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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Implementation of the Non-Accounting)
Safeguards of Sections 271 and 272)
of the Communications Act of 1934, as)
amended;)
_____)

CC Docket No. 96-149

Bell Atlantic's Offer of Comparably)
Efficient Interconnection to Providers)
of Enhanced Internet Access Services)
_____)

CCBPol. 96-09
DA 96-355

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Southwestern Bell Telephone)
Company's Comparably Efficient)
Interconnection Plan for the Provision)
of Internet Support Services)
_____)

CC Docket Nos. 85-229, 90-623
and 95-20
DA 96-1031

**PETITION TO CONSOLIDATE PROCEEDINGS
BY MFS COMMUNICATIONS COMPANY, INC**

MFS Communications Company, Inc. ("MFS") by its undersigned counsel and pursuant to Sections 1.401 *et seq.* of the Federal Communications Commission's ("Commission") rules submits this petition requesting that the Common Carrier Bureau and the Commission consolidate the above captioned proceedings into a single rulemaking.

I. PROCEDURAL BACKGROUND

On March 8, 1996, Bell Atlantic filed a Comparably Efficient Interconnection ("CEI") plan for its Internet services. On June 6, the CEI plan was considered by the Common

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Carrier Bureau and approved as complying with the Commission's Computer III requirements ("Bell Atlantic CEI Order"). On July 3, 1996, MFS filed a petition for reconsideration of the Common Carrier Bureau's order ("MFS CEI Petition"). MFS's CEI Petition was released for public comment on July 10, 1996. Comments on the MFS CEI Petition are due by August 9, 1996 and replies are due by August 26.

In the MFS CEI Petition, MFS argued that the Bell Atlantic CEI Order should not have analyzed Bell Atlantic's Internet offerings under the Commission's Computer III and CEI rules, but under the provisions of the Telecommunications Act of 1996 which supersede the Computer III and CEI rules. MFS argued that:

- ▶ Because Bell Atlantic's Internet is an interLATA information service Bell Atlantic's integrated offering violates the separate subsidiary requirements of Section 272
- ▶ Pursuant to the statutory definition of "incidental interLATA services" dial-up, retail Internet services provided by Bell Operating Companies (like Bell Atlantic's) are interLATA services for purposes of complying with the Section 271 checklist.
- ▶ Bell Atlantic's Internet CEI Plan presents novel questions of fact, law or policy which cannot be resolved under outstanding precedents and guidelines since they involve interpretation and application of newly enacted provisions of the Telecommunications Act. Under the Commission's rules, resolution of novel questions of fact, law or policy are outside the scope of the authority delegated to

the Common Carrier Bureau.^{1/} Such novel questions of fact, law or policy must be decided by the Commission.

MFS asked that the Common Carrier Bureau suspend Bell Atlantic's Internet offering and CEI plan until the Commission has had an opportunity to address the issues raised by the Bell Atlantic CEI Plan.

On June 21, 1996, Southwestern Bell Telephone filed a CEI Plan for its Internet offering. Southwestern Bell's CEI Plan was released for public comment. Comments are due July 26, 1996, and replies are due on August 12. Unlike Bell Atlantic, Southwestern Bell proposes to offer Internet services through a separate affiliate.

On July 18, 1996, the Commission released its Notice of Proposed Rulemaking in CC Docket 96-149. Among other things, it seeks comments on the nature of interLATA information services, interLATA telecommunications services, and the structure of separate subsidiaries required under Section 272 of the Telecommunications Act. The Commission also seeks comment on "which, if any, of our Computer II, Computer III, and ONA rules many have been rendered unnecessary by the 1996 Act."

II. RELIEF REQUESTED

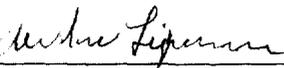
MFS requests that the comments, replies and its petition for reconsideration included in the record of the Bell Atlantic CEI Order be consolidated and addressed in the Commission's rulemaking in CC Docket 96-149. MFS also requests that the CEI Plan, and any comments included in the record associated with Southwestern Bell's CEI Plan

^{1/} 47 C.F.R. § 0.291(a)(2).

be included in the Commission's rulemaking in CC Docket 96-149. The CEI Plans filed by both Bell Atlantic and Southwestern Bell, and the MFS CEI Petition raise common issues that are properly addressed in the Commission's comprehensive rulemaking in CC Docket 96-149. It is administratively inefficient and outside of the scope of the Common Carrier Bureau's delegated authority to engage in three proceedings (two CEI Plans and the rulemaking in CC Docket 96-149) that all raise similar novel policy, factual and legal issues. If the Commission consolidates these proceedings, MFS also requests that the Commission promptly suspend the pleading cycles established by the Common Carrier Bureau so that commentators will have an opportunity to focus on the comprehensive proceeding.

Respectfully submitted,

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Dated: July 25, 1996

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of July 1996, copies of the foregoing
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COMPANY, INC.; CC Docket No. 96-149; CCB Pol. 96-09, DA 96-355, CC Docket
Nos. 85-229, 90-623 and 95-20, DA 96-1031 were served via First-Class mail or via
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