

**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 of Certain)	WC Docket No. 07-21
of the Commission’s Cost Assignment Rules.)	
)	
)	

**COMMENTS OF THE
NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES
OPPOSING FORBEARANCE FOR VERIZON AND QWEST**

On April 24, 2008, the Federal Communications Commission (“Commission” or “FCC”) granted, with conditions,¹ a petition filed by AT&T Inc. (“AT&T”) on behalf of itself and its affiliates pursuant to 47 U.S.C. § 160. The petition asked the Commission to forbear from enforcement of certain of the Commission’s cost assignment rules.² On May 23, 2008, an ex parte letter filed in this docket by Verizon recounted a meeting with Commission staff attended by representatives of Verizon and Qwest where the *AT&T Cost Allocation Forbearance Order* was discussed. At that meeting, “Verizon and Qwest requested that the Commission grant the same forbearance to them.”³

The Commission has now put Verizon’s and Qwest’s request out for public comment.⁴

¹ Memorandum Opinion and Order, FCC 08-120 (rel. April 24, 2008) (“*AT&T Cost Allocation Forbearance Order*”).

² *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).

³ Letter from Ann Berkowitz, Associate Director – Federal Regulatory, Verizon, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 07-21, 07-273, 07-204 (filed May 23, 2008) (“Verizon/Qwest Request”).

⁴ The original Public Notice, DA 08-1361 (rel. June 6, 2006) set the due date for comments as 14 days after publication in the Federal Register, with reply comments due 24 days after publication. A subsequent Public Notice, DA 08-1402 (rel. June 12, 2008) specified that initial comments are due June 26, 2008, with reply comments due July 7, 2008. Both Public Notices stated that the comments should be filed in the AT&T docket.

The National Association of State Utility Consumer Advocates (“NASUCA”)⁵ files these comments to oppose the grant of forbearance to Verizon and Qwest at this time, for the following reasons:

First: NASUCA has appealed the grant of forbearance to AT&T. In a Petition for Review filed June 23, 2008 in the United States Court of Appeals for the D.C. Circuit, NASUCA has challenged the substance of the *AT&T Cost Allocation Forbearance Order*.⁶ It would be inappropriate for the Commission to grant forbearance to Verizon and Qwest while that appeal is pending.

Second: The grant of forbearance would be especially inappropriate given the informal nature of Verizon’s and Qwest’s request. A three-paragraph ex parte letter which merely states that “[t]he Commission’s rationale in granting AT&T’s forbearance compels extending the same relief to Verizon and Qwest...”⁷ cannot take the place of a formal Petition for Forbearance from either Verizon or Qwest. Further, the informal request does not implicate the statutory timeframes that would apply to a formal Petition.⁸

Third: There is a pending Petition for Reconsideration of the *AT&T Cost Allocation*

⁵ 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.

⁶ *National Association of State Utility Consumer Advocates v. FCC*, D.C. Cir. Case No. 08-1226 (filed June 23, 2008).

⁷ Verizon/Qwest Request at 2.

⁸ 47 U.S.C. § 160(c).

Forbearance Order.⁹ Oppositions to the Petition for Reconsideration have been filed.¹⁰ While that Petition for Reconsideration is pending, it would be inappropriate to apply the relief granted in the *AT&T Cost Allocation Forbearance Order* to other carriers.

Fourth: As described in an ex parte letter from Time Warner Telecom, et al., COMPTEL, and Sprint Nextel:

In the *Cost Assignment Forbearance Order* recently adopted in the above-referenced dockets, the Commission conditioned the effectiveness of its grant of AT&T's petition for forbearance from accounting regulations on the Wireline Competition Bureau's review and approval of an AT&T compliance plan. In that plan, AT&T must describe "in detail" how it will update and comply with the principles underlying the rules that were the subject of its forbearance petition.¹¹

Time Warner Telecom, et al. recommend that the compliance plan be put out for public comment (a recommendation with which NASUCA concurs), and that approval of the plan be withheld "until AT&T has actually made all modifications necessary to ensure that the plan provides a robust, detailed and transparent framework for preserving 'the integrity -- for both costs and revenues -- of its accounting system in the absence of Cost Assignment Rules.'"¹² Thus at this point, it is uncertain whether AT&T will actually be able to meet the condition set forth by the Commission. It would be unreasonably premature to extend forbearance to Verizon and Qwest in the face of that uncertainty.

⁹ Petition for Reconsideration filed by Sprint Nextel Corporation, Ad Hoc Telecommunications User's Committee, CompTel, and Time Warner Telecom Inc. (May 27, 2008).

¹⁰ Oppositions by AT&T, Inc.; Verizon; and USTelecom (filed June 11, 2008).

¹¹ Ex parte letter by Time Warner Telecom, et al., COMPTEL, and Sprint Nextel (May 12, 2008) at 1 (footnote omitted).

¹² Id. at 3, quoting *AT&T Cost Allocation Forbearance Order*, ¶ 21.

If Verizon and Qwest file their own petitions for forbearance, the Commission will be bound by statute to address them, on the statutory timeline.¹³ Otherwise, the Commission has no obligation to address this informal request and, for the reasons set forth herein, should not do so.

Respectfully submitted,

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¹³ 47 U.S.C. § 160(c).