{ days} / 28 \text{ days (February 6, 2015 – February 28, 2015)} \times \$1,203.28 &= \$988.37 \\ 21 \text{ months (March 1, 2015 – November 30, 2016)} \times \$1,203.28 &= \$25,268.88 \\ \text{Total Overpayment} &= \$25,268.88 + \$988.37 = \$26,257.25 \end{aligned}$$



The Fidelity Service Center mailed a second overpayment notification letter to Mr. [REDACTED] on January 12, 2017, advising that he was not entitled to a pension benefit from the West Program and had therefore been overpaid by \$26,257.25 from the Plan. Mr. [REDACTED] did not repay any portion of his overpayment to the Fidelity Service Center following his receipt of either of the overpayment notification letters. On February 1, 2017, Mr. [REDACTED] contacted the Fidelity Service Center regarding the overpayment that occurred on his account. He indicated that he no longer had the money to repay the overpayment and that any attempt to collect the funds would bankrupt him. The contact information for the Qwest, now CenturyLink, Service Center was also provided to Mr. [REDACTED] but he stated that he did not need to contact them because he was already receiving his pension payment from Qwest.

On June 7, 2017, the Fidelity Service Center received Mr. [REDACTED]'s claim against the Plan, as submitted by you, dated June 1, 2017, in which you requested that the alleged overpayment that occurred on his account be waived and to cease any additional recoupment efforts from Mr. [REDACTED] directly. On June 9, 2017, the Fidelity Service Center mailed a letter to Mr. [REDACTED] acknowledging receipt of his claim, and on July 17, 2017, the Fidelity Service Center received a letter of representation from Mr. [REDACTED] dated July 13, 2017, naming you as his representative for the duration of the claims and appeals process.

The Fidelity Service Center mailed a claim determination letter to you on August 31, 2017, denying the request to have Mr. [REDACTED]'s overpayment waived, since he was not entitled to a pension benefit from the West Program as his service and assets associated with his initial TOE transferred to US WEST/Qwest. Additionally, Mr. [REDACTED] was advised that the SLA, in the amount of \$1,203.28, was not due from the West Program and should not have been paid to him since these pension assets were transferred to the US WEST/Qwest Pension Plan. In the claim determination letter, the Fidelity Service Center advised Mr. [REDACTED] to contact CenturyLink, the US WEST/Qwest Pension Plan Administrator, for more information concerning his pension benefit attributable to his aggregated periods of service from June 1, 1971 through November 19, 2008.

Determination of the Committee

After thoroughly examining the file compiled with respect to the review of Mr. [REDACTED] denied claim, including any materials you submitted with his appeal, the Committee denied his appeal. The Committee determined that under the provisions of the Plan, the facts and circumstances of this appeal, and in the exercise of its fiduciary authority, he is not eligible to have the overpayment of \$26,257.25 that occurred on his account waived. Therefore, and based on the discussion herein, his appeal is denied. However, the Committee decided not to pursue further collection attempts of the overpayment amount at this time, without waiving any rights to resume the collection process in the future.



The Committee has the exclusive, discretionary authority to interpret pension related matters for the company. Under the terms of the Plan and the by-laws that govern the Committee, this action is final and is not subject to further administrative review. Mr.

as exhausted the internal administrative review process. Federal law gives him the right to bring an action under Section 502(a) of the Employee Retirement Income Security Act ("ERISA"). However, no legal action may be commenced or maintained against the Plan or its administrators more than five years after the date of this letter. In addition, he is entitled to receive, upon request and free of charge, reasonable access to and copies of, all documents, records, and other information relevant to his claim for benefits. The Committee considers this matter closed.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Siegel".

Jeremy Siegel
Secretary – Benefit Plan Committee