FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 03–167; FCC 03–243]

Application by SBC Communications Inc., Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, the Ohio Bell Telephone Company, Wisconsin Bell, Inc., and Southwestern Bell Communications Services, Inc. for Authorization To Provide In-Region, InterLATA Services in Illinois, Indiana, Ohio and Wisconsin

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In the document, the Federal Communications Commission (Commission) grants the section 271 application of SBC Communications Inc., Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, the Ohio Bell Telephone Company, Wisconsin Bell, Inc., and Southwestern Bell Communications Services, Inc., (SBC) for authority to enter the interLATA telecommunications market in the states of Illinois, Indiana, Ohio and Wisconsin. The Commission grants SBC's application based on its conclusion that it has satisfied all of the statutory requirements for entry and opened its local exchange markets to full competition.

DATES: Effective October 24, 2003.

FOR FURTHER INFORMATION CONTACT: Pam Arluk, Attorney-Advisor, Wireline Competition Bureau, at (202) 418–1471 or via the Internet at *parluk@fcc.gov*. The complete text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. Further information may also be obtained by calling the Wireline Competition Bureau's TTY number: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in WC Docket No. 03–167, FCC 03–243, adopted October 14, 2003, and released October 15, 2003. The full text of this order may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*. It is also available on the Commission's Web site at *http://www.fcc.gov/Bureaus/Wireline_Competition/in-region_applications*.

Synopsis of the Order

1. *History of the Application*. On July 17, 2003, SBC filed an application with the Commission, pursuant to section 271 of the Telecommunications Act of 1996, to provide in-region, interLATA services in the states of Illinois, Indiana, Ohio and Wisconsin.

2. *The State Commission's Evaluation*. The Illinois Commerce Commission (Illinois Commission), the Indiana Utility Regulatory Commission (Indiana Commission), the Public Utilities Commission of Ohio (Ohio Commission), and the Wisconsin Public Service Commission (Wisconsin Commission), following an extensive review process, advised the Commission that SBC has taken the statutorily required steps to open its local markets to competition. Consequently, the Illinois Commission, the Ohio Commission and the Wisconsin Commission recommended that the Commission approve SBC's in-region, interLATA entry in their evaluation and comments in this proceeding. The Indiana Commission, while it concluded that SBC is largely in compliance with section 271 requirements, it deferred to this Commission the ultimate determination of whether local markets have been fully and irreversibly open to competition, and whether SBC has demonstrated sufficient accuracy of its systems data and wholesale billing reliability.

3. *The Department of Justice's Evaluation*. The Department of Justice filed its evaluation on August 26, 2003, expressing concerns about SBC's wholesale billing, line splitting, manual handling, pricing and data reliability. The Department of Justice, while noting that SBC had made progress addressing some of the issues, stated that because of concerns about the billing processes, it could not support the application based on the current record. The Department, however, noted that the Commission might be able to resolve these billing issues prior to conclusion of its review.

4. *Compliance with Section 271(c)(1)(A)*. In order for the Commission to approve a BOC's application to provide in-region, interLATA services, a BOC must first demonstrate that it satisfies the requirements of either section 271(c)(1)(A) (Track A) or section 271(c)(1)(B) (Track B). The Commission concludes that SBC satisfies the requirements of Track A in Illinois, Indiana, Ohio and Wisconsin. This decision is based on the interconnection agreements SBC has implemented with competing carriers in each of the four states and the number of carriers that provide local telephone exchange service, either exclusively or predominantly over their own facilities, to residential and business customers.

Primary Issues in Dispute

5. *Checklist Item 1—Interconnection*. Based on its review of the record, the Commission concludes that SBC provides interconnection in accordance with the requirements of section 251(c)(2) and as specified in section 271 and prior Commission orders. In reaching this conclusion, the Commission examines SBC's performance with respect to collocation and interconnection trunks, as the Commission has done in prior section 271 proceedings. The Commission also examines whether SBC offers collocation and interconnection trunks to other telecommunications carriers at just, reasonable and nondiscriminatory rates. The Commission concludes that the commenters' allegations regarding SBC's collocation power rates in Indiana and Ohio do not require a finding of checklist noncompliance. The Commission determines that the revised collocation power rates made available to competitive LECs in Indiana and Ohio demonstrate that SBC provides collocation on a just, reasonable, and nondiscriminatory basis in compliance with checklist item one in Indiana and Ohio. In addition, the Commission waives its complete-as-filed requirement on its own motion pursuant to section 1.3 of the Commission's rules to the limited extent necessary to consider SBC's revised collocation power rates.

6. *Checklist Item 2—Unbundled Network Elements*. Based on the record, the Commission finds that SBC has provided ''nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)'' of the Act in compliance with checklist item two.

7. *Pricing of Unbundled Network Elements*. Based on the record, the Commission finds that SBC's UNE rates in Illinois, Indiana, Ohio and Wisconsin are just, reasonable and nondiscriminatory as required by section 251(d)(1). Thus, SBC's UNE rates satisfy checklist item two in all four states. The Commission has previously held that it will not conduct a *de novo* review of a state's pricing determinations and will reject an application only if either ''basic TELRIC principles are violated or the state commission makes clear errors in the actual findings on matters so substantial that the end result falls outside the

range that a reasonable application of TELRIC principles would produce.'' The Illinois Commission, the Indiana Commission, the Ohio Commission, and the Wisconsin Commission all conducted extensive pricing proceedings to establish wholesale rates for UNEs. The Commission concludes that the fact that certain of the rates are interim in Illinois does not undermine SBC's showing that the rates satisfy checklist item two. The Commission also concludes that various ongoing litigation and challenges to rates adopted in Indiana, Illinois, and Ohio, do not preclude a determination that SBC is in compliance with section 271. The Commission has determined in previous orders that future rate uncertainty due to a pending appeal, without more, should not affect the Commission's review of the currently effective rates. The Commission also finds that the revised non-recurring charges (NRCs) for enhanced extended links (EELs) SBC submitted are reasonable interim rates. The Commission finds that the rates fall within the range SBC charges in other states, and that it expects the Illinois Commission to review the rates in the near future. In addition, the Commission waives its complete-as-filed requirement on its own motion pursuant to section 1.3 of the Commission's rules to the limited extent necessary to consider SBC's revised EEL NRCs.

8. *Operations Support Systems (OSS).* Based on the evidence in the record, the Commission finds that SBC is providing competitors nondiscriminatory access to OSS in compliance with checklist item two. Pursuant to its analysis, the Commission finds that SBC provides non-discriminatory access to its OSS '' the systems, databases, and personnel necessary to support network elements or services. Nondiscriminatory access to OSS ensures that new entrants have the ability to order service for their customers and communicate effectively with SBC regarding basic activities such as placing orders and providing maintenance and repair services for customers. First, the Commission finds that SBC's data are, on the whole, reliable and accurate, based on the evidence in the record, including two independent, third-party audits of SBC's performance data. Second, the Commission finds that, for each of the primary OSS functions (pre-ordering, ordering, provisioning, maintenance and repair, and billing, as well as change management), SBC provides access to its OSS in a manner that enables competing carriers to perform the functions in substantially the same time and manner as SBC does or, if no appropriate retail analogue exists within SBC's systems, in a manner that permits competitors a meaningful opportunity to compete. In particular, the Commission, assessing the totality of the circumstances, finds that SBC's evidence regarding billing demonstrates that competitive LEC concerns reflect only isolated instances or errors typical of high-volume carrier-to-carrier commercial billing, rather than systemic problems. The Commission thus finds that the allegations raised about billing in this record do not warrant a finding of checklist noncompliance because SBC's billing processes provide competitors a meaningful opportunity to compete. In addition, regarding specific areas for which the Commission identifies issues with SBC's OSS performance ''service order completion notices, line loss notification reports, billing completion notices, and access to IP addresses ''the Commission finds that these problems do not demonstrate overall discriminatory treatment or are not sufficient to warrant a finding of checklist noncompliance.

9. *Checklist Item 4—Unbundled Local Loops.* Based on the evidence in the record, the Commission concludes that SBC provides unbundled local loops in accordance with the requirements of section 271 and Commission rules. The Commission's conclusion is based on its review of SBC's performance for all loop types, which include voice-grade loops, xDSL-capable loops, digital loops, and high-capacity loops, as well as the Commission's review of SBC's processes for hot cut provisioning, line sharing and line splitting. With respect to issues related to SBC's line splitting processes, the Commission notes that the commenters in this proceeding raise the same issues regarding SBC's line splitting policies that it raised in the recent proceeding regarding SBC's application to provide in-region, interLATA services in the state of Michigan. Accordingly, the Commission incorporates and references the *SBC Michigan II Order*, and finds that SBC's line splitting policies do not warrant a finding of checklist noncompliance.

Other Checklist Items

10. *Checklist Item 7—Access to 911/E911 and Operator Services/Directory Assistance.* Section 271(c)(2)(B)(vii) of the Act requires a BOC to provide ''[n]ondiscriminatory access to 911 and E911 services.'' A BOC must provide competitors with access to its 911 and E911 services in the same manner that it provides such access to itself, *i.e.*, at parity. Specifically, the BOC ''must maintain the 911 database entries for competing LECs with the same accuracy and reliability that it maintains the database entries for its own customers.'' The Commission finds that SBC provides nondiscriminatory access to 911 and E911 services. Section 271(c)(2)(B)(vii) also requires a BOC to provide nondiscriminatory access to ''directory assistance services to allow the other carrier's customers to obtain telephone numbers'' and ''operator call completion services,'' respectively. Additionally, section 251(b)(3) of the 1996 Act imposes on each LEC ''the duty to permit all [competing providers of telephone exchange service and telephone toll service] to have nondiscriminatory access to * * * operator services, directory assistance, and directory listing, with no unreasonable dialing delays.'' Based on the Commission's review of the record it concludes that SBC offers nondiscriminatory access to its directory assistance services and operator services.

11. *Checklist Item 10—Databases and Signaling.* Section 271(c)(2)(B)(x) of the 1996 Act requires a BOC to provide nondiscriminatory access to databases and associated signaling necessary for call routing and completion. Based on the evidence in the record, the Commission finds that SBC provides nondiscriminatory access to databases and signaling networks in the states of Illinois, Indiana, Ohio and Wisconsin.

12. *Checklist Item 13—Reciprocal Compensation.* Section 271(c)(2)(B)(xiii) of the Act requires BOCs to enter into ''[r]eciprocal compensation arrangements in accordance with the requirements of section 252(d)(2).'' In turn, section 252(d)(2)(A) specifies the conditions necessary for a state commission to find that the terms and conditions for reciprocal compensation are just and reasonable. The Commission finds that the allegations AT&T raises with regard to reciprocal compensation pricing has already been appropriately raised before the Federal court, as Congress intended, where it is pending resolution. Under these circumstances, the Commission finds that such allegations do not require a finding of checklist noncompliance.

13. *Remaining Checklist Items (3, 5, 6, 8, 9, 11, 12 and 14).* Based on the evidence in the record, the Commission concludes that SBC demonstrates that it is in compliance with checklist item 3 (access to poles, ducts, and conduits), item 5 (unbundled transport), item 6 (unbundled switching), item 8 (white pages), item 9 (numbering administration), item 11 (number

portability), item 12 (dialing parity), and item 14 (resale).

14. *Section 272 Compliance.* Based on the record, the Commission concludes that SBC has demonstrated that it will comply with the requirements of section 272. Significantly, SBC provides evidence that it maintains the same structural separation and nondiscrimination safeguards in the four states as it does in Texas, Kansas, Oklahoma, Missouri, Arkansas, California, and Michigan.

15. *Public Interest Analysis.* The Commission concludes that approval of this application is consistent with the public interest. From its extensive review of the competitive checklist, which embodies the critical elements of market entry under the Act, the Commission finds that barriers to competitive entry in the local exchange markets have been removed and the local exchange markets in Illinois, Indiana, Ohio and Wisconsin today are open to competition. The Commission further finds that the record confirms its view, as set forth in prior section 271 orders, that BOC entry into the long distance market will benefit consumers and competition if the relevant local exchange market is open to competition consistent with the competitive checklist. Finally, the Commission finds that SBC's performance plans in each of the four states provide assurance of future compliance.

16. *Section 271(d)(6) Enforcement Authority.* Working with the four state commissions, the Commission intends to closely monitor SBC's post-approval compliance to ensure that SBC continues to meet the conditions required for section 271 approval. It stands ready to exercise its various statutory enforcement powers quickly and decisively in appropriate circumstances to ensure that the local market remains open in Illinois, Indiana, Ohio and Wisconsin.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–26794 Filed 10–21–03; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 03–3214]

North American Numbering Council; Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On October 16, 2003, the Commission released a public notice announcing the November 5, 2003 meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and its agenda.

DATES: Wednesday, November 5, 2003, 9 a.m.

ADDRESSES: Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, The Portals II, 445 12th Street, SW., Suite 5–A420, Washington, DC 20554. Requests to make an oral statement or provide written comments to the NANC should be sent to Deborah Blue.

FOR FURTHER INFORMATION CONTACT: Deborah Blue, Special Assistant to the Designated Federal Officer (DFO) at (202) 418–1466 or *Deborah.Blue@fcc.gov.* The fax number is: (202) 418–2345. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: Released: October 16, 2003.

The North American Numbering Council (NANC) has scheduled a meeting to be held Wednesday, November 5, 2003, from 9 a.m. until 5 p.m. The meeting will be held at the Federal Communications Commission, Portals II, 445 12th Street, SW., Room TW–C305, Washington, DC. This meeting is open to members of the general public. The FCC will attempt to accommodate as many participants as possible. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting.

Proposed Agenda—Wednesday, November 5, 2003, 9 a.m.

1. Announcements and Recent News
—New NANC Charter
2. Approval of Minutes
—Meeting of September 25, 2003
3. Report of Cost Recovery Working Group
4. Report from NBANC
5. Report of NAPM, LLC
6. Status of Contamination Threshold IMG (final report due at March 16, 2004 NANC meeting)
7. Report from OUR regarding impact on Caribbean carriers of reclamation of ''paid toll free'' numbers on April 1, 2004
8. Report of 3-Digit DIG IMG
9. Discussion of Multiple LRNs Issue
—SBC technical presentation re cross-LATA boundaries
—INC's assignment practices
—NANPA's survey
10. Report of National Thousands Block Pooling Administrator
—Activity report
11. Status of Industry Numbering Committee (INC) activities
—Summary of VoIP Workshop and matrix
12. Report of Local Number Portability Administration (LNPA) Working Group
—Wireless Number Portability Operations (WNPO) Subcommittee
13. Report of the North American Numbering Plan Administrator (NANPA)
—CO Code Activity
—NPA Relief Report
14. Report of Numbering Oversight Working Group (NOWG)
—Change Order review
—Status of NANPA and PA annual reviews
15. Update List of NANC Accomplishments
16. Summary of Action Items
17. Public Comments and Participation (5 minutes per speaker)
18. Other Business

Adjourn no later than 5 p.m.

Next Meeting: January 13, 2004.

Federal Communications Commission.

Cheryl L. Callahan,

Assistant Chief, Telecommunications Access Policy Division, Wireline Competition Bureau.

[FR Doc. 03–26771 Filed 10–21–03; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Deletion of Agenda Item From October 16th Open Meeting

October 15, 2003.

The following item has been deleted from the list of Agenda items scheduled for consideration at the October 16, 2003, Open Meeting and previously listed in the Commission's Notice of October 9, 2003.