BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-128
	)	

REPLY COMMENTS OF AT&T INC., BELLSOUTH TELECOMMUNICATIONS, INC., AND THE VERIZON TELEPHONE COMPANIES ON FLORIDA PUBLIC TELECOMMUNICATION ASSOCIATION'S PETITION FOR A DECLARATORY RULING

The comments in support of the Florida Public Telecommunication Association's ("FPTA") Petition filed by the Illinois Public Telecommunications Association ("IPTA"), the American Public Communications Council ("APCC"), the Independent Payphone Association of New York ("IPANY"), and the Northwest Public Communications Council and Minnesota Independent Payphone Association ("Northwest"), add nothing new or compelling to the comments previously filed in this docket. Instead, the commenters rely on arguments that have been repeatedly addressed in detail. The Commission therefore should reject FPTA's request for declaratory relief.

The following four points are beyond dispute.

First, FPTA's petition is barred by principles of res judicata. As the RBOC Coalition pointed out in its opening comments (filed February 28, 2006) at 7-9, the Florida commission's decision – which is final and not subject to further appeal – bars any further claims that the FPTA could have raised in that proceeding. None of the comments filed in support of FPTA addresses this point.

Second, the Commission determined in 1997 that state commissions would retain responsibility for overseeing basic payphone line tariffs, with the understanding that state procedures and remedies would therefore govern implementation of federal rules. In such a context, it makes little sense for the Commission to entertain challenges arising from dozens of different state proceedings, particularly because the specific procedural circumstances of a given case may determine the available relief. As the Florida commission pointed out, for example, the FPTA failed to bring any timely challenge to BellSouth's tariffs, and, in any event, the Florida commission had no authority to award refunds, due to Florida law concerning the finality of administrative decisions.[1] These matters, which require an intimate understanding of the procedural facts and a full briefing by the parties, cannot be resolved except on a case-by-case basis at the state level and, therefore, are not issues that the Commission should address in response to a Petition for Declaratory Ruling.

Third, as we have previously explained in our opening comments (at 15-16), the RBOCs did not promise to provide unlimited refunds in any case where it was eventually determined that existing payphone line rates had to be reduced to comply with the Commission's application of the New Services Test. To the contrary, the RBOC Coalition sought a limited waiver that would allow a short extension in the date for filing new state tariffs (if such new tariffs were required at all, which was not the case in Florida). In exchange, RBOCs were required to make a similarly limited commitment, *i.e.*, to give a limited refund that would put PSPs in the same position had the waiver not been granted. That commitment is not implicated here at all. And in none of the

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[1] Final Order on Arbitration of Complaint, *Petition for expedited review of BellSouth Telecommunications, Inc.'s intrastate tariffs for pay telephone access services (PTAS) rate with respect to rates for payphone line access, usage, and features, by Florida Public Telecommunications Association*, Docket No. 030300-TP, Order No. PSC-04-0974-FOF-TP, at 13-14 (Fla. PSC Oct. 7, 2004) ("Florida Order"), *available at* http://www.floridapsc.com /apps /dockets/cms/docketFilings2.aspx?docket=030300.

cases before the Commission is there any claim that, *as a result of the waiver*, PSPs were somehow disadvantaged.

Fourth, there is no claim that any state regulator is refusing to comply with federal law. The Florida commission has made clear that BellSouth's current rates are "compliant with the NST" and the *Wisconsin Order*. Florida Order at 19-21. FPTA is not challenging that determination. Accordingly, there can be no basis for preempting that commission's authority over state payphone line rates.

CONCLUSION

FPTA's petition for a declaratory ruling is procedurally barred and must be dismissed.

Respectfully submitted,

___/s/_Aaron M. Panner_____
AARON M. PANNER
STUART BUCK
KELLOGG, HUBER, HANSEN,
TODD, EVANS & FIGEL, P.L.L.C.
1615 M Street, N.W.
Suite 400
Washington, D.C. 20036
(202) 326-7900

Counsel for BellSouth Telecommunications, Inc., SBC Communications Inc., and the Verizon telephone companies

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