

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

2001 OCT -5 A 11:40

In the Matters of)
)
 Petition of Nevada Bell, Pacific Bell,)
 Southwestern Bell Telephone Company,)
 Southern New England Telephone, and the)
 Ameritech Michigan Bell, Ohio Bell, Illinois)
 Bell, Indiana Bell, and Wisconsin Bell)
 Telephone Companies To Provide Operator-)
 Assisted Reverse Directory Assistance)
 Services and Electronic Reverse Directory)
 Assistance Services and for Waivers of and/or)
 Forbearance from Any Comparably Efficient)
 Interconnection or Telecommunications Act)
 of 1996 Requirements)
)
 Petition of Qwest Corporation To Provide)
 Operator-Assisted Reverse Directory)
 Assistance Service and for Waiver of Any)
 Comparably Efficient Interconnection)
 Requirements Deemed Applicable)
)

FILED

CC Docket No. 00-227 ✓

CC Docket No. 01-126

MEMORANDUM OPINION AND ORDER

Adopted: November 1, 2001

Released: November 1, 2001

By the Chief, Common Carrier Bureau:

I. INTRODUCTION

1. Electronic and operator-assisted reverse directory assistance services are enhanced services that permit a customer to dial the carrier's database and retrieve subscriber name and address information by providing a telephone number. This service is enhanced to the extent that it involves computer processing applications that act on the format or content of the subscriber's transmitted information to provide the subscriber with additional information.¹ Therefore, absent a waiver, a Bell Operating Company (BOC) may not provide reverse directory services involving computer processing applications on an integrated basis (*i.e.*, directly through telephone

¹ See 47 C.F.R. § 64.702(a).

operating companies), unless it complies with the Commission's comparably efficient interconnection (CEI) requirements.

2. In prior orders, the Common Carrier Bureau (Bureau) conditionally waived its CEI requirements to permit petitioners' predecessors to offer electronic reverse directory services on an integrated basis, based on showings that waivers would serve the public interest.² In this order, we grant requests filed by Qwest Corporation and SBC for waiver of the Commission's CEI requirements based on similar showings.³ We also extend our prior conditional waivers to permit all Qwest and SBC operating companies to provide electronic and operator-assisted reverse directory services on an integrated basis without complying with the CEI requirements.⁴ We condition the waivers on Qwest's and SBC's compliance with the Commission's joint cost rules,⁵ and appropriate amendments to Qwest's and SBC's cost allocation manuals.⁶ Finally, we

² *Ameritech Petition for Waiver of Computer III Rules for Reverse Search Capability*, Order, 13 FCC Rcd 8762, 8767-68, ¶¶ 10-12 (Com. Car. Bur. 1997) (*Ameritech CEI Waiver*); *US West Communications, Inc. Petition for Computer III Waiver*, Memorandum Opinion and Order on Reconsideration, 11 FCC Rcd 7997, 8007-08, ¶¶ 24-25 (Com. Car. Bur. 1996) (*BellSouth and SWBT CEI Waiver*); *U S West Communications, Inc. Petition for Computer III Waiver*, Order, 11 FCC Rcd 1195, 1200, ¶¶ 33-34 (Com. Car. Bur. 1995) (*U S West CEI Waiver*).

³ The November 2, 2000, petition filed by Nevada Bell, Pacific Bell, Southwestern Bell Telephone Company (SWBT), Southern New England Telephone (SNET), and the Ameritech Michigan Bell, Ohio Bell, Illinois Bell, Indiana Bell, and Wisconsin Bell Telephone Companies (Ameritech) (collectively, SBC) seeks a waiver of and, in addition or in the alternative, forbearance from the Commission's CEI requirements for reverse directory services. SBC requests that it be permitted to provide electronic and operator-assisted reverse directory services without complying with the Commission's CEI requirements to include all the SBC companies named above. The June 8, 2001, petition filed by Qwest Corporation (Qwest) seeks authority to provide operator-assisted reverse directory services on an integrated basis and for waiver of any CEI requirements deemed applicable. Qwest requests an extension of the waiver the Commission previously granted it for electronic reverse directory services to include operator-assisted reverse directory services.

⁴ The Bureau issued separate public notices seeking public comment on the Qwest and SBC petitions. See *Pleading Cycle Established for Comments on SBC Resubmission of Petition for Waiver and/or Forbearance To Provide Reverse Directory Services*, Public Notice, CC Docket No. 00-227, DA 00-2525 (rel. Nov. 7, 2000) (*SBC Public Notice*); *Pleading Cycle Established for Comments on Qwest Petition for Waiver To Provide Operator-Assisted Reverse Directory Assistance Services*, Public Notice, CC Docket No. 01-126, DA 01-1445 (rel. June 15, 2001) (*Qwest Public Notice*). Although no party filed comments on SBC's petition, WorldCom, Inc. (WorldCom) submitted comments opposing Qwest's petition. On April 6, 2000, the Policy and Program Planning Division (Policy Division) granted SBC special temporary authority to provide electronic and operator-assisted reverse directory services on an integrated basis without complying with the CEI requirements. *SBC Public Notice* at 1. Similarly, on June 13, 2001, the Policy Division granted Qwest special temporary authority to provide operator-assisted reverse directory services on an integrated basis. *Qwest Public Notice* at 1.

⁵ 47 C.F.R. § 64.901. Section 64.901 addresses a carrier's obligation to separate its regulated costs from nonregulated costs according to specified cost allocation methods.

⁶ See 47 C.F.R. § 64.903(b) (addressing certain LECs' obligation to file and accurately maintain cost allocation manuals.) See also, *Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities; Amendment of Part 31, the Uniform System of Accounts for Class A and Class B Companies To Provide Nonregulated Activities and To Provide for Transactions Between Telephone Companies and Their Affiliates*, Report and Order, 2 FCC Rcd 1298 (1987) (*Joint Cost Order*), modified on recon., 2 FCC Rcd 6283 (1987), (continued....)

find that operator-assisted reverse directory services are incidental, interLATA information services, and therefore may be provided on an integrated basis.

II. CEI ISSUES

A. Background

1. Regulatory Framework

3. Pursuant to the regulatory scheme established in the *Computer II* proceeding, the Commission has traditionally classified communications services as either basic or enhanced.⁷ In that proceeding, the Commission defined “basic” services as those that provide a “pure transmission capability over a communications path that is virtually transparent in terms of its interaction with customer-supplied information.”⁸ The Commission defined “enhanced services” as “services offered over common carrier transmission facilities used in interstate communications, which employ computer processing applications that act on the format, content, code, protocol, or similar aspects of the subscriber’s transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information.”⁹ Unlike basic services, enhanced services are not regulated under Title II of the Telecommunications Act of 1934, as amended (the “Act”).¹⁰ In *Computer II*, the Commission established rules to govern the provision of enhanced services, including a requirement that the then-integrated Bell system companies establish separate subsidiaries for the provision of enhanced services.¹¹ Following the divestiture of AT&T, the Commission extended the structural separation requirements of *Computer II* to the BOCs.¹²

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modified on further recon., 3 FCC Rcd 6701 (1988), *aff’d sub nom. Southwestern Bell Corp. v. FCC*, 896 F.2d 1378 (D.C. Cir. 1990).

⁷ *Amendment of Section 64.702 of the Commission’s Rules and Regulations*, Final Decision, 77 FCC 2d 384 (*Computer II Final Decision*), *recon.*, 84 FCC 2d 50 (1980) (*Computer II Reconsideration Order*), *further recon.*, 88 FCC 2d 512 (1981), *aff’d sub nom. Computer and Communications Indus. Ass’n v. FCC*, 693 F.2d 198 (D.C. Cir. 1982) (referred to collectively as *Computer II*).

⁸ *Computer II Final Decision*, 77 FCC 2d at 420, ¶ 96.

⁹ 47 C.F.R. § 64.702(a).

¹⁰ *See id.*

¹¹ *See Computer II Final Decision*, 77 FCC 2d at 475-86, ¶¶ 233-60; *Computer II Reconsideration Order*, 84 FCC 2d at 75-86, ¶¶ 72-105.

¹² *See Policy and Rules Concerning the Furnishing of Computer Premises Equipment, Enhanced Services and Cellular Communications Equipment by the Bell Operating Companies*, Report and Order, 95 FCC 2d 1117, 1120, ¶ 3 (1984), *aff’d sub nom. Illinois Bell Tel. Co. v. FCC*, 740 F.2d 465 (7th Cir. 1984), *aff’d on recon.*, FCC 84-252, 49 Fed. Reg. 26056 (1984), *aff’d sub nom. North American Telecommunications Ass’n v. FCC*, 772 F.2d 1282 (7th Cir. 1985).

4. In the *Computer III* proceeding, the Commission established a regulatory framework through which BOCs could offer enhanced and basic services on an integrated basis, pursuant to nonstructural safeguards including CEI requirements.¹³ The Commission imposed the CEI requirements to prevent BOCs from subsidizing enhanced services with revenues from basic services and to prevent discrimination against competing enhanced service providers with respect to the rates, terms, and conditions of access.¹⁴ Until 1999, before offering an enhanced service on an integrated basis, a BOC was required to file and obtain the Commission's approval of a CEI plan for each proposed enhanced service offering, unless the proposed service was the subject of a previously approved CEI plan.¹⁵ In their CEI plans, the BOCs were required to explain how they would offer to competing enhanced service providers on a nondiscriminatory basis all the underlying basic services that they used in their own enhanced service offerings.¹⁶

5. In 1999, the Commission eliminated the requirement that BOCs file and obtain approval of CEI plans before offering an enhanced service on an integrated basis. Now, a BOC must post a CEI plan on its Internet site and notify the Bureau upon such posting, but it need not seek pre-approval of the plan before offering the enhanced service.¹⁷

6. As indicated earlier, the Bureau has previously granted waivers to SWBT and Ameritech, as well as U S WEST and BellSouth, to permit each to offer electronic reverse directory services on an integrated basis without complying with the CEI requirements. In each case, the Bureau found that application of the CEI requirements was not in the public interest because compliance with the requirements was not necessary to allow competing providers to offer the service, and because a waiver was likely to produce benefits for consumers.¹⁸ Each carrier's waiver was conditioned on compliance with the Commission's joint cost rules, on making appropriate adjustments to the carrier's cost accounting manual, and on the carrier's

¹³ For a detailed history of the CEI and other *Computer III* requirements, including court decisions and remands, see *Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements*, Report and Order, 14 FCC Rcd 4289, 4292, ¶ 4 (1999) (*CEI Further Rulemaking*), recon., 14 FCC Rcd 21628 (1999).

¹⁴ *CEI Further Rulemaking*, 14 FCC Rcd at 4294-95, at ¶ 8. The CEI rules require BOCs to comply with nine CEI parameters designed to assure technically equal interconnection with the local exchange carrier network by affiliated and unaffiliated enhanced service providers.

¹⁵ *Id.*

¹⁶ See *id.*, 14 FCC Rcd at 4295, ¶ 8. In the *Non-Accounting Safeguards Order*, we concluded that all the services previously considered to be "enhanced services" are "information services" as defined in the Act. *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, As Amended*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905, 21955, ¶ 102 (1996) (*Non-Accounting Safeguards Order*) (subsequent history omitted).

¹⁷ *CEI Further Rulemaking*, 14 FCC Rcd at 4292, ¶ 4.

¹⁸ *Ameritech CEI Waiver*, 13 FCC Rcd at 8767-68, ¶¶ 10-12; *BellSouth and SWBT CEI Waiver*, 11 FCC Rcd at 8007-08, ¶¶ 24-25; *U S West CEI Waiver*, 11 FCC Rcd at 1200, ¶¶ 33-34.

compliance with customer proprietary network information (CPNI) requirements in effect at the time.¹⁹

2. Qwest's and SBC's Petition

7. Qwest requests that we extend the waiver previously granted to it for electronic reverse directory services to include operator-assisted reverse directory services.²⁰ Similarly, SBC requests that we grant a waiver to permit SWBT, Ameritech, Nevada Bell, Pacific Bell, and SNET to provide operator-assisted reverse directory services on an integrated basis without complying with the Commission's CEI requirements.²¹ SBC also requests that we extend the waivers we granted to SWBT and Ameritech to also cover Nevada Bell, Pacific Bell, and SNET so that they too may provide electronic reverse directory services on an integrated basis without complying with the Commission's CEI requirements.²²

8. Both Qwest and SBC state that, with regard to operator-assisted reverse directory services, a waiver will permit them to provide the same information they currently provide to customers seeking to match a telephone number with a customer name and address by interacting electronically with a directory database, to customers calling a directory operator.²³ Qwest and SBC submit that this service would be configured like the electronic reverse directory service they currently offer, with the only difference being that the customer would receive the information from a live operator rather than through an electronic transmission.²⁴ Thus, a customer who knows a telephone number and wishes to match that number with the corresponding name or address could call a directory operator and receive that information.

¹⁹ Ameritech *CEI Waiver*, 13 FCC Rcd at 8768, ¶ 10; *BellSouth and SWBT CEI Waiver*, 11 FCC Rcd at 7998, ¶ 2; *US West CEI Waiver*, 11 FCC Rcd at 1200, ¶ 34. Section 222 of the Act, and the Commission's CPNI rules set forth the obligations of telecommunications carriers for use of customers' proprietary billing and technical information regarding a customer's service. See 47 U.S.C. § 222; 47 C.F.R. §§ 64.2001-2009; *US WEST v. FCC*, 182 F.3d 1224 (10th Cir. 1999), *cert. denied*, 530 U.S. 1213 (2000); *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information: Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, As Amended*, CC Docket Nos. 96-115 & 96-149 at ¶ 7 & n.23, Clarification Order and Second Further Notice of Proposed Rulemaking (rel. Sept. 7, 2001) (finding that the Commission's CPNI rules remain in effect with the exception of Section 64.2007(c)).

²⁰ Qwest currently has authority to offer electronic reverse directory services pursuant to a waiver granted by the Commission for electronic white pages. *US West CEI Waiver*, 11 FCC Rcd at 1195.

²¹ SBC Petition at 2.

²² SBC notes in its petition (at 2 n.1) that SNET may not be covered by the Commission's CEI requirements because SNET was not a BOC when the Commission adopted the CEI requirements. Because we grant the requested relief, we do not address SBC's point, and we include SNET in the relief requested to the extent necessary.

²³ Qwest Petition at 2; SBC Petition at 2.

²⁴ Qwest Petition at 2; SBC Petition at 2.

9. In addition to providing customers with a valuable method of obtaining name and address information, Qwest and SBC state that this service will also allow competitive local exchange carriers (LECs) to provide reverse directory service by having directory calls custom-routed by the BOC to the competitive LEC's platform or the competitive LEC's directory provider's platform.²⁵ Qwest and SBC also submit that the information provided through this service is incremental to the information currently provided by directory operators and can be provided efficiently and quickly by the carrier's directory assistance operators utilizing existing databases.²⁶ Qwest and SBC further state that AT&T, Cincinnati Bell, Metro One, Excel Agent Services, Teltrust, and a number of Internet sites already provide operator-assisted reverse directory services.²⁷ Both parties indicate that the cost and effort to provide operator-assisted reverse directory services in compliance with the CEI requirements would delay or possibly prevent them from offering the service.²⁸

B. Discussion

10. The Commission may grant a waiver of a provision of its rules "if good cause therefor is shown."²⁹ To establish good cause, a petitioner must demonstrate that "special circumstances warrant a deviation from the general rule and such deviation will serve the public interest."³⁰ Accordingly, a petitioner seeking a waiver of the Commission's CEI requirements carries the burden of demonstrating that a waiver is in the public interest by establishing that a grant of a waiver is unlikely to permit the petitioner to engage in unlawful discrimination or cross-subsidization and is likely to provide benefits for customers.³¹ As discussed below, we believe that Qwest and SBC have made the requisite showing demonstrating that a grant of their requested waivers is in the public interest.

11. Specifically, we find that Qwest and SBC have met the burden of demonstrating that it is in the public interest to grant waivers to permit them to provide interLATA operator-assisted reverse directory services on an integrated basis without complying with the Commission's CEI requirements. As noted above, other companies are already providing similar services. Thus, the application of the CEI requirements to Qwest's and SBC's provision of operator-assisted reverse directory services is not necessary to allow competing providers to offer

²⁵ Qwest Petition at 3 & n.7; SBC Petition at 6.

²⁶ Qwest Petition at 4; SBC Petition at 4-5.

²⁷ Qwest Petition at 4; SBC Petition at 4.

²⁸ Qwest Petition at 4; SBC Petition at 5.

²⁹ 47 C.F.R. § 1.3.

³⁰ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969)).

³¹ *Ameritech CEI Waiver*, 13 FCC Rcd at 8767, ¶ 9.

this service. On a related note, however, customers will benefit from having additional companies provide these services as a result of granting these petitions. In addition, both Qwest and SBC have shown that they can provide these services efficiently using the same operators and databases already in place to provide other directory services. Further, we are persuaded that the cost of compliance with the CEI requirements would far outweigh any potential benefits of compliance, particularly in light of the fact that there is already a choice of providers for operator-assisted reverse directory services.

12. We note that no party opposes SBC's waiver request. WorldCom, however, filed comments requesting that the Commission require Qwest to address how a waiver of the CEI rules will not undermine the public policy served by the rule.³² WorldCom also requests that the Commission ensure that Qwest provides nondiscriminatory access to directory listing information before granting a waiver.³³ WorldCom's arguments provide no basis for denying Qwest's petition. In particular, WorldCom does not state how requiring Qwest to comply with the Commission's CEI requirements would assist WorldCom or other competitive LECs in providing reverse operator-assisted directory services or any other enhanced service. Qwest's showing relies on, and is substantially similar to, the showings made by other parties previously granted waivers, including a waiver granted to Qwest's predecessor for electronic reverse directory services.³⁴ Further, WorldCom is already entitled to nondiscriminatory access to Qwest's in-region directory assistance database.³⁵

13. We condition the grant of Qwest's and SBC's waivers for operator-assisted reverse directory services on the same requirements that apply to SWBT's and Ameritech's waiver of the CEI requirements to provide electronic reverse directory services. Specifically, this grant is conditioned on Qwest's and SBC's continued compliance with the joint cost rules and amendments to their cost allocation manuals.³⁶

³² WorldCom Comments at 2.

³³ *Id.* at 3. WorldCom also objects to Qwest's request for a waiver of any orders or rules that may prevent or affect Qwest's proposed provisioning of operator-assisted reverse directory services, stating that Qwest's request does not specifically identify the rules or order from which Qwest is seeking a waiver. WorldCom Comments at 2. Since we only address Qwest's request that we waive application of the CEI requirements in this Order, WorldCom's objection is rendered moot.

³⁴ See e.g., *Ameritech CEI Waiver*, 13 FCC Rcd 8762; *BellSouth and SWBT CEI Waiver*, 11 FCC Rcd 7997; *US West CEI Waiver*, 11 FCC Rcd 1195.

³⁵ See 47 U.S.C. § 251(b)(3).

³⁶ See *supra* nn.5-6. While in prior orders we have conditioned grant of such waivers on compliance with the CPNI requirements in effect at the time, we do not do so here since Section 222 already imposes statutory CPNI requirements. See *supra* para. 6 & n.19. Additionally, we note that our waiver necessarily includes a waiver of our requirement that a LEC may not offer enhanced services using a 411 code, or any other N11 code, unless the LEC offers nondiscriminatory access to that code to competing enhanced service providers. See *Use of N11 Codes and Other Abbreviated Dialing Arrangements*, First Report and Order and Further Notice of Proposed Rulemaking, 12 FCC Rcd 5572, 5600-5601, ¶ 48 (1997); *Amendment of Section 64.702 of the Commission's Rules and Regulations* (continued....)

14. We also find that SBC has met the burden of demonstrating that it is in the public interest to extend its existing waivers to also cover Nevada Bell and Pacific Bell so that they may provide interLATA electronic reverse directory services on an integrated basis without complying with the Commission's CEI requirements. SBC has demonstrated that Nevada Bell and Pacific Bell are similarly situated to SWBT and Ameritech, which previously received such waivers. In particular, in our previous order granting SBC's existing waivers, the Bureau determined that a waiver of the CEI requirements was in the public interest since competition already existed in the directory assistance market, and since compliance with the CEI requirements was not necessary to allow competing providers to offer that service.³⁷ The Bureau also determined that no party had challenged the petitioners' assertions that compliance with the Commission's CEI requirements would delay introduction of their proposed services and cause them to incur costs that would render the service uneconomical.³⁸

15. In the instant case, the entry of Nevada Bell and Pacific Bell into the market for electronic reverse directory services will benefit consumers by providing an additional choice of service provider by spurring competition. SBC has demonstrated that competition already exists in this market and that other companies do not require access to SBC's basic service offerings in order to provide electronic reverse directory services. Further, no one objected to granting similar waivers to Nevada Bell and Pacific Bell. We condition the grant of SBC's waiver of the CEI requirements to provide electronic reverse directory services on the same requirements that apply to SWBT's and Ameritech's waiver to provide similar services, namely, compliance with the joint cost rules and amendments to their cost allocation manuals.³⁹

III. SECTIONS 271 AND 272 ISSUES

A. Background

1. Statutory Framework

16. Sections 271 and 272 of the Act establish a comprehensive framework governing 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]."⁴⁰ 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

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(*Third Computer Inquiry*), Report and Order, CC Docket No. 85-229, Phase I, 104 FCC 2d 958, 1039-1042, ¶¶ 154-166 (1986) (setting forth the nine equal access CEI parameters, including end user access to abbreviated dialing).

³⁷ *BellSouth and SWBT CEI Waiver*, 11 FCC Rcd at 8007, ¶¶ 24-25.

³⁸ *BellSouth and SWBT CEI Waiver*, 11 FCC Rcd at 8007, ¶ 24; *see also Ameritech CEI Waiver*, 13 FCC Rcd at 8767-68, ¶¶ 10-12.

³⁹ *See supra* nn.5-6.

⁴⁰ 47 U.S.C. § 271.

for such state under [section 271(d)(3)].” Section 271(b)(3), however, authorizes the BOCs or their affiliates to provide “incidental interLATA services,” as defined in section 271(g). These are “the interLATA provision by a Bell operating company or its affiliate . . . of a service that permits a customer that is located in one LATA to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another LATA.”⁴¹ InterLATA services include telecommunications and information services.⁴² Section 272 generally requires that a BOC provide interLATA services through a separate affiliate;⁴³ however, the requirement to provide interLATA information services through a separate affiliate sunset on February 8, 2000.⁴⁴

17. As discussed below, we determine that operator-assisted reverse directory services are incidental interLATA services as defined in section 271(g)(4). These services are information services for which the requirement to use a separate affiliate has sunset. Qwest and SBC may therefore provide these services, and may do so on an integrated basis.

2. Previous Orders Regarding Forbearance and Directory Assistance Services

18. In the *BellSouth Section 272 Forbearance Order*,⁴⁵ the Bureau found that electronic reverse directory services provided by BellSouth on an interLATA basis fall squarely within the definition of incidental interLATA services contained in section 271(g)(4).⁴⁶ The Bureau later found that the similarly configured electronic reverse directory services of SWBT, Nevada Bell, and Pacific Bell likewise fell within the definition of incidental interLATA

⁴¹ 47 U.S.C. § 271(g)(4).

⁴² See *Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, As Amended*, CC Docket No. 96-149, FCC 01-140, Order on Remand, 16 FCC Rcd 9751, 9754-55, ¶ 8 (2001).

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

⁴⁴ 47 U.S.C. § 272(f)(2); see also *Request for Extension of the Sunset Date of the Structural, Nondiscrimination, and Other Behavioral Safeguards Governing Bell Operating Company Provision of In-Region, InterLATA Information Services*, Order, 15 FCC Rcd 3267 (2000) (*Sunset Order*) (denying request to prolong the requirement to provide interLATA information services through a separate affiliate).

⁴⁵ *Bell Operating Companies Petitions for Forbearance from the Application of Section 272 of the Communications Act of 1934, As Amended, to Certain Activities*, Memorandum Opinion and Order, 13 FCC Rcd 2627 (Com. Car. Bur. 1998).

⁴⁶ *BellSouth Section 272 Forbearance Order*, 13 FCC Rcd at 2660, ¶ 68. The Bureau also addressed BellSouth’s operator-assisted reverse directory services. The court overseeing divestiture of AT&T from the Bell system had authorized BellSouth’s provision of those services; therefore, they were “previously authorized services” as defined in section 271(f) and exempt from the general ban on BOC provision of interLATA services contained in section 271(a). *Id.* at 2660, ¶ 67. The Bureau forbore from applying the separate affiliate requirements of section 272 to BellSouth’s operator-assisted reverse directory services, just as it did for BellSouth’s electronic reverse directory services. See *id.* at 2672, ¶ 97.

services.⁴⁷ Both cases were decided before the requirement to provide interLATA information services through a separate affiliate had sunset pursuant to section 272(f). However, the Bureau forbore pursuant to section 10(a)(1) of the Act from applying the separate affiliate requirements of section 272.⁴⁸

19. After the Bureau issued the *BellSouth Section 272 Forbearance Order* and the *SBC Section 272 Forbearance Order*, the Commission issued its *NDA Order*, which responded to U S WEST's petition for forbearance from the separate affiliate requirements of section 272 with respect to its nonlocal operator-assisted directory service.⁴⁹ That service is a traditional directory service, not a reverse service, through which a customer can dial "411" or "1-411" to obtain a listing anywhere in the United States. The directory assistance operator queries U S WEST's central database, located in Portland, Oregon. Both the customer's call to the operator and the operator's query to the database in Portland can involve interLATA transmission, which U S WEST provides over either its official services network or leased lines.⁵⁰ The Commission found that U S WEST's operator-assisted directory service is an "incidental interLATA service" under section 271(g)(4), because it involves "the interLATA provision by [U S WEST] of a service that permits a customer that is located in one LATA to retrieve information from, or file information for storage in, information storage facilities of [U S WEST] that are located in another LATA."⁵¹ The Commission specifically rejected the suggestion that incidental interLATA services are "limited to services that enable customers to retrieve stored

⁴⁷ See *Nevada Bell, Pacific Bell, and Southwest Bell Telephone Company Petition for Forbearance from the Application of Section 272 of the Communications Act of 1934, As Amended, to Reverse Search Services*, Memorandum Opinion and Order, 14 FCC Rcd 6329, 6332, ¶ 8 (Com. Car. Bur. 1999) (*SBC Section 272 Forbearance Order*).

⁴⁸ 47 U.S.C. § 160(a)(1). Section 10(a)(1) provides for forbearance if enforcement of the statute is not required to ensure that charges, practices, classifications, and regulations related to the service are just and reasonable and not unjustly or unreasonably discriminatory.

⁴⁹ *Petition of U S WEST Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance*, Memorandum Opinion and Order, 14 FCC Rcd 16252 (1999) (*NDA Order*).

⁵⁰ See *NDA Order*, 14 FCC Rcd at 16256, ¶¶ 8-9.

⁵¹ *NDA Order*, 14 FCC Rcd at 16265, ¶ 23. The Bureau later addressed similar offerings from BellSouth, Ameritech, Bell Atlantic-South, SWBT, and Pacific Bell and found that they were also incidental interLATA services. See *BellSouth Petition for Forbearance for Nonlocal Directory Assistance Service*, Memorandum Opinion and Order, 15 FCC Rcd 6053, 6059, ¶¶ 12-13 (Com. Car. Bur. 2000) (*BellSouth NDA Order*) (BellSouth, Ameritech, SWBT, Pacific Bell, Bell Atlantic-South); *Petition of Bell Atlantic for Forbearance from Section 272 Requirements in Connection with National Directory Assistance Services*, Memorandum Opinion and Order, 14 FCC Rcd 21484, at ¶ 10 (Com. Car. Bur. 1999) (Bell Atlantic-North), *aff'd*, Memorandum Opinion and Order, 15 FCC Rcd 13154 (2000). While SBC had also asked for forbearance on behalf of Nevada Bell in the same petition it filed on behalf of SWBT, Ameritech, and Pacific Bell, the Bureau declined to grant the petition with respect to Nevada Bell because Nevada Bell was not at that time providing nonlocal directory service and could not, therefore, demonstrate that the service fell within the scope of Section 271(g)(4). See *BellSouth NDA Order*, 15 FCC Rcd at 6053, ¶ 1 n.2.

information without the intervention of an operator.”⁵² Rather, the Commission concluded that “it is reasonable to include operator-assisted services within the scope of section 271(g)(4), provided that the operator acts at the customer’s behest and retrieves only that information specified by the customer from the BOC’s centralized facilities.”⁵³ Accordingly, the Commission forbore from the requirements of section 272 with respect to U S WEST’s provision of nonlocal directory services.

B. Discussion

20. Commission precedent compels the conclusion that operator-assisted reverse directory services are incidental interLATA services. In the *NDA Order*, the Commission found that traditional operator-assisted directory services are incidental interLATA services, because they “permit[] a customer that is located in one LATA to retrieve information from, or file information for storage in, information storage facilities of such company that are located in another LATA.”⁵⁴ Operator-assisted reverse directory services likewise fall squarely within this definition. They permit a customer in one LATA to retrieve name and address information from a BOC’s facilities in another LATA. The only differences between traditional and reverse directory services – the information that the customer provides to the operator, and the information the customer receives from the operator – are not relevant to the definition of incidental interLATA services.

21. Our conclusion is also supported by our earlier finding in the *SBC Section 272 Forbearance Order* that electronic reverse directory services are incidental interLATA services.⁵⁵ While that order dealt with services that, unlike the operator-assisted services at issue here, involved no human intervention, the Commission has already concluded that incidental interLATA services are not “limited to services that enable customers to retrieve stored information without the intervention of an operator.”⁵⁶

22. We therefore find that Qwest’s and SBC’s provision of operator-assisted reverse directory service is an incidental interLATA service as defined in section 271(g)(4). Qwest and SBC may thus offer the service notwithstanding the general ban on BOC provision of interLATA services contained in section 271(a). The services Qwest and SBC have described in their

⁵² *NDA Order*, 14 FCC Rcd at 16266-67, ¶ 25.

⁵³ *Id.* at 16266, ¶ 25.

⁵⁴ *Id.* at 16265, ¶ 23 (citing 47 U.S.C. § 271(g)(4)). We note that SBC and Qwest have confirmed that they own all of the information storage facilities used in these directory services. See Letter from Michael D. Alarcon, SBC, to Magalie Roman Salas, Secretary, FCC, CC Docket No. 00-227 (Aug. 31, 2001); Letter from Kathryn Marie Krause, Qwest, to Magalie Roman Salas, Secretary, FCC, CC Docket No. 01-126 (June 12, 2001).

⁵⁵ *SBC Section 272 Forbearance Order*, 14 FCC Rcd at 6329, ¶ 8; see also *BellSouth Section 272 Forbearance Order*, 13 FCC Rcd at 2660, ¶ 68.

⁵⁶ *NDA Order*, 14 FCC Rcd at 16266, ¶ 25.

petitions have been previously held to be information services.⁵⁷ Accordingly, Qwest and SBC may offer these information services on an integrated basis, because the separate affiliate requirement for interLATA information services sunset pursuant to section 272(f).⁵⁸ Section 272(f)(2) provides that “the provisions of [section 272] (other than subsection (e)) shall cease to apply with respect to the interLATA information services of a Bell operating company 4 years after [February 8, 1996], unless the Commission extends such 4-year period by rule or order.” The Commission did not extend the four-year period; therefore section 272 except for subsection (e) no longer applies to interLATA information services.⁵⁹

23. As a final matter, we note that SBC phrased its petitions for waiver and forbearance in the alternative: “The SBC telephone companies seek waivers of and/or forbearance from any of the Comparably Efficient Interconnection (CEI) or Telecommunications Act of 1996 (Act) requirements that the Commission might deem required in order for them to provide such services.”⁶⁰ Because we grant SBC’s request for a waiver of the CEI requirements, and because we find that SBC’s reverse directory assistance services are incidental interLATA information services, SBC need not obtain forbearance from application of section 272 in order to provide those services on an integrated basis. We therefore deny SBC’s request for forbearance.

IV. ORDERING CLAUSES

24. Accordingly, IT IS ORDERED, pursuant to sections 4, 10, 201-205, 271-272 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154, 160, 201-205, 271-272, and sections 0.91, 0.291, and 1.3 of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that Qwest’s petition for a waiver of the *Computer III* CEI requirements for the provision of operator-assisted reverse directory services by Qwest IS GRANTED to the extent stated and subject to the conditions and requirements established herein.

⁵⁷ See *BellSouth Section 272 Forbearance Order*, 13 FCC Rcd at 2656-57, ¶ 60.

⁵⁸ Because “the terms ‘information service’ and ‘telecommunications service’ are mutually exclusive,” the separate affiliate requirement for origination of interLATA telecommunications services does not apply to these information services. See *supra* para. 16 & n.42; 47 U.S.C. § 272 (a)(2)(B).

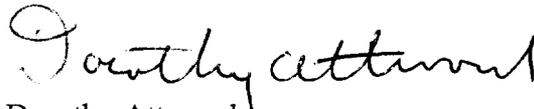
⁵⁹ See *Sunset Order*, 15 FCC Rcd at 3267. Subsection (e) sets forth guidelines for BOCs and their affiliates for the provision of telephone exchange and exchange access services by affiliated and unaffiliated carriers. We do not address the manner in which that subsection may apply to Qwest’s or SBC’s provision of interLATA reverse directory services. See 47 C.F.R. § 0.291(a)(2). Nor do we address the extent to which SBC must make its databases available to competitors except to note that SBC was required to make its databases available to unaffiliated entities in the *SBC Section 272 Forbearance Order* and the *BellSouth NDA Order*. Also, the Commission has recently released an order elaborating on the requirements of section 251 as they apply to directory services. See *Provision of Directory Listing Information Under the Telecommunications Act of 1934, As Amended*, First Report and Order, 16 FCC Rcd 2736 (2001).

⁶⁰ SBC Petition at 1. SBC notes (Petition at 2-3) that section 272 forbearance for its provision of interLATA information services is no longer necessary but, nevertheless, requests forbearance to the extent necessary.

25. IT IS FURTHER ORDERED, pursuant to sections 4, 10, 201-205, 271-272 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154, 160, 201-205, 271-272, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that SBC's petition for a waiver of the *Computer III* CEI requirements for the provision of electronic reverse directory services by Nevada Bell and Pacific Bell, and for the provision of operator-assisted reverse directory services by SWBT, Ameritech, Nevada Bell, and Pacific Bell IS GRANTED to the extent stated and subject to the conditions and requirements established herein.

26. IT IS FURTHER ORDERED, pursuant to sections 4, 10, 201-205, 271-272 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154, 160, 201-205, 271-272, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that SBC's request for forbearance of CEI and other Communications Act requirements IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Dorothy Attwood
Chief
Common Carrier Bureau