

**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 AT&T, Verizon and Qwest)	
Compliance Plans)	

**REPLY COMMENTS OF THE
NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES
ON VERIZON AND QWEST COMPLIANCE PLANS; EX PARTE
COMMUNICATION ON AT&T COMPLIANCE PLAN**

In April of this year, the Federal Communications Commission (“FCC” or “Commission”) granted AT&T Inc.’s (“AT&T’s”) request for forbearance from the Commission’s cost allocation rules.¹ The grant was conditioned on the approval by the Commission’s Wireline Competition Bureau of a “compliance plan” that would require AT&T to “maintain its accounting procedures and data in a manner that will allow it to provide useable information on a timely basis if requested by the Commission.”² AT&T

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; *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 No. 05-342 (“07-21/05-342”), *Memorandum Opinion and Order* (rel. April 24, 2008) (“*AT&T Cost Assignment Forbearance Order*”).

² / *AT&T Cost Assignment Forbearance Order*, at ¶ 31.

submitted its compliance plan on July 24, 2008.³ Comments and reply comments were taken on the AT&T plan.⁴

Subsequently, the Commission extended the grant of forbearance from the cost allocation rules to Verizon and Qwest.⁵ Verizon and Qwest have filed compliance plans.⁶ Comments have been filed on both compliance plans.⁷

There were two comments filed on both compliance plans: Joint comments were filed by the National Association of State Utility Consumer Advocates (“NASUCA”) and one of its members, the New Jersey Division of Rate Counsel (“Rate Counsel”). Joint comments were also filed by Sprint Nextel Corporation, COMPTTEL, tw telecom, inc. and OneCommunications Corp. (“Sprint Nextel et al.”). Both sets of comments identified the same problems as they had identified for the AT&T compliance plan, and pointed out the shortcomings of the universal service fund (“USF”) issues that were not applicable to

³ / 07-21/05-342, Compliance Plan filed July 24, 2008 (“AT&T Compliance Plan”).

⁴ / 07-21, Public Notice, DA 08-182 (rel. July 31, 2008).

⁵ / *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 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 07-21, DA 08-1236 (rel. September 23, 2008).

⁶ / 07-21, Compliance Plan filed September 19, 2008 (“Verizon Compliance Plan”) (as its Compliance Plan indicates at 1, “Verizon” refers to the “wholly owned incumbent local exchange carrier (“ILEC”) subsidiaries of Verizon Communications Inc.); id., Compliance Plan filed September 24, 2008 (“Qwest Compliance Plan”) (as its Compliance Plan indicates at 1, the Plan is filed on behalf of Qwest and its ILEC affiliates).

⁷ / 07-21, DA 08-1236 (rel. September 23, 2008) (Verizon); id., DA 08-2175 (rel. September 29, 2008) (Qwest).

AT&T. Thus there is little to which NASUCA can reply here. To repeat NASUCA's overall conclusion on all the compliance plans, however: Although the plans

purportedly respond[] to the specific directives set forth in the Commission's order approving AT&T's forbearance from certain cost assignment rules, the Commission's review of AT&T's plan has far-reaching implications because of its likely foundation for plans filed by other incumbent local exchange carriers ("ILEC"), following in the path charted by AT&T. Also, as these comments demonstrate, the Commission's deliberations in this compliance phase will affect state and federal regulators' ability to obtain meaningful data from AT&T in pending and future proceedings.⁸

The Commission should reject all three compliance plans.

There is another issue pending, however, for the reply comments on the Verizon and Qwest compliance plan, and on AT&T's plan as well.⁹ In its Public Notice, seeking comment on AT&T'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 AT&T's Compliance Plan and its consistency with the requirements of the *AT&T Cost Assignment Forbearance Order*. Comments filed in response to this Public Notice that go beyond its scope, such as comments addressing the merits of granting forbearance relief to AT&T in the first instance, will not be considered.¹⁰

Similar statements were made in the public notices for the Verizon and Qwest compliance plans.

But the Commission itself has introduced an element that demands more questioning of the compliance plans: The Commission's consideration of a global

⁸ / 07-21/05-245, NASUCA/Rate Counsel Reply Comments on AT&T Compliance Plan (September 3, 2008).

⁹ / The comments on the AT&T plan are submitted as an ex parte communication pursuant to 47 CFR 1.1206.

¹⁰ / 07-21, Public Notice, DA 08-1826, July 31, 2008, at 1, with footnote stating: "We note that, separately, a petition for reconsideration of the forbearance order is pending before the Commission. See Sprint Nextel Corporation *et al.*, Petition for Reconsideration, WC Docket Nos. 07-21, 05-342 (filed May 27, 2008)." *Id.*, at fn 4.

intercarrier compensation (“ICC”) and USF order proposed by Chairman Martin clearly reinforces the need for cost allocation.¹¹

The ICC/USF plan as announced¹² involves major shifts in jurisdictional responsibility, with state regulation of intrastate ICC being preempted.¹³ There will be a new federal methodology for reciprocal compensation that the states will have to follow; that same methodology will also apply to intrastate access charges. The intent of the methodology appears to be to drive ICC to a uniform **and minimal** rate, that is substantially lower than many state-set reciprocal compensation rates (adopted pursuant to the FCC’s current methodology) and state-set intrastate access charges.

The recovery of revenue losses from reductions in intrastate ICC rates is promised first through the subscriber line charge (“SLC”), a federal charge that was designed to recover the interstate portion of the ILECs’ common line costs. Additional recovery for these intrastate losses is also promised for rural rate-of-return ILECs through federal USF mechanisms. Price cap ILECs will apparently be required to seek recovery – beyond that allowed by the SLC increases – through increases in rates.

It should be obvious that these gyrations will demand an examination of the costs of service **allocated between the interstate and intrastate jurisdictions**. That is precisely what the cost allocation rules were designed to supply. Absent such allocations

¹¹ / Fawn Johnson, “FCC Plan Could Raise Residential Phone Fees,” Wall Street Journal (October 15, 2008) (accessible at http://online.wsj.com/article/SB122403282731234979.html?mod=googlenews_wsj); Joelle Tessmer, “Top regulator seeks telecom firm fee changes,” Associated Press (October 20, 2008) (accessible at <http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/10/20/BUQP13HFFJ.DTL>).

¹² / According to the news accounts, the proposal will be voted on at the Commission’s November 4, 2008 public meeting.

¹³ / This discussion should in no way be viewed as NASUCA’s endorsement of any element of the Martin Proposal.

– applied consistently with historical data and usage of that data – there will be little ability to assess the effects of the changes in federal policy.¹⁴

Therefore, NASUCA cannot limit the scope of the reply comments to the merits of AT&T's, Verizon's and Qwest's specific plan for compliance. These new issues require the Commission to re-examine its initial grant of forbearance to AT&T, and subsequent grants to Verizon and Qwest.

Respectfully submitted,

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October 23, 2008

¹⁴ See *In the Matter of Petition of AT&T Inc. for Interim Declaratory Ruling and Limited Waivers Regarding Access Charges and the ESP Exemption*, CC Docket No. 08-152; *In the Matter of IP-Enabled Services*, WC Docket No. 04-36; *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; *In the Matter of Universal Service Contribution Methodology*, WC Docket No. 06-122; *In the Matter of Petition for Declaratory Ruling Filed by CTIA*, WT Docket No. 05-194; *In the Matter of Jurisdictional Separations & Referral to the Federal-State Joint Board*, CC Docket No. 80-286, ex parte by State Members of Federal-State Joint Board on Separation (filed October 20, 2008).