

Bell Atlantic - Maryland, Inc.
1 East Pratt Street, 8E
Baltimore, Maryland 21202-1038
410 393-7725
FAX 410 393-4078
david.k.hall@bell-atl.com

David K. Hall
Vice President and General Counsel

June 8, 1998

Hand Delivered

Mr. Daniel P. Gahagan
Executive Secretary
Public Service Commission of Maryland
William Donald Schaefer Tower
6 St. Paul Street, 16th Floor
Baltimore, Maryland 21202-6806

Re: Case No. 8731-II

Dear Mr. Gahagan:

Enclosed please find an original and twenty copies of the Motion to Exclude Hatfield Cost Model on behalf of Bell Atlantic - Maryland, Inc., in connection with the above-captioned case.

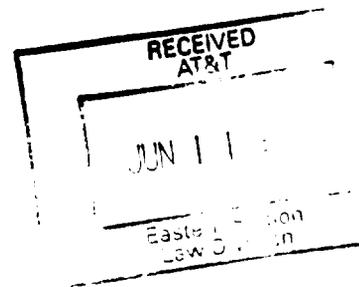
Very truly yours,

David K Hall

DKH/mlw

Enclosures

cc: Chairman Glenn F. Ivey
Commissioner Claude M. Ligon
Commissioner E. Mason Hendrickson
Commissioner Susanne Brogan
Commissioner Gerald L. Thorpe
All Parties of Record and Interested Persons



BEFORE THE PUBLIC
SERVICE COMMISSION OF MARYLAND

IN THE MATTER OF THE PETITIONS)
FOR APPROVAL OF AGREEMENTS AND)
ARBITRATION OF UNRESOLVED ISSUES) Case No. 8731, Phase II
ARISING UNDER §252 OF THE)
TELECOMMUNICATIONS ACT OF 1996)

MOTION TO EXCLUDE HATFIELD COST MODEL

Bell Atlantic - Maryland, Inc. ("BA-MD") respectfully requests that the Commission exclude the Hatfield Model from further consideration in this proceeding. The version of the model which is in the record in this case — Hatfield 3.1 — has been revised at least twice since the record closed, and it would be wrong for the Commission to rely on a version of the model which even its sponsors have abandoned. Most important, events in other jurisdictions have demonstrated that the model continues to be unreliable. The FCC Staff, for example, recently determined that the latest version of the model — Hatfield 5.0a — significantly understates the costs of unbundled loops. Because the flaws in the Hatfield model have not been corrected, the Commission should not rely on it to establish rates for unbundled network elements. BA-MD's cost model is the only model in the record in this case on which the Commission can rely and satisfy the legal requirement that its decision be based upon substantial record evidence.

In support of this motion, BA-MD states as follows:

In the first phase of Case No. 8731, AT&T proposed to rely on version 2.2 of the Hatfield Model.¹ Then, at the prehearing conference in Phase II, held on January 14, 1997, AT&T and MCI sought a delay to allow them to introduce version 3 of the Hatfield Model. In fact, they filed version 3.1 on March 4, 1997, and that is the version which was investigated at the hearings held in April of that year.

After the briefs were filed and the record closed, AT&T and MCI developed another version of the Hatfield Model. On August 4, 1997, for example, BA-MD notified the Commission that AT&T and MCI had filed version 4.0 in Virginia on July 21, 1997. Although AT&T and MCI did not propose to rely on the new model (which showed slightly higher loop costs), they noted that "[a] number of significant changes have been made to HM 3.1 in developing HM 4.0."² While never overtly admitting that version 3.1 was flawed, AT&T's and MCI's abandonment of that version just a few months after hearings in this case demonstrates that this Commission should not rely on version 3.1.

¹ See AT&T's Petition for Arbitration, at Attachment re: Hatfield at 9, n.11.

² See letter to Mr. Daniel P. Gahagan, Executive Secretary, from David K. Hall, Vice President and General Counsel, dated August 4, 1997.

BA-MD had a relatively short time to investigate version 3.1 of the Hatfield Model,³ but nonetheless discovered a number of flaws which are fully discussed in BA-MD's brief.⁴ BA-MD's witness, Mr. Tardiff, explained that one of the chief flaws was the model's reliance on Census Block Groups to construct local serving areas, which is a critical input to estimate loop distribution facilities.⁵ This flaw was also noted by the State Members of the Joint Board, who reported to the FCC on April 21, 1997 that they continued to have "serious concerns" about estimating customer lines on a CBG basis: "We believe that this is an issue that must be addressed further by industry and regulatory analysts before the [Hatfield Model] can be used with confidence."⁶ The FCC itself has further noted that "the Hatfield 3.1 model adjusts the number of supported lines assigned

³ BA-MD's analysis was made more difficult because, although AT&T admitted that there were "twenty six significant changes between Version 2.2.2 and Version 3.1" (BA-MD Cross Ex. 1 at ¶ 7.), it declined to explain them, claiming that would require "hundreds of man-hours of work over several weeks to document." Response to Bell Atlantic - Maryland's Motion to Compel and Cross Motion to Compel Responses from BA-MD, March 20, 1997, at 2.

⁴ See BA-MD's Brief, at 35-46. One flaw, in particular, is telling. BA-MD witness Mr. Tardiff testified that the Hatfield Model failed to include certain connecting cable. BA-MD Ex. 3 at 19-20. AT&T/MCI witness, Mr. Wood, vehemently denied that fact, claiming that he had checked with the developers of the Model, and Mr. Tardiff was looking in the wrong place. Tr. at 183. Two months later, in Virginia, another AT&T witness finally admitted the cable was, in fact, missing. Ex parte: To determine prices Bell Atlantic - Virginia, Inc. is authorized to charge Competitive Local Exchange Carriers in accordance with the Telecommunications Act of 1996 and applicable State law, Case No. PUC970005, Tr. at 1219. Neither AT&T nor MCI, however, ever have corrected the record in this proceeding.

⁵ BA-MD Ex. 3 at 15-16.

⁶ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, State Members' Second Report on the Use of Cost Proxy Models, April 21, 1997, at 9 (emphasis supplied).

to a CBG on the basis of an undisclosed algorithm. This algorithm has not been filed with the Commission. The application of this algorithm, however, increased the number of households in one state by 34%."⁷

Version 4.0 of the Hatfield Model continued to use Census Block Groups, but its sponsors soon acknowledged the flaw in that approach by developing version 5.0, which employs a complicated new clustering process to replace Census Block Groups. Although the new approach was represented as being more precise, it has recently been revealed that the "fix" did not work.

On April 23, 1998, Sprint filed an *ex parte* with the FCC disclosing a newly discovered flaw in version 5.0a of the Hatfield Model. Based on data that Sprint had obtained in Nevada (the only state where the model sponsors had provided access to the data), Sprint discovered that the Hatfield Model "understates distribution plant investment by a factor of nine."⁸ Although AT&T and MCI disputed Sprint's claims, the FCC Staff conducted its own analysis, a copy of which is attached. As shown in some of the conclusions reported on page 3, the FCC Staff found that the new version of the Hatfield Model systematically underestimates the amount of distribution facilities used to

⁷ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, May 8, 1997 at ¶ 242 (emphasis added).

⁸ CC Dockets Nos. 96-45 and 97-160, Letter to Mr. A. Richard Metzger, Jr., Chief Common Carrier Bureau, from Jay C. Keithley, Vice President, Law and External Affairs, dated April 23, 1998.

determine the cost of unbundled loops in a range from 15.4 percent to 41.5 percent.

Throughout the many succeeding versions of the Hatfield Model, the developers have made several changes, ostensibly designed to improve the precision of distribution areas. In each case, however, the model is essentially guessing where customers are located. That is inherent in the use of a proxy model. The evidence demonstrates, however, that the guesses are not getting any better.

The Commission should also recognize that from the beginning, the Hatfield Model has been a results-driven exercise designed to understate the costs of unbundled network elements. As the flaws in each succeeding version of the model are disclosed, the developers of the model have made changes which purportedly address those flaws, but they have also introduced other changes which ensure that the results remain close to the predetermined, but inaccurate, goal. The Commission should not be a party to such sleight of hand. It should exclude the Hatfield Model from further consideration in this proceeding.

BA-MD anticipates that AT&T and MCI will assert that they have, or are in the process of developing, yet another "fix" to the problems discovered by Sprint and the FCC Staff. The record in this proceeding has been closed for more than a year. Those parties have had ample time to provide any corrections to the Commission in a timely fashion. The continuing problems with

the Hatfield Model indicate that it is flawed in concept and design and cannot be corrected. Therefore, the Commission should reject any attempts by AT&T, MCI or any other proponent of Hatfield, to re-open the record to submit yet more flawed and ill-designed versions of the model.

BA-MD's cost model is the only model in the record in this proceeding on which the Commission can rely. The Commission, therefore, should use that model to set rates for unbundled network elements to satisfy the legal requirement that its decision be based upon substantial record evidence.

Respectfully submitted,

Michael D. Lowe
Of Counsel

June 8, 1998

David K. Hall

David K. Hall
Robert D. Lynd

Attorneys for Bell
Atlantic - Maryland,
Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Motion to Exclude Hatfield Model of Bell Atlantic - Maryland, Inc. was served on All Parties in this case on this 8th day of June, 1998, by hand-delivery or by U.S. mail.

David K Hall
David K. Hall