

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Review of Wireline Competition)	WC Docket No. 10-132
Bureau Data Practices)	

**Comments of the
Communications Workers of America**

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The Communications Workers of America (“CWA”) submits these comments in response to the Commission’s Public Notice seeking comment on Wireline Competition Bureau Data Practices.¹ CWA represents 700,000 workers in communications, media, airlines, manufacturing, and public service who have an interest in this proceeding as workers and consumers.

CWA commends the Commission for launching this comprehensive review of its data collection practices in order to improve its “fact-based, data-driven decision making.”² Such a review is long overdue. As the Commission has noted on numerous occasions, the collection, use, and dissemination of good information is absolutely essential so that the Commission can fulfill its statutory obligations to serve the public interest in quality communications services, protect consumers, and promote competition. The Commission must build upon the current data collection practices and update them for the evolving communications marketplace.

While there are multiple Commission data collection programs that provide critical information to the Commission and to the public, in these comments CWA will focus specifically on ARMIS Reports No. 43-05 (service quality) and ARMIS Report No. 43-06 (customer satisfaction). CWA has an abiding interest in continued ARMIS service quality reporting. CWA filed comments in the Commission’s 2001 and 2008 proceedings related to ARMIS service quality reporting obligations. CWA requests that the Commission

¹ Federal Communications Commission, Pleading Cycle Established for Comments on Review of Wireline Competition Bureau Data Practices, WC Docket No. 10-132, June 29, 2010 (rel) “(FCC Notice”).

² *Id.*

incorporate the comments submitted in those proceedings into the record in this proceeding.³

We focus on the issue of retail service quality data reporting because there is imminent danger that if the Commission does not take action to preserve the FCC's current ARMIS service quality data collection program, it could sunset *as soon as September of this year*. This would result in serious harm to consumers, as well as to the Commission's ability to monitor industry developments in order to craft good policy.

The Commission currently collects critical information on retail quality of service in ARMIS Report No. 43-05 (Service Quality) and ARMIS Report No. 43-06 (Customer Satisfaction). Report No. 43-05 is filed by all price cap incumbent local exchange carriers (ILECs) (both mandatory and elective) at the study area and holding company levels. ARMIS Report No. 43-05 contains information regarding installation and repair intervals for access customers (Table I), installation and repair intervals for business and residential local service (Table II), as well as information regarding common trunk blocking (Table III), switch downtime (Table IV), occurrences (Table IV-A) and service quality complaints (Table IV). Report No. 43-06 is filed by all mandatory price cap LECs at the study area and holding company levels and provides the results of customer satisfaction surveys on residential, small business, and large business customers.⁴

In response to various ILEC forbearance petitions, the Commission in 2008 issued its *Service Quality Data Order* in which it concluded that ARMIS Reports 43-05 (service

³ See Communications Workers of America Comments, *In the Matter of 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, Aug. 20, 2007 and CWA Comments, *In the Matter of 2000 Biennial Regulatory Review – Telecommunications Service Quality Reporting Requirements*, Notice of Proposed Rulemaking, CC Docket No. 00-229, Jan. 12, 2001.

⁴ <http://www.fcc.gov/wcb/armis/instructions>

quality) and 43-06 (customer satisfaction) serve the important function of helping “consumers make informed choices in a competitive market.” The Commission also noted that consumers would be able to make even better and more informed choices if *all* relevant providers were required to provide similar information to the Commission which would be available to the public.⁵ The Commission noted that the “current partial and uneven data collection hinder their usefulness as a federal consumer protection tool” since cable companies, wireless providers, other competitive telecommunications carriers, and even other incumbent ILECs were not subject to the reporting obligations.

In comments CWA filed in that proceeding, we emphasized the importance of service quality data collection to safeguard the public, noting that markets function best when consumers have access to comprehensive information. We pointed out that CWA, as well as other consumer groups, state Commissions, and state consumer advocates, rely upon ARMIS service quality data to analyze industry performance and network quality, and that there is simply no substitute for the national ARMIS database that collects uniform data across states, companies, and over time. Moreover, many states do not publicly report service quality data. CWA has used the ARMIS data in numerous state and FCC proceedings. CWA emphasized that ARMIS service quality reporting should be imposed on all relevant communications providers, but until that time, it is critical to

⁵ In the Matter of Petition of Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, 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, Petition of Qwest Corporation for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission’s ARMIS Reporting Requirements, Petition of Embarq Local Operating Companies for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission’s ARMIS Reporting Requirements, Petition of for Forbearance Frontier and Citizens ILECs 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 ARMIS Reporting Requirements, *Memorandum Opinion and Order and Notice of Proposed Rulemaking*, WC Dockets Nos. 08-190, 07-139, 07-204, 07-273; Sept. 6, 2008 (rel), para 12 (“Service Quality Data Order”).

protect consumers by continuing the public reporting by those carriers subject to ARMIS requirements.⁶ Numerous consumer groups, state Commissions, and state consumer advocates voiced similar concerns.⁷

In its 2008 *Service Quality Data Order*, the Commission acknowledged the value of its ARMIS service quality reports, and concluded that they would be even more valuable if extended industry-wide. Yet, the Commission erroneously granted petitioners' request to forbear from ARMIS Reports 43-05 and 43-06 filing requirements, conditioned on reporting carriers agreement to continue collecting service quality and customer satisfaction data, and to filing that data publicly through ARMIS Report 43-05 and 43-06 for 24 months from the effective date of the *Service Quality Data Order*.⁸ (The effective date of the *Service Quality Data Order* was Sept. 6, 2008. Therefore the sunset date is fast approaching on or about Sept. 6, 2010.) The Commission reasoned that this condition would ensure continuity in data collection, and afford the Commission a "reasonable period of time" to adopt industry-wide reporting requirements. The Commission explicitly stated that continued public filing of ARMIS Reports 43-05 and 43-06 was a "condition of our forbearance here." The Commission reasoned that 24 months would provide sufficient time for it to adopt a more comprehensive service quality reporting program that would apply to all telecommunications and broadband companies. This three-pronged approach

⁶ See Communications Workers of America Comments, In the Matter of 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, Aug. 20, 2007.

⁷ See Comments submitted by Free Press, Consumers Union, U.S. PIRG; Comments submitted by New Jersey Rate Counsel; Comments submitted by Commonwealth of Massachusetts Department of Telecommunications and Cable; Comments submitted by National Association of State Consumer Utility Advocates; Michigan Public Service Commission; Comments submitted by Texas Public Utility Commission; and Comments submitted by New Jersey Citizen Action all submitted In the Matter of 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, Aug. 20, 2007.

⁸ Id., para. 12.

-- forbearance of ARMIS Reports 43-05 and 43-06 public reporting requirements, development of a new more comprehensive service quality reporting program, and a requirement to continue public reporting during the transition period -- were linked together in the *Service Quality Data Order*.

In order to move forward expeditiously in updating service quality reporting to cover all industry participants, the Commission issued a *Notice of Proposed Rulemaking* at the same time that it issued the *Service Quality Data Order*. In the *Service Quality Data NPRM*, the Commission tentatively concluded that collecting service quality and customer satisfaction data contained in ARMIS Reports 43-05 and 43-06 would be “useful to consumers to help them make informed choices in a competitive market, but only if available from the entire relevant industry.”⁹ The Commission sought public comment on this tentative conclusion.

At the time, Commissioners Michael J. Copps and Jonathan S. Adelstein raised serious objections to the Commission’s flawed forbearance decision. Commissioner Copps emphasized that “the collection and analysis of solid communications-related data is a linchpin in the Commission’s ability to make sound decisions and provide useful guidance and assistance to consumers, states, industry-participants and other stakeholders.” While Commissioner Copps wrote that his “strong preference would be to deny these petitions outright,” he agreed to the compromise that conditioned forbearance on continuation of service quality data collection and reporting for two years, because this would provide time to develop an approach to “ensuring that the data necessary for consumers and for state and

⁹ *Id.* Para. 35 (“We also recognize..that service quality and customer satisfaction data contained in ARMIS Reports 43-05 and 43-06 might be useful to consumers and 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...”)

federal regulators will be available going-forward.” Commissioner Copps was all too prescient when he expressed his concern that this compromise did create “risk that the aforementioned data will not be available after two years.” Commissioner Copps limited his support for the *Service Quality Data Order* to concurrence because “the analysis and reasoning relied on to reach the forbearance decision is flawed.” The Commission, he wrote, “has a deep and ongoing obligation to gather this type of data so informed decisions can be made when it comes to consumer protection, competition, broadband, and public safety.”¹⁰

In a similar vein, Commissioner Jonathan S. Adelstein noted that “forbearing from...reporting requirements, while at the same time seeking comment on whether those same requirements should be applied to all carriers” was an awkward two-step process, putting the cart before the horse. Commissioner Adelstein expressed his view that the two-year window would give the Commission and outside parties the time needed to “develop meaningful reporting requirements to be filed by a broader set of industry players that will assist policymakers and consumers.”¹¹

It is now nearly 24 months since the Commission issued its *Service Quality Data NPRM*, and the Commission has failed to issue an order in that proceeding. The record is ripe for decision. Numerous consumer organizations, state Commissions, and consumer advocates submitted comments in that proceeding, urging the Commission to update its service quality reporting requirements and apply them to all relevant communications and broadband providers. For example:

¹⁰ Statement of Commissioner Michael J. Copps, Approving in Part, Concurring in Part, Dissenting in Part, *Service Quality Data Order*.

¹¹ Statement of Commissioner Jonathan S. Adelstein, Approving in Part, Concurring in Part, Dissenting in Part, *Service Quality Data Order*.

- California Public Utilities Commission. “The CPUC agrees with the FCC’s tentative finding that it should continue to collect the service quality and customer satisfaction data in ARMIS Reports 43-05 and 43-06...The CPUC also concurs with the FCC that such information will be more useful to consumers if it were available from all facilities-based providers of broadband and telecommunications services.” Specifically, the CPUC recommended retaining the information collected from ARMIS Report 43-05 Tables I and II (installation and repair intervals for access and retail customers), Tables IV and Table IVA (total switch downtime and occurrences), and Report 43-06 customer satisfaction survey.¹²
- Free Press. “The ARMIS database provides both federal and state regulators, along with consumers, the ability to monitor the performance of the dominant phone providers...[C]onsumers also need adequate information to make informed choices in the communications marketplace...The Commission must retain a system of reporting that enables it to adequately monitor the communications industry.”¹³
- Massachusetts Attorney General. “The MA AG relies on ARMIS data to inform its efforts to protect consumers in Massachusetts, and therefore, appreciates the FCC’s 24-month bridge between the forbearance order and a potentially new, revised reporting system...[T]he service quality information that carriers presently report in ARMIS 43-05 continues to be relevant...[T]he FCC’s ARMIS database enables users to, among other things, extract data for specific carriers, states, and years...[T]he data relate directly to matters of great importance to consumers: for example, how quickly a carrier repairs an out-of-service dial tone line and how quickly a carrier installs a basic local exchange service line...Access to ARMIS data enables consumer advocates to detect deteriorating service quality...that may merit regulatory attention...Access to data enables consumer advocates to detect whether consumers in rural areas are receiving service quality that is worse than their counterparts in urban areas... Access to a national database enables consumer advocates to compare levels of service quality across states to assess whether different regulatory frameworks lead to different outcomes...One of the key beneficial attributes of ARMIS data is that the data is public...”¹⁴
- New Jersey Division of Rate Counsel. “Service quality information is an important tool for regulators to detect whether regulatory and market incentives are sufficient to yield adequate service quality of basic service offered by incumbent carriers...[A]dvocates, seeking to protect consumers’ interests, *do*

¹² Comments of the California Public Utilities Commission and the People of the State of California, In the Matter of Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, WC Docket No. 09-190, Nov. 14, 2008. p. 3 (“Service Quality Data Proceeding”).

¹³ Comments of Free Press, Service Quality Data Proceeding, WC Docket No. 09-190, Nov. 16, 2008.

¹⁴ Reply Comments of the Massachusetts Office of the Attorney General, Service Quality Data Proceeding, Dec. 15, 2008.

rely on the specific, quantitative information contained in ARMIS...Data requirements should not sunset after 24 months...”

- Texas Office of Public Utility Counsel. “[T]he Commission’s Service Quality Report is utilized by the PUCT [Public Utility Commission of Texas] to compare the level of telecommunications service quality delivered in Texas to that of *other* states... Without periodic data reporting relating to service quality, as currently required by the Commission, states will not be able to review other states’ advances in service quality, along with any related benefits to customers, or monitor and enforce the quality of their own state’s telecommunications service standards... TxOPC supports NASUC in its comments, supporting the Communications Workers of America, providing service quality reporting data required of ILECs should also be required of *all* voice carriers...”¹⁵

CWA joins these state Commissions, consumer organizations, and state consumer advocates in their support for continuation of service quality reporting through publicly available ARMIS Reports 43-05 and 43-06. We are deeply concerned that the program might sunset as a result of Commission inaction on the 2008 *Service Quality Data NPRM*. The primary rationale for the “relaxation” of service quality reporting requirements rests on the erroneous belief that the “invisible” hand of competition will force companies to improve service quality. But competition cannot protect customers from a lack of adequate information. Consumers continue to need objective data to obtain a full picture of the level of service quality actually delivered by different carriers. Therefore, it is imperative that the Commission take prompt action on the *Service Quality Data NPRM* to ensure continuity of data collection, even as it updates data collection in the context of this captioned rulemaking proceeding.

On or about September 6, 2010, the two-year deadline arrives. The Commission must act now to prevent what Commissioner Michael J. Copps’ warned in 2008 would lead

¹⁵ Comments of the Texas Office of Public Utility Counsel, Service Quality Data Proceeding, Nov. 14, 2008.

the Commission to “plunge off a cliff” if this essential service quality data were no longer available after the two-year reporting commitment expires.¹⁶

Finally, while CWA has focused in these comments on the continuing need for the ARMIS service quality reports, we also urge the Commission to move forward expeditiously with its longstanding proposal to require reporting of network infrastructure information on a comprehensive basis from *all* facilities-based carriers in Form 477.¹⁷ While CWA reserves judgment as to whether Form 477 reporting requirements would replace all the relevant infrastructure and operating data required under current ARMIS rules, CWA sees substantial merit in the proposal to require the reporting of network infrastructure and operating data from *all* facilities-based carriers. Should the Commission move forward with such a proposal, CWA recommends that, in addition to any more granular reporting, the Commission continue to require carriers to report data at the operating company level and by states. CWA has found this particularly useful in reviewing data for state regulatory proceedings. Further, CWA has found the Commission’s web-based query forms for the ARMIS data especially useful and easy to use, and urges the Commission to maintain and expand upon such user-friendly web-based means to query the data that it collects.

Respectfully Submitted,

¹⁶ Michael J. Copps Statement, *Service Quality Data Order* (“We reached a compromise with regard to the ARMIS reporting requirements which can keep us from plunging off a cliff...While this compromise does create a risk that the aforementioned data will not be available after two years time, it gives the Commission the opportunity to do what it should have done a long time ago, which is to revise and update its reporting requirements.”)

¹⁷ *Id.*, 13-20.

A handwritten signature in black ink that reads "Debbie Goldman". The signature is written in a cursive, flowing style.

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