

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CENTER FOR PUBLIC INTEGRITY,

Plaintiff,

v.

FEDERAL COMMUNICATIONS
COMMISSION,

Defendant.

Civil Action No. 06-01644 (RMC)

**ANSWER OF INTERVENOR-DEFENDANTS AT&T INC., VERIZON, AND THE
UNITED STATES TELECOM ASSOCIATION**

Intervenor-Defendants AT&T Inc., Verizon, and the United States Telecom Association (collectively, “Intervenors”) hereby state their Answer and affirmative defense to the Complaint filed by plaintiff Center for Public Integrity. In response to the respective numbered paragraphs of the Complaint, Intervenors state as follows:

1. Paragraph 1 contains characterizations of plaintiff’s Complaint to which no response is required.
2. With respect to the first sentence in this paragraph, Intervenors admit that the President has identified the development of broadband as a national priority. With respect to the second sentence in this paragraph, Intervenors state that the President’s comments speak for themselves. Intervenors are without sufficient knowledge or information to respond to the allegation in the final sentence of this paragraph.
3. Intervenors admit that the Federal Communications Commission (“FCC”) collects Forms 477 from broadband providers. Intervenors are without sufficient knowledge or

information to respond to the allegations in the second, third, and fourth sentences of this paragraph.

4. Intervenor state that the referenced report speaks for itself.

5. Paragraph 5 contains conclusions of law to which no response is required.

6. Intervenor are without sufficient knowledge or information to respond to the allegations in the first sentence of this paragraph. Intervenor admit that plaintiff is the requester of the withheld records.

7. Intervenor admit the allegations contained in paragraph 7.

8. Intervenor admit the allegations contained in paragraph 8.

9. With respect to the allegations in the first sentence of this paragraph, Intervenor admit that plaintiff submitted its Freedom of Information Act request more than 20 working days ago. Intervenor deny that the FCC did not make a determination on plaintiff's request within 20 working days of the date the request was deemed accepted pursuant to FCC rules.

10. Paragraph 10 contains conclusions of law to which no response is required.

The remaining paragraphs of the Complaint constitute plaintiff's demand for relief, to which no response is required. To the extent a response is necessary, Intervenor deny that plaintiff is entitled to relief. Intervenor deny each allegation of the Complaint to the extent that it is not specifically admitted herein.

First Affirmative Defense

The Court lacks subject matter jurisdiction over this lawsuit. Pursuant to Exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4), no records have been improperly withheld, and plaintiff lacks standing. Moreover, plaintiff filed suit prior to expiration of the agency's twenty-day response period.

Intervenors reserve the right to assert such additional answers to plaintiff's allegations and such additional affirmative defenses as may become appropriate during the further course of this action.

WHEREFORE, Intervenors request that judgment be entered:

- (A) Dismissing the Complaint in its entirety, with prejudice;
- (B) Awarding Intervenors such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Colin S. Stretch

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