



PUBLIC NOTICE

Federal Communications Commission
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DA 00-2414

October 26, 2000

**COMMENTS REQUESTED ON THE APPLICATION
BY SBC COMMUNICATIONS INC.
FOR AUTHORIZATION UNDER SECTION 271 OF THE COMMUNICATIONS ACT
TO PROVIDE IN-REGION, INTERLATA SERVICE IN THE STATES OF KANSAS
AND OKLAHOMA
(CC DOCKET NO. 00-217)**

On October 26, 2000, SBC Communications Inc. and its subsidiaries, Southwestern Bell Telephone Company and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance (collectively, SWBT) filed a joint application for authorization to provide in-region, interLATA service in the States of Kansas and Oklahoma, pursuant to section 271 of the Communications Act of 1934, as amended (the Act), 47 U.S.C. § 271. Pursuant to section 271 of the Communications Act of 1934, as amended, an applicant must demonstrate compliance with section 271 on a state-by-state basis. Where an applicant files a joint or multi-state application, as here, the Commission will determine for each state whether the application complies with each item of the section 271 competitive checklist and other requirements of the statute.

This Public Notice establishes certain procedural requirements relating to consideration of SWBT's joint application. The Commission in a prior Public Notice adopted general procedural requirements that apply to the processing of this and all other applications for authorization under section 271 of the Act.¹ A copy of this earlier Public Notice is attached hereto. Also attached is a protective order adopted today, *Application of SBC Communications Inc. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Kansas and Oklahoma*, Protective Order, DA 00-217 (CCB rel. October. 26, 2000), that establishes the conditions under which access will be made available to confidential documents submitted in this proceeding by SWBT or any other party.

Comments By Interested Third Parties. Comments by interested third parties in support of or in opposition to SWBT's application must be filed on or before November 15, 2000, and must be filed in conformance with the procedures set forth in the attached September 28, 1999 Public Notice. As in prior section 271 application proceedings, comments may not exceed 100 pages. Recognizing that this application covers two states, however, the Commission retains discretion

¹ See *Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, DA 99-1994, 1999 WL 766282 (CCB rel. Sept. 28, 1999) (*September 28, 1999 Public Notice*).

to extend the page limit, upon request, if a commenter requires additional pages to address circumstances specific to Kansas or Oklahoma.²

An original and one copy of all comments must be filed with the Commission Secretary, Magalie Roman Salas, 445 12th Street, S.W., CY-B402, Washington D.C. 20554. In addition, 12 copies of each comment must be delivered to Janice Myles, Common Carrier Bureau, 445 12th Street S.W., Room 5-B145, Washington, D.C., 20554 and one copy to International Transcription Service (ITS), 445 12th Street S.W., Room CY-314, Washington D.C., 20554. In addition to filing paper comments, parties may also file comments using the Commission's Electronic Comment Filing System (ECFS). *See* Electronic Filing of Document in Rulemaking Proceedings, 63 Fed Reg. 24, 121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, postal mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by the Internet e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

State Commission and Department of Justice Written Consultations. The Kansas and Oklahoma Corporation Commissions must file any written consultation on or before November 20, 2000.³ Any written consultation by the U.S. Department of Justice, which by the Act's express terms must become part of the Commission's record, must be filed on or before December 4, 2000. Because the Kansas and Oklahoma Commissions and the Department of Justice are given roles by statute in a section 271 proceeding, copies of all pleadings, including comments, should be filed with those parties.⁴

Replies. All participants in the proceeding -- the applicant, interested third parties, the Kansas and Oklahoma Commissions, and the Department of Justice -- may file a reply to any comments filed by any other participant on or before December 11, 2000. Reply comments may not exceed 50 pages, unless parties request additional pages to address state-specific circumstances, as described above in footnote 2. An original and one copy of all reply comments must be filed with the Commission Secretary, Magalie Roman Salas, 445 12th Street, S.W., CY-B402, Washington D.C., 20554. In addition, 12 copies of each reply must be delivered to Janice Myles, Common

² Parties anticipating that they may require additional pages for comments or reply comments are asked to contact Gary Remondino, FCC/Policy Division at 202/418-2298 as soon as possible, but in no event later than Thursday, November 9 (for comments) and no later than Wednesday, December 6 (for reply comments).

³ In prior section 271 proceedings, we have asked state commissions to file written consultations on the same day as interested parties file comments. In this proceeding, we have allowed the states several additional days, at the request of state commission staff, because commissioners and staff from the Kansas and Oklahoma Corporation Commissions will be participating in the National Association of Regulatory Utility Commissioners Annual Convention (and meetings of the NARUC Staff Subcommittee on Telecommunications) from Friday, November 10 until Tuesday, November 14.

⁴ Please forward copies to the attention of: (1) Eva Powers, Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas, 66604-4027; (2) Joyce Davidson, Oklahoma Corporation Commission, Jim Thorpe Office Building, Post Office Box 52000-2000, Oklahoma City, Oklahoma; 73152-2000 and (3) Layla Seirafi, U.S. Department of Justice, Antitrust Division, Telecommunications Task Force, 1401 H St., NW, Suite 8000, Washington, DC 20005.

Carrier Bureau, 445 12th Street S.W., Room 5-B145, Washington, D.C., 20554, and one copy to International Transcription Service (ITS), 445 12th Street S.W., Room CY-B402, Washington D.C., 20554.

Treatment of Confidential Information. To the extent a submission by any party (including the applicant, the Department of Justice, the relevant state commissions or any commenter) includes confidential information or comments on confidential information that another participant has submitted, the party must file with the Office of the Secretary: (a) one copy of only the portion(s) of the submission that contain confidential information or comment on confidential information that another participant has submitted, exclusive of the remainder of the submission; and (b) one original and two copies of the entire confidential submission in redacted form. Each of the submissions described in items (a) and (b) must be accompanied by a cover letter. The submission described in item (a) and accompanying cover letter should be stamped “Confidential—Not for Public Inspection.” The original and two copies of the redacted submission described in item (b) and their accompanying cover letters should be stamped “Redacted—For Public Inspection.” The cover letters accompanying both sets of submissions set forth in items (a) and (b) above should state that the party is filing a confidential portion of the submission and a redacted version of the entire submission. Other than bearing different stamps (i.e., “Confidential—Not for Public Inspection” or “Redacted—For Public Inspection”), the (a) and (b) cover letters should be identical. The submissions should be delivered in person to Magalie Roman Salas, Secretary, 445 12th Street, S.W., Room TW-B-204; or, in her absence, to William F. Caton, Deputy Secretary, at the same address. Each redacted filing must also be submitted on a read-only CD-ROM⁵ formatted in Word 97 or Excel 97 format, as applicable. One set of the confidential and redacted submissions should also be delivered to Gary Remondino, Policy and Program Planning Division, Common Carrier Bureau, 445 12th Street, S.W., Room 5-C140.

All questions relating to access to confidential information submitted by SWBT should be directed to Jonathan Rabkin, 202-326-7900, at Kellogg, Huber, Hansen, Todd & Evans, 1301 K Street, N.W., Suite 1000 West, Washington, D.C., 20005 (after October 31, 2000, this address will change to 1615 M Street, N.W., Suite 400, Washington, D.C., 20036-3209).

Availability of Information. A wide range of information relating to SWBT’s section 271 application for Kansas and Oklahoma may be retrieved from the Commission’s World Wide Web site at <http://www.fcc.gov>.⁶ Specific information, such as comments and *ex parte* submissions, may be obtained from the Electronic Comment Filing System (ECFS), which is accessible through the Commission’s website. Moreover, SWBT has voluntarily agreed to post several documents, including its application and supporting affidavits and substantive *ex parte* submissions, on the World Wide Web at www.sbc.com/Long_Distance/Home.html.

The application will be available for public inspection during regular business hours in the Reference Information Center of the Federal Communications Commission, Room CY-A-257,

⁵ If filing on CD-ROM is not possible, applicants may file on a 3.5 inch computer diskette.

⁶ The rules relating to public information and the inspection of records are set forth at sections 0.441 through 0.470 of the Commission’s Rules. 47 C.F.R. §§ 0.441-0.470.

445 12th Street, S.W., Washington, DC. Paper copies of the application, and the record generated in response thereto, may be obtained from the Commission's copy contractor.

Ex Parte Rules - Permit-but-Disclose Proceeding. Because of the broad policy issues involved, section 271 application proceedings initially are classified as permit-but-disclose proceedings.⁷ Accordingly, *ex parte* presentations will be permitted, provided they are disclosed in conformance with the Commission's *ex parte* rules.⁸ Because of the 90-day statutory timeframe for decision, the Commission strongly encourages parties to set forth their views comprehensively in the formal filings specified above (e.g., written consultations, oppositions, supporting comments, etc.) and not to rely on subsequent *ex parte* presentations. In any event, parties may file no more than a total of 20 pages of written *ex parte* submissions. This 20-page limit does not include: (1) written *ex parte* submissions made solely to disclose an oral *ex parte* contact; (2) written material submitted at the time of an oral presentation to Commission staff that provides a brief outline of the presentation; (3) written material filed in response to direct requests from Commission staff; or (4) written factual exhibits. *Ex parte* submissions in excess of the 20-page limit will not be considered part of the record of this proceeding. In light of the statutory deadline for decision, parties are hereby requested to provide Gary Remondino, 445 12th Street, S.W. Room 5-C140, Washington D.C. 20554 with courtesy copies of any *ex parte* presentations made to any member of the Commission.

For purposes of this proceeding, any oral *ex parte* presentations from the Department of Justice, and the Kansas or Oklahoma Corporation Commissions are deemed to be exempt *ex parte* presentations.⁹ To the extent that the Commission obtains through such oral *ex parte* presentations new factual information on which the Commission may rely in its decision-making process, the party submitting the information – either the Department of Justice, the Kansas Commission or the Oklahoma Commission – shall prepare a summary for inclusion in the record in accordance with Commission rules, unless such a summary is being prepared by Commission staff.¹⁰ We also waive any page limits for written *ex parte* submissions by the Department of Justice or the Kansas and Oklahoma Commissions.¹¹

⁷ See 47 C.F.R. § 1.1206(a)(13) (added by 64 FR 68946, 68946 (1999) (effective Jan. 10, 2000)); e.g., Comments Requested on Application by Bell Atlantic for Authorization under Section 271 of the Communications Act to Provide In-region, InterLATA Service in the State of New York (CC Docket No. 99-295), Public Notice, DA 99-2014, 1999 WL 770903 (CCB rel. Sept. 29, 1999).

⁸ See 47 C.F.R. §§ 1.1202, 1.1206(b). Interested parties are to file with the Secretary of the Commission and serve Gary Remondino, Policy and Programming Planning Division, Common Carrier Bureau, Federal Communications Commission, Rm. 5-C140, 445 Twelfth St., S.W., Washington, DC 20554, and ITS, Inc., 445 12th St., S.W., Room CY-B402 Washington, DC 20554, with copies of written *ex parte* presentations in these proceedings in accordance with the Commission's *ex parte* rules.

⁹ See *id.* § 1.1200(a) (“Where the public interest so requires in a particular proceeding, the Commission and its staff retain the discretion to modify the applicable *ex parte* rules by order, letter, or public notice.”); *id.* § 1204(a)(6), as amended by 64 FR 68946, 68946 (1999) (effective Jan. 10, 2000).

¹⁰ See *id.* § 1.1206(a).

¹¹ See *id.* § 1.1200(a).

Notwithstanding the above, the Commission may, by subsequent public notice, prohibit all presentations to its decision-making personnel regarding the application during a seven-day period preceding the anticipated release date of the Commission's order regarding the application.¹²

Ex Parte Meeting Schedule. The Common Carrier Bureau will be available for meetings on November 8-9, 2000 and December 7, 2000, in case interested parties wish to discuss any issues that they intend to raise in comments or reply comments, as applicable, in support of or in opposition to SWBT's application. The purpose of these meetings is to give interested parties an opportunity to inform Bureau staff of such issues prior to filing their written comments or reply comments. The Bureau encourages interested parties to make joint presentations of common concerns to the extent feasible. Parties who wish to schedule meetings with the Bureau should call Gary Remondino, Policy and Program Planning Division, at (202) 418-2298.

Aside from the meetings listed above, *ex parte* meetings related to this proceeding will occur only at the request of Bureau staff.

Calendar

Ex Parte Meetings related to Comments: November 8-9, 2000

Comments Due: November 15, 2000

State Commission Comments Due: November 20, 2000

U.S. Department of Justice Evaluation: December 4, 2000

Ex Parte Meetings related to Reply Comments: December 7, 2000

Reply Comments Due: December 11, 2000

By the Common Carrier Bureau.

News Media contact: Michael Balmoris -- (202) 418-1500

Common Carrier Bureau contact: John Stanley -- (202) 418-1496

¹² See *id.* §§ 1.1200; 1.1203.