

increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of construction permits where there is still a high level of bidding activity. The Bureaus seek comment on these proposals.

IV. Due Diligence

35. Potential bidders are solely responsible for investigating and evaluating all technical and market place factors that may have a bearing on the value of the broadcast facilities in this auction. The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC permittee in the broadcast service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular service, technology, or product, nor does an FCC construction permit or license constitute a guarantee of business success. Applicants should perform their individual due diligence before proceeding as they would with any new business venture.

36. Potential bidders are strongly encouraged to conduct their own research prior to Auction No. 54 in order to determine the existence of pending proceedings that might affect their decisions regarding participation in the auction. Participants in Auction No. 54 are strongly encouraged to continue such research during the auction.

37. Potential bidders for the new television facility should note that, in November 1999, Congress enacted the Community Broadcasters Protection Act of 1999 (CBPA) which established a new Class A television service. In response to the enactment of the CBPA, the Commission adopted rules to establish the new Class A television service. In the *Class A Report and Order*, 65 FR 29985 (May 10, 2000), the Commission adopted rules to provide interference protection for eligible Class A television stations from new full power television stations. Given the Commission's ruling in the *Class A Report and Order*, the winning bidder in Auction No. 54, upon submission of its long-form application (FCC Form 301), will have to provide interference protection to qualified Class A television stations. Therefore, potential bidders are encouraged to perform engineering studies to determine the existence of Class A television stations and their effect on the ability to operate the full power television station proposed in this auction. Information about the identity

and location of Class A television stations is available from the Media Bureau's Consolidated Database System (CDBS) (public access available at: <http://www.fcc.gov/mb>) and on the Media Bureau's Class A television web page: <http://www.fcc.gov/mb/video/files/classa.html>.

38. Potential bidders for the new television facility are also reminded that full service television stations are in the process of converting from analog to digital operation and that stations may have pending applications to construct and operate digital television facilities, construction permits and/or licenses for such digital facilities. Bidders should investigate the impact such applications, permits and licenses may have on their ability to operate the facilities proposed in this auction.

V. Conclusion

39. Comments are due on or before April 25, 2003, and reply comments are due on or before May 2, 2003. Because of the disruption of regular mail and other deliveries in Washington, DC, the Bureaus require that all comments and reply comments be filed electronically. Comments and reply comments must be sent by electronic mail to the following address: auction54@fcc.gov. The electronic mail containing the comments or reply comments must include a subject or caption referring to Auction No. 54 Comments. The Bureaus request that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents. Copies of comments and reply comments will be available for public inspection during regular business hours in the FCC Public Reference Room, Room CY-A257, 445 12th Street, SW., Washington, DC 20554.

40. In addition, the Bureaus request that commenters fax a courtesy copy of their comments and reply comments to the attention of Kathryn Garland at (717) 338-2850.

41. This proceeding has been designated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules.

Federal Communications Commission.

Margaret Wiener,

Chief, Auctions and Industry Analysis Division, WTB.

[FR Doc. 03-10000 Filed 4-21-03; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 03-10; FCC 03-80]

Application by SBC Communications Inc., Nevada Bell Telephone Company, and Southwestern Bell Communications Services, Inc., for Authorization To Provide In-Region, InterLATA Service in Nevada

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In the document, the Federal Communications Commission (Commission) grants the section 271 application of SBC Communications Inc., Nevada Bell Telephone Company, and Southwestern Bell Communications Services, Inc., (Nevada Bell) for authority to enter the interLATA telecommunications market in Nevada. The Commission grants Nevada Bell's application based on its conclusion that it has satisfied all of the statutory requirements for entry and opened its local exchange markets to full competition.

DATES: Effective April 25, 2003.

FOR FURTHER INFORMATION CONTACT: Pam Arluk, Attorney-Advisor, Wireline Competition Bureau, at (202) 418-1471 or via the Internet at parluk@fcc.gov. The complete text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. Further information may also be obtained by calling the Wireline Competition Bureau's TTY number: (202) 418-0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in WC Docket No. 03-10, FCC 03-80, adopted April 14, 2003, and released April 14, 2003. The full text of this order may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com. It is also available on the Commission's Web site at <http://www.fcc.gov/Bureaus/>

Wireline Competition/in-region applications.

Synopsis of the Order

1. *History of the Application.* On January 14, 2003, Nevada Bell filed an application pursuant to section 271 of the Telecommunications Act of 1996, with the Commission to provide in-region, interLATA service in the state of Nevada.

2. *The State Commission's Evaluation.* The Nevada Public Utilities Commission (Nevada Commission), following an extensive review process, advised the Commission that Nevada Bell has taken the statutorily required steps to open its local markets to competition. Consequently, the Nevada Commission recommended that the Commission approve Nevada Bell's in-region, interLATA entry in their evaluation and comments in this proceeding.

3. *The Department of Justice's Evaluation.* The Department of Justice filed its evaluation on February 21, 2003, recommending approval of the Nevada Bell application. The Department of Justice concludes that opportunities are available for competitive carriers to serve business customers, and also concludes that Nevada Bell has fulfilled its obligations to open its markets to residential competition. Accordingly, the Department of Justice recommends approval of Nevada Bell's application for section 271 authority in Nevada.

Primary Issues in Dispute

4. *Complete-As-Filed Waiver.* The Commission's "complete-as-filed" requirement provides that when an applicant files new information after the comment date, the Commission reserves the right to start the 90-day review period again or to accord such information no weight in determining section 271 compliance. The Commission waives the complete-as-filed requirement pursuant to Nevada Bell's request to consider its late-filed Track A evidence. The Applicant submitted additional evidence to respond quickly and positively to concerns raised in the record as to whether Cricket Communications' broadband Personal Communications Service (PCS) offering satisfied the requirements of Track A. Because the evidence was filed on day 31, the Bureau had sufficient time to place the evidence on public notice and request comments specific to the evidence submitted. Under these circumstances, the Commission believes that consideration of Nevada Bell's additional evidence better serves the

Commission's interest in ensuring a fair and orderly 271 process than restarting the 90-day clock, and that a grant of this waiver will serve the public interest.

5. *Compliance with Section 271(c)(1)(A).* The Commission concludes that Nevada Bell demonstrates that it satisfies the requirements of section 271(c)(1)(A) based on the interconnection agreements it has implemented with competing carriers in Nevada. The record shows that Nevada Bell relies on interconnection agreements with Advanced Telecom Group, WorldCom, and Cricket Communications in support of this showing. The Commission finds that Advanced Telecom Group and WorldCom each serve more than a de minimis number of business end users predominantly over their own facilities and represent "actual commercial alternatives" to Nevada Bell for business telephone exchange services. The Commission further finds that, Cricket Communications, a PCS provider, serves more than a de minimis number of residential users over its own facilities and, for purposes of section 271 compliance, represents an actual commercial alternative to Nevada Bell for residential telephone exchange services.

6. First, the Commission determines that Cricket Communications' residential broadband PCS offering in Nevada is a "telephone exchange service" for purposes of Track A. The Commission further concludes that the evidence submitted by Nevada Bell adequately demonstrates that more than a de minimis number of Cricket customers use their service in lieu of wireline telephone service. The evidence shows that Cricket's marketing efforts stress that its product is a substitute for residential local telephone service. In addition, the Commission concludes that Nevada Bell's survey also demonstrates that Cricket customers use Cricket service in lieu of wireline telephone service. The Commission finds that the survey was random, and contains statistical analysis of sufficient quality to allow the Commission to rely on it for the purpose of showing compliance with Track A.

7. *Checklist Item 2—Unbundled Network Elements.* Based on the record, the Commission finds that Nevada Bell has provided "nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)" of the Act in compliance with checklist item 2.

8. *Pricing of Unbundled Network Elements.* Based on the record, the Commission finds that Nevada Bell's UNE rates in Nevada are just, reasonable

and nondiscriminatory as required by section 251(d)(1). The Commission has previously held that it will not conduct a *de novo* review of a state's pricing determinations and will reject an application only if either "basic TELRIC principles are violated or the state commission makes clear errors in the actual findings on matters so substantial that the end result falls outside the range that a reasonable application of TELRIC principles would produce." The Nevada Commission conducted extensive pricing proceedings to establish wholesale rates for UNEs. It approved recurring rates by using a Nevada specific version of the HAI model advocated by AT&T. Competitive LECs agreed to the vast majority of the nonrecurring rates. The Nevada Commission concluded that Nevada Bell's UNE rates are just, reasonable, and nondiscriminatory as required by section 251(c)(3), and satisfy the requirements of checklist item two. No party alleges that Nevada Bell's rates are inconsistent with TELRIC, or that the Nevada Commission committed TELRIC errors. Based on this record, the Commission finds that Nevada Bell has met its burden to show that its prices for UNEs satisfy the statutory mandate.

9. *Operations Support Systems (OSS).* Based on the record, the Commission finds that Nevada Bell provides "nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)" of the Act in compliance with checklist item 2. The Commission further finds that Nevada Bell provides persuasive evidence that the OSS in California are substantially the same as the OSS in Nevada and, therefore, evidence concerning the OSS in California is relevant and should be considered in our evaluation of the OSS in Nevada. Accordingly, when volumes in Nevada are too low to yield meaningful information concerning Nevada Bell's compliance with the competitive checklist, the Commission examines data reflecting Pacific Bell's performance in California.

10. Pursuant to its analysis, the Commission finds that Nevada Bell provides non-discriminatory access to its OSS—the systems, databases, and personnel necessary to support network elements or services. Nondiscriminatory access to OSS ensures that new entrants have the ability to order service for their customers and communicate effectively with Nevada Bell regarding basic activities such as placing orders and providing maintenance and repair services for customers. The Commission finds that, for each of the primary OSS functions (pre-ordering, ordering,

provisioning, maintenance and repair, and billing, as well as change management), Nevada Bell provides access to its OSS in a manner that enables competing carriers to perform the functions in substantially the same time and manner as Nevada Bell does or, if no appropriate retail analogue exists within Nevada Bell's systems, in a manner that permits competitors a meaningful opportunity to compete. In addition, regarding specific areas where the Commission identifies issues with Nevada Bell's or Pacific Bell's OSS performance, these problems are not sufficient to warrant a finding of checklist noncompliance.

Other Checklist Items

11. *Checklist Item 4—Unbundled Local Loops.* Based on the evidence in the record, the Commission concludes that Nevada Bell provides unbundled local loops in accordance with the requirements of section 271 and our rules. The Commission also notes that no commenter challenges Nevada Bell's showing on this checklist item or the California evidence that it relies upon. The Commission's conclusion is based on Nevada Bell's performance (and Pacific Bell's performance in California where Nevada volumes are low) for all loop types, which include, as in past section 271 orders, voice grade loops, hot cut provisioning, xDSL-capable loops, digital loops, high capacity loops, as well as our review of Nevada Bell's processes for line sharing and line splitting.

12. *Checklist Item 1—Interconnection.* Based on the Commission's review of the record, it concludes that Nevada Bell complies with the requirements of checklist item 1. In reaching this conclusion, the Commission examined Nevada Bell's performance with respect to collocation and interconnection trunks, as the Commission has done in prior section 271 proceedings. For the one performance measure that the Commission noted that Nevada Bell failed four of the five-month data period, the failures were not sufficient to warrant a finding of checklist noncompliance.

13. *Remaining Checklist Items (3, 5–14).* In addition to showing that it is in compliance with the requirements discussed above, an application under section 271 must demonstrate that it complies with checklist item 3 (access to poles, ducts, and conduits), item 5 (unbundled transport), item 6 (local switching unbundled from transport), item 7 (911/E911 access and directory assistance/operator services), item 8 (white pages directory listings), item 9 (numbering administration), item 10

(databases and associated signaling), item 11 (number portability), item 12 (local dialing parity), item 13 (reciprocal compensation), and item 14 (resale). Based on the evidence in the record, the Commission concludes that Nevada Bell demonstrates that it is in compliance with these checklist items in Nevada. It notes that no party objects to Nevada Bell's compliance with these checklist items.

14. *Section 272 Compliance.* Based on the record, the Commission concludes that Nevada Bell has demonstrated that it will comply with the requirements of section 272. Significantly, Nevada Bell provides evidence that it maintains the same structural separation and nondiscrimination safeguards in Nevada as it does in California.

15. *Public Interest Analysis.* The Commission concludes that approval of this application is consistent with the public interest. From its extensive review of the competitive checklist, which embodies the critical elements of market entry under the Act, the Commission finds that barriers to competitive entry in the local exchange markets have been removed and the local exchange markets in Nevada today are open to competition. The Commission further finds that the record confirms our view, as noted in prior section 271 orders, that BOC entry into the long distance market will benefit consumers and competition if the relevant local exchange market is open to competition consistent with the competitive checklist.

16. *Section 271(d)(6) Enforcement Authority.* Working with the Nevada Commission, the Commission intends to closely monitor Nevada Bell's post-approval compliance to ensure that Nevada Bell continues to meet the conditions required for section 271 approval. It stands ready to exercise its various statutory enforcement powers quickly and decisively in appropriate circumstances to ensure that the local market remains open in Nevada.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–9825 Filed 4–21–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 03–1089]

Audit of Operational Status of Certain 220–222 MHz Band Licenses

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document the Wireless Telecommunications Bureau (Bureau) announces a license audit of the operational status of certain site-specific licenses operating in three commercial radio services in the 220–222 MHz band. To prepare for the audit, the Bureau is encouraging licensees to verify their mailing addresses on record for each license held and, where appropriate, update the information. In addition, the Bureau is asking each licensee to ensure it has registered with the Commission Registration System (CORES) to receive its FCC Registration Number (FRN) and has associated with the FRN with each license held. The purpose of the audit is to promote intensive use of the spectrum in 220 MHz.

FOR FURTHER INFORMATION CONTACT: Denise D. Walter, Commercial Wireless Division, at 202–418–0620.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Public Notice*, DA 03–1089, released on April 9, 2003. The full text of this document is available for inspection and copying during normal business hours in the Federal Communications Commission Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Federal Communications Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at <http://wireless.fcc.gov>. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at bmillin@fcc.gov.

1. The Federal Communications Commission's (FCC) Wireless Telecommunications Bureau (Bureau) will be conducting a license audit of the operational status of certain licenses operating in the 220–222 MHz (220 MHz) band in the following radio services: “QT”—non-nationwide 5-channel trunked systems, “QD”—non-nationwide data, and “QO”—non-nationwide other. Every licensee in these radio services must respond to the audit letter and certify that its authorized station(s) has not discontinued operations for one year or more. The Bureau is performing the audit to promote intensive use of the radio spectrum by updating and increasing the accuracy of the Commission's licensing database.

2. To prepare for the audit, the Bureau strongly encourages licensees in these