



PUBLIC NOTICE

Federal Communications Commission
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DA 01-722
March 30, 2001

**COMMON CARRIER BUREAU SEEKS COMMENT ON LETTERS FILED BY
VERIZON AND BIRCH REGARDING MOST-FAVORED NATION CONDITION OF
SBC/AMERITECH AND BELL ATLANTIC/GTE ORDERS**

CC Docket No. 98-141
CC Docket No. 98-184

Comments Due: April 30, 2001
Reply Comments Due: May 14, 2001

The Commission approved the applications for transfer of control of licenses and lines associated with the proposed mergers of SBC/Ameritech and Bell Atlantic/GTE subject to conditions designed to offset the public interest harms associated with the transactions.¹ Among these conditions is a “most favored nation” (or “MFN”) requirement designed to lower barriers to entry and to spread the use of best practices.²

The *Bell Atlantic/GTE Merger Order* requires Verizon Communications, Inc. (“Verizon”) to make available

(1) in the Bell Atlantic Service Area to any requesting telecommunications carrier any interconnection arrangement, UNE, or provisions of an interconnection agreement (including an entire agreement) subject to 47 U.S.C. § 251(c) and Paragraph 39 of these Conditions that was voluntarily negotiated by a Bell Atlantic incumbent LEC with a telecommunications carrier, pursuant to 47 U.S.C. § 252(a)(1), prior to the Merger Closing Date and (2) in the GTE Service Area to any requesting telecommunications carrier any interconnection arrangement, UNE, or provisions of an interconnection agreement subject to 47 U.S.C. § 251(c) that was voluntarily

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, Appendix C, (1999) (“*SBC/Ameritech Merger Order*”); GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, For Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License, CC Docket No. 98-184, *Memorandum Opinion and Order*, 15 FCC Rcd 14032, Appendix D (rel. Jun. 16, 2000) (“*Bell Atlantic/GTE Merger Order*”).

² See, e.g., *Bell Atlantic/GTE Merger Order*, 15 FCC Rcd 14171, para. 300.

negotiated by a GTE incumbent LEC with a telecommunications carrier, pursuant to 47 U.S.C. § 252(a)(1), prior to the Merger Closing Date, provided that no interconnection arrangement or UNE from an agreement negotiated prior the Merger Closing Date in the Bell Atlantic Area can be extended into the GTE Service Area and vice versa.³

The *SBC/Ameritech Merger Order* requires SBC Communications Inc. ("SBC") to make available

to any requesting telecommunications carrier in the SBC/Ameritech Service Area within any SBC/Ameritech State any interconnection arrangement or UNE in the SBC/Ameritech Service Area within any other SBC/Ameritech state that (1) was negotiated with a telecommunications carrier, pursuant to 47 U.S.C. § 252(a)(1), by an SBC/Ameritech incumbent that at all times during the interconnection agreement negotiations was an affiliate of SBC and (2) has been made available under an agreement to which SBC/Ameritech is a party.⁴

On February 20, 2001, Verizon asked the Bureau to clarify that the Verizon MFN condition does not apply to provisions of an agreement that address intercarrier compensation for Internet-bound traffic.⁵ On March 6, 2001, Birch Telecom, Inc. filed a letter asking the Bureau to interpret the relevant SBC merger condition as permitting it to incorporate a provision relating to reciprocal compensation from an existing agreement with Sage Telecom, Inc., approved by the Texas Public Utility Commission, into current or future interconnection agreements in Oklahoma, Texas, Kansas, and Missouri.⁶

We seek comment on both letters and as to whether there are grounds to waive or modify the relevant MFN conditions.

As a "permit but disclose" proceeding, *ex parte* presentations will be governed by the procedures set forth in Section 1.1206 of the Commission's rules applicable to non-restricted proceedings.⁷

Parties making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is

³ *Bell Atlantic/GTE Merger Order* at Appendix D, para. 32.

⁴ *SBC/Ameritech Merger Order* at Appendix C, para. 43.

⁵ Letter from Gordon Evans, Vice President, Federal Regulatory, Verizon, to Dorothy Attwood, Chief, Common Carrier Bureau at 3 (Feb. 20, 2001).

⁶ Letter from John Ivanuska, Vice President, Regulatory & Carrier Relations, Birch, to Carol E. Matthey, Deputy Chief, Common Carrier Bureau, FCC (March 6, 2001).

⁷ An *ex parte* presentation is any communication (spoken or written) directed to the merits or outcome of a proceeding made to a Commissioner, a Commissioner's assistant, or other decision-making staff member, that, if written, is not served on other parties to the proceeding or, if oral, is made without an opportunity for all parties to be present. 47 C.F.R. § 1.1201.

generally required.⁸ Other rules pertaining to oral and written presentations are set forth in Section 1.1206 (b) as well. Interested parties are to file with the Commission Secretary, Magalie Roman Salas, 445 12th Street S.W., Washington, D.C. 20554, and serve Debbi Byrd of the Accounting Safeguards Division, Common Carrier Bureau, 445 12th Street S.W., 6-C316, Washington D.C. 20554, and International Transcription Service, Inc., 445 12th Street, S.W., CY-B402, Washington, D.C. 20554, with copies of any written *ex parte* presentations in these proceedings filed in the manner specified above.

Interested parties may file comments not later than April 30, 2001. Responses or oppositions to these comments may be filed not later than May 14, 2001. In accordance with Section 1.51(c) of the Commission's Rules,⁹ an original and four copies of all pleadings must be filed with the Commission's Secretary, Magalie Roman Salas, 445 12th Street, S.W., TW-A325, Washington, D.C. 20554. In addition, copies of each pleading must be filed with other offices in the following manner: (1) one copy with International Transcription Service, Inc., the Commission's duplicating contractor, 445 12th Street, S.W., CY-B402, Washington, D.C. 20554, (202) 857-3800; (2) one copy with Mark Stone, Accounting Safeguards Division, Common Carrier Bureau, 445 12th Street, S.W., Room 6-C365, Washington, D.C. 20554; and (3) six copies with Debbi Byrd, Accounting Safeguards Division, Common Carrier Bureau, 445 12th Street, S.W., Room 6-C316, Washington, D.C. 20554.

In addition to filing paper comments, parties may also file comments using the Commission's Electronic Comment Filing System (ECFS).¹⁰ 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 Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. For filing instructions for e-mail comments, commenters should send an 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.

Copies of the applications and any subsequently filed documents in this matter may be obtained from International Transcription Service, Inc., 445 12th Street, S.W., CY-B402, Washington, D.C. 20554, (202) 857-3800. Electronic versions of the applications are also available on the FCC's Internet Home Page (<http://www.fcc.gov>) and through the Commission's Electronic Comment Filing System. To the extent that parties file electronic versions of responsive pleadings, such filings also will be available on the FCC's Internet Home Page and through the Commission's Electronic Comment Filing System. Copies of the applications and documents are also available for public inspection and copying during normal reference room hours at the Commission's Reference Center, 445 12th Street, S.W., CY-A257, Washington, D.C. 20554.

For further information, contact Mark Stone at (202) 418-0816.

Action by the Deputy Chief, Common Carrier Bureau.

⁸ See 47 C.F.R. § 1.1206(b)(2).

⁹ 47 C.F.R. § 1.51(c).

¹⁰ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24,121 (1998).