

BEFORE THE ILLINOIS COMMERCE COMMISSION

Docket No. 06-0027

**Rebuttal Testimony of W. Karl Wardin
On Behalf of AT&T Illinois**

AT&T Illinois Exhibit 1.1

PUBLIC

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1 **REBUTTAL TESTIMONY OF W. KARL WARDIN**
2 **ON BEHALF OF AT&T ILLINOIS**

3
4 **I. INTRODUCTION AND PURPOSE OF REBUTTAL TESTIMONY**

5 **Q. Please state your name and business address.**

6 A. My name is W. Karl Wardin. My address is 225 West Randolph Street, Floor 27C,
7 Chicago, Illinois 60606.

8
9 **Q. Are you the same W. Karl Wardin who previously submitted Direct Testimony in**
10 **this proceeding?**

11 A. Yes, I am.

12
13 **Q. What is the purpose of your Rebuttal Testimony?**

14 A. In this Rebuttal Testimony, I will respond to portions of the direct testimony of Staff
15 witnesses James Zolnierek and Genio Staranczak, Attorney General (“AG”) witness Lee
16 Selwyn, Citizens Utility Board (“CUB”) witness Anne McKibbon, and Data Net
17 Systems, L.L.C. (“Data Net”) witnesses Joseph Gillan and Martin Segal.

18
19 **Q. Please provide a summary of your rebuttal testimony.**

20 A. In my testimony, I address assertions made by the AG and CUB related to the current
21 state of competition for residential local exchange services in the Chicago LATA.

22 Specifically, I will respond to assertions that the data on the number of CLEC residential

23 lines that I presented in my direct testimony was inaccurate and demonstrate that the
24 results of my analysis are reasonable, and, in fact, conservative, when compared to the
25 information provided by CLECs in response to the Commission Staff's information
26 request in Docket 06-0028. I also update my analysis from September 30, 2005 to
27 December 31, 2005 and refute assertions that there has been significant decrease in
28 CLEC competition during that period. I also rebut claims that the elimination of UNE-P
29 at TELRIC rates will result in the "collapse" of CLEC competition and show that CLECs
30 are, and can be expected to continue to, compete using alternative service arrangements
31 and their own facilities. I will also respond to testimony presented by Dr. Zolnierek
32 regarding alternatives for residential ISDN service.

33
34 In his testimony, Eric Panfil responds to assertions that stand-alone local exchange
35 services should be classified as non-competitive and demonstrates that these assertions
36 are not supported by the facts or the Commission's past reclassification decisions under
37 Section 13-502 of the Illinois Public Utilities Act. Nevertheless, to facilitate resolution of
38 the contested issues in this case, AT&T is willing to make certain rate commitments that
39 respond to the Staff and intervenor concerns. I will discuss those proposed rate
40 commitments in my rebuttal testimony.

41
42 **Q. Please summarize the topics being addressed by AT&T Illinois' other rebuttal**
43 **witnesses.**

44 A. Dr. William Taylor addresses issues related to the definition of the relevant market and
45 responds to assertions that there are prohibitive economic barriers to entry. In addition,
46 Dr. Taylor addresses the impact of reclassification on universal service, Staff's rate
47 rebalancing proposal and the imputation test. AT&T Ill. Ex. 3.1.

48
49 Harry Shooshan rebuts claims that telecommunications services provided by cable
50 companies, wireless carriers and independent VoIP providers should not be considered
51 substitutes for AT&T Illinois' basic local exchange services. He also rebuts criticisms of
52 the surveys of telecommunications issues presented in his direct testimony. AT&T Ill.
53 Ex. 4.1.

54
55 As I previously indicated, Eric Panfil rebuts the assertions of Staff, AG and CUB that
56 there are no competitive alternatives to AT&T Illinois' stand-alone residence local
57 exchange services. Mr. Panfil also responds to Staff's testimony regarding packages and
58 imputation. AT&T Ill. Ex. 5.1.

59
60 Dave Svanda, former Commissioner with the Michigan Public Service Commission and a
61 Principal in Svanda Consulting, responds to Staff and intervenor testimony from the
62 perspective of a former regulator and examines how the approval of the competitive
63 reclassification of residential local exchange services in Illinois would be consistent with
64 recent actions taken in other jurisdictions, including Michigan, Wisconsin, Ohio, Indiana,
65 Missouri and Iowa. AT&T Ill. Ex. 8.0.

66

67 Ronald E. Kastner, President-Business Manager of the International Brotherhood of
68 Electrical Workers Local 21, provides evidence of the competitive landscape in Illinois
69 and describes the impact of competition in the market for residential local exchange
70 service on union jobs. AT&T Ill. Ex. 9.0.

71

72 Joseph H. Weber, a Principal of Strategic Policy Research, Inc., and a
73 telecommunications engineer with over 30 years experience in systems engineering and
74 network planning, responds to AG and Data Net testimony regarding the provision of
75 service by CLECs using UNE-L. AT&T Ill. Ex. 10.0.

76

77 **Q. Do you have any schedules supporting your Rebuttal Testimony?**

78 A. Yes, I have the following Schedules:

- 79 • Schedule WKW-R1: CLEC and Wireless Residential Counts By
80 Exchange (December 31, 2005) (Confidential and Proprietary).
- 81 • Schedule WKW-R2: CLEC Residential Counts By E9-1-1, LWC, Resale,
82 UNE-L, and UNE-P (December 31, 2005) (Confidential and Proprietary).
- 83 • Schedule WKW-R3: Attorney General's Responses to AT&T Illinois
84 Data Requests 1.02 and 1.03.
- 85 • Schedule WKW-R4: Response Testimony of Richard J. Buckley, Jr. on
86 Behalf of Qwest Corporation in Washington Utilities and Transportation
87 Commission Docket No. UT-033044.

- 88 • Schedule WKW-R5: Overview of XO Wholesale Local Voice Services.
- 89 • Schedule WKW-R6: XO Press Release dated March 20, 2006, entitled
- 90 “XO Communications Signs Five Agreements for Wholesale Local Voice
- 91 Solution.”
- 92 • Schedule WKW-R7: “Moving Up or Moving Out” article posted
- 93 February 2, 2006 on phoneplusmag.com.
- 94 • Schedule WKW-R8: Alternatives to Residential ISDN (Confidential and
- 95 Proprietary).
- 96

97 **II. AT&T ILLINOIS FACES SIGNIFICANT COMPETITION FOR RESIDENTIAL**
98 **SERVICES FROM CLECS, WIRELESS AND VOIP PROVIDERS**

99
100 **A. AVAILABILITY OF RESIDENTIAL LOCAL EXCHANGE SERVICE FROM CLEC AND**
101 **WIRELESS CARRIERS**

102
103 **Q. Dr. Selwyn asserts that, if the analysis that you presented in your Direct Testimony**
104 **is accurate, the level of competition for residential local exchange service in the**
105 **Chicago LATA decreased significantly from September 30, 2005 to December 31,**
106 **2005. AG Ex. 1.0 at 131. Is Dr. Selwyn correct?**

107 A. No. As shown in Schedule WKW-5 Revised of my Direct Testimony, based on the
108 number of CLEC lines as of September 30, 2005, I conservatively estimated that CLEC
109 and wireless competitors serve approximately 24% of the residence lines in AT&T
110 Illinois’ service territory in the Chicago LATA. This figure was comprised of two
111 components: (1) 17% represents residential lines served by CLECs and (2) 9%
112 represents residential customers who have “cut the cord,” i.e., customers who rely

113 exclusively on wireless services for their network access and local usage and have no
114 wireline service in their homes. As shown in Schedules WKW-5 Revised and WKW-9
115 Revised, the number of CLEC residential lines reflected in the CLEC percentage was
116 516,087.

117
118 In response to Staff Data Request JZ 2.01, a copy of which was provided to the Attorney
119 General, I updated the information in Schedules WKW-5 Revised and WKW-9 Revised
120 to include the number of CLEC residential lines as of December 31, 2005. Copies of
121 these updated Schedules are attached hereto as Schedules WKW-R1 and WKW-R2. As
122 shown in those schedules, the number of residential lines served by CLECs as of
123 December 31, 2005 was *****BEGIN CONFIDENTIAL AND PROPRIETARY*****
124 *******END CONFIDENTIAL AND PROPRIETARY*****, only a slight change
125 from the number of CLEC lines as of September 30, 2005. Based on this line count, the
126 percentage of total residential lines in the Chicago LATA served by CLECs is 16.4%.
127 Taking into account the wireless “cut the cord” market share of 9%, I conservatively
128 estimate that CLEC and wireless competitors serve 23.9%, almost exactly the same
129 percentage (24%) that I estimated in my Direct Testimony.

130

131 **Q. Dr. Selwyn generally takes the position that there is insufficient competition in**
132 **Illinois to allow AT&T Illinois to declare its residence local exchange services**
133 **competitive and obtain additional pricing flexibility. Is his position unique to the**
134 **Illinois marketplace?**

135 A. No. Dr. Selwyn has submitted testimony in state proceedings all around the country. In
136 response to a data request, Dr. Selwyn acknowledges that, over the last five years, he has
137 never once concluded that there was sufficient competition for an incumbent LEC's
138 exchange or local toll services to be subject to reduced regulatory oversight or
139 deregulation. (Dr. Selwyn also acknowledges that he has never supported an incumbent
140 LEC's 271 application before the FCC, and he has also never supported an incumbent
141 LEC's proposal for increased upward price flexibility under an alternative plan of
142 regulation). These data request responses are attached as my Schedule WKW-R3.

143

144 **B. COMPARISON OF AT&T ILLINOIS' DATA WITH INFORMATION PROVIDED BY**
145 **CLECS TO STAFF**

146

147 **Q. Dr. Selwyn asserts that your analysis overstates the number of customers currently**
148 **substituting service offered by CLEC for AT&T Illinois' local exchange services in**
149 **the Chicago LATA. AG Ex. 1.0, lines 3-5. What is the your understanding of the**
150 **basis for this assertion?**

151 A. Dr. Selwyn purports to base his assertion on a comparison of the CLEC line counts that I
152 provided in Schedules WKW-5 and WKW-9 to the number of lines reported by CLECs
153 in response to the ICC's request for information in Docket 06-0028. In Table 8 of his
154 testimony, Dr. Selwyn purports to show the results of that comparison by "correcting"
155 my "original figures" on CLEC residential lines in the Chicago LATA with the CLEC
156 provided data where available. Dr. Selwyn asserts that the "corrected" number of CLEC
157 lines as of December 31, 2005 is only *****BEGIN CONFIDENTIAL AND**
158 **PROPRIETARY*****END CONFIDENTIAL AND PROPRIETARY***,**

159 over 100,000 lines fewer than the number of lines that I derived, which Dr. Selwyn shows
160 as *****BEGIN CONFIDENTIAL AND PROPRIETARY*****END**
161 **CONFIDENTIAL AND PROPRIETARY*****.

162

163 **Q. Did Dr. Selwyn calculate the number of CLEC lines correctly based on the**
164 **information reported by CLECs to the ICC Staff?**

165 A. No, he did not. I have reviewed the information provided by the CLECs to the ICC
166 Staff. Eighteen¹ CLECs provided information to Staff and the total number of lines
167 reported by those carriers for the Chicago LATA alone was *****BEGIN**

168 **CONFIDENTIAL AND PROPRIETARY*****END CONFIDENTIAL**

169 **AND PROPRIETARY*****. Adding that count to my count of the number of lines as of

170 December 31, 2005 for carriers which did not provide information to Staff produces a

171 total number of lines of *****BEGIN CONFIDENTIAL AND PROPRIETARY*****

172 *******END CONFIDENTIAL AND PROPRIETARY*****, many more than the

173 number of lines *****BEGIN CONFIDENTIAL AND PROPRIETARY*******

174 *****END CONFIDENTIAL AND PROPRIETARY***** shown by Dr. Selwyn in his

175 Table 8.²

¹ There were twenty response including responses from Verizon Wireless and Verizon Long Distance. These two companies were not listed as a CLEC in Schedule WKW-5 or Schedule WKW-9.

² Even accepting Dr. Selwyn's count of the aggregate number of CLEC lines based on responses to the ICC information request, the difference between that number and the count I obtained as of December 31, 2005 is exaggerated. As I previously discussed, the total number of CLEC lines obtained from my source as of December 31, 2005 was *****BEGIN CONFIDENTIAL AND PROPRIETARY*** 502,454 ***END CONFIDENTIAL AND PROPRIETARY*****, not *****BEGIN CONFIDENTIAL AND PROPRIETARY*** 515,860 ***END CONFIDENTIAL AND PROPRIETARY*****, as shown on line 2 of Dr. Selwyn's Table 8. The number shown by Dr. Selwyn came from the original, unrevised version of Schedules WKW-5 and WKW-9 and represented counts as of September 30, 2005, not December 31, 2005.

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Furthermore, the number of lines reported by certain CLECs to Staff did not reflect the full number of residential lines being served by those carriers. For example, as Dr. Selwyn notes, Comcast’s response to Staff indicated that Comcast provides *****BEGIN CONFIDENTIAL AND PROPRIETARY*****END CONFIDENTIAL AND PROPRIETARY***** lines, compared to *****BEGIN CONFIDENTIAL AND PROPRIETARY*****END CONFIDENTIAL AND PROPRIETARY***** lines, the number that I obtained for Comcast from the E9-1-1 database. In response to a follow-up information request from Staff, Comcast verified that it had reported to Staff only the number of customers purchasing Comcast’s cable switched telephone service, Digital Phone Service (“DPS”), and did not report the number of customers purchasing Digital Voice Service (“DVS”), Comcast’s IP based voice telecommunications service. Comcast also verified that it counted each customer with multiple lines one time. Thus, the number of customers reported by Comcast understates the number of lines served by Comcast. Using AT&T Illinois’ ratio of additional primary lines of *****BEGIN CONFIDENTIAL*****END CONFIDENTIAL***** as a proxy, an additional *****BEGIN CONFIDENTIAL AND PROPRIETARY*****END CONFIDENTIAL AND PROPRIETARY***** lines should be added to Comcast’s total number of DPS customers, as reported to Staff.

As another example, Dr. Selwyn observes that the number of lines reported to Staff by Sprint was only *****BEGIN CONFIDENTIAL AND PROPRIETARY*******

198 *****END CONFIDENTIAL AND PROPRIETARY*****, as compared to the
199 *****BEGIN CONFIDENTIAL AND PROPRIETARY*****END**
200 **CONFIDENTIAL AND PROPRIETARY***** lines for Sprint that I obtained from the
201 AT&T Illinois wholesale records and the E9-1-1 database. In all likelihood, most of
202 Sprint's E9-1-1 entries are related to the wholesale VoIP services that Sprint provides to
203 certain cable companies. As indicated in the ICC's Order in Dockets 05-0259/05-
204 0260/05-0261/05-0262/05-0263/05-0264/05-0265/05-0270/05-0275/05-0277/05-0298
205 (Consolidated),

206 With regard to Illinois, Sprint has entered into a business arrangement with MCC
207 Telephony of Illinois, Inc. ("MCC") to support its offering of local and long
208 distance voice services. Sprint states that the relationship enables MCC to enter
209 the local and long distance voice market without having to "build" a complete
210 telephone company. In effect, MCC has outsourced much of the network
211 functionality, operations, and back-office systems to Sprint. Sprint relates that it
212 has relationships utilizing this same market entry model with Wide Open West,
213 Time Warner Cable, Wave Broadband, Blue Ridge Communications, and others
214 not publicly announced serving almost 300,000 customers across over a dozen
215 states including Illinois.
216

217 Thus, it is probable that most of Sprint's E9-1-1 database entries are on behalf of a cable
218 company providing local telephone service, either MCC or WOW! Sprint would not
219 have reported to Staff the lines of MCC and WOW! that Sprint supports with its
220 wholesale VoIP services since Staff asked carriers only to report the number of lines that
221 they serve on a retail basis. On the other hand, WOW! and MCC would not have made
222 their own E9-1-1 entries for those lines supported by Sprint on a wholesale basis.
223

224 Like Sprint, several other carriers that provide wholesale services make E9-1-1 entries.
225 Global Crossing, which reported zero retail residential lines to Staff, provides wholesale

226 VoIP service to the companies, such as VoX Communications³, on whose behalf Global
227 Crossing makes entries into the E9-1-1 database. Level 3, which reported that it is a
228 wholesale provider of communications services and does not offer any services directly
229 to residential end user premises, provides wholesale VoIP services to companies such as
230 8x8, AOL and Vonage, on whose behalf Level 3 makes entries into the E9-1-1 database.⁴
231 CIMCO Communications' ("CIMCO") response to Staff states *****BEGIN**
232 **CONFIDENTIAL AND PROPRIETARY*******
233 *******END CONFIDENTIAL AND**
234 **PROPRIETARY***** Therefore, *****BEGIN CONFIDENTIAL AND**
235 **PROPRIETARY*****END**
236 **CONFIDENTIAL AND PROPRIETARY***** lines attributed to CIMCO in Schedule
237 WKW-5 and Schedule WKW-9 are probably accurate and should be included, as updated
238 in Schedules WKW-R1 and WKW-R2.

239
240 Accordingly, to obtain an accurate picture of the number of residential lines served by
241 providers other than AT&T Illinois in the aggregate, it is appropriate to include all of the
242 E9-1-1 entries made by Sprint, Global Crossing, Level 3, and CIMCO.

243
244 **Q. Can you provide an accurate comparison of the number of lines reported to Staff by**
245 **the eighteen CLECs to the number of CLEC residential lines which you developed**

³ See www.globalcrossing.com/xml/news/2005/june/06_2.xml where Global Crossing announces its deal with VoX Communications, a premier packet communications services provider deploying wholesale, residential and business VoIP services nationwide.

⁴See www.level3.com/press/4548.html and www.level3.com/press/5756.html and www.level3.com/press/6396.html.

246 **for those same eighteen CLECs using AT&T Illinois' wholesale records and the E9-**
247 **1-1 database?**

248 A. Yes. Table 1, below, presents such a comparison. As shown in the table, when the lines
249 reported to Staff are adjusted to include (i) Sprint's, Global Crossing's, Level 3's
250 wholesale lines as reported in the E9-1-1 database; (ii) CIMCO's *****BEGIN**

251 **CONFIDENTIAL AND PROPRIETARY*******

252 *******END CONFIDENTIAL AND**

253 **PROPRIETARY*****; and (iii) an estimate of additional lines purchased by Comcast's

254 DPS customers, the total number of lines for the eighteen carriers is *****BEGIN**

255 **CONFIDENTIAL AND PROPRIETARY*****END CONFIDENTIAL**

256 **AND PROPRIETARY*****, which is actually *higher* than the number of lines is

257 *****BEGIN CONFIDENTIAL AND PROPRIETARY*****END**

258 **CONFIDENTIAL AND PROPRIETARY*****that I calculated for those same carriers

259 as of December 31, 2005. When the adjusted number of lines for the eighteen carriers is

260 added to the number of lines that I obtained for carriers that did not provide information

261 to Staff in Docket 06-0028, the total number of CLEC lines is *****BEGIN**

262 **CONFIDENTIAL AND PROPRIETARY*****END CONFIDENTIAL**

263 **AND PROPRIETARY*****, compared to the total lines of *****BEGIN**

264 **CONFIDENTIAL AND PROPRIETARY*****END CONFIDENTIAL**

265 **AND PROPRIETARY***** that I obtained as of December 31, 2005, as shown in

266 Schedules WKW-R1 and WKW-R2.

276

277 **Q. Does the total number of lines ***BEGIN CONFIDENTIAL AND**
278 **PROPRIETARY*****END CONFIDENTIAL AND**
279 **PROPRIETARY*** that you calculated above, taking into account the eighteen**
280 **CLECs' responses to Staff's information request, include an estimate of the lines**
281 **servicing Comcast's Digital Voice Service customers?**

282 A. No, it does not. Accordingly, the total of *****BEGIN CONFIDENTIAL AND**
283 **PROPRIETARY*****END CONFIDENTIAL AND PROPRIETARY*****
284 is actually conservative. If I were to substitute the total number of lines derived from
285 Comcast's E9-1-1 entries (*****BEGIN CONFIDENTIAL AND PROPRIETARY*****
286 *******END CONFIDENTIAL AND PROPRIETARY*****), which includes DVS
287 lines, for the number of Digital Phone Service customers reported to Staff by Comcast,
288 the total number of CLEC lines, taking into account the responses of the other seventeen
289 carriers to Staff's information request, is *****BEGIN CONFIDENTIAL AND**
290 **PROPRIETARY*****END CONFIDENTIAL AND PROPRIETARY*****.

291

292 **Q. What do you conclude from the analysis of the CLEC numbers provided to Staff, as**
293 **discussed above?**

294 A. I conclude that there is no basis for the assertions of Dr. Selwyn and Mr. Gillan that
295 AT&T Illinois' use of its wholesale records and the E9-1-1 database results in an
296 overstatement of residential lines served by CLECs in the Chicago LATA. To the
297 contrary, the information provided by CLECs to Staff in response to the ICC's

298 information request in Docket 06-0028, as properly adjusted in the manner that I have
299 discussed above, demonstrates that my estimate of the number of CLEC lines in the
300 Chicago LATA using the wholesale records and E9-1-1 data that were available to
301 AT&T Illinois is reasonable, if not conservative.

302

303 **C. CURRENT CLEC AND WIRELESS MARKET SHARES**

304 **Q. In row 2 of his Table 8, Dr. Selwyn shows that the CLEC market share based on the**
305 **data that he says you provided for December 31, 2005 is 15.1%. Do you have any**
306 **comments regarding the manner in which Dr. Selwyn calculated that percentage?**

307 **A.** Yes. Dr. Selwyn calculated the 15.1% figure by dividing the total number of CLEC
308 residential MSA-1 Access Lines *****BEGIN CONFIDENTIAL AND**
309 **PROPRIETARY*****END CONFIDENTIAL AND**
310 **PROPRIETARY***** by the Total Residential MSA-1 Access Lines of *****BEGIN**
311 **CONFIDENTIAL AND PROPRIETARY*****END CONFIDENTIAL**
312 **AND PROPRIETARY*****, a total which includes an assumed number of households
313 served solely by wireless providers *****BEGIN CONFIDENTIAL AND**
314 **PROPRIETARY*****END CONFIDENTIAL AND**
315 **PROPRIETARY*****. If, as Dr. Selwyn asserts elsewhere in his testimony, wireless
316 subscribers should be disregarded by the Commission in analyzing the current market
317 shares of competitors for residential local exchange service, then the correct method of
318 calculating the CLEC market share is to divide the CLEC lines by the total number of
319 AT&T Illinois and CLEC lines, which would be *****BEGIN CONFIDENTIAL AND**

320 **PROPRIETARY*****END CONFIDENTIAL**
321 **AND PROPRIETARY*****. The resulting percentage is approximately 17%, not 15.1%.
322 On the other hand, if, as I believe, wireless substitution should be considered, then the
323 more relevant measure of the current market share of AT&T Illinois' competitors is
324 24.1%, the sum of the wireless market share of 9.0% and the CLEC market share of
325 15.1%.

326
327 It should also be pointed out that the number of CLEC lines shown on line 2 of Table 8 is
328 the number of CLEC lines as September 30, 2005, as shown on the unrevised versions of
329 Schedules WKW-5 and WKW-9, not the number of CLEC lines at December 31, 2005,
330 as suggested by Dr. Selwyn. As I have previously indicated, using the number of CLEC
331 lines as of December 31, 2005, the percentage CLEC share is approximately 16.4 %, as
332 Staff's witness, Dr. James Zolnierek, recognizes (Staff Ex. 2.0, lines 1168-1175). Taking
333 into account the wireless market share of 9%, the overall percentage is 23.9%.

334
335 **Q. Dr. Selwyn 's Table 8 suggests that the "corrected" CLEC share of the Chicago**
336 **LATA market is 12.8%. Is that a correct percentage?**

337 **A.** No. Dr. Selwyn's calculation of the percentage CLEC market share on line 2 of his Table
338 8 is incorrect for two reasons. First, as I demonstrated above, the number of "corrected"
339 CLEC lines used by Dr. Selwyn develop that percentage *****BEGIN CONFIDENTIAL**
340 **AND PROPRIETARY*****END CONFIDENTIAL AND**
341 **PROPRIETARY***** was incorrectly calculated and represents a drastic understatement

342 of the number of CLEC residential lines in the Chicago LATA. Second, as with his
343 calculation of the percentage CLEC share on line 2 of Table 8, which I discuss above, Dr.
344 Selwyn understated the percentage by including wireless “lines” in the total number of
345 Access lines into which he divided his incorrect number of “corrected” CLEC lines.

346
347 As I have previously discussed, an accurate calculation of the number of CLEC lines
348 taking into account the information reported by eighteen carriers to Staff in Docket 06-
349 0028, produces a total of *****BEGIN CONFIDENTIAL AND PROPRIETARY*****
350 *******END CONFIDENTIAL AND PROPRIETARY*****, not including
351 Comcast’s Digital Voice Service customers. Based on that number, the percentage of
352 residential access lines served by CLECs in the Chicago LATA as of December 31, 2005
353 is 16.5%. Adding Dr. Selwyn’s estimate of the wireless market share of *****BEGIN**
354 **CONFIDENTIAL AND PROPRIETARY*****END CONFIDENTIAL AND**
355 **PROPRIETARY***** produces a total market share for AT&T Illinois’s CLEC and
356 wireless competitors of 21.1 %. If the total number of CLEC lines taking into account
357 Comcast’s Digital Voice Lines *****BEGIN CONFIDENTIAL AND**
358 **PROPRIETARY*****END CONFIDENTIAL AND**
359 **PROPRIETARY*****is used, the CLEC and total CLEC/Wireless percentage market
360 shares are 17.6% and 22.1%, respectively.

361
362 **Q. Are you aware of any other evidence that contradicts Dr. Selwyn’s assertion that the**
363 **CLEC market share for residential services in the Chicago LATA is only 12.8%?**

364 A. Yes. In his testimony, Dr. Selwyn discusses TNS, which he characterizes as “a market
365 group well know for its telecom ‘bill harvesting’ database and studies.” AG Ex. 1.0 at 84-
366 85. Dr. Selwyn relies on a TNS “bill harvesting” study of wireless substitution, which he
367 asserts is “reliable”. Using the same “bill harvesting” approach, TNS has performed
368 surveys of the local line shares of AT&T Illinois and its CLEC competitors in Chicago.
369 The third quarter of 2005 are set forth in Table 2, below:

370 *****BEGIN CONFIDENTIAL AND PROPRIETARY*****

371 **Table 2**

372
373 *****END CONFIDENTIAL AND PROPRIETARY*****

374 As shown by the above table, treating pre-merger AT&T’s line share as AT&T Illinois’,
375 the CLECs’ share of the residential access lines for the Third Quarter of 2005 was 17.3%

376 *****BEGIN CONFIDENTIAL AND PROPRIETARY*****

377 *****END CONFIDENTIAL AND**

378 **PROPRIETARY*****, a figure comparable to the 17% CLEC share that I derived from
379 wholesale records and the E9-1-1 data base at September 30, 2005, and far greater than
380 the 12.8% figure derived by Dr. Selwyn.

381

382 **Q. Do the total CLEC/Wireless percentages that you discuss above fully reflect the level**
383 **of competition facing AT&T Illinois for residential local exchange service in the**
384 **Chicago LATA?**

385 A. No. As I discussed in my direct testimony, the percentages used to measure wireless
386 penetration in the market, whether it be my estimate of 9%, or Dr. Selwyn’s estimate of
387 *****BEGIN CONFIDENTIAL AND PROPRIETARY*****END**
388 **CONFIDENTIAL AND PROPRIETARY*****, represents only an estimate of the
389 percentage of households that have “cut the cord” by completely eliminating (or never
390 obtaining) landline service. As I explained in my direct testimony at page 60, that
391 percentage does not take into account the extent to which customers with wireline phones
392 use their wireless phone to make calls that they otherwise would make using their
393 wireline phones (i.e., usage substitution). Moreover, the total CLEC/Wireless percentages
394 do not take account customers who obtain service from the literally hundreds of non-
395 CLEC VOIP providers, such as Vonage, Sun Rocket, AOL Talk, etc.

396

397 **Q. Have you revised Dr. Selwyn’s Table 8 to correct the errors on lines 2 and 3, as**
398 **discussed above?**

399 A. Yes, I have. Those revisions are reflected in Table 3, below:

400

TABLE 3

401

*****BEGIN CONFIDENTIAL AND PROPRIETARY*****

402 1

403 2

404

405

*****END CONFIDENTIAL AND PROPRIETARY*****

406

407

Q. Dr. Selwyn takes issue with your 9% estimate of wireless substitution. AG Ex. 1.0 at 83 to 84. Do you have any comments in response to Dr. Selwyn’s testimony in this regard?

410

A. Yes. Dr. Selwyn asserts that he is “puzzled” that I would estimate 9% when the TNS studies that he says I produced in discovery produces an wireless “cut the cord” estimate

411

412 of *****BEGIN CONFIDENTIAL AND PROPRIETARY*****END**
413 **CONFIDENTIAL AND PROPRIETARY***** for Chicago. While Dr. Selwyn correctly
414 states that AT&T Illinois produced the TNS studies he refers to in response to a
415 discovery request, AT&T Illinois made it clear in the same response that these particular
416 studies were not produced by TNS on behalf of AT&T Illinois or at its request. I continue
417 to believe that the 9% estimate is reasonable for the Chicago area in light of the FCC's
418 6% estimate for the nation as a whole and the results of Mr. Shooshan's wireless
419 customer survey, as I discuss in my direct testimony. As shown in Table 3, above,
420 however, whether one chooses to use the 9% or the *****BEGIN CONFIDENTIAL AND**
421 **PROPRIETARY*****END CONFIDENTIAL AND PROPRIETARY*****
422 estimate, a conservative estimate of the overall share of residential lines served by CLEC
423 and wireless carriers lies in a range of approximately 21% to 24%, not taking into
424 account wireless usage substitution and competition from VoIP providers.

425

426

427 **D. DR. SELWYN'S PROJECTED CLEC MARKET SHARE**

428 **Q. In line 4 of his Table 8, Dr. Selwyn purports to show a projected CLEC MSA-1**
429 **Residential Market Share of 6.9%. Is this a valid projection?**

430 **A.** No. In calculating this percentage, Dr. Selwyn purported to remove all CLEC lines
431 served via UNE-P on the theory that, in the event that the existing state law requirement
432 for AT&T Illinois to provide UNE-P is preempted, all carriers which currently provision
433 residential service via UNE-P will withdraw all of their residential service offerings and

434 all of their residential customers will revert to AT&T Illinois. There is, however, no
435 evidence to support this theory. A comparison of Schedule WKW-9 Revised to Schedule
436 WKW-R2 shows that, between September 30, 2005 and December 31, 2005, the number
437 of carriers relying solely or primarily on UNE-P to provide residential local exchange
438 service in the Chicago LATA decreased from *****BEGIN CONFIDENTIAL AND**
439 **PROPRIETARY*****END CONFIDENTIAL AND**
440 **PROPRIETARY*****. These carriers, however, did not simply disappear from the
441 residential market, as Dr. Selwyn speculates they would. Rather, as I discuss in more
442 detail below, they transitioned their residential lines to alternative service arrangements,
443 including UNE-L and Local Wholesale Complete (“LWC”). As a net result, the total
444 number of CLEC lines changed very slightly between September 30, 2005 and December
445 31, 2005, from *****BEGIN CONFIDENTIAL AND PROPRIETARY*******
446 *******END CONFIDENTIAL AND PROPRIETARY*****.

447
448 Furthermore, to the extent the some CLECs may make a decision to withdraw from their
449 residential offerings in the Chicago LATA, there is no basis to assume, as Dr. Selwyn
450 does, that all of their customers will become customers of AT&T Illinois rather than
451 becoming customers of other CLECs, wireless or other alternative service providers.
452 Thus, for example, as Dr. Selwyn points out, Sprint is transferring its UNE-P customers
453 in Illinois to Trinsic. AG Ex. 1.0, lines 15-17. However Dr. Selwyn completely misses a
454 key point – Sprint has made a business decision to pursue a wireless strategy and will
455 advertise for customers to “cut the cord,” while at the same time continue to be a

456 wholesale provider to cable companies and provide operational support for their voice
457 business. Furthermore, as CLEC lines dropped by *****BEGIN CONFIDENTIAL AND**
458 **PROPRIETARY*****END CONFIDENTIAL AND PROPRIETARY*****
459 lines during the fourth quarter of 2005, the number of AT&T Illinois lines did not
460 increase, as Dr. Selwyn assumes, but rather also dropped, by *****BEGIN**
461 **CONFIDENTIAL*****BEGIN CONFIDENTIAL***** lines.

462

463 I will further discuss Dr. Selwyn's assertions of a decline in CLEC competition in
464 Section III of my Rebuttal Testimony below.

465

466 **E. E9-1-1 DATABASE**

467 **Q. Data Net witness Gillan criticizes your use of the E9-1-1 database, asserting that**
468 **there are “particular service arrangements that cause the E911 database to**
469 **overstate CLEC lines”. Data Net Ex. 1.0 at 24-26. Do you have any response to Mr.**
470 **Gillan’s testimony in this regard?**

471 **A.** Yes. As I have previously demonstrated, my use of the E9-1-1 database did not
472 “overstate CLEC lines.” To the contrary, the CLEC line count that I obtained using the
473 E9-1-1 database and AT&T Illinois’ wholesale records was consistent with the line
474 counts produced by CLEC responses to the Staff information request in Docket 06-0028.

475

476 Moreover, Mr. Gillan’s speculation as to factors that may “cause the E9-1-1 database to
477 overstate CLEC lines” is flawed. Mr. Gillan discussed a hypothetical service

478 arrangement under which a business user placed a DS-1 or some multiple set of DS-1s to
479 a PBX that provides residential telephone service to tenants in a building. Mr. Gillan
480 then asserts that Focal Communications offers this type of service. Even if Mr. Gillan's
481 hypothetical is correct, which it is not, then those E9-1-1 listings should be counted since
482 each line is going to a different residential address and that service displaced a CLEC or
483 AT&T Illinois residential line. What we are trying to determine is how many residential
484 lines are being provided to residential customers, and if it is being provided by a business
485 service then it should count regardless on how it is technically provisioned. To the
486 residential end user it is a dial-tone service and competes with services offered by AT&T
487 Illinois.

488
489 Broadwing Communications Inc., which owns Focal, also has an arrangement with
490 Vonage whereby Vonage uses its numbering resources. Therefore, these residential
491 numbers are probably attributable to Vonage or other VoIP providers who have a similar
492 arrangement with Broadwing. Broadwing Communication states "Broadwing's
493 PRIorityConnect SIP will provide carriers with a VoIP aggregation solution, allowing
494 them to originate and terminate VoIP calls to the PSTN through Broadwing's local and
495 long-haul voice services platform. Customers will be able to consolidate traffic from
496 around the country to a single location for connection to the PSTN. The addition of a SIP
497 interface to Broadwing's service will enable customers to hand traffic to Broadwing as IP,

498 eliminating the need for customers to purchase and maintain voice gateways. The service
499 also gives VoIP providers access to 911 and LNP services.”⁵

500
501 **Q. Mr. Gillan also asserts that the E911 data base includes listings for other companies**
502 **that do not offer residential service, including Global Crossing, Level 3**
503 **Communications, Mpower and XO. Data Net Ex. 1.0 at 25-26. Please respond to**
504 **that assertion.**

505 A. First, Mpower’s response to Staff’s DR in Docket 06-0028 states that *****BEGIN**
506 **CONFIDENTIAL AND PROPRIETARY*******
507 *********
508 *********
509 *******END CONFIDENTIAL AND PROPRIETARY*****. Mpower also
510 states that it uses *****BEGIN CONFIDENTIAL AND PROPRIETARY*******
511 *********
512 *******END CONFIDENTIAL AND PROPRIETARY*****.

513
514 Second, as I previously discussed, Global Crossing, Level 3 and XO provide wholesale
515 VoIP services. Although their E9-1-1 entries may not reflect residential lines that they
516 serve at retail, the entries represent lines that their wholesale customers use to serve retail
517 customers and, therefore, are properly included in the aggregate count of retail lines

⁵ See broadwing.com/bwngcorp/pressreleases/pr476.html and broadwing.com/bwngcorp/pressreleases/pr492.html

518 served by competitors of AT&T Illinois. For example VoX Communications⁶, uses
519 Global Crossing’s wholesale service and Global Crossing makes entries into the E9-1-1
520 database for VoX Communication. Level 3 states in its press releases⁷ that it provide
521 wholesale VoIP services to companies such as 8x8, AOL and Vonage, on whose behalf
522 Level 3 makes entries into the E9-1-1 database. XO states that it is “a leading provider
523 of wholesale VoIP services to carriers and service providers”⁸ and announced that it
524 carried more than 2.2 billion minutes of voice over Internet Protocol (VoIP) traffic across
525 its national IP network in the fourth quarter of 2005. *****BEGIN CONFIDENTIAL**

526 **AND PROPRIETARY*******
527 *********
528 *******END**
529 **CONFIDENTIAL AND PROPRIETARY***.**

530
531 **Q. Mr. Gillan also asserts that the Commission should be “skeptical of the level of**
532 **residential competition attributable to TDS and McLeod” because, “according to**
533 **AT&T Illinois’ E9-1-1 analysis, more than 15% of TDS’ and McLeodUSA’s**
534 **residential customers in Illinois are served by loops that those carriers *self-provide.*”**
535 **Data Net Ex. 1.0 at 26 (emphasis in original). Do you agree with Mr. Gillan’s**
536 **assertion?**

⁶ See www.globalcrossing.com/xml/news/2005/june/06_2.xml where Global Crossing announces its deal with VoX Communications, a premier packet communications services provider deploying wholesale, residential and business VoIP services nationwide
⁷ See www.level3.com/press/4548.html and <http://www.level3.com/press/5756.html> and <http://www.level3.com/press/6396.html>.
⁸ See <http://www.xo.com/news/265.html>

537 A. No. The responses provided by TDS and McLeod to Staff’s data requests in Docket 06-
538 0028 confirmed that they actually have more residential customers than AT&T Illinois
539 shows them to have as of December 31, 2005 on Schedule WKW-2. TDS Metrocom
540 stated in its response to the ICC data request that it served ***** BEGIN**

541 **CONFIDENTIAL AND PROPRIETARY*******

542 *****END CONFIDENTIAL AND PROPRIETARY***** lines than what AT&T Illinois

543 reported. McLeod reported to Staff that, as of December 31, 2005, it served *****BEGIN**

544 **CONFIDENTIAL AND PROPRIETARY*******

545 *********

546 *********

547 *********

548 *******END CONFIDENTIAL**

549 **AND PROPRIETARY***** lines reported by AT&T Illinois. These two examples

550 further demonstrate that AT&T Illinois’ numbers are conservative and may, in fact,

551 underestimate actual CLEC marketshare.

552

553 **Q. Mr. Gillan asserts that in a filing made by SBC and other RBOCs at the FCC, SBC**

554 **“previously described the E911 database as an unreliable measure of competition”.**

555 **Data Net Ex. 1.0 at 27. Is this assertion accurate?**

556 A. No. The referenced filing addressed the FCC’s requirement that a CLEC assign at least

557 one working telephone number to an EEL to ensure that at least part of the facility is used

558 for local service. The quoted language refers to the issue of whether E911 data can

559 reliably be used to meet service eligibility criteria for EELs and has nothing to do with
560 estimates of customers and/or access lines.

561

562 **Q. Mr. Gillan also asserts that the reliance on E9-1-1 listings by the United States**
563 **Department of Justice to estimate facilities based lines in 271 proceedings is not**
564 **relevant because the DOJ's comments cited by AT&T Illinois "do not contain an**
565 **analysis as to whether the E911 database is a reasonable measure of entry". Data**
566 **Net Ex. 1.0 at 27. Do you agree with Mr. Gillan's assertion?**

567 A. No. The Department of Justice and the FCC have relied on E9-1-1 data time and time
568 again in Section 271 proceedings. Examples of proceedings in which residential E9-1-1
569 databases were considered accurate for purposes of estimating CLEC switched based
570 lines include the following:

- 571 • Memorandum Opinion and Order, *In re: Application by Qwest*
572 *Communications International, Inc. for Authorization to Provide In-*
573 *Region, InterLATA Services in the States of Colorado, Idaho, Iowa,*
574 *Montana, Nebraska, North Dakota, Utah, Washington, and Wyoming,*
575 *FCC 02-314 (Dec. 23, 2002), ¶ 32;*
576
- 577 • Evaluation of the U.S. Department of Justice, *In re: Joint Application by*
578 *SBC Communications Inc., Southwestern Bell Telephone Company, and*
579 *Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell*
580 *Long Distance for Provision of In-Region InterLATA Services in Arkansas*
581 *and Missouri, FCC CC Docket No. 01-194 (Sept. 24, 2001), at 4, n.8;*
582
- 583 • Evaluation of the U.S. Department of Justice, *In re: Application by New*
584 *York Telephone Company (d/b/a Bell Atlantic - New York), Bell Atlantic*
585 *Communications, Inc., NYNEX Long Distance Company, and Bell Atlantic*
586 *Global Networks, Inc., for Authorization to Provide In-Region, InterLATA*
587 *Services in New York, FCC CC Docket No. 99-295 (Nov. 1, 1999), at 9;*
588
- 589 • Evaluation of the U.S. Department of Justice, *In re: Joint Application by*
590 *SBC Communications Inc., Southwestern Bell Telephone Company, and*

591 *Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell*
592 *Long Distance for Provision of In-Region, InterLATA Services in Kansas*
593 *and Oklahoma*, FCC CC Docket No. 00-217 (Dec. 4, 2000), at 4, n.11 &
594 7, n.25;

- 596 • Evaluation of the U.S. Department of Justice, *In re: Application by*
597 *Verizon New England, Inc. (d/b/a Verizon Long Distance), NYNEX Long*
598 *Distance Company (d/b/a Verizon Enterprise Solutions), and Verizon*
599 *Global Networks Inc., for Authorization to Provide In-Region, InterLATA*
600 *Services in Massachusetts*, FCC CC Docket No. 01-9 (Feb. 21, 2001), at
601 4; and
- 602 • Evaluation of the U.S. Department of Justice, *In re: Application by*
603 *Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise*
604 *Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc.,*
605 *for Authorization to Provide In-Region, InterLATA Services in*
606 *Pennsylvania*, FCC CC Docket No. 01-138 (July 26, 2001), at 4.

607
608
609 It is not credible to suggest, as Mr. Gillan does, that the DOJ relied on E9-1-1 data
610 without a belief that it is reliable.

611

612 **Q. Are you aware of any proceedings in which state commissions have relied on E9-1-1**
613 **data for purposes of measuring the level of CLEC competition for residential local**
614 **exchange service?**

615 **A.** Yes. In recent proceedings, the Oklahoma⁹, Wisconsin¹⁰, and Michigan¹¹ Commissions
616 all relied on data regarding CLEC-served residential lines for which AT&T affiliated
617 ILECs used the E9-1-1 data base as a source. In the Oklahoma and Wisconsin and Kansas

⁹ OCC Order No. 508813 dated July 28, 2005, Application of Southwestern Bell Telephone, LP., d/b/a SBC Oklahoma, For The Classification of Intrastate Retail Telecommunications Services as Basket 4 Services Pursuant to OAC 165:55-5-66(4).

¹⁰ WPSC Order in Docket 6720-TI-196 Petition of SBC Wisconsin for Suspension of Wisconsin Statute sec. 196.196(1) with Regard to Basic Local Exchange Service dated November 23, 2005.

¹¹ MPSC Order in Case No. U-14232 and U-14324, In the matter of SBC MICHIGAN's request for classification of business local exchange service as competitive pursuant to Section 208 of the Michigan Telecommunications Act, dated August 4, 2005.

618 cases, the commissions did so over the objection of Mr. Gillan. In each case, the
619 commission found there to be sufficient competition to permit deregulation or relaxed
620 regulation of prices for the ILECs' residential local exchange services.

621

622 **F. OTHER ISSUES RELATED TO WIRELESS, CABLE AND VoIP COMPETITION**

623 **Q. In response to contentions made by Dr. Selwyn, Dr. Taylor testifies that wireless and**
624 **VoIP alternatives can constrain AT&T Illinois' pricing decisions because the**
625 **Company cannot determine which of its customers use those technologies. Is Dr.**
626 **Taylor correct?**

627 A. Yes. AT&T Illinois does not know which of its customers have wireless service, with the
628 possible exception of Cingular service and only for the relatively small number of
629 customers who have their wireline and Cingular service billed on their wireline bill. The
630 Company does not know – and cannot know – which of its customers take service from
631 other wireless carriers. Similarly, AT&T Illinois does not know which of its customers
632 subscribe to broadband service, other than its own DSL service.

633

634 **Q. Dr. Selwyn contends that AT&T does not believe cable telephony is a serious threat,**
635 **citing a statement by AT&T executive Scott Helbring that only “6% of consumer**
636 **revenue to be risk.” AG Ex. 1.0 at 61-62. Is that correct?**

637 A. No. Dr. Selwyn has taken this quotation out of context. Mr. Helbring's 6% figure was
638 based on total *pro forma* AT&T Inc. revenues, including its 60% share of Cingular. That
639 is a *very* different thing than AT&T Illinois' pre-merger wireline voice consumer

640 revenues. The 6% figure discussed by Mr. Helbring represents 39% of AT&T Inc.’s
641 traditional ILEC consumer voice revenue.

642

643 **Q. Does AT&T, in fact, see the cable companies as major competitive threats?**

644 A. Yes. AT&T would not have embarked on its \$4-\$6 billion network initiative
645 (“Lightspeed”) if it did not take the full range of competition from cable providers
646 (telephony, broadband and video) very, very seriously.

647

648 **Q. Mr. Gillan asserts that the “actual switching facilities used to serve the existing
649 residential customers of Comcast are actually served by AT&T Illinois switches
650 (that AT&T Illinois acquired when it acquired AT&T Classic)”. Data Net Ex 1.0 at**

651 **13. Is Mr. Gillan correct?**

652 A. No, he is not. First, AT&T Illinois did not acquire “AT&T Classic.” AT&T Illinois’
653 ultimate parent acquired “AT&T Classic”. Second, there has been no transfer of
654 switching facilities from pre-merger AT&T to AT&T Illinois. ***BEGIN

655 **CONFIDENTIAL AND PROPRIETARY*******

656 *****

657 *******END CONFIDENTIAL AND**

658 **PROPRIETARY***** The more pertinent fact, however, is that Comcast owns and

659 operates its own loop network and is moving from a circuit switched based platform to

660 the use of IP based facilities, of which it is the owner.

661

662 G. IMPACT OF COMPETITION ON AT&T ILLINOIS

663 Q. Dr. Selwyn asserts that AT&T Illinois is not being impacted by competition in the
664 market for residential services in the Chicago LATA, asserting that “total number
665 of IBT primary lines has grown over the past year.” AG Ex. 1.0 at 62. Do you have
666 any comments on Dr. Selwyn’s analysis?

667 A. Yes. Dr. Selwyn’s testimony on this point is grossly misleading. The number of AT&T
668 Illinois’ primary lines increased by a mere *****BEGIN CONFIDENTIAL*******
669 *****END CONFIDENTIAL***** over the 12 months ended December 31, 2005. This is
670 less than *****BEGIN CONFIDENTIAL*****END CONFIDENTIAL***** of
671 the total number of AT&T Illinois primary residential access lines. As a practical matter,
672 therefore, the most that can be said is that the primary line growth was flat the past year.
673 This followed a four year period from December 2000 to December 2004, when the
674 number of AT&T Illinois primary residential lines *decreased* significantly, in the
675 Chicago LATA by *****BEGIN CONFIDENTIAL*******
676 *******END**
677 **CONFIDENTIAL*****. Moreover, the total number of AT&T Illinois’ residential lines
678 in the Chicago LATA (including second lines) decreased by *****BEGIN**
679 **CONFIDENTIAL*****END CONFIDENTIAL*****, over the
680 past year, and by *****BEGIN CONFIDENTIAL*******
681 *******END**
682 **CONFIDENTIAL***** since December 2000. Furthermore, AT&T Illinois’ daily
683 competitive residential line losses *****BEGIN CONFIDENTIAL*******

684 *******END CONFIDENTIAL***** and the daily competitive
685 line losses AT&T has experienced from December 2005 through mid-March 2006
686 *****BEGIN CONFIDENTIAL*********END**
687 **CONFIDENTIAL*****.

688
689 **Q. Dr. Selwyn asserts that losses by AT&T Illinois of secondary lines does not**
690 **constitute evidence that competition is having an impact on AT&T Illinois. Do you**
691 **agree?**

692 **A.** Absolutely not. In support of his assertion. Dr. Selwyn asserts that secondary lines are
693 being replaced by other services, particularly internet services such as DSL provided by
694 an affiliate of AT&T Illinois, which Dr. Selwyn claims “can hardly be considered a
695 ‘competitor’ for the purpose of this proceeding”. Dr. Selwyn’s analysis is wrong.
696 Broadband is a competitive market with multiple providers over multiple platforms.
697 Consumers have many choices in the marketplace and can choose broadband services
698 from their cable company, from AT&T, from other DSL providers (e.g. AOL, Earthlink
699 etc.), broadband satellite providers, cellular providers and other wireless companies that
700 use Wi-Fi and other wireless technologies. Stating that the loss of second lines to
701 competitive broadband services is like saying that when a loyal Coke drinker purchases
702 POWERade that that isn’t a competitive purchase since POWERade is owned by Coke,
703 even though the consumer could have chosen Gatorade.

704

705 **Q. Dr. Selwyn asserts that an increase in the number of “Customer Network**
706 **Connections¹²” for AT&T Illinois on a statewide basis during the year 2005**
707 **constitutes further evidence of a “lack of competition”. AG Ex. 1.0 at 63-64. Do**
708 **you agree?**

709 **A.** No, I do not. As Dr. Selwyn recognizes, “Customer Network Connections” include DSL
710 and video lines, in addition to telephone lines. AT&T started reporting “Customer
711 Network Connections” in the fourth quarter of 2004 in recognition of the fact that, in the
712 current marketplace, customers’ expectations from its communications supplier are
713 different today than they were previously. More and more consumers are interested in a
714 broader array of products and services and expect their provider to offer bundles that
715 include video, broadband internet and voice. The fact that overall “Customer Network
716 Connections” is increasing, which includes AT&T Dish satellite video connections as
717 well as DSL, does not logically indicate a lack of competition in the markets for any of
718 the services and products reflected in the metric. AT&T, of course, faces stiff
719 competition in the market for high speed internet services, not only from cable companies
720 such as Comcast, but also from other DSL, wireless and satellite-based internet providers.

721
722 **Q. Dr. Selwyn refers to Average Revenue per Unit (“ARPU”) as further evidence of a**
723 **“lack of competition.” AG Ex. 1.0 at 64. Does Dr. Selwyn’s testimony in this regard**
724 **make sense?**

¹² AT&T Corporation 4th Quarter Investor Briefing makes it clear that pre-merger AT&T lines are not included in the count of “Customer Network Connections” count, contrary to Dr. Selywn’s assertion.

725 A. No, it does not. Dr. Selwyn points to the fact that the ARPU for AT&T Illinois’
726 residential voice customers fluctuated slightly between ******BEGIN CONFIDENTIAL**
727 **AND PROPRIETARY*******¹³ ******END CONFIDENTIAL AND**
728 **PROPRIETARY ****** as evidence that the amount each customer is spending for AT&T
729 Illinois voice service is increasing. Actually, the ARPU ******BEGIN CONFIDENTIAL**
730 **AND PROPRIETARY*********END CONFIDENTIAL AND**
731 **PROPRIETARY****** from the beginning to the end of the year, although it fluctuated
732 within a very small range of ******BEGIN CONFIDENTIAL AND PROPRIETARY******
733 *******END CONFIDENTIAL AND PROPRIETARY****** in
734 between. How this constitutes evidence of a “lack of competition” for voice services is
735 unexplained by Dr. Selwyn.

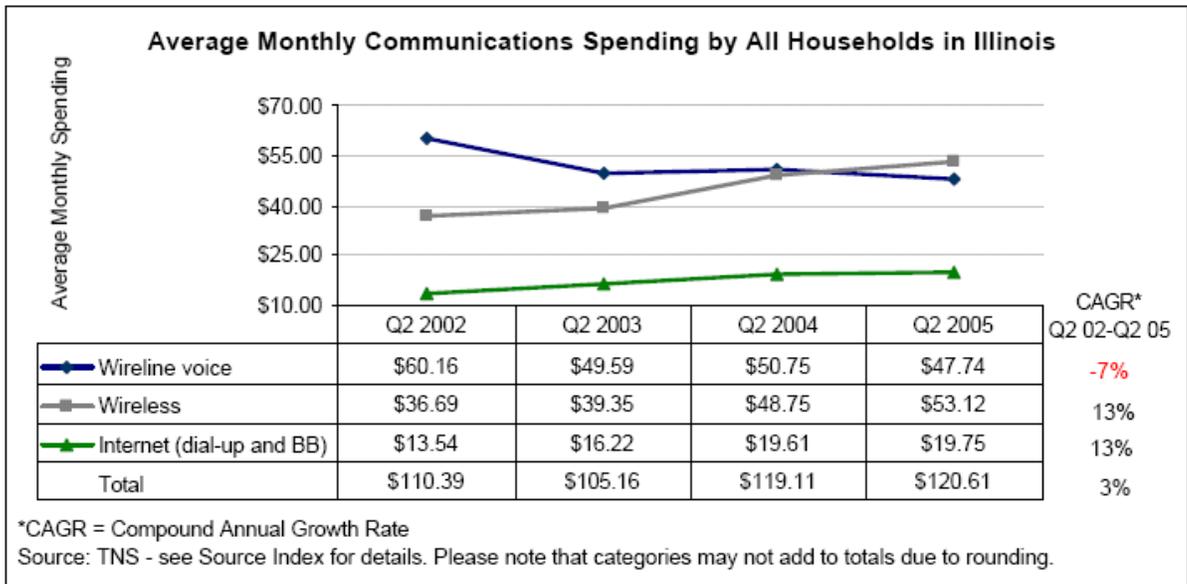
736

737 Furthermore, there is no basis for Dr. Selwyn’s assumption that an increasing APRU
738 would constitutes evidence of a “lack of competition.” There is no doubt that wireless
739 and internet services are competitive. As shown by the following Table 3, which was
740 created from TNS "Bill Harvesting" survey data, the compound annual growth rate in
741 average monthly spending by household in Illinois for both wireless and internet services
742 was about 13% between the second quarter of 2002 and the second quarter of 2004. In
743 addition, Comcast has reported that its ARPU doubled over the past 7 years going from
744 \$42 in 1998 to \$83 in the second quarter '05 (See Merrill Lynch 12 Annual Media and

¹³ These ARPU numbers do not include any long-distance revenues.

745 Entertainment Conference presentation by Comcast Sept 13, 2005). Yet, there is no
 746 doubt that the markets for wireless and internet services are intensely competitive.

747 **Table 4**



748

749

750 **III. CLEC COMPETITION IS NOT “COLLAPSING”**

751 **A. TREND OF CLEC RESIDENTIAL LINES**

752 **Q. At page 58 of his testimony, Dr. Selwyn asserts that “if the Wardin September 2005**
 753 **data is accurate, the steep decrease in CLEC lines over just three months**
 754 **underscores the ongoing collapse of CLEC competition, a process that is still far**
 755 **from over.” AG Ex. 1.0 at 58. Is Dr. Selwyn’s testimony correct?**

756 **A.** No. As I have previously discussed, I updated my September 30, 2005 data to reflect the
 757 number of CLEC lines at December 31, 2005. The change in the number of CLEC lines
 758 over that three month period of time was only *****BEGIN CONFIDENTIAL AND**

759 **PROPRIETARY*****END CONFIDENTIAL AND PROPRIETARY***,**
760 or about 2.6%, hardly a “steep decrease.” As demonstrated in Section II of my Rebuttal
761 Testimony, both the September 2005 data and the December 2005 data which I obtained
762 from the sources available to AT&T Illinois are reasonably accurate, if not conservative.
763 Furthermore, as I previously discussed, the December 31, 2005 data which I collected is
764 comparable, in the aggregate, to the results obtained through the CLECs’ responses to
765 Staff’s information request, as properly adjusted to reflect the lines of certain CLECs that
766 were not reported to Staff. Accordingly, there is no evidence of “an ongoing collapse of
767 CLEC competition” as Dr. Selwyn asserts.

768

769 **B. UNE-P**

770 **Q. Dr. Selwyn asserts that the “majority of CLEC lines are currently being served via**
771 **UNE-P.” AG Ex 1.0 at 7. Is Dr. Selwyn correct?**

772 A. No, he is not. As indicated in Schedule WKW-5 Revised and Schedule WKW-9 Revised
773 of my Direct Testimony, of the *****BEGIN CONFIDENTIAL AND**

774 **PROPRIETARY*****END CONFIDENTIAL AND PROPRIETARY*****
775 residential lines served by CLECs¹⁴, in the Chicago LATA as of September 30, 2005,

776 *****BEGIN CONFIDENTIAL AND PROPRIETARY*****END**
777 **CONFIDENTIAL AND PROPRIETARY*****, or approximately *****BEGIN**

778 **CONFIDENTIAL AND PROPRIETARY*****END CONFIDENTIAL AND**
779 **PROPRIETARY*****, were served via UNE-P. As I previously discussed, in AT&T

¹⁴ To be conservative AT&T Illinois has excluded AT&T pre-merger lines from the residential CLEC line counts.

780 Illinois' response to Staff Data Request JZ 2.01, a copy of which was provided to the
781 Attorney General, I updated the information in Schedule WKW-5 Revised and WKW-9
782 Revised to December 31, 2005. Copies of those updated schedules are attached hereto
783 and identified as Schedules WKW-R1 and WKW-R2. The information contained in those
784 schedules shows that the number of lines served by UNE-P decreased significantly to
785 *****BEGIN CONFIDENTIAL AND PROPRIETARY*****END**
786 **CONFIDENTIAL AND PROPRIETARY*****, or only 18%, of the total CLEC lines.

787

788 **Q. Dr. Selwyn, Mr. Gillan and Mr. Segal all suggest that the elimination of UNE-P at**
789 **TELRIC rates will result in the elimination of effective competition from CLECs in**
790 **the Chicago LATA. Do you have any comment in response to this testimony?**

791

792 A. Yes. These witnesses are essentially attempting to relitigate the issue of whether CLECs
793 will be impaired in their ability to compete with incumbent local exchange carriers
794 without the availability of unbundled local switching and UNE-P at TELRIC rates. The
795 FCC answered this question once and for all in its *TRO Remand Order*. In that Order, the
796 FCC determined not only that the availability of UNE-P is not necessary in able to
797 compete, it found that a requirement that incumbent local exchange carriers provide
798 UNE-P actually harms competition and deters network investment. *TRO Remand Order*,
799 ¶¶ 199, 204. Based on these findings, the FCC barred CLECs from ordering new UNE-P
800 arrangements after March 11, 2005 and established a twelve-month transition period
801 (which ended March 11, 2006) for CLECs to transition existing customers served by

802 UNE-P to alternative service arrangements. As I discussed in my direct testimony,
803 CLECs that have relied until now on UNE-P have several alternative service
804 arrangements to choose from, including (i) entering into negotiated commercial
805 arrangements, such as the Local Wholesale Complete (“LWC”); (ii) converting end users
806 from UNE-P to their own switch and using an AT&T Illinois UNE-L or a loop provided
807 by another facilities based provider; (iii) purchasing wholesale services, including the use
808 of switching, from other CLECs; (iv) using AT&T Illinois’ wholesale retail services; and
809 (v) offering or expanding their VoIP services.

810

811 **Q. Dr. Selwyn asserts that the “threatened elimination of [UNE-P] at TELRIC rates**
812 **has already undercut CLECs’ ability and willingness to offer service to residential**
813 **customers.” AG Ex. 1.0 at 7. Mr. Gillan makes a similar claim. Data Net Ex. 1.0 at**
814 **17. Does the evidence support the claims of Dr. Selwyn and Mr. Gillan?**

815 A. No. As shown in Schedule WKW-R1 and WKW-R2, while the number of lines served
816 by UNE-P decreased by over *****BEGIN CONFIDENTIAL AND**
817 **PROPRIETARY*****END CONFIDENTIAL AND PROPRIETARY*****
818 lines during the three months between September 30, 2005 and December 31, 2005, the
819 overall number of CLEC lines decreased only slightly, from *****BEGIN**
820 **CONFIDENTIAL AND PROPRIETARY*****END**
821 **CONFIDENTIAL AND PROPRIETARY*****. As I previously indicated, the decrease
822 in UNE-P lines represented a transition by several UNE-P carriers from UNE-P to the
823 LWC platform and UNE-L platform. The number of CLEC residential lines served via

824 LWC as of December 31, 2005 was *****BEGIN CONFIDENTIAL AND**
825 **PROPRIETARY*****END CONFIDENTIAL AND PROPRIETARY*****,
826 or 22%, of total CLEC lines, up from *****BEGIN CONFIDENTIAL AND**
827 **PROPRIETARY*****END CONFIDENTIAL AND**
828 **PROPRIETARY***** as of September 30, 2005. The number of residential lines served
829 via CLEC-provisioned switching increased from *****BEGIN CONFIDENTIAL AND**
830 **PROPRIETARY*****END CONFIDENTIAL AND PROPRIETARY*****
831 (or 54%) of total CLEC lines, to *****BEGIN CONFIDENTIAL AND**
832 **PROPRIETARY*****END CONFIDENTIAL AND**
833 **PROPRIETARY*****(or 59%).

834
835 Meanwhile, during the same time period, while non-affiliated CLEC lines decreased by
836 *****BEGIN CONFIDENTIAL AND PROPRIETARY*****END**
837 **CONFIDENTIAL AND PROPRIETARY*****, the number of lines served by pre-
838 merger AT&T lines decreased by *****BEGIN CONFIDENTIAL AND**
839 **PROPRIETARY*****END CONFIDENTIAL AND PROPRIETARY*****
840 and the number of AT&T Illinois lines *****BEGIN CONFIDENTIAL*******
841 *******¹⁵*****END CONFIDENTIAL***** which includes *****BEGIN**
842 **CONFIDENTIAL*****¹⁶***END CONFIDENTIAL***** in the
843 number of primary lines. Therefore, residential consumers are choosing communication

¹⁵ Data from Schedule WKW-5 Revised and Schedule WKW-R1

¹⁶ Calculated using September and December 2005 Data from AT&T Illinois response to CUB DR 2.10 and 2.18.

844 options other than AT&T Illinois that are not measured by looking at the number of lines
845 served by CLECs. Thus, the assertions of Dr. Selwyn and Mr. Gillan that the elimination
846 of UNE-P means the death of competition is contradicted by the facts.

847

848 **Q. In support of his position that competition is not feasible without UNE-P, Dr.**
849 **Selwyn asserts that the “specific reason that [pre-merger] AT&T offered for its**
850 **decision to exit the residential market was the elimination of UNE-P and its**
851 **conclusion that it could not profitably serve this segment if forced to pay the**
852 **‘market-based, commercial agreement’ rates for a UNE-P replacement.” AG Ex.**
853 **1.0 at 126. Do you have any comments in response to Dr. Selwyn’s assertion?**

854 A. Yes. As I have previously discussed and will discuss further, below, despite the business
855 decisions that pre-merger AT&T chose to make, other CLECs are continuing to compete
856 for residential customers in Illinois using strategies other than UNE-P, including UNE-L
857 and LWC.

858

859 Furthermore, Dr. Selwyn’s characterization of the reasons for pre-merger AT&T’s
860 decision with respect to the mass market is misleading. In support of that
861 characterization, Dr. Selwyn offers selective quotes from the direct testimony of John
862 Polumbo in the California PUC’s merger review proceeding.¹⁷ Mr. Polumbo’s testimony
863 discusses the factors that pre-merger AT&T considered in making a decision in 2004 to

¹⁷ Direct Testimony of John Polumbo, Cal. PUC Application 05-02-027 (“Polumbo California Testimony”), filed May 6, 2005.

864 cease actively marketing its traditional local and long distance services to mass market
865 customers. Mr. Polumbo does not state that the “specific reason” for that decision was
866 the rates under the “market based, commercial agreements” offered by AT&T Illinois and
867 other ILECs. Furthermore, Mr. Polumbo’s testimony makes it clear that the elimination
868 of UNE-P was only one factor prompting pre-merger AT&T’s decision to exit the mass
869 market. Significantly, other factors included increased competition posed by cable,
870 wireless, and VoIP. Mr. Polumbo described pre-merger AT&T’s ultimate decision as
871 follows:

872 With growing competition from multiple quarters further undermining the
873 economics of AT&T’s mass market offerings – e.g., steadily growing competition
874 from wireless carriers, email, instant messaging, and internet telephony – AT&T
875 concluded in July 2004 that it no longer made business sense to pursue mass
876 market customers.¹⁸

877
878 Mr. Polumbo further commented on these sources of competition as follows:

879 Cable providers that have the ability to provide the full suite of local and long
880 distance services, as well as broadband internet and video services have greatly
881 expanded their VoIP telephony effort. Other new VoIP providers continue to
882 enter, and minutes continue to shift from traditional wireline providers to wireless
883 and other providers.¹⁹

884
885 Accordingly, the fact that pre-merger AT&T made a business decision to focus its efforts
886 on competing in the business and enterprise markets does not in any way justify Dr.
887 Selwyn’s assertions that the elimination of UNE-P spells the death knell for competition
888 in the market for residential local exchange services.

889

¹⁸ Polumbo California Testimony at A.9.

¹⁹ *Id.* at A.14.

890 C. LOCAL WHOLESALE COMPLETE (“LWC”)

891 Q. Dr. Selwyn asserts that “as of December 2005, only one CLEC was providing any
892 residential service in Illinois by means of the LWC platform.” AG Ex. 2.0 at 7; Data
893 Net Ex. 1.0 at 18. Is Dr. Selwyn correct?

894 A. No. First, Dr. Selwyn has his dates mixed up. It is correct that, as of September 30,
895 2005, the date of the information that I compiled for my Direct Testimony, there was one
896 CLEC serving residential customers using the LWC platform. However, the transition of
897 CLECs from UNE-P to LWC is being done in stages. Thus, as I discussed in my Direct
898 Testimony, the September 30, 2005 data did not reflect the full extent to which CLECs
899 which were using UNE-P have agreed to migrate to alternative service arrangements,
900 including LWC. As shown in AT&T Illinois’ Response to Staff Data Request JZ 1.01(b),
901 37 CLECs have signed commercial LWC agreements with AT&T Illinois. In fact, as
902 shown on Schedule WKW-R2, as of December 31, 2005, there were 10 CLECs that were
903 using the LWC platform to serve residential customers.

904

905 Q. Mr. Gillan asserts that in Illinois “LWC’s share of the residential market is
906 insignificant.” Data Net Ex. 1.0 at 19. Do you agree?

907 A. No. Again, Mr. Gillan’s assertion appears to be based on the information that was
908 available on September 30, 2005, a time when only one carrier was providing residential
909 service in the Chicago LATA by using the LWC platform. As I have previously
910 indicated, however, many carriers have migrated to the LWC platform since that time.
911 The percentage of total access lines represented by CLEC lines served over the LWC

912 platform was 22% on December 31, 2005, an increase from *****BEGIN**
913 **CONFIDENTIAL AND PROPRIETARY*****END CONFIDENTIAL AND**
914 **PROPRIETARY***** on September 30, 2005. That percentage has increased since the
915 end of the year as additional CLECs have migrated to the LWC platform.

916

917 **Q. Mr. Gillan asserts that the fact that MCI signed a commercial agreement with**
918 **AT&T Illinois “says nothing about the economic viability of LWC” since MCI “had**
919 **decided to abandon the residential market.” Data Net Ex. 1.0 at 18. Dr. Selwyn also**
920 **asserts that MCI has withdrawn from the residential market in Illinois. AG Ex. 1.0**
921 **at 52, 141. Did Dr. Selwyn and Mr. Gillan present any evidence supporting their**
922 **assertion regarding MCI?**

923 **A.** No. Although Dr. Selwyn repeatedly asserts that MCI has withdrawn from the market for
924 residential services, he provides no evidence supporting those assertions. The only
925 document that Mr. Gillan cites to support his claim is a largely redacted document filed
926 by MCI with the FCC in the MCI/Verizon merger proceeding. MCI’s witness, Mr.
927 Huyard, stated:

928 MCI’s consumer base has declined, and will inevitably continue to shrink,
929 because of a series of market, technological, and regulatory changes have
930 converged to reshape the telecommunications landscape. These factors include:
931 competition from cable telephone, wireless, VoIP and instant messaging;
932 competition from the Regional Bell Operating Companies (“RBOCs”) and other
933 carriers; customer preference for all-distance service and the convenience of one
934 bill from one company for their telecommunications needs, coupled with
935 regulatory changes that eliminated UNE-P; and restrictions on marketing resulting
936 from “Do Not Call” legislation.²⁰
937

²⁰ Declaration of Wayne Huyard, FCC WC Docket No. 05-75, p. 4.

938 Even assuming this statement could be interpreted as an announcement by MCI that it
939 intends to abandon the residential market altogether (which it cannot), Mr. Gillan's
940 suggestion (at 18) that the reason for the supposed abandonment is due solely to the
941 elimination of UNE-P is not true. Most of the reasons listed by Mr. Huyard for the
942 decline in MCI's consumer base are reasons *other than* the elimination of UNE-P,
943 including competition from cable telephone, wireless, VoIP and instant messaging. Mr.
944 Huyard explains that "[c]onsumers now use wireless phones to make a substantial
945 percentage of their long distance calls, sharply reducing the number of retail long
946 distance minutes carried by wireline providers."²¹ Mr. Huyard further explains that the
947 widespread roll out of cable modem and DSL service accompanied by the emergence of
948 VoIP allows people to make telephone calls at a fraction of the price traditional telephone
949 companies charge.²² He concludes that MCI's only option is to manage the decline of its
950 consumer business.²³ Mr. Huyard does not, however, conclude that MCI should or is
951 planning to abandon the residential market altogether, as Mr. Gillan claims. Quite the
952 contrary, Mr. Huyard stated: [T]o avoid terminating service to our existing and shrinking
953 residential customer base, MCI has pursued commercial agreements for UNE-P
954 replacement products."²⁴

²¹ *Id.*

²² Mr. Huyard also pointed out the low cost/low priced nature of VoIP vis-à-vis traditional wireline local service. *Id.* at 5.

²³ *Id.* at 7.

²⁴ *Id.* at 11.

956 Mr. Gillan even goes so far as to repeatedly assert (for example at pages 4, 10, 16, 18,
957 and 23) that MCI has *abandoned* the market. That plainly is not true. I queried the
958 Illinois MCI website for each of the 118 exchanges of AT&T Illinois's Chicago LATA
959 on March 22, 2006 to determine whether MCI had stopped offering its residential service
960 anywhere in these 118 AT&T Illinois exchanges. MCI has not. In each of the 118
961 exchanges, MCI's website indicated that residential service was available for new
962 customers. Clearly, MCI has not abandoned the market, as Mr. Gillan claims.

963
964 Nor has MCI given any indication that it is planning to abandon the market. MCI has
965 entered into a commercial LWC agreement with AT&T to continue to obtain end-to-end
966 local exchange service for its continued provision of residential and business local
967 exchange service without the use of its own facilities. In addition, Mr. Huyard indicated
968 that MCI has entered into a commercial agreement with Qwest for UNE-P replacement
969 products and is attempting to enter such agreements with other RBOCs.²⁵

970
971 The point is that MCI can continue to use AT&T Illinois's network to provide end-to-end
972 service in the future and compete as it has in the past, or it can make other
973 accommodations to shift its services to self-provided switching coupled with UNEs at
974 TELRIC-based rates, or it can use third-party-provided facilities. As I have previously
975 discussed, MCI's response to Staff's data request in Docket 06-0028 indicates that

976 *****BEGIN CONFIDENTIAL AND PROPRIETARY*******

²⁵ *Id.*

977 *******END CONFIDENTIAL**

978 **AND PROPRIETARY***.**

979

980 **Q. Mr. Gillan also makes certain assertions regarding Talk America’s plans. Data Net**
981 **Ex. 1.0 at 18-19. Do you have any comments in response to Mr. Gillan’s testimony**
982 **in that regard?**

983 A. Yes. Citing Talk America’s 10Q Report filed November 9, 2005 with the Securities and
984 Exchange Commission (“SEC”), Mr. Gillan suggests that Talk America has engaged in a
985 “deliberate program to reduce subscriber growth in areas where they do not plan on
986 deploying network facilities” and that Talk America has not indicated any plans to deploy
987 network facilities in Illinois. What Mr. Gillan does not mention is that, in that same 10Q
988 Report, Talk America discussed its commercial LWC agreement with AT&T, stating that
989 it will “enable us to continue offering high quality telecommunications services to our
990 customers who were served on SBC’s unbundled network elements.” 10Q at 14. Mr.
991 Gillan also fails to mention that, as discussed in Mr. Weber’s rebuttal testimony, Talk
992 America has deployed network facilities in other markets and is successfully competing
993 in those markets using a UNE-L strategy. The fact that Talk America is actively
994 pursuing a UNE-L strategy in certain markets, of course, contradicts the claims of Mr.
995 Gillan and Dr. Selwyn that UNE-L cannot be an effective platform for use in competing
996 with the incumbent local exchange carrier.²⁶

²⁶ In a recent Order, the Michigan PUC stated that “The record demonstrates that a migration from UNE-P to other arrangements is currently underway. For example, on cross-examination, Mr. Gillan indicated that on March 1, 2005, Talk America issued a press release to announce its plan to build a network in Michigan capable of

997

998 **Q. Ms. McKibbin asserts that Talk America only provides long distance services in**
999 **certain areas within the Chicago LATA. CUB Ex. 1.0 at 10. Is this assertion**
1000 **accurate?**

1001 A. It does not appear to be. Ms. McKibbin mentioned Crest Hill, La Grange, Evanston and
1002 northwest Chicago. *****BEGIN PROPRIETARY AND CONFIDENTIAL*******
1003 *********
1004 *******END CONFIDENTIAL AND**
1005 **PROPRIETARY*****. Furthermore, the LWC platform that Talk America is using
1006 permits it to offer residential service throughout the entire Chicago LATA. On March 23,
1007 2006, I called Talk America at 1-800-608-0577 and asked the Talk America customer
1008 representative whether it provided residential local exchange service throughout the
1009 Chicagoland area and was informed that it does. This information is confirmed by Talk
1010 America's web site, which allows customers who live throughout AT&T Illinois' service
1011 territory in the Chicago LATA to order telephone service.

1012

1013 **Q. Dr. Selwyn asserts that for carriers which transition from UNE-P to LWC, the**
1014 **monthly wholesale price increase “could be as much as \$22.33.” AG Ex. 1.0 at 52.**
1015 **Is Dr. Selwyn correct?**

providing basic local exchange service to 1.9 million households. Exhibit A-47 and 2 Tr. 515. These plans included the installation of networking equipment in over 80 end offices in Detroit and Grand Rapids. As of December 31, 2004, Talk America had converted 25,000 lines from UNE-P to UNE-L and had plans to add another 150,000 lines by the end of 2005.” MPSC Order in Case No. U-14232 and U-14324.

1016 A. No. Dr. Selwyn calculated his alleged “wholesale price increase” of \$22.33 by
1017 subtracting what he incorrectly characterizes as the “\$5.17 access area A UNE-P rate”
1018 from what he refers to as the \$27.50 “2006 LWC rate.” AG Ex. 1.0 at 52, fn. 51. Dr.
1019 Selwyn’s calculation is incorrect because the \$5.17 figure he uses in his calculation is not
1020 the UNE-P rate in Access Area A. Rather, it is the price for an unbundled loop. In his
1021 testimony, Data Net witness Segal estimates that switching costs alone for UNE-P are
1022 \$5.78. Data Net Ex. 2.0, line 261. Adding this estimate of switching cost to the
1023 unbundled loop cost produces a total UNE-P cost of \$10.95 in Access Area A.

1024
1025 Dr. Selwyn also uses an LWC rate that does not include any of the potential discounts
1026 that a CLEC can receive. For all LWC agreements, carriers are eligible for discounts of
1027 up to \$3.00 off the recurring LWC charge. Typically, the discounts include a \$1.00
1028 discount for local ratio²⁷, a \$1.00 discount for paying bills in a timely manner, and
1029 volume discount. Taking these discounts into account, the effective LWC negotiated rate
1030 for 2006 is \$24.50. Subtracting from that rate the total UNE-P cost, including the
1031 unbundled loop cost and switching cost of \$10.95, produces a difference of \$13.55 in
1032 Access Area A.

1033
1034 As shown in the chart below, however, the unbundled loop costs are significantly higher
1035 in Access Areas B and C than they are in Access Area A. Taking into account Mr.
1036 Segal’s estimate of monthly UNE-P switching costs, the total UNE-P costs in Access

²⁷ The local ratio is the percent of lines a CLEC has under the LWC contract.

1037 Areas B and C are \$18.18 and \$20.69, respectively. Subtracting these UNE-P costs from
 1038 the effective LWC negotiated rate of \$24.50 produces a difference of \$6.32 in Access
 1039 Area B and \$3.81 in Access Area C. In an attempt to exaggerate the difference between
 1040 the LWC rate and the UNE-P rate, Dr. Selwyn used the loop rate from Access Area A
 1041 which is significantly lower than the UNE loop rates from Access Areas B and C.
 1042 Access Area A, however, is located in downtown Chicago and, therefore, has relatively
 1043 few residential lines. In fact, *****BEGIN CONFIDENTIAL AND**
 1044 **PROPRIETARY*****END CONFIDENTIAL AND PROPRIETARY*****
 1045 of AT&T Illinois’ residential lines are in Access Area A. The highest percentage of
 1046 AT&T Illinois’ residential lines are located in Access Area C, where the difference
 1047 between the UNE-P rate and the effective LWC rate is only \$3.81, as shown in the chart
 1048 below.

TABLE 5

	Access Area A	Access Area B	Access Area C
UNE-P Switching Costs ¹	\$5.78	\$5.78	\$5.78
Unbundled Loop Costs	\$5.17	\$12.40	\$14.91
Total UNE-P	\$10.95	\$18.18	\$20.69

	Access Area A	Access Area B	Access Area C
LWC Negotiated Rate ²	\$24.50	\$24.50	\$24.50
Difference	\$13.55	\$6.32	\$3.81
BEGIN CONFIDENTIAL			
***END CONFIDENTIAL ***			

1050

1051

1052 ¹ Data Net Systems, L.L.C. witness testimony Mr. Segal testimony at line 261.

1053 ² AT&T Illinois response to CUB 2.12. LWC rate, per terms of agreements, reflects

1054 discount of up to \$3 per line per month.

1055

1056 On a weighted average basis, the average increase in the LWC rate over the UNE-P rate
1057 is \$4.81 *****BEGIN CONFIDENTIAL*******
1058 *******END CONFIDENTIAL***** This difference is nowhere near the \$22.33
1059 that Dr. Selwyn implies.

1060

1061 **Q. At page 136 of his testimony, Dr. Selwyn presents a table showing what he claims to**
1062 **be the UNE-P and LWC rates in the Chicago LATA. Do you have any comments on**
1063 **that table?**

1064 A. Yes. On this table, Dr. Selwyn comes a little bit closer to accurately stating the UNE-P
1065 rate but is still not correct. First, contrary to the note in Dr. Selwyn's Table 9, the
1066 monthly rates that he shows for UNE-P in Access Areas A, B and C do not, in fact,
1067 include the \$1.00 increase over the Commission-set rates as mandated by the *TRRO*.
1068 Rather, the rate that he shows for each area is the sum of the Commission-approved UNE
1069 loop rate plus the UNE port rate of \$2.18 before the addition of \$1.00 as mandated by the
1070 *TRRO*. Furthermore, the monthly rates shown on Dr. Selwyn's Table 9 do not include
1071 UNE-P costs associated with additional rate elements like the cross connect charge, daily
1072 usage charge, local number portability and shared transport .

1073

1074 **Q. Dr. Selwyn asserts that the price of LWC, when compared to the retail prices**
1075 **charged by AT&T Illinois, "effectively squeezes CLECs out of this market, by**
1076 **making it entirely uneconomic for a CLEC using LWC to compete for customers of**

1077 **stand-alone basic local exchange service and for some of the packages as well.” AG**
1078 **Ex. 1.0 at 134. Do you agree with Dr. Selwyn’s assertion?**

1079 A. No. In support of his assertion, Dr. Selwyn relies on his Table 10, which purports to
1080 show the difference between the monthly rates charged by AT&T Illinois for measured
1081 service and two packages (the Flat Rate package and the uSelect 3 package) and an LWC
1082 rate of \$26.50. Table 10 purports to show that in each case, the LWC rate exceeds the
1083 retail rate charged by AT&T Illinois. Dr. Selwyn’s analysis, however, contains a number
1084 of fatal flaws.

1085
1086 First, as previously discussed, the effective LWC rate for 2006 is \$24.50, \$2.00 less than
1087 the assumed \$26.50 LWC rate assumed by Dr. Selwyn in Table 10. Second, the monthly
1088 prices shown by Dr. Selwyn for the Flat Rate and uSelect packages do not include the
1089 \$4.50 end user common line (“EUCL”) that AT&T Illinois is required to collect from its
1090 retail customers. Thus, to accurately portray the monthly AT&T Illinois charge for
1091 purposes of a “price squeeze analysis,” it is necessary to add the \$4.50 EUCL charge to
1092 each of the package rates shown on Table 10. Third, Dr. Selwyn’s “price squeeze
1093 analysis, as shown on Table 10, does not take into account all of the revenue CLECs will
1094 be able to earn from services supported by the LWC platform. As a result, Dr. Selwyn’s
1095 comparison of the LWC price to the rates for measured service and packages shown on
1096 Table 10 compares apples to oranges.

1097

1098 **Q. Please explain.**

1099 A. The measured service rates shown on Table 10 reflect only the price of the access line
1100 plus the EUCL charge. Those rates do not include any local usage revenue or revenue
1101 from the sale of features sold on a stand-alone basis, intraLATA toll, long distance or
1102 switched access. The package prices shown on Table 10 do include local usage and three
1103 features. As I previously discussed, however, those prices do not include the \$4.50
1104 EUCL charge. Furthermore, those prices do not include revenue from Band C or
1105 intraMSA toll usage. CLECs using the LWC platform can obtain revenue from
1106 customers not only from the sale of local usage and features but can also obtain revenue
1107 from originating and terminating access charges and from Band C and intraMSA toll
1108 usage. Revenues from these sources are not reflected in Dr. Selwyn's "price squeeze"
1109 analysis on Table 10. Accordingly, Dr. Selwyn has failed to demonstrate that the LWC
1110 price makes it uneconomic for CLECs to use LWC to compete for customers of stand-
1111 alone service or for packages.

1112

1113 **Q. How would the results of Dr. Selwyn's LWC "price squeeze" analysis with respect**
1114 **to packages change if the flaws that you discuss were corrected?**

1115 A. With respect to his analysis of the Flat Rate and uSelect3 packages, at a minimum, \$9.62,
1116 representing the total of the following amounts, should be subtracted from the amounts
1117 shown in the column labeled "CLEC Shortfall from the \$26.50 LWC rate":

- 1118 (i) \$2.00, to correct Dr. Selwyn's overstatement of the LWC rate;
1119 (ii) \$4.50, to reflect the EUCL charge in the price charged by AT&T Illinois
1120 for the packages; and

1121 (iii) *****BEGIN CONFIDENTIAL*****END**
 1122 **CONFIDENTIAL*****, representing amounts that CLECs may charge for
 1123 originating and terminating access.²⁸

1124 Making these adjustments alone, the “shortfall” shown on Dr. Selwyn’s Table 8 becomes
 1125 a surplus over the LWC rate of the following amounts for each package:

1126 **TABLE 6**

Service	CLEC Surplus Over \$24.50 LWC Rate
Flat Rate Package, Area A	\$2.22
Flat Rate Package, Area B	\$5.20
Flat Rate Package, Area C	\$6.62
uSelect3 Access Area A	\$5.12
uSelect3 Access Area B	\$6.62
uSelect3 Access Area C	\$6.62

1127
 1128 The above table understates the potential surplus over the LWC rates because those
 1129 amounts do not include revenues that a CLEC can obtain from Band C, intraMSA toll
 1130 and interLATA toll usage by customers, as well as the sale of additional features on a
 1131 stand-alone basis.

1132
 1133 **Q. Do you have any other comments regarding Dr. Selwyn’s selection of the specific**
 1134 **packages he used in his Table 8?**

1135 A. Yes. As of February 2006, demand for the Flat Rate Package was only *****BEGIN**
 1136 **CONFIDENTIAL AND PROPRIETARY*****END CONFIDENTIAL**
 1137 **AND PROPRIETARY***** customers, or *****BEGIN CONFIDENTIAL AND**

²⁸ This number represents the average switched access revenues per network access line, as identified in the NAL imputation studies presented in Mr. Panfil’s Direct Testimony. AT&T Ill. Ex. 1.0. The detailed imputation studies and supporting workpapers were included in the CD provided as an attachment to AT&T Illinois Ex. 7.0].

1138 **PROPRIETARY*****END CONFIDENTIAL AND PROPRIETARY*****

1139 of total residential lines. By comparison, for the same time period, the numbers of

1140 customers purchasing the uSelect3 bundle was *****BEGIN CONFIDENTIAL AND**

1141 **PROPRIETARY*****END**

1142 **CONFIDENTIAL AND PROPRIETARY*****. Thus, a comparison of the LWC price

1143 to the AT&T Illinois’ retail price for its Flat Rate in Access Area A does not provide a

1144 fair indication of the ability of CLECs to compete with AT&T Illinois for the provision

1145 of packages using LWC.

1146

1147 **Q. Have you performed a comparison of the LWC price to the AT&T Illinois retail**
1148 **price for the uSelect6 package, taking into account the adjustments to the EUCL**
1149 **charge and revenues from originating and terminating access discussed above?**

1150 **A.** Yes, I have. That comparison, which is shown below, shows that there is an even larger
1151 potential “surplus” available to CLECs using the LWC platform to compete for such
1152 packages than there is for the uSelect3 packages.

1153 **TABLE 7**

Service	CLEC Surplus Over \$24.50 LWC Rate
uSelect6 Access Area A	\$12.12
uSelect6 Access Area B	\$12.12
uSelect6 Access Area C	\$12.12

1154

1155

1156 **Q. Dr. Selwyn asserts that the LWC agreements do not appear to have been**
1157 **“negotiated” because “they are all virtually identical.” AG Ex. 1.0 at 140-41. Do**
1158 **you believe that Dr. Selwyn’s characterization of the LWC agreements is correct?**

1159 A. No. Dr. Selwyn bases his assertion solely on a comparison of the 2005 LWC residential
1160 base rates, as shown in Table 11 on page 141 of his testimony. The specific rates, terms
1161 and conditions of each of the LWC agreements are not, however, identical and, in fact, do
1162 reflect differences resulting from negotiations. As Dr. Selwyn recognizes, the LWC base
1163 rate is not identical for all agreements. Moreover, even among agreements in which the
1164 base rate is the same, the terms and conditions related to other rate elements differ. For
1165 example, typically, the contracts provide for no charge on usage of up to an average of
1166 1500 minutes of use per line per month and a usage charge rate of \$0.0015 per minute for
1167 minutes of use over 1500. Some of the agreements, however, include higher numbers of
1168 minutes of use for which no usage charge is assessed, based upon the number of local
1169 wholesale complete access lines purchased under the agreement. Some agreements
1170 charge the same rate for all types of directory assistance while other agreements have one
1171 rate for local directory assistance and another rate for all other directory assistance calls.
1172 Some contracts allow for the branding of operator services and have different per call
1173 rates while other agreements do not provide for the branding of operator services. In
1174 addition, the non-price terms and conditions of the LWC agreements are not all identical
1175 to one another. In many cases, the terms and conditions vary based upon negotiations
1176 that take into account each CLEC’s individual concerns. Examples of such terms and
1177 conditions include insurance provisions, limitations of liability and indemnification

1178 provisions, taxes, dispute resolution, assignment, intellectual property,
1179 billing/payment/deposit/escrow provisions, 900/976 and End User Fraud provisions.

1180

1181 **D. UNE-L**

1182 **Q. Dr. Selwyn claims that UNE-L is not a practical alternative for most CLECs as a**
1183 **means for serving residential customers. AG Ex. 1.0 at 142. Mr. Gillan and Mr.**
1184 **Segal make the same argument. Is this testimony supported?**

1185 A. No. Once again, these witnesses are improperly attempting to relitigate matters resolved
1186 by the FCC in the *TRRO* proceeding. In support of his position, Dr. Selwyn relies solely
1187 on testimony submitted by pre-merger AT&T Corp in proceedings, including the FCC's
1188 *Triennial Review* Proceeding, predating the issuance of the FCC's Order in its *Triennial*
1189 *Review Remand* Proceeding. Dr. Selwyn also cites the FCC's *Triennial Review Order* for
1190 the proposition that "even where a CLEC had switches that had acquired for the purposes
1191 of serving enterprise customers it was not necessarily economic for those switches to be
1192 used for residential customers in a UNE-L configuration". Dr. Selwyn, however, ignores
1193 the fact that in the *Triennial Review Remand Order*, which superseded the *Triennial*
1194 *Review Order*, the FCC determined that CLECs are not impaired without access to mass
1195 market switching. In doing so, the FCC considered and rejected arguments regarding the
1196 alleged economic and operational impediments associated with switch deployment and
1197 hot cuts identical to those made in the testimony of the pre-merger AT&T Corp witnesses
1198 cited by Dr. Selwyn. The FCC concluded that "neither economic nor operational
1199 impediments associated with switch deployment or hot cuts pose barriers to entry

1200 sufficient to give rise to impairment on a nationwide basis.” *TRRO* at 222. Specifically,
1201 the FCC determined that

1202 [C]ompetitive LECs not only have deployed a significant, growing number of
1203 their own switches, often using new, more efficient technologies, such as packet
1204 switches, but also that they are able to use those switches to serve the mass market
1205 in many areas, and that similar deployment is possible in other geographic
1206 markets. Additionally we find that the BOCs have made significant
1207 improvements and their hot cut processes that should better situate them to
1208 perform larger volumes of hot cuts (“batch hot cuts”) to the extent necessary. *We*
1209 *find these factors substantially mitigate the Triennial Review Orders stated*
1210 *concerns about circuit switching impairment.*²⁹
1211

1212 Accordingly, the assertions of Dr. Selwyn, Mr. Gillan and Mr. Segal regarding the
1213 alleged inability of CLECs to effectively compete using CLEC-owned switches in
1214 combination with ILEC-supplied loops should be disregarded. The specific assertions of
1215 these witnesses are also refuted in the rebuttal testimony of Mr. Joseph Weber.

1216

1217 **Q. Can you give examples where the *TRRO* addresses specific assertions regarding**
1218 **UNE-L made by Dr. Selwyn?**

1219 A. Yes. For example, at page 143 of his testimony, Dr. Selwyn asserts that because CLECs
1220 switches are “never physically located in the ILEC wire center”, the CLEC is required to
1221 often extend the loop a “considerable distance from the ILEC wire center”. The FCC
1222 addressed this issue stating that “competitive LECs are able to serve larger geographical
1223 areas because they can deploy higher capacity switches and use dedicated transport in
1224 combination with those switches to serve customers throughout a wider geographic area,
1225 beyond the particular wire center where the switch is located”. *TRRO* at ¶ 207. The FCC

²⁹ *TRRO* at ¶ 199.

1226 further concluded that “the transport costs faced by competitive LECs using competitive
1227 switching do not give rise to economic impairment”. *Id* at ¶ 223. In this regard, the
1228 FCC discussed how CLECs “may choose particular locations for their switches due to
1229 other advantages, such as locating their switching closer to other competitor’s switches,
1230 maximizing the ability to share costs and aggregate traffic, or close to transmission
1231 facilities deployed by other competitors, increasing the possibility of finding an
1232 alternative wholesale supply”. *Id*. The FCC concluded by stating that “consequently,
1233 while transport of traffic to competitive switches involves some additional costs beyond
1234 those incurred when using UNE-P, these costs are largely within the control of new
1235 entrants.” *Id*.

1236

1237 **Q. Did the *Triennial Review Remand Order* address the ability of CLECs to access**
1238 **AT&T Illinois’ facility to route the CLEC traffic instead of using an alternative**
1239 **network?**

1240 A. Yes it did. In paragraph 223, the *TRRO* refers to the CLECs’ ability to have “unbundled
1241 access to DS0 and High Capacity Loops, Dedicated Transport and EELs, meaning that
1242 such competitors should have access, in many circumstances to incumbent LEC facilities
1243 at cost-based rates to provide the necessary transport of traffic to their switches.” The
1244 testimony of Dr. Selwyn, Mr. Gillan and Mr. Segal ignore this ability.

1245

1246 **Q. Does the *TRRO* address the concern relating to collocation discussed on lines 224**
1247 **through 230 of Mr. Segal’s Direct Testimony?**

1248 A. Yes it does. In ¶ 224, the *TRRO* states that “we note that a reasonably efficient competitor
1249 does not have to be collocated in every incumbent LEC central office in order to serve
1250 customers in that wire center.” Footnote 619 notes that CLECs are able to use
1251 competitive switches to serve customers in larger geographic areas than incumbent LECs,
1252 such as AT&T Illinois, and references the ability to serve customers outside the wire
1253 center where the competitive switch is located, thus not having to collocate in every wire
1254 center.

1255

1256 **Q. In his testimony, Mr. Segal asserts that Data Net and nine other CLECs performed**
1257 **an investigation of “various forms of alternative facilities to the incumbent public**
1258 **network” and determined, based on that investigation, that they were “unable to**
1259 **find facilities to continue the provision of mass market services to residential and**
1260 **small business customers.” Data Net Ex. 2.0 at lines 122-135. Do you have any**
1261 **comments regarding Mr. Segal’s assertions?**

1262 A. Yes. Although Mr. Segal makes a number of broad and general assertions regarding the
1263 alleged problems “encountered in developing an alternative network,” he has provided no
1264 details regarding the nature, scope and results of the alleged investigation. Furthermore,
1265 Data Net objected to AT&T Illinois’ data requests asking for copies of all written
1266 analyses and other documents related to the alleged investigation. Data Net also made
1267 blanket objections to AT&T Illinois’ requests for (i) copies of documents related to the
1268 discussions that the group of ten CLECs allegedly had with other companies in their
1269 attempt to “find facilities” (lines 132-141); (ii) documents, including reports, studies and

1270 written analyses, relied on by Mr. Segal in support of his testimony regarding the alleged
1271 “problems encountered in developing an alternative network” (lines 143-175); (iii)
1272 documents, including reports, studies and written analyses, relied by Mr. Segal in support
1273 of his allegations regarding “impediments to developing an alternative to the UNE-P”
1274 (lines 177-300); (iv) documents, including reports, studies and written analyses, related to
1275 the alleged investigation of the “possibility of providing internet protocol telephony”
1276 (lines 302-384); and (v) documents, including reports, studies and written analyses,
1277 supporting Mr. Segal’s assertions regarding “CLEC margins for residential service”
1278 “under an alternative facilities arrangement” (lines 288-295). Mr. Segal’s testimony
1279 should, therefore, be disregarded.

1280

1281 **Q. Do you know whether any carriers which are members of the group of CLECs**
1282 **discussed by Mr. Segal, have, in fact been able to implement a “alternative facilities**
1283 **arrangement”?**

1284 A. Yes. In response to a data request, Data Net identified *****BEGIN CONFIDENTIAL**
1285 **AND PROPRIETARY*****END CONFIDENTIAL**
1286 **AND PROPRIETARY***** as a member of the coalition seeking “alternate network
1287 arrangements”³⁰. As shown at page 41 of my direct testimony, *****BEGIN**
1288 **CONFIDENTIAL AND PROPRIETARY*****END CONFIDENTIAL**
1289 **AND PROPRIETARY*****, a single company with fewer than half of the lines of the

³⁰ The coalition is referred to in Mr. Segal’s direct testimony at lines 88 through 91.

1290 coalition, has invested in a switch and is in the process of converting its UNE-P lines to
1291 UNE-L lines.

1292

1293 **Q. Do you have any other comments regarding Mr. Segal's assertion that CLECs have**
1294 **not been able to develop an alternative network facility in order for them to retain**
1295 **their existing residential customer base?**

1296 A. Yes. In support of his assertion, Mr. Segal claims that economic issues have prohibited
1297 the CLECs from being able to transport their end user's traffic. Mr. Segal's claim
1298 ignores the fact that CLECs still have the option of obtaining unbundled dedicated
1299 transport and EELs to transport their traffic.

1300

1301 **Q. Dr. Selwyn asserts that ILECs such as AT&T Illinois have chosen to provision**
1302 **UNE-L that pass through IDLC systems, thus precluding CLECs "from serving an**
1303 **entire segment of retail customers unless the ILEC has spare non-IDLC loop plant**
1304 **in place." AG Ex. 1.0 at 144. Does Dr. Selwyn's assertion have any validity?**

1305 A. No. AT&T Illinois' records indicate that out of approximately 7 million working lines
1306 only 0.02% (or about 1,700) in AT&T Illinois' service territory are provisioned by IDLC
1307 technology where there are no all-copper or UDLC alternatives. Accordingly, IDLC is a
1308 non-issue in Illinois.

1309

1310 **Q. Dr. Selwyn refers to testimony submitted by pre-merger AT&T Corp. witness**
1311 **Finney in an Illinois proceeding as it pertains to pre-merger AT&T's supposed**

1312 **Business Plan for using its own switches. AT&T Ex. 1.0 at 146-46. Is there any**
1313 **reason for the Commission to consider that testimony in this case?**

1314 A. No. The testimony relied on by Dr. Selwyn was submitted two years ago in Docket 03-
1315 0575,³¹ a proceeding implementing provisions of the *TRO* which were reversed and
1316 vacated on appeal by the United States Court of Appeals for the District of Columbia.
1317 Dr. Selwyn has included this excerpt as alleged support for the proposition that facilities
1318 are not readily available to CLECs to offer residential mass-market UNE-P alternatives
1319 because the switches were only put in place to serve enterprise customers. However, a
1320 CLEC's switch, and the facilities necessary to reach that switch, are the same whether
1321 they are being used to serve a residential mass-market customer or an enterprise-market
1322 customer. Thus, it should not matter whether the loop is being used to provide service to
1323 a business, or a residence. In either case, the loop connects to the same facilities
1324 necessary to reach the switch. Once those transport facilities, and the switch, are in place,
1325 service can then be provided to both residential and business customers.

1326

1327 **Q. Dr. Selwyn discusses certain “additional costs” that would allegedly be incurred by**
1328 **a CLEC to provide mass market services via UNE-P. AG Ex. 1.0 at 149. Do you**
1329 **have any comments in response to that testimony?**

1330 A. Yes. Dr. Selwyn states that the costs of transporting traffic to the CLEC switch “are
1331 largely fixed and independent of the number of UNE-Loops terminated in a given wire

³¹ ICC Docket 03-0595 was suspended and subsequently terminated prior to any testimony being accepted into the record.

1332 center, and thus must be recovered from all of the CLEC's customers in that wire center."
1333 That is precisely why his earlier argument that a CLEC business plan of only offering
1334 enterprise market service is irrelevant in determining whether there is residential mass-
1335 market switching in the Chicago LATA. As Dr. Selwyn indicates, the CLEC cost for
1336 facilities to reach their switch(es) is already fixed, and offering service to residential
1337 mass-market end users over those facilities would only reduce the CLEC's cost per
1338 customer. The ability for the CLECs to compete for those residential mass-market
1339 customers is clearly available to them.

1340

1341 **Q. Please comment on Dr. Selwyn's Direct Testimony on page 149, lines 4 through 19**
1342 **pertaining to a cost model filed by pre-merger AT&T Corp. in a Washington state**
1343 **proceeding,**

1344 A. As a threshold matter, a cost analysis for Washington state is immaterial to Illinois.
1345 Beyond that, in response to the model used to develop the results Dr. Selwyn's cites in
1346 his testimony, Qwest Corporation witness Buckley, Jr. filed testimony demonstrating the
1347 fallacy of a number of the assumptions, as well as certain input and calculation errors in
1348 the model used to develop those results. As Mr. Buckley, Jr. testified that a CLEC
1349 offering residential mass-market switching in Washington state would attain a profit,
1350 rather than the loss that the pre-merger AT&T witnesses suggested would occur. I have
1351 attached the testimony of Mr. Buckley, Jr. to my rebuttal testimony as Schedule WKW-
1352 R4.

1353

1354 **Q. Mr. Gillan argues that, despite its determination in the *Triennial Review Remand***
1355 ***Order* that CLECs are not impaired without access to unbundled local switching in**
1356 **UNE-P, the FCC has nevertheless “concluded that local markets are *not***
1357 **competitive.” *Data Net Ex. 1.0 at 20* (emphasis in original). Do you agree with Mr.**
1358 **Gillan’s assertion?**

1359 A. No. In support of his assertion, Mr. Gillan quotes out of context language from an FCC
1360 Order, dated February 17, 2005, establishing new presubscribed interexchange carrier
1361 (“PIC”) change charges. Mr. Gillan asserts that in this order, “the FCC expressly rejected
1362 the view that local market forces were sufficient to protect customers.” *Data Net Ex. 1.0*
1363 *at 21*. Mr. Gillan’s attempt to paraphrase the FCC’s Order is misleading. What the FCC
1364 actually stated was that competition is “not yet so *ubiquitous* to serve as a reliable
1365 constraint on PIC change charge rates” (emphasis added). *In The Matter Of*
1366 *Presubscribed Interexchange Carrier Charges*, CC Docket No. 02-53, *Report and Order*,
1367 FCC 05-32 (February 17, 2005) at ¶ 4. In support of this statement, the FCC noted that,
1368 based on information as of December 2003, there are “no competitive LECs providing
1369 service in more than 25 percent of the zip codes in the country.” *Id.* This finding has no
1370 relevance to the question of whether residential local exchange service meets the criteria
1371 for classification as “competitive” under the Illinois Public Utilities Act in the Chicago
1372 LATA, a market in which such service is reasonably available from numerous
1373 competitive LECs and other alternative providers.

1374

1375 **Q. Mr. Gillan also disputes your claim that a “wholesale market” for local switching is**
1376 **developing. Data Net Ex. 1.0 at 21. Please respond to Mr. Gillan’s testimony in this**
1377 **regard.**

1378 A. Mr. Gillan takes specific issue with my discussion regarding two of the carriers, XO and
1379 McLeodUSA, that I offered as examples of CLECs offering wholesale switching
1380 services. Mr. Gillan asserts that XO is not, in fact, “offering a competitive switching
1381 offering relevant to the residential market at issue in this proceeding.” Mr. Gillan’s
1382 assertion is contradicted by the information concerning XO’s Wholesale Local Voice
1383 services as set forth on its website. The overview of XO’s Wholesale Local Voice
1384 services as shown on its website is attached as Schedule WKW-R5. As indicated in that
1385 overview, XO describes its wholesale service as constituting the “resale of local voice
1386 services, which enable CLECs, IXC’s and ILEC’s to expand their service footprint with a
1387 branded local service offering.” The overview further states that XO’s Wholesale Local
1388 Voice service can help “eliminate capital costs” by enabling CLECs to “gain access to
1389 local voice networks in major markets nationwide *without the need to build a switching*
1390 *platform*” (emphasis added). Thus, XO clearly does offer switching services to other
1391 CLECs on a wholesale basis.

1392
1393 Furthermore, XO has been successful in marketing its wholesale service for use by other
1394 CLECs in providing service to residential customers. In a press release dated March 20,
1395 2006, XO announced agreements valued at more than \$66 million over the next five
1396 years with five CLECs for its Wholesale Local Voice service. The press release states

1397 that this wholesale service will enable the CLECs “to more effectively provide local and
1398 long distance services to their *residential* and small business customers” (emphasis
1399 added). Schedule WKW-R6. The press release further states that XO’s Wholesale Local
1400 Voice service “delivers all the advantages of the UNE-P platform, and enables CLECs to
1401 avoid less economic choices such as building their own network facilities, or paying
1402 premium prices through commercial agreements or special access services from
1403 incumbent local exchange carriers.”

1404
1405 Mr. Gillan also asserts that there is no evidence that the McLeodUSA/MCI wholesale
1406 agreement which I discussed in my Direct Testimony is “commercially successful.” Data
1407 Net Ex. 1.0 at 23. The information provided by MCI in response to the Staff’s request for
1408 information in Docket 06-0028, however, shows that, in the Chicago LATA, of the

1409 *****BEGIN CONFIDENTIAL AND PROPRIETARY*****END**
1410 **CONFIDENTIAL AND PROPRIETARY***** number of residential lines being served
1411 by MCI as of December 31, 2005, *****BEGIN CONFIDENTIAL AND**
1412 **PROPRIETARY*****END**
1413 **CONFIDENTIAL AND PROPRIETARY***.**

1414
1415 **Q. Are XO and McLeodUSA the only examples of non-ILEC providers of wholesale**
1416 **switching services?**

1417 A. No. As discussed in the attached February 20, 2006 article posted on
1418 phoneplusmag.com, for example, Broadvox “has been helping 12 carriers transition off

1419 UNE-P” through its wholesale switching services. Schedule WKW-R7. Other examples
1420 of such wholesale providers, which I identified in response to Attorney General Data
1421 Request No. 3.14, include Trinsic³²; Covad³³; Xspedius³⁴; Sprint³⁵; Level 3³⁶;
1422 Broadwing³⁷; Spirit Telecom³⁸; 8x8³⁹; Affinity VOIP Telecom⁴⁰; and iOnesphere Inc.⁴¹

1423

1424 **Q. Pointing to what he believes to be a relatively few number of lines served via UNE-L**
1425 **as of September 30, 2005, Mr. Gillan asserts that “UNE-L has shown no ability to**
1426 **support meaningful residential competition” and that “at best, UNE-L is a**
1427 **theoretical entry strategy for the residential market, not a proven strategy that the**
1428 **Commission can rely on to discipline AT&T Illinois’ pricing behavior.” Data Net**
1429 **Ex. 1.0 at 8. Do you agree with Mr. Gillan’s analysis?**

1430 A. No. The reason why CLECs have not, until now, used the UNE-L strategy more
1431 extensively than they have is because AT&T Illinois has been required to provide CLECs
1432 with access to lower cost unbundled local switching and UNE-P at TELRIC rates.

1433 Indeed, the fact that the availability of unbundled local switching and UNE-P at TELRIC

³² <http://www.trinsic.com/corp/wholesale.jsp> <http://www.trinsic.com/corp/contactUs.jsp>
³³ biz.yahoo.com/bw/060131/20060131005583.html?v=1, <http://www.covad.com/alliance/opportunities.shtml>, and
http://www.covad.com/companyinfo/pressroom/pr_2006/020606_news.shtml
³⁴ http://www.lightreading.com/document.asp?doc_id=68175&site=boardwatch. See 2-25-2205 press release
<http://www.xspedius.com/aboutus/pressrelease.aspx>
³⁵ library.corporate-ir.net/library/98/982/98270/items/165799/BOAPresentation91905.ppt,
www2.sprint.com/mr/news_dtl.do?id=2122, <http://www.techweb.com/wire/networking/56800136>, and
<http://www.wirelessweek.com/index.asp?layout=story&articleId=CA177767>
³⁶ http://www.level3.com/voip25/Level_3_Wholesale_and_Retail_Voice.pdf and <http://www.level3.com/3184.html>
³⁷ <http://www.broadwing.com/allserv-g39.html>
³⁸ http://www.spirittelecom.com/newlook/wholesale/spiritvoip_services.php
³⁹ http://www.8x8.com/index.php?s=press_releases&item=150
⁴⁰ <http://www.affinityvoiptelecom.com/>
⁴¹ http://www.ionosphere.net/reseller_program.php

1434 rates creates a disincentive for the development of facilities-based competition by CLECs
1435 is one of the reasons that the FCC ordered the elimination of UNE-P in its *Triennial*
1436 *Review Remand Order*. In other states, such as Michigan, there has, in fact, been a
1437 significant transition of CLEC lines from UNE-P to UNE-L as a result of the *Triennial*
1438 *Review Remand Order*. AT&T Michigan Residential UNE-L has increased from 69,966
1439 at the end of 2004 to 274,265 at the end of 2005. This represents a 292% increase over
1440 2004 levels⁴². That transition has been slowed in Illinois, due in significant part to
1441 Section 13-801 of the Illinois Public Utilities Act, which the Commission has interpreted
1442 as requiring AT&T Illinois to continue to provide CLECs with access to unbundled local
1443 switching and UNE-P notwithstanding the requirements of the *Triennial Review Remand*
1444 *Order*. Thus, although AT&T Illinois has challenged the constitutionality of Section 13-
1445 801, as interpreted by the Commission, in a currently pending federal court case, UNE-P
1446 remains available today and is currently being used by a number of CLECs.
1447 Accordingly, the fact that UNE-L had not been used more extensively to date proves
1448 nothing about its viability as an “entry strategy for the residential market.”

1449

1450 **E. RESALE**

1451 **Q. Mr. Gillan asserts that “resale-based entrants are fundamentally incapable of**
1452 **imposing pricing discipline on AT&T Illinois because the wholesale rate that the**
1453 **resale-based carrier pays AT&T Illinois will *increase in lock step* with any increase**

⁴² These figures are from publicly available information found on the MPSC website. The UNE-L figures are listed in the row titled “Lines Served via unbundled network facilities” Year end 2005 data <http://efile.mpvc.cis.state.mi.us/efile/docs/14749/0002.pdf> and year-end 2004 data <http://efile.mpvc.cis.state.mi.us/efile/docs/12320/0014.pdf>

1454 **in AT&T Illinois’ retail rates.” Data Net Ex. 1.0 at 9. Is Mr. Gillan’s assertion**
1455 **correct?**

1456 A. No, it is not. Mr. Gillan incorrectly assumes that because the price paid for resale service
1457 is established as a percentage discount from the retail rate, increases in the retail rate
1458 automatically increase the wholesale cost of a resale-based entrant. In Illinois, however,
1459 wholesale prices paid by resellers are subject to a price cap under the terms of the
1460 Company’s Alternative Regulation Plan. Accordingly, the wholesale retail price cannot
1461 be increased in “lockstep” with increases in the rates for associated retail services. Thus,
1462 any increase in retail prices will result in a discount available to resellers greater than the
1463 discount that would otherwise be required under the avoided cost standard.

1464

1465 **Q. Mr. Gillan asserts that there is no evidence that resale is “economically viable”**
1466 **because “resale” has been in a steady decline in Illinois since the year 2000, its peak**
1467 **year. Data Net Ex. 1.0 at 8. Do you agree with Mr. Gillan’s analysis?**

1468 A. No. The decline in resale since 2000 is likely attributable to the availability of UNE-P,
1469 which provided CLECs with an effective discount greater than that available under
1470 resale.

1471

1472 **IV. ISDN**

1473 **Q. Staff witness Zolnierrek recommends that ISDN be declared competitive only if**
1474 **AT&T Illinois “demonstrates at the most granular level possible that broadband**

1475 **service is available in areas where IBT currently provides ISDN service.” Staff Ex.**

1476 **2.0, lines 2206-2209. Can AT&T Illinois make such a demonstration?**

1477 A. Yes. As I discussed in my Direct Testimony (lines 996-998), and as shown in Schedule
1478 WKW-12, cable modem-ready lines cover an area within the Chicago LATA accounting
1479 for over 99% of AT&T Illinois’ residential lines. Schedule WKW-R8 shows where cable
1480 companies offer broadband service in the exchanges where residential customers
1481 subscribe to AT&T Illinois’ ISDN service. This schedule shows that cable companies
1482 offer broadband service in exchanges that represent 99.6% of AT&T Illinois’ residential
1483 ISDN lines.

1484

1485 In addition, broadband service is available from companies such as Earthlink, and other
1486 ISPs which purchase DSL service on a wholesale basis from Covad. Schedule WKW-R8
1487 shows a list of exchanges where Covad has collocated. That schedule also shows the
1488 exchanges in which Covad is collocated. As indicated by Schedule WKW-R8, Covad is
1489 collocated in exchanges which represent 91% of AT&T Illinois’ residential ISDN lines.

1490

1491 A number of companies, such as AOL, are resellers of the DSL service offered by AT&T
1492 Illinois’ DSL affiliate. Accordingly, DSL service is available from these resellers in all
1493 locations in which AT&T Illinois provides DSL service. Finally, satellite companies
1494 such as DiRECWAY, Starband and WildBlue offer broadband internet access.

1495

1496 **V. AT&T ILLINOIS' COMMITMENTS**

1497 **Q. You indicated previously that AT&T Illinois is willing to make certain commitments**
1498 **to address the concerns raised by the parties. Would you summarize the concerns**
1499 **to which the Company is responding?**

1500 A. Yes. Generally, Staff, CUB and the Attorney General argue that there are residence
1501 customers who purchase a network access line and make local calls, but make relatively
1502 few calls and have little or no interest in central office features or other network
1503 capabilities. They contend that the package offerings of the CLECs are not economically
1504 attractive to this group of customers. Therefore, they take the position that stand-alone
1505 local exchange services should be classified as noncompetitive.

1506

1507 **Q. What is AT&T Illinois' response?**

1508 A. As discussed in Mr. Panfil's rebuttal testimony, the Company does not believe that the
1509 Staff/CUB/AG position on stand-alone services is supported by the facts or the
1510 Commission's past reclassification decisions under Section 13-502. Nevertheless, to
1511 facilitate resolution of the contested issues in this proceeding, AT&T Illinois is willing to
1512 make the following rate commitments.

1513

1514 First, in response to the concern that stand-alone customers who make few calls and are
1515 not interested in features do not have reasonable competitive alternatives, AT&T Illinois
1516 will agree to cap its rate for Local Saver Pack 30 at its current level for three years from
1517 the date of an order in this proceeding affirming the Company's competitive

1518 reclassification . Local Saver Pack 30 allows customers to make 30 local calls per month
1519 for \$.50; calls over the 30-call allowance cost \$.10 per call. This plan was introduced by
1520 AT&T Illinois in 2001 and is intended to be a “budget” option for customers with modest
1521 calling needs. The network access line must be purchased separately.

1522
1523 Second, AT&T Illinois will also cap the rate for its Residential Saver Pack Unlimited
1524 calling plan at its current level, for the same 3-year period. This rate plan was introduced
1525 as part of Section 13-518 implementation in 2001. It allows customers to make unlimited
1526 local calls for \$9.50, and includes no features. Although this plan would not appeal to
1527 customers who make few local calls, it does meet the needs of those customers who make
1528 many local calls but still have no interest in central office features or other network
1529 capabilities that are typically offered in a bundled service package. Again, the network
1530 access line must be purchased separately.

1531

1532 **Q. Would this price cap apply to both the network access line as well as the usage**
1533 **plans?**

1534 A. Yes. These two offerings are intended as “safe harbors” for customers whom
1535 Staff/CUB/AG view as having fewer competitive alternatives and thus in need of some
1536 form of protection against price increases. Therefore, both the price of the network
1537 access line and usage will be capped for those customers who subscribe to Local Saver
1538 Pack 30 or Residence Saver Pack Unlimited for three years.

1539

1540 **Q. Can customers who subscribe to other rate plans today move to these plans if they**
1541 **are dissatisfied with AT&T Illinois' price changes in the future?**

1542 A. Yes. The proposed three-year price cap for Local Saver Pack 30 and Residence Saver
1543 Pack Unlimited will apply both to existing customers and new customers who switch to
1544 these rate plans.

1545

1546 **Q. Will AT&T Illinois be capping network access line prices or the unlimited plan**
1547 **when they are purchased in conjunction with other stand-alone usage plans or**
1548 **packages?**

1549 A. No.

1550

1551 **Q. Will Local Saver Pack 30 and Residence Saver Pack Unlimited customers be able to**
1552 **purchase features on an "á la carte" basis from AT&T Illinois' stand-alone tariff?**

1553 A. Yes. The network access and usage component of their service will remain capped, even
1554 if they subscribe to features on an "á la carte" basis.

1555

1556 **Q. Will AT&T Illinois communicate the availability of these "safe harbor" options to**
1557 **its customers?**

1558 A. Yes. AT&T Illinois will send all customers a bill insert explaining their options at the
1559 conclusion of this proceeding – in the event, of course, that the Commission approves this
1560 proposal. Thereafter, the Company will include a bill insert reminding customers of their

1561 options annually, on or about the anniversary date of the Commission's order in this
1562 proceeding.

1563

1564 **Q. How would Local Saver Pack 30 and Residence Saver Pack Unlimited be classified?**

1565 A. They would be classified as competitive services, but would be subject to a price cap for
1566 three years.

1567

1568 **Q. Is AT&T Illinois willing to make any other commitments regarding the pricing of its**
1569 **local exchange services?**

1570 A. Yes. The parties have divergent views on the public policy issues regarding price
1571 increases for residence network access lines. Staff takes the position that they are priced
1572 too low today and should be increased to facilitate competition. The Attorney General
1573 and CUB generally take the position that the public interest would not be served by rate
1574 increases, at least not large ones that would cause "rate shock."

1575

1576 AT&T Illinois is willing to cap any increase in the monthly rate for its residential
1577 network access line at no more than \$1.00 annually in each of the three years following
1578 an order in this proceeding affirming the Company's competitive reclassification. This
1579 proposal will allow AT&T Illinois to increase its NAL rates on a gradual basis. The
1580 economics of competition in the local exchange market should improve as a result,
1581 meeting Staff's concerns. However, the \$1.00 cap will promote rate continuity and
1582 provide customers with ample opportunity to adjust their budgets and/or choose another

1583 rate plan (from AT&T Illinois or a competitor) if they do not find the rate change
1584 reasonable.

1585

1586 **Q. Is the \$1.00 per year cap consistent with current regulatory trends?**

1587 A. Yes, as explained by Mr. Panfil, several states are moving in this direction.

1588

1589 **Q. How would the residential network access line be classified?**

1590 A. It would be classified as a competitive service, but subject to a \$1.00 per year cap, for
1591 three years.

1592

1593 **Q. Why is AT&T Illinois' commitment for a 3-year period?**

1594 A. Three years is quite a long time in this marketplace and for this industry. The
1595 competitive landscape is likely to be very different – and even more competitive – in
1596 three years. This is a reasonable period of time to provide protection to these customer
1597 groups as competition develops further. In addition, the Public Utilities Act is likely to
1598 be due for a rewrite within and/or by the end of that 3-year period.

1599

1600 **Q. Has the Commission considered pricing commitments by regulated companies
1601 before in making competitive service classification decisions under Section 13-502?**

1602 A. Yes. As I explained previously, when pre-merger AT&T declared its intrastate long
1603 distance services competitive in 1986, only 70% of the access lines in Illinois had
1604 competitive long distance options available on an “equal access” basis. As part of that

1605 filing, pre-merger AT&T committed to maintain state-wide average rates. The
1606 Commission accepted this commitment in the reclassification order, finding that a state-
1607 wide pricing schedule would “. . . ensure that all of AT&T’s Long Distance Service
1608 customers will receive equal economic and technological benefits of competition.”

1609

1610 **Q. In addition to this past precedent, is there statutory authority that authorizes the**
1611 **Commission to consider the Company’s price cap proposals when making its**
1612 **competitive classification determination?**

1613 A. Yes. In 2001 the General Assembly amended Section 13-502 (c), which specifies the
1614 factors the Commission must consider in determining whether a service should be
1615 classified as competitive. One of those criteria added in 2001, (c)(5), is “any other
1616 factors that may affect competition and the public interest that the Commission deems
1617 appropriate.” Here the Company’s price cap proposals are directly responsive to
1618 promoting competition for stand-alone NALs by a gradual increase in price as Staff’s
1619 testimony generally proposes. At the same time, they are directly responsive to Staff,
1620 Attorney General and CUB testimony regarding the public interest benefits of protecting
1621 certain targeted customers during a transition period. Both of these factors are within the
1622 scope of Section 13-502(c)(5) and can and should be considered by the Commission in
1623 approving the Company’s competitive classification.

1624

1625 **Q. Does the Commission retain the authority to revisit this classification if there are**
1626 **unexpected developments in the marketplace?**

1627 A. Yes. I am not an attorney. However, as I understand the Commission's authority under
1628 the Public Utilities Act, it can always revisit its decisions as long as proper notice is
1629 provided. Nothing in Section 13-502 makes the classification decision made here
1630 irrevocable.

1631

1632 **Q. Are the proposals you describe above consistent with Staff's recommendation on**
1633 **how imputation requirements should be applied to residence network access lines?**

1634 A. No. However, as explained by Mr. Panfil, AT&T Illinois does not believe that Staff's
1635 recommendation is either required by Section 13-505.1 or consistent with sound public
1636 policy.

1637

1638 **Q. If the Commission were to adopt Staff's recommendation, what effect would that**
1639 **have on AT&T Illinois' proposal?**

1640 A. It would have to be significantly changed. As Mr. Koch explains, his approach would
1641 require a \$3.22 increase in competitive Access Area B NAL rates and a \$2.26 increase in
1642 competitive Access Area C NAL rates immediately upon conclusion of this proceeding.
1643 Staff Ex. 3.0, Proprietary Schedule 2.

1644

1645 Therefore, network access lines associated with Local Saver Pack 30 and the Residential
1646 Saver Pack Unlimited could not be capped at their current level. AT&T Illinois would be
1647 required to increase those rates in the amounts recommended by Staff and then cap them
1648 for the 3-year period. Similarly, AT&T Illinois could not limit the increase in residence

1649 network access lines generally to no more than \$1.00 per year for the next three years.
1650 Both the Access Areas B and C rates would have to be increased in the amounts
1651 recommended by Staff immediately upon the conclusion of this proceeding. Since
1652 Access Area B network access lines would increase by \$3.22 under Staff's approach, that
1653 increase would exhaust the \$1.00/year-over-3-years proposal of AT&T Illinois and no
1654 further increase would be made. Since Access Area C network access line rates would
1655 only increase by \$2.26, AT&T would increase these prices by \$.74 during year 2 or 3.

1656

1657 **VI. CONCLUSION**

1658 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

1659 A. Yes.