

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

May 30, 2000

Marian Dyer
Vice President – Federal Regulatory
SBC Telecommunications, Inc.
1401 I Street, N.W.
Suite 1100
Washington, D.C. 20005

RE: *SBC/Ameritech Merger Order*, CC Docket No. 98-141, ASD File No. 99-49

Dear Ms. Dyer:

I am in receipt of your May 1, 2000 letter to Lawrence Strickling, Chief of the Common Carrier Bureau ("Bureau"), providing notice of changes to the performance measurements program required under the *SBC/Ameritech Merger Order*.¹ In your letter, you indicate that, in October 1999, the Texas Public Utility Commission ("Texas Commission") took action that resulted in changes to SBC's performance measurements program and that, pursuant to the *Merger Order*, SBC planned to implement such changes for the Texas measurements within five days unless otherwise directed by the Bureau. Your letter also requests that SBC be permitted to implement these changes for the Arkansas, Missouri, Oklahoma, and Kansas measurements.

In my letter of May 5, 2000, I directed SBC not to implement these changes until the Bureau had the opportunity to review SBC's proposal.² Based on our review, the Bureau is satisfied that the proposed changes will result in an accurate portrayal of SBC's performance with respect to its retail and wholesale customers. SBC may therefore implement the changes effective May 1, 2000.³

I remain concerned, however, about events relating to SBC's performance measurements program. During the Bureau's review of SBC's proposed modifications, SBC orally indicated that it had already implemented the October 1999 changes adopted by the Texas Commission, despite the express requirement in the *Merger Conditions* that no changes be implemented until the Bureau is notified and fails to direct

¹ Applications of Ameritech Corp., Transferor, and SBC Communications, Inc., Transferee, For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95, and 101 of the Commission's Rules, CC Docket 98-141, *Memorandum Opinion and Order*, 14 FCC Rcd 14712 (1999) ("*SBC/Ameritech Merger Order*").

² See Letter from Carol E. Matthey, Deputy Bureau Chief, Common Carrier Bureau, FCC, to Marian Dyer, Vice President, SBC Telecommunications, Inc. (May 5, 2000); see also Letter from Carol E. Matthey, Deputy Bureau Chief, Common Carrier Bureau, FCC, to Marian Dyer, Vice President, SBC Telecommunications, Inc. (Mar. 10, 2000) (directing SBC to refrain from implementing its proposed changes pending the Bureau's review); Letter from Marian Dyer, Vice President, SBC Telecommunications, Inc., to Lawrence E. Strickling, Chief, Common Carrier Bureau, FCC (Mar. 7, 2000) (initial letter proposing changes to performance measurements).

³ This means that the changes will be reflected first in the reports filed in June 2000.

SBC not to implement such changes.⁴ On a related note, SBC has indicated in discussions with the Bureau staff that SBC is not using all the prescribed business rules for the Ameritech region for various reasons. The effectiveness of the Carrier-to-Carrier Performance Plan ("Performance Plan") at detecting potential discriminatory conduct depends upon SBC's strict compliance with the approved terms and conditions of the Performance Plan. Failure to report the performance data in accordance with the published business rules could have adverse consequences. For example, if SBC's performance data incorrectly showed poor performance, SBC could be unfairly penalized for providing poor service quality to its wholesale customers. Alternatively, the Performance Plan would be ineffective at deterring poor performance, to the detriment of SBC's wholesale customers, if SBC's data incorrectly showed good performance.

In light of these issues, I expect SBC to submit to the Bureau, by June 5, 2000, a report that: (1) explains both SBC's delay in notifying the Bureau of the October 1999 Texas Commission changes and its implementation of such changes prior to such notification; and (2) describes SBC's planned corrective action for ensuring that it submits performance data that accurately reflects the business rules, exclusions, and other requirements adopted by the Commission in the *SBC/Ameritech Merger Order*. In addition, no later than June 30, 2000, I expect SBC to: (1) re-submit its performance data through February 2000 so that the Commission and the public have the data that should have been reported during this period;⁵ and (2) provide a detailed explanation of the differences between SBC's reporting practices in the Ameritech states and the business rules contained in the *Merger Conditions*.

Please do not hesitate to contact me if I can be of any assistance. You may also contact Anthony Dale in the Common Carrier Bureau at (202) 418-2260 for further information on this matter.

Sincerely,

Carol E. Matthey
Deputy Chief, Common Carrier Bureau

⁴ *SBC/Ameritech Merger Order* at Appendix C, Attach. A, para. 4.

⁵ SBC's resubmitted data should be in accordance with the business rules, exclusions, and definitions contained in the *Merger Conditions* and should not reflect the October 1999 Texas Commission changes. See *SBC/Ameritech Merger Order* at Appendix C, Attach. A.