ORIGINAL

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November 17, 2003

FILED

NOV 17 2003

Missouri Public Service Commission

Missouri Public Service Commission
Attn: Secretary of the Commission
200 Madison Street, Suite 100
P.O. Box 360
Jefferson City, Missouri 65102-0360

Re: Case No. TO-2004-0207
Mass Market Impairment Inquiry

Dear Mr. Roberts:

Please find enclosed for filing in the above-referenced case an original and eight (8) copies each of: 1) *Sage Telecom, Inc.'s Response To SBC Missouri's Response To Order Directing Filing*; and 2) *Sage Telecom, Inc.'s Response To SBC Missouri's Proposed Batch Cut Process.*

A copy of this filing has been sent this date to counsel for all parties of record.

Sincerely,

Brent Stewart

Brent Stewart

CBS/bt

Enclosure

cc: Counsel for all parties of record
Katherine Mudge
Robert McCausland
Stephanie Timko

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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Missouri Public
Service Commission

In the Matter of a Commission Inquiry into	§	
the Possibility of Impairment without	§	Case No. TO-2004-0207
Unbundled Local Circuit Switching when	§	
Serving the Mass Market	§	

SAGE TELECOM, INC.'S RESPONSE TO
SBC MISSOURI'S PROPOSED BATCH CUT PROCESS

TO THE HONORABLE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI:

Sage Telecom, Inc. ("Sage") respectfully submits the following comments on SBC's proposed batch cut process.

I. Summary

SBC's batch cut proposal needs additional detail in order to allow the parties to develop a batch cut process that actually works for mass market customers and carriers in Missouri. With this general observation, Sage respectfully recommends the following changes and additions to SBC's proposed process:

Requested changes to SBC's proposed batch cut process:

1. Strike the "3 or less" line restriction.

2. Include line splitting and line sharing in the process.

3. The "parity" process must include all loop types that SBC historically used for unbundled network element platform ("UNE-P"). This includes integrated digital loop carrier ("IDLC"), universal digital loop carrier ("UDLC"), hybrid loops, remote switching modules, and next generation digital loop carrier ("NGDLC").

4. The order flow through verification and due date reservation tools should apply to all of SBC's proposed options, not just the defined batch and bulk project proposals.

5. Develop additional detail on the definitions for the due date reservation tool and the timeline for the defined batch process.

6. The timeframe for performance of the batch cuts should be based upon the preferences and needs of end use customers, not SBC's traditional business hours.

7. Dividing the batch cut process into three separate processes could unnecessarily complicate the process. Sage requests at least one process that provides batch cuts at intervals, standards, and rates that are at parity with SBC's UNE-P and retail migration processes.

8. SBC's process must be able to handle the projected volumes of hot cut requests.

Requested additions to SBC's proposed batch cut process:

1. Any batch cut process must be scalable and adaptable to the needs and requirements of varying facilities-based competitive local exchange carriers ("CLECs"), alternative wholesale providers, and intermodal carriers.

2. Provisioning intervals and standards should be set at parity with the existing UNE-P and retail processes. Document such standards and intervals within relevant steps in the process. Enforce those standards and intervals through the appropriate performance measurement and remedy plan.

3. Establish parity OSS for the batch cut processes.

4. The batch cut provisioning process should include a pre-engineering 'check' for all loops, particularly those loops served by IDLC.

5. Develop clear and accurate loop and other OSS data that can be updated on a 'real-time' basis.

6. The batch cut rates must provide CLECs with a meaningful opportunity to compete and any proceeding to determine such rates should give equal weight to the incremental costs incurred by CLECs. Sage respectfully proposes consideration of a rate applicable to all end users, similar to the local number portability ("LNP") charge.

7. Develop details on how to rectify problems.

8. The drafters and overseers of the batch cut process should place a priority on avoiding, preventing, and remedying outages to the customer.

9. Processes must include the provisioning of enhanced extended links ("EELs"), within statutorily required periods, to allow access to a loop with switching provided from a distant central office.

10. Include CLEC to CLEC migrations in the process.

11. Special consideration must be taken to address all database issues.

12. Ensure no degradation in the capabilities of the loop after migration, including voice quality, data transmission speeds, and video quality.

13. Clarify how various parties' orders will be prioritized.

II. Comments

SBC filed its proposed batch cut process on November 10. Additional detail is needed to develop a process that actually works for mass market customers and carriers in Missouri. It is important for CLECs to be able to comment on the additional details as they emerge. With these general observations, Sage proposes the following revisions and additions to SBC's proposal:

A. Requested changes to SBC's proposed batch cut process:

1. Strike the "3 or less" line restriction.

SBC's proposal limits the batch cut process to three or fewer lines per customer. Sage respectfully urges the Commission to strike this restriction. The Commission, not SBC, is supposed to set the appropriate threshold for distinguishing mass market from enterprise customers.[1] If a cutoff is needed, Sage suggests limiting the batch cut process to 23 lines or less, consistent with the distinction between DS-0 and DS-1 loops.

2. Include line splitting and line sharing in the process.

SBC excludes "loop service via line splitting [and] line sharing" from the batch cut process. Sage proposes including those order types in the process. As a legal matter, Section 251(c)(3) of the federal Telecommunications Act ("FTA") requires SBC to provide "nondiscriminatory access to network elements on an unbundled basis." SBC undoubtedly

[1] *See* 47 C.F.R. 51.319(d)(2)(iii)(B)(4). Notably, SBC agreed in Texas that it would abide with each state commission's ruling on the appropriate DS-0/DS-1 cutover point.

provisions digital subscriber line ("DSL") to its retail customers on an expeditious basis, particularly since there is no need to establish a new loop and switch connection for its retail DSL customers. Therefore, SBC must ensure that it provides line splitting and line sharing to CLECs on a non-discriminatory basis. A batch cut process does not ensure nondiscriminatory access, but it very likely provides better access than the existing line-by-line process. Accordingly, SBC should include line splitting and line sharing in the batch cut process.

Furthermore, as an operational matter, customers increasingly desire a combined voice and data product. If CLECs are required to self-provision switches and use unbundled loops ("UNE-L"), they will also have to be able to provide a DSL product with UNE-L in order to stay competitive. A batch cut process for line splitting and line sharing is a necessary (although not necessarily sufficient) step for CLECs to be able to provide a combined voice and data product to Missouri customers through UNE-L in a reasonable manner.

SBC may state that it is addressing line splitting issues in a 13-state collaborative. However, it is Sage's understanding from parties that attended the last collaborative meeting that SBC proposed in that meeting to address line splitting-related batch cut issues in the batch cut proceeding, not the line splitting collaborative. In any event, Sage respectfully urges the Commission to retain oversight over any line splitting issues that are addressed in any SBC-sponsored collaborative.

Also, SBC may argue that a line splitting migration only involves activities by the CLEC and data LEC. This argument is not accurate when the CLEC and the data LEC have separate collocation arrangements, which is generally the case in today's market. Specifically, the CLEC needs SBC to disconnect the cross-connect between the data LEC's collocation and SBC's main distribution frame and establish a new cross-connect between the data LEC's collocation and the

CLEC's collocation. This disconnection and new connection needs to occur in coordination with the voice hot cut. Further, SBC needs to facilitate cabling between the CLEC and the data LEC's collocations, particularly if SBC insists on the installation of conduit for cage to cage cross-connects. Otherwise, the end user will suffer an outage in their DSL service as a result of the migration from UNE-P to UNE-L.

3. The "parity" process must include all loop types that SBC historically used for UNE-P. This includes IDLC, UDLC, hybrid loops, remote switching modules, and NGDLC.

SBC states that the defined batch process will include "loops currently provisioned over IDLC." SBC does not mention IDLC for the daily batch or bulk project processes. Whichever process(es) ultimately provide(s) parity with UNE-P intervals must include all loop types that SBC historically used for UNE-P. These include IDLC, UDLC, remote switching modules, hybrid loops, and NGDLC. Otherwise, customers that CLECs historically served with "excluded" loop types through UNE-P will receive discriminatory service if they are transitioned to UNE-L outside of the appropriate batch cut process

4. The order flow through verification and due date reservation tools should apply to all of SBC's proposed options, not just the defined batch and bulk project proposals.

SBC's proposal states that the order flow through verification tool will apply to the defined batch and bulk project processes, but is silent on whether it applies to the daily batch process. Similarly, SBC's proposal states that the due date reservation tool only applies to the defined batch process. The order flow through verification and due date reservation tools as proposed by SBC in this docket are necessary, but not sufficient, tools for CLECs. Accordingly, the tools should be available for any process that SBC puts forward that provides parity to UNE-P processes. (As Sage explains below, none of SBC's current proposals provides parity to CLECs.) At the very least, the two tools should apply to all three existing options.

5. Develop additional detail on the definitions for the due date reservation tool and the timeline for the defined batch process.

SBC's proposal includes several undefined, but potentially important, terms in its discussion of the due date reservation tool and the timeline for the defined batch. For example, the due date reservation tool is contingent on "Due Date Interval Guide Identifying criteria." CLECs will need additional detail on those criteria. Furthermore, both tools are contingent on "clean orders." CLECs will need additional detail on what constitutes "clean orders." Otherwise, SBC would be in a position to reject orders without clear justifications, resulting in delays in customer orders.

6. The timeframe for performance of the batch cuts should be based upon the preferences and needs of end use customers, not SBC's traditional business hours.

The CLEC's customers may require a cutover during evening hours to avoid an outage during the day. The batch cut processes should reflect this market reality and customer need.

7. Dividing the batch cut process into three separate processes could unnecessarily complicate the process. Sage requests at least one process that provides batch cuts at intervals, standards, and rates that are at parity with SBC's UNE-P and retail migration processes.

SBC proposes three types of batch cuts: daily, defined, and bulk. CLECs must be able to use at least one of these processes to migrate their customers to UNE-L at intervals that are at parity with UNE-P intervals. SBC's current proposal does not appear to achieve that goal. Daily batch cuts arguably allow CLECs to match the UNE-P intervals – although that depends on the meaning of the phrase "Normal Due Date Intervals" – but daily batch cuts are limited to 50 lines per wire center per day and occur during normal business hours. A CLEC may have more than 50 lines in a popular wire center that it needs to migrate per day. If this is the case, the CLEC cannot use the daily batch cut process.

The defined batch cut process requires 13 days of scheduling notice, which far exceeds the provisioning intervals for UNE-P. Also, the defined batch cut process is limited to 100 or fewer lines, which poses similar volume problems as the daily batch cut process. Therefore, the defined batch cut process does not provide parity with the existing UNE-P process.

The bulk project process relies on "negotiated due dates." Unless SBC will agree up front that the negotiated due dates will be as fast or faster than the UNE-P intervals, the bulk project process will not provide parity with the existing UNE-P process. Indeed, smaller carriers will experience discrimination if they cannot negotiate favorable due dates.

By dividing the batch cut process into three separate processes, SBC unnecessarily complicates the process. SBC forces CLECs to choose between migrating a small percentage of their customers on a timely basis or migrating all of their customers with unacceptable delays. Under both choices, customers are unhappy, resulting in lost customers and revenue for the CLECs. At the end of the day, CLECs need at least one process that will allow CLECs to migrate all of their customers to UNE-L at intervals and standards that are at parity with UNE-P and retail migrations and at rates that are also at parity with UNE-P and retail migrations.

8. SBC's process must be able to handle the projected volumes of hot cut requests.

Sage is concerned that the manual nature of SBC's current process will not allow SBC to accommodate the high volumes generated by churn and migration of customers to UNE-L.

B. Requested additions to SBC's proposed batch cut process:

1. Any batch cut process must be scalable and adaptable to the needs and requirements of varying facilities-based CLECs, alternative wholesale providers, and intermodal carriers.

Any batch cut process must be scalable and adaptable to the needs and requirements of various carriers. Indeed, many smaller UNE-P CLECs would have to purchase and deploy

facilities, if no impairment is found in a market area. Therefore, the batch cut process should allow these CLECs sufficient time to deploy the facilities, as appropriate.

2. Provisioning intervals and standards should be set at parity with the existing UNE-P and retail processes. Document such standards and intervals within relevant steps in the process. Enforce those standards and intervals through the appropriate performance measurement and remedy plan.

CLECs are impaired if, among other issues, they cannot provision UNE-L at parity with the provisioning intervals in the existing UNE-P process. Therefore, if CLECs are required to migrate to UNE-L, they must be able to migrate their customers to UNE-L at intervals that are at least at parity with UNE-P intervals, which are the provisioning intervals that the ILEC provides for itself. These intervals, and other associated standards, need to be monitored and enforced through the appropriate performance measurement and remedy plan.[2]

3. Establish parity OSS for the batch cut processes.

SBC states that it is "investigating" a pre-order tool to validate when loops are served through IDLC, "assess[ing]" an order flow through verification tool, and establishing a due date reservation tool. Additional steps are required. SBC must provide reasonable and nondiscriminatory access to OSS for all CLECs required to migrate to UNE-L. This will require an analysis of each step of SBC's proposed batch cut process to ensure that OSS is available, at parity with UNE-P and retail, for CLECs to participate in and validate the process. Examples include ongoing monitoring of customer initiated trouble-reports related to hot cut activities, such as database tests (confirmation of calling scopes), OSS tests (for accuracy and timeliness of order submission and completion), network reliability (including redundancy), quality tests (for quality of the provisioned line), and general maintenance issues. SBC will also need to prove,

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[2] *See, e.g., In the Matter of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, *Implementation of Local Competition Provisions of the Telecommunications Act of 1996*, CC

through performance data at mass market volumes, that its UNE-L OSS can accommodate the initial bulk demand and subsequent churn within acceptable performance standards.

4. The batch cut provisioning process should include a pre-engineering 'check' for all loops, particularly those loops served by IDLC.

If SBC insists on migrating customers that are currently served by IDLC, UDLC, or NGDLC loops to copper or UDLC loops, that process will require significant preparation. Under the nondiscrimination standards of the FTA, SBC must perform the preparatory work and the actual migration at intervals that are at parity with the UNE-P and retail provisioning intervals. Furthermore, SBC must provide a loop that performs at parity with the loop that the customer enjoyed while receiving retail service from SBC. To accomplish this, engineering standards need to be adopted as part of the batch cut process for these types of loops. To ensure that the loop provides an equivalent quality of service for dial-up modem traffic at the nominal rate of 56Kb/s, a *de facto* feature of the IDLC loop, a handoff must be accomplished in the central office without reverting to an analog interface. To enable such digital loop-interconnection facility to support all the key functions associated with the switch, either the incumbent local exchange carrier's ("ILEC's") GR303 protocol must be unbundled and included in provisioning of the loop, and a partition of digital channels from the IDLC handed off to the CLEC in the central office or at the remote terminal; or, the CLEC must be able to access the loop digitally at the central office end of a UDLC so that the GR303 protocol of the CLEC switch will govern the provisioned loop. In either case, a digital cross connect must be mandated as the standard hand-off, together with a fully functional GR303 signaling arrangement, in order to ensure parity quality of service for the loop.

Docket No. 96-98, *Deployment of Wireline Service Offering Advanced Telecommunications Capacity*, CC Docket No. 98-147 (FCC 03-06), para. 489, rel. August 21, 2003 ("*Triennial Review Order*").

Therefore, Sage recommends the establishment of a pre-engineering process for loops served by DLC as well as line sharing and line splitting arrangements that accommodate the configuration outlined above while allowing the migration to take place at intervals that are at parity with UNE-P (and retail) and that would ensure that the UNE-L performs at parity with the DLC loop previously used by SBC to provide retail service to the customer. This parity performance should include the same dial-up Internet speeds that are achievable through the ILEC IDLC arrangement for UNE-P customers of a CLEC, or for the ILEC's own customers. Any lack of parity, such as that which will result from the use of UDLC equipment as deployed by SBC for CLECs, is grounds for Commission rejection.

Finally, placing an IDLC configured loop in a 'jeopardy' status causes unnecessary delays and harms the customers. Sage proposes that, instead of using a jeopardy status, SBC institute a pre-engineering 'check' of all hot cut requests prior to executing the hot cut. Further, the pre-engineering check should be included as part of the total provisioning interval outlined in the interconnection agreements and performance measurements.

5. Develop clear and accurate loop and other OSS data that can be updated on a 'real-time' basis

CLECs need to receive clear and accurate loop and other OSS data from SBC's databases. If SBC's databases are inaccurate, SBC will reject a CLEC's order as being "unclean," due to no fault of the CLEC.[3] While SBC and the CLEC sort out fault, the customer is harmed by a delay in their order.

6. The batch cut rates must provide CLECs with a meaningful opportunity to compete and any proceeding to determine such rates should give equal weight to the incremental costs incurred by CLECs. Sage respectfully

[3] As CLECs addressed in the various DSL and line sharing dockets, SBC's loop databases have historically had problems with accuracy and completeness.

proposes consideration of a rate applicable to all end users, similar to the LNP charge.

SBC's proposal outlines a "Defined Rate Structure for Daily, Defined, and Bulk Processes." Additional detail is needed on this critical issue, including the discounts that will be available under the three options. As a general matter, CLECs should be able to migrate customers to UNE-L at least at rates that are at parity with the rates that CLECs pay to migrate customers to UNE-P. Otherwise, CLECs are unfairly impaired by a 'forced' transition to UNE-L. At the very least, SBC's rate structure should provide CLECs with a meaningful opportunity to compete for mass market customers. Otherwise, SBC's markets will no longer be irreversibly open to competition, as required by Section 271 of the FTA.

Furthermore, Sage proposes consideration of a rate applicable to all end users, similar to the LNP charge. This approach is appropriate because SBC's proposed batch cut costs are costs that would apply to CLECs that were not foreseen by CLECs when they developed their business plans. At the very least, the incremental cost to the ILEC and CLEC should be reimbursed.

7. Develop details on how to rectify problems

SBC's proposal does not contain any discussion on how to rectify UNE-L problems that will likely occur in a batch cut environment. For example, how will SBC and the CLEC remedy unsuccessful cuts and in what time period? How will 911 routing be verified? Will the proliferation of new switches exhaust 911 selective routers since facilities-based CLECs need to establish trunks to the selective routers? How will the parties address LNP issues if a cut is unsuccessful? What are the procedures to return end users to their "original technology" (e.g., IDLC) if the end user complains about inferior service? What commitment is there to restore an affected end user's service? How will the quality of transport facilities be monitored and remedied? In what manner and under what standards will pre- and post-testing of the UNE-L

proceed? How will such testing results be documented? How will large quantities of jeopardy hot cut requests be resolved? How will SBC prioritize the restoration of outages? As a matter of public policy, what is an acceptable "minimum" duration for an outage? What standards should the parties implement to ensure network security? Sage recommends developing procedures that address these customer-impacting issues.

8. The drafters and regulators of the batch cut process should place a priority on avoiding, preventing, and remedying outages to the customer.

As paragraphs 465-467 of the *Triennial Review Order* require, migrations for mass-market customers must be orderly, seamless, and trouble free. "Competition is meant to benefit consumers, and not create obstacles for them."[4] Also, in today's environment, it is important for public safety and the safety of customers for the customers to have continuous access to the telephone system.

As the FCC recognized in paragraph 465 of the *Triennial Review Order*, "[t]he record contains evidence that hot cuts frequently lead to provisioning delays and service outages." Accordingly, the Commission will need to decide what level of service outages, if any, are acceptable for Missouri customers.

9. Processes must include the provisioning of EELs, within statutorily required periods, to allow access to a loop with switching provided from a distant central office.

CLECs should be able to order EELs in a simple and reliable manner in order to transport the UNE-L to the CLECs' switches. ILECs should implement OSS and provisioning systems for EELs that provide CLECs with a reasonable opportunity to compete for mass market customers using UNE-L. Sage is unaware of any hot cut process utilizing EELs as a substitute for collocated UNE loops. At best, Sage believes this to be a two-step process. The first step is to

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4 *Triennial Review Order*, para.467.

provision the EEL. The second step is to implement the multi-step hot cut process. ILECs will need to prove, through performance data at mass market volumes, that they can provision EELs at intervals that are at parity with the UNE-P, and the ILECs' retail, provisioning intervals.

10. Include CLEC to CLEC migrations in the process.

As required by paragraph 478 of the *Triennial Review Order*, CLEC to CLEC migrations must be included in the batch cut process.

11. Special consideration must be taken to address all database issues.

Automatic location information ("ALI"), customer name ("CNAM"), 911, and line information database ("LIDB") databases must be updated on a real-time basis immediately after conversion.

12. Ensure no degradation in the capabilities of the loop after migration, including voice quality, data transmission speeds, and video quality.

As competition has allowed companies to bundle local and long distance services, these services are becoming commodities. Companies need to provide additional services, including access to the Internet, to remain competitive. Most customers still access the Internet through dial-up. Therefore, any degradation in data transmission speeds caused by loop migrations places CLECs at a distinct competitive disadvantage.

13. Clarify how various parties' orders will be prioritized.

CLEC's migration orders should be treated at parity with the ILEC's migration orders (e.g., winback migration orders). Sage respectfully requests clarification in SBC's procedures that the various' parties order will be handled in a nondiscriminatory manner.

Respectfully submitted,

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ATTORNEYS FOR SAGE TELECOM, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the counsel for all parties of record as of this date in Case No. TO-2004-0207 via hand-delivery or by depositing same in the U.S. Mail, first-class postage prepaid, this the 17th day of November, 2003.

Charles Brent Stewart
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