

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)
to consider **SBC's, f/k/a AMERITECH MICHIGAN,**)
compliance with the competitive checklist in)
Section 271 of the federal Telecommunications Act)
of 1996.)
_____)

Case No. U-12320

At the March 26, 2003 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Laura Chappelle, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

OPINION AND ORDER

On January 13, 2003, the Commission approved a report on SBC's compliance with 47 USC 271 (Section 271) in anticipation of SBC's filing of an application with the Federal Communications Commission (FCC) for authority to provide in-region interLATA service. In the report, the Commission found that SBC had demonstrated compliance with Section 271. Notwithstanding that conclusion, the Commission noted in a companion order that there were aspects of SBC's current performance that could be improved and that SBC had proposed to make improvements in some areas. The order addressed those areas in which the Commission concluded that SBC should continue to improve its performance.

As required by the order, SBC filed compliance and improvement plans on February 13, 2003, and collaborative discussions with competitive local exchange carriers (CLECs), the Commission

Staff (Staff), and other interested parties were held on March 4 and 5, 2003, with a follow-up conference call on March 12, 2003. Based on the input from those discussions, on March 13, 2003, SBC filed modified compliance plans for customer service records, directory listing database, and repair closure coding accuracy and modified improvement plans for line loss notifiers communications, pre-order timeliness, change management communications, and billing auditability and dispute resolution. It represented that implementation of the modified plans would result in tangible improvement in those areas that were the subject of the January 13 order, and requested that the Commission approve the plans.

On March 20, 2003, AT&T Communications of Michigan, Inc., and TCG Detroit (collectively, AT&T); TDS Metrocom, L.L.C. (TDS); Z-Tel Communications, Inc. (Z-Tel); and MCImetro Access Transmission Services LLC, Brooks Fiber Communications of Michigan, Inc., and MCI WorldCom Communications, Inc. (collectively, WorldCom) filed comments on the revised plans.

Compliance with Section 271

The modified plans are not required for SBC to demonstrate compliance with the competitive checklist. The Commission found in its January 13 report that SBC is in compliance with each of the Section 271 competitive checklist items, including each of the areas addressed by the modified compliance and improvement plans. The Commission required SBC to file the plans as a means to improve and enhance SBC's current performance, not to satisfy the requirements of Section 271. As the Commission noted in the January 13 order: "[T]here are aspects of SBC's current performance that could be improved, and SBC has proposed to make improvements in some areas." Order, p. 1. The Commission accepted that offer and raised a few other issues as well. Consequently, the Commission did not review the plans or comments for the purpose of identifying

changes that were needed to comply with Section 271 because SBC is in compliance. The Commission has identified changes that will make the compliance and improvement plans more effective.

Similarly, in developing and then revising the plans, it was not necessary for SBC to adopt every suggestion of the CLECs. To the extent that AT&T believes otherwise, it has misconstrued the January 13, 2003 order.

Standards and Review

WorldCom says that a fundamental failure of the plans is that three of the plans (Customer Service Inquiry Accuracy Plan, DL/DA Update Accuracy Plan, and Special and UNE Circuit Repair Coding Accuracy Plan) lack standards for the review that will be conducted by BearingPoint. It suggests language for inclusion in those plans. It says that the other four plans (Line Loss Notifier Communications Plan, Pre-Order Processing Timeliness Plan, Change Management Communications Plan, and Bill Auditability and Dispute Resolution Plan) do not provide for any third-party review and lack any mechanism for gauging satisfactory performance. It suggests that the plans be modified to provide for third-party review, with standards for review. It also says that SBC must commit to putting the plans into effect immediately without waiting for discussion and approval from the 13-state Change Management Team.

SBC has indicated that all improvement plans, including the change management plan, will begin to be implemented immediately without further action by the change management team and the Commission agrees that this should occur. The Commission does not see a need at this time to require third-party review for all plans. If later circumstances warrant, the Commission will require such review. Further, the Commission does not agree that there is a need for a third-party to attest to the results. SBC has committed to improvement and to testing for that improvement.

Should improvement not occur, the Commission will determine what further action will be required.

Change Management and Pre-Order Timeliness

No party specifically excepted to the Pre-Order Timeliness Plan and the Commission finds it acceptable as proposed. Although AT&T attached a copy of comments to the FCC on some change management plan issues regarding SBC's February 13, 2003 draft change management plan, no comments were filed by AT&T or any other party in regard to SBC's March 13, 2003 revised change management plan other than the comments that WorldCom filed questioning the implementation dates discussed above. This particular plan was modified more than any other in response to the collaborative discussions of March 4, 5, and 12, 2003. The revised change management plan makes significant additions to the existing 13-state Change Management Process, which will itself remain in effect along with the additional procedures. According to SBC, the new procedures are intended to address CLEC-impacting changes that are made outside of the normal quarterly release cycles and include notification procedures for new edits of existing business rules, modifications to existing edits for existing business rules, EDI mapping and CORBA IDL changes, and the provision of third-party vendor information to CLECs. In addition, SBC commits to further action in regard to defect testing and internal training, and commits to ongoing discussions regarding additional improvements to the CLEC Profile process and to other parts of the change management plan as well. As indicated in its January 13, 2003 Report on Section 271 matters, this Commission has already found that SBC's existing 13-state Change Management Process complied with Section 271 requirements. In addition, based on BearingPoint's testing and other evidence presented to the Commission, it concluded that SBC complied with that existing procedure. Nevertheless, the Commission commends the parties for

the serious and thoughtful discussion that has taken place, particularly in regard to the change management plan. These additional communication tools can assist greatly in diminishing issues that may arise regarding changes not already specifically addressed in the present 13-state Change Management Process. The Commission adopts SBC's change management plan.

Customer Service Inquiry Directory Listing/Directory Assistance Update, and Repair Coding Accuracy Plans

AT&T says that the three compliance plans render BearingPoint's review ineffective because it will not be a test manager but only a compliance auditor. It says that the Commission should order SBC to require BearingPoint to break down each step of the actions into tests, with specific criteria that, if not satisfied, will require BearingPoint to report to SBC, the Staff, and the industry. Then, it says, BearingPoint should be required to identify specific evaluation criteria before SBC implements the plans.

AT&T also says that the three plans (Customer Service Inquiries, Directory Listing/Directory Assistance Updates, and Maintenance and Repair Trouble Report Close-Out Codes) are flawed because they do not require SBC to correct deficiencies. Instead, it says, the plans provide that if the target accuracy level is not achieved, SBC will take only such further action as the Commission requires and SBC will decide when to approach the Commission about a missed target. Further, it says that SBC has refused to provide any of the training and testing materials that it will use in its compliance plan activities and that, although BearingPoint will have access to the materials, its role is simply to confirm that the materials exist and are being used in the manner described in the compliance plans. It also complains that the plans focus only on the manual processes identified in the BearingPoint exception reports that prompted the creation of the compliance plans, without focusing on other causes for errors.

Finally, AT&T says that the sample sizes required by each of the plans are too small to accomplish the purpose of the tests. It suggests that the transaction reviews should provide for samples from the target groups.

When it filed the revised plans, SBC argued that the Commission should reject any request to expand the scope of the plans or the testing methodology. SBC explained that the root cause analysis was driven by BearingPoint's operation support systems (OSS) final testing results. It said that it did not include in its compliance plans any root cause analysis or corrective actions for those areas in which SBC had satisfied the BearingPoint test criteria. Instead, it focused on those test criteria that were found to be not satisfied. Further, it said that it was proposing that BearingPoint conduct a statistically valid, nonbiased sample from commercial production in the SBC Midwest region. It said that the sample should not be biased on and limited to orders associated with the root cause and actions, and that doing so would not result in an "apples-to-apples" comparison to either BearingPoint's prior transaction testing or applicable Michigan performance measures.

The Commission declines to expand the scope of the three compliance plans, as proposed by AT&T. In its January 13 order the Commission addressed issues for which improvement would be sought; improvement in other areas was not required. So, for example, the Commission required that SBC seek improvement of CSI timeliness but not of provisioning accuracy. The scope of the compliance plans as proposed by SBC is adequate. It is also acceptable to target more limited areas for training and oversight such as the manual processes which SBC proposes to address. In SBC's opinion, improvement in manual processes will result in improvement in overall results. The proof will be in the outcome and it is the overall outcome which BearingPoint will appropriately test. Should SBC be mistaken and overall results do not improve, further action

will be required. In regard to commitments to improve results, AT&T is correct that SBC has not committed in these plans to achieve a certain outcome. It has, however, included goals for the improvement it seeks. The decision regarding the adequacy of improvements that are achieved remains, as it should be, with the Commission.

In regard to BearingPoint's testing, the training and testing materials that BearingPoint will review are not to be the subject of public disclosure and discussion with CLECs, although this information must be made available to the Commission and its Staff, if requested. This testing procedure has been utilized in BearingPoint's just completed process and procedures tests as well. The Commission will not require otherwise for the compliance plans proposed herein.

TDS notes in regard to the repair coding accuracy plan that SBC concedes that the root cause of problems with trouble ticket closures is errors made by SBC's repair technicians and that it proposes to address (at least temporarily) the accuracy of trouble ticket closures through additional training of its repair technicians and management oversight of the trouble ticket closure process. TDS says that the major shortcoming in the plan is the lack of a commitment to a long-term solution. TDS proposes that the Commission require, for the next three years, that SBC annually provide the training sessions set forth on page 7 of the "Special and UNE Circuit Repair Coding Accuracy Plan" and continue the management review and oversight set forth on pages 7 and 8 of its "Special and UNE Circuit Repair Coding Accuracy Plan." It also recommends that the Commission require SBC to make a commitment to provide additional training that emphasizes correct coding of CLEC trouble tickets as a permanent part of any new employee training for repair technicians.

In addition to what SBC has proposed, the Commission agrees that SBC should be required to continue its management review process for three years. Refresher training shall also occur within

one year of completion of initial training. Further, SBC should file, for three years, quarterly reports of the results of ongoing management activities, along with its assessment of whether the results indicate that further refresher training is appropriate or has been conducted. Finally, the Commission also supports TDS's proposal that SBC incorporate additional training regarding trouble tickets coding as part of new employee repair technician training as well. Amendments to its repair coding accuracy plan shall incorporate these documents.

Line Loss Notification

Z-Tel says that one of the major shortcomings of this plan is the failure to report the scope or impact of line loss failures affecting Michigan customers. It says that the plan should be modified so that SBC is required to provide that information. It says that this should be accomplished by including in the report for each month the total number of Michigan line loss notices affected by a failure or interruption compared to the total number of line losses provided for that same month in Michigan. To the extent a failure or interruption is discovered that affects an earlier monthly report, it says that the earlier report and data should be restated.

Z-Tel also says that SBC seeks to avoid providing this important information by claiming that it wants to file its data for each month on the 10th of the following month and that this type of information would not be available by that time. Because Z-Tel concludes that SBC has failed to provide any compelling reason why it is not possible to produce this data within an earlier time frame, it says that the Commission should simply require SBC to take the steps necessary to generate this information for reporting on the 10th of the month.

The Commission does not agree that when a failure or interruption is discovered that affects an earlier monthly report, the earlier report and data should be restated. The purpose of the report is to delineate the specifics of issues identified in a given month even if they affected previous

months. If previous months' reports were to be altered, the intent of the report would also be altered. However, the report does identify the duration of an event. In response to Z-Tel's concerns, SBC should break down affected line loss notifiers by month, and should specify total line loss notifiers sent over those time periods as discussed further below (i.e., if SBC indicated in one month that it identified that 3,000 line loss notifiers were lost during the three previous months the portion of the 3,000 for each of the three months should be identified) and, to assess the scope of those problems, SBC should specify the total line loss notifiers sent in each of those three months, as modified in the following discussion.

The Commission agrees that the monthly report on line loss incidents should be filed no later than the 10th of the following month in spite of the fact that information regarding the total numbers of line loss notifiers successfully sent during that month will not become available until the posting of performance measure results on the 20th of that month. However, the Commission will require that the total line loss notifiers sent in each of the previous three months also be included in SBC's report rather than the average of the total number, which SBC proposed to include. This monthly total shall also be submitted in any monthly report where line loss incidents have not arisen as well so that the running totals are available for review. Finally, SBC should regenerate February and March line loss reports (already filed with the Commission) to incorporate these changes in the reporting requirements.

AT&T says that the line loss notifier plan is flawed because it does not seek to improve performance, but only to improve the disclosure of such problems. It says although there may be some value in improving the process for giving notification of problems, the instability of the processes themselves is the real problem, and SBC needs to focus on fixing the root causes of those problems.

As noted above, the Commission concluded in January, and concludes once again today, based on the BearingPoint testing and SBC's considerable efforts to address line loss issues, that SBC complies with the requirements of Section 271 in this area. Considerable progress has been made in this area during the last year. However, the intent of the Commission's requirement for monthly line loss notifier reporting is that it be able to identify and investigate any need there might be for the Commission to order specific corrective action to be immediately put into effect. Further, on February 20, 2003, the Commission approved a revised line loss notifier performance measure and a new line loss notifier performance measure as well—both of which are now remedied. The Commission's monitoring and oversight will continue.

Billing Auditability and Billing Dispute Resolution

Z-Tel says that, in order to effectively address the issues relating to billing, significant revisions need to be made to SBC's plan. It says that before CLECs will be able to accurately audit SBC's wholesale bills, SBC needs to provide a reference guide that maps the universal service ordering codes (USOCs) that appear on wholesale bills to SBC's tariffs and CLEC-specific interconnection agreements. It notes that, in the proposed plan, SBC commits to provide a USOC reference guide by April 2003 for the SBC 13-state generic interconnection agreement, but argues that this commitment needs to be greatly expanded. It says that the Commission should require SBC to complete the USOC reference guide for its tariffs by May 2003 and for all CLEC-specific interconnection agreements by June 2003. In addition, it says that the Commission should require SBC to change its systems on an expedited basis (no later than 2004) so that the cross-reference to its tariff or interconnection agreement for the given USOC code always appears on wholesale bills and on any billing dispute responses SBC sends to a CLEC.

With respect to the billing resolution mechanism, Z-Tel says that SBC's plan offers little meaningful relief. It says that the "claim/dispute resolution checklist" would provide virtually no detailed information necessary to resolve a billing dispute and would not guarantee any timely response to a billing dispute. Instead, it says that the compliance plan should require, effective April 1, 2003, that SBC respond to all billing disputes in writing within 30 days and that 100% of dispute responses include CLEC-specific reference information such as the telephone number, repair ticket number, and interconnection agreement or tariff USOC references that will allow the CLEC to quickly verify the legitimacy of the disputed charge and SBC's claimed rate source.

As to SBC's claim that it implemented an internal quality review process to perform random samplings to ensure accuracy and completeness of bills, Z-Tel says that one cannot be certain that the number of claims being reviewed is significant or that all wholesale product types have been included. As a result, it says that the Commission should require that SBC's internal quality review process include a random sampling of at least 10% of all processed Michigan claims and should also ensure that all primary wholesale product types are included in the sampling.

Finally, Z-Tel says that SBC should provide the Staff with a monthly status report on the implementation of the bill auditability and dispute resolution plan, including the completed USOC reference guides, examples of the revised bill dispute responses, the results of the internal quality review results, and the scheduling of the 2004 OSS system changes required to meet the requirements of the plan. It says that the reporting should continue for six months after approval of the plan and should include the modifications suggested in its comments.

The Commission notes that SBC has agreed to provide a USOC reference guide for the 13-state generic interconnection agreement by April 2003. The Commission will also require, as Z-Tel proposes, that SBC provide a USOC reference guide for the Michigan tariff. This guide

shall be completed no later than June 15, 2003 for CLEC services. Any requests for USOC references for items in non-generic interconnection agreements should be handled, as SBC proposed, through the specific CLEC's account manager. As for Z-Tel's request that SBC's systems be changed to include tariff and interconnection agreement references on bills, SBC's billing format must comply with the standards developed by the industry organization charged with that responsibility. However, the availability of the USOC reference guides as discussed above, along with USOC information already included on bills and the billing dispute information discussed below, should facilitate the auditing of bills.

With respect to dispute resolution procedures, SBC has proposed, and must include as a checklist item for its billing representatives, a requirement to specify on dispute responses reference information, including identifying telephone number, repair ticket number, and interconnection agreement or tariff reference information. As for how to measure time frames for dispute resolutions, as well as which time frames to incorporate in newly developed performance measures regarding dispute resolution processes, those are now the subject of discussions between SBC and the CLECs in a billing subcommittee of the CLEC User Forum and in ongoing industry six-month review proceedings. SBC must specifically address the progress of those discussions in its status report on this plan. If the parties do not believe that progress is being made in those forums, they may individually or jointly seek resolution by the Commission.

The Commission will not require 10% sampling for SBC's internal quality review process as suggested by Z-Tel. However, status reports must detail the results of management's quality review in each report as well as the conclusion SBC has reached, based on the quality review, about the necessity for ongoing training.

Finally, although the Commission finds quarterly reports sufficient for purposes of this plan, SBC shall file interim reports on these issues should significant changes or improvements occur of which the Commission should be advised.

Approval

AT&T says that the Commission should not, and need not, approve the compliance and improvement plans. It says that the Commission should continue to monitor SBC's performance on a regular basis, not its promised adherence with a static plan of proposed improvements. It says that if SBC fails to provide the CLECs with nondiscriminatory access to OSS, the Commission will need to address SBC's failure, not its compliance with an improvement plan. It says that the focus must be on monitoring SBC's overall compliance with those objectives that the Commission believes are necessary to encourage the development of competitive telecommunications markets and to deal aggressively with potential backsliding.

The Commission will approve the plans despite AT&T's suggestion to the contrary. The Commission does not approve these plans in anticipation of the fact that "no future violations will be committed by SBC" as AT&T suggests (at page 4 of its comments), but rather to require that SBC take action to further improve certain areas of its operations. This order thus creates an obligation for SBC to take further action. It does not merely create an opportunity to monitor SBC's conduct if and when it decides to undertake these activities. On the other hand, in addition to approving the plans, the Commission will, as AT&T suggests, monitor SBC's overall compliance with those objectives that the Commission believes are necessary to encourage the development of competitive telecommunications markets and will deal aggressively with potential backsliding.

Sanctions

WorldCom says that, contrary to SBC's claim, the Commission's orders on the compliance plans and other matters related to opening the competitive markets in Michigan will be binding on SBC only until it successfully appeals those orders. WorldCom therefore argues that the Commission should bar SBC from providing long distance service in Michigan during the pendency of any appeals or court challenges to the Commission's orders that open the markets. It notes that the Commission imposed a similar restriction in its 1997 approval for an affiliate of then GTE North Incorporated to provide basic local exchange service in Michigan.

Aside from whether the Commission would have jurisdiction to enforce such a restriction after the FCC has authorized SBC to provide in-region interLATA service, the Commission does not agree that such a restriction would be needed or wise. This Commission has concluded that SBC has complied with Section 271. It would be inappropriate to deny authorization for in-region interLATA service due to an appeal of a plan designed to improve performance already judged to be compliant.

Performance Incentives

WorldCom says that each compliance plan should require SBC to pay an incentive payment if BearingPoint cannot, within a reasonable time, give an unqualified report attesting to SBC's complete and successful implementation of the plan. It also recommends that the payments continue until SBC achieves full compliance.

The Commission does not agree that each plan should provide for performance incentive payments. There are already remedied performance measures for some of these issues (e.g., CSI timeliness, pre-order timeliness). Furthermore, the Commission can impose fines for noncompliance with its orders, including this order approving the compliance and improvement plans.

The Commission intends to vigilantly enforce all of its orders relating to the opening of the competitive markets in SBC's Michigan territory, including the imposition of penalties for violations of its orders.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 USC 151 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACS, R 460.17101 et seq.

b. The compliance and improvement plans should be approved with the modifications discussed above.

THEREFORE, IT IS ORDERED that:

A. SBC's Customer Service Inquiry Accuracy Plan, the Directory Listings and Directory Assistance Database Update Accuracy Plan, the Pre-Order Processing Timeliness Plan, and the Change Management Communications Plan are approved without modification.

B. SBC's Special and UNE Circuit Repair Coding Accuracy Plan, the Line Loss Communications Plan, and the Bill Auditability and Dispute Resolution Plan shall be modified as discussed in this order and resubmitted to become part of the docket file no later than seven days from the date of this order.

C. The implementation of these plans shall be immediately pursued, and all reporting shall begin as delineated in the plans. The Commission will revisit these issues when and if it becomes advisable.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Laura Chappelle
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner

By its action of March 26, 2003.

/s/ Dorothy Wideman
Its Executive Secretary

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

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By its action of March 26, 2003.

Its Executive Secretary

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Suggested Minute:

“Adopt and issue order dated March 26, 2003 approving, with modifications, the compliance and improvement plans filed by SBC on March 13, 2003, as set forth in the order.”