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

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In the Matter of	
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
Bell Atlantic's Offer of Comparably Efficient Interconnection to Providers of Enhanced Internet Access Services	CCBPol. 96-09
Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended	CC Docket No. 96-149

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SOUTHWESTERN BELL TELEPHONE COMPANY'S COMMENTS IN OPPOSITION TO PETITION TO CONSOLIDATE PROCEEDINGS

Southwestern Bell Telephone Company ("SWBT"), by its attorneys, hereby opposes the Petition to Consolidate Proceedings ("petition"), filed on July 25, 1996, by MFS Communications Company Inc. ("MFS"). In particular, the Commission should deny MFS' request that the record developed regarding SWBT's Comparably Efficient Interconnection ("CEI") Plan for Internet Support Services[1] be consolidated with the BOC In-Region rulemaking proceeding.[2]

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[1] Southwestern Bell Telephone Company's Comparably Efficient Interconnection Plan for the Provision of Internet Support Services, filed June 21, 1996.

[2] Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended, CC Docket No. 96-149, Notice of Proposed Rulemaking, (continued...)

As the Bureau has recently recognized, a CEI plan approval proceeding is limited to determining whether the plan complies with the Commission's Computer III requirements.[3] These requirements impose obligations with respect to nine specific CEI parameters and with respect to certain nonstructural safeguards prescribed by the Commission.[4] SWBT's CEI Plan identifies all of the required parameters and safeguards, and details how SWBT intends to comply fully with each of them.

MFS' petition makes no claim that SWBT has failed to identify any parameter or safeguard, and it makes no claim that SWBT's compliance with any parameter or safeguard is deficient. In fact, MFS fails to state any claim that SWBT's CEI Plan is objectionable under the Commission's Computer III requirements (or even under the Telecommunications Act of 1996 ("Act")). MFS' attempt to consolidate this matter with the BOC In-Region Rulemaking proceeding should be rejected for this reason alone.

MFS recites that there are "common issues" raised between this proceeding and the proceedings culminating in the Bureau's issuance of the Bell Atlantic CEI Order, such that both should be consolidated into the BOC In-Region rulemaking proceeding. Such bootstrapping suffers from two key defects.

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[2](...continued)
released July 18, 1996 ("BOC In-Region rulemaking proceeding").

[3] Bell Atlantic Telephone Companies, Offer of Comparably Efficient Interconnection to Providers of Internet Access Services, CCBPol 96-09, Order, released June 6, 1996 ("Bell Atlantic CEI Order"), at para. 47.

[4] Amendment of Section 64.702 of the Commission's Rules and Regulations, Phase I, Report and Order, 104 FCC 2d 958 (1986) (further citations omitted) ("Phase I Order"), at paras. 154-166; Phase II, 2 FCC Rcd 3072 (1987) (further citations omitted) ("Phase II" Order"), at paras. 73-75.

First, MFS' pleading fails to allege what these "common issues" are, much less persuade that such issues would even be material to the Bureau's determination. To the contrary, the lack of commonality is betrayed by MFS' own pleading. For instance, MFS objects to Bell Atlantic's "integrated offering"[5] but elsewhere acknowledges that "[u]nlike Bell Atlantic, Southwestern Bell proposes to offer Internet services through a separate affiliate."[6]

Second, even assuming the existence of such common issues, MFS' argument is beside the point. The Bureau has already determined, for good reasons, that Bell Atlantic's CEI plan should not be rejected, notwithstanding MFS' various claims that it may not be consistent with portions of the Act. Thus, the Bureau concluded that MFS' interconnection and unbundling arguments based on Sections 251 and 252 of the Act were best addressed in a rulemaking proceeding, and that its interLATA arguments based on Sections 271 and 272 of the Act were best addressed in a separate rulemaking proceeding.[7] The Bureau should take the same approach here, particularly given the lack of any objection by MFS to SWBT's CEI Plan.

MFS' petition for consolidation should be viewed for what it actually is: an attempt to "stay" Bureau approval of SWBT's CEI Plan until the conclusion of the BOC In-Region rulemaking proceeding. The Bureau has already correctly decided that CEI plan approval should <u>not</u> have to await completion of a separate rulemaking. That policy decision was sound when made and remains sound now. Consolidation here would be particularly inappropriate given that the two proceedings involve, on the one hand, a service-specific CEI plan about which MFS offers no

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[5] MFS Petition, at 2

[6] MFS Petition, at 3

[7] Bell Atlantic CEI Order, at paras. 47 (referring to the Interconnection NPRM) and 51 (referring to the BOC In-Region NPRM), respectively.

complaints, and on the other, an industry-wide, vigorously debated, administrative rulemaking covering a plethora of subjects.[8]

In sum, the matter at hand is limited to SWBT's compliance with the Commission's established CEI plan requirements. To the extent that there are any matters here (though not identified by MFS) that will be affected by the future policy decisions made in the BOC In-Region rulemaking, SWBT's CEI Plan may be subject to those decisions. At present, however, the Bureau should deny MFS' petition and approve SWBT's CEI Plan for Internet Support Services.

Respectfully submitted,

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[8] Moreover, as a practical matter, consolidation would be unnecessary given that the Bureau has already determined that Bell Atlantic's provisioning of Internet services on an interLATA basis will be subject to the requirements established in the BOC In-Region rulemaking proceeding. Id., at para. 51. The Bureau's position in this regard is sufficient, without more, and consistency requires that neither this proceeding nor the proceeding involving Bell Atlantic's CEI plan should be consolidated with the BOC In-Region rulemaking proceeding.

CERTIFICATE OF SERVICE

I, Liz Jensen, hereby certify that the foregoing Southwestern Bell Telephone Company's Comments In Opposition to Petition to Consolidate Proceedings, CC 85-229, 90-623 and CCBPol 96-09 and 96-149, have been served this 5th day of August, 1996 to the Parties of Record.

Liz Jensen

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August 5, 1996

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