

**STATE MEMBERS OF THE FEDERAL STATE JOINT BOARD
ON SEPARATIONS**

1101 Vermont Ave, Suite 200
Washington, D.C. 20005

April 22, 2008

VIA ECFS

FCC Secretary Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 12th Street, SW - Portals II Building
Washington, D.C. 20544

RE: Notice of oral Ex Parte contacts filed in proceedings captioned In the Matters of:

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 07-21

Jurisdictional Separations and Referral to the Federal-State Joint Board, CC Docket 80-286

Dear Ms. Salas:

The sitting State Members of the Federal-State Joint Board on Jurisdictional Separations – Alaska Commissioner (and State Chair) Mark Johnson and Vermont Commissioner John Burke, along with NARUC's outstanding nominees to that Board – South Dakota Commissioner Steve Kolbeck and Connecticut Commissioner Anthony Palermino spoke, on three separate conference calls today, with FCC Commissioner Robert McDowell and his advisor John Hunter, Chris Moore, Advisor to FCC Commissioner Debi Tate, and Scott Deutchman, Advisor to Commissioner Michael Copps. Lori Kenyon and Brad Ramsay were also on these calls. Also, on Monday April 21, 2008 Commission Kolbeck left voice mail to be forwarded to FCC Commissioner Tate.

In all these calls, the Commissioners reiterated their concerns about the pending AT&T forbearance petition effectively undermining comprehensive review of Part 36 currently pending before the board. Their comments generally tracked their earlier March 2007 and April 2008 ex parte filings in this proceeding – pointing out the following:

The cost allocation rules in Part 64 take what is booked in the Part 32 Uniform System of Accounts and separate them between regulated and non-regulated costs. This feeds into Part 36 – the separations process. The AT&T's petition offers a limited choice between continuation of existing accounting and cost assignment procedures, including Part 36, and forbearing altogether from their enforcement. While some changes might be warranted, there is insufficient record evidence to support the latter. Perhaps the FCC's cost allocation rules could be simplified to reflect the reduced uses of separations results. However, wholesale abandonment of the existing rules through the forbearance power is not justified. The Separations Joint Board is currently considering the same separations reform issues raised by this forbearance petition. In 2006, the Commission asked the Joint Board to examine numerous separations questions that affect the obligations of petitioners in this proceeding. The scope of that proceeding is quite broad, including “whether there is a continued need to prescribe separations rules” for price cap incumbent LECs. In a 2006 still pending proposed rulemaking proceeding, the Commission's staff acknowledged both the necessity for the continued existence of Part 36 “in

some form” and the importance of the current Joint Board deliberations over essentially the same issues presented by AT&T’s forbearance petition. Congress originally established the Joint Board precisely to evaluate such complex issues that interact strongly with State rate regulation.

One cannot be certain that separations reform ultimately will eliminate all of AT&T’s cost allocation overhead. However, the Joint Board review process offers the best opportunity to develop new nationwide policies that can simplify the existing system and reduce carriers’ overhead costs *while simultaneously preserving data that allows State and federal regulators to protect the public interest and to meaningfully exercise their regulatory functions*. The AT&T petition is part of a group of related petitions. Many of the most populous states in the U.S. have filed in one or more of those related dockets opposing forbearance.¹ Some comments contend that the ARMIS reports are a key source of state-specific information and are often the only publicly available source of state-level cost data. In March 2007 comments, the Separations Joint Board State members listed several functional areas where they think it likely that separations data specifically, and cost allocation data generally, still determine outcomes for customers or for other carriers. Among those listed were assessing the levels of local market competition, setting rates, calculating intrastate universal service support, and examining service quality levels.

The Joint Board should be allowed to continue its current efforts and not be effectively preempted by piecemeal forbearance decisions that would overthrow existing separations procedures in approximately half of the country. The freeze ends in 2009, and the Joint Board would normally issue a recommended decision before that expiration date.

If you have any questions about this ex parte, please do not hesitate to contact the undersigned at 202.898.2207 or jramsay@naruc.org.

Respectfully Submitted,

/s/ J. B. Ramsay

James Bradford Ramsay
Counsel to State Separations Joint Board Members

¹ Among the State Commissions that filed either in AT&T’s docket or a related “me-to” petition - Commissions from CALIFORNIA, NEW YORK, TEXAS, PENNSYLVANIA, OHIO, WISCONSIN, MICHIGAN, COLORADO AND WASHINGTON. They were joined by NASUCA and the TEXAS office of Public Utility Counsel and the New Jersey Public Advocate. States that filed comments on *AT&T Forbearance Petition from Cost Accounting Rules* (WC Docket No. 07-21) in this proceeding - California Public Utilities Commission, Ohio Public Utilities Commission, Wisconsin Public Service Commission, Washington State, and the State Members of the FCC-State Joint Board on Separations. States that filed in the *AT&T Petition for Forbearance from ARMIS Reports 43-05 through 43-08* (WC Docket No. 07-139) California Public Utilities Commission, Michigan Public Service Commission, and the Texas Public Utilities Commission. States that filed in the *Qwest Petition for Forbearance from All ARMIS Reports 43-01 through 43-08* (WC Docket No. 07-204) California Public Utilities Commission, Colorado Public Utilities Commission, and the Washington Utilities & Transportation Commission. States that filed in the *Verizon Petition for Forbearance from All ARMIS Reports and Recordkeeping Rules* (WC Dkt. 07-273) California Public Utilities Commission, Michigan Public Service Commission, New York Public Service Commission, Washington Utilities & Transportation Commission, Wisconsin Public Service Commission, and the Pennsylvania Public Utility Commission.