

memorandum

DATE: December 15, 1980

REPLY TO
ATTN OF: Commissioner James H. Quello

SUBJECT: Computer Inquiry II - Reconsideration Order

TO: Commissioners

I am in general agreement with the main thrust of the Computer II reconsideration item and with the memorandum circulated by Commissioner Fogarty on December 11th. I do have some concern, however, that neither the item nor the memo adequately deals with the question of waiver for construction of facilities by the AT&T subsidiary as discussed in paragraphs 82 and 83 of the item. It's clear that the Commission retains the authority to seek comment on waiver requests in such cases where notice and comment are appropriate. As Commissioner Fogarty suggests, however, there are potentially many situations where the process, itself, would essentially foreclose the subsidiary from participating in a competitive opportunity. Thus, I believe that references to the necessity for comment upon waiver requests should be deleted.

Specifically, I suggest that the final sentence of paragraph 83 of the item and the final two sentences of paragraph 20 of Commissioner Fogarty's substitute language be deleted.

No rights are abrogated by these changes and they tend to enhance our stated position that we will give serious consideration to waiver requests.

James H. Quello
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