

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *BellSouth's Petition for Declaratory Ruling Regarding the Commission's Definition of Interconnected VoIP in 47 C.F.R. § 9.3 and the Prohibition on State Imposition of 911 Charges on VoIP Customers in 47 U.S.C. § 615a-1(f)(1); Petition for Declaratory Ruling in Response to Primary Jurisdiction Referral, Autauga County Emergency Management Communication District et al. v. BellSouth Telecommunications, LLC, No. 2:15-cx-00765-SGC (N.D. Ala.), WC Docket No. 19-44.*

It is highly objectionable that some states have attempted to impose discriminatory 9-1-1 fees on certain communications services. The item before us is a completely reasonable and proper response to the narrow scope of issues presented. While I certainly support it and thank Chairman Pai for bringing it forward, Alabama's activity highlights at least two larger issues.

First, there seems to be no apparent moral or ethical barrier to prevent *some* states, territories, and localities from abusing, misappropriating, manipulating, and/or downright stealing consumer-paid 9-1-1 fees. Many of us on this dais, particularly Chairman Pai and Commissioner Rosenworcel, have actively worked to eliminate the diversionary practices by certain dirty-rotten taxing jurisdictions, with some degree of success. The imposition of discriminatory taxes, as highlighted by this case, is simply another example of 9-1-1 fee theft, and further reinforces the need for the Commission to play a far greater role in eliminating such egregious behavior and practices. Where we have authority, we must act aggressively, and where we don't, we shouldn't be afraid to seek new authority from Congress.

Second, and from a broader perspective, this item is reflective of the need to acknowledge market realities that should be part of our regulatory norm: VoIP should be classified as an interstate, information service. Doing so firmly establishes its proper treatment consistent with our governing statute and precedent, as recently confirmed by the Eighth Circuit and left undisturbed by the Supreme Court. That doesn't mean that it would be a completely regulatory free zone because various obligations and burdens, such as 9-1-1 and USF contributions and access requirements, would still apply. Beyond meeting the statutory definitions, logical consistency demands it since we classify fixed broadband, mobile broadband, and IP video as information services, and it strains credibility that we wouldn't do the same for VoIP. Previous Commissions danced around taking this simple step, causing significant hardships and headaches for providers and others. Does the fact that an IP packet contains two-way voice make it intrinsically different from a video or data packet? Of course not. Ending some of the shenanigans and gamesmanship we have seen in some states attempting to regulate IP voice service is necessary and appropriate and can be done without undermining our ability to protect consumers, as needed.