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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Re: CC Docket 92-297
"Rules and Policies for Local Multipoint Distribution Service (LMDS)"

Today, Don Brittingham, Director-Wireless Policy for Bell Atlantic, and the undersigned had two meetings with the Commission on the above referenced proceeding. The first was with Jackie Chorney of Chairman Hundt's office and the second was with Rudy Baca of Commissioner Quello's office. The discussion focused on whether LECs should be restricted from holding LMDS licenses in-region. A summary of issues discussed at the meeting is attached.

The Commission has consistently followed an "open entry" policy in adopting rules for new wireless services. Nothing in the 1996 Telecommunications Act changes the soundness of such a policy for LMDS. In fact, Congress clearly articulated its intent to promote LEC entry into the video programming market, and identified LMDS as an option for LEC entry.

On September 12, 1996, Bell Atlantic filed an economic paper which was developed by Strategic Policy Research entitled "Economic Disabilities of License Eligibility and Use Restrictions". The paper concludes that LECs should be eligible for LMDS in-region, because (1) LECs have no incentive to credibly and profitably preempt local competition by acquiring LMDS licenses, (2) there are likely to be significant economies of scale and scope from LEC LMDS operations, and (3) LMDS is most likely to be used as a competitive alternative to incumbent cable services.

Questions regarding this matter should be directed to me on (202) 392-6980.

Attachment

cc: Mr. Rudy Baca
Ms. Jackie Chorney

No. of Copies rec'd 0+1
List A B C D E

"Rules And Policies For The Local Multipoint Distribution Service (LMDS)"
CC Docket 92-297

Bell Atlantic Ex Parte
(9/24/96)

The proposal to restrict LECs from acquiring LMDS licenses in their service territories is in direct conflict with the Telecommunications Act of 1996.

1. A fundamental goal of the Act was to remove barriers to entry, not erect them. Adoption of pro-competitive policies, such as LEC interconnection rules, will ensure that local competition develops without the need for license restrictions.

2. Congress specifically recognized the benefits of LEC entry into the video programming market, including through the use of LMDS technology.

   - In addressing LEC provision of video programming services, Congress recognized "that there can be different strategies, services and technologies for entering video markets", and agreed "to multiple entry options to promote competition, to encourage investment in new technologies and to maximize consumer choice of services that best meet their information and entertainment needs". (Conf. Rep. No. 104-458, 104th Cong., 2d Sess. (1995) at 172).

   - In addressing the establishment of open video systems, Congress again recognized "that telephone companies need to be able to choose from among multiple video entry options to encourage entry, and so systems under this section [are] allowed to tailor services to meet the unique competitive and consumer needs of individual markets". (Conf. Rep. No. 104-458, 104th Cong., 2d Sess. (1995) at 177).

   - In addressing effective competition to cable companies, Congress recognized that LECs might provide video programming services "by any means", and defined this to include "any medium (other than direct-to-home satellite service) for the delivery of comparable programming, including MMDS, LMDS, and open video system, or a cable system". (Conf. Rep. No. 104-458, 104th Cong., 2d Sess. (1995) at 170).

LECs do not have an incentive to credibly and profitably preempt local exchange competition by acquiring LMDS licenses in-region.

1. Federal and state regulation is designed to prevent LECs from exercising market power, and therefore, from realizing any monopoly profits.
2. New pro-competitive policies will act to ensure that local competition develops, and thus, monopoly profits cannot exist. Competition will come from a variety of sources:
   - Full Service Providers: AT&T, MCI, Sprint, MFS/WorldCom.
   - CAPs; Teleport, LCI, ACSI.
   - Cable Companies: TCI, Cox, Comcast, Time Warner, Cablevision, Adelphia.
   - Cellular/PCS: AT&T, Sprint, NextWave/MCI.
   - Fixed Microwave: Associated Communications, WinStar,
   - Satellite-based services: Hughes, Motorola, Teledesic, TRW.
3. The highest valued use of the LMDS spectrum is for the delivery of video services.

LEC use of LMDS technology would likely yield significant economies of scale and scope.

1. In the context of its PCS rulemaking, the Commission determined that LEC use of wireless technology might produce "significant economies of scope", and therefore, concluded that LECs should be eligible.
2. The potential economies for LMDS are no less significant, and the argument for LEC LMDS eligibility is, therefore, equally compelling.
3. The proof of the scope and magnitude of any LMDS economies lies ultimately in their actual realization in the marketplace. Such economies will be reflected in the bids profferred for LMDS licenses.