Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
AT&T Corp.	)	
	)	
Petition for Rulemaking To Reform Regulation Of Incumbent Local Exchange Carrier Rates For Interstate Special Access Services	)	RM No. 10593

COMMENTS OF EARTHLINK, TNC.

EarthLink, Inc. ("EarthLink"), by its attorneys, hereby comments on the petition of AT&T Corp. ("AT&T") for rulemaking to reform regulation of incumbent local cxchangc carrier ("ILEC") rates for interstate special access services.[1] Specifically, EarthLink concurs with AT&T's assessment that ILEC special access rates are unrcasonablc, and presents cvidcnce of ILECs charging unreasonable rates for one form of special access, digital subscriber line ("DSL") service

The Commission has long recognized that DSL service is a special access service.[2] Indeed, the Commission granted ILECs DSL "pricing flexibility" tinder the rules that AT&T charges encourage unreasonably high rates for special access,' expressly

[1] Filed October 15. 2002 (*"AT&T Petition"*); *see* FCC Public Notice, **DA** 02-2913 (Ocl. 29,2002).

[2] *See. e.g. GTE Telephone Operating Cos.,* Memorandum Opinion and Order, 13 FCC Rcd. 22466, ¶ 25 (1 998) ("We agree that GTE's ADSL scrvice is a special access service . . ."); *Deployment of Wireline Service Offering Advanced Telecommunications Capability*, Order on Remand, I5 FCC Rcd 385, ¶ 45 (1999) (same), *reversed and remanded on other grounds. WorldCom* v. *FCC,* 246 F.3d 690 (D.C. Cir. 2001).

[3] *AT&T Petition* at 32-33.

because DSL is a special access service.[4] For example, BellSouth has used the FCC's process of special access pricing flexibility to deregulate the majority of its DSL service offerings in major MSAs.[5]

As AT&T notes, unless prevented hy regulation, ILECs have exercised their ability to increase prices for special access services.[6] Likewise, rates for DSL special access have also risen, rather than decreasing with improved productivity.[7] ILECs can impose such increases because wholesale DSL customers like EarthLink have limited viable conipctitive options for wholesale broadband access. Absent effective competition and regulatory enforcement, ILECs have raised the cost to Internet Service Providers ("ISPs") of wholesale DSL transport while their own affiliates compete with those same ISPs by offering DSL-based Internet access for significantly less than the wholesale DSL rate. As EarthLink illustrates in the *ex parte* presentation attached as Appendix B, SBC has recently engaged in just such predatory pricing, offering DSL-based Internet access service at retail for $5.05 less than it offers the wholesale DSL transport service

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[4] Access *Charge Refortii,* CC Docket No. 96-262, Fifth Report and Order and Notice of Proposed Rulemaking, 14 FCC Rcd 1422l, n. 280 (1999) ("the Commission found that certain digital subscriber line (DSL) services offered by incumbent LECs are special access services . . . Accordingly we will grant LECs pricing flexibility for the provision of these services upon satisfaction of the Phase I or Phase II criteria for channel terminations between an end office and a customer's premises.").

[5] *See Appendix A, hereto,* "FCC Has Substantially Granted BellSouth Pricing Flexibility for ADSL Telecommunications Services."

[6] *AT&T Petition* at 12.

[7] Comments of AT&T Corp., CC Dkt. No. 02-33, at 68 (filed May 3, 2001); *In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans*, Third Report, 17 FCC Rcd. 2844, ¶ 106 (2002) ("SBC and Verizon raised their basic residential rates for DSL from $40 per month to $50 earlier this year."),

underlying it. If SBC can afford to undercut at retail its own wholesale service by such an enormous margin, the wholesale rate cannot be reasonable.

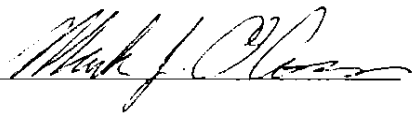
A recent tariff filing by Verizon also confirms that current wholesale DSL transport service prices are not cost-based and are unreasonably high. **As** the analysis attached in Appendix C explains, Verizon's lnfospeed service, with a monthly recurring rate of $39.95, is overpriced by at least $1 5.19 when compared to Verizon's PARTS DSL service, which carried a recurring rate of just $21.00 per month.[8] That $15.19 represents the diffcrcnce in Verizon's own rates for services that are functionally the same; thus, assuming the PARTS rate is equal to cost *plus mark-up,* the recurring rate for Infospeed is unreasonable—i.e. not cost-based—by *at least* that amount.

As policy-makers at the Commission and iii Congress consider the best way to strengthen demand for broadband scrviccs, taking actions that result in lower prices for wholesale DSL transport remains the best, least explored option. As attachments B and C to these Comments indicate, ILECs are charging unreasonably high rates for wholesale

[8] On November 25, 2002, Verizon tiled to remove its PARTS service tariff. ***See*** Verizon Tariff F.C.C. No. 1 and 1 1, Transmittal No. 266 (Nov. 25, 2002). The PARTS service is nonetheless illustrative of the issue of ILEC unreasonably high rates for DSL services.

DSL transport. In addressing AT&T's concerns regarding rates for special access, the Commission should invigorate consumer demand for broadband by lowering the ILECs' wholesale prices for DSL transport

Respectfully Submitted.

By: 

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Dated: December 2, 2002

APPENDIX A

FCC Has Substantially Granted BellSouth Pricing Flexibility for ADSL Telecommunications Services

- BellSouth has FCC Phase I Pricing Flexibility for ADSL Service for **82.4%** of its in-region MSA population. **With Phase I relief,** BellSouth may file ADSL tariffs offering volume and term discounts on one day's notice with no cost support and file ADSL contract tariffs on one day's notice.

- BellSouth has FCC Phase II Pricing Flexibility for ADSL Service for **67.7%** of its in-region MSA population. **With Phase II relief,** BellSouth's ADSL service is removed completely from FCC price cap regulation and Part 69 rate structure requirements, and BellSouth may amend its ADSL Tariff on one day's notice with no cost support.

- BellSouth's total in-region MSA population is 37,009,207.

Asheville, NC	215,180	X	
Atlanta, GA	3,857,097	X	X
Augusta, GA/SC	460,826	X	
Baton Rouge, LA	578,946	X	X
Biloxi-Gulfport, MS	353,205	X	X
Birmingham, AL	915,077	X	
Burlington, NC	121,100	X	
Charlotte-Gastonia, NC	1,417,217	X	X
Chattanooga, TN-GA	452,034	X	X
Clarksville-Hopkinsville, TN/KY	201,352	X	
Columbia, SC	516,251	X	X
Columbus, GA/AL	271,417	X	
Daytona Beach, FL	474,711	X	X
Evansville IN/KY			
Gainesville, FL			
NC			
Greenville-Spartanburg, SC	929,565	X	
Huntsville, AL	343,418	X	
Jackson, MS	432,647	X	X
Jacksonville, FL	1,056,332	X	X
Knoxville, TN	672,087	X	X
Lafayette, LA	377,238	X	X
Lake Charles, LA	180,607	X	X
Louisville, KY	1,005,849	X	X

APPENDIX B

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September **9,2002**

Via Hand ***Delivery***

Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals
TW-A325
445 Twelfth Street, S.W.
Washington, D.C. **20554**

Re: ***Ex Parte Presentation*** — *CC* ***Docket Nos. 02-33, 01-337,*** *01-338, 98-147, 98-10, 96-98, 95-20*

Dear Ms. Dortch:

In accordance with Section 1.1206(b)(1) of the **FCC's** rules, enclosed for filing please find an original and 16 copies of a written *ex parte* presentation on behalf of EarthLink, Inc. in the above-captioned dockets. Should you **have** any questions regarding this matter, please feel free to contact the undersigned.

Sincerely,

Kenneth R. Boley
Attorney for EarthLink, Inc.

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Washington, DC 20006

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September 9,2002

Via Hand Delivery

Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals
TW-A325
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: SBC-Ameritech Predatory Pricing of High-speed Internet/DSL Service
Ex Parte Presentation — CC Docket Nos. 02-33, 01-337, 01-338, 98-147, 98-10, 96-98, 95-20

Dear Ms. Dortch:

In each of the above-referenced proceedings, the Commission is examining the provisioning by Regional Bell Operating Companies ("RBOCs") of wholesale broadband transmission services.[1] EarthLink Inc. ("EarthLink") calls the Commission's attention to a new broadband Internet access service offered by SBC through its ISP affiliate in the Amentech region, Ameritech Interactive Media Services, Inc. (AIMS). (See attached.) This new offering illustrates how an RBOC, which controls the facilities used for Digital Subscriber Line ("DSL") service, subsidizes its own affiliated ISP to enable predatory pricing designed to harm competing ISPs, including EarthLink. Accordingly, EarthLink, by its attorneys, urges the Commission to recognize that even under current rules, RBOCs can and do operate as monopoly providers of wholesale DSL services and will increase their anticompetitive abuse of monopoly power if regulatory changes so permit.

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[1] ***See, e.g., In the Matter of Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, et al.,*** Notice of Proposed Rulemaking, CC Docket Nos. 02-33, 95-20, 98-10, FCC **02-42, ¶ 44** (rel. Feb. **15,** 2002); ***In the Matter of Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services,*** Notice of Proposed Rulemaking, CC Docket No. 01-337, ¶¶ 25, 28 (rel. Dec. 20,2001); ***In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, et al.,*** Notice of Proposed Rulemaking, CC Docket Nos. 01-338, 96-98, 98-147, FCC 01-361, ¶ 38 (rel. Dec. 20,2001).

Melbourne-Titusville-Palm Bay, FL	470,365	X	X
Memphis, TN	1,105,058	X	X
Miami-Fort Lauderdale-Hollywood, FL	3,711,102	X	X
Mobile, AL	535,472	X	
Monroe, LA	146,672	X	X
Montgomery, AL	322,441	X	X
Nashville-Davidson, TN	1,171,755	X	X
New Orleans, LA	1,305,479	X	
Orlando, FL	1,535,004	X	X
Owensboro, KY	91,179	X	X
Panama City, FL	147,958	X	
Pensacola, FL	403,384	X	X
Raleigh-Durham, NC	1,105,535	X	X
Savannah, GA	288,426	X	X
Shreveport, LA	377,673	X	X
West Palm Beach-Boca Raton, FL	1,049,420	X	X
Wilmington, NC	222,109	X	X

[1] *In the Matter of BellSouth* ***Petition for*** *Pricing Flexibility for Special Access and* ***Dedicated*** *Transport Services*, Memorandum Opinion and Order, 15 FCC Rcd. 215588 (CCB 2000) *and* Errata, CCB/CPD 00-20 (rel. Jan. 3, 2001), ***recon.*** *denied*, Memorandum Opinion and Order, 16 FCC Rcd. 18174 (2001); *In the Matter of BellSouth Petition for Pricing Flexibility for* ***Special*** *Access* ***and Dedicated Transport*** *Services*, Memorandum Opinion and Order, WCB/Pricing No. 02-24, **DA** 02-3228 (rel. Nov 22, 2002).

'Population data from United Slates Census Bureau, Population Division, *found at*, http://eire.census.gov/popest/archives/1990.php?PHPSESSID=8b645d203a5c2ad31a8b450d28f55056. Population estimates are as of July 1, 1999.

In these proceedings, SBC has aggressively pressed its position that (1) market competition denies it the ability to use DSL provisioning to harm unaffiliated ISPs, and (2) even if it had such ability, it would never use it. As SBC stated in its Comments in the *Wireline Broadband* proceeding,

> The existence of [broadband Internet access services] competition negates the need for regulation to prevent potential anti-competitive conduct. SBC currently does business with hundreds of ISPs. It has no desire to discontinue those business relationships. To the contrary, SBC has **every** incentive to maximize the sale of its broadband services and the use of its network through relationships with unaffiliated information service providers.[2]

In a transparent effort to support this argument, SBC filed a joint submission with the **US** Internet Industry Association **("USIIA")** in which SBC committed "that commercial agreements for broadband Internet access will be available and negotiated between SBC and ISPs in a deregulated broadband market."[3] SBC characterized this commitment as "reflect[ing] the fact that wireline providers and ISPs can and will negotiate market-based agreements to provide sufficient access to wireline broadband facilities, and to ensure efficient, market-based solutions to consumer needs.'"[4] Conspicuously absent is any commitment that SBC would not use its ability to manipulate the market in conjunction with its new-found freedom to discriminate in order to favor its affiliated ISPs over competing ISPs.

SBC makes no such commitment because it would not adhere to it, as the following facts illustrate.

SBC is offering a complete Internet access service over DSL, called "SpeedPath 768," in the Ameritech region for $29.95 per month.[5] This price includes not just the DSL transmission

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[2] Comments of SBC Communications Inc., CC Docket Nos. 02-33, 95-20, 98-10 at 28 (May 3, 2002).

[3] USIIA and SBC Joint Submission, CC Docket Nos. 02-33, 95-20, 98-10 at 1, Attachment at 2 (May 3,2002).

[4] Reply Comments of SBC Communications Inc., CC Docket Nos. *02-33, 95-20, 98-10* at 25-26 (July 1, 2002).

[5] SBC website screen shots (taken September 9,2002) are attached hereto. (The URL of the first page in the series is
http://www.ameritech.com/DSL_new/content_new/1,,18,00.html?SRC=http%3A%2F%2Fsw51

(footnote continued on next page)

from the end-user's network interface device ('WID") through the SBC DSLAM, but it also includes transport over SBC's ATM network, connection to the SBC-affiliated ISP, the Internet access service itself, the Global Service Provider charge, the DSL modem, and line activation, a total package for which SBC used to charge $49.95 per month plus initial charges of $99 for the modem and $50 for activation.[6] By contrast, the lowest wholesale price SBC charges its affiliated ISP for just the DSL transmission service is significantly higher: $35.00 per month.[7] Thus, under the SBC-Ameritech offering, the ISPs purchasing at $35.00 per month must take a $5.05 loss per customer per month for one year just to get its traffic to the ATM network. Such ISPs still must pay for several additional costs of service, including: access to SBC's ATM network to carry the traffic from the DSLAM to the ISP's PoP; the ISP's own costs of providing its Internet access service (content, Internet backbone service, etc.), and the cost of providing the DSL modem. In other words, SBC is charging independent ISPs *significantly more at wholesale* for just its DSL transport service than it is charging end-users *at retail* for the entire, end-to-end Internet access service through its affiliated ISP. As the Commission has explained, "[i]n certain situations, a price squeeze is evident, such as when a monopolist's rates exceed retail rates."[8]

(footnote continued from previous page)

%2Esbc%2Ecom%2Fctrk%2Fp%2Egif%3F&EI=20020828144452C&E=L&CI=&UI=&EL=&TI=&RI=&RD=).

[6] Id

[7] Under SBC's current wholesale DSL tariff, the lowest price is $35.00 per month for DSL service providing 384-768 Kbps downstream / 128 Kbps upstream "between the Company's ATM network and the Customer's designated End User premises" and is available only for customers making four-year commitments and guaranteeing over 750,000 new subscribers. SBC Advanced Solutions, Inc., Tariff F.C.C. No. 1, §§ 6.1.1, 6.6 ("SBC-ASI Tariff"). Some ISPs, through the use of Subscription Orders applicable to all SBC territories, purchase the same wholesale DSL service for as low as $30.00 per month under "grandfathered" provisions from earlier tariffs. See, SBC-ASI Tariff, § Pacific Bell, Access Service, Tariff F.C.C. No. 128, § 17.7.4(A)(7) (eff. August 27, 1999) (ADSL Volume Discount Plan Level D). However, SBC affiliated ISPs are not eligible for such "grandfathering" and must take service under the rates and terms of the SBC-ASI tariff, i.e., the lowest available rate for an SBC-affiliated ISP is $35/mo. SBC-ASI Tariff, § 2.1 1.3.

[8] *INFONXX v. New York Telephone* Co., Memorandum Opinion and Order, 13 FCC Rcd. 3589, ¶ 18 (1997) ("[P]rice squeeze generally occurs when a vertically integrated company which has monopoly power at the wholesale level, but faces competition from its wholesale customers at the retail level, sets its wholesale rates so high that its wholesale customers are unable to compete in the retail market. In certain situations, a price squeeze is evident, such as when a monopolist's rates exceed retail rates. By definition, a price squeeze determination requires an analysis of two

(footnote continued on next page)

SBC can afford to offer such a retail price only by heavily subsidizing its affiliated ISP. Meanwhile, non-affiliated ISPs have little choice if any for wholesale DSL services.[9] Although cross-subsidization may always provide BOCs and their ISP affiliates a greater profit margin than that achievable by non-affiliated ISPs, it becomes particularly pernicious where, as here, the SBC-affiliated ISP drops its end-to-end retail price significantly ***below*** the tariffed rates SBC charges competing ISPs for just the wholesale telecommunications inputs."

SBC's behavior is characteristic of a monopoly provider. In a competitive market, such aggressive retail pricing and inflated wholesale pricing would guarantee a mass defection of wholesale DSL customers (i.e. ISPs) to other providers of broadband transmission services. There is only one explanation for SBC's behavior: non-affiliated ISPs have no viable competing provider to which to ***turn.*** They are stuck with SBC's overpriced wholesale DSL offering, and SBC knows it. In fact, by pricing its SpeedPath 768 at $5.05 ***less*** than SBC's lowest tariffed price for Wholesale DSL Transport, SBC is sending an unmistakable message to competing broadband ISPs: Stay out of Ameritech territory, or we **will** squeeze you out.

As noted above, EarthLink offers this example to inform the Commission in its consideration of RBOC market power in the above-referenced dockets. No participant in a competitive market would be able to take such action as SBC has in this case without dire repercussions. However, SBC, like other RBOCs, faces no serious competition in the provision

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sets of prices – one at the wholesale level and one at the retail level."). Under well-established Commission precedent, "predatory pricing is 'unjust and unreasonable' and therefore prohibited by Section 201(b) of the Act." *In the Matter of PanAmSat Corp.*, Memorandum Opinion and Order, 12 FCC Rcd. 6952,6957 (1997).

[9] The FCC has found that a facilities-based carrier engages in predatory price squeeze by "pric[ing] below the level of its imputed costs when providing service...." "A price squeeze is a predatory tactic" where a carrier "would set its prices so close to the" input price "that other carriers . . . could not match the prices without losing money, even if they were more efficient" than the camer. "Such a strategy would be made possible by the fact that the...carrier controls an essential input for providing service..., and the price charged for that input.. .is substantially above the economic cost ofproviding the service." *In the Matter of International Settlement Rates*, Report and Order on Reconsideration and Order Lifting Stay, 14 FCC Rcd. 9256,126 (1999).

[10] Although SBC describes the $29.95 price as a "Special Offer" that can be accepted only through September 12,2002, those end-users who do accept the offer will receive that price for a full year. Thus, this is no short-term use of SBC's ability to subsidize its affiliated ISP.

of broadband services in its region. Even under today's regulatory structure, SBC feels free to engage in such anticompetitive predatory pricing." EarthLink urges the Commission to protect against this practice in any decision it reaches in the above-referenced proceedings.

In accordance with the Commission's *ex parte* rules, attached please find 16 copies of this letter for filing in the above-referenced dockets. Should you have any questions regarding this matter, please feel free to contact the undersigned.

Sincerely,

Mark J. O'Connor
Kenneth R. Boley
Attorneys for EarthLink, Inc.

cc: Chairman Michael Powell
Commissioner Kathleen Abernathy
Commissioner Michael Copps
Commissioner Kevin Martin
William Maher
Marsha MacBride
Chris Libertelli
Matthew Brill
Michelle Carey
Jeremy Miller
Brad Koerner
Richard Hovey
Robert Pepper
Jeffrey Carlisle
Scott Bergmann
Shauti Gupta
Cathy Carpino
Kyle Dixon
Dan Gonzales
Jordan Goldstein
Brent Olson
Robb Tanner
Pam Arluk
Jeremy Stanshine
Simon Wilkie
Tom Navin
Robert Cannon
Behzad Ghaffari

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[11] EarthLink notes, however, that the Commission has authority to investigate this matter. "We have ample authority under the Act to conduct an investigation to determine whether rates for DSL services are just and reasonable.. . . and we will address any price squeeze concerns as they arise." *In the Matter of GTE Telephone Operating* Cos., Memorandum Opinion and Order, 13 FCC Rcd. 22466, ¶ 32 (1998).

SBC Ameritech

DSL Internet Center

Arneritech Home
CSL Internet Center
Facts
Residential
Business
support
Availability and Ordering
Pricing
Experience DSL Internet
internet Security
Site Search

Site Map
Ask A Question
Contact Us

Get Email Updates
Manage vour subscription for news, tips and promotions.
Enter Email Address

Ask A DSL Internet Question:

Example: How do I order DSL Internet7 Question Tips

Residential DSL Internet Service Special Offers

DSL Internet Service Special Offers

SpeedPath 768 Special Offer — Details — Order Now

For a limited time only, sign up for one year of SpeedPath 768 for only $29.95 per month. You will receive a free DSL modem - a $99 value, free activation - a $50 value, and a free self-install kit.

Home Networking with DSL Internet Access Service Offer — Details

For a limited time, get a Home Networking gateway with integrated modem for only $150 (a $249.95 value). Sign up for one-year term of DSL Internet access service with the gateway and receive a rebate check for $100.

Availability
Check for availability in y area

Order
- Residential
- Business
- Eouiornent Store

Support
- Customer Self-Install
- WindowsXP Update
- Glossary

SBC Ameritech

DSL Internet Center

Ameritech Home
DSL Internet Center
Facts
Residential
Business
Support
Availability and Ordering
Pricing
Experience DSL Internet
Internet Security
Site Search
Site Map
Ask A Question
Contact Us

Get Email Updates
Manage your subscription for news, tips and promotions.
Enter Email Address

Ask A DSL Internet Question:

Example: How do I order DSL Internet? Question Tips

Availability
- Check for availability in your area

Order
- Residential
- Business
- Equipment Store

Support
- Customer Self-Install
- WindowsXP Update
- Glossary

SpeedPath 768 Special Offer

For a limited time, order one year of SpeedPath 768 for only $29.95 a month for the first 12 months. (Price reverts to the standard monthly rate after 12 months.) You will receive a free DSL modem - **a $99 value,** free activation - a **$50 value,** and a free self-install kit.

SpeedPath 768 from Ameritech Interactive Media Services, Inc. includes:

- up to 768Kbps / 128Kbps DSL Internet Service
- Unlimited "instantly-available" Internet access 24 hours a day, seven days a week
- Free dial-up Internet account
- One dynamic IP address
- Five (5) email boxes
- Technical support 24 hours a day, seven days a week
- No installation charge with customer "plug and play"

Order Now

'Requites one-year term agreement; Early termination fee applies. NEW DSL INTERNET SERVICE SUBSCRIBERS ONLY, *Offer* expires 9/12/02. Terms and conditions subject lo change without notice. Other restrictions may apply. DSL Internet Service pricing includes GSP charges and is based on customer self-installation of DSL Internet Service on existing line. Minimum additional charge of $150 applies if technician install is required. If your line is not eligible for self-installation, or if you choose not to self-install, the installation charge is $200. DSL Internet Service billing begins when we activate your DSL Internet Service on our network. Service may not be available in some areas due to factors associated with DSL technology such as line conditions or distance. Actual connection speeds will vary. Internet services provided by Ameritech Interactive Media Services, Inc.

SBC Ameritech

DSL Internet Center

Ameritech Home
DSL Internet Center

Residential
Business
support
Availability and Ordering
Pricing
Experience DSL Internet

internet Security

Site Search

Site MAP
Ask A Question
Contact Us

Get Email Updates
Manage your subscription for news, tips and promotions
Enter Email Address
GO

Ask A DSL Internet Question:

Example: How do I order DSL Internet? Question Tips

Availability
Check f area

Order
• Busines

Support
• Custom
• Window
• Glossar

Ameritech Speedpath 768

Ameritech Speedpath 768 is designed to provide the same service that dial-up analog and single-user ISDN customers receive today, only at much faster speeds.

Pricing
Features

Pricing

The following pricing information applies to Ameritech DSL Internet Service products.

Pricing

Speed'	Monthly fees**	Term	Equipment Install** '	Equipment	Activation Fee***
up to 768Kbps / 128Kbps	$49.95	None	$0 customer self-install $200 technician install	$99	$50

Order Now

Speedpath 768 Special Offer]

up to 768Kbps / 128Kbps	$29.95 (for the first 12 months; price reverts to the standard monthly rate after 12 months)	One Year	$0 customer self-install $200 technician install	**Free** (When you sign up for one year)	**Free**

Order

Now

Features

Features

Subject	Info
Speed Available* (downstream / upstream)	Up to 768Kbps / 128Kbps
Unlimited Usage	Yes
Dynamic IP Address	1
Optional DNS Services	No
Optional Web Hosting	Yes : Go to webhostino.com or call 1-888-WEB-HOST
Ameritech.net Email Accounts	5
Personal Home Page account	Yes
Ameritech.net Analog Modem Access Account	Yes
Arneritech.net News Server Access	Yes

* Downstream / Upstream speeds. Service not available in all areas due to factors associated with DSL technology such as line conditions or distance. Actual speeds will vary. Access speed is between customer's location and the DSL Internet-equipped Central Office or Gateway.

** Monthly pricing includes GSP charges. Regular voice telephone line and service not included. Other limitations apply. No other discounts apply. OSL Internet Service billing will begin when we have activated your DSL Internet Service on our network. DSL Internet Service is provided by Ameritech Interactive Media Services, Inc.

*** $200 charge for technician installation. $150 charge for subsequent technician installations on failed customer attempt at self-installation. Maintenance fees of $120 per jack apply for any additional work required on multiple jacks.

**** The cost necessary to process your DSL Internet Service through the Ameritech ordering system.

[1] Requires one-year term agreement. Early termination fee applies, NEW OSL INTERNET SERVICE SUBSCRIBERS ONLY. offerexpires 9/12/02. Terms and conditions subject to change without notice. Other restrictions rnay apply. DSL Internet Service pricing includes GSP charges and is based on customer self-installation of DSL Internet Service on existing line. Minimum additional charge of $150 applies if technician install is required. If your line is not eligible for self-installation, or if you choose not to self-install, the installation charge is $200. DSL Internet Service billing begins when we activate your DSL Internet Service on our network. Service rnay not be available in some areas due to factors associated with DSL technology such as line conditions or distance. Actual connection speeds will vary. Internet services provided by Ameritech Interactive Media Services. Inc. Other product and brand names may be trademarks or registered trademarks of their respective owners.

SBC Ameritech

DSL Internet Center

Ameritech Home
DSL Internet Center
Facts
Residential
Business
Support
Availability and Ordering
Pricing
Experience DSL Internet
Internet Security
Site Search
Site Map
Ask A Question
Contact Us

Get Email Updates
Manage your subscription for new5 tips and promotions.
Enter Email Address

Ask A DSL Internet Question:
Example: How do J order DSL Internet? Question Tips

Check f area
Busines

Custom Window Glossar

Ameritech Speedpath 768

Ameritech Speedpath 768 is designed to provide the same service that dial-up analog and single-user ISDN customers receive today, only at much faster speeds.

Pricing
Features

Pricing

The following pricing information applies to Ameritech DSL Internet Service products.

Pricing

Speed*	Monthly fees"	Term	Equipment Install***	Equipment	Activation Fee****
up to 768Kbps / 128Kbps	$49.95	None	$0 customer self-install $200 technician install	$99	$50

Order Now

Speedpath 768 Special Offer[1]

up to 768Kbps / 128Kbps	$29.95 (lor the first 12 months; price reverts to the standard monthly rate after 12 months)	One Year	$0 customer self-install $200 technician install	Free (When you sign up for one year)	Free

Order

Now

Features

Features

Subject	Info
Speed Available* (downstream / upstream)	Up to 768Kbps / 128Kbps
Unlimited Usage	Yes
Dynamic IP Address	1
Optional DNS Services	No
Optional Web Hosting	Yes : Go to webhostina.com or call 1-888-WEB-HOST
Ameritech.net Email Accounts	5
Personal Home Page account	Yes
Ameritech.net Analog Modem Access Account	Yes
Ameritech.net News Server Access	Yes

* Downstream / Upstream speeds. Service not available in all areas due to factors associated with DSL technology such as line conditions or distance. Actual speeds will vary. Access speed is between customer's location and the DSL Internet-equipped Central Office or Gateway.

** Monthly pricing includes *GSP* charges. Regular voice telephone line and service not included. Other limitations apply. No other discounts apply. DSL Internet Service billing will begin when we have activated your DSL Internet Service on our network. DSL Internet Service is provided by Ameritoch Interactive Media Services. Inc.

*** $200 charge for technician installation. **$150** charge for subsequent technician installations on failed customer attempt at self-installation. Maintenance fees of $120 per jack apply for any additional work required on multiple jacks.

**** The cost necessary lo process your DSL Internet Service through the Ameritech ordering system.

'Requites one-year term agreement. Early termination fee applies. NEW DSL INTERNET SERVICE **SUBSCRIBERS** ONLY. Offer **expires 9/12/02. Terms** and conditions **subject** to change without ***notice.*** Other restrictions may apply. DSL Internet Service pricing includes GSP charges and is based on customer self-installation of DSL Internet Service on existing line. Minimum additional charge of $150 applies if technician install is required. If your **line** is not eligible for self-installation, or if you choose not to self-install, the installation charge is $200. DSL Internet Service billing begins when we activate your DSL Internet Service on our network. Service may not be available in **some** areas due to factors associated with DSL technology such as line conditions or distance. Actual connection speeds will vary. Internet services provided by Ameritech Interactive Media Services, Inc. Other product and brand names may be trademarks or registered trademarks of their respective owners.

'PEND C

Lampert & O'Connor, P.C.
1750 K Street NW
Suite 600
Washington, DC 20006

Kenneth R. Boley
boley@l-olaw.com

Tel 202/887-6230
Fax 202/887-6231

Ex Parte Presentation

October 2.2002

Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals
TW-A325
445 Twelfth Street, S.W.
Washington, **D.C.**20554

Re: Verizon Tariff F.C.C. Nos. 1. 11 and 20, Transmittal No. 232: DA-2140

Dear Ms. Dortch:

In support of its request filed August 30, 2002, EarthLink, Inc. ("EarthLink") submits this letter to show that Verizon's PARTS ("Packet at Remote Terminal Service") PVC service is discriminatory in violation of Sections 201 and 202 of the Communications Act because it is offered at a substantially different recurring charge from Infospeed, a pre-existing, similar Verizon service. Because any differences between PARTS and Infospeed are insufficient to justify the significant disparity in recumng charges, EarthLink requests the Commission to designate **this** issue for investigation and reject Verizon's Transmittal No. 232 ("PARTS **Tariff").**

At a September 12, 2002 meeting with staff members from the Pricing Policy Division of the Commission's Wireline Competition Bureau **(ex** *parte* notice filed September 13, 2002), EarthLink stated that the PARTS service and the Infospeed service were essentially the same service offered at different recurring charges to different customers. Staff members urged EarthLink to describe in detail any differences between the two services and price out those differences so that an "apples-to-apples" comparison was possible.

In this letter, EarthLink provides just such a step-by-step analysis. When the differences between the services are accounted for, there is still a minimum recurring charge differential of approximately $15.19 per month per end-user.

*What **the** Two **Services** Have **In** Common*

Both PARTS and Infospeed DSL provide a DSL connection from the end-user's network interface device ("NID") *to* the Verizon Central Office (CO).' Both services allow customers to serve end-users via remote terminals ("RTs").[2] Both services provide a private virtual connection ("PVC") at base speeds of 768 Kbps/128 Kbps and are available on a month-to-month basis without volume or term commitments. Neither service includes transmission across the ATM network.

***Where** the Two **Services** Differ*

After bringing the traffic *to* the Venzon CO, Infospeed carries the traffic to "an Asynchronous Transfer Mode Cell Relay Service (ATM) switch, which serves as an aggregation point for multiple wire centers."[3] This aggregation point may or may not be in the wire center that serves the end-user. In contrast to Infospeed, PARTS transports the traffic via a cross-connect to the customer's collocation arrangement in the end-user's serving wire center.[4] This difference is illustrated in Figures 1 and **2,** below.

---

[1] **See** Verizon Notice of Ex Parte Presentation (September 26, 2002) Slide **3** (PARTS Data Only); **see, *also,*** Verizon **Tariff** FCC No. **20,** Part III, § 5.1.1.D ("Infospeed Tariff).

[2] During the September 12 meeting, there was some question whether Infospeed did, in fact, reach end-users served by RTs. EarthLink has researched this question and confirmed that it does. ***See,*** *e.g.*, Declaration of Gregory P Collins, ¶ 2 ("Collins Declaration") (Attachment **A** hereto) Indeed, prior to Verizon's filing of Transmittal No, 232, Infospeed was its only wholesale DSL offering. (Infospeed DSL Solutions I and II have been discontinued. Part II, §§ *5.7* and 5.8). Accordingly, had Infospeed not served end-users through RTs, Verizon's RTs would have been useless for DSL, even to its own affiliated ISP.

[3] Verizon Transmittal 1076 (filed September 1, 1998), Section I (Description and Justification) at 1 (Attachment **B** hereto).

[4] Verizon requires that a CLEC purchasing PARTS must also purchase a collocation arrangement in the end-user's serving wire center. PARTS Tariff, § 16.9.1.A. However, Verizon provides the Infospeed service without requiring a collocation arrangement, thereby confirming that there is no technical reason to require the collocation arrangement. Infospeed Tariff, § 5.1.1.A. Accordingly, it is appropriate in this analysis to omit the recurring *cost* to the CLEC of renting the collocation arrangement,

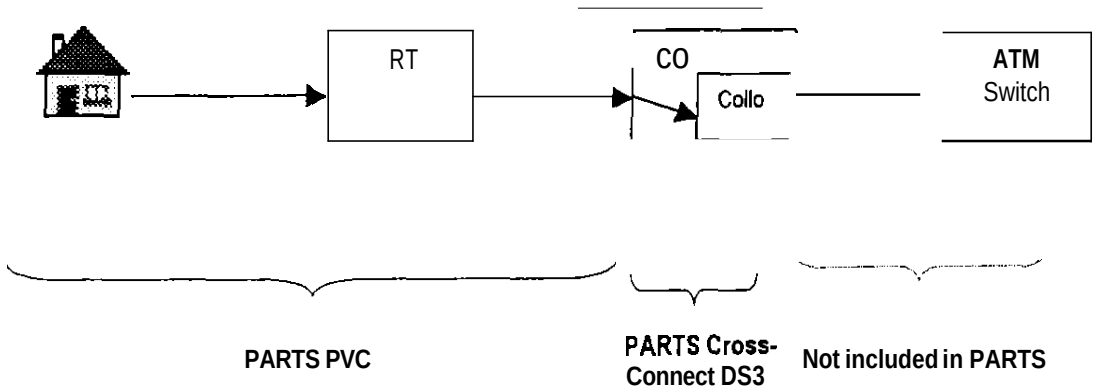
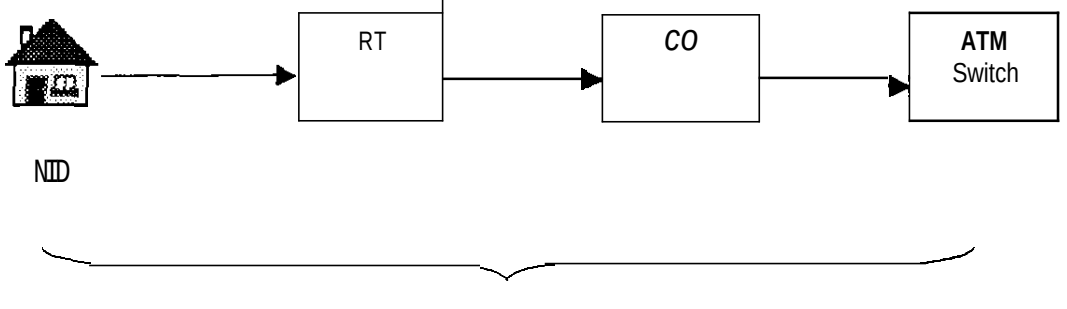


Figure **2.** Data Traffic Over Infospeed



The PARTS recurring charge without volume or term commitments for the 768 Kbps/128 Kbps product **is** $21.00 per month per end-user, plus $150.00 per month per **DS3** port and cross-connect.[5] Infospeed's recurring charge without volume or term commitments for the 768 Kbps/128 Kbps product is $39.95 per month.[6] With a five-year, million-line commitment, the Infospeed recurring charge is $29.95.[7] According to Verizon, the Infospeed recurring charge recovers an annualized portion of 11.25% of the service's non-recurring costs and associated

[5] PARTS Tariff, § 31.17.4.
[6] Infospeed Tariff, § 5.1.6.A.
[7] Infospeed Tariff, § 5.1.6.C.

profit;' the recurring charge for PARTS does not recover any of the service's non-recumng charges.'

Finally, PARTS allows service only to end-users who are served by RTs; Infospeed allows service Io end-users via both RTs and central offices.

Comparing Apples to Apples

The Services' Functionalities

Because Infospeed transports the traffic to the ATM switch and PARTS only carries to the collocation arrangement, adding a transport service to PARTS to carry the traffic to the ATM switch allows an apples-to-apples comparison of the services. Such transport is available in Verizon's Tariff 20 under a number of possible provisions, including ATM Cell Relay Service (Part I, § 5 5), Exchange Access Asynchronous Transfer Mode Cell Relay Service I (Part I, § 5.9), Exchange Access Asynchronous Transfer Mode Cell Relay Service II (Part I, § 5.IO), Asynchronous Transfer Mode Network Service I (Part II, § 5.5), and Asynchronous Transfer Mode Network Service II (Part II, § 5.6).[10] Each of these services brings traffic to the ATM switch on the ATM network, just as Infospeed does.

Most of *the* rates for these ATM transport services are mileage-sensitive and depend upon the distance between the collocation arrangement and the wire center designated as an ATM hub by Verizon. Most rates are presented in escalating mileage tiers, with accompanying escalating rates. This analysis uses the UNI ("user network interface") DS3 option.

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[8] Verizon Transmittal No. 1076 (filed September 1, 1998), Workpaper 1, line 9.
[9] Verizon Transmittal No. 232 (filed August 9, 2002), Workpaper 1
[10] Because it is unclear which ATM service Verizon would require a CLEC purchasing PARTS to obtain, all current ATM services in Verizon Tariff F.C.C. No. 20 are listed, and, as described below, EarthLink has selected the most expensive service for purposes of this analysis. Enterprise ATM Cell Relay Service (Part I, § 5.6) is a grandfathered service no longer available to new customers, and thus excluded from this analysis. (Part I, § 5.6.1).

Figure 3. UNI Monthlv Rate **for** DS3

ATM Cell Relay Service

Tier 1 (0-5 miles):	$2891.**00** recurring
Tier 2 (5-25 miles):	$4704.00 recurring
Tier 3 (25-50 miles):	$7891.**00** recurring

Exchange Access Asynchronous Transfer Mode Cell Relay Service I

Non-mileage-sensflive	$3700.00 recurring

Exchange Access Asynchronous Transfer Mode Cell Relay Service II

Tier 1 (0-5 miles):	$2890.00 recurring
Tier 2 (5-25 miles):	$3955.00 recurring
Tier 3 (25-50 miles):	$6640.00 recurring

Asynchronous Transfer Mode Network Service I

Non-mileage-sensitive	$1210.00 recurring (includes $340 UNI + $870 Level of Service)

Asynchronous Transfer Mode Network Service II

Non-mileage-sensitive	$1210.00 recurring (includes $340 UNI + **$870** Level **of** Service)

Given the above menu, the most expensive *connection linking* the PARTS service in the collocation arrangement to the Verizon ATM switch aggregator is the Tier **3** ATM Cell Relay Service offering ai $7891.00 per month. Specifically, this service is called "UNI Port with Access Line Connection," and it is "a dedicated digital line that provides a link from Customer's premises to one of Company's **ATM** CRS hubs." Verizon Tariff F.C.C.No. 20, Part I, § 5.5.1.[11]

Although three different mileage tiers are provided, this analysis uses the $7891.00 figure, which assumes that *all* of the distances involved will be at least **25** miles. In reality, efficient

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[11] When Verizon provides transport *to* the **ATM** switch as part of its Infospeed service, it will share the transport facility, such as a **DS3,** among ISPs purchasing Infospeed, putting traffic for many ISPs on a single DS3 Verizon will fill the DS3 with PVCs, thus increasing efficiency and decreasing cost per PVC Collins Declaration, ¶ 8 Thus, this analysis properly assumes that a **PARTS** CLEC purchasing ATM transport service over a **DS3** to the Verizon ATM switch would likewise use the **DS3** capacity efficiently, fillingit with PVCs to the same extent that Verizon would

deployment dictates that most end-users will be served by wire centers located very close to the ATM switch [12] In any event, adding the ATM Cell Relay Service UNI Port with Access Line Connection ***DS3*** to the PARTS service carries the data traffic just as far as Infospeed does: from the NID to the ATM switch on Verizon's ATM network."

The Services' Recurring Rates

The PVC portion of PARTS is priced on a monthly recurring per-end-user basis ($21.00 each), as is Infospeed ($39.95 each). However, both the DS3 cross-connect portion of PARTS and the ATM Cell Relay Service UNI Port with Access Line Connection DS3 is not, thus complicating the price comparison. The DS3 price is translated to a per-end-user rate by dividing that rate by 3,000, which is the number of PVCs (equivalent to end-users) that a DS3 carries.[14] Accordingly, dividing the $1 50.00 monthly recurring rate for the PARTS cross-connect by 3,000 equals $0.05 per PVC or end-user. Dividing the $7891.00 recumng rate for the **ATM** Cell Relay Service UNI Port with Access Line Connection DS3 by 3,000 equals $2.63 per PCV or end-user. Adding $0.05 and ***$2.63*** to the PARTS PVC recurring monthly charge of $21.00 totals a NID-to-ATM switch recurring rate of $23.68.

The Infospeed recurring rate also recovers a portion of the service's non-recurring costs, as well as a mark-up on those costs." The recurring rate for PARTS, however, does not recover any non-recurring costs.[16] To compare recurring rates, adjustment must be made for the non-recumng costs recovered by Infospeed's recumng rate. In its Infospeed rate justification filing, Venzon explained that it included an annualized 11.25% of its non-recumng cost in its recurring rate. Since the non-recurring monthly charge in that filing was $99.00 (including the mark-up)," the amount of non-recurring cost and associated mark-up that was included in the recumng charge (88.75% of $99.00) was $1.08. Accordingly, the Infospeed monthly recumng rate, excluding all non-recurring elements, is **$38.87** ($39.95 minus $1.08).

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[12] Collins Declaration, ¶ **5.**
[13] Collins Declaration, ¶ 7.
[14] Collins Declaration, ¶ 6.
[15] Verizon Transmittal No. 1076 (filed September 1, 1998), Workpaper 1, line **9.** It is appropriate to rely on the 1998 Infospeed cost justification because the recurring and non-recurring charges are the same today as they were in 1998.
[16] Verizon Transmittal No. **232** (filed August 9, 2002), Workpaper 1
[17] Verizon Transmittal No. 1076 (filed September 1, 1998), Workpaper 2.

Different ***Prices for the Same Services***

As the above analysis reveals, a CLEC can purchase PARTS and DS3 transport to the ATM switch (even assuming that switch is *always* over **25** miles away from the end-user's serving wire center) for approximately $23.68 per month per end-user. ***An*** ISP, which Verizon **will** not permit to purchase PARTS, must obtain Verizon DSL via the Infospeed offering, for which Verizon charges an effective recurring rate of $38.87 per month per end-user. Whether the customer is a CLEC paying $23.68 or an ISP paying $15.19 more, the service Venzon provisions is exactly the same: the data traffic is carried from the end-user's NID, through the Remote Terminal, to the Verizon ATM switch."

As EarthLink stated in its August 30* letter, Sections 201 and 202 of the Communications Act forbid Verizon from charging a significantly different and higher recumng Infospeed rate for essentially the same service as offered in PARTS." Accordingly, EarthLink urges the Commission to designate for investigation the question of whether the PARTS recumng charge is discriminatory in light of Verizon's Infospeed offering.

---

[18] Although the Infospeed recurring rate also applies to end-users served through COs, rather than RTs, this difference suggests only that the Infospeed recumng rate is lower than it would be if Infospeed served end-users only through RTs, since serving an end-user through a CO is less costly than serving one through an RT. Collins Declaration, ¶ 3.

[19] ***See, In the Matter of AT&T Communications Revisions to Tariff F.C.C. No. 1***, Memorandum Opinion and Order, 7 FCC Rcd. 156, ¶ 7 (CCB 1991) (Commission initiated investigation of AT&T tariff upon finding that "customers are to be charged different rates for what is otherwise the same service . . . . Such apparent discrimination in the terms and conditions of service raise serious questions of compliance with the prohibition against unreasonable discrimination contained in Section 202(a) of the Communications Act, 47 U.S.C. § 202(a)"); ***In the Matter of Revisions to Southwestern Bell Tel. Co.. Tariff F.C.C. No.*** 68, Order, 4 FCC Rcd. 2624 (CCB 1988) (FCC rejects tariff on the basis, in part, that "[u]ltimately, the proposed tariff revisions could result in different customers paying different rates for the same service.").

In accordance with the Commission's *ex parte* rules, attached please find two **copies of** this letter for filing in the above-referenced docket. Should you have any questions regarding this matter, please feel free to contact the undersigned.

Sincerely,

Mark J. O'Connor
Kenneth R. Boley
Counsel for EarthLink, Inc

cc: Judith Nitsche
Chris Barnekov
Deena Shetler
Margaret Dailey
Jay Atkinson
James Lichford
Vienna Jordan
Eugene Gold

ATTACHMENT A

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of
Verizon Transmittal No. 232, DA-2140

DECLARATION OF GREGORY P. COLLINS

My name is Gregory P. Collins, and I declare that the following statements *are* true and accurate to the best of my knowledge:

1. I am Director of Network Engineering and Operations for EarthLink, Inc., a position I have held since September 2000. Prior to that I was Director of Technical Operations at OneMain.com, a position I took in February 1998. My current business address is 8320 East Walker Springs Lane, Suite 100, Knoxville, Tennessee 37923.

2. Verizon currently offers digital subscriber line ("DSL") service to Internet Service Providers ("ISPs") via an offering called Infospeed. Infospeed provides ISPs DSL access to end-users who are served through remote terminals ("RTs") as well as those served through central offices ("COs") but not RTs.

3. Because most RT traffic is routed through a CO, it would be more costly for Verizon to provide service to an end-user served through an RT than it would be to provide service to an end-user served through a CO but not through an RT.

4. For an entity purchasing transport to the ATM switch for data traffic delivered to its collocation arrangement over Verizon's PARTS service, it would not be necessary to purchase PVCs in connection with the ATM transport. Rather, the PARTS service provides the PVCs, and those PVCs would flow over the ATM transport from the collocation arrangement to the ATM switch.

5. Although it is not necessary that every CO or serving wire center have an ATM switch aggregator, such ATM switches, or "hubs," would be located in or near COs that receive the greatest amount of traffic bound for the ATM network. This would minimize transport to the ATM switch and improve efficiency, and is likely the way Verizon has designed its network. Thus, the distance traffic must travel from the collocation arrangement of a CLEC purchasing PARTS to the ATM switch will, in most cases, be very short.

6. In my experience, a DS3 facility is easily capable of carrying 3,000 PVCs. This would apply to DS3 transport from the collocation arrangement of a CLEC purchasing PARTS to the Verizon ATM switch. In this situation, each PVC is equivalent to one DSL end-user.

7. Based upon my understanding of Verizon's ATM service offerings, the PARTS tariff and associated materials, and Venzon's Infospeed service, it is my opinion that the ATM Cell Relay Service UNI Port with Access Line Connection, once added to the PARTS service, brings the data traffic to the same point as does Infospeed. That point is the ATM switch on Verizon's ATM network.

8. When Verizon provides transport to the ATM switch as part of its Infospeed service, it is my experience that it will share the transport facility, such as a DS3, among entities purchasing Infospeed. Verizon will carry traffic for many different customers on a single DS3. Verizon will fill the DS3 with PVCs, thus increasing efficiency and decreasing cost per PVC.

I declare that the foregoing is true and correct to the best of my knowledge

Gregory P. Collins

October 2, 2002

ATTACHMENT B

This material is filed on 15 days' notice under Section 204(a)(3) of the Communications Act

September 1, 1998

Transmittal No. 1076

Magalie Roman Salas
Secretary
Federal Communications Commission
Washington, D.C. 20554

Attention: Common Carrier Bureau

The accompanying tariff material, issued by The Bell Atlantic Telephone Companies and bearing Tariff F.C.C. No. 1, Access Service, is sent to you for filing in compliance with the requirements of the Communications Act of 1934, as amended. This material, filed on fifteen days' notice, is scheduled to become effective September 16, 1998 and consists of tariff pages as indicated on the following check sheets:

Tariff F.C.C. No. 1	Check Sheet Revision No.
	981st Revised Page 1
	127th Revised Page 1.12

With this filing, Bell Atlantic proposes to introduce a new offering, Infospeed DSL (Infospeed Digital Subscriber Line Service). Infospeed DSL Service provides connectivity and transport of a customer's data using asymmetric digital subscriber line technology.

Support information as specified in Sections 61.49 of the Commission's Rules is included with this filing.

Payment in the amount of $600.00 has been electronically transmitted to the Mellon Bank in Pittsburgh, Pennsylvania in accordance with the fee program procedures.

The original of this transmittal letter is being hand-delivered today to the Secretary. In addition, a copy of this transmittal has been electronically delivered today to the Commission via the Internet.

Acknowledgement and date of receipt of this filing are requested. **A** duplicate letter of transmittal is attached for this purpose.

All correspondence and inquiries in connection with this filing must be forwarded to Joe Mulieri, Director, Federal Relations, via facsimile on 202 336-7866 at 1300 I Street, N.W., Suite 400 West, Washington, D.C. 20005.

Joseph J. Mulieri (JL)

Attachments to the Original:
F.C.C. Form 159

ACCESS SERVICE CHECK SHEET

Title Pages 1 and 2 and Pages 1 to 982 inclusive of this tariff are effective as of the date shown. Original and revised pages as named below and Supplement Nos. 191, 198, 208, 210, 211, (D) and (D) contain all changes from the original tariff that are in effect on the date hereof.

Page	Number of Revision Except as Indicated	Page	Number of Revision Except as Indicated	Page	Number of Revision Except as Indicated
Title 1	3rd	16	6th	43.1	Original
Title 2	2nd	17	7th	44	5th
1	981st*	18	13th	45	3rd
1.1	212th	18.1	Original	46	Original
1.2	151st	19	13th	47	3rd
1.2.1	43rd	20	19th	47.1	2nd
1.3	241st	20.1	6th	47.2	2nd
1.4	143rd	20.2	5th	48	2nd
1.4.1	24th	20.3	8th	49	15t
1.5	138th	20.4	1st	50	15t
1.6	101st	21	2nd	51	llth
1.7	49th	22	Original	51.1	15t
1.8	165th	23	1st	52	6th
1.9	81st	24	8th	53	16th
1.10	61st	25	Original	53.1	6th
1.11	26th	26	Original	53.2	3rd
1.12	127th*	27	2nd	53.3	15t
1.13	61st	28	2nd	54	4th
2	1st	28.1	Original	55	Original
3	5th	29	2nd	56	3rd
	10th	30	Original	56.1	7th
	12th	31	Original	57	16th
6	10th	32	Original	57.1	6th
6.1	7th	33	original	58	14th
6.2	3rd	34	Original	59	9th
7	12th	35	10th	60	12th
8	12th	35.1	2nd	61	7th
9	13th	36	4th	62	7th
10	20th	37	8th	62.1	5th
11	24th	38	1st	63	8th
12	4th	39	13th	64	Original
13	3rd	39.1	llth	65	5th
14	9th	40	4th	66	2nd
15	3rd	41	9th	67	8th
15.1	7th	41.1	2nd	67.1	2nd
15.2	6th'	42	6th	68	2nd
15.3	1st	43	2nd	69	6th

(This page filed under Transmittal No. 1076)

+New or Revised Pages

Issued: September 1, 1998

Effective: September 16, 1998

Vice President
2980 Fairview Park Drive, Falls Church. Virginia 22042

ACCESS SERVICE CHECK SHEET (Cont'd)

Page	Number of Revision Except as Indicated	Page	Number of Revision Except as Indicated	Page	Number of Revision Except as Indicated
889	5th	903.16	Original	918.7.1	3rd
889.1	Original	903.17	1st	918.8	llth
890	5th	903.18	Original	918.8.1	2nd
890.1	2nd	903.19	Original	918.9	8th
890.2	3rd	903.20	1st	918.9.1	3rd
890.3	2nd	903.21	Original	918.9.2	Original
890.4	26th	903.22	2nd	918.9.3	Original
890.5	4th	903.23	Original	918.9.4	1st
890.6	4th	903.24	1st	918.10	15th
890.7	2nd	903.25	1st	918.10.1	3rd
890.8	2nd	903.26	1st	918.10.2	1st
890.9	3rd	903.27	Original	918.11	3rd
890.10	2nd	903.28	2nd	918.12	3rd
890.11	3rd	903.29	1st	918.13	3rd
890.12	8th	904	2nd	918.14	3rd
890.13	5th	904.1	2nd	918.15	3rd
890.14	1st	904.2	1st	918.16	4th
890.15	1st	905	6th	918.17	3rd
890.16	3rd	906	5th	918.18	2nd
890.17	3rd	907	3rd	918.19	2nd
890.18	3rd	908	7th	918.20	Original
890.19	3rd	908.1	6th	918.21	Original
890.20	3rd	909	8th	918.22	original
890.21	3rd	909.1	2nd	918.23	Original
890.22	3rd	910	3rd	918.24	original
890.23	4th	911	5th	918.25	Original
891	1st	911.1	4th	918.26	Original
892	1st	911.2	2nd	918.27	Original
893	1st	911.3	3rd	918.28	Original
894	2nd	912	8th	918.29	Original
895	1st	912.1	3rd	918.30	Original
896	Original	913	6th	918.31	original
897	Original	914	6th	918.32	original
898	1st	915	7th	918.33	original
899	Original	916	12th	918.34	15t
900	1st	916.1	llth	918.35	15t
901	Original	916.2	10th	918.36	original
902	2nd	916.3	7th	918.37	15t
902.1	Original	916.4	3rd	918.38	Original'
903	1st	917	7th	918.39	Original'
903.1	1st	917.1	11th	918.40	Original*
903.2	3rd	917.2	8th	918.41	Original'
903.3	3rd	917.3	2nd	918.42	Original'
903.4	Origina1	918	9th	918.43	Original'
903.5	Original	918.1	llth	919	2nd
903.6	1st	918.2	9th	920	Original
903.7	1st	918.3	14th	921	Original
903.8	Original	918.3.1	2nd	922	18th
903.9	Origina1	918.4	12th	923	16th
903.10	Original	918.5	10th	943	10th
903.11	Original	918.5.1	2nd	944	14th
903.12	2nd	918.5.2	1st	945	7th
903.13	2nd	918.6	19th	946	9th
903.14	Original	918.6.1	6th	946.1	3rd
903.15	Original	918.7	10th	947	12th

(This page filed under Transmittal No. 1076)

*New or Revised Pages

Issued: September 1, 1998

Effective: September 16, 1998

Vice President
2980 Fairview Park Drive, Falls Church, Virginia 22042

ACCESS SERVICE

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ACCESS SERVICE

16. Packet Data Services (Cont'd)

16.8 Infospeed DSL Service (N)

(A) General

Infospeed DSL Service is a high speed data access service that uses asymmetric digital subscriber line technology.

(B) Definitions

1. **Asymmetric Digital Subscriber Line (ADSL):** an access technology that enables data to be sent over copper facilities.

2. **Downstream:** the transmission path from the Company's Infospeed DSL Connection Point to the customer's designated premises.

3. **Infospeed DSL Connection Point:** a location designated by the Company that serves as an aggregation point for the collection of Infospeed DSL traffic from multiple serving wire centers.

4. **Splitter:** a passive band filter that divides the frequency of a copper facility.

5. **Upstream:** the transmission path from the customer's designated Premises to the Infospeed DSL Connection Point.

(C) Service Description

1. Infospeed DSL is an access service that uses ADSL. A splitter is installed at the customer's designated premises. Data traffic generated by a customer-provided modem is transported to the Infospeed DSL Connection Point. From there, the traffic is transported to the customer's information service provider via the Company's Asynchronous Transfer Mode Cell Relay Service (ATM), as specified in subsection (D)3, below.

2. Three (3) types of Infospeed DSL Service are available based on the upstream and downstream speed combinations chosen by the customer:

(a) Infospeed 640K: provides maximum speeds of **640** kilobits per second (kbps) downstream and *90* kbps upstream.

(b) Infospeed 1.6M: provides maximum speeds of 1.6 megabits per second (Mbps) downstream and *90* kbps upstream. (N)

(This page filed under Transmittal No. 1076)

ACCESS SERVICE

16. Packet Data Services (Cont'd)

16.8 Infospeed **DSL** Service (Cont'd)

(C) Service Description (Cont'd)

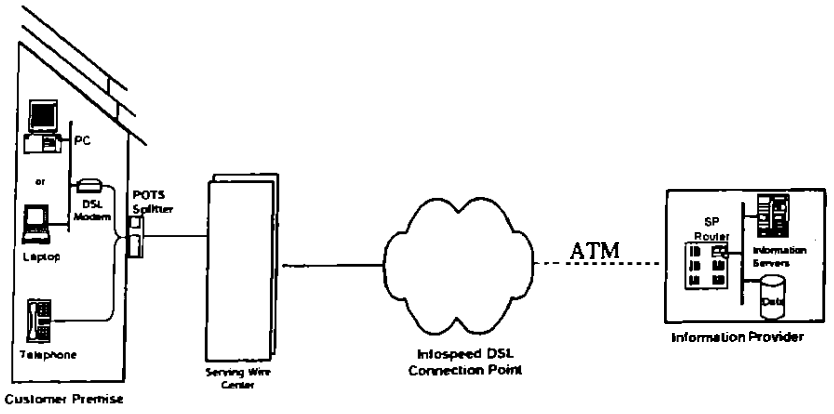
2. (Cont'd)

(c) Infospeed 7.1M: provides maximum speeds of 7.1 Mbps downstream and **680** kbps upstream.

3. The data speeds listed above are maximum speeds. Actual speeds may be lower due to the impact of loop distance, modem technology and other factors. Therefore, these data speeds are not guaranteed.

4. The following diagram depicts a generic view of the components of Infospeed DSL Service and the manner in which the components are combined to provide a complete Infospeed DSL Service connection.

Infospeed DSL



(N)

(This page filed under Transmittal No. 1076)

ACCESS SERVICE

16. Packet Data Services (Cont'd)

16.8 Infospeed DSL Service (Cont'd)

(D) Terms and Conditions

1. The Company will provision and maintain Infospeed DSL Service from the Infospeed DSL Connection Point to the network interface device (NID) at the customer's designated premises. The customer is responsible for obtaining a compatible splitter and modem.

2. The customer will provide the Company with the necessary information (e.g., customer name and address, circuit address, serving area, etc.) to provision Infospeed DSL Service.

3. Access from the Infospeed DSL Connection Point will be provided via the Company's ATM service. The rates and charges for ATM service are in addition to rates and charges for Infospeed DSL Service.

4. Infospeed DSL Service will be provisioned over existing Company copper facilities.

5. The Company will qualify copper facilities to determine the suitability of such facilities for Infospeed DSL Service. The Company will not provide Infospeed DSL service on copper facilities that are unsuitable for the Service. Nor will the Company provide Infospeed DSL Service if it determines that such provision will produce interference to other services.

6. Infospeed DSL Service will be provided subject to the availability and limitations of Company wire centers and outside plant facilities. A list of wire centers capable of providing Infospeed DSL Service is set forth in Section 16.8(E), following.

7. The Company reserves the right to interrupt temporarily Infospeed DSL Service for wire center maintenance, software updates, and in emergency situations.

8. The customer will obtain the appropriate authorization to allow the Company's employees or agents to enter the customer's designated premises at any reasonable hour for the purpose of installing, inspecting, or repairing Infospeed DSL Service, or, upon termination of Infospeed DSL Service, removing the Company's equipment.

(This page filed under Transmittal No. 1076)

ACCESS SERVICE

16. Packet Data Services (Cont'd)

16.8 Infospeed DSL Service (Cont'd)

(E) Service Deployment

The Infospeed DSL deployment schedule is shown below:

State	Wire Center	Targeted Service Date
DC	Georgia	November 1998
DC	Woodley	November 1998
DC	Dupont	January 1999
DC	Georgetown	January 1999
MD	Bethesda	November 1998
MD	Silver Spring	November 1998
MD	Wood Acres	November 1998
MD	Montrose	December 1998
ME	Northwood	December 1998
MD	Wheaton	December 1998
MD	Wildwood	December 1998
MD	Beltsville	January 1999
MD	Colesville	January 1999
MD	Riggs Road	January 1999
ME	Central Avenue	February 1999
MD	Hyattsville	February 1999
MD	Landover	February 1999
MD	Suitland	February 1999
NJ	Journal Square	November 1998
NJ	Cliffside Park	December 1998
NJ	Englewood	December 1998
NJ	Leonia	December 1998
NJ	Bergen	January 1999
NJ	Elizabeth	January 1999
NJ	Market	January 1999
NJ	North Bergen	January 1999
NJ	Union City	January 1999
NJ	Hackensack	February 1999
NJ	Oradell	February 1999
NJ	Rutherford	February 1999
PA	Squirrel Hill	September 1998
PA	Glenshaw	September 1998
PA	Oakland	September 1998
PA	Bala Cynwyd	October 1998
PA	Beaver Falls	October 1998
PA	Bethel Park	October 1998
PA	Carnegie	October 1998
PA	Connellsville	October 1998
PA	Greensburg	October 1998
PA	Ardmore	November 1998
PA	Bryn Mawr	November 1998
PA	Jenkintown	November 1998

Note: The Infospeed DSL targeted service dates are subject to technical considerations and equipment availability.

(This page filed under Transmittal No. 1076)

16. Packet Data Services (Cont'd)

16.8 Infospeed DSL Service (Cont'd)

(E) Service Deployment (Cont'd)

State	Wire Center	Targeted Service Date
PA	Willow Grove	November **1998**
PA	New Kensington	November **1998**
PA	New Castle	November **1998**
PA	Washington	November **1998**
PA	Uniontown	November **1998**
PA	Bethayres	December **1998**
PA	Phoenixville	December **1998**
PA	Royersford	December **1998**
PA	Waverly	December **1998**
PA	Chestnut Hill	January **1999**
PA	Coatesville	January **1999**
PA	Collegeville	January **1999**
PA	Downingtown	January **1999**
PA	Perkasie	January **1999**
PA	Soudertown	January **1999**
VA	Braddock	September **1998**
VA	Fairfax	September **1998**
VA	Falls Church	September **1998**
VA	Lewinsville	September **1998**
VA	Springfield	September **1998**
VA	Arlington	November **1998**
VA	Columbia Pike	November **1998**
VA	Barcroft	November **1998**
VA	Alexandria	December **1998**
VA	Annandale	December **1998**
VA	Cameron	December **1998**
VA	Merrifield	December **1998**
VA	Burgundy Road	January **1999**
VA	Franconia	January **1999**
VA	Vienna	January **1999**

Note: The Infospeed DSL targeted service dates are subject to technical considerations and equipment availability.

(N)

(This page filed under Transmittal No. 1076)

ACCESS SERVICE

16. Packet Data Services (Cont'd)

16.8 Infospeed DSL Service (Cont'd) (N)

(F) Rate Regulations

1. A recurring monthly rate is charged for each service.

2. A nonrecurring rate applies for the installation of each service. The same rate applies for a change in service configuration (i.e., a change in data speeds).

3. If a customer cancels Infospeed DSL Service to a designated premises within thirty (30) days of installation, the customer will not be charged the foregoing recurring and nonrecurring charges.

(G) Rates and Charges

	USOC	Monthly Rate	Nonrecurring Charge	
Infospeed DSL 640K	ADAA1	**$ 39.95**	**$ 99.00**	
Infospeed DSL 1.6M	ADAB2	**59.95**	**99.00**	
Infospeed **DSL** 7.1M	ADAC3	**109.95**	**99.00**	(N)

THE BELL ATLANTIC TELEPHONE COMPANIES

TARIFF F.C.C. NO. 1

Infospeed Digital Subscriber Line Service

DESCRIPTION AND JUSTIFICATION

Transmittal No. 1076

SEPTEMBER 1.1998

SECTION	DESCRIPTION
1	Description and Justification
2	Compliance with Commission Rules
3	*Cost* Development
4	Demand, Rates and Revenues
5	Workpapers

SECTION **1**

DESCRIPTION AND JUSTIFICATION

A. Introduction

Bell Atlantic' with this filing introduces Infospeed Digital Subscriber Line (DSL) Service in Section 16 of its Tariff F.C.C.No. 1.

Infospeed DSL is an interstate data access service that uses asymmetric digital customer line (ADSL) technology, which enables data to be sent at high speeds over copper facilities. The frequency band of a customer's copper facility is divided by a passive band filter **at** the customer's premises. The customer's ability to make and receive voice calls over the copper facility is unaffected by this service. Data traffic is transported at high speeds over the higher frequency band to a specially equipped wire center, and from there to an Asychronous Transfer Mode Cell Relay Service (ATM) switch, which serves as an aggregation point for multiple wire centers. Internet Service Providers (ISPs) and other carriers connect to Infospeed DSL Service using ATM service offered in Section 16.6 of the tariff.

Bell Atlantic's Infospeed DSL Service will dramatically increase the speed at which consumers can communicate over the Internet. Its maximum speed of 7.1 Mbs is over 12,000% faster than a 56Kbs modem. These lightning speeds will make use of the Internet more efficient and enjoyable, and will likely result in increased use of the Internet by consumers in Bell Atlantic's serving area.

The Service has the added advantage of reducing the congestion on the public switched

---

[1] The Bell Atlantic telephone companies ("Bell Atlantic") covered by this filing are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, **D.C.**, Inc.; and Bell Atlantic-West Virginia, Inc.

network. Most residential lntemet users today connect to the Internet via the circuit-switched voice network. A study completed in 1996 by Bell Atlantic found that, during a four **week** period, the average length of all ISP calls was 18 minutes compared with **4** to 5 minutes voice calls. In a switched network, these longer holding time calls tie up both switching resources and interoffice trunks. This results in increased costs to Bell Atlantic and its customers as Bell Atlantic adds facilities to its voice network to help cope with the network congestion. Infospeed DSL Service will help alleviate this problem by diverting data traffic from the voice network to dedicated data connections.

Infospeed DSL Service is appropriately filed as an interstate access service. The Commission defines an "access service" to include "services and facilities provided for the origination or termination of any interstate or foreign telecommunication."[2] Infospeed DSL Service will be used to originate and terminate Internet traffic. The Commission consistently has classified enhanced services, such as Internet traffic as interexchange, and predominantly interstate, since its first order creating the ESP exemption and continuing through the present -- reiterating the conclusion most recently in its report to Congress on universal service.[3] Even where the Commissionhas treated ISP traffic like local traffic, it has done so based on an explicit exemption from access charges that recognize the Commission'sjurisdiction over interstate service.

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[2] 47 C F.R. § 69.2(b).

[3] See, e.g., MTS and WATS Market Structure, 97 FCC 2d 682, ¶ 78 (1983) (ESPs use "local exchange services or facilities . . . for the purpose ofcompleting interstate calls"); id. at ¶ **83** (ESPs use "exchange service for jurisdictionally interstate communications"); Amendments of Part 69 ofthe Commission's Rules, 2 FCC Rcd 4305, **4306** (1 987) (ESPs "like facilities-based interexchange carriers and resellers, use the local network to provide interstate services"); In re Access Charge Reform, 11 FCC Rcd 21354, ¶ 284 (ESPs use "incumbent LEC facilities

B. Service Description

Infospeed DSL Service transports a customer's data from the network interface device (NID) to an ATM port located within the same LATA (Infospeed DSL Connection Point). The customer installs a passive band filter, known as a splitter, on the customer's side of the NID. The splitter divides the frequency band of the customer's line. The low frequency band continues to be used for voice communications. The high frequency band is used for data traffic, which is sent and received via a customer-supplied modem. The modem connects to the customer's computer using a customer-supplied network interface card.

At the serving wire center, the customer's loop is connected to Bell Atlantic's Digital Subscriber Line Access Multiplexer (DSLAM). The DSLAM diverts voice traffic to a voice switch. The data traffic is carried over interoffice facilities to the Infospeed DSL Connection Point. The Infospeed DSL Connection Point is accessed via Bell Atlantic's ATM network.

Three types of Infospeed DSL Service are available based on the upstream (to the Infospeed DSL Connection Point) and downstream (to the customer) peak speed combinations chosen the customer: (1) Infospeed 640K provides maximum speeds of 640 kilobits per second (Kbps) downstream and 90 Kbps upstream; (2) Infospeed 1.6M provides maximum speeds of 1.6 megabits per second (Mbps) downstream and 90 Kbps upstream; (3) Infospeed 7.1M provides maximum speeds of 7.1 Mbps downstream and 680 Kbps upstream.

Bell Atlantic will pre-qualify local loops to determine if they are compatible with Infospeed DSL Service. Loop length, or the presence of bridge taps, load coils, repeaters, among other things. may make a loop incompatible for use with the Service. Bell Atlantic will not

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to originate and terminate interstate calls"); Universal Service Report, ¶ 146 (ESPs use "local exchange networks to originate and terminate interstate services").

provision Infospeed DSL Service if it determines that it is not technically feasible to do so over existing copper facilities or if Infospeed DSL Service will interfere with any other service. Competitive local exchange carriers will have access to loop pre-qualification information, where available, via a graphical user interface to a Bell Atlantic database.

While Bell Atlantic anticipates that backbone providers, ISPs and other carriers will be the principal customers for the Service, the proposed tariff contains no user limitations, and Bell Atlantic will provide Infospeed DSL Service on a non-discriminatory basis on request to **any** customer.

C. Deployment

Bell Atlantic will deploy Infospeed DSL Service in selected wire centers based upon market demand and the suitabilityoffacilities. The wire centers where Bell Atlantic will initially offer Infospeed DSL Service are listed in Section 16.8(G) of the tariff. [4] Bell Atlantic may add wire centers to this list periodically.

D. Application **of** Rates

Bell Atlantic is proposing a monthly flat recurring rate and a nonrecurring installation charge for Infospeed DSL Service, The recurring rate differs based on the speed combination selected.

[4] Infospeed DSL target service dates are subject to technical considerations **and** equipment availability.

SECTION 2

COMPLIANCE WITH COMMISSION'S RULES

This filing includes documentation to comply with §§61.49(g) and (h) of the Commission's Rules,[5] which specify the material required to support new service tariff filings. This material includes 1) a study containing a projection of costs for a representative 12-month period, 2) estimates of the effect of the new service on traffic and revenues, and 3) supporting workpapers for estimates of costs, demand, and revenues. Section 3 -- Costs, Demand, Rates, and Revenues, and the attached workpapers, contain the information required to comply with §§61.49(g) and (h).

[5] 47 C.F.R. §§ 61.49(g) and (h).

SECTION 3

COSTS, DEMAND, RATES, and REVENUES

A. Cost Development

(1) Recurring Charges

Bell Atlantic performed a cost study to determine the investment required to deploy Infospeed-DSL Service. The unit investments were multiplied by account-specific annual cost factors to calculate the direct cost components of depreciation, cost of money, income taxes, maintenance, administration, and other taxes. The recurring costs and annual costs are shown on Workpaper 1.

(2) Nonrecurring Charges

Task-oriented studies were used to develop the labor costs associated with the installation activities required for Infospeed DSL Service. The time required to provision the Service was multiplied by the applicable labor rate to calculate the nonrecurring costs. Certain of the nonrecurring costs will be recovered through the recurring rate. The nonrecurring cost development is shown on Workpaper 2.

(3) Ratios

Bell Atlantic developed ratios in order to compare 1) investment-related recurring direct unit costs, and unit investment and 2) direct unit costs and rates. These ratios are shown at the bottom of the respective cost workpapers.

B. Demand **Forecast**

The demand forecast for the Service is based on consumer surveys. The demand forecast is shown on Workpaper **3.**

C. Cross-Elastic Effects

Bell Atlantic does not foresee significant cross-elasticities with its other services.

D. Rates

Bell Atlantic first developed direct recurring and nonrecurring costs, as shown above, to determine the minimum level at which prices can be set. Conditionsthat impact the price for the Service were evaluated to determine the proposed rates for the Service. Such conditions include the prices of competitive alternatives available to customers, pricing levels at which customers have indicated a willingness to pay, and other marketplace conditions. Nonrecurring rates ***are*** set at or slightly above direct cost. Recurring rates *are* set above direct costs.

E. Revenue Forecast

The projected revenues for the Service were calculated by multiplying the proposed rates by the projected demand. The projected revenues are calculated in Workpaper **3.**

SECTION 5

WORKPAPERS

Workpaper 1	Recurring Costs - End User Access Connections
Workpaper 2	Nonrecurring Costs
Workpaper 3	Demand, Annual Costs and Revenues

BELL ATLANTIC WORKPAPER 1

InfoSpeed-DSL
END USER ACCESS CONNECTION
RECURRING COST DEVELOPMENT

ITEM	SOURCE	Option 1 COST A	Option 2 COST B	Option 3 COST C
1. Unit Investment [1]	Company Study			
2. Depreciation	Company Study			
3. Cost of Money	Company Study			
4. Income Taxes	Company Study			
5. Maintenance	Company Study			
6. Administration	Company Study			
7. Other Taxes	Company Study			
8. Total Direct Cost	Ln 2..Ln 7			
9. Annualized portion of nonrecurring cost adjusted for the cost of money(11.25%)				
10. Other Expenses [2]	Company Study			
11. Total Annual Cost	Ln 8..Ln10			
12. Monthly Cost	Ln 11/12			
13 Monthly Rate		$39.95	$59.95	$109.95
13. Annual Cost/Investment	Ln 8/Ln 1			
14. Cost/Monthly Rate	Ln 12/Ln 13			

1 - Unit Investment include capitol required to purchase SONET equipment, Central Office Muxes and InterOffice facilities.

2 - Other Expenses relates to the support functions performed by Network and Marketing, Research and Development, Procurement, and Information Systems.

BELL ATLANTIC WORKPAPER **2**

InfoSpeed-DSL
NONRECURRING INSTALLATION COSTS

END USER ACCESS CONNECTION	TOC	LABOR RATE	COST
NETWORK CREATION			
- ATU-C Preassignment - CO Technician			
- ATU-C Inventory - AT/ELA			
- ATM Inventory/OSS PVC - Special Clerk			
- ATM Port Assignment - CO Technician			
- Router Provisioning - CO Technician			
TOTAL			
SERVICE ACTIVATION			
- Cross Connect - Frame Attendant			
- MLAC RMA - AS. ADM.			
- Engineering RMA - AS. ADM.			
- Disc. Cross Connect - Frame Attendant			
TOTAL			
SERVICE ESTBLISHMENT CHARGE			
- Gateway Router Provisioning			
- CLA Updates - Control Sub System			
- SO Processing - Disconnect CSS			
TOTAL			
Cross Connect-Frame Attendant			
Disc. Cross Connect-Frame Attendant			
TOTAL			
SERVICE ORDER			
TOTAL NONRECURRING COST (Portion of Nonrecurring costs to be recovered through Recurring ratej			
NET NONRECURRING COSTS			
NONRECURRING RATE			**$99.00**

BELL ATLANTIC

WORKPAPER 3

InfoSpeed-DSL
ANNUAL DEMAND, COST, AND REVENUES

ITEM	Annual Demand A	Cost B	Rate C	Annual cost D=A*B	Annual Reunues E=A*C
RECURRING					
End User Access Connection					
Option1	60,425		$39.95		$2,413,978.75
Option 2	17,025		$59.95		$1,020,648.75
Option 3	5,700		$109.95		$626,715.00
'RECURRING.					
End User Access Connection	83,150		$99.00		$8,231,850.00

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Joseph J. Mulieri
Director
Government Relations - FCC

THE ATTACHED **COST** INFORMATION **IS** BEING SUBMITTED UNDER **SEAL** in support of Transmittal No. 1076 which is being filed on a streamlined basis on a **I5** days notice under Section 204 (a)(3) of the Telecommunications Act.

September 1, 1998

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: Bell Atlantic Request for Confidential Treatment of **Cost** Information Filed Under Seal in **Support of** Transmittal No. **1076**

Dear Ms. Salas:

Today, Bell Atlantic is filing Transmittal No. 1076, under its F.C.C. No. 1 Access Service Tariff, to introduce lnfospeed-Digital Subscriber Line Service. Transmittal No. 1076 is being filed on 15 days notice pursuant to the Commission's Tariff Streamlining Order.'

Because of the highly competitive nature of this service, Bell Atlantic has redacted the cost information associated with Transmittal No. 1076. Accordingly, Bell Atlantic is hereby requesting ,pursuant to Sections 0.457 and 0.459 of the Commission's rules, 47 C.F.R., Section 0.457 and 0.459, pursuant to Exemption 4 of the Freedom of Information Act ("FOIA''), 5 U.S.C. Section 552 (b)(4), and pursuant to the Tariff Streamlining Order and rules adopted thereunder, that such cost information be treated as confidential and be made subject to the standard Protective Order and Declaration adopted by the Commission in the Tariff Streamlining Order and published in Appendix B thereof.

[1] Tariff Streamlining Order, ***CC*** Docket No. 96-187, Released January **3**l, **1997.**

Under Exemption 4 of the FOIA, commercial or financial information is held to be confidential, and thus entitled to protection. if disclosure of such information would, inter alia, be, likely to cause substantial harm to the competitive position of the person from whom the information was obtained. See National Parks and Conservation Ass'n v. Morton, 498 F.2d 765, 770 (D.C. Cir. 1974): Critical Mass Energy Project v. NRC, 830 f.2d 278 (D.C. Cir. 1987).

The information for which Bell Atlantic seeks confidential treatment is competitivelysensitive investment and cost data, which if made available to competitors and alternate providers would provide such entities with valuable information regarding Bell Atlantic's cost structure.

There are many competitive alternatives to Bell Atlantic's proposed Infospeed Digital Subscriber Line Service (Infospeed DSL). Cable modem and direct PC providers (internet access provided directly to a PC via satellite) abound and provide high speed access services which directly compete with Bell Atlantic's proposed offering. In addition, Bell Atlantic has over 200 approved interconnection agreements with Competitive Local Exchange Carriers (CLECs) in its service area. All of these CLECs *are* at least potential competitors with many already offering a competitive service. Attachment **A** provides a list of website locations containing examples of offerings that directly compete with Bell Atlantic's proposed Infospeed DSL Service.

For the reasons cited above, Bell Atlantic respectfully requests that the Commission grant confidential treatment to the cost information submitted in support of Transmittal No. 1076, and, that such information be subject to the standard protective order provided for in the Tariff Streamlining Order. Pursuant to the non-disclosure agreement that provides for review of information granted confidential treatment by interested parties, for the specific purpose of review and comment on the instant transmittal only, Bell Atlantic will provide access and review of such information to signatories of such an agreement at the following locations:

- Joseph Mulieri
  Director – FCC Relations
  1300 I Street, N.W. – Suite 400W
  Washington, D.C. 20005
  (202) 336-7850

- Lawrence Graham
  Senior Specialist
  2980 Fairview Park Dr.
  Falls Church, VA. 22042
  (703) 645-1287

Should you have any questions regarding this material please do not hesitate to contact me.

Sincerely,

Joseph Mulieri

Attachment

Cable Modern Providers:

- @Home - www.home.net
- Comcast@Home - www.comcastonline.com
- Cablevision@Home - www.optimumonline.com
- Cox@Home - www.cox.com/highspeed
- Cnet (Industry News) - www.cnet.com/content/features/techno/cablemodems
- Cable Modem Index - rpcp.mit.edu/~gingold/cable/

Satellite Providers:

- Viewmax - www.viewmax.com
- DirectPC - www.directpc.com

Competitive **Local Exchange Carriers:**

- Winstar - www.winstar.com
- RCN/Erols - www.rcn.com
- Covad - www.covad.com
- Intermedia - www.intermedia.com

Certificate of Service

I, Sybil **A.** Strimbu, slate that copies of the foregoing "Comments of EarthLink, Inc." were delivered hy hand or sent hy regular mail, this day, December 2, 2002, to the following:

Marlcnc H. Dortch, Secretary
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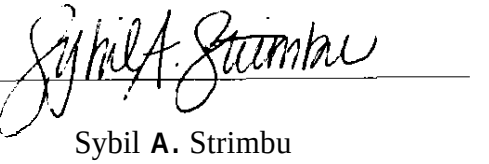

Sybil **A.** Strimbu