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

In the Matter of	)	
	)	
2000 Biennial Regulatory Review –	)	
Comprehensive Review of the	)	CC Docket No. 00-199
Accounting Requirements and	)	
ARMIS Reporting Requirements for	)	
Incumbent Local Exchange Carriers:	)	
Phase 2 and Phase 3	)	

COMMENTS OF THE OHIO CONSUMERS' COUNSEL AND THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

I. Introduction

The Ohio Consumers' Counsel ("OCC") and the National Association of State Utility Consumer Advocates ("NASUCA") offer these comments in response to the Notice of Proposed Rulemaking ("Notice") released in this docket on October 18, 2000. The OCC is the statutory representative of Ohio customers of investor-owned utilities.[1] NASUCA is an association of 41 consumer advocates in 39 states and the District of Columbia. NASUCA's members -- including the OCC -- are designated by the laws of their respective states to represent the interests of utility consumers before state and federal regulators and in the courts.

The Notice requested comments on "various measures to eliminate or streamline existing accounting and reporting requirements" included in the current rules of the Commission. Notice, ¶ 2.

[1] See Ohio Rev. Code Chapter 4911.

The Notice was issued pursuant to the directive of 47 U.S.C. § 161, which requires the Commission biennially to review its regulations pertaining to telecommunications service to "determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service." See Notice, ¶ 10. Under that standard, virtually none of the regulations discussed in the Notice could be reduced or eliminated, because even where there exists "meaningful economic competition" for local telecommunications service, the incumbent carriers remain dominant in their markets.[2] Equally importantly, for residential consumers in particular competition is either nonexistent or, at best, minimal.

In the *Phase I Report and Order*,[3] the Commission did not rely on the statutory standard. Indeed, the statutory standard was never set forth. At the current time, however, the proposals in the Notice are such that the Commission should refocus on the standard.

These comments focus on the need to continue many of the regulations that the Notice proposes to dispense with, because of the continuing dominance of the carriers in their markets and the need for state regulators, this Commission, and other stakeholders (including consumer advocates) to have access to information about the operations of the carriers. Although we realize that reductions in the reporting requirements will benefit the carriers, where there is a continuing need for this information the detriment of losing

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[2] Clearly, all of the ILECs are still far more dominant in their local markets than AT&T was in the long distance market when the Commission found it to be "non-dominant."

[3] Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase I, CC Docket No. 99-253, *Report and Order*, 15 FCC Rcd 8690 (2000) ("*Phase I Report and Order*").

access to the information must outweigh any public interest benefit from reducing the regulatory burden on the carriers.[4]

In the *Phase I Report and Order* (at ¶ 8), the Commission stated that "[a]s the commenters observe, even a relatively light reporting burden is not a basis to retain the expense matrix reporting requirement." That was in the context of a reporting requirement that the states did not seek to retain. *Id*. To the contrary, in the instant context, the need of the states and other parties for the information discussed below is such as to require reporting *even if the burden of reporting were substantial*.

These comments oppose specific accounting and reporting reduction proposals set out in the Notice, and also support certain of the refinements or additions to the reporting requirements proposed by state commission staffs. The failure to address a specific proposal, however, should not be deemed to represent acquiescence in the proposal.

II. Part 32 Accounting Rules -- Chart of Accounts

A. Elimination of account detail

USTA proposed that Class A accounts be eliminated for all carriers regardless of size, and that all carriers use the less-detailed Class B accounts. Notice, ¶ 16 and Appendices 1 and 2. The Commission seeks comment on the elimination of approximately one-quarter of the Class A accounts. *Id*., ¶ 17 and Appendix 3. The Commission also seeks comment on the remaining Class A accounts, focusing on the elimination of "network plant and related asset and expense accounts". *Id*., ¶ 18 and

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[4] This is especially true given the continuing excellent returns earned by the carriers. It is likely that the reduced expense will simply further pad the carriers' bloated bottom lines, rather than leading to any benefits for consumers.

Appendix 4. Finally, the Commission seeks comment on USTA's proposal to replace Class A entirely with Class B reporting. *Id*.

There are two key areas of concern with this attempt to reduce the regulatory burden on the largest carriers. The first involves Account 5230, Directory Revenue. As the Commission well knows, directory revenues are a continuing source of controversy on the state level. See, e.g., *In Re the Petition of U S West Communications, Inc., for an Accounting Order*, Washington Utilities and Transportation Commission Docket No. UT-980948, Fourteenth Supplemental Order and Order Denying Petition (2000). The elimination of Account 5230 would result in directory revenues being included in Account 5200 (Miscellaneous Revenue) along with a variety of other revenues.[5] The OCC and NASUCA urge the Commission not to eliminate the discrete reporting of directory revenues, because this information continues to be necessary in various state proceedings. Although many if not most of the Class A carriers' state local exchange companies may be under one form or another of alternative regulation,[6] directory revenues continue to be an issue in the renewal or extension of alternative regulation plans.

The directory revenue issue is a remnant of the Class A companies' monopoly status. Other, more forward-looking issues also require maintenance of the current list of USOA accounts.

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[5] Among them would be accounts 5240 (rental revenue), 5250 (corporate operations revenue), 5262 (customer operations revenue), and 5264 (other incidental regulated revenue).

[6] One exception may be the former GTE companies that are now part of Verizon. For example, the Verizon local exchange company in Ohio with more than 900,000 access lines remains under traditional rate of return regulation.

In particular, the OCC and NASUCA agree with the Commission's concern (Notice, ¶ 18) about the importance of disaggregated "network plant and related accounts" for the universal service mechanism. Use of the aggregated Class B accounting would hide the level of, e.g., digital electronic switching, analog electronic switching, and electromechanical switching within the network, making it difficult to ensure that support went to state-of-the-art switching.[7]

Equally important is the states' ability to use this account information for comparative purposes in the development of rates for unbundled network elements ("UNEs"), as discussed in ¶ 19. The initial and continuing monitoring of UNE rates is a crucial aspect of the transition to local competition that has proved difficult for the states. They need every tool available to ensure that UNEs are priced low enough to allow competition but high enough recover the incumbent carriers' costs. Whether states "could find or develop alternative sources of data for this purpose" (*id*.) is really the wrong question here. The correct question is, *why* should the states find or develop alternative sources of data for this purpose, when this longstanding, familiar source is available?[8]

B. Additional account detail is needed as proposed by the state staffs.

The Commission notes that "state staff advocated adoption of new accounts to meet their data needs to implement the 1996 Act and to keep pace with changes in technology and the regulatory environment." *Id*., ¶ 20 (footnotes omitted). The state

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[7] As noted below, the OCC and NASUCA support the state staffs' proposal to add additional technology-related detail to the current Class A accounts.

[8] As indicated in the previous footnote, the OCC and NASUCA support the state staffs' proposal to add additional technology-related detail to the current Class A accounts.

staffs' proposals are set forth in Appendix 5 of the Notice. The proposals are overall reasonable, and should be adopted.

In particular, the OCC and NASUCA submit that the following additional subaccounts and new accounts are crucial for the post-Act environment:

- Technology (subaccounts for packet and asynchronous transfer mode ["ATM"] switches);
- Universal service (subaccounts for loops and subscriber line charges, new accounts for federal and state universal service support)[9];
- Local competition (new accounts for reciprocal compensation, resale, wholesale and collocation revenues and expenses; subaccounts for wholesale customer operations expense); and
- Access charges (subaccounts for access revenues, switched and special access).

Each of these areas is one where states are and will be making significant decisions in the next few years. The decisions are unavoidable, and should be based on the most accurate and detailed information available. Further, the information, although predominantly used by state commissions, will also be used by state consumer advocates and other stakeholders.

The Commission asks whether these new accounts and subaccounts should be required for both Class A and Class B carriers. Notice, ¶ 20. The issues as to which the

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[9] One example of the need for this detail: In Ohio, the LEC that is the recipient of the greatest amount of federal high cost universal service support (almost $7 million) currently includes that amount in Account 5082 -- Switched access revenue. This account is allocated entirely to the interstate jurisdiction, despite the fact that the purpose of this support is to keep *local* rates low. This LEC's local rates are among the highest in the state.

information in these new accounts is relevant pertain to all carriers, and will not be disappearing for larger or smaller carriers.[10] The OCC and NASUCA support requiring both Class A and Class B carriers to add this additional detail to their accounting systems.

C. Cost Allocation Forecasts

USTA has proposed that the Commission eliminate the requirement that the allocation of costs of central office equipment and outside plant investment between regulated and nonregulated activities be based on a three-year projection of regulated and nonregulated usage beginning with the current year. Notice, ¶ 45. USTA would have the allocation based only on the current year's numbers. NASUCA opposes USTA's proposal. The proposal disregards the fact that non-regulated services are a growing portion of the industry. Hence using only the current year's allocation will understate the extent to which central office and outside plant will actually be used for nonregulated activities, and will consequently overstate the use for regulated activities.

III. ARMIS Reporting Requirements

The Commission proposes to eliminate the requirement for carriers to file ARMIS 43-01, Table-I and ARMIS 43-02, Table-I. Notice, ¶¶ 57-58. Yet the information in these tables would still be available, because the Commission itself proposes to generate these tables from information in other financial ARMIS reports and post the report electronically. *Id*. The OCC and NASUCA have no objection to eliminating the requirement that carriers submit these tables *if* the information is automatically generated

[10] See discussion in previous footnote.

by the Commission and made available to the public. In this case, there is no cost to the public in terms of lost information resulting from cost savings to the carriers.

This is a crucial point. In passing, the Commission asks for “comment on whether there are alternative sources for this data.” *Id*., ¶ 56. By and large, there are *not* alternative sources for this data, at least not alternative sources that are consistently defined and easily accessible, as the ARMIS reports are. For example, in Ohio, all telcos are required to file an annual report based on the data included in the Form M filed with the Commission. Yet these reports are made on a total company basis. It is only by comparison with the ARMIS reports that a determination of the regulated jurisdictional portions of the companies’ operations can be made.

In addressing the ARMIS 43-01 and 43-02 issues, the Commission would eliminate these specific reporting requirements because the information is contained within other of the ARMIS reports. By contrast, in regard to ARMIS 43-07 and 43-08, the Commission proposes “to eliminate the collection of outdated information and … to collect information on newer technologies.” Notice, ¶ 68. Among other things, the Commission proposes to eliminate all reporting requirements for electromechanical switches in 43-07. *Id*. One would hope that information on electromechanical switches is outdated… however, it will not truly be outdated until there are no electromechanical switches in service. Until then, it will remain an important element of the assessment of the state of the public switched network.[11] The same holds true for the proposal to eliminate the distinction between analog and digital lines in Table II of 43-08. *Id*., ¶ 78.

[11] The same holds true with regard to equal access and touch tone capabilities: Unless equal access and touch tone are universal, it will be important to know where they are not available.

On the other hand, the Commission proposes to add requirements on data related to new technologies. *Id*., ¶ 65. Specifically, in Table I of 43-07, the Commission would add information on ATM, switched multi-megabit data service ("SMDS"), internet routers and frame relay service. *Id.*, ¶ 69. The Commission also seeks comment on whether to have carriers report data in Table II of 43-07 by Metropolitan Statistical Areas ("MSAs") and non-MSA, in order to compare urban and rural infrastructure deployment. *Id*., ¶ 70. The Commission would also add information on new technologies in Table II. *Id*., ¶¶ 72, 73, 74.

The OCC and NASUCA support the addition of these filing requirements. As the Commission notes about the current 43-07 and 43-08 reports,

> Together, these reports provide information about the make-up and operating capability of nearly 95 percent of the country's public local exchange telephone network. This information has been useful to policymakers at federal, state, and local levels, and provides critical data not available through other public sources.

Id., ¶ 64 (footnotes omitted). These factors alone show the continuing need for the current data collection, and strongly support adding requirements on advanced technologies. This is information that should be collected on a national level. There are no other public sources for this information (*id*.). State-level collection would also be insufficient, because of 1) possibilities that some state commissions may not have the ability or the interest in such collections, leaving gaps in the national picture, and 2) the risk of inconsistent state level reporting requirements, which would make it difficult to compare among the states.[12]

[12] The Commission seeks comment on whether "the increasing use of, and reliance on, the public network for communications throughout the country … should be considered when deciding to retain these reporting requirements." *Id.* The proposition is so self-evident as to scarcely require comment. This is

IV. Relief for Mid-Sized Carriers

The OCC and NASUCA are sympathetic to the desire of mid-sized carriers to reduce their regulatory burdens, and to the intentions of the Commission to assist those carriers in meeting their desire. Hence the OCC and NASUCA do not object to the Commission's proposal to eliminate the filing of Cost Accounting Manuals ("CAMs") by the mid-sized carriers, in favor of the filing of an annual attestation by the carrier that it is complying with section 64.903 of the Commission's rules. *Id*., ¶ 82.

On the other hand, there is the Commission's proposal to adjust the definition of "mid-sized" carriers by increasing the indexed revenue threshold from the current $114 million to $200 million. *Id*., ¶ 83. The rationale for this proposal is that "a few carriers have recently crossed the indexed revenue threshold, although they are significantly smaller than the majority of mid-sized LECs." *Id*.[13] This proposal in fact calls into question the existence of a minimum revenue threshold for mid-sized carriers: Raising the threshold means that, regardless of growth levels, no carrier will ever become classified as mid-sized rather than small. Yet it is safe to say that carriers that have annual revenues of more than $114 million are significantly *larger* than the majority of the small LECs.

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particularly shown if the proposition is put conversely. It would make little sense to argue that the increasing use of the public network *should not* be considered in deciding whether to retain (and update) these requirements. Notably, these requirements that show the overall technological level of the public network are enhanced, rather than eliminated, by the presence of competition in the network. See 47 U.S.C. § 161.

[13] It appears that the carriers in question are Roseville and Century Telephone. *Id*., ¶ 81.

In § 402(c) of the 1996 Telecommunications Act, Congress directed that the revenue classifications of carriers be adjusted annually for inflation. That adjustment should be sufficient. If a carrier's revenues have grown such that it should be classified as a mid-sized carrier, there is no reason not to treat it as a mid-sized carrier.

Regardless of whether the revenue threshold is changed, the Commission's principal proposal regarding ARMIS reporting for mid-sized carriers should be rejected. The Commission proposes to eliminate the ARMIS 43-02, 43-03, and 43-04 requirements for these carriers. Notice, ¶ 84. The 43-02 report "contains the financial operating results of the carriers' telecommunications operations for every account in Part 32." *Id.*, ¶ 58. The "43-03 Joint Cost Report contains the allocation of the carriers' revenues, expenses, and investments between regulated and nonregulated activities." *Id.*, ¶ 59. And the "43-04 Separations and Access Report contains data regarding the separation of carriers' regulated revenues and costs between the state and interstate jurisdictions and allocation of interstate amounts among the access charge categories." *Id.*, ¶ 61.

The information in these reports is every bit as valuable for state commissions, state consumer advocates and other stakeholders reviewing the operations of the mid-size carriers as it is in the review of the larger carriers' operations. The Commission's proposal would relegate those reviewing the mid-size carriers' operations to the "highly aggregated" information in ARMIS 43-01. *Id.*, ¶ 85.[14] There is no justification for such a substantial cut back in reporting.

The only stated bases in the Notice for this proposal are that

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[14] It appears that the Commission is even considering doing away with 43-01 for the mid-size carriers. *Id.* This would leave those reviewing those carriers' operations without any standardized information whatsoever.

> [w]e recognize that mid-sized carriers often have limited resources and have financial transactions that are generally smaller and fewer in number than the larger incumbent LECs. The cost of regulatory compliance may disproportionately impact the mid-sized carriers filing the more detailed ARMIS 43-02, 43-03, and 43-04 reports.

Id., ¶ 84.

On the face of it, of course, the "mid-sized" carriers are smaller than the mega-corporations -- SBC Communications, Qwest, Verizon, and BellSouth -- that are Class A carriers. But this hardly means that the mid-sized carriers are small "mom and pop" operations. For example, Cincinnati Bell has well over a million access lines in Ohio, Kentucky and Indiana. In 1999, Cincinnati Bell had $750 million in total revenues.[15] Cincinnati Bell is a subsidiary of Broadwing, Inc., a corporation that has $2 billion in annual revenues. For another example, Sprint's local telephone operation in Ohio has over 650,000 access lines; Sprint's ILEC operations nationwide serve 8.3 million access lines. And Sprint, of course, is a subsidiary of a corporation that had $19 billion in revenues in 1999.

Clearly, the burden of regulation on these carriers is not severe, and has not prevented them from accruing healthy earnings. Indeed, their earnings are such that the regulatory burden can scarcely be viewed as a constraint on their preparing for competition or deploying advanced services throughout their networks. The Commission must not eliminate the vital ARMIS reports for these "mid-sized" carriers that, in fact, are very large corporations with very substantial resources.

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[15] This information was obtained from Cincinnati Bell's ARMIS reports.

V. Conclusion

In its earlier orders, the Commission has already substantially relaxed the reporting requirements applicable to all carriers. See Notice, ¶¶ 10-11. The Telecommunications Act of 1996 keyed relaxation of regulation to the existence of "meaningful economic competition" between providers. 47 U.S.S. § 161. The OCC and NASUCA submit that the level of competition in the United States today -- particularly for local exchange competition, and specifically for residential customers -- is still limited enough so as to increase, not decrease, the need for meaningful information on the at worst near-monopoly, at best merely market-dominant operations of the incumbent local exchange companies. This is true both for the largest ILECs and for the so-called "mid-sized" companies.

Many of the proposals set out in the Notice simply go too far in eliminating reporting, as discussed herein. Further, the OCC and NASUCA agree with the proposals of the state commission staffs for additional reporting on issues key for the transition to competition and a technologically-advanced network.

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