

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298



July 2, 1999

DOCKET FILE COPY ORIGINAL

VIA UNITED PARCEL SERVICE AND ECFS

Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

RECEIVED

JUL 6 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**Re: CC Docket No. 97-181**

Dear Ms. Salas:

Please find enclosed for filing an original and twelve copies of the Reply to Oppositions to California's Petition for Reconsideration in the above-referenced docket. Also enclosed is one additional copy of this document. Kindly file-stamp this copy and return it to me in the enclosed self-addressed envelope.

California is also providing an electronic copy of these comments via your ECFS system.

Thank you for your attention to this matter. If you have any questions, I can be reached at (415) 703-2047.

Sincerely,

A handwritten signature in cursive script that reads "Ellen S. LeVine".

Ellen S. LeVine
Attorney for California

ESL:jmc

No. of Copies rec'd
List ABCDE

A handwritten number "12" written in cursive script, positioned above a horizontal line.

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

ORIGINAL

RECEIVED

JUL 6 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of Defining Primary Lines

CC Docket No. 97-181

**REPLY TO OPPOSITIONS TO CALIFORNIA'S PETITION
FOR RECONSIDERATION**

The People of the State of California and the California Public Utilities Commission ("California") hereby reply to oppositions to California's Petition for Reconsideration of the Federal Communications Commission's ("FCC") Report and Order in In the Matter of Defining Primary Lines, CC Docket No. 97-181 ("Primary Lines Order"), filed May 5, 1999.

In our petition, California requested that the FCC reconsider its decision to adopt a definition of residential primary lines based on location instead of one based on subscriber or billed account. As California pointed out, the FCC acknowledged that a definition of residential primary lines based on subscriber account is unambiguous, compatible with carriers' existing service records, protective of customer privacy, and eliminates the need to check whether multiple subscribers are receiving lines at the same location – benefits that the FCC cited in adopting a definition based on location. Primary Lines Order, ¶ 22. California, however, explained that, consistent with universal service goals, a definition based on subscriber account would enable low-income customers, who in many cases by practical necessity must reside at a single location, individually to be eligible for the lower subscriber line charge for residential primary lines. Such definition,

unlike one based on location, would thus ensure that telephone service was affordable and accessible to the most financially needy customers.

Three parties filed in opposition to California's petition.¹ Their arguments boil down to two claims: either it is too burdensome to adopt an account-based definition of residential primary lines, or such a definition invites "customer gaming" by enabling customers to obtain more than one primary line under the same or different names at one location. These unadorned claims (like those contained in the FCC's order), however, lack any record basis or support.

First, BellSouth complains that the implementation of an account-based definition "would necessitate substantial modifications to billing, customer record and other systems." BellSouth Opp. at 2. Yet, BellSouth conveniently omits any reference to its companion petition for waiver of requirements under the FCC's Primary Lines Order in which BellSouth describes its current undertaking of "substantial modifications" of its systems in order to be compliant with the FCC's order. Specifically, as explained by BellSouth, "BellSouth's mechanized ordering systems do not currently possess the capability of performing the cross-check function envisioned in the Report and Order nor can these systems be made compliant before the effective date of July 1, 1999."

BellSouth, Pet. for Waiver at 1. BellSouth goes on to describe its need for an additional three months (as opposed to the "minimum six months" to implement "any change in line

¹ These parties are Ameritech, AT&T Corp. ("AT&T"), and BellSouth Telecommunications, Inc. ("BellSouth"). US West Communications, Inc. ("US West") filed comments in support of petitions for reconsideration filed by Moultrie Independent Telephone Company, Brown University, and the Association for Telecommunications Professionals in Higher Education. US West did not oppose California's petition.

definition” (BellSouth Opp. at 2)) to allow for “the development and testing of necessary upgrades and to effect manual correction of the existing database.” BellSouth Pet. for Waiver at 2. See also id. at 2 (“180 customer service representatives ... will be charged with manual correction of the existing database.”)

In short, BellSouth’s complaints of administrative burden in response to California’s petition ring hollow when, according to its own waiver petition, BellSouth is willing and able to undertake the concededly “*significant effort* ...required [by 180 customer service representatives making manual changes] to correct anomalies in the existing database and develop a mechanism for continuous monitoring and update of primary /non-primary line classification.” BellSouth Pet. for Waiver at 3 (emphasis added).

Ameritech in turn argues that the FCC correctly rejected an account-based definition of residential primary line because it invites customer gaming or fraud by enabling customers to obtain multiple lines at the primary line rate at the same location under separate accounts. Primary Lines Order, ¶ 22 (“[s]ome carriers even allow customers to obtain separate accounts [for primary lines] under the same name.”). Ameritech, however, concedes, as it must, that Bell Atlantic successfully prevented such gaming when it implemented an account-based definition, and that this type of gaming was “not the major fraud or inequity problem.” Ameritech Opp. at 2. See FCC Access Charge Order,² ¶ 38 (FCC cites with approval Bell Atlantic’s implementation of an

² In the Matter of Tariffs Implementing Access Charge Reform, CC docket No. 97-250, FCC 98-106, Memorandum Opinion and Order (released June 1, 1998).

account-based definition which examined the subscriber name and address for each account: “If one account was associated with more than one line, the additional lines were classified as non-primary.”)³ Nevertheless, Ameritech claims that it would be “extremely burdensome” for Ameritech to implement the “fix” that Bell Atlantic did. Ameritech Opp. at 2. To support this statement, Ameritech says only that it would need to “substantially modify” its customer billing systems. Ameritech, however, provides no analysis upon which one can reasonably evaluate whether the benefits of such modification outweighs the costs, and fails to even identify or quantify such costs. Without more, Ameritech’s claims cannot be credited. In addition, Ameritech’s claims are belied by the fact that Bell Atlantic successfully implemented an account-based definition of primary lines presumably without “extreme” burden. Further, the fact that BellSouth is currently making a “significant effort” to manually correct anomalies in its existing customer database, apparently without undue difficulty or hardship, undercuts Ameritech’s claims that such efforts are “extremely” burdensome. In any event, Ameritech itself is forced to concede that if customer gaming is a problem, it is “potential” at best. Ameritech Opp. at 2.

Ameritech further contends that the FCC was correct to claim that an account-based definition would allow subscribers at the same location to order multiple primary lines under different account names. As California stated, however, the FCC did not

³ Contrary to BellSouth’s claim, the FCC itself stated that, with the exception of Ameritech and US West, “[t]he remainder of the price cap LECS identified primary and non-primary residential lines by ‘account.’” Access Charge Order, ¶ 36.

believe that customer gaming or fraud presented a problem when it endorsed Bell Atlantic's account-based definition in the Access Charge Order. California Pet. at 5. Nor, as California pointed out, is there anything in the record other than speculation to support the claim that an account-based definition will trigger customer fraud or gaming, or that if such practice occurs, it will be widespread. *Id.* at 6. Indeed, Ameritech once again concedes that the ordering of multiple primary lines under different names is no more than a "potential" problem. Ameritech Opp. at 3.

Finally, contrary to the claims of Ameritech and AT&T, there is simply no basis to assume that multiple subscribers residing at a single location will have access to the single residential primary line connection. As Ameritech implicitly acknowledges, the FCC's reliance on the Recommended Decision of the Federal-State Joint Board on Universal Service for that statement was misplaced, as the Joint Board recommended that each *household* in a multifamily residence is entitled to a primary line connection. Recommended Decision, ¶ 89; Ameritech Opp at 4.

AT&T nevertheless cavalierly believes that in the "overwhelming majority of cases" a primary line will be available to all those who reside together in one location, just as television sets, bathrooms, and kitchen facilities are available to all such residents. AT&T Opp. at 4. AT&T's belief is not based in reality. Unlike bathrooms and kitchen facilities, residents at a single location typically procure their own telephone lines and connect them in their private bedrooms or in areas not common to other residents.⁴ The

⁴ AT&T thus apparently believes that elderly residents on fixed incomes residing at a convalescent home, each with their own bedroom but sharing a common "living room, kitchen,

reasons are two-fold: individual residents want privacy when engaged in telephone conversations and individual residents do not want to be held responsible for the toll and long distance charges incurred by other members of the residence. If, as AT&T assumes, a common telephone is available at all, it is usually a pay telephone, and not a residential line.

In the end, both the FCC and opponents to California's petition have lost sight of the fundamental universal service goals that the residential primary lines definition is designed to advance. To be sure, residential primary lines are subsidized, but that is so to fulfill the congressional goal that residential telephone service be available and affordable to all customers.⁵ As a matter of fundamental equity, a residential customer who resides with other customers at a single location should not automatically be denied the right to the lower primary line charge when that same customer would be eligible for the lower charge if he resided alone.

In sum, for the reasons stated here and in our Petition for Reconsideration,

///

///

///

bathrooms, and television" should be denied the right to have a primary line in their private bedroom.

⁵ Moreover, allowing more than one primary line per location to multiple subscribers who each is legitimately eligible for the lower primary line charge is per se reasonable, and cannot be said to "excessively shift costs onto other customers." Primary Lines Order, ¶ 22. (emphasis added). Indeed, the costs are not even quantified.

California respectfully urges the FCC to reconsider its Primary Lines Order to permit the adoption of an account-based definition of residential primary lines.

Respectfully submitted,

PETER ARTH, JR.
LIONEL WILSON
ELLEN S. LEVINE

A handwritten signature in cursive script, reading "Ellen S. Levine", written over a horizontal line.

ELLEN S. LEVINE

505 Van Ness Ave.
San Francisco, CA 94102
Phone: (415) 703-2047
Fax: (415) 703-2262

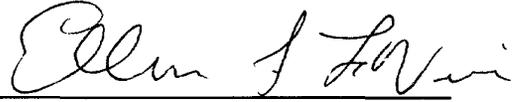
Attorneys for the People of the
State of California and the California
Public Utilities Commission

July 2, 1999

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document to be served upon all known parties of record by mailing, by first-class mail, postage prepaid, a copy thereof properly addressed to each party.

Dated at San Francisco, California, this 2nd day of July, 1999.

A handwritten signature in cursive script, reading "Ellen S. Levine". The signature is written in black ink and is positioned above a horizontal line.

ELLEN S. LEVINE