

Wireline Competition/in-region_applications.

Synopsis of the Order

1. *History of the Application.* On January 14, 2003, Nevada Bell filed an application pursuant to section 271 of the Telecommunications Act of 1996, with the Commission to provide in-region, interLATA service in the state of Nevada.

2. *The State Commission's Evaluation.* The Nevada Public Utilities Commission (Nevada Commission), following an extensive review process, advised the Commission that Nevada Bell has taken the statutorily required steps to open its local markets to competition. Consequently, the Nevada Commission recommended that the Commission approve Nevada Bell's in-region, interLATA entry in their evaluation and comments in this proceeding.

3. *The Department of Justice's Evaluation.* The Department of Justice filed its evaluation on February 21, 2003, recommending approval of the Nevada Bell application. The Department of Justice concludes that opportunities are available for competitive carriers to serve business customers, and also concludes that Nevada Bell has fulfilled its obligations to open its markets to residential competition. Accordingly, the Department of Justice recommends approval of Nevada Bell's application for section 271 authority in Nevada.

Primary Issues in Dispute

4. *Complete-As-Filed Waiver.* The Commission's "complete-as-filed" requirement provides that when an applicant files new information after the comment date, the Commission reserves the right to start the 90-day review period again or to accord such information no weight in determining section 271 compliance. The Commission waives the complete-as-filed requirement pursuant to Nevada Bell's request to consider its late-filed Track A evidence. The Applicant submitted additional evidence to respond quickly and positively to concerns raised in the record as to whether Cricket Communications' broadband Personal Communications Service (PCS) offering satisfied the requirements of Track A. Because the evidence was filed on day 31, the Bureau had sufficient time to place the evidence on public notice and request comments specific to the evidence submitted. Under these circumstances, the Commission believes that consideration of Nevada Bell's additional evidence better serves the

Commission's interest in ensuring a fair and orderly 271 process than restarting the 90-day clock, and that a grant of this waiver will serve the public interest.

5. *Compliance with Section 271(c)(1)(A).* The Commission concludes that Nevada Bell demonstrates that it satisfies the requirements of section 271(c)(1)(A) based on the interconnection agreements it has implemented with competing carriers in Nevada. The record shows that Nevada Bell relies on interconnection agreements with Advanced Telecom Group, WorldCom, and Cricket Communications in support of this showing. The Commission finds that Advanced Telecom Group and WorldCom each serve more than a de minimis number of business end users predominantly over their own facilities and represent "actual commercial alternatives" to Nevada Bell for business telephone exchange services. The Commission further finds that, Cricket Communications, a PCS provider, serves more than a de minimis number of residential users over its own facilities and, for purposes of section 271 compliance, represents an actual commercial alternative to Nevada Bell for residential telephone exchange services.

6. First, the Commission determines that Cricket Communications' residential broadband PCS offering in Nevada is a "telephone exchange service" for purposes of Track A. The Commission further concludes that the evidence submitted by Nevada Bell adequately demonstrates that more than a de minimis number of Cricket customers use their service in lieu of wireline telephone service. The evidence shows that Cricket's marketing efforts stress that its product is a substitute for residential local telephone service. In addition, the Commission concludes that Nevada Bell's survey also demonstrates that Cricket customers use Cricket service in lieu of wireline telephone service. The Commission finds that the survey was random, and contains statistical analysis of sufficient quality to allow the Commission to rely on it for the purpose of showing compliance with Track A.

7. *Checklist Item 2—Unbundled Network Elements.* Based on the record, the Commission finds that Nevada Bell has provided "nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)" of the Act in compliance with checklist item 2.

8. *Pricing of Unbundled Network Elements.* Based on the record, the Commission finds that Nevada Bell's UNE rates in Nevada are just, reasonable

and nondiscriminatory as required by section 251(d)(1). The Commission has previously held that it will not conduct a *de novo* review of a state's pricing determinations and will reject an application only if either "basic TELRIC principles are violated or the state commission makes clear errors in the actual findings on matters so substantial that the end result falls outside the range that a reasonable application of TELRIC principles would produce." The Nevada Commission conducted extensive pricing proceedings to establish wholesale rates for UNEs. It approved recurring rates by using a Nevada specific version of the HAI model advocated by AT&T. Competitive LECs agreed to the vast majority of the nonrecurring rates. The Nevada Commission concluded that Nevada Bell's UNE rates are just, reasonable, and nondiscriminatory as required by section 251(c)(3), and satisfy the requirements of checklist item two. No party alleges that Nevada Bell's rates are inconsistent with TELRIC, or that the Nevada Commission committed TELRIC errors. Based on this record, the Commission finds that Nevada Bell has met its burden to show that its prices for UNEs satisfy the statutory mandate.

9. *Operations Support Systems (OSS).* Based on the record, the Commission finds that Nevada Bell provides "nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)" of the Act in compliance with checklist item 2. The Commission further finds that Nevada Bell provides persuasive evidence that the OSS in California are substantially the same as the OSS in Nevada and, therefore, evidence concerning the OSS in California is relevant and should be considered in our evaluation of the OSS in Nevada. Accordingly, when volumes in Nevada are too low to yield meaningful information concerning Nevada Bell's compliance with the competitive checklist, the Commission examines data reflecting Pacific Bell's performance in California.

10. Pursuant to its analysis, the Commission finds that Nevada Bell provides non-discriminatory access to its OSS—the systems, databases, and personnel necessary to support network elements or services. Nondiscriminatory access to OSS ensures that new entrants have the ability to order service for their customers and communicate effectively with Nevada Bell regarding basic activities such as placing orders and providing maintenance and repair services for customers. The Commission finds that, for each of the primary OSS functions (pre-ordering, ordering,