Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Petition of Gregory Manasher, Frida Sirota and NECC Telecomm	)	
	)	
On Referral by the United States District Court for the Eastern District of Michigan	)	**CG Docket No. 98-170**
	)	
For Declaratory Ruling Concerning Unjust and Unreasonable Practices under 47 U.S.C. § 201(b)	)	

COMMENTS OF THE INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE

The Independent Telephone & Telecommunications Alliance ("ITTA") hereby submits its comments with respect to the Public Notice[1] issued by the Federal Communications Commission ("FCC" or "Commission") seeking input regarding certain billing practices raised in the July 8, 2010 Petition for Declaratory Ruling ("Petition") filed in the above-captioned proceedings.[2] The Petition arises from a matter pending before the United States District Court for the Eastern District of Michigan[3] in which the court referred questions to the FCC seeking guidance on whether certain identified billing practices, such as billing, charging, and collecting

[1] "Consumer and Governmental Affairs Bureau Seeks Comment on Petition for Declaratory Ruling of Gregory Manasher, *et al*., on Applicability of the Communications Act and Commission Rules Regarding Truth-in-Billing," Public Notice, DA 12-1651 (rel. Oct. 16, 2012).

[2] *In the Matter of Petition of Gregory Manasher, Frida Sirota and NECC Telecomm on Referral by the United States District Court for the Eastern District of Michigan for Declaratory Ruling Concerning Unjust and Unreasonable Practices under 47 U.S.C. § 201(b)*, Petition for Declaratory Ruling, CG Docket No. 98-170 (filed July 10, 2010).

[3] *Manasher, et al. v. NECC Telecomm*, Case No. 2:06-cv-10749 (E.D. Mich.).

monies from consumers for "recurring fees" and "other fees," violate the Commission's truth-in-billing rules and the Communications Act of 1934, as amended (the "Act").[4]

ITTA supports the objective of the Commission's truth-in-billing rules to ensure that consumer telephone bills are not unclear, misleading, or deceptive. However, in implementing those rules, the Commission must bear in mind that providers of voice service have every incentive to comply with the Commission's regulations to avoid consumer confusion and the costs associated with subscriber complaints. At the same time, telephone providers face certain practical limitations with respect to space and other issues that impact the information that can be provided in consumer telephone bills. The Commission should remain cognizant of the fact that telephone providers must account for these limitations in providing billing information to consumers when considering whether certain practices comply with its rules.

ITTA's members are mid-size telephone companies that provide a range of voice, data, and video services to more than 20 million access lines in 44 states. In today's competitive environment, ITTA members and other voice providers have every incentive to protect subscribers from misleading or deceptive charges and take care to provide clear and easy-to-interpret information within the limitations they face in formatting subscriber bills. Given the increasingly crowded communications marketplace, where consumers are free to choose among a variety of services from any number of entities, it is imperative that voice providers have billing policies and practices in place to ensure continued customer satisfaction and loyalty.

[4] 47 C.F.R. § 64.2401 (requiring that charges on a telephone bill be accompanied by "a brief, clear, non-misleading, plain language description of the service or services rendered"); 47 U.S.C. § 201(b) (providing that charges for and in connection with communication services must be just and reasonable). In adopting the truth-in-billing rules, the Commission stated that "a carrier's provision of misleading or deceptive billing information is an unjust and unreasonable practice in violation of § 201(b) of the Act." *Truth-in-Billing and Billing Format*, First Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 7492, 7506 (1999).

That said, telephone providers face a number of practical limitations with respect to issuing subscriber bills. Among other things, telephone bills, which are typically generated by outside vendors, must adhere to a specific format, yet at the same time be applicable to as many subscribers as possible. In today's marketplace, telephone providers must offer many variations among services in order to meet individual subscriber needs and desires. When these considerations are coupled with the space and formatting limitations that are inherent with subscriber bills, it is virtually impossible to provide information to subscribers that is customized and detailed enough to account for every possible billing scenario that could arise when a provider serves thousands of consumers.[5]

Nonetheless, carriers have every incentive to ensure that the bills they provide to subscribers are clear and easy to understand. It is expensive and time consuming to address subscriber phone calls and complaints regarding bills. In the face of vibrant marketplace competition, carriers must take care to minimize subscriber confusion and consumer dissatisfaction, and ensure that when customers do interact with customer service personnel regarding the information contained in their bills that the experience facilitates customers' understanding and leads to subscriber retention. It would be counter-productive for carriers to obfuscate subscriber understanding when it would result in discontent and potentially cause subscribers to switch to a competing provider.

In addition, numerous states have adopted regulations with regard to carrier billing practices that are continuously being updated and reviewed. For example, the Public Utility Commission of Texas recently undertook a review of common billing terminology and adopted

[5] Moreover, subscriber bills have become much more complex now that many customers subscribe to multiple services from a single communications provider. In these circumstances, it is even more important for carriers to strive for clarity and simplicity with respect to the information they impart to their customers because there is so much additional information for customers to review and understand.

rules to standardize usage of certain key terms in an effort to further consumer understanding of telephone bills. The Pennsylvania Public Utility Commission also recently addressed billing requirements to facilitate consumer understanding when reviewing invoices for bundled services.

Thus, as the Commission considers the questions posed by the court in this proceeding, it should keep in mind that it is in carriers' interest to adopt and implement billing practices that are effective and understandable for consumers while ensuring that carriers retain the ability to respond flexibly based on market demands. These marketplace incentives and need for flexibility are particularly relevant in the case of ITTA member companies, which are well-established voice providers that have built solid reputations within the communications marketplace based on providing an optimal consumer experience for their subscribers. Such companies should not be penalized due to the behavior of a handful of bad actors that may engage in billing practices and behavior that are not designed with customer retention and sound business practices in mind.

In sum, while ITTA is supportive of the Commission's mission to facilitate subscriber understanding of their bills and minimize consumer confusion, it believes that voluntary industry action, coupled with existing state and federal regulations, are sufficient to address the majority of concerns that may be raised with respect to misleading, unclear, and deceptive billing practices. Given the practical considerations that factor into issuing telephone bills to consumers, and the importance of retaining subscribers and ensuring a positive customer experience, the Commission should recognize that carriers must have maximum flexibility and discretion in complying with Commission rules relating to truth-in-billing, and that regardless of the limitations carriers face in issuing subscriber bills, well-established providers have both marketplace and regulatory incentives to ensure broad consumer awareness and satisfaction.

Respectfully submitted,

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November 15, 2012