

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

TO: The Commission

**COMMENTS OF THE RURAL VERMONT ITCs
ON THE INITIAL REGULATORY FLEXIBILITY ANALYSIS**

Susan J. Bahr
Law Offices of Susan Bahr, PC

P.O. Box 2804
Montgomery Village, MD 20886-2804
Phone: (301) 926-4930
Sbahr@bahrlaw.com

Attorney for the Rural Vermont ITCs

November 14, 2008

TABLE OF CONTENTS

Page

SUMMARY ii

COMMENTS OF THE RURAL VERMONT ITCs ON THE INITIAL REGULATORY
FLEXIBILITY ANALYSIS 1

 BACKGROUND 3

 I. THE IRFA DOES NOT SAY WHY ACTION IS NEEDED 3

 II. THE IRFA DOES NOT EXPLAIN THE SKILLS NECESSARY TO
 PERFORM THE REPORTING, RECORDKEEPING AND OTHER
 COMPLIANCE REQUIREMENTS OF THE PROPOSED RULES 4

 III. THE OMB AGREED WITH THE VERMONT COMPANIES IN 2001 AND
 REJECTED THE PROPOSED REPORTING REQUIREMENT 6

 IV. THE REMEDY IS TO EXEMPT SMALL ILECS 7

CONCLUSION 7

SUMMARY

Franklin Telephone Company, Ludlow Telephone Company, Northfield Telephone Company, Perkinsville Telephone Company, Shoreham Telephone Company, Inc., Topsham Telephone Company and Waitsfield-Fayston Telephone Company, Inc. (collectively, the Vermont ITCs), by their attorney, hereby submit these comments on the Initial Regulatory Flexibility Analysis (IRFA) contained in the Memorandum Opinion and Order and Notice of Proposed Rulemaking, FCC 08-203, released September 6, 2008 (NPRM), in the captioned proceedings.

The NPRM violates the Regulatory Flexibility Act by not providing all the information required in the IRFA. Nevertheless, if the Commission were to proceed with the NPRM, the way to minimize the impact on small entities would be to exempt small incumbent local exchange carriers (ILECs), such as the Rural Vermont ITCs, from any reporting requirement adopted in this proceeding.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Service Quality, Customer Satisfaction,) WC Docket No.
Infrastructure and Operating Data) 08-190
Gathering)
)
Petition of AT&T Inc. for Forbearance) WC Docket No.
Under 47 U.S.C. § 160(c) From Enforcement) 07-139
of Certain of the Commission's)
ARMIS Reporting Requirements)
)
Petition of Qwest Corporation for)
Forbearance from Enforcement of the)
Commission's ARMIS and 492A Reporting)
Requirements Pursuant to 47 U.S.C.)
§ 160(c))
)
Petition of the Embarq Local Operating) WC Docket No.
Companies for Forbearance Under 47 U.S.C.) 07-204
§ 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)
)
Petition of Verizon for Forbearance Under) WC Docket No.
47 U.S.C. § 160(c) From Enforcement of) 07-273
Certain of the Commission's)
Recordkeeping and Reporting Requirements)
)
Petition of AT&T Inc. For Forbearance) WC Docket No.
Under 47 U.S.C. § 160 From Enforcement of) 07-21
Certain of the Commission's Cost)
Assignment Rules)

TO: The Commission

**COMMENTS OF THE RURAL VERMONT ITCs
ON THE INITIAL REGULATORY FLEXIBILITY ANALYSIS**

Franklin Telephone Company, Ludlow Telephone Company, Northfield Telephone Company, Perkinsville Telephone Company, Shoreham Telephone Company, Inc., Topsham Telephone Company and Waitsfield-Fayston Telephone Company, Inc. (collectively, the Vermont ITCs), by their attorney, hereby submit these comments on the Initial Regulatory Flexibility Analysis (IRFA) contained in the Memorandum Opinion and Order and Notice of Proposed Rulemaking, FCC 08-203, released September 6, 2008 (NPRM), in the captioned proceedings.¹

The NPRM violates the Regulatory Flexibility Act by not providing all the information required in the IRFA. Nevertheless, if the Commission were to proceed with the NPRM, the way to minimize the impact on small entities would be to exempt small incumbent local exchange carriers (ILECs), such as the Rural Vermont ITCs, from any reporting requirement adopted in this proceeding.²

¹ Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, Memorandum Opinion and Order and Notice of Proposed Rulemaking, WC Dockets No. 08-190, 07-139, 07-204, 07-273, 07-21, FCC 08-203 (rel. Sept. 6, 2008) [hereinafter NPRM].

² In addition to violating the Regulatory Flexibility Act, the NPRM does not comply with the Paperwork Reduction Act, the Small Business Paperwork Relief Act of 2002, and the Administrative Procedure Act. These issues are addressed in two separate comments filed today by the Rural Vermont ITCs. Comments of the Rural Vermont ITCs, WC Dockets No. 08-190, 07-139, 07-204, 07-273, 07-21, FCC 08-203 (filed Nov. 14, 2008); Comments of the Rural Vermont ITCs on the Information

BACKGROUND

The Rural Vermont ITCs are small ILECs serving rural areas of Vermont. In addition to providing local exchange service, the Rural Vermont ITCs and their affiliates provide broadband service and long distance service.

Several of them serve fewer than 2000 lines. They all have fewer than 1500 employees (the size threshold for small businesses under the Regulatory Flexibility Act).³ Indeed, they all have fewer than 100 employees, and most of the Rural Vermont ITCs have fewer than 25 employees (the size threshold for small businesses under the Small Business Paperwork Relief Act of 2002).⁴ Given their small size and correspondingly small staff, they are especially impacted by any increased regulatory reporting requirements.

I. THE IRFA DOES NOT SAY WHY ACTION IS NEEDED

The IRFA fails to meet the minimal requirements of the Regulatory Flexibility Act. It does not contain: "(1) a description of the reasons why action by the agency is being

Collections, WC Dockets No. 08-190, 07-139, 07-204, 07-273, 07-21, FCC 08-203 (filed Nov. 14, 2008).

³ NPRM app. C para. 5.

⁴ NPRM para. 44.

considered;" and "(2) a succinct statement of the objectives of, and legal basis for, the proposed rule."⁵ The IRFA states that the Commission plans to collect data, but does not explain why the data should be collected. Even in the body of the NPRM, the Commission proposes to extend massive reporting requirements to all carriers without explaining why the Commission needs to collect any data.⁶

II. THE IRFA DOES NOT EXPLAIN THE SKILLS NECESSARY TO PERFORM THE REPORTING, RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS OF THE PROPOSED RULES

The IRFA also fails to describe projected reporting, recordkeeping and other compliance requirements, and explain the professional skills necessary for preparation of the report or record, as required by the Regulatory Flexibility Act.⁷ The IRFA states only that the Commission proposes to collect ARMIS Reports or ARMIS-type data via other reporting mechanisms.⁸

The NPRM and the IRFA do not even begin to estimate the burden of the proposed reporting requirements on small LECS. The Commission has previously estimated the staff hours involved in

⁵ 5 U.S.C. § 603(b); NPRM app. C para. 2.

⁶ See the Comments of the Vermont ITCs in this proceeding for more details on this issue.

⁷ 5 U.S.C. § 603(b)(4).

⁸ NPRM app. C para. 54.

producing the ARMIS Reports 43-05, 43-06, 43-07 and 43-08 (i.e., the ARMIS Reports at issue in this NPRM) to be about 1500 hours per year per company.⁹ And those estimates applied to companies that may have already had sophisticated switches, back office systems and survey mechanisms in place and ready to generate ARMIS data and reports.

For small ILECs to begin to generate ARMIS-type data, they may need to upgrade switch software, invest in new back office systems, or perhaps hire new staff to manually generate the data for the proposed reports. To generate customer satisfaction data, the small ILECs would need to start surveying customers about whatever issues are determined by the Commission. The cost of modifying internal procedures, upgrading or replacing systems, surveying customers, and hiring staff could range from tens of thousands of dollars to hundreds of thousands of dollars, depending on the size of the ILEC and the regulations that the Commission would adopt. These small ILECs would need to divert resources away from making system improvements that impact end

⁹ Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget, 73 Fed. Reg. 43,933 (FCC July 29, 2008) (319 hours for each of ARMIS Reports 43-05 and 43-07); Public Information Collection(s) Approved by Office of Management and Budget, 71 Fed. Reg. 29,961 (FCC May 16, 2006) (720 hours for ARMIS Report 43-06); Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget, 72 Fed. Reg. 5715 (FCC Feb. 7, 2007) (139 hours for ARMIS Report 43-08).

users, such as broadband deployment - with no apparent benefit for those end users.

III. THE OMB AGREED WITH THE VERMONT COMPANIES IN 2001 AND REJECTED THE PROPOSED REPORTING REQUIREMENT

Eight years ago, in the Biennial Review Service Quality Reporting Requirements Notice, the Commission proposed to extend service quality reporting (ARMIS Report 43-05) to all ILECs.¹⁰ A group of Vermont LECs, including the Vermont ITCs here, filed comments in that proceeding, and showed that the proposed reporting requirements were unjustified and would be unduly burdensome.¹¹ In response to those comments, the OMB stated:

The comments we received show a considerable cost for the reporting requirement, but do not include discussion of benefits. Absent a significant benefit being shown, we do not approve the extension in this proposal pursuant to the Paperwork Reduction Act.¹²

The same is true here. The Commission has proposed to extend the service quality reporting requirements to all

¹⁰ 2000 Biennial Regulatory Review - Telecommunications Service Quality Reporting Requirements, Notice of Proposed Rulemaking, CC Docket No. 00-229, 15 FCC Rcd. 22,113, 22,122 (2000).

¹¹ Comments of the Vermont ITCs on Proposed Information Collections, CC Docket No. 00-229 (dated Jan. 3, 2001); see also Comments of the Vermont ITCs, CC Docket No. 00-229 (dated Jan. 12, 2001); Reply Comments of the Small Independent Telephone Companies, CC Docket No. 00-229 (dated Feb. 16, 2001).

¹² Letter from Edward Springer, OMB, to Judy Boley, FCC, CC Docket No. 00-229 (Jan. 29, 2001).

carriers, and has not shown any benefit to imposing the proposed reporting requirements on any carriers, let alone small ILECs such as the Rural Vermont ITCs. To make matters worse, the Commission also has proposed to extend other ARMIS-type reporting requirements to small ILECs and other carriers. These proposed reporting requirements violate the Paperwork Reduction Act just as the previous proposed service quality reporting requirements violated the Paperwork Reduction Act. Similarly, these unjustified burdens would violate the Regulatory Flexibility Act.

IV. THE REMEDY IS TO EXEMPT SMALL ILECs

The Rural Vermont ITCs respectfully request the Commission to heed the OMB's prior warning about imposing unnecessary reporting requirements on small ILECs, and exempt small ILECs from the proposed reporting requirements, pursuant to the Regulatory Flexibility Act.¹³ In the alternative, the Commission could just terminate the NPRM.

CONCLUSION

In sum, the Commission has not complied with the Regulatory Flexibility Act. The IRFA fails to explain why the reports are needed and what the objectives are for the reports. The IRFA

¹³ 5 U.S.C. § 603(c)(4).

also does not explain the skills that will be necessary for small ILECs to modify their internal procedures, switches and back office systems in order to generate the data necessary for the reports at issue. If the Commission chooses to continue with this proceeding, the Rural Vermont ITCs suggest that the Commission exempt small ILECs from any reporting requirements adopted in this proceeding. Such action would be consistent with the Regulatory Flexibility Act and the OMB's prior decision under the Paperwork Reduction Act.

Respectfully submitted,
RURAL VERMONT ITCs

By [filed using ECFS]
Susan J. Bahr
Law Offices of Susan Bahr, PC
P.O. Box 2804
Montgomery Village, MD 20886-2804
Phone: (301) 926-4930
Sbahr@bahrlaw.com

Their Attorney

November 14, 2008

CERTIFICATE OF SERVICE

I, Susan J. Bahr, Law Offices of Susan Bahr, PC, certify that on this 14th day of November, 2008, I have sent a copy of the foregoing to the following:

FCC
PRA@fcc.gov

Judith B. Herman, FCC
Judith-B.Herman@fcc.gov

Kristy L. LaLonde, OMB Desk Officer
Kristy_L._LaLonde@omb.eop.gov

Nicholas Fraser, OMB
Nicholas_A._Fraser@omb.eop.gov

[filed using ECFS]
Susan J. Bahr