

**BEFORE THE ILLINOIS COMMERCE COMMISSION**

**Docket No. 05-0171**

**Rebuttal Testimony of Eric Panfil  
On Behalf of SBC Illinois**

**SBC Illinois Exhibit 4.0**

**May 25, 2005**

1                                   **REBUTTAL TESTIMONY OF ERIC PANFIL**

2                                   **ON BEHALF OF SBC ILLINOIS**

3  
4   **Q1. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

5   A1. Eric Panfil, 225 West Randolph Street, Floor 27C, Chicago, Illinois 60606.

6  
7   **Q2. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

8   A2. I am currently employed by SBC Illinois as Director – Network Technology and New  
9       Services in the Illinois Regulatory organization.

10  
11   **Q3. WHAT ARE YOUR CURRENT RESPONSIBILITIES?**

12   A3. I am responsible for advocacy and policy development on a broad range of regulatory  
13       matters, with particular focus on issues related to network technology, network  
14       interconnection, and the evolution and development of competitive networks and  
15       services.

16  
17   **Q4. PLEASE BRIEFLY DESCRIBE YOUR TELECOMMUNICATIONS WORK**  
18       **EXPERIENCE.**

19   A4. I have been a member of the Regulatory and Public Policy Organizations at SBC Illinois  
20       (including its predecessor and affiliated companies) since 1982, when I assumed  
21       responsibility for development of interexchange carrier switched access tariffs. At  
22       various times since, I have been responsible for policy development, issues analysis,  
23       tariff development, tariff interpretation, rate and cost development, demand analysis, and

24 imputation analysis for carrier switched access (in both the federal and state  
25 jurisdictions); cellular carrier interconnection; payphone services; competitive carrier  
26 interconnection; and network unbundling. Prior to 1982, I worked in the Information  
27 Systems Department, where I held program design and coding, systems design, project  
28 management, and software support management positions.

29

30 **Q5. HAVE YOU PREVIOUSLY TESTIFIED BEFORE ANY REGULATORY**  
31 **COMMISSIONS?**

32 A5. I have previously testified in Illinois on behalf of SBC Illinois on numerous occasions  
33 over the past 15 years, most recently in Docket 04-0461, the Commission's investigation  
34 of how the imputation testing requirements of Section 13-505.1 of the Public Utilities Act  
35 should be applied to local business service; Docket 02-0864, the investigation of SBC  
36 Illinois' filed Unbundled Loop and Nonrecurring rates; Docket 01-0485, the Part 732  
37 Rulemaking; in Docket 00-0596, the Part 730 rulemaking; in Docket 01-0539, the Part  
38 731 rulemaking; in Docket 98-0195, the Commission's investigation into certain SBC  
39 Illinois payphone issues; and in Docket 01-0614, the investigation of the Company's  
40 compliance with Section 13-801(b) of the Illinois Public Utilities Act (the "PUA"). I also  
41 testified in Docket 94-0096 (Customers First). In addition, I have testified in proceedings  
42 before the Indiana, Michigan, Ohio, and Wisconsin Commissions on numerous issues,  
43 primarily in the area of network interconnection for LEC, wireless, and interexchange  
44 carrier networks, and related inter-carrier compensation arrangements.

45

46 **Q6. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS CASE?**

47 A6. The purpose of my testimony is to address certain assertions of witnesses testifying on  
48 behalf of McLeodUSA in their direct testimony. I will address Dr. Ankum's and Mr.  
49 Morrison's assertions regarding the Commission Staff's review of SBC Illinois' cost  
50 studies and rates which were developed in compliance with the Commission's order in  
51 Docket 02-0864. I will address Ms. Redman-Carter's assertion of McLeodUSA's  
52 position regarding the manner in which the Commission adopted revised rates in its order  
53 in Docket 02-0864, and her proposal regarding the proper retroactive application of  
54 certain nonrecurring charges for the period from June 25, 2004 through March 31, 2005.

55

56 **Q7. WHAT WERE YOUR RESPONSIBILITIES ON BEHALF OF SBC ILLINOIS IN**  
57 **THE CONDUCT OF DOCKET 02-0864 THAT ARE RELEVANT TO YOUR**  
58 **TESTIMONY IN THIS PROCEEDING?**

59 A7. I was SBC Illinois' Docket Manager for Docket 02-0864. As such, I was responsible for  
60 managing the flow of information and documents (such as testimony and data requests)  
61 for that docket within SBC, and was also therefore designated as the primary point of  
62 contact for the flow of information between Staff and SBC during the period following  
63 the release of the Commission's order when Staff and SBC were required to come to  
64 agreement on the production of cost studies (and resulting rates) that were in compliance  
65 with the order. I was also responsible for the tariff filings made by SBC Illinois in  
66 compliance with the requirements of the order.

67

68 **Q8. ON PAGES 25-26 OF THEIR TESTIMONY, DR. ANKUM AND MR. MORRISON**  
69 **CLAIM THAT DISCOVERY RESPONSES PROVIDED BY SBC ILLINOIS DO**

70 **NOT DEMONSTRATE THAT STAFF REVIEWED AND CONCURRED IN SBC**  
71 **ILLINOIS' "USE OF LABOR TIMES FOR THE CPC GROUP RATHER THAN**  
72 **THE HPC GROUP" IN THE COMPLIANCE NONRECURRING COST STUDIES**  
73 **FOR BASIC STANDALONE LOOPS. WHAT IS YOUR RESPONSE TO THAT**  
74 **CLAIM?**

75 A8. The issue referred to by Mr. Ankum and Mr. Morrison is whether the compliance  
76 nonrecurring cost studies comply with the Commission's direction that, as between the  
77 CPC group and the HPC group, SBC "utilize whichever group has the lowest costs and  
78 is, therefore, the more efficient" in developing the cost of provisioning loops. Order,  
79 Docket 02-0864 at 178. As discussed in Dr. Currie's rebuttal testimony, SBC Illinois did  
80 comply with this directive by using the group with the lowest costs (CPC) in developing  
81 the compliance NRCs. I must point out that SBC Illinois bears no obligation to  
82 document Staff's review of the compliance cost studies. McLeodUSA seems here to be  
83 implying that in the absence of a documentary record maintained by SBC Illinois, the  
84 Commission should assume that its Staff failed to adequately review the compliance cost  
85 studies provided by SBC Illinois for compliance with all of the cost study changes  
86 ordered by the Commission prior to the compliance tariff filing and also failed to review  
87 the final cost studies provided by SBC Illinois along with the tariff filing, once the filing  
88 had been made. There is no basis to make such an assumption.

89  
90 That said, however, I believe that the material provided by SBC Illinois in response to  
91 McLeodUSA's data requests 1.4 and 1.7, including both copies of emails and a copy of  
92 the ex parte report filed by Staff on July 2, 2004 in Docket 02-0864, provides strong

93 evidence that Staff reviewed those studies and concurred in their compliance with all of  
94 the requirements of the Commission's order.

95

96 The email attached to my testimony as Schedule EP-1 (which was provided to  
97 McLeodUSA in response to its Data Request 1.7) indicates that Staff had reviewed and  
98 approved the majority of the proposed NRC studies, and had only a few, including those  
99 for stand-alone loops ("Loop\_N\_Whsl") left to review. The email attached as Schedule  
100 EP-2 (which was provided to McLeodUSA in response to its Data Request 1.4) indicates  
101 that "Jim" (Dr. James Zolnierek) was "reviewing the loop provisioning stuff" at that time.

102 The email attached as Schedule EP-3 (which was provided to McLeodUSA in response to  
103 its Data Request 1.7) indicates that SBC had received confirmation from Staff that it had  
104 no disagreement with any of the NRC studies. Finally, the ex parte report filed by Staff,  
105 which is attached as Schedule EP-4 (and which was provided to McLeodUSA in response  
106 to its Data Request 1.7) states (on the first page):

107 Staff and SBC Illinois representatives discussed updates to SBC Illinois'  
108 cost models and cost studies required to develop rates consistent with the  
109 Docket 02-0864 Final Order dated June 9, 2004. The updated studies and  
110 models were intended to calculate final recurring and non-recurring UNE  
111 Rates to be included in SBC Illinois' tariffs. The updates discussed  
112 pertained to Annual Charge Factors (ACFs), DS1 and DS3 costs, Non-  
113 Recurring Costs and Shared and Common Costs. The Staff and SBC  
114 representatives were in agreement on the updates that were discussed.  
115

116 The Commission Staff reviewed the disaggregated version of the NRCs approved in  
117 Docket 02-0864, and supporting workpapers, for a second time when revised tariffs  
118 containing those rates were filed on March 31, 2005. Subject to a revision in the terms  
119 and conditions related to those rates, which I discuss below, Staff agreed that the

120 disaggregated rates comply with the Order and the revised tariffs containing those rates  
121 became effective on May 16, 2005. Those rates are the same as the disaggregated NRCs  
122 included in Attachment A to SBC Illinois' proposed pricing amendment.

123

124 **Q9. ON LINES 136-141 OF HER TESTIMONY ON BEHALF OF MCLEODUSA, MS.**  
125 **REDMAN-CARTER STATES THAT "IT IS MCLEODUSA'S POSITION THAT**  
126 **THE PROVISIONS OF THE ICA CITED BY MR. SILVER DO NOT REQUIRE**  
127 **AN AMENDMENT OF THE ICA TO INCORPORATE THE REVISED PRICES**  
128 **INCLUDED IN SBC'S PROPOSED AMENDMENT, BECAUSE THE ICC'S JUNE**  
129 **9, 2004 ORDER DID NOT ADOPT OR APPROVE ANY NEW RATES AND DID**  
130 **NOT ADOPT OR APPROVE THE SPECIFIC PRICES THAT SBC HAS**  
131 **INCLUDED IN ITS REVISED PRICING SCHEDULE." WHAT IS SBC ILLINOIS'**  
132 **RESPONSE TO THIS ASSERTION?**

133 A9. As Ms. Redman-Carter also mentions in her testimony, the issue she raises is  
134 predominantly a legal and contractual matter that will be most comprehensively  
135 addressed in the parties' briefs. In response to Ms. Redman-Carter's assertion, I will note  
136 that it is not generally the practice of the Illinois Commerce Commission to adopt  
137 specific rates in its pricing orders, particularly where the development of the rates is  
138 based on cost study data. Rather, it is generally this Commission's practice to decide the  
139 contested issues regarding the manner in which the rates under investigation should be  
140 set, and to order the carrier proposing the rates to implement revised rates, subject to  
141 review by the Commission Staff, in conformance with the substantive conclusions of the  
142 Commission. Another fairly recent case in which the Commission resolved a cost-based

143 rate investigation in this manner was its November 2003 decision implementing new  
144 payphone line rates in Docket 98-0195. Further, as discussed by Mr. Silver in his Direct  
145 Testimony, the “disaggregated” versions of the NRCs are also rates that were adopted by  
146 the Commission’s June 9 Order in Docket 02-0864, even though they were first included  
147 in an interconnection agreement approved by the Commission on October 6, 2004 and  
148 did not become effective in SBC Illinois’ tariff until May 16, 2005.

149

150 **Q10. ON LINES 284-308 OF HER TESTIMONY ON BEHALF OF MCLEODUSA, MS.**  
151 **REDMAN-CARTER PROPOSES THAT, SHOULD THE COMMISSION DECIDE**  
152 **THAT RATES COMPLIANT WITH THE COMMISSION’S ORDER IN**  
153 **DOCKET 02-0864 SHOULD BE EFFECTIVE IN MCLEODUSA’S**  
154 **INTERCONNECTION AGREEMENT AT ANY DATE EARLIER THAN**  
155 **MARCH 31, 2005, THAT NONRECURRING CHARGES ASSESSED TO**  
156 **MCLEODUSA FOR THE PERIOD PRIOR TO MARCH 31, 2005, SHOULD BE**  
157 **THE “DISAGGREGATED” RATES (WITH SEPARATE CONNECTION AND**  
158 **DISCONNECTION CHARGES, AS WELL AS SEPARATE CHARGES FOR**  
159 **INITIAL AND ADDITIONAL LOOPS ON A SINGLE SERVICE ORDER)**  
160 **RATHER THAN THE AGGREGATED RATES APPLICABLE TO OTHER**  
161 **CLECS DURING THE PERIOD FROM JUNE 25, 2004 TO MARCH 31, 2005.**  
162 **WHAT IS SBC ILINOIS’ RESPONSE TO THIS PROPOSAL?**

163 **A10.** McLeodUSA’s proposed treatment of the NRC rates is not supported by the Order, which  
164 required that the disaggregated version of the NRCs be implemented by the end of the  
165 first quarter of 2005, and did not require retroactive adjustments to aggregated rates

166 approved for implementation on June 25, 2004. Furthermore, McLeodUSA's proposal  
167 would be detrimental to both McLeodUSA and SBC, and should not be adopted by the  
168 Commission.

169  
170 With respect to the issue of connect and disconnect charges, the Commission Staff raised  
171 this issue with SBC Illinois during its review of the tariffs filed by the Company on  
172 March 31, 2005 to replace the aggregated rates with disaggregated rates, and expressed a  
173 concern that there was no assurance that a carrier that paid the aggregated installation  
174 charge for an new loop ordered after June 25, 2004, would not also pay a separate  
175 disconnect charge if that loop were taken out of service after the implementation of the  
176 disaggregated NRC rates. After discussing the situation with Staff, SBC Illinois agreed  
177 to add clarifications to the tariff to ensure that there would be no "double-billing" of  
178 disconnect charges to carriers that paid the aggregated NRC rates. Revised tariff pages  
179 containing those clarifications were filed on May 13, 2005. In order to ensure that no  
180 carrier that paid an interim aggregated NRC also pays a separate disconnect charge, SBC  
181 will post a credit, equal to the tariffed amount of any separate disconnect charge that may  
182 someday become applicable, to each carrier account that paid an interim aggregated  
183 NRC, thus "pre-crediting" any possible disconnect charge application. This arrangement  
184 is more than fair to the carriers, since they will receive the credit for the disconnect  
185 charge well in advance of the time that the disconnect charge is ultimately assessed,  
186 giving the carrier the use of that credit amount (i.e. the "time value" of that money) from  
187 the time it receives the credit to the later time at which it ultimately pays the disconnect  
188 charge for that loop. This arrangement for a one-time credit is also simpler and less

189           costly for SBC Illinois to implement than attempting to track for some unknown number  
190           of future years each of those UNEs installed during the period between June 25, 2004 and  
191           March 31, 2005 so that special treatment can be applied to them at the time that they  
192           actually are disconnected. Thus, the billing treatment that McLeodUSA is requesting  
193           would actually be less favorable (i.e. more costly) to them than the standard arrangement  
194           that will apply to all of the other carriers. It would also be more costly to SBC Illinois to  
195           implement unique billing arrangements for McLeodUSA, rather than applying the same  
196           procedures it has been using for the billing of all other carriers as their revised pricing  
197           amendments have been approved at various times since June 25, 2004.

198  
199           With respect to the disaggregation of NRCs to separate charges for initial and additional  
200           loops on a single order, there is no issue of potential “double-billing” as there is with the  
201           connect and disconnect charges. Moreover, it would be a significant administrative  
202           burden on SBC Illinois to implement a unique billing procedure just for McLeodUSA. It  
203           is far more logical and fair (as well as consistent with the order, as I noted above) to  
204           accord McLeodUSA the same rate treatment as all of the other CLECs for the application  
205           of NRCs to initial and additional loops during the period prior to March 31, 2005..

206

207   **Q11. DOES THIS CONCLUDE YOUR REBUTTTAL TESTIMONY?**

208   A11. Yes.