

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

In the Matter of )  
Petition of AT&T Inc. for Forbearance )  
Under 47 U.S.C. § 160 from Enforcement ) WC Docket No. 07-21  
of Certain of the Commission's Cost )  
Assignment Rules. )

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**COMMENTS OF THE  
NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES**

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The genesis of this proceeding is described in the Public Notice (DA 07-731)<sup>1</sup> that called for comments in the instant docket:

On January 25, 2007, AT&T Inc. (AT&T), on behalf of itself and its affiliates<sup>2</sup> filed a petition pursuant to section 10 of the Communications Act of 1934, as amended (the Act),<sup>3</sup> asking the Commission to forbear from enforcement of certain of the Commission's cost assignment rules.<sup>4</sup> On February 9, 2007, AT&T, on behalf of BellSouth, withdrew a BellSouth forbearance petition previously filed in WC Docket No. 05-342, which seeks similar relief, and AT&T refiled that BellSouth petition in this

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<sup>1</sup> Footnotes from original.

<sup>2</sup> The affiliates include: Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company, Nevada Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone, L.P., Wisconsin Bell, Inc., SBC Advanced Solutions, Inc., Ameritech Advanced Data Services, Inc. of Illinois, Ameritech Advanced Data Services, Inc. of Indiana, Ameritech Advanced Data Services, Inc. of Michigan, Ameritech Advanced Data Services, Inc. of Ohio, and Ameritech Advanced Data Services, Inc. of Wisconsin.

<sup>3</sup> 47 U.S.C. § 160.

<sup>4</sup> Petition of AT&T Inc. For Forbearance Under 47 U.S.C. § 160 From Enforcement of Certain of the Commission's Cost Assignment Rules, WC Docket No. 07-21, Petition for Forbearance (filed Jan. 25, 2007).

docket, WC Docket No. 07-21.<sup>5</sup> AT&T, in these two petitions, seeks forbearance from the following rules: section 32.23 (Nonregulated activities), section 32.27 (Transactions with affiliates); Part 64 Subpart I (referred to as “cost allocation rules”); Part 36 (referred to as “jurisdictional separations rules”); Part 69, Subparts D and E (referred to as “cost apportionment rules”); and other related rules that are derivative of, or dependent on, the foregoing rules.<sup>6</sup> The petitions also seek limited forbearance from section 220(a)(2) of the Act to the extent this provision contemplates separate accounting of nonregulated costs.<sup>7</sup>

The National Association of State Utility Consumer Advocates (“NASUCA”)<sup>8</sup> had filed reply comments in response to the initial comments on the BellSouth Petition in WC Docket No. 05-342. As indicated in the Public Notice here, AT&T withdrew the BellSouth Petition and refiled it in this docket on February 9, 2007, along with AT&T’s own Petition.

After a review of the new AT&T Petition, NASUCA believes that the AT&T Petition presents no new or different issues than those implicated by the BellSouth Petition. Therefore, NASUCA would have the Federal Communications Commission (“Commission” or “FCC”) incorporate in this docket the above-cited NASUCA reply comments from WC Docket No. 05-342.

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<sup>5</sup> Letter from Theodore Marcus, Senior Attorney, AT&T Services, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 05-342 (Feb. 9, 2007). AT&T Inc. and BellSouth Corporation merged on December 29, 2006. *See* AT&T and BellSouth Join to Create a Premier Global Communications Company, News Release, at <http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22860>.

<sup>6</sup> *See* 47 C.F.R. §§ 32.23, 32.27, Parts 36, 64 Subpart 1, and 69 Subparts D and E.

<sup>7</sup> 47 U.S.C. § 220(a)(2).

<sup>8</sup> NASUCA is a voluntary, national association of consumer advocates in more than 40 states and the District of Columbia, organized in 1979. NASUCA’s members are designated by the laws of their respective states to represent the interests of utility consumers before state and federal regulators and in the courts. *See, e.g.*, Ohio Rev. Code Chapter 4911; 71 Pa. Cons. Stat. Ann. § 309-4(a); Md. Pub. Util. Code Ann. § 2-205(b); Minn. Stat. Ann. Subdiv. 6; D.C. Code Ann. § 34-804(d). Members operate independently from state utility commissions, as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (*e.g.*, the state Attorney General’s office). Associate and affiliate NASUCA members also serve utility consumers, but have not been created by state law or do not have statewide authority.

In addition, NASUCA supports the comments and reply comments filed in WC Docket No. 05-342 by NASUCA member New Jersey Division of the Ratepayer Advocate (“NJDRA”).<sup>9</sup> Likewise, NASUCA supports the “talking points” pertinent to WC Docket 05-342 submitted by NJDRA in an ex parte communication in that and a number of other dockets on June 20, 2006.

In the above-cited NASUCA reply comments, we specifically supported NJDRA’s recommendation to refer the cost assignment rules implicated by BellSouth’s (and now AT&T’s) petition to a federal-state joint board. That appears to be the best course for AT&T’s petition as well.

As to the statutory tests for forbearance, NASUCA also noted, in response to AT&T’s comments on the BellSouth petition, that:

AT&T addresses each of the three parts of the test in its comments. However, AT&T did not provide any persuasive demonstration that all elements of the test have been met such that BellSouth and other ILECs should be relieved from the Commission’s cost assignment rules. Nothing in AT&T’s comments is any more persuasive than what BellSouth included in its Petition. Both merely make various unsupported claims that the separation rules at issue prevent innovation and are unnecessary due to price cap regulation. On the other hand, NJDRA, Time Warner and Ad Hoc demonstrate many reasons why BellSouth does not pass the test and why its Petition should not be approved. NASUCA agrees.<sup>10</sup>

The same situation -- the lack of support for forbearance -- applies here. AT&T’s petitions should not be approved.

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<sup>9</sup> The NJDRA is now referred to as the New Jersey Department of Rate Counsel (“NJDRC”). It is NASUCA’s understanding that NJDRC will be requesting to incorporate its WC Docket 05-342 comments and reply comments into the instant docket.

<sup>10</sup> NASUCA Reply Comments at 5.

Respectfully submitted,

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