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PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET N.W. WASHINGTON, D.C. 20554
News media information 202/418-0500 Recorded listing of releases and texts 202/418-2222.

DA 97-2112
Approved by OMB
3060-0756
Expires 3/31/98
Avg. burden hours per response: 250
Sept. 30, 1997

COMMENTS REQUESTED ON APPLICATION BY BELLSOUTH CORPORATION, BELLSOUTH TELECOMMUNICATIONS, INC., AND BELLSOUTH LONG DISTANCE, INC. FOR PROVISION OF IN-REGION, INTERLATA SERVICES IN SOUTH CAROLINA
(CC DOCKET NO. 97-208)

On September 30, 1997, BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. (collectively, BellSouth) filed an application for authorization to provide in-region, interLATA service in South Carolina, pursuant to section 271 of the Communications Act of 1934, as amended (the Act), 47 U.S.C. § 271. This Public Notice establishes certain procedural requirements relating to the Commission's processing of that application. The Commission in a prior Public Notice adopted other procedural requirements that apply to the processing of this and all other applications for authorization under section 271 of the Act.[1] A copy of that earlier Public Notice is attached hereto. Also attached is a protective order adopted today, Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in South Carolina, Protective Order, DA 97-2113 (Comm. Car. Bur. rel. Sept. 30, 1997), that establishes the conditions under which access to confidential documents submitted in this proceeding by BellSouth or any other party will be made available.

Comments By Interested Third Parties. Comments in support of or opposition to the BellSouth application by interested third parties must be filed on or before **October 20, 1997**.

State Commission and Department of Justice Written Consultations. The Public Service

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[1] *See Revised Procedures for Bell Operating Company Applications Under New Section 271 of the Communications Act*, Public Notice, FCC 97-330 (rel. Sept. 19, 1997) (OMB Control No. 3060-0756).

Commission of South Carolina (South Carolina Commission) must file any written consultation on or before **October 20, 1997**. Any written consultation by the Department of Justice (which, by the Act's express terms, must become part of the record) must be filed on or before **November 4, 1997**.

Replies. All participants in the proceeding -- the applicant, interested third parties, the South Carolina Commission, and the Department of Justice -- may file a reply to any comments filed by any other participant on or before **November 14, 1997**.

Treatment of Confidential Information. Submissions by parties (including BellSouth, the Department of Justice, and the South Carolina Commission) that contain no confidential information or that do not comment on any confidential information submitted by other participants in the proceeding shall be filed in conformance with the procedures set forth in the attached Public Notice.[2] To the extent a submission includes confidential information or comments on confidential information that another participant has submitted, the party filing that submission shall, consistent with the attached Public Notice, file an original and six copies of a public (*i.e.,* redacted) version of its submission with the Secretary. Also, consistent with the attached Public Notice, each redacted filing must be submitted on a 3.5 inch computer diskette formatted in WordPerfect 5.1. In addition, consistent with the attached Public Notice, the party shall file an original and six copies of a confidential (*i.e.,* unredacted) version of its submission. All questions relating to access to confidential information submitted by BellSouth should be directed to Michael Kellogg, Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C., 1301 K St., NW, Suite 1000 West, Washington, DC 20005, Phone: (202) 326-7900.

Ex Parte Rules - Non-Restricted Proceeding. This proceeding is a non-restricted proceeding.[3] Accordingly, *ex parte* presentations are permitted, provided they are disclosed in conformance with Commission *ex parte* rules.[4] Because of the statutory time frame, however, the Commission strongly encourages parties to set forth their views comprehensively in the formal filings specified above (e.g., written consultations, oppositions, supporting comments, etc.) and not to rely on subsequent *ex parte* presentations. In any event, parties may not file more than a total of 20 pages of written *ex parte* submissions. This 20-page limit does not include: (1) written *ex parte* submissions made solely to disclose an oral *ex parte* contact; (2) written material submitted at the time of an oral presentation to Commission staff that provides a brief outline of the presentation; (3) written material filed in response to direct requests from Commission staff; or (4) written factual exhibits. *Ex parte* submissions in excess of the 20-page limit will not be considered part of the record.

For purposes of this proceeding, any oral *ex parte* presentations from the Department of Justice and the South Carolina Commission will be deemed to be exempt *ex parte*

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[2] *See Revised Procedures for Bell Operating Company Applications Under New Section 271 of the Communications Act, supra.*

[3] *See* 47 C.F.R. §§ 1.1200(a), 1.1206.

[4] *See id.* at §§ 1.1202, 1.1206(a).

presentations. To the extent that the Commission obtains through such oral *ex parte* presentations new factual information on which the Commission subsequently relies in its decision-making process, the Commission will request the party submitting the information (the Department of Justice or the South Carolina Commission) to disclose such new factual information in the record, unless such a disclosure is made by the Commission itself, no later than the time the Commission releases its decision. We also waive any page limits for written *ex parte* submissions by the Department of Justice or the South Carolina Commission.

Notwithstanding the above, the Commission may, by subsequent public notice, prohibit all presentations to its decision-making personnel regarding the application during a seven-day period preceding the anticipated release date of the Commission's order regarding the application.[5]

FCC Notice to Individuals Required by the Privacy Act and the Paperwork Reduction Act. Pursuant to Section 271 of the Communications Act of 1934, as amended, the Bell Operating Companies must file applications to provide in-region, interLATA services on a state-by-state basis. The South Carolina Commission must file any written consultation relating to this application by BellSouth not later than October 20, 1997, which is 20 days after the issuance of this Public Notice establishing specific due dates for various filings. Interested third parties may file comments on this application by BellSouth not later October 20, 1997, which is 20 days after the issuance of this Public Notice. Any written consultation by the Department of Justice relating to this application by BellSouth must be filed not later than November 14, 1997, which is 35 days after the issuance of this Public Notice. All of the information will be used to ensure that BellSouth has complied with its obligations under the Communications Act of 1934, as amended, before being authorized to provide in-region, interLATA services in South Carolina pursuant to section 271. Obligation to respond is not mandatory.

We have estimated that each response to this collection of information will take, on average, 250 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERM, Washington, DC 20554, Paperwork Reduction Project (3060-0756). We will also accept your comments via the Internet if you send them to jboley@fcc.gov. Please DO NOT SEND COMPLETED APPLICATION FORMS TO THIS ADDRESS.

Remember -- You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0756.

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[5] *Cf.* §§ 1.1200(a)-(b); 1.1203.

This notice is required by the Privacy Act of 1974, Public Law 93-579, December 31, 1974, 5 U.S.C. Section 552a(e)(3) and the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, 44 U.S.C. 3507.

By the Acting Chief, Common Carrier Bureau

News Media contact: Rochelle Cohen (202) 418-1500.
FCC Common Carrier Bureau contact: Michael Pryor (202) 418-1580.

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PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET N.W. WASHINGTON, D.C. 20554
News media information 202/418-0500 Recorded listing of releases and texts 202/418-2222.

FCC 97-330
Approved by OMB
3060-0756
Expires 03/31/98
Avg. burden hours per response: 250
September 19, 1997

REVISED PROCEDURES FOR BELL OPERATING COMPANY APPLICATIONS UNDER SECTION 271 OF THE COMMUNICATIONS ACT

On December 6, 1996, we released a Public Notice that established certain procedural requirements and policies relating to the Commission's processing of Bell Operating Company applications to provide in-region, interLATA services pursuant to section 271 of the Communications Act of 1934, as amended, 47 U.S.C. § 271 (Act).[1] This Public Notice revises those procedures and policies and supersedes the *December 6th Public Notice*.

A. Application Filing Requirements

Under section 271, the Bell Operating Companies must file applications to provide in-region interLATA services on a state-by-state basis. By "application," we mean: (1) a stand-alone document entitled Brief in Support of Application by [Bell company name] for Provision of In-Region, InterLATA Services in [state name]; and (2) any supporting documentation. The content of both parts of the application is addressed later in this Public Notice.

Under the revised procedures established in this Public Notice, applicants must file at least twelve copies of each section 271 application with the Commission to be distributed as follows:

(1) Applicants must file an original and six copies of each section 271 application with the Office of the Secretary at the Federal Communications Commission. If the applicant wants each

[1] *See Procedures for Bell Operating Company Applications Under New Section 271 of the Communications Act*, Public Notice, FCC 96-469, 1996 WL 706006 (rel. Dec. 6, 1996) (OMB Control No. 3060-0756) (*December 6th Public Notice*). *See also* Comment Sought on Standard Protective Order to be Used in Connection With Section 271 Applications, 11 FCC Rcd 13904 (rel. Oct. 23, 1996).

Commissioner to receive a copy of the section 271 application, the applicant should file an original plus eleven copies with the Office of the Secretary. The applicant must also submit the application on a computer diskette as described below. The original, the six (or, if applicable, eleven) copies, and the 3.5 inch computer diskette described below should be sent to the Office of the Secretary, Federal Communications Commission, Room 222, 1919 M Street N.W., Washington, D.C. 20554.

(2) In addition, applicants must submit five copies of the section 271 application to Janice Myles, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, Room 544, 1919 M Street, N.W., Washington, D.C. 20554.

Applications will be available for public inspection during regular business hours in the Reference Center of the Federal Communications Commission, Room 239, 1919 M Street, N.W., Washington, D.C. 20554. The applicant must also submit a copy of the application simultaneously to: (i) the Department of Justice c/o Donald J. Russell, Telecommunications Task Force, Antitrust Division, Room 8205, 555 Fourth Street, N.W., Washington, D.C. 20001; (ii) the relevant state regulatory commission; and (iii) the Commission's copy contractor, ITS, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, tel. (202) 857-3800.

The 3.5 inch computer diskette submitted to the Commission should be formatted in WordPerfect 5.1. It should contain the Applicant's Brief in Support. If electronically available, the supporting documentation must be included on the computer diskette as well. With respect to supporting materials that are not provided on diskette, the applicant should include a note at the end of the electronic version of the Brief in Support specifying which materials are not contained on the disk and indicating that such materials are on file with the Commission. All filings submitted on diskette will be posted on the Internet for public inspection at http://www.fcc.gov. We also urge the applicant to post its electronic filings on its own Internet home page and to inform us of such posting in the Brief in Support.

B. <u>Preliminary Matters</u>

Section 271(d)(3) states that "[t]he Commission shall not approve the authorization requested in an application . . . unless it finds" three specified conditions to be met. As stated in our *December 6th Public Notice*, we expect that a section 271 application, as originally filed, will include all of the factual evidence on which the applicant would have the Commission rely in making its findings thereon. An applicant may not, at any time during the pendency of its application, supplement its application by submitting new factual evidence that is not directly responsive to arguments raised by parties commenting on its application. Thus, an applicant may not submit factual evidence gathered after the applicant's initial filing. The applicant, however, may submit new factual evidence if the sole purpose of that evidence is to rebut arguments made, or facts submitted. But in no event shall such evidence post-date the filing

of the relevant comments.[2] In the event that the applicant submits new or post-dated evidence in replies or *ex parte* filings, we reserve the right to start the 90-day review process anew or to accord such evidence no weight in making our determination.

All factual assertions made by any applicant (or any commenter) must be supported by credible evidence, or they may not be entitled to any weight. Such factual assertions, as well as expert testimony, submitted by any party must also be supported by an affidavit or verified statement of a person or persons with personal knowledge thereof.

Applicants and participants in section 271 proceedings also have an obligation to present their position in a clear and concise manner. In the section 271 proceedings conducted so far, each application -- as well as some of the subsequent responsive filings -- totalled several thousand pages. In addition, certain parties have included substantive arguments in affidavits or other supporting materials, rather than in their legal briefs. As a result, in some cases, we have found it burdensome and time-consuming to determine the positions of parties. Because of the shortness of the 90-day review period, we believe that it is necessary to make the section 271 review process as efficient as possible, consistent with the requirements of the statute. We therefore require applicants and commenting parties to make all substantive legal and policy arguments in a legal brief (*i.e.*, Applicant's Brief in Support, comments in opposition or support, reply comments, *ex parte* filings). The Commission retains the authority to strike, or to decline to consider, substantive arguments that appear only in affidavits or other supporting documentation. We note that the United States Court of Appeals for the District of Columbia Circuit has found that the Commission "need not sift pleadings and documents to identify" arguments that are not "stated with clarity."[3] It is the petitioner who has the "burden of clarifying its position" before the agency.[4] This duty is even more crucial in the context of section 271 proceedings, because of the limited period in which the agency has to review section 271 applications.

We recognize, however, that the question of whether an applicant has satisfied the requirements of section 271 raises numerous complex and fact-intensive issues, which may necessitate lengthy filings in support of or in opposition to an application. In order to ensure that applicants and other participants in section 271 proceedings have the ability to present their positions fully, we have increased the page limits for the Applicant's Brief in Support and third party comments and replies, and we have eliminated the page limits for applicants' replies, as noted below. In addition, we expect that applicants and other participants in section 271 proceedings will continue to use affidavits and other supporting documentation to support factual and legal assertions made in their legal briefs, to provide expert testimony in

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[2] *See Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services in Michigan*, CC Docket No. 97-137, Memorandum Opinion and Order, FCC 97-298, at ¶ 51 (rel. Aug. 19, 1997).

[3] *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972).

[4] *Northside Sanitary Landfill, Inc. v. Thomas*, 849 F.2d 1516, 1519 (D.C. Cir. 1988), *cert. denied*, 489 U.S. 1078 (1989).

support of the positions articulated in their briefs, and to clarify detailed factual issues.

Because the statute affords us only 90 days to review the application, we encourage the applicant to meet with likely objectors in order to attempt to narrow the issues in dispute. As noted in section C of this Public Notice, we require that an applicant submit, either in the application itself or in a supplemental statement within five days after the application is filed, a signed statement that describes efforts that the applicant has made to narrow the issues in dispute and the results of those efforts.

C. Content of Applications

Applications shall conform to the Commission's general rules relating to applications.[5] As noted above, applications shall have two parts: (1) a Brief in Support of Application by [Bell company name] for Provision of In-Region, InterLATA Services in [state name]; and (2) any supporting documentation, such as records of state proceedings, interconnection agreements, affidavits, etc. The Applicant's Brief in Support may not exceed 125 pages. The table of contents, summary of argument, and list of appendices (items (a), (b), and (i) below) shall not be counted in determining the length of the Brief in Support. There is no page limit on supporting documentation, but, as discussed above, the applicant may not make substantive legal or policy arguments in its supporting documentation.

The Brief in Support should contain the following items:

(a) a table of contents;
(b) a concise summary of the substantive arguments presented in the Brief;[6]
(c) a statement identifying all of the agreements that the applicant has entered into pursuant to negotiations and/or arbitrations under section 252, including the dates on which the agreements were approved under section 252 and the status of any federal court challenges to the agreements pursuant to section 252(e)(6);
(d) a statement identifying how the applicant meets the requirements of section 271(c)(1), including a list of the specific agreements on which the applicant bases its application if it intends to rely on a subset of the list set forth in item (c) above;
(e) a statement summarizing the status and findings of the relevant state proceedings (if any) examining the applicant's compliance with section 271 or portions thereof;
(f) a statement describing the efforts the applicant has made to meet with likely objectors to narrow the issues in dispute and the results of those efforts (as indicated above, this statement may be filed separately from the application; but not later than five days after the filing of the application);
(g) all legal and factual arguments that the three requirements of section 271(d)(3) have been met, supported as necessary with selected excerpts from the

[5] *See* 47 C.F.R. §§ 1.49, 1.741-1.749.

[6] *See id.* at § 1.49.

supporting documentation (with appropriate citations);[7]

(i) a list of all appendices (including affidavits) and the location of and subjects covered by each of those appendices;

(h) the name, address, and phone number of the person who will address inquiries relating to access (subject to the terms of any applicable protective order) to any confidential information submitted by the applicant;

(i) an Anti-Drug Abuse Act certification as required by 47 C.F.R. § 1.2002; and

(j) an affidavit signed by an officer or duly authorized employee certifying that all information supplied in the application is true and accurate to the best of his or her information and belief.[8]

The name of the applicant, the date the application is filed, and the state to which it relates should appear in the upper right-hand corner of each page of the Brief in Support.

As for the supporting documentation, we require that it contain, at a minimum, the complete public record, as it exists on the date of filing, of the relevant state proceedings (if any) examining the applicant's compliance with section 271 or portions thereof. In addition, supporting documentation, including any records of interconnection agreements, affidavits, etc., shall be provided in appendices, separated by tabs and divided into volumes as appropriate. Each volume shall contain a table of contents that lists the subject of each tabbed section of that volume.

D. Comments By Interested Third Parties

After an application has been filed, the Common Carrier Bureau will issue a public notice (Initial Public Notice) establishing the specific due dates for the various filings set forth below. The Initial Public Notice will also establish procedures for the treatment of confidential information submitted by participants (including the applicant, the Department of Justice, and the relevant state commission). Simultaneously with the issuance of the Initial Public Notice, the Bureau will notify the Department of Justice and the affected state of our receipt of the application. Interested third parties will have approximately 20 days from the issuance of the Initial Public Notice to file comments in opposition or support, which may not exceed 100 pages.[9] The specific due date for comments will be set forth in the Initial Public Notice.

We retain discretion to adjust the due date for comments and replies on a case-by-case basis

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[7] Item (g) is obviously the core portion of the Brief in Support, and may be quite lengthy. It may help to divide it, therefore, into three subsections, one corresponding to each of the three requirements set forth in section 271(d)(3).

[8] *See* 47 C.F.R. § 1.743.

[9] We are increasing the page limit for initial comments from 50 pages to 100 pages in the expectation that parties will include all substantive arguments in their legal brief. We reiterate that the Commission may strike or decline to consider substantive arguments made only in affidavits or other supporting documentation.

to ensure that interested third parties have sufficient time to review and comment on each application. We strongly discourage, and will take appropriate steps to prevent, an applicant from attempting to limit the time for interested third parties to review an application (*e.g.*, by filing on a Friday or the day before a national holiday).

The name of the commenter, the name of the applicant, and the state to which the application relates should appear in the upper right-hand corner of each page. Comments in support or opposition shall also include a table of contents, a concise summary of the arguments presented in the comments, and a list of all appendices and the location of and subjects covered by each of those appendices. None of these portions of the comments shall be counted in determining the length of the comments. To file comments or replies (or any other filing set forth below) in a section 271 proceeding, commenters must follow the applicable procedures outlined in section A of this Public Notice.

Commenters shall not incorporate by reference, in their comments or replies, entire documents or significant portions of documents that were filed in other proceedings, such as comments filed or arguments made in a previous section 271 proceeding. Although commenters are permitted to note arguments that were presented in earlier filings, they must provide a complete recitation in their current filing of any argument that they wish the Commission to consider.

There is no page limit on supporting documentation. As discussed in section B of this Public Notice, however, commenters must make all substantive legal and policy arguments in their comments, rather than in supporting documentation. In addition, supporting documentation, including any records of interconnection agreements, affidavits, etc., shall be provided in appendices, separated by tabs and divided into volumes as appropriate. Each volume shall contain a table of contents that lists the subject of each tabbed section of that volume.

If a commenter submits confidential information to the Commission, it shall include in a cover letter to the Commission the name, address, and phone number of the person who will address inquiries regarding access to the confidential information by other participants in the proceeding (subject to the terms of any applicable protective order).

E. State Commission and Department of Justice Written Consultations

Many state commissions have already commenced proceedings to examine Bell Operating Company compliance with section 271 or portions thereof. In light of this fact and in light of the shortness of the 90-day period for deciding a section 271 application, we require that the relevant state commission file any written consultation not later than approximately 20 days after the issuance of the Initial Public Notice. The specific due date for the state's written consultation will be set forth in the Initial Public Notice. The relevant state commission shall also follow the applicable procedures outlined in section A of this Public Notice.

Any written consultation by the Department of Justice (which, by the Act's express terms, must become part of the record) must be filed not later than approximately 35 days after the issuance of the Initial Public Notice. The specific due date for the Department's written consultation will be set forth in the Initial Public Notice. The Department of Justice shall also

follow the applicable procedures outlined in section A of this Public Notice.

The state commission and the Department of Justice are also welcome to file a reply pursuant to section F of this Public Notice, as well as written *ex parte* submissions in accordance with section H of this Public Notice.

F. Replies

All participants in the proceeding -- the applicant, interested third parties, the relevant state commission, and the Department of Justice -- may file a reply to any comment made by any other participant. Such replies will be due approximately 45 days after the Initial Public Notice is issued. The specific due date for replies will be set forth in the Initial Public Notice. All replies except that of the applicant are limited to 50 pages. There is no page limit for the applicant's reply.

The name of the submitter, the name of the applicant (if different), and the state to which the application relates should appear in the upper right-hand corner of each page. Replies shall also include a table of contents, a concise summary of the arguments presented in the comments, and a list of all appendices and the location of and subjects covered by each of those appendices. None of these portions of a reply shall be counted in determining the length of the reply.

The applicant's and third parties' reply comments may not raise new arguments or include new data that are not directly responsive to arguments other participants have raised, nor may the replies merely repeat arguments made by that party in the application or initial comments. An applicant may submit new factual evidence in its reply if the sole purpose of that evidence is to rebut arguments made, or facts submitted, by commenters, provided the evidence covers only the period placed in dispute by commenters and in no event post-dates the filing of the relevant comments.[10] In addition, as discussed in section D of this Public Notice, participants are not permitted, in their replies, to incorporate by reference entire documents or significant portions of documents that were filed in other proceedings.

There is no page limit on supporting documentation. As discussed in section B of this Public Notice, however, participants submitting replies must make all substantive legal and policy arguments in their replies, rather than in affidavits or other supporting documentation. In addition, supporting documentation, including any records of interconnection agreements, affidavits, etc., shall be provided in appendices, separated by tabs and divided into volumes as appropriate. Each volume shall contain a table of contents that lists the subject of each tabbed section of that volume.

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[10] *See Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services in Michigan*, CC Docket No. 97-137, Memorandum Opinion and Order, FCC 97-298, at ¶ 51 (rel. Aug. 19, 1997).

G. Motions

Because of the shortness of the 90-day period to review section 271 applications, a dispositive motion filed with the Commission in a section 271 proceeding (*e.g.*, motion to dismiss) will be treated as an early-filed pleading and will not be subject to a separate pleading cycle, unless the Commission or Bureau determines otherwise in a public notice issued after the motion is filed. We generally expect, however, that such a separate pleading cycle will not be necessary. Thus, in general, dispositive motions filed before the due date for third party comments will be treated as early-filed comments; dispositive motions filed after the due date for third party comments but before the due date for replies will be treated as early-filed replies; and dispositive motions filed after the due date for replies will be treated as *ex parte* submissions. Such motions will be counted toward the applicable page limit for the submitting party, as established in this Public Notice.

Non-dispositive motions (*e.g.*, motions to strike) will be subject to the default pleading cycle in section 1.45 of our rules,[11] unless the Commission or Bureau determines otherwise in a public notice. Because of the expedited nature of section 271 proceedings, section 1.4(h) of our rules will not apply to motions filed in section 271 proceedings.[12] Thus, parties will not be allowed an extra three days (beyond the time permitted in section 1.45) to respond to non-dispositive motions and oppositions thereto, regardless of whether the filing was served on the party by mail. In lieu of that rule, however, a party submitting a non-dispositive motion must, on the day of filing, serve that motion either by hand or by facsimile on any party whose filing is the subject of the motion. In addition, parties must submit non-dispositive motions and oppositions to such motions to the Commission on a 3.5 inch computer diskette formatted in WordPerfect 5.1 (as well as in hard copy form). All filings submitted on diskette will be posted on the internet for public inspection at http://www.fcc.gov. Such motions, oppositions, and replies will not be counted toward the submitting party's page limit.

H. Ex Parte Rules - Permit-But-Disclose Proceeding

Because of the broad policy issues involved, section 271 application proceedings initially will be considered permit-but-disclose proceedings.[13] Accordingly, *ex parte* presentations will be permitted, provided they are disclosed in conformance with Commission *ex parte* rules.[14] Because of the statutory timeframe, however, we strongly encourage parties to set forth their views comprehensively in the formal filings specified above (*e.g.*, the Brief in Support, oppositions, supporting comments, etc.) and not to rely on subsequent *ex parte* presentations. In any event, parties may not file more than a total of 20 pages of written *ex parte*

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[11] 47 C.F.R. § 1.45.

[12] *See* 47 C.F.R. § 1.4(h).

[13] *See id.* at §§ 1.1200(a), 1.1206.

[14] *See id.* at §§ 1.1202, 1.1206(b).

submissions. This 20-page limit does not include: (1) written *ex parte* submissions made solely to disclose an oral *ex parte* contact; (2) written material submitted at the time of an oral presentation to Commission staff that provides a brief outline of the presentation; (3) written material filed in response to direct requests from Commission staff; or (4) written factual exhibits. The Commission retains the right not to consider as part of the record *ex parte* submissions in excess of the 20-page limit.

For purposes of these proceedings, and in light of the explicit role the Act gives to the Department of Justice and the state commissions under section 271, any oral *ex parte* presentations from the Department of Justice and the relevant state commission will be deemed to be exempt *ex parte* presentations. To the extent that we obtain through such oral *ex parte* presentations new factual information on which we subsequently rely in our decision-making process, we will either request the Department of Justice or the relevant state commission to disclose or disclose ourselves such new factual information in the record no later than the time we release our decision.[15] There are no page limits on written *ex parte* submissions by the Department of Justice or the relevant state commission.

Notwithstanding the above, the Commission may, by subsequent public notice, prohibit all communication with Commission personnel regarding the application during a seven-day period preceding the anticipated release date of the Commission's order regarding the application.[16]

I. FCC Notice to Individuals Required by the Privacy Act and the Paperwork Reduction Act

Pursuant to Section 271 of the Communications Act of 1934, as amended, the Bell Operating Companies must file applications to provide in-region interLATA services on a state-by-state basis. State regulatory commissions will file written consultations relating to the applications not later than approximately 20 days after the issuance of an Initial Public Notice establishing specific due dates for various filings. Interested third parties may file comments on the applications not later than approximately 20 days after the issuance of the Initial Public Notice. The Department of Justice will file written consultations relating to the applications not later than approximately 35 days after the issuance of the Initial Public Notice. All of the information would be used to ensure that the Bell Operating Companies have complied with their obligations under the Communications Act of 1934, as amended, before being authorized to provide in-region, interLATA services pursuant to section 271. Obligation to respond is mandatory.

We have estimated that each response to this collection of information will take, on average, 250 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the

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[15] *See id.* at § 1.1204(a)(6).

[16] *Cf.* §§ 1.1200(a); 1.1203.

collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERM, Washington, DC 20554, Paperwork Reduction Project (3060-0756). We will also accept your comments via the Internet if you send them to jboley@fcc.gov. Please DO NOT SEND COMPLETED APPLICATION FORMS TO THIS ADDRESS.

Remember -- You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0756.

This notice is required by the Privacy Act of 1974, Public Law 93-579, December 31, 1974, 5 U.S.C. Section 552a(e)(3) and the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, 44 U.S.C. 3507.

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Action by the Commission on September 16, 1997, by Chairman Hundt and Commissioners Quello, Ness, and Chong.

FCC Common Carrier Bureau contact: Craig Brown (202) 418-1580.

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