

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Adopted: January 11, 2000
Released: January 12, 2000

Ms. Janette Luehring
Chief of Telecommunications
Kansas Corporation Commission
1500 S.W. Arrowhead Road
Topeka, KS 66604

Dear Ms. Luehring:

This letter responds to your request for guidance on interpreting certain conditions in the *SBC/Ameritech Merger Order*.¹ In your letter of January 3, 2000, you requested clarification of the *Merger Conditions* as they relate to the interconnection agreement between an SBC/Ameritech incumbent local exchange carrier (“LEC”) and its advanced services affiliate. Specifically, you ask whether the “Surrogate Line Sharing Charges” that the incumbent LEC charges its affiliate may be posted on an Internet site instead of contained within the interconnection agreement. In addition, you asked whether information about the line sharing arrangement between the two companies must be contained in the interconnection agreement.

The *SBC/Ameritech Merger Order* requires SBC/Ameritech incumbent LECs and their advanced services affiliates to negotiate, and file for approval with the appropriate state commissions, interconnection agreements that set forth the “terms, conditions, and prices for the provision of interconnection, telecommunications services, and network elements that the affiliated incumbent LEC shall provide to the separate Advanced Services affiliate for the purposes of the separate affiliate’s provision of Advanced Services.”² In addition, such interconnection agreements “shall be sufficiently detailed to permit telecommunications carriers to exercise effectively their ‘pick-and-choose’ rights under 47 U.S.C. § 252(i) and the Commission’s rules implementing that section.”³

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*, FCC 99-279 (rel. Oct. 8, 1999) (“*SBC/Ameritech Merger Order*”).

² *SBC/Ameritech Merger Order* at Appendix C, para. 5(a).

³ *Id.*

The *SBC/Ameritech Merger Order* further allows SBC/Ameritech incumbent LECs to provide “Interim Line Sharing” to their separate advanced services affiliates subject to certain provisions.⁴ With respect to Surrogate Line Sharing Charges, the *Merger Conditions* state: “The SBC/Ameritech incumbent LEC shall establish and make available through interconnection agreements with the separate Advanced Services affiliate . . . surrogate charges for the costs incurred in making available an unbundled local loop capable of providing Advanced Services . . . in combination with voice grade services [i.e., ‘Surrogate Line Sharing Charges’].”⁵

In accordance with the *Merger Conditions*, the interconnection agreement between SBC/Ameritech incumbent LECs and their advanced services affiliate must contain information about the Interim Line Sharing arrangement, even though SBC/Ameritech incumbent LECs may provide such arrangements to their affiliates on an exclusive basis for the interim period. Despite inclusion of information about Interim Line Sharing arrangements in the relevant interconnection agreements, we recognize that competing carriers will not be able to opt into such arrangements because of operational and technical issues discussed more fully in the Commission’s *Advanced Services Third Report and Order*.⁶ Still, inclusion of information about the Interim Line Sharing arrangements is necessary to show that the affiliates operate at arm’s length, and to inform the Commission, state commissions, and the public about important operational aspects of the relationship. Moreover, inclusion of the Interim Line Sharing arrangements is necessary to satisfy the “sufficiently detailed” requirement for interconnection agreements between SBC/Ameritech incumbent LECs and their advanced services affiliates.

The plain language of the *Merger Conditions* requires the Surrogate Line Sharing Charges to be contained within the interconnection agreement filed with the appropriate state

⁴ *Id.* at Appendix C, para. 8. The *Merger Order* permits SBC/Ameritech to provide line sharing to its advanced services affiliate on an exclusive basis until SBC/Ameritech provides line sharing to unaffiliated carriers in the same geographic area. The *Merger Order* refers to this as “interim line sharing.” *See id.* at paras. 369-70.

⁵ *Id.* at Appendix C, para. 8(b). Calculation of the Surrogate Line Sharing Charge is set forth in the *Merger Conditions*.

⁶ Consistent with the Commission’s rules, an incumbent LEC’s pick-and-choose obligations do not apply when: (1) the cost of providing the target service or element is greater than the costs negotiated in the original interconnection agreement; and (2) technical infeasibility prevents such an arrangement. 47 C.F.R. § 51.309(b). The Commission recently found that certain operational and technical barriers temporarily prevent incumbent LECs from immediately providing line sharing to competing carriers. *See* Deployment of Wireline Services Offering Advanced Telecommunications Capability, *Third Report and Order in CC Docket No. 98-147*, FCC 99-355, para. 161 (rel. Dec. 9, 1999) (establishing requirement to implement line sharing within six months after addressing technical and operational issues) (“*Advanced Services Third Report and Order*”). Once the technical and operational barriers are resolved, competing carriers will be able to pick-and-choose from available line sharing arrangements. The Order was published in the Federal Register on January 10, 2000. *See id.*, 65 Fed. Reg. 1331 (Jan. 10, 2000).

commissions. Failure to include the Surrogate Line Sharing Charges in the interconnection agreement would be inconsistent with the text of the *Merger Conditions* and could impair the ability of unaffiliated third parties to exercise their rights under the *SBC/Ameritech Merger Order* and the Commission's rules.

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

Sincerely,

Lawrence E. Strickling
Chief, Common Carrier Bureau