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

1998

In the Matter of)	
)	CC Docket Nos 96-45, 97-160
Federal-State Joint Board on)	DA 98-715
Universal Service)	

REPLY COMMENTS OF BELL ATLANTIC¹ ON NEW PROPOSALS

Several of the commenters that address the alternative proposals for determining universal service support urge a drastic expansion of the federal fund. This would create a massive new federal entitlement program, cause large shifts in revenues among customers in different states, and infringe on the states' right and responsibility to address universal service issues within their own borders, contrary to the allocation of jurisdictional authority in the Act.

In contrast, with the modifications proposed by Bell Atlantic, the Ad Hoc proposal would keep the fund to a sufficient and manageable size, and it would not place an excessive burden on ratepayers or cause massive revenue shifts. It also would provide support to high cost states without exceeding the statutory limits on the Commission's jurisdiction. Given its attempt to reconcile the various competing interest, it is not surprising that the Ad Hoc proposal became the focus of the comments, and drew

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.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company; and New England Telephone and Telegraph Company.

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criticism from some quarters. However, the changes to the Ad Hoc proposal that Bell Atlantic suggested in its comments already address the bulk of these concerns, and result in a funding mechanism that meets the requirements of Section 254.

In addition to the various attempts to inflate the size of the fund, some parties attempt to inject extraneous issues into the universal service debate. For instance, AT&T attempts to use the availability (or denial) of universal service funding as a way of “motivating” carriers to comply with other provisions of the Act, such as the requirement to provide interconnection under Section 251. But any attempt to limit the availability of universal service funding to other, unrelated objectives would be flatly unlawful, and would directly contradict the specific factors that Congress directed the Commission to consider in developing policies to preserve and advance universal service.

I. The Ad Hoc Proposal, With The Modifications Proposed By Bell Atlantic, Would Best Meet The Requirements Of The Act.

A. High Cost Funding Need Not Exceed The Current Level Of High Cost Support.

As Bell Atlantic demonstrated in its comments, there is no need for a universal service fund that exceeds, in the aggregate, the amount of high cost support provided through the current mechanisms (about \$1.7 billion, consisting of high cost, long term support, and dial equipment minutes weighting). However, the Commission should establish a mechanism that better targets this support to states with costs that exceed the nationwide average. This would complement, rather than usurp, the states’ role in supporting universal service in each state.

Several commenters advocate inflating the federal fund (to as much as \$6 billion) to recover a large share of the revenues currently received as compensation for providing interstate access services. BellSouth at 1-2, GTE at 2-4, 17. Such a huge fund would burden customers throughout the country, cause massive revenue shifts among the states, and do nothing to make basic telephone service more affordable. The result would be to do nothing to provide federal support for the services that are within the definition of universal service – which is the only legitimate role for the federal fund under Section 254 of the Act – and instead to replace the existing system for recovery of costs assigned to the interstate jurisdiction through access charges – which has nothing to do with supporting universal service under Section 254. Bell Atlantic at 13-14. In addition, the commenters’ proposals to eliminate certain rate elements, such as the presubscribed interexchange carrier charge, show that their purpose is to undo access charge reform, rather than to address universal service.²

An inflated fund of this size also would necessarily result in an assessment on both interstate and intrastate telecommunications revenues for both the contribution method and the recovery mechanism. GTE at 17-18. But, as Bell Atlantic also demonstrated in its comments, this would exceed the Commission's jurisdiction, which the Act expressly limits to the regulation of interstate rates. Bell Atlantic at 13-14.

² See BellSouth April 27, 1998 proposal at 3. The commenters also fail to recognize that the Commission's Access Charge Reform Order provided a transition period to ameliorate the impacts of the new and revised charges on ratepayers. See Access Charge Reform, 12 FCC Rcd 15982 (1997), First Report and Order at ¶¶ 53-66 (“Access Charge Reform Order”).

In contrast, the Ad Hoc approach, which generated support from many states, is designed to produce a universal service fund at approximately the level of the current high cost funding mechanisms. *See* Maine/Vermont/South Carolina/Arkansas/West Virginia/New Hampshire/New Mexico (“Joint States”) at 10-11; New York at 2; Delaware PSC at 2; Maryland PSC at 4-7. Funding at this level would more than meet the Section 254 requirement that support be *sufficient* to support universal service as defined by the Commission. The Ad Hoc approach would target support where it is needed the most – to high cost states that would have the greatest difficulty in supporting universal service solely through telecommunications revenues within their own borders. Because, as modified by Bell Atlantic, it would produce about the same level of support as the current interstate mechanisms, it would cause little disruption to the current state/interstate revenue stream. Nonetheless, it would make significant changes in the way that universal service support is collected and distributed to comply with the new directives in Section 254 of the Act. The Commission should take the Ad Hoc approach as the foundation for revising the universal service funding mechanism, subject to the modifications outlined in Bell Atlantic’s opening comments.

B. Bell Atlantic’s Proposed Modifications Resolve Many Of The Objections To The Ad Hoc Proposal.

The Ad Hoc proposal, which was designed to meet the needs of high-cost states without producing an excessive fund, became the focus of the comments, and drew criticisms from some quarters. However, Bell Atlantic suggested several changes that anticipated, and dealt with, those criticisms.

- Several commenters criticized the Ad Hoc proposal to use the lower of forward-looking or embedded cost to determine the support level for each state. *See, e.g.*, Sprint at 13-14. Some argued that embedded cost would fail to target support to states where additional funding is needed because the current infrastructure is inadequate (*see, e.g.*, South Dakota at 2) while others argued that forward-looking cost models would not allow carriers to recover their actual state-wide average costs of providing universal service (*see, e.g.*, SBC at 3). Bell Atlantic's proposed modifications would deal with these objections by blending the results of the forward-looking cost models and actual costs.³ This would provide additional support to those states where the available service may need to be improved to meet the minimum universal service standards, and it would recognize that carriers are entitled to recover their actual, booked costs.

- Several commenters were concerned about potential harm to rural carriers and to insular areas if current support levels were reduced. *See, e.g.*, Virgin Islands Telephone at 4; South Dakota at 2; PRTC at 2, 4; Ameritech, Attachment B. On the other hand, some commenters were concerned that the Ad Hoc "hold harmless" provisions would fail to distribute support equitably among the states. *See, e.g.*, South Dakota at 3; Texas PUC at 5; US West at 14-15. Bell Atlantic's proposal to allow rural carriers to receive existing funding levels for at least three years, and to freeze support for Alaska and the insular areas at the current levels, would deal with the concerns that the proxy models may not represent costs adequately for small, rural carriers or for carriers serving

³ While Bell Atlantic continues to believe that the proxy models have no relevance in determining the actual forward-looking costs of providing telephone service, the blending

those areas. Moreover, Bell Atlantic's proposal to phase in the new funding amounts for non-rural carriers over three years will ensure that support is redistributed to the areas where it is needed the most, and it will allow the states a reasonable transition period to address specific concerns.

- Some commenters complained that the Ad Hoc plan is too complex. *See* AT&T at 15; California at 4. Bell Atlantic's revisions to the Ad Hoc plan would simplify the process of determining high cost amounts by developing a single measurement of cost for each state based on the blend of proxy model costs and actual costs. Bell Atlantic's proposal to set the benchmark at 115% of nationwide average cost is consistent with the current funding mechanism.

- Objections that the Ad Hoc proposal does not address long term support (JSI at 6-7) are also addressed by Bell Atlantic, which would replace all three high cost funding mechanisms (high cost fund, long term support, and dial equipment minutes weighting) with a single fund that provides approximately the same aggregate amount of support. This is consistent with the Commission's findings in the Universal Service Order that the rural local exchange carriers should continue to receive payments comparable to long term support from the new universal service mechanism. Federal-State Joint Board on Universal Service, 12 FCC Rcd 8776 (1997) at ¶ 757 ("Universal Service Order").

Other criticisms of the Ad Hoc proposal should, however, be rejected. For instance, some commenters complain about proposals, such as the Ad Hoc proposal, that

of these model results with carriers' actual costs would mitigate the effect of the models and ensure that they are only used to judge the relative cost differences among states.

do not rely on a revenue benchmark. *See, e.g.*, AT&T at 14; MCI at 5-6. They argue that this contradicts the Commission's findings in the Universal Service Order that a benchmark based on average nationwide revenues is necessary to account for revenues already used to support universal service. However, using a cost benchmark is the most direct way of identifying states that need support from the federal fund because they have higher-than-average costs. Since revenues are generally set to recover cost, the use of nationwide averages in both instances measures the extent to which costs in a given state exceed the nationwide average. A cost benchmark allows states to retain pricing policies for intrastate services that reflect local market conditions and the particular needs of each state. At the same time, a national benchmark ensures that no state is unduly burdened. Finally, by using a cost benchmark, the Ad Hoc approach simplifies the funding mechanism and reduces the data that the carriers must submit to the fund administrator.

The Ad Hoc plan, as modified by Bell Atlantic, would continue to provide federal aid to states that would have difficulty supporting universal service on their own, while targeting support where it is needed based on a single measure of cost in each state. It would collect support from the federal fund on an equitable basis from all interstate carriers, and distribute it directly to the states to support the affordability of local telephone service. It would give aid to states that need it without impinging on the states jurisdiction, preserving the federal/state partnership that Congress explicitly mandated in Section 254 of the Act. Most importantly, it would provide sufficient support for universal service without creating additional burdens on ratepayers. The Commission

should use the Bell Atlantic modifications to the Ad Hoc plan as the starting point for a revised universal service funding mechanism.

II. The Commission Should Reject Attempts To Add Extraneous Agendas To The Universal Service Proceeding.

The Commission should reject efforts of some commenters to pursue their own private agendas that have nothing to do with universal service. AT&T argues that funding for universal service is not necessary, because local competition has not yet developed. AT&T proposes that the Commission should withhold universal service support for non-rural local exchange carriers until a carrier can demonstrate (1) in each study area for which it seeks support, that it has lost at least 15 percent of its access lines; and (2) its return on interstate operations, for its entire study area, has fallen below the level that would trigger a lower formula adjustment under the Commission's price cap rules. AT&T at 12-13. CompTel also argues that the Commission should withhold universal service support for the "major" incumbent local exchange carriers until they have taken steps to open their markets to competition. CompTel at 6-7.

First, the allegation that the local exchange carriers are stalling in opening their markets to competition is patently false. The local exchange carriers have signed thousands of interconnection agreements, have provided hundreds of thousands of interconnection facilities, and have lost well over a million access lines to their competitors.⁴ For example, as of April 1998, Bell Atlantic had signed 562 interconnection agreements with its competitors, had provided 45,479 unbundled loops,

had provided 344,887 resold lines, and had constructed 511 collocation nodes, with another 329 under construction. *See* Bell Atlantic Competition Progress Report, May 27, 1998. Competitive local exchange carriers are active in every major metropolitan area in the Bell Atlantic region, and they are gaining rapidly increasing shares of the local exchange market. Just in the first four months of this year, Bell Atlantic exchanged over 8 billion minutes of use with its competitors (versus 10.7 billion minutes for all of 1997) through 346,350 interconnection trunks, and we estimate that competitors are serving over 1 million access lines in the Bell Atlantic region alone. *Id.* AT&T's continual complaints about the lack of local competition are a smoke screen for its deliberate failure to enter the local market, and especially for its lack of interest in serving residential customers.

Second, any such prerequisites for the provision of universal service funding would be patently unlawful, and would violate the express terms of the Act. SBC at 6-10. In the Universal Service Order, the Commission recognized that neither it, nor the states, have the discretion to add conditions on the eligibility requirements for universal service support beyond those specifically listed in Section 214(e). Universal Service Order at ¶ 135. Neither Section 254, nor Section 214, condition a carrier's eligibility for universal service support on its implementation of the local competition provisions of Sections 251 or 252 of the Act. On the contrary, the 1996 Act required the Commission to complete its universal service proceeding within 15 months of enactment, including adoption of rules containing "a specific timetable for implementation," without reference to the

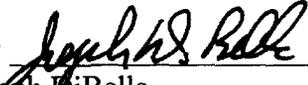
⁴ *See* Comments of USTA, RM No. 9210, filed January 30, 1998, at 7-10.

implementation of any other provisions of the Act. 47 U.S.C. § 254(a)(2). AT&T's proposal has nothing to do with universal service, but everything to do with AT&T's desire to hobble its potential competitors in the long distance market.

Conclusion

The Commission should adopt the Ad Hoc plan, with the modifications proposed by Bell Atlantic, to provide targeted support for universal service in high cost areas.

Respectfully submitted,

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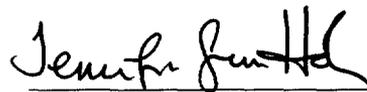
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Dated: May 29, 1998

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of May, 1998 a copy of the foregoing "Reply Comments of Bell Atlantic" was sent by first class mail, postage prepaid, to the parties on the attached list.



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