ORIGINAL FILE ORIGINAL

RECEIVED

SEP 1 1 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Parts 65 and 69 of the Commission's Rules to Reform the Interstate Rate of Return Represcription and Enforcement Processes	)	CC Docket No. 92-133

COMMENTS OF
THE BELL ATLANTIC TELEPHONE COMPANIES

The Bell Atlantic Telephone Companies[1] ("Bell Atlantic") respectfully submit these comments pursuant to the Commission's Notice of Proposed Rulemaking and Order[2] ("NPRM") regarding processes for prescribing and enforcing a rate of return for local exchange carriers ("LECs") subject to rate of return regulation. The Commission is clear that its Notice applies only to rate of return LECs.[3] Consequently, Bell Atlantic, which operates under Price Cap rules,[4] is providing only limited comments in support of an appropriate process for determining a unitary overall rate of return for the rate of return LECs.[5]

---

[1] The Bell Atlantic Telephone Companies are The Bell Telephone Company of Pennsylvania, the four Chesapeake and Potomac telephone companies, The Diamond State Telephone Company, and New Jersey Bell Telephone Company.

[2] FCC 92-256, released July 14, 1992.

[3] *E.g.*, NPRM ¶¶ 2, 13-16, 91.

[4] 47 C.F.R. §61.41, *et seq.*

[5] If the Commission were to contemplate subjecting other carriers to the processes developed here, it would have to provide notice of such a proposal, and an opportunity by those carriers to comment on the effect of applying the processes to them.

No. of Copies rec'd 0+5
List A B C D E

I. A Trigger-Based Represcription Process For Rate Of Return LECs Makes Sense.

Bell Atlantic agrees that the calendar should not be the catalyst for rate of return evaluations.[6] A financial/economic index triggering plan is more reasonable because it reflects the reality of raising capital faced by rate of return LECs. In addition, a properly designed financial/economic trigger will minimize the costs of regulation by avoiding represcription proceedings unless there have been significant changes in the cost of capital.

II. Use Of Available BOC Data To Develop A Unitary Rate Of Return Is Appropriate And Will Reduce Regulatory Costs.

The Commission's proposal to develop a unitary return prescription for rate of return LECs based upon the capital structure and cost of capital of the Bell Operating Companies ("BOCs") is reasonable. This information is readily available and, as such, will simplify the process of developing a unitary rate of return. Moreover, these data are better surrogates for rate of return LECs providing interstate access services than are data from the regional holding companies ("RHCs"). As a result of almost a decade of diversification, the RHCs no longer constitute valid proxy companies for determining the cost of capital associated with the provision of interstate access.

---

[6] NPRM ¶¶ 4, 19, 21.

III. The Commission Should Not Codify Cost Of Equity Methodologies.

Unlike capital structure and cost of debt, the cost of equity is not directly observable and, therefore, its determination continues to require judgment and sophisticated analysis. Currently, no practical cost of equity method exists which provides universally acceptable cost of equity estimates. As research in finance and economics moves forward, and as advances in computing power and software capabilities are made, new viable methodologies have and will become available to the Commission.[7]

Depending upon the unique combination of economic and financial circumstances that prevail at the time of a represcription and the cost of equity estimation techniques available then, the Commission may want to specify particular cost of equity methodologies to be filed by the mandatory participants. It would be short-sighted, however, for the

---

[7] *See, e.g.,* the comparison of the clustering methodology used by Bell Atlantic in its filing in *Represcribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers*, CC Docket No. 89-624, Initial Rate of Return Submission of the Bell Atlantic Telephone Companies, pp. 7-9 and Attachment I, pp. 6-9, filed February 16, 1990, with the methodology discussed by the Commission in *Refinement of Procedures and Methodologies for Represcribing Interstate Rates of Return for AT&T Communications and Local Exchange Carriers*, CC Docket No. 87-463, Notice of Proposed Rulemaking, ¶¶ 20-28, released October 13, 1987. The Commission's dismissal of clustering in this NPRM, ¶¶ 52-53, ignores the potential of clustering methods being explored and evaluated in the academic community since CC Docket No. 89-624.

Commission now to specify particular cost of equity methodologies when new and more accurate methods for estimating this rate may be developed in the future.

IV. The Commission Should Not Establish An Enforcement Mechanism That Requires Retroactive Refunds.

The Commission has stated that this proceeding is not intended to resolve issues pending in numerous complaint cases brought by interexchange carriers alleging that carriers' access rates were not just and reasonable because they produced earnings above the level authorized by the Commission.[8] As a result, Bell Atlantic will not reiterate here the arguments that have been made in those proceedings. Bell Atlantic agrees with the analysis of potential enforcement mechanisms provided by the United States Telephone Association in this proceeding and opposes any enforcement mechanism that requires retroactive refunds of rates.[9]

Conclusion

Adoption of a financial/economic trigger for represcription proceedings and the use of BOC data are consistent with the Commission's goal of streamlining regulation for the rate of

---

[8] NPRM ¶ 95.

[9] Bell Atlantic also opposes the use of the complaint process to "enforce" a rate of return prescription if that process does no more than substitute for an automatic refund mechanism.

return LECs. The Commission should not, however, codify particular cost of equity estimation methodologies now, and should not establish an enforcement mechanism that requires the retroactive refunding of rates.

Respectfully submitted,

Leslie A. Vial

1710 H Street, N.W.
Washington, D.C. 20006
(202) 392-1080

Attorney for The Bell Atlantic Telephone Companies

James R. Young
Of Counsel

September 11, 1992