

ORIGINAL

DOCKET FILE COPY ORIGINAL

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

MAR 29 1996

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

BELL ATLANTIC REPLY COMMENTS

In its initial comments, Bell Atlantic¹ identified eight fundamental Commission actions necessary for true regulatory reform in the wake of industry changes resulting from the new Telecommunications Act.² The eight Bell Atlantic proposals are:

1) Eliminate unnecessary regulation of local exchange carrier ("LEC") new services, thereby allowing new service filings on one day's notice without a requirement of burdensome costs support or Part 69 waivers and without subsequent price regulation.

2) Existing LEC services that are under price caps should have pricing restrictions removed as soon as there is a competitive alternative available.

3) Eliminate regulation of LEC earnings. To the extent regulation is necessary, pure price regulation comes the closest to duplicating the incentives of a free market.

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

² Bell Atlantic Comments (filed Mar. 15, 1996).

No. of Copies rec'd
LIS:ASCOE

0411

4) Eliminate LEC depreciation regulation. Regulation has distorted the actual depreciation levels. Without earnings regulation, depreciation levels are irrelevant to a regulatory policy.

5) Eliminate regulated service cost allocation requirements. Like depreciation, such regulation is unnecessary absent earnings regulation.

6) Eliminate filing requirements for wireless transmission facilities within a geographic safe zone.

7) Eliminate unnecessary reporting requirements.

8) Do not use the 1996 Act to create new regulatory burdens.

These suggested reforms will help limit Commission regulation to those areas where there is a real need, and not in those areas where market forces should control. A number of commenters echoed Bell Atlantic's call for fundamental reform,³ including many of the specific reforms proposed by Bell Atlantic.⁴

Implementation of the proposed reforms will also protect against asymmetrical regulation, where one class of service providers have disparate regulatory burdens imposed. The Commission's recently announced proposal to eliminate a tariffing requirement for nondominant providers of long distance services⁵ highlights the importance of regulatory symmetry as the

³ *See, e.g.*, AT&T Comments at 2 (filed Mar. 15, 1996). ("Achieving the *NOI*'s objectives will require far more than piecemeal modifications in the Commission's procedural rules and practices.").

⁴ *See, e.g.*, Ameritech Comments at 3-5 (eliminate cost allocation requirements for services regulated under pure price caps); Comments of Cincinnati Bell Telephone Company at 3-4 (eliminate requirement for Part 69 waivers); Comments of GTE at 5-7 (eliminate depreciation regulation) (all comments filed Mar. 15, 1996).

⁵ *Policy and Rules Concerning the Interstate, Interexchange Marketplace*, CC Docket No. 96-61, Notice of Proposed Rulemaking (rel Mar. 25, 1996).

Commission moves to forbear from all unnecessary regulation. In this new age of overlapping industries, the Commission must take care that in providing relief to one industry segment, it does not distort the market by failing to provide equivalent relief to other competitors. Leaving isolated groups of service providers with disparate regulatory burdens not only disadvantages those providers, but it hurts consumers by creating uneconomic market distortions.

In addition to the fundamental reforms proposed by Bell Atlantic, a number of parties identify procedural reforms that go beyond the Commission's proposals and would further improve the Commission's regulatory process. For example, several commenters suggest the need for strict Commission completion dates for its processes.⁶ Honoring such self-imposed deadlines⁷ will not only reduce regulatory burdens, but also it will reduce the ability of parties to game the regulatory process by encouraging unnecessary delays. Committing to such regulatory timelines will have the secondary benefit of stimulating the Commission to adopt additional streamlining so that it can meet its deadlines with limited resources.

As an illustration, the Commission could adjust the complaint process in order to facilitate Commission action on complaints within the statutory timeline. The Commission should require complete documentation for all legal and factual arguments in the complaints and answers. This would reduce or eliminate the need for discovery, and could narrow subsequent briefs. The Commission could also require that dispositive motions be decided within 30 days

⁶ *See, e.g.*, Comments of the United States Telephone Association ("USTA") at 6 ; Ameritech Comments at 8; Comments of U.S. West Communications at 8, Inc. (all filed Mar. 15, 1996).

⁷ In some cases, there are preexisting statutory deadlines as well. As changes in telecommunications business are occurring with even greater speed and frequency, the Commission must make it an absolute commitment that all statutory deadlines will be met.

and all other procedural dates should be stayed while the motion is pending. These reforms could eliminate many complaints and narrow the scope of discovery and the issues to be briefed in others.⁸

In addition to resolving future proceedings within a predetermined time frame, the Commission should also implement commenters' suggestion that the Commission close certain existing dockets that are ripe for resolution.⁹ For example, Docket 93-292 was established in 1993 to apportion responsibility among industry segments for the control and liability of toll fraud. In the intervening years, the industry has independently established working processes, industry forums, and fraud prevention features that would make further Commission action either redundant or disruptive. There is no reason to continue regulatory uncertainty in this area by keeping this docket open.

Commenters also suggested that the Commission adjust its procedural mechanisms so that even continuing requirements become less burdensome.¹⁰ Such suggestions can be as simple as accepting same-day credit card payments for filing fees.¹¹ They can also be as

⁸ In contrast, the Telecommunications Resellers Association argues for modification of the complaint process by creating a separate more expedited complaint tract for resellers. Comments of Telecommunications Resellers Association at 5 (filed Mar. 15, 1996). Such one-sided reform proposals suggest a desire to modify Commission rules to create competitive advantage, rather than true reform. Moreover, creating such asymmetrical reform encourages abuse of the complaint process with no fear of reciprocal procedures.

⁹ *See* USTA Comments at 6 (filed Mar. 15, 1996).

¹⁰ These comments augment the Commission's own positive suggestions in the Notice of Inquiry. For example, the Commission proposes streamlined regulatory oversight of small scale trials. *Improving Commission Processes*, PP Docket No. 96-17, Notice of Inquiry, ¶ 66 (rel. Feb. 14, 1996). Because it is in the public interest to encourage such trials, and because, as the Commission recognizes, such trials need not implicate policy changes, there is no reason to impose a public notice requirement.

¹¹ *See* Comments of SBC Communications, Inc. at 6-7 (filed Mar. 15, 1996).

competitively necessary as granting carriers a presumption of confidentiality for cost data filed with tariffs.¹² Of course, the more fundamental resolution to the problems of rivals gaining access to competitively sensitive cost data is Bell Atlantic's proposal to eliminate the requirement that such data be filed.¹³ The policy of routinely requiring sensitive cost data to be filed with every new service is a remnant of an industry monopoly that no longer exists.

Conclusion

The Commission correctly recognized that in order to meet the needs of a changing market, it must change both how and what it regulates. The Commission should move quickly to adopt proposals offered by Bell Atlantic and others that eliminate unnecessary regulation and promote regulatory parity.

¹² *Id.* at 3-4.

¹³ *See* Bell Atlantic Comments at 3-5.

Respectfully submitted,



Edward Shakin

Edward D. Young, III
Michael E. Glover
Of Counsel

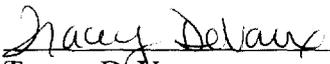
1320 North Court House Road
Eighth Floor
Arlington, VA 22201
(703) 974-4864

Attorney for the
Bell Atlantic Telephone Companies

March 29, 1999

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Bell Atlantic Reply Comments" was served on the parties on the attached list.


Tracey DeYaux

* Via hand delivery.

James Schlichting*
Federal Communications Commission
1919 M Street, NW
Room 518
Washington, DC 20554

Richard Welch*
Federal Communications Commission
1919 M Street, NW
Room 544
Washington, DC 20554

John Nakahata*
Federal Communications Commission
1919 M Street, NW
Room 814
Washington, DC 20554

Lauren "Pete" Belvin*
Federal Communications Commission
1919 M Street, NW
Room 802
Washington, DC 20554

Todd Silbergeld*
Federal Communications Commission
1919 M Street, NW
Room 826
Washington, DC 20554

Daniel Gonzalez*
Federal Communications Commission
1919 M Street, NW
Room 844
Washington, DC 20554

Richard Metzger*
Federal Communications Commission
1919 M Street, NW
Room 500
Washington, DC 20554

James L. Casserly*
Federal Communications Commission
1919 M Street, NW
Room 832
Washington, DC 20554

Jim Olson*
Federal Communications Commission
1919 M Street, NW
Room 614
Washington, DC 20554

Robert Pepper*
Federal Communications Commission
1919 M Street, NW
Room 822
Washington, DC 20554