

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

In the Matter of)	
Local Telephone Number)	CC Docket No. 99-35
Portability Tariff Filings of)	
)	
Bell Atlantic Telephone Companies)	Transmittal No. 1111
)	
NYNEX Telephone Companies)	Transmittal No. 539

MEMORANDUM OPINION AND ORDER

Adopted: March 16, 1999

Released: March 16, 1999

By the Chief, Competitive Pricing Division:

I. INTRODUCTION

1. In this Memorandum Opinion and Order, we suspend for one day and set for investigation the tariffs filed by Bell Atlantic Telephone Companies and NYNEX Telephone Companies (collectively, Bell Atlantic) seeking to establish rates, terms, and conditions for long-term number portability end-user charges. Bell Atlantic filed the tariff transmittals on March 2, 1999 with effective dates of March 17, 1999. On March 9, 1999, AT&T Corporation (AT&T) filed a petition to reject or suspend Bell Atlantic's filings.¹ On March 15, 1999, Bell Atlantic filed a reply.² The Bureau will issue a separate order designating issues for investigation.

II. BACKGROUND

2. On May 12, 1998, the Commission issued the *Third Report and Order*,³ implementing section 251(e)(2) of the Communications Act of 1934, as amended,⁴ and

¹ AT&T Petition to Reject or Suspend Tariff, filed March 9, 1999.

² Bell Atlantic Reply, filed March 15, 1999.

³ In the Matter of Telephone Number Portability, *Third Report and Order*, 13 FCC Rcd 11701, 11723 at para. 35 (1998) (*Third Report and Order*).

⁴ 47 U.S.C. § 251(e)(2); see Telecommunications Act of 1996, § 101(a), § 251(e)(2), Pub. L. No. 104-104, 110 Stat. 56 (1996). Section 251(e)(2) of the Act provides that the costs of providing number portability "shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission."

promulgated rules governing long-term number portability cost recovery. The Commission determined in the *Third Report and Order* that incumbent LECs may recover their carrier-specific costs directly related to providing long-term number portability in two federal charges: (1) a monthly number portability charge to commence no earlier than February 1, 1999, that applies to end-users;⁵ and (2) a number portability query service charge that applies to carriers on whose behalf the incumbent LEC performs queries.⁶ The Commission delegated authority to the Common Carrier Bureau (Bureau) to determine appropriate methods for apportioning joint costs among portability and nonportability services and to issue any orders to provide guidance to carriers before they file their federal tariffs.⁷

3. On December 14, 1998, the Bureau issued the *Cost Classification Order*, addressing the general standards by which incumbent LECs should identify the carrier-specific costs directly related to providing long-term number portability and discussing the methodologies for measuring the eligible number portability costs.⁸ The Bureau also provided guidance to the incumbent LECs on the allocation of the eligible costs among the number portability end-user, pre-arranged query, default query, and database query charges. Finally, the Bureau discussed the specific cost support the incumbent LECs must provide with their tariff filings.

III. DISCUSSION

4. We find that Bell Atlantic's long-term number portability tariffs raise substantial questions of lawfulness that warrant investigation. These questions include, but are not limited to, the following: whether Bell Atlantic's method of identifying eligible Operations Support Systems (OSS) costs is unreasonable; whether Bell Atlantic's use of "standard" factors to estimate number portability costs is unreasonable; whether Bell Atlantic's inclusion of building and power costs in its calculation of number portability costs is unreasonable; and whether Bell Atlantic's overall costs for long-term number portability are unreasonable. We find that AT&T's petition to suspend and investigate Bell Atlantic's long-term number portability tariffs raise questions of lawfulness, similar to those we identified, and further supports an investigation of these tariffs.

5. The rate proposals and the issues raised in the tariff filings for long-term number portability are novel and complex. This is the first time Bell Atlantic has filed tariffs and

⁵ *Third Report and Order*, 13 FCC Rcd at 11776, para. 142; see also 47 C.F.R. §§ 52.33(a), (a)(1).

⁶ *Third Report and Order*, 13 FCC Rcd at 11778, para. 147; see also 47 C.F.R. §§ 52.33(a), (a)(2).

⁷ *Third Report and Order*, 13 FCC Rcd at 11740, para. 75.

⁸ In the Matter of Telephone Number Portability, Cost Classification Proceeding, CC Docket No. 95-116, *Memorandum Opinion and Order*, DA 98-2534 (Com. Car. Bur. rel., Dec. 14, 1998) (*Cost Classification Order*).

supporting documentation to implement end-user charges. We are therefore unable at this time to limit our investigation to discrete rates or provisions of Bell Atlantic's long-term number portability filings. We will, accordingly, suspend Bell Atlantic's proposed tariff filings for one day and initiate an investigation into the lawfulness of the proposed tariffs. The specific issues that will be the subject of the investigation will be identified in an upcoming designation order and may include, but may not be limited to, the issues identified in this Order. We may also, by order, identify discrete issues that do not warrant further investigation.

IV. *EX PARTE* REQUIREMENTS

6. This investigation is a permit-but-disclose proceeding and subject to the requirements of section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 C.F.R. § 1.1206(b)(2), as revised. Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission's rules. 47 C.F.R. § 1206(b).

V. ORDERING CLAUSES

7. ACCORDINGLY, IT IS ORDERED that, pursuant to section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, the tariff filed by Bell Atlantic Telephone Companies and NYNEX Telephone Companies ARE SUSPENDED for one day and an investigation IS INSTITUTED.

8. IT IS FURTHER ORDERED that, pursuant to sections 204(a) and 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 204(a) and 154(i), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 U.S.C. §§ 0.91 and 0.291, Bell Atlantic Telephone Companies and NYNEX Telephone Companies SHALL KEEP ACCURATE ACCOUNT of all amounts received that are associated with the rates that are subject to this investigation.

9. IT IS FURTHER ORDERED that Bell Atlantic Telephone Companies and NYNEX Telephone Companies MAY FILE supplements advancing the currently scheduled effective dates to March 16, 1999. Bell Atlantic Telephone Companies and NYNEX Telephone Companies SHALL FILE supplements reflecting the one day suspensions. For this purpose, we waive sections 61.58 and 61.59 of the Commission's rules, 47 C.F.R. §§ 61.58 and 61.59. Carriers should cite the "DA" number on the instant Order as the authority for the filings.

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10. IT IS FURTHER ORDERED that Bell Atlantic Telephone Companies and NYNEX Telephone Companies SHALL FILE these supplements no later than five business days from the release date of this Order.

11. IT IS FURTHER ORDERED that AT&T's petition to reject or suspend the Long-Term Number Portability Tariff filings of Bell Atlantic Telephone Companies and NYNEX Telephone Companies IS GRANTED to the extent indicated herein and otherwise IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Jane E. Jackson
Chief, Competitive Pricing Division
Common Carrier Bureau