

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

PETITION FOR ARBITRATION OF	§	
INTERCONNECTION RATES, TERMS	§	
AND CONDITIONS AND RELATED	§	
ARRANGEMENTS WITH ILLINOIS	§	DOCKET NO. 04-0469
BELL TELEPHONE COMPANY	§	
PURSUANT TO SECTION 252(b) OF	§	
THE TELECOMMUNICATIONS ACT	§	
OF 1996	§	

**DIRECT TESTIMONY OF MICHAEL J. LEHMKUHL
ON BEHALF OF
MCI metro Access Transmission Services LLC
MCI WorldCom Communications, Inc. and
Intermedia Communications LLC**

EXHIBIT 4.0

DATED: August 4, 2004

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I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND YOUR EMPLOYER.

A. My name is Michael J. Lehmkuhl. I am employed by MCI as a Senior Regulatory Specialist for Operator Services and Directory Assistance. My current business address is 22001 Loudoun County, Ashburn, Virginia, 20147.

Q. BRIEFLY DESCRIBE YOUR BACKGROUND AND RELEVANT EXPERIENCE.

A. I have been an employee of MCI for four years. My responsibilities at MCI include supporting the business and regulatory efforts of MCI through its ISN Services and Solutions Group. Before joining MCI, I practiced telecommunications law before various federal agencies, including the Federal Communications Commission (FCC). I earned a Juris Doctorate and Master of Arts in Mass Communications from Drake University Law School 1990 and am member of the Wisconsin State Bar (non-practicing). I earned my Bachelor's Degree in Journalism from the University of Wisconsin at Madison in 1987.

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to support the positions of the petitioning companies, MCImetro Access Transmission Services LLC, MCI WorldCom Communications Inc., and Intermedia Communications LLC (collectively, "MCI"), regarding access and use of SBC Illinois' directory assistance listing information ("DALI"), directory assistance and operator

26 services (“OS/DA”), as well as call-related databases, including the Calling
27 Name database (“CNAM”) and Line Information database (“LIDB”).

28 **Q. HOW IS YOUR TESTIMONY ORGANIZED?**

29 A. I first address the issues regarding CNAM and LIDB, and then I address
30 issues related to pricing of DALI.

31 **III. ACCESS TO CALL-RELATED DATABASES (CNAM, LIDB, TOLL-**
32 **FREE)**

33 **A. NONDISCRIMINATORY ACCESS**

34
35 **Q. CAN YOU IDENTIFY THE MOST IMPORTANT OF THE CNAM AND**
36 **LIDB ISSUES FIRST?**

37
38 A. Yes. Those issues are: CNAM 1, CNAM 2, CNAM 7, LIDB 4, LIDB 5 and
39 LIDB 7.

40 **Q. WHAT IS THE NATURE OF THE DISPUTE ON THESE ISSUES?**

41 A. Issues CNAM 2 and LIDB 4 ask whether CNAM and LIDB are UNEs. As
42 set forth below, the UNE issue is irrelevant since SBC Illinois continues to
43 be obligated to provide nondiscriminatory access to call-related
44 databases. Because SBC is required to provide nondiscriminatory access
45 to these databases, the dispute in CNAM 1 is about whether MCI should
46 be able to obtain access to a call-related database on terms that meet
47 MCI’s business needs, i.e., on a bulk download basis. A closely related
48 issue is CNAM 7 that pertains to usage restrictions SBC Illinois seeks to
49 impose on MCI’s use of CNAM data. Finally, issue LIDB 5 pertains to the
50 pricing that should be applicable to MCI’s access to information in SBC
51 Illinois’ LIDB database.

52 I will first present an overview and then turn to the substance of the
53 debate on these issues.

54 **Q. WHAT IS CNAM?**

55 A. CNAM stands for Calling Name Database and is a call-related database of
56 SBC Illinois subscribers that is comprised of line numbers, a 15 digit name
57 identifier and a privacy indicator associated with the line record if the
58 customer has requested privacy. The database is used by SBC Illinois to
59 provide caller ID services. As an incoming call is routed and terminates at
60 a customer's phone, a query is sent from the terminating switch to a
61 database to retrieve information on the party calling. The information
62 retrieved from the database is then routed over the network so that it is
63 viewable on a called party's equipment to identify the caller before the
64 second ring cycle. Currently, SBC Illinois offers MCI access to its CNAM
65 database on a per query basis only. MCI does not presently access SBC
66 Illinois' CNAM database.

67 **Q. WHAT IS LIDB?**

68 A. LIDB stands for Line Information Database. It is a call-related database
69 used for validating calling card, collect call, and third party call information.
70 When a 0+ or 0- call is initiated, a billing number service (BNS) validation
71 query is initiated. After checking MCI's own internal servers, queries are
72 aggregated by switch location and sent out over the SS7 network to one of
73 several service control points around the country hosting a LIDB
74 database. The query provides automatic number identification (ANI)

75 information from both caller and recipient, as well as the point code from
76 the originating carrier to identify which entity is initiating the query. Once
77 received, the LIDB database provider initiates a positive or negative
78 authorization code. The call proceeds if a positive response code is
79 received and is blocked if a denied response code is returned. In the case
80 of SBC Illinois' LIDB, MCI accesses SBC Illinois' database when an SBC
81 Illinois calling card is used on an MCI line or when a collect or third party
82 call is initiated by an MCI customer and is billed to an SBC Illinois
83 customer.

84 **Q. ARE THE CNAM AND LIDB CALL-RELATED DATABASES**
85 **CONSIDERED UNES? (CNAM 2, LIDB 4)**

86 A. Only if they are part of switching provided as a UNE by the ILEC. In the
87 FCC's Triennial Review, the FCC concluded that call-related databases
88 are no longer UNES because the FCC determined that CLECs could get
89 access to the databases from other sources and therefore are not
90 impaired.¹

91 **Q. ARE THERE OTHER SOURCES FOR CNAM AND LIDB INFORMATION**
92 **FOR THE MAJORITY OF SBC ILLINOIS' SUBSCRIBERS BESIDES**
93 **SBC ILLINOIS?**

94 A. The only source of caller ID and call validation information for the vast
95 majority of subscribers (i.e., SBC Illinois subscribers) is SBC Illinois.
96 While other third party "hubbers", like Verisign or SNET DG, an SBC
97 subsidiary, can provide the data, they ultimately get their data from SBC

¹ *Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Report & Order and order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36, ¶¶ 554-555 (2003) (hereinafter, Triennial Review Order).*

98 Illinois. Thus, there are really no other sources for this data; all roads
99 lead back to SBC Illinois.

100 **Q. WHY IS ACCESS TO THIS INFORMATION SO IMPORTANT FOR MCI?**

101 A. Access to SBC Illinois' call-related databases is necessary for MCI to
102 competitively provide the same type of services SBC Illinois provides to its
103 own customers. Moreover, in the case of LIDB, that database is
104 necessary to facilitate call completion between an MCI subscriber and an
105 SBC Illinois subscriber.

106 **Q. WHAT CONTRACT LANGUAGE IS AT ISSUE FOR ISSUE CNAM 1?**

107 A. The disputed language is in the CNAM appendix, Sections 3 et seq. and
108 4.2. The dispute on this issue is framed as follows: "Should SBC Illinois
109 be required to provide bulk access to the CNAM database in addition to
110 query access?"

111 **Q. IF CNAM AND LIDB ARE NOT UNES (UNLESS OF COURSE SBC
112 ILLINOIS IS PROVIDING THE SWITCHING), DOES SBC ILLINOIS
113 HAVE AN OBLIGATION TO PROVIDE MCI ACCESS TO THESE
114 DATABASES?**

115 A. Yes. FTA Section 251(b)(3), 47 U.S.C. § 251(b)(3), provides in part that
116 each LEC has the duty to:

117 provide dialing parity to competing providers of telephone exchange
118 service and telephone toll service, and the duty to permit all such
119 providers to have nondiscriminatory access to telephone numbers,
120 operator services, directory assistance, and directory listing, with no
121 unreasonable dialing delays.

122
123 CNAM and LIDB are a collection of names associated with telephone
124 numbers used to facilitate dialing parity between LECs and, as such, SBC
125 Illinois is obligated to provide nondiscriminatory access to the data.

126 **Q. WHAT DOES NONDISCRIMINATORY ACCESS MEAN?**

127 A. Nondiscriminatory access means, at a minimum, that a LEC must provide
128 requesting LECs with the same access to the information that the
129 providing LEC enjoys. The competitive aims of the Act rest on the
130 principle that in order to be competitive, all carriers must have access to
131 the same information, in the same manner.

132 Other than in the Virginia Arbitration Order, which I discuss below,
133 the FCC has not addressed this issue with respect to call-related
134 databases. However, it has discussed this issue at length with regard to
135 directory assistance listing information (DALI). For example, the FCC has
136 required that incumbents must “make available to unaffiliated entities all of
137 the in-region telephone numbers they use to provide nonlocal directory
138 assistance service at the same rates, terms and conditions they impute to
139 themselves”² and “comply with the nondiscrimination requirements set
140 forth in section 272(c)(1).”³

141 Earlier, the FCC found that per-query access to directory
142 assistance data violated the nondiscrimination requirements of 251(b)(3)
143 when it required ILECs to provide bulk access to DALI:

144 Although some competing providers may only want per-query
145 access to the providing LEC’s directory assistance database, per-
146 query access does not constitute equal access for a competing

² FCC Memorandum Opinion and Order, *In the Matter of the Petition of SBC Communications Inc. for Forbearance of Structural Separation Requirements and Request for Immediate Interim Relief in Relation to the Provision of Nonlocal Directory Assistance Services, et al.*, CC Docket No. 97-172, DA 00-514, adopted April 11, 2000 (“FCC Forbearance Order”) at ¶ 2.

³ *Id.* at ¶ 15.

147 provider that wants to provide directory assistance from its own
148 platform. With only per-query access to the providing LECs
149 database, new entrants would incur the additional time and
150 expense that would arise from having to take the data from the
151 providing LEC's database on a query-by-query basis then entering
152 the data into its own database in a single transaction. *** Such
153 extra costs and the inability to offer comparable services would
154 render the access discriminatory.⁴

155
156 In the FCC's latest order regarding nondiscriminatory access to DALI, the
157 FCC clarified that non-discriminatory access means that providing LECs
158 cannot impose use restrictions that they themselves are not bound to
159 follow:

160 Furthermore, we conclude that section 251(b)(3)'s requirement of
161 nondiscriminatory access to a LEC's DA database does not
162 contemplate continuing veto power by the providing LEC over the
163 uses to which DA information is put. Once carriers or their agents
164 obtain access to the DA database, they may use the information as
165 they wish, as long as they comply with applicable provisions of the
166 Act and our rules. This latitude in the use of DA information
167 includes permitting a carrier's DA agent to use the information as it
168 sees fit. Our conclusion in this regard does not mean that a DA
169 provider is effectively without limitation in its use of the database
170 information it has obtained in its agency capacity. Such providers
171 continue to be governed by their agreements with their carrier-
172 principal and by the state-law principles that govern the
173 construction of those agreements. Here, we decline only to place
174 additional restrictions on the use of the information that are without
175 basis in the statute.

176 We disagree with commenters such as Bell Atlantic that maintain
177 that a competing DA provider may not use the DA database for
178 purposes other than providing directory assistance. Section
179 251(b)(3) imposes no such limitation on LECs, their affiliated DA
180 providers, or CLECs, and the commenters have offered no basis in

⁴ *In the Matters of Implementation of the Telecommunications Act of 1996, Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Provision of Directory Listing Information*, Third Report and Order in CC Docket No. 96-115, Second Order on Reconsideration in CC Docket No. 96-98, and Notice of Proposed Rulemaking in CC Docket No. 99-273, at ¶ 152 (September 9, 1999) (hereinafter, "1999 Directory Listing Order").

181 the Act or our rules for imposing such a restriction on competing DA
182 providers. Rather, in the Local Competition Second Report and
183 Order, we concluded that competitors receiving LEC directory
184 assistance information would be held to the same standards as the
185 providing LEC in terms of the types of information that they could
186 legally release to third parties.⁵ Competing DA providers operate
187 under the same standards. As we noted in the Local Competition
188 Second Report and Order, this holding does not preclude states
189 from continuing to limit how LECs or competing DA providers can
190 use accessed directory information, e.g., by prohibiting the sale of
191 customer information to telemarketers. Rather, section 251(b)(3)
192 merely precludes states from discriminating among LECs by
193 imposing different access restrictions on competing providers,
194 thereby allowing certain LECs to enjoy greater access to
195 information than others. This analysis applies to all DA providers,
196 including competing DA providers. We thus decline to limit the
197 manner in which DA providers use the information beyond the
198 limitation announced in the Local Competition Second Report and
199 Order.⁶

200

201 **Q. HOW DOES THIS RELATE TO CALL RELATED DATABASES?**

202 A. Call-related databases are very similar in nature to DALI. Until recently,
203 however, the FCC considered call-related databases UNEs. Therefore, it
204 was not necessary to analyze such databases under dialing parity or the
205 nondiscriminatory access provision of 251(b)(3), as suggested by the FCC
206 in its Triennial Review. *Infra*, note 8.

207 **Q. SO CAN YOU SUMMARIZE WHAT THE FCC HAS DETERMINED**
208 **CONSTITUTES NONDISCRIMINATORY ACCESS UNDER 251(b)(3)?**

209 A. Nondiscriminatory access under dialing parity means: (1) the data must
210 be available to requesting carriers in the same manner it is available to

⁵ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Second Report and Order and Memorandum Opinion and Order, FCC 96-333, 11 FCC Rcd 19392, 19461-62 (1996) (*Local Competition Second Report and Order*), vacated in part, *People of the State of California v. FCC*, 124 F.3d 934 (8th Cir. 1997), rev. *AT&T Corp. v. Iowa Util. Bd.*, 119 S.Ct. 721 (Jan. 25, 1999).

⁶ *In the Matter of Provision of Directory Listing Information*, First Report & Order, FCC 0127 at ¶¶ 28-29 (January 2001) (hereinafter "DAL Provisioning Order").

211 providing carriers; (2) the same data must be available to all LECs or
212 those eligible to receive the data; (3) the providing carrier may not impose
213 restrictions on the use of the data; and (4) where, as here, the data is
214 available from only one source, nondiscriminatory access also means the
215 providing LEC cannot use price to discriminate against other carriers in
216 the marketplace.

217 Because LECs have exclusive control over the generation of their
218 subscriber information contained in call-related databases by virtue of the
219 service order process, and because SBC Illinois has the vast majority of
220 subscribers in its service area, access to the data in the call-related
221 databases is essential to allow MCI and other LECs to offer
222 telecommunications services based on these databases.

223 **1. BULK ACCESS TO CNAM**

224

225 **Q. DOES SBC ILLINOIS MAKE ITS CNAM INFORMATION AVAILABLE**
226 **TO OTHER THIRD PARTIES IN BULK?**

227

228 A. Yes, SBC Illinois has stated that SNET DG, a wholly owned subsidiary,
229 owns the LIDB (which SBC acknowledges includes CNAM) used by SBC
230 Illinois. If SBC Illinois doesn't have the LIDB/CNAM information, then it
231 must have to transfer the data to SNET DG and there is undoubtedly a
232 procedure whereby that information is updated in a timely manner. MCI is
233 simply asking for the same nondiscriminatory access SBC Illinois provides
234 to SNET DG.

235 **Q. IS IT APPROPRIATE FOR MCI TO ASK FOR DOWNLOAD ACCESS TO**
236 **THE CNAM DATA?**

237 A. Yes. Although this issue was deemed outside the scope of SBC Illinois'
238 271 application by the Commission, the issue has matured and is now ripe
239 for consideration in this proceeding. In the year that has passed since the
240 Commission's decision on SBC Illinois' 271 application, commission's in
241 Minnesota and Indiana have considered this issue and have ruled in MCI's
242 favor.⁷ More importantly, these two decisions were rendered after the
243 FCC's consideration of the issue in the Verizon Virginia decision. As
244 discussed more fully below, the FCC in the Verizon Virginia decision did
245 not consider all the facts presented here.

246 Moreover, in the more recent Triennial Review, the FCC stated that
247 this issue was properly addressed under section 251(b)(3) of the FTA,
248 even if the database is not treated as a UNE. The FCC concluded:

249 To the extent that competition may lead to inability to obtain
250 complete CNAM databases that could impede the continued
251 availability of nondiscriminatory dialing parity for all providers of
252 local exchange services, that is an issue that ultimately will impact
253 incumbent LECs as significantly as competitive LECs and therefore
254 is more appropriate for treatment under the requirements of section
255 251(b)(3) than in this docket.⁸

⁷ *Commission Investigation and Generic Proceeding on Indiana's Rates for Interconnection, Service, Unbundled Elements, and Transport and Termination Under the Telecommunications Act of 1996 and Related Indiana Statutes*, Indiana Utility Regulatory Commission, CAUSE NO. 40611-S1, PHASE II, pp 7-15 (February 17, 2003) (2003 Ind. PUC LEXIS 116) (hereinafter, "Indiana Cost Order"); see also, *In the Matter of the Commission Review and Investigation of Qwest's Unbundled Network Elements UNE Prices*, Minnesota Public Utility Commission Order Adopting ALJ Reports, Requiring Customized Routing And Bulk Download, Establishing Rates, And Requiring Rate Schedules, Docket No. P-421/CI-01-1375, September 11, 2003 (hereinafter "MN CNAM Order") (The ruling is available on-line at <http://www.puc.state.mn.us/docs/orders/03-0109.pdf>); and see, *In the Matter of the Commission Review and Investigation of Qwest's Unbundled Network Elements UNE Prices*, Minnesota Public Utility Commission Order After Reconsideration Modifying September 11, 2003 Order, Docket Nos. P-421/CI-01-1375, P-442,3012,421/M-01-1916, January 13, 2004 (hereinafter, MN Reconsideration Order) (Available on-line at <http://www.puc.state.mn.us/docs/orders/04-0005.pdf>).

⁸ *Triennial Review Order* at ¶ 558.

256 **Q. WHY IS IT SO IMPORTANT FOR MCI TO HAVE ACCESS ON A**
257 **DOWNLOAD BASIS RATHER THAN ON A PER QUERY BASIS?**

258 A. MCI requests the transfer of SBC Illinois' CNAM database to MCI as a
259 "batch" file instead of being relegated to "per-query" or "dip" access,
260 because batch access allows MCI use of the database in exactly the same
261 readily accessible manner as SBC Illinois enjoys. As MCI pointed out in
262 recent cost proceedings before the Indiana Utility Regulatory Commission,
263 download access allows MCI to avoid the use of an ILEC's SS7 network,
264 which makes up the vast majority of the cost of per-query access.⁹
265 Conversely, limiting access to a per-query or "dip" basis discriminates
266 against MCI and other CLECs by giving the ILEC an unfair advantage
267 over costs, service quality and the provision of new and innovative
268 services.

269 SBC Illinois may claim that it accesses the CNAM database on a
270 per query basis as well, but any such statement is misleading. Although
271 any database is accessed by providing a query, SBC Illinois owns the
272 physical database and thus has the ability to access, manipulate, or use
273 the database any way it likes. As I explain below, limiting MCI to a query-
274 only access simply restricts MCI from implementing its own innovations.

275 **Q. HAVE ANY STATES ALLOWED CLEC'S DOWNLOAD ACCESS TO**
276 **CNAM DATA?**

⁹ See Rebuttal Testimony of Michael Starkey (Public Version), *In the Matter of The Commission Investigation and Generic Proceeding on Ameritech Indiana's Rates for Interconnection Service, Unbundled Elements, and Transport and Termination under the Telecommunications Act of 1996 and Related Indiana Statutes*, Indiana Utility Regulatory Commission, Cause No. 40611-S1, page 48 (April 2, 2002).

277 A. Yes, the PUCs in Indiana¹⁰, Michigan¹¹, Minnesota¹², Georgia¹³ and
278 Tennessee¹⁴ have ruled that the ILEC in each of those states is required
279 to provide CNAM on a bulk-download basis. In Michigan, after a few
280 months of working out some of the technical details with SBC Illinois, MCI
281 currently receives Ameritech Michigan's CNAM data in download format,
282 receiving the initial data feed in August 2002.

283 A subsequent ruling in Minnesota is the most recent since the
284 FCC's Triennial Review Order. In that case, Qwest sought
285 reconsideration of the Minnesota PUC's original decision arguing that,
286 because CNAM was no longer a UNE, it was no longer required to provide
287 MCI download access to the database. The Minnesota PUC disagreed.

¹⁰ "Indiana Cost Order", see fn. 7.

¹¹ The Michigan Public Service Commission denied Ameritech Michigan's application for § 271 approval, in part based on Ameritech Michigan's failure to offer CNAM in a downloadable format. See, *In the Matter, on the Commission's Own Motion, to Consider Ameritech Michigan's Compliance with the Competitive Checklist in Section 271 of the Federal Telecommunications Act of 1996*, No. U-12320, December 21, 2001; See also, *In the Matter of the Application of Ameritech Michigan for Approval of Cost Studies and Resolution of Disputed Issues Related to Certain UNE Offerings*, Case No. U-12540 at 21 (March 2001).

¹² *Supra*, note 7; see also, *In the Matter of a Commission Investigation Into Qwest's Compliance with Section 271(c)(2)(B) of the Telecommunications Act of 1996; Checklist Items 3, 7, 8, 9, 10, and 12, Minnesota Public Utility Commission, Findings of Fact, Conclusions of Law and Recommendations* OAH Docket No. 12-2500-14485-2, PUC Docket No. P-421/C1-01-1370, May 8, 2002, pars. 149-154 (hereinafter "Minnesota 271 Order"). The ALJ ruling is available on-line at: <http://www.oah.state.mn.us/cases/qwest271/250014485.rt.html>

¹³ *Petition of MCleetro Access Transmission Services, LLC and MCI Communications, Inc. for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996*, Order of Georgia Consumers' Utility Counsel, Docket No. 11901-U at 28 (March 7, 2001 order available at: <http://www.psc.state.ga.us/cgi-bin/documentresults.asp?page=4>).

¹⁴ *In Re Petition of MCleetro Access Transmission Services LLC and Brooks Fiber Communications of Tennessee, Inc., for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc., Concerning Interconnection and Resale Under the Telecommunications Act of 1996*, Docket No. 00-00309, Tennessee Regulatory Utility Commission, 2002 Tenn. PUC LEXIS 112 at *26 -*27, April 3, 2002.

288 The Commission has reconsidered its September 11, 2003 Order in
289 light of the FCC's Triennial Review Order regarding CNAM, as
290 requested by Qwest, and finds that nothing in the Triennial Review
291 Order that warrants altering the Commission's decision to require
292 Qwest to make its CNAM database available to CLECs by bulk
293 download.

294 First, contrary to Qwest's assertion, the FCC clearly did not intend
295 its finding of "no impairment" under Section 251(d)(2)(B) to be
296 interpreted as a finding that Qwest's denying CLECs access to the
297 CNAM via bulk download did not violate the dialing parity
298 requirements of Section 251(b)(3).³ In its Triennial Review Order,
299 the FCC focused solely on the "no impairment" requirements of
300 Section 251(d)(2) and specifically left open the question whether
301 the CLECs' access to the CNAM database via bulk download was
302 required by Section(b)(3). The FCC stated:

303 "We conclude that this issue [the CLECs' claim that they should be
304 able to access the CNAM database via batch download] is more
305 properly addressed pursuant to the dialing parity requirements
306 under section 251(b)(3)."

307 Based on the record established in this proceeding, the ALJ has
308 found and the Commission has confirmed that the per query access
309 to the CNAM offered the CLECs by Qwest is significantly inferior to
310 the access that Qwest has to the CNAM database and that, as a
311 consequence, Qwest is not providing CLECs with nondiscriminatory
312 dialing parity as required by Section 251(b)(3).⁴ The Commission's
313 directive that Qwest provide CLECs' access to the CNAM via bulk
314 download, therefore, is appropriate as a matter of fact and federal
315 law. ¹⁵ [Footnotes omitted.]

316
317 **Q. WHAT HAVE SOME OF THE OTHER STATES SAID REGARDING**
318 **DOWNLOAD ACCESS TO THE CNAM DATABASE?**

319 A. The earlier Minnesota ALJ ruling, later adopted by the Minnesota
320 Commission, found not only that a bulk download of CNAM was
321 technically feasible, but that per query access to the CNAM database
322 available through Qwest's SS7 network was substantially inferior to the
323 access that Qwest itself enjoys:

¹⁵ MN Reconsideration Order at pp. 3-4.

324 in these circumstances, Qwest's refusal to provide access to the
325 [CNAM] database by bulk download and its insistence that the
326 CLEC accept per query access via Qwest's SS7 signaling network
327 is discriminatory and anti-competitive, in violation of Minnesota
328 laws.³⁰ Accordingly, the Commission will require Qwest to provide
329 access to the CNAM database by bulk download when a CLEC
330 requests it at the price established in the following section."¹⁶

331 Similarly, the Indiana Commission in a cost case determined that:

332 Ameritech Indiana does not have to pay each time it "dips" into its
333 own CNAM database. Thus, it is discriminatory to require CLECs
334 that have the option of downloading the CNAM information into
335 their own systems and then using their own SS7 network to query
336 the CNAM database to pay for unneeded access to a duplicative
337 SS7 network.¹⁷

338 **Q. WHAT IS DISCRIMINATORY ABOUT PER QUERY ACCESS TO SBC**
339 **ILLINOIS' CNAM DATABASE?**

340 A. An analogy can be made between access to the CNAM database and the
341 DALI database. The FCC determined that query-only access to the
342 directory assistance listings databases is discriminatory when it
343 specifically found that "LECs must transfer directory assistance databases
344 in readily accessible electronic, magnetic tape, or other format specified
345 by the requesting LECs, promptly on request...."¹⁸ The FCC specifically
346 held that LECs may not restrict competitive access to the DALI database
347 by making access available only on a per-query basis. *Supra* at 7 and fn.
348 4.

349 For the same reasons that precluding batch access to the DALI
350 database is discriminatory, precluding batch access to the CNAM

¹⁶ *MN CNAM Order* at p. 15.

¹⁷ *Indiana Cost Order* (2003 Ind. PUC LEXIS 116 at *32).

¹⁸ *1999 Directory Listing Order* at ¶ 153.

351 database is discriminatory. Thus, SBC Illinois discriminates against
352 CLECs by permitting them to access its CNAM database only on a per-
353 query basis. To allow this practice to stand allows SBC Illinois to
354 intentionally discriminate against competing carriers by unfairly and
355 unreasonably limiting access to the CNAM database.

356 **Q. SBC ILLINOIS WANTS TO INCLUDE LANGUAGE IN THE ICA**
357 **PERTAINING TO QUERY-ONLY ACCESS OF THE CNAM. WHY DOES**
358 **MCI OBJECT TO THIS LANGUAGE?**

359 A. MCI objects to language that restricts CNAM access to query-only access
360 because MCI does not want query-only access to the database and it is
361 discriminatory. Only download access is nondiscriminatory access.

362 **Q. CAN YOU EXPLAIN HOW PER-QUERY ACCESS IS DISCRIMINATORY**
363 **TO MCI?**

364 A. Yes. As generally described above, a CLEC like MCI has to bear
365 increased costs if its CNAM access is limited to per-query access.
366 Specifically, and from a practical standpoint, requiring MCI to dip into SBC
367 Illinois' database or access the database on a "per query" basis forces
368 MCI to pay for two sets of facilities to get to the same piece of information,
369 because MCI has deployed its own SS7 network and thus possesses the
370 capability to query its own databases to obtain calling information. Under
371 SBC Illinois' proposal, MCI would be required to pay SBC Illinois not only
372 a per dip charge for accessing its CNAM data, but also fees for using SBC
373 Illinois' SS7 network to reach the database. SBC Illinois should not be
374 permitted to require MCI to purchase access to one element (i.e., the SS7)

375 in order to reach another element (i.e., the CNAM database) – particularly
376 where using SBC Illinois' SS7 network constitutes the vast majority of the
377 costs of per query CNAM access. Such a requirement would force MCI to
378 operate in an unreasonably inefficient manner, foregoing the use of its
379 own physical SS7 network assets as a condition of obtaining access to
380 SBC Illinois' CNAM data. If the Commission permits MCI to obtain batch
381 access to SBC Illinois' CNAM data, MCI can utilize its own SS7 network
382 for each CNAM query.

383 **Q. WHAT OTHER COSTS ARE INVOLVED?**

384 A. When an SBC Illinois caller makes multiple calls to an MCI customer with
385 caller-ID, MCI must query SBC Illinois' database for the same caller-ID
386 information each and every time that call is terminated. In doing so, MCI
387 must pay for that query each and every time that call is terminated. But
388 when an SBC Illinois customer calls another SBC Illinois customer within
389 SBC Illinois' operating territory, SBC Illinois queries its own database,
390 multiple times, without incurring a separate charge for each query. If MCI
391 is granted bulk access to the CNAM database in a downloadable format, it
392 too would pay only once, i.e., for the listing, and also for any updates
393 made to that listing, incurring costs in a manner similar to the way SBC
394 Illinois incurs costs to keep and maintain the database. Just as in the
395 case of directory assistance listings, a competitive carrier may wish to
396 obtain the full database in order to avoid the required dip for each and
397 every query. For some CLECs such as MCI, obtaining the full contents of

398 the database and maintaining its own database would be more
399 economical than restricted access on a per-dip or per-query basis.

400 **Q. HOW DOES “MULTIPLE DIPPING” AFFECT A CARRIER LIKE MCI?**

401 A. The economics of per query versus batch access are not difficult to
402 demonstrate. For example, each MCI subscriber typically has a few
403 people that are repeat callers to their MCI household. For example, many
404 spouses call each other every day from work. If as SBC Illinois proposes,
405 MCI is limited to per-query access to CNAM information, MCI would
406 possibly dip and pay SBC Illinois for access to its CNAM database 20
407 times a month for the same information. With download access, MCI
408 would only pay for that information once.

409 If an SBC Illinois customer is a high volume caller like a
410 telemarketer, an opinion pollster, or a charity that places numerous
411 outbound calls, the customer may make calls to a thousand MCI
412 customers with caller ID across the State in a single evening. In this
413 instance, on that day alone MCI would incur charges for a thousand dips
414 to SBC Illinois' CNAM database for the same caller ID information.

415 **Q. ARE THERE ANY OTHER INCREASED COSTS WHERE MCI IS**
416 **RESTRICTED TO PER-QUERY ACCESS TO THE DATA?**

417 A. Yes. For MCI to continue to provide quality service to its customers, per-
418 query access forces MCI to incur development costs to implement
419 additional and complex routing instructions within its signaling network. If,
420 however, MCI maintains the database on its own platform, it can continue
421 to utilize its existing routing algorithms and avoid the need for costly

422 redevelopment. In other words, it would allow MCI to provide service to its
423 customers at least as well as SBC Illinois provides to its customers without
424 having to incur a needless financial penalty. Thus, the per-query form of
425 access is discriminatory, degrades service quality and unnecessarily foists
426 additional costs on CLECs. As a result, per-query access adversely
427 impacts competition.

428 **Q. HOW CAN THE METHOD OF ACCESS TO DATA AFFECT THE**
429 **DEGREE OF COMPETITION IN THE MARKET?**

430 A. Per-query access to the CNAM database prevents MCI from controlling
431 the service quality and management of the database. It also restricts
432 MCI's ability to offer other innovative service offerings that may be
433 provided more efficiently, quickly, and cheaply.

434 Full, or batch-download, access to SBC Illinois' CNAM database
435 helps to increase innovative and competitive offerings. For instance, if
436 MCI could operate its own database to support services for its end users,
437 it would not be bound by SBC Illinois' restrictions and could develop the
438 capability to offer CNAM database services to other carriers via other
439 signaling methods that could be more efficient and less costly. For
440 example, it could offer CNAM over Transmission Control Protocol/Internet
441 Program ("TCP/IP") rather than on the costly Signaling System 7 ("SS7")
442 network. The provisioning of CNAM through TCP/IP might also facilitate
443 the development of new services, for example, allowing the integration of
444 CNAM data with emerging voice over Internet applications.

445 **Q. YOU PREVIOUSLY MENTIONED THE VIRGINIA ARBITRATION**
446 **ORDER. HOW DOES THAT ORDER RELATE TO THE ISSUE OF**
447 **ACCESS TO SBC ILLINOIS' CNAM DATABASE?**

448 A. That FCC Order does not control the issue here. In connection with the
449 Virginia Arbitration Order, the FCC, acting in the stead of the Virginia
450 Commission, stated that the Act and its rules did not require download
451 access to the CNAM database because the terms of such access are
452 defined under Section 51.319(e)(2)(i).¹⁹ This pronouncement by the FCC
453 is not only inconsistent with its previous rulings regarding access to
454 databases, but in making its determination in an arbitration context, the
455 FCC did not have at its disposal information highlighting the additional
456 costs borne by CLECs for use of the ILEC's SS7 network (as did the
457 Indiana Commission, for example, when it made its recent ruling) when
458 another alternative such as download access is available and technically
459 feasible.

460 Further, the Virginia Order makes clear that the arguments in favor
461 of batch download access were "not fully articulate[d]" in that proceeding,
462 and that the FCC did not feel that there had been a sufficient discussion of
463 the issue, including citations to specific statutory authority, to warrant
464 finding that providing bulk download CNAM access was required under
465 the FCC's rules and orders.²⁰ Such is not the case here.

¹⁹ *In the Matter of Petition of MCI, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc., and for Expedited Arbitration*, CC Docket No. 00-218, DA 02-1731 (adopted and rel. July 17, 2002) at 256-58 ("Virginia Order").

²⁰ *Virginia Order* at ¶522.

466 Additionally, the Virginia Order is completely silent as to the
467 implications of FCC Rule 51.311, governing nondiscriminatory access to
468 UNEs, including the CNAM database where it is part of switching. The
469 fact that the FCC found that Verizon's per-query CNAM access offering
470 met the requirements of FCC Rule 51.319(e)(2)(i) and that that rule did not
471 require Verizon to provide batch download access in the arbitration
472 context, does not preclude this Commission from requiring bulk download
473 CNAM access for the reasons I have already stated.²¹ Not only did the
474 FCC fail to address the implications of its own rule on nondiscriminatory
475 access to UNEs in arriving at its findings in the Virginia Order, there is a
476 fundamental distinction between the FCC having required one particular
477 form of CNAM access, and the question of whether in doing so it
478 precluded any alternate forms of CNAM access.

479 The Virginia Order also does not address the issue of independent
480 state authority to require bulk download CNAM access, as Michigan,
481 Minnesota, Indiana, Georgia and Tennessee have done. As I have
482 indicated on pages 19-22 above, the FTA expressly permits the states to
483 engage in unbundling over and above whatever the FCC has ordered. 47
484 U.S.C. §§ 251(d)(3), 261.

485 **Q. DID INDIANA DECIDE THIS ISSUE AFTER THE VIRGINIA ORDER?**

486 A. Yes. The Indiana Commission concluded that the FCC's decision did not
487 preclude download access to CNAM. It stated:

²¹ *Virginia Order* at ¶¶524-25.

488 We disagree with Ameritech Indiana that the FCC “has made
489 absolutely clear” that CLECs are not entitled to obtain CNAM
490 access in batch download form. Rather, the FCC has stated that
491 ILECs shall provide query-based access to their CNAM databases
492 by means of access at the STP.² This rule does not address the
493 subject of bulk downloading of the CNAM database, much less
494 preclude or prohibit it. We also find that when read in their entirety,
495 and not simply in the excerpted form set forth in Ms. DeBella’s
496 testimony, Paragraphs 484 and 485 of the Local Competition Order
497 discuss per query access at the STP part of the signaling network,
498 as distinguished from direct access at the Service Control Point
499 (“SCP”) of the signaling network.³ Mr. Starkey explained this
500 distinction on cross-examination, and confirmed that the CLECs
501 were not requesting direct access at the SCP, but rather, were
502 simply seeking access to the CNAM database in a bulk download
503 format so they could access the information as needed using their
504 own SS7 network. We believe that Paragraphs 484 and 485 of the
505 Local Competition Order were limited to addressing technical
506 feasibility issues relating to accessing call-related databases at the
507 STP and SCP, as opposed to the provision of databases in a batch
508 download form.

509 We recognize that the FCC, acting in the stead of the Virginia
510 Commission, recently stated that the Act and its rules do not
511 require download access to the CNAM database because the terms
512 of such access are defined under Section 51.319(e)(2)(i). We find,
513 however, that this latest pronouncement by the FCC is not only
514 inconsistent with its previous rulings regarding access to
515 databases, but that in making its determination in an arbitration, the
516 FCC did not have the same facts to consider as we did here in this
517 proceeding, including information highlighting the additional costs
518 borne by CLECs for use of Ameritech Indiana’s SS7 network, when
519 another alternative is available and technically feasible. We also
520 find that we are entitled, under our independent state authority, to
521 require Ameritech Indiana to go beyond FCC requirements (as Ms.
522 DeBella acknowledged).

523
524 Finally, while a number of state commissions have elected not to
525 require ILECs to provide CLECs with access to the CNAM
526 database in a batch download format, as with the FCC decision
527 referenced above, the records developed in those proceedings may
528 not have been as substantial as that developed here. In addressing
529 the issue of reliance on the decisions of other states, Ameritech
530 Indiana witness Ms. DeBella stated that it was important to
531 “understand what other states have done and the basis for their
532 decision . . . all the facts....”. We agree, and in examining the

533 relevant authorities, we believe that the more reasoned position,
534 and the one best in keeping with the goals and requirements of the
535 Act, is to join the commissions in Michigan, Georgia and most
536 recently, Minnesota, in requiring the incumbent LEC – here,
537 Ameritech Indiana – to make access to the CNAM database
538 available to CLECs in both the per query and batch download
539 forms. (2003 Ind. PUC LEXIS 116 at *29- *30, and *32-*33,
540 citations omitted). [Footnotes omitted.] See fn. 7.

541

542 **Q. DID THE INDIANA COMMISSION MAKE ANY FINDINGS OF FACT**
543 **REGARDING THE ACCESS TO CNAM PROVIDED BY AMERITECH**
544 **INDIANA?**

545 A. Yes. The Indiana proceeding was a cost proceeding and both Ameritech
546 and MCI had an opportunity to present evidence on the discriminatory
547 nature of limiting MCI to per-query access to CNAM. The Indiana
548 Commission concluded that forcing CLECs such as MCI to pay for access
549 to Ameritech Indiana’s SS7 network for the CNAM when another
550 alternative was available was discriminatory.

551 The discriminatory nature of limiting the CLECs to per-query access
552 to the CNAM database, as urged by Ameritech Indiana, is
553 highlighted by the tremendous portion of the per query CNAM costs
554 that are attributable to the use of Ameritech’s SS7 network. As Dr.
555 Currie admitted, much of the costs incurred in providing CLECs
556 with access to Ameritech Indiana’s CNAM database are costs
557 stemming from the CLECs’ use of Ameritech’s SS7 network to “dip”
558 into the database on a query-by-query basis. To force CLECs with
559 their own SS7 networks (or other networks that can perform
560 equivalent functions) to pay for the use of Ameritech’s SS7 network
561 simply in order to access the valuable information housed in the
562 CNAM database is discriminatory and a clear violation of the
563 unbundling requirements of the Act. Ameritech Indiana does not
564 have to pay each time it “dips” into its own CNAM database. Thus,
565 it is discriminatory to require CLECs that have the option of
566 downloading the CNAM information into their own systems and
567 then using their own SS7 network to query the CNAM database to
568 pay for unneeded access to a duplicative SS7 network. (2003 Ind.
569 PUC LEXIS 116 at *32).
570

571 **Q. THE MINNESOTA DECISION WAS ALSO POST THE VERIZON**
572 **VIRGINIA ORDER, CORRECT?**

573
574 A. Yes, as I stated earlier, Minnesota considered this issue after the FCC's
575 Triennial Review.

576 **Q. IS THERE ANY REASON TO BELIEVE THAT THE SITUATION IN**
577 **ILLINOIS IS ANY DIFFERENT?**

578 A. No. In fact, SBC Illinois' SS7 network is the exact same region-wide
579 network that was at issue in Indiana.

580 **Q. DOES MCI'S REQUEST FOR ACCESS TO CNAM DATA ON A BULK**
581 **BASIS RAISE ANY LEGITIMATE QUESTIONS REGARDING PRIVACY**
582 **OF CUSTOMER INFORMATION?**

583 A. No. Privacy indicators are made a part of the CNAM record and would
584 prevent misuse of customer data that is designated as private. Moreover,
585 a privacy indicator is inserted as part of the call-set up process in the
586 originating switch and prevents the information from displaying regardless
587 of whether SBC Illinois would provide the privacy indicators to MCI as part
588 of the data. MCI is bound to adhere to the same local and federal privacy
589 laws as SBC Illinois.

590 **2. USE RESTRICTIONS**

591
592 **Q. PLEASE DISCUSS MCI'S POSITION WITH RESPECT TO ISSUE CNAM**
593 **7 AND, MORE GENERALLY, THE TYPE OF CALL-RELATED DATA**
594 **SBC ILLINOIS MUST MAKE AVAILABLE TO CLECS?**

595 A. Issue CNAM 7 is framed as follows: "For what purposes may MCI use
596 CNAM information?" The simple answer is that to achieve the
597 procompetitive purposes of the Act, MCI should be able to use the
598 information included in call-related databases, including both CNAM and

599 LIDB, for any lawful purpose. Accordingly, SBC Illinois may not properly
600 place use restrictions on MCI's ability to use CNAM data. Such
601 restrictions would be blatantly discriminatory.

602 **Q. CAN YOU EXPLAIN WHY USE RESTRICTIONS ARE**
603 **DISCRIMINATORY?**

604 A. Yes. As the FCC determined in the DALI Provisioning Order I cited
605 previously, in order to provide nondiscriminatory access to call-related
606 databases, LECs should not be permitted to impose use restrictions they
607 themselves do not, by law, have to follow.²² Thus, for instance, it would
608 be improper for SBC Illinois to restrict MCI from using information
609 contained in call-related databases to provide services other than those
610 provided by SBC Illinois.

611 It is not enough that a LEC, like SBC Illinois, might choose not to
612 use a database for a particular purpose, since, by virtue of the fact that it
613 owns the database, the LEC can do with it whatever it chooses. A LEC's
614 ability to impose use restrictions on CLECs would merely serve as a tool
615 by which a providing LEC could control a CLEC's ability to fully serve its
616 customers and to innovate, both of which options would be fully available
617 to the LEC. Thus, LEC imposed use restrictions are plainly discriminatory.

618 Of course, if some use is unlawful or illegal by operation of federal
619 or state law, such use restriction would apply equally to both providing and
620 requesting LECs and would not be discriminatory.

²² DAL Provisioning Order at ¶ 29.

621 **Q. WHAT OTHER MEASURES MUST BE TAKEN TO PREVENT**
622 **DISCRIMINATION WITH RESPECT TO CALL-RELATED DATABASES?**

623 A. In order for requesting LECs to use the data in call-related databases in a
624 competitively meaningful way, the data should be the same data available
625 to the providing LEC. The data should not be old or outdated, nor should
626 it be changed or altered in a way that prevents the requesting carrier from
627 using it to provide the same quality of service the providing carrier
628 provides to its own customers.

629 Additionally, the providing carrier should not be allowed to restrict
630 the means by which requesting carriers access these databases because
631 such restrictions inhibit the uses to which requesting carriers can put the
632 information. Ultimately such discrimination would allow the providing
633 carrier to stifle competition and inhibit viability and innovation in the
634 marketplace by the requesting carrier.

635 **Q. WITH RESPECT TO CALL-RELATED DATABASES, CNAM AND LIDB**
636 **IN PARTICULAR, IS THIS INFORMATION AVAILABLE FROM OTHER**
637 **THIRD PARTY PROVIDERS?**

638
639 A. No. Despite what SBC Illinois may say, no other sources for CNAM and
640 LIDB information exist for SBC Illinois subscribers, except from SBC
641 Illinois (or from any entity SBC Illinois chooses to give the information).
642 SBC Illinois has monopoly control on these databases.

643 **Q. WHAT RELIEF IS MCI SEEKING ON ISSUES CNAM 1 AND 7 AND**
644 **LIDB 7?**

645 A. MCI respectfully asks that the Commission adopt the contract language
646 that MCI has proposed in connection with these issues and reject SBC
647 Illinois' language.

648 **3. PRICING**

649
650 **Q. YOU STATED YOU WOULD ADDRESS ISSUE LIDB 5 IN THIS**
651 **PORTION OF YOUR TESTIMONY. WOULD YOU PLEASE DESCRIBE**
652 **THE CONTRACT LANGUAGE AT ISSUE FOR THIS ISSUE?**

653 A. The disputed language is in the LIDB appendix, sections 3.2.1 and
654 3.2.1.2, and relates to certain price list issues. The dispute on this issue is
655 framed by MCI as follows: "If Illinois Bell is obligated to provide access to
656 LIDB as a UNE other than through ULS, what rate should apply to that
657 access?" In truth, the issue is larger and should be restated in the revised
658 DPLs soon to be filed. The issue is the rate at which access to LIDB
659 should be provided regardless of whether access to LIDB is provided as a
660 UNE (as when it is part of switching) or pursuant to the nondiscrimination
661 access requirements previously discussed.

662 **Q. HOW DOES NONDISCRIMINATORY ACCESS RELATE TO PRICING?**

663 A. Among other things, nondiscriminatory access means nondiscriminatory
664 pricing because pricing is one way of controlling access to the data. Since
665 call-related database information such as LIDB and CNAM is generated
666 by SBC Illinois' service order process when a customer initiates service,
667 and because SBC Illinois line share represents a majority of the
668 marketplace, SBC Illinois has a lock on the information comprising these
669 databases for subscribers. Market-based pricing for a monopoly

670 bottleneck service such as this has no basis where SBC Illinois is required
671 to provide nondiscriminatory access to the listings. Market-based prices
672 are inherently discriminatory because there is little, if any, market if the
673 only place to get the information on the vast majority of subscribers is from
674 SBC Illinois. There is no “market” upon which SBC Illinois can base
675 “market-based” prices.

676 The FCC recognized this in its Local Competition Third Report &
677 Order, when it stated that, “Because an incumbent LEC would have the
678 incentive to discriminate against competitors by providing them with less
679 favorable terms and conditions than it provides to itself, we conclude that
680 the term ‘nondiscriminatory’, as used throughout section 251, applies to
681 the terms and conditions an incumbent LEC imposes on third parties as
682 well as on itself.”²³ Indeed, the FCC reaffirmed that incumbents must
683 “make available to unaffiliated entities all of the in-region telephone
684 numbers they use to provide nonlocal directory assistance service at the
685 same rates, terms and conditions they impute to themselves”²⁴ and
686 “comply with the nondiscrimination requirements set forth in section
687 272(c)(1).”²⁵

688 Accordingly, SBC Illinois should be required to provide access to
689 LIDB and to provide it at cost-based rates.

²³ *Local Competition Third Report & Order*, FCC 99-227, ¶ 129 (1999), citing *Local Competition Second Report and Order*, at ¶¶ 100-05, and *Local Competition First Report and Order*, at ¶ 217.

²⁴ *SBC Forbearance Order* at ¶ 2, see fn. 2.

²⁵ *Id.* at ¶ 15 (citations omitted).

690 **Q. WHAT RELIEF IS MCI SEEKING ON ISSUE LIDB 5?**

691 A. MCI respectfully asks that the Commission adopt the contract language
692 MCI has proposed in connection with this issue and reject SBC Illinois'
693 language.

694 **B. REMAINING ISSUES REGARDING CALL-RELATED DATABASES**
695 **(LIDB/CNAM/TOLL-FREE)**

696
697 **Q. WHAT ISSUES ARE ADDRESSED IN THIS PORTION OF YOUR**
698 **TESTIMONY?**

699 A. The issues are CNAM 10, LIDB 6, CNAM 4, LIDB 8, LIDB 9, LIDB 10,
700 LIDB 11, CNAM 6, LIDB 12, 800-1, 800-2 and 800-3.

701 **Q. WHY SHOULD THE CNAM AGREEMENT BE SEPARATE FROM THE**
702 **LIDB AGREEMENT? (CNAM 10)**

703 A. Although both CNAM and LIDB databases are call-related databases and
704 contain some of the same information (and the data in some jurisdictions
705 is intermingled in the same physical database), the two are used for
706 different purposes. Unlike CNAM, LIDB is used for call validation and
707 uses different information for that purpose. While SBC Illinois may
708 combine the two databases because the data comes from the same
709 service order information, it does not mean that the databases are one in
710 the same. To avoid any confusion, the CNAM agreement should pertain
711 to CNAM and the LIDB agreement should pertain to LIDB. Moreover, MCI
712 is only interested in download access to the CNAM database and is not
713 interested in download of the LIDB database. So that MCI's position
714 regarding download access to CNAM is preserved, MCI drafted a
715 separate CNAM Appendix to better outline the issues. This Appendix was

716 loosely based on SBC's tariffs in those states where they are required to
717 provide MCI CNAM in a download format.

718
719 **Q. SBC ILLINOIS' LANGUAGE RESTRICTS MCI'S ABILITY TO USE SBC**
720 **ILLINOIS' LIDB FOR ANYTHING OTHER THAN MCI'S END USER.**
721 **WHY DOES MCI OBJECT TO THIS? (ISSUE LIDB 6)**

722 A. Such a provision is an example of an impermissible use restriction, as
723 discussed above. As such, it improperly discriminates against MCI. While
724 SBC Illinois may sell its LIDB to any user, MCI is restricted to using it only
725 for its end-user subscribers. Such a restriction prohibits MCI from allowing
726 its affiliates to provide LIDB validation for calls made through the affiliate's
727 subscribers and prohibits MCI from participating in the competitive LIDB
728 market that SBC Illinois claims already exists.

729 In addition to providing service to facilities-based customers in
730 Illinois, MCI also provides services to other carriers and resellers. MCI
731 would use the data to provide call-validation, caller-ID services or other
732 types of services to these customers and their end-user subscribers.

733 **Q. WHAT IS THE DISPUTE REGARDING ISSUE LIDB 9?**

734 A. This issue pertains to additional provisions proposed by SBC that are
735 discriminatory. Specifically, the language at issue is contained in
736 Appendix LIDB, Sections 3.19, 7.7 and 7.8.

737 **Q. WHAT ARE MCI'S CONCERNS IN THIS REGARD?**

738 A. As with SBC Illinois' CNAM Appendix, Section 3.19 of the LIDB Appendix
739 would restrict MCI's access to certain information in the LIDB database.
740 MCI's concern is that SBC Illinois would not be restricted from the same

741 information and that SBC Illinois is imposing discriminatory terms and
742 conditions on MCI's access to LIDB data.

743 With regard to the provisions of 7.7 and 7.8, SBC Illinois
744 impermissibly imposes restrictions that are discriminatory since SBC
745 Illinois itself is not so restricted. For example, 7.8 restricts use of
746 customer proprietary network information ("CPNI") for the purposes
747 identified under the agreement only. Such restriction is more restrictive
748 than what SBC Illinois is subject to under the CPNI provisions of Section
749 222 of the Act. Furthermore, any such liability would be better handled
750 through the GT&Cs of the entire agreement.

751 **Q. WHAT IS THE DISPUTE REGARDING LIDB 10?**

752 A. The issue appears to be the extent of SBC's obligations under ULS.
753 MCI's proposed language makes it clear that the LIDB queries performed
754 by SBC are included in the ULS cost rather than as a separate cost that
755 SBC would consider "market-based". SBC's proposed language seems to
756 propose something entirely different.

757 **Q. WHAT IS THE DISPUTE IN CNAM 4?**

758 A. The dispute is whether MCI should have non-discriminatory access to the
759 data. SBC has constructed an elaborate hierarchy of terms and condition
760 in the agreement which could more efficiently be handled with a simple
761 recognition that MCI should be afforded nondiscriminatory access. Thus,
762 if SBC Illinois is denied the data by another carrier, then SBC Illinois would

763 not be obligated to provide it to MCI. MCI, however, should be entitled
764 to the same data that SBC Illinois has available to it.

765 **Q. WHY DOES MCI OBJECT TO SBC ILLINOIS' TERMS REGARDING**
766 **THE UNAUTHORIZED USE OF LIDB OR CNAM? (ISSUES CNAM 6**
767 **and LIDB 12)**

768 A. Because such terms are subject to SBC Illinois' interpretation of MCI's
769 actions. Such terms also amount to veto power over uses MCI may wish
770 to lawfully put database information. Such veto power is discriminatory.

771 **Q. WHY DOES MCI HAVE A PROBLEM WITH SBC ILLINOIS BLOCKING**
772 **ACCESS TO CNAM OR LIDB IN THE CASE OF MISUSE?**

773 A. MCI disagrees with provision 4.20 of the CNAM Appendix and 7.10 of the
774 LIDB Appendix because it gives SBC Illinois too much leverage to
775 determine what is and is not an appropriate use under the terms of the
776 agreement and then threaten to cut MCI off from receiving the data. The
777 only way MCI might agree to this language is if the agreement specifically
778 allows MCI any lawful use of the data. Giving SBC Illinois veto power over
779 MCI's use of the data is patently discriminatory.

780 **Q. THE 800 DATABASE IS ALSO A CALL-RELATED DATABASE. AS**
781 **SUCH, IS IT ALSO SUBJECT TO THE NONDISCRIMINATORY**
782 **PROVISIONS OF SECTION 251(B)(3) OF THE ACT?**

783 A. Yes. SBC Illinois' 800 or Toll free database is another call-related
784 database that is only available from SBC Illinois and until its UNE status is
785 sorted out, should be available to MCI under the nondiscriminatory access
786 provisions of Section 251(b)(3) of the Act.

787 **Q. WHAT ISSUES ARE YOU ADDRESSING IN THIS CONTEXT?**

788 A. Here, I am addressing issues 800 1, 2, and 3. These issues relate to
789 Appendix 800, Sections 3.8, 3,10, 3.2 and 4.2.

790 SBC Illinois should not be allowed to discriminate against MCI by
791 imposing use restrictions and market-based pricing for something SBC
792 Illinois has bottleneck control over. In the interests of fair competition, MCI
793 should be allowed to access and use the database in the same manner as
794 SBC Illinois at nondiscriminatory rates. For that reason, MCI respectfully
795 asks the Commission to adopt MCI's proposed language on these issues.

796 **Q. WHAT RELIEF IS MCI SEEKING ON ISSUES LIDB 6, CNAM 4, LIDB 9,**
797 **LIDB 10, CNAM 6, LIDB 12, 800-1, 800-2 and 800-3?**

798 A. MCI respectfully asks that the Commission adopt the contract language
799 MCI has proposed in connection with these issues and reject SBC Illinois'
800 language.

801 **Q. THERE ARE DISPUTES ABOUT THE ADMINISTRATION OF MCI'S**
802 **LIDB AND CNAM RECORDS THAT RESIDE IN SBC ILLINOIS' LIDB**
803 **DATABASE. CAN YOU EXPLAIN THESE ISSUES? (LIDB 8, LIDB 11**
804 **and LIDB/CNAM AS-1)**

805
806 A. Yes. The first issue is whether SBC may conduct data audits on any LIDB
807 data that may reside in SBC's LIDB databases. The second issue has to
808 do with the applicability of another Appendix regarding Administration of
809 MCI's LIDB data (and presumably MCI's CNAM data).

810 While SBC administers data for MCI's UNE-P or ULS customers by
811 virtue of the fact that those customers reside on SBC's platform, MCI,
812 unlike perhaps other CLECs, manages its own LIDB and CNAM
813 databases and does not wish to store that information with SBC as

814 provided for in the SBC LIDB-AS Appendix. MCI objects to any language
815 that would require MCI to participate in or purchase the LIDB-AS product.
816 MCI does not wish to submit any data to SBC or give SBC any control
817 over that data when SBC cannot even agree to share its LIDB and CNAM
818 information with MCI on a nondiscriminatory basis. MCI should not be
819 forced to agree to any language pertaining to a product it does not wish to
820 purchase or participate.

821 With regard to the administration of LIDB records residing in SBC's database that
822 belongs to MCI's UNE-P or ULS customers, MCI is simply asking for parity
823 and nondiscriminatory treatment of those records. Any other issues can
824 be dealt with in accordance with the change management procedures
825 contained in Section 1.2 of the Appendix Operator Service Systems.

826
827 **Q. WHAT ARE THE REMAINING ISSUES RELATED TO CNAM, LIDB, and**
828 **CALL-RELATED DATABASE PROVISIONS IN THE ICA THAT YOU**
829 **WILL ADDRESS?**

830 A. Those issues are as follows:

- 831 - CNAM 3: If bulk downloads are required, should processes be
832 delineated in the Interconnection Agreement? (Appendix CNAM,
833 Sections 4.8; 4.10; 4.11; 5.2; 6.2 (all))
- 834 - LIDB 2: Should the definition of Service Platform be included in the
835 Agreement? (Appendix LIDB, Section 2.19)
- 836 - CNAM 5: Is it necessary to include the language in section 4.16
837 about the accuracy of CNAM queries? (Appendix CNAM, Section
838 4.16)
- 839 - CNAM 8 and 9: What forecasting requirements for CNAM should
840 be included in the Agreement? (Appendix CNAM, Sections 8.1; 8.3;
841 8.4 et. seq.)

- 842 - CNAM 11: Should the Commission adopt SBC Illinois' liability and
843 indemnity language for CNAM in addition to that contained in GTC?
844 (Appendix CNAM, Sections 9.6)
- 845 - LIDB 13: Should the Commission adopt SBC Illinois' liability and
846 indemnity language for LIDB in addition to that contained in GTC?
847 (Appendix LIDB, Section 9 (all))
- 848 - LIDB 3: Should the LIDB Appendix contain SBC's proposed
849 acknowledgment concerning the ownership of LIDB? (Appendix
850 LIDB, Section 3.1)
- 851 - LIDB 14: Should SBC Illinois be required to provide MCI access
852 to Originating Line Number Screening Query? (Appendix LIDB,
853 Section 3.3.3; 3.26.1)
- 854

855 **Q. WHY DOES MCI WANT BULK DOWNLOAD FOR CNAM PROVISIONS**
856 **IN THE ICA? (Issue CNAM 3)**

857 A. Because SBC Illinois has not offered to file a tariff offering bulk download
858 access. By offering its own Appendix in this proceeding, MCI can better
859 identify the issues of concern to MCI in this process rather than wait for
860 SBC Illinois to develop a process and pricing for something it obviously
861 objects to.

862 **Q. WHAT IS MCI'S OBJECTION TO THE CNAM QUERY ACCURACY**
863 **PROVISIONS PROPOSED BY SBC? (Issue CNAM 5)**

864 A. This dispute reflects the fact that the parties disagree on how access to
865 the CNAM data is provided. MCI objects to these provisions only on the
866 basis that MCI wants bulk download access and will not query SBC's
867 CNAM database.

869 **Q. WHAT IS THE BASIS FOR MCI'S DISAGREEMENT REGARDING THE**
870 **FORECASTING REQUIREMENTS IN CNAM ISSUES 8 AND 9?**

871

872 A. These issues arise mainly because of the way SBC has written the
873 language acknowledging only query access. Again, MCI does not want
874 query access to the data. Also, the forecasting requirements would
875 require MCI to divulge proprietary data.

876 **Q. ARE YOU AWARE OF ANY SPECIFIC PECULIARITIES OF THE CNAM**
877 **OR LIDB DATABASES THAT WOULD WARRANT LIABILITY AND**
878 **INDEMNITY LANGUAGE SEPARATE AND APART FROM THE**
879 **GENERAL TERMS AND CONDITIONS SECTION OF THE ICA?**
880 **(ISSUES CNAM 11 and LIDB 13)**

881 A. No. The liability and indemnity provisions in the General Terms and
882 Conditions of the Agreement should be adequate to address both carriers'
883 concerns. I don't see any reason why these appendices should be treated
884 any differently, except as a way to impose language and conditions that
885 might discriminate against MCI.

886 **Q. WHY DOES MCI DISAGREE WITH SBC ILLINOIS' LANGUAGE**
887 **REGARDING SNET DG PROVISION OF LIDB? (ISSUE LIDB 3)**

888 A. Because SBC is unwilling to provide MCI with nondiscriminatory access
889 to the CNAM and LIDB under the same rates and terms it provides CNAM
890 and LIDB to SNET DG. The fact that SBC Illinois provides information
891 wholesale to another company yet refuses to provide MCI with CNAM in
892 bulk format is discriminatory, as is the fact that SBC will not agree to
893 provide MCI access to CNAM and LIDB at the cost-based rates it provides
894 this information to SNET DG. This is patently discriminatory.

895 **Q. WHAT ABOUT ORIGINATING LINE NUMBER SCREENING? (Issue**
896 **LIDB 14, reference Appendix LIDB, Sections 3.3, 3.3.6 and 3.26.1)**

897 A. This is a feature that SBC used to provide when it was required to offer
898 LIDB as a UNE. The feature allows for screening and blocking of certain
899 call features from the originating line (e.g. third party call or long distance
900 blocking). It appears that because SBC has "abdicated" its LIDB
901 database to SNET DG, it will offer some but not all of the features it once
902 offered. OLNS is an important feature whether or not SBC Illinois or
903 SNET DG provides it and MCI is entitled to access it.

904

905 **Q. WHAT IS THE ISSUE IN LIDB 1?**

906

907 A. This issue is merely a matter of contract construction. While SBC wants a
908 definition of "calling card query," that term is used only with respect to the
909 definition of Validation Query in the agreement. The term Validation
910 Query is not used substantively in the agreement. The agreement does
911 not need to be cluttered with extra verbiage.

912 **Q. WHAT RELIEF IS MCI SEEKING ON ISSUES CNAM 3, LIDB 2, CNAM**
913 **5, CNAM 8 and 9, CNAM 11, LIDB 1, LIDB 13, LIDB 3 AND LIDB 14?**

914 A. MCI respectfully asks that the Commission adopt the contract language
915 MCI has proposed in connection with these issues and reject SBC Illinois'
916 language.

917 **IV. DALI-RELATED PRICING ISSUE**

918

919 **Q. WHAT ISSUE IS ADDRESSED IN THIS PORTION OF YOUR**
920 **TESTIMONY?**

921 A. I am addressing an issue that should be identified as Issue Price Schedule
922 39, framed as “What are the appropriate recurring rate elements (i.e.
923 classification and/or rate structure) for Directory Assistance Listings?”

924 **Q. WHY DOES MCI OBJECT TO THE RATES FOR DALI PRESENTED BY**
925 **SBC ILLINOIS IN ITS PRICE LIST?**

926
927 A. The rates presented by SBC Illinois offer a range of different rates that
928 appear to be based on usage. These rates presumably represent
929 “market-based” rates, but they are discriminatory in nature because SBC
930 Illinois is the only source for these listings. The fact that SBC has raised
931 its rates and now also wants to have the option to charge a rate based on
932 usage of the listing is in itself a good example of how SBC Illinois
933 exercises its monopoly power. In a competitive market environment,
934 prices tend to go down rather than up, especially in an environment where
935 SBC has been able to consolidate its operations between its various
936 operating companies and states.

937 **Q. WHY HAS MCI PROPOSED THE RATES IT HAS?**

938
939 A. MCI propose the rates it does because they are cost based. MCI's
940 proposed rates currently are in effect in Texas. They are based on a cost
941 study submitted by SBC and approved by the Texas Commission. Since
942 SBC has not proposed a cost study in this proceeding, we propose these
943 prices to reflect cost-based rates.

944 **Q. WHY SHOULDN'T SBC ILLINOIS BE ALLOWED TO CHARGE**
945 **MARKET-BASED RATES?**

946

947 A. Market-based pricing for a monopoly bottleneck service such as DALI has
948 no basis in this proceeding because these prices are inherently
949 discriminatory to competitive providers. SBC Illinois, a monopoly provider,
950 has a lock on how the data is generated in Illinois.

951 In Illinois, DALI information is generated by SBC Illinois' service
952 order process when a customer initiates service. Because SBC Illinois'
953 line share represents a majority of the marketplace, SBC Illinois simply
954 has the vast majority of DALI listings in the State of Illinois. In essence,
955 there is no "market" upon which SBC Illinois can base "market-based"
956 prices since everyone gets the vast majority of their listings from SBC
957 Illinois.

958 **Q. HASN'T THE ILLINOIS COMMISSION ALREADY DECIDED THIS**
959 **ISSUE?**

960
961 A. No. In SBC's 271 Proceeding in Illinois, this issue was addressed only
962 in the context of whether DALI was a UNE. Although MCI advocates cost-
963 based rates, it does so here because such rates are non-discriminatory in
964 a monopoly environment, not because DALI is a UNE. SBC Illinois is
965 required to provide nondiscriminatory access to DALI pursuant to FTA
966 Section 251(b)(3). That obligation, which applies to all LECs including
967 MCI, also extends to pricing because pricing is an integral part of access
968 to the data.

969 **Q. WHY ARE COST-BASED RATES FOR DALI APPROPRIATE?**
970

971 A. The FCC recognized this in its *Local Competition Third Report & Order*,
972 when it stated that, “Because an incumbent LEC would have the incentive
973 to discriminate against competitors by providing them with less favorable
974 terms and conditions than it provides to itself, we conclude that the term
975 ‘nondiscriminatory’, as used throughout section 251, applies to the terms
976 and conditions an incumbent LEC imposes on third parties as well as on
977 itself.”²⁶ Indeed, the FCC reaffirmed that incumbents must “make
978 available to unaffiliated entities all of the in-region telephone numbers they
979 use to provide nonlocal directory assistance service at the same rates,
980 terms and conditions they impute to themselves”²⁷ and “comply with the
981 nondiscrimination requirements set forth in section 272(c)(1).”²⁸

982 Because Section 251(b)(3) mandates nondiscriminatory access
983 between all competitive providers, SBC must provide DALI at the same
984 price it provides the data to itself.

985 **Q. DOES SBC ILLINOIS ENJOY A MONOPOLY WITH RESPECT TO DALI**
986 **IN ILLINOIS?**

987 A. Yes, because it controls the vast majority of lines in Illinois. The FCC has
988 confirmed that incumbents like SBC enjoy a competitive advantage with
989 respect to the provision of critical directory assistance service as a result
990 of their legacy as monopoly providers and their “dominant position in the
991

²⁶ *Local Competition Third Report & Order*, FCC 99-227, ¶ 129 (1999), citing *Local Competition Second Report and Order*, at ¶¶ 100-05, and *Local Competition First Report and Order*, at ¶ 217.

²⁷ *FCC Forbearance Order* at ¶ 2, see fn. 2..

²⁸ *Id.* at ¶ 15 (citations ommitted).

992 local exchange and exchange access markets”²⁹ and that they have
993 “access to a more complete, accurate and reliable database than [their]
994 competitors.”³⁰ These findings confirm that SBC maintains significant
995 market power over the provision of listing data and explain why a
996 continued requirement for cost-based prices for these services is
997 consistent with FCC guidelines.

998 **Q. ARE SBC ILLINOIS’ PROPOSED RATES FOR DALI**
999 **DISCRIMINATORY?**

1000

1001 A. Yes. SBC’s proposed rates of up to 6 cents per listing for each daily
1002 update listing is over 500 times SBC’s cost. If SBC Illinois’ proposed
1003 prices are this out of line with the cost-based rate, that fact is itself a clear
1004 indication that SBC Illinois does not operate in a competitive market for
1005 the provision of DALI. Moreover SBC’s tiered rate system is not based in
1006 any market reality or fact as far as I can tell.

1007 **Q. DOES SBC ILLINOIS PAY FOR LISTINGS FROM OTHER LECS?**

1008 A. No. It is my understanding that SBC generally does not pay for the DALI
1009 from other LECs. While there may be exceptions to the rule, I know for
1010 example that SBC Illinois gets its listings from MCI for free. MCI
1011 provides SBC its subscriber listings for inclusion in SBC’s white pages
1012 directory, but SBC insists that MCI also permit it to include the information
1013 in SBC Illinois’ DALI database.

²⁹ *Id.* at fn. 42.

³⁰ *Id.*, *DAL Provisioning Order* at ¶ 3, see fn. 56.

1014 **Q. HAVE OTHER STATES REQUIRED SBC TO PROVIDE THE DALI AT**
1015 **COST-BASED RATES?**

1016
1017 A. Yes, the California PUC recently issued an order requiring SBC Pacific to
1018 provide other LECs with its DALI at cost-based rates pursuant to the
1019 nondiscriminatory access provisions of FTA Section 251(b)(3). Requiring
1020 SBC Pacific to provide DALI at cost-based rates, the California PUC
1021 stated:

1022 Given the dominant position that Pacific still continues to enjoy
1023 through its legacy as a former monopoly provider of local exchange
1024 service, as referenced in D.01-09-054, we find no basis to conclude
1025 that the market for the wholesale provision of DA listings has now
1026 become fully competitive. SBC provided no price data from
1027 alternative wholesale DA service providers within California nor any
1028 comparison of terms and conditions of such alternative services to
1029 demonstrate that California competitors' DA offerings equals that of
1030 SBC in quality. Instead, SBC merely applied prices that its affiliates
1031 charge outside of California, as approved by the FCC in the X2A
1032 Interconnection Agreements in SBC's 271 applications in the states
1033 of Missouri, Oklahoma, Kansas, Arkansas, and Texas. These
1034 interconnection agreements resulted from CLEC collaborative
1035 processes and were approved by each of the respective state
1036 commissions. We find no basis, however, to conclude that such
1037 prices from other jurisdictions represent competitive or
1038 nondiscriminatory prices for the provision of DALIS within the
1039 California market, or reasonably reflect the costs that SBC
1040 California incurs for acquiring and processing DA listings for its own
1041 use.

1042
1043 SBC may not use its market power to extract excessive DALIS
1044 prices at a level that would unfairly discriminate against
1045 competitors. In this respect, the Commission has previously stated
1046 in D.01-09-054: 'Even if DAL [Directory Assistance Listing] is not a
1047 UNE, pricing of DAL is subject to strict nondiscrimination
1048 requirements under the Act and FCC orders. As the FCC
1049 recognized in its *DAL Provisioning Order*, this nondiscriminatory
1050 access requirement extends to pricing. In its order, the FCC
1051 recognized that ILECs continue to charge competing DA providers
1052 discriminatory and unreasonable rates for DAL. Although the FCC
1053 declined to support a specific pricing structure for DAL, it
1054 encouraged states to set their own rates consistent with the

1055 nondiscrimination and reasonable pricing requirements of Section
1056 251(b)(3).’

1057
1058 Given that we find no basis to conclude that the California
1059 wholesale market for DALIS is fully competitive, we cannot simply
1060 assume the prices charged by SBC affiliates in other jurisdictions
1061 are a reasonable proxy of competitive market prices for DALIS in
1062 California.³¹

1063
1064 **Q. WHAT HAS THE FCC HAD TO SAY ABOUT DALI RATES?**

1065 A. As suggested by the California PUC, although the FCC declined to
1066
1067 set a specific rate or methodology for pricing in its *DAL Provisioning*
1068 *Order*, the FCC did recognize that nondiscriminatory access clearly
1069 applies to pricing.³² Moreover, the FCC has reaffirmed that incumbents
1070 must “make available to unaffiliated entities all of the in-region telephone
1071 numbers they use to provide nonlocal directory assistance service at the
1072 same rates, terms and conditions they impute to themselves”³³ and
1073 “comply with the nondiscrimination requirements set forth in section
1074 272(c)(1).”³⁴

1075 **V. OTHER PRICING ISSUE**

1076 Issue Price Schedule 34: What are the appropriate nonrecurring rates for non-
1077 published emergency number service?

1078
1079 **Q. WHAT IS EMERGENCY NON-PUBLISHED NOTIFICATION SERVICE?**

³¹ *Order Instituting Rulemaking on the Commission’s Own Motion into Competition for Local Exchange Service, Order Instituting Investigation on the Commission’s Own Motion into Competition for Local Exchange Service, Rulemaking 95-04-043, Investigation 95-04-044, Decision 04-05-020, at page 14-15 (May 2004) (citations omitted).*

³² *DAL Provisioning Order* at ¶¶ 33-38.

³³ *FCC Forbearance Order* at ¶ 2, see fn. 2..

³⁴ *Id.* at ¶ 15.

1080 A. Because SBC Illinois does not provide MCIIm with non-published numbers,
1081 MCIIm has no way to notify non-published subscribers of an emergency
1082 when a caller tries to reach them through directory assistance. MCIIm has
1083 agreed to the process by which SBC Illinois would handle such calls as
1084 such a program promotes public safety and is standard industry practice.

1085 **Q. SHOULD SBC ILLINOIS BE REQUIRED TO PROVIDE EMERGENCY**
1086 **NON-PUBLISHED TELEPHONE NOTIFICATION FOR INTERLATA**
1087 **TOLL NUMBERS?**

1088 A. Yes. The reason MCIIm requests the emergency non-published telephone
1089 notification is because MCIIm does not have access to the non-published
1090 numbers to offer the service itself. If the non-published numbers reside in
1091 SBC Illinois' directory assistance database, then under the principles of
1092 nondiscriminatory access MCIIm should be entitled to the service covering
1093 the name numbers available to SBC Illinois. MCIIm cannot provide this
1094 service itself because SBC Illinois refuses to provide non-published
1095 numbers to MCIIm as part of the DALI. Accordingly, MCIIm has no other
1096 alternative but to rely on SBC Illinois to provide the emergency notification.

1097 **Q. WHY SHOULD THIS SERVICE BE KEPT TO TELRIC OR COST-BASED**
1098 **RATES?**

1099 A. Because MCIIm is precluded from offering this service itself, it should not
1100 be gouged by SBC Illinois for this service. MCIIm would agree to a cost-
1101 based rate for this service since SBC Illinois should not be unjustly
1102 enriched under the circumstances. Because this issue arises from the fact
1103 that SBC Illinois does not make the DALI UNE available in the

1104 circumstance of unpublished numbers, a TELRIC rate should be imposed
1105 on SBC Illinois' emergency notification service.

1106 **VI. CONCLUSION**

1107 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

1108 **A.** Yes it does.