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December 24, 2002

Via Electronic Submission

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W. - TW-A325-Lobby
Washington, D.C. 20554

Re: **Memorandum of Ex Parte Communication**
CC Docket Nos. 01-338; 96-98; 98-147

Dear Ms. Dortch:

On December 23, 2002, James Smith (Senior Vice President – Federal Regulatory), Don Cain (Vice President – Federal Regulatory), Gary Phillips (General Attorney and Assistant General Counsel), Christopher Heimann (General Attorney) and Jim Lamoureux (Senior Counsel) met with John Rogovin, Deputy General Counsel, and Debra Weiner of the General Counsel's office in the above referenced docket.

SBC met with the Commission to describe the facts of SBC's hot cut performance. SBC described the scalability of its hot cut performance and explained that the record in this proceeding demonstrates that the hot cut process does not pose an impairment to competitors. The attached materials were distributed during the meeting and are consistent with information that SBC has previously submitted into the record of the above-listed proceedings.

If you have any questions, please contact Jim Lamoureux on 202-326-8895.

Sincerely,

Attachment

cc: J. Rogovin
D. Weiner

SBC Hot Cuts

The Facts

December 23, 2002

CLEC Claims of a Hot Cut "Problem" Have No Basis in the Record

- Quality: SBC provisions hot cut orders on a timely basis, with minimal disruption to end users
- Scalability: Moving forward, SBC has the capacity to meet any reasonably foreseeable increase in demand for hot cuts at the same superior level of performance
- Cost is not an impediment

Quality: Hot Cuts Are Not "Inherently" Risky

- Assertion rejected by Commission in its KS/OK 271 Order (¶ 207)
- Work performed by central office technicians for decades
- Millions of operational cross-connects in place today in SBC central offices -- each "manually" placed by central office technicians

Quality: Performance Metrics

- Comprehensive performance metrics for hot cuts are in place today in each of SBC's states -- key measures of quality and timeliness include premature disconnects, hot cut intervals and provisioning trouble reports
- Established through state collaborative processes based on needs of CLECs and reasonable operational requirements
- These metrics apply irrespective of the number of orders submitted by a CLEC

Quality: SBC's Hot Cut Performance

- In each of its SWBT 271 Orders, the FCC found that SBC provisions hot cuts in a manner that allows CLECs a meaningful opportunity to compete
- SBC provisioned approximately 500,000 hot cuts from June 2001 through May 2002, and the results demonstrate that quality of performance is <u>not</u> an issue

The Record Shows that SBC Can Scale its Hot Cut Processes

- SBC is prepared to meet any increase in hot cut demand, consistent with existing performance standards, resulting from the elimination of the UNE-P
- SBC uses sophisticated force models to determine staffing requirements
  - On a day-to-day basis, SBC can allocate additional resources, as needed, to meet any spikes in demand
- SBC does not cap the number of hot cuts it can or will perform

The Record Shows that SBC Can Scale its Hot Cut Processes

- Hot cut work from June 2001 to May 2002 required only 1.3% of SBC's CO man-hours
  - SBC could *quadruple* the number of hot cuts it performs by increasing the total number of central office man-hours by less than 4% - an increase that could be handled through overtime
  - Berringer/Smith declaration: if all UNE-P orders from June 2001 to May 2002 had instead been UNE-L orders, Ameritech could handle increased hot cut volume with 6% overtime, SWBT with 3.7% overtime, and Pacific with .9% overtime

Scalability: CLEC Misrepresentations of the Record

- 500,000 hot cuts provisioned from 6/1/01 to 5/31/02 does not represent SBC's provisioning capacity (CompTel/Pace, 10/31/02)
- SBC has never suggested that it could only provision 1 million loops in a year (Z-Tel 12/16/02 and CompTel/PACE 10/31/02)
- Inflated claims of time to match current UNE-P volumes (*e.g.* 8 years) are based on past volumes rather than capacity

Scalability: SBC Historical Experience in Handling "Spikes" in Volume

- SBC regularly experiences spikes in ordering activity -- e.g., at the start and end of the school year, as families and college students establish and disconnect telephone service
  - At beginning of University of Michigan's school year, retail orders in the Ann Arbor Main CO increased from a norm of 150 retail orders for new service per day to 800 per day
- SBC handled this and other similar spikes all over its region seamlessly

UNE-P Peak Volume Data Shows Future UNE-L Demand is Manageable

- In 2002, the peak weekly volumes for the COs with the highest UNE-P demand were approximately:
  - in Michigan - 2,290
  - in Texas - 420
  - in California - 450
- Since SBC could process an average increase of 650 orders *per day* in the Ann Arbor example, there should be no question that SBC can successfully process the volumes of UNE-L orders which follow the elimination of UNE-P

Cost: Hot Cut Charges are Not a Barrier

- Cost of a Hot Cut is Not a Source of Impairment
- Prices are established using TELRIC methodology
- SBC waives labor charges for FDT loop cutovers
- Weighted average loop cutover charge in CA from Jan-Sept 2002 was less than $30.00 per line
  - only SBC state where such information was available
- Consistent with 11/20/02 WorldCom estimates:
  - CA less than $20
  - average of 8 SBC states (AR, CA, IL, KS, MI, MO, OK, TX) approximately $34.00

Conclusions

- Record evidence demonstrates SBC's excellent hot cut performance at significant volumes today
- The record also shows that processes, metrics, and capacity to scale are in-place today
- The FCC cannot assume impairment based on unsubstantiated speculation about capacity to scale