

**ILLINOIS PUBLIC TELECOMMUNICATIONS ASSOCIATION
PETITION FOR A DECLARATORY RULING
CC Docket 96-128**

Commission History: In Section 276 of the 1996 Telecommunications Act, Congress made the Federal Communications Commission, not the States, responsible (1) for ensuring that AT&T reduced its rates for the local phone services provided to payphone providers to a cost basis and (2) for determining if AT&T payphones should be compensated for certain calls made from their payphones directed to other carriers selected by the consumer (dial around compensation). In a series of implementing orders, the FCC required (1) AT&T to reduce its local phone rates to competing payphone providers to a cost basis by no later than April 15, 1997 and (2) that AT&T would not be eligible to collect dial around compensation until after it was in actual compliance with the above cost-based rate requirement. The problem arose when the FCC (1) required the small businesses to prove in state regulatory hearings that AT&T had not complied with the cost-based rate requirement while (2) AT&T was only required to sign a letter certifying compliance to begin receiving the dial around compensation revenues. The FCC expressly retained jurisdiction to ensure that the States implemented the FCC's orders.

Illinois History: AT&T failed to make any reduction in its local rates while it simultaneously self certified compliance with the cost-based rate requirement and began collecting dial around compensation as of April 15, 1997. On May 8, 1997, 70 small businesses providing payphone services filed a complaint, through the Association, before the Illinois Commerce Commission seeking the Federally required cost-based rates. Separately, while the Illinois hearings were proceeding, the FCC ruled that, once AT&T had self certified compliance, the other carriers were procedurally required to begin paying the compensation to AT&T. But the FCC reiterated that AT&T was still not eligible for the compensation if AT&T was not in actual compliance, which requirement would be enforced by the FCC. In late 2003, the Illinois commission determined that AT&T's local rates were approximately 50% over the Federally required cost-based rates. From the April 15, 1997 deadline until the 2003 decision, these 70 small businesses, while following the law, were overcharged \$13.5 million. In contrast, AT&T, while violating eight FCC orders, illegally collected \$200 million in dial around compensation. Although most States ordered refunds of overcharges, the Illinois Commission failed to order any remedy. The Association filed this FCC Petition for enforcement of its orders eight years ago, and is still waiting for relief. At the Commission's cost of capital, these amounts exceed \$30 million and \$440 million today, respectively.

Association's Petition: Congress required the FCC, not the States, to implement Section 276. It remains the FCC's responsibility. The FCC orders established the requirements, permitting the States to investigate whether they were being met, but expressly retaining the FCC's jurisdiction to ensure that the requirements were implemented as ordered. It is beyond contest that AT&T violated the FCC's cost-based rate and the dial around compensation requirements. The Petition represents 70 small businesses which have spent their limited resources for over 16 years to comply with both the substance and the procedure required by the FCC, meeting the burden and effort imposed on them. Now the FCC must exhibit the same respect for its orders and procedure, and the directive of Congress, as shown by the Petitioners and enforce those orders by the ordering of refunds of the proven overcharges. This is about fundamental fairness and the integrity of the FCC.