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June 23, 2009

EX PARTE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D. C. 20554

Re: Petition to Establish Procedural Requirements to Govern Proceedings
for Forbearance Under Section 10 of the Communications Act of 1934,
As Amended, WC Docket No. 07-267

Dear Ms. Dortch:

On June 22, 2009, Robert Quinn, Jr., Jack Zinman, and the undersigned, on behalf of AT&T, met with Scott Deutchman, Legal Advisor to Acting Chairman Michael Copps. During the meeting AT&T discussed its written comments in the above-referenced proceeding and covered the arguments contained in the attachment to this Notice.

Pursuant to section 1.1206 of the Commission's Rules, this letter is being filed electronically with the Commission.

If you have any questions, please do not hesitate to contact me at (202) 457-2321.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Simone".

ATTACHMENT

cc: S. Deutchman

Forbearance NPRM

(WC Docket 07-267)

CLEC proposed fundamental changes are unwarranted and unlawful

- The Act places the burden of proof on the FCC, which cannot transfer the burden to the Petitioners
 - The FCC “shall forbear from applying any regulation or any provision” if the three specified criteria are met
- Pending judicial review of the subject is not grounds to refuse to consider a petition for forbearance
- The FCC cannot keep proceedings open for “deemed granted” petitions and may not revisit or reverse such grants

CLEC proposed procedural rules are inappropriate

- While a “complete as filed” rule may have been appropriate for compressed 271 proceedings with 90-day deadlines, such a rule is counter-productive in a 12 – 15 month proceeding
- Creation of inflexible and uniform notice and comment periods would limit the FCC’s flexibility
- Complicated restrictions on ex parte submissions near the statutory deadline would restrict parties from providing the most recent evidence to the FCC
 - However, AT&T does not object to a rule that would preclude parties from making ex parte submissions within two weeks of the statutory deadline if:
 - The FCC may specifically request data within that period and
 - All parties are provided sufficient time to respond prior to the statutory deadline
- Rules that require submission of data at the wire center level before granting forbearance from any 251 or 271 requirements are unwarranted and inefficient
- Diluting the FCC’s protective orders would be harmful and is unnecessary. Proposals that should be rejected include:
 - Permitting competitively sensitive information to be automatically available in other forbearance or “related” state proceedings
 - Providing parties with their own copies of confidential data in searchable electronic formats

Applying newly adopted rules to pending petitions is unlawful and unworkable

- The FCC does not have legal authority to impose retroactive rules
- Furthermore, it would be impractical to attempt to impose new rules in open proceedings
 - Potential adverse affects on previously submitted confidential data
 - CLEC proposed time lines could foreclose parties from commenting on open proceedings

Some comment proposals are even more extreme and should be rejected

- Access Point proposes that the FCC cannot base a decision on its predictive judgment
- NJDRC calls for a 60 day “pre-filing” notice