



STATE OF MICHIGAN
PUBLIC SERVICE COMMISSION
DEPARTMENT OF CONSUMER & INDUSTRY SERVICES

Jennifer M. Granholm
GOVERNOR

April 2, 2003

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Application by SBC Communications Inc., et al. for Provision of
In-Region, InterLATA Services in Michigan, WC Docket No. 03-16

Dear Ms. Dortch:

This is to inform you that on March 31, 2003 Thomas Lonergan, Director of the Michigan Public Service Commission Communications Division and I met with Chairman Michael Powell and Christopher Libertelli. On April 1, 2003 we met with Commissioner Kevin Martin and Daniel Gonzalez, Commissioner Michael Copps and Jessica Rosenworcel and with Commissioner Jonathan Adelstein and Lisa Zaina. We presented the views set forth in the attached document.

Sincerely,

A handwritten signature in cursive script that reads "Laura Chappelle".

Laura Chappelle
Chairman

THE MICHIGAN S271 APPLICATION – OVERVIEW

1. The Michigan S271 application should not be penalized for having a very high degree of competition (25%), where CLEC issues inevitably will arise. Real competition breeds issues not present in states with little competition. The correct question is whether issues are being timely and effectively addressed. Approval of 271 for states with little competition versus disapproval of Michigan which has vigorous competition and where issues can and do arise, but where such issues are addressed and resolved is not reasonable or equitable.
2. Many of the filings on Michigan's application have been based on issues which have been raised only during the 90-day FCC review but not raised in the Michigan proceedings, this greatly diminishes the value of our 3-year proceedings, and the \$300 million BearingPoint/Hewlett Packard testing in Michigan and the other four states.
3. It is true that the FTA does not include a specific market share requirement. However, a 25% market share provides empirical evidence and is primary support for a position that this market must be open to competition. USDOJ said this was an important consideration. In addition, the speculation of some that the MPSC might raise UNE rates and cause competition to decrease is neither reasonable or appropriate.
4. FCC denial pending a directive to complete the BearingPoint metrics tests will not be a short term delay. Under a zero defect plan, BearingPoint's metrics test is not scheduled to end until August 30th, which based on past experience is unlikely. Then state reviews would commence, typically requiring at least 90 days. New filings are unlikely until 2004.
5. Michigan should not be penalized for requiring actions of SBC that go beyond what criteria have been found acceptable in the past by the FCC for purposes of 271 compliance. DOJ's issues were almost totally those identified by the PSC for additional action but they were not found by the PSC to be deficiencies in 271 criteria. The DOJ found no checklist item unsatisfactory, they focused on whether competition could be sustained and left the FCC to address this. It has been addressed in subsequent filings and actually was thoroughly addressed in the MPSC's original report in January.
6. If the application is denied, resubmission will not likely occur for 8-12 months. In the meantime, a) all transaction and procedures testing will be almost 2 years old; b) a new LSOG 6 release will have occurred (scheduled for 6/14/03) further undermining the testing since LSOG 4 at that time will be retired; c) new triennial review rules will be in effect undoubtedly requiring a "refresh" of our docket on compliance with checklist items.
7. The MPSC seeks the consumer benefits that derive from vigorous competition on an even playing field. The constraints on SBC do not only harm its ability to bundle services and respond to competition but it harms the customer. Initiatives by SBC would further incent other competitors.
8. In the MPSC's judgment, a high level of competition in the Michigan market plus a solid "pass" from BearingPoint on OSS systems plus a "pass" from Ernest and Young (and to

some degree by BearingPoint)on performance metrics reliability and a vigilant, proactive Commission should be sufficient for 271 approval. There are no outstanding issues that rise to the level of non-compliance and the public interest clearly favors approval.

CHANGE MANAGEMENT POLICY (CMP)

The 13 state change management policy was adopted in late 2001 pursuant to a Merger Condition and after extensive collaborative discussions. The 73 page document details procedures which must be utilized to notify CLECs of changes in SBC's OSS but in general covers specifically only major OSS releases. An adequate change management policy and adherence to that policy is required for compliance with Checklist Item #2.

1. The 13-state CMP that the PSC found acceptable in January is the same one that the FCC has found acceptable for 271 purposes for the states of Texas, Kansas, Oklahoma, Arkansas, Missouri and California.
2. BearingPoint evaluated the adequacy of SBC's CMP. They tested whether CMP releases were complete and whether they were timely as prescribed in the CMP. SBC satisfied all seven criteria in the test, provided required information in all 102 instances tested and provided that information on a timely basis for 94 of the 102 instances (92%).
3. SBC has admitted that they did not abide by the CMP in one of the instances raised by AT&T in the fall of 2002. In other instances they agreed that certain CLEC-impacting events occurred without notice to CLECs but that notice of these changes was not covered by the 13-state CMP. As a result, the PSC found the 13-state CMP policy and SBC's adherence to it to be adequate for 271 purposes (based on previous FCC determinations in 271 applications) but required that further policies be adopted to address changes that were not covered by the 13-state policy. Intense negotiations occurred on the change management plan submitted to the PSC in February and many changes were made to the draft plan. No objections whatsoever were filed by CLECs in regard to this plan. The PSC approved the plan on March 26, 2003. It is our understanding that these enhancements will be exported to the 13 state CMP.

CONCLUSION

- The 13-state CMP existing in January 2003 is adequate on which to base 271 approval and the FCC has found this so in every other SBC 271 application;
- SBC has adhered to that policy in all but one instance;
- Other incidents occurred last fall where changes to SBC's OSS impacted CLECs however those types of changes are not specifically covered in the existing 13-state CMP;
- BearingPoint's tests support a determination that the policy is adequate and SBC adheres to it;
- This Commission has requested further improvements which go beyond 271 requirements and extensive new procedures have been adopted following discussion with CLECs and without CLEC objection. The goal of the new procedures is to implement change management procedures for items not presently covered in the existing policy.

DATA INTEGRITY (Data integrity is the name of one of our 5 metrics tests - the one that was least complete at the time of SBC's 271 application and the one that will take the longest to finish. However, even though the FCC staff calls this issue data integrity, we believe they are talking more broadly to mean metrics reliability in general because they are also questioning metrics calculation issues (including replication) which are actually part of a separate BearingPoint metrics test.)

1. SBC's major support for the fact that it is providing non-discriminatory access to UNEs and resale is its market share - the largest competitive share of any ILEC to have applied for 271 approval. In the 6-month period between December 2001 and June 2002 CLEC market share in SBC's Michigan exchanges grew from 15% to 20%. Our year end 2002 survey should be complete this week but it appears that CLEC market share will approximate 25%.
2. Given CLEC market share in Michigan, we believe reliance on performance measure results is a secondary source of support. Nevertheless, based on E&Y's audit of SBC's performance measures reporting, the PSC found acceptable over 85% of the metrics on which SBC relied (i.e., measures with volumes and benchmarks) for 271 support.
3. The MPSC was correct to rely on E&Y's metrics test in January because much of BearingPoint's metrics test was incomplete. This is particularly the case for data integrity where our October BearingPoint report indicated that 11 test criteria were failed but 32 were indeterminate. In December, Ohio's report wasn't much better showing 12 failed and 26 indeterminate. Our updated March 7th report shows 14 failed and 24 indeterminate. The FCC has found the E & Y metrics testing acceptable in other 271 dockets. Failed means further improvement and retesting to pass is needed. It should also be emphasized that there has been a high correlation between the findings of both analyses, with very little in conflicting results.
4. The PMR 5 test (metrics calculation and replication) is presently scheduled to complete in mid-June. However, a) we have presently replicated for January data only 39% of total measures (18% of the Michigan 44) and nine months ago we had replicated for July data 33% of total measures (16% of the Michigan 44); b) SBC has been trying to develop a list of "documentation only" changes they want recognized in July testing (most of which have been referred to in Ernest and Young's reports as "interpretations" rather than "exceptions") and it will take time to have all five states sign off on incorporating those changes (IL wants to use its MTP change procedures, others at least want to run these by CLECs). Although many issues have been identified and SBC has at times been slow in submitting information, BearingPoint radically changed its testing methodology last October (now permitting the review of restated results of a given month) and IL is now using different methodology than the other 4 states which may add to delays.
5. In regard to the PMR 4 test (data integrity), only six PMR 4 exceptions existed at the time of our January report. Four of these had also been addressed by E&Y and the last had limited applicability to Michigan. Four others have been opened since then and two of those have closed. This is an extremely complicated tests and is now scheduled, under a zero defect plan, to complete on August 23rd with another week required to write the report. Staff believes it may take the remainder of the year.

6. There is a huge degree of overlap between BearingPoint's and Ernest and Young's findings despite their differing methodologies and differing definitions of materiality. In some cases BearingPoint identified an issue first; in other cases Ernest and Young first identified the issue. Ernest and Young's December report recognizes a much greater degree of correction than BearingPoint's audit which concentrates on much earlier months.

7. Any denial based on this issue will create a very lengthy period of 8-10 months before applications could be re-submitted.

BILLING

1. The billing question relates to whether provisioning orders (adds, deletes and changes) in the Ameritech Customer Information System (ACIS) provisioning data base are ultimately being posted to billing in the Carrier Access Billing System (CABS) data base. SBC's billing reconciliation in January 2003 showed that 10% of the orders did not post to billing and asserts that this related totally to the CABS migration. There is no evidence that the mismatch of data bases relates to anything but the CABS migration, a one time event in 2001-2002. Prior to that time, these orders were provisioned and billed out of the same system so no mismatch could exist. This is not an issue that was identified in the Michigan proceedings and has only arisen after the SBC application.
2. BearingPoint tested nearly 100 billing test criteria in each of the five states and all have now been satisfied. In Michigan we tested during the CABS migration; in the other 4 states they tested afterward. Our one test criteria regarding the timeliness of CABS billing postings was indeterminate because of late postings due to the one-time CABS migration. In the other 4 states where testing occurred after the CABS migration, an exception was initially issued on this test criteria but retesting occurred in Wisconsin, Illinois and Indiana and was eventually satisfied. Ohio did not retest but eventually passed the criteria based on BearingPoint's recommendation that it was legitimate to "import" the test conclusions from the other three states. Similarly we indicated in comments to the FCC that the results of that one test criteria in the WI, IL and IN tests could be imported to Michigan as well.
3. Based on a call on March 27, 2003 with BearingPoint and FCC staff, BearingPoint asserts it tested billing accuracy after the CABS migration and found the results very satisfactory.
4. Based on our review of the recent filings, a worst case is that a temporary 90% compliance was achieved for billing accuracy due to CABS migration issues. The MPSC does not believe this migration related problem is more than a one time event and BearingPoint has fully tested the current billing systems. It is not an ongoing impediment to competition.