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JUL 27 1994

Before the
Federal Communications Commission
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Petition For Relief From)	
Unjust And Unreasonable)	
Discrimination In The)	
Deployment of Video Dialtone)	RM-8491
Facilities)	
)	
Petition For Rulemaking)	
To Adapt The Section 214 Process)	
To The Construction of Video)	
Dialtone Facilities)	

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REPLY COMMENTS OF BELL ATLANTIC

In their comments, petitioners acknowledge and "note with pleasure" Bell Atlantic's¹ recent 214 applications that include service to "areas with a high minority and low income populations" including parts of Washington, DC and Prince George's County, Maryland.² Indeed, none of the initial comments offer any factual support for the allegations in the petitions.³ Instead, by raising a wide range of broader universal service issues, many of which go

¹ The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic - Delaware, Inc.; Bell Atlantic - Washington, D.C., Inc.; Bell Atlantic - West Virginia, Inc.; Bell Atlantic - Pennsylvania, Inc.; Bell Atlantic - Maryland, Inc.; Bell Atlantic - New Jersey, Inc.; and Bell Atlantic - Virginia, Inc.

² *Petition For Relief From Unjust And Unreasonable Discrimination In The Deployment Of Video Dialtone Facilities; Petition For Rulemaking To Adapt The Section 214 Process To The Construction Of Video Dialtone Facilities*, RM-8491 (collectively, "Petitions for Relief and Rulemaking"), Comments of the Center for Media Education, et al. at 2-3 (filed July 12, 1994).

³ *Petitions For Relief and Rulemaking*, RM-8491 (filed May 23, 1994).

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beyond the scope of the petitions, the comments reinforce the need to address these issues in a broader forum than proposed by petitioners. As explained by Bell Atlantic, regardless of the importance of the overall issues, it is inappropriate and counterproductive to further burden the 214 application process in lieu of a proceeding evaluating all aspects of the universal service issue.⁴

1. The Comments do not relate to specific construction plans.

While the petitions raised serious charges relating to specific 214 applications, none of the third party comments elaborated on or corroborated these charges. Indeed, other than petitioners' comments, the only discussion of the specific charges was made by individual companies that thoroughly refuted claims of electronic redlining.⁵ In addition, the petitioners themselves concede that they were not alleging *intentional* discrimination, and acknowledge that Bell Atlantic's most recent 214 applications are responsive to their original concerns.⁶

⁴ *Petitions for Relief and Rulemaking*, RM-8491, Opposition of Bell Atlantic (filed July 12, 1994).

⁵ *Petitions for Relief and Rulemaking*, RM-8491: Opposition of Bell Atlantic at 2-5 (filed July 12, 1994); U.S. West Comments at 6-8 (filed June 2, 1994); Ameritech's Opposition to Petition for Relief and Petition for Rulemaking at 3-5 (filed July 12, 1994); Opposition of GTE at 3-6 (filed July 12, 1994); Pacific Bell's Opposition to Petition for Relief and Petition for Rulemaking at 2-8 (filed July 12, 1994).

⁶ *Petitions for Relief and Rulemaking*, RM-8491, Comments of



2. **Issues relating to universal service should be addressed in a broader context.**

Several comments attempt to interject issues concerning the definition and scope of universal service obligations.⁷ These comments fail to acknowledge ongoing initiatives to expand the pace and scope of deployment of new services. For example, Bell Atlantic has proposed a streamlined 214 process that could expand the speed of video dialtone deployment.⁸ In the Commission's review of the LEC price cap regulation, Bell Atlantic and others have proposed reducing the productivity offset in exchange for a commitment to targeted spending to facilities and areas approved by the Commission.⁹ This type of targeted spending would allow faster deployment of a variety of information age services to schools and hospitals.

Moreover, the comments largely ignore the difficult issues of delineating which services do, and do not qualify for universal service obligations, as well as the financial arrangements required to support universal service in areas that are uneconomical. In

⁷ **See, e.g., *Petitions for Relief and Rulemaking*, RM-8491: Letter from E. Niel Ritchie, Director of Administration, Institute for Agriculture and Trade Policy, to William F. Caton, Acting Secretary (July 7, 1994); Letter from R. Taylor Walsh, Executive Director, CapAccess, to William F. Caton, Acting Secretary (July 11, 1994).**

⁸ **See *Application of Chesapeake and Potomac Telephone Companies of Maryland and Virginia*, W-P-C 6912, Amendment at 4-5 (filed 6/16/94); *Application of Bell Atlantic telephone companies*, W-P-C 6966, Application at 1-2 (filed 6/16/94).**

⁹ ***Price Cap Performance Review for Local Exchange Carriers*, CC Docket 94-1, Reply Comments of Bell Atlantic at 18-19 (filed June 29, 1994).**

contrast, the comments of the New York Department of Public Service were informed by their own regulatory experience and called for a full proceeding examining the definitions of universal service, "as we move towards a competitive local exchange market."¹⁰ While the comments offer no consensus as to what, if any, additional services the traditional universal service requirement should extend, there appears to be no support for the idea that these important and complex issues can be satisfactorily resolved through additional regulatory hurdles in the Section 214 application process.¹¹

3. Extraneous issues raised in the comments suggest the need for a broader proceeding.

A number of comments raise issues extraneous to the petitions. Some, like a video dialtone franchise requirement,¹² have already been rejected by the Commission.¹³ Others, like the need for a mechanism to allow for low-fee or no-fee transmission of non-

¹⁰ ***Petitions for Relief and Rulemaking***, RM-8491, Letter from William J. Cowan, General Counsel, New York State Department of Public Service, to William F. Caton, Acting Secretary at 2 (July 11, 1994).

¹¹ ***See, e.g., Petitions for Relief and Rulemaking***, RM-8491, Comments of the Pennsylvania Public Utility Commission at 8 (filed July 12, 1994) ("a continuing concern of the PaPUC has been the use of the company specific § 214 process to resolve important industry-wide issues").

¹² ***See Petitions for Relief and Rulemaking***, RM-8491, Comments of the Alliance for Communications Democracy, *et al.* at 15 (filed July 12, 1994).

¹³ ***Telephone Company-Cable Television Cross-Ownership Rules: Further Notice of Proposed Rulemaking, First Report and Order, Second Further Notice of Inquiry***, 7 FCC Rcd 300, 324-28 (1991) ("Second R&O"); Memorandum Opinion and Order on Reconsideration, 7 FCC Rcd 5069 (1992).

commercial PEG and public broadcast programming,¹⁴ are already before the Commission through proposals by Bell Atlantic and others.¹⁵ There remain a number of issues, such as service to rural communities¹⁶ and service that includes close captioned programming,¹⁷ that go to the scope and nature of a universal service requirement. Like the central issues raised by the petitions, these issues should not be addressed in isolation, but rather all the costs and benefits of any obligation should be weighed and compared with other proposals in a proceeding reflecting a broad community of interests.

All parties can agree that, should it occur, the Commission has the ability and the obligation to address instances of racial discrimination in any service governed by the Commission, including

¹⁴ **Petitions for Relief and Rulemaking:** Comments of the Association of America's Public Television Stations at 2 (filed July 12, 1994); Comments of the Alliance for Communications Democracy, et al. at 10-11 (filed July 12, 1994).

¹⁵ **See Application of The Bell Atlantic telephone companies,** WPC-6966 at 4-5 (filed June 16, 1994) (proposing "will-carry" analog provision of over-the-air and PEG channels); **see also, Telephone Company-Cable Television Cross-Ownership Rules,** CC Docket No. 87-266, *Ex Parte* Submission of Bell Atlantic at 9-12 (filed July 1, 1994).

¹⁶ **Telephone Company-Cable Television Cross-Ownership Rules,** Second R&O, 7 FCC Rcd at 5851-57.

¹⁷ **See Petitions for Relief and Rulemaking,** RM-8491, Comments of the National Captioning Institute, Inc. (filed July 12, 1994).

video dialtone.¹⁸ There is no basis under existing rules, however, to impose universal service obligations on new common carrier services.

The Commission recently granted approval of the first commercial video dialtone project. Bell Atlantic is hopeful that this initial order will be followed by swift action on the many remaining applications pending. It would be inappropriate to slow video dialtone deployment by imposition of new burdens on the application process in order to address issues that are more appropriately and fully addressed elsewhere.

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Dated: July 27, 1994

¹⁸ See 47 U.S.C. § 202(a). This obligation does not and should not translate into burdensome reporting requirements. For example, mandating census tract data in any 214 application for video dialtone goes beyond any statutory requirement. It is unnecessary for any broad evaluation of deployment demographics as evidenced by both the petitions and the response of the companies accused of redlining. Moreover, such a requirement would lead to "extended litigation and 'micromanaging'" at a cost of further delays in video dialtone deployment to anyone. See *Petitions for Relief and Rulemaking*, RM-8491, Comments of Henry Geller and Barbara O'Conner at 2 (filed July 11, 1994).

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Response of Bell Atlantic to AT&T's Motion for a Waiver of Section I(D) of the Decree" was served this 27th day of June 1994, by first class mail, postage prepaid, on the parties on the attached list.


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