



PUBLIC NOTICE

Federal Communications Commission
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Washington, D.C. 20554

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DA 03-2039
June 19, 2003

**COMMENTS REQUESTED ON THE APPLICATION BY SBC COMMUNICATIONS
INC. FOR AUTHORIZATION UNDER SECTION 271 OF THE COMMUNICATIONS
ACT TO PROVIDE IN-REGION, INTERLATA SERVICE IN THE STATE OF
MICHIGAN**

WC DOCKET NO. 03-138

Comments: July 2, 2003
Reply Comments: July 21, 2003

On June 19, 2003, SBC Communications Inc., Michigan Bell Telephone Company, and Southwestern Bell Communications Services, Inc. (Michigan Bell) filed an application for authorization to provide in-region, interLATA service in the State of Michigan, pursuant to section 271 of the Communications Act of 1934, as amended (the Act), 47 U.S.C. § 271. Pursuant to section 271 of the Act, an applicant must demonstrate compliance with section 271 on a state-by-state basis.

This Public Notice establishes certain procedural requirements relating to consideration of Michigan Bell's application. The Commission, in a prior Public Notice, adopted general procedural requirements that apply to the processing of this and all other applications for authorization under section 271 of the Act.¹ A copy of this earlier Public Notice is attached hereto. Also attached is a protective order adopted today, *Application of SBC Communications Inc., Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Michigan*, Protective Order, DA 03-2040 (WCB rel. June 19, 2003), that establishes the conditions under which access will be made available to confidential documents submitted in this proceeding by Michigan Bell or any other party.

As the Commission stated in its March 23, 2001 Public Notice, we retain discretion to adjust filing deadlines for these applications on a case-by-case basis. Because Michigan Bell's instant application follows closely in time to its recently withdrawn filing in WC Docket No. 03-

¹ See *Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, 16 FCC Rcd 20, 948 (2001) (March 23, 2001 Public Notice).

16, and this application relies largely on the same evidence that supported its previous application, we find it appropriate to adopt an expedited comment schedule.

Comments By Interested Third Parties. Comments by interested third parties in support of or in opposition to Michigan Bell's application must be filed on or before **July 2, 2003**, and must be filed in conformance with the procedures set forth in the attached March 23, 2001 Public Notice. Parties seeking to rely on any of their comments or *ex parte* filings filed in WC Docket No. 03-16 prior to the termination of that proceeding should incorporate by reference those portions of such materials relevant to this proceeding, but parties do not have to re-file such materials in their entirety. Any materials not expressly incorporated by the originating party may not be relied upon by the Commission. As in prior section 271 application proceedings, comments may not exceed 100 pages.²

An original and four copies of all comments must be filed with the Commission Secretary, Marlene H. Dortch, 445 12th Street, SW, CY-B402, Washington D.C. 20554. In addition, fifteen copies of each comment must be delivered to Janice Myles, Wireline Competition Bureau, 445 12th Street SW, Room 5-C327, Washington, D.C., 20554 and one copy to Qualex International, Portals II, 445 12th Street SW, Room CY-B402, Washington D.C., 20554. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. In completing the transmittal screen, commenters should include their full name, postal mailing address, and the applicable docket of this proceeding. Only one copy of an electronic submission must be filed. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an email to ecfs@fcc.gov, and should include the following words in the subject line, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties that choose to file by paper must file an original and four copies of each, and are hereby notified that effective December 18, 2001, the Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at a new location in downtown Washington, D.C. The address is 236 Massachusetts Avenue, NE, Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. This facility is the only location where hand-delivered or messenger-delivered paper filings for the Commission's Secretary will be accepted. Accordingly, the Commission will no longer accept these filings at 9300 East Hampton Drive, Capitol Heights, MD 20743. In addition, this is a reminder that, effective October 18, 2001, the Commission discontinued receiving hand-delivered or messenger-delivered filings for the Secretary at its headquarters location at 445 12th Street, SW, Washington, D.C. 20554.

² Parties anticipating that they may require additional pages for comments or reply comments are asked to contact Susan Pié at (202) 418-1443 as soon as possible.

Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service (USPS) Express Mail and Priority Mail), must be addressed to 9300 East Hampton Drive, Capitol Heights, MD 20743. This location will be open 8:00 a.m. to 5:30 p.m. The USPS first-class mail, Express Mail, and Priority Mail should continue to be addressed to the Commission’s headquarters at 445 12th Street, SW, Washington, D.C. 20554. The USPS mail addressed to the Commission’s headquarters actually goes to our Capitol Heights facility for screening prior to delivery at the Commission.

If you are sending this type of document or using this delivery method...	It should be addressed for delivery to...
Hand-delivered or messenger-delivered paper filings for the Commission’s Secretary	236 Massachusetts Avenue, NE, Suite 110, Washington, D.C. 20002 (8:00 a.m. to 7:00 p.m.)
Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail)	9300 East Hampton Drive, Capitol Heights, MD 20743 (8:00 a.m. to 5:30 p.m.)
United States Postal Service first-class mail, Express Mail, and Priority Mail	445 12 th Street, SW Washington, D.C. 20554

Filings and comments are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com. **Parties are also requested to send a courtesy copy of their comments via email to:** spie@fcc.gov; gspade@fcc.gov; rpgregg@michigan.gov, and layla.seirafinajar@usdoj.gov.

State Commissions and Department of Justice Written Consultations. The Michigan Public Service Commission (Michigan Commission) must file any written consultation on or before **July 2, 2003**.³ Any written consultation by the U.S. Department of Justice, which by the Act’s express terms must become part of the Commission’s record, must be filed on or before **July 16, 2003**. Because the state commission and the Department of Justice are given roles by statute in a section 271 proceeding, copies of all pleadings, including comments, replies and *ex partes*, should be filed with those parties.⁴

³ We have asked the Michigan Commission to file written consultations on the same day as interested parties file comments.

⁴ Please forward copies to the attention of: (1) Rodney Gregg, Michigan Public Service Commission, P.O. Box 30221, Lansing, MI 48909, email: rpgregg@michigan.gov and (2) Layla Seirafi-Najar, U.S. Department

Replies. All participants in the proceeding – the applicant, interested third parties, the State Commissions, and the Department of Justice – may file a reply to any comment filed by any other participant on or before **July 21, 2003**. Reply comments may not exceed 50 pages, unless parties request additional pages to address specific circumstances, as described above. An original and four copies of all reply comments must be filed with Commission Secretary, Marlene H. Dortch, 445 12th Street, S.W., TW-B402, Washington D.C. 20554. In addition, fifteen copies of each reply comment must be delivered to Janice Myles, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C327, Washington, D.C., 20554; and one copy must be sent to Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington D.C., 20554. As noted previously, hand-delivered or messenger-delivered filings will be accepted only at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. **Parties are requested to send a courtesy copy of their replies via email to:** spie@fcc.gov; gspade@fcc.gov; rpgregg@michigan.gov, and layla.seirafi-najar@usdoj.gov.

Treatment of Confidential Information. To the extent a submission by any party (including the applicant, the Department of Justice, the Michigan Commission, or any commenter) includes confidential information or comments on confidential information that another participant has submitted, the party must file with the Office of the Secretary: (a) one copy of only the portion(s) of the submission that contain confidential information or comment on confidential information that another participant has submitted, exclusive of the remainder of the submission; and (b) one original and two copies of the entire confidential submission in redacted form. Each of the submissions described in items (a) and (b) must be accompanied by a cover letter. The submission described in item (a) and accompanying cover letter should be stamped **“Confidential—Not for Public Inspection.”** The original and two copies of the redacted submission described in item (b) and their accompanying cover letters should be stamped **“Redacted—For Public Inspection.”** The cover letters accompanying both sets of submissions set forth in items (a) and (b) above should state that the party is filing a confidential portion of the submission and a redacted version of the entire submission. Other than bearing different stamps (*i.e.*, “Confidential—Not for Public Inspection” or “Redacted—For Public Inspection”), the (a) and (b) cover letters should be identical. The submissions should be sent to Marlene H. Dortch, Secretary, 445 12th Street, S.W., Room TW-B204, Washington, D.C. 20554. Hand-delivered or messenger-delivered filings will be accepted only at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. Each redacted filing must also be submitted on a read-only CD-ROM⁵ formatted in Word 97 or Excel 97 format, as applicable. One set of the confidential and redacted submissions should also be delivered to Susan Pié, Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 5-C224, Washington, DC 20554.

of Justice, Antitrust Division, Telecommunications and Media Enforcement, 1401 H Street, N.W., Suite 8000, Washington, DC 20530, email: layla.seirafi-najar@usdoj.gov.

⁵ If filing on a CD-ROM is not possible, applicants may file on a 3.5 inch computer diskette.

All questions relating to access to confidential information submitted by Michigan Bell should be directed to Kevin Walker, Kellogg, Huber, Hansen, Todd & Evans, 1615 M Street, N.W., Suite 400, Washington, DC 20036-3209, Fax (202) 326-7821, Telephone (202) 367-7820.

Availability of Information. A wide range of information relating to Michigan Bell's section 271 application for Michigan may be retrieved from the Commission's World Wide Website at <http://www.fcc.gov>.⁶ Specific information, such as comments and *ex parte* submissions, may be obtained from the ECFS, which is accessible through the Commission's website. This application will be available for public inspection during regular business hours in the Reference Information Center of the Federal Communications Commission, Room CY-A257, 445 12th Street, S.W., Washington, DC, 20554. Paper copies of the joint application, and the record generated in response thereto, may be obtained from the Commission's copy contractor.

Ex Parte Rules: Permit-but-Disclose Proceeding. Because of the broad policy issues involved, section 271 application proceedings initially are classified as permit-but-disclose proceedings.⁷ Accordingly, *ex parte* presentations will be permitted, provided they are disclosed in conformance with the Commission's *ex parte* rules.⁸ Because of the 90-day statutory timeframe for decision, the Commission strongly encourages parties to set forth their views comprehensively in the formal filings specified above (*e.g.*, written consultations, oppositions, supporting comments, etc.) and not to rely on subsequent *ex parte* presentations. In any event, parties may file no more than a total of 20 pages of written *ex parte* submissions. This 20-page limit does not include: (1) written *ex parte* submissions made solely to disclose an oral *ex parte* contact; (2) written material submitted at the time of an oral presentation to Commission staff that provides a brief outline of the presentation; (3) written material filed in response to direct requests from Commission staff; or (4) written factual exhibits. *Ex parte* submissions in excess of the 20-page limit will not be considered part of the record of this proceeding. In light of the statutory deadline for decision, parties are hereby requested to provide courtesy copies of any *ex parte* presentations made to any member of the Commission to Susan Pié, Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 5-224, Washington D.C. 20554. **Parties are also requested to send a courtesy copy of *ex parte* submissions via email to:** spie@fcc.gov; gspade@fcc.gov; rpgregg@michigan.gov, and layla.seirafi-najar@usdoj.gov.

⁶ The rules relating to public information and the inspection of records are set forth at sections 0.441 through 0.470 of the Commission's Rules. 47 C.F.R. §§ 0.441-0.470.

⁷ See 47 C.F.R. § 1.1206(a)(13) (added by 64 FR 68946, 68946 (1999) (effective Jan. 10, 2000)); *e.g.*, Comments Requested on Application by Bell Atlantic for Authorization under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York (CC Docket No. 99-295), Public Notice, DA 99-2014, 1999 WL 770903 (CCB rel. Sept. 29, 1999).

⁸ See 47 C.F.R. §§ 1.1202, 1.1206(b). Copies of *ex parte* submissions delivered to Michigan Bell's counsel shall be addressed to: Kevin Walker, Kellogg, Huber, Hansen, Todd & Evans, 1615 M Street, N.W., Suite 400, Washington, DC 20036-3209, Fax (202) 326-7821, Telephone (202) 367-7820.

For purposes of this proceeding, oral *ex parte* presentations from the Department of Justice or the Michigan Commission are deemed to be exempt *ex parte* presentations.⁹ To the extent that the Commission obtains through such oral *ex parte* presentations new factual information on which the Commission may rely in its decision-making process, the party submitting the information – either the Department of Justice or the state commission – shall prepare a summary for inclusion in the record in accordance with Commission rules, unless such a summary is being prepared by Commission staff.¹⁰ We also waive any page limits for written *ex parte* submissions by the Department of Justice or the state commission.

Notwithstanding the above, the Commission may, by subsequent public notice, prohibit all presentations to its decision-making personnel regarding the application during a seven-day period preceding the anticipated release date of the Commission’s Order regarding the joint application.¹¹

Ex Parte Meeting Schedule. The Wireline Competition Bureau staff will be available for meetings on **June 30 and July 1, 2003, and July 17, 2003**, in case interested parties wish to discuss any issues that they intend to raise in comments or reply comments, as applicable, in support of, or in opposition to, Michigan Bell’s application. The purpose of these meetings is to give interested parties an opportunity to inform Bureau staff of such issues prior to filing their written comments or reply comments. The Bureau encourages interested parties to make joint presentations of common concerns to the extent feasible. Parties who wish to schedule meetings with the Bureau should call Susan Pié, Competition Policy Division, Wireline Competition Bureau at (202) 418-1443. Aside from the meetings listed above, *ex parte* meetings related to this proceeding will occur only at the request of Bureau staff.

⁹ See *id.* § 1.1200(a) (“Where the public interest so requires in a particular proceeding, the Commission and its staff retain the discretion to modify the applicable *ex parte* rules by order, letter, or public notice.”); *id.* § 1204(a)(6), as amended by 64 FR 68946, 68946 (1999) (effective Jan. 10, 2000).

¹⁰ See *id.* § 1.1206(a).

¹¹ See *id.* §§ 1.1200; 1.1203.

Calendar

***Ex Parte* Meetings related to Comments: June 30 and July 1, 2003**

Comments Due: July 2, 2003

State Commission Comments Due: July 2, 2003

U.S. Department of Justice Evaluation Due: July 16, 2003

***Ex Parte* Meetings related to Reply Comments: July 17, 2003**

Reply Comments Due: July 21, 2003

Statutory Deadline: September 17, 2003

By the Wireline Competition Bureau.

News Media Contact: Michael Balmoris -- (202) 418-1500

Wireline Competition Bureau Contact: Gina Spade -- (202) 418-7105