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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

May 1, 1998

VIA HAND DELIVERY

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Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, NW Room 222
Washington, DC 20554

Re: Ex Parte Presentation in CC Docket No. 97-231; CC Docket No. 97-121; CC Docket No. 97-208; CC Docket No. 97-137; CC Docket No. 98-56, RM-9101

Dear Ms. Salas:

On Thursday, April 30, 1998, Michael Beach, Vice President of Financial Operations for the Western Region, Tom Priday, Senior Manager of the Western Region, Fred Baros, Senior Staff Specialist, Anthony Anderson, Market Implementation, Carol Pomponio, Senior Staff Specialist, Cliff Dinwiddie, Senior Staff Specialist of Measurements Policy and Advocacy Support, Karen Reidy, Attorney, Jerry Epstein and Marc Goldman, attorneys with Jenner and Block, and the undersigned met with Audrey Wright, Bill Agee, David Kirschner, Wendy Lader, Radhika Karmarkar, Brent Olson, and Jake Jennings of the Policy Division.

The subject of the meeting was SWBT's operation support systems and performance standards and measurements. The attached document outlines the topics discussed.

Two copies of this Notice are being submitted to the Secretary of the FCC in accordance with Section 1.1206(a)(2) of the Commission's rules.

Sincerely,

Susan Jin Davis

Attachment

cc: Carol Mattey
Melissa Newman
Michael Pryor
Audrey Wright
Bill Agee
David Kirschner
Wendy Lader
Radhika Karmarkar
Brent Olson
Jake Jennings

SWBT: OSS AND PERFORMANCE STANDARDS AND MEASUREMENTS

MCI TELECOMMUNICATIONS CORPORATION

APRIL 30, 1998

Performance Standards Overview

➔What is needed to comply with Section 271:

- Meaningful reports
- Objective and Parity-Based Standards
- Self-Executing Remedies

Legal Framework

- Competitive checklist requires BOCs to provide interconnection, unbundled elements (including but not limited to OSS) and resale on both reasonable and nondiscriminatory terms. 271(c)(2)(B)(i), (ii) & (xiv); 251(c)(3); 251(b)(1); 251(c)(2); 251(c)(4).
- This means that there is more to the Act than a nondiscrimination requirement. A BOC must at a minimum provide service at a level that gives efficient CLECs a "meaningful opportunity to compete." E.g., Ameritech Michigan Order, ¶ 139; BellSouth South Carolina Order ¶ 98; First Report and Order ¶ 315; Kennard letter to McCain and Brownback, p. ii-3.

Legal Framework - Cont.

- ➔ The public interest standard further requires that safeguards are in place so that the market will remain open after 271 entry. As BOCs have every incentive to degrade service following 271 entry, performance standards with sufficient remedies are needed to help ensure that local markets remain open after 271 entry.

Michigan Order ¶¶ 390-94.

Legal Framework - Cont.

➔ FCC Chairman Kennard:

- "The Commission will consider whether the BOC has agreed to performance monitoring and whether there are appropriate enforcement mechanisms that are sufficient to ensure compliance with established performance standards."

Testimony before Congress, 3/4/98

MCI

Legal Framework - Cont.

→ Joel Klein, Assistant Attorney General, DOJ:

- "Ordinarily, of course, we would not expect companies to assist competitors in taking away their customers. Thus, we believe that a successful Section 271 application must be premised on a system to measure wholesale performance effectively and to guard against any future deterioration in performance. A number of states have begun to set up such mechanisms, including provisions for liquidated damages, and we encourage more to do so. ..."

Testimony before Congress, 3/4/98

Legal Framework - Cont.

➔FCC stated its firm agreement with the principle that "without enforcement mechanisms, reporting requirements are 'meaningless."

Bell Atlantic/NYNEX Merger Order ¶ 208 (emphasis added; quoting brief of TCG Corp.)

Overview - Cont.

➔Measurements program must include:

- Comprehensive measurements that monitor all ILEC opportunities to discriminate
- Appropriate, agreed upon measurement methodologies
- Disaggregation of performance results to allow meaningful comparisons
- Objective performance standards attached to all measurements

Overview - Cont.

- Parity model that clearly outlines a statistically valid method for making measurement by measurement comparisons
- Clearly defined reporting requirements: format, frequency, delivery
- Overall determination of parity (for reporting period) and appropriate enforcement actions

Overview - Cont.

- ➔Standards with sufficient self-executing remedies to discipline the BOC:
- ➔FCC and DOJ have recognized BOCs' natural inclination after 271 approval to provide poor service to their local competitors.
  - Two types of standards:
    - Parity-based standards judge discrimination
      - Elements are:
        - » Proper standards
        - » Proper statistical methodology
        - » Proper remedies

Overview - Cont.

- Objective standards:
  - Meaningful opportunity to compete
  - No other way for CLEC to plan operations, have certainty, and advise customers
  - Especially needed where no retail analogue

→ Meaningful reports to detect discrimination:

- Are all key functions covered?
- Apples to apples comparisons of retail versus wholesale at same level of detail:
  - Business services: type of order detail useless if only for CLEC and not BOC
  - Aggregating things that take a longer time with functions that take little time prevents any parity determination

MCI Contract

➔Objective standards:

- Only two objective standards in MCI's Texas contract and those have no remedies:
  - Install for UNEs excluding loop/port
  - FOCs
- MCI can't compete without objective standards in competitively critical areas, E.g.:
  - Installs of Resale, UNE Loop/Port, and Specials
  - ILNP
  - Trunk provisioning

MCI Contract - Cont.

- Notification and completion
- Maintenance and repair
- Jeopardies
- Billing: no usage information or invoices

- DOJ and FCC all recognize importance of effective remedies but leave it to negotiations:
  - MCI negotiated and got nothing

MCI Contract - Cont.

➔Parity standards:

- SWBT has no incentive to comply with parity standards due to useless remedies:
  - Insignificant liquidated damages with huge loopholes:
    - $25,000 will not deter SWBT
    - Two consecutive months of violation required
    - Offsetting credits allows selective discrimination on competitively critical functions, E.g.:
      - » Faster FOCs excuse missed and late installations provisioning an accurate order excuses a late installation
      - » Keeping some appointments excuses taking excessive time to restore a major customer outage

MCI Contract - Cont.

- All adds up to bizarre and wholly ineffective remedy scheme

- Potentially huge loophole on statistical test:
  - Far too wide strike zone

→ Reporting:

- Missing measurements include collos, coordinated cutovers, jeopardies, interconnection trunks

OSS Overview

- ➔SWBT fails to provide non-discriminatory access to OSS:
  - Facial deficiencies:
    - Lack of automations for key functions
    - Absence of change management process
    - Migration process causes loss of dialtone
    - Deviation from industry standards
  - Existing OSS are not operationally ready

SWBT Must Demonstrate Working EDI

- ➔Need actual, commercial use as evidence
- ➔Earliest can have actual commercial use is October 15, 1998
- ➔Testing has shown SWBT is not ready
- ➔SWBT has presented no evidence EDI is ready

MCI's Experience with EDI Testing

- ➔Documentation provided by SWBT does not match systems capability
- ➔Documentation is incomplete
- ➔Systems are flawed
- ➔Errors messages are cryptic and ambiguous, making is almost impossible to correct
- ➔Manual testing revealed backend systems not at parity
- ➔Sufficient testing takes time

SWBT's Evidence

- ➔No internal testing
- ➔No carrier-to-carrier testing
- ➔No evidence of actual commercial use
- ➔Coopers & Lybrand Analysis is flawed:
  - Resale only
  - No provisioning
  - Capacity only
- ➔Incomplete reporting on performance as required by FCC 271 Orders and MCI's Interconnection Agreement

Lack of Automation

- ➔No flowthru for UNEs orders
- ➔No evidence of flowthru for resale orders
- ➔ No automation for complex orders or for orders greater than 30 lines
- ➔No automated jeopardies
- ➔Limited automation for rejects

Billing

- ➔ Difficult to audit
  - SWBT uses incorrect format or mix of formats (mix of CABS and CRIS for billing of combinations)
- ➔ Some billing systems not tested yet; others non-existent
  - SWBT unable to bill MCI for E911 trunks
  - SWBT unable to bill MCI for terminating access
  - SWBT's billing system for originating access untested

Billing - Cont.

- ➔Bills not provided timely
  - Loop bills still not received despite MCI orders began in February
  - Over half of bills for loop/port combinations took more than 120 days to arrive
- ➔Bills that have been audited show significant flaws
  - Billed for loop/port combinations at incorrect rates
  - Billed for ILNP usage although this is non-billable per the interconnection agreement

Billing - Cont.

- Miscellaneous other errors:
  - MCI billed for features not ordered,
  - Charged for resale migrations as if new installs
  - Charged late payments and taxes in error

Preorder

- ➔ SWBT only offers 4 of the 12 industry standard preorder subfunctions
- ➔ Functionality is incomplete:
  - E.g. No vanity numbers and no sequential numbers for business customers
- ➔ Functionality not in usable form
- ➔ Limited access to Customer Service Records (CSRs):
  - For EASE and Verigate - no access to consolidated CSRs for business customers with more than 30 lines
  - For Datagate - no access to information in CSRs that designate inside wire provider for multi-tenant locations