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

In the Matter of	)	
	)	PP Docket No. 96-17
	)	
Improving Commission Processes	)	

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COMMENTS

BellSouth Corporation and BellSouth Telecommunications, Inc. ("BellSouth") hereby submit their comments on the Commission's Notice of Inquiry ("NOI") released on February 14, 1996 in the above referenced proceeding.

The NOI represents another step in the Commission's continuing endeavor to improve the Commission's service to the public, to reduce the burden of unnecessary regulation and to reform regulation. The Commission should be applauded in its willingness to seek and implement improvements to its regulatory processes.

These comments will focus on the Common Carrier Bureau (CCB) and changes that the Commission can implement that will make the CCB more effective under the new telecommunications framework established by the Telecommunications Act of 1996.[1] The linchpin of the Act is competition and the

[1] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (the "Act").

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challenge for the Commission is to remove the regulatory obstacles that inhibit the growth or distort the development of competition.

A. The Commission Should Adopt The Baseline Changes Proposed In CC Docket No. 94-1

In CC Docket No. 94-1, the Commission is considering regulatory reforms that ultimately are designed to transition Price Cap LECs out of regulation.[2] The reforms can be considered in two parts. The first part are baseline changes that are straightforward modifications to the Price Cap rules and the Part 69 rules that would clarify and simplify the treatment of new and innovative tariff offerings for Price Cap LECs, allow more downward pricing flexibility and improve the basket and band structure. These changes would be the foundation for the second part of the reform effort, an adaptive set of regulatory rules that would transition the LECs out of regulation.

The Telecommunications Act of 1996 has already established, legislatively, the adaptive framework for transitioning all carriers, including LECs, out of regulation by establishing the criteria and authority for regulatory forbearance. Thus, the Commission should quickly act on adopting the baseline changes proposed in CC Docket No. 94-1 to establish a framework that is complementary to the legislative mandate to replace regulation with competition.

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[2] In the Matter of Price Cap Performance Review for Local Exchange Carriers, Second Further Notice of Proposed Rulemaking, CC Docket No. 94-1; Treatment of Operator Services Under Price Cap Regulation, Further Notice of Proposed Rulemaking, CC Docket No. 93-124; Revisions to Price Cap Rules for AT&T, CC Docket No. 93-197, released Sept. 20, 1995.

Such action would be particularly timely, not only because of the recent telecommunications legislation, but also because of the Commission's own aspirations to improve regulatory processes as identified in the NOI. Furthermore, the public comment portion of the rulemaking necessary to effect such changes has already been completed; all that is needed now to bring these improvements into fruition is a Commission order. Thus, the Commission has an immediate opportunity to take another step in reinventing the FCC.

B. The Commission Should Take Steps To Reduce Other Regulatory Burdens

Many of the Commission's existing rules and reporting requirements are a product of an industry market structure characterized by regulated monopoly and rate-of-return regulation. The Commission's regulatory processes have not adapted as the industry market structure has changed or as the rate-of-return paradigm has given way to Price Cap regulation. These fundamental changes provide a ripe opportunity to modify or eliminate existing regulations and procedures.

1. Depreciation

The Telecommunications Act of 1996 amended Section 220(b) of the Communications Act of 1934 to permit, rather than require, the Commission to prescribe depreciation rates for common carriers. In CC Docket No. 92-296, the Commission revised the process of prescribing depreciation rates for AT&T and

the Price Cap LECs.[3] For AT&T, the Commission adopted the "Price Cap Carrier Option", which essentially gave AT&T control over its depreciation rates to the maximum extent that the Commission deemed lawful under the mandatory language of then-existing Section 220(b). For the Price Cap LECS, however, the Commission took only a very modest step, adopting a "Basic Factor Range Option" that afforded little or no additional flexibility for LECs, such as BellSouth, that had pursued aggressive modernization of their networks. On December 6, 1993, BellSouth petitioned the Commission for reconsideration, requesting that the Commission extend the Price Cap Carrier Option to the Price Cap LECs. The Commission has taken no action on the BellSouth petition, or a similar petition for reconsideration filed by USTA.[4]

BellSouth believes that its pending Petition for Reconsideration should be used as a vehicle to immediately extend the Price Cap Carrier Option to the Price Cap LECs, and that the Commission should institute a new proceeding as soon as practicable to consider forbearance from any regulation of depreciation rates of the Price Cap LECs. The Commission minimally regulates the depreciation rates of AT&T, and does not regulate the depreciation rates of the other interexchange carriers at all. It does not prescribe depreciation rates for cable television companies, competitive local exchange carriers, or wireless service providers.

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[3] In the Matter of Simplification of the Depreciation Prescription Process, CC Docket No. 92-296, Report and Order, released October 20, 1993.

[4] USTA Petition for Reconsideration in CC Docket No. 92-296, filed December 3, 1993.

Many states have passed laws adopting price regulation for the intrastate services of the LECs, and most such laws have eliminated regulation of LEC depreciation rates for intrastate ratemaking purposes. The Commission should institute a proceeding to determine whether active regulation of LEC depreciation rates continues to serve the public interest, or whether it is an unnecessary vestige of rate of return regulation.

2. Reports

Currently, the Commission requires LECs to file quarterly monitoring reports associated with the implementation of the local transport restructure. The actual restructure, however, took place two years ago. Thus, the reports no longer measure or identify any impact regarding the implementation of the local transport restructure. Simply, they are reports without purpose and which the Commission should eliminate.

Another set of reports whose need is questionable is the ARMIS reports. LECs must file certain of these voluminous and burdensome reports on a quarterly basis.[5] The Telecommunications Act of 1996 holds out some relief in that it requires the Commission to permit carriers to file all such reports on an annual basis. This provision of the Act, however, does not take effect until 1997. There

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[5] ARMIS Reports 43-01 and 43-05 are currently field quarterly. ARMIS Report 43-06 is filed semi-annually, with the remaining reports filed annually. In its Notice of Proposed Rulemaking in CC Docket No. 96-23, the Commission proposes to reduce the filing frequency for ARMIS Report 43-05 from quarterly to semi-annually. See, Revision of Filing Requirements, CC Docket No. 96-23, Notice of Proposed Rulemaking, released February 27, 1996. Although a positive step, the Commission should reduce the filing frequency to an annual basis.

is no reason that the Commission could not immediately waive its filing requirements for 1996 so that all reports are filed annually, bringing an instantaneous reduction in the regulatory burdens imposed upon LECs.

Beyond changing the reporting cycle, the need for such reports must be reevaluated. For example, several reports have cost allocation information based upon procedures developed under cost-of-service and rate-of-return regulation. These reports have no relevance for a Price Cap LEC not subject to a sharing requirement and hence represent a regulatory anachronism that should be expunged.[6]

There are other reports that no longer serve a necessary regulatory purpose. The report of interexchange carriers purchasing access is no longer needed since the Commission has declared AT&T non-dominant. Another needless report is the annual employment report for common carriers. A far more economical approach would be an annual certification statement by carriers that the company complies with all EEO and other relevant fair employment laws.

Modifying or eliminating reporting requirements as indicated above can be a significant step toward the Commission's objective of creating a more efficient regulatory framework. More importantly, these changes can be easily made and the Commission, therefore, has an immediate opportunity to realize the benefits that will ensue.

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[6] Specifically, ARMIS Reports 43-01, 43-02, 43-03, and 43-04 as well as Report 495A/B should be eliminated. Another report which has no relevance for a Price Cap LEC not subject to sharing is the FCC 492A Interstate Earnings Report and, therefore, the report should be eliminated.

3. Audits

The Commission imposes an annual Part 64 compliance audit to be performed by independent auditors. The need for continuing this expensive procedure is dubious. The Commission staff also audits Part 64 compliance. Thus, the independent compliance audit is duplicative and unnecessary. Further, Price Cap regulation has eliminated the nexus between cost allocations and rate levels. Accordingly, the concern that rates from regulated services might recover unregulated costs, which gave rise to the audit requirement, is no longer valid under price regulation. Accordingly, the audit requirement ought to be eliminated. If not eliminated in its entirety, then the audit period should be changed from an annual review to a biannual review.

More generally, the Commission needs to adopt more formalized audit standards and procedures to be followed when an audit is conducted. Professional auditing standards, such as those set for the Government Auditing Standards issued by the Comptroller General of the United States, call for preaudit planning that includes a written statement of the objectives of the audit, scope of the audit, the audit methodology and results.[7] Further, such standards contain criteria for determining the appropriate audit tests based on the financial risk of the transactions being audited.[8] The benefit in terms of cost savings and resource conservation of implementing and following such audit standards are self-evident.

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[7] See e.g., Government Auditing Standards, Chapter 4, ¶ 22.

[8] Financial risk likewise goes to setting the nature, timing and extent of the audit procedures to be performed.

These standards would prevent endless meandering that occurs because of poor (or no) audit planning and would stop the misdirected efforts associated with audits of transactions that have no material impact on the carriers financial results.

CONCLUSION

The discussion above identified several substantial improvements that the Commission could make immediately to reduce or eliminate regulations that serve no valid purpose. Beyond these improvements the Commission must commit to acting quickly upon matters that come before it. To the extent that the Commission maintains rules that limit the LECs ability to react to changes in the marketplace, and thereby creates an environment that necessitates seeking Commission permissions and approvals, (e.g., waivers) then the Commission must act with dispatch on these requests. With rapidly changing market conditions, neither the Commission nor the LECs have the luxury of a year or more to obtain a

Commission decision. The Commission must be prepared to act rapidly, particularly when only one class of telecommunications carrier is hindered by the Commission's intrusive regulations, LECs.

Respectfully submitted,

BELLSOUTH CORPORATION
BELLSOUTH TELECOMMUNICATIONS, INC.

By: _____

M. Robert Sutherland
Richard M. Sbaratta

Their Attorneys

Suite 1700
1155 Peachtree Street, N.E.
Atlanta, Georgia 30309-3610
(404) 249-3386

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