



Federal Communications Commission  
Enforcement Bureau  
Investigations and Hearings Division  
445 12th Street, S.W., Suite 3-B443  
Washington, DC 20554

April 26, 2004

**VIA UNITED STATES MAIL**  
**AND FACSIMILE (202) 408-8745**

Jim Lamoureux  
Senior Counsel  
SBC Telecommunications, Inc.  
1401 I Street N.W., Suite 400  
Washington, D.C. 20005

*Re: Application of Ameritech Corp., Transferor, and SBC Communications, Inc., Transferee, For Consent to Transfer of Control of Corporations Holding Commission Licenses and Lines Pursuant to Section 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95, and 101 of the Commission's Rules, CC Docket No. 98-141*

Dear Mr. Lamoureux:

This letter responds to a request for interpretation by SBC Telecommunications, Inc. ("SBC")<sup>1</sup> concerning the sunset of a condition in the *SBC/Ameritech Merger Order* pertaining to the deployment of digital subscriber line ("xDSL") services in wire centers serving low-income households.<sup>2</sup> As explained in more detail below, SBC asks the Enforcement Bureau ("Bureau") to apply the interpretation granted to Verizon for essentially the same requirements<sup>3</sup> to find that SBC's xDSL rollout requirements contained in Condition VI of the *SBC/Ameritech Merger Order* sunsetted on October 8, 2002, in all states where SBC had not yet triggered the required condition.<sup>4</sup> For the reasons discussed below, we grant SBC's request.

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<sup>1</sup> See Letter from Jim Lamoureux, Senior Counsel, SBC Telecommunications, Inc., to William Davenport, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, dated April 16, 2004 ("*SBC Interpretation Request*").

<sup>2</sup> *Applications of Ameritech Corp., Transferor, and SBC Communications, Inc., Transferee, For Consent to Transfer of Control of Corporations Holding Commission Licenses and Lines Pursuant to Section 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95, and 101 of the Commission's Rules, CC Docket No. 98-141, Memorandum Opinion and Order, 14 FCC Rcd 14712 (1999) ("SBC/Ameritech Merger Order"). See also Delegation of Additional Authority to the Enforcement Bureau, 17 FCC Rcd 4795 (2002) (delegating authority to the Enforcement Bureau to carry out merger-related audit and compliance tasks).*

<sup>3</sup> See Letter from William Davenport, Chief, Investigations and Hearings Division, Enforcement Bureau, to Joseph DiBella, Regulatory Counsel, Verizon Communications, Inc., dated February 14, 2004 ("*Verizon Interpretation Letter*").

<sup>4</sup> See *SBC Interpretation Request* at 1 (citing *SBC/Ameritech Merger Order*, 14 FCC Rcd at 14999, ¶ 22.)

On November 14, 2003, Verizon requested that the Bureau issue an interpretation of Condition IV of the *Bell Atlantic/GTE Merger Order*, which “generally requires Verizon to deploy xDSL service in wire centers serving low-income households in urban and rural areas of its in-region states.”<sup>5</sup> Condition IV provides that 180 days after merger closing and “once Verizon has deployed xDSL service in 20 urban or 20 rural wire centers in a state, then, and for at least 36 months thereafter, at least 10 percent of those urban or rural wire centers must be in service areas that have the greatest number of low-income households.”<sup>6</sup> Condition XXIV of the *Bell Atlantic/GTE Merger Order* states that all conditions associated with the merger order, with certain exceptions, shall cease to be effective 36 months from Verizon’s merger closing date of June 30, 2000.<sup>7</sup> In its *Verizon Interpretation Letter*, the Bureau found that for every state where Verizon had not triggered the condition by deploying 20 urban or rural wire centers within the 36-month default period specified in Condition XXIV, *i.e.*, no later than June 30, 2003, the corresponding rural and/or urban xDSL deployment requirements of the condition sunset on that date.<sup>8</sup>

SBC states that Condition VI, “Non-discriminatory Rollout of xDSL Services,” of the *SBC/Ameritech Merger Order* is the same as Verizon’s Condition IV.<sup>9</sup> SBC further states that Condition XXIX, the sunset provision of the SBC/Ameritech merger conditions, is nearly identical to Verizon’s Condition XXIV.<sup>10</sup> The SBC/Ameritech merger closing date was October 8, 1999. Therefore, the default sunset period specified in SBC’s Condition XXIX occurred on October 8, 2002.

SBC contends that, applying the Verizon interpretation and rationale to the SBC/Ameritech Merger Condition VI, SBC’s xDSL deployment obligation extends beyond the 36-month default period as specified by Condition XXIX only if that merger condition was triggered before October 8, 2002.<sup>11</sup> SBC further contends that Condition VI, therefore, sunset on

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<sup>5</sup> *Verizon Interpretation Letter* at 2 (citing *Application of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, For Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application for Transfer of Control of a Submarine Cable Landing License*, CC Docket No 98-184, Memorandum Opinion and Order, 15 FCC Rcd 14032, 14292-93, ¶ 15 (2000) (“*Bell Atlantic/GTE Merger Order*”).

<sup>6</sup> *See id.*

<sup>7</sup> *See id.*

<sup>8</sup> *Id.* at 3.

<sup>9</sup> *See SBC Interpretation Request* at 2, *SBC/Ameritech Merger Order*, 14 FCC Rcd at 14866-67, ¶ 376 (Appendix C, 14 FCC Rcd at 14999, ¶ 22), *see also Bell Atlantic/GTE Merger Order*, 15 FCC Rcd at 14158-59, ¶ 278 (Appendix D, 15 FCC Rcd at 14292-93 ¶ 15).

<sup>10</sup> *See SBC Interpretation Request* at 2; *SBC/Ameritech Merger Order*, 14 FCC Rcd at 14885-86, ¶ 416 (Appendix C, 14 FCC Rcd at 15038, ¶ 74), *Bell Atlantic/GTE Merger Order*, 15 FCC Rcd at 14194, ¶ 346 (Appendix D, 15 FCC Rcd at 14331, ¶ 64).

<sup>11</sup> *See SBC Interpretation Request* at 3. According to SBC, it triggered Condition VI in twelve states for the urban requirement, and two states for the rural requirement. *See id.* at 3 and attachment. That is, it deployed xDSL service in 20 urban wire centers in twelve states prior to October 8, 2002, and it deployed xDSL service in 20 rural

Mr. Jim Lamoureux  
SBC Telecommunications, Inc.  
April 26, 2004  
Page 3 of 3

October 8, 2002 in a particular state where the 20 urban or rural wire center threshold was not met by that date.<sup>12</sup>

We agree with SBC that, for purposes of this interpretation request, the Verizon and SBC merger conditions concerning the xDSL rollout requirements are substantially the same. Therefore, consistent with the *Verizon Interpretation Letter*, we agree with SBC's proffered interpretation that SBC's xDSL rollout requirements be read to sunset on October 8, 2002 in those states where SBC did not trigger the 20 wire center threshold by that date.<sup>13</sup> Moreover, we find that assigning October 8, 2002 as the sunset date is reasonable and consistent with the Commission's express policy, as stated in the *SBC/Ameritech Merger Order*, to obligate SBC's compliance with the merger conditions for a finite period of time.<sup>14</sup> Further, it avoids the imposition of a continuing audit requirement in the absence of a triggering event.<sup>15</sup>

Accordingly, we grant SBC's request for interpretation and find that Condition VI of the *SBC/Ameritech Merger Order* sunset on October 8, 2002, in those states where SBC had not yet triggered the condition.

Sincerely yours,



William Davenport  
Chief  
Investigations and Hearings Division  
Enforcement Bureau

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wire centers in two states prior to October 8, 2002. In those states, SBC agrees that it is obligated to continue to satisfy the condition for at least 36 months from the trigger date.

<sup>12</sup> See *SBC Interpretation Request* at 3.

<sup>13</sup> For purposes of this interpretation, we also agree that the sunset provisions of both merger orders are substantially the same.

<sup>14</sup> See *Verizon Interpretation Letter* at 3, *SBC/Ameritech Merger Order*, 14 FCC Rcd at 14891-92, ¶ 438.

<sup>15</sup> *Verizon Interpretation Letter* at 3; *SBC/Ameritech Merger Order*, Appendix C, 14 FCC Rcd at 15034-36, ¶ 66 (Condition XXVII requires SBC to engage an independent auditor to determine its on-going compliance with the merger conditions, including Condition VI, until those conditions sunset).