

May 22nd, 2014
Commission's Secretary
Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-A325
Washington, DC 20554
Deena Shetler: deena.shetler@fcc.gov
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Re: WC Docket No. 06-210
CCB/CPD 96-20

PETITIONERS COMMENTS

Petitioners asked the FCC to temporarily withdraw one of its declaratory ruling requests. That request was the one which asks for interpretation of how long a pre June 17th 1994 CSTPII/RVPP plan can be upgraded/restructured prior to fiscal year end without having to meet pro-rata commitments.

AT&T's position is one time after June 17th 1994 and petitioner's position is that because it was a three year contract of commitments the grandfathering should be three years.

The need for the FCC to rule on this is to clarify for petitioners, other aggregators and taxing authorities.

The traffic only transfer was ordered in Dec 1994 and was to transfer in Jan 1995. The shortfall/termination charges occurred July 1996. Given the evidence there is no doubt that the FCC will rule in petitioners favor that it adhered to section 2.1.8.

The issue is that if the FCC does not interpret the duration of no pro-rata S&T charges, it will leave the NJ District Court with another Declaratory ruling request to assess damages.

Additionally AT&T may benefit by the FCC ruling on the June 17th 1994. AT&T wrote a letter to all the end-users inflicted and did concede that the shortfall and termination charges were being disputed by parties—and still are today!

The taxing authorities may take the position that the reason why AT&T stated that it did not pay the taxes is that it was still an open issue as to whether those charges should have been there in the first place –to be taxed!

The taxing authorities may take the position that AT&T was simply waiting for a clarification of whether those S&T charges were actually permissible to establish the tax base before AT&T would pay taxes on such charges—so it remains an open issue.

Therefore petitioners no longer desire to have the temporary withdrawal in effect. Petitioners will file a writ of mandamus asking the US Court of Appeals to order the FCC to issue declaratory rulings on:

- 1) Traffic Only transfer
- 2) Pre June 17th 1994 no pro rata charges duration period.
- 3) Illegal remedy of inflicting end-users with S&T charges far in excess of the end-users discount.

The resolution of all issues only makes sense because the primary jurisdiction referral also stated Judge Basslers NJ Federal District Court order requests the FCC to answer this question:

It is further ordered that plaintiffs, no later than August 1, 2006, file an appropriate proceeding under Part I of the FCC's rules to initiate an administrative proceeding to resolve the issue of precisely which obligations should have been transferred under Section 2.1.8 of Tariff No. 2 **as well as any other issues left open** by the D.C. Circuit's Opinion in AT&T Corp. v. Federal Communications Commission, 394 F.3d 933 (D.C. Cir. 2005).

All these issues left open need to be interpreted by the FCC and so the writ of mandamus will ask the Court of Appeals that the FCC to opine on all three Declaratory Ruling Requests.

Respectfully Submitted,
Group Discounts, Inc.
/s/ Al Inga
Al Inga President