

BearingPoint regarding SBC Ameritech's satisfaction (or lack thereof) of the elements of the Michigan Master Test Plan (or "MTP").² As will be explained below, the BearingPoint report confirms AT&T's overall experience that SBC Ameritech's OSS: (1) do not satisfy the relevant criteria under the federal Act (§ 271 of the Telecommunications Act of 1996 (the "federal Act"); 47 U.S.C. § 271 (2001)); (2) do not satisfy the elements for successfully applying to the FCC for § 271 approval; (3) do not satisfy this Commission's criteria for successful consultation with the FCC (as set forth in the February 9, 2002 order in this docket ("February 9 Order") and the Master Test Plan); and (4) are currently not capable of providing nondiscriminatory access to the required wholesale services at commercial volumes.

AT&T will also comment upon and rebut SBC Ameritech's claim (in its September 5, 2002 filing)³ that it has "fully satisfied" the requirements of the Commission's February 9, 2000 Order and the requirements of § 271. AT&T will show, *inter alia*, that

- Major elements relating to SBC Ameritech's change management processes are not being followed by SBC Ameritech;⁴
- SBC Ameritech's performance measurement systems have never been validated;⁵
- SBC Ameritech line sharing/line splitting provisioning systems remain noncompliant with Commission orders and FCC standards;⁶ and

² See Master Test Plan v. 3.0, Part III, § F at p. 21 (April 2, 2002); Willard/Webber Aff., ¶ 26 & n. 18.

³ Request for Commission To Direct KPMG Consulting To Issue A Draft Final Report And To Schedule The Review Process Of Such Report, Case No. U-12320 (Sept. 5, 2002) ("September 5 Filing").

⁴ See, e.g., Willard/Webber Aff., ¶¶ 37-48.

⁵ See, e.g., Moore Aff., pp. 4-11.

⁶ See, e.g., Fettig Aff., ¶¶ 22-42.

- SBC Ameritech's TSLRIC pricing policies are likely to reek havoc on Michigan's nascent competitive markets.⁷

Finally, in a separate filing made concurrently with this one, AT&T will present its position in response to SBC Ameritech's October 30, 2002 "Compliance Proposals," which, for the first time, lay out SBC Ameritech's flawed plans regarding the company's promised future satisfaction of the MTP and other state and federal law requirements.

COMMENTS

The Commission's February 9 Order established certain minimum requirements SBC Ameritech must meet before it can expect a favorable recommendation in consultation the Commission's consultation with the FCC on a § 271 application. For the purposes of these comments, the relevant requirements are:

- SBC Ameritech must demonstrate parity for all OSS between CLECs and SBC Ameritech and must demonstrate nondiscriminatory access to all interconnection services delineated in § 271's checklist provisions. (February 9 Order, ¶ 8.)
- SBC Ameritech must establish that the BearingPoint (previously, KPMG Consulting) managed third-party testing demonstrates the capability of its OSS at commercial volumes by a method defined in the collaborative process established for the third-party test. (*Id.*, ¶ 9.)
- SBC Ameritech must collaboratively establish specific performance assurance measures, including a self-effectuating system to prevent backsliding. (*Id.*, ¶ 12.)
- SBC Ameritech must file tariffs that demonstrate its full compliance with state and federal statutes, rules, and previous Commission orders on unbundled network element ("UNE") offerings.

AT&T comments and affidavits have been developed for the purpose of providing the Commission the information to determine whether SBC Ameritech has satisfied these requirements. The sheer breadth of information makes summarization impossible in

⁷ See, e.g., Henson Aff., ¶¶ 9-16.

these comments, and, therefore, AT&T urges the Commission to review AT&T's submission carefully. As the Commission will discover, SBC Ameritech has no basis to claim satisfaction of these Commission requirements. SBC Ameritech is not in a position to file a successful Section 271 application with the FCC.

A. Availability of OSS – Affidavits of Walter Willard, Rebecca Webber and Timothy Connolly

SBC Ameritech cannot demonstrate that its OSS provide nondiscriminatory access to interconnection services, unbundled network elements, and other related functionalities that are required for competitive carriers using SBC Ameritech's wholesale services to compete. Moreover, the BearingPoint managed third-party test of SBC Ameritech's OSSs establishes that serious defects remain (and continue to be discovered) in these OSSs such that it cannot reasonably be concluded that SBC Ameritech has met the MTP exit criteria.

Mr. Connolly, in his affidavit concerning SBC Ameritech's current OSS status, details the standards the Commission should consider when assessing whether SBC Ameritech's OSS has been sufficiently "upgraded" so as to offer true nondiscriminatory access. He reviews in detail the BearingPoint, Inc. ("BearingPoint") OSS Evaluation Project Report ("BP Report"), which was submitted to the Commission on October 30, 2002. As his affidavit shows, the numerous "unsatisfied" elements reported there indicate that SBC Ameritech's OSS fails to comply with the requirements of Checklist Item 2 of Section 271, which requires that Ameritech Michigan provides nondiscriminatory access to its OSS in accordance with the requirements of sections 251(c)(3) and 252(d)(1) of the Act. In AT&T's view, this failure is unambiguous and unmistakable evidence that SBC Ameritech has utterly failed to meet the federal

requirement to provide nondiscriminatory access to its OSS under Section 271.

Similarly, this failure establishes that SBC Ameritech has flunked the requirements this Commission established by virtue of the Master Test Plan (particularly the “Global Exit Criteria” that Ameritech Michigan must fully meet before the test can be deemed complete), and which were formulated pursuant to the Commission’s Order of February 9, 2000.⁸

More particularly, as Mr. Connolly shows in his attached affidavit in support of these comments that SBC Ameritech’s OSS is insufficiently documented, such that CLECs will find it at times impossible to understand the means to gain access to functionality. Connolly OSS Aff., ¶¶ 14-22.⁹ (This matter is discussed in greater detail below in relation to Change Management). Moreover, SBC Ameritech’s OSS fails to deliver the full functionality required for a carrier to compete with SBC Ameritech in a meaningful way. *See, e.g., id.*, ¶¶ 23-25. SBC Ameritech’s OSS continues to show critical areas of instability or, in some cases, complete failure of systems, such as is described in AT&T’s Willard/Webber affidavit on Line Loss Notifiers. *See* Willard/Webber Affidavit, ¶¶ 77 through 95. Mr. Willard and Ms. Webber’s affidavit

⁸ The FCC has provided specific guidance on what an regional Bell Operating Company (“BOC”) must show in order to meet the statutory standard of demonstrating that it offers nondiscriminatory access to its OSS. For instance, the FCC requires that Ameritech Michigan demonstrate that it provides OSS services to CLECs in “substantially the same time and manner” with respect to quality, accuracy and timeliness as it provides those services to itself. *See* Memorandum Opinion and Order, *In the Matter of Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York*, CC Dkt. No. 99-295, FCC 99-404, ¶ 44 (December 22, 1999) (“*New York 271 Order*”). For services Ameritech Michigan must supply to CLECs that have no retail analogue, the FCC requires that such services be provided at a level affording CLECs a “meaningful opportunity to compete.” *Id.* The Michigan Commission’s Master Test Plan, like the testing process adopted by numerous other state commissions, created benchmark standards that represent the minimum level of performance that would support competition, *i.e.* that would afford Michigan CLECs a “meaningful opportunity to compete.”

⁹ Similarly, SBC Ameritech routinely sought to block CLECs from obtaining relevant test information throughout this proceeding. *See, e.g.,* Connolly OSS Aff., ¶ 15.

discusses AT&T's past and more recent experiences operating in the SBC Ameritech OSS environment. In particular, they demonstrate that SBC Ameritech's change management process is so flawed as to be considered completely ineffective.

Together, these affidavits dispel any doubt as to whether SBC Ameritech's OSS have satisfied the applicable standards. SBC Ameritech's OSS have not been proven in the BearingPoint test to provide nondiscriminatory access to all required functionalities at commercial volumes:¹⁰

- The BearingPoint test shows that SBC Ameritech's OSS cannot consistently provide timely and accurate mechanized completion notices. Connolly OSS Aff., ¶ 24; Willard/Webber Aff., ¶ 86.
- The BearingPoint test shows that SBC Ameritech's OSS cannot support the agreed upon level of "flow-through". Moore Aff., p. 12.
- The BearingPoint test shows that SBC Ameritech's OSS cannot support the volumes of transactions that a fully competitive market will generate. Connolly OSS Aff., ¶ 24, 75, 84.
- The BearingPoint test shows that SBC Ameritech's OSS do not ensure accurate updating of critical records, such as Customer Service Records, directory listings, telephone number reservations. Connolly OSS Aff., ¶ 24; Willard/Webber Aff., ¶ 86.
- The BearingPoint test shows that SBC Ameritech's maintenance OSS cannot be counted on to show timely and/or accurate repair of CLEC accounts. Connolly OSS Aff., ¶ 24, 106-108.

The BearingPoint test establishes that SBC Ameritech's Performance Measurement systems have not been proven to reliably or accurately report SBC Ameritech's provision of services to competitive carriers.

- BearingPoint continues to report that SBC Ameritech's collection and retention of the data necessary for calculating performance measurement results and remedy plan payments is flawed.

¹⁰ In fact, as is explained in Mr. Connolly's affidavit, SBC Ameritech has satisfied none of the "Global Exit Criteria" necessary for satisfaction of the MTP. Connolly OSS Aff., ¶¶ 48-71

- BearingPoint reports that flaws and other obstacles in SBC Ameritech's performance measurement reporting systems prevents BearingPoint from replicating most of the performance measurement results reported by SBC Ameritech.
- The BearingPoint report rebuts the E&Y Audit Report's findings and SBC Ameritech's claim that it has provided three consecutive months of performance measurement results showing compliance with the requirements of Case U-11830.

Additionally, as noted above, SBC Ameritech's Change Management Processes are wholly inadequate to support the necessary transitions between and upgrades to its OSS. In particular, Mr. Willard and Ms Webber affidavit, and Mr. Connolly's affidavit show:

- SBC Ameritech's past implementations of changes to its OSS have been riddled with errors and its recent implementation of LSOG5 indicates that the Change Management Processes are not sufficiently improved or stable. Willard/Webber Aff., ¶ 37-48.
- Neither the BearingPoint investigation nor the E&Y "audit" was sufficient to adequately examine Change Management issues from a CLEC perspective. Nevertheless, both reports show serious faults in the processes. *Id.*, ¶¶ 13-16.
- SBC Ameritech continues to violate the Change Management Process established in the FCC merger docket and the 13-state Change Management Plan of Record. Indeed, there are internal processes at SBC Ameritech that are not authorized or explained by the agreed upon Change Management Processes. *Id.*, ¶¶ 49-76; Connolly OSS Aff., ¶ 34-38

As Mr. Connolly concludes in his affidavit, whatever standard that is used, SBC Ameritech's OSS fail. SBC Ameritech's OSS fail the FCC's criteria. They fail the Michigan Commission's requirements. And finally, most importantly, SBC Ameritech has not satisfied the global exit criteria of the Michigan Master Test Plan.

B. Performance Measurement Remedy Plan – Affidavit of Karen Moore

SBC Ameritech cannot demonstrate that the performance measurement remedy plan approved by the Commission in Case No. U-11830 has operated in a manner that will provide a “self-effectuating system to prevent backsliding” by SBC Ameritech. Since the Commission last examined this issue, much has happened regarding SBC Ameritech’s performance and implementation of remedy plans, both in Michigan and in the other states in which SBC Ameritech operates. The Affidavit of Karen Moore provides new information on these topics. Specifically, Ms. Moore discusses performance issues that have arisen from BearingPoint’s test of SBC Ameritech’s operating support systems (“OSS”). Ms. Moore also discusses the remedy plan decisions of other states, including SBC Ameritech’s recent change in position on the most hotly contested issue, the k table exclusion on remedy payments. Ms. Moore explains that the existing Michigan remedy plan fails to supply the appropriate incentives to SBC Ameritech to offer adequate wholesale service to Michigan CLECs, and she recommends changes that should be made to accomplish this goal.

C. Other Checklist Issues – Affidavits of Eva Fettig and James Henson

In prior filings, AT&T has demonstrated that SBC Ameritech has failed to offer concrete terms allowing nondiscriminatory access to unbundled network elements in compliance with § 271 and/or a Commission rule or order. In this filing, we update the Commission on several issues identified in those prior filings, and also provide evidence that SBC Ameritech has either failed to resolve these previously identified deficiencies or has even put in place practices that give rise to new violations.

Moreover, in the past several months the Commission has reviewed SBC Ameritech's offer for UNE combinations, most notably, the tariffs filed in "replacement" of SBC Ameritech's now withdrawn "Mi2A" amendments. In its recent order, the Commission has required SBC Ameritech to revise its tariffed terms and conditions for UNE Combinations. *See Opinion and Order*, Case No. U-12320 (November 7, 2002). SBC Ameritech's compliance with that order is due on November 17, 2002, and therefore cannot be the subject of these comments. AT&T will update the Commission on this topic following SBC Ameritech's November 17, 2002 filing.

The Commission also recently reviewed and found deficient SBC Ameritech's line sharing and line splitting offers. *See Opinion and Order*, Case No. U-12320 (Oct. 3, 2002). SBC Ameritech's compliance with these line sharing/line splitting requirements has not been established. In the affidavits of Eva Fettig and James Henson, AT&T will support its claims that SBC Ameritech still has not satisfied the following checklist items:

- **Checklist item ii – UNE Combinations:** AT&T will update the Commission on this matter following the receipt of SBC Ameritech's November 17, 2002 compliance tariff filing.
- **Checklist item ii – Line Sharing/Line Splitting:** As discussed in the affidavit of Eva Fettig, SBC Ameritech's terms and conditions for line sharing and line splitting, and the voice migration issues that are attendant to these products, fail to provide a concrete and supportable process for allowing customers to receive competitively provided voice and enhanced services over unbundled loops. Moreover, SBC Ameritech has again ignored recent Commission orders requiring that it adopt nondiscriminatory pricing and policies fostering line sharing and line splitting.
- **Checklist item vi – Local Switching:** Also discussed in the affidavit of Eva Fettig, SBC Ameritech has restricted access to required unbundled switch ("ULS") functionality. SBC Ameritech fails to provide nondiscriminatory terms to other ULS functions and has prevented carriers from accessing AIN features such as Privacy Manager.

- **Checklist – Pricing:** Through the attached affidavit of James Henson, AT&T explains that SBC Ameritech’s recent threats to seek dramatic increases in the TSLRIC rates approved for its UNEs and related services must be considered in review of § 271 Compliance. As Mr. Henson explains, this threat, when backed up by the vast corporate SBC and Ameritech resources, completely undermines the price stability and certainty essential to sustained, large-scale competitive local entry. For this reason, any Commission determination that SBC Ameritech has met the requirements of § 271 of the Act should be conditioned on a three to five year UNE price cap.

D. Compliance Proposals

In the final page of its September 5 filing, SBC Ameritech announced for the first time that it would propose a “compliance process, in the form of a Compliance Audit Plan, to provide the Commission assurance that future technical or operational concerns that have a material impact on SBC Ameritech’s compliance with competitive checklist will be quickly and appropriately resolved.” September 5 Filing, pp. 43-44.

SBC Ameritech filed its Compliance Plan Proposal on October 30, 2002.

As is explained in the separate set of comments filed by AT&T today, the concept of a Compliance Plan – at least as SBC Ameritech has proposed – departs markedly from (if not effectively ignores) the requirements that the Commission established in its orders in this docket. The Commission imposed on SBC Ameritech the current OSS testing and nondiscrimination requirements as the method to unlock local markets previously under SBC Ameritech’s monopoly control. The existence of some level of competitive penetration does not provide a reason to relax such measures. The Commission is now at the point where strict adherence to these and other testing and nondiscrimination requirements will create the necessary conditions such that these markets remain irreversibly open to competition. Without the completion of testing and actual proof that SBC Ameritech’s OSSs are operating without discrimination, SBC Ameritech will have

strong economic incentives to backslide on its commitments to maintain adequate OSS functionality that provides nondiscriminatory access to carriers like AT&T. Indeed, SBC Ameritech's proposed Compliance Plan represents its first step toward backsliding – even before these tests and proofs have been made.

CONCLUSION

For the reasons set forth above, the Commission should reject SBC Ameritech's claim that it has satisfied any of the requirements of the February 9, 2000 Order or the FCC's standards for § 271 approval. Instead, the Commission should use this opportunity to give future direction to the parties, and to reaffirm that collaborative principles and processes shall continue to govern the conclusion of its Third-Party OSS test.

Dated: November 15, 2002

Respectfully submitted,

**AT&T COMMUNICATIONS OF
MICHIGAN, INC. and TCG DETROIT**

By: _____
One of Their Attorneys

John J. Reidy III (P60620)
AT&T Corp.
222 West Adams, Suite 1500
Chicago, IL 60606
(312) 230-2647
(312) 230-8210 (fax)

Arthur J. LeVasseur (P29394)
Fischer, Franklin & Ford
3500 Guardian Building
Detroit, MI 48226
(313) 962-5210
(313) 962-4559 (fax)

Of counsel :

William A. Davis, II
Cheryl L. Hamill
Douglas W. Trabaris
Clark W. Stalker
AT&T Corp.
222 West Adams Street,
Suite 1500
Chicago, Illinois 60606