ATTACHMENT C

The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

April 9, 1998

D.P.U. 96-106-A

Investigation by the Department as to the propriety of the rates and charges set forth in the following tariffs: M.D.P.U. Nos. 10 and 15, filed with the Department on August 18, 1997, to become effective October 10, 1997, by New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts.

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ORDER ON COMPLIANCE FILING

I. INTRODUCTION

On May 28, 1997, in its Order in NYNEX ILP, D.P.U. 96-106 ("D.P.U. 96-106"), the Department of Public Utilities (now the Department of Telecommunications and Energy) ("Department") adopted an intraLATA presubscription ("ILP") implementation plan for New England Telephone and Telegraph Company d/b/a NYNEX (now d/b/a Bell Atlantic-Massachusetts) ("Bell Atlantic" or "Company").[1] In that Order, the Department, in approving in part and denying in part Bell Atlantic's proposed ILP implementation plan, required the Company to make a compliance filing to correct certain deficiencies in its ILP implementation plan and to submit a revised plan and revised tariffs. D.P.U. 96-106, at 65. Besides modifying certain policies and procedures contained in the Company's plan, the Department ordered Bell Atlantic to submit with its compliance filing a new "cost-based" Primary Interexchange Carrier ("PIC") change charge, supported by an incremental cost study and a revised Equal Access Cost Recovery Charge ("EACRC").

On August 18, 1997, Bell Atlantic submitted its compliance filing, including a revised ILP implementation plan with supporting documentation, and revisions to tariffs M.D.P.U. Nos. 10 and 15.[2] The tariffs were filed for effect October 10, 1997, and would

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1 On June 18, 1997, Bell Atlantic filed a Motion for Clarification concerning the procedures that the Department required the Company's customer service representatives to follow when taking orders for "local service" from new customers. The Department addresses that Motion in a separate Order issued today. The determinations in that Order have no affect on the issues considered in this Order.

2 The Company initially submitted its compliance filing on August 1, 1997, with an (continued...)

be implemented coincident with Bell Atlantic's entry into the interLATA long distance market in Massachusetts. On October 9, 1997, the Department suspended the effective date of the tariffs until April 10, 1998. The Department's review of the Company's compliance filing was docketed as D.P.U. 96-106-A (now D.P.U./D.T.E. 96-106-A).

All parties to the original case also are parties to this docket. On December 18, 1997, the Department held a technical conference to review the compliance filing. On February 2, 1998, the Attorney General of the Commonwealth ("Attorney General"), AT&T Communications of New England, Inc. ("AT&T"), and MCI Telecommunications Corp. ("MCI") filed comments on Bell Atlantic's ILP compliance filing. On February 9, 1998, Bell Atlantic filed reply comments.[3]

In addition to the comments, the record in this case includes Bell Atlantic's responses to 51 data requests issued by the Department and AT&T, which have been marked as

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[2](...continued)
effective date for the revised tariffs of August 31, 1997. At the Department's direction, Bell Atlantic withdrew and refiled its compliance filing on August 18, 1997.

[3] On September 11 and 26, 1997, respectively, the Hearing Officer in D.P.U. 96-106 sought initial and reply comments from parties on the Company's compliance filing and on the effect of the August 22, 1997, decision of the Eighth Circuit Court of Appeal vacating the Federal Communication Commission's ("FCC") ILP rules that concerned intraLATA telecommunications services. See People of the State of California v. FCC, 124 F. 3rd 934 (8th Cir. 1997) (Court concluded that FCC exceeded its jurisdiction in promulgating rules that govern intrastate dialing parity, which jurisdiction the Court found lies with states; vacated 47 C.F.R. §§ 51.205-51.215). Initial comments were filed by Bell Atlantic, the Attorney General, AT&T, MCI, and the New England Public Communications Council. Reply comments were filed by Bell Atlantic, AT&T, and MCI. Pursuant to 220 C.M.R. § 1.10(3), the Department hereby incorporates by reference the above-referenced comments filed in docket D.P.U. 96-106 into the record in this proceeding.

exhibits, and six record responses. Lastly, on February 23, 1998, AT&T filed a request for the Department to take administrative notice of a January 30, 1998, Hearing Officers' proposed decision in Vermont Docket No. 5713 concerning the Bell Atlantic ILP PIC charge for that state. On February 25, 1998, Bell Atlantic filed an objection to AT&T's request. As noted by Bell Atlantic, the Vermont Hearing Officers' proposed decision is not a final decision of the Vermont Public Service Board, and we therefore decline to take administrative notice of the Hearing Officers' ruling.

II. COMPLIANCE FILING

A. ILP Implementation Costs

In response to directives in D.P.U. 96-106, Bell Atlantic proposed $279,957 in additional customer education costs, including $9,193 for issuance of a second ILP bill insert; $171,562 for establishing a separate group of representatives to handle generic ILP questions; $98,820 for a voice response unit that will allow callers to choose from different options when calling the informational 800 number; and $10,122 to cover the cost of distributing a list of participating ILP carriers to customers who request a copy (Exh. BA-MA-1, Att. C).[4]

In D.P.U. 96-106, at 57-58, the Department allowed Bell Atlantic to recover foregone revenue from waiving the PIC change charge for the first 90 days of ILP implementation. In its compliance filing, the Company proposes an additional $632,000 in costs to account for

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[4] From the total additional costs, Bell Atlantic subtracted $9,740, which had been included in Bell Atlantic's initial ILP cost estimates to cover 800 number expenses (id. at 3).

these foregone revenues (Exh. BA-MA-1, Att. C).

In addition to the above costs, Bell Atlantic also proposes that the Department vacate its finding in D.P.U. 96-106 that prevented recovery of approximately $1.1 million in costs associated with "field methods and support costs" and "customer-contact training and support costs." D.P.U. 96-106, at 57. In its Order, the Department found that these costs were not recoverable under the FCC's cost recovery rules which, as noted above, have since been vacated by the Eighth Circuit. Id.; see Second Report and Order and Memorandum Opinion and Order, CC Docket No. 96-98, FCC 96-333, August 8, 1996 ("Second Report and Order"); People of the State of California v. FCC, 124 F. 3rd 934 (8th Cir. 1997).

1. Positions of the Parties

a. Bell Atlantic

Bell Atlantic contends that because the FCC's cost recovery rules have been vacated, there is no legitimate reason to prohibit the Company from recovering "field methods and support costs" and "customer-contact training and support costs," since these costs would not be incurred but for ILP (Bell Atlantic Sept. 19th Comments at 2). In addition, the Company argues that the costs to establish and maintain a separate ILP group of service representatives are allowed under the Department's Order, which states that the Company "will be allowed to recover the reasonable incremental costs of its ILP-specific group as part of the ILP customer education costs" (Bell Atlantic Feb. 9th Comments at 15, citing D.P.U. 96-106, at 32). Further, Bell Atlantic maintains that the Department's Order does not preclude the Company from staffing this group on a contract basis, but merely precludes the Company from hiring additional employees (Bell Atlantic Feb. 9th Comments at 15).

b. AT&T

AT&T argues that the Eighth Circuit's decision requires no change in the Department's original findings because those findings are consistent with, and rely on, Department precedent as well as on the Telecommunications Act of 1996 (the "Act") (AT&T Sept. 19th Comments at 9). In addition, AT&T argues that Bell Atlantic should be denied recovery for costs associated with ILP-specific representatives since the Company's existing customer service personnel could be redeployed (id. at 8). AT&T also questions the accuracy of the Company's cost estimates, contending that the estimates are based on unsubstantiated assumptions regarding the total number of ILP calls to be handled and estimated costs for the voice response unit (id.; AT&T Feb. 2nd Comments at 8).

c. MCI

MCI submits that the Eighth Circuit's decision does not require changes to D.P.U.96-106, but does permit the Department to reexamine issues that were determined based on the FCC's rules (MCI Oct. 3rd Comments at 1). MCI claims that if the Department concludes that it would not have ruled the same way as the FCC on cost issues, then it must reopen the record and permit parties to address these issues (id. at 2).

d. NEPCC

The NEPCC argues that the Eighth Circuit's decision has no effect on the ILP implementation costs findings in D.P.U. 96-106 (NEPCC Comments at 1).

2. Analysis and Findings

We first address the reasonableness of the new customer education costs which, as noted above, were proposed in compliance with Department directives in D.P.U. 96-106.

Bell Atlantic estimates it will incur an additional $9,193 to prepare and distribute a second bill insert, as required by the Department. The Company's also estimates that it will incur $98,820 to provide for a voice response unit, which the Department required, that will allow callers to choose from different options when calling the informational 800 number. That estimate is based on a projected 137,250 customers calling the information 800 number, an estimated call duration of four minutes, and an average voice response unit cost per minute of $0.18. In addition, Bell Atlantic estimates that it will cost $10,122 to prepare and distribute a list of participating ILP carriers to customers who request a copy, as directed by the Department (Exh. BA-MA-1, Att. C). These costs total $118,135. We find the Company's costs estimates reasonable and approve the costs as proposed. Finally, we note in response to AT&T comments, that these cost estimates will be trued-up by the Company based on actual expenses, and the Company's EACRC will be adjusted accordingly. See D.P.U. 96-106, at 52. Furthermore, since we include Bell Atlantic in the EACRC cost recovery mechanism, Bell Atlantic will be assessed the majority of the ILP implementation costs (at least at the beginning of ILP implementation), since it has the majority of access lines.

In our original Order, we directed Bell Atlantic to "make available a separate group of service representatives to answer generic ILP questions that may not be addressed by the bill inserts or the pre-recorded message on the 800 ILP line." D.P.U. 96-106, at 31. The Department specifically stated that Bell Atlantic should use "existing customer service personnel" but left it up to the Company to determine appropriate staffing numbers and training. Id., n.18. Our intent was not to create a "financially burdensome" mandate. Id.

at 31.[5] In contravention of the Department's directive, Bell Atlantic states in its compliance filing that it will hire outside workers to staff these positions (Exh. BA-MA-26). Accordingly, we find that the Company has not complied with our directive concerning staffing of the separate group of representatives to handle generic ILP questions. Therefore, we deny recovery of the additional wage costs for outside workers. The Company calculated the generic ILP group costs of $171,562 based on an average labor rates in current contracts Bell Atlantic has with vendors to perform customer contact functions (Exhs. BA-MA-1, Att. C; BA-MA-25). Based on this cost estimate, we will exclude $137,250[6] in vendor-based labor and wage costs from the $171,562 total for this category. However, the Department will allow recovery of the remaining $34,313 in this cost category, which covers the estimated costs for training and set-up of the voice response unit, which, as noted earlier, the Department required in D.P.U. 96-106. Moreover, these cost estimates will be trued-up based on actual results.

We note that the record in this docket as well as the record in D.P.U. 96-106 is not well-developed on the issues of whether Bell Atlantic can adequately redeploy existing customer service resources or whether use of those resources is more cost-effective than using outside workers. If, in fact, there are reasonable constraints to redeploying Company

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5 The Department stated: "We also find that this ILP-specific customer service group will not be financially burdensome to the Company, since we are not requiring NYNEX to hire additional employees, but rather, to redeploy existing customer service personnel." D.P.U. 96-106, at 31.

6 The labor and wage figure was derived by multiplying the estimated number of 68,625 calls that would be handled by the ILP group, times the wage/labor estimate of $2.00 per call (68,625 calls x $2.00=$137,250) (Exh. BA-MA-25).

personnel, or if use of outside workers is consistent with the cost-savings rationale of our Order, then the Department may reconsider its original directive. Therefore, we will allow the Company to present evidence on these issues in its compliance filing, and parties will have a chance to rebut any such evidence. If the Department reconsiders its directive, and allows the Company to use outside workers, then we will allow recovery of the previously-denied costs.

In addition to the above cost, Bell Atlantic proposes that the revised ILP implementation costs also include $632,000 in foregone ILP PIC charges, associated with a waiver of the ILP PIC change charge for the first 90 days of ILP implementation. Bell Atlantic's estimate is based on results from ILP implementation in New York. In D.P.U. 96-106, at 58, the Department found that Bell Atlantic could recover the foregone PIC change charge revenue. Bell Atlantic's estimates, which are based on the Company's experience in New York, appear reasonable and are approved. Furthermore, these estimates, like the Company's other cost estimates, will be trued up based on actual data.

Lastly, we address Bell Atlantic's request to recover the costs of the two previously-denied cost categories: field methods and support costs, and customer-contact training and support costs. In D.P.U. 96-106, the Department disallowed these cost categories because the costs were not recoverable, pursuant to the FCC's Second Report and Order. D.P.U. 96-106, at 57; see Second Report and Order at ¶95. As noted earlier, the FCC's intraLATA dialing parity rules, including the requirements on cost recovery, have been vacated by the Eighth Circuit. Thus, the Department may determine, based on our own findings of what is reasonable and appropriate, whether recovery is warranted. The standard

we will apply is whether these costs are directly related to ILP implementation and reasonable.

Bell Atlantic's proposed Field Methods and Support costs, which total $447,856, "relate to technical, network planning, and operation costs involving switch software system and other related changes associated with ILP implementation" including "costs to develop and implement the following: an operation ILP trial; technical billing systems modifications to apply the LPIC change charge to the carrier or end user and to apply the ILP cost recovery charge to the carrier; handling of ILP related trouble reports; and ILP switch provisioning (e.g., to introduce the 2-PIC feature in the switches)" (Exh. BA-MA-13). Customer Contact Training and Support costs, which total $670,222, are "consumer education costs that will be incurred solely to implement ILP" and involve training of customer service representatives in "the proper handling of a variety of consumer-related ILP issues, such as processing LPIC requests and changes, explaining 10-XXX when no LPIC selection is made, handling LPIC disputes and LPIC freezes, and applying the LPIC-charge" (id.). These are costs apart from the costs associated with training the ILP-specific group of customer service representatives (Bell Atlantic Feb. 9th Comments at 17 n.11).

Based on our review of the record evidence, we find that both of the above cost categories are directly related to ILP implementation and would not be incurred but for implementation of ILP.[7] In addition, we find Bell Atlantic's estimates for these cost

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[7] We disagree with MCI's procedural argument about reopening the record. The Department was not required to reopen the record in D.P.U. 96-106. Parties in this docket were given notice at the start of this case that the Department would be (continued...)

categories to be reasonable. Like other costs, these will be trued up based on actual data. Accordingly, we allow Bell Atlantic to recover its estimated costs for Field Methods and Support activities and Customer-contact Training and Support activities.

Therefore, Bell Atlantic shall recalculate its ILP implementation costs based on the above findings and submit that recalculation in a compliance filing within 30 days of the date of this Order.

B. Cost Recovery Method

To reflect the additional implementation costs attributable to Department directives in D.P.U. 96-106, Bell Atlantic proposed in its compliance filing a revised monthly Equal Access Cost Recovery Charge ("EACRC") of $0.051452, to be applied to all carrier presubscribed lines in Massachusetts (Exh. BA-MA-1, at 24). Although the Company's compliance filing contemplates Bell Atlantic bearing a proportional share of ILP costs, as required by the Department's Order, Bell Atlantic separately proposes that it be excluded from application of the EACRC, since the FCC's cost-recovery rules mandating participation of all carriers have been vacated by the Eighth Circuit.

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[7](...continued)
reconsidering the question of whether Bell Atlantic should be entitled to recover costs that we had previously denied, pursuant to the FCC's ILP rules that were then in effect. In addition, the Department allowed parties the opportunity to test the reasonableness of those expenses in this docket, as well as in D.P.U. 96-106. See September 11 and 26, 1997 Hearing Officer Notices in D.P.U. 96-106 (Department requested initial and reply comments, respectively, on Bell Atlantic's compliance filing and effect of Eighth Circuit Court of Appeal's decision vacating FCC ILP rules); see also AT&T Sept. 19th Comments at 2-4.

1. Positions of the Parties

a. Bell Atlantic

Bell Atlantic contends that its original proposal to apply the EACRC to all carriers, including itself, was offered solely to comply with the FCC's cost recovery rules (Bell Atlantic Sept. 19th Comments at 4). Now that those rules have been vacated, Bell Atlantic argues that the Department should adopt a cost recovery method that excludes the Company and places the costs of ILP implementation only on interexchange carriers, because, it contends, those carriers will receive all of the benefit of ILP (id. at 4-5).

b. MCI

MCI argues that Bell Atlantic, and not the Department, relied on the FCC's rules in making its cost-sharing proposal, and, therefore, this issue should not be reconsidered (MCI Oct. 3rd Comments at 2). In addition, MCI maintains that ILP costs should be shared by all carriers including Bell Atlantic, since ILP benefits all carriers, not just interexchange carriers ("IXCs") (id. at 2-3).

c. NEPCC

The NEPCC argues that the Eighth Circuit's decision has no affect on the cost recovery findings in D.P.U. 96-106 (NEPCC Comments at 1).

2. Analysis and Findings

In D.P.U. 96-106, Bell Atlantic proposed, and the Department adopted, the EACRC method because it complied with the FCC's cost recovery requirements. D.P.U. 96-106, at 56-57 ("Paragraph 95 of the FCC's Second Report and Order allows LECs to recover [allowed ILP implementation costs] from all toll service providers and local exchange service

providers using a competitively neutral allocator established by the state." (emphasis added)). Since the FCC's cost recovery rules have been vacated, we will consider whether Bell Atlantic should be excluded from participating in ILP implementation cost recovery.

We disagree with Bell Atlantic's claim that ILP solely benefits the IXCs, and, therefore, only the IXCs should bear the costs of ILP implementation. While it may be true that in the initial stage of ILP implementation, IXCs will benefit more than Bell Atlantic, in that a significant regulatory barrier to full customer choice in the intraLATA toll market will have been lifted. However, over time, ILP will benefit all competitors in the intraLATA toll market, since customers will have the freedom to switch carriers at will. Full and fair customer choice benefits all competitors in a given market. Thus, we find that presubscription will benefit all intrastate toll carriers in Massachusetts and that cost recovery should be shared by all intrastate toll carriers, including Bell Atlantic.

Accordingly, based on our own findings of what is reasonable and appropriate, the Department reaffirms its determination in D.P.U. 96-106 that Bell Atlantic shall participate in the EACRC cost recovery method. We direct Bell Atlantic to recalculate and file a revised EACRC within 30 days of the date of this Order.

C. LPIC Change Charge

In D.P.U. 96-106, the Department found that Bell Atlantic had not shown that its proposed $5.00 charge to process an intraLATA PIC change ("LPIC") was reasonable or "cost-based." D.P.U. 96-106, at 49. The Department ordered Bell Atlantic to conduct a cost study and file a "cost-based" rate element with its compliance filing.

Bell Atlantic submitted an incremental cost study, demonstrating that the Company

incurs a cost of $3.08 for an LPIC change (Exh. BA-MA-1, LPIC Cost Study). Based on those results, the Company proposes that the Department approve a $5.00 charge for LPIC changes which Bell Atlantic claims is a cost-based rate.

The Company derived the $3.08 LPIC change charge by calculating the total costs for both mechanized and manual processing[8] of LPIC changes (id. at 1). The total manual costs are $5.89 per LPIC; the total mechanized costs are $2.14 per LPIC (id.). Bell Atlantic estimates that 75 percent of LPIC changes will be mechanized and 25 percent will be manual (id.). The Company multiplied those percentages by the respective mechanized and manual total cost figures, and then added the results together to arrive at the $3.08 LPIC change cost (id.).

The total mechanized processing cost figure of $2.14 includes $0.01 in labor costs for dedicated LPIC freeze personnel, $0.72 in labor costs for customer service representatives to implement a LPIC freeze,[9] $0.13 in labor costs for representatives to handle LPIC changes that "fall out" of the Company's automated information/data base system ("NYNEX Subscription System" ("NSS")) and subsequently require manual intervention, and $1.28 in

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8 Under the manual method, a customer contacts the Bell Atlantic service representative to request an LPIC change. A LPIC request must also be processed manually when there is a PIC freeze on the customer's account. [A PIC freeze protects a customer from having his presubscribed carrier switched without the customers' consent (i.e., "slamming").] Under the mechanized/automated method, a customer authorizes another carrier to contact the Company to request an LPIC change. In most cases, these requests are sent to the Company mechanically, although some requests are sent via magnetic tape or paper (Bell Atlantic Feb. 9th Comments at 8-9).

9 The Company calculated its projected number of LPIC freezes by multiplying the percentage of New York LPIC freezes by the number of access lines in Massachusetts (Exh. BA-MA-1, LPIC Workpaper at 6-7; Exh. BA-MA-28).

shared costs incurred to perform both interLATA ("PIC")[10] and intraLATA LPIC changes (id. at 1; Tr. at 69, 114-115).[11] The shared costs includes $0.77 per LPIC change ($13 million) for costs associated with the Company's service-order management system, and labor/wage expenses associated with maintaining the Company's NSS system, as well as labor costs associated with employees that address all PIC and LPIC issues (Exh. BA-MA-1, LPIC Workpaper at 7, 11).

The Company calculated the total manual processing costs ($5.89) by adding the mechanized processing costs ($2.14) to the estimated labor costs incurred by a customer service representative to manually process a LPIC change ($3.75) (Exh. BA-MA-1, LPIC Cost Study at 1).

1. Positions of the Parties

a. Bell Atlantic

Bell Atlantic argues that its proposed $5.00 LPIC change charge complies with the Department's requirement that the Company submit a "cost-based" rate, as demonstrated by the Company's incremental cost study, which shows the cost of a LPIC change of $3.08 (Bell Atlantic Feb. 9th Comments at 2-4). In countering arguments of the intervenors, the Company claims that the Department's use of the term "cost-based" means only that its LPIC change charge must be related to the cost of the service, not that it has to be set exactly at

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10 Hereinafter the Department will refer to interLATA and intraLATA PIC changes as "PIC" and "LPIC" changes, respectively.

11 The NSS system tracks and notifies carriers of all PIC and LPIC changes (Exh. BA-MA-1).

cost (id.).

The Company also notes that a $5.00 LPIC change charge would be comparable to the current $5.00 rate that is charged for interLATA PIC changes, and argues that a uniform $5.00 rate for inter- and intraLATA PIC changes in Massachusetts will minimize customer confusion and is consistent with the Department's regulatory objectives of "simplicity, understandability, public acceptability and feasibility of application" (Bell Atlantic February 9th Comments at 3). In addition, the Company emphasizes that it will apply only one $5.00 charge for customers that request both PIC and LPIC changes at the same time (id.).

Bell Atlantic also opposes the Attorney General's recommendation for separate LPIC changes for business, residential, and payphone customers, claiming that it would be overly confusing to customers and difficult for the Company to administer, particularly when the LPIC change request is made by a carrier acting on a customer's behalf (id. at 3 n.3).

In response to criticism of its LPIC cost study, Bell Atlantic argues that the cost study is a forward-looking incremental cost study consistent with the Department's methodology, and that the study does not contain miscalculated or overstated costs (Bell Atlantic Feb. 9th Comments at 2). Bell Atlantic claims that, contrary to AT&T and MCI's allegations, it is appropriate to include LPIC freezing costs in its cost study, as freezes serve as a consumer safeguard against slamming, and thus the associated costs are directly related to the implementation of ILP and to the ability of customers to change intraLATA toll carriers (id. at 4-5). The Company maintains that absent ILP, there would be no need for the Company to provide LPIC freeze capability (id. at 4). Further, the Company points out that if freeze costs are not recovered in the LPIC change charge, then the costs would be recovered

through a separate, and much higher, rate element (id. at 6).

In addition, the Company argues that, contrary to allegations made by MCI, the use of New York data to determine the 75%/25% mechanized/manual ratio for LPIC changes is reasonable, as evidenced by actual January through July, 1997, data, and constitutes the best information available (id. at 9). Bell Atlantic contends that MCI's recommendation to use New Hampshire data, which showed a 82%/18% ratio, is inappropriate, because it is based on a weighted average that includes the initial 90-day LPIC waiver period (id.). According to the Company, the most current New Hampshire post-waiver period data shows a mechanical/manual ratio of approximately 76%/24%, thus demonstrating the reasonableness of the use of a 75%/25% ratio (id.).

With respect to the $0.77 per LPIC change in shared costs associated with the Company's service-order management system, the Company contends that these costs are not standard service ordering costs but are specific to processing LPIC changes (Bell Atlantic Feb. 9th Comments at 11). Bell Atlantic also argues that these costs are not being recovered elsewhere (id. at 12). In addition, the Company states that it is not using the term "shared" in the classic regulatory sense (i.e., "common" or "overhead" costs) but only to show that these costs relate to both PIC and LPIC changes, and that they are directly related to separate systems and a dedicated PIC/LPIC processing group (id.).[12] The Company emphasizes that these costs would not be incurred absent a PIC/LPIC change (id.). Lastly, Bell Atlantic maintains that the labor rates and wage inputs used in its LPIC change cost study are

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12 The Company provides as examples of shared costs the NSS wages, PIC process owner costs, and NSS investment-related expenses (id.).

consistent with the methodology used in prior Department filings (id. at 13).

b. Attorney General

The Attorney General recommends separate LPIC change rates for residential, business, and payphone customers because of the significant differences in costs for each (Attorney General Sept. 19th Comments at 3). He recommends a residential rate of $0.98, a business rate of $2.67, and a payphone rate of $1.47, and supports those rates through an analysis and recalculation of the inputs to Bell Atlantic's cost study (id. at 1-2).

First, the Attorney General maintains that since the majority of LPIC changes will be done mechanically by the carriers through the Company's computer systems, there is no reason for the Company to include $13 million in service order processing costs, which represent one fourth of the total LPIC costs (id. at 5; Attorney General February 2nd Comments at 1). He also maintains that the Company should not be allowed to recover approximately $4.8 million of its "shared" costs, arguing that these are overhead costs which the Company already recovers through other rates (Attorney General Sept. 19th Comments at 5-6). Lastly, the Attorney General argues that the cost study is not supported by sufficient documentation (id. at 7-8).

c. AT&T

AT&T claims that Bell Atlantic has overstated the cost of processing an LPIC change and has failed to justify its cost estimates (AT&T Feb. 2nd Comments at 4). First, AT&T argues the Company should not have included the $0.72 per LPIC change for processing PIC freezes, since they are caused by PIC changes (id. at 3; AT&T Sept. 19th Comments at 6). Removing those costs, according to AT&T, would produce a rate of $2.36, which is the

LPIC change rate that the Department should approve (AT&T Sept. 19th Comments at 6).

AT&T also argues that several other assumptions used by the Company to develop the LPIC cost study are inconsistent (id. at 7). AT&T questions the method used by the Company in calculating the cost per manual intraLATA PIC change. AT&T asserts that the Company's results are excessive, and notes that the Company was unable to support why it takes 11.51 minutes *per line* to process a PIC change for a business customer with multiple lines (AT&T Feb. 2nd Comments at 8; AT&T Sept. 19th Comments at 7).

d. MCI

MCI claims that Bell Atlantic has overstated the cost of processing a LPIC change, and that the Department should remove all unjustified costs from the Company's cost study and then set the LPIC rate at that cost (MCI February 2nd Comments at 7-8). In the alternative, the Department should set the rate at Bell Atlantic's alleged costs ($3.08) (id. at 7-8). Also, MCI contends that the Attorney General's suggestion for different rates is inappropriate and unwarranted (id. at 6).

MCI claims that the costs for PIC/LPIC freezes should be excluded since freeze costs are not caused by implementing ILP or by processing a LPIC change (MCI Sept. 19th Comments at 2; MCI Feb. 2nd Comments at 2-3). MCI also challenges the $13 million included in shared costs for "service order processing," arguing that they are embedded overhead costs already recovered through other rates (id.; id. at 2-4). In addition, MCI claims that Bell Atlantic has significantly overestimated the time required to process a manual LPIC change, particularly for business customers (id.).

2. Analysis and Findings

Pursuant to G.L. c. 159, §§ 17 and 20, the Department must determine the justness and reasonableness of Bell Atlantic's proposed $5.00 LPIC change charge. See NYNEX Interlocutory Order, D.P.U. 94-50 (February 2, 1995, at 35-36). As noted above, in D.P.U. 96-106, the Department required Bell Atlantic to file a "cost-based" rate, supported by an incremental cost study. D.P.U. 96-106, at 48-49.

First, we address the results of the incremental cost study. Based on the study, Bell Atlantic claims that the cost to process a LPIC change is $3.08. AT&T argues the cost is only $2.36, while MCI claims the cost is approximately $1.00. The Attorney General contends that the cost varies depending on the customer: $0.98 for residential customers; $2.67 for business customers; and $1.47 for payphone customers. Each of the parties' conclusions, including Bell Atlantic's, are based on their own analyses of the inputs and underlying assumptions of the Company's incremental cost study. For the reasons discussed below, we find Bell Atlantic's analysis persuasive.

Included in the cost study is $0.73 per LPIC change for costs associated with LPIC freezes. The intervenors argue that LPIC freeze costs are not caused by LPIC changes. However, as pointed out by Bell Atlantic, there would not be a need for an LPIC freeze if Bell Atlantic did not offer ILP (Exh. BA-MA-9). We find these costs to be directly attributable to LPIC changes.

Bell Atlantic also has included in its cost study approximately $18 million in "shared" costs, composed of $13 million in service order processing costs and $5 million in other shared costs (Exh. BA-MA-1, Workpaper 11). The parties argue that these costs are not

related to ILP and are historical costs already being recovered through other rates. However, the record indicates that the service ordering costs included in the LPIC study are expenses associated with implementing and maintaining databases and application systems associated with the initial provision of presubscription (AG RR-3). Since the Company must generate a service order to process a LPIC change, as well as update its customer account and billing record information to incorporate the LPIC change, Bell Atlantic's information and operating systems will need to be modified in order to handle the introduction of ILP. Therefore, we find that these costs are incremental costs caused by the provision of presubscription. In addition, the record demonstrates that these costs are ILP specific costs incurred as a result of PIC/LPIC processing and are attributable to separate systems and a dedicated group whose sole function is to support the presubscription process (id.).

AT&T and MCI also question the method used to determine the estimated labor costs of $3.75 to process manual LPIC changes. The Company conducted a survey by polling approximately 400 service representatives, requesting that they estimate the time it took to process a request to change an LPIC on a per line basis (MCI RR-1; Exh. BA-MA-2). The results of the survey indicate that, on average, it takes less time for a representative to process a manual LPIC change for a residential line (3.44 minutes), than it does to process a change for a business line (11.51 minutes) (Exh. BA-MA-1, Workpaper 9). To validate the results of its survey, Bell Atlantic conducted a statistical analysis of the data to calculate the relative precision of the Company's time estimates (Exh. BA-MA-20). The statistical results showed that the service representatives times used in the LPIC study reflected a relative

precision of 17.91% (id.).[13] Although the intervenors argue that the Company's time estimate of 11.51 minutes for processing a manual LPIC change for a multi-line business customer is excessive in relation to the time estimate for a single-line business customer, we are not persuaded by such evidence. Therefore, we find the Company's methodology and survey results to be reasonable, and we will allow the recovery of service representatives' manual costs in the LPIC change charge.

Finally, the Attorney General has presented evidence of differences in the costs to process LPIC changes between different customer classes, arguing that the Company should have separate rates for residential, business, and payphone customers, rather than one averaged rate (Attorney General Sept. 19th Comments, Att. 1). While we acknowledge that cost differences may exist between these classes of customers, we agree with Bell Atlantic and MCI that those differences alone do not justify requiring Bell Atlantic to charge different rates. Currently, Bell Atlantic's systems are unable to differentiate between residential, business, or payphone LPIC changes in order to bill different rates (Exh. BA-MA-12). Such a capability would require the Company's internal systems to be modified. In addition, since Bell Atlantic applies an identical $5.00 charge for interLATA PIC changes for all customers, carriers do not currently have to differentiate when submitting orders for PIC changes (id.). Therefore, it is likely that IXCs' systems also would need some modifications to allow for this capability (id.) The additional expenses to implement differential billing by customer class would increase the overall cost of ILP implementation. Therefore, we reject the

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13 According to Bell Atlantic, in general, statisticians try to achieve a relative precision of 15-20% range (Exh. BA-MA-20).

Attorney General's recommendation.

In summary, based on the record evidence, we find that Bell Atlantic's cost analysis (which demonstrates that the cost of processing an LPIC change is $3.08) is reasonable. Next, we must determine whether the Company's proposed $5.00 charge is reasonable.

In requiring Bell Atlantic to file a "cost-based" rate in our Order in D.P.U. 96-106, the Department also noted that the rate "should relate to the cost of providing the service." Id. at 49. Thus, the Department did not require that the rate be set at the incremental cost of providing the service. In D.P.U. 1731, at 19-24, the Department established the following rate structure goals for Bell Atlantic: economic efficiency; fairness; simplicity; earnings stability; continuity; and universal service. See also D.P.U. 89-300, at 11-12 (1990). For purposes of judging the reasonableness of Bell Atlantic's LPIC charge, we must balance the goals of economic efficiency and simplicity.[14] Setting the rate exactly at $3.08 would maximize economic efficiency, since it would reflect exactly the additional cost of providing the service, but we find that administrative simplicity and the avoidance of customer confusion are more important goals in this case. Currently, Massachusetts consumers are familiar with a $5.00 PIC charge for interLATA presubscription changes. The application of a uniform $5.00 charge for both interLATA and intraLATA changes will be easier for customers to understand and will minimize customer confusion. In addition, the record

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[14] Economic efficiency means that the rate structure should reflect the cost of providing the service and therefore furnish an accurate basis for consumers' decision about how best to fulfill their needs. Simplicity means that the rate structure should be easy to understand, so that consumers can make appropriate decisions. D.P.U. 89-300, at 11-12.

indicates that Bell Atlantic would have to modify both its customer- and carrier-billing systems to accommodate different charges for PIC and LPIC changes. This would increase the cost of ILP. Finally, as ordered in D.P.U. 96-106, at 49-50, the $5.00 LPIC charge will be waived for customers for the first 90 days of ILP implementation. This 90-day waiver is in addition to the Company's requirement to apply only one $5.00 charge -- the interLATA PIC charge -- when a customer makes both a PIC and LPIC change at the same time. Id. Thus, in balancing the goals of economic efficiency and simplicity, as well as taking into account these other considerations, we find that Bell Atlantic's $5.00 charge is reasonable and thus approve it.

D. Municipal Calling Service

Municipal Calling Service ("MCS") is a non-optional service provided by Bell Atlantic whereby toll calls within a municipality served by multiple exchanges are billed as local calls. As discussed in the original ILP Order, because of technical limitations, the Company will no longer be able to provide MCS to customers who have presubscribed to a carrier other than Bell Atlantic (id.).[15]

In D.P.U. 96-106, the Department required Bell Atlantic to implement an approach that was adopted by Bell Atlantic in New Hampshire, whereby carriers would have the option of providing toll-free municipality-wide calling. D.P.U. 96-106, at 23. Alternatively, the carrier would be required to disclose to new customers that the carrier does not provide toll-free municipal calling. Id. Also, for carriers that demonstrate to Bell Atlantic that they

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15 Customers eligible for MCS who choose another toll carrier will still be able to receive MCS by dialing a Bell Atlantic access code.

allow toll-free municipality-wide calling, the Company is required to waive access charges. Id. at 21-23. In its compliance filing, Bell Atlantic included the following new language concerning customer contact: "In cases where a customer contacts NYNEX directly and chooses another carrier of choice, NYNEX will ask MCS eligible customers if the carrier has discussed MCS. If not, NYNEX will objectively explain MCS." (Exh. BA-MA-1, at 10).

1. Positions of the Parties

a. Bell Atlantic

Bell Atlantic argues that, contrary to claims made by AT&T, nothing in D.P.U. 96-106 requires the Company to refer customers back to the carrier if that carrier has not discussed MCS (Bell Atlantic Feb. 9th Comments at 20). With respect to the waiver of access charges, Bell Atlantic states that it intends to comply with the Order (id.). Based on a demonstration by the carrier, the Company will adjust the applicable access charges (id.) However, the Company does not plan to include a general waiver provision in the ILP tariff (id.).

b. AT&T

AT&T claims that the Bell Atlantic has introduced new MCS language, in violation of the Department's Order, that would allow the Company to discuss MCS with customers who contact the Company directly to make a PIC change (AT&T Sept. 19th Comments at 2; AT&T Feb. 2nd Comments at 2). AT&T argues that MCS is best explained by the carrier of choice (id.). In addition, AT&T notes that Bell Atlantic's compliance filing or its tariffs should contain a provision stating the Company's obligation to waive access charges for carriers who offer MCS service (id.).

2. Analysis and Findings

As noted in D.P.U. 96-106, under the New Hampshire approach, all toll carriers are required at the time of initial customer contact to advise MCS-eligible customers of whether that particular carrier offers toll-free municipal calling. D.P.U. 96-106, at 21. If the customer has not been informed by the toll carrier, the New Hampshire approach requires that Bell Atlantic provide objective information on MCS (Exh. DTE 1-3, citing New Hampshire Public Utilities Commission Order No. 22,541, dated April 1, 1997, and Order No. 22,606, dated May 28, 1997.). Thus, Bell Atlantic's proposal is consistent with the New Hampshire approach. Moreover, if carriers adhere to their notification requirement, Bell Atlantic's opportunity to discuss MCS with customers should be negligible. For the above reasons, we find that Bell Atlantic's new MCS language complies with D.P.U. 96-106.

Concerning the waiver of access charges provision, we agree with AT&T. It will help to avoid future disputes if Bell Atlantic includes a provision in its ILP plan and tariffs that unambiguously states that a waiver of access charges will apply for carriers who offer MCS. The language should also indicate the manner in which a carrier must demonstrate to the Company that it is waiving toll charges on those MCS calls to be eligible for the associated credit adjustment on access charges. This new language shall be filed with the Department for approval within 30 days from the date of this Order.

E. Methods and Procedures, and Training Materials

Bell Atlantic's ILP plan contains a number of provisions that concern methods and procedures governing customer-contact issues. According to the Company, several of its

methods and procedures, and supporting training materials have not yet been developed (Exh. DTE-12). For example, the Company states that it had not yet developed methods and procedures for negotiation and service-order personnel who support business, residence, and interexchange customers. In addition, the Company indicates that it has not yet developed the methods and procedures that will ensure that customer service representatives do not improperly market Bell Atlantic toll services when setting up local service for customers (Exh. DTE-6). Furthermore, Bell Atlantic's methods and procedures, and training materials concerning MCS contained information that was specific to New Hampshire, not Massachusetts (Exh. BA-MA-4).

We believe it is important for a smooth ILP implementation for Bell Atlantic to have all customer-contact methods and procedures, as well as training materials, developed and reviewed by the Department well before the start of the implementation. Therefore, we direct Bell Atlantic to develop applicable methods and procedures, and supporting training materials, relative to the training of customer-contact employees, and to file those methods, procedures, and training materials for Department review in a compliance filing within 30 days from the date of this Order.

F. Operator-Assisted Toll Calls

Bell Atlantic previously identified certain types of operator-assisted toll calls that would not be carried by the customer's LPIC, but instead would continue to be carried by the Company. See D.P.U. 96-106, at 14. Since there was no existing technical alternative to Bell Atlantic being the presubscribed carrier for these calls, the Department found it reasonable for these calls to be excluded from ILP treatment until new software was

available. Id. at 16.

In its compliance filing, the Company indicates that its network is now technically capable of supporting the transfer of "0-" dialed calls to the intraLATA carrier of choice (Exh. DTE-1). Therefore, we direct Bell Atlantic to include "0-" dialed calls in its ILP implementation plan, and to revise its plan and tariffs to so reflect this change. The Company shall submit these revisions as part of a compliance filing within 30 days from the date of this Order.

G. Miscellaneous Provisions

In comparing the Order to Bell Atlantic's revised ILP implementation plan, the Department has identified the omission of several key provisions, the inclusion of which are essential for setting forth Bell Atlantic's responsibilities. Therefore, the Department directs Bell Atlantic to revise its ILP implementation plan to include provisions requiring that: (1) Bell Atlantic track calls to the ILP 800 number on a month-by-month basis, and report monthly to the Department the call volumes and the number of customers making an affirmative choice of an ILP carrier (see D.P.U. 96-106, at 30; Exh. DTE-4); (2) the Company establish a separate group of ILP-specific representatives to answer generic ILP questions that may not be addressed by the bill inserts or 800 ILP line (see D.P.U./D.T.E. 96-106, at 31); (3) ILP-specific representatives be prohibited from discussing the Company's services (see Exhs. DTE-6 and DTE-7); (4) the Company report on a monthly basis the percentage of its intraLATA toll market share (see Exh. DTE-10); and (5) the Company's service representatives explain a customer's Optional Calling Plan ("OCP"), and specifically, how OCPs are priced, e.g., the dial tone rate and usage components (see

D.P.U. 96-106, at 20; Exh. DTE-2).

III. ORDER

Accordingly, after due notice and consideration, it is

ORDERED: that the Compliance Filing, submitted to the Department on August 18, 1997, by New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts, is APPROVED in part, and DENIED in part, as described herein; and it is

FURTHER ORDERED: that the revisions to M.D.P.U. Nos. 10 and 15, filed with the Department on August 18, 1997, by New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts, are hereby DENIED; and it is

FURTHER ORDERED: That New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts shall file new tariffs, for effect September 1, 1998, and a revised ILP Implementation Plan in compliance with the directives contained herein; and it is

FURTHER ORDERED: That New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts shall comply with all other directives contained herein.

By Order of the Department,

John D. Patrone, Commissioner

James Connelly, Commissioner

W. Robert Keating, Commissioner

Paul B. Vasington, Commissioner

A true copy
Attest:
MARY L. COTTRELL
Secretary

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of June, 2001, copies of the foregoing "Opposition of Verizon to Petition for Rulemaking" were sent by first class mail, postage prepaid, to the parties on the attached list.

Steven E. McPherson

Steven E. McPherson

* Via hand delivery.

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