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MEMORANDUM

TO: File

FROM: David R. Hill

RE: Meeting Concerning Potential Test Procedures and Energy Conservation Standards for Set-Top Boxes and Network Equipment

DATE: March 14, 2012

In compliance with the Department of Energy's guidance on ex parte communications (74 Fed. Reg. 52795 (Oct. 14, 2009)), this memorandum provides a summary of a March 7, 2012, meeting with DOE officials concerning potential test procedures and energy conservation standards for set-top boxes and network equipment.

Meeting attendees:

John Cymbalski (DOE – EE)
Jeremy Dommu (DOE – EE)
Ashley Armstrong (DOE – EE)
Dan Cohen (DOE – GC)
Celia Sher (DOE – GC)
Cecilia Martaus (AT&T)
Mike Pfau (AT&T)
Jeff Dygert (AT&T)
David Hill (Sidley Austin)

The AT&T representatives discussed a number of concerns with DOE's potential promulgation of test procedures and mandatory energy efficiency standards for set-top boxes and network equipment. DOE has issued a Request for Information (RFI) in which it has requested comments with respect to the development of test procedures and efficiency standards for these products. (76 Fed. Reg. 78174 (Dec. 16, 2011)). AT&T said it would be submitting comments to DOE in response to the RFI by the March 15, 2012 deadline.

The AT&T representatives made the following points during the March 7 meeting:

> AT&T's U-verse® receivers should not be covered by any mandatory test procedures or energy conservation standards that DOE might promulgate pursuant to DOE's Energy

Policy and Conservation Act (EPCA) authority, for the reasons discussed during the meeting and summarized below.

AT&T's U-verse® receivers already are very energy efficient, and among the most energy efficient of the major video service providers. The AT&T representatives explained how intelligence in the network allows AT&T to stream only the desired programming to a customer, which is a key reason the U-verse® receiver in a customer's home can be so energy efficient.

Significant energy efficiency improvements for the AT&T U-verse® receivers has been achieved rapidly, and in a manner consistent with technological innovation, through voluntary industry efforts and the voluntary Energy Star program – and without the need for or the imposition of mandatory energy efficiency standards.

Mandatory standards are undesirable not only because they are not needed in order to bring about rapid and significant energy efficiency improvements, but also because mandatory energy conservation standards have the potential to stifle innovation, limit customer choice, and impose product designs and functionality limitations that customers do not want.

There is no legal authority to establish energy conservation standards for AT&T's U-verse® receivers because, considered as a separate class, they use an amount of energy that is below the statutory threshold that must be met before DOE has the authority under EPCA to impose mandatory energy conservation standards.