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Bell Atlantic
1300 I Street N.W.
Suite 400 West
Washington, DC 20005
202 336-7824 Fax 202 336-7922
E-Mail: Dolores.A.May@BellAtlantic.com

Dee May
Director
Federal Regulatory Affairs

FEDERAL COMMUNICATIONS COMMISSION
OFFICE



EX PARTE OR LATE FILED

December 10, 1999

Ex Parte

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

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

Dear Ms. Salas,

Today, Mr. T. Tauke of Bell Atlantic sent the attached letter to Chairman Kennard of the Federal Communications Commission.

As outlined in the Public Notice (DA-99-2014) issued by the FCC on September 29, 1999, the 20 page ex parte limit does not apply to this ex parte since Bell Atlantic is responding to questions asked by Chairman Kennard.

Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Dee May".

Attachment

cc: A. Kearney
D. Attwood
K. Brown
L. Strickling

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Bell Atlantic
1300 I Street, N.W.
Suite 400W
Washington, DC 20005
202 336-7904 Fax 202 336-7914

Thomas J. Tauke
Senior Vice President - Government Relations



December 10, 1999

The Honorable William E. Kennard
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Bell Atlantic-New York Long Distance Application,
CC Docket No. 99-295

Dear Chairman Kennard:

You asked whether the provision by Bell Atlantic of xDSL services through a separate affiliate would ensure that services and facilities are provided to competing xDSL providers on a non-discriminatory basis, and whether Bell Atlantic would be willing to establish such an affiliate.

The answer to both questions is yes.

As an initial matter, we believe that our Application and reply comments demonstrated that Bell Atlantic has satisfied the requirement to provide non-discriminatory access to unbundled loops. For that reason, Bell Atlantic is in compliance with the checklist today and should be granted authority to provide long distance today.

Establishing a separate affiliate for xDSL services would ensure that competing providers of such services continue to receive non-discriminatory access to services and facilities. This Commission previously concluded as much. In the context of the SBC/Ameritech merger, the Commission expressly held that establishing a separate affiliate "will provide a structural mechanism to ensure that competing providers of advanced services receive effective, nondiscriminatory access to the facilities and services . . . that are necessary to provide advanced services." SBC/Ameritech Order, ¶ 363. According to the Commission, "[b]ecause the merged firm's own separate advanced services affiliate will use the same processes as competitors, and pay an equivalent price for facilities and services," establishing a separate affiliate "ensure[s] a level playing field between SBC/Ameritech and its advanced services competitors." Id. The same is true here.

Bell Atlantic also is willing to establish such an affiliate on the same substantive terms that the Commission recently approved in the context of the SBC/Ameritech Order, App. C ¶¶ 1-14, subject only to the exceptions and clarifications outlined in the attachment to this letter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas J. Tauke". The signature is written in a cursive style with a large, looping initial "T".

Thomas J. Tauke

Attachment

BELL ATLANTIC - NEW YORK
COMMITMENT TO ESTABLISH SEPARATE DATA AFFILIATE

1. Bell Atlantic will establish a separate data affiliate ("SDA") to provide advanced services in New York on the terms outlined in the SBC/Ameritech Order, App. C, ¶¶ 1-14 (sections I and II), subject only to the exceptions and clarifications set out below. This commitment applies only to the State of New York.
2. Bell Atlantic will establish a separate corporate entity (the SDA) no later than December 20, 1999. The SDA will file with the New York Public Service Commission ("PSC") on or before December 20, 1999 for any necessary approvals or certifications to provide advanced services in New York, and for approval of an interconnection agreement between the SDA and Bell Atlantic.
3. Bell Atlantic will provide funding to, and name a management team for, the SDA on or before December 20, 1999. Bell Atlantic will give substantial weight to the performance of the SDA in setting the annual bonuses paid to the officers and management employees of the SDA.
4. Bell Atlantic will complete the transition period provided for in the SBC/Ameritech Order by July 1, 2000 unless necessary state regulatory approvals have not been obtained.
5. The term "Merger Closing Date" used in the SBC/Ameritech conditions shall be defined to be January 3, 2000.
6. The grace period provided for in paragraph 1(e) of the SBC/Ameritech conditions shall terminate on July 1, 2000 unless necessary state regulatory approvals have not been obtained.
7. For purposes of paragraph 3(d) of the SBC/Ameritech conditions, Bell Atlantic retains the right to elect whether spectrum splitters shall be treated as advanced services assets.
8. For purposes of this commitment, Bell Atlantic - New York shall be afforded the treatment provided to SBC States in the SBC/Ameritech conditions.
9. By way of clarification, Bell Atlantic - New York retains the right to invest in any technology or asset as long as it is not used to provide Advanced Services as defined in the SBC/Ameritech conditions, ¶ 2.

10. Bell Atlantic will initiate a line-sharing trial in New York with an unrelated third party on or before December 20, 1999.
11. Beginning February 1, 2000, all new advanced services equipment will be purchased by the SDA.
12. Until completion of the transition period, Bell Atlantic will provision xDSL services in New York in accordance with the functional equivalency standards specified in the SBC/Ameritech Conditions, Section I, paragraph 6(g).
13. Until completion of the transition period, Bell Atlantic will offer Surrogate Line Sharing Charge discounts in accordance with the SBC/Ameritech Conditions, Section 1, paragraphs 8 and 14, and will provide Interim Line Sharing to the SDA in accordance with Section 1, paragraphs 3(d), 4(n)(1), and 8. Bell Atlantic will file with the PSC for approval of such discounts no later than December 20, 1999.
13. SDA requirements will sunset no later than July 1, 2003.