

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

In the Matter of)	
)	
Petition of AT&T Inc. For Forbearance)	WC Docket No. 07-21
Under 47 U.S.C. § 160(c) From)	
Enforcement of Certain of the)	
Commission's Cost Assignment Rules)	

**Comments
Of
The Nebraska Rural Independent Companies**

I. Introduction

The Nebraska Rural Independent Companies (the "Nebraska Companies")¹ hereby submit comments in the above captioned proceeding. With this Public Notice² the Federal Communications Commission (the "Commission") seeks comment on a petition (the "AT&T Petition")³ filed by AT&T Inc. ("AT&T") and on a similar petition (the "BellSouth Petition")⁴ that AT&T refiled on behalf of BellSouth Telecommunications, Inc. ("BellSouth") in this proceeding (the petitions will be referred to jointly as "the

¹ Companies submitting these collective comments include: Arlington Telephone Company, The Blair Telephone Company, Cambridge Telephone Company, Clarks Telecommunications Co., Consolidated Telco, Inc., Consolidated Telecom, Inc., Consolidated Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, Inc., Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Company, Inc., K&M Telephone Company, Inc., The Nebraska Central Telephone Company, Northeast Nebraska Telephone Co., Rock County Telephone Company, Stanton Telephone Co., Inc. and Three River Telco.

² See Public Notice, Pleading Cycle Established for AT&T Inc. Petition for Forbearance from the Commission's Cost Assignment Rules, WC Docket No. 07-21, DA 07-731 (rel. Feb. 16, 2007).

³ See *Petition of AT&T Inc. for Forbearance Under 47 U.S.C. §160(c) from Enforcement of Certain of the Commission's Cost Assignment Rules*, WC Docket No. 07-21, AT&T Inc. Petition for Forbearance (filed Jan. 25, 2007).

⁴ See *Petition of BellSouth Telecommunications, Inc. for Forbearance Under 47 U.S.C. §160(c) from Enforcement of Certain of the Commission's Cost Assignment Rules*, WC Docket No. 05-342, Petition for Forbearance (filed Dec. 6, 2005).

Petitions”). The Petitions request forbearance from the following rules: section 32.23 (nonregulated activities), section 32.27 (transactions with affiliates); Part 64 Subpart I (referred to as “cost allocation rules”); Part 36 (referred to as “jurisdictional separations rules”); Part 69, Subparts D and E (referred to as “cost apportionment rules”); and other related rules that are derivative of, or dependent on, the foregoing rules.⁵ The rules from which AT&T seeks forbearance will be generally referred to within these comments as the “cost assignment rules.”

The Nebraska Companies submit that the petitions do not meet the statutory requirements to grant forbearance, as explained in greater detail below, and that, given the market power of the post-merger AT&T, it is essential for consumers that these cost assignment rules be maintained. Therefore, the Nebraska Companies believe that the Commission must deny the Petitions.

II. The Arguments Provided By AT&T And BellSouth In Support Of Their Forbearance Petitions Do Not Meet The Statutory Requirements To Grant Forbearance.

A. Enforcement Of The Cost Assignment Rules Is Necessary To Ensure That The Charges And Practices Are Just And Reasonable And Not Unjustly And Unreasonably Discriminatory.

The AT&T Petition asserts that the Commission’s cost assignment rules are unnecessary for state regulatory purposes, as all of the states included in the AT&T Petition have shifted from rate-of-return regulation to incentive regulation.⁶ However, as indicated in attachment 4 of the AT&T Petition, AT&T operates in at least one state⁷ that

⁵ See 47 C.F.R. §§ 32.23, 32.27, Parts 36, 64 Subpart 1, and 69 Subparts D and E.

⁶ See *AT&T Petition* at p. 25.

⁷ *Id.* at Attachment 4, p. 10, which states that Oklahoma Corporation Commission rules require AT&T to file all state-specific ARMIS reports, including 43-01 and 43-03.

requires it to file state specific ARMIS reports, including reports 43-01 and 43-03. As identified in attachment 6 to the AT&T petition, reports 43-01 and 43-03 would not be complete if the forbearance petition was granted; in other words, reports 43-01 and 43-03 would be missing data. In addition to the state that requires AT&T to file state specific ARMIS reports, AT&T operates in other states which require the filing of reports in lieu of ARMIS reports or other financial reports to measure state rate of return.⁸ AT&T asserts that it makes little sense to use federally mandated, region-wide cost data to satisfy state-specific cost reporting obligations.⁹ However, the Nebraska Companies submit that publicly-available data that is developed using consistent rules across all jurisdictions allows regulators the opportunity to ensure that allocations are not skewed on the basis of a certain state's regulatory policy. In other words, the filing of complete ARMIS reports with the Commission allows individual state regulatory agencies to compare the operating results of AT&T (or other incumbent local exchange carriers subject to ARMIS reporting requirements) in a specific state to the operating results of the same carrier in other states. Such state-to-state comparisons may allow state regulatory commissions to detect potential anomalies in reporting that would be much more difficult, if not impossible, to detect in a state-specific report with no basis for comparison. Therefore, the Nebraska Companies submit that continued application of the cost allocation rules is necessary to provide state regulatory commissions with

⁸ Id. at Attachment 4, pp. 5, 8, and 11, which indicates that Illinois Bell is required to submit quarterly intrastate ratebase and earnings information, Nevada Bell is required to file total Nevada financial operating results including the intrastate rate of return, and AT&T Wisconsin must file the PSCW Annual Report in lieu of the ARMIS 43-01 through 43-08 schedules.

⁹ Id. at p. 27.

sufficient information to determine that the charges and practices of AT&T and BellSouth are just and reasonable and not unjustly and unreasonably discriminatory.

B. Forbearance Is Not In The Interest Of Consumers.

The BellSouth Petition asserts that continuing application of the cost assignment rules is not necessary for the fulfillment of the Commission's universal service obligations, including ensuring compliance with Section 254(k) of the Telecommunications Act of 1996 (the "Act").¹⁰ The BellSouth Petition states that the rules from which it seeks forbearance have nothing to do with ensuring that the objectives of Section 254(k) are met.¹¹ The BellSouth Petition argues that since BellSouth's prices are regulated by price caps, the prices are not set in reference to the costs identified through the cost assignment rules.¹² Further, the BellSouth Petition makes the assertion that price caps were implemented to ensure that a carrier could not increase prices for services subject to price caps to offset prices for services not subject to those caps.¹³

Section 254(k) of the Act states:

A telecommunications carrier may not use services that are not competitive to subsidize services that are subject to competition. The Commission, with respect to interstate services, and the States, with respect to intrastate services, shall establish any necessary cost allocation rules, accounting safeguards, and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.

The cost assignment rules from which AT&T and BellSouth seek forbearance give the Commission and state regulatory commissions the necessary information to

¹⁰ See *BellSouth Petition* at pp. 55-56.

¹¹ *Id.* at p. 55.

¹² *Ibid.*

¹³ *Ibid.*

ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services. The cost allocation rules and jurisdictional separation rules, which separate costs into regulated and non-regulated categories and jurisdictions, respectively, provide information to ensure that the requirements of Section 254(k) are fulfilled. The assertion that prices are not set in reference to the costs identified through the cost assignment rules does not mean that the cost allocation rules are irrelevant in ensuring that Section 254(k) requirements are fulfilled. In fact, the admission in the BellSouth Petition that prices are not determined based upon cost information only highlights the need for the information produced by the cost allocation rules.

The Nebraska Companies believe the assertion that prices caps “. . . were implemented to ensure that a carrier could not increase prices for services subject to price caps to offset prices for services not subject to those caps”¹⁴ is not correct, and offers no assurance that Section 254(k) requirements will be fulfilled. Price cap regulation sets “caps” on price increases on aggregate groups of services, but generally does not prohibit price increases on a particular service. Therefore, while price cap regulation may limit a carrier’s ability to increase prices, it generally does not prohibit a carrier from increasing prices to offset revenue losses from decreasing prices of non-regulated services. Thus, price cap regulation in and of itself does not eliminate the potential for services included in the definition of universal service to bear no more than a reasonable share of the joint and common costs of facilities used to provide those services. As such, the Nebraska Companies submit that the cost assignment rules are necessary and appropriate to ensure

¹⁴ Ibid.

that requirements under Section 254(k) of the Act, which protect the interests of consumers, are fulfilled.

C. Forbearance Is Not Consistent With The Public Interest.

The AT&T Petition asserts that it would be in the public interest to forbear from application of the cost allocation rules, as the rules impose substantial costs and burdens on AT&T.¹⁵ AT&T indicates that it spends about \$7 million annually in employee-related, systems and audit costs to ensure compliance with the cost allocation rules, and characterizes these expenses as “significant.”¹⁶ However, in order to characterize the magnitude of these expenses and the burden such expenses may create, the expenses should be compared to AT&T’s total revenues. According to the FCC’s ARMIS reports, AT&T’s total revenue in 2005 was over \$34 billion.¹⁷ Therefore, the expenses referred to as burdensome by AT&T are only 0.02 percent of its total revenues. The Nebraska Companies assert that these expenses are not burdensome, especially when compared to the benefits of continuing to enforce the cost allocation rules against AT&T and BellSouth discussed above. Therefore, the Nebraska Companies submit that it is not in the public interest to eliminate application of the cost allocation rules to AT&T and BellSouth.

¹⁵ See *AT&T Petition* at p. 38.

¹⁶ *Id.* at p. 39.

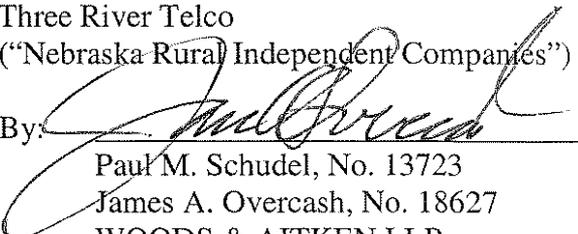
¹⁷ Data from Row 1090, ARMIS Report 43-01, was summed for the following companies to produce this number: Illinois Bell, Indiana Bell, Michigan Bell, Ohio Bell, Wisconsin Bell, Pacific Bell, Nevada Bell, Southern New England Telephone, Southwestern Bell Telephone (“SBT”)-Arkansas, SBT-Kansas, SBT-Missouri, SBT-Oklahoma, SBT-Texas.

III. Conclusion

The Nebraska Companies recommend that the Commission should dismiss the Petitions, and continue to apply the cost assignment rules to AT&T and BellSouth. As indicated above, the Nebraska Companies believe that the Petitions have not provided sufficient justification to meet the statutory criteria for forbearance.

Dated: March 19, 2007.

Respectfully submitted,
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The Blair Telephone Company,
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Clarks Telecommunications Co.,
Consolidated Telco, Inc.,
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Eastern Nebraska Telephone Company,
Great Plains Communications, Inc.,
Hartington Telecommunications Co., Inc.,
Hershey Cooperative Telephone Co.,
K. & M. Telephone Company, Inc.,
The Nebraska Central Telephone Company,
Northeast Nebraska Telephone Company,
Rock County Telephone Company,
Stanton Telecom Inc., and
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