

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: REVIEW OF BELL ATLANTIC-
 RHODE ISLAND TELRIC STUDY Docket No. 2681

ORDER

On January 13, 1999, New England Voice and Data, LLC (“NEVD”) filed with the Public Utilities Commission (“Commission”) a Petition for Expedited Interim Order Prescribing Temporary Rates, Tolls and Charges for Bell Atlantic Collocation Services and Unbundled Loops. The Petition was supported by a Memorandum of Law and Affidavit of Blaine B. Patrick (jointly, the “Petition”).

In its Petition, NEVD sought approval on a temporary basis of the TELRIC rates and schedules for collocation proposed by Bell Atlantic-Rhode Island (“BA-RI”), and the TELRIC rates for unbundled loops proposed by the Division of Public Utilities and Carriers (“Division”), pending the final order of the Commission in this docket. NEVD noted that, under the terms of its interconnection agreements for Rhode Island, New Hampshire and Massachusetts, it is entitled to purchase collocation pursuant to BA-RI’s FCC-1 tariff or under the appropriate state tariff. Under the FCC-1 tariff, the non-recurring charge for a 100 square foot cage is \$51,440.20. In Massachusetts and New Hampshire, where BA-RI has filed state access tariffs that include collocation, the charge for the same cage is \$14,743 and \$15,967 respectively. In Rhode Island, where BA-RI has decided not to offer a state collocation tariff

that differs from the FCC-1, the current price that NEVD and other CLECs must pay is more than three times that in Massachusetts and New Hampshire. Although BA-RI's collocation cost study in Rhode Island proposes reducing the cost to CLECs for a 100 foot cage from the current price of \$51,440.20 to \$16,574.00, BA-RI had been unwilling as of January 12, 1999, to make available the proposed TELRIC rate to NEVD.¹

NEVD also moved that the TELRIC rates for unbundled loops proposed by the Division's expert witness, Thomas Weiss, be adopted pending the final order in this docket. If, as Mr. Wiess testified, the true TELRIC rate for an unbundled loop is \$14.00 and CLECs are paying \$17.53, then CLECs "are subsidizing Bell Atlantic's ability to engage in behavior that limits or possibly even restricts competition to where it would never occur."

At the time of its filing, NEVD was in the process of ordering collocation from BA-RI. The Petition stated that, absent an interim order establishing temporary rates, NEVD would be in the difficult position of either having to pay excessive rates for collocation, or delaying its plans to construct a network in Rhode Island until the Commission approves a permanent rate for collocation later this year. Accordingly, the Petition requested that any

¹ Although NEVD's Petition does not explicitly address the recurring charges for collocation, BA-RI's filed rates include such charges. Moreover, during the initial round of hearings, there was testimony to the effect that these charges impose an onerous burden on new entrants, who generally will not have developed sufficient traffic to cover the monthly assessments.

interim order establish an effective date that coincides with the filing of the Petition.

AT&T and BA-RI were the only parties to file written responses. No party requested a hearing.

AT&T expressed its concerns that the collocation rates proposed by BA-RI exceed reasonable, cost-based rates. AT&T also asserted that although the loop rates suggested by NEVD are “substantially closer to cost than the greatly inflated loop rates proposed by Bell Atlantic, they are still in excess of economic cost,” as shown in the prefiled testimony of Stephen Siwek. According to AT&T, “if the temporary rates requested by NEVD were left in place for any length of time, they would have the unintended affect of stifling the development of fair competition in the local exchange market in Rhode Island.” Nevertheless, AT&T supported the adoption of temporary collocation and loop rates so long as the interim rates do not delay the resolution of the issues in the docket.

BA-RI acceded to NEVD’s request that the Commission approve BA-RI’s proposed rates for collocation on an interim basis, pending a final order. However, BA-RI opposed NEVD’s motion to adopt the Division’s proposed rates on a temporary basis on the grounds that the price for unbundled loops contained in NEVD’s interconnection agreement with BA-RI should remain in place until the Commission adopts permanent rates. Furthermore, BA-RI noted, the interconnection agreement contains a “true-up” provision for

unbundled loops which allows the parties to recoup any difference between the rates contained in the interconnection agreement and the rates which the Commission ultimately sets in this proceeding. Thus, according to BA-RI, “NEVD is fully protected under the agreement it made, and there is no basis for this Commission to interfere in that agreement.”

At an open meeting on February 2, 1999, the Commission reviewed the filings. On the issue of temporary rates for collocation, it was noted that the thrust of NEVD’s Petition was to seek lower non-recurring charges. The Commission noted that, since the TELRIC docket was proceeding somewhat more slowly than anticipated, it was appropriate to provide the temporary relief that NEVD was seeking with respect to non-recurring collocation charges, pending the final order of the Commission in this docket. However, the Commission was hesitant to approve BA-RI’s proposed rates for recurring charges in light of testimony in the TELRIC docket that such proposed recurring charges might frustrate entry in Rhode Island. Therefore, the Commission granted NEVD’s motion for an interim order prescribing temporary rates for non-recurring collocation charges, but ruled that it would not permit BA-RI to impose recurring collocation charges until a permanent rate is set in this docket. However, the Commission ruled that at such time as permanent rates are set, there shall be a true up enabling BA-RI to recover any revenues from recurring charges it would have received had the permanent rate been in effect.

With respect to NEVD's request for temporary rates for unbundled loops, the Commission agreed with BA-RI that the rates included in NEVD's interconnection agreement should apply until a permanent rate is established in this docket. NEVD will not be prejudiced by the denial of its request for temporary loop rates since, under the terms of its interconnection agreement, it is entitled to a true-up in the event that the permanent rates set by the Commission are less than the rates in its interconnection agreement.

Accordingly, it is

(15791) ORDERED:

1. NEVD's motion for temporary rates for non-recurring collocation charges is hereby approved. The temporary rates will be subject to true up pending the establishment of permanent rates and are as follows:

300 Sq. Ft. Collocation Cost	\$18,887
100 Sq. Ft Collocation Cost	\$16,574
20 Sq. Ft. Cage Addition	\$ 269
Point of Termination Bay (option 1)	\$ 1,243
Point of Termination Bay (option 2)	\$ 543

2. The temporary rates for non-recurring collocation are effective January 13, 1999.

3. BA-RI shall not be permitted to charge recurring costs for collocation until such time as the Commission sets permanent rates. At that point, BA-RI shall be entitled to recover any revenues from recurring charges it would have received from the effective date of this order.

4. NEVD's motion for temporary rates for unbundled loops is denied.

EFFECTIVE AT PROVIDENCE, RHODE ISLAND ON JANUARY 13,
1999, PURSUANT TO AN OPEN MEETING DECISION ON FEBRUARY 2,
1999. WRITTEN ORDER ISSUED FEBRUARY 18, 1999.

PUBLIC UTILITIES COMMISSION

James J. Malachowski, Chairman

Kate F. Racine, Commissioner

Brenda K. Gaynor, Commissioner