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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
SBC Communications Inc.) File No. EB-00-IH-0432
)
Apparent Liability for) NAL/Acct. No. 200132080011
Forfeiture)
)
)
)

ORDER OF FORFEITURE

Adopted: March 14, 2001 Released: March 15, 2001

By the Chief, Enforcement Bureau:

I. INTRODUCTION

In this Order, we find that SBC Communications, Inc. ('SBC') willfully and repeatedly violated certain of the conditions imposed when the Commission approved the merger application of Ameritech Corp. ('Ameritech') and SBC.1 Based on the facts and circumstances before us and after considering SBC's response to our Notice of Apparent Liability ('NAL') in this matter, we conclude that SBC is liable for a forfeiture of eighty eight thousand dollars (\$88,000.00).

II. BACKGROUND

In the NAL,2 we found that, in seven of its in-region states and for a period of up to 13 months, it appeared that SBC willfully or repeatedly failed to report certain performance data in

accordance with the published Business Rules³ adopted in the Carrier-to-Carrier Performance Plan⁴ that the Commission directed SBC to undertake as part of the merger conditions adopted in the SBC/Ameritech Merger Order.⁵ We based our findings in the NAL on the underlying data in SBC's monthly filings with the Commission, the deficiencies in those filings noted in the independent audit report⁶ regarding SBC's compliance with the merger conditions, and the statements made by SBC in its Assertion on Compliance⁷ accompanying the audit report. Based on our review of the facts, circumstances, and policy implications surrounding these apparent violations, we found that SBC was apparently liable for a forfeiture of eighty eight thousand dollars (\$88,000) for 11 of the 13 apparent violations that SBC committed.⁸

SBC, in its Assertion on Compliance, did not dispute that it gathered and reported the data sought by the specific performance measurements discussed below in a manner contrary to the Business Rules for those measurements.⁹ Nevertheless, in its January 19, 2001 Response to the NAL, SBC contests the Bureau's finding of apparent liability on the basis that: 1) the Bureau's allegations have factual, interpretive, and legal errors; and 2) SBC is in substantial compliance with the reporting requirements in the Merger Conditions. In addition, SBC argues that the forfeiture is unwarranted and that we improperly determined the amount of the forfeiture. Except where we confirm two factual errors that do not affect the number of violations at issue, we find none of SBC's arguments to be persuasive.

III. DISCUSSION

II.A. The Apparent Violations

II.A.1. Factual Accuracy of the Allegations

After a careful review of SBC's Response to each allegation,¹⁰ we find that, on the whole, the data SBC submitted in its monthly filings, the statements SBC made in its Assertion on Compliance, and the findings in the audit report together serve to refute SBC's argument that the Bureau's allegations are largely inaccurate.¹¹ As an overarching observation, we also note that SBC fails to provide any supporting documentation for the majority of its assertions concerning the defects in the Bureau's allegations.¹² Furthermore, we think it very significant that all the violations in the NAL were also noted in the auditor's report and were confirmed by SBC in its Assertion.¹³

As an initial matter, however, the Bureau acknowledges that the NAL includes two factual errors that do not affect the number of violations. First, the NAL inaccurately stated the appropriate time frame for SBC's use of a benchmark of 86,400 seconds in PM 2.14 Our review of SBC's monthly data submissions shows that SBC committed this violation for only three months from April 17, 2000, until June 20, 2000, rather than for six months from November 1, 1999, until April 17, 2000.¹⁵ The Bureau also acknowledges that the NAL incorrectly stated that SBC violated PM 19 in the Pacific Bell region by failing to include any relevant Z-scores in the data that it posted on the SBC website.¹⁶ As

noted in the audit report and SBC's data submission, this violation actually occurred in the Nevada Bell region.¹⁷ Although the evidence still shows that SBC failed to follow the Business Rules on both of these points, we will not consider these two issues in assessing the forfeiture.

In all other respects, we are not persuaded by SBC's arguments, and we find that the NAL accurately documented SBC's reporting violations. First, SBC challenges the NAL's statement that, for PM 1, SBC had failed to report properly the time and date of receipt of firm order confirmations (FOCs) timely returned by using standard time, rather than military time.¹⁸ SBC contends that its errors would tend to understate, rather than overstate, the number of FOCs timely returned on those orders. Although this is true, it is also true that the NAL said that SBC had incorrectly reported dates as well, potentially overstating, on that basis, the percentage of FOCs timely received.¹⁹ Thus, we conclude that SBC did not correctly report PM 1, as set forth in the NAL, for a ten-month period from November 1, 1999, until August 31, 2000.

Second, SBC disputes the NAL's finding that SBC failed, for PM 2, to properly disaggregate the data into the two categories of ``CSR Summary 1-30 Lines'' and ``CSR 31 Lines or More.'' ²⁰ SBC maintains that it never included data for ``CSR 31 Lines or More'' within the calculations for ``CSR Summary 1-30 Lines'' for this performance measurement. SBC's data submissions from November 1999 through April 2000, however, confirm our finding that SBC failed to report accurately the response time for requests for customer service records by collecting the data into a single category, instead of disaggregating the data into two categories of ``CSR Summary 1-30 Lines'' and ``CSR 31 Lines or more.'' ²¹

Furthermore, we find SBC's contention that the Bureau used inaccurate time frames for the violations concerning performance measurements 1, 14, and 15 reflect SBC's lack of understanding that the time frame of the violations is based on the date of reporting inaccurate data to the Commission, and not the date on which SBC revised its data collection.²² For example, even though SBC corrected the incorrect data collection for PM 1 in January 2000, it did not submit the corrected January data to the Commission until February 20, 2000. Our proposed forfeiture related to the inaccurate report(s) received prior to the February correction. Our records confirm the accuracy of the reporting dates of the corrections of the noted violations in the NAL.²³

SBC contests the NAL's finding that the company apparently violated PM 19 by excluding system outage data for OSS interface availability. SBC claims that the charge is unsubstantiated because the NAL does not specify the outages that occurred.²⁴ But, both the audit report and SBC's assertion confirm that this deficiency occurred. Moreover, SBC's failure to track this data is the very reason that a more detailed description of the violation cannot be provided. We will not permit SBC to absolve itself of responsibility for admitted violations by arguing that the Bureau has not met its burden of establishing the very same violations.

2. Significance of the Violations

SBC contends that several of the errors documented in the NAL violations are beyond the scope of the Commission's forfeiture authority because they are of a de minimis nature.²⁵ First, we emphasize that SBC has not persuaded us that any such de minimis

exemption exists. The cases SBC cites for this proposition cannot plausibly be read as the company suggests. Indeed, in Hale Broadcasting,²⁶ the Commission expressly rejected the standard proposed by SBC.²⁷ In any event, we do not agree that the violations at issue are de minimis. Because of the importance of ensuring the integrity of the entire scope of the Carrier-to-Carrier Performance Plan, we consider each component of the performance measurements to be significant. We also note that, consistent with applicable auditing standards,²⁸ the independent auditor included in the audit report only those findings it considered to be material.²⁹ Moreover, the NAL treated as a violation not each individual reporting error, but rather each report containing multiple errors. We do not accept that a report containing at least as many as 12 errors constitutes a de minimis violation.

SBC also argues that the allegation regarding PM 3 does not support a forfeiture because the requested data was purely diagnostic and not tied to the voluntary performance payments.³⁰ We disagree. SBC is obliged to follow the Business Rules in their entirety and this obligation is not related to whether the data in question triggers a performance payment.

3. Business Rules

SBC's argues that several of the documented errors should not be considered because of SBC's difference of opinion regarding the applicable Business Rules.³¹ We disagree. As we stated in the NAL, the Merger Conditions require the Commission's approval before any changes to the Business Rules may be implemented. SBC, therefore, was obliged to notify the Common Carrier Bureau and obtain its assent before modifying the implementation of these particular Business Rules.³² SBC was also given an opportunity to provide its input during the formulation of the Business Rules, and thus had ample opportunity to make any suggestions at that stage. SBC's failure to apply the Commission's Business Rules accurately after the Commission's release of the SBC/Ameritech Merger Order cannot be excused.

Furthermore, we take exception to SBC's repeated contention that its submission of data in a greater level of disaggregation than that specified by the Business Rules does not constitute a violation of the Business Rules because the Commission is free to reaggregate the data on its own.³³ We reiterate that SBC is required to track and submit the performance data in the manner prescribed by the Business Rules. As we stated in the NAL, the very reason for the Commission's adoption of the Business Rules is to provide uniform reporting standards that would permit the Commission to focus its efforts on analyzing the results of the data, rather than monitoring the gathering of the data.³⁴ The Business Rules also enable the Carrier-to-Carrier Performance Plan to work in a self-executing manner to ensure timely disclosure of accurate performance data and submission of any required payments.³⁵

II.B. SBC's Compliance Under the Applicable Legal Standards

1. Willful and Repeated

Pointing to the Commission's statement in Midwest Radio-Television that ``the policy factor which has been the main key to our actions'' in the forfeiture area is ``a demonstrated lack of concern or indifference on the part of the licensee for compliance with the Act or our Rules,''³⁶ SBC asserts that the NAL has failed to establish that any noncompliance was willful

because the Bureau has not demonstrated a lack of concern or indifference for compliance on SBC's part.³⁷ Even assuming the continuing validity of this sentence from a case decided nearly 40 years ago, SBC's argument has no merit. The substantial number of violations documented in the NAL is not consistent with SBC's characterization of its performance as ``characterized by extreme care and meticulousness.'' ³⁸ Thus, the violations themselves establish SBC's lack of diligence in following the Business Rules strictly. Moreover, SBC's claims that some of the violations were merely ``scrivener's errors'' or were inadvertent are insufficient to defeat the finding of willfulness.³⁹ It has long been established that the word ``willfully,'' as employed in section 503(b) of the Act, does not require a demonstration that SBC knew that it was acting unlawfully. Section 503(b) requires only a finding that SBC knew it was doing the acts in question and that the acts were not accidental.⁴⁰ We emphasize that the forfeiture is based on SBC's failure to file accurate reports, as opposed to the gathering of inaccurate data. The violations that SBC maintains are inadvertent cannot be excused as mere accidents, since SBC filed inaccurate reports for the performance measurements at issue multiple times over a period of several months. SBC's continued failure to correct such ``accidents'' over several months implies a willful lack of diligence in ensuring the accuracy of its reporting.

Similarly ineffectual is SBC's statement that the allegations upon which the NAL relies are insufficient to warrant a determination that SBC's noncompliance has been repeated.⁴¹ The fact that SBC repeatedly filed incorrect reports over a period of 13 months (only 12 of which we address here) belies any suggestion that SBC's violations were not repeated.⁴²

2. Failure to Comply

Because this forfeiture action concerns an alleged failure to comply with a condition of a license transfer authorization, SBC asserts that its behavior is governed only by the substantial compliance standard of section 503(b)(1)(A) of the Act,⁴³ rather than the strict liability compliance standard within section 503(b)(1)(B).⁴⁴ SBC further maintains that the allegations in the NAL do not establish that SBC failed to substantially comply with the Merger Conditions.⁴⁵ Because the record demonstrates substantial noncompliance by SBC, the Bureau's reference in the NAL to the section 503(b)(1)(B) standard does not affect the result here.

The Bureau has established that SBC willfully and repeatedly violated the Merger Conditions in 17 respects for up to 13 months. Thus, we conclude that SBC fails under the substantial compliance standard of section 503(b)(1)(A). It is not the Commission's practice to impose forfeitures for insubstantial noncompliance.

II.C. Imposition of a Forfeiture

SBC contends that forfeiture is unjustified because it subsequently corrected the deficiencies.⁴⁶ But, the fact that SBC's violations ceased does not eliminate its responsibility for the period during which they occurred. Moreover, we emphasize that SBC's obligation under the Merger Conditions to make voluntary incentive payments to the U.S. Treasury in the event it fails to meet designated performance thresholds is a separate enforcement mechanism.⁴⁷ Therefore, the fact that the majority of the allegations at issue involve performance reporting that occurred only prior to the implementation of voluntary payments is irrelevant as to the assessment of a forfeiture.⁴⁸

Furthermore, we disagree with SBC's contention that the NAL failed to apply relevant mitigating factors and erred in imposing an upward adjustment to the base amount in the forfeiture guidelines.⁴⁹ In assessing the mitigating factors that might be applied in this context,⁵⁰ we concluded in the NAL that very little of SBC's conduct merited the application of a downward adjustment. The Bureau is not convinced that any of the factors that SBC asserts in its Response serve to mitigate its conduct.⁵¹ Because each violation could potentially compromise the integrity of the Carrier-to-Carrier Performance Plan, we reject SBC's characterization of the violations as minor. Moreover, although SBC makes much of its voluntary disclosure of some of the violations included in the NAL, we note that SBC was required to make such disclosures.⁵² With respect to SBC's argument that its history of compliance qualifies as a mitigating factor, we note that SBC has been found to violate the Act or our rules on several occasions in the past five years.⁵³

In addition, we reject SBC's argument that the NAL misapplied the relevant upward adjustment factors.⁵⁴ An upward adjustment of the suggested forfeiture penalty is justified in this case because of the central role of the Carrier-to-Carrier Performance Plan in ensuring open local markets by monitoring the quality of SBC's service to other telecommunications carriers.⁵⁵ We disagree with SBC's contention that its deficiencies in performance reporting will not compromise the effectiveness of the Merger Conditions in ensuring open local markets.⁵⁶ As we stated in the NAL, deficiencies such as the use of less rigorous standards than those required under the designated business rules could mask material deficiencies in SBC's performance and ultimately undermine the voluntary payment scheme established in the merger conditions.⁵⁷ The omission of key data could also lead to a ``muddying'' of the reported results, which would make it difficult for CLECs to determine independently whether there are discrimination problems.⁵⁸ We further emphasize that the forfeiture guidelines allow the Commission considerable flexibility to determine the appropriate forfeiture.⁵⁹ These guidelines are not the strait-jacket that SBC portrays them to be.

An upward adjustment of the suggested forfeiture penalty for each violation is also justified in light of the number of SBC's violations of the reporting requirements in the SBC/Ameritech Merger Order over an extended period of time.⁶⁰ Therefore, we find no basis for reducing the forfeiture against SBC. In addition, we note that, because SBC's forfeiture penalty is based on the number of months it submitted inaccurate reports, the inaccuracies in the NAL described in paragraph five above do not serve to reduce the proposed forfeiture in the NAL. In the each of the months at issue, SBC violated the Business Rules in other material respects, and the \$8000 proposed forfeiture for each of those months will stand.

III. ORDERING CLAUSES

ACCORDINGLY, IT IS ORDERED THAT, pursuant to section 503(b) of the Act, ⁶¹ and section 1.80 of the Commission's Rules, ⁶² SBC Communications SHALL FORFEIT to the United States Government the sum of eighty eight thousand dollars (\$88,000.00) for willfully or repeatedly violating the Commission's merger conditions in the SBC/Ameritech Merger Order.

IT IS FURTHER ORDERED that payment shall be made in the manner provided for in section 1.80 of the Commission's rules within 30 days of release of this order. If the forfeiture is not paid

within the period specified, the case will be referred to the Department of Justice for collection pursuant to section 504(a) of the Act.

IT IS FURTHER ORDERED that a copy of this Order of Forfeiture shall be sent by Certified Mail/Return Receipt Requested to SBC Communications, c/o Sandra L. Wagner, Vice President-Federal Regulatory, 1401 I Street, N.W., Suite 1100, Washington, D.C. 20005.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

1 Applications of Ameritech Corp., Transferor, and SBC Communications, Inc., Transferee, For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 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 98-141, Memorandum Opinion and Order, 14 FCC Rcd 14712, 14856 (1999) ('SBC/Ameritech Merger Order').

2 SBC Communications, Inc., Notice of Apparent Liability for Forfeiture, DA 00-2858 (Dec. 20, 2000).

3 The Business Rules accompanying the Carrier-to-Carrier Performance Plan describe the specific data requirements and measurement standards for each performance measurement. See SBC/Ameritech Merger Order, Appendix C, Attachments A-2a, , 'SBC/Ameritech Performance Measurements Business Rules (except California and Nevada),' and A-2b, 'SBC/Ameritech Performance Measurements Business Rules (California and Nevada).'

4 The Performance Plan requires SBC to file with the Commission and each of the relevant state commissions, on a monthly basis, performance data reflecting 20 different categories for each of SBC's 13 in-region states and is part of the package of conditions designed to foster the public interest goal of opening local markets to competition by ensuring that SBC's service to competitors does not deteriorate as a result of the merger. See SBC/Ameritech Merger Order, 14 FCC Rcd 14867, Appendix C at ¶ 24, and Attachment A at ¶ 13.

5 NAL at ¶¶ 1, 9.

6 See Aug. 31, 2000 Report of Independent Auditors, Ernst & Young, LLP (Auditor's Report on Compliance). This report only covered SBC's conduct in Texas, Oklahoma, Kansas, Missouri, and Arkansas, California and Nevada from October 8, 1999 through December 31, 1999.

7 See Aug. 31, 2000 Report of Management on Compliance with the Merger Conditions (Management's Assertion on Compliance).

8 NAL at ¶ 14. Because section 503(b)(6) of the Act limits the Commission's jurisdiction over this cause of action to one year from the time the action accrued, our forfeiture calculation did not include a penalty for any violations that occurred during November and December of 1999.

9 Management's Assertion on Compliance at 1, 3, and Attachment A.

10 SBC Exhibit A, SBC's Response to Specific Allegations/Declaration of Gwen S. Johnson and William R. Dysart.

11 Response at 8.

12 See, e.g. Response at A-3 (PM 2), A-10 (PM 14), and A-11 (PM 15).

13 Management's Assertion on Compliance at 1, 3, and Attachment A.

14 SBC Exhibit A at A-3 (PM 2). See NAL at ¶ 12.

15 See SBC Monthly Performance Data Submission, April 20, 2000; June 20, 2000 letter and attached Interim Performance Data Submission, June 20, 2000, from Chris Jines, Executive Director, Federal Regulatory, SBC, to Anthony Dale, FCC.

16 SBC Exhibit A at A-12 (PM 19). June 20, 2000 letter and attached Interim Performance Data Submission, June 20, 2000, from Chris Jines, Executive Director, Federal Regulatory, SBC, to Anthony Dale, FCC.

17 See Management's Assertion on Compliance, Attachment A at 14, ¶ m. See also SBC Initial Performance Data Submission, Dec. 1, 1999; SBC Monthly Performance Data Submission, August 30, 2000.

18 SBC Exhibit A at A-1 (PM 1).

19 NAL at ¶ 12. In its Response, SBC has not responded to this aspect of the alleged violation. See SBC Exhibit A at A-1, 2.

20 SBC Exhibit A at A-3 (PM 2).

21 Management's Assertion on Compliance, Attachment A at 13, ¶ c. See also SBC Initial Performance Data Submission, Nov. 1, 1999; SBC Interim Performance Data Submission, April 17, 2000.

22 See SBC Exhibit A at A-2 (PM 1), A-10 (PM 14) and A-11 (PM 15).

23 See Management's Assertion on Compliance, Attachment A at 16, ¶ f. See also SBC Initial Performance Data Submission, Dec. 1, 1999; SBC Monthly Performance Data Submission, Feb. 20, 2000 (PM 1); Management's Assertion on Compliance, Attachment A at 14, ¶ h. See also SBC Initial Performance Data Submission, Dec. 1, 1999; Sep. 8, 2000 letter and attached Interim Performance Data Submission, Sep. 8, 2000, from Chris Jines, Executive Director, Federal Regulatory, SBC, to Mark Stone, FCC (PM 14); Management's Assertion on Compliance, Attachment A at 14, ¶ g. See also SBC Initial Performance Data Submission, Dec. 1, 1999; Aug. 31, 2000 letter and attached Interim Performance Data Submission, Aug. 31, 2000, from Chris Jines, Executive Director, Federal Regulatory, SBC, to Mark Stone, FCC (PM 15).

24 Response at 9; SBC Exhibit A at A-13 (PM 19).

25 Response at 9. See also SBC Exhibit A at A-6 (PM 4c), A-7 (PM 7c) and A-10 (PM 13).

26 79 FCC 2d 169 (1980).

27 See Hale Broadcasting Corporation, 79 FCC 2d at 171-172. Moreover, in the other cases cited, CRC Broadcasting, 15 FCC Rcd 6697 (1999) and John Meister, 9 FCC Rcd 90 (1993), there is no discussion of whether a ``de minimis'' violation can support a forfeiture.

28 A material finding is one that would cause a reasonable person to change their judgement of management's assertion. See Statement of Financial Accounting Concepts (Financial Accounting Standards Board 1980); see also compliance attestation for financial audits, Statement of Standards for Attestation Engagements No. 3, § 54 (American Inst. of Certified Pub. Accountants 1993).

29 See Auditor's Report on Compliance at 2.

30 SBC Exhibit A at A-4 (PM 3).

31 See SBC Exhibit A at A-3 (NAL at ¶ 12; PM 3), A-4, 5 (NAL at ¶ 12; PM 4c), A-7 (NAL at ¶ 12; PM 7c), A-7, 8 (NAL at ¶ 12; PM 9), A-8, 9 (NAL at ¶ 12; PMs 12b and 12c), A-10 (NAL at ¶ 12; PM 14), A-11 (NAL at ¶ 12; PM 15), A-11, 12 (NAL at ¶ 12; PM 17).

32 NAL at ¶ 10. See also June 5, 2000 Letter from Chris Jines, Executive Director, Federal Regulatory, SBC, to Carol Matthey, Deputy Chief, Common Carrier Bureau.

33 SBC Exhibit A at A-4 (PM 4c); A-8 (PMs 12b and 12c).

34 NAL at ¶ 11.

35 NAL at ¶ 11.

36 See Midwest Radio-Television Inc., Memorandum Opinion and Order, 45 FCC 1137, 1141 (1963).

37 Response at 14, 15.

38 Response at 14.

39 SBC Exhibit A at A-6 (PM 4c); A-10 (PM 14).

40 ConQuest Operator Services Corp., Order of Forfeiture, FCC 99-194, at ¶ 15 n.41 (rel. July 26, 1999); Target Telecom., Inc., Order of Forfeiture, 13 FCC Rcd 4456, 4458 (1998); Southern California Broadcasting Co., Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387-88 (1991).

41 Response at 15.

42 See Southern California Broadcasting Co., 6 FCC Rcd 4387, 4388 (1991); see also Hale Broadcasting Corp., 79 FCC 2d 169, 171 (1980).

43 47 U.S.C. § 503(b)(1)(A). This provision states in relevant part that any person who is determined by the Commission, in accordance with paragraph (3) or (4) of subsection (b), to have- ``willfully or repeatedly failed to comply substantially with the terms and conditions of any license, permit, certificate, or other instrument or authorization issued by the Commission'' shall be liable to the United States for a forfeiture penalty.

44 47 U.S.C. § 503(b)(1)(B). This provision imposes a forfeiture penalty when a person is found to have ``willfully or repeatedly failed to comply with any of the provisions of this Act or of any rule, regulation, or order issued by the Commission under this Act or under any treaty, convention, or other agreement to which the United States is a party and which is binding upon the United States;''...

45 Response at 8.

46 Response at 13.

47 See SBC/Ameritech Merger Order, Appendix C, Attachment A-3, ``Calculation of Parity and Benchmark Performance and Voluntary Payments,'' and Attachment A-4, ``Voluntary Payments for Performance Measurements.'' The amount of the payments varies according to the level and significance of discrimination detected. SBC/Ameritech Merger Order, 14 FCC Rcd 14867. SBC is required to make its first payments to the U.S. Treasury for failing to meet the performance thresholds during the months of August, September, and October of 2000 no later than December 20, 2000. The reported data form the basis for calculating the payments.

48 Response at 13. SBC is incorrect in stating that only one of the violations at issue in the NAL continued beyond the 270-day period that SBC was not required to make voluntary payments. SBC failed to correct six deficiencies, involving PMs 1, 13, 14, 15, 18, and 19, during the time it was also required to make voluntary payments for failure to perform according to the benchmarks and other parity guidelines set forth in Appendix C of the SBC/Ameritech Merger Order.

49 Response at 16-18.

50 NAL at ¶ 13.

51 Response at 16, 17.

52 See 47 U.S.C. § 220(e).

53 See, e.g. C.F. Communications Corp., et al. v. Century Telephone of Wisconsin, Inc., et al., Memorandum Opinion and Order on Remand, 15 FCC Rcd 8759 (2000), appeal pending, Bell Atlantic, et al. v. FCC, No. 00-1207 (D.C. Cir. filed May 15, 2000); AT&T Corp., MCI Telecommunications Corp., et al. v. Bell Atlantic-Pennsylvania, et al., Memorandum Opinion and Order, 14 FCC Rcd 556 (1998); recon. denied 15 FCC Rcd 7467 (2000); review denied 15 FCC Rcd 16,124 (2000); Southwestern Bell Telephone Co., Memorandum Opinion and Order on Reconsideration, 13 FCC Rcd 6964 (1998); AT&T Corp. International Telecharge v. Southwestern Bell Telephone Co., Memorandum Opinion and Order, 11 FCC Rcd 10061 (1996).

54 Response at 17.

55 NAL at ¶ 15.

56 Response at 12.

57 NAL at ¶ 11.

58 NAL at ¶ 11.

59 47 U.S.C. § 503(b)(2)(D); see also The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the

Commission's Rules, 12 FCC Rcd 17087, 17100 (1997) ('`Forfeiture Policy Statement'); recon. denied 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80(b)(4).

60 NAL at ¶ 15.

61 47 U.S.C. § 503(b).

62 47 C.F.R. § 1.80.