

**ORIGINAL**

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of	)	
	)	
1998 Biennial Regulatory Review	)	
Petition for Section 11 Biennial Review	)	CC Docket No. 98-177
filed by SBC Communications, Inc.,	)	
Southwestern Bell Telephone Company,	)	
Pacific Bell, and Nevada Bell	)	

**Comments of Logix Communications Corporation**

Logix Communications Corporation ("Logix"), respectfully submits the following comments in response to the Commission's November 24, 1998 Notice of Proposed Rulemaking ("NPRM") requesting comments in the above-captioned proceeding. Logix is an integrated communications provider of local, long distance, wireless, and Internet access services. Logix provides these services in numerous states, including Arizona, Kansas, Maryland, Missouri, Oklahoma, Pennsylvania, and Texas.

The Commission's NPRM seeks comments on several proposals contained in a Petition ("Petition") filed May 8, 1998 by SBC Communications, Inc. ("SBC"). The Commission's NPRM points out that the majority of SBC's requests are the subject of ongoing or proposed Commission proceedings. Give the fact that many of SBC's concerns are currently under consideration in the Commission's Access Charge Reform proceeding, the Commission properly declined to institute duplicative proceedings.

SBC requests are premature and not supported by adequate evidence of competition in the local exchange market. Incumbent local exchange carriers ("LECs") retain approximately 95% of

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the local exchange market.<sup>3</sup> SBC remains the dominant carrier throughout its "in-region" areas, retaining its virtual monopoly position. In June 1997, the Commission specifically found insufficient competition to warrant SBC's entry into the Oklahoma long distance market. SBC failed to identify any significant competitive competitors in that market. SBC's proposals are not supported by relevant evidence and would eliminate the current tools the Commission has to detect anti-competitive and discriminatory behavior. SBC's Petition should be denied.

**I. SBC's Request for Detariffing Proposal Should be Rejected.**

SBC's proposal to detariff special access, direct trunked transport, operator services, directory services and interexchange services is not in the public interest. SBC does not present any reliable information in support of its request.

Logix submits that SBC's reliance on the Commission's Detariffing Order for the proposition that tariff are no longer necessary is entirely misplaced. SBC still remains a dominant carrier. In its Detariffing Order, the Commission explicitly stated that its decision to eliminate tariff requirements for non-dominant carriers on the finding that "it is highly unlikely that interexchange carriers that lack market power could successfully charge rates, or impose terms and conditions for interstate, domestic, interexchange services that violate Sections 201 or 202 of the Communications Act." SBC has not demonstrated any basis to support its contention that it lacks market power in its in-region service area.

The Commission's own Local Competition Report published in December 1998, states that "[in 1997, CLECs reported about 14% of the special access and local private line services provided

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<sup>3</sup> *Policy and Rules Concerning the Interstate Interexchange Marketplace*, 11 FCC Rcd. 20730 (1996) (*Detariffing Order*).

to other carriers and about 6% of such services to end users."<sup>4</sup> No SBC information rebuts the industry statistics compiled by the Commission.

## **II. Changes to the Cost Allocation Manual are Not Warranted.**

The Commission found incumbent LEC-affiliated interexchange carriers to be non-dominant in 1997, under the rationale that such action could promote the entry of incumbent LEC affiliated entities into the long distance market.<sup>5</sup> However, the Commission explicitly recognized that "as long as the BOCs retain control of local bottleneck facilities, they could potentially engage in improper cost allocation, discrimination, and other anti-competitive conduct." The Commission therefore continues to rely heavily on the structural separation requirements imposed by Section 272 of the Telecommunications Act of 1996, and the FCC's affiliate transaction rules. Accordingly, those rules remain crucial to help prevent the BOCs from engaging in "price squeezes" or other anticompetitive behavior.

SBC now proposes elimination of such competitive safeguards. SBC's detariffing and cost allocation manual ("CAM") proposals substantially undermine the Commission's ability to detect and prevent anti-competitive abuses by incumbent LECs. If the Commission grants SBC's request, the Commission's ability to police anti-competitive acts by incumbent LECs will be substantially reduced. Until SBC meets the Section 271 requirements for competitive entry, the Commission should keep in place the safeguards which permit the Commission to prevent SBC, as incumbent

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<sup>4</sup> *Local Competition*, Industry Analysis Division, Common Carrier Bureau, Federal Communications Division, available at: [www.fcc.gov/ccb/local\\_competition/survey/responses/](http://www.fcc.gov/ccb/local_competition/survey/responses/), (December 1998).

<sup>5</sup> *In the Matter of Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area*, 12 FCC Rcd 15756 (1997)

LECs, from cross-subsidizing services that faces new entrant competition. Indeed, while Logix agrees with the Commission's conclusion that SBC's proposed "mega-proceeding" would be unwieldy, significant changes to the safeguards should not occur independently. Instead, such policy revisions should be considered in a consolidated proceeding, such as the Access Charge Reform or Structural Separation proceeding, in which the impact of SBC's proposed changes in the broader context.

Finally, SBC's proposals constitute an attempt by SBC to eviscerate the Commission's structural safeguards. In its Detariffing Order the Commission explicitly found no basis to exclude BOC-interexchange affiliates from its detariffing provisions so long as those entities are classified as non-dominant carriers.<sup>6</sup> Thus, to the extent that an entity, even one affiliated with an incumbent LEC, can demonstrate that it is without market power and qualify for non-dominant status, it is already eligible for detariffing (at least to the extent that detariffing is permitted). SBC should not be permitted to evade structural safeguards imposed by the Commission on dominant carriers. SBC's proposals, if granted would essentially remove structural safeguards previously found warranted by the Commission and therefore significantly impinge on competition in the local exchange market place.

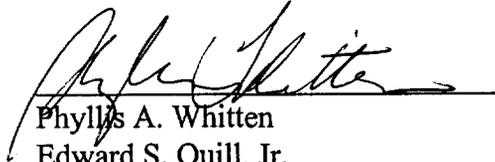
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<sup>6</sup> *Detariffing Order*, 11 FCC Rcd at 20730.

### III. Conclusion

Logix respectfully submits that the Commission should not grant SBC's detariffing and CAM proposals at this time. Logix urges the Commission to retain its tariffing and CAM rules as currently effective until SBC faces competition sufficient to alleviate the need for these rules.

Respectfully Submitted,



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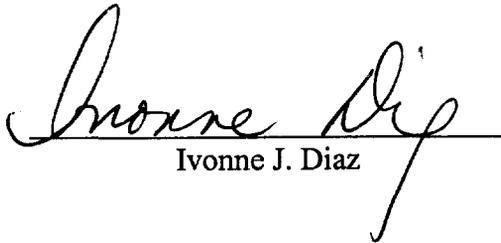
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