

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission)
On its Own Motion)
) **01-0662**
Investigation concerning Illinois Bell) **PHASE II**
Telephone Company's compliance with)
Section 271 of the Telecommunications)
Act of 1996.)

AFFIDAVIT OF
TIMOTHY M. CONNOLLY
ON BEHALF OF
AT&T COMMUNICATION OF ILLINOIS, INC., TCG
CHICAGO, TCG
ILLINOIS AND TCG ST. LOUIS
PHASE II - AT&T EX. 1.0

February 21, 2003

1. I, Timothy M. Connolly, submit this Affidavit on behalf of AT&T Communications of Illinois, TCG Illinois, and TCG St. Louis (“AT&T”).

I. INTRODUCTION

2. In this affidavit, I present AT&T’s position regarding Phase II issues in this docket, specifically, the currently ongoing third-party test of SBC Illinois’ Operations Support Systems (“OSS”).¹ As I explain below, any analysis of SBC Illinois’ OSS must be comprehensive and examine all of the test results and other data as it currently exists. The Commission should not focus exclusively on a narrow set of test criteria or test results – for example, only on a particular OSS functionality (e.g., PreOrder capability) or system interface (e.g., EDI). Rather, the Commission must examine all aspects of the functionality of SBC Illinois’ OSS.

3. The Commission should also not be led to believe that the only relevant portion of the third-party test is that portion SBC Illinois now deems is “completed.” Such an approach, as I explain below, conflicts with the design of the test – which is a military-style “test until you pass” approach – and would not be consistent with the comprehensive testing approach used in other states’ reviews of § 271 checklist compliance. Rather, the Commission must continue to follow the comprehensive approach it set in motion more than two years ago, which, as I explain below, had as its foundation third-party testing of all aspects of SBC Illinois’ OSS. To be true to this

¹ In an affidavit filed at the same time as my own, Ms. Sarah DeYoung and Mr. Walter Willard, who are, respectively, Division and District Managers at AT&T who are in part responsible for obtaining access to SBC Illinois’ OSS to support AT&T’s local entry activities in this state, explain the recent poor performance AT&T has received from SBC Illinois’ and its OSS. While my affidavit is limited to discussing the third-party testing of SBC Illinois’ OSS, the DeYoung/Willard Affidavit challenges the

approach, the Commission should reject SBC Illinois' view that only one part of the third-party test is currently relevant and that the Commission must not be concerned that a major portion of the test is as yet incomplete. Rather, the Commission must review the data related to each type of OSS functionality in conjunction with its review of SBC Illinois' satisfaction of the all test criteria, including those relating to SBC Illinois' Performance Measurements Reporting ("PMR") systems.

4. As I will explain below, when the information is fully and fairly examined, and in particular, when the stability, reliability, and accuracy of SBC Illinois' PMR systems are taken into account, it becomes clear that SBC Illinois' OSS fail any appropriate standard for determining whether the company is truly offering nondiscriminatory access to its OSS. BearingPoint's test results show that SBC Illinois' PMR systems have not passed critical test criteria for data retention and reliability, and for accurate replication of performance measurement results. Additionally, the BearingPoint test has uncovered evidence that SBC Illinois' OSS lack the requisite functionality and responsiveness to allow competitive carriers to order and have services provisioned in a manner that allows them to compete effectively and efficiently against SBC Illinois in the local telephone markets it continues to dominate. And in what is perhaps the most troubling of several recently announced negative findings by BearingPoint, SBC Illinois has failed, again, the test criteria that would give the Commission a modicum of confidence that CLECs – or the Commission – will be able to

company's claims that competitive local exchange carriers ("CLECs") are receiving adequate and nondiscriminatory services.

in the future reliably audit SBC Illinois' performance measurement results for themselves.

5. I also explain that SBC Illinois' submission of performance measurement results and the self-generated Ernst & Young LLP ("E&Y") audit do not provide the Commission with sufficient assurance that SBC Illinois is providing competitive carriers with OSS access at parity. Quite to the contrary, the data submitted by SBC Illinois can neither be considered reliable nor probative that SBC Illinois is consistently meeting required performance metrics standards. The E&Y audit in fact continues to raise more questions than it answers, and, to the extent it can be considered relevant at all, appears to confirm BearingPoint's findings as to the inadequacies in SBC Illinois' PMR systems.

6. In light of these relatively complex issues, AT&T's and my own recommendation is relatively straightforward. The Commission's purpose in establishing the current docket (which itself arises from, among other things, conditions that the Commission attached to its approval of the SBC/Ameritech merger) was to evaluate whether SBC Illinois' OSS is capable of and is in fact providing reliable, nondiscriminatory access to order SBC Illinois' Unbundled Network Elements ("UNEs") and the other services to support commercial levels of competition in SBC Illinois' local exchange markets. To date, SBC Illinois has failed that evaluation, and, therefore, must be ordered to continue its efforts to upgrade its OSS so that it may pass these criteria. Until it can pass each of the appropriate tests, the Commission must order BearingPoint and SBC Illinois to continue to test and retest – and to complete the testing satisfactorily -

- *prior to* any request for approval of a § 271 application to the Federal Communications Commission.

II. PROFESSIONAL BACKGROUND

7. My business address is 2005 Arbor Avenue in Belmont, California.

8. I am a business systems analyst. Currently, I operate the consulting firm of C² Technology Analysts (“C2TA”). In my current capacity as a business systems analyst, I serve as a consultant to AT&T Corp. and its subsidiaries concerning OSS, third-party testing of the OSS of incumbent local exchange carriers (“ILECs”), ILEC Change Management Processes (“CMP”), incumbent-to-competitor testing procedures, and performance measurement systems. I have consulted with AT&T and its subsidiaries on OSS matters for more than six years.

9. Prior to starting C2TA, I worked for technical consulting companies and partnerships that were engaged to evaluate and recommend technology platforms for communications carriers, including incumbent OSS offerings. Several of these consulting assignments involved the OSS obligations of ILECs under the Telecommunications Act of 1996 and, in particular, State and federal regulatory commission requirements for the operational readiness of OSS to meet Section 271 checklist requirements. Prior to becoming a consultant, I worked for AT&T Corp. for fourteen years in a variety of capacities, including management of an international systems integration business unit that developed software packages of business and network support systems for domestic and overseas customers of AT&T.

10. I have degrees from Creighton University in Omaha, Nebraska, and from the University of Illinois at Chicago.

11. I have testified on the OSS capabilities of incumbent carriers across the country in State and federal proceedings, including the proceedings before the Federal Communications Commission (“FCC”) involving Ameritech Michigan’s 271 Applications (1996 and 2003), Bell Atlantic’s Section 271 application for New York, Southwestern Bell’s Section 271 application for Texas and the three Qwest multi-state Section 271 applications.

12. I have participated actively in this proceeding and the several proceedings and Commission-sponsored collaboratives that preceded (in some manner) this case. I testified for AT&T in the arbitration proceeding in which Merger Condition 29 (discussed in some detail in the next section of my affidavit) issues were brought to the Commission for resolution.

13. I participated in the 5 days of industry Technical Conferences held by the Michigan Public Service Commission in its Case No. U-12320 in October of 2002. During that collaborative, I was active on behalf of AT&T in questioning BearingPoint, its Test CLEC interface contractor, Hewlett-Packard, and the E&Y team that performed the regional SBC performance measurement audit. I also participated extensively in the Technical Conference/Collaboratives convened by the Administrative Law Judge in this case in February 2003. I personally questioned representatives from BearingPoint, E&Y and SBC Illinois on some of the topics discussed herein.

III. BACKGROUND AND HISTORY OF ILLINOIS OSS TEST ACTIVITIES

14. As is noted in the Commission's order initiating this case and in the February 6, 2003 Phase I Interim Order on Investigation ("Phase I Order"), the scope of the current phase of this proceeding involves "all remaining OSS issues and any other relevant issues that were not addressed in the first phase." Phase I Order, ¶ 4. The multi-phased approach was required, as the Commission explained in its initiating order, because the "data derived from the [BearingPoint] OSS test results will not be available until March 2002, at the earliest." Order Initiating Investigation, ICC Case No. 01-0662, p. 3 (Oct. 24, 2001). The first phase of this case, therefore, did not examine any of the third-party testing results derived from the BearingPoint test. Thus, this phase of the proceeding (and my affidavit) will address, among other topics, the BearingPoint test of SBC Illinois' OSS. However, as explained below, the test and the overall examination of SBC Illinois' OSS predates the initiation of this docket. Therefore, I will give a brief description of several matters that must be considered by the Commission – in particular, certain conditions required to be satisfied by SBC Illinois as a result of the merger approved by the Commission in Docket 98-0555 (the "Merger Case").

a. The SBC/Ameritech Merger Case

15. As the Commission is well aware, there were several "conditions" or requirements that SBC and Ameritech Illinois (referred to in the Commission's orders in the Merger Case as "Joint Applicants") either were required to satisfy or agreed to implement relating to Ameritech Illinois' OSS. Of particular interest in this proceeding,

the Joint Applicants conceded in the Merger Case that SBC Illinois' OSS remained in a state of development that was unlikely to adequately support competitive commercial entry in Illinois. The Commission therefore ordered SBC Illinois (Joint Applicants) to implement certain OSS system developments (what came to be known as Merger Condition 29 or Condition 29), and to do so according to a three-step timetable. For example, SBC Illinois was ordered to deploy "commercially ready" application-to-application interfaces "as defined, adopted, and periodically updated by industry standard setting bodies for OSS." Order, ICC Docket 98-0555, p. 188 (Sept. 23, 1999) ("Merger Order"). The deployment schedule required that in Phase I SBC Illinois would complete a Plan of Record ("POR") for the required interfaces, enhancements and business processes necessary to upgrade SBC Illinois' OSS; in Phase II SBC Illinois would collaboratively agree to implementation of the POR interfaces, enhancements, etc.; and, in Phase III SBC Illinois was to "develop and deploy, on a phased-in basis, systems, interfaces, enhancements, and business requirements consistent with the outcome of Phase 2." Merger Order, p. 199.

16. The Commission also included, in Phase 3, stringent requirements regarding the third-party testing of the systems interfaces, enhancements and business requirements developed in Phase 2. As the Commission noted in its order:

Third-party testing has been successfully employed in other states confronting the difficult task of managing the transition to a competitive marketplace and it has been suggested by a number of intervenors in this case. We also share Staff's concern that the costs of participation in the process, especially for small competitors, may be prohibitive. The Joint Applicants therefore are required to pay for an independent third-party, retained by the

Commission, for technical assistance to the Commission as an arbitrator and to Staff throughout the phased OSS implementation process. The third-party shall report to the Commission, and monitor and assist in the phased process as directed by the Commission, and conduct “New York” style testing during Phase 3 as defined by the Commission. *Joint Applicants’ commitment includes a collaborative process open to all CLECs. We would expect that process to lead to agreement on most or all issues and to include both internal and CLEC testing of the OSS systems. Merger Order, p. 1999 (emphasis added).*

17. Thus, the BearingPoint test that is now before the Commission for review (at least based upon the current incomplete status of the test) does not arise only as a result of SBC Illinois’ § 271 objectives. This Commission specifically outlined the scope and methodology of the third-party test in its 1999 order approving the SBC/Ameritech merger. SBC Illinois, the CLECs, the Commission Staff and all other interested parties have been fully “on notice” of the requirements for the third-party test, which as the above-referenced paragraph outlines, include the following:

- The third-party test manager shall conduct a “New York” style test, meaning that it would incorporate the “military-style” testing approved by the New York commission, and in particular, incorporate that test’s comprehensive examination of performance measurement reporting accuracy and integrity.
- The test includes a “collaborative process open to all to include both internal and CLEC testing,” meaning that the test itself would be an open process whereby input would be allowed from all interested parties, and that no one particular entity (especially SBC Illinois) would control the testing process.
- The test is based upon an expectation that “all parties involved in the process [will] make a good faith effort to work cooperatively with attention to the interests of uniformity and rapid implementation,” meaning that no party should unilaterally attempt to delay or impede the course of the test.

18. As I will explain in greater detail below, the E&Y audit sponsored by SBC Illinois in this docket has no relation to the Merger Case, and it does not satisfy any of the conditions enumerated above. The E&Y audit was not a “New York,” military-style test. It did not proceed as a result of an open collaborative process. And there is some evidence that the E&Y audit has actually delayed BearingPoint’s testing activities.

b. Description and History of Test and Prior BearingPoint Findings

19. Again, SBC Illinois committed to introducing modifications and improvements as part of its OSS Plan of Record, which was approved by the Commission following collaborations among all interested parties and the ensuing arbitration in Docket No. 98-0555. The final phase of conditions imposed by the Commission in the Merger Case called for the resulting commitments implemented by SBC Illinois to undergo third party testing that was “New York style” – meaning that a “test until pass” approach was to be used in order to ensure that system changes were properly implemented.

20. SBC Illinois also committed (in Condition 30 of the Merger Conditions) to establish performance measurement, benchmarks and provide for liquidated damages in accordance with the performance measurements, benchmarks and liquidated damages commitments established in the Merger Order. *See* Merger Order, pp. 255-256.

21. As is explained in BearingPoint’s December 20, 2002 OSS Evaluation Project Report (“BearingPoint OSS Report”), the scope of BearingPoint’s evaluation is described in a Master Test Plan (“MTP”). The MTP was developed in collaboratives that

began following the Commission's Merger Order, and was first issued in March, 2000.

A subsequent MTP was issued as a result of updates or proposed changes; the current MTP was issued on May 2, 2002 and is known as Version 2.

22. As the MTP provides, BearingPoint's testing is to provide verification that the SBC Illinois OSS technology platforms are reliable, properly constructed in accordance with SBC Illinois' specifications, complete, and with sufficient capacity to meet forecast volume requirements. The test is intended to identify problems and weaknesses in the SBC Illinois OSS that have consequences on a CLEC's ability to compete.²

23. The MTP incorporates the a "test until you pass" or "military-style" approach. If an issue or problem was encountered during the test, BearingPoint "informed the ICC Staff and SBC Ameritech by documenting an Observation or Exception describing the situation and providing an assessment." BearingPoint OSS Report, p. 7. An Observation is created if BearingPoint determines that a test or tests

² The test extends across the OSS functions of pre-ordering, ordering, provisioning, maintenance and repair, and billing. Specifically, BearingPoint's pre-ordering testing is designed to identify problems with incorrect, unreliable, incomplete, or untimely responses to pre-ordering queries that are the basis for CLEC interactions with customers and potential customers. BearingPoint's ordering testing is to determine whether the SBC-Ameritech OSS provides responses to submitted orders that are timely, reliable, complete, and correct. These responses include Firm Order Confirmations ("FOCs"), error and reject notices, and order completions. The BearingPoint test is to determine the accuracy of the provisioning of orders for resale, UNE-P, and interconnection products and services. The verifications must take place within reasonable amounts of time following completion of the service order by SBC Illinois. Sufficient testing must be done to demonstrate that the maintenance and repair functions of the SBC Illinois OSS enable non-discriminatory provision of repair services to CLECs and to their end-users. And the wholesale billing OSS functions are to be tested by BearingPoint to verify that wholesale bills are timely issued, accurate and complete. Each and all of these tests, as established under the Master Test Plan, must be completed satisfactorily if the Commission is to be assured that CLECs are being provided with reasonable non-discriminatory access to the SBC Illinois systems.

indicate one of SBC Illinois' practices, policies, or system characteristics might result in a negative finding in the final evaluation report. *Id.* An Exception is created if BearingPoint determines that a test or tests indicate one of SBC Illinois' practices, policies, or system characteristics will not satisfy one or more of the evaluation criteria defined in the test. *Id.* In other words, while both types of reports are significant findings, an Exception report represents a more serious matter of actual test *failure*. As the test has gone forward, there have been instances where an Observation was issued, and upon more detailed analysis, including assessment of the issue by SBC Illinois, the Observation was elevated to an Exception. Currently, more than 185 Exceptions and over 850 Observation reports have been issued by BearingPoint, the largest number of Exceptions and Observations arising from a BearingPoint-conducted test of which I am aware.³

24. If SBC Illinois makes a change to a process, system, or document or performance measure in response to an Exception or Observation, BearingPoint will conduct *retesting* as appropriate. If the issue raised by the Exception is not resolved, BearingPoint will continue its analysis and retesting activities until a satisfactory result is reached. Or, BearingPoint may determine no further action on its part was warranted or possible. Or, as has happened in this test, the ICC Staff may *specifically* exempt the

³ While SBC Illinois will likely take the position that the enormous number of Exceptions and Observations indicates that BearingPoint has "left no stone unturned," I believe the more relevant assessment is that the number of Exceptions and Observations indicates the poor quality and outdated status of the OSS, particularly as it existed at the beginning of the test. Moreover, the number of Exceptions and Observations *still open* is large. Indeed, the *current* number of open Exceptions and Observations for SBC Illinois' OSS exceeds the *total* number of Exceptions and Observations opened by BearingPoint in some of its tests of other Bell Operating Companies ("BOCs") OSS.

Exception from further testing. As I will explain below, despite the requirements of the MTP summarized above, SBC Illinois has forced BearingPoint to close test Exceptions without either engaging in a successful retest or receiving a proper exemption.

25. The Master Test Plan requires BearingPoint to comprehensively evaluate SBC Illinois' performance measurement reporting systems, a test commonly referred to as the PMR Test. The PMR Test is but one of the "Test Families" described in the MTP, the others being the Transaction Verification and Validation ("TVV") and Process and Procedure Review ("PPR") families. Master Test Plan, Version 2, p. 14 (May 2, 2002). Test Families are the organizational structure BearingPoint employs to associate tests that require similar methodologies. *Id.* "Test Domains" are the organizational structure BearingPoint uses to identify major business functions performed by a telecommunications carrier. MTP, p. 13. The Test Domains included in the MTP are PreOrder, Order, and Provisioning ("POP"), Maintenance and Repair ("M&R"), Billing ("BLG"), and Relationship Management and Infrastructure ("RM&I"). *Id.* While I discuss some of these concepts later in my affidavit, the important preliminary point to be made is that the Master Test Plan considers (and BearingPoint's testing activities assume that) all of the Test Domains and Test Families are interrelated and should be evaluated in conjunction with one another. This is confirmed by the Master Test Plan's Table III-1 (at p. 15), which I reproduce below:

Within each of these test families, specific test targets have been identified for testing. The POP, Billing, and M&R domains are addressed in each of the test families. RM&I is addressed completely within the PPR test family. The relationship between the test families and test domains is shown below.

Table III-1: Domain/Test Family Matrix

	POP	Billing	M&R	RM&I
PMR	X	X	X	X
PPR	X	X	X	X
TVV	X	X	X	X

26. Another significant aspect of the Master Test Plan is its requirement that “Global Exit Criteria” be met “before the tests defined in the Test Plan can be concluded.”⁴ Although I will discuss these exit criteria in greater detail below, it is important for the Commission to focus on the fourth Global Exit Criterion, which relates to the testing of SBC Illinois’ performance measurement obligations:

The set of performance measures to be used in the test are being negotiated between Ameritech and CLECs in collaborative work sessions conducted under the auspices of the Commission. The measures to be used for this test will include: 1) the baseline measures used by Ameritech Illinois, and 2) measures for any new processes, policies, products or services. The test will not conclude until (1) Ameritech has implemented the modifications, deletions, and additions to the baseline measures resulting from the collaborative (either by agreement of the collaborative parties or as otherwise ordered by the Commission) and (2) those modifications, deletions, and additions encompassed as part of the third-party test and reviewed. (MTP, p. 19.)

27. In other words, SBC Illinois cannot claim that it has met the objectives of the Master Test Plan (or the conditions of the Merger Case) until BearingPoint has

confirmed that SBC Illinois has implemented the appropriate performance measures and those measures have been reviewed. As I will discuss in Part IV below, recent reports from BearingPoint indicate SBC Illinois has not yet met this exit criterion. (Other areas where SBC Illinois has not met exit criteria are also discussed below.)

c. Preliminary Metrics Assessment (“PMA”)

28. Coincident with the BearingPoint PMR testing required by the MTP, BearingPoint also conducted a Preliminary Metrics Assessment (“PMA”) of eleven of SBC Illinois’ performance metrics. *See* Attachment 1 to this Affidavit (“August 20, 2001 Telecommunications Staff Report”). As noted by the Commission’s Staff in its description of the PMA, the PMA was undertaken pursuant to Condition 29 (discussed above) of the Merger Order. *Id.*, p. 2. Therefore, in August 2000, Staff requested that BearingPoint (then known as KPMG Consulting, Inc.) to make a preliminary assessment of SBC Illinois’ performance measures with the following goals in mind: (a) To establish a level of reliability of SBC/Ameritech Illinois’ performance measures and standards in advance of the larger, full-blown third party test; (b) To provide early notification of areas of concern, if uncovered by the review, and allow SBC Illinois a “head start in fixing or improving any areas that may be flagged as a concern;” and (c) To begin a level of third party testing activities while ICC proceedings and the formal test planning activities take place. *Id.*

⁴ All Exit Criteria described in the MTP must be met prior to [BearingPoint] providing its report to the Commission.” *MTP*, p. 19 (emphasis added).

29. Obviously, BearingPoint's current PMR report (issued on December 20, 2002) ("BearingPoint PMR Report")⁵ and other recent information (which I discuss later in this affidavit) contain more current information regarding the status of its evaluation of SBC Illinois PMR systems.⁶ I believe the PMA results continue to be relevant, however, and I include this discussion of the PMA in my affidavit for two reasons: *First*, the PMA report gave the Commission an early indication of the status of SBC Illinois' efforts (and initial failures) to satisfy BearingPoint's request for PMR documentation and other information. *Second*, the PMA shows that despite the stated objective (by Staff) to give SBC Illinois a "head start" at fixing problems identified by the preliminary assessment, it is clear that the crude and deficient state in which those systems existed then (and in some manner continue to exist) has thwarted the goal of expediting the process of validating these systems.

30. As to the first point, the PMA report by BearingPoint reflects the fact that BearingPoint was encountering a problem that it had encountered in other reviews of Bell Operating Company's PMR systems: SBC Illinois' systems required the parties to expend "substantial time and effort" to study the data used by SBC Illinois and the processes and systems employed to generate performance measurement results. *See* Attachment 2 to this Affidavit, p. 4 (Report to the Illinois Commerce Commission,

⁵ This report and the BearingPoint Interim OSS Test Report (also dated December 20, 2002) were marked as exhibits at the beginning of the Technical Conferences held this month at the offices of the Commission.

⁶ The PMA report, however, reflects preliminary findings indicating that SBC Illinois' PMR systems would not satisfy the test criteria. To take but one example, the PMA's section on Metrics Data Integrity Verification and Validation Review (which is equivalent to the Master Test Plan's PMR4 test process) showed that unexpected records were being found in the processed data for measure 27, a finding later recorded by BearingPoint in Observation 339.

Preliminary Metrics Assessment of Ameritech-Illinois, Version 1.2 (Aug. 7, 2001) (“PMA Report”). Indeed, BearingPoint noted that in “some cases... necessary information was not available or could not be analyzed within the time frames of this study.” *Id.* The question, however, is not just whether SBC Illinois’ systems were as bad as other BOCs’ systems at the beginning of such a review – although it appears that was the case. The question is what has SBC Illinois done to overcome the faults that were found two and a half years ago by BearingPoint. Whereas other BOCs have found some means of correcting the deficiencies in its systems (which eventually led to a successful applications for § 271 authority), given the present status of the PMR test, SBC Illinois has not yet done the same. BearingPoint’s PMR test remains incomplete or “in progress,” and the current results show abject failure.⁷ SBC Illinois attempts to create the impression that this should be of no concern vis-a-vis its § 271 objectives, but the fact remains that no other BOC with such a poor record on PMR has met with success at the Federal Communications Commission.

31. As to the second point, it is ironic that, although one of the purposes of the PMA was to give a “head start” to SBC Illinois on any deficiencies in its PMR systems, this is the primary areas of testing that continues to lag behind all other portions of the test. The necessary inference is that SBC Illinois has either been negligent in responding to the deficiencies or has purposefully ignored BearingPoint’s findings. I believe both

⁷ See, e.g., Affidavit of James Ehr, Docket No. 01-0662, ¶¶ 243, 273 (Jan. 17, 2003) (“Ehr Aff.”). Mr. Ehr states: “This data integrity test is still in progress, and as a result 26 of the 40 applicable test criteria are ‘Indeterminate’ and 2 are ‘satisfied.’” In other words, 38 of the 40 (or 95% of the) applicable test criteria cannot be considered satisfied.

are true, even today. In fact, as I demonstrate below, SBC Illinois continues to defer – in some cases for weeks or months at a time – discussions with BearingPoint regarding known and identified deficits in its PMR systems. Moreover, it is also clear that – rather than put to good and efficient use the PMA’s preliminary findings that its PMR systems contained faults – SBC Illinois instead implemented a complicated plan to supplant BearingPoint’s findings. I am referring to SBC Illinois’ decision to retain E&Y to audit the same systems that BearingPoint is testing pursuant to the Merger conditions and the Master Test Plan. Neither of these documents calls for an audit of the type conducted by E&Y. And yet, apparently, SBC Illinois will try to persuade the Commission to accept this “other” audit (which, as I explain below, has critical flaws in its scope, methodology and overall accuracy), and essentially to ignore the BearingPoint results rather than acknowledge and explain why the BearingPoint audit, which now covers nearly two and half years of investigation, continues to uncover material faults in these critical systems.

32. In sum, this is the context in which the Commission finds itself. On the one hand, the Commission had the foresight to require SBC Illinois and other interested parties (and its Staff) to participate in the design and implementation of a comprehensive examination of its OSS – the BearingPoint test. Much time and effort have been expended. No doubt many parties, including CLECs, have spent substantial sums of capital. The test has proceeded – at times not without controversy or the necessity of Commission intervention – and is now producing results. In part, the test has revealed improvement in SBC’s OSS. But those same results have also identified a key fault in the overall reliability and stability of SBC Illinois’ OSS – the existence of which

undermines nearly every other finding. Under the Commission's required mandates, SBC Illinois must correct all of the faults identified, because if they are allowed to persist, they will undoubtedly negatively affect the ability of carriers to compete against SBC Illinois in the local markets it has long dominated.

33. On the other hand, SBC Illinois seeks to leapfrog to the end of the process, because it seeks a favorable recommendation from the Commission for § 271 purposes. It professes that "the test will still go on, and SBC Illinois will continue to work with BearingPoint to address findings as they are raised. The present inquiry concerns overall checklist compliance today." Ehr Aff., ¶ 244. In my view, such a statement has no foundation in this Commission's prior orders, in the FCC's § 271 jurisprudence, or in sound testing methodology. Indeed, SBC Illinois' suggested approach is nonsensical. Imagine, for example, if a student asked his or her professor to pass them in a course because he or she will continue to take the test until they achieve an adequate grade. The notion that such an approach would be acceptable is preposterous on its face. And yet, that is essentially what SBC Illinois seeks in this case.

IV. THE COMMISSION MUST COMPREHENSIVELY EXAMINE THE BEARINGPOINT TESTING RESULTS

34. Having placed the current testing status in context, I would like to comment upon what AT&T believes is the current issue before the Commission. In the Affidavit of Mark J. Cottrell, Case No. 01-0662, ¶ 4 (Jan. 17, 2003) ("Cottrell Aff."), he states, [i]t is essential to keep the [BearingPoint] report in perspective. BearingPoint's Report presents information on a large number and wide variety of criteria, measured

against detailed numeric standards.” He goes on to state that SBC Illinois’ overall compliance “is not mechanically based on ‘specific objective criteria’ but rather on the Commission’s own expertise in promoting competition, applied to the ‘totality of circumstances.’” *Id.*, citing to the FCC’s *New York 271 Order*, ¶ 46. Parsing through Mr. Cottrell’s statements and the remainder of his affidavit (and others, particularly those of Mr. Ehr), the Commission will find that what he means is that where the specific “numeric” findings of BearingPoint’s test results support SBC Illinois’ position, Mr. Cottrell’s position is that they should be given credit. Where, however, BearingPoint cannot report successful results, Mr. Cottrell suggests that such findings are “not material,”⁸ and that other evidence should be accepted showing that “commercial results associated with [a missed] benchmark show acceptable performance.”⁹

35. Mr. Ehr’s affidavit takes a similar tack. For example, with regard to SBC Illinois performance installing and maintaining unbundled loops/port combinations (i.e. UNE-P) for business customers, Mr. Ehr states that his company “typically” provides shorter installation intervals, fewer missed installation due dates, and better reliability as compared to SBC Illinois’ retail customers.¹⁰ As with most things, however, the “devil is in the details,” for as Mr. Ehr later admits, CLEC customers typically experienced a greater number of trouble reports (requiring field work to repair) as compared to SBC Illinois’ business customers.¹¹ The point I wish to make is not so much that SBC Illinois

⁸ Cottrell Aff., ¶ 17.

⁹ *Id.*, ¶ 46.

¹⁰ Ehr Aff., ¶ 167

¹¹ *Id.*, ¶ 177.

failed to satisfy a performance measurement (although here, it did – PM 35-07 – for two of the three months examined). The point is that the Commission must look beyond the surface of SBC Illinois’ presentation of these results – because there is almost always another less favorable story to be told.

36. For example, Mr. Ehr completely dismisses the notion that SBC Illinois’ performance measurement results may not be accurate, and dismisses also the BearingPoint findings that suggest that SBC Illinois’ PMR systems are not reliable and cannot necessarily be trusted to accurately report performance measurement results. He states: “[N]one of BearingPoint’s findings thus far are sufficient to warrant a finding of *non-compliance* or to preclude the Commission from evaluating compliance on the totality of the information before it, including SBC’s reported commercial performance results and the E&Y audit.” Ehr Aff., ¶ 243. But what is the Commission to do with BearingPoint’s multiple findings of material deficiencies in SBC Illinois’ PMR systems – ignore them completely in the face of SBC Illinois’ § 271 objectives? Mr. Ehr and SBC Illinois provide the Commission with no proper reason for adopting an approach that *ignores* negative findings.

37. Moreover, Mr. Ehr’s standard is precisely the wrong standard for a review of § 271 compliance. SBC Illinois bears the burden to show that its OSS – including test results – fully demonstrate its provision of non-discriminatory access to CLECs. The negative test results reported by BearingPoint completely undermine its showing. Because BearingPoint finds these pervasive problems in the SBC Illinois OSS, and the problems are yet to be resolved by SBC Illinois, as is specified in the Master Test Plan

Global Exit Criteria, the conclusion is inescapable that SBC Illinois fails to satisfy the checklist items associated with OSS. No section 271 application has been made to the FCC on the basis of results from an OSS test that has been conducted where the reported results are only 65.7% satisfactory and complete (as is the case in the PMR test). The contention by SBC Illinois that these results are good enough is wrong on its face, and wrong in the context of the FCC's review of previous § 271 applications.

38. I am also disturbed by SBC Illinois' apparent view that the "OSS Test" should be separately examined and analyzed from the "PMR Test". Mr. Cottrell, for example, states that his affidavit reports on the BearingPoint OSS Evaluation Project Report, and that he "addresses the sections of that report that deal with the *actual operation* of SBC Midwest's¹² OSS." Cottrell Aff., ¶ 3 (emphasis added). He notes that Mr. Ehr addresses BearingPoint's review of performance measurement and reporting, which seems to imply that performance metric matters have little to do with the "actual operations" of SBC Illinois (or Midwest's) OSS. Indeed, during the Technical Conferences convened this month in Chicago, Mr. Cottrell blithely offered that he was "not a PM [i.e., performance measurement] guy" and that questions concerning such matters would have to be directed to some other witness. Tr. 3829.

39. Mr. Ehr, as I have previously noted, seems to have even less use than Mr. Cottrell for the BearingPoint PMR test data. He states in his affidavit, "the bottom line is that there is no need for the Commission to attempt to reach a conclusion on all of the

¹² SBC now refers to the five state region formally known as the Ameritech region as SBC Midwest.

detailed PMR test criteria now, nor is SBC Illinois asking the Commission to terminate the test.” Ehr Aff., ¶ 244.

40. These views are erroneous, and moreover they show that SBC Illinois’ underlying objective is to avoid any real examination by the Commission of the PMR test data at this time. But the Commission should reject SBC Illinois’ suggestion that the OSS test data generated by the BearingPoint test should be segregated from the PMR examination. This would be entirely consistent with the FCC’s view, which has rejected the notion that PMR test results are of lesser importance. Indeed, it was the FCC’s decision in the *New York § 271 Order* (which is the state that employed the test design that this Commission has chosen to emulate in Illinois) that set the standard: “We note with approval that the performance data used in the enforcement mechanism in New York appears to be subject to regular scrutiny. The New York Commission has *independently replicated Bell Atlantic’s performance reports from raw data* submitted by Bell Atlantic, in order to identify and investigate any discrepancies, and will continue to do so for the next six months, and possibly longer.” *New York 271 Order*, ¶ 442.¹³ Nor has the FCC retreated from this approach. In its Texas order involving SBC’s affiliate, Southwestern Bell, the FCC made clear that performance data is not probative of compliance with section 271 unless it is “above suspicion.” *Texas 271 Order* ¶ 429.¹⁴

¹³ As I explain below, in Illinois, BearingPoint has not yet been able to successfully replicate a substantial number of SBC Illinois’ performance measures, despite its three attempts already to do so. Moreover, BearingPoint has issued several critical findings that would challenge SBC Illinois’ claims of data integrity.

¹⁴ Similarly, the FCC has stated the “reliability of reported data” submitted in support of a Section 271 application is “critical” to this Commission’s review of that application. *Kansas/Oklahoma 271 Order* ¶ 270.

Here, SBC Illinois PMR data is not only suspect, it is under indictment.¹⁵ The Commission, therefore, should reject SBC Illinois' attempt to distract focus from its most significant failure in the BearingPoint test.

41. Fundamentally, the third-party test ordered by this Commission is designed to examine and report on SBC Illinois' OSS as a whole, and not on the individual parts on a selective basis. Indeed, BearingPoint cautions against viewing the test results for some test measures but not others:

The evaluation criteria and corresponding results in this report are intended to be considered both individually and collectively. It would be inappropriate to draw conclusions based solely on individual test measures or a limited number of test measures. Furthermore, the evaluation criteria are not of equal weight or value. Hence, any attempt to determine an overall "score" based on percentage of evaluation criteria that are satisfied is strongly discouraged.

BearingPoint OSS Interim Report, p. 8; *see also* BearingPoint PMR Interim Report, p. 7. Adopting SBC Illinois' approach of focusing solely on certain individual test measures while ignoring others would be wholly inconsistent with BearingPoint's recommendation.

¹⁵ In its report dated January 13, 2002, the week prior to SBC's submission of its current application for Michigan, the Michigan PSC expressed grave concerns about SBC's performance data. After reviewing the state of the record and the tests conducted by BearingPoint and Ernst & Young, the Michigan PSC concluded that SBC's performance measures were neither stable or dependable (at p. 22 of its report):

At this time, the Commission cannot conclude that SBC's performance metric 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 behavior.

V. THE BEARINGPOINT REPORT ESTABLISHES THAT SBC ILLINOIS' PERFORMANCE MEASUREMENT REPORTING SYSTEMS DO NOT OPERATE WITH STABILITY, AND CANNOT ASSURE THE RELIABILITY AND ACCURACY OF REPORTED RESULTS.

42. It is essential (both for merger compliance and § 271 purposes) that SBC Illinois establish that its PMR systems reliably and consistently collect, store and maintain the underlying raw data that is used to calculate performance measurement results. Similarly, it critical that SBC Illinois' PMR systems, when called upon to calculate PM results, use the correct data and correctly calculate the performance measurement result using the applicable business rules associate with that measurement.

43. The Master Test Plan was developed with these goals in mind. The MTP contained five test processes (PMR1 through PMR5) designed to examine, among other facets of the PMR systems, the adequacy and completeness of the key policies used by SBC Illinois for collecting, storing, and maintaining the data used in the calculation of performance data. *See MTP*, p. 23. Similarly, the MTP outlined testing to determine the integrity of key procedures for processing data necessary for the production of performance metrics. *Id.*, p. 28. And the MTP included tests designed to determine the accuracy of recent metrics calculations and to verify that the metrics as produced by SBC Illinois are consistent with its documentation and stated objectives. *Id.*, p. 29. As I discuss in greater detail below, BearingPoint has found substantial flaws in SBC Illinois' systems, in each of these test areas.

44. Before I describe them in greater detail, I will briefly describe the very real impacts these flaws have on the Commission and competitive carriers. The

Commission called a June 20, 2002 Special Open Meeting "... with regard to the OSS evaluation project [] being conducted by [BearingPoint, having been] retain[ed] by the Illinois Commerce Commission to conduct such a proceeding, pursuant to the merger order ...". In this meeting, then Commissioner Harvill asked the BearingPoint representative, "... what would occur if they're [SBC Illinois] reporting inaccurate metrics or metrics aren't being evaluated correctly." (at Tr. at 68)

MR. ERINGIS: Well, simply put, the Commission would not have the instrument panel for monitoring the industry that it's developed. It would be --- there would be no point to having the metrics if they weren't reliable.

MR. SEARS: The thing I'd like to add - - one of the objectives is to provide a set of unbiased information for you guys to make decisions. That's really our objective. Without reliable data from us and reliable metrics information, that information that you believe is reliable, one of the practical applications [sic] is that you are going to be in a never-ending battle of information between information provided by SBC and information provided by CLECs, which is not reconcilable. You will be continually trying to evaluate bringing the facts to the table as opposed to having information that you yourself believe is reliable information from which decisions can be made.

I can think of no clearer statement indicating the vital importance of validating the accuracy of SBC Illinois' performance measurement data.

45. As for the impact on CLECs, the Commission need go no further than the Affidavit of Mr. Ehr, who states: "In addition [to] the extensive and comprehensive third party review of SBC Illinois' performance data, there are three additional assurances of reliability: on-going supervision of the ICC, data reconciliation and access to raw data and SBC Illinois' data controls." Ehr Aff., ¶ 292. The problem with Mr. Ehr's

contention is that unless the integrity of the data itself is first confirmed, none of these “additional” methods of assurance can have any merit.

46. For example, Mr. Ehr mentions that the Commission should be (“additionally”) confident of the reliability of SBC Illinois’ performance measurement results because competitive carriers have access to “raw” data and can perform data reconciliation. Indeed, the FCC has stated that where there is a challenge to the accuracy of a performance measurement result, it would “look first” to the results of data reconciliation between the BOC and the challenging carrier. *Texas 271 Order*, ¶ 57. The question, however, is what happens if SBC Illinois *does not* retain the raw data that allows carrier to reconcile data? As I discuss in the PMR1 section below, a recent Exception report by BearingPoint suggests that for a number of critical “systems of record”¹⁶ SBC Illinois does not retain the appropriate data consistent with the applicable regulatory requirements. BearingPoint has indicated that this failure to retain such data would impede the auditing of historical data, and it would prevent attempts to trace errors in reported results.¹⁷ Under the present circumstances, therefore, the Commission should not have *greater* confidence of reliability, it should have *less* confidence because there is no assurance that the raw data for reconciliation will be available.

47. Similarly, SBC Illinois tells the Commission that it should rely on the fact that the Commission itself will remain vigilant over SBC Illinois’ performance

¹⁶ As explained by BearingPoint during the technical conferences (at Tr. 2264) and in its PMR Report (at page 264), a system of record is SBC Illinois’ “official retention system for performance measurement-related data.”

¹⁷ Exception Report 186, p. 5 (Attachment 3 to my Affidavit).

measurement results. SBC Illinois also points to its own internal and external data controls. *See* Ehr Aff., ¶¶ 293, 302. The problem with these claims, like the data retention problem noted previously, is that BearingPoint has reported that SBC Illinois lacks many of the internal controls and practices that would give the Commission requisite assurance that it is collecting the correct data and using the appropriate calculation mechanisms to produce accurate performance measurement results. I discuss these issues below (in the sections on the PMR4 and PMR5 tests).

48. SBC Illinois has, therefore, no basis for pointing to these other “assurances of reliability” of its performance measurement data. Each of these means of assurance relies in the first instance on systems and practices that have been verified to collect, store, and use the appropriate data. SBC Illinois has not successfully shown that its systems and practices provide such assurances. Thus, its claims of “additional” means of assuring reliability cannot themselves be relied upon.

a. The BearingPoint Test Establishes That SBC Illinois’ Performance Measurement Reporting Systems Do Not Produce Reliably Accurate Data.

49. From a “high-level” perspective, the BearingPoint test results show that SBC Illinois has failed to complete a substantial portion of the PMR test. SBC Illinois concedes that the BearingPoint performance metrics review is incomplete and that it has not yet successfully satisfied the test criteria for this audit. Ehr Aff., ¶¶ 243-246. Indeed, BearingPoint’s PMR Report notes that, during the PMR test, 116 test points were “Not

Satisfied,” and that 91 test points are “Indeterminate.”¹⁸ As of February 19, 2002, there are 17 open exceptions and 79 open observations in the PMR test. In the testimony of its witnesses, SBC Illinois attempts to dismiss these failings and insists that “none of BearingPoint’s findings thus far are sufficient to warrant a finding of *non*-compliance, or to preclude the Commission from evaluating compliance based on the totality of the information before it...”¹⁹ SBC’s contentions cannot withstand scrutiny, for the reasons which follow.

PMR 1 – SBC Illinois Does Not Retain Performance Measurement Data Reliably Such That There Will Be Adequate Data For Auditing/Reconciliation.

i. Design and Purpose of PMR 1 Test; Brief History of PMR 1 Testing Issues

50. PMR1 is the Data Collection and Storage Verification and Validation Review²⁰ in which BearingPoint is:

to determine the adequacy and completeness of key policies and procedures for collecting and storing performance data. This test will also evaluate the extent to which Ameritech’s operations are consistent with the policies and procedures i.e., are the policies and procedures being followed consistently.

51. In the SBC Illinois test, the 150 performance measures are defined in 18 groups, or families that relate to functional groupings, product sets, and checklist items. BearingPoint organized its PMR work around the PM Group construction.

¹⁸ Ehr Aff. ¶ 244.

¹⁹ *Id.* ¶ 243.

²⁰ MTP Version 2.0, at 23. (May 2, 2002).

52. For the PMR1 test, BearingPoint inspects the RBOC documentation that lays out the procedures followed, within computer-based systems and in work center operations, to collect the data from databases, repositories, source systems, and source operations for each of the performance measures. The documentation reviewed by BearingPoint must refer to the guiding information management policies that the RBOC has established for securing and safeguarding the performance measures data. These two initial steps are the basis for PMR1 evaluation criterion PMR1-1, which is “Metrics data collection and storage processes have complete and up-to-date documentation.” In those cases where SBC Illinois was unable to obtain sufficient information from SBC or where the information was incorrect or inconsistent with other information that BearingPoint obtained, BearingPoint issued Exceptions and Observations to record those deficiencies.

53. Two of the earliest major problems reported by BearingPoint in the Illinois test were Exceptions 19 and 20,²¹ which were issued because SBC Illinois was unable to provide the policy information or produce the necessary documentation of processes and procedures for PMR1. BearingPoint posted these Exceptions in late November, 2001. Exception 19 challenged the adequacy of SBC’s data retention policies as the necessary data was not, as a practice, adequately archived and secured such that later audits of the transactions could be performed by SBC or by a CLEC seeking to compare its raw data with that of SBC. Exception 20 advised that performance

²¹ As I discuss elsewhere in this affidavit, Exceptions 19 and 20 were the initial Exception findings identifying the substantial issues relating to data retention and other data integrity issues. These Exceptions are in the process of being closed and replaced by other, more specific, Exception reports (i.e., Exceptions 185-187). See my further discussion in paragraphs 61 through 68 below.

measurement results were being calculated absent controls and procedures expected from an audit perspective. Together, these interdependent data requirements would, if not corrected, undermine any assumption that the relevant data was being retained reliably, accurately, and with integrity of the results published by SBC, because the data used to render the calculations could not be confirmed to be subject to adequate controls. In other words, in the case where critical inputs to a calculation process lack integrity, the outputs of the process immediately become suspect.

ii. Current High-Level Results Of PMR 1 Test – SBC Illinois Is Failing The PMR 1 Test

54. BearingPoint's Report on its findings of PMR1-1 results give warning to users of SBC's performance results that the results are produced haphazardly and not systematically. It states that the results produced for *only* 5 of the 18 PM groups *pass* the PMR1-1 test. Moreover, while important to some modes of business entry, none of the groups that are currently shown as passing are directly related to competitive entry using UNE combinations like UNE-P.²² The measure groups that reveal the extent of competition in mass markets remain unresolved for the PMR1 test, and in particular, the PMR1-1 test criteria.

55. The criteria BearingPoint uses to evaluate whether the “data processing and technical requirements documentation is complete and up-to-date” for each group is PMR1-2. Here, BearingPoint has found only the Bona Fide Request measurements to be adequately documented in the critical disciplines of computer-based processing within

the SBC Ameritech performance measurements processing environment. This means the system design and programming of the measurements collection steps, calculations, and application of the business rules is inadequate, incomplete, or absent.

56. BearingPoint tests to verify that the SBC Ameritech information technology and business “procedures are in place to ensure adequate capacity for processing and storing metrics data” in its test evaluation criterion PMR1-3. BearingPoint has thus far not been able to make a determination for *any* of the 18 measurement groups that the SBC Illinois procedures are adequate. Without a positive test finding in this area, there is no certainty that the forecast volumes of CLEC transactions can be accommodated within the performance measurements system. Transaction volumes that exceed the capacity for metrics reporting might be lost due to their exceeding capacity, could cause a general system failure due to the excess volumes, or could create mis-reporting of results. BearingPoint continues to explore the SBC procedures to determine the capacity management characteristics.

57. An additional set of evaluation criteria for PMR1 that has shown significant weakness in the SBC Illinois test is PMR1-4 “Data processing procedures include adequate controls and edits to ensure accurate metrics calculation and reporting.” In other words, has SBC Illinois developed computer-based and manual processes that produce accurate and reliable results? This test is necessary to ensure that the programming is done according to a design that incorporates the business rule formulae

²² The *passing* PM groups are: Miscellaneous Administrative, Directory Assistance/Operator Services; Coordinated Conversions, NXX, and Bona Fide Request.

and equations necessary for each of the 150 measurements. These test results demonstrate the extent to which the processes and procedures are sufficiently stable to produce accurate results month-after-month. The results provided in the December 20 BearingPoint report are overwhelmingly negative. All 18 PM groups have failed this test. (BearingPoint Exception 20) Of the 49 systems that BearingPoint has targeted for its review of the calculation controls and edits, a mere 5 have been shown to be competently controlled.

58. BearingPoint's testing of its 5th PMR1 evaluation criterion has been frustrated by the absence of adequate procedures that would ensure regularly scheduled back-ups of critical data are made. This data security and integrity process is one that is key to the auditability of performance measures results by a Commission or by any CLEC. Only if the data is adequately protected from erasure, destruction, or corruption, can an audit or replication of previously reported results be made. All 18 PM groups have an "Indeterminate" scoring by BearingPoint for PMR1-5.

59. The retention of transaction data according to regulatory requirements, or in the case of Illinois testing a BearingPoint-developed benchmark of 18 months, is the subject of PMR1-6 testing. The data retention policy is the subject of PMR1-1 testing; here BearingPoint determines whether those policies are practiced. It determines the source systems²³ and systems of record²⁴ for each performance measurement and tests the

²³ "A source system refers to the initial electronic capture point of data used for performance reporting." Tr. at 2264.

²⁴ System of Record – "SBC Ameritech's official retention system for performance measurement-related data." BearingPoint Interim Performance Measurements Audit Report, December 20, 2002 at 264.

documentation provided by SBC Illinois to determine the extent to which that documentation provides an unambiguous depiction of the data elements that are used in calculating each measure. Each data element must be shown to meet the retention period requirements to be considered sufficient for this test. In its initial testing, BearingPoint found, throughout the SBC Illinois system, no usable or reliable data retention practices and procedures. It recorded this defect in Exception 19.

60. As BearingPoint reports at 67, SBC Ameritech began to provide it with updated documentation identifying the systems of record and the official retention period for each system of record in March 2002. This documentation was used for the initial component of this PMR1-6 test, followed by the analysis of the actual retention practices for data in the systems of record and reporting systems. BearingPoint found satisfactory practices for Miscellaneous Administrative, Directory Assistance/Operator Services, 911, Poles, Conduits, and Rights of Way, Collocation, Coordinated Conversion, and Bona Fide Request groups. All of the 11 remaining groups are being subjected to retesting.

61. On February 10, 2003, BearingPoint reported in Exception 186 the following negative finding: “SBC Ameritech has been unable to demonstrate that certain system of record and reporting system data have been retained consistent with regulatory requirements” as the basis for its issuance of Exception 186. It identified 9 systems for which SBC Illinois failed to retain reporting data or record data for the minimum period of 18 months. It also provided a list of systems for which its tests showed SBC Illinois complied with its obligations and noted that its testing for the adequacy of data retention was continuing and that additional negative findings are possible. BearingPoint makes

the salient observation on the importance of this test criterion: “If source data is not retained, annual audits of historical data could be impeded. Attempts to trace errors in the reported results could be hindered by the lack of retention of source data, and SBC Ameritech may not be able to regenerate performance measurement reports as required.” See Attachment 3 to this Affidavit (Exception Report 186, Version 1, Issued February 10, 2003).

62. The last series of tests in the PMR1 function is to determine whether adequate procedures are in place to prevent unauthorized access to performance measurements data to “read” the data, “write” the data, or both. What is meant by this test is that there must be procedures and controls that are defined and practiced to ensure performance reporting data is safeguarded from abuse or loss of integrity from internal or external personnel or systems. In a case where controls are absent, the test results would indicate a potential that the data – as reported – is subject to misrepresentation because it could have been changed by a system or person that is not authorized to have access to the data. In the event access controls are insufficient to effect security of the data, BearingPoint would have a negative finding. As of its December 20 report, BearingPoint has not determined that *any* of the PM groups are effectively and sufficiently safeguarded and reports all tests as Indeterminate.

iii. Impact of PMR 1 Failures On SBC Illinois' Compliance and Further Testing By Bearing Point.

63. The 7 evaluation criteria for PMR1 testing, as explained in the BearingPoint Report are:

- Metrics data collection and storage processes have complete and up-to-date documentation;
- Metrics data processing and technical requirements documentation is complete and up-to-date;
- Procedures are in place to ensure adequate capacity for processing and storing metrics data;
- Metrics data processing procedures include adequate controls and edits to ensure accurate metrics calculation and reporting;
- Procedures are in place to ensure regularly scheduled back-ups of critical data;
- Data have been retained in compliance with regulatory requirements; and
- Procedures are in place to ensure that read and write access to metrics data is limited to authorized personnel.

64. These criteria are interrelated and as evidenced by the PMR Interim Report are interdependent with other PMR tests. If the data collection routines are well defined and documented, there is higher likelihood that PMR1-2 tests will be satisfied, given the obvious linkage between the business function of collecting and storing the data with the technical processes that actually process and record the data. Conversely, technical requirements that are not based on sound business process design will not prove

adequate for establishing procedures and processes that are clearly set forth and unambiguous.

65. This is not the only impact of improperly designed or missing technical requirements relating to data handling. For example, the issue of adequate capacity is not just a function of volume forecasts and capacity planning activities. A key factor in considering the amount of data that needs to be stored is a concrete definition of which data will be stored, in what format the data will be stored, by what system or systems are the data processed, and through what systems are the data transferred. Absent such definition, which is only available from the documentation BearingPoint examines for PMR1-1 and PMR1-2 testing, the results of tests for PMR1-3 are likely to remain indeterminate (which, in fact, is their current status as reported by BearingPoint).²⁵

66. These interdependencies are best displayed graphically. (*See* the table displayed after paragraph 67.) In examining the relationships between each of the PMR1 tests, I constructed the table below in a format similar to that used by BearingPoint to highlight other PMR test results in its report.²⁶ No PMR1-2 tests are successful when the PMR1-1 results are unsuccessful. It is apparent from the PMR Interim Report details on PMR1-3 testing (*see* footnote 25 above) that BearingPoint is continuing its evaluation of the adequacy of the capacity planning documentation and has yet to formulate its results, and the “Indeterminate” result is indicative of this ongoing analysis. Similarly, fashion, in the PMR1-5 testing (at pages 60 through 66 of the BearingPoint PMR Interim Report),

²⁵ *See* BearingPoint PMR Interim Report, pp. 48-54.

BearingPoint states that it is “still assessing whether SBC Ameritech has adequate procedures for performing regularly scheduled back-ups of critical metrics data.” For PMR1-7 testing (*id.*, at 85 through 90), once again, BearingPoint covers all PM Groups with the same comment: “... is still assessing whether SBC Ameritech has adequate procedures to limit read and write access to metrics data to authorized personnel.”

67. For PMR1-4 and PMR1-6 testing, the relationship between them and PMR1-1 results is closer. It is almost always the case that a finding of deficiency in the PMR1-1 test is matched by similar findings of deficiency in the PMR1-4 and PMR1-6 test.²⁷ The chart below displays the relationship for all criteria and measure groupings:

Criteria	Measure Group																	
	Pre-ordering	Ordering	Provisioning	Maintenance & Repair	Billing	Miscellaneous Administrative	Interconnection Trunks	Directory Assistance / Operator Services	Local Number Portability	911	Poles, Conduits and Right-of-Way	Collocation	Directory Assistance Database	Coordinated Conversions	NXX	Bona Fide Requests	Facilities Modification	Other
Data collection and storage process documentation	N	N	N	N	N	S	N	S	N	N	N	N	N	S	S	S	N	N
Data processing and technical requirements documentation	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	N

²⁶ This information includes the errata statement provided by BearingPoint that involves the results of PMR1-6L as posted on February 3, 2003.

²⁷ In only 3 cases involving just 11 of the 150 measurements has BearingPoint found satisfactory results (PMR1-6 only) where the PMR1-1 and PMR1-2 results were not satisfactory. In all other cases, the pattern is clear – not satisfied process and technical documentation issues are harbingers of not satisfied scores for process controls and data retention.

Criteria	Measure Group																	
	Pre-ordering	Ordering	Provisioning	Maintenance & Repair	Billing	Miscellaneous Administrative	Interconnection Trunks	Directory Assistance / Operator Services	Local Number Portability	911	Poles, Conduits and Right-of-Way	Collocation	Directory Assistance Database	Coordinated Conversions	NXX	Bona Fide Requests	Facilities Modification	Other
Capacity procedures for processing and storing	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I
Processing controls and edits	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Regularly scheduled back-ups of critical data	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I
Data retained per regulatory requirements	N	N	N	N	N	S	N	S	N	S	S	S	N	S	N	S	N	N
Authorized access procedures	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I
KEY: I = Indeterminate S = Satisfied N = Not Satisfied																		

68. The failures BearingPoint reports in process controls are further (and dramatically) evidenced in the frequency of restatements of performance results, which I discuss at pages 58 through 62 below, and the failures in process documentation lead to errors in stating results (i.e., PMR5 test failures where the SBC results cannot be corroborated by BearingPoint in its replication work). Of great concern is the extent to which SBC Illinois has failed the PMR1-6 tests. The recently-issued Exception 186 underscores this concern: “SBC Ameritech has been unable to demonstrate that certain systems of record and reporting system data have been retained consistent with regulatory

requirements.” The Exception details that 10 of the 18 PM Groups are imperiled by the inadequate periods for which data has been retained. A CLEC that requests its performance measurements data for reconciliation purposes for any of those measure groups and for any of those periods of time stands to receive an incomplete set of data. The consequence will be an inability of the CLEC and SBC to arrive at a meaningful agreement on the reported results, and possibly a dispute before the Commission with inadequate data from SBC Illinois.

PMR 4 – SBC Illinois Has Failed To Satisfy The Test Criteria For Data Integrity

i. Design and Purpose of PMR 4 Test; Brief History of PMR4 Testing Issues.

69. BearingPoint’s PMR4 testing consists of 4 evaluation criteria which are applied for each of the 150 performance measurements and are reported on the basis of the 18 performance measure groups:

PMR4-1. Required source records are included in data used to calculate measures.

PMR4-2. Inappropriate records are not present in process data used to calculate measures.

PMR4-3. Records in processed data used to calculate measures are consistent with unprocessed data from source systems.

PMR4-4. Data fields in processed data used to calculate measures are consistent with unprocessed data from source systems.

70. The four-part analysis is consistent with data integrity testing performed in other Section 271 tests with which I am familiar, and positive test results are essential if

the performance results published by SBC Illinois are to be given any credibility. The MTP²⁸ guides this testing regimen by setting out three fundamental activities to be examined: (1) Transfer of data from point(s) of collection – is the process adequate to ensure that data gets transferred from its point of origin to the reporting system(s) accurately and completely; (2) Conversion of data from raw to processed form – are there adequate policies, procedures, and controls in place that ensure the data conversions result in accurate and complete data, in the required form and format; and (3) Internal controls – does SBC Illinois provide a well-defined, documented and managed system of controls for performance measurements data.

71. PMR4 is the test of the integrity of the system, including the data within it, from beginning to end. These test steps confirm and ensure that raw transaction data – such as CLEC LSR entries, trouble ticket dates and times, collocation requests, and trunk blocking rates – are *actually* used in the calculation of the appropriate measures. Put another way, these tests attempt to remove any doubt that the “raw” data that reflects the actual experience being measured (e.g., a close out code in a M&R report) are not in some manner manipulated and/or changed prior to the calculation of a performance metric results. Negative findings are problematic, because they mean there is no assurance that the reported results are accurately based on the actual CLEC transactions (and in the case of parity measures, on the retail analog data).

²⁸ MTP, at 28 & 29.

ii. Current High-Level Results Of PMR 4 Test – SBC Illinois Is Failing PMR 4

72. SBC Illinois has a poor showing to date for PMR4 testing. BearingPoint has issued 12 Exceptions and 18 Observations to date. Only a handful of these Exceptions and Observations have been resolved (i.e., 2 exceptions and 5 observations). The open Exceptions and Observations involve discrepancies that BearingPoint has found which involve 77 of the 150 SBC Illinois PMs. There are 56 PMs involved in the unresolved PMR4 Exceptions and Observations.

73. BearingPoint's test design allows a substantial number of the PM groups to essentially be excluded from PMR4 testing because as it cannot create records²⁹ (i.e., provide Test CLEC records that serve as the basis for "raw data") for certain measures; in other cases, the raw transaction data is the same physical data used to calculate and report results³⁰, which obviates the PMR4 test steps which validate data continuity. The way this is expressed in the BearingPoint Report will not be clear to the uninitiated. The unprocessed data from source systems that are used in reporting results are data that have been determined by BearingPoint to be the same data. These test points that are excluded by test design yield a Not Applicable test result for 32 of the 72 test points (44%).

74. PMR4 is one of the (if not *the* most) disappointing aspects of SBC Illinois' performance as reported in the BearingPoint test. A mere two of the 72 test points have tested successful by BearingPoint to date. Whether the result is expressed as a factor of

²⁹ See Interim PMA Report PMR4-1-F (at 141) "BearingPoint does not have its own records for PM 24.1 and 25. In addition, transaction-level detail is not available for PM 21.1 and 22".

total PMR4 test points (2.8%) or of applicable test points (5%), the result remains a dismal showing. And poor status persists despite the fact that BearingPoint first issued notice of deficient data integrity documentation (Exception 20) in November 2001.

75. BearingPoint continues to evaluate all four of the PMR4 criteria for the Pre-Ordering and Maintenance & Repair groups; three of the four criteria for Ordering and Provisioning; and half of the criteria for Billing, Interconnection Trunks, Local Number Portability, Coordinated Conversions, Facilities Modification, and the Other category of measure groups. Only 6 of the 18 groups have been finalized for evaluation of data integrity, and the ones with the most significant impact on AT&T's UNE-P end users are found by BearingPoint to have failed 5% of the test points and be indeterminate on the remaining 95%.

76. The Not Satisfied criteria for PMR4 impact Ordering, Provisioning, Billing, Local Number Portability, 911, Coordinated Conversions, Bona Fide Requests, and Other measure groups. In 8 of the 12 Not Satisfied results, BearingPoint finds that SBC Illinois fails PMR4 Criteria 4; in three of the groups, PMR4-3 criteria are not met; and in PMR4-1, the Billing PM group fails BearingPoint's tests. The following table highlights the Not Satisfied results; none of the three tests for any of these nine measure groups have a Satisfactory test result.

³⁰ See Interim PMA Report PMR4-3-L (at 156) "SBC Ameritech uses unprocessed data to calculate measures in this measure set for the CLEC aggregate."

PMR4 Criteria	Measure Group								
	Pre-ordering	Ordering	Provisioning	Billing	LNP	911	Coordinated Conversion	Bona Fide Requests	Other
4-1 Required source records are included in data used to calculate measures.	I	I	I	NS	I	na	I	na	I
4-3 Records in processed data used to calculate measures are consistent with unprocessed data from source systems.	I	I	I	I	I	NS	I	NS	NS
4-4 Data fields in processed data used to calculate measures are consistent with unprocessed data from source systems.	I	NS	NS	NS	NS	NS	NS	NS	NS
KEY: I = Indeterminate NS = Not Satisfied na = Not Applicable									

77. BearingPoint provides additional information in its Report regarding the status of the testing for each of the PMR4 criteria. Table 4-23 (at 182 through 186)³¹ provides, in detail, the performance measures that are yielding “Not Satisfied” evaluation criteria for test PMR4-4 for each of the PM groups. Examining the Ordering Group, which is comprised of 18 PMs, *in every case* the CLEC Aggregate analysis of the consistency between raw data and the data used to calculate and report the results is “tbd”, meaning “To Be Determined.” This means that BearingPoint has not successfully

completed its validation of the information that is defined as the means by which calculations are rendered against the source(s) of the information. The same can be said for the 29 Provisioning and 17 Maintenance and Repair measurements. BearingPoint has not been able to analyze the source data sufficiently to verify its relationship to the data used to generate the SBC IL reports for any of the 64 measures in these 3 critical PM groups.

iii. Impact of PMR 4 Failures On SBC Illinois' Compliance and Further Testing By Bearing Point.

78. The failures in PMR4 testing hold serious consequences for other aspects of the PMR test, and bode poorly for users of performance results information provided from the SBC Illinois PM system, unless and until the Not Satisfies are made Satisfies, through system modifications and the requisite retesting. BearingPoint has found widespread and pervasive failures in the SBC Illinois system for establishing and maintaining processes and procedures that ensure data integrity. The data that enters the system may be subjected to corruption as it is transformed from one system or database to another. The eventual residing place – the specific reporting system for each metric – may not hold a reliable and accurate depiction of the data.

79. In the case of a trouble ticket duration, for example, where BearingPoint has found the duration (the hours and minutes the ticket was open) in the reporting system to be different from the duration in the source system, the calculations of Mean

³¹ BearingPoint sent notice of its errata sheet for page 183 of this report on February 3, 2003.

Time To Repair are unreliable.³² Not only did BearingPoint find discrepancies in durations, it also found four other types of data in the reporting system for Performance Measure 119 “Mean Time to Repair – NXX” that were inconsistent with those in the source system.

80. Also, in Observation 809, which involves Performance Measure 10 “Percent Mechanized Rejects Returned within 1 hour of receipt of reject in MOR” and Performance Measure 11 “Mean Time to Return Mechanized Rejects,” BearingPoint found “that 43,103 out of 107,435 mechanized reject transactions (40 percent of the total) appear to have negative durations for the July 2002 data month. In other words, each reject appears to have been sent to the CLEC by SBC Ameritech before it was “available” to be sent.” BearingPoint succinctly notes the significance of these discrepancies:

The data used to calculate reject timeliness measures must reflect the actual transaction time durations in order for regulators and CLECs to rely upon the published results. Inaccurate underlying data necessarily creates inaccurate and confusing results, which cannot be relied upon by regulators and CLECs. (Observation Report 809, at 2 – Attached hereto as Attachment 4.)

Nearly 20 percent of the performance measures are in question as recorded in the open PMR4 observations, and nearly 25 percent are implicated by the unresolved PMR4

³² See: Observation 766 “Data fields in SBC Ameritech’s processed records for Performance Measurement 119 (“Mean Time to Repair”) appear to be inconsistent with those in the unprocessed records from SBC Ameritech’s source systems for the January 2002 reporting month.”

Exceptions.³³ The Commission cannot reasonably accept the assertion of Mr. Ehr, as to the Not Satisfied results in PMR4 testing occasioned by unresolved Exceptions, that “... none of them reflect a material performance reporting issue.” Ehr Aff., at ¶ 252. Mr. Ehr does not even mention unresolved Observations, but these too erode any confidence in the data reported by SBC Illinois. The pervasiveness of the data integrity problems that plague SBC Illinois’ metrics system inescapably undermines the quality of the reported data and the reliability of the reports in a fundamental way.

**PMR 5 – SBC Illinois Has Failed To Satisfy The Test Criteria For
Metrics Calculation and Reporting**

**i. Design and Purpose of PMR 5 Test; Brief History of PMR4
Testing Issues.**

81. The Master Test Plan establishes the objective for the PMR5 test: “... to determine the accuracy of recent metrics calculations and to verify that the metrics as produced by Ameritech are consistent with its documentation and stated objectives.”³⁴ BearingPoint is currently using the published results of July and August 2002 activity, as reported by SBC Illinois on December 20 as the “recent” calculations of metrics.³⁵ This deferral period, which at a minimum extends for one month, and in the case of the July and August 2002 data, extended to August and September, respectively is necessary so that the October restatements of the originally reported results will be considered in the PMR5 tests.

³³ There are 28 PMs that are the subject of the 13 currently unresolved PMR4 Observations. The 10 unresolved PMR4 Exceptions impact 35 PMs. There are 7 PMs that are impacted by both open Exceptions and Observations.

³⁴ MTP, at 29

82. The PMR5 test “evaluates the processes used to calculate performance metrics and retail analogs. The test will rely on re-calculating metrics and retail analogs and reconciling any discrepancies to verify and validate the reporting of the metrics.”³⁶ The methods employed by BearingPoint in this test rely on replicating the published results. BearingPoint uses the *actual* data, in this case, from the SBC Illinois systems, and then uses computer programs that incorporate the negotiated and agreed SBC Illinois Business Rules that apply to the performance metrics. (In fact, the replication method used by BearingPoint is the same method that was accepted by the New York Commission Staff to attest to the adequacy of the Bell Atlantic (now Verizon) PMR system. I represented AT&T as one of its analysts that worked closely with the test managers and Staff.)

83. A successful result is achieved when SBC Illinois’ published results for the same period are the same as those calculated by BearingPoint. The timetable for this test has slipped time and again due the inadequacies in SBC Illinois data, business rules, or other processes which have precluded BearingPoint from comparing and validating the SBC Illinois performance results.

84. It is my understanding from my direct participation in the conduct of this third party test that Staff, SBC Illinois, and BearingPoint determine which target month(s) to use for replication analysis. In the early stages of the test (early in 2001), the decision was made to focus on April 2001 as the replication month. This meant that

³⁵ See BearingPoint PMR Interim Report, p. 189.

³⁶ Id.

BearingPoint would go through the PMR5 steps and attempt to achieve the same results using its replication methodology as were achieved by SBC Illinois when it published April 2001 results. Based on available documentation, namely status reports published by Staff and BearingPoint, along with Observations and Exceptions, I do not believe a deferral period was added to the April data month. The efforts to replicate to April 2001 were unsuccessful. Similarly, BearingPoint's later efforts to replicate October 2001 data (begun in December 2001) were also unsuccessful.

85. In its March 2002 Status Report the Illinois Commerce Commission Staff again announced it had shifted the target month for replication activities:

After consulting with ICC Staff, KPMG Consulting has adjusted the Metric's testing plan so that it reflects that KPMG Consulting will be attempting to replicate Ameritech's performance metrics for the months of January, February and March 2002. KPMG Consulting recommended shifting the PMR 5 – Data Replication months so that it could focus on more recent sets of metrics in its analysis. KPMG Consulting will retest issues raised through the observation and exception process for previous months.

Additionally, there may be some performance metrics that KPMG Consulting will attempt to replicate April 2002 results. For example, at least one of the Billing metrics will be replicated for the month of April 2002.

In its October 2002 Report, Staff once again announced an adjustment of the date targeted for replication:

ICC Staff, SBC Ameritech, and BearingPoint completed their work on developing a PMR 5 methodology document. During these discussions, SBC Ameritech proposed shifting the metrics replication effort for certain PM groups from January and February 2002 to July and August 2002. BearingPoint is now attempting to replicate the following ten PM groups for July and August 2002: 911, Billing, Coordinated Conversions, Local Number Portability,

Maintenance and Repair, Miscellaneous Administrative, Ordering, Other, Pre-order, and Provisioning.

86. The shifting of the target month for replication has a significant impact on BearingPoint's work in progress, causing schedules to be redrafted to add significant blocks of time to the project plans. Upon the decision to refocus the data month(s), BearingPoint has explained that a number of tasks are brought into play to effect the change, both at the technical level and at the level where its analysts conduct the replication tests. BearingPoint is required to secure all of its work on the existing replication months, being sure to track the individual PM analyses that are in process separately from those that have been concluded, with either positive or negative test status. It must make changes to its business rule software system to accommodate all changes to business rules that have been made by SBC Illinois in its production system(s). It must acquire the new target month source and reporting system data from SBC Illinois. It must conduct samples of the data to ensure it is complete and conforms to its testing specifications for comprehensiveness and population. It must segregate the prior test systems and databases from the environment that it establishes for the new target month. For those PMs where BearingPoint issued an Exception or Observation regarding its inability to replicate results, it must determine whether corrective action, if any proposed at that time, should be implemented into its own version of the business rules, or whether it is more appropriate to consider the correction in the new study period. For measures failing replication, where corrective action has not been proposed by SBC

Illinois, BearingPoint can close the earlier-period Observation and turn to the new period to attempt replication.

87. These tasks take several weeks to accomplish, if all goes according to plan, and have taken additional time when errors are detected and rework is necessary. Needless to say, the shifting of replication target months is not a simple program, and one that has been required twice in 2002, alone. Interested parties can only hope BearingPoint succeeds with the July/August replications so that another retargeting is not required before the testing is complete.

88. The PMR5 test is comprised of 4 separate but highly interdependent tests that are conducted for each of the 150 measurements and are reported by BearingPoint at the PM Group level:

- PMR5-1. Required metrics are included in the each of the PM Groups
- PMR5-2. Metrics values agree for each of the PM Groups
- PMR5-3. Calculations are consistent with the documented rules for each of the PM Groups
- PMR5-4. Exclusions are consistent with the documented rules for each of the PM Groups

89. The detailed, test-by-test and measurement group-specific test results are provided in the BearingPoint Report in Tables 5-2 through 5-5 (at 190 through 229). The summary chart provided in Table 5-1 is, as it is labeled, "Results At-A-Glance". This reveals that SBC Illinois has succeeded only on PMR5-1, and has thus far not been able to satisfy the test criteria PMR5-2 though PMR5-4. The 54 test criteria are Not Satisfied

for 40 (74%) tests, Indeterminate for 11 (20%) and Satisfied for 3 (6%), based on BearingPoint's efforts to replicate July and August, 2002 results.

90. BearingPoint reports on both the January data month replication work that it has done and the July/August replications in its PMR5 summary tables. These include separate charts for each of the 4 PMR5 tests. Tables 5-6 and 5-7 are the companion results for PMR5-1 testing, and these show general success (16 out of 18) in satisfying the test criteria "Required Metrics are included in the PM Group."

91. Tables 5-8 and 5-9 are the results that can be compared to show July/August versus January replication results for PMR5-2 testing. Because the Pre-Ordering and Other groups failed in January PMR5-1, by design, they fail the PMR5-2 standards for the same period. SBC IL failed four more group tests in the January-based testing. The results from July/August testing are less promising, but since the January testing was eventually successful to some extent, it is logical that the July/August testing will as well.

92. The results of PMR5-3 testing are summarized in Tables 5-10 and 5-11. The compound effect of the negative results is evident: the July/August test results show PMR5-3 failures that are directly attributed to the failures to achieve satisfactory results in the PMR5-2 tests. SBC IL may well bootstrap its PMR5-3 results by resolving the open issues surrounding PMR5-2 problems that have been documented by BearingPoint in Observations and Exceptions.

93. Similar to the consequences of prior test-level failures as explained above, BearingPoint shows, in Tables 5-12 and 5-13, the fact that PMR5-1 and PMR5-2 test

failures translate into Not Satisfied conditions for PMR5-4 tests. SBC IL must to improve its PMR5-4 scores by fulfilling the requirements for system improvements documented by BearingPoint.

94. There are 2 PMR5 Exceptions and 78 Observations that have not been resolved through explanation or retesting, as is required by the Master Test Plan. These involve 101 of the 150 ICC-approved performance measures. Again, SBC Illinois must get to work to resolve the issues that prevent closure of these issues.

ii. Impact of PMR 5 Failures On SBC Illinois' Compliance and Further Testing By Bearing Point.

95. The compounded effect of unresolved PMR1 and PMR4 test failures are part of the reasons for the abject failure of SBC Illinois to satisfy PMR5 test criteria. The testing science employed by BearingPoint weaves the business processes and technical implementations of performance measurements collection and reporting throughout the test family. The added dimension of PMR5 tests -- the replication of results that square with those reported by SBC Illinois -- only adds grounds for doubt about the core competence of the measurements system. Clearly, if the reporting system content is not traceable to source data (PMR4), and where the documentation that would help to solve that puzzle is incomplete or inaccurate (PMR1), it would not be a surprise to find that the results of tandem calculations by SBC Illinois and BearingPoint through separately developed business rules programs produce different results.

96. The BearingPoint report is replete with demonstrations of PMs and PM Groups where the systematic breakdowns occur across all three of these PMR tests.

There are 15 evaluation criteria for the PMR1, 4 and 5 tests, and for 9 of the PM Groups, 7 or more of them are not satisfied; only one (Bona Fide Requests) has 7 satisfied criteria. Ten of the PM Groups have but 1 Satisfied criteria. The chart I provide in Attachment 5 to my Affidavit portrays the number of criteria for each of the 18 PM Groups to indicate how many are in each of the Satisfied, Not Satisfied, Indeterminate, and Not Applicable categories.

97. As BearingPoint continues its testing, the extent to which SBC Illinois cooperates in proposing and implementing timely and effective solutions to PMR5 (and all other incomplete tests) issues, through process, system, and other modifications that are necessary, will determine the pace and extent of BearingPoint's progress. Without SBC Illinois' direct and committed involvement, the slow pace in resolving PMR5 issues will no doubt continue to drag out the BearingPoint testing. Of the 69 unresolved PMR5 Observations, 48 were issued prior to the BearingPoint December 20 Report, and 10 are more than 6 months old. The Commission must demand more dedication from SBC Illinois than it is currently exhibiting in the processing of unresolved PMR Exceptions and Observations.

VI. SBC ILLINOIS' PERFORMANCE MEASUREMENT SYSTEMS' FAILURES PREVENT A VALIDATION OF ITS OPERATIONS SUPPORT SYSTEMS

a. BearingPoint Has Been Unable To Validate SBC Illinois' Retail Performance Data, Which Has Prevented Parity Comparisons Called For In The Master Test Plan

98. Measuring the success of an ILEC's OSS against identified requirements typically begs the question of the source of the standards used to determine pass or fail. BearingPoint recorded its test evaluation criteria pursuant to the collaboratively-developed Master Test Plan and the system of performance measurements that are the Illinois standards. The MTP criteria are not very specific because they are intended to apply across a wide range of test types, families, and domains: "The evaluation criteria to be applied in the overall test effort are based largely on the legal and regulatory requirements for functionality and performance applicable to Ameritech's OSS."³⁷ In contrast, the criteria in the Performance Measurements system are specifically defined as parity with retail, benchmarks, or diagnostic measurements.

99. For transaction testing to be deemed successful, BearingPoint is required to evaluate the functionality, i.e., whether the SBC Illinois OSS receives, processes, and provisions CLEC transactions according to the design of its systems. This evaluation, consistent with the MTP, includes the various methods of transaction types and the interfaces used to communicate between CLECs and SBC Illinois. The additional testing is to determine whether SBC Illinois provides the Test CLEC with service that is consistent with the standards it has agreed to meet. These tests answer the qualitative issues surrounding the functionality testing.

³⁷ MPT, at 16.

100. BearingPoint was hamstrung in establishing the retail standards for transactions that are parity-based for its quantitative analyses because, for many measures, SBC Illinois' retail results could not be validated. The failures of SBC Illinois to demonstrate that it has accurately calculated the retail results is tied to the same SBC Illinois failures to satisfy PMR test criteria. Not only did SBC Illinois fail to accurately collect, store, calculate, and report results for wholesale processes, it also did not meet the tests for retail results.

101. In the circumstances where retail data could not be used (because it could not be validated), BearingPoint had to design an alternative measurement to the retail standard (a retail "analog" or "surrogate"), and it did so using its professional judgment based on its experience in testing for other RBOC regions. It adopted retail result surrogates to determine whether the Test CLEC was receiving "adequate" service where it would otherwise have used the retail results to determine whether the Test CLEC results were consistent, i.e., at parity.

102. Due to SBC Illinois's insistence that test reports be produced from incomplete results, the quantitative analyses of transaction testing are based on the retail result *surrogates* and not the actual retail results for each of the months of transaction testing. BearingPoint indicates its use of retail result surrogates in a few cases in the BP Report, but it does not fully disclose where it was forced to use this approach because the SBC Illinois PMR testing was incomplete. (*See* BearingPoint OSS Report Test Results TVV 4-11, 4-12, 4-18, 7-2, 7-4, 7-5, 7-6, 7-8, 7-10, 7-11, 7-15.)

103. BearingPoint is required to evaluate Test CLEC results against the retail parity standard in far more cases than it indicates that it has in its report. The Performance Measurements system, Version 1.8 as approved by the Commission, prescribes retail parity as the standard for numerous pre-ordering, ordering, provisioning, repair, and billing measurements. (*See, e.g.*, Performance Measures 1.1, 1.2, 12, 13, 14, 17, 22, 25, 27, 28, 30, 31, 35, 37, 37.1, 38, 40-50, 59-69, etc.) In the cases where BearingPoint used a retail result surrogate, it should subject the Test CLEC results to the retail actual results *for the same period*, once it has verified that the retail result calculated by SBC Illinois is accurate. Inexplicably, BearingPoint did not validate these results, so SBC Illinois's self-reported results were not verified for accuracy.

104. There is no reason to believe BearingPoint is unable to do this second stage testing of the qualitative aspects of transaction testing. It simply has not undertaken to do so, for unexplained reasons. In response to questions that were posed to BearingPoint in regard to actions that it was taking with Exception 132 ("SBC Ameritech in Illinois has failed to process Special Circuit trouble reports with a Mean Time To Restore (MTTR) interval at least equal to that of retail.") BearingPoint advised: "BearingPoint does not intend to revisit its analysis unless it is directed to do so by one or more commissions and the relevant published retail results are restated for all relevant months." Thus, it appears that it will be necessary for this Commission to direct that the retail parity analyses be appropriately conducted.

b. The Volume, Scope And Overall Disruptive Effect Of SBC Illinois' Restatement Of Performance Measurement Results Suggests That The PMR Systems Are Unstable.

105. The number of performance measurement report *restatements* reflects the extent to which an ILEC's noncompliance with a Business Rule has been detected by any source –including the IELC – and the ILEC has attempted to correct that error;³⁸ the number of *exceptions and observations* issued in testing indicates the number of times that the audit detected non-compliance with business rules through its transaction testing, process and procedure testing, and most often, performance measures auditing test processes.

106. Therefore, these restatements, exceptions and observations all signal instances of non-compliance. Taken together, the vast number of problems in each of these categories uncovered by the BearingPoint's testing indicate that the systems and processes used by SBC Illinois to collect, store, calculate and publish performance data are unstable, unreliable, have inadequate controls, and simply are not sufficient to produce accurate and complete reports on SBC Illinois' wholesale and retail operations. I discuss each category separately below, but first I address several claims made by Mr. Ehr in his Affidavit regarding SBC Illinois' overall performance.

107. As part of his overall plan to minimize the degree to which SBC Illinois fell short of the performance measurement standards, Mr. Ehr paints a picture of the performance measurement system as vast and complex, making it hard for him to

³⁸ See Georgia § 271 Order, p. 13 & n. 62.

administer. (*See, e.g.*, Ehr Aff. ¶¶ 224, 235 - 242.) In reality however, that system has become largely automated, greatly minimizing the administrative burden. As SBC Illinois has stated to CLECs, only 43 of the performance measures involve manual processes and, of those, just 28 require manual data collection, and a mere 20 involve manual calculation of the results.³⁹ Thus, because the vast majority of the performance measurements work has been programmed by SBC Illinois, I do not find compelling Mr. Ehr's apparent request the Commission overlook manifest errors. See Ehr Aff., ¶ 224. Indeed, if the systems were programmed correctly – a task BearingPoint has been trying to address through its testing – it would be very unlikely for errors to creep into the process.

Restatements: SBC Illinois' OSS Generate An Inordinately Large Number Of Performance Measure Restatements.

108. The source for my calculation of the number of restatements is the "CLEC Online" portion of its website, where SBC Illinois publishes its monthly performance measure results. The results for all CLECs in the aggregate are available on a state-specific basis, which provides regulators and CLECs with a readily accessible tool for assessing the overall performance of SBC Illinois. CLECs, through use of a password-protected system, can also obtain access to data on SBC Illinois's performance on an individual basis, which provides CLECs the opportunity to analyze how SBC Illinois is performing for them versus the industry as a whole, as well as to identify any discrepancies between the reported results and their records. On a monthly basis, SBC

³⁹ SBC response to AT&T/SBC Question 48 in the MPSC Collaborative Workshop, October 14-18, Case U-12320.

Illinois publishes a list of the restatements made for that month, as well as a list of the prior months impacted by the restatement.

109. There are several causes for a restatement, not the least of which are the third-party testing by BearingPoint and the Business Rules compliance audit by Ernst & Young. Because these activities have achieved visibility, SBC Illinois shows every appearance of more diligence in reporting its errors and making restatements, responding to the test findings. However, there are other reasons for restatements, e.g., CLEC-reported discrepancies, regulatory agency decisions, SBC Illinois self-identified and reported problems, etc. When SBC Illinois determines that the reported result for a particular performance measure is incorrect, it is required to: (a) correct the problem in its systems or procedures that caused the error; (b) apply the correction and report the new, correct results both for the current month *and* for each prior month in which results were misreported due to the error; and (c) publish a notice that explains the problem, the involved performance measure(s), and the months for which the earlier-reported results will be restated, on the CLEC Online website. BearingPoint is evaluating the extent to which SBC Illinois adheres to these requirements.

110. Many times a single error will permeate the performance measure system and cause several different performance measures to be restated. Accordingly, to fully understand the impact of a given Restatement, one must view the number of performance measures that had to be corrected as a result of the error that prompted the Restatement. Further, if SBC Illinois's performance does not meet the benchmark or parity standard for certain performance measures, it must, consistent with the terms of the applicable plan (if

any) make remedy payments to CLECs, and in certain circumstances to the State of Illinois. Accordingly, when a Restatement changes the result for such a performance measure from pass to fail (or vice-versa), the corresponding remedy payment must also be restated (increased or decreased).

111. Restatements are occurring at an alarming rate and on a routine, monthly basis in the SBC Midwest region. Mr. Ehr makes no statement that the performance measurements system is stable or reliably operated such that restatements projects are not expected to be a continuing activity. In fact, to the contrary, Mr. Ehr seems to admit that errors will always be a part of SBC Illinois’s processes. Ehr Aff. ¶¶ 224, 267. But it is the enormous number of these errors committed by SBC that should be of concern to the Commission. In my experience and to my knowledge, no other ILEC’s performance results require the number of restatements as do SBC’s. Worse, as indicated by the following chart, the restatements have become more and more pervasive during the past 11 months:

Results Month	Restatements Made In								Total
	May	June	July	Aug	Sept	Oct	Nov	Dec	
March	4	7	7	7	22	62	1	21	131
April			49	24	37	63	1	23	197
May				26	40	59	9	22	156
June				23	40	64	2	22	151
July					22	70	2	36	130
August					1	15	2	56	74
September						1	0	58	59
October								9	9
Total	4	7	56	80	162	334	16	247	907

112. The above chart strikingly illustrates that the Commission simply cannot rely only on the three months of performance data submitted by SBC Illinois remaining stable. Indeed, it is almost certain that the September, October and November data presented by SBC Illinois and Mr. Ehr will be restated in the future, and if the recent past provides any indication, will be restated multiple times with dramatic results.

113. Throughout the system of SBC Illinois performance measures, tolerances are provided to account for errors in data, processes, and operations. Mr. Ehr argues additionally that a “materiality” standard of SBC Illinois’s own invention should be applied. Ehr Aff. ¶ 268. Whatever the considerations are that might support the use of a materiality standard for reporting errors with respect to a single performance measure, such considerations are irrelevant here. What is relevant to the Commission’s analysis is the sheer volume of the performance measures that have needed to be restated thus far as a result of SBC Illinois’s failures to comply with the Business Rules – **907 through December 2002!**

114. “Material” or not – that number of mistakes demonstrates that SBC Illinois’s performance systems and processes are not performing as they should and are not subject to adequate controls. Mr. Ehr suggests that “the existence of restatements itself demonstrates that there are processes in place to detect errors and correct previously reported results.” *Id.* The Commission should reject this contention. Mr. Ehr’s recipe for making burnt toast edible is to scrape the toast every morning, rather than fix the toaster.

115. Finally, several measures have been restated month-after-month. For example, the performance measures for flow through (PMs 13 and 13.1) and provisioning

measures (such as PMs 27 to 33, and 37 to 50) are consistently restated. Business rule discrepancies should be found on a systematic basis by thoroughly reviewing all of the operations and systems that serve to collect, calculate, and report each measure and one restatement should be all that is necessary, were SBC Illinois's effort to focus on cleaning up problems that are being reported an aggressive one. This further evidences that SBC Illinois's performance reporting system is not under control, and is unstable.

VII. THE ERNST & YOUNG AUDITS DO NOT PROVIDE SUFFICIENT ASSURANCES THAT SBC ILLINOIS' PERFORMANCE MEASUREMENT REPORTING SYSTEMS HAVE PRODUCED ACCURATE RESULTS.

116. SBC Illinois asserts that the E&Y audit establishes the accuracy of its data. Ehr Aff., ¶¶ 216-217. I believe there are multiple reasons that should cause the Commission to conclude that the E&Y audit does not demonstrate that SBC's performance data are complete, accurate and reliable.

117. Any notion that the E&Y audit validates the accuracy of SBC Illinois' performance data is belied by: (1) the fundamental procedural and substantive defects in the auditing process, including the lack of any military-style testing to verify that errors in SBC's performance monitoring and reporting system were corrected; (2) E&Y's own reports which are riddled with examples of deficiencies in the data monitoring and reporting processes that have spawned inaccuracies in performance results which remain unremedied; and (3) the deficiencies in SBC's performance monitoring and reporting system that E&Y failed to detect and BearingPoint uncovered.

a. The E&Y Audit Procedures Are Flawed.

118. During the course of its engagements, E&Y issued a series of reports and associated documents, including: (1) Report of Independent Accounts regarding SBC Illinois' compliance of reported performance measures with the Business Rules, dated January 17, 2003 (Att. O to the Ehr Aff. – “Compliance Report”); (2) Report of Independent Accountants regarding the effectiveness of SBC Illinois' controls over the accuracy and completeness of reported data, dated January 17, 2003 (Att. S to the Ehr Aff. – “Controls Report”), and need to add Att Q and R (3) Supplement Report – Operational Support Systems (OSS) Performance Measurement Examination For the Months of March, April, and May 2002 (Att. T to the Ehr Aff. – “Supplemental Report”). The two attachments to E&Y's Compliance Report that contain the itemizations and discussions of the audit findings and business rule interpretations that E&Y recorded are provided in Ehr Affidavit Attachments Q “Exceptions to Compliance” and R “Interpretations,” respectively to the Compliance Report to SBC Management. I have examined these reports and certain associated workpapers that have been made available to AT&T. As I discuss in detail below, the E&Y audit cannot substitute the detailed, military-style process that BearingPoint is conducting. In fact, in nearly every material respect, the E&Y audit's scope and methodology⁴⁰ is not consistent with the objectives of the Commission's Merger Order or the Master Test Plan, which guide BearingPoint's activities. These inconsistencies include:

⁴⁰ Mr. Ehr provides the E&Y Scope and Approach statement in Att. N to his affidavit.

119. **Raw Data.** The E&Y audit (as well as subsequent work to verify the corrective measures SBC has taken) cannot legitimately be relied upon as proof of the accuracy of SBC's data because E&Y's audit is both procedurally and substantively flawed. Verification of the accuracy of reported results requires a comprehensive evaluation of all elements in the data collection, monitoring and reporting processing streams. That examination necessarily involves an assessment of the accuracy of the raw input data, as well as an assessment of a BOC's obligation to apply correctly the calculations, formulas, and exclusions in business rules governing the measures when calculating performance results. However, during its audit, E&Y *assumed* that SBC's input raw data were accurate. Starting from that basic assumption, E&Y then assessed whether, *inter alia*, SBC converted its input data into performance results that complied with the metrics business rules.

120. **Limited Test Criteria/Temporal Scope.** The E&Y audit was otherwise limited in scope. Unlike the ongoing BearingPoint performance metrics audit, which is examining five major test criteria comprising 33 general and 270 measurement group-specific tests, the E&Y attestation engagements are limited to three tests: a portion of PMR1, and PMR4 and PMR5. Furthermore, E&Y tested SBC's March, April and May 2002 data, while BearingPoint is currently testing July, August and September 2002 data. To complicate and confuse matters further, SBC Illinois has submitted to this Commission data for September, October and November, 2002. It is inconsiderate, if not duplicitous, to assert that E&Y has conducted its audit, made its findings, ensured some corrective actions have been taken – all regarding three particular months of data – and,

turning a blind eye to those months of results, averring a different set of data, produced by systems that have been newly implemented, using processes and procedures that have been modified. This data is un-audited by E &Y, and E&Y has been careful to disclaim the ability to apply its results to months other than those it reviewed.

121. **Materiality.** In addition, the significant methodological deficiencies in E&Y's auditing activities show that SBC Illinois cannot legitimately contend that the E&Y audit confirms the validity and accuracy of its reported data. For example, the E&Y audit was not designed to identify and has not identified all instances in which SBC Illinois improperly implemented the business rules governing the metrics. During its testing, E&Y identified "[e]xceptions to compliance with the Business Rules" only if they were deemed "material" because they met one or both of the following two criteria:

- a. the error, if corrected, would change the original reported performance measurement ("PM") result by five percent or more, and/or
- b. the error, if corrected, would cause the PM's original reported parity attainment/failure or benchmark attainment/failure to reverse.⁴¹

Because of E&Y's flawed and misguided definition of "materiality," significant defects in SBC Illinois' reported data that do not meet E&Y's "materiality" test are not reported by E&Y. Under E&Y's approach, a substantial defect in SBC's data would go undetected if the volumes for the measure during the time period covered by the audit were sufficiently low that performance results would not be adversely impacted. In the

⁴¹ Compliance Report, Attach. O to Ehr. Aff., p. 1 & n. 3.

case where the results for a given measure for each of the three months were equivalently affected by non-compliance of a business rule, E&Y would not consider that a material non-compliance and would not report that failure.

122. **Geographical/Pseudo-CLEC Testing.** Furthermore, unlike the BearingPoint audit, which is Illinois-specific and uses pseudo-CLEC transactions, E&Y performed its transaction testing using data culled from the five SBC Ameritech states rather than an Illinois specific test⁴² and has not utilized Test CLEC activity to test the compliance with business rules or to develop its conclusions.” The failure of E&Y to perform independent calculations of measures based upon Test-CLEC data is a fundamental defect in audit design because the data captured from submitting known test transactions is extremely valuable in determining data integrity – the auditor can compare its source records with those asserted by the subject to be true and accurate source records. In conducting an audit with SBC Illinois, that is exactly the first fact that a CLEC must be able to establish to go through a systematic analysis of performance measurement results.

123. **Analytical Review.** During its audit, E&Y claims that it undertook an analysis of “volumes, fluctuations in results and reasons for parity or out-of-parity results for the period under examination.”⁴³ However, E&Y’s “analytical review” was woefully inadequate. Essentially, E&Y discussed those issues with SBC, read the SBC response or listened to SBC’s explanations and excuses for various results, and then determined if the

⁴² Tr at 3320.

review analyzed transaction volumes, fluctuations in results, and reasons for parity or out-of-parity results for the period under examination. The procedures performed for PM recalculation testing covered Master Test Plan Sections: PMR 4 and 5.

125. E&Y's analysis, as documented, consisted of questions raised⁴⁵ by E&Y that were the subject of answers supplied by SBC or discussions with SBC alone. The responses were not verified by E&Y. Indeed, SBC's responses were accepted at face value. At no time, did E&Y reject an SBC response or ask further questions of SBC or of any other party.

126. **Performance Measurement Code.** E&Y's purported performance measurement code reviews are equally infirm. During its audit, BearingPoint programs the business rules into its computer programs that are integral to its PMR 5 (replication) testing.⁴⁶ In stark contrast, during its audit, E&Y staff read the programmed instructions within SBC's software systems to determine whether they complied with the business rules. However, E&Y should have written complementary programming logic that comports with the business rules, as interpreted by E&Y, and processed the same transaction files used by SBC for calculating and posting the measures. Any differences between the two sets of results would have been revealed through this procedure. Code review -- the approach taken by E&Y -- is wholly ineffective in testing the

⁴⁵ In the course of the February 2003 workshop, (Tr at 3316) I learned that E&Y had conducted additional analytical reviews using performance data for October and November, 2002. Those documents were requested by AT&T's attorneys at that time and have only just been delivered for review. I may supplement this Affidavit following my review of these and other documents recently provided to AT&T by SBC Illinois, BearingPoint and E&Y.

⁴⁶ See Ehr Aff. ¶ 281 (noting that BearingPoint independently replicates SBC's reported data by "using calculation programs that BearingPoint developed to recalculate SBC's unfiltered, unprocessed data, a process referred to as 'blind replication.'")

implementation of complex programming requirements. Further, for each correction implemented, E&Y performed its code review of the particular, and limited, section of the program code provided by SBC. It did not examine the effect of new corrections on previously implemented corrections. I discuss this issue more fully below.

127. **Outdated Source Systems.** Significantly, E&Y's opinions appear to be based upon source systems that have since undergone significant changes. In its Supplemental Report (attached as Exhibit T to Mr. Ehr's Affidavit), E&Y stated that it followed the following procedure for its data integrity test:

For the PMs identified in Appendix A to the E&Y Report, E&Y validated the integrity of data used throughout the PM generation process by reviewing each of the significant applications where data originates, was stored, or was reported on PMs. For each application, E&Y identified the various transaction types and systems utilized that directly impact the reported PMs. Upon identification of transaction types, E&Y then determined how each transaction type was initiated, captured by the Company's Operations Support Systems (OSS), and processed through the Company's OSS and PM reporting systems. This process also identified where and how the Company applied the Business Rules to each transaction and which intermediate applications house specific PM information.

Once the above information was obtained for each PM under review, E&Y created process flowcharts and activity dictionaries. The purpose of the process flows was to document E&Y's understanding of the data flow for each PM and each transaction type. The purpose of the activity dictionaries was to provide supplemental information regarding the process flows identifying critical controls and data inputs and outputs to each system utilized throughout the PM process. The procedures performed in developing the Process Flows and Activity Dictionaries are covered Master Test Plan Sections: PMR1 (data collection only), PMR4, and PMR5.⁴⁷

⁴⁷ Ehr Aff., Attachment T, pp. 4-5.

128. However, SBC has admitted that it has modified many portions of its performance reporting systems. E&Y's witnesses acknowledged the conversion of reporting functions to the DSS system. *See* Tr., at 3213. SBC has broadened the scope of its ICS/DSS data collection system functionality for pre-ordering, ordering, provisioning, and maintenance measures, which, in the past, has been primarily a system of record for data retention of GUI/Web based pre-order/order transaction data. It is clear from the BearingPoint Illinois performance measurement audit that SBC is now expanding the scope and use of ICS/DSS to act as a system of record for EDI/LSOG 5 based transaction data.⁴⁸

129. BearingPoint has not yet determined whether these system changes have affected the integrity of SBC's data. BearingPoint has stated the following:

BearingPoint is performing a review of data transfer procedures from Web Verigate, EDI LSOG 4, EDI LSOG 5, CORBA, and Loop Qualification Host into the ICS/DSS system to determine if the ICS/DSS system should be included as a system of record in the analysis for this measure group. Based on the outcome of this analysis, BearingPoint will complete its evaluation of whether SBC Ameritech has procedures in place for retaining metrics data for these systems.⁴⁹

130. BearingPoint is in the process of conducting PMR testing to assess the integrity of SBC's data in light of these system changes. Thus, it may well be that BearingPoint will determine that its prior PMR findings, which were deemed to have passed under the outdated systems of record, now fail. More fundamentally, since SBC Illinois' systems of record have undergone significant change and E&Y's analysis is

⁴⁸ *See, e.g.*, BearingPoint PMR Interim Report, at 18, 38.

⁴⁹ *See id.*, at 38.

based upon a now *outdated* view of the systems of record, these developments confirm that E&Y's conclusions regarding the integrity of the data are at the very least untrustworthy and/or are completely irrelevant. To be sure, SBC cannot seriously contend that E&Y's audit validated the integrity of its current data, given that E&Y did not review the systems that are currently in place.

131. **Interpretations of Business Rules.** The E&Y audit is also deficient because E&Y accepted without challenge SBC's erroneous applications of the business rules. In this regard, in its Compliance Report, E&Y rendered the following qualified opinion regarding SBC's compliance with the business rules governing the metrics:

In our opinion, considering the Company's interpretations of the Business Rules discussed in Attachment B of the Report of Management, and except for the material noncompliance described in Column 3 of Attachment A of the Report of Management, the Company complied, in all material respects, with the Business Rules during the Evaluation Period. Additionally, in our opinion, management's assertions, regarding the status of the Company's corrective action, except with respect to those assertions in Column 4 of Section III in Attachment A of the Report of Management, are fairly stated, in all material respects.⁵⁰

132. Attachment B to the E&Y Compliance Report identifies 50 "interpretations made by management" in implementing the business rules governing the measures. However, E&Y blindly accepted without critique or analysis SBC's "interpretations" even though SBC's interpretations were inconsistent with the business rules governing the metrics.⁵¹ Indeed, E&Y's findings relied on prospective changes to the business rules that the CLECs had not agreed to and which the Commission has not yet approved. The

⁵⁰ Ehr Aff., Attachment O, p. 1.

mere fact that E&Y accepted SBC Illinois' misguided "interpretations" of the business rules governing the measures provides further confirmation regarding the unreliability of E&Y's audit findings.

133. The mere fact that E&Y accepted SBC Illinois' misguided "interpretations" of the business rules governing the measures provides further confirmation regarding the unreliability of E&Y's audit findings. For example, E&Y accepted, without challenge, the following SBC "interpretation" of Performance Measurement 91 (Percentage of LNP Only Due Dates Within Industry Guidelines):

For purposes of applying the exclusion for CLEC-requested due dates outside of industry guidelines, the Company treats all NXXs as if they were previously opened. Thus the standard interval is three days. Therefore, anything outside of four days or more is considered a CLEC-requested due date outside the industry guidelines and is excluded from the PM.⁵²

134. SBC Illinois asserts that "[c]hanges have been discussed, agreed to and applied to the business rules to exclude any requested due dates greater than three business days and eliminate differentiation based on status of the NXX and the reference to the standards as established by NANC."⁵³ However, the CLECs never agreed to this "interpretation." During the six-month review, Performance Measurement 91 was changed to reflect the same installation guidelines for LNP only orders that are used for other product types. The measure will assess whether installations are completed within the customer-requested due date as long as the due date is three days or longer. Under

⁵¹ See, e.g. Ehr Aff. ¶ 2231 (noting that E&Y "did not classify these interpretations as exceptions, as the reasonableness of SBC Illinois' interpretations is something for the Commission to decide.").

⁵² Ehr Aff. Attachment R, Interpretation No. 31, at 10.

this measure, an order with a customer-requested due date that is four days or longer should be included, not excluded, from the calculation. Thus, E&Y should not have blindly accepted SBC's "interpretation" of PM 91, which called for the exclusion of orders with a due date longer than four days. And SBC Illinois is simply wrong when it asserts that CLECs have agreed to SBC's erroneous interpretation.

135. In stark contrast, BearingPoint has opened 14 observations covering 20 different performance measures because of SBC Illinois's failure to comply with the business rules governing the metrics. Remarkably, E&Y reached a contrary finding and concluded that SBC's data were fully compliant. Attached as Attachment 6 is a table that identifies the 14 observations at issue. The failure of E&Y to detect these discrepancies underscores the unreliability of the E&Y audit. Each of these observations remains unresolved because SBC has not yet implemented a corrective action plan for these measurement defects.

E&Y's Corrective Action Testing

136. SBC subsequently engaged E&Y to evaluate – and report on – actions that it was taking to correct the compliance defects that were found in the course of its audit. E&Y's reviews are constrained by its methods and by SBC Illinois, as was explained in the February 2003 workshops. In the case of corrections that SBC Illinois was making to processes and procedures used to collect, calculate, and report results on a manual basis, E&Y was provided access to the experts who designed the corrections and who

⁵³ *Id.*

administer the SBC Illinois 271 endeavor, but were not marshaled to the field to determine the practice of those procedures.

AT&T/E&Y Question 31 "Please explain the work function of the Company subject matter experts that E&Y interviewed in its activities involved in the corrective action reviews for revised processes.

E&Y Response: E&Y met with a variety of company subject matter experts primarily in the following three areas:

The PM process owners. These are company personnel who are responsible for the business processes to generate specific performance measures.

The technical owners. Company representatives who are responsible for maintaining and updating computer program logic associated with the processing and reporting performance measurement data.

And the long distance compliance group, which is company personnel with overall responsibility for the performance measures. (Tr. 3167)

137. For the corrections that were made to systems, E&Y was provided with copies of the program code that served to implement the correction. This means the E&Y technical staff of analysts and programmers obtained the revised computer code for the affected system component to review to determine whether the design and development of the computer instructions would resolve the business rule compliance problem. While this exercise serves to verify that the program changes comport with the resolution that suits the problem, E&Y took an additional step to verify the results of the specific change. It obtained data files with which to determine whether the records that were previously processed incorrectly had the more appropriate outcome in the next reporting period.

138. E&Y was not given access to the overall program code for the system being modified, and therefore could not determine whether the change under its review would be effective in light of other changes that had already been implemented or other changes that were being implemented simultaneously. Clearly, the Administrative Law Judge has detected the lacuna:

JUDGE MORAN: If I can ask a question here. When you're testing the fix, if the fix is under a new system, you're testing in effect the new system; am I right?

MR. DAN DOLAN: Related to the fix only.

MR. BRIAN HORST: Related to the fix, absolutely, yes.

* * *

MR. BRIAN HORST: Sherry, I believe your understanding is correct. What we're doing is testing the corrective action on the fix. We did not go out and do a completely new sample of the entire process testing all the business rules.

(Tr at 3411.)

139. Because the “fix” as presented to E&Y was limited to the coded program change, its ability to determine the effect on all other processing was severely limited – by SBC Illinois design of the E&Y engagement. E&Y was blinded from the modules being changed and SBC Illinois gave it only a sliver of visibility into the system corrections.

140. **Deficiencies in Corrective Action Reports.** E&Y purportedly tested the accuracy of SBC's reported performance results for the months of March, April and May, 2002. However, in its Compliance Report, E&Y gave a highly qualified opinion.

141. **Site Visits.** In its Supplemental Report,⁵⁴ E&Y describes its work in the field to observe SBC Illinois operations where technicians, service representatives, and other employees perform the work functions that are measured by the SBC Illinois PM system. It explains the purpose was "to document E&Y's understanding of the manual processes and procedures and to identify and document controls over these manual processes of data input. Additionally, the transaction observation data collected by E&Y during the site visit was used to validate the transaction information in the Company's front-end systems. E&Y omitted an extremely important fact that diminishes the validity of its findings of any consistency with which SBC staff actually perform these procedures according to design. E&Y was escorted to the SBC work centers and was met in each of these venues by SBC staff. The visits were not unannounced, which dramatically lessens the candor with which the work site employees would use to interact with the E&Y staff. (See responses to AT&T/E&Y Questions 106 and 107). In addition, E&Y made a single visit to the work sites and did not follow up to determine whether the processes and procedures it observed were normally practiced or whether they were polished up for the SBC auditors. (See responses to AT&T/E&Y Questions 104 and 105). I have the impression, based on discussions with the E&Y staff directly involved in the audit that

⁵⁴ Ehr Aff. Att. T at 5

the audit team was given little free-rein to conduct its site visits, and was limited in access to those sites.

142. Furthermore, in its Supplemental Report, E&Y advises on the even more limited access it was provided to inspect corrections to SBC Illinois processes. “E&Y validated the newly implemented processes used in the PM generation process by reviewing the revised methods and procedures for each issue and interviewing key Company subject matter experts. For each process, E&Y verified that the new procedures addressed the identified issue.” (Ehr Aff. Attachment T, at 5) However, E&Y’s Compliance Report identified performance data deficiencies that should have triggered visits to work sites to verify that the field procedures had been implemented, the technicians trained, and that the processes were actually used. In this regard, in its Compliance Report, E&Y found that SBC “did not have a process in place to capture actual start times of coordinated cutovers during the Evaluation Period for the frame due time (“FDT”) level of disaggregation.”⁵⁵ However, E&Y did not conduct site visits at the dispatch centers or technical sites in central offices where loops are provisioned to evaluate SBC’s performance in this area. E&Y should have visited the work centers that record the “actual start times” to review the methods and procedures used by technical personnel to determine the “actual start time.” E&Y was not allowed to visit SBC work sites to verify that newly minted procedures to correct audit findings were appropriately implemented and institutionalized in the field.

⁵⁵ Ehr Aff. Att Q; Item II. 47 at 22

143. **Performance Measurement Code Reviews.** E&Y contends that it conducted code reviews to assess whether SBC resolved those audit findings which were identified in the Compliance Report that required the implementation of programming changes. E&Y states that it “E&Y reviewed the respective programming code that contained the Business Rules (exclusions, inclusions, calculation of the numerator and denominator, and disaggregation rules) within the front-end, intermediate, or reporting systems.”⁵⁶ However, E&Y’s Compliance Report identified other issues that implicated programming other than the limited set examined by E&Y (*i.e.* “programming code that contained the Business Rules”).⁵⁷ The programming that should have been tested to determine whether it functions properly is in the transaction processing systems, which do not contain the business rules.

144. In that connection, SBC places its business rules programming in select systems and not throughout its OSS and legacy systems. Because these are discrete systems, the information provided from interfaces, OSS, legacy systems, and other systems must be coded properly to enable the business rule system to operate effectively. In its Compliance Report, E&Y detected deficiencies in SBC’s reported results that required coding changes in business rule applications, as well as other systems embedded within the SBC system architecture.

145. For example, in its Compliance Report E&Y reported that “[c]ertain data from one of the Company’s source systems (EXACT) was improperly overlaying certain

⁵⁶ Ehr Aff. Att. T at 6

⁵⁷ See, *e.g.*, Ehr Aff. Att Q Item II. 1 at 11

FOC data within a PM reporting system resulting in some orders being reported with longer FOC durations than actually occurred.”⁵⁸ In order to resolve this problem, SBC had to take appropriate remedial action with respect to the source system (EXACT) and the Business Rule system. Because E&Y only “reviewed” the code in the Business Rule system, there is no assurance that the change was made to EXACT to prevent the data from overlaying FOC data. As a consequence, SBC’s data for PM 5 (“Percent Firm Order Confirmations (FOCs) Returned Within “X” Hours”) will continue to be incorrect until the EXACT changes are implemented and verified.

146. **Transaction Testing.** E&Y states that it applied “computer auditing techniques” when a mechanized system was found to be part of the correction to a business rule defect.⁵⁹ However, E&Y’s report is bereft of any explanation of the techniques that E&Y purportedly used to test “the entire population of transactions to verify the code changes.”⁶⁰ E&Y’s claim that it tested the “entire population of transactions” -- and did not use samples of transactions for verification of code changes involving electronically calculated and reported measurements -- is not credible. It is highly questionable that E&Y would test these electronic measures using the hundreds of millions of transactions that comprise the “entire population of transactions” to verify code changes when it used a mere 8,500 transactions to conduct its entire audit -- which included all of the 149 manual and electronic measures.

⁵⁸ *Id.*

⁵⁹ Ehr Aff. Att T at 8

⁶⁰ *Id.*

147. In discussing its mechanized measurement transaction testing, E&Y, in its Supplemental Report, simply states that it conducted queries to source data files and then compared test results to SBC reports or detail files.⁶¹ However, E&Y's report does not reveal the number of queries or whether E&Y queried any number of transaction types, performance measurements, or types of data. E&Y merely claims that it "executed queries to the source data files."⁶² E&Y's failure to explain the details of the measures it tested, the types of data it used as the basis for its testing, the test months or periods it used, the system databases it queried, and analytical methods renders it impossible to discern the bases for its conclusion that it performed transaction testing.

148. **Even the E&Y Audit Has Uncovered Substantial Defects in SBC's Data.** Even if the E&Y audit were properly constructed -- and it is not -- SBC Illinois cannot properly rely on that audit as proof that its data are accurate. Contrary to the clear inferences SBC is attempting to draw, even the E&Y audit revealed significant deficiencies in SBC's performance monitoring and reporting systems that contradict SBC's claims regarding the accuracy and reliability of its performance data. The fact that audit findings are yet to be corrected flies in the face of SBC's inference that E&Y's findings have been addressed. In Attachment Q to the Ehr Affidavit, E&Y accepts SBC's Assertion that the audit findings itemized in Sections IV, 7 Findings, and V, 15 Findings, are not corrected. Those in Section IV are being ignored by SBC "Exceptions in Which No Corrective Action Is Planned by the Company" and V "Exceptions in the Process of

⁶¹ *Id.*

⁶² *Id.*

Being Corrected.” Clearly this means there are issues of non-compliance with the Business Rules that have not been corrected by SBC Illinois.

149. SBC notes that Attachment A to E&Y’s Compliance Report identified scores of “issues” reflecting deficiencies in SBC’s data requiring restatements or changes.⁶³ SBC contends, however, that E&Y’s Corrective Action Reports confirm that SBC has made great progress in resolving these issues. In fact, SBC claims that there are only three issues for which corrective action was pending and the impact of corrective action on reported results was not determined.⁶⁴ As to these three issues, SBC asserts that any “the change does have a material negative impact on previously reported results.”⁶⁵ SBC’s arguments are devoid of merit.

150. E&Y’s audit reports are littered with examples of deficiencies in SBC’s performance data that have not been corrected. For example, in its Compliance Report, E&Y found that SBC improperly excluded orders involving projects from its performance results for Performance Measurement 91 (Percentage of LNP only Due Dates Within Industry Guidelines).⁶⁶ However, SBC admitted that, as of December 19, 2002, it “has not implemented new computer programming changes to include projects from LSOG 4,” and that implementation of this coding change is expected to be

⁶³ Ehr Aff., Attachment Q.

⁶⁴ Ehr Aff., ¶ 230.

⁶⁵ *Id.*

⁶⁶ Ehr Aff., Attachment Q, Issue 10, at p. 14.

implemented with February 2003 results.⁶⁷ Thus, SBC's September, October and November 2002 performance results for Performance Measurement 91 are inaccurate.

151. Similarly, in its Compliance Report, E&Y found that SBC was not properly recording the actual start times for Performance Measurement 114 (Percentage of Premature Disconnects/Coordinated Customers) and 115 (Percentage of Ameritech Caused Delayed Coordinated Cutovers).⁶⁸ In its Corrective Actions Report, E&Y stated that, effective with September 2002 results, SBC implemented an alternative method for capturing the start times for coordinated cutovers.⁶⁹ However, E&Y cavalierly ignores that SBC's methodology does not conform to the business rules governing these measures -- a deficiency that is the subject of BearingPoint's Exception 175 discussed above. The fact that E&Y failed to detect this infirmity in SBC's data is telling evidence of the inadequacy of the E&Y audit.

152. E&Y's own reports are riddled with other examples of SBC's error-ridden performance results, including the performance data in its Application. Thus, for example:

- E&Y found that SBC inappropriately excluded LASR transactions from its performance results for numerous measures. As of January 2003, SBC had not undertaken any corrective action. Thus, SBC's performance results for these measures for September, October and November 2002 are inaccurate.⁷⁰

⁶⁷ *Id.*

⁶⁸ Ehr Aff., Attachment Q, Issue 47 at page 22.

⁶⁹ *Id.*, Issue 1, at pg. 1.

⁷⁰ The measures affected by these problems are: 5, 5.2, 6, 7, 7.1, 8, 9, 10, 10.1, 10.2, 10.3, 10.4, 11, 13, and 13.1.

- E&Y admits that SBC failed to capture xDSL loops with LNP for Performance Measurements 7, 10.4, 91, 93, and MI 2. Although SBC has admitted that a coding change including xDSL loops with LNP was implemented (effective with October 2002 results) for PMs 7, 10.4 and MI 2, SBC apparently has not resolved the inaccuracies in its September 2002 data for these measures. Furthermore, although SBC claims corrective action for Performance Measurements 91 and 93 was scheduled to be implemented with its November 2002 data, SBC apparently has not addressed inaccuracies in its September and October 2002 results for these measures.⁷¹
- E&Y found that SBC failed to exclude CLEC-caused misses in accordance with the business rules governing Performance Measurements 7.1 and 91. However, SBC does not plan to implement computer programming changes to resolve these problems until February 2003. Thus, SBC's performance results for Performance Measurements 7.1 and 91 are inaccurate.⁷²
- E&Y found that, instead of using the actual due date requested by the customer when reporting results for Performance Measurement 28 (Percent POTS/UNE-P Installations Completed Within the Customer's Requested Due Date), SBC used the SBC-offered due date "when the requested due date was greater than or equal to the standard offered interval."⁷³ Because SBC does not plan to implement corrective action until its January 2003 results, it is clear that its September, October and November 2002 data in its Application are inaccurate.
- E&Y found that SBC incorrectly included in its results for Performance Measurements 28-33 "internal orders correcting the CLEC account on a partial win back."⁷⁴ Because SBC does not plan to implement a new programming code to correct these

⁷¹ *Id.*, Issue 2 at 11.

⁷² *Id.*, Issue 2, at 28. SBC concludes that restatements are unnecessary because corrections to the data would simply improve its performance results. *Id.* SBC's assertions are frivolous. As DOJ pointed out in its evaluation of BellSouth's *Georgia/Louisiana 271* application, such errors in reporting are probative in evaluating the reliability of reported results. DOJ *Georgia/Louisiana 271* Eval. at 34 n. 115 (noting that "BellSouth cannot ignore errors that result in reported performance being worse than actual performance," and that "metrics must neither understate nor overstate actual performance").

⁷³ Ehr Aff., Attachment Q, Issue 5 at pg. 29.

⁷⁴ *Id.*, Issue 6 at 29.

problems until its February 2003 results, the data for these measures in its Application are unreliable.

- E&Y found that SBC used “the wrong field to determine the exclusion for customer-requested due dates in excess of the stated time period in the Business Rules” for Performance Measurements 43, 44, 55, 55.1, 56 and 56.1.⁷⁵ Although SBC plans to implement a new programming code with January 2003 results that ostensibly should correct these problems, the data for these measures in its Application for these are inaccurate.
- E&Y found that SBC failed to capture the start time correctly when calculating results for Performance Measurements 55.1, 56 and 58.⁷⁶ Although SBC asserts that it implemented a fix for this problem effective with October 2002 data, SBC has not confirmed that it restated its September 2002 performance results for these measures.

153. E&Y’s recent report reveals other problems regarding the reliability of SBC’s data. E&Y notes that, in calculating results for the ordering measures, SBC “excluded wholesale transactions when a field identifying the CLEC was blank.”⁷⁷ In this report, E&Y stated that “[e]ffective with February 2003 results scheduled to be reported in March 2003, [SBC] will begin including records when the field identifying the CLEC was blank in results.”⁷⁸ On its face, E&Y’s most recent report confirms that SBC has unilaterally excluded wholesale categories of orders from SBC’s reported results. As a consequence, the ordering data in its application are inherently unreliable.

154. Similarly, E&Y notes that SBC has excluded weekends and holidays from the calculation of certain measures -- an exclusion that was “not specifically stated in the

⁷⁵ *Id.*, Issue 7 at 30.

⁷⁶ *Id.*, Issue 37 at 20.

⁷⁷ *Id.*, Issue 4, at pg. 29.

⁷⁸ *Id.*

Business Rules.”⁷⁹ E&Y’s report states that “[t]he Company plans to implement revised computer code for January 2003 results reported in February 2003 to include weekends and holidays in the PM calculation” for PMs 105 and 106 and notes that no restatements are planned for March, April, or May 2002.⁸⁰ Based upon this report, it would appear that SBC’s prior reported results are inaccurate.

155. In addition, E&Y in its Controls Report purportedly “assessed the effectiveness of Illinois Bell’s controls over the processes used to calculate and report performance results in accordance with the Business Rules.”⁸¹ E&Y found that SBC lacked controls in two critical processes that are used to generate performance data:

[C]ertain processes used to generate performance measurement, primarily related to the manual collection and processing of data and computer program coding and modifications, *did not include certain controls* to ensure the accuracy of the reported performance measurements. These control deficiencies contributed to the need to restate certain data and modify performance measurements on a prospective basis.⁸²

156. In an effort to rationalize E&Y’s findings regarding the lack of controls in its performance monitoring process, SBC Illinois offers a host of excuses. SBC Illinois asserts that these defects are attributable to the following three issues: “(1) initial implementation of the performance measures in the year 2000; (2) implementation of the LASR application as part of the Plan Of Record (“POR”) release in April 2002, and (3)

⁷⁹ *Id.*, Issue 15, at pg. 32.

⁸⁰ *Id.*

⁸¹ Ehr Aff. , Attachment S, p.1.

⁸² *Id.* (emphasis added)

the execution of certain manual activities required in the monthly performance measure result generation process.”⁸³ Each “excuse” is meritless.

157. SBC contends that the rigorous schedule “dictated by merger stipulations and conditions” gave SBC fewer than nine months to implement the majority of its measurements.⁸⁴ However, SBC blithely ignores that it agreed to the timeline for implementation of the performance measurements as part of the merger conditions. More fundamentally, SBC also ignores that E&Y found that *two years after* SBC’s initial completion of the performance measures it was still lacking the necessary controls to assure the accuracy of reported results.

158. Furthermore, SBC contends that implementation of the LASR interface, which was required as a result of the SBC/Ameritech merger, involved complex upgrades to SBC Illinois wholesale service request and order processing systems, which required “the involvement of new staff personnel who were not previously familiar with the SBC Illinois performance measurements, performance measure reporting process, and change management control process.”⁸⁵ Once again, however, SBC agreed to implement uniform OSS interfaces and uniform business rules for those interfaces as a condition for Commission approval of the merger. SBC decided to incorporate the LASR system into the Ameritech region to meet its POR obligations, and SBC agreed to the very timetables for implementation that it now suggests were unduly onerous.

⁸³ Ehr Aff. ¶ 234.

⁸⁴ *Id.*, ¶ 235.

⁸⁵ *Id.* ¶ 236.

159. Additionally, SBC suggests that the lack of controls identified by E&Y are perfectly understandable because “[t]he nature of the processes being measured requires” manual processing.⁸⁶ Indeed, SBC claims that automated processes are not warranted “where volumes of transactions are very low.”⁸⁷ However, SBC controls the extent to which it relies upon manual processing in the collection, calculation, and reporting of results. Furthermore, despite its suggestions to the contrary, SBC relies upon manual processes for measures that involve large volumes of transactions. In its response to questions that AT&T posed during the Michigan Technical Conferences, SBC identified the measures that are manually collected, calculated, and reported. These include such measures as PM 20 (Unbillable Usage), which averaged 198 million transactions during the June to August 2002 period; PM 25 (Local Operations Center Grade of Service), which averaged more than 54 thousand transactions each month; and PM 79 (Directory Assistance Grade of Service) and PM 80 (Directory Assistance Average Speed of Answer), which both averaged in excess of 8 million transactions each month. Many of the mechanized measures involve far lower volumes than measures that are subject to manual processing.

160. In all events, SBC Illinois contends that any concerns regarding the lack of controls in its performance measurement production can now be laid to rest. SBC Illinois contends that it has “implemented and documented a wide range of controls,” and that it is “actively investigating opportunities to implement additional controls into the metrics

⁸⁶ *Id.* ¶ 238.

⁸⁷ *Id.*

reporting process.”⁸⁸ Notably, SBC Illinois reports that it has implemented additional controls so that its performance data are processed “multiple times to ensure consistent results.”⁸⁹ Given the seemingly unending stream of restatements that SBC Illinois has made and continues to make, whatever enhanced controls it purportedly has implemented are plainly ineffective. Otherwise, SBC Illinois assertions constitute nothing more than promises, and such promises cannot and should not serve as a suitable surrogate for empirical evidence demonstrating stability in performance results.

VIII. SBC ILLINOIS SUBMISSION OF PERFORMANCE MEASUREMENT RESULTS IS INSUFFICIENT TO ESTABLISH THAT IT IS PROVIDING COMPETITIVE CARRIERS NONDISCRIMINATORY ACCESS SBC ILLINOIS’ UNES AND OTHER SERVICES

161. Even SBC Illinois’ own inadequate data show that it has failed to provide nondiscriminatory access to its OSS. By SBC Illinois’ own admission it “has been unable to meet the parity standard for the submeasures associated with PM 13 (Order Process Percent Flow Through).”⁹⁰ SBC Illinois also concedes that, from September through November 2002, it has failed to meet the 99% benchmark for Performance Measurement 7.1-03 (Percent Mechanized Completions Returned Within One Day of Work Completion - Combinations).⁹¹ SBC Illinois also failed the benchmark standard for LNP only orders. During September through November, SBC returned only 53.57%,

⁸⁸ *Id.* ¶ 241.

⁸⁹ *Id.*

⁹⁰ Ehr Aff. ¶ 81.

⁹¹ Ehr Aff., ¶ 77 & Attachment A, p. 6.

46.09, and 68.72%, respectively, of timely mechanized completion notices for LNP only.⁹²

162. SBC Illinois' own data show that, in October and November, 2002, SBC failed the performance standard for Performance Measurement 29-07 (% AIT Caused Missed Due Dates - UNE-P - Business-FW).⁹³ In November 2002, although SBC Illinois missed the due dates on 5.01% of the orders for its retail customers, it missed the due dates on 7.18% of CLEC orders in this measurement category.

163. Similarly, as discussed previously, in October and November, 2002, SBC Illinois failed the parity standard for Performance Measurement 35-07 (% Trouble Reports Within 30 Days of Installation - UNE-P BUS-FW). In October, a whopping 27.31% of CLEC orders experienced provisioning troubles, while 8.65% of SBC's retail orders experienced such troubles. In November 2002, although 11.49% of CLEC orders experienced provisioning troubles, only 8.68% of retail orders experienced such troubles.⁹⁴

164. The FCC "has found that performance measurements provide valuable evidence regarding a BOC's compliance or noncompliance with individual checklist items."⁹⁵ SBC Illinois touts the purported comprehensiveness of its performance

⁹² Ehr Aff., Attachment A, pp. 6-7.

⁹³ Ehr. Aff., ¶ 168, Attachment A, p. 8.

⁹⁴ Ehr Aff., Attachment A, p.9.

⁹⁵ *Connecticut 271 Order*, Appendix D, ¶ 7. See also *Ameritech Michigan 271 Order* ¶ 22 (noting that "we will look to see if there are appropriate mechanisms, such as reporting requirements or performance standards, to measure compliance, or to detect noncompliance, by the BOCs with their obligations"); *id.* ¶ 21 (noting that "[c]lear and precise performance measurements are critical to ensuring that competing carriers are receiving the quality of access to which they are entitled") (footnote omitted); *id.* ¶ 211 ("[t]he Commission must be satisfied that the performance measures that Ameritech relies on in support of its

monitoring scheme. However, performance measurements serve no useful purpose unless they accurately reflect the performance they are intended to measure.

Notwithstanding SBC Illinois' claims to the contrary, its performance metrics are not designed to and do not capture the serious deficiencies that plague SBC Illinois' OSS as described in the Ms. DeYoung/Willard Affidavit.

165. For example, as discussed in the DeYoung/Willard Affidavit, over the course of the last year, AT&T has received either significantly delayed or incorrectly formatted Line Loss Notifications (*i.e.* 836 records). These performance failures, however, are not captured in SBC Illinois' performance measurement results.

166. In this regard, the performance measurement for Line Loss Notification is PM MI 13 (Percent Loss Notification Within One Hour of Service Order Completion). While the measurement is designed to capture the timeliness of line loss notices,⁹⁶ even a cursory review of SBC Illinois' own self-reported data shows that the data collection for PM MI 13 *must* be seriously flawed. SBC's self-reported results for December 2002 show, for example, that AT&T received 6,918 line loss notices, 6,378 of which (92%), according to SBC, were on time. In contrast, AT&T's own data for December 2002 show that it received 2,966 late line loss notices.

167. Thus, SBC's significant failures with respect to Line Loss Notifications that have seriously impeded AT&T's ability to use SBC Illinois OSS successfully and efficiently appear to be nowhere reflected in the performance data on which SBC Illinois

Section 271 application actually measure performance in a manner that shows whether the access provided to OSS functions is nondiscriminatory”).

so heavily relies. Moreover, this measurement is not designed to capture inaccurately formatted or incomplete LLNs. Thus, the measure would not and did not capture, for example, SBC's failure in November to send LLNs that included disconnect dates.⁹⁷

168. Similarly, as explained in the DeYoung/Willard Affidavit, the substantive deficiencies that plague SBC Illinois' OSS have resulted in improper rejections of thousands of AT&T's orders. These orders were rejected because SBC Illinois implemented a change in its interface code without any prior notice -- or any notice at all -- to AT&T. In order to meet the due date promised to AT&T's customers, AT&T was forced to supplement the rejected orders. However, a "supp" essentially cancels the original LSR and eliminates the LSR from the performance monitoring and reporting process. As a result, when SBC Illinois erroneously rejects an order and AT&T is forced to "supp" the rejected order, SBC Illinois' performance measures do not capture this phenomenon. Indeed, because of the inherent limitations in SBC's measures, the delays in the ordering and provisioning process that are triggered by the return of erroneous rejection notices are not reflected in SBC's reported results.

169. In this regard, under SBC Illinois' performance measurement plan, the interval for order confirmation timeliness is measured from receipt of a valid order until

⁹⁶ Ehr Aff., Attachment A, p. 24.

⁹⁷ Because of SBC Illinois inability to transmit all Line Loss Notifications, AT&T and other CLECs have requested an additional measure that would capture those instances in which SBC has failed to provide a Line Loss Notification. SBC has agreed to implement this measure (PM MI 13.1). However, the current data included in SBC's application do not capture missing LLNs.

distribution of the Firm Order Confirmation (“FOC”).⁹⁸ However, for those orders that are incorrectly rejected and “supped,” the clock is restarted upon receipt of the “supp.” As a consequence, even when SBC Illinois returns a spurious rejection notice (instead of a FOC), SBC Illinois’ performance measures will only capture the timeliness of the FOC from the receipt of the supplemental order, instead of the original LSR. Furthermore, the issuance of a spurious rejection, followed by a “supp,” introduces delays in the provisioning process. However, SBC Illinois’ issuance of unwarranted rejection notices and the attendant delays in the ordering and provisioning processes are nowhere reflected in SBC’s performance data. Indeed, SBC Illinois data will only capture its own performance in meeting the due date on the supplemental order.

170. As explained in the DeYoung/Willard Affidavit, because of the deficiencies in its OSS, SBC Illinois failed to issue thousands of billing completion notifications to AT&T in response to orders that AT&T sent via the LSOG 5 version of EDI. Because AT&T needs a BCN to verify that the end-user is now treated by SBC Illinois’ systems as an AT&T customer, AT&T is essentially unable to send a subsequent order on the same customer’s account until it receives the BCN for the prior order that it submitted to SBC. However, there are no measures in the SBC Illinois’ region that capture SBC’s BCN performance. As a consequence, SBC’s failures in this area are not reflected in its performance data.

⁹⁸ See Ehr Aff., Attachment. A, p. 3 (Percent Firm Order Confirmation (FOCs) Returned Within “x” Hours) (stating that this measure captures the “[p]ercent of FOCs returned within a specified time frame from receipt of a complete and accurate service request to return of confirmation to CLEC”).

171. Similarly, as discussed in the DeYoung/Willard Affidavit, although SBC Illinois claims that it has adhered to the change management process (“CMP”) with respect to its releases since March 2001, SBC Illinois ignores that it has repeatedly made changes to the OSS and business rules without providing the notice required by the CMP, or has asserted that the CMP does not apply. The current measurement plan includes Performance Measurement MI 15 (Change Management), which measures the timeliness of change notifications for final requirements to implementation. However, this measure does not capture SBC Illinois’ failure to send any notice or failure to send notice for any change after the interface is deployed.

172. Given the inherent limitations and gaps in the performance measures upon which it relies, SBC Illinois cannot seriously contend that its measurements accurately and comprehensively capture its actual performance. Indeed, as the DeYoung/Willard Affidavit explains, no solace can or should be taken that SBC Illinois’ reported results reflect its actual performance. Because the measures do not capture these problems, the incentive plan that SBC Illinois touts does not penalize SBC for these defects in its OSS. Performance monitoring and enforcement plans are the principal tools that the Commission will use to assure SBC’s compliance with its statutory obligations. Because the current performance measurements plan contains no measures that capture SBC Illinois’ failings in the areas described above, the performance enforcement plan on which SBC Illinois relies provides no “incentives” for it to fix these OSS defects. As a consequence, the purported self-executing mechanisms of the penalty plan are doomed to failure.

IX. THE MASTER TEST PLAN OBJECTIVES APPROVED BY THE COMMISSION HAVE NOT YET BEEN ACHIEVED.

a. SBC Illinois Has Failed To Satisfy Any Of the Master Test Plan's Global Exit Criteria

173. In the collaborative process leading to the Master Test Plan, the following fundamental question arose: given the fact that a completed OSS test is a necessary prerequisite to this Commission's consideration of whether nondiscriminatory access to OSS is being provided, what must be accomplished before the test process is deemed complete? The parties agreed that the testing would not be complete until four "Global Exit Criteria" were met. I discuss each criterion below, explaining what each requires and why each has not been met. These are provided in the Illinois Master Test Plan, at pages 19-20.

Global Exit Criterion No. 1:

For each test, all fact finding and analysis activities must be completed. All results and test methodologies have been documented. Any exceptions must be resolved or retesting completed, unless specifically exempted by the Commission.

174. This criterion requires that all test activities called for by the Master Test Plan be completed. Such completeness is, of course, fundamental to the military-style test approach embraced by the Master Test Plan because all of the test components are necessary to determine operational readiness and none of the test elements has a lesser importance than another. Thus, the Commission must provide equal weighting, and afford equal importance, to the evaluation of each individual test result. As explained earlier in this Affidavit, SBC Illinois has not satisfied this first criterion because the test is

continuing and the test activities are incomplete. Numerous aspects of the testing require more work: the requisite fact-finding continues; analysis work must be completed; results and test methodologies have not been fully documented; Exceptions have not been fully resolved; and re-testing is ongoing. Testing is incomplete in each of the three testing domains – PPR, TVV and, most of all, PMR.

Global Exit Criterion No. 2:

The results of test activities must be documented and reviewed for accuracy. Any results that require clarification or follow-up are confirmed.

175. This criterion is not satisfied until all change control, verification, and confirmation steps have been completed. In other words, all test administration and management responsibilities must be fully discharged, and the onus is on the test manager, Staff, and SBC Illinois to certify that all such tasks have been completed, including finalization of the OSS test report. While this may appear to be a monumental, highly detailed task, the sophisticated technology BearingPoint employs to test administration processes, coupled with the demonstrated experience of its testing management staff, essentially reduce this endeavor to the relatively simple matter of “final analysis” and verification. Its importance, however, cannot be over-emphasized.

176. This criterion remains unsatisfied for two reasons. The first is the simple fact that Global Exit Criterion No. 1 must be satisfied before this one can be satisfied; No. 1 has not been satisfied. The second reason is because incomplete test results might

influence BearingPoint's determination of the success or failure of related test activities. A process may provide successful test results as it stands-alone, but when considered in the context of the way the particular process has been incorporated into the SBC Illinois' OSS, that process may be inadequate, resulting in outright failure. Global Exit Criteria No. 2 cannot be satisfied until BearingPoint is given the opportunity to complete the tests, collect the results, and evaluate the OSS against the Master Test Plan in the context of the entire test as a whole.

Global Exit Criterion No. 3

The test will not be considered complete until the ICC has determined that KPMG Consulting has tested the series of modifications and enhancements to its OSS ordered by the Commission in 98-0555. These modifications and enhancements have been negotiated between Ameritech and CLECs in collaborative work sessions conducted under the auspices of the Illinois Commerce Commission and at the Federal Communications Commission (Memorandum Opinion and Order, Applications of Ameritech Corp., Transferor, and SBC Communications Inc., Transferee, For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95 and 101 of the Commission's Rules, CC Dkt. No. 98-141, FCC 99-279, 1999 WL 809551 (rel. Oct. 8, 1999), app. pend. ,sub. nom. Telecommunications Resellers Ass'n v. FCC, Case No. 99-1441 (D.C. Cir.) (*The Merger Order*).

177. This third Global Exit Criteria represents the culmination of months of negotiations with SBC Illinois to arrive at a set of system and process improvements that CLECs needed implemented, and SBC Illinois agreed to implement them. The negotiations had two catalysts. One was the FCC's imposition of conditions on the SBC-Ameritech merger (Conditions 27 and 28). The other was the Commission's imposition

of obligations to improve SBC-Ameritech's OSS as a condition of its approval of the SBC-Ameritech merger (Condition 29 in the ICC's Order in Docket No. 98-0555.) The FCC wanted to increase competition throughout the to-be-merged company territory since approving the merger would serve to reduce the number of viable competitors in the respective companies' operating areas. The FCC understood that upgraded OSS would create opportunities for competitors to enter the markets in light of the fact that the existing systems did not provide parity of access to OSS.

178. This Commission knew from the Illinois Section 271 proceeding (conducted from 1998-1999) and from its own observation that CLECs were experiencing substandard service from SBC Illinois' OSS. From my vantage point, which I attained through my direct participation in the Michigan 271 case that proceeded to the FCC from the 1996-1997 time frame until the merger negotiations were underway, there was little to no improvement in the quality and capabilities in the then-Ameritech OSS. In fact, I believe that SBC Illinois undertook no effort to improve its Ameritech region OSS since the time of the FCC's 1997 Michigan 271 negative decision, which exposed the OSS as not operating at parity and thus not providing CLECs with nondiscriminatory access.

179. This Commission's merger order obligated SBC Illinois to participate in industry collaborative meetings to develop a plan for OSS improvement. This improvement plan was termed the "Plan of Record." I represented AT&T in these collaborative meetings and, later, presented several substantive CLEC requirements

before the ICC for arbitration of OSS issues that did not get resolved through the collaborative process.

180. This 3rd Global Exit Criterion requires BearingPoint to complete testing of all the negotiated modifications and enhancements, which were achieved in the POR collaboratives that followed the Merger Case. This criterion was agreed upon as a means to demonstrate Ameritech's successful implementation of the A-AA list, despite the then ongoing negotiations regarding resolution of the A-AA list. In other words, the precise manner in which SBC Illinois would resolve each particular A-AA item had not been determined, but the parties agreed that whatever resolution was reached on those issues would be defined and satisfactorily tested before the test would or could be considered complete. The concession made by the CLECs was that the A-AA list would be Exit Criteria and not Entrance Criteria.

181. At this point, the BearingPoint Report lacks any real detail regarding BearingPoint's testing of the A-AA list of items detailed in Table III-5 of the Master Test Plan and in Appendix F to the Master Test Plan, but merely provides a high-level statement of the verification status of the A-AA list in the POR Compliance Verification Summary Appendix to the BearingPoint Report. Indeed, BearingPoint acknowledges the significant commitment to this testing in the footnote on page 18 of the Master Test Plan, which addresses both Table III-5 and Appendix F.

“At this point, Ameritech and the CLECs have agreed that these modifications and enhancements should be implemented, and they have further agreed that *the third-party test cannot be deemed complete until these modifications and enhancements have been tested.*” (emphasis added).

182. I assume the reasons behind BearingPoint's inability to complete this testing are the same as those holding up completion of the PPR, TVV and especially PMR testing and the requisite reporting activities necessary to fully reflect that testing – SBC Illinois's dilatory approach to, or even effective refusal to participate in, the third-party OSS testing process.

183. BearingPoint's final report presumably will give the Commission a comprehensive exposition on each of the A-AA items. Absent that information, the BearingPoint Final Report cannot provide the Commission with any assurance that the A-AA agreements have been implemented and validated in an independent and comprehensive review.

Global Exit Criterion No. 4:

The set of performance measures to be used in the test are being negotiated between Ameritech and CLECs in collaborative work sessions conducted under the auspices of the Commission. The measures to be used for this test will include: 1) the baseline measures used by Ameritech Illinois, and 2) measures for any new processes, policies, products or services. The test will not conclude until (1) Ameritech has implemented the modifications, deletions, and additions to the baseline measures resulting from the collaborative (either by agreement of the collaborative parties or as otherwise ordered by the Commission) and (2) those modifications, deletions, and additions encompassed as part of the third-party test and reviewed.

184. The final Global Exit Criterion represents an express agreement by SBC Illinois that the complete system of performance measures will be fully and successfully tested before the test will be deemed complete. The depth and breadth of the

BearingPoint findings showing that the PMR test is far from complete and are sufficient, by themselves, to overwhelmingly demonstrate to the Commission that this Global Exit Criterion is not yet satisfied. Of the more than 300-plus test references in the PMR domain, a mere 64 are satisfied.

185. If the preceding discussion of each of the four Global Exit Criteria did not make obvious the fact that the Global Exit Criteria are not satisfied, a plain reading of the BP Report Executive Summary (at page 5) will remind the Commission that BearingPoint does not consider the test complete:

It should be noted that BearingPoint has been directed to continue its evaluation activities through the end of April 2003 for its performance metrics tests. SBC Ameritech continues to engage in retesting activities to address issues found during this evaluation. Consequently, in those areas in which BearingPoint is still conducting testing, particularly in the areas in which retesting is occurring, the results of the evaluation as described herein are subject to change.

186. Additional information demonstrating the extent to which the test is incomplete and the Global Exit Criteria unsatisfied is reflected in Part B of the BearingPoint PMR Interim Report's Executive Summary, entitled "High Level Results," which contained a chart that show 79% of the tests are not scored as "satisfied" according to the agreed-upon test evaluation criteria. Further, the full body of the report shows in great detail that testing is incomplete, that re-testing is underway, and that test results show evaluation criteria are Not Satisfied – an evaluation that runs counter to the "test until pass" methodology that was demanded by SBC Illinois and is embraced within the Master Test Plan.

b. SBC Illinois Is Delaying Or Otherwise Hindering BearingPoint's Examination Of SBC Illinois' Satisfaction of Master Test Plan Criteria & Objectives.

187. SBC Illinois claims that it has co-developed a “detailed” work plan with BearingPoint that will facilitate the progress of the OSS Testing that remains to be completed (Ehr Aff., ¶ 243), *i.e.*, “... there are detailed plans to bring the performance testing to a successful conclusion.” Similarly, SBC Illinois states (Ehr Aff., ¶ 251), that it and “BearingPoint have jointly developed a detailed project plan to complete the PMR1 evaluation, along with specific tasks and target dates.” Whether these are written plans or not (and SBC Illinois does not disclose this fact), the plans have not been made public, and the incongruity of secretly developed plans with the collaboratively developed Master Test Plan calls into question the comprehensiveness of such other “plans.”

188. Further, whether these “plans” are being implemented accordingly – and particularly whether SBC Illinois is actually acting in a vigorous manner to resolve the substantial defects that have been solved thus far – is truly suspect, when one reviews SBC Illinois' recent actions. I have attached several pages from the most recently published Open Observations Status Report that reflects the actions taken during the February 11, 2003 Exceptions and Observations conference call (Attachment 7 to this affidavit). This data provides current information (as opposed to SBC Illinois' unsupported statements) showing SBC Illinois has engaged in a systematic program of stalling BearingPoint's efforts.

189. SBC Illinois' decreasing level of responsiveness to BearingPoint is a departure from its posture even six months ago, which makes it all the more troubling given the speed with which it pursues its § 271 objectives. Earlier in the PMR testing, SBC Illinois would typically reschedule discussion of its response to an Observation or updated information on the subject of an Observation for one week at a time (i.e., "we'll talk about that on next week's call..."). Its current practice is to seek deferrals of two and three week durations. I question how this mode of operations can be consistent with its bespoke commitment to work through these negative test findings quickly and efficiently.

190. Pages 29 through 31 of Attachment 7 provide information about Observation 584 "SBC Ameritech is using inaccurate data in the calculation of Performance Measures 10 ('Percent Mechanized Rejects Returned within 1 hour of receipt of reject in MOR') and 11 ('Mean Time to Return Mechanized Rejects'), which was issued on July 29, 2001. Between its issue date and September 22, SBC Ohio deferred its response and any discussion of the Observation for one week 8 consecutive times. BearingPoint was performing its analysis on SBC Illinois' response during the period of September 24 to October 15 (3 weeks). When BearingPoint sent additional information about the Observation to SBC Illinois on October 22, a period of 3 months went by during which SBC Illinois requested one week deferrals 7 times and 2 week deferrals 3 times and a one week deferral once; the last three deferrals – totaling 7 weeks – finally eclipsed on the February 4 call.

191. Similarly, Observation 625 (“KPMG Consulting has been unable to replicate SBC Ameritech’s January 2002 reported results for Performance Measurement 29 (‘Percent Ameritech Caused Missed Due Dates’)), was released on August 27 and is detailed on pages 43 and 44 of the Status Report. SBC Illinois’ response to this Observation has never been discussed on an Exceptions and Observations conference call because of SBC Illinois deferrals: 13 for one week, 2 for two weeks, and 1 for three weeks. The two most recent deferrals are for two weeks each.

192. For the relatively recent Observation 763 (December 19) and 778 (December 31), which are discussed at pages 221 and 98 of the BearingPoint’s Observations Status Report, each of the three deferrals required by SBC Illinois are for 2 weeks each. These two Observations are merely examples of a trend of SBC Illinois behavior that I have witnessed over the past six Exception and Observation conference calls.

193. Thus, whatever SBC Illinois’ “plans” are for actively responding to these findings by BearingPoint, the plan does not appear to be to accelerate the speed at which it responds. As my Attachment 7 shows, SBC Illinois appears less and less able to respond in a timely fashion, which might also imply that SBC Illinois is finding it more difficult to commit the resources to respond or it reflects management’s priorities. As it pursues its other strategies concerning its desire for long-distance authority, I believe the Commission should be concerned about whether SBC Illinois is truly committed to completing the Performance Measure Reporting systems requirements of the Master Test Plan.

X. SBC Illinois Has Not Satisfied The FCC's Two-Part OSS Test.

194. The FCC has created a two-part, OSS-specific test that SBC Illinois must pass in order to demonstrate sufficiently that CLECs have nondiscriminatory access to its OSS. The first part obligates SBC Illinois to develop documentation, specifications and support sufficient to allow a CLEC to interoperate, effectively and efficiently, with SBC Illinois. The second part requires SBC Illinois to demonstrate that CLECs can actually access and use the OSS processes and equipment it created, *i.e.* SBC Illinois must prove that CLECs have nondiscriminatory access to the OSS “in the real world.” As I explain herein, SBC Illinois fails both prongs of that test.

a. SBC Illinois fails the first part of the FCC's test because its OSS documentation is deficient.

195. An effective OSS requires extensive documentation to inform users fully about the capabilities, limitations and most efficient use of those systems. AT&T's experience with SBC Illinois's OSS documentation reveals it to be inconsistent and incomplete, and therefore insufficient. Further, the BearingPoint and HP testing, particularly with regard to its pre-order and ordering interfaces based on industry standards for LSOG 4 and LSOG 5⁹⁹, similarly revealed severe deficiencies in SBC Illinois's OSS documentation. Finally, to date the Commission has not even been informed of the extent to which SBC Illinois's OSS documentation is lacking because HP has not fulfilled its duty to issue Observations and Exceptions on this issue.

⁹⁹ The industry standards are propounded by the Association for Telecommunications Industry Solutions (QTIS) and its sub-organization the Ordering and Billing Forum (OBF).

SBC Illinois's Performance Measurements OSS Documentation Is Deficient.

Throughout the OSS Test, BearingPoint issued Exceptions and Observations to record defects in documentation, system functions, processes and procedures, and operations.

BearingPoint also found numerous failings in the ways in which SBC Illinois's performance measurements system functioned, often finding that inaccurate or inadequate documentation was the source of the breakdown that prevented the system to properly function and produce accurate and reliable measurement reports. The corrections, in these cases, were to develop proper documentation that defines and describes the ways in which transactions are captured, stored, collected for calculations, and published to the Commission and CLECs. These key documents that explain the SBC operations are not provided to CLECs, and are not posted to SBC's CLEC OnLine web site.

196. The information is key to CLEC understanding of the processes and procedures that are performed, *using the CLEC's submitted transactions*, to produce the measurements reports. CLECs are blind to these processes, which are required to be consistent with the business rules CLECs and SBC have agreed be implemented. This is akin to an automotive engineer being deprived of access to the factory floor, because the design specifications for the car are complete. Indeed, it has been AT&T's experience that in most instances the first time a CLEC will become aware of some change by SBC in the manner in which it operates its OSS – due to some corrective action necessary as a result of either a test finding or some other event – is when the OSS (or the associated

rules) are changed and, consequently, the CLEC's "side" of the OSS interface becomes out-of-synch with SBC's OSS.

b. SBC Illinois's Documentation Relating To The LSOG 4 and LSOG 5 Interfaces Is Inadequate

197. The Observation and Exception history of the BearingPoint and Hewlett Packard Company¹⁰⁰ ("HP") testing revealed that the documentation SBC Illinois provided to CLECs to instruct and assist CLECs in building their LSOG 4 pre-ordering and ordering interfaces was wholly insufficient. Exhibit TMC-1, which I prepared on the basis of Exceptions and Observations reported in the test, indicates the significant problems the Test CLEC had with establishing the electronic interfaces between it and SBC Illinois. Seventy-five (75) incidents are reported in which the Test CLEC could not rely on the SBC Illinois OSS documentation to develop and implement the interfaces, or when having relied on the documentation, the results were inconsistent or incorrect. These starkly illustrate the poor quality of such documentation.

198. Further, HP's report¹⁰¹ reveals that its attempts to obtain answers and clarification from SBC Illinois were either rebuffed entirely or met only after

¹⁰⁰ HP was engaged to participate in the BearingPoint-managed OSS test as a "Test CLEC" and to construct the model OSS interface. In those roles, HP was to replicate the actions an actual CLEC would take with regard to interfacing with the SBC Illinois network and using the OSS. In Michigan, HP issued a report ("Michigan Report through August") detailing its experiences. HP was required to note Observations and Exceptions using the same standard BearingPoint used in reporting its Observations and Exceptions, but HP failed to carry out this responsibility of the Test CLEC in Michigan, thereby seriously undermining HP's conclusions. Inexplicably, HP has not issued a similar report for the Illinois test.

¹⁰¹ I refer to the Michigan report, for the reason just mentioned, i.e., HP has produced no report for Illinois. The Michigan report is a matter of public record and can be found at BearingPoint's OSS Test web site at the following URL:

<http://www.osstesting.com/Documents/MI%20Docs/Michigan%20Report%20through%20083102%20v2.0%2020021029.pdf>.

considerable delay. In Table 5-23, HP explains how long it was required to wait for SBC Illinois to answer its technical questions before it could finish building the OSS interfaces it was required to build as part of its testing responsibilities. Amazingly, 40% of its questions could not get answered within 60 days! In my experience in developing software systems for clients that need to get a product to market, or to enter a market, such delays by a supplier warrant the use of alternate suppliers. Unfortunately, CLECs don't have alternate suppliers. They, like HP in its Test CLEC role, are forced to wait for SBC Illinois to provide it with support sufficient to build the necessary interfaces. SBC Illinois fails its OSS documentation support obligation miserably.

199. In short, SBC Illinois fails to provide documentation, specifications, and effective support for its OSS interfaces as overwhelming demonstrated by the test and as documented in the BP Report and the HP Report. Moreover, as discussed further below, HP has failed to report many of the defects it observed, and as a result the Commission is denied the benefit of learning the full nature and extent of SBC Illinois's OSS problems.

200. Additionally, LSOG 4 is not even the latest generation interface and therefore, as discussed further below, the focus of BearingPoint's testing should not only be on LSOG 4, but rather should at least consider and test where available later interfaces; those built to correspond to LSOG 5. Unfortunately for SBC Illinois, this shift in focus does not improve its test performance with respect to the first prong of the FCC's OSS test. AT&T's experience migrating to LSOG 5 has revealed that SBC Illinois's documentation for LSOG 5 is also grossly insufficient. This is borne out by the near-total

absence of CLECs in the SBC Midwest region with plans to build to the LSOG 5 platform (I am aware only of AT&T and one other).

c. HP's Failure To Issue Observations And Exceptions Obscures The Full Extent Of The Problems With SBC Illinois's Documentation

201. The full extent of the problems encountered by BearingPoint and HP in attempting to use the LSOG 4 interface is obscured by HP's failure to issue Observations and Exceptions, despite the fact that it was obligated to do so under the Rules of Engagement governing HP's participation in the test. CLECs did not become aware of these problems until reviewing Chapter 5 of HP's Report, which illustrates the significant defects and deficiencies it found in SBC Illinois's OSS.

202. HP found SBC Illinois's OSS documentation to be inaccurate, incomplete, in conflict with other source materials, and irreconcilable with industry standards. Tables 5-4 through 5-22 detail the OSS and documentation problems that HP experienced; in nearly all cases, however, HP failed to submit the issue as an Observation or an Exception. The failure to report these defects according to the agreed-upon test standards is a serious one because it prevents the Commission from understanding the full extent to which SBC Illinois's OSS is inadequate. HP performed a distinct and unique role in the OSS testing; that is, HP's role and its experience were not co-extensive with those of BearingPoint. Thus, the Commission has been deprived of the complete story.

d. SBC Illinois Also Fails The Second Prong Of The FCC’s Test Because The BP Report and Actual CLEC Experience Demonstrate That CLECs Cannot Effectively Use SBC Illinois’s OSS.

203. The BP Report contains numerous findings of OSS failure. These findings, which are based on the tests conducted by BearingPoint and HP, demonstrate that SBC Illinois’s OSS simply do not function well. Supporting that conclusion is the actual experience of CLECs, a factor not tested by BearingPoint but directly relevant to the FCC’s two-part test.¹⁰²

i. OSS Failures Identified In The BP Report

204. The BP Report contains four principal sections: an Executive Summary, the Test Description and Methodology, Test Results, and Appendices. The test is comprised of three “families,” namely the Performance Metrics Audit, the Processes and Procedures Review, and the Transaction Verification and Validation testing. (MTP at 13). For purposes of administration, the test is organized into functional “domains” of the OSS: Pre-Order, Order, and Provisioning (POP), Maintenance and Repair (M&R), Billing (BLG), and Relationship Management and Infrastructure (RM&I) (id. at 12-13). The result of the test demonstrates conclusively that CLECs, including the Test CLEC, have significant difficulty using the SBC Illinois OSS, and therefore SBC Illinois does not provide nondiscriminatory access to its OSS. The records of the test, which include 185 Exceptions and the 799 Observations – which, I would note, *constitute far more*

¹⁰² As I discuss in detail below, the fact that BearingPoint did not test a certain issue or that the BP Report does not contain a finding on that issue does not mean that the issue is not relevant to the Commission’s review of the OSS. As stated above, the second prong of the two-part FCC test involves an inquiry into whether CLECs can actually use the ILEC’s OSS. The actual experience of CLECs is perhaps the

defect findings that in any other OSS test conducted to date of which I am aware – show systems, processes and procedures that have been significantly rehabilitated by dint of the work contributed by SBC Illinois, CLECs, Staff, BearingPoint, and HP. However, that work is not complete until the test is successfully concluded, and the remaining work must be done in order for SBC Illinois to comply with the applicable state and federal standards necessary to qualify for Section 271 relief. The BP Report reveals the following failures that remain in each of the three key OSS testing areas:

Processes and Procedures Review – involving Ameritech’s wholesale business processes and management practices.

Not Satisfied:

PPR 13-4	“The bill production process includes reasonability checks to catch errors not susceptible to pre-determined balancing procedures.”
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Indeterminate:

PPR5-12-B	“Test Environments are subjected to version control and carriers are notified prior to changes in the carrier-to-carrier Test Environments.”
PPR5-14-B	“On-call technical support is provided for production versions of interfaces.”

- i. Transaction Verification and Validation – involving transaction-based tests.

Not Satisfied:

TVV 1-4	“SBC Ameritech provides required order functionality.”
TVV 1-26	“SBC Ameritech provides timely Non-Mechanized Firm Order Confirmations (FOC) in response to electronically submitted

information most relevant to that determination; therefore the Commission should consider it, even if the Master Test Plan does not call for it to be tested.

	orders.”
TVV 1-28	“SBC Ameritech provides timely Completion Notices.”
TVV 2-4	“SBC Ameritech systems provided timely responses to Customer Service Information Inquiries via EDI.”
TVV 2-5	“SBC Ameritech systems provided timely responses to Customer Service Information Plus Listing Inquiries via EDI.”
TVV 2-6	“SBC Ameritech systems provided timely responses to Loop Qualification Inquiries via EDI.”
TVV 2-9	“SBC Ameritech systems provided timely responses to Listing for Telephone Number Inquiries via EDI.”
TVV 2-10	“SBC Ameritech systems provided timely responses to Scheduling Inquiry/Availability – Due Date Inquiries via EDI.”
TVV 2-12	“SBC Ameritech systems provided appropriate responses to the pre-order inquiries submitted via GUI.”
TVV 2-15	“SBC Ameritech systems provided timely responses to Customer Service Information Inquiries via GUI.”
TVV 2-17	“SBC Ameritech systems provided timely responses to Loop Qualification Inquiries via GUI.”
TVV 2-26	“SBC Ameritech systems provided timely responses to Customer Service Information Inquiries via CORBA.”
TVV 2-27	SBC Ameritech systems provided timely responses to Customer Service Information Plus Listing Inquiries via CORBA.”
TVV 2-37	“SBC Ameritech systems provided timely Reject Messages for orders submitted via EDI.”
TVV 4-27	“Post-order CSRs were consistent with required field inputs from submitted pre-order CSRs.”
TVV6-16	The Trouble Ticket Test (MLT) transaction response time during peak volume testing for Plain Old Telephone Service (POTS) was consistent with benchmark data.
TVV7-14	Specials circuit end-to-end trouble reports contained closeout codes that accurately defined the trouble condition.

Indeterminate:

TVV 4-19	“Unbundled Dark Fiber was provisioned by completing documented M&P tasks.”
TVV 4-20	“Unbundled Dark Fiber circuits were provisioned on the due date.”

TVV 4-21	“Unbundled Dark Fiber circuits were provisioned accurately.”
TVV4-22	EEL circuits were provisioned by completing documented M&P tasks.
TVV4-23	EEL orders were provisioned on the due date.

e. SBC Illinois Has Failed To Satisfy Numerous Additional FCC Requirements Not Addressed By BearingPoint’s OSS Testing.

205. In addition to the two-part test discussed above, the FCC has developed several additional requirements regarding nondiscriminatory access that BearingPoint did not address in the course of its OSS testing. The BP Report does not provide adequate information to enable the Commission to determine whether, in fact, SBC Illinois has satisfied these requirements as a precondition to Section 271 relief. These requirements include: (1) instituting a proper “change management” process (*i.e.* the process through which an ILEC communicates to CLECs information regarding the performance of and changes to the OSS); (2) conducting OSS testing on the most current LSOG interface; (3) producing complete, accurate, and *auditable* wholesale bills; (4) creating an acceptable “joint test environment” to allow CLECs to test changes in their systems; and (5) ensuring that the pre-ordering interface between ILEC and CLEC can be integrated with the ordering interface using the same technology platform. I discuss each of these requirements below.

Change Management Process

206. An ILEC's change management process contains the methods and procedures by which the ILEC conveys information to CLECs concerning the performance of and changes to its OSS. The FCC has established criteria for evaluating a change management plan.¹⁰³ In applying those criteria in the recent *Second Georgia/Louisiana 271 Order*, the FCC stated:

. . . the Commission has explained that it must review the BOC's change management procedures to determine whether these procedures afford an efficient competitor a meaningful opportunity to compete by providing sufficient access to the BOC's OSS. In evaluating whether a BOC's change management plan affords an efficient competitor a meaningful opportunity to compete, we first assess whether the plan is adequate by determining whether the evidence demonstrates: (1) that information relating to the change management process is clearly organized and readily accessible to competing carriers; (2) that competing carriers had substantial input in the design and continued operation of the change management process; (3) that the change management plan defines a procedure for the timely resolution of change management disputes; (4) the availability of a stable testing environment that mirrors production; and (5) the efficacy of the documentation the BOC makes available for the purpose of building an electronic gateway. After determining whether the BOC's change management plan is adequate, we evaluate whether the BOC has demonstrated a pattern of compliance with this plan. (footnotes omitted.)

207. SBC Illinois's change management plan is the SBC-Ameritech 13-State Change Management Plan ("13-State CMP") that was developed on a collaborative basis in the course of developing the SBC-Ameritech Plan of Record. The process outlined by

¹⁰³ See, Memorandum Opinion and Order, In the Matter of Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., And BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services In Georgia and Louisiana, CC Docket No. 02-35 ¶ 179 (May 15, 2002) ("Second Georgia/Louisiana 271 Order").

the 13-State CMP, which is documented on the CLEC OnLine website, describes the ways in which a CLEC can request a change to SBC Illinois's OSS and the way in which changes to OSS interfaces are to be implemented. BearingPoint subjected the SBC Illinois CMP to testing, but not to the standard that the FCC has established and affirmed in recent orders.

208. I have learned, as has BearingPoint and anyone who reviews the BearingPoint Report in detail (see PPR 1 Test Results Pages 443 to 451), that the change management process SBC Illinois actually employs is *not* fully documented on the website, or anywhere else for that matter. The BP Report discloses an additional, disturbing and critical step in the process that SBC Illinois has apparently adopted in processing CLEC change requests. Specifically, CLEC change requests are submitted to a "review board" composed of unspecified SBC Illinois or SBC personnel who have the final say on the priority SBC Illinois assigns to a change request. SBC Illinois refers to this body as the "LSR Review Board." This fact was uncovered by the test and reported in Test References PPR 1-2 and PPR 1-5, but BearingPoint did not conduct test PPR 1-1 to determine whether the full change management process is defined and documented. While I agree that the CMP is documented in part, the fact that the documentation is incomplete is of grave concern to AT&T and should be of grave concern to this Commission and to all other CLECs that are required to work through the CMP.

209. Not only is the role of the LSR Review Board in the change management process undocumented, but the existence of an LSR Review Board and what role it would play in the CMP was never agreed upon or even negotiated with the CLECs. This newly

created (and previously undisclosed) LSR Review Board and its apparent role completely undermines the collaborative prioritization process that lies at the heart of the 13-State CMP. The unilaterally-created LSR Review Board also introduces new factors into the prioritization process in that it assigns priorities to CLEC change requests based on characteristics the CLECs never agreed to, such as the monetary and non-monetary benefits that SBC Illinois alone attributes to CLEC requests. This adjunct process also severely weakens or effectively eliminates the agreed upon dispute resolution process by establishing a higher authority that resides beyond the reach of a CLEC that wishes to escalate or dispute the decisions reached by SBC Illinois regarding CLEC change requests.

210. I learned of the LSR Review Board's existence from reading BearingPoint's analysis of the structure of the change management process employed by SBC Illinois. *See* BearingPoint Report at 444-449. The LRB role in the process was further illuminated by BearingPoint in the October 14-18 Michigan Commission's collaborative meetings:

MR. CONNOLLY: So when we're looking at the CLEC prioritized list of change requests, those go to the review board, and somewhere from the time that the CLECs prioritized them to the time that they get to the review board, some part of SBC Ameritech or SBC attributes to each one of those change requests factors such as monetary and non-monetary benefits, number of hours for that particular change request to be developed and implemented, and some identification of resource commitments that have already been made. Is that right?

MR. LEACH: Yes, generally that's correct. What I would call CCR, which is a CLEC change request, to distinguish it from CR that might be internal, would go to various organizations which would put some parameters around what they think it would take to do the job, and then it does go to the LSRB board for review. The board is also made up of -- it's a council of SMEs essentially from different organizations inside SBC Ameritech or SBC. And they also have a certain amount of say or thought into how much it's going to take to do the work because they're subject matter experts.

MR. CONNOLLY: When a change request has been prioritized high by the CLECs in their prioritization process, when that goes to the LSR Review Board and for some reason it can't get implemented in this release that's being designed, I think you said it would go back for consideration for the following release. Is that right? Did I hear you correctly?

MR. LEACH: Yes. Any CCRs that don't make it into a specific release go back to the monthly meetings and are reprioritized. The reason for that is if during the period when -- in case additional CCRs come out and the CLECs may have new requests, they can reprioritize them in case something new has come out that's a higher priority.

MR. CONNOLLY: Are releases about two or three times a year?

MR. LEACH: Yeah, three or four. For pre-order and order.

MR. CONNOLLY: O.K. So for a request that got bumped, if you will, the earliest possible implementation for that would be the next release some three or four months later?

MR. LEACH: That's correct.

211. I emphasize again that the 13-State CMP is silent as to the existence of an LSR Review Board and its behind-the-scenes role in evaluating CLEC change requests. The 13-State CMP simply does not subject the prioritized list of CLEC Change Requests to another set of decision-making by this additional layer of in-house "expertise." Thus,

the very existence of the LSR violates the 13-State CMP pursuant to which SBC Illinois agreed to operate. To make matters even worse for CLECs and the customers they serve and hope to serve, the procedure employed by the LSR Review Board undercuts the negotiated balance of authority and control over the change process by allowing SBC Illinois's "expertise" to overturn CLEC priorities and subvert the dispute resolution process. While the 13-State CMP does allow for a final internal review of the prioritized CLEC change requests, nowhere is that review designed to result in requests being rejected and delayed for several months until they can be re-prioritized as part of the next release. Moreover, the application of subjective criteria to CLEC requests by SBC Illinois (e.g., the monetary and non-monetary benefits for the implementation of a request) clearly is not part of the agreed-upon 13-State CMP. In fact, until the BP Report was issued and the October collaboratives sessions were held, the CLECs had no knowledge that SBC Illinois was using such criteria. Nowhere on the Change Request Form used by CLECs to submit their requests do the criteria appear, much less the fact that SBC Illinois intends to apply such criteria to CLEC requests.

212. In sum, SBC Illinois (and SBC generally in the "Ameritech" region) has altered, unilaterally, the change management process called for by the 13-State CMP in direct violation of the CMP and in blatant defiance of the spirit of cooperation and collaboration in which the CMP was created. SBC has changed the rules of the game, pure and simple. SBC Illinois does not practice the plan according to the documented practice and procedures; rather, it has wrested unwarranted control over the CLEC requests, thereby eliminating the collaborative nature of the plan and side-stepping the

established dispute resolution procedure. The BP Report makes no mention of this serious departure from the requirements of the FCC for an open, negotiated, and fair CMP. At very best, then, the BP Report is incomplete and not comprehensive. A complete and accurate report would have and should have revealed that SBC Illinois's change management practice fails the above-quoted FCC test.

Testing The Most Current LSOG Interface

213. When testing the LSOG interface for Section 271 OSS purposes, that testing should be conducted on the most current version of that interface. Common sense dictates that the Commission insist on testing the most current interface because that ensures that its approval, to the greatest extent possible, is made on a “looking-forward” basis. It makes no sense, in making a 271 determination affecting the future of competition, to rely on a soon-to-be retired interface.

214. This case presents a paradigmatic example of that point. As explained above, BearingPoint conducted its EDI testing on the LSOG 4 interface, which is currently used by almost all EDI-user CLECs in the Ameritech region due to their fear of moving to the next generation, LSOG 5. However, according to the SBC 12-Month Development view revised by SBC on November 1, 2002, SBC Illinois will retire LSOG 4 in *June 2003*. See Exhibit TMC-2 (Page 6 of 9 where the oldest LSOR available becomes LSOG 5.02). SBC Illinois therefore asks this Commission to attest to the ability of its OSS to support competition into the indefinite future based on the test results from an interface that will be supplanted by a newer one in only five months. To ensure that

the gains seen in competition are irreversible, the Commission should not be content to consider the OSS of the present, but instead the OSS of the near, and longer lasting, future.

Billing Auditability

215. The FCC concluded in the Verizon Pennsylvania case that bills produced by ILECs for wholesale products and services must be auditable, a standard distinct from, but on equal footing with, the standards of bill correctness, completeness, and accuracy. *See*, Memorandum Opinion and Order, *In the Matter of Application 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*, CC Docket No. 01-138, FCC 01-269 ¶ 22 (September 19, 2001). SBC Illinois's bills are not auditable, and BearingPoint made no finding that they are. Auditability can be demonstrated by being able to process the wholesale bill into a system that verifies the charges on the bills versus orders placed (new and change charges) against existing customer records (recurring charges) and against payments and adjustments from previous bills. Because BearingPoint did none of these, and there is no record by SBC Illinois that its bills are auditable, the Commission has no assurance that the auditability has been resolved.

Joint Testing Environment

216. The FCC has required ILECs to create a "joint testing environment," the purpose of which is to allow CLECs to test their systems and their ability to interface with the ILEC's OSS when the CLEC makes a change in its own system. The hallmarks

of an acceptable joint test environment, as defined by the FCC, are: (a) that the test system must be “separate” from the production environment used to process live transactions; (b) that the test system must “mirror” the production environment so that the CLEC’s test results will be a bellwether of the results it would achieve in the production environment; and (c) for new releases, the test environment must be “stable” such that the incumbent makes no substantive changes to the test system for thirty (30) days before implementation of the new release into the production environment.

217. The BearingPoint Report contains positive findings on the Joint Test Environment (“JTE”) in its PPR 5 “OSS Interface Development Verification and Validation Review” tests. The test results, like those which considered, in part, HP information for development of the EID interfaces, suffer fatally from HP’s failure to reveal its negative and difficult experiences in conducting joint testing with SBC Illinois. In Chapter 7 of its Report, HP details the most problematic aspect of joint testing – the incessant delays SBC caused, making it miss the planned exit from joint testing by 10 weeks. HP should have completed testing by May 28, 2001; instead, it was caught in the web of JTE problems until August 12. It lodged the 27 Observations to report and note defects, but made no Observation or Exception to the effect that it was in the JTE penalty box and therefore unable to process orders. The FCC requirement (according to Section 271 orders as described above) is complemented in SBC’s case by its Plan of Record, which the FCC has ordered SBC to implement. Because BearingPoint did not evaluate the criteria contained in the Plan of Record, the Commission has no information to report

to the FCC on whether those POR- imposed obligations have been developed and whether they are practiced in the JTE. The fact is, they are not.

Pre-Ordering Integration With Ordering

218. The FCC has held that an ILEC’s ability to integrate pre-ordering information into its ordering interface and the back-office systems of the CLEC is “fundamental to a BOC’s showing of nondiscriminatory access to OSS.” *New York 271 Order* ¶ 137. *see also* BellSouth GA/LA order approving at Para 119.] “The Commission has previously stated that the inability to integrate may place competitors at a disadvantage and significantly impact a carrier’s ability to serve its customers in a timely and efficient manner.¹⁰⁴ In order to demonstrate compliance with checklist item two, the BOC must enable competing carriers to transfer pre-ordering information (such as customer’s billing address or existing features) electronically into the carrier’s own back office systems and back into the BOC’s ordering interface. We do not simply inquire whether it is possible to transfer information from pre-ordering to ordering interfaces. Rather, we assess whether the BOC enables *successful* integration by determining if competing carriers may, or have been able to, automatically populate information supplied by the BOC’s pre-ordering systems onto an order form (the LSR) that will not be rejected by the BOC’s OSS systems.”¹⁰⁵

219. The issue of pre-ordering and ordering integration was discussed at the October 14 – 18 Michigan collaborative. Following is BearingPoint’s response to

¹⁰⁴ *SWBT Texas Order*, 15 FCC Rcd at 18428-29, para. 152.

¹⁰⁵ *SWBT Texas Order*, 15 FCC Rcd at 18428, para. 152.

AT&T/BE Question 370 on the subject of SBC Illinois's ability to integrate pre-order information into orders and process them (See Test Results for TVV 1-29 at 814):

AT&T/BE Question 370 "Please describe the methodology, other than manual processes, that were employed, if any, to populate orders based on information received from the pre-order query responses."

...

MR. ERINGIS: It is a good question. We populated orders manually as opposed through electronic means. That is, we did not capture electronically all of the information from the preorder and then mechanically insert that into the LSR. But we were able to take the information directly from the preorder responses and populate orders with that information without special assistance from the company.

220. BearingPoint provides no finding on whether SBC Illinois's EDI or application-to-application pre-order interface can be integrated with the ordering interface operating on the same technology platform. BearingPoint provides no finding on whether SBC Illinois's EDI or application-to-application pre-order interface can be integrated with the ordering interface operating on the EDI system. The interfaces built by HP for the test did not incorporate pre-order to order integration processes. As the FCC has pointed out in its analyses of the effects of integration, the inability of a CLEC to populate local service requests from pre-order query information without translation or transformation of the data is a competitive disadvantage. It is especially salient here because the SBC Illinois *retail* ordering system as it has been described by SBC and Ameritech systems staff exhibits a very high degree of integration. SBC Illinois service representatives are able to generate retail service orders through the system which "auto-

populates” the information from internal databases, akin to the integration required by the FCC for wholesale ordering.

SBC Illinois clearly has failed to meet the FCC requirements above. Moreover, the BP Report fails adequately to address any of these issues. Accordingly, this Commission must conclude that SBC Illinois does not provide nondiscriminatory access to its OSS according to these identified FCC requirements, and the BP Report provides SBC Illinois and the Commission with no basis to conclude otherwise.

221. This concludes my affidavit.