

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

In the Matter of)
BellSouth Petition for Forbearance) CC Docket No. 97-172
for Nonlocal Directory Assistance)
Service)
Petition of SBC Communications Inc.) CC Docket No. 97-172
for Forbearance of Structural Separation)
Requirements and Request for Immediate)
Interim Relief in Relation to the Provision of)
Nonlocal Directory Assistance Services)
Petition of Bell Atlantic for Further) CC Docket No. 97-172
Forbearance from Section 272)
Requirements in Connection with National)
Directory Assistance Services)

MEMORANDUM OPINION AND ORDER

Adopted: April 11, 2000

Released: April 11, 2000

By the Deputy Chief, Common Carrier Bureau:

I. INTRODUCTION

1. BellSouth,¹ SBC,² and Bell Atlantic³ (“Petitioners”) each filed a petition for

1 BellSouth Petition for Forbearance for Nonlocal Directory Assistance Service, CC Docket No. 97-172 (filed Oct. 8, 1999) (BellSouth Petition).

2 Petition of SBC Communications Inc. for Forbearance of Structural Separation Requirements and Request for Immediate Interim Relief in Relation to the Provision of Nonlocal Directory Assistance Services, CC Docket No. 97-172 (filed Nov. 2, 1999) (SBC Petition); see also SBC Communications Inc.’s Clarification and Supplement to its Petition for Forbearance (filed Nov. 19, 1999). SBC filed a petition on behalf of Ameritech, Southwestern Bell Telephone Company (SWBT), Pacific Bell, and Nevada Bell. The forbearance granted in this Order extends only to Ameritech, SWBT, and Pacific Bell. We do not address in this Order the petition filed on behalf of Nevada Bell because Nevada Bell does not currently provide nonlocal directory assistance service. Nevada Bell must demonstrate that its nonlocal directory assistance service falls within the scope of section 271(g)(4) at the time it seeks to provide such service.

3 Petition of Bell Atlantic for Further Forbearance from Section 272 Requirements in Connection with National Directory Assistance Services (filed Oct. 22, 1999) (Bell Atlantic-South Petition). We granted Bell Atlantic’s petition for forbearance with respect to its operating companies in New York and New England on

forbearance from the enforcement of section 272 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act), in connection with its provision of nonlocal directory assistance services.⁴ In this Order, we conclude that the Petitioners' provision of nonlocal directory assistance service to their in-region subscribers constitutes the provision of in-region, interLATA service, as defined in section 271(a) of the Act. Because we find, however, that these services fall within the scope of the exception provided in section 271(g)(4), we conclude that the Petitioners may continue to provide nonlocal directory assistance service without obtaining authorization from the Commission to provide in-region, interLATA service pursuant to the requirements of section 271(d).

2. We further conclude in this Order that, although the incidental, interLATA services described in section 271(g)(4) must normally be provided through a separate affiliate,⁵ in accordance with section 10, we forbear, in part, from applying the requirements of section 272 to the Petitioners' nonlocal directory assistance services.⁶ We allow the Petitioners to provide nonlocal directory assistance on an integrated basis, but we require them to make available to unaffiliated entities all of the in-region telephone numbers they use to provide nonlocal directory assistance service at the same rates, terms, and conditions they impute to themselves pursuant to section 272(c)(1) and our authority under sections 4(i), 10, and 303(r) of the Act.⁷

II. BACKGROUND

A. The Petitioners' Nonlocal Directory Assistance Services

3. The Petitioners offer nonlocal directory assistance service to customers throughout their regions.⁸ These services permit the Petitioners to offer both local and nonlocal directory

December 22, 1999. *In the Matter of Petition of Bell Atlantic for Forbearance from Section 272 Requirements in Connection with National Directory Assistance Services*, CC Docket No. 97-172, Memorandum Opinion and Order, DA 99-2990 (rel. Dec. 22, 1999)(*Bell Atlantic-North NDA Forbearance Order*), recon. pending. The forbearance granted in this Order extends to Bell Atlantic's operating companies in Delaware, Maryland, New Jersey, Pennsylvania, Virginia, Washington, D.C., and West Virginia.

⁴ A list of commenters on the petitions filed by BellSouth, SBC, and Bell Atlantic-South, is set forth in the Appendix.

⁵ See 47 U.S.C. § 272(a)(2)(B)(i).

⁶ See *In the Matter of Petition of U S WEST Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance*, CC Docket No. 97-172, *Petition of U S WEST Communications, Inc., for Forbearance*, CC Docket No. 97-172, *The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, Memorandum Opinion and Order, 14 FCC Rcd 16252 (1999)(*U S WEST NDA Forbearance Order*), at paras. 2-3.

⁷ See *id.* at para. 3.

⁸ In the *U S WEST NDA Forbearance Order*, the Commission noted that there are two types of directory assistance services available to customers throughout the United States: local directory assistance service and

assistance service from a single telephone number.⁹ By dialing the number for local directory assistance, the Petitioners' customers can obtain the telephone number of a subscriber located anywhere in the United States.¹⁰

4. The Petitioners' nonlocal directory assistance services are similar in terms of service configuration. Specifically, when a customer dials the number for local directory assistance service, the local central office switch will route the call to an operator services switch, which adds a voice response unit to the call.¹¹ The voice response unit will deliver a script requesting the city, state, and listing desired and record the caller's responses.¹² The operator receiving the call listens to the recorded request from the voice response unit, and if the end-user's response is incomplete or unintelligible, communicates directly with the caller to ascertain the desired listing.¹³ Upon obtaining this information, the operator launches a database query.

5. If the requested number is local, the operator launches a query to an information storage facility that contains local directory listing information.¹⁴ On any such call, the caller, operator, and database may be located in different LATAs.¹⁵ The Petitioners typically use their Official Services Networks (OSN), which cross LATA boundaries, for the provision of local

nonlocal directory assistance service. *Id.* at paras. 5-6. Directory assistance service is considered "local" whenever a customer requests the telephone number of a subscriber within his or her LATA or area code. *Id.* at para. 5. Customers typically access their local exchange carrier's local directory assistance service by dialing 411, 1-411, or 555-1212. Directory assistance service is considered "nonlocal" whenever a customer requests the telephone number of a subscriber located outside his or her LATA or area code. *Id.* at para. 6. Under the Modified Final Judgment (MFJ), BOCs were prohibited from providing nonlocal directory assistance service. *Id.* at para. 5. Thus, nonlocal directory assistance service traditionally has been provided by interexchange carriers.

⁹ *Id.* at para. 7.

¹⁰ *See, e.g.,* Bell Atlantic-South Petition at 1.

¹¹ *See* Bell Atlantic-South Petition at 2 (noting that its operating companies use either an Automatic Directory Assistance Service (ADAS) system or a Personal Audio Unit (PAU) to deliver a script asking the caller for the city, state, and listing desired); BellSouth Petition at 1 (stating that an incoming call to BellSouth's directory assistance service is recognized as a directory assistance call and routed within BellSouth's network to a Traffic Operator Position System (TOPS) remote switch, which bridges an ADAS platform onto the call); *see also* BellSouth Supplemental Description of Network Architecture for BellSouth's NDA Service, CC Docket No. 97-172 (filed Nov. 8, 1999) (*BellSouth Supplemental Description*) at 1.

¹² BellSouth Supplemental Description at 1.

¹³ *Id.* at 2; *see also* BellSouth Petition at 5. BellSouth states that there are forty-three distributed operator service centers in its region. BellSouth Supplemental Description at 1.

¹⁴ BellSouth Petition at 5; BellSouth Supplemental Description at 2; Bell Atlantic-South Petition at 2 (stating that all queries are sent over Bell Atlantic official services facilities to one of two locations in Pennsylvania where Bell Atlantic stores its local directory assistance information).

¹⁵ BellSouth Petition at 5.

directory assistance service to their own local exchange subscribers.¹⁶

6. If the requested number is nonlocal, it will be retrieved from an information storage facility that contains either regional or nationwide listings.¹⁷ A regional information storage facility is queried when the caller requests the telephone number of a subscriber located within one of the Petitioners' in-region states.¹⁸ An information storage facility that contains national listings is queried when the caller requests the telephone number of a subscriber that resides outside the Petitioners' respective regions.¹⁹ On any nonlocal directory assistance call, the end-user, operator, and information storage facility information may be located in different LATAs. Thus, each Petitioner's nonlocal directory assistance service is provided on an interLATA basis. Each Petitioner states that it owns the information storage facility it uses in the provision of nonlocal directory assistance service.²⁰

B. Statutory Framework

1. Sections 271 and 272

7. Sections 271 and 272 establish a comprehensive framework governing BOC provision of "interLATA service."²¹ Pursuant to section 271, neither a BOC nor a BOC affiliate

¹⁶ See Bell Atlantic-South Petition at 2; see also *U S WEST NDA Forbearance Order* at para. 8.

¹⁷ The information storage facilities Ameritech uses in the provision of both regionwide and nationwide directory assistance service are located in Milwaukee, WI and Troy, MI. See SBC Petition at 2 & n.4. The information storage facilities SWBT uses in the provision of both local and regionwide directory assistance service are located in St. Louis, MO, Oklahoma City, OK, Dallas, TX, and Houston, TX. *Id.* at 3 & n. 5. The information storage facilities Pacific Bell uses in the provision of both local and regionwide directory assistance service are located in Concord, CA and Buena Park, CA. *Id.*

¹⁸ Bell Atlantic-South Petition at 2; BellSouth Supplemental Description; SBC Petition Attachment at 3; Letter from Christine Jines, Director—Federal Regulatory, SBC, to Magalie Roman Salas, Secretary, FCC, CC Docket No. 97-172 (dated Jan. 28, 2000) (*SBC Jan 28, 2000 Ex Parte*).

¹⁹ Bell Atlantic-South, SWBT, and Pacific Bell each use an information storage facility located in Illinois, in the provision of nationwide directory assistance service. Bell Atlantic-South Petition at 2; SBC Petition at 2-3. The information storage facility BellSouth uses in the provision of nationwide directory assistance service is located in a LATA outside of BellSouth's region. BellSouth Petition at 5-6.

²⁰ Letter from Ben G. Almond, Vice-President—Federal Regulatory, BellSouth, to Magalie Roman Salas, Secretary, FCC, CC Docket No. 97-172 (dated Feb. 2, 2000) (*BellSouth Feb. 2, 2000 Ex Parte*); Letter from Marie T. Breslin, Director—Federal Regulatory, Bell Atlantic, to Magalie Roman Salas, Secretary, FCC, CC Docket No. 97-172 (dated Dec. 21, 1999) (*Bell Atlantic Dec. 21, 1999 Ex Parte*); SBC Jan 28, 2000 *Ex Parte*.

²¹ The term "interLATA service" is defined in the Act as "telecommunications between a point located in a local access and transport area and a point located outside such area." 47 U.S.C. § 153(21). "Telecommunications" is defined as "the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received." *Id.* § 153(43).

may provide in-region, interLATA service prior to receiving section 271(d) authorization from the Commission.²² There are two exceptions to this requirement in the statute: sections 271(f) and 271(b)(3). The first exception, section 271(f), provides, in relevant part, that section 271(a) shall not:

[P]rohibit a [BOC] or affiliate from engaging, at any time after the date of enactment of the [1996 Act], in any activity to the extent authorized by, and subject to the terms and conditions contained in, an order entered by the United States District Court for the District of Columbia pursuant to section VII or VIII(C) of the AT&T Consent Decree if such order was entered on or before such date of enactment, to the extent such order is not reversed or vacated on appeal.²³

8. The second exception, section 271(b)(3), authorizes the BOCs to engage in the provision of the “incidental interLATA services” described in section 271(g) immediately after the date of enactment of the 1996 Act.²⁴ One such service is defined in section 271(g)(4) as “the interLATA provision by a [BOC] or its affiliate . . . of a service that permits a customer that is located in one LATA to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another LATA.”²⁵ There are two limitations to our interpretation of section 271(g)(4). First, that provision must be “narrowly construed.”²⁶ Second, we must ensure that the services authorized under section 271(g)(4) “will not adversely affect telephone exchange service ratepayers or competition in any telecommunications market.”²⁷ BOC’s are required to provide the services authorized under section 271(g)(4) through a separate affiliate.²⁸

2. Section 10

9. The 1996 Act requires the Commission to forbear from applying any regulation or any provision of the Act to telecommunications carriers or telecommunications services, or classes thereof, if the Commission determines that the three conditions set forth in section 10 are satisfied. In particular, section 10 provides that:

²² *Id.* § 271(b)(1).

²³ *Id.* § 271(f).

²⁴ *Id.* § 271(b)(3).

²⁵ *Id.* § 271(g)(4).

²⁶ *Id.* § 271(h).

²⁷ *Id.*

²⁸ *Id.* § 271(a)(2)(B)(iii).

[T]he Commission shall forbear from applying any regulation or any provision of this Act to a telecommunications carrier or telecommunications service, or class of telecommunications carriers or telecommunications services, in any or some of its or their geographic markets, if the Commission determines that --

(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable, and are not unjustly or unreasonably discriminatory;

(2) enforcement of such regulation or provision is not necessary for the protection of consumers; and

(3) forbearance from applying such provision or regulation is consistent with the public interest.²⁹

With regard to the public interest determination required by section 10(a)(3), section 10(b) states that, “[I]f the Commission determines that such forbearance will promote competition among providers of telecommunications services, that determination may be the basis for a Commission finding that forbearance is in the public interest.”³⁰

III. DISCUSSION

A. Overview

10. As a threshold matter, we note that in the *U S WEST NDA Forbearance Order*, the Commission held that U S WEST may provide the regionwide component of its nonlocal directory assistance service without obtaining authorization from the Commission to provide in-region, interLATA service under section 271(d), because such service fell within the scope of the exception provided in section 271(g)(4).³¹ Although section 272 requires the services described in section 271(g)(4) to be provided through a separate affiliate, in the *U S WEST NDA Forbearance Order*, the Commission forbore from enforcing those requirements with respect to U S WEST’s provision of the regionwide component of its nonlocal directory assistance service, but decided to retain the nondiscrimination requirements of section 272(c)(1).³²

²⁹ *Id.* § 160(a).

³⁰ *Id.* § 160 (b). Section 10(d) specifies that “[e]xcept as provided in section 251(f), the Commission may not forbear from applying the requirements of section 251(c) or 271 under [section 10(a)] until it determines that those requirements have been fully implemented.” *Id.* § 160 (d).

³¹ *See U S WEST NDA Forbearance Order* at paras. 23-24; *see also Bell Atlantic-North NDA Forbearance Order* at paras. 10-11.

³² *U S WEST NDA Forbearance Order* at paras. 33-38.

B. Section 271(g)(4)

11. We conclude that the Petitioners' provision of nonlocal directory assistance service constitutes the provision of in-region, interLATA service. In providing nonlocal directory assistance service to their in-region subscribers, Petitioners use interLATA transmission to connect end-users to directory assistance operators and to retrieve directory listing information from the appropriate information storage facility.³³ We further find, however, that Petitioners' nonlocal directory assistance services fall within the scope of the exception provided in section 271(g)(4) for incidental, interLATA services.

12. As previously noted, section 271(g)(4) authorizes "the interLATA provision by a [BOC] or its affiliate . . . of a service that permits a customer that is located in one LATA to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another LATA."³⁴ In the *U S WEST NDA Forbearance Order*, the Commission concluded that section 271(g)(4) authorizes BOC provision of the capability for customers to access only the BOC's *own* centralized information storage facilities.³⁵ Each Petitioner states that it owns the information storage facility it uses in the provision of nonlocal directory assistance service.³⁶ We, therefore, find that the Petitioners' nonlocal directory assistance services are configured in the same manner as the regionwide component of the nonlocal directory assistance services the Commission considered in the *U S WEST NDA Forbearance Order*.

13. On the basis of the Petitioners' representations that they own the information storage facilities they use in the provision of nonlocal directory assistance service, we conclude that each Petitioners' nonlocal directory assistance service is an incidental, interLATA service as that term is defined in section 271(g)(4).³⁷ The Petitioners, therefore, may provide nonlocal

³³ BellSouth Supplemental Description at 3; SBC Petition at 3; Bell Atlantic South-Petition at 2-3; *see also* Attachment to BellSouth Supplemental Description; Attachment to SBC Petition; Attachment to Bell Atlantic-South Petition (providing diagrams explaining how nonlocal directory assistance service calls are routed through the Petitioners' networks).

³⁴ 47 U.S.C. § 271(g)(4).

³⁵ The Commission found that such a construction of the statute is apparent from Congress' use of the term "such company" in setting forth the types of services authorized by section 271(g)(4). The Commission further noted that such a construction of section 271(g)(4) is consistent with Congress' directive that the provisions of section 271(g) are to be narrowly construed. *U S WEST NDA Forbearance Order* at para. 23; *see also Bell Atlantic-North NDA Forbearance Order* at para. 11.

³⁶ *See supra* note 20 and accompanying text.

³⁷ We thus reject the arguments raised by some commenters that Petitioners do not satisfy the requirement set forth in section 271(g)(4) that a BOC must own the information storage facility it uses in the provision of the data storage and retrieval services described therein. *See* AT&T Comments at 5-6; Excell Comments at 6-8; MCI Reply Comments at 3-5; Teltrust Comments at 6-7.

directory assistance service to customers throughout their respective regions without obtaining authorization from the Commission under section 271(d) to provide in-region, interLATA service.

C. Section 10

14. For the reasons set forth below, we forbear from applying the separate affiliate requirements of section 272 to Petitioners' nonlocal directory assistance services. We allow the Petitioners to provide nonlocal directory assistance service on an integrated basis, but require them to provide to unaffiliated entities all of the in-region directory listing information they use to provide nonlocal directory assistance service at the same rates, terms, and conditions they impute to themselves. With respect to the first criterion for forbearance,³⁸ we find it relevant that Petitioners are relatively new entrants in the market for nonlocal directory assistance service that face competition from interexchange carriers (such as AT&T, Sprint, and MCI), Internet service providers, and providers of payphone and cellular services.³⁹ We also are persuaded by the fact that the Petitioners do not exercise monopoly power over the components used to provide the telephone numbers of customers outside their regions.⁴⁰

15. In the *U S WEST NDA Forbearance Order*, the Commission required U S WEST to comply with the nondiscrimination requirements set forth in section 272(c)(1).⁴¹ We find that the reasoning set forth in the *U S WEST NDA Forbearance Order* is fully applicable to the Petitioners' nonlocal directory assistance services.⁴² We, therefore, impose these same

³⁸ The first criterion requires the Commission to forbear if it determines that "enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable, and are not unjustly or unreasonably discriminatory." 47 U.S.C. § 160(a).

³⁹ See BellSouth Petition at 7; Bell Atlantic-South Petition at 3-4.

⁴⁰ In the *U S WEST NDA Forbearance Order*, we noted that, like competing providers of nonlocal directory assistance service, U S WEST must obtain the telephone numbers of subscribers outside its region from unaffiliated entities that compile national listings, or from other LECs. *U S WEST NDA Forbearance Order* at para. 33.

⁴¹ See *U S WEST NDA Forbearance Order* at paras. 37-38.

⁴² In the *U S WEST NDA Forbearance Order*, the Commission found that the competitive advantages U S WEST enjoyed with respect to the provision of directory assistance service throughout its region stemmed from its dominant position in the local exchange and exchange access markets. Specifically, the Commission found that, because of its dominance in these markets, U S WEST had access to a more complete, accurate, and reliable database than its competitors. Given that U S WEST's competitive advantages in the provision of regionwide directory assistance service stemmed from its local exchange and exchange access monopolies, the Commission found that U S WEST must comply with the nondiscrimination requirements set forth in section 272 with respect to the in-region telephone numbers it uses in the provision of nonlocal directory assistance service. *U S WEST NDA Forbearance Order* at para. 35. Petitioners have been the dominant providers of local exchange and exchange access services in their respective regions for many years. Like U S WEST, the competitive advantages Petitioners possess in the provision of the telephone numbers of customers inside their regions stem from their dominance in these markets.

requirements on the Petitioners. Thus, Petitioners must: (1) make available to unaffiliated entities all of the directory listing information that they use to provide regionwide directory assistance service at the same rates, terms, and conditions they impute to themselves; (2) make changes to their cost allocation manuals to reflect this accounting change; and (3) update and maintain the directory listing information they provide to unaffiliated entities in the same manner they update and maintain the directory listing information they use in the provision of nonlocal directory assistance service.⁴³ The Petitioners must also comply with the nondiscrimination requirements set forth in the *U S WEST NDA Forbearance Order*.⁴⁴ Given our expectation that the Petitioners will comply with these requirements, we conclude that the first criterion for forbearance is satisfied.

16. With respect to the second criterion for forbearance,⁴⁵ we note that retention of the section 272(c)(1) nondiscrimination requirements with respect to the Petitioners' in-region telephone numbers should protect consumers by promoting the development of a fully competitive market for nonlocal directory assistance service, and by ensuring that no competitor will have an undue advantage in the nonlocal directory assistance services market.⁴⁶ This should stimulate the entry of new providers of nonlocal directory assistance service, which, in turn, will encourage the providers of these services to compete on the basis of price and quality.⁴⁷ Because competition will ultimately benefit consumers, we conclude that the enforcement of section 272 is not necessary to prevent the Petitioners from engaging in conduct that would impede competition in the market for nonlocal directory assistance service, and thereby harm consumers.⁴⁸ We, therefore, find that the second criterion for forbearance is met.

17. With respect to the third criterion for forbearance,⁴⁹ we conclude that allowing the Petitioners to provide nonlocal directory assistance service on an integrated basis is in the public interest because it will allow the Petitioners to be more effective competitors in the nonlocal

⁴³ See *U S WEST NDA Forbearance Order* at para. 37.

⁴⁴ To the extent that any BOC cannot make available to unaffiliated entities the directory listing information it uses in the provision of nonlocal directory assistance, it must cease using these listings in its own provision of nonlocal directory assistance service. See *U S WEST NDA Forbearance Order* at para. 37.

⁴⁵ The second criterion requires the Commission to forbear if it determines that "enforcement of such regulation or provision is not necessary for the protection of consumers." 47 U.S.C. § 160(a).

⁴⁶ See *U S WEST NDA Forbearance Order* at para. 47.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ The third criterion requires the Commission to forbear if it determines that "forbearance from applying such provision or regulation is consistent with the public interest." 47 U.S.C. §160(a).

directory assistance services market.⁵⁰ Conversely, if the Petitioners were required to provide nonlocal directory assistance service through a separate affiliate, while continuing to provide local directory assistance service on an integrated basis, the section 272 safeguards would pose significant adverse competitive consequences for the Petitioners, without positive benefits for consumers.⁵¹ We conclude that the market for nonlocal directory assistance service should become increasingly competitive if the Petitioners are allowed to remain effective competitors in the market for nonlocal directory assistance service, which would ultimately benefit consumers because they would be able to obtain a convenient, competitively priced service.⁵² On the basis of these findings, we conclude that the third criterion for forbearance is met. Because we also find that the first and second criteria for forbearance are met, we forbear, in part, from the enforcement of section 272 as to the Petitioners' provision of nonlocal directory assistance services.

18. Excell and INFONXX maintain that SBC's petition for forbearance must be denied because SBC refuses to provide directory listing information to providers of directory assistance that are not also local exchange carriers.⁵³ We note that the Commission recently issued a Notice of Proposed Rulemaking with respect with this issue.⁵⁴ We, therefore, do not decide in this proceeding whether, pursuant to section 272(c)(1), a BOC must provide directory listing information to providers of directory assistance service that are not also local exchange carriers.

19. Some commenters state that the section 272(c)(1) nondiscrimination requirements are not sufficient to ensure that Petitioners will treat unaffiliated entities in a nondiscriminatory fashion.⁵⁵ Excell maintains, for example, that, under the nondiscrimination requirement, the BOCs "are able to charge any rate, no matter how unreasonable, to unaffiliated entities as long as they 'impute' those same rates to themselves."⁵⁶ According to these commenters, the Commission should require BOCs to provide directory listing information at rates that are based

⁵⁰ *Id.* at paras. 48-51.

⁵¹ *Id.* at para. 49.

⁵² *Id.* at paras. 50-51.

⁵³ See Excell Comments at 13-14; INFONXX Comments at 5-7; see also MCI WorldCom Comments at 5-6; Teltrust Comments at 9-11. *But see* SBC Petition at 4; SBC Reply at 2-3 (stating that the term "unaffiliated entities," as used in section 272(c)(1), does not include non-carriers).

⁵⁴ *Provision of Directory Listings Information Under the Telecommunications Act of 1934, as amended*, CC Docket No. 99-273, FCC 99-227, *Notice of Proposed Rulemaking* (rel. Sept. 9, 1999).

⁵⁵ Excell Comments at 3, 10-12; MCI WorldCom Comments at 9-11; Teltrust Comments at 12-16; see also Letter from Karen M. Johnson, Associate Counsel—Regulatory Affairs, MCI WorldCom, to Magalie Roman Salas, Secretary, FCC, CC Docket No. 97-172 (filed Feb. 2, 2000) (*MCI Feb. 2, 2000 Ex Parte*).

⁵⁶ Excell Comments at 10; see also MCI WorldCom Comments at 9-11.

on cost.⁵⁷

20. Similar to the Commission's finding in the *U S WEST NDA Forbearance Order*, we find that the accounting safeguards described above should ensure that the rates the Petitioners impute to themselves, and therefore charge to unaffiliated entities, will not adversely affect competition in the nonlocal directory assistance services market.⁵⁸ Accordingly, we reject commenters' claims that, before we may grant the Petitioners' forbearance petitions, additional procompetitive safeguards are necessary to prevent the Petitioners from charging exorbitant rates.⁵⁹

21. We also reject these commenters' claims that, before we may grant Petitioners' forbearance petitions, we must first ascertain specific facts as to how and when Petitioners will implement the section 272(c)(1) nondiscrimination requirements. We further find that any arguments concerning the Petitioners' failure to comply with the requirements set forth in section 272(c)(1) or this Order are more appropriately addressed in the context of an enforcement proceeding.

⁵⁷ Excell Comments at 4 (arguing that such information should be provided at cost-based rates); *see also* INFONXX Comments at 7 (stating that the Commission should require BOCs to provide directory listing information at "costs that make it economical for competing providers to access the data"); MCI WorldCom Comments at 9-11; Teltrust Comments at 11-16.

⁵⁸ *See U S WEST NDA Forbearance Order* at para. 25 & n.72; *see also Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996*, CC Docket No. 96-150, Report and Order, 12 FCC Rcd. 17539, 17567-73, paras. 61-76 (1996) (concluding that the accounting safeguards ensure that the BOCs provision of incidental interLATA services on an integrated basis will not adversely affect telephone exchange ratepayers or competition in any telecommunications market).

⁵⁹ *See* Excell Comments at 11. We further note that, in the context of these forbearance petitions, we are required to determine whether enforcement of section 272 *is necessary* to ensure that the rates, terms, and conditions for and in connection with the Petitioners' nonlocal directory assistance services are just and reasonable and not unjustly or unreasonably nondiscriminatory. In this regard, we note that, if forbearance were denied, each Petitioner would be required to provide nonlocal directory assistance service through a separate affiliate pursuant to the requirements of section 272, including the nondiscrimination requirements set forth in section 272(c)(1). As noted above, we decline to forbear from the nondiscrimination requirements set forth in section 271(c)(1) with respect to the Petitioners' nonlocal directory assistance services. Thus, the rates that the Petitioners charge for access to in-region directory listing information are governed by section 272(c)(1) irrespective of whether we grant or deny their forbearance petitions.

IV. CONCLUSION

22. For the reasons set forth above, we conclude that the Petitioners may continue providing nonlocal directory assistance service because and so long as that service falls within the scope of section 271(g)(4). We further conclude that, as long as the Petitioners comply with the nondiscrimination requirements set forth above with respect to providing unaffiliated entities with access to all of the in-region directory listing information they use to provide nonlocal directory assistance service, the statutory criteria for forbearance set forth in section 10 are satisfied so that we forbear, in part, from applying the requirements of section 272. Thus, we allow the Petitioners to provide nonlocal directory assistance service on an integrated basis, subject to these nondiscrimination requirements.

V. ORDERING CLAUSES

23. Accordingly, **IT IS ORDERED**, pursuant to sections 4(i), 10, 272, 303(r), 47 U.S.C. §§ 154(i), 160, 272, and 303(r) of the Communications Act of 1934, as amended, and section 0.291 of the Commission's rules, 47 C.F.R. § 0.291, that BellSouth's, SBC's and Bell Atlantic's petitions for forbearance with respect to their nonlocal directory assistance services **ARE GRANTED**.

24. **IT IS HEREBY FURTHER ORDERED**, pursuant to section 1.103(a) of the Commission's rules, 47 C.F.R. § 1.103(a), that this Memorandum Opinion and Order **SHALL BE EFFECTIVE** upon release.

FEDERAL COMMUNICATIONS COMMISSION

Robert C. Atkinson
Deputy Chief
Common Carrier Bureau

APPENDIX

Comments -- November 29, 1999

AT&T Corp. (AT&T)

Excell Agent Services, L.L.C. (Excell)

INFONXX, Inc.

MCI WorldCom, Inc. (MCI)

TelTrust, Inc.

Reply Comments – December 8, 1999

Bell Atlantic

BellSouth

MCI

SBC

Comments on SBC Supplemental Description -- December 17, 1999

Excell