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November 24, 2014

*Via ECFS*

**EX PARTE**

Julie Veach ([julie.veach@fcc.gov](mailto:julie.veach@fcc.gov))  
Chief, Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

RE: WC Docket No. 12-61, *Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations*

WC Docket No. 07-204, *Petition of Qwest Corporation for Forbearance from Enforcement of the Commission's ARMS and 492A Reporting Requirements Under 47 U.S.C. § 160(c)*; *Petition of the Embarg Local Operating Companies for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain ARMS Reporting Requirements, et al.*

WC Docket No. 07-21, *Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain of the Commission's Cost Assignment Rules*

Dear Ms. Veach:

Pursuant to the *USTelecom Forbearance Order*,<sup>1</sup> attached is Cincinnati Bell Telephone Company's Cost Assignment Compliance Plan. Questions regarding this Plan may be directed

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<sup>1</sup> *Petition of US Telecom for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations, et al.*, WC Docket No. 12-61, *et al.*, Memorandum Opinion and Order and Report and Order in WC Docket No. 10-132 and Further Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking, 28 FCC Rcd 7627 (2013) (*US Telecom Forbearance Order*).

to me at the above address, via e-mail at [pat.rupich@cinbell.com](mailto:pat.rupich@cinbell.com) or by telephone at (513) 397-6671.

Respectfully,

*/s/ Patricia L. Rupich*  
\_\_\_\_\_  
Patricia L. Rupich  
Senior Manager - Regulatory

cc (via electronic mail):

Lisa Gelb ([lisa.gelb@fcc.gov](mailto:lisa.gelb@fcc.gov))  
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**CINCINNATI BELL TELEPHONE COMPANY**

**COST ASSIGNMENT FORBEARANCE COMPLIANCE PLAN**

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**CINCINNATI BELL TELEPHONE COMPANY**  
**COST ASSIGNMENT FORBEARANCE COMPLIANCE PLAN**

**I. INTRODUCTION AND SUMMARY**

Cincinnati Bell Telephone Company LLC (“CBT”), a price-cap incumbent local exchange carrier, files this Cost Assignment Forbearance Compliance Plan (“Compliance Plan” or “Plan”) in order to take advantage of the relief granted to independent LECs by the Commission in its *USTelecom Forbearance Order*.<sup>1</sup>

This Compliance Plan describes how CBT will comply with the continuing accounting requirements under the Act and the Commission’s rules, and satisfies the conditions contained in the *USTelecom Forbearance Order*.<sup>2</sup> CBT requests that the Bureau approve this Compliance Plan so that CBT can avail itself of the relief from the cost assignment rules at the earliest possible date. CBT’s plan resembles those previously filed by AT&T, Verizon, Qwest, CenturyLink and Windstream, (all of which have been approved).<sup>3</sup>

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<sup>1</sup> *Petition of USTelecom for Forbearance Under 47 U.S. C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations, et al.*, WC Docket No. 12-61, *et al.*, Memorandum Opinion and Order and Report and Order in WC Docket No. 10-132 and Further Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking, 28 FCC Rcd 7627 (2013) (*US Telecom Forbearance Order*).

<sup>2</sup> *USTelecom Forbearance Order*, 28 FCC Rcd at 7651-53 ¶¶ 42-47.

<sup>3</sup> *See* AT&T Compliance Plan, WC Docket Nos. 07-21 and 05-342, filed July 24, 2008 (“AT&T Compliance Plan”); Cost Assignment Forbearance Plan of Verizon, WC Docket Nos. 07-273 and 07-21, filed Sept. 19, 2008 (“Verizon Compliance Plan”); Qwest Corporation’s Compliance Plan, WC Docket Nos. 07-21 and 07-204, filed Sept. 24, 2008 (“Qwest Compliance Plan”); *Wireline Competition Bureau Approves Compliance Plans*, WC Docket Nos. 07-21, 07-204, 07-273, 23 FCC Rcd at 18417; CenturyLink Cost Assignment Forbearance Compliance Plan, WC Docket Nos. 07-21, 07-204 and 12-61, filed Dec. 5, 2013 (“CenturyLink Compliance Plan”); *Wireline Competition Bureau Approves CenturyLink Compliance Plan*, WC Docket Nos. 12-61,

CBT's Plan includes the following components:<sup>4</sup>

- A description of how CBT will maintain its accounting procedures and accounting data so that it will be able to provide information in a timely manner, if requested by the Commission, to comply with the conditions of the *USTelecom Forbearance Order*.
- A description of the procedures CBT's will follow to ensure compliance with Section 254(k) of the Act, together with a certification executed by a CBT executive, attesting that CBT will comply with the requirements of section 254(k) in the absence of the Commission's cost assignment rules and provide to the Commission information necessary to establish such compliance upon receipt of an appropriate request.<sup>5</sup> CBT will also designate a single point of contact for section 254(k) compliance.
- A description of the transition process that CBT will undertake to implement the procedures in its Compliance Plan.

## **II. PLAN FOR MAINTENANCE OF ACCOUNTING PROCEDURES AND DATA FOR FUTURE COMMISSION USE UPON REQUEST**

In the *USTelecom Forbearance Order* the Commission conditioned its cost

assignment forbearance upon a requirement that price cap carriers "continue complying with

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07-204, 07-21, 29 FCC Rcd at 3158-3161; Windstream Cost Assignment Forbearance Compliance Plan, WC Docket Nos. 07-21, 07-204 and 12-61, filed Jan. 31, 2014 ("Windstream Compliance Plan"); *Wireline Competition Bureau Approves Windstream Compliance Plan*, WC Docket Nos. 12-61, 07-204, 07-21, Public Notice, Aug. 21, 2014.

<sup>4</sup> At this time CBT is not seeking to take advantage of the additional forbearance relief granted in the *USTelecom Forbearance Order* (i.e., forbearance from the separate affiliate requirement under C.F.R. § 64.1903). *USTelecom Forbearance Order*, 28 FCC Rcd at 7691 ¶ 142. CBT will continue to comply with independent obligations unaffected by the cost assignment forbearance granted in the *USTelecom Forbearance Order* and that may be applicable to certain types of affiliate transactions. If in the future CBT decides to take advantage of the additional forbearance relief granted in the *USTelecom Forbearance Order*, CBT will file a separate

compliance plan addressing the conditions of the relief.  
<sup>5</sup> 47 U.S.C. § 254(k).

the Part 32 Uniform System of Accounts rules...and...provide Part 32 data on request by the Commission for use in rulemaking, adjudications, or for other regulatory purposes.”<sup>6</sup> In doing so, the Commission noted that “Part 32 USOA data are the underlying raw data used in the Cost Assignment rules...”<sup>7</sup> CBT proposes a five-part plan for how it will continue to comply with the remaining Part 32 Uniform System of Accounts rules and maintain its accounting procedures and data in a manner that will allow it to provide useable information on a timely basis in the event that the Commission determines in the future that it needs allocated accounting cost data to serve a regulatory purpose.

First, CBT will continue to maintain USOA books of account that include account-specific investment, expense and revenue data for Part 32 accounts. Specifically, CBT will continue to record ILEC investment, expense and revenue information into its general ledgers and other accounting records as necessary to create and maintain prospectively accounting data in conformance with the Part 32 account structure. All of these data will remain available for inspection by the Commission or for reporting to the Commission by CBT for regulatory purposes.<sup>8</sup>

Second, CBT will maintain its most recent cost allocation results, including a calculation of corresponding ratios by USOA account for non-regulated, state, interstate and each Part 69 rate element, using data from the calendar year immediately preceding the date that CBT’s Compliance Plan is approved by the Bureau. If the Commission were to request this cost allocation information or associated data in the future, CBT would provide the information using these ratios, while reserving the right to update the ratios to track

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<sup>6</sup> *USTelecom Forbearance Order*, 28 FCC Rcd at 7651 ¶ 43 (footnote omitted).

<sup>7</sup> *Id.*

<sup>8</sup> CBT reserves the right to limit the retention of such information consistent with the Commission’s policies on record retention.

significant accounting or regulatory changes that might occur after CBT's Compliance Plan is approved. In evaluating whether to undertake such an updating, CBT would assess the reliability of the existing ratios and the relative burden of the updating process.

Third, in the event the Commission appropriately seeks allocated cost information needed for a federal regulatory purpose beyond data that can be derived from the preserved information described above, CBT can – to the extent not unreasonably burdensome – perform special economic cost studies to respond to such a request.

Fourth, in connection with the above commitments, CBT will retain sufficient data and documentation of its present accounting methods and procedures that are used to allocate costs. This includes CBT's training materials, guidelines and system documentation used to allocate costs as of the date of approval of this Plan. Such materials will be assembled and maintained by individuals who are familiar with the cost allocation subject matter. CBT will likewise maintain in an electronic medium systems, spreadsheets and software necessary for cost assignment purposes.

Finally, with respect to affiliate transactions, specifically, 47 C.F.R. § 32.27, prospectively CBT will record and price such transactions in accordance with Generally Accepted Accounting Principles (“GAAP”) or appropriate accounting standards that may modify or replace GAAP in the future. CBT will also apply this approach to affiliate transactions between CBT and its affiliates that are subject to Rule 64.1903, such as, for example the sharing of personnel. This accounting approach would comply with the intent of the rule to ensure that regulated operations do not subsidize non-regulated affiliates.<sup>9</sup> CBT

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<sup>9</sup> Since CBT is not availing itself of the forbearance relief granted in the *USTelecom Forbearance Order* from the separate affiliate requirement of C.F.R. § 64.1903, CBT will still be

will also retain sufficient data and documentation of its present accounting methods and procedures used for affiliate transactions. This includes necessary training materials, guidelines, and system documentation existing as of the date of approval of this Plan. Such materials will be assembled and maintained by individuals who are familiar with the affiliate transaction subject matter.

### **III. ANNUAL CERTIFICATION AND COMPLIANCE WITH SECTION 254(K)**

The *USTelecom Forbearance Order* also conditions its cost assignment forbearance upon a requirement that price cap carriers “certify, on an annual basis, that they have complied with Section 254(k) of the Act, and will maintain and provide any requested cost accounting information necessary to prove such compliance in the event of an administrative action, investigation or audit.”<sup>10</sup>

As required, CBT’s first annual certification attesting to its compliance with section 254(k) of the Act in the absence of cost assignment rules is attached to this Compliance Plan. This certification is signed by Susan M. George, who also attests that CBT will provide information to the Commission necessary to establish section 254(k) compliance upon an appropriate request.

The Commission has already determined that an annual certification is a suitable indicator of compliance for some carriers.<sup>11</sup> As such, the attached certification itself largely satisfies CBT’s obligations under section 254(k) and the conditions of forbearance in the *USTelecom Forbearance Order*. Section 254(k) provides that “[a] telecommunications carrier may not use services that are not competitive to subsidize services that are subject to

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subject to the provisions in C.F.R. § 64.1903(a)(3) governing the affiliate’s acquisition of services from the local exchange carrier.

<sup>10</sup> *USTelecom Forbearance Order*, 28 FCC Rcd at 7652 ¶ 45 (footnote omitted).

<sup>11</sup> See 47 C.F.R. § 64.905.

competition.”<sup>12</sup> The Commission has previously indicated that this requirement is intended to prevent ILECs from gaining an unfair advantage in markets for services that are competitive by assigning excessive costs to non-competitive services.<sup>13</sup>

Moreover, the Commission’s price cap regime reduces any incentive to assign excessive costs to non-competitive services since price caps “sever[ed] the direct link between regulated costs and prices.”<sup>14</sup> Thus, since CBT is under the Commission’s price cap regime, it already has reduced incentives to shift excessive costs to services that might be considered to be non-competitive. Nevertheless, CBT will continue to comply with its section 254(k) obligations and will not allocate excessive costs to non-competitive services, as verified by the attached certification. Furthermore, the Commission remains free to investigate CBT’s compliance with section 254(k).<sup>15</sup> In addition, as of the date of approval of this Compliance Plan, CBT will designate a single point of contact to ensure that appropriate CBT employees are aware of and adhere to CBT’s obligations under section 254(k).

#### **IV. FORBEARANCE TRANSITION SCHEDULE**

CBT intends to implement the forbearance relief granted in the *USTelecom Forbearance Order* as soon as possible. The relief granted by this Order will help CBT move toward accounting systems that are more in keeping with those used by competitive

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<sup>12</sup> See 47 U.S.C. § 254(k).

<sup>13</sup> *In the Matter of Implementation of Section 254(k) of the Communications Act of 1934*, Order, 12 FCC Rcd 6415 (1997).

<sup>14</sup> *USTelecom Forbearance Order*, 28 FCC Rcd at 7649 ¶ 37 (stating “that, ‘because price cap regulation servers the direct link between regulated costs and prices, a carrier is not able automatically to recoup misallocated non-regulated costs by raising basic service rates,’ thus, reducing incentives to shift non-regulated costs to regulated services.”) (citing the *Wireline Broadband Order*, 20 FCC Rcd at 14925-26 ¶ 133).

<sup>15</sup> See, e.g., 47 U.S.C. § 220(c).

businesses. To that end, CBT has already reviewed its accounting systems and cost assignment processes in light of forbearance from the cost assignment rules. CBT has also reviewed and evaluated the *USTelecom Forbearance Order* with its subject matter experts and expects, for the most part, to begin implementing relief immediately upon the Bureau's approval of this Compliance Plan. Forbearance will allow CBT to discontinue performing certain activities that have no place in today's telecommunications market under the Commission's price cap regime.

Regarding preservation of accounting material and data for future use by the Commission, CBT's subject matter experts from its finance, legal, compliance and information technology groups will implement measures described above upon approval of this Plan.

Except as otherwise described in this Plan or as may be required by state law, CBT will: (a) no longer prepare cost allocation results under forborne rule sections 32.23 and 32.5280 and Parts 36, 64, and 69 of the Commission's rules, and will not perform attendant studies used to determine allocation ratios immediately upon the Bureau's approval of CBT's Compliance Plan; and (b) begin the transition away from the Commission's affiliate transaction rules under forborne rule 32.27 in favor of GAAP (or its successor) accounting for such transactions immediately upon approval of this Plan.

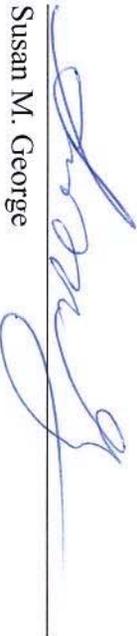
Assuming timely evaluation and approval of this Compliance Plan, CBT generally expects to implement the forbearance relief from the *USTelecom Forbearance Order* as soon as the end of first quarter 2015.

**V. CONCLUSION**

CBT's Compliance Plan as described herein satisfies the conditions that the Commission established in the *USTelecom Forbearance Order*. CBT requests that the Bureau approve this Plan at the earliest possible date.

**SECTION 254(K) CERTIFICATION**

I certify to the best of my knowledge, information and belief, that Cincinnati Bell Telephone Company LLC will comply with its obligations under section 254(k) of the Communications Act of 1934, as amended, and Cincinnati Bell will maintain and provide to the Federal Communications Commission any cost accounting information necessary to establish such compliance if appropriately requested to provide such information.



Susan M. George  
Controller, Cincinnati Bell Telephone Company LLC

Subscribed and sworn to me, a notary public in and for the State of Ohio  
and the County of Hamilton, on this 24<sup>th</sup> day of November, 2014.

My commission expires on October 14, 2018.

**KATHLEEN M. CAMPBELL**  
Notary Public, State of Ohio  
My Commission Expires 10-14-2018

  
Notary Public