



Control Number: 29644



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JOINT CLEC PETITION FOR A RULING  
RELATIVE TO THE NEED FOR PUBLIC  
REVIEW AND APPROVAL BY THE  
COMMISSION OF THE APRIL 3, 2004  
TELECOMMUNICATIONS SERVICES  
AGREEMENT BETWEEN SBC TEXAS  
AND SAGE TELECOM

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PUBLIC UTILITY COMMISSION

2004 MAY 27 PM 4: 38  
PUBLIC UTILITY COMMISSION  
OF TEXAS FILING CLERK

## ORDER NO. 4

On April 28, 2004, the Joint CLECs<sup>1</sup> petitioned the Commission to investigate why Southwestern Bell Telephone, L.P., d/b/a SBC Texas (SBC Texas) and Sage Telecom, Inc. (Sage) had not filed the agreement announced between their companies in April for review and approval with the Commission, to require SBC Texas and/or Sage to file the Agreement, and to do so on an expedited basis.<sup>2</sup> SBC Texas responded on May 6, 2004, arguing that the SBC-Sage Agreement was partly a private, commercially sensitive arrangement that they did not intend to file, and partly an amendment to SBC Texas and Sage's existing section 251 interconnection agreement.<sup>3</sup> Sage has provided arguments in this docket supporting SBC's position.<sup>4</sup>

On May 13, 2004, the undersigned ALJ, acting pursuant to authority expressly delegated by the Commission, ordered SBC Texas and Sage to provide four copies of the agreement that SBC Texas and Sage had announced in April 2004, later clarifying that this order included "any agreements entered into within the last two months that are related to the SBC-Sage Agreement. This includes any understandings, oral agreements or side agreements that may have a bearing on the SBC-Sage

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<sup>1</sup> The Joint CLECs are: AT&T Communications of Texas, L.P. and affiliates; Birch Telecom of Texas, LTD, LLP; Bullseye Telecom, Inc.; ICG Communications; MCI Metro Access Transmission Services LLC; Xspedius Communications, LLC; nii communications, Ltd.; Westel, Inc.; Western Communications, Inc. d/b/a Logix Communications; and 20 of the 21 members of the Competitive Telecommunications Group.

<sup>2</sup> Joint CLEC Petition at 2.

<sup>3</sup> Joint CLEC Petition for a Ruling Relative to the Need for Public Review & Approval by the Commission of the April 3, 2004 Telecommunications Services Agreement Between SBC Texas & Sage Telecom, Docket No. 29644, SBC Texas' Response to the Joint CLEC Petition for Expedited Ruling re the Filing of the SBC/Sage Agreement (May 6, 2004), at 6-7, attaching *In re SBC Communications Inc. Emergency Petition for Declaratory Ruling, Preemption, & for Standstill Order to Preserve the Viability of Commercial Negotiations*, Petition of SBC Communications Inc., FCC WC Docket No. 04-172 (filed May 5, 2004) ("SBC FCC Petition") at 3-4.

<sup>4</sup> Joint CLEC Petition for a Ruling Relative to the Need for Public Review & Approval by the Commission of the April 3, 2004 Telecommunications Services Agreement Between SBC Texas & Sage Telecom, Docket No. 29644, Response of Sage Telecom, Inc. to the Joint CLEC Petition for Expedited Ruling re the Filing of the SBC/Sage Agreement (May 6, 2004), *passim*.

Agreement; put another way, it includes any agreements that impact the interconnection relationship between SBC Texas and Sage.”<sup>5</sup>

SBC Texas and Sage provided complete, unredacted copies of their Local Wholesale Complete Agreement (SBC-Sage Agreement) for *in camera* review by Commission personnel, along with declarations explaining “the reasons supporting SBC’s and Sage’s claim that specific Agreement terms are exempt from public disclosure under the Public Information Act and subject to treatment as protected materials.”<sup>6</sup>

At its May 27, 2004, open meeting, the Commission determined that the SBC-Sage Agreement is, in its entirety, a negotiated interconnection agreement that is subject to the terms of the Federal Telecommunications Act (FTA). The Commission further determined that the SBC-Sage Agreement shall be publicly filed in a new docket with this Commission by June 21, 2004, pursuant to the terms of P.U.C. PROC. R. 21.97 (Approval of Negotiated Agreements). The Commission delegated authority to the undersigned ALJ to issue an order consistent with the Commission’s decision.

Pursuant to the delegated authority described above, the undersigned ALJ directs SBC Texas and Sage to publicly file the complete, unredacted SBC-Sage Agreement<sup>7</sup> that was previously provided to the Commission for *in camera* review, and to do so on or before June 21, 2004, by 3:00 p.m.

SIGNED AT AUSTIN, TEXAS the 27th day of May 2004.

PUBLIC UTILITY COMMISSION OF TEXAS

  
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MICHAEL E. FIELD  
DIRECTOR, DOCKET MANAGEMENT  
POLICY DEVELOPMENT DIVISION

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<sup>5</sup> Joint CLEC Petition for a Ruling Relative to the Need for Public Review & Approval by the Commission of the April 3, 2004 Telecommunications Services Agreement Between SBC Texas & Sage Telecom, Docket No. 29644, Order No. 2 (May 18, 2004).

<sup>6</sup> Joint CLEC Petition for a Ruling Relative to the Need for Public Review & Approval by the Commission of the April 3, 2004 Telecommunications Services Agreement Between SBC Texas & Sage Telecom, Docket No. 29644, Order Directing SBC & Sage to Provide Agreement (May 13, 2004).

<sup>7</sup> In an abundance of caution, SBC Texas also provided certain settlement agreements, the terms of which were not related to the SBC-Sage Agreement going forward. Those settlement agreements are not part of the SBC-Sage Agreement and need not be filed publicly.