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

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| In the Matter of | ) | |
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| Joint Petition of Qwest, Bellsouth and SBC for Expedited Forbearance from the Commission's Current Pricing Rules for the Unbundled Network Element Platform | ) | WC Docket No. 03-189 |

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| In the Matter of | ) | |
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| Petition for Forbearance from the Current Pricing Rules for the Unbundled Network Element Platform | ) | WC Docket No. 03-157 |

**COMMENTS OF THE**
**NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES**
**ON JOINT PETITION FOR EXPEDITED FORBEARANCE**

## I. Introduction

Pursuant to the Public Notice released August 18, 2003,[1] the National Association of State Utility Consumer Advocates ("NASUCA")[2] submits these comments on the Joint Petition for Expedited Forbearance ("Joint Petition") filed on July 31, 2003 by the Qwest Corporation ("Qwest"), Bellsouth Telecommunications, Inc. ("Bellsouth") and SBC Communications, Inc. ("SBC"), (hereinafter "Joint Petitioners"). The Joint Petition explicitly requests "exactly the same relief"[3] as that requested by a Petition for Expedited

[1] Public Notice, DA 03-2679 (rel. August 18, 2003) ("Public Notice").

[2] NASUCA is an association of 41 consumer advocates in 39 states and the District of Columbia. NASUCA's members are designated by the laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts.

[3] Joint Petition at 2.

Forbearance filed on July 1, 2003 by the Verizon telephone companies ("Verizon Petition").[4] The Joint Petitioners do not explain why they filed a separate Petition seeking the same relief as Verizon. The Joint Petition is redundant and wasteful. And like the Verizon Petition, the Joint Petition lacks basis in law and fact.

The Public Notice requests comment on "whether, why and to what extent [the Commission] should consider whether the requested relief meets the statutory forbearance criteria for local exchange carriers other than the Joint Petitioners."[5] As discussed below, the Joint Petition, like the Verizon Petition, requests industry-wide relief. The Joint Petition must be considered in that context, and should be rejected for all carriers including the Joint Petitioners and Verizon.

## II. Discussion

The Joint Petition, like the Verizon Petition, requests that the Federal Communications Commission ("Commission") forbear from applying its current Total Element Long Run Incremental Cost ("TELRIC") pricing rules to the unbundled network element platform ("UNE-P") and from its decision permitting UNE-P carriers to collect per-minute access charges from long distance carriers. The petition adds nothing to the Verizon Petition filed one month earlier. Indeed, the Joint Petitioners merely attach the Verizon Petition as the support for their Petition. The Joint Petitioners did not even include as support for their own Petition information that they included in comments filed

[4] *In the Matter of Petition of the Verizon Telephone Companies for Forbearance from the Current Pricing Rules for the Unbundled Network Element Platform*, WC Docket No. 03-157, Petition filed July 1, 2003.

[5] Public Notice at 1. The Public Notice requested that comments on these issues also be filed in the docket for the Verizon Petition.

in support of the Verizon Petition less than three weeks later.[6] The Joint Petitioners provide no justification for their need to file their separate petition. The Commission must deny the Joint Petition, as it must deny the Verizon Petition.

There is no disputing that Joint Petitioners are seeking to protect the same interests as those addressed in the Verizon Petition. For whatever reason, Joint Petitioners apparently believe they unable to protect their interests adequately through participating in the Verizon Petition alone. As a result, the Commission must address two separate petitions involving the same issues. In this instance, two petitions are not better than one.

An additional petition is unnecessary. The Verizon Petition requests general forbearance of the application of certain Commission rules; the Verizon Petition does not request forbearance for those rules as they apply only to Verizon. Any action or inaction taken by the Commission with respect to Verizon's Petition would apply equally to the UNE-P as provided by all incumbent carriers.

With regard to the substance of the Joint Petition, NASUCA incorporates by reference here its comments and reply comments filed in opposition to the Verizon Petition.[7] Those comments address squarely the issues set forth by petitioners in both Petitions, and demonstrate that the Petitions must be denied.[8]

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[6] See comments of SBC and Qwest (each filed August 18, 2003) in WC Docket No. 03-157.

[7] NASUCA filed Comments and Reply Comments on August 18 and September 2, 2003, respectively in the Verizon proceeding, WC Docket No. 03-157. The Public Notice specifically contemplates the incorporation by reference here of parties' comments in 03-157. Public Notice at 2.

[8] Verizon, in its September 2, 2003 Reply Comments In Support of Petition for Expedited Forbearance, WC Docket No. 03-157, failed to address or refute NASUCA's arguments set forth in the comments.

In any event, NASUCA recommends consolidating the Joint Petition with the Verizon Petition. Consolidation would provide administrative efficiencies, allowing interested parties to better allocate resources and reducing the potential for inconsistent results. Indeed, the Commission has effectively consolidated the proceedings already, by calling for comments to be filed in both dockets.[9] A joint order denying both Petitions would also be appropriate.

**III. Conclusion**

The Commission should deny the Joint Petition for Forbearance because the Joint Petitioners fail to provide any new argument warranting a separate petition. Both SBC and Qwest have participated in the Verizon Petition and have submitted comments in that matter. It was unnecessary for Joint Petitioners to file a separate petition addressing the same issues addressed in the Verizon Petition proceeding.

Respectfully submitted,

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[9] Public Notice at 1-2.

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