

Michelle A. Thomas  
Executive Director-  
Federal Regulatory

SBC Telecommunications, Inc.  
1401 I Street, N.W., Suite 1100  
Washington, D.C. 20005  
Phone 202 526-8919  
Fax 202 408-4807

ORIGINAL



EX PARTE OR LATE FILED

February 5, 2002

RECEIVED

FEB - 5 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
TW-A325-12<sup>th</sup> Street Lobby  
Washington, DC 20554

**Ex Parte**

RE: CC Docket No. 96-150/SBC Section 272 Biennial Audit

Dear Mr. Caton:

On February 4, 2002, that attached document, regarding the above referenced proceeding, was submitted to Ms. Carol Matthey and Mr. Anthony Dale in a meeting with SBC's representatives; Ms. Caryn Moir, Ms. Anu Seam, Mr. Christopher Heimann and myself. The meeting was regarding SBC's request for confidentiality of proprietary information contained in its 272 Biennial Audit Report prepared by Ernst & Young LLP and submitted to the Commission on December 17, 2001.

An original and one copy of this *Ex Parte* are being filed in the Office of the Secretary on February 5, 2002. Please include it in the public record of this proceeding as required under Section 1.1206(b)(2) of the Commission's rules.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michelle A. Thomas', written over a horizontal line.

Attachment

cc: Mr. Anthony Dale  
Ms. Carol Matthey

No. of Copies rec'd  
List ABCDE

**ORIGINAL** SBC Communications Inc.  
**272 Biennial Audit**

**Request for Confidential Treatment**

**The audit report contains competitively sensitive information that is not necessary for determining compliance with the 272 requirements and would not have been included in the final report if SBC believed that it would not be protected under the Commission's rules.**

**Proprietary Information**

- Redacted information is competitively harmful. Includes security, financial, marketing and sales information specific to SBC.
- Redacted information is not necessary to determine compliance with 272 requirements or to provide meaningful comments.
- Disclosure may be potential violation of customer and/or vendor agreements.

**SBC was led to believe that proprietary information would be held confidential and not released to public without exhausting FOIA procedures.**

- General Standard Procedures 12/16/1998 - ¶ 25(e) proprietary information should be deleted from the final report.
- Agreed-Upon Procedures - ¶ 30(f) SBC may request confidential treatment of information contained in the report, in accordance with Commission's rules § .0459.
- Staff representations that proprietary information included in the audit report for JOT's benefit would be redacted from public version.
- AICPA standards state that distribution of AUP report is restricted and intended for specified users only.

**To release this information in this broad and sweeping manner is inconsistent with the FCC's rules and past policy.**

- 272(d)(3) provides access to financial accounts and other only to the JOT and protects disclosure of proprietary information.
- 220(f) protects disclosure of information obtained during an audit
- 47 CFR 0.459; FOIA, Exemption 4; Trade Secret Act – well-established procedures for release of proprietary information.

**If the Commission feels it must release certain information it should be done under protective agreements.**

- Consistent with prior practice on FCC audits.
- Consistent with other statutory proceedings, such as 271 applications.