



TELECOMMUNICATIONS

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By: *Jessica Davison*

Supreme Court Rules Against AT&T

Last month the United States Supreme Court ruled in favor of Petitioner Talk America and deferred to the FCC's interpretation of what constitutes an "entrance facility" under the [Telecommunications Act of 1996](#) in [Talk America, Inc. v. Michigan Bell Telephone Co.](#) The Court held that AT&T must lease its existing "entrance facilities" at cost-based rates for interconnection. In so doing, the Court disagreed with AT&T's argument that entrance facilities are not a part of incumbent local exchange companies' networks.

The Court defined "entrance facilities" as "the transmission facilities (typically wires or cables) that connect competitive LECs' networks with incumbent LECs' networks" and stated that "entrance facilities, at least when used for the mutual exchange of traffic, seem to us to fall comfortably within the definition of interconnection." Therefore, the Court reasoned that the FCC's interpretation of its regulations was not inconsistent with the regulatory text of the Telecommunications Act. However, the decision does not apply to the use and costs of entrance facilities for the purpose of backhauling traffic from an incumbent network to a competitor's facilities.

The dispute arose after AT&T notified competitors that it no longer would provide entrance facilities at cost-based rates for either interconnection or the backhauling of traffic. However, the FCC argued that AT&T is required to provide entrance facilities at

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cost-based rates for the purpose of interconnection. The Court found that no statutes or regulations specifically addressed AT&T's obligations to do that under the Telecommunications Act. However, the Court found that "The FCC ... advanced a reasonable interpretation of its regulations ..." and therefore "defer[red] to its views." On the other hand, the dissent argued that such agency deference may lead to unnecessarily vague laws.

If you have questions about any of these issues, or if we may be of assistance to you on any other matter, please feel free to contact us.

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Technology Law Group LLC (TLG) (www.tlgdc.com) is a Washington, DC-based law firm specializing in telecommunications transactional, litigation issues and regulatory issues. TLG's Managing Partner, Neil S. Ende, may be reached by phone at +1 202 895 1707 and by email at nende@tlgdc.com.

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