Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, DECEMBER 4, 2000
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JUSTICE DEPARTMENT ADVISES FCC ON SBC'S PENDING JOINT APPLICATION TO PROVIDE LONG DISTANCE SERVICE IN OKLAHOMA AND KANSAS

FCC Should Independently Review Prices That SBC Charges Its Competitors In Oklahoma and Kansas

WASHINGTON, D.C. -- The Department of Justice today advised the Federal Communications Commission (FCC) about two competitive concerns regarding SBC Communications Inc.'s pending joint application to provide long distance services in Oklahoma and Kansas.

The Department provided its competitive analysis today in an evaluation filed at the FCC, under Section 271 of the Telecommunications Act. In its evaluation, the Department said that the FCC should independently review the prices SBC charges its competitors for the use of "unbundled network elements", such as local telephone lines, to ensure that these prices are appropriately cost-based. In addition, the Department also advised the FCC that additional information is needed to support SBC's claim that it provides nondiscriminatory access to the operation support systems that it uses to provide wholesale services to competitors in both states.

SBC's joint application to offer long distance services in the states of Kansas and Oklahoma is based, in part, on its recently approved application to provide long distance services in Texas. During the Department's review, however, it observed that many of the prices charged by SBC for the use of "unbundled network elements" were significantly higher in Oklahoma and Kansas than in Texas. That fact, along with the limited use of those elements by competitors, and indications that prices in Kansas and Oklahoma might not be based on forward looking costs, led the Department to recommend an independent review of these prices by the FCC.

"We must be sure that wholesale prices are properly based on the appropriate costs because improper prices may prevent or limit competition in these markets," said A. Douglas Melamed, Acting Assistant Attorney General in charge of the Department's Antitrust Division.

Since the break-up of the integrated Bell system as part of the AT&T divestiture, the independent Bell Operating Companies, or BOCs, have been barred from providing long distance services in their respective regions, first as part of the divestiture decree, and now under the terms of the Telecommunications Act of 1996. Under Section 271 of the Act, a BOC, such as SBC, may not provide in-region long distance services until it demonstrates to the FCC that it has met a variety of legal requirements designed to open the local telephone markets in a particular state to competition.

In considering whether to approve a BOC's application for long distance authority in a particular state, the FCC must consult with the Department of Justice and give "substantial weight" to its assessment of competitive conditions in a market and whether the BOC should be allowed to provide in-region long distance service.

SBC filed its application with the FCC on October 26, 2000. Under the terms of the Act, the FCC must approve or deny the application within 90 days.

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