

including Commercial Mobile Radio Service (“CMRS”) providers. The Telecommunications Act of 1996 (the “Act”) does not limit the availability of

performance measures and incentives to one type of carrier. Rather, performance measures and incentives must be available, on a nondiscriminatory basis, to any carrier interconnecting with an ILEC. Indeed, exclusion of CMRS providers from the applicability of performance measures and incentives would be a direct violation of the non-discrimination obligations of sections 251 and 252 of the Act.

In addition, if the performance measures and incentives were only to be applicable to CLECs, other carriers' quality of service from the ILEC will deteriorate. In the absence of performance standards and incentives for CMRS providers and other non-CLECs, the ILEC's strong incentive will be to perform first for those carriers to which it owes a legal obligation and for which it faces penalties if it fails to perform, i.e. the CLECs. Other carriers' requests for service will, somewhat understandably, fall to the bottom of the pile. This would clearly violate the letter and spirit of the Act, which directs ILECs to make such service available on a non-discriminatory basis to all telecommunications carriers.

Some ILECs in other jurisdictions have inappropriately argued that CMRS providers are not entitled to the same protection provided by carrier-to-carrier service quality rules that are enjoyed by CLECs because they are "different." This is simply misleading. CMRS providers meet the statutory definition of telecommunications carriers,² and CMRS providers need services and facilities from the ILECs such as interconnection and access to unbundled network elements ("UNE's") for the same reasons as do CLECs. Therefore, it is appropriate that the scope of the ILEC's obligations under these rules encompass the provision of services and facilities to all

² The Telecommunications Act of 1996, 47 U.S.C. § 153 (44).

telecommunications carriers.

New York Rules Are an Appropriate Starting Point

AT&T supports the Commission Staff's proposal that Washington's rules be modeled on the New York Public Service Commission's rules. The New York rules were developed through an extensive collaborative effort between Bell Atlantic – New York (“BA-NY”), the New York Public Service Commission and CLECs. By starting with the New York rules, the parties to this case can avoid the time and expense of repeating that previous work. The New York rules have the additional benefit of being revised as a result of learnings obtained through significant commercial usage and through the third-party test performed by KPMG Peat Marwick. Building on the experience gained in New York will allow the state of Washington to bring the benefits of competition to its citizens that much sooner.

To expedite the rulemaking process, AT&T has made some initial revisions to the New York performance measurement requirements. Many of the revisions generalize the references to ILECs and ILEC interfaces rather than to the specific Bell Atlantic New York references; other revisions attempt to improve the New York rules, in part by including CMRS providers within the scope of applicable rules. A redlined copy of the New York rules as revised by AT&T has been attached to these comments as Exhibit A. The copy is redlined so it is easy for all parties to see where AT&T has made its initial proposed changes.³ AT&T recognizes that this is only the first step in a longer process

³ No changes have been made to the appendices to the New York requirements as those appendices were specific to Bell Atlantic.

and will be pleased to offer additional, more specific comments and revisions as the process continues. AT&T reserves the right to propose other and different changes to the rules as the process continues.

AT&T thanks the Commission Staff for the opportunity to provide comments and looks forward to continued participation in this proceeding.

Respectfully submitted this 24th day of September, 1999.

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