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SENT VIA E-MAIL AND U. S. MAIL

MEMORANDUM

TO: Service List, Bell Atlantic Tariff M.D.T.E. No. 17, D.T.E. 98-57-Phase III

FROM: Cathy Carpi no, Hearing Officer (617)305-3622

DATE: May 25, 2000

RE: Procedural Schedule, Ground Rules, Service List

CC: Mary Cottrell, Secretary

The Department of Telecommunications and Energy ("Department") suspended Bell Atlantic-Massachusetts' ("Bell Atlantic") Digital Subscriber Line Compliance Filing today, May 25, 2000, pending further investigation. Bell Atlantic's proposed xDSL and line sharing tariff offerings, filed with the Department on May 5, 2000, were to go into effect on June 4 and June 6, 2000. In the spirit of the Federal Communications Commission's statement that "any delay in the provision of the high frequency portion of the loop will have a significant adverse impact on competition in the provision of advanced services to customers . . . especially in residential and small business markets," the Department has decided to suspend the proposed tariff only until September 18, 2000. See Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket Nos. 98-147, 96-98, Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98, FCC 99-355 at ¶ 161 (rel. Dec. 9, 1999).

The schedule for Phase III is set forth below. If your company or client intends to sponsor a witness and the witness is unavailable July 28th and 29th, please let me know immediately. The Department may revisit this schedule only if a party certifies in writing to the Department that it intends to sponsor a witness and this witness

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cannot appear on either of these dates. This sworn certification will also list the dates the witness, who shall be named, is available, and shall contain an explanation of why the party is unable to provide another witness to adequately represent it in this proceeding.

Schedule for DTE 98-57-Phase III

May 25, 2000 Discovery begins, responses due within 7 days of receipt

June 16, 2000 Bell Atlantic direct testimony due

June 28, 2000 Intervenor direct testimony due

July 10, 2000 Bell Atlantic rebuttal testimony due

July 17, 2000 Close of discovery

July 27-28, 2000 Evidentiary hearings

August 3, 2000 Responses to record requests due

August 10, 2000 Initial briefs due

August 18, 2000 Reply briefs due

September 18, 2000 Department issues order

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Ground Rules

This proceeding shall be conducted in accordance with the provisions of G.L. c. 30A and 220 C.M.R. §§ 1.00 et seq., the Procedural Rules of the Department. In addition, the following ground rules shall apply to the conduct of the proceedings in this matter:

1. Information Requests

Information requests are prehearing discovery in the nature of interrogatories and requests for documents (Mass. R. Civ. P. 33, 34).

Parties shall respond to information requests within seven (7) calendar days of receipt of the request, unless otherwise indicated. Where the computed response date is a Saturday, Sunday, or legal holiday, the response shall be due on the next following Department business day. The parties must first attempt resolution of any discovery dispute before coming to the Department for assistance.

For purposes of discovery, a document shall be deemed to include writings, drawings, graphs, charts, photographs, phono-records, and other data compilations from which data can be obtained, or translated, if necessary, by the respondent through detection devices into reasonably usable form.

2. Exchange of Materials

The parties shall make arrangements for the expeditious exchange of materials, particularly discovery material, through the use of e-mail, hand delivery, facsimile transmission ("FAX"), or other speedy means of delivery. Unless otherwise not feasible, the use of mail delivery should be avoided in the exchange of discovery material. Where material is delivered by means of e-mail or FAX, a follow-up copy of the material must be otherwise delivered (use of mail delivery may be appropriate).

3. Record Requests

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Responses to record requests are written substitutes to oral answers where fault of memory or complexity of subject precludes a responsive answer by the witness in the hearing. As such, they are part of the record and the evidence, unless challenged as unresponsive and expunged in whole or part. Record requests shall not be used as a substitute for discovery or as a substitute for re-direct examination.

Objections to record requests shall be made at the time the request is made, and in no event later than the end of the next Department working day.

4. Protected Material

Where information or material is sought that is considered proprietary or protected by one party, the parties should discuss the use of a non-disclosure agreement before coming to the Department for protection or compelled submission.

The Department will make a reasonable effort to extend protection where appropriate within the requirements of the law and in consideration of the policy interests regarding public access. A party requesting proprietary treatment must submit its request in writing and state the reasons therefore. The party seeking such treatment has the burden to demonstrate that the materials should be afforded the treatment requested in light of the presumption that such information is a public record.

5. Format of Document Filings

All discovery and record request documents filed with the Department and all documents offered as exhibits shall be accurately punched to fit a standard three-hole binder. All documents shall be accompanied by a cover letter describing the filing and noting the distribution of copies.

Responses to information and record requests shall contain the following information: (1) set and question number, (2) recitation of request, and (3) identity of person who will support the response.

6. Offering of Exhibits

The proponent of an exhibit must offer the Department four (4) bench copies of the

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proposed exhibit (standard three-hole punch). Nonconforming documents will not be marked. Where material exceeding 25 pages is offered for marking and such material is already in the possession of all parties (e.g., information request responses), the proponent may, no later than 9:00 a.m. on the day the material is to be offered for marking, inform all parties and Department staff of the intended use of such material. Nonetheless, the proponent of any such document must provide the Hearing Officer with a punched copy for marking.

If only a part of a document is offered for marking and another party wishes to use the omitted part(s) in questioning or on brief, then that party must enter the missing part(s) into the record.

Before the close of hearings, each party that offers exhibits shall submit a listing for those exhibits that presents (1) the exhibit number and (2) a description of the exhibit.

7. Late Filed Exhibits

Exhibits offered after the close of the hearings, if objected to by any party, labor under a heavy burden of untimeliness, for they would not be subject to cross-examination or rebuttal. Late-filed exhibits must be accompanied by a motion to reopen the record and supported by appropriate affidavits. Only for good cause shown, in the face of an objection, will such exhibits be marked and admitted into evidence.

8. Exhibit Format

Any exhibit offered in this proceeding must contain an internally consistent and usable form of referencing. While most documents that are offered as exhibits have pre-numbered pages, some offered exhibits (especially those exhibits consisting of excerpts from more than one document or consisting of a compilation of notes) have pages that are not numbered or are not consistently numbered.

Documents of three pages or more without a preexisting referencing system must be marked with consecutive page numbers before the document is offered as an exhibit or before it is otherwise distributed for use in the hearing. Where it is necessary to supply page numbers for an exhibit, the proponent of the exhibit should add the numbers in some way that differentiates the additions from the preexisting text and should identify his method of addition on the record upon presentation for marking.

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Documents without an acceptable referencing system will not be marked for identification and may not be used at the hearing.

9. Number of Copies

The Department requires copies to be filed in the following numbers:

Pre-filed Testimony - 1 original and 2 copies

Information Requests and Responses - 1 original and 2 copies

Responses to Record Requests - 1 original and 2 copies

Bulk Responses (100 pages or more) - 1 original and 1 copy

Pleadings, Briefs, Motions, Memoranda - 1 original and 2 copies

Parties must also provide each Department staffer listed on the service list with her or his own copy. Further, the Hearing Officer requires two (2) copies of every filing.

10. Address of Filings

The original of all filings must be filed with Mary Cottrell, Secretary of the Department.

11. Communications Between the Parties

Where information requests are sent to a party by means of FAX (see ground rule number 2), the FAX must be accompanied by telephone notification of the transmission. Failure to make prompt telephone notification may affect the timing of the response to the information request.

12. Hearing Arrangements

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Evidentiary hearings will be conducted at the Department's offices at One South Station, Second Floor, Boston, Massachusetts, unless otherwise advised. These hearings will begin each day at 10:00 a.m.

These ground rules are deemed consistent with the orderly conduct of this proceeding. Exceptions to any ground rule may be made by the Hearing Officer for good cause shown.

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