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August 31, 1998

BY FAX AND REGULAR MAIL
Mary Cottrell, Secretary
Department of Telecommunications
and Energy
100 Cambridge Street
Boston, Massachusetts 02202

Re: Bell Atlantic Resale Tariff, D.T.E. 98-15, Phase I

Dear Ms. Cottrell:

This letter is in lieu of the initial brief of Telecommunications Resellers Association ("TRA"). TRA had intended to follow up on a suggestion from Bell Atlantic's attorney to discuss TRA's concerns with the resale tariff and mutually determine acceptable language changes where possible. Because it appeared from the responses to TRA's cross-examination that a number of TRA's concerns with the tariff would be addressed by Bell Atlantic policies or could be addressed by changes with which Bell Atlantic did not seem to object, TRA intended to refrain from raising its concerns until the reply brief (i.e. not filing an initial brief). Following communications with Bell Atlantic (sometimes referred to herein as "BA") Friday, August 28, 1998, TRA concluded that it was necessary to raise such concerns now to preserve TRA's right to alert the Department of these important issues. It is important that the Department carefully consider tariff provisions and their impact on resellers before the tariffs become effective, especially because smaller resellers are not in a position to negotiate with Bell Atlantic on a case by case basis as to the meaning or applicability of particular tariff provisions.

Due to this change to a more formalistic approach, it was not possible to file the initial TRA brief on August 28, 1998, and we respectfully request consideration of these comments in lieu of an initial brief. This single business day delay should not inconvenience anyone and in any event no issue raised herein is new, because all were raised at the hearing. Should it be necessary for Bell Atlantic to have some additional time to address these points, TRA has no objection. Further, because these tariff provisions could create significant hurdles to competition through resale, it is very important that the Department be aware of such issues.

The majority of TRA's concerns were raised through cross-examination on August 19, 1998. The more salient points (but not necessarily all its concerns) are elaborated upon below in the order of appearance in the tariff – not in order of significance.

Section 1.3.1 § 1, Page 4 – Resale definition should not preclude resellers from being able to utilize their own local service. Resellers should be no less able to use their own resold service than Bell Atlantic may use its own service. (See related provision 2.1.1.2 §2, Page 1 and §2.3.3.A. at §2, Page 6, and §5.1.1.A., §5, Page 1).

Section 2.2.2.B §2, Page 3 – Reseller indebtedness should not include amounts which are subject to dispute between the reseller and BA. (This also applies to §2.2.2.B.1 and §3.2.1.A and B re: termination of service – should not include disputed amounts).

Section 2.2.2.C §2, Page 4 – Facility Availability – BA should be required to demonstrate that "unavailable" facilities are in fact unavailable to avoid purported unavailability in an effort to harm resale competitors.

Section 2.2.2.C.1 §2, Page 4 – "Reasonable priority rules" must be defined. The lack of definition opens up possibility for anti-competitive discrimination.

Section 2.2.3.A §2, Page 4 – Telephone number reassignment policies are unclear. BA's policies for resale must be equivalent to its own assignment policies.

Section 3.1.1.A. §3, Page 1 – The ability of resellers to provide accurate customer and customer service information will be predicated on the accuracy of information initially provided to the reseller by BA. See related section 3.2.3.A. (Also see §4.2.1.A.)

Section 3.1.1.C. §3, Page 1 – Resellers should be able to request facilities without users so long as resellers assume responsibility for all associated construction charges (e.g. new developments, shared tenant services, etc.- *i.e.* section E)

Section 3.1.2. §3, Page 3 – Automated Order Interfaces demands that resellers be able to interface automatically with BA. This may prove anti-competitive as smaller CLECs may not be able to afford automated systems. BA must make manual or web-based systems available to competitors.

Section 3.2.1.C. §3, Page5 – It is not clear whether disputed amounts must be paid first. This provision therefore requires clarification.

Section 3.2.2.A.3 §3, Page 6 – No BA Employee should have occasion to market BA services to reseller subscribers under any circumstance. BA sales employees should have no access to resale subscriber service data. This is contrary to the Act's CPNI rules. Section 3.2.2.B. is entirely inappropriate and must be deleted. This provision may allow BA contact with reseller subscribers and upon potentially coercive language could obtain subscriber consent to engage in marketing activities. If this provision is approved, BA's scripts must at a minimum be approved by the Department. Same is true for Section 3.2.2.C. – marketing personnel should have no access to information when a subscriber switches from one reseller to another.

Section 3.3.3.A. §3, Page 8 – Resellers should have to provide forecasts consistent with forecasts provided by BA's major subscribers – *i.e.* resellers should not be required to provide forecasts to the extent that BA's major subscribers do not themselves provide forecasts.

Section 4.1.7.G *et seq.* §4, Page 5 – No late payment penalty should be applied to disputes initiated after three months from the payment date if the dispute results from a BA error.

Section 4.1.7.I, §4, Page 5 – BA must assume responsibility for its own billing as well.

Section 5.1.2.C. and D. §5, Page 2 –The tariff should be clarified.

Section 5.2.1. General – This provision therefore requires clarification.

Section 5.3.2.A.2., §5, Page 4 – Resellers and other CLECs should not be subject to such NRCs to pay for OSS access development which is an obligation under the Act.

Section 5.3.3. §5, Page 5 – Similarly open ended NRCs for maintenance of resale lines is improper. This is an effort to recoup some of the discount. If such charges are not imposed on end-users, they should not be imposed on resellers. Otherwise these NRCs become discriminatory charges with anti-competitive ramifications.

Section 6.1.1.C.2 §6, Page 1 – Alternately Billed Calls – what are "additional costs"? This should be defined.

Section 8.2.2. §8, Page 3 – When a customer's service account is transferred from BA to the reseller, the reseller should not be separately charged for a record retrieval charge – customer record transfers should be the sole responsibility of BA in making service available to competitors.

As a general matter, there is no basis for BA to impose fees or requirements on resellers (NRCs, forecast demands, etc.), which BA does not otherwise impose on its own end users. In some instances major BA subscribers will represent greater volumes of business than will some smaller resellers. To impose further requirements on resellers by virtue of the fact that they are reselling BA service would be discriminatory and anti-competitive.

In conclusion, there are a number of areas of Bell Atlantic's resale tariff that, at the least, require clarification to allow parties to be more clear on their rights and on procedures relevant to resale. Some provisions as proposed may hinder competition and should be revised as discussed. We appreciate the opportunity to raise these concerns to the Department and request that the Department require Bell Atlantic to make appropriate tariff amendments to address these concerns.

Very truly yours,

Eric J. Krathwohl

Cc: Persons on Attached Service List

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