

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

In the Matter of)	
)	IB Docket No. 04-112
Reporting Requirements for U.S. Providers of)	
International Telecommunications Services)	
)	
Amendment of Part 43 of the Commission's)	
Rules)	

REPLY COMMENTS OF AT&T CORP.

AT&T Corp. ("AT&T") respectfully submits these Reply Comments in the above-captioned proceeding.¹

There is broad agreement that the international reporting requirements should be simplified and made less burdensome in accordance with wider changes in the international market and the Commission's international regulatory policies in recent years. All commenters support the Commission's proposals to streamline the annual traffic and revenue reports and one commenter seeks to remove these reports altogether. Because route-specific international traffic and revenue reports continue to help the Commission address significant foreign-end market power concerns, AT&T supports their continuation.

But there is certainly no reason, as emphasized by AT&T and MCI (and by Cingular concerning the similar proposed requirements for resale revenues), for this traffic and revenue information to be reported in *greater* and unreasonably burdensome detail -- by breaking out separate "retail" and "wholesale" revenues on each route and separately reporting "country

¹ FCC 04-70 (rel. Apr. 12, 2004) ("Notice").

direct” traffic and “non-route specific” revenues like flat monthly charges. These proposals would significantly increase the reporting burden on U.S. carriers, while providing no assistance to Commission efforts to prevent the abuse of foreign market power -- the only reason why route specific information of this type should still be reported at all.

Circuit status reports continue to provide useful information on available submarine capacity and therefore should be retained, but should be simplified and made substantially less burdensome by removing present requirements for the reporting of service categories. This change also would address MCI’s concern that information concerning non-regulated services should not be reported. Lastly, to allow the more complete reporting of available capacity on Commission-licensed undersea cable systems, major non-common carrier submarine cable owners also should be required to file cable circuit reports.

I. TRAFFIC REPORTING REQUIREMENTS SHOULD BE STREAMLINED AND PROPOSED CHANGES THAT WOULD INCREASE REPORTING BURDENS SHOULD NOT BE ADOPTED.

The comments show broad support for proposed changes that would reduce and simplify the burdens associated with international traffic and revenue reporting. AT&T (p. 3), MCI (pp. 2-3), Sprint (pp. 1-2) and Verizon (pp. 8-9) approve the Commission’s proposals to eliminate reporting of off-shore point traffic as international traffic and to eliminate reporting of the number of messages. These carriers also support eliminating the section 43.61(b) quarterly traffic and revenue reports for large carriers, which no longer provides an effective or necessary safeguard against by-pass following the regulatory changes adopted by the *ISP Order*.²

² AT&T at 9; MCI at 6-8; Sprint at 3-4; Verizon at 10. As MCI observes (p. 7), the Commission may obtain this information on a case-by-case basis in the event of traffic distortions on a particular route. However, AT&T disagrees with Verizon (p. 10) that the Commission also should eliminate the section 43.61(c) reports filed by switched resale carriers affiliated with dominant foreign carriers. As AT&T describes (p. 10), this requirement was established because

Verizon (pp. 1-8) also seeks to eliminate section 43.61 traffic and revenue reports altogether.³ Verizon is properly concerned to reduce the burdensome nature of the traffic reports, but its claims (p. 5) that competition in foreign markets and reduced foreign termination rates have made these reports “no longer necessary to detect market distortions and to protect U.S. consumers from anti-competitive behavior” do not withstand scrutiny.⁴

The primary purpose of these reports is to assist the Commission to prevent harm to U.S. consumers and carriers from foreign carrier abuse of their continuing bottlenecks at the foreign end of U.S. international routes.⁵ As AT&T describes (p. 2), and Verizon does not show otherwise, there are continued barriers to competition in most foreign countries, international

of the concern that dominant foreign carriers could use above cost termination rates to harm U.S. competition by manipulating traffic, which will not be removed until termination rates are reduced to cost-based levels.

³ Cingular (pp. 3-6) seeks to exempt all CMRS carriers from the section 43.61 filing obligation, but fails to show any basis for granting CMRS carriers such special treatment. Cingular (pp. 6-8) also proposes raising the proposed filing threshold for pure resale services from \$5 million to \$400 million, which would effectively accomplish the same objective and would also likely exempt the very large majority of the more than 700 pure resale carriers that filed section 43.61 reports on this traffic in 2002. *See* FCC News Release, *FCC Releases 2002 International Traffic Data*, Mar. 31, 2004. AT&T believes that if data on pure resale services is reported at all, it should be reported by all but the very smallest carriers in order to provide complete information on this market segment. AT&T therefore does not support the higher threshold proposed by Cingular. As noted below, AT&T shares Cingular’s further concern that the proposal for separate reporting of “end user” and “carriers carrier” pure resale traffic and revenues would be unreasonably burdensome and would not provide any clear benefit to Commission policies.

⁴ Verizon also fails to show any other basis for removal of these reports. The data is not “outdated and of limited value” (Verizon, p. 7) because of the time required to issue these reports. As noted above, these reports provide the only route-specific data available on traffic volumes and payments and therefore fulfill a critical function in monitoring foreign termination rates. Verizon’s further concern about disclosing competitively sensitive data (p. 8) may be addressed by allowing carriers to continue to request confidential treatment for such data. *See* AT&T at 13, n.26; MCI at 10.

⁵ *See* Notice, ¶ 9. *See also*, Verizon at 5 (acknowledging that protecting U.S. carriers from anticompetitive behavior was “the original purpose of the information gathered”).

termination rates generally remain far above cost-based levels, and U.S. carriers remain vulnerable to whipsaw actions by foreign carriers.⁶ Notably, the most important information assisting the Commission's efforts to prevent the abuse of foreign market power -- the *route-specific* information concerning traffic volumes and payments to and from foreign carriers -- is reported nowhere else.⁷ Therefore, these reporting requirements should be retained to assist the Commission to fulfill the policy goal of preventing harm to U.S. consumers and carriers from the abuse of foreign market power.

But there certainly is no reason to impose burdensome new reporting obligations on nondominant U.S. carriers that would do nothing to further that important public policy goal. Both AT&T (pp. 3-8) and MCI (pp. 4-5) urge the Commission not to adopt the staff recommendations to require U.S. revenue information to be reported in new and unprecedented detail by separately reporting retail and wholesale U.S. outbound traffic information on each route, and by separating "route-specific revenues" from "non-route specific revenues" (and

⁶ More than three quarters of the more than 200 U.S. international routes are still under monopoly control at the foreign end. See *TeleGeography 2002* Fig. 3 (listing only fifty countries as having international telephone service competition). Indeed, Verizon acknowledges (p. 4) that only 84 countries -- well under half the total number of foreign countries served by U.S. international routes -- have made *any* WTO commitments to liberalize their telecommunications markets. A significant portion of those 84 countries have not agreed to allow competition in international facilities-based services.

⁷ Without route-specific details of traffic volumes and payments to and from foreign carriers, the Commission would have no information on the level of termination rates on most international routes. Following the removal of the International Settlements Policy and its associated filing requirements on the large majority of international routes under the new policies adopted in the *ISP Order*, the *only* information now available to the Commission on the level of international termination rates on these routes is that provided under section 43.61. See *International Settlements Policy Reform*, IB Docket No. 02-234, FCC 04-324, rel. Mar. 30, 2004 ("*ISP Order*"). See also, Cingular at 5 (emphasizing the importance of "route-specific information" for monitoring the progress of the Commission's accounting rate policies).

reporting the latter on a world total basis).⁸ Both carriers emphasize that these proposed changes would impose significant new burdens by requiring major changes to information systems and the expenditure of other resources that would far outweigh any possible benefit to Commission policies.

Cingular (pp. 5-6, 9-10) has similar concerns regarding the proposals to require the reporting of separate retail and wholesale world total data for pure resale traffic and to require information to be broken down between small residential and business users. Cingular states (p. 9) that these requirements would be highly burdensome because it cannot retrieve much of this information, and that the suggested use of “periodic statistical studies” to derive this information would merely “replace one significant burden with another.”

Cingular also questions the purported need for such information in order to determine whether its policies should be “refine[d] . . . to ensure that small users receive the benefits of the emerging competitive IMTS market.”⁹ Notice, Appendix C, ¶ 29. AT&T (p. 7) has the same concern. As Cingular observes (p. 6), no such reporting obligations are imposed on domestic CMRS providers or on wireline IXCs, yet large and small users unquestionably receive the full benefits of competition in both those markets.

Cingular properly notes (p. 6) that there is no reason to adopt any different approach here, because competition in the U.S. international market will benefit all “consumers of all types.” The Commission recently affirmed not only that “reductions in settlement rates are being passed on to U.S. consumers,” but also that “average price reductions” have “*substantially*

⁸ AT&T (p. 5) has similar concerns with the proposal to require the reporting of “country direct” and “country beyond” traffic on a world total basis.

⁹ Notice, Appendix C, ¶ 29.

outpaced settlement rate reductions” for the period 1997 through 2002.¹⁰ AT&T at 6-7. This demonstrates that the Commission has properly relied on competitive market forces rather than new regulation to protect consumers in the U.S. international market and that it should continue to do so.

Therefore, there is no basis for the more detailed reporting of U.S. revenue information that is proposed here. Requiring U.S. carriers to report in this new and unprecedented level of detail would not assist the Commission to prevent the abuse of foreign market power and there is no reason for any “refinement” of Commission policies as suggested by the Notice. As Cingular notes (p. 6), there is no need “to micromanage . . . a competitive telecommunications market.” The Commission should reject these unwarranted proposals.

II. SIMPLIFIED AND MORE COMPREHENSIVE REPORTING OF ALL UNDERSEA CABLE CIRCUITS SHOULD BE REQUIRED.

As AT&T describes (p. 11), cable circuit status reports continue to provide useful information concerning the availability of undersea cable capacity. MCI (p. 8) agrees. These reports provide “the only information [the Commission] receive[s] on the number of circuits and whether they are in use or are idle.” Notice, ¶ 58. In addition to assisting Commission efforts to prevent anticompetitive conduct, *id.*, this publicly available information assists U.S. carriers like AT&T in making capacity planning and purchasing decisions.

Contrary to the claims by Verizon (p. 7 & n. 23), adequate information on circuit availability is not provided in connection with regulatory fee assessments and outage reports.¹¹

¹⁰ *ISP Order*, ¶ 72 (emphasis added).

¹¹ Route-specific information on active and inactive circuits is not submitted in connection with regulatory fees or outage reports. Regulatory fee assessments are based on a carrier’s total number of active international circuits, and thus provide no route specific information or details of inactive circuits. *See* FCC, Regulatory Fees Fact Sheet, *What You Owe - International and Satellite Services Licensees for FY 2004*, Jul. 2004, at 3-6. FCC outage reports are limited to

Similarly, Sprint (p. 2) incorrectly contends that this information may be obtained from the parties involved in cable authorization, enforcement or merger proceedings, which are unlikely to be aware of the amount of active and inactive capacity held by other entities on particular routes. Accordingly, neither commenter shows that these reports are no longer necessary.

AT&T agrees with the concerns expressed by the Notice (§ 24) that the omission of much of the capacity on the non-common carrier systems that now comprise “almost all” new undersea cables (Notice, § 22) greatly reduces the utility of these reports. AT&T accordingly proposes (pp. 12-13) that major owners of non-common carrier submarine systems -- those that would qualify as applicants if their licensing authority was subject to the Commission’s existing rules -- should be required to submit cable circuit status information.¹² Sprint (p. 2) concurs that all parties should be required to file if the report is retained.¹³ As noted by MCI (p. 10), the Commission should ensure the confidentiality of all party-specific circuit status data by

particular incidents and provide no information concerning total amounts of route-specific active and inactive capacity. *See* 47 C.F.R. Sect. 63.100. *See also*, *New Part 4 of the Commission’s Rules Concerning Disruptions to Communications*, ET Docket No. 04-35, Report and Order and Further Notice of Proposed Rulemaking, (rel. Aug. 19, 2004), FCC 04-188, App. B (final rules).

¹² The concerns expressed by SES Americom and Panamsat (p. 5) that satellite capacity cannot meaningfully be assigned to particular routes could be addressed by requiring satellite operators to report active and idle circuits in the greatest amount of geographic specificity that is allowed by the footprints of the relevant satellites. Even if non-common carrier satellite providers are exempted from any extension of the reporting requirement, major non-common carrier owners of submarine cable systems should be required to file these reports. Submarine capacity is route-specific and the omission of non-common carrier owned submarine capacity greatly reduces the utility of current cable circuit status reporting.

¹³ Any double-counting of circuits on non-common carrier systems sold or leased to international common carriers could be prevented by exempting one party from reporting these circuits. *Cf.*, Public Notice, DA 04-2027, *Compliance with Regulatory Fee Requirements by Cable Landing Licensees Operating on a Non-Common Carrier Basis*, Jul. 6, 2004 (exempting non-common carrier submarine cable operators from regulatory fees on circuits sold or leased to international common carriers authorized by the Commission to provide U.S. international common carrier services).

continuing to treat this information as confidential and by including only total industry data in the public report.

AT&T (pp. 11-12) also urges the Commission to avoid increasing the complexity of the cable circuit status report by adding new service categories and instead to simplify the report and to make it much less burdensome by eliminating all reporting of circuits by service categories. The critical circuit availability information that is provided by this report does not require the reporting of service categories -- as shown by the fact that idle circuits are reported under a separate service code "regardless of which service the circuits are planned for." *Manual For Filing Section 43.82 Circuit Status Data*, FCC Report 43.82, at 9.

By removing service category reporting, the Commission also would address the concerns expressed by MCI (pp. 8-9) that there should be no reporting of circuits used for non-telecommunications services, which are not regulated by the Commission. MCI's concerns properly relate to non-telecommunications services, which are not reported, rather than to the circuits over which these services are provided, which are reported by common carriers today. By removing all reporting of service information from this report, the Commission would allow submarine capacity to be reported much more comprehensively, while avoiding any need to determine how the reporting of particular services should be exempted.

CONCLUSION.

For the reasons described above and in AT&T's Comments, the Commission should modify the international reporting requirements to remove outdated requirements and to reduce unnecessary burdens on U.S. carriers, and should not require separate reporting of retail and wholesale U.S.-outbound traffic, so called "non-route specific" revenues or "country direct" traffic. The Commission also should simplify cable circuit status reporting requirements and should require major non-common carrier owners to file these reports.

Respectfully submitted,

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August 23, 2004

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of August, 2004, I caused true and correct copies of the foregoing Reply Comments of AT&T Corp. to be served on all parties on the attached service list by first class mail, postage prepaid, or electronic filing (for parties marked*).

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