

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

In the Matter of)
)
Petition of AT&T Inc. for Forbearance)
Under 47 U.S.C. § 160(c) with Regard) **WC Docket No. 06-120**
To Certain Dominant Carrier Regulations)
For In-Region, Interexchange Services)

REPLY COMMENTS OF COMPTTEL

COMPTTEL and others commenters, in their initial round of comments, demonstrated that the Commission should deny AT&T’s Petition for Forbearance in the above-referenced docket. COMPTTEL hereby replies to the comments submitted by Verizon with regard to the other “equal access” obligations preserved by 47 U.S.C. §251(g).

Verizon, in its comments, urges the Commission to “eliminate all of the carry-over ‘equal access’ obligations that were preserved by section 251(g) of the Act.”¹ It is not clear the legal mechanism through which Verizon seeks the elimination, in this proceeding, of these obligations. Verizon’s comments, nevertheless, do not constitute a petition for forbearance pursuant to 47 U.S.C. 160(c); there is no record for the Commission to forbear from enforcing section 251(g); and, indeed, the Commission should not forbear from applying, or otherwise eliminate, these equal access obligations.

The Commission rules, 47 C.F.R. §1.53, specifically state:

In order to be considered as a petition for forbearance subject to the one-year deadline set forth in 47 U.S.C. 160(c), any petition requesting that the Commission exercise its forbearance authority under 47 U.S.C. 160 ***shall be filed as a separate pleading and shall be identified in the caption of***

¹ Comments of Verizon at 2. *See also, Id.* at 8-10.

such pleading as a petition for forbearance under 47 U.S.C. 160(c). Any request which is not in compliance with this rule is deemed not to constitute a petition pursuant to 47 U.S.C. 160(c), and is not subject to the deadline set forth therein. (*Emphasis added.*)

Verizon's comments do not constitute a petition for forbearance. The caption of the pleading is not identified as a petition for forbearance, nor does Verizon even use the term "forbear" in its quest to eliminate these obligations.

Moreover, there is no record in this proceeding on which the Commission could support a decision to forbear from enforcing the carry-over obligations of section 251(g). In order to forbear from applying a provision of the Act, the Commission must find that: (1) the regulation is not necessary to ensure just, reasonable, and nondiscriminatory charges, practices, classifications or regulations of services; (2) the regulation is not necessary to protect consumers; and (3) that forbearance is consistent with the public interest. In evaluating the public interest, the Commission must consider the competitive impact.² Verizon, in its comments, does not even attempt to articulate how the forbearance standard is met with regard to the section 251(g) carry-over obligations.

Furthermore, the section 251(g) obligations remain in effect "...until such restrictions and obligations are *explicitly superseded by regulations* prescribed by the Commission..."³ While the Commission issued a *Notice of Inquiry* on this matter, in another docket, "such proceedings do not result in the adoptions of rules."⁴ Therefore, the Commission currently has no procedural means to "eliminate" the section 251(g) obligations.

² 47 U.S.C. 160(a)-(b).

³ 47 U.S.C. §251(g)(*emphasis added.*)

⁴ 47 C.F.R. § 1.430

Finally, the equal access obligations are valuable tools in fostering a competitive environment in the markets for interexchange and information services and, consequently, the Commission should not even consider the elimination of these requirements. The equal access obligations provide a comprehensive set of safeguards that were established to attenuate the ability of the Bell Operating Companies (“BOCs”) to favor, through their control over local facilities, one interexchange carrier (“IXC”) or information service provider (“ISP”) over another.

Verizon argues that these carry-over obligations are outdated. On the contrary, the need for the section 251(g) equal access and nondiscrimination requirements are more compelling today than when these obligations first were adopted as part of the 1982 Modification of Final Judgment that broke up the Bell System. Not only does the BOCs’ ability to discriminate in favor of one provider still remain - as they still control the local facilities that unaffiliated IXCs and ISPs rely on to compete - their incentives to engage in anti-competitive conduct to the detriment of their competitors has increased substantially, as they are now competing in the downstream markets and, through acquisitions, already have the lion’s share of those markets. Indeed, the equal access requirements were preserved by the 1996 Act to prevent the BOCs from favoring their affiliates once they obtained permission to provide interLATA services pursuant to 47 U.S.C. §271.

In conclusion, the Commission has no means or justification, at this time, to eliminate the section 251(g) obligations.

Respectfully submitted,

/s/Karen Reidy

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