



Federal Communications Commission
Washington, D.C. 20554

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Ms. Caryn Moir
Vice President – Federal Regulatory
SBC Telecommunications, Inc.
1401 I Street, NW, Suite 400
Washington, DC 20005

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

Dear Ms. Moir:

We appreciate the opportunity to discuss the process under which SBC Communications, Inc. (SBC) ensures the accuracy of payments made pursuant to the *SBC/Ameritech Merger Order*.¹

The *SBC/Ameritech Merger Order* establishes a Carrier-to-Carrier Performance Plan (Performance Plan).² Under the Performance Plan, SBC must report performance data on a monthly basis, and make voluntary payments to the United States Treasury if its performance falls below certain standards. Reporting the performance data involves following the approved “business rules” that define the measurements and adhering to the established reporting procedures. In order to calculate the voluntary payments, the company must monitor its performance data and follow specified calculations for determining the amount of each voluntary payment. Compliance with both aspects of the Performance Plan is subject to an independent audit.³

The Common Carrier Bureau (Bureau) expects that SBC will submit complete and accurate performance data by the deadlines established in the *Merger Conditions*. In our view, “complete and accurate” means that SBC should correctly apply the prescribed business rules and report all relevant performance data on the filing date. Similarly, we expect SBC to make accurate voluntary payments according to the *Merger Order*’s payment calculation guidelines, if its performance falls below the established standards.

Reporting complete and accurate performance data, and correctly calculating any payments that are due, is critical to the success of the Performance Plan. By design, the Performance Plan is self-executing, which means the company monitors its performance and makes any resulting payments without Commission action.⁴ Inaccurate and/or incomplete performance data could ultimately affect the voluntary payments and thereby undermine the effectiveness of the Performance Plan. Similarly, failing to properly apply the *Merger Order*’s payment calculation provisions could lead to incorrect voluntary payments.

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* or *Merger Order*).

² See *Merger Order*, Appendix C, Attachment A.

³ See *Merger Order*, Appendix C at ¶ 66(f).

⁴ See *Merger Order*, 14 FCC Rcd at 14867-69, ¶¶ 377-80; *Merger Order* at Appendix C, ¶¶ 23-24.

To ensure the success of the Performance Plan, we expect SBC to have in place effective internal controls to detect and correct data and payment problems before submitting the information to the Bureau staff. We fully expect SBC to submit accurate information by the filing deadline. At the same time, we recognize that SBC may identify errors after filing. As you know, we have established a regularized process for corrections to occur on a timely basis. We appreciate SBC's track record to date in doing this promptly. Because the data affects any voluntary payments, SBC's duty to submit complete and accurate data extends to the re-filed performance data. Self-detection and quick correction will mitigate the harm of the original errors and may prevent payment error.

Finally, we recognize that some errors could potentially affect the amount of voluntary payments made to the United States Treasury. In the event SBC finds errors in its performance data or payment calculations, it should notify the Bureau immediately and provide the information needed to assess any potential impact on the voluntary payments. In addition, SBC should provide the Bureau information needed to assess whether a true-up on future payments would be appropriate. SBC should not make a true-up without discussing the issue with Bureau staff in advance.

Please do not hesitate to contact me if I can be of further assistance. You may also contact Mark Stone in the Common Carrier Bureau directly at (202) 418-0816 for further information on this matter.

Sincerely,

Carol E. Mattey
Deputy Chief, Common Carrier Bureau

CC: Al Syeles, SBC
David Cartwright, SBC