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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Federal-State Board on
Universal Service

CC Docket No. 96-45

**COMMENTS OF BELL ATLANTIC¹ ON
FURTHER NOTICE OF PROPOSED RULEMAKING**

In the Notice here, the Commission recognizes that wireless carriers face unique difficulties in determining the jurisdiction of their revenues for universal service reporting purposes, and that requiring wireless carriers to include a specific amount of local usage in a "basic service package" in order to be eligible for universal service support may not treat wireless carriers in a competitively neutral manner compared to wireline providers.

In addressing these issues, the Commission should adopt a single standard factor that presumptively applies to all wireless providers for determining the portion of their revenues that is considered interstate for universal service reporting purposes. A wireless carrier also should have the option to use a carrier-specific factor based on its own relative traffic volumes, if properly supported, in lieu of using the standard presumptive factor.

¹ The Bell Atlantic companies participating in this filing ("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; New England Telephone and Telegraph Company; and Bell Atlantic Mobile, Inc.

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The Commission should not, however, adopt a specific amount of local usage that a carrier must include in a basic service package in order to be eligible for universal service support. Rather, the competitive marketplace should decide the appropriate amount of usage in the “basic service package,” and carriers should be permitted to differentiate their services on the basis of the amount of usage they choose to provide in their package, without regulatory interference.

I. The Commission Should Adopt A Single Standard Factor That Presumptively Applies to All Wireless Carriers.

In the Universal Service Order, the Commission decided to require all interstate telecommunications carriers to contribute to the high cost and low income funds based on their interstate and international end user telecommunications revenues. 12 FCC Rcd 8776, ¶¶ 831, 836 (1997). In the Further Notice here, however, the Commission correctly recognizes that it is particularly difficult for wireless carriers to identify their revenues by jurisdiction for this purpose. See Further Notice, ¶ 4. The jurisdiction of a call is determined by the locations where that call originates and where it ultimately terminates. But the coverage area of a radio antenna often crosses state boundaries, making it difficult, if not impossible, to determine in which state the mobile customer who is being served by that antenna is located. In addition, the jurisdiction could change in mid-call as a mobile customer crosses a state line or as the call is handed off to a cell site in another state.

Requiring wireless carriers to identify the jurisdiction of their revenues in the same way that landline carriers report revenues would be extremely burdensome, for the

reasons stated above. For purposes of determining contributions to the universal service support mechanisms, the Commission should strive for fairness and equity, not exactitude.²

Therefore, the Commission should adopt its tentative conclusion to establish a fixed percentage of total revenues that a wireless carrier must identify in the universal service worksheet as “interstate,” rather than require each wireless carrier to try to measure the actual jurisdiction of its traffic. *See Further Notice*, ¶ 18. That percentage should be based on existing data, but it should not vary by type of wireless provider. This is because there is no valid way of dividing wireless providers into “types” for this purpose. Some cellular, PCS, paging and SMR systems are local, some of each are multi-state or regional, and some nationwide. If the Commission tried to prescribe a factor for each type or segment of the industry, it would need a multitude of separate factors to represent each permutation of carrier “type,” a useless exercise.

Nor should such a factor be based on landline traffic. Wireless and wireline carriers operate under very different regulatory rules, provide different calling areas, and have different usage patterns. For example, while wireline exchange carriers are largely tightly regulated by state commissions, wireless providers operate under flexible federal rules. And unlike the Bell companies’ wireline operations, LATA and state boundaries provide no constraints on the services of wireless providers, which are limited only by the

² For the same reason, the Commission should adopt a fixed percentage of revenues of competing local exchange carriers as interstate for universal service reporting purposes, just as it does for incumbents through operation of the Separations rules.

terms of their radio licenses. Therefore, the local calling areas of wireline and wireless carriers may differ significantly.

In addition, wireless services generally are measured, and subscribers pay minute-of-use charges for both inbound and outbound calls. By contrast, wireline services are often flat-rated, or customers pay message units for each call, not the minute. Wireline service subscribers rarely pay for inbound calls,³ even if they have measured rate service for outbound calls. As a result of these differences, wireline and wireless services exhibit very different usage patterns, and usage factors that apply to wireline carriers would not necessarily apply to wireless services.

Accordingly, instead of using wireline traffic as the basis for determining the jurisdiction of a wireless carrier's revenues, the Commission should adopt a single standard factor for universal service reporting by all wireless carriers, using the average of interstate and intrastate revenues of such carriers, which the Commission has already reported and summarized. *See* Telecommunications Industry Revenue Report, Table 6, line 48 (rel. Oct. 8, 1998). These figures, which show that about 7.7% of wireless revenues are interstate, represent reports already made by wireless carriers, based upon their own best efforts to separate their revenues by jurisdiction. There is no reason why the Commission should not use those figures in developing a standard factor. If any carrier believes that the jurisdictional division of its revenues deviates significantly from

³ Exceptions include collect calls and 800 service.

this average, it should be permitted to submit its own documented study and propose a factor based on that study.⁴

II. The Commission Should Let the Marketplace Determine The Amount Of Local Usage In Basic Service Packages.

In the Universal Service Order, the Commission designated the services that would receive support from the federal universal service fund, as required by Section 254(c)(1) of the Act. The Commission established a “basic service package” of supported services that included, among other items, voice grade access to the public switched network and local usage in an amount to be determined. *See* Universal Service Order, ¶ 56; 47 C.F.R. § 54.101(a). In the Further Notice, the Commission seeks comment on what, if any, minimum amount of local usage should be included in the basic service package, and how to define “local” for this purpose. *See* Further Notice, ¶ 50.

Inclusion of a local usage component raises issues of competitive neutrality, since landline and wireless carriers have very different cost characteristics. The cost of the local loop, which is the major factor that distinguishes high cost areas, is largely a fixed cost for a landline carrier, while the incremental cost of providing local usage over such a loop is relatively small. *See id.*, ¶ 47. In contrast, for a wireless carrier, there is no “local loop” that is dedicated to each customer. Rather, radio frequencies are assigned to mobile customers as calls are made. Consequently, wireless carriers have relatively low fixed

⁴ The Commission should not require that a wireless carrier obtain a waiver to submit its own study and propose its own factor.

costs, but much greater traffic sensitive costs. As a result, any specific usage component that the Commission might establish would not be technology-neutral.

Moreover, it would not be practical for the Commission to prescribe a fixed amount of local usage that mirrors the amount that has, “through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers,” as required under the Act. *See* 47 U.S.C. § 254(c)(1)(B). There are literally thousands of pricing plans throughout the country, often driven by local regulatory policies, that would meet the definition of “basic” local telephone service. Some include unlimited calling within a “local” service area, while others include a number of “message units,” or local calls of unlimited duration, that can be made before measured rates apply, while under others, the customer must pay for each call made. It is hard to conceive of any amount of local usage that the Commission could prescribe that would meet the requirement of the Act.

Accordingly, instead of adopting a usage component that would favor one technology over another – one that would not meet the statutory definition of universal service components in many states – the Commission should refrain from prescribing any particular amount of local usage to be included in the basic service package by either landline or wireless carriers. Rather, it should allow the marketplace to determine the appropriate amount of local usage that should be included in carriers’ basic service packages. In the competitive marketplace, the amount of usage that a carrier offers at the supported rate can be a way that each carrier can differentiate its service from those of other wireline and wireless carriers and can provide one basis upon which consumers can make competitive choices.

This approach would have several benefits. It would take maximum advantage of the competitive marketplace, as the Act requires. It would avoid setting an arbitrary one-size-fits-all local usage component that consumers may not find attractive. And it would promote competitive neutrality, since all carriers and technologies would have an equal chance to offer a package at the supported rate with a usage component that it believes customers will prefer.

Respectfully submitted,



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Dated: January 11, 1999

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of January, 1999, a copy of the foregoing
“Comments of Bell Atlantic on Further Notice of Proposed Rulemaking” was sent by first class
mail, postage prepaid, to the parties on the attached list.



Jennifer L. Hoh

* Via hand delivery.

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