

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of )  
 )  
Petition for Declaratory Ruling Declaring )  
That AT&T Phone-to-Phone Internet ) WC Docket No. 02-361  
Internet Protocol ("IP") Telephone )  
Services are Exempt From Access Charges )

**OPPOSITION TO AT&T'S PETITION FOR DECLARATORY RULING**

BellSouth Corporation, on behalf of itself and all wholly owned affiliates ("BellSouth"), by its attorneys, files this Opposition to AT&T's Petition for Declaratory Ruling seeking an exemption of access charges for interstate phone-to-phone Internet Protocol ("IP") telephony services.<sup>1</sup> The Commission must deny AT&T's Petition for three reasons. First, phone-to-phone IP telephony is not an enhanced or information service and therefore is not subject to the enhanced services access charge exemption. Second, the Commission has not created an access charge exemption for phone-to-phone IP telephony services. Finally, the Petition does not support the creation of an exemption for access charges for phone-to-phone IP telephony.

**I. Introduction**

AT&T insidiously attempts to paint phone-to-phone IP telephony as some inchoate form of voice communications that must be nurtured and pampered until it reaches maturity. However, the fact of the matter is that phone-to-phone IP telephony represents nothing more than a generic phone-to-phone voice call made using a different form of transmission. From the end user's perspective – and, indeed, from the LEC's perspective – such calls are indistinguishable from regular circuit switched long distance calls. The IXC may use IP technology to transport

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<sup>1</sup> In this Opposition, BellSouth addresses the configuration set forth by AT&T in its Petition. In order to resolve this controversy, the Commission should focus exclusively on the configuration presented by AT&T.

all or some of the interexchange portion of the call, but that does not change the nature of the call. The technology used in the call's interexchange transmission should not, and indeed cannot, govern whether access charges should apply to that call. Thus, phone-to-phone IP telephony does not fall within the definition of an enhanced service, and, consequently, is not subject to the enhanced service access exemption. Moreover, there is no sound policy basis for the Commission to create a new access exemption for phone-to-phone IP telephony. As the Commission noted in its *Report to Congress*,<sup>2</sup> phone-to-phone IP telephony constitutes the provision of telecommunications service over the public switched telephone network ("PSTN") and therefore should be subject to the same access charges. AT&T's Petition should, therefore, be denied.

## II. An Understanding of the Technology

It is important for the Commission to understand that the core issue involved in this Petition is nothing more than the proper compensation to a LEC for the use of its network when an end user places an interstate telephone call through an interexchange carrier ("IXC"). Any call over the PSTN typically originates and terminates on a local exchange carrier ("LEC") network. The IXC compensates the LEC for the use of LEC facilities to originate and terminate these calls. The Commission has long established uniform access charge rules that govern the provision of interstate access services by a LEC.<sup>3</sup> The only twist in the application of these rules depends on the type of service that is using the LEC network to originate or terminate service – basic (telecommunications) or enhanced (information). Telecommunications services, which

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<sup>2</sup> *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket 96-45, *Report to Congress*, 13 FCC Rcd 11501 (1998) ("*Report to Congress*").

<sup>3</sup> *In the Matter of MTS and WATS Market Structure*, CC Docket No. 78-72, Phase I, *Third Report and Order*, 93 FCC 2d 241 (1982) ("*Access Charge Order*"), *recon.*, 97 FCC 2d 682 (1983), *second recon.*, 97 FCC 2d 834 (1984).

include a typical interLATA call, are defined as “transmission capacity for the movement of information.”<sup>4</sup> Interstate access charges apply to interstate telecommunications services.<sup>5</sup>

An enhanced service is one “offered over common carrier transmission facilities used in interstate communications, which employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscriber’s transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information.”<sup>6</sup> Although enhanced service providers (“ESPs”) use LEC networks to originate and terminate interstate calls, the Commission has determined that ESPs should be temporarily exempt from paying interstate access charges for use of the LEC networks in providing information service.<sup>7</sup> Accordingly, an ESP may, in lieu of switched access services, obtain local exchange services from a LEC, paying business line rates established in intrastate tariffs and appropriate subscriber line charges instead of paying interstate switched access rates.<sup>8</sup> Information services, which encompass enhanced services<sup>9</sup> include, but are not limited to,

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<sup>4</sup> *In the Matter of Amendment of Section 64.702 of the Commission’s Rules and Regulations (Second Computer Inquiry), Final Decision*, 77 FCC 2d 384, 419, ¶ 93 (1980).

<sup>5</sup> See 47 C.F.R. § 69.1.

<sup>6</sup> 47 C.F.R. § 64.702(a).

<sup>7</sup> *In the Matter of MTS and WATS Market Structure*, CC Docket No. 78-72 Phase I, *Memorandum Opinion and Order*, 97 FCC 2d 682, 711-22 (1983) (“*Access Charge Reconsideration Order*”). See also, *In the Matter of Amendments of Part 69 of the Commission’s Rules Relating to Enhanced Service Providers*, CC Docket No. 87-215, *Order*, 3 FCC Rcd 2631 (1988) (“*ESP Exemption Order*”). It should be noted that the access exemption enables an ISP to use local exchange services to originate or terminate its information services. It does not authorize ISPs to obtain access service functionalities at rates other than the access rates published in effective tariffs.

<sup>8</sup> *Id.*

<sup>9</sup> The Commission has found that all services previously considered to be enhanced services are information services but not all information services are enhanced services. *In the Matter of Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149, *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 21905, 21956, ¶ 103 (1996).

Internet access that incorporates information service components such as Domain Name Service (DNS) and e-mail and access to other interactive computer networks.

Phone-to-phone IP telephony is telecommunications service that is provided using Internet Protocol for one or more segments of the call. Technically speaking, Internet Protocol, or any other protocol, is an agreed upon set of technical operating specifications for managing and interconnecting networks. The Internet Protocol is a specific language that equipment on a packet network uses to intercommunicate. It has nothing to do with the transmission medium (wire, fiber, microwave, etc.) that carries the data packets between gateways, but rather concerns gateways, or switches, that are found on either end of that medium.

Currently there are various technologies used to transmit telephone calls, of which the most common are analog and digital. In the case of IP telephony originated from a traditional telephone set, the local carrier first converts the voice call from analog to digital. The digital call is sent to a gateway that takes the digital voice signal and converts or packages it into data packets. These data packets are like envelopes with addresses that “carry” the signal across a network until they reach their destination, which is known by the address on the data packet, or envelope. This destination is another gateway, which reassembles the packets and converts the signal to digital or analog, i.e., a plain old telephone call, and delivers the call to the local carrier who terminates the call on the called party’s local telephone company’s lines.

To explain it another way, phone-to-phone IP telephony occurs when an end user customer uses a traditional telephone set to call another traditional telephone set using IP technology. The fact that IP technology is used at least in part to complete the call is transparent to the end user. Phone-to-phone IP telephony is identical, by all relevant regulatory and legal

measures, to any other basic telecommunications service, and should not be confused with calls to the Internet through an ISP.

In simple terms, phone-to-phone IP telephony allows one party to call another party using any available telephone. Indeed, the phone-to-phone IP telephony providers hold the service out as providing voice telephony.<sup>10</sup> Phone-to-phone IP telephony service does not require the use of special telephony equipment, other than a normal telephone, or the use of a computer. It does not require a special knowledge of technology. In some cases, the end user simply needs the local telephone number of the provider in order to access its gateway; once accessed, the call is made like any other call and it can be placed at any time to any phone number. In other cases, the end user is routed to the gateway by dialing 1+ in the same way that end users are routed to any other IXC when making interLATA calls. In either case, the called party's phone merely rings and, once answered, the conversation begins. The service does not change the form or content of the conversation. In fact, the type of network the call is being transmitted over is transparent to the parties on the call.

### **III. AT&T Provides No Basis in Law to Support Its Position**

In its Petition, AT&T seeks exemption from the payment of access charges when using IP technology in the transmission of a voice call. AT&T does not claim – nor can it – that the phone-to-phone IP telephony services are enhanced or information services. Indeed, such services fall squarely within the definition of telecommunications services as defined by the 1996 Act. Thus, AT&T's basis for claiming IP telephony services should be exempt from access charges is that: (1) they are “provided over the Internet,” and (2) the Commission created a new access charge exemption for these services in its *Report to Congress*. As discussed in detail

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<sup>10</sup> *Report to Congress*, 13 FCC Rcd at 11543, ¶ 88.

below, neither of these reasons can support granting AT&T's Petition. Furthermore, AT&T has presented no compelling facts to demonstrate that the Commission should create an access charge exemption for IP telephony. Indeed, the Commission should not entertain any such request outside the Intercarrier Compensation docket<sup>11</sup> currently being considered by the Commission. The Petition's request that the Commission declare IP telephony to be exempt from access charges must be denied.

**A. Transmission of IP Telephony Over the Internet Does Not Exempt the Service from Access Charges.**

AT&T first reaches the self-serving conclusion that phone-to-phone IP telephony is exempt from access charges because these services are "provided over the Internet."<sup>12</sup> Merely invoking the word "Internet," however, does not exempt a service from access charges. As discussed above, and AT&T is well aware, within the structure for access charges the Commission has established only one access charge exemption and that is for enhanced services provided by an ESP.<sup>13</sup> The determination of whether the enhanced service exemption applies is squarely dependent upon whether the services offered are enhanced services. And, that determination rests completely on the functions performed by the service and offered to the end user and not on the technology used to transmit the service.

AT&T does not argue – because it cannot – that phone-to-phone IP telephony is an information service provided by an ISP. Beyond the fact that AT&T, a carrier, does not offer this service as an ISP, a simple reading of the statute can lead to no conclusion other than that phone-to-phone IP telephony is a telecommunications service.

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<sup>11</sup> *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92.

<sup>12</sup> AT&T Petition at 24.

<sup>13</sup> *See ESP Exemption Order and Southwestern Bell Tel. Co. v. FCC*, 153 F.3d 523 (1998).

Telecommunications service is defined in the statute to be “the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.”<sup>14</sup> Telecommunications is defined as “the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.”<sup>15</sup> Phone-to-phone IP telephony merely takes a voice call and transmits it from one place specified by the calling party to another. It does not change the form or the content of the message, sent or received. AT&T charges a fee for the provision of this service. Thus, when a call that is made over phone-to-phone IP telephony crosses a state line and originates in one LATA and terminates in another, the call is without doubt interstate telecommunications services, regardless of the facilities that may be used in the transmission. Obviously, the enhanced service exemption cannot apply to phone-to-phone IP telephony – a telecommunications service.

Significantly, when analyzing the service, the Commission tentatively reached the same conclusion. In the *Report to Congress*, the Commission stated that phone-to-phone IP telephony “closely resemble[s] traditional basic transmission offerings.”<sup>16</sup> The Commission found that “the provider [of the service] does not offer a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information.”<sup>17</sup> The Commission went on to state that “[f]rom a functional standpoint, users of these services obtain only voice transmission, rather than information services such as access to stored files. Routing

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<sup>14</sup> 47 U.S.C. § 153(46).

<sup>15</sup> *Id.* at § 153(43).

<sup>16</sup> *Report to Congress*, 13 FCC Rcd at 11541, ¶ 83.

<sup>17</sup> *Id.* at 11544, ¶ 89.

and protocol conversion within the network does not change this conclusion, because from the user's standpoint there is no change in form or content.”<sup>18</sup>

As the Commission observed, the conversion of the voice signal into packet format and then re-conversion back to a voice signal, analog or unpacketized digital, does not change the content of the voice transmission. Indeed, such a conversion is similar to an analog signal being converted to digital, and then converted back to analog on the receiving end of a call.

Realizing that the enhanced service exemption does not apply, AT&T attempts to broaden the exemption to include any service that at some point in the transmission will traverse the Internet.<sup>19</sup> This position cannot be supported in law or fact.

The enhanced service exemption is not some malleable standard that can be contorted to fit any service – especially telecommunications services such as phone-to-phone IP telephony – just because the service may touch the Internet. The enhanced service exemption is by definition limited to the provision of enhanced services. Phone-to-phone IP telephony is a telecommunications service, and, like any other interstate telecommunications service, is subject to access charges regardless of whether it travels over private lines or the public Internet. These are merely forms of transmission and are of no consequence to defining the service as an information service or a telecommunications service. Indeed, under AT&T's theory, carriers could simply convert some piece of every service they provide into IP technology and transmit it over the Internet and avoid access charges with impunity. This policy would not only dissect the Commission's rules regarding intercarrier compensation outside the intercarrier compensation docket currently underway, but would dramatically alter universal service funding and the LEC's ability to receive compensation, for the use of their networks. Such compensation is vital for the

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<sup>18</sup> *Id.*, ¶ 89 and n.188.

<sup>19</sup> AT&T Petition at 24-25.

deployment and maintenance of the network. Similar, such a policy could cause most, if not all, existing telecommunications services offered by LEC's to be reclassified as information services which could further undermine existing policy structures for universal service, intercarrier compensation, and a vast array of other issues. To suggest that phone-to-phone IP telephony, or any telecommunications service, should be magically exempt from access charges simply because some piece of the transmission may traverse the Internet is outside the bounds of logic and reason.

**B. The *Report To Congress* Did Not Change Well Established Law Regarding Intercarrier Compensation.**

AT&T attempts to rely upon the *Report to Congress* for the proposition that the Commission has exempted phone-to-phone IP telephony from access charges. This support is misplaced. The *Report to Congress* did not create a new access charge exemption specifically for phone-to-phone telephony. Moreover, the Commission did not classify phone-to-phone IP telephony as an information service making it eligible for the enhanced service exemption. To the contrary, the Commission expressly declined to classify phone-to-phone IP telephony as an information service stating, “[t]he record currently before us suggests that this type of IP telephony lacks the characteristics that would render them ‘information services’ within the meaning of the statute, and instead bear the characteristics of ‘telecommunications services.’”<sup>20</sup> The *Report* goes on to state that the Commission would not make a definitive statement about phone-to-phone IP telephony until it had the benefit of a more complete record on the service.

Even though the *Report to Congress* did not create a new access charge exemption and the Commission expressly declined to find phone-to-phone IP telephony to be an information service, AT&T incredulously asserts that in this *Report* the Commission established a “policy in

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<sup>20</sup> *Report to Congress*, 13 FCC Rcd at 11544, ¶ 89.

which all nascent phone-to-phone IP telephony and other VOIP service [are to be] treated as exempt from access charges at least until the services had matured and the Commission could consider the proper treatment of them on a complete record.”<sup>21</sup> While the Commission did note in the *Report to Congress* that it did not believe it had a complete enough record to make any “definitive pronouncement” regarding any individual service offering of IP telephony, BellSouth is nonplussed over AT&T’s boldness in asserting that an exemption for access charges exists given the Commission’s perspicuous assessment that phone-to-phone IP telephony “lacks the characteristics that would render them ‘information services’ . . . and instead the services bear the characteristics of ‘telecommunications services.’”<sup>22</sup> Clearly, the *Report to Congress* does not establish any form of an exemption for access charges for phone-to-phone IP telephony and AT&T is remiss to even make such a suggestion.

Moreover, AT&T is incorrect in its contention that the access exemption existed *de facto* if not *de jure*. After the Commission released the *Report to Congress*, BellSouth sent notification letters to all carriers that were providing phone-to-phone IP telephony informing them that the service was an access service rather than a local exchange service and were subject to BellSouth’s access services tariffs.<sup>23</sup> BellSouth also posted a carrier notice letter on its interconnection web site providing the same notification.<sup>24</sup> BellSouth has been diligent since the release of the *Report to Congress* in assessing and collecting access charges for all phone-to-phone IP telephony calls. On information and belief, other LECs have been just as diligent. Accordingly, there is not, nor has there ever been, a *de facto* exemption.

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<sup>21</sup> AT&T Petition at 25-26.

<sup>22</sup> *Report to Congress*, 13 FCC Rcd at 11544, ¶ 89.

<sup>23</sup> A copy of a letter sent to a carrier is attached as Exhibit 1. The carrier information has been redacted for proprietary reasons.

<sup>24</sup> A copy of the letter posted on the BellSouth interconnection website is attached as Exhibit 2.

**C. AT&T Presents No Compelling Reason to Add Another Access Charge Exemption.**

Finally, the Petition asks the Commission to “ratify” the access charge exemption on phone-to-phone IP telephony established in the *Report to Congress*.<sup>25</sup> Although, as discussed previously, the Petition falsely characterizes the *Report to Congress* as having established an access charge exemption for phone-to-phone IP telephony, the Petition recognizes the Commission’s intention of establishing a more complete record on the matter and sets forth several reasons in support of the application of an access charge exemption to phone-to-phone IP telephony. None of these reasons, however, support creating an access charge exemption for phone-to-phone IP telephony services.<sup>26</sup>

**1. Claims That Phone-to-Phone IP Telephony Is a New and Innovative Service Do Not Justify Exempting It From Access Charges.**

AT&T argues that the Commission should implement an access charge exemption for phone-to-phone IP telephony because the services are “innovative and experimental” and that they are “evolving and hold the promise to be far more than substitutes for today’s circuit switched interexchange services.”<sup>27</sup> While innovation is no doubt moving forward in numerous areas, that does not validate abandoning years of established telecommunications law concerning intercarrier compensation. For example, there is no doubt that fiber optics has revolutionized telecommunications over the past years. Fiber optic facilities allow voice traffic to be concentrated from bulky copper wire and sent in a much faster and efficient manner. The full potential of fiber optics would never have been achieved without the ability to convert an analog

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<sup>25</sup> AT&T Petition at 26.

<sup>26</sup> As described in Section II above, phone-to-phone IP telephony represents nothing more than a unique transmission of telecommunications services and therefore the enhanced service exemption does not apply.

<sup>27</sup> AT&T Petition at 27.

signal to a digital signal. This innovation in technology – conversion from analog to digital and the transmission of voice over fiber optic lines – did not transform the voice traffic into some service – enhanced, information, or otherwise – that is exempt from access charges. Likewise, the innovation of IP technology and its use in the transmission of a voice call should not exempt it from access charges either.

The Commission's access charge rules are technology neutral. Thus, access charges should apply for a telecommunications service regardless of the transmission used, no matter how innovative the transmission service may be.

**2. Application of Access Charges to Phone-to-Phone IP Telephony Will Not Discriminate in Favor of Other Types of IP Telephony Providers, But an Exemption from Access Charges Will Discriminate Against Other IXCs.**

AT&T contends that allowing computer-to-computer IP telephony to be free from access charges under the enhanced service exemption while requiring phone-to-phone IP telephony to be subject to access charges would discriminate against phone-to-phone IP telephony providers. The facts used by AT&T to support this position are flawed, disingenuous, and are completely counter to AT&T's previous positions on this matter.

In this argument, AT&T attempts to portray phone-to-phone IP telephony as having much more in common with others services that use IP technologies, i.e., computer-to-computer IP telephony, than with "circuit switched interexchange services." This is simply not true. Phone-to-phone IP telephony mirrors a regular telephone call in every way, the only difference being in the transmission of the call. With a phone-to-phone IP telephony call: the IP telephony provider gives end users traditional dial tone, not modem buzz; the end user does not call a modem bank; the call is placed using traditional telephone sets, not a computer; the call routes using telephone numbers, not IP addresses; the IP telephony provider is providing basic

telecommunications services, not information services (as those services are defined in the 1996 Act and by the Commission); and phone-to-phone IP telephony providers are telecommunications carriers, not ISPs. Regardless of AT&T's claims that computer-to-computer IP telephony and phone-to-phone IP telephony are more similar in nature than they were when the *Report to Congress* was issued, the fact remains these distinctions still remain. Thus, while computer-to-computer IP telephony and phone-to-phone IP telephony may use the same protocol for transmission, that is where the similarities end.

Moreover, the Commission has found that ISPs, who provide computer-to-computer IP telephony, do not utilize LEC services in the same way as carriers, who provide phone-to-phone IP telephony providers. The differences noted by the Commission provide the basis for exempting ISPs from access charges while not exempting telecommunications carriers. Telecommunications carriers, however, whether they use analog, digital, or IP telephony to transmit a voice call, are using the LECs' services in exactly the same way – to route long distance calls. Exempting carriers that use phone-to-phone IP telephony from access charges while requiring carriers that use analog and digital signaling for transmission to pay access charges would clearly be discriminatory and a violation of the nondiscriminatory provisions of the Telecommunications Act.<sup>28</sup>

This is exactly the point AT&T made in its comments to the Commission in the *Report to Congress* docket. When discussing these points in its comments, AT&T stated:

Any Commission failure to enforce USF funding obligations (and access charge assessments) on telecommunications services that are provided over new technology backbones skews the market by making providers of comparable services subject to vastly different payment obligations. *Nowhere is this inequity more blatant than in the case of phone-to-phone telecommunications services that use Internet Protocol*

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<sup>28</sup> 47 U.S.C. § 202.

*("IP") technology in their long-haul networks (such as, for example, the telecommunications services offered by IDT and the announced phone-to-phone offerings of Qwest and FNet). Moreover, any failure to enforce USF and access charge payment obligations flies in the face of the Commission's commitment to technology-neutral policies, and triggers more artificially-stimulated migration from traditional circuit switched telephony to packet switched IP services that are able to take advantage of this "loophole."*<sup>29</sup>

Nothing has changed since AT&T first made its observation and AT&T's original conclusions remain appropriate today. AT&T's about face on the matter clearly demonstrates the true nature of AT&T's petition which is a transparent effort to evade access charges by inviting the Commission to create a "loophole" that is counter to the Commission's commitment to technology neutrality.<sup>30</sup> The Commission's tentative conclusions were right in the *Report to Congress* and they should not be swayed by AT&T's mercurial policy position on this matter.

### **3. Allowing Drastic Changes in Current Inter-carrier Compensation Policy Will Cause Negative Rippling Effects Throughout the Industry.**

The Petition saves perhaps its most outrageous argument for last. It alleges that an exemption for phone-to-phone IP telephony "will cause no cognizable harm to incumbents or to any objective of the Act."<sup>31</sup> There is little doubt that AT&T could convert a majority of its services to phone-to-phone IP telephony very easily. This conversion will be transparent to end users because they will continue to make calls as they always have. The impact on competition and LECs, however, would be devastating.

An access exemption would mean that AT&T, and any other interexchange carrier using phone-to-phone IP telephony, would continue to receive access services from LECs just as they

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<sup>29</sup> AT&T Comments, CC Docket No. 96-45, at 12-13 (filed Jan. 26, 1998) (footnotes omitted; emphasis added).

<sup>30</sup> Moreover, designating phone-to-phone IP telephone as an enhanced service would eviscerate the current universal service program because IXCs could simply disguise interstate telecommunications service by claiming one segment is transmitted via IP telephony.

<sup>31</sup> AT&T Petition at 32.

always have but now AT&T would receive the windfall of using the LEC's networks without having to pay for that use. LECs would therefore not be compensated for the services they provide, which, in turn, would lead to degradation of their networks. Thus, not only would allowing an exemption of access charges for phone-to-phone IP telephony be a dismantling of the Commission's rules governing intercarrier compensation outside of a proper rulemaking proceeding, it would cause untold negative repercussions throughout the entire telecommunications industry.<sup>32</sup> Allowing such an exemption for phone-to-phone IP telephony is clearly not a well-reasoned policy. It would be patently unfair to the LECs whose networks are used to originate and terminate calls for this service. Equally, it would be unfair to IXC's who are unable to convert to IP technology and would have to pay access charges to provide essentially the same service while the providers of phone-to-phone IP telephony would pay none.

### **III. Conclusion**

Accordingly, for the foregoing reasons, BellSouth respectfully requests the Commission to deny AT&T's Petition. Phone-to-phone IP telephony that transmits a call between states from one LATA to another is an interstate telecommunications services and providers of that service

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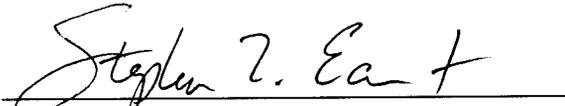
<sup>32</sup> One of the most significant ramifications would be the destruction caused to the universal service program discussed in footnote 31, *supra*.

must adhere to the Commission's rules regarding intercarrier compensation and pay interstate access charges in accordance with the interstate access tariff.

Respectfully submitted,

BELLSOUTH CORPORATION

By their Attorneys:

A handwritten signature in cursive script, appearing to read "Stephen L. Earnest", is written over a horizontal line.

Stephen L. Earnest  
Richard M. Sbaratta

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(404) 335-0711

Date: December 18, 2002

**WC Docket No. 02-361**

**BellSouth's Opposition to AT&T's Petition for  
Declaratory Ruling**

**Exhibit 1**

**BellSouth Interconnection Services**

September 2, 1998

Dear [REDACTED]

This letter is in reference to the local exchange telephone service BellSouth provides to you via telephone numbers [REDACTED] in Atlanta, [REDACTED] in Ft. Lauderdale, [REDACTED] in Miami and [REDACTED] in New Orleans.

A number of companies are now offering long distance communications via the Internet or Internet protocol (IP) technology. Long distance communications completed in this manner do not have the characteristics of "information services". Instead, they have the characteristics of "telecommunications services". The appropriate service for BellSouth's provisioning this capability to a company is access service, rather than local exchange service.

The service your company provides utilizing BellSouth's local exchange service at the telephone numbers listed above appears to be a long distance telecommunications service utilizing the Internet or IP protocol technology. As such, access to BellSouth's local exchange facilities must be provided pursuant to appropriate access services tariffs.

A BellSouth representative will contact you within the next few days to discuss activities necessary to convert your local exchange service at the above stated number to an equivalent Switched Access Service. At that time we will determine a mutually acceptable date that is within the next sixty days to implement the conversion. No rearrangement or installation charges will be applied for the conversion and your existing telephone number will be utilized with the new access service if you select an equivalent line side switched access service. Additionally, you want to be sure that you are in compliance with state public service commission certification requirements in order to carry intrastate traffic.

BellSouth's identification of these services as long distance telecommunications is fully consistent with the four criteria listed by the FCC in its April 10, 1998 report to Congress. Those criteria are as follows:

- (1) The service provider holds itself out as providing voice telephony or facsimile transmission service
- (2) The service does not require the customer to use CPE different from that CPE necessary to place an ordinary touch-tone call (or facsimile transmission) over the public switched telephone network;
- (3) The service allows the customer to call telephone numbers assigned in accordance with the North American Numbering Plan, and associated international agreements; and

(4) The service transmits customer information without net change in form or content.

We appreciate your decision to do business with BellSouth. As stated earlier, we will be in contact with you soon to discuss conversion of your existing service. Should you have any questions prior to that time, please call me at 404 927-7503.

Sincerely,



Jerry Hendrix - Director  
Interconnection Services

**WC Docket No. 02-361**

**BellSouth's Opposition to AT&T's Petition for  
Declaratory Ruling**

**Exhibit 2**

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**BellSouth Interconnection Services**

675 West Peachtree Street  
Atlanta, Georgia 30375

**Customer Letter / Announcement  
SN91081365**

Date: September 2, 1998

To: Providers of Long Distance Calling via Internet Protocol

Subject: Application of Access Charges

A number of companies are now offering long distance communications via the Internet or Internet protocol (IP) technology. Long distance communications completed in this manner do not have the characteristics of "information services." Instead, they have the characteristics of "telecommunications services." The appropriate service for BellSouth's provisioning of this capability to a company is access service, rather than local exchange service.

Effective with this memo, BellSouth will no longer provide local exchange service to companies providing long distance service via the Internet or IP technology. Companies providing this type of service should use one of BellSouth's access service offerings.

BellSouth's identification of these services as long distance telecommunications is fully consistent with the four criteria listed by the FCC in its April 10, 1998 report to Congress. Those criteria are as follows:

- (1) the service holds itself out as providing voice telephony or facsimile transmission service;
- (2) the service does not require the customer to use Customer Premises Equipment (CPE) different from that CPE necessary to place an ordinary touch-tone call (or facsimile transmission) over the public switched telephone network;
- (3) the service allows the customer to call telephone numbers assigned in accordance with the North American Numbering Plan, and associated international agreements; and
- (4) the service transmits customer information without net change in form or content.

Please contact your account team representative for more information.

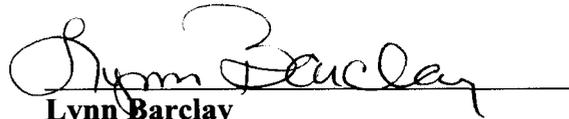
Sincerely,

**ORIGINAL SIGNED BY JERRY HENDRIX**

Jerry Hendrix - Director  
Interconnection Services

**CERTIFICATE OF SERVICE**

I do hereby certify that I have this 18<sup>th</sup> day of December 2002 served the parties listed on the attached service list with a copy of BellSouth's **OPPOSITION TO AT&T'S PETITION FOR DECLARATORY RULING** by Electronic Mail and U.S. Mail.

  
Lynn Barclay

**Service List WC Docket No. 02-361**

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**\* VIA ELECTRONIC MAIL**