

FCC MAIL SECTION

Federal Communications Commission

DA 99-576

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Before the
 Federal Communications Commission
 Washington, D.C. 20554

In the Matter of)	
)	CC Docket No. 99-35
Local Telephone Number)	
Portability Tariff Filings of)	
)	
Bell Atlantic Telephone Companies)	Transmittal No. 1114
)	
NYNEX Telephone Companies)	Transmittal No. 540
)	

MEMORANDUM OPINION AND ORDER

Adopted: March 24, 1999

Released: March 24, 1999

By the Deputy Chief, Competitive Pricing Division:

I. INTRODUCTION

1. On March 2, 1999, Bell Atlantic Telephone Companies (Bell Atlantic) filed transmittals to propose rates for local number portability end-user charges.¹ Based on its review, the Common Carrier Bureau (Bureau) concluded that these filings raised significant issues of lawfulness that warrant investigation. Accordingly, on March 16, 1999, the Bureau released the *Bell Atlantic Suspension Order*, which suspended Bell Atlantic Transmittal No. 1111 and NYNEX Transmittal No. 539 for one day, imposed an accounting order, and initiated an investigation into several issues raised by the filings.²

2. On March 15, 1999, Bell Atlantic filed Bell Atlantic Transmittal No. 1114 and NYNEX Transmittal No. 540 seeking to establish rates, terms, and conditions for Bell Atlantic's local number portability query services with effective dates of March 30, 1999.³

¹ Bell Atlantic Telephone Companies filed the tariffs on behalf of Bell Atlantic Telephone Companies and NYNEX Telephone Companies.

² Long-Term Number Portability Tariff Filing of Bell Atlantic Telephone Companies, *Memorandum Opinion and Order*, CC Docket No. 99-35, DA 99-519 (Com. Car. Bur., rel. Mar. 16, 1999) (*Bell Atlantic Suspension Order*).

³ See Bell Atlantic Transmittal No. 1111, filed March 2, 1999; NYNEX Transmittal No. 539, filed March 2, 1999.

On March 15, 1999, Bell Atlantic also filed a petition seeking a waiver from the Commission's requirement that carriers must file proposed query services rates along with their end-user tariffs.⁴ On March 22, 1999, AT&T filed a petition to reject or suspend Bell Atlantic Transmittal No. 1114 and NYNEX Transmittal No. 540.⁵ In this Order, we suspend Bell Atlantic Transmittal No. 1114 and NYNEX Transmittal No. 540 for one day and make them subject to the investigation set for Bell Atlantic Transmittal No. 1111 and NYNEX Transmittal No. 539.

II. SUSPENSION OF BELL ATLANTIC TRANSMITTAL NO. 1114 AND NYNEX TRANSMITTAL NO. 540

3. We find that Bell Atlantic Transmittal No. 1114 and NYNEX Transmittal No. 540 raise issues that were set for investigation in the *Bell Atlantic Suspension Order*. These issues include, but are not limited to, the following: whether Bell Atlantic's method of identifying eligible Operations Support Systems (OSS) costs is unreasonable; whether Bell Atlantic's calculation of its overhead factors is unreasonable; whether Bell Atlantic's use of "standard" factors to estimate number portability costs is unreasonable; whether Bell Atlantic's inclusion of building and power costs in its calculation of number portability costs is unreasonable; and whether Bell Atlantic's overall level of costs for local number portability is unreasonable. We also find that AT&T's petition to suspend and investigate Bell Atlantic's Transmittal No. 1114 and NYNEX's Transmittal No. 540 raises questions of lawfulness, similar to those we have identified, and further supports an investigation of these tariffs.

4. The rate proposals and the issues raised in the tariff filings for local number portability are novel and complex. Bell Atlantic has filed two sets of tariffs and supporting documentation proposing to implement query service and end-user charges. We are therefore unable at this time to limit our investigation to discrete rates or provisions of Bell Atlantic's local number portability filings. We will, accordingly, suspend Bell Atlantic's proposed tariff filings for one day and initiate an investigation into the lawfulness of the proposed tariffs. The specific issues that will be the subject of the investigation will be identified in an upcoming designation order and may include, but may not be limited to, the issues identified in this Order. We may also, by order, identify discrete issues that do not warrant further investigation.

⁴ See In the Matter of Number Portability Query Services, *Order*, CC Docket No. 98-14, 13 FCC Rcd 16117 (1998) (*Query Services Order*) (requiring carriers to file new rates, terms, and conditions for query and database query services at the same time they propose long-term number portability end-user charges).

⁵ AT&T Petition to Reject or Suspend, filed March 22, 1999 (AT&T Petition).

5. We hereby grant Bell Atlantic's request for a waiver of the Commission's requirement that carriers that previously filed long-term number portability query service charges must refile their query service rates at the same time that they file their end-user charges. The requirement was set to enable the Commission to review all aspects of a carrier's costs of providing local number portability, both query services and end-user, to ensure that the charges were reasonable and included only eligible number portability costs.⁶ Bell Atlantic has now filed proposed tariffs and cost support for its query service rates. With its previously filed end-user charges the Commission has before it in this proceeding all aspects of Bell Atlantic's costs of providing local number portability. We find that the public interest will not be harmed by the delay in Bell Atlantic's filing of its query service charges and find good cause exists to grant the waiver request.

III. *EX PARTE* REQUIREMENTS

6. This investigation is a permit-but-disclose proceeding and subject to the requirements under section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 C.F.R. § 1.1206(b)(2), as revised. Other rules pertaining to oral and written presentations are set forth in section 1.1206 (b) of the Commission's rules. 47 C.F.R. § 1206(b).

⁶ *Query Services*, 13 FCC Rcd 16117 (1998).

IV. ORDERING CLAUSES

7. ACCORDINGLY, IT IS ORDERED that, pursuant to section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, Bell Atlantic Transmittal No. 1114 and NYNEX Transmittal No. 540, filed by Bell Atlantic Telephone Companies ARE SUSPENDED from the presently scheduled effective date.

8. IT IS FURTHER ORDERED that Bell Atlantic Transmittal No. 1114 and NYNEX Transmittal No. 540 are subject to the investigation instituted in CC Docket No. 99-35.

9. IT IS FURTHER ORDERED that, pursuant to sections 204(a) and 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 204(a) and 154(i), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 U.S.C. §§ 0.91 and 0.291, Bell Atlantic Telephone Companies SHALL KEEP ACCURATE ACCOUNT of all amounts received that are associated with the rates that are subject to this investigation.

10. IT IS FURTHER ORDERED that Bell Atlantic Telephone Companies MAY FILE a supplement advancing the currently scheduled effective dates to March 29, 1999. Bell Atlantic Telephone Companies SHALL FILE a supplement reflecting the one day suspensions. For this purpose, we waive sections 61.58 and 61.59 of the Commission's rules, 47 C.F.R. §§ 61.58 and 61.59. Carriers should cite the "DA" number on the instant Order as the authority for the filings.

11. IT IS FURTHER ORDERED that Bell Atlantic Telephone Companies SHALL FILE the supplement no later than five business days from the release date of this Order.

12. IT IS FURTHER ORDERED THAT pursuant to section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, Bell Atlantic Telephone Companies' request for waiver IS GRANTED.

13. IT IS FURTHER ORDERED that AT&T's petition to reject or suspend the Local Number Portability Tariff filings of Bell Atlantic Telephone Companies IS GRANTED to the extent indicated herein and otherwise IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Kris A. Monteith
Deputy Chief, Competitive Pricing Division
Common Carrier Bureau