BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

IN THE MATTER OF	§	
SECTION 272(f)(1) SUNSET OF THE	§	
BOC SEPARATE AFFILIATE AND	§	**WC DOCKET NO. 02-112**
RELATED REQUIREMENTS	§	
	§	
2000 BIENNIAL REGULATORY	§	
REVIEW SEPARATE AFFILIATE	§	**CC DOCKET NO. 00-175**
REQUIREMENTS OF SECTION 64.1903	§	
OF THE COMMISSION'S RULES	§	

REPLY COMMENTS OF THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF TEXAS

NOW COMES THE STATE OF TEXAS (State), by and through the Office of The Attorney General of Texas, Consumer Protection Division and files these its reply comments on the Further Notice of Proposed Rulemaking released May 19th, 2003 in FCC Order No. 03-111. These reply comments are timely filed pursuant to the Commission's subsequent order in DA-03-1887.

The Office of the Attorney General submits these reply comments as the representative of state agencies and state universities as consumers of telecommunications services in the State of Texas.

The State of Texas responds to the comments of the parties by reiterating its position that some measure of regulatory oversight of RBOCs with respect to their provision of in-region long distance service should continue. We support the comments of the Texas Public Utility Commission, as we have stated in previous filings in this docket. The evidence from the Texas long distance marketplace continues to be compelling and in favor of some level of continued RBOC oversight.

In its previous comments filed in this docket, the Texas Public Utility Commission has expressed strong support for extension of the separate affiliate requirements in Texas due to SBC's dominance of the local service market. See *Letter of the Texas Public Utility Commission responding to Petition of AT & T Corp. for Extension of the Section 272 Obligations of Southwestern Bell Telephone Co. In the State of Texas*, May 22, 2003 at 4. The Commission also gave as a primary reason for extending the requirements the continued dominance of SBC over local exchange and exchange access services. *Id.* The Commission also stated that the non-accounting safeguards provided by section 272 of the Telecommunications Act were the only effective means of monitoring SBC's fulfillment of its open access obligations. *Petition of AT & T Corp. for Extension of the Section 272 Obligations of Southwestern Bell Telephone Co. In the State of Texas* at 18.

Given that the Commission has now allowed the separate affiliate requirement to expire in Texas, the following rationales for requiring additional regulatory oversight of in-region interexchange services provided by the RBOCs, as reflected in the comments of various parties, are of increasing importance:

1) RBOCs continue to possess substantial market power in the provision of end-user connections as well as local transport such that they continue to have the incentive to discriminate. Comments of Sprint Corporation 5-12.

2) RBOCs continue to possess either a complete monopoly or substantial market power in the provision of local exchange and exchange access over large swaths of territory in states, including Texas, in which they have been granted Section 271 approval. Comments of the New Jersey Division of the Ratepayer Advocate.

3) RBOCs which have gained 271 in-region interLATA approval have had little difficulty in competing, even with the safeguards: SBC's long distance subscribership has increased by 20% in 3 months in 2003. *Id* at 6.

4) SBC, Verizon, and Qwest have all been fined or investigated for a list of abuses and violations of their statutory and regulatory obligations–all of which occurred during a period in which the RBOCs must have been particularly sensitive to the need for compliance. Comments of Sage Telecom Inc. at 17-27.

The following are the State of Texas' suggestions for forms of regulation of the RBOCs which must now be carefully considered in lieu of the separate affiliate requirement:

1) The Commission's adoption of specific performance measures for the monitoring of RBOC wholesale performance on a national basis, as suggested by both AT&T and Sage Telecom, and enforcement of those measures.

2) Designation of the RBOCs as dominant carriers for purposes of the provision of in-region long distance services, as suggested by those same parties.

3) A requirement to keep separate bookkeeping records for the RBOCs' retail long distance services should be imposed, as suggested by the Texas Commission in its initial comments.

The Office of the Attorney General of Texas appreciates this opportunity to provide reply comments on this Notice of Proposed Rulemaking.

Respectfully submitted,

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