

Ward & Ward, P.C.

Michael W. Ward

*John F. Ward, Jr.
of Counsel*

January 9, 2009

By Electronic Filing

Ex Parte Presentation

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

Re: Illinois Public Telecommunications Association Petition for Declaratory Ruling
CC Docket No. 96-128

Dear Ms Dortch:

On January 8, 2009, Congresswoman Jan Shakowsky sent Chairman Kevin J. Martin the attached correspondence, including a letter from me regarding the Illinois Public Telecommunications Association Petition for Declaratory Ruling.

Sincerely,



Michael W. Ward

Enclosure

cc: Congresswoman Jan Shakowsky
Kevin J. Martin
Michael J. Copps
Jonathan S. Adelstein
Robert M. McDowell
Daniel Gonzalez
Amy E. Bender
Scott M. Deutchman
Scott Bergmann
Nicholas G. Alexander
Robert W. Quinn, Jr.

JANICE D. SCHAKOWSKY
9th District, Illinois

COMMITTEE ON ENERGY AND COMMERCE

HOUSE PERMANENT SELECT
COMMITTEE ON INTELLIGENCE

CHIEF DEPUTY WHIP

Congress of the United States
House of Representatives
Washington, DC 20515-1309

January 8, 2009

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Chairman Kevin J. Martin, Chairman
Federal Communications Commission
445 12th Street, S.W., Room 8-B201
Washington, D.C. 20554

Dear Chairman Martin:

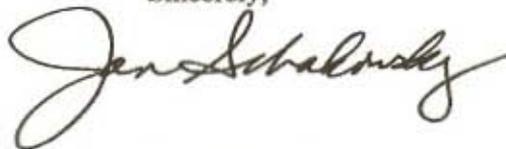
I am writing on behalf of my constituent Michael Ward, who is the General Counsel for the Illinois Public Telecommunications Association (IPTA). As the attached letter from Mr. Ward states, IPTA filed a petition for Declaratory Ruling, FCC Docket 96-128, over 4 years ago.

Please look at the issues raised in Mr. Ward's letter and give his request every consideration, in keeping with applicable laws, rules and regulations.

My office has been in contact with Congressman Waxman's office regarding this matter, and they are aware that I am writing to you regarding this petition. A copy of this letter will be provided to AT&T.

Please direct a response to me at the address below and questions to my District Director Leslie Combs, she can be reached at 773-506-7100 or leslie.combs@mail.house.gov.

Sincerely,



Jan Schakowsky
Member of Congress

5533 N. Broadway
Chicago, IL 60640

Ward & Ward, P.C.

Michael W. Ward

John F. Ward, Jr.
of Counsel

December 23, 2008

Rep. Jan Shakowsky
2367 Rayburn House Office Building
Washington, DC 20515

Re: FCC: Illinois Public Telecommunications Association Petition for Declaratory
Ruling – FCC Docket 96-128

Dear Congresswoman Shakowsky:

I am a constituent of the 9th Congressional District and the General Counsel for the Illinois Public Telecommunications Association, an Illinois trade association of small businesses that provide pay telephone services in the District and throughout Illinois. I am requesting your assistance to urge the Federal Communications Commission to act on a petition that was filed by the IPTA 4 ½ years ago, seeking to enforce existing FCC orders, and to bring to an end over 12 years of proceedings. We understand that the FCC was preparing an order in this matter when it received a December 12, 2008 request from Rep. Henry A. Waxman and Sen. John D. Rockefeller to not proceed on complex and controversial items that the new Congress and new Administration will have an interest in reviewing. The IPTA petition would not appear to be included in such parameters. It involves only the limited issues of the issuance of refunds for local telephone charges that have been shown to exceed the FCC required rates and of addressing such other relief as required for violation of these FCC orders. Yet, the FCC Chairman's Office seemingly has taken the Congressional request to encompass all pending matters. Fairness to the parties, particularly to the IPTA's small businesses, necessitates that it is time for the FCC to issue its ruling and to conclude this lengthy proceeding.

Under Section 276 of the federal Telecommunications Act of 1996 ("1996 Act"), incumbent local Bell telephone companies (i.e. Illinois Bell, now known as AT&T) were required to provide local telephone services to competing payphone service providers at cost-based rates. The FCC issued a series of payphone orders requiring that these cost-based local rates must be in effect, in the FCC's own oft-repeated words, "no later than April 15, 1997." To ensure enforcement of this directive, the FCC made *actual* compliance with this requirement a condition precedent to AT&T receiving certain compensation due under the same Section 276 of the 1996 Act, commonly known as dial around compensation. Payphone providers were to take any questions regarding compliance with the cost-based rate requirement first to their state regulatory commission. The FCC expressly retained continuing jurisdiction and oversight of these state proceedings.

In May, 1997, the IPTA initiated proceedings before the Illinois Commerce Commission complaining that AT&T was not in compliance with the FCC's cost-based rate requirement. After six and one half years, the Illinois commission found that the rates AT&T charged prior to December 13, 2003 exceeded the FCC required rates. This finding is not contested. Also, from April 15, 1997 through December 12, 2003, AT&T collected dial around compensation based on its false self-certification that it had complied with the cost-based rate requirement. After the conclusion of the Illinois proceedings, the IPTA filed its petition for a declaratory ruling with the FCC, requesting a determination of whether refunds are now due to the payphone providers to the extent that the rates charged them by AT&T through December 12, 2003 exceeded the rates the FCC required to be in effect "no later than April 15, 1997," and whether AT&T is required to forfeit the dial around compensation AT&T collected before it was eligible.

Although these issues are significant to the parties involved, they would not appear to be of such "complex and controversial items that the new Congress and the new Administration will have an interest in reviewing." The IPTA petition concerns itself with the enforcement of previously issued FCC orders. They do not involve a prospective restructuring of the nation's telecommunications systems or policies, such as the reform of the access charge and universal service schemes, which the current FCC had proposed to address, and which are more likely those of concern to Rep. Waxman and Sen. Rockefeller. The matters of the IPTA petition are neither of likely Congressional or Administration focus in the new term, nor are they likely to be quickly addressed upon the new FCC taking office. The new FCC will need to respond to requests for major restructurings of the telecommunications industry and to apply its own limited resources to get up to speed on these complex matters. To reeducate the new FCC on the IPTA petition in this environment, with such other pressing matters, threatens to delay a decision on the IPTA petition for years more.

For the past 12 years, the parties have been pursuing the course directed by the FCC, yet without final resolution. Although such unending delay may benefit a large corporation like AT&T, that has already been found to be in violation of the FCC orders, it has had an onerous effect on the payphone providers of the IPTA, that are small businesses with limited resources to enable them to continue to endure this process.

As previously indicated, fairness requires that this matter now be brought to a conclusion. We are requesting that you ask the FCC to proceed to complete the preparation of its order on the IPTA petition and to issue its ruling.

Should you have any questions, please contact me.

Sincerely,



Michael W. Ward