

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Conference)	WC Docket No. 02-269
On Accounting Issues)	
)	
2000 Biennial Regulatory Review -)	CC Docket No. 00-199
Comprehensive Review of the Accounting)	
Requirements and ARMIS Reporting)	
Requirements for Incumbent Local)	
Exchange Carriers: Phase II)	
)	
Jurisdictional Separations Reform and)	CC Docket No. 80-286
Referral to the Federal-State Joint Board)	
)	
Local Competition and Broadband Reporting))	CC Docket No. 99-301

REPLY COMMENTS OF SBC COMMUNICATIONS INC.

SBC Communications Inc., for itself and its wholly owned affiliates¹ (“SBC”), submits the following reply comments in response to the Notice of Proposed Rulemaking released in the above-captioned proceedings.²

Most of the commenters in this proceeding oppose the Joint Conference’s proposals to re-impose accounting and reporting requirements eliminated little more than two years ago. These commenters agree that these requirements are not necessary to achieve any federal regulatory objectives, and consequently should be rejected. Those few commenters that support the proposals offer no new basis for re-imposing these requirements. Instead, they simply recycle arguments already considered and rejected by the Commission when it eliminated the

¹ SBC Communications Inc. (“SBC”) files these Comments on behalf of its subsidiaries, Southwestern Bell Telephone, L.P. (“SWBT”), Pacific Bell Telephone Company, Nevada Bell Telephone Company, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, The Ohio Bell Telephone Company, Wisconsin Bell, Inc. and The Southern New England Telephone Company.

² *Federal-State Joint Conference on Accounting Issues*, WC Docket No. 02-269, et al, Notice of Proposed Rulemaking, FCC 03-326 (rel. Dec. 23, 2003) (“NPRM”).

requirements in the Phase 2 proceeding.³ On that basis alone, their claims should be rejected. But even on the merits, their claims are unavailing and offer no justification for re-imposing onerous accounting and reporting requirements on ILECs.

AT&T and the Wisconsin PSC, for example, contend that the Commission can and should implement and maintain regulatory accounting requirements to meet the purported needs of state regulators.⁴ These parties do not even attempt to identify any federal need for these requirements, but rather maintain that the Commission may impose accounting and reporting requirements that are “used primarily or even exclusively by the states.”⁵ But as SBC discussed in its comments, the Commission has no authority to adopt such requirements simply to assist states in applying state law.⁶ Any such requirement must relate directly to a legitimate federal need. Rules that are merely convenient for state purposes cannot be turned into a federal requirement under the Act.

AT&T and NASUCA next contend that Part 32 accounting and ARMIS reports are necessary to set rates for unbundled network elements.⁷ However, as explained in SBC’s Comments, ARMIS costs are not necessary to set UNE rates. The key drivers for state UNE cost studies are forward looking cost models, including depreciation, cost of capital and fill factors,

³ 2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2, CC Docket No. 00-199, Report and Order, 16 FCC Rcd 19911 (2001) (“Phase 2 Order”).

⁴ Comments of AT&T Corp. at p. 4 (“AT&T Comments”), Comments of the Public Service Commission of Wisconsin at pp. 5-9 (“WPSC Comments”).

⁵ AT&T Comments at 4. Apparently recognizing that the Commission cannot adopt accounting or reporting requirements solely to meet purported state regulatory needs, NASUCA asserts that providing a “central source” for information used by states is a federal need. NASUCA at p. 4. NASUCA, however, fails to explain why this is so, or why the states are incapable of gathering any information they need from carriers in their states. Plainly, NASUCA’s *ipse dixit* provides no justification for imposing costly and burdensome accounting and reporting requirements on ILECs.

⁶ Comments of SBC Communications Inc. at pp. 3-5 (“SBC Comments”).

⁷ AT&T Comments at p. 9; NASUCA Comments at p. 6.

which the states have had no difficulty in generating without access to the federal accounting data proposed here.⁸

Nor is it necessary to subject large ILECs to more rigorous accounting and reporting requirements to administer universal service as AT&T and NASUCA suggest.⁹ Large ILECs generally are classified as non-rural carriers for universal service support purposes, and therefore are eligible to receive high cost universal service support only if statewide average costs, calculated using a forward looking economic cost model, in a particular state exceed a nationwide cost benchmark. Because universal service support for large ILECs is not based on their actual costs, ARMIS accounting data is completely beside the point.

At the end of the day, the Commission may retain regulations only if it determines they are “necessary” in the public interest.¹⁰ As discussed in SBC’s comments, the Joint Conference’s proposals do not pass this test because they seek to add accounts for states where states clearly can obtain this information themselves.¹¹ SBC agrees with Qwest and the other ILEC commenters who recognize the disconnect between price cap regulation and the current Part 32 requirements for price cap carriers.¹² The largest ILECs are subject to pure price caps but remain the only ILECs that are required to follow the most stringent and detailed accounting and reporting requirements that were developed for rate of return carriers.¹³ Meanwhile, these

⁸ SBC Comments at 5; BellSouth Comments at p. 5-6.

⁹ AT&T Comments at p. 18; NASUCA Comments at p. 6.

¹⁰ 47 U.S.C. § 161.

¹¹ The WPSC, the sole state commission to file comments, confirmed that states have independent authority to obtain information from carriers it regulates. For example, the WPSC cites to several instances where it utilized its authority to gain accounting data from carriers that was necessary for a specific state proceeding. See WPSC Comments, at pp. 4-8.

¹² BellSouth Comments at pp. 5-6; Qwest Comments at pp. 4-5; SBC Comments at pp. 7-9; Verizon Comments at pp. 22-24.

¹³ For example, the BOCs are subject to the more detailed Class A level of reporting, must file all ARMIS reports, and must meet the cost allocation manual (CAM) filing requirement and the associated biennial attestation requirements.

burdensome and detailed accounting and reporting requirements do not apply to the small and mid-sized ILECs although many of them remain subject to rate of return regulation. Since the Commission is able to regulate rate of return carriers without the rigorous Part 32 accounting and reporting requirements, it stands to reason that these rules are unnecessary for price cap carriers as well.

For the reasons set forth in SBC's Comments and in these Reply Comments, the Commission should not alter the regulatory relief granted in the *Phase 2 Order*, nor should it add any regulations discussed in the Joint Conference Recommendation. The Commission should, however, grant the Petitions for Reconsideration filed by the ILECs regarding certain issues in the *Phase 2 Order*.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Regina Ragucci, do hereby certify that on this 17th day of February 2004, Reply Comments of SBC Communications Inc. in WC Docket No. 02-269, was served first class mail - pre-paid postage to the parties attached.

/s/ Regina Ragucci

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