Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Local Competition and Broadband Reporting	)	CC Docket 99-301

REPLY COMMENTS OF AT&T CORP.

Pursuant to the Commission's Notice of Proposed Rulemaking, released October 22, 1999, in the above captioned proceeding,[1/] AT&T Corp. ("AT&T") submits these reply comments.

INTRODUCTION AND SUMMARY

In its initial comments, AT&T demonstrated the proposed local and wireless competition reporting requirements were overbroad and unfocused. If adopted, the proposed requirements would prove inadequate to meet the Commission's real data needs, while imposing extraordinarily high costs on new marketplace entrants. Other commenters support AT&T's showing that such an untargeted data collection requirement is not needed. The Commission should, therefore, limit its reporting requirements to focused inquiries on local competition and an appropriately tailored collection of broadband data. These two methods of data collection would best enable the Commission to meet its congressional mandates while promoting the development of competition and the availability of advanced services for all Americans. At bottom, whatever program the Commission implements, it must weigh the costs of data collection against the actual marketplace benefits. Furthermore, as almost every commenter

[1/] Local Competition and Broadband Reporting, FCC Notice of Proposed Rulemaking, FCC 99-283 CC Docket No. 99-301 (rel. October 22, 1999) ("Notice").

emphasizes, it is imperative that the Commission provide confidential treatment to whatever data is collected.

I. THE RECORD DEMONSTRATES THAT THE COMMISSION SHOULD REEXAMINE ITS PROPOSED LOCAL COMPETITION DATA COLLECTION PLAN

The Commission and commenters share the twin goals of reducing superfluous regulation and limiting the burdens of the proposed data reporting. In an effort to monitor emerging competition and eliminate unnecessary regulations, however, the Commission should be careful not to rush into the promulgation of data collection requirements that will increase, rather than decrease, the burdens on carriers. Any Commission data collection process must be guided by a cost-benefit analysis, while keeping in mind the touchstone of any action; encouraging competitive market development.

AT&T, supported by most other commenters, demonstrated in its comments that the Notice's proposals regarding local and wireless competition data gathering are not optimal, nor is it evident that the advantages sought by the Commission would flow from the proposed data collection. It was plainly shown, however, that the substantial costs that would be imposed by the proposed reporting requirements far outweigh any possible benefit. Indeed, the Arkansas Public Service Commission ("APSC") supports the Commission's proposals because a similar state data collection regime would fail a statutorily imposed cost benefit analysis. As the APSC acknowledges, it "is prohibited from promulgating any new rule or regulation that increases regulatory burdens on telecommunications providers except upon a showing that the benefit of the regulation is clear and demonstrable and substantially exceeds the cost of compliance."[2/]

[2/] APSC, pp. 2-3.

Neither in Arkansas nor at the federal level can such broad and unfocused reporting obligations survive true cost-benefit scrutiny.

Several commenters correctly object to the tentative conclusion that "only a mandatory" data collection program will provide the comprehensive set of reliable data needed by the Commission.[3/] As AT&T emphasized in its initial comments, abundant local and wireless competition data is currently available through many other sources.[4/] To the extent the Commission needs additional information, it should seek that information in a specifically tailored fashion. In this way, the Commission can balance the costs of data collection and reporting directly against a definable benefit.

Without targeting and tailoring reporting requirements to a specific concern, it is unlikely that the information collected would be of material significance. On this point, Frontier explains that the Commission should not be fixated on acquiring more comprehensive data in the abstract because doing so would "ignore the costs that a mandatory regime would impose."[5/] Similarly, Omnipoint demonstrates that the Commission's efforts to gather information would undermine the very competition it intends to track by imposing a needless drain on the resources of competitive carriers.[6/] While a few parties argue that local competition data should be reported, they fail to answer the essential question of whether such regulations are truly needed, or why such reporting must be mandatory.[7/] Discussions of how to implement local competition data reporting without analysis of the utility of such a scheme is putting the cart before the horse.

[3/] See Frontier Communications, p.4; Omnipoint, p.9; Prism, p.3; Winstar, p.2; and AT&T, pp.3-6.

[4/] AT&T, pp. 4-6.

[5/] Frontier, p.3.

[6/] Omnipoint, p.9.

[7/] See, e.g., SBC, pp.1-2.

In light of the availability of sufficient information at both state and federal levels, it appears that voluntary reporting of local and wireless competition data is adequate at this time. The Commission seeks to make a quantum leap from voluntary local data reporting to mandatory and expanded reporting without adequately explaining the deficiencies in existing voluntary submissions.[8/] Likewise, Winstar explains that the Commission's proposed plan is unlikely to yield more meaningful data than that which can be collected on a voluntary basis.[9/]

The proposal to require wireless carriers to submit to a mandatory local competition survey received virtually no support in the initial comments. Moreover, those commenters that seek to place a new reporting obligation on wireless carriers have not specifically articulated why this would be in the public interest. In contrast, several commenters point out that the collection of wireless data is not necessary to evaluate local competition.[10/] In fact, the wireless reporting proposal would likely duplicate the current wireless services data compilation process that the Commission undertakes each year.[11/] More importantly, such burdensome reporting requirements could harm the highly competitive commercial mobile radio service market by diverting resources from day-to-day business activities.

The evidence presented by commenters in this proceeding provides a compelling basis for the Commission to reassess its local competition data gathering and reporting proposal. To further the Commission's laudable goals, it should first undertake a joint effort with state public utility commissions and marketplace participants to craft a targeted local and wireless competition data collection policy and procedure. This policy and attendant collection procedure

---

8/ See e.g., Frontier, pp.2-3.

9/ Winstar, p.2.

10/ See GTE, p.5; Omnipoint, p.8; and SBC, p.8 .

11/ See Public Law No. 103-66, Title VII, 107 Stat. 312, § 6002(b)(2)(C)(1993).

would unambiguously illustrate that the proposed benefits clearly and demonstrably exceed the costs of compliance. AT&T therefore urges the Commission to establish a federal-state committee made up of staff from the Commission and any interested state commission to analyze what data is needed and plainly identify the purposes for which information would be used. In this regard, the committee should, as a threshold matter, make a comprehensive catalog of the data that has been collected to date, as well as the regularly-scheduled reporting obligations already applicable to local carriers. In addition, before embarking on a new reporting regime, the committee should meet with service providers to assess how information is compiled within their businesses. In no event should the Commission force carriers to develop new systems and processes solely for the purpose of complying with reporting requirements.[12/] After the federal and state commission staffs make the foregoing investigations, evaluations and report their findings to the Commission, the Commission can then more accurately determine the most efficient and cost effective method of obtaining information on the state of local competition.[13/]

II. THE COMMISSION SHOULD MODIFY ITS TENTATIVE CONCLUSIONS REGARDING THE GATHERING AND REPORTING OF ADVANCED SERVICES DATA

The Commission has authority to collect broadband data under section 706 of the Telecommunications Act of 1996 ("1996 Act"), which requires the Commission to assess the availability of advanced telecommunications capability.[14/] However, such authority is not

---

[12/] Incumbent local exchange carriers have long been subject to reporting requirements and, therefore, have in place the facilities necessary to track, compile and submit data. The same cannot be said of new entrants to the telephone business or wireless providers. Requiring these carriers to implement such systems at this critical point in their development would put them at a distinct disadvantage in the marketplace.

[13/] Any decision on whether to establish different reporting obligations for cable entities could be made more appropriately as the Commission and states move forward with this investigation. Cf. American Cable Association ("ACA"), pp. 2-4 (Motion to Bifurcate the Docket).

[14/] Public Law No. 104-104, Title VII, § 706, reproduced in the notes under 47 U.S.C. § 157.

unbounded. The Commission's congressional mandate must be fulfilled consistent with the deregulatory focus of the 1996 Act and the goal of avoiding unnecessary burdens, as set out in the Notice.[15/]

The vast majority of commenters agree that annual reporting of advanced services data is sufficient to meet the Commission's goals.[16/] Given the Commission's obligation to report to Congress annually, collecting data from participants using the same timeframe would provide the Commission with viable information for its report.[17/] The Commission can achieve its twin goals of fully informing itself while minimizing the burdens on industry participants by at most requiring annual reporting.

Likewise, the comments support the proposition that clear geographic definitions are important to collecting useful data. Virtually every commenter agrees the required data should be collected on a state-by-state basis.[18/] Moreover, as Sprint and others explain, in addition to being less burdensome, statewide reporting reduces the risk of disclosure of competitively sensitive or confidential data.[19/] Although statewide reporting does not always provide sufficient protection for sensitive business information, reporting information on a more specific basis

---

[15/] The Commission need not decide in this proceeding whether it is necessary or appropriate to commence an inquiry into the regulatory classification of advanced services provided by cable companies. ACA, p.12. How those services are classified is a separate issue from the proper scope of reporting requirements applicable to them.

[16/] See ACA, p.11; Frontier, p.4; Nextlink, p.2; PCIA, p.7; SBC, p.3; Telec, p.3; U S WEST, p.6; and Winstar, p.3.

[17/] Any attempt to draw conclusions from trends in quarterly data is susceptible to misinterpretation and false conclusions.

[18/] See AT&T, p.12; Allegiance, p.4; ALTS, p.7; BellSouth, p.5; PCIA, p.6; Sprint, pp. 2-3; and USTA, pp. 2-3.

[19/] Sprint, pp. 2-3.

would "provide a virtual roadmap for competitors" of where and how a service provider is targeting customers.[20/]

Finally, AT&T urges the Commission to take into account carriers' currently operating internal data collection procedures. In particular, the Commission should require only the submission of subscribership data from reporting entities rather than the full panoply of line and transmission speed information proposed in the Notice. Many other commenters agree that a more streamlined approach to reporting on advanced services is warranted. CompTel, for example, notes that it would be unreasonable to expect competitive carriers to conform their data to a novel regulatory construct.[21/] Prior to establishing new reporting categories, the Commission should determine what sort of information is currently available to carriers in the normal course of their businesses. This would be, by far, the most cost effective way to gather the data the Commission needs to assess the state of broadband competition.

III. THE COMMISSION MUST KEEP REPORTING DATA CONFIDENTIAL

Virtually every commenter explained that the public release of sensitive business information (as proposed in the Notice) would harm the competitive posture of new entrants.[22/]

[20/] Allegiance Telecom, Inc. ("Allegiance"), p.7. A few commenters believe that information should be collected on an MSA or Basic Trading Area basis. Others state that information should be as detailed as counties or zip codes. While AT&T does not dispute that data this specific could sometimes be helpful, the burdens of providing the more detailed information far outweigh the benefits. Moreover, in mandating that the Commission assess the deployment of advanced telecommunications services, Congress did not suggest that such a granular examination is warranted. Statewide data would provide the Commission with sufficient information about the status of competition and lessen the anticipated reporting burdens on carriers.

[21/] CompTel, p.3.

[22/] See Allegiance, p.3; ALTS, p.12; AT&T, pp.18-19; Bell Atlantic Mobile, Inc., p.5; CTIA, pp.2-3; CompTel, p.8; MediaOne, p.13; NCTA, pp.11-12; Nextel, p.14; Nextlink, pp.5-6; Omnipoint, p.4; OPASTCO, pp.7-8; PCIA, p.8; SBC, p.9; Sprint Corp., p.3; Telec et al., p.4; Teligent, Inc., p.5; U S WEST, p.4; and Winstar, p.4.

To the extent any information is released, the commenters generally agree that the Commission should do so in an aggregate form and, at a minimum, on a statewide basis.[23/] Neither the Commission nor any commenter has provided adequate justification or shown that the benefits of disclosure of any information sought by the Notice would outweigh the extraordinarily high costs of making it public.

Like other commenters, Bell Atlantic advocates that broadband information be submitted on a confidential basis. Nevertheless, Bell Atlantic seeks to exempt each company's "geographical areas served" from confidentiality. This proposal is blatantly self-serving. As noted by Nextlink, without adequate safeguards for confidential information, "CLECs would be harmed more than ILECs, which traditionally hold more monopolistic power."[24/] Bell Atlantic has much to gain by determining where its new competitors are concentrating their efforts and how various business models are faring in the marketplace. The Commission should not adopt any plan that would permit parties to gain a leg up based solely on the release of commercially sensitive information.

[23/] See, e.g., ALTS, p.12; AT&T, p.19; CompTel, p.8; MediaOne, p.13.

[24/] Nextlink, p.6.

CONCLUSION

For the reasons stated above, the Commission should not impose new local or wireless reporting requirements until it has investigated through a joint federal-state committee whether and what data is needed and implement broadband reporting requirements consistent with these comments and the initial comments of AT&T.

Respectfully submitted,

AT&T Corp.

/s/ Stephen C. Garavito

Mark C. Rosenblum
Stephen C. Garavito
James W. Grudus
AT&T Corp.
Room 1135L2
295 North Maple Avenue
Basking Ridge, New Jersey 07920
(908) 221-6630

Howard J. Symons
Sara F. Seidman
Uzoma C. Onyeije
Susan E. McDonald
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 434-7300

Of Counsel

Douglas I. Brandon
AT&T Wireless Services, Inc.
1150 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036
(202) 223-9222

Douglas G. Garrett
AT&T Broadband and Internet Services
9197 South Peoria Street
Englewood, Colorado 80112
720-875-5500

December 20, 1999

Its Attorneys

CERTIFICATE OF SERVICE

I, Stephen C. Garavito, hereby certify that on this 20th day of December 1999, I caused copies of the foregoing "Reply Comments of AT&T Corp." to be sent to the following via hand delivery (*) and First Class Mail:

Dorothy Attwood*
Legal Advisor
Office of Commissioner Kennard
Federal Communications Commission
445 12th Street, S.W., Room 8-B201
Washington, D.C. 20554

Rebecca Beynon*
Legal Advisor
Office of Commissioner Furchtgott-Roth
Federal Communications Commission
445 12th Street, S.W., Room 8-A302
Washington, D.C. 20554

Linda Kinney*
Legal Advisor
Office of Commissioner Ness
Federal Communications Commission
445 12th Street, S.W., Room 8-B115
Washington, D.C. 20554

Kyle D. Dixon*
Legal Advisor
Office of Commissioner Powell
Federal Communications Commission
445 12th Street, S.W., Room 8-A204
Washington, D.C. 20554

Karen Gulick*
Legal Advisor
Office of Commissioner Tristani
Federal Communications Commission
445 12th Street, S.W., Room 8-C302
Washington, D.C. 20554

Larry Strickling*
Chief, Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W., Room 5-C450
Washington, D.C. 20554

Deborah Lathen*
Chief
Cable Services Bureau
Federal Communications Commission
445 12th Street, S.W., Room 3-C740
Washington, D.C. 20554

Ari Fitzgerald*
Legal Advisor
Office of Commissioner William Kennard
Federal Communications Commission
445 12th Street, S.W., Room 8-B201
Washington, D.C. 20554

Bryan Tramont*
Legal Advisor
Office of Commissioner Furchtgott-Roth
Federal Communications Commission
445 12th Street, S.W., Room 8-A302
Washington, D.C. 20554

Mark Schneider*
Legal Advisor
Office of Commissioner Ness
Federal Communications Commission
445 12th Street, S.W., Room 8-B115
Washington, D.C. 20554

Peter A. Tenhula*
Legal Advisor
Office of Commissioner Powell
Federal Communications Commission
445 12th Street, S.W., Room 8-A204
Washington, D.C. 20554

Sarah Whitesell*
Legal Advisor
Office of Commissioner Tristani
Federal Communications Commission
445 12th Street, S.W., Room 8-C302
Washington, D.C. 20554

Thomas Sugrue*
Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W., Room 3-C252
Washington, D.C. 20554

Ms. Terry Conway*
Common Carrier Bureau
Industry Analysis Division
Federal Communications Commission
445 12th Street, S.W., Room 6-A100
Washington, D.C. 20554

Mr. Andrew Wise*
Cable Services Bureau
Policy and Rules Division
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Mr. Walter Strack*
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W., Room 3-C204
Washington, D.C. 20554

Robert W. McCausland
Robert E. Kelly
Allegiance Telecom, Inc.
1100 15th Street, N.W., Suite 200
Washington, D.C. 20005

Jonathan Askin, Vice President - Law
Emily M. Williams, Senior Attorney
ALTS
888 17th Street, N.W.
Washington, D.C.

John T. Scott, III
Crowell & Moring LLP
1001 Pennsylvania Avenue, N.W.
Washington, DC 20004

Michael J. Shortley, III
180 South Clinton Avenue
Rochester, New York 14646

Thomas R. Parker
GTE Service Corporation
600 Hidden Ridge, HQE03J43
P.O. Box 152092
Irving, TX 75015-2092

Susan M. Eid
Tina S. Pyle
Richard A. Karre
1919 Pennsylvania Avenue, N.W.
Suite 610
Washington, D.C. 20006

Margot S. Humphrey
Koteen & Naftalin, LLP
1150 Connecticut Avenue, N.W.
Suite 1000
Washington, DC 20036

Mr. Jerome Stanshine*
Office of Engineering and Technology
Federal Communications Commission
445 12th Street, S.W., Room 7-B458
Washington, D.C. 20554

Ms. Judy Boley*
Federal Communications Commission
445 12th Street, S.W.
Room 1-C804
Washington, D.C. 20554

Arthur H. Stuenkel
Arkansas Public Service Commission
1000 Center Street
P.O. Box 400
Little Rock, AR 72203-0400

Lawrence W. Katz
Donna M. Epps
1320 North Court House Road
Eighth Floor
Arlington, Virginia 22201

Carol Ann Bischoff
Jonathan D. Lee
The Competitive Telecommunications Association
1900 M Street, N.W., Suite 800
Washington, D.C. 20036

George N. Barclay
Michael J. Ettner
GSA
1800 F Street, N.W., Room 4002
Washington, DC 20405

Gail L. Polivy
GTE Service Corporation
1850 M Street, N.W., Suite 1200
Washington, D.C. 20036

Daniel L. Brenner
Neal M. Goldberg
David Nicoll
1724 Massachusetts Avenue
Washington, D.C. 20036-1969

L. Marie Guillory
Jill Canfield
4121 Wilson Boulevard, 10th Floor
Arlington, VA 22203

Michael Olsen
Northpoint Communications, Inc.
222 Sutter Street, 7th Floor
San Francisco, CA 94108

L. Vincent Williams
Deputy Attorney General
Office of the Attorney General
State of Tennessee
425 5th Avenue North
Nashville, TN 37243

Stuart Polikoff
Stephen Pastorkovich
OPASTCO
21 Dupont Circle, N.W., Suite 700
Washington, D.C. 20036

Julie A. Kaminski
Deputy Chief Counsel
Prism Communication Services, Inc.
1667 K Street, N.W., Suite 200
Washington, DC 20006

Leon M. Kestenbaum
Jay C. Keithley
Norina T. Moy
1850 M Street, N.W., Suite 1110
Washington, D.C. 20036

Susan J. Bahr
Law Offices of Susan Bahr, P.C,
P.O. Box 86089
Montgomery Village, MD 20886-6089

Gunnar Halley
Willkie Farr & Gallagher
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20036

Vincent C. DeGarlais
U S WEST Communications, Inc.
Suite 700
1020 19th Street, N.W.
Washington, DC 20036

Ruth Milkman
Valerie Yates
Lawler Metzger & Milkman, LLC
1909 K Street, N.W., Suite 820
Washington, DC 20006

Benjamin H. Dickens, Jr.
Michael B. Adams, Jr.
Blooston, Mordkofsky, Jackson & Dickens
2120 L Street, N.W.
Washington, DC 20037

Mary McDermott
Brent H. Weingardt
Todd B. Lantor
PCIA
500 Montgomery Street, Suite 700
Alexandria, VA 22314

Alfred G. Richter, Jr.
Roger K. Toppins
Mark P. Royer
SBC Communications, Inc.
One Bell Plaza, Room 3024
Dallas, Texas 75202

Ken Pfister
President TELEC Consulting Resources, Inc.
909 N. 96th Street, Suite 3
Omaha, NE 68114-2508

Charles C. Hunter
Catherine M. Hannan
Hunter Communications Law Group
1620 I Street, N.W., Suite 701
Washington, D.C. 20006

Lawrence E. Sarjeant
Linda Kent
Keith Townsend
John W. Hunter
Julie E. Rones
1401 H Street, N.W., Suite 600
Washington, DC 20005

Patrick J. Donovan
Jeanne W. Stockman
Swidler, Gerlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, DC 20007

Robert S. Foosaner
Lawrence R. Krevor
Laura L. Holloway
Nextel Communications, Inc.
2001 Edmund Halley Drive
Reston, VA 20191

ITS
1231 20th Street, N.W.
Washington, D.C. 20036

/s/ Stephen C. Garavito
Stephen C. Garavito

DCDOCS:162486.5(3hd$05!.DOC)