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Vice President,  
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CC Docket Nos. 96-45 ✓  
46-7692

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**Ex Parte**

May 28, 1998

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, NW  
Room 222  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: **CC Docket Nos. 96-45 (Universal Service); 94-1 (Price Cap Review)**

Dear Ms. Salas:

In an ex parte letter dated May 19, 1998, AT&T raises three scenarios under which it claims that the Commission could authorize a new per-line charge to recover universal service costs. Two of AT&T's scenarios are inconsistent with the requirements of the Act and must be rejected. If the Commission were to adopt the third scenario, which is consistent with the Act, it should do so in a manner consistent with the practical considerations of implementing such a significant restructuring of rates.

AT&T's first two scenarios involve assessing the total cost of funding universal service on a per-line basis, and requiring the incumbent local exchange carriers – and them alone – to recover those costs from their end user customers. By putting the universal service recovery burden on just one group of carriers, such a proposal would violate the Act's requirement that "all providers of telecommunication services should make equitable and nondiscriminatory contribution" to the fund. 47 U.S.C. § 254 (b)(4). Indeed, under the AT&T proposal, long distance carriers – the carriers that obtain the most revenues from interstate retail telecommunication services – would be excused from making any contribution to universal service and from the need to recover the cost of their contribution.

The Commission can not use the forbearance provisions of section 10(a) to circumvent the legislative requirement of competitive neutrality for at least two reasons.

First, the obligation to craft a funding system where "all" providers are assessed contributions on an "equitable and nondiscriminatory" basis is a restriction imposed on *the Commission*. The forbearance authority provided by section 10(a), however, only authorizes the Commission to relieve burdens on the regulated, not remove restrictions on the regulators. As a result, the

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provision by its terms allows the Commission to forbear from "*applying*" any regulation or any provision of the Act "to a telecommunications carrier" or "service." 47 U.S.C. § 160(a) (emphasis added). It does not allow the Commission to forbear from complying with restriction imposed exclusively on the Commission.

Second, even if the forbearance provision applied, which it does not, imposing universal service obligations on one group of providers alone would not meet the statutory standard to forbear from complying with the Act's requirements. One factor the Commission must consider is whether forbearance will "promote competitive market conditions" or will "enhance competition." 47 U.S.C. § 160(b). Shielding all but one group of carriers from any universal service obligation cannot meet that test. This is especially true in the current environment where long distance and local carriers are vying with one another as rivals in the marketplace.

In short, the Commission itself has recognized that a fundamental principle of universal service cost recovery must be "competitive neutrality." And it simply is inconceivable that the Commission could reasonably find that it is in the public interest to impose a new methodology that would explicitly favor one group of competitors over another.

Unlike its other proposals, AT&T's third scenario would continue to impose universal service obligations on "all providers" of telecommunications services. This proposal would only modify the way in which local exchange carriers recover the amount of their own contributions to the universal service fund. Specifically, Bell Atlantic interprets AT&T's proposal to allow local exchange carriers to recover all or part of the universal service contribution assessed against them through end user rates on a per line basis, rather than through access charges as it is today.

Bell Atlantic has no objection to such a restructure, which is consistent with its initial proposal for recovering universal service contributions, so long as the Commission recognizes the operational and administrative requirements for such a change. Imposing a new line item charge would take four to five months to allow for billing system changes. Should the Commission desire to accomplish the shift on a more expedited basis, it could order this new charge as a temporary add-on to the existing subscriber line charge (at least until there is sufficient time to establish the new line item charge).

Please feel free to call me to discuss Bell Atlantic's position on these issues.

Yours truly,

G. R. Evans

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