



Robert W. Quinn
Senior Vice President
Federal Regulatory

AT&T Services, Inc.
1120 20th Street NW, Suite 1000
Washington, D.C. 20036
Phone 202 457-3851
Fax 202 457-3074

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Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: *Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain of the Commission's Accounting Rules*, WC Docket No. 07-21

Dear Ms. Dortch:

In two separate *ex parte* filings, four Directors of the Tennessee Regulatory Authority ("TRA") for the first time have submitted *ex parte* comments in which they assert that unspecified information provided in "ARMIS reports" could be useful in future state regulatory proceedings.¹ AT&T respectfully submits that neither of the claimed state regulatory purposes could provide any possible basis for requiring AT&T to continue to comply with the particular cost assignment requirements at issue in *this* forbearance proceeding, even if the Commission had authority to maintain federal rules that no longer serve any federal purpose.²

First, the TRA Directors note that information relating to "costs, revenue, access line counts, etc.," may be useful in "evaluating competition levels in Tennessee."³ AT&T has long supported reporting requirements that actually would shed light on how competition is developing. For example, AT&T supports amendments to Form 477 that would require *all* wireline providers to file detailed information about their competitive operations. But the accounting cost allocations at issue in AT&T's forbearance petition provide absolutely no information that could be useful in evaluating competition in Tennessee (or anywhere else). To the contrary, the data generated by the requirements at issue here reflect arbitrary and outdated allocations of embedded *accounting costs* of shared employees and facilities among individual services and jurisdictions. These allocations are based on factors that the Commission found to be outdated more than *seven years ago* and which were so inherently arbitrary that the

¹ See April 22, 2008 *ex parte* filing of Director Sara Kyle, Director Tre Hargett, and Director Ron Jones ("April 22 Ex Parte"); April 23, 2008 *ex parte* filing of Chairman Eddie Roberson.

² Report and Order and Further Notice of Proposed Rulemaking, *2000 Biennial Review*, 16 FCC Rcd. 19911, ¶ 207 (2001) ("if we cannot identify a federal need for a regulation, we are not justified in maintaining such a requirement at the federal level").

³ *April 22 Ex Parte* at 1.

Commission decided it was better simply to freeze them than to try futilely to keep them current. Under these circumstances, the data generated by these factors plainly cannot provide a useful snapshot of competition. And, granting AT&T's forbearance petition will have no impact on AT&T's continued reporting of revenues, access lines or anything else that might rationally be considered in evaluating competition levels (or, for that matter, on AT&T's continued maintenance of total company accounting costs for each of the hundreds of individual investment and expense accounts required by the Commission's Part 32 rules).⁴

Second, the TRA Directors suggest that the cost allocation data at issue here might be used in the future "should we decide that a state universal service fund is necessary."⁵ Although the TRA was authorized to establish a state universal service fund more than twelve years ago, *see* T.C.A. §§ 65 – 5 – 107, it has never done so, and there has not been any activity in the dockets the TRA initiated to consider the issue in many years. No one has suggested that the TRA has any plans to renew its consideration of a state fund. Even if someday did so, it is inconceivable that the TRA would rely upon the particular cost allocation data at issue here, which, as noted, is hopelessly outdated and meaningless. And, if the TRA ever decides in the future to start down such a path, AT&T certainly will work with the TRA to determine what (if any) accounting cost allocation data might be necessary and provide *that* data at that time. The mere possibility that the TRA might one day want such data, however, cannot provide the "strong connection" between the existing cost assignment rules and a permissible federal regulatory purpose that would be necessary to deny forbearance.⁶

Finally, the TRA Directors suggest that these issues should be dealt with in the long-pending proceedings on separations reform rather than in this forbearance proceeding. However, as the D.C. Circuit has made clear, the Commission cannot deny a forbearance petition on such grounds, but must instead address the petition on its merits within the statutory forbearance period. *AT&T Inc. v. FCC*, 452 F.3d 830 (D.C. Cir. 2006). In particular, the separations proceeding referenced by the Directors has already been pending for *eight years*. This is exactly the type of regulatory inertia the forbearance statute was created to address.

Respectfully submitted,

/s/ Robert W. Quinn

⁴ In addition, Tennessee state law requires AT&T to make an annual price regulation filing with the TRA containing its line counts, rates, changes in demand and revenues, and AT&T will, of course, continue to comply with these and all other state-specific requirements.

⁵ *April 22 Ex Parte* at 1.

⁶ *Cellular Telecommunications And Internet Association v. FCC*, 330 F.3d 502, 512 (D.C. Cir. 2003).