

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Computer III Further Remand Proceedings:	)	CC Docket No. 95-20
Bell Operating Company Provision of	)	
Enhanced Services	)	
	)	
1998 Biennial Regulatory Review – Review	)	CC Docket No. 98-10
of Computer III and ONA Safeguards and	)	
Requirements	)	
	)	

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

The Alarm Industry Communications Committee (“AICC”), on behalf of its members, hereby submits its reply to comments filed by CenturyLink, Inc. (“CenturyLink”), Full Service Network, LP (“Full Service”), and Verizon, Inc (“Verizon”) on the Commission’s *Further Notice of Proposed Rulemaking (FNPRM)*.<sup>1</sup> AICC respectfully submits that neither CenturyLink

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<sup>1</sup> Review of Wireline Competition Bureau Data Practices; Petition of Cincinnati Bell Telephone Company LLC for Waiver from Application of the Equal Access Scripting Requirement; Petition of United States Telecom Association for Waiver from Application of the Equal Access Scripting Requirement; Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering; Petition of Verizon for Forbearance, 47 U.S.C. § 160(c) from Enforcement of Certain of the Commission’s Recordkeeping and Reporting Requirements; Petition of Qwest Corporation for Forbearance from Enforcement of the Commission’s ARMIS and 492A Reporting Requirements Under 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; and 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 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 AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain of the Commission’s Cost Assignment Rules; Petition of BellSouth Telecommunications, Inc. for Forbearance Under 47 U.S.C. § 160 from Enforcement of Certain of the Commission’s Cost Assignment Rules; Notice of Inquiry Concerning a Review of the Equal Access and Nondiscrimination Obligations Applicable to Local Exchange Carriers; 2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64.1903 of the Commission’s Rules; Computer III Further Remand Proceedings; Bell Operating Company Provision of Enhanced Services; 1198 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements, WC Docket Nos. 12-61, 10-132, 09-206, 08-225, 08-190, 07-273, 07-204, 07-139, 07-21, 05-342; CC Docket Nos. 02-39, 00-175, 95-20, 98-10, Memorandum Opinion and Order and Report and Order and Further Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking, FCC 13-69, released May 17, 2013.

nor Verizon provide any meaningful arguments, evidence, or other grounds to adopt any of the proposals contemplated in the *FNPRM*. Specifically, neither Bell Operating Company (“BOC”) demonstrates that sufficient transmission competition exists in within the relevant enhanced service provider (“ESP”) market sphere to support the elimination of Open Network Architecture (“ONA”) obligations. Additionally, neither company provides any actual evidence of the allegedly “burdensome” costs associated with ONA regulatory compliance; nor does either company demonstrate any actual benefits to be achieved from eliminating ONA regulations. Finally, neither BOC provides any legal or factual argument to underpin the Commission’s proposal to completely change the existing ONA withdrawal procedure.

**I. ONA Regulation Provides Necessary Protection to ESPs**

Despite the continued assertions by CenturyLink and Verizon that narrowband services are rapidly becoming obsolete, AICC has already demonstrated the ongoing and critical uses of narrowband ONA network elements to the alarm industry, such as Derived Local Channel.<sup>2</sup> Although wireless and other technologies are able to supplement and/or back-up primary transmission functions provided by the former BOCs, the alarm industry remains heavily reliant on their networks. A recent survey conducted by AICC of its membership indicated that 71% of respondents’ monitored accounts still relied on plain old telephone systems (“POTS”). Similarly, Full Service has been an active participant in these proceedings and has filed extensive comments on its own reliance on ONA.<sup>3</sup> Neither CenturyLink nor Verizon has addressed these

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<sup>2</sup> Reply Comments of AICC, *In the Matter of Petition of the United States Telecom Association for Forbearance from Certain Legacy Telecommunications Regulations*, WC Docket No. 12-61, filed April 24, 2012. (“AICC USTA Reply Comments”)

<sup>3</sup> Comments of Full Service Network, LP, *In the Matter of Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III*

showings in any way, but continue to rely on generalized statements, a number of which are incorrect.

The core purposes of ONA regulations are the creation of a non-discriminatory, level playing field framework for Bell Company competition in the enhanced services sector and the unbundling of their networks for enhanced service providers.<sup>4</sup> Though technology has advanced since the inception of ONA, these principles are still as relevant and necessary today as they were when originally adopted. Contrary to CenturyLink's assertion, carriers have not "made every conceivable building block to their legacy networks available to third-party ESPs as a tariffed service";<sup>5</sup> rather, they have sought to discontinue them since the very beginning.

In its recounting of the history of the ONA obligation, CenturyLink neglects to mention that ESPs like the alarm industry struggled to get their requested network elements included in the initial ONA plans. Indeed, Ameritech attempted to withdraw an ONA element critical to the Alarm Industry shortly after the ONA plans went into effect.<sup>6</sup> This sort of behavior continues even today. CenturyLink's assertion that ONA services which are no longer tariffed are still generally available is likewise inaccurate – indeed, CenturyLink recently filed to retire its Scan Alert service in Oregon and Washington.<sup>7</sup> There simply is no basis to conclude, as CenturyLink

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*and ONA Safeguards and Requirements*; CC Dockets No. 95-20 and 98-10, filed July 31, 2013 ("Comments of FSN").

<sup>4</sup> AICC USTA Reply Comments at p. 6.

<sup>5</sup> Comments of CenturyLink, Inc., *In the Matter of Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements*; CC Dockets No. 95-20 and 98-10, filed July 31, 2013 ("Comments of CenturyLink") at p. 8.

<sup>6</sup> Written Ex Parte by AICC, *In the Matter of Petition of the United States Telecom Association for Forbearance from Certain Legacy Telecommunications Regulations*, WC Docket No. 12-61, filed April 3, 2013 at p. 3, citing *In the Matter of Filing and Review of Open Network Architecture Plans*, 6 FCC Rcd 7646, 7651-7652 (FCC 1991).

<sup>7</sup> Notice of Cessation of Telecommunications Service, Docket No. UT-131245, Washington Utilities and Transportation Commission, filed July 1, 2013; CenturyLink Petition to Abandon Its Scan Alert Service, Docket UM-1655, Oregon Public Utility Commission, filed May 31, 2013.

suggest, that there remains “every incentive to continue to offer [ONA services].”<sup>8</sup> Moreover, as AICC has earlier noted, the unavailability of IP-based alternatives is due in part to the fact that the BOCs refuse to offer services that are consistent with National Fire Protection Association standards.<sup>9</sup>

CenturyLink also incorrectly asserts that ONA is irrelevant because BOCs continue to be subject to §251 and §252 unbundling requirements.<sup>10</sup> CenturyLink’s statement here is simply wrong. While it is true that BOCs remain subject to unbundling requirements, ESPs like the members of the alarm industry are enhanced service providers, and hence are treated as end users unable to utilize §251’s unbundling machinery.<sup>11</sup> CenturyLink’s assertion that ONA is simply an “additional affirmative unbundling requirement”<sup>12</sup> is flatly incorrect.

It is clear that the need for ONA regulation continues to exist today and, as discussed in greater detail below, neither CenturyLink nor Verizon offers any compelling argument as to why it should be eliminated.

## **II. General Market Competition Does Not Support the Elimination of ONA**

CenturyLink and Verizon incorrectly rely on a general assertion of competition in the telecommunications market to support the suggestion that ONA regulation is no longer necessary. Specifically, they suggest that the increasing variety of transmission platforms *per se*

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<sup>8</sup> Comments of CenturyLink at p. 3.

<sup>9</sup> Written Ex Parte by AICC and Full Service Network, LP, *In the Matter of Petition of the United States Telecom Association for Forbearance from Certain Legacy Telecommunications Regulations*, WC Docket No. 12-61, filed May 6, 2013 at p. 1.

<sup>10</sup> Comments of CenturyLink at p. 13.

<sup>11</sup> *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, 15998, ¶995 (1996).

<sup>12</sup> Comments of CenturyLink at p. 13.

translates into the obsolescence of ONA. However, it simply does not follow that competitive alternatives to telecommunications service platforms necessarily support enhanced services. Verizon points out that a number of alternative platforms – wireless, IP, and other intermodal providers – have risen considerably and directly compete with wireline platforms, but this proves nothing. Where are such services a fungible substitute for wireline ONA elements utilized by the alarm industry? Indeed, despite a clear invitation in the FNPRM, neither CenturyLink nor Verizon have even identified the particular ONA services currently utilized by ESPs, such as alarm monitoring service provider services, much less any discussion as to how alternative platforms will plug the gap if ONA disappears.

As to the Alarm Industry, the proposition is problematic at best. For example, the New York Public Service Commission recently noted that Verizon’s Voice Link service, the wireless service alternative with which Verizon wishes to replace POTS service offerings in the area of Fire Island, is completely incompatible with existing alarm signaling technology.<sup>13</sup> And, as noted above, many forms of IP transmission are also incompatible, due in part to the fact that some carriers refuse to offer IP transmission services that are compliant with National Fire Protection Association standards.

Instead, a competitive analysis based upon ESP’s use of the existing ONA platforms is necessary before the Commission can determine whether those particular requirements are no longer needed. As the Commission recognized in the *Qwest Phoenix Order*,<sup>14</sup> a competitive analysis must include product and geographic market analyses based upon very granular facts in

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<sup>13</sup> *Tariff Filing by Verizon New York, Inc. to Introduce Use of Wireless Technology as an Alternative to Repairing Damaged Facilities*, Order Conditionally Approving Tariff Amendments in Part, Revising in Part, and Directing Further Comments, Case 13-C-0197, issued and effective May 16, 2013 at p. 6.

<sup>14</sup> *In re Petition of Qwest Corp. for Forbearance*, 25 FCC Rcd 8622, 8623 (F.C.C. 2010).

order to properly assess competition. This contrasts unfavorably with the amusingly high generalization by CenturyLink and Verizon here.<sup>15</sup> CenturyLink's and Verizon's repeated reliance on other transmission platforms (such as VoIP and satellite services) adds nothing to the debate. The ESP market's current reliance upon the BOCs' platforms, and how such reliance could be supported by competing platforms, is left to the imagination. This record is absent any demonstration that sufficient competition exists for the carriage of ESP traffic.

### **III. No Party has Demonstrated the Costs of ONA Compliance are Burdensome**

Despite the Commission's specific request that BOCs provide evidence of the costs associated with ONA compliance,<sup>16</sup> neither CenturyLink nor Verizon provides a single cost metric throughout their respective comments. Rather, both parties repeat only general statements that the costs are burdensome. Indeed, what little factual evidence CenturyLink offers contradicts this claim. While the company states that it had "between 55 and 60 staff" in the core of employees who "either maintained CEI/ONA specific processes or became engaged in some CEI/ONA-related compliance activities, large or small,"<sup>17</sup> AICC notes that according to CenturyLink's 10-K Annual Report of March 1, 2013, CenturyLink has approximately 47,000 employees. In other words, approximately one-tenth of a percent (0.1%) of its staff was "burdened" by the so-called "unwieldy" and "arcane" ONA requirements, and the company was nevertheless able to generate a net income of \$947 million in 2012.

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<sup>15</sup> Although the *Qwest Phoenix Order* did not deal with ONA, the method of competitive analysis employed there is highly relevant here.

<sup>16</sup> *FNPRM* at ¶205.

<sup>17</sup> Comments of CenturyLink at p. 11.

#### **IV. Nothing Supports the Proposed Streamlined ONA Withdrawal Procedure**

CenturyLink and Verizon also fail to provide any legal or factual argument whatsoever for the Commission's proposal to streamline the ONA withdrawal process. As AICC demonstrated in its initial comments, the Commission's proposal represents a departure from well established Commission precedent.<sup>18</sup> While AICC does not dispute that the Commission may change its policies as necessary, while keeping to the requirements of the Telecommunications Act, such changes must be well reasoned and supported.<sup>19</sup> AICC submits that the Commission's proposal inappropriately shifts the burden from the BOC to demonstrate that an ONA element is no longer necessary, to the ESP to demonstrate that it is. As Full Service aptly points out, ONA was implemented to protect carriers and ESPs from the BOCs, not the other way around.<sup>20</sup>

#### **V. Conclusion**

AICC submits that no party to the proceeding has demonstrated that ONA restrictions should be removed from narrowband network elements. Both CenturyLink and Verizon complain about burdensome costs, but neither provides any evidence of said costs. Furthermore, no party to the proceeding has demonstrated that the Commission's proposal to implement a streamlined ONA withdrawal procedure is appropriate. Although the Commission is free to change its policy to best suit the needs of the telecommunications industry (in light of the

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<sup>18</sup> Comments of CenturyLink, Inc., *In the Matter of Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements*; CC Dockets No. 95-20 and 98-10, filed July 31, 2013 at p. 8.

<sup>19</sup> See *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 42 (1983); *Atchison, Topeka & Santa Fe Ry. Co. v. Wichita Bd. of Trade*, 412 U.S. 800, 808 (1973).

<sup>20</sup> Comments of FSN at pp. 2-3.

Telecommunications Act), administrative law requires such changes in direction to be well explained, and supported by the record. AICC respectfully submits that such support is lacking.

Finally, the Alarm Industry relies heavily on the BOCs' local networks, and these carriers are entering ESP markets, including the Alarm Industry. This is hardly the time to erase critical non-discrimination rules, especially when measured against an almost non-existent showing by these carriers.

Respectfully submitted,

**THE ALARM INDUSTRY  
COMMUNICATIONS COMMITTEE**

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Filed: August 30, 2013