
Illinois Commerce Commission On its Own Motion)
)
Investigation Concerning Illinois Bell Telephone) Docket No. 01-0662
Company's Compliance with Section 271 of the)
Telecommunications Act of 1996)

PHASE II REPLY AFFIDAVIT OF NANCY B. WEBER

ON BEHALF OF

ILLINOIS COMMERCE COMMISSION

DATED: March 12, 2003

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I, Nancy B. Weber, being of lawful age and duly sworn upon my oath, do hereby
depose and state as follows:

I. PROFESSIONAL EXPERIENCE AND EDUCATION

1. My name is Nancy B. Weber, and my business address is 160 North LaSalle, Suite C-800, Chicago Illinois, 60601. My professional experience and education are provided in my initial affidavit filed in this proceeding on February 21, 2003.

II. PURPOSE AND SCOPE OF REPLY AFFIDAVIT

2. The purpose of my reply affidavit is to respond to comments filed on March 3, 2003 by SBC Illinois. I also comment upon several of the affidavits filed by competitive local exchange carriers (CLECs) on February 21, 2003.
3. Specifically I discuss six different different items in my reply affidavit: (1) SBC Illinois' Phase 1 compliance with respect to line loss notifications; (2) SBC Illinois' operational deficiencies as reported by BearingPoint and the CLECs; (3) the reliability of SBC Illinois' performance measurement data; (4) whether the data should be relied upon as evidence of compliance with the Section 271 14 point checklist and or to demonstrate future compliance; (5) SBC Illinois' three months of performance measurement results for pre-ordering and ordering performance measurements; and (6) two performance measurement disputes resulting from the last six-month review collaborative (which the parties agreed to resolve in this proceeding).

4. Throughout my reply affidavit, I respond to SBC Illinois affiants Mark Cottrell and James Ehr, and I have reviewed and am familiar with both Mr. Cottrell's and Mr. Ehr's reply affidavits dated March 3, 2003.

III. PHASE I COMPLAINT: LINE LOSS NOTIFICATIONS

5. In my initial affidavit I observed that SBC Illinois had not implemented all of Staff's recommendations with respect to line loss notifications that this Commission found to be reasonable in the Phase I interim order. My conclusions and recommendations in my initial affidavit were as set forth below, and I requested that SBC Illinois respond with its intention to rectify these items in its rebuttal filing:

- (a) SBC Illinois should make performance measure MI 13 a remedied measure of medium weighting.
- (b) All changes to performance measure MI 13 and MI 13.1 should be implemented by SBC Illinois prior to this Commission making a positive Section 271 recommendation to the FCC, since this Commission found that it was reasonable for the company to implement these changes within 45 days of the Phase I Order (which would be March 23, 2003).
- (c) The Commission should require SBC Illinois to keep its cross functional team in place until SBC Illinois provides six months of line loss notifications to CLECs without uncovering any new problems and without any of the old problems re-emerging.

6. In its March 3, 2003 rebuttal filing SBC Illinois responded to each of these three items and I comment below upon the company's responses. In addition, I also raise one additional question regarding the line loss performance measurements for which I request SBC Illinois provide clarification in its surrebuttal testimony.

MI 13 should be a Remedied Performance Measure of Medium Weight

7. In his reply affidavit Mr. Ehr states that when SBC Illinois implements the revised PM MI 13 that it will also change the remedy level from "Low" to "Medium". Ehr reply affidavit, ¶241. While I believe that SBC Illinois has committed to do as requested in the Phase I Order, SBC Illinois should definitively state that it plans to do the following two items in its surrebuttal testimony:

- Upon implementation of the revised performance measure MI 13, scheduled for April 20, 2003 reporting, SBC Illinois will make the weight of MI 13 Tier 1 and Tier 2 remedy levels "Medium";
- SBC Illinois will file revised tariff pages with this Commission for performance measure MI 13 reflecting the "Medium" Tier 1 and Tier 2 assignments, so the effective date of the tariff coincides with the implementation date of the performance measurement changes.

Changes to MI 13 and Implementation of MI 13.1 should occur Prior to Issuance of a Positive Section 271 Recommendation by this Commission

8. SBC Illinois does not plan to implement the changes to performance measure MI 13 and the new implementation of performance measure MI 13.1 until March 2003 data, reported on April 20, 2003.¹ Therefore, Staff and the Commission still lack an accurate way of monitoring SBC Illinois' generation and delivery of line loss notifications. In addition, MI 13 will not be a remedied performance measure until the changes to the measure are implemented². Therefore, I recommend that the Commission verify the changes to the performance measures are indeed in place prior to this Commission providing a positive Section 271 recommendation to the FCC. Once the changes are implemented the performance measures should allow the Commission to effectively monitor the company's performance in delivering line loss notifications to CLECs.

SBC Illinois' Cross Functional Team Should Remain In Place Until The Company Provides Six Months of Line Loss Notifications Without Issue

9. Mr. Cottrell in his reply affidavit states that the company has committed to keep the line loss cross functional team in place until at least Jun 30, 2003. Cottrell Reply Affidavit, ¶30. At that time, Mr. Cottrell states that monitoring will continue but would be transitioned to the various organizations responsible for daily wholesale order processing and that the company's commitment to

¹ February 13, 2003 Tr. at 3798.

² Id.

closely monitor the line loss process would continue and remain a high priority for the company. Id.

10. No further commitments have been made by the company in this proceeding to make me believe line loss notification problems will not occur in the future. Indeed, to the contrary, Mr. Cottrell states that the two line loss notifier delivery incidents it is aware of that occurred in the last three months were traceable to changes being performed at the request of CLECs and that they were rectified shortly after they were brought to the attention of the company. Cottrell Reply Affidavit, ¶28. This statement is troubling for two reasons. First the company places blame for the incident on the part of the CLEC but in reality it was SBC Illinois who caused the errors. Second, the issues were not proactively identified by SBC Illinois. It appears SBC was only aware of the issues after they were brought to its attention by the affected CLEC. Therefore as it turns out, having the cross functional team in place does not provide the Commission with as much reassurance that the errors and issues are being caught and corrected by SBC Illinois when line loss incidents occur as I originally thought. Whether the cross functional team remains in place or monitoring is moved to the organizations responsible for daily wholesale order processing, I believe the monitoring of the line loss notifications by the company will most likely remain the same. Therefore, Staff makes no further recommendation regarding the cross functional team and accepts the plan that SBC Illinois outlined in its rebuttal testimony. Id. ¶30. However, based upon this realization of SBC Illinois' monitoring of line loss notifications it is even more important that

the modified MI 13 and new MI 13.1 line loss performance measurements be implemented before this Commission provides a positive Section 271 recommendation to the FCC. The performance measures will provide this Commission with a means by which to effectively monitor the company's performance in delivering line loss notifications (the current business rule for performance measure MI 13 falls woefully short as I explain in my initial affidavit and can not be relied upon to demonstrate the company's performance in this area. ICC Staff Ex. 31.0, ¶15).

11. Mr. Cottrell in his reply affidavit included schedule MJC-4 that outlines an internal improvement plan it will undertake at the direction of the Michigan PUC. Specifically Mr. Cottrell lists five main provisions of the improvement plan and states that the process improvements in Michigan will directly benefit CLECs in Illinois. Cottrell Reply Affidavit, ¶51. If these improvements will also apply to processes affecting Illinois transactions and Illinois CLECs then it is my recommendation that the commitments of the company with respect to the line loss improvement plan it is planning to implement in Michigan should also be made in Illinois. The company's commitment in Illinois should also include specifics for providing periodic updates to the Commission in meeting its internal line loss improvement plan. SBC Illinois should respond with its agreement to make these commitments in its surrebuttal testimony.

Line Loss Performance Measurement Clarification

12. In a recent FCC filing it was noted that the current implementation of performance measure MI 13 does not include any of the line loss notifications generated due to winback situations³. A winback is when SBC Illinois returns a previous customer that had left and gone to a CLEC to SBC Illinois. It is my understanding that at this point in time the majority of lost CLEC customers are due to the SBC Illinois winback scenario. This deficiency of performance MI 13 was not discussed during the last six-month review nor was it discussed during Phase I of this proceeding. Therefore, I am not clear whether this shortcoming will also be reflected in the modified performance measure MI 13 and the new performance measure MI 13.1 when implemented on April 20, 2003. Accordingly, I request that SBC Illinois confirm in its surrebuttal testimony whether all line loss notifications issued to CLECs will be included in the MI 13 and MI 13.1 line loss performance measurements that SBC Illinois plans to implement on April 20, 2003; including all line loss notices generated due to SBC Illinois winback scenarios.

IV. CHECKLIST ITEM (II): ACCESS TO OSS

A. AREAS OF OSS DEFICIENCY IDENTIFIED BY BEARINGPOINT

13. As I reported in my initial affidavit, there are several aspects of SBC Illinois' OSS that received Not Satisfied evaluations in BearingPoint's Operational Report, and accordingly I recommended that this Commission require SBC

³ FCC Docket No. 03-16, March 4, 2003 AT&T Filing, Joint Reply Declaration of Karen W. Moore, Timothy M. Connolly, and Sharon E. Norris on Behalf of AT&T Corp., ¶13.

Illinois to address these items before providing a positive Section 271 recommendation to the FCC. At a minimum, if this Commission decides to provide conditional approval, I recommended that SBC Illinois be required to address six deficiencies (TVV1-28, TVV4-27, TVV7-14, TVV1-4, TVV1-26, and PPR13-4), as this Commission has already directed the company to address when the Commission approved Staff's January 6, 2003 (Updated on January 13, 2003) Staff Report during the January 14, 2003 Commission bench session. Staff Ex. 31.0, Schedule 31.03. When SBC Illinois believes it has addressed these deficiencies, it should be required to have an independent third party evaluate the company's compliance and certify that the evaluation criteria previously found to be Not Satisfied are in fact Satisfied⁴.

14. Since my initial affidavit was filed on February 21, 2003, BearingPoint determined that the company now satisfies test evaluation criteria TVV1-26 (Ordering - SBC Illinois provides timely mechanized firm order confirmations (FOC) in response to electronically submitted orders⁵). Therefore, my recommendations apply to the remaining five Not Satisfied evaluation criteria.
15. SBC Illinois responded to my recommendations in its March 3, 2003 filing and generally agrees that these items should be re-tested and verified by an independent third party. Cottrell Reply Affidavit, ¶18.
16. For the first three evaluation criteria:

⁴ In its January 14, 2003 directive, the Commission stated that BearingPoint should conduct the verification activities once SBC Illinois addressed the deficiencies noted in the Operational Report. Staff Ex. 32.0, Schedule 32.03.

⁵ Test evaluation criteria TVV1-26 was determined to be satisfied by BearingPoint on February 27, 2003. SBC witness Cottrell in his reply affidavit ¶10 also noted this fact.

TVV1-28: Ordering - Timeliness of Service Order Completion Responses;
TVV4-27: Provisioning - Accuracy of Updates to Customer Service Record;
TVV7-14: Maintenance & Repair - Accuracy of close out coding on end-to-end
trouble Faults;

Mr. Cottrell states that it anticipates the improvement actions for these three deficiencies will be completed no later than May 31, 2003, Id., which is earlier than the timeframe provided in John Hudzik's letter to the Commission on January 31, 2003. Staff Ex. 32.0, Schedule 32.03. Mr. Cottrell goes on to say that the retest should occur using commercial activity and that it expects BearingPoint to be engaged to confirm these items based upon a sampling of actual completed production orders. SBC Illinois states that the only area of disagreement between it and Staff is of the timing of these retests.

17. While it is good to hear that SBC Illinois will complete its intended improvements for these deficiencies earlier than originally expected, I take issue with more than just the timing aspect for the retest of these items. Specifically, I disagree with Mr. Cottrell's statement about the manner in which the retests will be conducted. The independent third party conducting the verification work is the party in the best position to say actually how the retest will be conducted and it may not necessarily be based upon only a sampling of actual completed commercial production orders. This determination has not yet been decided and any retest method should be proposed by the independent third party and approved by Staff before it is conducted. Staff is currently working with BearingPoint to understand the various retest

alternatives that exist for each of these three evaluation criteria and no determination has been made at this time.

18. Secondly, Mr. Cottrell states that SBC Illinois cannot guarantee that an independent third party will complete its verification work by November 2003 as I recommended. While this may be the case, SBC Illinois is asking this Commission to provide a positive Section 271 recommendation to the FCC in advance of the company actually proving that it currently meets all of the requirements of the 14 point checklist and public interest concerns. Nonetheless, if this Commission finds SBC Illinois' application merits its endorsement to the FCC, the company should be required to make appropriate commitments with firm deadlines and face consequences if those commitments cannot be met. Therefore, my recommendation that the company work to address the deficiencies noted in these three evaluation criteria (TVV 1-28, TVV 4-27 and TVV 7-14) and have independent third party verification of these items completed by November 2003 remains unchanged as a commitment for conditional Section 271 approval from this Commission.
19. Further, Mr. Cottrell mentions that OSS compliance and improvement plans are under development in Michigan on issues that will directly benefit Illinois CLECs. Id ¶10. Mr. Cottrell attached draft versions of these compliance and improvement plans to his reply affidavit⁶. From my reading of these plans only two of the three evaluation criteria (TVV 4-27, TVV7-14) at issue are included in the compliance and improvement plans being discussed in Michigan. These

⁶ Mark Cottrell Reply Affidavits, Schedules MJC-1 and MJC-3.

plans, as Mr. Cottrell states, are only draft plans and updated plans based upon input from other parties in Michigan are to be filed on March 13, 2003 (one day after Staff's last opportunity to file testimony in this proceeding). While it is good that SBC plans to make the process improvements noted in the yet to be finalized Michigan compliance and improvement plans and that they may also benefit Illinois CLECs, there has been no discussion with Illinois parties or Staff regarding the said Michigan compliance and improvement plans. Attaching draft Michigan plans to a rebuttal filing in this proceeding doesn't provide ample opportunity for Staff or Illinois CLECs to discuss, analyze and comment on such plans. In addition, the company has made no commitments to Illinois with respect to the Michigan improvement and compliance plans, therefore, the actions being taken by the company in Michigan do not provide any guarantee they will be applied in Illinois and therefore Staff does not consider these actions to be support of the company's Section 271 proceeding in Illinois.

20. Mr. Cottrell states the remaining two Not Satisfied operational criteria:

TVV1-4: Ordering - SBC Illinois provides required order functionality;

PPR13-4: Billing - Bill production process includes reasonable checks to catch errors not susceptible to pre-determine balancing procedures;

continues to be tested and successful completion should be achieved before Phase II of this proceeding closes. Cottrell Reply Affidavit, ¶11. Mr. Cottrell further states that if for some reason these test evaluation criteria are not complete before the end of Phase II then SBC Illinois will commit to address these issues with BearingPoint until the issues are resolved to the

Commission's satisfaction. Id. Therefore, the recommendation I provided in my initial affidavit with respect to these two evaluation criteria remains unchanged and is as follows. If for any reason these evaluation criteria have not been determined to be "Satisfied" prior to the conclusion of Phase II, then I recommend that any positive Section 271 recommendation by this Commission be contingent upon a commitment from SBC Illinois that it will address these deficiencies and that it will submit verification by an independent third party that these deficiencies have been addressed by August 2003. The August 2003 date should be possible given the fact that SBC believes successful completion should be achieved before Phase II of this proceeding closes and if for reason this is not the case SBC should still have ample opportunity to meet this commitment, including third party verification by August 2003.

B. OTHER OPERATIONAL CONCERNS OF THE CLECS

21. As I noted in my initial affidavit, if BearingPoint's test did not reveal a deficiency with SBC Illinois' OSS it does not mean that the OSS is free of problems, deficiencies, or other impediments to proper functioning. BearingPoint's review of each evaluation criteria was conducted during defined time periods and the scope of BearingPoint's evaluation did not cover all aspects of SBC Illinois' OSS or all business processes that support its OSS.⁷

⁷ For example as BearingPoint responded during the February 5, 2003 hearing it did not perform any volume or functional testing on the LSOG5 version of the Company's EDI or CORBA application to application interfaces nor did it perform any actual tests of the Company's bill reconciliation process (BearingPoint response to Staff hearing questions BE/Staff 7, 8).

22. The CLECs initial affidavits raise many issues that deserve the full consideration of this Commission. Due to the limited amount of time in this proceeding to file reply affidavits, I, however, have only commented upon a few of the CLECs concerns. The other issues raised by parties that I do not comment upon should be deemed no less significant or important.
23. Almost every CLEC in this proceeding who filed comments raised concerns about SBC Illinois' billing systems and processes: AT&T, Forte Communications, MCLeodUSA, TDS MetroCom, and WorldCom. Both the Department of Justice (DOJ) and the FCC in previous Section 271 proceedings have recognized that proper billing is essential to competition⁸. The DOJ in its Michigan Section 271 evaluation stated that the Michigan Commission should assure itself that the measures SBC is taking will resolve SBC's remaining billing problems.
24. SBC Illinois did respond to many of the CLECs concerns in its reply affidavits⁹. Also, there is no denying that SBC Illinois' billing systems are complex nor that they handle a large volume of commercial billing activities as SBC states. *Id.* ¶4. SBC said that it completed approximately 220,000 rate table updates and that more than 150,000 of these rate table updates were to support CLEC billing. *Id.* This fact alone shows the importance of rate updates and indicates that the volume of records that need to be changed or loaded in order to have

⁸ Evaluation of the U.S. Department of Justice, In re: *Application by Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in Pennsylvania*, FCC. CC Docket No. 01-0138 (July 26, 2001) at 11. FCC Pennsylvania Order ¶23

⁹ Phase II Rebuttal Affidavit of Mark J. Cottrell and Denise Kagan Regarding Billing on Behalf of SBC Illinois. Phase II SBC Billing Rebuttal Affidavit.

rates appear correctly on CLEC bills is quite great. SBC Illinois must be able to effectively manage these rate table updates else it is apparent that the bills will not be correct. The comments of the CLECs appear to contradict the statements of the company that rates are correctly recorded on CLEC bills. More discussion on this issue should occur.

25. Also, contrary to SBC Illinois' statements that the billing systems, processes and procedures were the subject of a comprehensive independent third-party review that SBC Illinois passed with flying colors, Id ¶15, I have to respectfully disagree. The BearingPoint review had limited coverage to the array of billing functions SBC Illinois provides¹⁰. In addition, there were no bill reconciliation or dispute functions tested other than having the specific procedures reviewed¹¹ and for those billing functions that were tested it took more than one full year and multiple retests for SBC Illinois to pass the BearingPoint billing tests conducted. Also, during the test period the company did not apply all rate changes, etc. that usually occur on an account to the test CLEC bills and therefore the test did not reflect the day-to-day reality of the business¹². Moreover, SBC's statement that BearingPoint confirmed that its wholesale bills are clear and auditable is incorrect. Id. ¶11. This was not an actual statement made by BearingPoint but is an interpretation by SBC based upon the fact that BearingPoint said the bills conform to the detail and format of the BOS or

¹⁰ Tr. at 2355-2356. "BearingPoint reviewed the aspects of SBC billing processes as specified in the master test plan with the exception of the following: the timeliness of daily usage feed (DUF) records return process, the timeliness of the DUF returned status mechanism, the prioritization of calls for billing support, the completeness and accuracy of debit and credit adjustments, the completeness and accuracy of late charges."

¹¹ Tr. at 2352-2353.

¹² Tr. at 2351-2352.

industry specifications. *Id.* These two statements are very different from one another. Just because a bill conforms to the detail and format of the BOS or industry specifications does not mean that a bill is clear and auditable. Industry specifications are guidelines and not exact standards and therefore do not comport directly to audit specifications. If SBC believed its bills were completely auditable, it would not have filed an improvement plan for bill auditability with the Michigan Commission in its 271 proceeding there. In addition, SBC Illinois indicates it will make modifications to the Bill Auditability improvement plan filed in Michigan on March 13, 2003 and that the improvement plan will apply equally to SBC Illinois' operations. *Id.* ¶13. However, nowhere within the reply affidavits of SBC Illinois has it made a specific commitment to carry out these improvements plans in Illinois or to provide periodic updates to this Commission on its plan. The company also has not sought input from Staff or all Illinois CLECs on this billing auditability issue.

26. SBC Illinois also indicates that many of the claims raised by CLECs describe incidents that are either outdated, involve small disputed amounts, or stem from one time system changes and, thus, have no competitive impact on CLECs. *Id.* ¶6. CLECs, on the other hand, state that the incidents are occurring repeatedly, the amount of time it takes SBC to correct the issues is

too long¹³, and they are impacting their ability to provide service to their customers.

27. This Commission needs to be sure that the billing concerns of the CLECs are reconciled before granting a positive Section 271 recommendation to the FCC. If this Commission decides to grant approval without ensuring these deficiencies or areas of concern are addressed, then SBC Illinois should provide specific commitments to improve its billing deficiencies as a condition of Section 271 approval.

V. SBC ILLINOIS' PERFORMANCE MEASUREMENT DATA IS NOT ACCURATE NOR RELIABLE AND SHOULD NOT BE USED AS EVIDENCE OF COMPLIANCE

28. My initial affidavit provided evidence for my position that SBC Illinois' performance measurement data is neither accurate nor reliable and should not be used as evidence of compliance by the company with respect to the 14-point Section 271 competitive checklist. Specifically, I supported this conclusion with three main items (i) the BearingPoint December 20, 2003 Performance Metric Report, (ii) the Ernst & Young Performance Measurement Examination, and (iii) SBC Illinois' additional but insufficient assurances of reliability. Below, I respond to the reply comments of Mr. Ehr with regard to these three areas and find that my original recommendation does not change based upon SBC's responses.

¹³ Initial Phase II Comments of McLeodUSA Telecommunications Service, Inc. and TDS Metrocom, LLC (Confidential) at 24-26., Initial Phase II Affidavit of Sarah DeYoung and Walter W. Willard on Behalf of AT&T Communication of Illinois, INC., TCG Chicago, TCG Illinois and TCG St. Louis. AT&T Ex. 3.0 (P) ¶¶44-49., Phase 2 Initial Affidavit of Sherry Lichtenberg on Behalf of Worldcom, Inc. WorldCom Ex. 3.3 ¶¶7-16. Initial Phase II Affidavit of Forte Communications, Inc. ¶5.

A. BEARINGPOINT DECEMBER 20, 2003 PERFORMANCE MEASUREMENT REPORT

29. As SBC Illinois argues in this proceeding and as the Michigan Commission in its Section 271 reply comments to the FCC states, the company’s ongoing activity related to the verification of SBC’s performance measurement need not be completed prior to Section 271 approval, as the FCC discussed in its Georgia 271 order¹⁴. The situation, which occurred in the Georgia, however, is different to the situation in the Ameritech region. In Georgia, several audits of Bell South’s performance measurements had already been completed and the audit that was occurring during the course of the evaluation was nearly complete. In the Ameritech region (especially in Illinois), a full audit has not been completed and the audit being conducted by BearingPoint is not nearly complete. Even if I point to the March 7, 2003 BearingPoint performance measurement test progress report produced for the Michigan Commission (which is the most recently published performance metrics results in the Ameritech region which SBC believes is also a good indication of the progress made in Illinois¹⁵)

BearingPoint Michigan Performance Metrics Evaluation Results (March 7, 2003)

Test Family	Number of Evaluation Criteria				
	Satisfied	Not Satisfied	Indeterminate	Not Applicable	Total
Performance Metrics	83	93	94	32	302

¹⁴ James D. Her Rebuttal Affidavit, ¶118. FCC WC Docket No. 03-16, Reply Comments of the Michigan Public Service Commission at 6.

¹⁵ James D. Ehr Rebuttal Affidavit, ¶119.

Reporting (All 5 tests)					
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it shows that the company has only Satisfied 31% of the evaluation criterion, has been proven to Not Satisfy 34% of the criterion, and is still being evaluated for the remaining 35% of the evaluation criteria. These results by no means indicate the status of an evaluation that is nearly complete and is, therefore, not comparable to the situation in Georgia referred to above.

30. Mr. Ehr in his reply affidavit says that evaluation criteria determined to be “Not Satisfied” is not an affirmative conclusion that there is a problem but rather that the test is not complete. Ehr Reply Affidavit, ¶121. This is not the case. If BearingPoint has marked an evaluation criteria as Not Satisfied then it has determined a problem(s) exists and it is an affirmative conclusion. Mr. Ehr is correct in his second statement that the test is not complete. Due to the “test until you pass” nature of the review, work to verify the satisfaction of the criterion continues until a Satisfied result is achieved or until Staff or the Commission indicates no further testing should occur. Evaluation criteria with indeterminate results, on the other hand, are those for which work is continuing and at the point in time the indeterminate result was assigned there was not sufficient information for BearingPoint to indicate if the evaluation criteria was Satisfied or Not Satisfied.

31. Mr. Ehr in his reply affidavit indicates that the number of performance measurement restatements that SBC Illinois has made over the past year does not lend support or evidence that control problems exist. Id. ¶140-142. He

supports his position with a quote from John Eringis of BearingPoint taken during the February 5, 2003 hearings in this proceeding. I agree with Mr. Eringis' statement that restatements during the current period reflect the company's corrections of problems found by either BearingPoint or Ernst & Young. Mr. Eringis, however, states further that in general, a certain level of restatements may be suggestive of existing control problems. Therefore, restatements that occurred prior to the BearingPoint and Ernst & Young reviews and those that may appear in the future are suggestive that problems in controls may exist and should be investigated further. Moving forward, once the audits are complete, if a large number of restatements are seen it may mean that control problems within SBC's performance measurement systems exist and should be investigated further by the Commission.

32. Mr. Ehr describes various open observations and exceptions to attempt to explain that they have already been addressed, or are not relevant or substantial enough to limit the ability of parties to rely upon SBC's performance measurement data. He also states that when an observation or exception is "Closed" that it is "Satisfied" and there is no longer an issue. *Id.* ¶169. These statements are inaccurate. BearingPoint also "closes" an observation or exception when there is nothing further for them to do (for example, because SBC refuses to fix a problem, or because the fix will not be implemented during the course of the test or for the data period in question). Therefore, a closed observation or exception does not always indicate that it was found to be problem free.

33. To conclude, while I believe progress has been made with respect to the performance measurement review since the BearingPoint report was released on December 20, 2003 as SBC has argued, I disagree with SBC's attempts to explain away the issues and believe that the cumulative effect of all of the remaining deficiencies are significant¹⁶. At this time SBC is not close to completion of the BearingPoint performance metrics review and therefore the assertions of the company with respect to reliability and accuracy of its performance measurement data are unsubstantiated. Therefore at this time, I cannot conclude that the performance measurement data is accurate or reliable given the audit perspective provided by BearingPoint.
34. In my initial affidavit I stated that the performance measurement review was scheduled to be complete in June 2003 but that based upon my involvement in the project and the repeated delays I've witnessed that it was unlikely the review would be successfully completed within the June 2003 timeframe. Initial Affidavit, ¶79. In a project management discussion last week with both SBC Illinois and BearingPoint present, I was told by SBC Illinois that the earliest possible date the performance measurement review will be successfully completed is now July 31, 2003.

¹⁶ Open performance measurement observations and exceptions applicable to Illinois as of the March 4, 2003 observation and exceptions call include 13 Exceptions: 41, 111, 134, 157, 174, 175, 176, 179, 181, 183, 186, 187, 188; and 71 Observations: 429, 461, 488, 538, 584, 587, 613, 619, 623, 624, 625, 627, 631, 633, 637, 638, 639, 643, 645, 646, 661, 664, 676, 679, 684, 686, 687, 688, 697, 709, 710, 717, 725, 729, 732, 737, 738, 739, 747, 748, 749, 750, 751, 755, 766, 767, 768, 769, 771, 778, 785, 786, 787, 791, 792, 793, 796, 797, 798, 800, 802, 803, 805, 806, 807, 809, 810, 811, 812, 813, 814. The specific exception and observation reports can be found on www.osstesting.com.

35. My recommendation remains that this Commission should not provide positive Section 271 approval until SBC Illinois can demonstrate its performance measurement data is reported accurately and reliably on a consistent basis and the BearingPoint review is substantially complete. Nonetheless, if this Commission finds that SBC has met its Section 271 requirements prior to successful completion of the SBC's performance measurement review by BearingPoint, I recommend that any positive endorsement by the Commission be conditioned upon a commitment from SBC Illinois that it will address all deficiencies raised by BearingPoint in the metrics review and commit to successfully conclude the BearingPoint metrics review no later than November 2003. If SBC Illinois does not believe the November 2003 is achievable then it should provide a date it will commit to complete the BearingPoint performance metrics review in its surrebuttal filing.

B. ERNST & YOUNG PERFORMANCE MEASUREMENT EXAMINATION

36. In my initial affidavit I looked at the various ways E&Y classified its exceptions of Material Non-compliance in its Compliance Evaluation by the statements of SBC Illinois regarding the action taken or to be taken by the company for the exceptions in each category. Following are the five classification categories;

- I. Exceptions Corrected and March, April and May 2002 Data was Restated
- II. Exceptions Corrected but March, April and May 2002 Results were Not Restated
- III. Exceptions Corrected but Not Yet Reported or Restated
- IV. Exceptions in which No Corrective Action is Planned by the Company
- V. Exceptions in the Process of being Corrected

37. I commented that E&Y tested the accuracy of the corrective actions implemented by the company for the restated March, April and May 2002 data but that SBC Illinois has provided no assurance that the data months beyond May 2002 do not contain the data inaccuracies raised by the category I exceptions. February 12, 2003 Tr. at 3385. Mr. Ehr in his reply affidavit says that my statement suggests that SBC Illinois after going to the time and effort to modify systems and procedures would go to the effort of changing back to the old methods. Ehr Reply Affidavit, ¶¶95-96. This mischaracterizes my testimony. The company's processes and controls used to implement and manage changes to its performance measurement systems have not been proven to be effective in preventing new problems from being introduced as changes are made to the performance measure reporting system¹⁷. Therefore, I questioned whether or not data months beyond May 2002 are in fact reliable. In addition, BearingPoint's current review of the July and August 2002 data months has found data reporting inaccuracies for the same performance measures E&Y reported under Category I and Category II Exceptions¹⁸. Therefore, SBC has not demonstrated or proven that my concerns are without merit.

38. In my original affidavit I commented that E&Y identified 15 Category V Exceptions that affected 44 different performance measures or approximately 29% of the performance measures for which SBC Illinois had not yet

¹⁷ ICC Staff Ex. 31, ¶108.

¹⁸ Performance measures 7, 14, 13, 13.1 are named in BearingPoint observation reports 429, 461 and 488. www.osstesting.com. These are just a few of the performance measurements that overlap.

implemented any corrective action. Ehr Reply Affidavit, ¶¶97. Mr. Ehr states that my determination was correct with respect to the Category V exceptions but doesn't address his analysis that showed the exceptions do not affect overall checklist compliance. Ehr Reply Affidavit, ¶¶99. I disagree. In Mr. Ehr's initial affidavit he states that there will be no restatement of prior months for 12 of the 15 exceptions because the company does not expect the changes to have a material negative impact on previously reported results. Ehr Initial Affidavit, ¶¶230. Given the Material Non-compliance definition provided by E&Y for determining an exception, ICC Staff Ex. 31.0, ¶¶89, there is no way for Staff to know for sure that the Category V exceptions do not affect checklist compliance. In addition Mr. Ehr only stated an assertion that the company does not expect the restatements will materially negatively affect the performance measures. However, he does not provide a guarantee or verification of this fact in actuality¹⁹. In addition, the majority of performance measures affected by the Category V exceptions are not diagnostic performance measures. Therefore, the performance measures are part of Staff's analysis of SBC Illinois' checklist compliance.

39. Also, in response to the Category V Exceptions Mr. Ehr in his reply affidavit states that 8 of the 15 exceptions were addressed with the February 20th reporting of January 2003 results. Id. Mr. Ehr, however, makes no statement as to whether or not prior data months affected (including the three months of performance data being evaluated in this proceeding) were restated. Nor does

¹⁹ E&Y has indicated that an exception is produced when the results are altered by 5% (up or down) or the party or benchmark pass/fail attainment is changed. February 12, 2003 hearing Tr. at 3369.

the company provide any verification or documentation from Ernst & Young in support of its assertion. For the remaining 7 exceptions not yet implemented by SBC (which affect 13 different performance measures), SBC Illinois asserts that all remaining exceptions will be fixed with the February 2003 results reported on March 20, 2003. Again, SBC fails to make an assertion or statement as to whether or not data months prior to February 2003 data that are affected (including the three months of performance data being evaluation in this proceeding) will be restated.

40. The company has represented that it has addressed the majority of exceptions reported by Ernst & Young for the March, April and May 2003 time period and it appears E&Y performed limited validation for most of these corrections. However, based upon the reply affidavits of SBC Illinois there is no evidence that 8 of 15 exceptions in Category V do not remain in the performance measurement data prior to January 2003 and it is clear that there are 7 exceptions that still remain in the performance measurement data posted today.²⁰ These failings undermine the ability of any party to properly evaluate SBC Illinois' performance measurement data submitted in this proceeding for the affected performance measures.
41. The second area E&Y reported upon was its evaluation of the SBC Illinois performance measurement system controls. While the company's controls may have been improved since the E&Y findings were communicated, the efficacy and adequacy of such improvements are not clear. I am not

²⁰ Ehr Reply Affidavit, ¶113.

convinced, nor should this Commission be convinced, that SBC Illinois has addressed its performance measurement reporting control deficiencies, until SBC Illinois can consistently report its performance measures with accuracy and integrity on a monthly basis and an independent third party provides verification of this fact. During the hearings E&Y stated that it did not do any control testing other than on the corrective actions implemented by the company. February 12, 2003 Tr. at 3361. In addition, restatements to correct errors six months after posting data²¹ should not be deemed acceptable. The company should restate results if they find inaccuracies, as the company has done. The frequency²² of SBC Illinois' data restatements and the timing of the restatements, well after initial posting of the performance measurement data, point to the fact that inherent problems with SBC Illinois' process controls within its performance metrics organization have existed and may continue to exist.

C. SBC ILLINOIS ADDITIONAL ASSURANCES OF RELIABILITY ARE NOT SUFFICIENT

42. Mr. Ehr's reply affidavit continues to assert that on-going supervision by the Commission, data reconciliation, access to raw data and SBC Illinois' data controls should provide additional assurances of reliability of SBC Illinois performance measurement results. Ehr Reply Affidavit, ¶186. Mr. Ehr does not provide any additional information regarding these points.

²¹ Appendix D of BearingPoint's February 8, 2003 Written Responses to the February 5, 2003 Hearing.

²² Id.

43. Therefore, these three assurances of reliability, as noted in my initial affidavit, ¶1111, does not inspire sufficient confidence that the errors and exceptions found by BearingPoint and E&Y regarding SBC Illinois performance measurement systems and reporting can be overlooked, or that the three months of performance measurement data submitted by SBC Illinois in this proceeding are accurate or reliable at this time.

VI. PUBLIC INTEREST: SBC ILLINOIS' PERFORMANCE MEASUREMENT DATA CAN'T BE RELIED UPON TO DEMONSTRATE FUTURE COMPLIANCE

44. As the DOJ stated in its comments to the FCC in the Michigan 271 proceeding, SBC's performance measurement data plays an important role both before and after Section 271 approval in ensuring that local markets are and remain open to competition, and that BOCs do not discriminate against local competitors²³. The record filed in the Michigan 271 proceeding revealed that the Michigan Commission could not conclude that SBC's performance metrics reporting process has fully achieved a level of stability and dependability which will be required in the post Section 271 environment to permit continued monitoring and assurances against discriminatory behavior²⁴. This statement by the Michigan Commission and the other interveners in the Michigan proceeding regarding SBC's performance measurement data is one factor that precluded

²³ FCC Docket No. 03-16, Application by SBC Communications Inc., Michigan Bell Telephone Company, and Southwestern Bell Communications Services, Inc. for Provision of In-Region, InterLATA Services in Michigan. Evaluation of the United States Department of Justice, February 26, 2003 at 15-16. (DOJ Michigan Evaluation).

²⁴ Michigan Public Service Commission Case No. U-12320, Opinion and Order at 22.

the DOJ from supporting the Michigan application. DOJ Michigan Evaluation at 16-17.

45. I would like to reiterate that the facts presented in my initial affidavit and reply affidavit regarding SBC Illinois' performance measurement data demonstrate that the data inputs to be used in any anti-backsliding plan, are unreliable at this point in time. Therefore, until SBC Illinois can prove that its performance measurement data is accurate and reliable, the data should not be used by this Commission with confidence to demonstrate or ensure future Section 271 compliance by the company.

VII. SBC ILLINOIS' PERFORMANCE MEASUREMENT RESULTS (3 MONTHS)

46. Given the facts provided in my initial affidavit with respect to the accuracy and reliability problems with SBC Illinois' performance measurement data it reports, it is still my opinion that both Staff and SBC Illinois can not perform a valid assessment of the three months of performance measurement data (September, October and November 2002) SBC Illinois submitted as evidence of its compliance with the Section 271 checklist in this proceeding. Notwithstanding this, for reasons explained in Staff witness McClerren's initial testimony, Staff provides its assessment of SBC Illinois performance measurement data. In my reply affidavit I respond to Mr. Ehr's reply comments with respect to the pre-ordering and ordering performance measurement data analysis.

A. PRE-ORDERING PERFORMANCE MEASUREMENT RESULTS

47. I have no reply comments with respect to the pre-ordering performance measurements.

B. ORDERING PERFORMANCE MEASUREMENT RESULTS

48. In my initial affidavit, I provided analysis for thirteen non-diagnostic ordering performance measures applicable to checklist (ii), I found SBC Illinois only passed 4 of the 13 ordering performance measures (PM 7, 10, 11.2, 12) and failed the remaining 9 ordering performance measures (5, 7.1, 10.1, 10.2, 10.3, 10.4, 11.1, 13, MI 13).

49. Mr. Ehr in his reply affidavit provides additional information or responses for five of the ordering performance measures, PM 5, 7.1, 11.1, 13, and MI 13, that I indicated in my initial affidavit the company failed to perform at an appropriate service level. Mr. Ehr did not to reply at all to my comments raised about performance measures 10.1, 10.2, 10.3 or 10.4. Below I provide additional thoughts on all nine of the ordering performance measures for which SBC Illinois fails to provide service to CLECs at the minimum level expected.

50. Mr. Ehr in his reply affidavit provides a response to the concerns I raised in my initial affidavit regarding PM 5, percent firm order confirmations (FOCs) returned within "X" hours. Ehr states that the four sub-measures for PM 5 that I identified as "misses", represent in total only 0.04% (191) of the 503,632 FOCs reported for September through November 2002. Ehr Reply Affidavit, ¶18. Mr. Ehr is correct in that the four performance measures the company missed do

not nearly have the volume as the remaining sub-measures. It is still my opinion that the company should address these deficiencies. However, I no longer believe that they must be addressed prior to this Commission providing a positive Section 271 recommendation to the FCC given the minimal number of FOCs affected given the data reported.

51. For PM 7.1, percent of mechanized service order completions (SOCs) returned within one day of work completion, Mr. Ehr. points solely to the fact that the six month review collaborative agreed to decrease the benchmark from 99% to 97% and that if the new benchmark is applied then the company would have met the standard for three of the four sub-measures for PM 7.1. Ehr Reply Affidavit, ¶25. Regardless of any future change to the performance measure, which actually will not be implemented by the company until March 2003, my analysis is conducted based upon the business rules filed by the company in this proceeding. These business rules state that the company is to meet a 99% benchmark and clearly from the data presented in the table below (see the bold entries) one can see the company has consistently failed to meet the standard for all four disaggregations.

	Sept 2002	Oct. 2002	Nov. 2002	Dec. 2002	Jan. 2003
LNP	53.57 %	46.09 %	69.84 %	72.46 %	92.01 %
Resale	97.27 %	98.89 %	98.83 %	95.27 %	97.28 %
UNE	99.24 %	96.65 %	99.08 %	97.42 %	98.17 %
Combinations	98.74 %	98.65 %	97.04 %	99.59 %	98.83 %

52. I would also like to reiterate that BearingPoint in its December 20, 2003 Report found that the company failed in its performance of PM 7.1 (evaluation criteria

TVV1-28), with respect to the Test CLEC data and continues to fail as of today. It is my understanding that SBC Illinois is currently working to correct these deficiencies but, as one can see from the most available data on this matter (i.e., December 2002, January 2003), the company has not satisfied this deficiency.

53. For PM 11.1, mean time to return manual rejects that are received via an electronic interface, Mr. Ehr states that SBC Illinois' performance was outside the five hour benchmark during two of the three study period months but that the difference was not material, exceeding the benchmark in September and November by .48 and .04 respectively. Ehr Reply Affidavit, ¶¶21. Mr. Ehr goes on to say that the issue has been addressed in the six-month review collaborative. In that collaborative the parties agreed: to revise the benchmarks to reflect the industry's expectation that a reject or a FOC be delivered within the same specified interval; the mean time to return manual rejection notices would be consolidated under PM 11; and SBC Illinois would have met the newly agreed-upon benchmarks. *Id.* However, the newly agreed upon performance measure for PM 11 removed the benchmark all together. Therefore, the company would have "met" the new benchmark if applied since in reality there is no benchmark to speak of. Just because the new definition of the performance measure does not specify a benchmark, it does not mean that it is acceptable for SBC Illinois' performance in this area to degrade. SBC Illinois' performance for PM 11.1 reported in December 2002 and January 2003 (the two months of performance measure data posted since the study period)

was 5.47 hours and 5.74 hours respectively, which are outside the current 5 hour benchmark. Therefore, the company's performance for PM 11.1 is not within benchmark limits for four of the last five data months. Simply because the six month review collaborative agreed to remove the benchmark for this measurement, starting with data to be reported on May 20, 2003, the company should not allow its performance with respect to the return of manual rejects received electronically to fall and currently the company is not meeting the defined performance standards.

54. As stated in my original affidavit PM 10.1, 10.2 and 10.3 all report on percent of reject messages returned within X hours from receipt of the order. 10.1 specifically captures mechanized rejects, PM 10.2 captures manual rejects received electronically and 10.3 reports manual rejects received manually. The company has failed to meet the 97% benchmark consistently for PM 10.2 and 10.3 and has problems off and on with 10.1. I continue to believe that the company should be required to address these deficiencies, as CLECs require timely notification of errors on their orders in order to be able to provide efficient and timely service to their customers.
55. PM 10.4 is a parity measure that reports the percent of orders given jeopardy notices and has 10 sub-measures. The company has repeatedly failed to meet the parity standard for the majority of the 10 sub-measures of PM 10.4.
56. For PM 13, order process percent flow through, Mr. Ehr states that the measure is a classic example of a measure that must be viewed in the context of related measures. Ehr Reply Affidavit, ¶26. I agree with this and therefore

believe it is important to look at the diagnostic results for performance measure 13.1, Total Order Process Percent Flow Through along with the results for PM 13.

57. First, if we look closely at the results for PM 13, which has six sub-measures (with data) that are disaggregated by product type, the company failed to achieve the 2 out of 3 month standard for 4 of the 6 disaggregations. In a study of the data for December 2002 and January 2003 the company continued to fail to meet the standards for 4 out the 6 sub-measures (UNE-P, Resale, LSNP and UNE-Loops). Mr. Ehr further states in his reply affidavit that the parity standard, which is applied for all but one of the disaggregations, requires comparison of dissimilar processes and therefore the “apples-to-oranges” comparison means one should take the parity results with a grain of salt. Ehr Reply Affidavit, ¶27. If this was the case why didn’t the company in the latest six-month review session suggest to do away with the parity comparison and ask that benchmark standards be applied. Absent a change in the business rules the company is required to meet the parity requirement and benchmark requirements established and they clearly are not meeting these for PM 13.
58. If we look the company’s performance reported in PM 13.1, which is the companion performance measure to PM 13, as Mr. Ehr suggested be done, the company has decreased its total order process percent flow through for three of the six disaggregations over the past year. This means that the company on a whole is flowing through fewer orders for UNE Loops, Resale and LNP now than it did 12 months ago. In addition the total percent flow through statistics

for Resale are in the low 60% range, UNE loop in the high 60% range, LNP in the 30% range and LSNP floating between 15-30%. CPO is doing much better at 80% and line sharing is at the high 80% mark. The total percent flow through rates the company is currently reporting are not impressive, therefore it is all that more important for the product categories the company communicates to the CLECs that are supposed to flow through actually do. Regardless of Mr. Ehr's remarks excusing the company's performance for PM 13 my review of its companion measure PM 13.1 indicates that my original conclusion that the company fails to perform with respect to PM 13 remains unchanged.

59. It appears that the company's performance with respect to performance measure MI 13, percent mechanized line loss notifications returned within one day of work completion, has improved in the data reported for December 2002 and January 2003. However, as I stated in my initial affidavit, the measure as currently defined does not accurately reflect the company's performance in delivering line loss notices to CLECs, ICC Staff Ex. 31.0 ¶15, therefore this data can not be proof of the company's commitment to deliver accurate or timely line loss notices. In addition, the company has failed to include in performance measure MI 13 any line loss notices generated in winback situations (when SBC takes a customer that had previously left and gone to another local carrier back as a customer)²⁵. It is my understanding that the majority of CLEC losses are due to winback situations by SBC and SBC does

²⁵ FCC Docket No. 03-16. AT&T Filing, Joint Reply Declaration of Karen W. Moore, Timothy M. Connolly, and Sharon E. Norris on Behalf of AT&T Corp., March 4, 2003.

not currently report these line loss notices as part of MI 13. Therefore, I repeat that data reported for MI 13 by the company cannot be used to support its position that the company is sending timely or accurate line loss notices. Corrections to MI 13 are not planned to be implemented by the company until April 20, 2003.

Summary of Performance Measure Results (3 Months) Analysis

60. I have modified conclusions reached in my initial affidavit based upon comments filed by SBC Illinois on March 3, 2003. For the 17 pre-order and order performance measures applicable to checklist (ii), according to the statistical guidelines and additional analysis I provide in my initial and reply affidavits, the company passed 9 of the performance measures (PM 1.1, 1.2, 2, 4, 5, 7, 10, 11.2 and 12) and failed the remaining 8 performance measures all of which are ordering performance measures (PM 7.1, 10.1, 10.2, 10.3, 10.4, 11.1, 13, MI 13). It is my opinion that the three months of performance measurement data provided by the company in support of checklist (ii) does not demonstrate that, with respect to the ordering performance measures, SBC Illinois is providing non-discriminatory service to the CLECS. SBC Illinois should be required to correct the deficiencies associated with the ordering performance measures prior to receiving a positive Section 271 recommendation from this Commission. If the Commission elects to provide a positive recommendation to the FCC, regardless of SBC Illinois' failure to meet key performance measures related to checklist (ii) then the Commission should (a) require the company to identify the steps it will take to remedy its current

unsatisfactory performance with respect to the ordering performance measurements and (b) require the company to demonstrate substantially improved performance by November 2002 or face additional penalties.

VIII. PERFORMANCE MEASURE SIX-MONTH COLLABORATIVE DISPUTES

61. On February 27, 2003 WorldCom, AT&T and SBC Illinois submitted a letter by which it agreed to resolve two disputed performance measurement issues resulting from the most recent six-month collaborative in this proceeding. The two items in dispute are whether or not remedies should apply to performance measures MI 12, average time to clear services order and MI 13.1, average delay days for mechanized line loss notifications.
62. Mr. Ehr states in his reply affidavit that the Michigan Public Service Commission (MPSC) has already ruled on these disputes and established remedies for MI 13.1 and did not establish remedies for MI 12. Mr. Ehr reply affidavit ¶243. He goes on to say that it is the position of the company that the performance measures if remedied would be duplicative to other measures already in existence (MI 13 and 17 respectively) and that the parties in the six-month review have agreed not to apply double remedies. *Id.*
63. Generally, I agree with SBC Illinois' position that the parties in the six-month collaborative have agreed not to apply multiple remedies to the same OSS processes. However, the specific question that needs to be determined is whether or not having remedies applied to the two performance measures in dispute would constitute double remedies on the same OSS processes.

64. It is my opinion that if remedies were applied to performance measure MI 13.1 that the payments would be duplicative to those associated with performance measure MI 13. Both MI 13 and MI 13.1 report on aspects of SBC Illinois' timeliness in returning line loss notifications. If a line loss notice is late it will be counted as a miss in both of these performance measures. Therefore, in response to WorldCom's request to remedy performance measure MI 13.1, I can only support the request if all parties agreed to remove remedies from MI 13. Alternatively, if WorldCom or any other CLEC would like to negotiate individually with SBC Illinois to have remedies applied to its own company performance for MI 13.1 instead of MI 13 Staff could also support this alternative.
65. Mr. Ehr in his reply affidavit states that performance measure MI 12 is a sub-process of the billing completion process measured in PM 17 and therefore remedies on MI 12 would be duplicative to those already being applied to performance measure 17. *Id.* ¶245. Before Staff can state its opinion on this disputed issue, SBC Illinois must answer the following question. The business rule definition for performance measure 17 states that it measures the "percent of on time service orders that post to billing within a designated interval". Does this mean that only those service orders that are "on time" are included in measurement 17? If the answer to the question were, yes, then having remedies applied to MI 12 would not be duplicative of all records evaluated in measurement 17. However, if the answer is, No, and SBC Illinois includes all service orders posted to billing within the reporting timeframe, regardless of

whether the service orders were on time or not, then I would agree that remedies applied to performance measure MI 12 would be duplicative. I ask that SBC Illinois clarify this item in its surrebuttal filing scheduled for March 17.

66. In summary, I recommend that the request to have remedies assigned to MI 13.1 be denied unless all collaborative parties agree to remove remedies from MI 13. With respect to MI 12, my position on this issue depends upon SBC Illinois clarifying whether or not the billing completeness performance measure, PM 17, includes all service orders or only those that are considered to be “on time”. If all service orders are included then I recommend the request to have remedies assigned to MI 12 be denied. If all service orders are not included in the billing completeness measure then request deserves further consideration. All responses to these recommendations should be made in the surrebuttal round.

IX. CONCLUSIONS & RECOMMENDATIONS

67. Following are my conclusions and recommendations with respect to SBC Illinois’ Phase I line loss notification compliance, operational support system deficiencies with respect to checklist (ii), the reliability and accuracy of SBC Illinois’ performance measurement data, SBC Illinois’ 3 months of performance measurement results submitted for its pre-order and order performance measurements and finally upon the two disputes resulting from the latest six month review collaborative.

Phase I Compliance: Line Loss Notifications

68. SBC Illinois has not implemented all of Staff's recommendations with respect to line loss notifications that this Commission found to be reasonable in the Phase I interim order.

- (1) Upon implementation of the revised performance measure MI 13, scheduled for April 20, 2003 reporting, SBC Illinois should make the weight of MI 13 Tier 1 and Tier 2 remedy levels "Medium".
- (2) SBC Illinois should file revised tariff pages with this Commission for performance measure MI 13 reflecting the "Medium" Tier 1 and Tier 2 assignments so the effective date of the tariff coincides with the implementation date of the performance measure changes.
- (3) This Commission should verify that all changes to performance measure MI 13 and MI 13.1 planned by SBC Illinois for April 20, 2003 are implemented prior to this Commission making a positive Section 271 recommendation to the FCC.
- (4) SBC Illinois should commit to the internal line loss notification improvement plan it filed in Michigan and the company should provide for periodic updates to the Commission on its implementation.
- (5) SBC Illinois should confirm that all line loss notifications issued to CLECs will be included in the MI 13 and MI 13.1 line loss performance measurements that SBC Illinois plans to implement on April 20, 2003;

including all line loss notices generated due to SBC Illinois winback scenarios.

- (6) SBC Illinois should respond with its commitment to the previous five items in its surrebuttal testimony scheduled for March 17, 2003.

Checklist item (ii) – Access to OSS

69. SBC Illinois' performance, as reported by BearingPoint during its independent third party review, is not sufficient with respect to five aspects of SBC Illinois' OSS relating to its Ordering, Provisioning, Maintenance and Repair and Billing functions.

- (1) Consistent with the Commission's direction on January 14, 2003, SBC Illinois should commit to address its areas of deficiencies with respect to timeliness of service order completion (SOC) responses (BearingPoint evaluation criteria TVV1-28), accuracy of updates to customer service records or CSRs (BearingPoint evaluation criteria TVV4-27), and accuracy of close out coding on end-to-end trouble faults (BearingPoint evaluation criteria TVV7-14) within the context of this proceeding. If this Commission decides to provide a positive Section 271 recommendation to the FCC before SBC Illinois has addressed these items then the Commission's recommendation should be contingent upon a commitment from the company that it will address these three operational deficiencies by July 2003 and that an independent third party provide verification that these deficiencies have been addressed by November 2003.

- (2) Consistent with the Commission's directive on January 14, 2003, SBC Illinois should address its areas of deficiency with respect to its order functionality (BearingPoint evaluation criteria TVV1-4) and its internal bill accuracy controls (BearingPoint evaluation criteria PPR13-4). SBC Illinois should submit BearingPoint's verification that these deficiencies have been addressed in its surrebuttal filing on March 17, 2003. If these two evaluation criteria have not been determined to be "Satisfied" by the company's surrebuttal filing on March 17, 2003, then the Commission should make its positive Section 271 recommendation contingent upon a commitment from SBC Illinois that it will address these deficiencies and have them verified by an independent third party no later than August 2003.
- (3) SBC Illinois should respond with its intention to rectify these 5 operational deficiencies and the progress of any ongoing remedial actions regarding these deficiencies in its surrebuttal filing scheduled for March 17, 2003.

70. This Commission needs to be sure that the billing concerns of the CLECs are reconciled before granting a positive Section 271 recommendation to the FCC. If this Commission decides to grant approval without ensuring these deficiencies or areas of concern are addressed, then SBC Illinois should provide specific commitments to improve its billing deficiencies as a condition of Section 271 approval.

Accuracy and Reliability of SBC Illinois' Performance Measurement Data

71. SBC Illinois' performance measurement data is neither accurate nor reliable and should not be used as evidence of SBC Illinois' compliance with the Section 271 14 point checklist. Nor should this Commission rely upon, SBC Illinois' performance measurement data, which is the input to SBC Illinois' performance remedy plan (anti-backsliding plan), to demonstrate or ensure future compliance by the company.

(1) Staff recommends the Commission not provide a positive Section 271 recommendation to the FCC prior to successful completion of the BearingPoint Performance Metrics review.

(2) If this Commission determines it will provide a positive Section 271 recommendation to the FCC prior to the conclusion of the BearingPoint Performance Metrics review, then the Commission should make its approval contingent upon a commitment from SBC Illinois that it will address all deficiencies raised by BearingPoint in the performance metrics review and commit to successfully conclude the BearingPoint metrics review no later than November 2003.

(3) The Commission should condition any positive Section 271 recommendation to the FCC upon SBC Illinois' commitment to conduct a yearly audit of its performance measurement data, data collection and processing controls to demonstrate and prove that the performance measurement data remains reliable over time. The Commission should

approve the auditor and audit test plan for the annual audits committed to by the company.

SBC Illinois Performance Measurement Results (3 months)

72. The three months of performance measurement data submitted by the company in support of checklist (ii) does not demonstrate that with respect to the ordering performance measures SBC Illinois is providing non-discriminatory service to the CLECS.

(1) SBC Illinois should be required to correct the deficiencies associated with the ordering performance measures that apply to check list item (ii) prior to receiving a positive Section 271 recommendation from this Commission. If the Commission determines to provide a positive recommendation to the FCC, regardless of SBC Illinois' failure to meet key order performance measures applicable to checklist (ii), then the company should be required to identify the steps it will take to remedy its current unsatisfactory performance and the company should demonstrate substantially improved performance by November 2002 or face penalties.

Performance Measure Six-Month Collaborative Disputes

73. The performance measure six-month collaborative disputes requesting that remedies be assigned to MI 13.1 and MI 12 should be denied unless the following occurs:

- (1) If all collaborative parties agree to remove remedies assigned to MI 13, as already committed to by SBC Illinois in this proceeding, then equal remedies should be assigned to MI 13.1.
 - (2) If performance measure 17, billing completeness, does not include all service orders (including those considered not to be “on time”) then the request to remedy performance measure MI 12 deserves consideration.
74. All responses to these performance measure six-month collaborative dispute recommendation should be made in the party’s surrebuttal filings.
75. This concludes my reply affidavit.

State of Illinois)

City of Chicago)

REPLY AFFIDAVIT OF NANCY B. WEBER

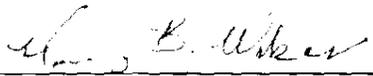
Nancy B. Weber, under oath, deposes and states as follows:

1. My name is Nancy B. Weber. My business address is 160 North LaSalle, Chicago, Illinois 60601. I am a Project Manager in the Telecommunications Division of the Illinois Commerce Commission.

2. The attached reply affidavit prepared for use in Phase II of Docket 01-0662 is based on my personal knowledge.

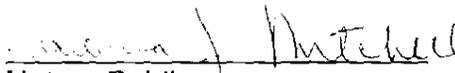
3. I hereby swear and affirm that the information contained in the document cited above are true and correct to the best of my knowledge and belief.

Further affiant sayeth not.



Nancy B. Weber

Subscribed and sworn to before me this 12th day of March 2003.



Notary Public

