

B E F O R E T H E  
F E D E R A L C O M M U N I C A T I O N S C O M M I S S I O N

Washington, D.C. 20554

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In the matter of the application filed by )  
**SBC COMMUNICATIONS INC., MICHIGAN** )  
**BELL TELEPHONE COMPANY, and** )  
**SOUTHWESTERN BELL COMMUNICATIONS** )  
**SERVICES, INC.,** for provision of in-region, )  
interLATA services in Michigan. )  
\_\_\_\_\_ )

WC Docket No. 03-16

REPLY COMMENTS OF THE  
MICHIGAN PUBLIC SERVICE COMMISSION

March 4, 2003

## A. Introduction

On January 13, 2003, the Michigan Public Service Commission (Commission) adopted a report concluding that SBC Ameritech Michigan (SBC) complied with Section 271(c) of the federal Telecommunications Act of 1996 (FTA) and the rules and regulations promulgated by the Federal Communications Commission (FCC) related to that section of the FTA. On January 29, 2003, pursuant to the public notice issued by the FCC in regard to SBC's application for authorization to provide in-region, interLATA service in the state of Michigan, the Commission's January 13, 2003 report and recommendation was formally filed with the FCC. Numerous other parties have also provided comment on these matters, including the U.S. Department of Justice (DOJ) on February 26, 2002. Pursuant to the FCC's public notice, the Commission now submits these reply comments.

## B. Evaluation of the Department of Justice

On February 26, 2003, the DOJ filed its evaluation in which it concluded that it could not support SBC's Section 271 application based on the current record. It did, however, suggest that the concerns it raised may be satisfactorily addressed by the FCC prior to the conclusion of its review.

The Commission would like to address some of the matters raised in the DOJ evaluation.

First, we believe it is important that the DOJ found that actual competitive entry into the Michigan market is significant. The Commission currently estimates the competitive local exchange carrier (CLEC) market share in Michigan to be in the area of 25%. The DOJ states that actual competition is the first criteria in assessing that local markets are irreversibly open. The Commission believes that this market share may be the highest in any state prior to Section 271 consideration.

Second, the DOJ does not find that compliance with any of the 14-point checklist items was deficient. This too is very significant because this is the statutory standard for determining if a market is irreversibly open to competition.

The DOJ does focus on the possibility that the progress made in Michigan may not be irreversible, given concerns that are then summarized and characterized as serious. As stated in the January 13, 2003 report and the accompanying order issued that day, this Commission's concerns are almost identical to those raised by the DOJ.<sup>1</sup> The critical difference is that this Commission considered the resolution of these matters as desirable enhancements to the competitive landscape in Michigan, not as impediments to Section 271 approval. This Commission found that the legal requirements had been met, that competition in Michigan would be enhanced by SBC's entry into long distance competition, and that the protections against any backsliding were solidly in place.

The difference then is the concern by the DOJ that the currently competitive Michigan market may not stay that way. The DOJ bases its conclusion on issues raised by competitive providers in their comments, and to some degree on statements attributed to the Commission and extracted from the Commission's report.

The Commission agrees with the DOJ that these issues are important, but not that they are evidence of real or potential endangerment to the thriving competitive market in Michigan. Instead, it is precisely this difference which caused the Commission to put into place compliance

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<sup>1</sup>A copy of the January 13, 2003 Commission order in Case No. U-12320 is attached. In this order, the Commission required that SBC complete the BearingPoint and Ernst & Young performance measure testing and that it further address eight issues. These issues include pre-order processing, line loss notifiers, customer service records, directory listing databases, trouble report closure coding, billing auditability, change management, and line sharing/line splitting. Similarly, the DOJ discussed concerns with five of these issues, including performance measure reliability,

and improvement plans as well as ongoing testing requirements to prevent any backsliding from the competitive market which has been achieved. There is no assurance that competitors and SBC will never have issues. The only assurance that a market will be irreversibly open is the presence of the necessary tools in the hands of a regulatory Commission with the commitment to use the tools to make it work. The record should be clear that the Commission is committed to competition, having spent the last three years and an incredible amount of resources addressing Section 271 issues and facilitating the growth in the competitive market share from 4% to 25%. The Commission has been proactive in such areas as total element long run incremental cost (TELRIC) pricing, performance measurement systems, and expedited dispute resolution.

In support of our position that the progress made over the last few years is not endangered and is irreversible, the Commission offers the following;

- 1) The Commission opened its Section 271 docket in 2000 with a specific set of requirements that SBC would have to meet, including an independent third party OSS evaluation.
- 2) The Commission initiated two comprehensive cost proceedings in Case No. U-11280 in December 1996 and again in Case No. U-11831 in March 1999 in which total service long run incremental cost (TSLRIC)-based prices were established and reviewed for unbundled network elements, resale offerings, and other interconnection services offered by SBC. Prices established in those proceedings have enhanced competition in this state while permitting SBC recovery of its investments and expenses as authorized by both TELRIC and TSLRIC principles.
- 3) The Commission established an initial set of wholesale performance measures in 1999, and several refinements have been adopted since then, resulting in 150 performance measures jointly proposed by SBC and CLECs alike and adopted by this Commission.
- 4) In April 2001, the Commission established a remedy plan calling for automatic penalty payments to the state and CLECs for inadequate wholesale performance.

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line loss notifiers, billing auditability, change management processes, and line sharing/line splitting.

- 5) The Commission requires annual audits of the performance measure systems and is considering a requirement to audit remedy payments as well.<sup>2</sup>
- 6) The Commission has required the continuation of the BearingPoint and Ernst & Young evaluations until the testing is complete and all outstanding exceptions are closed.
- 7) The Commission has required the submittal by SBC of improvement plans to address those issues where it is believed further improvements can be achieved (but which do not rise to the level of Section 271 non-compliance). SBC submitted compliance and improvement proposals on February 13, 2003,<sup>3</sup> which will be the subject of collaborative discussions on March 4<sup>th</sup> and 5<sup>th</sup> in the Lansing, Michigan Commission offices. A number of CLECs have indicated their intention to participate in these discussions along with representatives of BearingPoint, SBC, and the Commission Staff. As a result of the collaborative discussions, SBC is then required to submit modified plans to this Commission by March 13, 2003. Should further action be required, the Commission will issue additional orders on this matter.<sup>4</sup>
- 8) With the advocacy of this Commission, the Michigan state legislature passed an amendment to the Michigan Telecommunications Act in 2000 providing for the expedited processing and emergency relief for provider-to-provider disputes.<sup>5</sup> This ability to act quickly serves as an incentive for providers to solve problems on a business-to-business basis because a proceeding cannot be protracted under the terms of the statute.
- 9) The Michigan Attorney General in his comments in this proceeding also pledged to carefully monitor the development of a competitive market in this state.<sup>6</sup>

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<sup>2</sup>Any further order on these matters will be provided to the FCC as soon as it becomes available.

<sup>3</sup>SBC filed a copy of this submission with the FCC in the subject proceeding on February 19, 2003.

<sup>4</sup>As discussed above in regard to performance measures and remedy plans, any further order regarding compliance plans will be provided to the FCC for its information as soon as it is issued.

<sup>5</sup>Section 203 of the Michigan Telecommunications Act, MCL 484.2203.

<sup>6</sup>See, Comments of Michigan Attorney General Michael A. Cox filed in this proceeding on February 6, 2003.

In particular regard to SBC's performance measures, the Commission reiterates its conclusion that the data reported for the vast majority of the disaggregations on which SBC relied may either be considered accurate on the face of it or to have under-stated the results of those measures.<sup>7</sup> The Commission also indicated in its January 13<sup>th</sup> report, as well as in the accompanying order issued on that day, that the Commission would vigorously pursue all portions of the BearingPoint and Ernst & Young testing of SBC's performance measure reporting in order to assure that reported results for all measures are reliable and accurate on an ongoing basis.<sup>8</sup> In compliance with that order, such activity is proceeding in earnest. As required by its January 13, 2003 order, a progress report on the Ernst & Young audit was filed with this Commission on February 28, 2003 and progress continues on correction of issues identified by Ernst & Young in its audit of SBC's performance measures.<sup>9</sup> However, present plans for the ongoing BearingPoint testing do not project completion of these activities until June, 2003. It should also be noted that these project plans are, by agreement of the parties, stated as zero-defect project plans. Based on previous

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<sup>7</sup>Specifically the Commission concluded that for Section 271 purposes, SBC relies upon approximately 40% of the performance measures on which it reports on a monthly basis. The Commission found that the results of more than 85% of those disaggregations may be considered to be reliable or to have under-reported actually achieved results of the activity in question.

<sup>8</sup>For purposes of an accurate and complete record, the Commission would note that the DOJ's reference on page 8 of its comments to this Commission's conclusions regarding performance measures should more appropriately include the entire sentence of the cited conclusion. In its January 8, 2003 Report, the Commission indicated the following on page 76: "Although certain performance measures remain deficient and certain interfaces and processes still require additional work as specified in the accompanying order issued today, in the opinion of the Commission, when viewed in the totality, SBC's application, BearingPoint's test, and commercial usage support a positive determination in regard to Checklist Item 2."

<sup>9</sup>In its January 13, 2003 Report the Commission reported that 17 of the 130 issues of material noncompliance identified by Ernst & Young remained to be corrected. In the course of its ongoing audit, 3 additional items of material noncompliance have been identified bringing the total to 133. As of Ernst & Young's February 28, 2003 Report, 8 of the 133 issues remained to be corrected. Seven of these were to be corrected with February 2003 performance measure results reported in March 2003 and the last issue is to be corrected with April 2003 results reported in

testing and ongoing discussions with SBC and BearingPoint, however, it is this Commission's belief that completion of these activities may actually require considerable additional time, perhaps until year end, despite the best efforts of both SBC and BearingPoint. Nevertheless, the Commission believes that this ongoing activity need not be completed prior to Section 271 approval, as the FCC discussed in its Georgia 271 order. Ongoing testing in a thorough, thoughtful, and deliberate manner will assure that the best and most accurate procedures possible will be put into place and thoroughly tested, resulting in dependable and reliable performance measure reporting. Section 271 approval need not be held hostage to completion of these activities which might otherwise result in shortcutting the procedures which are now being pursued.

In conclusion, this Commission, in cooperation with the FCC Compliance Division, will assure that the Michigan market is irreversibly open to local competition. This issue, while extremely important, is under control and should not be the basis for denying the SBC Michigan application. The benefits to Michigan consumers of true competition in local, long distance, and bundled services far outweigh any benefit of several more months of waiting for incremental test results. The Commission has found substantial evidence on which to base its endorsement of the SBC application and does not believe denial or delay is in the public interest. Of the several issues identified in the DOJ analysis, all were addressed by this Commission in its January 13, 2003 report and these issues were resolved to this Commission's satisfaction. Furthermore, these issues are also addressed in the accompanying order issued on the same day regarding ongoing testing activity and further compliance and improvement plan obligations. The references as to where our discussion can be found for each issue follows:

- 1) Performance Measure Reliability: Report pages 5-23 and order pages 3-4.

- 2) Change Management Processes, including Working Service In Conflict Issues:<sup>10</sup> Report pages 74-76 and order pages 9-10.
- 3) Line Loss Notification: Report pages 67-69 and order page 6.
- 4) Billing Auditability: Report pages 73-74 and order page 9.
- 5) Line Sharing/Line Splitting: Report pages 84-89 and order pages 10-11.

The Commission appreciates the mammoth undertaking of evaluating the enormous record found in the Michigan Section 271 application, comments, and the history of events as contained in the Michigan Section 271 docket, Case No. U-12320, which was accomplished in a very few weeks. Some have reached different conclusions than has this Commission. The DOJ has concluded that the Michigan market is currently open to competition and this Commission shares the DOJ concerns about whether this will be sustained. However, the Commission offers the assurance that it is committed to competition and that it has the tools in place, including confidence in the performance measurement data and accompanying remedy and compliance plans, to keep the market open.

### C. Directory Assistance Listing Prices

The Commission reiterates its conclusion that SBC is in compliance with checklist item 7 and, in particular, that its prices for access to directory assistance listings (DAL) services are compliant with the requirements of Section 271 of the FTA. Issues related to directory assistance (DA) services and DAL services have been addressed during the last four years in at least five docketed proceedings before this Commission and in court appeals of some of the orders issued in those

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<sup>10</sup>As AT&T indicated in its comments on the Working Service In Conflict (WSIC) Issue when it was raised with this Commission on November 15, 2002, “While the actual difficulties relating to WSIC are important, we would like to focus the Commission’s attention on the change management aspect of this issue.” Joint Affidavit of Walter W. Willard and Rebecca L. Webber, ¶54. Thus, the Commission addressed this issue in the context of its change management assessment.



proceedings as well. Issues addressed include the costs of each of these services,<sup>11</sup> whether the services are unbundled network elements (UNEs) and must therefore be priced at cost, and the degree to which these services are offered on a wholesale and/or retail basis, including the effect of this determination on cost studies. This Commission has determined that customized routing compliant with the requirements of the FTA and the FCC is not offered by SBC in Michigan.<sup>12</sup> Based on that determination, this Commission has required that both DA wholesale services and DAL services (which are only wholesale services) be offered at TSLRIC-based rates.<sup>13</sup> The final outcome of these determinations and court appeals of portions of these decisions is that SBC submitted a tariff for DAL services in April, 2002, including TSLRIC-based prices, and the Commission in its January 2003 report on Section 271 checklist compliance found that the tariff complied with the Commission's orders.<sup>14</sup> The TSLRIC study for DA services was included with SBC's original TSLRIC cost studies submitted in Case No. U-11831 on January 21, 1999. In November 1999, the Commission issued an order in that proceeding specifying that certain cost studies had yet to be submitted and those included a TSLRIC study for DAL services. In response to that order, a DAL services cost study was submitted in December 1999. On August 31, 2000, an order in this cost proceeding further found that a DA service cost study must be consistent across wholesale and retail services. Revised cost studies filed on October 2, 2000 in response to that

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<sup>11</sup>The directory assistance listing service provides for initial and update datafiles of all customer listings in the state or a subset of residential or business listings only. Directory assistance service is offered on both a wholesale and retail basis and provides end user customers with access to individual directory listings from the company's database.

<sup>12</sup>See, March 19, 2001 order in Case No. U-12622, p. 16-22.

<sup>13</sup>See, March 19, 2001 order in Case No. U-12622, p. 22, December 20, 2001 order in Case No. U-12320, p. 16, and March 29, 2002 order in Case No. U-12320.

order included a wholesale DA services cost study but did not adjust the December 1999 TSLRIC study for DAL services, presumably because it was SBC's belief that DAL service (the bulk DA download of its entire DA database) was purely a wholesale service and therefore unaffected by the Commission's August 31, 2000 ruling. No comments were filed by parties in response to the unchanged DAL portions of the October 2000 cost study nor in response to the revised DA services cost study, and further revisions were therefore not required by the Commission in regard to either DA or DAL service cost studies.

Two issues therefore remained at that time: whether a tariff compliant with the DAL TSLRIC cost study would be filed (because SBC continued to contest the Commission's determination that DAL and DA services were UNEs) and the submission of a complete retail cost study for DA services consistent with the wholesale study submitted in October 2000. The retail DA service cost study, consistent with the Case No. U-11831 October 2000 wholesale study, was filed in March 2002 as a result of a retail DA rate proceeding.<sup>15</sup> The DAL tariff based on the 1999 DAL cost study was submitted in April 2002 as a result of the Commission's order addressing 14-point checklist deficiencies issued in December 2001.<sup>16</sup> As a result, the Commission has found that SBC is compliant with its orders to offer DAL services as an unbundled network element at

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<sup>14</sup>A wholesale DA service tariff had previously also been filed, including TSLRIC-based rates that the Commission has also found compliant with Section 271 requirements.

<sup>15</sup>The February 1, 2002 Commission order in Case No. U-13007 required the submission of a DA services cost study within 30 days of the date of the order. The cost study was filed in March, 2002.

<sup>16</sup>Prices included in that tariff included a recurring charge of \$0.028 per listing for the DAL initial load and for a DAL update, a monthly DAL update charge of \$1,258.69, and a non-recurring DAL Set-Up Charge of \$5,096.30. This tariff may be reviewed on-line at the following link: [http://www.sbc.com/public\\_affairs/regulatory\\_documents/tariffs/1,5932,281,00.html?pid=312](http://www.sbc.com/public_affairs/regulatory_documents/tariffs/1,5932,281,00.html?pid=312). The rates are contained in Part 19, Section 14, Original Sheet No. 6 of Tariff M.P.S.C. No. 20R. It should also be noted that WorldCom and other CLECs purchase these services pursuant to

TSLRIC-based rates. SBC complies with the requirements of the Section 271 checklist in this regard.

#### D. Closed but Not Satisfied BearingPoint Exceptions

Finally, the Commission clarifies for the record that its January 13, 2003 order specified that any outstanding exceptions and observations open as of the date of the order in BearingPoint's transactions and procedures tests should continue until satisfactory results are achieved as determined by BearingPoint or are closed as determined by the Commission and its Staff.<sup>17</sup> In response to the comments of some parties, the Commission also recognizes that a number of BearingPoint exceptions in the transactions and procedures tests were closed prior to the date of the Commission order in a "not satisfied" condition. The Commission also notes, however, that these "not satisfied" exceptions resulted in failed testing criteria in BearingPoint's October 31, 2003 Report and all of these failures were addressed in the Commission's January 13, 2003 Report. Although the Commission required compliance and improvement plans in regard to some of these items as discussed above, the Commission found that in consideration of the totality of the circumstances related to each of the checklist items, none of these failed criteria resulted in a determination of non-compliance with Section 271 checklist requirements.

#### E. Conclusion

As determined in its January 13, 2003 Report and as recommended to the FCC on January 29, 2003, this Commission concluded, based on the information submitted in its Section 271 proceeding and on information from other related proceedings, that SBC has complied with Section 271(c)

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negotiated interconnection agreements which may, by agreement of the providers, include prices which differ from the tariffed rates.

<sup>17</sup>One billing procedure exception and two transaction observations on mean-time-to-repair and

of the FTA. The Commission's conclusion remains unchanged. We recommend that the FCC grant SBC's Section 271 application.

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on pre-order responses presently remain in a retest mode in Michigan.



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

Jennifer M. Granholm  
GOVERNOR

March 4, 2003

Marlene H. Dortch, Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> 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:

Enclosed is the Reply Comments of the Michigan Public Service Commission relating to the application of SBC Communications Inc. for authorization to provide in-region, interLATA service in Michigan. The Michigan Commission recommends that the application be granted.

Sincerely,

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Laura Chappelle  
Chairman

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David A. Svanda  
Commissioner

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Robert B. Nelson  
Commissioner

Laura Chappelle, Chairman • David A. Svanda, Commissioner • Robert B. Nelson, Commissioner

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 January 13, 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**

By a minute action issued today, the Commission approved its 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. As described more fully in the report, the Commission finds that SBC has demonstrated compliance with Section 271. Notwithstanding that conclusion, there are aspects of SBC's current performance that could be improved, and SBC has proposed to make improvements in some areas. This order addresses those areas in which the Commission concludes that SBC should continue to improve its performance and addresses the remaining issues with respect to SBC's offering of access to the calling name (CNAM) database.

## Third-Party Testing and Adoption of Compliance Proposals

### SBC's Position

SBC proposes to implement a compliance plan that would include actions designed to improve certain aspects of its operations support systems (OSS). For certain circumstances, it would determine that a corrective action has occurred via a management assertion and would retain a third-party contractor, Hewlett Packard, to validate its assertions on these matters after the corrective actions have occurred. SBC proposes to review its audit plan with the Commission Staff (Staff), to implement corrective actions, and to have Hewlett Packard verify that those actions have been taken. For certain other situations, SBC proposes an internal improvement plan rather than a compliance plan. A third-party contractor would not be retained in these instances to monitor progress nor would SBC review its plans with the Staff prior to implementation. SBC proposes to provide quarterly updates to the Commission or the Staff on the company's progress.

### Other Parties' Positions

Several competitive local exchange carriers (CLECs) have proposed that if compliance or improvement plans are determined to be appropriate, the plans should be developed collaboratively with the input of the CLECs, as has been the case for BearingPoint's third-party testing. AT&T Communications of Michigan, Inc., (AT&T) proposes that the "CLECs would contribute recommended priorities and test protocols and their own testing resources as appropriate, and [SBC] would be called upon to ensure that the tests are appropriately scheduled and resourced to ensure timely completion." AT&T's November 15, 2002 comments on SBC's compliance plan, p. 9.

AT&T, Long Distance of Michigan, Inc. (LDMI), and WorldCom also suggest that Hewlett Packard not be retained to address any compliance matters because they believe that it has not

closely followed the audit requirements as a subcontractor in BearingPoint's third-party test and in some testing matters for the Section 271 compliance monitoring for Texas Southwestern Bell Telephone Company.

#### Discussion

Any outstanding exceptions and observations open as of the date of this order in BearingPoint's transactions and procedures tests shall continue to be addressed by SBC until satisfactory results have been achieved as determined by BearingPoint, or are closed as determined by the Commission and its Staff. No further new or refresh processes and procedures tests or transaction verification and validation tests not specifically addressed below shall be undertaken by BearingPoint in Michigan pursuant to the Michigan Master Test Plan. Upon completion of actions relating to now existing open observations and exceptions in the transactions and procedures tests, BearingPoint shall submit to the Commission an addendum to the October 30, 2002 report that addresses only the test criteria that were indeterminate or not satisfied at the time of the earlier report. The Commission will then determine what further action, if any, should be taken with respect to those portions of BearingPoint's tests.

The performance metrics audit tests should continue unchanged by BearingPoint at this time, pursuant to the provisions of the Michigan Master Test Plan, and the project plans needed to complete those actions. BearingPoint shall file a report on progress in these tests every other month beginning at the end of February 2003. Once again, the Commission will determine what action, if any, should be taken upon the filing of each of those reports.

Similarly, Ernst & Young shall complete its audit activities and verify that all issues have been corrected and restatements completed for items addressed in the October, November, and December 2002 audit reports. Corrective actions must be taken on all outstanding issues



including, and in particular, those scheduled to occur this month for performance measure 104.1 (911 data base). It shall file a progress report on February 28, 2003 and a final report thereafter if the required activities are not complete at the time of the February report.

The Commission will vigorously pursue completion of all these portions of the BearingPoint and Ernst & Young tests.

With regard to compliance and improvement plans to be implemented to address certain issues highlighted in BearingPoint's transactions and procedures tests and in comments made by CLECs in this proceeding, the Commission has first determined that it will not prohibit SBC from contracting with any third-party contractor which has been involved in these 271 proceedings to date, including Hewlett Packard, BearingPoint, or Ernst & Young, for these purposes. The substitution of any other contractor must be reviewed with the Commission Staff. As discussed below, the utilization of the third-party contractor will be clearly specified in a plan to be filed with the Commission. No later than February 13, 2003, SBC shall submit detailed compliance and/or improvement plans for each of the items discussed in this order. In the development of those plans, it shall recognize and take into account, to the extent possible, the written responses that the CLECs have filed regarding SBC's preliminary proposals. Compliance plans need not include test CLEC transactions, although sample testing of actual improvements may be appropriate. To the extent that actions have already been taken for certain items as proposed in SBC's October 30, 2002 filing, its February 13, 2003 submission shall include a detailed report of progress to date and further actions that remain to be taken. The utilization of Hewlett Packard for each item or another third-party contractor shall also be identified where appropriate. A collaborative session will be convened in the Commission's offices on March 4, 2003, and March 5 if needed, at which time the proposals and progress reports will be discussed by SBC with the

purpose of receiving further input from the CLECs, the Staff, and other interested parties. Based on the input received during those discussions, SBC shall submit its modified plans to the Commission by March 13, 2003.

Finally, as discussed in the accompanying report, the Commission will in the near future be addressing outstanding issues in Case No. U-11830 related to SBC's performance remedy plan currently in place in Michigan. However, the Commission takes the opportunity at this time to note that its consideration of the outstanding issues in Case No. U-11830 will include a particular emphasis on the Commission's ongoing oversight and monitoring activity to assure that backsliding in the post 271 environment will be prevented and immediately addressed. This will again include the potential assessment of additional remedies, penalties, and/or fines should this be required.

#### Pre-Order Processing Improvements

SBC has represented that it has taken actions and that it proposes to take further action to improve pre-order timeliness through its EDI interface. SBC's February 13, 2003 filing shall include, among other things, information to validate its findings that it has "recently made a change to the configuration of its pre-order EDI translator software" and that "[p]reliminary results show a decrease in translator processing time." SBC's October 30, 2002 compliance plan proposals, p. 11. As discussed above, the filing shall then further delineate, in detail, its plan to achieve further improvements in this regard. Finally, proposals shall be made to immediately clarify and amend Performance Measure 2 regarding pre-order timeliness so that measurement of protocol conversion time is clearly defined.

## Line Loss Notifiers

An improvement plan regarding this issue shall include, at a minimum, a requirement to issue an accessible letter to the affected CLECs within 24 hours of determining that an interruption of line loss notification issuance has occurred that could affect more than one CLEC. Any available details concerning the cause, scope, or duration of the interruption shall be provided in the letter. Contact with individual affected CLECs shall follow immediately. Additional follow-up accessible letters shall be issued to provide further information regarding the interruption as soon as it becomes available. Further, if SBC changes line loss notifier procedures, it shall immediately provide appropriate notice. If non-compliance with this procedure is indicated, information supporting this allegation shall be submitted to the Commission for further analysis. SBC's improvement plan shall also include monthly reporting to the Commission for a minimum period of six months identifying line loss issues that have developed during the month; their cause, duration, scope of loss notifiers affected, and number of providers affected; and actions taken to address those issues. Ongoing reporting thereafter may be required by the Commission. SBC shall take care in its definition of line loss issues to include a broad interpretation of what should be included in this report. Items that it may not directly define as a line loss issue but that clearly affect the issuance of line loss notifiers shall be addressed in its report. Finally, although the Commission is aware that changes are being discussed with regard to Performance Measure MI 13, including proposals to attach remedies to this measure, SBC is hereby advised that additional remedies or other sanctions may be imposed by the Commission should it be determined that such actions are needed to achieve compliant behavior.

## Customer Service Record and Directory Listing Database Accuracy

### SBC's Position

In its October 30, 2002 proposed compliance plan, SBC indicates that it believes that all system issues have been addressed for customer service records (CSRs) that may have caused failure of BearingPoint's tests in this regard. SBC therefore proposes that its compliance plan will focus on service representative training and will, by sample, attempt to identify any as-yet unaddressed system or process errors. With respect to directory listing accuracy, SBC says that many of the errors identified by BearingPoint in its test would not affect the ability of a user to obtain the listing and are consistent with errors found on the retail side as well. Its compliance plan regarding directory listings includes both a system improvement component, service representative training, and an attempt to identify through a sampling technique any remaining system issues that might be causing errors to occur.

### Other Parties' Positions

AT&T objects to SBC's proposed compliance plan. It believes that the content of service representative training material and the period over which training will occur is not specified and should be. It also objects to the proposal to limit testing to UNE-P and resale orders and to limit fixes to those that produce "frequent and significant" errors. It also believes there is no commitment by SBC to actually fix the problems that are identified. It therefore proposes the implementation of a new, remedied performance measure as one step in motivating improvement.

With regard to SBC's proposal for a directory listing compliance plan, AT&T believes that it should be specified how the proposed system enhancements will address the issue at hand or whether it will address only a part of the issues causing the errors. It says that the deficiencies in

the quality assurance assertions are identical to those identified for the CSR errors. It also proposes to implement a new performance measure for this process as well.

#### Discussion

The Commission will require the submission of detailed compliance plans to improve the accuracy of both CSRs and directory listings. Such proposals shall expand upon the proposals made by SBC on October 30, 2002 and shall recognize and incorporate, to the extent possible, the specific issues raised by AT&T.

#### Trouble Report Closure Coding

##### SBC's Position

In its October 30, 2002 filing, SBC proposes an improvement plan to address issues relating to inaccurate close-out coding. SBC proposes initiatives for the workforces of each of the four operational work areas involved in this process: local operations center, installation and repair centers, special services center, and central offices. Its proposals include awareness sessions and employee quality reviews.

##### Other Parties' Positions

AT&T indicates that the relationship between SBC's proposed monthly quality reviews and improved accuracy and completeness of coding is not clear because the original source information is not available in such a review. In addition, it suggests that any awareness sessions must address accuracy as well as completeness in order for positive results to be realized.

#### Discussion

The Commission finds SBC's proposed improvement plan to be inadequate. Its plan does not appear to include any measure by which improvement can be assessed. Much of the proposed improvement plan has apparently been put into effect given the November 10, November 25, and

December 1, 2002 implementation dates in its proposal. The results of coding accuracy tests in the other four Ameritech states exceeded the Michigan test results. SBC indicates that improvements implemented in other states would have helped the Michigan tests as well had the Michigan tests been performed at a later date. Nevertheless, there is no indication that this resulted. The Commission will require that SBC's February 13, 2003 filing include a compliance plan for this issue, with oversight by a third-party to provide some assurance that improvements in accuracy of trouble closures has indeed occurred in Michigan.

#### Billing Auditability

A number of CLECs, including LDMI, Z-Tel Communications, Inc., and XO Michigan, Inc., have raised issues related to their inability to audit bills received from SBC and to utilize its billing dispute resolution process once issues arise. SBC has not responded to these issues.

SBC shall include in its February 13, 2003 filing an improvement or compliance plan to address these issues.

#### Change Management

##### SBC's Position

SBC believes that its 13-state uniform change management process fully complies with the requirements of the FCC and that it abides by the requirements of that procedure. It asserts that its satisfaction of BearingPoint's tests in this area supports that conclusion.

##### Other Parties' Positions

In its October 30, 2002 comments and in additional comments filed on December 19, 2002, AT&T discusses a number of issues that have recently occurred that are indicative of an inadequate change management process. In particular, it believes that adherence to the exception

process in SBC's 13-state uniform change management process would have prevented many recent problems from occurring.

### Discussion

As indicated in the Section 271 report issued today, the Commission has concluded that SBC's 13-state uniform change management process complies with the FCC's requirements and that testing indicates SBC's compliance with that process. However, the Commission agrees with AT&T that some of SBC's recent OSS changes were not announced prior to their implementation and did indeed negatively affect the CLECs. In its December 23, 2002 comments, SBC has agreed. Although it appears that in those cases SBC did comply with the letter of its change management process, it also appears that a more encompassing definition of items covered by the exception process is necessary, as AT&T suggests. Therefore, SBC shall include in its February 13, 2003 filing a compliance and/or improvement plan to address the issues AT&T has raised. As with the other proposals discussed in this order, the change management proposals shall be discussed further in the collaborative sessions.

### Line Sharing/Line Splitting

#### SBC's Position

On October 3, 2002, the Commission issued an order in Case No. U-12320 that modified SBC's previous line sharing/line splitting proposal and required SBC to file a compliance plan. SBC filed a plan on November 4, 2002 and an amended plan on December 12, 2002 based on input from the Staff and various CLECs. SBC asserts that the amended compliance plan is in full compliance with the Commission's October 3 order and prior Commission orders. SBC also states that its plan fully complies with the FCC requirements and Section 271(c)(2)(B)(iv).

### Other Parties' Positions

AT&T and WorldCom assert that SBC's amended compliance plan is not in compliance with the Commission's order. WorldCom raises several issues, including that the data local exchange carrier (DLEC) in a line splitting situation cannot access OSS, that the voice CLEC should not need permission from the DLEC to migrate voice service, that SBC seeks to disconnect its splitters when it has neither the voice nor data service, that the migration process is unworkable in a CLEC-to-CLEC situation, and that the pricing is inappropriate.

AT&T concurs with WorldCom and objects to being required to submit multiple orders to implement line sharing-to-line splitting transactions.

### Discussion

The Commission concludes in the Section 271 report that SBC's amended compliance plan is in compliance with the Commission's October 3, 2002 order. The pricing is appropriate, and the ordering processes that have been established assure that the customer is protected while providing a workable, albeit not ideal, process for line sharing and line splitting transactions.

However, WorldCom is correct that other possible scenarios for line sharing/line splitting may occur that have not been envisioned or addressed in SBC's plan. In particular, the Commission is concerned about the process to replace an SBC affiliate splitter with that of a DLEC in a line splitting situation. Therefore, the collaborative discussion scheduled for March 4, 2003 shall include discussion of line sharing/line splitting issues that exist at that time. The CLECs should identify those issues by February 13, 2003.

### Access to the CNAM Database

The Commission's March 7, 2001 order in Case No. U-12540 required SBC to permit CLECs to download the entire CNAM database, as WorldCom had argued, rather than limiting their



access to a per-call query. Providers use the database to provide, among other things, Caller ID-type services. The Commission's July 25, 2001 order denied SBC's petition for rehearing. On December 20, 2001, the Commission issued an order in this docket "to provide Ameritech Michigan with forewarning of issues on which the Commission may later determine that the company is not in compliance with the requirements of the Section 271 checklist." December 20, 2001 order, Case No. U-12320, p. 3. The Commission indicated that availability of the CNAM download was one of the issues that required SBC's attention and therefore directed SBC to revise the tariff.

Since the Commission first required SBC to permit CLECs to download the CNAM database, WorldCom has raised a number of objections to the tariffs that SBC has filed to comply with the Commission's orders. In its April 12, 2002 comments in this docket, WorldCom objected to the proposed cost and usage restrictions. On June 21, 2002, the Commission approved, with modifications, SBC's cost studies for the database download, leaving only the issue of usage restrictions.

WorldCom objects to tariff language that restricts, in various ways, use of the database download to the provision of local telecommunications to end-users to whom the providers also provide local exchange service to provide calling name delivery service using the SS7 network.

The Commission concludes that the tariff, as most recently revised by SBC, complies with the Commission's orders. WorldCom's objections would be easier to evaluate if WorldCom had made clear precisely what it seeks to lawfully do with the database download that is prevented by restrictions in the tariff. Nevertheless, the Commission finds that restrictions that limit the use of an intrastate tariff to intrastate services is appropriate. It would not be appropriate for WorldCom to use a Michigan intrastate tariff to purchase services that it should purchase under an interstate

tariff. Similarly, restrictions taken from an FCC order that limit the use of a database to services supported by the database are appropriate and should be unobjectionable unless WorldCom is seeking to use the service in a manner not envisioned by the FCC. The Commission thus concludes that SBC's CNAM database offering complies with the Commission's orders and satisfies the requirements of Section 271.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 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. SBC should implement compliance and improvement plans and submit reports as required by this order.

THEREFORE, IT IS ORDERED that:

A. On or before February 13, 2003, SBC shall file the compliance and improvement plans required by this order.

B. A collaborative session shall convene at the Commission's offices on March 4, 2003 at 9:00 a.m.

C. On or before March 13, 2003, SBC shall file modified compliance and improvement plans that reflect the collaborative discussions.

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 January 13, 2003.

/s/ Dorothy Wideman  
Its Executive Secretary

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

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Chairman

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Commissioner

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Commissioner

By its action of January 13, 2003.

\_\_\_\_\_  
Its Executive Secretary

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

Suggested Minute:

“Adopt and issue order dated January 13, 2003 requiring SBC to file compliance and improvement plans with respect to its operations and support systems, as set forth in the order.”