

**STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN**

*Re: Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony
Services Are Exempt from Access Charges, WC Docket No. 02-361, Order*

I support this Order clarifying the application of the Commission's access charge rules because it provides critical guidance on an issue of importance to the long distance and local telephone industries and ultimately to consumers. Through this Order, we address the regulatory status of a distinct but increasingly prevalent form of communications – long distance telephone calls that employ some form of protocol conversion in the backbone of a carrier's network but which in all other significant respects are the same as traditional phone calls. Despite the technical nature of the questions we address here, this Order preserves many of the Commission's highest priorities.

This Order makes clear that the service in question – which is marketed as, and is identical in all significant respects to, traditional long distance service – is a telecommunications service. As a result, consumers will enjoy the protections of our rules for telecommunications services and local phone providers will receive adequate compensation for carrying these calls. Were the Commission to reach another result – classifying this service as an information service – providers could avoid the obligation to observe consumer protection rules, to comply with public safety and law enforcement provisions, and to contribute to the universal service fund, which ensures access to essential services for low income consumers and consumers in rural areas. If the Commission had avoided this question or simply permitted providers to avoid our access charge rules for this service, we would have removed substantial amounts of support for the local phone providers which ultimately carry these calls to consumers. This support is particularly vital for smaller providers serving Rural America.

Carriers deserve proper compensation for use of their network. We must continue to promote and create incentives for the deployment of new technologies, but these innovative services will not be able to reach their full audience or potential if we undermine the ability of providers to support their networks.

By issuing this Order, we answer the calls of participants throughout the industry who asked for guidance on the Commission's rules. Indeed, the one point of unanimity in our record was the desire for a Commission decision. While some parties have asked us to go further and address more of the issues raised in our recent Notice of Proposed Rulemaking on Voice over Internet Protocol (VoIP), delay in answering the question at hand would serve only to create instability for the long distance industry and to increase the rapidly-growing stakes for each side.

I welcome the opportunity to address the wide scope of issues raised in the VoIP rulemaking and to consider the issues raised in the broader intercarrier compensation debate. This Commission must make sure that it employs a framework that continues to foster innovation and that enables our rules to evolve as the services and technologies of the industry evolve. The Order we adopt today preserves the Commission's flexibility to address the broader issues raised in these rulemakings and to revise our rules as necessary. As we move forward to

address these broader issues, I am committed to a process that takes into account the needs of consumers, who often are not directly included at the industry bargaining table, and the needs of those in hard-to-serve areas of Rural America. Through this proceeding and through our broader rulemakings, we must ensure that we preserve the affordable and universally-available communications services that American consumers and businesses have come to rely on and that Congress has mandated.