

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

In the Matter of)	
)	
Special Access for Price Cap Local Exchange Carriers)	WC Docket No. 05-25
)	
AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services)	RM-10593
)	
)	

REPLY COMMENTS OF FRONTIER COMMUNICATIONS

Frontier Communications Corporation (“Frontier”) hereby submits these reply comments in response to the February 15, 2013, Public Notice issued by the Federal Communications Commission (“FCC” or “Commission”) in the above-captioned proceedings.¹ The Public Notice seeks input on a joint petition (“*Petition*”) filed by the Ad Hoc Telecommunications Users Committee and others (the “Petitioners”) pursuant to Section 10 of the Communications Act² and other provisions asking that the Commission reverse forbearance from dominant carrier regulation and certain *Computer Inquiry* requirements granted to Verizon, AT&T, legacy Embarq, Frontier, and legacy Qwest in their provision of non-TDM-based special access services.³ For the reasons stated herein Frontier opposes the *Petition* and urges the Commission to deny it.

¹ “Wireline Competition Bureau Seeks Comment on Petition to Reverse Forbearance From Dominant Carrier Regulations of Incumbent LECs’ Non-TDM-Based Special Access Services,” Public Notice, WC Docket No. 05-25, RM-10593, DA 13-232 (rel. Feb. 15, 2013) (“Public Notice”).

² See 47 U.S.C. § 160.

³ Petition of Ad Hoc Telecommunications Users Committee, BT Americas, CBeyond, Computer & Communications Industry Association, Earthlink, Megapath Sprint Nextel, and tw telecom to

The record clearly demonstrates that the *Petition* is an inappropriate attempt to re-impose regulation that Petitioners have been otherwise unable to accomplish. As ITTA correctly notes, the *Petition* “is procedurally improper and an inappropriate attempt to invoke the forbearance process in hopes of a ruling that the Petitioners previously unsuccessfully sought both at the FCC and before the D.C. Circuit Court of Appeals.”⁴ Frontier, as one of the carriers granted forbearance for enterprise services after a reasoned decision-making process, has a substantial reliance interest in maintaining the certainty of that decision, as do the other affected carriers.⁵ While Frontier believes, and the record confirms, that the market for enterprise services is robustly competitive and there is no evidence that justifies re-regulation under any circumstance,⁶ the Commission can simply reject the *Petition* because it is legally deficient.

The *Petition* is improper because it asks the Commission to make use of statutory authority that it does not have. Hawaiian Telecom points out that “Section 10 of the Communications Act specifies the Commission’s authority with respect to addressing forbearance requests, the standards that must be followed, and the procedures to be used. There is no methodology specified in the statute regarding reversing or modifying a forbearance

Reverse Forbearance from Dominant Carrier Regulation of Incumbent LECs’ Non-TDM-Based Special Access Services, WC Docket No. 05-25, RM-10593 (filed Nov. 2, 2012).

⁴ Comments of the Independent Telephone & Telecommunications Alliance, WC Dkt. No. 05-25, RM-10593, 2 (filed Apr. 16, 2013) (citations omitted) (“ITTA Comments”).

⁵ See, e.g., Comments of CenturyLink, Inc. WC Dkt. No. 05-25, RM-10593, 31 (filed Apr. 16, 2013) (“[T]he unprecedented action sought by the Petitioners would disrupt the industry’s well-founded reliance on the ILEC’s ability to offer customized arrangements for enterprise broadband service—and, more generally, all prior forbearance relief.”) (“CenturyLink Comments”).

⁶ As other commenters have noted, the *Petition* relies on out-of-date evidence that was not persuasive when the Commission considered the original forbearance grants. See Comments of Verizon and Verizon Wireless, WC Dkt. No. 05-25, RM-10593, 18-19 (filed Apr. 16, 2013) (“The *Petition* reargues the merits of whether forbearance was appropriate based on the factual record that existed in proceedings that concluded in 2006, 2007, and 2008, and urges the Commission to reevaluate those stale records using a different analytical framework.”) (“Verizon Comments”).

grant.”⁷ This legal perspective is confirmed by ITTA,⁸ Verizon,⁹ and CenturyLink.¹⁰ Indeed, even the Petitioners seem to have acknowledged the *Petition*’s legal deficiencies by virtue of their recent ex parte meetings with Commission staff for the express purpose of attempting to demonstrate that the Commission could have the authority to do what the *Petition* requests.¹¹ But, as Verizon correctly points out, “[r]egardless of what they call their filing, Petitioners are seeking reconsideration of the forbearance grants,”¹² which is impermissible. Frontier agrees with Verizon that “[i]nstead, to reverse a forbearance grant, the Commission must compile a new record and make a decision based on that new evidence,”¹³ which is not what the *Petition* seeks.

Based on the foregoing, the *Petition* should be dismissed.

Respectfully submitted,

By: _____/s/_____

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⁷ Comments of Hawaiian Telecom, Inc., WC Dkt. No. 05-25, RM-10593, 6 (filed Apr. 16, 2013).

⁸ ITTA Comments at 2-3 (“The Commission lacks authority to grant the CLEC Petition. Section 10 specifies the conditions under which the Commission ‘shall forbear’ from a regulation or statutory requirement, but that provision does not give the Commission authority to “reverse” forbearance.”).

⁹ Verizon Comments at 19 (“But Section 10 prohibits reconsideration now.”).

¹⁰ CenturyLink Comments at 11 (“The Act does not give the Commission authority to ‘reverse’ the forbearance granted in the *Enterprise Broadband Forbearance Order*.”).

¹¹ See Letter from Thomas Jones, representing Cbeyond, Inc., EarthLink, Inc., Integra Telecom, Inc., Level 3 Communications, LLC and tw telecom inc., to Marlene H. Dortch, FCC, WC Dkt. No. 05-25, RM-10593 (filed May 24, 2013) (urging the Commission to dismiss the *Petition*’s deficiencies as a mere “formality.”).

¹² Verizon Comments at 18.

¹³ *Id.* at 19.