

Docket

Jul 24 3 42 PM '00

BEFORE THE ARKANSAS PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE APPLICATION)
OF SOUTHWESTERN BELL TELEPHONE)
COMPANY FOR AUTHORIZATION TO)
PROVIDE IN-REGION INTERLATA)
SERVICES PURSUANT TO SECTION 271)
OF THE TELECOMMUNICATIONS ACT)
OF 1996 AND FOR APPROVAL OF THE)
ARKANSAS 271 INTERCONNECTION)
AGREEMENT)

FILED

DOCKET NO. 00-211-11

APPLICATION OF SOUTHWESTERN BELL TELEPHONE COMPANY
FOR AUTHORIZATION TO PROVIDE IN-REGION INTERLATA
SERVICES AND FOR APPROVAL OF THE ARKANSAS
271 INTERCONNECTION AGREEMENT

Southwestern Bell Telephone Company (SWBT) submits its Application for Authorization to Provide In-Region InterLATA Services and for Approval of the Arkansas 271 Interconnection Agreement (A2A) to the Arkansas Public Service Commission (Arkansas PSC). In support thereof, SWBT states:

BACKGROUND

1. On February 24, 1998, SWBT filed its first intended draft Application for in-region interLATA relief pursuant to § 271 of the Federal Telecommunications Act of 1996 (the Act). (Docket No. 98-048-U) On April 17, 1998, SWBT supplemented its draft Application. In support of its Application, SWBT attached direct testimony of 24 subject matter experts, along with a draft of the brief SWBT intended to file at the Federal Communications Commission (FCC).

2. Subsequently, on June 17 and 18, 1998, the Arkansas PSC held a public hearing to develop an appropriate record that would permit the FCC to meaningfully consult with the Arkansas PSC as required pursuant to § 271(d)(2)(B) of the Act and allow the FCC to verify SWBT's compliance in Arkansas with § 271(c) of the Act.

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3. On August 28, 1998, the Arkansas PSC issued its Consultation Report to the FCC. It concluded that SWBT met six (6) of the 14 checklist items, specifically: (v) local transport unbundling; (vi) local switch unbundling; (viii) white page listings; (ix) access to telephone numbers; (x) access to databases and signaling; and (xii) local dialing parity. Additionally, the Arkansas PSC stated with respect to checklist item (iii), Access to Poles, Ducts, Conduits, and Rights of Way, that "to the extent that the FCC concludes that SWBT's Master Agreement complies with the 1996 Act and FCC rules and regulations, it appears that SWBT complies with checklist item (iii)." Also, on checklist item (xiv), Resale, the Arkansas PSC stated that "the Commission concludes that SWBT appears to be in compliance with Arkansas law in reselling telecommunications services." Therefore, six checklist items were fully met in the previous 271 proceeding and two other checklist items were met in part. SWBT respectfully requests the Arkansas PSC to take official administrative notice of its Consultation Report issued in Docket No. 98-048-U which concludes that SWBT met certain of the checklist items. Additionally, S W T requests that those passed checklist items not be relitigated in this proceeding unless an Intervenor produces evidence that **SWBT is** no longer meeting its obligations with respect to a particular checklist item.

4. Since the Arkansas PSC issued its Consultation Report, SWBT has completed a lengthy process with the Texas Public Utilities Commission (Texas PUC) and various competitive local exchange companies (CLECs) resulting in the Texas PUC's unanimous support of SWBT's application for in-region interLATA relief in the state of Texas. On June 13, 2000, the United States Department of Justice advised the FCC that it recommended approval of SWBT's application to provide long distance service in

Texas. subject to certain qualifications.' On June 30, 2000, the FCC unanimously granted SWBT's application for authorization under § 271 of the Act to provide in-region interLATA services in the state of Texas.

5. The Texas PUC process was an exhaustive review of SWBT's planned application for in-region interLATA relief in Texas. This intensive review began with SWT's March 2, 1998 submission of its draft § 271 application. The Texas PUC's review included a Collaborative Process in which SWBT, CLECs, other interested parties, and the Texas PUC and its staff, examined and resolved numerous issues. The Collaborative Process culminated in a Memorandum of Understanding between the Texas PUC and SWT. As a result, SWT agreed with the Texas PUC to incorporate commitments made as a result of the process into an interconnection agreement which became known as the Texas 271 Interconnection Agreement (T2A). On October 13, 1999, the Texas PUC approved the T2A. The Texas PUC concluded that the T2A satisfied the 14-point checklist of § 271(c) of the Act. However, it conditioned its approval upon SWBT's successful completion of Project No. 20000, the testing of SWT's Operations Support Systems, and review of performance measurement data. Upon finding that SWBT had successfully completed each of the additional items, the Texas PUC voted unanimously to support SWBT's § 271 application for Texas.

6. The FCC granted SWBT's application, finding that SWBT had taken the statutorily-required steps to open its local exchange and exchange access markets to competition, including meeting all competitive checklist items required by § 271(c)(3).

For example, the Department of Justice recommended that the FCC ensure that adequate mechanisms exist to resolve emerging issues that will affect competition, such as DSL linesharing and SBC's Project Pronto.

7. The FCC's Texas Order is crucial to the Arkansas PSC's consideration of SWBT's 271 application. As set forth in detail in the affidavits accompanying this application. SWBT has undertaken to comply with the Act's requirements by implementing region-wide systems and commitments. The FCC's approval of these systems and commitments which include (a) the Texas T2A interconnection agreement (upon which SWBT's proposed A2A Agreement is modeled); (b) the provisioning of nondiscriminatory access to *OSS*; and (c) a performance measurement and remedy plan sufficient to ensure that the local market will remain open after SWBT receives § 271 authorization, apply equally, and with as much force, to SWBT's operations in Arkansas. The FCC's Texas Order makes clear that SWBT's efforts to open its local markets to competition in Arkansas and across its five-state region meets, and in many cases, exceeds the requirements of § 271.

THE ARKANSAS COMMISSION'S 271 REVIEW PROCESS

8. This Commission has been engaged in an on-going review process of SWBT's compliance with opening the local market to competition in the state of Arkansas. beginning with SWBT's initial 271 filing on February 24, 1998. As described above, in June 1998, the Arkansas PSC conducted an extensive evidentiary **hearing**, which included active participation by several Arkansas CLECs and the Commission staff.

9. The A2A is a key component of SWBT's Application and proposed § 271 filing. By its terms and conditions, the A2A is not an effective agreement unless the Arkansas PSC finds that it satisfies the 14-point checklist of § 271(c) of the Act. Upon Arkansas PSC approval, the A2A will be immediately available for a one (1) year period

to any CLEC certificated to operate in the state of Arkansas. (Section 4.1.1 of the General Terms and Conditions of the A2A.) Upon approval by the FCC within 105 days from the date SWBT files its Application at the FCC. the A2A will, by its terms, be extended for an additional three (3) years. By its Application. SWBT is presenting the A2A for the Arkansas PSC's approval. and is requesting that the Arkansas PSC issue a written order, or include language in its anticipated Consultation Report. indicating its approval of the A2A as a contract that fully complies with Sections 251, 252. and 271 of the Act.

10. The purpose of the A2A is to further enhance the CLECs' ability to compete by offering them interconnection terms and conditions that have been thoroughly examined through the Texas 271 process, subject to the input and give and take of numerous telecommunications service providers. The A2A thus brings to Arkansas CLECs the benefits of the lengthy collaborative process in Texas. such as clearly delineated performance measures and a performance-monitoring plan developed through the Texas collaborative process. (See Attachment 17 to the A2A.) Several of the CLECs that worked with the Texas PUC and SWBT to develop these measures and remedies also do business in Arkansas and participated in the earlier 271 hearing conducted by the Arkansas PSC in June 1998. Although SWBT believes that each of its existing interconnection agreements fully satisfies the requirements of the § 271 fourteen point checklist, the A2A is intended to advance an up-to-date agreement that provides further CLEC advantages and contains express terms and conditions relating to interconnection, access, resale, and related services. provided according to the checklist.

The Affidavit of Ed Allis thus seeks this Commission's approval of the A2A as a contract that fully satisfies the § 271 fourteen point checklist.

11. In addition to the Allis Affidavit, SWBT has also filed the Joint Affidavit of Rebecca Sparks/Ed Allis/William R. Dysart/Jan D. Rogers, with attachments. The Joint Affidavit details the differences between the T2A and the A2A and explains these modifications, which have been made to reflect Arkansas specific issues. proceedings, and prices, as well as to bring the A2A up to date.

12. Concurrently with the filing of this Application, SWBT is submitting its latest draft of its Brief in Support of its FCC Application and the supporting affidavits that SWBT intends to file with the FCC to demonstrate its compliance with and satisfaction of the requirements of § 271(c). SWBT reserves the right to revise its Brief and supporting affidavits and documentation before filing with the FCC, for instance, to present the most current facts available at that time, to comply with any changes in applicable law, or to address issues raised in proceedings before the Arkansas PSC or the FCC.

13. Based upon the record previously developed in Docket No. 98-048-U, along with the updated information being submitted with this Application. and the A2A, which incorporates many of the benefits of the Texas collaborative process, the Arkansas PSC and the FCC can be assured that the Arkansas local exchange market is fully open to competition. Based on these proceedings and the beneficial results for competitors and consumers in Arkansas, SWBT anticipates that both the Arkansas PSC and the FCC will fully support SWBT's § 271 Application for the state of Arkansas.

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14. Upon the Arkansas PSC's determination that the A2A satisfies the 14-point checklist of § 271 of the Act. SWBT proposes that the Arkansas PSC adopt an expedited approval process for CLECs that wish to adopt the Arkansas PSC-approved A2A as their interconnection agreement with SWBT. This expedited process would allow CLECs to almost immediately enjoy the benefits of the A2A, while at the same time, allow SWBT to effectively administer the agreement by obtaining signed agreements with each adopting CLEC.

In Texas, the Texas PUC adopted an expedited approval process that allows a CLEC to opt into the agreement, as described below:

[A]ny CLEC that wants to accept the terms of the T2A, shall notify SWBT in writing. Within five (5) business days of such notification. SWBT shall present the CLEC with a signed Interconnection Agreement substantively identical to the T2A. Within five (5) business days of receipt of the SWBT signed Interconnection Agreement, the CLEC shall sign the Interconnection Agreement and file it with the Commission. The signed Interconnection Agreement between SWBT and the CLEC shall become effective by operation of law immediately upon filing with the Commission.

Texas PUC Order No. 50, Section IV, ¶ 1, dated August 16, 1999.

SWBT requests that the Arkansas PSC adopt a similar expedited approval process. Such an expedited approval process will give Arkansas CLECs the ability to almost immediately begin taking advantage of the many benefits embodied in the A2A after it is approved by the Arkansas PSC.

FURTHER COMMISSION ACTION REQUIRED

15. SWBT requests that the Arkansas PSC complete its review of the Application and A2A in an expeditious manner. The Arkansas PSC has already conducted extensive proceedings, including a comprehensive evidentiary hearing in the earlier 271 proceeding. Furthermore, SWBT has made extensive commitments in its

proposed A2A, which are based upon the T2A, which resulted from the thorough and extensive process in Texas.

16. SWBT proposes that the Arkansas PSC issue a notice to interested parties, advising such parties that they may file comments or responsive affidavits within thirty (30) days of the date of the notice. SWBT further proposes that in its Notice, the Arkansas PSC permit SWBT to respond to any responsive comments/affidavits within thirty (30) additional days. Finally, SWBT proposes that the Arkansas PSC schedule a hearing in early November 2000, limited to questions the Arkansas PSC may have of any of the affiants. Based on the updated record in this case, including the A2A, the Arkansas PSC will then be able to recommend to the FCC that SWBT's application for long distance relief be granted in Arkansas.

WHEREFORE, SWBT respectfully requests that the Arkansas PSC issue a written Order, or include language in its anticipated Consultation Report, indicating its support of SWBT's § 271 Application to be filed with the FCC, and further requests that such Order or Consultation Report include findings and conclusions specifically approving the A2A as a contract that fully complies with Sections 251, 252, and 271 of the Act. In order for the A2A to be effective prior to the date that SWBT intends to file its application at the FCC, SWBT respectfully requests that the Arkansas PSC issue the requested Order or Consultation Report on or before December 23, 2000. Upon receipt of such written order, SWBT will immediately make the A2A available to CLECs certificated to operate in the state of Arkansas. SWBT also requests that the Arkansas PSC adopt the expedited approval procedure outlined above for CLECs to adopt the A2A.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Cynthia A. Barton, hereby certify that a true and correct copy of the foregoing Application was served on the Staff Attorney for the Arkansas Public Service Commission. via 1st class mail, this 24th day of July, 2000.

Cynthia A. Barton
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