

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

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

Christopher M. Heimann  
Gary L. Phillips  
Paul K. Mancini  
AT&T Inc.  
1120 20<sup>th</sup> Street, N.W.  
Suite 1000  
Washington, D.C. 20036

## TABLE OF CONTENTS

I.	Introduction and Summary.....	2
II.	Growing Competition in Communications Markets Obviates Any Need to Collect Service Quality & Customer Satisfaction Data.....	3
III.	The Commission Should Collect Infrastructure Investment and Operating Data, if At All, Through FCC Form 477 in a Competitively Neutral Manner.....	9
IV.	Any Information Collection Requirements Adopted in this Proceeding Should Sunset Automatically Unless the Commission Finds Retention of Such Requirements Remains Necessary in the Public Interest.....	11
V.	Conclusion.....	12

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

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

**COMMENTS OF AT&T INC.**

AT&T Inc., on behalf of itself and its wholly-owned subsidiaries, respectfully submits its comments in response to the Commission's notice of proposed rulemaking in the above-captioned proceeding regarding the need, if any, for collection by the Commission of industry-

wide data previously collected through certain Automated Reporting Management Information System (ARMIS) reports concerning (*inter alia*) service quality, customer satisfaction, infrastructure investment, and operating data.<sup>1</sup>

## **I. INTRODUCTION AND SUMMARY.**

As discussed herein, the development of increasingly robust competition in communications markets has largely obviated the need for continued collection of service quality, customer satisfaction, infrastructure and operating data. As the Commission has long recognized, in competitive markets, market forces assure that service providers will maintain service quality and continue to invest in new and improved services to retain existing customers and attract new ones. Indeed, the explosive growth of the Internet, Internet-based applications (including VoIP), wireless, innovative IP-based video and other communications services over the past decade (since Congress opened all communications markets to competition) confirms that market forces will better promote consumer welfare, assure service quality, and promote investment than command and control regulation ever could. In light of these developments, there no longer is any need, if there ever was, for continued collection of the full panoply of service quality, customer satisfaction, infrastructure investment and operating data previously collected from a handful of carriers through ARMIS; retention and expansion to other providers of such data collection requirements would impose significant costs with little or no off-setting benefits.

AT&T recognizes that the Commission and other federal authorities may have some legitimate need for information regarding infrastructure investment (for example, to determine

---

<sup>1</sup> *Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, et al.*, WC Docket Nos. 08-190, *et al.*, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 23 FCC Rcd 13647 (2008) (Order and NPRM).

whether additional federal universal service support is necessary to encourage deployment of broadband to high cost areas, or for public safety reasons). But, before imposing any such data collection requirement, the Commission must identify the specific need for such data, and carefully tailor any data collection requirements to be no more burdensome than necessary. In this regard, the Commission should consider whether such data (or comparable data) is collected elsewhere or otherwise available from another source, and, if so, obtain the data from that source. And, to the extent the Commission concludes that collection of such information is necessary, it should collect that information from all companies providing wireline services (including, *inter alia*, traditional wireline carriers, cable operators, and fixed wireless providers) to get as complete a picture of infrastructure deployment as possible.<sup>2</sup> In order to minimize regulatory burdens on service providers, the Commission should collect relevant wireline infrastructure and operating data through its existing Form 477, with appropriate modifications (if necessary). Finally, the Commission should provide that any such data collection requirements will sunset automatically (*e.g.*, after 24 months) unless the Commission, at that time, finds that extension of such requirements has become necessary.

## **II. GROWING COMPETITION IN COMMUNICATIONS MARKETS OBVIATES ANY NEED TO COLLECT SERVICE QUALITY & CUSTOMER SATISFACTION DATA.**

For the past three decades, the Commission has been guided by the principle that comprehensive, command and control regulation is not necessary in competitive markets, and therefore that increasing competition should be accompanied by a corresponding decrease in regulation. Almost thirty years ago, the Commission acknowledged in the *Competitive Carrier*

---

<sup>2</sup> In no event should the Commission impose such requirements on wireless service providers. Such providers already provide consumers a wealth of information concerning the areas served by their networks. Imposing further data reporting requirements on wireless providers would impose significant costs with no off-setting benefits. Moreover, the FCC already produces an annual CMRS report that covers the same type of information.

proceeding that regulation of competitive markets is not only unnecessary but also counterproductive because market forces will far better protect consumers and assure that firms will provide the types and quality of services demanded by their customers than regulation ever could.<sup>3</sup> Consequently, the Commission has long sought to eliminate regulatory burdens that are not necessary to protect consumers in light of marketplace developments.

The Commission's policy of decreasing regulation in the face of emerging competition now is enshrined in the Communications Act. In the 1996 Act, Congress adopted a new regulatory paradigm for communications services that seeks "to promote competition and *reduce regulation* in order to secure lower prices and higher quality services for American telecommunications consumers."<sup>4</sup> Specifically, it required the Commission in every even-numbered year to review *all* regulations applicable to the operations and activities of any provider of telecommunications service, and eliminate any such regulations that are no longer necessary in the public interest as a result of developing competition.<sup>5</sup> Congress further required the Commission to forbear from applying any regulation or provision of the Act to a telecommunications carrier or service, or class thereof, if it finds that such regulation is not necessary to protect consumers and that forbearance would promote competitive market conditions.<sup>6</sup> Thus, rather than allowing regulatory inertia to perpetuate regulatory requirements

---

<sup>3</sup> See *Policy and Rules Concerning Rates for Competitive Carrier Services and Facilities Authorization Therefor*, CC Docket No. 79-252, Further Notice of Proposed Rulemaking, 84 F.C.C.2d 445, 448-55 (1981) (*Competitive Carrier FNPRM*); See *Policy and Rules Concerning Rates for Competitive Carrier Services and Facilities Authorization Therefor*, CC Docket No. 79-252, Second Report and Order, 91 F.C.C.2d 59, 60-62 (1982) (*Competitive Carrier Second Report and Order*) (concluding that comprehensive Title II regulation was intended to constrain the exercise of substantial market power, and, when applied to carriers without such power, is contrary to the goals of the Act).

<sup>4</sup> The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act) (emphasis added).

<sup>5</sup> 47 U.S.C. § 161(a).

<sup>6</sup> 47 U.S.C. § 160.

that no longer fit with rapidly evolving and highly competitive communications markets, Congress directed the Commission to eliminate regulation where continuation of such requirements is no longer necessary to meet specific and identifiable needs due to market forces.

It is not enough for the Commission to identify some speculative or hypothetical need. Nor can the Commission impose regulatory requirements to meet a need that can be met without recourse to intrusive and burdensome regulations. Rather, there must be a “*strong connection*,” based on current regulatory uses, between a regulation and the ends that regulation is intended to serve.<sup>7</sup> Accordingly, before the Commission may adopt the reporting obligations at issue, it first must find that those requirements are necessary to meet a specific federal policy objective, and that other, less burdensome and intrusive means would not suffice.

Marketplace developments have largely obviated the need for the Commission to collect the service quality and customer satisfaction data at issue in this proceeding. Since Congress opened telecommunications markets to competition in 1996, competition for communications services has exploded as inter- and intra-modal competitors have entered each others’ markets and competed head-to-head to provide consumers voice, video and data services (or bundled combinations of some or all of these services) over different platforms. According to Commission data, as of December 31, 2007, there were approximately 250 million wireless subscribers,<sup>8</sup> up from 217 million 18 months earlier,<sup>9</sup> and nearly double the number of end-users that obtained local telephone service by utilizing ILEC switched access lines.<sup>10</sup> In the meantime,

---

<sup>7</sup> *Cellular Telecommunications and Internet Association v. FCC*, 330 F.3d 502, 512 (D.C. Cir. 2003).

<sup>8</sup> *Local Telephone Competition: Status as of December 31, 2007*, at 1 (rel. Sept. 2008) (*2008 Local Competition Report*).

<sup>9</sup> *Trends in Telephone Service, Industry Analysis and Technology*, at 11-1, Table 11.3.

<sup>10</sup> *2008 Local Competition Report* at 1 (noting that approximately 129.7 million end-users obtained local telephone service over ILEC lines).

CLECs captured almost 29 million, or about 18.1%, of the nation's end-user switched access lines.<sup>11</sup> Cable companies too have vastly expanded their competitive footprint, and now make available VoIP phone service to well over 100 million U.S. homes, and had signed up more than 15.1 million households as of the fourth quarter, 2007 – up from 12.1 million households only six months earlier.<sup>12</sup> At the same time, ILECs have lost, and continue to lose, millions of switched access lines. Indeed, between 2001 and 2007, the number of RBOC access lines dropped 27 percent, and, in 2007 alone, fell 7 percent.<sup>13</sup> These data plainly confirm that many households have relinquished traditional landline phone service altogether in favor of one or more alternatives.

In this robustly competitive environment, the notion that service providers can skimp on investment, customer service, or service quality is absurd. AT&T and its intra- and intermodal competitors must continually invest in their networks to provide new and innovative services, as well as to maintain and improve service quality, in order to attract and retain customers. Service providers simply cannot afford to forego such investment because doing so would accelerate competitive losses. In short, market forces assure service quality and promote investment, and indeed will continue to do so far better than onerous regulatory oversight ever could. As a consequence, there no longer is any need, if there ever was, for the Commission to collect from service providers the service quality, customer satisfaction, and investment data previously

---

<sup>11</sup> *2008 Local Competition Report* at 2.

<sup>12</sup> National Cable & Telecommunications Association, “Digital Phone/Cable Telephony – Full Brief, available at NCTA’s website at <http://www.ncta.com/IssueBrief.aspx?contentId=3023&view=2> (Nov. 12, 2008); NCTA, “Residential Telephony Customers, 2001-2007” statistics at NCTA’s website at <http://www.ncta.com/Statistic/Statistic/ResidentialTelephonyCustomers.aspx> (Nov. 11, 2008).

<sup>13</sup> *2008 Local Competition Report* at Table 1

collected through ARMIS, and imposition of such data collection requirements would impose significant costs with little or no off-setting benefits.

That is particularly so because the Commission has other sources for such data. For example, the Commission requires all communications providers that provide voice or paging communications (including cable, satellite, wireless, and traditional wireline providers) to comply with its network outage reporting regime,<sup>14</sup> providing the Commission with comprehensive information regarding service quality by a wide number of service providers. Additionally, the Commission's Consumer and Governmental Affairs Bureau tracks consumer inquiries and complaints regarding service quality and other service related issues for all categories of communications service providers (traditional wireline, wireless, cable, etc.). Each state also tracks consumer inquiries and complaints regarding service quality. The Commission thus already has access to a plethora of data regarding customer-affecting service quality and other service-related issues, data that is far more useful and relevant than the abstract statistics regarding performance measurements (which, in many cases, had no real impact on or relevance for consumers) that previously were collected through ARMIS.

Moreover, the Commission and consumers generally have access to a variety of widely publicized customer satisfaction and consumer service quality surveys that provide far more relevant and reliable information than the data previously collected through ARMIS. For example, JD Power and Associates conducts a variety of surveys of service quality and customer satisfaction that rate service providers for different communications sectors – including wireless, traditional wireline, and cable.<sup>15</sup> And, when service providers cite customer satisfaction and

---

<sup>14</sup> *In the Matter of New Part 4 of the Commission's Rules Concerning Disruption to Communications*, 19 FCC Rcd 16830, ¶ 2 (2004).

<sup>15</sup> See <http://www.jdpower.com/telecom>.

service quality data in marketing to their customers, they do not cite data filed with the Commission (such as the data previously collected through ARMIS), but rather point to the surveys conducted by JD Power, the Michigan Ross School of Business American Customer Satisfaction Index (ACSI)<sup>16</sup> and others. Thus, even if the Commission lacked the service quality data available through the complaint process and network outage reporting, alternative, market-driven sources of customer satisfaction and service quality data are readily available. As such, requiring service providers to provide the customer satisfaction and service quality data at issue is wholly unnecessary.

In any event, the Commission’s tentative conclusion that the service quality and customer satisfaction data previously collected through ARMIS Reports 43-05 and 43-06 “might be useful to consumers to help them make informed choices in a competitive market”<sup>17</sup> hardly provides a basis for continuing to collect such information. Such speculation does not establish the “*strong connection*,” based on current regulatory uses, between a regulation and the ends that regulation is intended to serve, for imposing such costly and burdensome reporting requirements on service providers. Particularly insofar as there is no evidence that customers look at ARMIS data when making purchasing decisions.

Even if the Commission was to conclude that collection of service quality and customer satisfaction data was necessary, it should affirm its tentative conclusion that such data should be collected from all wireline broadband and/or telecommunications providers.<sup>18</sup> As the

---

<sup>16</sup> <http://www.theacsi.org>.

<sup>17</sup> Order and NPRM at ¶ 35.

<sup>18</sup> *Id.* In no event should wireless providers be required to report such data. As the Commission has repeatedly recognized, wireless services are highly competitive, with much of that competition focused directly on service quality and customer satisfaction, guaranteeing that consumers have access to the information they need to make informed choices among service providers.

Commission correctly recognized, service quality and customer satisfaction data are meaningless unless collected from all service providers offering competing services – irrespective of the platform over which they provide such services.<sup>19</sup> Equally, if not more, important, requiring some, but not all, competing service providers to report such data would distort competition by subjecting some service providers to costly regulatory burdens not imposed on their rivals. As the Commission has long recognized, service providers should be treated equally absent a compelling reason to do otherwise.<sup>20</sup> Thus, the Commission could not require some, but not other, service providers to report service quality and customer satisfaction data without departing from long-standing Commission precedent and sound economic policy.

**III. THE COMMISSION SHOULD COLLECT INFRASTRUCTURE INVESTMENT AND OPERATING DATA, IF AT ALL, THROUGH FCC FORM 477 IN A COMPETITIVELY NEUTRAL MANNER.**

AT&T agrees with the Commission’s tentative conclusion that collection of infrastructure investment and operating data could be useful to the Commission and other federal authorities for public safety and broadband policy making, but only if these data are collected from the entire relevant industry.<sup>21</sup> Such information also could be useful to assess the level and scope of competition in particular markets (or market segments) so that it can eliminate unnecessary and burdensome regulatory requirements, consistent with Congress’s precompetitive, deregulatory objectives in the 1996 Act.

---

<sup>19</sup> *Id.*

<sup>20</sup> *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 15499, 15989 (1999) (“[A]s a general policy matter, . . . all telecommunications carriers that compete with each other should be treated alike . . . unless there is a compelling reason to do otherwise.”); *Implementation of Section 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, 9 FCC Rcd 1411, 1420 (1994) (“Success in the marketplace should be driven by technological innovation, service quality, competition-based pricing decisions, and responsiveness to consumer needs – and not by strategies in the regulatory arena. [Thus] even-handed regulation, in promoting competition, should help lower prices, generate jobs, and produce economic growth.”).

<sup>21</sup> Order and NPRM at ¶ 34.

AT&T notes, in this regard, that, despite overwhelming evidence of growing competition and declining prices for special access services, a number of carriers and large businesses repeatedly have sought to use the regulatory process to obtain mandated price cuts based on flawed data regarding purportedly excessive ILEC rates of return for such services. AT&T previously has addressed the obvious fallacies and deficiencies in these parties' claims, and will not do so again here, other than to observe that these parties have steadfastly refused to provide any data concerning the extent of competitive facilities deployment, despite repeated requests by the Commission, GAO and others that they do so. As a result, as GAO rightly found, the Commission lacks sufficient, comprehensive data on competitors' deployment of alternative transmission facilities and the true extent of special access competition. Consequently, collection of infrastructure investment and operating data from all companies providing wireline services would provide the Commission with a more complete picture of competition for special access, broadband and other services, and thus a firmer foundation for Commission policy.

AT&T also agrees with the Commission's tentative conclusion that it should collect infrastructure and operating data through the Form 477 process.<sup>22</sup> All wireline service providers already provide some data to the Commission through Form 477, which thus provides the Commission a ready vehicle to collect useful infrastructure and operating data from the entire wireline industry. In particular, modifying Form 477 to collect any additional infrastructure investment and operating data that the Commission finds necessary to achieve appropriate policy making and public safety objectives would merely extend the reporting requirements already applicable to all wireline service providers today, with minimal additional burdens.

---

<sup>22</sup> Order and NPRM at ¶ 36.

Accordingly, the Commission should modify Form 477 to collect the infrastructure investment and operating data that it deems necessary from all wireline providers.

**IV. ANY INFORMATION COLLECTION REQUIREMENTS ADOPTED IN THIS PROCEEDING SHOULD SUNSET AUTOMATICALLY UNLESS THE COMMISSION THEN FINDS RETENTION OF SUCH REQUIREMENTS HAS BECOME NECESSARY IN THE PUBLIC INTEREST.**

To the extent the Commission adopts any new (or extends any existing) data collection requirements in this proceeding, it should provide that such requirements will sunset automatically (*e.g.*, after 24 months) unless the Commission, at that time, finds that extension of such requirements has become necessary. As discussed above, Congress adopted a new regulatory paradigm in the 1996 Act, one based on the premise that market forces, rather than command and control regulation, better protect consumers and promote the public interest. It thus mandated that the Commission refrain from regulation, and instead rely on competition, absent a demonstrated market failure requiring Commission action. Even then, Congress directed the Commission to regularly review its regulations (at least every 24 months) to determine whether such regulations remain necessary as a result of developing competition. Despite this clear mandate, the Commission in the past has failed to act expeditiously to eliminate regulations that no longer are necessary in the public interest.<sup>23</sup> While such delay may be understandable in light of competing regulatory priorities, it highlights the need for the Commission to adopt an appropriate sunset for any new regulations it adopts to ensure that regulatory inertia does not undermine Congress's stated objective of establishing a

---

<sup>23</sup> AT&T notes in this regard that the Commission first proposed to eliminate most of the data collection requirements at issue in this proceeding back in 2000, in its second Biennial Review, because those requirements were of "limited use to consumers" and imposed significant regulatory burdens on carriers required to submit ARMIS reports. *In the Matter of 2000 Biennial Regulatory Review – Telecommunications Service Quality Reporting Requirements*, Notice of Proposed Rulemaking, 15 FCC Rcd 22113, 22118 (2000). But the Commission did not act on that proposal until this year, when it granted AT&T, Verizon and Qwest forbearance from most of those ARMIS filing requirements. Order and NPRM at 1. A sunset provision is appropriate in order to guard against continuing to require these reports decades after their original purpose had been satisfied.

procompetitive, deregulatory national policy framework for communications services. In particular, the Commission should provide that any new data collection requirements adopted in this proceeding will sunset in no more than 24 months, unless the Commission, at that time, finds that extension of such requirements has become necessary in the public interest in light of existing marketplace conditions.

## **V. CONCLUSION.**

In light of marketplace developments, there no longer is any need for continued collection of service quality and customer satisfaction data, and requiring service providers to report such data would impose significant costs with little or no off-setting benefits. Accordingly, the Commission should reject its tentative conclusion that it should collect that type of data.<sup>24</sup>

AT&T agrees with the Commission's tentative conclusion that collection of infrastructure investment and operating data could be useful to the Commission and other federal authorities for public safety and broadband policy making, but only if these data are collected from the entire relevant wireline industry. Accordingly, to the extent the Commission concludes that collection of such information is necessary, it should collect that information from all companies providing wireline services (including, *inter alia*, traditional wireline carriers, cable operators, and fixed wireless), and (to minimize regulatory burdens) should do so through its existing Form 477, with appropriate modifications (if necessary). Finally, the Commission should provide that

---

<sup>24</sup> However, AT&T agrees with the Commission's tentative conclusion that, if the Commission does collect such information, it should collect it from the entire relevant industry, rather than a subset of service providers.

any such data collection requirements will sunset automatically (*e.g.*, after 24 months) unless the Commission finds, at that time, that extension of such requirements has become necessary.

Respectfully submitted,

/s/ Christopher M. Heimann  
Christopher M. Heimann  
Gary L. Phillips  
Paul K. Mancini

AT&T Inc.  
1120 20<sup>th</sup> Street, N.W.  
Suite 1000  
Washington, D.C. 20036  
(202) 457-3058 - Telephone

Its Attorneys

November 14, 2008