



Department of Justice

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**JUSTICE DEPARTMENT RECOMMENDS APPROVAL OF SBC'S
APPLICATION TO PROVIDE LONG DISTANCE SERVICES
IN NEVADA**

WASHINGTON, D.C.-- The Department of Justice today recommended that the Federal Communications Commission (FCC) approve SBC's application to provide long distance services in Nevada. Also in its evaluation, the Department deferred to the FCC on an issue of statutory interpretation involving the Telecommunications Act.

"The available evidence suggests that generally, SBC has succeeded in opening its local telecommunications markets in Nevada," said R. Hewitt Pate, Acting Assistant Attorney General in charge of the Department's Antitrust Division. "Competitors have made progress in penetrating the business markets, and the Department believes there are no longer any material obstacles to residential competition created by SBC."

The Department pointed out that issues had been raised regarding SBC's compliance with the requirements of Track A of the Telecommunications Act. Track A requires SBC to show the existence in the state of at least one competitive local exchange carrier (CLEC) that provides telephone exchange service to business and residential customers exclusively or predominantly over its own facilities. Track A issues were raised regarding SBC's Nevada application due to the limited amount of wireline competition in Nevada for residential customers by CLECs using their own facilities or unbundled network elements. In its application, SBC presented evidence

of residential competition by resellers in Nevada, along with evidence of a PCS company providing service in the state. The Department deferred to the FCC's judgment in interpreting the Track A requirements of the statute, at the same time pointing out that the FCC's analysis of PCS competition in the state may not be predictive of the way in which the Department would analyze the issue in an antitrust matter. In order to evaluate the application under its standard—whether the market is fully and irreversibly open to competition—the Department did not need to resolve the issue of whether statutory Track A requirements were met.

The Department provided its competitive analysis in an evaluation of SBC's application to provide long distance services in Nevada under Section 271 of the Telecommunications Act of 1996.

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. 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 telecommunications 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 and whether the BOC should be allowed to provide in-region long distance services.

SBC filed its application with the FCC on January 14, 2003. Under the terms of the Act, the FCC must approve or deny the application within 90 days. A copy of the Department's evaluation will be available at: <http://www.usdoj.gov/atr/public/comments/sec271/sec271.htm>.

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