

**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 from)	WC Docket No. 07-21
Enforcement of Certain of the)	
Commission's Cost Assignment Rules.)	

**REPLY COMMENTS AND OPPOSITION OF THE
NEW JERSEY DIVISION OF RATE COUNSEL**

**RONALD K. CHEN
PUBLIC ADVOCATE**

**STEFANIE A. BRAND
DIRECTOR**

Division of Rate Counsel
31 Clinton Street, 11th Floor
P.O. Box 46005
Newark, NJ 07101
(973) 648-2690 - Phone
(973) 624-1047 – Fax
www.rpa.state.nj.us
njratepayer@rpa.state.nj.us

On the Comments:
Christopher J. White, Esq.
Deputy Public Advocate

July 7, 2008

**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 from) WC Docket No. 07-21
Enforcement of Certain of the)
Commission's Cost Assignment Rules.)

**REPLY COMMENTS AND OPPOSITION OF THE
NEW JERSEY DIVISION OF RATE COUNSEL**

Comments were filed on June 26, 2008, in response to the Public Notice issued by the Federal Communications Commission ("FCC" or "Commission") regarding the request of Verizon and Qwest to extend forbearance relief from cost assignment rules that the FCC granted to AT&T.¹ In addition to the New Jersey Division of Rate Counsel ("Rate Counsel"), the National Association of State Utility Consumer Advocates, Ad Hoc Telecommunications Users Committee ("Ad Hoc"), and Sprint Nextel, COMPTEL, One Communications, and Time Warner Telecom ("Sprint Nextel, *et al*") oppose the relief. The New York Public Service Commission ("NYPSC") has expressed ambivalence about the merits of extending forbearance to Verizon and Qwest, and requests the opportunity to provide input on any compliance plan Verizon might submit if forbearance is

^{1/} *In the Matter of Petition of AT&T Inc. For Forbearance Under 47 U.S.C. § 160 From Enforcement of Certain of the Commission's Cost Assignment Rules, Petition of BellSouth Telecommunications, Inc. For Forbearance Under 47 U.S.C. § 160 From Enforcement of Certain of the Commission's Cost Assignment Rules, WC Docket No. 07-21, WC Docket No. 05-342, Memorandum Opinion and Order, rel. April 24, 2008, ("AT&T Order") petition for reconsideration pending before the FCC of the AT&T Order; appeal pending of the AT&T Order in D.C. Court of Appeals, 08-1226 filed by NASUCA.*

extended.² Verizon, Qwest, and Embarq support the requested relief, and contend that the reasoning by which the FCC granted AT&T relief applies to other federal price cap carriers.³

Rate Counsel concurs with other commenters that the Commission should address the *Petition for Reconsideration of the AT&T Order* before extending forbearance to other carriers.⁴ NASUCA and Sprint Nextel assert that the informal nature of Verizon's request cannot trigger a consideration for forbearance, and that the request fails to provide the analysis necessary for forbearance to be granted.⁵ NASUCA also points out that it would be premature to extend forbearance to other carriers because it is not yet clear whether AT&T can design and implement a compliance plan that meets the conditions required by the *AT&T Order*.⁶ Sprint Nextel contends that Verizon and Qwest are *not* similarly situated to AT&T because they face different market conditions, have different operations, have different geographic presence, and are subject to rate of return regulation in some states.⁷ The initial comments of Verizon, Qwest, and Embarq fail to address these legitimate concerns, as well as the concerns raised in Rate Counsel's initial comments.

Accordingly, Rate Counsel reiterates its recommendation that the Commission deny Verizon's "me-too" request. Rate Counsel also urges the Commission to reject the

² / The NYPSC states: "In sum, the NYPSC does not comment on the merits of granting the request, but asks for the opportunity to provide input on any compliance plan filed by Verizon in order to ensure the state's regulatory role can continue to be fulfilled." NYPSC, at 2.

³ / Verizon, at 2; Qwest, at 9; Embarq, at 3, 6-7.

⁴ / Ad Hoc, at 1; NASUCA, at 3; Sprint Nextel, at 2.

⁵ / NASUCA, at 2; Sprint Nextel, at 3-5.

⁶ / NASUCA, at 3.

⁷ / Sprint Nextel, at 8-9.

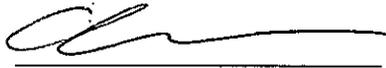
recommendation of Verizon, Qwest, and Embarq that the Commission extend the relief not only to them, but also to all price cap carriers. Instead, the Commission should review any specific requests for forbearance based on the statutory time line, and the merits of the specific requests.

Respectfully submitted,

RONALD K. CHEN
PUBLIC ADVOCATE

Stefanie A. Brand
Director

By:



Christopher J. White, Esq.
Deputy Public Advocate

July 7, 2008