

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. P-100, SUB 133
DOCKET NO. P-100A, SUB 133
DOCKET NO. P-100, SUB 110

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. P-100, SUB 133)	
)	
In the Matter of)	
Local Exchange and Local Exchange)	
Access Telecommunications Competition)	
)	
DOCKET NO. P-100A, SUB 133)	ORDER GRANTING PETITION
)	FOR ELIMINATION OF
In the Matter of)	ACCESS LINE REPORTING
Reports Filed Pursuant to Commission)	REQUIREMENT FOR ILECS AND
Rule R17-2(k))	CLPS AND AMENDING
)	COMMISSION RULE R17-2(K)
DOCKET NO. P-100, SUB 110)	
)	
In the Matter of)	
Telecommunications Relay Service (TRS),)	
Relay North Carolina)	

BY THE COMMISSION: On September 11, 2019, AT&T North Carolina (AT&T) filed a Petition for Elimination or Waiver of Access Line Reporting Requirements (petition).

In its petition, AT&T requested that the Commission eliminate or, alternatively, waive the requirement to file access line reports. AT&T maintained that the access line reports were originally designed to allow the Commission to monitor the level of competition when telecommunications services were primarily wireline and the industry was more heavily regulated and far less competitive than today. AT&T stated that to remove this unnecessary administrative burden on telecommunications carriers, the Public Staff, and the Commission, access line reports required by Commission Rules R1-32 and R17-2(k) should be eliminated, or in the alternative, the filing requirements waived for all incumbent local exchange companies (ILECs) and competing local providers (CLPs).

On September 16, 2019, the Commission issued an Order Requesting Comments on AT&T's Petition for Elimination or Waiver of Access Line Reporting Requirements.

Initial comments were filed on September 30, 2019 by Carolina Telephone & Telegraph Company, LLC d/b/a CenturyLink, Central Telephone Company d/b/a CenturyLink, Mebtel, Inc., d/b/a CenturyLink, and CenturyLink Communications, LLC (collectively referred to as CenturyLink). Also on September 30, 2019, the Public Staff filed a letter in lieu of comments in response to the September 16, 2019 Order.

No party filed any reply comments.

THE PETITION

AT&T maintained in its petition that the access line reports were originally designed to allow the Commission to monitor the level of competition when telecommunication services were primarily wireline, and the industry was more heavily regulated and far less competitive than today. AT&T asserted that given the now largely deregulated and vibrantly competitive state of the industry, these access line reports are no longer relevant and serve no useful purpose. AT&T argued that to remove this unnecessary administrative burden on telecommunications carriers, the Public Staff, and the Commission, access line reports required by Commission Rules R1-32 and R17-2(k) should be eliminated, or in the alternative, the filing requirements waived for all ILECs and CLPs.

AT&T asserted that the access line reporting requirements contained in Commission Rules R1-32 and R17-2(k) are antiquated vestiges of the past, initiated at a time when the Commission was concerned with making on-going semi-annual determinations of whether the regulated telecommunications industry was competitive. AT&T stated that now, however, there is no question that the telecommunications market is highly competitive. AT&T further argued that there is no question that the market today is dominated by Commercial Mobile Radio Services (CMRS, i.e., cellular service) and Voice over Internet Protocol (VoIP) services and that traditional wireline services (the only services reflected in the access line reports at issue here) are in continuous decline. AT&T maintained that given these market developments, the access line reporting requirement which only ILECs and CLPs are subject to (and not CMRS or VoIP carriers) cannot provide an accurate picture of the competitive landscape and the state of the industry today. AT&T stated that as a practical matter, traditional telephone companies have become providers of Internet Protocol (IP)-based information services more so than traditional regulated landline voice service. AT&T noted that beginning with the introduction of Digital Subscriber Lines (DSLs), carriers' IP-based services have been considered information services rather than traditional telephone services and have never been reported as traditional access lines.

AT&T provided two charts: one to show the dramatic decrease in AT&T's access lines in North Carolina, in juxtaposition with the simultaneously dramatic increase in CMRS subscribers; and another chart to show the rapid expansion of VoIP subscribers throughout the State.

AT&T stated that, in their current form, the Rules state as follows:

Rule R1-32(e1).¹ In lieu of filing annual report forms furnished or approved by the Commission, or otherwise filing any other information as provided for in Sections (a) through (e) above, incumbent local exchange companies (ILECs) that are price regulated under G.S. 62-133.5(a), and any carrier electing regulation under G.S. 62-133.5(h), may instead satisfy all of their annual reporting obligations by providing the following as soon as possible after the close of the calendar year, but in no event later than the 30th day of April of each year for the preceding calendar year:

- (1) Publicly traded ILECs may provide the Commission with a link to their annual filings with the SEC;
- (2) ILECs that are not publicly traded may annually file copies of their audited financial statements with the Commission;
- (3) CLPs with COLR [carrier of last resort] responsibilities that are publicly traded may provide the Commission with a link to their annual filings with the SEC; and
- (4) CLPs with COLR responsibilities that are not publicly traded may annually file copies of their audited financial statements with the Commission.

Rule R17-2(k). By the 15th day of each July and January, respectively, each CLP shall file a report with the Chief Clerk reflecting the number of local access lines subscribed to at the end of the preceding month in each respective geographic area served by the CLP, listing separately for business and residential service. CLPs electing regulation under G.S. 62-133.5(h) are only required to file total access lines. Other operating statistics are not required to be filed except upon specific request of the Commission or the Public Staff.

AT&T further stated that these Rules reflect changes the Commission made to them in its June 30, 2011 Order in response to a March 16, 2011 petition filed by the North Carolina Telecommunications Industry Association, Inc. (NCTIA)² requesting modification or elimination of certain ILEC and CLP reporting requirements. AT&T noted

¹AT&T noted that this Rule outlines an annual reporting requirement for telephone companies including the Station Development Report (SDR). The Access Line Report resulted from a modification to the SDR by the Commission's May 12, 2009 Order Amending Monthly Access Line Report issued in Docket No. P-100, Sub 58a. However, the Commission notes that the May 12, 2009 Order does not reference Commission Rule R1-32 Filing of Annual Reports by Public Utilities.

² AT&T noted that as a reflection of the massive changes and restructuring within the industry, the NCTIA has been dissolved. AT&T stated that, however, at the time of the 2011 filing, the NCTIA's membership included 13 companies.

that the prior version of the Rules contained more frequent and onerous reporting requirements which the Commission found to be inappropriate for an emerging competitive market and amended the requirements in 2011.

AT&T maintained that although the NCTIA sought primarily to limit the scope and frequency of access line filings, Verizon South Inc. and MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services requested in their comments in the docket the total elimination of the reporting requirements for generally the same reasons set forth by AT&T in its current petition: the lack of the report's usefulness given clear evidence of a competitive industry, and the myopic view of the industry given that data from CMRS and VoIP providers are not required.

AT&T argued that competition is more vibrant in 2019 than it was in 2011, and the diversity of offerings and customer choices for service outside of the scope of traditional services are now much more robust. AT&T further noted that in addition to orders by the Commission, the North Carolina General Assembly has taken steps over the years to deregulate the industry further. AT&T stated that the latest actions occurred in the enactment of Session Law 238 in 2009 and Session Law 291 in 2011. AT&T asserted that, therefore, the rationale for eliminating the reports is even more compelling today.

AT&T also noted that it is aware that, at least for wireline services, the Telecommunications Relay Service (TRS) surcharge has historically been based on access line counts. AT&T stated that, however, last year the North Carolina Department of Health and Human Services (DHHS) filed a petition in Docket No. P-100, Sub 110 to revise the TRS surcharge by lowering it from \$0.10 per access line to \$0.08 per access line which the Commission granted. AT&T maintained that the DHHS stated in its petition that since the Public Staff no longer has access to the number of wireline and wireless access lines, the DHHS establishes the number of access lines based on revenues received divided by the rate. Therefore, AT&T asserted, given that the access line reports are limited to time division multiplexing (TDM)³ data, and the DHHS has its own policies and procedures for access line accounting, the access line reports are not required by the DHHS or useful in its administration of the TRS. AT&T noted that the Commission's Order did not take issue with the DHHS' method of calculating the TRS surcharge.

AT&T maintained that the Commission should complete the beneficial work it began in 2011 and take the next appropriate step by eliminating access line reporting entirely. AT&T stated that as Verizon maintained in 2011, and AT&T echoes now, in a market that is highly competitive and increasingly deregulated the reports no longer serve a useful purpose.

AT&T requested that the Commission grant its petition and eliminate, or in the alternative, waive all access line reporting requirements for ILECs and CLPs.

³ TDM phone technology is based on electrical circuits that are physically switched on the public switched telephone network.

INITIAL COMMENTS

CenturyLink stated that it fully supports AT&T's petition for elimination of the access line reporting requirements for ILECs and CLPs. CenturyLink asserted that given the highly competitive state of the North Carolina telecommunications marketplace, these reports are no longer necessary and should be eliminated.

CenturyLink maintained that the robust telecommunications market in North Carolina has provided customers more choice, innovative technologies, and new services than ever before. CenturyLink asserted that this competitive environment has enabled the growth of intermodal telecommunications technologies such that customers are subscribing to voice, video, and data services not only from traditional wireline providers regulated by the Commission, but also from wireless, cable, satellite, and VoIP providers as well. CenturyLink noted that customers are adopting these alternative technologies at ever-increasing rates: the latest United States Center for Disease Control state-specific statistics on wireless substitution show that 53.2% of the households in North Carolina are wireless only (which reflects 2017 data that was compiled in March 2019). CenturyLink maintained that this is consistent with wireless substitution on a national level, where the United States Center for Disease Control data shows wireless substitution at an all-time high of 57.1% (which reflects preliminary data from July through December 2018). CenturyLink stated that, thus, as depicted by AT&T in its petition, the access line reports that only reflect wirelines currently filed by North Carolina ILECs and CLPs capture only a fraction of the total marketplace. CenturyLink argued that with much of the marketplace not being subject to an access line reporting obligation, it is difficult to see what value these reports provide.

CenturyLink further stated that the Commission and the Public Staff have acknowledged that this competitive telecommunications marketplace in North Carolina is much more than wireline ILEC and CLP providers. CenturyLink noted that several years ago, the Commission stated on page 14 of its June 30, 2011 Order Ruling on the NCTIA's Petition for Modification or Elimination of Certain Reporting Requirements Relating to ILECs and/or CLPs, and Amending Rule R1-32 and Rule R17-2(k) issued in Docket Nos. M-100, Sub 4; P-100, Sub 72b; P-100, Sub 133; P-100A, Sub 133; P-55, Sub 1022; P-55, Sub 1022A; and P-100, Sub 110 that "[w]hile the Public Staff believes that access line reporting does not provide an entirely accurate picture of the competitive landscape inasmuch as it does not include wireless or VoIP providers, it does allow the Commission to track the state of competition among regulated carriers." CenturyLink stated that the Public Staff also noted the use of access line data for the TRS program as an additional justification to maintain the reporting requirement.

CenturyLink argued that the telecommunications market has continued to evolve since that time. CenturyLink stated that regulated providers face even greater competition from unregulated providers as evidenced by their increasing market share at the expense of traditional, regulated providers. CenturyLink maintained that, moreover, as AT&T noted in its petition, access line data from these reports is no longer required as part of the administration of the TRS program. CenturyLink maintained that in light of the competitive

pressures faced by regulated providers and the changes in the marketplace over time, it is appropriate for the Commission to eliminate this outdated regulatory requirement that no longer serves its purpose and burdens only a subset of the market sector.

CenturyLink maintained that this approach is consistent with the deregulatory posture the Commission and the North Carolina legislature have taken. CenturyLink noted that in the Commission's 2013 Report to the Joint Legislative Commission on Governmental Operations regarding the status of telecommunications service in a changing competitive environment, the Commission opined in support of its recommendation to abolish the biannual report:

It has now been more than 18 years since the passage of HB 161, and the regulatory environment in which the Utilities Commission operates in telecommunications has evolved considerably. In addition to intramodal landline competition from competing local providers (CLPs), incumbent local exchange companies (ILECs) under our jurisdiction face intermodal competition from wireless providers, cable providers, and voice over Internet Protocol (VoIP) providers. . . . Because of provisions in federal and/or state law, the Commission does not regulate wireless service, cable television, long distance service, or broadband service, reflecting a movement toward greater reliance on market forces. . . . The last decade and a half have been transformative in the telecommunications industry and there has been a corresponding transformation in the kind and degree of regulation of that sector that the General Assembly has authorized. The new model for regulation has been universally in the direction of more reliance on market forces and less on traditional forms of regulation. This approach has generally worked well for both providers and their customers.

CenturyLink stated that it agrees that the market forces present in 2013 are continuing to work well. CenturyLink asserted that in order to keep those forces functioning in a healthy manner, a subset of the market should not be saddled with the administrative burden of outdated regulatory requirements that other members are not.

Finally, CenturyLink argued that in support of AT&T's petition, CenturyLink notes that other states have already eliminated access line reporting and there have been no negative consequences or unforeseen hardships. CenturyLink stated that, for example, the Florida Public Service Commission initiated a rulemaking in 2011 after passage of the final telecom deregulation by the Florida legislature and eliminated the majority of their telecommunications retail rules including the requirement for access line reporting by ILECs. CenturyLink also noted that, more recently, it became aware that Illinois eliminated the requirement to produce and submit an annual competition report which required access line reporting. CenturyLink noted that the relief requested in AT&T's petition is consistent with other action across the country in light of the changing telecommunications marketplace.

CenturyLink requested that the Commission grant AT&T's petition and eliminate all access line reporting requirements for ILECs and CLPs.

The **Public Staff** filed a letter in lieu of comments in response to the Commission's September 16, 2019 Order. The Public Staff stated that it does not oppose AT&T's request for the Commission to eliminate or, alternatively, waive the requirement to file access line reports. The Public Staff noted that it is its understanding that the DHHS does not currently use these reports in reviewing the TRS surcharge. Further, the Public Staff maintained that it has contacted personnel at the Federal Communications Commission (FCC) and has been informed that the Public Staff or the Commission can obtain access line data from the FCC upon request. The Public Staff asserted that the Commission or the Public Staff should be able to obtain access line information from regulated carriers if necessary such as to audit the TRS pursuant to North Carolina G.S. §62-157(d).

Therefore, the Public Staff recommended that the Commission: (1) waive the requirement for ILECs to file access line reports; and (2) revise Commission Rule R17-2(k) as follows:

Rule R17-2(k) ~~By the 15th day of each July and January, respectively, each CLP shall file a report with the Chief Clerk reflecting the number of local access lines subscribed to at the end of the preceding month in each respective geographic area served by the CLP, listing separately for business and residential service. CLPs electing regulation under G.S. 62-133.5(h) are only required to file total access lines. The number of access lines or o~~Other operating statistics are not required to be filed except upon specific request of the Commission or the Public Staff.

REPLY COMMENTS

No party filed any reply comments.

DISCUSSION AND CONCLUSIONS

After reviewing the comments filed in response to AT&T's petition, the Commission notes that all of the parties agree that it is appropriate to no longer require access line reporting by ILECs and CLPs. As the parties noted, CMRS and VoIP providers are not required to file access line data with the Commission and currently a substantial number of access lines in the State are provided by CMRS and VoIP providers. Further, the Commission finds it important to note that there are other sources of this access line data if it is ever needed by the Commission or the Public Staff in the future. Therefore, the Commission concludes that it is appropriate to grant AT&T's petition thereby eliminating the requirement for ILECs and CLPs to file access line reports and revising Commission Rule R17-2(k) as follows:

Rule R17-2(k) ~~By the 15th day of each July and January, respectively, each CLP shall file a report with the Chief Clerk reflecting the number of local~~

~~access lines subscribed to at the end of the preceding month in each respective geographic area served by the CLP, listing separately for business and residential service. CLPs electing regulation under G.S. 62-133.5(h) are only required to file total access lines. The number of access lines or o~~Other operating statistics are not required to be filed except upon specific request of the Commission or the Public Staff.

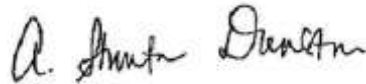
IT IS, THEREFORE, ORDERED as follows:

1. That the requirement for ILECs and CLPs to file access line reports is hereby eliminated; and
2. That Commission Rule R17-2(k) is amended as shown on Appendix A attached hereto.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of November, 2019.

NORTH CAROLINA UTILITIES COMMISSION



A. Shonta Dunston, Deputy Clerk

Commissioner Kimberly W. Duffley and Commissioner Jeffrey A. Hughes did not participate in this decision.

Redlined copy of Rule R17-2(k):

Rule R17-2(k) ~~By the 15th day of each July and January, respectively, each CLP shall file a report with the Chief Clerk reflecting the number of local access lines subscribed to at the end of the preceding month in each respective geographic area served by the CLP, listing separately for business and residential service. CLPs electing regulation under G.S. 62-133.5(h) are only required to file total access lines. The number of access lines or o~~Other operating statistics are not required to be filed except upon specific request of the Commission or the Public Staff.

Clean copy of Rule R17-2(k):

Rule R17-2(k) The number of access lines or other operating statistics are not required to be filed except upon specific request of the Commission or the Public Staff.