

**Before the
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)

Review of Qwest Compliance Plan

**COMMENTS OF THE
NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES
AND THE
NEW JERSEY DIVISION OF RATE COUNSEL
ON QWEST COMPLIANCE PLAN**

On September 24, 2008, Qwest Corporation (“Qwest”) submitted its cost assignment “compliance plan”¹ to the Federal Communications Commission (“FCC” or “Commission”), in response to the Commission’s grant of forbearance from federal cost assignment rules. The grant was accomplished in a Memorandum Opinion and Order issued in six different dockets² addressing other requests for forbearance; the grant to

¹ / *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 No. 07-21 (“07-21”), Compliance Plan filed September 24, 2008 (“Qwest Compliance Plan”). As the Compliance Plan indicates, the Plan is filed on behalf of Qwest and its “incumbent local exchange carrier (‘ILEC’) affiliates....” Qwest Compliance Plan at 1.

² / *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 to 47 U.S.C. § 160(c)*, *Petition of the Embarq Local Operating Companies for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain of ARMIS Reporting Requirements*, *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*, WC Docket No. 07-204; *Petition of Verizon for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain of the Commission’s Recordkeeping*

Qwest of forbearance from cost accounting rules was almost an afterthought to the *Multi-ILEC Forbearance Order*.³ There, the Commission extended the forbearance to Qwest (and to Verizon) that had earlier been granted to AT&T.⁴

The National Association of State Utility Consumer Advocates (“NASUCA”) as an organization,⁵ and one of its members, the New Jersey Division of Rate Counsel (“Rate Counsel”)⁶ (collectively, “State Advocates”), hereby submit these comments on the Qwest Compliance Plan. Although the Qwest Compliance Plan, like the Verizon Compliance Plan before it,⁷ purportedly responds to the specific directives set forth in the

and Reporting Requirements, WC Docket No. 07-273; and 07-21, Memorandum Opinion and Order, FCC 08-203 (rel. September 6, 2008) (“*Multi-ILEC Forbearance Order*”). A Notice of Proposed Rulemaking was also included with the Memorandum Opinion and Order, *In the Matter of Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering*, WC Docket No. 08-190. The Commission has referred to the *Multi-ILEC Forbearance Order* as the *Verizon/Qwest Cost Assignment Forbearance Order*. See DA 08-1236 (rel. September 23, 2008).

³ / *Multi-ILEC Forbearance Order*, ¶¶ 23-32. See *id.*, separate statement of Commissioner Copps; *id.*, separate statement of Commissioner Adelstein.

⁴ / 07-21, Memorandum Opinion and Order, 23 FCC Rcd 7302 (2008) (“*AT&T Cost Assignment Forbearance Order*”).

⁵ / NASUCA is a voluntary association of advocate offices in more than 40 states and the District of Columbia, incorporated in Florida as a non-profit corporation. NASUCA’s members are designated by the laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts. See, e.g., Ohio. Rev. Code Chapter 4911; 71 Pa.Cons.Stat. Ann. § 309-4(a); Md. Pub.Util.Code Ann. § 2-205; Minn. Stat. § 8.33; D.C. Code Ann. § 34-804(d). Members operate independently from state utility commissions as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (e.g., the state Attorney General’s office). NASUCA’s associate and affiliate members also serve utility consumers but are not created by state law or do not have statewide authority.

⁶ / Rate Counsel is an independent New Jersey State agency that represents and protects the interests of all utility consumers, including residential, business, commercial, and industrial entities. Rate Counsel participates actively in relevant Federal and state administrative and judicial proceedings. The above-captioned proceeding is germane to Rate Counsel’s continued participation and interest in implementation of the Telecommunications Act of 1996 (“Act” or “1996 Act”). Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (“1996 Act”). The 1996 Act amended the Communications Act of 1934. Hereinafter, the Communications Act of 1934, as amended by the 1996 Act, will be referred to as “the 1996 Act,” or “the Act,” and all citations to the 1996 Act will be to the 1996 Act as it is codified in the United States Code.

⁷ / 07-21, Compliance Plan filed September 19, 2008 (“Verizon Compliance Plan”).

Commission's order approving Qwest's forbearance from certain cost assignment rules,⁸ and *AT&T Cost Assignment Forbearance Order* on which the Qwest order is based, are in large part, identical to the AT&T issues. Therefore, State Advocates would incorporate by reference here, and attach, their reply comments on the AT&T compliance plan, filed September 3, 2008, as was done in comments on the Verizon Compliance Plan.⁹

In the *Multi-ILEC Forbearance Order*, the Commission identified an additional issue for Qwest (and Verizon): the need for cost-assignment data for the regions where Qwest (and Verizon) receive federal rural high-cost support.¹⁰ The Commission said that this could be addressed in the compliance plans.¹¹

Qwest's Compliance Plan, like Verizon's, proposes a "band-aid" approach to this issue for the study areas in question.¹² It appears that the band-aid is adequate to the limited purpose, given that about \$1.74 million in annual support is involved. But, as with Verizon, that is only acceptable in the face of the initial erroneous grant of forbearance.

In its Public Notice seeking comment on Qwest's Compliance Plan, the FCC stated, among other things:

Parties are reminded that any comments filed in response to this Public Notice should be limited to Qwest's Compliance Plan and its consistency with the requirements of the *Verizon/Qwest Cost Assignment Forbearance Order*. Comments filed in response to

⁸ / 07-21/05-342, *Memorandum Opinion and Order*, rel. April 24, 2008 ("*AT&T Cost Assignment Forbearance Order*").

⁹ / 07-21, NASUCA/Rate Counsel Comments on Verizon Compliance Plan (filed October 8, 2008).

¹⁰ / *Multi-ILEC Forbearance Order*, ¶ 30.

¹¹ / *Id.*

¹² / Qwest Compliance Plan at 5-6.

this Public Notice that go beyond its scope, such as comments addressing the merits of granting forbearance relief to Qwest in the first instance, will not be considered.¹³

Although State Advocates disagree strongly with the FCC's Order granting forbearance to Qwest (as with the Orders for AT&T and Verizon), State Advocates limit the scope of the reply comments to the merits of Qwest's specific plan for compliance. Qwest's compliance plan -- like the AT&T and Verizon plans -- bears directly on consumer advocates' ability to participate effectively in federal and state regulatory proceedings, and on their success in advocating for just and reasonable rates.

Respectfully submitted,

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¹³ / DA 08-1236 (rel. September 23, 2008).

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