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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Via Hand Delivery

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Ex Parte Presentation in IB Docket No. 96-261

Dear Ms. Salas:

Yesterday I met, on behalf of Atlantic Tele-Network, Inc. ("ATN"), with Mr. Peter Tenhula of Chairman Powell's Office to discuss ATN's petition for a waiver of the benchmark settlement rate on the U.S.-Guyana route. The International Bureau denied the petition in an Order released on November 16, 2001, and the matter is currently before the Commission on an Application for Review.

During this meeting, ATN emphasized that it is the largest U.S. investor in Guyana, and that its petition does not seek elimination of the benchmark rate, but rather a modest five-year extension of the transition period during which time the settlement rate on the U.S.-Guyana route would be proportionately phased down to the benchmark level. ATN emphasized that application of the benchmark rate of $.23/minute retroactive to January 1, 2002 would cause a severe shortfall in revenues for Guyana Telephone & Telegraph Ltd. ("GT&T"), and that the Government of Guyana and the Guyana PUC have been unwilling to permit GT&T to earn a reasonable return through full rate rebalancing.

ATN noted that grant of the petition at this time would facilitate negotiations with the Government of Guyana regarding the establishment of an open-entry telecommunications sector in Guyana. Meaningful rate rebalancing is a key factor in the success of those negotiations. Unfortunately, because the Government of Guyana and the Guyana PUC have avoided meaningful rate rebalancing for over a decade, significant rate increases are needed to bring rates to compensatory and economically rational levels. Granting the waiver request will enable the parties to establish a short transition to fully compensatory rate levels, thereby increasing the likelihood that the negotiations on establishing an open-entry telecommunications sector will be successful.

Further, ATN indicated that the waiver is necessary because the loss of revenues it will suffer upon full implementation of the benchmark rate as of January 1, 2002 will severely harm infrastructure development and universal service in Guyana. The parties discussed whether granting ATN's petition would establish a precedent that many other foreign carriers could use to receive similar waivers. ATN pointed to the chart attached to its reply comments (filed on Sept. 28, 2002 in the above-referenced docket) as evidence that ATN's past history of investment in Guyana is one that few other countries in the low-income category can come close to satisfying. Further, there are unique timing issues associated with ATN's request, as it submitted the request well prior to the deadline for benchmark compliance and grant of the waiver now would play a critical role in helping Guyana implement an open entry environment. As a result, the FCC need not grant the same waiver to all other low-income countries were it to grant ATN's petition.

ATN handed out a copy of its reply comments and its April 19, 2002 letter to Chairman Powell at the meeting.

Respectfully submitted,

Robert J Aamoth /tab

Robert J. Aamoth

cc: Peter Tenhula

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BEFORE THE
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WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
International Settlement Rates	)	**IB Docket No. 96-261**
	)	

To The Commission:

REPLY COMMENTS OF ATLANTIC TELE-NETWORK, INC.

ATLANTIC TELE-NETWORK, INC.

Robert J. Aamoth
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Its Attorneys

September 28, 2001

TABLE OF CONTENTS ORIGINAL

SUMMARY

The Commission should expeditiously grant the petition filed by Atlantic Tele-Network, Inc. ("ATN") for an additional period of time to phase-in the benchmark settlement rate on the U.S.-Guyana route. The Commission stated in the *Benchmark Order* that it would grant waivers to avoid undue revenue losses and network disruption at the foreign end, and ATN has met that standard. Granting this waiver will not eviscerate the underlying rule because few other carriers in low-income countries can match the infrastructure investment track record of ATN and Guyana Telephone & Telegraph Ltd. ("GT&T") in Guyana over the past decade.

The magnitude of the ATN/GT&T achievement in Guyana is illustrated by comparing the country's wealth and local telephone rates with actual network expansion over the past decade. Guyana is one of the poorest countries in the world, with a per capita GNP of approximately $800. Further, for years the Guyana Public Utilities Commission enforced a brutal subsidization policy so that local line rates were 24 cents per month ($0.24/month) for residential subscribers and 60 cents per month ($0.60/month) for business customers. Even with modest recent increases (to $1.35/month and $5.40/month), GT&T has lost, and still loses, significant money on every local line that it installs in Guyana. Despite these adverse circumstances, ATN and GT&T installed nearly 65,000 local lines over the past decade.

ATN has prepared a Chart comparing GT&T's investment achievement against all other countries classified by the Commission as low-income countries. The Chart calculates a factor that represents the extent to which a carrier has built out its infrastructure (measured by teledensity) in excess of what would be expected based on the per capita GNP and local rates in the country. Guyana's factor is the second highest among all countries in this category, and it surpasses most other countries by several orders of magnitude. This should lay to rest any

concern that the Commission would be forced to grant similar waivers to all or most other countries in the low-income category were it to grant ATN's waiver petition.

The principal U.S. party to oppose the waiver – AT&T – has effectively taken the position that the Commission should never grant any benchmark waivers to any foreign carriers under any circumstances. This is not the Commission's policy as stated in the *Benchmark Order*. The Commission's statutory mandate requires it to promote international service quality by considering the impact of its policies on the ability of U.S. subscribers to access and use foreign telephone systems. The Commission should grant ATN's request for a limited waiver of the benchmark rate to ensure that infrastructure maintenance and expansion, as well as universal service, are not seriously and immediately eroded in Guyana. Without the waiver, GT&T's revenues will be reduced by $30 million per year, thereby virtually wiping out its net income.

Granting this waiver will facilitate the negotiation of an agreement between ATN and the Government of Guyana, which is preparing to demand that ATN relinquish its contractual monopoly rights in Guyana through 2031. Without the waiver, ATN would be unable to negotiate any meaningful modification of its monopoly rights without full and immediate rate rebalancing. With the waiver, the parties could establish a short phase-in period for fully rebalanced rates. Because the best way to ensure lower U.S. collection rates is by establishing a more open market in Guyana, granting ATN's waiver request is likely to deliver more benefits more quickly than by a mechanical imposition of the benchmark rate next January.

Lastly, the Commission should encourage U.S. companies, like ATN, to invest in the incumbent carriers serving developing countries. U.S. investment in these countries will not only benefit U.S. consumers and various business interests, it will promote democracy, law enforcement, and global political and economic stability.

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
)
International Settlement Rates) **IB Docket No. 96-261**
)

To The Commission:

REPLY COMMENTS OF ATLANTIC TELE-NETWORK, INC.

Atlantic Tele-Network, Inc. ("ATN"), by its attorneys, hereby replies to the comments filed in response to the "Petition for Waiver of the Benchmark Settlement Rate for Guyana" ["*Petition*"] filed on July 6, 2001. In that petition, ATN asked the Commission to waive the low-income country benchmark rate on the U.S.-Guyana route for a period of five years or until the level of teledensity in Guyana reaches 23, whichever occurs sooner. Further, ATN indicated that it is willing to accept proportionate annual reductions in the settlement rate so that the benchmark rate of $.23/minute is achieved at the end of the five-year waiver period. ATN also does not oppose reasonable reporting and monitoring conditions. Because the low-income country benchmark is scheduled to take effect on January 1, 2002, ATN respectfully asks that the Commission grant this petition expeditiously.

ATN is the largest U.S. investor in the developing country of Guyana. Few U.S. companies have accepted the challenge of owning and operating incumbent telecommunications carriers in Third World countries. After ten years of unremitting adversity, ATN has learned first hand about the obstacles and road-blocks that will confront any U.S. company that invests in an incumbent carrier in a developing country. Guyana has been particularly challenging because the country emerged only recently from decades of destructive Communist rule, and the country's political volatility reflects its ethnic and religious diversity. Despite the compelling need for foreign investment, recent efforts to encourage such investment in Guyana have yet to bear much fruit. Moreover, major segments of the economy, such as the critical sugar industry, remain a Government-owned operation today.

In the telecommunications sector, Guyana, like other developing countries, has yet to establish a regulatory authority that is both impartial and transparent. Regulatory turmoil in Guyana was exacerbated when the Government with whom ATN negotiated the privatization contract in 1990 was removed at the next election, and the new Government was comprised of individuals who opposed foreign investment in Guyana's economy as well as the GT&T privatization. The unfortunate result was a hostile Public Utilities Commission ("PUC"), which, despite significant new investment in the Guyana telecommunications infrastructure by the newly privatized GT&T, refused to implement meaningful rate rebalancing or other necessary reforms. GT&T was twice forced to challenge the impartiality of the PUC Chairman, and the Guyana courts removed one Chairman from certain GT&T proceedings due to the appearance of bias. The Guyana courts also overturned one adverse PUC ruling due to a lack of "natural justice" (i.e., for violating GT&T's right to procedural due process). GT&T's "current" rate case was filed in 1997 and remains open to this day while the residential local service rate remains at the grossly non-compensatory level of $1.35 per month.

While ATN has not asked, and does not expect, the Commission to redress its grievances in Guyana, ATN submits that its experience as the largest U.S. investor in Guyana provides relevant context for this petition. It promotes a wide number of U.S. interests when a U.S. company owns and operates an incumbent carrier in a developing country. Particularly when the U.S. company aggressively expands the foreign infrastructure, as ATN has done in

Guyana, various U.S. constituent groups, ranging from subscribers desiring to call Guyana to equipment suppliers interested in selling equipment, are benefited. More broadly, the U.S. economy benefits when Third World countries build on-ramps to the information superhighway, and U.S. investment in developing countries promotes democracy, law enforcement, and global political and economic stability. The Commission should not be neutral when it comes to U.S. investment in incumbent operators in less-developed countries; it should do what it can to help such investments succeed in order to promote the U.S. public interest.

The Commission should carefully weigh the comments filed by the Caribbean/Latin American Action ("CLAA") and the Caribbean Association of National Telecommunication Organizations ("CANTO"). Neither association has a direct economic interest in this petition, nor are they participants in the ongoing regulatory and legal wars in Guyana. As a result, their viewpoints are clear and objective. Both organizations strongly support grant of ATN's petition. CLAA affirms that granting the petition will promote U.S. economic and trade policy in the Caribbean Region. Further, CLAA underscores (at 3) how much can be achieved simply through a limited extension of the benchmark transition period:

> "As the U.S. Government looks for ways to assist foreign countries to develop modern telecommunications networks, it is difficult to imagine an easier way to achieve that goal. ATN is not asking for any affirmative action by the U.S. Government or U.S. carriers. No laws have to be adopted, no funds appropriated; no human resources allocated; no assistance proffered. ATN seeks no more than a limited continuation of the status quo. It is hard to imagine an easier way for the U.S. Government to make a difference in helping a low-income country develop a modern telecommunications infrastructure."

Similarly, CANTO notes with approval (at 2 n.3) the recent statement by Chairman Powell that the Commission must help address "the challenge of enhancing access to information and communications technologies [while] advanc[ing] a concerted effort to help developing countries join this information era." CANTO urges (at 2) that the Commission grant ATN's petition as a way of taking "measured steps to assist those countries that sufficiently demonstrate an actual commitment to infrastructure development, as CANTO believes that ATN has for Guyana, in joining the information age by ensuring that underserved populations have access to information and communications technologies." Both CLAA and CANTO agree that immediate implementation of the benchmark rate will threaten severe and irreparable harm to the Guyanese telecommunications infrastructure.

ATN has deliberately framed its waiver request as a modest extension of the benchmark transition period with a mandatory phase-down to the benchmark rate over a five-year period (or earlier if teledensity rises to 23, the average CARICOM level). While significant for a developing country like Guyana, the amount of money at stake is no more than a razor-thin slice of the U.S. telecommunications pie. This waiver is cut from the same cloth as the previous policies adopted by the Commission in response to concerns about the impact on foreign countries, and it neither compromises the Commission's commitment to achieving benchmark rates for all countries nor opens the door for all other carriers in low-income countries to obtain similar waivers. Few other carriers in developing countries have a record to match ATN's, where teledensity in a poor country with non-compensatory local rates has risen by 500% over the past decade.

I. ATN HAS DEMONSTRATED SPECIAL CIRCUMSTANCES JUSTIFYING A WAIVER OF THE BENCHMARK SETTLEMENT RATE

A. *The FCC's Statutory Mandate.*

ATN is not surprised that the major U.S. international carriers – AT&T, Sprint and WorldCom – oppose the waiver petition because implementing the benchmark rate immediately would reduce the costs they incur to terminate calls in Guyana. Their positions reflect their economic interests. However, the Commission's mandate is to promote the public interest, which requires balancing potential cost reductions against broader public policy objectives. In the *Benchmark Order*, the Commission recognized a broader U.S. policy interest to forestall undue disruption of foreign telecommunications networks. *See International Settlement Rates*, 12 FCC Rcd 19806, ¶ 166 (1997) ["*Benchmark Order*"].[1] Among the Commission's statutory responsibilities is ensuring that U.S. callers have "adequate facilities" to make "world-wide" telephone calls. 47 U.S.C. § 151. Simply put, the Commission has a statutory responsibility to promote high-quality international communications services. That responsibility requires the Commission to consider the impact of its policies on the ability of U.S. subscribers to access and use the foreign telecommunications network.

While paying lip-service to the Commission's policy that foreign carriers may seek to forestall an undue disruption through a waiver of the benchmark policy, AT&T in effect asks the Commission to adopt a new policy that it will never grant a waiver of its benchmark rules to a foreign carrier under any circumstances. In AT&T's view, the Commission's sole objective in the *Benchmark Order* was to bring settlement rates to cost-based levels immediately to ensure that revenues from U.S. subscribers would never be used to assist infrastructure expansion and universal service in other countries. *See* AT&T Comments at 9. AT&T does not identify any set of circumstances that a foreign carrier in a low-income country could demonstrate to justify a waiver of the benchmark policy. In fact, the Commission rejected AT&T's one-sided view by balancing the benefits of cost-based settlement rates with the interests of U.S. subscribers in avoiding undue disruption of the foreign regime. Numerous

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1 WorldCom (at 3) takes the position that ATN may receive a waiver only if it shows that the current settlement rate is cost-justified under an incremental cost methodology. As even AT&T concedes, WorldCom's position is incorrect. *See* AT&T Comments at 19.

Commission policies in the *Benchmark Order* – ranging from graduated benchmark rates to staggered transition periods based upon a country's income and teledensity levels – show that the *Benchmark Order* reflects a balancing of those competing policy objectives. And the Commission expressly stated that it would consider extending the transition period to avoid an undue revenue impact at the foreign end, which is precisely what ATN is seeking in this petition. *Benchmark Order*, 12 FCC Rcd at ¶ 174.

On the merits of ATN's waiver petition, none of the U.S. carriers disputes ATN's showing that implementing the benchmark rate on January 1, 2002 will cause a significant loss of revenues for GT&T, estimated today at upwards from $30 million per year.[2] Nor do they submit any evidence to dispute that this loss of revenues will have a detrimental impact upon network expansion and universal service in Guyana. Without the waiver, GT&T will lose approximately $30 million per year and its net income will be virtually wiped out. The reality is that implementing the benchmark now will stop GT&T's ongoing expansion program dead in its tracks. Equally distressing, GT&T's ability to maintain, repair and operate the existing infrastructure will be compromised. GT&T will lack the funds necessary to keep in place the current infrastructure, with the ultimate result that past expansion efforts may have to be rolled back. The impact on U.S. callers will be immediate and substantial. They will have fewer businesses and people in Guyana to call, and the quality of their calls (*e.g.*, call completion ratios) will decline substantially.

AT&T argues (at 16) that implementing the benchmark will result in lower collection rates for U.S. callers. (AT&T's credibility in making this argument would have been enhanced had it promised to flow through any cost decreases to the benefit of its U.S.

subscribers.) Even assuming that implementing the benchmark will result in cheaper calls to Guyana at some point in the future, the possibility of lower rates must be balanced against the higher quality of services the requested waiver will deliver. What is the point of lower rates if the desired call recipient does not have a telephone, or if call completion ratios are so bad that the U.S. subscriber cannot complete the call?

Further, it is pure speculation for AT&T to posit that implementing the benchmark on January 1, 2002 will deliver more benefits more quickly to U.S. subscribers than ATN's proposed five-year phase-down. Particularly given that only one U.S. carrier today serves Guyana directly on a facilities basis (WorldCom), the U.S. consumer benefits from immediate implementation of the benchmark rate are far from certain. ATN submits that granting its waiver petition will deliver lower collection rates more quickly to U.S. consumers than a mechanical imposition of the benchmark rate on January 1, 2002. The key to lower U.S. collection rates is a more open environment in Guyana with operating agreements for multiple U.S. carriers to serve Guyana on a facilities basis. That objective will not be achieved just by implementing the benchmark in four months, but it will be promoted through the introduction of a more competitive telecommunications market in Guyana. As ATN shows below, granting the instant waiver petition will facilitate the negotiation of an agreement between GT&T and the Government of Guyana for a more open market sector, thereby setting in place the market forces necessary to produce lower U.S. collection rates.

(...continued)

2 ATN wishes to correct an inadvertent error in the *Petition*, which listed the likely impact as $25 million rather than $30 million as stated in the attached affidavit.

B. Special Circumstances.

AT&T argues that ATN's petition should be denied because it has not shown the requisite "special circumstances" to justify a waiver of the benchmark. In AT&T's view, any foreign carrier who desires to avoid the benchmark rates can make the same showing that ATN made in its petition. In fact, the opposite is true. Granting ATN's petition would establish a precedent that at most a few other foreign carriers could satisfy. As a result, ATN submits that granting this petition would show that the Commission has in good faith implemented its policy to grant waivers in appropriate circumstances, while setting the bar high enough to ensure that only a select few carriers can qualify for a waiver.

ATN has engineered a remarkable achievement in Guyana over the past ten years. Guyana is one of the poorest countries in the world, with per capital gross national product ("GNP") of approximately $800. For much of the past decade, the local line rate in Guyana was the equivalent of 24 cents ($0.24) per month for residential subscribers and 60 cents ($0.60) per month for business subscribers. It was only in 1998 that the PUC permitted modest increases in these rates to $1.35/month per line for residential subscribers and $5.40/month per line for business subscribers. Needless to say, none of these rates even comes close to covering the costs incurred by GT&T to provide a line and local service to subscribers.[3] In effect, GT&T has lost substantial money every day of every week of every month of every year for each local line that it added to the network. Despite this harsh subsidization policy imposed by the Guyana PUC,

[3] One commenting party estimated that the cost of installing a new local loop to a subscriber is approximately $1,500 (U.S.). ATN would note that at the current local residential line rate, it would take GT&T more than 1,100 months (or over 92 years) just to recover its investment.

GT&T has added nearly 65,000 lines since 1990.[4] Given the poverty of the country and the Guyana PUC's ludicrous pricing policies, this is a remarkable achievement.

That achievement is reflected in a recent *Consultation Paper* (copy attached) – entitled "Reform of the Telecommunications Sector in Guyana" – released last month under the auspices of the Office of the Prime Minister and Minister of Public Works and Communications in Guyana. The *Consultation Paper* concedes that local line rates in Guyana have been far below economic costs, and in fact are the lowest rates in the entire Caribbean Region "by a large margin." *Consultation Paper* at 2, 9 Fig.1, 24, 25, 53, Annex 2. Further, the Consultation Paper recognizes that the teledensity level in Guyana is "quite high" compared to other countries with a similar economic profile. *Id.* at 22-23. Annex 1 of the Consultation Paper estimates that teledensity in Guyana is "about double" what could be expected based on per capita GNP.

ATN prepared the attached Chart in order to highlight the comparative significance of GT&T's network expansion achievement in Guyana over the past decade. This chart provides a quantitative estimate of the extent to which a foreign carrier has built out its infrastructure (measured by teledensity) in excess of what would be expected based on the per capita GNP and local rates in the country. A high number means that the carrier's level of teledensity exceeds what would be expected based on per capita GNP and local rates, while a low number means that the carrier's level of teledensity is more in line with what one would expect based on per capita GNP and local rates. Because this chart evaluates and compares

4 There were approximately 13,000 working local lines when ATN acquired an 80% interest in GT&T in 1990, and today there are over 77,000 working local lines. In addition, GT&T now serves over 24,000 cellular customers. The total landline and cellular working lines in Guyana today total over 101,000. Through this footnote, ATN wishes to correct and update the line counts provided in the *Petition* on page 6.

carriers based on whether and by how much they have exceeded reasonable expectations, we have termed this figure the Investment Overachievement Factor (or IOF).

As the attached Chart illustrates, GT&T has the second highest IOF of all countries classified by the Commission as low-income countries. Guyana's IOF of 65.80 is beaten only by the Kyrgyz Republic, and is higher, often by many orders of magnitude, than the other 47 countries in the category. Indeed, Guyana's IOF is nearly two times higher than all but three countries on the list.[5] This chart shows how GT&T has used settlement revenues over the past decade to build out the network infrastructure in Guyana above and beyond what would have been feasible based on the available domestic revenue stream. It has done so more reliably and to a materially greater degree than virtually all other countries in the low-income category. Hence, the Commission has a decade's worth of proof that GT&T will follow through on its promise to continue using the settlement revenues it receives under the requested waiver for the purpose of network expansion and universal service support. While there are perhaps a few other countries which might qualify for a waiver based on this standard, AT&T is plainly wrong when it asserts that all other countries in this category could make the same showing that ATN has made for Guyana.

At bottom, the question is whether the Commission is prepared, as it said it was in the *Benchmark Order*, to grant a waiver of the benchmark rate when a foreign carrier can show that it would suffer a serious revenue loss causing a halt to the expansion of universal service in

5 Solely for illustrative purposes, ATN also included the United States in the Chart. Guyana's IOF is more than 60 times higher than the IOF for the U.S. ATN makes this point not to criticize the United States – its level of infrastructure investment is what one would reasonably expect given its per capita GNP and pricing policies – but to underscore GT&T's achievement in Guyana.

the country. If ATN does not qualify for a waiver based on this showing, is there any showing that a foreign carrier conceivably could make that would result in a waiver being granted?

II. THE GUYANA COMMENTERS HAVE NOT OFFERED ANY BASIS FOR DENYING THE WAIVER PETITION.

Three sets of comments were filed against the waiver petition by parties in Guyana. For the most part, these comments seek to re-litigate regulatory and legal issues that are pending, and in some cases that have already been decided, in Guyana. ATN submits that domestic regulatory issues in Guyana are not relevant to ATN's petition, and the Commission need not sort out the tangled mess of facts, unproven allegations, half-truths, and outright misstatements regarding a decade's worth of legal and regulatory disputes in Guyana. Should the Commission desire a fuller explication of any issue raised by these parties beyond what ATN offers below, ATN is willing to promptly provide a more detailed response.

A. Audiotext Traffic.

Several of the Guyana parties have addressed GT&T's involvement in the audiotext services industry throughout much of the 1990s.[6] While the relevance of this issue to the waiver petition is unclear, ATN wishes to clarify for the record that GT&T no longer has a significant involvement in this industry. Based on data through August of this year, GT&T estimates that its total audiotext traffic from the United States will be less than 1.2 million minutes. As such, U.S. audiotext traffic represents a mere 1.5% of GT&T's total inbound international traffic and substantially less than 1% of GT&T's revenue stream from inbound international traffic. Based on multi-year trends, GT&T estimates that U.S. audiotext traffic for

6 ATN addressed these issues in Appendix A (at 18-19) to the waiver petition, which is a booklet prepared by GT&T on the 10th Anniversary of privatization entitled "The Story of GT&T – A Decade in the Development of an Industry."

next year will be significantly lower than for 2001.[7] International audiotext is a minuscule and declining part of GT&T's business, and any assertion that ATN filed the waiver petition to protect its audiotext business is false.[8]

It is worth emphasizing that however unappealing some parties may find audiotext services to be, they have played a vital role in saving GT&T from financial insolvency during the 1990s. In the early years after privatization, Guyana suffered a massive devaluation of the Guyana dollar, which had the effect of reducing to almost nothing (in hard currency terms) the rates that GT&T charged for local and long distance services. GT&T's effort to increase its rates to make up for the devaluation were stone-walled for years by the Guyana PUC,[9] with the result that ATN's investment and GT&T's financial solvency were nearly ruined. The introduction of audiotext services saved GT&T by providing the revenues that the Guyana PUC failed to authorize through cost-based rates. Hence, while certain Guyana commenting parties appear to delight in rubbing ATN's nose in GT&T's history of terminating international audiotext traffic (even though they know full well that GT&T is no longer a significant participant in that industry segment), the settlement revenues that GT&T earned from terminating audiotext traffic played a crucial role in its ability to survive while expanding the Guyana infrastructure from 13,000 lines to more than 77,000 lines today.

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7 As a point of comparison, GT&T terminated approximately 57 million minutes of international audiotext traffic from the United States in 1996, representing more than 35% of GT&T's total inbound international traffic.

8 *See Consultation Paper* at 53 ("It appears that the era of significant 'audiotext' revenue contributions is over.").

9 One of the commenting parties, Mr. Joseph Tyndall, was Chairman of the Guyana PUC during this period.

B. Reliance on Settlement Rates.

Several Guyana parties question ATN's estimate that it has invested $140 million in the Guyana infrastructure over the past ten years, or that GT&T needs settlement revenues to fund infrastructure development. The $140 million figure represents the audited book value of GT&T's total plant in service as of December 31, 2000. Given that the company's infrastructure was in a shambles when ATN acquired a controlling interest in GT&T in 1990, this amount is a reasonable proxy for total infrastructure investment during the 1990s. In any event, ATN's waiver petition does not hinge upon the exact amount of this investment. The key point, which no party disputes, is that ATN and GT&T have invested many tens of millions of dollars in infrastructure development over the past ten years in Guyana despite a grossly non-compensatory local rate structure.

One party has suggested that GT&T should use the profits it earns from cellular radio service to replace lost settlement revenues. Comments of Caribbean Telecommunications Ltd at 14. (Oddly enough, this is the same party who, *id.* at 8, alleges without support that GT&T is engaging in predatory pricing for cellular services, which presumably would mean, if true, that GT&T earns no profits at all in this market segment.) In fact, the profits which GT&T expects to earn on cellular service in Guyana would be substantially less than 10% of the revenues it will lose from the imposition of the benchmark rate as of January 1, 2002. As a result, GT&T's cellular services cannot come close to making up for the revenue loss that it will suffer if the benchmark rate is implemented as of January 1, 2002. Nor are there any other revenue sources available to GT&T today that could make up for the lost settlement revenues.

The reality is that, as the *Consultation Report* recognizes (at 53), "GT&T could experience a serious cash flow problem by early January, 2002" if the benchmark rate is implemented on that date. That cash flow problem will have severe negative implications for infrastructure maintenance and expansion in Guyana. By granting ATN's proposal for a five-year phase-in of the benchmark rate, the Commission will enable GT&T to transition to a more competitive environment without sacrificing infrastructure development in Guyana.

C. Transition to Competitive Environment.

This is a critical time for the telecommunications sector in Guyana. While not representing formal Government policy, the *Consultation Paper* proffers a conceptual framework for transforming the telecommunications sector into a more competitive environment characterized by open entry. Negotiations with the Government of Guyana for the relinquishment of GT&T's contractual monopoly rights are in the early stages. Despite a contractual commitment from the Government of Guyana to ensure that GT&T earns at least 15% per year, GT&T has earned substantially less, including returns of 9.8% in 1999 and 11.1% in 2000. As a result, ATN is ready and willing to explore options for liberalizing the telecommunications sector, although given the Government's past unwillingness to rebalance rates or undertake other reforms necessary to establish a competitive environment, it is not certain that the negotiations with the Government will soon be completed or successful.

ATN submits that granting the waiver request will significantly facilitate the negotiations with the Government of Guyana. ATN anticipates that a key battleground in the negotiations will be rate rebalancing. The unfortunate reality is that the longer a country waits to begin rate rebalancing, the more painful the process becomes when it is finally addressed. The Guyana PUC has stuck its head in the sand on this issue for over a decade, and the light could be blinding indeed when it finally decides to look up and open its eyes. (The Guyana consumer filing in opposition to the waiver petition was made by groups and individuals who have consistently sought to impede privatization and foreign investment while thwarting meaningful rate rebalancing in Guyana.) If the benchmark rate takes effect on January 1, 2002, GT&T will be strongly inclined to require a flash-cut to fully compensatory rates before it will even consider relinquishing its contractual monopoly rights in Guyana. However, if the benchmark rate is phased in over time as ATN has proposed, the settlement revenues earned by GT&T may provide some basis for the parties to compromise on a short phase-in of fully compensatory rates for Guyana subscribers.

CONCLUSION

For the foregoing reasons, ATN urges the Commission to grant its waiver petition expeditiously.

Respectfully submitted,

ATLANTIC TELE-NETWORK, INC.

By: ______________________

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Annex 2

Office of the Prime Minister and Minister of Public Works and Communications

Project Execution Unit for Modernization of the Telecommunications Sector

Consultation Paper on Issues and Options for Reform of the Telecommunications Sector

Annex 2

A Comparison of Local Telephone Rates in Guyana and the Americas Region

Introduction

- It is difficult to make accurate comparisons between local telecommunications rates in different countries. Pricing structures and boundaries of local areas vary significantly from country to country. However, it is useful to make some comparisons, in order to provide a sense of local rate levels in Guyana. Please note that the data set out in this Annex is subject to the comments in the text.

Comparison of customers with similar local usage

- Table 1 sets out information from a survey of Americas region telephone rates conducted periodically by the US-based Alexis de Tocqueville Institution. A description of the survey methodology and of the Alexis de Tocqueville Instititution can be found on that organization's web sites, at www.infoamericas.org and www.adti.net.
- The survey results are extracted here for illustrative purposes. The survey uses a 'basket' of services approach to compare the prices of different telecommunications services in different countries of the Americas region. Only the local services comparison is included in this Annex. Other comparisons can be found on the organization's web site.

Comparison of monthly subscription rates

- In addition to usage-based rates, telephone operators in most countries charge a fixed, monthly subscription rate. Table 2 sets out monthly subscription rates in US dollars for Guyana and several other Caribbean countries.

Table 2

Monthly Subscription Rates (in US dollars)

Country	Residential	Business
Antigua	30.00	60.00
Barbados	16.10	47.00
Belize	4.00	10.00
Cuba	6.25	9.95
Curacao	7.78	7.78
Guyana	1.40	6.00
Jamaica	4.98	11.68
St Lucia	8.98	10.09
Trinidad and Tobago	4.64	22.78

Source: GT&T, 2000

- Again, it should be noted that survey data such as these do not give a comprehensive or truly accurate picture of a local customer's costs. Pricing structures and operator pricing strategies vary from country to country. What one operator recovers through monthly subscription rates, another may recover through local usage, long distance or international rates.

CERTIFICATE OF SERVICE

I, Theresa A. Baum, hereby certify that on this 28th day of September, 2001, I served copies of the foregoing Reply Comments of Atlantic Tele-Network, Inc., via hand-delivery or regular mail(*) upon the following:

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Cornelius B. Prior, Jr.
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April 19, 2002

Chairman Michael K. Powell
Federal Communications Commission
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Re: Waiver of Benchmark Settlement Rate on US-Guyana Route
IB Docket No. 96-261

Dear Chairman Powell:

On behalf of Atlantic Tele-Network, Inc. ("ATN"), I am writing to thank you for meeting with me and my Congresswoman, Donna Christian-Christensen, earlier this year, and to seek assistance in expediting a decision on ATN's pending Application for Review of the International Bureau's decision to deny ATN's petition to promote competition and infrastructure development in Guyana through a waiver of the Commission's settlement rate benchmark policy. ATN holds an 80% ownership interest in Guyana Telephone & Telegraph Ltd. ("GT&T"), the incumbent telephone carrier in Guyana.

Due to the start of negotiations among ATN, GT&T and the Government of Guyana on market sector reform, any delay in issuing a final decision will deprive those parties of the certainty they need to make important decisions on whether and how to adopt an open-entry telecommunications sector policy in Guyana. Therefore, we ask that the Commission expeditiously issue a final decision on the pending Application for Review.

At the end of our meeting in January, you reminded me that the Commission must consider the impact of its decisions on the U.S. public in evaluating where the public interest lies in this proceeding. We believe that there are several important benefits to the U.S. public that tip the scales in favor of granting the requested waiver, in addition to the benefits of expanding the telecommunications infrastructure and advancing universal service in Guyana. In particular, granting the waiver will (1) facilitate the introduction of an open-entry environment in Guyana, which can be expected to lead to lower U.S. calling rates over time; (2) send a strong signal to U.S. carriers to reduce their extremely high collection rates for U.S. calls to Guyana; (3) improve the quality of U.S. calls to Guyana while expanding the number of potential recipients of such calls; and (4) benefit U.S. stockholders and the U.S. Treasury through the continued support of U.S. companies with overseas investments.

I. GRANTING THE WAIVER PETITION WILL FACILITATE AN OPEN-ENTRY TELECOMMUNICATIONS ENVIRONMENT IN GUYANA

On July 6, 2001, ATN asked the Commission to extend the phase-down period for implementing the settlement rate benchmark of $.23/minute on the U.S.-Guyana route. Absent a waiver, the benchmark rate will take effect as scheduled retroactive to January 1, 2002.

ATN's requested waiver comes at a critical juncture in the development of an open-entry telecommunications sector for Guyana. For the first time, the Government of Guyana and ATN are formally negotiating a plan to end ATN's contractual right to an exclusive telecommunications license in Guyana. However, ATN cannot voluntarily relinquish its contractual rights unless it is assured of the ability to charge economically rational rates. Unfortunately, the Government of Guyana has put off meaningful rate rebalancing for over a decade, with the result that domestic rates must be increased many orders of magnitude if they are to bear any discernible relationship to underlying service costs. Recently the Public Utilities Commission ("PUC") in Guyana reluctantly granted an interim annual rate increase that is roughly one-twelfth of what is needed to generate a market-based return in Guyana. In effect, the PUC granted us the rate increase for *one year* that we need for *one month*. For example, the PUC granted a 100% increase in the rate for monthly residential service, but that rate is still only $2.63 (U.S.), far below compensatory levels. We now face the possibility that the introduction of an open-entry environment in Guyana could be stymied by the Government's unwillingness to face the political pressure against true rate rebalancing in the country. For your information, I have attached a front-page clipping from Guyana's leading newspaper which shows the impact on public opinion of the PUC's modest first step in rate rebalancing.

We continue to believe that this problem is transitional only, and that the Government should be willing to enact the necessary rate revisions provided it has more time to phase them in. However, ATN is unwilling to both give up its exclusive franchise and subsidize below-cost consumer calling rates from its bottom line. The waiver requested by ATN last July could be instrumental in breaking this logjam. Extending the phase-down of the settlement rate on the route would give both parties sufficient leeway to negotiate a longer transition plan for implementing the necessary rate increases. In that way, the waiver would be a catalyst for the development of competition and a more modern infrastructure in a less-developed country. Not coincidentally, these developments would benefit U.S. consumers, who normally receive significant benefits through lower collection rates when a foreign country introduces an open-entry environment.

I read with great interest the recent speech delivered by FCC Commissioner Kevin Martin last month at the ITU World Telecommunication Development Conference in Turkey. *See* "Seizing Digital Opportunities," Remarks of Commissioner Kevin J. Martin, Delivered at the ITU World Telecommunication Development Conference, March 18, 2002. In that speech, Commissioner Martin emphasized the need for competition and infrastructure in developing countries. I am in particular agreement with his recognition of the need to adopt a regulatory system that promotes capital investment by private parties. Successful countries exhibit a "partnership," in Commissioner Martin's words, between private industry and the regulators. ATN has already invested more than $140 million in its partnership with the Government of Guyana (which owns 20% of GT&T), and the requested waiver will facilitate ATN's efforts to increase teledensity in Guyana beyond the current 10% level.

It is my understanding that you and other Commission officials have previously given speeches similar in content to Commissioner Martin's remarks in Turkey. *E.g.,* Remarks of Michael K. Powell, FCC Chairman, The Tenth African Telecommunications and Information Technology Conference (AFCOM 2001), July 18, 2001. There is a general consensus within the Commission that developing countries can best promote their citizens' interests through open competition, infrastructure development, and policies that attract private investment. Our petition gives the Commission an opportunity go beyond speeches by taking concrete actions to promote telecommunications development in a less developed country. Guyana is poised to implement the very policies recommended by the Commission if it can surmount the short-term obstacles that confront it.

II. U.S. COLLECTION RATES FOR GUYANA ARE INCREASING DESPITE THE PENDING SETTLEMENT RATE REDUCTION

The collection rates charged by the major U.S. international carriers for non-discounted calls to Guyana are plainly excessive, and those rates are moving higher all the time. For example, AT&T's basic rate for Standard service to Guyana has increased from $2.76/minute in June, 1999 to $4.35/minute in April, 2002. The rates are nearly as high for Economy service, increasing from $2.00/minute in June, 1999 to $3.16/minute in April, 2002. Sprint's rates also have been increasing lately and are now $4.48/minute for Standard service and $3.26/minute for Economy service. There has been no increase in the underlying settlement rate in recent years, nor any other cost increase that could justify these exorbitant rates. While I have no information that WorldCom's rates to Guyana have increased lately, I note that they are also excessive ($3.85/minute) with a $6.50 surcharge per call. These harsh and punitive rate levels are simply indefensible in the United States today.

It bears emphasis that while the FCC regards the current U.S.-Guyana settlement rate of $.85/minute as being above cost, the FCC is openly tolerating retail rates charged by U.S. international carriers that are 500% higher than that rate. I understand that the FCC sought last August to provide information to the public on how to obtain lower rates by moving to one of the discount plans offered by these carriers, but this is only a partial response to the problem. Many consumers, presumably including the elderly, as well as those with the least education, sophistication and disposable income, continue to make calls that are billed at the excessive rates referenced above. We believe that immigrants to the United States from Guyana may not understand that they have options other than paying exorbitant rates to call home. These are precisely the consumers for whose protection Congress adopted the prohibition against unreasonable and discriminatory rates in Section 201(b) and 202(a) of the Communications Act of 1934. One way for the Commission to send a strong signal to U.S. carriers that these pricing practices are unacceptable is to grant ATN's waiver request while articulating an expectation that calling prices will decline along with settlement rate reductions on the route.

ATN is concerned about these excessive U.S. collection rates because they depress demand for U.S.-outbound calls to Guyana. In doing so, they decrease the size of the traffic imbalance on the U.S.-Guyana route and magnify the financial impact on ATN and GT&T of implementing lower settlement rates on the route. More reasonable collection rates would stimulate U.S.-outbound calling and, through higher volumes, tend to offset some of the revenue losses caused by benchmark implementation. Regardless how the Commission resolves ATN's pending petition – by permitting a lengthened phase-down of the settlement rate, or insisting on immediate benchmark compliance as of January 1, 2002 – settlement rates will be declining rapidly on this route. ATN requests that the Commission take action to place downward pressure on U.S. calling rates to Guyana, and we believe one such action would be to grant ATN's waiver request based in part on the excessive rates charged today by U.S. carriers for calls to Guyana. ATN believes that the time has come for the Commission to enforce statutory prohibitions against unreasonable pricing against the U.S. carriers' basic international calling rates. To the extent discounted rates do not begin to fall as settlement rates decline, the Commission should take action against those pricing practices as well.

III. GRANTING THE WAIVER WILL IMPROVE THE QUALITY OF SERVICE TO U.S. CONSUMERS ON THE U.S.-GUYANA ROUTE

Granting the requested waiver will directly benefit U.S. callers by improving the telecommunications infrastructure and promoting universal service in Guyana. The benefits of infrastructure development and universal service accrue not only to the foreign country, but also to callers in the United States who desire to communicate with family or friends or to engage in business with the foreign country. In Guyana, call completion ratios will continue to increase as the public telecommunications network is modernized, and a larger segment of the Guyana population will be accessible to U.S. callers. Without the waiver, the ongoing expansion program in Guyana will stop dead in its tracks, and GT&T's ability to maintain, repair and operate the existing infrastructure will be compromised, thereby causing pressure to roll-back the hard-won gains of previous efforts.

The Communications Act of 1934 directs the Commission to ensure that U.S. callers have "adequate facilities" to make "world-wide" telephone calls. 47 U.S.C. §151. This directive is a mandate to promote high-quality international telecommunications services for U.S. consumers. In fulfilling its statutory duties, the Commission should consider the impact of its policies on the ability of U.S. subscribers to access and use foreign telecommunications networks. In this case, the Commission can make a major contribution to improving the quality of international telephony without undertaking any affirmative actions. As one commenter so aptly put it, "ATN is not asking for any affirmative action by the U.S. Government. No laws have to be adopted; no funds appropriated; no human resources allocated; no assistance proffered. ATN seeks no more than a limited continuation of the status quo. It is hard to imagine an easier way for the U.S. Government to make a difference in helping a low-income country develop a modern telecommunications infrastructure." Comments of Caribbean/Latin American Action (CLAA) at 3.

IV. U.S. SHAREHOLDER INTERESTS WOULD BENEFIT FROM THE REQUESTED WAIVER

ATN is an AMEX-listed company incorporated in Delaware and headquartered in the U.S. Virgin Islands. As a result, Guyana is unlike other foreign countries affected by the Commission's settlement rate benchmark policies in that significant U.S. investor interests would be injured by failing to grant a modest waiver of these policies for Guyana. In January, 2002, for example, GT&T's settlement revenues from all countries were down 53% (a reduction of $4.9 million to $2.3 million) compared to one year ago due to the FCC's benchmark policies.

Net income dropped 49% from $2.4 million to $1.3 million over the same period. We expect our first quarter results will reflect a similar impact absent the requested waiver. Further, ATN's share price has declined from $13.85 per share at the beginning of 2002 to $11.90 per share last week as the market loses hope for favorable and prompt Commission action. In its petition, ATN explained that it has invested over $140 million in the Guyana telecommunications sector in the last decade. Without the waiver, ATN's ability to build upon that base in developing a modern information infrastructure will be undermined, and Guyana will face enormous difficulties in modernizing its economy and improving public welfare in the years ahead.

V. EXPEDITIOUS ACTION IS NECESSARY

I urge you to ensure that the Commission acts expeditiously on the pending Application for Review. Even if the Commission decides not to lend a helping hand, it is critical for ATN, GT&T and the Government to know as soon as possible the level of the U.S.-Guyana settlement rate. This information plays a key role in the ongoing negotiations among the parties, and of course settlement revenues have played a pivotal role in GT&T's infrastructure expansion and universal service plans.

Sincerely yours,

Cornelius B. Prior /RW

Cornelius B. Prior, Jr.
Chairman and CEO

cc: Hon. Christopher Dodd
Hon. Donna Christian-Christensen
Hon. Kathleen Abernathy
Hon. Michael Copps
Hon. Kevin J. Martin
Mr. Donald Abelson

Calls in exchanges to cost 200% more

Phone company gets 17% of extra revenue sought

US, UK calls now cheaper

Internet users will not have to pay more

See page 3

Category	New Rates Peak	New Rates Off-Peak	Existing Rates Peak	Existing Rates Off-Peak	Proposed by GT&T Peak	Proposed by GT&T Off-Peak
Intra-exchange rates	$0.60	$0.30	$0.20	$0.10	$4	$2
*Inter-exchange rates from the city	$3	$2	$2.64	$1.66	$4.62	$2.91
	$4	$3	$3.96	$2.64	$6.93	$4.62
	$7	$5	$6.60	$4.42	$11.55	$7.74
USA	~~$100~~	~~$90~~	~~$167.07~~ $100.02	~~$116.95/~~	~~$136~~	~~$123~~
UK	$136	$123	$187.58	$131.31/ $112.55	$136	$123

All rates are subjected to a 10% tax
*These rates only apply to calls from Georgetown to other exchanges.

Watch that call! The Public Utilities Commission yesterday announced that the cost for calls within exchanges will rise by a whopping 200%. This young lady was making her call yesterday at a public phone booth. *(Ken Moore photo)*

Stabroek news. Wed. Feb. 20, 2001

→ more

Pg. 1

Calls in exchanges to cost 200% more

By Gitanjali Singh

The Public Utilities Commission (PUC) yesterday granted the phone company an interim increase of 200% on calls within exchanges and ten per cent to 13 per cent on calls from Georgetown to other exchanges. Calls to the USA have been reduced by 40 per cent and to the UK by 27 per cent.

A host of other revenue raising measures were ignored by the PUC including one to charge internet users for the number of minutes registered online at the intra exchange rate. In total, the PUC's decision will result in $491M in extra revenue for the phone company compared to its original request of $5.5.B and the revised figure of $2.9B

Guyana Telephone and Telegraph Company Ltd's (GT&T) Deputy General Manager, Terry Holder, said yesterday said that Chief Executive Officer Sonita Jagan; rate specialist Gene Evelyn and consultant Godfrey Statia were still studying the increases and it would be premature to pronounce on them.

Chairman of the PUC, Prem Persaud said yesterday that the final increases would be decided upon by June and an independent audit of the GT&T accounts would have to guide that ruling.

The commission's decision, arrived at on Monday evening was communicated to the phone company yesterday and simultaneously released to the public.

The interim order is a response to GT&T's request for rate hikes by as much as 1,900 per cent for calls within exchanges and by 75 per cent for calls between exchanges to meet a $4.4 billion anticipated revenue shortfall to guarantee the company its rate of return of 15 per cent. Reduced settlement rates for calls from the US, which came into effect from the beginning of this year, are expected to contribute significantly to this revenue shortfall. However, increased demand for inbound calls is expected to realise $1.1 billion in revenues, reducing the original deficit of $5.5 billion.

GT&T had offered to exclude certain items from a temporary rate calculation — including advisory fees, working capital allowance and revaluation of assets over the past few years. This slashed the revenue requirement of GT&T from $4.4 billion to $2.9 billion, the PUC order said. However, the PUC determined that the company only needed 17 per cent of this amount.

"A preliminary study of the data submitted to date has led the commission to conclude that a total of approximately $491 million in net revenues is additionally required from domestic service to ensure not less than 15 per cent on capital dedicated to public use," the PUC order said.

Further, the order said, the recommended increases included all labour and capital costs in the test year budget and should there be any reductions in budgeted labour and capital costs, this would require corresponding downward adjustments in the temporary rates granted.

The interim order, in effect, takes domestic rates within exchanges to 60 cents per minute from the current 20 cents per minute and carries the off-peak rate from ten 10 cents per minute to 30 cents per minute. The new rates are effective from February 1, 2002.

Rates between Georgetown and other exchanges, which were $2.64 per minute are now $3 per minute during the day (6.00 am to 6.00 pm) and move from $1.66 per night to $2 per night. Calls to exchanges which cost $3.96 in the day would now cost four cents more and at night 36 cents more. That is, the night calls would cost $3 per minute. Calls from the city to exchanges, which cost $6.60 per minute will now cost $7 per minute and the night calls will move from $4.40 per minute to $5 per minute. These are the rates for calls without an operator's assistance.

The peak rate to the USA which was $167.07 per minute and which GT&T asked to be reduced to $136 during peak hours and $123 per minute during a single off-peak hour has been reduced further to $100 per minute and $90 per minute at off-peak. The phone company's similar demand for rates to the UK which currently stand at $187.58 and the $131.31 at the first off-peak was granted. That is, the peak rate to the UK is now $136 per minute and a single off-peak rate is $123 per minute.

The PUC has granted the company's request that there be two periods for calls — peak and off-peak. It has set the peak period from 6.00 am to 6.00 pm Mondays to Fridays and off-peak from 6.00 pm to 6.00 am and all weekend long.

It has agreed to GT&T's request that the current peak rates remain for all countries except the USA and the UK and that the single off-peak rate will be the first off-peak rate currently charged.

In the case of residential line rentals, the PUC doubled this from $250 per month, falling short of the company's demand by $1000. The rental of $500 is for the first and second residential lines. For the third and subsequent line, the cost moves to $750 per month.

In the case of business lines, for the first four lines the PUC approved rental of $1,500 per month up from $1,000 — 50% of what the company asked for. All other services for which GT&T sought increases were denied.

GT&T would be required to publish the new tariffs. Additionally, the PUC said that if the US Federal Communications Commission should favourably review GT&T's application to waive the imposition of 23 US cents as the international settlement rate over the next five years, then it would need to revisit its order.

The commission, comprising Persaud, John Willems, Hugh George and Badrie Persaud, took GT&T's cellular operation into account in determining the company's rate base and revenue requirement and excluded advisory fees among the other issues GT&T agreed to.

The commission only recently saw a copy of GT&T's 2002 budget and found many of the revenue and expense items "not tied to the version of the budget that was filed with the commission." It said this would be investigated further, but pointed out that if this information had been filed, then GT&T's deficiency would be less than originally claimed. The PUC said further testing of the budget projections would be required before permanent rates were fixed.

The PUC said it viewed the tariff application as a rebalancing one and saw the process involving lower prices on international calls and possibly, increases in line rentals and prices for local calls.

Citing comments by Statia that rates had dropped as low as US$0.05 cents per minute in some countries as a result of the tremendous volume of international calls, the PUC said the migration pattern of Guyanese was an important factor in its considerations. The PUC felt that with North America being a major destination for emigrating Guyanese and relatives and friends in the USA being wealthier than their Guyanese counterparts, the telecommunication flows might result in a net settlement surplus for GT&T.

The commission said that the test year would end on December 31, 2002.

For the rate base, an average of $11.9 billion was used in the determination of the required earnings for GT&T adjusted for the elimination of:

*the franchise asset from the test year;

*an allowance of $242 million for working capital;

*interest bearing accounts, designated as sinking funds from the rate base;

*the increases in the plant and accumulated depreciation accounts that result from the revaluation of GT&T's assets of 1994 and 1998.

The commission said these adjustments were consistent with the US FCC procedure, which the purchase agreement of GT&T called for the use of.

It further said that income requirements to meet legitimate obligations in the interim rates were established using an after-tax return of 15 per cent on the adjusted average rate base.

The PUC accepted GT&T's calculation of the impact of the reduced settlement rates, but its staff will review the work papers and actual results to confirm that the accounting rates and agreement with the various carriers have been modified before the final rates are pronounced on.

In addition to the accounting rate adjustment, other modifications include the removal of all advisory fees from the cost of service as was proposed by GT&T in the adjustment; removal of amortisation expenses related to the franchise assets and a decrease in the test year depreciation expense.

The PUC further ordered that GT&T should continue to charge depreciation on the straight-line basis and not adjust the method of depreciation without a formal filing to the PUC and subsequent approval. The commission said it kept in mind GT&T's guaranteed 15 per cent return on capital invested or dedicated to public use in coming to its decision on temporary rates.

Stabroek News
Wed. Feb 20, 200

Pg. 3