

Before the
Federal Communication Commission
Washington, DC 20554

In the Matter of

Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering))))	WC Docket No. 08-190
Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements))))))	WC Docket No. 07-139
Petition of Qwest Corporation for Forbearance from Enforcement of the Commission's ARMIS and 492A Reporting Requirements Pursuant 47 U.S.C. § 160(c))))))))	
Petition of Qwest Corporation for Forbearance from Enforcement of the Commission's ARMIS and 492A Reporting Requirements Pursuant to 47 U.S.C. § 160(c))))))))	WC Docket No. 07-204
Petition of Frontier and Citizens ILECS for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements)))))))	
Petition of Verizon for Forbearance Under 47 U.S.C. § 160(c) from Enforcement Of Certain of the Commission's Recordkeeping and Reporting Requirements)))))))	WC Docket No. 07-273
Petition of AT&T 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

Petition for Reconsideration

The AdHoc Telecommunications Users Committee (AdHoc), pursuant to section 1.106 of the Commission's Rules, petitions for Commission reconsideration of its September 6, 2008 Memorandum Opinion and Order and Notice of Proposed Rulemaking in the above-captioned proceedings.¹ In the *Verizon/Qwest Cost Assignment Forbearance Order*, the Commission, *inter alia*, extended to Verizon and Qwest the conditional forbearance granted in the *AT&T Cost Assignment Forbearance Order*.² The Commission found that "the reasoning of the *AT&T Cost Assignment Forbearance Order* applies equally to Verizon and Qwest and therefore, pursuant to section 10, we forbear from application of the Cost Assignment Rules to these carriers."³

Given that the Commission's rationale for granting AT&T cost assignment forbearance applies equally to Verizon and Qwest, the arguments raised in the

¹ *Petition of AT&T Inc. For Forbearance Under 47 U.S.C. § 160(c) From Enforcement Of Certain of the Commission's ARMIS Reporting Requirements; Petition of Qwest Corporation for Forbearance from Enforcement of the Commission's ARMIS and 492A Reporting Requirements Pursuant to 47 U.S.C. § 160(c); Petition of Verizon For Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain Recordkeeping and Reporting Requirements, et al.*, Memorandum Opinion and Order and Notice of Proposed Rulemaking, WC Docket Nos. 07-21, 07-204, and 07-139 (rel. Sept. 6, 2008) (*Verizon/Qwest Cost Assignment Forbearance Order*).

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 and 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 Nos. 07-21 and 05-342, Memorandum Opinion and Order, 23 FCC Rcd 7302 (*AT&T Cost Assignment Forbearance Order*), *pet. for recon pending, pet. for review pending, NASUCA v. FCC*, Case No. 08-1226 (D.C. Cir. filed June 23, 2008). The statutory provisions, Commission rules, and related reporting requirements from which AT&T, Verizon, and Qwest received forbearance collectively will be referred to herein as the "Cost Assignment Rules." The data the Cost Assignment Rules generate will be referred to herein as "cost assignment data."

³ *Verizon/Qwest Cost Assignment Forbearance Order* at ¶ 27.

Petition for Reconsideration of the *AT&T Cost Assignment Forbearance Order*⁴ apply equally to the *Verizon/Qwest Cost Assignment Forbearance Order* extending cost assignment forbearance to Verizon and Qwest. Accordingly, AdHoc attaches as Exhibit A the Petition for Reconsideration of the *AT&T Cost Assignment Forbearance Order* and requests that the arguments therein be applied to the *Verizon/Qwest Cost Assignment Forbearance Order* with respect to the grant of cost assignment forbearance to Verizon and Qwest.

Additional evidence and arguments should compel the Commission to reconsider its decision to extend to Verizon and Qwest forbearance from the Cost Assignment Rules. Recently Verizon represented to the Commission that, “*Experience suggests that when there is an incentive for carriers to demonstrate high costs, they will do so.*”⁵ Verizon’s statement was made in a proceeding considering reform of the high cost component of the Universal Service Fund (USF). The import of Verizon’s statement extends, however, far beyond that proceeding.⁶ Whether a carrier’s incentive is to obtain greater USF high cost support, to cross-subsidize competitive and/or unregulated services from regulated and/or de facto monopoly services, to avoid rate decrease prescriptions for special access service, to avoid adjustments to price cap

⁴ *Petition of Reconsideration of Sprint Nextel Corporation, AdHoc Telecommunications Users Committee, COMPTTEL, and tw telecom inc. (formerly Time Warner Telecom Inc.), WC Docket No. 07-21 (filed May 27, 2008).*

⁵ Reply Comments of Verizon and Verizon Wireless, at 13, *Federal-State Joint Board on Universal Service*, WC Docket No 05-337 and CC Docket No. 96-45, (high cost reform), June 2, 2008 (emphasis added).

⁶ More specifically, Verizon’s statement was part of its criticism of a recent Commission decision to allow competitive eligible telecommunications carriers (CETCs) to seek Universal Service Fund (USF) subsidies greater than that allowed under the *Interim Cap Order* if the CETCs file cost data demonstrating their costs meet USF thresholds.

formulae, or to accomplish other objectives that may be in the carrier's interest, but not the public interest, Verizon's statement acknowledges that carriers have the ability and incentive to demonstrate the costs needed to accomplish a given objective. Indeed, given the context within which it was made, Verizon's statement seems reasonably to imply that carriers, including itself, will select data and methods that further their interests, whether or not the data present a fully accurate picture. In short, the Commission should expect Verizon and Qwest to propose cost assignment compliance plans that will lack substance and be susceptible to carrier manipulation. The carriers' admitted incentive and ability to manipulate cost data demonstrate the dangerousness of granting these carriers forbearance from the cost assignment rules.

The Commission has not yet addressed Verizon's admission against interest, but it must do so. Failure to address Verizon's admission against interest would be a failure to consider a material fact and would constitute arbitrary and capricious decision making.⁷

The financial crisis currently roiling this country should also give the Commission reason for reconsidering its decision to forbear from enforcing the cost assignment rules. With the grants of forbearance, the Commission has said that it is not interested in having readily available carrier cost and revenue data collected pursuant to consistently applied Commission standards. In effect, the Commission would rely on the carriers voluntarily producing consistent, reliable

⁷ *Motor Vehicle Mfrs. Ass'n of the United States, Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43, 103 S.Ct. 2856, 2867, 77 L.Ed.2d. 443 (1983); see also *Williston Basin Interstate Pipeline Co. v. FERC*, 519 F.3d 497 (D.C.Cir. 2008) citing *Motor Vehicle Mfrs. Ass'n of the United States, Inc. v. State Farm Mut. Auto. Ins. Co.*

data – data that the Commission obviously needs given its recognition of the carriers' continuing exclusionary market power and the Commission's continuing regulatory responsibilities in light of that market power. The *New York Times* reported on September 27, 2008 that,

The chairman of the Securities and Exchange Commission, a longtime proponent of deregulation, acknowledged on Friday that failures in a *voluntary* supervision program for Wall Street's largest investment banks had contributed to the global financial crisis, and he abruptly shut the program down. (Emphasis added.)

The same article again quotes the Chairman of the SEC as saying,

The last six months have made it abundantly clear that voluntary regulation does not work....

The essential truth to be learned from the SEC's experience is that when the public interest calls for regulation, the government agency charged with regulatory responsibility should not put its "trust" and the well-being of the public in industry cooperation with "voluntary" measures. Given the cost assignment compliance plan submitted by AT&T, the Commission would be doing nothing better than relying on the good will of AT&T, Verizon and Qwest. The Commission is setting itself up to fail in satisfying its regulatory responsibilities and the public will suffer, just as it is suffering as a result of the SEC's mistakes. If the Commission refuses to reconsider its decision to forbear from applying the cost assignment rules to AT&T, Verizon and Qwest, it is doomed to repeat the kind of misguided deregulatory mistake made by the SEC and the public is doomed to suffer the consequences.

In view of the forgoing, AdHoc respectfully requests that the Commission grant this Petition for Reconsideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James S. Blaszak". The signature is written in a cursive style with a large initial "J".

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