Item 56 (6861)

State of California **Public Utilities Commission**
San Francisco

M E M O R A N D U M

Date: **August 16, 2007**

To: **The Commission**
(Meeting of August 23, 2007)

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Subject: **AT&T Inc.'s Petition on Behalf of Its Incumbent LEC Affiliates Seeking Forbearance From Enforcement of Certain ARMIS Reporting Requirements (FCC WC Docket No. 07-139)**

RECOMMENDATION

The Commission should file comment in response to a public notice from the Federal Communications Commission (FCC) seeking comment on AT&T Inc.'s (AT&T) Forbearance Petition under 47 U.S.C. § 160(c) from enforcement of certain Automated Reporting Management Information System (ARMIS) Reporting requirements. The Commission should oppose AT&T's Petition because the Commission regularly relies on these reports to make important policy decisions and to monitor carriers and the marketplace.[1]

BACKGROUND

On June 8, 2007, AT&T, on behalf of certain of its incumbent local exchange carrier ("ILEC") affiliates, filed a petition seeking forbearance from the FCC's rules that require submission of the following four ARMIS reports:

1) ARMIS 43-05 -- Service Quality Report: This report contains installation and repair interval data. It is filed annually at the study area (jurisdiction) and at the holding company levels;

[1] Comments are due August 20, 2007 and September 19, 2007. With respect to Opening Comments, since the comments are due before the Commission meeting date of August 23, 2007, the Commission should submit late-filed Opening Comments soon after this meeting.

2) ARMIS 43-06 -- Customer Satisfaction Report: This report shows the percentage of customers dissatisfied with installation and repair based on the carrier's customer survey. The report is filed annually at the study area (jurisdiction) and at the holding company levels;

3) ARMIS 43-07 -- Infrastructure Report: This report provides data regarding the infrastructure of the reporting carrier. It is filed at the study area (jurisdiction) and at the holding company levels; and

4) ARMIS 43-08 -- Operating Data Report: This report contains statistical schedules that were formerly reported in Form M. All of the tables in this report are organized by state jurisdiction, and each report only covers the reporting carrier's totals for that state. This report is filed annually on an operating company basis.

AT&T's Argument:

With regard to ARMIS reports 43-05 and 43-06, AT&T claims that the reports were adopted on an interim basis to transition from cost of service regulation to price cap regulation two decades ago and are now outmoded.[2] Further, AT&T asserts that these two ARMIS reports were never intended to ensure that rates are just, reasonable or nondiscriminatory.[3] Finally, AT&T insists that these reports are not needed to protect consumers or to ensure that robust competition exists and customers have access to alternative providers.[4]

With regard to ARMIS reports 43-07 and 43-08, AT&T claims that market forces and price cap regulation have created incentives for extraordinary capital investments in the network over the past twenty years.[5] AT&T also asserts that competition will ensure that carriers offer new and innovative services at reasonable rates.[6]

DISCUSSION

A. Summary of Staff Recommendation

Staff recommends that the Commission oppose AT&T's Petition in its entirety because forbearance is not in the public interest at this time. The Commission has routinely relied on the ARMIS reports in order to make important policy decisions in a number of

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[2] Petition at 9.

[3] Petition at 10.

[4] *Id.*

[5] Petition at 14.

[6] Petition at 16.

proceedings. The ARMIS reports are also one of the Commission's essential monitoring tools to ensure that (1) carriers continue to invest in the communication infrastructure in order to maintain or advance a reliable network that is crucial to California' economy and its people's welfare, and (2) to monitor for signs of potential market failure by tracking the data reported in the ARMIS reports so that the Commission can take appropriate actions, if and when necessary.

The ARMIS reports are especially important now. In order to reduce carriers' regulatory burden and to streamline regulation, the Commission has decided to largely rely on the FCC ARMIS reports instead of on California-specific monitoring reports. Just a year ago, the Commission curtailed regulation of the retail telecommunications service offerings of the four major California ILECs', including AT&T.[7] The Commission expressed an intent to rely on these ARMIS reports as part of the Commission's monitoring program to ensure that the competitive market is functioning well and customers will receive good quality at just and reasonably-priced services.[8]

B. The Commission's Use of the ARMIS Reports

The Commission has relied on the ARMIS reports in a number of proceedings. In Decision (D.) 01-12-021 (AT&T, formerly SBC, Repair Complaint Decision) the Commission used ARMIS data to conclude that AT&T's service quality was in violation of Public Utilities Code § 451. In Resolution T-17024b, the Commission used ARMIS data as part of its investigation and fined AT&T $900,000 for failing the out-of-service repair interval standards. Further, in D.03-10-088 (NRF Phase II Decision), the Commission relied, in part, on ARMIS service quality measures to evaluate the service quality of AT&T and Verizon.

Additionally, in D.06-08-030, the Commission stated that it intends to remain vigilant in monitoring the voice communications marketplace in order to ensure that the market continues to serve California consumers well.[9] For instance, AT&T just raised its prices for various custom calling features by a range of 50% to over 100% in February and July, 2007. For the Commission to maintain vigilance, it needs access to data, and if the Commission is no longer requiring the utilities to produce California-specific data, then the Commission is dependent on ARMIS data.

Staff also regularly relies on the ARMIS reports. Staff routinely reviews access lines, telephone call statistics and plant investment to assess service affordability and status of

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[7] Prices for all retail services were de-regulated except for basic residential rates.

[8] D.06-08-030, FOF 73; *See also* R.02-012-004, March 30, 2007 Assigned Commissioner's Ruling and Scoping Memo.

[9] D.06-08-030, FOF 73.

competition. Staff also uses ARMIS data to prepare reports for the Commission and the California Legislature. Staff notes that the FCC also uses ARMIS data to generate its own statistical reports, such as trends of telecommunications service reports.[10]

C. Additional Reasons in Support of the ARMIS Reports

This Commission currently has two pending proceedings – the service quality rulemaking[11] and URF phase 2[12] - to review whether certain ARMIS reports should be filed with the Commission. Thus, it would be premature from this Commission's perspective for the FCC to eliminate the ARMIS reports now.

Additionally, the Commission eliminated most of the California-specific monitoring reports on the basis that it would rely on the FCC ARMIS reports instead in the URF proceeding last year.[13] This new policy includes deferring to the FCC's standard accounting practices, affiliate transaction rules and reporting requirements including the ARMIS data.[14] The CPUC made its decision largely at the urging of the carriers that they should not be required to file two separate sets of reports.

For the foregoing reasons, Staff recommends that the Commission file comment with the FCC opposing AT&T's request for forbearance from requiring its ILEC affiliates to submit ARMIS Reports 43-05, 43-06, 43-07 and 43-08.

SJY:ngs

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[10] *Trends in Telephone Services*, published in Feb. 2007, chapter 17 notes:
Price-cap regulated carriers, including the Bell operating companies (BOCs), file data on technology as part of their Automated Reporting Management Information System (ARMIS) reports. The data contained in Tables 17.1 and 17.3 are from the BOCs' ARMIS 43-07 reports, and the data contained in Table 17.2 are from the ARMIS 43-05 report. The individual carrier's data can be obtained from the ARMIS web page at www.fcc.gov/wcb/eafs. Selected holding company statistics from the ARMIS 43-07 can be found in Section 10 of our *Monitoring Report* on the web page www.fcc.gov/wcb/iatd/monitor. Also, information about broadband deployment is contained in Chapter 2, *Advanced Telecommunications.*

[11] R.02-12-004 - Order Instituting Rulemaking on the Commission's Own Motion into the Service. Quality Standards for All Telecommunications Carriers and Revisions to General Order 133-B.

[12] R.05-04-005 – Order Instituting Rulemaking on the Commission's Own Motion to Assess and Revise the Regulation of Telecommunications Utilities.

[13] D.06-08-030 at 217, COLs 55, 56 and 57.

[14] *Id.*