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January 8, 2003

VIA ELECTRONIC SUBMISSION

Ms. Marlene H. Dortch
Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **Memorandum of Ex Parte Presentation**
CC Docket No. 01-338, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers;
CC Docket No. 96-98, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; and
CC Docket No. 98-147, Deployment of Wireline Services Offering Advanced Telecommunications Capability

Dear Ms. Dortch:

On January 7th, James C. Smith, Don Cain and Gary Phillips representing SBC Communications, Inc. (SBC) met with Commissioner Kathleen Abernathy and her senior legal advisor Matthew Brill. Mr. Smith discussed the availability of competitive switching alternatives and that hot cuts cannot be construed as an impairment to the deployment of competitive switches.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter and attachment are being electronically filed. I ask that this letter be placed in the files for the proceedings identified above.

Please call me should you have any questions.

Sincerely,

/s/ Brian J. Benison

CC: Kathleen Abernathy
Matthew Brill

SBC Hot Cuts

The Facts

January 7, 2003

Competitive Switches Are Widely Deployed

- CLECs have deployed 1,300 circuit switches
  - 200+ CLECs of all sizes have deployed local circuit switches in the BOC regions
  - Including in small markets such as Apple Valley MN, Mishawaka, IN, Mojave CA, & Anniston AL
- In addition to the circuit switches, more than 9,500 CLEC packet switches provide further competition

Competitive Switches Are Widely Used

Percentage of Access Lines in Wire Centers Where CLECs have acquired customers through Ported Numbers						
	Percentage of BOC Switched Access Lines in Wire Centers Served By:					
	1 or More CLEC Switches			2 or More CLEC Switches		
	Bus.	Res.	Tot.	Bus.	Res.	Tot.
Verizon	90	83	85	84	75	79
SBC	88	83	85	82	75	77
BellSouth	94	90	91	85	79	80
Qwest	89	83	85	82	75	77
Total	89	84	86	83	76	78

- CLECs are already using their own switches to serve customers in wire centers representing 86% of BOC access lines
- 2 or more CLECs are already using their own switches to serve customers in wire centers representing 78% of BOC access lines

Claims that UNE-P is a Necessary Transitional Vehicle are Just a Smokescreen

- In NY, AT&T and Worldcom operate 28 switches. They serve over one million residential customers with UNE-P, but have not converted a single residential customer to their switches

- In SBC territory no significant conversions have occurred

- It would be illogical to use UNE-P as anything other than a parking lot
  - ATT getting 45% + margin on no capital investment

UNE-P Discourages Facilities-based Competition

- The facts show an inverse relationship between facilities investment and UNE-P usage:
  - UNE-P offers high margins with minimal investment : "[W]e're deploying very little capital to make it work."

    Wayne Huyard,COO, MCI
  - The 10 states with the highest levels of residential UNE-P competition accounted for three-quarters of residential UNE-P growth between January and June, 2002, but only a third of the growth in facilities-based residential lines
  - The 10 states with the highest levels of facilities-based residential competition accounted for 85 percent of growth in facilities-based residential lines, but only 16 percent of residential UNE-P growth

Resale Allows Carriers to Offer the Same Services as UNE-P

- SBC's resale offer is so complete that to SBC's knowledge CLECs have never used UNE-P to provide their end users any service that they could not provide with the existing resale services.

The Hot Cut Process is Not a Source of Impairment

- 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

- SBC provisioned approximately 500,000 hot cuts from June 2001 through May 2002, and the results demonstrate that quality of performance is not an issue
- FCC has so held in 271 decisions covering more than 30 states
- 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, due dates met and percent resulting in trouble reports
- Established through state collaborative processes
- These metrics apply irrespective of the number of orders submitted by a CLEC & will continue to apply if the UNE-P is eliminated

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 3,250 orders *per week* 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
- WorldCom estimates its SBC hot cut charges are (11/20/02 ex parte):
  - CA less than $20 per line
  - average of 8 SBC states (AR, CA, IL, KS, MI, MO, OK, TX) approximately $34.00 per line
- FDT rates for single line orders in the key SBC UNE-P states:

Texas	**$17.61**
Michigan	**$17.82**
California	**$18.56**
Illinois	**$20.21**
Ohio	**$31.00**

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