

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Application by SBC Communications Inc.,)
Southwestern Bell Telephone Company, And)
Southwestern Bell Communications Services, Inc.) CC Docket No.00-65
d/b/a Southwestern Bell Long Distance Pursuant)
to Section 271 of the Telecommunications Act of)
1996 To Provide In-Region, InterLATA Services)
In Texas,)
)
Joint Application by SBC Communications Inc.,)
Southwestern Bell Telephone Company, and)
Southwestern Bell Communications Services, Inc.) CC Docket No. 00-217
d/b/a Southwestern Bell Long Distance for)
Provision of In-Region, InterLATA Services in)
Kansas and Oklahoma,)
)
Joint Application by SBC Communications Inc.,)
Southwestern Bell Telephone Company, and)
Southwestern Bell Communications Services, Inc.)
d/b/a Southwestern Bell Long Distance Pursuant) CC Docket No. 01-194
to Section 271 of the Telecommunications Act of)
1996 To Provide In-Region, InterLATA Services)
in Arkansas and Missouri,)
)
Application by SBC Communications Inc., Pacific)
Bell Telephone Company, and Southwestern Bell)
Communications Services Inc., for Authorization) WC Docket No. 02-306
To Provide In-Region, InterLATA Services in)
California,)
)
Application by SBC Communications Inc.,)
Nevada Bell Telephone Company, and)
Southwestern Bell Communications Services, Inc.,) WC Docket No. 03-10
for Authorization To Provide In-Region,)
InterLATA Services in Nevada,)
)
Application by SBC Communications Inc.,)
Michigan Bell Telephone Company, and)
Southwestern Bell Communications Services, Inc.) WC Docket No. 03-138
for Authorization To Provide In-Region,)
InterLATA Services in Michigan,)
)
Joint Application by SBC Communications Inc.,)
Illinois Bell Telephone Company, Indiana Bell)

Telephone Company Incorporated, the Ohio Bell)	
Telephone Company, Wisconsin Bell, Inc., and)	
Southwestern Bell Communications Services, Inc.)	WC Docket No. 03 - 167
for Authorization To Provide In-Region,)	
InterLATA Services in Illinois, Indiana, Ohio, and)	
Wisconsin,)	
)	
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)	CC Docket No. 98-141
Communications Act and Parts 5, 22, 24, 25, 63,)	
90, 95 and 101 of the Commission's Rules,)	
)	
and)	
)	
Review of Regulatory Requirements for)	
Incumbent LEC Broadband Telecommunications)	CC Docket No. 01-337
Services)	
)	
)	

ORDER

Adopted: September 24, 2005

Released: September 24, 2005

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION AND BACKGROUND

1. Damage to telecommunications infrastructure in the Texas Gulf Coast and surrounding area from Hurricane Rita is expected at this time. In order to provide SBC Communications, Inc. (SBC) the flexibility necessary to use its available telecommunications network facilities most effectively to respond to the hurricane, and to repair and restore services and facilities after the hurricane has passed, the Wireline Competition Bureau grants, on its own motion, Special Temporary Authority (STA) to SBC and its affiliates, to the extent described herein.¹ The predicted damage to telecommunications infrastructure in the Texas Gulf Coast and surrounding area requires carriers to adjust their operations and facilities to accommodate any damage sustained. Carriers may find it necessary to reroute traffic around damaged facilities to restore service as quickly as possible. Such restoration efforts may involve the use of SBC's

¹ BellSouth is currently operating under a similar STA to restore the services of other carriers and its own affiliates in areas affected by Hurricane Katrina. *Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Florida and Tennessee*, WC Docket No. 02-307, DA 05-2447 (rel. Sept. 13, 2005) (*BellSouth STA Order*).

corporate affiliates, and may require the routing of traffic across LATA boundaries that otherwise would be routed within LATA boundaries. Moreover, other carriers in the affected region may seek assistance from SBC to route portions of their traffic to non-damaged designated facilities surrounding the areas where their network facilities have been damaged by Hurricane Rita.

II. DISCUSSION

2. In determining whether to grant an STA, we look at whether the proposed action will serve the public interest, convenience and necessity.² Here, Hurricane Rita is expected to cause substantial damage to telecommunications network facilities. Restoring full telecommunications service in the region affected by a hurricane as quickly as possible is a critical component in overall recovery operations. Thus, there is a compelling public interest in rapidly restoring the flow of telecommunications traffic throughout the hurricane damaged area in the most effective manner.

3. The Commission has granted SBC authority to provide in-region interLATA service originating in each state in its twelve-state region upon demonstration of compliance with the requirements of sections 271 and 272 of the Act.³ Section 272(a) and the Commission's implementing rules require SBC to provide in-region interLATA service through a separate affiliate.⁴ This requirement has sunset in Texas, Kansas, Oklahoma, Arkansas, Missouri, and California, but remains in force in the rest of SBC's region.⁵ To recover from Hurricane Rita, SBC's separate section 272 affiliate, SBC Long

² See *BellSouth STA Order*, para. 2, *supra*, note 1; *Accounting Safeguards Under the Telecommunications Act of 1996*, Order, 16 FCC Rcd 17969, 17970, para. 3 (2001) (applying STA standards to a request by Verizon Communications, Inc. to repair damage to telecommunications facilities in New York City after September 11, 2001, implicating section 272 and implementing rules); *Application of GTE Corporation and Bell Atlantic Corporation 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*, Order, 16 FCC Rcd 15957, 15958, para. 3 (2001) (addressing standard for granting STAs); see also 47 U.S.C. §§ 154(i), 214(a), 303(r).

³ See, e.g., *Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Arkansas and Missouri*, CC Docket No. 01-194, Memorandum Opinion and Order, 16 FCC Rcd 20719 (2001); *Application by SBC Communications Inc., Southwestern Bell Telephone Company, And Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services In Texas*, CC Docket No.00-65, Memorandum Opinion and Order, 15 FCC Rcd 18354 (2000) (*Texas 271 Order*).

⁴ See 47 C.F.R. §§ 53.1-53.213; see also *Implementation of the Accounting Safeguards Under the Telecommunications Act of 1996*, CC Docket No. 96-150, Report and Order, 11 FCC Rcd 17539 (1996); Order on Reconsideration, 14 FCC Rcd 11396 (1999); Second Order on Reconsideration, 15 FCC Rcd 1161 (2000); *Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905 (1996); First Order on Reconsideration, 12 FCC Rcd 2297 (1997); Second Order on Reconsideration, 12 FCC Rcd 8653 (1997), *aff'd sub nom. Bell Atlantic Telephone Companies v. FCC*, 131 F.3d 1044 (D.C. Cir. 1997), Third Order on Reconsideration, 14 FCC Rcd 16299 (1999).

⁵ See, e.g., *Section 272 Sunsets for SBC in the State of Texas by Operation of Law on June 30, 2003 Pursuant to Section 272(f)(1)*, Public Notice, FCC 03-155, 18 FCC Rcd 13566 (2003). In states where section 272 separate affiliate requirements have sunset, SBC could provide in-region interLATA services on an integrated basis provided, however, that it complies with the rules currently applicable to services subject to dominant carrier regulation.

Distance, Inc. (SBCLD), may not have sufficient capacity in its network to provide all the services necessary to accommodate re-routed traffic in the affected areas. Therefore, SBC may require capacity in its corporate network to reroute such traffic, including transporting traffic across LATA boundaries. To facilitate this effort, SBC requires temporary authority to permit it, rather than its section 272 affiliate, to carry re-routed in-region interLATA traffic to the extent necessary. Under the circumstances, a grant of limited, temporary authority to carry in-region interLATA traffic is warranted to facilitate restoration efforts free from the requirements of 272 and the Commission's implementing rules. In addition SBC may need to utilize corporate-wide personnel and facilities to address the impact of the storm and respond to emergency activities. Application of the section 272 accounting and non-accounting safeguards to these activities will slow SBC's ability to rapidly implement any necessary recovery efforts. Thus, this temporary authority necessarily applies to other section 272 requirements and Commission's rules implementing section 272.⁶

4. Finally, SBC's advanced services affiliate, SBC Advanced Solutions, Inc. (SBC-ASI) is subject to many of the requirements of section 272's accounting and non-accounting safeguards under the terms of the *SBC Advanced Services Forbearance Order*.⁷ In the *SBC Advanced Services Forbearance Order*, the Commission conditioned forbearance upon SBC's operation in accordance with the separate affiliate structure established in the *SBC/Ameritech Merger Order*.⁸ The *SBC/Ameritech Merger Order* required SBC to operate its advanced services affiliate in accordance with many of the requirements of section 272.⁹ This STA therefore also authorizes SBC and its affiliates to operate temporarily without regard to the conditions set forth in the *SBC Advanced Services Forbearance Order* with respect to compliance with the section 272-related requirements.

5. Accordingly, we grant SBC an STA for a limited 45-day period to enable it to use its corporate network, personnel and facilities, including its affiliates, in its entire region without regard to section 272 and the Commission's rules governing compliance with section 272, and without filing tariffs or contracts (or complying with related requirements) that would otherwise apply to interstate telecommunications services provided by SBC on an integrated basis.¹⁰ Similarly, to the extent that compliance with section 272 is a condition precedent to SBC authority to carry in-region interLATA traffic in its twelve-state region under section 271 of the Act, this condition is also temporarily waived for this limited special purpose.¹¹ Special temporary authority will maximize SBC's ability to assist in restoring telecommunications services to the public in areas affected by Hurricane Rita.

⁶ See 47 C.F.R. §§ 53.1-53.213.

⁷ *Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services*, CC Docket No. 01-337, Memorandum Opinion and Order, 17 FCC Rcd 27000 (2002) (*SBC Advanced Services Forbearance Order*).

⁸ *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 1101 of the Commission's Rules*, Memorandum Opinion and Order, 14 FCC Rcd 14712 (1999) (*SBC/Ameritech Merger Order*).

⁹ *SBC/Ameritech Merger Order*, 14 FCC Rcd at 14893-09, paras. 444-476

¹⁰ See 47 C.F.R. Part 61; see also *supra* note 6.

¹¹ See, e.g., *Texas 271 Order*, 15 FCC Rcd at 18548-55, paras. 394-409 (discussing structural, transactional, and accounting requirements of section 272).

6. Granting an STA relieving SBC from applicable in-region interLATA traffic requirements as well as from section 272 accounting and non-accounting safeguards to respond to any damage caused by Hurricane Rita will enable SBC to rapidly restore affected services as efficiently as possible. Therefore, SBC may carry re-routed traffic and take other measures responsive to service restoration efforts free of any restrictions contained in the Commission's orders and rules implementing section 272 of the Act, and of the relevant portions of Parts 32 and 61 of the Commission's rules.¹² Should SBC need additional relief beyond the expiration of this STA, we would expect SBC to request such authority accompanied by a status report addressing its progress and indicating when it expects to resume compliance with these requirements.

III. ORDERING CLAUSE

7. Accordingly, IT IS ORDERED that, pursuant to sections 4(i), 5, 201, 214(a), 271, 272, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155, 201, 214(a), 271, 272, and 303(r) and section 0.291 of the Commission's rules, 47 C.F.R. § 0.291, SBC IS GRANTED Special Temporary Authority as described above for activities related to the repair and restoration of facilities affected by Hurricane Rita. This authority expires 45 days from the release date of this Order.

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Navin
Chief, Wireline Competition Bureau

¹² Because the extent of the damage and SBC's precise needs cannot be known in advance, we grant this authority pursuant to all of the above-captioned proceedings out of an abundance of caution.