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Federal Communications Commission
Washington, D.C. 20554

In the Matter of

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	:	WC Docket No. 07-21
Petition of BellSouth Telecommunications, Inc. For Forbearance Under 47 U.S.C. § 60(c) From Enforcement of Certain of the Commission's Cost Assignment Rules	:	WC Docket No. 05-342
Jurisdictional Separations and Referral to the Federal-State Joint Board	:	CC Docket No. 80-286

REPLY COMMENTS OF THE PUBLIC UTILITIES COMMISSION OF OHIO

BACKGROUND AND INTRODUCTION

On January 25, 2007, AT&T Inc. (AT&T), on behalf of itself and its affiliates filed a petition requesting the Federal Communications Commission ("FCC or Commission") to forbear from enforcement of certain of the FCC's cost assignment rules. On February 9, 2007, AT&T, on behalf of BellSouth, withdrew and refiled a similar BellSouth petition[1] in this docket. On February 16, 2007, the FCC invited comment on the AT&T and BellSouth petitions, setting initial comments due by March 19, 2007 and reply comments on or before April 9, 2007. The Public Utilities Commission of Ohio ("Ohio Commission") hereby submits its reply comments and recommendations concerning the aforementioned petitions.

[1] WC Docket No. 05-342

AT&T[2], 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. The petitions also seek forbearance from section 220(a)(2) of the Act with regard to separate accounting of nonregulated costs.

AT&T proposes that the FCC should forbear because "they were developed to support a rate of return regulatory regime which no longer exists for AT&T in either the federal or state jurisdictions."[3]

While it is true that the rules were developed in a rate of return regulatory environment, that is not the only place where the rules and the information collected under them remains "used and useful." Particularly at a time when redesigning intercarrier compensation and Universal Service funding are actively being considered, it seems premature to lose access to such a body of detailed information.[4]

However, be that as it may, the fact is that regardless of how useful that information might be in resolving other issues before the Commission, it 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. This has been generally addressed by the comments of the State Members of the Federal-State Joint Board on Separations (State Members), so we will focus our comments on specifics as they relate to Ohio.

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2 Henceforth in these Reply Comments, AT&T and BellSouth will be referred to jointly as AT&T.

3 AT&T *Ex Parte Notice* February 22, 2007.

4 Whatever one thinks of the Missoula Plan, and Ohio's position is on the record in that proceeding, it would seem that the development of the Missoula Plan would have been difficult if not impossible if the petition in question had already been granted.

DISCUSSION

A. The Act and the FCC have delegated important functions to the States which require ongoing access to the data which the petitions would make unavailable.

Section 252(d)(3) of the Telecommunications Act of 1996 (the Act) states, in pertinent part, that:

> For the purposes of section 251(c)(4) [referring to the duty on ILECs to offer services for resale], a State commission shall determine wholesale rates...on the basis of retail rates..., excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier.

More specifically, 47 C.F.R. 51.609 specifies by account number numerous cost items that must be identified on an intrastate basis and related to a specific retail service in order to carry out the requirements of Section 252(d)(3) of the Act.

In short, the Ohio Commission is obligated, as is every State PUC in the country, by Section 252(d)(3) of the 1996 Act and 47 C.F.R. 51.609 to use data, most of which is dependent upon Parts 32, 36, 64 and/or 69, to identify costs to insure that ILECs' wholesale rates charged to resellers remain in compliance with 47 C.F.R 51.609.

B. State law requires the Ohio Commission to perform allocations, separations and monitoring that granting the petition would make impossible.

The Ohio Commission is required by State law to oversee transactions between ILECs and their affiliates, and limit cross-subsidization between such affiliated carriers. Ohio Administrative Code Section 4901:1-6-08[5] requires ILECs to form separate affiliates to offer competitive services outside their traditional service area. Currently, as a result of holding company mergers, AT&T in Ohio has an affiliate offering service both

[5] As these rules are currently under review, it is possible that this reference will change in the future.

outside and <u>within</u> its traditional service territory. Absent the applicability of Section 32.27 to the largest ILEC in the state, the Ohio Commission's ability to oversee transactions and limit cross-subsidization for AT&T Ohio will be at best severely hindered.

CONCLUSION

As already stated, Ohio has focused its comments on the impact that the petition would have on the ability of the Ohio commission to carry out its duties. While Ohio is but one state, as is indicated by the comments of the State Members, the impacts of the petition will ripple across the country, having effects similar to those in Ohio. In addition, as those comments also stated, there are aspects of the petitions that are only appropriately considered in the context of the Joint Board process. The current Petition should be denied, and the issues it raises should be considered in their proper, national, industrywide context.

Respectfully submitted,

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