

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 From Enforcement)	
Of Certain of the Commission’s Cost)	
Assignment Rules)	
)	
Petition of BellSouth Telecommunications,)	WC Docket No. 05-342
Inc. For Forbearance Under 47 U.S.C. § 160)	
From Enforcement of Certain of the)	
Commission’s Cost Assignment Rules)	

REPLY COMMENTS OF VERIZON¹

AT&T proposes a reasonable plan to comply with the forbearance conditions set by the Commission in the *Cost Assignment Forbearance Order*.² Opponents of AT&T’s compliance plan ask the Wireline Competition Bureau (“the Bureau”) to reestablish a cost assignment system for AT&T and to ignore the Commission’s finding that forbearance from the cost assignment rules is in the public interest. It would be inconsistent with the Commission’s finding and contrary to the public interest for the Bureau to reestablish these requirements in the guise of a compliance plan. The Bureau should approve AT&T’s compliance plan and extend the cost assignment forbearance relief granted to AT&T to Verizon and others in the industry.

The Commission delegated authority to the Bureau to approve AT&T’s compliance plan and to “prescribe the administrative requirements” to ensure that AT&T will satisfy the

¹ The Verizon companies participating in this filing (“Verizon”) are the regulated, wholly owned subsidiaries of Verizon Communications, Inc.

² *Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160 From Enforcement of Certain of the Commission’s Cost Assignment Rules*, Memorandum Opinion and Order, 23 FCC Rcd 7302 (2008) (“*Cost Assignment Forbearance Order*”), *pet. for recon. pending*.

forbearance conditions in the *Cost Assignment Forbearance Order*. *Id.* ¶ 31. Those conditions include assurances that AT&T will be able to produce sufficient data to meet future Commission needs, a description of how AT&T will comply with the Commission’s regulations in the absence of a formal cost assignment process, a certification that AT&T will honor its obligation under 47 U.S.C. § 254(k) to avoid allocation of excessive costs to non-competitive services, and a schedule regarding AT&T’s transition away from the current cost assignment process. *Cost Assignment Forbearance Order* ¶ 31. AT&T’s compliance plan includes all of these elements and fully satisfies the requirements of the *Cost Assignment Forbearance Order*.

Only four parties commented on the AT&T plan. Two commenters, the Public Service Commission of Wisconsin and the state members of the Separations Joint Board, indicate that the plan is a reasonable attempt to address the Commission’s forbearance conditions.³ The state commenters seek to ensure that sufficient data is available if there is a state regulatory need for AT&T accounting information. Wisconsin PSC Comments at 1-2; Joint Board Members Comments at 2-3. In the record leading up to the *Cost Assignment Forbearance Order*, AT&T committed to work with the state commissions in its territory to address state needs for accounting data. *Id.* ¶ 34. Verizon likewise will work with the state commissions in its own local service areas, and the Commission can, and must, extend cost assignment forbearance to Verizon and others in the industry.

³ Comments of the Public Service Commission of Wisconsin at 4 (“Wisconsin PSC Comments”); Comments of the State Members of the Separations Joint Board at 2 (“Joint Board Members Comments”).

Two parties oppose the AT&T compliance plan. Opponents predictably are those groups that were most vocal in their opposition to cost assignment forbearance in the first place.⁴ These opponents simply ignore the Bureau's warning that comments at this stage "should be limited to AT&T's Compliance Plan and its consistency with the requirements of the *AT&T Cost Assignment Forbearance Order*" and not the "merits of granting forbearance relief to AT&T in the first instance."⁵ Ostensibly targeting the Commission's requirement that AT&T be able to produce accounting data in the event of a future need, the focus of opponents' comments is a request that the Bureau establish an entirely new cost assignment system for AT&T. Joint Comments at 4, 9; AdHoc Opposition at 4. Earlier, these same parties proposed a self-serving "blueprint" for the AT&T compliance plan.⁶ The Bureau should follow through on its warning and refuse to consider opponents' comments. *Public Notice* at 1.

Opponents' Blueprint Plan makes even less sense in today's competitive market under price cap regulation than the rules the Commission just eliminated for AT&T. For example, current carrier non-regulated cost allocation methodologies rely on general ledger accounting data, augmented where necessary by special studies. The accounting data is jurisdictionally separated mostly using frozen factors. The Commission's Uniform System of Accounts, which is the basis of a carrier's accounting data, groups like kind telecommunications plant together even though it can be used to provide a variety of services. The Blueprint Plan upsets this

⁴ Comments of Sprint Nextel Corporation, CompTel, TW Telecom Inc., and One Communications Corp. ("Joint Comments"); Opposition of AdHoc Telecommunications Users Committee ("AdHoc Opposition").

⁵ *Comment Dates Set On AT&T Compliance Plan For Forbearance Relief From Cost Assignment Rules*, Public Notice, 23 FCC Rcd 11560, at 1 (2008) ("*Public Notice*").

⁶ Letter from James Blaszak, AdHoc, Karen Reidy, CompTel, and Thomas Jones, TW Telecom and One Communications, to Dana Shaffer, Chief, FCC Wireline Competition Bureau, WC Docket No. 07-21 (July 7, 2008) (attaching "Blueprint For A Compliance Methodology Cost Assignment Plan") ("Blueprint Plan").

approach and introduces another level of meaningless detail, requiring an examination of all carrier equipment to determine which services should be ascribed to particular plant. Joint Comments at 4. This is the same type of examination carriers had to perform prior to the separations freeze. There is no relevance to any such cost-based requirements under price cap regulation. Price caps are cost agnostic. *Cost Assignment Forbearance Order* ¶ 17. As another example, the Blueprint Plan would require a return to pre-separations freeze procedures for direct assignment of special access facilities. Blueprint Plan at 7, n. 10. Such an approach cannot be reconciled with the Commission’s decision to eliminate the cost assignment rules altogether for AT&T.

With respect to the Commission’s affiliate transaction rules and section 254(k)’s cross-subsidy prohibition, opponents suggest that the Bureau should only approve an AT&T compliance plan that essentially commits to still follow the forbore rules. Joint Comments at 11; AdHoc Opposition at 5. This is wholly inconsistent with the Commission’s decision that forbearance is in the public interest. Further, AT&T’s plan to account for transactions between its affiliates in accordance with Generally Accepted Accounting Principles (“GAAP”) and AT&T’s submission of a certification of compliance with section 254(k) satisfies the Commission’s forbearance conditions. GAAP and other recognized accounting standards are widely accepted, and, even before the *Cost Assignment Forbearance Order*, the Commission had already determined for some carriers that an annual certification was a suitable indicator of compliance. 47 C.F.R. § 64.905.

In addition, opponents’ alarmist claims regarding AT&T’s incentive to inappropriately shift costs between affiliated companies and from competitive to non-competitive services rest on a faulty premise. These complaints assume a regulatory environment where carrier costs are

relevant. But the Commission’s price cap regime “sever[ed] the direct link between regulated costs and prices” long ago. *Cost Assignment Forbearance Order* ¶ 17 (quoting *Computer III Remand Proceedings: Bell Operating Company Safeguards and Tier I Local Exchange Company Safeguards*, Report and Order, 6 FCC Rcd 7571, ¶ 55 (1991), *vacated in part sub. nom.*, *California v. FCC*, 39 F.3d 919 (9th Cir. 1994), *cert denied*, 514 U.S. 1050 (1995); and *United States v. Western Elec. Co.*, 993 F.2d 1572, 1580 (D.C. Cir. 1993) (“[Price cap regulation] reduces any BOC’s ability to shift costs from unregulated to regulated activities, because the increase in costs for the regulated activity does not automatically cause an increase in the legal rate ceiling”)).

Similarly misguided is AdHoc’s repeated claim that a Verizon statement regarding carrier cost incentives in an unrelated universal service proceeding is somehow an “inadvertent admission against interest.” AdHoc Opposition at 3.⁷ Verizon’s comments in the universal service proceeding seized upon by AdHoc – that “[e]xperience suggests that when there is an incentive for carriers to demonstrate high costs, they will do so” – accurately describe Verizon’s concern about universal service proposals by which competitive eligible telecommunications carriers would receive subsidies by demonstrating their own costs.⁸ A universal service subsidy program that rewards competitive carriers for higher costs is not well-suited to encourage efficiency. But unlike a universal service system that would allow a carrier to receive higher subsidies by demonstrating higher costs, AT&T has no incentive to overstate its costs here because its costs have no bearing on rates under price cap regulation.

⁷ This is the second time AdHoc has misused the same Verizon statement. See Opposition of AdHoc Telecommunications Users Committee to extending cost assignment forbearance relief to Verizon and Qwest, WC Docket Nos. 07-21, 05-342, at 2 (June 26, 2008).

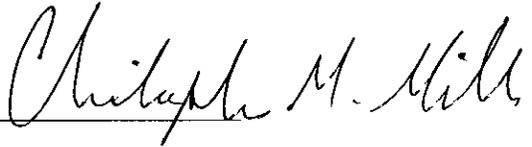
⁸ Reply Comments of Verizon and Verizon Wireless, *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, at 13 (June 2, 2008).

Moreover, the Bureau does not have authority to invent a new cost assignment system. Opponents' proposals would effectively reverse the Commission's judgment in the *Cost Assignment Forbearance Order* that forbearance from the cost assignment rules is in the public interest. *Id.* ¶ 39. For the Bureau to revise the Commission's cost assignment regulations or to promulgate new rules in this forbearance proceeding would also violate section 10 of the Act, which requires that the Commission "forbear from applying" regulations that are not necessary to an appropriate federal objective. 47 U.S.C. § 160(a). *Cost Assignment Forbearance Order* ¶ 13 (citing *AT&T Corp. v. FCC*, 236 F.3d 729, 738 (D.C. Cir. 2001)). Before the Commission could adopt a new cost assignment system, standard notice and comment rulemaking would be necessary. 5 U.S.C. § 553. The Bureau is not vested with authority to conduct a new rulemaking. ("The Chief, Wireline Competition Bureau, shall not have authority to issue notices of proposed rulemaking, notices of inquiry, or reports or orders arising from either of the foregoing. . .") 47 C.F.R. § 0.291(e) (emphasis added). And given the specific delegation for review of a compliance plan, opponents' proposals are particularly inappropriate.

Conclusion

For these reasons, the Bureau should approve AT&T's compliance plan and extend the cost assignment forbearance relief granted to AT&T to Verizon and others in the industry.

Respectfully submitted,

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September 3, 2008