

**SEPARATE STATEMENT OF  
COMMISSIONER JONATHAN S. ADELSTEIN,  
APPROVING IN PART, CONCURRING IN PART, DISSENTING IN PART**

Re: *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 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. 07-139; Petition of the Embarq Local Operating Companies for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain of ARMIS Reporting Requirements, WC Docket No. 07-204; 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, WC Docket No. 07-204; Petition of Verizon For Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain of the Commission's Recordkeeping and Reporting Requirements, WC Docket No. 07-273; 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; Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, WC Docket No. 08-190*

I have long believed that the Commission has a responsibility to collect accurate and reliable data in order to develop effective policies and fulfill Congress's goals for the evolving telecommunications marketplace. Just as an airplane pilot would not land a plane with eyes closed and instruments off, the Commission must ensure that its decision-making is guided by sufficient data. Particularly as telecommunications markets move to a less regulated model, the FCC can also play an important role by providing information directly to consumers that will empower them to choose among competitive carriers.

With so many benefits from the Commission's efforts to collect and share market information, we should be skeptical about proposals to effectively jettison a host of reporting requirements that may help the Commission perform its consumer protection, broadband, competition, and public safety functions. It is certainly true that we must update our rules to respond to changes in the market and technology, as we are required to do regularly by statute. Unfortunately, today's item fails to carefully analyze the current collection program or develop consensus about which of these service quality, customer satisfaction, infrastructure, and operating reporting requirements remain useful, or could be revised, eliminated, or enhanced. Perhaps more troubling, the majority, on the last business day of this fifteen month review process, has taken up entirely new forbearance requests which will cast aside long-standing financial reporting requirements.

To be clear, the prudent course would be to have addressed these reporting requirements with a careful analysis and through an open and inclusive rulemaking proceeding. Yet, we are presented today with a Hobson's choice in the form of a forbearance statute that mandates a "deemed grant" – in this case total elimination of the reporting requirements – if the Commission is unable to reach compromise. Faced with these difficult circumstances, I have attempted to work with my colleagues to forge consensus where possible, with the result that I will approve-in-part, concur-in-part, and dissent-in-part to portions of this item, as described below.

*Service Quality, Customer Satisfaction, Infrastructure and Operational Reporting Requirements.*  
With respect to this data, we strike a compromise which, though imperfect, is certainly preferable to a

wholesale scrapping of these reporting requirements. State public utility commissions, consumer advocates, providers, and representatives of communications workers alike have stressed the utility of this data and have urged the Commission to take a more calibrated approach. So, I appreciate my colleagues' willingness to accommodate my desire to explore these issues more fully. Indeed, my support for this item was dependent on the Commission's decision to condition forbearance on the reporting carriers' commitment to continue this data collection for two years, while the Commission considers whether to modify these rules and apply them to a broader class of carriers. Specifically, the Order requires the reporting carriers continue filing this data for two additional years and to continue to publicly report the service quality and customer satisfaction data during this time. These conditions are essential for my support of this item, though I can only concur to the portions of this Order that rely on flawed analysis to conclude that forbearance is appropriate at all.

My support for this item was also dependent on the Commission's decision to open a Notice of Proposed Rulemaking which recognizes that this information may be useful to the Commission and consumers, particularly if collected from a broader range of providers. Notably, eight years ago, the Commission proposed to do exactly that – to revise, pare back, and in some cases, enhance many of these same reporting requirements. Certainly, eight years should have been sufficient time to have addressed this in an ordered fashion. At a minimum, having had fifteen months warning that we would have to address this by today, it is disappointing that the Commission failed to pursue a thoughtful and comprehensive rulemaking process.

Now, faced with this imminent deadline, the Commission pivots to this awkward two step process – forbearing from these reporting requirements, while at the same time seeking comment on whether those same requirements should be applied to all carriers. While this is certainly putting the cart before horse, this compromise is far better than immediate and precipitous elimination of all of the rules. It will give the Commission another opportunity to foster a collaborative approach, to engage State commissions, consumer advocates, carriers, and other interested parties, to narrow the differences, and perhaps to develop consensus. Now that we have this brief window of opportunity, I hope and expect that the Commission and outside parties will engage constructively and creatively in an effort to derive meaningful reporting requirements to be filed by a broader set of industry players that will assist policymakers and consumers. To that end, I'd like to acknowledge the efforts of AT&T and the Communications Workers of America to develop commitments that form the basis of this Order. That should be an encouraging sign as we move on to the next phase of this proceeding.

*Financial Reporting Requirements.* In a surprise conclusion to this proceeding, the Commission also grants two additional forbearance requests from our financial reporting requirements. Adding these new sections of the Order on the last business day cuts short outside parties' opportunity to make their views heard and denies all Commissioners the opportunity to gain the benefit of this input. This cavalier approach to the forbearance process is disappointing given the many concerns that have already been raised by Congress.

Even setting those concerns aside, elimination of these cost assignment and allocation rules undermines the Commission's ability to promote competition, consumer confidence, investor security, and the public interest, as Commissioner Copps and I detailed in our joint statement earlier this year.<sup>1</sup> It

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<sup>1</sup> See Joint Statement of Commissioners Michael J. Copps and Jonathan S. Adelstein, Dissenting, *Petition of AT&T Inc. For Forbearance Under 47 U.S.C. §160 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* (continued....)

diminishes our ability to meet our statutory obligation to ensure that telecommunications services are offered on rates, terms and conditions that are just, reasonable and not unjustly or unreasonably discriminatory. It renders meaningless important competitive safeguards that the Commission unanimously adopted just a year ago. Moreover, it will make harder the road to comprehensive universal service and intercarrier compensation reform. For all these reasons, I dissent from this portion of the item.

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*Certain of the Commission's Cost Assignment Rules*, WC Docket Nos. 07-21, 05-342; Memorandum Opinion and Order (April 24, 2008).