



# PUBLIC NOTICE

**Federal Communications Commission**  
**445 12th St., S.W.**  
**Washington, D.C. 20554**

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**DA 01-1952**

**August 20, 2001**

**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 ARKANSAS  
AND MISSOURI  
(CC DOCKET NO. 01-194)**

On August 20, 2001, 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 Arkansas and Missouri, 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.<sup>1</sup> 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 Arkansas and Missouri*, Protective Order, DA 01-1953 (CCB rel. Aug. 20, 2001), that establishes the conditions under which access will be made available to confidential documents submitted in this proceeding by SWBT or any other party.

**Record of Prior Proceeding.** SWBT filed a section 271 application for Missouri on April 4, 2001 (CC Docket No. 01-88), which it subsequently withdrew.<sup>2</sup> SWBT has requested that we permit it to incorporate Appendices B-G of its application in CC Docket 01-88

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<sup>1</sup> See *Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, DA 01-734 (CCB rel. Mar. 23, 2001) (March 23, 2001 Public Notice).

<sup>2</sup> See *Application by SBC Communications Inc., et al*, Order, DA 01-1402, CC Docket No. 01-88 (CCB rel. June 8, 2001) (Order terminating docket).

into the joint application filed today. We grant this request. Commenting parties that seek to have any portion of their prior filings from CC Docket 01-88 incorporated into the record of this new docket should affirmatively so state in their comments.

***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 **September 10, 2001**, and must be filed in conformance with the procedures set forth in the attached March 23, 2001 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 to extend the page limit, upon request, if a commenter requires additional pages to address circumstances specific to Arkansas or Missouri.<sup>3</sup>

An original and two copies of all comments must be filed with the Commission Secretary, Magalie Roman Salas, 445 12<sup>th</sup> 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 12<sup>th</sup> Street S.W., Room 5-B145, Washington, D.C., 20554 and one copy to Qualex International (Qualexint), Portals II, 445 12<sup>th</sup> Street S.W., Room CY-B402, 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](mailto: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 Arkansas Public Service Commission and the Missouri Public Service Commission must file any written consultation on or before **September 10, 2001**.<sup>4</sup> 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 **September 24, 2001**. Because the Arkansas and Missouri 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.<sup>5</sup>

***Replies.*** All participants in the proceeding -- the applicant, interested third parties, the Arkansas and Missouri Commissions, and the Department of Justice -- may file a reply to any comments

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<sup>3</sup> 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 or Scott Bergmann at 418-7102 as soon as possible, but in no event later than September 3, 2001 for comments and no later than September 28, 2001 for reply comments.

<sup>4</sup> We have asked state commissions to file written consultations on the same day as interested parties file comments.

<sup>5</sup> Please forward copies to the attention of: (1) Dan Joyce, General Counsel, Missouri Public Service Commission, P.O. Box 360, Jefferson City, Missouri 65102. (2) Art Stuenkel, Arkansas Public Service Commission, 1000 Center Street, P.O. Box 400, Little Rock, Arkansas, 72203 (3) Layla Seirafi, U.S. Department of Justice, Antitrust Division, Telecommunications Task Force, 1401 H St., NW, Suite 8000, Washington, D.C. 20005.

filed by any other participant on or before **October 4, 2001**. Reply comments may not exceed 50 pages, unless parties request additional pages to address state-specific circumstances, as described above in footnote 3. An original and two copies of all reply comments must be filed with the Commission Secretary, Magalie Roman Salas, 445 12<sup>th</sup> Street, S.W., CY-B402, Washington D.C., 20554. In addition, 12 copies of each reply must be delivered to Janice Myles, Common Carrier Bureau, 445 12<sup>th</sup> Street S.W., Room 5-B145, Washington, D.C., 20554, and one copy to Qualex International, Portals II, 445 12<sup>th</sup> Street S.W., Room CY-B402, Washington D.C., 20554. Effective August 28, 2001, Qualex International will begin working with the Consumer Information Bureau's Reference Information Center (RIC) as the official duplicating contractor.

***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 12<sup>th</sup> Street, S.W., Room TW-B-204, Washington, D.C., 20554; 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-ROM<sup>6</sup> 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 12<sup>th</sup> Street, S.W., Room 5-C140, Washington, D.C., 20554.

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, 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>.<sup>7</sup> 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,

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<sup>6</sup> If filing on CD-ROM is not possible, applicants may file on a 3.5 inch computer diskette.

<sup>7</sup> 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.

including its application and supporting affidavits and substantive *ex parte* submissions, on the World Wide Web at <http://sbc.com/PublicAffairs/LDBystate/0,2951,37,00.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, 445 12<sup>th</sup> Street, S.W., Washington, D.C., 20554. 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.<sup>8</sup> Accordingly, *ex parte* presentations will be permitted, provided they are disclosed in conformance with the Commission's *ex parte* rules.<sup>9</sup> 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 12<sup>th</sup> 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 Arkansas or Missouri Commissions are deemed to be exempt *ex parte* presentations.<sup>10</sup> 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 Arkansas Commission or the Missouri 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.<sup>11</sup> We also waive any page limits for written *ex parte* submissions by the Department of Justice or the

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<sup>8</sup> 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).

<sup>9</sup> 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 Qualex International (Qualexint) Portal II, Inc., 445 12<sup>th</sup> 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.

<sup>10</sup> 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).

<sup>11</sup> See *id.* § 1.1206(a).

Arkansas and Missouri Commissions.<sup>12</sup>

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.<sup>13</sup>

***Ex Parte Meeting Schedule.*** The Common Carrier Bureau will be available for meetings on September 5-6, 2001 and September 27-28, 2001, 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 or Scott Bergmann at (202) 418-7102

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: September 5-6, 2001**

**Comments Due: September 10, 2001**

**State Commission Comments Due: September 10, 2001**

**U.S. Department of Justice Evaluation: September 24, 2001**

**Ex Parte Meetings related to Reply Comments: September 27-28, 2001**

**Reply Comments Due: October 4, 2001**

**Statutory Deadline: November 18, 2001**

By the Common Carrier Bureau.

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

Common Carrier Bureau contact: Scott Bergmann (202) 418-7102

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<sup>12</sup> See *id.* § 1.1200(a).

<sup>13</sup> See *id.* §§ 1.1200; 1.1203.