

June 9, 1995

**STATEMENT OF COMMISSIONER ANDREW C. BARRETT  
IN WHICH COMMISSIONER JAMES H. QUELLO JOINS**

RE: Bell Atlantic Video Dialtone Tariff -- Dover Township, NJ (Transmittal Nos. 741, 786)

The Order released today by the Federal Communications Commission's Common Carrier Bureau suspends for one day the video dialtone tariff filed by Bell Atlantic for Dover Township, New Jersey, after which the tariff will go into effect subject to an investigation. In addition, the Order finds "that Bell Atlantic's tariff raises significant questions of lawfulness regarding cost allocations, rate levels, rate structures, and terms and conditions of service" that warrant a suspension and investigation.

In the Commission's past decisions regarding video dialtone, we have authorized video dialtone service in order to promote the significant public interest benefits that are attainable through the new broadband service. Our effort to proceed in authorizing video dialtone services, however, has always been balanced by the expressed understanding that the fundamental concerns regarding cost treatment would be addressed in the tariff process. In this regard, the Bureau indeed has initiated an investigation into a number of questions, including Bell Atlantic's cost allocation methodology and results. I would have preferred instead a longer suspension that would allow the tariff to go into effect closer to the resolution of the questions regarding Bell Atlantic's cost allocation and rate structure. Given that the cost data has been submitted over the course of a number of data requests, I am concerned that the one-day suspension allows the rates to go into effect with more expedience than is warranted, thereby extending a benefit of the doubt despite serious analytical and policy questions resulting from Bell Atlantic's tariff.

It is common for the Commission to suspend tariffs for one day to initiate an investigation where the remedy exists to order refunds for an unfairly high rate following an investigation. However, the circumstances raised in this tariff are in no way like those in other tariffs. First, the fundamental concern in this investigation is that the rates are, in all probability, artificially low. Second, the cost allocation questions involve significant consequences of possible cross-subsidization, which would affect the nature of competition in the multichannel video marketplace and the opportunity for cable operators to compete in local exchange service.

Despite legitimate and serious questions that will be addressed during the course of the investigation, I am most concerned that the tariff now will go into effect without an opportunity for any remedy even if the investigation yields a result that this tariff is

unreasonably low. As a matter of public interest, the remaining questions unavoidably leave a great deal of uncertainty regarding the impact of the Dover tariff on consumers, as well as competitors in the multichannel video marketplace. Given the competitive effects of lost market share for competitors and the effect of uncertainty on investment, I believe that caution should weigh in this instance toward resolving the cost allocation questions to the extent that Bell Atlantic has not yet met the burden of answering them.

Finally, to the extent that this decision embodies a measure of flexibility for Bell Atlantic, and potentially for other providers of video dialtone services, I will be interested in the Commission's actions to provide substantial flexibility to cable operators as they seek to upgrade facilities in order to compete in the local loop by providing voice services. Given the implications of a short suspension in this instance, I hope that those measures will be addressed with the same expediency as the cost allocation questions raised in this tariff. I have been and remain a supporter of the principle of video dialtone as a common carrier service to compete in the multichannel video marketplace. However, if the Commission endeavors to apply its existing rules to address cost allocation issues in the tariff process, the steps toward authorizing video dialtone service must provide for the resolution of cost allocation questions prior to video dialtone rates going into effect.