

EX PARTE OR LATE FILED



Thomas (Tom) F. Hughes  
Vice President-Federal Regulatory  
Core Business

SBC Services, Inc.  
1401 I. Street, N.W.  
Suite 1100  
Washington, DC 20005

202.326.8915 Phone  
202.408.4806 Fax  
thomas.hughes@sbc.com

October 31, 2005

DOCKET FILE COPY ORIGINAL

ORIGINAL

RECEIVED

OCT 31 2005

Federal Communications Commission  
Office of Secretary

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

DOCKET FILE COPY ORIGINAL

**RE: Notice of Ex Parte – Application for Consent to Transfer Control of  
AT&T Corp. to SBC Communications Inc., WC Docket No. 05-65**

Dear Ms. Dortch:

On October 28, 2005, James C. Smith provided the attached document to Tom Navin, Chief of the Wireline Competition Bureau, at his request, to respond to questions regarding merger conditions proposed by opponents of the SBC/AT&T merger. We respectfully request the attached document, which was discussed with Staff, be placed in the public record, in accordance with Sections 1.1206(b)(1) and (2) of the Commission's rules.

Please contact me at (202) 326-8915 should you have any questions.

Sincerely,

CC: Tom Navin

Attachment

No. of Copies rec'd 044  
List A B C D E

Dear Chairman Martin:

Throughout the course of this proceeding, SBC and AT&T have demonstrated that their merger should be approved promptly and without conditions. We have shown that the merger will decidedly advance the public interest by bringing together two companies with complementary assets and strengths, thereby creating a more efficient, more innovative company capable of accelerating and expanding the delivery of high quality advanced technologies and services to all classes of customers, large and small. We have shown that the merger will solidify and secure the nation's status as a world leader in telecommunications and that it will strengthen national security. And we have shown that all of these benefits will be realized without any cognizable harm to competition.

Since that time, the merger has been reviewed and approved by 33 states, the District of Columbia, and 13 foreign entities. It also has been subject to exacting scrutiny by the Department of Justice, which found no anticompetitive effects except in a small number of commercial buildings. The Department established conditions to address the potential effects in those buildings. We steadfastly believe that no further conditions are warranted, all the more so, because the Commission has initiated a rulemaking proceeding to establish special rules of general applicability across the entire ILEC industry. It is in that proceeding that the Commission should consider most of the issues raised by opponents of the merger.

Nevertheless, in the interest of facilitating the speediest possible approval of the merger by the Commission, and in response to a request from Commission staff, Applicants would agree to the following additional merger conditions. Applicants reserve the right to withdraw these voluntary commitments upon two days written notice to the Commission if the Commission has not approved the merger at that time.

#### Unbundled Network Elements

1. For a period of two years, beginning on the Merger Closing Date, SBC/AT&T shall not seek any increase in state-approved rates for unbundled network elements (UNEs) that are currently in effect, provided that this restriction shall not apply to the extent any UNE rate currently in effect is subsequently deemed invalid or is remanded to a state commission by a court of competent jurisdiction in connection with an appeal that is currently pending. This condition shall not limit the ability of SBC/AT&T and any telecommunications carrier to agree voluntarily to any UNE rate.
2. Within thirty days after the Merger Closing Date, SBC/AT&T shall exclude fiber-based collocation arrangements established by AT&T or its affiliates in identifying wire centers in which SBC claims there is no impairment pursuant to section 51.319(a) and (e) of the Commission's rules. To the extent SBC has submitted to the FCC or a state commission collocation data or lists of wire centers that meet or do not meet the impairment test for DS1 or DS3 loop or transport facilities, SBC/AT&T shall file with the FCC and such state commission, within thirty days of the Merger Closing Date, revised data or lists that reflect the exclusion of AT&T collocation arrangements, as required by this condition.

## Special Access

1. SBC/AT&T affiliates that meet the definition of a Bell operating company in section 3(4) of the Act ("SBC BOCs")<sup>1</sup> will implement, in the SBC Service Area,<sup>2</sup> the Service Quality Measurement Plan for Interstate Special Access Services ("the Plan"), as described herein and in Attachment A. The SBC BOCs shall provide the Commission with performance measurement results on a quarterly basis, which shall consist of data collected according to the performance measurements listed in Attachment A. Such reports shall be provided in an Excel spreadsheet format and shall be designed to demonstrate the SBC BOCs' monthly performance in delivering interstate special access services within each of the states in the SBC Service Area. These data shall be reported on an aggregated basis for interstate special access services delivered to (i) SBC/AT&T's section 272 affiliates, (ii) its BOC and other affiliates, and (iii) non-affiliates.<sup>3</sup> The SBC BOCs shall provide performance measurement results (broken down on a monthly basis) for each quarter to the Commission by the 45<sup>th</sup> day after the end of the quarter. The SBC BOCs shall implement the Plan for the first full quarter following the Merger Closing Date. This condition shall terminate on the earlier of (i) two years and 45 days after the beginning of the first full quarter following the Merger Closing Date (that is, when SBC/AT&T file their 8th quarterly report); or (ii) the effective date of a Commission order adopting performance measurement requirements for interstate special access services.
2. For a period of two years after the Merger Closing Date, SBC/AT&T shall not increase the rates paid by existing customers (as of the Merger Closing Date) of the DS1 and DS3 local private line services that AT&T provides in SBC's in-region territory pursuant to its TCG FCC Tariff No. 2 above their level as of the Merger Closing Date.<sup>4</sup>
3. For a period of two years after the Merger Closing Date, SBC/AT&T will not provide special access offerings to: (i) itself; (ii) affiliates that provide interexchange interLATA wireline telecommunications services; or (iii) Verizon Communications Inc. or its wireline affiliates that are not generally available for a reasonable period of time to other similarly situated special access customers on the same terms and conditions.
4. For a period of two years after the Merger Closing Date, before SBC/AT&T provides a new or modified contract tariffed service under section 69.727(a) of the Commission's rules to its own section 272(a) affiliate(s), it will certify to the Commission that it provides service

---

<sup>1</sup> For purposes of these conditions, SBC Advanced Services, Inc. (ASI) shall not be considered an SBC BOC.

<sup>2</sup> For purposes of this condition, "SBC Service Area" means the areas within SBC's service territory in which SBC's Bell Operating Company subsidiaries, as defined in 47 U.S.C. § 153(4)(A), are incumbent local exchange carriers.

<sup>3</sup> BOC data shall not include retail data.

<sup>4</sup> For purposes of these conditions, "SBC's in-region territory" means the areas within SBC's service territory in which an SBC operating company is the incumbent local exchange carrier, as defined in 47 U.S.C. § 251(h)(1)(A) and (B)(i).

pursuant to that contract tariff to an unaffiliated customer other than Verizon Communications Inc, or its wireline affiliates.

5. SBC/AT&T shall not increase the rates set forth in SBC's interstate tariffs for special access services that SBC provides in its in-region territory and that are set forth in tariffs filed at the Commission on the Merger Closing Date. This condition shall not obligate SBC/AT&T to extend the availability of tariffed offerings that by their own terms expire before the end of the two-year period. This condition shall terminate on the earlier of (i) two years from the Merger Closing Date; or (ii) the effective date of a Commission order adopting new special access pricing rules in WC Docket No. 05-25 and RM 10593.

#### Internet Backbone

1. For a period of three years after the Merger Closing Date, SBC/AT&T will maintain settlement free peering arrangements with at least as many providers of Internet backbone services as they did in combination on the Merger Closing Date. SBC/AT&T may waive terms of its published peering policy to the extent necessary to maintain the number of peering arrangements required by this condition.
2. Within thirty days of the Merger Closing Date, and continuing for two years thereafter, SBC/AT&T will post its peering policy on a publicly accessible website. During this two-year period, SBC/AT&T will post any revisions to its peering policy on a timely basis as they occur.

#### Alaska

1. SBC/AT&T acknowledge that the merger does not change carrier of last resort obligations imposed by the State of Alaska on interexchange services provided by Alascom.
2. SBC/AT&T acknowledge that the merger will not alter statutory and regulatory geographic rate averaging and rate integration rules that apply on the Merger Closing Date to Alascom.
3. SBC/AT&T agree that, for a period of at least two years after the Merger Closing Date, they will operate Alascom as a distinct, though not structurally separate, corporate entity.

#### ADSL Service

1. Within twelve months of the Merger Closing Date, SBC/AT&T will deploy and offer within its in-region territory ADSL service to ADSL-capable customers without requiring such customers to also purchase circuit switched voice grade telephone service. SBC/AT&T will continue to offer this service in each state for two years after the "implementation date" in that state. For purposes of this condition, the "implementation date" for a state shall be the date on which SBC/AT&T can offer this service to eighty percent of the ADSL-capable

premises in SBC's in-region territory in that state.<sup>5</sup> Within twenty days after meeting the implementation date in a state, SBC/AT&T will file a letter with the Commission certifying to that effect. In any event, this commitment will terminate three years from the Merger Closing Date.

#### Net Neutrality

1. Effective on the Merger Closing Date, and continuing for two years thereafter, the merged company (SBC/AT&T) will conduct business in a manner that comports with the principles set forth in the FCC's Policy Statement, issued September 23, 2005 (FCC 05-151).

#### Annual Certification

1. For two years following the Merger Closing Date, SBC/AT&T shall file annually a declaration by an officer of the corporation attesting that SBC/AT&T has substantially complied with the terms of these conditions in all material respects. The first declaration shall be filed 45 days following the one-year anniversary of the Merger Closing Date, and the second declaration shall be filed one year thereafter.

#### Sunset

1. For the avoidance of doubt, unless otherwise expressly stated to the contrary above, all conditions and commitments contained in this letter shall end on the second anniversary of the Merger Closing Date.

---

<sup>5</sup> After meeting the implementation date in each state, SBC/AT&T will continue deployment so that it can offer the service to all ADSL-capable premises in its in-region territory within twelve months of the Merger Closing Date.

**ATTACHMENT A**

**Service Quality Measurement Plan  
For Interstate Special Access**

**Contents**

**Section 1: Ordering**

FOCT: Firm Order Confirmation (FOC) Timeliness ..... 2

**Section 2: Provisioning**

PIAM: Percent Installation Appointments Met ..... 3

NITR: New Installation Trouble Report Rate ..... 4

**Section 3: Maintenance and Repair**

CTRR: Failure Rate/Trouble Report Rate ..... 5

MAD: Average Repair Interval/Mean Time to Restore..... 6

**Section 4: Glossary**

..... 7

# Section 1: Ordering

## FOCT: Firm Order Confirmation (FOC) Timeliness

### Definition

Firm Order Confirmation (FOC) Timeliness measures the percentage of FOCs returned within the Company-specified standard interval.

### Exclusions

- Service requests identified as "Projects" or "ICBs"
- Service requests cancelled by the originator
- Weekends and designated holidays of the service center
- Unsolicited FOCs
- Administrative or test service requests
- Service requests that indicate that no confirmation/response should be sent
- Other exclusions as defined by each RBOC to reflect system and operational differences

### Business Rules

Counts are based on the first instance of a FOC being sent in response to an ASR. Activity starting on a weekend or holiday will reflect a start date of the next business day. Activity ending on a weekend or holiday will be calculated with an end date of the last previous business day. Requests received after the company's stated cutoff time will be counted as a "zero" day interval if the FOC is sent by close of business on the next business day. The standard interval will be that which is specified in the company-specific ordering guide.

### Calculation

**Firm Order Confirmation (FOC) Interval = (a - b)**

- a = Date and time FOC is returned
- b = Date and time valid access service request is received

**Percent within Standard Interval = (c / d) X 100**

- c = Number of service requests confirmed within the designated interval
- d = Total number of service requests confirmed in the reporting period

### Report Structure

- Non-Affiliates Aggregate
- RBOC Affiliates Aggregate
  - RBOC 272 Affiliates Aggregate

### Geographic Scope

- State

### SQM Disaggregation (Percent FOCs returned within Standard Interval)

- Special Access - DS0
- Special Access - DS1
- Special Access - DS3 and above

## Section 2: Provisioning

### PIAM: Percent Installation Appointments Met

#### Definition

Percent Installation Appointments Met measures the percentage of installations completed on or before the confirmed due date.

#### Exclusions

- Orders issued and subsequently cancelled
- Orders associated with internal or administrative (including test) activities
- Disconnect Orders
- Other exclusions as defined by each RBOC to reflect system and operational differences

#### Business Rules

This measurement is calculated by dividing the number of service orders completed during the reporting period on or before the confirmed due date, by the total number of orders completed during the same reporting period. Installation appointments missed because of customer caused reasons shall be counted as met and included in both the numerator and denominator. Where there are multiple missed appointment codes, each RBOC will determine whether an order is considered missed.

#### Calculation

**Percent Installation Appointments Met = (a / b) X 100**

- a = Number of orders completed on or before the RBOC confirmed due date during the reporting period
- b = Total number of orders where completion has been confirmed during the reporting period

#### Report Structure

- Non-Affiliates Aggregate
- RBOC Affiliates Aggregate
  - RBOC 272 Affiliates Aggregate

#### Geographic Scope

- State

#### SQM Disaggregation

- Special Access – DS0
- Special Access - DS1
- Special Access - DS3 and above



## **NITR: New Installation Trouble Report Rate**

### **Definition**

New Installation Trouble Report Rate measures the percentage of circuits or orders where a trouble was found in RBOC facilities or equipment within thirty days of order completion.

### **Exclusions**

- Trouble tickets issued and subsequently cancelled
- Customer Provided Equipment (CPE) or customer caused troubles
- Troubles closed by the technician to disposition codes of IEC (Inter-exchange Carrier) or INF (Information)
- RBOC troubles associated with administrative service
- No Trouble Found (NTF) and Test OK (TOK)
- Other exclusions defined by each RBOC to reflect system and operational differences
- Subsequent trouble reports

### **Business Rules**

Only the first customer direct trouble report received within thirty calendar days of a completed service order is counted in this measure. Only customer direct trouble reports that required the RBOC to repair a portion of the RBOC network will be counted in this measure. The RBOC completion date is when the RBOC completes installation of the circuit or order.

### **Calculation**

**Trouble Report Rate within 30 Calendar Days of Installation** =  $(a / b) \times 100$

- a = Count of circuits/orders with trouble reports within 30 calendar days of installation
- b = Total number of circuits/orders installed in the reporting period

### **Report Structure**

- Non-Affiliates Aggregate
- RBOC Affiliates Aggregate
  - RBOC 272 Affiliates Aggregate

### **Geographic Scope**

- State

### **SQM Disaggregation**

- Special Access - DS0
- Special Access - DS1
- Special Access - DS3 and above

## **Section 3: Maintenance & Repair**

### **CTRR: Failure Rate/Trouble Report Rate**

#### **Definition**

The percentage of initial and repeated circuit-specific trouble reports completed per 100 in-service circuits for the reporting period.

#### **Exclusions**

- Trouble reports issued and subsequently cancelled
- Employee initiated trouble reports
- Trouble reports/circuits associated with internal or administrative activities
- Customer Provided Equipment (CPE) or customer caused troubles
- Troubles closed by the technician to disposition codes of IEC (Inter-exchange Carrier) or INF (Information)
- Tie Circuits
- No Trouble Found (NTF) and Test OK (TOK)
- Other exclusions as defined by each RBOC to reflect system and operational differences

#### **Business Rules**

Only customer direct trouble reports that require the RBOC to repair a portion of the RBOC network will be counted in this report. The trouble report rate is computed by dividing the number of completed trouble reports handled during the reporting period by the total number of in-service circuits for the same period.

#### **Calculation**

**Percent Trouble Report Rate** = (a / b) X 100

- a = Number of completed circuit-specific trouble reports received during the reporting period
- b = Total number of in-service circuits during the reporting period

#### **Report Structure**

- Non-Affiliates Aggregate
- RBOC Affiliates Aggregate
  - RBOC 272 Affiliates Aggregate

#### **Geographic Scope**

- State

#### **SQM Disaggregation**

- Special Access - DS0
- Special Access - DS1
- Special Access - DS3 and above

# **MAD: Average Repair Interval/Mean Time to Restore**

## **Definition**

The Average Repair Interval/Mean Time to Restore is the average time between the receipt of a customer trouble report and the time the service is restored. The average outage duration is only calculated for completed circuit-specific trouble reports.

## **Exclusions**

- Trouble reports issued and subsequently cancelled
- Employee initiated trouble reports
- Trouble reports associated with internal or administrative activities
- Customer Provided Equipment (CPE) or customer caused troubles
- Troubles closed by the technician to disposition codes of IEC (Inter-exchange Carrier) or INF (Information)
- Tie Circuits
- No Trouble Found (NTF) and Test OK (TOK)
- Other exclusions as defined by each RBOC to reflect system and operational differences

## **Business Rules**

Only customer direct trouble reports that require the RBOC to repair a portion of the RBOC network will be counted in this measure. The average outage duration is calculated for each restored circuit with a trouble report. The start time begins with the receipt of the trouble report and ends when the service is restored. This is reported in a manner such that customer hold time or delay maintenance time resulting from verifiable situations of no access to the end user premise, other CLEC/IXC or RBOC retail customer caused delays, such as holding the ticket open for monitoring, is deducted from the total resolution interval ("stop clock" basis).

## **Calculation**

**Repair Interval = (a - b)**

- a = Date and time trouble report was restored
- b = Date and time trouble report was received

**Average Repair Interval = (c / d)**

- c = Total of all repair intervals (in hours/days) for the reporting period
- d = Total number of trouble reports closed during the reporting period

## **Report Structure**

- Non-Affiliates Aggregate
- RBOC Affiliates Aggregate
  - RBOC 272 Affiliates Aggregate

## **Geographic Scope**

- State

## **SQM Disaggregation**

- Special Access - DS0
- Special Access - DS1
- Special Access - DS3 and above

## GLOSSARY

<b>Access Service Request (ASR)</b>	A request to the RBOC to order new access service, or request a change to existing service, which provides access to the local exchange company's network under terms specified in the local exchange company's special or switched access tariffs.
<b>RBOC 272 Affiliates Aggregate</b>	RBOC Affiliate(s) authorized to provide long distance service as a result of the Section 271 approval process.
<b>RBOC Affiliates Aggregate</b>	RBOC Telecommunications and all RBOC Affiliates (including the 272 Affiliate). Post sunset, comparable line of business (e.g., 272 line of business) will be included in this category.
<b>Business Days</b>	Monday thru Friday (8AM to 5PM) excluding holidays
<b>CPE</b>	Customer Provided or Premises Equipment
<b>Customer Not Ready (CNR)</b>	A verifiable situation beyond the normal control of the RBOC that prevents the RBOC from completing an order, including the following: CLEC or IXC is not ready to receive service; end user is not ready to receive service; connecting company or CPE supplier is not ready.
<b>Firm Order Confirmation (FOC)</b>	The notice returned from the RBOC, in response to an Access Service Request from a CLEC, IXC or affiliate, that confirms receipt of the request and creation of a service order with an assigned due date.
<b>Unsolicited FOC</b>	An Unsolicited FOC is a supplemental FOC issued by the RBOC to change the due date or for other reasons, e.g., request for a second copy from the CLEC/IXC, although no change to the ASR was requested by the CLEC or IXC.
<b>Project or ICB</b>	Service requests that exceed the line size and/or level of complexity that would allow the use of standard ordering and provisioning interval and processes. Service requests requiring special handling.
<b>Repeat Trouble</b>	Trouble that reoccurs on the same telephone number/circuit ID within 30 calendar days
<b>Service Orders</b>	Refers to all orders for new or additional lines/circuits. For change order types, additional lines/circuits consist of all C order types with "I" and "T" action coded line/circuit USOCs that represent new or additional lines/circuits, including conversions for RBOC to Carrier and Carrier to Carrier.