

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Petition of USTelecom for Forbearance)	WC Docket No. 18-141
Pursuant to 47 U.S.C. § 160(c) to)	
Accelerate Investment in Broadband)	
and Next-Generation Networks)	

**MOTION FOR EXTENSION OF TIME SUBMITTED ON THE BEHALF OF
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pursuant to Rule 1.46 of the Federal Communications Commission’s (“FCC” or “Commission”) Rules of Practice and Procedure, 47 C.F.R. § 1.46, the Pennsylvania Public Utility Commission (Pa. PUC) respectfully files this motion requesting an extension of time to file comments and/or reply comments in the above-captioned proceeding. USTelecom filed a petition on May 4, 2018, seeking extensive forbearance from a considerable number of statutory provisions and regulatory obligations placed on incumbent local exchange carriers (ILECs).¹ The Commission published a Public Notice on May 8, 2018, announcing the pleading cycle for the Petition so that initial comments are due on June 7, 2018, and reply comments are due on June 22, 2018.² The Pa. PUC respectfully

¹ Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) to Accelerate Investment in Broadband and Next-Generation Networks, WC Docket No. 18-141 (filed May 4, 2018) (Petition).

² See *Pleading Cycle Established for Comments on USTelecom’s Petition for Forbearance from Section 251(c) Unbundling and Resale Requirements and Related Obligations, and Certain Section 271 and 272 Requirements*, Public Notice, DA 18-475 (WCB rel. May 8, 2018) (May 8th Notice).

requests the Commission to extend the time for filing initial comments by 90 days, to September 5, 2018, with reply comments due 45 days later, on October 22, 2018.

Introduction

The Pa. PUC notes that several other parties have also filed motions with the Commission requesting an extension of the pleading cycle timeline set forth in the May 8th Notice. On May 11, 2018, INCOMPAS filed a motion urging the FCC to extend the time for initial comments/oppositions to 60 days, through and including August 6, 2018, with reply comments due 30 days later, on September 5, 2018.³ That same day, the California Association of Competitive Telecommunications Companies (CALTEL) filed a separate motion requesting an extension of time.⁴ The National Association of Regulatory Utility Commissioners (NARUC) filed a motion on May 16, 2018, to request an extension of time for the comment cycle on USTelecom's Petition.⁵ At least three other state commissions, the Public Utilities Commission of Ohio (PUCO), the California Public Utilities Commission

³ The Midwest Association of Competitive Communications (MACC) filed a letter in support of INCOMPAS's request on May 14, 2018. Additionally, Granite Telecommunications filed a letter on May 15, 2018, in support of INCOMPAS's motion for extension of time to file comments on the petition. Access Point, BullsEye Telecom, Metropolitan Telecommunications, New Horizon Communications and Xchange Telecom (collectively, Access Point et al.) also filed a letter on May 18, 2018, in support of INCOMPAS' motion for an extension of time to file comments on USTelecom's Petition.

⁴ CALTEL filed a revised motion on May 15, 2018, for an extension of time to file comments on USTelecom's Petition. It requested an additional 60 days, until August 6, 2018, with replies due September 5, 2018. CALTEL also requested the Commission issue a protective order in this proceeding.

⁵ NARUC requested a minimum extension of 60 days for the comments, through and including August 6, 2018, with reply comments due 30 days later, on September 5, 2018.

(CA PUC), and the Massachusetts Department of Telecommunications and Cable (MA DTC) have filed motions for an extension of time of the pleading cycle.⁶ The Northwest Telecommunications Association (NWTa) filed a letter on May 18, 2018, in support of the motions filed by NARUC, CALTEL and INCOMPAS for an extension of time. The National Association of State Utility Consumer Advocates (NASUCA) filed a letter on May 18, 2018, expressing support for the motions by INCOMPAS, CALTEL and the MACC for an extension of time. Furthermore, the U.S. Small Business Administration Office of Advocacy (USSBA) also filed a letter on May 19, 2018 supporting the time extension requests.⁷

Discussion

USTelecom's Petition seeks forbearance from the following regulatory obligations placed on ILECs: (1) ILEC-specific unbundling and resale mandates in Section 251(c)(3) and (4) and associated Section 251 and 252 obligations involving wholesale interconnection; (2) RBOC-specific time interval requirements for nondiscriminatory treatment of affiliates and non-affiliates

⁶ PUCO filed a motion on May 18, 2018, an extension of 60 days for the comments, through and including August 6, 2018, with reply comments due 30 days later, on September 5, 2018. The CA PUC filed a motion on May 18, 2018, to request an extension of 90 days for the comments, until September 5, 2018, with reply comments due 45 days later, on October 22, 2018. The MA DTC filed its Motion for Extension of Time on May 21, 2018, requesting a 90-day extension for the submission of comments on September 5, 2018, and a 30-day extension for the filing of reply comments on October 5, 2018.

⁷ The USSBA stated that it "has spoken directly with small businesses that have not only significant substantive concerns regarding the petition, but also concerns about the lack of time they've been given to properly inform the FCC about the impact the petition could have on their businesses and their customers." USSBA May 19, 2018 Letter at 2.

regarding requests for service in Section 272(e)(1), and the long distance separate affiliate requirement for independent ILECs in Section 64.1903; and (3) RBOC-specific competitive checklist item regarding access to poles, ducts, conduit and rights-of-way in Section 271(c)(2)(B)(iii). USTelecom claims forbearance from these obligations will remove barriers to infrastructure investment and will promote broadband deployment and competition in the provision of high speed broadband access services.

I. USTelecom’s Petition Is Complex and Warrants a Longer Pleading Cycle.

The USTelecom Petition specifies that it is seeking forbearance from “Section 252(d)(3) to the extent that provision would authorize states to re-impose unbundling and resale obligations from which the Commission has otherwise forborne.” Petition at pp. 24-26. USTelecom also states that there is also a need to forbear from the “related 251 and 252 obligations” specifying states should have no arbitration oversight “with respect to Section 512(c)(3) and (4) obligations” that apply only to incumbent carriers, adding “[i]t is important, however, to ensure that other policy makers cannot use surviving Section 251 or 252 powers to unlawfully replicate the Section 251(c)(3) and (4) regimes.” Petition at 24, n.69.

The Pa. PUC is the state regulatory agency charged with overseeing the rates and conditions of service associated with intrastate operations of

telecommunications providers in the Commonwealth of Pennsylvania. The Pa. PUC also has regulatory authority over certain aspects of services that are provided by one telecommunications public utility to another (i.e., wholesale services). Thus, the requested relief in this proceeding specifically targets state commission authority, including the authority of the Pa. PUC and other state utility commissions to implement and enforce wholesale interconnection obligations and agreements under the federal Telecommunications Act of 1996 (TA-96). Because the Pa. PUC will be directly affected by the Commission's disposition of this Petition irrespective of the outcome and thus, has an interest in this proceeding, we are requesting an extension in order to be is adequately permitted to provide a full analysis and response to the issues raised by the USTelecom Petition.

Although the Commission's *Forbearance Procedures Order* states that the Commission would "typically allow 30 days for comments and 15 days for replies," it also states that it would use "longer cycles for more complex petitions."⁸ The USTelecom Petition is "complex." The requested forbearance in USTelecom's Petition is broad and raises a myriad of complex legal and factual issues. The Commission's May 8th Notice sets a comment cycle – with

⁸ *In re Petition to Establish Procedural Requirements to Govern Proceedings for Forbearance Under Section 10 of the Communications Act of 1934, as Amended*, WC Docket No. 07-267 (Rel. June 29, 2009), FCC 09-56, 24 FCC Rcd 9543, 9559 (*Forbearance Procedures Order*).

oppositions or comments on the USTelecom Petition due on June 7, 2018, and any reply comments due on June 22, 2018. This comment cycle is too short for parties to adequately address the issues in the Petition. The issues raised in the USTelecom Petition are complex and will, without question, impact, at some level, both competition and state regulatory authority and options. The Pa. PUC asserts that an extension of time is both warranted and in the public interest given the breadth and complexity of the issues in the USTelecom Petition.

II. An Extension of Time Is Necessary So All Interested Parties Can Properly Evaluate the Impact of the Petition, Which Seeks Forbearance from Key Pro-Competition Provisions of the Landmark Telecommunications Act of 1996.

While the Commission does not routinely grant extensions of time, “it has done so when necessary to ensure that the Commission receives full and informed responses and that affected parties have a meaningful opportunity to develop a complete record for the Commission’s consideration” as stated in 47 C.F.R. § 1.46(a).⁹ In fact, under the Commission’s forbearance timeline, which it established “to promote transparency and predictability in the Commission’s process for addressing forbearance petitions,” the Commission states that the public notice will be released 15 days after the petition for forbearance is filed.¹⁰

⁹ 47 C.F.R. § 1.46(a).

¹⁰ See <https://www.fcc.gov/general/forbearance-timeline#block-menu-block-4>.

In the instant case, the May 8th Notice was released four days after the petition was filed setting an unusually compressed pleading cycle.

Given the scope of the relief requested by USTelecom, commentators, particularly the impacted state commissions, need adequate and reasonable time to compile, review and analyze relevant facts, data, and studies in order to adequately respond to what impact the requested relief will have on the local telecommunications market, on wholesale interconnection arrangements and agreements, and any economic impact on competitors and consumers. This will require time and resources to complete that is not allowed for in the currently established pleading cycle. It is in the public interest for the Commission to permit additional time for filing comments so that interested parties can file comments that will assist it in developing a complete record and engaging in a comprehensive and thorough analysis of USTelecom's Petition.

Conclusion

For the reasons stated above, the Pa. PUC respectfully requests a minimum extension of 90 days for the comments, through and including September 5, 2018, with reply comments due 45 days later, on October 22, 2018.

Respectfully submitted,
Pennsylvania Public Utility Commission

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Dated: May 25, 2018