

Kathleen Grillo
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April 9, 2004

EX PARTE

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Petition for Declaratory Ruling That AT&T's Phone -to-Phone IP Telephony Services Are Exempt from Access Charges, WC Docket No. 02-361

Dear Ms. Dortch:

The attached letters were sent to U.S. Senators McCain and Hollings and Representatives and U.S. Congressman Barton, Dingell, and Upton. We are enclosing copies for filing in this docket. Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kathleen Grillo".

Kathleen Grillo

April 8, 2004

The Honorable John McCain, Chairman
Committee on Commerce, Science, and Transportation
SR-254 Russell Senate Office Building
Washington, DC 20510-6125

The Honorable Ernest F. Hollings, Ranking Minority Member
Committee on Commerce, Science, and Transportation
SR-254 Russell Senate Office Building
Washington, DC 20510-6125

Dear Chairman McCain and Senator Hollings:

We wanted to express our concerns about a letter from the VON coalition that badly misrepresents the implications of a petition filed by AT&T with the Federal Communications Commission that they allege is a significant aspect of the Commission's efforts to establish a policy framework for VOIP. The VON letter clearly reflects the influence of AT&T who only recently became a member of the coalition.

Unlike what was suggested in the letter, AT&T's petition concerns a service that is virtually indistinguishable from traditional long distance service. In AT&T's service, calls start and end on the public telephone network. The only difference between AT&T's alleged VoIP service and run-of-the-mill long distance service is that AT&T converts each call into Internet protocol for some portion in the middle of the call and converts it back before handing it to a local exchange carrier for termination. AT&T's customer has no idea that AT&T is using Internet protocol in the middle of this call (nor do consumers enjoy lower long distance bills as a result).

The letter misleadingly argues that "for the first time" the FCC is considering applying access charges to this type of service. Nothing could be further from the truth. AT&T itself acknowledges in its petition that this service is a "telecommunications service" under the Communications Act. As you know, telecommunication services are, and have always been, subject to access charges and universal service fees under the FCC's rules. In fact, the FCC has made it clear for more than 20 years that merely using a different transmission protocol for some portion of a call does not change the fact that a service is a telecommunications service subject to access charges. The rules in this area are clear, and AT&T should not be permitted to mischaracterize its service and attempt to make it something it is not.

The letter surprisingly claims that the application of access charges to this service would be novel or new. The opposite is true. What is new is AT&T's claim that access charges do not apply; it certainly is news to other carriers who are presently paying access charges on this type of "IP-in-the-middle" traffic, and have done so while AT&T's petition has been pending. These other carriers believe access charges apply to this kind of service. Permitting AT&T to avoid paying charges while other carriers are paying them would constitute discrimination in violation of Section 202(a) of the Communications Act.

Chairman McCain and Senator Hollings

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The March 29 letter also resorts to scare tactics by claiming that a ruling on AT&T's petition will be tantamount to "regulating" or "taxing" the Internet and will discourage VoIP deployment or investment. This is nonsense. A denial of AT&T's petition will have no ill effect on VoIP investment or growth, which will no doubt continue at a rapid pace. Nor should a decision on AT&T's petition await the revision of the overall intercarrier compensation system, or an FCC rulemaking on VoIP. Delaying a ruling on AT&T's petition will only continue to erode access charges, with a resultant loss in universal service contributions and revenues, especially for small companies who depend so heavily on access charges.

We have consistently made it clear, we strongly support the view that VoIP should be regulated with a "light touch" and that the FCC should not apply traditional phone regulation to VoIP services. There is no need to burden this new technology with the same common carrier regulations that apply to the traditional phone network, although other forms of obligations (including CALEA, 911, and universal service) should continue to apply. Instead, the Commission should let VoIP products and services develop in a competitive atmosphere where all providers are free from marketplace regulation. We also support the view that VoIP services are inherently interstate. But the question of how or whether VoIP should be regulated is an entirely separate question from whether current law should be applied and require carriers like AT&T to compensate local exchange carriers for the use of the public telephone network. The petition has been pending for almost 16 months. The FCC has the current authority to resolve this dispute and should reaffirm now that access charges apply to this telecommunications service.

Sincerely,



Peter B. Davidson
Senior Vice President - Federal Government Relations
Verizon Communications



Tim McKone
Senior Vice President - Federal Relations
SBC Telecommunications, Inc.



Herschel L. Abbott, Jr.
Vice President - Governmental Affairs
BellSouth Corporation

cc: Chairman Michael Powell
Commissioner Kathleen Abernathy
Commissioner Michael Copps
Commissioner Kevin Martin
Commissioner Jonathan Adelstein

April 8, 2004

The Honorable Joe Barton, Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515-6115

The Honorable John D. Dingell, Ranking Member
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515-6115

The Honorable Fred Upton
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515-6115

Dear Chairman Barton, Congressman Dingell and Congressman Upton:

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