

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

In the Matter of)	
)	
Application of Bell Atlantic)	
Pursuant to Section 271 of the)	CC Docket No. 99-295
Telecommunications Act of 1996)	
To Provide In-Region,)	
InterLATA Services)	
in New York)	

**COMMENTS OF
Z-TEL COMMUNICATIONS, INC.**

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Z-Tel Communications, Inc. (“Z-Tel”), by its attorneys, hereby submits its comments in response to the Commission’s Public Notice (DA-99-2014) in the above-captioned proceeding. The Public Notice invites interested parties to comment on the application of Bell Atlantic to provide in-region, interLATA services in the State of New York, pursuant to section 271 of the Communications Act of 1934, as amended (“Act”).

INTRODUCTION AND SUMMARY

Z-Tel is a Tampa, Florida-based integrated communications provider that offers local, long-distance, and enhanced services. In June of 1999, Z-Tel launched a residential service product in New York City and the surrounding areas that comprise LATA 132.¹ Z-Tel’s residential service offering in New York includes a package of long distance, unlimited local

¹ Because Z-Tel began providing service in New York in June 1999, it has not participated in the comprehensive proceedings conducted by the New York Commission. Before entering local markets in New York, Z-Tel did extensive research regarding actions taken by the New York Commission to encourage competition. Although Z-Tel did not participate in those proceeding, it has gained substantial experience with Bell Atlantic in New York, and believes that experience, positive and negative, should help the Commission in reviewing Bell Atlantic’s Application to provide in-region, interLATA services.

calling, voicemail, caller ID, “follow-me,” and a number of other enhanced services. Residential customers also may purchase dial-up Internet access as part of their service package.

In these comments, we first describe Z-Tel’s business plan and how the regulatory framework instituted by the New York Public Service Commission (“New York Commission”) offers the promise of enabling Z-Tel to deliver integrated telecommunications services to residential customers in the New York. Next, we explain how Bell Atlantic denies innovative service providers access to the local switching unbundled network element (“UNE”) by refusing to permit competitive LECs to deploy custom dialing plans in a reasonably expeditious manner. This effective denial of access to local switching violates Bell Atlantic’s obligation to provide nondiscriminatory access to UNEs.²

We then outline several account management and operations support systems (“OSS”) issues that have hampered Z-Tel’s residential service roll out in New York City and other areas throughout the rest of the State of New York. Z-Tel’s requests for additional account management and OSS support have been ignored by Bell Atlantic. As long as account management and OSS problems continue to persist, Bell Atlantic cannot satisfy its obligation to provide nondiscriminatory OSS access.³

Finally, we note that although Bell Atlantic claims to offer nondiscriminatory access to its advanced intelligent network (“AIN”) functionalities and service creation environment (“SCE”) by tariff, no empirical evidence exists regarding Bell Atlantic’s provision of these UNEs. At present,

² 47 U.S.C. §§ 271(c)(2)(B)(ii).

³ *Id.* at § 271(c)(2)(B)(ii).

no competitor has received access to these service offerings. Z-Tel plans to avail itself of these offerings later this year after receiving the Telcordia certification required by Bell Atlantic. To the extent that the Commission determines that Bell Atlantic's offering of these UNEs complies with section 271, the Commission should expressly note that its finding is not based on empirical information on Bell Atlantic's ability to provide these UNEs.

I. THE REGULATORY FRAMEWORK PUT IN PLACE BY THE NEW YORK COMMISSION OFFER THE PROMISE OF ENABLING Z-TEL PROVIDE INNOVATIVE SERVICES TO RESIDENTIAL CUSTOMERS IN THE NEW YORK

Z-Tel's business plan is focused on developing user-friendly software to add intelligence to the telephone network. Since its inception in late 1997, Z-Tel has invested over \$30 million dollars in software development to launch this effort. Z-Tel delivers its telecommunications services to residential customers in New York over a combination of "physical" UNEs offered in New York, which is known as the UNE Platform in Bell Atlantic's tariff.⁴ Z-Tel provides the long distance and enhanced services portions of its package. Z-Tel plans to use the UNE Platform as an entrance strategy to build a large base of residential customers to achieve the economies of scale necessary to deploy facilities. Upon achieving the necessary scale, Z-Tel's business plan calls for deploying the next generation of Class 4 and Class 5 packet switches. Z-Tel has been able to pursue this entry strategy in New York as a result of the framework put in place by the New York Commission, and Z-Tel submits that this Commission should view that

⁴ New York Telephone Company, Tariff P.S.C. No. 916-Telephone, § 5.12.

framework as the benchmark for fostering the development of local competition in local markets throughout the nation.

A. The New York Commission Has Made Local Competition Possible In Residential Markets Through The UNE Platform

The New York Commission requires Bell Atlantic to offer competitive LECs the UNE Platform as a means of serving residential customers throughout New York State. With the UNE Platform, competitive LECs have a practical and economical means to deploy competitive services to the residential consumer market, which has been largely overlooked by many competitive LECs. In addition, through use of the UNE Platform, competitors, such as Z-Tel, gain the means of deploying new and innovative services to residential consumers. At bottom, but for Bell Atlantic's UNE Platform offering, Z-Tel would not presently be providing residential service in New York.

B. The New York Commission Makes The Terms And Conditions Of Interconnection and UNEs Readily Available To Competitors By Requiring Bell Atlantic To Tariff These Offerings

Under the New York Commission's framework, Bell Atlantic must tariff all interconnection, UNE, and resale products in accordance with the prices, terms, and conditions ordered by the New York Commission. This tariffing requirement provides at least two benefits to competitive LECs. First, through the tariff review process, which often provides opportunity for public comment, the New York Commission can verify that Bell Atlantic's offerings comport with its findings, and in addition enables competitors the ability to seek relief from the New York Commission if a tariff term, condition, or price needs to be re-evaluated based on the real-world

experience of a competitor. Moreover, any such modifications to such tariffs become generally available to all requesting carriers.

In states that do not require the incumbent to tariff interconnection and UNE offerings, it is typically much more difficult for competitive LECs to: ensure compliance with state commission orders, including arbitration awards; seek a modification to the rates, terms, and conditions of an offering; and avail themselves of new offerings obtained by others. Although the Act does not require interconnection and UNEs to be tariffed by incumbent LECs, the Commission should recognize that the New York Commission's tariffing requirement has substantially improved the flow of information regarding the prices, terms, and conditions of these critical offerings.

C. The New York Commission Requires Bell Atlantic To Offer A Robust Local Switching UNE And Important AIN-Related UNEs

In addition, through its UNE cost proceedings, the New York Commission has required Bell Atlantic to provide a robust local switching UNE and AIN-related UNEs, which Z-Tel plans to utilize in concert to deploy its intelligent services. As part of its unbundled switching UNE, Bell Atlantic is required to permit competitors to load customized dialing plans, which contain unique line class codes. Moreover, competitive LECs are charged the same price for the local switching UNE without regard as to whether a custom dialing plan or Bell Atlantic's existing dialing is utilized. The AIN-related UNEs will be utilized by Z-Tel to deploy certain of its services to its residential customers in New York.⁵

⁵ As discussed in Section V, *infra*, although Z-Tel presently does not utilize these UNEs, it is in the process of obtaining the necessary certification required by Bell Atlantic for AIN access.

The importance of Z-Tel's ability to deploy its custom dialing is critical to Z-Tel's business plan. Through its dialing plan, which is installed in each of Bell Atlantic's 168 local switches in New York City and surrounding areas (*i.e.*, LATA 132), Z-Tel has the ability to deploy its custom services through the line class codes contained in the dialing plan. Line class codes are software codes that provide a local switch with a set of instructions specific to individual customers. Line class codes define a customer's local calling area and the set of vertical features to which the customer subscribes. In addition, line class codes control call routing information, such as the carrier to which operator services and directory assistance ("OS/DA") calls are routed. New software features and functionalities developed by Z-Tel engineers are designed to be made available to residential customers through the unique line class codes contained in Z-Tel's custom dialing plan. In sum, the line class code is the gateway for injecting intelligence into the local network.

Without the ability to deploy its custom dialing plan, Z-Tel would be forced to utilize Bell Atlantic's office dialing plan and the associated line class codes. This would foreclose Z-Tel from integrating its software applications with the residential consumer's local telephone service. In addition, use of Bell Atlantic's office dialing plan and line class codes compels competitive LECs to use Bell Atlantic services unrelated to switching, such as OS/DA. Similarly, without a custom dialing plan, Z-Tel would not be able to utilize the AIN related features and functionalities that Z-Tel plans to use to deploy services currently under development.

Although Z-Tel has problems with Bell Atlantic delays in deploying its custom dialing plan on a wide-scale basis, which are discussed below, Z-Tel notes that the offering mandated by the New York Commission should serve as a model for other state commissions. The AIN-related

UNEs mandated by the New York Commission, while not presently used in production, are designed in such a way as to provide Z-Tel with the ability to deploy its products to mass markets in New York.

D. The New York Commission Requires Bell Atlantic To Make Expanded Extended Links Available

The New York Commission also requires Bell Atlantic to make expanded extended links (“EELs”) available to competitors. In New York, the tariffed EEL offering is a combination of Bell Atlantic’s local loop and interoffice transport UNEs. When requested by the competitive LEC, Bell Atlantic also is required to provide multiplexing and concentration. This EEL offering should enable Z-Tel to deploy next generation packet switches, as called for by Z-Tel’s business plan, upon achieving a sufficient customer base to support these switching facilities. In states where EEL arrangements are not available, Z-Tel would have to collocate equipment in every incumbent LEC central office in order to provide mass market residential service. Such a requirement would delay substantially Z-Tel’s expected facilities involvement due to the resource expenditure required to establish the collocation nodes necessary in areas without an EEL offering.

II. BELL ATLANTIC’S DEPLOYMENT POLICIES DENY INNOVATIVE SERVICE PROVIDERS ACCESS TO THE LOCAL SWITCHING UNE IN VIOLATION OF SECTION 271

Under the requirements of the New York Commission, Bell Atlantic must permit competitive LECs to install custom dialing plans as part of its local switching UNE. Only through the use of these custom dialing plans does Bell Atlantic’s unbundled local switching product

enable Z-Tel to distribute its package of custom telecommunications services to residential customers over the UNE Platform. As described below, through use of its Network Design Request (“NDR”) process, which competitive LECs must complete prior to purchasing unbundled switching, Bell Atlantic can and is arbitrarily denying Z-Tel access to the local switching UNE in contravention of section 271.

A. The Ability To Install Custom Dialing Plans Promotes Innovation And Competition

The New York Commission’s requirement that Bell Atlantic’s unbundled switching UNE include the opportunity to install custom dialing plans is critical to the promotion of competition and innovation. As noted earlier, by deploying its own dialing plan, Z-Tel is able to assign its customers unique line class codes associated with the products and services that Z-Tel self-provides. Without the ability to utilize custom line class codes, competitive LECs are forced to mirror Bell Atlantic’s products, based on existing standard line class codes.

In addition, the New York Commission’s requirement that Bell Atlantic’s switching UNE include the option of installing a custom dialing plan facilitates the competitive purchase of products from Bell Atlantic unrelated to unbundled switching, including OS/DA. As Bell Atlantic notes in its Application:

Bell Atlantic provides (using line-class codes) customized routing so that CLECs can direct directory-assistance and operator-services traffic to their own platforms. Bell Atlantic also offers a standard configuration that routes a CLEC’s traffic by using the same line-class code translations and office-dialing plans that Bell Atlantic uses in each switch, but it gives competitors the option of branding their directory-assistance and operator-services traffic.⁶

⁶ Bell Atlantic Application at 23 (citations omitted).

In other words, competitive LECs may provide OS/DA by utilizing their own unique line class codes, or they may purchase Bell Atlantic's OS/DA (branded or unbranded) through use of the "standard configuration."

To the extent that competitive LECs use Bell Atlantic's standard dialing plan, these LECs also must purchase Bell Atlantic's OS/DA offering (whether or not this continues to be priced at cost-based rates, because it no longer is considered a UNE), even though this service is separate from unbundled switching.⁷ Similarly, unique line class codes enable competitive providers to have the option of utilizing either ILEC or competitive vertical features in provisioning end user services. Such options may become critical to the availability of advanced end user services driven by new AIN platforms. Also, competitive LECs utilizing the "standard configuration" would be forced to purchase all vertical features, including potentially new AIN services, from Bell Atlantic. Without the capabilities driven by unique competitive LEC line class codes, competitive LEC and end user options will thus be limited. Such limitations on new service development and on OS/DA service availability would not be in the public interest.

B. Bell Atlantic Has Used The Network Design Request Process To Deny Z-Tel Access To The Local Switching UNE

Before purchasing local switching, Bell Atlantic requires all competitive LECs to go through the NDR process, which is used to establish "a presence" for the competitive LEC in

⁷ If OS/DA services are to be treated as competitive offerings and the incumbent LECs removed of the obligation of providing these items as UNEs as postulated in the FCC's UNE Remand Order, CLEC ability to develop and deploy unique line class codes in association with the local switching UNE is required.

each of the requested Bell Atlantic switches. In Z-Tel's experience, Bell Atlantic can use the NDR process to deny or delay access to competitive LECs seeking to deploy innovative services. Arbitrary utilization of the NDR process to protect incumbent monopoly services violates Bell Atlantic's obligation to provide nondiscriminatory access to UNEs, including local switching.⁸ Based upon Bell Atlantic's use of the NDR process to delay Z-Tel entry into selected New York markets, the Commission should reject Bell Atlantic's Application for in-region, InterLATA relief in New York at this time.

As described in Bell Atlantic's tariff, the time frames for the completion of NDRs must be "negotiated" between Bell Atlantic and competitive LECs:

Network Design Request (NDR) process is required to establish the scope of the project and to align preliminary time frames in providing service to the [competitive LEC]. A Project Manager will coordinate the meeting that will be attended by the [competitive LEC's] technical and administrative team and representatives from each [Bell Atlantic] department involved in developing the technical, administrative, and legal/regulatory requirements. Time frames for completion will be negotiated between [Bell Atlantic] and the [competitive LEC].⁹

As documented below, Bell Atlantic has used this negotiation process to effectively deny Z-Tel access to the local switching UNE in areas of New York outside of LATA 132.

1. Through the NDR negotiation process, Bell Atlantic is delaying Z-Tel's entry into selected New York markets

In late August 1999, Z-Tel contacted its account manager to initiate the NDR process so that Z-Tel could begin providing its residential service offering in areas in and around Buffalo and

⁸ 47 U.S.C. § 271(c)(2)(B)(ii); *see also* 47 U.S.C. § 271(c)(2)(B)(vi).

⁹ New York Telephone Company, Tariff P.S.C. No. 916-Telephone, § 5.3.2.

Poughkeepsie, New York (*i.e.*, throughout LATAs 140 and 133) using the UNE Platform.¹⁰

After over a month of telephone calls and letters, Bell Atlantic informed Z-Tel that, even though Z-Tel wanted to replicate exactly the NDR process that Bell Atlantic began implementing over a eight week period for Z-Tel in the New York City LATA, it would take until February 2000 to begin to process the Buffalo and Poughkeepsie NDR requests – a period of five months after the initial request just to start the switch uploading process.¹¹ If, on the other hand, Z-Tel wished to adopt Bell Atlantic’s standard dialing plan “as is,” Bell Atlantic indicated that it could complete the NDR process in a matter of a couple of weeks.¹²

As a compromise solution, Z-Tel suggested the option of entering the Buffalo and Poughkeepsie LATAs using the standard dialing plan, and then converting to the custom plan upon Bell Atlantic’s completion of the NDR. Bell Atlantic considered this proposal, but subsequently informed Z-Tel that any such conversion would require Z-Tel to submit through Bell Atlantic’s provisioning process a new order to migrate each customer from Bell Atlantic’s standard dialing plan to Z-Tel’s custom dialing plan. As part of this migration process, Z-Tel would incur a second complete set of OSS service charges. Also, Bell Atlantic Product Management indicated that it currently has no method of implementing such a conversion. As a result of this response, Z-Tel has not pursued this option.

¹⁰ Letter from Robert A. Curtis, Senior Vice President of Z-Tel, to Ken Rank, Bell Atlantic Account Manager at 1 (Sept. 19, 1999), appended hereto as Tab A.

¹¹ Letter from Robert A. Curtis, Senior Vice President of Z-Tel, to Antonio Yanez, Vice President of Bell Atlantic at 2 (Sept. 28, 1999) (“September 28 Letter”), appended hereto as Tab B.

¹² *Id.*

2. Bell Atlantic has previously provided switch updates in a timely fashion

Z-Tel's custom dialing plan is loaded and operational in all 168 Bell Atlantic central offices in LATA 132. Z-Tel originally requested NDR implementation in these offices on February 5, 1999. Through the negotiation process, software updates to switches in LATA 132 to implement Z-Tel specific line class codes were started on April 19, 1999. Z-Tel agreed to this delivery schedule based upon the new nature of CLEC directed line class codes and the number of central offices within the New York City metropolitan area. It was assumed that both parties would utilize the extended delivery period to refine procedures that would be used to expedite future requests in other locations. Z-Tel was satisfied with Bell Atlantic's efforts in meeting NDR activation schedules within LATA 132.

3. Bell Atlantic has not justified subsequent NDR process delays for other LATAs

Bell Atlantic has shown no reason why there should be any significant delay (beyond the time normally required for the NDR process¹³) in loading Z-Tel's custom dialing plan in Buffalo and Poughkeepsie. Z-Tel began initial discussions with Bell Atlantic in August of 1999. Based upon prior experience in the New York City LATA, Z-Tel anticipated initial loadings for Poughkeepsie and Buffalo to begin in the October time-frame with completion by November 1, 1999. Based upon the LATA 132 experience and the greatly reduced number of central offices

¹³ Again, as noted earlier, Bell Atlantic completed in approximately 60 days from start to finish the NDR process to upload Z-Tel's dialing plan into all 168 central office switches in LATA 132.

involved, Z-Tel expected to improve on the NDR Process delivery dates previously obtained. As evidenced by the Bell Atlantic proposed implementation start date of February 1, 2000, such has not been the case.

The only explanation offered by Bell Atlantic for delaying NDR implementation at this time is a freeze on software releases scheduled for December and January of 1999/2000. Bell Atlantic has failed to address, why such implementation could not be begun and completed prior to the December 1, 1999 system "freeze" date. Furthermore, Bell Atlantic has refused to negotiate on moving the implementation start date forward in any manner. Bell Atlantic's statement that it will take five months just to begin loading the custom dialing plan has effectively denied Z-Tel access to the local switching UNE in contravention of section 271.

4. Prior to granting section 271 relief, the Commission should require Bell Atlantic to establish a 60-day provisioning interval for NDR implementation

The critical nature of unique competitive LEC specified line class codes into incumbent LEC switches cannot be denied. If competitive LECs are to make effective use of the local switching UNE, the ability to develop unique line class codes is essential to bringing new services and capabilities to end users. Broad promises to provide such capabilities are not sufficient to meet the requirements of competitors. To ensure that incumbent LECs do not use the schedule negotiation process to effectively block competitive entry and restrict the availability of new services to those designed by the incumbent, the Commission must ensure that time NDR updates are the standard not the exception. Based upon our experience in LATA 132, Z-Tel believes that

a 60 day implementation interval should be established as the maximum acceptable implementation interval for Bell Atlantic implementation of formal CLEC NDR requests. To allow Bell Atlantic to obtain Section 271 Relief prior to showing it can meet a 60 day NDR provisioning window would only invite Bell Atlantic and other incumbents to utilize the negotiation process as a mechanism to delay or inhibit CLEC market entry. On a going forward basis, failure to implement NDR requests within this 60 day time period on the part of the incumbent should be viewed by the Commission as a significant barrier to competitive entry and should automatically invoke significant penalties up to and including forfeiture of Section 271 relief by the incumbent.

III. BA-NY'S ACCOUNT MANAGEMENT POLICIES HAVE LIMITED Z-TEL'S ABILITY TO PROVIDE RESIDENTIAL SERVICE IN NEW YORK

Bell Atlantic's account team's resources have been inadequate to match Z-Tel's demand over the last several months, and certain of Bell Atlantic's policies substantially have limited Z-Tel's ability to provide residential service in New York. Because of these deficiencies, Bell Atlantic has failed to satisfy its obligation to provide nondiscriminatory access to UNEs,¹⁴ specifically OSS.

¹⁴ 47 U.S.C. § 271(c)(2)(B)(ii).

A. Bell Atlantic Has Refused To Provide Z-Tel Adequate Wholesale Account Support

In Z-Tel's experience, Bell Atlantic's account team lacks the resources required to provide adequate service. In accordance with forecasts submitted to Bell Atlantic, Z-Tel's provisioning activity has increased dramatically since June of this year, and Z-Tel has more than quadrupled its provisioning staff over this period. Bell Atlantic, however, has refused to increase the resources dedicated to Z-Tel's account to match this increased workload. Account management issues have slowed Z-Tel's deployment of residential service in New York, and unless Bell Atlantic addresses this problem quickly, matters may worsen as Z-Tel expands into other areas of New York State (and other states within the Bell Atlantic service territory). Z-Tel has brought all of these issues to the attention of senior Bell Atlantic officials, but to date has received no response.¹⁵

B. Bell Atlantic Has Refused To Provide Z-Tel Adequate OSS Access

Directly related to account management issues, Z-Tel has experienced numerous OSS-related issues over the course of the last several months. Bell Atlantic call forwarding provisioning errors have disrupted Z-Tel's voicemail offering, false error messages have delayed customer migration to Z-Tel, and provisioning completion notices are inadequate. Each of these OSS-related issues has materially impaired Z-Tel's ability to provide quality service in New York. However, these issues could be fixed by Bell Atlantic if it adequately staffed and trained the account team assigned to Z-Tel. Although Z-Tel's orders are unique as compared to other competitive LEC UNE Platform orders, Z-Tel's orders are extremely consistent (*i.e.*, in all orders

¹⁵ See generally, September 28 Letter, attached hereto at Tab B.

submitted, Z-Tel purchases essentially identical UNEs from Bell Atlantic). As described below, the OSS problems experienced by Z-Tel largely appear to be the result of inadequate staffing and training, rather than inadequate processes.

1. Inefficiencies of Secure ID Access to Bell Atlantic's Web GUI

Z-Tel utilizes Bell Atlantic's Web Based Graphical User Interface (Web GUI) as the primary mechanism for interfacing with the Operational Support Systems of Bell Atlantic. Through the WEB GUI, Z-Tel is able to place orders for service, supplement original requests and track order implementation. The WEB GUI interface offers an efficient mechanism for smaller carriers to enter the market without reliance upon traditional manual interfaces such as facsimile or committing to the large capital outlay required for electronic bonding applications. In order to access the WEB GUI, Bell Atlantic business rules and practices call for each CLEC service representative to have a unique "Secure ID" to access the underlying Bell Atlantic OSSs. The Secure ID utilizes computer technology to provide a constantly changing password for system access utilizing a pre-programmed time based algorithm. Each CLEC pays a separate charge for each Secure ID, which is issued to its employees. Bell Atlantic justifies the need for employee specific Secure ID cards based upon the need to establish an electronic authorship trail on each OSS transaction.

With a rapidly expanding service base, acquiring individual Secure ID cards for every customer service representative can present both cost and operational obstacles. If a CLEC keeps spare Secure IDs on hand, it is paying for services it does not need. If it attempts to order new IDs only as new employees are hired, it runs the risk of not having IDs available when needed.

Both problems could be eliminated if CLECs were allowed to share Secure IDs among several employees. Under such circumstances, CLECs would and could undertake the burden within their own systems of maintaining authorship records for particular OSS entries.

Of even more concern the Z-Tel is the overall inefficiencies inherent in the Secure ID process implemented by Bell Atlantic. Once an order is entered into Bell Atlantic's OSS, only the person with the Secure ID card who input the initial order can review, modify or query status on that order. Requiring the original representative to subsequently modify an order or check on an order's completion introduces gross inefficiencies into CLEC operations. In this manner, competitive LECs are precluded from using an alternative representative at a customer's request to change items such as a due date on pending orders. Furthermore, such requirements eliminate any potential economic advantages for centralizing certain types of order activities. Thus, competitive LECs are precluded from establishing separate groups just to check on order completions. Competitive LECs are forced to aggregate completion information on a service representative by service representative basis. Bell Atlantic should not be allowed to force competitive LECs to adopt inefficient and uneconomic methods and procedures through its "Secure ID" policies in this manner.

2. Call Forwarding Provisioning Errors

Z-Tel presently utilizes a call forwarding routine to enable its residential customers to reach Z-Tel's advanced services platform. On a typical end user configuration, if a customer's telephone rings four times without pickup the call gets forwarded over a toll free number to Z-Tel's facilities, which provide services according to end user specifications. For every single Z-

Tel order submitted to Bell Atlantic, Z-Tel provides the exact same toll free number for such forwarding. Despite this consistency, incorrect call forwarding numbers have repeatedly been entered into Bell Atlantic switches.¹⁶

When the forward to number is incorrectly entered into the switch, individuals calling Z-Tel customers are typically directed to an unknown telephone number, rather than the Z-Tel customer's voicemail box. In all instances, these errors preclude Z-Tel's customers from receiving voicemail messages or other subscribed to services, and tarnish Z-Tel's reputation as a quality competitive service provider. However, the problem is frequently magnified due the customer incurring long distance charges associated with any call forwarded to the incorrect location. Customers who incur additional toll charges in association with what they perceive is bad service can be particularly troublesome from a customer service perspective. Business customers who receive "wrong number" calls generally develop negative attitudes toward the carrier forwarding the calls.

To date Z-Tel has repeatedly brought this issue to the attention of Bell Atlantic representatives, but Bell Atlantic has not adequately responded to Z-Tel's requests for support. Z-Tel has suggested to Bell Atlantic that some mechanism be initiated at service implementation to verify correct entry of critical input items such as the forward to telephone number. Review of the port configuration in this manner at the time of or prior to service activation would eliminate many potential service affecting problems. However, to date Bell Atlantic will support such

¹⁶ Z-Tel notes that invalid entries have not been at the sole fault of Bell Atlantic. Z-Tel readily admits that some numbers may have been incorrectly submitted on Z-Tel service orders. The issue of underlying fault regarding entry errors is not being raised by Z-Tel in this pleading.

verification only on a verbal basis over the phone where the request is limited to two (2) telephone numbers. Thus, if Z-Tel believes potential errors exist on ten lines installed on a given day based upon customer complaint, it must make five separate calls to the Bell Atlantic center to verify whether the problem involves incorrect entry of the forward to number. Furthermore to correct any entry errors, Z-Tel must separately submit a trouble ticket on each effected number. Such policies and procedures on the part of Bell Atlantic impose serious competitive barriers upon CLECs that should not be tolerated.

3. False error messages

Bell Atlantic on numerous occasions has rejected orders properly submitted by Z-Tel. In a typical scenario, Z-Tel submits an order, which is rejected by Bell Atlantic. Z-Tel reviews the order and determines that it was accurately submitted. Z-Tel resubmits the identical order, and Bell Atlantic completes the order. In rejecting orders incorrectly, Bell Atlantic causes Z-Tel to undertake substantial duplicative work, which delays customer migration to Z-Tel. Again, however, however, Z-Tel believes that increased Bell Atlantic provisioning resources and improved training could eliminate this problem.

4. Inadequate provisioning completion notification

Bell Atlantic's process for informing Z-Tel of the date on which provisioning is completed also is inadequate. Foremost, Z-Tel has to enter Bell Atlantic's system to determine whether provisioning has been completed – Z-Tel receives no affirmative notification from Bell Atlantic.

Z-Tel raises the issue of call forwarding at this point in time only to note the arbitrary nature by which Bell Atlantic precludes steps to resolve or eliminate such errors.

In some instances, Bell Atlantic removes completion notices from its systems before Z-Tel has an opportunity to retrieve these notices. Without exact completion notifications, it is impossible for Z-Tel to determine the appropriate customer activation date for billing purposes, which again needlessly complicates Z-Tel's customer service and billing operations.

The deficiencies in Bell Atlantic's performance with respect to OSS described above demonstrate that Bell Atlantic has not yet satisfied its statutory obligation to provide nondiscriminatory access to UNEs as required by section 271.

IV. GRANT OF BELL ATLANTIC'S APPLICATION WOULD NOT SERVE THE PUBLIC INTEREST

In administering its wholesale provisioning activities, Bell Atlantic has put in place numerous methods and procedures that impede the ability of competitive LECs to provide service in New York. These policies and practices serve no legitimate business purposes, and until such time as they are eliminated, Bell Atlantic's Application for in-region, interLATA authority will not serve the public interest.

A. Despite Repeated Requests, Z-Tel Has Yet To Receive A Performance Report From Bell Atlantic

In denying BellSouth's second Louisiana application to provide in-region, InterLATA services, the Commission stated that:

Evidence that a BOC has agreed to performance monitoring (including performance standards and reporting requirements) in its interconnection agreements with new entrants would be probative evidence that a BOC will

continue to cooperate with new entrants, even after it is authorized to provide in-region, interLATA services.¹⁷

Bell Atlantic in its Application notes that it “is subject to extensive reporting requirements that allow the New York PSC and competitors alike to monitor closely Bell Atlantic’s performance, thereby enabling them to identify potential problems even before they pose a threat to competition.”¹⁸ Apparently, these reports, at least in part, indicate that Bell Atlantic intends to work constructively with competitive LECs on an on-going basis. Despite repeated oral and written requests by Z-Tel, however, Bell Atlantic to date has failed to provide Z-Tel with the carrier-to-carrier performance reports mandated by the New York Commission.¹⁹

Perhaps more frustrating than not receiving performance reports from Bell Atlantic is its assertion that it intends its performance data to be used as the first line of defense to identify and correct potential service problems. Z-Tel, as noted, has made many of its concerns aware to Bell Atlantic orally and in writing, but thus far, Bell Atlantic has taken no noticeable action to correct problems identified by Z-Tel. Indeed, Bell Atlantic utterly has failed to respond to Z-Tel’s requests.

¹⁷ *Application of BellSouth Corporation, BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana*, Memorandum Opinion and Order, 13 FCC Rcd 20599, ¶ 363 (1998) (citation omitted).

¹⁸ Bell Atlantic Application at 67.

¹⁹ September 28 Letter at 3.

B. Other Bell Atlantic Administrative Policies Similarly Hamper Z-Tel's Effort To Deploy Competitive Residential Service In New York

In its Application, one of Bell Atlantic's overarching themes is that it "simply lacks the ability to stifle competition."²⁰ Although Z-Tel is sure that neither this Commission nor the New York Commission would permit Bell Atlantic to take an overt action to stifle competition, Z-Tel notes that in some instances Bell Atlantic utilizes covert policies to hamper the efforts of competitive LECs.

Bell Atlantic, for instance, routinely refuses to provision Z-Tel service to residential customers that have outstanding balances on their Bell Atlantic retail accounts. In some instances, moreover, Bell Atlantic has disconnected Z-Tel customers found to owe Bell Atlantic money subsequent to the customer's migration to Z-Tel. Whether a residential consumer has an outstanding account balance for a retail Bell Atlantic service is entirely unrelated to a service order submitted by Z-Tel to Bell Atlantic's wholesale group. Indeed, use of this wholesale ordering information to put pressure on retail customers for balances owed to Bell Atlantic raises serious questions regarding Bell Atlantic's handling of customer information.

As another example, Bell Atlantic issues its bill to Z-Tel in hard copy and on CD-ROM. Z-Tel had hoped that CD-ROM billing would enable to manipulate the billing data received from Bell Atlantic for auditing purposes. However, Bell Atlantic's CD-ROM bill cannot be manipulated by Z-Tel. Rather, this "read-only" CD-ROM allows Z-Tel access only to pre-defined report formats. As such, the CD-ROM bill provided Bell Atlantic is inadequate to meet Z-Tel's auditing and analysis needs.

²⁰ Bell Atlantic Application at 61.

**V. NO COMPETITOR HAS RECEIVED ACCESS TO BELL ATLANTIC'S
AIN SWITCH TRIGGERS OR SERVICE CREATION ENVIRONMENT**

To obtain in-region, interLATA authorization in New York, Bell Atlantic must demonstrate that it has “fully implemented the competitive checklist.”²¹ To meet this burden, Bell Atlantic:

must have a concrete and specific legal obligation to furnish the item upon request ... [and] that it is currently furnishing, or is ready to furnish, the checklist item in the quantities that competitors may reasonably demand and at an acceptable level of quality.²²

At this time, it is impossible to verify whether Bell Atlantic actually can provision its AIN related services, because no carrier presently purchases these service from Bell Atlantic. In a Declaration appended to its Application, Bell Atlantic representatives state that:

CLECs have access to BA-NY's Service Management System/Service Creation Environment to design, create and test their own Advanced Intelligent Network (AIN)-based telecommunications services. Currently, no CLECs are using the access BA-NY provides to its Service Creation Environment to create their own AIN-based telecommunications services. When CLECs implement their own AIN-based telecommunications service in BA-NY's network, they will be able to provision those services to their customers through access to the same provisioning system BA-NY uses to provision its AIN-based services. BA-NY makes these Service Creation Environment access arrangements available under interconnection agreements and tariffs.²³

²¹ *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in Michigan*, Memorandum Opinion and Order, 12 FCC Rcd 20543, ¶ 108 (1997).

²² *Application of BellSouth Corporation, BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana*, Memorandum Opinion and Order, 13 FCC Rcd 6245, ¶ 78 (1998) (citation omitted).

²³ Joint Declaration of Paul A. Lacouture and Arthur J. Troy, ¶ 245.

Thus, at present, no empirical basis exists for determining that Bell Atlantic has the ability to provide adequate access to these AIN functionalities.

Z-Tel expects to receive the Telcordia certification required by Bell Atlantic to utilize these services within the next 60 days. Shortly thereafter, Z-Tel will have first-hand evidence to report regarding the access to these services that Bell Atlantic provides. To the extent that the Commission finds Bell Atlantic's AIN-related service offerings in compliance with the competitive checklist, the Commission should not foreclose the possibility that competitive LECs, such as Z-Tel, may wish at a later date to submit empirical evidence regarding Bell Atlantic's continued compliance in providing access to its SCE and AIN features and functionalities. For example, Z-Tel is concerned that Bell Atlantic's AIN offering may limit the ability of competitive LECs to utilize certain AIN switch triggers, such as "off hook delay," which Z-Tel plans to utilize in the near future.

In Z-Tel's view, if it were to determine by first-hand evidence that Bell Atlantic does not provide access to all AIN switch triggers, Bell Atlantic would not be in compliance with its obligation to access to these UNEs. By expressly indicating noting that no empirical data exists for any competitive checklist finding for AIN access, the Commission would put Bell Atlantic on notice that its ability to actually provision these services will be the ultimate arbiter of checklist compliance.

CONCLUSION

For the reasons set forth above, the Commission should deny Bell Atlantic's Application for in-region, interLATA authority in New York pursuant to section 271 of the Act. At a minimum, the Commission should require Bell Atlantic to correct the deficiencies cited by Z-Tel prior to any grant of in-region, interLATA authority.

Respectfully submitted,

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