

**Before the
Federal Communications Commission
Washington, D.C. 20544**

In the Matter of)	
)	
Ameritech Services, Inc.)	ASD File No: 01-36
SBC Management Services, Inc.)	
SBC Services, Inc.)	
)	
Petition for Waiver of Section 32.27(c))	
of the Commission's Rules)	

ORDER

Adopted: October 15, 2001

Released: October 15, 2001

By the Chief, Accounting Safeguards Division, Common Carrier Bureau:

I. INTRODUCTION

1. On July 2, 2001, Ameritech Services, Inc., SBC Management Services, Inc., and SBC Services, Inc. (administrative affiliates), through their parent Southwestern Bell Communications, Inc. (SBC) filed a petition for waiver of the affiliate transactions rules,¹ as codified in section 32.27 of the Commission's rules.² Specifically, SBC seeks permission to use fully distributed cost, in lieu of fair market value, to value services the administrative affiliates provide to the SBC regulated affiliates, and to a former SBC affiliate. No comments were filed. In this Order, we grant SBC's request for a waiver of the affiliate transactions rules.

II. BACKGROUND

2. The affiliate transactions rules set forth the procedures that all incumbent local exchange carriers (ILECs), other than average schedule companies, must use in recording transactions between regulated and nonregulated affiliates.³ Section 32.27 of the Commission's rules requires an ILEC to record transactions for services provided to its affiliated entities at the greater of fully distributed cost (FDC) or fair market value when, as here, no tariff rate, prevailing price, or publicly filed agreement exists. This assures that the ratepayer receives the most reasonably advantageous result from the transaction and protects the ratepayer from subsidizing the entity's affiliate activities. Section 32.27 further allows that all services provided by an ILEC

¹ Petition for Waiver Southwestern Bell Communications, Inc., filed July 2, 2001 (SBC Waiver Petition). See Southwestern Bell Communications, Inc. Files Petition for Waiver of the Commission's Affiliate Transactions Rules, *Public Notice*, 16 FCC Rcd. 13931 (2001).

² 47 C.F.R. § 32.27.

³ See 47 C.F.R. § 32.27.

from its affiliate(s) that exist solely to provide services to members of the ILEC's corporate family shall be recorded at fully distributed cost.

3. In its petition, SBC states that its administrative affiliates exist solely to provide services to members of SBC's corporate family, and thus they provide these services at fully distributed cost, rather than the higher of fair market value and fully distributed cost.⁴ SBC states that an outside interest has agreed to purchase Ameritech New Media, the cable television systems owned by Ameritech in October or November 2001.⁵ SBC seeks approval for its administrative affiliates to perform certain services upon the close of the sale, for a term not to exceed 12 months. The services SBC's administrative affiliates will provide to the purchaser are accounting services, inventory management, and systems support. SBC estimates the cost of these services to be \$350,000 per month.⁶

III. DISCUSSION

4. The Commission may grant a waiver of its rules for good cause shown.⁷ Waiver of the Commission's rules is appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.⁸ Finally, a waiver request must be consistent with the principles underlying the rule for which a waiver is requested.

5. Due to the limited duration and scope of these services, we conclude that the burden of requiring SBC to perform a good faith determination of fair market value for services provided under these circumstances would outweigh any benefits derived from strict adherence to the rules in this specific situation. This request arises from a specific situation involving the sale of one corporate affiliate to an outside third party. We agree with SBC that the public interest will be served by avoiding the cost to conduct fair market value studies for this relatively minimal service agreement. Accordingly, we grant the petition for waiver of section 32.27(c) filed by SBC. This waiver is limited to those corporate services provided under contract between SBC and the affiliates listed in the waiver request.

⁴ SBC Waiver Petition at 2.

⁵ *Id.* at 2.

⁶ *Id.* at 2-3.

⁷ 47 C.F.R. § 1.3.

⁸ See United States Telephone Association Petition for Waiver of Part 32 of the Commission's Rules, Order, 13 FCC Rcd 214 (Com. Car. Bur. 1997) (citing *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164 (D.C.Cir. 1990) (*Northeast Cellular*); *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), cert. Denied, 409 U.S. 1027 (1972) (*WAIT Radio*)).

IV. ORDERING CLAUSE

6. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 4(j), 201-205, and 218-220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201-205, and 218-220, and Sections 0.91, 0.291, 1.3, 1.106, 32.18, and 32.27 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, 1.106, 32.18, and 32.27, that the Petition for Waiver filed by SBC IS GRANTED to the extent described above in paragraph 5.

FEDERAL COMMUNICATIONS COMMISSION

Kenneth P. Moran
Chief, Accounting Safeguards Division
Common Carrier Bureau