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

In the Matter of

Petition of Verizon For Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain of the Commission’s Recordkeeping and Reporting Requirements

OPPOSITION OF COMPTEL

COMPTEL respectfully submits these comments, pursuant to the Federal Communications Commission’s Public Notice, released on December 18, 2007 (DA 07-5034),\(^1\) in opposition to Verizon’s petition for forbearance. On November 26, 2007, Verizon filed a petition requesting forbearance under Section 10 of the Communications Act, as amended, 47 U.S.C § 160(c) (“Section 10”), from enforcement of certain recordkeeping and reporting requirements, specifically the ARMIS reporting requirements, the affiliate transaction rules, the rate of return rules and property record rules. The Commission must deny Verizon’s petition.

Verizon’s petition, while not identical, is similar to the petitions of the other Bell Operating Companies (BOCs) seeking to escape reporting and recordkeeping requirements needed to determine if their rates are just and reasonable and in compliance with other regulations. It would be irresponsible and inconsistent with the public interest if the Commission were to eliminate access to pertinent data while it is in the process of

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reviewing policies concerning the just and reasonableness of the BOCs’ rates.

Elimination of this data would also be inconsistent with the Section 272 Sunset Order.

As Verizon has not met the standard as set forth in Section 10, its petition for forbearance must be denied.

The Commission Recently Confirmed These Reports Were Necessary In Serving the Public Interest

Less than six months ago, the Commission established a new framework to govern the provision of in-region, long distance services by BOCs and their independent incumbent local exchange carrier (ILEC) affiliates.\(^2\) The new framework is based, in part, on the continuation of certain legal obligations, as well as the addition of adopted targeted safeguards.\(^3\) An integral aspect of the framework is, among other things, that the BOCs be subject to the very recordkeeping and reporting requirements from which Verizon seeks forbearance.\(^4\) A grant of forbearance from these requirements is, therefore, inconsistent with the Section 272 Sunset Order.

The Commission found these reporting and recordkeeping requirements to be vital in addressing competitive concerns. For example the Commission found: that the distinction of regulated and nonregulated services for accounting purposes provides "an important protection against improper cost shifting by BOCs and their independent


\(^3\) Id. at ¶ 89.

\(^4\) Id. at ¶ 90, n. 260.
incumbent LEC affiliates;" that the requirement, that Verizon's and the other BOCs'
cost allocation manuals describing how they separate regulated from nonregulated costs
be filed and subject to public comments, assists in identifying improper cost-shifting
between the BOCs' in-region, long distance services and their telephone local exchange
and exchange access services;" and that the public disclosure, through ARMIS filings,
of access charges the independent ILEC affiliates impute to themselves through debits to
their nonregulated revenues provides "interested parties with information they can
evaluate to determine whether the BOCs and their independent incumbent LECs properly
impute the costs of the access they provide their in-region, long distance service
offerings." It would be disingenuous of the Commission to have granted forbearance
from dominant carrier regulations based, in part, on the existence of certain
recordkeeping and reporting requirements and then immediately eliminate those
requirements.

Verizon's claims of competitive safeguards are unpersuasive. In the Section 272
Sunset Order the Commission evaluated the competition Verizon and its fellow BOCs
faced and, nonetheless, concluded "that the BOCs have failed to demonstrate that they
lack exclusionary market power with regard to these services by reason of their control of
bottleneck facilities." Verizon has failed to demonstrate that competition exists in the

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5 Section 272 Sunset Order at ¶ 94.

6 Id. at ¶ 95.

7 Id. at ¶ 94.

8 Id. at ¶ 20.
special access and switched access markets. As COMPTEL and others have
demonstrated time and time again in other proceedings, there is a clear market failure in
the special access market. The price of special access services, the rates of return the
BOCs receive on the services, and purchasers’ use of the BOCs for over 90% of their
demand demonstrate the lack of competition in this sector of the market.\textsuperscript{9} As in the
special access sector, market forces are non-existent in the switched access market, as
carriers have no control over a customer’s choice of terminating ILEC. Moreover, ILECs
still dominate the vast majority of the local market, owning or controlling 94% of the
end-user switched access lines nationally as of June 30 2006.\textsuperscript{10}

The Commission must adhere to the framework it adopted less than six months
ago in the \textit{Section 272 Sunset Order} and deny Verizon’s petition for forbearance.

\textbf{The Reporting and Recordkeeping Requirements are Necessary for
Government and Consumer Entities to Perform Their Responsibilities.}

The information provided by these reports is used by this Commission, state
commissions, and consumer groups in evaluating the just and reasonableness of
Verizon’s rates and the quality of the services provided. The information is also needed

\textsuperscript{9} See Comments of COMPTEL, \textit{Special Access Rates for Price Cap Local Exchange
Carriers, WC Docket No. 05-25, AT&T Petition for Rulemaking to Reform Regulation of
Incumbent Local Exchange Carrier Rates for Interstate Special Access Services, RM-10593, filed Aug. 8, 2007.}

\textsuperscript{10} Joint Comments and Opposition of the New Jersey Division of Rate Counsel, Public
Counsel Section of the Washington State Attorney General’s Office and the National
Association of State Utility Consumer Advocates, \textit{In the Matter of Petition of Qwest
Corporation for Forbearance from Enforcement of the Commission’s ARMIS and 492A
Reporting Requirements Pursuant to 47 U.S.C. § 160(c), WC Docket No. 07-204, p. 31
(file Dec. 6, 2007)(“Joint Opposition”), citing Federal Communications Commission,
Wireline Competition Bureau, Industry Analysis and Technology Division, \textit{Local
Telephone Competition: Status as of June 30, 2006}, (January 2007)(“Competition
Report”), at Tables 10 and 11.
for customers (wholesale, enterprise and residential) in order to take enforcement action
against Verizon. Thus, the recordkeeping and reporting requirements are clearly
necessary in ensuring just and reasonable rates, the protection of consumers, and
forbearance is indisputably not consistent with the public interest.

A. Commission Uses this data in the Performance of its Duties

The Commission needs this data in reviewing critical issues under consideration
as part of broader rulemaking proceedings. For example, the Commission has an open
proceeding to determine whether its rules and policies regarding the provision of special
access services have worked as intended, and if not, if they should be modified or
repealed.\(^{11}\) The Commission has asked parties to refresh the record in the special access
proceeding and has committed to resolving those issues. The Commission also has an
open docket to resolve issues related to intercarrier compensation.\(^{12}\) The Commission
must not grant a forbearance that would eliminate data relevant to these proceedings
while they are still pending. Even once these issues are resolved, the data will be needed
to evaluate the impact and effectiveness of the policies established. The Commission
should not shirk its statutory responsibilities to ensure just and reasonable rates by
eliminating the very data needed to perform the necessary analysis.

\(^{11}\) See Special Access Rates for Price Cap Local Exchange Carriers, WC Docket No. 05-
25, AT&T Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange
Carrier Rates for Interstate Special Access Services, RM-10593, Order and Notice of

\(^{12}\) See Developing a Unified Intercarrier Compensation Regime, Further Notice and
Proposed Rulemaking, CC Docket No. 01-92, FCC 05-33 (2005). See also “Comment
Sought on Missoula Intercarrier Compensation Reform Plan,” FCC Public Notice, CC
The Commission also uses this data to discern improper subsidization of unregulated services by regulated services, such as cross-subsidization of competitive services by services supported by the Universal Service Fund;\textsuperscript{13} to protect against anticompetitive discrimination and improper cost shifting in connection with Verizon’s provision of in-region, long distance services;\textsuperscript{14} to perform the oversight functions and quantify the effects of its policies,\textsuperscript{15} e.g. evaluation of the effects of pricing flexibility, the sunset of section 272 affiliate requirements, etc; detect declining service quality for basic local service; and compile studies such as Statistics of Communications Common Carriers, Quality of Service Incumbent Local Exchange Carriers, Trend in Telephone Service, and Universal Service Monitoring reports.\textsuperscript{16} As the Commission stated in its 2008 Quality of Service Report, the data extracted from ARMIS may be also be useful for


\textsuperscript{14} See Ad Hoc Opposition at 6; Joint Opposition at 2.


further investigations. Indeed, that report demonstrates the need for ARMIS data, as it identified significant downward trends in industry-wide service quality performance in a number of areas. The report shows that for Verizon North/South the average residential and business complaints per million access lines has increase approximately 30 percent since 2001. There is also a significant increase since 2001 in residential installation dissatisfaction with Verizon.

Detecting the improper subsidization of unregulated services through regulated services is more vital than ever given the ILECs’ continued dominance over bottleneck facilities combined with ILECs’ expansion into the high-revenue triple-play and video business, as well as the Commission’s recent decisions to forbear from other competitive safeguards. As the National Association of State Utility Advocates, in joint comments with state entities, states in the Qwest ARMIS forbearance proceeding, “in the wake of substantial industry consolidation and the FCC’s UNE TRRO decision, there are fewer prospects than ever for affordable alternatives to basic local telephone service. Therefore

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18 “Trouble reports per thousand lines is increasing on average 2.1% annually for the industry overall and 6.9% annually for the smaller companies. Repair intervals are increasing on average 5.5 % annually for the industry overall, 6.7% annually for larger companies, and 4.7 % annually for the smaller companies.” 2008 Quality of Service Report at 2.

19 Id. at 13.

20 Id. at 16.

21 See Joint Opposition at 23-30; Sprint Nextel Opposition at 3.
the connection [of these rules with the public interest] is as strong, if not stronger, than when the FCC adopted the rules for ARMIS reporting.”\textsuperscript{22}  

B. State Commissions’ Also Rely on this Data  

Verizon argues that State Commissions may not lawfully impose recordkeeping and reporting requirements regimes if the Commission grants forbearance.\textsuperscript{23} While COMPTEL does not concur that state imposed recordkeeping and reporting requirements would be inconsistent with a forbearance grant by the Commission in this proceeding, this proposition alone is reason to deny the forbearance petition. State Commissions have significant use of this data, access to which would be in jeopardy according to Verizon’s Petition.

In other proceedings of BOCs seeking forbearance from recordkeeping and/or reporting requirements, states have submitted comments in opposition to a grant of forbearance. As the Public Utilities Commission of Ohio states, this information “is in fact necessary for the various States to perform the duties that Federal and State law, as well as decisions of the Commission, require of them.”\textsuperscript{24} States use this data to assess quality of service,\textsuperscript{25} monitor the market, evaluate competitive conditions,\textsuperscript{26} establish current policies and regulatory reform, administration of state programs and universal

\textsuperscript{22} Joint Opposition at 31.

\textsuperscript{23} Petition at 5.


\textsuperscript{25} See Joint Opposition at 8.

\textsuperscript{26} See Joint Opposition at 2.
service subsidy mechanisms, evaluate unbundled element rates, ensure customers receive good quality at just and reasonable-priced services,\textsuperscript{27} insure that ILECs’ wholesale rates charged to resellers remain in compliance with 47 C.F.R. 51.609,\textsuperscript{28} and oversee transactions between ILEC s and their affiliates, and limit cross-subsidization between such affiliated carriers.\textsuperscript{29} Indeed, the State Members of the Federal-State Joint Board on Separations emphasized, in response to a similar AT&T forbearance petition, that the obligation to file a cost allocation manual (CAM) and provide an attestation of compliance with certain cross-subsidy provisions were designed to verify compliance with various Commission rules and orders and is important in the policy prohibiting cross subsidies that harm universal service. It recommended a denial of AT&T’s petition in its entirety for even requesting forbearance from these rules.\textsuperscript{30}

B. Consumer Groups.

Consumers use the data for formulating and filing complaints\textsuperscript{31} and making informed decisions concerning their choice of local service provider based on such criteria such as service quality and customer satisfaction.\textsuperscript{32}

\textsuperscript{27} CPUC Comments at 9.

\textsuperscript{28} Ohio PUC Reply Comments at 4.

\textsuperscript{29} \textit{Id} at 4-5.


\textsuperscript{31} See Ad Hoc Opposition at 2.

\textsuperscript{32} See Sprint Nextel Opposition at 20-21.
For the foregoing reasons, the Commission should deny AT&T's petition for forbearance.

Respectfully Submitted,

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