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May 19, 2000

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

FILED

MAY 19 2000

RE: *SBC Advanced Solutions, Inc.*
Case No. TO-2000-261

Missouri Public
Service Commission

Dear Mr. Roberts:

Enclosed for filing in the above-referenced matter are the original and eight (8) copies of SBC Advanced Solutions, Inc.'s Response to the Staff Recommendation. A copy of the foregoing Response has been hand-delivered or mailed this date to parties of record.

Thank you for your attention to this matter.

Sincerely,



James M. Fischer

By: 

/jr
Enclosures

cc: All Parties of Record

FILED

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

MAY 19 2000

Missouri Public
Service Commission

In the Matter of the Application of)
SBC Advanced Solutions, Inc., for)
Approval of an Interconnection) Case No. TO-2000-261
Agreement with Southwestern Bell)
Telephone Company.)

**SBC Advanced Solutions, Inc.'s Response
To The Staff Recommendation**

Comes now SBC Advanced Solutions, Inc. ("ASI") and files its Response To The Staff Recommendation filed on May 9, 2000. As its Response, ASI states as follows:

1. On December 1, 1999, the Commission approved the interconnection agreement ("the Agreement") between Southwestern Bell Telephone Company ("SWBT") and SBC Advanced Solutions, Inc. ("ASI"). Order Approving Interconnection Agreement, Case No. TO-2000-261 (December 1, 1999).

2. On March 2, 2000, ASI filed Amendment No. 1 to the Agreement between ASI and SWBT.¹ Amendment No. 1 is designed to modify the Agreement to be consistent with the FCC Merger Conditions imposed by the Federal Communications Commission ("FCC") as part of the approval of the merger of SBC Communications Inc. and Ameritech Corporation ("Merger Conditions"). Amendment No. 1 modifies the Agreement to comply with the FCC's interpretation of the Merger Conditions, including the addition of provisions related to Discounted Surrogate Line Sharing Charges and Interim Line Sharing. These provisions were added to the Interconnection Agreement,

¹Amendment No. 1 was designated as Amendment No. IA20000032 by the Commission's Records Division.

pursuant to a January 12, 2000, letter from Mr. Lawrence E. Strickling, Chief, Common Carrier Bureau of the FCC to Ms. Janette Luebring, Chief of Telecommunications of the Kansas Corporation Commission.² The exclusive interim line sharing provisions were designed to be effective only on a temporary basis until SWBT is in position to provide line sharing to other carriers.

2. On May 9, 2000, ASI filed Amendment No. 2³ to the Agreement between ASI and SWBT. Amendment No. 2 sets forth the terms and conditions by which SWBT will provide line sharing to ASI on a permanent basis. ASI requested approval of Amendment No. 2 effective on May 29, 2000. On this date, line sharing will be made available by SWBT to affiliated and unaffiliated CLECs for DSL services. If the Commission approves Amendment No. 2 effective by May 29, 2000, ASI will no longer need approval for Amendment No. 1 since Amendment No. 2 effectively supercedes Amendment No. 1, provided that Amendment No. 2 is effective.

3. On May 9, 2000, the Staff also filed its Staff Recommendation which recommended that the Commission reject Amendment No. 1 since Staff was concerned that interim line sharing would not be available to other unaffiliated CLECs, pursuant to Sections 251 and 252 of the Telecommunications Act of 1996. Based upon this concern, Staff recommended rejection of Amendment No. 1.

²On January 12, 2000, Lawrence E. Strickling, Chief, Common Carrier Bureau of the FCC, issued a letter to Ms. Janette Luebring, Chief of Telecommunications of the Kansas Corporation Commission (Attachment A), clarifying that Surrogate Line Sharing Charges should be included in the Agreement. In addition, Mr. Strickling noted that: "The *Merger Order* permits SBC/Ameritech to provide line sharing to its advanced services affiliate on an exclusive basis until SBC/Ameritech provides line sharing to unaffiliated carriers in the same geographic area. The *Merger Order* refers to this a 'interim line sharing.'" (Attachment A, fn.4)

³ The Commission's Records Division designated Amendment No. 2 as Amendment No. IA20000__.

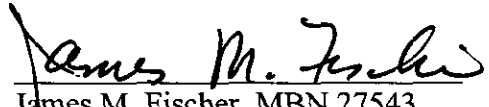
4. ASI believes that the concerns expressed by Staff are not reasons for rejecting Amendment No. 1. First, the FCC Merger Conditions specifically permit Interim Line Sharing to ASI on an exclusive basis prior to the time that line sharing is available to unaffiliated providers of Advanced Services within the same geographic area. The Merger conditions specifically permits SWBT to provide, on an interim basis, line sharing on an exclusive basis to ASI prior to the time that line sharing is available to other carriers. Second, line sharing is expected to be available to ACI and other carriers in Missouri by May 29, 2000. Amendment No. 2 sets forth the terms and conditions for providing DSL and the High Frequency Portion of the Loop by SWBT to Competitive Local Exchange Carriers, including ASI. Finally, Staff's concern will be moot on May 29, 2000, when line sharing becomes available to all CLECs. The terms and conditions for line sharing contained in Amendment No. 2 will be equally available to CLECs, which also retain the right to negotiate and, if necessary, arbitrate their own agreement.

5. In order to alleviate any further Staff concerns, ASI and SWBT are willing to withdraw Amendment No. 1 if Amendment No. 2 becomes effective on May 29, 2000. With the approval of Amendment No. 2, ASI will be in a position to offer its services utilizing line sharing with SWBT. From ASI's perspective, it would not be necessary to have an approval of Amendment No. 1 if Amendment No. 2 becomes effective by May 29, 2000.

WHEREFORE, SBC Advanced Solutions, Inc. respectfully requests that the Commission consider ASI Response in this matter, and promptly approve Amendment No. 2 to the SWBT-ASI interconnection agreement to be effective no later

than May 29, 2000. Upon approval of Amendment No. 2, ASI will withdraw its request for the approval of Amendment No. 1.

Respectfully submitted,



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CERTIFICATE OF SERVICE

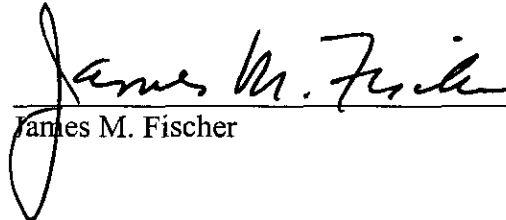
I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, or mailed, First Class postage prepaid, this 19th day of May, 2000, to:

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James M. Fischer

KEITH EPSTEIN

Federal Communications Commission

DA 00-52

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Adopted: January 11, 2000
Released: January 12, 2000

Ms. Janette Luehring
Chief of Telecommunications
Kansas Corporation Commission
1500 S.W. Arrowhead Road
Topeka, KS 66604

Dear Ms. Luehring:

This letter responds to your request for guidance on interpreting certain conditions in the *SBC/Ameritech Merger Order*.¹ In your letter of January 3, 2000, you requested clarification of the *Merger Conditions* as they relate to the interconnection agreement between an SBC/Ameritech incumbent local exchange carrier ("LEC") and its advanced services affiliate. Specifically, you ask whether the "Surrogate Line Sharing Charge" that the incumbent LEC charges its affiliate may be posted on an Internet site instead of contained within the interconnection agreement. In addition, you asked whether information about the line sharing arrangement between the two companies must be contained in the interconnection agreement.

The *SBC/Ameritech Merger Order* requires SBC/Ameritech incumbent LECs and their advanced services affiliates to negotiate, and file for approval with the appropriate state commissions, interconnection agreements that set forth the "terms, conditions, and prices for the provision of interconnection, telecommunications services, and network elements that the affiliated incumbent LEC shall provide to the separate Advanced Services affiliate for the purposes of the separate affiliate's provision of Advanced Services."² In addition, such interconnection agreements "shall be sufficiently detailed to permit telecommunications carriers to exercise effectively their 'pick-and-choose' rights under 47 U.S.C. § 252(i) and the Commission's rules implementing that section."³

¹ 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 101 of the Commission's Rules, CC Docket 98-141, *Memorandum Opinion and Order*, FCC 99-279 (rel. Oct. 1, 1999) ("*SBC/Ameritech Merger Order*").

² *SBC/Ameritech Merger Order* at Appendix C, para. 5(a).

³ *Id.*

Federal Communications Commission

DA 00-52

The *SBC/Ameritech Merger Order* further allows SBC/Ameritech incumbent LECs to provide "Interim Line Sharing" to their separate advanced services affiliates subject to certain provisions.⁴ With respect to Surrogate Line Sharing Charges, the *Merger Conditions* state: "The SBC/Ameritech incumbent LEC shall establish and make available through interconnection agreements with the separate Advanced Services affiliate . . . surrogate charges for the costs incurred in making available an unbundled local loop capable of providing Advanced Services . . . in combination with voice grade services [i.e., 'Surrogate Line Sharing Charges']".⁵

In accordance with the *Merger Conditions*, the interconnection agreement between SBC/Ameritech incumbent LECs and their advanced services affiliate must contain information about the Interim Line Sharing arrangement, even though SBC/Ameritech incumbent LECs may provide such arrangements to their affiliates on an exclusive basis for the interim period. Despite inclusion of information about Interim Line Sharing arrangements in the relevant interconnection agreements, we recognize that competing carriers will not be able to opt into such arrangements because of operational and technical issues discussed more fully in the Commission's *Advanced Services Third Report and Order*.⁶ Still, inclusion of information about the Interim Line Sharing arrangements is necessary to show that the affiliates operate at arm's length, and to inform the Commission, state commissions, and the public about important operational aspects of the relationship. Moreover, inclusion of the Interim Line Sharing arrangements is necessary to satisfy the "sufficiently detailed" requirement for interconnection agreements between SBC/Ameritech incumbent LECs and their advanced services affiliates.

The plain language of the *Merger Conditions* requires the Surrogate Line Sharing Charges to be contained within the interconnection agreement filed with the appropriate state

⁴ *Id.* at Appendix C, para. 8. The *Merger Order* permits SBC/Ameritech to provide line sharing to its advanced services affiliate on an exclusive basis until SBC/Ameritech provides line sharing to unaffiliated carriers in the same geographic area. The *Merger Order* refers to this as "interim line sharing." See *id.* at paras. 369-70.

⁵ *Id.* at Appendix C, para. 8(b). Calculation of the Surrogate Line Sharing Charge is set forth in the *Merger Conditions*.

⁶ Consistent with the Commission's rules, an incumbent LEC's pick-and-choose obligations do not apply when: (1) the cost of providing the target service or element is greater than the costs negotiated in the original interconnection agreement; and (2) technical infeasibility prevents such an arrangement. 47 C.F.R. § 51.309(b). The Commission recently found that certain operational and technical barriers temporarily prevent incumbent LECs from immediately providing line sharing to competing carriers. See *Deployment of Wireline Services Offering Advanced Telecommunications Capability, Third Report and Order in CC Docket No. 98-147*, FCC 99-353, para. 161 (rel. Dec. 9, 1999) (establishing requirement to implement line sharing within six months after addressing technical and operational issues) ("Advanced Services Third Report and Order"). Once the technical and operational barriers are resolved, competing carriers will be able to pick-and-choose from available line sharing arrangements. The Order was published in the Federal Register on January 10, 2000. See *id.*, 65 Fed. Reg. 1331 (Jan. 10, 2000).

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Federal Communications Commission

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commissions. Failure to include the Surrogate Line Sharing Charges in the interconnection agreement would be inconsistent with the text of the *Merger Conditions* and could impair the ability of unaffiliated third parties to exercise their rights under the *SBC/Ameritech Merger Order* and the Commission's rules.

Please do not hesitate to contact me if I can be of further assistance. You may also contact Anthony Dale in the Common Carrier Bureau directly at (202) 418-2260 for further information on this matter.

Sincerely,

Lawrence E. Strickling
Lawrence E. Strickling
Chief, Common Carrier Bureau