

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
United States Telecom Association)	WC Docket No. 12-61
Petition for Forbearance from Certain)	
Telecommunications Regulations)	
)	

To: The Commission

**COMMENTS OF THE
ALARM INDUSTRY COMMUNICATIONS COMMITTEE**

The Alarm Industry Communications Committee (“AICC”), on behalf of its members¹ and pursuant to the Commission’s Public Notice dated March 8, 2012,² hereby submits these comments and opposition to the Petition for Forbearance (“Petition”) filed by United States Telecom Association (“USTA”). These Comments and Opposition address Category 2: Open Network Architecture and Comparably Efficient Interconnection Requirements, Enhanced Services Structural Separations Rule (47 CFR §64.702), and All-Carrier Computer Inquiry Rules, as set forth in the above-referenced Public Notice.

¹ AICC is comprised of representatives of the Central Station Alarm Association (CSAA), Electronic Security Association (ESA), Bosch Security Systems, Digital Monitoring Products, Digital Security Control, Telular Corp, Stanley Convergent (alarm division, formerly known as Honeywell Monitoring), Honeywell Security, Vector Security, Inc., ADT Security Services, Inc., AES- IntelliNet, Alarm.com, Bay Alarm, Intertek Testing, RSI Videofied, Security Network of America, United Central Control, Security Industry Association (SIA), AFA Protective Systems, Vivint (formerly APX Alarm), COPS Monitoring, DGA Security, Security Networks, Universal Atlantic Systems, Axis Communications, Interlogix, LogicMark, Napco Security, and the Underwriters Laboratories.

² *Pleading Cycle Established for Comments on United States Telecom Association Petition for Forbearance from Certain Telecommunications Regulations*, Public Notice, DA 12-352, WC Docket No. 12-61, released March 8, 2012.

I. The Open Network Architecture and Comparably Efficient Interconnection Requirement Applicable to the Bell Operating Companies Should Not Be Lifted

The alarm industry is still heavily dependent upon narrowband voice grade services to provide life and safety protection functions to the American public. The unbundled features and functions and “level playing field” objectives of Open Network Architecture (“ONA”) and Comparably Efficient Interconnection (“CEI”) are still relevant today. One large Bell Operating Company (“BOC”), currently known as AT&T, has already entered and subsequently exited the alarm industry market, through an adventuresome reading of the Communications Act, acquiring a number of alarm industry assets.³ There is some concern in the industry that another BOC may also enter the industry, if it hasn’t already. These points were made in Reply Comments filed by AICC in response to the Commission’s Notice of Proposed Rulemaking, FCC 11-15, released February 8, 2011.⁴ That NPRM proposed the elimination of ONA/CEI reporting requirements for narrowband services, although BOC interests argued, instead, that the substantive obligations of ONA/CEI should be eliminated. AICC’s Reply Comments, filed April 18, 2011, are attached hereto.

In a nutshell, the original “level playing field” purpose of the ONA/CEI regime is still valid and highly relevant. The alarm industry is still dependent upon narrowband services and facilities provided by the BOCs, and will continue to be for some time. Moreover, the BOCs have shown no reluctance to enter the industry, even in contravention of an Act of Congress. As discussed following, nothing in USTA’s Forbearance Petition detracts from these facts.

³ See *Alarm Indus. Communs. Comm. v. FCC*, 131 F.3d 1066 (D.C. Cir. 1997).

⁴ *In the Matter of Review of Wireline Competition Bureau Data Practices; Computer III Further Remand Proceedings; Bell Operating Company Provision of Enhanced Services; 1998 Biennial Review – Review of Computer III and ONA Safeguards and Requirements*, Notice of Proposed Rulemaking, FCC No. 11-15, WC Docket No. 10-132, CC Dockets No. 95-20, 98-10, released February 8, 2011 (“NPRM”).

II. The USTA Petition Misreads the Law and Omits Critical Facts

As previously discussed, the Petition is not persuasive. It largely recounts the history of the ONA proceeding – in some cases, inaccurately⁵ – and proceeds to make summary conclusions that ONA/CEI requirements are unnecessary.⁶ There is no technical analysis supplied at all. The following paragraph is a good example:

By contrast, in today's vibrantly competitive marketplace, the telephone network is rarely used by customers to reach information service providers using traditional dial-up service. Instead, residential and business customers increasingly rely upon a host of competitors, including wireline and wireless providers.⁷

The pleading goes on to argue that the application of the subject rules “serves no regulatory purpose.”⁸ Any underlying facts or market analysis is completely absent from the relevant portion of the pleading. This is an understandable omission, given the contrary reality. As previously discussed, and as detailed in AICC's earlier Reply Comments, the alarm industry does not “rarely” use the telephone network to reach customers, it mainly does so.

The Commission should require much more from those seeking to invoke the machinery of statutory forbearance. When the Commission granted forbearance for Qwest's related broadband service offerings – a much more modest proposal than that presented here – Commissioners Copps and Adelstein joined in a persuasive dissent.⁹ Both criticized the Order as

⁵ For instance, the Petition says that the Commission had earlier “... eliminated *Computer Inquiry* requirements for broadband internet access services and enterprise broadband offerings and proposed to eliminate the narrowband [CEI] and [ONA] requirements.” Petition at pp. 24-25. The most recent document cited by USTA in support of this proposition is the NPRM, *supra* footnote 4; review of the same discloses that the NPRM's proposal was only to eliminate ONA/CEI reporting requirements for narrowband services.

⁶ Petition at pp. 28-31.

⁷ *Id.* at p. 29.

⁸ *Id.*

⁹ Dissenting Joint Statement of Commissioner Michael J. Copps and Commissioner Jonathan S. Adelstein, *Re: Qwest Petition for Forbearance Under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Broadband Services*, 23 FCC Rcd 12260, 12300 (2008).

lacking “... any rigorous analysis of the impact on small and medium size business customers as well as communications providers who use these services to provide both residential and business enterprise services... we believe that [the lack of an industry wide review] is an egregious mistake. The lack of data concerning the specific product and geographic markets at issue and this Order’s lack of analysis cause us great concern about both the substance and the process by which the Commission grants forbearance from our rules.”¹⁰

AICC respectfully submits that the Commission cannot responsibly determine the public interest without at least the same searching, data-based, industry-wide review as sought by Commissioners Copps and Adelstein. The BOCs here seek to erase the entire ONA/CEI program for the larger universe of narrowband services, without a stitch of data for the national market or otherwise.

AICC respectfully submits that USTA’s Petition is patently deficient, and should be rejected accordingly.

Respectfully submitted,

**Alarm Industry Communications
Committee**

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¹⁰ *Id.* Emphasis supplied.

Service List

A copy of the forgoing **Comments of the Alarm Industry Communications Committee** was served on each of the following via electronic mail:

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Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Review – Review of Computer III and ONA Safeguards and Requirements)	CC Docket Nos. 95-20, 98-10

To: The Commission

**REPLY COMMENTS OF THE
ALARM INDUSTRY COMMUNICATIONS COMMITTEE**

The Alarm Industry Communications Committee (“AICC”), on behalf of its membership which is described more fully below, submits these Reply Comments in the above captioned proceeding¹ in which the Commission proposes to remove narrowband comparably efficient interconnection (“CEI”) and open network architecture (“ONA”)² reporting requirements. As discussed below, the Commission should narrowly restrict its ruling to the issue of whether reporting requirements should be eliminated without addressing commenters’ proposals to eliminate ONA requirements on the whole.

The AICC is comprised of representatives from all segments of the alarm industry, including central station alarm companies, alarm monitoring centers, alarm installation companies, alarm manufacturing companies and the principal U.S. trade

¹ Notice of Proposed Rulemaking, FCC 11-15, released February 8, 2011. (“NPRM”).

² For simplicity’s sake these comments refer to comparably efficient interconnection and open network architecture collectively as “ONA”.

associations representing the majority of such companies operating in the United States.³

Alarm companies protect a wide range of sensitive facilities, businesses and residences and the occupants of each from fire, burglary, sabotage, and other emergencies. For example, they protect government offices, power plants, hospitals, dam and water authorities, pharmaceutical plants, chemical plants, banks, and schools and universities. In addition, alarm companies protect approximately 31 million residences and businesses from burglary, duress, carbon monoxide and fire. They also provide medical alert services (e.g., obtaining ambulances) during medical emergencies.

AICC members still routinely rely on ONA network elements in the provision of many of these services. The Bell Operating Companies (BOCs) were originally required to implement ONA in order to participate directly in the enhanced services market. Through the ONA framework, the BOCs are required to separate components of their basic services into "basic service elements," and make them available to unaffiliated enhanced service providers who in turn can use them to build new service offerings of their own. BOCs must also offer these services pursuant to tariff, so that a BOC affiliate pays the same price as an unrelated entity. Certain basic service elements were implemented specifically at the behest of members of the alarm industry⁴ and remain

³ The AICC's members are comprised of the Central Station Alarm Association ("CSAA"), the Electronic Security Association ("ESA") (formerly the National Burglar & Fire Alarm Association), the Security Industry Association ("SIA"), ADT Security Services, Inc., AES-IntelliNet, AFA Protective Systems, Alarm Detection Systems, Alarm.com, Axis Communications, Bay Alarm Company, Bosch Security Systems, COPS Monitoring, DGA Security Systems, Inc., Digital Monitoring Products, Digital Security Control, FM Approvals, Honeywell Security, Interlogix, Intertek Testing, Numerex, Linear LLC, LogicMark, Napco Security, Protection One, RSI Videofied, Security Networks, Select Security, Stanley Convergent, United Central Control, Universal Atlantic Systems, Security Network of America, Telular, Underwriters' Laboratories, Vivint, and Vector Security, Inc. CSAA, ESA, and SIA are comprised of central station alarm companies, alarm monitoring centers, alarm installation companies and alarm manufacturing companies. Their memberships represent the majority of such companies operating in the United States.

⁴ See *In the Matter of Filing and Review of Open Network Architecture Plans*, Memorandum Opinion and Order, CC Docket No 88-2, 4 FCC Red 1 (1988) at ¶47; *In the Matter of Filing and Review of Open*

relevant to the provision of alarm services today. While some BOCs such as SBC exited the alarm industry, it is AICC's belief and understanding that others have or are poised to enter, making ONA protections necessary. The Commission cannot appropriately consider the question of removing ONA requirements in this proceeding without compliance with administrative notice requirements which have not been observed in this proceeding. Even if it could, however, the Commission should not eliminate any ONA requirements until those protections are no longer necessary. These points are discussed in order.

First, the commenters' proposal to remove all narrowband ONA requirements is so far beyond the scope of the NPRM that it cannot be entertained without violating the notice requirements of the Administrative Procedures Act⁵. The NPRM unequivocally states that its scope is limited to "the *identification of data collections* that can be eliminated without reducing the effectiveness of [the Commission's] decision-making."⁶ ONA requirements are not merely data collections, but substantive Commission rules that were implemented to safeguard competition in the enhanced services market, including service deployment of specific features relied upon by the enhanced service provider community, including the alarm industry. Any rule eliminating ONA requirements beyond reporting requirements would neither fit the scope of the Commission's NPRM nor meet the requirement that it amount to a "logical outgrowth" thereof.⁷

Network Architecture Plans, Memorandum Opinion and Order, CC Docket No 88-2, 6 FCC Red 7646 (1991) at ¶6.

⁵ 5 USC §§500 *et. seq.*

⁶ NPRM at ¶1, emphasis supplied.

⁷ See, e.g., *Covad Comm'ns Co. v. FCC*, 450 F.3d 528, 548 (D.C.Cir.2006) (holding that an agency's rule must at least be a "logical outgrowth" of the proposal).

Second, ONA protections are still relevant because not all ONA services are uniformly available on all platforms. Verizon and AT&T both suggest that ONA requirements should be eliminated because when they were originally conceived, other platforms for enhanced services had not been contemplated.⁸ Therefore, their argument goes, the availability of competing platforms obviates the need for ONA protections. Yet, it does not necessarily follow that all enhanced services are readily available in all areas on all platforms. Many of the basic network elements relied upon by alarm industry members, such as line security, are not available on broadband networks. To the extent network elements are only available on narrowband platforms, then, the existence of other platforms does not affect the importance of ONA protections.

Third, eliminating narrowband ONA requirements will harm narrowband enhanced service providers without producing tangible benefits. AT&T and Verizon argue that removing narrowband ONA requirements will produce the same benefits the Commission sought to gain by removing ONA for broadband services.⁹ In that proceeding, the Commission's goal was to incentivize carriers to take risks in investing in and deploying new technologies.¹⁰ In the present circumstance however, narrowband ONA has already been deployed and is presently used by enhanced service providers, including the alarm industry. It is illogical to think that withdrawing these features and functions, currently deployed, would serve any public policy purpose.

In conclusion, the Commission should limit any rule based on this proceeding to the reporting requirements under ONA only. The alarm industry is a vibrant and growing

⁸ Comments of Verizon at 4; Comments of AT&T at 4.

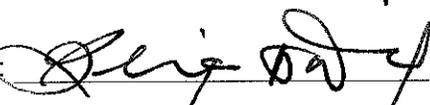
⁹ Comments of Verizon at 5; AT&T at 4.

¹⁰ *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*, Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 14853 (2005) at ¶72.

industry which is critical to America's security needs and is highly dependent on the essential facilities of these companies. It is simply outside of the scope of this proceeding for the Commission to consider whether the rules that protect these services should be repealed. Additionally, the allegation that other platforms have developed since the implementation of ONA pulls up short as an excuse to do away with these protections. The record simply does not support the assumption that these basic network elements are reliably available on those platforms in all areas. Furthermore, the Commission's decision to rescind ONA requirements in the context of broadband services was supported by additional benefits which have not been shown to be present in the narrowband context. For these reasons, the Commission should not even consider eliminating ONA requirements beyond the reporting requirements specified in the NPRM.

Respectfully submitted,

**THE ALARM INDUSTRY
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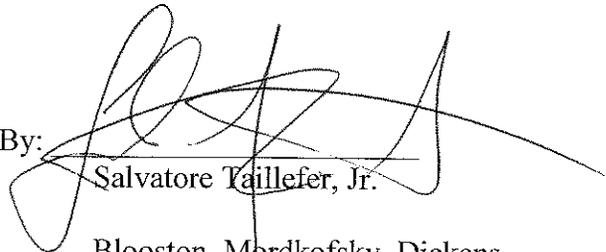
Certificate of Service

I hereby certify that on April 18, 2011, a copy of the forgoing Reply Comments of the Alarm Industry Communications Committee was served on each of the following via U.S. Mail, postage prepaid, or electronic mail, as indicated:

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