



State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF LAW  
124 HALSEY STREET  
PO BOX 45029  
NEWARK, NJ 07101  
E-Mail: provoeug@smtp.lps.state.nj.us  
(973) 648-3709

CHRISTINE TODD WHITMAN  
Governor

DEC 28 1998

PETER VERNIERO  
Attorney General

JEFFREY J. MILLER  
Assistant Attorney General  
Director

December 23, 1998

Honorable Magalie R. Salas, Secretary  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

Re: Petition for Waiver of Sections 214(e) and 254(e) of  
the Telecommunications Act of 1996

Dear Secretary Salas:

Enclosed please find an original and five (5) copies of a  
Petition for Waiver of Sections 214(e) and 254(e) of the  
Telecommunications Act of 1996 filed by the New Jersey Board of  
Public Utilities on behalf of Bell Atlantic-New Jersey, Inc.  
Please file-stamp one copy and return it to me in the enclosed  
envelope.

Very truly yours,

PETER VERNIERO  
ATTORNEY GENERAL OF NEW JERSEY

By: Eugene P. Provost  
Eugene P. Provost  
Deputy Attorney General

- c: Mark W. Musser, Secretary
- Barry S. Abrams, Esq.
- Blossom A. Peretz, Esq.
- Anthony Centrella
- John DeLuca

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

In the matter of:

Federal-State Joint Board on )  
Universal Service )

RECEIVED

FEB 28 1998 FCC Docket No 96-45

FCC

PETITION FOR WAIVER OF SECTION 214(e) AND 254(e)  
OF THE TELECOMMUNICATIONS ACT OF 1996  
FILED BY THE NEW JERSEY BOARD OF PUBLIC UTILITIES

The New Jersey Board of Public Utilities ("Board") herewith petitions the Federal Communications Commission ("FCC") for a waiver of 47 U.S.C. §§214(e) and 254(e), and FCC regulations and orders adopted pursuant thereto. Specifically, the Board requests that the FCC determine that Bell Atlantic-New Jersey, Inc. ("BA-NJ") is eligible to receive federal universal support retroactive to January 1, 1998. The Board certified BA-NJ as an eligible telecommunications carrier pursuant to 47 U.S.C. §214(e) on February 18, 1998. Should the Commission grant this petition, BA-NJ would become eligible to receive federal universal service support beginning on January 1, 1998 for those customers eligible to receive such support.

By way of background, on December 18, 1997, BA-NJ filed a petition with the Board seeking approval to be designated an eligible telecommunications carrier (ETC) and to be eligible for universal service support. On February 18, 1998, pursuant to 47

U.S.C. §214(e), the Board designated BA-NJ an ETC for the geographic area which it currently serves. See Order of Approval, I/M/O the Board's Inquiry into Bell Atlantic-New Jersey, Inc.'s Progress and Compliance with Opportunity New Jersey, Its Network Modernization Program, et al., Docket Nos. TX96100707, TT97090645, and TO97120899 (February 19, 1998) (attached hereto as Exhibit A). On September 8, 1997, BA-NJ petitioned the Board for approval of a Lifeline Service tariff. On November 18, 1997, the Board approved BA-NJ's Lifeline tariff, finding that BA-NJ's proposal complied with relevant FCC regulations and will promote universal service in New Jersey. See Order of Approval, I/M/O the Board's Inquiry into Bell Atlantic-New Jersey, Inc.'s Progress and Compliance with Opportunity New Jersey, Its Network Modernization Program, et al., Docket Nos. TX96100707 and TT97090645 (November 25, 1997) (attached hereto as Exhibit B).

This petition is filed pursuant to the FCC's Fourth Order on Reconsideration in its Universal Service docket. In the Fourth Order on Reconsideration, I/M/O Federal-State Joint Board on Universal Service, 13 F.C.C.R. 2372 (1997) (CC Docket No. 96-45, and Report and Order in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, FCC 97-420 (released on December 30, 1997)) ("Fourth Order"), the FCC considered and approved a mechanism whereby eligibility for federal universal service support retroactive to January 1, 1998 could be obtained. In its Fourth

Order, the FCC affirmed a previous conclusion that, as of January 1, 1998, the universal service fund administrator may not disburse support to carriers that have not been designated as eligible under 47 U.S.C. §214(e), and that if a carrier has not been designated as eligible by January 1, 1998, it may not receive support until such time as it is designated an eligible telecommunications carrier. Fourth Order at ¶23. Nevertheless, the FCC agreed with certain industry comments that a state commission that is unable to designate as an ETC before January 1, 1998, a carrier which had sought such designation before January 1, 1998, "should be permitted, once it had designated such carrier, to file with the Commission a petition for waiver requesting that the carrier receive universal service support retroactive to January 1, 1998." Ibid. The FCC declared that it is in the public interest to permit telecommunications carriers to seek retroactive support, and that allowing retroactive support will permit consumers served by those carriers to benefit from the support to which those carriers would have been entitled, but for the circumstances that prevented the state commission from designating the carriers as eligible for receipt of universal service support prior to January 1, 1998. Ibid. Finally, the FCC stated that such a state commission petition for retroactive support eligibility for a carrier must explain why the state commission did not designate such carrier as eligible by January 1, 1998, and provide justification for why providing

support retroactive to January 1, 1998 serves the public interest. Ibid.

BA-NJ has taken all reasonable steps to be designated as an eligible telecommunications carrier by January 1, 1998. BA-NJ's Lifeline program was approved on November 25, 1997. However, due to the timing of the filing of its ETC petition, and the press of Board business, the Board was unable to act on BA-NJ's ETC application to assure January 1, 1998 federal universal support eligibility. The Board has already determined that BA-NJ meets all the FCC requirements to be designated an eligible telecommunications carrier and that its Lifeline program will promote universal service in New Jersey by making basic telephone service more affordable to low-income consumers. Without this universal service support, BA-NJ's ability to provide universal service throughout its service territory would be affected. In summary, the Board believes that BA-NJ's eligibility for universal service support retroactive to January 1, 1998 is in the public interest.

WHEREFORE, for the foregoing reasons, the Board respectfully requests that the FCC grant this petition for waiver of 47 U.S.C. §§214(e) and 254(e) and declare BA-NJ eligible for federal universal support retroactive to January 1, 1998.

Peter Verniero  
Attorney General of New Jersey  
Division of Law  
124 Halsey Street - 5th Floor  
P.O. Box 45029  
Newark, New Jersey 07101  
Attorney for the New Jersey  
Board of Public Utilities

Dated: December 23, 1998

By:



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Eugene P. Provost  
Deputy Attorney General





STATE OF NEW JERSEY  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

MAR 2 1998

TELECOMMUNICATIONS

ORDER OF APPROVAL

IN THE MATTER OF THE BOARD'S )  
INQUIRY INTO BELL ATLANTIC-NEW )  
JERSEY, INC.'S PROGRESS AND COMPLI-) )  
ANCE WITH OPPORTUNITY NEW JERSEY, )  
ITS NETWORK MODERNIZATION PROGRAM )

DOCKET NO. TX96100707

AND

IN THE MATTER OF A FILING BY BELL )  
ATLANTIC-NEW JERSEY, INC. FOR A RE-) )  
VISION OF TARIFF B.P.U. -N.J. NO. 2) )  
AS LISTED IN THE APPENDIX TO )  
INTRODUCE LIFELINE SERVICE )

DOCKET NO. TT97090645

IN THE MATTER OF A PETITION BY )  
BELL ATLANTIC-NEW JERSEY, INC. )  
FOR DESIGNATION AS AN ELIGIBLE )  
TELECOMMUNICATIONS CARRIER PURSUANT) )  
TO THE TELECOMMUNICATIONS ACT OF )  
1996 )

AND

DOCKET NO. TO97120899

(SERVICE LIST ATTACHED)

BY THE BOARD:

I. BELL ATLANTIC-NEW JERSEY, INC.'S LIFELINE SERVICE PROGRAM

Recently the Board of Public Utilities (Board) approved on an interim basis a request by Bell Atlantic-New Jersey, Inc. (BA-NJ) for Board authorization to provide Lifeline Service (Lifeline). See Order of Approval, I/M/O the Board's Inquiry Into Bell Atlantic-New Jersey, Inc.'s Progress and Compliance With Opportunity New Jersey, Its Network Modernization Program, and I/M/O a Filing by Bell Atlantic-New Jersey, Inc. For a Revision of Tariff B.P.U. - N.J. No. 2 As Listed in the Appendix to Introduce Lifeline Service, Docket

Nos. TX96100707 and TT97090645 (November 25, 1997) (hereinafter, Lifeline Order) at 5. In its Lifeline Order, the Board approved BA-NJ's Lifeline service effective December 1, 1997. Ibid. The Board now considers whether to require BA-NJ to provide Lifeline support credits to eligible customers effective earlier than December 1, 1997.

By way of background, BA-NJ, the Division of the Ratepayer Advocate (Advocate) and the Board's Staff entered into a Stipulation on or about April 18, 1997 resolving the Board's Opportunity New Jersey (ONJ) inquiry in Docket No. TX96100707. The Stipulation provided, inter alia, that BA-NJ would support the establishment of a Lifeline program with a "targeted implementation date of September 1997." ONJ Stipulation at §B.3. In approving the ONJ Stipulation, the Board noted that:

[t]he establishment of a lifeline low income assistance program valued at \$18 million is included.

Beginning in September 1997, eligible low income telephone customers will be able to obtain discounts on the basic local service portion of their bills as a result of this settlement...

[Order Approving Stipulation, I/M/O the Board's Inquiry into Bell Atlantic-New Jersey, Inc.'s Progress and Compliance with Opportunity New Jersey, Its Network Modernization Program, Docket No. TX96100707 (June 10, 1997) (hereinafter, Order Approving Stipulation) at 8].

Thereafter, on September 8, 1997 BA-NJ filed its petition in Docket No. TT97090645 for Board approval of a Lifeline program but with an effective date of December 1, 1997. In its Order of Approval, the Board approved BA-NJ's filing on an interim basis, ordered that BA-NJ's Lifeline service be offered prospectively beginning December 1, 1997, and deferred decision on the September 1, 1997 effective date. Lifeline Order at 5.

## DISCUSSION

The Board notes that the Advocate first raised the issue of BA-NJ's compliance with the ONJ Stipulation in a September 4, 1997 letter to the Board. Later, the Advocate raised the issue of the effective date for BA-NJ's Lifeline service in October 23, 1997 comments on BA-NJ's Lifeline petition. In those comments, the Advocate noted that BA-NJ had more than four months from the date of the ONJ Stipulation to implement a Lifeline program by September 1, 1997, and that the ONJ settlement anticipated a September 1, 1997 effective date for BA-NJ's Lifeline service. The Advocate further commented that because BA-NJ's implementation is three months later than the anticipated implementation date that conditions should be imposed on Lifeline approval. The Advocate requested that the Board approve the filing but also quantify the monies not expended by BA-NJ in Lifeline support from September 1, 1997 through November 30, 1997,

and make an express provision for an additional benefit equal to this amount. Advocate comments (October 23, 1997) at 2. The Advocate argued that this additional benefit would ensure that "New Jersey residents receive the full benefit of Lifeline, as prescribed in the Board's Order." Ibid.

In reply comments dated November 14, 1997, BA-NJ noted that in order to provide the necessary notification of the Lifeline service to all eligible applicants, BA-NJ had to obtain assistance from various State agencies whose clients would be eligible for Lifeline support. BA-NJ stated that the "time required to compile the necessary information, without violating the respective agency' [sic] confidentiality requirements, precluded BA-NJ from achieving the targeted implementation date." BA-NJ comments (November 14, 1997) at 2. BA-NJ also noted delays associated with modifying its billing system to automatically apply the monthly credits associated with Lifeline support. Ibid. Finally, BA-NJ noted that it would expend well over \$1 million to implement the Lifeline program, including costs associated with direct mailing to eligible persons, advertising, the printing of brochures and posters to be provided to State agency representatives to promote Lifeline enrollment. Ibid. BA-NJ asserted that because it made a good faith effort to implement the Lifeline program in accordance with the targeted date, the Board should approve its Lifeline filing without the conditions recommended by the Advocate. Ibid.

Despite the contrary nature of some elements in the above comments, the Board recognizes that both the Advocate and BA-NJ share a commitment to make Lifeline support available to all eligible New Jersey customers. Having reviewed this matter thoroughly, the Board must conclude that the parties to the ONJ Stipulation, including its own Staff, anticipated that Lifeline support would be given out on a timely basis effective on or about September 1997. The Board's own Lifeline Order, as referenced above, reflects its understanding that BA-NJ had committed to a September 1997 Lifeline start-up. Undoubtedly, BA-NJ encountered obstacles in implementing its Lifeline program. Nevertheless, the Board's primary concern is the extension of Lifeline support to all eligible BA-NJ subscribers at the earliest effective date. In addition, however, the Board must acknowledge the expense that might be required of BA-NJ should the Board adopt the Advocate's proposal.

Accordingly, the Board HEREBY ORDERS that BA-NJ, as part of its stipulated obligation to provide Lifeline service support to its eligible customers, shall provide a credit in the amount of \$21.00 to the bill of each eligible Lifeline subscriber that signs up for Lifeline service by February 28, 1998. This credit is in addition to the Lifeline credit for the month in which the customer becomes eligible.

The Board believes that the application of this credit to eligible customer bills is within the spirit of the ONJ Stipulation. We must note that BA-NJ and Board Division of Customer Relations Staff have expended great efforts to educate the public about BA-NJ's Lifeline program. As a result of this effort, a Lifeline information packet and application were developed and mailed by the Departments of Health and Senior Services and Human Services to more than 400,000

State agency clients. In addition, Division of Customer Relations Staff is providing Lifeline information to more than 52 community action programs for distribution to participants. Finally, BA-NJ has placed notices advertising its Lifeline program in 15 newspapers of general circulation throughout the State and in nine newspapers of more limited circulation which are read by Lifeline-eligible low income consumers. Because of these diverse and intensive notification efforts, the Board is confident that the maximum number possible of eligible New Jersey consumers will successfully enroll in BA-NJ's Lifeline program, including the \$21.00 credit herein required.

## II. DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

By letter dated December 18, 1997, BA-NJ filed a petition with the Board seeking approval to be designated an Eligible Telecommunications Carrier (ETC) pursuant to Section 102 of the Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56 (codified at 47 U.S.C. §151 et seq.) (the Act), and specifically, 47 U.S.C. §214(e) and 47 C.F.R. §54.201 et seq. Pursuant to the Act, only a common carrier which is designated as an ETC shall be eligible to receive universal service support. 47 U.S.C. 214(e) (1); 47 C.F.R. §54.201(a). Under the Act, in order to be eligible for universal service support, it is necessary for a telephone company, such as BA-NJ, to be designated an ETC by the Board. 47 U.S.C. §214 (e) (2); 47 C.F.R. §54.201(b).

Pursuant to Federal Communications Commission (FCC) regulation, an ETC must offer the following:

- (1) voice grade access to the public switched network;
- (2) local usage defined as an amount of minutes of use of exchange service, prescribed by the Commission, provided free of charge to end users;
- (3) dual tone multi-frequency signaling or its functional equivalent;
- (4) single-party service or its functional equivalent;
- (5) access to emergency services;
- (6) access to operator services;
- (7) access to interexchange services;
- (8) access to directory assistance; and
- (9) toll limitation for qualifying low income customers.

See 47 C.F.R. §§54.201(d) and 54.101. In addition, 47 C.F.R. §54.405 requires that all ETCs shall make available Lifeline Service as defined in 47 C.F.R. §54.401.

In its petition, BA-NJ indicated that it provides all the services required by the FCC over its own facilities throughout its service territory and, in support of this assertion, cites to its Tariff B.P.U. No. 2, Exchange and Network Services, Sections A3, A5, A6 and A9. With regard to toll limitation, BA-NJ advised that it provides toll blocking only.

Finally, pursuant to 47 C.F.R. §54.201(d) (2), an ETC must "advertise the availability of [the above-referenced] services and charges using media of general distribution." BA-NJ has indicated that use of the customer information section of their directory, and its plans to advertise the availability of Lifeline Service via newspaper advertisement satisfies this requirement.

By letter dated December 29, 1997, BA-NJ requested that the Board submit a motion for ETC designation to the FCC by December 31, 1997, or as soon thereafter as possible, in order to be eligible to receive the maximum amount of federal Universal Service funding possible. BA-NJ further requested that if it is not possible to approve its ETC application prior to year's end, the Board make such approval effective nun pro tunc, January 1, 1998.

By letter dated January 13, 1998, the Advocate advised that it had reviewed BA-NJ's filing and that "it is satisfied that the petition is consistent with the public interest, convenience and necessity and therefore recommends that the Board approve the petition." The Advocate also recommended that once BA-NJ is designated an ETC by the Board, the Board file a petition with the FCC for a waiver requesting that BA-NJ receive federal universal support retroactive to January 1, 1998.

#### DISCUSSION

The Board is satisfied that BA-NJ meets all the requirements to be designated an Eligible Telecommunications Carrier. It has an approved Lifeline Service program. See (Lifeline Order). The Board has already granted BA-NJ a waiver of the FCC's toll control requirement. See Lifeline Order at 4. BA-NJ provides all other required services as set forth in its Tariff. Finally, the Board is satisfied that its newspaper advertisement and directory information programs meet the requirements of 47 C.F.R. §54.201 (d) (2). Accordingly, having thoroughly considered this matter the Board FINDS that BA-NJ meets all the requirements of 47 U.S.C. §214 (e). Therefore, the Board HEREBY DESIGNATES BA-NJ an ETC for the geographic area which it currently serves effective as of the date of this Order.

With regard to the request by both BA-NJ and the Advocate that the Board provide for universal service eligibility retroactive to January 1, 1998, the Board notes that BA-NJ's application was filed on December 18, 1997, too late for consideration by the Board in 1997. However, we note that the clear intent of BA-NJ's filing was that it become eligible for federal universal service support at the earliest date possible. As noted by the Advocate in its January 13, 1998 comments in this matter, the FCC recently considered and approved a mechanism whereby eligibility for federal universal service support retroactive to January 1, 1998 could be obtained. In its Fourth Order on Reconsideration in CC Docket No. 96-45, Report and Order in CC Docket Nos. 96-45, 96-262, 94-1, 91-213 and 95-72 I/M/O Federal-State Joint Board on Universal Service, Order No. FCC 97-420 (released December 30, 1997) (hereinafter, Fourth Order on Reconsideration), the FCC affirmed a previous conclusion that, as of

January 1, 1998, the universal service fund administrator may not disburse support to carriers that have not been designated as eligible under 47 U.S.C. §214 (e), and that if a carrier has not been designated as eligible by January 1, 1998, it may not receive support until such time as it is designated an eligible telecommunications carrier. Fourth Order on Reconsideration at ¶23. Nevertheless, the FCC agreed with certain industry comments that a state commission that is unable to designate as an ETC before January 1, 1998, a carrier which had sought such designation before January 1, 1998, should be permitted, once it has designated such carrier, to file with the [FCC] a petition for waiver requesting that the carrier receive universal service support retroactive to January 1, 1998. \* Ibid. The FCC declared that it is in the public interest to permit telecommunications carriers to seek retroactive support, and that allowing retroactive support will permit consumers served by those carriers to benefit from the support to which those carriers would have been entitled, but for the circumstances that prevented the state commission from designating the carriers as eligible for receipt of universal service support prior to January 1, 1998. Ibid. Finally, the FCC has stated that such a state commission petition for retroactive support eligibility for a carrier must explain why the state commission did not designate such carrier as eligible by January 1, 1998, and provide justification for why providing support retroactive to January 1, 1998 serves the public interest. Ibid.

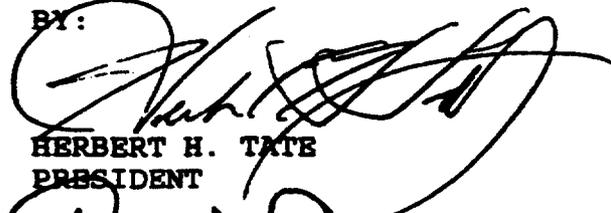
In this matter, the Board agrees with BA-NJ and the Advocate that eligibility for universal service support retroactive to January 1, 1998 is in the public interest. Despite the filing of its ETC application on December 18, 1997, too close to the FCC December 31, 1997 deadline for Board action in 1997, we note that BA-NJ has met its obligations by filing a legally sufficient application prior to January 1, 1998. We note that BA-NJ has been committed to offering Lifeline services to its customers since April 1997, when it entered into a Stipulation which resolved the Board's Opportunity New Jersey inquiry and provided for a Lifeline Service Program with a target implementation date of September 1997. See Order Approving Stipulation. As already noted, BA-NJ received approval for its Lifeline Program on November 25, 1997, having applied therefore on September 8, 1997. The press of Board business and the finite resources of its Staff have not permitted the Board to act any earlier than now on BA-NJ's December 18, 1997 ETC application. This fact should not cloud the fact that BA-NJ has perfected an ETC application within the timeframe set forth by the FCC in its Fourth Order on Reconsideration.

Moreover, BA-NJ is overwhelmingly New Jersey's largest local exchange carrier, providing local exchange services to approximately 97% of the State's residential customers, including virtually all the State's urban residential customers. It is clearly in the public interest to maximize every resource which can be brought to bear to extend universal service to all of the State's citizens, including available federal universal service support resources. Therefore, making as much federal Lifeline support available to BA-NJ, and thereby to BA-NJ's customer base, is also in the public interest.

Accordingly, the Board DIRECTS its Staff, in conjunction with the Attorney General's Office to prepare and file a petition with the FCC requesting that BA-NJ be declared eligible for federal universal support retroactive to January 1, 1998.

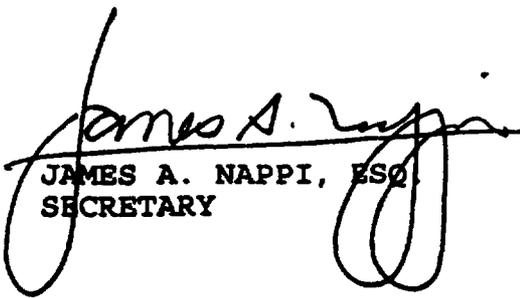
DATE: 2-19-99

BOARD OF PUBLIC UTILITIES  
BY:

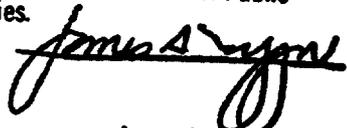
  
HERBERT H. TATE  
PRESIDENT

  
CARMEN J. ARMENTI  
COMMISSIONER

ATTEST:

  
JAMES A. NAPPI, ESQ.  
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities.

  
James A. Nappi, Esq.  
Secretary

IN THE MATTER OF A PETITION BY  
BELL ATLANTIC -NEW JERSEY, INC., FOR DESIGNATION  
AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER PURSUANT  
TO THE TELECOMMUNICATIONS ACT OF 1996

SERVICE LIST

DOCKET NOS. TX96100707, TT97090645 & TO97120899

Leigh E. Buggeln, Esq.  
Bell Atlantic-New Jersey, Inc.  
540 Broad Street  
Newark, NJ 07101

Eugene P. Provost, DAG  
Dept. of Law & Public Safety  
Division of Law  
124 Halsey Street  
P.O. Box 45029  
Newark, NJ 07101

Michael P. Gallagher, Director  
Bruce W. Gallagher  
Board of Public Utilities  
2 Gateway Center  
Newark, NJ 07102

Blossom A. Peretz, Director  
State of New Jersey  
Dept. of the Treasury  
Division of Ratepayer Advocate  
31 Clinton Street, 11th Floor  
P.O. Box 46005  
Newark, NJ 07101

Mary E. Coogan, Esq.  
Association for Children of NJ  
35 Halsey Street  
Newark, NJ 07102

Robert Melendez  
Board of Public Utilities  
2 Gateway Center  
Newark. NJ 07102





STATE OF NEW JERSEY  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

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TELECOMMUNICATIONS

ORDER OF APPROVAL

IN THE MATTER OF THE BOARD'S )  
INQUIRY INTO BELL ATLANTIC-NEW )  
JERSEY, INC.'S PROGRESS AND COMPLI-) )  
ANCE WITH OPPORTUNITY NEW JERSEY, )  
ITS NETWORK MODERNIZATION PROGRAM )

DOCKET NO. TX96100707

AND

IN THE MATTER OF A FILING BY BELL )  
ATLANTIC-NEW JERSEY, INC. FOR A RE-) )  
VISION OF TARIFF B.P.U. -N.J. NO. 2) )  
AS LISTED IN THE APPENDIX TO )  
INTRODUCE LIFELINE SERVICE )

DOCKET NO. TT97090645

(SERVICE LIST ATTACHED)

On September 8, 1997, Bell Atlantic-New Jersey, Inc. (BA-NJ) filed a petition with the Board of Public Utilities (Board) pursuant to N.J.A.C. 14:1-5:11 and pursuant to the Order Approving Stipulation in I/M/O the Board's Inquiry into Bell Atlantic-New Jersey, Inc.'s Progress and Compliance with Opportunity New Jersey, Docket No. TX96100707 (June 10, 1997) requesting that the Board authorize BA-NJ to provide Lifeline Service (Lifeline). Lifeline service is an assistance program for eligible New Jersey residents which provides a total of up to \$7.00 per month assistance for qualified residential participants. In order to qualify, a residential applicant must participate in one of the following New Jersey programs:

1. Supplemental Security Income/Medicaid;
2. Temporary Assistance to Needy Families/Work First New Jersey;
3. General Assistance;
4. Lifeline Utility Credit/Tenants Lifeline Assistance;
5. Pharmaceutical Assistance to the Aged and Disabled;
6. Food Stamp Program; or
7. Home Energy Assistance Program.

BA-NJ has filed this petition as required by the Stipulation approved at Docket No. TX96100707. Furthermore, it is an FCC requirement that BA-NJ offer this service in order to be designated as an eligible telecommunications carrier (ETC). 47 C.F.R. §54.405. Pursuant to 47 U.S.C. §214(e)(1), only an ETC shall be eligible to receive Federal Universal Service funds<sup>1</sup>.

In order to provide manageable monthly expenses for low income customers, BA-NJ has requested, in accordance with the stipulation at Docket No. TX96100707, that the recipients of the benefits of Lifeline service be restricted to those customers who subscribe to BA-NJ's Low Usage Message Rate (LUMR) Service and that optional services available to Lifeline service subscribers be limited. According to the petition, optional services would be limited to those that may be required by the customer for privacy or security reasons, including Toll Blocking, Caller ID, Caller ID Deluxe, Call Trace and a non-published directory listing. The petition provides that toll blocking would be available if requested by Lifeline customers, at no extra charge. In addition, BA-NJ also requests that it be permitted to block Lifeline service lines from access to Call 54, Connect Request, 700, 900, 976 and all other announcement services in order to assist the low income customers subscribing to Lifeline service to have a manageable monthly telephone expense. Finally, BA-NJ also requests that any Lifeline customer who has a past due balance of \$20.00 or more in toll charges be automatically restricted from access to toll services until the balance is paid. In the event of a toll restriction action, notice to subscribers would be provided in accordance with N.J.A.C. 14:3-7:12. The petition also provides that charges for the restoration of toll service would apply as permitted by the tariff.

In its petition, BA-NJ has proposed a Lifeline program which provides a \$7.00 bill reduction to qualified low-income consumers with \$3.50 supplied as part of BA-NJ's ONJ settlement and a matching \$3.50 from federal support, which is currently available. As noted, a requirement of the above-referenced Stipulation approved by the Board's Order Approving Stipulation dated June 10, 1997 at Docket No. TX96100707 was that BA-NJ establish a Lifeline low-income assistance program beginning in September 1997. Order Approving Stipulation at 8. BA-NJ asserts that its proposed Lifeline program is offered in accordance with the Stipulation and complies with all FCC Lifeline rules.

#### COMMENTS

By letter to the Board dated October 23, 1997, the Division of the Ratepayer Advocate (Advocate) submitted comments on this filing. The Advocate is a signatory to the Stipulation approved by the Board at Docket No. TX96100707. The Advocate's comments noted that BA-NJ's petition provides for implementation on December 1, 1997

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<sup>1</sup>Pursuant to 47 U.S.C. §214(e)(2), the Board, upon its own motion or upon request, shall designate a common carrier an eligible telecommunications carrier. BA-NJ, in this petition, has not requested ETC designation.

even though the Board ordered implementation by September 1, 1997. Therefore, the Advocate, while expressing pleasure that Lifeline will finally be available to the State's neediest residents and recommending Board approval of the filing, suggested that the Board quantify the monies not expended by BA-NJ in support of Lifeline from September 1, 1997 through November 30, 1997 and make an express provision for an additional benefit equal to this amount.

By letter dated October 30, 1997, the Association for Children of New Jersey (ACNJ), a non-profit child advocacy organization, filed comments on the BA-NJ petition. ACNJ is an intervenor in the Board's generic proceeding, I/M/O The Investigation Regarding Local Exchange Competition for Telecommunications Services, Docket No. TX95120631 (Local Competition). In the Local Competition Docket, ACNJ submitted testimony which, inter alia, advocates for a Lifeline program for New Jersey residents. In its October 30, 1997 letter in this Docket, ACNJ advised that BA-NJ's proposed Lifeline program is "too restrictive." ACNJ letter at 2. According to ACNJ, BA-NJ's proposal, which offers a credit toward BA-NJ LUMR service for customers participating in specific public assistance programs, is "too narrowly defined, offers second class service to New Jersey's poor, and is not good public policy." Ibid. ACNJ asserted that universal service is not only access to the network, but also affordable usage. According to ACNJ, tying Lifeline to BA-NJ's LUMR service will not accomplish the goal of the Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56 (codified in scattered sections of 47 U.S.C. §151 et seq.), to provide "[q]uality services ... at just, reasonable, and affordable rates [47 U.S.C. §254(b)(1)]." Ibid. ACNJ urged the Board to adopt an automatic enrollment policy for all families participating in all public assistance programs, unless they specifically elect not to participate. Id. at 3. ACNJ also recommended that the Board adopt as a qualifying criteria an income eligibility level of 150% of federal poverty guidelines. Ibid. ACNJ urged the Board not to sanction BA-NJ's proposal because it will not realize the maximum amount of available federal funding and does not meet FCC criteria. Ibid. ACNJ recommended that the Board direct BA-NJ to establish a viable Lifeline program which ensures that New Jersey receives the maximum amount of federal funding. Id. at 4. Finally, in the alternative, ACNJ recommended that the Board approve BA-NJ's Lifeline tariff as an interim program through December 31, 1997, and then require BA-NJ to amend the program effective January 1, 1998, to bring the program into compliance with federal law and ensure that federal funding is not jeopardized. ACNJ argued that, as of January 1, 1998, qualifying New Jersey customers should be automatically enrolled and be allowed to select the same basic unlimited basic service available to all BA-NJ customers. Ibid.

#### DISCUSSION

For 1997, the federal Lifeline Service program requires a contribution from in State sources. In this case, as part of its ONJ commitment BA-NJ will provide \$3.50 in support of a Lifeline service, thus qualifying for an additional \$3.50 in matching support from the 1997 federal Lifeline program. Starting in January 1998, the federal baseline Lifeline support amount will be \$3.50 per qualifying low-income consumer. 47 C.F.R. §54.403(a). In addition, however, the Federal Communications Commission (FCC) has approved changes to the

Lifeline program which provide additional federal Lifeline support in the amount of \$1.75 to be made available to the carrier providing Lifeline service to the qualified low-income consumer, if the Board approves an additional reduction of \$1.75 in the local service rate charged to the Lifeline consumer. See Report and Order, I/M/O Federal-State Joint Board on Universal Service, CC Docket no. 96-45, Order FCC 97-157 (released May 8, 1997; revised for errata June 4, 1997), ¶351; FCC Public Notice DA97-1892 (September 29, 1997); 47 C.F.R. §54.403(a). Additional federal Lifeline support in an amount equal to one-half the amount of any state Lifeline support will also be made available to the carrier providing Lifeline service to a qualifying low-income consumer if the Board approves an additional reduction in the amount paid by that consumer equal to the state support multiplied by 1.5. 47 C.F.R. §54.405(a). In no event shall the federal Lifeline support amount exceed \$7.00 per qualifying low-income consumer. Ibid.

We note that among the services or functionalities which shall be supported by the 1998 federal universal service support mechanisms is a requirement that the carrier offer toll limitation for qualifying low-income consumers. 47 C.F.R. §54.101(a)(9); §54.401(a)(3). Toll limitation is defined to include both toll blocking and toll control. 47 C.F.R. §54.400(d). Toll blocking is a service which lets consumers elect not to allow the completion of outgoing toll calls from their telephone, and toll control is a service which lets consumers specify a certain amount of toll usage that may be incurred on their telephone per month or per billing cycle. 47 C.F.R. §54.400(b) and (c).

In this filing, BA-NJ is offering only toll blocking. However, BA-NJ has requested a waiver of the FCC requirement to provide toll control, asserting that it is not presently capable of providing toll control. Pursuant to FCC regulations, the Board may grant a petition of a carrier, otherwise eligible to receive universal service support, which requests additional time to complete network upgrades to provide toll limitation service upon a finding that exceptional circumstances prevent such a carrier from providing toll limitation services. 47 C.F.R. §54.101(c). In this matter, BA-NJ has demonstrated to the Board that it is technically incapable of providing the full gamut of toll limitation services to its customers which the FCC requires, solely because the technology to provide toll control services is not available. Accordingly, the Board FINDS that an exceptional circumstance exists which prevents BA-NJ from providing toll limitation as defined by the FCC. However, because BA-NJ will make available toll blocking, the Board HEREBY GRANTS a waiver of BA-NJ's obligation to provide toll limitation services limited to its inability to provide toll control services until such time as toll control services are technically feasible or the FCC modifies this obligation. The Board DIRECTS BA-NJ to report to Staff one year from the date of this Order whether toll control is technically feasible as defined by the FCC, and if so when BA-NJ can implement it.

The Board also notes that, contrary to ACNJ's comments, the proposed Lifeline program will provide \$7.00 in support to qualified low-income consumers through a combination of federal support and BA-NJ commitment. In addition, we note that pursuant to

the above-referenced Stipulation this Lifeline proposal was intended to be an interim proposal "until such time that a complete State Universal Service program and a fund is established by the Board in the [Local Competition] proceeding." See Stipulation at Docket No. TX96100707 at ¶3. Recognizing, therefore, that BA-NJ's petition offers an interim Lifeline program which is intended to generate \$7.00 in support per qualifying low-income customer, and, in addition, is intended to fulfill BA-NJ's commitment pursuant to the Stipulation at Docket No. TX96100707, we believe it is appropriate to evaluate the merits of ACNJ's proposals regarding automatic enrollment, expanded income eligibility criteria, and removal of the linkage of BA-NJ's program to its LUMR service in the context of the Board's generic Local Competition proceeding.

Therefore, having reviewed the relevant FCC rules regarding Universal Service support, as well as the complete record in these Dockets, the Board FINDS that this filing will promote universal service in New Jersey by making basic telephone service more affordable to low-income consumers. The Board also FINDS that the availability of federal support and the ability of BA-NJ to fulfill commitments made at Docket No. TX96100707 indicate that the provision of the Lifeline program now proposed is not detrimental to continued provision of safe, adequate and proper service. Moreover, the Board FINDS that BA-NJ's Lifeline proposal complies with relevant FCC regulations and BA-NJ's commitments under the aforementioned Stipulation.

Therefore, the Board HEREBY APPROVES this filing on an interim basis and as modified below as being in the public interest and in accordance with law. The Board also APPROVES BA-NJ's request to obtain an additional \$1.75 of federal support available as of January 1, 1998. In addition, the Board ORDERS that BA-NJ advertise the availability of this service in the major New Jersey newspapers within its service territory within 30 days of the date of the Order and send direct mail notification to all clients of the eligibility programs listed above. The effective date for Lifeline service that BA-NJ had proposed is December 1, 1997.

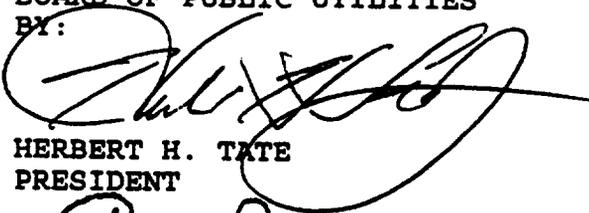
We note that the Advocate raised an issue as to the effective date for lifeline service. The Advocate argued that the ONJ settlement anticipated a September 1, 1997 effective date for BA-NJ lifeline service.

However, the Board defers its decision on the September 1, 1997 effective date for this service and reserves its ability to require lifeline support at \$7.00, with \$3.50 obtained from federal matching funds from the current universal service program. Furthermore, in deferring this action, the Board makes no determination as to the mechanism for any additional advertising for this service until a later date, but ORDERS that the service be offered on a going forward basis beginning December 1, 1997 at the \$7.00 rate proposed by BA-NJ. In order that the FCC might certify that BA-NJ's Lifeline plan meets FCC requirements, the Board DIRECTS BA-NJ to file information with the FCC as set forth in 47 C.F.R. §54.401(d), and provide a copy of such filing to the Board. Finally, in order to accept increased federal Lifeline support, the Board directs its Staff to prepare and file a letter with the FCC within 30

days of this Order advising the FCC of Board authorization of the reduction of intrastate rates. See Public Notice DA97-1892 (released September 29, 1997).

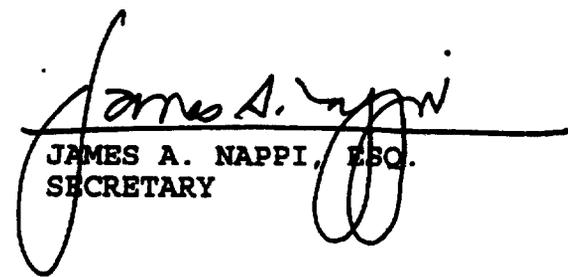
DATED: 11-25-97

BOARD OF PUBLIC UTILITIES  
BY:

  
HERBERT H. TATE  
PRESIDENT

  
CARMEN J. ARMENTI  
COMMISSIONER

ATTEST:

  
JAMES A. NAPPI, ESQ.  
SECRETARY

PETITION OF BELL ATLANTIC -NEW JERSEY, INC.  
TO INTRODUCE LIFELINE SERVICE

SERVICE LIST

DOCKET NOS. TX96100707 & TT97090645

Leigh E. Buggeln, Esq.  
Bell Atlantic-New Jersey, Inc.  
540 Broad Street  
Newark, NJ 07101

Eugene P. Provost, DAG  
Dept. of Law & Public Safety  
Division of Law  
124 Halsey Street  
P.O. Box 45029  
Newark, NJ 07101

Michael P. Gallagher, Director  
Bruce W. Gallagher  
Board of Public Utilities  
2 Gateway Center  
Newark, NJ 07102

Blossom A. Peretz, Director  
State of New Jersey  
Dept. of the Treasury  
Division of Ratepayer Advocate  
31 Clinton Street, 11th Floor  
P.O. Box 46005  
Newark, NJ 07101

Mary E. Coogan, Esq.  
Association for Children of NJ  
35 Halsey Street  
Newark, NJ 07102

Robert Melendez  
Board of Public Utilities  
2 Gateway Center  
Newark. NJ 07102