

ATTACHMENT B-1

Bell Atlantic/GTE Electronic OSS Interface Functions

PRE-ORDER

- Address Validation
- TN Selection
- TN Reservation
- Customer Service Record (Parsed)
- Due Date Availability
- Loop Qualification – xDSL (qualified/non-qualified, loop length)
- Product and Service Availability

ORDER

- Local Service Request
- Local Service Confirmation
- Completion Notice
- Supplements
- Rejects

MAINTENANCE AND REPAIR

- Create trouble ticket
- Modify trouble ticket
- Cancel/Close trouble ticket
- Status trouble ticket
- Mechanized Loop Test (POTS)
- Premises Access Hours

ATTACHMENT B-2

BELL ATLANTIC/GTE
UNBUNDLED NETWORK ELEMENTS
ORDERED APPLICATION-APPLICATION
(LSR)

LOOPS

Unbundled Analog Loops

- 2-wire and 4-wire
- 2-wire and 4-wire analog w/customer specified signaling

Unbundled Digital Loops

- 2-wire
 - ADSL
 - HDSL
 - IDSL
- 4-wire
 - HDSL

NID (Network Interface Device) included with unbundled loop or may be purchased as a UNE

LINE SHARING (Effective 6-6-00)

LINE PORTS

- Analog Line Port
- Basic Rate (ISDN) Line Port
- Coin Line Port
- Line Port with Centrex/Centranet capabilities
- Primary Rate Interface ISDN Line Port
- DS1 DID/DOD/PBX Port

UNE- PLATFORM

- UNE Analog POTS Platform
- UNE ISDN-BRI Platform
- UNE ISDN-PRI Platform
- UNE DS1 PLATFORM
- Centrex/Centranet Platform

NUMBER PORTABILITY (Long Term)

CALLING NAME DELIVERY

Note: Some complex services such as Centrex/Centranet platform, have requirements not currently supported by current OBF versions of the LSOG and require supplemental information to be submitted manually. Bell Atlantic/GTE will support electronic submission of such information after development and adoption of OBF guidelines.

BELL ATLANTIC/ GTE
UNBUNDLED NETWORK ELEMENTS
ORDERED VIA ASR

DEDICATED EXPANDED EXTENDED LOOP (EEL)

- 4-WIRE Digital Hi Cap DS1/DS3 Loops (Effective July 2000 will be ordered via ASR in Bell Atlantic)

DEDICATED INTEROFFICE FACILITY (IOF) TRANSPORT

DEDICATED TRUNK PORT (EO, TANDEM, DA)

LOOPS

- DS1
- DS3

E-911/911 INTERCONNECTION DEDICATED TRUNK PORT

SS7 INTERCONNECTION

UNE REMAND PRODUCTS
ORDERING REQUIREMENTS STILL UNDER DEVELOPMENT

1. SUBLOOP UNBUNDLING AT REMOTE TERMINAL
2. SINGLE POINT OF INTERCONNECTION AT MULTI-UNIT PREMISES
3. UNBUNDLED DARK FIBER LOOPS
4. PACKET SWITCHING (EXPECTED TO TRANSFER TO BANDI)
5. DARK FIBER IOF

ATTACHMENT C

DRAFT

Independent Accountant's Report

Bell Atlantic/GTE Board of Directors
and
Federal Communications Commission

We have examined Bell Atlantic/GTE's (the Company) assertion that the Company has policies and procedures (as described in the attachment) in place as of Month xx, 2000 regarding compliance with the Federal Communications Commission's (FCC's) collocation requirements. The FCC's collocation requirements are contained in the FCC's March 31, 1999 First Report and Order and Further Notice of Proposed Rulemaking on Deployment of Wireline Services Offering Advanced Telecommunications Capability (CC Docket No. 98-147). The Company is responsible for the design, distribution and monitoring of such policies and procedures in place upon which the Company's assertion to the FCC is based.

Our examination was made in accordance with standards established by the American Institute of Certified Public Accountants and included both a determination of the existence and distribution of such policies and procedures upon which the Company's assertion is based, as well as such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, management's assertion that policies and procedures as described above are in place as of Month xx, 2000 is fairly stated in all material respects.

This report is intended solely for the information and use of the Board of Directors and management of the Company and the FCC and should not be used for any other purpose. Since this report will be filed in documents that are a part of the public record, its distribution is not limited.

Signature of Independent Auditor

Date

ATTACHMENT D

PROMOTIONAL DISCOUNTS FOR RESIDENTIAL UNBUNDLED LOCAL LOOPS

ANALOG 2-WIRE LOOPS

Bell Atlantic States

Promotional Loop Discounts			
Zone	Current Price	New Price	Discount (%)
Connecticut			
Zone 1	\$12.49	\$9.37	25.00
			Average: 25.00
Delaware			
Density Cell 1	\$10.07	\$8.56	15.00
Density Cell 2	\$13.13	\$9.19	30.00
Density Cell 3	\$16.67	\$10.18	39.00
			Average: 25.00
District of Columbia			
Density Cell 1 (Statewide)	\$10.81	\$8.11	25.00
			Average: 25.00
Maine			
Zone 1	\$12.67	\$11.40	10.00
Zone 2	\$15.59	\$12.47	20.00
Zone 3	\$23.00	\$16.62	28.00
			Average: 25.00
Maryland			
Density Cell 1	\$12.11	\$10.66	12.00
Density Cell 2	\$12.85	\$11.05	14.00
Density Cell 3	\$25.96	\$12.98	50.00
Density Cell 4	\$18.40	\$11.37	38.00
			Average: 25.00

Massachusetts			
Zone 1	\$7.54	\$7.54	0.00
Zone 2	\$14.11	\$10.86	23.00
Zone 3	\$16.12	\$12.09	25.00
Zone 4	\$20.24	\$13.28	34.00
			Average: 25.00
New Hampshire			
Zone 1	\$14.01	\$12.61	10.00
Zone 2	\$15.87	\$11.90	25.00
Zone 3	\$24.09	\$16.91	30.00
			Average: 25.00
New Jersey			
Zone 1	\$11.95	\$10.16	15.00
Zone 2	\$16.02	\$12.02	25.00
Zone 3	\$20.98	\$14.66	30.00
			Average: 25.00
New York			
Density Zone 1A	\$11.83	\$10.06	15.00
Density Zone 1B	\$12.49	\$10.62	15.00
Density Zone 2	\$19.24	\$11.85	38.00
			Average: 25.00
Pennsylvania			
('Current Price' for PA is prior to implementation of discounts required in the PA 'Global Order' issued September 30, 1999.)			
Zone 1	\$11.52	\$9.79	15.00
Zone 2	\$12.71	\$10.17	20.00
Zone 3	\$16.12	\$12.90	20.00
Zone 4	\$23.11	\$15.45	33.00
			Average: 25.00
Rhode Island			
Zone 1	\$12.05	\$10.24	15.00
Zone 2	\$16.62	\$11.97	28.00
Zone 3	\$20.59	\$13.58	34.00
			Average: 25.00

Vermont			
Statewide Rate	\$28.29	\$21.22	25.00
			Average: 25.00
Virginia			
Zone 1	\$10.74	\$10.20	5.00
Zone 2	\$16.45	\$10.20	38.00
Zone 3	\$29.40	\$14.40	51.00
			Average: 25.00
West Virginia			
Zone 1	\$14.49	\$13.04	10.00
Zone 2	\$22.04	\$17.63	20.00
Zone 3	\$43.44	\$28.70	34.00
			Average: 25.00

PROMOTIONAL DISCOUNTS FOR RESIDENTIAL UNBUNDLED LOCAL LOOPS

ANALOG 2-WIRE LOOPS

GTE States

Promotional Loop Discounts			
Zone	Current Price	New Price	Discount (%)
Alabama			
Zone 1 (Statewide)	\$28.13	\$21.09	25.03
			Average: 25.03
California			
Zone 1 (Statewide)	\$16.81	\$12.60	25.04
			Average: 25.04
Florida			
Zone 1	\$16.41	\$12.31	25.00
Zone 2	\$23.33	\$17.50	25.00
Zone 3	\$40.41	\$30.31	25.00
			Average: 25.00

Hawaii			
Zone 1	\$14.65	\$12.45	15.00
Zone 2	\$25.38	\$19.04	25.00
Zone 3	\$28.88	\$20.22	30.00
Zone 4	\$40.88	\$24.53	40.00
Zone 5	\$43.84	\$26.30	40.00
Zone 6	\$138.29	\$69.15	50.00
			Average: 25.06
Idaho			
Zone 1 (Statewide)	\$45.00	\$33.75	25.00
			Average: 25.00
Illinois			
Zone 1 (Statewide)	\$24.04	\$18.03	25.00
			Average: 25.00
Indiana			
Zone 1 (Statewide)	\$14.63	\$10.97	25.02
			Average: 25.02
Kentucky			
Zone 1	\$17.44	\$14.82	15.00
Zone 2	\$22.23	\$17.56	21.00
Zone 3	\$25.84	\$18.09	30.00
			Average: 25.02
Michigan			
Zone 1	\$7.53	N/A	N/A
Zone 2	\$8.93	N/A	N/A
Zone 3	\$10.37	\$7.78	25.00
*All GTE lines in Michigan fall into zone 3			Average: 25.00

Missouri			
Zone 1	\$53.84	\$37.68	30.00
Zone 2	\$48.39	\$36.29	25.00
Zone 3	\$29.05	\$23.82	18.00
Zone 4	\$19.14	\$16.46	14.00
			Average: 25.04
Nevada			
Zone 1 (Statewide)	N/A	N/A	25.00
* GTE has no ordered rate or contract rate			Average: 25.00
North Carolina			
Zone 1 (Statewide)	\$27.41	\$20.55	25.03
			Average: 25.03
Ohio			
Zone 1 (Statewide)	\$15.73	\$11.79	25.05
			Average: 25.05
Oregon			
Zone 1	\$15.00	\$11.25	25.00
			Average: 25.00
Pennsylvania			
Zone 1	\$7.80	N/A	N/A
Zone 2	\$9.00	N/A	N/A
Zone 3	\$12.31	\$10.46	15.00
Zone 4	\$15.81	\$11.21	29.00
			Average: 25.04
South Carolina			
Zone 1 (Statewide)	\$18.00	\$13.50	25.00
			Average: 25.00

Texas			
Zone 1 (Statewide)	\$25.49	\$19.11	25.03
			Average: 25.03
Virginia			
Zone 1 (Statewide)	\$19.16	\$14.37	25.00
			Average: 25.00
Washington			
Zone 1 (Statewide)	\$23.94	\$17.95	25.02
			Average: 25.02
Wisconsin			
Zone 1 (Statewide)	\$32.00	\$24.00	25.00
			Average: 25.00

ATTACHMENT E

- Maximum Number of Residential Lines to Which Carrier-to-Carrier Promotions Apply

	Maximum Number of Residential Loops for Residential Resale Promotion	Maximum Number of Residential Loops for Residential UNE Loop Discount Promotion
<i>GTE States</i>		
Alabama	8,500	10,000
California	116,000	142,000
Florida	63,000	77,000
Hawaii	18,000	22,000
Idaho	3,500	4,000
Illinois	23,000	28,000
Indiana	26,500	32,000
Kentucky	15,000	19,000
Michigan	22,500	28,000
Missouri	9,000	11,000
Nevada	1,000	1,000
North Carolina	9,000	11,000
Ohio	25,500	31,000
Oregon	13,000	16,000
Pennsylvania	18,500	23,000
South Carolina	5,500	7,000
Texas	43,000	52,000
Virginia	17,000	21,000
Washington	24,000	29,000
Wisconsin	11,000	13,000
<i>Bell Atlantic States</i>		
Connecticut	1,000	1,000
Maine	19,000	23,000
Massachusetts	111,500	136,000
New Hampshire	20,500	25,000
New York	288,000	352,000
Rhode Island	17,500	21,000
Vermont	9,000	11,000
Delaware	14,000	17,000
District of Columbia	11,500	14,000
Maryland	91,000	111,000
New Jersey	156,500	191,000
Pennsylvania	160,500	196,000
Virginia	84,000	102,000
West Virginia	23,000	28,000

ATTACHMENT F

ALTERNATIVE DISPUTE MEDIATION

Bell Atlantic/GTE shall implement in the Bell Atlantic and GTE States a voluntary alternative dispute mediation process to resolve local service carrier-to-carrier disputes, including disputes related to interconnection agreements, as follows:

If resolution is not attained upon completion of the dispute resolution process contained in a state commission-approved interconnection agreement, or if the dispute is not subject to resolution under an interconnection agreement, Bell Atlantic/GTE shall, at the option of the other party or parties to the dispute, participate in a mediation process as follows:

a. If a party voluntarily chooses to invoke these mediation procedures, it shall submit a written request for mediation to the appropriate state commission, with a copy to Bell Atlantic/GTE and any other party or parties involved in the dispute. State commissions shall not be required to implement this process or to mediate disputes under the mediation provisions of this Attachment.

b. The written request shall include a statement as to whether the dispute affects service or is otherwise exceptionally time-sensitive. If the dispute affects service or is otherwise exceptionally time-sensitive, the written request shall set forth time requirements for resolution, and the time frames stated herein shall be shortened by agreement of the parties to accommodate the requested time requirements, which may not be less than 3 business days.

c. Bell Atlantic/GTE shall attempt to resolve issues affecting multiple CLECs in the same State through consolidated mediations.

d. The parties to the dispute shall each have a person or persons of authority at the dispute resolution table such that a reasonable resolution could be agreed to at the table. In the event the representative(s) of a party come without the authority to agree to a particular item, that party shall commit to provide a response within no more than 2 business days.

e. Any information shared with another party or parties prior to a mediation session shall be faxed to the other party or parties to the dispute at least 24 hours prior to the next mediation session. A copy shall also be provided to the staff of the appropriate state commission.

f. Bell Atlantic/GTE shall have one contact person for all contacts related to a given dispute.

g. Bell Atlantic/GTE shall attend a face-to-face meeting with the disputing party or parties and the staff of the appropriate state commission within one week of the request for mediation. In the event it is not possible to resolve the issue in one session,

the parties to the dispute shall agree to a meeting schedule and have all relevant decision makers meet with the other party or parties during the scheduled times.

h. Bell Atlantic/GTE agrees that service to end-user customers shall not be disrupted or otherwise affected by the pendency of a mediation proceeding.

i. Bell Atlantic/GTE shall prohibit their regulatory, legal, and/or wholesale personnel from disclosing to their retail staff information regarding customers identified during the mediation process concerning the dispute being mediated. If necessary, Bell Atlantic/GTE regulatory, legal, and/or wholesale personnel may contact the customer regarding service or billing-related issues after they have first notified the opposing party or parties in mediation to discuss the need for such contact and to give such party or parties the opportunity to participate in such contact.

j. Bell Atlantic/GTE shall reduce each resolved issue to writing within 5 business days of the resolution. One of the other parties may also agree to reduce the agreement to writing. All subsequent responses/replies shall be due within 3 business days. If the parties have not reduced the resolved issue to an agreed-upon writing within 14 calendar days of the issue's resolution, they shall notify the staff of the appropriate state commission within 5 business days, and any party may request to resume the mediation. Written resolutions of the issues, once agreed upon by the parties, shall be binding upon the parties; a copy of each agreement shall be submitted to the staff of the appropriate state commission upon execution. If an agreement reached requires an amendment or addendum to a previously approved interconnection agreement, Bell Atlantic/GTE shall file the amendment or addendum for approval by the appropriate state commission within 14 calendar days of reaching the written agreement.

k. Communications during the mediation process shall be confidential. Bell Atlantic/GTE shall facilitate the confidentiality of the mediation process, including execution of a reasonable mediation agreement (provided that the other mediating party also agrees to do so as a condition to participating in the mediation process).

Once issues are resolved by the parties, should another telecommunications carrier in the same State request resolution of the same issue(s), with substantially similar factual circumstances and terms, and with conditions and other contract provisions that are not materially different, Bell Atlantic/GTE shall make the arrangements arrived at through a prior mediation process available to that telecommunications carrier.

Should the appropriate state commission choose not to participate in the mediation process, the parties may mutually agree that a party (not a party to the dispute) may fill the role of the state commission and its staff in the mediation process.

ATTACHMENT G
Enhanced Lifeline Annual Promotional Budgets by State

State	Annual Promotional Budget (\$)
Alabama	10,000
California	140,000
Commonwealth of the Northern Marianas Islands	1,000
Connecticut	1,000
Delaware	16,000
District of Columbia	14,000
Florida	76,000
Hawaii	21,000
Idaho	4,000
Illinois	27,000
Indiana	32,000
Kentucky	18,000
Maine	22,000
Maryland	106,000
Massachusetts	130,000
Michigan	27,000
Missouri	11,000
Nevada	1,000
New Hampshire	24,000
New Jersey	183,000
New York	337,000
North Carolina	11,000
Ohio	31,000
Oregon	16,000
Pennsylvania	210,000
Rhode Island	20,000
South Carolina	7,000
Texas	52,000
Vermont	10,000
Virginia	119,000
Washington	29,000
West Virginia	27,000
Wisconsin	13,000
Total	1,744,000

Appendix E

GTE April 17, 2000 *Ex Parte* Letter

Alan F. Ciamporcero
Vice President
Regulatory Affairs



GTE Service Corporation

1850 M Street, N.W., Suite 1200
Washington, D.C. 20036-5801
202 463-5290
202 463-5239 - fax
e-mail: aciamporcero@dcoffice.gte.cc

April 17, 2000

Magalie R. Salas, Esq.
Secretary
Federal Communications Commission
The Portals 445 Twelfth Street, N.W.
12th Street Lobby, TW-A325
Washington, D.C. 20554

Re: *CC Docket No. 98-184; Ex Parte Filing*

Dear Ms. Salas:

Attached please find a chart describing the various interLata businesses that GTE has exited or will be exiting before the closing of the GTE – Bell Atlantic merger. Please file this material in the above-referenced docket.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Alan Ciamporcero".

Alan F. Ciamporcero

c: (w/attchmt): Johanna Mikes, Esq.

GTE INTERLATA REVIEW

GTE's Regulatory Compliance Department conducted a review of all GTE business units to identify all interLATA activity in the Bell Atlantic states. Remedial action was or is being taken to comply with 271 requirements as described below.

GTE COMMUNICATIONS CORPORATION

GTE Communications Corporation (GTECC) houses GTE's CLEC and long distance operations (GTELD) and presents the vast majority of interLATA issues. GTECC is terminating the following services and capabilities in Bell Atlantic states (other than NY): 1) 1+ Direct Dialing; 2) Dial Around (10XXX); 3) 800 Toll Free; 4) O- and OO- Operator; 5) Private Lines; and 6) Frame Relay services. This is being accomplished by either transferring the customer to an unaffiliated carrier without consideration or by simply ceasing to offer the service after providing all affected customers with notice and an opportunity to select another provider. In addition, GTELD deactivated all GTELD calling cards to customers residing in Bell Atlantic states. GTELD has not deactivated GTELD calling cards issued to customers domiciled in non-Bell Atlantic states. GTELD, however, will not carry interLATA calling calls originating in Bell Atlantic states for these customers. Such calls will be carried by nonaffiliated interLATA carriers directly for end user customers and the nonaffiliated carriers will determine service rates, terms, and conditions. Branding on such calls will make clear such calls are carried by such unaffiliated carriers. GTE has filed the required discontinuation of service and waiver applications with the Commission to the extent needed to effectuate these measures.

The majority of this effort was completed as of the end of March 2000. Any remaining items will be completed by the end of April.

GTE Data Services Incorporated **GTE Telecommunication Services, Inc.** **GTE Network Services**

These entities provide dedicated capacity with at least one end of the facility in a Bell Atlantic state. All such facilities will be divested and interLATA services will be provided to customers directly by an unaffiliated carrier that is solely responsible for service provisioning and pricing.

The majority of this effort was completed as of the end of March 2000. Any remaining items will be completed by the end of April.

GTE.net

GTE.net provides Internet access services. GTE.net no longer provides interLATA transmission services directly or by resale that originate in Bell Atlantic states other than NY. InterLATA services are directly provided by an unaffiliated interLATA service provider to GTE.net customers. The unaffiliated provider determines the rates, terms, and conditions of its services.

Codetel, Puerto Rico Telephone, CTi Norte, GTE Pacifica, Hawaiian Telephone, BC Telus, CANTV, Quebec Tel

These entities provide either prepaid or postpaid calling cards that can be used to originate calls in the Bell Atlantic states. These entities will cease carrying calling card calls that originate in Bell Atlantic states other than NY. Such calls will be carried by nonaffiliated carriers directly for end user customers and the nonaffiliated carriers will determine rates, terms, and conditions for their services.

This activity will be completed before merger close.

Appendix F

GTE April 28, 2000 *Ex Parte* Letter

Alan F. Ciamporcero
Vice President
Regulatory Affairs



GTE Service Corporation

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April 28, 2000

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: GTE Corp. and Bell Atlantic Corp., CC Docket No. 98-184

Dear Ms. Roman Salas:

This is to provide notice that GTE has filed with the Commission applications to transfer to Genuity Incorporated licenses and authorizations currently held by GTE Telecom Incorporated, GTE Intelligent Network Services, and GTE Communications Corporation. These include: a global international Section 214 authorization (File No. ITC-214-19990708-00391); cable landing licenses for the AMERICAS II cable (File No. SCL-98-003/SCL-98-003A), for the TAT-14 Cable (File No. SCL-LIC-19990303-00004), and for the Japan-U.S. cable (File No. SCL-LIC-19981117-00025); and an international Section 214 license associated with the AMERICAS II cable (File No. ITC-98-342/ITC-98-342A); and a blanket domestic Section 214 authorization.

These transfers are necessary to transfer to Genuity those businesses of GTE Telecom described in our ex parte letter of April 18, 2000, except for the line of business described in that ex parte as "Private Line Resale – Commercial and Financial Customers." That business – private line, point-to-point service to commercial and financial customers, principally brokerage houses and banks – will be transferred to one or more unaffiliated carriers before the GTE/Bell Atlantic merger closes.

Copies of the applications are attached. Please contact me if you have questions.

Sincerely,


for Alan F. Ciamporcero

cc: Michelle Carey, Esq.
Johanna Mikes, Esq.

SEPARATE STATEMENT OF COMMISSIONER SUSAN NESS

Re: Applications of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, for Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License (CC Docket No. 98-184)

The Commission today approves the merger of two of the largest incumbent telephone companies. I believe that on balance the transaction, as finally structured, is consistent with the public interest. I write separately to underscore the importance that I place on ensuring that the transaction complies with both the letter and spirit of section 271 of the Communications Act. That provision lies at the very heart of Congress' efforts to promote competition and deregulation throughout all telecommunications markets.

While this transaction presents a close call, I believe that the modified proposal that we approve today satisfies the section 271 test. In particular, the merged entity is not allowed to profit from in-region long distance services prior to achieving section 271 approval. This will give the company the incentive to open its local markets as expeditiously as possible. Today's decision emphasizes that Bell companies may participate in the long distance market in their states, but only after they have fulfilled their statutory market-opening responsibilities.

**STATEMENT OF COMMISSIONER MICHAEL K. POWELL,
CONCURRING IN PART AND DISSENTING IN PART**

Re: Applications of GTE Corp., Transferor, and Bell Atlantic Corporation.
Transferee, for Consent to Transfer Control of Domestic and International
Sections 214 and 310 Authorizations and Application to Transfer Control of a
Submarine Cable Landing License, CC Docket No. 98-184, *Memorandum
Opinion and Order*

Just over eight months ago, I wrote separately and at length to criticize sharply the form and content of the Commission's analysis of another merger of major incumbent local exchange carriers (LECs), namely SBC's acquisition of Ameritech.¹ Among other shortcomings, this analysis allowed the applicants' "voluntary" conditions to compensate for largely unrelated alleged public interest harms. Because the majority persists in its reliance on this faulty analysis in evaluating Bell Atlantic's proposed acquisition of GTE, I must respectfully dissent from some aspects of this *Order* and only concur as to other aspects.² Specifically, although I again concur in the conclusion that there are public harms that might well result from this combination that are not entirely offset by the applicants' asserted benefits, I am unsatisfied that any one of these harms bears the weight assigned to it in this *Order*. Thus, I believe fewer conditions, tailored to address the specifically identified harms, would have been the correct result.

This *Order* suffers from the same flawed analytical framework as in the *SBC/Ameritech Order*. In that order, I expressed extreme discomfort with a merger review standard that places harms on one side of a public interest "scale" and then examines whether those harms are outweighed by beneficial conditions placed on the opposite side of that scale, regardless whether the compensating conditions actually *rectify* the harms. I explained that this approach results in a number of pernicious effects.³ Sadly, these effects are not significantly avoided in this *Order*.

¹ See Applications of Ameritech Corp., Transferor, and SBC Communications Inc., Transferee, for Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Section 214 and Section 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95, and 101 of the Commission's Rules, CC Docket No. 98-141, *Memorandum Opinion and Order* (Separate Statement of FCC Commissioner Michael K. Powell) (Oct. 8, 1999) ("SBC/Ameritech Separate Statement") [Available on the World Wide Web at < <http://www.fcc.gov/Speeches/Powell/Statements/stmkp930.doc>>].

² Although I dissent in part to the *Order*, I do concur with the item's Section 271 analysis.

³ See *SBC/Ameritech Separate Statement* at 1. This balancing approach leads to a number of problems: First, the approach creates a great temptation to load up the benefits side of the scale with a big wish list of conditions that are non-germane to the merger's harmful effects. Second, the approach makes it easier for identified harms, even significant ones, to be visited upon the public in exchange for other benefits. Third, the conditions that are sought are more often surrogates for policies and rules of general, rather than merger-specific, applicability, but without the extensive deliberative process and the check of judicial review normally afforded a rulemaking. And fourth, the process of obtaining "voluntary" conditions inevitably involves bilateral negotiations with the parties that leave the integrity of the Commission's process vulnerable to criticism.

For example, in the *SBC/Ameritech Order*, I lamented that the majority's faulty merger review framework would make it easier for regulators to visit identified harms upon the public in exchange for unrelated benefits. This problem evidences itself again in this *Order*. Despite the fact that the majority concludes that the merger will result in harms they characterize as significant, such as precluded competition, increased discrimination, and loss of major incumbent LEC benchmarks, the *Order* allows these purportedly significant harms to occur largely unmitigated by the proposed conditions. This leads me to question whether the majority truly believes that the harms are significant, or whether they believe, as do I, that the described harms are too speculative and thus may be exaggerated.⁴

My skepticism surrounding the alleged harms of major LEC mergers is exacerbated in this proceeding because these harms should be, at least according to the majority's reasoning, more significant in this merger than in the *SBC/Ameritech* proceeding. For example, according to the majority's theory, the bigger the merged LEC is, the more incentive and ability to discriminate it will have. As such, it follows that there must be greater risk of potential harm associated with this merger than with respect to the *SBC/Ameritech* merger, which yielded a smaller merged entity than the one we sanction in this *Order*. Similarly, the majority's benchmarking rationale postulates that it will become increasingly difficult for regulators to find useful major LEC benchmarks as the number of these LECs declines. It follows, then, that the further consolidation among major LECs that the Bell Atlantic/GTE merger represents must involve greater risk of harm than that associated with the previously approved *SBC/Ameritech* merger. If I were convinced that the risk of these harms was as significant as the majority's analysis suggests, and that no conditions could correct them, I would be very hesitant to subject the public to these harms and would instead disapprove the merger, rather than try to offset it with commitments that are wholly unrelated to the harms.

Unfortunately, none of the shortcomings I address here or in my previous statement on these issues will ever be addressed unless the Commission begins to reform the majority's "balancing approach" to merger review that we apply again here, or seriously question the aforementioned specious theories of potential harm. At most, these theories evidence our reluctance to confront directly what appears to be an unstated

⁴ See *SBC/Ameritech Separate Statement* at 5-19. I would note, in addition, that I find little comfort in the fact that, in contrast to the proceeding leading to the *SBC/Ameritech Order*, this proceeding did not involve nearly as much haggling between the applicants and Commission staff regarding the proposed conditions. Among other things, I argued in that previous context that the process of obtaining "voluntary" conditions inevitably involves bilateral negotiations with the parties that leave the integrity of the Commission's process vulnerable to criticism. Although the proposed conditions here were not subject protracted negotiations with these two applicants, they are modeled so closely on the conditions negotiated by SBC and Ameritech that they carry the same taint. In short, we cannot turn a blind eye to the troubled origins of these conditions, simply because the applicants anticipated what would satisfy the Commission based on its previous negotiations with SBC and Ameritech. That said, I am at least pleased that the Commission did not pursue extensive negotiation with these applicants over the proposed conditions.

distaste for horizontal mergers in this area.⁵ Until then, I must, with respect to both the majority's unworkable analytical framework, and as to their assessment of potential harms, respectfully dissent from application of this reasoning in our merger review.

⁵ See SBC/Ameritech Separate Statement at 12 (“Sadly, all that one is left with after reading the [SBC/Ameritech] *Order*'s benchmarking analysis (and, indeed, its discrimination analysis) is the sense that, for some reason, the Bell Companies and perhaps GTE are on the 'too large to merge' side of the dividing line between permissible and impermissible mergers. If this was supposed to be the moral of the benchmarking and discrimination stories in this *Order*, I would have preferred to relay that moral more directly, rather than through these theoretical constructs.”).

**STATEMENT OF COMMISSIONER HAROLD FURCHTGOTT-ROTH
CONCURRING IN PART AND DISSENTING IN PART**

Re: GTE Corporation and Bell Atlantic Corporation, Application for Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License, Memorandum Opinion and Order, CC Docket No. 98-184.

I concur in the Commission's decision to approve Bell Atlantic's and GTE's application to transfer control of certain lines and licenses in connection with the parties' planned merger transaction. I agree that the parties have demonstrated that they will be in compliance with section 271 of the Telecommunications Act of 1996 when this transaction is complete and that Genuity will not be an "affiliate" of the merged company within the meaning of 47 U.S.C. § 153(1).

As I have said before, however, I do not endorse the quasi-antitrust analysis that this Commission has used to determine whether a license transfer is in the "public interest," and I do not join in those portions of this Order that follow this approach. Nor do I support those conditions that are essentially carbon copies of the conditions that the Commission imposed on the SBC/Ameritech transaction. I summarize below my objections to these conditions. I refer to the reader to my statement in the *SBC/Ameritech Order* for a more complete discussion of my concerns. See Statement of Commissioner Furchtgott-Roth, Concurring in Part & Dissenting in Part, *Applications of Ameritech Corp., Transferor, and SBC Communications, Inc., Transferee, For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95, and 101 of the Commission's Rules*, CC Docket 98-141 (rel. Oct. 6, 1999).

First, and most importantly, the Commission's "public interest" interest test is not grounded in the law. The Commission applies very different levels of review to license transfer applications that arise under identical statutory provisions, and it has never articulated a standard for distinguishing among those applications that receive extensive analysis and those that do not. Nor does the Commission have established procedures for processing license transfer applications. And, once it decides to subject a license transfer application to extensive review, it applies a framework that is so malleable the Commission can justify any conclusion it wishes. As a result, applicants lack advance notice regarding the extent to which this Commission will scrutinize their applications, the process by which their applications will be handled, and the substantive standard that will be applied should the Commission closely scrutinize their applications.

Not only is the Commission's free-wheeling approach to its review of license transfer applications arbitrary and inconsistent with fair notice requirements, but also it may well be at odds with the constitutional nondelegation doctrine. The Court of Appeals for the District of Columbia Circuit has held that where an agency fails to articulate "intelligible principles" to guide its implementation of a statutory provision, as the Commission has here, it has effected an unconstitutional delegation of legislative power. See *American Trucking Ass'ns, Inc. v. EPA*, 175 F.3d 1027 (D.C. Cir. 1999), cert. granted sub nom., *Browner v. American Trucking Associations, Inc.*, 120 S.Ct. 2003 (2000).

Second, even assuming the Commission had the authority to impose conditions on a license transfer application based on the "public interest" test, the legality of the conditions imposed in this Order is dubious. Indeed, some of the conditions are directly at odds with specific sections of the statute. For example, as with the SBC/Ameritech transaction, the parties have agreed to offer promotions to certain competing local exchange carriers. But many competing LECs will be unable to obtain these promotional deals, in violation of section 251(c)(3)'s and 251(c)(4)(B)'s nondiscrimination requirements. In addition, the carrier-to-carrier promotion condition violates section 251(i)'s pick-and-choose provision, since some carriers will not be able to access BA/GTE's facilities on the "same terms and conditions" as other carriers. Cf. *American Tel. and Tel. Co. v. Central Office Tel., Inc.*, 524 U.S. 214 ("[T]he policy of non-discriminatory rates is violated when similarly situated customers pay different rates for the same services. It is that non-discriminatory policy which lies at the heart of the Communications Act.") (internal quotation marks omitted).

In addition, the enforcement conditions set forth in this order undermine the ability of state commissions to administer section 251's market-opening provisions. Section 252 specifically confers upon state commissions the authority to oversee negotiation, arbitration, and approval of interconnection agreements. This Commission takes over this function only when a state commission fails to act to carry out its section 252 responsibilities. See 47 U.S.C. §252(e)(5). Contrary to this statutory scheme, this order interjects this Commission into many aspects of the section 252 process.

For these reasons, as well as for those set out in my statement in the *SBC/Ameritech Order*, I concur only in the Commission's decision to approve these license transfer applications and in the analysis it applies to assess BA/GTE's compliance with section 271 (Part V of this order).

June 16, 2000

**STATEMENT OF COMMISSIONER MICHAEL K. POWELL,
CONCURRING IN PART AND DISSENTING IN PART**

Re: Applications of GTE Corp., Transferor, and Bell Atlantic Corporation, Transferee, for Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License, CC Docket No. 98-184, *Memorandum Opinion and Order*

Just over eight months ago, I wrote separately and at length to criticize sharply the form and content of the Commission's analysis of another merger of major incumbent local exchange carriers (LECs), namely SBC's acquisition of Ameritech.¹ Among other shortcomings, this analysis allowed the applicants' "voluntary" conditions to compensate for largely unrelated alleged public interest harms. Because the majority persists in its reliance on this faulty analysis in evaluating Bell Atlantic's proposed acquisition of GTE, I must respectfully dissent from some aspects of this *Order* and only concur as to other aspects.² Specifically, although I again concur in the conclusion that there are public harms that might well result from this combination that are not entirely offset by the applicants' asserted benefits, I am unsatisfied that any one of these harms bears the weight assigned to it in this *Order*. Thus, I believe fewer conditions, tailored to address the specifically identified harms, would have been the correct result.

This *Order* suffers from the same flawed analytical framework as in the *SBC/Ameritech Order*. In that order, I expressed extreme discomfort with a merger review standard that places harms on one side of a public interest "scale" and then examines whether those harms are outweighed by beneficial conditions placed on the opposite side of that scale, regardless whether the compensating conditions actually *rectify* the harms. I explained that this approach results in a number of pernicious effects.³ Sadly, these effects are not significantly avoided in this *Order*.

¹ See Applications of Ameritech Corp., Transferor, and SBC Communications Inc., Transferee, for Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Section 214 and Section 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95, and 101 of the Commission's Rules, CC Docket No. 98-141, *Memorandum Opinion and Order* (Separate Statement of FCC Commissioner Michael K. Powell) (Oct. 8, 1999) ("SBC/Ameritech Separate Statement") [Available on the World Wide Web at < <http://www.fcc.gov/Speeches/Powell/Statements/stmkp930.doc>>].

² Although I dissent in part to the *Order*, I do concur with the item's Section 271 analysis.

³ See SBC/Ameritech Separate Statement at 1. This balancing approach leads to a number of problems: First, the approach creates a great temptation to load up the benefits side of the scale with a big wish list of conditions that are non-germane to the merger's harmful effects. Second, the approach makes it easier for identified harms, even significant ones, to be visited upon the public in exchange for other benefits. Third, the conditions that are sought are more often surrogates for policies and rules of general, rather than merger-specific, applicability, but without the extensive deliberative process and the check of judicial review normally afforded a rulemaking. And fourth, the process of obtaining "voluntary" conditions

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SEPARATE STATEMENT OF GLORIA TRISTANI

Re: In re Application of GTE Corp., Transferor, and Bell Atlantic Corporation, Transferee, for Consent to Transfer Control of Domestic and International Section 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License. CC Docket No. 98-184.

I vote to approve this merger in express reliance on the Parties' commitment to transfer the Internet and related assets of Genuity to an independently owned corporation in a manner that will not give Bell Atlantic/GTE either control over, or a prohibited ownership stake in, Genuity. Having determined that the contingent interest that Bell Atlantic/GTE will retain in Genuity will be consistent with Section 271 of the Telecommunications Act of 1996, I find the transaction to be in the public interest only because of the extensive market-opening and other commitments to which Bell Atlantic and GTE have agreed.

With this merger, two companies – Bell Atlantic/GTE and SBC -- will control a staggering 69 percent of the nation's access lines. Bell Atlantic/GTE alone will control nearly forty percent of those lines, approximately 69 million local exchange access lines. The combined company will have the incentive and, absent conditions, the ability to deny, degrade, or delay competitive LEC access to a large number of consumers. Moreover, by reducing the number of major incumbent LECs to four, the merger will eliminate an independent source of observation and impair regulators' ability to use comparative practices analyses to facilitate implementation of the Communications Act.

The conditions to which GTE and Bell Atlantic have voluntarily agreed should, however, substantially mitigate the potential public interest harms of the proposed merger and result in an overall public benefit. In particular, the conditions related to advanced services should increase residential and rural broadband deployment. Along with other commitments, a properly-implemented separate affiliate for the provision of advanced services and provisions for expediting cost proceedings will provide competitors an increased ability to compete on fair and equitable terms. The commitment that at least 10% of the urban wire centers and 10% of the rural wire centers where Bell Atlantic/GTE provides xDSL will be low-income wire centers addresses redlining concerns. Finally, I note with approval the modifications to various conditions, as originally adopted in the context of the SBC/Ameritech merger, that the Parties crafted in response to concerns raised by commenters.

As with the SBC/Ameritech merger, I could not support the proposed transaction absent reporting requirements that will ensure the new company's accountability. These requirements will help the Commission to monitor GTE/Bell Atlantic's performance on critical measures of its market-opening performance and advanced services deployment. In particular, requiring Bell Atlantic/GTE to report certain service quality data on a disaggregated, company-specific basis should increase the Commission's ability to deter

and detect any discrimination by the combined company in Genuity's favor. Moreover, extensive audit requirements related to the combined companies' compliance with our collocation, UNE, and line sharing rules should prove useful in assessing Bell Atlantic/GTE's adherence to important procompetitive requirements.

By voting to approve the transaction based on the proffered conditions, I am accepting the companies' assurances that they will act in good faith to fully implement all their commitments in a reasonable and timely manner. Only then will the public and competing carriers realize the potential public interest benefits of this transaction.