



Federal Communications Commission
Washington, D.C. 20554

Adopted: July 14, 2003
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Ms. Michelle A. Thomas
Executive Director – Federal Regulatory
SBC Telecommunications, Inc.
1401 I Street, NW, Suite 1100
Washington, DC 20005

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

Dear Ms. Thomas:

This letter addresses SBC Telecommunications, Inc.'s (SBC's) request to calculate voluntary payments for missed collocation due dates under the *Merger Order* Performance Plan using the section 271 collocation measurement developed in the Ameritech states (Ameritech PM 107),¹ in place of the recently revised SBC Midwest 3.0 Business Rule PM 17 – Percent Missed Collocation Due Dates (PM 17).² For the reasons provided herein, I grant SBC's request to substitute Ameritech PM 107 for PM 17, pursuant to the *SBC/Ameritech Merger Order*.³

SBC contends that several of the changes involved in implementing the recently revised PM 17 measure are impractical and that generating the programming changes for PM 17 in the Ameritech region would be a lengthy and costly process. SBC argues that the Ameritech PM 107 measure is very similar to the revised PM 17 measure and could serve as a reasonable substitute.⁴ One key difference, SBC notes, is

¹ SBC 1.9 Performance Measure (PM) 107-Percentage Missed Collocation Due Dates.

² Letter from David G. Cartwright, Director-Federal Regulatory, SBC Telecommunications, Inc. to William Maher, Chief, Wireline Competition Bureau, Federal Communications Commission, CC Docket No. 98-141 (filed April 21, 2003) (SBC April 21 Letter). The Performance Plan was adopted in the *SBC/Ameritech Merger Order. 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, App. C, Attach. A (1999) (*SBC/Ameritech Merger Order or Merger Order*). The *Merger Order* Performance Plan requires SBC to report performance measurement data to the Commission each month, and to make payments to the United States Treasury should it fail to meet certain performance standards. *Merger Order*, 14 FCC Rcd 15000, para. 23.

³ *SBC/Ameritech Merger Order*, 14 FCC Rcd 14712, Attach. A, para. 4. On March 13, 2003, SBC filed version 3.0 PM Business Rules and Implementation Schedules for SBC Midwest and SBC SNET in response to the October 17, 2002 order of the Public Utility Commission of Texas that updated SBC's Texas 271 performance measurements, which included modifications to PM 17. Order No. 45-Approving Modifications to Performance Measurements and Order No. 47-Ruling on Motions for Reconsideration of Order No. 45. See Letter from David G. Cartwright, Director-Federal Regulatory, SBC Telecommunications, Inc. to William Maher, Chief, Wireline Competition Bureau, Federal Communications Commission, CC Docket No. 98-141 (filed March 13, 2003) (SBC March 13 Letter). By separate letter, I have approved the Texas Business Rules for use in the Ameritech region, in accordance with the *SBC/Ameritech Merger Order*. See Letter from Carol E. Matthey, Deputy Chief, Wireline Competition Bureau, Federal Communications Commission to Michelle A. Thomas, Executive Director – Federal Regulatory, SBC Telecommunications, Inc., CC Docket No. 98-141, DA 03-2307 (July 14, 2003); see also *SBC/Ameritech Merger Order*, 14 FCC Rcd 14712, Attach. A, para. 4.

⁴ See SBC April 21 Letter for a side-by-side comparison of the two measures.

that the existing PM 17 measure starts the clock for the purpose of performance calculation at the receipt of the layout for a particular collocation space.⁵ In contrast, the clock starts for the Ameritech PM 107 measure upon receipt of the layout plus payment.⁶ Without this extra requirement, SBC claims that it could complete a collocation job for which a competitive LEC has no intention of accepting space or making payment. According to SBC, the Ameritech PM 107 standard was adopted in a regional collaborative with competitive LECs and has either been adopted, or is in the process of being adopted in each Ameritech state.⁷

I am persuaded to grant SBC's request in light of the commercial acceptance by competitive LECs in the Ameritech states of the Ameritech PM 107 performance measure in the Ameritech region. While the merger conditions were designed to bring the benefits of "best practices" adopted by the Texas Commission throughout the SBC region, a limited exception is appropriate in this instance because SBC had reached agreement with its wholesale customers through the collaborative process in the Ameritech states on this issue. Second, I recognize that maintaining the existing PM 17 measure may impose an unnecessary burden on SBC to reprogram its systems, given that the Ameritech PM 107 is nearly identical and its use will enable consistent business practices. I therefore grant SBC's request to measure its performance in the Ameritech region using the Ameritech PM 107 measure and calculate any voluntary payments accordingly.

If SBC disagrees with any of this letter's guidance, it may file an application for review with the Commission pursuant to section 1.115 of the Commission's rules.⁸

Please do not hesitate to contact me if I can be of further assistance. In addition, you may contact Bill Dever, Assistant Division Chief, Competition Policy Division in the Wireline Competition Bureau at (202) 418-1578.

Sincerely,

Carol E. Matthey
Deputy Chief, Wireline Competition Bureau

⁵ See SBC April 21 Letter at 2.

⁶ See *id.*

⁷ See SBC April 21 Letter at nn.1-2.

⁸ 47 C.F.R. § 1.115.