Public Service Commission of Wisconsin

White Paper
July 2003

The path to a determination on SBC's § 271 application in Wisconsin

Background

With the divestiture of the Bell System in 1984, the regional Bell operating companies (RBOCs), such as SBC[1], were prohibited from providing interLATA and interstate long distance service. In February 1996, Congress enacted the Telecommunications Act of 1996 (TA 96) to promote competition in various telecommunications markets in the U.S. TA 96 established a process to permit the surviving RBOCs to get into the expanded long distance business by meeting certain threshold requirements related to local service competition.

Section 271 of the Communications Act, as created by TA 96, addresses RBOC entry into long distance service and requires that RBOCs apply to the Federal Communications Commission (FCC) for authority to provide this service in a particular state. The FCC makes the final decision on this matter. Section 271 requires that the FCC consult with the Federal Department of Justice and the respective state commission to verify RBOC compliance with the requirements of § 271, commonly known as "Track A" and the "Competitive Checklist."

The 14-point competitive checklist addresses requirements that the RBOC must meet with respect to opening local markets to competition. These 14 points are as follow:

1. Interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1).
2. Nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1).

[1] Formerly known in this state as, Ameritech, Wisconsin Bell or Wisconsin Telephone Company.

3. Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates in accordance with the requirements of section 224.

4. Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.

5. Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.

6. Local switching unbundled from transport, local loop transmission, or other services.

7. Nondiscriminatory access to –
   - (I) 911 and E911 services;
   - (II) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and
   - (III) operator call completion services.

8. White pages directory listings for customers of the other carrier's telephone exchange service.

9. Until the date by which the telecommunications numbering administration guidelines, plan, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers. After that date, compliance with such guidelines, plan, or rules.

10. Nondiscriminatory access to databases and associated signaling necessary for call routing and completion.

11. Until the date by which the Commission issues regulations pursuant to section 251 to require number portability, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with such regulations.

12. Nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3).

13. Reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2).

14. Telecommunications services are available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3).

This Commission's evaluation of whether SBC should be allowed to enter the long distance market (§ 271 approval) has been deliberate and thorough.

The Commission's docket that is considering SBC's § 271 checklist compliance (docket 6720-TI-170) is part of a trio of proceedings commenced by the Commission to promote and ensure the development of effective competition in the local exchange telecommunications markets in Wisconsin, based on the parameters of TA 96. In addition to this specific § 271 proceeding, the Commission also is conducting an investigation of SBC's Operational Support Systems (OSS) in docket 6720-TI-160 and has addressed SBC's Unbundled Network Elements (UNEs) in docket 6720-TI-161. As noted below, these latter two proceedings have been underway, subject to extensive participation by competitors, for years; they were started before the § 271 proceeding. Literally many hundreds of hours have been devoted by the Commission and its staff to the processing of these proceedings.

Implicit in the requirements of § 271 (as part of the 14-point competitive checklist) are mandates to have UNEs available at prices consistent with federal guidelines and to have OSS arrangements that are reasonable and reliable for use by competitors. The Commission proceedings to address UNEs and OSS are thus very related to the ultimate § 271 determination.

The Commission opened the proceeding in docket 6720-TI-161 (Investigation Into Ameritech Wisconsin's Unbundled Network Elements) on December 15, 1999. That *Notice* stated:

> This is a proceeding to investigate Ameritech Wisconsin's (Ameritech's) unbundled network elements (UNEs). UNEs are components of Ameritech's network that it must offer to its competitors at a price for their use. Which UNEs Ameritech must offer and how those UNEs should be priced using forward looking cost studies will be the scope of this proceeding.

In March of 2002, the Commission issued a *Final Decision* in docket 6720-TI-161 to set the methodology by which SBC had to calculate its UNE prices to comply with the federally-mandated requirements. SBC submitted costs and proposed prices to comply with that *Final Decision*, and on June 26, 2003, the Commission made its final determinations on the compliance of the SBC filing and

directing some further final changes to the studies, and therefore the rates. The new wholesale pricing mechanism for these network elements is thus ready for implementation.

The Commission opened the proceeding in docket 6720-TI-160 (Investigation Into Ameritech's Operational Support Systems) also on December 15, 1999. That *Notice* stated:

> This is a proceeding to investigate the Operational Support Systems (OSS) of Wisconsin Bell, Inc., d/b/a Ameritech Wisconsin (Ameritech Wisconsin).[2] Phase I of this proceeding will focus on the development of OSS performance measures and benchmarks, and how OSS performance testing should proceed. Phase II will begin OSS performance testing based on the performance measures, benchmarks, and research methodology selected by the Commission in Phase I.

Throughout the course of this proceeding, an independent third-party[3] test of SBC's OSS has been conducted under intense scrutiny of both the Commission and SBC's competitors. Hundred of hours have been spent by all parties to identify weaknesses in the OSS system, to craft and implement improvements to those systems, and to develop the test methodology for the OSS evaluation and to conduct the many different tests of the system. Volumes of test result materials have been filed and examined and questioned. The OSS system is undeniably improved. Further testing to make sure that it is and remains a reliable system will continue.

Docket 6720-TI-170 was opened by *Notice* of September 14, 2001. That *Notice* stated:

> This is a proceeding to investigate Wisconsin Bell, Inc.'s, d/b/a Ameritech Wisconsin, ("Ameritech") compliance with the competitive checklist requirements set forth in 47 U.S.C. § 271(c) as enacted by the Federal Telecommunications Act of 1996 ("Communications Act"). Before a Bell Operating Company such as Ameritech can enter Interlata services (to provide long distance telecommunications), it must first open its own local telephone market to competition pursuant to Section 271 of the Communications Act. Following a section 271 application with the Federal Communications Commission ("FCC"), and, within 20 days after issuance of an FCC Initial Public Notice, the FCC expects the Public Service Commission

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[2] Operational support systems (OSS) generally refer to systems by which an incumbent local exchange provider makes wholesale service available to competitive local exchange carriers, or CLECs. These systems may have a combination of manual and electronic interfaces. Major system components may include pre-ordering; ordering and provisioning; maintenance and repair; network performance; unbundled elements; operator services and directory assistance; system performance; service center availability and billing.

[3] BearingPoint, f/k/a KPMG Consulting.

> of Wisconsin ("Commission") to submit written factual findings and reach reasoned legal conclusions concerning Ameritech's compliance with the requirements of section 271. The instant proceeding is to provide the Commission with the findings it needs to fully evaluate Ameritech's compliance with section 271 in order for the Commission to make the necessary assessment to form a recommendation to the FCC.

The Commission considered the requirements of § 271 as set forth in federal law and in past FCC § 271 orders in making its determinations on the Phase I issues. These same requirements are relevant to Phase II. In relying on federal standards, the Commission recognizes that its role is consultative to the FCC (and that this is not a contested case proceeding in which a substantial interest of any party would be determined or adversely affected by a decision or order.) In this proceeding, the Commission's determinations, based on the record, address threshold compliance with § 271 requirements, not how a particular issue should be resolved under state law.

The Commission considered this § 271 matter in two phases. In Phase I, the Commission, on May 15, 2003, reviewed SBC Wisconsin's compliance with the § 271 Track A provisions and many of the competitive 14-point checklist requirements. Other issues were deferred to Phase II (to be considered on July 2, 2003); specifically, these were matters related to SBC's provision of Operational Support Systems (OSS), the pricing of Unbundled Network Elements (UNEs)[4], and certain issues relating to the public interest requirements for Phase II.

[4] The UNE pricing matter was resolved as noted above in docket 6720-TI-161 after the Commission's deliberation on Phase 1 of docket 6720-TI-170.