

State Commission Decisions Rejecting Claim of Authority to Implement Section 271

- Alabama: Order Dissolving Temporary Standstill, *Competitive Carriers of the South, Inc.*, Docket 29393, 2005 Ala. PUC LEXIS 126, at *42-*43 (Ala. PUC May 25, 2005) (“With regard to MCI’s argument that BellSouth has an independent obligation to provision UNE-P switching pursuant to § 271 of the Telecommunications Act of 1996, we conclude, as did the court in *Mississippi PSC*, that given the FCC’s decision ‘to not require BOCs to combine § 271 elements no longer required to be unbundled under § 251, it [is] clear that there is no federal right to § 271 based UNE-P arrangements.’ This conclusion is further bolstered by the fact that the ultimate enforcement authority with respect to a regional Bell operating company’s alleged failure to meet the continuing requirements of § 271 of the Telecommunications Act of 1996 rests with the FCC and not this Commission. MCI’s argument that there is an independent obligation under § 271 to provide UNE-P is accordingly rejected.”).
- Arkansas: Memorandum Opinion and Order, *Petition of Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas for Compulsory Arbitration of Unresolved Issues for a Successor Interconnection Agreement to the Arkansas 271 Agreement (“A2A”)*, Docket No. 05-081-U, 2005 Ark. PUC LEXIS 432, at *3-*4 (Ark. PSC Oct. 31, 2005) (“ICA arbitrations are limited to establishing the rates, terms and conditions to implement the obligations of 47 USC § 251. This Commission’s obligations under Section 271 of the Act are merely advisory to the FCC. . . . Although SBC should provide the items specified in Section 271 and the TRO, this Commission has no jurisdiction to enforce Section 271.”).
- Delaware: Arbitration Award, *Petition of Dieca Communications Inc. et al for an Amendment to Interconnection Agreements with Verizon Delaware Inc., Pursuant to Section 252(b) of the Communications Act of 1934, as amended, the Triennial Review Order and the Triennial Review Remand Order*, Docket Nos. 05-164 & 04-68, at 111-12 (Del. PSC Mar. 24, 2006) (“This arbitration proceeding involves the ICAs changes necessary to implement changes in Verizon’s obligations resulting from the TRO and TRRO. For the most part, these changed obligations are subject to the provisions of § 251 of the Act. Furthermore, there is no clear indication in either the TRO or TRRO that the FCC expected the states to address any issues beyond that scope, such as potential § 271 obligations, as part of the subsequent § 252 process. As a result, it is not necessary to address the questions of state authority over § 271 matters in order to resolve the matters that are within the basic scope of the present arbitration proceeding. Therefore, the ICAs should not include anything related to any claimed § 271 entitlements.”), available at <http://www.state.de.us/delpsc/dockets/0468award.pdf>.

- Florida: Order on Generic Proceeding, *Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.*, Docket No. 041269-TP, Order No. PSC-06-0172-FOF-TP, at 52 (Fla. PSC Mar. 2, 2006) (“Upon thorough analysis of FCC orders, the Act, case law, and the record in this proceeding, we find that this Commission does not have authority to require BellSouth to include in § 252 interconnection agreements § 271 elements. We acknowledge that this is a complex issue, the resolution of which is burdened by the lack of a clear declaration by the FCC and the existence of a significant, yet inconsistent body of law. However, we find that the regulatory framework set forth by the FCC in both the *TRO* and the *TRRO* leads reasonably to the conclusion that jurisdiction over § 271 matters lies with the FCC rather than this Commission.”), available at <http://www.floridapsc.com/library//FILINGS/06/01842-06/01842-06.PDF>.
- Idaho: Order No. 29825, *Petition of Dieca Communications, Inc., d/b/a Covad Communications Co. for Arbitration of an Interconnection Agreement with Qwest Corp.*, Case No. CVD-T-05-1, 2005 Ida. PUC LEXIS 139, at *9 (Idaho PUC July 18, 2005) (“We conclude that the Commission does not have authority under Section 251 or Section 271 of the Act to order the Section 271 unbundling obligations as part of an interconnection agreement.”).
- Illinois: Arbitration Decision, *Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 with Illinois Bell Telephone Company to Amend Existing Interconnection Agreements to Incorporate the Triennial Review Order and the Triennial Review Remand Order*, Docket 05-0442, at 60 (Ill. Commerce Comm’n Sept. 15, 2005) (“We note that the Commission has no jurisdiction to enforce the provisions of Section 271 absent an agreement. General jurisdiction would lie only with the FCC. . . . The Commission rejects CLECs’ proposal to update underlying agreements requiring SBC to provide new rates, terms, and conditions for Section 271 elements, apart from any terms agreed to in the underlying agreement.”). *But see XO Illinois Petition for Arbitration of an Amendment to an Interconnection agreement with Illinois Bell Telephone Company Pursuant to Section 252(b) of the Communications Act of 1934, as Amended*, Docket No. 04-0471, Amended Arbitration Decision, at 66-67 (Ill. Commerce Comm. Oct. 28, 2004); *Cbeyond Communications et al. v. Illinois Bell Telephone Company*, Case No. 05-0154, Order, at 24-27 (Ill. C.C. June 2, 2005).
- Indiana: Order, *Indiana Utility Regulatory Commission’s Investigation of Issues Related to the Implementation of the Federal Communication Commission’s Triennial Review Remand Order and the Remaining Portions of the Triennial Review Order*, Cause No. 42857, at 35 (Indiana URC Jan. 11, 2006) (joined “the many courts and commissions that have already held that Section 271 obligations have no place in Section 251/252 interconnection agreement[s] and that state commissions have no jurisdiction to enforce or determine the requirements of Section 271.”), available at http://www.in.gov/iurc/portal/Modules/Ecms/Cases/Docketed_Cases/ViewDocument.aspx?DocID=0900b631800a6212.

- Iowa: Arbitration Order, *Arbitration of Dieca Communications, Inc., d/b/a Covad Communications Co. v. Qwest Corp.*, Docket No. ARB-05-1, 2005 Iowa PUC LEXIS 186, at *10 (Iowa Util. Bd., May 24, 2005) (“Clearly, the provisions that are at issue in this arbitration are unbundling obligations pursuant to § 271, rather than § 251 obligations. Therefore, the Board lacks jurisdiction or authority to require that Qwest include these elements in an interconnection agreement arbitration brought pursuant to § 252.”).
- Kansas: Order No. 13: Commission Order on Phase I, *Petition of CLEC Coalition for Arbitration Against Southwestern Bell Telephone, L.P d/b/a SBC Kansas Under Section 252(b)(1) of the Telecommunications Act of 1996*, Docket No. 05-BTKT-365-ARB, at 2 (KCC May 16, 2005) (“Where a checklist item is no longer subject to section 251 unbundling, section 252(d)(1) does not operate as the pricing standard. Rather, the pricing of such items is governed by the ‘just and reasonable’ standard established under sections 201 and 202,” which “provide no authority to state commissions to establish prices for services required to be provided pursuant to section 271.”).
- Louisiana: Order U-28131 Consolidated With Order U-28356, *In re: Petition to establish generic docket to consider amendments to Interconnection Agreements resulting from changes of law*, Docket Number U-28356, at 3 (Louisiana PSC Feb. 22, 2006) (“The Commission declines to order BellSouth to include Section 271 elements in Section 252 agreements and further declines to set rates for Section 271 elements.”), available by searching for order number at <http://204.196.11.47/Workplace/Search.jsp>.
- Maryland: Order No. 79893, *Petition of AT&T Communications of Maryland, Inc. and TCG Maryland for an Order Preserving Local Exchange Market Stability*, Case No. 9026, at 8 (Md. PSC Apr. 8, 2005) (“With respect to whether Section 271 provides an independent basis for continued provisioning of switching . . . at TELRIC rates, the Commission notes that Verizon’s fulfillment of its Section 271 obligations do not necessitate the provision of Section 251 elements at Section 251 rates.”).
- Massachusetts: Consolidated Order Dismissing Triennial Review Order Investigation and Vacating Suspension of Tariff M.D.T.E. No. 17, *Proceeding by the Department of Telecommunications and Energy on its own Motion to Implement the Requirements of the Federal Communications Commission’s Triennial Review Order Regarding Switching for Mass Market Customers*, D.T.E. 03-60, at 55-56 (Mass. D.T.E. Dec. 15, 2004) (Section 271 elements “should be priced, not according to TELRIC, but rather according to the ‘just and reasonable’ rate standard of Sections 201 and 202 of the Act. . . . [T]he FCC has the authority to determine what constitutes a ‘just and reasonable’ rate under Section 271, and the FCC is the proper forum for enforcing Verizon’s Section 271 unbundling obligations. . . . [W]e do not have authority to determine whether Verizon is complying with its obligations under Section 271.”).

- Montana: Final Order, *Petition of Dieca Communications, Inc., d/b/a Covad Communications Company for Arbitration of an Interconnection Agreement with Qwest Corporation*, Docket No. D2005.4.51, Order No. 6647a, 2006 Mont. PUC LEXIS 11, at *4-*7 (Mont. PSC Jan. 8, 2006) (“Although § 271 makes passing references to certain provisions of §§ 251 and 252, there is no indication that § 271 was intended to be part of the §§ 251/252 arbitration regime. . . . Covad is effectively precluded from using a § 252 arbitration to obtain an unbundling of § 271 network elements [T]o the extent that Qwest has not fulfilled this [§ 271] obligation, Covad may pursue its administrative remedies with the FCC.”), *available at* http://www.psc.state.mt.us/eDocs/DocketsAndOrders/D2005-4-51_6647a.pdf.
- New Jersey: Telecommunications Order, *Petition of Verizon New Jersey Inc. for Arbitration of an Amendment to Interconnection Agreements with Competitive Local Exchange Carriers in New Jersey Pursuant to Section 252 of the Communications Act of 1934, as Amended, the Triennial Review Order and the Triennial Review Remand Order*, Docket No. TO05050418, at 14 (New Jersey BPU Mar. 16, 2006) (“The Board declines to require separate unbundling under sections 251, 252 and 271 of the Act, . . . and disagrees with the need to institute any additional rate review proceedings at this time.”), *available at* http://www.nj.gov/bpu/wwwroot/telco/TO05050418_20060327.pdf.
- North Carolina: Order Concerning Changes of Law, *Proceeding to Consider Amendments to Interconnection Agreements Between BellSouth Telecommunications, Inc. and Competing Local Providers Due to Changes of Law*, Docket No. P-55, SUB 1549, at 86 (North Carolina Util. Comm’n Mar. 1, 2006) (“The Commission after careful consideration concludes that the Commission lacks the authority to compel BellSouth to include Section 271 UNEs in its Section 251/252 ICAs, nor does the Commission believe it has the authority to establish rates for such elements.”), *available at* <http://ncuc.commerce.state.nc.us/cgi-bin/webview/senddoc.pgm?dispfmt=&itype=Q&authorization=&parm2=MBAAAA06060B>.
- North Dakota: Order, *Dieca Communications, Inc. Interconnection Arbitration*, Case No. PU-05-165, 2006 N.D. PUC LEXIS 3, at *22-*23 (ND PUC Feb. 8, 2006) (“We find that we do not have the authority under the Act to impose unbundling obligations under Section 271. The FCC has the exclusive authority to determine whether Qwest has complied with the substantive provisions of Section 271 including the checklist provisions. Enforcement of Section 271 requirements is also clearly under the exclusive jurisdiction of the FCC. State commissions have only a consulting role under the Act.”).

- Ohio: Arbitration Award, *Establishment of Terms and Conditions of an Interconnection Agreement Amendment Pursuant to the Federal Communications Commission's Triennial Review Order and its Order on Remand*, Case No. 05-887-TP-UNC, at 27 (Ohio PUC Nov. 9, 2005) (rejecting CLEC arguments that “they are entitled to purchase § 271 checklist items pursuant to § 252 agreements,” and holding that “these obligations should be addressed in the context of carrier-to-carrier agreements, and not § 252 interconnection agreements, inasmuch as the components will not be purchased as network elements”).
- Oregon: Order Adopting Arbitrator’s Decision, *Covad Communications Co. Petition for Arbitration of an Interconnection Agreement with Qwest Corp.*, ARB 584, 2005 Ore. PUC LEXIS 445, at *36 (Ore. PUC Sept. 6, 2005) (“Every state within the Qwest operating region that has examined this issue has done so in a thoughtful, thorough and well-reasoned manner. In each case, the agency with the authority to review the Covad/Qwest ICA dispute has found that there is no legal authority requiring the inclusion of Section 271 UNEs in an interconnection agreement subject to arbitration under Section 251 of the Act, and I adopt the legal conclusions that they all hold in common.”).
- Pennsylvania: Opinion and Order, *Verizon Pennsylvania Inc. Tariff No. 216 Revisions*, Docket No. P-00042092, 2005 Pa. PUC LEXIS 9, at *42 (Pa. PUC June 2, 2005) (“We believe that the enforcement responsibilities of Section 271 compliance lies with the FCC. Therefore, the Commission will not oblige Verizon PA to produce tariff amendments that reflect its Section 271 obligations. However, the Commission will continue to monitor Verizon PA’s compliance with its Section 271 obligations and, if necessary, initiate appropriate complaint proceedings before the FCC.”).
- Rhode Island: Report and Order, *Verizon-Rhode Island's Filing of February 18, 2005 to Amend Tariff No. 18*, Docket No. 3662, 2005 R.I. PUC LEXIS 26, at *15-16 (R.I. PUC July 28, 2005) (“The FCC has not clearly indicated what role, if any, a state utility commission plays in the Section 271 process other than providing a consultation to the FCC on a Bell Operating Company’s (‘BOC’) initial application to enter the long distance market. In fact, the FCC recently indicated it has the authority to enforce Section 271. In addition, the FCC has clearly stated that it will undertake a ‘fact-specific inquiry’ as to whether a BOC’s rates for Section 271 facilities are just and reasonable under Section 201 and 202. At this time, it is apparent to the Commission that at the bistro serving up the BOCs’ wholesale obligations, the kitchen door numbered 271 is for ‘federal employees only.’”).

- South Carolina: Commission Directive, *Petition of BellSouth Telecommunications, Inc. to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting from Changes of Law*, Docket No. 2004-316-C (SC PSC Feb. 28, 2006) (Commission vote to accept following motion: “The first category of issues would be the 271-related issues: With regard to Issue 8 (a), I move that we adopt the BellSouth position, along with the proposed Office of Regulatory Staff reporting requirements. Disputes regarding 271 issues would be reported to both the Commission and ORS. Issues 8 (b) and 8 (c) would then be declared moot. I further move that we adopt BellSouth’s reasoning for Issues 14, 17, 18, and 22.”), *available at* <http://dms.psc.sc.gov/attachments/B6C82725-D7D8-9648-DE003D8F79E35898.pdf>.
- South Dakota: Arbitration Order, *Petition of DIECA Communications, Inc. D/B/A Covad Communications Company for Arbitration of an Interconnection Agreement with Qwest Corporation*, Docket TC05-056, at 6 (South Dakota PUC July 26, 2005) (“With respect to the section 271 issue, the Commission finds that it does not have the authority to enforce section 271 requirements within this section 252 arbitration. . . . The language in [section 252] clearly anticipates that Section 252 arbitrations will concern section 251 requirements, not section 271 requirements.”), *available at* <http://www.state.sd.us/puc/commission/orders/telecom/2005/tc05-056ao.pdf>.
- Texas: Arbitration Award – Track II Issues, *Arbitration of Non-Costing Issues for Successor Interconnection Agreements to the Texas 271 Agreement*, Docket No. 28821, at 18-19 (Tex. PUC June 17, 2005) (holding that that the 1996 Act “provides no specific authorization for the Commission to arbitrate section 271 issues;” that “Section 271 only gives states a consulting role in the 271 application/approval process”; that a state commission “does not have direct oversight over section 271 network elements; and that and the “review of section 271 pricing” is limited to “proceedings at the FCC, as well”).
- Utah: Arbitration Report and Order, *Petition of DIECA Communications, Inc. d/b/a Covad Communications Company, for Arbitration to Resolve Issues Relating to an Interconnection Agreement with Qwest Corporation*, Docket No. 04-2277-02, at 20-21 (Utah PSC Feb. 8, 2005), *available at* <http://www.psc.state.ut.us/telecom/05orders/Feb/04227702aro.htm> (“[W]e differ with Covad in its belief that we should therefore impose Section 271 and state law requirements in the context of a Section 252 arbitration. Section 252 was clearly intended to provide mechanisms for the parties to arrive at interconnection agreements governing access to the network elements required under Section 251. Neither Section 251 nor 252 refers in any way to Section 271 or state law requirements, and certainly neither section anticipates the addition of new Section 251 obligations via incorporation by reference to access obligations under Section 271 or state law.”).

- Vermont: Order, *Petition of Verizon New England, Inc., d/b/a/ Verizon Vermont, for Arbitration of an Amendment to Interconnection Agreements*, Docket No. 6932, at 247, 264 (Vermont PSC Feb. 27, 2006) (“As Verizon points out, enforcement of Section 271 obligations rests largely with the FCC. Thus, for issues related to whether Verizon still complies with a particular checklist item, recourse would be to the FCC. . . . However, to the extent that Verizon made specific commitments to the state of Vermont during the Section 271 process, and asked the state to rely upon those commitments, the Company's agreement represents a binding arrangement enforceable by the Board.”), available at <http://www.state.vt.us/psb/orders/2006/files/6932fnl.pdf>.
- Washington: Arbitrator’s Report and Decision, *Petition for Arbitration of an Amendment to Interconnection Agreements of Verizon Northwest Inc.*, Docket No. UT-043013, Order No. 17, at 25 (Wash. U.T.C. July 8, 2005) (holding that, because “[t]he FCC has the exclusive authority to act under Section 271,” state commissions “ha[ve] no authority under Section 252 or Section 271 of the Act to require inclusion of Section 271 unbundling obligations in the parties’ interconnection agreements,” and “[a]n order requiring [such] inclusion . . . would conflict with the federal regulatory scheme”), *aff’d*, Final Order, *Petition for Arbitration of an Amendment to Interconnection Agreements of Verizon Northwest Inc.*, Docket No. UT-043013, Order No. 18 (Wash. UTC Sept. 22, 2005).
- Washington, D.C.: Order, *Petition of Verizon Washington, D.C. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996*, TAC-19, at 34 (D.C. PSC Dec 15, 2005) (“[T]hroughout the *TRO*, the FCC limits its discussion of the section 252 interconnection agreement process to apply to implementing section 251. The FCC has also determined that the section 271 unbundling obligations are independent of the unbundling obligations of section 251. Thus, there is no requirement that section 271 network elements be addressed in interconnection agreements negotiated and arbitrated pursuant to section 252.”), available at http://www.dcpsc.org/pdf_files/commorders/orderpdf/orderno_13836_TAC-19.pdf.

State Commission Decisions Accepting Claim of Authority to Implement Section 271

- Arizona: Opinion and Order, *Petition of Dieca Communications, Inc., dba Covad Communications Company for Arbitration of an Interconnection Agreement with Qwest Corp.*, Docket No. T-03632A-04-0425, Decision No. 68440, at 20 (Arizona Corp. Comm'n Feb. 2, 2006) ("When read in conjunction with the entirety of the Telecom Act, the Section 271 obligations described above must be considered the type of interconnection and access requirements contemplated under Section 252. . . . We believe that our ongoing oversight and monitoring role may be exercised in any appropriate proceeding before the Commission, including this Section 252 arbitration matter . . ."), *available at* <http://images.edocket.azcc.gov/docketpdf/0000040183.pdf>.
- Colorado: Order, *Qwest Corp. v. Public Util. Comm'n of Colorado*, No. 04-D-02596-WYD-MJW, 2006 WL 771223 (Colo. PUC. Mar. 24, 2006) (finding that a commercial agreement covering 271 elements (switching and shared transport) had to be filed with the state commission under § 252).
- Georgia: Order Initiating Hearings to Set a Just and Reasonable Rate Under Section 271, *Generic Proceeding to Examine Issues Related to BellSouth Telecommunications, Inc.'s Obligations to Provide Unbundled Network Elements*, Docket No. 19341-U, at 4 (Georgia PSC Jan. 17, 2006) ("[T]he Commission concludes that it is reasonable to assert jurisdiction to set just and reasonable rates for de-listed UNEs pursuant to Section 271 of the Federal Telecom Act."), *available at* <ftp://www.psc.state.ga.us/19341/89229.doc>.
- Missouri: Arbitration Order, *Southwestern Bell Telephone, L.P., d/b/a SBC Missouri's Petition for Compulsory Arbitration of Unresolved Issues for a Successor Interconnection Agreement to the Missouri 271 Agreement ("M2A")*, Case No. TO-2005-0336, at 30 (Missouri PSC July 11, 2005) ("The Arbitrator's decision with respect to both CLEC Coalition Pricing Issues A-2 and A-3 was that 'The Arbitrator agrees that the ICA must include prices for § 271 UNEs.' However, the Arbitrator failed to specify what those rates would be. . . . [T]he Commission concurs that the Coalition's compromise position – rates patterned on the FCC's transition period rates for declassified UNEs – constitutes a suitable interim rate structure for § 271 UNEs."), *available at* <http://www.psc.mo.gov/orders/2005/07115336.htm>.

- Maine: Order, *Proposed Schedules, Terms, Conditions and Rates for Unbundled Network Elements and Interconnection (PUC 20) and Resold Services (PUC 21)*, Docket No. 2002-682, 2005 Me. PUC LEXIS 267, at *28-*29 (Me. PUC Sept. 13, 2005) (“As stated earlier, the FCC has determined that the appropriate pricing standard for Section 271 UNEs is ‘just and reasonable’ and we have determined that until Verizon files prices for our approval or submits FCC-approved rates, Verizon must continue to provision all Section 271 UNEs at TELRIC prices.”), available at http://mpuc.informe.org/easyfile/cache/easyfile_doc169297.DOC, preliminary injunction denied in *Verizon New England Inc. d/b/a Verizon Maine v. Maine Public Utilities Commission*, 403 F. Supp. 2d 96, 102 (D. Me. 2005) (“[T]he authority of state commissions over rate-making and its applicable standards is not pre-empted by the express or implied content of § 271. Furthermore, Verizon has failed to direct the Court to any order of the FCC interpreting § 271 to provide an exclusive grant of authority for rate-making under § 271.”).
- Michigan: Order, *In the matter, on the Commission’s own motion, to commence a collaborative proceeding to monitor and facilitate implementation of Accessible Letters issued by SBC MICHIGAN and VERIZON*, Case No. U-14447, at 16 (Mich. PSC Sept. 20, 2005) (“The Commission is still convinced that obligations under Section 271 should be included in interconnection agreements approved pursuant to Section 252. However, the Joint CLECs must negotiate with SBC concerning terms and conditions, seeking Commission arbitration if necessary. If the CLECs experience problems with obtaining items available pursuant to Section 271, they may take appropriate enforcement action.”).
- Minnesota: *In the Matter of a Potential Proceeding to Investigate the Wholesale Rates Charged by Qwest*, Docket p-421/CI-05-1996, Notice and Order for Hearing, at 3 (Minn. P.U.C. May 4, 2006). *But see* Minnesota: Arbitrator’s Report, *Petition of DIECA Communications, Inc. d/b/a Covad Communications Company, for Arbitration to Resolve Issues Relating to an Interconnection Agreement With Qwest Corporation*, MPUC Docket No. P-5692, 421/IC-04-549, OAH Docket No. 3-2500-15908-4, at 15 (Minn. PUC Dec. 15, 2004) (“There is no legal authority in the Act, the TRO, or in state law that would require the inclusion of section 271 terms in the interconnection agreement over Qwest’s objection.”).

- New Hampshire: Order No. 24,598, Order Classifying Wire Centers and Addressing Related Matters, *Verizon New Hampshire Wire Center Investigation*, DT 05-083 (March 10, 2006), at 45-46 (holding that Verizon must offer certain 271 network elements at FCC transition rates until such time as new rates are established and approved by the NHPSC, and relying on Order No. 24,442, *Proposed Revisions to Tariff NHPUC No. 84 (Statement of Generally Available Terms and Conditions)*, *Petition for Declaratory Order re Line Sharing*, DT 03-201, DT 04-176 (March 11, 2005), at 49-50 (“We are continuing our oversight of Verizon’s section 271 obligations. . . . we do not foreclose the possibility that Verizon may turn to the FCC regarding rates but we conclude that, unless or until the FCC acts, pricing is an area of concurrent jurisdiction and an example of cooperative federalism. Accordingly, as a state agency and being closest to the issues, if and when Verizon files changes to rates [for Section 271 network elements], we will review such proposed changes in the normal course.”)), available at <http://www.puc.state.nh.us/Regulatory/Orders/2006orders/24598t.pdf> and <http://www.puc.state.nh.us/Regulatory/Orders/2005orders/24442t.pdf>.
- Oklahoma: *Petition of CLEC Coalition for Arbitration Against Southwestern Bell Telephone, L.P. d/b/a SBC Oklahoma under Section 252(B)(1) of The Telecommunications Act of 1996*, Cause No. PUD 200400497, Written Report of the Arbitrator at 199 (Okla. Corp. Comm. May 2005); Final Order, at 9 (June 1, 2005). *But see* Final Order on Motions for Clarification and Reconsideration of Order No. 522119, *Petition of CLEC Coalition for Arbitration Against Southwestern Bell Telephone, L.P. d/b/a SBC Oklahoma Under Section 252(b)(1) of the Telecommunications Act of 1996*, Cause Nos. PUD 200400497, 200400496, Order No. 523439, 2006 Okla. PUC LEXIS 56, at *3 (Okla. Corp. Comm'n April 18, 2006) (“2. 271 Related Elements. The Commission decision is reaffirmed. This Commission finds that it is not necessary to determine whether the Commission has jurisdiction over Section 271 elements because Section 271 elements are not included within the ICA. 3. TELRIC Rates for Section 271 Services. The Commission decision is reaffirmed. This Commission finds that it is not necessary to determine whether the Commission has jurisdiction over the pricing of Section 271 elements because Section 271 elements are not included within the ICA.”).

- Tennessee: Final Order of Arbitration Award, *Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996*, Docket No. 03-00119, 2005 Tenn. PUC LEXIS 332, at *60 (Tennessee Reg. Auth. Oct. 20, 2005) (“Further, there is no language contained in the Federal Act that expressly prohibits state jurisdiction over Section 271 elements that are included in issues required to be arbitrated pursuant to Section 252. Rather, there is language that indicates that Congress gave states a role in determining Section 271 elements through state approval of both SGAT conditions and interconnection agreements.”), available at <http://www.state.tn.us/tra/orders/2003/0300119db.pdf>. *But see* Excerpt of Transcript of Authority Conference, Docket 04-00046, at 21-22 (Tenn. Reg. Auth. March 6, 2006) (voting to “acknowledge that BellSouth and the CLECs are free to negotiate commingling a Section 251 element with a Section 271 element but provision of a Section 251-271 commingling service by BellSouth is voluntary”).