

adjacent channels without first submitting a petition for rulemaking. All applicants using this one-step process must demonstrate that a suitable site exists which would comply with allotment standards with respect to minimum distance separation and city-grade coverage and which would be suitable for tower construction. To receive authorization for commencement of Digital Television ("DTV") operation, commercial broadcast licensees must file FCC Form 301 for a construction permit. This application may be filed anytime after receiving the initial DTV allotment but must be filed before mid-point in a particular applicant's required construction period. The Commission will consider these applications as minor changes in facilities. Applications will not have to supply full legal or financial qualification information.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 03-24331 Filed 9-25-03; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

September 15, 2003.

**SUMMARY:** The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated

collection techniques or other forms of information technology.

**DATES:** Written comments should be submitted on or before October 27, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all comments to Les Smith, Federal Communications Commission, Room 1-A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov) or Kim A. Johnson, Office of Management and Budget (OMB), Room 10236 NEOB, Washington, DC 20503, (202) 395-3562 or via Internet at [Kim\\_A.Johnson@omb.eop.gov](mailto:Kim_A.Johnson@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collections contact Les Smith at (202) 418-0217 or via the Internet at [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov).

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060-0922.

*Type of Review:* Extension of a currently approved collection.

*Title:* Broadcast Mid-Term Report, FCC Form 397.

*Form Number:* FCC 397.

*Respondents:* Business or other for-profit entities; Not-for-profit institutions.

*Number of Respondents:* 4,300.

*Estimated Time per Response:* 0.5 hours.

*Frequency of Response:*

Recordkeeping; Mid-point reporting requirement.

*Total Annual Burden:* 269 hours (one-eighth of respondents file annually).

*Total Annual Cost:* None.

*Needs and Uses:* On November 7, 2002, the FCC adopted a Second Report and Order and Third NPRM (Second R&O), MM Docket No. 98-204, FCC 02-303, 68 FR 670 (2003), which established new EEO rules and forms to comply with the court's decision in *MD/DC/DE Broadcasters Association v. FCC*. The new rules adopt a new version of FCC Form 397. The new EEO rules also ensure equal employment opportunity in the broadcast and multi-channel video program distribution industries through outreach to the community in recruitment and prevention of employment discrimination. The new version of FCC Form 397 is filed only once at the mid-point of the eight-year license term of television licensees, with five or more full-time employees, and radio licensees, with eleven or more full-time employees. Licensees must certify that they have complied with the FCC's EEO rules during the period prior

to the date of the Mid-Term Report and must include copies of EEO reports that are required to be placed in the licensees' local public file for the prior two years.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 03-24332 Filed 9-25-03; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 03-138; FCC 03-228]

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

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

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

**DATES:** Effective September 26, 2003.

**FOR FURTHER INFORMATION CONTACT:** Gina Spade, Attorney-Advisor, Wireline Competition Bureau, at (202) 418-7105 or via the Internet at [gina.spade@fcc.gov](mailto:gina.spade@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. 03-138, FCC 03-228, adopted September 17, 2003, and released September 17, 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](mailto:qualexint@aol.com). It is also available on the Commission's Web site at [http://www.fcc.gov/Bureaus/Wireline\\_Competition/in-region\\_applications](http://www.fcc.gov/Bureaus/Wireline_Competition/in-region_applications).

### Synopsis of the Order

1. *History of the Application.* On June 19, 2003, Michigan Bell filed an application with the Commission, pursuant to section 271 of the Telecommunications Act of 1996, to provide in-region, interLATA service in the state of Michigan.

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

3. *The Department of Justice's Evaluation.* The Department of Justice filed its evaluation on July 16, 2003, expressing concerns about Michigan Bell's wholesale billing, line splitting, and data reliability. The Department of Justice ultimately stated that because of serious concerns about wholesale billing, it could not support the application based on the current record, but noted that the Commission might be able to resolve these billing issues prior to conclusion of its review.

4. *Compliance with Section 271(c)(1)(A).* In order for the Commission to approve a BOC's application to provide in-region, interLATA services, a BOC must first demonstrate that it satisfies the requirements of either section 271(c)(1)(A) (Track A) or section 271(c)(1)(B) (Track B). The Commission concludes that Michigan Bell satisfies the requirements of Track A in Michigan. This decision is based on the interconnection agreements Michigan Bell has implemented with competing carriers in Michigan and the number of carriers that provide local telephone exchange service, either exclusively or predominantly over their own facilities, to residential and business customers.

### Primary Issues in Dispute

5. *Evidentiary Case—Data Reliability.* The Commission finds that Michigan Bell's data are, on the whole, reliable and accurate, based on the evidence in

the record, including two independent, third-party audits of Michigan Bell's performance data. The Commission finds, therefore, that the commercial performance data submitted by Michigan Bell form an adequate evidentiary basis on which the Commission can render judgments regarding Michigan Bell's satisfaction of the competitive checklist.

6. *Checklist Item 2—Unbundling Network Elements.* Based on the record, the Commission finds that Michigan 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 also concludes that Michigan Bell provides nondiscriminatory access to combinations of unbundled network elements (UNE combinations) in compliance with the Commission's rules. Based on the evidence in the record, the Commission also finds that Michigan Bell's charges for UNEs made available to other telecommunications carriers are just, reasonable, and nondiscriminatory in compliance with checklist item 2. The Commission finds that the Michigan Commission followed basic TELRIC principles and that the Michigan Commission worked diligently to set UNE rates at TELRIC levels.

7. *Access to Operations Support Systems.* Based on the evidence in the record, the Commission finds that Michigan Bell is providing competitors nondiscriminatory access to OSS in compliance with checklist item 2. Pursuant to its analysis, the Commission finds that Michigan Bell provides nondiscriminatory 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 Michigan 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), Michigan 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 Michigan Bell does or, if no appropriate retail analogue exists within Michigan Bell's systems, in a manner that permits competitors a meaningful opportunity to compete. In particular, the Commission, assessing the totality of the circumstances, finds

that Michigan Bell's evidence regarding billing demonstrates that competitive LEC concerns reflect only isolated instances or errors typical of high-volume carrier-to-carrier commercial billing, rather than systemic problems. The Commission thus finds that the allegations raised about billing in this record do not warrant a finding of checklist noncompliance because Michigan Bell's billing processes provide competitors a meaningful opportunity to compete. In addition, regarding specific areas for which the Commission identifies issues with Michigan Bell's OSS performance—line loss notification reports and billing completion notices—the Commission finds that these problems do not demonstrate overall discriminatory treatment or are not sufficient to warrant a finding of checklist noncompliance.

8. *Checklist Item 4—Unbundled Local Loops.* Based on the evidence in the record, the Commission concludes that Michigan Bell provides unbundled local loops in accordance with the requirements of section 271 and Commission rules. The Commission's conclusion is based on its review of Michigan Bell's performance for all loop types, which include voice-grade loops, xDSL-capable loops, digital loops, and high-capacity loops, as well as the Commission's review of Michigan Bell's processes for hot cut provisioning, line sharing and line splitting. With respect to issues related to Michigan Bell's line splitting processes, the Commission finds that a BOC is not required to have in place processes for all possible line splitting scenarios at the time of its application if the BOC is working with competing LECs in a state collaborative to develop appropriate procedures. Because Michigan Bell is working with competitive LECs to develop such processes in Michigan, the Commission finds that these issues do not warrant a finding of checklist noncompliance.

9. *Checklist Item 7—Access to 911/E911 and Operator Services/Directory Assistance.* Section 271(c)(2)(B)(vii) of the Act requires a BOC to provide "[n]ondiscriminatory access to 911 and E911 services." A BOC must provide competitors with access to its 911 and E911 services in the same manner that it provides such access to itself, *i.e.*, at parity. Specifically, the BOC "must maintain the 911 database entries for competing LECs with the same accuracy and reliability that it maintains the database entries for its own customers." The Commission finds that Michigan Bell provides nondiscriminatory access to 911 and E911 services. Section 271(c)(2)(B)(vii) also requires a BOC to provide nondiscriminatory access to

“directory assistance services to allow the other carrier’s customers to obtain telephone numbers” and “operator call completion services,” respectively. Additionally, section 251(b)(3) of the 1996 Act imposes on each LEC “the duty to permit all [competing providers of telephone exchange service and telephone toll service] to have nondiscriminatory access to \* \* \* operator services, directory assistance, and directory listing, with no unreasonable dialing delays.” Based on the Commission’s review of the record it concludes that Michigan Bell offers nondiscriminatory access to its directory assistance services and operator services (OS/DA).

#### Other Checklist Items

10. *Checklist Item 1—Interconnection.* Based on its review of the record, the Commission concludes that Michigan Bell provides interconnection in accordance with the requirements of section 251(c)(2) and as specified in section 271 and prior Commission orders. In reaching this conclusion, the Commission examined Michigan Bell’s performance with respect to collocation and interconnection trunks, as the Commission has done in prior section 271 proceedings.

11. *Checklist Item 10—Databases and Signaling.* Section 271(c)(2)(B)(x) of the 1996 Act requires a BOC to provide nondiscriminatory access to databases and associated signaling necessary for call routing and completion. Based on the evidence in the record, the Commission finds that Michigan Bell provides nondiscriminatory access to databases and signaling networks in the state of Michigan.

12. *Checklist Item 13—Reciprocal Compensation.* Section 271(c)(2)(B)(xiii) of the Act requires BOCs to enter into “[r]eciprocal compensation arrangements in accordance with the requirements of section 252(d)(2).” In turn, section 252(d)(2)(A) specifies the conditions necessary for a state commission to find that the terms and conditions for reciprocal compensation are just and reasonable. The Commission finds that commenters’ allegations regarding Michigan Bell’s reciprocal compensation policies and rate structure in Michigan do not cause Michigan Bell to fail this checklist item or the public interest standard. In addition, the Commission waives its complete-as-filed requirement on its own motion pursuant to section 1.3 of the Commission’s rules to the limited extent necessary to consider Michigan Bell’s revised reciprocal compensation rates. 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. In its application filed on June 19, 2003, Michigan Bell explained that it had elected to invoke the rate structure set out in the Commission’s *ISP Remand Order*, and the rate structure change would be effective in Michigan on July 6, 2003—after comments were filed on Michigan Bell’s application. The Commission finds that a waiver is appropriate because Michigan Bell changed its rate structure for reciprocal compensation for ISP-bound traffic to the rate caps set forth in the Commission’s *ISP Remand Order*, not as part of a strategy to win approval of its application.

13. *Remaining Checklist Items (3, 5, 6, 8, 9, 11, 12 and 14).* Based on the evidence in the record, the Commission concludes that Michigan Bell demonstrates that it is in compliance with checklist item 3 (access to poles, ducts, and conduits), item 5 (unbundled transport), item 6 (unbundled switching), item 8 (white pages), item 9 (numbering administration), item 11 (number portability), item 12 (dialing parity), and item 14 (resale).

14. *Section 272 Compliance.* Based on the record, the Commission concludes that Michigan Bell has demonstrated that it will comply with the requirements of section 272. Significantly, Michigan Bell provides evidence that it maintains the same structural separation and nondiscrimination safeguards in Michigan as it does in Texas, Kansas, Oklahoma, Missouri, Arkansas, and California—states for which SBC has already received section 271 authority.

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 Michigan today are open to competition. The Commission further finds that the record confirms its view, as set forth 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 Michigan

Commission, the Commission intends to closely monitor Michigan Bell’s post-approval compliance to ensure that it continues to meet the conditions required for section 271 approval. The Commission stands ready to exercise its various statutory enforcement powers quickly and decisively in appropriate circumstances to ensure that the local market remains open in Michigan.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 03–24446 Filed 9–25–03; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare and Medicaid Services

[CMS–2182–FN]

#### Medicare and Medicaid Programs; Reapproval of the Community Health Accreditation Program (CHAP) for Deeming Authority for Hospices

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

**ACTION:** Final notice.

**SUMMARY:** This notice announces the reapproval of the Community Health Accreditation Program (CHAP) as a national accreditation program for hospices that request participation in the Medicare or Medicaid programs.

**EFFECTIVE DATE:** This final notice is effective November 21, 2003 through November 21, 2009.

**FOR FURTHER INFORMATION CONTACT:** Cindy Melanson, (410) 786–0310.

#### SUPPLEMENTARY INFORMATION

##### I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in a hospice, provided certain requirements are met. Section 1861(dd) of the Social Security Act (the Act) establishes distinct criteria for facilities seeking designation as a hospice provider. The regulations at 42 CFR part 418 specify the conditions that a hospice must meet in order to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for hospice care. Regulations concerning provider agreements are located in 42 CFR part 489, and regulations pertaining to activities relating to the survey and certification of facilities are located in 42 CFR part 488. Section 1905(o)(i)(A) of the Act generally extends the hospice Medicare requirements to payments for