

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
New York on March 15, 2000

COMMISSIONERS PRESENT:

Maureen O. Helmer, Chairman  
Thomas J. Dunleavy  
James D. Bennett  
Leonard A. Weiss  
Neal N. Galvin

CASE 99-C-1500 - Petition of Bell Atlantic-New York for a Waiver of the Requirements of Certain Performance Results Measured Under the Performance Regulatory Plan For September 1999, filed in C 92-C-0665.

CASE 92-C-0665 - Proceeding on Motion of the Commission To Investigate Performance-Based Incentive Regulatory Plans for New York Telephone Company.

ORDER GRANTING IN PART AND DENYING IN PART  
REQUEST FOR WAIVERS OF SERVICE QUALITY TARGETS

(Issued and Effective July 20, 2000)

BY THE COMMISSION:

BELL ATLANTIC-NEW YORK PETITION

On November 1, 1999, New York Telephone Company, d/b/a Bell Atlantic-New York (BA-NY) filed a petition requesting that the Commission waive certain service quality performance results for the month of September 1999 that would otherwise be included in the calculation of monthly and annual performance results under the Performance Regulatory Plan (PRP). The company stated that service performance was dramatically affected by extraordinary bad weather from Tropical Storm Floyd from September 16, 1999 to September 30, 1999. The company proposes to exclude the influence of Tropical Storm Floyd from the monthly and annual service results under the PRP, and to reduce monthly rebates to customers from approximately \$2.2 million to \$1.7

million. The company also seeks to alter the methodology used to "normalize" the data to account for Tropical Storm Floyd and all other extraordinary events on a going-forward basis.

#### Waiver Requests

The company seeks to waive monthly performance results for the percent Out-Of-Service > 24 Hours (OOS > 24 Hours) for seven installation and maintenance centers (IMCs) and the Percent Missed Repair Appointments (%MRA) for nine IMCs for the month of September 1999 due to the effects of Tropical Storm Floyd. The company claims that this storm's heavy rains and high winds made it impossible to perform at objective level service, noting that a number of weather records were broken as a result of the storm. Governor Pataki called the storm unprecedented and declared a State of Emergency for New York City and Long Island, as well as designating a number of counties as disaster areas. The company claims that in certain areas its ability to address troubles were constrained by the fact that it had to wait for power companies to restore service and designate areas safe before BA-NY could begin its own restoration efforts. Finally the company noted that it activated its Emergency Operations Procedures for New York City and surrounding boroughs to coordinate planning, crew assignments and communications.

Granting the monthly waiver would reduce rebates by \$504,011, from a total of \$2,214,972 to \$1,710,961.

In addition to the waiver requested for September 1999, BA-NY seeks a waiver for the annual measurement/performance under the PRP in eight categories.

#### Normalization Methodology

In conjunction with its petition to waive service quality performance results for September 1999, BA-NY contends that the Commission should revisit the five-year-average methodology that has been used since the start of the PRP to

"normalize" for such extraordinary events. The company notes that there have been significant service quality improvements over the last several years and that the Commission itself has recognized that the current normalization process may need to be revised. It cites our Order in Case 92-C-0665, issued June 30, 1997, wherein we invited the company to "...pursue this [a revised normalization methodology] with Staff and develop a normalization methodology that better reflects recent performance."

On November 30, 1999, BA-NY filed a supplement to its November 1, 1999 petition, withdrawing its request that a new, three-year average be used to normalize the data, and instead proposed that a statistical model (a "decomposition model") be adopted. The supplemental petition reiterated the company's position that using a five-year average effectively penalized it by not fully acknowledging improved performance.

DEPARTMENT OF LAW COMMENTS

On November 15, 1999, the Department of Law (DOL) filed comments on BA-NY's petition. The DOL did not dispute BA-NY's description of the storm nor did it oppose the company's general filing requesting monthly waivers. DOL did not, however, comment on the specific merits of each of the requested monthly waivers. With regard to annual waivers, DOL claimed that the company's petition did not meet the standards for granting such waivers on the grounds that BA-NY had not shown that the storm had made it impossible for it to meet its annual goals.

On January 20, 2000, DOL filed comments in response to BA-NY's proposal to alter the normalization methodology. DOL objects to any change in the normalization methodology, suggesting that the decomposition model relies heavily on older performance trends and is susceptible to distortion caused by variations in weather patterns. DOL also claims that the

decomposition model normalizes the entire month in question, rather than just the days impacted by the extraordinary event.

#### DISCUSSION

We find that BA-NY has demonstrated that Tropical Storm Floyd was an extraordinary event, as evidenced by Governor Pataki's request for Federal Disaster Aid, and the documentation submitted in support of the petition. We note that whereas the service results for OOS>24 Hours and %MRA were generally at or better than the Commission's objective level during the previous five Septembers, the impact of the storm lead to service results which were about 20% worse than the five-year average. We also find that the company took appropriate steps to minimize the impact of the storm, and redeployed personnel to those areas of the state most severely impacted. Therefore, we find that BA-NY has made an adequate case for the granting of waivers of the monthly service quality performance results.

With regard to annual targets, we find no need to grant waivers at this time. The company is free to request waivers for annual targets once its full-year performance is known.

#### Normalization Methodology

The service quality provisions of the PRP were designed to incent the company into improving service quality. We acknowledged that extraordinary events should be excluded when determining service quality penalties, by normalizing the data. The methodology for the normalization of the data was not detailed in the PRP, but was developed jointly between Staff and BA-NY when the company filed its first waiver.

The current methodology averages the company's service performance over the last five years and uses that result as a proxy for normal service. To the extent BA-NY service quality measures reflect improving trends, the company is correct in noting that incorporation of the early PRP years within the

normalization methodology (where service quality performance results were lower than those of later years) may require larger customer rebates than the use of more recent data. To adjust for this effect, BA-NY initially proposed replacing the five-year average with a three-year average. Subsequently, the company withdrew the three-year methodology and proposed instead the decomposition model.

We note that the company has made improvements in service quality and conclude that a normalization methodology should reflect the better, recent performance. We find that while changes to the normalization methodology may be appropriate, the decomposition model offered by BA-NY may not be the most reasonable substitute. As noted by DOL, the decomposition model relies heavily on older performance trends and may overly reflect the performance levels of the early years and not adequately consider the most recent performance.

Therefore, we will not change the normalization methodology at this time, but will direct the company and Staff, and DOL should it choose to participate, to meet to develop a new normalization methodology. The new methodology should be straightforward. It should meet our goal of better reflecting recent performance, but should not be skewed by the major performance improvements in the early years of the PRP.

#### CONCLUSION

The monthly service quality waiver requests for the IMCs for Missed Repair Appointment and Out-of-Service>24 Hours identified in BA-NY's November 1, 1999 petition have merit and will be granted. The annual waiver requests will be denied at this time pending the outcome of the company's performance for the entire fifth year of the PRP. As a result of our approval of the monthly waivers, the rebates to be paid by the company will be reduced by \$504,011, from \$2,214,972 to \$1,710,961.

Finally, no change in the normalization methodology will be adopted at this time. Staff and the company, and DOL should it choose to participate, will be directed to develop a more appropriate normalization methodology which will be applied to future service quality waivers.

The Commission orders:

1. New York Telephone Company shall be granted a waiver of the service quality performance results for percent Out-of-Service>24 Hours for seven installation and maintenance centers and percent Missed Repair Appointments for nine installation and maintenance centers for the month of September 1999.

2. The request of New York Telephone Company for waivers of the annual Performance Regulatory Plan targets is denied.

3. New York Telephone Company is directed to work with the staff, and the Department of Law should it choose to participate, in the development of a new normalization methodology to better reflect the concerns expressed in this Order.

4. These proceedings are continued.

By the Commission,

(SIGNED)

DEBRA RENNER  
Acting Secretary