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October 12, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Via Hand Delivery

Hon. Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance, for Provision of In-Region, InterLATA Services in Arkansas and Missouri*, CC Docket No. 01-194

Dear Chairman Powell:

I write on behalf of SBC Communications Inc. ("SBC") in response to the Letter of H. Russell Frisby, Jr. of the Competitive Telecommunications Association ("CompTel") to you dated August 31, 2001 ("August 31 Letter"), in the above-captioned proceeding.

Mr. Frisby takes a single, inadvertent error on a highly technical matter in SBC's voluminous 271 filing for Kansas and Oklahoma – an error that SBC itself brought to the attention of the Commission – and constructs from it a vast conspiracy by SBC to mislead the Commission in order to obtain 271 relief to which SBC was not otherwise entitled. His letter is full of accusations and assumptions that bear no relation to reality and for which Mr. Frisby has offered, and can offer, no support. Indeed, Mr. Frisby's unfounded allegations are far more outrageous than the inadvertent error committed and frankly acknowledged by SBC; an error that, in any event, had no bearing whatsoever on SBC's satisfaction of the checklist requirements for 271 relief.

The Loop Qualification Matter. CompTel's August 31 Letter focuses on a single factual mistake about a highly technical issue that was repeated in three reply affidavits in SBC's Kansas and Oklahoma section 271 application. As SBC has disclosed to the Commission and to the public, the three reply affidavits inaccurately stated that Southwestern Bell Telephone Company's ("SWBT") loop qualification system used provisioning logic to select the loop on

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which to return loop makeup information.[1] What that means, in simple terms, is as follows. When a CLEC wants to provide xDSL service to a particular customer, it can check electronically to determine whether an xDSL-capable loop (*i.e.*, a non-loaded copper loop) is available to serve that customer.[2] If there are multiple loops serving a given premises, the affiants were under the impression that "provisioning logic" would select the non-loaded copper loop and give that information to the CLEC.

After the FCC had granted SBC's section 271 application for Kansas and Oklahoma, however, SBC learned that its affiants had been mistaken in their belief that the loop qualification system used provisioning logic. Instead, the loop qualification system, prior to April 3, 2001, returned loop makeup information on essentially the first loop for which such information existed in SWBT's Loop Facilities Assignment and Control System ("LFACS"), regardless whether it was an xDSL-capable loop.

SBC did not intentionally mislead the Commission when its affidavits inaccurately stated that the loop qualification system used provisioning logic. At the time the affidavits were filed, all three affiants believed, based on due diligence, that all the statements contained therein were true and correct. Contrary to CompTel's reckless allegations, there is no evidence that SBC's affiants intentionally misled the Commission.

Critically, the inaccuracy in the reply affidavits was immaterial to SBC's section 271 application because, regardless of whether the loop qualification system used provisioning logic, that system complied with the requirements of the *UNE Remand Order*. The *UNE Remand Order* does not specifically address what loop information must be provided for a premises served by multiple loops; instead, it generally requires that information must be provided for "the loop" to a customer premises. *Id.* ¶ 427. The *UNE Remand Order* also makes clear that an incumbent LEC must provide requesting carriers with non-discriminatory access to the same detailed loop makeup information, in the same time and manner, that it provides such information to itself. *Id.* ¶¶ 427, 431. At the time SBC filed its section 271 application for Kansas and Oklahoma, SWBT satisfied these requirements. CLECs had the exact same access to detailed loop makeup information available to Advanced Solutions, Inc. ("ASI"), SWBT's advanced services affiliate. Whether initiated by ASI or by an unaffiliated CLEC, when actual loop qualification information was requested, SWBT's loop qualification system performed the exact same queries in LFACS, and returned the exact same information over the same interfaces. Because CLECs and ASI were treated the same, no CLEC was disadvantaged in its ability to compete as a result of the way SWBT's loop qualification system returned loop makeup

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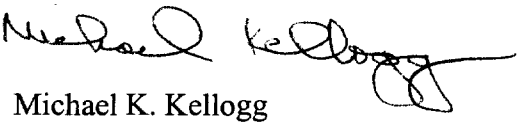
[1] *See* Letter from Edwardo Rodriguez, Jr. to Magalie Roman Salas at 2-3 (Apr. 13, 2001) (citing Reply Affidavit of Angela M. Cullen ¶¶ 3-6; Reply Affidavit of Mark J. Welch ¶¶ 5-6; Reply Affidavit of Carol A. Chapman ¶¶ 5-6).
[2] A CLEC may also request a manual loop qualification. This is important because SWBT's back office systems do not contain loop make-up information in an electronic format on all loops.

information. There is no basis for CompTel to argue that SWBT's loop qualification system failed to satisfy the applicable standards.

CompTel's Suggested Remedies. Building upon its misstatement of the facts, CompTel demands that the Commission reject SBC's section 271 application for Arkansas and Missouri because of the error contained in the Kansas and Oklahoma reply affidavits. The Commission should dismiss this suggestion out of hand. The specific system about which CompTel complains – the loop qualification system – has been modified to address this precise issue. On April 3, 2001, SWBT implemented an enhancement to the loop qualification system, so that it now searches records in LFACS for a non-loaded copper loop connected to the requested address for which actual loop makeup information exists in LFACS. If the search finds such a non-loaded copper loop, then it will retrieve that information and return it to the requesting carrier. Ernst & Young has verified that SWBT's loop qualification system now operates in this manner. Both before and after the April 3 modification, the loop qualification system operated in a completely non-discriminatory manner in full compliance with the *UNE Remand Order*. But the modification to the loop qualification system ensures that where there is loop makeup information available for multiple loops to a customer's premises, loop makeup information is returned on a copper loop if there is one serving the requested premises.

The Commission should reject CompTel's baseless allegations and proceed to consider on the merits SBC's joint application for section 271 relief in Arkansas and Missouri.

Yours sincerely,



Michael K. Kellogg

cc: Commissioner Abernathy
Commissioner Copps
Commissioner Martin
Dorothy Attwood
David Solomon