

DT 99-061

BELL ATLANTIC/THE TELECONNECTION

**Special Contract Between Bell Atlantic
and The Teleconnection**

Verified Motion for Protective Order

O R D E R N O. 23,318

October 11, 1999

On April 23, 1999 New England Telephone and Telegraph Company d/b/a Bell Atlantic New Hampshire (Bell Atlantic) filed with the New Hampshire Public Utilities Commission (Commission) a proposed Special Contract (Special Contract) between Bell Atlantic and The Teleconnection. The Special Contract proposes a reduced rate on primary rate interface (PRI) service on Integrated Service Digital Network (ISDN) lines.

Bell Atlantic also filed on April 23, 1999 a Verified Motion for Protective Order (Motion) in connection with certain of the terms contained in the Special Contract¹. Bell Atlantic filed redacted and unredacted versions of the Special Contract. Pursuant to Puc 204.05(b), documents submitted to the Commission accompanied by a motion for confidentiality shall be protected as provided in Puc 204.06(d) until the Commission rules on the motion for confidentiality.

¹As this Motion was filed prior to the adoption of Laws of 1999, Chapter 154, it is therefore decided under the previous statute. Chapter 154 added new subdivision RSA 378:43, and grants an exemption for certain telephone utility information from the definition of public records for purposes of RSA 91-A (the right-to-know law), effective August 24, 1999.

By letter dated May 21, 1999, the Commission notified Bell Atlantic that, in accordance with Puc 1602.02, Bell Atlantic shall not provide service under the Special Contract unless and until the Commission issues a written order approving the Special Contract.

The portion of the Special Contract for which Bell Atlantic seeks protection is information which relates to the customer's proprietary network design and includes the number of circuits the customer is purchasing, information on the customer location and the PRI ISDN quantity (the Information). Rates and charges under the Special Contract have been disclosed.

In its Motion Bell Atlantic avers that: (1) the market for the service subject to the Special Contract is competitive; (2) Bell Atlantic regularly takes comprehensive measures to prevent dissemination of the Information, which is not made available to or known by the public in the ordinary course of its business and which is compiled from internal databases that are not publicly available; (3) customers enter into special contract negotiations with Bell Atlantic with the reasonable expectation that CPNI (customer proprietary network information)² and other customer information supplied to Bell Atlantic will be treated confidentially; and (4) non-disclosure of customer-specific

²CPNI consists of information about a telephone customer's use of the telephone network, such as the number of lines ordered, service location, type and class of services purchased, usage levels, and calling patterns.

information protects the privacy and competitive interests of the customer, consistent with earlier Commission orders in this area, and that disclosure would constitute an invasion of privacy for the customer.

Bell Atlantic submits that the Information contains customer-specific, competitively sensitive data which fall within the exemptions permitted by RSA 91-A:5,IV and that the benefits of non-disclosure, and evidence of associated harm to Bell Atlantic and its customer and the general body of ratepayers, outweighs the benefit of public disclosure in this instance.

Bell Atlantic Senior Specialist-Customer Business Service, Stephen Gannon, submitted an affidavit that the representations of fact submitted in support of the Motion are true and accurate, to the best of his knowledge and belief.

Bell Atlantic also states that neither the Commission Staff nor the Office of Consumer Advocate took a position with respect to the Motion at the time of filing.

The Commission has reviewed the Information at issue and determined that any benefit to the public to be obtained by requiring disclosure of the Information is outweighed by the likely harm to Bell Atlantic, its customer and ratepayers by failure to protect the Information.

We find that the Information contained in the filing for which confidential treatment is sought, meets the requirements of Puc 204.06(b) and (c). Based on Bell Atlantic's

representations, under the balancing test we have applied in prior cases, See e.g., Re New England Telephone Company (Auditel), 80 NHPUC 437 (1995); Re Bell Atlantic, Order No. 22,851 (February 17, 1998); Re EnergyNorth Natural Gas, Inc., Order No. 22,859 (February 24, 1998), we find that the benefits of non-disclosure in this case outweigh the benefits to the public of disclosure. The Information should be exempt from public disclosure pursuant to RSA 91-A:5,IV and Puc 204.06.

Based upon the foregoing, it is hereby

ORDERED, that the Motion for Protective Order of New England Telephone and Telegraph Company, d/b/a Bell Atlantic - New Hampshire is GRANTED; and it is

FURTHER ORDERED, that this Order is subject to the ongoing rights of the Commission, on its own motion or on the motion of Staff, any party or any other member of the public, to reconsider this Order in light of RSA 91-A, should circumstances so warrant.

By order of the Public Utilities Commission of New
Hampshire this eleventh day of October, 1999.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary