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Before the
Federal Communications Commission
Washington, D.C. 20554

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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 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	)	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

MEMORANDUM OPINION AND ORDER AND NOTICE OF PROPOSED RULEMAKING

Adopted: September 6, 2008 **Released: September 6, 2008**

Comment Date: (30 days after publication in the Federal Register)
Reply Comment Date: (60 days after publication in the Federal Register)

By the Commission: Chairman Martin and Commissioners Tate and McDowell issuing separate statements; Commissioners Copps and Adelstein approving in part, concurring in part, dissenting in part, and issuing separate statements.

TABLE OF CONTENTS

Para.

I. INTRODUCTION 1
II. BACKGROUND 2
III. MEMORANDUM OPINION AND ORDER 7
A. Charges, Practices, Classifications and Regulations 8
B. Protection of Consumers 10
C. Public Interest 16
D. Class of Carriers 22
E. Cost Assignment Forbearance 23
IV. NOTICE OF PROPOSED RULEMAKING 33
V. PROCEDURAL MATTERS 37
A. Initial Regulatory Flexibility Analysis 37
B. Ex Parte Presentations 38
C. Comment Filing Procedures 39
D. Paperwork Reduction Act 44
E. Congressional Review Act 45
F. Accessible Formats 46
G. Contact Persons 47
VI. EFFECTIVE DATE 48
VI. ORDERING CLAUSES 49
APPENDIX A – Summary of Relevant ARMIS Reports
APPENDIX B – List of Commenters
APPENDIX C – Initial Regulatory Flexibility Analysis

I. INTRODUCTION

1. In this Order, we grant significant forbearance from carriers' obligation to file Automated Reporting Management Information System (ARMIS) Reports 43-05, 43-06, 43-07, and 43-08 (collectively, the "ARMIS service quality and infrastructure reports"). In particular, with certain limited exceptions, we find that the section 10 criteria are met for the ARMIS service quality and infrastructure reports, subject to certain conditions. Therefore, we grant certain conditional forbearance with respect to all carriers currently subject to those reporting requirements. We also recognize, however, that the Commission has continually sought to ensure that it has access to the data necessary for its public safety and broadband policymaking, and that certain infrastructure and operating data might be useful, but only if collected on an industry-wide basis. We therefore seek comment on whether such data should be collected from all relevant providers in furtherance of those goals. In addition, certain service quality and customer satisfaction data might be useful, but only if collected on an industry-wide basis. Therefore, we seek comment on whether the Commission should collect such data on an industry-wide basis. Finally, we extend to Verizon and Qwest the conditional forbearance granted to AT&T in the *AT&T Cost Assignment Forbearance Order*.

II. BACKGROUND

2. In 1990, the Commission shifted to a price cap regulation system for the larger incumbent LECs.[1] Price caps is a form of incentive regulation that seeks to "harness the profit-making incentives common to all businesses to produce a set of outcomes that advance the public interest goals of just, reasonable, and nondiscriminatory rates, as well as a communications system that offers innovative, high quality services."[2] In the *Price Cap Order*, the Commission established certain ARMIS reports[3] in order to monitor two potential concerns raised by price cap regulation: first, that carriers might lower quality of service, instead of being more productive, in order to increase short term profits;[4] and second, that carriers might not spend money on infrastructure development.[5] In response to these possibilities, the Commission created ARMIS reports that would serve as "safety nets" and provide the Commission and the states with information to determine whether the Commission's and the states' regulatory goals concerning quality of service were being met.[6] The Commission adopted ARMIS Reports 43-05 and 43-06 to collect service quality and customer satisfaction information. Although the Commission found that it had authority to impose service quality standards, it declined to do so because it "might impinge upon state efforts in that area."[7] In addition, ARMIS Reports 43-07 and 43-08 were established to collect infrastructure and operating data. In adopting those new ARMIS infrastructure reports, the Commission found that information on plant in service is a good indicator of investment in service quality.[8]

3. In its *2000 Biennial Service Quality NPRM*, the Commission proposed to eliminate the bulk of ARMIS Report 43-05, reducing more than 30 categories of information collected through that report down to six.[9] The *2000 Biennial Service Quality NPRM* also invited comment on eliminating ARMIS

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[1] *Policy and Rules Concerning Rates for Dominant Carriers*, Second Report and Order, CC Docket No. 87-313, 5 FCC Rcd 6786, para. 2 (1990) (*Price Cap Order*).

[2] *Id.*

[3] A summary of the information currently collected through ARMIS Reports 43-05, 43-06, 43-07, and 43-08 is included as Appendix A.

[4] *Price Cap Order*, 5 FCC Rcd at 6827, para. 334.

[5] *Id.* at 6827, 6830, paras. 334-37, 357; *see also Policy and Rules Concerning Rates for Dominant Carriers*, Order on Reconsideration, CC Docket No. 87-313, 6 FCC Rcd 2637, para. 175 (1991) (*Price Cap Order on Reconsideration*).

[6] *Price Cap Order*, 5 FCC Rcd at 6827, para. 337; *see also Price Cap Order on Reconsideration* at para. 179 (adopting monitoring reports "in an abundance of caution"); *Price Cap Order on Reconsideration* at para. 17 (explaining that monitoring reports were designed to address commenters' concerns).

[7] *Price Cap Order*, 5 FCC Rcd at 6830, para. 358.

[8] *Id.* at 6830, para. 357.

[9] *Biennial Regulatory Review – Telecommunications Service Quality Reporting Requirements*, CC Docket No. 00-229, Notice of Proposed Rulemaking, 15 FCC Rcd 22113, 22114, para. 2 (2000) (*Biennial Service Quality NPRM*).

Report 43-06 completely. The Commission stated that "[a]ctual complaint information may be a better indicator of trends in service quality than" the surveys reported through ARMIS Report 43-06.[10]

4. In 2001, as part of another series of decisions revising and streamlining ARMIS reporting requirements, the Commission's *Phase 2 Order* removed ARMIS Report 43-07 reporting requirements that were "redundant or that have clearly outlived their usefulness."[11] The *Phase 2 Order* also reduced the scope of ARMIS Report 43-08 by removing reporting requirements that were no longer relevant to any policy analysis.[12] In the accompanying *Phase 3 FNPRM*, the Commission sought comment on whether to retain the ARMIS reporting requirements, including alternatives to current reporting requirements.[13] The Commission also "encourage[d] our state colleagues to consider alternative sources of such information at the state level."[14] The Commission observed that "[t]here may well come a time in the relatively near future when we conclude that there is no ongoing federal need to maintain these requirements at the federal level."[15]

5. On June 8, 2007, AT&T filed a petition[16] for forbearance from Commission rules that require carriers to file four ARMIS Reports: (1) ARMIS Report 43-05 Service Quality; (2) ARMIS Report 43-06 Customer Satisfaction; (3) ARMIS Report 43-07 Infrastructure; and (4) ARMIS Report 43-08 Operating

[10] *Biennial Service Quality NPRM*, 15 FCC Rcd at 22125, para. 42.

[11] *2000 Biennial Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2*, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 00-199, 16 FCC Rcd 19911, 19970, para. 160 (2001) (*Phase 2 Order* or *Phase 3 FNPRM*). Among other things, the Commission removed requirements to report numbers of electromechanical switches, touch tone capability and equal access, ISDN capabilities and information relating to the Signaling System 7 (SS7), interoffice working facilities, DS-0 fiber terminated at the customer premises, and call-setup time. *Phase 2 Order* at 19970-75, paras. 161-176.

[12] The Commission removed requirements to report satellite channels and video circuits for carriers' radio relay and microwave systems, to separate categories for analog versus digital access lines, and to report certain categories of access lines per consumer. *Phase 2 Order* at 19977, paras. 179-182.

[13] *Phase 3 FNPRM*, 16 FCC Rcd at 19985-86, para. 208.

[14] *Id.*

[15] *Id.*

[16] 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 (filed June 8, 2007) (AT&T Petition); *see* 47 C.F.R. §§ 43.21(g)-(j). The petition seeks relief for the following affiliates: Illinois Bell Telephone Company, Indiana Bell Telephone Company, Michigan Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company, Nevada Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone, L.P., Wisconsin Bell, Inc., SBC Advanced Solutions, Inc., Ameritech Advanced Data Services, Inc. of Illinois, Ameritech Advanced Data Services, Inc. of Indiana, Ameritech Advanced Data Services, Inc. of Michigan, Ameritech Advanced Data Services, Inc. of Ohio, Ameritech Advanced Data Services, Inc. of Wisconsin, and BellSouth Telecommunications, Inc. On June 6, 2008, the Wireline Competition Bureau (Bureau) extended until September 6, 2008, the date by which the AT&T Petition shall be deemed granted in the absence of a Commission decision. *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, Order (WCB rel. June 6, 2008). A list of commenters is included in Appendix B.

Data.[17] AT&T contends that these ARMIS reports no longer fulfill their original purpose, nor is there otherwise any current federal need for those ARMIS data.[18] In particular, AT&T observes that these ARMIS reports are collected from only a discrete subset of the industry.[19] Thus, AT&T asserts that, to the extent that there is a possible federal need for certain data, they should be collected on an industry-wide basis, rather than through the current ARMIS service quality and infrastructure reports.[20]

6. In addition, on April 24, 2008, we conditionally granted AT&T's petitions for forbearance[21] from the Cost Assignment Rules.[22] The grant was expressly conditioned on, among other things, the

[17] We note that certain carriers other than AT&T also have pending petitions for forbearance seeking some or all of the relief granted in this Order from the ARMIS service quality and infrastructure reporting requirements. *See generally* 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 (filed Sept. 13, 2007) (Qwest Petition); Petition of the Embarq Local Operating Companies for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain of ARMIS Reporting Requirements, WC Docket No. 07-204 (filed Oct. 19, 2007) (Embarq Petition); 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 (filed Nov. 13, 2007) (Frontier/Citizens Petition); 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 (filed Nov. 26, 2007) (Verizon Petition). We address the merits of those requests in this Order. To the extent that the petitions seek other regulatory relief, those requests remain pending. *See, e.g.*, Qwest Petition at 10-16, 22-25 (seeking forbearance from ARMIS Reports 43-01 through 43-04 and Forms 492A, 495A, and 495B); Verizon Petition at 11-36 (seeking forbearance from ARMIS Reports 43-01 through 43-04 and Forms 492A, 495A, and 495B, as well as certain other accounting and reporting requirements).

[18] AT&T Petition at 3-7.

[19] *Id.* at 5-6.

[20] *Id.* at 7-8.

[21] *See generally 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 Nos. 07-21, 05-342, Memorandum Opinion and Order, 23 FCC Rcd 7302 (2008) (*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).

[22] In the *AT&T Cost Assignment Forbearance Order*, we referred to the statutory provision and Commission rules from which AT&T was granted forbearance collectively as the "Cost Assignment Rules." *See AT&T Cost Assignment Forbearance Order*, 23 FCC Rcd at 7303, para. 1 n. 2; 7307, para. 12. Specifically, we granted AT&T forbearance from section 220(a)(2) of the Act (to a limited extent) and various rules, including the following: section 32.23 (nonregulated activities); section 32.27 (transactions with affiliates); Part 64, Subpart I (allocation of costs); Part 36 (jurisdictional separations procedures); Part 69, Subparts D and E (cost apportionment); and other related rules that are derivatives of, or dependent on, the foregoing rules. *See, e.g.*, 47 C.F.R. §§ 32.23, 32.27, Part 64 Subpart I, Part 36, Part 69 Subparts D and E. AT&T also received forbearance from certain ARMIS reporting requirements, and we extend that relief here, as well. The AT&T Petitions list each rule from which Legacy AT&T and Legacy BellSouth were granted forbearance. *See* 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, Attach. 1 (filed Jan. 25, 2007) (Legacy AT&T Petition); Petition of BellSouth Telecommunications, Inc. For Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain of the Commission's Cost Assignment Rules, WC Docket Nos. 07-21, 05-342, App. 1 (filed Feb. 9, 2007) (Legacy BellSouth Petition) (collectively, "AT&T Petitions"). In (continued....)

Wireline Competition Bureau's (Bureau) approval of a compliance plan to be filed by AT&T describing in detail how it will continue to fulfill its statutory and regulatory obligations.[23] On May 23, 2008, Verizon, on behalf of itself and Qwest, requested that the Commission grant the same forbearance to Verizon and Qwest.[24] Those parties have raised the issue of the overlap between the ARMIS requirements at issue in AT&T's ARMIS forbearance petition and the cost assignment relief previously granted to AT&T.[25]

III. MEMORANDUM OPINION AND ORDER

7. In this Order, we grant in significant part AT&T's petition for forbearance from the ARMIS service quality and infrastructure reporting requirements, subject to certain conditions. In addition, we find that the conclusions underlying our forbearance decision for AT&T also hold true for the other carriers required to file ARMIS Reports 43-05, 43-06, 43-07, and 43-08. Therefore, consistent with section 10, we extend the conditional forbearance from those ARMIS reports to all carriers required to file them under our rules. Further, we take this opportunity to extend to Verizon and Qwest the conditional forbearance granted to AT&T in the *AT&T Cost Assignment Forbearance Order.*

A. Charges, Practices, Classifications and Regulations

8. We find that the ARMIS service quality and infrastructure reporting requirements are not "necessary to ensure that the charges, practices, classifications or regulations by, for, or in connection with that telecommunications carrier . . . are just and reasonable and are not unjustly or unreasonably discriminatory" under section 10(a)(1).[26] We agree with the petitioners that ARMIS Reports 43-05, 43-06, 43-07, and 43-08 were not originally designed to ensure that carriers' rates, terms, and conditions were just and reasonable or not unjustly or unreasonably discriminatory.[27] These ARMIS reports were adopted to monitor the "theoretical concern" that price cap carriers might reduce service quality or network investment to increase short-term profits, rather than being designed to address the rates, terms, and conditions under which carriers offered their services.[28] Moreover, these incumbent LECs' rates,

(Continued from previous page)
this Order, we again use the term "Cost Assignment Rules" to refer to the statutory provision and Commission rules from which AT&T was granted forbearance in the *AT&T Cost Assignment Forbearance Order.*

[23] *See id.* at 7319-20, para. 31.

[24] Letter from Ann Berkowitz, Associate Director – Federal Regulatory, Verizon, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 07-21, 07-273, 07-204 (filed May 23, 2008) (Verizon/Qwest Request). This letter was subsequently put out for public comment. *See* Comment Sought on Request of Verizon and Qwest to Extend Forbearance Relief From Cost Assignment Rules, WC Docket No. 07-21, Public Notice, DA 08-1361 (Wireline Comp. Bur. rel. June 6, 2008).

[25] *See, e.g.*, Letter from Ann Berkowitz, Associate Director, Federal Regulatory, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 07-21, 07-139, 07-204, 07-273 (filed Aug. 8, 2008); Letter from Lynn Starr, Vice President – Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 07-21, 07-139, 07-204, 07-273 (filed Sept. 2, 2008).

[26] 47 U.S.C. § 160(a)(1).

[27] *See, e.g.*, AT&T Petition at 10-11; Qwest Petition at 18, 20-21; Embarq Petition at 7, 11 (arguing that Report 43-08 was never used to ensure reasonable rates); Frontier/Citizens Petition at 12; Verizon Petition at 12.

[28] *See Price Cap Order*, 5 FCC Rcd at 6827, para. 334; *see, e.g.*, AT&T Petition at 13 (arguing that original purpose of these reports is moot); Embarq Petition at 4 (same).

terms, and conditions remain generally subject to dominant carrier pricing and tariffing regulation, which will be unaffected by any forbearance here.[29] Thus, we do not find these ARMIS reports necessary today to ensure that carriers' charges, practices, classifications or regulations are just and reasonable and are not unjustly or unreasonably discriminatory.[30]

9. We reject the generalized assertion that forbearance is not warranted because the service quality reports are necessary for states to ensure just and reasonably-priced services.[31] For example, the California Commission states that it eliminated California-specific monitoring reports on the basis that it would largely rely on ARMIS reports instead.[32] It asserts that it intended to rely on the ARMIS reports "as part of its monitoring program to ensure that the competitive market is functioning well and customers will receive good quality at just and reasonably-priced services."[33] However, the California Commission does not explain how the specific ARMIS reports at issue here could be used to ensure just and reasonable rates. Moreover, the Commission recently concluded that it "[does] not have authority under sections 2(a) and 10 of the Act to maintain federal regulatory requirements that meet the three-prong forbearance

[29] *See, e.g.*, Qwest Petition at 18, 20-21. While some carriers have gotten relief from dominant carrier pricing and tariffing regulation for certain services, that relief has been based on findings regarding the significant extent of competition for those services. *See, e.g.*, *Qwest Petition for Forbearance Under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Broadband Services*, WC Docket No. 06-125, Memorandum Opinion and Order, FCC 08-168 (rel. Aug. 5, 2008); *Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements, WC Docket No. 02-112; 2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64.1903 of the Commission's Rules*, CC Docket No. 00-175; *Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) with Regard to Certain Dominant Carrier Regulations for In-Region, Interexchange Services*, WC Docket No. 06-120, Report and Order and Memorandum Opinion and Order, 22 FCC Rcd 16440 (2007) (*Section 272 Sunset Order*); *Petition of ACS of Anchorage, Inc. Pursuant to Section 10 of the Communications Act of 1934, as Amended (47 U.S.C. § 160(c)), for Forbearance from Certain Dominant Carrier Regulation of Its Interstate Access Services, and for Forbearance from Title II Regulation of Its Broadband Services, in the Anchorage, Alaska, Incumbent Local Exchange Carrier Study Area*, WC Docket No. 06-109, Memorandum Opinion and Order, 22 FCC Rcd 16304 (2007).

[30] For these reasons, we reject the claims of some commenters that the ARMIS reports at issue here are somehow necessary to maintain reasonable rates. *See, e.g.*, New Jersey Rate Counsel Comments (AT&T Pet.) at 9-10 (arguing that information is essential to a well-functioning market "so that regulators can assess if and where regulatory safeguards are necessary to yield basic local service offered at just and reasonable rates and acceptable levels of quality"); CompTel Reply Comments (Qwest Pet.) at 3-4 (arguing that the Commission needs the data to ensure just and reasonable rates). Similarly, while other commenters claim that these data address the "terms and conditions" – if not the rates – of carriers' offerings, we find that their arguments in fact focus on consumer protection issues, discussed below. *See, e.g.*, Sprint Nextel Comments (Embarq and Frontier/Citizens Pets.) at 8-10.

[31] *E.g.*, New Jersey Rate Counsel Comments (AT&T Pet.) at 19; NASUCA Comments (AT&T Pet.) at 3; Michigan Comments (AT&T Pet.) at 2; New Jersey Rate Counsel Comments (Frontier Pet.) at 22.

[32] California Commission Reply Comments (AT&T Pet.) at 2; *see also* California Commission Comments (Qwest Pet.) at 3 (same); Letter from Helen M. Mickiewicz, Assistant General Counsel, California Commission, to Marlene Dortch, Secretary, Federal Communications Commission, Docket Nos. 07-139, 07-204, 07-273 (filed Aug. 26, 2008); Letter from Atif Malik, New Jersey Citizen Action, to Marlene Dortch, Secretary, Federal Communications Commission, Docket No. 07-139 at 2-3 (filed Aug. 26, 2008); Letter from Kenneth R. Peres, Communications Workers of America, to Marlene Dortch, Secretary, Federal Communications Commission, Docket No. 07-139 at 2-3 (filed Aug. 27, 2008).

[33] California Commission Reply Comments (AT&T Pet.) at 2-3.

test with regard to interstate services in order to maintain regulatory burdens that may produce information helpful to state commissions for intrastate regulatory purposes solely."[34] We emphasize that nothing we do today preempts the ability of any state commission to exercise its own state authority as permitted under state law,[35] and the record indicates that numerous states continue to take action to address service quality as they deem appropriate.[36] Indeed, in 2001 the Commission "encourage[d] our state colleagues to consider alternative sources of such information at the state level" because "[t]here may well come a time in the relatively near future when we conclude that there is no ongoing federal need to maintain these requirements at the federal level."[37]

B. Protection of Consumers

10. Section 10(a)(2) of the Act requires the Commission to determine whether continued enforcement of these filing requirements is necessary to protect consumers.[38] We recognize that consumer protection was behind much of the original intent for requiring disclosure of service quality and infrastructure investment information through these ARMIS reports.[39]

11. With respect to all the ARMIS reports at issue here, we recognize that the current partial and uneven data collection hinder their usefulness as a federal consumer protection tool as the data collections are structured today.[40] As an initial matter, the Commission does not use the data to enforce federal

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[34] *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, 23 FCC Rcd 7302, 7321, para. 32 (2008) (*Cost Assignment Forbearance Order*) (citing 47 U.S.C. §§ 152(a), 160).

[35] *Id.* at 7321, para. 33.

[36] *See, e.g.*, AT&T Petition at 13 n. 33 (asserting that a number of states "are involved in service quality issues" and "have service quality requirements"); Frontier/Citizens Petition at 7-8 & n.18 (observing that state regulatory agencies obtain service quality and infrastructure data through other means than ARMIS reporting, and noting that 19 states where Frontier/Citizens operates require service quality reporting, and four other states have targeted processes for addressing service quality complaints); New Jersey Rate Counsel Comments (AT&T Pet.) at 18 (citing a history of state regulatory oversight of service quality in Illinois); Qwest Reply Comments (Qwest Pet.) at 5-10 (discussing state information collection and service quality requirements in various states where Qwest operates).

[37] *Phase 3 NPRM*, 16 FCC Rcd at 19985-86, para. 208.

[38] 47 U.S.C. § 160(a)(2).

[39] *See, e.g.*, CWA Comments (AT&T Pet.) at 2.

[40] *See, e.g.*, AT&T Reply Comments (AT&T Pet.) at 2-5, 7-8 (noting the shortcomings in the ARMIS data collections and the availability of other data for consumer protection needs); Frontier Petition at 12 (arguing that there is no strong connection between the filing requirement and historic speculation about customer service); Qwest Petition at 18 (arguing that there is no strong connection between the filing requirements and consumer protection); Qwest Reply Comments (Qwest Pet.) at 4 (arguing that there is no federal need for the data collection); Verizon Petition at 12 (arguing that the reports are not necessary to protect consumers); Letter from James Y. Kerr, II, Commissioner, North Carolina Commission, to Kevin Martin, Chairman, Federal Communications Commission, WC Docket No. 07-139 at 1-2 (filed Aug. 26, 2008) (asserting that decisions based on information provided by only a small percentage of existing carriers will likely lead to flawed policy).

service quality rules, declining to "impinge upon state efforts in that area."[41] Nor do the data enable comparison among competitors or allow evaluation of the industry as a whole.[42] Only certain large incumbent LECs file the ARMIS service quality and infrastructure reports at issue here. As the petitioners observe, the Commission does not impose such requirements on cable companies, wireless providers, or other competitive telecommunications carriers, nor even on other incumbent LECs.[43] In addition, the current reporting requirements may exclude the activities of parent companies or non-telecommunications affiliates of those entities that do file ARMIS reports.[44] Reporting of that information thus is a function of how the particular company has chosen to structure its operations, and does not necessarily provide a complete picture of the activities of the reporting company.

12. With respect to service quality and customer satisfaction data of the sort collected through ARMIS Reports 43-05 and 43-06, we recognize the potential for such information to help consumers make informed choices in a competitive market. We find, however, that to make truly informed choices, consumers would need to have the relevant service quality information from all of the relevant providers. Consequently, we seek comment in the Notice of Proposed Rulemaking below regarding whether to initiate such an industry-wide data collection. We note that the reporting carriers have committed to continue collecting service quality and customer satisfaction data, and to filing those data publicly through ARMIS Report 43-05 and 43-06 filings for twenty four months from the effective date of this order.[45] This will ensure continuity with regard to the service quality and customer satisfaction data that

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[41] *Price Cap Order*, 5 FCC Rcd at 6830, para. 358.

[42] For these same reasons, we reject the arguments of some parties that we should retain these asymmetrical reporting requirements for purposes of evaluating special access services or any other marketplace. *See, e.g.*, BT Americas Comment (Embarq and Frontier/Citizens Pet.) at 8; CWA Comments (AT&T Pet.) at 2, 6 (arguing that consumers need access to data to compare service offerings).

[43] *See, e.g.*, AT&T Petition at 17-20; Qwest Petition at 20; Embarq Petition at 6; Frontier/Citizens Petition at 6-8; Verizon Petition at 16.

[44] For example, ARMIS Report 43-07 is not designed to capture the activities of parent companies or non-telecommunications affiliates. Thus, AT&T does not report any information on rows 0487 - Total xDSL Term. at Customer Premises, and 0488 - xDSL Term. at Customer Premises via Hybrid Fiber/Metallic Interface Locations. *See Electronic ARMIS Filing System (EAFS) Data Retrieval Module*, http://fjallfoss.fcc.gov/eafs7/MainMenu.cfm.

[45] *See* Letter from Robert W. Quinn, Senior Vice President, AT&T, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 07-139 (filed September 6, 2008*); Letter from Eric Einhorn, V.P. Federal Government Affairs, Windstream Corporation, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 07-139 (filed September 6, 2008*); Letter from Gregg C. Sayre, Associate General Counsel – Eastern Region, Frontier Communications Corporation, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 07-139 (filed September 6, 2008*); Letter from Robert D. Shannon, Attorney – Regulatory & Government Relations, CenturyTel, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 07-139 (filed September 6, 2008*); Letter from Edward B. Krachmer, Director-Regulatory Affairs, Iowa Telecommunications Services, Inc. d/b/a Iowa Telecom, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 07-139 (filed September 6, 2008*); Letter from Christopher J. Wilson, Vice President and General Counsel, Cincinnati Bell Telephone Company, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 07-139 (filed September 6, 2008*); Letter from Melissa E. Newman, Vice President – Federal Regulatory, Qwest Communications International, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 07-139 (filed September 6, 2008*); Letter from Suzanne A. Guyer, Senior Vice President – Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 07-139 (filed September 6, 2008*); Letter from David C. Bartlett, Embarq, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 07-139 (filed September 6, 2008*); Letter from Walter Arroyo, Regulatory Affairs Director, Puerto Rico Telephone Company, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 07-139 (filed September 6, 2008*); Letter from Laura Y. Otsuka, Senior Manager-
(continued....)

the Commission has collected up to this point, and afford the Commission a reasonable period of time to consider whether to adopt such industry-wide reporting requirements. We therefore adopt that as a condition of our forbearance here. We grant the same forbearance relief to any similarly situated carriers who make that same commitment, and make clear that the relief we grant today is not otherwise conditional. We recognize that the reporting carriers' commitments here are time limited, and that we cannot extend such commitments or impose any further conditions on the relief granted today. Any future changes to these reporting requirements will be made in the context of the NPRM herein or some other appropriate Commission proceeding.

13. We also recognize the presence of other safeguards and sources of information that help protect consumers.[46] For example, the Commission requires all communications providers (not just a subset of incumbent LECs) to file outage reports.[47] Additionally, the Commission recently adopted significant refinements to its industry-wide broadband and local competition data collections.[48] In addition, when the Commission last sought comment on ARMIS Report 43-06 under the biennial review standard,[49] it observed that "[a]ctual complaint information may be a better indicator of trends in service quality than" the surveys reported through ARMIS Report 43-06.[50] We note that the Commission will continue to collect such complaint information notwithstanding the forbearance granted here.[51] Moreover, the three regional Bell Operating Companies (BOCs) are subject to quarterly special access

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Regulatory Affairs, Hawaiian Telcom, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 07-139 (filed September 6, 2008*). (* These letters were filed with the Commission on September 6, 2008, although the date-stamp in the Commission's Electronic Filing System may incorrectly list September 8, 2008, the following Monday, as the filing date.)

[46] *See, e.g.*, AT&T Reply Comments (AT&T Pet.) at 2 (stating that parties may file a complaint under section 208, 47 U.S.C. § 208, if they believe that a carrier has violated any of the Commission's rules).

[47] *New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, Report and Order and Further Notice of Proposed Rulemaking, ET Docket No. 04-35, 19 FCC Rcd 16830 (2004) (*Outage Reporting Order*); *see also* AT&T Petition at 13 (arguing that outage reports serve same purpose as service quality reports); Frontier Petition at 14 (same).

[48] *See Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet (VoIP) Subscribership*, WC Docket No. 07-38, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 9691 (2008); *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet (VoIP) Subscribership*, WC Docket No. 07-38, Order on Reconsideration, 23 FCC 9800 (2008).

[49] In every even-numbered year, the Commission must review all regulations that apply to the operations and activities of any provider of telecommunications service and determine whether any of these regulations are no longer necessary in the public interest as the result of meaningful economic competition between providers of the service. 47 U.S.C. § 161.

[50] *Biennial Service Quality NPRM*, 15 FCC Rcd at 22125, para. 42.

[51] *See Quarterly Inquiries and Complaints Reports*, available at http://www.fcc.gov/cgb/quarter/welcome.html.

performance reporting.[52] Also, as noted above, states remain free to adopt their own reporting requirements and service quality standards, as many already have done today.

14. We reject the argument that the ARMIS service quality and infrastructure reports are necessary because states may rely on them for state consumer protection activities.[53] As the Commission held in the *Cost Assignment Forbearance Order* and as noted above, the Commission "[does] not have authority under sections 2(a) and 10 of the Act to maintain federal regulatory requirements that meet the three-prong forbearance test with regard to interstate services in order to maintain regulatory burdens that may produce information helpful to state commissions for intrastate regulatory purposes solely."[54] Any interest by state commissions or other groups in comparing intrastate service quality between states, or within a state between carriers, does not create a federal need, and nothing we do today prevents state commissions from exercising their state authority to seek any relevant information, or from standardizing their data collections with each other.[55]

15. We also reject the assertions of some commenters that the Commission's reliance on ARMIS data for the compilation of certain reports demonstrates that the continued collection of these data is necessary to protect consumers.[56] Commenters do not identify any statutory or other regulatory mandate to include the data at issue in these Commission's reports.[57] Nor do they provide evidence demonstrating

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[52] *Section 272 Sunset Order*, 22 FCC Rcd 16440.

[53] *See, e.g.*, California Commission Reply (AT&T Pet.) at 5; Texas Commission Comments (AT&T Pet.) at 2-3; CWA Comments (AT&T Pet.) at 2, 12, 15-16; New York Commission Comments (Verizon Pet.) at 2; Washington Commission Comments (Verizon Pet.) at 2; Michigan Commission Comments (Verizon Pet.) at 6. *But see, e.g.*, Letter from Connie Murray, Commissioner, Missouri Public Service Commission, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 07-139, 07-204, 07-273 at 1 (filed July 30, 2008) (supporting forbearance, and observing that "State Commissions have the authority to request specific up-to-date information from carriers operating in their states if they have a need.").

[54] *Cost Assignment Forbearance Order*, 23 FCC Rcd at 7321, para 32.

[55] *C.f., e.g., Application of Qwest International, Inc. for Authorization to Provide In-Region, InterLATA Services in the States of Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming*, Memorandum Opinion and Order, 17 FCC Rcd 26303, 26305-06, para. 3 ("In particular, the Regional Oversight Committee ('ROC'), a group of state regulatory commissions in the Qwest region, including all nine states covered by this application, worked together on the design and execution of regional operations support systems ('OSS') testing. In addition, Idaho, Iowa, Montana, North Dakota, Utah and Wyoming worked with a number of other states in the Multistate Collaborative Process ('MCP') to address other section 271 issues. Moreover, in a number of instances, regulators in these states have been able to build on the work done by their fellow commissioners in other states to address issues such as pricing, for example, in an efficient manner through individual state proceedings."); *see also* Letter from Hance Haney, Director, Discovery Institute, to Marlene Dortch, Secretary, Federal Communications Commission, Docket No. 07-139 at 1-2 (filed Aug. 27, 2008) (explaining that states can collect similar data on their own and from other sources).

[56] *See, e.g.*, NASUCA Comments (AT&T Pet.) at 7 (citing *Trends in Telephone Service*, (IATD, rel. Feb. 2007), which the Commission staff bases on data from ARMIS reports 43-05, 43-07 and 43-08); California Commission Reply (AT&T Pet.) at 9-10.

[57] We recognize that the Universal Service Monitoring Report is released pursuant to section 54.702(i) of the Commission's rules. 47 C.F.R. § 54.702(i). However, by its terms that rule requires only that "[i]nformation based on the Administrator's reports will be made public by the Commission at least once a year as part of a Monitoring Report." That rule does not require the inclusion of ARMIS service quality and infrastructure information data. (continued....)

why the inclusion of ARMIS data in these reports is necessary to protect consumers, particularly given the limitations of these ARMIS data, as well as the alternative data discussed above. Under these circumstances, we do not find that the optional inclusion of these data in Commission reports makes them necessary for the protection of consumers under section 10(a)(2).

C. Public Interest

16. Under the public interest analysis of section 10(a)(3), we again reach different conclusions for the service quality and customer satisfaction reports (ARMIS Reports 43-05 and 43-06) than we do for the infrastructure and operating data reports (ARMIS Reports 43-07 and 43-08).

17. *ARMIS Reports 43-05 and 43-06.* With respect to the service quality and customer satisfaction reports, we conclude that forbearance is in the public interest pursuant to section 10(a)(3).[58] As discussed above, subject to certain conditions, we find that the criteria of section 10(a)(1) and (a)(2) are satisfied. Given the burdens associated with the data reporting, and in light of the commitments of the reporting carriers, and other continuing regulatory requirements, we find forbearance to be in the public interest.

18. *ARMIS Reports 43-07 and 43-08.* We find that the ARMIS Report 43-07 and 43-08 data do not currently advance the consumer protection goals for which they originally were adopted.

19. However, we also identify certain discrete components of ARMIS Report 43-08 that are currently used in the furtherance of ongoing federal regulatory requirements. First, we note that the data in ARMIS Report 43-08, Table III, columns FC, FD, and FE collect business line count information used in the non-impairment thresholds for the Commission's unbundling rules.[59] We deny forbearance with respect to these data in light of this continuing federal need. Indeed, in apparent recognition of this federal need, we note that Qwest expressly excludes those reporting requirements from the scope of its forbearance request.[60]

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Moreover, we agree with Verizon that such data are not "necessary" to the Commission's universal service monitoring. *See* Letter from Ann Berkowitz, Associate Director, Federal Regulatory, Verizon, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 07-21, 07-139, 07-273, 07-204 at 4-5 (filed Aug. 8, 2008) (discussing other sources of information and oversight, and describing why ARMIS data are poorly suited for such monitoring).

[58] 47 U.S.C. § 160(a)(3).

[59] *Unbundled Access to Network Elements; Review of the Section 251 Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313, CC Docket No. 01-338, Order on Remand, 20 FCC Rcd 2533, 2595, para. 105 (2005). In defining business line counts, the Commission emphasized that it was relying on "an objective set of data that incumbent LECs already have created for other regulatory purposes," finding that "by basing our definition in an ARMIS filing required of incumbent LECs, . . . we can be confident in the accuracy of the thresholds, and a simplified ability to obtain the necessary information." *Id.* In light of that determination, we are not persuaded in this proceeding to allow incumbent LECs to rely on their own business line counts developed for purposes of seeking regulatory relief, rather than those line counts developed for compliance with a broader, independent reporting obligation. *See* Letter from Ann Berkowitz, Associate Director, Federal Regulatory, Verizon, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 07-21, 07-139, 07-204, 07-273, at 1 (filed Sept. 3, 2008) (noting that the relevant ARMIS data are reported at the state level, while the unbundling thresholds require wire center-level data, and arguing that there thus is no need for the ARMIS reporting).

[60] Qwest Petition at 8 & n.18.

20. Second, certain other ARMIS Report 43-08 data currently are needed under the Commission's universal service rules. Sections 54.807(b) and (c) of the Commission's rules require the Universal Service Administration Corporation (USAC) to use switched access lines derived ultimately from ARMIS Report 43-08 to calculate growth in access lines as part of the formula for determining interstate access support (IAS).[61] Specifically, the data come from ARMIS Report 43-08, Table III, column FI. Thus, we likewise find that forbearance from reporting these data would not be in the public interest, and we deny such relief.[62]

21. We find conditional forbearance with respect to the remaining ARMIS Report 43-07 and 43-08 reporting requirements warranted under the criteria of section 10. For the same reasons described above in the context of ARMIS Reports 43-05 and 43-06, it is generally not in the public interest to continue to impose the remaining ARMIS Report 43-07 and 43-08 reporting obligations on a subset of providers. We recognize, however, that the remaining ARMIS Report 43-07 and 43-08 data could be useful to the Commission's policymaking and oversight efforts relating to public safety[63] and broadband deployment,[64] but only if collected on an industry-wide basis. Consequently, we seek comment on whether to adopt industry-wide data collection requirements in the Notice of Proposed Rulemaking below. We also recognize the loss of continuity in the data that could result upon a grant of forbearance, if the Commission subsequently imposes the reporting obligations on the entire industry. We note that the reporting carriers have committed to collect and retain these data internally for twenty four months from the effective date of this order.[65] That gives the Commission a reasonable period of time to consider whether to adopt such industry-wide reporting requirements. We therefore adopt that as a condition of our forbearance here. We grant the same forbearance relief to any similarly situated carriers who make that same commitment, and make clear that the relief we grant today is not otherwise conditional. We recognize that the reporting carriers' commitments here are time limited, and that we cannot extend such commitments or impose any further conditions on the relief granted today. Any future changes to these reporting requirements will be made in the context of the NPRM herein or some other appropriate Commission proceeding.

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[61] These rules refer to what is now Table 4.10 of the Statistics of Communications Common Carriers Report. 47 C.F.R. §§ 54.807(b), (c).

[62] To the extent we change our universal service rules such that we no longer need this data, we would revisit whether to continue to collect this data.

[63] While we agree that certain infrastructure and operating data, if collected on an industry-wide basis, might serve certain public safety goals, we disagree with CWA's assertion that ARMIS service quality data would advance such goals. CWA Comments (AT&T Pet.) at 15. As an initial matter, we note that no ARMIS report provides any service quality standard. Rather, the Commission declined to impose service quality standards because it "might impinge upon state efforts in that area." *Price Cap Order*, 5 FCC Rcd at 6830, para. 358. Moreover, to specifically address public safety concerns associated with service outages, the Commission has adopted outage reporting requirements that, unlike the ARMIS reports at issue here, extend to "all communications providers" including "cable, satellite, and wireless providers, in addition to wireline providers." *Outage Reporting Order*, 19 FCC Rcd at 16833-34, para. 2. To the extent that additional information is needed to address public safety concerns, it would be more appropriate for the Commission to expand outage reporting or otherwise fashion public safety-specific measures, rather than continuing to collect ARMIS data that is ill-suited for that purpose.

[64] *See, e.g.*, Texas Commission Comments (AT&T Pet.) at 4 (contending that Form 477 reporting does not collect sufficient information on broadband infrastructure).

[65] *See supra* n. 45.

D. Class of Carriers

22. Section 10 provides for forbearance from "applying any regulation or any provision of the Act to a telecommunications carrier or telecommunications service, or *class of telecommunications carriers or telecommunications services*" if the Commission determines that the regulation at issue satisfies section 10's three-prong test.[66] The Commission's reasoning, described above, is not specific to the characteristics of individual reporting carriers or to particular geographic areas. We thus conclude that the relevant "class" here, for purposes of section 10, includes all carriers required to file ARMIS Reports 43-05, 43-06, 43-07, and 43-08. Thus, consistent with the Commission's approach in the past, and subject to the conditions set forth herein, we extend our forbearance to all such carriers.[67]

E. Cost Assignment Forbearance

23. In this proceeding, parties have raised the issue of the overlap between the ARMIS requirements at issue here and certain cost assignment relief previously granted to AT&T.[68] Because we find that the reasoning of the *AT&T Cost Assignment Forbearance Order* applies equally to Verizon and Qwest, we therefore take the opportunity, on our own motion, to extend to them the conditional forbearance granted in the *AT&T Cost Assignment Forbearance Order*.

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[66] 47 U.S.C. § 160(a) (emphasis added). Given this statutory directive, we reject certain parties' assertions that granting relief from reporting for all applicable incumbent LECs based on a petition from one (or a few) incumbent LECs is inappropriate. *See* New Jersey Rate Counsel Reply (AT&T Pet.) at 2; California Commission Reply (AT&T Pet.) at 10; Letter from Anna M. Gomez, *et al.*, Sprint Nextel Corp. and Karen Reidy, Vice President, CompTel, to Marlene Dortch, Secretary, Federal Communications Commission, Docket Nos. 07-139, 07-204, 07-273 at 1-2, 4 (filed Aug. 29, 2008). Nor would the option of revising ARMIS reporting in the future through a rulemaking proceeding allow the Commission to avoid it statutory duty to evaluate forbearance pursuant to section 10. *See, e.g.*, *Cost Assignment Forbearance Order*, 23 FCC Rcd at 7308, para. 13; *see also id.* (quoting *AT&T Corp. v. FCC*, 236 F.3d 729, 738 (D.C. Cir. 2001) ("an alternative route for seeking [relief] does not diminish the Commission's responsibility to fully consider petitions under [section] 10"); *id.* (quoting *AT&T Corp. v. FCC*, 236 F.3d at 738) ("The Commission has no authority to sweep [section 10] away by mere reference to another, very different, regulatory mechanism.").

[67] *See Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements; 2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64.1903 of the Commission's Rules; Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) with Regard to Certain Dominant Carrier Regulations for In-Region, Interexchange Services*, WC Docket Nos. 02-112, 06-120, CC Docket No. 00-175, Report and Order and Memorandum Opinion and Order, 22 FCC Rcd 16440, 16498-502, paras. 117-26 (2007); *Petition of Core Communications, Inc. for Forbearance Under 47 U.S.C. § 160(c) from Application of the ISP Remand Order*, Order, WC Docket No. 03-171, 19 FCC Rcd 20179, 20182, 20189, paras. 10, 27 (2004), *petition for review denied, Core Communications, Inc.*, 455 F.3d 267 (D.C. Cir. 2006); *see also Federal-State Joint Board on Universal Service Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095, 15098-99, para. 16 n.23 (2005).

[68] *See, e.g.*, Letter from Ann Berkowitz, Associate Director, Federal Regulatory, Verizon, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 07-21, 07-139, 07-204, 07-273 (filed Aug. 8, 2008); Letter from Lynn Starr, Vice President – Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 07-21, 07-139, 07-204, 07-273 (filed Sept. 2, 2008).

1. Background

24. On April 24, 2008, we conditionally granted AT&T's petitions for forbearance[69] from the Cost Assignment Rules[70] because we concluded that there is no current, federal need for the Cost Assignment Rules, as they apply to AT&T, to ensure that charges and practices are just, reasonable, and not unjustly or unreasonably discriminatory; to protect consumers; and to ensure the public interest.[71] The grant was expressly conditioned on, among other things, the Wireline Competition Bureau's (Bureau) approval of a compliance plan to be filed by AT&T describing in detail how it will continue to fulfill its statutory and regulatory obligations.[72]

25. On May 23, 2008, Verizon, on behalf of itself and Qwest, requested that the Commission grant the same forbearance to Verizon and Qwest.[73] On June 6, 2008, the Commission released a Public Notice seeking comment on the issues raised in the Verizon/Qwest Request.[74] That Public Notice was published in the Federal Register on June 12, 2008.[75] Comments on the Verizon/Qwest Request were due June 26, 2008, and reply comments were due July 7, 2008.[76]

2. Discussion

26. In this Order, we forbear, on our own motion, pursuant to section 10 of the Act, from the application of the Cost Assignment Rules to Verizon and Qwest, subject to conditions. As discussed above, we previously granted AT&T's petitions for forbearance from the Cost Assignment Rules, subject to conditions, because we found that AT&T, as a price cap carrier generally not subject to rate-of-return regulation, had demonstrated that forbearance from enforcing the Cost Assignment Rules satisfies the standard for forbearance under section 10 of the Act.[77] An integral part of the "pro-competitive, de-

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[69] *See generally 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 Nos. 07-21, 05-342, Memorandum Opinion and Order, 23 FCC Rcd 7302 (2008) (*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).

[70] *See supra* n. 22.

[71] *See AT&T Cost Assignment Forbearance Order*, 23 FCC Rcd at 7307, para. 11.

[72] *See id.* at 7319-20, para. 31.

[73] Letter from Ann Berkowitz, Associate Director – Federal Regulatory, Verizon, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 07-21, 07-273, 07-204 (filed May 23, 2008) (Verizon/Qwest Request).

[74] *See* Comment Sought on Request of Verizon and Qwest to Extend Forbearance Relief From Cost Assignment Rules, WC Docket No. 07-21, Public Notice, DA 08-1361 (Wireline Comp. Bur. rel. June 6, 2008).

[75] *See* Comment Sought on Request of Verizon and Qwest to Extend Forbearance Relief From Cost Assignment Rules, 73 FR 33,430 (June 12, 2008).

[76] *See* Comment Dates Set on Request of Verizon and Qwest to Extend Forbearance Relief From Cost Assignment Rules, WC Docket No. 07-21, Public Notice, DA 08-1402 (Wireline Comp. Bur. rel. June 12, 2008).

[77] *See AT&T Cost Assignment Forbearance Order*, 23 FCC Rcd at 7306, para. 10.

regulatory national policy framework"[78] established in the Act is the requirement, set forth in section 10, that the Commission forbear from applying any provision of the Act, or any of the Commission's regulations, if the Commission makes certain findings with respect to such provisions or regulations.[79] Specifically, the Commission shall forbear from any statutory provision or regulation if it determines that (1) enforcement of the regulation is not necessary to ensure that charges and practices are just, reasonable, and not unjustly or unreasonably discriminatory; (2) enforcement of the regulation is not necessary to protect consumers; and (3) forbearance is consistent with the public interest.[80] In making such determinations, the Commission also must consider pursuant to section 10(b) "whether forbearance from enforcing the provision or regulation will promote competitive market conditions."[81]

27. We now find 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. In this Order, we extend to Verizon and Qwest forbearance from the Cost Assignment Rules to the same extent granted AT&T in the *AT&T Cost Assignment Forbearance Order* and subject to the same conditions.[82] Like AT&T, Verizon and Qwest are price cap carriers currently subject to the Cost Assignment Rules, which were developed at a time when the LECs' interstate rates and many of their intrastate rates were set under rate-based, cost-of-service regulation. We find that the three forbearance criteria are satisfied with regard to the Cost Assignment Rules to the extent that Verizon and Qwest comply with the conditions we set forth. Specifically, we conclude that there is no current, federal need for the Cost Assignment Rules, as they apply to Verizon and Qwest, to ensure

[78] Joint Explanatory Statement of the Committee of Conference, S. Conf. Rep. No. 230, 104th Cong., 2d Sess. 113 (1996).

[79] 47 U.S.C. § 160(a).

[80] *Id.*

[81] 47 U.S.C. § 160(b).

[82] We grant Verizon and Qwest forbearance, subject to conditions, from the statutory provision and Commission rules as requested in the AT&T Petitions (collectively, "Cost Assignment Rules"). Specifically, we grant limited forbearance from section 220(a)(2) of the Act to the extent that this provision contemplates separate accounting of nonregulated costs. 47 U.S.C. § 220(a)(2). We also grant forbearance from various Commission rules including the following: section 32.23 (nonregulated activities); section 32.27 (transactions with affiliates); Part 64 Subpart I, including the requirement to file Cost Allocation Manuals (CAMs) (allocation of costs); Part 36 (jurisdictional separations procedures); Part 69, Subparts D and E (cost apportionment); and other related rules that are derivative of or dependent on the foregoing rules. 47 C.F.R. § 64.903; *see, e.g.*, 47 C.F.R. §§ 32.23, 32.27, Part 64 Subpart I, Part 36, Part 69 Subparts D and E. The AT&T Petitions list each rule from which Legacy AT&T and Legacy BellSouth were granted forbearance. *See* Legacy AT&T Petition, Attach. 1; Legacy BellSouth Petition, App. 1. Finally, we grant forbearance from four of the Commission's reporting requirements – the Access Report (ARMIS 43-04), the Rate of Return Monitoring Report (FCC Form 492), the Reg/Non-Reg Forecast Report (FCC Form 495A) and the Reg/Non-Reg Actual Usage Report (FCC Form 495B) – because forbearance from the Cost Assignment Rules renders these reports meaningless. To be clear, we do not grant forbearance from the Part 32 USOA. As we did in the *AT&T Cost Assignment Forbearance Order*, we consider the Cost Assignment Rules together as a group under the statutory forbearance criteria because, as the Commission has concluded, the various accounting rules were intended to work together to help ensure the primary statutory goal of just and reasonable rates. *See Joint Cost Order*, 2 FCC Rcd at 1298, para. 1.

that charges and practices are just, reasonable, and not unjustly or unreasonably discriminatory; to protect consumers; and to ensure the public interest.[83]

28. Although we find in this Order that forbearance from the Cost Assignment Rules as they apply to Verizon and Qwest likewise satisfies the three-prong test under section 10, just as with AT&T, we conclude that this test is only satisfied to the extent that they comply with conditions we impose here. Because we cannot conclude here that the Commission will never have any need for accounting data from Verizon and Qwest in the future, we condition this forbearance on, among other things, the provision by Verizon or Qwest of accounting data on request by the Commission for regulatory purposes, consistent with the Commission's statutory authority.[84] These conditions mitigate factors that would otherwise lead us to conclude that these rules remain necessary to ensure that charges and practices are just, reasonable, and not unjustly or unreasonably discriminatory; to protect consumers; and to ensure the public interest.[85]

29. We note that opponents of the forbearance we grant here to Verizon and Qwest largely raise the same arguments that we have already addressed in the context of the *AT&T Cost Assignment Forbearance Order*.[86] For the reasons discussed in detail in that order, we affirm our reasoning and analysis in the *AT&T Cost Assignment Forbearance Order* with regard to those issues.

30. We acknowledge that Verizon and Qwest, unlike AT&T, receive some rural high-cost support funding.[87] Unlike the non-rural support mechanism, rural high-cost support is cost-based so the Commission would need cost-assignment data for those regions in which Verizon and Qwest receive rural high-cost support. We conclude, however, that any cost allocation or cost assignment issues relating to Verizon's and Qwest's support can be resolved in the compliance plans that must be filed by each carrier and approved by the Bureau as a condition of forbearance.[88]

31. We also recognize that Verizon and Qwest, unlike AT&T, have operating companies regulated on a rate-of-return basis on the state level.[89] Under the analysis of the *AT&T Cost Assignment Forbearance Order*, however, state rate-of-return regulation does not preclude forbearance from the federal Cost Assignment Rules. As we held in that order, and reaffirmed above, the Commission does not have authority under sections 2(a) and 10 of the Act to maintain federal regulatory requirements that meet the three-prong forbearance test with regard to interstate services in order to maintain regulatory burdens

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[83] *Cf. AT&T Cost Assignment Forbearance Order*, 23 FCC Rcd at 7307, para. 11.

[84] *See, e.g.*, Verizon Reply (Verizon/Qwest Request) at 6; *see also* Qwest Reply (Verizon/Qwest Request) at 6.

[85] *Cf. AT&T Cost Assignment Forbearance Order*, 23 FCC Rcd at 7307, para. 11.

[86] *See, e.g.*, Sprint Nextel *et al.* Comments (Verizon/Qwest Request) at 2, 12-15; Public Service Commission of Wisconsin Comments (Verizon Pet.) at 1–5; New York State Department of Public Service Comments (Verizon Pet.) at 2–3; Time Warner Telecom *et al.* Comments (Verizon Pet.) at 9; Sprint Nextel Comments (Verizon Pet.) at 7, 9-10; AdHoc Comments (Verizon Pet.) at 6-8, 18–19; NASUCA Comments (Qwest Pet.) at 3, 10-11.

[87] *See, e.g.*, Sprint Nextel *et al.* Comments (Verizon/Qwest Request) at 10; Qwest Reply (Verizon/Qwest Request) at 8-9; Verizon Reply (Verizon/Qwest Request) at 6-7.

[88] *See, e.g.*, Verizon Reply (Verizon/Qwest Request) at 6-7; Qwest Reply (Verizon/Qwest Request) at 9.

[89] *See, e.g.*, Sprint Nextel *et al.* Comments (Verizon/Qwest Request) at 8-9; Verizon Comments (Verizon/Qwest Request) at 3-4; Qwest Reply (Verizon/Qwest Request) at 6-7.

that may produce information helpful to state commissions solely for intrastate regulatory purposes, such as for use in state rate-of-return regulation.[90] We further conclude that these rules as applied to Verizon and Qwest, price cap carriers generally not subject to interstate rate-of-return regulation, are not routinely needed to ensure that interstate charges and practices are just, reasonable, and not unjustly or unreasonably discriminatory. Thus, as we held in the *AT&T Cost Assignment Forbearance Order*, because there is no current, federal need for the Cost Assignment Rules in these circumstances and because the section 10 criteria otherwise are met, we find that it would be beyond the Commission's authority to maintain these onerous regulatory requirements for Verizon and Qwest.[91] As in the *AT&T Cost Assignment Forbearance Order*, we recognize that state commissions may exercise their own state authority to conduct their rate and other regulation as permitted under state law.[92] We emphasize that we do not in this Order preempt any state accounting requirements adopted under state authority.

32. For the reasons discussed above, we extend the forbearance relief granted to AT&T in the *AT&T Cost Assignment Forbearance Order* to Verizon and Qwest, subject to the conditions described herein.

IV. NOTICE OF PROPOSED RULEMAKING

33. As discussed above, we find that significant forbearance from the existing ARMIS service quality and infrastructure reporting requirements is warranted pursuant to section 10 of the Act, subject to certain conditions. However, we recognize that collection of certain of that information might be warranted, if tailored in scope to be consistent with Commission objectives, and if obtained from the entire relevant industry of providers of broadband and telecommunications. Therefore, we seek comment on whether and how the Commission should collect such data on an industry-wide basis.[93]

34. *Scope of Information Collected.* First, we seek comment on what information the Commission should collect on an industry-wide basis. Specifically, as discussed above, the Commission denied forbearance with respect to certain ARMIS Report 43-08 information. In addition, the Commission conditioned its grant of forbearance for ARMIS Report 43-07 and 43-08 on the reporting carriers maintaining their data for twenty four months from the effective date of this order. We tentatively conclude that collection of information of this type would be useful to the Commission's public safety and broadband policymaking, and seek comment on the specific information that we should collect. We seek comment on this tentative conclusion. We find, moreover, that these data would be useful only if they are collected from the entire relevant industry. Therefore, any such data collection

[90] *See AT&T Cost Assignment Forbearance Order*, 23 FCC Rcd at 7320-21, para. 32.

[91] *Cf. id.* at 7321, para. 32.

[92] *See id.* at 7321, para. 33.

[93] We do not find it appropriate to immediately impose reporting obligations pursuant to our pending NPRMs on ARMIS reporting. *See, e.g.*, Letter from Linda S. Vanderloop, Director, Federal Regulatory, AT&T, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 07-132, 00-199, 04-141 at 1 (filed July 2, 2008) (noting "AT&T pointed out that the Commission opened a rulemaking in 2000 to evaluate whether to move all reporting to the Form 477 and that rulemaking is still open"). That proceeding was not specifically targeted to the same Commission goals that are the focus our Notice here, and the comment cycle in that proceeding closed nearly a decade ago. Indeed, since that time there have been a number of significant developments in the Commission's public safety and broadband information gathering which would not be adequately reflected in the pending NPRMs nor the resulting record.

would gather this information from all facilities-based providers of broadband and/or telecommunications.

35. We also recognize the possibility that service quality and customer satisfaction data contained in ARMIS Reports 43-05 and 43-06 might be useful to consumers to help them make informed choices in a competitive market, but only if available from the entire relevant industry. We thus tentatively conclude that we should collect this type of information, and seek comment on the specific information that we should collect. We seek comment on this tentative conclusion. Again, we find that these data would be useful only if they are collected from the entire relevant industry. Thus, any such data collection would gather this information from all facilities-based providers of broadband and/or telecommunications.

36. *Mechanism for Collecting Information.* To the extent that the Commission collects any of the types of information described above, we also seek comment on the appropriate mechanism for such data collection. We tentatively conclude that the Commission should collect the infrastructure and operating data through Form 477, and seek comment on that tentative conclusion. In addition, we note that while ARMIS information generally has been publicly available, carrier-specific Form 477 data is treated as confidential. What confidentiality protections, if any, are appropriate for the information here? To the extent that commenters support Commission collection of service quality and customer satisfaction data, we also seek comment on the appropriate mechanisms for such collections. Finally, we seek comment on possible methods for reporting information, as well as suggestions of methods to maintain and report the information, that achieve the purposes of the information collection while minimizing the burden on reporting entities, including small entities.

V. PROCEDURAL MATTERS

A. Initial Regulatory Flexibility Analysis

37. Pursuant to the Regulatory Flexibility Act ("RFA"),[94] the Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") for the Notice of Proposed Rulemaking for the possible significant economic impact on small entities by the policies and actions considered in this Notice. The text of the IRFA is set forth in Appendix C.

B. Ex Parte Presentations

38. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules.[95] Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.[96] Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission's rules as well.

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[94] *See* 5 U.S.C. § 603. The RFA, *see* U.S.C. §601 *et seq.*, has been amended by the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) ("CWAAA"). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 ("Small Business Act").

[95] 47 C.F.R. §§ 1.1200, 1.1206; *Amendment of 47 C.F.R. § 1.1200 et seq. Concerning Ex Parte Presentations in Commission Proceedings*, GC Docket No. 95-21, Report and Order, FCC 97-92, 12 FCC Rcd 7348 (1997).

[96] 47 C.F.R. § 1.1206(b)(2).

C. Comment Filing Procedures

39. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: http://www.fcc.gov/cgb/ecfs/ or the Federal eRulemaking Portal: http://www.regulations.gov. Filers should follow the instructions provided on the website for submitting comments.
    - For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number referenced. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
    - The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of <u>before</u> entering the building.
    - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
    - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.
- People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

40. Comments and reply comments and any other filed documents in this matter may be obtained from Best Copy and Printing, Inc., in person at 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, via telephone at (202) 488-5300, via facsimile (202) 488-5563, or via e-mail at FCC@BCPIWEB.COM. The pleadings also will be available for public inspection and copying during

regular business hours in the FCC Reference Information Center, Room CY-A257, 445 Twelfth Street, S.W., Washington, D.C. 20554 and through the ECFS, accessible on the Commission's World Wide Website, http://www.fcc.gov/cgb/ecfs.

41. In addition to filing comments with the Secretary, a copy of any Paperwork Reduction Act (PRA) comments on the information collection(s) contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, S.W., Washington, D.C. 20554, or via the Internet to Judith-B.Herman@fcc.gov, and to Kristy L. LaLonde, OMB Desk Officer, Room 10234 NEOB, 725 17th Street, N.W., Washington, D.C. 20503 via the Internet to Kristy_L._LaLonde@omb.eop.gov or by fax to (202) 395-5167.

42. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments also must comply with section 1.49 and all other applicable sections of the Commission's rules.[97] All parties are encouraged to utilize a table of contents, and to include the name of the filing party and the date of the filing on each page of their submission. We also strongly encourage that parties track the organization set forth in this Notice in order to facilitate our internal review process.

43. Commenters who file information that they believe is proprietary may request confidential treatment pursuant to section 0.459 of the Commission's rules. Commenters should file both their original comments for which they request confidentiality and redacted comments, along with their request for confidential treatment. Commenters should not file proprietary information electronically. *See Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission,* Report and Order, 13 FCC Rcd 24816 (1998), Order on Reconsideration, FCC 99-262, 14 FCC Rcd 20128 (1999). Even if the Commission grants confidential treatment, information that does not fall within a specific exemption pursuant to the Freedom of Information Act ("FOIA") must be publicly disclosed pursuant to an appropriate request. *See* 47 C.F.R. § 0.461; 5 U.S.C. § 552. We note that the Commission may grant requests for confidential treatment either conditionally or unconditionally. As such, we note that the Commission has the discretion to release information on public interest grounds that does fall within the scope of a FOIA exemption.

D. Paperwork Reduction Act

44. The Notice of Proposed Rulemaking contains proposed new and modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law No. 107-198, *see* 44 U.S.C. § 3506(c)(4), we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

E. Congressional Review Act

45. The Commission will include a copy of this Notice in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. *See* 5 U.S.C. § 801(a)(1)(A).

[97] 47 C.F.R. § 1.49.

F. Accessible Formats

46. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov; phone: 202-418-0530 or TTY: 202-418-0432.

G. Contact Persons

47. For further information about this rulemaking proceeding, please contact Jeremy Miller, Industry Analysis and Technology Division, Wireline Competition Bureau at (202) 418-0940.

VI. EFFECTIVE DATE

48. Consistent with section 10 of the Act and our rules, this Order shall be effective on September 6, 2008.[98] The time for appeal shall run from the release date of this Order.

VII. ORDERING CLAUSES

49. Accordingly, IT IS ORDERED that, pursuant to sections 1-5, 10, 11, 201-205, 211, 215, 218-220, 251-271, 303(r), 332, 403, 502, and 503 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-155, 160, 161, 201-205, 211, 215, 218-220, 251-271, 303(r), 332, 403, 502, and 503, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. § 157 nt, this Memorandum Opinion and Order and Notice of Proposed Rulemaking IS ADOPTED.

50. IT IS FURTHER ORDERED that, pursuant to sections 10(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 160(c), the 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 IS GRANTED, subject to conditions, to the extent described herein, and otherwise IS DENIED.

51. IT IS FURTHER ORDERED that, pursuant to sections 10(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 160(c), the 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), IS GRANTED, subject to conditions, to the extent described herein.

52. IT IS FURTHER ORDERED that, pursuant to sections 10(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 160(c), the Petition of the Embarq Local Operating Companies for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain of ARMIS Reporting Requirements IS GRANTED, subject to conditions, to the extent described herein, and otherwise IS DENIED.

53. IT IS FURTHER ORDERED that, pursuant to sections 10(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 160(c), the 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 IS GRANTED, subject to conditions, to the extent described herein, and otherwise IS DENIED.

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[98] *See* 47 U.S.C. § 160(c) (deeming the petition granted as of the forbearance deadline if the Commission does not deny the petition within the time period specified in the statute); 47 C.F.R. § 1.03(a) ("[T]he Commission may, on its own motion or on motion by any party, designate an effective date that is either earlier or later in time than the date of public notice of such action.").

54. IT IS FURTHER ORDERED that, pursuant to sections 10(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 160(c), the Petition of Verizon For Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain of the Commission's Recordkeeping and Reporting Requirements, IS GRANTED, subject to conditions, to the extent described herein.

55. IT IS FURTHER ORDERED that, pursuant to sections 10(c) and 220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 160(c), 220, forbearance from applying or enforcing the Cost Assignment Rules for Verizon and Qwest IS GRANTED, on the Commission's own motion, subject to conditions, to the extent described herein.

56. IT IS FURTHER ORDERED that, pursuant to section 10 of the Communications Act of 1934, as amended, 47 U.S.C. § 160, and section 1.103(a) of the Commission's rules, 47 C.F.R. § 1.103(a), that the Commission's Memorandum Opinion and Order SHALL BE EFFECTIVE on September 6, 2008. Pursuant to sections 1.4 and 1.13 of the Commission's rules, 47 C.F.R. §§ 1.4, 1.13, the time for appeal SHALL RUN from the release date of this Memorandum Opinion and Order.

57. IT IS FURTHER ORDERED, pursuant to sections 1.103(a) and 1.427(b) of the Commission's rules, 47 C.F.R. §§ 1.103(a), 1.427(b), that this Notice of Proposed Rulemaking SHALL BE EFFECTIVE 30 days after publication of notice of the Notice in the FEDERAL REGISTER.

58. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Memorandum Opinion and Order and Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch

Marlene H. Dortch
Secretary

APPENDIX A

Summary of Relevant ARMIS Reports

1. *ARMIS Report No. 43-05 (Service Quality).* ARMIS Report No. 43-05 provides information on the quality of service of the network, pursuant to section 43-21(g) of the Commission's rules. Report 43-05 is filed by all price cap incumbent LECS (both mandatory[1] and elective) at the study area and holding company levels.[2] The report contains the following tables:

- Table I Installation and Repair Intervals for access customers (*e.g.*, switched access, high-speed access and other special access)
- Table II Installation and Repair Intervals for business and residential local service
- Table III Common Trunk Blocking Statistics
- Table IV Total Switch Downtime covering number of switches, switches with downtime, scheduled and unscheduled downtime for occurrences under two minutes
- Table IV-A Occurrences of Two or More Minutes Duration
- Table IV Service Quality Complaints by MSA and non-MSA

2. *ARMIS Report No. 43-06 (Customer Satisfaction).* ARMIS Report No. 43-06 provides the results of customer satisfaction surveys on residential, small business and large business customers' service experience under price-cap regulations, pursuant to section 43-21(h) of the Commission's rules. Specifically, this report contains the number of customers surveyed and the percentage that are dissatisfied with various aspects of the reporting carrier's service. Report 43-06 is filed by all mandatory price cap ILECs at study area and holding company levels.[3]

3. *ARMIS Report No. 43-07 (Infrastructure).* ARMIS Report No. 43-07 provides data regarding the switching and transmission infrastructure of the reporting carrier, pursuant to section 43-21(i) of the Commission's rules. Report 43-07 is filed by all mandatory price cap ILECs at the study area and holding company levels.[4] The report contains the following two tables:

- Table I Switching Equipment provides quantities of local switches according to type, *e.g.*, electromechanical or digital stored program control, and by capability, *e.g.*, equal access and ISDN. Table I also provides counts of access lines served by the various switch types and capabilities.
- Table II Transmission Facilities contains information on interoffice facilities and loop plant, with categories for copper, fiber, analog and digital carrier, and radio technologies.

4. *ARMIS Report No. 43-08 (Operating Data).* ARMIS Report No. 43-08 provides operating data about the public network, pursuant to section 43-21(j) of the Commission's rules. Report

[1] AT&T, Qwest, and Verizon are mandatory price cap incumbent LECs.

[2] http://www.fcc.gov/wcb/armis/instructions/#4305.

[3] http://www.fcc.gov/wcb/armis/instructions/#4306.

[4] http://www.fcc.gov/wcb/armis/instructions/#4307.

43-08 is filed by all Class A ILECs (large and mid-sized)[5] at the operating company level.[6] The report contains the following tables:

- Table I.A - Outside Plant Statistics - Cable and Wire Facilities contains various cable and wire facility statistics by state.
- Table I.B - Outside Plant Statistics - Other contains various outside plant statistics.
- Table II - Switched Access Lines in Service contains counts of central office switches and switched access line statistics by state.
- Table III - Switched Access Lines in Service by Customer contains switched and special access line statistics by state.
- Table IV - Telephone Calls contains telephone call statistics by state.

[5] Large and mid-sized Class A ILECs earns revenues of $138 million or more. *See* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-08-929A1.pdf.

[6] http://www.fcc.gov/wcb/armis/instructions/#4308.