

As stated in the testimony of Michael Zulevic, BellSouth provides splitter functionality to Covad on a bulk basis.⁷⁹ SBC Ameritech boldly contends that providing splitter functionality in shelf increments is impracticable because (1) SBC Ameritech's OSS system will not allow SBC Ameritech to provide splitter functionality in shelf increments; (2) providing shelf increments will somehow lead to frame exhaust, and (3) providing shelf increments will cause SBC Ameritech to incur stranded investment costs.⁸⁰ SBC Ameritech, however, has not provided clear and convincing evidence that any of these purported concerns renders the BellSouth method technically infeasible.⁸¹

SBC Ameritech's claim that its OSS system will not support shelf increments is wholly indefensible. Although Ms. Schlackman claims that SBC Ameritech's software systems "are not capable of supporting" the assignment of splitter functionality in shelves,⁸² she admits that she is not an OSS expert,⁸³ and has never asked Telcordia, SBC Ameritech's OSS vendor, whether such a system could be created.⁸⁴

Indeed, the Telcordia OSS document itself belies Ms. Schlackman's claims.⁸⁵ Nowhere in the Telcordia OSS document detailing "Line Sharing Solution" for SBC does Telcordia state its OSS solution will only provision splitters a port at a time.⁸⁶ **[** BEGIN CONFIDENTIAL**]**

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⁷⁹ Covad Exh. 2.0, Zulevic at 6.

⁸⁰ Ameritech Illinois Exh. 1.0, Schlackman at 14.

⁸¹ Instead, SBC Ameritech claims that, in reliance on an alleged CLEC vote during the line sharing "trial," it purchased an OSS system that SBC contends can only provision splitter functionality on a port at a time. The record is clear, however, that CLECs only voted for network configurations purposes of the trial. Hearing Tr. (Zulevic) 635: 10-22; 636:1; 639:2-7. SBC Ameritech never asked CLECs what their preferred final network architecture would be and, as Ms. Schlackman conceded, never took a final vote on the issue. Hearing Tr. (Schlackman) 904: 4-20.

⁸² Ameritech Illinois Exh. 1.0, Schlackman at 15.

⁸³ Hearing Tr. (Schlackman) 814:22, 815:1.

⁸⁴ Hearing Tr. (Schlackman) 873:19-22, 847:1-2.

⁸⁵ Rhythms Cross Ex. Jacobson 5 (Telcordia Technologies, SBC Software Services Work Statement No. OLS560 Licensed Software Enhancement for Line Sharing Solution) (hereinafter "Telcordia OSS Line Sharing Solution").

⁸⁶ Telcordia OSS Line Sharing Solution at 5.

⁸⁷ *Id.*

⁸⁸ *Id.* at 8.

CONFIDENTIAL**] Thus, there is no evidence to support SBC's claims that its OSS system cannot inventory a splitter in shelf increments.

Moreover, Ms. Schlackman stated that SBC Ameritech's OSS system allows SBC Ameritech to assign an entire splitter to AADS. In addition, Ms. Schlackman stated that SBC Ameritech could provide virtual collocation of CLEC splitters.⁸⁹ Because the AADS configuration and virtual collocation of CLEC-owned splitters would require SBC Ameritech to assign the entire splitter shelf to AADS or a CLEC, Ms. Schlackman's admission belies her contention that SBC Ameritech's OSS system will not allow the provisioning of splitter functionality in shelf increments.

SBC Ameritech's claim that providing splitter functionality in shelf increments would lead to splitter exhaust is similarly suspect. Ms. Schlackman claims that the "overall number of cables and blocks on the frame increases" when splitter functionality is provided in shelf increments as opposed to line increments.⁹⁰ This statement is nonsensical. If a CLEC requires frame space for 192 lines to serve its 192 customers, the amount of frame space required to serve those customers is identical regardless of whether SBC Ameritech sells the CLEC 192 ports at one time or one port 192 times. Moreover, given the overwhelming demand of line-shared DSL services, the likelihood that CLEC shelf space will remain unused for any significant amount of time is virtually nonexistent.

Ms. Schlackman's claim of stranded splitter investment is also untenable. As Ms. Schlackman admitted on cross-examination, SBC Ameritech avoids any stranded investment in the splitter by passing the cost of the splitter to the CLEC.⁹¹

In sum, the Commission should find that SBC Ameritech has failed to present clear and convincing evidence that providing splitter functionality in shelf increments is not technically feasible and should order SBC Ameritech to provide Covad with splitter functionality in both shelf and line increments.

⁸⁹ See Hearing Tr. (Schlackman) at 886:18-22; 888:1-22; 889: 1-7.

⁹⁰ Ameritech Illinois Exh. 1.0, Schlackman, at 16.

2. Providing Splitter Functionality In Shelf Increments Allows CLECs To Manage Their Own Capacity, Reduces SBC Ameritech's Opportunity To Delay CLEC Orders, Speeds Provisioning, And Decreases The Risk Of Provisioning Errors

Providing splitter functionality in shelf increments, as BellSouth does, allows a CLEC to manage its own capacity to meet demand. By purchasing splitter functionality in shelf increments, a CLEC can prepare to meet expected consumer demand before customer orders are placed.⁹² Thus, if an ILEC has not installed an additional splitter in a timely manner, a CLEC will have a small amount of splitter functionality in reserve to meet customer orders while the ILEC installs the necessary splitter capacity in the central office. If, however, CLECs are required to order splitter functionality in line increments only, a CLEC cannot obtain splitter functionality from the ILEC until an end-user places an order with the CLEC. If the ILEC has not managed capacity correctly, the CLEC customer's order will be delayed while the ILEC installs the necessary splitter capacity. Unfortunately, the customer's frustrations are expressed toward the CLEC, even though the failure to manage splitter capacity is the fault of the ILEC.⁹³ Indeed, under this scenario, an ILEC could intentionally delay the provisioning of CLEC line-sharing orders with virtual impunity.

In addition, providing splitter functionality in shelf increments reduces both the risk of ILEC provisioning errors and time required to provision a line-shared circuit. By purchasing splitter functionality in increments of 24 or 96 lines, as allowed by BellSouth, the splitter can be pre-wired.⁹⁴ The pre-wiring of the splitter eliminates a connection that the ILEC central office technician must make when installing a line-shared circuit. Accordingly, provisioning the circuit under this scenario requires less time and reduces the number of jumpers that ILEC technician could misconnect.⁹⁵

In sum, the Commission should require SBC Ameritech to providing splitter functionality in shelf increments (in addition to line increments) because SBC Ameritech has failed to prove by clear and convincing evidence that such a method is not technically feasible. In addition, shelf increments (1) allow CLECs to manage their own capacity, (2) reduce an ILEC's

⁹² Covad Exh. 2.0, Zulevic, at 15.

⁹³ *Id.*

⁹⁴ *Id.* at 8.

⁹⁵ Covad Ex. 2.0, Zulevic, at 14; Covad Ex. 2.4, Zulevic, at 6.

opportunity to engage in anticompetitive conduct, (3) reduce provisioning time, and (4) reduce likelihood of ILEC provisioning errors.

Issue No. 3: Is thirty (30) calendar days the appropriate interval for augments to provide line sharing?

In order to utilize a splitter, certain cabling must be done in the CO. A tie cable is a physical cable made up of a number of wires housed in a sheath. Tie cables connect the main distribution frame ("MDF") to a CLEC's or SBC Ameritech's splitter equipment.⁹⁶ All tie cabling must be completed in order for splitters to be operational, and thus all cabling should be done prior to the FCC's June 6, 2000 deadline.⁹⁷ If a CLEC owns its splitter, the cabling necessary to make the splitter operational should be done on an expedited basis.⁹⁸ The CLECs have proposed a 30-day interval, but SBC Ameritech has not agreed.⁹⁹ SBC Ameritech witness Ms. Schlackman testified that CLECs may have tie cables provisioned in 30 days only in the limited circumstance that the CLEC is reusing existing cabling in the collocation arrangement.¹⁰⁰ Tie cable augments, which require the installation of new cable, will take the standard installation interval in SBC Ameritech's collocation tariff.¹⁰¹

Although SBC Ameritech claims it cannot meet the thirty day installation interval, SBC Ameritech has presented no evidence that it is technically feasible to meet the proposed 30 day interval. Although complex installations in wire centers may be routinely scheduled to take more than thirty days, such installations cover a wide range of equipment of varying complexities, configurations, and testing requirements.¹⁰² Installation of tie cables, however, is a simple task that ILECs routinely perform.¹⁰³ ILECs such as SBC Ameritech have known since November 1999 when the FCC issued the Line Sharing Order that they would have to have facilities and procedures in place by June 6, 2000. To that end, SBC Ameritech should have been planning for substantial installation of tie cables, and as discussed below, splitters,

⁹⁶ Covad/Rhythms Exh. 2.0, Riolo, at 11:17-19. Tie cable are distinguished from another type of cable referred to as jumpers, or cross connects, which connect the pair appearances in non-collocation spaces. *Id.* at 15:1-13, 22:13-15.

⁹⁷ *Id.* at 24:1-5.

⁹⁸ *Id.* at 25.

⁹⁹ *Id.*

¹⁰⁰ Ameritech Illinois Exh. 1.0, Schlackman, at 30:13-18.

¹⁰¹ Hearing Tr. (Schlackman), at 965:7-13 (e-mail version of transcript); SBC Ameritech Tariff No.

¹⁰² Covad/Rhythms Exh. 2.0, Riolo, at 25.

¹⁰³ *Id.* at 25:15.

necessary for line sharing on an expedited basis and in bulk. Installation of multiple tie cables can be done efficiently and quickly at any particular serving wire center, making the thirty-day installation interval quite achievable.¹⁰⁴

Based on Rhythms' experience with ILEC installations in other states, it is clear that ILECs can accomplish installations of simple tie cables within thirty days.¹⁰⁵ For instance, in Texas, Southwestern Bell Telephone Company ("SWBT") agreed to provide Rhythms and Covad with the installation of entire collocation arrangements in thirty days.¹⁰⁶ Entire collocation arrangements are far more complex than tie cable and line sharing equipment installations.¹⁰⁷ Building an entire collocation arrangement, even cageless, requires space preparation, cabling and installation of racks, requiring much more planning and installation activities than a simple tie cable.¹⁰⁸ In fact, Ameritech requires CLECs (through certified vendors) to perform the actual installation of the cables. Ameritech's role is limited to inventorying the new cables and stenciling the blocks – tasks that Ameritech has acknowledged that it can complete within 30 days.¹⁰⁹ Thus, the record in this case makes clear that SBC Ameritech is capable of installing all tie cables required for CLEC line sharing arrangements within thirty days of a CLEC request.¹¹⁰

¹⁰⁴ *Id.* at 25.

¹⁰⁵ *Id.* at 26.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.* at 26.

¹⁰⁸ *Id.* at 26.

¹⁰⁹ Ameritech Illinois Exh. 1.0, Schlackman, at 30.

¹¹⁰ In fact, in line sharing arbitrations before the Texas and Pennsylvania Commissions, the arbitrators recognized the reduced amount of time required to augment tie cables for line sharing and accordingly, ordered SWBT and Bell Atlantic, respectively, to perform cable augments within 30 days. Texas Interim Order at 25; Pennsylvania Arbitrator's Recommended Decision at 17.

¹¹⁰ Line Sharing Order, ¶ 118.

Issue No. 4: Should SBC Ameritech be required to provide CLECs with direct access to the shared physical loop for testing purposes at any technically feasible point?

A. SBC Ameritech Should Provide CLECs With Test Access To The Shared Loop At Any Technically Feasible Point, Including Without Limitation, To The MDF And IDF.

The Line Sharing Order requires ILEC to provide CLECs with *nondiscriminatory* test access to the loop facility: “[the FCC] requires that incumbent LECs must provide requesting carriers with access to the loop facility for testing, maintenance, and repair activities.”¹¹¹ “Such access must be provided in a nondiscriminatory manner.”¹¹²

Covad and Rhythms seek direct physical access to the loop at the cross-connect points for the three splitter ports. This test access is required so that CLECs can isolate the particular point in the loop that may need repair. With this type of test access, CLECs could ensure that (1) the technician is working on the proper line by performing an automatic number identification (ANI) test; (2) the ILEC technician has properly installed the cross connects required to provision the DSL circuit. In addition, CLECs occasionally needs the ability to “open” a line to isolate the particular point of trouble.¹¹³

Although SBC Ameritech contends that its test access proposal is sufficient, the proposal will not allow CLECs to test the high-frequency portion of the loop from the splitter data port back to the distribution frame, through the cross-connect, and back to the DSLAM.¹¹⁴ This limitation will prevent CLECs from isolating the particular point of failure in the circuit. Although SBCAmeritech has proposed to provide splitters with “test pins,” SBC Ameritech has not shown that the test pins will provide the testing functionality for the entire loop that CLECs require.

The type of test access sought by CLECs is identical to the type of access ILECs presently provide for their own retail employees.¹¹⁵ AADS, SBC Ameritech’s retail affiliate, is allowed access to the entire loop facility. Indeed, US West has agreed to provide Covad with the test access it seeks.¹¹⁶ Similarly, the Pennsylvania Arbitrator ordered Bell Atlantic to provide

¹¹¹ Line Sharing Order, ¶ 118.

¹¹² Line Sharing Order ¶ 118.

¹¹³ Covad Exh. 2.0, Zulevic, at 19.

¹¹⁴ *Id* at 18.

¹¹⁵ Covad Exh. 2.0, Zulevic, at 19.

¹¹⁶ Covad Exh. 2.0, Zulevic, at 4.

Covad and Rhythms with direct test access, including test access at the Main Distribution Frame.¹¹⁷ SBC Ameritech should allow Covad and Rhythms the same test access.

Issue No. 5: Should SBC Ameritech be required to provide the line sharing UNE in a three business day interval from June 6 to September 6, in a two day business interval from September 7 to December 7, and in a one day business interval thereafter and a five business day interval for loops that require deconditioning?

A. SBC Ameritech Should Be Required To Provision The Line Sharing UNE According To Covad's And Rhythm's Proposed Intervals

The provisioning interval for line sharing should vary depending on the network configuration over time as SBC Ameritech gains experience. Covad and Rhythms presented evidence that line sharing arrangements should be provisioned according to the following schedule: from June 6 to September 6, three business days for loops not requiring conditioning; from September 6 to December 7, two business days for loops not requiring conditioning; and after December 7, 24 hours for loops not requiring conditioning. Covad and Rhythms presented evidence that loop required conditioning should be provisioned within five business days. The intervals also include cooperative acceptance testing and any line and station transfer necessary for provision of xDSL service. Indeed, because line-sharing uses a loop that previously has been provisioned to the customer premises, the only work required to provision the Line sharing UNE is approximately ten minutes of central office work. Line sharing does not require any work to be performed outside of the central office.¹¹⁸

The Texas Commission recognized the reduced amount of work required to provision line sharing. Based upon evidence virtually identical to that presented in this arbitration, the Texas Commission ordered SWBT to provide line sharing over non-conditioned loops within three business days.¹¹⁹ Similarly, the Pennsylvania Arbitrator has ordered Bell Atlantic to provide line sharing over non-conditioned loops initially within three business days, with the interval eventually decreasing to one business day.¹²⁰

¹¹⁷ Pennsylvania Arbitration Order at 26-27

¹¹⁸ Covad Exh. 2.0, Zulevic, at 20; *See also* Hearing Tr. (McClerren) at 134:17-22; 135: 1-6..

¹¹⁹ Line Sharing Interim Award, Docket Nos. 22168 & 22469, Public Utility Commission of Texas, at 24.

¹²⁰ Pennsylvania Arbitration Order at 15.

SBC Ameritech, however, still refuses to acknowledge the reduced work and time associated with provisioning line sharing. Instead, SBC Ameritech contends that it should not be required to provision the line sharing UNE any faster than standalone xDSL UNE loops. SBC Ameritech has proposed provisioning intervals of five days if no deconditioning is required and ten days if deconditioning is required for loop orders up to 20 loops.¹²¹ For loop orders with 20 or more loops, SBC Ameritech has proposed a 15 day interval for loops not requiring deconditioning and has not committed to any interval for loops requiring deconditioning.¹²² These intervals are identical to the intervals that SBC Ameritech has agreed to provide Covad and Rhythms for installation of standalone xDSL loops. Although SBC Ameritech contends that it will provide intervals at parity with its retail services, SBC Ameritech refuses to provide CLECs with any information regarding the intervals provided to AADS.¹²³

Considering the evidence in the record, SBC Ameritech's proposal is unreasonable. SBC Ameritech has not presented any credible evidence challenging Covad's proposed intervals. Accordingly, the Commission should adopt Covad's and Rhythms' proposed provisioning intervals.

Issue No. 7: In addition to providing line sharing over home run cooper loops, must SBC Ameritech also allow CLECs to provide xDSL services utilizing line sharing on loops that traverse fiber-fed digital loop carrier ("DLC") systems between the remote terminal and the central office?

According to the FCC's Line Sharing Order, "[l]ine sharing generally describes the ability of two different service providers to offer two services over the same line, with each provider employing different frequencies to transport voice or data over that line."¹²⁴ By using a single line or loop entering their premises, customers are able to receive both voice and data services between their premises and the SBC Ameritech's central office.¹²⁵ SBC has been providing voice and data service over the same line to its customers, and thus has been line

¹²¹ SBC's Interim Appendix HFPL.

¹²² *Id.*

¹²³ Hearing Tr. (Schlackman) at 905:6-9. During the hearing, Staff agreed that the Commission and the CLECs must have information regarding the actual experienced provisioning interval provided to AADS to ensure that Ameritech complies with its non-discrimination obligations. Hearing Tr. (McClerren) at 148: 7-15; 153: 13-22.

¹²⁴ Line Sharing Order, ¶ 17.

¹²⁵ Line Sharing Order, ¶ 13.

sharing, ever since it first deployed xDSL in other states, more than a year ago.¹²⁶ The parties agree that line sharing is feasible over regular “home-run” copper lines.¹²⁷ SBC has not agreed to allow Rhythms and Covad to line share over a new network architecture dubbed Project Pronto, which utilizes loops that are a mix of both copper and fiber.¹²⁸

A. Rhythms and Covad Will Be At a Serious Competitive Disadvantage If They Cannot Line Share Over Loops Provisioned Through Project Pronto

SBC Ameritech has acknowledged that it will use not only all copper loops (“home-run copper”), but also the new Project Pronto configuration, which consists of voice and data carried simultaneously on an all-copper loop from the customer location to a Remote Terminal and then carried on fiber from the Remote Terminal to CLEC’s designated point of interconnection.¹²⁹ At the Remote Terminal, the voice and data traffic are split apart and carried on fiber optic facilities between the Remote Terminal and the serving wire center.¹³⁰ Transport of the data from the Remote Terminal to the serving wire center utilizes the synchronous optical network (SONET) signal format.¹³¹ At the serving wire center, the incoming ATM data bitstream will terminate at an ATM switch.¹³² Under SBC Ameritech’s proposal, this ATM switch is referred to as an “Optical Concentration Device” (“OCD”).¹³³ The OCD aggregates many incoming ATM bitstreams from multiple remote terminals to a smaller number of outbound OC-3 or DS3 facilities.¹³⁴ Additionally, the OCD routes packetized data traffic to the CLEC’s own or other ATM network, based upon packet routing addresses.¹³⁵

The new Project Pronto configuration will substantially alter the technical characteristics of a large number of loops that Rhythms and Covad need to provide xDSL services via line sharing. Indeed, SBC has announced a six billion dollar investment in Project Pronto¹³⁶ and will

¹²⁶ Covad/Rhythms Exh. 1.0, Murray, at 3:14-15. See also Line Sharing Order, ¶ 3.

¹²⁷ Ameritech Illinois Exh. 1.0, Schlackman, at 40:13.

¹²⁸ Ameritech Illinois Exh. 1.0, Schlackman, at 40-41.

¹²⁹ Covad/Rhythms Exh. 2.0, Riolo, at 12:8-12.

¹³⁰ *Id.* at 33:15-34:6.

¹³¹ *Id.* at 31:12-17.

¹³² *Id.* at 31:17-20.

¹³³ *Id.* at 32:16.

¹³⁴ *Id.* at 32:14-18.

¹³⁵ Schlackman Cross Exh. 1.0, at 17.

¹³⁶ Covad/Rhythms Exh. 2.6, SBC Investor Briefing, at 2.

roll out hundreds of thousands of new fiber cables¹³⁷ and 20,000 new remote terminals housing DSL-capable DLC equipment throughout its 13-state territory, including Illinois.¹³⁸

To exclude SBC Ameritech's new fiber-based configurations that are now technologically capable of line sharing would controvert both the Act's definition of a network element and the FCC's requirements that CLECs have access to the high frequency portion of the local loop. The FCC has found that lack of access to the high frequency portion of the local loop "materially diminishes the ability of competitive LECs to provide certain kinds of advanced services to residential and small business users, delays broad facilities-based market entry, and materially limits the scope and quality of competitor service offerings."¹³⁹ The ability to provide both voice and data on a single loop is a huge competitive advantage, both because provisioning times are greatly reduced and because CLECs do not have to pay for a separate loop to provide xDSL services.¹⁴⁰

B. The Commission Has Authority to Order SBC Ameritech to Provide CLECs With Access to Line Sharing Over Project Pronto

SBC Ameritech has attempted to downplay the competitive disadvantage Rhythms and Covad will suffer if they cannot line share over loops provisioned via Project Pronto. Instead, SBC Ameritech attempts to focus on the narrow question of whether the FCC mandated line sharing over such a configuration. As discussed above, at the time the FCC issued the Line Sharing Order, it was not technically possible to provide most xDSL services over fiber-fed DLC. However, the Line Sharing Order did not preclude states from ordering ILECs to allow line sharing over new network configurations, nor did the Line Sharing Order address any independent legal obligations, such as the parity requirement of the Telecom Act, to allow CLECs to line share in the same manner as ILECs line share themselves.

As discussed above, the Telecom Act is attempting to dismantle the SBC Ameritech monopoly over local telecommunications services by requiring the SBC Ameritech to unbundle network elements.¹⁴¹ Under the FCC's mandate in the Line Sharing Order, access to the high frequency portion of the loop over which data is transmitted is a UNE. The FCC held that the

¹³⁷ Schlackman Cross Exh. 2.0 (Project Pronto M&P), at 11-120.

¹³⁸ Covad/Rhythms Exh. 2.0, Riolo .

¹³⁹ Line Sharing Order, ¶ 5.

¹⁴⁰ Covad/Rhythms Exh. 2.0, Riolo, at 2:20-3:12.

¹⁴¹ 47 U.S.C. §§ 251(c)(3), (d)(2); Line Sharing Order, ¶ 16.

unused frequencies “above those used for analog voice service on *any* loop” fit the statutory definition of a network element.¹⁴² At the time, the FCC recognized that line sharing was technically feasible only over copper, and thus, naturally only discussed copper loops. Yet, the new fiber-fed DLC technology as discussed in detail below, clearly fits within the FCC’s effort to promote competition by allowing CLECs to share loops providing POTS. Both the copper and the fiber portions of the loop in the new fiber-fed DLC configuration should be defined as a line sharing network element that is required to be unbundled under the Act. The FCC explicitly stated that “states are free to impose additional, pro-competitive requirements consistent with the national framework established in this [line sharing] order.”¹⁴³ Thus, this Commission should include the new fiber-fed DLC technology in line sharing, despite the fact that such technology was unavailable when the FCC issued its order.

SBC has been offering DSL service in other states since 1998, and has recently announced that it expects to have one million DSL customers by the end of the year.¹⁴⁴ That figure is an order of magnitude greater than all CLEC DSL providers combined.¹⁴⁵ Clearly, SBC Ameritech has been able to unfairly leverage its competitive advantages, one of which is line sharing, to dominate the xDSL market.

Given the tremendous lead the SBC Ameritech have in providing DSL services to consumers using a line sharing configuration, the Commission’s failure to include the fiber-based technology in line sharing would cause the CLECs to remain perpetually behind the SBC Ameritech in their ability to provide DSL.

SBC Ameritech has refused to discuss the fiber-fed configuration as part of this proceeding on the claim that line sharing, as ordered by the FCC, applies only to copper loops.¹⁴⁶ SBC Ameritech contends that the fiber loop from the remote terminal to the serving wire center is part of a service that cannot be unbundled, and which must be negotiated by CLECs and added to their interconnection agreements.¹⁴⁷ Under SBC Ameritech’s self-serving, limited viewpoint, CLECs could line share only between the customer’s premises and the RT. Once the data traffic reaches the RT and is split from the voice traffic onto separate fiber cables, SBC Ameritech

¹⁴² Line Sharing Order, ¶ 17 (emphasis added).

¹⁴³ Line Sharing Order, ¶ 159.

¹⁴⁴ Covad/Rhythms Exh. 2.6, SBC Investor Briefing, at 4.

¹⁴⁵ Rhythms Exh. 1.0, Kersh, at 4:11-12..

¹⁴⁶ Ameritech Illinois Exh. 1.0, Schlackman, at 3:13.

¹⁴⁷ Schlackman Cross Exh. 1.0 at 41-42. Previously SBC claimed that line sharing over the fiber portion of the loop was a UNE.

claims line sharing no longer exists.¹⁴⁸ Thus, the CLECs' traffic would be stranded at the RT. The Commission staff agree that stranding CLEC traffic from the line-shared copper loops at the RT would be "fairly useless".¹⁴⁹

SBC Ameritech also asserts that the existence of subloop unbundling negates the need for line sharing over the fiber portion of fiber-fed loops. In other words, Rhythms and Covad can simply physically collocate a DSLAM in Ameritech's remote terminal and then transport its customers' traffic back to the central office. While access to the subloop is certainly an option for Rhythms and Covad under the UNE Remand Order, it does not mitigate the need for line sharing over the entirety of fiber-fed loops. As noted by Ms. Murray, physical collocation in a remote terminal may not be an option in many cases because of the lack of space constraints in SBC Ameritech's remote terminal locations.¹⁵⁰ In addition, the expense of collocation at the remote terminal could place Rhythms and Covad at a substantial financial disadvantage to Ameritech, or AADS, in those instances in which Ameritech or AADS were able to offer DSL-based services using line cards placed in Ameritech's remote terminal. Unlike at a central office, the level of concentration present at a remote terminal is often as low as a hundred lines in total, which may be too few to justify an entire collocation arrangement in each remote terminal.¹⁵¹ As a result, the Commission should require SBC Ameritech to offer to place line cards (owned by SBC Ameritech or the CLEC) in the DLC at the remote terminal on behalf of Rhythms and Covad, and allow Rhythms and Covad to own line cards and install the cards themselves.

It is critical that Rhythms and Covad be able to install their own line cards, in order to ensure that Illinois consumers have access to the full range of DSL-based services that are technically feasible. Ameritech may choose not to equip each of its DLCs with line cards that can provide the full array of DSL-based services. Such a option is clearly in the spirit of the UNE Remand Order, which contemplates that "a requesting carrier [be allowed] to collocate its DSLAM in the incumbent's remote terminal, on the same terms and conditions that apply to its own DSLAM."¹⁵² Last month, an arbitrator recommended that the Pennsylvania Commission require such offerings by Bell Atlantic in order to comply with the UNE Remand Order.¹⁵³

¹⁴⁸ Hearing Tr. (Schlackman) at 807: 3-4 (email version of transcript).

¹⁴⁹ Hearing Tr. (Graves), at 89:2-6. This is precisely the type of concern raised by Commissioner Mary Frances Squires in a memorandum to Hearing Examiner Donald Woods, dated June 28, 2000.

¹⁵⁰ Rhythms/Covad Exh 1.0, Murray, at 12.

¹⁵¹ *Id.*

¹⁵² UNE Remand Order, ¶ 313.

¹⁵³ Pennsylvania Arbitration Decision at 9, 36-43.

Similar action must be taken by this Commission to ensure that Illinois consumers receive the full benefits of competition, regardless of whether they are served on an all-copper or fiber-fed loop.

From the customer's perspective, the composition of the loop does not matter. The customer expects that voice and data traffic will be taken from the customer premises all the way to the central office or serving wire center, and from there to its final destination. Similarly, customers who wish to add xDSL service to their loop do not care about the composition of the loop. They expect that the single loop serving their premises will be used for both basic voice services and high speed DSL. SBC Ameritech should not be allowed to use regulatory definitions as a means to preclude CLECs from serving an entire group of customers, especially as SBC Ameritech moves aggressively to upgrade its copper loops to fiber-fed DLC configurations that support DSL services.

Voice signals and xDSL signals of all types, including ADSL ATM bitstreams, can now be multiplexed and carried on a common fiber.¹⁵⁴ From a technical standpoint, the fact that a portion of a loop is fiber does not preclude the loop from carrying simultaneous voice and data traffic. On the copper portion of the loop, the two types of traffic are separated according to frequency. On the fiber portion, the two types of traffic are separated by the way the traffic is encoded and carried on that portion of the loop. Specifically, both the voice and data traffic can be placed on the same fiber through time division multiplexing.¹⁵⁵

By denying CLECs access to line sharing on the fiber portion of the loop, SBC Ameritech continues to attempt to preserve its monopoly over local telecommunications services. When SBC provides DSL to its own retail voice customer there is no arbitrary delineation of the loop. When a CLEC is the data provider, SBC Ameritech would rather see a CLEC's data traffic stranded at the RT, where it would be the CLEC's responsibility to arrange for traffic to somehow be carried to the serving wire center. Such a restriction is clearly contrary to the FCC's Line Sharing Order and has no technical basis.

¹⁵⁴ Covad/Rhythms Exh. 2.0, Riolo, at 4.

¹⁵⁵ Covad/Rhythms Exh. 2.5, Riolo, at 4.

Issue No. 9: In order to consider the installation of the line sharing UNE complete, must SBC Ameritech test and the CLEC affirmatively accept the line sharing UNE?

Because line sharing is a new service, SBC Ameritech may make numerous mistakes in the early days of provisioning.¹⁵⁶ Indeed, SBC Ameritech often has problems provisioning CLECs with UNE loops that are workable and usable. Loop acceptance testing provides CLECs an opportunity to test and verify that a loop is actually working prior to such loop turnover, and to confirm that the loop has been properly provisioned to the correct location. This testing is critically important, because it allows any problem with the loop to be identified and rectified quickly before it is turned over to a CLEC. Just as important, the CLEC has an opportunity to notify its customer when there may be a delay in providing xDSL service on a line shared loop. By identifying and correcting problems early on in the provisioning process, CLECs will be able to increase the number of line shared loops successfully installed the first time, which will result in greater availability of xDSL service to customers.¹⁵⁷ CLECs must have an acceptance testing process available to them in order to compete equally with SBC Ameritech for provisioning of DSL services, because acceptance testing is available currently to SBC Ameritech's internal retail and data affiliate operations.¹⁵⁸ Therefore, based on the record in this proceeding, and based on SBC Ameritech's parity obligations under the Telecom Act, CLECs are entitled to acceptance testing on loops as described below.

SBC Ameritech failed to present any evidence to refute the CLECs' need for acceptance testing nor the need for a CLEC to affirmatively accept the line sharing UNE. SBC Ameritech's witness Ms. Schlackman testified that once SBC Ameritech completed its testing, "whether or not the CLEC service works" was not a factor.¹⁵⁹ SBC Ameritech refuses to acknowledge that this is a customer-affecting issue. Acceptance testing will enable SBC Ameritech and the CLEC to resolve any problems on the front end, and thereby avoid SBC Ameritech's cumbersome maintenance trouble ticket process.¹⁶⁰ Acceptance testing can thus significantly reduce the

¹⁵⁶ Covad Exh. 1.0, Carter, at 20:3-5.

¹⁵⁷ Covad Exh. 1.0, Carter, at 20:5-8.

¹⁵⁸ SBC Ameritech did not deny Rhythms' argument that it provides acceptance testing prior to loop turnover for itself. See Ameritech Illinois Exh. 1.0, Schlackman, at 43-44.

¹⁵⁹ Ameritech Illinois Exh. 1.0, Schlackman, at 43:15-18.

¹⁶⁰ High Bandwidth Line Sharing UNE Amendment To SBC Ameritech and Rhythms Links, Inc. (attached to Rhythms' Petition for Arbitration), at § VIII.A.4, VIII.B.2.

number of trouble tickets that are opened due to loop provisioning problems within the first seven days after a loop is delivered.¹⁶¹

The testing that SBC Ameritech should provide will differ depending on the network configuration through which line sharing is offered. If the line sharing arrangement is provided through the home run copper configuration, SBC Ameritech should test the line shared loop for copper continuity and for pair balance prior to completing the installation.¹⁶² If the line sharing arrangement is provided through the fiber-fed DLC configuration, SBC Ameritech should test all fiber between the ATM port and the SBC Ameritech RT, and should test the copper pair connecting the RT to the end-user customer premises for copper continuity and for pair balance prior to completing the installation.¹⁶³

Issue No. 10: What is the appropriate maintenance and repair time interval?

Rhythms and Covad are requesting that SBC Ameritech perform repairs for line sharing the line cards in the DLC or splitter, on a mean-time-to-repair interval of two hours, applied monthly. They are also asking that SBC Ameritech should accept maintenance trouble tickets and perform maintenance and repair on a 24/7 basis. Further, where SBC Ameritech owns the splitter and provides CLECs with access to the splitter, CLECs require 24-hour per day, 7-days per week access to the splitter and to the test head for maintenance, repair, and testing.

Issue No. 15: Should SBC Ameritech be prohibited from deploying new technologies or otherwise engaging in activities that impede CLEC's provision of xDSL services?

The purpose of the FCC's Line Sharing Order was to foster competition by allowing CLECs access to loops that SBC Ameritech are already able to use to provide ADSL service with POTS on a single loop.¹⁶⁴ Therefore, the SBC Ameritech should not be able to deploy any technology, including fiber development, that will limit or impede CLECs' ability to line share on every customer loop. CLECs must have the ability to provide voice, data and video on line-shared loops, just as SBC Ameritech can do now. The evidence in this case demonstrates that

¹⁶¹ Covad Exh. 1.0, Carter, at 19:11-14.

¹⁶² High Bandwidth Line Sharing UNE Amendment To SBC Ameritech and Rhythms Links, Inc. (attached to Rhythms' Petition for Arbitration), § VIII.A.4.

¹⁶³ *Id.* at VIII.B.2.

¹⁶⁴ Line Sharing Order, ¶ 1.

SBC Ameritech's new Project Pronto architecture will substantially impact the ability of Rhythms and Covad to provision xDSL services on line shared loops.¹⁶⁵ SBC Ameritech's Project Pronto M&P **BEGIN CONFIDENTIAL**

END CONFIDENTIAL*** Such a policy seriously impacts Rhythms' and Covad's ability to use the public network to provide xDSL service because SBC Ameritech will support only ADSL over the Project Pronto architecture.¹⁶⁷ Rhythms and Covad offer other types of xDSL service that can be line shared (e.g., RADSL). Thus, SBC Ameritech's policy of **START CONFIDENTIAL**

END CONFIDENTIAL*** means that CLECs will be forced either to offer only ADSL or go through the time and expense of trying to move the customer back to a home-run copper loop. Such a situation is directly contrary to the goal of the Telecom Act and the Line Sharing Order to promote the rapid and widespread deployment of advanced services. The Commission should require SBC Ameritech to disclose all network deployment plans that would affect CLECs' ability to provide line shared DSL service in advance, and to collaborate with CLECs on ways to reduced or eliminate any negative impact on CLECs. Further, as discussed below, the Commission should require SBC Ameritech to provide full documentation for any such network deployment to CLECs, **AND SHOULD REQUIRE SBC Ameritech to remove its confidential designation.**

Issue No. 16: Should SBC Ameritech be required to share with CLECs its fiber DLC deployment plans?

ILECs such as SBC Ameritech have an obligation under the UNE Remand Order to provide CLECs with access to all loop provisioning information regarding line shared xDSL services regardless of whether the information is contained in an electronic database or on paper

¹⁶⁵ This is precisely the type of concern that Commissioner Squires asked the Hearing Examiner to address in this case. Memorandum from Commissioner Mary Frances Squires to Hearing Examiner Donald Woods, dated June 28, 2000, issues 1 and 2.

¹⁶⁶ Schlackman Cross Exh. 2.0, at 13 **START CONFIDENTIAL***** (“

END

CONFIDENTIAL***

¹⁶⁷ Schlackman Cross Exh. 1.0, at 22 (“At this time, SBC is limited to offering only an ADSL form of service because the vendor of a majority of its NDGLC deployment has only developed an ADSL line card at this time.”)

records.¹⁶⁸ Such information should include all technical specifications and network architecture information, including any Network Operation Plans and any draft or final Methods and Procedures (“M&P”) regarding any SBC Ameritech-planned network deployments that affect CLECs’ ability to use the public network to provision advanced services.

As discussed above, SBC Ameritech is currently deploying a new overlay network that will introduce massive amounts of fiber cabling, 20,000 remote terminals, and new DLC equipment that is DSL capable. This new network will have a substantial impact on CLECs’ ability to use the network to provision line shared DSL services. Therefore, Rhythms and Covad have asked SBC Ameritech to provide documentation such as M&Ps in this proceeding. SBC Ameritech produced only one such document in response, an M&P for Project Pronto.¹⁶⁹ This document proves why CLECs need access to such materials. It provides a detailed, technical description of the manner in which the Project Pronto architecture will be deployed, including how placement of RTs will be decided, the types of DLC equipment and DSL line cards that will be supported and the fiber capacity that will be installed to RTs.¹⁷⁰ Such detailed information is essential for CLECs to prepare their own systems and processes, and to purchase equipment necessary to utilize the Project Pronto network effectively. Prior to this proceeding, the only information SBC Ameritech had provided Rhythms and Covad regarding Project Pronto was very high level product description and contract language, via accessible letter.¹⁷¹ As an example, the Accessible Letter does not even mention the type of DLC equipment or DSL line cards that will be supported for Project Pronto.¹⁷²

In addition to the requirements of the UNE Remand Order, SBC Ameritech has an obligation to provide network planning documentation such as M&Ps to CLECs under the requirements of the Telecom Act.¹⁷³ First, the Telecom Act imposes on SBC Ameritech an affirmative “duty to provide reasonable public notice of changes in the information necessary for transmission and routing of services using that local exchange carrier’s facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and

¹⁶⁸ UNE Remand Order, ¶ 428, 430.

¹⁶⁹ Schlackman Cross Exh. 2.

¹⁷⁰ Schlackman Cross Exh. 2, at ¶¶ 3,4,5,6, 10.

¹⁷¹ Schlackman Cross Exh. 1.

¹⁷² See e.g., Schlackman Cross Exh. 1, at 2.3 and 2.4 (referencing DLC equipment and DSL line cards generically without even providing the vendor).

¹⁷³ 47 U.S.C. § 251(c)(5).

networks.”¹⁷⁴ Second, under the parity provisions of the Telecom Act, SBC Ameritech must provide CLECs with access to the same information it gives itself.¹⁷⁵ The M&P provided by SBC Ameritech indicates that the M&P is intended for use by “employees of SBC *and its affiliates*.”¹⁷⁶ Because SBC Ameritech is sharing such network planning documents with its affiliates, it must provide the same information to Rhythms and Covad. Thus, the Commission should order SBC Ameritech to provide future revisions to the Project Pronto M&P produced in this proceeding and to produce all M&Ps that relate to line sharing of DSL service (including any M&P regarding RTs), and all other network planning documents available to itself or its affiliates.

II. OSS ISSUES

Issue No. 8: Should CLECs have direct electronic access to SBC Ameritech’s operational support systems (“OSS”)?

The FCC’s Line Sharing Order mandates that CLECs such as Rhythms and Covad have access to the high frequency portion of the loop over which data is transmitted as a UNE, and all OSS necessary to support this UNE. The FCC defines such OSS broadly to include records, mechanized backend systems and databases (and the information contained therein), gateways and interfaces used to support pre-ordering, ordering, provisioning, testing and maintenance and billing for xDSL services.¹⁷⁷ SBC Ameritech is legally obligated to give CLECs non-discriminatory access to all such OSS so that CLECs may determine what type of DSL is suitable for a loop (pre-ordering), place orders for the CLEC’s chosen type of xDSL service into the SBC Ameritech’s systems to be processed and have the line-shared loop provisioned, tested, and repaired as quickly as possible. SBC Ameritech has not provided Rhythms and Covad with either the data or mechanized access sufficient to support these needs.

The Telecom Act and the FCC orders issued pursuant to the Act require ILECs to give CLECs sufficient access to OSS to support the services CLECs wish to offer. Merely providing CLECs with the bare minimum of OSS capabilities, some of which have been tailored for SBC Ameritech’s ADSL service *does not* comply with this parity obligation. The FCC has interpreted

¹⁷⁴ *Id.*

¹⁷⁵ *Id.* § 251(c)(3).

¹⁷⁶ Schlackman Cross Exh. 2, at 2-28 (notation on the bottom of every page) (emphasis added).

¹⁷⁷ UNE Remand Order, at ¶ 425.

the non-discrimination requirement contained in the Telecom Act as imposing upon incumbent carriers two separate, but related obligations.¹⁷⁸ First, for OSS functions¹⁷⁹ an ILEC provides to a CLEC that are analogous to functions it provides itself, CLEC access must be “equal...in terms of quality, accuracy and timeliness.”¹⁸⁰ Anything less is insufficient. Thus, under this equal access requirement, an ILEC must provide the same electronic access to OSS functions and full access to detailed loop provisioning information so that the CLEC can perform pre-ordering, ordering and provisioning in “substantially the same time and manner” as the ILEC.¹⁸¹ Second, the ILEC must give CLECs a meaningful opportunity to compete by providing access to OSS systems and functionalities required to support a service even if there is no ILEC retail analog.¹⁸² This requirement is based on § 251(c)(c) of the Telecom Act, which mandates that ILECs provide access to UNEs on rates, terms and conditions that are “just” and “reasonable.”¹⁸³ The evidence submitted in this proceeding clearly shows that SBC Ameritech’s current proposal does not comply with its non-discrimination and parity obligations under the Act.

The unbundling requirements set forth in the FCC’s UNE Remand Order, pursuant to § 251 of the Act were “designed to create incentives for both incumbent and competitive LECs to innovate and invest in technologies and services that will benefit consumers through increased choices of telecommunications services and lower prices.”¹⁸⁴ More specifically, the FCC sought to establish unbundling rules “to facilitate the rapid and efficient deployment of all telecommunications services, including advanced services.”¹⁸⁵

Under the FCC’s UNE Remand Order, SBC Ameritech and other ILECs are obligated to provide non-discriminatory access to UNEs and OSS. The FCC expressly stated in the Line Sharing Order that the ILEC obligation to provide access to OSS for xDSL-based services “falls

¹⁷⁸ Ameritech Michigan Section 271 Order, ¶¶ 230, 139, 141; BellSouth South Carolina Section 271 Order, ¶ 98.

¹⁷⁹ OSS functions expressly subject to the minimum parity requirements are: pre-ordering, ordering, provisioning, repair/maintenance and billing. Ameritech Michigan Section 271 Order, ¶ 140.

¹⁸⁰ Ameritech Michigan Section 271 Order, ¶ 139. *See also Id.* ¶¶ 134-140. (“It is the access to all of the processes, including those existing legacy systems used by the incumbent LEC to provide access to OSS functions to competing carriers, that is fundamental to the requirement of nondiscriminatory access.”) BellSouth South Carolina Section 271 Order, ¶ 98.

¹⁸¹ BellSouth South Carolina Section 271 Order, ¶ 98.

¹⁸² Ameritech Michigan Section 271 Order, ¶ 171; BellSouth South Carolina Section 271 Order, ¶ 98.

¹⁸³ 47 U.S.C. § 251 (c)(3).

¹⁸⁴ UNE Remand Order, ¶ 5.

¹⁸⁵ *Id.* ¶ 14.

squarely within an incumbent LEC's duty" under the Telecom Act.¹⁸⁶ Access to OSS is critical to a CLEC's ability to compete with the ILECs. The FCC determined that "if competing carriers are unable to perform the functions of pre-ordering, ordering, provisioning, maintenance and repair, and billing for network elements in substantially the same time and manner as the incumbent can for itself, competing carriers will be severely disadvantaged, if not precluded altogether, from fairly competing."¹⁸⁷

The UNE Remand Order requires that the "incumbent LEC must provide the requesting carrier with non-discriminatory access to the same detailed information about the loop that is available to the incumbent, so that the requesting carrier can make an independent judgment about whether the loop is capable of supporting the advanced services equipment the requesting carrier intends to install."¹⁸⁸ To that end, the FCC held:

Under our nondiscrimination requirement, an incumbent LEC cannot limit access to loop qualification information to such a green, yellow, or red indicator. Instead, the incumbent must provide access to the underlying loop qualification information contained in its engineering record, plant records and other back office systems so that requesting carriers can make their own judgments about whether those loops are suitable for the services the requesting carriers seek to offer.¹⁸⁹

Specifically, "under our existing rules, the relevant inquiry is not whether the retail arm of the incumbent has access to the underlying loop qualification information, but rather whether such information exists anywhere within the incumbents' back office and can be accessed by any of the incumbent LEC's personnel."¹⁹⁰ In addition, the FCC's UNE Remand Order requires that CLECs be permitted the same level of access to data as ILECs enjoy themselves. The UNE Remand Order states that "to the extent that [ILEC] employees have access to the information in an electronic format, that same format should be made available to new entrants via an electronic interface."¹⁹¹

¹⁸⁶ Line Sharing Order, ¶ 172 (citing 47 U.S.C. § 251(c)(3) of the Act and the FCC's Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499 (1996)).

¹⁸⁷ Line Sharing Order, ¶ 172.

¹⁸⁸ UNE Remand Order, ¶ 427.

¹⁸⁹ *Id.* ¶ 428.

¹⁹⁰ *Id.* ¶ 430.

¹⁹¹ *Id.* ¶ 429. If ILEC employees have access both directly and through an interface, CLECs should have the same access.

The evidence submitted in this proceeding demonstrates that SBC Ameritech and personnel have access to all available data in SBC Ameritech's records, backend systems and databases, while CLECs do not.¹⁹² The evidence also demonstrates that SBC Ameritech provides to itself a level of integration and flow through for pre-ordering, ordering, and provisioning not available to CLECs.¹⁹³ Further, SBC Ameritech has not provided any details on OSS support for line sharing provisioned over the new fiber-fed DLC configuration that it will begin using this year.¹⁹⁴

In addition, SBC Ameritech is subject to a set of conditions put in place by the Illinois Commission and the FCC as part of their approval of SBC's merger with Ameritech. The FCC's merger conditions were intended to fulfill the FCC's statutory obligation under the Telecom Act to open local telecommunications networks to competition¹⁹⁵ by attempting to alleviate the potential harm to the public interest associated with the SBC/Ameritech merger.¹⁹⁶ The FCC concluded that, without the merger conditions, the SBC/Ameritech merger "will lead the merged entity to raise entry barriers that will adversely affect the ability of rivals to compete in the provision of retail advanced services thereby reducing competition and increasing prices for consumers."¹⁹⁷ Therefore, any evaluation of SBC Ameritech's satisfaction of its obligations under the Line Sharing Order must also be in compliance with the FCC's Merger Conditions Order.¹⁹⁸

The most relevant merger condition to this proceeding is the requirement that SBC develop a "plan of record" or "POR" providing an overall assessment of SBC's and Ameritech's existing OSS interfaces, business processes and rules, hardware capabilities, and data capabilities supporting pre-ordering and ordering of advanced services such as xDSL.¹⁹⁹

¹⁹² Hearing Tr. (Jacobson), at 687-692 (stating that although CLECs do not have access, SBC Ameritech personnel do have access to various OSS systems, including, but not limited to, TIRKS, LFACS, and LEAD/LEIS).

¹⁹³ Jacobson Cross Exh. 1.0, Adv. Servs. POR Notification, at 12, 17.

¹⁹⁴ See Schlackman Cross, Exh. 1.0, Project Pronto Accessible Letter (referencing new SOLID database and GUI interface, but providing no details).

¹⁹⁵ See *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd. 15,499, ¶ 1 (1996) ("Local Competition Order").

¹⁹⁶ Memorandum Opinion and Order, CC Docket No. 98-141 (Rel. Oct. 8, 1999), ¶ 357 ("Merger Conditions Order").

¹⁹⁷ *Id.* ¶ 32.

¹⁹⁸ Because the Plan of Record meetings under the Illinois merger conditions are still underway, it is too early to assess SBC Ameritech's compliance with the Illinois specific requirements.

¹⁹⁹ Merger Conditions Order, at App. C ¶ 15.

Under the FCC order, SBC was directed to solicit comments from CLECs, and to have collaborative meetings in which the enhancements CLECs needed to support competitive provision of xDSL services would be negotiated. SBC has not fulfilled its obligations under the POR process, however, because agreement could not be reached with CLECs on ten issues. One of those issues is also at issue in this arbitration—access to all loop provisioning information in the back end systems, databases and records. An additional issue common to this proceeding is access to UNEs and loop provisioning information related to provisioning xDSL service through SBC's fiber-fed DLC configuration. Because SBC has not yet satisfied its obligations in the POR process,²⁰⁰ this Commission must ensure that the OSS SBC Ameritech is required to offer CLECs for line sharing are in compliance with the Merger Conditions Order, as well as all other legal obligations.

In order to have met its legal obligations to support CLEC provision of xDSL in a line shared arrangement, SBC Ameritech should have had in place all OSS required to support line sharing by the FCC's deadline of June 6, 2000. Such OSS include all systems, data and capabilities necessary to provide xDSL,²⁰¹ with the addition of OSS capabilities that can identify and track the use of the spectrum on a loop for two separate services.²⁰²

The FCC recognizes that OSS are crucial to CLECs' ability to compete for line-shared DSL services because OSS represent a bottleneck, essential facilities under the exclusive control of the ILECs.²⁰³ Thus, the FCC's UNE Remand order mandates two broad requirements for OSS. First, CLECs must have access to all loop provisioning data contained in SBC Ameritech's OSS.²⁰⁴ Second, SBC Ameritech must provide access to such data and OSS functionality in the same manner (i.e., at the same level of mechanized flow-through and integration) and in the same time frames as it provides to itself.²⁰⁵

²⁰⁰ The Merger Conditions Order establishes a floor, not a ceiling, and this Commission has full authority to impose OSS necessary for line sharing during this proceeding. Merger Conditions Order, at App. C. n.2.

²⁰¹ Rhythms/Covad Exh. 2.0, Taff-Rice, at 3:24-27; UNE Remand Order, ¶ 425.

²⁰² Line sharing involves the use of a single loop by a customer to receive both POTS and high-bandwidth xDSL digital transmission capabilities between the customer's premises and the central office. Rhythms/Covad Exh. 2.0, Taff-Rice, at 3:27-4:3.

²⁰³ Line Sharing Order, ¶ 172.

²⁰⁴ UNE Remand, ¶¶ 428, 430.

²⁰⁵ First Report and Order, ¶ 505.

A. SBC Ameritech Has Not Met Its Obligation To Provide CLECs With Non-discriminatory Access To All Loop Provisioning Information

SBC Ameritech is not providing Rhythms and Covad with non-discriminatory access to all of its loop provisioning data and OSS capabilities, as required by the Telecom Act, the UNE Remand Order and the SBC Ameritech Merger Conditions Order. The evidence in this proceeding clearly demonstrates that SBC Ameritech's OSS fall far short of its legal obligations in multiple and substantial respects. First, SBC Ameritech is not offering to provide all of the loop provisioning data that SBC agreed to provide to CLECs in other states. Second, SBC Ameritech has refused to provide Rhythms and Covad with access to all of the loop provisioning data available in its back end systems, databases and records. Rather, SBC Ameritech seeks to limit Rhythms' and Covad's access to a subset of data that SBC Ameritech makes available to its internal retail operations. Third, SBC Ameritech has made no commitment to provide CLECs with access to updated databases it will provide to itself for new network configurations such as Project Pronto fiber-fed DLC. Fourth, SBC Ameritech will provide OSS only to support the single type of xDSL SBC Ameritech intends to offer, rather than all types of xDSL service that may be supported in a line shared arrangement, and which CLECs want to offer to customers. Finally, SBC Ameritech improperly attempts to convince the Commission that it should be allowed to rely solely on the results of the FCC's Plan of Record ("POR") requirements in the Merger Conditions Order to meet its OSS obligations in Illinois.

1. SBC Ameritech Is Not Offering All Loop Provisioning Data SBC Agreed To Provide To CLECs In Other SBC States

SBC Ameritech has not agreed to provide all of the loop provisioning data it provides to CLECs in other states. Ms. Jacobson's testimony provides a list of data elements that SBC Ameritech is offering to CLECs in Illinois. However, this list of retail xDSL data elements does not even provide CLECs with all of the information that SBC agreed to provide to CLECs at the POR meeting. For example, the list provided by SBC Ameritech's witness Ms. Jacobson omits type of repeaters, wire center and taper code.²⁰⁶ Ms. Jacobson also omits the following eight data elements associated with the RT configuration utilized for SBC's Project Pronto:

1) whether the loop originates at an ADSL Capable RT; 2) whether the loop originates at a Non-

²⁰⁶ Ameritech Illinois Exh. 3.0, Jacobson, at 5-7; Jacobson Cross Exh. 1.0, at Attachment A, 3-4.

ADSL Capable RT; 3) indicator of whether ADSL capable RT is available; 4) target date of when ADSL capable RT will be deployed; 5) location of ADSL capable RT by address; 6) location of ADSL capable RT by CLLI; 7) location of non-ADSL capable RT by address; and 8) location of non-ADSL capable RT by CLLI.²⁰⁷ Ms. Jacobson's testimony indicates that the list provided in her testimony constitutes SBC Ameritech's offer to CLECs for loop provisioning data elements, thus Rhythms and Covad assume that SBC Ameritech does not intend to provide such information to CLECs in Illinois. At the very least, SBC Ameritech should be ordered to provide CLECs in Illinois with the exact same information SBC provides to CLECs in other states. However, as discussed below, even with such additional data elements, SBC Ameritech falls short of meeting its obligations to provide CLECs with all loop provisioning information.

2. SBC Ameritech Has Refused To Provide CLECs With Access To All Of The Loop Provisioning Data Available In Its Back End Systems, Databases And Records

The FCC has determined that the only way to ensure CLECs obtain access to all useful data is to require SBC Ameritech to give CLECs access to all loop provisioning information contained in its possession in any backend system, database or records.²⁰⁸ The Commission staff agrees that Rhythms and Covad are legally entitled to all such information.²⁰⁹ SBC Ameritech, however, has refused to provide all such information.²¹⁰ Indeed, Ms. Jacobson testified that she believes SBC Ameritech's obligations under the UNE Remand Order to provide OSS support to CLECs consists solely of access to gateways and interfaces, and not to SBC Ameritech's backend systems, databases or records, or the data contained therein.²¹¹ Ms. Jacobson later clarified her statement, saying that she views the data as separate from the OSS systems, but did not commit that SBC Ameritech would provide access to all such data. Indeed, Ms. Jacobson stated that she did not know what data were in SBC Ameritech's OSS, including LFACs.²¹² Yet, incredibly, Ms. Jacobson claimed that SBC Ameritech knows better than either Rhythms or Covad what information they need in order to provide xDSL service, saying that "because we've been in the business for 100 years...I would think we would know as well [as CLECs] what

²⁰⁷ *Id.*

²⁰⁸ UNE Remand Order, ¶¶428, 430.

²⁰⁹ Hearing Tr. (McClarren), at 142.

²¹⁰ Ameritech Illinois Exh. 3.0, Jacobson, at 2, 5.

²¹¹ Hearing Tr. (Jacobson), at 688-690; 690:8-12.

²¹² Hearing Tr. (Jacobson), at 687:9-22; 689:6-9; 689:17-22.

information it takes to provision a [DSL] service.”²¹³ Ms. Jacobson’s assertion is extraordinary given that SBC Ameritech does not itself provide xDSL service.²¹⁴ Ms. Jacobson’s statement is also at odds with the UNE Remand Order, which specifically requires that CLECs have access to all loop provisioning information in ILEC records, backend systems and databases so that CLECs “can make their own judgments” about provisioning xDSL services to customers.²¹⁵

Thus, the evidence demonstrates that rather than comply with its obligations under the UNE Remand Order, SBC Ameritech is attempting to restrict CLECs to a limited list of information that it provides to its own retail operations.²¹⁶ As discussed above, SBC Ameritech is obligated to provide CLECs with any and all loop provisioning information available to *any* SBC employee, not just employees in SBC Ameritech’s retail or affiliate xDSL operations.²¹⁷ Thus, SBC Ameritech’s limited list of loop provisioning information does not comply with its legal obligations to Rhythms and Covad.

As discussed above, the touchstone is whether any SBC Ameritech employee, including engineers, can access the information.²¹⁸ If so, CLECs are legally entitled to the information located in any back end system, database, or other records.²¹⁹ Although SBC Ameritech admits that SBC Ameritech employees have access to a wide range of data located in a variety of databases, it is unwilling to provide access to such data to CLECs.²²⁰ SBC Ameritech’s internal operations have access to loop provisioning data in the following back end systems or databases: LFACS, FACS, TIRKS, APTOS, ARES, TMM, SWITCH, LEAD/LEIS.²²¹ Thus, at a minimum, Rhythms and Covad should have access to data in these systems as well.

SBC Ameritech has attempted to justify its failure to provide all such information by asking Rhythms and Covad to name data elements for which they have asked, but have not been given access. Such an approach turns SBC Ameritech’s obligation on its head. CLECs are entitled to all useful information about the loop or loop plant,²²² however, CLECs do not know precisely how much of this information exists or where it is contained in SBC Ameritech’s

²¹³ Hearing Tr. (Jacobson), at 779:4-10.

²¹⁴ Hearing Tr. (Jacobson), at 779:11-14.

²¹⁵ UNE Remand Order, ¶ 428.

²¹⁶ Ameritech Illinois Exh. 3.0, Jacobson, at 2; Hearing Tr. (Jacobson), at 688:9-19.

²¹⁷ UNE Remand Order, ¶ 430.

²¹⁸ *Id.* ¶¶428, 430.

²¹⁹ *Id.*

²²⁰ Hearing Tr. (Jacobson), at 687”2-5; 688:3-7; 689:13-14; 691:18-692:4.

²²¹ *Id.*; Jacobson Cross Exh. 6.

²²² UNE Remand Order, ¶ 426.

records, backend systems and databases. Thus, to date, the CLECs have attempted to guess what useful information SBC Ameritech has in its possession and have asked for this information during the POR process.²²³ Based on these guesstimates, the CLECs suggested a list of *initial* data elements that SBC Ameritech should provide to support provisioning xDSL services. After the CLECs submitted the list, SBC initially denied having in its databases several of the data elements.²²⁴

Given SBC Ameritech's troubling inconsistencies concerning the availability of critical information, it is essential that Rhythms and Covad be given an opportunity to audit SBC Ameritech's records, backend systems and databases to determine what useful information may exist there. SBC Ameritech has *implied* through its cross examination of non-OSS witnesses, that SBC has allowed such audits,²²⁵ but failed to produce a single piece of evidence showing that such audits are actually allowed. SBC's implication is absolutely false. During the POR process the CLECs requested a series of such audits and while SBC agreed in principal, all details regarding the scope and timing of an audit were left to be resolved in the future.²²⁶ To date, the CLECs have been unable to obtain such an audit from SBC.²²⁷

Accordingly, in order to ensure that Rhythms and Covad have access to all information to which they are legally entitled, the Commission should order SBC Ameritech to allow Rhythms and Covad to audit the company's records, backend systems and databases in Illinois, including but not limited to: LFACS, FACS, APTOS, TIRKS, LEAD/LEIS, SORD, SWITCH, WFA/C, WFA/DO, SOAC, LMOS, MARCH, Premis, LASR, ESOI, FOMS/FUSA, CRIS, CABS, ARES, and ACIS.

3. SBC Ameritech OSS Will Not Support All Types xDSL of CLECs Want To Offer On Line Shared Loops

In a competitive market, competitors have distinct business plans. The xDSL market is no exception. Rhythms and Covad have different business plans than SBC Ameritech or its affiliates.²²⁸ As discussed above, SBC Ameritech is legally obligated to provide CLECs with all

²²³ Hearing Tr. (Carter), at 107.

²²⁴ Jacobson Cross Exh. 1.0, at 13.

²²⁵ Hearing Tr. (Carter), at 212-213.

²²⁶ Jacobson Cross Exh. 1.0, Adv. Serv. POR, at 15.

²²⁷ Hearing Tr. (Jacobson), 713:5-9.

²²⁸ Hearing Tr. (Carter), at 217; (Jacobson), at 676:1-15.

of the OSS features and capabilities required for CLECs to have a meaningful opportunity to compete.²²⁹ Therefore, SBC Ameritech must provide OSS supporting Rhythms' and Covad's chosen type and implementation of xDSL regardless of whether a retail/affiliate analog exists within SBC Ameritech.²³⁰

The unrebutted evidence demonstrates that SBC Ameritech and/or its affiliate AADS, intend to provide only ADSL over line shared loops.²³¹ However, there are at least three other types of xDSL service that may be supported on line shared loops currently—Rate Adaptive ADSL (“RADSL”), G.Lite and Multiple Virtual Lines (“MVL”).²³² Rhythms and Covad have indicated they want to provide those types of xDSL to customers. However, the unrebutted evidence demonstrates that SBC Ameritech has made no effort to provide OSS sufficient to support these other types of xDSL. SBC Ameritech witness Ms. Jacobson testified that she had never heard of RADSL, G.Lite or MVL until the morning of her testimony at the hearing.²³³ Thus, it was impossible for Ms. Jacobson to testify that she knew SBC Ameritech's OSS would support those types of xDSL service.²³⁴

4. SBC Ameritech Has Not Committed To Provide CLECs With Access To Updated Databases For Project Pronto.

As SBC Ameritech creates new databases or updates the data in existing databases, it has a legal obligation to provide CLECs with access to the same systems and data. The UNE Remand Order states “we expect that incumbent LECs will be updating their electronic database for their own xDSL deployment and, to the extent their employees have access to the information in an electronic format, that same format should be made available to new entrants.”²³⁵

²²⁹ First Report and Order, at ¶ 31.

²³⁰ *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services in Michigan*, Memorandum Opinion and Order, CC Docket No. 97-137, FCC 97-298; ¶ 141 (rel. Aug. 19, 1997) (“*Ameritech Michigan Section 271 Order*”); *Application of BellSouth Corporation, et al. Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services in South Carolina*, Memorandum Opinion and Order, CC Docket No. 97-208, FCC 97-418, Rcd 539 ¶ 98 (“*BellSouth South Carolina Section 271 Order*”).

²³¹ Schlackman Cross Exh. 1.0, at 22.

²³² Covad/Rhythms Exh. 2.0, Riolo, at 4:5-11.

²³³ Hearing Tr. (Jacobson), at 677:8-15.

²³⁴ Hearing Tr. (Jacobson), at 678:5-679:2; 679:21-22; Ms. Jacobson did state that she “assumed” SBC Ameritech would support those types of xDSL service on line-shared loops, but she could provide no details about such support.

²³⁵ UNE Remand Order, ¶ 429.