

**COMMENTS AGAINST
BELL ATLANTIC SECTION 271 APPROVAL**

The Destek Group, Inc., doing business as The Destek Networking Group, (The Destek Networking Group) is a telecommunications carrier and a reseller of telecommunication services providing networking solutions including network management systems, networked communications systems, educational networking solutions, resources and internet access for schools, businesses, municipalities, and nonprofit agencies throughout the Northeast, including the State of New York, from its principal place of business in Nashua, New Hampshire.

The Destek Networking Group respectfully requests that the Federal Communications Commission (Commission) deny the application of New York Telephone Company, Bell Atlantic Communications, Inc., NYNEX Long Distance Company and Bell Atlantic Global Networks, Inc. (collectively Bell Atlantic), for authority to provide interLATA service originating within Bell Atlantic's in region State of New York because Bell Atlantic and its subsidiary incumbent local exchange carriers (ILEC) have and continue to engage in a pattern of anti-competitive behavior throughout their service territories.

Based upon information and belief, under the guise of promoting education and "distance learning", Bell Atlantic's ILEC's and Bell Atlantic's networking affiliates, Bell Atlantic Network Integration (BANI) and Bell Atlantic Digital Services (BADs) have aggressively associated themselves with state owned and operated universities in joint ventures through exclusive and anticompetitive interconnection agreements, styled as an end-user "special contract" in New Hampshire, N. H. Rev. Stat. Ann. § 378:18 and 18-b. The interconnection agreements, provide for the deployment of Asynchronous Transfer Mode (ATM) Cell Relay service that allow Bell Atlantic and the state owned institutions to provide information, data, real-time

voice and video conferencing, voice communications, internet access, local and wide area networking and telecommunication services initially to K-12 schools, state and federal agencies, nonprofit organizations and ultimately to businesses throughout the service territory. By partnering with the state universities Bell Atlantic effectively excludes true competitors from the market ensuring Bell Atlantic's long term dominance over high speed digital networking services.

In New Hampshire, Bell Atlantic entered into negotiations with the State owned and operated university system (University) and began conducting market studies and focus groups in conjunction with the University. While "negotiating" the terms of the interconnection agreement with the University for ATM services, Bell Atlantic and the University engaged in a joint venture to "beta test" the service and promote itself as the only source of distance learning networking. The service was then specifically designed in such a manner so as to ensure that the University and Bell Atlantic had exclusive access to ATM service, thereby, foreclosing access to true competitive resellers and telecommunications carriers.

In New Hampshire the service is so "tailored made" to meet the needs of the joint venture as to be arcane. That is, the interconnection agreement signed in March of 1999, was designed to exactly mirror those schools and organizations the joint venture believed it had initial commitments to serve. For example, the service is only available at the price made available to the University, to competitors serving 30 or more customers averaging 19.8 miles or less from the serving central office. Given the rural nature of the State, and the limited number of schools and school administrative units in the State, the offering effectively bars entry into the market by any entity other than the University in conjunction with Bell Atlantic. Moreover,

this strategy cleverly allows Bell Atlantic to create a “strawman” to access Universal Service Funds made available to K-12 schools to subsidize the deployment of ATM technology without fear that its competitors will gain equal access to the technology and service on an equal basis.

From available information it appears Bell Atlantic has, and is, employing this same scheme throughout its service territories, including but not limited to, New Hampshire, New Jersey, and Virginia.

As is set forth in the Complaint attached hereto as Appendix A, and filed this date with the United States District Court for the District of New Hampshire, against Bell Atlantic, pursuant to, *inter alia*, 47 U.S.C. §252(e)(6) (Supp. 1999); Bell Atlantic has engaged in a pattern of conduct violating the following provisions of the fourteen point competitive checklist set forth in 47 U.S.C. §271(c) (Supp. 1999).

Specifically Bell Atlantic has,

1. Failed to provide “[i]nterconnection in accordance with requirements of Sections 251(c)(2) and 252(d)(1).” 47 U.S.C. §271(c)(2)(B)(i);
2. Failed to provide “not discriminatory access to network elements in accordance with requirements of sections 251(c)(3) and 252(d)(1).” 47 U.S.C. §271(c)(2)(B)(i); and
3. Failed to make available “[t]elecommunications services . . . for resale in accordance with requirements of sections 251(c)(4) and 252(D)(3).” 47 U.S.C. §271(c)(2)(B)(xiv).

Given this pattern of conduct, The Destek Networking Group respectfully requests that the Commission deny Bell Atlantic’s request to provide originating interLATA service in New York, or in any of its affiliated ILEC service territories, until it ends such unlawful behavior and ceases to conduct itself in a predatory and anticompetitive manner throughout the mid-Atlantic, Northeast and New England.

The Destek Group, Inc.
Bell Atlantic
New York
October 19, 1999

Respectfully submitted,
The Destek Group, Inc.

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