

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
 )  
Regulation of Prepaid Calling Card Services ) WC Docket No. 05-68  
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**COMMENTS OF  
THE NATIONAL EXCHANGE CARRIER ASSOCIATION, INC.**

The National Exchange Carrier Association, Inc. (“NECA”) hereby submits its comments in the above-captioned proceeding.

In May 2003, AT&T filed a Petition for Declaratory Ruling with the FCC seeking a declaration that its “enhanced” prepaid calling card service was an information service.<sup>1</sup> On February 23, 2005 the FCC released an Order denying AT&T’s May 2003 petition, finding that AT&T’s practice of “inserting advertisements in a calling card service” does not transform that service into an information service under the Act or the Commission’s rules.<sup>2</sup>

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<sup>1</sup> AT&T’s original petition sought a declaration that its prepaid calling card service is an information service because calls made using this service are linked to a recorded advertisement on a service platform in another state before they are completed. According to AT&T, any calls made by subscribers using this service are interstate in nature and not subject to intrastate access charges. Moreover, by claiming the service to be “enhanced”, AT&T argued that associated revenues need not be included in computing AT&T’s universal service contributions.

<sup>2</sup> *AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced Prepaid Calling Card Services*, WC Docket No. 03-133, *Regulation of Prepaid Calling Card Services*, WC Docket No. 05-68, Order and Notice of Proposed Rulemaking, FCC 05-41, ¶5, (rel. Feb. 23, 2005)(*Order*).

While AT&T's petition was pending, AT&T added two new variants of its calling card service.<sup>3</sup> The Commission now asks, via its Notice of Proposed Rulemaking, whether the variants identified by AT&T warrant different treatment than the original calling card service described in AT&T's petition.

The clear answer is no. AT&T's first variation on its original calling card offering simply provides menu options akin to those used by corporate call centers.<sup>4</sup> AT&T's November 22 letter argues that its Interactive Voice Response (IVR) variant should be declared an information service because it permits users to navigate menus for certain calling options.<sup>5</sup> AT&T asserts that the addition of a menu system is a significant factor promoting the sale of its card.<sup>6</sup> But the addition of this feature is merely incidental to the

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<sup>3</sup> Letter from Judy Sello, Senior Attorney, AT&T to Marlene H. Dortch, Secretary, Federal Communications Commission (Nov. 22, 2004) (AT&T Nov. 22 Letter).

<sup>4</sup> For example, "press 1 for business hours; press 2 to for special offers; press 3 to place a call." See AT&T Nov. 22 Letter.

<sup>5</sup> AT&T Nov. 22 Letter at 2-3.

<sup>6</sup> AT&T's advertisements say the cards provide "smart and simple" calling for "local, long distance, and international" calls. AT&T, "AT&T Prepaid Phone Cards information including local, long distance, and international calling"  
<<http://www.consumer.att.com/prepaidcard/>> (viewed Apr. 11, 2005); An IVR system is only mentioned in relation to how to place a phone call. AT&T, "AT&T Prepaid Phone Cards information tutorial and how they work"  
<<http://www.consumer.att.com/prepaidcard/fy/htw.html>> (viewed Apr. 11, 2005); AT&T also offers "premium" cards with additional features via retail outlets such as Sam's Club or Wal-Mart, but these features are in no way unique to an information service. For example, AT&T, "AT&T PrePaid Home: PrePaid Phone Cards, PrePaid Calling Cards, PrePaid Internet"  
<<http://www.consumer.att.com/prepaidcard/premiumfeatures/>> (visited April 11, 2005), offers PIN-less Dialing (Allows customers to register up to 5 unique numbers and then make calls from those numbers without having to enter the PIN on the back of the Card); Three-Way Calling; Voice Mail; and Speed-dial. None of these features alters the basic nature of the service being offered.

main use of the card — placing “smart and simple” intrastate, interstate, and international phone calls.

AT&T’s second offering simply merges AT&T’s ordinary prepaid calling card service with Internet Protocol (IP) transport. The FCC has previously determined that AT&T’s calling card service is a telecommunications service.<sup>7</sup> The Commission has also determined that AT&T’s “IP-in-the-middle” services are telecommunications services.<sup>8</sup> Bundling the two together does not in any way transform AT&T’s calling card service variant into an information service.

In sum, the Commission should continue to classify AT&T’s prepaid calling card services and their variants as telecommunications services subject to the interstate or intrastate access charges (as determined by an end-to-end analysis) and universal service assessments.

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<sup>7</sup> *Order* at 14.

<sup>8</sup> *Petition for Declaratory Ruling that AT&T’s Phone-to-Phone IP Telephony Services are Exempt from Access Charges*, WC Docket No. 02-361, *Order*, 19 FCC Rcd 7457, ¶1 (2004) (*AT&T IP Telephony Order*). The FCC determined that an interexchange service that utilizes “IP-in-the-middle” is a telecommunications service if it meets the following three conditions: (1) it uses ordinary customer premises equipment with no enhanced functionality; (2) it originates and terminates on the PSTN; and (3) it undergoes no net protocol conversion and provides no enhanced functionality to end users due to the provider’s use of IP technology.

Respectfully submitted,

April 15, 2005

NATIONAL EXCHANGE CARRIER  
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CERTIFICATE OF SERVICE

I, Deborah K. Long, hereby certify that a copy of the foregoing comments of The National Exchange Carrier Association, Inc. (“NECA”) in WC Docket No. 05-68 was sent by first class United States mail, postage prepaid, or via electronic mail on this, the 15th day of April, 2005, to the following persons.

By: /s/Deborah K. Long

## Service List

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