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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

March 27, 1996

Ex Parte

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. -- Rm. 222
Washington, D.C. 20554

Re: Price Cap Performance Review for Local Exchange Carriers, CC Docket 94-1 (Pricing Flexibility)

Yesterday, on behalf of Bell Atlantic, Ed Lowry, Ed Shakin, Joe Mulieri, and Ellen White from Bell Atlantic, and Richard Gilbert and Bob Harris from Law and Economics Consultants Group, Inc., met in separate meetings with Joe Farrell (Chief Economist) and Jim Schlichting (Chief - Tariff Division) to discuss price regulation reform in the above referenced proceeding.

Due to the late hour at which the meetings concluded, this ex parte could not be filed until today. The attached material was used in the discussions. Please enter this material into the record as appropriate.

Please do not hesitate to contact me if there are any questions.

Sincerely,

Joe Mulieri

Attachment

cc: J. Farrell
J. Schlichting

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Proposed Reforms of FCC Price Cap Regulation

Ex Parte Presentations to the FCC
Professors Richard Gilbert
& Robert Harris
on behalf of Bell Atlantic
March 26, 1996

Public Policy Objectives of Price Cap Reforms

- promote new services and consumer choice
- promote competition for the benefit of consumers
- promote efficiency

Reform Price Regulation to Reduce Economic Burdens and Administrative Costs

- avoid regulations that encourage opportunism to protect competitors, not consumers
- antitrust laws provide effective sanctions against predatory conduct

Benefits of These Regulatory Reforms Do Not Depend on the Degree of Competition

- eliminate delays in new services
- allow flexible pricing, down to LRIC
- allow differential pricing

Eliminate Delays in New Services

- new services are predominately discretionary and therefore do not require price regulation
- consumers benefit from new services at any price, so long as existing services remain available
- competitors exploit regulatory process to delay new services
- delays are costly for innovators and reduce incentives to provide new services

Delays Hurt End Users

"Marriott is also concerned over the amount of time which must be expended in filing for tariffs. We have had numerous experiences where tariff filing delays have impacted Marriott by delaying the availability [of] services. This situation has an adverse impact on Marriott's businesses, resulting in both delay in delivering new important services and lost saving benefits for Marriott. Marriott favors a simplified tariff process which minimizes the need for tariff filings, and reduces the amount of data that must be included in those filings."

January 19, 1996 Letter from Kelsey W. Hill, Marriott Corporation, to William Canton, FCC Acting Secretary

InterLATA Operator Services Were Delayed

- Bell Atlantic's Part 69 waiver was not granted for more than a year
- Large IXCs tried to delay Bell Atlantic's entry into IOS market
- Bell Atlantic lost many customers during waiver delay

Proposed Reforms to Reduce New Service Delays

- eliminate Part 69 waiver process
- allow one-day notice without cost support, so long as existing services remain available:
- do not impose price cap restrictions on new services

Allow Flexible Pricing, Down to LRIC

- holding prices above LRIC induces inefficient entry
- price at or above LRIC is not predatory

Allow Differential Pricing

- fixed costs are large relative to variable costs
- costs of service vary markedly across customers, geography, volume, terms
- differential pricing is essential to recover total costs, meet competition, and avoid inefficient entry

Regulatory Reforms That Depend on the Degree of Competition

- rationale for removing service from price cap regulation
- competitive benefits of forbearance: recent IXC proposal
- develop framework now to reduce uncertainty, ad hoc policy-making

Assessing Competition in Local Access and Exchange Markets

- there are <u>many</u> relevant product markets and <u>many</u> geographic markets
- competition is developing faster in some relevant markets than others
- over-aggregation of markets leads to over-regulation

Market Share is Backward-Looking, Not Forward-Looking

- In many markets, potential competition is actual competition (uncommitted entrants)

There Are at Least 14 Special Access Competitors in Bell Atlantic's Service Area, Including:

- MFS
- Eastern Telelogic
- Penn Access
- TCG
- Cox Fibernet

Urban HICAP Markets Are Increasingly Competitive

(As of First Quarter 1995)

Competitors have large and increasing shares of revenues in the following markets:

◆ Philadelphia	39%
◆ Pittsburgh	36%
◆ Washington Metro Area	33%
◆ Baltimore	27%

Lessons from Other Regulated Industries

- transportation; financial services; electricity
- regulatory restrictions incurred massive costs by encouraging inefficient entry
- regulations required continuing subsidies, but competitors took away large share of high-margin business
- failure to reform regulation burdened consumers, required public bailouts, bankrupted firms

Lessons for Price Cap Policy

- do not "promote competition" by protecting competitors from competition
- eliminate barriers to new services
- permit flexible and differential prices
- eliminate price caps in relevant markets with effective competition