

FCC MAIL SECTION

Federal Communications Commission

DA 00-95

JAN 27 2 49 PM '00

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

In the Matter of)
)
The Development of a National Framework to)
Detect and Deter Backsliding to Ensure)
Continued Bell Operating Company Compliance)
with Section 271 of the Communications Act)
Once In-region InterLATA Relief Is Obtained)

RM 9474

ORDER

Adopted: January 18, 2000

Released: January 19, 2000

By the Common Carrier Bureau:

1. On February 1, 1999, Allegiance Telecom, Inc. (Allegiance) filed a petition requesting that the Commission initiate a rulemaking proceeding to establish an enforcement framework governing a Bell Operating Company's continued compliance with the conditions of long distance entry, once it receives section 271 approval. That petition was placed on public notice on February 5, 1999, Report No. 2315. Comments were filed on March 8, 1999,¹ and reply Comments were filed on March 23, 1999.²

2. The Commission recently set forth its views on the post-entry enforcement framework that will govern Bell Atlantic now that it has received section 271 approval in the State of New York.³ The Commission noted that "any diminution in performance below levels deemed sufficient in this order may expose Bell Atlantic to possible enforcement action under section 271(d)(6),

¹ Comments filed by Association for Local Telecommunications Services, KMC Telecom Inc., and Focal Communications Corporation (Joint Commenters), AT&T Corp., Bell Atlantic, BellSouth Corporation, CoreComm Limited, CTSI, Inc., Hyperion Telecommunications, Inc., Intermedia Communications Inc., MCI WorldCom, Inc., MGC Communications, Inc., New York State Department of Public Service, Pac West Telecom Inc., RCN Telecom Services, Inc., SBC Communications Inc., State Communications, Inc., Telergy Network Services, Inc. and Telergy Central LLC, Time Warner Telecom, and WinStar Communications, Inc. On March 9, 1999 Ameritech filed comments and a motion to accept late filed comments.

² Reply comments were filed by Allegiance Telecom, Inc., Association for Local Telecommunications Services, KMC Telecom Inc., and Focal Communications Corporation (Joint Commenters), AT&T Corp., Bell Atlantic, BellSouth Corporation, CoreComm Limited, CTSI, Inc., Hyperion Telecommunications, Inc., Intermedia Communications Inc., MCI WorldCom, Inc., Pac West Telecom Inc., RCN Telecom Services, Inc., State Communications, Inc. and Teligent, Inc.

³ Application by Bell Atlantic New York for Authorization Under Section 271 to Provide In-region InterLATA Service in the State of New York, CC Docket No. 99-295, Memorandum Opinion and Order, FCC 99-404, rel. December 22, 1999.

including suspension of authorization to provide service."⁴ In that order, the Commission emphasized its commitment to swift and effective post-approval enforcement pursuant to section 271(d)(6). Moreover, we note that a special team has been formed within the Enforcement Bureau which will (1) review complaints and other information from interested persons regarding post-grant "backsliding" by BOCs whose applications are approved, (2) undertake or recommend swift and effective enforcement action where appropriate, and (3) act as the point of contact within the Commission for persons wishing to provide information regarding possible "backsliding" by BOCs.⁵ Accordingly, given the decision to rely on case-by-case enforcement, we decline to initiate the requested rulemaking proceeding and therefore dismiss the Allegiance petition.

ORDERING CLAUSE

3. Accordingly, IT IS ORDERED that the Petition for Expedited Rulemaking filed on February 1, 1999 by Allegiance Telecom, Inc. IS DISMISSED. IT IS FURTHER ORDERED that the proceeding, RM-9474, IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION



Robert C. Atkinson
Deputy Chief, Common Carrier Bureau

⁴ *Id.* at para. 451.

⁵ See *Enforcement Team Created to Guard Against "Backsliding" on Competition Requirements*, Public Notice, DA 00-27 (Enf. Bur., rel. Jan. 10, 2000)