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

In the Matter of	)	
	)	
Qwest Petition for Forbearance Under 47 U.S.C. §160(c) from Title II and *Computer Inquiry* Rules with Respect to Broadband Services	)	WC Docket No. 06-125
	)	
Petition of AT&T Inc. for Forbearance Under 47 U.S.C. §160(c) from Title II and *Computer Inquiry* Rules with Respect to Its Broadband Services	)	
	)	
Petition of Bellsouth Corporation for Forbearance Under 47 U.S.C. §160(c) from Title II and *Computer Inquiry* Rules with Respect to Its Broadband Services	)	
	)	
Petition of the Embarq Local Operating Companies for Forbearance Under 47 U.S.C. §160(c) from Application of *Computer Inquiry* and Certain Title II Common-Carriage Requirements	)	WC Docket No. 06-147
	)	
Petition of the Verizon Telephone Companies for Forbearance Under 47 U.S.C. §160(c) from Title II and *Computer Inquiry* Rules with Respect to Their Broadband Services	)	WC Docket No. 04-440

COMMENTS
OF THE
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT
OF SMALL TELECOMMUNICATIONS COMPANIES

I. INTRODUCTION

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO)[1] hereby submits these comments in

[1] OPASTCO is a national trade association representing over 550 small incumbent local exchange carriers (ILECs) serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve more than 3.5 million customers. All OPASTCO members are rural telephone companies as defined in 47 U.S.C. §153(37).

response to the Public Notices in WC Docket Nos. 06-125 and 06-147.[2] The Public Notices seek comment on petitions filed by Qwest, AT&T, Bellsouth, and Embarq (collectively, the Petitioners) that request forbearance from Title II and the *Computer Inquiry* rules that apply to certain specified broadband services that these carriers provide. The Petitioners argue, in part, that the grant of their forbearance petitions is warranted because the Commission has already granted a similar forbearance petition filed by Verizon, by operation of law.[3]

There is substantial uncertainty throughout the industry as to the scope and effect of the regulatory forbearance which Verizon was granted as well as the potential scope and effect of the outstanding petitions in the instant proceedings. The Commission should address this uncertainty by issuing a clarifying Order that addresses the grant of Verizon's forbearance petition. Among other things, the Order should state that the grant of Verizon's forbearance petition in no way relieved Verizon from its obligation to contribute to the Universal Service Fund (USF) for the broadband services at issue in its petition. Similarly, if the Commission decides to grant any of the outstanding forbearance petitions, it should do so explicitly and make clear that these carriers are not relieved from their USF contribution obligation for these services. Maintaining USF

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[2] *Pleading Cycle Established for Comments on Qwest and AT&T Petitions for Forbearance Under 47 U.S.C. §160(c) from Title II and Computer Inquiry Rules with Respect to Broadband Services*, WC Docket No 06-125, Public Notice, DA 06-1464 (rel. Jul. 19, 2006); *Pleading Cycle Established for Comments on Bellsouth Petition for Forbearance Under 47 U.S.C. §160(c) from Title II and Computer Inquiry Rules with Respect to Broadband Services*, WC Docket No 06-125, Public Notice, DA 06-1490 (rel. Jul. 21, 2006); *Pleading Cycle Established for Comments on Embarq Local Operating Companies' Petition for Forbearance Under 47 U.S.C. §160(c) from Application of Computer Inquiry and Certain Title II Common Carriage Requirements*, WC Docket No 06-147, Public Notice, DA 06-1545 (rel. Jul. 28, 2006).

[3] *Verizon Telephone Companies' Petition for Forbearance from Title II and Computer Inquiry Rules with Respect to Their Broadband Services is Granted by Operation of Law*, News Release, WC Docket No. 04-440 (rel. March 20, 2006).

contribution obligations on the broadband services at issue in the forbearance petitions is essential to the continued stability of the Fund.

In addition, the clarifying Order on Verizon's petition should clearly list and describe the services for which Verizon was granted regulatory relief. Likewise, should the Commission decide to grant any of the outstanding petitions, the Order(s) should list and describe the services for which forbearance is granted, using the same terms and descriptive language to the greatest extent possible.

Finally, the Commission should carefully consider the potential long-term impact that the deregulation of the broadband services at issue in these petitions may have on rural ILECs' access to the Internet backbone. Rural ILECs need access to the Internet backbone at reasonable and nondiscriminatory rates and terms in order to provide their customers with high-quality, affordable advanced services.

II. THE COMMISSION SHOULD CLARIFY THAT THE GRANT OF VERIZON'S FORBEARANCE PETITION DID NOT RELIEVE VERIZON FROM ITS USF CONTRIBUTION OBLIGATIONS FOR THE BROADBAND SERVICES AT ISSUE IN ITS PETITION; LIKEWISE, THE COMMISSION SHOULD ISSUE CLEAR LANGUAGE TO THE SAME EFFECT IF IT DECIDES TO GRANT ANY PART OF THE OUTSTANDING PETITIONS

The Commission's decision to allow Verizon's Petition for Forbearance from Title II and the *Computer Inquiry* rules for certain broadband services to take effect by operation of law has given rise to substantial uncertainty throughout the industry in several different respects. Of particular concern to rural ILECs is whether or not Verizon was relieved of its USF contribution obligations for the services that were granted regulatory forbearance. Although Verizon filed an *ex parte* letter stating that it did not seek forbearance from USF contribution obligations for the services at issue in its

petition,[4] the lack of any clarifying Order from the Commission on the grant of Verizon's petition has perpetuated the uncertainty.

To eliminate this uncertainty, the Commission should issue a clarifying Order on the grant of Verizon's petition. Among other things, the Order should explicitly state that Verizon was not relieved of its obligation to contribute to the USF for the broadband services for which regulatory forbearance was granted (at least to the extent that the services were subject to USF contributions prior to forbearance). Similarly, should the Commission approve any of the outstanding forbearance petitions, in whole or in part, it should do so explicitly, and not simply allow them to take effect by operation of law. Among other things, the Order(s) should make clear that the services granted regulatory forbearance are not relieved of the USF contribution obligation.

The continued contribution obligation for the broadband services at issue in these forbearance petitions is critical to the stability of the USF. As the communications marketplace continues to evolve toward broadband platforms and services, the shift away from "traditional" telecommunications services will gradually drain the USF contribution base.[5] It is vitally important then that the Commission not allow uncertainty to linger as to whether the broadband services at issue in the granted Verizon forbearance petition, as well as the outstanding petitions, remain subject to USF contribution obligations. The Commission should make clear that contribution obligations continue to apply to these services if and when they are granted regulatory relief.

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[4] Verizon *Ex Parte* Letter, WC Docket No. 04-440 (fil. Feb. 17, 2006).

[5] For this and other reasons, OPASTCO urges the Commission to quickly move to require all broadband Internet access providers over all platforms to contribute to the USF. *See*, ITTA, OPASTCO, and WTA Written E*x Parte* Presentation, WC Docket No. 06-122 and CC Docket No. 02-33 (fil. Aug. 4, 2006).

III. THE COMMISSION SHOULD CLARIFY THE EXACT BROADBAND SERVICES FOR WHICH VERIZON WAS GRANTED REGULATORY FORBEARANCE AND ISSUE SIMILAR CLARIFYING LANGUAGE IF IT DECIDES TO GRANT ANY OF THE OUTSTANDING PETITIONS; THE COMMISSION SHOULD ALSO CAREFULLY CONSIDER THE LONG-TERM IMPACT THAT THE GRANT OF THESE PETITIONS MAY HAVE ON RURAL ILECS' ACCESS TO THE INTERNET BACKBONE

Similar to the ambiguity regarding the obligation to contribute to the USF, there is uncertainty regarding the exact broadband services for which Verizon was granted regulatory relief as well as the services for which forbearance is being sought by the Petitioners. Part of this confusion stems from the fact that Verizon's original forbearance petition, filed in December 2004, was followed by several *ex parte* presentations which sought to "clarify" the services for which Verizon sought forbearance. Thus, there is uncertainty as to whether the forbearance that Verizon was granted only applies to what was included in its original petition, or to what was included in the follow-up *ex partes* as well.

To further complicate matters, while the outstanding petitions generally claim to request forbearance for the same services for which Verizon was granted forbearance, the Petitioners use terminology that differs from each other, and from Verizon's petition, to describe the services for which they seek forbearance.[6] Of particular concern to rural ILECs in this regard is whether the services that were the subject of Verizon's petition, as well as those that are the subject of the outstanding petitions, may be utilized by these

[6] For instance, Qwest, in its Petition, states that it is entitled to the "identical relief" that was granted to Verizon. *See*, Qwest Petition, pp. 5-8. However, a comparison of Attachment A to Qwest's petition and Attachment 1 to Verizon's February 7, 2006 *ex parte* presentation is confusing at best. Each attachment lists broadband services not listed by the other party. Likewise, a comparison of Attachment A to AT&T's petition with Verizon's list of services results in a similar mismatch.

carriers to gain access to the Internet backbone, or may be utilized for such access in the future.

To eliminate all of this confusion and ambiguity, the Commission's clarifying Order on the grant of Verizon's petition should list and clearly describe the broadband services for which Verizon is no longer subject to Title II and *Computer Inquiry* regulation. Further, if the Commission decides to grant any of the outstanding petitions, in whole or in part, the Order(s) should list and describe the services that are granted regulatory forbearance using the same terms and descriptive language, to the greatest extent possible.

Finally, the Commission should carefully consider the potential long-term impact that the deregulation of the broadband services at issue in these petitions may have on rural ILECs' access to the Internet backbone. As technology and the marketplace evolve, services or technologies that are not presently used by rural ILECs to access the Internet backbone could potentially serve part of that function in the future. The Commission should attempt to account for any such potential eventualities in its decisionmaking. It is essential that rural ILECs have access to the Internet backbone at just, reasonable, and nondiscriminatory rates and terms in order to provide their customers with high-quality, affordable advanced services.[7]

IV. CONCLUSION

The Commission should issue a clarifying Order on the grant of Verizon's Petition for Forbearance for certain broadband services, which was granted by operation of law. Among other things, the Order should state that Verizon remains obligated to contribute to the USF for the broadband services at issue in its petition. Should the

[7] *See*, OPASTCO *Ex Parte* Notice, WC Docket No. 06-74 (fil. Jun. 14, 2006).

Commission decide to grant any of the outstanding petitions in the instant proceedings, it should do so explicitly and include similar clarifications regarding USF contribution obligations.

In addition, the Commission's clarifying Order on the granted Verizon petition should list and clearly describe the services for which Verizon was granted regulatory relief. Similarly, should the Commission decide to grant any of the outstanding petitions, the Order(s) should list and describe the services that are granted regulatory forbearance, using the same terms and descriptive language, to the greatest extent possible. Finally, the Commission should carefully consider the long-term potential impact that the deregulation of the services at issue in the petitions may have on rural ILECs' ability to access the Internet backbone at reasonable and nondiscriminatory rates and terms.

Respectfully submitted,

ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES

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August 17, 2006

Certificate of Service

I, Brian Ford, hereby certify that copies of OPASTCO's comments were sent on this, the 17th day of August, via electronic mail, to those listed on the attached sheet.

By: /s/ Brian Ford
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WC Docket No. 06-125
WC Docket No. 06-147
WC Docket No. 04-440

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