MCI

MCI Communications Corporation
1801 Pennsylvania Avenue, NW
Washington, DC 20006
202 872 1600

EX PARTE OR LATE FILED

DOCKET FILE COPY ORIGINAL

ORIGINAL

December 15, 1995

RECEIVED

DEC 1 5 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street N.W., Room 222
Washington, D.C. 29554

Re: Ex Parte Submission -- In the Bell Atlantic Telephone Companies, Revision to Tariff F.C.C. No. 10, Transmittal Nos. 741, 786, Rates, Terms, and Regulations for Video Dialtone Service in Dover Township, New Jersey, CC Docket No. 95-145

Dear Mr. Caton:

On December 12, 1995, MCI Telecommunications Corporation ("MCI") met with several members of the Commission staff, and representatives of the Bell Atlantic Telephone Companies ("Bell Atlantic"), Broadband Technologies, Inc. ("Broadband"), and AT&T Corp., to discuss their respective positions with regard to the terms and conditions of a nondisclosure agreement that would give interested parties access to the cost information filed in support of Bell Atlantic's proposed video dialtone rates, which were filed in Transmittal Nos. 741 and 786. Bell Atlantic has taken the position that employees of interested parties, including in-house counsel, should not be permitted to view this cost information because signatories of the nondisclosure agreement will either deliberately, or inadvertently, use knowledge of vendor prices attained through this investigation to competitively disadvantage Bell Atlantic and its vendor, Broadband.

In the Video Dialtone Reconsideration Order, released November 7, 1994, the Commission determined that it would serve the public interest for local exchange carriers ("LECs") to submit with their video dialtone tariffs a more detailed and complete identification of direct costs than it has generally required in other new services filings. Telephone Company-Cable Television Cross Ownership Rules, Section 63.54-63.58, CC Docket No. 87-266, Memorandum Opinion and Order on Reconsideration and Third Further Notice of Proposed Rulemaking, 10 FCC Rcd 247 (1994)("Video Dialtone Reconsideration Order"). In addition, the Commission said:

> We conclude that the video dialtone tariff review process will proceed more smoothly, and interested parties will be able to participate more constructively, if they better understand our expectations in advance of tariff filings. Id. at ¶215.

No. of Copies rec'd 0+6
List ABCDE

The Commission's intent was to ensure that telephone ratepayers would not have to bear an unreasonable portion of the costs of LEC video dialtone undertakings. There can be no doubt that the Commission contemplated unfettered, on-the-record, participation of all interested parties in evaluating Bell Atlantic's cost support.

Nevertheless, Bell Atlantic has filed a substantial portion of its cost information, which is fundamental to determining whether its proposed video dialtone rates are reasonable, under confidential cover. Bell Atlantic claims that the information that it has redacted in its filings is confidential because it represents proprietary third party pricing information. MCI argues that all of the cost information filed in support of Bell Atlantic's proposed video dialtone rates should be filed on the public record.

First, Bell Atlantic has redacted investment information for entire rate elements. Interested parties know only Bell Atlantic's rate for this equipment, and know nothing about its cost, including overhead costs (for examples, see attachments to MCI Opposition to Direct Case, filed November 30, 1995). Based on what is presently filed on the public record, there is no way to assess the reasonableness of the proposed rates.

Second, Bell Atlantic has requested that price information of common equipment, such as fuse panels, cross connect bays, and fan assembly shelves, be treated as confidential. The price that LECs pay for this equipment is typically filed on the record (for example, see cost support filed by LECs in the Commission's expanded interconnection proceeding). No explanation has been given by Bell Atlantic as to why equipment that is typically found throughout Bell Atlantic's network, as well as in many other LECs' networks, should receive confidential treatment in this instance.

Third, even if such pricing information were proprietary at the time Bell Atlantic purchased the equipment over one year ago, there is no reason to believe that this information is still "current" and justifies proprietary treatment today. Broadband contends that it does not want potential customers to know the prices that it has quoted Bell Atlantic, presumably because this would compromise its pricing in connection with other potential buyers. This concern might be legitimate if the pricing issue was "current" and not rendered stale by the passing of time. In this instance, the subject pricing was available on January 27, 1995. Given MCI's experience with LECs' ability to tariff new services, MCI believes that it is reasonable to assume that Bell Atlantic was quoted these prices at least six months prior to January 27, 1995. Therefore, the prices that Bell Atlantic wants the Commission to treat as confidential are at least one and one-half years old, which places a very heavy burden on Bell Atlantic to demonstrate the information is commercially sensitive at this time.

Finally, MCI questions the "third party" status of Bell Atlantic's vendor. On April 19, 1995, Bell Atlantic purchased warrants from Broadband, giving Bell Atlantic the option to purchase a portion of Broadband at a future date for a predetermined rate. Because of this relationship, the amount that Bell Atlantic pays for Broadband equipment is clearly affected by considerations extraneous to the transaction and, therefore, such pricing is all the more suspect in this case. Accordingly, this relationship highlights the need for all cost support to be filed on the public record.

In view of the foregoing, the Commission should require Bell Atlantic to file all cost information supporting its video dialtone services on the public record. At a minimum, should the Commission decide that confidential treatment of such information is warranted, it should require Bell Atlantic to modify its proposed nondisclosure agreement to allow interested parties' employees, which are participating in this investigation, to have access to all cost information filed in support of Bell Atlantic's video dialtone rates.

Very truly yours,

Don Sussman

cc: Regina Keeney
Geraldine Matise
David Krech
Suzan Friedman
Raj Kannan
Joe Mulieri
Betsy Anderson
Kevin McGilly
Charla Rath
Al Lewis
I.T.S.

networkMC LIBRARY

Wireless Cable

PacTel joins wireless migration

Plans call for 5 million customers by end of next year

By Mark Berniker

With one quick move, Pacific Telesis has staked out a position in the wireless cable business.

Pacific Telesis last week bought all the stock and debt of Cross Country Wireless for $175 million. With the purchase, PacTel will begin offering alternative cable service via wireless technology in Southern California. At the same time, it will be building its statewide video dialtone (VDT) network.

The purchase of Cross Country Wireless will speed PacTel's plans. The California telephone company has said it will invest $5 billion in VDT by 2000 with hopes of reaching more than 5 million households. Through Cross Country Wireless, PacTel will be able to offer video services to 5 million customers in Los Angeles and Orange counties, San Diego and Riverside by the end of next year.

Cross Country Wireless has 42,000 wireless cable subscribers in Riverside and licenses for other Southern California markets.

"This deal provides us with an early opportunity to reach a lot of customers in our developing video network," says Steve Harris, vice president, external affairs, Pacific Telesis.

However, Cross Country Wireless uses analog wireless cable technology, which can transmit only 34 channels of programing. Pacific Telesis intends to invest $20 million to upgrade Cross Country's analog facility to a digital headend, Harris says. The facility then will be capable of transmitting more than 100 channels of programing in direct competition with local cable operators.

Pacific Telesis will have to put up millions more to equip each subscribing household with an antenna and set-top box as well as in-home wiring. The cost per home is expected to be $400-$800.

As part of its technology and programing deal with Nynex, Bell Atlantic and the Creative Artists Agency, PacTel plans to deliver conventional video and interactive services over its VDT network.

"We will develop the best mix over time," Harris says. Some geographic areas may be offered digital wireless video services, while others may be more suited to high-capacity hybrid fiber.

The telco sees its investment in wireless cable as a way by which to attract customers to its evolving video network and to defer some of the costs of building expensive hybrid fiber optic/coaxial cable networks.

PacTel's purchase of Cross Country Wireless comes on the heels of Nynex and Bell Atlantic's $100 million investment last month in CAI Wireless Systems.

There are 700,000 subscribers to wireless cable services in the U.S. and close to 3 million subscribers worldwide. TMW

Interactive

Time Warner taps Gordon, Bruce for Full Service Net

Time Warner Cable has named Yvette Gordon director of system software for its Full Service Network, based in Maitland, Fla. Gordon, formerly FSN manager—software specialist, will oversee the integration of the complex software required to support 4,000 subscribers of FSN by the end of this year. Also at FSN, Susan Bruce was named director of interactive education and health programing. Bruce had been president of Bruce Media Connections, an Atlanta consulting firm specializing in the design and marketing of multimedia programs. —MB

BA buying BBT warrants

Bell Atlantic is purchasing six-year warrants from BroadBand Technologies for $7 million, which will entitle the telco to purchase 1 million shares of BBT common stock. However, Bell Atlantic still must receive relief from the AT&T consent decree's restrictions on manufacturing. BBT is supplying Bell Atlantic fiber-to-the-curb technology, which allows for the transport of video and telephony services to consumers.

Prodigy backs online newspapers

Online service Prodigy has announced that it will support the New Century Network, a new company formed by several of the country's largest newspaper companies to encourage the development of local online services. New Century Network participants include Advanced Publications, Cox Newspapers, Gannett, The Hearst Corp., Knight-Ridder, Times Mirror, Tribune Co. and The Washington Post Co.

TeleWest's UK cable, phone subs grow dramatically

TeleWest, a joint venture of TCI and US West, has added 12,960 cable TV subscribers in the first quarter and now has 192,056 subs in owned-and-operated franchises in the UK. TeleWest also has added 23,219 residential telephony subscribers, a 421% increase, bringing its total phone subscribers to 151,368.