

ORDER NO. 75400

IN THE MATTER OF THE INQUIRY  
INTO CERTAIN UNAUTHORIZED  
PRACTICES BY TELEPHONE SERVICE  
PROVIDERS.

\*  
\*  
\*  
\*

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF MARYLAND

\_\_\_\_\_  
CASE NO. 8776  
\_\_\_\_\_

PROPOSED ORDER OF HEARING EXAMINER

**Appearances:**

Sarah R. Lazarus, for the Staff of the Maryland Public Service Commission.

Theresa V. Czarski, for the Office of Maryland People's Counsel.

Henry Suelau, for Bell Atlantic-Maryland, Inc.

Mark Keffer and Matthew Nayden, for AT&T Communications of Maryland, Inc.

Robin F. Cohn, for Starpower Communications, L.L.C.

James R. Scheltema, for MCI Worldcom.

Cathy Thurston, for Sprint Communications Company, L.P.

Kamil Ismail, for Competitive Telecommunications Association and Telecommunications Resellers Association.

Hélène Courard, for Qwest Communications Corporation.

**I. BACKGROUND AND PROCEDURAL HISTORY**

Case No. 8776 has a complex history. It was instituted by the Commission on October 14, 1997, in response to a Staff

motion filed on September 29, 1997. Its original purpose was to consider measures to prevent "slamming."

Slamming is the unauthorized transfer of the customers of one telecommunications company to another telecommunications company. Persons who are slammed typically receive a bill for service from a telephone company with which they never contracted. Customers may be slammed to an interexchange carrier or to a local exchange carrier.

At a prehearing conference held on November 19, 1997, the Maryland Office of People's Counsel ("OPC") and the Staff entered their appearances. At that time, the Hearing Examiner granted the Petitions to Intervene of Bell Atlantic-Maryland, Inc. ("Bell Atlantic" or "BA-MD"), AT&T Communications of Maryland, Inc. ("AT&T"), MCI Telecommunications Corporation (later, MCI WorldCom) ("MCI"), Sprint Communications Co., L.P. ("Sprint"), RCN Telecom Services of Maryland, Qwest (then LCI International); the Competitive Telecommunications Association ("Comptel"); and the Telecommunications Resellers Association ("TRA"). Starpower Communication, L.L.C. ("Starpower"), was substituted for RCN Telecom Services on November 20, 1998.

This Proposed Order of Hearing Examiner deals with only one aspect of the overall slamming issue. Specifically, it addresses concerns raised about the local service provider freeze ("LSPF") offered by Bell Atlantic-Maryland. When a local service provider freeze is in effect for specific customer accounts, incumbent local exchange carriers ("ILECs") such as Bell Atlantic

will not transfer those customers to competitive local exchange carriers ("CLECs") unless the customers specifically authorize such a change.

Procedural history from this point will relate only to the LSPF issue. On June 29, 1998, Tel-Sav, Inc., complained to the Commission (outside this docket) about the anti-competitive effects of Bell Atlantic's LSPF.<sup>1</sup> On July 13, 1998, Bell Atlantic responded to Tel-Sav's complaint.<sup>2</sup> In addition, other parties

---

<sup>1</sup> On December 16, 1998, Telecommunications Resellers Association, Competitive Telecommunications Association, and the Association for Local Telecommunications Services (hereinafter "Associations") filed a complaint with the Commission requesting that the Commission suspend and investigate Bell Atlantic-Maryland, Inc.'s Local Service Provider service. On December 23, 1998, BA-MD provided its response. On January 13, 1999, Hyperion Telecommunications, Inc., filed a protest to the product offering.

On January 29, 1999, the Commission requested that the Associations advise the Commission whether the FCC's Order adequately addressed their concerns. In addition, the Commission invited comments from the parties in Case No. 8761 [*Re Investigation of Presubscribed IntraLATA Toll Dialing*] with respect to this issue.

On February 8, 1999, BA-MD filed a response to the protests of Starpower Communications, LLC, and Hyperion Telecommunications, Inc., in which they asserted, *inter alia*, that the local service provider freeze offering is a "pro-consumer and pro-competitive administrative offering that protects the customer's choice of local service providers." [While Starpower became a substituted party to this case on January 20, 1999, neither the Starpower nor Hyperion complaint responded to by the Commission is in the docket of this case.]

On February 10, 1999, the Associations filed their responses as requested by the Commission. The Associations indicated that while "the FCC slamming rules, and Preferred Carrier Freeze rules ... will be effective in protecting consumers in a competitive market place, the Associations remain concerned over [BA-MD's] LSP service in the absence of demonstrated compliance." The Associations also indicated that BA-MD had not yet explained how its LSP program will comply with the FCC's preferred carrier rule. Nor had BA-MD disclosed the actual language to be used in meeting the FCC's clear and neutral language requirement when discussing its LSP service with consumers.

On February 12, 1999, AT&T responded to the Commission's January 29, 1999 letter indicating that the BA-MD LSPF offering does not comply with the December 23, 1998 FCC Order. In addition, AT&T urged the Commission to order BA-MD to immediately suspend its local service provider freeze.

On February 12, 1999, Staff responded to the Commission's January 29, 1999 letter. Staff indicated that the issue of preferred carrier freeze has been adequately addressed by the FCC. Staff also asserted that, if necessary, further examination should occur within the context of Case No. 8776. *Letter from Felecia L. Greer, Executive Secretary, delegating preferred carrier freeze issue to Hearing Examiner Division, March 5, 1999.*

<sup>2</sup> Tel-Sav's complaint and Bell Atlantic's response were not filed in the docket of this case until September 30, 1998.

filed complaints on the local service provider freeze issue inside this docket.

After reviewing the preferred carrier freeze complaints submitted to this docket, the Hearing Examiner on February 5, 1999, established an expedited procedural schedule for filing of direct and reply testimony concerning preferred carrier freezes as well as other slamming protection issues. On March 5, 1999, the Commission formally delegated the resolution of all complaints about local service freezes to Case No. 8776.

On March 19, 1999, the parties filed direct testimony, which primarily related to Bell Atlantic's LSPF service. Bell Atlantic filed the testimony of Harold E. West, III, its Director-Regulatory Support. MCI WorldCom filed the testimony of Don A. Laub, a Senior Policy Analyst within MCI WorldCom's State Regulatory and Government Affairs Division. Robert A. Kirchberger, AT&T's Regional Law and Government Affairs Director, testified for AT&T. James R. Warta, Senior Manager-Regulatory Affairs, testified for Starpower. Sprint filed the testimony of Lilli Taylor, its Manager of External Relations. Qwest filed the testimony of J. Scott Nicholls. Staff submitted testimony by Robert G. Harris, Assistant Manager of the Office of External Relations; Steve Molnar, Director of the Commission's Telecommunications Division; and Aaron Kurdle, Regulatory Economist with the Telecommunications Division. The Office of People's Counsel filed the testimony of Barbara Alexander, an independent consultant. The witnesses for People's Counsel,

Staff, Sprint, Qwest, AT&T, and Bell Atlantic filed rebuttal testimony on April 9, 1999.

At a meeting on the record on May 5, 1999, the parties agreed with the Hearing Examiner's proposal that arguments on LSPF issues be made on brief without cross-examination of pre-filed testimony. The parties also agreed to inform the Hearing Examiner by May 17, 1999, if any pre-filed testimony relating to the LSPF issue was objectionable to any party. No such objections were received and, pursuant to agreement of the parties at the May 5 conference, the pre-filed testimony regarding Bell Atlantic's LSPF service is hereby stipulated into the record. The parties filed their initial briefs on May 21, 1999, and reply briefs on June 7, 1999. Telecommunications Resellers Association, Starpower and Competitive Telecommunications Association filed at the briefing stage but did not file testimony.

## **II. POSITIONS OF THE PARTIES**

### **A. Bell Atlantic-Maryland**

Bell Atlantic-Maryland declares that preferred carrier freezes "are one of the strongest protections available to the customer in the fight against slamming."<sup>3</sup> Its local provider freeze service complies with relevant FCC guidelines, Bell

---

<sup>3</sup> Bell Atlantic's witness West testified that:

BA-MD processed 1,267,224 PC [preferred carrier] changes in 1997 and 1,409,818 in 1998. BA-MD received 26,085 interLATA slamming complaints in 1997 and 34,820 in 1998. Based upon these volumes, the 1997 complaints represented 2.1% of the

Atlantic claims, and is furthermore offered only on a "reactive" basis. That is, LSPF enrollment is offered only to those customers who make known their concerns about slamming or find information about LSPF on Bell Atlantic's Internet website. Bell Atlantic also claims that it should not be required to tariff its LSPF because it does not charge customers for freeze protection. Finally, BA-MD claims that LSPF may be removed on one day's notice. Because of all of these limitations and protections, BA-MD claims that its LSPF is not anti-competitive, does not pose a threat to the public interest, and should not be tarified by this Commission. In further support of its argument, Bell Atlantic points out that the Commission does not tariff "every function performed or every service provided by every telecommunications carrier under its jurisdiction," BA-MD In. Br. at 7, implying that Bell Atlantic is not required to tariff its LSPF.

#### **B. AT&T**

Competitive and potentially competitive local exchange carriers participating in this case oppose Bell Atlantic's LSPF service on several grounds. Most note that local exchange competition in Maryland is barely existent, and that BA-MD has a near-monopoly on local competition. Companies vying to compete with Bell Atlantic claim that local carrier freezes will simply perpetuate the existing monopoly.

---

total 1997 PC changes processed and the 1998 complaints represent 2.5% of the total PC changes processed.

AT&T joins the other potential competitors of BA-MD in arguing that the Company's LSPF is an obstacle to competition. AT&T points out the apparent conflict of interest between Bell Atlantic's position as incumbent local exchange carrier and as manager of the transfer of its customers to competitors. AT&T asserts that, under the guise of curing slamming and through the LSPF mechanism, Bell Atlantic is attempting to perpetuate its monopoly of local service. Not only do LSPFs force customers to negotiate numerous hurdles when changing carriers but, AT&T alleges, freezes also place extra and unnecessary burdens on CLEC personnel.

AT&T maintains that other states have recognized the anticipated impact of LSPFs and have prohibited them, and that Maryland should follow their lead. In Ohio, AT&T notes, the Public Utilities Commission rejected Ameritech's local preferred carrier freeze for both intraLATA toll and local exchange service.<sup>4</sup> The Ohio commission concluded that the freeze could only have an anti-competitive impact by making switching more burdensome for end-users. Ohio further concluded that, because competition had not yet taken hold in the state, Ameritech's proposed freeze would unreasonably prejudice potentially competitive carriers.

Based on similar facts, Michigan reached a similar conclusion, preventing implementation of Ameritech Michigan's

---

<sup>4</sup> *In the Matter of the Complaint of Sprint Communications Company, L.P. v. Ameritech Ohio*, Case No. 96-142-TP-CSS, Opinion and Order (September 11, 1997).

proposed preferred carrier freeze.<sup>5</sup> In both the Ohio and Michigan cases, bill inserts advertising the availability of the freeze had gone out prior to commission action. Such is not the case in Maryland. AT&T, nonetheless, sees the Ohio and Michigan decisions as based on essentially the same circumstances existing in Maryland and would apply the rationale of the Ohio and Michigan Commission decisions to prevent Bell Atlantic-Maryland from offering its LSPF.

Because AT&T maintains that slamming of local service is in fact almost unknown in Maryland, AT&T argues that BA-MD's LSPF service is "a solution in search of a problem." Therefore AT&T argues that Bell Atlantic's local service provider freeze should be rejected by this Commission.

If, instead, the Commission finds that the benefits of Bell Atlantic's LSPF outweigh its anticipated drawbacks, AT&T urges that the Commission require the Company to offer its freeze only as a tariffed service. Tariffing would, according to AT&T, prevent BA-MD from imposing time-consuming and anti-competitive procedures on customers wishing to change carriers. AT&T specifically asks that BA-MD's local service provider freeze service be tariffed to demonstrate that "internal policies regarding LSPF are consistent with express FCC requirements." AT&T specified in its initial brief the provisions that it concludes BA-MD's LSPF tariff should contain, including:

---

<sup>5</sup> Case No. U-11757 (September 23, 1998) at 11.

- Non-discriminatory procedures to distinguish among local exchange, intra- and interLATA toll and international toll;
- Clear explanations of freeze services and procedures; and
- Specification of written and oral methods of lifting freezes that comply with FCC mandates.

In addition, AT&T proposes numerous other requirements to ensure that BA-MD's LSPF is imposed and lifted without discrimination. These proposals are set out in detail at pages 17 through 19 of AT&T's Initial Brief.

#### **C. MCI**

MCI argues that an LSPF hinders competition because customers have to take positive steps to have the freeze lifted, thus taking time and discouraging customers from making the effort to switch. Further, MCI argues, procedures necessary to lift a freeze offer Bell Atlantic opportunities to delay the lifting process. If slamming is the wrongful acquisition of customers, MCI asserts, LSPFs offer ILECs the opportunity for wrongful retention of customers. MCI further maintains that Bell Atlantic's LSPF is unnecessary -- or is at least a response to a need which this Commission has never found to exist. Due to the many drawbacks which Bell Atlantic's LSPF presents in a currently non-competitive local exchange environment, MCI urges that this Commission forbid its use. Failing that, MCI proposes that BA-

MD's local service provider freeze service should only be offered subject to a Commission-approved tariff.

#### **D. Sprint**

Sprint also favors the tariffing of Bell Atlantic's local service provider freeze service. Sprint advocates tariffing to ensure that BA-MD's local provider freeze is implemented in a manner consistent with the requirements of the Federal Communications Commission's ("FCC") Second Report and Order.<sup>6</sup> According to Sprint, the Second Report and Order requires that PC freezes be implemented in a nondiscriminatory manner, that explanations be in clear and neutral language, and that measures for lifting the freeze be made available to customers in simple and understandable form. Without a tariff, Sprint is concerned that it will be impossible to verify that Bell Atlantic's LSPF is consistent with Federal requirements.

#### **E. Starpower**

Starpower states that it is a new competitive local exchange carrier "which plans to offer facilities-based local and inter-exchange telecommunications services to residential and small business customers in Maryland." Starpower asserts that it is "very vulnerable to anti-competitive initiations such as BA-

---

<sup>6</sup> *In the Matter of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers*, Second Report and Order and Further Notice of Proposed Rulemaking, \_\_\_ FCC Rcd \_\_\_, CC Docket 94-129 (1999).

MD's self-initiated LSPF." In. Br. at 1. Starpower argues that local exchange competition in Maryland is virtually non-existent, implying that the threat of slamming, and the need for an LSPF freeze, are therefore also minimal. As a result, Starpower asks that the Commission prohibit BA-MD from offering its LSPF freeze. Failing an outright prohibition, Starpower asks that BA-MD be required to fully disclose and/or tariff its LSPF service. Full

disclosure, according to Starpower, will assure that any freeze program is "balanced and competitively neutral." Starpower argues that full tariffing of BA-MD's LSPF would be even more beneficial than simply full disclosure of the terms of the Company's LSPF. If Bell Atlantic's LSPF freeze is offered subject to a Commission-approved tariff, according to Starpower, any ambiguities in it will be construed against the Company, BA-MD will be subject to penalties for violating the tariff, and BA-MD will be under a heightened duty to adhere to the tariff.

Starpower asserts that, in addition to tariffing, creation of a third-party administrator would be the best means of insuring that Bell Atlantic's LSPF is fairly administered. Bell Atlantic, Starpower proposes, should not be in the position of accumulating more data on slamming and customer preferences than other parties, or of being able to "subtly" influence customer choice. Creation of an independent third-party administrator would, in Starpower's view, avoid problems arising from Bell Atlantic having to police itself.

#### **F. Telecommunications Resellers Association**

The Telecommunications Resellers Association argues that BA-MD currently has both the capability and incentive to engage in anti-competitive behavior. Until that situation changes, and the local telecommunications services market becomes competitive, TRA argues that BA-MD should be prohibited from implementing its LSPF service. TRA points out that BA-MD has

"overwhelmingly dominant control of the local market, access to local customers, and [has made] only vague provisions of compliance with state and federal rules." In. Br. at 4. Further, TRA observes that the FCC and several states have determined that the threat of anti-competitive abuse of LSPF freezes is real. TRA quotes the FCC's Second Report and Order on the competition issue as follows:

Given ... changes in market structure, the incumbent LECs have incentives to market preferred carrier freezes aggressively to their customers and to use different standards for placing and removing freezes depending on the identity of the subscriber's carriers.

In. Br. at 5, citing Second Report and Order, ¶ 116.

TRA maintains that Bell Atlantic may, by not tariffing its LSPF, "game" its local freeze service by delaying or otherwise adjusting the timeframe in which it transfers customers from one carrier to another. Competitive local exchange carriers, such as the members of TRA, also worry that because only BA-MD will know which customers have freeze procedures in place, only BA-MD will be able to handle customer requests to lift freezes. In brief, TRA argues that BA-MD has both motive and opportunity to make the lifting of LSPFs work for its benefit rather than for the benefit of competition. TRA argues that if BA-MD is to have the capability to freeze customer accounts prior to the arrival of full competition, then the Commission should evaluate the Company's freeze

procedures to ensure they are consistent with Federal requirements and do not unduly hinder competition. TRA argues that "the most effective process for evaluating BA-MD's compliance should be through BA-MD's submission of a tariff or other formal filing." TRA In. Br. at 12.

#### **G. Qwest**

Qwest addresses only one aspect of LSPF service. Qwest maintains that deciding whether local carrier freezes may be initiated or lifted by electronic mail ("E-mail") is beyond the scope of this proceeding. Qwest notes that the FCC is investigating this issue in its Further Notice of Proposed Rulemaking issued with its Second Report and Order.

#### **H. Comptel**

Comptel puts forward several reasons why Bell Atlantic's LSPF is currently a threat to competition: the lack of specifics about the freeze, lack of specifics about how the freeze would be initiated, and the near total lack of local telephone competition in Maryland at this time. Comptel urges that the Commission delay implementation of Bell Atlantic's LSPF until six months after a determination that [the Company's] intraLATA and local markets are declared open to competition. Br. at 4. Short of an outright prohibition, Comptel joins the other parties in asking that Bell Atlantic's LSPF be tariffed. It additionally requests that Bell Atlantic be prohibited from marketing its

freeze service until the Maryland market is clearly competitive. Comptel concludes that until the local telecommunications market is competitive, there is little chance of unauthorized switching and therefore little need for Bell Atlantic's LSPF.

#### **I. People's Counsel**

The Office of People's Counsel proposes that this Commission require that any intrastate telecommunications providers who seek to offer a carrier freeze of any type do so only by means of a tariff subject to Commission review and enforcement. People's Counsel therefore favors a halt in the use of BA-MD's LSPF service until it is tarified by the Commission. A delay pending tariffing will not harm customers, OPC opines, because there are very few local service competitors in Maryland at this time. Therefore, there is little chance of significant slamming. In sum, People's Counsel believes that requiring BA-MD to tariff its local service provider freeze will balance the interests of customers who need slamming protection against those of companies who wish to provide competitive local exchange service free of hard-to-lift LSPFs. People's Counsel also believes that tariffing BA-MD's local service provider freeze offering would ensure consistency with Federal requirements as well as with the public interest.

**J. Staff**

Staff's position is twofold. First, Staff urges that the Commission require BA-MD to tariff its local service provider freeze offering. In Staff's view, tariffing of the Company's LSPF will satisfy "most if not all of the concerns the CLECs have voiced concerning the service." In. Br. at 9. Central to those concerns, Staff noted, is the need to ensure that Bell Atlantic's LSPF satisfied the requirements promulgated by the FCC. Staff pointed out that this concern was shared by many, if not all, of the CLECs who filed comments in this case.

Second, Staff opposes any positive steps by Bell Atlantic to actively market its LSPF, whether its LSPF is tariffed or not. Staff would lift the prohibition on advertising only if the local telecommunications market becomes competitive. Staff would also deem the local telecommunications market to be competitive only when this Commission rules that BA-MD has satisfied the reciprocity requirements of §271 of the Telecommunications Act of 1996, permitting it to offer long-distance service.

In the reply stage of this proceeding, no party changed its essential position.

Bell Atlantic, in its Reply Brief, primarily responds to assertions in AT&T's Initial Brief. Bell Atlantic asserts that no party has put forward any credible evidence that Bell Atlantic was using its LSPF service anti-competitively. AT&T's reference to cases in Michigan and Ohio do not strengthen AT&T's argument against an LSPF, BA-MD urges, because most of the abuses in those

cases have been prohibited by the FCC's Second Report and Order, and cannot be practiced in Maryland or any other state. Bell Atlantic also distinguishes the Ohio and Michigan cases relied on by AT&T, MCI and Sprint on the grounds that in those cases the ILECs had circulated bill inserts advertising the freeze. Bell Atlantic has not employed bill inserts, nor, Bell Atlantic points out, has any party specifically complained about the operation of the Company's LSPF service. BA-MD R. Br. at 7, citing *Sprint v. Ameritech Ohio*, at 81.

Bell Atlantic also stated that the many reasons asserted by other parties to show that Bell Atlantic should not be permitted to offer an LSPF freeze were unfounded. For instance, BA-MD emphasized that it does not proactively market its LSPF service, accepts several means of lifting the freeze, does not attempt to persuade customers to stay with Bell Atlantic, and follows all relevant Federal requirements, while imposing safeguards of its own to ensure that its LSPF does not function anti-competitively. In short, Bell Atlantic denies any accusation that it has or will "game" the local service provider freeze process to its advantage. Because Bell Atlantic believes it adheres to FCC and other safeguards concerning LSPF, and because no party has been able to document any abuse of LSPF by Bell Atlantic, Bell Atlantic urges not only that it be allowed to continue offering an LSPF service, but that its LSPF service not be tariffed.

While other parties submitting reply briefs reaffirmed their prior positions as to the need or lack of need for Bell Atlantic's LSPF, all advocated tariffing the service if Bell Atlantic were to continue offering it. Bell Atlantic was the only party opposed to the tariffing of its LSPF offering.

### **III. DISCUSSION AND FINDINGS**

There are a number of possible resolutions in this case: prohibit Bell Atlantic's LSPF altogether; permit BA-MD to continue offering its LSPF service without tariffing, as now; permit BA-MD to continue offering its LSPF service, but require the Company to submit it to the Commission as a tariff filing; or, require BA-MD to cease offering its LSPF service until it has submitted, and the Commission has approved, an LSPF tariff.

Of these options, a total prohibition of Bell Atlantic's LSPF service is neither advisable nor necessary. The record indicates that local service provider freezes can be a useful tool in the struggle against slamming. As the Maryland local service provider market inevitably becomes more competitive, an LSPF option will become increasingly useful. Rather than impeding competition, the LSPF option, properly administered, can smooth the way for competition by providing a certain and relatively simple way to prevent one of the most troublesome abuses that may arise in a competitive environment.

The alternative of permitting BA-MD to continue offering its LSPF service without tariffing it is also not in the public interest. When a service affects both end-user customers and competitors or would-be competitors of an ILEC, as LSPF service does, it is counterproductive and inappropriate for it to remain untariffed. As LSPFs become more important in a competitive telecommunications environment, the details of LSPFs must be publicly accessible. Therefore, this Proposed Order requires that BA-MD submit its LSPF service to the Commission for approval as a tariff filing. The need to ensure that Bell Atlantic's LSPF service is consistent with Federal requirements also makes tariffing appropriate. There is, additionally, a need for parties who will be competing with Bell Atlantic to be able to fully and openly examine the Company's LSPF procedures. Those procedures are bound to have an effect on the operation of a competitive environment in Maryland.

Bell Atlantic's argument that LSPFs do not need to be tariffed because they are offered free of charge is not compelling. Whether or not a service is free cannot be the major criterion determining whether it should be tariffed. The necessity, popularity, or controversial nature of a service should also determine the need for public tariffing of that service. In the present instance, the argument for tariffing clearly outweighs any argument against tariffing. This is especially true when one notes that Bell Atlantic tariffs its intraLATA long distance preferred carrier freeze service, pursuant to the Commission's

ruling at its May 5, 1999 Administrative Meeting. There is absolutely nothing in this record that persuasively indicates that local carrier freezes are better left untariffed, while freezes applicable to long-distance service should be tariffed. The issue is essentially the same in both cases: the need to balance slamming protection against the need for easy customer access to competitive service providers.

Local service provider freezes are clearly of widespread interest to numerous parties in Maryland's emerging competitive telecommunications market. Ordinarily, it would not be in the public interest for a service important to both customers and providers to be offered prior to its approval as a tariffed service. That has already happened, however, in this case. Expeditious tariffing of Bell Atlantic's local carrier freeze is thus in the public interest.

This Proposed Order therefore requires that Bell Atlantic-Maryland, Inc., submit its local service provider freeze offering as a tariff filing to this Commission no later than 30 days after the date that this Proposed Order becomes a final Order of the Commission. If Bell Atlantic complies with this filing schedule, it may continue to offer LSPF service as an interim measure under the current terms on which the service is now offered, using the limited advertising practices in effect on the date this Proposed Order is issued. The Hearing Examiner urges the Commission to review the submitted tariff as soon as possible, to insure that continued offering of the Company's local

service provider freeze will not stifle an emerging competitive market.

Bell Atlantic may not expand advertising of its LSPF service beyond existing levels until its LSPF tariff is approved for filing by the Commission. If Bell Atlantic does not submit its LSPF service for tariffing within 30 days after the date this Proposed Order becomes final, it must cease offering a local

service provider freeze service at that time. It may not resume offering an LSPF thereafter until a tariff for such offering is actually approved for filing by this Commission.

At this time, I reject calls for an independent third-party operator to administer LSPFs. Such an entity is presently unneeded, and potentially cumbersome and costly. While a third-party administrator may ultimately prove necessary, tariffing Bell Atlantic's LSPF service, combined with monitoring of Bell Atlantic's compliance with that tariff by the Commission Staff and by CLECs, should demonstrate whether more elaborate measures to ensure compliance will be necessary. I likewise agree with those parties who would not permit the initiation or termination of LSPF freezes by E-mail at this time. The record is not complete enough to decide this issue. If BA-MD includes E-mail initiation or termination in its LSPF tariff, the question will be addressed at that time.

I also do not adopt at this time any of the numerous provisions that AT&T would have included in Bell Atlantic-Maryland's local service provider freeze tariff. Many of these provisions are Federally mandated, and others are, according to BA-MD, already practiced in administering the LSPF. AT&T and other parties will have an opportunity to address the remaining proposals and issues in detail once BA-MD has filed its local service provider freeze tariff.

IT IS, THEREFORE, this 30th day of June, in the year  
Nineteen Hundred and Ninety-nine,

ORDERED: (1) That Bell Atlantic-Maryland, Inc., shall submit its local service provider freeze in tariff form for filing with this Commission no later than 30 days after the date this Proposed Order of Hearing Examiner becomes a final Order of the Commission.

(2) That if Bell Atlantic-Maryland, Inc., complies with Ordered Paragraph (1) above, it may continue to offer and market its local service provider freeze in the manner it does on the date this Proposed Order is issued as an interim measure pending further order of the Commission.

(3) That if Bell Atlantic-Maryland, Inc., does not comply with Ordered Paragraph (1) above, it shall cease offering its local service provider freeze 30 days after this Proposed Order becomes a final Order of the Commission, and not offer LSPF service until its tariff therefore is accepted by this Commission.

(4) That all other motions are hereby denied.

(5) That this Proposed Order will become a final order of the Commission on July 31, 1999, unless before that date an appeal is noted with the Commission by any party to this proceeding as provided in Section 3-113(d)(2) of The Public Utility Companies Article, or the Commission modifies or reverses the

Proposed Order or initiates further proceedings in this matter as provided in Section 3-114(c)(2)(ii) of The Public Utility Companies Article.

---

Robert H. McGowan  
Hearing Examiner  
Public Service Commission of Maryland