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March 3, 2000

EX PARTE OR LATE FILED

NOTICE OF EX PARTE PRESENTATION

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W., TW-A325
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RE: In the Matter of Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Ameritech Corporation, Transferor, to SBC Communications Inc., Transferee.
CC Dkt No. 98-141

Dear Ms. Salas:

Please be advised that the attached information was provided at the request of Common Carrier Bureau staff for its use in the analysis of SBC's February 15, 2000 letter to Mr. Larry Strickling requesting an interpretation of the SBC/Ameritech Merger Conditions with respect to ownership of combination ADLU plugs/cards and Optical Concentration Devices (OCDs).

In accordance with the Commission's rules, an original and one copy of this notification are submitted herewith.

Sincerely,

Paul K. Mancini ml
Paul K. Mancini

cc: Ms. Matthey
Mr. Atkinson
Mr. Dale
Ms. Mikes

Docket No. 000731-TP
Exhibit SET-9

DOCUMENT NUMBER-DATE

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Thus, just as it has done in the past, the Common Carrier Bureau can offer guidance on interpreting the Merger Conditions. *See, e.g.*, Letter from Lawrence E. Strickling, Chief, Common Carrier Bureau, to Ms. Janette Luehring, Chief of Telecommunications Kansas Corporation Commission, DA 00-52, Jan. 12, 2000 (responding to request for clarification of the Merger Conditions as they relate to interconnection agreements between an SBC/Ameritech incumbent LEC and its advanced services affiliate). SBC believes that the issues presented in its February 15 request involve a straightforward question of interpretation under the Merger Conditions and that the plain terms and “the underlying intent of the conditions,” *SBC/Ameritech Merger Order* ¶ 508, support SBC’s proposed treatment of combination cards/plugs and OCDs.

In any event, the Commission also would have the authority to modify the Merger Conditions, at SBC’s request, if deemed necessary to permit SBC’s proposed treatment of combination cards/plugs and OCDs. The Commission has previously granted a merging party’s request for clarification and modification of conditions in order to further the underlying goals of the Communications Act and the purpose of the conditions. For example, GTE Corporation sought modification of two of the conditions of the Commission’s approval of GTE’s acquisition of Southern Pacific Communications Company (SPCC) and Southern Pacific Satellite Company (SPSC). *Application of GTE Corporation and Southern Pacific Company for Consent to Transfer Control of Southern Pacific Communications Company and Southern Pacific Satellite Company*, Memorandum Opinion and Order, FCC 84-254 (rel. June 4, 1984) (“*Modification Order*”). In approving the transaction, the Commission had imposed a condition that SPCC and SPSC were to obtain services, facilities, and equipment from “other GTE companies and affiliates” on an arms length basis “which reflects the terms, prices, and conditions which would be available to any non-affiliated common carrier.” *GTE Corporation and Southern Pacific Co.*, 94 FCC 2d 235, 263 (1983). GTE sought clarification of that condition so that it would only apply with respect to GTE operating companies (GTOCs) rather than all affiliated GTE companies. The Commission agreed with GTE, noting that “[t]o the extent our ordering clause can be read to require all GTE affiliates, rather than only the GTOCs, to offer services, facilities, or equipment to all OCCs on the same basis as to SPCC/SPCS, it is in error.” *Id.* ¶ 3. Accordingly, the Commission modified its prior merger order. *Modification Order* ¶ 13. Similarly, GTE asked the Commission to modify its condition limiting interlocking directors of “GTE, SPCC, and SPSC.” *Id.* ¶ 4. The Commission agreed with GTE that it did not intend to impose such a great limitation and modified the language of its order to apply to “GTOCs, SPCC, and SPSC.” *Id.* ¶ 14.

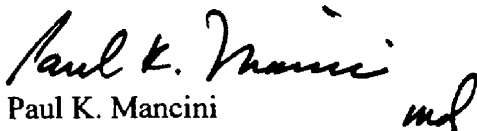
The Commission could exercise similar authority here in response to SBC’s request. Indeed, the *SBC/Ameritech Merger Order* itself points out that the Commission’s enforcement authority includes the power to modify the conditions. *See SBC/Ameritech Merger Order* ¶ 415. Because SBC’s proposal would further the goals of the conditions and serve the public interest, the Commission has any authority necessary to allow it.

Finally, the Merger Conditions themselves give the Chief of the Common Carrier Bureau the discretion to grant extensions of deadlines established by the Conditions. Paragraph 72. Thus, if the Merger Conditions did not currently allow for SBC’s proposed treatment of

combination cards/plugs and OCDs, the Chief would have the authority to grant an indefinite extension of SBC's obligation to comply with Paragraphs 3d and 4n(5) with respect to that equipment. *See also* 47 C.F.R. § 1.3 (the Commission has the authority to waive or suspend its rules for good cause shown); *Telefonica Larga Distancia de Puerto Rico, Inc.; Request for a Waiver of Section 214 Settlement Rate Condition on the U.S.-Chile Route*, Order, DA 99-2555, ¶ 3 (rel. Nov. 17, 1999) (waiver is appropriate if deviation from the Commission's rules will serve the public interest and be consistent with the policies underlying the rule). As SBC demonstrated in its February 15th letter, such an extension would be non-discriminatory, would be in the public interest, and would promote the efficient mass-market deployment of advanced services.

Your prompt attention to this matter is greatly appreciated. If you have any questions or need any additional information, please contact Marian Dyer or me.

Very truly yours,


Paul K. Mancini
Vice President and
Assistant General Counsel

cc: All Parties of Record in CC Docket No. 98-141
Mr. Robert Atkinson
Ms. Carol Matthey
Mr. Tony Dale