

Before the
Federal Communications Commission
Washington, D.C. 20554

Nevada Bell, Pacific Bell, and)
Southwestern Bell Telephone Company)
)
Petition for Forbearance from the)
Application of Section 272 of the)
Communications Act of 1934, As)
Amended, to Reverse Search Services)

CC Docket No. 98-193

FCC MAIL SECTION

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MEMORANDUM OPINION AND ORDER

Adopted: April 9, 1999

Released: April 9, 1999

By the Chief, Policy and Program Planning Division:

I. INTRODUCTION

1. On October 5, 1998, Nevada Bell, Pacific Bell, and Southwestern Bell Telephone Company (collectively, the SBC Telcos) filed a petition for forbearance from the application of section 272 of the Communications Act of 1934, as amended (the Act), to their electronic reverse directory services.¹ In this Order, we grant that petition subject to certain conditions.²

II. BACKGROUND

A. Proposed Services

2. Reverse directory services provide the user with a telephone subscriber's name, address, or both, upon the input of the subscriber's number. A reverse directory service is described as "electronic" if the subscriber is able to obtain direct, on-line access to reverse

¹ The SBC Telcos' petition also requested that the Commission forbear from the application of section 272 to their operator-assisted reverse directory services. On February 17, 1999, however, the SBC Telcos withdrew that request. See Letter from John S. DiBene, Counsel for SBC, to Magalie Roman Salas, Secretary, FCC, CC Docket No. 98-193, at 1 (filed Feb. 17, 1999) (*SBC February 17 Letter*).

² In a public notice released October 29, 1998, we invited comment on the SBC Telcos' petition. Pleading Cycle Established for Comments on SBC Petition for Section 272 Forbearance for Reverse Directory Services, 13 FCC Rcd 21858 (Policy & Program Planning Div., Com. Car. Bur., 1998). AT&T Corp. (AT&T), Bell Atlantic, and MCI WorldCom, Inc. (MCI WorldCom) filed comments on the SBC Telcos' petition, and SBC replied.

directory information contained in one or more databases. In contrast, a reverse directory service is described as "operator-assisted" if, in response to a subscriber request, an operator obtains reverse directory information from a database and provides that information to a subscriber.

3. In their petition, the SBC Telcos state that Southwestern Bell Telephone Company (SWBT) presently provides electronic reverse directory services to subscribers using a single, centralized database located in St. Louis, Missouri. This database contains listing information for locations throughout SWBT's service area and is used only in the provision of reverse directory services. The SBC Telcos also state that they do not provide any interLATA transmission in connection with this service.³ Instead, subscriber-selected interexchange carriers transmit any calls to this database originating from outside the St. Louis LATA.⁴

4. The SBC Telcos assert that the database used in these existing reverse directory services is not year 2000 compliant, cannot be made year 2000 compliant, and is otherwise technically deficient. The SBC Telcos propose to migrate their reverse directory services to two or more directory assistance databases located within SWBT's service area. The petitioners envision that subscribers would continue to contact a single, centralized database using interexchange carriers of their own choosing. The SBC Telcos state, however, that if the subscriber requests information that is not located in this database, the database would electronically query one or more databases in other LATAs within SWBT's service area to obtain the requested information. The SBC Telcos also state that SWBT's official communications network, rather than subscriber-selected interexchange carriers, would transmit these queries.⁵

³ Section 3(42) of the Communications Act defines interLATA service as "telecommunications between a point located in a local access and transport area and a point located outside such area." 47 U.S.C. § 153(42) Section 3(25) of that Act defines a local access and transport area (LATA) as:

[A] contiguous geographic area --

(A) established before the date of enactment of the Telecommunications Act of 1996 by a Bell operating company such that no exchange area includes points within more than 1 metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the AT&T Consent Decree; or

(B) established or modified by a Bell operating company after such date of enactment and approved by the Commission.

47 U.S.C. § 153(25).

⁴ Petition at 1-2.

⁵ *Id.* at 3-4.

5. The SBC Telcos state, in addition, that although Pacific Bell and Nevada Bell do not currently offer electronic reverse directory services, they may do so in the future. Petitioners also state that, in that event, Pacific Bell and Nevada Bell could employ the network architecture described above since it is the most efficient and reliable means of providing electronic reverse directory services to subscribers.⁶

B. Statutory Provisions

6. Sections 271 and 272 of the Act establish a comprehensive framework governing Bell Operating Company (BOC) provision of "interLATA services." Section 271(a) states that neither a BOC nor a BOC affiliate "may provide interLATA services except as provided in [section 271]."⁷ Generally, under section 271(b)(1), a BOC or BOC affiliate "may provide interLATA services originating in any of its in-region States" only "if the Commission approves the application of such company for such state under [section 271(d)(3)]."⁸ Section 271(b)(3), however, authorizes the BOCs or their affiliates to engage in "incidental interLATA services," as defined in section 271(g).⁹ These include services that permit customers "located in one LATA to retrieve information from, or file information for storage in, information storage facilities of [a BOC or its affiliate] that are located in another LATA."¹⁰ Sections 272(a)(2)(B)(i) and (a)(2)(C) direct that a BOC provide such information retrieval and storage only through a separate affiliate.¹¹

7. Section 10 of the Act requires that the Commission forbear from applying any provision of the Act to a telecommunications carrier, if the Commission determines that --

(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable, and are not unjustly or unreasonably discriminatory;

(2) enforcement of such regulation or provision is not necessary for the protection of consumers; and

⁶ *Id.* at 4.

⁷ 47 U.S.C. § 271(a).

⁸ 47 U.S.C. § 271(b)(1).

⁹ 47 U.S.C. § 271(b)(3). Section 271(g) defines these services. 47 U.S.C. § 271(g).

¹⁰ 47 U.S.C. § 271(g)(4).

¹¹ 47 U.S.C. § 272(a)(2)(B)(i), (a)(2)(C).

(3) forbearance from applying such provision or regulation is consistent with the public interest.¹²

III. DISCUSSION

8. In the *Section 272 Forbearance Order*,¹³ the Common Carrier Bureau (Bureau) found that electronic reverse directory services provided by BellSouth Corporation (BellSouth) on an interLATA basis fall squarely within section 271(g)(4) of the Act.¹⁴ The SBC Telcos contend that the electronic reverse directory services they propose are similar to the electronic reverse directory service provided by BellSouth that the Bureau addressed in the *Section 272 Forbearance Order*.¹⁵ We conclude that the proposed SBC Telco services are identical in all pertinent respects to the electronic reverse directory service BellSouth provides.¹⁶ The SBC Telcos therefore can provide these proposed services on an interLATA basis without needing to seek approval under section 271(d)(3). Absent forbearance from the requirements of sections 272(a)(2)(B)(i) and (a)(2)(C), however, the SBC Telcos would have to provide the proposed services only through a separate affiliate.¹⁷

9. In the *Section 272 Forbearance Order*, the Bureau also explained in detail why the electronic reverse directory services provided by BellSouth services met the statutory criteria for forbearance, given the conditions set forth in that Order.¹⁸ We find the reasoning of the *Section 272 Forbearance Order* fully applicable to the proposed SBC Telco services. We therefore forbear from the application of section 272 to those services for the same reasons, and subject to the same conditions, stated in the *Section 272 Forbearance Order*.¹⁹

¹² 47 U.S.C. § 160(a).

¹³ Bell Operating Cos., Petition for Forbearance from the Application of Section 272 of the Communications Act of 1934, As Amended, to Certain Activities, 13 FCC Rcd 2627 (Com. Car. Bur. 1998), *petition for recon. pending (Section 272 Forbearance Order)*.

¹⁴ *Id.* at ¶ 68.

¹⁵ *See* Petition at 1-4.

¹⁶ We note that all interLATA transmissions that the SBC Telcos would provide in connection with the proposed reverse directory services would originate and terminate within those companies' in-region states.

¹⁷ 47 U.S.C. §§ 272(a)(2)(B)(i), (a)(2)(C). We note that because the SBC Telcos do not provide any interLATA transmission in connection with their present electronic reverse directory services, sections 272(a)(2)(B)(i) and (a)(2)(C) do not require that those services be provided only through a separate affiliate.

¹⁸ *Section 272 Forbearance Order, supra* at ¶¶ 69-97.

¹⁹ *Id.* We incorporate by reference those conditions into this Order.

10. The conditions set forth in the *Section 272 Forbearance Order* require, among other things, that a carrier "mak[e] available to unaffiliated entities all directory listing information that it uses to provide its interLATA reverse directory services . . . at the same rates, terms, and conditions, if any, it charges or imposes on its own reverse directory operations."²⁰ In their petition, the SBC Telcos suggest that it would be consistent with this condition for a carrier to charge rates set forth in interconnection agreements even if those rates differ from those the carriers charges its own reverse directory operations.²¹ We disagree. As AT&T points out, the *Section 272 Forbearance Order* contained no limitation on a carrier's obligation to provide nondiscriminatory access to listing information used to provide interLATA reverse directory services.²² Instead, that Order specifically recognized that because a carrier "is not legally obligated to provide reverse directory services, it can comply with any duty it has not to disclose listing information obtained from other [local exchange carriers] by declining to use that information in its own interLATA reverse directory services."²³ Therefore, to the extent the SBC Telcos' interconnection agreements set forth rates, terms, or conditions for access to listing information that differ from those the SBC Telcos impose on their own interLATA reverse directory operations, SBC may comply with those agreements and the condition set forth above by declining to use that listing information in the provision of interLATA reverse directory services.²⁴ We recognize that the SBC Telcos have indicated a willingness to negotiate amendments to any of their interconnection agreements that require the provision of listing information under rates, terms, and conditions that differ from those the SBC Telcos charge or impose on their own reverse directory operations.²⁵ The SBC Telcos will have to complete any such negotiations prior to using any listing information covered by those agreements in the provision of interLATA reverse directory services.

11. In its comments, MCI WorldCom requests that the Commission condition any forbearance decision in this proceeding on the SBC Telcos' charging prices for listing information they use to provide interLATA reverse directory services that are no higher than the total element long run incremental costs (TELRIC) those companies incur in providing

²⁰ *Id.* at ¶ 83.

²¹ Petition at 8 n.16.

²² AT&T Comments at 2-3; *see also* MCI WorldCom Comments at 6-8.

²³ *Section 272 Forbearance Order*, 13 FCC Rcd at ¶ 84.

²⁴ *Id.*; *see also* SBC February 17, 1997 Letter, *supra* note 1, at 1 ("the SBC Telcos agree that, if the Commission grants its [sic] request for forbearance . . . , the SBC Telcos would allow competing carriers non-discriminatory access to all of the directory listings used by the SBC Telcos to provide reverse directory service, including independent telephone company directory listings").

²⁵ *Id.* at 1.

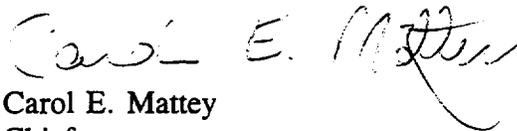
listing information to themselves.²⁶ The requested condition would go beyond the conditions set forth in the *Section 272 Forbearance Order*, and MCI WorldCom makes no attempt to explain how it might be consistent with the forbearance criteria in section 10 of the Act.²⁷ In these circumstances, we decline to impose that condition.

IV. ORDERING CLAUSES

12. Accordingly, IT IS ORDERED that, pursuant to section 10 of the Communications Act of 1934, as amended, 47 U.S.C. § 160, and sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 & 0.291, the petition for forbearance filed October 5, 1998, by Nevada Bell, Pacific Bell, and Southwestern Bell Telephone Company IS GRANTED to the extent discussed above and subject to the conditions referenced in this Order.

13. IT IS FURTHER ORDERED that, pursuant to sections 4(i) and 10 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) & 160, and sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 & 0.291, Nevada Bell, Pacific Bell, and Southwestern Bell Telephone Company shall comply with the conditions referenced in this Order.

FEDERAL COMMUNICATIONS COMMISSION



Carol E. Matthey
Chief
Policy and Program Planning Division
Common Carrier Bureau

²⁶ MCI WorldCom Comments at 8-10.

²⁷ *See id.*