

FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 03–167; FCC 03–243]

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. for Authorization To Provide In-Region, InterLATA Services in Illinois, Indiana, Ohio and Wisconsin

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In the document, the Federal Communications Commission (Commission) grants the section 271 application of 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., (SBC) for authority to enter the interLATA telecommunications market in the states of Illinois, Indiana, Ohio and Wisconsin. The Commission grants SBC's application based on its conclusion that it has satisfied all of the statutory requirements for entry and opened its local exchange markets to full competition.

DATES: Effective October 24, 2003.

FOR FURTHER INFORMATION CONTACT: Pam Arluk, Attorney-Advisor, Wireline Competition Bureau, at (202) 418–1471 or via the Internet at parluk@fcc.gov. The complete text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. Further information may also be obtained by calling the Wireline Competition Bureau's TTY number: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in WC Docket No. 03–167, FCC 03–243, adopted October 14, 2003, and released October 15, 2003. The full text of this order may 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. It is also available on the Commission's Web site at <http://www.fcc.gov/Bureaus/>

Wireline Competition/in-region applications.

Synopsis of the Order

1. *History of the Application.* On July 17, 2003, SBC filed an application with the Commission, pursuant to section 271 of the Telecommunications Act of 1996, to provide in-region, interLATA services in the states of Illinois, Indiana, Ohio and Wisconsin.

2. *The State Commission's Evaluation.* The Illinois Commerce Commission (Illinois Commission), the Indiana Utility Regulatory Commission (Indiana Commission), the Public Utilities Commission of Ohio (Ohio Commission), and the Wisconsin Public Service Commission (Wisconsin Commission), following an extensive review process, advised the Commission that SBC has taken the statutorily required steps to open its local markets to competition. Consequently, the Illinois Commission, the Ohio Commission and the Wisconsin Commission recommended that the Commission approve SBC's in-region, interLATA entry in their evaluation and comments in this proceeding. The Indiana Commission, while it concluded that SBC is largely in compliance with section 271 requirements, it deferred to this Commission the ultimate determination of whether local markets have been fully and irreversibly open to competition, and whether SBC has demonstrated sufficient accuracy of its systems data and wholesale billing reliability.

3. *The Department of Justice's Evaluation.* The Department of Justice filed its evaluation on August 26, 2003, expressing concerns about SBC's wholesale billing, line splitting, manual handling, pricing and data reliability. The Department of Justice, while noting that SBC had made progress addressing some of the issues, stated that because of concerns about the billing processes, it could not support the application based on the current record. The Department, however, noted that the Commission might be able to resolve these billing issues prior to conclusion of its review.

4. *Compliance with Section 271(c)(1)(A).* In order for the Commission to approve a BOC's application to provide in-region, interLATA services, a BOC must first demonstrate that it satisfies the requirements of either section 271(c)(1)(A) (Track A) or section 271(c)(1)(B) (Track B). The Commission concludes that SBC satisfies the requirements of Track A in Illinois, Indiana, Ohio and Wisconsin. This decision is based on the interconnection

agreements SBC has implemented with competing carriers in each of the four states and the number of carriers that provide local telephone exchange service, either exclusively or predominantly over their own facilities, to residential and business customers.

Primary Issues in Dispute

5. *Checklist Item 1—Interconnection.* Based on its review of the record, the Commission concludes that SBC provides interconnection in accordance with the requirements of section 251(c)(2) and as specified in section 271 and prior Commission orders. In reaching this conclusion, the Commission examines SBC's performance with respect to collocation and interconnection trunks, as the Commission has done in prior section 271 proceedings. The Commission also examines whether SBC offers collocation and interconnection trunks to other telecommunications carriers at just, reasonable and nondiscriminatory rates. The Commission concludes that the commenters' allegations regarding SBC's collocation power rates in Indiana and Ohio do not require a finding of checklist noncompliance. The Commission determines that the revised collocation power rates made available to competitive LECs in Indiana and Ohio demonstrate that SBC provides collocation on a just, reasonable, and nondiscriminatory basis in compliance with checklist item one in Indiana and Ohio. In addition, the Commission waives its complete-as-filed requirement on its own motion pursuant to section 1.3 of the Commission's rules to the limited extent necessary to consider SBC's revised collocation power rates.

6. *Checklist Item 2—Unbundled Network Elements.* Based on the record, the Commission finds that SBC 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 two.

7. *Pricing of Unbundled Network Elements.* Based on the record, the Commission finds that SBC's UNE rates in Illinois, Indiana, Ohio and Wisconsin are just, reasonable and nondiscriminatory as required by section 251(d)(1). Thus, SBC's UNE rates satisfy checklist item two in all four states. 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