

ORIGINAL

BELLSOUTH

Kathleen B. Levitz
Vice President-Federal Regulatory

EX PARTE OR LATE FILED

August 27, 1999

Suite 900
1133-21st Street, N.W.
Washington, D.C. 20036-3351
202 463-4113
Fax: 202 463-4198
Internet: levitz.kathleen@bsc.bls.com

EX PARTE

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 12th St. SW
Washington, D.C. 20554

RECEIVED
AUG 27 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: CC Docket No. 98-137 and ASD Docket No. 98-91

Dear Ms. Salas:

On August 26, 1999 David Cunningham, Peter Martin and I, representing BellSouth, made a presentation to FCC staff reiterating the BellSouth position that the FCC should forbear from prescribing depreciation rates for ILEC plant. FCC staff to whom we made this presentation included William Bailey, Linda Kinney, Dorothy Atwood, and Sarah Whitesell. The attached written material formed the basis for the presentation.

As required by Section 1.1206(b) (2) of the Commission's rules, I am filing two copies of this notice in CC Docket No. 98-137 and ASD 98-81 and ask that you associate this notification with the record in each of those proceedings.

Sincerely,

Kathleen B. Levitz

Kathleen B. Levitz
Vice President-Federal Regulatory

cc: William Bailey (w/o attachment)
Linda Kinney (w/o attachment)
Dorothy Atwood (w/o attachment)
Sarah Whitesell (w/o attachment)
Kyle Dixon

No. of Copies rec'd 0/4
List ABCDE

1998 Biennial
Regulatory Review
(CC Docket No. 98-137)

USTA Petition for Forbearance
From Depreciation Regulation
(ASD 98-91)

Background - The '96 Act

- Telecommunications Act of 1996
 - Permits Forbearance (Section 220(b))
 - Requires Elimination of Unnecessary Rules and Regulations (Section 10)
 - '98 Biennial Review Requirements (Section 11)
 - Section 706 of the '96 Act states that “The Commission and each State commission... shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans... by utilizing... regulatory forbearance measures that promote competition... and that remove barriers to infrastructure investment...”

Background - The Commission

- Depreciation identified by Commission as a “prime candidate” for inclusion in ‘98 Biennial Review
- USTA Petition for Forbearance filed with the Commission 9-21-98 per Section 10(c)
- Commission’s NPRM Entitled “1998 Biennial Regulatory Review - Review of Depreciation Requirements for Incumbent Local Exchange Carriers” released 10-14-98

Background - BellSouth

- Since 1995, BellSouth has Determined its Own Depreciation Rates for External Reporting in Conformance with GAAP Accounting
- BellSouth Sets Its Own Intrastate Depreciation Rates in All Nine States
- BellSouth Customer Demands and an Ever-Expanding Competitive Environment Further Increase the Pressure for a Technologically Advanced Network Resulting in Equipment Becoming Obsolete at a Faster Pace

Current Regulatory Process Deficiencies

- Results in Different Lives for Same Asset for Financial/PSC Depreciation and for FCC Depreciation
- Does Not Recognize Rapid Change in Technology and Competitive Environment
- Inequitably Costly, Time-Consuming & Burdensome
- Current Lives are Longer Than Competitors' (IXCs, Cable Companies)

Continued Regulation of Depreciation Is Not Needed to Insure Price Cap Carriers' Charges, Practices, Classifications or Regulations are Just and Reasonable

- Forbearance Would Not Significantly Affect:
 - Calculation of Low-End Adjustment
 - Base Factor Portion Calculation
 - Above Cap Tariff Filings
 - Rates for Interconnection or UNEs, or Universal Service Support
 - Recalculation of Productivity Factor
 - Exogenous Cost Determination

Calculation of Low-End Adjustment

- Adjustments Very Rarely Sought
- ILECs Have Burden of Proof to Support Adjustment, if Sought
- ILEC LFAM Filing Subject to FCC Review
- FCC Could Require ILEC to Prove LFAM Filing is Not Result of Depreciation Assumptions
- LFAM Will Be Given Up With Pricing Flexibility Showing

Base Factor Portion Calculation

- Common Line Basket PCI to be Calculated Solely on Revenue Rather Than Revenue Requirement Basis
- Changing Depreciation Rates Cannot Affect EUCL, PICC and CCL Charges

Above Cap Tariff Filings

- ILEC Must Provide Detailed Support for “Above Cap” Tariff Filings
- Commission Has Final Authority to Allow Prices to go Into Effect

Rates for Interconnection or UNEs, or Universal Service Support

- These are Forward Looking Price Mechanisms
- Based on Regulators' Estimation of Depreciation Rates, Not Actual Rates Used by Companies
- Should Reflect Economic Depreciation Factors
- With or Without Forbearance, FCC Could Substitute its Own Depreciation Parameters for These Issues
- All UNEs and Universal Service Costs Are Subject to State and Federal Review

- Recalculation of Productivity Factor:
Depreciation Changes Have No Effect on X-Factor When FCC Model Used
- Exogenous Cost Determination:
Forbearance of Depreciation Regulation Does Not Trigger Exogenous Cost Event (Actually Endogenous under Price Caps)

Additional Safeguards

- SEC/PSC Reporting Based on GAAP Accounting which Provides Professional Standards for Reporting BellSouth Financial Information
- Independent Auditors Review Depreciation During Annual Financial Audit Process to Ensure Compliance with Accounting / Auditing Safeguards

Forbearance Will:

- Satisfy the '96 Act Relating to Biennial Review Requirements and Eliminating Unnecessary Regulations
- Reduce Administrative Burdens/Costs for BellSouth and the FCC
- Allow BellSouth to Select Appropriate Depreciation rates in a Competitive Environment

SUMMARY

- The Commission Should Forbear From Regulating Depreciation Concurrently With the Company Giving Up LFAM
- Forbearance Does Not Significantly Affect Any of the Calculations About Which the Commission is Concerned
- Forbearance Promotes Efficiency and Competition
- Forbearance is in the Public Interest and Meets All the Goals of the '96 Act