

Bell Atlantic
1300 I Street, NW
Suite 400 West
Washington, DC 20005

DOCKET FILE COPY ORIGINAL

March 20, 2000

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

RECEIVED
MAR 20 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY



Re: Request for Limited Modification of LATA Boundaries to Provide ELCS Between Bell Atlantic-West Virginia's Berkely Springs exchange and the Paw Paw exchange in Morgan County; CC Docket No. 96-159

Dear Ms. Salas:

Bell Atlantic – West Virginia hereby submits this request for a LATA boundary modification to provide Expanded Local Calling Service (ELCS) between Berkeley Springs and the Paw Paw exchange in Morgan County, West Virginia.

In its order released July 15, 1997¹ (“Order”), the Commission established an ongoing process for requesting LATA boundary modifications to provide ELCS. This request is filed pursuant to the provisions contained in that order. Attached please find the support documentation required by the Commission to approve the requested modification.

Should you have any questions regarding this material, please do not hesitate to contact me at 202-336-7875.

Sincerely,

A handwritten signature in cursive script that reads "Tracy Chaney".

Attachment

cc: C. Keller
D. Harmon
S. Pies
A. Thomas

No. of Copies rec'd CHL
List ABCDE

¹ “In the Matter of Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations”, CC Docket No. 96-159, released July 15, 1997.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

**PETITION OF BELL ATLANTIC – WEST VIRGINIA, INC.
FOR LIMITED MODIFICATION OF LATA BOUNDARY
TO PROVIDE EXPANDED LOCAL CALLING SERVICE
FROM THE BERKELEY SPRINGS EXCHANGE TO THE PAW PAW
EXCHANGE IN MORGAN COUNTY, WEST VIRGINIA**

Pursuant to Section 3(25) of the Communications Act of 1934, as amended,¹ Bell Atlantic – West Virginia, Inc. (“BA-WV”) hereby petitions the Commission for a limited modification of a LATA boundary to provide Expanded Local Calling Service (“ELCS”) from the Berkeley Springs exchange to the Paw Paw exchange in Morgan County, West Virginia.² In support of its petition, BA-WV submits the following information.

(1) Type of Service

Local calling areas in West Virginia include all exchanges that are contiguous to the customer’s home exchange, as well as, generally, all other exchanges whose rate centers fall within a twenty-two (airline) mile radius of the home exchange’s rate center. Customers may subscribe to one of four calling

¹ See 47 U.S.C. §153(25).

² The proposal to establish cross-LATA ELCS from Berkeley Springs to Paw Paw was made by the West Virginia Commission's Consumer Advocate Division in a petition that was filed on December 22, 1998 (Attachment A). Notice of the proceeding was published in a newspaper of general circulation in Morgan County and posted on the West Virginia Commission's web page.

The Consumer Advocate also proposed in the same December 22 petition that cross-LATA ELCS be established between certain exchanges in McDowell County. The provision of that ELCS was addressed in a separate petition that was filed with the Commission on February 2, 2000.

(3) Exchanges Involved

<u>BA-WV</u>	<u>Citizens</u>
Berkeley Springs	Paw Paw

(4) Name of Carriers

Bell Atlantic – West Virginia, Inc.
Citizens Telecommunications Company

(5) State Commission Approval

The West Virginia Public Service Commission issued a final order on November 30, 1999, finding that there was a community of interest between and among the exchanges involved in this petition, that the granting of the LATA boundary modification requested herein would be in the public interest, and that BA-WV should be authorized to file this petition. A copy of that order is attached. See Attachment B.

(6) Number of Access Lines

Berkeley Springs	6,106
Paw Paw	<u>1,123</u>
	7,229

(7) Usage Data (Messages per main station per month)

Berkeley Springs to Paw Paw	0.22 ⁵ (toll msgs.)
Paw Paw to Berkeley Springs	16.84 (local msgs.)

⁵ BA-WV has not furnished long distance service between Berkeley Springs and Paw Paw since 1984, and, therefore, has no records or other current data concerning the monthly calling volumes from Berkeley Springs to Paw Paw. The Commission's Consumer Advocate Division, however, was able to obtain calling volume data from AT&T. Those data only reflect the traffic carrier by AT&T, however, and, because they do not include traffic carried by other IXCs, almost certainly understate actual calling volumes.

(8) Poll Results

A poll was not conducted since the granting of this petition for a limited LATA modification will not result in an increase in end-user rates. See PSC Order at 12.

(9) Community Interest Statement

Education:

West Virginia's school systems are organized on a county basis, thereby creating a county-wide educational community of interest. The LATA boundary, however, divides a number of school districts in Morgan County. Residents of Great Cacapon, for example, are in the Berkeley Springs exchange, but send their children to school in Paw Paw. Calls to the school to talk with teachers, administrators, or counselors are all toll calls. Morgan Tr. at 26-27. Similarly, calls from the school board's central office in Berkeley Springs to the high school, middle school, and elementary school in Paw Paw are toll calls. Id. at 40.

County Government:

The LATA boundary that divides Morgan County serves to increase the cost of providing many essential county services. Senior Life Services, for example, has senior centers in both Berkeley Springs and Paw Paw. Calls from Berkeley Springs to the Paw Paw center (which numbered 130 during September 1999) are all toll calls. Morgan Tr. at 22-23. The Morgan County Emergency Services Agency and the county's Solid Waste Authority similarly incur substantially higher telecommunications costs because of the LATA boundary. Id. at 30;25, 43.

Business:

Trade and commerce in the western (Paw Paw) end of the county are also negatively affected by the absence of local calling to Paw Paw. Businesses in Paw Paw, for example, typically advertise in the Berkeley Springs telephone directory, but generally receive few calls from Berkeley Springs residents. Morgan Tr. at 24-25;19. The LATA boundary, according to the Executive Director of the Morgan County Chamber of Commerce, has generally increased the cost of doing business for all of those businesses that have business relationships with the opposite end of the county. Id. at 27-28.

"Code" Calling:

Residents in Berkeley Springs "have designed ways to get around the LATA boundary" (PSC Order at 12), such as through "code" calling, a practice in which the caller in Berkeley Springs hangs up after a prearranged number of rings, thus signaling the called party in Paw Paw to call (toll free) the party in Berkeley Springs. Morgan Tr. at 17, 29. Establishing local calling from Berkeley Springs to Paw Paw would put an end to this deceptive and inefficient practice.

(10) Map

A map showing the exchanges involved in this proceeding is attached as Attachment C.

(11) Other Pertinent Information

The public hearing in Berkeley Springs was well attended by a number of community representatives. Their testimony in support of the proposed cross-

LATA ELCS was reinforced by the several petitions bearing hundreds of signatures that were submitted to the West Virginia Commission. PSC Order at 7. No opposition to the proposed cross-LATA ELCS was voiced by any party. Id.

The fact that no interexchange carriers intervened in the proceeding or otherwise objected to the proposed cross-LATA ELCS is probative of the minimal, anti-competitive effects of the proposed LATA boundary modification. Id. at 10.

CONCLUSION

For the reasons set forth herein, Bell Atlantic – West Virginia, Inc. respectfully asks that this petition for a limited LATA boundary modification be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "T. B. Ornat". The signature is written in a cursive, somewhat stylized font.

Dated: March 15, 2000



CONSUMER ADVOCATE DIVISION
STATE OF WEST VIRGINIA
PUBLIC SERVICE COMMISSION
7th Floor, Union Building
723 Kanawha Boulevard, East
Charleston, West Virginia 25301
(304) 558-0526

RECEIVED
98 DEC 22 PM 1:15
W. VA. PUBLIC SERVICE
COMMISSION
SECRETARY'S OFFICE

December 22, 1998

Sandra Squire
Executive Secretary
Public Service Commission of West Virginia
201 Brooks Street
Charleston, West Virginia 25301

RE: JOINT PETITION REQUESTING GENERAL INVESTIGATION ^{98-1531-T-PC}

Dear Ms. Squire:

Enclosed for filing, please find the original and twelve (12) copies of a Petition by the Consumer Advocate Division Requesting the Commission to Initiate a General Investigation Proceeding to Determine Community of Interest to Facilitate Cross-LATA Local Calling in McDowell and Morgan Counties. Copies of the Petition have been served on counsel for Bell Atlantic-West Virginia, Citizens Telecom, Staff, AT&T, MCI and to representatives of War Telephone Company.

Respectfully,

Gene W. Lafitte, Jr.
Counsel for Consumer Advocate

GWL/cs

Enclosures

- cc: Steve Hamula, Esq.
- Richard Tettlebaum, Esq.
- David A. Frost, Esq.
- Mark A. Keffer, Esq.
- James R. Scheltema, Esq.
- Rush Foster

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

IN RE: **GENERAL INVESTIGATION** CASE NO. _____
TO DETERMINE COMMUNITY OF
INTEREST TO FACILITATE
CROSS-LATA LOCAL CALLING

**PETITION OF THE CONSUMER ADVOCATE DIVISION
TO INITIATE A GENERAL INVESTIGATION
INTO WHETHER THERE IS A SUFFICIENT
"COMMUNITY OF INTEREST" TO JUSTIFY
EXPANDED LOCAL CALLING ACROSS LATA
BOUNDARIES IN MCDOWELL AND MORGAN COUNTIES**

NOW COMES the Consumer Advocate Division of the Public Service Commission of West Virginia (hereinafter "CAD"), and respectfully petitions this Commission to initiate a general investigation into whether there exists a sufficient "community of interest" between certain telephone exchanges in McDowell and Morgan counties of West Virginia to justify a limited waiver of interLATA restrictions for expanded local calling pursuant to the "Winfield Plan." In support of such petition, the CAD would show as follows:

INTRODUCTION

1. This Commission is authorized, pursuant to West Virginia Code § 24-2-2, to investigate rates, methods and practices of all public utilities in West Virginia. The Consumer Advocate Division is required by statute and Commission rule to represent the interests of consumers in utility rate cases and related proceedings. Bell Atlantic-West Virginia, Inc. ("BA-WV"), Citizens Telecom ("Citizens") and War Telephone Company ("War") are public utilities engaged in the business of providing telecommunications services within West Virginia. The

names and address of the CAD's attorneys are as follows:

Deborah Y. VanDervort, Esq.
Gene W. Lafitte, Jr., Esq.
Counsel for Consumer Advocate
723 Kanawha Blvd., East
7th Floor, Union Building
Charleston, WV 25301

2. As part of the breakup of the Bell System in 1984, the entire nation was divided into approximately 200 zones, called Local Access and Transport Areas ("LATAs"), which provided general demarcation lines between local and long distance service. Under the scheme originally approved by Judge Greene of the United States District Court of the District of Columbia, West Virginia was divided into two principal LATAs: the Charleston LATA and the Clarksburg LATA. In addition, portions of the eastern panhandle of West Virginia were included in the Hagerstown, Maryland LATA, while the sections of Mercer and McDowell counties served by Citizens Telecom were placed in a special LATA called the "Bluefield Special Market Area" ("SMA").

3. Calls between LATA's are carried by interexchange carriers, such as AT&T and Sprint. Incumbent Bell operating companies, like BAWV, are normally prohibited from carrying telecommunications traffic between LATA's, unless and until the Bell operating company receives authority to provide interLATA telecommunications services pursuant to Section 271 of the Telecommunications Act of 1996.¹ As a result, calls between adjacent exchanges on opposite sides of a LATA boundary are classified as toll calls, rather than local calls, and must be carried by an interexchange carrier.

¹As of the date of the filing of this petition, BAWV has not received authority under Section 271 to provide interLATA service. Non-Bell local companies, such as Citizens and War, are not subject to the same interLATA restrictions as BAWV.

4. Since 1988 this Commission has implemented a policy of expanding the local calling area of every telephone exchange in West Virginia. Under this policy, known as the "Winfield Plan," the local calling area of every exchange includes all exchanges whose wire centers fall within a 22-mile radius of that exchange's wire center.² Although there are a number of exchanges in West Virginia which do not enjoy the full benefit of expanded local calling service ("ELCS") under the Winfield Plan because of the proximity of these exchanges to LATA boundaries, McDowell County and Morgan County are two counties in West Virginia in which LATA boundaries divide the county. As a result, the LATA boundaries have prevented the incumbent local exchange companies from providing two-way ELCS between county residents and the county seat, and vice-versa. As shown on Attachment A, McDowell County in Southern West Virginia is divided between the Charleston LATA and the Bluefield SMA, and as shown on Attachment B, Morgan County in the eastern panhandle, is divided between the Clarksburg LATA and the Hagerstown LATA.

5. Under Sections 3(25)(B) and 4(i) of the Telecommunications Act of 1934, as amended by the Telecommunications Act of 1996, the Federal Communications Commission ("FCC") is vested with the ultimate authority to grant waivers and/or modifications of LATA boundaries. Prior FCC decisions have granted such waivers or modifications based upon a finding by a state commission that a "community of interest" exists between exchanges divided by a LATA boundary. *See In the Matter of Petitions for Limited Modifications of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations*, FCC Docket No. 96-159, Order dated July 3, 1997. The FCC requires a "community of interest" finding by

²The local calling area also includes exchanges whose boundaries are adjacent to the home exchange even if the wire center of the adjacent exchange lies outside the 22-mile radius.

a state commission as a necessary prerequisite to filing a formal petition for waiver of a LATA boundary. This petition seeks such a finding of community of interest from this Commission.

THE AFFECTED EXCHANGES

6. There are 11 telephone exchanges in McDowell County: the Iaeger and Bradshaw exchanges served by BAWV; the War exchange served by War Telephone Company; and the Davy, Welch, Coalwood, Gary, Kimball, Northfork, Anawalt and Maybeury exchanges served by Citizens. All of McDowell County, except the Iaeger and Bradshaw exchanges served by BAWV, falls within the Bluefield SMA. Iaeger and Bradshaw are situated in the Charleston LATA. As a result, the residents and businesses of the Iaeger and Bradshaw exchanges cannot place local calls to the county seat in Welch - nor to intervening and adjacent exchanges served by Citizens and War Telephone Company - even though the wire center of the Iaeger exchange is only 12.6 miles from the wire center of the Welch exchange.³ But for the cross-LATA nature of the traffic, Welch and other exchanges would fall within the ELCS area of the Iaeger and Bradshaw exchanges pursuant to the "Winfield Plan."⁴ The CAD is seeking to establish two-way ELCS between and among the Iaeger and Bradshaw exchanges of BAWV, the Welch, Davy, Coalwood, Gary, Kimball and Northfork exchanges of Citizens, and the War exchange of War Telephone Company.

7. In Morgan County there are only two exchanges: the Berkeley Springs exchange

³The wire center of the Bradshaw exchange is only 13 miles from the wire center of the Welch exchange.

⁴ Ultimately, expansion of ELCS for the Iaeger and Bradshaw calling areas to include Welch should by necessity also include the intervening and nearby Citizens exchanges of Davy, Coalwood, Gary, Kimball and Northfork, and the War Telephone Company exchange of War. Conversely, the Welch, Davy, Coalwood, Gary, Kimball, Northfork and War exchanges should all add the Iaeger and Bradshaw exchanges within their ELCS areas.

served by BAWV in the Hagerstown LATA, and the Paw Paw exchange served by Citizens in the Clarksburg LATA. BAWV cannot provide ELCS from Berkeley Springs, the county seat, to the Paw Paw exchange pursuant to the "Winfield Plan" because of the LATA boundary.⁵ However, Citizens is already providing one-way local calling from Paw Paw to Berkeley Springs. In 1988, a group of 62 Paw Paw customers of GTE South, Inc. (predecessor-in-interest to Citizens) filed a formal complaint requesting extension of their ELCS from Paw Paw to include Berkeley Springs. The Commission dismissed the complaint without prejudice in an Order dated September 13, 1989, in response to GTE's agreement with the complainants to extend the ELCS in one direction, *i.e.* from Paw to Berkeley Springs.⁶ A subsequent tariff implementing this one-way calling arrangement was approved in Case No. 94-1120-T-T. The CAD is now requesting that the Commission investigate whether there exists a sufficient "community of interest" between these affected exchanges to justify a waiver of LATA restrictions to provide full two-way ELCS between the Berkeley Springs and Paw Paw exchanges.

8. Extension of ELCS between the county seat and all areas in McDowell and Morgan counties will serve an important community of interest between these exchanges. This general investigation will create an evidentiary record in support of that determination. Information to be gathered and considered by the Commission could include usage data, the average number of access lines in the affected exchanges, public and private services which are affected by the existence of the LATA boundaries, and the impact of approval of cross-LATA local calling on existing toll carriers.

⁵The wire center of the Paw Paw exchange is only 14 miles from the wire center of the Berkeley Springs exchange.

⁶ See Commission Order in Storhaug v. AT&T Communications of West Virginia, Case No. 88-850-T-C, dated September 13, 1989.

9. Extending the local calling areas across the LATA boundaries in these limited instances will eliminate toll charges for necessary telecommunication services in rural areas. Many of the people affected by the restrictions imposed by these LATA boundaries are older, retired and on fixed incomes, or generally of limited financial means. Extending the full benefits of ELCS by permitting cross-LATA local calling for these customers far outweighs any potential competitive harm from the granting of a limited LATA modification in this instance.

10. Following published notification, the Commission should hold hearings in each of the affected areas to establish a record on the community of interest between the affected exchanges. Testimony, affidavits and any other probative evidence should be adduced from county officials and/or citizens who would be affected by the proposed LATA boundary modifications, and to consider any objections to a finding that a sufficient community of interest exists. The hearings should be held as soon as practicable to allow for expeditious application to the FCC for final approval.

11. After public hearing, the Commission should review the record, and, if warranted, make a formal determination that a sufficient community of interest exists between and among the affected exchanges. Assuming that a finding of community of interest is made, the Consumer Advocate Division intends to work with BA-WV, Citizens, War and the Commission Staff to petition the FCC requesting a limited modification of LATA boundaries to provide full, two-way ELCS in McDowell and Morgan counties.

CONCLUSION

12. This investigation is necessary to evaluate the community of interest in two counties which do not currently enjoy the full benefits of extended local area service calling under the Winfield Plan. Such relief will serve the important community of interest between and among

these exchanges which requires the free flow of telecommunications at the lowest price for consumers. That important policy outweighs any competitive strictures imposed by federal regulatory policy, which would not be undermined in any event by the limited relief requested in this petition.

WHEREFORE, the Consumer Advocate Division respectfully requests that:

1. The Commission institute a general investigation into whether a community of interest exists between and among:

A. the Jaeger and Bradshaw exchanges of BAWV; the Welch, Davy, Coalwood, Gary, Kimball and Northfork exchanges of Citizens; and the War exchange of War Telephone Company in McDowell County; and

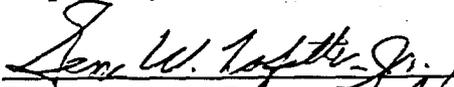
B. the Berkeley Springs exchange of BAWV and the Paw Paw exchange of Citizens in Morgan County.

2. The Commission give notice of such general investigation and hold hearings in the affected areas;

3. The Commission issue a finding that a community of interest exists between and among the affected exchanges; and

4. The Commission grant such other relief as may appear just and proper.

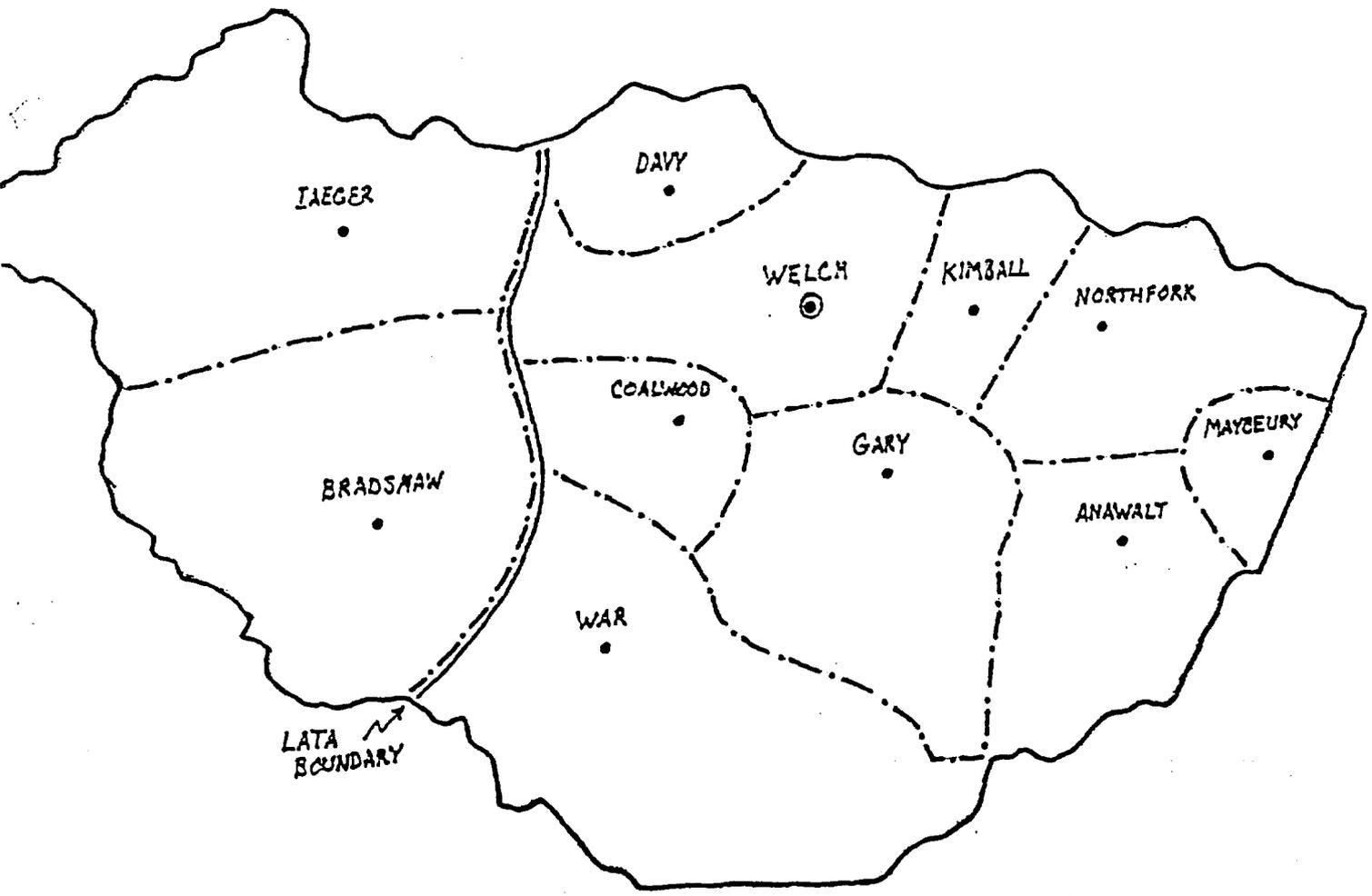
Respectfully submitted,


Deborah Y. VanDervort, Esq.
Gene W. Lafitte, Jr., Esq.
Counsel for Consumer Advocate
723 Kanawha Blvd., East
7th Floor, Union Building
Charleston, WV 25301

MCDOWELL COUNTY, WEST VIRGINIA

TELEPHONE EXCHANGES
AND
LATA BOUNDARIES

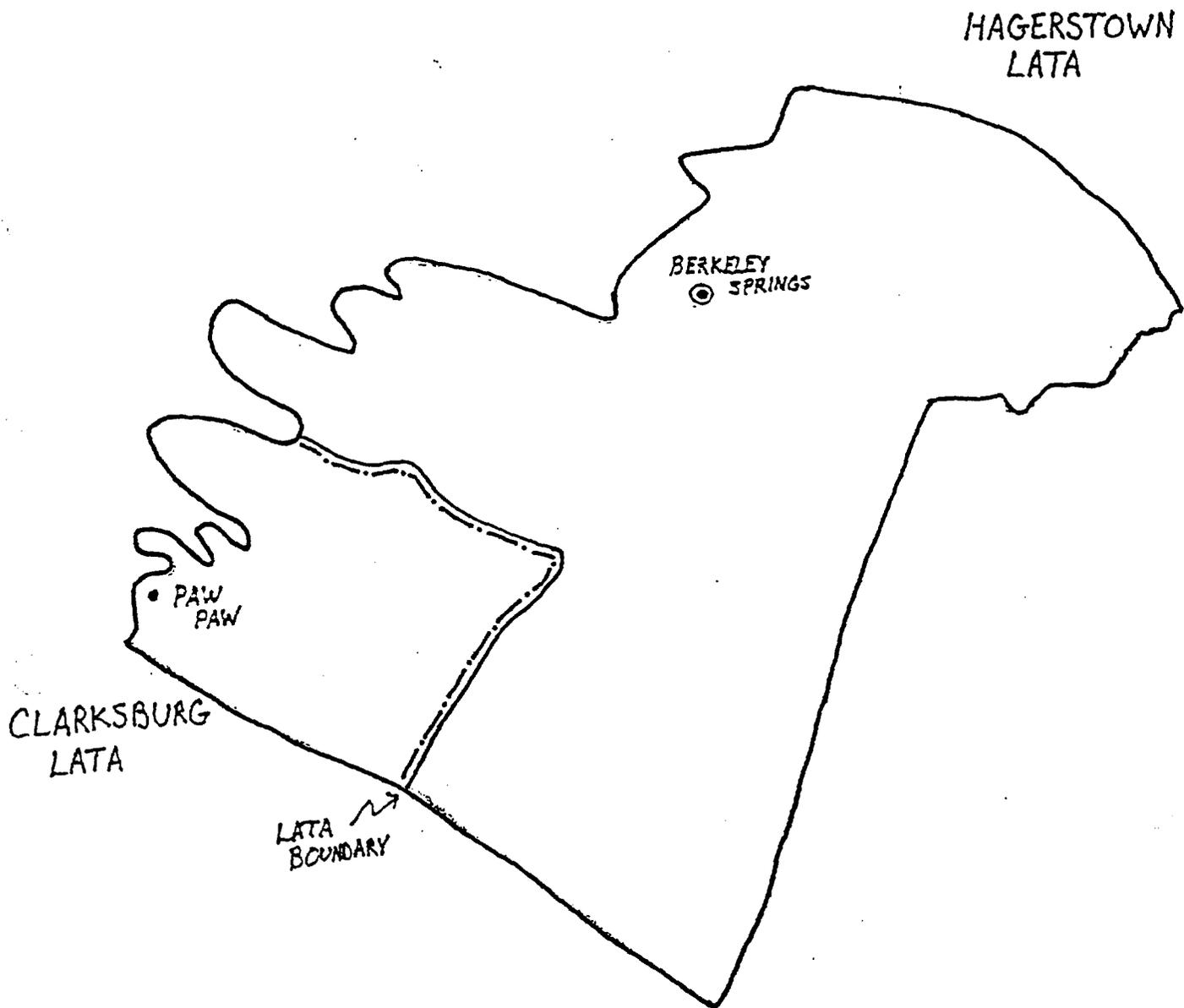
CHARLESTON
LATA



BLUE FIELD
SMA

MORGAN COUNTY, WEST VIRGINIA

TELEPHONE EXCHANGES
AND
LATA BOUNDARIES



Public Service Commission
Of West Virginia

ATTACHMENT B

201 Brooks Street, P. O. Box 812
Charleston, West Virginia 25323



Phone: (304) 340-0300
FAX: (304) 340-0325

November 30, 1999

Gene W. Lafitte, Jr., Esq.
Consumer Advocate Division
7th Floor Union Building
723 Kanawha Blvd. East
Charleston, WV 25301

David B. Frost, Esq.
Bell Atlantic-West Virginia, Inc.
1500 MacCorkle Avenue, SE, Room 500
Charleston, WV 25314

John B. Adams, Esq., Senior Attorney
Citizens Communications
1400 16th Street, NW, Suite 500
Washington, DC 20036

RECEIVED
LEGAL DEPT.

GYC
SKH

DEC 02 1999

BELL ATLANTIC -
WEST VIRGINIA, INC.
Charleston, W. Va.

RE: CASE NO. 98-1531-T-GI
GENERAL INVESTIGATION

Gentlemen:

Enclosed is a copy of an order issued today by the Commission in the above-styled proceeding.

If you submit any additional documents - in addition to filing an original and 12 copies of all documents with the Commission, you are required to mail a copy to all other parties of record. We invite you to visit our Internet web site address at www.state.wv.us/psc.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sandra Squire".

Sandra Squire
Executive Secretary

SS/s
Encl
cc:

James Easterly, Spokesperson
PO Box 121
Paynesville, WV 24873

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 30th day of November, 1999.

CASE NO. 98-1531-T-PC

GENERAL INVESTIGATION to determine whether a sufficient "community of interest" exists between certain telephone exchanges in McDowell and Morgan Counties, West Virginia, to justify a limited waiver of the interLATA restrictions for expanded local calling.

RECEIVED
LEGAL DEPT.

DEC 02 1999

BELL ATLANTIC -
WEST VIRGINIA, INC.
Charleston, W. Va.

COMMISSION ORDER

A. Procedural Background.

On December 22, 1998, the Consumer Advocate Division of the Public Service Commission (CAD) filed a petition requesting that the Commission initiate a general investigation to determine whether there exists a sufficient "community of interest" between certain telephone exchanges in McDowell and Morgan counties of West Virginia to justify a limited waiver of the interLATA restrictions for expanded local calling service (ELCS) pursuant to the "Winfield Plan." As grounds therefor, CAD noted that McDowell and Morgan counties are divided by Local Access and Transport Area (LATA) boundaries, and this division has prevented two-way ELCS between the county seats and other areas of each county.

On January 6, 1999, Bell Atlantic-West Virginia, Inc. (BA-WV) filed a response to CAD's petition, indicating that it would cooperate with Commission Staff (Staff), CAD, and other interested parties in attempting to meet the cross-LATA local calling requirements in those areas in which the distance between the exchange rate centers¹ is twenty-two airline miles or less. BA-WV Response, at 1. BA-WV urged the Commission to grant CAD's petition to undertake a general investigation to determine whether the establishment of county-wide, cross-LATA local calling in McDowell and Morgan Counties would be in the public interest. Id.

On April 28, 1999, Commission Staff (Staff) filed an Initial Joint Staff Memorandum recommending that CAD's petition should be granted.

By Order entered July 23, 1999, the Commission granted CAD's petition and initiated this General Investigation to determine whether a sufficient "community of interest" exists to justify limited, cross-LATA relief between and among: