STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission,	:	
On Its Own Motion	:	
	:	
Investigation concerning Illinois Bell	:	**01-0662**
Telephone Company's compliance with	:	
Section 271 of the Telecommunications	:	
Act of 1996.	:	

ADMINISTRATIVE LAW JUDGE'S PROPOSED FINAL ORDER ON INVESTIGATION

By the Commission:

Introduction

1. Section 271 (d)(1) of the Telecommunications Act of 1996 ("Act") provides Ameritech Illinois ("AI", "the Company" or "SBC-Illinois") with the opportunity to apply to the Federal Communications Commission ("FCC") for authority to provide in-region interLATA service in Illinois. 47 U.S.C. Section 271(d)(1). Before making a determination on any Section 271 application, however, the FCC is required to consult with the Department of Justice. 47 U.S.C. Section 271 (d)(2)(A). Further, it is required to consult with the relevant state commission in order to verify that the BOC has one or more state-approved interconnection agreements with a facilities-based competitor, or a Statement of Generally Available Terms and Conditions, and that either the agreement(s) or the general statement, satisfy the Act's "competitive checklist" as set out in Section 271(c). 47 U.S.C. Section 271(d)(2)(A).

2. On October 24, 2001, the Illinois Commerce Commission ("Commission") entered an order, initiating this docketed proceeding to investigate the status of Ameritech Illinois' compliance with Section 271 of the Act, to hold hearings thereon, and to develop a comprehensive factual record for purposes of its anticipated consultation with the FCC. ("Initiating Order"). Given the importance of AI's compliance with the "competitive checklist" to ensuring that its markets are open to effective competition, the Commission would examine whether the Company currently satisfies these items or whether further action is required. (Id. at 3). Along therewith, the Commission indicated that it will work with Ameritech Illinois, the CLECs, Staff and other interested parties to bring about any necessary changes or improvements.

3. The Initiating Order further outlined the process to be followed in these premises. At the outset, the Commission made AI (the only BOC serving Illinois

customers) a party to this proceeding. It further directed that all carriers, granted certificates of Exchange Service Authority pursuant to Section 13-405 of the PUA, be provided notice of the instant proceeding.

4. Recognizing the enormity, complexity and expanse of this task, the Commission considered it appropriate to deal with the matters at hand in the process of several separate phases. Pursuant to the directives of the Initiating Order, the "first phase shall cover as much of the competitive checklist as possible absent OSS test results" and the "second phase shall cover all remaining OSS issues and any other relevant issues that were not addressed in the first phase." (Id. at 3). It further granted the ALJ authority to provide additional interim orders when beneficial to do so.

Phase IA Procedural History

5. Due notice of this proceeding was served pursuant to the Commission's directives. The first of several status hearings was held on November 7, 2001 at the Commission's offices in Chicago, Illinois. On November 20, 2001, Ameritech Illinois served its "Checklist Informational Filing" that provided, in draft form, the affidavits and the brief for its 271 filing before the FCC. Thereafter, on November 27, 2001, a schedule for the Phase IA proceeding was established, but later modified on grant of Staff's motion.

6. Pursuant to their respective petitions, the following parties were granted leave to intervene:

> Allegiance Telecom of Illinois, Inc. ("Allegiance"); Association of Communications Enterprises; AT&T Communications of Illinois, Inc., TCG Chicago, TCG Illinois, TCG St. Louis, (collectively "AT&T"); CIMCO Communications, Inc. ("CIMCO"); City of Chicago; Cook County State's Attorney's Office ("Cook County"); CoreComm Illinois, Inc.; DataNet Systems, LLC; GlobalCom, Inc.; Illinois Independent Telephone Association; Illinois Public Telecommunications Association; McLeodUSA Telecommunications Services, Inc. ("McLeodUSA"); Moultrie Independent Telephone Company; MPower Communications, Corp.; New Edge Networks, Inc.; the People of the State of Illinois ("AG"); RCN Telecom Services of Illinois, Inc. ("RCN"); Sprint Communications Company, L.P., d/b/a Sprint Communications L.P. ("Sprint"); TDS MetroCom, Inc. ("TDS MetroCom"); TruComm Corporation; Vertex Broadband Corporation ("Vertex"); WorldCom, Inc. ("WorldCom"); XO Illinois Inc. ('XO"); and Z-Tel Communications, Inc. ("Z-Tel").

7. Industry workshops were held on January 8 and 9, 2002, at which time the parties attempted to identify and refine the issues to be addressed in this proceeding.

Between the dates of January 28, 2002 and June 5, 2002, the parties circulated pre-filed testimony addressing the issues identified in the workshops as well as other issues related to Track A compliance pursuant to Section 271(c)(1)(A); the fourteen item competitive checklist of Section 271(c)(2)(B); and whether Ameritech's entry into the in-region interLATA market is consistent with the "public interest, convenience and necessity" as required under Section 271(d)(3) of the Federal Act requires.

8. At an emergency status hearing convened on June 13, 2002, the Administrative Law Judge granted Ameritech's Motion to Amend A Portion of the Schedule to Address Proposed Modifications to the Remedy Plan, severing out the performance and remedy plan issues for review in the upcoming Phase 1B proceeding. As such, AI witness Ehr's pre-filed testimony – addressing performance and remedy plan issues - was not entered into the record for Phase IA. So too, the entire pre-filed testimony of Staff witnesses Melanie Patrick and Sam McClerren, and parts of the pre-filed testimony of Staff witnesses Weber, were not offered into the record for Phase 1A. Two issues addressed by Staff witness McClerren (provisioning of unbundled local loops, and the high frequency portion of the loop) were removed from his testimony and addressed in Ameritech-Staff Stipulation No. 3, pending Staff's determination that the tariff language Ameritech submits is in compliance with the Order for Docket 01-0614. (Phase 1B was ultimately dismissed insofar as the performance plan issues were carried into the Phase II proceeding).

9. An evidentiary hearing was held on the dates of June 17-21, 2002 and July 1, 2002. The witnesses providing sworn testimony in the Phase 1 proceeding were as follows:

> For Ameritech Illinois: Justin W. Brown; Carol A. Chapman; William C. Deere; Barbara A. Smith; Rhonda J. Johnson; John Muhs; Don A. Thompson; Mark J. Cottrell; Scott J. Alexander; Patrick L. Foster; John S. Habeeb; Deborah O. Heritage; Denise Kagan; Robben Kniffen-Rusu; Chris Nations; Eric Smith; Marcia J. Stanek; and Bernard Valentine.
>
> For WorldCom: Edward J. Caputo; Mindy J. Chapman; Joan Campion; Earl A. Hurter; and Sherry Lichtenberg.
>
> For AT&T: Eva Fettig; Walter W. Willard; Joseph Gillan; James F. Henson; Daniel Noorani; Steven E. Turner; and Mark Van de Water.
>
> For Z-Tel: Ron A. Walters.
>
> For Staff: Jeff Hoagg; Robert F. Koch; James Zolnierek; Jonathan A. Fiepel; Rick S. Gasparin; Mark A. Hanson; George Light; Qin Liu; Russell W. Murray; Olusanjo A. Omoniyi; Nancy B. Weber.

For McLeodUSA/TDS: Rod Cox.

For McLeodUSA**:** Joy Heitland; Julia Redman-Carter; and Michelle L. Sprague.

For RCN: Rahul Dedhiya; Jack Piticavong; and Linda E. Valentine.

For XO Communications: Randall Barstow andTara McCabe.

10. The testimony of each of the above named witnesses was admitted into the record. Further, each of these witnesses was made available for cross-examination at the hearing.

11. On or about July 24, 2002, the initial briefs for Phase-IA were filed by, Ameritech Illinois, Staff, AG, AT&T, Cook County, McLeodUSA/TDS, RCN, WorldCom, XO, and Z-Tel.

12. Thereafter, on August 23, 2002, Ameritech Illinois and the Commission Staff entered into a Stipulation to Eliminate Issues ("Stipulation"). Pursuant to this document, it was agreed between these parties that certain issues, having been adequately addressed in Docket 01-0614 and in the Compliance Tariff for Docket 01-0614, need not be addressed again in this proceeding. (The precise issues were identified in the Stipulation at 2-3). Further, the Stipulation states the parties agreement that the Compliance tariff that Ameritech filed on May 10, 2002, (together with any other compliance tariffs or revisions thereto previously filed) i.e., 98-0396 Compliance Tariff, properly reflects the "non-recurring charges" established in the Order on Reopening in Docket 98-0396, and no issues thereon need be addressed in this proceeding. According to the Stipulation, AI also agreed to amend its Bona Fide Request (BFR) tariff to reflect certain changes, on a date no later than September 6, 2002. (At a status hearing on September 4, 2002, the Stipulation was admitted into the record, without objection, as Staff/Ameritech Stipulation No. 2).

13. Reply Briefs were filed on August 28, 2002, by Ameritech Illinois, Staff, AT&T, WorldCom, the AG, Cook County, RCN, XO, Z-Tel and McLeodUSA/TDS.

14. The ALJ issued a Proposed Interim Order for the Phase IA Investigation on December 6, 2002. Thereafter, Briefs on Exceptions were filed by Staff, AI, AT&T, WorldCom, the AG, Z-Tel, XO and McLeodUSA/TDS Metrocom. Further, Reply Briefs to Exceptions were filed by Staff, Ameritech, AT&T, WorldCom and Z-Tel. All of the arguments set out in those briefs were considered and inform the instant Order.

Scope and Outline of the Phase 1A Interim Order

15. In accord with the Initiating Order's direction, this Phase I (A) interim order covers as much of the competitive Checklist Items as possible absent OSS test results. It also considers the evidence, issues and positions pertinent to Track A compliance under Section 271 (c)(1)(A), and looks to whether Ameritech Illinois' entry into the in-region interLATA market is consistent with the public interest, convenience and necessity.

16. In this investigation, it is incumbent upon AI to demonstrate compliance with the detailed requirements of the Section 271 checklist and the implementing orders of the FCC and this Commission. This was made clear by the Initiating Order's pronouncement that AI bears the burden of proof in this proceeding and that it is to be the first to file testimony. The FCC has similarly emphasized that the 271 applicant bears the burden of showing compliance even if no party challenges its compliance with a particular requirement. Thus, in each of the particulars, AI needs to establish the requisite prima facie showing.

17. By the same token, Staff and the other interested parties have the burden of clearly stating and supporting their respective issues and positions. This investigation is a fact-driven inquiry, such that mere arguments or conclusory assertions do not suffice. This Commission, likewise, should not be put to the burden of ferreting out issues or positions that are not set out clearly.

18. All total, the Commission has been intent on collecting, recording and evaluating necessary and relevant information in order to present a credible and comprehensive consultative report to the FCC. The massive record before us bears testament to the success of our efforts as does the breadth of the instant order. As broad as this proceeding might be, however, it has certain limitations. We are examining information to assess AI's compliance with existing obligations – not to entertain novel issues or reconsider settled decisions or to impose new obligations. The latter would be most inappropriate given that this proceeding is not set up to adjudicate the rights of any parties. In the same vein, we are not in any position to excuse AI from any of its existing obligations.

19. The instant Phase IA Interim Order is organized as follows:

In Part I, the Commission sets out the general statutory framework of Section 271.

In Part II, we examine AI's showing of eligibility under the entry requirements of Section 271 in light of all the evidence and arguments.

In Part III, we review the AI showings of compliance with respect to each of the 14 competitive checklist items set out in Section 271, along with the

> factual disputes and arguments, if any, raised on the record. With respect to each item, we set out a summary of the federal standards for review based on the federal Act and FCC pronouncements as adapted from Appendix C of the New Jersey 271 Order. Along therewith, we include a state perspective – that identifies any Commission action that is relevant to the checklist item or to issues raised thereunder. We separately detail the extensive and explicit recommendations for compliance set out by Staff for many of the checklist items.
>
> In Part IV, the Commission examines the Public Interest positions of all the interested parties and addresses a number of arguments and proposals that fall outside the competitive checklist requirements. While the Commission is focusing on Section 271(c) obligations, there are, in some instances, state-based requirements that go beyond the federal standards for checklist compliance. A failing in this regard, is valid for our consideration, but must be identified as such, i.e., an obligation outside the checklist.

20. It is our intent, as near as possible, to address the issues and positions relative to state matters separate from federal concerns. In this way, the Commission is fully informed as to all aspects of compliance, yet able to maintain a clear perspective when consulting with the FCC on the Section 271(c) obligations.

21. Overall, and to the extent that the Commission considers certain remedial action by Ameritech is required for Section 271 compliance, the Company will have the option to:

1. accept the remedial action and prove compliance therewith in Phase II.

2. ignore the remedial action and risk an adverse recommendation.

3. dispute the need for the particular remedial action in Phase II or at an earlier stage to be agreed upon (or through its Brief on Exceptions if further evidence is not required).

22. The main focus, here and now, is on AI's compliance with Section 271 requirements as they have been set out in the federal Act, and as described, implemented and addressed by the FCC. This constitutes our standard for review. We believe it critical to establish just what compliance is. In looking to the dictionary definitions, we see that:

> To comply is to act in accordance with another's command, request, rule, or wish. American Heritage Dictionary.

> To yield; to accommodate, or to adapt oneself to; to act in accordance with; to accept. Black's Law Dictionary

23. We trust that all parties have proceeded to address the issues of Section 271 compliance on this basis.

I. GENERAL STATUTORY FRAMEWORK OF SECTION 271

24. According to Section 271 (a), neither a Bell Operating Company ("BOC") nor an affiliate of a BOC may provide interLATA services except as provided for in Section 271. (47 U.S.C. Sec. 271(a)) (emphasis added). More specifically, Section 271 (b)(1) states that a BOC, or any affiliate of that BOC, may provide interLATA services originating in any of its in-region States if the FCC approves the application for such State under subsection (d)(3).

25. The Administrative Provisions of Section 271 (d) outline the application process. Pursuant to Section 271(d)(1), a BOC or its affiliate may apply to the Federal Communications Commission ("FCC") for authorization to provide interLATA services originating in any in-region State. 47 U.S.C. Sec. 271. Within 90 days of its receipt of the application, the FCC is required to issue a written determination either approving or denying the authorization requested by the application for each state. This same subsection specifies that approval of the requested authorization in the application is contingent on the FCC's finding that:

> *(A) the petitioning Bell operating company has met the requirements of subsection (c)(1) and—*
>
> *(i) with respect to access and interconnection provided pursuant to subsection (c)(1)(A), has fully implemented the competitive checklist in subsection (c)(2)(B); or*
>
> *(ii) with respect to access and interconnection generally offered pursuant to a statement under subsection (c)(1)(B), such statement offers all of the items included in the competitive checklist in subsection (c)(2)(B);*
>
> *(B) the requested authorization will be carried out in accordance with the requirements of section 272 [47 USCS § 272]; and*
>
> *(C) the requested authorization is consistent with the public interest, convenience, and necessity.*

26. The FCC is further required under Section 271 (d)(2) to engage in certain consultative actions during its review. At the outset, the FCC must promptly notify and

consult with the Attorney General with respect to any Section 271 (d)(1) application. 47 U.S.C. Sec. 271. Further, before making a subsection (d) determination, the Commission must also consult with the state commission in the State that is the subject of the application in order to "verify the compliance of the BOC with the requirements of subsection (c).

27. In accord with the framework set out above, this Commission is preparing itself for the consultation with the FCC "to verify the compliance" of Ameritech Illinois with the requirements of subsection (c), as set out below:

> *Section 271 (c) Requirements for Providing Certain In-Region INTERLATA Services.*
>
> *(1) Agreement or statement. A Bell operating company meets the requirements of this paragraph if it meets the requirements of subparagraph (A) or subparagraph (B) of this paragraph for each State for which the authorization is sought.*
>
> *(A) Presence of a facilities-based competitor. A Bell operating company meets the requirements of this subparagraph if it has entered into one or more binding agreements that have been approved under section 252 [47 USCS § 252] specifying the terms and conditions under which the Bell operating company is providing access and interconnection to its network facilities for the network facilities of one or more unaffiliated competing providers of telephone exchange service (as defined in section 3(47)(A) [47 USCS § 153(47)(A)], but excluding exchange access) to residential and business subscribers. For the purpose of this subparagraph, such telephone exchange service may be offered by such competing providers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities in combination with the resale of the telecommunications services of another carrier. For the purpose of this subparagraph, services provided pursuant to subpart K of part 22 of the Commission's regulations (47 C.F.R. 22.901 et seq.) shall not be considered to be telephone exchange services.*
>
> *(B) Failure to request access. A Bell operating company meets the requirements of this subparagraph if, after 10 months after the date of enactment of the Telecommunications Act of 1996 [enacted Feb. 8, 1996], no such provider has requested the access and interconnection*

described in subparagraph (A) before the date which is 3 months before the date the company makes its application under subsection (d)(1), and a statement of the terms and conditions that the company generally offers to provide such access and interconnection has been approved or permitted to take effect by the State commission under section 252(f) [47 USCS § 252(f)]. For purposes of this subparagraph, a Bell operating company shall be considered not to have received any request for access and interconnection if the State commission of such State certifies that the only provider or providers making such a request have (i) failed to negotiate in good faith as required by section 252 [47 USCS § 252], or (ii) violated the terms of an agreement approved under section 252 [47 USCS § 252] by the provider's failure to comply, within a reasonable period of time, with the implementation schedule contained in such agreement.

(2) Specific interconnection requirements.

(A) Agreement required. A Bell operating company meets the requirements of this paragraph if, within the State for which the authorization is sought—

(i) (I) such company is providing access and interconnection pursuant to one or more agreements described in paragraph (1)(A), or

(II) such company is generally offering access and interconnection pursuant to a statement described in paragraph (1)(B), and

(ii) such access and interconnection meets the requirements of subparagraph (B) of this paragraph.

(B) Competitive checklist. Access or interconnection provided or generally offered by a Bell operating company to other telecommunications carriers meets the requirements of this subparagraph if such access and interconnection includes each of the following:

(i) Interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1) [47 USCS §§ 251(c)(2) and 252(d)(1)].

(ii) Nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1) [47 USCS §§ 251(c)(3) and 252(d)(1)].

(iii) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates in accordance with the requirements of section 224 [47 USCS § 224].

(iv) Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.

(v) Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.

(vi) Local switching unbundled from transport, local loop transmission, or other services.

(vii) Nondiscriminatory access to—

(I) 911 and E911 services;

(II) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and

(III) operator call completion services.

(viii) White pages directory listings for customers of the other carrier's telephone exchange service.

(ix) Until the date by which telecommunications numbering administration guidelines, plan, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers. After that date, compliance with such guidelines, plan, or rules.

(x) Nondiscriminatory access to databases and associated signaling necessary for call routing and completion.

> *(xi) Until the date by which the Commission issues regulations pursuant to section 251 [47 USCS § 251] to require number portability, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with such regulations.*
>
> *(xii) Nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3) [47 USCS § 251(b)(3)].*
>
> *(xiii) Reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2) [47 USCS § 252(d)(2)].*
>
> *(xiv) Telecommunications services are available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3) [47 USCS §§ 251(c)(4) and 252(d)(3)].*
>
> 47 U.S.C. Sec. 271 (c).(cites included).

28. Overall, Section 271(c) of the 1996 Act sets forth two basic "requirements for providing . . . in-region interLATA services." Subsection (c)(1) requires an "agreement or statement" and subsection (c)(2) contains the 14-point competitive checklist. 47 USC Sec. 271(c).

II. Satisfaction of the Entry Requirements of Section 271(c)(1)(A)

A. The Federal Act

29. To gain FCC approval of its application to provide in-region, interLATA services, a BOC must demonstrate that **"it meets the requirements of either subparagraph (A) or subparagraph (B)"** 47 U.S.C. Section 271(c)(1).

B. Standards For Review

30. According to Section 271 (c), there are two separate and independent means, by which a BOC may satisfy, or qualify under, the Act's initial entry requirements.

31. To qualify for "Track A," a BOC must have interconnection agreements with one or more competing providers of "telephone exchange service . . . to residential and business subscribers." 47 U.S.C. Section 271(c)(1). The Act states that "such telephone service may be offered . . . either exclusively over [the competitor's] own telephone exchange service facilities or predominantly over [the competitor's] own telephone exchange facilities in combination with the resale of the telecommunications services of another carrier." Id. In the Ameritech Michigan Order, the FCC concluded that, section 271(c)(1)(A) is satisfied if one or more competing providers collectively serve residential and business subscribers. See also Kansas/Oklahoma 271 Order at para. 40.

32. As an alternative, "Track B" permits BOCs to obtain authority to provide in-region, interLATA services if, after 10 months from the date of enactment, no facilities-based provider, as described in subparagraph (A), has requested the access and interconnection arrangements described therein (referencing one or more binding agreements approved under Section 252), but the state has approved an SGAT that satisfies the competitive checklist of subsection (c)(2)(B). Under section 271(d)(3)(A)(ii), the Commission shall not approve such a request for in-region, interLATA service unless the BOC demonstrates that, "with respect to access and interconnection generally offered pursuant to [an SGAT], such statement offers all of the items included in the competitive checklist." Track B, however, is not available to a BOC if it has already received a request for access and interconnection from a prospective competing provider of telephone exchange service.

33. (Adapted from the New Jersey 271 Order, Appendix C, with most cites and footnotes omitted).

Further Authority

34. When a BOC relies upon more than one competing provider to satisfy section 271(c)(1)(A), each such carrier need not provide service to both residential and business customers. Michigan 271 Order, ¶ 82. The FCC has further held that a BOC must show that at least one of these competing providers constitutes "an actual commercial alternative to the BOC," which means that the provider serves "more than a *de minimis* number" of subscribers. New Jersey 271 Order, ¶ 10. Once that is done, however, Track A does not "require any particular level of market penetration." Id. At least one court has affirmed that the Act "imposes no volume requirements for satisfaction of Track A." Sprint Communications Co. v. FCC, 274 F.3d 549, 553-54 (D.C. Cir. 2001).

C. The Evidence, Arguments and Positions

1. Ameritech Illinois Showing of Eligibility

35. Ameritech Illinois asserts that its application would proceed under, and satisfy the test of Track "A." To establish eligibility under this provision, a BOC must have interconnection agreements with one or more competing providers of "telephone exchange service . . . to residential and business customers." 47 U.S.C. § 271(c)(1)(A). Ameritech Illinois submits the testimony of Deborah Heritage as support for meeting this requirement.

36. Ameritech Illinois shows to have over 150 Commission-approved wireline interconnection and resale agreements with competing providers. (Am. Ill. Ex. 14.0 Sch. DOH-2, ¶ 4). At least 12 of these entrants, AI contends, provide services to residential and business subscribers in Illinois, either exclusively or predominantly over their own facilities, and thus qualify as Track "A" competitors. (Id. ¶ 4 & Attach. C).

37. According to AI, CLECs are clearly giving Illinois consumers "an actual commercial alternative." New Jersey 271 Order, ¶ 10. As of February 2002, it notes, CLECs had gained over 1.8 million lines – approximately 23 percent of the total lines – in the Ameritech Illinois service area. (Am. Ill. Ex. 14.0 at 9;Table 1; Id. Sch. DOH-2, ¶ 5; Table 2). Approximately 1.6 million of these lines, AI contends, were served by competitors over their own facilities.[1] (Id. ¶ 5;Table 1). CLECs captured approximately 1.2 million business lines, and over 600,000 residential lines, in Ameritech Illinois' service area. (Id., Tables 1 (facilities-based lines) & 6 (resold lines). Since then, AI asserts that CLEC activity continued to grow, exceeding 1.9 million lines by April 2002. (Am. Ill. Ex.14.1 at 5).

38. These levels of CLEC penetration, AI contends, outpace *every single one* of the fourteen applications that the FCC has approved thus far. It offers the following Table I in support of this assertion.

Table 1: Comparison of CLEC Market Shares

STATE	SOURCE OF DATA	LINES CAPTURED BY CLECs	CLEC MARKET SHARE
Illinois	Am. Ill. Ex. 14.0 (Heritage Rebuttal) Sch. DOH-2, at 5.	1,874,000	23%

[1] These 1.6 million lines include nearly 700,000 lines served by unbundled loops and UNE platforms provided Ameritech Illinois. The FCC has determined that CLECs using UNEs to provide service are providing service over their "own facilities" for purposes of Track "A." Michigan 271 Order, ¶ 94.

New York	New York 271 Order, ¶ 14	1,118,180	9%*
Texas	Texas 271 Order, ¶ 5 & n.7	890,000	8%
Kansas	Kansas & Oklahoma 271 Order, ¶ 4	191,000	13%
Oklahoma	Id. ¶ 5	170,000	9%
Massachusetts	Massachusetts 271 Order, ¶ 3	781,000	11%*
Connecticut		2,500*	5%*
Pennsylvania	Pennsylvania 271 Order, ¶ 2	1,145,000	14%*
Arkansas	Arkansas & Missouri 271 Order, ¶ 2	98,500	9%*
Missouri	Id.	295,000	10%*
Rhode Island	Rhode Island 271 Order, ¶ 2	119,000	16%
Vermont	Vermont 271 Order, ¶ 2	21,500	6%*
Georgia	Georgia & Louisiana 271 Order, ¶ 3	913,000	19%*
Louisiana	Id.	227,000	9%*
Maine	Maine 271 Order, ¶ 2 & n.3	50,600	7%
New Jersey	New Jersey 271 Order, ¶ 3	614,000	8%*

* In these instances, AI notes, the data did not appear in the relevant FCC Order, but was taken from the U.S. Department of Justice's evaluation (available at http://www.usdoj.gov/atr/public/comments /sec271/sec271.htm) and is included here solely for reference. Note that in Connecticut, Verizon serves only 60,000 lines. Connecticut 271 Order, ¶ 2.

39. Further, AI submits, an April 2002 study by the Eastern Management Group assessed the current state of competition in ten states, including five states that previously received approval under section 271. (Am. Ill. Ex. 14.0 at 6). The study, AI contends, found that Illinois had the highest level of CLEC penetration save for New York (at 25%), and that CLECs already had higher market share in Illinois than in four states for which the BOCs had obtained long-distance authority under section 271. (Id).

40. Vigorous competition is evident, AI claims, not only by a review of the data but also through common and everyday experience. CLEC advertisements appear on

the television and in the newspapers. In driving down the state's highways one sees a CLEC billboard, and at the home, CLEC customer solicitations arrive in the mail or by telephone. Several CLECs, AI asserts, are aggressively packaging and promoting local service plans. (See Am. Ill. Ex. 14.0 at 5-6; id. Sch. DOH-3 (advertisements and articles documenting CLEC solicitation of customers in Illinois); (Am. Ill. Ex. 14.1 at 5-6; Schs. DOH-1 & DOH-2).

41. AI notes that AT&T, which had already established itself in the business market and serves residences over its cable facilities, entered the residential local service market in force and with fanfare in June 2002, offering bundled packages of local, local toll, and long distance services supported by press releases and by promotional discounts that it included with mailings to its long-distance subscribers. (Id. at 5-6 & Schs. DOH-1 & DOH-2; Am. Ill. Cross Exs. 27-29). So too, AI observes, Z-Tel has launched "Z-LineHOME" and "Z-LineBUSINESS" offerings with direct mail inserts in gas and electric bills (Id. at 5-6) and with an ad campaign featuring sports celebrity "Iron Mike" Ditka.

42. The current market figures, AI contends, reflect substantial growth in recent months. Between September 2000 and September 2001, CLECs' facilities-based lines nearly doubled and UNE loops increased by 43 percent. (Am. Ill. Ex. 14.0, Sch. DOH-1, ¶ 7 & Attach. D). In the five months between September 2001 and February 2002, AI maintains, facilities-based lines increased by an additional 347,000 or 27 percent, while unbundled loops increased by another 50,000 or 18 percent. According to AI, Table 2 as included in its initial brief, depicts this growth, and the continued evolution of the Illinois market as resale services mature into facilities-based competition.

Table 2: Growth in CLEC Activity

Competitive Indicator	**Sept. 2000**	**Sept. 2001**	**Feb. 2002**	**Percentage Change, Sept. 2000 – Feb. 2002**
Facilities-based Lines	575,000	1,291,000	1,638,000	185 %
Resale Lines	301,000	266,000	236,000	(22 %)
Total Lines	876,000	1,557,000	1,874,000	114 %
Unbundled Loops	193,000	276,000	326,000	69 %
UNE Platforms	0	190,000	335,000	Not applicable

SOURCE	Am. Ill. Ex. 14.0 (Heritage Rebuttal) Sch. DOH-1, at 95 (Attach. D)	Am. Ill. Ex. 14.0 (Heritage Rebuttal) Sch. DOH-1, at 95 (Attach. D)	Am. Ill. Ex. 14.0 (Heritage Rebuttal) Sch. DOH-2, at 95 (Attach. D)	Calculated from columns 2 and 4

43. According to AI, there is a solid foundation in place for continued growth. The CLECs' *existing* collocation arrangements, it contends, allow them to serve 94 percent of the business customers and 91 percent of the residential customers in Ameritech Illinois' service area. (Id. ¶¶ 6, 31-32;Table 5). The CLECs' installed switching capacity, AI asserts, is capable of serving 96 percent of the customers in Ameritech Illinois' serving area. (Id. ¶ 27;Table 4).

44. According to AI, no evidence disputes that it satisfies Track "A." Indeed, Staff's witness Liu agrees "that Ameritech IL meets the requirements in Sec. 271(c)(1)(A) in that there are alternative carriers, which provide telecommunications services predominantly or exclusively over their own telephone exchange facilities in Illinois." (Staff Ex. 10.0 at 2, 22); Id. at 22 (reiterating that "Ameritech IL has met the requirements of Sec. 271(c)(1)(A)"). Further, not one of the Track A CLECs identified by Ameritech Illinois disputes that it is a Track A carrier.

45. There is, however, AI notes, an attempt to contest the data presented by Ameritech Illinois concerning the number of lines served by CLECs, or to complain that the data should be ignored because of financial difficulties experienced by some CLECs. See, e.g., AT&T Ex. 1.0 at 12-27; Staff Ex. 10.0 at 8-22; WorldCom Ex. 6.0 at 23. The testimony of Deborah Heritage, AI contends, refutes such criticisms. Most important, AI asserts, is not that the intervenors' arguments are inaccurate, but that these claims are irrelevant for purposes of determining whether Ameritech Illinois satisfies Track A.

46. No party contends that competitive entry in Illinois falls short of the Track "A" standards established by federal law, AI notes. Moreover, while some do question the methodology that the Company used to estimate CLEC lines, AI points out that no CLEC provided its own records to rebut the number of lines that Ameritech Illinois estimated for that CLEC.

Estimates of CLEC Lines

47. Ameritech Illinois explains that it uses its own records to determine the total number of its own access lines, and to determine the number of lines that CLECs serve by using Ameritech Illinois' facilities (via resale or the UNE "Platform"), but it does not have records for facilities-based CLEC lines (the CLECs maintain their own records). (Am Ill. Ex.14.0 at 18). Thus, Ameritech Illinois estimates that portion of

CLEC lines by using two complementary and conservative methodologies, each of which serves as a check on the other. (Id. at 7,14).

48. First, Ameritech Illinois uses the number of listings CLECs have in the database that is used for routing "911" calls. (Id. at 16). This methodology is conservative, AI maintains, in that the 911 database includes only lines that are used for outbound calling, and excludes lines used only for inward calls, for faxes, or for computers. (Am. Ill. Ex. 14.0 at 16). Lines served by resale or by the UNE "Platform" are not attributed to CLECs in the 911 database, and Ameritech Illinois adds these to the E911 listings to derive the total number of CLEC lines. (Id. at 9, n.6).

49. Second, Ameritech Illinois calculates CLEC facilities-based lines by using the number of interconnection trunks that the CLECs use to link with Ameritech Illinois' network facilities. (Id. at 10-16). A single trunk, AI informs, can serve approximately 10 end user lines. (Am. Ill. Ex. 14.0, Sch. DOH-2 ¶ 20). Based on a number of unique factors related to CLEC engineering practices and customer bases, CLECs typically use a higher number of trunks relative to the number of lines they serve. An average line to trunk ratio of 2.84:1 was calculated using actual CLEC data (E911 and interconnection trunks) for Ameritech Illinois. Nevertheless, Ameritech Illinois chose an even more conservative ratio of 2.75:1 to estimate CLEC facilities-based lines. (Id. at 11-12).

50. These two approaches, AI notes, are the same as those used by SWBT in its FCC-approved applications for Texas, Kansas, Oklahoma, Arkansas, and Missouri. (Id. at 6). Despite AT&T's protestations, and despite the fact that the CLECs have their own business records showing the exact number of lines they serve, AI notes that not one CLEC produced evidence to rebut the number of lines attributed to it by Ameritech Illinois, and not one CLEC challenged Ameritech Illinois' ultimate conclusion that it satisfies Track "A."

51. For the same reason, AI observes, the FCC has repeatedly rejected similar CLEC criticisms of the methodology used to estimate CLEC market share. See Kansas & Oklahoma 271 Order, ¶ 42 ("We note that commenters have complained that SWBT's method of estimation overstates the number of [CLEC] customers. We find, however, that SWBT's response[s] to these competitors support our conclusion that more than a de minimis number of residential customers are served via UNE-P in Kansas."); Georgia & Louisiana 271 Order, ¶ 13 ("Two commenters assert that BellSouth overestimates the number of lines provided by competitors in Georgia. . . . [E]ven if BellSouth's methodology inflates the total number of lines, as Sprint and AT&T suggest, we still find that there is an actual commercial alternative based on the sufficient number of voice customers served over competing LECs' own facilities."); New Jersey 271 Order, ¶ 13 (rejecting allegation that "the numbers that Verizon reports for Track A are wrong" because none of the "competing LECs disputed the numbers that Verizon attributes to them for purposes of Track A").

Financial Difficulties in the Telecommunications Industry

52. AI observes AT&T to contend that some of the carriers included in Ameritech Illinois' market analysis (including 8 of the 12 Track "A" carriers) are not "viable" and should be ignored because they are in or "near" bankruptcy. (AT&T Ex. 10.0 at 19-23). According to AI, however, the evidence does not support AT&T's conclusion about the individual carriers or the viability of CLECs in Illinois as a whole.

53. At the outset, AI asserts, CLECs have achieved remarkable growth in Illinois – hardly a sign of failure. Nationwide, the Eastern Management Group's study on competition reports that, while the raw number of CLECs has gone down, "their power is growing by leaps and bounds" – a view shared by several analysts. (Am. Ill. Ex. 14.1 at 30). Notably too, none of the Track "A" carriers that AT&T would deem "not viable" disputes its status as a Track "A" carrier. To the contrary, AI maintains, several have publicly proclaimed that they *are* viable (as Focal, XO, and Z-Tel did), or that they have emerged from bankruptcy (as Covad and McLeodUSA did), averted bankruptcy (as CoreComm did), or will continue operations without interruption. (Id. at 28-29; Am. Ill. Ex. 14.0 at 37-39). Even where an individual CLEC does fail, AI observes, its assets and customer base are often acquired by another – a point that AT&T, having acquired Northpoint Communications, knows full well. (Id. at 38-39).

54. In any event, AI asserts, AT&T's contentions do not affect Track "A" compliance. While there is no denying that the telecommunications industry in general (with respect to incumbents and CLECs alike) is experiencing a downturn, there is also no need to review CLEC financials, or attempt to predict the future economic climate, AI claims.

55. AI notes that the FCC – which knows the state of the industry as well as anyone – has granted several section 271 applications in the current economic setting, and it has specifically held that a section 271 proceeding is no place for a referendum on the viability of individual CLECs or the industry as a whole. See Rhode Island 271 Order, ¶ 106 ("Sprint also argues that . . . the continuing bankruptcy of competitive LECs mean that the public interest is not served by granting Verizon section 271 approval in Rhode Island. We reject these arguments."); Georgia & Louisiana 271 Order, ¶ 282 ("Given an affirmative showing that the competitive checklist has been satisfied, low customer volumes or the financial hardships of the competitive LEC community do not undermine that showing."). As the FCC explained, "[w]e have consistently declined to use factors beyond the control of the BOC, such as the weak economy, or over-investment and poor business planning by competitive LECs to deny an application." Id. Track "A" , AI maintains, does not require that CLECs achieve any particular market share and still less does it require that CLECs achieve any particular profit level.

2. Staff's Position

56. According to Staff, Ameritech Illinois has demonstrated that it meets the "Track A" eligibility requirement. There are, Staff observes, alternative facilities-based local service providers in Illinois that have interconnection agreements with Ameritech that have been approved under Section 252. Nevertheless, Staff maintains that a showing of the mere existence of facilities-based service providers does not necessarily mean that the local exchange market is competitive. In addition, it contends, the mere presence of alternative facilities-based providers today does not guarantee the future existence of alternative facilities-based providers once BOCs, such as Ameritech, are authorized to compete in the in-region, inter-LATA market.

57. While recognizing that Ameritech Illinois presented an analysis of competition in Illinois, Staff considers same to be incomplete, unreliable, and not reflective of the realities in the marketplace. Staff sets out the reasons for its views. First, Staff contends, the degree of competition is ultimately reflected in a carrier's ability to raise and maintain prices above costs and, in a robustly competitive market, prices should be driven toward costs. (Staff Ex. 10.0 at 4-5; Staff Ex. 24.0 at 2-4). According to Staff, the mere presence of alternative providers sheds no light on a carrier's ability to raise prices above its costs. (Staff Ex.10.0 at 5). Nor does the mere presence of alternative providers imply that Ameritech Illinois, the dominant carrier, is *unable* to maintain its prices above its costs. Thus, in Staff's view, the existence of alternative providers alone does not signify a competitive market.

58. Second, while acknowledging that CLECs have made some progress over the past few years in penetrating the local service market, Staff maintains that this market is generally not competitive and still dominated by Ameritech Illinois. This dominance, Staff contends, is clearly reflected in the market share figures presented by Staff witness Liu. (Staff Ex. 10.0 at 14 (noting that as of September, 2001 Ameritech Illinois controlled 81% of the local service market).

59. Third, Staff argues, Ameritech Illinois did not present an adequate analysis of competition in the *local service market*. In Staff's view, a meaningful analysis of competition in the local service market cannot be done without examining all market participants, including the dominant carrier, i.e., Ameritech Illinois. An analysis, which focuses solely on CLEC data, Staff contends, is less than adequate. A complete analysis of local competition requires consideration of the entire market, not just CLEC access lines. (Staff Ex. 10.0 at 6; Staff Ex. 24.0 at 3-4).

60. According to Staff, Ameritech Illinois' methodology "probably" produces inflated estimates of CLEC access lines. (Staff Ex. 10.0 at 8-22; Staff Ex. 24.0 at 8-32). Staff demonstrated this concept by showing that Ameritech Illinois used different standards to estimate CLEC access lines and its own access lines. (Staff Ex. 10.0 at 14-16). While Staff sees Ameritech Illinois to claim that one estimation method, E911 estimation, inflates estimates of only Ameritech Illinois' access lines, it wholly failed to

present a convincing reason why this admitted upward bias applied solely to Ameritech Illinois. Staff claims to have refuted each of Ameritech Illinois' explanations. (Staff Ex. 24.0 at 17-19).

3. WorldCom's Position

61. According to WorldCom, the issue at hand is not whether facilities-based local providers exist – there appears to be little if any debate as to whether facilities-based local providers exist -- but the extent to which competition has a foothold in the Illinois local market. On this score, WorldCom contends, the analysis performed by AI's witness Heritage, should not be relied upon by the Commission. To the extent that the Commission is inclined to comment to the FCC on the level of competition in Illinois, WorldCom believes that it should rely upon information gathered from carriers, which forms the basis for the Commission's annual report to the Illinois General Assembly on the status of competition in the state.

62. WorldCom notes Staff and AT&T to also agree that Ameritech's methods of estimating lines, "likely" exaggerates the actual number of lines served by CLECs. WorldCom notes Staff witness Liu to have testified that Ameritech's E911-based estimation shows an overstatement of 1.2 million or 18.2% of Ameritech switched access lines using September 2001 data and 1.3 million or 20.7% of Ameritech switched access lines using February 2002 data. (Staff Ex. 24.0 at 20).

63. According to WorldCom, Ameritech would object to the use of the information that the Commission has independently gathered from carriers to gauge the status of local competition in Illinois. In her testimony, WorldCom observes, Ameritech witness Heritage asserted that the Commission should not rely on this information because there is a possibility that not all carriers have responded to the Commission's competition data request; the results of the data request have not yet been published; and once published, discrepancies in the data would need be resolved before the data can be treated as a credible source. (Ameritech Ex. 14 at 49). According to WorldCom, Ms. Heritage believes that her local competition analysis will be superior to the Commission's independent analysis of local market competition, and offers reasons in support of that belief. WorldCom disagrees and respectfully submits that if the information is proper for the Commission to report to the Illinois General Assembly, it is similarly proper for the Commission to use in its consultation with the FCC on Ameritech's 271 application. (WorldCom Ex. 6.1 at 19).

64. Even though the information that the Commission gathers may not include information regarding every single LEC, WorldCom contends that it will likely be superior to Ameritech's proposed method. The superiority arises from its independence, given that, unlike AI, the Commission has no incentive to inflate the levels of competition.

65. There is no requirement, as WorldCom sees Ms. Heritage to suggest, that an unbiased report must include information from each and every carrier in the state, or

that the Commission will not have resolved discrepancies before it issues its annual report. The Commission, WorldCom maintains, has a statutory obligation to provide the General Assembly with a report that, among other things, "collect[s] all information, in a format determined by the Commission, that the Commission deems necessary to assist in monitoring and analyzing the telecommunications markets and the status of competition and deployment of telecommunications services to consumers in the State." 220 ILCS 5/13-407(5).

66. In addition, WorldCom contends, the timing of the Commission's annual report to the General Assembly makes it perfect for providing the most up-to-date information concerning the status of competition in the Illinois local market. The Commission generally submits its annual report for the period from January 1 through December 31 of the immediately preceding year by the end of January of the current year. Thus, the Commission will likely have its report for calendar year 2002 ready for submission by January 31, 2003. It should not be presumed, as WorldCom sees Ameritech to suggest, that the Commission's report will have discrepancies or otherwise be not credible.

4. AT&T Position

67. According to AT&T, facilities-based competition exists only in a limited form in Illinois and at such a nascent level that it cannot provide a "check" on the anticompetitive tendencies of the local exchange service monopoly. So too, as AT&T witness Turner testified, the competition that exists in Illinois is highly concentrated on a narrow set of customers, i.e., Internet Service Providers, or ISPs and after adjusting for that fact, only about 2.4 percent of local traffic in Ameritech serving territory is being served by CLECs. (AT&T Ex. 1.0 at 3).

68. AT&T concludes that its witness Turner showed that the various indicators Ameritech has used to demonstrate the degree of competition in Illinois produce flawed and misleading estimates of the level of actual competition. It further maintains that Mr. Turner's testimony demonstrated that Ameritech has precluded competitors from entering its market via the UNE-P alternative, particularly for small business customers, as compared to some other states where SBC has already received approval to offer long distance. The level of competition in Illinois is actually quite low when compared to these other states, AT&T argues, and that alone should cause the Commission to review of Ameritech Illinois' compliance with Section 271 requirements with strict scrutiny.

Ameritech's Competitive Data

69. AT&T complains that Ameritech is, in many instances, the only source of the data available to conduct a complete assessment of competition in Illinois. As such, it suggests that this Commission not take Ameritech's one-sided version of the data at face value.

70. AT&T explains that its witness, (Turner), relied on four sources of information to rebut Ms. Heritage's claims regarding the level of competition in Ameritech Illinois' territory, to wit:

(1) information available from the FCC;

(2) public sources of information on the status of competitors that Ameritech has identified in Illinois, including press releases and financial filings relevant to the assessment of the sustainability of the limited competition that does exist in Illinois;

(3) the Texas Public Utility Commission's "2001 Report on the Scope of Competition in Telecommunications Markets", a document requested by the Texas legislature and prepared by the Texas Public Utility Commission ; and,

(4) the level of UNE-Platform (UNE-P) competition in Illinois relative to other states where SBC has already obtained Section 271 authority, including Texas, Missouri, Oklahoma, and Kansas. (AT&T Ex. 1.0 at 5-6).

Facilities-Based Competition

71. Several factors, AT&T contends, must be evaluated in considering the capabilities of CLECs to provide facilities-based service in Illinois. Although not an exhaustive list, CLECs need the following components in order to provide facilities-based local exchange service: (1) interconnection trunks and usage; (2) unbundled loops; (3) local switching; and (4) interoffice facilities. These components, AT&T argues, are currently in place on a very limited scale in Illinois. And, AT&T comments that Ms. Heritage's use of data in these areas grossly overstates the competitive threat of CLECs in Illinois because it fails to place CLEC data in context against the vastly greater resources of Ameritech.

Interconnection Trunks and Usage

72. Interconnection trunks, AT&T informs, are used to exchange traffic between local exchange carriers (LECs). According to the information provided by Ameritech witness Heritage, 428,716 interconnection trunks have been established between itself and CLECs in Illinois. (AI Ex. 14.2 at 11). Further, the Company indicates that approximately 1.295 billion minutes of local traffic are exchanged across these interconnection trunks per month based on Ameritech's most recent data. See, Attachment A to Ameritech Illinois Ex. 14.2. While these numbers are quite large in AT&T's view, and would indicate a thriving local exchange market, AT&T believes that they illustrate the opposite.

73. These interconnection minutes, AT&T contends, must be put into perspective by placing them in context alongside data for Ameritech and taking into account the way in which the interconnection trunks are being used. For example, AT&T notes that in the ARMIS Report for 2000 (filed with the FCC), Ameritech reports that it switched approximately 118.6 billion end office local minutes in 2000. (AT&T Ex. 1.0 at. 8). According to AT&T, and using this information to project the number of local minutes in 2002 and develop the monthly end office local minutes in 2002 (the comparable period for Ameritech's reported interconnection minutes), shows that Ameritech will switch approximately 121.2 billion minutes of local use in 2002 or 10.1 billion minutes per month. (AT&T Ex. 1.0 at 8). Because virtually all CLEC local calls either terminate to an Ameritech customer or originate from an Ameritech customer, AT&T claims, all CLEC local minutes of use must pass over the interconnection trunks. In other words, AT&T contends, the combined local minutes of the CLECs per month (1.295 billion minutes of use) are comparable to Ameritech's local minutes per month (10.1 billion minutes of use). (AT&T Ex. 1.0 at 8).

74. The numbers Ameritech has presented for CLECs' combined interconnection trunks and minutes of use appear fairly significant (1.295 billion minutes per month or 11.4 percent of the total local usage) but, AT&T maintains, the additional information Ameritech reveals regarding the nature of this traffic demonstrates that there is substantial reason to regard this level of competition in Illinois as unsustainable.

75. According to AT&T, Ameritech's statistics reveal that the traffic flow between ILECs and CLECs is significantly out of balance. Of the 1.295 billion minutes of use per month exchanged between Ameritech and the CLECs, AT&T contends, 1.160 billion of the minutes originated with Ameritech (terminating to the CLECs), and only 0.135 billion of the minutes originated with the CLECs (terminating to Ameritech). Stated still another way, approximately 79.2 percent of the local traffic handled by CLECs, was for customers who terminated an enormous amount of traffic. (AT&T Ex. 1.0 at 9).

76. According to AT&T, 79.2 percent of the CLEC local traffic in Ameritech Illinois' territory is from a narrow scope of customers who terminate tremendous amounts of traffic such as Internet Service Providers (ISPs). AT&T considers Ameritech's own data to reveal the extremely an narrow scope of competition. Again, based on Ameritech's data, the proportion of facilities-based local competition excluding ISP users in Illinois is only a mere 2.4 percent, AT&T contends. According to AT&T, it is impossible for competition in a narrow segment of the local exchange market to create the type of market discipline needed to replace regulatory constraints. (AT&T Ex. 1.0 at 9-10).

Unbundled Loops

77. AT&T submits that unbundled loop usage is another key factor in demonstrating the actual level of competition in Illinois and, it asserts, the limited use of unbundled loops in Illinois speaks for itself. AT&T notes that, according to Ameritech,

465,963 unbundled loops have been utilized in Illinois. (AI Ex. 14.2, Attachment A). In its most recent publicly available data, AT&T observes, Ameritech indicates that it has 10,478,261 access lines in Illinois. (AT&T Ex. 1.0 at 11). Even when accepting this data as accurate, AT&T maintains that the total number of unbundled loops equates to only 4.4 percent of the access lines in Illinois. (AT&T Ex. 1.0 at 11).

Local Switching

78. According to Ameritech witness Heritage, AT&T notes, there are 35 competing local voice switches in Illinois and she indicates that 35 switches *could* serve 82 percent of the market in Illinois. (AI Ex. 14.2, Attachment A). Compared to these 35 CLEC switches, AT&T observes, and based on the latest publicly available information, Ameritech has 211 central office switches excluding remotes and 397 switches (including remotes) (AT&T Ex. 1.0 at 11). As such, AT&T argues, Ameritech has sufficient switching capacity in Illinois to serve every line approximately 4.9 times, excluding the capacity of Ameritech's remote switches. In AT&T's view, the fact that CLECs have 35 switches bears no relationship to the number of lines the CLECs actually *do* or *will* serve any more than it matters that Ameritech can serve every line in Illinois 4.9 times (excluding remote switches).

Facilities-Based Access Line Count - Trunk to Line Count Ratio

79. AT&T contends that Ameritech's estimated assessment of the number of lines served by facilities-based CLECs is inappropriate, in that as much as 86.1 percent of Ameritech's alleged access line losses are nothing more than *estimates* based on converting interconnection trunks into access line equivalents -- without any regard for how the trunks are used. (Am Ill Ex. 14.2 at 4, 11; AT&T Ex. 1.0 at 13-14).

80. AT&T observes witness Heritage to state that Illinois CLECs have acquired as many as 1,369,166 facilities-based access lines. (AI Ex. 14.2 at 4; setting out "Interconnection Trunks 2.75:1 Ratio + UNE-P"). According to Ms. Heritage's testimony, however, only 190,197 access lines (those that are UNE-P combinations) represent the *actual* number of access lines directly included in the total. The remaining 1,178,969 access lines, AT&T points out, are merely an estimate of the number of lines served in Illinois by facilities-based CLECs. To reach this number, AT&T observes, Ameritech simply assumed that each trunk somehow equates to 2.75 access lines per trunk, and multiplied the 428,716 interconnection trunks that Ameritech has provisioned in Illinois by a factor of 2.75 lines per trunk. (AT&T Ex. 1.0 at 13).

81. While estimating is not an inappropriate tool, AT&T contends that Ameritech used erroneous assumptions regarding interconnection trunks that skew the results. *First*, AT&T argues, Ameritech did not adjust for the large quantity of ISP traffic that CLECs terminate. As it demonstrated, AT&T asserts, local traffic for Illinois CLECs is predominantly ISP traffic at the present (and approximately at 79.2 percent). Due to the nature of this traffic, AT&T maintains, the CLEC will require closer to one trunk per each ISP line equivalent – not 2.75 lines per trunk. Otherwise, the CLEC could be in a

situation where it has ISP lines available to terminate calls, but has insufficient trunk capacity to complete the call from Ameritech. For such trunks, AT&T argues, the 2.75 access line per trunk ratio used by Ameritech's Ms. Heritage significantly overstates the number of access lines, especially given the fact that the vast majority of trunks are used for ISP traffic. (AT&T Ex. 1.0 at 13-14).

82. AT&T sees Ms. Heritage to acknowledge, many CLECs, in the early stages of network development, lack the economies of scale to obtain the efficient trunk configurations Ameritech currently enjoys. Moreover, some CLECs primarily serve business customers (that have a very focused busy hour), AT&T argues, and this drives up CLEC trunking requirements because trunking arrangements must be in place to accommodate traffic during this peak period, (even if traffic volumes are lower at other times of day). (AT&T Ex. 1.0 at 14). There are numerous reasons, AT&T contends, why Ameritech's conversion of all interconnection trunks to access line equivalents using a 2.75 factor is inaccurate and produces misleading results. According to AT&T, Ms. Heritage acknowledged that the Department of Justice (DOJ), when evaluating this very issue in prior Section 271 proceedings, recognized that use of a 2.75 factor overstates the level of competition. In commenting on the Texas Section 271 application, the DOJ recommended that a 1:1 ratio between trunks and estimated lines was a "more reasonable multiplier." (AT&T Ex.1.0 at 14). As such, AT&T contends, this is what the Commission should use. (AT&T Ex 1.0 at 14-15).

<u>E911 Database To Demonstrate Facilities-Based Competition</u>

83. AT&T notes AI witness Heritage to propose that the ratio of lines, business to residential, contained in the E911 database, be used to determine the split of all facilities-based lines (after the inaccurate conversion of trunks into line equivalents that AT&T already addressed, has occurred). This approach, AT&T argues, is significantly flawed in additional respects.

84. As AT&T sees Ms. Heritage to note, E911 listings only represent those customer lines from which outbound calls can be made. (AI Ex. 14.2 at 1). As a result, AT&T maintains, business customers such as call centers, reservation or telemarketing centers, and Internet providers need not report them in the 911 database and, thus, will have few of their access lines represented in the E911 database. According to AT&T, this means that the ratio of business lines reflected by the database is likely significantly *understated*. If the E911 database underreports business lines (because the CLEC does not need to include many of them in the database), then, AT&T contends, the ratio of business to residential lines in the E911 database will make the residential percentage look *artificially high*. (AT&T Ex. 1.0 at 15). Consequently, in AT&T's view, Heritage's approach will convert trunks to equivalent access lines that are not included in the E911 database.

The Viable Competitors Are Struggling Or Bankrupt

85. AT&T notes Ms. Heritage to list a total of 41 facilities-based CLECs as "evidence" of the vibrant competitive market in Illinois. There is missing from Ms. Heritage's analysis, AT&T argues, all mention that many of these companies are either in bankruptcy or in grave financial circumstances.

86. At the time AT&T witness Turner filed his direct testimony, AT&T observes, at least 19 of the companies listed in Ms. Heritage's testimony (Am Ill Ex. 14.2) were already in or extremely near bankruptcy or simply no longer existed: (1) Adelphia Business Solutions; (2) CoreComm; (3) Covad Communications (filed August 15, 2000 and exited December 20, 2001); (4) Focal Communications; (5) Global Crossing (filed January 28, 2002); (6) ICG Communications (filed November 14, 2000); (7) Intermedia Communications (acquired by Allegiance Telecom January, 2002); (8) McLeodUSA (filed January 31, 2002); (9) MPower (filed February 25, 2002); (10) Pathnet (filed April 2, 2001); (11) Teligent (filed May 21, 2001); (12) WinStar (filed April 18, 2001); and (13) XO Communications. AT&T would also now add the WorldCom bankruptcy filing, dated July 21, 2002, which brings the total to 20.

87. According to AT&T, Ameritech selectively spotlights just ten of its competitors in Attachment C of Ameritech Illinois Ex. 14.2. Only three of these ten CLECs, AT&T contends, could even arguably be considered viable "Track A" competitors to Ameritech in Illinois. These three CLECs – AT&T, Sprint, and TDS – are all part of much larger companies that can support the cash infusion required to start up a new business in an area currently dominated by one company. The other CLECs on the list, AT&T argues, do not represent viable future enterprises or do not compete with Ameritech in a materially significant manner. These, AT&T maintains, are Choice One Communications, Focal Communications Corporation, Global Crossing. McLeodUSA, RCN Communications, Z-Tel Communications.

The UNE-Platform Is Struggling

88. The level of UNE-Platform competition in Illinois, AT&T contends, is indicative of a market that is truly in its infancy. AT&T provides a chart, derived from information provided by SBC in its Section affidavits, to demonstrate how Illinois compares unfavorably for overall UNE-P lines and UNE-P business lines.

State	Total UNE-P Lines	Business UNE-P Lines
Texas	1,210,233	810,856
Missouri	58,093	56,260
Oklahoma	25,034	20,072
Kansas	53,453	52,450
Illinois	190,197	8,964

(AT&T Ex. 1.0 at 28).

89. According to this chart, AT&T maintains, Illinois trails significantly in the number of business UNE-P lines when compared to Texas, Missouri, Oklahoma, and Kansas. Ameritech's competitors have acquired only 8,964 business lines via UNE-Platform competition, while Texas has seen competitors acquire approximately 800,000 business lines through the UNE-Platform. Given the size of the Illinois' local telecommunications market, AT&T argues, the Commission should be particularly concerned that even UNE-Platform competition for business customers has not been irreversibly established in Illinois. (AT&T Ex. 1.0 at 28).

D. The Reply Positions

1. Ameritech Illinois Reply Position

90. No one, the Company contends, disputes the showing that Ameritech Illinois' has interconnection agreements with "one or more competing providers of telephone exchange service" that serve "more than a *de minimis* number" of residential and business subscribers. (New Jersey 271 Order, ¶ 10) Nor is there any room for dispute, AI asserts. As of April 2002, it notes, CLECs gained over 1.9 million or 23 percent of the total lines in the Ameritech Illinois service area. (Am. Ill. Br. at 8). If anything, this amount is conservative, AI contends, because it does not even include AT&T's June 2002 large-scale high-profile entry into the residential market. (Id. at 10). Further, the April 2002 figure still exceeds *every single one* of the fourteen applications that the FCC has approved thus far. (Id. at 9). WorldCom itself acknowledges that "there appears to be little if any debate as to whether facilities-based local providers exist" and Staff concludes that "Ameritech has demonstrated that it meets this [Track A] requirement."

Estimates of CLEC Lines

91. AI sees Staff and the CLECs as trying to manufacture a debate about the market share of the CLECs. They would challenge the data on competitive entry presented by Ameritech Illinois as "highly suspect" (WorldCom Br. at 4) or "inflate[d]" (AT&T Br. at 16), while Staff joins in to argue that Ameritech Illinois' methodology "probably" overstates CLEC lines.(Staff Br. 39)

92. It is no secret, Ameritech Illinois asserts, that its analysis is based, in part, on estimates. Ameritech Illinois contends that it has actual data for about 897,000 or nearly half the CLEC lines (consisting of 335,000 served by UNE Platforms, 326,000 served by unbundled loops, and 236,000 served by resale), and it estimates the other half (lines that CLECs serve entirely by means of their own facilities). Its estimation methodologies, were explained on brief and supported by the testimony of Ms. Heritage (Am. Ill. Exs. 14.0 and 14.1). In short, Ameritech Illinois estimates CLEC lines by using (i) the number of CLEC-provided listings in the E911 database and (ii) the number of CLEC interconnection trunks with Ameritech Illinois (using a conservative assumption that CLECs have 2.75 lines per trunk). (Am. Ill. Br. at 13)

93. Ameritech Illinois agrees that actual data is generally preferable to estimates, but it also views several flaws in the criticisms of its showings. At the outset, AI notes, even if one were to take the patently under-inclusive approach of *ignoring* the estimated portion of Ameritech Illinois' analysis (and thus assume that there are *no* CLEC lines served entirely by CLEC facilities, and that CLECs are installing interconnection trunks and placing numbers in the 911 databases purely as a lark), the 897,000 lines for which Ameritech Illinois has actual records – and as to which there is no dispute – are enough to satisfy the "more than *de minimis*" requirement of Track A.

94. So too, the Company contends, the critics overlook the obvious, i.e., for those lines estimated by Ameritech Illinois, the actual data reside with the CLECs themselves. If there was really a material problem with its estimates, any CLEC could have presented the following simple rejoinder: "Ameritech Illinois estimated that we have *x* lines. That is wrong. Our records show we have only *y* lines." No CLEC did so, AI contends. The CLECs resort to estimates of their own making (such as the contrived account based on minutes of use in AT&T Br. at 11-14) only confirms that Ameritech Illinois' estimates are reasonable or even conservative.

95. In the final analysis, AI asserts, the critics are simply attempting to impose the never-accepted and oft-rejected "market share" test, under which a BOC would not receive long-distance relief until CLECs declared themselves satisfied with their market share. AI points out that based on Congress' intent, the FCC, and the D.C. Circuit have both held that there is no such test under Track A. Georgia & Louisiana 271 Order, ¶ 14 ("Congress specifically declined to adopt a market share or other similar test for BOC entry into long distance. Accordingly, the applicant is not required to show that competitors have captured any particular market share."); New Jersey 271 Order, ¶ 10 (Track A does not "require any particular level of market penetration"); Sprint Communications Co. v. FCC, 274 F.3d 549, 553-54 (D.C. Cir. 2001) (agreeing with the FCC that the Act "imposes no volume requirements for satisfaction of Track A").

96. The FCC has further rejected attempts to revivify the market share test as part of the public interest analysis, the same tactic that AI sees AT&T and Cook County to attempt here. New York 271 Order ¶ 427 (stating that, "Congress specifically declined to adopt a market share or other similar test for BOC entry into long distance, and we have no intention of establishing one here [under the public interest test]."); See Georgia & Louisiana 271 Order, ¶ 282.[2]

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[2] Ameritech Illinois does not understand Staff's assertion (at 39) that Ameritech Illinois' estimates are flawed because they consider only CLEC lines, not Ameritech Illinois lines or the number of lines in total. In the first place, Ameritech Illinois *did* present data as to its own lines, and the percentage of total lines served by CLECs. (Am. Ill. Br. at 8-10). In the second place, the analysis under Track A focuses on the number of CLEC lines (and whether it is "more than a *de minimis* number") and the FCC has expressly rejected a market share test.

Financial Difficulties in the Telecommunications Industry

97. Ameritech Illinois claims that AT&T's reports of the CLEC industry's demise are not only greatly exaggerated, but also irrelevant to Track A. It points out that not even one of the CLECs that AT&T has declared as "not viable" (including WorldCom, which AT&T lately added to its critical list) agrees with AT&T's assessment of its prospects.

98. AI observes that AT&T further adds a few extra-record articles from the popular media in an attempt to bolster its position. (AT&T Br. at 21, 23, 26). To the extent the Commission would even consider such materials, Ameritech Illinois vigorously disagrees with AT&T's assertions that the CLEC industry is dying and that Ameritech Illinois is to blame. AI goes on to inform the Commission of other media-reported matters that might also be considered. (AI Reply Brief Attachments 1-3).

99. The more important point, AI maintains, is that this Commission need not resolve the debate taking place in the media or the contradiction between the arguments that AT&T makes here and its public statements. For purposes of section 271, AI contends, the FCC has already found that "the financial hardships of the competitive LEC community" result from "the weak economy" and "over-investment and poor business planning by competitive LECs," and it has decided that such "factors beyond the control of the BOC" do not affect the BOC's application. Georgia & Louisiana 271 Order, ¶ 282; See also Rhode Island 271 Order, ¶ 106 ("Sprint also argues that . . . the continuing bankruptcy of competitive LECs mean that the public interest is not served by granting Verizon section 271 approval in Rhode Island. We reject these arguments.").

2. Staff Reply Position

100. Staff agrees that Ameritech Illinois has demonstrated satisfaction of the Track A requirements. (Staff IB at 37). It takes issue, however, with the suggestion that the local service market is competitive, when, in Staff's view, Ameritech has failed to support that contention with a complete and reliable analysis of market competition. (Id. at 37-39). Staff believes to have demonstrated that Ameritech's analysis of competition is incomplete, unreliable, and fails to reflect realities of the marketplace. (Id. at 38-39). Ameritech's analysis also fails to present an accurate estimate of CLEC access lines. Id.

101. Staff notes AI to contend, on brief, that its estimates of CLEC access lines are reasonable. (Ameritech IB at 13). To determine the total number of CLEC access lines, however, Staff observes AI to rely on estimates. One methodology it uses to estimate CLEC access lines, Staff informs, is the number of listings CLECs have in the 911 database. (Id. at 13). Staff sees Ameritech Illinois to claim that "[t]his methodology is conservative in that the 911 database includes only lines that are used for outbound calling, and excludes lines used for inward calls, faxes, or for computers." (Id).

102. According to Staff, however, when that same methodology is used to estimate Ameritech Illinois' access lines, it overstates the quantity of access lines compared to the quantity of Ameritech Illinois access lines calculated based on the company's own records. (Staff IB at 39; Staff Ex. 10.0 at 14-15; Staff Ex. 24.0 at 17-19). Ameritech has provided no adequate explanation for this disparity, Staff contends, and, more importantly, provided no reason to forestall the obvious conclusion that, the methodology that produces an overestimation of its own access lines also produces an overestimation of CLEC access lines. For this reason, Staff maintains that Ameritech's methodology, for estimating CLEC access lines, is flawed.

3. AT&T Reply Position

The Level of Competition In Illinois

103. In making its "guesstimate" of the number of access lines served by CLECs, AT&T notes Ameritech to have used a 2.75:1 line to trunk ratio. AT&T contends, however, that a one-to-one line to trunk ratio – that is, one trunk for each line served -- is more appropriate for CLECs. Such is the case, AT&T argues, because the CLEC's customer base is very small relative to Ameritech's and, CLEC traffic is highly weighted toward terminating calls to Internet Service Providers, the heavy users. (AT&T Ex. 1.0 at 9-10; AT&T Ex. 1.1 at 3-4). According to AT&T, simple math demonstrates that assuming 2.75 lines per trunk when, a one line per trunk ration is suitable, will greatly inflate the number of actual access lines served by CLECs.

104. While Ameritech has repeatedly taken the position that no "particular level of market penetration" or "volume requirements" are necessary to satisfy Track A, AT&T observes the Company to itself list Lines Captured by CLECs and CLEC Market Share. To the extent such matters are significant, AT&T witness Turner and Staff witness Liu have demonstrated that Ameritech's market share statistics are greatly overstated, AT&T contends.

The Financial Health of CLECs

105. AT&T observes Ameritech witness Heritage to quote from various 271 Orders, wherein the FCC disagreed "with those commenters that assert under our public interest examination we must consider the level of competitive LEC market share, (and) *the financial strength of competitive LECs*" (Penn. 271 Order) and where the FCC rejected arguments that the "continuing bankruptcy of competitive LECs means that the public interest is not served by granting Verizon section 271 approval in Rhode Island" (Rhode Island 271 Order). But, the problem, in AT&T"s view, is not that a few CLECs are in danger of failing, but that, with very few exceptions, the entire competitive industry is in danger of failing. (AT&T Ex. 1.1 at 11-12).

106. Until the Commission is satisfied that irreversible competition is here to stay in the local market (and it is not there yet), AT&T argues, it should reject

Ameritech's request for interLATA relief. (AT&T Ex. 1.1 at 12-13). The competition, that currently exists, is not "irreversible" in AT&T's view. (AT&T Ex. 1.1 at 13).

E. Commission Review and Conclusion.

107. No party disputes that AI has at least 150 Commission-approved wireline and resale agreements with competing providers. At least twelve of these entrants provide services to residential and business subscribers in the State of Illinois, either exclusively or predominantly over their own facilities.

108. Our Staff agrees that AI satisfies the Track A requirements. WorldCom contends that the question, as to whether facilities-based local providers exist, is not even an issue. In its Exceptions Brief, AT&T now also maintains that Ameritech has satisfied the requirements of Track A. (AT&T Br. on Exceptions at 5.)

109. Despite the numerous arguments raised regarding the degree of competition in Ameritech Illinois service territory, Staff recommends that the Commission remain focused on the only relevant issue at hand. That inquiry is whether Ameritech provided sufficient evidence that one or more carriers are providing local exchange services either exclusively over their own telephone exchange service facilities or in combination with the resale of the telecommunications services of another carrier. On this key issue, Ameritech has provided sufficient evidence to warrant a finding that the eligibility requirements of Section 271(c)(1)(A) are satisfied.

III. THE "COMPETITIVE CHECKLIST" ITEMS SECTION 271(c)(2)(B)

110. To gain approval of its Application, and a favorable recommendation from this Commission, Ameritech Illinois must futher demonstrate that it safifies the requirements of Section 271 (c)(2)(B) which sets out 14 Checklist Items.

111. In the sections that follow, the Commission addresses each item of the 14-point checklist, summarizing (i) applicable commercial performance results for the September-November 2002 period, (ii) pertinent aspects of the OSS test, and (iii) issues raised by Staff, the CLECs and the Governmental Intervenors, in both Phase I and Phase II of this proceeding.

112. The analysis of commercial results presented herein follows the two-part test employed by the FCC in prior orders under section 271. For measures involving analogous wholesale and retail services, "parity" is assessed by comparing SBC Illinois' performance in providing a particular service to CLECs against its performance with respect to its own retail operations (or its affiliate, as applicable) using accepted statistical techniques. Where no reasonable retail or affiliate analog exists (e.g., SBC Illinois does not provide unbundled access to network elements to itself), SBC Illinois' performance in providing such services to CLECs is compared to a predetermined "benchmark" level of service established by agreement in the collaborative processes described above.

113. In the FCC's words, "the use of statistical analysis to take into account random variation in the [performance] metrics is desirable" and "[s]tatistical tests can be used as a tool in determining whether a difference in the measured values of two metrics means that the metrics probably measure two different processes, or instead that the two measurements are likely to have been produced by the same process." New York 271 Order, App. B, ¶¶ 2-3. The first step is to look at each individual performance test, measure the difference between wholesale performance and the applicable standard through the use of a measure called a "z-statistic." That difference is then compared to a "critical value." The critical value is the value of "z" that would be large enough to yield 95 percent confidence that there is truly some underlying disparity in the reported results. This approach to assessing individual performance tests is the same as used in the current remedy plan ordered by the Commission in Docket 01-0120.

114. While statistical analysis and performance benchmarks provide useful tools to analyze performance data, they are not infallible or absolute, and the FCC has emphasized that a shortfall in any particular measurement does not, in and of itself, dictate a finding of non-compliance. Kansas & Oklahoma 271 Order, ¶ 31. Thus, the FCC has said that its determination of compliance with the requirements of section 271 "necessarily is a contextual decision based on the totality of the circumstances and information before us." Id. ¶ 31. Consequently, where statistically significant differences exist in a given measurement, the FCC will "examine the evidence further to make a determination whether the statutory nondiscrimination requirements are met." Id. The examination includes explanations provided (by both the applicant and other commenters) about whether measured performance differences present an accurate depiction of the quality of the applicant's performance. Id. The FCC also may (i) examine performance data on a more disaggregated level, (ii) take note of how long a variation in performance has existed and what the trend has been in recent months, (iii) look for steady improvements in performance over time and, where appropriate, (iv) conclude that while statistically significant differences in measured performance exist, such differences "suggest only an insignificant competitive impact." Id. ¶ 32.

115. The comments in this proceeding reflect different approaches to the commercial performance results. SBC Illinois presents its analysis in the affidavits of Mr. Ehr, its director of Performance Measurement. As a general rule, SBC Illinois considers a measure "passed" if the applicable standard is met in two out of the three months in the September-November "study period." SBC Illinois notes that in total, it met or surpassed parity or benchmark standards for 87.7%, or 398 of 454 performance measurements with at least 10 data points, in at least two of the three months. For measures subject to performance remedies, SBC Illinois states that it met the applicable standard for 93.4% (328 of 351) of Tier 1 and/or Tier 2 measures in at least two of the three months. Where the parity or benchmark tests identified differences, SBC Illinois provides further discussion of the totality of the facts, considering whether the shortfalls were isolated, small, or not significant when viewed in the context of related measurements, or were addressed by corrective action.

116. The CLECs, meanwhile, discuss a few performance measures briefly, but do not provide a comprehensive analysis. The CLECs' principal argument is not that the performance

results show non-compliance, but that the results should be ignored as unreliable. The Commission considers that argument under the "public interest test" of Section IV.I below.

117. Finally, Staff's witnesses take a different approach. Staff Witness Staranczak's affidavit sets out a set of general guidelines taken by the various Staff Witnesses. First, Staff looked at the results of a particular measure: where SBC Illinois "passed" the measure in at least two out of three months, as a general rule Staff concludes that the measure supported checklist compliance. By contrast, where there was a performance shortfall in at least two months, Staff requested additional explanation and information from SBC Illinois. If there was performance data for more than one category within a given measure, Staff generally concludes that SBC Illinois "passed" the measure as a whole if it passed 90 percent or more of the categories within that measure in at least two out of three months, and sought additional information or explanation if SBC Illinois did not pass 90 percent of the categories.

118. The approaches of SBC Illinois and Staff share some important common elements. Both use statistical analysis, based on a 95 percent confidence test, to assess parity. Further, both approaches use a general guideline that a measure is "passed" if SBC Illinois meets or beats the applicable standard in at least two out of three months. Thus, for several checklist items or parts of checklist items Staff shares SBC Illinois' opinion that it has satisfied the checklist. There are some guidelines on which Staff and SBC Illinois do not agree. In particular, SBC Illinois states, Staff's "90 percent of the categories" approach leads it to declare several measures "failed" if even a single small-volume category shows a shortfall. Nevertheless, Staff and SBC Illinois agree on the most important point: that the ultimate conclusion of compliance is based on judgment and no numerical test is, in and of itself, dispositive. In the same spirit, the Commission considers both the qualitative and quantitative approaches of SBC Illinois and Staff in reaching a decision based on informed judgment.

A. CHECKLIST ITEM 1 – Interconnection – Section 271(c)(2)(B)

1. Description of Checklist Requirement

119. Section 271(c)(2)(B)(i) of the Act requires a Section 271 applicant to provide: **"[i]nterconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1)."** 47 U.S.C. Section 271 (c)(2)(B)(i).

2. Standards For Review

120. In the Local Competition First Report and Order, the FCC concluded that interconnection referred "only to the physical linking of two networks for the mutual exchange of traffic." Id. para.176. As such, the transport and termination of traffic is excluded from the FCC's definition of interconnection. Id.

Statutory Incorporation - Section 251

121. Section 251(c)(2) imposes, on incumbent LECs, the duty "to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network . . . for the transmission and routing of telephone exchange service and exchange access." 47 U.S.C. Sec. 251(c)(2)(A). It further sets out three requirements for the provision of interconnection.

122. First, an incumbent LEC must provide interconnection "at any technically feasible point within the carrier's network." 47 U.S.C. Sec. 251(c)(2)(B) (emphasis added). Second, an incumbent LEC must provide interconnection that is "at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate or any other party. 47 U.S.C. Sec. 251(c)(2)(C) (emphasis added). Third, the incumbent LEC must provide interconnection "on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms of the agreement and the requirements of [section 251] and section 252." 47 U.S.C. Sec. 251 (c)(2)(D) (emphasis added).

123. Competing carriers may choose any method of "technically feasible" interconnection at a particular point on the incumbent LEC's network. Incumbent LEC provision of interconnection trunking is one common means of interconnection. Technically feasible methods also include, but are not limited to, physical and virtual collocation and meet point arrangements. The provision of collocation is an essential to demonstrating compliance with item 1 of the competitive checklist. In the Advanced Services First Report and Order, the FCC revised its collocation rules to require incumbent LECs to include shared cage and cageless collocation arrangements as part of their physical collocation offerings.

124. In response to a remand from the D.C. Circuit, the Commission adopted the Collocation Remand Order, establishing revised criteria for equipment for which incumbent LECs must permit collocation, requiring incumbent LECs to provide cross-connects between collocated carriers, and establishing principles for physical collocation space and configuration. Data showing the quality of procedures for processing applications for collocation space, as well as the timeliness and efficiency of provisioning collocation space, help the Commission evaluate a BOC's compliance with its collocation obligations.

125. To implement the "equal-in-quality" requirement in section 251, the FCC's rules require an incumbent LEC to design and operate its interconnection facilities to meet "the same technical criteria and service standards" that are used for the interoffice trunks within the incumbent LEC's network. In the Local Competition First Report and Order, the FCC identified trunk group blockage and transmission standards as indicators of an incumbent LEC's technical criteria and service standards. In prior section 271 applications, the FCC concluded that disparities in trunk group blockage indicated a failure to provide interconnection to competing carriers equal-in-quality to the interconnection the BOC provided to its own retail operations.

126. In the Local Competition First Report and Order, the FCC concluded that the requirement to provide interconnection on terms and conditions that are "just, reasonable, and nondiscriminatory" means that an incumbent LEC must provide interconnection to a competitor in a manner no less efficient than the way in which the incumbent LEC provides the comparable function to its own retail operations. The FCC's rules interpret this obligation to include, among other things, the incumbent LEC's "installation time" for interconnection service, and its provisioning of two-way trunking arrangements. Similarly, repair time for troubles affecting interconnection trunks is useful for determining whether a BOC provides interconnection service under "terms and conditions that are no less favorable than the terms and conditions" the BOC provides to its own retail operations

Statutory Incorporation - Section 252 (d)(1)

127. Section 252(d)(1) requires state determinations regarding the rates, terms, and conditions of interconnection to be based on cost and to be nondiscriminatory, and allows the rates to include a reasonable profit. 47 U.S.C. Sec. 252 (d) (1) The FCC's pricing rules require, among other things, that in order to comply with its collocation obligations, an incumbent LEC provide collocation based on TELRIC.

128. To the extent that pricing disputes arise, the FCC will not duplicate the work of the state commissions. As noted in the SWBT Texas Order, the Act authorizes the state commissions to resolve specific carrier-to-carrier disputes arising under the local competition provisions, and it authorizes the federal district courts to ensure that the results of the state arbitration process are consistent with federal law. Although the FCC has an independent statutory obligation to ensure compliance with the checklist, section 271 does not compel it to preempt the orderly disposition of intercarrier disputes by the state commissions, particularly now that the Supreme Court has restored the FCC's pricing jurisdiction and has thereby directed the state commissions to follow FCC pricing rules in their disposition of those disputes.

129. Consistent with the FCC's precedent, the mere presence of interim rates will not generally threaten a section 271 application so long as:

(a) an interim solution to a particular rate dispute is reasonable under the circumstances;

(b) the state commission has demonstrated its commitment to the Commission's pricing rules; and

(c) provision is made for refunds or true-ups once permanent rates are set. Bell Atlantic New York Order, 15 FCC Rcd at 4091, para. 258.

130. In addition, the FCC has determined that rates contained within an approved section 271 application, including those that are interim, are reasonable starting points for interim rates for the same carrier in an adjoining state. Although the FCC has been willing to grant a section 271 application with a limited number of interim rates where the above-mentioned three-part test is met, it is clearly preferable to analyze a section 271 application on the basis of rates derived from a permanent rate proceeding. At some point, states will have had sufficient time to complete these proceedings. The FCC will, therefore, become more reluctant to continue approving section 271 applications containing interim rates. It would not be sound policy for interim rates to become a substitute for completing these significant proceedings.

3. The State Perspective

131. Interconnection allows competitive local carriers to connect their networks with the networks of incumbent local exchange carriers. Requiring interconnection reduces the cost of entering the local telephone market because competitors no longer have to duplicate the entire local network in order to serve the market. In 1995, this Commission found that "[t]echnically and economically efficient interconnection of incumbent LEC and new LEC networks is an essential predicate to the emergence of a competitive local exchange market." Order at 78, Docket 94-0096, Illinois Bell Telephone Company, Proposed Introduction of a Trial of Ameritech's Customers First Plan in Illinois. (April 7, 1995).

132. The Commission addressed the basic rules of interconnection in its Administrative Code Part 790 adopted in Docket 92-0398. Order, Docket 92-0398, Illinois Commerce Commission On Its Own Motion, Development of a Statewide Policy Regarding Local Interconnection Standards. (April 6, 1994) Those rules were reviewed and updated in Docket 99-0511. Order, Docket 99-0511, Illinois Commerce Commission On Its Own Motion, Revision of 83 Illinois Administrative Code 790. (March 27, 2002).

133. One fundamental category of interconnection is collocation, i.e., the duty of the incumbent LEC to provide space within its facilities for competitive LECs to interconnect its equipment with that of the incumbent. The Commission addressed Ameritech's obligations regarding collocation in Docket 99-0615. Order, Docket 99-0615, Illinois Bell Telephone Company Proposed Expansion of Collocation Tariffs. (August 15, 2000).

134. In July of 2001, the Illinois General Assembly enacted Section 13-801 of the Public Utilities Act, which adopted interconnection requirements additional to those set out in the federal Telecommunications Act of 1996. The Commission addressed the requirements of Section 13-801 in Docket 01-0614. Order, Docket 01-0614, Illinois Bell Telephone Company Filing to Implement Tariff Provisions Related to Section 13-801 of the Public Utilities Act. (June 11, 2002).

4. The Evidence, Arguments and Positions

a. Ameritech Showing of Compliance

Interconnection Trunking

135. Interconnection is the process, AI informs, whereby two carriers physically connect their networks so that an end user served by one carrier can call an end user served by the other carrier, and vice versa. The physical place where the two networks meet is referred to as the points of interconnection ("POIs").

136. Ameritech contends that it provides interconnection to competing carriers as required under Section 251(c)(2). Testimony in support of these assertions, was provided by AI witness Deere.

137. The FCC's rules, AI informs, require an ILEC to make any technically feasible form of interconnection available, including physical and virtual collocation and meet-point arrangements (where a CLEC's fiber optic cable is connected to the ILEC's fiber optic cable at a point between a CLEC's premises and an ILEC's tandem or end office). See 47 C.F.R. § 51.321(a)-(b). Ameritech contends that it makes all required forms of interconnection available pursuant to binding interconnection agreements. (Am. Ill. Ex. 5.0 Sch. WCD-1, ¶¶ 14-15). A CLEC can interconnect its network with Ameritech's network at any of the many points required by the applicable FCC rule, i.e., 47 C.F.R. § 51.305(a)(2), as well as at other technically feasible point upon request. (Id. ¶¶ 14, 23-24, 31). Further, CLECs, at their discretion, can obtain a single point of interconnection ("SPOI") per LATA, or may choose to interconnect at multiple points per LATA. (Id. ¶ 32).

138. Ameritech uses standard trunk traffic engineering methods, it claims, to ensure that interconnection trunking is managed in the same manner as the trunks used to carry its own local services. (Id. ¶ 49). In order to ensure nondiscrimination, Ameritech states that it interconnects with CLECs using the same facilities, interfaces, technical criteria, and service standards that it uses for its own retail operations. (Id. ¶¶ 33-34).

Direct End Office Trunking

139. According to Ameritech Illinois, its network contains both "end" offices and "tandem" offices. Local switches, which connect end users to its network, are located in end offices. Tandem offices, on the other hand, contain tandem switches that route traffic between end offices, and are not directly connected to end users.

140. AI sets out the situation where a CLEC uses a SPOI in a LATA, and one of the CLEC's end users calls an Ameritech end user within that LATA. In this situation, AI explains, the CLEC's network carries the call to the SPOI. From the SPOI, the call is generally routed, or "trunked," to an Ameritech tandem office. Ameritech's tandem

switch will then route the call to the appropriate end office, where the local switch routes the call to the end user.

141. A tandem switch however, AI notes, has a limited amount of capacity, i.e., it has only a limited number of "ports," where trunks can be connected. If all calls within a LATA were routed to one Ameritech tandem office, and if the volume of those calls were to exceed the tandem office's switching capacity, the tandem switches there would be "exhausted." Therefore, when the level of traffic from a SPOI that leads to a specific end office reaches a certain level, in the Company's opinion, sound engineering practice dictates that direct trunks be installed from the SPOI to the end office, in lieu of routing the traffic indirectly through the tandem switch. (See Am. Ill. Ex. 5.1 at 9-12; Am. Ill. Ex. 5.2 at 7).

142. AI observes that AT&T raises two issues with respect to Ameritech's direct trunking policy. First, it claims that the threshold level established by Ameritech (that is, the level of traffic at which a carrier is required to establish direct trunking) is too low. Noting that the FCC has not set or required a specific threshold, Ameritech asserts its compliance with the general requirement that interconnection be "nondiscriminatory." As such, Ameritech requires an interconnected carrier to establish direct trunking to an end office when the level of traffic to that end office reaches the capacity of one "DS1" facility (24 trunks or POTS lines). To be sure, AT&T alleges that the threshold should be at the much higher DS3 (28 DS1s or 672 trunks) level. (AT&T Ex. 6.0 at 22). But, AI maintains, the existing DS1 threshold is unquestionably nondiscriminatory, given that Ameritech uses a more demanding threshold (17 trunks) for establishing direct trunks in its own network. (Am. Ill. Ex. 5.2 at 7).

143. Moreover, AI notes, this Commission expressly upheld the DS1 level threshold for direct end office trunking in the Ameritech Illinois/Verizon Wireless arbitration. Order at 6, Docket 01-0007. The Commission found that the threshold of one DS1 was reasonable, and adopted a requirement that Verizon establish direct end office trunking at that level. Id. at 7. In doing so, AI asserts, it further recognized that "tandem exhaust is a significant problem in Illinois." Id. at 6.

144. AI sees AT&T to assert that it should not bear the cost of transporting its own traffic (even though it collects revenue from its end users for such traffic) from the SPOI (at the tandem office) to Ameritech's end office. It is the Company's position, AI asserts, that AT&T, as the cost causer, should be responsible for the cost of this transport. This too, is nondiscriminatory by nature, as Ameritech bears the cost for using direct trunking in its own operations, and at a threshold level lower than that used for CLECs.

145. Further, AT&T's claim that it is entitled to free transport for direct trunking has nothing to do with the requirement that Ameritech offer a SPOI, contrary to AT&T's argument that the payment for direct end office trunking creates some kind of second, "virtual," interconnection point. A "single point of interconnection," AI maintains, refers only to the *physical* point at which two networks are connected. The FCC specifically

held that "our rules . . . [require] that incumbent LECs provide for a single *physical* point of interconnection per LATA." Pennsylvania 271 Order ¶ 100. (Emphasis in original).

146. The FCC also found that issues of cost-sharing with regard to the use of a SPOI are irrelevant to checklist compliance, because "[t]he issue of allocation of financial responsibility for interconnection facilities is an open issue" which the FCC will address in a pending rulemaking. Id.; See also New Jersey 271 Order, ¶ 155 (finding that Verizon satisfied checklist item 1 by allowing "a competing carrier to interconnect at a single *physical* point in a LATA," notwithstanding allegations that Verizon had improperly shifted costs to interconnecting CLECs); and, Georgia & Louisiana 271 Order, ¶ 208 (holding that "unresolved intercarrier compensation issues" do not implicate compliance with checklist item 1). As Ameritech notes AT&T to admit, "a SPOI and trunking to several switches are not necessarily, and should not be, mutually exclusive." (AT&T Ex. 6.1 at 9). Even if AT&T must compensate Ameritech for the costs incurred in establishing direct trunking, AI argues, it can still obtain physical interconnection at a SPOI.

The Staff Issues on SPOI

147. Contrary to the assertions of Staff and AT&T, Ameritech contends that there is no SPOI issue in this case. As Ameritech witness Deere explains, there is no question but that it offers a *physical* SPOI. (Am. Ill. Ex. 5.1 at 1-9; Am. Ill. Ex. 5.2 at 2-5). The only dispute is whether Ameritech must provide free transport to and from that SPOI but, AI maintains, the FCC has consistently ruled that it will not address this issue in the context of a 271 proceeding. Pennsylvania 271 Order, ¶ 100 and n.341; Georgia & Louisiana 271 Order, ¶ 208. Equally significant, AI observes, is that the Commission's Order in Docket 01-0614 requires Ameritech to provide free transport to the SPOI and, while reserving all rights to challenge that decision, Ameritech has filed a compliance tariff to implement that decision.

The Staff's Transiting Claim

148. The Company notes Staff to allege that Ameritech does not accept local traffic from an interconnected CLEC when the CLEC is delivering local traffic that originated on some third party's network (a service Staff calls "transiting"). (Staff Ex. 3.0 at 47-52). While there is no requirement under Section 271 that Ameritech provide this specific service, it does accept such traffic and, in reality is unable distinguish it from direct traffic. (Am.Ill. Ex. 5.1 at 13).

149. In AI's view, Staff's real concern is directed toward form, and not substance. As such, Staff complains that Ameritech does not have an interconnection agreement with any CLEC that "explicitly" requires it to accept such traffic. (Staff Ex. 20.0 at 66). But even if it wanted to, AI asserts, it would likely not be able to prevent CLECs from transiting traffic originated by a third party, because "realistically [Ameritech] would never know it was happening." (Tr. 196). Moreover, AI asserts, the Commission has already declined to require Ameritech to include such language in an

interconnection agreement. Order at 35, Docket 01-0007. The Commission noted that Verizon Wireless (the carrier seeking such language) did not actually ask the Commission for authorization to transit, and had no concrete plans to transit traffic in Illinois. Similarly here, AI contends, Staff has not shown that any CLEC has plans to transit traffic in Illinois; and, in the event one did, Ameritech could not prevent it from doing so.

Collocation

150. In accordance with Section 251(c)(6) and the rules set out in 47 C.F.R. § 51.321, and 47 C.F.R. § 51.323, Ameritech maintains that it makes available, to CLECs, collocation of telecommunications equipment necessary for interconnection and access to unbundled network elements. ("UNEs") (See Am. Ill. Ex. 1.0 Sch. SJA-1, ¶ 13; Am. Ill. Ex. 5.0 Sch. WCD-1, ¶ 26). The Ameritech terms and conditions for collocation, the Company asserts, are provided in binding interconnection agreements and through its effective collocation tariff i.e., Ill. C.C. Tariff 20, Part 23, Section 4. (Am. Ill. Ex. 1.0 Sch. SJA-1, ¶ 13).

151. Physical collocation of CLEC equipment is available, AI asserts, where space permits. (Id. ¶ 24; Am. Ill. Ex. 5.0 Sch. WCD-1, ¶ 25). And, Ameritech makes available caged, shared cage, cageless and other physical collocation arrangements, all at the option of the CLEC. (Am. Ill. Ex. 1.0 Sch. SJA-1, ¶¶ 24-35; Am. Ill. Ex. 5.0 Sch. WCD-1, ¶ 5). These offerings, AI contends, fully comply with the FCC's collocation rules. (Am. Ill. Ex. 1.0 Sch. SJA-1, ¶ 13). Adjacent space collocation is available on Ameritech's premises when all space available for physical collocation within an Ameritech Eligible Structure is legitimately exhausted. (Am. Ill. Ex. 1.0 Sch. SJA-1 ¶¶ 24, 33; Am. Ill. Ex. 5.0 Sch. WCD-1, ¶ 25).

152. Ameritech contends that it also makes available other technically feasible arrangements consistent with Paragraph 45 of the Advanced Services Order ("ASO"), which provides that "deployment by any incumbent LEC of a collocation arrangement gives rise to a rebuttable presumption in favor of a competitive LEC seeking collocation in any incumbent LEC premises that such an arrangement is technically feasible." (See Am. Ill. Ex. 1.0 Sch. SJA-1, ¶ 35).

153. Where Ameritech must deny a CLEC's request for physical collocation because space is not available, it informs the CLEC by letter within ten days. (Id. ¶ 16). The Company also has modified its internal procedures to ensure that, if it denies collocation on the grounds that a CLEC's equipment fails to meet applicable safety standards, the FCC-required affidavit will contain all the information required by the Advanced Services Reconsideration Order, ¶ 57 (revising 47 C.F.R. § 51.323(b)). (Am. Ill. Ex. 1.0 Sch. SJA-1, ¶ 47). Further, if space is not available to accommodate the CLEC's request, the CLEC may request a tour of the premises. (Id. ¶ 37). Consistent with 47 C.F.R. § 51.321(f), AI maintains, this tour is scheduled within five business days from the date that the CLEc's written tour request is received. (Am. Ill. Ex. 1.0 Sch. SJA-1, ¶ 37).

154. In addition, Ameritech indicates that it maintains a publicly available document on the Internet indicating those facilities, if any, that currently are full. According to AI, this list is updated within ten days of the date a central office is determined to be out of physical collocation space. (Id. ¶ 38). Ameritech ensures that only offices that do not have a minimum of one bay space for physical collocation are posted on this list. (Id). Moreover, prior to submitting an application for physical collocation, a CLEC may request a report that indicates the available collocation space in a particular Ameritech premises. (Id. ¶ 39).

Space Reservation

155. Ameritech maintains that its space reservation policies are nondiscriminatory. (Id. ¶ 40). As per the requirements of 47 C.F.R. § 51.323(f), Ameritech does not, and will not, allow any of its affiliates to reserve space on terms more favorable than those that apply to unaffiliated CLECs. (Am. Ill. Ex. 1.0 Sch. SJA-1, ¶ 40); Advanced Services Reconsideration Order, ¶ 53. Moreover, Ameritech has adopted a number of policies that conserve collocation space and maximize opportunities for carriers to enter or to expand their presence in the local market. (Am. Ill. Ex. 1.0 Sch. SJA-1, ¶¶ 27, 41). It also conserves caged collocation space by allowing CLECs to purchase space in increments as small as the amount of space needed to house and maintain a single rack or bay of equipment. (Id. ¶ 27).

156. Ameritech employs security measures for collocators in its central offices ("COs") to reasonably protect its network and equipment from harm, and these measures, it contends, are no more stringent than the security arrangements it maintains on premises for its own employees or authorized contractors. (Am. Ill. Ex. 1.0 Sch. SJA-1, ¶ 42). So too, CLEC personnel are not required to undergo security training that is more stringent or intensive than the training undergone by Ameritech personnel, nor are they required to obtain training from Ameritech. (Id. ¶ 43). Ameritech maintains that it does not impose security measures any more stringent than those permitted by the FCC. (Id. ¶¶ 42, 46-49).

157. "Virtual collocation", AI maintains, is available to CLECs regardless of the availability of physical collocation. (Am. Ill. Ex. 1.0 Sch. SJA-1, ¶ 48). Ameritech uses the same engineering practices for virtually-collocated equipment as it does for similar equipment of its own. (Id. ¶ 49). And, AI asserts, It will maintain and repair virtually-collocated equipment at the direction of the collocator using the same standards that it uses for maintaining and repairing its own equipment. (Id. ¶ 50).

Access to the Main Distributing Frame ("MDF")

158. According to AI, the CLECs have access to their physically collocated equipment 24 hours a day, seven days a week. Further, CLEC physical collocation space may be physically separated from Ameritech's equipment as contemplated by the FCC's collocation rules and orders. (Am. Ill. Ex. 1.0 Sch. SJA-1, ¶¶ 24-35, 46; Am. Ill.

Ex. 5.0 Sch. WCD-1, ¶ 5). The "MDF," AI explains, is the facility within Ameritech's CO on which every customer line, trunk and circuit is terminated as it enters the CO. (Am. Ill. Ex. 1.1 at 19-20). These lines, trunks and circuits are then cross-connected to either Ameritech's switch (for switched services), an Ameritech interoffice facility (for dedicated services) or to a facility which connects them to a CLEC's collocation equipment. According to the Company, the MDF is owned by Ameritech, is located in its space in the CO, and essentially constitutes the "heart" of the network. (Am.Ill. Ex. 1.1 at 20).

159. AI observes AT&T, McLeodUSA/TDS and RCN to contend that their technicians should be permitted to access the MDF directly, on grounds that such access is required to perform necessary maintenance functions, to test their lines, to verify dial tone and perform other functions. (MTSI/TDS Ex. 1.0 at 16-18; AT&T Ex. 6.0 at 26-29; RCN Ex. 1.0 at 3-5). The CLECs view Ameritech's policy, requiring them to use approved third party vendors to perform work in its space in the CO, as cumbersome and as causing CLEC customers to be without service for an extended period of time. (Id).

160. Ameritech maintains that it has no obligation to provide collocating CLECs access to the MDF. The FCC, it notes, has made clear that "protection of their [ILECs'] equipment is crucial to the incumbents' own ability to offer service to their customers." ASO, ¶ 48; See also Advanced Services Remand Order, ¶ 102. In the Texas 271 Order, AI asserts, the FCC found that SWBT's collocation tariff satisfied the checklist, even where that tariff expressly prohibited CLEC access to the MDF. (Am. Ill. Ex. 1.1 at 17).

161. Since access to the MDF is not required, Ameritech maintains that its third party vendor policy is a necessary, practical and reasonable way to give CLECs the ability to perform work such as testing and maintenance functions outside their collocation space. According to AI, third-party vendors must be certified by the Company. In this way, Ameritech ensures that all technicians who work on its network facilities are properly trained and insured, and will not harm the facilities of Ameritech or other CLECs whose facilities terminate on the MDF. (Am. Ill. Ex. 1.1 at 19; Tr. 1332-33, 1424-25). This approach also limits the absolute number of people working in confined CO space, which further reduces the potential for trouble reports and service outages for all customers. (Am. Ill. Ex. 1.1 at 14; Tr. 1424, 1427).

162. Contrary to the CLECs' contentions, AI asserts, the third-party vendor policy is not overly cumbersome and does not result in excessively long service outages. Ameritech's technicians will assist CLECs in troubleshooting service outages without the need for vendor involvement. Whenever a CLEC reports that one of its customers has no dial tone, an Ameritech technician will check for dial tone at the MDF, and, if requested, will assist the CLEC in resolving the trouble. If there is no dial tone at the MDF, Ameritech verifies or corrects any wiring and cabling problems for which it is responsible. (Tr. 1335-36). Even where the problem is in the CLEC's facilities, AI notes that it can be resolved in many instances by simply by changing the cross connection at

the MDF to another facility within the CLEC's Connecting Facility Assignment, ("CFA"), a function that Ameritech technicians will perform upon request. (Tr. 1418). Thus, AI asserts, CLECs would require third-party vendor support only when the problem resides in their facilities. Where such use of a third-party vendor is actually required in a service outage or maintenance situation, the CLEC vendor can obtain ready access to Ameritech's CO and resolve the problem expeditiously, AI notes. (Tr. 1613-14)

Path Star Equipment

163. AI notes McLeodUSA's complaint that Ameritech improperly denied its request to collocate certain equipment known as "Path Star" in Ameritech's CO. (McLeodUSA Ex. 3.0 at 2-3). Ameritech, however, has been unable to locate any records of an actual application by McLeodUSA to collocate such equipment. (Am. Ill. Ex. 1.1 at 25). In any event, it asserts, the FCC made clear in its Advanced Services Remand Order (¶ 48) that ILECs are not required to allow collocation of "traditional circuit switching equipment." According to AI, the Path Star equipment constitutes traditional circuit switching equipment. (Am.Ill. Ex. 1.1 at 25-26).

Adjacent Collocation Intervals

164. AI sees McLeodUSA to allege that Ameritech is obligated to provide adjacent collocation within a 90-day time frame. (McLeodUSA Ex. 3.0 at 3-4).[3] Adjacent collocation, AI maintains, is not subject to standard provisioning intervals. In the Collocation Waiver Order (¶ 14), it notes, the FCC concluded that a New York collocation tariff was generally consistent with its goals, even though that tariff did not establish standard intervals for adjacent collocation. According to AI, adjacent collocation is a sufficiently unique arrangement such that additional engineering work is likely to be required beyond what is contemplated by the standard 90-day collocation interval for physical collocation. Thus, AI contends, it should be dealt with in the same manner as "Raw Space." This Commission, AI notes, approved provisions for raw space preparation in Ameritech's collocation tariff in Docket 99-0615. (Am. Ill. Ex. 1.1 at 26-27).

165. Under the FCC's rules, AI observes, adjacent collocation is essentially a "last resort" physical collocation arrangement. That is, an ILEC is required to provide adjacent collocation only when physical collocation space is legitimately exhausted (*e.g.*, where the office is "closed" to physical collocation and posted on the Company's website as such). No Illinois CLEC, including McLeodUSA, has ever requested adjacent collocation, according to Ameritech Illinois. (Am. Ill. Ex. 1.1 at 26).

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[3] When space is legitimately exhausted, CLECs may physically collocate in adjacent controlled environmental vaults or similar structures outside of the CO that Ameritech uses to house telecommunications equipment, to the extent technically feasible. Am. Ill. Ex. 1.0 Sch. SJA-1 at 18-19.

Collocation Pricing

166. AI observes both Staff and AT&T to contend that Ameritech's prices for collocation are not permanent and, therefore, do not comply with the FCC's TELRIC pricing rules. (Staff Ex. 5.0 at 6-7; AT&T Ex. 3.0 at 13-15). In the Company's opinion, Staff and AT&T are incorrect. Ameritech's tariffed collocation rates were investigated in Docket 99-0615 where the tariffed rates in effect today were ordered by the Commission. Order at 23, 27, Docket 99-0615. And, AI notes, these were affirmed on appeal. Illinois Bell Telephone Co. v. Illinois Commerce Comm'n, 327 Ill. App. 3d 768 (3d Dist. 2002).

167. While the Commission originally designated certain of these rates as "interim," pending review of revised cost studies which the Company was ordered to file, such have now been in effect for more than two years without further Commission action. As a result, and according to AI, the Company considers them to be de facto permanent rates. (Am.Ill. Ex. 10.1 at 8-9). Even if one where to accept Staff's characterization of the rates as "interim," AI notes that the FCC accepts interim rates in Section 271 application proceedings.

168. Staff also expresses concern that the collocation rates in Ameritech's Generic Interconnection Agreement ("GIA") differ from those in the tariff. (Staff Ex. 5.0 at 10-11). This is not a Section 271 issue, AI contends, in the Company's opinion, it is not under any FCC obligation to conform the rates in its GIA to the rates in its tariffs. The GIA is simply an "offer," AI asserts, that CLECs are not obligated to accept. A CLEC that wishes to obtain collocation under the rates ordered by the Commission in Docket 99-0615 can take service under tariff or opt into those portions of another carrier's interconnection agreement that contains those rates. (Am.Ill. Ex. 1.1 at 27-28).

169. Under Section 252(a)(1), Ameritech asserts, parties may negotiate rates in an interconnection agreement without regard to filed tariffs or even TELRIC standards. In any event, the rates in the GIA reflect an updating and restructuring of collocation rates that took place in 2001. According to AI, these provide CLECs with an optional, consistent 13-state product offering and rate structure that may be of value to multi-state CLECs. This structure, AI maintains, also provides new provisions and rate elements that enable CLECs to manage more of their own collocation work (*e.g.*, designating vendors for the placement of cabling). (Am. Ill. Ex. 10.0 at 9-10). Nothing in the federal Act or any of the FCC's Section 271 orders, AI contends, precludes an ILEC from offering CLECs alternative terms and conditions for wholesale products.

b. WorldCom Issues/Position

Interconnection Pricing

170. With respect to pricing generally, WorldCom contends that Ameritech has failed to demonstrate that all of its prices are TELRIC compliant or that rates have been established for all of its offerings. Therefore, WorldCom argues, Ameritech is not in

compliance with the pricing requirements of the Act. Further, WorldCom expresses its concern that Ameritech may attempt to change those rates in the near future. For this reason, as well as other reasons, WorldCom argues that Ameritech's existing UNE rates should be capped for a period of up to five years to ensure rate certainty. It notes that AT&T and Staff have taken similar positions.

171. According to WorldCom, the record here suggests that Ameritech will seek increases to those rates in the near future. WorldCom notes Ameritech witness Johnson to claim that under the existing TELRIC rates the Company does not recover all of its costs and to express a concern within Ameritech to ensure that it recover its costs. (Tr. 922). WorldCom also points out that Ameritech filed new cost studies supporting updated UNE rates in response to the Commission's order conditionally approving the SBC/Ameritech merger. Both WorldCom Late-Filed Exhibits 1 and 2, it claims, provide an indication of the magnitude of rate increases Ameritech considered appropriate as of April 6, 2000, when it filed the cost studies supporting its Post Merger rates.

172. According to WorldCom, the Commission can determine that existing TELRIC rates should be capped for a period of not less than five years on the basis that the telecommunications industry is a declining cost industry and the synergies from the SBC/Ameritech merger should further ensure that shared and common costs are going down. The five-year cap, WorldCom suggests, would be roughly commensurate with the time it took to complete the TELRIC Compliance Proceeding, Docket 98-0396, plus the time it will take to complete the new investigation of nonrecurring charges for new UNE combinations. It is also WorldCom's position that the Commission should require Ameritech to withdraw its appeals of the Commission's TELRIC Order and its TELRIC Compliance Order. These solutions, WorldCom argues, would provide certainty with respect to TELRIC rates for some time to come.

c. Staff Issues/Position

Third Party Terms and Conditions of Interconnection

173. Staff puts into issue Ameritech's policy of not accepting third party local traffic delivered to it by an interconnected carrier. Transiting service (or "transiting"), Staff informs, allows one party to send telecommunications traffic to a third party network through the other party's tandem or functionally similar facilities. (ICC Staff Ex. 3.0 at 47). An example that Staff puts forth is the situation where two CLECs are interconnected with Ameritech, but not with one another. If a customer of one of the CLECs places a local call to the customer of the other CLEC, it is common for the calling party's carrier to deliver the traffic to an Ameritech tandem. Ameritech will then switch the call at its tandem and transport the call to the called party's carrier. In this case Ameritech does not originate or terminate the call, it merely provides "transiting" service. (Id. at 47-48).

174. According to Staff, neither federal nor state rules permit Ameritech to refuse traffic from or refuse to send traffic to a party if that traffic does not terminate or

originate with that party. Section 251(a)(1) of the 1996 Act, Staff notes, requires Ameritech to "interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers." 47 U.S.C. § 251(a)(1). Nothing in the Act or FCC rules relieves Ameritech of this obligation to interconnect with telecommunications carriers that provide interoffice transport, including transiting of third party local exchange and exchange access service.

175. Staff notes Mr. Deere to clearly state that "Ameritech Illinois can and does" accept third party local traffic from interconnecting carriers." (Id.). In his surrebuttal account, however, Mr. Deere testified that "[t]his appears to be more of a theoretical issue and not the type of interconnection issue that should be part of a 271 checklist compliance docket." (Am.Ill. Ex. 5.2 at 9). According to Staff, Mr. Deere further confused the issue, stating that, regarding CLEC transiting of traffic, "[a]s far as I know no one does that. Just realistically we could never know it was happening." (Tr. 196). Staff expresses some confusion with this account.

176. In Staff's opinion, the only credible evidence regarding Ameritech's policy on accepting third party local traffic from interconnecting carriers in this proceeding is that Verizon Wireless attempted to include terms permitting it to send Ameritech traffic carried for third party providers and the Company effectively blocked it from including such terms. (*See* Staff Ex. 3.0 at 48). In Staff's view, this demonstrates that Ameritech does not provide interconnection in compliance with the requirements of Section 271.

Single Point of Interconnection

177. Under Section 251 of the Act, Staff contends, Ameritech is required to offer carriers a SPOI in each LATA that it serves. In the Texas II 271 Order, Staff sees the FCC to state:

> Section 251, and our implementing rules, require an incumbent LEC to allow a competitive LEC to interconnect at any technically feasible point. This means that a competitive LEC has the option to interconnect at only one technically feasible point in each LATA. The incumbent LEC is relieved of its obligation to provide interconnection at a particular point in its network only if it proves to the state public utility commission that interconnection at that point is technically infeasible. Id. at para. 78.

178. Similarly, Staff notes Section 13-801(b)(1) of the PUA to provide, in relevant part, as follows:

> An incumbent local exchange carrier shall provide for the facilities and equipment of any requesting telecommunications carrier's interconnection with the incumbent

> local exchange carrier's network on just, reasonable, and nondiscriminatory rates, terms, and conditions:
>
> ...
>
> (B) at any technically feasible point within the incumbent local exchange carrier's network; however, the incumbent local exchange carrier may not require the requesting carrier to interconnect at more than one technically feasible point within a LATA. 220 ILCS 5/13-801(b)(1).

179. On June 11, 2002, Staff observes, the Commission ordered Ameritech to provide CLECs with the option of electing as little as one POI per LATA for the purposes of exchanging local traffic and permitting CLECs to elect a compensation scheme where each carrier is responsible for transport costs on its own side of the POI. Order at 105-106, Docket 01-0614. Ameritech has dutifully tariffed this option and, currently has tariffed POI rates, terms, and conditions consistent with those that Staff has recommended as necessary for Section 271 compliance.

180. According to Staff, however, Ameritech's GIA terms and conditions fail to comply with FCC requirements and Section 13-801(b)(1)(B) by requiring carriers to interconnect at multiple POIs in each LATA. In circumstances in which Ameritech permits carriers to physically connect at a SPOI, it imposes financial conditions on carriers that impair, if not preclude, then from providing their desired services using a SPOI. Thus, even where Ameritech permits carriers to physically connect at a SPOI, it imposes financial conditions that fail to comply with Section 13-801(b)(1)(B) by effectively requiring carriers, with respect to financial conditions, to interconnect at multiple POIs in each LATA.

Collocation – State Issues

181. Staff maintains that Ameritech had not adequately addressed the collocation issues that it views as pertinent to obtaining Section 271 approval, to wit:

> (a) Ameritech imposes inappropriate restrictions on the types of equipment permitted for collocation in its COs in contravention of Section 13-801;
>
> (b) Ameritech fails to make available adequate collocation restriction information in contravention of the Order in Docket 99-0615;
>
> (c) Ameritech fails to permit cross-connections between collocated carriers and non-collocated carriers in contravention of Section 13-801(c); and

(d) Ameritech fails to comply with the Orders in Dockets 99-0615 and 01-0623 regarding "power cabling" for physical and virtual collocation sites.

182. With respect to certain collocation matters, Staff believes AI to contend that Section 13-801(c) should not be linked to Section 271 relief because it is not a federal requirement. More specifically, Ameritech is seen to argue that the FCC has not imposed the Section 13-801 collocation equipment requirements on Section 271 applicants and therefore, this issue is not appropriate for this proceeding. (Am. Ill. Ex. 1.2 at 31-32). Staff disagrees.

183. The collocation obligations addressed by Section 13-801(c) of the PUA are, in Staff's view, integral to the interconnection issues of the competitive checklist. According to Staff, collocation protections, even if state-imposed, are still appropriate to the Commission's investigation of AI's interconnection obligations under Section 271. Therefore, Staff recommends that Ameritech be required to amend its collocation provisioning procedures and processes to meet the requirements of the Commission's Order and Section 13-801.

Collocation Restrictions – Types of Equipment

184. In its ASO Order, Staff comments, the FCC revised its collocation rules to require ILECs to include shared cage and cageless collocation arrangements as part of their physical collocation offerings. Staff maintains that Ameritech's obligations have been modified by the requirements enumerated in Section 13-801(c) of the PUA. During the pendency of this Section 271 proceeding, Staff informs, the Commission considered the impact of Section 13-801(c) upon Ameritech's collocation restrictions and, on May 8, 2002, entered its Order in Docket 01-0614. This order, Staff contends, mandates that Ameritech satisfy the requirements of Section 13-801(c) by allowing CLECs to collocate "any type of equipment for interconnection or access to network elements at the premises of the incumbent local exchange carrier on just, reasonable and non-discriminatory rates." Id. (emphasis added).

185. The Docket 01-0614 Order, Staff informs, also required Ameritech to file a compliance tariff "within thirty days of its service." Id. at 178. And, Ameritech filed a compliance tariff that Staff is currently reviewing. Assuming that Ameritech agrees with Staff's interpretation of the *Order*, the only remaining concern is the Company's compliance with its terms

Cross-Connections

186. The Order in Docket 01-0614, Staff maintains, implements the PUA's Section 13-801 collocation requirements. Ameritech must comply with the Commission's findings in that docket which, it explains, sets out new collocation requirements that are in addition to, the FCC's requirements.

Collocation Rates

187. It is settled, Staff contends, that Ameritech must offer collocation at TELRIC-compliant rates. In Staff's view, the Company has just barely done so, even as it would not be difficult. Staff recognizes Ameritech to have indeed filed collocation tariffs in Illinois. (Am. Ill. Ex. 10.0 at 2; Staff Ex. 5.0 at 5). According to Staff, however, the Commission determined that rates contained in those tariffs did not comply with TELRIC principles, inasmuch as the cost studies supporting them substantially overstated costs. (Staff Ex. 5.0 at 7). Consistent with this finding, Staff observes, the Commission ordered Ameritech to "file new cost studies based on an efficient, forward-looking environment consistent with our conclusions herein within 60 days of the effective date of this Order." Id. at 26.

188. Ameritech filed a cost study to comply with this directive, Staff notes, but did not revise its tariffs, and therefore the investigation contemplated by the Commission did not occur. (Staff Ex. 5.0 at 7). Thus Staff observes that interim rates remain in effect. According to Staff, however, the FCC has determined that, for Section 271 purposes, TELRIC compliant rates need not be permanent:

> Consistent with the Commission's precedent, the mere presence of interim rates will not generally threaten a section 271 application as long as the (1) an interim solution to a particular rate dispute is reasonable under the circumstances; (2) the state commission has demonstrated its commitment to the Commission's pricing rules; and (3) provision is made for refunds or true-ups once permanent rates are set. Verizon Connecticut 271 Order, App. C, ¶22

189. In Staff's view, Ameritech's collocation rates are in technical compliance with the letter, if not the spirit, of Section 251. Full compliance, in Staff's view, would require that Ameritech file rates based upon its cost study as this will enable the Commission to evaluate its rates and cost study, and establish permanent rates.

d. AT&T Issues/Position

Rates

190. As Ameritech's current tariffed rates for cageless and shared cage collocation are only interim in nature, such are not, in AT&T's view, TELRIC-compliant. In Docket 99-0615, it notes, the Commission considered Ameritech's pricing proposals for cageless and shared cage collocation, stating in the end that, "while we realize they are not perfect, we will adopt Staff's recommended rates." Order, Docket 99-0615.

191. While having adopted the interim rates proposed by Staff, AT&T observes that the Commission's anticipation of another docket "to more fully examine the cost studies relating to the pricing of services supporting collocation." Id. As such, AT&T

argues, it cannot be maintained that AI's rates for all of its collocation services, including the numerous rate elements for shared cage and cageless collocation, are TELRIC-compliant.

Opt In Requirements

192. Section 252(i) of the Act, AT&T explains, sets out what has come to be known as the "opt in" rule. It allows CLECs to "opt in" to particular provisions of other carriers' interconnection agreements. AT&T focuses on two instances showing Ameritech's noncompliance with Section 252(i).

193. At the outset, AT&T contends, Ameritech refuses to allow CLECs to opt in to the reciprocal compensation provisions of existing interconnection agreements entered into even after the date the FCC issued its ISP Order. (Staff Ex. 3.0 at 33-34; AT&T Ex. 3.1 at 13). Ameritech does not dispute this fact, AT&T contends, and its witness Alexander clearly admitted that CLECs cannot opt in to reciprocal compensation provisions in other carriers' agreements in Illinois, even if those provisions post-date the FCC's ISP Order. (Tr. 1604).

194. Another example of Ameritech's failure to allow CLECs to opt in to the provisions of other carriers' agreements came to light, AT&T contends, when Mr. Alexander was asked whether a CLEC could opt into Section 5.7.2 of the Ameritech Illinois/McLeodUSA interconnection agreement pursuant to Section 252(i). According to AT&T, Section 5.7.2 provides that if Ameritech has approved tariffs on file for interconnection or wholesale services, solely in its discretion, a CLEC may purchase Ameritech services from its interconnection agreement and/or the approved tariffs. AT&T notes Ameritech to have submitted an on-the-record data request response (see WorldCom Late-Filed Ex. No. 3) indicating that a CLEC could not opt in to Section 5.7.2. This position, AT&T argues, is in direct violation of Sections 252(i), and 251(c)(2) of the Act.

Access to the CFA - Collocation

195. The record in this proceeding, AT&T contends, establishes that Ameritech does not provide CLECs access to the CFA at parity with the manner in which Ameritech may access it. Moreover, AT&T argues, Ameritech discriminates against CLECs in approving vendors for access.

196. CFAs, AT&T explains, are the basic interconnection points where ILECs connect their wires to a CLEC's network. In the Ameritech region, the CFAs for individual end users refer to wire cross connects on wiring blocks at the Main Distribution Frame ("MDF") in the local CO. The MDF is where all the wires from the street terminate within the CO. In order for a CLEC to order a UNE loop, the CLEC must have a wiring block on the MDF with copper wires connected back to its collocation space.

197. Mr. Noorani testified that the key to addressing many CFA problems is testing the wiring between the AT&T collocation space and the MDF. In the Ameritech region, there are significant restrictions on completing such tests because CLECs generally are responsible for completing such testing themselves, and Ameritech severely limits CLEC access to the MDF.

198. AT&T's experience has been that DSLAM to MDF testing is the key to resolving a majority of problems. This requires the ability to test the wiring between the collocation space and the MDF, i.e., from the back of the DSLAM where the wires from the MDF are hard wired to the back of the MDF connection block. Without the ability to conduct such tests, it is difficult, if not impossible, to determine the root cause of a CFA problem, even though that cause may prove to be unrelated to the wiring.

199. Testing is often the only way to understand what the CFA problems are, but, AT&T contends, Ameritech imposes strict limitations on CO-CFA testing. Generally, the CLEC is responsible for fixing any defects in the wiring between the CLEC's collocation cage and the MDF. While CLECs have 24-hour/7 day access to their collocation space, they have no right to access the MDF. AT&T can request an escort ticket to look at the MDF, but it is not permitted to conduct tests or touch any of the wiring. In order to test the wiring between the MDF and its DSLAM, AT&T asserts, a CLEC must hire a third party Ameritech approved contractor to arrange an appointment at the CO to conduct the tests.

200. It takes time, AI complains, to hire an approved contractor and to schedule a acceptable time to conduct the tests. In the meantime, AT&T may be forced to stop ordering service at the affected CO because of a bad CFA. By contrast, Ameritech has full access to COs and can conduct such tests as the need arises. The requirement to hire outside third parties to remedy a situation that an in-house AT&T technician could resolve is an unnecessary expense. This is particularly true when contrasted to Ameritech's ability to use its own technicians when it needs to do so, AT&T contends.

<u>POI Policy</u>

201. One difficulty with Ameritech's POI policy, AT&T asserts, is that in order for a CLEC to serve a LATA, the CLEC must first interconnect with Ameritech and establish a POI in the Ameritech *serving area* of the LATA. Specifically, Ameritech witness Deere states "if a CLEC only desired to compete in the operating area of another ILEC within a shared LATA, it would not make sense for Ameritech Illinois to request that CLEC to also interconnect with Ameritech Illinois." (Am. Ill. Ex. 5.0 at 5). When a CLEC offers service in a LATA, however, it may get customers that sign up for its services in any geographic portion of the LATA. The geographic location of the CLEC customers in the LATA should not force the CLEC to interconnect with multiple service providers in the LATA and to establish multiple POIs in the LATA.

202. AT&T does not dispute that each carrier is responsible for delivering its originating traffic to the POI. Between the originating customer and the POI, it notes, the costs of delivery are identified as the origination costs, and the facilities that bring the traffic to that point are the interconnection facilities. From the POI to the terminating customer, the other carrier must assume operational responsibility to take that traffic to the designated end user and the originating carrier must pay the terminating carrier for the costs of that carriage. These costs associated with the terminating side of the POI are generally known as the termination costs.

203. If the call is local, AT&T comments, the originating carrier compensates the terminating carrier for that delivery pursuant to reciprocal compensation obligations as set forth in Section 251(b)(5). If the call is not local, then access charges rather than reciprocal compensation charges apply. The issue here involves the carrier's obligations with respect to local calls. Thus, by selecting a particular POI location, a carrier affects both the amount of reciprocal compensation it pays the other party and its own network costs.

204. The Act and FCC orders AT&T argues, provide that new entrants may interconnect at any technically feasible point. Specifically, Rule 51.305(a)(2) obligates Ameritech to allow interconnection by a CLEC at any technically feasible point. In its *Local Competition Order* AT&T observes, the FCC explained:

205. The interconnection obligation of section 251(c)(2)… allows competing carriers to choose the most efficient points at which to exchange traffic with incumbent LECs, thereby lowering the competing carriers' costs of, among other things, transport and termination of traffic. Id. at para 172.

> Thus, AT&T observes, Section 251(c)(2) gives the CLEC the right to select where it wants to interconnect, thereby enabling it to establish, if it wishes, as little as one POI per LATA. This rule allows a single switch presence per LATA and enables new entrants to grow their business economically without having to duplicate the ILEC's existing network.

206. According to AT&T, the FCC has been clear in its support of a CLEC's right to choose where it wants to interconnect. It has consistently applied Section 251(c)(2) to prevent ILECs from increasing CLECs' costs by requiring multiple POIs. In its Texas 271 Order at ¶ 78, the FCC emphasized, that this provision gives competing local providers the option to interconnect at even only one technically feasible point within each LATA.

207. Moreover, the FCC has found the right of a competing carrier to choose the point of interconnection, and conversely the unlawfulness of any attempts by incumbents to dictate points of interconnection, so sufficiently clear and compelling that the FCC has itself intervened in court reviews of interconnection disputes to make that

very point. For example, in an interconnection dispute in Oregon, the FCC intervened as *amicus curiae* and urged the court to reject US West's argument that the Act requires a competing carrier to "interconnect in the same local exchange in which it intends to provide local service." The FCC, AT&T notes, stated that:

> Nothing in the 1996 Act or binding FCC regulations requires a new entrant to interconnect at multiple locations within a single LATA. Indeed, such a requirement could be so costly to new entrants that it would thwart the Act's fundamental goal of opening local markets to competition. Memorandum of the Federal Communications Commission as Amicus Curiae, at 20-21, *US West Communications Inc., v. AT&T Communications of the Pacific Northwest, Inc., et al.* (No. CV 97-1575-JE) (D. Or. 1998).

208. In sum, AT&T argues, the FCC and numerous state commissions have consistently interpreted the Act to allow CLECs to interconnect at a single technically feasible POI chosen by the CLEC.

Direct End Office Trucking

209. AT&T takes issue with Ameritech's position on direct end office trunking - that every time the traffic between a CLEC switch and an Ameritech end office reaches the level of "1 DS1" the CLEC should establish direct end office trunking to that end office. Ameritech's rationale, AT&T notes, is that this helps avoid tandem exhaust in its network and the need to establish additional tandems due to the volume of CLEC traffic. (Am. Ill. Ex. 5.0, at 3-4). AT&T objects to Ameritech's position because it is contrary to AT&T's' right to select the locations at which it interconnects with Ameritech's network.

210. There are limits on a CLEC's ability to request interconnection, AT&T acknowledges, but the burden is on the ILEC, to prove that such limits should be imposed. The applicable standard, AT&T asserts, is the technical feasibility standard and this standard sets the bar very high. The FCC has stated that in order for an ILEC to justify refusal to provide interconnection or access at a point requested by another carrier, it ". . . must prove to the state commission, with clear and convincing evidence, that specific and significant adverse impacts would result from the requested interconnection or access." Local Competition Order, ¶ 203.

211. According to AT&T, Ameritech has made no such showing of a "significant adverse impact" in this proceeding. Moreover, its position requiring AT&T to forfeit its right to interconnect at any technically feasible point on Ameritech's network if the traffic volume reaches "1 DS1's worth of traffic" is an extreme solution for a single spike in traffic volume.

212. In AT&T's view, proper forecasting and the deployment of additional tandem switching capacity can avoid tandem exhaustion. Even if Ameritech must bear

the cost to deploy additional tandem capacity in its network to accommodate interconnection at its tandem switches, that increased cost does not meet the "significant adverse impact" standard established by the FCC. Indeed, AT&T notes, the FCC has acknowledged that ILEC interconnection obligations may require ILECs to modify their network to accommodate interconnection in its *Local Competition Order*, ¶ 202:

> Thus, it is reasonable to interpret Congress's use of the term "feasible" in sections 251(c)(2) and 251(c)(3) as encompassing more than what is merely "practical" or similar to what is ordinarily done. That is, use of the term "feasible" implies that interconnecting or providing access to a LEC network element may be feasible at a particular point even if such interconnection or access requires a novel use of, or some modification to, incumbent LEC equipment. This interpretation is consistent with the fact that incumbent LEC networks were not designed to accommodate third-party interconnection or use of network elements at all or even most points within the network. *If incumbent LECs were not required, at least to some extent, to adapt their facilities to interconnection or use by other carriers, the purposes of sections 251(c)(2) and 251(c)(3) would often be frustrated.*

213. The FCC has allowed CLECs the right to interconnect at any feasible point in the ILEC's network. By forcing them to go to the end office rather than terminate at the tandem, AT&T contends, Ameritech is placing arbitrary limits upon this important CLEC right.

Transit Traffic

214. AT&T notes Ameritech to take an almost identical position on transit traffic as it does on direct end office trunking. (Am. Ill. Ex. 5.0, at 4). When traffic between a CLEC and another third party carrier reaches one DS1, Ameritech demands that the CLEC establish direct trunking to that third party carrier rather than using the already established trunking between Ameritech's tandem and such other carrier for transiting.

215. The transit service at issue here AT&T contends, is the tandem switching and common transport provided by Ameritech for the exchange of local and intraLATA toll traffic between AT&T and LECs other than Ameritech, such as other CLECs and ICOs. Ameritech claims that is not required to carry transit traffic. Therefore, if AT&T does not implement direct trunking with certain carriers after a particular traffic threshold is met, Ameritech proposes to terminate the provision of tandem services between AT&T and that carrier. To the contrary, Ameritech has an obligation to provide transit service to AT&T for the exchange of local traffic with other carriers, regardless of the level of traffic exchanged between AT&T and the other carriers.

216. According to AT&T, Ameritech is required, pursuant to Section 251(c)(2)(A), to interconnect with carriers for transit and routing of telephone exchange service and exchange access. The statute does not limit this duty solely to traffic between AT&T and Ameritech. Moreover, the imposition of a capacity restriction violates Ameritech's obligation to interconnect under the Act because it takes away AT&T's right, pursuant to Section 251(a)(1), to interconnect indirectly with the facilities and equipment of other carriers. In addition, the Commission has already ordered Ameritech to tariff and provide transiting in its Order in Dockets 96-0486/0569, and without the DS1 restriction Ameritech desires to impose. So too, AT&T contends, the imposition of a capacity restriction also violates Ameritech's Section 251(c)(2)(B) obligations to provide interconnection at any technically feasible point.

217. To the extent there is any merit to its concerns, AT&T suggests that Ameritech can avoid tandem exhaustion through proper forecasting and deployment of additional tandem switching capacity. Even if Ameritech must bear the cost to deploy additional tandem capacity to its network to accommodate indirect interconnection at its tandem switches, that does not meet the "significant adverse impact" established by the FCC. Ameritech's rates for tandem interconnection fully compensate it for its forward-looking costs to deploy additional capacity, AT&T argues.

e. RCN Issues/Position

Access to the CFA

218. According to RCN, Ameritech has refused to provide the CLECs with nondiscriminatory, direct access to the Connecting Facility Assignment ("CFA") for purposes of testing their lines, verifying dial tone and performing other necessary functions. Ameritech does not dispute this fact, RCN notes, but relies on unsupported security concerns and further states that because the FCC and other state commissions have not required access to the CFA, it is not required to provide such access. Section 251(c)(6), RCN contends, requires Ameritech to provide CLECs with nondiscriminatory access to collocation, including access to the CFA.

219. The CFA, RCN explains, is the Ameritech-designated connection point between the CLEC and Ameritech networks. As Ameritech witness Scott J. Alexander stated, "[t]he CFA is a term used to describe the arrangement whereby a terminal block on Ameritech Illinois' main distributing frame (MDF) is assigned as the point of connection for CLECs' collocation cable." In other words, the CFA, located on the MDF, is the designated demarcation point. Thus, while Ameritech and other parties might not agree on the precise term, they do agree that there is a point on the network at which Ameritech's facilities and the CLEC's facilities connect.

220. RCN and other parties (including AT&T and McLeod) provided evidence of the importance to CLECs of access to the CFA. As RCN noted, a CLEC requires access to the CFA in order to properly test its facilities connected to the CFA, to verify dial tone, and, when a trouble event arises, to identify in whose network the trouble

resides in order to determine who is responsible for fixing the end user's line. The ability to perform these functions is essential in order for a CLEC to provide adequate service to its customers and to ensure proper allocation of the costs of maintaining the facilities.

221. RCN maintains that CLEC access to the CFA is imperative for trouble resolution. According to RCN, the location of trouble in a circuit determines which party is responsible for the costs of identifying, isolating and correcting the problem and testing at the CFA is a necessary part of this process. For example, if testing indicates that the trouble originates on Ameritech's side of the CFA, Ameritech is responsible for repairing the problem. On the other hand, if the problem exists on the CLEC side of the CFA, the CLEC is responsible for correcting the problem. Without the ability to test at the CFA, a CLEC must rely on Ameritech's judgment, not only to perform the testing, but also to determine in whose network the trouble resides. A CLEC that cannot perform its own testing is left without any independent means to assess whether Ameritech's analysis of financial responsibility is correct.

222. RCN notes Ameritech to suggest that certain unspecified security concerns weigh against providing CLECs with direct access to the CFA. If security is really an issue, RCN contends, Ameritech has not adequately demonstrated its concerns.

223. According to RCN, if Ameritech is concerned with the "security" of its networks, access to network and connections, it should have the same concerns with allowing "escort" tickets to CLECs in virtual collocation arrangements: Yet, it apparently does not. Because Ameritech permits such access with respect to virtual collocation arrangements, RCN notes, its security concerns with respect to direct access to the CFA, are not warranted. Indeed, RCN argues, Ameritech could and should be required to adopt the escort processes it utilizes for virtual collocation arrangements for visits to the CFA. This would enable Ameritech to address its alleged security concerns while at the same time permitting CLECs critical access to the CFA for testing and other purposes.

224. According to RCN, Ameritech conceded that its decision to not permit access to the CFA does not arise from any new or previously unknown security concerns, but on a strengthening of its existing security policies, where, at least in some circumstances, Ameritech had previously allowed CLECs to directly access the CFA/MDF. In RCN's view, Ameritech has not demonstrated that there are new security concerns that would warrant prohibiting CLECs access to the CFA.

225. RCN sees Ameritech to also claim that its CFA reports are an adequate substitute for direct access to the CFA. In RCN's view, these CFA reports do not serve the same purpose as direct access to the CFA. According to RCN, these reports only provide confirmation of the location of the CFA and nothing more. They do not enable a CLEC to test the line, verify dial-tone or isolate trouble in the line. Only direct access to the CFA can provide these functions, RCN maintains.

226. RCN further sees Ameritech to assert that it should be not required to provide CLECs with access to the CFA because the FCC and other state commissions have not required it to do so. The absence of a mandate to provide access is not in RCN's view, a legal basis for refusing to provide access. Ameritech has a general obligation to provide nondiscriminatory access to collocation, which necessarily includes access to the CFA. RCN maintains that the Commission should not accept such a no one else has ordered us to do itso it must not be necessary, argument.

Accurate Wholesale Bills

227. RCN submitted evidence of inaccuracies and other problems with Ameritech's wholesale bills, including improper charges for high-capacity circuits and failure to process disconnect requests and cease billing for disconnected circuits. RCN sees Ameritech to claim that these matters are not properly raised in this proceeding as they concern special access issues, which is not part of the Section 271 analysis. The issues RCN raised in its testimony point out deficiencies in Ameritech's billing systems that cover the facilities used for both UNE and special access services. At least one state commission has addressed similar issues in the context of Section 271 proceedings, and RCN argues this Commission should also do so in this case.

228. In this regard, the Commission should consider its obligation to ensure that Ameritech's filing meets not only the Checklist requirements, but that grant of its application would also be in the public interest.

f. McleodUSA Issues/Position

Negotiation Process

229. McLeod complains of the difficulties it experienced in agreement negotiations with Ameritech. Its witness, Joy Heitland, testified that the negotiations were delayed owing to Ameritech Illinois' lead negotiator being unfamiliar with McLeod's existing Resale Agreements. So too, there was confusion as to whether a Hosting Agreement was necessary, causing more time to be wasted.

230. Another problem, McLeod contends, arose because the Ameritech negotiator had little discretion to deviate from the template agreement and no authority to make final decisions on law, policy, or operations. To the extent that Subject Matter Experts (SMEs) need to make final decisions, McLeod believes AI should have these individuals present at the negotiations. Finally, McLeod argues, the version of the agreement filed by Ameritech for the arbitration had large numbers of language changes that were not made known to McLeod during the negotiations. This experience leads McLeod to contend that AI has no processes in place to enable good faith CLEC negotiations.

5. The Reply Positions

a. Ameritech Illinois Reply Position

Location of Point of Interconnection

231. AI notes AT&T to assert that "one glaring problem" with Ameritech Illinois' interconnection agreements is that they require a CLEC to establish a point of interconnection "in the Ameritech Illinois *serving area* of the LATA." (AT&T Br. at 60 (emphasis in original)). This assertion has no merit, AI contends, because as AT&T itself notes, section 251(c)(2)(B) states that an ILEC is to provide interconnection "at any technically feasible point *within the carrier's network*." 47 U.S.C. Section 251 (c)(2)(B). (Emphasis added.) Similarly, AI points out, the relevant FCC rule, 47 C.F.R. § 51.305(a)(2), requires that the point of interconnection be established at "any technically feasible point *within* the incumbent LEC's network." (Emphasis added).

232. Ameritech Illinois' interconnection agreements, the Company maintains, implement this requirement. AI further emphasizes that a point of interconnection located outside the ILEC's service territory is not "within" the ILEC's network, and thus, there is no basis for requiring Ameritech Illinois to establish a point of interconnection outside of its service territory.

Direct End Office Trunking

233. AI responds to AT&T's assertion that Ameritech Illinois' policy of requiring CLECs to establish direct trunks to end offices whenever the level of traffic to a particular end office reaches a "DS1" level is justified only if Ameritech Illinois can show that "significant adverse impacts" would otherwise result. (AT&T Br. at 65-66). According to AI, it has already made the showing AT&T wants – and the Commission has found that showing to be sufficient. In the Ameritech Illinois/Verizon Wireless arbitration, it asserts, the Commission found that "tandem exhaust is a significant problem in Illinois," and found that Ameritech Illinois had justified a threshold level of one DS1 for the establishment of direct end office trunking. Order at 6-7; Docket 01-0007, May 1, 2001.[4] According to AI, AT&T provides no reason for the Commission to depart from its previous decision.

234. While it sees AT&T as continuing to muddle the concepts of direct trunking and a single point of interconnection, AI points out that the FCC confirmed that direct trunking does not entail establishing a new or different point of interconnection because the physical point of interconnection does not change (and may still be chosen by

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[4] This Commission's factual finding with respect to tandem exhaust in Illinois distinguishes the current situation from that considered by the FCC in the recent Verizon Virginia Arbitration. There, the FCC found that direct trunking was unnecessary only because, on the record before it in that arbitration, Verizon had failed to prove that CLEC traffic was causing tandem exhaust in Virginia. Verizon Virginia Arbitration, ¶ 89.

AT&T). See, Verizon Virginia Arbitration, ¶ 91 ("[I]mplementing direct end office trunks does not entail changing the location of a tandem office point of interconnection."). All direct trunking means, AI explains, is that calls destined for the Ameritech Illinois end office in question are routed or trunked directly through the POI to that end office instead of being switched at the tandem office. In other words, the physical point of interconnection does not change.

Transit Traffic

235. The same analysis, AI contends, defeats AT&T's allegation that Ameritech Illinois has not supported its requirement of direct trunking with a third party carrier when the level of traffic that Ameritech Illinois "transits" between AT&T and that third party carrier reaches the DS1 level. (AT&T Br. at 67-68). On this issue as well, AI notes, the Commission's Order in Docket 01-0007 already contains the showing that AT&T concedes would justify the DS1 threshold. (Am. Ill. Br. at 19 n.2).

236. Further, AI sees AT&T to contend that Ameritech Illinois "has an obligation to provide transit service to AT&T for the exchange of local traffic with other carriers, regardless of the level of traffic exchanged between AT&T and the other carriers." (AT&T Br. at 67). No such obligation exists, AI argues. In the recent Verizon Virginia Arbitration (¶ 117), it points out, the FCC held that "the Commission has not had occasion to determine whether incumbent LECs have a duty to provide transit service under [section 251(c)(2)], nor do we find clear Commission precedent or rules declaring such a duty." (Likewise, AI observes, in the 1996 arbitration with AT&T, this Commission specifically found that transiting is not required by federal law. See, Order at 10-11, Docket Nos. 96 AB-003/004, Nov. 26, 1996)). Given that there is no obligation to even *provide* transit service, AI notes, the FCC rejected AT&T's transiting arguments (the same arguments offered here), and approved Verizon's proposed requirement of direct trunking for transit traffic at the DS1 level – which is identical to the threshold being challenged in this instance. (Id. ¶ 115).

Staff's Issues Re: Single Point of Interconnection (SPOI)

237. As a result of the August 23, 2002 Stipulation to Eliminate Issues (¶ 2(c)), Staff's issues concerning Ameritech Illinois' SPOI offering have been resolved. See Exhibit

Staff's Transiting Claims

238. AI notes Staff to question whether Ameritech's policy, to not accept third party local traffic delivered to it by an interconnected carrier, constitutes a violation of its duty to provide interconnection in accordance with the Act. In AI's view, Staff asks the wrong question. The real question is: Given the uncontested evidence that Ameritech Illinois *does* accept such traffic and could not prevent carriers from delivering such traffic even if its "policy" were otherwise, should the Commission address the theoretical question of whether or not section 251(c)(2) requires Ameritech Illinois to accept such traffic. It should not, AI contends. In AI's view, the Commission should adhere to its

decision in the Verizon Wireless arbitration and decline to find that Ameritech Illinois is legally obligated to accept such traffic. (Am. Ill. Br. at 22-23).

239. In any event, AI notes, Staff is wrong in asserting that it is Ameritech Illinois' "policy to not accept third party local traffic delivered to it by an interconnected carrier." (Staff Br. at 54). Ameritech Illinois maintains that it has no such policy, does accept such traffic, and, in reality, could not prevent a carrier from delivering it anyway. (Am. Ill. Ex. 5.1 at 13; Tr. 196). Indeed, Staff admits that the only evidence supporting its position is Ameritech Illinois' opposition to transiting language proposed by Verizon Wireless in their arbitration.

240. But, AI observes, Staff leaves out the punch line. The Commission ruled *in favor of* Ameritech Illinois in that arbitration, finding Verizon Wireless' language unnecessary given that it had no concrete plans to perform transiting. Order at 35, Docket 01-0007 (May 1, 2001). Here too, AI observes, no CLEC has claimed that it is now or soon will be transiting traffic, or that Ameritech Illinois' "policy" has prevented or in any way impaired its ability to "compete in the local exchange market," as Staff would contend.

Access to the Main Distributing Frame ("MDF")

241. AI notes that AT&T, McLeodUSA/TDS and RCN continue with the argument that their technicians should be allowed to access the MDF directly. AI observes, however, that they provide no legal basis for the position other than some generic references to Ameritech Illinois' obligation to provide collocation on a nondiscriminatory basis. (AT&T Br. at 52; RCN Br. at 3-4). The critical point, as Ameritech Illinois has explained, is that this Commission has already concluded that direct access to the MDF is not required. (Am. Ill. Br. at 27).

242. AI observes AT&T to complain specifically about the problems it encountered with the NorthPoint assets it acquired. (AT&T Br. at 53). These problems, AI contends, appear to be unique to the NorthPoint arrangements and, as explained by Mr. Alexander, Ameritech Illinois is willing to work with AT&T to resolve them. (Am. Ill. Ex. 1.1 at 17-18). In any event, AI points out, existing alternatives, including use of CFA reports to validate CFA assignments, would allow AT&T to ensure working lines. (Id. at 18). Further, AT&T's complaint as regards the too cumbersome nature of the third party vendor process is not well-founded, according to AI. (Am. Ill. Br. at 27-28).

243. In AI's view, McLeodUSA/TDS want to return to the "good old days" prior to September 11, 2001, when some Ameritech Illinois employees apparently failed to enforce Company security policies and allowed occasional access by McLeodUSA technicians to the MDF when escorted by Ameritech Illinois' central office technicians. (McLeodUSA/TDS Br. at 5). AI notes their claim that unescorted access by authorized third party vendors presents more of a security risk than escorted access by Ameritech Illinois personnel. McLeodUSA/TDS are incorrect. AI explains that the certification program for third party vendors ensures that they are knowledgeable and can be trusted to work unescorted at the MDF. (Am. Ill. Br. at 27). It also keeps the total number of

technicians working in a central office to a manageable level, which would not be the case, AI asserts, if every CLEC with a collocation arrangement could send its technicians in at will. (Am. Ill. Br. at 27). Furthermore, much as McLeodUSA may have liked the escort process, Ameritech Illinois' central office personnel have their own jobs to do. The reality, AI contends, is that time spent escorting CLEC technicians is time *not* spent on Ameritech Illinois' own central office work.

244. So too, the Ameritech Illinois' requirement that third party vendors be willing to work on its own equipment that McLeodUSA/TDS complain of, is necessary, the Company contends, so as to keep the total level of technicians in the office at a reasonable level. (McLeodUSA/TDS Br. at 5). As of February, 2002, AI notes, CLECs had 858 physical and 201 virtual collocation arrangements in 150 Ameritech Illinois wire centers. (Am. Ill. Ex. 14.0.Sch. DOH-2 at 15).

Collocation Pricing

245. AI observes Staff to contend that Ameritech Illinois "just barely" offers collocation at TELRIC-compliant rates. Staff Br. at 90. Staff bases its position on the fact that the Company filed updated cost studies, but not revised tariffs, in compliance with the Commission's Order in Docket 99-0615. According to Staff, Ameritech Illinois "ought to have filed a tariff based on the new costs." Id. at 91.

246. AI views Staff's position to be untenable. According to AI, the Commission's order was very specific on when and how new rates would be developed, to wit:

> . . . While Ameritech notes that this Commission will have a further opportunity to review Ameritech's collocation costs, we find that future compliance is not an acceptable answer. While we realize they are not perfect, we will adopt Staff's recommended rates. *Upon conclusion of the general investigation into the costing methodology used to price collocation services, Ameritech will be instructed to file tariffs with prices based on the costs approved therein*.
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> * * *
>
> (10) . . . Ameritech shall file new cost studies based on an efficient, forward-looking environment consistent with our conclusions herein within 60 days of the effective date of this Order. In the interim, we adopt Staff's recommendations; Ameritech's prices, as adjusted by Staff are accepted as interim rates until the outcome of the upcoming docket examining the entirety of rates to be charged for collocation. Order at 23, 27, Docket 99-0615, (Aug. 15, 200) (emphasis added).

247. Ameritech Illinois asserts that it has complied *fully* with the Order in Docket 99-0615, by filing the updated cost studies. (Am. Ill. Ex. 10.1 at 9). According to the language of the Order, AI contends, the Commission clearly contemplated that *it* would initiate the investigation into these studies and would set permanent rates *after* the investigation was complete. For reasons unknown, Ameritech Illinois contends, this investigation was never initiated. Given these circumstances, however, it is wrong to try to shift the onus to Ameritech Illinois.

248. AI also observes Staff to complain that the rates set out in the GIA are different from those in the tariff. (Staff Br. at 92-93). These rates, AI contends, were developed to offer CLECs 13-state collocation arrangements and expanded capabilities, and they are strictly optional. According to AI, any CLEC may take collocation under tariff at the rates approved by the Commission. And, there is no legal basis for requiring inclusion of the tariffed rates in the GIA. (See Am. Ill. Br. at 190-193). Finally, AI sees Staff to contend that the changes made to the Company's website that provide a hotlink between the GIA and its tariffs is an "improvement," but is still not good enough. (Staff Br. at 94). Staff's assertion, AI notes, is not based on testimony or on its cross-examination of Mr. Alexander. Indeed, he was not questioned at all on this issue. As such, AI contends, Staff's opinion is extra-record, improper and should not be relied upon for any findings in this Phase I order.

Interconnection Agreement Negotiations

249. Noting that the Ameritech Illinois/McLeodUSA interconnection agreement negotiations did not go as smoothly as it could have, AI nevertheless maintains that the surrounding facts do not support either the argument that Ameritech Illinois violated its duty to negotiate in good faith or the more expansive allegation that Ameritech Illinois violates that duty, or Checklist Item 1, with respect to every CLEC. See McLeodUSA Br. at 9.

250. At the outset, AI believes it necessary to maintain a sense of perspective. The Ameritech Illinois/McLeodUSA interconnection agreement, it notes, is a complex document that is approximately 1,000 pages in length. (Am. Ill. Ex. 12.1 at 6). In these matters, parties are bound to have some disagreements about some points. And, while McLeodUSA listed 85 issues in its petition for arbitration,AI contends that the parties resolved 70 of the issues prior to the hearing. (Id. at 3). Further, AI asserts, McLeodUSA agreed to two extensions of the statutory negotiation period, so it cannot claim the process was improperly delayed. (Id. at 2). In the final analysis, the remaining disagreements were arbitrated, the arbitration results were incorporated into the agreement, and the agreement was filed for approval with the Commission. In short, McLeodUSA got an interconnection agreement using the very process established by the Act for reaching such agreements.

251. Further, AI views McLeodUSA's characterization of the negotiation events to be incorrect. Noting McLeodUSA complaints that the lead negotiator was not familiar with the existing resale agreement, AI observes that the resale agreement was ultimately concluded to McLeodUSA's satisfaction. (Am. Ill. Ex. 12.1 at 3). So too,

McLeodUSA complains that it did not need a new hosting appendix, yet it ultimately agreed to one and included same in the interconnection agreement. (Am. Ill. Ex. 12.1 at 4). Whereas McLeodUSA complains that a working draft of the agreement had over 100 errors, it ultimately concedes that most of these discrepancies were not material, and all were corrected to McLeodUSA's satisfaction (Tr. 682). Finally, McLeodUSA contends that the Ameritech Illinois negotiators had little authority to deviate from the SBC template agreement, but this observation, AI contends, does not bear on the issue of good faith. AI witness Thompson explained that while Ameritech Illinois' negotiators do have authority to make binding representations and decisions throughout the negotiation process, they are not free to unilaterally create new provisions for interconnection agreements. (Am. Ill. Ex. 12.0 at 4). This is as it should be, AI maintains, given that multi-state "MFN" obligations require Ameritech Illinois to coordinate its position with affiliates.

252. In any event, Ameritech Illinois asserts, it has implemented significant changes in the negotiation process. As such, Ameritech Illinois negotiators now do more preliminary analysis before the negotiation begins so that they can better understand both the existing agreements of the CLEC and the specific issues of importance to the CLEC. (Am. Ill. Ex. 12.0 at 3). Ameritech Illinois negotiators also do more detailed project management planning so that internal SBC workgroups (*e.g.*, Regulatory, Contract Management, etc.) can better coordinate their activities. (Id). And, individual negotiators also receive training in order to increase their overall effectiveness. (Tr. 680-81).

b. Staff Reply Position

253. Staff observes Ameritech to contend that while there is no requirement under Section 271 to accept transiting traffic, it nevertheless "does, in fact, accept such traffic". (Ameritech IB at 22). Staff views both of these assertions to be incorrect.

254. In Staff's view, Ameritech's attempt to artificially limit its duty to provide interconnection for telephone exchange service or exchange access to those instances where such services are provided directly by the interconnecting carrier to an end user, is not supported by the language of Section 252(c)(2). According to Staff, Section 252(c)(2)(A) only requires that the interconnection be used "for the transmission and routing of telephone exchange service and exchange access", and it is not disputed that the transiting services at issue are being used for such services.

255. Staff considers Ameritech's assertion that it accepts transiting traffic and thereby complies with an obligation that it disputes, as equally unpersuasive. own showing, Staff maintains, it has demonstrated that Ameritech has blocked at least one CLEC from incorporating "terms" for transiting in its interconnection agreement. (Id. at 57 – 58).

Single Point of Interconnection

256. Subsequent to the filing of initial briefs, Staff and Ameritech entered into a Stipulation to Eliminate Issues ("Stipulation") filed with the Commission via e-docket on August 23, 2002 and entered into the record as AI/Staff Joint Stipulation No. 2. The Stipulation provides that certain issues raised by Staff and Ameritech have been addressed adequately in Docket 01-0614 and in the 01-0614 Compliance Tariff (as defined in the Stipulation) (the "01-0614 Stipulation Issues") and, except as specifically provided in the Stipulation, need not be addressed again in this docket.

257. According to Staff, the terms and conditions under which Ameritech Illinois offers a single point of interconnection or "SPOI" (the "SPOI Issue") is one of the 01-0614 Stipulation Issues. The Stipulation reserves Staff's right to address the SPOI issue if it is raised by other parties to this proceeding, and to raise the issue of Ameritech Illinois' compliance with the 01-0614 Compliance Tariff in Phase II of this proceeding.

258. Staff takes no position on SPOI Issues raised by other parties to this docket based on the evidence adduced and arguments contained in the initial briefs.

Collocation Provisions of Section 13-801 of the PUA

259. Subsequent to the filing of initial briefs, Staff reviewed Ameritech's compliance tariff on collocation in Docket 01-0614 and found it adequate. Stipulation at 2. The Stipulation reserves Staff's right to address the collocation issues resolved in Docket 01-0614 if any are raised by other parties to this proceeding, and to raise the issue of Ameritech Illinois' compliance with the Section 13-801 Order Compliance Tariff in Phase II of this proceeding.

260. In accordance with and subject to the terms and conditions of the Stipulation, Staff's current position is that the issues Staff raised with respect to these issues have been addressed adequately in the *Order* for Docket 01-0614 and in the Compliance Tariff, and need not be addressed again in this docket except as provided in the Stipulation. Staff takes no position on collocation issues raised by other parties to this docket based on the evidence adduced and arguments contained in the initial briefs.

261. Staff's current position with respect to these issues is that Ameritech should comply with its tariff under the Docket 01-0614 *Order* and that such compliance should be monitored and confirmed during Phase, II of this proceeding.

c. AT&T Reply Position

Point of Interconnection Policy

262. AT&T believes Ameritech to acknowledge that AT&T has a statutory right to select the POI, subject only to technical feasibility. (See Ameritech Initial Br. at 18).

This means, for example, that AT&T may establish the POI at its own switch. Ameritech maintains, however, that each party should bear the costs of transport of traffic it originates to the other party's end office switching. The requirement that AT&T bear financial responsibility for establishing transport to each Ameritech end office switch is indistinguishable, AT&T contends, from requiring AT&T to establish multiple POIs at each Ameritech switch. As such, it asserts, Ameritech has effectively deprived AT&T of its statutory right to select the POI. See Virginia Arbitration Order ¶53 (finding that only contract language in which "each party would bear the cost of delivering its originating traffic to the point of interconnection designated by the competitive LEC" is consistent with the statutory right to interconnect at any technically feasible point).

"Direct End Office Trunking" Policy

263. According to AT&T, however, it should not be required to establish a point of interconnection for its traffic at an Ameritech end office when the traffic to that end office reaches an arbitrary threshold (i.e., one DS1) established by Ameritech.

264. The FCC, AT&T contends, has stated that in order for an incumbent LEC to justify refusal to provide interconnection or access at a point requested by another carrier, it ". . . must prove to the state commission, with clear and convincing evidence, that specific and significant adverse impacts would result from the requested interconnection or access." Local Competition Order at para. 203. According to AT&T, Ameritech made no such showing of a "significant adverse impact" in this proceeding. As such, Ameritech's proposal requiring AT&T to forfeit its right to interconnect at any technically feasible point on Ameritech's network if the traffic volume reaches "1 DS1's worth of traffic" is an arbitrary, if not extreme, solution for a single spike in traffic volume. In AT&T's view, a temporary spike in traffic volume that later falls under the DS-1 threshold does not rise to the standard set by the FCC of a "significant adverse impact" to Ameritech's network.

"Transit Traffic" Policy

265. Ameritech is required, AT&T contends, pursuant to §251(c)(2)(A) of the Act, to interconnect with carriers for transit and routing of telephone exchange service and exchange access. The statute does not limit this duty solely to traffic between AT&T and Ameritech. Moreover, the imposition of a capacity restriction (i.e., one DS1) also violates Ameritech's obligation to interconnect under the Act because it takes away AT&T's right, pursuant to §251(a)(1) of the Act, to interconnect indirectly with the facilities and equipment of other carriers. In addition, AT&T contends, Ameritech ignores the Commission's order requiring it to tariff and provide transiting without the DS1 restriction Ameritech now desires to impose. See Order, Dockets 96-0486/0569, (February 17, 1998). Finally, and again, the imposition of a capacity restriction also violates Ameritech's §251(c)(2)(B) obligations to provide interconnection at any technically feasible point.

Opting Into Interconnection Agreements

266. Staff is correct, AT&T observes, in asserting that Ameritech refuses to allow CLECs to opt in to provisions of existing Ameritech/CLEC interconnection agreements, even those that are unrelated to reciprocal compensation. (Staff Initial Br. at 111-113). For example, Ameritech indicated in WorldCom Record Data Request 15 that a CLEC could not opt in to the provision in the recently approved Ameritech/McLeod interconnection agreement. This is directly contrary to AI witness Alexander's testimony on cross-examination that "all provisions from an existing agreement would be eligible for 252(i) with the exception of reciprocal compensation provisions that are legitimately related to reciprocal compensation." (Tr. 1522). Ameritech's policy is at odds with the sworn testimony of one of its main witnesses in this proceeding AT&T asserts.

Access To The Connecting Facility Arrangement (CFA)

267. According to AT&T, Ameritech does not dispute its obligations to provide non-discriminatory access to collocation, but asserts that its obligation does not extend to access to the CFA. Indeed, Ameritech's current policies do not permit CLECs reasonable access to perform necessary maintenance related to the CLEC's collocation. Instead of responding to the evidence of CFA problems provided by the CLECs (including AT&T, RCN, and McLeodUSA/TDS), Ameritech raises unsubstantiated "security claims" to support its failure to comply with its collocation obligations.

268. AT&T suggests that the CLECs presented compelling evidence that direct access to the CFA is required to perform necessary maintenance functions, to test their lines, to verify dial tone and perform other functions. Ameritech responds to the CLEC evidence by suggesting that its policies and practices are necessitated by "security" concerns. (Ameritech Initial Br. at 27). With no evidence of actual security problems on record, AT&T considers Ameritech security concerns to be speculative. According to AT&T, Ameritech's current refusal to permit CLEC access to the CFA stands in stark contrast to its previous practice with CLECs to make the point of demarcation a common point accessible by both parties to test and isolate problems in each direction to determine a course of action for the necessary repair. Ameritech does not dispute that CLECs had previously been permitted access to perform such maintenance. (Tr. 1411-1412).

269. According to AT&T, Ameritech acknowledges that it will permit a third party vendor access to the CFA *without* an escort. (Tr. 1418-19) Yet, Ameritech is unwilling to permit a CLEC the same access to the CFA *with* an Ameritech escort. There is simply no basis for concluding that there is a greater security risk when a CLEC accesses the CFA escorted by Ameritech personnel than when a third party vendor accesses the CFA without an escort.

270. In sum, AT&T's experience, indeed one that is shared by other CLECs, has been that DSLAM to CFA testing is the key to resolving a majority of the CFA-

related problems. Without the ability to conduct such tests, it is difficult if not impossible to determine the root cause of a CFA problem, even though the problem may prove to be something unrelated to the wiring.

Collocation Of Any Type Of Equipment

271. AT&T sees Ameritech to contend that it complies with all federal collocation requirements because it "makes available to CLECs collocation of telecommunications equipment *necessary* for interconnection and access to unbundled network elements." (Ameritech Initial Br. at 23) (emphasis supplied). According to AT&T, however, one of the requirements imposed by Section 13-801(c) of the Illinois PUA it that Ameritech allow CLECs to physically or virtually collocate *any type* of equipment for interconnection or access to network elements. Order, at 18-19, Docket 01-0614, (June 11, 2002).

272. According to AT&T, the tariff Ameritech filed in "compliance" with the Commission's Order in Docket 01-0614 is unclear regarding whether Ameritech is in compliance with this requirement. AT&T is much less reluctant than Staff to interpret this language in the light most favorable to Ameritech.

273. For example, AT&T notes, the relevant collocation provision in Ameritech's July 11, 2002 compliance tariff states as follows:

Types of Equipment

> Requesting Carrier may physically or virtually collocate any type of equipment for interconnection with the Company as required by 47USC§251(c)(2) or access to the Company's unbundled network elements as required by 47USC§251(c)(3) and the rules and regulations of the Federal Communications Commission, the IL PUA and the rules and regulations of the Illinois Commerce Commission. ILL. C.C. NO. 20, Part 23, Section 4, 5th Revised Sheet No. 1.2.

274. AT&T contends that the Order in Docket 01-0614 requires Ameritech to collocate not just equipment "necessary" for access to UNEs and interconnection (as required by the FCC's rules), but to collocate any type of equipment for access to UNEs and interconnection. If the federal law reference as set out above, is an attempt to limit the type of equipment a CLEC can collocate to only that "necessary" for interconnection or access to UNEs, Ameritech's tariff fails to comply with Section 13-801 of the Illinois PUA, and the Commission's Order.

Adjacent Collocation As A Standard Offering

275. AT&T disagrees with Ameritech's position that "adjacent collocation is not subject to standard provisioning intervals." (Ameritech Initial Br. at 29). It is indeed,

AT&T asserts, and Ameritech is required to provide it in order to comply with checklist item (i). This Commission has already ordered Ameritech to tariff adjacent collocation as a standard offering just as its affiliate, SWBT, has done in Texas, *including standard provisioning intervals.* In its Order for Docket 99-0615 the Commission ordered Ameritech to provide adjacent collocation as a standard offering, including standard intervals, expressly to cure the very CLEC uncertainty regarding timing and resources about which McLeodUSA now complains. Specifically, the Commission concluded that federal law requires Ameritech to provide adjacent collocation at standard intervals:

> As to requiring Ameritech to tariff adjacent on-site collocation as a standard physical collocation offering, ***we again defer – as we must – to the FCC's rebuttable presumption that unless Ameritech demonstrates why it is not technically feasible to offer it on a standardized basis as SWBT does, Ameritech must offer it here***. The uncontroverted evidence is that SWBT tariffed adjacent collocation as a standard offering. Ameritech has put forth no credible record evidence to convince us that it is not technically feasible to offer adjacent on-site collocation as a standard physical collocation offering in Illinois. While Ameritech argues that too many factors vary from CLEC to CLEC to allow it to standardize the offering, that did not impede SWBT's ***ability to tariff standard terms, conditions, intervals and prices***, both recurring and nonrecurring.
>
> We are also concerned that unless Ameritech is required to offer adjacent collocation on a standard basis, CLECs will lack any certainly as to how much time or resources it will take to implement an adjacent collocation arrangement. As the CLECs and Staff pointed out, the Non-Standard Collocation Request (NSCR) process that Ameritech proposes the CLECs use for adjacent collocation, interjects significant cost and delay into processing CLECs' collocation requests. Moreover, if the CLEC must ultimately resort to our complaint process, its collocation request could be "on hold" for a year or more. This is not the type of competitive "entry" we will condone here in Illinois. ***In addition, requiring Ameritech to provide adjacent on-site collocation as a standard offering will help eliminate the risk of discrimination since all CLECs will be paying the same amount of money and are subject to the same intervals, terms and conditions***. Order at 11-12, Docket 99-0615, (August 15, 2000). (emphasis supplied).

276. In sum, AT&T contends, this Commission has determined that Ameritech is required to provide adjacent collocation as a standard offering as a matter of federal law and that such a requirement is necessary to eliminate the risk of discrimination.

AT&T sees Ameritech to admit that it does not. As such, Ameritech fails to comply with the requirements of Checklist Item 1.

Interim Collocation Rates

277. While interim rates may be acceptable on a case-by-case basis, AT&T argues, they are not *always* acceptable. For those situations in Illinois where interim rates exist, the FCC's assessment of reasonableness and other criteria cannot be predicted with certainty, AT&T contends, and Ameritech Illinois has not shown that the rates in question meet the FCC's criteria.

278. Despite the fact that these rates were affirmed on appeal and have been in effect for more than two years, Ameritech has failed to demonstrate (consistent with the FCC's view on the use of interim rates) that its interim collocation rates are reasonable. According to AT&T, the Commission adopted the Staff's rates as interim rates, but these did not result from any independent cost studies proposed by Staff. Ameritech's proposed rates by a factor of 50% across the board hardly results in a "reasonable" rate sufficient to satisfy Section 252(d)'s pricing requirements or the FCC's interim rate criteria. For the Commission to ultimately determine that these collocation rates are TELRIC-based would be a remarkable coincidence. Consequently, AT&T disagrees with Staff that Ameritech's interim rates are in technical compliance with Section 251. (Staff Initial Br. at 92).

279. In addition, AT&T asserts, there is no provision or requirement in place to true up these interim collocation rates, as the FCC's criteria require.

d. The AG Reply Position

Single Point of Interconnection

280. In its June 11, 2002 Order, the AG notes, the Commission found that AI's charges for transporting traffic to a single point of interconnection ("SPOI") violated existing federal law and were contrary to the Commission's conclusion in a prior arbitration (Docket 00-0332). Order at 105, Docket 01-0614 (June 11, 2002). This Commission concluded that AI's practices violated its interconnection obligations, which implicate checklist item (i). To find this checklist item satisfied, the AG asserts, AI must demonstrate compliance with the Docket 01-0614 Order. In its Initial Brief, AI stated that it will comply with that order, but reserves "all rights to challenge that decision." (AI Initial Brief at 21).

281. The AG sees AI to rely on the Pennsylvania 271 Order and the Georgia & Louisiana 271 Order as authority for its position that the FCC will not address this issue in a 271 context. In both of those orders, the AG observes, the state commissions did not address the issue, leaving it solely a matter of federal law. In the Georgia & Louisiana 271 Order, CLECs did not refer to state authority. Georgia & Louisiana 271 Order at ¶¶ 201-208 (May 15, 2002). The FCC found it significant that BellSouth had "rescinded its policy that gave rise to these parties' complaint." Id. In the Pennsylvania

271 Order, the FCC noted that the state commission found that Verizon satisfied checklist item (i), and that its "policies do not represent a violation of our existing rules." Pennsylvania 271 Order at para. 99, 100 (Sept. 19, 2001). Again, state law was not raised by any party.

282. By contrast, the AG asserts, this Commission has directly addressed the issues associated with a single point of interconnection in Docket 01-0614. Order at 105 (June 11, 2002). Assuming AI complies with that order, and continues to comply despite any pending legal challenges, the FCC will be in the same position it was in in the Georgian & Louisiana 271 and Pennsylvania 271 Orders, i.e., with no need to address the issue.

e. McLeodUSA and TDS Reply Position

Reasonable Access to Collocation (CFA)

283. McLeodUSA/TDS Metrocom witness Mr. Cox explained that Ameritech is not permitting McLeodUSA and TDS Metrocom access to the back of the DMARC, which has been identified as the Connecting Facility Assignment ("CFA") for purposes of performing maintenance or troubleshooting on its collocation space. Previously, it was the practice between McLeodUSA and TDS Metrocom and Ameritech that the point of demarcation was a common point accessible by both parties to test and isolate in each direction to determine a course of action for the necessary repair. (MTSI-TDS Joint Ex. 1.0, at 16-17)

284. On grounds of "security" concerns, McLeod/TDS notes, Ameritech to argue that its obligation to provide interconnection does not require it to permit CLECs to access to the CFA. This concern for security the CLECs asserts, is belied by its acknowledgement that it permits third party vendors access to the CFA. Indeed, Ameritech acknowledged that it will permit a third party vendor access to the CFA without an escort, but it is unwilling to permit a CLEC access to the CFA *with* an Ameritech escort. (Tr. 1418-19)

285. Ameritech should certainly trust its own employees to adequately monitor the activities of a CLEC technician. So too, McLeod/TDS argues, Ameritech has not cited one instance where a CLEC technician has caused security problems when accessing the CFA. Although it would be reasonable for Ameritech to claim that it needs to maintain a certification or credentialing procedure for third parties to access the CFA (or other areas of its central offices), Ameritech has given no reason why CLEC employees, just like third-party vendor employees, cannot be certified and credentialed through such a process.

286. According to McLeod/TDS, Ameritech does not dispute that its own past practice permitted CLECs access to perform such maintenance at the CFA. (Tr. 1411-1412). Again, had there been problems under that policy that justified a true security

concern, one would reasonably have expected Ameritech to provide proof to the Commission. It has completely failed to do so.

Good Faith Negotiation of Interconnection Agreements

287. McLeodUSA and TDS Metrocom outlined the evidence supplied by its witnesses that shows Ameritech to violate its obligation to negotiate interconnection agreements ("ICA") in good faith. (McLeodUSA/TDS In. Br. at 6-9). McLeodUSA's experience in its ICA negotiations with Ameritech manifests that Ameritech does not have in place processes and procedures that enable it to negotiate ICAs with CLECs in good faith.

f. WorldCom Reply Position

Opt-In Concerns

288. Federal law, WorldCom observes, mandates that a carrier may demand an ILEC make available to it "any individual interconnection, service, or network element arrangement" on the same terms and conditions the ILEC has made it available to anyone else in an agreement approved under Section 252 of the 1996 Act. See 47 U.S.C. Section 252(i); 47 C.F.R. Section 51.809; First Report and Order, paras., 1309-1310. In AT&T v. Iowa Utilities Board v. FCC, 525 U.S. 366 (1999), WorldCom notes, the United States Supreme Court upheld the FCC's so-called pick and choose rule over the objections of the ILECs.

289. WorldCom believes it obvious from the instant record that Ameritech takes an extremely narrow view of what the rule allows. On cross-examination, it argues, Ameritech witness Alexander was unable to answer the simple, straight-forward question of whether Ameritech would allow CLECs to opt-in to a single paragraph of the interconnection agreement between Ameritech Illinois and McLeodUSA Telecommunications Services, Inc. (Tr. 1546-1578). Consequently, Ameritech was asked to answer an on-the-record data request as to whether Ameritech Illinois would allow CLECs to opt-in to Section 5.7.2 of the General Terms and Conditions from the McLeodUSA-Ameritech Illinois interconnection agreement without any reasonably related terms and conditions being attached to it. According to WorldCom, Ameritech's response to this request was marked, entered into the record and states as follows:

> Pursuant to Section 252(i) of the Act and FCC Rule 51.809, SBC Ameritech will make available to any requesting telecommunications carrier any individual "***interconnection, service, or network element arrangement"*** contained in any agreement to which it is a party that is approved by a state commission pursuant to Section 252 of the Act, upon the same rates, terms and conditions as those provided in the Agreement. In adopting an individual interconnection, service or network element arrangement from an existing Agreement that is available for adoption, the FCC and

> United States Supreme Court have found that an incumbent LEC can require that the requesting carrier accept all terms that are "legitimately related" to the desired term. (*See* the FCC's First Report and Order, Paragraph 1315 and *AT&T Corp. v. Iowa Utilities Bd.,* 525 U.S. 366 (1999) (and on remand, *Iowa Utilities Board v. FCC,* 219 F.3d 744 (8th Cir. 2000).
>
> The General Terms and Conditions (GTCs) of an agreement do not constitute an individual "interconnection, service or network element arrangement" that is available for adoption under Section 252(i) of the Act. Rather, the GTCs of an Agreement typically contain provisions which are legitimately related to the actual individual interconnection, network element and service arrangements contained in an agreement that are available for adoption under Section 252(i) of the Act and are not, in and of themselves, individual arrangements that are available for adoption. For example, should a CLEC wish to adopt the UNE provisions of an Agreement, certain GTCs are legitimately related to the desired UNE provisions e.g., the Term, the Notice Provisions, Indemnity, Limitation of Liability and any other GTCs legitimately related to the desired UNE provisions. The provision which is the subject of WorldCom's inquiry is an isolated provision contained in the GTCs of the McLeod Agreement and is not an individual "interconnection, service, or network element arrangement" that is available for adoption pursuant to Section 252(i) of the Act. (WorldCom Late-Filed Ex. 3).

290. Ameritech witness Alexander's testimony and its response to the above-referenced data request make clear to WorldCom that the CLECs do not have the ability to make informed choices between Ameritech's tariffs and contract plans. It is unclear, WorldCom argues, where within the many tariffs or more than 150 interconnection agreements that Ameritech may be relying upon to demonstrate compliance with Section 271 requirements. To the extent that such terms and conditions in its arguments comply with Section 271, Ameritech has not, WorldCom contends, made them available, which is at odds with the requirements of Section 271 of Act

6. Staff's Proposed Remedial Actions for Checklist Compliance

1 The Commission should require Ameritech to permit carriers to opt-into, without the need for negotiation or arbitration, reciprocal compensation rates, terms, and conditions, and, therefore, into entire interconnection agreements, particularly when such agreements contain rates, terms, and

conditions that this Commission and the FCC require Ameritech to provide.

2 The FCC the Commission should require Ameritech to make it known that it does not plan to elect the FCC's reciprocal compensation rate caps or make an immediate election of the FCC's rate caps. Alternatively, the Commission should rule that Ameritech's decision to not offer to exchange all traffic subject to Section 251(b)(5) at the same ISP-bound traffic rates set by the FCC for more than a year following the FCC's ISP-Bound Compensation Order amounts to an election and precludes Ameritech from picking and choosing a different pricing scheme at this time.

3 The Commission should require Ameritech to permit interconnecting carriers to transit third party traffic flowing between Ameritech and the third party carrier.

4 The Commission should find that the rates, terms, and conditions, (related to Ameritech's point of interconnection ("POI") arrangement offerings), contained in the compliance tariff the Commission ordered Ameritech to file in Docket 01-0614 adequately address Staff's concerns regarding this issue.

5 AI's general interconnection agreement (GIA) should be amended to reflect its tariffed collocation rates.

6 AI should update its All Equipment List (AEL) either quarterly or as soon as new equipment is added as mandated by the Commission's Order in Docket 99-0615.

7 AI should provide power cable installation to CLECs in a virtual collocation arrangement. Also, if AI intends to change its policy contrary to what is in its tariff, it should file a change of tariff advising the Commission of its intention. This will allow the Commission to investigate and consider such a proposal.

8 In accordance with, and subject to, the terms and conditions of the Stipulation, the issues Staff raised pertaining to Section 13-801(c) (collocation issues regarding cross-connections and allowable equipment) have been addressed adequately in Docket 01-0614 and in the 01-0614 Compliance Tariff, and need not be addressed again in this Docket except as provided in the Stipulation.

Staff takes no position on collocation issues raised by other parties to this docket based on the evidence adduced and arguments contained in the initial briefs. Staff recommends that, with respect to these issues, the Commission should direct AI to comply with its 01-0614 Compliance Tariff and the Order in Docket 01-0614, and direct that such compliance be monitored and confirmed during Phase II of this proceeding.

7. Commission Review and Conclusion – Phase I.

291. This Commission needs to examine a variety of issues in order to assess Checklist Item 1 compliance.

Access to the MDF/CFAs

292. The record indicates that access to MDF is a matter of great concern to certain of the CLECs and they maintain that such access has only recently been curtailed. This Commission looks at this issue on two levels: (1) is the request founded on a matter of law or convenience; and (2) is there a reason for the Company's refusal of access or is it arbitrary and capricious.

293. Apparently, in times prior to September 11, 2001, Ameritech's employees were lax in enforcing the Company's security policy and would occasionally allow CLEC's access to the MDF with an escort. This did not, in our view, constitute a waiver such as would preclude AI from now reasserting its policy. Presumably, AI like many other companies, has reassessed and strengthened its security measures in recent times.

294. Most important to our decision, however, is that the FCC has not required BOCs to provide access to the MDF. Indeed, AI points out that, in the Texas 271 Order, the FCC found SWBT's collocation tariff to satisfy the checklist even though said tariff expressly prohibited CLEC access to the MDF (AI Reply Brief on Exceptions). As such, there is no compliance issue at stake.

Transiting

295. There is no Section 271 requirement, AI claims, for a BOC to accept local traffic from an interconnected CLEC when such CLEC is delivering local traffic that had originated on some third party network. In reality, however, AI admits that it accepts such traffic given that there is no way to distinguish it from direct traffic. According to Staff, however, Ameritech should affirmatively take on this task by inputting language into its agreements.

296. At the outset, Staff's attempt to rely on the general interconnection language of Section 251 (a)(1) is unavailing in our view, if for no other reason that the FCC states that the transport and termination of traffic is excluded from the definition of interconnection. See. New Jersey 271 Order, Appendix C. Further, we note that, the entire evidentiary basis to support Staff's claim is that Verizon was unable to include transiting in its agreement. Yet, as AI informs, and Staff neither mentions nor disputes, this Commission in Docket 01-0007, declined to put the Company to this requirement where the requesting carrier did not ask the authorization to transit and had no concrete plans to transit. Order, Docket 01-0007 (May 1, 2002). As such, Staff's basis is no basis at all.

State Collocation Requirements

297. According to Staff, it would only recommend that AI compy with Compliance Tariff for Docket 01-0614 and that its compliance be monitored and confined in Phase II. Staff points out that the issues it raised with respect to State collocation requirements have been addressed in Docket 01-0614 and settled in the Compliance Tariff for that docket. Staff's representations are reasonable and its recommendations are convincing.

Adjacent Collocation

298. For the first time, and in this proceeding alone, it is being argued that SBC is non-compliant with our Docket 99-0615 order because it lacks any provision regarding "installation intervals" for adjacent collocation. To be sure, more than two years have passed since SBC-Illinois amended its collocation tariff to comply with our Order in Docket 99-0615. At no time in this period has this Commission been notified of any problem with said tariff relative to a provisioning interval.

299. In Staff's view, the Commission intended for AI to tariff provisioning intervals because it used the term at several points in its Order. This may be true but it does not go to the heart of the matter. If, as indicated, we simply directed AI to provide adjacent on-site collocation solely "as SWBT does in Texas", and the SWBT collocation tariff did not provide any installation intervals for adjacent collocation, AI cannot be deemed non-compliant. The Commission's intent cannot be carried forward when it is not reasonably and well articulated or based on record evidence.

300. AI informs that the FCC does not require a standard provisioning interval for adjacent collocation. The matter at hand thus does not impinge on our Section 271 review.

General Opt In Restriction

301. WorldCom and AT&T make much of a single opt-in data request put to Ameritech at the hearing and in the abstract, i.e., outside of a real-life negotiation. Neither party analyzes or discusses the matters set out in Ameritech's written response. They would, however, have this Commission infer that on the basis of this isolated and abstract instance, the Company denies CLECs important opt-in rights. The evidence does not support the intended conclusion.

302. Staff's opt-in arguments and recommendations are being moved and will be addressed under Checklist Item 13.

POI

303. This Commission's Order in Docket 01-0614 directs AI to provide CLECs with the option of electing as little as one POI per LATA (for the purpose of exchanging

local traffic) and permits CLECs to elect a compensation scheme where each carrier is responsible for transport costs on its own side of the POI.

304. According to Staff, AI has dutifully tariffed this option and currently has tariffed POI rates, terms and conditions consistent with Staff's recommendations. Under the circumstances, we fail to see how AT&T's arguments with respect to the POI are not also addressed by the Compliance tariff under our Order in Docket 01-0614. Presumably AT&T would have, or should have, raised its arguments in that proceeding. Our intent here is to assess compliance and not to relitigate settled matters.

Direct End Office Trunking

305. AT&T complains of Ameritech Illinois' failure to show, in this very proceeding, that its one DSI-1 standard is not arbitrary.

306. In the arbitration action between itself and Verizon (Docket 01-0007), SBC provided the requested showing which justifies the DS1 threshold to be used when exchanging traffic between the two companies. . AT&T apparently would have us adjudicate the matter anew here, rather than assess compliance. This we will not do. Since the DS1 threshold was established in an arbitration case between SBC Illinois and Verizon only, we view this issue as requiring fact-specific findings that are likely to vary depending on the companies involved. For purposes of this proceeding, however, we find SBC in compliance with the Direct End Office Trunking requirements.

Negotiation Process

307. McLeod's singular negotiation experience is not enough to indict Ameritech on a failure of good faith action. This is especially the case where the Company has taken steps to implement improvements at its end.

308. Improved training and preparation serves no purpose, McLeod argues in its exceptions, unless the negotiator is also given independent authority to actually negotiate a compromise on substantive issues. According to McLeod, its main concern is that SBC-Illinois' negotiators lack such authority.

309. SBC-Illinois maintains that its negotiators do have the authority to make binding representations and decisions during the negotiation process. The myriad of complex issues generally at stake in a negotiation, however, compels the negotiator to seek out the assistance of subject matter experts. Such consultations, AI claims, are reasonable and in line with good business practice. According to AI, CLEC negotiators also engage in these same practices.

310. The Commission remains convinced that training and proper activity coordination should and will make a difference in expediting the negotiation process. As such, we expect SBC-Illinois to continuously maintain and update the training of its negotiating staff.

Collocation Rates

311. Ameritech maintains that its tariffed collocation rates were investigated in Docket 99-0615 and further affirmed by the Appellate Court on appeal. Having been in effect for more than 2 years with no further action, the Company considers these to be de facto permanent rates. Staff agrees that AI's rates are compliant with Section 251, but suggests that the rates are interim. It well observes, however, that interim rates do not preclude a finding of Checklist Item 1 compliance. In AT&T's view, the rates at hand have not been shown to be reasonable despite the circumstances outlined by Ameritech and the tariffs lack a true-up provision that the FCC's interim standard requires.

312. Ameritech makes some valid points directed to the permanency of its collocation rates. It further supports, with authority, the proposition that SBC Illinois' collocation rates are not "interim" in the sense intended by the FCC, because they are not unreviewed rates that were allowed to go into effect pending the resolution of a rate controversy. (AI Br. on Exceptions). Rather, as indicated, those rates were fully investigated and established by the Commission in Docket No. 99-0615. We would agree that whereas the Commission may, in the future, establish new collocation rates based on updated or new cost studies, this does not make SBC Illinois' current collocation rates interim or temporary for Section 271 purposes.

313. Staff refers us to the Stipulation to Eliminate Issues ("Stipulation") of record in this proceeding, which among other things, addresses the issue of collocation rates. Stipulation at 2. In accordance with, and subject to the terms and conditions of the Stipulation, Staff's current position is that the issues Staff raised with respect to this matter have been addressed adequately in both the *Section 13-801 Order* and in the *Section 13-801 Order* Compliance Tariff, and need not be addressed again in this docket except as provided in the Stipulation.

314. Staff remains of the opinion that SBC should comply with its tariff and the Section 13-801 Order (Docket 01-0614) and that such compliance should be monitored and confirmed during Phase II of this proceeding. The Commission accepts this recommendation as reasonable.

Other Matters

315. The Staff's arguments and recommendation with respect to the AEL and the GIA, will be addressed under Part IV of this Order. Ameritech compliance with the tariff in 01-0614, a concern raised by Staff, and appears to be the only concern for satisfaction of Checklist Item 1. Unless there be issues raised relevant to this matter in Phase II, we would expect to find the Checklist Item I requirements to be met. As such, our final determination will come in Phase II.

Phase II Showing.

8. Review – Phase I Compliance Matters.

a. SBC Illinois' Position.

316. SBC Illinois witness Scott Alexander explains that the Company completed 108 collocation projects between July 1, 2002 and January 24, 2003. He also explained that the Company did not reject any collocation project applications since at least June 11, 2002 on the basis of the CLEC's equipment. Mr. Alexander contends that this evidence establishes that CLECs have been able to collocate their requested equipment inside their collocation arrangements established with SBC Illinois. (SBC Ex. 3.1 (Alexander Rebuttal) ¶ 18).

b. Staff's Position.

317. Staff witness Omoniyi agrees that SBC Illinois has made the required showing. Based on the evidence presented by Mr. Alexander, together with the fact that no CLEC disputed that evidence, Mr. Omoniyi concludes that "SBC Illinois has met the requirements of the collocation tariff as mandated by the Illinois Commerce Commission's order in Docket 01-0614". (Staff Ex. 47.0 (Omoniyi Rebuttal) ¶ 5).

c. Commission Review and Conclusion

318. The Phase I Order contains a single SBC Illinois Checklist Item 1 Phase I compliance issue. To be specific, we found that SBC Illinois' compliance with the collocation requirements of Docket 01-0614 should be monitored and confirmed in Phase II. Phase I Order, ¶¶ 289, 306.

319. Based on the evidence set forth above, we find that SBC Illinois has fully satisfied the required showing and that the single Phase I compliance issue arising under checklist item 1 has been successfully met.

9. Phase II Evidence (Checklist Item 1).

a. SBC Illinois' Position

Interconnection Trunking

320. SBC Illinois states that it passed each of the ten performance measurements that address the operating quality of existing interconnection trunks (in terms of the percentage of calls blocked) and the timely provisioning of new interconnection trunks in at least two of the three study period months. (SBC Ex. 2.0 (1/17/03 Ehr Aff.) ¶ 44 & Att. D). SBC Illinois satisfied the benchmark for the rate of call blockage in all three months of the study period, and for the period as a whole only 0.01% of the more than 315 million total calls captured by the sampling process were blocked. (Id. ¶ 45). SBC Illinois further states that it did not miss a

single due date for the 2,187 non-project orders for new installations reported during the study period, and that it met the benchmark for project orders in two of the three months. (Id. ¶ 48). Over the study period as a whole, SBC Illinois completed 96.8% of 25,608 trunk project orders within the requested due date. (Id). Further, the average installation interval for CLEC interconnection trunks (24.15 days), was about half the average interval of 48.09 days for SBC Illinois' own interoffice trunks. (Id. ¶ 49).

Collocation

321. SBC Illinois states that its performance measures address the percentage of collocation due dates missed, the average delay for missed due dates, and the percentage of collocation requests that are processed within the established timeframes. SBC Illinois states that, over the study period, it did not miss a single collocation due date, and thus there were no "delay days" to measure. (SBC Ex. 2.0 (1/17/03 Ehr Aff.) ¶ 52). SBC Illinois further states that it processed every CLEC request for cageless collocation and for new physical collocation within the established timeframes, and, for additions to existing collocation arrangements, processed 100 of the 101 requests within the established timeframes – a rate of 99.01%. (Id. ¶ 51).

The Bearing Point Test Results

322. SBC Illinois notes that BearingPoint tested SBC Illinois' collocation and network design process against 26 test criteria, and found that SBC Illinois satisfied them all. (SBC Ex. 1.0 (1/17/03 Cottrell Aff.) ¶ 52). BearingPoint found that SBC Illinois implements collocation projects through structured, documented methodologies, and that SBC Illinois has adequate procedures for estimating, documenting, and managing the design, cost, and delivery of collocation projects. (Id). Further, BearingPoint verified that CLECs have the same access to their collocation facilities as SBC Illinois has to its own facilities. (Id).

b. CLECs' Position.

323. No CLEC raised any issues in Phase II specific to checklist item 1.

c. Staff's Position.

Performance Measurement Data Analysis

324. Checklist item 1 includes both interconnection and collocation, and encompasses the following PMs: 70, 71, 73, 74, 75, 76, 77, 78, 107, 108, and 109.

Interconnection Trunking

325. PMs related to interconnection trunks – 65, 69, 70, 71, 73, 74, 75, 76, and 78. The data indicates that SBC Illinois has passed these applicable PMs. For PM 77, there was insufficient data for all sub-measures to make a determination.

326. PM 65 and PM 69 indicate that the CLECs receive high quality post provision interconnection trunk service and that interconnection maintenance and repair service from the Company is meeting parity standards.

Maintenance and Repair

327. Dr. James Zolnierek, the Manager of the Policy Department in the Telecommunications Division of the Illinois Commerce Commission, analyzed the data submitted by SBC Illinois witness Mr. Ehr as it pertains to the company's compliance with Checklist Item 1 – Interconnection. ICC Staff Ex. 32.0 at ¶¶ 1, 4. Dr. Zolnierek noted that the PMs measuring maintenance and repair performance for Interconnection Trunks are PM 65-16 (Trouble Report Rate – Interconnection Trunks), PM 65.1-16 (Trouble Report Rate Net of Installation and Repeat Reports – Interconnection Trunks), and PM 69-16 (Percent Repeat Reports – Interconnection Trunks). ICC Staff Ex. 32.0 at ¶ 44. Dr. Zolnierek testified that these PMs indicate that the CLECs receive high quality post provision interconnection trunk service and that interconnection maintenance and repair service from the Company is meeting parity standards. Id.

328. Staff recommends, based on the performance data submitted by the Company, that the Commission should find that the Company is providing interconnection trunk transport maintenance and repair service in accordance with the requirements of Section 271(c)(2)(B)(i) of the Federal Act. Id. at ¶ 45.

Interconnection Trunk Performance

329. Interconnection Trunk Performance Measurements include: PM 70(Percent trunk blockage); PM 71 (Percent local common transport trunk group blockage); PM 73 (Missed due dates – interconnection trunks), PM 74 (Average delay days for missed due dates); PM 75 (Percent company caused missed due dates > 30 days), PM 76 (Average trunk restoration interval); PM 77 (Average trunk restoration interval for service affecting trunk groups); and PM 78 (Average interconnection trunk installation). Attachment A to the January 17, 2003 Affidavit of James D. Ehr provides a detailed breakdown of the Trunk Performance Measurements.

330. There are 32 performance sub-measures associated with interconnection trunks. The data provided by SBC (James D. Ehr Affidavit of January 17, 2003, Attachments A and B) indicate that the company has passed on 9 sub-measures, failed on none, and reported insufficient or no data available on 23 sub-measures. On the data provided, the Staff initially concluded that SBC Illinois provides adequate service to the CLECs for interconnection trunks. Inasmuch as no further evidence was produced with respect to this issue, in the absence of contrary evidence, Staff remains convinced that SBCI provides adequate service for the 32 performance sub-measures associated with interconnection trunks.

Collocation

331. The PMs related to collocation – 107 and 109 – indicate that SBC Illinois has passed these applicable PMs. For PM 108, there was insufficient data for all sub-measures to make a determination. ICC Staff Ex. 35.0 ¶¶ 16-21.

(PM 107)

332. Performance Measurement (PM) 107 examines the Percent of Missed Collocation Due Dates. It refers to the percentage of SBC Illinois caused missed due dates for CLEC collocation projects. The measurement has no exclusion.5

333. There are nine sub-measures within PM 107 and according to the Performance Measurement Tracking Report (DOJ) data provided by SBC Illinois for the three months under review in this proceeding, there was no activity in five sub-measures: PM 107-02, PM 107-03, PM 107-05, PM 107-06 and PM 107-07. Thus, no data is available for those five sub-measures.6

334. The SBC Illinois' Performance Measurement Tracking Report (DOJ) data, there were three Caged collocation projects between September and November 2002, PM 107-01.7 Also, there were four Cageless collocation projects between September and November 2002 for PM 107-04.8 Further, there were sixty-six Augments to Physical collocation projects between September and November 2002, PM 107-08.9 While there were two Augments to Virtual collocation projects from September to November 2002, PM 107-09.10

335. The data within the Performance Measurement Tracking Report (DOJ) data and Illinois Performance Measures – Hit or Miss Report –SBC Illinois - Checklist Item One - Interconnection for PM 107-01, PM 107-04, PM 107-08 and PM 107-09 sub-measures showed that SBC Illinois met the PM standards 1005 of the time for all three months.11 Thus, SBC Illinois meets the 95% benchmark standard. Conclusively, the overall performance result for each of the four sub-measures is a pass.

(PM 109)

336. Performance Measurement 109 examines the Percent of Requests Processed Within the Established Timelines.12 It refers to the percentage of requests for collocation facilities processed by SBC Illinois within the established timelines. The measured timelines exclude weekends and holidays. 13 PM 109 has four sub-measures.

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[5] Ameritech Tariff, Original Sheet No. 320.

[6] Attachment JDE-B, p. 286-288.

[7] Attachment JDE-B, p. 286

[8] Id.

[9] Id. at 288

[10] Id.

[11] Attachment JDE-D, p. 1

[12] Ameritech Tariff, Original Sheet No. 325.

[13] Id.

337. According to the Performance Measurement Tracking Report (DOJ) data, PM 109-01 had 2 requests/transactions14, PM 109-03 had 101 requests/transactions15, and PM 109-04 had six requests/transactions.16

> The data within the SBC Illinois' Performance Measures – Hit or Miss Report -SBC Illinois - Checklist Item One - Interconnection data, showed that all requests/transactions PM 109-01 and PM 109-04 were completed on time.17 In addition, the date related to PM 109-03 shows that 100 out of 101 requests/transactions were processed within the established timelines, a 97.92% completion.18 SBC Illinois overall performance result for each of PM 109 sub-measures was well over 90% parity benchmark. Therefore, SBC Illinois passes PM 109.

338. It is Staff's final determination that SBC Illinois' reported performance relative to checklist item 1 is satisfactory.

d. Commission Review and Conclusion.

339. Our assessment of the Phase II showings follows in two parts.

Interconnection Trunking

340. The Commission notes that no party raised any issue in Phase II with respect to SBC Illinois' provision of interconnection to CLECs. The Commission agrees with Staff that SBC Illinois' commercial performance results demonstrate that SBC Illinois satisfies the requirements of checklist item 1 with respect to interconnection.

Collocation

341. The Commission concludes that SBC Illinois satisfies the requirements of checklist item 1 with respect to collocation. No party raised any issue in Phase II regarding collocation, and the Commission finds that SBC Illinois' commercial performance results evidence that SBC Illinois provides high quality collocation services to CLECs.

342. On the entirety of the record evidence in this proceeding, the Commission finds the Company to satisfy the requirements of Checklist Item 1.

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[14] Id.

[15] Id.

[16] Id.

[17] Id.

[18] Id.

B. CHECKLIST ITEM 2 – Unbundled Network Elements

1. Description

343. Section 271 (c)(2) (B) (ii) of the Act requires that a section 271 applicant provide:

Nondiscriminatory access to network elements in accordance with the requirements of sections 251 (c)(3) and 252(d)(1). 47 U.S.C. Sec. 271 (c)(2)(B)(ii).

2. Standards for Review

344. The FCC views Checklist Item 2 in terms of three main elements, i.e., OSS, UNEs and Pricing.

Access to Operations Support Systems

345. Incumbent LECs use a variety of systems, databases, and personnel (collectively referred to as OSS) to provide service to their customers. The FCC has determined that access to OSS functions falls squarely within an incumbent LEC's duty under section 251(c)(3) to provide unbundled network elements (UNEs) under terms and conditions that are nondiscriminatory and just and reasonable, and its duty under section 251(c)(4) to offer resale services without imposing any limitations or conditions that are discriminatory or unreasonable. The FCC, therefore, examines a BOC's OSS performance to evaluate compliance with section 271(c)(2)(B)(ii) and (xiv). The most probative evidence that OSS functions are operationally ready is actual commercial usage. Absent sufficient and reliable data on commercial usage, the FCC will consider the results of carrier-to-carrier testing, independent third-party testing, and internal testing in assessing the commercial readiness of a BOC's OSS.

346. Although the FCC does not require OSS testing, a persuasive test will provides an objective means by which to evaluate a BOC's OSS readiness where there is little to no evidence of commercial usage, or may otherwise strengthen an application where the BOC's evidence of actual commercial usage is weak or is otherwise challenged.

347. To the extent the FCC reviews performance data, it looks at the totality of the circumstances and generally does not view individual performance disparities (particularly if they are isolated and slight), as dispositive of whether a BOC has satisfied its checklist obligations. Individual performance disparities may, nevertheless, result in a finding of checklist noncompliance, if the disparity is substantial or has endured for a long time, or if it is accompanied by other evidence of discriminatory

conduct or evidence that competing carriers have been denied a meaningful opportunity to compete.

UNE Combinations

348. Section 251(c)(3) requires an incumbent LEC to "provide, to any requesting telecommunications carrier . . . nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms and conditions that are just, reasonable, and nondiscriminatory." This same provision also requires incumbent LECs to provide UNEs in a manner that allows requesting carriers to combine such elements in order to provide a telecommunications service.

349. In the Ameritech Michigan Order, the FCC emphasized that the ability of requesting carriers to use UNEs, as well as combinations of UNEs, is integral to achieving Congress' objective of promoting competition in local telecommunications markets. Using combinations of UNEs provides a competitor with the incentive and ability to package and market services in ways that differ from the BOCs' existing service offerings in order to compete in the local telecommunications market. Moreover, combining the incumbent's UNEs with their own facilities encourages facilities-based competition and allows competing providers to provide a wide array of competitive choices.

350. Because the use of combinations of UNEs is an important strategy for entry into the local telecommunications market, as well as an obligation under the requirements of section 271, the FCC examines section 271 applications to determine whether competitive carriers are able to combine network elements as required by the Act and the Commission's regulations.

Pricing of Network Elements

351. Section 251(c)(3) requires incumbent LECs to provide "nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory." 47 U.S.C. Sec. 251(c)(3). Section 252(d)(1) requires that a state commission's determination of the just and reasonable rates for network elements shall be based on the cost of providing the network elements, shall be nondiscriminatory, and may include a reasonable profit.

352. Pursuant to this statutory mandate, the FCC has determined that prices for UNEs must be based on the total element long run incremental cost (TELRIC) of providing those elements. The FCC also promulgated rule 51.315(b), which prohibits incumbent LECs from separating already combined elements before providing them to competing carriers, except on request.

353. The FCC has held that it will not conduct a de novo review of a state's pricing determinations and will reject an application only if "basic TELRIC principles are violated or the state commission makes clear errors in factual findings on matters so

substantial that the end result falls outside the range that the reasonable application of TELRIC principles would produce."

354. The Supreme Court, on May 13, 2002, upheld the FCC's forward-looking pricing methodology for determining the costs of UNEs and "reverse[d] the Eighth Circuit's judgment insofar as it invalidated TELRIC as a method for setting rates under the Act." Accordingly, the Commission's pricing rules remain in effect.

355. (Adapted from New Jersey 271 Order, Appendix C, with most cities and footnotes omitted).

Recent Developments

356. In United States Telecom Association v. FCC, 290 F3d 415 (D.C. Cir. 2002), ("USTA"), the Court reviewed two FCC orders: 1) the UNE Remand Order (referred to by the court as the "Local Competition Order") and 2) the Line Sharing Order.

The UNE Remand Order

357. In the UNE Remand Order the FCC made a second attempt to define the "necessary" and "impair" standards of 47 U.S.C. Section 251(d)(2) and to identify the unbundled network elements that ILECs are required to provide. The FCC found that, with certain exceptions applicable to local switching and OS/DA, its original list of seven (7) UNEs must be made available in every geographic market and customer class, without regard to the state of competitive impairment in any specific geographic or product market. USTA at 422. The Court remanded for further proceedings, for two basic reasons.

358. First, the Court held that the FCC had not justified its general adoption of a national list of UNEs with "[u]nvarying scope." USTA at 422-26. In particular, it found that the FCC had failed to consider certain "market specific variations in competitive impairment." USTA at 422. Second, the Court held that the FCC had applied an overbroad standard in determining when impairment can be found to exist based on the "cost disparities" between leasing an element as a UNE and obtaining it from sources other than the incumbent LEC. USTA at 426-28. The Court concluded that the FCC's standard had improperly relied in part on cost differences that are "universal as between new entrants and incumbents in any industry." USTA at 427.

Line Sharing Order

359. In the Line Sharing Order, the FCC determined that the high frequency portion of the cooper loop ("HFPL") is a network element that ILECs must provide on an unbundled basis to CLECs that wish to provide digital subscriber line ("DSL") service to their end users for high speed internet access. USTA at 421.

360. The Court found the FCC's analysis deficient because the FCC "completely failed to consider the relevance of competition in broadband services coming from cable (and to a lesser extent satellite)". USTA at 428. The Court inferred from the FCC's brief that the FCC had focused solely on DSL providers because Section 251(d)(2)(B) of the Act defines UNEs in terms of services that a CLEC "seeks to offer" – and CLECs seek to offer DSL when they request line sharing. The Court rejected this position as "quite unreasonable" because the "unbundling is not an unqualified good." The Court found that the Commission must "apply some limiting standard, rationally related to the goals of the Act" and "cannot, consistent with the statute, blind itself to the availability of elements outside the incumbent's network". The Court also observed that such "naked disregard of the competitive context" would allow the FCC to inflict costs on the economy under conditions "where it had no reason to think doing so would bring on a significant enhancement of competition". USTA at 429. The Court thus vacated and remanded the Line Sharing Order and stated a future "order unbundling the high frequency portion of the loop should not be tainted by the sort of errors" that had been identified in the UNE Remand Order. USTA at 429. The Court then rejected the ILECs' claim that "a portion of the spectrum of the loop cannot qualify as a 'network element.'" USTA at 429.

361. On September 4, 2002, the Court denied Petitions for Rehearing and rehearing en banc, but granted WorldCom's motion for a partial stay of the mandate to give the FCC time to complete the on-going triennial review of its unbundling requirements. With respect to vacating the UNE Remand Order and the Line Sharing Order, the Court stated that "[t]he vacatur of the Commission's orders is hereby stayed until January 2, 2003". See USTA v. FCC, Order, Nos. 00-1012 and 00-1015 (D.C. Cir. Filed September 4, 2002).

3. The State Perspective

362. The FCC considers this checklist item to covering three main elements: access to operations support systems (OSS), UNE combinations, and UNE Pricing.

363. "Operations support systems" are the systems, including software, hardware, personnel, and databases, that support the operation and provision of telecommunications services. OSS are broken down into the following functional groupings: pre-ordering, ordering, provisioning, maintenance and repair, and billing. OSS affects the ability of all three type of competitive entrant (competitor owned facilities, unbundled network elements, and resale) to compete in the telecommunications market.

364. This Commission has recognized the importance of Ameritech's OSS systems and has addressed those systems in Dockets 95-0458, 98-0555, and 00-0592. Order Docket 98-0555, SBC Communications Inc. et al., Joint Application for Approval of the Reorganization of Illinois Bell Telephone Company d/b/a Ameritech Illinois and

the Reorganization of Ameritech Illinois Metro, Inc. in Accordance with Section 7-204 of the Public Utilities Act and All Other Appropriate Relief; (September 23, 1999); Order Docket 00-0592, Illinois Bell Telephone Company, et al., Joint Submission of Amended Plan of Record for Operations Support Systems ("OSS"). (January 24, 2001).

365. "UNE combinations" refers to the ability of CLECs to combine its network facilities with UNEs purchased from Ameritech as well as the ability to combine individual UNEs. The UNE-Platform is an example of a combination of individual UNEs (and consists of the loop, switching and transport UNEs).

366. "UNE Pricing" rules are set out in FCC's Local Competition First Report and Order and establish a Total Element Long Run Incremental Cost (TELRIC) costing methodology. TELRIC pricing is not based on imbedded or historical costs but on the cost of building a new most efficient network.

367. The main Commission proceedings at hand, and in discussion, are the Orders issued in Dockets 96-0486/96-0569 (TELRIC Order); Docket 98-0396 (TELRIC Compliance Order and Order on Reopening); Docket 00-0393 (Project Pronto Order); and Docket 00-0700 (TELRIC 2000 Order).

4. Evidence, Issues/Positions

a. Ameritech Illinois Showing of Checklist Compliance

368. In demonstration of compliance with Checklist Item 2, AI presented the testimony of witnesses Deere, Alexander, Smith, Cottrell, Ehr, Brown, Muhs, and Kagan.

1. Access to UNEs Generally

UNE Combinations

369. Section 251(c)(3) of the Act, AI comments, requires ILECs to provide UNEs in a manner that allows CLECs to combine them. The FCC's implementing rules further require ILECs to (i) not separate UNEs that are already combined with one another, unless the CLEC so requests, and (ii) combine UNEs at a CLEC's request, in certain circumstances. 47 C.F.R. § 51.31(b)-(f); Verizon Comms. Inc. v. FCC, 122. S. Ct. 1646 (May 13, 2002).

370. Ameritech meets all these requirements, it asserts, as confirmed by the fact that CLECs are actively obtaining and using combinations of UNEs to compete. Indeed, as of April 2002 CLECs were using 352,000 UNE Platforms (combinations of UNE loop, switching, and shared transport). (Am. Ill. Ex. 14.1 at 19). According to AI, AT&T has made the platform a cornerstone of its entry strategy. (See Am. Ill. Cross Ex. 26-27; Tr. 1676.)

CLEC Combinations

371. Ameritech asserts that it provides UNEs in a manner that allows CLECs to combine them by offering various collocation arrangements. (Am. Ill. Ex. 1.0, Sch. SJA-1, ¶ 69.) No party and no evidence, the Company claims, disputes that Ameritech Illinois provides UNEs in a manner that allows the CLEC to combine them.

Existing Combinations

372. Ameritech also provides existing combinations of UNEs; meaning that, it does not separate UNEs that are already combined, unless the CLEC so requests. (Id. ¶ 63.) The most commonly provided existing combination involves a "migration" of an end-user's existing retail service to a combination of UNEs. Such a migration might occur if an Ameritech retail end-user switched to a CLEC for local service, and that CLEC elected to serve the customer through the UNE-P. Ameritech has an effective tariff that enables CLECs to request such UNE-P migrations, which includes prices that comply with the Commission's initial Order and Order on Reopening in Docket 98-0396. (Am. Ill. Ex. 1.0 at 25-26; Am. Ill. Ex. 1.1 at 30; Am. Ill. Ex. 1.2 at 33; Tariff Ill. C.C. No. 20, Part 19, § 15.)

373. AI sees Staff to contend that the Company's offerings are unclear with respect to what types of "migrations" are available, what the cost for each type is, and what provisioning intervals will apply. (Staff Ex. 3.0 at 123.) According to AI, however, no CLEC disputes that Ameritech provides existing combinations. In fact, it contends, many CLECs have taken full advantage of those offerings and are obtaining UNE combinations in substantial commercial volumes. As such, Ameritech is providing the required combinations and migrations.

374. So too, AI notes Staff to criticize the alleged lack of detail regarding the provision of existing combinations *other than* the UNE-P and Enhanced Extended Links ("EELs"). But, the Company observes, neither Staff nor any CLEC has identified any other existing combination in which CLECs might be interested, which again would indicate that Ameritech is providing the combinations CLECs actually desire. Furthermore, if a CLEC did desire other existing UNE combinations, AI contends, it could request them through the Bona Fide Request ("BFR") process. (Am. Ill. Ex. 5.0 Sch. WCD-1, ¶¶ 83-87.)

375. According to AI, Staff also complains that the Company has not established detailed processes for "migrating" a private line service, or point-to-point data circuit, to UNEs, including whether it will enforce the FCC's requirement that CLECs use such migrations to provide a substantial amount of local service (a requirement that appears in the Supplemental Order and Supplemental Order Clarification to the UNE Remand Order). (Staff Ex. 3.0 at 119-22.) Ameritech recognizes that the Commission's Order in Docket 01-0614 holds that the Company must perform certain migrations without applying the FCC's local usage restrictions. Without waiving its legal rights to challenge that decision, Ameritech will abide by that decision pending a stay or modification on rehearing or judicial review. In fact,

Ameritech filed a compliance tariff in Docket 01-0614 that contains procedures for such conversions. Thus, AI contends that Staff's concern is now moot.

New Combinations

376. Ameritech also provides new UNE combinations that are sufficient to meet (if not exceed) the requirements of federal law. Ameritech makes these available through its tariff (which was updated to comply with the Commission's Order implementing Section 13-801) and through interconnection agreements where the CLEC has adopted a contract amendment based on Section 13-801.

377. AI notes Staff to complain that Ameritech has not implemented everything necessary to meet its view of Section 13-801 or its preferred pricing for combinations (at least as Staff's view existed prior to the Order on Reopening in Docket 98-0396). (Staff Ex. 3.0 at 132-139.) Putting aside the fact that an affirmative showing of compliance with every nuance of state law, i.e., Section 13-801, is not required for purposes of Section 271, Staff's concern is now moot. The Commission has issued an order on UNE combination issues under Section 13-801 (Docket 01-0614), and Ameritech has already filed a compliance tariff. Similarly, with respect to pricing, Ameritech also has filed a compliance tariff, which was proposed by and agreed to with Staff, based on the Order on Reopening in Docket 98-0396 (the TELRIC Compliance case). (Tr. 1722-24.)

Pricing

378. Ameritech provides UNEs and interconnection to CLECs at rates that comply fully with all FCC and statutory requirements. Section 252(d)(1) requires that a "just and reasonable rate for network elements" is one that is "based on the cost . . . of providing the interconnection or network element." To implement this requirement, the FCC determined that UNEs prices are to be based on the TELRIC of providing those elements. First Report and Order, ¶¶ 674-79; 47 C.F.R. § 51.501 et seq. Ameritech's cost studies, and the rates ultimately approved by the Commission, adhere to these principles.

379. The assessment of checklist compliance, AI asserts, does not include the same type of searching inquiry that the Commission performs in approving wholesale rates. The FCC does not conduct a ratemaking proceeding in the first instance, nor will it "conduct a *de novo* review of a state's pricing determinations." Georgia & Louisiana 271 Order, ¶ 23. Rather, the first (and often dispositive) step is to confirm that the state commission applied TELRIC in approving the UNE rates without violating any of the basic TELRIC principles. As such, AI argues, "The FCC's analysis is complete if it reveals that there are no basic TELRIC violations or clear errors on substantial factual matters." Id. ¶ 24. If – and only if – the FCC finds a substantial error or departure from TELRIC, will it review the resulting rates to determine if they fall within a "zone of reasonableness" (based on comparisons with other states) notwithstanding the error in methodology. Id. ¶ 25.

380. This Commission, AI asserts, has demonstrated a consistent commitment to investigating Ameritech's wholesale rates fully, and has required the Company to establish rates that do not exceed what strictly applied TELRIC principles would dictate. Actually, the Company believes that the rates imposed by the Commission are lower than those that a proper application of TELRIC principles would generate. Staff too recognizes that, "[i]t is entirely safe to assume that this Commission has demonstrated its commitment to TELRIC principles, so that particular requirement is met in all cases." (Staff Ex. 6.0 at 16.) According to AI, AT&T officials have praised the Commission's pricing decisions. AT&T's Chairman, C. Michael Armstrong, recently applauded the state commissions in the Ameritech region – including this Commission – for "tak[ing] steps in recent months to cut the rates AT&T and others pay to lease portions of the Bell companies' networks – making it economically feasible to offer competing local service." (Am. Ill. Cross Ex. 29 at 1.0). Another AT&T senior official similarly applaud[ed] the Commission for approving UNE prices that "mak[e] Illinois one of the lead states in recognizing the value of competition among local service providers." (Am. Ill. Cross Ex. 27 at 1.)

381. The great majority of Ameritech's UNE rates, AI contends, were reviewed in extensive, contested proceedings (wherein major CLECs and Staff played active roles), to wit:

1). Most of the basic UNE and collocation rates were reviewed in Dockets 96-0486/96-0569, which commenced in late 1996 and concluded with the "TELRIC Order" dated February 17, 1998. As a result, Ameritech revised its cost studies and models and made the resulting rates (that were, in each case lower than those proposed by Ameritech) available to all CLECs in Illinois. (Am. Ill. Ex. 10.0 Sch. 2, ¶ 11).

2). The Commission confirmed compliance with the TELRIC Order in its TELRIC Compliance Order in Docket 98-0396. (Am. Ill. Ex. 10.0 Sch. 2, ¶¶ 12-13.) The Commission also issued an Order on Reopening in that same docket, which adopted interim rates for certain nonrecurring charges ("NRCs") associated with the provision of UNEs. Ameritech filed compliance tariffs on May 10, 2002. (Am. Ill. Ex. 10.0 Sch. 2, ¶¶ 11-14, 36; Am. Ill. Ex. 1.0 Sch. SJA-1, ¶¶ 134-135.)

3). The Commission established rates for the high-frequency portion of a loop ("HFPL UNE") and related products and services in Docket 00-0393. These rates are, the Company contends, in all cases lower, than what Ameritech proposed. Indeed, the Commission set the monthly recurring charges for the HFPL UNE and certain other items at zero. (Am. Ill. Ex. 10.0 Sch. 2, ¶¶ 16-17.)

4). The Commission also approved permanent rates for unbundled local switching and unbundled local switching-shared transport in Docket 00-0700.

382. AI asserts that the Commission's aggressive application of TELRIC is confirmed by the fact that the currently available rates are among the very lowest in the country. (Am. Ill. Ex. 15.1 Sch. RJJ-2 at 8.) The national average loop rate of $14.18 is

nearly 50% higher than the Illinois average. (Id.) Further, the rate for an entire UNE platform (loop, switching, and transport) in Illinois is significantly less than the rate for a stand-alone loop in many states. So too, the Illinois average loop rate is much lower than the rates for ILECs that have recently received approval under Section 271, such as the rates for Georgia and Louisiana, and Missouri, and it is comparable to the rate recently approved by the FCC in its New Jersey 271 Order.

Possible Future Rates

383. Much of the argument on pricing, AI notes, has nothing to do with the current Commission-approved rates. The complaints center on the possibility that Ameritech might someday propose higher rates. But, new rate proposals have been submitted as of yet. (Tr. 942-945.) More importantly, no rate proposals take effect without interested parties having an opportunity to respond, and no rate changes result unless the Commission approves them. Given past experience, AI contends, the Commission does not approve rates until it is satisfied that they comply with TELRIC.

384. AI sees Staff and WorldCom to propose that Ameritech's UNE rates be capped for five years. (Staff Ex. 6.0 at 39-41; Staff Ex. 23.0 at 24; WorldCom Ex. 6.1 at 16-17.) Indeed at the nearing, the CLECs sought to cross-examine Ameritech witnesses as to what rates might be developed. (Tr. 307-318; 920-930; 1582-83, 1594-96.) The FCC, AI contends, has held that the rates to be reviewed for assessing compliance are those in effect, and it rejects the theory that post-approval rate changes are a barrier to section 271 approval. In the Georgia 271 proceedings, AI observes, CLECs opposed BellSouth's application on the ground that BellSouth had opened a new cost docket to establish new UNE rates. The FCC, however, held that "we do not believe that the existence of a new Georgia cost docket, without more, should affect our review of the currently effective rates submitted with BellSouth's Section 271 application." As the FCC went on to explain:

> States review their rates periodically to reflect changes in costs and technology. As a legal matter, we see nothing in the Act that requires us to consider only section 271 applications containing rates approved within a specific period of time before the filing of the application itself. Such a requirement would likely limit the ability of incumbent LECs to file their section 271 applications to specific windows of opportunity immediately after state commissions have approved new rates to ensure approval before the costs of inputs have changed. Georgia & Louisiana 271 Order, ¶ 96 (internal citations omitted).

385. Similarly, AI notes in its Massachusetts 271 Order the FCC wrote that "the fact that a state may conduct a rate investigation and change the rates in the future does not cause an applicant to fail the checklist item at this time. Indeed, rates may well evolve over time to reflect new information on cost inputs and changes in technology or market conditions." (Id. para 36.) As such, AI contends, the possibility of

future rate changes bears no relevance on checklist compliance. To the extent Staff contends the Commission should impose such restrictions under the "public interest" inquiry, AI argues, its proposal falls outside public interest concerns.

Interim Rates

386. The vast majority of Ameritech's wholesale rates have been approved by the Commission on a permanent basis after active and detailed investigation, the Company asserts. (Am. Ill. Ex. 10.1 at 2.) These include all of the components of the UNE-P (loops, switching, and shared transport). So too, Ameritech's loop rates are among the lowest (if not the lowest) in the nation, and with the conclusion of Docket 00-0700, its switching and transport rates are likewise among the lowest in the nation. Order, at 21-24, Docket 00-0700. Ameritech's collocation rates, also have been set by the Commission, and affirmed on appeal. Most NRCs are permanent, as a result of substantial reductions to the Company's proposed charges with the adoption of various WorldCom proposals in Docket 98-0396. See, Order Docket 98-0396 at 39-43. Finally, the recurring UNE rate for the HFPL has been set at zero on a permanent basis, as have rates for line sharing OSS modifications and xDSL manual loop qualification. Order at 84-88 Docket 00-0393.

387. A handful of rates, however, are interim according to AI. These include the charges associated with the "end-to-end Broadband UNE" established in Docket 00-0393, and certain NRCs associated with UNE combinations (UNE-P and EELs). AI notes Staff to argue that Ameritech's Section 271 application should be stalled until permanent rates for these products are approved by the Commission or at least until the Commission determines whether these rates fall within a "zone of reasonableness." (Staff Ex. 6.0 at 18; Staff Ex. 3.0 at 85-86.) AT&T joins in this argument. (AT&T Ex. 3.0 at 10-11.) These positions are wrong, in AI's view.

388. According to AI, the FCC already has rejected the position taken by Staff and AT&T, and made clear that Section 271 does not require that permanent rates be in effect for each and every UNE at the time of a Section 271 application. To the contrary, interim rates may be acceptable in the situation where: 1) the interim solution to a particular rate dispute is reasonable under the circumstances; 2) the state commission has demonstrated its commitment to our pricing rules; and 3) provision is made for refunds or true-ups once permanent rates are set. Arkansas & Missouri 271 Order, ¶ 64; see also Kansas & Oklahoma 271 Order, ¶ 238. If it were otherwise, AI comments, Section 271 applications would be unnecessarily held hostage:

> [T]he section 271 process could not function as Congress intended if we adopted a general policy of denying any 271 application accompanied by unresolved pricing and other intercarrier disputes. Our experience has demonstrated that, at any given point in time at which a section 271 application might be filed, the rapidly evolving telecommunications market will have produced a variety of unresolved, fact-specific disputes concerning the BOC's obligations under

> sections 251 and 252. . . . If uncertainty about the proper outcome of such disputes were sufficient to undermine a section 271 application, such applications could rarely be granted. Congress did not intend such an outcome. Texas 271 Order para 87.

389. AI asserts that its interim rates for the "end-to-end Broadband UNE" (Docket 00-0393) and the NRC for Special Access-to-EEL conversions (Docket 98-0396) satisfy all three of the FCC's factors. Indeed, AI points out, Staff proposed these interim rates. See Order on Second Rehearing at 25, Docket 00-0393 (approving the interim end-to-end Broadband UNE rate proposed by Staff witness Koch); Order on Reopening at 11, Docket 98-0396 (approving Staff's proposed $1.02 interim rate for EEL conversions). The second of the FCC's factors also is satisfied: there is no question that the Commission has "demonstrated its commitment to [the FCC's] pricing rules," as Staff itself concedes. (Staff Ex. 6.0 at 16.) Finally, these interim rates are subject to true-up once permanent rates are approved. Order on Second Rehearing at 25, Docket 00-0393; Order on Reopening at 15, Docket 98-0396.

390. One other NRC associated with UNE combinations is also interim in nature; namely, that for new UNE-P. The Order on Reopening in Docket 98-0396 (at 11) set this NRC at an interim rate level proposed by Staff. As such, Staff cannot claim that this rate is unreasonable. And again, there is no question that the Commission has "demonstrated its commitment to [the FCC's] pricing rules." (Staff Ex. 6.0 at 16.) Admittedly, the NRC for new UNE-P is not subject to true-up. But this is immaterial under the circumstances, given that only Ameritech could possibly be hurt by the lack of a true-up. New UNE-Ps clearly entail additional provisioning and installation costs, for which the interim rate does not account. Order on Reopening at 5-6, Docket 98-0396. Further, Ameritech "agreed to forego the opportunity for a true-up with respect to" the new UNE-P NRCs "[a]s a concession to Staff and the CLECs." Id. at 10.

Net-Yet-Approved Rates

391. AI notes Staff and AT&T to contest Ameritech's rates for subloops, dark fiber, and CNAM queries, on the grounds that the Commission has not yet opened an investigation into these rates. There are rates, however, reflected in tariffs that have been on file for nearly a year and a half, AI notes, during which time no party has formally requested a Commission investigation. In any event, AI points out, the FCC has made clear that a few unresolved pricing disputes will not "undermine a section 271 application." Texas 271 Order, ¶ 87. AI sets out additional reasons why the position of Staff and the CLECs lacks merit.

392. At the outset, AI observes that, subloops, dark fiber, and CNAM queries are relative newcomers to the unbundling scene. Rates for these products were not developed and investigated during the initial round of cost investigation in Dockets 96-0486/96-0569 because they were not even designated as UNEs until the FCC issued its UNE Remand Order in 1999. Accordingly, the status of these rates is hardly unusual in the industry. The FCC has approved the Section 271 applications for all five SWBT

states even though none of them have permanent subloop rates. (Am. Ill. Ex. 10.1 at 13.) The FCC approved SWBT's application for Texas even though it did not (and still does not) have permanent rates for subloops, dark fiber, or DS3 loops. (Id.)

393. Further, AI contends, that its subloop, dark fiber, and CNAM rates, are TELRIC-compliant, because the supporting cost studies used input assumptions approved in the TELRIC Docket. (Am. Ill. Ex. 10.0 at 5.) Finally, these rates are comparable to the rates approved in TELRIC proceedings in Michigan and Wisconsin, and satisfy Staff's "zone of reasonableness" test. (Am. Ill. Ex. 1.2 at 45-46; Sch. SJA-4.) With respect to recurring rates, as that schedule demonstrates, some Michigan and Wisconsin rates are lower than their Illinois counterparts, but for many rate elements, the exact opposite is true: the Illinois rates are lower, and frequently substantially so, *e.g.*, most Area A and some Area B subloops. With respect to dark fiber, the Michigan rates are somewhat lower, and Wisconsin rates are generally higher. And the CNAM query rates are substantially the same in all three states.

394. AI sees Staff to assert that the NRCs are higher than those approved in Michigan, based on a surface comparison. (Staff Ex. 23.0 at 15.) But, Staff's view fails to consider the differences in how Illinois and Michigan wholesale rates are structured, AI maintains. In Michigan, NRCs are generally segregated into separate installation and disconnect charges, while the NRCs in Illinois are not segregated as such. (Am. Ill. Ex. 1.2 at 46.) Accordingly, Ameritech Illinois asserts, its NRCs for subloops cannot be directly compared to those in Michigan, unless one first adds the Michigan installation and disconnection charges. The comparison that results from this process reveals that Ameritech Illinois' subloop NRCs fall within a "zone of reasonableness" and are in all instances lower than their Michigan counterparts. (See Am. Ill. Ex. 1.2 Sch. SJA-4.)

Sub-loop Rates

395. Staff also argues that Ameritech's subloop rates are not TELRIC-compliant because they are higher than the rates for the whole loop. (Staff Ex. 23.0 at 11-12.) Ameritech's subloop cost study was performed much later than the loop cost study. Although the subloop study used the same Commission-ordered inputs from the TELRIC docket (*i.e.*, fill factors, depreciation rates, and cost of capital), the subloop cost study had the benefit of using updated cable cost and installation information, and appropriately included premises termination investment that had been improperly omitted from the original loop cost study. (Am. Ill. Ex. 10.2 at 7.)

396. In AI's view, Staff's "sum of the parts" approach for subloops does not adequately account for the fact that different subloop components may share overlapping pieces of equipment, which appear only once in an end-to-end loop. (Am. Ill. Ex. 10.2 at 5-7.) According to AI, the same common equipment is required in each subloop element, even though it appears only once in an end-to-end loop, because of the requirement to provide a cross-connect at the point of access. (Id.) Therefore, a simple summation of the costs of the individual subloops comprising the end-to-end loop double-counts the costs of certain equipment, and therefore produces a misleading comparison. In any event, as shown by Schedule SJA-4, the Illinois subloop rates fall

within the "zone of reasonableness" generated by the comparable Michigan and Wisconsin rates. (Am. Ill. Ex. 10.2 at 5-8.)

2. Non Discriminatory Access to OSS

397. The term "operations support systems" or OSS refers generally to the "systems, databases, and personnel used by incumbent LECs to provide service to their customers." Kansas & Oklahoma 271 Order, ¶ 104. The FCC requires a BOC to provide requesting carriers nondiscriminatory access to its OSS so they can "formulate and place orders for network elements or resale services, . . . install service for their customers, ... maintain and repair network facilities, and . . . bill customers." Id. For OSS functions "that are analogous to those that a BOC provides to itself, its customers or its affiliates, the nondiscrimination standard requires the BOC to offer requesting carriers access that permits competing carriers to perform these functions in 'substantially the same time and manner' as the BOC." Id. Where there is "no retail analog," the BOC must offer access "sufficient to allow an efficient competitor a meaningful opportunity to compete." Id.

398. The FCC takes a two-step approach to analyzing OSS compliance. The first step is to determine whether the BOC has made its OSS available to requesting carriers i.e., whether the BOC "has developed sufficient electronic (for functions that the BOC accesses electronically) and manual interfaces to allow competing carriers equivalent access to all of the necessary OSS functions." Id. ¶ 105. The second step is to determine whether the OSS are operationally ready, as a practical matter; *i.e.*, "whether the BOC's OSS is handling current demand and will be able to handle reasonably foreseeable future volumes." Id. The "most probative evidence that OSS functions are operationally ready is actual commercial usage in the state for which the BOC seeks 271 authorization." Id. In addition, the FCC may consider "the results of carrier-to-carrier testing, independent third-party testing, and internal testing." Id.

399. Ameritech follows the FCC's two-step approach here. In this Phase 1-A of the proceeding, the electronic and manual interfaces Ameritech offers for each OSS function are described, along with its extensive efforts to address operational concerns and ensure operational readiness. In Phase II, the results of commercial performance and of the third-party test of OSS that is now underway will be described. Thus, AI asserts, the issue at present is: Whether Ameritech "has developed sufficient electronic. . . and manual interfaces to allow competing carriers equivalent access to all of the necessary OSS functions", (subject to review of the results of "actual commercial usage" and "the results of carrier-to-carrier testing, independent third-party testing, and internal testing" in Phase II). (Id. ¶ 105)

400. The answer to that question AI asserts, is a clear "yes." Ameritech presented extensive evidence documenting (i) the electronic and manual interfaces offered for each of the five OSS functions (sections a – e), (ii) the supporting resources it provides to CLECs (section f), and (iii) the agreed "change management" process it has in place to implement OSS updates and enhancements (section g). And, throughout each section, appear the extensive efforts Ameritech has made to address

CLEC concerns. There is little real dispute as to that *prima facie* showing. Quite the contrary: in the business world, CLECs themselves have already tested – and are making ample commercial use of – the interfaces and resources offered to them.

401. AI offers up, for example, the AT&T situation. In June 2001, AT&T trumpeted plans to enter the local Michigan market, where it would use OSS interfaces substantially similar to those offered in Illinois. (Tr. 1648-50; Id. at 1649 ("It's my experience that Ameritech's systems . . . [are] generally set up on a regional basis"). AT&T's Chairman promised that "AT&T would not enter on a large scale until it can assure customers that Ameritech's systems will allow customer data to be exchanged quickly and accurately." (Am. Ill. Cross Ex. 25.) AT&T then subjected those systems to a thorough test, which it called the "Michigan Market Entry Trial." At the hearing for this matter, AT&T Witness Willard described that trial as "a test drive of Ameritech's OSS where AT&T essentially built the major portions of the electronic data interchange platform . . . and attempted to send certain order types and activity types that are critical to entering the market over that interface." (Tr. 1656.) This test lasted from September through December 2001. (AT&T Ex. 8.0 at 39.)

402. Plainly, AI asserts, AT&T's testing confirmed that it *could* "assure customers that Ameritech's systems will allow customer data to be exchanged quickly and accurately," as its Chairman pledged, because in February 2002 AT&T announced that it *had* entered on a large scale and had "begun offering Michigan consumers currently served by SBC Ameritech a new choice for residential local phone service." (Am. Ill. Cross Ex. 25, 26.) And, it did so using Ameritech Michigan's OSS to order UNEs. (Tr. 1650.) Within two months, AT&T announced that it "already has more than 50,000 households using its local service plans" and, by June 2002, AT&T's Chairman announced that the figure had topped 100,000 (Am. Ill. Cross Ex. 27, 29).

403. AT&T repeated the exact same pattern – a high-profile announcement of plans to enter the market, followed by thorough OSS testing, followed by active commercial use – in Illinois. On April 22, 2002, AT&T's senior vice president announced that it planned to enter the Illinois local service market by using UNEs, and that it was "aggressively testing systems interfaces with SBC Ameritech" to that end. (Am. Ill. Cross Ex. 27.) As Mr. Willard elaborated, AT&T was then testing the LSOG 4.2 version of the ordering interface. (Tr. 1666.) As in Michigan, AT&T must have been satisfied with the results, because less than two months later AT&T "fulfill[ed] the promise we made in April to enter the residential local phone market in Illinois." (Am. Ill. Cross Ex. 28.) Once again, AT&T's entry strategy was founded on Ameritech's UNEs, obtained via Ameritech's OSS interfaces. (Tr. 1676-77.) At the same time, AT&T announced that it was "up and running in Ohio" using Ameritech Ohio's OSS interfaces to obtain UNEs (Am. Ill. Cross Ex. 29) (Tr. 1676-77).

404. According to AI, multi-national companies like AT&T do not develop – and then publicly unveil – business plans that depend on another company's OSS interfaces, unless they have confidence that those interfaces are both available and reliable. Indeed, AT&T's own witness – who participated in the decisions to enter the Ameritech markets – testified that "reliable OSS are critical to market entry" and are

thus an "important" consideration in AT&T's entry decisions (AT&T Ex. 8.0 at 7) (Tr. 1702-03) (Tr. 1650). Thus, before entering, AT&T conducted aggressive testing of the OSS interfaces and, it chose to enter the market using those interfaces. Further, AI comments, AT&T is not alone as numerous other CLECs have done the same, using Ameritech's OSS.

405. Given the CLEC's real-world use of the interfaces and OSS functions that Ameritech Illinois currently provides, the commenters really cannot contest that Ameritech "has developed sufficient electronic . . . and manual interfaces to allow competing carriers equivalent access to all of the necessary OSS functions" (Kansas & Oklahoma 271 Order, ¶ 105), subject to review of the results in Phase II. As such, they complain about its performance (usually its speed) in performing those services. Many of those complaints AI contends, either (i) relate to issues that have already been addressed by improvements to systems or corrections to procedures; (ii) are anecdotal accounts about a few unspecified orders that lack the specificity required to investigate or substantiate their existence and impact; or (iii) simply take observations and exceptions noted during the BearingPoint test process and attempt to transform them into "conclusions" before the Commission has the benefit of seeing Ameritech's response or corrective action. The most relevant data, i.e., commercial entry and use of OSS, show that the CLEC complaints have not affected market entry, AI asserts.

406. All such complaints are premature, AI contends, in that they largely relate to issues that will be addressed in Phase II. At the present, complaints about performance lack *context*. The standard for OSS is nondiscrimination, not perfection. So too, "[t]he determination of whether a BOC's performance meets the statutory requirements necessarily is a contextual decision based on the totality of the circumstances and information before us." New York 271 Order, ¶ 60.

407. According to AI, the FCC has explained that, a proper examination of performance looks at individual complaints in the context of performance as a whole and over time Kansas & Oklahoma 271 Order, ¶¶ 31-32, and must also consider the BOC's efforts to investigate and resolve the issues. See New Jersey 271 Order, ¶ 109 ("[W]e emphasize that our approval is based not only on the substantive explanations that Verizon has determined through detailed investigation, but also the thoroughness of the investigative process itself, which demonstrates Verizon's commitment to ensuring nondiscrimination"). Thus, the FCC has repeatedly rebuffed CLECs that sought to pronounce an entire group of OSS (which perform a wide range of functions for a large number of wholesale and retail customers, thousands or even millions of times every month) deficient, on the basis of vague complaints about a single order or small group of orders. Id. ¶ 50 ("Mere unsupported evidence in opposition will not suffice."). As the FCC has confirmed, "isolated and marginal" disparities "are not competitively significant and do not indicate systemic discrimination." Connecticut 271 Order, ¶ 13.

408. Much of the testimony, AI notes, focuses on the LLNs that Ameritech issues to CLECs (or to itself) when a competing carrier takes customer. Ameritech does not dispute that it experienced problems in delivering those notices. But, it is equally indisputable that Ameritech conducted a thorough investigation, implemented

corrective actions, kept CLECs and state commissions informed of progress, achieved significant improvement, and continues even now to monitor the situation. The Company believes that the line loss issues have now been resolved, but does not contend, and the Commission need not find, that LLNs are now perfect for all time. Considering the efforts made to date, the ongoing supervision of this issue by Ameritech, CLECs and the Commission for Phase II, and putting LLNs in the context of all the other services Ameritech performs, that the issue is not of such a nature as to warrant a finding of noncompliance now.

Pre-Ordering

409. Pre-ordering AI informs, "includes those activities that a carrier undertakes to gather and verify the information necessary to place an order." Kansas & Oklahoma 271 Order, ¶ 120. According to AI, it offers CLECs two main electronic interfaces for pre-ordering. The first is EDI/CORBA, an industry standard gateway that can understand inquiries submitted in either of two languages (EDI or CORBA) promulgated by technical industry bodies. (Am. Ill. Ex. 4.0 Sch. MSC-1, ¶ 75.) EDI/CORBA is an "application-to-application" interface: it allows a CLEC's electronic systems and software applications to communicate with their counterparts at Ameritech. (Id.) A CLEC can integrate the interface with its own electronic systems and with the ordering interface described below. (Id.) The majority of CLEC activity comes through this interface. (Tr. 1259) (describing EDI as "the primary driver for all traffic . . . for both pre-order and order").

410. Ameritech' second pre-order gateway is Enhanced Verigate, which was introduced in March 2001, and is modeled on the Verigate (Verification Gateway) interface used by Southwestern Bell. (Am. Ill. Ex. 4.0 Sch. MSC-1, ¶ 79.) Enhanced Verigate is a Graphical User Interface ("GUI"). Instead of communicating with a CLEC's electronic systems the way an application-to-application interface would, Enhanced Verigate accepts commands from CLEC representatives working on computer screens, just as well-known pc programs do. (Id. ¶ 78.) It uses plain-English displays and is based on the same design that is used for Internet web browsers. (Id.) This interface is thus suited for carriers (typically, smaller or newer CLECs) that do not have or wish to develop their own electronic applications for pre-ordering. (Id.) At the same time, it gives CLECs access to the same information that is available through EDI/CORBA. (Id. ¶ 74.)

411. According to AI, both interfaces respond in "real time" and allow requesting carriers access to the same information and functions available to Ameritech's retail representatives (id. ¶¶ 72-74), and to the same functions identified by the FCC in prior orders under Section 271. A requesting carrier can thus verify the customer's address, look up the customer's service record and directory listings, find out what features and services are available to the customer, pick and reserve a telephone number, determine the need for a field dispatch to install service, obtain a due date for installation, and obtain information (such as the Network Channel Interface) for ordering unbundled access. Id. ¶ 70. Requesting carriers can also determine on-

line whether the end user's loop will support DSL service (*i.e.*, obtain information on the loop's characteristics) Id. ¶ 74.

Integration

412. As part of its assessment, the FCC considers whether a BOC allows carriers to integrate pre-ordering information into the ordering process and into their own systems. Texas 271 Order, ¶ 152. "[A] BOC has enabled 'successful integration' if competing carriers may, or have been able to, automatically populate information supplied by the BOC's pre-ordering systems onto an order form . . . that will not be rejected by the BOC's OSS systems." Id. Ameritech's EDI/CORBA pre-order interface is designed to be integrated with the EDI order gateway to form a seamless pre-order/order system, and it can also be integrated with CLEC systems that use either one of the two industry standard formats, EDI and CORBA. (Am. Ill. Ex. 4.0 Sch. MJC-1, ¶ 75.) Moreover, at WorldCom's request, Ameritech modified EDI/CORBA to provide address information in a "parsed" format (divided into individual data fields) that corresponds to the order form. (Id. ¶¶ 98-99.) Ameritech also has modified its pre-ordering and ordering systems and formats to synchronize fields common to both interfaces. (Id. ¶ 101.) These features go above and beyond the systems the FCC found compliant in Texas. Texas 271 Order, ¶ 154.

GUI Issues

413. AI responds to a number of CLEC comments that relate to the performance of the Verigate GUI. AT&T claims the GUI was slow and unstable when first deployed in March 2001 (AT&T Ex. 4.0 at 4-7). Those issues were resolved and Ameritech implemented additional corrective measures after the April 2002 OSS release (Tr. 1257-58) (Am. Ill. Ex. 4.1 at 39-40). Vertex alleged that the GUI was not integrated with the ordering interface, as customer service records did not reflect recent order activity. In reality, AI notes, the interfaces *are* integrated, and the issue is merely one of timing (a short delay in updating records for certain orders that require error correction in the billing process). (Am. Ill. Ex. 4.1 at 41-42.) McLeodUSA alleged that the GUI did not provide address validation for Centrex (MTSI Ex. 4.0 at 4.) Actually, address validation was and is available, AI comments, but McLeod was trying to perform that function via the Customer Service Inquiry ("CSI"). In any event, it asserts, the CSI issue was resolved with the April 2002 release. (Am. Ill. Ex. 4.1 at 38-39.)

414. The GUI, AI points out, is only one option for pre-ordering. Most pre-order inquiries today go through the separate, industry standard EDI/CORBA interface, and allegations about the GUI have no bearing on the majority of commercial activity. (Tr. 1259); See also Texas 271 Order, ¶ 180, n.489 ("We place greater weight on the flow-through capability of [the] EDI interface than we do on the less-sophisticated LEX graphical user interface because EDI is an industry-standard application-to-application interface").

Ordering

415. As with pre-ordering, Ameritech contends, it offers two alternative interfaces to submit local service requests. (Am. Ill. Ex. 4.0 Sch. MJC-1, ¶ 112.) The first of these is an application-to-application interface based on EDI, which can be used either on a standalone basis or coupled with the EDI/CORBA pre-order interface. (Id. ¶ 114.) In March 2001, Ameritech Illinois updated the EDI interface in accordance with LSOG 4, promulgated by the industry's Ordering and Billing Forum. (Id. ¶¶ 114-115.)

416. The second order interface is Enhanced Local Exchange (Enhanced LEX), a GUI modeled on Southwestern Bell's LEX system but enhanced so that CLECs can access it using a commercial Internet Web browser program. (Id. ¶¶ 120-21.) Some carriers submit orders manually (*e.g.* by facsimile) through the LSC. (Id. ¶ 112; Am. Ill. Ex. 2.0 Sch. JWB-1,¶ 29.)

Firm Order Confirmations

417. Ameritech reviews carriers' orders for completeness, proper content, and format. (Am. Ill. Ex. 4.0 Sch. MJC-1, ¶¶ 131, 135.) Once a valid, firm order is accepted for processing, Ameritech issues a Firm Order Confirmation ("FOC") to the requesting carrier. (Id. ¶¶ 135, 146-148.) The Commission AI notes, can review the timeliness of these notices in Phase II. AT&T's allegations about FOC performance, AI comments, illustrate why such allegations are premature. AT&T notes that BearingPoint issued an exception in its third-party test that stated FOCs were not timely for 12 UNE-P orders that were submitted in March 2002. (AT&T Ex. 4.0 at 8.) But, AI would observe, nine of these orders were submitted on March 19, when an isolated error caused several late FOCs, and that error was corrected on the same day. (Am. Ill. Ex. 4.2 at 18.)

Rejections

418. AI explains that CLEC orders that are incomplete, inaccurate, or improperly formatted are returned to the requesting carrier electronically, along with a notice that identifies the reasons for rejection so that the carrier can correct and resubmit its request. (Am. Ill. Ex. 4.0 Sch. MJC-1, ¶¶ 134, 136, 149.) The FCC has properly recognized that "we will not hold a BOC accountable for rejects that occur for reasons within a competing LEC's control" (Kansas & Oklahoma 271 Order, ¶ 143). Ameritech informs that it offers extensive training and assistance to help CLECs submit accurate requests and thus avoid rejection in the first place. Further, to help CLECs avoid errors due to their submission of an order with an invalid end user address, Ameritech changed its ordering systems such that carriers can submit most orders "without an address", using alternative means to identify the location at which Ameritech is to install service. (Am. Ill. Ex. 4.0 Sch. MJC-1, ¶ 151.)

419. AI observes that the sole criticism regarding order rejections at this stage of the proceedings, comes from WorldCom, which claims that Ameritech improperly rejected orders to migrate a "line sharing" arrangement into a "line splitting" arrangement.

Jeopardy Notices

420. Ameritech issues electronic "jeopardy" notices to CLECs if a condition in scheduling might cause it to miss the due date for installation. (Am. Ill. Ex. 4.0 Sch. MJC-1, ¶ 155.) There is no dispute here regarding such notices, and the Commission can review performance data – and the rate of actual missed due dates – in Phase II.

421. Ameritech issues electronic notices of order completion ("service order completions" or "SOCs") to the requesting carrier once the physical work is complete and the order is registered as complete in its ordering and provisioning systems. (Am. Ill. Ex. 4.0 Sch. MJC-1, ¶¶ 145, 156.) WorldCom claims that SOCs for some orders are "missing." (WorldCom Ex. 3.0 at 3, 5-11.) WorldCom uses the term "missing" to refer to any situation in which it placed an order, does not have a record of receiving a SOC, and has asked Ameritech to investigate.

422. At any rate, WorldCom's own witness acknowledged that Ameritech has achieved significant improvement. (See Id. at 10.) In particular, Ameritech devoted extensive time and effort to determine whether, and to eliminate any possibility that, there was a systemic problem in the OSS software, and to investigate WorldCom's theory that orders were falling out in the translation process as occurred in New York. (Am. Ill. Ex. 4.1 at 26; Am. Ill. Ex. 2.1 at 7.) The problem did not occur in the translation process, AI contends, but instead occurred because certain errors were mistakenly not sent to the LSC for review and correction. (Id.) Upon identifying the cause, Ameritech Illinois corrected it. and the errors are now reported to the LSC for resolution. (Id.) Throughout the process of investigation and resolution, Ameritech Illinois provided WorldCom frequent updates on its progress via conference calls and correspondence. (Id.; Tr. 1646-47). It bears noting, AI contends, that the "missing" SOCs for March 2002 constituted less than 0.2 percent of WorldCom orders, and that current data show less than seven missing SOCs per day, a far different scenario from WorldCom's assertion that the issue affects 200 orders per day. (Am. Ill. Ex. 4.1 at 27 & Sch. MC-4; Am. Ill. Ex. 4.2 at 13-14.)

"Line Loss" Notices (LLNs)

423. The notices that Ameritech provides to the carrier that places an order for local service, occur because that carrier has "won" a new customer or because it wants to provide some new service to an existing customer. One carrier's win may be another carrier's loss. A CLEC's end user might leave its existing carrier for another CLEC (described as a "CLEC-to-CLEC migration") or for Ameritech (often called a "win-back"). If the losing carrier served the end user solely by using Ameritech's facilities (by resale or the UNE-P), Ameritech provides that carrier with a LLNs, also called an "836" after the winning carrier's order has been processed. (Am. Ill. Ex. 4.1 at 2.) That notice informs the losing carrier of its loss.

424. The MOR/Tel system, AI informs, generates LLNs. This system interacts with the electronic interfaces through which CLECs place orders with and receive notices from Ameritech. (Am. Ill. Ex. 2.1 at 2-3; See also Am. Ill. Ex. 4.0, Sch. MJC-1,

¶¶ 132-136 (for general information on MOR/Tel and the related system "MOR.") MOR/Tel matches completion notices for installations against "disconnect" orders. If it finds a match, MOR/Tel knows that the disconnection resulted from an end user's decision to change carriers and thus, determines that an LLN should be sent. (Am. Ill. Ex. 2.1 at 2-3.) The process for issuing LLNs is nondiscriminatory. As a result of Docket 02-0160, AI contends, its retail operations now rely exclusively on LLNs for their line loss information.

425. In the latter half of 2001, Ameritech and its affiliates learned that they were not providing some notices (most of them related to activity in 2001) on a timely basis. They assembled a "cross-functional team" to investigate, address, and resolve LLN issues. This team undertook an "end to end" analysis of the entire ordering process (both the relevant electronic systems and manual procedures) in order to identify the source of the problem. (Tr. 1252-1253; Am. Ill. Ex. 4.1 at 3-4.)

426. According to AI, the cross-functional team also monitored (and continues to monitor) day-to-day LLN performance in detail. The team consists of four groups: (1) a "Re-flow" group that corrects and re-sends any individual notices that contain errors; (2) a "Resolution" group that develops and implements corrective measures to prevent a recurrence of such errors; (3) an "Analysis" group that categorizes errors to identify any process issues; and (4) a group held responsible for overall supervision of the LLN function. (Am. Ill. Ex. 4.1 at 4.) The team members, AI asserts, review reports of service order and LLN activity on a daily basis. (Id.) These reports include a "Happy Report" of LLNs issued within 24 hours of order completion and an "Unhappy Report" of LLNs issued over 24 hours after completion. (Id. at 3-4 and Sch. MC-2 Part 5 at 5-6; Tr. 1076-1077.)

427. Ameritech's investigation revealed that some employees had not properly followed methods and procedures in two situations. Ameritech asserts that it took action on this discovery and: (1) immediately re-instructed the appropriate personnel on proper procedure on an interim basis; (2) identified and issued LLNs that had not previously been issued; and, (3) enhanced its electronic systems or procedures so as to resolve the matter permanently. In addition, having identified a situation in which LLNs were properly issued, but did not provide complete or accurate information, AI corrected the situation. Although all of these enhancements were implemented, and current data show that they are working, Ameritech maintains that the cross-functional team remains in place until resolution of the LLN issue is verified by the various state commissions.

428. The first situation arose solely for "winbacks" by Ameritech Illinois, LLNs are generated when MOR/Tel finds that a disconnect order matches the completion notice from the service order system and the disconnect results from an end user's decision to migrate to another carrier. In a CLEC-to-CLEC migration, the MOR/Tel record is automatically created as part of processing the winning carrier's order (which typically goes through one of the electronic ordering interfaces), so MOR/Tel automatically has a record to match with disconnects. (Am. Ill. Ex. 2.1 at 3.) Retail orders, AI explains, do not pass through the interfaces that CLECs use; thus, the retail organization would fax its winback orders to the LSC, which was then supposed to enter

an electronic placeholder that MOR/Tel could use to match with the related disconnect. (Id.) In some cases, however, the LSC did not create the placeholder prior to the completion of the order. (Id.) The order was still processed in accordance with the wishes of the end user and the winning carrier (Ameritech), and service to the end user was not affected. But there was nothing to tell MOR/Tel to send an LLN to the end user's previous carrier. (Id.)

429. As soon as this issue was identified, the LSC immediately instructed its staff to establish the MOR/Tel placeholder records on a timely basis. (Id. at 3-4.) Ameritech then developed electronic programs to locate all previously unmatched disconnect orders, and issued appropriate LLNs. (Am. Ill. Ex. 4.1 Sch. MC-2 Part 1 at 4.) On April 24, 2002, Ameritech implemented a permanent solution: a systems enhancement that allows the electronic systems to generate LLNs automatically, without need for the previous placeholder. (Id. at 5; Am. Ill. Ex. 4.2 at 2.)

430. The second situation concerned CLEC-to-CLEC migrations and, in particular, those where the losing carrier used one product (*e.g.,* resale) to serve the end user while the winning carrier used a different product (*e.g.*, the UNE-P). (Am. Ill. Ex. 2.1 at 4.) The LSC AI notes, assigns staff to specialized work groups that focus on orders for a particular product or service (for example, one group handles resale while another handles the UNE-P). (Id.) Thus, one representative would enter the "disconnect" order for the existing service while a representative from a different group would enter the "new service" order for the winning carrier. (Id.) The procedures for coordinating these activities were unclear, AI admits, and in some cases, the representatives did not enter all of the information that MOR/Tel uses for matching disconnect and new service orders. (Id.) This did not affect processing of the order: the end user got the service it requested, the winning CLEC got the end user it had won, and it received a completion notice to tell it the order was complete. (Id. at 4-5.) The losing CLEC did not receive an LLN. (Id.) As soon as this issue was identified, all interested employees received additional instruction as to proper order entry. (Id. at 5.) Ameritech then developed and implemented new procedures so that the same LSC representative would handle both halves of these orders: the request for new service and the disconnection of the old. (Id.) As with the win-backs, Ameritech used computer programs to locate unmatched disconnects and issued the LLNs. (Am. Ill. Ex. 4.1 Sch. MC-2 Part 1 at 5.)[19]

431. A third situation, AI asserts, did not affect the actual issuance of the LLN, but its content. In some cases, an end user might transfer some but not all of its lines to another carrier, an event that is described as a "partial migration." Ameritech's systems

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[19] So too, as WorldCom points out (WorldCom Ex. 3.0 at 13), Ameritech Illinois identified a scenario under which an LLN would not be sent, or would be sent to the wrong carrier, if an LSC service representative incorrectly entered certain ordering codes on a UNE Platform order. (Am. Ill. Ex. 2.1 at 5-6). Ameritech Illinois' data shows that this occurs for less than 0.05 percent of CLEC orders (Am. Ill. Ex. 4.2 at 6). At any rate, the LSC has reviewed proper coding with its service representatives and has dedicated a group of representatives to quality control reviews of UNE Platform orders, including the specific codes at issue. (Am. Ill. Ex. 2.1 at 5-6).

processed a partial migration as if it were a disconnect for all the existing lines coupled with two new service orders: one for the lines going to the new carrier, and one for the lines that will remain with the old carrier. (Am. Ill. Ex. 4.1 Sch. MC-2 Part 5, at 2-3.) In such cases, MOR/Tel issued an LLN to the losing carrier, as it should, but incorrectly informed the losing carrier that it had lost all of its lines. (Am. Ill. Ex. 4 at 9.) In effect, MOR/Tel recognized the disconnect portion of the order and provided an LLN reflecting that portion, without considering the portion of the order that established a new account for the lines remaining with the existing carrier. (Id. Sch. MC-2 Part 5, at 2-3.) Ameritech asserts that it implemented a programming change in May 2002, so that MOR/Tel would consider the order as a whole and issue an LLN only for those lines that actually changed carriers. (Id.)

432. The final LLN enhancement (a follow-up to an earlier programming change), was implemented by Ameritech on June 3, 2002. (Am. Ill. Ex. 4.2 at 2.) Data for the two weeks following that enhancement, the Company maintains, shows that Ameritech is now issuing over 99 percent of LLNs within 24 hours of order completion. (Tr. 1069.)

433. Throughout this process, the Company asserts, Ameritech and its affiliates provided frequent, detailed updates to CLECs and state commissions regarding the issue's status and AI's progress towards a full resolution. These updates included a two-day regional workshop on LLN issues hosted by Ameritech in March 2002, an Accessible Letter posted on the CLEC website to summarize the workshop presentation and a series of progress reports filed with the Michigan Public Service Commission (copies of which are provided at Am. Ill. Ex. 4.1 Sch. MC-2). (AT&T Cross Ex. 4.)

434. While there may be some disagreement or uncertainty among the other parties as to whether all LLN issues have been completely or permanently resolved Ameritech maintains that its cross-functional team continues to monitor the process and will stay in place until the various state commissions are satisfied that LLN issues have been adequately resolved. (Tr. 1211.) Further the Commission will assess OSS performance in Phase II.

435. The FCC does not require perfection, AI contends, nor does it require that all corrective actions be complete and their results verified with certainty for any particular period of time prior to the application date. See, e.g., Texas 271 Order, ¶ 284, 358; New Jersey 271 Order, ¶ 958, n.263 (finding that Verizon complied with checklist even though its reconciliation of completion notice data with one carrier was still in progress: "our finding of checklist compliance for OSS is based in part upon Verizon's procedures for working with competitors to address notifier and other OSS issues"). Taken in its proper context – that is, considering Ameritech's efforts to investigate and resolve the issue, considering OSS access as a whole, and considering the procedures that Ameritech and this Commission have in place to monitor the issue going forward in Phase II – the LLN issue should not be viewed to negatively effect the Company's *prima facie* showing that it "has developed sufficient electronic . . . and manual interfaces to allow competing carriers equivalent access to all of the necessary OSS functions."

Flow-through

436. AI informs that CLECs may access Ameritech's OSS electronically via interfaces that use standard formats. Flow-through refers to the translation of CLEC orders from the standardized format to the internal format used by Ameritech's downstream systems. (Am. Ill. Ex. 2.0 Sch. MC-1, ¶ 135.) For some order types, the interface is designed to translate the entire request electronically and send it downstream for processing; these orders are said to "flow through." (Id. ¶ 133.) For other order types, a complete electronic translation has not yet been developed. (Id.) In those cases, the carrier's request is sent to the LSC, where it is typed directly into the downstream systems. (Id.; Am. Ill. Ex. 2.0 ¶ 29.) This is the same method, the Company contends, that it uses to enter its own retail orders. (Tr. 535.)

437. According to AI, the FCC does not require a BOC to "flow through" 100 percent of CLEC orders. Indeed, the FCC has stated that it does not even "specifically require [a Section 271 applicant] to provide data on its achieved flow-through rate to determine that [its] OSS are capable of offering high flow-through." Pennsylvania 271 Order, ¶ 48. Indeed, the FCC has recognized that flow-through rates "are not so much an end in themselves" because a BOC's "overall ability to return timely order confirmation and rejection notices, accurately process manually handled orders, and scale its systems is more relevant and probative for analyzing [its] ability to provide access to its ordering functions than a simple flow-through analysis." New York 271 Order, ¶¶ 162, 163.

438. Nevertheless, AI notes AT&T and WorldCom to contend that current flow-through rates are inadequate, while Vertex appears to complain that orders for two specific products (DS1 and DS3 loops) are not currently designed to flow through. (AT&T Ex. 4.0 at 20-24; WorldCom Ex. 3.0 at 3, 11-14; Vertex at 4-6.) While these complaints can be reviewed with overall OSS performance in Phase II, AI observes that, the parties have already agreed upon, and the Commission has approved, a collaborative process to determine – as a group – the orders to receive priority in future flow-through improvements. (Am. Ill. Ex. 4.0 Sch. MC-1, ¶ 143.) Vertex offers no reason to attempt to bypass that process, in AI's view.

Orders for Specific Products

439. In a few instances, AI notes, the CLECs would contend that the systems and processes are inadequate to support ordering for specific products or services. As such, AT&T argues that the LSOG 4 and 5 versions do not permit an "as-is migration" from retail service to the UNE-P, i.e., a scenario in which the end user wants to retain all his existing features and change only the carrier. (AT&T Ex. 8.1 at 20.). It is impossible, AI asserts, to seriously contend that CLECs are unable to obtain such migrations. The sheer volume of platforms that the CLECs and, in particular AT&T, have obtained in recent months would conclusively refute any such assertion.

440. In AI's view, AT&T's real complaint is about format; i.e., that the LSOG 4 and 5 order forms do not have a single box to check for an as-is migration, and that the

CLEC must, instead, check off the individual services requested. This is the case, AI contends, because Ameritech cannot migrate *all* the services on an end user's account "as is". Some services (such as voice mail or the Linebacker maintenance plan) are not telecommunications services, not part of the UNE-P, and thus would not be transferred. (Tr. 1260.) The order format used by Ameritech was developed on a collaborative basis as part of the Plan of Record for Illinois and the FCC, and it is designed to follow industry standards. AT&T does not contend that the current format for as-is migrations departs from industry standards or the Plan of Record, and given current order volumes, it cannot contend that the format prevents ordering.

441. In the same vein, AI observes Z-Tel to allege that it had difficulty in ordering "blocking," a service that allows end users to prevent calls to "900" or "976" numbers from being made on their lines and thus avoid the charges associated with such calls. (Z-Tel Ex. 1.0 at 13.) In February 2002, however, Ameritech implemented a system enhancement to resolve this difficulty. (Am. Ill. Ex. 4.2 at 20.) Since then, Ameritech has reviewed several Z-Tel orders, and found no further systems barriers to processing orders so long as they were correctly submitted. (Id.) On April 12, 2002, Z-Tel tendered a list of orders for investigation, and "blocking" worked on all but one of them. While Ameritech is investigating the sole exception using standard follow-up procedures, it appears to represent an isolated occurrence, not any systemic problem. (Id. at 20-21.) At any rate, AI observes, the Commission can review this performance issue in Phase II.

Provisioning

442. "Provisioning" AI explains, refers to the process of completing a CLEC's order and providing the requested product or service. According to AI, provisioning of many CLEC services is coordinated by the Local Operations Center ("LOC"), which has almost 600 employees, where more than 300 are assigned to provisioning activities. (Am. Ill. Ex. 2.0 Sch. JWB-1, ¶¶ 20, 60.) The FCC, AI notes, requires that "[a] BOC must provision competing carriers' orders for resale and UNE-P services in substantially the same time and manner as it provisions orders for its own retail customers," and it also examines the timeliness and the quality of a BOC's provisioning efforts for other products and services that have no retail analog. New Jersey 271 Order at App. C, ¶ 37. The Commission, AI notes, will review provisioning performance in Phase II.

Special Services

443. "Special services," AI explains, are telecommunications circuits that require specific transmission parameters over and above those required for "plain old telephone service" or "POTS." They include, but are not limited to, high capacity UNEs and services (*i.e.,* DS1 and above). (Am. Ill. Ex. 17.0 ¶ 7.) Ameritech has a dedicated group in its Network Organizations that is responsible for the installation, repair and maintenance of these high capacity telecommunications circuits. (Id. ¶ 12.) Ameritech uses the same procedures and systems for Special Services provided to CLECs as it uses for those provided to its own retail unit. (Id. ¶¶ 22, 27.) No party to this Phase I A proceeding, AI contends, raised any issue concerning Special Services.

Repair and Maintenance

444. Ameritech asserts that it provides CLECs with nondiscriminatory access to its repair and maintenance functions, which they may use to report trouble and request maintenance. As with the other OSS functions, Ameritech Illinois offers two alternative methods to electronically report trouble: (1) EBTA, an industry standard application-to-application method, and (2) an EBTA GUI. (Am. Ill. Ex. 4.0 Sch. MJC-1, ¶¶ 184, 186, 191.) According to AI, CLECs may also contact a technician at Ameritech's LOC (which is responsible for receiving maintenance trouble reports). (Id. ¶ 183.) The technician will then enter the trouble report into its electronic systems. (Am. Ill. Ex. 2.0 Sch. JWB-1, ¶ 88.)

445. The EBTA GUI allows carriers to perform the same functions that Ameritech's retail operations perform. (Am. Ill. Ex. 4.0 Sch. MJC-1, ¶¶ 184-85.) Requesting carriers can (1) issue trouble reports, (2) conduct a Mechanized Loop Test ("MLT"), (3) determine the status of a previous trouble report, (4) view a list of open trouble reports, and (5) view a list of reports closed within the last 30 days. (Id. ¶ 185.) The alternative interface, i.e., EBTA, AI informs, enables carriers to perform all but the last two functions. (Id.)

Trouble Closure Codes and Trouble Identification Charges

446. Upon completing the necessary repair work, AI explains, the technician fills out a "ticket" with a "closure code" that indicates what the trouble was, what he or she did, and how the trouble was resolved. (Id.; Am. Ill. Ex. 16.0 at 3-4.) If the technician cannot find any service trouble, or finds that the end user's own premises equipment or a CLEC's equipment (as opposed to Ameritech's equipment) is responsible, the end user (or the CLEC serving that end user) is assessed a "trouble identification charge," to compensate Ameritech for time and labor. (Am. Ill. Ex. 16.0 at 4.)

447. Ameritech relies on trouble closure codes to help manage its business, and takes such codes very seriously. (Am. Ill. Ex. 2.1 at 15-16.) Thus, the Company has processes in place to help ensure their accuracy. At the outset, AI explains, employees are required to read, understand and sign the Code of Business Conduct, which states that "Fraudulent or illegal conduct committed on or off the job" – including "oral or written misrepresentation of facts" – "may be grounds for disciplinary action, up to and including dismissal." (Id.) So too, CLECs can request a "vendor meet," where a CLEC representative and an Ameritech technician meet at the end user's location to investigate and resolve the trouble. (Am. Ill. Ex. 2.1 at 14.) A CLEC that is using EBTA can also "deny closure" of the trouble ticket, which keeps the ticket open and requires Ameritech to investigate. (Id.) Ameritech further offers a "Close But Dispute" process, where a CLEC can allow the trouble ticket to close (because the trouble has been repaired), but can dispute the closure code and any associated charges. (Am. Ill. Ex. 2.2 at 8.)

448. Notwithstanding these controls, AI sees McLeod and TDS to allege that Ameritech technicians are mis-coding repair work, resulting in unwarranted trouble identification charges. (McLeod/TDS Joint Ex. 1.0 at 6-8.) While they admit to no hard evidence to support these claims, they would suggest that the increase in such charges after mid-2001 provides "circumstantial evidence" of a problem. (Id. at 6-7.)

449. Ameritech maintains that it itself mistakenly *failed* to assess charges for certain trouble reports before mid-2001. Hence, the increase in such charges thereafter only reflects a return to accurate coding. (Am. Ill. Ex. 16.0 at 4-6.) The situation arose with respect to certain repairs completed shortly after installation. Ameritech explains that it connects service only as far the Network Interface Device ("NID"), because the NID marks the end of Ameritech's facilities and the limit of its direct responsibility. (Id. at 5.) According to AI, telephones and other "premises equipment," and the wiring inside the end user's home or business that connects that equipment to the NID, belong to the end user. In some situations, AI contends, it received a trouble report after the initial installation indicating that the end user was out of service or that certain jacks did not work. (Id.) Some repair technicians were under the mistaken impression that Ameritech was required to perform installation work beyond the NID and thus, incorrectly coded the reports. (Id.)

450. This means that Ameritech technicians were doing *more* work than required and were doing it for free. The Company has now retrained its technicians on proper coding and requires them to obtain specific managerial authorization to close trouble reports associated with resale or the UNE-P. (Id. at 5-6.) The consequence is a system with *more* accurate repair and maintenance billing, which ensures that CLECs were billed in some instances where they had previously not been billed. According to AI, McLeod and TDS do not dispute this explanation for the increase in trouble identification charges in mid-2001. See McLeod/TDS Joint Ex. 1.2 at 16 ("I accept Mr. Muh's explanation as to the timing of the change in trouble ticket coding policy.").

451. While McLeod and TDS also allege that repair technicians close trouble reports without really finding or fixing the problem, there is no evidence, AI contends, to show any systemic problem, nor do they provide any specific incidents for the Company to investigate. While some isolated mistakes are inevitable, AI argues, carriers may take full advantage of the procedures Ameritech has established to investigate any suspected mistakes, i.e., by re-opening the trouble report, using the "Close But Dispute" process, requesting a joint "vendor meet," or raising the issue with the LOC service manager. (See Am. Ill. Ex. 2.1 at 13-14; Am. Ill. Ex. 16.1 at 5.) Further, if a technician did incorrectly report trouble as resolved (an action that may very well lead to his for dismissal), the end user or the CLEC would inevitably report trouble again, thus requiring Ameritech to make a second visit. Ameritech maintains that it has no incentive to waste time and money in that manner. In any event, closing trouble reports without really fixing the problem would lead to an increase in the rate of "repeat" trouble reports, which will be addressed in Phase II. (Am. Ill. Ex. 16.0 at 7.)

452. In claiming that technicians assign closure codes that do not accurately reflect the problem associated with a trouble report, AI believes the CLEC to be

referring to a past misunderstanding regarding "vendor meets." (Am. Ill. Ex. 2.2 at 8-10.) Before April 2002, AI explains, notes taken during such meets were not automatically used to change original trouble closure codes, because Ameritech viewed them as only part of an informal, informational process. (Id.) As of April 2002, however, Ameritech enhanced the vendor meet process so it could be used as a formal mechanism to dispute and seek changes to closure codes. (Id.) Thus, the closure code problem raised by RCN has already been addressed, as is evidenced by the fact that RCN took the issue off "open" status in the CLEC User Forum. (Id. at 10.)

EBTA Issues

453. As already indicated, Ameritech offers CLECs two electronic methods, EBTA and EBTA GUI, to issue trouble reports. A CLEC can also use these methods to conduct an MLT (Am. Ill. Ex. 4.0 Sch. MJC-1, ¶¶ 184-195), the same software product Ameritech's retail organization uses to test lines. (Am. Ill. Ex. 4.1 at 45.) AI sees WorldCom to claim that it is "frequently" unable to run MLT. (WorldCom Ex. 3.0 at 28.) WorldCom, however, gives no hint as to what it means by "frequently," and has failed to show that its experiences represent any sort of systemic problem or discrimination. In some cases AI suggests a high demand for testing resources in the switch could prevent an MLT from completing. (Am. Ill. Ex. 4.2 at 18.) In such instances, AI explains, the user should simply resubmit the MLT. (Id.) In any event, AI notes, WorldCom's claim concerns a performance issue that will be addressed in Phase II (thus far, AI notes, BearingPoint has not issued an observation or exception, despite having completed a volume stress test of EBTA). (See Am. Ill. Ex. 4.1at 45; Am. Ill. Ex. 4.2 at 18.)

454. WorldCom also claims that EBTA does not "deliver the best available commitment date to repair out of service issues," because WorldCom can get faster appointments by calling the LOC. (WorldCom Ex. 3.0 at 29.) Even if true, AI contends, WorldCom's complaint does not affect checklist compliance. EBTA provides WorldCom repair appointment dates that are based on the same scheduling "clock" Ameritech uses for its own retail commitments, and nondiscrimination is all that the checklist requires. (Am. Ill. Ex. 4.2 at 19.) To be sure, if a CLEC contacts the LOC, the LOC will do its best to provide an earlier commitment date, but that just means that WorldCom receives *better* treatment than the checklist requires. (Id.)

455. Finally, AI observes, WorldCom complains that it has experienced problems entering certain "codes" into EBTA which identify the type of trouble experienced. It alleges that when it enters the code that indicates a feature failure (like call waiting or 3-way calling not working), the code is then changed in Ameritech's downstream systems. (WorldCom Ex. 3.0 at 30.) The EBTA interface AI notes, uses codes established by an industry standards body. (Am. Ill. Ex. 4.1 at 46.) Ameritech Illinois' systems use a different code, such that the code entered by WorldCom into EBTA must be translated. (Id.) This conversion process, AI contends, should not affect WorldCom. (Id.) If WorldCom is concerned, however, it can add comments in the "Additional trouble info" field to eliminate any ambiguity: According to AI, its technicians are trained to read that additional information in resolving the customer's trouble. (Id.)

Billing

456. There are two principal functions involved in billing, AI explains. The first relates to CLECs billing end users for telephone usage, and the information that Ameritech provides to assist in that billing. The second relates to Ameritech billing of CLECs for wholesale products and services.

457. When an end user makes a phone call, AI informs, the switch that routes the call also records the information for billing, such as the time, type (local, intraLATA toll, interLATA long distance) and length of the call. The end user's local carrier accumulates this information, bills the end user for the services the carrier provides itself (local and local toll calls), and bills other carriers (*i.e.*, long-distance carriers like AT&T) for access to the local network, as applicable. In some cases, the switch belongs to Ameritech, but a CLEC uses that switch to serve its own end users (as when the CLEC is reselling Ameritech service or leasing the UNE platform). In such situations, Ameritech passes the usage information to the CLEC so it can bill other carriers or its own end users. (See Am. Ill. Ex. 7.0 Sch. DK-1, ¶¶ 3, 16, 20.)

458. The FCC requires a BOC to demonstrate "that it provides competing carriers with complete and accurate reports on the service usage of competing carriers' customers in substantially the same time and manner that a BOC provides such information to itself." New Jersey 271 Order at App. C, ¶ 39. Ameritech provides nondiscriminatory usage reports almost by definition, as it uses a single, integrated regional system to process usage data for retail, resale, and UNE-P end users. (Am. Ill. Ex. 7.0 Sch. DK-1, ¶ 17.) That system provides Daily Usage Files ("DUFs") to CLECs for use in billing their end users and other carriers. (Id. ¶ 20.) CLECs can choose to receive the file via magnetic tape or electronically over data lines in the industry-standard format. (Id. ¶ 21.)

459. Ameritech also issues monthly bills to carriers. The FCC requires a BOC to provide "wholesale bills in a manner that gives competing carriers a meaningful opportunity to compete." New Jersey 271 Order at App. C, ¶ 39. Monthly bills, AI asserts, are subject to quality control and testing procedures that go beyond those used for retail bills. (Am. Ill. Ex. 7.0 Sch. DK-1, ¶ 40.) On each billing date (there are at least ten monthly billing cycles) representatives review bills for completeness and format. (Id. ¶¶ 28, 29, 40.) Monthly, Ameritech tests a sample of items to ensure that the rates for each product or service have been properly applied. (Id. ¶ 40.)

460. Ameritech's electronic systems it explains, also subject retail and wholesale orders to edit checks at the billing stage, to help ensure bill accuracy. (Am. Ill. Ex. 7.0 Sch. DK-1, ¶¶ 36-38.) The LSCs have devoted a special Error Corrections team to resolve errors identified in this editing process, so that orders are posted before the billing cut-off (thus preventing double-billing, the concern expressed in the Michigan 271 Order, ¶¶ 200-203. (Am. Ill. Ex. 2.0 Sch. JWB-1, ¶¶ 42-43.) Team members review summaries of orders in this error status daily to identify priorities and ensure timely resolution. (Id.)

Billing Issues

461. While several CLECs have raised issues related to the performance of certain aspects of Ameritech's billing systems, especially related to billing for intraLATA toll calls, Ameritech has addressed those issues. Billing systems and processes, AI notes, will be and are least evaluated as a whole in Phase II. See Pennsylvania 271 Order, ¶ 26 (evaluating CLEC bills in dispute as a percentage of the whole rather than discussing individual disputes); Massachusetts 271 Order, ¶ 99 (emphasizing importance of the results of the OSS test as opposed to individual CLEC claims).

Switch Translation Issues

462. AI sees that three issues, identified by the CLECs, concern switch "translations", i.e., the programming within each switch that determines how to route and record a call. (Am. Ill. Ex. 16.0 at 11-12.) *Routing* translations AI explains, determine what kind of call is passing through the switch (whether it is a local, intraLATA toll, or long distance call). *Line* translations it further explains, determine the appropriate carrier for each kind of call. (Id. at 9-10, 13-14.)

463. According to AI, the line translation issues at hand arose in two narrow situations. In the first situation, an end user would request a change in his intraLATA toll carrier, or LPIC. If the end user happened to report trouble in the window of time after the change was processed, but before Ameritech's billing records were updated, a verification process (known as Verify and Fix) that is conducted during maintenance would conclude that the line translation did not match the billing record, and it would automatically (but mistakenly) change the translation back to the previous carrier. Ameritech asserts that it fixed this problem in October 2001. (Id at 11.)

464. The second line translation issue, AI informs, related to the processing of certain UNE-P orders. In the course of processing, a message was mechanically added to some orders, in error. The message did not affect provisioning of the order (which flowed through electronically), but it interrupted the processing of the portion of the order designating a change in the line translation tables. (Id. at 11-12.) After being informed of the problem, in September 2001, Ameritech and its affiliates implemented a region-wide solution. The ordering systems were revised so as not to generate the erroneous message. In the interim, the provisioning systems were revised to process the line translations despite the erroneous message; and all line translation changes that had been interrupted before these system enhancements were reviewed and processed manually. All work was complete by April 2002, AI contends, and the line translation problem is now resolved. (Id. at 11-13; Am. Ill. Ex. 16.1 at 5.)

465. In the same time, however, Ameritech also identified routing translation problems. It determined that these errors likely arose in the course of processing extensive changes to the routing tables as a result of splitting formerly unified area codes, opening new area codes, and in other changes to local calling areas. (Id. at 14.) Due to these routing table errors, some calls were classified incorrectly (*i.e.*, a local call was identified as a toll call), and thus routed incorrectly. (Id. at 13-14.) The errors were

neither systemic nor material, and affected only about one percent of the routing table entries. (Id. at 14.) Nevertheless, these errors were resolved through a complete check of the entire network in the five-state Ameritech region. (Id.) Further, Ameritech has conducted additional training on routing procedures, and it plans another regional check of every switch in order to ensure that there are no other routing translation issues. (Id. at 14-15.) Several switches have already been reviewed, AI asserts, and no routing table problems have been found. (Am. Ill. Ex. 16.1 at 5.)

466. None of these switch translation problems was inherently discriminatory, AI suggests, in that Ameritech would have been affected in the same way when customers were transferring local or local toll service from a CLEC to Ameritech, or when its customers made a call that was affected by the translation error). (Id. at 15.) Further, none of these problems affected service to the end user, who was still able to complete calls. (Id.) Nonetheless, the issues have been resolved, and the Commission can make its final assessment of the situation in Phase II.

IntraLATA Toll Usage Information

467. AI sees WorldCom to complain that, in early 2001, Ameritech sent it DUFs for UNE-P end users that showed local usage information for calls that should have been handled as intraLATA toll calls. According to AI, switch translation problems had resulted in the mistaken classification and handling of some local toll calls as local, and in the incorrect identification of the intraLATA toll provider. (Am. Ill. Ex. 7.0 at 8-9.) These switch translation problems it contends, have been corrected. (See Am. Ill. Ex. 16.0 at 13-15.) WorldCom and Ameritech, through standard billing dispute procedures, continue to work on the incorrect usage records that resulted from these switch translation problems.

468. WorldCom is seen to assert that, even after these corrective measures, it continues to be billed for some intraLATA toll calls. (See WorldCom Ex. 2.1 at 2.) This is as it should be, AI explains, for in some situations WorldCom is supposed to be billed in connection with intraLATA toll. When WorldCom serves an end user via UNE-P and the end user has designated an IXC as the end user's intraLATA toll provider, Ameritech will bill WorldCom for the switching and transport costs incurred in delivering intraLATA calls to the IXC. (Am. Ex. 16.1 at 6-7.) When WorldCom serves an end user via UNE-P, and the intraLATA toll provider is designated as "9999"; WorldCom is the intraLATA toll provider (and will bill its end user for such calls), but, as is using Ameritech's network to carry the calls, so Ameritech will bill WorldCom for using its network. (Id. at 7-8.) When WorldCom's end user has not chosen any intraLATA toll provider, AI informs, but places such calls using "dial-around" (such as 10-10-220), Ameritech will route intraLATA toll calls to the IXC to whom the dial-around is assigned, and will bill WorldCom for the costs involved in delivering the call to the IXC. (Id. at 8-9.)

Billing Format

469. The Company notes WorldCom to allege that Ameritech has not converted UNE-P billing from the Reseller Billing System ("RBS") format to the Carrier Access Billing System ("CABS") format, as required by the Order in Docket 00-0592, and that the "jurisdictional indicator" on CABS bills (which shows whether a call was local or local toll) is incorrect. (See WorldCom Ex. 2.1 at 6.) Both allegations are incorrect, according to AI. First, as WorldCom itself notes, the CABS format is supposed to be used only for calls that do not involve the use of OS or DA; the disputed calls were operator-assisted calls, not direct-dialed calls, and thus were properly billed using RBS rather than CABS. (Am. Ill. Ex. 7.2 at 6-7.) Second, Ameritech implemented an enhancement in April 2002 to correct the "jurisdictional indicator" so that calls are properly classified as local or local toll calls. (Am. Ill. Ex. 7.1 at 6.) As WorldCom admits, however, that this issue did not "result in erroneous or inflated billing." (WorldCom Ex. 2.1 at 7.) The correct rates were billed notwithstanding the incorrect indicator, and WorldCom could still determine which calls were local by using the DUFs. (Am. Ill. Ex. 7.2 at 5.)

470. In the same vein, the Company notes, Z-Tel alleges that Ameritech sent it DUFs that failed to distinguish local calls from local toll calls. (See Z-Tel Ex. 3.0 at 7.) As with WorldCom's claim, AI contends, the classification did not affect billing (as Ameritech's billing systems correctly separated local from local toll calls, even if the usage records did not); did not affect Z-Tel's ability to audit the bills (other data elements in the usage files enabled Z-Tel to separate local from local toll usage); and has been resolved (by an October 2001 systems enhancement). (Am. Ill. Ex. 7.2 at 3-4.)

Billing Rate Issues

471. WorldCom also alleges that Ameritech has billed it in excess of the tariffed rates for certain local toll and DA calls. As for the local toll calls, Ameritech insists that it has examined the bills in question, and determined that WorldCom incorrectly assumed that the calls were direct-dialed toll calls, when in fact the calls were operator-assisted calls. (Am. Ill. Ex. 7.2 at 7-8.) Additional charges apply to OS calls, AI explains, making the average per-minute charge for operator-assisted calls much higher than the average per-minute charge for direct-dialed calls. (Id.) In the course of this investigation, however, Ameritech discovered that, for all UNE-P CLECs using Ameritech's OS, retail rates instead of wholesale rates were mistakenly being applied to all of the OS rate elements. (Id.) Ameritech claims that it is in the process of fixing this problem, and will recalculate all UNE-P CLECs' OS charges and issue appropriate credits. The Company will update the Commission as to the status of this issue in Phase II.

472. With respect to DA calls, Ameritech discovered that some of these calls were in fact being billed incorrectly. (Id. at 9-10.) Part of the error (where Local DA calls were treated as National DA calls) it contends, has been corrected. (Id. at 10.) The remaining problem (the application of an incorrect rate element) is currently being addressed, AI comments, and the affected charges will be recalculated and credits will

be issued as appropriate. (Id. at 10-11.) AI would note, however, that billing for UNE-P CLECs spans four operating systems and thousands of rate elements, (of which OS and DA are a minor subset), such that these do not represent any systemic problem with Ameritech's billing systems. (Id.)

Training Carrier Assistance and Help Desk Support

473. Having increased the quantity and quality of electronic methods to access OSS, Ameritech maintains that it has given equal attention to the human side of OSS access, all the way from the CLEC's initial start-up to its mature operation. It dedicates a separate Account Manager to each CLEC to serve as its principal contact and as a guide to the various services and options available. (Am. Ill. Ex. 12.0 Sch. DAT-11, ¶¶ 8-12.) A group of technical experts provides OSS demonstrations and assists CLECs in the initial development of interfaces. (Am. Ill. Ex. 4.0 Sch. MJC-1, ¶¶ 34-38.) Ameritech contends that it offers a wide selection of training courses that cover a variety of business and technical subjects associated with OSS use. (Id.) These courses are supplemented by an interactive CLEC website (Am. Ill. Ex. 12.0 Sch. DAT-1, ¶¶ 25-27), along with specialized groups and call centers that offer technical assistance (Am. Ill. Ex. 4.0 Sch. MJC-1, ¶¶ 39, 57-63). Region-wide service centers staffed by hundreds of trained specialists handle manual provisioning and maintenance activities for individual orders or trouble reports. The LSC handles ordering issues, AI explains, while the LOC tackles provisioning and maintenance. (Am. Ill. Ex. 2.0 Sch. JWB-1, ¶¶ 6-12.) Expert support teams handle global questions about OSS access as they arise. (Am. Ill. Ex. 4.0 Sch. MJC-1, ¶¶ 57-63.) And, for all areas of OSS, Ameritech has instituted a CLEC User Forum that enables CLECs to meet regularly to exchange ideas and provide input to Ameritech.

Call Center Response Times

474. AI notes AT&T to allege that it experienced long "hold times" for calls to Ameritech's Mechanized Customer Production Support Center ("MCPSC") and IS Call Center. (AT&T Ex. 8.0 at 54; AT&T Ex. 8.1 at 24.) As AT&T notes, however, the issue occurred only in the three weeks following the release of the LSOG 5 enhancement. (AT&T Ex. 8.1 at 24.) At that time, AI points out, the volume and length of calls to the MCPSC increased, primarily due to CLEC questions regarding LSOG 5. (Am. Ill. Ex. 4.2 at 11.) Ameritech added additional resources to address the increased volume, it asserts, such that the average hold time decreased to less than 10 minutes. (Id.) Further, the MSPSC has been using "call backs" so that CLECs need not stay on hold while the MSPSC researches an issue. (Id.) Ameritech also has offered to establish dedicated "single points of contact" with CLECs to handle redundant questions from representatives of the same carrier, and has been analyzing the nature of calls from frequent callers to offer on-site support. (Id.) The Commission will review call center performance in Phase II AI observes.

475. The MCPSC, AI explains, assists CLECs by addressing questions related to the business processes and rules for pre-ordering and ordering transactions, analyzing error codes, and other OSS-related business process issues. (Am. Ill. Ex. 4.0

Sch. MJC-1, ¶¶ 57-58.) The IS Call Center addresses questions related to OSS access, system connectivity, and system availability. (Id. ¶¶ 59-63.) AI would emphasize that these Centers are not the only support mechanisms available to CLECs. The on-line CLEC Handbook contains OSS "how to" documentation. (Am. Ill. Ex. 4.0 Sch. MJC-1, ¶ 39.) The IS Call Center maintains a location on the CLEC web site that provides system status messages and troubleshooting guides. (Id.)

Account Ownership Changes

476. AI notes McLeod's testimony on the consolidation of accounts when one CLEC acquires or merges with another CLEC. Currently, AI maintains, the "purchasing" CLEC will receive all the information (including usage information for billing customers) that was previously sent to the purchased CLEC. (Am. Ill. Ex. 2.1 at 12.) All records are sent to the address designated by the purchasing CLEC, and service to the end user is not affected by the merger or acquisition. (Am. Ill. Ex. 2.2 at 7; Tr. 599.) According to AI, however, the end users' customer service records, are not automatically integrated under the name of the purchasing CLEC, but retain the name of the purchased CLEC. (Am. Ill. Ex. 2.1 at 12-13.) In order to change the name of the carrier listed on those records, AI explains, the purchasing CLEC must submit a separate order for each affected telephone number, just as Ameritech does to change such information for its own end users' records. (Id.) McLeod urges that Ameritech should develop some sort of "mass conversion" process to convert all affected end user records at once. (McLeodUSA Ex. 1.0 at 20-21.)

477. McLeod's claims are not relevant to this proceeding, AI contends. McLeod itself admits that it "do[es] not believe that this issue has been raised in a Section 271 proceeding before," and that "prior Section 271 approvals were granted without imposing such a requirement on an RBOC." (MTSI Ex. 1.2 at 13.) Indeed, the FCC has held that such "fact-specific, carrier-to-carrier dispute[s]" are not appropriately resolved in Section 271 proceedings. New Jersey 271 Order, ¶ 128.

478. In AI's view, there is not valid "discrimination" charge being stated by McLeod. It would argue that Ameritech has "processes in place to effectuate a seamless change in ownership for a retail customer when they acquire another retail customer," and that Ameritech must offer McLeod a similar process. (MTSI Ex. 1.2 at 13.) But, the Company maintains, Ameritech and McLeod are already treated equally. When Ameritech converts a retail end user's lines from one account to another, a representative must issue a service order for each individual end user account that needs to be converted, just as McLeod must do. (Am. Ill. Ex. 2.2 at 6.) There is no "mass conversion" process on either side of the aisle. (Id. at 6-7.) Ameritech, however, is investigating methods to develop such a process. (Am. Ill. Ex. 2.1 at 12-13.) The issue here is not service, but convenience, AI argues, and given McLeod's own admission that "developing a process to permit consolidation of various CLEC accounts into one account is a complex task" its singular request must be balanced against other priorities and the needs of Ameritech and other carriers. (Am. Ill. Ex. 2.1 at 12-13.)

Change Management Plan

479. "Change management" AI informs, refers to the methods and procedures that the BOC employs to communicate with competing carriers regarding the performance of, and changes to, the BOC's OSS system. New York 271 Order, ¶ 103. Periodic changes to OSS, AI explains, "may include operations updates to existing functions that impact competing carrier interface(s) upon a BOC's release of new interface software; technology changes that require competing carriers to meet new technical requirements upon a BOC's software release date; additional functionality changes that may be used at the competing carrier's option, on or after a BOC's release date for new interface software; and changes that may be mandated by regulatory authorities." Id. According to AI, the FCC has identified the following elements of a change management plan ("CMP") that give an efficient competitor a meaningful opportunity to compete: (1) evidence of competing carrier input in the design and continued operation of the change management process; (2) memorialization of the change management process in a basic document; (3) a separate forum for change management disputes; and (4) a stable testing environment that mirrors production. Id. para 111.

480. There is no dispute, AI maintains, as to the satisfication of the first three elements. Ameritech's CMP reflects competing carrier input, as it was developed in 13 months of negotiations with CLECs throughout the 13-State SBC/Ameritech service area, conducted pursuant to the FCC's merger conditions. (Am. Ill. Ex. 4.0 Sch. MJC-1, ¶ 199.) It was submitted to the FCC without any disputed issues at the conclusion of the Uniform and Enhanced OSS collaborative. (Id.) It also was approved with some Illinois-specific modifications in Docket 00-0592. The 13-state CMP has been memorialized in a comprehensive document that was filed in the FCC Uniform and Enhanced OSS collaborative, is included in the Plan of Record reviewed in Docket 00-0592, and is posted on the CLEC web site. (Id. ¶ 199.) It contains detailed timelines and procedures for changes, including walk-through, comment, and testing phases for further CLEC input. (Id. ¶ 202.)

481. To the extent any issue is not resolved in this process, AI informs, the CMP contains its own mechanism for dispute resolution: an Outstanding Issue Solution procedure that allows a CLEC or CLECs to call for a discussion and vote – by CLECs alone (Ameritech does not have a vote) – through which CLECs can vote to delay, modify or even block the release. (Id. ¶¶ 208-212.) This "go-no go" vote is substantially identical to the procedure the FCC endorsed in its Texas 271 Order ¶¶ 112, 116. As an added layer of protection, Ameritech notes, it has implemented "versioning" – a feature that allows requesting carriers to continue using an existing version of OSS software even after Ameritech issues a new version. (Am. Ill. Ex. 4.0 Sch. MJC-1, ¶ 218.) The FCC has found "that versioning enhances [a BOC's] change management plan by providing significant additional assurance that changes will not disrupt competing carriers' use of [the BOC's] OSS." Kansas & Oklahoma 271 Order, ¶ 167.

Testing Environment

482. The sole disputed element of the FCC's four criteria for a CMP AI notes, is the last, i.e., the availability of a secure testing environment. Such an environment, AI maintains, is a set of programs that allows Ameritech and CLECs jointly "to test" proposed OSS changes before the changes are implemented for commercial use. (Am. Ill. Ex. 4.0 Sch. MJC-1, ¶ 56.) The testing environment is designed to process orders and transactions, in the same way that the real-world OSS will, once the proposed change is implemented. (Id.) Ameritech contends that its testing environment is consistent with the modified Plan of Record, approved in Docket 00-0592.

483. The Company disputes the merit of AT&T's allegations that Ameritech's testing environment is inadequate because "Ameritech limits the number of CLEC test orders it will discuss with CLECs to just five orders a day." (AT&T Ex. 8.0 at 45-47.) The five-order "limit" AT&T describes is not absolute, AI contends, as CLECs can review more test cases if they ask in advance. (Am. Ill. Ex. 4.1 at 28.) Further, AT&T has not shown that is has been adversely affected by this policy. Between October 16, 2001 and February 28, 2002, AI notes, AT&T submitted four or fewer test orders on half the days that it submitted orders, meaning that AT&T was not even taking advantage of the full testing resources made available. (Id.) And, on many of the days that AT&T submitted more than five test orders, Ameritech reviewed all of those orders with AT&T. (Id.) AT&T's own actions show that this requirement is met where it publicly announced that it was "aggressively testing" Ameritech's interfaces, namely LSOG 4.2, and where AT&T apparently deemed the testing adequate, because it implemented version 4.2 and is using it to place orders to support its mass entry into the Illinois market. (Am. Ill. Cross Ex. 27.)

Implementation of LSOG4

484. AT&T is also seen to contest the process by which Ameritech implemented LSOG4. AT&T appears to change that implementation was "haphazard" because it was done "without regard to change management." (AT&T Ex. 8.0 at 16, 20.) Ameritech disagrees. There *was* an identified CMP, and a timetable for the guide's release in place AI contends, the one Ameritech spent months negotiating with the CLECs. Although that process had not been formally approved at the time, AI claims that the CLECs had agreed to the process and its timetable, and Ameritech followed through. The Plan of Record, AI contends, specified exactly how the process would apply to the March 2001 enhancements. (Am. Ill. Ex. 4.1 at 16-18.) Consistent with the change management process, Ameritech: provided a Release Notification six months before implementation, followed by a 7-day comment period; issued Initial Requirements over five months before implementation, followed by a month-long comment period and a two-day walk-through; and issued Final Requirements, reflecting agreed changes from the previous comments and walk-throughs, four months before implementation, followed by two more walk-throughs.

485. To the extent AT&T had a problem with these procedures, AI asserts, it had the opportunity to request a "go- no go" vote (a procedure endorsed by the FCC in

its Texas and Kansas & Oklahoma 271 Orders) to delay or block implementation. (See Am. Ill. Ex. 4.1 at 20.) Neither AT&T nor any of the CLECs, AI points out, sought to invoke this dispute resolution mechanism. (Id.) Moreover, AT&T has since implemented and tested LSOG 4.2, so any complaints about version 4.0 are moot.

Implementation of LSOG5

486. In AI's view, AT&T's complaints concerning the implementation of LSOG 5, are irrelevant. (AT&T Ex. 8.0 at 24-25.) Ameritech is relying on LSOG 4, not LSOG 5, to show its compliance with the Section 271 checklist. (Am. Ill. Ex. 4.1 at 35.) While the FCC has never required that any particular version of the LSOG standards be used, AI asserts, it has approved Section 271 applications in a dozen states where LSOG 2, 3, or 4 (but not 5) had been implemented. (See Id. (listing the relevant states)). AT&T is using LSOG 4.2 AI notes, and it can continue to do so. (Id.)

487. Ameritech informs that it delayed the release date for LSOG 5 one month because it had discovered unanticipated problems during testing and wanted additional time to resolve them before it went into commercial use. (Am. Ill. Ex. 4.1 at 36-37.) This is the very purpose of the CMP – to work out the inevitable issues surrounding systems changes and minimize possible negative impacts. So too, the release of LSOG 5 was administered under the FCC-required Uniform and Enhanced Plan of Record. (Tr. 1688-1689.) The FCC expressly approved SBC's request to delay the implementation of LSOG 5, finding that there was good cause. (Tr. 1689.)

488. AI sees McLeod to assert that Ameritech's testing environment for LSOG 5 was flawed because "McLeodUSA could not even get past the pre-order test scenarios for weeks because of basic connectivity problems." (McLeodUSA Ex. 4.1 at 2.) According to Ameritech, it has worked with McLeod to address the problems it encountered, and believes that this issue was resolved. (Tr. 1197.) And, to the extent McLeod wants further clarification, Ameritech is willing to continue discussions on the same business-to-business basis. Ameritech points out, however, that the issue here is not one of connectivity. McLeod's difficulties with the LSOG 5 testing environment, AI maintains, stemmed from confusion over the appropriate field in which to place one particular piece of data (out of thousands). (Am. Ill. Ex. 4.2 at 12; Tr. 1254-1254.) Ameritech realizes that this issue is important to McLeod, and is committed to working with McLeod to address its concerns. This kind of non-systemic, carrier-specific issue however, AI argues, does not bear on checklist compliance. E.g., New Jersey 271 Order, ¶ 128.

Miscellaneous UNE Issues

489. AI notes that Staff would have it adopt a new BFR process, to meet Staff-created criteria of "cost," "timeliness," "quality," and "transparency." (Staff Ex. 3.0 at 90-105.) There is no such requirement under federal law, AI asserts, or, for that matter, under state law. To the contrary, Ameritech informs, its established BFR process has been in place since 1996, and the Commission has upheld that process as reasonable. See Arbitration Decision, Dockets 96-AB-003/96-AB-004, at 50 (upholding 30-day

period for Ameritech to respond to a BFR with a preliminary analysis); Arbitration Decision, Docket 96-AB-006, at 30 (upholding 120-day maximum interval for final response to BFR); Arbitration Decision, Docket 01-0338 at 23 (finding that BFR process was appropriate); Arbitration Decision, Docket 00-0769, at 15-16 (same).

Network Outage Notifications

490. AI sees RCN to question whether Ameritech's network outage notification process gives CLECs non-discriminatory access to UNEs. According to AI, it is required to provide CLECs with access to UNEs in a manner that is at least equal in quality to that which Ameritech provides to itself. 47 U.S.C. § 271(c)(2)(B)(iii); 47 U.S.C. § 251(c)(3); 47 C.F.R. § 51.311(b); Pennsylvania 271 Order, ¶ 11.

491. While RCN would claim that Ameritech does not provide timely notifications of service outages or estimated restoral times, the Company notes that it established a process that promptly notifies CLECs of outages and estimated restoral times. (Am. Ill. Ex. 5.0 at 19-21; Am. Ill. Ex. 5.1 at 17-19.) This process AI contends, was developed with input from CLECs during the Performance Measurement Collaboratives in 2000 and has been in place since October 2000.

492. Ameritech notes RCN to allege that it receives too many network outage notices such that Ameritech should perform a screening function so that each CLEC receives only those notices that will impact that CLEC's network. (RCN Exhibit 1.0 at 8.) This screening makes no sense, the Company argues, since it would require Ameritech to make judgments about which outages would affect each CLEC's operation – judgments that it is ill-equipped to make (as it does not know what equipment each CLEC has deployed within its own network.) Moreover, it would significantly delay the notification process and frustrate the ability of all CLECs to get timely information on outages. (Am. Ill. Ex. 5.1 at 17.)

493. Ameritech answers RCN claims, that it experienced "several" power outages in Ameritech's central offices in 2001 without getting any notification, by noting that, RCN did not register to receive network outage notifications until July 26, 2001, such that (it would not have received any notifications before that date). (Am. Ill. Ex. 5.1 at 18.) Subsequent, thereto, AI notes, there was only one power outage in Illinois. AI admits that the proper notifications were not sent on that occasion but, it asserts, the work groups responsible for issuing the notifications have been re-trained on the proper procedures and the correct notification process is currently working. (Id.)

494. With respect to RCN allegations that Ameritech notifies its internal workforce of scheduled outages but, does not provide the same information to CLECs, AI disagrees. The testimony shows that Ameritech has a working process to notify all CLECs of service-affecting network outages within very tight time intervals – some as short as 30 minutes. (Am. Ill. Ex. 5.0 at 19-21.) AI would point out that no CLEC, other than RCN, challenged the efficiency of this process, and RCN itself offered no facts to support its allegation.

Use of UNEs

495. AI sees Staff to question whether a CLEC can use UNEs in combination with, and in conjunction with, its own facilities to provide telecommunication services to other carriers. (Staff Ex. 20.0 at 73-74, 82.) Section 251(c)(3) requires that unbundled access be provided "to any requesting telecommunications carrier for provision of a telecommunications service." CLECs can purchase UNEs from Ameritech and use them in conjunction with other facilities or inputs provided by the CLEC in order to create a telecommunications service. Thereafter, the CLEC can sell the resulting service to other carriers and to retail end users. CLECs are doing this today AI informs. (Am. Ill. Ex. 1.2 at 34-35.) Ameritech has not created the usage restriction that it believes to concern Staff.

496. Contrary to what Staff would propose, AI maintains, that there is no federal requirement that BOCs "tariff" a CLEC's ability to use UNEs in conjunction with their own facilities to create telecommunication services which CLECs can provide to other carriers. (Staff Ex. 3.0 at 88.) Nor would such a tariff be necessary. Ameritech imposes no restrictions along these lines and there is no evidence to suggest any problem in this area. To the contrary, data CLECs commonly purchase the HFPL UNE from Ameritech and combine it with other inputs (*e.g.*, their own DSL equipment, transport and packet switching) to create a DSL transport service which they sell to others. (Am. Ill. Ex. 1.2 at 34-35.) According to AI, this is not a proper subject of tariffing because it would, at best, be a gratuitous statement about some of the uses that a CLEC could make of a UNE.

497. There was some discussion, AI notes, about whether CLECs could obtain UNEs and merely "resell" them to other CLECs. (Am. Ill. Ex. 1.1 at 31-32; Staff Ex. 20.0 at 73-74.) No CLEC has raised this issue and neither Ameritech nor Staff is asking the Commission to make any determination on this topic (nor would it be proper). An inquiry into this issue AI maintains, would involve complex issues of federal law and policy and would fall squarely under the category of "new and unresolved interpretive" issues that should not be addressed in Section 271 proceedings. Kansas & Oklahoma 271 Order, ¶ 19.

b. WorldCom Issues/Position.

498. By introduction, WorldCom notes that the FCC has consistently found that nondiscriminatory access to OSS is a prerequisite to the development of meaningful local competition. WorldCom contends that Ameritech's OSS does not meet either prong of the test the FCC has established to evaluate OSS: (i) it has not deployed the necessary systems and personnel; and, (ii) its OSS is not operationally ready. (New York 271 Order, ¶87.

499. WorldCom witness Lichtenberg explained that Ameritech's OSS systems are still flawed. In her testimony, she addressed SOC notices; flow through; line splitting; inaccurate provisioning; switch translation problems; trouble handling process

problems and the EBTA system. (WorldCom Exs. 3.0, 3.1.) WorldCom witness Chapman addressed the issue of missing and untimely LLNs (WorldCom Exs. 1.0, 1.1). In addition, WorldCom witness Hurter addressed billing. The problems identified in their respective testimonies, WorldCom argues, clearly indicate that Ameritech's OSS fails to meet the requirement that CLECs be allowed access to OSS on a nondiscriminatory basis. According to WorldCom, Ameritech acknowledges these problems but, either disputes their gravity, or claims to have implemented solutions. WorldCom believes that the problems continue to exist and urges the Commission to decline to provide a positive Section 271 recommendation unless, and until, each of the problems is resolved in a satisfactory manner.

OSS Service Order Completion Notices ("SOC's")

500. The missing SOCs, WorldCom contends, is a smaller scale version of the "meltdown" that happened shortly after the FCC granted Verizon Section 271 authority in New York. There, several hundred thousand orders for local service (among several CLECs) did not receive SOCs.

501. The result of missing SOCs, WorldCom informs, is that orders become mysteriously lost in Ameritech's systems and are neither confirmed, nor completed. When SOCs are missing, residents who chose WorldCom local service are either awaiting local service from WorldCom, or have such service but continue to be billed by Ameritech. In addition, some customers may have WorldCom service, and Ameritech may have ceased billing these customers, but WorldCom is not yet billing them because of the failure to receive the SOCs.

502. According to WorldCom, Ameritech has claimed on several occasions, to have "solved" this problem. While the situation has certainly improved, Ameritech's apparent inability to find the root cause, indicate, leaves WorldCom concerned that Ameritech has chosen to claim premature success on this issue.

503. WorldCom explains that when it receives an electronic acknowledgement, followed by an electronic Firm Order Confirmation ("FOC") and an electronic SOC, there is no manual intervention — the entire process is automated, efficient and allows the processing of a significant number of orders per day. The electronic notifiers permit WorldCom to update systems in a near real-time manner with the current status of the orders. This, in turn, allows for the relaying of accurate information to customers, should they call to inquire about the status of their order. If, however, WorldCom does not receive these notifiers from Ameritech seriatim— acknowledgement, FOC, SOC — manual intervention is required. Such intervention is required where WorldCom receives an acknowledgement, but no FOC, within at least three days. In that scenario, WorldCom brings these records to Ameritech's attention via the help desk/trouble ticket process. These trouble tickets remain open until an appropriate electronic response is received for each purchase order number.

504. Manual intervention, WorldCom contends, increases its operating costs and inhibits its ability to serve commercial volumes. The receipt of a timely SOC is

equally important as it closes out the pending order and initiates service and billing upon the provisioning date. Once this occurs, the customer becomes "active" in WorldCom's systems. The impact of Ameritech's failure to send electronic SOCs WorldCom contends, is both lost revenue and customer dissatisfaction. It means that customers are either being billed by Ameritech or are not being billed at all. In either case, the customer will ultimately receive a bill from WorldCom several months after the service. A single bill of that magnitude, however, is likely to cause significant customer complaints or refusals to pay, and perhaps, disconnections.

OSS – Flowthrough Failures

505. Many of the orders that WorldCom places, it asserts, do not flow through the Ameritech systems. This results in Ameritech relying on manual intervention, which has led to a deteriorating and inconsistent backlog of missing SOC notices. Yet, Ameritech asserts that a large percentage of the orders which have been submitted do to flow through.

506. While Ameritech has certainly made improvements since this problem peaked, it is still having detrimental impacts. One major cause is the existence of errors or mismatches in the Ameritech back end databases, such as the information in its SAG ("Street Address Guide") not matching the address on the CSR (Customer Service Record). Ameritech's failure to add the proper CLEC ownership information to orders during its manual processes also has led to difficulties.

OSS Provisioning Errors

507. WorldCom claims to have discovered that the receipt of a SOC is no guarantee that an order has been provisioned properly. This has resulted in the failure to add services such as call waiting, and in completing smooth migrations of customers from Ameritech to WorldCom. Ameritech's back-end systems often do not reflect the account and billing changes that should have resulted from a customer migration. At times, WorldCom claims, this has led to WorldCom's customers being disconnected (once five separate times) for "failure" to pay an Ameritech bill, even though the customer is not an Ameritech customer.

OSS Switch Translation Problems

508. According to WorldCom, Ameritech has failed to implement properly the switch translations that allow a customer to be "PIC'd" to its local toll carrier in the UNE-P environment. Switch translation errors are also the cause of Ameritech's failure to carry the customer's local toll traffic on the WorldCom network. This is an ongoing problem, WorldCom argues, despite Ameritech's assertions to the contrary.

OSS Electronic Bonding Trouble Administration Problems

509. Ameritech's EBTA system is seriously deficient in at least three areas WorldCom asserts. There are problems with MLT, with assigning due dates for repairs, and with accepting trouble reports concerning features. (WorldCom Ex. 3.0 at 27).

WorldCom's trouble handling group has frequently been unable to run an MLT to determine where the problem is on a customer's line – e.g., whether it is in the switch, in the outside plant, or within the inside wiring of the customer's premises. The Ameritech EBTA system, part of its Web GUI, also is deficient because dates for clearing troubles are routinely pushed out five days. In addition, the system mishandles trouble reports for features, routinely inaccurately classifying the troubles when they are entered into the system. Further, WorldCom argues, the Web GUI continues to be unstable and prone to significant outages.

OSS Line Loss Notification (LLNs)

510. Where WorldCom is providing local service via UNE-P in Illinois, Ameritech is supposed to send a LLN to WorldCom in the event that a customer has migrated to another CLEC (a CLEC-to-CLEC Migration) or to Ameritech (a winback). The LLN lets WorldCom know that the customer is no longer with MCI, and that MCI should stop billing the customer for local service. When a LLN is not sent, WorldCom will likely keep on billing the customer. Without a LLN, a final WorldCom end user bill may still be rendered, but only after the former customer has called to complain that the local service is now being provided by a different carrier and that he/she is receiving local phone bills from two different carriers. Without a LLN, however, the exact date of the switch likely will not be known by the customer, so the billing to the customer is not likely to match the actual date he/she terminated service with the previous carrier. The record in this proceeding WorldCom contends, indicate that line loss is a continuing problem. (Tr. 1621-30).

OSS Billing Problems

511. WorldCom witness Hurter testified to billing problems related to OS/DA and intraLATA toll. With respect to intraLATA toll, he described that, at a high level, there are four main issues with respect to Ameritech's billing of WorldCom for local toll usage. First, Ameritech should not be billing WorldCom for local toll usage. Second, even if there were circumstances in which such billing would be appropriate, the billing format is improper. Local toll usage should be in the CABS format, as opposed to the CRIS billing which Ameritech is presently utilizing. Third, the rate that Ameritech is charging WorldCom for local toll usage -- 42.3 cents per minute -- is entirely improper. And finally, the way in which Ameritech lists the jurisdiction of the calls on its CABS billings is entirely improper. (WorldCom Ex. 2.0 at 2).

512. For OS/DA calls, WorldCom contends, its bill averages exceeds the tariffed rates in Illinois. Ameritech acknowledged the billing problems, but claimed that those related to incorrect billing for intraLATA toll had been fixed. An examination of several bills WorldCom contends, will be necessary to analyze whether bills are decreasing, either in dollars or minutes billed, and whether the translations problems have been resolved with respect to all of Ameritech's switch translations for all of its switches and in all of its end offices. There is no evidence at this time WorldCom maintains, that would indicate that Ameritech has fully resolved its avowed translation and routing problems.

513. WorldCom witness Lichtenberg pointed out that translation and routing problems continue unabated. While AI witness Muhs claims that the routing translation problem was fixed in March 2002, testimony shows that in April 2002 WorldCom had over 220,000 new errors of this nature in Illinois alone. WorldCom has sent these records to Ameritech for research, but Ameritech has yet to explain why this problem persists, or to offer a root cause analysis of the problem or a description of exactly how and when the problem will be fixed.

c. Staff Issues/Position

514. Staff claims to have identified specific Ameritech actions and policies that in its view, effectively impede competition by failing to provide UNEs under terms and conditions that are just, reasonable and nondiscriminatory. (Staff Ex. 3 at 58-138.) These actions and policies, Staff contends, restrict CLEC access to UNEs in general and, with respect to new UNEs, migrations, and new combinations, materially impair or preclude carriers from providing their desired services.

UNE Availability in General

515. Staff would emphasize that, because Ameritech elects to interpret the FCC's national list narrowly, items that are, in fact, on the FCC's national list may be treated as though they are not on the list. Therefore, its processes and procedures applied to requests for UNEs, not on the national list, are all the more important in assessing its compliance with the UNE Remand Order.

516. Staff believes that the Commission should increase monitoring of the Company's provisioning processes. As such, the Commission should monitor each step of the BFR process to determine whether the Company is requiring carriers to submit BFR requests for UNEs that the carrier should be provided outside the BFR process. It also would enable the Commission to monitor whether Ameritech is provisioning UNEs in a manner consistent with the FCC's current necessary and impair standards. Continued monitoring would identify any deficiencies in Ameritech's current or future processes.

517. Even if the processes and procedures Ameritech includes in its tariffs are Section 271 compliant, Staff contends that it must provide carriers with interconnection agreements access to these tariffed processes and procedures. Otherwise, in Staff's view, Ameritech will fail to meet general accessibility criteria for UNE availability.

Newly Defined UNEs (Ameritech's BFR Process)

518. Staff raised a number of issues with respect to Ameritech's provisioning process for newly defined UNEs, i.e., the BFR process. In Staff's view, Ameritech had not provided evidence that the charges it assesses carriers for requesting UNEs through the BFR process are reasonable. Staff also noted that Ameritech had provided no evidence that its BFR processes and procedures result in timely provision of UNEs of sufficient quality to ensure that CLECs are able to use them to provide their desired services.

519. The Order in Docket 01-0614, Staff observes, addressed Ameritech's BFR process as it relates to provision of ordinary combinations of UNEs, concluding that:

> "… until such time as the parties have had an opportunity to engage in the process in the context of ordering new combinations, the Commission is willing to allow its use." Order at 150.

520. With few exceptions, Staff notes, carriers have not engaged in the BFR process for newly defined UNEs. While this may or may not be cause for concern, Staff recommends that the Commission adopt a single, consistent approach toward all of Ameritech's BFR processes.

521. Consistent with the "spirit" of the Order in Docket 01-0614 Staff recommends that the Commission increase monitoring of Ameritech's provisioning processes, and at each step of its BFR process. This will enable the Commission to determine whether Ameritech is provisioning UNEs in a manner consistent with its Section 271 obligations. With continued monitoring Staff believe that the Commission can identify any deficiencies in Ameritech's current or future processes and, if necessary, take remedial action. Ameritech can address Staff's issues regarding its provisioning of newly defined UNEs by making its BFR process transparent to Staff and the Commission.

UNE Combination Migrations

522. Staff sees Section 51.315 of the FCC rules to state that, "except upon request, an incumbent LEC shall not separate requested network elements that the incumbent LEC currently combines." 47 CFR § 51.315(b). Section 13-801 (a) of the PUA, Staff asserts, imposes an almost identical requirement. 220 ILCS 5/13-801(a). Therefore, if network elements are physically assembled in Ameritech's network, it may not disassemble those elements if a carrier requests the assembled elements as a combination of UNEs. For example, if a current customer elects to switch to a CLEC, the CLEC may request that Ameritech provide the network elements currently being used by Ameritech to serve the customer to the CLEC as a combination of UNEs. That is, the CLEC may request a "migration" to a combination of UNEs.

523. All of its earlier concerns, on these matter, Staff points out, have been resolved by Ameritech's compliance filing in response to the Order in Docket 01-0614.

524. The tariffs that went into effect on July 12, 2002, Staff notes, make explicit provision for migrations of special access and other Ameritech-provided services to combinations of UNEs. Ameritech lists specific UNE-P and EELs combinations in its tariff. According to Staff, these combinations and the rates, terms, and conditions included in its tariff filing clarify Ameritech's current migration offerings. In addition, Ameritech has adopted a BFR process for ordinary combinations (the BFR-OC process) that provides for additional combinations not listed in the tariff. The BFR-OC process includes provisions that enable the Commission to monitor the process.

525. Staff notes that the Commission ordered Ameritech to adopt Staff-proposed interim rates for certain UNEs and UNE combinations. TELRIC II Order on Reopening at 11. Ameritech revised its tariffs and thus, in Staff's opinion, has complied with the Order. According to Staff, however, the Commission further stated that it:

> "… agrees with Staff and Ameritech that the pressing need to finalize rates for UNEs and EELs compels us to immediately open a new docket to examine those issues." Id.

526. As such, Staff asserts, Ameritech's rates for these items remain interim in nature. Further, Staff comments, the Commission noted deficiencies in Ameritech's rates for UNEs and/or UNE combinations:

> The nonrecurring charges a CLEC is expected to pay when it places an order for UNEs and/or UNE combinations were ordered to be clear and easily ascertainable. They are not. TELRIC II Order at 73-74.

527. Staff indicates that Ameritech's compliance tariff filing reduces the confusion surrounding its UNE combination rates. As the *Order* in Docket 01-0614 recognizes, however, Ameritech does not yet have finalized rates for its UNE or UNE combination offerings.

528. Further, Staff notes, Ameritech does not have any established interval for provisioning conversions of special access circuits to combinations of UNEs. Nor does it have performance measures to track its provisioning of migrations. Thus, the Company has not demonstrated that it has a binding commitment to provision such circuits in any reasonable time period. Similarly, it does not have any standard, or performance measurements that track the quality of, for example, loop transport combinations provisioning. Ameritech must demonstrate that these shortcomings are remedied in Phase II, Staff recommends.

New UNE Combinations

529. Sections 51.315(c), through 51.315(f) of the FCC's rules, Staff notes, require Ameritech to assemble UNEs for requesting carriers. While the lower Court, vacated these rules, the Supreme Court recently reversed the Eighth Circuit's decision in this regard. Verizon Communications, Inc. v. FCC, 535 U.S. --, 2002 U.S. Lexis 3559 (2002) ("Verizon").

530. Staff notes Ameritech to have taken the position that "under current federal law, the FCC does not require an ILEC to combine UNEs for CLECs that are not currently, physically assembled." (Staff Ex. 3.0 at 153-154.) As such, Staff contends, Ameritech has done little in the way of providing evidence that it does the work to combine UNEs. Nonetheless, Staff recognizes that (in response to the Order in Docket 01-0614), Ameritech has tariffed new combinations. Ameritech lists specific UNE-P and

EELs combinations. These specific combinations and the corresponding rates, terms, and conditions clarify Ameritech's current new UNE offerings. In addition, Staff observes, Ameritech has adopted in its tariff a BFR process for ordinary combinations (the BFR-OC process) that provides for additional combinations not listed in the tariff. As with its provision of migrations, Staff contends, Ameritech's compliance tariff filing reduces the confusion surrounding UNE combination rates. Yet, as the *Order* in Docket 01-0614 indicates, Ameritech does not have finalized rates for its UNE combination offerings.

531. Staff also notes the lack of quality standards for Ameritech's provisioning of new UNEs. As with migrations, Ameritech does not have any established interval for provisioning new combinations of loop and transport. Nor does it have performance measures to track provisioning of such new combinations. Thus, in Staff's view, Ameritech has not demonstrated that it has a binding commitment to provision such UNEs in any reasonable time period.

Pricing

UNE Rate Requirements

532. The Federal Act, Staff notes, does not define specifically how nondiscriminatory pricing is to be developed. The FCC sought to provide that definition in its *First Report and Order* by determining that UNEs must be priced at their TELRIC, and may be marked-up to recover a reasonable portion of joint (in Illinois joint costs are synonymous with shared costs) and common costs. *See, generally*, First Report and Order, ¶672 *et seq*. After a series of appeals and remands, Staff notes. the US Supreme Court determined that the FCC's use of the TELRIC methodology, is consistent with the provisions of the federal Act. Verizon. (slip. op. at 25 *et seq*.)

533. According to Staff, Congress and the FCC left the determination of nondiscriminatory UNE rates to state commissions. 47 U.S.C. § 252(d)(1); s*ee, also, e.g.*, First Report and Order, ¶¶632, 693. The FCC prescribed only the "methodology" that must be used in determining these rates. Accordingly, it follows that the Commission determines whether a rate is TELRIC-compliant.

State Requirements

534. Staff notes the Commission to have issued several decisions relating to UNE pricing. The first of these was the TELRIC Order, which prescribed the general UNE rates. After Ameritech filed tariffs in compliance, the Commission ordered an investigation. See Docket 98-0396 (hereafter "TELRIC II proceeding"). In addition, the Commission initiated a proceeding to determine whether Ameritech's tariffs for pole attachment and conduit occupancy terms and conditions complied with the *TELRIC Order*.

535. This Commission, Staff informs, initiated several other dockets to examine Ameritech's UNE rates:

Docket 00-0393 (line sharing and line splitting);

Docket 00-0700 (unbundled local switching with shared transport);

Docket 00-0538/0539 (Consolidated) (dark fiber and sub-loop unbundling); and

Docket 01-0614 (compliance with Section 13-801).

536. The Commission's *Order on Reopening* in the TELRIC II Proceeding, adopted the Staff's proposed NRCs. Order at 11. In addition, the Commission adopted on an interim basis certain other non-recurring rates subject to a true-up if one should prove necessary. (Id. at 15.) The Company has, in Staff's view, filed tariffs consistent with this Order.

537. Staff notes that several parties had expressed concern regarding whether ULS cost studies were submitted in compliance with Docket 98-0486/0396 (Consolidated). The Commission's Order in Docket 98-0396 addresses the ULS cost study requirements set out in the *TELRIC Order:*

> By agreement of the parties, Ameritech did not file a new ULS study in this proceeding because a new ULS study was submitted with its updated TELRICs as part of its April 2000 filing in connection with the SBC/Ameritech Merger Order. Further, the Commission may evaluate such study in Docket 00-0700. Accordingly, the Commission agrees with Staff that no ruling on this issue is necessary in this proceeding, and finds that Ameritech Illinois has complied with the TELRIC Order's directives concerning ULS. TELRIC Order at 49.

538. This language Staff contends clearly shows that the Commission does not have any concerns regarding ULS issues that stem exclusively from the *TELRIC Order*.

539. Line sharing rates Staff informs, were among the issues that the Commission addressed in Docket 00-0393. The Commission issued an *Initial Order*, an *Order on Rehearing*, and an *Order on Second Rehearing* in this proceeding. It addressed those line sharing rates that are germane for the purpose of checklist item 2 compliance. *See* Initial Order at 84 *et seq*. Ameritech filed rates for these services which are, in Staff's opinion, compliant with the initial order and can be considered Commission-approved permanent rates. Staff has no checklist item 2 concerns with these rates.

540. The rates at issue in the *Orders on First and Second Rehearing* in Docket 00-0393 for Ameritech's Next Generation Digital Loop Carrier UNE Platform ("NGDLC UNE-P") and line splitting, however, appear to be defective in Staff's view.

Dark Fiber/Sub-Loop Unbundling Rates

541. Staff points out that dark fiber and unbundled sub-loop rates were originally under investigation in Docket 00-0538/0539 (Consolidated). (Staff Ex. 6.0 at 13, 30.) This docket was dismissed, however, subject to an agreement by the parties that a modified tariff would be filed. But, Staff informs, no agreement was reached regarding cost issues. (Id.) Although the modified tariff has been passed to file by the Commission, Staff notes that an investigation of the UNE pricing for these services has not yet ensued. (Id.) Until such time as Ameritech satisfies the requirements of the imminent investigation of these rates, it cannot be determined whether they are TELRIC compliant. (Id.)

Staff Rate Concerns

542. There are four significant concerns that Staff sets out regarding network elements. (Staff Ex. 23.0 at 11-15.) First, there are discrepancies between Ameritech's tariffed sub-loop rates and existing UNE rates for loops. In several instances, Staff notes, Ameritech proposes that the unbundled sub-loop rate should be higher than the rate for the entire loop. *See, generally*, Staff Ex. 23.0 at 17 *et seq*. This runs counter to the logical presumption that a portion of a loop ought to cost less than the entire loop.

543. Second, Staff contends, there are major discrepancies between the line conditioning charges set for *sub-loops* as compared to *loops*. (Staff Ex. 23.0 at 13.) This is due, in part, to the fact that the respective costs for line conditioning of loops and sub-loops were determined in separate proceedings. In the Staff's opinion, these three activities should have identical pricing structures, regardless of whether they are performed on loops or sub-loops. (Id. at 13-14.) Since the loop conditioning charges are TELRIC-compliant it therefore appears highly unlikely that the much higher sub-loop conditioning charges are TELRIC compliant. (Id.)

544. Third, Staff believes that the underlying cost model, the Loop Facility Analysis Model ("FAN"), used to develop sub-loop and dark fiber UNE rates may not produce TELRIC-compliant rates. (Staff Ex. 23.0 at 14.) Staff relies on the Proposed Order in Dockets 98-0252/98-0335/00-0764 (Consol.) as having identified several deficiencies of the LFAM model. Ameritech subsequently withdrew its rate-rebalancing proposal on exceptions to the Proposed Order. Id. While it is true that the Commission did not examine or rule on the acceptability of LFAM in Dockets 98-0252/0335/00-0764 (Consol.), Staff believes that the impact of the deficiencies in LFAM as they relate to the UNE rate development in this proceeding should be explored. (Id.)

545. Fourth, Staff maintains that Ameritech's Illinois rates compare *unfavorably* with its rates in Michigan. (Staff Ex. 23.0 at 14-15; *see also* Sched. SJA-3; Tr. 1496.)

Staff recognizes that it is difficult to compare rates for UNEs across states. Demographic, cost, and regulatory environments affect these rates vary considerably. (Staff Ex. 23.0 at 14-15.) To be sure, Staff contends, Congress and the FCC acknowledged this reality when they left it to the state commissions to establish rates for UNEs under the TELRIC guidelines. 47 U.S.C. § 252(d)(1); s*ee, also, e.g.*, First Report and Order, ¶¶632, 693. Given the similarities in rate structures in Ameritech's Illinois and Michigan territories, however, Staff believes that the rates in these two states lend themselves to comparison. (Staff Ex. 23.0, Sch. 1). Of the 92 comparable rates, Staff maintains, 67 (73%) of them are higher in Illinois. (Id. at 15.) Indeed, as Mr. Alexander conceded, most Illinois subloop rates are higher than their Wisconsin counterparts as well. (Tr. 1496.)

546. Further, Staff asserts, the reasonableness of sub-loop rates necessarily includes a comparison with loop rates. (Staff Ex. 23.0 at 16.) Staff performed an analysis of sub-loops versus loops comparing Ameritech's tariffed sub-loop rates as a percentage of its tariffed loop rates in Illinois and Michigan. (Id.) Half of the Illinois sub-loops sampled exceed loop rates, Staff maintains, while all of Michigan's sub-loop rates are lower than loop rates. Further, as a percentage of the total loop cost, Michigan rates are lower than Illinois rates in every case. This analysis, Staff comments also shows that Ameritech's sub-loop and dark fiber rates are not TELRIC compliant, such that the Company does not satisfy Checklist Item 2 requirements. It further indicates that an investigation into the Illinois rates for these services is necessary, and Staff recommends that it commence immediately. (*See* Id. at 19-20).

The Zone of Reasonableness Analysis

547. Staff notes that Ameritech provided what it terms a "zone of reasonableness" analysis as a means of showing that sub-loop and dark fiber rates are sufficiently TELRIC compliant. (Am. Ill. Ex.15.0 at 25.) According to Staff, AI does not make clear just what information in its analysis leads to this conclusion. (Staff Ex. 23.0 at 16.)

548. In Staff view, Ameritech's "zone of reasonableness" analysis is incomplete. (Id. at 15 – 19.) At the outset, many rates for services are excluded from this analysis. (Id.) Specifically, sub-loop rates are represented as a range, rather than in an enumerated list that can be compared side-by-side. (Id.) Further, several Illinois rates that would be germane to such analysis, but that compare unfavorably to Michigan rates, are omitted. According to Staff, Schedule 1 to Staff Ex. 23.0 is a comprehensive comparison of these rates, and provided a more accurate analysis. It shows that rates for 73% of dark fiber, sub-loop and CNAM UNEs are higher in Illinois than in Michigan. This alone demonstrates, in Staff's view, that the Commission should give this issue careful scrutiny.

OSS – Line Loss Notifications (LLN)

549. Staff explains the LLN to be a message sent from Ameritech Illinois to a carrier, notifying the carrier that one of its end users has switched to another carrier. In

the telecommunications industry, such loss notifications are commonly referred to as 836 transactions or 836 reports. Ameritech Illinois provides loss notifications to carriers that use Ameritech Illinois' facilities to offer service to its end users. One purpose of the loss notification is to notify the carrier to cease billing the end user for the service that was switched. (Staff Ex. 11.0 at 10). Staff argues that AI's LLN problems are systemic, since AI has experienced LLN problems from December 2000 (*Order* Docket No. 02-0160 at 5) through at least June 2002 (Tr. 1628), and potentially 83 CLECs were affected by the LLN problems (Staff Cross Ex. #22; Order, Docket No. 02-0160 at 24).

550. Staff relies on previous 271 orders, in which the FCC has evaluated LLNs. In the *Georgia/Louisiana 271 Order* (¶¶163-64) Staff notes, the FCC evaluated LLNs to see whether the problem is systemic or was an isolated incidence. Staff argues that because this problem has continued in one form or another, since December 2000, this problem is systemic. As such, Staff argues that the chronic problems with AI's LLN process has adversely affected the competitive environment in Illinois, and Staff is not reassured that the problems have been addressed or corrected such that they will not occur in the future. Staff Rev. IB at 128-29.

551. As proof that the LLN process is not operating correctly and has systemic problems, Staff recites the system and process changes that Ameritech has needed to make during the filing of testimony:

> In March 2002, AI sent LLNs that were missing specific fields in the LLN that the CLECs needed. AT&T Ex. 8.1 at 3. AI fixed that problem within a few weeks, however, the correction changed the formatting of the LLN so that AT&T could not use it. *Id*. at 4. On March 26, 2002 AI stopped sending LLNs to AT&T. *Id*. This problem was corrected on April 4, 2002. On April 24 AI modified its system in an attempt to reduce the amount of manual processing performed on service orders. AI Ex. 4.1 at 13. On May 3, 2002 AI implemented a fix for partial migration[20] problems identified by AT&T, WorldCom and Staff. AI Ex. 4.1 at 13. Between May 3 and May 29, 2002 AI experienced another problem with LLN. Tr. 1693. This problem affected customers switching multi-line accounts between carriers. AI Ex. 4.2, Sched. MC-1 at 3. AI implemented a correction for this problem on June 3, 2002. There is no evidence demonstrating that the LLN problems are fixed and that new problems will not emerge. In fact, the repetition of problems that started in December 2000 demonstrates just the opposite. Staff Rev. IB at 129.

[20] Partial migration is when some, but not all, lines on an account are being moved to another carrier. *See* Staff Ex. 11.0 at 11-12 (describing partial migration problems AI is experiencing).

552. Staff notes Ameritech to assert that there were no problems with the systems since the last modification made on June 3, 2002. (Tr. 1014). According to, Staff there are two reasons why this is not correct. First, Ameritech's position had no real basis since it takes at least two months for CLECs to determine whether or not a system modification AI has made for line loss notices has had any effect on the problems they have experienced, and the evidentiary hearings were held in July. Staff Rev. IB at 130. Staff explained that there is at least a one month lag between the time when services are received and payment is made for those services, and a subsequent month for CLECs and AI to process complaints for improper billing. Tr. 1695; 1639 (Z-Tel witness Walters stating that there is a significant amount of time between the issuance of a bill and the time in which a customer will complain about that bill). Second, CLECs stated that they still were experiencing a significant level of LLN problems, or that they do not have sufficient information at this time to determine whether the changes that AI has made since March 2002 has improved their LLN problem. Tr. 1624 (Z-Tel), 1692 (AT&T), 1714 (WorldCom). Therefore, the effectiveness of AIs June 3, 2002 changes according to Staff is indeterminable at this time.

553. In Staff's view, another indication that the LLN problems are not resolved is the fact that AI's cross-functional team is still in operation. The cross-functional team was formed to resolve "the end business processes for the line loss notifiers." Tr. 1208, 1210. Further, Ameritech witness Cottrell stated that the cross-functional team is still looking into the system to find problems, and that there may be problems found in the future. Tr. 1211-12. Therefore, Staff argues that the natural conclusion is that since the cross-functional team is currently in place and functioning, that the LLN process continues to have problems, to cause harm to CLEC's reputations, and that the cross-functional team's purpose is to ensure problems do not reoccur and that new issues do not arise. Tr. 1073. Furthermore, Staff expresses a concern that there will be no mechanism in place to quickly identify and address LLN failures or issues, once AI plans to remove the cross-functional team. *Id*.

554. Further, Staff contends that the LLN problem cause two types of harm to a CLEC's reputations, where AI does not send accurate and timely loss notifications to its wholesale customers. In one instance, the wholesale customer does not know to stop billing the end user for the service that AI has switched to itself or to another provider. Staff Rev. IB at 127; Staff Ex. 11.0 at 10. This typically results in an end user being billed by two separate providers for the same service. Staff Ex. 11.0 at 10. The second situation occurs, when an end user calls to complain to the wholesaler who originally provided service to the end user, the wholesaler may still not know that the end user is no longer its customer. In the end user, this situation would raise definite questions about the credibility of the wholesale provider. It is also possible that when an end user experiences this type of problem with a competitive local exchange carrier that the reputation of all local competitive carriers may be tarnished in the end user's mind, thereby causing the end user to not choose an alternative local carrier in the future. Staff Rev. IB at 127-28; Staff Ex. 11.0 at 10.

555. Staff argues that AI has not yet implemented the changes to the LLN performance measurement -- MI 13 – that the Commission ordered be completed, in Docket No. 02-0160. In that docket, the Commission found "the performance measure needs to be redesigned to address the problems identified by Staff." *Order*, Docket No. 02-0160 at 24. Staff argues that AI has not corrected, or redesigned the MI 13 performance measure at this point in time. Staff Ex. 25.0 at 9, 11.

556. According to Staff, MI 13 is currently a diagnostic performance measurement that measures "the percentage of loss notifications (which AI provides to the carrier that "loses" a customer) issued within one hour after the related completion notice is sent to the new carrier." Staff Ex. 11.0 at 15-16. Staff provided several reasons why performance measure MI 13, as it exists today, does not reflect, or reveal, that there are problems associated with AI's LLN.

> First, the business rule definition states that MI 13 reports the percentage of loss notifications sent to the losing carrier within 1 hour of the service order completion notice being sent to the end user's new carrier. Therefore, if Ameritech never sends a service order completion notice to the new carrier, then the loss notification would never be sent to the losing carrier, and the error would not be reported as part of MI 13.
>
> Second, if service order completion notices are sent late, or are delayed, then MI 13 will not account for the delay. MI 13 does not account for the delay since it only measures the time from when the service order completion notice is sent to the new carrier and not from when the actual work to disconnect the line was completed.
>
> Third, the partial migration problems identified by SBC/Ameritech, that I noted earlier in my testimony, would not be reflected in MI 13 because the loss notifications that should never have been sent are actually included in MI 13 (when they shouldn't be). Further, the loss notifications that are never sent are not included in MI 13 because the measure does not include loss notifications that are never sent.
>
> Lastly, the loss notifications involving manual process handling, that SBC/Ameritech failed to send, also would not be reflected in MI 13. For the foregoing reasons performance measure MI 13, as it is designed and calculated today, does not and cannot accurately report Ameritech Illinois' performance related to loss notifications. Accordingly, it should not be used as an indicator of

Ameritech Illinois' performance in providing loss notifications. Staff Rev. IB at 134 (citing Staff Ex. 11.0 at 17-18).

557. Since AI has not yet revised the MI 13 performance measure in compliance with the Commission's order in Docket 02-0160, Staff recommends that the Commission condition its approval of AI's 271 application upon AI's agreement to perform five actions.

558. First, AI needs to change the business rule for MI 13 so that the LLN "interval is measured from the completion of the disconnect work (instead of being measured from the generation of the service order completion notice to the winning CLEC) to the time that the loss notification is transmitted to the losing carrier." Staff Ex. 25.0 at 8.

559. Second, AI should modify the business rule as follows:

> "The percentage of customer loss notifications sent to carriers where the elapsed time from the completion of the disconnect provisioning work to the time that the loss notification (EDI 836 message) is transmitted to the losing carrier is less than one hour". Staff Ex. 11.0 at 22.

560. Third, LLNs that are not sent by AI are not included in the performance measure MI 13. A change should be incorporated into the business rule document so that it clearly provides an exclusion or clarification that loss notifications that are supposed to be generated but are never sent to the losing carrier for whatever reason are not included or reflected in the performance measurement. Staff Ex. 11.0 at 23.

561. Fourth, Staff contends, this Commission has found that AI has provided LLN's in a discriminatory manner, therefore, the LLN performance measure – MI 13 – should be included as a remedied performance measure in the performance remedy plan and given a medium weighting. Staff Ex. 25.0 at 7. In Docket 01-0120, the Commission ordered that remedied performance measure reflects a weighting based on importance, such as impact on end user or if it is a subset of another measure. Order, Docket No. 01-0120 at 47 (Ameritech's Position), 48. Staff suggests that this be given a medium weighting since it primarily protects the CLECs reputation. A medium weighting is equitable given that the performance measure is not a submeasure, and it affects the end user, but it effects them to a lesser degree than it affects the CLECs reputation. The benefit of making MI 13 a remedied measure is that it will encourage AI to work towards preventing any backsliding on this performance measure.

562. Fifth, Staff sees AI to state that the changes to MI 13 should occur in the six month review collaborative. AI Ex. 6.1 at lines 373-76. While changes to MI 13 are being discussed in the six month review process, the changes to MI 13 should not be left to the six month collaborative process, but should be implemented as ordered by the Commission. All changes made as a result of the six month collaborative are based on consensus. If consensus is not reached then the disputed issues must be brought to

the Commission for resolution. Staff. Ex. 25.0 at 11. If the Commission follows AI's proposal, and allows the changes to MI 13 to occur through the six month collaborative process no changes are likely. The Commission has already found that AI's LLN process is discriminatory, Docket and that the current MI 13 needs to be redesigned. The 02-0160 Order, however, did not set a date by which it should be implemented. Further, it is unlikely, in Staff's view, that the six month collaborative will reach a consensus on the redesigned MI 13. According to Staff, Ameritech has not agreed to the modifications it suggested, and therefore, the unresolved issue will need to be presented to the Commission, for resolution.

563. To ensure that performance measure MI 13 is modified in a timely manner, and is not revisited in another hearing, Staff recommends that the Commission should condition its approval of AI's 271 application on AI redesigning and implementing the changes (described above) to MI 13's performance measures and business rules within 45 days of the issuance of the Phase I order.

564. Staff recommends that Phase II of this proceeding review AI's LLN performance to determine if it is complying with the order in Docket 02-0160, and with Staff's recommendations in this proceeding. This additional time allows AI to create a record of LLN performance that could demonstrate the changes AI has implemented have cured the LLN problems.

565. Staff also recommends that the Commission condition its positive recommendation to the FCC on AI's compliance with Staff's recommendation set forth in the Systemic Problems with Line Loss Notifications section, infra, and the five conditions stated in the Performance Measure MI 13 section, as discussed infra. Prior to the Commission giving AI a positive recommendation on its 271 application, AI should implement the recommendations/conditions stated herein, and provide written documentation to Staff proving that the recommendations contained here have been complied with. This documentation Staff contends, should be verified by a corporate officer.

d. AT&T Issues/Position

Nondiscriminatory Access To OSS

566. It is not AT&T's intent, it claims, to litigate in Phase I of this proceeding (which deals with Ameritech's specific checklist obligations) issues more appropriately dealt with in Phase II of this proceeding (which will examine Ameritech's OSS and performance measurement compliance following the conclusion of the third-party OSS). Indeed, AT&T recommends that before making any conclusions on Ameritech's OSS, the Commission should await the results of the third-party testing and CLEC commercial experience on Ameritech's operating systems.

567. As a basis for its recommendation, AT&T relies on the evidence it produced showing the problems with: (1) Ameritech's OSS "releases" and Change

Management Processes (CMP) in providing a stable OSS platform; (2) Ameritech's OSS Joint Testing Environment being inadequate for migrating to new release versions of Ameritech's OSS; (3) Ameritech's failure in issuing timely and accurate Line Loss Notifiers; and (4) Ameritech's Directory Listing interfaces failing to provide nondiscriminatory access to directory listing functionality.

Line Loss Notifiers

568. AT&T contends that it has, at times, failed to receive Line Loss Notifiers (also known as 836 records) from Ameritech. AT&T witnesses Willard and Van de Water described the problems AT&T has encountered. These notifiers are critical, AT&T asserts, in that a UNE-P provider must rely upon Ameritech's line loss reports to alert it when a customer has switched carriers. The failure of Ameritech to provide timely and accurate line loss notifiers results in former customers being double billed. (AT&T Ex. 8.0 at 36). The former customer receives a bill from its new provider, as well from its former provider. Ameritech's failure to provide line loss notifiers has serious negative effects on the reputations of competitive providers. Even worse, a CLEC can be accused of slamming or cramming if it does not receive a notifier in a timely manner.

569. AT&T is concerned about the manual intervention that Ameritech's current systems rely upon for generating line loss notifiers. Any time that human intervention is relied upon to generate an OSS response, AT&T contends, errors will necessarily increase. As CLEC UNE-P volumes increased in Michigan, AT&T comments, so too did the errors of Ameritech's service representatives relied upon to generate line loss notifiers. Thus, the Commission should investigate whether increased levels of UNE-P orders in Illinois have produced increased levels of Line Loss errors.

570. Despite what AI would argue, AT&T maintains that there is insufficient experience to conclude that that Ameritech has identified and fixed all of the problems associated with Line Loss Notifiers. According to AT&T, the only way the Commission will be able to determine if the problem of Line Loss Notifiers has been fixed will be to examine Ameritech's performance over a relevant time period to see if during that time period there are an impermissible number of errors and mistakes. In other words, the Commission should let Ameritech's systems prove themselves out over time. Only in this fashion will the Commission be able to determine if Ameritech's systems have stabilized. Given the "off-again, on-again" history of this issue, AT&T recommends that Ameritech be required to show compliance with measurement criteria for at least 6 consecutive months before this issue can be considered resolved.

UNE-P migration "as-is"

571. Pursuant to Section 13-801 (d)(6), AT&T contends, Ameritech is required to offer carriers the ability to migrate customers "as is" meaning that it will migrate "an end user that has such existing local exchange service without changing any of the features previously elected by the end user." 220 ILCS 5/13-801(d)(6). Although it sees Ameritech to claim to have a tariff to offer migration "as is" capability, AT&T maintains that the ordering processes simply do not support UNE-P migration as is.

(AT&T Ex. 8.1 at 18). The reality, AT&T claims, is that Ameritech only supports UNE-P migrations "as-specified".

572. From an OSS/ordering perspective, the "as-is" migration type is defined by OBF as Activity type "W". (AT&T Ex. 8.1 at 18). An Ameritech's witness admitted during hearing that Ameritech's OSS do not incorporate OBF Activity type W. Mr. Cottrell testified that Ameritech's OSS do not support orders that migrate retail Ameritech end users to CLEC "as is":

573. According to AT&T, Ameritech's failure to offer UNE-P migration "as is" capability is significant for at least two reasons. First, Illinois law requires that Ameritech offer "as-is" migrations. To comply with this requirement, Ameritech must do more than tariff the option to order UNE-P via a migration – the OSS must allow a carrier to specify that the migration will be "as is" – meaning that all of the end users current features will be retained when the CLEC becomes the provider. Ameritech must modify its OSS processes to allow a CLEC to actually place an "as is" order.

574. Second, migration "as is" is a powerful ordering functionality/tool for a competitive carrier. (AT&T Ex. 8.1 at 19). Allowing a carrier to place migration "as is" orders gives the competitive carrier the option of telling the customer that he or she can transition their service to the new carrier simply and without modification from the old service. It relieves the competitive carrier from confirming the customer's current set of features, etc. (Id*).* Currently, with only migration "as specified" available, if the customer says, "just give me what I have now," the competitive carrier either must confirm each and every feature with the customer or manually read the customer's CSR. (Id.) In this situation, mistakes can and will be made either by the end user themselves or by the CLEC representative and the customer may not receive the exact set of services he or she is currently receiving. (Id). Migration "as is" solves much of this type of problem. According to AT&T, this Commission should enter an order requiring Ameritech to implement UNE-P migration "as is" and confirm Ameritech's compliance with such a directive.

Nonrecurring charges for all network element combinations

575. Important to CLEC local entry, AT&T asserts, is the nonrecurring charges applicable to the UNE-Platform and the loop/dedicated transport combination commonly known as the Enhanced Extended Link, or EEL. This issue, it claims, arises from a complex interplay among three dockets:

(1) Docket 01-0614, which examined the requirements of Section 801 of the Illinois Public Utilities Act;

(2) Docket 98-0396, which considered nonrecurring charges, or NRCs, applicable to UNE-P and EELs and set interim nonrecurring charges that CLECs must pay for new UNE-P combinations and to convert special access circuits to EELs and

(3) a yet to be opened docket to consider the nonrecurring charges applicable to various "engineering scenarios" associated with network element combinations, including providing new UNE-P capability, new EELs and the conversion of special access circuits to EELs. (AT&T Ex. 3.0 at 14).

576. The Commission's Order on Reopening in Docket 98-0396, AT&T observes, established interim nonrecurring charges for new UNE-Platform combinations and EELs conversions, but also in realizing the need to establish permanent, TELRIC-based nonrecurring rates for UNE combinations and EELs, mandated that a new docket be opened immediately to do so.

577. As such, AT&T claims, only interim rates have been established for new UNE-P combinations and the conversion of special access circuits to EELs. (AT&T Ex. 3.0 at 13). Those interim rates, however, were not established upon a thorough investigation and analysis of the underlying cost studies, but informally agreed to by the parties as a result of several workshops, where consensus was reached in an effort to have some rates in place while the Commission conducts a future investigation.

578. AT&T summarizes its concerns by noting that Ameritech's nonrecurring charges for new UNE combinations, including new UNE-Platform combinations, are interim in nature only and not TELRIC-compliant; the nonrecurring charges for new EEL combinations have not been investigated and, as such, have not been deemed TELRIC-compliant; and the nonrecurring charges for converting special access circuits to EELs are interim in nature only and are not TELRIC-compliant.

5. Reply Positions

a. Ameritech Reply

Access to UNEs Generally

579. There are abundant rules, AI contends, implementing the statutory provisions, incorporated within Checklist Item 2 and the FCC took much of the First Report and Order and the UNE Remand Order to explain them. It also addressed compliance with Checklist Item 2 on numerous occasions, and most of its recent section 271 orders contain "statutory appendices" that succinctly state these requirements.

580. Ameritech Illinois has demonstrated, the Company contends, both its legal obligation to provide all of the UNEs identified by the FCC and that the terms and conditions of those obligations reflect the FCC's rules. Ameritech Illinois showed that its rates for those UNEs comport with the FCC's "TELRIC" rules. Ameritech Illinois' offering of interfaces to access its operations support systems ("OSS") for ordering UNEs and other wholesale products and services is described on brief. Compliance with the Act's nondiscrimination principles, AI notes, is to be demonstrated in Phase II.

581. In AI's view, Staff would have the Commission now adopt a whole new set of rules for UNEs. Staff's own admission that its rules *are* new, and its inability to show that its new rules appear anywhere in any section 271 order AI contends, support their revelation. (Staff Br. at 96). Further, the FCC has repeatedly held that section 271 proceedings are not the place to create or modify rules but to examine compliance with existing rules. Kansas & Oklahoma 271 Order, ¶¶ 18-19; Arkansas & Missouri 271 Order, ¶ 82.

UNE Combinations

582. AI sees Staff to admit that the tariff Ameritech Illinois filed to comply with the Commission's April 30, 2002 Order on Reopening in Docket 98-0396 has mooted Staff's original concerns regarding the availability of UNE combinations migrations and new UNE combinations. See also Aug. 23, 2002 Stipulation to Eliminate Issues, ¶ 2(g)-(h). Now, however, AI sees Staff to allege that Ameritech Illinois lacks provisioning intervals and performance measures for UNE combinations. (Staff Br. at 116.) While Ameritech Illinois did not present any record evidence of such measures, their existence is not in question. Rather, as Staff knows full well, performance measure issues have been deferred to Phase I(b). But just so there is no misunderstanding, Ameritech Illinois comments that its existing tariff contains numerous standards and measures (including installation intervals) for UNE combinations See Ill. C.C. Tariff No. 20, Part 2, Sec. 10, Sheets 101-140.1. And, AI notes, the parties are supplementing those measures in the current "six-month review."

583. AI observes AT&T to assert that the Company does not offer or support "as is" UNE-P migrations. As an initial matter, AI attempts to make clear what is and is not being alleged. According to AI, AT&T does not allege that Ameritech Illinois fails to offer UNE-P migrations where the CLEC can retain all the end user's service features. Ameritech Illinois indisputably does offer such migrations, as Staff itself notes at 114-115 of its brief. At issue, the Company contends, is only the "order form" for such migrations i.e., – whether Ameritech Illinois must overhaul its systems so CLECs can check an "as is" box on the order form, instead of the current process where a CLEC lists the end user's current services. (Am. Ill. Br. at 72.)

584. In that regard, AT&T does not allege that the current ordering process is discriminatory, or that it differs from industry standards, or that AT&T ever asked for an "as is" box during the change management process. In fact, Ameritech Illinois' current ordering processes reflect months of negotiations with the CLEC community in state-supervised collaboratives. See Am. Ill. Response to ALJ On the Record Data Request 16. (Tr. 1260-1261.) Further, AT&T does not allege that the current order form has hindered the ordering or provisioning of UNE-P in any competitively significant way. Indeed AI asserts, AT&T could not make any such allegation, given the sheer volume of UNE-Ps that it and other CLECs have ordered in recent months. (Am. Ill. Br. at 11.)

585. So too, AI notes, AT&T does not allege that any federal law, FCC rule, or FCC order requires the use of an order form with an "as is" box. AT&T's sole support is a reference to Section 13-801(d)(6) of the PUA. (AT&T Br. at 102.) That state law, AI

asserts, only refers to the substantive provisioning of the end user's existing features and does not require the use of any particular order form.[21] In AI's view, AT&T is improperly attempting to graft on a requirement that Ameritech Illinois use AT&T's desired order form for that product. Not only are AT&T's allegations irrelevant and inappropriate to compliance with the federal checklist, AI argues, but they evidence an attempt to use this Section 271 proceeding to expand the requirements of state law.

Pricing

586. Ameritech Illinois asserts that it provides hundreds of wholesale products and services to CLECs, and the rates for many of them consist of several different sub-elements. According to AI, rates for the vast majority of wholesale products and services have been aggressively reviewed by the Commission, and the resulting rates are among the lowest in the country – and in certain significant cases (*e.g.*, the loop and the UNE Platform) *the absolute lowest*. (Am. Ill. Br. at 42-43;) The rates that have been approved, AI contends, cover the elements that are most in demand, such as the local loop in all its flavors, as well as the elements of the UNE Platform.

587. AI sees Staff, AT&T and WorldCom to focus on the rates for a few components or products that are interim, or otherwise have not yet been investigated by the Commission – even when these rates were not developed by Ameritech Illinois but by Staff or the CLECs. For instance, AI sees AT&T to allege that uninvestigated and interim prices cause uncertainty that "hampers competitive activity" and that without more "certainty" competitors cannot decide "whether or not to enter the local service business." (AT&T Br. at 33-34.) Ameritech Illinois demonstrated that its interim rates are reasonable and do not affect checklist compliance. Overall, AI would note that AT&T and several other CLECs already *have* decided to enter the local service business – on a large scale – and AT&T has expressly cited the existing prices as a very important factor in that decision. (Am. Ill. Br. at 41).

Possible Future Rates

588. According to AI, the focus being put on pricing is not whether current rates are *correct* but whether they are "certain." The "certainty" being demanded, however, would mean that no BOC could ever receive section 271 approval as long as there was any possibility that rates could change. Indeed AT&T and WorldCom argue that even Commission-approved permanent rates are insufficient for section 271 purposes, merely because Ameritech Illinois might propose higher rates or prevail in obtaining

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[21] Ameritech Illinois' tariff describes an "as is" conversion, and compares it to an "as directed" conversion, as follows: "Conversion of an existing Ameritech Illinois access line to UNE-P with loop and line port combinations 'as is,' (i.e. conversion to UNE-P with the same features and functions the line had when it was provided by the Company to the end user) or 'as directed,' (i.e., with different, additional, and/or fewer features and functions [than] the line had when it was provided by the Company to the end user)." Tariff Ill. C. C. No. 20, Part 19, Section 15, 3rd Revised Sheet No. 9. This language (which previously appeared on 4th Revised Sheet No. 2) was originally proposed by Staff and adopted by the Commission in Docket No. 98-0396. April 30, 2002 Order on Reopening, Docket No. 98-0396.

higher rates on judicial review. (AT&T Br. at 36-37; WorldCom Br. at 15-16.) In the "rapidly evolving telecommunications market" (Texas 271 Order, ¶ 87), AI maintains, the kind of "certainty" the intervenors seek is not feasible, reasonable – or lawful. The 1996 Act does not require prices that are set in stone, but prices be based on cost.

589. As such, AI maintains, the FCC has conclusively rejected the intervenors' attempts to elevate certainty over accuracy. When the FCC considered Verizon's application for Massachusetts, AI notes, that state's commission was in the process of reviewing (and potentially changing) *all* UNE rates. Massachusetts 271 Order, ¶¶ 19, 35-36. The FCC emphatically rejected arguments that this potential uncertainty had any bearing on section 271 approval in general or on checklist item 2 in particular, stating that:

> We find the concerns of the commenters regarding the pending UNE cost proceeding before the Massachusetts Department to be unwarranted. As discussed above, the fact that a state may conduct a rate investigation and change the rates in the future does not cause an applicant to fail the checklist item at this time. Indeed, rates may well evolve over time to reflect new information on cost inputs and changes in technology or market conditions. The Massachusetts Department has expended an extraordinary amount of effort in its *Consolidated Arbitrations* and other rate-making proceedings. We applaud the Massachusetts Department for the tremendous amount of work it has done, and we expect that it will adopt appropriate cost-based UNE rates in its current proceeding. Id. para 36.

590. One thing *is* certain, AI contends. Despite what Ameritech Illinois might propose, the Commission-approved rates will remain in effect until the Commission or a court decides to establish new rates. That order will come at another time and in another proceeding. For this reason as well, the FCC has rejected the intervenors' position. In the Maine 271 proceedings, AT&T and WorldCom argued that Verizon's prices did not comply with the checklist because Verizon would likely propose a new rate for daily usage files ("DUFs") in the near future. There, as here, AT&T and WorldCom predicted that the proposal would be too high, citing the BOC's past filings in other states. See AT&T Br. at 40-46; WorldCom Br. at 16; Maine 271 Order, ¶¶ 23-24. The FCC first found that the potential uncertainty associated with a future proposal was irrelevant, given that any actual proposal would not be imposed unilaterally by the BOC but would instead be subject to the review of a state commission that had demonstrated its commitment to TELRIC principles (a commitment that this Commission indisputably shares):

> We do not credit AT&T's contention that there is "nothing to stop Verizon from proposing another DUF rate at any time in the future." If Verizon adopts a DUF rate in the future, that rate will be submitted to the Maine Commission for

> consideration and approval, which, as we have stated, has demonstrated a commitment to TELRIC principles. Thus, Verizon may not unilaterally propose another DUF rate and charge competing LECs accordingly, as AT&T suggests. Maine 271 Order, ¶ 23 (footnotes omitted).

591. The FCC further refused to consider WorldCom's prediction that the new proposal would be too high, finding such allegations to be premature and holding that it would be improper to make a finding of non-compliance based on rates that were not even in existence:

> We also conclude that WorldCom's concern regarding Verizon's anticipated DUF rate is premature. WorldCom presumes that Verizon will file a tariff containing a DUF rate that is excessive and non-TELRIC based, as WorldCom claims Verizon has done in other states, such as Rhode Island, Massachusetts, and Vermont. WorldCom claims that Verizon's DUF rates in other New England states contain TELRIC errors and presumes that the future Maine rate will have similar errors. Obviously, however, we are unable to assess a rate that does not exist during the period that we review the section 271 application, much less make a finding of checklist noncompliance based on such a rate. Moreover, as we stated above, to the extent Verizon proposes a DUF rate that is excessive and non-TELRIC based, WorldCom will have an opportunity to challenge that rate at the state level. Id. para 24.

Interim Rates

592. AI notes AT&T and WorldCom to complain about the existence of a few interim rates. Neither party, AI observes, acknowledges, much less addresses, the FCC's standards for evaluating interim rates. Rather, they would assert that the mere existence of any interim rates bars a finding of checklist compliance because it creates "uncertainty" and because interim rates have not been found "TELRIC-compliant." (AT&T Br. at 106-108; WorldCom Br. at 16.) According to AI, however, the FCC applies a reasonableness standard for interim rates, and this standard has been met.

593. Staff is the only party, AI observes, to mention the FCC's three-part interim rate test and to correctly note that the FCC "has determined that, for Section 271 purposes, TELRIC compliant rates need not be permanent." (Staff Br. at 90-91.) As such, the one time that Staff expressly applies the FCC's test, AI comments, it concludes that Ameritech Illinois' interim collocation rates comply with the checklist. (Id.) In AI's view, Staff apparently concedes that Ameritech Illinois' other interim rates (like those for certain UNE combinations) also comply with the checklist. (The Staff "rate uncertainty" arguments, AI contends, comes into play under the public interest analysis. See Staff Br. at 102, 238-245). The FCC AI notes, has already rejected the

intervenors' position, holding that interim rates can be acceptable and that "uncertainty" about the outcome of "unresolved, fact-specific disputes" does not undermine a section 271 application. Texas 271 Order, ¶ 87; See also Kansas & Oklahoma 271 Order, ¶ 222 (holding that interim prices and the "uncertainty" they may create do not affect section 271 compliance because "carriers should expect to be affected by future resolutions of disputed issues").

Non-recurring Charges for New UNE Combinations

594. AI sees WorldCom and AT&T to assert that Ameritech Illinois should not receive section 271 approval because it uses interim rates for the nonrecurring charges ("NRCs") on "new" UNE combinations. AT&T goes so far as to assert that these rate elements are so bad that they cause Ameritech Illinois to fail all four checklist items that relate in any way to the UNE Platform; i.e., not just UNE combinations (item 2 – UNEs), but the constituent elements of the platform (item 4 – loops, item 5 – transport, and item 6 – switching). AI attempts to put this issue into perspective.

595. At the outset, AI contends, no party disputes the existing, Commission-approved prices for the constituent elements of the UNE Platform, i.e. the loop, switching, and transport. Nor could there be any legitimate dispute, AI asserts, in that the monthly rate for a loop in Chicago (Access Area "A") is $2.59; the rate for switching is approximately $2.10-$2.15; and the rate for transport is 16 cents.[22] Adding the rates for providing customer usage files (45 cents) and cross-connect charges (14 cents), AI comments, and the recurring charge for Chicago UNE Platforms (existing or "new") is approximately $5.49 – *by a wide margin the lowest rate in the country*.[23]

596. Further, AI notes, no party raises any dispute concerning the Commission-approved "non-recurring rates for UNE Platforms" that are comprised of pre-existing combinations of UNEs. According to AI, this is the most common and familiar context for UNE-P, in which a customer "migrates" his or her existing service from Ameritech Illinois to a CLEC. The lack of any dispute here too, is not surprising, given that the one-time charge to set up an existing UNE-P is only $1.02.

597. The dispute, AI contends, centers on the "one-time charges" that recover the costs Ameritech Illinois incurs to combine elements that are not already combined and create a *new* UNE-P (*e.g.*, for a new or additional line). But here too, it argues, there is no room for any serious dispute. AI maintains that those charges consist of (i) the same, Commission-approved $1.02 service order charge that applies to "existing" UNE-P; and (ii) a Commission-approved line connection charge of $20.21. See Order

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[22] See Am. Ill. Ex. 15.1 Sch. RJJ-1 and RJJ-2. The rates for switching and transport are based on the Commission's July 10, 2002 Order in Docket No. 00-0700, and assume 1400 minutes of use per month. Note that the recurring rate for a loop in Access Area B, which covers most metropolitan areas outside of Chicago in the Ameritech Illinois service area, is $7.07. Thus, the rate for a UNE Platform in that area is less than $10.

[23] See Am. Ill. Ex. 15.1 Sch. RJJ-2 at 7 (showing the next lowest UNE-P rate to be New Jersey's $12.89).

on Reopening, at 10, Docket 98-0396, April 30, 2002. (Am. Ill. Ex. 10.2 at 2.) According to AI, Staff proposed that these numbers (developed by CLECs, not Ameritech Illinois) be used; the Commission agreed; and "Ameritech dutifully revised its tariffs to comply with the Commission's Order and thus, in Staff's opinion, has complied with the Commission's Order on Reopening."[24] (Staff Br. at 102.) Order on Reopening, Docket 98-0396.

598. In AI's view, the only thing "interim" about the rate is that the Commission recognized that it did not address some costs (principally, those associated with port connection), and it allowed for the possibility that Ameritech Illinois might furnish cost studies for those missing elements in the future. Order on Reopening, at 10-11, Docket 98-0396. In substance, AI asserts, the Commission has investigated and approved the rates that are now in effect, and it has established an interim rate of *zero* for certain rate elements. Any additional rate for those elements will be investigated and approved before going into effect, and will be applied only prospectively. There is no basis for the CLECs to dispute the Commission's approach. AI contends, as the only possible deviation from TELRIC is that the current rates are too low. Indeed, the Company points out, Ameritech Illinois' non-recurring charges for new UNE-P are nearly three times lower than analogous rates that the FCC found reasonable for Oklahoma ($64), Kansas ($62), and Arkansas ($62), and they are nearly twice as low as the rates for Missouri ($46) and Texas ($39). Arkansas & Missouri 271 Order, ¶¶ 71 & 75.[25]

599. Further, AI asserts, the only party that is disadvantaged by the lack of a true-up is Ameritech Illinois. See Order on Reopening, at 10, Docket 98-0396, (noting that "[a]s a concession to Staff and the CLECs," Ameritech Illinois "agreed to forego the opportunity for a true-up"); See also Maine 271 Order, ¶ 5 ("[W]e find that a zero rate is reasonable under the circumstances because it affords competitors the benefit of the doubt on the rates, subject to the possibility that the Maine Commission will approve a . . . rate of greater than zero in the future. . . . The zero rate also eliminates the need for refunds or true-ups once permanent rates are established.").

Rates for the end-to-end "Broadband UNE"

600. While Staff asserts that the interim rates established in Docket 00-0393 "appear . . . to be defective," AI notes that it does not explain the basis for this assertion much as the interim rates for the end-to-end "Broadband UNE" were all proposed by Staff, not Ameritech Illinois (Order on Second Rehearing at 25, Docket 00-0393) as was

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[24] Contrary to AT&T's suggestion (at 105-108), the Order on Reopening approved interim rates for new EELs, as well as special access to EEL conversions and new UNE-Ps. The Commission adopted Staff's and Ameritech Illinois' proposal that "the company's currently effective non-recurring charges, as amended in the manner proposed by Staff" serve as interim rates for UNE combinations, including EELs. April 30, 2002 Order on Reopening, Docket No. 98-0396, at 11. In fact, "all parties were in agreement that the prices in section 15 and 22 of Ameritech's tariff [where EEL-related charges are found] . . . , as modified by Staff's revised Exhibits 2 and 5, would serve as interim prices until a case deciding permanent rates was finished." Id.

[25] The non-recurring rates in Arkansas are identical to those in Kansas. Id. ¶ 75.

the rate of zero for OSS modifications (Order on Rehearing at 48, Docket 00-0393). In any event, AI observes, Staff does not allege that these rates affect checklist compliance.

601. AI sees AT&T to complain that rates for the end-to-end "Broadband UNE" are only interim, and that cost-based rates have not yet been established. (AT&T Br. at 127.) But, AI believes AT&T is put in a hard position to argue that the interim rate is not reasonable, given that AT&T supported Staff's proposed interim rate and, urged the Commission not to allow for any true-up. Order on Second Rehearing at 22-24, Docket 00-0393 (March 28, 2002).

Not-Yet-Approved Rates

602. AI sees Staff, RCN and AT&T to complain about the rates for three relatively new products that the Commission has not yet investigated, i.e., rates for dark fiber, subloops, and CNAM queries, and to further assert that Ameritech Illinois cannot receive 271 approval until these rates have been investigated and approved. These arguments, AI contends, ignore the FCC's holdings that section 271 applications should not be held hostage by a few unresolved rate disputes. See Texas 271 Order, ¶ 87; Kansas & Oklahoma 271 Order, ¶¶ 222, 238. Even if the Commission decides to open an investigation concerning these rates, they do not affect checklist compliance.

Subloop and Dark Fiber Rates

603. AI notes Staff and AT&T to assert that section 271 approval can not be granted until rates for subloops and dark fiber have been investigated and approved. Ameritech Illinois respond by noting that the rates being challenged now were filed nearly a year and a half ago, and in that time no investigation has been opened. A likely reason for the inaction, AI points out, is that there has been virtually no demand for subloops anywhere in the country (Am. Ill. Ex. 10.2 at 5), and demand for dark fiber has been similarly low (Am. Ill. Ex. 1.1 at 50), so that concerns over their pricing are little more than theoretical.

CNAM Query Rates

604. Like subloop and dark fiber rates, AI observes CNAM query rates have been on file for nearly a year and a half such that the Intervenors' attempt to challenge CNAM rates now is unfounded. Claiming that Ameritech Illinois' CNAM query rates are too high, AI notes RCN to point at rates in New York, Maryland, and Massachusetts. (RCN Br. at 22-23.) As Staff noted, however, this type of comparison may not be particularly useful given that the "[d]emographic, cost, and regulatory environments that affect these rates vary considerably from state to state." (Staff Br. at 148.) AI observes that Staff chose to compare Ameritech Illinois' rates with those in Michigan, because of the "similarities in rate structures" in those two states. (Id.) AT&T also indicated that Ameritech Illinois has a "comparable rate structure" to Ameritech Michigan's, and that the Michigan "CNAM rates have been investigated by the Michigan Commission." (AT&T Br. at 132.) But upon advocating such a comparison, AI points out neither party

actually follows through to set out the numbers. Those numbers, AI contends, show that, although Staff and AT&T are technically correct that CNAM rates are higher in Illinois, the rates are substantially the same. According to AI, the CNAM query rate in Michigan is $0.0093985, while the rate in Illinois is $0.009942. (Am. Ill. Ex. 1.2 Sch. SJA-4 at 3).

Non-Discriminatory Access to OSS

605. Ameritech Illinois and its affiliates, the Company argues, have made extensive efforts to enhance operations support systems ("OSS") and to address CLEC concerns in this area. While most of the intervenors comment on OSS, AI notes, that they barely try to dispute Ameritech Illinois' *prima facie* evidentiary showing, which demonstrates that Ameritech Illinois offers sufficient interfaces to provide CLECs access to the same OSS functions Ameritech Illinois provides for its own use. See Kansas & Oklahoma 271 Order, ¶ 105. Indeed, Staff and AT&T would overlook that half of the FCC's analysis, to claim that the only question is one of performance i.e., whether the OSS are operationally ready, as a practical matter, based on results of "actual commercial usage" and "the results of carrier-to-carrier testing, independent third-party testing, and internal testing." Kansas & Oklahoma 271 Order, ¶ 105. True enough, AI maintains, that is the only *disputed* half of the OSS coin, and that dispute is for the Commission to address in Phase II. But, AI also maintains that the Commission should not ignore the undisputed fact that Ameritech Illinois provides the required OSS interfaces.

606. Ameritech Illinois agrees that OSS performance issues are important, and shows that it has investigated and appropriately addressed the issues raised by the CLECs. (Am. Ill. Br. at 60-71, 77-91.) AI would note that the CLECs themselves acknowledge those efforts. See WorldCom Br. at 21 (recognizing that the issuance of completion notices "has certainly improved"); Id. at 23 ("Ameritech has certainly made improvements to its systems"); See also RCN Br. at 18; McLeodUSA/TDS Br. at 9. But, AI asserts, a decision by the Commission on such issues cannot be made in this phase of the proceeding. It must await Phase II, where the Commission will have the benefit of examining commercial performance data and OSS testing as a whole. (Am. Ill. Br. at 52.) Staff and AT&T essentially agree: Staff points out that "[t]he majority of these [OSS] issues will be addressed in Phase II of this proceeding, as agreed upon by the parties at the outset of this proceeding," while AT&T disclaims any "intent to litigate in Phase I of this proceeding . . . issues more appropriately dealt with in Phase II." (Staff Br. at 124, AT&T Br. at 71.)

607. For present purposes, AI contends, it is worth noting that the FCC has held generally that commercial performance data, not OSS test results, are the "most probative" evidence of checklist compliance; it considers test results where "sufficient and reliable data on commercial usage" are "[a]bsent." Georgia & Louisiana 271 Order, App. D, ¶ 15. As such, AI asserts, the FCC has held that the pendency of an OSS test (or the existence of open exceptions, "valid" or no) do not in and of themselves affect compliance. Id. ¶¶ 19, 106.

608. So too, AI notes that certain CLECs dwell on past OSS offerings rather than the current OSS interfaces and functions. The FCC however, evaluates OSS as of the date of the BOC's application, not as of the 1997 date that AI sees WorldCom to suggest New Jersey 271 Order, App. C, ¶ 14. Under WorldCom's theory, the FCC would not have given Section 271 approval for Louisiana as it did, because in 1998, the FCC found twice that BellSouth did not provide nondiscriminatory access to OSS (Louisiana 271 Order, ¶ 22; Second Louisiana 271 Order, ¶ 91). The FCC, however, assessed BellSouth's OSS, as of 2002, and found that it satisfied the checklist. Georgia & Louisiana 271 Order, ¶ 101.

609. AI sees AT&T to complain about the OSS prior to the March 2001 implementation of Local Service Ordering Guide version 4 ("LSOG 4"), by contending that until those enhancements were implemented, the OSS "provided virtually the same functionality that was in place in August of 1997 when the FCC rejected [Ameritech's] 271 application for Michigan." (AT&T Br. at 76.) That allegation is both irrelevant (because the purpose of this proceeding is to address OSS as they exist now, not as they existed years ago), and incorrect, according to AI.

610. Ameritech Illinois asserts that it implemented enhancements before March 2001, including (1) a series of new pre-order functions like DSL loop qualification (implemented April 2000); (2) additional ordering methods (such as direct ordering via the TCP/IP Internet protocol); (3) improvements to streamline the ordering process (such as a feature that allows CLECs to order a loop with long-term number portability in a single order, implemented June 1999); and (4) electronic ordering of new products, such as the UNE Platform (implemented October 1999). (Am. Ill. Ex. 4.1 at 14-16.)

611. In AI's view, AT&T's real complaint is one of formality; namely that, the Company did not specifically number its releases using the industry nomenclature "LSOG 2" or "LSOG 3" and so forth. In terms of substance, however, Ameritech Illinois did not lag behind industry standards. Many of the pre-2001 enhancements were implemented *before* the related industry standard took effect, AI explains, and that is why they were not tied by number to a specific LSOG version. (Id. at 15-16.) According to AI, AT&T itself acknowledges the implementation of LSOG 4 and the extensive other OSS commitments entered into by Ameritech Illinois as a condition of this Commission's approval of the SBC/Ameritech merger in 1999. (AT&T Br. at 77-78.)

612. AT&T's complaints about the implementation of LSOG 4 in 2001 are also obsolete AI argues. It implemented LSOG 4 over a year ago. At the time of the implementation, neither AT&T nor any other CLEC invoked its right to seek dispute resolution under the agreed change management plan that governs OSS updates. (Am. Ill. Ex. 4.0 Sch. MJC-1, ¶ 205.) And, after the implementation of LSOG 4.0, AT&T has tested and is actively using LSOG version *4.2* in at least three Ameritech states. (Am. Ill. Br. at 53-55.)

Ordering: Line Loss Notices (LLNs)

613. Having already addressed the disputed issues and corrective actions taken regarding line loss notifications ("LLNs") Ameritech Illinois brings to focus the areas where there is at least some agreement:

1. Ameritech Illinois and its affiliates have devoted extensive resources to resolving line loss issues, and performance has improved. (Am. Ill. Br. at 65-69; Z-Tel Br. at 7; Tr. 1635-36).

2. Ameritech Illinois and its affiliates have kept CLECs apprised of the status of these efforts. (Am. Ill. Br. at 69; Tr. 1629-30); Tr. 1699 (affirming that there "[a]bsolutely" is dialogue with Ameritech Illinois on the issue).

3. The Commission's final review of line loss performance – as with performance of other ordering functions – should come in Phase II. (Am. Ill. Br. at 63, 70; Staff Br. at 124-125; AT&T Br. at 71).

614. Given the extensive effort that Ameritech Illinois and its affiliates have made to investigate the ordering process, to correct any problems identified, and to communicate the status and findings to interested parties, Ameritech Illinois does not understand Staff claim that "there seems to be a general lack of recognition by AI representatives of the significance of the LLN problems and that it must be corrected." (Staff Br. at 130). Ameritech Illinois asserts that it created, and maintains to this day, (i) a cross-functional team devoted solely to LLN issues; (ii) performed an "end to end" analysis of the entire ordering process over several months; (iii) implemented several enhancements to electronic systems and several revisions to human processes; (iv) compiles and reviews daily reports summarizing LLN activity; (v) located and "re-flowed" LLNs affected by past problems; (vi) submitted detailed progress reports; (vii) held a two-day workshop for all interested parties to discuss LLN issues; and (viii) maintains open lines of communication for CLECs to present new information. (Am. Ill. Br. at 65-69).

615. Over and above its efforts of the past few months, Ameritech Illinois' active monitoring continues. As Mr. Cottrell explained at the hearing, the Company asserts, Ameritech Illinois' data, (following the final systems enhancement of June 2002) show that 99 percent of LLNs are being issued within 24 hours of the completion of work on the related orders; nevertheless, Ameritech Illinois is keeping the cross-functional team in place as a precaution, until the various state commissions have a chance to review the data. (Am. Ill. Br. at 69). Staff would portray even that sensible precaution as an admission of continued problems. Staff takes the view that, "[a]nother indication that the LLN problems are not resolved is the fact that AI's cross-functional team is still in operation." (Staff Br. At 131). Had Ameritech Illinois disbanded the cross-functional teams, however, the Company has no doubt that Staff and the CLECs would have accused Ameritech Illinois of acting unilaterally and prematurely.

616. Although there have been problems with LLNs in the past, these did not affect *all* LLNs, AI claims, and did not affect the other steps in the ordering and provisioning process (the provision of service to the end user, and the issuance of notices to the "winning" carrier). Whereas the parties either take no position on, or actively dispute, Ameritech Illinois' testimony that the issue has been fully resolved, AI sees no one to dispute that the problem has been reduced. As such, AI argues, Staff's assertion that "potentially" 83 CLECs are affected by LLN problems – an assertion that is based on a raw count of the number of CLECs using the order interface, rather than any evidence of real impact – simply illustrates why the Commission should wait for Phase II to come to any final conclusions on this issue. (Staff Br. At 130.)

617. AI notes that Z-Tel tries to submit new evidence on brief, without requesting leave to support its view that Ameritech Illinois has not solved the line loss issue. (at 6-7 & Tabs A, B and E) Z-Tel's submission is both tardy (because it comes after the close of the Phase I record) and premature (because it comes before the opening of the Phase II record). More on point, AI argues, Z-Tel's "evidence" does not prove its intent. Taken at face value, it merely shows that some Z-Tel customers are complaining about double billing (*i.e.*, being billed by Z-Tel and a competitor). Billing complaints AI points out, do not reflect current performance but past performance. Z-Tel's own witness Walters acknowledged, that there is a time lag between the line loss and the related bill, and another time lag between the end user's receipt of a bill and its complaint to Z-Tel. (Tr. 1639.) A complaint that is received today may relate to a bill sent some time ago, AI explains and that bill may in turn relate to a line loss some time before that. Even Staff acknowledges that "due to the time lag in billing customers and receiving complaints, [customer complaints] may not account for the June 3, 2002 correction that AI implemented." (Staff Br. at 129). Moreover, AI argues, Z-Tel is operating on the assumption (i) that the complaints are valid (the end user may be complaining in error about valid bills for services rendered at different times), and (ii) that Ameritech Illinois (rather than Z-Tel or its competitor) is at fault.

618. AI sees both Staff and AT&T to claim that the Commission should require Ameritech Illinois to demonstrate six consecutive months of satisfactory performance before the Commission can reach a conclusion on the line loss issue. (Staff Br. at 132; AT&T Br. at 98). The six-month figure is entirely arbitrary, AI contends, and the Commission should not decide how much evidence is sufficient *until* Phase II, at which point it sees just what the evidence is.

619. According to AI, Staff's and Z-Tel's argument on the performance measure for line loss is similarly premature. (See Staff Br. at 132-138; Z-Tel Br. at 10). Performance measurement issues, AI contends, are being addressed in a collaborative separate from this proceeding. To set the record straight, however, Ameritech Illinois does not agree with Staff's and Z-Tel's view that it has failed to comply with the Commission's order in Docket 02-0160. In the collaborative Ameritech Illinois proposed a performance measure that addressed that order, Staff responded, and Ameritech Illinois believes the matter will be resolved. In particular, the Company notes, it agreed to Staff's 97% benchmark. To the extent any issues remain, AI asserts that there is a dispute resolution procedure already in place.

Ordering: Single Order Processes

620. According to AI, the testimony of XO generally noted that converting a special access circuit to an individual unbundled loop requires a CLEC to submit two orders, instead of one as is used for converting special access to an Enhanced Extended Link ("EEL"), a combination of loop and transport. (XO Ex. 1.0 at 3-4.) Now, AI observes, after the record has closed, XO's would claim, on brief, that the two-order process results in "increased confusion and inefficiencies" and causes competition to suffer. (XO Br. at 6). There is no record evidence to support this assertion, AI contends.

621. XO's only testimony as to the *impact* of the existants two-order process, AI asserts, was the allegation that, early on, it received conflicting instructions regarding the proper code for one field on the order forms. (See XO Ex. 1.0 at 5-6). But, there was no evidence that the "confusion" stemmed from the two-order process (the same field appeared on both order forms, so XO's problem would have been encountered even if its "single order" process were in place) and XO did not dispute Ameritech Illinois' testimony that the issue had been resolved. (Am. Ill. Ex. 1.1 at 17-19). Further, AI asserts that the FCC has rejected arguments like that being advanced by XO and, it has specifically upheld the use of a two-order process for special access conversions. (Am. Ill. Br. at 74 (citing Kansas & Oklahoma 271 Order, ¶ 176).

Change Management Plan

622. On opening brief, Ameritech Illinois asserts, it both described its "change management plan" for implementing OSS revisions (a plan that was developed through 13 months of negotiation with CLECs) and, demonstrated that it satisfies the four criteria considered by the FCC in evaluating such plans. (Am. Ill. Br. at 94-96). AI maintains that three of the four criteria are undisputed: The plan provides for competing carrier input in the design and continued operation of the change management process; it is memorialized in a basic document accessible to CLECs; and it provides CLECs with a separate forum for change management disputes. (Id. at 94).

623. AI notes AT&T to challenge the fourth FCC criterion – the "testing environment" that is used to test OSS changes before they go into commercial "production." AT&T complains that Ameritech Illinois' joint testing environment does not precisely mirror the actual production environment. (AT&T Br. at 89-91).[26] The two deviations that AT&T refers to, are immaterial in AI's view.

624. First, AT&T complains that the testing environment rejected orders when AT&T used form "860" to resubmit previously rejected orders, whereas such orders

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[26] AT&T also complains (at 91-92) that Ameritech Illinois' general policy of limiting the number of test orders it will discuss each day to five has "severely restricted AT&T's ability to 'confirm and understand' Ameritech's business rules." That claim lacks merit. AT&T did not dispute Ameritech Illinois' testimony that on most days AT&T only submitted four or fewer test orders, that carriers may submit more than five orders with proper advance notice, and that on many of the days when AT&T did submit more than five orders, Ameritech Illinois reviewed all of those orders with AT&T. See Am. Ill. Br. at 96.

were accepted in actual production at the time of testing. (Id. at 90). The testing environment was right, AI asserts, the commercial production environment at the time should not have accepted the 860 forms either, because Ameritech Illinois' business rules required form "850." (Id.; Am. Ill. Ex. 4.1 at 29). As such, AI contends AT&T misunderstands the process, i.e.,. The testing environment is not intended to precisely mirror the production environment *as it exists today*; rather, it is supposed to reflect the production environment that *will* exist upon implementation of the change being tested. (Am. Ill. Ex. 4.1 at 28). If the testing environment always mirrored the current environment, CLECs would never be able to test improvements. It would be illogical, AI claims, to make the testing environment mirror a feature of the production environment that was about to be corrected. See Id. at 29.

625. AI considers AT&T's other complaint – that on one occasion Ameritech Illinois asked AT&T to begin populating a certain field with numbers like "01" and "02" instead of "1" and "2" – to also fail. (AT&T Br. at 91 n.79). According to AI, the FCC has already held that "for purposes of demonstrating compliance with the requirements of section 271" a BOC need not provide a testing environment that is *identical* to its production environment. Texas 271 Order, ¶ 138 (emphasis added). Rather, AI puts forth, the testing environment must "adequately" mirror the production environment such that "the testing and production environments perform the same key functions" and "carriers are able to achieve production status and test new releases without substantial difficulty." Id. AT&T has not presented any evidence that those differences implicated any "key functions" or caused any "substantial difficulty" in testing. Nor could it, AI argues, because AT&T completed testing of the LSOG version 4.2 order interface earlier this year and is now using that interface to support mass entry into the residential market. (Am. Ill. Br. at 96).

626. AT&T's other comments do not concern the change management plan itself, AI notes, but the method by which that plan was carried out in the implementation of LSOG 4 (March 2001) and LSOG 5 (April 2002). (See AT&T Br. at 78-84). Ameritech Illinois reasserts that the change management plan contains numerous opportunities for CLEC input: comment periods on Ameritech Illinois proposals, technical walk-throughs, joint testing, and a dispute resolution process. AI sees AT&T to complain about the changes made to the LSOG 4 and LSOG 5 documentation as a result of CLEC input, but it does not say that any of the changes were inappropriate, or conversely that Ameritech Illinois refused to implement any changes proposed by the CLECs. Rather, AT&T would claim that the mere existence of such changes means that the documentation provided by Ameritech Illinois was inadequate and that the change management plan is not working. (AT&T Br. At 78-83.)

627. AI explains that OSS changes are not evaluated in the middle of development, because it is impossible for any party to anticipate every preference of every user (and every feature of that user's electronic systems) and develop perfect documentation that every user understands. The purpose of obtaining CLEC input during the change management process is to make changes that accommodate their preferences. In AI's view, the fact that such changes were made on a collaborative

basis, without need for Commission intervention, demonstrates that the change management plan is working.

628. With respect to LSOG 4, AI notes that AT&T did not timely invoke the plan's dispute resolution procedure and its current complaints were rendered obsolete when AT&T implemented LSOG version 4.2 earlier this year. (Am. Ill. Br. at 96). With respect to LSOG 5, AI observes that AT&T *did* raise issues, but they have already been resolved. As AT&T stated on brief, Ameritech Illinois asked the FCC for leave to delay implementation of LSOG 5, and AT&T expressed its "questions" about the matter to the FCC. (AT&T Br. at 83-84). But AT&T leaves out the FCC's response that its own witness acknowledged on cross, i.e., the FCC granted Ameritech Illinois' request. (Tr. 1689).

Miscellaneous UNE Issues

629. Pursuant to the Stipulation to Eliminate Issues filed August 23, 2002, Staff and Ameritech Illinois agree that Staff's issue with respect to the bona fide request ("BFR") process has been resolved and need not be addressed by the Commission in this proceeding.

630. AI points out that Staff also raised an issue with respect to the Company's policy concerning the "resale" of UNEs by CLECs. (Staff Br. at 103-105). In response, Ameritech Illinois stated that "it would be permissible for a CLEC to obtain UNEs as inputs to finished products that it would sell to providers that would provide this service directly to a consumer." (Tr. 1389); (Staff Br. at 105.) Staff would admit that this policy satisfies its concern, but worries that Mr. Alexander's testimony "may not accurately represent the company's position on this issue" in light of Ameritech Illinois' Application for Rehearing in Docket 01-0614. (Staff Br. at 106).

631. AI makes clear that Mr. Alexander's testimony does represent the Company's position. The rehearing application objected to the "standalone" resale of UNEs "as is," not to the policy that Staff finds to be 271-compliant: "that Ameritech will provide UNEs as inputs to CLEC finished products that the CLECs may sell to providers that would provide this service directly to consumers." (Staff Br. at 106). At any rate, AI informs, the Commission has denied Ameritech Illinois' application for rehearing in Docket 01-0614.

b. Staff Reply Position

UNE Availability in General (Ameritech's BFR Process)

632. In the instant proceeding, Staff explains, it has raised a number of issues regarding Ameritech's general UNEs offerings and Ameritech's BFR process. In light of the confusion surrounding Ameritech's actual polices and practices, Staff recommended that the Commission increase monitoring of Ameritech's UNE provisioning processes. (Staff IB at 110). Through such increased monitoring, Staff maintains, the Commission

will be able, on a going forward basis, to determine whether Ameritech complies with its checklist requirements and provides all UNEs consistent with the Acts necessary and impair standards. Such an approach is consistent with that adopted by the Commission in the *Order* for Docket 01-0614 with regard to Ameritech's provisioning process for UNE-combinations. In its *Order* the Commission found that:

> [b]y remaining involved in the process of compiling a record of its [the BFR-OC's] facility, the Commission will be in a better position to determine whether it should be allowed to continue in the event that Staff or another party suggests that it should not. Order at 150, Docket 01-0614.

633. Staff acknowledges that Ameritech Illinois has agreed to amend its BFR process as set forth in ICC Tariff No. 20, Part 19, Section 1, 5th Revised Sheet No. 3. The Stipulation filed with the Commission, and now of record, provides that the general UNE availability issues concerned with ubiquity, provisioning and usage flexibility, and transparency criteria and all issues related to Ameritech's provision of new UNEs that were raised by Staff and Ameritech have been addressed adequately by the Company's agreement to amend its BFR process in accordance with Schedule 1 of the Stipulation.

634. The Stipulation reserves Staff's right to address general UNE availability issues concerned with ubiquity, provisioning and usage flexibility, and transparency criteria and issues related to Ameritech's provision of new UNEs if it is raised by other parties to this proceeding.

Availability of UNE Combinations

635. Ameritech asserts that it "provides existing combinations of UNEs, i.e., it does not separate UNEs that are already combined, unless the CLEC so requests." (Ameritech IB at 36.) Ameritech also asserts that it provides "New combinations of UNEs that are at least sufficient to meet (if not exceed) the requirements of federal law." (Ameritech IB at 38.) As Staff previously indicated, the tariff the Commission has ordered Ameritech to file in compliance with the *Docket 01-0614 Order* addressed many of Staff's concerns. (Staff IB at 115, 117-118).

636. Staff and Ameritech entered into a Stipulation filed with the Commission on August 23, 2002. The Stipulation provides that the "01-0614 Stipulation Issues" raised by Staff and Ameritech have been addressed adequately in Docket 01-0614 and in the 01-0614 Compliance Tariff and, except as specifically provided in the Stipulation, need not be addressed again in this docket. Whether CLECs are entitled to purchase new combinations of "ordinarily combined" unbundled network elements ("New UNE Combination Usage and Accessibility Issues") and whether CLECs are entitled to purchase existing combinations of unbundled network elements ("UNE Conversion Usage and Transparency Issues") are included within the 01-0614 Stipulation Issues.

637. In accordance with and subject to the terms and conditions of the Stipulation, Staff's current position is that the issues Staff raised with respect to the New

UNE Combination Usage and Accessibility Issues and the UNE Conversion Usage and Transparency Issues have been addressed adequately in Docket 01-0614 and in the 01-0614 Compliance Tariff, and need not be addressed again in this docket. Staff takes no position at this time on any New UNE Combination Usage and Accessibility Issues and UNE Conversion Usage and Transparency Issues raised by other parties to this docket based on the evidence adduced and arguments contained in the initial briefs.

638. Staff contends that the Stipulation does not resolve cost, timeliness or quality issues for UNE conversions and new combinations, thus leaving some issues regarding combinations unresolved. The unresolved issues Staff notes, include Ameritech's failure to demonstrate that its rates are within a range that can reasonably be considered TELRIC compliant (or alternatively, to obtain Commission approval for final rates), and also Ameritech's failure to prove that it has well defined, concrete, and binding terms and conditions that define "provisioning intervals" or "quality standards for UNE combinations", in particular loop/transport combinations, both those provided as pre-existing and new combinations. (Staff IB at 115-117, 118-119). In Staff's view, Ameritech has provided no comprehensive, systematic, or credible evidence to indicate that its interim UNE combination rates are reasonably within a range of TELRIC compliance and has not addressed the remaining Staff issues of rate clarity, provisioning intervals and provisioning quality.

639. With respect to the issue of rate clarity, Staff notes, Ameritech does make a general assertion that:

> …with respect to pricing, Ameritech Illinois also has filed a compliance tariff, which was proposed by and agreed to with Staff, based on April 30, 2002 Order on Reopening in Docket 98-0396 (the TELRIC compliance case). (Ameritech IB at 39).

640. This statement, however, does not directly address Staff's concerns. Further, the company fails to note that both Staff and interveners in Docket 98-0396 questioned both the clarity and application of Ameritech's rates, and the levels of its combination rates. These outstanding issues remain unresolved, Staff observes, and are to be (as ordered by the Commission), addressed in a follow up proceeding to Docket 98-0396. TELRIC II Order on Reopening at 11. Thus Ameritech's compliance filing has not yet Staff contends, resolved all of the problems with Ameritech's UNE combination rates.

641. Staff asserts that Ameritech has complied with the Commission's directives in its *TELRIC II Order on Reopening*, and its filing has, at least in the interim, clarified some rate level and rate application issues, particularly those associated with the provision of UNE-P. Staff maintains that it demonstrated, however, that, Ameritech's rates, in particular its rates for new loop/transport combinations and reconfigurations of such combinations, are confused and appear to be outside the range of rates that could reasonably be considered TELRIC compliant. (Staff Ex. 3.0 at 127-130).

642. Although usage, transparency, and accessibility issues for UNE conversions and new combinations have been resolved pursuant to the Stipulation, (subject to any tariff compliance issues raised in Phase II). Staff maintains that Ameritech has not resolved the cost, timeliness and quality issues for UNE conversions and new combinations.

OSS - Line Loss Notifications (LLN)

643. In Staff's view, AI has not proven that the LLN problems are resolved. Staff acknowledges however, that AI should be able to resolve these problems even as AI has not proven, as yet, that it has cured all problems and put in place sufficient safeguards to prevent new problems or old problems from reoccurring. Only sustained performance "over time and use" Staff asserts, will demonstrate if the changes AI has made to its OSS have cured all the problems. As such, Staff recommends that Ameritech continue to monitor line loss notifications on a daily basis, make the necessary changes to its line loss performance measure and revisit this issue in Phase II of this proceeding. This will allow AI sufficient time to address its LLN problems, modify Ameritech's performance measure which reports on LLNs and allow for continued review of Ameritech's performance in providing LLNs.

644. Staff notes the Company to acknowledge that it implemented changes to the LLN system, as recently as June 2002. The timing of these changes precluded AI from presenting any evidence at the hearing to prove that the changes it implemented has cured the LLN problems. (Staff Rev. IB at 129-31).

645. According to Staff, AI needs to provide data collected over a period of time that demonstrates that the LLN problems are resolved by the time testimony is submitted in Phase II. This is a troubleshooting project, Staff alerts, wherein implementing one solution may generate new problems. (Tr. at 1207-08). To be sure, Staff notes, Ameritech asserts that the cross-functional team will remain in place until the problems are resolved to the satisfaction of each state. (Ameritech IB at 69). In Staff's view, however, this assertion alone is an admission that the problem is not resolved, since AI has not come before the Commission to inform of the resolution. (Tr. at 1215-16) (indicating that AI has not yet had conversations on when to approach state commissions on the status of LLN and what "the next steps should be.")

646. In the instant case, Staff contends, a number of carriers complain about LLN problems, and to prevent a misinterpretation of standards, Ameritech needs to demonstrate compliance with the redesigned standard i.e., performance measure MI13, since the Commission, found that the current performance measure inadequately measures LLN failures. Order Docket 02-0160 at 24.

647. Staff sees Ameritech to incorrectly assert~~s~~ that "the process for issuing LLNs is nondiscriminatory." (Ameritech IB at 65). This assertion cannot stand, Staff argues, in light of the Commission finding that Ameritech provides LLN to Z-Tel in a discriminatory fashion. Order at 15-17, Docket 02-0160 . And, it argues, Ameritech has

not complied with all of the remedies ordered by the Commission in Docket 02-0160. (Staff IB at 133-34.)

648. Staff also relies on the FCC's findings in the Michigan 271 Order (FCC 97-298, CC Docket 97-137 (rel. Aug. 19, 1997)), in which end-users were being double-billed, similar to the problem occurring in Illinois. In the Michigan 271 Order the FCC rejected Ameritech Michigan's preliminary data that it provided to explain "the extent of the problem and the impact of the changes it has made to correct the problem." Michigan 271 Order, para 203. Further, Staff contends, the FCC also found that "Ameritech cannot rehabilitate its deficient showing on the[double billing] issue merely by elaborating further in its reply on the solutions it has implemented." Id. Staff argues that these findings are directly applicable to the instant case, since Ameritech Illinois has not proven that the problems are resolved, it simply argues that it has implemented a number of changes through the cross-functional team, and that the cross functional team will remain in place until the problem is resolved. Staff RB at 60. Furthermore, Staff argues that this is different than situations when the FCC has accepted promises of future performance. In those instances, the promise was "detailed, well developed, and subject to a prioritized time frame." (Pennsylvania 271 Order, paras. 62-63. Staff argues that the instant case is different from those situations since Ameritech Illinois "has not set timeframe in which this problem will be cured; no party knows when this will be completed", there is no "clear sequence of tasks that need to be performed to achieve a finished product." Staff RB at 60-61.

Network Interface Devices (NIDs)

649. According to Staff, Ameritech is incorrect to argue that network interface devices ("NIDs") are part of the local loop. Staff contends that the FCC has clearly designated the NID as a network element to be unbundled. 47 CFR 51.319(b); UNE Remand Order, ¶ 235 (stating that, "We decline to adopt parties' proposals to include the NID in the definition of the loop."). As such, Staff asserts, it is to be analyzed under the nondiscriminatory rules for Checklist Item 2 – unbundled network elements, and not Checklist Item 4, as Ameritech argues. Checklist item 2 evaluates UNEs to see if they are provided in a nondiscriminatory manner. Texas 271 Order, ¶91.

650. In the UNE Remand Order, Staff contends, the FCC found access to NIDs vitally important to competition, stating that "we find that the availability of unbundled NIDs will accelerate the development of alternative networks, because it will allow requesting carriers efficiently to connect their facilities with the incumbent's loop plant." UNE Remand Order, ¶240. Staff observes that Ameritech has NIDs that are inside a building, or are completely absent from a building, and it does not intend to install those NIDs by the end of 2002. (Tr. at 784.) According to Staff, NIDS found inside, or absent from a building likely, prevent CLECs from being able to connect. In light of the FCC's unbundling of NIDs, Staff argues, AI's failure of action results in an anticompetitive impact on CLECs. Increased competition creates the need for the new providers to access the NID, most easily accomplished by placing the NID on the outside of the building.

651. In Docket 86-0278 and 94-0431, Staff observes, the Commission stated that external NIDs need to be installed on all new construction and all old installations that do not have a NID. Order at 5, Docket 86-0278; Order at 4, Docket 94-0431. Not providing a UNE is a *per se* violation of these Orders, Staff argues, and results in a discriminatory provision of NIDs to CLECs.

Pricing

652. Staff notes Ameritech to argue that its rates are TELRIC-compliant. *See* Ameritech IB at 39, *et seq*. The Company contends that its UNE rates are significantly lower than those prevailing in certain other states and further asserts that inquiry into the company's future rates is not proper at this stage, and that the Staff's UNE rate cap proposal should be rejected. (Id. at 41-45.) These contentions in Staff's view, do not bear scrutiny.

653. It is difficult, Staff contends, to compare rates for UNEs across states. Ameritech's Table 3 comparison of its loop rates to rates in several other states, (states that Ameritech does not serve) is irrelevant, Staff asserts, given the Company's own arguments that rates must be based on its own costs. If Ameritech's loop rates are indeed low compared to those in other states, Staff suggests that its loop costs are also low compared to other states. To the extent that Ameritech's UNE rates are low, this is not in any way attributable to Ameritech, since the Commission has repeatedly found that Ameritech has included costs in its studies that improperly inflate rates. *See, e.g.*, TELRIC II Docket Order at 40-42 65, 65.

654. Staff asserts that a comparison of Ameritech's Illinois rates to those in other "Ameritech" states (the most apt comparison given the similarities in rate structures in Ameritech's Illinois and Michigan territories) reveals that Ameritech's Illinois rate structure to be curious. According to Staff, Ameritech's Illinois rates compare *unfavorably* with its rates in Michigan. (Staff Ex. 23.0 at 14-15). *See also* Ameritech Sched. SJA-3; Tr. at 1496. Staff suggests that of the 92 comparable rates, 67 (73%) are higher in Illinois. (Staff Ex. 23.0 at 15). Indeed, as Ameritech witness Alexander conceded, most Illinois subloop rates are higher than their Wisconsin counterparts as well. (Tr. at 1496). Accordingly, Staff comments, it is difficult for Ameritech to argue that its rates are indeed low in Illinois compared to other Ameritech states.

655. Staff notes Ameritech to assert that while the Commission has not approved a number of its UNE rates as TELRIC-compliant, this should not hinder its Section 271 approval. (Ameritech IB at 48.) Ameritech contends that subloop and dark fiber UNEs are "relative newcomers to the unbundling scene[,]" (Ameritech IB at 48). It further contends that no one has objected to, or requested a Commission investigation of, these rates. (Id.). According to Staff, the parties potentially interested in these rates have, been challenging other Ameritech rates in other dockets. It should not be construed, as Ameritech suggests, that no CLEC is interested in subloops or dark fiber. It simply indicates, in Staff's view, that CLECs and the Staff consider rates for other elements, to be relatively more important.

656. Staff notes AI to assert that:

> Staff's suggestion that 271 approval requires that all rates be permanent, rather than interim, to eliminate "uncertainty" (Staff Ex. 3.0 at 85-86, 70-72), has been rejected by the FCC. (Ameritech IB at 35).

657. Staff believes Ameritech to misunderstand its position. While indicating that the Commission could require Ameritech to eliminate rate uncertainty prior to recommending approval of Ameritech's Illinois Section 271 application, Dr Zolnierek actually recommended the following:

> …alternatively, the Commission should employ the approach adopted by the FCC - specifically, the Commission can evaluate whether Ameritech's rates fall within a zone of reasonableness when compared to rates in other states that have been found to be TELRIC compliant. While obviously this approach is not as definitive as the result of a complete Commission investigation of Ameritech cost studies, I believe this approach, under the following circumstances, is sufficient.
>
> The Commission should require Ameritech to reduce all its rates, both recurring and non-recurring, to levels that are clearly within a range that can be shown to be TELRIC compliant. While I recognize that some of Ameritech's long-term recurring rates and interim rates might currently adhere to this standard, others do not.
>
> Given the Company's lack of compliance with Commission and FCC TELRIC guidelines, the burden to prove that its adjusted rates fall within this range is squarely on the company. Thus, the Company must submit state to state UNE rate comparisons, retail rate to UNE rate comparisons, and any other evidence that would support a finding that Ameritech has, subsequent to the initiation of this proceeding, brought each of its rates within a range that can be considered by any reasonable standard to be within the range of TELRIC compliance. (Staff Ex. 3.0 at 86-87).

658. As such, Staff specifically states that the Commission and the FCC could find that Ameritech meets cost criteria when making UNEs available, even in the absence of permanent UNE rates. Staff's position is consistent with the FCC's pronouncements. See Bellsouth GA/LA 271 Order, Appendix D, ¶ 24.

Rate Caps

659. Staff notes Ameritech to take issue with the Staff's proposed UNE "rate cap" arguing that the federal Act "does not require that rates be fixed for any particular period of time: what it does require is that the rates be *right*, that is, based on cost." (Id.) Ameritech further contends that, in the event that it proposes changes in wholesale rates, interested parties will have an opportunity to contest those changes in Commission proceedings. (Id.) According to Staff, however, Ameritech clearly ignores the necessity of a rate cap in Illinois to assure that, upon Section 271 approval, UNE elements remain TELRIC-compliant.

660. Staff does not challenge the requirement that rates should be based on cost and actually endorses it. It claims however, that Ameritech's interpretation of "cost" has been quite expansive in the past, such that, the Commission has repeatedly found that Ameritech has included costs in its studies that improperly inflate rates.

661. Staff further observes that Ameritech would propose to introduce no fewer than six new cost models, intended to use to develop costs for loops, switch ports and other switching inputs, transport, signaling, usage, and operator service. (Tr. at 336, *et seq).* While Staff sees Ameritech's cost witness to be disconcertingly vague about what effect the introduction of these new models might have on rates, she was compelled to admit that one of these new models, the LOOPCAT model, resulted in Ohio loop rates more than doubling. (Tr. at 313).

662. Ameritech's contention that parties aggrieved by any forthcoming rate proposal will have recourse to this Commission, while true, leads Staff to take a different perspective. According to Staff, while parties can, at great expense and over an extended period, litigate the propriety of Ameritech's rate proposals this is not a useful remedy. As the dominant carrier in its service territory, Staff argues, it is to Ameritech's advantage to continuously litigate its UNE rates. This, however, is a drain on competing carriers resources that could otherwise be employed in the marketplace. Further, Staff contends, the uncertainty of litigation introduces a high degree of business uncertainty into the market, thereby undermining the business plans of competitors. In Staffs view, a five-year cap on wholesale rates is the only solution to this problem.

c. AT&T Reply Position

Pricing of Unbundled Network Elements

663. AT&T agrees with Staff's recommendation that Ameritech Illinois be required to relinquish its ability to apply for rehearing in specific cases; that it file TELRIC compliant rates in specific dockets; and that it "cap" existing Commission approved UNE rates and not introduce new or modified cost models without prior Commission approval. Absent these actions by Ameritech Illinois, AT&T agrees with Staff that the Commission should not approve Ameritech Illinois' Section 271 application.

Dark Fiber, Subloop And CNAM Rates

664. To demonstrate that its dark fiber, subloop and CNAM rates are reasonable, AT&T observes, the Company compares Ameritech Illinois' tariff rates for certain sub-loop, CNAM and dark fiber rates with Michigan tariff rates for those same offerings. (Am. Initial Br. at 49; Am. Ill. Ex. 1.1, at 50; Sch. SJA-2.) As AT&T witness Mr. Henson noted, however, the business of making comparisons with other states is tricky. While useful in some circumstances, it does not always capture differences between the states and it can provide misleading results when small numbers of comparisons (such as the one state selected by Ameritech) are made. For example, AT&T contends, Ameritech assures that its CNAM pricing is reasonable yet, the record shows examples where CNAM rates in other states are a fraction [New York at 1/100th of Ameritech's rate] of that on file with the Commission." (Staff Ex. 23.0, at 6, AT&T Ex. 3.1 at 7-8.) On this basis, AT&T sees, Staff witness Koch to have concluded that: "This evidence supports my position in direct testimony that CNAM rates must be examined by the Commission, and therefore, the Commission cannot conclude that the Company has met the pricing requirements under Checklist Item 10." (Id.)

665. While state-to-state comparisons are not always appropriate, a comparison of subloop rates in Illinois to subloop rates in Michigan, i.e. an Ameritech sister state, is appropriate, in AT&T's view, and such a comparison was complied by Staff. As Staff witness Koch noted, the Ameritech Illinois rates for subloops, dark fiber and the CNAM database are higher than the rates for the same rate elements in Ameritech Michigan territory (which has a comparable rate structure) in 73% of the instances. That is, rates for 73% of dark fiber, subloop and CNAM UNEs are higher in Illinois than in Michigan, where subloop and CNAM rates have been investigated by the Michigan Commission and where ***all*** Michigan subloop rates are lower than the rates for the entire loops of which they are a part. (Staff Ex. 23.0, at 15-17; Schedule 23.01.) This scenario, AT&T argues, casts suspicion as to whether these rates here are, TELRIC-based.

666. In any event, AT&T argues there is no question that all parties, and including Ameritech, fully expected the Commission to investigate these rates. Contrary to the assertions of Ameritech Illinois' witness Smith, the Commission has neither elected not to review Ameritech's tariffed rates for subloops and dark fiber, nor have the CLECs elected to forego that opportunity. AT&T's understanding is consistent with the statements made by Ameritech's counsel at the most recent status hearing in Dockets 00-0538/0539 wherein she stated the parties' unanimous view that these rates would, in fact, be investigated by the Commission. (AT&T Initial Br. at 131-132.)

667. AT&T notes Ameritech to contend that there is not much demand for subloops and dark fiber anyway such that the Commission's having not approved rates, terms and conditions for Ameritech's provisioning of these products is a relatively insignificant issue. (Am. Ill. Ex. 10.2, at 56; Tr. 280.) AT&T responds by noting that price is a primary factor in determining whether to purchase a particular UNE, so that any lack of demand could be due the rates being too high, as much as to the undesirability of the UNE. (Tr. 281-282.) Moreover, AT&T contends, demand for

subloops and dark fiber is likely to increase significantly to the extent that AI "rolls out" its Project Pronto fiber-fed loop network. The roll out, to date, has been limited, with the bulk of it to occur in the future. (Tr. 793-795.)

The Interim Rates For The Broadband UNE

668. With respect to the interim rate set by the Commission for the end-to-end Broadband UNE resulting from the unbundling of its Project Pronto network, AT&T sees Ameritech to contend that this rate is "reasonable." (Am. Initial Br. at 47.) But, AT&T contends, the Commission agreed that Ameritech had not yet had "its full day in court on the issue of the cost based rates that shall apply to the UNE in question here." Order on Second Rehearing, at 25. In adopting the interim rates for Ameritech's end-to-end Project Pronto UNE, AT&T argues, the Commission acknowledged that it was doing so pursuant to its Section 13-801(g) authority to establish interim rates for UNEs "where cost based rates have not been established. The rates established remain in effect until such time as cost based rates are established or the rates are otherwise modified by the Commission." Order on Second Rehearing, at 25. These rates, AT&T contends, are not cost-based and do not comply with the Act's UNE pricing standards or the FCC's interim rate criteria.

Nonrecurring Charges For New Combinations

669. On brief, AT&T notes, Ameritech candidly concedes that the nonrecurring charges associated with new UNE-Platform and Enhanced Extended Links (EELs) are interim rates only. (Am. Initial Br. at 47-48.) Ameritech further concedes that the nonrecurring charges for new UNE-P are not subject to "true up", but further contends that "only Ameritech could possibly be hurt by this lack of true-up." (Id. at 48.) AT&T disputes these assertions. The CLECs contended, in both phases of Docket 98-0396, AT&T argues, that the nonrecurring charge of $20.21 ought not apply to new UNE-P combinations. AT&T expects that the interim $20.21 line connection charge that applies to new UNE-Platform combinations on an interim basis, will not withstand Commission scrutiny. If this charge is ultimately reduced or eliminated, AT&T and other CLECs would have paid more in the interim, thus being hurt by the lack of a "true-up". Whereas the interim nonrecurring charges for new UNE-Platform combinations are not subject to true up, AT&T argues, Ameritech's interim nonrecurring charges fail to satisfy both the pricing requirements of Section 252(d) and the FCC's interim rate criteria.

670. AT&T agrees with Staff that Ameritech's application should be rejected until Commission-approved permanent nonrecurring charges are established. AT&T informs that workshops to determine the scope of this new nonrecurring charge investigation for new unbundled network element combinations (which the Commission has ordered be initiated immediately) have already commenced. *See* Order on Reopening at 11, Docket 98-0396, April 30, 2002).

Rates Applicable To Line Splitting

671. AT&T witness Henson explained the complete state of confusion regarding nonrecurring charges that apply in line splitting applications, as well as how Ameritech *Michigan* and the CLECs operating there have been engaged in an ongoing, intensive collaborative effort to consider this topic. (AT&T Ex. 3.1, at 8.) With respect to Illinois, AT&T argues, Ameritech Illinois appears to eschew the idea that there should be any "special pricing" for line splitting. (Am. Ill. Ex. 3.1, at 34.) According to Ameritech witness Chapman, a CLEC need only order the established network elements at the already established prices. Given that Ameritech is heavily engaged in collaborative sessions on the subject in another state, belies the Company's apparent inability to understand the issue for this state. It only serves to highlight AI's failure to establish TELRIC-based pricing to allow CLECs to engage in line splitting. (AT&T Ex. 3.1, at 9.)

A Five Year UNE Rate Cap

672. AT&T sees Ameritech Illinois to acknowledge wanting to raise its prices for CLECs. (Am. Initial Br. at 40, 41.) AT&T points out, for example AI witness Smith view that "Actual fill factors do not overstate costs. Actual fill factors represent a forward-looking view of where fill levels would be for an efficient firm." (Am. Ill. Ex. 10.1, at 15.) This input adjustment alone, if allowed by the Commission, would severely damage the economic characteristics of the CLEC business opportunity.

673. AT&T notes that there are some UNEs for which just permanent rates are in place, or for which permanent rates are finally being established. In addition to Ameritech's subloop, dark fiber and CNAM rates (which have never even been investigated) AI notes that there has not yet been a permanent unbundled local switching rate put in place. As recently as July 10, 2002, the Commission issued an order reducing Ameritech's interim ULS rate. See Order Docket 00-0700 (July 10, 2002.) That permanent ULS rate will not become effective until next month, AT&T observes. Moreover, AT&T notes that the docket to establish permanent nonrecurring rates for new UNE combinations has not yet been initiated, so permanent nonrecurring rates will not be in place for quite some time.

674. AT&T overwhelmingly supports the five year UNE rate cap proposed by Staff. To the extent costs change and evolve over time, as Ameritech contends, the declining cost nature of the telecommunications industry dictates that costs should decrease, particularly in light of the scope and scale economies SBC and Ameritech expected to experience as a result of their merger. A rate cap of the type proposed by AT&T and Staff is entirely appropriate and warranted. At the same time, AT&T contends, it would continue to allow Ameritech to recover all of its forward looking, efficient costs.

Issues Concerning Ameritech's OSS

675. According to AT&T, many and varied OSS issues that have been raised in this case. While AT&T certainly agrees with Ameritech that these issues (and others) are properly considered in the next phase of this proceeding, it sees no reason for Ameritech to claim that CLECs have "equivalent access" to all necessary OSS at this time. As such, AT&T recommends, the Commission not make *any* findings regarding Ameritech's OSS until the second phase of this case is complete.

676. AT&T believes that it is premature to discuss the many and varied deficiencies in its OSS, and thus unnecessary to give a point-by-point response to Ameritech's contentions regarding its preorder, order, installation, maintenance, repair, and billing interfaces. AT&T submits that this docket contains credible evidence establishing that Ameritech's OSS contain significant flaws that materially effect a carrier's ability to obtain OSS functions at parity with what Ameritech's retail operations enjoy. In particular, Ameritech's haphazard OSS "releases," its flawed Change Management Process, its faulty Joint Testing Environment, its confirmed problems with Line Loss Notifiers, and its failure to provide nondiscriminatory access to a white pages listing interface, would each result in a finding that Ameritech's OSS fail to satisfy the § 271 standard. *See* AT&T Initial Br., at 75-101.

677. AT&T sees Ameritech to point to statements by AT&T's management, AT&T's Market Entry Test ("the MET"), and other commercial entry *evidence,* to assert that the areas that CLECs complain about "have not affected market entry." (AI Br. at 56.) These claims are transparently thin and AI's evidence is nonexistent, AT&T contends. Ameritech presented no evidence of actual commercial experience in this phase of the case, and its witnesses could not respond to any questions regarding the current volume of transactions affecting their OSS interfaces. (Tr. 513-514.) So too, AT&T asserts, neither of Ameritech's two OSS witnesses could testify at hearing regarding the *current* commercial volumes being handled by Ameritech's OSS.

678. In AT&T's view, Ameritech attempts to "create" evidence of commercial OSS experience by pointing to AT&T's mass market local entry in Michigan, Ohio and now Illinois. Ameritech cross examined AT&T witness Mr. Willard on several press releases indicating that AT&T had garnered in excess of 100,000 customers in these market entry efforts. Although Mr. Willard did not dispute the statements made in the press releases, he explained that they should be read in the context of the consideration given to the third-party test of Ameritech's OSS:

679. According to AT&T, the testimony of Mr. Williard shows that, AT&T's own Market Entry Test ("MET") did identify problems in Ameritech OSS. Based upon an expectation that Ameritech would cure the problems identified by the MET (and the problems discovered in the BearingPoint test as well), AT&T has begun to use Ameritech's OSS to enter local markets. Until it is confirmed that Ameritech has resolved these major deficiencies, however, and until the BearingPoint Third-Party test has been successfully completed, the adequacy of Ameritech's OSS for purposes of

§271 remains an open issue. Ameritech concedes as much by seeking to defer to Phase II the many OSS issues raised in this phase of the proceeding.

d. WorldCom Reply Position

Availability of UNE Combinations

680. According to WorldCom, Ameritech makes various arguments about the availability of UNEs and combinations of UNEs, which rely upon extra-record evidence and thus, must be disregarded. For example, Ameritech claims that concerns raised by Staff about the conversion of private line and point-to-point circuits to Enhanced Extended Links ("EELs") were rendered moot because Ameritech filed a compliance tariff on July 11, 2002 in response to the Commission's Order in Docket 01-0614 that directs Ameritech to allow for the provision of such conversions. (Am. Br. at 39). Ameritech further indicates that it provides "new combinations" sufficient to meet the requirements of federal law offered through the same tariff that was filed on July 11, 2002 in compliance with the directives in Docket 01-0614.

681. WorldCom believes that Ameritech's reference to its July 11, 2002 tariff filing, made after hearings were held in Phase I of this proceeding, are extra-record, inappropriate and should be accorded no weight.

Future Pricing

682. WorldCom notes Ameritech to contend that the FCC has held that the rates to be used for assessing compliance with 271 are the rates that are in effect, such that post-approval rate changes are not a barrier to Section 271 approval. Ameritech fails to consider, WorldCom argues, that the DOJ regards an assessment of pricing arrangements as an important consideration in determining whether a market is fully and irreversibly open to competition. See DOJ Evaluation of Louisiana II Application at 19. In addition to assessing current prices, WorldCom contends, the DOJ has stated that a market is not "irreversibly open" if there is a substantial risk that prices will be increased to inappropriate levels after section 271 entry. Such a risk can impair competition now. See DOJ Evaluation of South Carolina Application at 39-40; DOJ Evaluation of Louisiana I Application at 27. The DOJ's assessment, which itself must be given substantial weight by the FCC, defeats the claim that future rates are totally irrelevant to Section 271 evaluation, WorldCom asserts.

683. WorldCom submits that the substantial risk of post-entry increased rates, alluded to by the DOJ in its evaluation of the South Carolina and Louisiana applications, is exactly the risk that is apparent from the record in this proceeding.

Interim Rates

684. WorldCom notes Ameritech to concede that there are a number of interim rates for UNEs, including the end-to-end Broadband UNE, nonrecurring charges for combinations of UNEs and collocation rates. WorldCom sees Ameritech to downplay

the importance of the interim rates, arguing that some are "*de facto*" permanent and that others are reasonable and should not prevent a favorable ruling on its 271 application. (Ameritech Brief, at 47-49). So too, Ameritech admits that the interim rate for nonrecurring charges for new UNE Platform orders is not subject to true-up but makes the unsupported claim it is the only party that could be hurt. Ameritech further acknowledges that there are various items for which rates have not yet been approved, including rates for subloops, dark fiber and Customer Name ("CNAM") database queries. (Id. at 49). Whereas Ameritech argues that it should be allowed to avail itself of interim rates for gaining 271 approval, WorldCom maintains that the CLECs are unfairly left to contend with interim rates.

Access to Operations Support Systems

685. According to WorldCom, Ameritech's arguments with respect to its OSS "performance," are without merit. The record in this proceeding demonstrates that WorldCom continues to experience fluctuating problems with Ameritech's Service Order Completion ("SOC") notices and serious problems with flow through; line splitting; inaccurate provisioning; switch translations; trouble handling process problems and Electronic Bonding Trouble Administration ("EBTA") system; and billing. While progress has been made to lessen line loss problems, WorldCom cannot say that the problem is fixed. Indeed, the record in this proceeding indicates that problems continue to exist with respect to line loss despite Ameritech's claims to the contrary. Further, there are several points raised in Ameritech's brief regarding OSS, WorldCom contends, that warrant a response.

Line Loss Notices (LLN)

686. Ameritech's claim of resolving the LLN problem WorldCom notes, is based on its assessment that Ameritech is now issuing over 99 percent of line loss notices ("LLNs") within 24 hours of order completion. (Am. Br. at 57, 70.) This revelation (that the LLN problem appears to have been resolved) came on the day that Ameritech witness Cottrell testified such that, no party had an opportunity to test the veracity of his assertion. In any event, WorldCom asserts that the record also reflects that CLECs continued to have LLN problems up through the time of the hearing. (Tr. at 1624-28). (Tr. at 1714-15). Thus, WorldCom contends, Ameritech's unsupported claims that the line loss problem is resolved, should be rejected.

687. WorldCom sees Ameritech to make the extra-record and unsupported claim that, as a result of the Commission's order in Docket 02-0160, Ameritech Illinois' retail operation now relies exclusively on LLNs for its line loss notification. (Am. Br. at 65). This claim is unsupported and cannot be relied upon to support a finding that Ameritech provides LLNs in a nondiscriminatory manner WorldCom argues.

Single Order Processes

688. WorldCom sees Ameritech to contend, that it is in the process of implementing single order processes for certain products and services for which it currently requires CLECs to submit as many as three orders. (Am. Br. at 73-74). Ameritech's contention cannot be relied upon to support its Section 271 aspirations. This particular revelation came on the day that Ameritech witness Carol Chapman testified. (Tr. at 382, 485). As such, WorldCom argues, parties have not had an opportunity to respond or test the veracity of her claim. So too, the DOJ has said that mere "paper promises" are not sufficient to demonstrate compliance. *See* DOJ Evaluation of Louisiana I Application at 9, 14. Ameritech's mere contention that it is implementing a single order process should not be relied upon by the Commission WorldCom suggests, in reaching any conclusions with respect to whether the local market in Illinois is irreversibly open to competition.

Billing

689. WorldCom sees Ameritech to claim that it is "in the process of fixing" problems that caused it to charge WorldCom inflated OS/DA rates. Ameritech goes on to assert that it will recalculate all UNE-P CLECs' operator service charges and issue appropriate credits. (Am. Br. at 89-90). As with other extra-record assertions, WorldCom maintains that it and other parties have not had an opportunity to respond or to test the veracity this claim.

690. Ameritech's contention that it is fixing the problem and recalculating charges with the intention of issuing credits is merely a "paper promise" that it will do something in the future to respond to concerns that only came to light because they were raised by WorldCom in this proceeding. In WorldCom's view, whether the problem actually gets fixed and whether Ameritech ever issues credits, much less appropriately calculated credits, remains to be seen. Regardless of what occurs, this extra-record claim should not be relied upon by the Commission in reaching any conclusions with respect to whether the local market in Illinois is irreversibly open to competition.

e. AG Reply Position

Existing UNE Combinations

691. The AG notes Staff to have criticized Ameritech for "not establish[ing] detailed processes for 'migrating' a private line service, or point-to-point data circuit, to UNEs, including whether Ameritech Illinois will enforce the FCC's requirement that CLECs use such migrations to provide a substantial amount of local service." (AI Initial Brief at 39.) According to the AG, Ameritech considers the concern "moot," as it claims to recognize and comply with its obligations pursuant to the Commission's Order in Docket 01-0614 to "perform certain migrations without applying the FCC's local usage restrictions." (Id.) Having not developed any arguments to show that specific state

requirements are inconsistent with federal law, the AG contends, Ameritech cannot simply disregard them in this proceeding.

692. Further, the AG sees Ameritech to dismisses the parties concerns over any future UNE rates as unnecessary, given that all rates need Commission approval. According to the AG, Ameritech contends that "Past experience shows the Commission does not approve rates until it is convinced that they comply with TELRIC." (AI Initial Brief at 44.) To the extent, however, that Ameritech continues to challenge the validity of UNE rates ordered by the Commission, the AG argues, this reassurance is diminished. (Id. at 41 n.12.)

f. Z-Tel Reply Position

OSS Issues

693. Regarding the provision of OSS, Z-Tel sees Ameritech to allege that the relevant inquiry at this point in the proceeding is only "whether Ameritech Illinois has developed sufficient electronic and manual interfaces to allow competing carriers **equivalent access** to all of the necessary OSS functions, subject to review of the results of actual commercial usage and the results of carrier-to-carrier testing, independent third-party testing and internal testing." (AI Br. at 53.) In Z-Tel's view, an inquiry into "equivalent access" with these caveats, is no inquiry at all.

Line Loss Notification (LLN)

694. Z-Tel notes Ameritech's position on line loss notification, as set out on brief, to state:

> Ameritech Illinois does not dispute that it experienced problems in delivering [line loss] notices. But it is equally indisputable that Ameritech Illinois conducted a thorough investigation, implemented corrective actions, kept CLECs and state commissions informed of progress, achieved significant improvement, and continues to monitor the situation. We believe that the line loss issues have now been resolved, but we do not contend, and the Commission need not find, that line loss notices are now perfect for all time. It is clear, however – considering the efforts made to date, the ongoing supervision of this issue by Ameritech Illinois, CLECs and the Commission in Phase II of this docket, and considering line loss notices in the context of all the other services Ameritech Illinois performs – that the issue is not significant enough to warrant a finding of noncompliance now. (AI Br. at 57.).

695. In Z-Tel's view, Ameritech seems to believe that its "efforts" and not its performance, is what matters. Ameritech is wrong, Z-Tel argues.

696. According to Z-Tel, the provision of nondiscriminatory access to line loss information is a material OSS issue. Without timely and accurate Line Loss information, Z-Tel has no idea when to stop billing a customer that has migrated to another carrier. When a customer is double billed as a result of an Ameritech line loss failure, the customer tends to blame Z-Tel, even though the double billing results from a fault in Ameritech's OSS. In addition, without accurate identification of when customers disconnect from Z-Tel service, Z-Tel is unable to audit accurately the fees for UNEs it is billed by Ameritech.

697. According to Z-Tel, the data it compiled demonstrates that Ameritech's delivery of Line Loss information remains unacceptable. For June 2002, Z-Tel received 10% of line loss notifiers from Ameritech in Illinois more than six days after the line loss occurred. Z-Tel contends that Ameritech's discriminatory line loss reporting has caused it to process more double billing credits (due to missing, late or inaccurate line loss) in Illinois than in New York, even though Z-Tel has three times the number of customers in New York. According to Z-Tel, BearingPoint reported the existence of significant line loss problems for Ameritech Michigan as recently as August 22, 2002. See Ameritech OSS Test Exception Process, Additional Information Document, Exception Report: 74v2 (Aug. 22, 2002) (demonstrating that during a recent "retest" of Ameritech's line loss capability "SBC Ameritech performed at a success rate of 81.5 percent, and this performance failed to meet the applied accuracy benchmark of 95 percent.") (attached hereto as Tab A).

698. Z-Tel takes issue with Ameritech's claim that "ongoing supervision" by the Commission and others will improve matters. In Z-Tel's view, Ameritech is failing to take the steps necessary to implement the Commission's *Order* in Docket 02-0160. The Commission should not find Ameritech compliant with its OSS obligations until such time as Ameritech demonstrates full compliance with the Commission's *Order*.

DUF information

699. The "DUF," Z-Tel explains, is a file that contains call records related to Z-Tel's end users. According to Z-Tel, the testimony of Ameritech witness Kagan shows that:

> "Ameritech Illinois Network staffs have been investigating this [DUF] matter and have instituted several internal attempts to identify and correct those problems. It is my understanding that [Ameritech] expect[s] to complete this process by April 2002."

700. This statement, that it is working to fix the problem, Z-Tel argues, is flatly inconsistent with Ameritech's checklist obligation. Further, Ameritech sent Z-Tel a letter, dated December 3, 2001, indicating that DUF records that had been sent by

Ameritech to Z-Tel (beginning in January 2001) contained usage that was incorrectly identified as 100% intrastate/intraLATA. It is not known if the extent of this Ameritech-identified problem still exists today, but it has resulted in billing disputes in excess of $1 million between Z-Tel and Ameritech. As such, Z-Tel contends, it brings into question the overall reliability of the DUF process, essential to Z-Tel's business operations.

Wholesale billing information

701. Z-Tel maintains that Ameritech's wholesale bill is essentially impossible to accurately audit and reconcile. When it identifies clear overcharges, Z-Tel asserts, Ameritech's billing dispute process is also difficult to navigate. At present, Z-Tel contends that it has 195 official billing disputes open with Ameritech Illinois. Of these, 137 are more than 60 days old, and 69 are more than 120 days old. Two disputes, filed on February 21, 2002 and May 3, 2002, Z-Tel comments, specifically cover Ameritech charging Z-Tel for wholesale usage on lines that also appeared on the Line Loss report (*i.e.*, Ameritech reported to Z-Tel that the line was no longer a Z-Tel line, but still billed Z-Tel for the wholesale use of that line). This serves to show, Z-Tel contends, that Ameritech's wholesale bills, as well as the billing dispute process, are unacceptable. The inability to resolve timely billing disputes impacts Z-Tel's ability to account for its cost of goods sold, and hamstrings Z-Tel's ability to do business planning for Illinois.

702. Z-Tel claims that it is effectively unable to audit Ameritech's wholesale bill because of its form and lack of substance, but has run sample audits comparing disconnected orders from Ameritech's Line Loss reports to the Customer Service Record ("CSR") for October 2001 through January 2002. The results of this sample, it argues, demonstrate that Ameritech continues to bill Z-Tel for wholesale service even after the customer has migrated away from Z-Tel to another carrier. Indeed, for the period from October 2001 through January 2002, Ameritech billed Z-Tel incorrectly on at least 2,623 lines. Ameritech may not expect CLECs to make "duplicate payments" for disconnected lines, however, resolving billing disputes with Ameritech is an exceedingly difficult task, Z-Tel asserts.

703. Without question, Z-Tel contends it has been overcharged for the 2,623 accounts referenced above. It is difficult to resolve billing disputes with Ameritech, however, without conclusive detail of the exact charges on a line-by-line basis. Ideally, Z-Tel contends, it should be able to identify all incorrect charges billed on any given invoice prior to making payment, and Z-Tel also should have the ability to file disputes for items determined to be incorrectly billed based on audits like the one Z-Tel recently conducted. According to Z-Tel, Ameritech, makes this process difficult, if not impossible.

704. The checklist mandates that Ameritech must provide timely and accurate bills to CLECs, such as Z-Tel. Doing so requires Ameritech to make such bills auditable by including clear cross references to the applicable tariff, call flow, and interconnection agreement so rate descriptions and rate amounts can be verified. Ameritech's failure to provide such a wholesale bill further demonstrates that Ameritech fails to provide nondiscriminatory access to the OSS UNE.

RCF Services

705. Z-Tel notes certain testimony provided by AI witness Alexander, to wit:

> Well, I know that the CLEC can request the ULS port and the RCF service as a feature. I am not familiar with the exact ordering process or any of that. (Tr. 1406).

706. Whereas Ameritech would professes "confusion" on this issue, Z-Tel contends that Mr. Alexander's statements are clear. Moreover, Z-Tel knows that it is possible to migrate RCF functionality to UNE-P carriers because other Bell companies do just that for Z-Tel and other CLECs. According to Z-Tel, Ameritech simply must develop a means of providing this functionality to CLECs on a migration basis.

g. McLeod/TDS Reply Position

Change of Ownership

707. It is undisputed, McLeod/TDS contends, that Ameritech does not have a process in place for CLECs to implement a change of ownership of other CLECs even while Ameritech has such a process in place for its retail customers. McLeod/TDS Metrocom witness Rod Cox explained that the lack of such a process causes significant operational inefficiencies for a CLEC such as McLeodUSA that has acquired several CLECs over time.

708. Just because such a process has never been required before in a Section 271 proceeding is no argument, McLeod/TDS contends. If the record establishes that Ameritech's systems do not provide a CLEC non-discriminatory treatment, whatever the process, then Ameritech fails its Section 271 obligations. The fact that no carrier to date has identified this problem in the context of a Section 271 proceeding does not change the law with respect to Ameritech's obligation to provide non-discriminatory access to its network.

709. According to McLeod/TDS, Ameritech's focuses exclusively on what must be done to retail telephone numbers by the customer's carrier to implement a change of ownership. It argues that someone at Ameritech must reenter orders to convert telephone numbers for its retail end users and, thus, it is not discriminatory to require McLeodUSA to do this for its end users. Even if McLeodUSA were to accept the responsibility for doing that activity (which it does not believe it should be required to do), Ameritech's argument fails to address the real problem that the underlying pieces of the network ordered from Ameritech continue to have the outdated carrier identifiers associated with those pieces, which prevents McLeodUSA from doing anything for its retail customers.

710. Thus, in a downtown Chicago central office, McLeodUSA contends, it could not simply re-identify a telephone number of a customer of an acquired CLEC as now belonging to McLeodUSA, because Ameritech's network and databases continues

to identify that collocation in that Ameritech central office as being that of the CLEC acquired by McLeodUSA. Ameritech has no like problem with its own carrier identification codes. Thus, Ameritech can easily resubmit an order for any end user because its central office switches, SS7, databases and so forth already recognize every single piece of network in service as Illinois Bell Telephone d/b/a Ameritech Illinois.

711. Given that Ameritech has never developed a process (since first requested in 1998) to facilitate the change of carrier identification codes of CLECs acquired by McLeodUSA means that McLeodUSA has been forced by Ameritech to order every network facility used to provide service to its end users since 1998 using the wrong carrier identification codes. But for the lack of such a process, McLeodUSA would not now be faced with the prospect of having to resubmit hundreds of thousands of orders to change the configuration of each and every network element, wholesale service and retail service (e.g., special access) ordered from Ameritech since McLeodUSA began acquiring CLECs.

712. Due to the lack of a change of ownership process, the problem simply continues to compound itself since McLeodUSA must continue to order service as separate operating entities (i.e., as the various CLECs it has acquired). The only other option is to simply stop selling service in those markets where Ameritech's network and databases continue to identify McLeodUSA by the outdated carrier identifiers of acquired CLECs. This discriminatory treatment by Ameritech makes McLeodUSA's operations less efficient because a McLeodUSA order writer must know which former CLEC Access Customer Name Abbreviation and Service Provider IDs to use to submit an order for a particular exchange. (See MTSI-TDS Joint Ex. 1.0, at 20-21)

<u>OSS – Joint Test Environment for LSOG 5 EDI</u>

713. According to McLeod, Ameritech minimizes the concerns with the LSOG 5 Joint Test environment identified by McLeod as "carrier-specific" concerns that do not affect checklist compliance. (Al. In. Br. at 99). McLeod notes, however, that Ameritech focuses on only one specific connectivity issue identified by McLeodUSA in support of its claim.

714. As such, McLeod argues, Ameritech completely ignores its own records showing that over 20 formal defects have been encountered in the LSOG 5 Joint Test Environment. Indeed, the LSOG 5 EDI Joint Test Environment has had so many defects that only one conclusion can be reached, i.e., Ameritech had not adequately developed the Joint Test Environment before declaring the Test Environment was "open" so that it could meet its change management obligation to have the Test Environment open for 67 days before the scheduled release date.

715. The issues raised by AT&T and McLeodUSA are for all intents and purposes identical in asserting that Ameritech's change management process fails to provide an adequate joint test environment for CLECs to adequately test a new OSS release in a timely fashion. Whereas AT&T argued this point in the context of the LSOG

4 release, and McLeod in the context of these LSOG 5 release, only means that Ameritech has a systemic problem in this regard.

716. According to McLeod, the Commission should conclude that Ameritech's OSS Joint Testing Environment fails to provide CLECs with an adequate means to migrate to new release versions of Ameritech's OSS, such that checklist item 2 has not been met in this regard.

h. Cook County Reply Position

Network Interface Devices (NIDs)

717. Cook County notes Staff to question Ameritech Illinois' failure to take action with respect to Network Interface Devices. To be sure, Staff points to Ameritech Illinois' violation of prior Commission orders with respect to NIDs (Dockets 86-0278 and 94-031) as evidence of this failure. (Staff Initial Brief at 125.) Ameritech Illinois argues in its brief that it allows non-discriminatory access to NIDs, which may be true. In the view of Cook County, however, Ameritech Illinois needs to comply with Commission orders to install NIDs and report annually on its efforts. Cook County agrees with Staff's argument that, this lack of compliance will have an adverse impact on opening the market to competition. If left unremedied, Cook County observes, it will inhibit a CLECs ability to access NIDs in a manner consistent with the FCC's requirements. (Staff Brief at 126.)

LLN

718. Cook County recognizes the OSS area is one of the keys to competition that also has a direct effect on consumers. According to Cook County, OSS can affect consumers in the areas of installation, billing and repair.

719. One of the OSS issues in this docket relates to line loss notification (LLN), i.e., the notice that lets a carrier know that it has lost a customer. Given the significance of this problem from both a consumer and CLEC viewpoint, Cook County recommends that the Commission take steps to ensure that this issue has indeed been resolved appropriately and that Ameritech's OSS is functioning properly. As noted by Staff, "The LLN problem harms CLEC reputations because AI does not send accurate and timely loss notifications to its wholesale customers." (Staff Initial Brief at 130.)

Pricing Issues

720. For there to be meaningful competition in Illinois, it is essential for carrier to know what products are available and at what prices. Cook County observes that a variety of pricing issues have been raised in this proceeding from Unbundled Network Element (UNE) prices to reciprocal compensation.

721. In one instance, Cook County would note, Staff indicates that Ameritech Illinois' prices for the various pieces exceed the price of the whole. As noted by Staff,

there are instances where the sub-loop portions end up costing more than the loop. (Staff In. Br. at 149.)

722. Additionally, Ameritech Illinois has not made an election at the FCC as to whether it will be adopting a particular pricing approach for reciprocal compensation. Such pricing uncertainty Cook County argues, may inhibit competition in Illinois Local Markets, in the local market in Illinois inhibiting open competition. Ameritech Illinois also is seen to contend that Staff's attempt to impose limits on future rate changes is not relevant to check list compliance. (Am. Br. Illinois at 45.) Given the impact this issue can have on competition Cook County notes, the Commission may well consider such issue under the public interest standard.

723. Cook County also sees Staff to have suggested a five-year rate cap on UNEs to which. (Staff In. Br. at 244-248.) Ameritech Illinois objects. However this issue is resolved, Cook County believes that there must be compliance with approved pricing principles and some reasonable certainty regarding what elements are available at what price. If Ameritech Illinois has problems with the price cap, Cook County believes that it should offer a meaningful alternative.

6. Staff's Proposed Remedial Actions for Checklist Item Compliance

724. In order for the Commission to recommend to the FCC that Ameritech's Section 271 Application be approved, Staff recommends that:

1. Ameritech demonstrate that its "UNE offerings" are reasonably available, and prove that its UNE rates are clearly defined and can be considered reasonably within a range of TELRIC compliance

2. Ameritech demonstrate that it makes its Section 271 compliant rates, terms, and conditions available to all carriers in Illinois

725. Further, in order to prove that its UNE offerings are reasonably available:

3. Ameritech must demonstrate that its "UNE combination rates" are clearly defined and reasonably within a range of TELRIC compliance.

4. Ameritech must prove that it has well defined, concrete, and binding terms and conditions that define provisioning intervals for UNE combinations, in particular loop/transport combinations, both those provided as pre-existing and new combinations.

5. Ameritech must prove that it has well defined, concrete, and binding terms and conditions that define the quality at which Ameritech will provide UNE combinations, in particular

loop/transport combinations, both those provided as pre-existing and new combinations.

6. Ameritech Illinois should do the following to correct its short comings with Line Loss Notifications:

(i) Correct the loss notification issues that SBC/Ameritech acknowledges exist, in MI Case No. U-12320, with partial migration of accounts.

(ii) Re-train Ameritech Illinois personnel to prevent loss notification problems arising from manual handling errors in the local service centers.

(iii) Determine if other situations exists that cause loss notifications to be inaccurate, or untimely, and correct those situations immediately.

(iv) Set out all problems that Ameritech Illinois has uncovered related to loss notifications since January 2001 and communicate these situations in an Accessible Letter[27] to the entire CLEC community. The Accessible Letter should indicate when the problem was first identified, what versions of Ameritech's software the problem is applicable to, what action Ameritech Illinois has taken if any to correct each issue and when the action was taken, as well as any planned or future action Ameritech Illinois plans to take and an estimate of when the actions will be taken.

(v) On a CLEC-by-CLEC basis, Ameritech Illinois should determine the accounts for which loss notifications have never been sent or were sent incorrectly and communicate these instances to the affected CLECs. If problems continue to persist then Ameritech Illinois should be required to perform this reconciliation process on a monthly basis until all issues have been resolved.

(vi) Continue to meet with CLECs, on an as-needed basis, to discuss the problems associated with loss notifications and the actions Ameritech Illinois is taking to address the issues.

(vii) Modify the process Ameritech Illinois uses to notify its retail organization of a customer loss or the process Ameritech Illinois uses to notify its wholesale carriers of a customer loss to bring them into parity with one another.

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[27] An accessible letter is the primary vehicles by which Ameritech communicates to its wholesale customers. They are usually electronic documents sent by Ameritech via email.

(viii) Any changes Ameritech Illinois makes to its current processes and procedures regarding loss notifications or its performance measures that track loss notifications should be subject to review in Phase II of this proceeding.

(ix) Ameritech's cross-functional team should remain in place and continue to review the line loss notifications until AI provides six months of line loss notices without uncovering any new problems and without any of the old problems re-emerging.

(x) Staff proposes Changes to Performance Measurement MI 13. AI should modify the calculation, business rules and exclusions associated with performance measure MI 13 to accurately capture how long it takes Ameritech Illinois to send a loss notification, and to reflect the fact that MI 13 does not include loss notifications that are never sent. The modifications are as follows:

(xi) The calculation should be modified so that the clock starts when the work to disconnect the account from the losing carrier was completed as opposed to the date the service order completion notice was sent to the new carrier.

(xii) The business rule should be modified to the following: "The percentage of customer loss notifications sent to carriers where the elapsed time from the completion of the disconnect provisioning work to the time the loss notification (EDI 836 message) is transmitted to the losing carrier is less than one hour".

(xiii) An additional exclusion should be added to the business rule document to clearly delineate that loss notifications that are not sent by Ameritech Illinois are not included in the measure.

(xiv) If the time interval is moved to 24 hours (or one calendar day) from one hour as proposed by AI then the benchmark for MI 13 should be increased from 95% to 97%.

(xv) Include performance measure MI 13 in the Ameritech Illinois Performance Remedy Plan or whatever plan is determined to be its "Anti-backsliding Plan" as part of this 271 proceeding. A medium weighting should be tied to the measure for remedy purposes. Today, no remedy payments are tied to performance measure MI 13.

8. The Commission should order the opening of an investigation that would accomplish the following:

(a) Determine whether Ameritech's rates for Unbundled Sub-Loops, Dark Fiber, Access to the AIN Database, and Access to CNAM Database are in compliance with TELRIC principles and consistent with the Order in Docket 96-0486/0539 (Consolidated); and

(b) Investigate the impact of the LFAM model on the costs and rates for the services in these filings, and determine whether LFAM is acceptable to develop TELRIC costs.

9. AI also must file TELRIC compliant rates or demonstrate that the interim rates for the following are compliant with TELRIC principles: (i) non-recurring charges for UNE combinations; (ii) non-recurring charges for UNEs; (iii) recurring UNE charges; (iv) unbundled switching and interim shared transport rates (ULS-IST); (v) dark fiber; (vi) unbundled sub-loop rates; (vii) AIN routing of OS/DA charge; (viii) CNAM database access charge; (ix) NGDLC UNE platform charge; and (x) OSS modification charge for the HFPL UNE.

10. Based on AI's own admission it does not intend to comply with Commission orders in Dockets 86-0278 and 94-0431, and its non-compliance has adverse impacts on opening the market to competition.

726. In response to an ALJ notice issued on November 8, 2002, Staff clarified certain of its recommendations in a filing on November 27, 2002.

7. Commission Review and Conclusions – Phase I

727. Our review of Checklist Item 2 compliance requires the Commission to consider the evidence, issues and the rules relevant to three separate elements: (1) OSS (2) UNEs; and (3) Pricing.

1. OSS Generally.

728. The bulk of our work with respect to assessing Ameritech's OSS will come in Phase II of this proceeding, such that, we carry forward much of the record on this extensive element. At present, Ameritech Illlinois has in place and the CLECs are using AI's OSS systems. Some matters involving these systems were raised in this phase of our investigation, however, and we believe that certain issues might appropriately be addressed at this juncture.

<u>OSS - Line Loss Notifications</u>

729. Ameritech's work to address the LLN problem is ongoing. The evidence presented by the Company discusses the details of its efforts and progress, and further indicates that its cross-functional team, created exclusively for this purpose, remains in place. It is generally agreed by all parties that the Commission's final review of line loss performance should come in Phase II. The CLEC's testimony indicates that there have

been persistent and significant problems which may not be resolved at this time, and indicates further, that the issue of an adequate LLN is material. For its part, Staff maintains, that AI has not yet satisfactorily proven that the LLN problem is fully resolved and it attaches a number of remedial actions to be put into effect at this juncture. Staff's recommendations are reasonable and Ameritech's actual implementation of those remedial actions (found on pages 5-8 of Appendix A attached to Staff's Reply Brief), will be given substantial weight when the Commission makes its final analysis of this matter in Phase II.

OSS – Account Ownership Process.

730. As we see it, McLeod seeks a new process to implement a change of billing information when a CLEC changes ownership because of a merger. The requirement it would have us impose, however, goes beyond Section 271 requirements and is unsupported by any authority.

731. In its exceptions brief, McLeod contends that each and every OSS used by SBC-Illinois to process orders, trouble ticket listings, call termination, line termination, etc., continues to retain incorrect carrier identification codes because there is no process in place as would account for a CLEC being acquired by another CLEC. This lack of a process to implement changes of account ownership, it argues, causes McLeod to continue to order service as two separate operating entities, and check its records to verify which entity is operating in a central office according to SBC- Illinois' records. Recognizing that this issue has not previously arisen in the context of a Section 271 proceeding, McLeod nevertheless maintains that it still should be considered here on the basis of general non-discriminatory access to OSS.

732. According to AI' response, the Company does have a process in place for a CLEC being acquired by another CLEC. If McLeod desires to change the CLEC information listed on customer service record (after a merger or acquisition), AI explains that it need only issue service orders to that effect.

733. In reply to McLeod's call for a non-discriminatory process, AI asserts that the process that the Company has in place for its retail customers is the same process offered to the CLECs. In other words, no "mass conversion" process exists on the retail side such that SBC-Illinois must issue an individual service order for each end-user account that needs to be converted, the same and no different as McLeod is required to do.

734. Having considered all the arguments anew, the Commission still fails to find any Section 271 compliance problem.

OSS - Outage and Restoring Processes

735. The Commission directs AI to meet with and educate RCN on its network outage notification procedures, making sure RCN is included in AI's network outage

notification systems and is well advised of network outages. The companies will report on the success of this assignment in a joint stipulation tendered to the Commission in Phase II of this proceeding.

OSS - Single Order Process

736. SBC Illinois explains that it offers a process whereby a CLEC can convert certain existing special access arrangements to an EEL or to a UNE loop. The latter process, it notes, requires two orders: (a) an Access Service Request to disconnect the special access circuit, coupled with (b) a Local Service Request to order the loop.

737. XO complains that SBC-Illinois' requires just such a two-order process for the presumably less complicated special access to UNE conversion orders as compared to its process for special access to EEL conversions. The result thereof, XO maintains, is increased confusion and inefficiency in the process (XO Ex.1.0 at 5, 6). In addition, XO argues, this increases the likelihood of failed orders, given the fact that if either the LSR or ASR gets rejected, the other form will also be rejected (after an approximate two-hour wait period). For these reasons, XO would have the Commission "require Ameritech to consolidate into one order its current two-order process for converting special access to UNEs." (XO Reply Brief at 7).

738. According to SBC-Illinois, XO does not in any way establish that the use of a two-order process is, under the circumstances, unreasonable, discriminatory, or otherwise hindering competition in any significant way. Relevant to these matters, the Company maintains, XO is only seen to claim that there may be an "increased likelihood" of failed orders because two orders, instead of one, must flow through without rejection. (XO Br. on Exceptions at 4-5). Aside from this assertion, SBC-Illinois argues, there is no evidence to indicate that this "increased likelihood" has translated into any real-world impact.

739. To the extent that XO is suggesting that a two-order process, in and of itself, is non-compliant, the Company disagrees. SBC-Illinois points out that the FCC has repeatedly rejected that position and upheld the use of multiple order processes, even though *all* multiple order processes, as a matter of logic, would entail the increased likelihood of fallout that XO here alleges . See, e.g., Texas 271 Order, ¶¶ 198-200 (approving the use of a three-order process for UNE-P orders); New Jersey 271 Order, ¶ 135 (approving the use of a two-order process for line splitting). Most importantly, the Company observes, the FCC has specifically upheld the use of a two-order process in the precise context presented here: for special access to UNE conversions that, exactly like SBC Illinois' process, requires the submission of an ASR and an LSR. Kansas & Oklahoma 271 Order, ¶ 176.

740. There being no evidence in this proceeding to establish that the two-order process at issue has competitively significant impacts, the Commission is not compelled to do what XO is requesting.

Migration "As Is" Orders

741. The issue is whether Section 13-801(d)(6) of the PUA requires SBC-Illinois to provide a type of form or process allowing a CLEC to indicate a migration just "as is" without confirming all of the specifics of that migration. In its exceptions brief, AT&T asks that we consider this OSS issue in Phase I of this proceeding.

742. According to SBC-Illinois, however, AT&T has failed to show how its allegations are relevant to the federal checklist. SBC-Illinois points out that the FCC recently approved Qwest's application for nine states, and Qwest (like SBC Illinois), does not use an order form with an "as is" box; rather, Qwest requires CLECs to specify the existing features they wish to retain. Qwest Nine-State 271 Order, ¶¶ 58, 89. As such, the Company asserts that AT&T is only and improperly seeking to expand the requirements of state law.

743. To be sure, AT&T points to nothing in the 1996 Act or the FCC's rules to support its claim that checklist item 2 requires an ILEC to develop the kind of ordering process that AT&T seeks. Thus, our discussion and analysis of this issue is properly deferred to the public interest section reviewing state law matters. See Part IV of this Order.

2. UNEs

744. The AI/Staff Joint Stipulation No. 2 sets out the agreement by which Ameritech Illinois will amend its BFR process. As such, Staff informs, all of its issues related to the Company's provision of new UNEs have now been adequately addressed.

745. In this same Stipulation, Staff avers, it is settled that the New UNE Combination usage and accessibility issues, and the UNE conversion usage and transparency issues were adequately addressed in Docket 01-0614 and by the Compliance tariff for Docket 01-0614 and thus, need not be addressed here.

746. The Commission is satisfied with Staff's representations in these premises, and the basis thereunder.

747. The tariffs Ameritech Illinois filed in Docket 01-0614 and 98-0396, the Company indicates, has put to rest Staff's initial concerns regarding the availability of UNE combination migrations and new UNE combinations. See Joint Stipulation.

Proposed Remedial Actions – (1)

748. Staff proposes that the Company supplement its showing as regards UNE access. In light of the arguments of record, and taking particular account of Staff's recommendations, we will require Ameritech to demonstrate in Phase II of this proceeding that:

a. the UNE offerings contained in its existing interconnection agreements or tariffs can generally be opted-into without unnecessary restrictions.

b. its UNE rates are clearly defined by providing examples of typically requested UNE arrangements and explaining how services and products are billed under tariffs, the GIA, or agreements.

c. its UNE rates fall reasonably within a range of TELRIC compliance, meaning that, for each "interim" and "not-yet-investigated" UNE rate, AI must demonstrate that the rate is either (a) at a level found to be TELRIC compliant by the Commission; or (b) that the rate falls within the "zone of reasonableness". This "zone of reasonableness" might be demonstrated by comparing AI's rates to comparable elements or services that have been found to be TELRIC compliant in SBC states that have received Section 271 approval. Such comparisons would take into account cost differences between states.

d. its UNE "combination rates," i.e., UNE-P and EEL rates, are clearly defined. This might be accomplished by providing examples of typically requested UNE combinations (e.g., common special access to UNE migrations, common new UNE combination requests, common reconfigurations requests, and EELs scenarios that would allow users enough information to determine how Ameritech applies rates to alternative but similar combinations) and explaining how those services and products would be billed under its tariffs and/or interconnection agreements and GIA.

e. its UNE combination rates fall reasonably within a range of TELRIC compliance. This might be accomplished by demonstrating, for each UNE combination rate it charges, that the rate is at a level that has been found to be TELRIC compliant by the Commission or, if the rate is interim (either because the Commission ordered an interim rate or because the TELRIC compliance of the rate has never been explicitly addressed by the Commission), proving that the rate is in a zone of reasonableness by, for example, comparing those rates to rates in other

> comparable states whose have been found to be TELRIC compliant, as indicated above.

Proposed Remedial Actions – (2)

749. Staff also recommends that Ameritech Illinois prove that it has well defined, concrete, and binding terms and conditions that define provisioning intervals for UNE combinations, in particular loop/transport combinations, both those provided as pre-existing and new combinations. The issue here, it clarifies, is not compliance with provisioning intervals, but rather the establishment of a specific provisioning interval for UNE combinations such as EELs.

750. Similarly, Staff recommends, that AI demonstrate that it has well defined, concrete, and binding terms and conditions that define the quality at which Ameritech will provide UNE combinations, in particular loop/transport combinations, both those provided as pre-existing and new combinations. According to Staff, "quality" refers to performance measures and standards for all measures not related to provisioning, such as maintenance and repair. The issue is not compliance with quality standards, but rather the establishment of specific measures and standards related to quality, such as maintenance and repair.

751. Staff would indicate that AI lacks provisioning intervals for UNE combinations. Performance issues, as such, were deferred to Phase 1 (B) and are premature for discussion here. Nevertheless, we see Ameritech to comment that its existing tariff contains standards and measures, including installation intervals for UNE combinations. Staff might examine Tariff No. 20, Part 2, Sec. 10, Sheets 101-140.1 to ascertain if it satisfies Staff's concern. Ameritech further indicates that parties are supplementing measures in the current "six month review" but does not inform the Commission when this event is expected to conclude. We will need this information in order to make an informed final decision on this issue.

3. Pricing

752. Staff includes a number of recommendations that it considers applicable to Checklist Items 4, 7, and 10 as well as to the instant review of Checklist Item 2.

753. These recommendations concern "interim" rates and the showing required for the matter. There is no dispute but that interim rates are in effect for certain items. The FCC, however, has set out a test for assessing whether this infirmity affects section 271 compliance. In its Texas 271 Order, the FCC reasoned that:

> Although we have an independent obligation to ensure compliance with the checklist, section 271 does not compel us to preempt the orderly disposition of intercarrier disputes by the state commissions, particularly now that the Supreme Court has restored our pricing jurisdiction and has thereby

> directed the state commissions (and the federal courts on review) to follow our pricing rules in their disposition of those disputes. For those reasons, the mere presence of interim rates will not generally threaten a section 271 application so long as an interim solution to a particular rate dispute is reasonable under the circumstances, the state commission has demonstrated its commitment to our pricing rules, and provision is made for refunds or true-ups once permanent rates are set. Texas 271 Order, para. 88.

754. The Commission reads the FCC's Order to allow interim rates when the proposed rates are reasonable, the state commission has committed to the TELRIC pricing rules, and allowances for true-ups are made. Staff's recommendations appear consistent with the federal test for establishing the reasonableness of rates that is necessary for our consult with the FCC on this matter.

755. Having reviewed these recommendations, and taking full account of the arguments presented, we agree that Ameritech must demonstrate that the "interim" rates shown in Attachment A to Supplement to Updated Summary of Staff's Proposed Remedial Actions For Ameritech Illinois, (filed on Nov. 27, 2002) are reasonable (as discussed above). The arguments further persuade us, however, that SBC Illinois need not make any such showing with respect to the following rates: (1) those interim rates currently set at zero, (2) access to AIN database rates, (3) the "record work only" charge, (4) recurring COPTS port charges, and (5) Broadband UNE rates. The Commission finds that these rates are *prima facie* reasonable and further believes that no useful purpose would be served by requiring SBC Illinois to undertake a "zone of reasonableness" analysis for these rates.

756. The long record of TELRIC pricing dockets has established this Commission's commitment to the FCC's pricing rules. The only remaining requirement these rates require is the need for true-up provisions. In the interim we believe it prudent and consistent with our role in this proceeding to have Ameritech amend its tariffs or agreements, if necessary, so as to include language providing for true-up reconciliation effective as of the date of this Order.

757. We would note that Ameritech filed new ULS-ST rates in accordance with Docket 00-0700. Staff's position is that the determination of whether these rates are TELRIC compliant should be addressed in Phase II of this proceeding. We address Staff's comment in our review of Checklist Item 5. Relevant to this matter, we note that this Commission's Order for Docket 00-0700 may have resolved Staff's pricing concerns as regards AIN routing of OS/DA charges.

758. With respect to AT&T's arguments as regards the end-to-end Broadband rates, the Commission notes that SBC Illinois' interim Broadband rates are those proposed in Docket 00-0393 by Staff, and supported by the CLECs, to the extent that they argued against the allowance of any true-up. The Commission further observes

that those rates are, in fact, subject to true-up, and concludes, as it did in Docket 00-0393, that the interim Broadband rates are reasonable. In the final analysis, no further showing is required of SBC Illinois in Phase II as to its Broadband rates.

Not Yet Investigated Rates

759. Whatever the reason for the lack of investigation on rates for subloop and dark fiber rates, the Commission believes it proper and necessary that such proceeding commence at the earliest opportunity. Hence, we direct our Staff to prepare a Report and Initiating Order to commence an investigation immediately with respect to dark fiber; subloops; and CNAM database query rates.

4. Other Matters

Future Rates and Rate Caps

760. No federal authority is cited for the rate cap proposal, that arises for the first time under Checklist Item 2 and is repeated again as a public interest concern. We address the proposal under Part IV of this Order.

NIDs

761. There is an issue with respect to Network Interface Devices, that surfaces in various different sections of the parties respective briefs. Believing the particular question at hand, is more a matter issue of state compliance than federal law compliance, we consider and address the concern under our public interest analysis.

C. Checklist Item 2 - OSS

8. The Phase I Compliance Matters.

a. SBC Illinois' Position.

SBC Illinois' Opt-In Policies

762. The Commission's Phase I Order required SBC Illinois to demonstrate that the UNE offerings in its existing interconnection agreement and tariffs can generally be opted-into without unnecessary restrictions. SBC Illinois provided a detailed explanation of its opt-in policies relative to the UNE sections of interconnection agreements and its policies allowing CLECs to incorporate UNE tariff offerings by reference, including all associated rates, terms and conditions, into a new or existing interconnection agreement. (SBC Ex. 3.0 (Alexander Phase I Compliance Aff.) ¶¶ 3-10; SBC Ex. 3.1 (Alexander Rebuttal Aff.) ¶ 3). In response to Staff's request for a written commitment from SBC Illinois in this regard, SBC Illinois proposed that language be added to its CLEC Online website to set forth these policies. (SBC Ex. 3.1

(Alexander Phase I Rebuttal Aff.) ¶¶ 4-5). Staff withdrew its prior recommendation and accepted SBC Illinois' proposal, contingent on SBC Illinois' submission of the proposed language in its surrebuttal affidavits. (Staff Ex. 44.0, ¶ 28). SBC Illinois complied with Staff's request. (SBC Ex. 3.2 (Alexander Phase I Surrebuttal Aff.), ¶ 5, Schedule SJA-1).

UNE Combination Rate Clarity

763. The Commission's Phase I Order required SBC Illinois to demonstrate that its UNE rates are clearly defined by providing examples of typically requested UNE arrangements and explaining how those services and products would be billed. SBC Illinois explained that it had filed tariffs in response to the Commission's orders in the TELRIC Compliance Docket (Docket No. 98-0396) that set forth with specificity the non-recurring charges ("NRCs") that apply when various UNE combinations are ordered. SBC Illinois also presented 20 possible scenarios of UNE-P combinations and the NRCs that would apply to each scenario. (SBC Ex. 7.0 (Silver Phase I Compliance Aff.), ¶¶ 22-25).

764. In reply, Staff took the position that SBC Illinois' EEL tariff was not entirely clear on when certain NRCs apply. (Staff Ex. 32, ¶¶ 147-48). Staff also recommended that SBC Illinois take steps to ensure that information regarding the applicability of recurring and non-recurring UNE-P charges is available to CLECs in Illinois. (Id. ¶ 149).

765. In rebuttal, SBC Illinois agreed to clarify its EEL tariff and to add matrices to the CLEC Online Handbook to further explain the application of EEL and UNE-P charges. (SBC Ex. 7.1 (Silver Phase I Rebuttal Aff.), ¶¶ 4-8, 12). Staff accepted SBC Illinois' proposals as long as they were implemented during the proceeding (Staff Ex. 44.0, ¶ 35) and SBC Illinois committed to do so. (SBC Ex. 7.2 (Silver Phase I Compliance Surrebuttal Aff.), ¶ 32).

Pricing

766. The Commission's Phase I Order required SBC Illinois to provide a showing that certain interim UNE rates satisfied a "zone of reasonableness" analysis and to include true-up provisions as appropriate. The Commission also noted that compliance with its Order in Docket 00-0700 would be assessed in Phase II.

767. SBC Illinois provided zone of reasonableness analyses for dark fiber, unbundled subloops, CNAM queries, and UNE combination NRCs for new UNE-Ps, EELs and special access to UNE conversions based on currently effective rates in Texas, California and Michigan. (SBC Ex. 8.0 (Wardin Phase I Compliance Aff.), ¶¶ 10-19; SBC Ex. 7.0 (Silver Phase I Compliance Aff.), ¶¶ 5-21). To facilitate resolution of these pricing issues, SBC Illinois proposed to reduce the rates for UNE subloops and CNAM queries. (Id. ¶¶ 15, 19). SBC Illinois and Staff entered into a stipulation stating that SBC Illinois had complied with the Commission's directives in Docket 00-0700, including the pricing of ULS-ST and the AIN Routing of OS/DA. (SBC Ex. 8.1 (Wardin Phase I Compliance Rebuttal Aff.), ¶ 11). In response to Staff's subsequent reply to these proposals, SBC Illinois further proposed to reduce its line connection rates for UNE subloops to the level of California's rates if the Commission concluded that it was

appropriate. (SBC Ex. 8.1 (Wardin Phase I Compliance Rebuttal Aff.), ¶ 16). Finally, SBC Illinois also committed to file true-up language in the appropriate tariffs. (SBC Ex. 8.0 (Wardin Phase I Compliance Aff.), ¶¶ 22-24).

768. In response, Staff stated that two categories of rates continued to be in dispute: (1) line connection charges for UNE subloops and (2) dark fiber mileage rates. (Staff Ex. 49.0, ¶¶ 5-9). Staff recommended that the line connection charges be reduced to $20.21 and that the dark fiber mileage rates be reduced to the level of the comparable Michigan rates on an interim basis. Staff acknowledged that SBC Illinois' line connection charges for UNE subloops were reasonable when compared to California's rates, but stated that they did not appear to be reasonable relative to Michigan's rates. Staff also expressed concern that SBC Illinois' dark fiber mileage rates were higher than those in Michigan, even though they were lower than the Texas and California rates.

769. On surrebuttal, SBC Illinois further contended that its subloop line connection charges, as modified, and dark fiber mileage rates would both satisfy a zone of reasonable test. (SBC Ex. 8.2 (Wardin Phase I Compliance Surrebuttal Aff.), ¶¶ 7-13). SBC Illinois stated that the Illinois rates were clearly reasonable in comparison with California. According to SBC Illinois, for 271 purposes, the FCC only benchmarks interim rates to the rates in a single state. Furthermore, stated SBC Illinois, it was willing to reduce its line connection rates to the level of California's and those rates have been determined to be section 271 compliant by the FCC. SBC Illinois further argued that it was not appropriate to use SBC Michigan's line connection charges for comparison to SBC Illinois' charges. According to SBC Illinois, the Michigan UNE sub-loop line connection rates were not set on the basis of cost. Rather, according to SBC Illinois, the Michigan Public Service Commission concluded that the nonrecurring line connection charges for a particular unbundled sub-loop should not be higher than the nonrecurring line connection charges for the entire loop, without considering differences in the specific costs associated with installing sub-loops and loops. SBC Illinois argued that this approach was incorrect because the line connection charges for an unbundled sub-loop correlate more closely to the charges for designed circuits, like DS1s and DS3s, than to the charges for basic unbundled loops. According to SBC Illinois, in each and every instance where an unbundled sub-loop is requested, a truck roll is required to provision the unbundled sub-loop and in some instances two truck rolls are required. SBC Illinois stated that this is not the case for unbundled loops where, in many instances, there is already an existing loop and only central office work is required. (SBC Ex 8.1 (Wardin Phase I Compliance Rebuttal Aff.), ¶ 16; SBC Ex. 8.2 (Wardin Phase I Compliance Surrebuttal Aff.), ¶ 8). SBC Illinois stated that the $20.21 rate proposed by Staff would not even permit recovery of the cost of the truck roll, let alone the work required to separate the subloop from the loop and to cross-connect it to the CLEC's loop or facility. (Id. ¶ 9).

Dark Fiber

770. With respect to Dark Fiber Mileage rates, SBC Illinois stated that Staff's exclusive reliance on Michigan rates for the zone of reasonableness comparison was improper. (SBC Ex. 8.2 (Wardin Phase I Compliance Surrebuttal Aff.), ¶¶ 11-13). SBC Illinois points out that Staff had not explained why the Texas and California rate comparisons were not adequate to prove reasonableness, especially since both states have already received section 271 approval.

SBC Illinois also presented a dark fiber mileage rate comparison between SBC Illinois and four other states (New York, Pennsylvania, Massachusetts, and Georgia), all of which have received section 271 approval from the FCC, which showed that SBC Illinois' rates were the lowest.

Tree – Up Language

771. With respect to adding true-up language to the tariffs, SBC Illinois reported that it had filed the required tariff changes. (SBC Ex. 8.1 (Wardin Phase I Compliance Rebuttal Aff.), ¶¶ 20-22). SBC Illinois, the CLECs and Staff agrees that the tariffed NRCs for new UNE-P combinations agreed to by the parties in Docket 98-0396 should not be subject to true-up and that this obligation should be eliminated from the Phase I Order. (SBC Ex. 8.1 (Wardin Phase I Compliance Rebuttal Aff.), ¶ 7).

b. Staff's Position.

Line Loss Notifications

772. Staff witness Nancy B. Weber directs out attention to the Phase I Interim Order, where we stated, in relevant part, that:

> It is generally agreed by all parties that the Commission's final review of line loss performance should come in Phase II. The CLEC's testimony indicates that there have been persistent and significant problems, which may not be resolved at this time, and indicates further, that the issue of an adequate LLN is material. For its part, Staff maintains, that AI has not yet satisfactorily proven that the LLN problem is fully resolved and it attaches a number of remedial actions to be put into effect at this juncture. Staff's recommendations are reasonable and Ameritech's actual implementation of those remedial actions (found on pages 5-8 of Appendix A attached to Staff's Reply Brief), will be given substantial weight when the Commission makes its final analysis of this matter in Phase II.
>
> Phase I Order, ¶694

773. Staff asserts that, in its Phase I Reply Brief, it recommended SBC Illinois take specific action with respect to the operational aspects of line loss notices as well as its line loss performance measurement, MI 13. The Staff avers that, in general, SBC Illinois has complied with the majority of Staff's Phase I recommendations, all of which, the Staff notes, we found to be reasonable in our Phase I Order. However, the Staff remains unconvinced that further line loss notification operational problems will not occur, given the nature of the problems that have been seen to date.

774. Ms. Weber notes that SBC Illinois witness Mark Cottrell, in his Phase I Compliance Affidavit indicates that the company released Accessible Letters CLECAMS02-122

and CLECAMS02-123 on November 12 and 13, 2002 communicating the occurrence of a new line loss notification incident. Cottrell Phase I Compliance Affidavit, ¶8. In addition, Ms. Weber points out that, during the transcribed meetings in the proceeding on February 13, 2003, Mr. Cottrell indicated there were additional line loss notification problems in the month of December 2002 and January 2003. Tr. at 3809, 3851-3852. Mr. Cottrell states that the SBC cross-functional team will be maintained at least until June 20, 2003. Cottrell Phase I Compliance Affidavit, ¶13.

775. However, the Staff contends that there still appear to be intermittent issues arising with either the generation and or delivery of line loss notifications, and that these issues adversely affect CLECs and their end users. Accordingly, Ms. Weber recommends that SBC Illinois' cross-functional team remain in place to review line loss notifications until SBC Illinois provides six months of line loss notices without uncovering any new problems and without any of the known problems re-emerging. Moreover, since, there have been intermittent line loss notification problems even after SBC Illinois indicated all issues were addressed, Ms. Weber's opinion is that the Commission cannot be assured that line loss notification problems will not recur, and that new ones will not arise, unless it monitors SBC Illinois' performance in this area over a period of time.

776. While Ms. Weber agrees that the operational and procedural changes SBC Illinois has put in place for line loss notices appear to have reduced the number of incidents with line loss notices, she notes that whenever there is a problem providing line loss notices to CLECs, SBC Illinois is providing discriminatory treatment to CLECs. This, Ms. Weber notes, is because SBC Illinois' billing systems do not rely upon these line loss notices to stop billing its own end customers, but CLECs billing systems do rely upon line loss notices for this purpose28. Therefore, it is the Staff's contention that issues related to line loss notifications should not be taken lightly, and, as we stated in our Phase I Order the "issue of an adequate line loss notification is material[.]" Phase I Order, ¶694.

777. As the Staff notes, in our Phase I Order, we found that Staff's suggested remedial actions were reasonable, and therefore we directed SBC Illinois to modify the calculation, business rules and exclusions associated with performance measure MI 13. In Phase I, we found that the company specifically needed to alter MI 13 to accurately capture how long it takes SBC Illinois to send a loss notification and to reflect the fact that MI 13 does not include loss notifications that SBC never sends. Phase I Order, ¶521. Specifically, we directed SBC Illinois to implement, within 45 days of issuance of the Phase I Order (which would be March 23, 2003), the modifications Staff recommended that SBC Illinois make with respect to performance measure MI 13. Phase I Order, ¶¶522-525, 528.

778. The Staff notes that Mr. Cottrell states that SBC Illinois worked with industry participants through the performance measure six-month review process to make revisions to the line loss notification performance measure (MI 13) and that the parties reached consensus regarding the appropriate modifications. Cottrell Affidavit, ¶12. The Staff further notes that SBC Illinois witness James Ehr states that a second measure of line loss notification timeliness,

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[28] IL Docket, 02-0160.

assessing the average delay for any line loss notices that were not sent within the new standard, was also created; MI 13.1. Ehr Affidavit, ¶30.

779. Ms. Weber agrees that the collaborative reached consensus on the definitional changes to performance measure MI 13, and that these changes generally meet the requirements of the Phase I Order. However, in Ms. Weber's opinion, SBC Illinois has not agreed to Staff's recommendation that performance measure MI 13 be assigned a medium weight for remedy plan purposes. Staff contends that our Phase I Order requires this. Accordingly, in Ms. Weber's opinion, SBC cannot be said to be in full compliance with our Phase I Order in this regard since the PM changes have not yet occurred and the medium remedy weight has not yet been applied to the performance measurement.

780. Ms. Weber observes that, in our Order in Docket No. 01-0120, we ordered that remedied performance measures reflect a weighting based on importance, such as impact on end users. Order, Docket No. 01-0120 at 47 (Ameritech's Position, at 48). As Ms. Weber notes, the Staff, in Phase I of this proceeding, recommended that MI 13 be given a medium weighting, since it primarily protects the CLECs reputation. Staff argued that a medium weighting is equitable given that the performance measure is not a sub-measure, and missing or inaccurate line loss notices affect both the end user and the CLECs reputation. Ms. Weber states that the benefit of making MI 13 a "medium" remedied measure is that it will encourage SBC Illinois to work towards preventing any backsliding on this performance measure and therefore on delivering accurate and timely line loss notices to CLECs.

781. Staff notes that SBC Illinois has agreed to include MI 13 as part of its remedy plan, but has only agreed to a low weighting level. However, as we found, in our Order in Docket 02-0160, that SBC Illinois' practices with respect to line loss notifications to be discriminatory and anti-competitive, it is Ms. Weber's opinion that the Commission should require SBC Illinois to make performance measure MI 13 a remedied performance measure of medium weight as recommended and found reasonable by this Commission in the Phase I Order.

782. Ms. Weber notes that SBC Illinois does not plan to implement the changes to performance measure MI 13 or new performance measure MI 13.1 until March 2003 data which would be in April 2003.29 As we explained in our Final Order of Docket 02-0160 and in Phase I of this proceeding, performance measure MI 13, which is currently being reported, does not accurately capture SBC Illinois' performance in its delivery of line loss notifications. Therefore, we still lack an accurate way of monitoring SBC Illinois' generation and delivery of line loss notifications to CLECs until the changes to MI 13 and the new MI 13.1, as agreed to by the six-month review collaborative, are implemented30. In addition, MI 13 will not become a remedied performance measure until the changes to the measure are implemented31. Therefore, Ms. Weber recommends that the Commission direct SBC Illinois to make the necessary changes to

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[29] February 13, 2003 Tr. at 3798.

[30] February 11, 2003 Tr. at 2954.

[31] Id.

its line loss notifications performance measures prior to this Commission providing a positive Section 271 recommendation to the FCC.

783. Ms. Weber further recommends that we should require in our Phase II Order that SBC Illinois' cross functional team remain in place and continue to review line loss notifications until SBC Illinois provides six months of line loss notices without uncovering any new problems and without any of the existing problems re-emerging. In addition, Ms. Weber recommends that SBC Illinois should be required make performance measure MI 13 a remedied measure of medium weight and all changes to performance measure MI 13 and MI 13.1 should be implemented by SBC Illinois prior to this Commission making a positive Section 271 recommendation to the FCC.

784. On further review, Staff observes that, Staff witness Nancy B. Weber requested that SBC Illinois respond with its intention to rectify the following deficiencies in its rebuttal filing.

785. In his reply affidavit Mr. Ehr states that when SBC Illinois implements the revised PM MI 13, that it will also change the remedy level from "Low" to "Medium". Ehr Reply Affidavit, ¶241. Ms. Weber believes that SBC Illinois has committed to do as we requested in the Phase I Order, she expects SBC Illinois in its surrebuttal testimony to definitively state that it plans to do the following two items:

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

786. The Staff continues to hold the view that changes to MI 13 and implementation of MI 13.1 should occur prior to our issuance of a positive Section 271 recommendation. Ms. Weber notes that SBC Illinois does not plan to implement the changes to performance measure MI 13 and the new implementation of performance measure MI 13.1 until March 2003 data, reported on April 20, 2003.32 Therefore, Ms. Weber contends that we still lack an accurate way of monitoring SBC Illinois' generation and delivery of line loss notifications. In addition, Ms. Weber observes that MI 13 will not be a remedied performance measure until the changes to the measure are implemented33. Therefore, she recommend that we verify the changes to the performance measures are indeed in place prior to providing a positive Section 271 recommendation to the FCC. Once the changes are implemented, Ms. Weber is of the belief that the performance measures should allow us to effectively monitor the company's performance in delivering line loss notifications to CLECs.

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[32] February 13, 2003 Tr. at 3798.

[33] Id.

787. The Staff notes that SBC witness Mark Cottrell, in his reply affidavit states that the company has committed to keep the line loss cross functional team in place until at least Jun 30, 2003. Cottrell Reply Affidavit, ¶30. Mr. Cottrell states that after that date monitoring will continue but will be transitioned to the various organizations responsible for daily wholesale order processing and that the company's commitment to closely monitor the line loss process would continue and remain a high priority for the company. Id.

788. The Staff points out that SBC Illinois has made no further commitments in this proceeding to make us believe that line loss notification problems will not occur in the future. Indeed, the Staff draws our attention to Mr. Cottrell's statement that the two line loss notifier delivery incidents it is aware of occurring in the last three months were traceable to changes being performed at the request of CLECs, and that they were rectified shortly after they were brought to the attention of the company. Cottrell Reply Affidavit, ¶28. This statement, avers Ms. Weber, is troubling for two reasons. First, the company places blame for the incident upon the affected CLEC, when in reality SBC Illinois caused the errors. Second, the issues were not proactively identified by SBC Illinois. It appears SBC was only aware of the issues after they were brought to its attention by the affected CLEC. Therefore Ms. Weber notes that having the cross functional team in place does not provide us with as much reassurance that the errors and issues are being caught and corrected by SBC Illinois when line loss incidents occur as had originally been thought. Regardless of whether the cross functional team remains in place, or monitoring is moved to the organizations responsible for daily wholesale order processing, Ms. Weber remains convinced that the monitoring of the line loss notifications by the company will most likely remain the same. Therefore, Staff makes no further recommendation regarding the cross functional team and accepts the plan that SBC Illinois outlined in its rebuttal testimony. Id. ¶30. However, based upon this realization of SBC Illinois' monitoring of line loss notifications, Ms. Weber considers it even more important that the modified MI 13 and new MI 13.1 line loss performance measurements be implemented before we provides a positive Section 271 recommendation to the FCC. The performance measures will provide us with a means by which to effectively monitor the company's performance in delivering line loss notifications. Ms. Weber considers the current business rule for performance measure MI 13 to fall woefully short, and cannot be relied upon to demonstrate the company's performance in this area. Staff Ex. 31.0, ¶15.

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

790. In a recent FCC filing, it was noted that the current implementation of performance measure MI 13 does not include any of the line loss notifications generated due to winback situations34. A winback is when SBC Illinois returns a previous customer that had left and gone to a CLEC to SBC Illinois. Ms. Weber understands that at this point in time the majority of lost CLEC customers are due to the SBC Illinois winback scenario. Ms. Weber further observes that this deficiency of performance MI 13 was not discussed during the last six-month review nor was it discussed during Phase I of this proceeding. Accordingly, Ms. Weber is not certain whether this shortcoming will also be reflected in the modified performance measure MI 13 and the new performance measure MI 13.1 when implemented on April 20, 2003. Therefore, Ms. Weber requests that SBC Illinois confirm in its surrebuttal testimony whether all line loss notifications issued to CLECs will be included in the MI 13 and MI 13.1 line loss performance measurements that SBC Illinois plans to implement on April 20, 2003; including all line loss notices generated due to SBC Illinois winback scenarios.

Tariff and Interconnection Agreement Opt-In

791. The Commission's Phase I Interim Order in this proceeding directs the Company to demonstrate that:

> The UNE offerings contained in its existing interconnection agreements and tariffs can generally be opted-into without unnecessary restrictions.
>
> See ICC Staff Ex. 32.0 at ¶ 129.

Company Compliance Filing

792. To address the Commission's concerns Mr. Alexander, the Company compliance affiant for this issue, states that CLECs can "'MFN' into UNE provisions (and legitimately related terms) contained in an approved and effective interconnection agreement in Illinois, or incorporate the relevant tariff provisions into its ICA." See ICC Staff Ex. 32.0 at ¶ 130. Staff noted that Mr. Alexander offers evidence that CLECs have been able to obtain through the opt-in process some, but presumably not all, UNE provisions (and legitimately related terms) contained in approved and effective interconnection agreements in Illinois. Id. Staff also noted that Mr. Alexander does not offer any evidence that CLEC's have been able to incorporate tariff provisions into interconnection agreements. Id.

793. Staff further observes that the Company clarified its opt-in policies in response to Staff data requests. Based upon this clarification, Staff understands the Company's policy to be as follows:

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

> Requesting carriers, with or without existing effective interconnection agreements, may include, by reference, SBC Illinois tariffed UNEs, inclusive of all UNE rates, terms, and conditions, contained in such tariffs, into their interconnection agreements without restriction. When such tariffs are included by reference the agreement will automatically incorporate any modifications to the tariffed rates, terms, and conditions for the referenced UNEs.
>
> Requesting carriers, with or without existing effective interconnection agreements, may include, UNEs, inclusive of all UNE rates, terms, and conditions contained in existing effective interconnection agreements, into their interconnection agreements with the single restriction that the CLEC must also include any legitimately related terms.

794. ICC Staff Ex. 32.0 at ¶ 131. Mr. Alexander further explained the Company policy as it applies to inclusion of tariffed UNE rates, terms, and conditions to be that the Company will permit carriers to reference SBC Illinois tariffed UNEs in their interconnection agreements, but the Company may not permit UNE rates, terms, and conditions language from the tariff to be directly included into an agreement. Id. at ¶ 132.

Staff's Initial Recommendation on Tariff and Interconnection Agreement Opt-In.

795. Staff explained that if its understanding of the Company's opt-in policies is correct, then the policies articulated by Mr. Alexander are consistent with the Commission directive in its Phase I Interim Order. ICC Staff Ex. 32.0 at ¶ 133. If followed, the Company policies articulated by Mr. Alexander permit CLECs in Illinois to include UNE rates, terms, and conditions that this Commission and the FCC have ordered the Company to provide into their interconnection agreements. Id. In Staff's view, the Company position that it may not agree to include language from the tariff into its agreement does not prevent CLECs from obtaining UNE rates, terms, and conditions that the Commission has required the Company to provide. Id. By including tariff terms by reference, interconnection agreements will as a general matter automatically update to account for changes to the tariff ordered or permitted to go into effect by the Commission Id.

796. While Staff finds the Company policies articulated by Mr. Alexander to be consistent with the Commission directive in its Phase I Interim Order, Staff also found that articulation of a policy does not ensure that such policy is being followed or will continue to be followed. ICC Staff Ex. 32.0 at ¶ 134. Therefore, Staff recommended that the Commission require the Company to provide a written commitment to abide by the opt-in policies described above as a precondition for receiving a positive Section 271 recommendation from the Commission. Staff explained that such a commitment will ensure that the Company is making available to all carriers in Illinois those UNE rates, terms, and conditions that it has presented as proof of its compliance with Section 271. Id.

Staff's Review of Company's Response.

797. With respect to Staff's recommendation, Mr. Alexander indicates the Company will not agree to commit in writing to the policies it asserts it will follow in order to comply with Section 271. ICC Staff Ex. 44.0 at ¶ 27. Staff notes, however, that Mr. Alexander proposes to post opt-in language to its CLEC Online website that clarifies the Company's policies regarding opt-in. Id.

798. Staff agrees that the opt-in requirements that are imposed on the Company by state and federal law change from time to time. ICC Staff Ex. 44.0 at ¶ 28. Such changes may require that the Company change its opt-in policies. Therefore, Staff concurred with Mr. Alexander that a binding "written commitment", as proposed in its Dr. Zolnierek's initial affidavit, may not be the most appropriate mechanism for ensuring that the Company follows 271 compliant opt-in policies. Id. However, Staff recommended that the Company provide the Commission with assurance that it has committed to follow Section 271 compliant opt-in policies and that it will not change its opt-in policies absent changes in state or federal law that change the Company's Section 271 opt-in requirements. Id. Thus, Staff concluded that the Company's proposal to include it's opt-in policies on its CLEC Online website, if implemented, resolves this issue by providing CLECs and the Commission a vehicle to monitor the Company's opt-in policies and address any 271 compliance issues that may arise regarding these policies. Id.

Staff's Final Recommendation on Tariff and Interconnection Agreement Opt-In.

799. Considering the arguments made by Mr. Alexander in his rebuttal affidavit, Staff now recommends that the Commission find that the Company's proposal to post its opt-in policies on its CLEC Online website comports with the directives in the Commission's Interim Order. ICC Staff Ex. 44.0 at ¶ 29. However, to ensure that Staff's recommendation and the Commission's decision is informed, Staff also recommended that the Company submit in its surrebuttal affidavits the proposed language it intends to make available to CLECs on the Company's CLEC Online website. Provided this language clearly and accurately explains the opt-in policies articulated by Mr. Alexander in this proceeding, Staff recommended that the Commission consider this issue resolved through implementation of the Company's proposal. Id.

EEL Performance Measurement

800. Staff notes that the Commission's Phase I Interim Order in this proceeding directs the Company to provide information that explains how the Company does and will measure provisioning intervals and service quality for its EELs products and requests Staff to assess this information. See ICC Staff Ex. 32.0 at ¶ 135.

Company Compliance Filing

801. In response, the Company submitted the testimony of Mr. Ehr -- the Company compliance affiant for this issue – who explained that the Company currently measures

provisioning of EELs through a number of its current performance measurements and that the Company will measure provisioning of EELs with further specificity in the future. ICC Staff Ex. 32.0 at ¶ 136.

802. Staff notes that according to Mr. Ehr, the Company currently categorizes its EEL combinations according to the loop component of the EEL and then combines EELS provisioning information with its stand-alone loop information in various performance measures. ICC Staff Ex. 32.0 at ¶ 137. Mr. Ehr explained that the Company does not collect data that would allow them to separate EEL provisioning information from stand-alone loop information. Id. Because the Company does not have separate EEL provisioning information, the Company was unable to verify that all EELs combinations installed were included in its performance measures. Id.

803. Staff notes that Mr. Ehr also explained that the Company has filed a tariff which revises it's performance measurements to separate the measurement of EELs combinations and stand-alone loop combinations. ICC Staff Ex. 32.0 at ¶ 138. As Mr. Ehr subsequently explained, for the measurement of EELs, "[t]he provisioning would start on the application date that's applied to the order…" and that the Company system "…when it accepts an order, it establishes an application date…" Id. Staff observes, however, that Mr. Ehr could not provide detail regarding the Company's EELs provisioning practices and their relationship to the Company's proposed EELs performance measurement. Id. Specifically, Mr. Ehr was generally unfamiliar with the EELs certification process the Company requires CLECs to use. The Company did, however, clarify that:

> The PMs that will report EELs will use the time a valid order is received in the PM reporting processes. The "certification" process happens prior to or in parallel with receipt and processing of the order. In both cases, the PM implementation and reported results will reflect the date and time the valid LSR is received as the first point for calculation of performance.

804. Thus, as confirmed by the Company, any delay in the ability of a CLEC to submit a valid order that results from the Company's certification process will not be measured in the Company's PMs. Id.

Staff's Initial Recommendation on EEL Performance Measurement.

805. Staff points out that because the Company cannot supply EELs provisioning information separately from stand-alone loop provisioning information, there is no way to verify whether the Company has measured provisioning of all EELs it has provided to CLECs or to verify that the Company has provided EELs in a manner that will not impair or impede CLECs ability to use EELs to compete in Illinois. ICC Staff Ex. 32.0 at ¶ 139. The reforms proposed by the Company will, in part, remedy these concerns by separating EELs measurement from stand-alone loop measurement and these changes are consistent with the Commission's directives in the Phase I Interim Order. Id.

806. Mr. Ehr asserts that the proposed tariff changes submitted by the Company are the product of the recently completed six-month collaborative review. Staff responds that the proposed performance measurement system that the Company will use for EELs is deficient. ICC Staff Ex. 32.0 at ¶ 140.

807. Staff points out that Accessible Letter CLECAM01-0123 entitled "(ORDERING AND PROVISIONING) Revision of Ordering Process for Special Access to Unbundled Network Element Conversions – Illinois, Indiana, Michigan, Ohio, Wisconsin" states: "To initiate the conversion process, a Telecommunications Carrier (TC)/Competitive Local Exchange Carrier (CLEC) must send the Account Manager a correctly completed certification letter that lists each circuit to be converted and the option from the FCC's Supplemental Order Clarification under which each circuit qualifies" See ICC Staff Ex. 32.0 at ¶ 141. Staff understands that this process can take up to 15 business days (or possibly longer) and that the Company will not permit CLECs to submit orders (as that term is used by Mr. Ehr) until this certification process is complete. Id. This certification process can represent a significant delay in the EEL provisioning process, presumably a delay that is not experienced by the Company when it provides its own retail services. Id. Therefore, in Staff's opinion this delay has a significant probability of impairing CLECs ability to compete using EELs in Illinois. Id.

808. In order to ensure that the Company is effectively measuring its performance in providing EELs in Illinois, Staff recommends that the Company specifically account for its conversion certification process and any similar certification processes applied to new EELs in its performance measurement system. ICC Staff Ex. 32.0 at ¶ 142. Staff further recommended that the Company explain in it's rebuttal affidavits how it will address this problem so that Staff and Intervenors can evaluate the Company's proposed remedy and make an informed recommendation to the Commission. Id.

Staff's Review of Company's Response.

809. Staff notes that Mr. Ehr did not address Staff's concern that the proposed performance measurement system the Company will use for EELs is deficient. ICC Staff Ex. 44.0 at ¶ 31. He indicates only that the Company's proposed EEL performance measurements "…address the requirements of the Phase I Order." Id. Staff points out that Mr. Ehr does not dispute the fact that the Company's proposed EELs PMs are deficient. Id. Therefore, it is unclear how the proposed EELs PMs comport with the Commission's Interim Order. Id.

Staff's Final Recommendation on EEL Performance Measurement.

810. Based on Mr. Ehr's response to Staff's concerns, Staff reaffirmed its original recommendation. ICC Staff Ex. 44.0 at ¶ 32. In order to ensure that the Company is effectively measuring its performance in providing EELs in Illinois, the Company must specifically account for its conversion certification process and any similar certification processes applied to new EELs in its performance measurement system. Id. Staff further recommended that the Company explain it is surrebuttal affidavits how it will address this problem so that Staff and Intervenors can evaluate the Company's proposed remedy and make an informed recommendation to the Commission. Id. If the Company does not address this problem, Staff recommends that the

Commission withhold a positive consultation with the FCC regarding the Company's compliance with Section 271(c)(2)(B)(ii) of the 1996 Act. Id.

EEL and UNE-P Rate Clarity

811. Staff notes that the Commission's Phase I Interim Order in this instant proceeding directs the Company to demonstrate that:

> its UNE "combination rates," i.e., UNE-P and EEL rates, are clearly defined. This might be accomplished by providing examples of typically requested UNE combinations (e.g., common special access to UNE migrations, common new UNE combination requests, common reconfigurations requests, and EELs scenarios that would allow users enough information to determine how Ameritech applies rates to alternative but similar combinations) and explaining how those services and products would be billed under its tariffs and/or interconnection agreements and GIA.
>
> See ICC Staff Ex. 32.0 at ¶ 143.

Company Compliance Filing

812. In response, SBC Illinois witness Mr. Silver provided exhibits that demonstrate how the Company's recurring and non-recurring charges are applied to new EELs combinations and to special access to UNE reconfigurations. ICC Staff Ex. 32.0 at ¶ 144. Mr. Silver also provided exhibits that demonstrate how the Company's non-recurring charges apply to new UNE-P configurations and to conversions of existing combinations to UNE-P configurations. Id. Mr. Silver's compliance affidavit did not provide any exhibits explaining how recurring charges apply for UNE-P configurations. Id.

813. Staff explained that in response to Staff data requests, Mr. Silver further clarified the manner in which certain of the Company's charges, for example its ULS billing charge, are applied and provided a brief summary of the application of recurring charges for UNE-P combinations. ICC Staff Ex. 32.0 at ¶ 145. Subsequent to these responses Mr. Silver provided further verbal clarification, for example explaining how the Company assesses carrier connection charges and how charges are applied for EEL reconfigurations. Id.

Staff's Initial Recommendation on EEL and UNE-P Rate Clarity

814. Dr. Zolnierek testified that through a combination of Mr. Silver's Phase I Compliance Affidavit, the Company's responses to Staff's data requests, and Mr. Silver's verbal explanations, the Company has clarified the application of its UNE combination rates, in particular its EEL and UNE-P combination rates, consistent with the directive in the

Commission's Phase I Interim Order. ICC Staff Ex. 32.0 at ¶ 146. Staff explained that while the evidence and testimony presented by the Company has clarified how the Company applies the charges contained in it's UNE tariffs, this same evidence and testimony underscores the fact that the Company UNE tariffs do not make rate application transparent. Id. at ¶ 147. For example, Scenario #1 in Mr. Silver's Attachment MDS-2A describes how the Company's tariffs apply to the "EEL 2-Wire Analog Loop – To – DS1 Interoffice Dedicated Transport Collocated" configuration. Among the recurring charges listed in this scenario is a charge for DS1 Interoffice Termination that applied per DS1 interoffice termination per month. The charges listed in MDS-2A are consistent with the fact that there is one DS1 interoffice termination in this scenario. ILL. C. C. No. 20, Part 19, Section 20, 3rd Revised Sheet No. 4 states "Carrier Connection Charge applied for each termination per Interoffice Transport Facility provided." Thus, it would appear from the Company's tariff that a Carrier Connection Charge would be among the non-recurring charges listed for Scenario #1. It is not. Mr. Silver clarified that "…that carrier connection charge only applies in noncollocating situations" a fact that is not transparent from the Company's tariff. Id.

815. Staff noted that CLEC's seeking to purchase these products are, perhaps with the exception of those CLECs participating directly in the instant proceeding, unlikely to have the foresight to consult the Company's responses to Staff's data requests and Mr. Silver's verbal explanations when attempting to figure out how the Company applies it UNE combination rates. Id. at ¶ 148. In fact, new entrants may not be able to access these documents at all. Id.

816. Thus, in order to ensure that the application of the Company's UNE combination rates is transparent to CLECs seeking to purchase UNE combinations, Staff recommended that the Company take steps to make the rate application information it presented in the instant proceeding available to CLECs. ICC Staff Ex. 32.0 at ¶ 149. In particular, with respect to EELs, Staff recommended that the Company make available the typical scenarios and associated rate applications contained in Attachments MDS-2A. Id. Staff also recommended that the Company provide an additional scenario to MDS-2A that clarifies the application of the Company's non-recurring rates when CLECs add an additional 2-wire loop to a preexisting EEL configuration. Id. Staff further recommended that the Company provide this additional EELs attachment (which should include only Illinois charges from MDS-2A) in its rebuttal affidavits. With respect to UNE-Ps, Staff recommended that the Company make available the typical scenarios and associated rate applications contained in Attachment MDS-5. Id. Staff notes that attachment MDS-5 does not, however, include information explaining the application of the Company's UNE-P recurring rates. Id. Therefore, Staff recommended that the Company add recurring charge detail to MDS-5 as it has done for EELs in Attachment MDS-2A. Id. Staff further recommended that the Company provide this additional UNE-P attachment in it's rebuttal affidavits and explain in it's rebuttal affidavits the steps it will take to ensure that this information is available to CLECs in Illinois. Id.

Staff's Review of Company's Response.

817. Staff explained that SBC Illinois witness Mr. Silver responded to Staff's recommendations with an outline of steps the Company will or could take to ensure that the rate information presented in this proceeding is available to CLECs in Illinois. ICC Staff Ex. 44.0 at ¶ 34. First, Mr. Silver proposes to insert language into the Company's tariff that clarifies the application of the Company's EEL carrier connection charge. Id. Mr. Silver also submits a matrix that explains EELs charges that the Company proposes to insert in the Company's CLEC Online Handbook. Id. Finally, Mr. Silver indicates that if the Commission requires additional clarity with respect to UNE-P charge application, the Company proposes to insert a matrix that explains UNE-P charges in the Company's CLEC Online Handbook. Id. Dr. Zolnierek testified that these three steps, if taken by the Company, would resolve this issue. Id.

Staff's Final Recommendation on EEL and UNE Rate Clarity

818. In light of Mr. Silver's proposals, Staff revised its recommendation with respect to this issue. ICC Staff Ex. 44.0 at ¶ 35. Staff recommended that the Company take the three actions proposed by Mr. Silver to resolve this issue. Id. Staff indicates that the Company should insert the proposed tariff language that clarifies the application of the Company's EEL carrier connection charge submitted by Mr. Silver into the Company's tariff. Id. The Company should also insert both the EEL and UNE-P rate application matrices into its CLEC Online Handbook. Id. If the Company takes these steps during this proceeding, Staff recommends that the Commission consider this issue from the Commission's Interim Order resolved. Id.

EEL and UNE-P Rate Reasonableness

819. Staff notes that the Commission's Phase I Interim Order in this instant proceeding directs the Company to demonstrate that:

> its UNE combination rates fall reasonably within a range of TELRIC compliance. This might be accomplished by demonstrating, for each UNE combination rate it charges, that the rate is at a level that has been found to be TELRIC compliant by the Commission or, if the rate is interim (either because the Commission ordered an interim rate or because the TELRIC compliance of the rate has never been explicitly addressed by the Commission), proving that the rate is in a zone of reasonableness by, for example, comparing those rates to rates in other comparable states whose have been found to be TELRIC compliant, as indicated above.
>
> See ICC Staff Ex. 32.0 at ¶ 150.

Company Compliance Filing

820. In response, SBC Illinois witness Mr. Silver provided comparisons between the Company's EEL and UNE-P combination rates in Illinois and the respective EEL and UNE-P combination rates in SBC's Texas, California and Michigan service areas. ICC Staff Ex. 32.0 at ¶ 151. Staff noted that Mr. Silver contends that "…SBC Illinois' currently effective NRCs for new UNE-P combinations are within the range of TELRIC compliance." Id. at ¶ 152. As support for this finding Mr. Silver indicates "…the SBC Illinois' NRCs for new UNE-P combinations are lower than the comparable charges in Texas, California, or Michigan. " Id.

821. With respect to EELs Mr. Silver takes a different approach and compares both the Company's non-recurring and recurring EEL charges to the comparable non-recurring and recurring charges in Texas, California, and Michigan. See ICC Staff Ex. 32.0 at ¶ 153. As noted by Mr. Silver "…the charges for EELs in Illinois are higher than comparable charges in Texas and Michigan." Id. Mr. Silver concludes however, that:

> The FCC's Order authorizing 271 relief for SBC California found that SBC California's rates were 'just, reasonable, and nondiscriminatory, and satisfy checklist item 2.' Therefore, since the total amount of SBC Illinois' EEL charges (recurring plus non-recurring) for EELs are less than the comparable charges in California, the SBC Illinois rates (including NRCs) should be considered reasonable and within the range of TELRIC compliance.

Staff's Final Recommendation on EEL and UNE-P Rate Reasonableness

822. Staff explained that the Company's compliance filing with respect to this issue was deficient in two key respects. ICC Staff Ex. 32.0 at ¶ 154. First, as noted above, the Company used inconsistent approaches to compare its UNE-P and EEL rates to other states, comparing only non-recurring UNE-P charges, but both non-recurring and recurring EEL charges. Id. Second, the Company failed to supply any evidence to account for cost differences across states. The Company supplied information to remedy both of these deficiencies in response to Staff data requests. Id. Staff noted that the Company provided a schedule comparing both non-recurring and recurring UNE-P charges across states. Id. Then, the Company provided information from the FCC's USF cost model, which provides estimates of cost differences across states. Id.

823. Dr. Zolnierek testified that one manner in which to assess rate reasonableness is to compare Illinois rates to rates in other states that have been granted 271 authority by the FCC and to make the comparison's taking into account cost differences between states. ICC Staff Ex. 32.0 at ¶ 155. Under this type of analysis, the sum of the Company's recurring and non-recurring UNE-P charges in Illinois is, for the basic UNE-P configuration, well below the comparable sums in Texas and California when cost differences are accounted for. Id. For example the USF cost model assessment provided by the Company indicates that Texas costs are

13.8% higher than Illinois costs. However, the UNE-P cost comparison presented by the Company indicates that Texas UNE-P costs exceed Illinois UNE-P costs by over 80%. Id. Similarly, the USF cost model assessment provided by the Company indicates that California costs are 1.2% higher than Illinois costs. However, the UNE-P rates in California exceed Illinois UNE-P costs by over 60%. Id.

824. Staff observed that while the USF cost assessment submitted by the Company generally measures recurring cost differences for elements comprising UNE-P, the FCC has no similar USF cost assessment that generally captures all of the elements comprising EELs. ICC Staff Ex. 32.0 at ¶ 156. In particular the non-loop component of the USF cost assessment submitted by the Company reflects switching and shared-transport components rather than the dedicated transport elements that are a part of EELs combinations. Id. Nevertheless, the USF cost assessment provides an estimate of cost differences between states and may be used to determine the reasonableness of EELs rates. For example the USF cost model assessment provided by the Company indicates that Texas costs are 9.2% - 15.2% higher than Illinois costs. However, Staff points out that EEL rates in Illinois are often higher than EEL rates in Texas. Id. The USF cost model assessment provided by the Company indicates that California costs are between 0.5% lower than Illinois costs and 6.9% higher than Illinois costs. However, the EEL costs (based on a 24 month assessment) in California exceed Illinois EEL costs by 3.3% - 67.5%. Thus, while relative to Texas and Michigan the Company's EEL rates appear high, relative to California they are, in Staff's opinion, reasonable. Id.

825. Based on the evidence submitted by the Company, Staff concluded that the Company's EELs rates are at the upper end of any zone of reasonableness. ICC Staff Ex. 32.0 at ¶ 157. Staff notes, however, that its recommendation is informed by two additional factors. Id. First, Staff agreed to these rates as reasonable interim rates in the reopening in Docket 98-0396. Second, the Commission is currently investigating the Company's EEL rates and, therefore, may make the adjustments to these rates that the Texas and Michigan data suggest may be necessary. These factors in combination with favorable comparisons to California lead Staff to conclude that the Company's existing EEL rates are, as interim rates, within a zone of reasonableness. Id.

826. Therefore, based on comparisons to other states with Section 271 approval and factoring in cost differences between states, Staff believes that the Company's current tariffed UNE-P and EEL combinations rates are within a zone of reasonableness. ICC Staff Ex. 32.0 at ¶ 158.

Other Zone Of Reasonableness Requirements

827. The Phase I Interim Order On Investigation in Docket 01-0662 ("Phase I Order") specifically referenced Attachment A to Supplement to Updated Summary of Staff's Proposed Remedial Actions For Ameritech Illinois, filed on November 27, 2002, as containing the list of elements in which a "zone of reasonableness" analysis must be performed in this phase of the

proceeding.35 The Phase I Order additionally indicates five rates in which a showing need not be made.36

828. With the exception of dark fiber rates and line connection charges for sub-loops, the interim rates addressed by SBCI fall within a zone of reasonableness. The sub-loop line connection charges should be reduced to levels consistent with SBCI's currently tariffed line connection charges for loops prior to our providing a positive recommendation concerning Section 271 approval.

829. Any review of SBCI's application for long-distance approval necessitates determining whether its UNE rates are TELRIC compliant. In order to deal with the question of interim rates, and rates that have not yet been investigated, the FCC devised a "zone of reasonableness" analysis to allow Section 271 approval prior to the establishment of a complete set of TELRIC based UNEs for a carrier. The FCC did not specify in detail the type of analysis to be performed. Rather, the FCC has accepted a broad range of rate comparisons as sufficient for Section 271 purposes.

830. Phase I of this proceeding addressed TELRIC compliance issues. Unfortunately, Staff determined that there were many SBCI UNE rates that had not yet been determined TELRIC compliant, as of the time that the evidentiary period in Phase I had concluded. Staff witness Robert F. Koch's testimony in Phase I identified several rates that were either interim in nature, that we had not yet investigated, or that were not compliant with TELRIC principles. As such, as "zone of reasonableness" analysis is needed prior to the Commission giving a positive recommendation regarding SBCI's checklist compliance.

831. The Phase I order identified Attachment A to Supplement to Updated Summary of Staff's Proposed Remedial Actions For Ameritech Illinois as containing the list of UNEs needing a "zone of reasonableness" analysis in this phase of the proceeding.37 This attachment contains UNE rates for the following broad categories:

a. non-recurring charges for UNE-P and EELs;

b. local switching;

c. unbundled dark fiber;

d. unbundled sub-loops;

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[35] Phase I Order, ¶ 719.

[36] Id.

[37] Phase I Order, ¶ 719; Attachment A to Supplement to Updated Summary of Staff's Proposed Remedial Actions For Ameritech Illinois was filed by Staff in Phase I of this proceeding on November 27, 2002.

e. access to AIN database;

f. access to CNAM database;

g. broadband services; and

h. unbundled loops and HFPL.

832. The Phase I Order further indicated that no reasonableness showing needs to be made by SBCI for the following:

a. interim rates currently set at zero;

b. access to AIN database rates;

c. the "record work only" charge;

d. recurring COPTS port charges; and

e. Broadband UNE rates.

833. In addition to an examination of the rates listed in paragraph 9 above, the Order in Phase I requires that all interim tariffs must incorporate true-up provisions. SBCI witnesses filed affidavits on January 22, 2003 addressing compliance issues. W. Karl Wardin addresses pricing issues (b) through (h) of the list in paragraph 9 for SBCI, while Michael D. Silver addresses pricing issue (a) for SBCI.38

834. On February 19, 2002, the Staff and SBCI entered a joint stipulation that states, amongst other things, that SBCI has complied with the directives in ICC Docket 00-0700. As such, Staff has no issues regarding the rates for local switching.

Staff's Final Review

835. SBCI has addressed the concerns and recommendations presented raised by the Staff in this proceeding. Based on the Staff's review of SBCI witness W. Karl Wardin's rebuttal affidavit, it appears that SBCI has satisfied the Staff's concerns regarding the CNAM database query rate and true-up language for interim tariffs. However, certain SBCI dark fiber mileage and sub-loop line connection rates remain, in the Staff's opinion, unreasonable. The Staff

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[38] Mr. Wardin addresses pricing issues in a manner that is consistent with the proposed Phase I order, as his affidavit was submitted prior to the issuance of the final Phase I order. My affidavit does not tie directly to the pricing issues addressed in Mr. Wardin's affidavit, due to several modifications to the Phase I Order affecting pricing issues.

therefore proposes alternative rates for these services that, if adopted by SBCI, would bring the company into full compliance with Checklist Item II rate requirements.

Unbundled Local Switching Rates

836. At the time that the evidentiary portion of Phase I was completed, the Commission had not yet entered its order in Docket 00-0700. As noted above, Docket 00-0700 has been completed and compliance tariffs have been filed in the mean time. Staff no longer has any concerns regarding ULS, and this fact is reflected in the stipulation referred to above.

Dark Fiber Rates

837. SBCI Witness W. Karl Wardin presented a "zone of reasonableness" analysis of dark fiber rates with those in place in Texas, California and Michigan. Mr. Wardin asserts that the Texas rates are difficult to compare with Illinois rates, the California rates are significantly higher than those in Illinois, and that the Michigan rates are slightly lower than those in Illinois. Based on this analysis, Mr. Wardin concludes that Illinois rates are reasonable.

838. The Staff concurs with Mr. Wardin's assessment of the Texas and California rates. However, it does not concur with his conclusions regarding the Michigan rates. Specifically, Mr. Wardin does not explain the basis for his belief that Illinois rates are only "slightly higher" than Michigan rates. If the Michigan rates are to be used as evidence for the conclusion that the Illinois rates are reasonable, than an explanation of what "slightly higher" means in this context is necessary. According to Mr. Wardin's own analysis, in Attachment WKW-1 to his affidavit, all rates listed for dark fiber are higher in Illinois than in Michigan.

839. The Staff's comparison of dark fiber rates between Illinois and Michigan is contained in Staff Ex. 38.0, Schedule 38.02, and does not support the conclusion that Illinois rates are only "slightly higher" than those in Michigan. Rather, Schedule 38.02 shows that all recurring and non-recurring rates for dark fiber are higher in Illinois. In the least offensive case, administration charges are 7.47% higher in Illinois; in the most ridiculous case, dark fiber mileage rates are 1,385% higher in Illinois. As such, the Illinois rates are not "slightly higher", but rather "significantly higher". And in the case of mileage rates, the Illinois rates are better described as "astronomically higher".

840. Further, Mr. Wardin's analysis lacks any mention of costs. Rate differences between states should correspond with cost differences between states. The "zone of reasonableness" analyses used in other states' Cost analysis in common in Section 271 proceedings before the FCC, where interim rate analysis has required a corresponding cost analysis.39 The FCC has concluded that interim rate differences between states can be rationalized by using its proxy cost model to show that costs differ in a similar manner. There is

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[39] *See, e.g.,* the SBC Missouri-Oklahoma Section 271 proceeding. The FCC determined that interim rates in these states were reasonable only after a comparison with rates in Texas were justified via the FCC Proxy Cost Model.

no reason to believe that Illinois proxy costs are higher than those for Michigan, and in fact there is reason to suppose they might be lower. Before we accept Mr. Wardin's conclusions regarding dark fiber, the Staff urges us to require SBCI to provide a proxy cost analysis that comports with Mr. Wardin's conclusions.

Staff's Final Review

841. Mr. Wardin responded to the Staff's concerns regarding Dark Fiber rates in his rebuttal affidavit. Additional proxy cost information was provided as the Staff requested. As a result, the Staff is satisfied regarding Dark Fiber nonrecurring charges, as well as Dark Fiber Termination and Dark Fiber Cross Connect Charge. However, Mr. Wardin was unable to provide any evidence demonstrating that the Illinois Dark Fiber Mileage rates are reasonable in comparison with Michigan.

842. The Staff responds to the Phase I Compliance Rebuttal Affidavit of SBCI witness W. Karl Wardin, filed on March 17, 2003, as follows: Mr. Wardin argues that Michigan rates for dark fiber mileage are not proper, and therefore are not appropriate for comparison with Illinois rates. Mr. Wardin then further argues that California and Texas rates provide a more appropriate comparison. Mr. Wardin then provides rates for non-SBC states that have higher rates for dark fiber mileage as additional proof of reasonableness.

843. Staff urges us to reject these arguments for several reasons. First, Mr. Wardin provided these very same Michigan rates as evidence of reasonableness in his Phase 1 Compliance Affidavit, filed January 22, 2003. See Phase 1a Compliance Affidavit of SBCI witness W. Karl Wardin at paragraph 14, Attachment 1, and Attachment 2A. Nowhere in his rebuttal affidavit does Mr. Wardin comment on why there is an inconsistency in his arguments between the January 22 and March 17 affidavits. This is a clear contradiction. Second, the company's basis for concluding the Michigan rates are improper is based, as nearly as the Staff can determine, on nothing more than the fact that SBC is unsatisfied with the Michigan PUC's ruling concerning these rates. Third, Mr. Wardin did not address the fact that the rate structure in Illinois more closely matches that of Michigan than any other state for which rates are of record in this proceeding.

844. As such, the Staff recommends that the Illinois rates be reduced to the levels of the Michigan rates on an interim basis for the satisfaction of Checklist Item II.

Sub-Loop Rates

845. Staff sees that Mr. Wardin has proposed to reduce rates for sub-loops significantly for the purpose of satisfying Section 271 interim pricing requirements while the permanent rates are in the process of being investigated. Mr. Wardin also performs a "zone of reasonableness" analysis of these rates in his affidavit and concludes that all necessary rate adjustments have been made. The Staff concurs in Mr. Wardin's approach to this analysis. Recurring sub-loop rates are unique in that they must be considered on the basis of their relationship to loop rates. The Staff argued in Phase I of this proceeding that Illinois sub-loop rates were not reasonable, as they were

in many cases higher than loop rates. Mr. Wardin's proposal goes to great lengths to address the disparities that Staff found to exist in Phase I, and insures that the Illinois sub-loop rates, as a percentage of loop rates, are reasonable when compared to California and Michigan. As such, Staff does not find it necessary to perform a concurrent cost analysis for these rates.

846. Line connection charges for sub-loops, however, were not adjusted as part of Mr. Wardin's proposal. Staff Ex. 38.0, Schedule 38.03 shows that these rates are between 906% and 1080% higher in Illinois than in Michigan. Additionally, line connection charges for sub-loops are between 1079% and 1282% higher than line connection charges for loops within Illinois. In keeping with the vernacular used to describe dark fiber rates, these line connection rates are "astronomically higher" in Illinois. Mr. Wardin does not address either of these concerns in his "zone of reasonableness" analysis. As such, the Staff cannot recommend that these interim non-recurring rates be deemed reasonable. The Staff recommends that SBCI reduce the line connection charges for sub-loops to be equivalent to the line connection charge for loops in Illinois, $20.21.

Staff's Further Review

847. Mr. Wardin argues that line connection charges for Sub-Loops are reasonable in comparison with California, and that Michigan rates are not comparable to Illinois rates. As such, Mr. Wardin concludes that the concerns the Staff raised regarding the Illinois-Michigan rate comparison are not important. Although the Staff concurs with Mr. Wardin that the Illinois rates are reasonable in comparison with California, it cannot concur in the company's position concerning Michigan rates.

848. The Staff specifically takes issue with Mr. Wardin's assertion that Michigan rates do not form a proper basis for comparison. First, the Michigan PUC ordered the Michigan rates. As such, there is some assurance that they are TELRIC compliant. Second, Mr. Wardin presented the Michigan rates as evidence of reasonableness in his affidavit. Third, the cost structure for UNEs in Michigan more closely resembles that in Illinois, and as such, the Michigan rates form a better basis for comparison than do the California rates as a general rule. For these three reasons, the Staff rejects Mr. Wardin's claim that Michigan rates are not relevant for comparison. While SBCI may be unsatisfied with the outcome in the Michigan docket that set these rates, this is certainly not a reasonably basis to dismiss the comparison.

849. The significant deviation between the Illinois and Michigan rates cannot be ignored. As Mr. Wardin indicates, part of the reason for this divergence is that certain costs included in the Illinois rates are not a component of the Michigan rates. As a thorough analysis of cost development appears to be outside the scope of the current proceeding, the Staff considers it improper to address this assertion or give it any credence, other than to note that it is self-serving. The evidence shows that the two rates are not reasonably similar.

850. The Staff notes that Mr. Wardin, in his surrebuttal affidavit, again contends that Michigan rates for line connection charges for sub-loops are somehow not properly comparable to Illinois, but that rates for Texas and California are comparable. Again, the Staff points out the fact that rate structures in Illinois appear to it to be more nearly comparable to Michigan rate

structures than to those in effect in Texas or California. Accordingly, the Staff urges us to reject SBCI's argument in this regard.

851. The Staff's most significant concern in this regard is that these line connection charges are set at a level that would not allow a reasonable competitor to take advantage of sub-loop offerings. Excessive rates for nonrecurring charges represent a barrier to entry into this form of facilities based competition. Combined with the potential dissolution of UNE-P as the result of the FCC Triennial Review, the Staff is of the opinion that any rate that restricts the ability of CLECs to enter into facilities based competition is of serious concern. Interim line connection rates that are over 1,000% higher than in comparable states indicate that there are significant concerns regarding their reasonableness that must be addressed in this proceeding. The Staff continues to recommend that we direct SBCI to reduce the interim sub-loop line connection rates to $20.21.

Broadband Services Rates

852. The Staff notes that we have indicated that this item is prima facie reasonable. As such, the Staff does not address any ongoing concerns that it has with broadband service rates or the analysis performed by Mr. Wardin for these rates.

OSS Modification Charge – Checklist Item IV

853. The only rate listed in Attachment A within this category is the OSS modification charge. The Staff notes that we ruled in our Phase I Order that all zero-rated services are prima facie reasonable. Since the OSS modification charge currently is zero, Staff concludes that SBCI's OSS modification charge is therefore reasonable. As such, Staff has no further pricing concerns regarding Checklist Item iv.

AIN Database Query Rates – Checklist Item VII

854. Staff's concern with the rate for AIN database query lies in the fact that it is performed via a bona-fide request ("BFR"), and as such it cannot be determined whether it is TELRIC compliant. However, Mr. Wardin has shown that AIN database query rates are done on a BFR basis in California, Michigan, and Texas. As such, it is the Staff's opinion that the BFR pricing for this element is sufficient for Section 271 purposes. The Staff therefore withdraws any concerns previously raised regarding pricing issues for Checklist Item vii. The Staff notes that this withdrawal of concern is for interim pricing issues in this proceeding only and is in no way a withdrawal of concerns regarding permanent pricing of the AIN database query, which may be investigated in an upcoming proceeding.

CNAM Database Query – Checklist Item X

855. Mr. Wardin has indicated that SBC will lower its interim CNAM query charge to that it uses in Michigan, subject to true-up, for the purpose of satisfying any "zone of

reasonableness" concerns. Although the Staff commends this act of good faith, the analysis provided by Mr. Wardin does not include a comparison of proxy costs. Such an analysis may show that Illinois costs are significantly lower than those in Michigan. In such a scenario, it is the Staff's opinion that the SBC must further reduce the Illinois rate in order for it to be considered reasonable. The Staff recommends that SBCI incorporate proxy costs as part of its "zone of reasonableness" analysis for this rate in its rebuttal round. The Staff further recommends that, in the case that the revised analysis does not support SBCI's current proposal, the rate proposal be adjusted accordingly.

856. Staff's further review, however, indicates that SBCI has satisfied the Staff's concerns regarding the CNAM database query rate.

True-up Language

857. Paragraph 720 of the Phase I Order requires SBCI to "…amend its tariffs or agreements, if necessary, so as to include language providing for true-up reconciliation effective as of the date of this Order." Mr. Wardin has indicated true-up language will be implemented to satisfy the Phase I Order. The Staff has reviewed this proposal and is satisfied with it. Staff noted that, as of the filing of its initial affidavit, SBCI has not yet filed these language changes. Subsequently, on the basis of its final review, Staff indicates that SBCI has satisfied the Staff's concerns regarding true-up language for interim tariffs.

c. AT&T's Position.

858. In addressing and responding to SBC Illinois witnesses who filed Phase 1A compliance affidavits addressing cost matters, (specifically, the affidavit of Michael D. Silver filed on January 22, 2003 and the revised affidavit filed by W. Karl Wardin on February 7, 2003), AT&T witness Mr. James Henson indicated that SBC Illinois remains far short of having demonstrated that its UNE pricing is adequate to support its long distance entry.

859. Mr. Henson reminds the Commission of SBC's filings in Wisconsin, Indiana, Ohio, Michigan and Illinois to increase UNE prices, and points out that UNE pricing uncertainty deprives CLECs of the ability to effectively formulate and execute business plans that in any way depend upon unbundled network elements. AT&T Ex. 4.0, pp. 2-3.

860. According to AT&T witness Henson the use of the UNE pricing comparisons offered by Messrs. Silver and Wardin while intellectually intriguing, do not provide information about the practicality of sustainable competitive activity in the state. AT&T Ex. 4.0, pp. 3-4. Mr. Henson further instructs that the pricing comparisons offered rely on prices principally in Texas, California and Michigan, and that these comparisons are neither comprehensive nor rigorous enough to provide the Commission any assurance that all existing SBC Illinois UNE prices fall within a zone of reasonableness. AT&T Ex. 4.0, pp. 4.

861. AT&T witness Henson encourages the Commission to provide specific direction to SBC as this § 271 compliance assessment process evolves. He advises that the Commission

should condition any finding of compliance with § 271 of the Act upon SBC's willingness to operate within a five-year UNE price cap. Absent such an approach, SBC will re-litigate the same issues ad infinitum. AT&T Ex. 4.0, pp. 8.

862. Mr. Henson also testifies that the Commission should find, based upon the agreement of the parties, that the currently effective interim nonrecurring charges applicable to new UNE-P combinations shall not be subject to true-up. In addressing this issue, Mr. Henson reminds the Commission that, all parties, including SBC Illinois, agree that the interim nonrecurring charges applicable to new UNE-P combinations should NOT be trued up. AT&T Ex. 4.0, pp. 5.

863. According to witness Henson, the issue of sub-loop pricing requires firm Commission direction. Mr. Henson urges that the Commission direct SBC to implement the method set forth in Column N of Attachment 2 of Mr. Wardin's February 7, 2003 Phase 1A Compliance Affidavit and as supplemented by SBC Illinois's written response to AT&T Question No. 1. In addition, he states that the Commission should direct that, if unbundled loop rates change, the same sub-loop percentages from Column N of Attachment 2 should be applied to the revised loop rates. He would have the Commission recognizes that SBC's current unbundled loop rates are under review in Docket 02-0864. Mr. Henson sets out AT&T's expectation that the combination of declining equipment prices, merger savings, a shared and common cost markup more in line with other states, and other factors will combine to significantly reduce unbundled loop prices when Docket 02-0864 is completed.

d. Commission Review and Conclusions.

The Company's Opt-In Policies and Pricing.

864. With respect to SBC Illinois' opt-in policies and issues related to UNE combination rate clarity, Staff and SBC Illinois are in agreement that SBC Illinois has complied with the Commission's Phase I Order. The Commission is satisfied with Staff's conclusions on these matters and the basis set out for those conclusions.

865. With respect to pricing, the Commission is also satisfied that SBC Illinois' and Staff's proposals and conclusions are reasonable on the issues that have been agreed upon. SBC Illinois is hereby directed to file the rate changes it has proposed, to the extent that such tariffs have not been filed already.

866. The one pricing issue that remains in dispute between SBC Illinois and Staff involve line connection charges for UNE sub-loops and dark fiber mileage. Having reviewed the evidence on this matter, the Commission is of the opinion that Staff has taken too narrow an approach in evaluating these rates under a zone of reasonableness test. It was never our intention to require that SBC Illinois' rates be lower than those of every comparable company. As such, and in our view, SBC Illinois has demonstrated, successfully, that the proposed and/or effective rates are reasonable in relation to those of one or more companies that might appropriately be compared to SBC Illinois.

867. In addition, given the background information SBC Illinois has provided with respect the process used in Michigan to set line connection rates for UNE sub-loops, the Commission sees there to be a legitimate and open question as to whether this approach as valid in terms of Illinois (unless and until shown to be justified in an appropriate cost proceeding where the issues here raised would be addressed on a complete factual record). At the moment, these underlying issues would skew the analysis. In the sum of our review, and final analysis, the Commission finds that SBC Illinois' proposed line connection charges for UNE sub-loops and its existing dark fiber mileage rates are reasonable for purposes of this proceeding and compliant with the FCC's standards for interim rates.

868. We would take particular note that our Phase I Order requires certain true-up language. In light of the showing on record indicating that SBC Illinois, the CLECs and Staff, all would agree that tariffed NRCs for new UNE-P combinations should not be subject to true-up, the Commission releases the Company from this requirement.

Line Loss Notification Measures.

869. In our Phase I Interim Order, we found Staff's list of recommendations regarding line loss notification to be reasonable, and ordered to comply with these measures.. Staff tells us, however, that SBC Illinois has not yet implemented all of its recommendations with respect to line loss notifications.

870. As such, Staff recommends that we direct SBC Illinois to adopt, the following with respect to line loss notification:

(1) SBC Illinois should make line loss performance measure MI 13 a remedied measure of medium weighting for both tier 1 and tier 2 payments;

(2) SBC Illinois should include all line loss notifications issued to CLECs in its line loss performance measures MI 13 and MI 13.1; including all line loss notices generated due to SBC Illinois winback scenarios. Winback scenarios are not currently included in performance measure MI 13.

(3) All changes to line loss performance measure MI 13 and the new line loss performance measure MI 13.1 should be implemented by SBC Illinois prior to this Commission making a positive Section 271 recommendation to the FCC, since this Commission found that it was reasonable for the company to implement these changes within 45 days of the Phase I Order (which would have been March 23, 2003). SBC Illinois has responded that it plans to meet this recommendation on April 20, 2003 when performance measurement data is posted for March 2003.

(4) SBC Illinois should file revised Illinois tariff pages with this Commission for the changes it must make to performance measure MI 13 and MI 13.1 based upon this Order so the effective date of the tariff coincides with the implementation date of the performance measure changes.

(5) SBC Illinois should provide this Commission with periodic updates on its implementation of the Line Loss Notification Improvement Plan it filed and committed to implement in Michigan and that, in this proceeding, SBC Illinois indicates will also benefit Illinois.

(6) The Commission should require SBC Illinois to closely monitor the line loss notifications it provides to CLECs until SBC Illinois provides six months of line loss notifications to CLECs without uncovering any new problems and without any of the existing problems re-emerging;

871. The issue of line-loss notification is significant, and its proper resolution is, in our view, vital to the development of a competitive market. In the past, we have recognized line loss notification problems to constitute an impediment to competition. While finding the Staff's recommendations regarding line loss notification to present a reasonable and effective way of monitoring this lingering problem, we will make our final pronouncements on this issue when we analyze below all the Phase II evidence.

9. New Phase II Evidence

OPERATIONS SUPPORT SYSTEMS

a. SBC Illinois' Position.

Introduction:

872. SBC Illinois states that it achieved parity or the associated benchmark for 85.9% of OSS-related performance measures in at least two of the last three months. (SBC Ex. 2.0 (1/17/03 Ehr Aff.) ¶ 56 & Attachment E). Of the numerous measures related to OSS, which are set out in detail below, Staff identifies 7 as "Key PMs requiring improvement," most of which relate to "Ordering" functions. The following table summarizes SBC Illinois' response, as set forth in the Surrebuttal Affidavit of Mr. Ehr (SBC Ex. 2.3).

PM Number	PM Description	SBC Illinois Response
7.1	% Completion notices in one day (Ordering)	SBC Illinois has already committed to improvement plan, and results are to be tested by BearingPoint in re-testing completion notices. Differences from applicable standard are not significant to warrant further action, as over 98 percent of notices are currently delivered within the specified interval.
10.1	% Mechanized rejects returned in one hour (Ordering)	Differences from applicable standard are not material to overall checklist compliance (over 95 percent of electronic rejections are processed within benchmark interval). No need for future action, as standard has been revised and SBC Illinois would have met the revised standard.

PM Number	PM Description	SBC Illinois Response
10.2 and 10.3	% manual rejects returned in 5 hours (Ordering)	Differences from applicable standard are not material to overall checklist compliance (over 93 percent of electronic rejections are processed within benchmark interval). No need for future action, as standard has been revised and SBC Illinois would have met the revised standard.
17	% service orders posted within 30-day cycle (Billing)	Reported shortfalls are not significant. Measure as defined allows for up to approximately 30 days for order to post to billing. Current implementation assesses frequency in which the service order is posted to billing prior to first bill cycle after order completion. Performance against 30-day standard would be higher; nevertheless, measure is to be subject to additional reporting and Staff supervision as described above.
MI-2	% orders given jeopardy notices (Ordering)	Differences are not significant, given that jeopardy notices only indicate that due dates might be missed. SBC Illinois is successfully meeting due dates
MI-14	% maintenance completion notifications within "X" hours (Maintenance)	Effective February 1, 2003, SBC Illinois has implemented a new process to deliver maintenance notices. Results of the new process will be posted on March 20, 2003. In the meantime, current differences are not significant, given that maintenance notices do not affect service or the actual work of repair and given performance of over 80 percent.

873. In addition to the commercial performance data on OSS, SBC Illinois explains that the Commission retained BearingPoint to conduct an independent third-party test of the commercial readiness of SBC Midwest's OSS interfaces, documentation and processes. Over the course of 31 months, BearingPoint evaluated 504 separate test criteria relating to pre-ordering, ordering, provisioning, maintenance and repair, billing, and overall relationship management and infrastructure, by performing hundreds of thousands of transaction tests and extensive process reviews. There were two types of OSS tests: (1) Process and Procedure Reviews ("PPR"), in which BearingPoint reviewed documents and observed and interviewed personnel, in order to assess the processes and procedures used by SBC Illinois; and (2) Transaction Verification and Validation ("TVV") in which BearingPoint submitted test transactions (such as orders) or reviewed commercial transactions submitted by CLECs, and then examined the results. (SBC Ex 1.0 (1/17/03 Cottrell Aff.) ¶¶ 6-7).

874. As explained by Company witness Mark Cottrell, SBC Illinois satisfied 467 of the 492 applicable test criteria related to OSS functions, an overall success ratio of 95 percent. SBC

Illinois provided the following table to summarize the results by test "domain," showing the number of test criteria that BearingPoint found to be either "Satisfied," "Not Satisfied," or "Indeterminate." The test domains of Order Management and Maintenance and Repair separately show (i) the results applicable to testing of current capabilities and (ii) the results of "volume" testing, which address capability to handle potential future increases in volume.

OSS Test Domain / Area	Satisfied	Not Satisfied	Indeterminate	Total Applicable	Percent Satisfied
Pre-Order / Order	**54**	**3**	**0**	**57**	**94.7%**
Provisioning	**76**	**1**	**5**	**82**	**92.7%**
Maintenance and Repair	**62**	**1**	**0**	**63**	**98.4%**
Billing	**94**	**1**	**0**	**95**	**98.9%**
Relationship Management	**131**	**0**	**2**	**133**	**98.5%**
Volume Tests	**50**	**12**	**0**	**62**	**80.1%**
Totals	**467**	**18**	**7**	**492**	**94.9%**

875. SBC Illinois states that BearingPoint's application of the "Satisfied" and "Not Satisfied" ratings was a statistical, non-qualitative, "yes" or "no" scoring exercise. SBC Illinois explains that none of the "Not Satisfied" OSS related findings are material enough to affect checklist compliance. Rather, each of the 18 "Not Satisfied" test criteria relate to areas in which SBC Illinois (i) achieved high performance levels, albeit not at the numeric benchmarks set by BearingPoint, and/or (ii) has already taken corrective action and expects successful retest results, and/or (iii) will resolve this issue consistent with the Commission's direction on January 14, 2003. (SBC Ex 1.0 (1/17/03 Cottrell Aff.) ¶ 11.) Of the 18 test criteria categorized by BearingPoint as "Not Satisfied", the results for twelve were determined by the Commission to be sufficient, such that no further testing should occur. Staff agrees. (Staff Ex. 31.0 (Weber) ¶ 28.)

876. Staff identifies five (5) areas of OSS deficiency that it believes the Company should address. Staff Ex. 43.0 (Weber Rebuttal) ¶ 14.[40] For three of these OSS issues, Staff asks the Company to fix them and obtain verification from an independent third party by November 2003:

a) Ordering: *Timeliness of Service Order Completion Responses* (TVV 1-28);

b) Provisioning: *Accuracy of Updates to Customer Service Rec*ord (TVV 4-27);

c) Maintenance & Repair: *Accuracy of Close Out Coding on End-to-End Trouble Faults* (TVV 7-14).

877. Staff identifies two other OSS issues that are currently in re-test mode with BearingPoint and suggests that BearingPoint may find these two issues have been "Satisfied" before the close of this proceeding. If they are not, Staff says, the Company should commit to address the deficiencies and have them verified by an independent third party no later than August 2003. These OSS issues are:

a) Ordering: SBC Illinois provides required order functionality (TVV 1-4); and

b) Billing: The bill production process includes reasonable checks to catch errors not susceptible to pre-determine balancing procedures (PPR 13-4).

878. With respect to the first group of OSS issues, the Company says that it agrees they should be re-tested and verified by an independent third party. As set forth in a letter from John Hudzik to the Commission Staff on January 31, 2003, SBC Illinois says that it has taken action to address each issue and plans further action in the near future. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶ 8.) SBC Illinois states, however, that it has only limited control over testing activities and their completion dates, and therefore cannot guarantee a final completion date of November 2003 as requested by Staff. (SBC Ex. 1.3 (3/17/03 Cottrell Surrebuttal) ¶ 9.) The Company thus objects to Staff's recommendation that SBC Illinois be subject to civil penalties under section 13-305 for failure to meet any commitment in the order, including any inability to have the third party tester complete its work by November 2003. (Staff Ex. 40.0 (Hoagg Reply) ¶ 10; SBC Ex. 1.3 (3/17/03 Cottrell Surrebuttal) ¶ 9.)

879. With respect to the second group of OSS issues, SBC Illinois states that testing continues and that it expects testing to be successfully completed by late April 2003. Although SBC Illinois states that it does not have the complete control required to insure completion of testing by August 2003 as requested by Staff, it commits to make every effort to do so. If not resolved by then, SBC Illinois commits to work with Staff to resolve open issues to the Commission's satisfaction. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶ 11.)

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[40] Staff originally identified six issues – but one of those issues has since been resolved by BearingPoint.

Pre-Ordering

880. Pre-ordering "includes those activities that a carrier undertakes to gather and verify the information necessary to place an order." Kansas & Oklahoma 271 Order, ¶ 120. SBC Illinois offers CLECs two main electronic interfaces for pre-ordering: (1) EDI/CORBA, an "application to application" interface that can understand inquiries submitted in either of two industry standard formats (EDI and CORBA); and (2) Enhanced Verigate (also known as "Web Verigate"), a Graphical User Interface that accepts commands from CLEC representatives working on computer screens, much the same way as an Internet web browser works. According to SBC Illinois, the majority of current inquiries are submitted through the EDI/CORBA interface.

Pre-Ordering: Timeliness

881. SBC Illinois states that it is providing CLECs with large volumes of pre-order information on a timely basis. For September-November 2002, SBC Illinois processed nearly 900,000 commercial pre-order inquiries, and it met the applicable benchmarks for 46 of the 48 categories for which there were sufficient volume (10 inquiries) to permit statistical analysis. (SBC Ex. 2.0 (1/17/03 Ehr Aff.) ¶¶ 59-60). Overall, SBC Illinois processed 98.6 percent of pre-order inquiries within the applicable benchmark interval, and for requests submitted over EDI/CORBA (which comprise over 530,000 inquiries, about 60 percent of the total volume for the three months) SBC Illinois responded to 99.3 percent within the specified benchmark. (Id. ¶ 59). Thus, Staff agrees that SBC Illinois passes this measure. (Staff Ex. 31.0 (Weber) ¶ 124.)

882. BearingPoint achieved similar results in its independent testing. BearingPoint submitted approximately 2,000 test inquiries over EDI/CORBA (1,000 in the EDI format, and 1,000 in CORBA), and timed SBC Illinois' response.[41] BearingPoint Report, Tables 1-8 & 1-9 (pp. 584-85). The test cases included all 16 types of pre-order information. Id. Tables 1-2, 1-8 & 1-9. Based on the results of this test, BearingPoint determined that SBC Illinois satisfied all 16 test criteria (TVV1-5 through 1-20, pp. 560-568). Overall, SBC Illinois processed 99 percent of BearingPoint's test inquiries within the applicable benchmark interval.

Pre-Ordering: Accuracy of Response

883. BearingPoint submitted test inquiries via EDI/CORBA and the Verigate Graphical User Interface. It reviewed SBC Illinois' responses and found that the EDI/CORBA and Verigate pre-order interfaces provided the appropriate pre-order functionality for all 16 pre-order inquiry types tested (such as checking the end user's address, or obtaining loop "qualification" information for Digital Subscriber Line service).[42] BearingPoint Report, TVV 1-

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[41] BearingPoint did not test response times for the Verigate Graphical User Interface, as that interface does not record electronic "time stamps" the way that EDI/CORBA does.

[42] These 16 pre-order functions include each of the six pre-order functions described by the FCC in prior Section 271 Orders: (1) customer service record (CSR) information; (2) address validation; (3) telephone number information; (4) due date information; (5) services and feature information; and (6) loop qualification information. Virginia 271 Order, App. C, ¶¶ 34-35. In addition, BearingPoint evaluated

BearingPoint also reviewed each of the pre-order responses, and concluded that each interface provided responses for all 16 pre-order inquiry types that were clear, accurate, and contained all information specified in the user guide. Id. TVV 1-29. BearingPoint was able to create, complete, and submit valid orders using the information it obtained via SBC Illinois' pre-order interfaces.

Pre-Ordering: Availability of Interfaces

884. AT&T claims the CORBA interface is frequently unavailable. (AT&T Ex. 3.0 (De Young/ Willard) ¶¶ 37-41.) SBC Illinois responds that the CORBA results reflected in the PM4 "OSS Availability" measurement for October through December show a high level of availability: 99.59% available in October; 99.64% available in November; and 99.89% available in December. SBC Illinois also contends that AT&T's complaint is inconsistent with the small number of trouble tickets related to CORBA issues and does not jibe with the fact that more than 70% of the trouble tickets opened by AT&T from October to December concerned informational or non-trouble issues. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 13-15.)

885. Meanwhile, WorldCom complains about outages in the EDI pre-order interface from November 2002 through January 2003. (WorldCom Ex. 3.3 (Lichtenberg) ¶ 22.) SBC Illinois explains that the parties conducted a business-to-business review on February 6, 2003 and determined that most of the outage time did not occur in the SBC Midwest region. In fact, during the last three months, EDI pre-order availability was measured at 99.72% for November, 99.89% for December, and 99.96% for January – all three months exceeded the benchmark of 99.5%. Nevertheless, SBC Midwest put more monitoring devices in place to alert analysts earlier and shorten downtimes. In addition, SBC Midwest agreed to proactively retrieve outage logs for WorldCom for the next three months in order to monitor and report progress. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 16-17.)

Customer Service Records: Missing Zip Codes

886. AT&T asserts that on January 22, 2003, AT&T service representatives were "unable to retrieve CSRs [customer service records] when they were attempting to fill orders for customers in Michigan and Ohio", impacting about 300 end-user accounts and "effectively" precluding it from completing certain orders. (AT&T Ex. 3.0 (De Young/Willard) ¶¶ 42-44.) SBC Illinois explains that AT&T's claim is an exaggeration because the situation only occurred in Ohio, only impacted two (2) AT&T orders (according to trouble tickets opened by AT&T), and was fixed on January 28, 2003. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 19-23.) The Company further explains that AT&T was able to access the customer service records – the problem was that the zip code field was not returned when AT&T requested certain inquiries based on the "Account Telephone Number." Finally, the Company explains that AT&T did have the zip code information in an "unparsed" format on the CSI and, if that was insufficient, could have obtained the missing zip code information by retrieving a CSI using the "Working

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SBC Illinois' other pre-order functions: (7) CSR with Listings; (8) loop pre-qualification information; (9) network channel inquiry; (10) connecting facilities assignment; (11) common language location indicator; (12) pending order status; (13) provisioning order status; (14) PIC/LPIC inquiry; (15) scheduling inquiry/dispatch; and (16) listings for telephone number inquiry. See BearingPoint Final Report at page 578, Table 1-2.

Telephone Number." Although these alternatives may have required additional effort, SBC Illinois concludes that this issue in no way "precluded" AT&T from completing orders.

Integration of Pre-Ordering and Ordering Systems

887. There appears to be no dispute about the governing legal standard – both SBC Illinois and AT&T cite to paragraphs 119-120 of the Georgia & Louisiana 271 Order, which provide that there is no requirement for a BOC to integrate pre-order and order information. Rather, the BOC must "enable" the CLEC to transfer pre-order information electronically into the CLEC's ordering interface.

888. AT&T claims that SBC Illinois' OSS fail to provide the capability to integrate pre-ordering and ordering systems. (AT&T Ex. 1.0 (Connolly) ¶¶ 218-220.) SBC Illinois strongly disagrees and argues that the BearingPoint Report successfully tested a "pre-order/order integration process" and "verified" SBC Illinois' compliance with integration commitments made in the Plan of Record pursuant to SBC/Ameritech Merger Condition 29. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 25-26.)

889. AT&T responds that BearingPoint merely "validated a manual means" for populating local service orders using pre-order information. (AT&T Ex. 1.1 (Connolly Rebuttal) ¶¶ 102-104.) In other words, AT&T asserts that BearingPoint only looked at whether a CLEC can take pre-order information and manually input it into SBC Illinois' ordering system. However, SBC Illinois responds, BearingPoint validated a CLEC's ability to *electronically* integrate, and did so in three ways. First, BearingPoint evaluated whether SBC Midwest separates or "parses" the information properly. Parsing of pre-order information, by itself, is sufficient to meet the FCC's Section 271 requirements for integration. Georgia & Louisiana 271 Order, ¶ 120. Second, BearingPoint verified that SBC Midwest "synchronized" data fields between the pre-order and order fields. This assists a CLEC in electronically transferring the information contained on the pre-order response into the order. Third, in its evaluation of the integration process, BearingPoint reviewed SBC Midwest's pre-order and order documentation and found it clear, accurate and complete. (SBC Ex. 1.3 (3/17/03 Cottrell Surrebuttal) ¶ 20.)

Ordering

Ordering: Line Loss Notices or LLN.

890. In the Phase I Order, the Commission made clear that its analysis of the Line Loss Notification ("LLN") issue would give "substantial weight" to the Company's implementation of the Staff recommendations found on pages 5-8 of Appendix A attached to Staff's Phase I Reply Brief. Phase I Order, ¶ 694. SBC Illinois has taken great pains to explain that it has, in fact, implemented those recommendations. (SBC Ex. 1.1 (1/22/03 Cottrell Aff.) ¶¶ 4-14.) In particular, SBC Illinois explains that it has taken the following actions:

- SBC Illinois has corrected the loss notification issues identified in Michigan Case No. U-12320 with partial migration of accounts.

- SBC Illinois developed and implemented a formal training package for service representatives on the line loss notification process.

- SBC Illinois has corrected, and will continue to correct, any situations that cause loss notifications to be inaccurate or untimely. No such situations are known to exist.

- SBC Illinois has provided the industry extensive information concerning problems it has uncovered related to line loss notifications including, Accessible Letter format, specific information regarding problem start and end date, scope of problem, and corrective action taken.

- SBC Illinois has performed the recommended account reconciliation.

- SBC Illinois has continued to meet with CLECs on an as needed basis to discuss line loss issues.

- In accordance with the Commission's May 2002 Order in Docket No. 02-0160, SBC Illinois' retail operations rely exclusively on the same line loss notifications as those sent to CLECs.

- SBC Illinois has worked with industry participants through the performance measure 6-moth review process to make revisions to the line loss notification matrix, PM MI 13.

- SBC Illinois' cross functional team will be maintained at least until June 30, 2003, at which time its responsibilities would continue but be transitioned to permit work groups.

(SBC Ex. 1.1 (1/22/03 Cottrell Aff.) ¶¶ 5-14.)

891. Staff and WorldCom both note that SBC Illinois has achieved improvements. (Staff Ex. 31.0 (Weber) ¶¶ 8-9; WorldCom Ex. 3.3 (Lichtenberg) ¶ 19 ("Over the last couple months, the problem with line loss notifications did appear largely fixed.").) BearingPoint, which has intensely examined LLNs for some time as part of its test, has confirmed that SBC Illinois provisions LLNs on a timely and accurate basis.

892. BearingPoint performed two separate tests of LLNs, addressing each of the general categories of concern to CLECs. The first test (TVV 4-29) was designed to ensure that SBC Illinois issues LLNs where they are called for, and provides them on a timely basis. Using its own "Test CLEC" account, BearingPoint submitted numerous "CLEC to CLEC migration" orders designed to generate LLNs, and directed SBC Illinois to submit win-back orders designed to generate LLNs, and then waited to see if and when the LLNs were delivered. After the first iteration of the test, BearingPoint issued Exception 86, and SBC Illinois took corrective action. BearingPoint closed Exception 86 on October 22, 2002 (after its re-test showed that SBC Illinois had successfully sent LLNs within one hour for 97.5% of the test transactions) and TVV 4-29 was satisfied. BearingPoint Operational Report at 710.

893. BearingPoint's second test (TVV 4-28) was designed to determine that the information on LLNs is accurate. BearingPoint examined 5,316 commercial transactions that were expected to generate LLNs, and reviewed the resulting notifications. BearingPoint found that the LLNs for 96.4% of the lines were accurate, and concluded that SBC Illinois accurately reports line loss activity. Id. at 709.

Staff Issues.

894. SBC Illinois sees no disagreement between Staff and SBC Illinois on the line loss notification issue. SBC Illinois will implement Staff's recommendation that performance measure MI 13 be assigned a "medium" remedy level. (SBC Ex. 2.2 (3/3/03 Ehr Rebuttal) ¶ 241.) SBC Illinois also agrees to Staff's request that the Michigan Line Loss Notifier Communications improvement plan be made available in Illinois. (Staff Ex. 43 (Weber) ¶ 11; SBC Ex. 1.3 (3/17/03 Cottrell Surrebuttal) ¶ 21.) Mr. Cottrell explained that this includes (among the other things set forth in that plan) the commitment that the Company will provide the Illinois Commission with monthly updates on LLN issues for a period of six (6) months. (SBC Ex. 1.3 (3/17/03 Cottrell Surrebuttal) Sch. MJC-23.) Staff, for its part, agrees that the SBC Illinois cross-functional team can migrate its responsibilities to other work groups after June 30, 2003. (Staff Ex. 43 (Weber) ¶ 10.)

895. SBC Illinois also responds to Staff's recommendation that changes to PM MI 13 and implementation of PM MI 13.1 be verified by the Commission before issuing a Phase 2 order. (Staff Ex. 43 (Weber) ¶ 8.) The Company explains that this implementation will take place in March 2003 – before the Commission's Phase II order – and that the March results will be available in late April. With respect to Staff's request that MI 13 and MI 13.1 include line loss notifications generated due to winback situations (Staff Ex. 43 (Weber) ¶ 12), SBC Illinois witness James Ehr explains that while such notices do not fall within the scope of the current business rule, the new performance measures for line loss *will* include winback activity.

CLEC Issues.

896. AT&T, WorldCom, and Z-Tel state that problems with LLNs have continued since the conclusion of Phase I. (AT&T Ex. 3.1 (DeYoung/Willard Rebuttal) ¶¶ 8-11; WorldCom Ex. 3.4 (Lichtenberg) ¶¶ 18-20; Z-Tel Rebuttal Comments (p. 7).) SBC Illinois argues that the CLECs fail to analyze the LLN issue in light of SBC Illinois' overall performance. (SBC Ex. 3.3 (3/17/03 Cottrell Surrebuttal) ¶ 22.) SBC Midwest transmitted over 759,000 LLNs to CLECs between August 2002 and January 2003, and SBC Illinois points out that the complaints raised by the CLECs constitute only a small percentage (about 15,000) of those LLNs, and even then, the problems were quickly caught and corrected. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal Aff.) ¶ 32.) As set forth below, between September 2002 and January 2003, SBC Midwest's performance in providing timely and accurate LLNs has improved from 92.9% to 97.67%.

ALL CLECs	Total CLEC LLNs Provided	Inaccurate or Incomplete	% Successful

September 02	109,456	7,775	92.90%
October 02	155,424	403	99.74%
November 02	117,355	4,425	96.23%
December 02	115,937	3.061	97.36%
January 03	140,783	3,277	97.67%
5 Month Total	**638,955**	**18,941**	**97.04%**

897. SBC Illinois further discusses each of the LLN issues identified by the CLECs. SBC Illinois states that one issue raised by AT&T was resolved a year ago, in March of 2002. SBC Illinois next states that the most significant issue was resolved during the course of the BearingPoint test. From August 15, 2002 until September 11, 2002, a problem with SBC Illinois' EDI translator tables caused some LLNs to be incorrectly routed to an error-handling queue rather than delivered to the appropriate CLEC. (AT&T Ex. 3.0 (DeYoung/Willard Aff.) ¶¶ 99-103.) SBC Illinois became aware of the issue late in the day on September 10, 2002. SBC Illinois immediately investigated, determined the cause of the error, and fixed the problem the next morning, September 11, 2002. SBC Illinois states that it also issued an Accessible Letter to inform CLECs, and took several steps to monitor the situation and to prevent future occurrences. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 36-37.) SBC Illinois advises that BearingPoint's retesting verified the resolution of this problem, and BearingPoint subsequently closed the related exception.

898. Next, on November 9, 2002, SBC Illinois implemented a new software release related to EDI version 5.02. (AT&T Ex. 3.0 (DeYoung/Willard Aff.) ¶¶ 104-105.) As a result of the release, the "conversion date" field on certain LLNs was incorrect. These LLN errors occurred only on November 11 and the morning of November 12; after that, SBC Illinois put a "hold" on the LLNs to prevent further distribution of erroneous notices, and corrected the problem the evening of November 12, 2002. SBC Illinois also issued two Accessible Letters, on November 12 and 13, to apprise CLECs of the issue and its resolution. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 38-40.)

899. SBC Illinois states that the next issue, which arose during one week in December 2002, was unique to AT&T. On December 9, 2002, AT&T migrated one of its three EDI platforms from LSOG 4.02 to LSOG 5.02. However, SBC Illinois continued to send AT&T's LLNs in the LSOG 4.02 format. (AT&T Ex. 3.0 (DeYoung/Willard Aff.) ¶¶ 106-109.) AT&T notified SBC Illinois of the problem the afternoon of December 16, and SBC Illinois states that it was sending LLNs to AT&T in the proper LSOG 5.02 format before noon the next day. SBC

Illinois also states that it acted immediately to tighten the relevant processes and strengthen the communications and timing of changes, cross checks, and validations, to prevent a recurrence. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 41-43.)

900. According to SBC Illinois, the next LLN issue was unique to WorldCom, and it occurred the first few days of February, 2002. WorldCom was testing version 5 of the Local Service Ordering Guide (LSOG 5) in SBC Illinois' testing environment, and an employee in SBC Illinois' testing group inadvertently changed WorldCom's "trading partner ID" in the production environment, rather than the test environment. Thus, SBC Illinois' systems began sending LLNs to WorldCom in the LSOG 5 format rather than the LSOG 4 format. (WorldCom Ex. 3.3 (Lichtenberg) ¶¶ 19-20.) WorldCom reported the issue to SBC Illinois on February 5, 2003, and SBC Illinois quickly acted to correct the problem. In addition, to prevent the reoccurrence of similar problems, SBC Illinois altered its procedures to prevent the test group from accessing CLEC production profiles, and limited access to a small group of experts in the EDI production support team. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 44-46.)

901. WorldCom also complains that SBC Illinois "continues to send a few miscellaneous line losses via email." (WorldCom Ex. 3.3 (Lichtenberg) ¶ 28.) The Company explains that this happens only on the rare occasion when the Company's systems are unable to mechanically generate the LLN due to a system or service order error. In this situation, the Local Service Center ("LSC") manually processes and provides the LLN to the CLEC manually via either fax or e-mail (as selected by the CLEC). This manual notification process was discussed in the CLEC User Forum, and notice of its implementation was provided to CLECs via Accessible Letter CLECAMS02-105, dated September 20, 2002. The rate of LLNs processed manually due to fallout has averaged less than 0.20 % over the three month period November 2002 through January 2003. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 48-49.)

902. AT&T next states that SBC Midwest erroneously delivered certain LLNs to one of its operating units (AT&T Business Services) via fax rather than electronically via the WebLEX. (AT&T Ex. 3.1 (DeYoung/Willard Rebuttal) ¶ 11.) SBC Illinois responds that this incident was caused by a complex set of circumstances relating to AT&T's set-up as a test CLEC in the MOR application. (SBC Ex. 1.3 (3/17/03 Cottrell Surrebuttal) ¶ 24 n.16.) The net result, according to the Company, is that this issue impacted a total of 1,819 LLNs over an approximately 4-month period and, as AT&T says, was resolved by February 10, 2003. There is no dispute that AT&T continued to get the LLNs in a timely manner during this period and SBC Illinois notes that there is no indication of any customer impact.

903. Finally, AT&T and WorldCom describe a situation involving multi-line accounts. (AT&T Ex. 3.1 (DeYoung/Willard Rebuttal) ¶ 11; WorldCom Ex. 3.4 (Lichtenberg) ¶¶ 18-20.) On March 6, 2003, SBC Midwest pro-actively notified CLECs that on March 5th it had identified a relatively unusual situation where LLNs were sent on lines that the CLEC did not lose. SBC Midwest determined that this LLN error occurred only in the rare instance where the "winning" CLEC was using LSOG version 5 and was converting only <u>part</u> of a multi-line account that also included the main telephone number (TN) for that account. In these circumstances, a <u>new</u> main TN is created for the lines on the account that remain with the <u>original</u> carrier. SBC Midwest correctly provided an LLN to the losing carrier for the original

main TN. However, due to an error, SBC also created an LLN on the new main TN, which was incorrectly provided to the original carrier. The problem was fixed on March 6. The error impacted only 908 LLNs and all affected CLECs have been kept advised of this issue. (SBC Ex. 1.3 (3/17/03 Cottrell Surrebuttal) ¶¶ 25-27.)

904. In sum, SBC Illinois concludes, these allegations do not demonstrate any material or systemic issues with SBC Midwest's LLN process. Rather, according to the Company, almost all of the CLECs' claims concerning missing or incorrect LLNs involved unique circumstances that are not likely to recur, affected only a single CLEC, or impacted only a small volume of LLNs. And in many cases the actual delivery of the LLNs occurred, and the only issue was the manner of delivery or the format. Each issue was resolved quickly and in a reasonable manner, and SBC Midwest has further committed to implement its region-wide LLN improvement plan in Illinois. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶ 50.) Considered in the context of the overall performance, and the successful results of the BearingPoint test on this issue, SBC Illinois states that its delivery of LLNs has been sufficient and nondiscriminatory.

Order Rejection Notices: Validity

905. CLEC orders that are improperly formatted, or that do not contain necessary data, are returned to the requesting carrier with a rejection notice ("reject") so the requesting carrier can correct and re-submit its order.

906. AT&T, WorldCom, and Forte/CIMCO allege that SBC Illinois improperly rejects some orders. AT&T contends that these invalid rejections stem from a violation of the Change Management Plan, and its contentions are addressed in the section on Change Management below.

907. SBC Illinois first responds that for the calendar year 2002, SBC Midwest's pre-order OSS processed over 22.0 million transactions: the EDI/CORBA interfaces handled over 17.9 million transactions and Verigate handled over 5 million transactions. From January 2002 to December 2002, more than 5.8 million service orders were created as a result of Local Service Requests ("LSRs") submitted via EDI, while over 520,000 service orders were created from LSRs submitted via LEX. (SBC Ex. 1.3 (3/17/03 Cottrell Surrebuttal) ¶ 29.) Against this backdrop of overwhelming actual commercial usage, the Company argues, the CLEC issues are not material.

908. First, WorldCom claims that SBC Illinois was unable to process certain disconnect or "deactivate" orders, WorldCom Ex. 3.3 (Lichtenberg) ¶¶ 44-45, but the Company explains that this was only a minor occurrence. In December 2002, WorldCom notified SBC Illinois that it was receiving invalid rejects on some UNE-P disconnect orders. SBC Illinois promptly investigated the matter and found that the orders were rejected because the address of the incoming disconnect order (supplied by the CLEC on its order) did not match up with the address in the CSI. This check is performed to ensure that the right service is disconnected by matching the service address supplied by the CLEC to the service address known to SBC Illinois. The edit check was functioning properly, but a problem was encountered by WorldCom with certain less common addresses that include a suffix to the house number, such as "280-1/2

Hunter CT". SBC Illinois identified a correction and fixed the problem on February 5, 2003. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶ 60.)

909. CIMCO raises a concern with orders it believes were invalidly rejected. (CIMCO Reply Affidavit at 1-3). The Company responds with several points. First, the Company points out that BearingPoint comprehensively tested the proper treatment of CLEC orders with only a single outstanding finding.[43] BearingPoint successfully tested nearly 100 ordering scenarios by submitting several thousand orders. The results of this testing confirm the satisfactory performance of SBC's ordering systems and service representatives regarding the editing of CLEC orders. Second, a preliminary analysis of the CIMCO orders suggests that a significant portion (12-45%) were not *invalidly rejected* at all. In other words, these orders were either correctly rejected or were not rejected. Third, of those CIMCO orders that were invalidly rejected, the Company reports that it has fixed the problems that caused over two-thirds of those rejects. Fourth, because the Company had only two business days to investigate the specific CIMCO complaints before its surrebuttal affidavit was due, it has committed to keep working with CIMCO to identify any problems and possible solutions. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 61-65; SBC Ex. 1.3 (3/17/03 Cottrell Surrebuttal) ¶¶ 32-33.)

910. Forte complains about orders that are rejected for the reason "TN invalid or unavailable". (Forte Affidavit (Waterloo) pp. 2-4.) As it did with CIMCO, the Company responds that BearingPoint has successfully tested the SBC Midwest ordering systems. The Company also notes that this issue will go away in June 2003 when Forte migrates to LSOG 5 and no longer uses "placeholders" in the ordering process. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 61-65; SBC Ex. 1.3 (3/17/03 Cottrell Surrebuttal) ¶¶ 34-37.) In addition, the Company explains that it made a fix that corrected most, but not all, of the invalid rejects issued with the error code "TN invalid or unavailable". Forte's own data show that just 1% of orders were impacted in December 2002, 0% in January 2003 and 2% in February – a significant improvement from the higher number before the fix. (2/21/03 Forte Aff. at 2.) SBC Illinois is not satisfied with this situation, however, and is investigating what appears to be another problem that is generating this error message. The Company notes that Forte's experience is not typical. During a six-week period from February 1 through March 13, 2003, in the entire SBC Midwest region only eighty-one orders out of the hundreds of thousands received were rejected for this error. Forte encounters this error message at the rate of only two per week, and in all cases, the orders are subsequently worked by SBC Illinois and successfully completed. (Id.)

Order Rejection Notices: Timeliness

911. The performance standard in effect for September – November 2002 specified that SBC Illinois should return 97 percent of rejection notices within one hour for orders rejected electronically (PM 10.1), and within 5 hours for orders rejected manually (PMs 10.2 and 10.3). For electronic rejections, SBC Illinois states that it beat the standard in October but not in September or November; for manual rejections, SBC Illinois fell short of the standard in all three months.

[43] This finding, Observation 666, is scheduled to be fixed on March 15, 2003.

912. The first question is whether the numeric shortfalls are large enough to affect overall checklist compliance, as Staff contends. SBC Illinois contends that they are not. In all three months, SBC Illinois issued well over 90 percent of electronic and manual rejections within the specified time frame. For the three months as a whole, SBC Illinois issued 95.6 percent of electronic rejections within one hour, and 93.2 percent of manual rejections within 5 hours (PMs 10.2 and 10.3 combined). Further, the average time to return rejections was approximately 10 *minutes* (0.17 hours) for electronic rejects (PM 11-01), and 4.7 hours for manual rejects (PMs 11.1 and 11.2 combined), which shows that the most rejections are processed well within the benchmark interval, and that the small percentage of rejections that did not occur within the specified interval was not far from the standard. No one has presented any evidence that the small differences on a small percentage of rejects had any commercial impact. To the contrary, the CLECs agreed in the six-month review to extend the benchmark intervals to correspond to those for firm order confirmations (roughly speaking, two hours for electronic rejections and 24 hours for manual rejections), and SBC Illinois' results for the study period would have met those benchmarks. (SBC Ex. 2.3 (3/17/03 Ehr Surrebuttal.) ¶ 19.)

913. The second question is whether the Commission should require a formal corrective action plan (above and beyond the normal operation of performance reports and remedies) in this area. Staff argues that it should, but SBC Illinois does not agree that a special plan is necessary. As stated above, SBC Illinois and the CLECs agreed to revise the reject benchmarks, and SBC Illinois has shown that it would have met those new benchmarks. SBC Illinois contends that there is no need to create a special plan to meet a standard that is about to become obsolete, and that will not even be in effect at the time the plan would be carried out. (SBC Ex. 2.3 (3/17/03 Ehr Surrebuttal) ¶ 20.)

Ordering: Firm Order Confirmations

914. Once a properly formatted CLEC order passes the initial edit checks, SBC Illinois provides the requesting carrier with a notice confirming receipt of a firm order. This notice is called a "firm order confirmation" or FOC. The speed of FOC issuance is measured against agreed benchmarks, which are tailored to reflect the method by which the order was submitted and input (manually or electronically), along with the product, size, and complexity of the order. (SBC Ex. 2.0 (1/17/03 Ehr Aff.) ¶ 64.)

915. SBC Illinois met or surpassed the benchmark in at least two of the three months during the study period for 96.2% (25) of the 26 sub-measures of Performance Measure 5 (Percent Firm Order Confirmations (FOCs) Returned Within "X" Hours) for which sufficient data were reported. (Id. ¶ 65.) Over the study period as a whole, SBC Illinois returned 96.81% of the 503,632 FOCs associated with all order types within the specified interval. (Id.) BearingPoint found similar results in its independent test. SBC Illinois returned FOCs on BearingPoint's test orders within the specified interval for 98.8 percent of orders that were submitted and processed electronically, 97.7 percent of FOCs that were submitted electronically and input manually, and 97.4 percent of orders that were submitted manually. (SBC Ex. 1.0 (1/17/03 Cottrell Aff.) ¶¶ 39-41.) Based on this evidence, Staff agrees that SBC Illinois issues these notices on a timely basis. (Staff Ex. 43.0 (Weber Reply) ¶ 50.)

Ordering: Jeopardy Notices

916. A "jeopardy" notice informs the CLEC that SBC Illinois has discovered an issue that might affect its ability to provision the order on time. The due date might still be met; a jeopardy notice simply lets the CLEC know it might not be met. SBC Illinois argues that the shortfall for PM MI 2 (the percentage of orders receiving jeopardy notices within 24 hours of the due date) is not material to overall compliance. The overall results for PM 10.4 show that less than one percent (0.94 percent for the three months September –November 2002) of the orders completed have a jeopardy notice for them. At the same time, results for PM MI 2 show that approximately half (45.4 percent) of the orders receiving jeopardy notices, or less than one-half of one percent of all orders completed, receive a notice on or within 24 hours of the due date. Thus, PM MI-2 addresses only a small subset of total volume. (SBC Ex. 2.2 (Ehr Surrebuttal) ¶ 21.)

917. Further, SBC IIllinois states that the shortfall in PM MI 2 does not indicate discrimination. Part of the shortfall is attributable to the current "parity" standards. Because SBC Illinois does not issue jeopardy notices to its retail customers, the parity standard is based on a pseudo-measurement for retail orders that reflects what might be reported if jeopardy notices were actually provided. The difference between current performance and the 5 percent benchmark (to which CLECs have agreed in lieu of the current "pseudo-parity" standard) is not significant. And most importantly, SBC Illinois is meeting the measures that count more – the measures for due dates actually made. (SBC Ex. 2.2 (Ehr Surrebuttal) ¶ 21.)

Ordering: Timeliness of Completion Notices

918. Upon completing a CLEC order, SBC Illinois sends the requesting carrier an electronic completion notice (also known as a "service order completion" or "SOC"). SBC Illinois measures the speed of issuing completion notices (i) from the time that the physical work of provisioning is complete (PM 7.1), and (ii) from the time the order is marked as complete in SBC Illinois' ordering systems, which occurs shortly after work is done (PMs 7 & 8). The standard for PM 7.1 states that 99 percent of completion notices are to be issued within 24 hours of finishing physical work, while PM 7 specifies that 99 percent of completion notices are to be issued within an hour of completion in the electronic ordering systems. (SBC Ex. 2.0 (1/17/03 Ehr Aff.) ¶ 75 & Att. E at 6-7.)

919. Even at high volumes, SBC Illinois provides the vast majority of completion notices on a timely basis. Of the over 475,000 completion notices issued from September – November 2002, SBC Illinois issued over 97.6 percent within an hour of completion in the ordering systems, and over 96.7 percent within 24 hours of completing physical work. (Id. Att. E at 6-7.) On average, completion notices were issued within approximately 20 minutes. (Id. ¶ 76.) SBC Illinois met the benchmarks for PM 7 (which states that 99 percent of completion notices are to be issued within an hour of completion in the ordering systems) in the two latest months; while SBC Illinois missed these benchmarks in September, its performance was still above 92 percent in all categories. (Id. ¶ 77 & Att. E at 6-7.) For resale, unbundled loops, and UNE combinations (which collectively comprise the vast majority of orders), SBC Illinois issued over 97 percent of completion notices within 24 hours of work completion in each month. (Id. ¶¶ 77-78.)

920. BearingPoint independently tested SBC Illinois' completion notices by submitting over 900 test orders and reviewing the resulting completion notices. Approximately 83 percent were returned within 24 hours of the completion of work, leading BearingPoint to classify this test as not satisfied (TVV 1-29). However, if one were to stop the clock for normal system downtime (during which SBC Illinois conducts maintenance on its systems), the percentage within 24 hours would increase to 92.7 percent. (SBC Ex. 1.0 (1/17/03 Cottrell Aff.) ¶ 46.)

921. Although the results of commercial performance and the OSS test were high, Staff points out that they were still short of the applicable benchmarks. (Staff Ex. 31.0 (Weber) ¶¶ 32, 130.) SBC Illinois has identified and undertaken action steps it believes will improve its performance in this area and anticipates verification of this improvement by Bearing Point through a review of commercial activity. Thus, the remaining question here is whether the current shortfalls in performance are significant enough to warrant *more* action or to affect overall checklist compliance. The answer is no. While short of the current benchmark of 99 percent within 24 hours, SBC Illinois' service order completion ("SOC") timeliness was still consistently above 97%, averaging 98.25% over the study period for the Resale, UNE and Combinations submeasures of PM 7.1, which comprise over 98% of all SOCs reported for those three months. Going forward, the CLECs have agreed that 97% is an appropriate benchmark. For present purposes, the shortfalls are not material, and further improvements to meet a 99% benchmark are not necessary given that the benchmark will not exist by the time the improvements are implemented. (SBC Ex. 1.2 (Ehr Surrebuttal) ¶ 22.) And given commercial performance results of over 97 percent, the results of BearingPoint's test do not affect overall compliance.

922. SBC Illinois also responds to WorldCom's claim that its Service Order Completion ("SOC") notices are routinely missing. SBC Illinois stated that the LSC works closely with WorldCom to locate the cause of any notification (i.e. FOC, SOC or reject) which WorldCom claims it has received or not received in error. In response to WorldCom's contentions in this proceeding, SBC Illinois states that it has reviewed the data that WorldCom had provided to date in the business-to-business context and that none of this documentation indicates that SBC Illinois routinely failed to provide WorldCom with cancellations or any other notifications. In fact, SBC Illinois contends that WorldCom's own data demonstrate that its overall error rate is extremely low and indicates excellent performance. (SBC Ex. 9.0 (Brown Phase II Rebuttal Aff.) ¶¶ 17-19; SBC Ex. 9.1 (Brown Phase II Surrebuttal Aff.) ¶¶ 13).

Ordering: Validity of Completion Notices

923. Forte complains that it receives completion notices from SBC Illinois when the customer does not have dial tone. (Forte Affidavit (Waterloo) ¶¶ 11-13.) SBC Illinois witness Muhs responds by presenting overall data as to the rate of trouble reports that occur within 30 days of installation. For Forte, the average results posted for the months of November, December and January (2002-2003) for residential UNE-P (with fieldwork) and residential UNE-P (no field work) show that the rate of installation trouble reports on Forte installations was superior to that for SBC Illinois' own retail operations. SBC Illinois adds that the Company has programs in place to minimize the provisioning issue Forte raises. (SBC Ex. 6.2 (Muhs Surrebuttal) ¶¶ 2-7.)

924. SBC Illinois also responds to WorldCom's complaint that it has transmitted completion notices on some orders that had not actually been completed, causing the customer to be double billed. SBC Illinois provides SOC data for the months of September through January showing that the error rate was 0.005% for all CLECs and that it was extremely low for WorldCom as well. SBC Illinois further explained that, when SBC Midwest systems identify PONs on which it appears a SOC might have been sent in error, those PONS fall to a "safety net" report for LSC investigation. If the LSC determines the SOC was sent in error, SBC Illinois states that it generates a spreadsheet that provides the PON number and other detail, including a brief synopsis of what lead to the erroneous completion, to the to the affected CLEC. (SBC Ex. 9.0 (Brown Phase II Rebuttal Aff.) ¶¶ 21-24).

925. With regard to WorldCom's contention that it should not receive notification that the SOC was sent in error though e-mail, but rather through a Line Loss Notice ("LLN"), SBC Illinois states that a LLN is not appropriate here, because the customer was never WorldCom's in the first place and has not been "lost". SBC Illinois recommends that WorldCom present a proposal to use the LLN format for incorrect SOC notifications at the next Change Management meeting, where the issue could be explored on an industry-wide basis. (SBC Ex. 9.0 (Brown Phase II Rebuttal Aff.) ¶ 24; SBC Ex. 9.1 (Brown Phase II Surrebuttal Aff.) ¶ 5). Again, however, SBC Illinois reiterates that the volume of orders at issue is small.

926. Finally, SBC Illinois disputes WorldCom's concern that these erroneous SOCs are not reflected in SBC Illinois' performance measures. Given the extremely small number of incorrect SOCs that are issued, SBC Illinois states that it is unlikely that they would have any impact on the performance measures. Using five-state September-January data and assuming that all of the missing SOCs were considered "misses" for purposes of PM 7.1, the impact would be statistically insignificant. (SBC Ex. 9.1 (Brown Phase II Surrebuttal Aff.) ¶ 6).

Ordering: Post To Bill ("PTB") Notifications

927. The PTB notification provides CLECs with notice that the SBC Midwest billing database has been updated based on a given LSR request. The PTB notice is a recent development resulting from POR CLEC collaborative sessions, and was first implemented with LSOG 5 (April 2002 in the SBC Midwest region). AT&T complains that SBC failed to send PTB notices to CLECs submitting orders via LSOG 5.0x. (AT&T Ex. 3.0 (DeYoung/Willard) ¶¶ 76-85.) On January 29, 2003 the Company notified CLECs of the root cause of the problem and its resolution, and offered to re-flow the PTB notifications via a process developed for this purpose. AT&T does not dispute any of these facts. Rather, AT&T objects to using the "CSR query" process Mr. Cottrell described as a temporary alternative to determine when the Company's billing database has been updated to reflect an AT&T LSR request. AT&T implies that the Company proposed this as a permanent solution, but it did not. SBC Illinois states that it merely pointed out that AT&T had a convenient, well-established process available to it to mitigate any impact from the temporary lack of PTB notices. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 55-57.)

Ordering: LSOG5 Testing

928. AT&T claims that BearingPoint's testing should have included the LSOG5 interface. AT&T Ex. 1.0 (Connolly) ¶¶ 213-214. SBC Illinois responds that when BearingPoint began testing, the most recent version of SBC Illinois' order and pre-order interfaces was based on version 4 of the industry standard Local Service Ordering Guide ("LSOG4"). LSOG 4 was therefore, quite logically, chosen as the version to be tested throughout the duration of the test. Further, SBC Illinois contends that while BearingPoint did not *formally* test LSOG 5, it has submitted test transactions over the LSOG 5 GUI since April 2002, and that BearingPoint tested the agreed Change Management Process pursuant to which LSOG 5 was implemented. Third, SBC Illinois points out that its LSOG 5 interface is identical to the one used in California, where the FCC granted section 271 approval and expressly rejected AT&T's argument that LSOG 5 was not tested. California 271 Order, ¶ 79 ("We also dismiss AT&T's assertions that the third-party test failed to show operational readiness because it did not include testing of the LSOG 5 version of the interface."). As the FCC has explained, "OSS functionalities are constantly evolving, and BOCs should not be penalized because substantially improved functionalities come on-line near the conclusion of the testing or after testing has already concluded." (Id.)

Ordering: Features Superceded Under LSOG 5

929. CIMCO wants LSOG 5 to be changed to incorporate a feature that was present in LSOG 4 – ordering "placeholders". SBC Illinois responds that the specifications for LSOG 5 were developed and finalized almost a year ago through the Change Management Process with full industry participation. The industry has long ago resolved the issue of what features to include in LSOG 5 and CIMCO should not be allowed to use this 271 process as a forum to re-open that settled issue. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶ 66; SBC Ex. 1.3 (3/17/03 Cottrell Surrebuttal) ¶ 38.)

Ordering: Format of Telephone Numbers

930. Forte complains that SBC Illinois sends invalidly-formatted telephone numbers on certain records. Forte Affidavit (Waterloo) pp. 6-8. The Company explains that this issue was identified by BearingPoint as Observation 700 and was fixed by SBC Midwest on January 30, 2003. SBC Illinois notes that while Forte provides examples of individual orders affected by the issue, all of the examples are from *before* the fix date of January 30, 2003. More importantly, SBC Illinois advises, BearingPoint reported on February 25, 2003 that it had retested Observation 700 successfully, and this Observation was closed on March 4, 2003. (SBC Ex. 1.3 (3/17/03 Cottrell Surrebuttal) ¶ 39.)

Ordering: Flow-through

931. Flow-through relates to one step in the overall ordering and provisioning process: the translation of orders from the interface format to the format used by SBC Illinois' downstream systems. The FCC has made clear that flow-through data "are not so much an end in themselves, but rather are a tool used to indicate a wide range of possible deficiencies in a BOC's OSS." New York 271 Order, ¶ 162. Thus, a BOC's "overall ability to return timely order confirmation and rejection notices, accurately process manually handled orders, and scale

its systems is more relevant and probative for analyzing [its] ability to provide access to its ordering functions than a simple flow-through analysis." Id.

932. PM 13 measures flow-through as a percentage of orders that are designed or "eligible" to flow through. SBC Illinois explains that not all orders are designed to flow-through; by design, some orders (such as complex orders) are designed to require manual intervention. Thus, PM 13 shows whether the orders that are designed to flow through are, in fact, flowing through as intended. The FCC refers to this measure as "achieved" flow-through, and it has said that this is the "primary" measure of flow-through that it considers. New Jersey 271 Order, ¶ 32 ("We generally find the achieved flow-through measure is the most indicative of the BOC's ability to electronically process orders.").

933. SBC Illinois' commercial performance results show that it flowed through 95.56% of orders designed to flow through, and SBC Illinois informs that the rate is superior to that provided by other BOCs whose section 271 applications have been approved. While acknowledging that the rates were slightly below the parity standard, SBC Illinois states that the differences were not material, and attributable to the fact that the current parity standard requires comparison of dissimilar processes. SBC Illinois explains that wholesale orders are processed through interfaces prior to reaching the common point where service orders are generated for both types of orders (wholesale and retail).

934. BearingPoint found that SBC Illinois' flow-through documentation is clear, accurate and complete. and its testing showed that orders designed to flow through did flow through, at rates of 99.5 percent (for UNE-P orders), 97.9 percent (for unbundled loop orders), 99.1 percent (for local number portability ("LNP") orders), and 95 percent (for resale orders). SBC Illinois' flow-through results satisfied all five of the test criteria. Further, BearingPoint found that SBC Illinois' process for manual input of orders that do not flow through are well defined and comparable to retail. SBC Illinois' manual order processes satisfied all seven test criteria.

935. A second performance measure, PM 13.1, measures flow-through as a percentage of *all* orders, even those that are not designed to flow through. SBC Illinois states that its results on this measure were high (consistently above eighty percent for the highest volume category, UNE-P, and consistently above 76% across all categories combined). SBC Illinois adds that it met the requirements of the 24 Month Performance Plan negotiated with the CLECs. Specifically, SBC Illinois states that it implemented nine enhancements during 2002, and plans at least eight more enhancements in the coming year.

936. While AT&T states that SBC Illinois "missed" on flow-through, it provides no further analysis. AT&T Ex. 1.0 (Connolly Aff.) ¶ 161. By contrast, Staff does not include "flow-through" among its "Key PMs requiring improvement."

Provisioning

937. SBC Illinois' commercial performance results for provisioning the various checklist items are discussed in conjunction with those checklist items. In short, the various

performance measures address both the timeliness and reliability of provisioning. The principal measures of timeliness are the rate of missed due dates, the period of delay ("delay days") for any due dates that are missed, and the average installation interval. (SBC Ex. 2.0 (1/17/03 Ehr Aff.) ¶ 99.) The principal measure of reliability is the rate of "trouble" reported within 30 days of installation (also known as "installation trouble reports"), id., which the FCC has found probative in past section 271 orders. New York 271 Order, ¶ 222.

938. SBC Illinois also computes a measure of "provisioning accuracy" (PM 12-01) which compares the features ordered on the LSR submitted through a mechanized interface and provisioned, to the copy of the order that updates the billing system. SBC Illinois achieved parity in each month of the study period for that measure, with an accuracy rate on CLEC orders of 97.36% (compared to 94.51% for SBC Illinois' retail operations). (SBC Ex. 2.0 (1/17/03 Ehr Aff.) ¶ 83.)

939. In the OSS test, SBC Illinois satisfied 23 of 24 criteria tested.[44] The remaining test criterion, related to customer record updates, was found "Not Satisfied" and is addressed at paragraph 25 of the 1/17/03 Cottrell Affidavit and paragraph 7-11 of the Cottrell Rebuttal Affidavit. BearingPoint performed an extensive review of actual provisioning transactions, including loop cutovers. BearingPoint determined that SBC Illinois provisions orders consistent with documented methods and procedures, on the due date, and in an accurate manner. (SBC Ex. 1.0 (1/17/03 Cottrell Aff.) ¶ 54.) BearingPoint also determined that SBC Illinois did not disconnect the end user from its previous network, or remove the "switch translations" (which are used to direct incoming and outgoing calls to and from the end user's line) before the scheduled time of the cut. Id. ¶ 56.)

940. WorldCom complains generally that SBC Illinois' provisioning is unreliable, and it contends that the "provisioning accuracy" performance measure described above is inaccurate. (Instead of computing the accuracy rate for all orders, WorldCom wants to measure only those that involved manual intervention.) (WorldCom Ex. 6.0 (Kinard), ¶ 52.) To the extent WorldCom wants to modify the agreed business rule, its request should go to the normal collaborative process for such changes. (SBC Ex. 2.2 (3/3/03 Ehr Rebuttal) ¶ 30.) To the extent WorldCom contests checklist compliance, its complaints are insufficient.

941. Responding to WorldCom's claim that "BearingPoint determined that SBC provisions orders accurately only 92% of the time" (WorldCom Ex. 3.3 (Lichtenberg) ¶ 40), SBC Illinois states that BearingPoint's determination related to the test of customer service records ("CSR") – not provisioning accuracy. On CSR accuracy, BearingPoint determined that SBC Illinois updated CSRs accurately 92.8% of the time. As part of its response to Staff's OSS concerns, the Company has committed to address the CSR issue and have it verified by BearingPoint. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶ 68.)

942. SBC Illinois notes that aside from WorldCom's inaccurate reference to the BearingPoint test, WorldCom fails to provide evidence to substantiate or quantify its claims of

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[44] Five test criteria associated with dark fiber and Enhanced Extended Loop (EEL) installations were found "Indeterminate" due to a lack of commercial activity. (SBC Ex. 1.0 (1/17/03 Cottrell Aff.) ¶ 54.)

inaccurate provisioning, and it fails to overcome the successful results of the OSS test and SBC Illinois' successful results on the primary measures of provisioning accuracy (installation trouble reports). See New York 271 Order, ¶ 174 (finding installation trouble reports more probative than a service order accuracy metric).

Repair and Maintenance

943. As with provisioning, SBC Illinois' commercial performance results for maintenance of the various checklist items are discussed in conjunction with those checklist items. Generally, the principal measures of timeliness are the rate of missed commitments, the percentage of troubles cleared within a specified interval, and the average repair interval. The principal measure of reliability is the rate of "trouble" reported within 30 days of repair (also known as "repeat trouble reports"). (SBC Ex. 2.0 (1/17/03 Ehr Aff.) ¶ 99.)

944. BearingPoint conducted three comprehensive "end to end" reviews of SBC Illinois' procedures and performance for maintenance of wholesale and retail facilities: a transactional test of maintenance and repair functions, along with two transactional tests of the electronic interfaces that SBC Illinois offers to CLECs for maintenance functions. SBC Illinois satisfied 62 out of 63 test criteria, or 98.4 percent. (SBC Ex. 1.0 (1/17/03 Cottrell Aff.) ¶ 61.)[45] Specifically, BearingPoint found that resale, UNE-P and loop trouble reports were processed with an on-time success rate equal to BearingPoint's test benchmark. (Id. ¶ 65.) In addition, the mean time to repair also met BearingPoint's test benchmark for all product types. (Id.) BearingPoint also found that SBC Illinois accurately identified and repaired troubles for resale, UNE-P, loops and special circuits. (Id.) The sole "Not Satisfied" test point related to the "closeout" codes assigned to special circuit troubles (note that BearingPoint successfully tested codes for resale, UNE-P, and loops). (Id.) SBC Illinois has taken additional action in that area, accordingly contends that the issue does not affect overall compliance. (SBC Ex. 1.0 (1/17/03 Cottrell Aff.) ¶¶ 66-71; SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 7-11.)

Completion Notices: Maintenance (Performance Measure MI-14)

945. Performance Measure MI-14 relates to SBC Illinois' performance in delivering completion notices after performing maintenance work on lines that already "belong" to the CLEC. SBC Illinois informs, and Staff agrees, this is separate and apart from the measures for completion notices on new installations.

946. While Staff includes this measure among Staff's "Key PMs for Improvement," SBC Illinois states it has already taken steps in the normal course of business to improve performance. SBC Illinois explains that the principal source of the delays in notices was the fax process used for sending notices for trouble tickets that were submitted manually (CLECs that submit trouble tickets electronically receive notice of maintenance work via the applicable interface). Effective February 1, 2003, SBC Illinois is no longer sending manual notices by fax

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[45] An additional 18 test criteria (associated with volume testing) are included as part of the Maintenance and Repair domain in BearingPoint's summary of test results. Id. ¶ 61 n.37. The results of that test are addressed at paragraphs 49-50 of the 1/17/03 Cottrell Affidavit.

but by posting them to a web site. The new process was established by agreement with the CLECs in the CLEC User Forum.

947. Staff acknowledges this change, and does not object to its substance. The only remaining issue appears to be that at the time of the testimony Staff has not yet had the chance to observe the results. SBC Illinois contends, however, that even the September – November shortfalls in this measure are not sufficient to affect checklist compliance. First, SBC Illinois explains, this measure does not affect service or the actual work of maintenance. The trouble tickets captured by PM MI 14 have been cleared already, and service is working. Further, SBC Illinois states that while it did not achieve the 95 percent benchmarks, SBC Illinois still issued over 83 percent of maintenance notices within the interval specified by the performance standard, and the percentage did not fall below 74 percent in any category in the three-month study period.

Billing

Billing: Timeliness

948. SBC Illinois provides usage information to CLECs for use in billing end users, and it issues wholesale bills to CLECs for the various products and services it provides them. There is no dispute as to the timeliness of usage or billing information. For the three-month study period, SBC Illinois issued *all* wholesale bills, and 99.69 percent of daily usage feeds, on time. (SBC Ex. 2.0 (1/17/03 Ehr Aff.) ¶ 88.)

949. The sole issue with respect to reported performance results relates to Performance Measure 17, which addresses the rate at which service orders post to billing. SBC Illinois states that the applicable standard calls for SBC Illinois to measure the percentage of orders posted within 20 bill cycles, roughly 30 days. However, SBC Illinois advises that its reported results on billing completion reflect assessment against a higher standard: the percent of orders posting to billing within one bill cycle. Even so, SBC Illinois states, the percentage of wholesale orders posted within *one* cycle is very high (96.6% in September, 94% in October, and 91.55% in November). SBC Illinois adds that for the few orders that are not posted to billing prior to the first bill cycle for the account after the order completes in the ordering systems, there is no impact on a CLEC's ability to bill their end-customers. The SOC notice provides confirmation to the CLEC that the order is complete and the service is in place to their customer. Given (i) that over 90 percent of orders are posted much more quickly than the objective defined in the PM 17 business rule, and (ii) the fact that posting does not affect the CLEC's ability to bill end users, SBC Illinois concludes that the shortfall in performance cited by Staff is not material to checklist compliance. Further, SBC Illinois contends that that no formal improvement plan is necessary, because as a result of the recently-completed six-month review collaborative, this measure will soon be revised.

Billing: Accuracy

950. BearingPoint conducted an extensive test of billing accuracy. It analyzed approximately 2,200 rates appearing on carrier bills, including recurring and non-recurring charges for UNE-P, unbundled loops and resale, and verified that they were consistent with applicable tariffs and/or contract rates. (SBC Ex. 1.0 (1/17/03 Cottrell Aff.) ¶ 80). The accuracy rate met or exceeded BearingPoint's 95 percent benchmark in all six test categories, and the overall accuracy was 99.5 percent. (Id.) To test usage-based charges, BearingPoint made "test calls" and verified that SBC Illinois properly billed all the applicable normal and special usage charges and operator surcharges in accordance with business rules, tariffs, and/or contractual terms. (Id.) BearingPoint then tested 54 carrier bills (comprised of UNE-P, unbundled loops, and resale) and verified that every single calculation, total, and cross-total was correct. (Id.)

951. In addition, the performance results of SBC Illinois' own audits of wholesale bills are also positive. There were no errors in the resale bills tested, SBC Illinois met the applicable parity standard in all three months for UNEs, and the sole shortfall (relating to resale usage) was small. (SBC Ex. 2.0 (1/17/03 Ehr Aff.) ¶ 86.)

952. WorldCom (WorldCom Ex. 3.3 (Lichtenberg Aff.) ¶¶ 12-13), McLeodUSA, and Forte assert that some of the charges on their bills are either inappropriate or are assessed at the wrong rate. AT&T asserts generally that their bills are inaccurate. SBC Illinois responds that it does provide CLECs with accurate, timely and auditable billing and usage information in compliance with the requirements of the Act. SBC Illinois contended that the billing issues raised by the CLECs involved either a limited number of products, isolated circumstances or one-time system changes that do not demonstrate any systemic problems with SBC Illinois' billing OSS. SBC Illinois stated that most of the billing problems cited by the CLECs resulted from human error, not system defects. (SBC Ex. 10.1 (Cottrell/Kagan Phase II Surrebuttal Aff.) ¶¶ 3, 6; SBC Ex. 7.2 (Silver Phase II Surrebuttal Aff.), ¶ 7).

953. SBC Illinois further stated that it is important to put these comments into context. SBC Illinois explained that the five-state SBC Midwest billing OSS processes and procedures are exceedingly complex and involve extremely large commercial billing volumes. SBC Illinois pointed out that SBC Midwest's Carrier Access Billing System ("CABS") bills more than $3 billion a year, and generates more than 6,000 CLEC bills for a variety of UNE and interconnection products. Every month, SBC Illinois stated, CABS processes more than 4 billion usage records, including more than 1 billion UNE-P CLEC usage records; and its Resale Billing System generates bills for more than 480 CLECs and processes more than 5 million usage records. SBC Illinois pointed out that approximately 220,000 rate table updates have been completed the five-state region, including price schedule work, updates to support access products, tariff rate changes, and rate updates to support the implementation of new products; more than 150,000 of these rate table updates were made to support CLEC billing in CABS. (SBC Ex. 10.1 (Cottrell/Kagan Phase II Rebuttal Aff.), ¶ 4).

954. Given the complexity of these billing systems, processes and procedures and the substantial commercial billing volumes handled by SBC Midwest, SBC Illinois stated that occasionally there will be billing discrepancies that need to be reviewed and, if appropriate, corrected. SBC Illinois pointed out that the FCC has consistently recognized that "…as a

practical matter . . . high-volume carrier-to-carrier commercial billing cannot always be perfectly accurate" (New Jersey 271 Order, ¶ 126; California 271 Order, ¶ 92). (SBC Ex. 10.1 (Cottrell/Kagan Phase II Surrebuttal Aff., ¶ 4.)

Billing Issues Related To The Une-P

955. SBC Illinois responded that most of the billing issues raised by CLECs filing Phase II affidavits concerned certain charges they are assessed by SBC Illinois for the UNE-P. In response to the CLECs' comments, SBC Illinois stated that it undertook a detailed analysis of the applicable interconnection agreements ("ICAs"), currently effective tariffs and rates that the CLECs are being charged for the UNE-P. This analysis was required because the rates to be charged may vary on a CLEC-by-CLEC basis, depending on the terms of its ICA. (SBC Ex. 3.1 (Alexander Phase I Compliance Rebuttal Aff.), ¶¶ 8-10; SBC Ex. 7.2 (Silver Phase II Surrebuttal Aff.), ¶ 3).

956. SBC Illinois stated that it had confirmed that there were several sources for the UNE-P billing issues raised by the CLECs. First, SBC Illinois explained that Commission-ordered changes in SBC Illinois' tariff rates do not automatically flow through to billing under a CLEC's interconnection agreement unless the agreement incorporates tariffed rates by reference or specifically provides that the contract rates are to be adjusted automatically to effectively duplicate the tariffed rates as such rates may change from time to time. In some instances, CLECs complaining that they were not billed rates ordered by the Commission had not requested an amendment to incorporate those ordered tariff changes into their contract rates. (SBC Ex. 7.2 (Silver Phase II Surrebuttal Aff.), ¶ 4).

957. In some cases, moreover, despite having an interconnection agreement, CLECs are permitted to take UNE-P services under tariff instead of under contract. SBC Illinois explained that this situation has caused considerable confusion, because there is no notification requirement in place today. As a result, if the CLEC did not submit any formal written notice to SBC Illinois' account management personnel that it was, in fact, taking service out of the tariff, SBC Illinois' systems applied the CLEC's currently effective contract rates instead. (SBC Ex. 7.2 (Silver Phase II Surrebuttal Aff.), ¶¶ 4-5). SBC Illinois explained that this situation was further complicated by the fact that a number of CLECs in Illinois operate under old, circa 1997, interconnection agreements that contain some, but not all, of the UNE products that SBC Illinois offers today. For example, SBC Illinois explained that, while most older ICAs contain recurring rates for unbundled loops and unbundled switch ports and their associated NRCs, they do not have the version of shared transport required for the UNE-P or the NRC levels established by the Commission specifically for UNE combinations like the UNE-P. SBC Illinois contended that the mixed contract/tariff scenarios that can occur under older agreements inevitably produce the potential for misunderstandings and mistakes. (SBC Ex. 7.2 (Silver Phase II Surrebuttal Aff.), ¶ 6).

958. Finally, the Company acknowledged that, in some cases, errors had been made in the rate tables under which the CLECs are billed. SBC Illinois explained that its billing systems were accurately billing the rates loaded in the ICA contract and tariff rate tables (i.e., the billing correctly reflected the loaded rates), but that confusion over whether any given CLEC was taking service under its contract or the tariff, and over whether and when any given CLEC's contract

rates should be updated to conform to tariff rates, had caused manual errors in loading the rate tables. SBC Illinois stated that the frequency of UNE rate changes in Illinois over the last 18 months in Dockets 98-0396 and 00-0700 exacerbated this situation greatly and that it was this subset of UNE-P rates (i.e., the ULS port rate established by the Commission in 2002 in Docket No. 00-0700 and the service ordering and line connection NRCs established in October of 2001 and April of 2002 in Docket No. 98-0396) that were the source of virtually all the billing problems. (SBC Ex. 7.2 (Silver Phase II Surrebuttal Aff.), ¶¶ 7-8).

959. In addition, and separate from these issues, SBC Illinois acknowledged that certain NRCs had been applied in error to UNE-P orders, in part when orders were manually processed and in part due to an isolated systems error in late December of 2002 and early January of 2003. (SBC Ex. 10.1 (Cottrell/Kagan Phase II Surrebuttal Aff.), ¶ 8; SBC Ex. 7.2 (Silver Phase II Surrebuttal Aff.), ¶ 8).

960. SBC Illinois separately addressed the UNE-P billing issues raised by each CLEC in this proceeding. With respect to AT&T, SBC Illinois stated that AT&T had properly updated its 1997 ICA to include the form of shared transport required to provide the UNE-P (its original agreement did not contain this product), to ensure that its contract rates for UNE-Ps (both recurring and NRCs) would be the same as tariff rates. However, SBC Illinois acknowledged that the monthly recurring port charge and the Daily Use Feed ("DUF") charges adopted in Docket No. 00-0700, and the NRCs adopted in Docket No. 98-0396 had not been updated in AT&T's billing tables. SBC Illinois further stated that AT&T's billing tables have now been updated and most of the credits for past periods are being issued in AT&T's March bills. SBC Illinois stated that it will work with AT&T to address the remaining credits. SBC Ex. 7.2 (Silver Phase II Surrebuttal Aff.), ¶¶ 10-12).

961. SBC Illinois contended, however, that Z-Tel's claims of improper billing rest in part on Z-Tel's misinterpretation of its own contract. SBC Illinois disputed Z-Tel's contention that SBC Illinois is required to automatically and retroactively apply any Commission-ordered change in UNE rates to all CLECs, even those taking service under interconnection agreements. SBC Illinois stated that both SBC Illinois and CLECs are required to abide by the terms of any ICA they enter into, including the provisions involving pricing. SBC Illinois explained that, unless the ICA itself specifies that Commission-ordered rate changes automatically flow through to the prices agreed to by the parties, either SBC Illinois or the CLEC must request an amendment to conform contract prices to tariffed prices. SBC Illinois stated that there would be little point to including pricing appendices in an ICA if they had as little legal effect as Z-Tel suggested.

962. Furthermore, SBC Illinois explained that Z-Tel's ICA does not allow it to take service under tariff at will. (SBC Ex. 3.1 (Alexander Phase I Compliance and Phase II Rebuttal Aff.), ¶ 18; SBC Ex. 7.2 (Silver Phase II Surrebuttal Aff.), ¶¶ 13-15). Specifically, SBC Illinois explained that Z-Tel is being properly charged the pre-Docket 00-0700 rate for ULS-ST ports because its ICA contains substantive terms and conditions for ULS-ST, including a rate appendix that specifically identified the applicable charges. SBC Illinois noted that Z-Tel had been advised on several occasions that it needs to take formal action to update its pricing table to incorporate the rates for ULS-ST that came out of Docket No. 00-0700, and, to date, Z-Tel has not done so. SBC Ex. 7.2 (Silver Phase II Surrebuttal Aff.), ¶ 16). With respect to the

nonrecurring service order and line connection charges for UNE-Ps, SBC Illinois stated that, although Z-Tel is also being billed at the rates specified in its ICA, the Company has concluded that it would be more appropriate to bill Z-Tel the NRCs found in its tariff because there are gaps for these products in Z-Tel's ICA. SBC Illinois committed to update Z-Tel's billing tables to conform the non-recurring rates for both new and migration UNE-P service orders to the tariffed rates and work with Z-Tel relative to credits for past NRC billing, where appropriate. SBC Ex. 7.2 (Silver Phase II Surrebuttal Aff.), ¶ 17).

963. With respect to WorldCom, SBC Illinois agreed that WorldCom had been charged recurring ULS-ST port and certain NRC rate elements in error. Because of gaps in its ICA, SBC Illinois agreed that WorldCom should be charged tariffed rates for the ULS-ST port charge and the NRCs. SBC Illinois also committed to update WorldCom's contract rate tables and work with WorldCom relative to credits. SBC Ex. 7.2 (Silver Phase II Surrebuttal Aff.), ¶ 18). SBC Illinois further pointed out, however, that the difficulties experienced by WorldCom stemmed in large part from the fact that its interconnection agreement became effective in 1997, has not been changed since 1998, and expired altogether in 2000. SBC Illinois stated that it has approached WorldCom on numerous occasions since then, asking to enter into negotiations for a successor agreement and/or amendments that would reflect SBC Illinois' current product offerings and rates and WorldCom has consistently refused. Contrary to WorldCom's suggestion in its initial affidavit, SBC Illinois stated that it had confirmed that most of the other USOCs referred to by WorldCom are being billed correctly. SBC Ex. 7.2 (Silver Phase II Surrebuttal Aff.), ¶¶ 19-23).

964. With respect to Forte Communications, SBC Illinois stated that its situation was very similar to WorldCom's. SBC Illinois explained that Forte's ICA dates from 1998, has never been amended, and does not contain the shared transport offering required for the UNE-P. As a result, SBC Illinois explained, while Forte has been charged its contract rates for the ULS port and the NRCs, it should have been billed under tariff. SBC Illinois pointed out that it was never formally advised by Forte that it was taking service under tariff. SBC Illinois committed to update Forte's rate tables and work with Forte to address credits for past periods. (SBC Ex. 7.2 (Silver Phase II Surrebuttal Aff.), ¶ 24).

965. SBC Illinois also responded to WorldCom's contentions that certain non-recurring UNE-P rates were charged in error. SBC Illinois also explained that rate application errors could also result from errors made by service representatives processing UNE-P orders manually. However, according to SBC Illinois' analysis, these errors affected an extremely small percentage of WorldCom's UNE-P orders. SBC Illinois further stated that, while it strives to eliminate human error, errors will occur with any manual process. Therefore, contends the Company, when CLECs discover this type of error, they should contact the LSC billing team, which will work with CLECs on a business-to-business basis. (SBC Ex. 9.1 (Brown Phase II Surrebuttal Aff.), ¶¶ 14-15).

966. SBC Illinois also acknowledged that there was a systems problem for a limited period of time in late December 2002 and early January 2003 that caused certain erroneous non-recurring charges to be placed on UNE-P orders. This programming error was corrected on January 9, 2003. SBC Illinois further stated that this USOC application correction was validated by test orders issued through the Illinois order system. (SBC Ex. 10.2 (Cottrell/Kagan Phase II Surrebuttal Aff.), ¶ 8).

967. Based on its investigation of the UNE-P billing issues for these specific CLECs, SBC Illinois stated that it has already initiated a review of all CLEC billing in Illinois. SBC Illinois explained that the same billing problems identified by the CLECs participating in this proceeding will likely have affected other carriers with older contracts that present the same contract/tariff issues.

968. Beyond working with all affected CLECs to correct bill tables and issue credits as appropriate, SBC Illinois proposed to implement process and procedure improvements to keep CLEC contracts up to date and to better document and administer CLEC decisions to order out of contract or tariff, where such an option is available. SBC Illinois stated that this will require action on the part of both the CLECs and SBC Illinois. (SBC Ex. 7.2 (Silver Phase II Surrebuttal Aff.), ¶ 27).

969. First, SBC Illinois stated that it would offer CLECs an ICA amendment that will effectively tie UNE-P loop, switching and shared transport rates, as well as other charges related to the UNE-P, in the CLEC's ICA to tariffed rates. SBC Illinois expects that all CLECs that want to take advantage of tariffed UNE-P rates to execute this amendment, so that there will be no rate confusion going forward for either the CLEC or SBC Illinois. The amendment will also have the effect of ensuring that the rates for the CLEC's UNE-P purchases will reflect the tariffed rates, as those rates change from time to time. For any CLECs that choose not to execute it, the Company stated that it will assume that contract rates should apply absent a contract amendment. (SBC Ex. 3.0 (Alexander Phase I Compliance Aff.), ¶ 17; SBC Ex. 7.2 Silver Phase II Surrebuttal Aff.), ¶ 27).

970. Second, SBC Illinois stated that it will contact those CLECs with contracts that preceded the Commission's orders in the TELRIC Compliance docket (Docket No. 98-0396) and the ULS-ST docket (Docket No. 00-0700) to amend their contracts to incorporate all of SBC Illinois' current UNE products and current prices. In this process, SBC Illinois will ask the CLECs to include contract provisions that clearly state whether UNE-P rate changes ordered by the Commission should automatically be incorporated into the CLEC's contract rate tables, or whether the CLEC must request an amendment to incorporate those changes. (SBC Ex. 7.2 (Silver Phase II Surrebuttal Aff.), ¶ 28).

971. Third, SBC Illinois stated that it will amend its tariffs that permit eligible CLECs with ICAs to take service out of the tariff to submit a written notice to that effect so that everything is clear and a writing exists that can be associated with the CLEC's contract file. SBC Illinois explained that that direction would apply unless a CLEC provides subsequent notice to the contrary. According to SBC Illinois, existing tariffs that would be affected are the UNE-P tariff (ICC 20, Part 19, Section 15) that the Company filed to implement Section 13-801 of the Act, the Unbundled Local Switching with Shared Transport tariff (ICC 20, Part 19, Section 21), and General (ICC 20, Part 19, Section 1). Similarly, if SBC Illinois files tariffs with such provisions in the future, SBC Illinois states that they will include the same kind of notice provision. (SBC Ex. 7.2 (Silver Phase II Surrebuttal Aff.), ¶ 29).

972. Fourth, SBC Illinois committed to improve its contract administration processes so that clearer guidelines are established for contract management personnel as to when Commission-ordered tariff changes should be incorporated into a particular CLEC's contract rate

tables. With the issuance of any Commission TELRIC order, SBC Illinois stated that a team composed of regulatory personnel, wholesale product management and wholesale contract management will review the order and determine the impact of the order on CLEC contract rates. (SBC Ex. 7.2 (Silver Phase II Surrebuttal Aff.), ¶ 30).

973. Fifth, SBC Illinois stated that it would continue to work to reduce the incidence of human error when UNE-P orders are manually processed. SBC Illinois stated that it was in the process of clarifying its Method and Procedure (M&P) documents relative to the USOCs which had been applied in error to CLEC UNE-P orders. Once the M&P documents are updated, SBC Illinois stated that it would notify all service representatives that a change has been made to the M&P that required their review. (SBC Ex. 9.1 (Brown Phase II Surrebuttal Aff.), ¶ 16).

974. So that the Commission can monitor SBC Illinois' progress in these regards, SBC Illinois proposed to file reports every other month detailing the steps taken by both the Company and the CLECs to clarify these billing issues. Under SBC Illinois' proposal, these reports would conclude once it has implemented the process improvements. (SBC Ex. 7.2 (Silver Phase II Surrebuttal Aff.), ¶ 31).

Billing And Line Loss Notices

975. SBC Illinois responded to AT&T's contention that the accuracy of its wholesale bills have been affected by the issues associated with the issuance of timely and accurate LLNs. SBC Illinois pointed out that the LLN issue is well under control and that the most recent data shows that SBC Illinois is performing well above the LLN-related benchmark used by BearingPoint in its evaluation. (SBC Ex. 10.1 (Cottrell/Kagan Phase II Surrebuttal Aff.), ¶ 5).

976. SBC Illinois also responded to AT&T's separate complaint that it had been told that SBC Illinois would address LLN-related billing issues as part of a special "data bash" of UNE-P billing records in January 2003 and did not do so. SBC Illinois explained that this reconciliation was a post-implementation, quality assurance validation process to ensure synchronization of the CABS billing and provisioning databases and in no way was related to the LLN process. In an effort to firmly resolve any misunderstanding previously raised by AT&T on this issue, SBC Illinois stated that a letter was sent to AT&T specifically stating that the "data bash" was not related to line loss notices but was the final phase of the UNE-P CABS Billing Conversion Project, a project that was originally initiated by the CLEC community. (SBC Ex. 10.1 (Cottrell/Kagan Phase II Surrebuttal Aff.), ¶ 6). SBC Illinois also stated that AT&T's complaint that SBC Illinois had not provided it with adequate supporting documentation as part of the "data bash" did not present all the facts. SBC Illinois stated that AT&T had been advised that additional documentation would be provided separately and that the OC&C portion of individual bills would give AT&T additional details, including the effective dates, rate change impacts, TN identification, USOC activity and so forth. According to SBC Illinois, this CABS bill data is electronically transmitted and allows AT&T to manipulate the data for its own analysis and report development. SBC Illinois contended that any questions that AT&T may have about this data can and should be addressed through the normal channels of the billing claims process on a business-to-business basis. (SBC Ex. 10.1 (Cottrell/Kagan Phase II Surrebuttal Aff.), ¶ 7).

Other Billing Issues

977. SBC Illinois responded to AT&T's contention that SBC Illinois is using the wrong feature code (i.e. repeat dialing) when billing calls associated with the return call feature (AT&T Ex. 5.0 Marin Rebuttal Aff. ¶¶ 4-5). SBC Illinois stated that it has been using the same feature presentation (i.e. EMI 032 & 033) for the repeat dialing and return call features ever since it implemented them. According to SBC Illinois, this coding is well documented in the CLEC Online website under the Daily Usage File user guide. Since a change in feature designations at this juncture would impact all CLECs that have programmed their systems in accordance with this documentation, SBC Illinois argued that any change in the way these two features are coded should be presented to the CLEC community via the CLEC User Forum. (SBC Ex. 10.1 (Cottrell/Kagan Phase II Surrebuttal Aff.), ¶ 9).

978. With respect to toll charges on TDS' reciprocal compensation invoices, SBC Illinois explained that there are certain conditions where a CLEC will be billed reciprocal compensation for toll calls, even if it is not a toll provider. SBC Illinois stated that it had met with TDS on February 18, 2003, and that TDS indicated that it accepted and understood the explanation. (SBC Ex. 10.1 (Cottrell/Kagan Rebuttal Aff.), ¶ 21).

979. With respect to billing TDS for the same circuit twice, SBC Illinois stated that it was only aware of a single instance in Wisconsin where TDS was billed for the same circuit under both a collocation billing account number ("BAN") and an access BAN as a result of moving the circuit from one account number to another. According to SBC Illinois, this error resulted from a special project, an adjustment has already been applied, and the amount in dispute represented only about 0.5% of TDS's total collocation billing over the relevant billing period. With respect to billing TDS for joint SONET facilities, SBC Illinois agreed that TDS was mistakenly charged for some DS3 lines because the Trunk Inventory Record Keeping System ("TIRKS") was not updated to reflect which circuits were part of a joint development arrangement. According to SBC Illinois, the TIRKS database is not part of its billing OSS. SBC Illinois explained that TIRKS has been updated, that it has been working closely with TDS on this issue, and that it expects to close this issue shortly. With respect to certain TDS orders for residential loops that were improperly entered as business loops, SBC Illinois explained that the billing error resulted from an ordering system issue and was resolved as of November 9, 2002. SBC Illinois stated that it would rectify any billing inaccuracies and determine whether any other CLECs were impacted. With respect to incorrect charges for Trouble Isolation and Maintenance ("trip charges"), SBC Illinois stated that this was a result of human error. SBC Illinois reported that training was conducted in November 2002, which resulted in a 90% reduction of such incorrect charges to TDS, and that a system edit was also implemented effective January 2, 2003. With respect to 800 database query database services associated with non-TDS point codes, SBC Illinois determined that out of the 19 point codes in question, 8 belonged to TDS Metrocom, 10 belonged to TDS Telecom, the parent corporation of TDS Metrocom, and the last point code did not belong to either TDS Metrocom or TDS Telecom. SBC Illinois stated that it would work with TDS Metrocom to resolve disputed amounts resulting from this claim. (SBC Ex. 10.1 (Cottrell/Kagan Phase II Rebuttal Aff.), ¶¶ 21-26).

980. SBC Illinois also responded to TDS' claim regarding backbilling. With respect to the situation where TDS was backbilled for 12 months of DA services, this occurred in

Wisconsin because, when DA services were implemented for TDS and processes for setting up the billing account for TDS's Wisconsin DA usage in the LEC Services Billing system (LSB) were not followed. SBC Illinois stated that the processes for ensuring that LSB billing accounts are established prior to a CLEC turning up service were reinforced across the region. With respect to backbilling more than 16 months of Calling Name and Delivery Service (CNDS) usage, SBC Illinois explained that the problem had arisen when SBC Midwest had consolidated all CNAM query usage onto a single platform in December of 2001 and found, beginning with the February 2002 bills, that CNAM billing had dropped across all accounts. SBC Illinois stated that the problem had been corrected in August 2002.

981. With respect to backbilling 800 database queries back to September 2001, SBC Illinois explained that, in 2001, SBC Midwest added capacity to the 800 database query network, which in turn required the establishment of billing system guides. However, SBC Illinois stated that the added capacity was not communicated to all impacted parties and, as a result, CLEC 800 database queries utilizing the new network components were not billed. According to SBC Illinois, this issue has now been resolved. With respect to back billing monthly recurring charges as non-recurring charges for loops, SBC Illinois explained that TDS was back-billed in connection with proactive efforts undertaken by the LSC to make sure that any service order errors not resolved through normal process were investigated and corrected. According to SBC Illinois, the category of orders targeted by this special work effort were very old and had not been resolved by the service representatives either due to lack of knowledge regarding the specific error type, or because reports displaying these errors were not available at the time the error occurred. (SBC Ex. 10.1 (Cottrell/Kagan Phase II Surrebuttal Aff.), ¶¶ 21-32).

982. In response to TDS' contention that it recently received a Non Intercompany Settlement ("NCIS") bill from SBC for charges between June 2001 and January 2003, SBC Illinois explained that the charges are covered by the Hosting Appendix of TDS' Interconnection Agreement (ICA) that was entered into in December 2000. SBC Illinois stated that hosting is not related to the OSS billing processes and, therefore, is not a Section 251 requirement of TA 96. Rather, according to SBC Illinois, Hosting provides billing and settlement services when end user customers travel and use the network of another carrier so that carriers do not have to send bills to casual end users of their networks. According to SBC Illinois, these billing omissions occurred during a period when the Common Ameritech Message Processing System was used on an interim basis to produce reports for the settlement of alternately billed intraLATA intrastate toll and local calls, pending conversion to Telcordia NICS reports. SBC Illinois explained that, as part of the conversion process, it became apparent that records had inadvertently been omitted from the Common Ameritech Message Processing System-based reports. Therefore, when the conversion was completed, backbills were issued for the records that had been omitted from the previous reports. SBC Illinois stated that this was a one-time event and all impacted CLECs were provided written notification of this conversion. SBC Illinois further contended that TDS had been provided source data to justify the additional charges. (SBC Ex. 10.1 (Cottrell/Kagan Phase II Surrebuttal Aff.), ¶¶ 10-13).

Billing Auditability

983. SBC Illinois disputed WorldCom's claims that its wholesale bills cannot be effectively audited because they lack cross-references to applicable tariffs or interconnection

agreements. SBC Illinois stated that its wholesale bills are provided in BOS/BDT industry standard format that follows the guidelines established by the Ordering and Billing Forum. SBC Illinois stated that this is the same industry standard format used in other SBC states, including states where the FCC has reviewed and approved SBC's compliance with the section 271 checklist, including Texas, Kansas, Oklahoma, Missouri, Arkansas and California. According to SBC Illinois, there are substantial resources available from third parties, such as Telcordia, which provide training, documentation and technical support to assist CLECs in understanding their bills. Moreover, SBC Illinois explained that the Multiple Exchange Carrier Access Billing ("MECAB"), an industry guideline produced under the auspices of the Order and Billing forum (OBF), describes call flows and the associated record exchange requirements for end-user and interconnection billing, as well as for bill verification. (SBC Ex. 10.0 (Cottrell/Kagan Phase II Rebuttal Aff.), ¶ 8).

984. SBC Illinois further argued that its wholesale bills contain sufficient information to enable CLECs to audit the accuracy of the charges. SBC Illinois explained that, among other things, line items on the bill contain both the USOC for the particular charge, as well as a short description of the product or service that was ordered by the CLEC. Additionally, SBC Illinois stated that the CABS customer service record includes an English-language Glossary Section that describes USOCs and field identifiers ("FIDs") that appear on the bill. SBC Illinois further pointed out that CLEC Account Teams are available to answer any specific billing questions related to rate elements appearing on a CLEC bill. SBC Illinois also pointed out that it (and other SBC companies in this region) provide CLECs with training classes, documentation, and other resources to assist them in understanding their wholesale bills. SBC Illinois stated that it also offers operational meetings on a weekly and/or monthly basis to discuss any issues or questions that the CLEC may have, including those related to billing. Finally, SBC Illinois argued that BearingPoint had confirmed that Illinois' wholesale bills are clear and auditable. SBC Illinois pointed out that, as part of its OSS test, BearingPoint had tested both SBC Illinois' BOS BDT (for UNEs) format and its resale bills and determined that the bills conform to the detail and format of the BOS or industry specifications. *See BearingPoint Report at p 202, and TVV9-26*, at 785; *BearingPoint Illinois Report* at 839 id 81. (SBC Ex. 10.0 (Cottrell/Kagan Phase II Rebuttal Aff.), ¶ 11).

985. Finally, SBC Illinois pointed out that concerns with bill auditability will be further addressed in the Michigan Improvement Plan for Bill Auditability. According to SBC Illinois, a draft of this plan was filed with the Michigan Public Service Commission ("Michigan PSC") on February 13, 2003. SBC Illinois explained that this plan proposed several additional measures to help ensure that CLECs are familiar with the billing support that is available to them from SBC Midwest: SBC Midwest Account Managers will remind their clients, as appropriate, of the ongoing availability and value in attending the SBC CLEC billing workshops; SBC Midwest will add billing audibility issues as an agenda item to the SBC CLEC User Forum in one of its up and coming user meetings, and will extend to the CLEC community an invitation to schedule individual meetings specifically to discuss CLEC billing auditability concerns; SBC Midwest will identify additional available support options for the CLECs, including the availability of bill auditability training sessions offered by external vendors, and consider the viability of posting industry documentation on the CLEC Online website; and SBC Midwest will also evaluate the need to develop a CABS billing overview presentation to be delivered during a SBC CLEC User Forum. These proposals were the subject of a CLEC collaborative. (SBC Ex.

10.0 (Cottrell/Kagan Phase II Rebuttal Aff.), ¶¶ 12-13). SBC Illinois reported that a final plan was filed with the Michigan Public Service Commission on March 13, 2003, which incorporated input gathered from the CLECs during collaborative sessions. Under the plan, SBC Illinois explained that SBC Michigan must file quarterly status reports with the MPSC in April, July and October of 2003. (SBC Ex. 10.0 (Cottrell/Kagan Phase II Surrebuttal Aff.), ¶ 15).

986. SBC Illinois rebutted Staff's contention that the Michigan Plan demonstrates that its bills are not auditable. SBC Illinois pointed out that, in its Reply Comments in the Michigan FCC 271 proceeding, the Michigan Public Service Commission recognized that this improvement plan should be considered a "desirable enhancement[ ] to the competitive landscape in Michigan", but that it was not a requirement for Section 271 approval. (SBC Ex. 10.1 (Cottrell/Kagan Phase II Surrebuttal Aff.), ¶ 15).

987. SBC Illinois responded to Staff's concern that it had not made a specific commitment to implement the Michigan plan in Illinois or to keep the Commission apprised of its progress in implementing it. SBC Illinois stated that, since billing processes and procedures are implemented on a five-state basis and since it had stated in its Rebuttal Affidavit that the Michigan plan will apply equally to SBC Illinois' operations, its intent to bring this plan to Illinois should have been self-evident. However, to eliminate any uncertainties in this regard, SBC Illinois committed to implement the Michigan plan in Illinois and to file the Michigan progress reports in Illinois as well. (Id.)

988. SBC Illinois rebutted Staff's suggestion that it is merely an "interpretation" that its billing processes passed the auditability standard in the BearingPoint test. SBC Illinois stated that the billing systems, processes and procedures that were included in the BearingPoint audit as required by the Master Test Plan were the subject of a comprehensive independent third-party review, including auditability. According to SBC Illinois, this is evidenced specifically in the following sections of the BearingPoint audit: PPR 12 - Daily Usage Production and Distribution Process Evaluation; PPR 13 - Bill Production and Distribution Process Evaluation; TVV 8 - Billing Functional Usage Evaluation; and TVV 9 - Functional Carrier Bill Evaluation. Specifically in TVV 9 (Functional Carrier Bill Evaluation), SBC Illinois contended that BearingPoint was able to validate the following through auditing processing (i.e. by comparing interconnection agreement and tariff rates with what was actually billed): Recurring and fractional rates were billed properly (TVV 9-4 through TVV 9-6); Non-recurring rates were billed properly (TVV 9-7 through TVV 9-9); Bill totals were accurate (TVV 9-10 through TVV 9-12); Cross totals were accurate (TVV 9-13 through TVV 9-15; Calculations were accurate (TVV 9-16 through TVV 9-18); Usage was billed accurately (TVV 9-19); Operator and special usage related surcharges were billed accurately (TVV 9-20); Unbundled minutes of use were billed accurately (TVV 9-21); Unbundled usage was billed accurately (TVV 9-22); and Unbundled operator and special usage related surcharges were billed accurately (TVV 9-23). (SBC Ex. 10.1 (Cottrell/Kagan Phase II Surrebuttal Aff.), ¶¶ 16-17).

989. SBC Illinois rebutted TDS' assertion that it is not proactively auditing its own bills, based on BearingPoint's findings noted in Exception 119. SBC Illinois explained that, during testing, BearingPoint reported that it had analyzed two general areas of concern regarding the CABS billing processes. The first pertained to BOS BDT bill formatting. SBC Illinois pointed out that further analysis by BearingPoint subsequently confirmed that SBC Illinois does

employ a post-bill production process to validate CABS BOS BDT bills and that they are properly formatted. BearingPoint's second concern was in relation to seven issues regarding the bill sampling process. SBC Illinois stated that it has taken corrective action on all seven issues to address the remaining concerns of BearingPoint for Exception 119. SBC Illinois stated that it expects BearingPoint to close this exception shortly as satisfied after two remaining issues are resolved. (SBC Ex. 10.0 (Cottrell/Kagan Phase II Rebuttal Aff.), ¶ 14).

Change Management Plan

990. "Change management" refers to the methods and procedures that the BOC employs to communicate with competing carriers regarding the performance of, and changes to, the BOC's OSS system. New York 271 Order, ¶ 103. Periodic changes to OSS "may include operations updates to existing functions that impact competing carrier interface(s) upon a BOC's release of new interface software; technology changes that require competing carriers to meet new technical requirements upon a BOC's software release date; additional functionality changes that may be used at the competing carrier's option, on or after a BOC's release date for new interface software; and changes that may be mandated by regulatory authorities." Id.

991. The FCC has identified the following elements of a change management plan ("CMP") that give an efficient competitor a meaningful opportunity to compete: (1) evidence of competing carrier input in the design and continued operation of the change management process; (2) memorialization of the change management process in a basic document; (3) a separate forum for change management disputes; (4) 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. California 271 Order, App. C, ¶ 42. "After determining whether the BOC's change management plan is adequate, the [FCC] evaluates whether the BOC has demonstrated a pattern of compliance with this plan." Id.

992. SBC Midwest satisfies all aspects of the FCC's test for an adequate change management process ("CMP"). Indeed, SBC Midwest's CMP is the same process that was in place when the FCC reviewed and approved Pacific Bell's California and Southwestern Bell Telephone's ("SWBT") Arkansas/Missouri application. (SBC Ex. 1.1 (1/22/03 Cottrell Aff.) ¶¶ 84-87.) See also California 271 Order ¶ 96. That conclusion is confirmed by BearingPoint's third-party test, which tested the adequacy and completeness of SBC Midwest's procedures for developing, publicizing, conducting, and monitoring change management, and found those items to be satisfactory.

993. BearingPoint's test also demonstrates SBC Illinois' overall pattern of compliance with the plan. BearingPoint found that SBC Midwest satisfied 98% (131 out of 133) of the applicable test criteria in the entire Relationship Management domain with no "not satisfied" criteria, and satisfied all seven criteria specifically related to CMP. See BearingPoint Final Report at pages 12, 434-447. (SBC Ex. 1.3 (3/17/03 Cottrell Surrebuttal) ¶¶ 46-49.)

994. AT&T alleges that SBC Midwest fails to comply with its 13 state change management process ("CMP"), and that SBC Midwest implements unannounced changes to its interfaces. (AT&T Ex. 3.0 (DeYoung/Willard) ¶¶ 138-155.) SBC Illinois first notes that although "CMP Effectiveness" has been a standing agenda item at every CMP meeting for

several years, no CLEC raised a complaint that the CMP was not effective until February 2003. (SBC Ex. 1.3 (3/17/03 Cottrell Surrebuttal) ¶¶ 50-53.)

995. SBC Illinois also points out that SBC Midwest recently adopted an improvement plan that responds to AT&T's issues. To address CLEC concerns, this plan includes the following processes and safeguards:

- For purposes of correcting defects, the definition of a "CLEC-impacting" defect has been expanded to include anything on the SBC side of the interface that would cause a CLEC's previously accepted LSR to be rejected or a previously accepted pre-order transaction to fail;

- Effective April 21, 2003, SBC Midwest will use the Exception process from the 13-State CMP when adding a new edit (whether for the purpose of correcting an open defect or in support of an existing business rule). The Exception Process requires that the agreement to implement the change be unanimous, and thus provides a single CLEC the ability to veto the proposed change or the date the change will be implemented;

- Effective April 18, 2003, SBC will use the Defect Report posted on CLEC Online to provide CLECs with notification of any activity in support of correcting open defects that will involve the modification of an existing edit and/or table update. SBC Midwest also will issue weekly accessible letters beginning on April 18 through the end of May, 2003, reminding CLECs to refer to the Defect Report for possible maintenance defects;

- Beginning in April 2003, at each CMP meeting, SBC Midwest will update the CLECs on any recent activity and the progress of any defect requests impacting pre-order and ordering interfaces;

- Effective immediately, SBC Midwest will send an Exception Request Accessible Letter for any EDI mapping or CORBA IDL structure changes that are identified as part of a defect;

- SBC Midwest will continue to work with CLECs in the CLEC User Forum on additional improvements to the CLEC Profile process;

- Accountability will be mandated for all SBC Midwest staff and management that participate in the testing of

maintenance releases. Audit mechanisms will be implemented no later than April 18, 2003;

- Effective April 21, 2003, the following additional rigors will be implemented in SBC's Midwest internal testing process:

- Test plans, scenarios, and expected outcomes will be reviewed and approved by IT management;

- Testing results (including re-testing) as documented by the IT testing team will be reviewed by Industry Markets prior to implementation to production;

- SBC Midwest will reinforce the criticality of rigorous testing and also educate the OSS Application Support teams and Industry Markets on these accountability/audit requirements.

996. SBC Midwest further commits that it will file quarterly reports regarding its progress on this improvement plan to the Commission for its review starting on April 30, 2003 for one year, and copies will be served on the parties of record for this docket.

PIC/LPIC Change

997. AT&T claims that it was impacted by unannounced changes to rules for populating certain fields related to the PIC and LPIC fields on the LSR. (AT&T Ex. 3.0 (DeYoung/Willard) ¶¶ 47-49.) Mr. Cottrell fully explains the complicated facts behind this issue in his rebuttal affidavit. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 75-80.) Suffice it to say that on November 20, SBC Illinois made a programming change to both the LSOG 4.02 and the LSOG 5 versions of its interface, but inadvertently did not provide CLECs with notification of the LSOG 4.02 change in accordance with the CMP requirements. On November 25, 2002, AT&T advised that it was getting improper rejects when it included PIC/LPIC information on LSRs sent using LSOG 4.02. Effective November 27, 2002, the Company fixed the problem by making a programming change to bypass this edit for version 4.02 LSRs. While this first issue was being sorted out, SBC Illinois inadvertently changed AT&T's delimiters for LSOG 4.02. (Delimiters define a series within a transaction, thereby separating EDI data so that it can be interpreted). Mr. Cottrell acknowledges this error (which was fixed early that same day), but explains that if AT&T had been using the proper EDI convention, the impact would have been lessened. AT&T argues that this incident indicts the entire CMP. The Company contends that this is a vast overstatement and that the situation was the result of unintentional errors. The delimiter change was not a CMP issue – rather, it was an isolated human error which occurred as SBC Midwest attempted to accommodate AT&T's request for a change in the test environment. Moreover, the impact of this problem was exacerbated by AT&T's failure to program to industry specifications. The Company acknowledges that this issue highlights the complexity of the interfaces and the potential for either party to make a mistake if processes are not followed and communication is not effective. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶ 80.)

Other Interface Changes/Programming Issues

998. This section discusses several issues that AT&T claims are the result of unauthorized changes made by the Company on its side of the interface. (AT&T Ex. 3.0 (DeYoung/Willard) ¶¶ 62-91.) As Mr. Cottrell demonstrated in his rebuttal affidavit, however, each incident was caused by an isolated human error or programming problem (sometimes attributable to AT&T) and does not establish any overall problem with the change management process. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶ 81-93.)

999. For example, AT&T claims that SBC changed its coding in September to eliminate a space in information required to order a feature known as "Call Forward Busy/No Answer Number and Ring Count."[46] (AT&T Ex. 3.0 (DeYoung/Willard) ¶¶ 67-75.) AT&T claims that prior to this change, the information required to submit the order was sent as "'EVD' followed by a space, and then followed by the customers number and a backslash (/)…thus the information would be stated as EVD 12345678910/4." AT&T claims that programming by SBC improperly changed the ordering business rules to reject the order if a space was placed between "EVD" and the telephone number. In fact, AT&T should never have put a space in that spot in the order. The Company's programming change was designed to more closely adhere to existing business rules to improve flow-through on this order type and as a result, AT&T's orders began to be rejected (a G408 reject). Encountering these rejections, AT&T sought information for the correct order format, and, on the second try, was given the correct information. There was no "deficienc[y] in documentation" as claimed by AT&T, but rather a mutual failure to communicate. AT&T also criticizes SBC for failing to open a defect report on this incident. However, because the system was operating appropriately with the program change, there was no defect to report. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 81-83.)

1000. Second, in November 2002, AT&T states that it began receiving rejects indicating that the LSR contained more telephone numbers than the applicable Customer Service Record (error code "H325"). (AT&T Ex. 3.0 (DeYoung/Willard) ¶¶ 86-88.) AT&T contends that SBC Midwest was "improperly applying LSOG 5 edits to LSOG 4 orders." AT&T is incorrect, the Company says. This issue was caused after one SBC back-end system was removed for routine maintenance on November 17th. When the system was brought back up the following morning, it was not operating as expected. Regular system checks did not reveal any errors. AT&T first received rejects as a result of this issue on November 18, 2002; that same evening the offending system was taken out of production, eliminating further reject errors. The system was fixed and validated as working properly at the beginning of availability hours on November 19. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶ 84.)

1001. Third, While AT&T claims SBC's improper application of LSOG 5 edits to LSOG 4 orders resulted in B103 (Invalid Listing Type: Non-Published, Non-Listed) error rejections, (AT&T Ex. 3.0 (DeYoung/Willard) ¶¶ 62-63), AT&T is not correct. The Company explains that AT&T was submitting orders for non-published additional listings. Because it makes no sense to order – and pay for – additional listings that are non-published, the LSOG 5 business rules were written to expressly preclude this order type. The LSOG 4 business rules

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[46] AT&T raises a similar issue with regard to Pay Per Use Blocking and Custom Ring features, with a similar result.

were silent. Not recognizing that AT&T was submitting such orders, SBC implemented an edit for LSOG 4 that was designed to improve flow-through -- with the unintended consequence of causing these AT&T orders to reject. As soon as the problem arose, SBC lifted the edit for LSOG 4 and re-flowed all affected orders within days. The Company argues that the programming in question was not a violation of CMP, given that the LSOG 4 business rules were silent on this issue and that the Company had no reason to anticipate a CLEC impact. Nonetheless, the Company agrees to provide CLECs with courtesy Accessible Letters for such programming changes in the future. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶ 85-86.)

1002. Fourth, AT&T alleges that the Company rejected AT&T's orders because its systems were "unable to read hunting information." AT&T Ex. 3.0 (DeYoung/Willard) ¶¶ 89-90. This problem resulted from an EDI mapping issue that only impacted hunting orders and was fixed by January 13, 2003. Although SBC explains that it offered to "unreject" AT&T's the hunting LSRs affected by this error, AT&T decided to resubmit the remaining orders after the fix. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶ 87.)

1003. Next, AT&T notes that in December 2002 and early January 2003 it received rejects on conditions that were inapplicable to the UNE-P LSRs submitted (error code LS6327 for LSOG 5 and error code G318 for LSOG 4). (AT&T Ex. 3.0 (DeYoung/Willard) ¶ 91.) Mr. Cottrell explains that these rejects resulted from implementation of a change request designed to implement a rate change discount for UNE-P mandated by the Michigan PSC. Although the programming change should not have impacted CLECs, a previously unknown data issue caused implementation of this change to generate some invalid rejects. A software fix was implemented effective January 4th. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶ 88.)

1004. Finally, AT&T complains that in January 2003, SBC rejected three LSRs with error code H332 (Missing Value for Field Name/State) (error code H332). Defect Reports were opened on this issue for both LSOG 4 and LSOG 5 on January 6, 2003. The Company's response, simply stated, is that its systems were improperly rejecting LSRs with unique account structure if the STATE field was not populated on the LSR and the "Billing State" was not populated on the CSI. To correct this problem, the Company deleted the edit for LSOG 5 (February 13) and for LSOG 4 (March 7, 2003). There was no system change in this case that implicated CMP. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶ 89.)

1005. According to the Company, all of these situations simply illustrate the complexity of the environments in which all parties operate. They also illustrate the Company's willingness and ability to respond quickly on a business-to-business basis to resolve these isolated problems as they arise. Moreover, although not required for 271, the Company has agreed to implement the CMP improvement plan described above, which should further assist in the reduction of these types of problems. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 90-93.)

Working Service in Conflict ("WSC") Process

1006. AT&T complains that SBC Midwest implemented a new process without providing the notice allegedly required by CMP. (AT&T Ex. 3.0 (DeYoung/Willard) ¶¶ 54-61.) The Company says that AT&T is wrong because the working service conflict ("WSC") process did not involve any system changes that required implementation through the CMP. According

to the Company, one CLEC asked SBC Midwest to develop a process to reuse facilities, thus eliminating the need for dispatch on new residential service. This required a process to determine whether services at the premise had been abandoned. SBC Midwest conducted a trial of the WSC process with the requesting CLEC for approximately 3 months prior to introducing it in the July 2002 Midwest CUF Regional meeting. Representatives from AT&T and WorldCom attended two industry meetings and did not object to the proposal.

1007. AT&T claims that the WSC process falls under the CMP because it "specified changes to the LSR." (AT&T Ex. 3.0 (Willard/DeYoung) ¶ 56.) This is wrong, the Company says, because no changes to the LSR were needed to implement this process. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶ 97.) AT&T claims that the announcement of the WSC process "on one month's notice" had a "disruptive effect on CLECs," but the Company explains that AT&T had more than enough notice by virtue of attending the CLEC User Forum meetings in July 2002 and receiving Accessible Letters in July and August that provided the details of the process. Despite this notice, AT&T neither trained its employees nor adapted its systems to handle these notifications. As a result, AT&T allowed more than 5000 WSC forms to pile up between August 30 and early November. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶ 99.) The Company helped AT&T by manually processing AT&T's "backlog" of pending orders in a one-month time period.

1008. WorldCom complains that only SBC Midwest requires CLECs to fill out a WSC form when SBC determines there is already working service at the premises, (WorldCom Ex. 3.3 (Lichtenberg) ¶ 36), but the Company explained that this process is expanding to all 13 SBC states in September. WorldCom further argues that CLECs do not generally have the information SBC Illinois requests and that the Company should use switch generated call record information to determine whether there is service at the premises. (WorldCom Ex. 3.3 (Lichtenberg) ¶ 36.) The Company responds that 1) only CLECs can get this information from the CLEC end users because the Company should not be contacting the CLEC's end users directly in this situation, and 2) the lack of switch activity on a line does not prove that the service has been abandoned. Finally, WorldCom complains that the Working Service Conflict process is manual. (WorldCom Ex. 3.3 (Lichtenberg) ¶ 37.) SBC Midwest has agreed to implement a mechanized jeopardy notification for WSC through the change management process to replace the forms created in the negotiated process. Implementation of the mechanized jeopardy notification is currently targeted for September 2003. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 101-103.)

1009. In response to AT&T's complaints about the handling of the manual notification process for Working Service Conflict ("WSC") conditions, SBC Illinois explains that AT&T's "backlog" of orders resulted from AT&T's own failure to follow the processes discussed in the CLEC User Forum and circulated to the CLECs in Accessible Letters. According to SBC Illinois, AT&T did not respond appropriately to the WSC notifications it received by providing either a supplemental request for an additional line, or authorization to disconnect abandoned service and as a result, AT&T's service orders for the WSC Purchase Order Numbers ("PON") were held in pending status. Nevertheless, SBC Illinois states, it agreed to work with AT&T on a project basis to process the backlog. SBC Illinois stated that the AT&T orders for new lines which were in pending status were processed appropriately by the agreed-upon target date. SBC Illinois also disputed AT&T's claim that 800 WSC forms had been sent in error and that, in fact,

there were only 38 erroneous WSC notifications. (SBC Ex. 9.1 (Brown Phase II Surrebuttal Aff.) ¶¶ 3-8).

1010. SBC Illinois also responds to assertions by Forte that it was receiving a substantial number of its WCS notices either on or after the service due date. SBC Illinois points out that it had been working in a collaborative manner with Forte to resolve its WSC concerns. SBC Illinois states that its initial investigation found that Forte had changed its fax number without informing SBC Illinois. SBC Illinois further states that it determined when the Local Service Center discovers a WSC situation, the MEDS (**M**echanized **E**SOI (Error Service Order Image) **D**elivery **S**ystem) routes the WSC ESOIs to a internal website where they are retrieved on a continuous basis by a team of service representatives who type up notifications to the CLEC (referred to as "WS1a" forms) and fax them to the CLEC who submitted the order for the new service. SBC Illinois states that some service representatives were "batching" the faxes instead of sending them individually. SBC Illinois explained that, for a relatively small CLEC like Forte (whose WS1a forms would accumulate slowly, compared to larger carriers), this had the unintended consequence of delaying the issuance of many WSC notices to or beyond the service due date. SBC Illinois stated that this problem was corrected effective March 12, 2003, when service representatives were instructed to fax the WS1a forms every fifteen minutes. (SBC Ex. 9.1 (Brown Phase II Surrebuttal Aff.) ¶¶ 8-9). SBC Illinois also reports that Forte has agreed to partner with it for a trial process in which the forms will be faxed to the CLEC from the service representative's workstation immediately upon completion of the WS1a form. The results of the trial will be shared with the CLEC community at the CLEC User Forum. (Id. ¶ 10).

1011. Finally, SBC Illinois responds to WorldCom's complaint that SBC Illinois uses a facsimile process to forward WSC forms to the CLECs. SBC Illinois explains that it adopted a facsimile notification process out of a concern for some of the smaller CLECs that rely heavily on manual, FAX-based processes. Nevertheless, given WorldCom's continuing concerns over this process issue, SBC Illinois stated that it was willing to consider implementing an alternative e-mail notification process and would raise it in the next CLEC User Forum. (SBC Ex. 9.1 (Brown Phase II Surrebuttal Aff.) ¶ 7).

Customer Not ready ("CNR") Process (PIA 8)

1012. AT&T contends that SBC Midwest's discontinuation of the use of the PIA 8 notification constituted a "violation of the letter and spirit of the change management process." (AT&T Ex. 3.0 (DeYoung/Willard) ¶ 151.) The Company explains that AT&T is wrong for at least two reasons. First, the entire CLEC industry, including AT&T, was fully apprised of this change at a December 4, 2002 CLEC User Forum ("CUF") meeting and no one, including AT&T, objected. Second, the process change does not involve any change to the interface – it merely eliminates a duplicative manual notification. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 104-107.)

LSR Review Board

1013. AT&T challenges the BearingPoint Report on the grounds that the Local Service Request Review Board ("LRB") is not documented in the 13-State Change Management Process (13-State CMP) and was not agreed to by CLECs. (AT&T Ex. 1.0 (Connolly) ¶¶ 208-212.) The

Company responds that the LRB is a committee made up of multiple departments within SBC whose primary function is to manage the internal change process. Such internal processes were never intended, nor should they be, part of the 13-State CMP or the subject of agreement with CLECs because SBC is responsible for managing its internal processes. Contrary to AT&T's claims, the LSR does not "overturn CLEC priorities". During the monthly CMP meetings, CLECs prioritize change requests. This prioritization is then provided to the LRB to take into consideration when packaging a release. The 13-state CMP, Section 8.3.3.8, states that "…the prioritized list of CRs developed by the CLECs will be *considered* in the final SBC internal release planning session." (emphasis added). The Company fully complies with this obligation. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶ 108.)

Test Environment

1014. AT&T contends that SBC Illinois fails to maintain an adequate test environment because the restrictions on use of the test environment prevent AT&T from ensuring that its own OSS will 'interact smoothly and efficiently' with SBC's. (AT&T Ex. 3.0 (DeYoung/Willard) ¶ 156.) The Company responds that AT&T's claims are over-reaching. Mr. Cottrell attaches a copy of the 13-State CLEC Joint Test Plan ("JTP") and explains that SBC Midwest makes the joint test environment available to CLECs to test whether they have appropriately mapped to the EDI technical specifications and followed the LSOR business rules. The CLEC specifies its test cases and provides the Company a complete data package containing account information and the functionality to be tested. CLECs may send multiple orders daily; SBC will analyze five of those transactions per day unless otherwise negotiated. At any given time, anywhere from 7-15 CLECs test at the same time in the SBC Midwest region. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 111-114.)

1015. The joint test environment was not designed to facilitate a CLEC's testing within its own systems (i.e., AT&T's claim that it tests how its own "three back ends" and "multiple upstream systems" are working together appropriately). Such testing is AT&T's responsibility; neither SBC nor the other CLECs utilizing the joint test environment should bear the burden of repetitious testing for the purpose of allowing AT&T to validate its own back-end and upstream systems. AT&T has the capability to develop, manage and pay for testing capability applicable to its own systems, just like the Company does. Rather, the purpose of the joint testing environment is to allow CLEC to test whether its EDI transmissions are received by SBC in a correct manner. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶¶ 111-114.) Mr. Cottrell addresses each AT&T allegation in his rebuttal testimony and explains that the Company is providing joint testing in full compliance with the JTP. (Id. ¶¶ 115-118.) Nonetheless, he explains that the Company is willing to work closely with AT&T on testing issues, and has, in response to a recent AT&T request, developed a trial proposal for unsupervised testing for the 3rd quarter of 2003. (Id. ¶¶ 119-120.)

LSOR Documentation

1016. While AT&T raises several issues regarding "documentation", the Company explains that none of these issues rise to the level of an OSS problem. When AT&T argues that SBC Illinois' LSOG4 documentation is inadequate, (AT&T Ex. 1.0 (Connolly) ¶¶ 195, 197-202), it relies exclusively on a list of LSOG4 documentation issues that arose as a result of the normal

and expected outcome of the BearingPoint test. Given that the purpose of a "military style" test is to find problems, fix them, and retest, the documentation improvements that occurred are strong evidence of the adequacy of current LSOG4 documentation AT&T also claims that Hewlett Packard ("HP") failed to fulfill its obligation under the Rules of Engagement when it did not issue observations or exceptions for certain issues. (AT&T Ex. 1.0 (Connolly) ¶¶ 195, 197-202, 217.) The Company points out that the Master Test Plan ("MTP") placed no requirement on HP to issue an observation or exception for every issue that arose during the test. The standard for issuing an observation or exception was that the issue "might result in a negative finding in the final report." While AT&T may have preferred that every issue that arose during the course of the test result in an observation or exception, thus lengthening the duration of the test, the MTP clearly places that decision in the hands of the qualified, independent judgment of HP and BearingPoint.

1017. Next, AT&T alleges that the Company's "misuse" of the exception process relative to its documentation changes for LSOG 5 demonstrates "inadequate" documentation and failure to conduct sufficient internal testing prior to implementing the release. (Id. ¶ 141.) This is wrong, the Company responds, because the changes in documentation reflect CLEC suggestions for changes and other improvements. The system changes required for LSOG 5 affected nearly all aspects of system design and development. In accordance with CMP, SBC provided final requirements to the CLECs 110 days in advance of the release. When "final" requirements are provided at this early in the release cycle, changes can be expected. These changes, which were made in accordance with the exception process, do not indicate faulty or inadequate internal testing. SBC executed approximately 37,000 ordering test cases and 30,000 pre-ordering test cases prior to implementation of the LSOG 5 release.

1018. Finally, AT&T questions the documentation for procedures to follow when a customer with multiple lines requests the disconnection of a Billing TN ("BTN"). (AT&T Ex. 3.0 ¶¶ 168-174). Mr. Cottrell explains that when an end user with multiple lines requests the disconnection of a BTN, the CLEC needs to submit an LSR (with an activity type = change and a line activity type = disconnect) for the BTN that is being disconnected. The Company will disconnect that BTN and will automatically select the next TN on the account as the new BTN. The new BTN will be provided the same listing as on the old BTN unless the CLEC sends a directory listing ("DL") page changing the listing with the LSR. At the time the issue was raised, the Company did not have a published M&P on this situation. An M&P was created and posted on the CLEC Online on January 30, 2003.

Versioning and Line Splitting

1019. The Company objects to AT&T's accusation that SBC Midwest uses versioning to impede, rather than benefit, CLECs' opportunity to compete. (AT&T Ex. 3.0 (DeYoung/Willard) ¶¶115-136.) SBC Illinos points out that AT&T (along with other CLECs) requested the current versioning policy , and that SBC Illinois uses the same CMP and versioning arrangement that is used in all 13 SBC states – the same versioning policy that the FCC approved in SBC's Kansas/Oklahoma, Arkansas/Missouri, and California 271 applications. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶ 130.)

1020. According to SBC Illinois, AT&T raises the issue now because of a recent internal business decision to partner with Covad for line splitting. (Id.) The Company has no objection to this type of partnering – it merely objects to AT&T's attempt to make SBC Illinois responsible for the way AT&T and its partner exchange information between themselves. The Company argues that the Commission should reject this demand, especially since the Phase I Order, ¶ 929, found that "...the voice CLEC must be responsible for all coordination with the data service provider in a line splitting relationship". (SBC Ex. 4.2 (3/17/03 Chapman Surrebuttal) ¶¶ 22-23.) Further, SBC Illinois advises that implementing the current versioning function in accordance with CLEC requests was costly, and that altering the Company's versioning arrangement now would be a long-term project and would involve a huge expenditure of time and resources for the Company. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶138.)

1021. In response to AT&T's claim that Verizon and BellSouth are (allegedly) able to do what AT&T desires, the Company responds that the capabilities of those systems are irrelevant to this issue in Illinois. Those systems are different (for example, Verizon's versioning policy requires periodic flash cuts -- SBC's does not) and there is no basis to assume that what is done in one system could automatically be done in the Company's systems. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶ 135.)

1022. Finally, the Company proposes at least three workable alternatives to meet AT&T's needs. First, Covad could use LEX, which is version independent, to submit LSRs on AT&T's behalf. Second, if it wanted to use an EDI interface, Covad could design its system to submit the one order type submitted for AT&T in a version synchronized with AT&T and different from the version Covad uses for its own normal business. Third, AT&T and Covad could use an independent Service Bureau Provider. In short, the Company contends, CLECs have the ability to solve this issue on their own and should not point to SBC Illinois as a roadblock. (SBC Ex. 1.2 (3/3/03 Cottrell Rebuttal) ¶ 139.)

b. CIMCO/Forte Position.

Introduction

1023. According to CIMCO Communications, Inc. (CIMCO) and Forte Communications, Inc. (Forte), they document deficiencies in SBC's OSS beyond the deficiencies documented by the BearingPoint and E&Y tests. Although these issues may not have been directly observed or tested by a pseudo CLEC, these CLECs claim that are encountered by a recurring basis and demonstrate that SBC's OSS impairs CLECs' ability to compete with SBC.

Invalid Rejects

1024. Forte and CIMCO each claim to have had recurring problems receiving invalid rejects on orders issued to SBC. Forte provided data on one common SBC invalid reject – "TN Invalid or Unavailable." Forte's initial affidavit documented 328 invalid SBC rejects for "TN Invalid or Unavailable" – an invalid reject rate of five percent.[47] In February of 2003, Forte received 14 invalid rejects for "TN invalid or unavailable." Forte was told in May of 2002 that

[47] See Forte 1.0 at page 2. Within its Reply Affidavit, Forte updated its data for February of 2003.

this problem had been fixed, but Forte has received invalid rejects for "TN invalid or unavailable" every month since. In his Surrebuttal Affidavit, SBC witness Mr. Cottrell acknowledges that SBC's "fix" has not solved the problem and SBC "is investigating what appears to be another problem that is generating this error message."[48]

1025. CIMCO documented SBC invalid rejects beyond "TN invalid or unavailable". CIMCO commonly receives invalid rejects for "TN invalid or unavailable", "feature does not exist", "account disconnected" and "more TNs on order than CSR". As part of its Reply Affidavit, CIMCO provided data from September of 2002 to present approximately nine (9) percent of CIMCO's various EDI switched service orders have been invalidly rejected by SBC.[49] While SBC states that SBC believes some of the orders were not invalidly rejected and 66 invalid rejects were for errors that have since been fixed, Mr. Cottrell does not provide a solution for the 25 undisputed invalid rejects for which SBC apparently does not have a fix.

Invalid USOCs / Invalid Prices

1026. Consistent with prior section 271 orders, a BOC must demonstrate that it provides CLECs with wholesale bills in a manner that gives carriers a meaningful opportunity to compete. Forte and other CLECs provided documentation of significant problems with SBC's wholesale billing. In particular, SBC invoices to Forte routinely contain altogether invalid USOCs or USOCs with invalid pricing. stated in his initial affidavit, since May of 2002 Forte has never received a bill that is accurate even to 10 percent of the tariffed rates. In 2002, Forte was over-billed hundreds of thousands of dollars on total annual sales of more than one million dollars. Forte has had the same billing errors repeated every month since it began providing service via UNE-P. With respect to Forte's billing issue, Mr. Silver states "SBC Illinois has taken the necessary steps to update its billing tables accordingly. The changes will be reflected in Forte's next billing cycle."[50]

Invalid Formatting of Telephone Numbers (TNs)

1027. In it's initial and reply affidavits, Forte described the problem of invalidly formatted telephone numbers (TNs). Forte states that it commonly receives invalidly formatted TNs from SBC upon completion of a request for new residential or business POTS. SBC witness Mr. Cottrell acknowledged that BearingPoint encountered the TN problem as Observation 700. Mr. Cottrell further states "in order to correct this occurrence, on January 30, 2003, SBC Midwest made a change to the system used by its service representatives to enter

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[48] Cottrell Surrebuttal Affidavit at ¶35.

[49] Exhibit A from CIMCO's Reply Affidavit showed 178 SBC invalid rejects from September 2002 to present out of 1,787 orders. Although some of the invalid rejects are less serious than others (for example, there are instances where SBC rejects an order only to accept it minutes or hours later), there are many instances where SBC rejects an order and than accepts it several days later (often seven to ten days later).

[50] Silver Surrebuttal Affidavit at ¶24.

these telephone numbers for transmission to CLECs to enforce the proper format."[51] In his Surrebuttal Affidavit, Mr. Cottrell further stated "any lingering doubt that this problem is, in fact, fixed was eliminated by BearingPoint, who reported on February 25, 2003 that it had retested Observation 700 successfully."[52] However, contrary to Mr. Cottrell's blind faith in BearingPoint, Forte provided documentation (as Exhibit C to the Initial Phase II Brief of CIMCO and Forte) that it received 66 invalidly formatted TNs between January 29th, 2003 (the date Mr. Cottrell asserted SBC fixed the problem) and March 17, 2003. Since the time when SBC allegedly "fixed" the problem, 4.9% out of a total of 1341 completed orders for new lines contained invalidly formatted TNs. To date, SBC has still not solved this problem. SBC's deficient OSS negatively affects Forte's provisioning and billing operations and fails to provide Forte the ability to effectively compete with SBC.

Order Completions

1028. The performance measures that monitor SBC's ability to complete orders are mainly focused on the timeliness of SBC's order completion confirmation.[53] Beyond timeliness, there are numerous issues related to order confirmation that CIMCO consistently encounters as a result of Ameritech errors during the order completion phase. These are errors that would not necessarily be picked up by the BearingPoint and E&Y reports. SBC's poor handling of these orders requires a manual process even though this should be done on an electronic basis. Essentially, CIMCO is forced to review all CSRs to ensure the order was typed correctly on the CSR and, subsequently properly entered into the switch logic. This process is extremely burdensome and interferes with how CIMCO develops its systems to handle large volumes of orders. Moreover, SBC's errors negatively impact CIMCO's customer's service through feature and service outages.

1029. Primary Inter-exchange Carrier ("PIC") change requests are routinely processed incorrectly by SBC. When SBC receives such a request it should update the central office switch and corresponding customer service record (CSR). If SBC fails to process a PIC change request, subsequent change orders must be placed in order to update the switch and CSR. In other instances PIC change requests are updated on the CSR but not with the switch. If this happens, traffic continues to be routed to the previous carrier, causing customer dissatisfaction, inaccurate customer billing, and lost or delayed revenue for CIMCO. A final example of SBC order completion errors is when CIMCO submits a UNE-P order and SBC initiates an unnecessary and non-requested facility change (i.e. a ground start to loop start, that results in a customer outage).

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[51] Cottrell Rebuttal Affidavit at ¶67.

[52] Cottrell Surrebuttal Affidavit at ¶39.

[53] See Performance measures 7, 7.1, 8.

1030. In his Rebuttal Affidavit, SBC witness Mr. Cottrell states that BearingPoint's conclusion that SBC accurately provisioned switch features contradicts CIMCO's assertion that Primary Interexchange Carrier (PIC) change requests are routinely processed incorrectly. Mr. Cottrell incorrectly makes this assumption based on narrow BearingPoint testing.

Working Service Conflicts

1031. Forte's Initial and Reply Affidavits described the problem of SBC's untimely notice to Forte of a working service conflict (also called Worker in the Way) situation. As part of its Reply Affidavit, Forte documented data for February 2003 showing that out of 42 working service conflict faxes received from SBC, 90 percent were either for the wrong company, arrived after the due date, or arrived on the same day as the due date. SBC witness Mr. Brown addressed the working service conflict issue in his Surrebuttal Affidavit. Mr. Brown stated that an investigation determined that "some service representatives were 'batching' the faxes instead of sending them individually . . . [which delayed] the issuance of many WSC notices to or beyond the service due date."[54] To fix the problem SBC instructed its representatives to fax working service conflict forms to Forte every 15 minutes.[55] Forte has agreed to monitor the Worker-in-the-Way process and report results at the next CLEC user forum.

Invalid Completion Notices

1032. As part of its Initial and Reply Affidavits, Forte provided documentation that shows that approximately nine percent of the time Forte receives a completion notice from SBC only to find out that Forte's customer does not have dialtone. Forte showed that this greatly increases Forte's costs. Furthermore, in this situation SBC's OSS issues a completion notice prior to the customer receiving service. As a further result, SBC initiates billing too soon – before the customer even has dialtone.

1033. In his Surrebuttal Affidavit, SBC witness Mr. Muhs points to PM 35 which tracks the percent of trouble reports that occur within 30 days of installation.[56] However, this isn't a trouble report situation in which the customer had service and then something went wrong, necessitating the filing of a trouble report. Here, the customer never had dialtone, but SBC nevertheless issued a completion notice. Mr. Muhs also points out that PM 35 is subject to a parity standard and further claims that Forte's percent trouble tickets that occur within 30 days of installation falls within the required parity performance for the time period. However, a parity standard is not an accurate measure for invalid completion notices. An invalid completion notice by SBC to a CLEC is much harder to remedy than an invalid completion notice by SBC to itself. CLECs must incur the additional truck roll and other expenses.

1034. When SBC Retail works a trouble ticket for no dialtone with a retail account, the SBC technician can complete the work in one truck roll. However, a CLEC with the same problem must first go to the customer premise and diagnose that the problem is not an inside

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[54] Brown Surrebuttal Affidavit at ¶9.

[55] Id.

[56] Muhs Surrebuttal Affidavit at ¶4.

wiring problem but instead failure of SBC to provide dialtone at the network interface. Then the CLEC places a trouble ticket with SBC. Upon completion of repair, the CLEC must do a second truck roll to complete the cross connect. Thus, the CLEC performs two truck rolls as opposed to just one for SBC for the same problem. Although Forte has billed Ameritech $71 for the additional truck rolls Forte has incurred, SBC has not paid Forte one dime for services and has notified Forte that SBC never ordered any repair work to be done by Forte.

Assume As Is / Assume As Specified

1035. CIMCO often converts retail and resale circuits to UNE-P without any changes in the existing specific services and encounters unnecessary obstacles from SBC's OSS systems. In LSOR 4.02, on an "Assume As Is" (which only apply to Centrex/Data/ISDN contracts), the Special Pricing Plan ("SPP")/("VTA") information is not necessary. However, SBC's LSOR5 requires the VTA field to be populated, whether it is an "Assume As Is" or an "Assume As Specified". If the VTA field is left blank, SBC will remove the contract and bill termination charges, not to CIMCO, but directly to the end user customer. This is an insidious process whereby a new CIMCO customer could unexpectedly be hit with a $20,000 bill from SBC. SBC's LSOG5 EDI takes a step backwards compared to its LSOG4.02. SBC's change in process makes ordering more labor intensive and less efficient for CIMCO. Further, CIMCO is exposed to greater risk on SPPs.

c. WorldCom's Position.

Introduction

1036. According to WorldCom witness Sherry Lichtenberg, SBC does not provide nondiscriminatory access to its OSS today. In its commercial operations, WorldCom continues to experience a number of important OSS problems, including: (1) SBC's failure to render accurate and reliable wholesale bills; (2) continuing problems with Line Loss Notifications ("LLNs"); (3) outages in SBC's pre-order systems; (4) SBC's transmission of incorrect completion notices; (5) unjustified cancellation of WorldCom orders; (6) problems processing orders for new lines due to "working service conflicts"; (7) SBC errors in provisioning features as requested by WorldCom; (8) SBC's failure to process WorldCom's deactivate orders; and (9) general OSS defects. While some of these problems may not seem critical individually, collectively they substantially hinder WorldCom's ability to compete in the local market in Illinois. SBC Illinois has acknowledged its continuing problems with wholesale billing and line loss notices, but promises that it is working on those problems and things will get better. WorldCom, however, points out that the FCC has held paper promises of future performance have no probative value as to present compliance with section 271.

1037. For these reasons, WorldCom contends, SBC Illinois has failed to demonstrate that it provides nondiscriminatory access to its OSS and therefore it cannot be found to have complied with nondiscriminatory access requirement to UNEs that is reflected in checklist item number 2. WorldCom urges the Commission to withhold any positive recommendation on SBC Illinois' section 271 application unless and until (1) SBC fully and conclusively resolves the OSS problems that WorldCom has identified, and (2) proves through BearingPoint's third party test of

its OSS that its performance measures are reported accurately, that controls over the development and calculation of those measures are adequate, and that the data SBC provides is reliable.

Wholesale Billing

1038. With respect to wholesale billing, WorldCom notes, the FCC has found that "[u]nder checklist item 2, a BOC must demonstrate that it provides non-discriminatory access to . . . billing."[57] The FCC's Pennsylvania Order states that "[i]n previous section 271 decisions, the Commission has held that, pursuant to checklist item 2, BOCs must provide competitive LECs with . . . complete, accurate and timely wholesale bills,"[58] and that "the BOC must demonstrate that it can produce a readable, auditable and accurate wholesale bill in order to satisfy its nondiscrimination requirements under checklist item 2."[59]

1039. WorldCom notes that, based on what the FCC has said, it is critical that SBC Illinois prove and that the Commission find that SBC Illinois' wholesale bills are readable, auditable and accurate before the Commission can find that SBC has met its OSS (checklist item 2) obligations. The FCC recognized in the Pennsylvania Order the critical role that wholesale bills play in local competition, identifying four ways in which "[i]naccurate or untimely wholesale bills can impede a competitive LEC's ability to compete.":[60]

> First, a competitive LEC must spend additional monetary and personnel resources reconciling bills and pursuing bill corrections. Second, a competitive LEC must show improper overcharges as current debts on its balance sheet until the changes are resolved, which can jeopardize its ability to attract investment capital. Third, competitive LECs must operate with a diminished capacity to monitor, predict and adjust expenses and prices in response to competition. Fourth, competitive LECs may lose revenue because they generally cannot, as a practical matter, back-bill end users in response to an untimely wholesale bill from and incumbent LEC.

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[57] *In the Matter of Application by Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, (CC Docket No. 01-138), ¶ 12 ("*Pennsylvania Order*"). *See also Bell Atlantic New York Order*, 15 FCC Rcd at 3989, ¶ 82.

[58] *Pennsylvania Order* at ¶ 13.

[59] *Id.* at ¶ 22.

[60] *Id.* at ¶ 23 (citations omitted). *See also id*. at ¶ 13 ("Wholesale bills are essential [to competitors] because competitive LECs must monitor the costs they incur in providing services to their customers.").

> Accurate and timely wholesale bills in both retail and BOS BDT [electronic] formats thus represent a crucial component of OSS.[61]

1040. The Commission must view SBC Illinois' wholesale bills within the context of these FCC pronouncements about the importance of wholesale billing.

1041. WorldCom claims that it is abundantly clear from the wholesale bills that it receives from SBC on a monthly basis – including those generated by SBC's Carrier Access Billing System ("CABS") in BOS-BDT format – that SBC is charging WorldCom incorrectly for UNEs, combinations of UNEs and activities related to provisioning of those items. Outputs from monthly CABS bills that WorldCom receives for UNE Platform-based services include a Universal Service Order Code ("USOC") with an abbreviated description of the UNE or activity that the USOC purports to reflect, a rate associated with that UNE or activity, and the number of times for that particular month that SBC Illinois has charged WorldCom for the UNE or activity related to that USOC. The bill does not provide cite any source document (e.g., tariff or interconnection agreement). Thus, based on SBC's billing for wholesale services, it is impossible for CLECs to cogently discern what they are being charged for, the basis of the charges, and why the charges are being applied.

1042. In response to billing issues raised by WorldCom and other CLECs, SBC addressed billing issues in the affidavit of Scott Alexander and the joint affidavit of Mark Cottrell and Denise Kagan ("Cottrell/Kagan"). These individuals paint a rosy picture of SBC's billing capabilities that is belied by recent SBC statements about its wholesale billing, information that SBC sent to WorldCom (and, presumably, other CLECs) in February 2003 indicating that it will receive credits to reflect a "reconciliation" of UNE-P charges, and WorldCom's commercial experience with SBC Illinois' wholesale billing.[62]

1043. For example, Cottrell/Kagan claim that "SBC Illinois provides CLECs with accurate timely, and auditable billing and usage information in compliance with the Act."[63] Cottrell/Kagan attempt to minimize the billing errors that CLECs identified asserting that "none of the billing claims raised by the CLECs reflect systemic wholesale billing problems that are likely to recur."[64] Instead of addressing specific issues raised by WorldCom, Cottrell/Kagan brushed aside specific allegations with general, sweeping contentions:

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[61] *Id.* at ¶ 23 (citations omitted). "BOS-BDT" refers to the "Billing Output Specification ("BOS") Bill Data Type ("BDT") electronic billing format.

[62] Lichtenberg Reb. Aff., WorldCom Ex. 3.4, ¶ 4.

[63] Cottrell/Kagan Reb. Aff., p. 2.

[64] *Id.*

> Many of the claims raised by CLECs describe incidents that are outdated or involve small disputed amounts, or stem from one-time system changes, and thus do not indicate any competitive impacts on CLECs. Other claims raised by CLECs are so general and lacking in detail that it has been difficult for SBC Illinois to investigate and respond to their claims. Although CLECs do raise claims of billing error, none of their claims demonstrate any systemic issues with SBC Illinois' billing OSS, and or succed in rebutting SBC Illinois' showing that its billing OSS are compliant with checklist item 2.[65]

1044. According to WorldCom, the Cottrell/Kagan affidavit does not comport with reality. As an initial matter, it fails to answer any of the specific problems that Ms. Lichtenberg identified with respect to widespread inaccuracies that are contained in the monthly wholesale bills received by WorldCom that are generated through SBC Illinois' CABS. Indeed, while Ms. Lichtenberg provided a list of Universal Service Ordering Codes ("USOCs") and rates that SBC has been charging WorldCom for activities and products associated with those USOCs, Cottrell/Kagan did not and could not answer why any such rate was appropriately being charged to WorldCom for services it provides to end user customers via the Unbundled Network Element Platform ("UNE-P" or "UNE Platform"). Ms. Lichtenberg described a $53.01 charge associated with the "UJR" and "UPC" USOCs that SBC has charged WorldCom in each month since August 2000 well over a thousand times. Ms. Lichtenberg noted that for months in which WorldCom has not provided "new lines" or "additional lines" to customers, SBC has been charging WorldCom outdated line connection charges that are contrary to SBCs UNE-P tariff. Ms. Lichtenberg further described the fact that SBC has been charging WorldCom $5.01 monthly recurring charge for unbundled local switching ports when SBC was ordered by the Commission to revise that rate in an order issued in Docket 00-0700 on July 10, 2002. The amount of incorrect charges that SBC has assessed are substantial, WorldCom contends. Cottrell/Kagan fail to address any of these issues.

1045. SBC has admitted that many of the charges and USOCs that Ms. Lichtenberg described in her direct affidavit do not comport with its existing tariffs and should not be applicable to UNE-P ordering or provisioning. In response to WorldCom's inquiry about USOCs and associated rates that routinely appeared on WorldCom UNE-P bills from August 2002 through January 2003, SBC indicated:

> As noted in the response below, the following non-recurring charges are not currently applicable to the ordering and provisioning of UNE-P in Illinois : (1) NR9UU, SO Charge-Initial Basic Port ($17.37); (2) SEPUP, Processing Charge-Establish (loop order) ($13.17); (3) UJR, Basic Line Port-Residence

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[65] *Id.*, pp. 2-3.

> ($53.01); and (4) UPC, Basic Line Port-Business ($53.01). Based on a review of its electronic ordering and billing systems, SBC Illinois has confirmed that these USOCs are not, in fact, currently being applied to UNE-P orders from MCI that flow through the those systems. To the extent that these rates have been charged to MCI in Illinois during periods of time when they were inapplicable, such incorrect charges appear to have been the result of errors in manually handling a small percentage of orders that fell out of the electronic ordering system.
>
> The other USOCs listed below are all properly applicable to MCI's bills for UNE-P. In the case of six of those USOCs, however, the rates listed below are not consistent with the currently effective tariff rates for UNE-P. These USOCs include the following non-recurring charges (NR9F6, NR9UV, and SEPUC) and the following recurring charges (UJR, UPC and UPZ). Our review indicates that the MCI-specific UNE-P pricing table in the Illinois CABs billing system was not updated when changes to those rates became effective at various times during 2002. The Company in the process of updating those tables.[66]

1046. Each of the above-noted USOCs and rates routinely appeared on WorldCom UNE-P CABS bills from at least August 2002 through January 2003. WorldCom purchases UNE-P and unbundled local switching and shared transport out of SBC Illinois' tariffs. SBC response to WorldCom's USOC rate questions acknowledges that SBC has assessed charges to WorldCom that are not consistent with its tariffs and Commission-approved Total Element Long Run Incremental ("TELRIC") recurring and nonrecurring rates associated with UNE-P. Simply put, that fact cannot be squared with the position of Cottrell/Kagan that SBC's bills are accurate, timely and auditable.

1047. Moreover, WorldCom asserts, while SBC's answers to its billing questions attempt to leave the impression that billing errors are insignificant or have been fixed, that is not true. For instance, while SBC says they are not applicable to UNE-P ordering or provisioning in Illinois, WorldCom was able to discern from its February 16, 2003 CABS bill that SBC continues to bill WorldCom for the following USOCs at the following rates: NR9UU, SO Charge-Initial Basic Port ($17.37); (2) SEPUP, Processing Charge-Establish (loop order) ($13.17); (3) UJR, Basic Line Port-Residence ($53.01); and (4) UPC, Basic Line Port-Business ($53.01). That is true despite SBC's response to WorldCom's billing questions which indicates that SBC checked its ordering and billing systems and confirmed that those USOCs "are not, in fact, currently being applied to UNE-P orders from MCI that flow through the those systems."

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[66] *See* Response of SBC Illinois to a portion of the data requests contained in WorldCom letter from Darrell Townsley to Karl B. Anderson, Counsel for SBC Illinois, dated February 19, 2003, response to request No. 1.0. Lichtenberg Reb. Aff., WorldCom Ex. 3.4, Schedule 1.

1048. Furthermore, WorldCom confirmed that its February 16, 2003 CABS bill continues to include a $5.01 monthly recurring charge for the unbundled local switching port for which WorldCom should be charged no more than $2.18. This unbundled local switching overcharge has been assessed to WorldCom by SBC hundreds of thousands of times on a monthly basis at least since August 2002, and continues to appear on WorldCom's latest bill. Again, WorldCom's commercial experience with SBC's wholesale billing cannot be squared with the position of Cottrell/Kagan that SBC's bills are accurate, timely and auditable.

1049. In addition to SBC's acknowledgement that its wholesale bills do not reflect accurate rates for UNE-P and WorldCom's commercial experience with SBC's inaccurate wholesale bills, SBC has indicated that it is "reconciling" Illinois UNE-P charges. As Ms. Lichtenberg mentioned in her Phase 2 Direct Affidavit, on or about February 6, 2003 SBC indicated that WorldCom would be receiving a credit from SBC to reflect a "reconciliation" of UNE-P charges.[67] The specific amount of credit that SBC indicated it would be providing to WorldCom to "reconcile" UNE-P charges for Illinois is approximately $2.1 million. While credits started to appear on WorldCom's February 16, 2003 CABS bill, no credit was applied for misbilled UNE-P nonrecurring charges, and that WorldCom has been unable to determine the bases for the credits that are being applied to some recurring charges. It remains unclear exactly what SBC is "reconciling" – in other words what the credits are for and how and why they are being applied. Clearly, SBC's behavior here does not portray a robust billing system which produces auditable and correct bills.[68]

1050. WorldCom responded to SBC witness Scott Alexander, who addressed the billing issue. Mr. Alexander's rebuttal affidavit asserted that any determination as to whether particular rates have been appropriately applied in a specific situation requires an analysis of that CLEC's interconnection agreement to determine whether it is to be billed items at the effective contract rates, or at the tariffed rates. In his opinion, Mr. Alexander believes that effective contract rates apply unless an amendment to a CLEC's contract incorporates updated rates or an effective tariff is incorporated into the contract by reference. Mr. Alexander also claims that if a CLEC's effective agreement contains rates, terms and conditions for a particular UNE, then the CLEC may not unilaterally elect to take the same UNE under an effective tariff.[69]

1051. Mr. Alexander's affidavit implies that all of the billing errors identified by CLECs are not legitimate because they may not be properly purchasing items from a tariff or have their interconnection agreements amended. Mr. Alexander's contentions certainly do not apply to the billing accuracy issues that WorldCom has raised. However, as WorldCom witness Ms.

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[67] Liechtenberg Dir. Aff., WorldCom Ex. 3.3, ¶ 15.

[68] Lichtenberg Reb. Aff., WorldCom Ex. 3.4, ¶ 10.

[69] Alexander Reb. Aff., pp. 5-6.

Lichtenberg observed,[70] WorldCom purchases unbundled local switching and shared transport and UNE-P out of SBC Illinois' tariffs. SBC has not disputed that WorldCom purchases these items out of its tariff. Indeed, SBC has indicated to WorldCom that the unbundled local switching and shared transport that is in the SBC/WorldCom interconnection agreement is not the same unbundled local switching and shared transport that SBC uses to provide UNE-P. As such, it is not possible for WorldCom to purchase unbundled local switching and shared transport and, in turn, UNE-P from that interconnection agreement. Instead, WorldCom purchases those items from SBC Illinois' tariffs.

1052. Thus, according to WorldCom, all of the rates that it pays for these items come from SBC's tariffs and the Commission's orders that have determined the just and reasonable rates recurring and nonrecurring for those items. Any inference that Mr. Alexander is attempting to make does can not apply to WorldCom's billing disputes. Moreover, if Mr. Alexander believes that his analysis somehow applies to the rates and USOCs that were identified in Ms. Lichtenberg's Direct Affidavit, he has failed to address in any manner what he believes the appropriate rates are that WorldCom should be charged or the basis for such rates. Mr. Alexander's affidavit does nothing to shed light on how SBC's wholesale billing is accurate and appears to exacerbate Commission and CLEC confusion about what rates should apply.

1053. WorldCom contends that Mr. Alexander's assertion that a CLEC may not unilaterally elect to take the same UNE under an effective tariff if it has that same UNE in its contract is belied by SBC's tariffs. WorldCom cites the language of SBC Illinois unbundled local switching tariff which plainly states that a CLEC with an interconnection agreement can purchase out of the tariff:

> Unless otherwise provided in an interconnection agreement or amendment thereto between the Company and a telecommunications carrier which is dated after June 30, 2001, telecommunications carriers that already have an interconnection agreement with the Company pursuant to Section 252 of the Telecommunications Act of 1996 shall be permitted to purchase ULS-ST under this tariff. However, a telecommunications carrier is not required to have an interconnection agreement with the Company before subscribing to ULS-ST under this tariff. ULS-ST is available to a requesting telecommunications carrier for the provision of local exchange, interexchange that includes local, local toll, and intraLATA toll, and exchange access telecommunications services within the LATA to its end users or payphone service providers.[71]

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[70] *Id.*, ¶¶ 12-15.

[71] SBC Illinois ULS-ST tariff, SBC Illinois Tariff 20, Part 19, Section 21, 5th Revised Sheet No. 1, effective July 12, 2002.

1054. WorldCom similarly cites SBC Illinois' UNE-P tariff, which states that a CLEC with an interconnection agreement can purchase out of the tariff:

> Unless otherwise provided in an interconnection agreement or amendment thereto between the Company and a telecommunications carrier which is dated after June 30, 2001, that telecommunications carrier shall be permitted to subscribe to Pre-Existing and New UNE-P under this tariff regardless of whether or not the telecommunications carrier has an effective interconnection agreement with the Company pursuant to Section 252 of the Telecommunications Act of 1996.72

1055. Based on the foregoing passages from SBC Illinois tariffs, WorldCom argues that the inference in Mr. Alexander's affidavit that a CLEC may not unilaterally elect to take the same UNE under an effective tariff if it has that same UNE in its contract is clearly wrong.

1056. WorldCom submits that neither the joint affidavit of SBC witnesses Cottrell and Kagan nor the affidavit of SBC witness Scott Alexander directly address the wholesale billing issues that WorldCom has raised in Phase 2 of this proceeding. According to WorldCom, the undisputed record demonstrates that SBC Illinois is failing to "provide competitive LECs with . . . complete, accurate and timely wholesale bills," [73] and has been unable to date to "demonstrate that it can produce a readable, auditable and accurate wholesale bill in order to satisfy its nondiscrimination requirements under checklist item 2."[74] Hence, WorldCom maintains that the Commission should withhold any favorable recommendation on SBC's request for Section 271 authority unless and until SBC demonstrates that it provides CLECs with complete, accurate and timely wholesale bills that are readable, accurate and auditable. Absent such a showing, SBC cannot demonstrate that it satisfies the nondiscrimination requirements under checklist item 2.

Line Loss Notification ("LLN")

1057. WorldCom notes that In Phase 1 of this proceeding, SBC witness Cottrell attempted to leave the Commission with the impression that LLN problems had been solved. SBC continues in its efforts to leave this impression despite that fact that real world commercial experience indicates that LLN problems persist. Indeed, in a written answer that SBC provided

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[72] SBC Illinois UNE-P tariff, SBC Illinois Tariff 20, Part 19, Section 15, 5th Revised Sheet No. 5, effective July 12, 2002.

[73] *In the Matter of Application by Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, (CC Docket No. 01-138), ¶ 13 ("*Pennsylvania Order*").

[74] *Pennsylvania Order* at ¶ 22.

to a Staff's request for "a list of all January system changes made to correct line loss notification issues" SBC indicated that:

> SBC Ameritech experienced no instances of undelivered line loss notifiers (LLN) in January, and therefore made no system, process, or procedure changes or table updates resulting from such incidents. As part of the normal operation of its LLN cross-functional team, certain steps were taken to enhance the timeliness of LLN transmission. These steps included the updating of one CLEC's profile table regarding its preferences for method of LLN transmission, and the coaching of individual service representatives. One system change was made to correct a rare, intermittent formatting problem with the LLN circuit ID field. This problem had affected approximately 50 LLNs transmitted to SBC Ameritech's retail organization between November 2002 and January 2003.[75]

1058. WorldCom believes that one might infer from Mr. Cottrell's answer to this question that there were no LLN problems in the month of January 2003. But that would be a mistaken inference. Perhaps the biggest OSS problem that WorldCom has faced in the former-Ameritech region involves SBC's failure to transmit line loss notifications for thousands of customers. Line loss notifications inform CLECs when a customer has left them to migrate to another carrier and without them the CLECs do not know to stop billing the customers.

1059. SBC has repeatedly said that it fixed the problem with line loss notifications and WorldCom asserts that the problem has repeatedly reappeared. While WorldCom noted that the problem with line loss notifications did appear to be largely fixed in recent months, on January 31, 2003, WorldCom stopped receiving line losses from SBC in the proper format, rendering these line losses effectively useless. Apparently, SBC mistakenly changed the format of the line loss information it transmits to WorldCom but never notified us that it had done so. As a result, WorldCom was not able to process over 5,000 line losses.Needless to say, it was WorldCom that reported this problem to SBC, not vice versa. While SBC has spent much time and energy creating its line loss reporting teams, WorldCom contends that these teams apparently look only at whether a line loss is generated and not whether that line loss can actually be used by a CLEC. Given the substantial number of LLNs impacted, one would think that Mr. Cottrell would have been aware of this particular LLN problem, but his answers to questions from Staff and others leaves the impression that he, and presumably the entire cross-functional LLN team, were totally unaware of this customer impacting problem.[76]

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[75] See Responses to 2/13/03 Workshop questions directed to Mark Cottrell, ICC-5, sent to parties in Docket 01-0662 on February 19, 2003.

[76] Lichtenberg Dir. Aff., WorldCom Ex. 3.3, ¶ 19.

1060. Based on communications with SBC, WorldCom and SBC worked out a fix for the problem and that fix appears to be working as of today. But the problem should never have arisen in the first place. According to SBC, the problem was caused when SBC's EDI mistakenly changed the WorldCom profile stored in its production systems to LSOG 5 while WorldCom was testing LSOG 5 in the SBC test environment. This problem shows that SBC continues to lack the most basic controls over its change management process, even when it impacts an issue that has been the subject of significant ICC scrutiny. SBC has promised to correct this problem going forward by ensuring that its test personnel are not able to make changes to the production environment, but SBC should have made this change the last time that this sort of a problem occurred rather than after it impacted over 5000 customers. It appears that the line and change management processes are still not strong enough to support commercial activities, despite SBC's protestations otherwise.

1061. Indeed, At pages 43 through 46 of its reply comments, SBC acknowledges that Line Loss Notice ("LLN") problems have persisted. However, SBC attempts to characterize the LLN problems cited by CLECs as insignificant since they were limited in time and scope and were resolved by parties quickly on a business-to-business basis. While it apparently believes that LLN issues are not really a problem, SBC points to the LLN Communications Improvement Plan it filed in Michigan as additional assurance that future LLN issues will be addressed in an effective manner.[77]

1062. WorldCom avers that paper promises that future LLN problems will be resolved in an effective manner provide little if any comfort to CLECs that have suffered through customer impacting LLN problems for over a year. On March 6, 2003 – three days after SBC filed its Reply Comments and rebuttal affidavits in this proceeding -- SBC sent a notification to CLECs in an accessible letter identified as CLECAMS03-019 stating:

> The purpose of this accessible letter is to inform CLECs of a Line Loss Notification issue identified on 3/5/03 in the SBC Midwest Region 5-State. As a result of a CLEC report, SBC Midwest Region 5-State investigation has identified situations where notifications were sent on lines that CLECs did not lose. These occurred when the winning CLEC used LSOR version 5 and assumed the main billing telephone number (BTN) only, of a multi-line account. Loss notifications were sent appropriately on the lost billing number. In addition, loss notifications appear to have been sent as well on the new main billing number, when it was not an actual loss. It appears this issue affected less than 3000 transactions over a period of several months.
>
> Additional analysis is currently being conducted to determine the start date of the issue, the exact number of Line Loss Notifications (LLNs) sent in error, the CLECs impacted and to better understand the root cause. SBC Midwest Region 5-State will provide more information regarding

[77] Reply comments, p. 46; Cottrell Reb. Aff. ¶¶ 22-23.

> this issue in a related accessible letter at the earliest possible date. All affected CLECs will be contacted directly by their OSS Manager.

1063. This notification came just after CLECs and SBC completed discussion of the so-called line loss compliance plan in Michigan. According to WorldCom, one of the biggest issues in this discussion was the CLEC request that an announcement of a line loss problem be sent as soon as the problem was detected and that all CLECs be informed. While SBC did not want to follow this process, it appears from SBC's March 6 accessible letter that such a notification was indeed necessary. It is clear that SBC has not adequately addressed LNN problems. The problem alluded to in the March 6 accessible letter is the same LLN problem SBC had previously - - that partial migrations are not generating line losses the way they should. Shortly after receiving the March 6 letter, WorldCom contacted SBC in an attempt to determine to what extent this latest LLN problem would impact WorldCom's operations. While SBC has confirmed that WorldCom is impacted by this LLN problem, but as of the date that WorldCom submitted its rebuttal affidavits SBC had been unable to provide any information as to the level of that impact. The information that has been provided since that time simply reaffirms that LNN problems are impacting WorldCom and its customers. Clearly, SBC's 5-state investigation team doesn't do much investigating.

1064. In addition to continuing LLN problems, WorldCom asserts that it has come to its attention that so-called "winbacks" may not have been reported in the line loss performance measure identified as Michigan 13 that was evaluated by BearingPoint. WorldCom also is concerned that SBC Illinois may not report these losses in the new Michigan 13 ("MI 13") and Michigan 13.1 ("MI 13.1") metrics on line losses adopted in the last six month reviews. CLECs had always intended all loss notices be covered by the metric. Whether the loss is to other CLECs or back to SBC Illinois the business need for timely loss notices to the losing carrier does not differ. The old version of Performance Measure MI 13 describes the start time for the measuring the time interval for the loss notice to the losing carrier from the generation of a completion notice to the "new carrier" to which a customer switches his or her service. However, SBC Illinois now construes Performance Measure MI 13 as originally constructed to exclude winbacks because completition notices were either not transmitted from SBC Illinois to itself when a customer switched service from a CLEC back to SBC, or SBC was simply ignoring those notices and availing itself of other more timely and superior line loss information that was not available to CLECs. In other words, SBC apparently did count in the old MI 13 situations in which a customer leaves a CLEC to return to SBC Illinois – a so-called "winback" where SBC wins back the customer.

1065. The new MI 13 and MI 13.1 measures use "completion of work" as the start time in the definition, business rules and calculation section. However, the second sentence of the business rules states: "The date that the last service order associated with the LSR is provisioned is the work completion date." SBC Illinois now appears to be using the word LSR, which is a CLEC ordering vehicle, as a loophole in the new metric for excluding "winback" line loss notices. If winbacks were singled out from the other line loss notices and agreed to as exclusions in the six month review, the place to put information would have been in the Exclusions section of the metric.

1066. While MI 13 as originally interpreted by SBC apparently excluded winbacks, the Illinois Commission directed SBC Illinois to change the performance measure because it found in a complaint case brought by Z-Tel Communications that SBC Illinois was providing inferior and discriminatory access to OSS by providing CLECs with late and inaccurate LLNs. At the same time SBC was providing CLECs with late and inaccurate LLNs, SBC was utilizing superior and more timely information to instigate winback marketing to customers who had left SBC, thereby providing SBC an unearned marketing advantage. In the Z-Tel complaint case the Commission found that SBC Illinois' actions were *per se* impediments to competition that violate Illinois law.[78] In discussing the discriminatory treatment that CLECs were experiencing as a result of SBC Illinois' LLN practices, the Commission specifically addressed Performance Measure MI 13 and its shortcomings:

> The Commission finds that the LLN performance measure ("MI 13") needs to be improved. It is clear from the record in this case that MI 13 as it currently exists, is not adequately measuring Ameritech's LLN failures. The performance measure shows Ameritech completing line loss notices in a timely manner in about 90-95% of the time. (Staff Ex. 1.0 at 14). Whereas, Z-Tel provided testimony that for the period from March 1, 2002 through March 11, 2002 (after the Complaint was filed) no less than 42% of the records received from Ameritech were provided to Z-Tel more than 6 days after the Ztel customer disconnected from Z-Tel. (Reith Direct Testimony at 9). There is clearly something wrong here.
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> Staff witness Weber identified two problems with the way Ameritech measures its performance in delivering LLNs. First, the data Ameritech reports does not account for loss notifications that are supposed to be sent to a losing carrier but are not. Second, Ameritech measures the timeliness of its loss notification transactions from the time the completion notice is sent to the new carrier, instead of from the time the disconnect order completes for the losing carrier. Therefore, if Ameritech's service order completion notices to the new carriers are delayed, the performance measure would not account for the delay. (Staff Ex. 1.0 at 14).
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> Staff witness Weber testified that since January 1, 2002, 83 CLECs could have been affected by the loss notification issue. (Staff Ex. 1.0, p. 6). The performance measure needs to be redesigned to address the problems identified by Staff. Ameritech is directed to provide reports, to be reviewed by Z-Tel and Staff, describing its efforts in correcting the problems with MI 13.[79]

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[78] Z-Tel Communications, Inc. v. Illinois Bell Telephone Company d/b/a Ameritech Illinois, Order, Docket No. 02-0160, issued May 8, 2002 ("Z-Tel Complaint"), p. 26.

[79] Id., p. 26.

1067. According to WorldCom, while the Illinois Commission clearly wanted changes made to MI 13 to ensure that SBC was not discriminating in the provision of LLNs to CLECs and itself, SBC Illinois has now advised CLECs and Commission Staff that the revised MI 13 discussed in the six month review also excludes winback LLNs. This demonstrates that MI 13 has been severely compromised since it excludes the biggest problem in losses. This revelation about MI 13 and MI 13.1 puts SBC Illinois' claims about this metric in a whole new light. SBC witness Mr. Cottrell's affidavit that indicates that SBC has generated line losses over the last 6 months, apparently excluding all winbacks. Moreover, it appears to demonstrate that SBC Illinois can't even figure out how many LLNs it has actually sent - ever.

1068. Since most of the line losses in SBC Illinois territory are more likely than not winbacks, i.e., customers who leave a CLEC and return to SBC Illinois, and most of the line loss problems have been with winbacks, this is disturbing and calls into question whether the metrics results reported by SBC Illinois for performance measure MI 13 mean anything. The Commission should require testing of measure PM13 without the exclusion of winback lines losses.

1069. The confusion surrounding whether winback LLNs have been included in reports on MI 13 and 13.1 became apparent during a conference call concerning the Michigan OSS Compliance Plan on March 12, 2003. During that call, representatives of SBC indicated that it was SBC's intent that MI 13 and MI 13.1, as revised in the most recent 6 month review process, includes winbacks. That intent was reflected in an e-mail from James Ehr to participants in the 6 month review process dated June 12, 2002.[80] Despite SBC's stated intent, there was some concern expressed that the business rules for MI 13 and MI 13.1 (as revised in the latest 6 month review and as reflected in the performance measure tariff filed by SBC Illinois on February 7, 2003) would require winbacks to be excluded. While SBC has agreed to review and revise the business rules for MI 13 and MI 13.1 to make clear that winbacks are not excluded from reporting under the revised measures, WorldCom remains concerned that MI 13 and MI 13.1 as originally constructed and as tested by BearingPoint failed to include winback LLNs. For those tests to be valid, the Commission must ensure that winback LLNs were not excluded and, if they were, that those measures be included and the new metrics tested.

1070. WorldCom asserts that the LLN problems continue. These persistent and nagging LLN deficiencies, contends WorldCom, demonstrate that SBC's OSS software is not stable and that SBC's repeated attempts to fix LLN issues have not been effective. It is clear that improvements are needed prior to, not after, section 271 approval. The Illinois Commission needs to be confident that customer impacting LLN problems have been resolved and that SBC follows change management processes before it can conclude that SBC is providing nondiscriminatory access to OSS. WorldCom urges the Commission to withhold any positive recommendation on SBC Illinois' 271 application unless and until LLN problems are fully and finally resolved.

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[80] Lichtenberg Reb. Aff., WorldCom Ex. 3.4, ¶ 26, Schedule 2.

Transmission of Incorrect Completion Notices.

1071. WorldCom complained about SBC's practice of sending completion notices on some order that had not actually been completed.[81] SBC witness Justin Brown submitted an affidavit addressing service order completions transmitted by SBC to WorldCom in error. The record demonstrates that upon receiving an erroneous completion notice from SBC, WorldCom commences billing the customer associated with that notice. However, if the customer has not been migrated to WorldCom, the customer is being billed by SBC or another CLEC, resulting in the customer being double billed. Mr. Brown readily admits that SBC transmits erroneous completion notices, but downplays the significance based on his assertion that they occur infrequently.[82] According to Mr. Brown, WorldCom should not get a LLN for these customers because the order should not have been completed in the first place.[83] Mr. Brown's position is absurd. Whether it should have or not, SBC has transmitting notices indicating that an order completed, which results in WorldCom initiating billing for the customer. The OSS message that tells WorldCom that a customer has switched back to SBC Illinois or to another CLEC is a LLN. Accordingly, it is incumbent upon SBC to send a LLN to WorldCom or any CLEC as soon as SBC becomes aware that it has sent a completion notice in error. The LLN will contain the effective date that billing should have been stopped. This would be the date the order was completed in error and would allow these orders to be treated via standard processes.

1072. Mr. Brown's excuse for not sending a LLN is that the its e-mail written report provides WorldCom with more detail than the LLN. Mr. Brown's defense of SBC's process fails to explain why it is that the order completed in the first place, does not note whether the customer really ever received service from MCI, fails to state whether SBC reversed the billing for the customers they mistakenly transferred. Simply put, there is no root cause identified as to why this problem occurs or how it can be fixed. In fact, Mr. Brown's non-response highlights how the entire process employed by SBC is manual and that SBC disregards CLEC's requests that SBC follow standard processes – in this case issuing an LLN – so that customers are not negatively impacted by the erroneous completion notices that SBC transmits to CLECs. That is necessary to ensure that the customer is not double billed.

1073. Moreover, the erroneous completion notices are not included in any of SBC's performance metrics. To the contrary, the performance measure for Service Order Completion ("SOC") will show only that the SOC was sent on time, never capturing the fact that it was taken back and should have never been sent in the first place. The line loss is not missing because

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[81] Lichtenberg Dir. Aff., WorldCom Ex. 3.3, ¶¶ 24-28.

[82] Brown Reb. Aff. paragraph, 22.

[83] *Id.*, paragraph 24.

SBC Illinois unilaterally decided that it doesn't need to send LLNs in this situation. Accordingly, neither the SOC nor LLN performance measures will capture this acknowledged problem.

1074. As Ms. Lichtenberg discussed in her Phase 2 Direct Affidavit, and as Mr. Brown's rebuttal affidavit makes clear, SBC's e-mail transmissions on erroneous completion notices are only one example of a more general issue – SBC's use of non-automated processes to send some notices to WorldCom. SBC continues to send a miscellaneous line loss notifications via e-mail, and, as noted below, sends some "working service conflict" notifications via fax. The Commission should require SBC Illinois to eliminate the use of ad hoc processes that are entirely outside the normal flow of automated notices before it will provide a positive recommendation on SBC Illinois' 271 application. The Commission should make clear that SBC must eliminate the transmission of erroneous completion notices before it provides a positive recommendation to the FCC on SBC Illinois' 271 application.

Working Service Conflict Problems.

1075. WorldCom has experienced serious problems in submitting orders for new lines in Illinois. As Ms. Lichtenberg explained, when a CLEC transmits a request for new service, or additional service such as a second line, SBC needs to determine whether to dispatch a technician to install the new line. SBC may be able to install service without dispatching a technician if the customer is moving into a home and the previous resident left without turning off the telephone service. SBC may also be able to avoid a dispatch when a customer orders a second line because frequently SBC will have built a second line to the home in order to have spare capacity for a second line order. SBC seems to believe it can determine from the CLEC whether the order should be provisioned using an existing line to the home or an entirely new line. SBC therefore transmits a "working service conflict" ("WSC") form to the CLEC asking for this information.[84] Ms. Lichtenberg enumerated the problems with SBC's working service conflict process, including CLECs not knowing what information that they must provide to SBC and the fact that SBC forces CLECs to use manual facsimile processes for WSC requests and responses.

1076. In response, SBC witness Justin Brown maintains that there are no problems with the WSC process. Mr. Brown comments on WorldCom's complaint that WSC did not receive WSC notification forms because SBC directed the forms to the wrong facsimile number.[85] SBC acknowledges that WorldCom forwarded to SBC the facsimile number in accordance with accessible letter CLECAM02-349, but indicates that SBC failed to retrieve the number and forward it to the Local Service Center. As a result, the forms were misdirected. Apparently the

[84] Lichtenberg Dir. Aff., WorldCom Ex. 3.3, ¶ 35.

[85] Brown Reb. Aff., ¶ 13.

facsimile number was not retrieved and forwarded to the LSC due to a death in the family of the responsible employee.[86]

1077. Ms. Lichtenberg noted that WorldCom appreciates SBC's candor on the issue of the misdirected WSC forms. Nevertheless, the incident again highlights the general problems that occur as a result of ad hoc manual processes. Indeed, soon after SBC released the accessible letter describing the WSC process on July 24, 2002, WorldCom conveyed its concern that the WSC form was going to be sent by facsimile and instead asked for an e-mail process similar to the service abandonment form to which the WSC is related. With the service abandonment form process, SBC sends WorldCom an e-mail alerting it of abandoned stations (where a customer has left but service is still in place), which is the general reason that there is working service conflict in the first place. SBC refused to implement the e-mail process and insisting instead on the facsimile process which resulted in WSC forms being misdirected. WorldCom and other CLECs disagreed vehemently at the CLEC User Forum ("CUF") meeting that the facsimile process should move forward, but SBC unilaterally rolled out this process anyway. WorldCom regrets that the WSC faxes were sent to a wrong fax number due to a death in an employee's family, but this simply points out the poor track record that SBC has with its many manual processes.

1078. WorldCom argues that the Commission should require SBC Illinois to eliminate the use of ad hoc processes that are entirely outside the normal flow of automated notices before it will provide a positive recommendation on SBC Illinois' 271 application.

Service Order Completions ("SOCs") and Cancellations.

1079. In addition to sending erroneous completion notices on some orders and failing to process disconnect orders, SBC repeatedly cancels some WorldCom orders without justification and without sending proper notice to WorldCom. It also fails to send reject notices on some orders that it properly cancels.[87]

1080. Every day, WorldCom calls SBC to report orders on which it has not received expected completion notices. After SBC researches the issues, it often reports that it erroneously cancelled the orders. Or it reports that it should have sent reject notices on the orders but failed to do so. SBC provides a variety of explanations for these cancellations including both manual errors[88] and systems errors.[89] But the result is the same regardless of the cause. The WorldCom orders are not processed, but SBC fails to inform WorldCom of this fact.

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[86] *Id*., footnote 1.

[87] Lichtenberg Dir. Aff., WorldCom Ex. 3.3, ¶¶ 29-33.

[88] For example, sometimes SBC service representatives must cancel service orders internally as a result of internal issues but then are supposed to create new service orders so that the WorldCom Local Service Request ("LSR") is not cancelled. They sometimes fail to create the requisite service orders. Or, if they are supposed to cancel the LSR, they fail to send the notice informing WorldCom of that fact.

1081. While the number of LSRs that SBC erroneously cancels is not high in percentage terms,the problem is important nonetheless. When SBC incorrectly cancels an LSR, the customer does not receive service from WorldCom until WorldCom detects the problem and calls SBC to determine what went wrong. If the order is for a new line, the customer does not receive service at all until WorldCom detects the problem.

1082. At present, WorldCom checks each day to determine whether there are any completion notifications that it has failed to receive within three days of the due date on an order. Based on such checks, WorldCom presently has approximately 490 missing completion notices in the 5 state SBC Midwest region as of February 18, 2003. Two hundred and two of these missing notifications were in Illinois.[90]

1083. SBC witness Justin Brown implies in at paragraph 17 footnote 2 of his rebuttal affidavit that SBC allows Worldcom to send missing notifiers, including SOCs and erroneous cancellations, via spreadsheets. Mr. Brown claims contends that an LSC Line Manager incorrectly indicated that the process had changed and WorldCom would be required to call the LSC to report the missing notifiers rather than using the previously established process of sending them via spreadsheet. According to Mr. Brown, WorldCom was informed by its account manager on February 5, 2003 that the line manager in question has been updated on the correct procedure.

1084. Mr. Brown's account of the missing notifier process change does not jibe with WorldCom's actual experience. WorldCom was informed in October 2002 by its account team that SBC was requiring that it stop sending missing notifier information via spreadsheet, not by a Line Manager at the LSC. SBC's account of what happened is inaccurate. As a result of the direction WorldCom received from its SBC account team in October, WorldCom has been required to phone in missing notifiers to the LSC. Contacting the LSC is much more cumbersome and time-consuming than the spreadsheet process. WorldCom appreciates the fact that SBC has now confirmed that the information it received from its account team was erroneous and looks forward to reinstituting the spreadsheet process for missing notifiers. However, this incident once again underscores the problems with manual processes instituted by

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[89] SBC also cancels some orders because WorldCom did not respond to the "working service conflict" form that is described above. But the reason WorldCom did not respond is that SBC failed to send the form to the correct location. And, in any case, SBC needs to notify WorldCom if it cancels an order.

[90] Until the week of February 3, the impact of the problem was exacerbated because the method SBC insisted on for correcting each error was unnecessarily time consuming. Beginning in October, SBC unilaterally insisted that WorldCom had to call SBC to report missing notifiers rather than using the previously established process under which WorldCom would transmit spreadsheets that included all missing notifiers. SBC would only discuss five orders during a phone call, and it generally took approximately an hour to discuss these five orders. SBC recently agreed that it would permit WorldCom to provide a trouble ticket directly to the account team if it included more than 15 orders. WorldCom hopes that this will alleviate some of the impact of the cancelled orders.

SBC. Since WorldCom has been in the local market in Illinois since December 2000, the Local Ordering Center ("LOC") should have learned by now how to handle missing orders.

1085. With respect to cancellations, Mr. Brown also attempts to minimize the significance of the problem. His explanation points directly back to the manual handling of the problems that appear to be more the rule than the exception at the LSC. Indeed, SBC has provided a more complete explanation of why it is canceling WorldCom orders without notifying WorldCom. WorldCom transmitted to SBC a list of 160 orders for which it had not received a completion notice in November or December. SBC returned a spreadsheet analyzing these orders. The legend at the back of the spreadsheet provides the different explanations SBC gave for canceling each order. The vast majority were cancelled as a result of systems or manual errors on the part of SBC (with SBC's responsibility for the remainder somewhat less clear). SBC service representatives canceled 13 orders in its back-end system ASON, but failed to reissue these orders. They cancelled 41 additional orders in ASON that they did reissue but for which SBC failed to transmit a completion notice. SBC cancelled 22 orders "due to reject[s]" without transmitting rejection notices to WorldCom, cancelled 13 additional orders that it said were for valid rejects but for which it also failed to transmit rejection notices, cancelled five more orders that should have been rejected because the customers were in the process of switching to another carrier, and cancelled 43 orders as a result of the working service conflict issue.

1086. According to WorldCom, the problem has only grown worse since November and December. As of February 27, WorldCom was missing 135 completion notices in Michigan, 211 in Illinois and 132 in the other states in the former SBC Midwest region. WorldCom has submitted the list of orders for which it is missing completion notices to SBC for analysis. It is likely that SBC will provide reasons similar to those it gave for the November/December orders. There is no excuse for SBC's continuing cancellation of orders without transmission of any notification to WorldCom.

1087. WorldCom contends that before the Commission can reasonably conclude that SBC provides nondiscriminatory access to OSS, SBC must stop canceling orders erroneously and must notify WorldCom when it does cancel orders, regardless of the cause. WorldCom avers that the Commission should withhold any favorable recommendation with respect to SBC Illinois' 271 application unless and until it demonstrates that this problem is resolved.

d. Staff's Position.

<u>Independent Third Party Review of SBC Illinois' Operational Support Systems</u>

Background

1088. Staff notes that BearingPoint is conducting the independent third party review of SBC Illinois' operational support systems pursuant to Condition 29 of our SBC/Ameritech Merger Order in Docket 98-0555 ("Merger Order"). The Commission required SBC Illinois to work in collaboration with CLECs and Commission Staff in determining the set of changes SBC Illinois would make to its OSS. It designed the independent third party review to specifically

determine whether or not SBC Illinois is meeting the specific OSS requirements of the Merger Order and as further defined by the parties given that a record is being created for consultation with the FCC.

1089. The FCC considers OSS testing to provide an objective means by which to evaluate a Bell Operating company's ("BOC") OSS readiness, and may otherwise strengthen an application where competitors challenge the BOC's evidence. Likewise, the FCC notes that the persuasiveness of a third-party review is dependent upon the qualifications, experience and independence of the third party and the conditions and scope of the review itself.[91] If third party testing has not been conducted for a given OSS function, then commercial usage is used as evidence to prove whether or not the OSS functions are operationally ready.[92] Therefore, the results from BearingPoint's independent third party review are also being presented in this proceeding for consideration.

1090. Staff points out that the Master Test Plan issued by BearingPoint on March 30, 2001 (and as later amended on May 2, 2002) describes the approach it used for testing SBC Illinois' OSS systems, interfaces and business processes. Ordering, provisioning, billing, maintenance and repair, account management and change management are the key business functions that are included in BearingPoint's review. The test was designed to be representative of the types of real-world business situations that are present in Illinois. The Staff, however, contend that the test could not be completely exhaustive in scope and, therefore, not all possible permutations and combinations of features and functions of products were evaluated.

1091. The operational portion of BearingPoint's review was performed through two different types of tests; process and procedure reviews (PPR) and transaction validation and verification (TVV) tests. The PPR and TVV tests were further separated into the four functional areas, Pre-Order and Order, Provisioning, Maintenance and Repair, and Billing. A fifth test aspect named Relationship Management and Infrastructure, was also included as part of the PPR tests. To administer its TVV tests, BearingPoint established a test CLEC ("Test CLEC"). BearingPoint set up the operational infrastructure of a CLEC so that it could submit and receive actual transactions to/from SBC Illinois in the same manner as any CLEC, the Test CLEC. This was done so that BearingPoint could simulate the CLEC experience of conducting business with SBC Illinois while maintaining a controlled environment in which to administer its test.

1092. Staff reminds us, that BearingPoint's operational evaluation began in May 2001, and focuses upon 510 separate evaluation criteria. Each evaluation criterion was analyzed and reported on individually, and assigned one of four results: Satisfied, Not Satisfied, Indeterminate, or Not Applicable. The results are assigned to each evaluation criteria based upon BearingPoint's examination of the norms, benchmarks, standards and guidelines assigned to each evaluation criteria. The results are defined as follows:

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[91] *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in Michigan*, CC Docket # 97-137, FCC 97-298 ¶216 (rel. Aug. 19, 1997) ("Ameritech Michigan Order").

[92] *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York*, CC Docket 99-925, FCC 99-404, ¶89 (rel. Dec. 22, 1999) ("Bell Atlantic New York Order:").

Satisfied: The norm, benchmark, standard, and/or guideline was met or exceeded;

Not Satisfied: The norm, benchmark, standard, and/or guideline was not met;

Indeterminate: Insufficient evidence has been collected to determine a result;

Not Applicable: The evaluation criterion could not be evaluated.

On December 20, 2003, as we ordered, BearingPoint issued a Draft OSS Evaluation Project: Operational Report ("Operational Report") that reported its findings as of the date the report was produced[93].

BearingPoint's high level test results, as presented in the Executive Summary of its Operational Report, by test domain to be as follows (Operational Report at 10):

Table 1 – BearingPoint Operational Test Results

Test Family	Number of Evaluation Criteria				
	Satisfied	**Not Satisfied**	**Indeterminate**	**Not Applicable**	**Total**
Pre-Ordering/Ordering	87	14	0	0	101
Provisioning	76	1	5	0	82
Billing	94	1	0	5	100
Maintenance and Repair	79	2	0	0	78
Relationship Management	131	0	2	7	140
TOTAL	**464**	**18**	**7**	**12**	**501**

1093. The operational test was conducted using a "test until pass" approach. Under this approach, if BearingPoint encountered an issue or problem during the test of SBC Illinois' OSS, BearingPoint informed SBC Illinois by documenting the issue publicly in either an Observation Report or an Exception Report. If SBC Illinois made a change to a process, system or document

[93] As admitted by mutual agreement of the parties during the February 5, 2003 hearing.

in response to an Exception Report or Observation Report, BearingPoint would conduct a retest as appropriate. Accordingly, Ms. Weber notes that many of the evaluation criteria that currently have a Not Satisfied result have been tested more than once, and the Company has been unable to satisfy the evaluation criteria.

1094. Staff would point out that there are several aspects of SBC Illinois' OSS that received Not Satisfied evaluations in BearingPoint's Operational Report, and that, the Commission should require SBC Illinois to address prior to providing a positive Section 271 recommendation to the FCC.

1095. At a minimum, its witness Ms. Weber asserts, SBC Illinois should address the deficiencies noted in the evaluation criteria discussed below, and when SBC Illinois believes it has addressed these deficiencies, it should be required to have an independent third party evaluate SBC's compliance to certify that the evaluation criteria previously found to be Not Satisfied are in fact Satisfied[94]. Specifically, opines Ms. Weber, SBC Illinois should be required to address evaluation criteria TVV1-4, TVV1-26, TVV1-28, TVV4-27, TVV7-14, and PPR13-4 within the context of this proceeding, as the Commission has already directed the Company to do when it approved Staff's January 6, 2003 (updated on January 13, 2003) Staff Report during the January 14, 2003 Commission bench session. Staff Ex. 31.0, Schedule 31.03.

Ordering: Timeliness of Service Order Completion Responses (TVV1-28)

1096. As the Staff observes, service order completion responses ("SOCs") are the notifications SBC Illinois sends to CLECs to indicate that the work the CLEC requested (new account to be provisioned, feature to be added to an account, disconnect of an account, etc.) has been completed. Timely service order completion responses are important to CLECs, because the CLEC needs this information so that it can communicate completion of work to its end user customer. If SBC Illinois does not provide timely SOCs, CLECs have to expend additional time and resources to investigate whether or not the products and services they have ordered were provisioned on the committed due date.

1097. The Staff notes that, in its evaluation of ordering criteria TVV1-28, BearingPoint found that SBC Illinois did not provide timely completion notices for the evaluation period. For the test, BearingPoint used a benchmark of 99 percent of completion notices received within 1 business day of the completion date of the service order. This benchmark is analogous to the standard we approved for performance measure 7.1, Percent Mechanized Completion notices returned within one day of work completion. BearingPoint first publicly reported this issue to the company in Exception Report 18 on November 29, 2001. Subsequent to the initial public notice, SBC Illinois twice indicated that the problem had been addressed and asked BearingPoint

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

to conduct a retest of the evaluation criteria. The company failed both retests, which were conducted in the April 2002 and the October 2002 time periods[95].

1098. During the latest performance measure six-month review collaborative, the parties mutually agreed to alter the standard and definition for performance measure 7.1. The parties agreed to change the benchmark standard to 97% from 99%, and further agreed that Sundays and holidays should be considered non-processing days from a business rule perspective. While there has been agreement of these business rule changes within the collaborative, the Commission has not officially approved them, and therefore, they are not in effect. Regardless of this fact, the company still fails to provide timely service order completion notices when the modified standards or rules for PM 7.1 are applied to BearingPoint's evaluation. For example, when Sundays and holidays are considered to be non-processing days, 1032 out of 1114 (92.6 percent) mechanized CSRs were received by the Test CLEC from SBC Illinois' systems within 1-day time frame, which is well below the modified benchmark of 97%. Staff Ex. 31.0, Schedule 31.02[96].

1099. The Staff points to SBC witness Cottrell's statement that SBC Illinois' commercial performance demonstrates that its service order completion notifications are supplied in a timely manner, but that, per our direction of January 14, 2003, SBC Illinois will work further to resolve the issue. Cottrell Affidavit, ¶21. During the hearings in this proceeding, SBC Illinois indicated that all corrective actions related to this issue would be implemented no later than May 31, 2003[97]. Ms. Weber does not concur in Mr. Cottrell's statement that SBC Illinois' commercial performance demonstrates that its service order completion notifications are supplied in a timely manner. In Ms. Weber's opinion, the three months of performance measurement data submitted by SBC Illinois in this proceeding actually shows that SBC Illinois' commercial performance for performance measure 7.1 failed to meet the defined benchmark for any of the three months for 3 of the 4 sub-measures reported. Ehr Affidavit, Attachment A.

1100. The Staff contends that timely SOC notices are vital to a CLECs' ability to provide good service to their customers. Delay in providing SOC notices may cause CLECs to expend additional time and resources to follow up on the status of orders that should not be necessary, if SBC's OSS is functioning adequately. Ms Weber therefore recommends that we should continue to require that SBC Illinois address issues related to the delivery of timely service order completion notices, as we required on January 14, 2003. Further, Ms. Weber recommends that we direct SBC Illinois to obtain independent third-party verification that the issues have been addressed after SBC Illinois completes its planned changes. Ms. Weber notes that SBC Illinois anticipates such planned changes will be completed no later than May 31, 2003[98].

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[95] Operational Report at 574-575.

[96] Staff Ex. 31.0, Schedule 31.02. Exception 18v3 Additional Information issued by BearingPoint on January 29, 2003.

[97] February 13, 2003 hearing, Cottrell response on follow-up.

[98] Staff Ex. 32.0, Schedule 32.01. February 13, 2003 hearing, Cottrell response on follow-up.

Provisioning: Accuracy of Updates to Customer Service Record (TVV4-27)

1101. As the Staff points out, customer service records provide a CLEC with the ability to verify which specific services have been provisioned on customer accounts/lines, and further enable CLECs to place service/repair orders using "normal" procedures. Without accurate CSR updates, CLECs expend additional resources and time to investigate whether the products and services ordered were actually provisioned to their end user customers accounts, or to check the status of a customer's account, prior to issuing a trouble ticket for maintenance and repair work.

1102. In the TVV4-27 provisioning test, BearingPoint evaluated the accuracy of CSRs, and determined that SBC Illinois' post-order CSRs did not accurately reflect what was ordered to be provisioning on the pre-order CSRs.[99] For its test, BearingPoint used a benchmark of 95% accuracy when comparing pre-activity CSRs and local service requests (LSRs) to post-activity CSRs. Additionally, BearingPoint sought to ensure that the CSR reflected all of the correct feature/service information within five business days of SBC providing the service order completion (SOC) notice to the CLEC. BearingPoint produced Exception Report 128 on June 20, 2002, which confirms that SBC Illinois failed to update Test CLEC CSRs accurately. BearingPoint reported a CSR update accuracy rate of only 86%. On August 6, 2002 SBC Illinois indicated the issues with CSR accuracy were resolved and that BearingPoint could conduct a retest. BearingPoint conducted a retest of this evaluation criterion from August through October 2002 and determined that 92.8% of CSRs were updated accurately, which is still below the 95% accuracy benchmark established.

1103. Staff notes that, in paragraph 58 of his Phase II affidavit, SBC witness Mr. Cottrell states that the differences noted by BearingPoint are not material in their degree of impact on commercial orders, but that SBC Illinois recognizes the benefits in improving accuracy for all customer records and, consistent with the Commission's decision on January 14, 2003, it will work further to resolve these issues. During the hearings in this proceeding SBC Illinois indicated that all corrective actions related to the accuracy of CSRs would be implemented no later than June 30, 2003[100].

1104. Ms. Weber gives it as her opinion that CSR accuracy is very important and, without accurate CSRs, SBC Illinois treats CLECs in a discriminatory manner, because the CLEC does not own the facilities to be able to determine what features/services are on a line or account like SBC Illinois can for its own end users. In addition, notes Ms. Weber, if CSRs are not updated accurately, CLEC requests to reported trouble on an account investigated by SBC Illinois may be rejected unnecessarily. Therefore, consistent with our directive on January 14, 2003, Ms. Weber recommends that we direct SBC Illinois to address, in the course of this Section 271 proceeding, deficiencies in this area. Ms. Weber further recommends that SBC Illinois be required to obtain verification from and independent third party that the issues have been addressed after SBC Illinois completes its work to address these issues.

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[99] BearingPoint Operational Report at 708.

[100] Staff Ex. 32.0, Schedule 32.01. February 13, 2003 hearing, Cottrell response on follow-up.

Maintenance & Repair: Accuracy of Close Out Coding on End-to-end Trouble Faults (TVV7-14)

1105. A CLEC enters a trouble ticket with SBC Illinois when one of its end users is experiencing problems with its services or facilities. When an SBC Illinois technician completes the repair work, the technician assigns a close out code to the trouble ticket, indicating the action required to correct or fix the problem. As SBC witness Cottrell states in his Phase II Affidavit, Cottrell Affidavit, ¶69, trouble ticket closeout codes are used for billing and reporting purposes, and if close out codes are not assigned correctly, SBC may bill CLECs incorrectly for work done[101]. In addition, from a performance measure reporting standpoint, incidents of trouble caused by CLECs or CLEC facilities are excluded from SBC Illinois' performance measurement results. Therefore, if trouble tickets are incorrectly attributed to CLECs, then those troubles tickets will not be reflected in the applicable performance measurement reports.

1106. In the TVV7-14 end-to-end trouble report processing test, BearingPoint evaluated the accuracy of closeout codes applied to special circuit end-to-end trouble reports. BearingPoint found that special circuit end-to-end trouble reports did not contain closeout codes that accurately defined the trouble condition that was repaired by the technician. For this test, BearingPoint used a benchmark of 95% of end-to-end trouble reports containing closeout codes that accurately defined the cause of trouble. BearingPoint issued Exception 131 on June 27, 2002, indicating that only 91.7% of the special circuit troubles were reported accurately by SBC Illinois during the course of BearingPoint's test. On July 22, 2002 SBC Illinois requested that a retest be conducted and BearingPoint determined that SBC's performance had in fact declined; only 87.5% of the close out codes were accurately reported during the course of the retest.[102]

1107. In paragraph 71 of his Phase II affidavit, Mr. Cottrell states that SBC Illinois has implemented initiatives to further improve the coding of trouble reports and believes significant improvements have been made. He further states that SBC Illinois recognizes the Commission's interest in the accuracy of maintenance and repair close out codes, and consistent with the Commission's January 14, 2003 directive, SBC Illinois will work to further resolve the issue. During the hearings in this proceeding, SBC Illinois indicated that all corrective actions related to this issue would be implemented and it would be prepared for a retest to begin no later than July 2003[103].

1108. Ms. Weber opines that the accuracy of close out codes is an important issue. If SBC Illinois does not apply the correct close out code when completing a trouble ticket, CLECs may be charged an improper amount for the work done. Therefore, consistent with our direction on January 14, 2003, Ms. Weber recommends that we direct SBC Illinois in the course of this proceeding to address its deficiencies with respect to the accuracy of special circuit close out

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[101] Repair charges are based on both service call charges and time and material (T&M) charges. If dispatch of a technician is required the service call charge is $71 in addition to the T&M charges, which in Illinois are $25 per ¼ hour. February 13, 2003 hearing, Cottrell response on follow-up to Staff question 6.

[102] BearingPoint Operational Report at 763.

[103] Staff Ex. 32.0, Schedule 32.01. February 13, 2003 hearing, Cottrell response on follow-up.

codes, and have SBC Illinois obtain independent third-party verification that the issues have been addressed after it completes its work to address the issues.

Other OSS Deficiencies (TTV1-4, TVV1-26, PPR13-4)

1109. TVV1-4, TVV1-26 and PPR13-4 are the other three operational evaluation criteria for which SBC Illinois received a Not Satisfied result in the Operational Report. These evaluation criteria are as follows:

Ordering: SBC Ameritech provides required order functionality (TVV1-4);

Ordering: SBC Illinois provides timely mechanized firm order confirmations (FOC) in response to electronically submitted orders (TVV1-26);

Billing: The bill production process includes reasonable checks to catch errors not susceptible to pre-determine balancing procedures (PPR13-4).

1110. Either SBC Illinois is currently working to address these three items or BearingPoint is currently in the process of retesting them. Staff is hopeful that these evaluation criterions, TVV1-4, TVV1-26 and PPR13-4, will be successfully verified prior to the conclusion of Phase II. If for any reason these evaluation criteria have not been determined to be "Satisfied" prior to the conclusion of Phase II, Ms Weber recommends that any positive Section 271 recommendation we render be contingent upon a commitment from SBC Illinois that it will address these deficiencies and that it will submit verification by an independent third party that these deficiencies have been addressed by August 2003. This recommendation would, Ms. Weber avers, be consistent with our January 14, 2003 directive regarding the BearingPoint Reports. Staff Ex. 32.0, Schedule 32.03. The Staff recommends that SBC Illinois be required to respond to these operational deficiencies and the progress of any undergoing remedial actions in its rebuttal filing currently scheduled for March 3, 2003.

1111. Staff requests that SBC Illinois respond with its intention to rectify these 6 operational deficiencies and the progress of any undergoing remedial actions regarding these deficiencies in its rebuttal filing currently scheduled for March 3, 2003.

1112. In setting out its reply position, Staff restates the aspects of SBC Illinois' OSS that received Not Satisfied evaluations in BearingPoint's Operational Report, upon which witness Weberrecommended that we require SBC Illinois to address these items before Section 271 approval.

1113. At a minimum, if we decide to provide conditional approval, Ms. Weber recommended that SBC Illinois be required to address six deficiencies (TVV1-28, TVV4-27, TVV7-14, TVV1-4, TVV1-26, and PPR13-4), as this Commission has already directed the company to address when the Commission approved Staff's January 6, 2003 (Updated on January 13, 2003) Staff Report during our January 14, 2003 bench session. Staff Ex. 31.0, Schedule 31.03. When SBC Illinois believes it has addressed these deficiencies, Ms. Weber recommends that it be required to have an independent third party evaluate the company's

compliance and certify that the evaluation criteria previously found to be Not Satisfied are in fact Satisfied[104]. Staff believes these items should be completed no later than November 2003.

1114. Staff witness Weber points out, however, that, since her initial affidavit was filed on February 21, 2003, BearingPoint has determined that the company now satisfies test evaluation criteria TVV1-26 (Ordering - SBC Illinois provides timely mechanized firm order confirmations (FOC) in response to electronically submitted orders[105]). Therefore, she makes note and clear that her recommendations apply to the remaining five Not Satisfied evaluation criteria.

1115. Ms. Weber further observes that SBC Illinois responded to her recommendations in its March 3, 2003 filing, and points out that the Company generally agrees that these items should be re-tested and verified by an independent third party. Cottrell Reply Affidavit, ¶8.

1116. For the first three evaluation criteria:

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

1117. Indeed, Mr. Cottrell states that it anticipates the improvement actions for these three deficiencies will be completed no later than May 31, 2003, Id., which is earlier than the timeframe provided in John Hudzik's letter to the Commission on January 31, 2003. Staff Ex. 32.0, Schedule 32.03. Mr. Cottrell goes on to say that the retest should occur using commercial activity and that it expects BearingPoint to be engaged to confirm these items based upon a sampling of actual completed production orders. SBC Illinois states that the only area of disagreement between it and the Staff is of the timing of these retests.

1118. Staff is encouraged that SBC Illinois will complete its intended improvements for these deficiencies earlier than originally expected. Ms Weber nonetheless believes that more is at issue than just the timing aspect for the retest of these items. Specifically, Ms. Weber disagrees with Mr. Cottrell's statement about the manner in which the retests will be conducted. The independent third party conducting the verification work is the party in the best position to say actually how the retest will be conducted, and it may not necessarily be based upon only a sampling of actual completed commercial production orders. This determination has not yet been decided and any retest method should be proposed by the independent third party and

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

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

approved by Staff before it is conducted. Staff is currently working with BearingPoint to understand the various retest alternatives that exist for each of these three evaluation criteria and no determination has been made at this time.

1119. So too, Ms. Weber notes SBC Illinois to state in its rebuttal testimony that it cannot guarantee that an independent third party will complete its verification work by November 2003 as Staff recommended. While SBC Illinois surely does not control the work of the independent third party, Ms. Weber points out that SBC Illinois is asking us to provide a positive Section 271 recommendation to the FCC in advance of the company actually proving that it currently meets all of the requirements of the 14-point checklist and public interest concerns. Ms. Weber recommends that, if we find SBC Illinois' application merits our endorsement to the FCC, the Company should be required to make appropriate commitments with firm deadlines and face consequences if those commitments cannot be met. Ms. Weber continues to recommend that the company work to address the deficiencies noted in these three evaluation criteria (TVV 1-28, TVV 4-27 and TVV 7-14) and have independent third party verification of these items completed by November 2003 as a commitment for our conditional Section 271 approval.

1120. Further, The Staff notes that, according to Mr. Cottrell, OSS compliance and improvement plans are under development in Michigan on issues that will directly benefit Illinois CLECs. Id., ¶10. Mr. Cottrell attached draft versions of these compliance and improvement plans to his reply affidavit[106]. Ms. Weber's review of these plans leads her to conclude that only two of the three evaluation criteria (TVV 4-27, TVV7-14) at issue are included in the compliance and improvement plans being discussed in Michigan. These plans are only draft plans and updated plans based upon input from other parties in Michigan are to be filed on March 13, 2003 (one day after Staff's last opportunity to file testimony in this proceeding). The Staff is reassured that SBC plans to make the process improvements noted in the yet-to-be-finalized Michigan compliance and improvement plans and that they may also benefit Illinois CLECs. However, there has been no discussion with Illinois parties or Staff regarding the said Michigan compliance and improvement plans. Attaching draft Michigan plans to a rebuttal filing in this proceeding clearly fails to provide an opportunity for Staff or Illinois CLECs to discuss, analyze and comment on such plans. In addition, the company has made no commitments to Illinois with respect to the Michigan improvement and compliance plans and the actions being taken by the company in Michigan do not provide any guarantee they will be applied in Illinois. Therefore Staff does not consider these actions to support the company's Section 271 proceeding in Illinois.

1121. The Staff notes that the remaining two "Not Satisfied" operational criteria are:

> TVV1-4: Ordering - SBC Illinois provides required order functionality;
>
> PPR13-4: Billing - Bill production process includes reasonable checks to catch errors not susceptible to pre-determine balancing procedures;

[106] Mark Cottrell Reply Affidavits, Schedules MJC-1 and MJC-3.

1122. Mr. Cottrell states that these criteria continue to be tested and successful completion should be achieved before Phase II of this proceeding closes. Cottrell Reply Affidavit, ¶11. Mr. Cottrell further states that if for some reason these test evaluation criteria are not complete before the end of Phase II then SBC Illinois will commit to address these issues with BearingPoint until the issues are resolved to the Commission's satisfaction. Id. Accordingly, the Staff's position is unchanged; Ms. Weber's recommendations remain as follows: If for any reason these evaluation criteria have not been determined to be "Satisfied" prior to the conclusion of Phase II, then any positive Section 271 recommendation by us be contingent upon a commitment from SBC Illinois that it will address these deficiencies and that it will submit verification by an independent third party that these deficiencies have been addressed by August 2003. The August 2003 date should be possible given the fact that SBC believes successful completion should be achieved before Phase II of this proceeding closes and if for reason this is not the case SBC should still have ample opportunity to meet this commitment, including third party verification by August 2003.

Other Operational Concerns of the CLECs

1123. The Staff notes that the fact that BearingPoint's test have not revealed a deficiency with SBC Illinois' OSS does not mean that the OSS is free of problems, deficiencies, or other impediments to proper functioning. BearingPoint's review of each evaluation criteria was conducted during defined time periods and the scope of BearingPoint's evaluation did not cover all aspects of SBC Illinois' OSS or all business processes that support its OSS.[107]

Billing

1124. The Staff observes that almost every CLEC in this proceeding that filed comments raised concerns about SBC Illinois' billing systems and processes: AT&T, Forte Communications, MCLeodUSA, TDS MetroCom, and WorldCom. Both the Department of Justice (DOJ) and the FCC in previous Section 271 proceedings have recognized that proper billing is essential to competition[108]. The DOJ in its Michigan Section 271 evaluation stated that the Michigan Commission should assure itself that the measures SBC is taking will resolve SBC's remaining billing problems.

1125. The Staff draws our attention to the fact that SBC Illinois did respond to many of the CLECs concerns in its reply affidavits[109]. SBC Illinois' billing systems are complex, and handle the large volume of commercial billing activities that SBC states. SBC states that it

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

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

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

completed approximately 220,000 rate table updates and that more than 150,000 of these rate table updates were to support CLEC billing. This fact alone, avers the Staff, shows the importance of rate updates and further indicates that the volume of records that need to be changed or loaded in order to have rates appear correctly on CLEC bills is quite great. In the Staff's view, SBC Illinois must be able to effectively manage these rate table updates; otherwise, it is apparent that the bills will not be correct. The comments of the CLECs appear to contradict the statements of the company that rates are correctly recorded on CLEC bills. More discussion on this issue should occur.

1126. Also, contrary to SBC Illinois' statements that the billing systems, processes and procedures were the subject of a comprehensive independent third-party review that SBC Illinois passed with "flying colors," Ms. Weber notes that the BearingPoint review had limited coverage to the array of billing functions SBC Illinois provides[110]. In addition, there were no bill reconciliation or dispute functions tested other than having the specific procedures reviewed[111] and for those billing functions that were tested it took more than one full year and multiple retests for SBC Illinois to pass the BearingPoint billing tests conducted. Also, during the test period the company did not apply all rate changes, etc. that usually occur on an account to the test CLEC bills and therefore the test did not reflect the day-to-day reality of the business[112]. Moreover, SBC's statement that BearingPoint confirmed that its wholesale bills are clear and auditable is incorrect. BearingPoint in fact made no such statement; rather it is an interpretation by SBC based upon the fact that BearingPoint said the bills conform to the detail and format of the BOS or industry specifications. These two statements are, the Staff notes, different from one another.

1127. Simply because a bill conforms to the detail and format of the BOS or industry specifications does not mean that a bill is clear and auditable. Industry specifications are guidelines and not exact standards and therefore do not comport directly to audit specifications. Also, Staff notes that if SBC believed its bills were completely auditable, it would not have filed an improvement plan for bill auditability with the Michigan Commission in its 271 proceeding there. In addition, SBC Illinois indicates it will make modifications to the Bill Auditability improvement plan filed in Michigan on March 13, 2003 and that the improvement plan will apply equally to SBC Illinois' operations. However, nowhere within the reply affidavits of SBC Illinois has it made a specific commitment to carry out these improvements plans in Illinois or to provide periodic updates to us on its plan. The company also has not sought input from Staff or all Illinois CLECs on this billing auditability issue.

1128. SBC Illinois also indicates that many of the claims raised by the CLECs describe incidents that are either outdated, involve small disputed amounts, or stem from one time system

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

[111] Tr. at 2352-2353.

[112] Tr. at 2351-2352.

changes and, thus, have no competitive impact on CLECs. CLECs, on the other hand, state that the incidents are occurring repeatedly, SBC takes too long to correct the issues[113], and these issues are impacting CLECs' ability to provide service to their customers.

1129. It is the Staff's position that the Commission need to be sure that the billing concerns of the CLECs are reconciled before granting a positive Section 271 recommendation to the FCC. If we decide to grant approval without ensuring these deficiencies or areas of concern are addressed, then SBC Illinois should provide specific commitments to improve its billing deficiencies as a condition of Section 271 approval and work collaboratively with Staff and the CLECs in the state of Illinois to develop an action plan of the steps it will take to correct its deficiencies.

Performance Measurement Data Analysis

1130. Checklist item 2, concerns access to network elements/OSS, and encompasses the following PMs: 1.1, 1.2, 2, 4, 5, 7, 7.1, 10, 10.1, 10.2, 10.3, 10.4, 11, 11.1, 11.2, 13, 14, 15, 16, 17, 18, 19, 22, 25, 27*, 28*, 29*, 30*, 31*, 32*, 33*, 35*, 43*, 44*, 45, 46, 47, 48, 49, 50, 55, 55.1, 56, 56.1, 58, 59, 60, 61, 62, 63, 73, 74, 75, 95, 120, 121, IN 1, WI1, WI 2, MI 2, MI 13, MI 14, MI15, CLECWI 6, CLECWI 7, CLECWI 8, CLECWI 9. PMs 27 through 44, highlighted with a "*", were assessed relative to the UNE loop and port combinations sub-measures only. All worksheets are included in Schedule 29.02.

1131. Staff's review of the remedied Checklist Item 2 sub-measures provides the following information:

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

Checklist Item 2 Summary of Performance Access to Network Elements - OSS				
	Sept. '02	Oct. '02	Nov. '02	Total
Number of Sub-measures Missed	20	20	18	13
Number of Sub-Measures Passed	174	176	175	181
Total Number of Sub-Measures	194	196	193	194
Percentage of Sub-Measures Passed	89.7%	89.8%	90.7%	93.3%

Pre-Ordering

1132. There are four pre-ordering PMs applicable to checklist (ii), PMs 1.1, 1.2, 2 and Pre-ordering measurements track the activities and transactions that carriers initiate to gather information regarding customers, or the availability of services to provide to customers, prior to submitting a formal request or service order to SBC Illinois. If pre-ordering information is inaccurate, or delayed, CLECs may be placed at a competitive disadvantage, since pre-ordering functions are usually executed live while a customer or potential customer is speaking with a CLEC representative. SBC Illinois passed these four pre-order PMs.

1133. Pre-ordering measurements track the activities and transactions that carriers initiate to gather information regarding customers, or the availability of services to provide to customers, prior to submitting a formal request or service order to SBC Illinois. Ms. Weber notes that, if pre-ordering information is inaccurate, or delayed, CLECs may be placed at a competitive disadvantage, since pre-ordering functions are usually executed live while a customer or potential customer is speaking with a CLEC representative. Accordingly, benchmarks and parity standards have been developed for the pre-ordering measures collaboratively by SBC Illinois and the CLECs.

Pre-Ordering Measurement Results

PM	Description	# of sub-measures	Parity/ Benchmark
1.1	Average response time to provide loop qualification for xDSL	1	Parity
1.2	Percent of accurate DSL actual loop makeup information provided to carrier	2	Parity
2	Percent of responses received within X seconds for pre-order interfaces by function	66	Benchmark
4	Percent of time OSS interface is available compared to scheduled availability by OSS interface	18	Benchmark

1134. In her affidavit, Ms. Weber examined four pre-ordering measures that apply to checklist (ii), performance measure 1.1, 1.2, 2 and 4. PM 1.1 and 1.2 are both parity measures with limited or no sub-measures and PM 2 and 4 both have sub-measures and have a benchmark standard. Based upon Ms. Weber's analysis, SBC Illinois passed these four pre-order performance measures.

1135. Performance measure 1.1 and 1.2 (and both sub-measures for PM 1.2) are within parity for the three months of data filed, as well as for December 2002 results. However, the average response time for manual loop make-up information, PM 1.1, increased significantly in the months of November and December 2002, to 14.75 and 16.24 hours respectively from 4.81 hours in October 2002. Mr. Ehr's explanation provided at the hearings sufficiently explained the shift. Tr. at 3064-3069. In addition, the response time for SBC Illinois' affiliate also arose at a similar rate. Accordingly, Ms. Weber does not believe that the company performance in this area should be a concern.

1136. For the three months of data submitted by the company for performance measure 2, Ms. Weber opines that the company met the benchmarks defined for 48 of the 66 sub-measures, and failed the benchmark standard for three sub-measures according to the statistical guidelines. The remaining 14 sub-measures did not have sufficient data to evaluate. Therefore, if the sub-measures without sufficient data are eliminated, Ms. Weber notes that the company met the benchmark standard for 49 of 52 sub-measures, or 94% of the sub-measures.

1137. For the three sub-measures the company failed, it did not meet the benchmarks in two of each of the last three months. For sub-measure 15.2, Percent responses received within 13 seconds for a request for customer service record – EDI LSGO4/CORBA, the company missed the 95% benchmark by 2.72% for November and by 4.5% in September. By December

2002 the result was a passing 99%. For sub-measure 16.1, Percent responses received within 8.0 seconds – Directory listing Inquiry – EDI LSOG4/CORBA, the company failed to meet the benchmark for September and October 2002 but was well above the 90% benchmark at 96% in November 2002 and was at 98% for December 2002. For sub-measure 18.1, Percent responses received within 1.0 second – Service Appointment Scheduling (due date) – EDI LSOG 4/CORBA, the company's performance has dropped quite substantially the last few months. The sub-measure has a benchmark of 90% and performance for October was at 86%, November at 84% and December down at 35.38%. However, for the companion sub-measure 18.2, Percent Responses Received within 2.0 seconds – Service appointment scheduling (due date) – EDI LSOG4/CORBA, the company has consistently exceeded the 95% benchmark. If the company had missed both of these measures, then Ms. Weber views it as a potential cause for concern.

1138. Performance measure 4, according to the statistical guidelines developed, exceeded the benchmark for each of its 18 sub-measures.

Ordering

1139. Ordering PMs track the various activities and transactions that are involved in the submitting and processing of service orders for requesting new service, modifying existing service or for requests to remove services or features. Delays in the processing or receipt of ordering related transactions may competitively disadvantage CLECs, since CLECs rely on SBC Illinois to process and provide status of service orders on their behalf for their own customers.

1140. Ordering performance measurements track the various activities and transactions that are involved in the submitting and processing of service orders for requesting new service, modifying existing service or for requests to remove services or features. Delays in the processing or receipt of ordering related transactions may competitively disadvantage CLECs, since CLECs rely on SBC Illinois to process and provide status of service orders on their behalf for their own customers.

Ordering Performance Measurement Results

PM	Description	# of sub-measures	Parity/ Benchmark
5	Percent of Firm Order Confirmations (FOCs) returned within "X" hours	54	Benchmark
7	Percent mechanized completion notices returned within one hour of completion in ordering systems	3	Benchmark
7.1	Percent mechanized completions notices returned within one day of work completion	4	Benchmark
10	Percent mechanized rejects returned within one hour of receipt of the reject in MOR	1	Benchmark
10.1	Percent mechanized rejects returned within one hour of receipt of order	1	Benchmark
10.2	Percent manual rejects received electronically and returned within five hours	1	Benchmark
10.3	Percent of manual rejects receive manually and returned within five hours	1	Benchmark
10.4	Percentage of orders given jeopardy notices (as percent of total orders completed in period)	10	Parity
11.1	Mean time to return manual rejects received via an electronic interface	1	Benchmark
11.2	Mean time to return manual rejects received through a manual process	1	Benchmark
12	Percent of mechanized orders completed as ordered	1	Parity
13	Percent of orders from receipt to distribution that progress mechanically through to the company provisioning systems (flow through)	6	Both Benchmark and Parity
MI13	Percent loss notifications sent within one hour of service order completion	4	Benchmark

1141. There are thirteen non-diagnostic ordering performance measures applicable to checklist (ii) that I evaluated. SBC Illinois has only passed 4 of the 13 ordering performance measures; PM 7, 10, 11.2 and 12. The company failed the remaining 9 ordering performance measures reviewed and the degree of failure is extremely significant. In her affidavit, Ms. Weber provides examples of these significant failures.

Resolution of Problems with Key PM 5 — Percent Firm Order Confirmation Returned within X Hours

1142. PM 5 is a benchmark measure with 54 sub-measures. The company met the benchmark for 29 sub-measures, missed the benchmark for 4 sub-measures and there was not sufficient data for the remaining 21 sub-measures. Overall the company met the benchmark standards for 29 of 33 sub-measures (if sub-measures with insufficient data are removed) or 88% of the sub-measures, which by the statistical guidelines established by Staff for this proceeding indicates that the company has failed in its performance for PM 5, and is not delivering timely firm order confirmations ("FOCs") to CLECs. CLECs require timely FOC notices in order to serve their own customers. FOC notices are returned to CLECs by SBC Illinois and indicate that the CLECs request/order has been accepted and it also communicates the committed due date for completion of the order.

1143. Performance measure 5 is a benchmark measure with 54 sub-measures. The company met the benchmark for 29 sub-measures, missed the benchmark for 4 sub-measures and there was not sufficient data for the remaining 21 sub-measures. Overall, the company met the benchmark standards for 29 of 33 sub-measures (if sub-measures with insufficient data are removed) or 88% of the sub-measures, which by the statistical guidelines established by Staff for this proceeding indicates the company has failed in its performance for PM 5, and is not delivering timely firm order confirmations ("FOCs") to CLECs. The specific sub-measures SBC Illinois has failed are electronically and manually submitted UNE-P complex business (1-200) < 24 hours, electronically submitted LNP Only (20+), manually submitted UNE xDSL Loop (1-49) < 24 hours. CLECs require timely FOC notices in order to serve their own customers. FOC notices are returned to CLECs by SBC Illinois and indicate that the CLECs request/order has been accepted and it also communicates the committed due date for completion of the order. Ms Weber advises us to require the company to address these deficiencies prior to our providing a positive Section 271 recommendation to the FCC.

1144. Mr. Ehr in his reply affidavit provides a response to the concerns I raised in my initial affidavit regarding PM 5, percent firm order confirmations (FOCs) returned within "X" hours. Mr. Ehr further states that the four sub-measures for PM 5 that I identified as "misses", represent in total only 0.04% (191) of the 503,632 FOCs reported for September through November 2002. Ehr Reply Affidavit, ¶18. Mr. Ehr is correct in that the four performance measures the company missed have a lower volume of orders than the remaining sub-measures. The Staff is of the opinion that the company should address these deficiencies, but no longer of the opinion that they must be addressed prior to us providing a positive Section 271

recommendation to the FCC given the minimal number of FOCs affected given the data reported.

Problems with Key PM 7— Percent Mechanized Completion Returned within One Day

1145. PM 7.1 measures the percent of mechanized completion notices returned within one day of work completion. PM 7.1 has four sub-measures and according to the statistical guidelines the company has failed all four sub-measures.

1146. PM 7.1 measures the percent of mechanized completion notices returned within one day of work completion. PM 7.1 has four sub-measures and according to the statistical guidelines the company has failed all four sub-measures. The fourth sub-measure tracks the completions returned for LNP only orders and the benchmark established is that 99% of completions will be returned within one day. SBC Illinois has reported 53.57%, 46.09% and 69.84% completion rates for the months from September – November 2002, which is far short of the 99% benchmark standard. BearingPoint in its December 20, 2003 report that the company is also failing in its performance of PM 7.1, with respect to the Test CLEC data. While Ms. Weber understands that SBC Illinois is currently working to correct these deficiencies she recommends that we require SBC Illinois to address the issues submit independent third party verification to ensure that the issues have been resolved.

1147. For PM 7.1, percent of mechanized service order completions (SOCs) returned within one day of work completion, Mr. Ehr points solely to the fact that the six month review collaborative agreed to decrease the benchmark from 99% to 97% and that if the new benchmark is applied then the company would have met the standard for three of the four sub-measures for PM 7.1. Ehr Reply Affidavit, ¶25. Regardless of any future change to the performance measure, which actually will not be implemented by the company until March 2003, Ms. Weber conducted her analysis based upon the business rules filed by the company in this proceeding. These business rules state that the company is to meet a 99% benchmark and clearly from the data presented in the table below (see the bold entries) one can see the company has consistently failed to meet the standard for all four disaggregations.

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

1148. The Staff also reiterates that BearingPoint in its December 20, 2003 Report found that the company failed in its performance of PM 7.1 (evaluation criteria TVV1-28), with respect to the Test CLEC data and continues to fail as of today. It appears SBC Illinois is currently working to correct these deficiencies but, as one can see from the most available data on this matter (i.e., December 2002, January 2003), the company has not satisfied this deficiency.

Problems with Key PM 10 — Percent of Manual and Mechanized Rejects

1149. PM 10.1, 10.2 and 10.3 all report on percent of reject messages returned within X hours from receipt of the order. PM 10.1 specifically captures mechanized rejects, PM 10.2 captures manual rejects received electronically and 10.3 reports manual rejects receive manually. In the last year, the only instance where performance has been above the 97% benchmark is for PM 10.1, in the months of August and October 2002. For all other months, and for each of the three performance measures, the company failed to meet the benchmark.

1150. PM 10.1, 10.2 and 10.3 all report on percent of reject messages returned within X hours from receipt of the order. 10.1 specifically captures mechanized rejects, PM 10.2 captures manual rejects received electronically and 10.3 reports manual rejects receive manually. In the last year, the only instance where performance has been above the 97% benchmark is for PM 10.1, in the months of August and October 2002. For all other months, and for each of the three performance measures, the company failed to meet the benchmark. Ms. Weber recommends that we require the company to address these deficiencies as CLECs require timely notification of errors on their orders in order to be able to provide efficient and timely service to their customers.

1151. As Ms. Weber noted in her original affidavit PM 10.1, 10.2 and 10.3 all report on percent of reject messages returned within X hours from receipt of the order. 10.1 specifically captures mechanized rejects, PM 10.2 captures manual rejects received electronically and 10.3 reports manual rejects received manually. The company has failed to meet the 97% benchmark consistently for PM 10.2 and 10.3 and has problems off and on with 10.1. The Staff is of the opinion that the company should be required to address these deficiencies, as CLECs require timely notification of errors on their orders in order to be able to provide efficient and timely service to their customers.

1152. PM 10.4 is a parity measure that reports the percent of orders given jeopardy notices and has 10 sub-measures. The company has repeatedly failed to meet the parity standard for the majority of the 10 sub-measures of PM 10.4.

Resolution of Problems with Key PM 11.1 — Mean time to return manual rejects received via an electronic interface

1153. For PM 11.1, mean time to return manual rejects that are received via an electronic interface, Mr. Ehr states that SBC Illinois' performance was outside the five hour benchmark during two of the three study period months but that the difference was not material, exceeding the benchmark in September and November by .48 and .04 respectively. Ehr Reply Affidavit, ¶21. Mr. Ehr further states that the issue has been addressed in the most recent six-

month collaborative process. In that collaborative process, the parties agreed: to revise the benchmarks to reflect the industry's expectation that a reject or a FOC be delivered within the same specified interval; the mean time to return manual rejection notices would be consolidated under PM 11; and SBC Illinois would have met the newly agreed-upon benchmarks. Id. However, the newly agreed upon performance measure for PM 11 removed the benchmark all together. Therefore, the company would have "met" the new benchmark if applied, since in fact there is no benchmark to speak of. Simply because the new definition of the performance measure does not specify a benchmark, it does not mean that it is acceptable for SBC Illinois' performance in this area to degrade. SBC Illinois' performance for PM 11.1 reported in December 2002 and January 2003 (the two months of performance measure data posted since the study period) was 5.47 hours and 5.74 hours respectively, which are outside the current 5-hour benchmark. Therefore, the company's performance for PM 11.1 is not within benchmark limits for four of the last five data months. Simply because the six month collaborative process agreed to remove the benchmark for this measurement, starting with data to be reported on May 20, 2003, the company should not allow its performance with respect to the return of manual rejects received electronically to fall and currently the company is not meeting the defined performance standards.

Problems with Key PM 13 -- Percent of Orders from Receipt to Distribution that Progress Mechanically through to the Company Provisioning Systems (i.e "flow through").

1154. PM 13 has six sub-measures (with data) that are disaggregated by product type. The company failed to achieve the 2 out of 3 month standard for 4 of those 6 disaggregations. In a study of the data for December 2002 and January 2003 the company continued to fail to meet the standards for 4 out the 6 sub-measures (UNE-P, Resale, LSNP and UNE-Loops). Therefore, this remains a Key PM that needs to be improved.

1155. For PM 13, order process percent flow through, Mr. Ehr states that the measure is a classic example of a measure that must be viewed in the context of related measures. Ehr Reply Affidavit, ¶26. The Staff concurs with this, and therefore believes it is important to look at the diagnostic results for performance measure 13.1, Total Order Process Percent Flow Through along with the results for PM 13.

1156. First, if one is to look closely at the results for PM 13, which has six sub-measures (with data) that are disaggregated by product type, the company failed to achieve the 2 out of 3 month standard for 4 of the 6 disaggregations. In a study of the data for December 2002 and January 2003 the company continued to fail to meet the standards for 4 out the 6 sub-measures (UNE-P, Resale, LSNP and UNE-Loops). Mr. Ehr further states in his reply affidavit that the parity standard, which is applied for all but one of the disaggregations, requires comparison of dissimilar processes and therefore the "apples-to-oranges" comparison means one should take the parity results with a grain of salt. Ehr Reply Affidavit, ¶27. If this is the case, the company has utterly failed to explain why it failed to suggest the parity comparison be done away with, and ask that benchmark standards be applied in the latest six-month review session. Absent a change in the business rules the company is required to meet the parity requirement and benchmark requirements established and it clearly is not meeting these for PM 13.

1157. If one were to look at the company's performance reported in PM 13.1, which is the companion performance measure to PM 13, (as Mr. Ehr suggested be done), the company has decreased its total order process percent flow through for three of the six disaggregations over the past year. This means that the company on a whole is flowing through fewer orders for UNE Loops, Resale and LNP now than it did 12 months ago. In addition, the total percent flow through statistics for Resale are in the low 60% range, UNE loop in the high 60% range, LNP in the 30% range and LSNP floating between 15-30%. CPO is doing much better at 80% and line sharing is at the high 80% mark. The total percent flow through rates the company is currently reporting are not impressive, therefore it is all that more important for the product categories the company communicates to the CLECs that are supposed to flow through actually do. Regardless of Mr. Ehr's remarks excusing the company's performance for PM 13 my review of its companion measure PM 13.1 indicates that the Staff's original conclusion that the company fails to perform with respect to PM 13 remains valid and effectively unrebutted.

1158. It appears that the company's performance with respect to performance measure MI 13, percent mechanized line loss notifications returned within one day of work completion, has improved in the data reported for December 2002 and January 2003. However, as Ms. Weber stated in her initial affidavit, the measure as currently defined does not accurately reflect the company's performance in delivering line loss notices to CLECs, Staff Ex. 31.0, ¶15, therefore this data can not be proof of the company's commitment to deliver accurate or timely line loss notices. In addition, the company has failed to include in performance measure MI 13 any line loss notices generated in winback situations (when SBC takes a customer that had previously left and gone to another local carrier back as a customer)[114]. It appears that the majority of CLEC losses are due to winback situations by SBC and SBC does not currently report these line loss notices as part of MI 13. Therefore, I repeat that data reported for MI 13 by the company cannot be used to support its position that the company is sending timely or accurate line loss notices. The company does not plan to implement corrections to MI 13 until April 20, 2003.

Provisioning Accuracy

1159. According to Staff, the Company failed PM 29. Still worse, in Staff's view, sub-measure 29-7, i.e., installations not completed as a result of a company caused missed due date for UNE-P business field work, has been increasing in the three months of data reviewed for this proceeding. Company caused missed due dates for CLEC customers means that the customer expected service to be provisioned by a certain date, and SBC Illinois did not provision that service on the expected date. The Company's performance for PM 35-7, trouble reports received within 30 days of installation regarding UNE-P business field work, was also fail. Trouble reports received within 30 days of installation typically means that the service was not properly provisioned in the first place.

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

1160. SBC Illinois reported data indicates that for PM 37-4, UNE business, there is a statistically higher number of trouble reports for SBC Illinois facilities provisioned to CLEC customers than there are numbers of trouble reports to SBC Illinois customers.

Problems with Key PM MI-2 — Percent of Orders Given Jeopardy Notices within 24 Hours of the Due Date

1161. With a statistical guideline of 90%, and an actual sub-measure pass rate of 50%, SBCI failed to provide MI 2 in a non-discriminatory manner. SBC Illinois failed sub-measure MI 2-2, regarding residential field work, sub-measure MI 2-8, regarding unbundled loops without LNP, and sub-measure MI 2-10, regarding UNE-P. PM MI 2 assesses the percent of orders given jeopardy notices within 24 hours of the due date. Jeopardy notices to a CLEC inform it that its' customer's order may not be provisioned as it was promised by SBC Illinois. The CLEC may either contact SBC Illinois to expedite efforts, or contact their customer to let the customer know the order may not be provisioned as expected, or both.

1162. SBCI alleges the problem with this PM is that it is a parity measurement with no retail comparison. Further, SBCI states that it has reached an agreement with the CLECs on a benchmark for this measure, and that the agreed-upon change is before the Commission for approval. However, this change has not been approved by the Commission, not do we know how SBCI will operate in relation to this new measure – it is an unknown, and something which this Commission cannot rest upon. What we can firmly decide this issue upon is what is known, which is the evidence that has been provided in this proceeding. SBC Illinois' reported data does not support its argument that the reliance on parity is the problem. Consider the following table for the sub-measures failed by SBC Illinois in PM MI 2:

SBC Illinois PM Performance - PM MI 2 Percent Orders Given Jeopardy Notices Within 24 Hours			
Sub-measure	Sep. 02	Oct. 02	Nov. 02
MI 2-1	66.10%	64.71%	59.21%
MI 2-8	12.50%	14.45%	13.59%
MI 2-10	40.47%	46.98%	64.33%

ICC Staff Ex. 41.0 ¶73 (citing Ehr Direct Affidavit, Attachment A)

1163. SBC Illinois' performance on PM MI 2 would not appear to be resolved by the simple adoption of a benchmark, given that SBC Illinois would need to meet or exceed the

standard for more than 95% of the occurrences.[115] As of March 5, 2003, there was no information posted by SBC Illinois to the CLEC Online web site pertaining to SBC Illinois' performance relative to PM MI 2. Accordingly, the Commission agrees with Staff that this PM continue to remain a "Key PM's for Improvement."

Problems with Key PM MI-14 — Percent of Completion Notifications Returned within "X" Hours of Completion of Maintenance

1164. With an actual sub-measure pass rate of 20%, and considering SBCI's overall performance, SBCI failed to meet provide MI 14 in a non-discriminatory manner. MI 14 assesses the percent completion notifications returned within "X" hours of completion of maintenance. SBC Illinois failed to provide adequate service for sub-measure MI 14-1, regarding resale manual, sub-measure MI 14-3, regarding UNE Loops Manual, sub-measure MI 14-4, regarding UNE Loops Electronic, and sub-measure MI 14-5, regarding UNE-P Manual. Completion notifications are important because they indicate to the CLEC when they have a new customer, and may begin billing.

1165. SBCI affiant Ehr points out that as of February 1, 2003, SBCI has replaced the fax process (through discussions and agreement with CLECs in the CLEC User Forum) with the posting of completion notices to its CLEC Online web site,[116] and that the PM business rule has been changed to also note this change in process. However, as of March 5, 2003, SBC Illinois has not updated its information posted to the CLEC Online web site regarding its performance relative to PM MI 14. Since there has been no definitive action to affirm SBCI's statement the Commission agrees with Staff that PM MI 14 remains an issue and should be listed as a "Key PM's for Improvement."

Billing

1166. Billing has eight performance measures: 14, 15, 16, 17, 18, 19, 22 and 25. SBC Illinois passed seven of these performance measures and failed one performance measure – PM 17. These worksheets may be found in Schedule 29.02.

Problems with Key PM 17— Percent of On-time Service Orders in Both ACIS and CABS that Post within a 30-Day Billing Cycle

1167. PM 17 examines the percent of on-time service orders in both ACIS and CABS that are reported ("posted") within a designated interval. Orders are measured from order completion to bill posting.[117] For performance measure 17 there were on average three hundred

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[115] There are three exclusions added to PM MI 2's new business rule in Version 1.9. However, there is no evidence in this proceeding that those exclusions would drive the table's percentages up to 95%. Further, as previously indicated, it remains Staff's position that revisions to Version 1.8 of the business rule should not be addressed in this proceeding.

[116] Ehr Rebuttal Affidavit, paragraph 34.

[117] ACIS and CABS are acronyms for customer information and billing systems utilized by SBC Illinois.

thousand transactions per month over the September to November time period. SBC Illinois issues a lot of bills and Competitive Local Exchange Carriers are entitled to receive their bills in a timely manner. Timely billing enables CLECs to know what their charges are and also enables them to quickly spot errors in billing.

1168. Staff witness Genio Staranczak, a principal economist in the Telecommunications Division of the Commission, presented testimony regarding his review, analysis and assessment of SBC Illinois performance with respect to performance measures related to billing. ICC Staff Ex. 30.0 at ¶¶ 1, 5. Mr. Staranczak explained that there are 8 non-diagnostic performance measures – PMs 14, 15, 16,17, 18, 19, 22 and 25 -- associated with billing. *Id*. at ¶ 25. For the three month test period, SBC Illinois' failed PM 17 under Staff's statistical guidelines discussed above, but passed the remaining seven. *Id*. Mr. Staranczak explained that PM 17 examines the percent of on-time service orders in both ACIS and CABS that post within a designated interval. *Id*. at ¶ 26. Orders are measured from order completion to bill posting. For UNE-P and line sharing, an order is considered on time if it is posted accurately within the first bill cycle after a ten business day processing interval, which begins with order completion. All other orders will be considered on time if posted within the first bill cycle following order completion. *Id*.

1169. Mr. Staranczak explained that although the applicable standard for PM17 is parity with SBC retail, SBC uses affiliate data as the standard when computing hits or misses in its HOMR report. *Id*. at ¶ 27. Nevertheless, SBC does not attain parity with its affiliate during any month over the September to November three month period for which SBC has filed data. *Id*. Whereas affiliate service orders were billed within the designated interval approximately 99% of the time during the three month period in question, only 94% of competitors' orders were billed within the designated interval. *Id*. Data for December 2002 also indicates that SBC has not achieved parity with its affiliate operations in the most recent month for which data is available. *Id*. Mr. Staranczak stated that billing timeliness is a persistent problem for SBC given that the data also indicates that the company has achieved parity with affiliate operations in only two months during calendar year 2002. *Id*. Similarly, SBC has achieved parity with its retail operations in just 2 months of calendar year 2002. *Id*.

1170. Mr. Staranczak pointed out the large number of observation for performance measure 17, with an average of three hundred thousand transactions per month over the September to November time period. *Id*. at ¶ 28. Mr. Staranczak explained why Competitive Local Exchange Carriers ("CLECs") must receive their bills in a timely and accurate manner. *Id*. Timely billing enables CLECs to know what their charges are and also allows them to quickly spot errors and unexpected fees. If CLECs receive untimely and inaccurate bills from SBC Illinois, then CLEC customers may in turn receive untimely and inaccurate bills from CLECs. Furthermore, end user customers may blame the CLECs for billing problems that were caused by SBC Illinois. In this situation, SBC Illinois billing inaccuracies could cause CLEC customers to become dissatisfied with their CLEC service and switch back to SBC Illinois. *Id*.

1171. Accordingly, Staff recommended that the Company explain in its rebuttal affidavits why this problem is occurring and demonstrate that proper steps have been taken to ensure that this problem is corrected and will not recur on a going forward basis. *Id*. at ¶ 29. Staff cautioned that failure to make this showing may force the Commission to find that SBC's provisioning in this regard with respect to billing is discriminatory. *Id*. Alternatively, even if the

Commission does not find SBC Illinois ' performance to constitute non-compliance with the applicable checklist item, Staff recommended that the Commission condition a positive consultation on SBC Illinois' agreement (i) to devise a specific action plan (to be outlined in SBC Illinois' rebuttal affidavits) that addresses the billing problems associated with performance measure 17, and (ii) to demonstrate that billing timeliness has significantly improved by year end. Staff maintained that billing in a timely and complete manner is a chronic problem for SBC, and the company must identify the steps it will take to correct its shortcomings in this area. That is, once the action plan is outlined, it must then be implemented and, finally, performance for measure 17 must become satisfactory.

1172. Staff notes that in response to its observation that SBC Illinois was consistently failing PM17, SBC Illinois witness Mr. Ehr responded (i) that the company uses a higher standard than called for in the PM17 business rules; (ii) that even though SBC Illinois is failing on this measure, the performance at 91% is high; and (iii) that adjustments to PM17 have been agreed to in the recently completed six-month collaborative, and are before the Commission for approval, that will provide for more appropriate comparisons of like products to the retail equivalent process. ICC Staff Ex. 42.0 at ¶ 8.

1173. Staff asserts that Mr. Ehr's explanations with respect to PM17 are not acceptable. Id. at ¶ 9. First, Mr. Staranczak noted that SBCI claims it uses a higher standard than is required by the PM 17 business rules, and then argues that it is alright to fail because it has voluntarily used a higher than necessary standard. *Id*. Staff countered that if SBCI voluntarily chose to use a higher standard, then they should be judged by this standard -- and they are failing by the standard they themselves have chosen. Second, with respect to the company's contention that 91% is good enough, Staff points out that PM 17 is not a benchmark measure and 91% is not the benchmark. The agreed to standard for this measure is parity, and SBCI is not reaching parity. Finally, Staff observed that there is no guarantee that just because adjustments to PM17 have been recently agreed to, that SBCI will now pass PM17 whereas before these adjustments it consistently failed PM17. The comparisons in the new business rules may be more appropriate, but Mr. Ehr did not indicate what steps SBCI has taken to ensure it will pass PM17 under what it alleges are more suitable comparisons of like retail products. Staff concluded that according to the data available, SBC Illinois has consistently failed PM17 whether its performance is compared to its affiliate or its retail operations. Staff also noted that SBC Illinois failed this performance measure in January 2003, both against its affiliate and against its retail operations. *Id*.

1174. Therefore, Staff concluded that Mr. Ehr's explanations of SBC Illinois' shortcomings with respect to PM 17 are unsatisfactory.

Staff Recommendation for Checklist Item 2 PM Data

1175. Staff points out that it has modified its initial conclusions and recommendations based upon comments filed by SBC Illinois on March 3, 2003. According to the statistical guidelines and additional analysis provided in Staff's initial and reply affidavits, the Company has passed all but 8 performance measures (PM 7.1, 10.1, 10.2, 10.3, 10.4, 11.1, 13, MI 13).

1176. The Staff is of the opinion that the three months of performance measurement data provided by the company in support of checklist (ii) does not demonstrate that, with respect to the ordering performance measures, SBC Illinois is providing non-discriminatory service to the CLECS. SBC Illinois should be required to correct the deficiencies associated with the ordering performance measures prior to receiving a positive Section 271 recommendation from this Commission. If the Commission elect, to provide a positive recommendation to the FCC, regardless of SBC Illinois' failure to meet key performance measures related to checklist (ii) then it should:

a) require the Company to identify the steps it will take to remedy its current unsatisfactory performance with respect to the ordering performance measurements and

b) require the Company to demonstrate substantially improved performance by November 2002 or face additional penalties.

e. AT&T's Position.

Introduction

1177. AT&T presented evidence on (a) the issue of whether the BearingPoint test establishes SBC Illinois' checklist compliance, and (b) whether AT&T's own Illinois-specific commercial experience rebutted SBC Illinois' claim that its OSS provides the means for an efficient carrier to compete against SBC Illinois in its local markets.

The BearingPoint Test

1178. AT&T's primary argument with regard to the BearingPoint test rests on the terms of the Master Test Plan. AT&T contends that SBC Illinois has not satisfied the Global Exit Criteria of the MTP, and therefore, SBC Illinois cannot be considered to have passed the test. AT&T's second line of attack points to the BearingPoint test reports themselves. AT&T claims that the test reports establish that significant test deficiencies have been and are still be uncovered by BearingPoint. All of these points add up to the conclusion, according to AT&T, that SBC Illinois cannot be found as yet to have successfully completed the BearingPoint third party test.

"Master Test Plan – Global Exit Criteria"

1179. AT&T reminds that 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.

1180. As explained by AT&T, 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? AT&T states that the parties – including SBC Illinois – agreed that the testing would not be complete until four "Global Exit Criteria" were met. AT&T Exh. 1.0(P), ¶ 173. AT&T discussed in its testimony each criterion, explaining what each requires and why each has not been met.

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.

1181. AT&T states that the plain language of this criterion requires that all test activities called for by the Master Test Plan be completed. Such completeness is, according to AT&T, 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. Therefore, AT&T concludes, the Commission must provide equal weighting, and afford equal importance, to the evaluation of each individual test result. AT&T Exh. 1.0(P), ¶ 174.

1182. AT&T contends that 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. As AT&T points out, 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.

1183. AT&T contends that this criterion is not satisfied until all change control, verification, and confirmation steps have been completed. AT&T Exh. 1.0(P), ¶ 175. 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, AT&T explains that 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, AT&T asserts, cannot be over-emphasized.

1184. AT&T submits that this criterion remains unsatisfied for two reasons. AT&T Exh. 1.0(P), ¶ 176. 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. As AT&T's witness Connolly explains: "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." *Id.*

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*).

1185. As AT&T notes, 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. AT&T Exh. 1.0(P), ¶ 177. 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 this 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.)

1186. 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." AT&T Exh. 1.0(P), ¶¶ 177-179. The 3rd Global Exit Criterion requires BearingPoint to complete testing of all the negotiated modifications and enhancements (known as "A-AA" commitments by the numbering convention assigned to each commitment), 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. *Id.*, ¶

179. The concession made by the CLECs was that the A-AA list would be Exit Criteria and not Entrance Criteria to the BearingPoint test. *Id.*

1187. From AT&T's perspective, 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).

1188. AT&T states that it assumes that 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. (We discuss AT&T's evidence on this issue later in this order.)

1189. According to AT&T, BearingPoint's final report presumably will give the Commission a comprehensive exposition on each of the A-AA items. Absent that information, AT&T submits that 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, and it cannot be shown that Global Exit Criteria 3 has been satisfied.

> 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.

1190. AT&T notes that 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. AT&T contends (as we have noted elsewhere in this order) that 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.

1191. AT&T concludes that 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 BearingPoint OSS Report Executive Summary (at page 5) (Commission Phase II Exhibit 2, p. 5) will confirm to 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.

The BearingPoint Test Results

1192. AT&T addresses the recently released testing results by BearingPoint. According to AT&T, the BP Report contains numerous findings of OSS failure. These findings, AT&T claims, which are based on the tests conducted by BearingPoint and Hewlett Packard, demonstrate that SBC Illinois's OSS simply do not function well.

1193. As AT&T explains, the BP OSS Report (Commission Phase II Exhibit 2) 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, AT&T witness Connolly would notes, *constitute far more defect findings that in any other OSS test conducted to date of which he is aware* – show systems, processes and procedures that have been partially rehabilitated by dint of the work contributed by SBC Illinois, CLECs, Staff, BearingPoint, and HP. AT&T Exh. 1.0(P), ¶ 204.

AT&T states, 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:

1194. 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."

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."

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

	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.

	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.

1195. AT&T rejects the notion that SBC Illinois is actively cooperating with BearingPoint to correct the test deficiencies outlined above. 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 (SBC Illinois Exh. 2.0, ¶ 243) (*i.e.,* "… there are detailed plans to bring the performance testing to a successful conclusion.") Similarly, SBC Illinois states (*id.*, ¶ 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."

1196. 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. Mr. Connolly prepared and attached to his affidavit an Exhibit excerpting several pages from the (then) most recently published Open Observations Status Report. AT&T Exh. 1.0(P), Attachment 7. This report that reflects the actions taken during the February 11, 2003 Exceptions and Observations conference call. 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.

1197. As Mr. Connolly explains, 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. AT&T Exh. 1.0(P), ¶ 189.

Earlier in the BearingPoint 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…"). *Id.* Its current practice, according to Mr. Connolly, is to seek deferrals of two and three week durations. AT&T questions how this mode of operations can be consistent with its bespoken commitment to work through these negative test findings quickly and efficiently.

1198. In particular, AT&T points to pages 29 through 31 of Attachment 7 to Mr. Connolly's Affidavit (AT&T Exh. 1.0(P)), which 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. As Mr. Connolly explains, between its issue date and September 22, SBC Illinois deferred its response and any discussion of the Observation for one week 8 consecutive times. AT&T Exh. 1.0(P), ¶ 190. 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. *Id.*

1199. Similarly, Mr. Connolly reports that 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. AT&T Exh. 1.0(P), ¶ 191. According to Mr. Connolly, 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. *Id.*

1200. AT&T states, therefore, that whatever SBC Illinois' "plans" are for actively responding to these findings by BearingPoint, these plans do not appear to accelerate the speed at which it responds. According to AT&T, 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.

Other Testing Issues.

1201. In addition to the two-part test discussed above, AT&T notes that the FCC has developed several additional requirements regarding nondiscriminatory access that BearingPoint did not address in the course of its OSS testing. According to AT&T, the BearingPoint test reports do 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. AT&T Exh., ¶ 205.

1202. 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; and (3) producing complete, accurate, and *auditable* wholesale bills. *Id.* AT&T submits that SBC Illinois has failed each of these requirements as well.

Change Management Process

1203. According to AT&T, 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. AT&T Exh. 1.0, ¶ 206. The FCC has established criteria for evaluating a change management plan.[118] 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.)

1204. 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. AT&T Exh. 1.0(P), ¶ 207. The process outlined by 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

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[118] 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").

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. *Id.*

1205. As AT&T witness Connolly explained in his affidavit: "I have learned, as has BearingPoint and anyone who reviews the BearingPoint Report in detail (*see* Commission Phase II Exhibit 2, pp. 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." AT&T Exh. 1.0(P), ¶ 208. Moreover, points out Mr. Connolly, the BearingPoint OSS 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." *Id.* 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.

1206. Mr. Connolly further points out that 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. AT&T Exh. 1.0(P), ¶ 209. 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.

1207. AT&T emphasizes 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. AT&T Exh. 1.0(P), ¶ 211. It claims that 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, according to AT&T, 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.

1208. In sum, in AT&T's view, 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. AT&T Exh. 1.0(P), ¶ 212. 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.

Testing The Most Current LSOG Interface

1209. AT&T also asserts that when testing the LSOG interface for Section 271 OSS purposes, that testing should be conducted on the most current version of that interface. AT&T Exh. 1.0(P), ¶ 213. According to AT&T, 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 "forward-looking" basis. In its view, it makes no sense, in making a 271 determination affecting the future of competition, to rely on a soon-to-be retired interface.

1210. According to AT&T witness Connolly, the present case presents a paradigmatic example of that point. AT&T Exh. 1.0(P), ¶ 214. 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*. *Id.* 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, AT&T urges the Commission to require SBC Illinois to submit test result for the OSS interface that will be in use at the time of any SBC Illinois § 271 application.

Billing Auditability

1211. Next, AT&T addresses the question of whether SBC Illinois' billing invoices are auditable. 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). According to AT&T, SBC Illinois's bills are not auditable, and BearingPoint has made no finding that they are. AT&T Exh. 1.0(P), ¶ 215. According to AT&T, 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, AT&T claims that the Commission has no assurance that the auditability has been resolved.

Commercial Experience

1212. AT&T also introduced extensive evidence regarding its commercial experience using SBC Illinois' OSS interfaces. In the Joint Affidavit of Sarah DeYoung and Walter W Willard (AT&T Exh. 3.0(P), AT&T argues that its commercial experience corroborates the negative findings of BearingPoint and Ernst & Young of SBC Illinois' systemic OSS deficiencies. The FCC has consistently indicated that commercial experience, where it is available, is a primary indicator of the adequacy of the ILEC's OSS systems. Since its first Michigan 271 Order in 1997, the FCC has repeatedly emphasized that "nondiscriminatory access to OSS is a prerequisite to the development of meaningful local competition." *Michigan 271 Order*, ¶403. The DeYoung/Willard Affidavit details the many (and varied) problems AT&T has encountered with SBC Illinois' OSS, including problems AT&T has encountered using both LSOG 4 and LSOG 5 and the numerous and varied problems AT&T encountered in upgrading from LSOG 4 to LSOG 5. AT&T Exh. 3.0, ¶¶ 16-50. Even more disturbing, according to AT&T's witnesses, is that SBC Illinois' commercial performance, which was never good compared to other ILECs, has seriously deteriorated in recent months. *Id.*, ¶¶ 9-19. According to AT&T, the undeniable reality is that SBC Illinois' OSS do not provide CLECs in Illinois with access to OSS equivalent to what SBC itself enjoys.

1213. Ms. DeYoung and Mr. Willard describe the ways in which AT&T's operations have experienced constant disruptions due to such problems as SBC Illinois' chronic, repeated failure to provide advance notice of changes to its OSS as explicitly required by the existing Change Management process. As their affidavit attests, according to AT&T, these problems make it virtually impossible for AT&T to maintain its interface with SBC. AT&T Exh. 3.0, ¶ 14. Ms. DeYoung and Mr. Willard provide actual data (including dates and numbers) documenting the severity and frequency of the failures AT&T has experienced in attempting to use SBC Illinois's OSS. In fact, approximately 95% of the OSS issues escalated by AT&T over the past six months have been for the Ameritech region. *Id.*, 15. According to AT&T, this preponderance of problems in the "Ameritech" region arises from the poor maintenance historically of these legacy systems. In AT&T's view, since the Commission's Merger Order in ICC Docket No. 98-0555, SBC has attempted to play "catch up" to bring SBC Illinois's OSS up to par with those of other RBOCs and the rest of the SBC region. *Id.*, ¶ 16. Despite these attempts, AT&T states that the SBC Illinois' Ameritech region OSS are unreliable and unstable and are the worst OSS AT&T has encountered from any other BOC or ILEC. Indeed, many of the problems, restrictions and limitations AT&T encounters in conjunction with SBC Illinois' OSS are unique to the Ameritech region and do not exist, for example, in the remainder of the SBC region. *See, e.g., id.,* ¶ 170.

1214. Ms. DeYoung and Mr. Willard detail several problems that AT&T has encountered. According to their affidavit: "Not a month passed during 2002 (and in 2003) when AT&T did not experience substantial disruption of its operations, due to the instability and inadequacy of the SBC OSS. The disruptions have included the rejections of tens of thousands of orders in error, outages in SBC Illinois' systems, SBC Illinois' failure to send thousands of line loss notifications, and SBC Illinois' failure to resolve problems in a timely manner." AT&T Exh. 3.0(P), ¶ 21.

1215. Moreover, they note that the OSS problems that AT&T has recently experienced are particularly noteworthy because *none* of them are captured in SBC Illinois' self-reported monthly performance data. AT&T Exh. 3.0(P), ¶ 27. For example, AT&T states that when it submits supplemental orders after the original orders are erroneously rejected because SBC Illinois failed to provide advance notice of changes in its systems, no data regarding the original order will be reflected in the performance results. *Id.* Thus, even if the due date on the original order was not met, the reported data is skewed, because it reflects only SBC Illinois' ability to meet the due date on the *supplemental* order. According to AT&T, even when an order is accepted into SBC Illinois' systems, the reported data will not capture situations when SBC fails to provide CLECs with notices such as line loss notifications. *Id.*

1216. AT&T further notes that the inclusion of these OSS problems in the reported data would show their dramatic impact on AT&T. AT&T Exh. 3.0(P), ¶ 28. AT&T estimates that, if such problems had been reflected in the data, SBC Illinois would have been required to pay AT&T at least an additional $10 million pursuant to its performance assurance plan based on late FOCs and missed due dates alone. Id. Moreover, even if only some of the disruptions in AT&T's service were included in the performance data, the additional payments would be substantial. Id. For example, as discussed in Ms. DeYoung's and Mr. Willard's affidavit, in October, November and December 2002, AT&T submitted (for customers in Illinois, Michigan and Ohio) nearly 38,000 orders that were erroneously rejected, and that therefore did not receive a FOC. Based on AT&T's marketing activities in the SBC Midwest region, AT&T estimates that approximately 35% – or 15,540 – of those orders were submitted in Illinois. Id. If each of these 15,540 orders was installed after the due date on the original order, AT&T has calculated that SBC Illinois would have been required to pay more than $4.6 million to AT&T for failing to meet Performance Measurement 28 (which measures the percentage of customer orders completed within the customer-requested due date) with respect to these orders. Id. SBC Illinois would also have been required to make additional payments for failing to meet other performance measurements, such as PM-5 (percentage of FOCs returned within "X" hours).

OSS Billing Functionality

1217. According to AT&T witness Ms. Shannie Marin, SBC Illinois fails to provide CLECs with accurate, timely and auditable billing and usage information in compliance with the requirements of the federal Telecommunications Act of 1996. As Ms. Marin explained in detail, AT&T has experienced – and continues to experience -- ongoing problems with the accuracy of SBC's wholesale billing, usage data and rate application. For example, Ms. Marin explained, SBC's ongoing inability to provide timely and accurate line loss notifications ("LLN") has caused AT&T and other CLECs to continue billing former customers, leading to double billing. AT&T Ex. 5.0, p. 2. While SBC Illinois told AT&T that a January 2003 "data bash" would determine the extent to which the LLN problems have caused errors in the wholesale bill, SBC Illinois now claims that the "data bash" did not address the LLN problems, and such problems continue to persist. The purpose of the "data bash," according to SBC, was to compare its CABS UNE-P records to its ACIS records used for provisioning to determine if its CABS UNE-P records were accurate and conformed to the information in the ACIS system. AT&T Ex. 5.0, pp. 2-3. Ms. Marin noted that SBC's "data bash" demonstrated pervasive problems with SBC's wholesale billing – billing problems she has also raised at the FCC in conjunction with SBC Michigan's pending 271 proceeding, WC Docket 03-16. *Id.*

1218. Ms. Marin testified to the specific nature of some of SBC's systemic and pervasive wholesale billing problems in addition to the LLN-related billing problems. For example, Ms. Marin related, SBC has been providing AT&T with inaccurate bills in Illinois for various UNEs, products and services AT&T purchases from SBC. Ms. Marin explained that AT&T opened a billing issue with SBC on December 12, 2002 and advised SBC that it was sending AT&T usage records for repeat dial calls when, in fact, AT&T's customers were not using that feature but were instead using the call return feature. AT&T advised SBC that its EMI (Exchange Message Interface) coding for these two features was transposed – that is, that it had transposed the OBF coding for repeat dial calls and the OBF coding for the call return feature and the one was being depicted as the other. As a result, the Daily Usage File (DUF) records SBC had been sending to AT&T and which AT&T uses to bill its end user customers were incorrect, thereby causing billing errors and AT&T customer dissatisfaction. AT&T Ex. 5.0, p. 3. On January 10, 2003, SBC admitted it had been using the wrong codes for quite some time and that its billing codes failed to comply with industry standards and guidelines, and agreed to investigate a fix. On March 4, 2003, SBC advised AT&T that while it realized that its feature codes were inconsistent with industry guidelines, it has been using these incorrect codes in the 5 state Ameritech region since it first implemented the coding and it has no plans to change it. SBC further indicated that its incorrect coding is documented on the CLEC website under the DUF guide, and that it was not going to correct the problem. SBC suggested instead that AT&T open an issue in the CLEC forum. Ms. Marin testified that as SBC is well aware, these are the usage records that AT&T uses to bill its end user customers, and AT&T's reputation as a reliable local service provider is damaged when SBC refuses to follow industry guidelines and knowingly continues to deliver incorrect usage records to AT&T. AT&T Ex. 5.0, pp. 3-4.

1219. Ms. Marin provided yet other examples of SBC's systemic and pervasive wholesale billing problems. SBC has overbilled AT&T for nonrecurring charges, monthly recurring charges and per message Daily Usage Feed charges. AT&T opened a billing issue with SBC in October 2002 for the overbilling of nonrecurring charges applicable to AT&T's purchase of new UNE-Platform combinations. Specifically, the SBC-billed rates for the two Commission-approved interim nonrecurring charges applicable to new UNE-Platform combinations have exceeded the allowed rates for both of those NRCs. In addition, SBC has been billing AT&T a basic port installation charge of $53.01 for new UNE-P combinations – a charge that is inapplicable to new UNE-P combinations. Moreover, SBC has also been billing other port service order charges for new UNE-Platform combinations in violation of the Commission's Orders in ICC Docket No. 98-0396. AT&T Ex. 5.0, pp. 4-5. According to Ms. Marin, after investigating, SBC agreed to credit AT&T for some of the overages it billed and has indicated to AT&T that it intends to credit AT&T for some of the overbilled amounts, but the billing inaccuracies have yet to be finally resolved. AT&T Ex. 5.0, p. 5.

1220. AT&T claims that SBC has also been overbilling AT&T the basic monthly port rate, also known as the Unbundled Local Switching (ULS) element. According to Ms. Marin, SBC was required to reduce its monthly recurring port rate in Illinois from $5.01 to $2.18 as a result of an Illinois Commerce Commission Order dated July 10, 2002 in ICC Docket No. 00-0700. SBC's tariff implementing this July change ordered by the Commission became effective September 21, 2002. Ms. Marin is concerned that AT&T continues to see the $5.01 port rate on its bills for ports purchased after the $2.18 rate became effective. When AT&T raised this issue with SBC in the December 2002 time frame, SBC initially contended that AT&T was not

entitled to the lower port rate without amending its interconnection agreement. AT&T Ex. 5.0, p. 5. According to Ms. Marin, another stumbling block then arose. SBC informed AT&T that it uses two USOCs in Illinois for billing AT&T for ULS charges: UJR (for residential ports) and UPC (for business ports). Originally, SBC contended that the UJR was not a valid USOC for Illinois and that it would only reduce business ports to $2.18 per month; thus, according to SBC, it would continue to bill AT&T's residential ports at the monthly rate of $5.01. Ms. Marin indicated that SBC agreed to reduce the business port rate to $2.18 and to credit AT&T for the overbilled amounts. To date, SBC has only agreed to provide credit for the UPC USOC even though it has finally acknowledged that the UJR USOC is a valid Illinois USOC. Ms Marin expressed frustration that this is yet another classic example of the incorrect rates AT&T is being billed by SBC and the delay AT&T experiences when working with SBC, even at an escalated level, to obtain credit for overbilling. AT&T Ex. 5.0, pp. 5-6.

1221. Finally, Ms. Marin stated, SBC Illinois has also been overbilling AT&T for Daily Usage Feeds. The Commission-approved DUF rate in Illinois is $.000459 (as of July 10, 2002), yet SBC is charging the old rate of $.000918 per message. This overbilling has been occurring since at least September 2002. As recently as March 7, 2003, the only response SBC has given AT&T was that the case was being reviewed by product management and SBC hoped to be able to update AT&T by March 12. AT&T Ex. 5.0, p. 6.

Line Loss Notices:

1222. AT&T submitted specific evidence regarding SBC Illinois' failure to provide timely and accurate Line Loss Notices ("LLNs"). Further, AT&T claims that SBC Illinois does not provide nondiscriminatory access to billing functions, because it has not consistently provided CLECs with timely, complete, and reliable Line Loss Notifiers.

1223. According to AT&T, SBC Illinois' provisioning of timely and complete LLNs to CLECs is a matter of critical importance to CLECs, because failure to provide such notification directly affects their ability to correctly bill end-user customers. AT&T Exh. 3.0(P), ¶ 95. A CLEC must rely upon SBC Illinois' line loss notifiers to learn that a customer has switched carriers. Without that notice, a CLEC could erroneously double-bill the customer – an error that can have serious effects on the reputations of competitive providers. *Id.*

1224. AT&T states, however, that SBC Illinois has fallen far short of meeting its obligations to provide CLECs with timely and complete LLNs (which are also commonly referred to as "836" records). AT&T Exh. 3.0(P), ¶ 96. Time after time during the last year, SBC Illinois has failed to send thousands of LLNs to AT&T at all, or has sent LLNs that are so flawed that they cannot be processed. *Id.* According to AT&T's witnesses, rarely a month went by in the last year when AT&T did not encounter yet another LLN issue, or another outage in SBC Illinois' LLN systems. *Id* AT&T further states that although SBC has attempted to correct the defects in its LLN systems since mid-2001, AT&T encountered serious problems with SBC Illinois' Line Loss performance through 2002. AT&T Exh. 3.0(P), ¶ 97. Simply stated, SBC Illinois' "corrections" have not worked, and there is little reason to expect that SBC will render satisfactory performance on a long-term basis. *Id.*

1225. According to AT&T, SBC Illinois' performance with respect to LLNs is a textbook example of the numerous shortcomings in its OSS. That performance shows that its OSS are unstable; that SBC is slow or inadequate in correcting flaws in its OSS; that SBC fails to provide advance notice of changes in its OSS to CLECs, with resulting disruption of CLEC operations; and that the OSS are riddled with errors. AT&T Exh. 3.0(P), ¶ 98.[119]

1226. AT&T states that it has encountered line loss problems almost from the time it entered the residential market in Illinois in June 2002.[120] Between August 15, 2002, and September 11, 2002, a major outage occurred in SBC Illinois' Line Loss Notifier systems. For several days, SBC failed to send AT&T *more than 6,900* LLNs for Illinois, Michigan and Ohio. SBC later explained to AT&T that there were three "root" causes for this problem. *See* AT&T Exh. 3.0(P), ¶¶ 99-102.

1227. After SBC identified the 6,900 LLNs had not been sent to AT&T, SBC "reflowed" them to AT&T from September 16 to September 17, 2002. Even after September 17, however, AT&T continued to experience intermittent Line Loss failures by SBC. Equally disturbing to AT&T, AT&T received a series of erroneous rejection and/or completion notices that affected the ability of AT&T to accurately track the status of its customers. For example, AT&T continued to receive LLNs for customer lines that had not left AT&T service, received rejection notices when it should have received completion notices, learned that SBC had incorrectly transferred end-users to AT&T due to errors by SBC Illinois' representatives, and found that SBC had failed to update information on customer service records to show that AT&T was now the customer's service provider. AT&T Exh. 3.0(P), ¶ 103.

1228. According to AT&T, in November 2002, more LLN problems occurred. On November 12, 2002, SBC issued an Accessible Letter (CLECAMSO2-122) indicating that it had experienced yet another major line loss outage. SBC disclosed that as a result of "software release implemented November 9, 2002, errors have been noted on EDI 836 LLNs sent to the few customers using the EDI version 5.02." Although this announcement would have been troublesome to any CLEC, it was particularly disturbing to AT&T, which was preparing to migrate in December to EDI version 5.02 (the most advanced level of SBC Illinois' OSS systems at that time). AT&T Exh. 3.0(P), ¶ 104.

1229. SBC Illinois' Accessible Letter, however, also stated that a "second issue has been detected affecting LLNs sent to customers using version 4.02 of EDI" – which AT&T (like most CLECs in Illinois) was then using in the Ameritech region. This "issue," according to SBC, was the omission of conversion dates from the LLN, due to an "EDI mapping error." More

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[119] AT&T sets forth in a table (Exh. 3.0(P), Attachment 8) a chronology of the LLN problems that it has experienced during 2002.

[120] According to AT&T, SBC Illinois' LLN problems actually *predate* AT&T's entry into Illinois's residential market, and adversely affected operations in Michigan, where AT&T began offering residential and small business consumers competitive local telephone service in February, 2002. For example, early in March 2002, without warning, SBC began sending AT&T Line Loss Notifiers with the relevant telephone number omitted. AT&T received a total of 1,257 LLNs with this deficiency. AT&T Exh. 3.0(P), ¶ 99 & n. 28. Obviously, a LLN record that omits the telephone number of the customer who is leaving AT&T's service is of little use to AT&T. Despite promises to expeditiously fix the problem, AT&T did not start receiving correct LLNs until April 8, 2002. *Id.*

than 1,000 LLNs sent to AT&T lacked conversion dates. Without those dates, AT&T could not ensure that it would avoid double-billing these end-users. SBC acknowledges in its Application that the problem lasted for three days. AT&T Exh. 3.0(P), ¶ 105.

1230. In December 2002, AT&T states that it experienced another major line loss problem, caused by SBC, this time in connection with AT&T's migration to LSOG 5.02 earlier the same month. Between December 9 (when AT&T migrated to LSOG 5.02) and December 16, 2002, SBC continued to send LLNs to AT&T in LSOG 4.02 format. As a result, AT&T's systems were unable to "read" these files. This problem impacted 2,966 AT&T end-user accounts. AT&T Exh. 3.0(P), ¶ 106. When AT&T notified SBC of the problem on December 13, 2002 SBC determined that the problem had occurred because SBC had failed to update all of its tables with AT&T's LSOG 5.02 trading partner ID. This December problem represented at least the second time that SBC Ameritech had mistakenly changed table information that affected AT&T's ability to receive and process Line Loss Notifier records. *Id.*, ¶ 107.

1231. Further, AT&T states that SBC Illinois' table updating error in December caused yet another problem for AT&T. Typically, when AT&T has either failed to receive LLNs or has received LLNs that are invalidly formatted, the process for correcting the LLNs involves "reflowing" the records. AT&T Exh. 3.0(P), ¶ 108. In other words, under the "reflowing" process SBC re-sends the records (correctly formatted), and AT&T's systems then accept and process the information in the LLNs. However, AT&T determined that the "normal" reflowing process would not resolve the problem experienced in December. Because AT&T's systems did receive LLNs (albeit in the incorrect LSOG 4.02 EDI format), the receipt of those records (associated with a telephone number) was registered by AT&T's systems. Thus, AT&T's systems rejected (or did not read) the reflowed record and did not properly update AT&T's system records. *Id.*

1232. To overcome this problem, AT&T created a new process to capture the data that was sent by SBC in an invalid format. AT&T Exh. 3.0(P), ¶ 109. Under this process, AT&T was required to manually prepare the "reflowed" LLNs in a format that would "force" the information into AT&T's system. According to AT&T, this manual process was costly and time-consuming. *Id.*

1233. According to AT&T's testimony, the previously described line loss problems in December 2002 were experienced by AT&T Consumer Services, which receives LLNs through the EDI interface. However, AT&T Business Services, which uses the web-LEX interface to receive LLNs, also experienced LLN problems in December. AT&T Exh. 3.0(P), ¶ 110. For example, four of the line loss notices that ABS received on December 26 lacked either a telephone number or a circuit ID number – effectively rendering them useless. Furthermore, the conversion dates listed on all four LLNs was April 23, 2002 – more than *eight months earlier*. Another four LLNs (received on December 11, 2002) had conversion dates of August 14, 2002, about *four months earlier* than the LLN, and another seven LLNs (received on December 16) were each a month late, with disconnect dates of November 19, 2002. *Id.*[121]

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[121] According to AT&T, even more recent experience provides further confirmation that SBC Illinois' line loss systems are unstable and unreliable. Inexplicably, on January 31, 2003, SBC *faxed* a single LLN

1234. In AT&T's view, SBC Illinois cannot reasonably claim that it is proactive in addressing line loss issues. Certainly the numerous LLN problems that AT&T experienced during 2002 would not have occurred if SBC had maintained adequate LLN systems in the first place. Furthermore, although SBC may have fixed certain isolated problems, the recurrence of line loss notifier problems throughout 2002 shows that SBC has not developed an OSS that can ensure that SBC will reliably provide complete and timely LLNs to CLECs. AT&T argues that SBC Illinois cannot plausibly contend that its "enhancements" have been effective, when its OSS adversely affected 10,000 of AT&T's line loss records during the last five months of 2002 alone. Indeed, these lost and/or delayed line loss notices do not appear to be accurately captured in the relevant performance measure (PM MI 13), which was intended to detect these types of problems.

1235. According to AT&T, the fact that the recurring SBC errors and system defects described above have repeatedly affected tens of thousands of AT&T's orders throughout 2002, and into 2003, demonstrates that SBC is not yet providing nondiscriminatory access to its OSS. These repeated errors, affecting a substantial percentage of AT&T's order volumes and customer base, preclude a finding that SBC has met its OSS obligations.

1236. AT&T argues that these system errors have adversely affected AT&T's ability to compete with SBC. The percentage of prospective AT&T customers who cancelled their service after ordering it – but before receiving it – increased between September and November 2002 in the SBC Midwest region. AT&T Exh. 3.0(P), ¶¶ 113.

1237. Although it is difficult to trace every particular cancellation or disconnect to a single root cause, AT&T claims that there is no question that interface outages, erroneous rejects and other delays in provisioning orders, failure to send accurate line loss notices, and other such errors by SBC Illinois' OSS all severely compromise AT&T's ability to respond promptly with answers to customer inquiries, provision their service accurately, and support that service reliably. AT&T Exh. 3.0(P), ¶ 114. According to AT&T, Ms. DeYoung's and Mr. Willard's testimony also demonstrates that the poor quality of SBC Illinois' OSS has a significant and direct adverse impact on AT&T's ability to provide prompt and quality service to its local customers. *See, e.g., id*. Specifically, the deficiencies in SBC Illinois' OSS have impaired AT&T's ability to attract and retain customers in Illinois. As the performance of SBC Illinois' OSS has deteriorated in recent months, AT&T's customer disconnect rate has increased, as has AT&T's cancellation rate in Illinois. AT&T Exh. 3.0(P), ¶¶ 19-20.

1238. AT&T claims that the problems it is experiencing in Illinois are primarily due to SBC Illinois' failure to comply with its own change management process. AT&T Exh. 3.0(P), ¶ 24. Specifically, all efforts SBC Illinois makes to comply with the change management process are limited to placing new interfaces into production. AT&T contends SBC has no effective change management process in place once SBC has deployed interfaces and makes a subsequent change to the operation of those interfaces.

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involving a single telephone number to AT&T – even though SBC is supposed to send all LLNs *electronically*. AT&T Exh. 3.0(P), ¶ 99 & n. 29. LLNs received by fax are far more burdensome on a CLEC that an LLN sent electronically, because faxed LLNs are prone to being lost or delayed, and require the CLEC to perform extensive manual work to process the lost customer out of the CLEC's systems. *Id.*

1239. Finally, Ms DeYoung and Mr. Willard detail in their affidavit AT&T's heightened concerns about receiving adequate OSS support from SBC due to the fact that, as a result of a December 2002 reorganization, AT&T has lost its dedicated SBC account team. AT&T Exh. 3.0, ¶ 29. AT&T and other CLECs will now be required to share fewer SBC resources, including those supporting SBC Illinois' OSS. *Id.*

Further Rebuttal Arguments.

1240. In its rebuttal testimony, AT&T responds to the SBC Illinois claims that CLECs (including AT&T) have not raised serious or material concerns regarding the sufficiency of SBC Illinois' OSS. AT&T notes that in its direct testimony, it pointed out a series of outstanding testing issues, which in their totality, make it highly improbable that SBC Illinois can satisfy the applicable FCC checklist standards for OSS. *See* AT&T "Exh. 1.0(P), ¶¶ 194-220. More importantly, AT&T rejects SBC Illinois witness Cottrell's suggestion that these issues would not impact his view that SBC Illinois' OSS are essentially "sound" reflects exactly the misguided approach I cautioned against in my opening affidavit. AT&T responds that the Commission must review the test results in a comprehensive manner, and in particular, must consider *both* PMR and operational testing results (in addition to the actual commercial experience described by AT&T in the affidavits of Ms. DeYoung and Mr. Willard) before drawing any conclusions. AT&T Exh. 1.1, ¶ 94.

1241. Similarly, AT&T rejects the SBC Illinois' suggestion that testing issues should be resolved exclusively in "business to business" context. SBC Illinois witness claims: "I have shown that the examples raised by the CLECs are almost exclusively problems that are quickly corrected and resolved on a business-to-business basis between the parties."[122] AT&T responds that it cannot be the case, however, that SBC Illinois believes that it is appropriate to resolve third-party test issues through business-to-business negotiations. The MTP does not allow for this type of approach. AT&T recommends that to avoid any suggestion that this method is acceptable, the Commission must reaffirm the principle that test exceptions and observations must either be subject to successful retest or remain open (unless the Staff specifically authorizes closure).

1242. Ms. DeYoung and Mr. Willard note in their rebuttal affidavit that although the ultimate conclusions Mr. Cottrell reaches on OSS issues is very different from the views expressed in our Direct Affidavit, his affidavit does acknowledge, time and again, that SBC Illinois has repeatedly made mistakes, taken actions that had unanticipated consequences for CLECs, and given out erroneous information. AT&T Exh. 3.1, ¶ 5. According to AT&T, the major concession by Mr. Cottrell, however, appears at paragraph 125 of his Phase II Rebuttal Affidavit, where he states:

> Both the LSOG 4 and 5 releases were not the usual order of business. As AT&T notes, CLECs in the SBC Midwest region were on various dot releases of LSOG 1 when LSOG 4 was implemented. LSOG 4 introduced CLECs to new systems and new functionality. The system changes

[122] SBC Illinois Exh. 1.2, ¶ 144.

> required by LSOG 5 and the U&E POR affected nearly all aspects of system design and development and imposed the unique requirement of uniform systems and requirements throughout the SBC regions. Both of these releases were notable for their size and scope…."[123]

1243. In its rebuttal, AT&T notes its agreement with this statement: "We agree (and have testified previously) that the implementation of LSOG 4 and then LSOG 5 by Ameritech have in fact entailed massive system changes. Ameritech's OSS had languished throughout the period of the SBC/Ameritech merger, and Ameritech began the upgrade process with its systems in much the same state they were in back in 1997, when the FCC rejected Ameritech Michigan's first §271 petition. Ameritech following the merger was in the position of attempting to play catch-up with its OSS, bringing its Ameritech systems in line with the rest of SBC and the industry generally, and in the process it was "leapfrogging" two full generations of LSOG releases." AT&T Exh. 3.1, ¶ 6.

1244. Moreover, from a systems perspective, that was a daunting undertaking, and it is precisely the scope and magnitude of these systems changes that no doubt accounts for the many problems that have plagued Ameritech's OSS over the past two-plus years. SBC Ameritech's legacy back-end systems were both different from the rest of SBC and they were in a relatively unadvanced state. Taking them to LSOG 4 and then LSOG 5 over the course of two years and attempting to bring them into uniformity with the rest of SBC necessarily and undoubtedly has posed a major challenge. SBC could hardly expect to go that far, that fast without running into massive problems . As Ms. DeYoung and Mr. Willard testified in their previous affidavits, not only did SBC encounter such problems, those problems continue today.

1245. **Line Loss Notifications**. AT&T also responded to SBC Illinois on the issue of Line Loss Notifications. In their Direct Affidavit, Ms. DeYoung and Mr. Willard described repeated lapses by SBC Illinois in providing Line Loss Notifiers – lapses that affected some 10,000 LLN records in the last five months of 2002 alone. AT&T noted that the Commission in its Phase I Interim Order has underscored the importance of this issue for Phase II:

1246. The CLEC's testimony indicates that there have been persistent and significant problems which may not be resolved at this time, and indicates further, that the issue of an adequate LLN is material. For its part, Staff maintains, that AI has not yet satisfactorily proven that the LLN problem is fully resolved and it attaches a number of remedial actions to be put into effect at this juncture. Staff's recommendations are reasonable and Ameritech's actual implementation of those remedial actions . . . will be given substantial weight when the Commission makes its final analysis of this matter in Phase II.

[123] It is worth noting that previously in this proceeding, Mr. Cottrell has strongly resisting the contention of Mr. Willard that SBC's pre LSOG 4 systems in fact remained at the equivalent of LSOG 1.x. *See, e.g.*, Ameritech Illinois Ex. 4.2 (Cottrell Phase I Surrebuttal, June 5, 2002), p. 8. The point is not inconsequential, because the transition from a "dot" release of LSOG 1 to LSOG 4 implies systems changes spanning three full LSOG releases.

1247. Phase I Interim Order, at ¶ 694. Plainly, Line Loss Notifications have been and remain a major concern for CLECs seeking to enter SBC's local markets in the Midwest, and for the Commission.

1248. According to AT&T, SBC Illinois attempts to minimize the LLN problem, or reassure the Commission that it is under control. AT&T Exh. 3.1, ¶ 9 First, AT&T notes that Mr. Cottrell points to the BearingPoint test results for LLNs. Referring to SBC's "process enhancements" for LLNs, he states: "In my initial Phase 2 Affidavit, I was pleased to report that the success of these efforts has been confirmed by BearingPoint, which concluded its testing of SBC Midwest's LLN process in October 2002, and found both the timeliness and accuracy test criteria to be satisfied." SBC Illinois Exh. 1.2, ¶ 31. As Mr. Cottrell indicates, however, BearingPoint examined a discrete time period, and as AT&T's Direct Affidavits showed, notwithstanding the BearingPoint report, repeated and recurring problems with LLNs in the period since October 2002. Indeed, as AT&T points out, hardly a month has passed without significant Line Loss Notifier incidents. AT&T Exh. 3.1, ¶ 9.

1249. AT&T notes that Mr. Cottrell also proceeds to attempt to explain away the repeated LLN system failures by portraying them as affecting only a small number of orders, relative to the total order volumes processed by SBC Illinois, as well as being in the now-distant past. AT&T responds that, as for the number of affected orders, there can be no denying that the magnitude of this problem has been serious, and CLEC customer-affecting, as the Commission's Interim Phase I Order in these proceedings implicitly recognizes. AT&T Exh. 3.1, ¶ 10. As Ms. DeYoung and Mr. Willard point out, "the potential for double-billing of customers magnifies the concerns of CLECs over even a small number of missing or inaccurate LLNs, and as we and other CLECs have demonstrated, the numbers in question most definitely are not small." *Id.*

1250. As to Mr. Cottrell's assurances that LLN outages are a thing of the past, AT&T states in its rebuttal testimony that "just last week SBC issued an Accessible Letter stating that, in certain orders involving partial migrations, "notifications were sent on lines that CLECs did not lose." AT&T Exh. 3.1, ¶ 11. SBC explained in the Accessible Letter that, when the "winning" CLEC used LSOG 5 and assumed only the main billing telephone number on a multi-line account, LLNs were sent not only on the BTN but also "on the new main billing number, when it was not an actual loss."[124] Not only that, SBC has also recently acknowledged to AT&T that it between October 10, 2002 and February 10, 2003 it erroneously provided some 1700 LLNs in the Ameritech region by fax, rather than by electronic interface. SBC agreed to provide LLNs to AT&T by GUI interface (rather than by fax) last October at AT&T's request, because processing LLNs received by fax requires extensive manual work, and SBC assured AT&T at the time that its systems were prepared to do so. As it turns out, according to AT&T, substantial numbers of LLNs continued to be faxed to AT&T on a daily basis for the next four months. AT&T Exh. 3.1, ¶ 11.

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[124] Accessible Letter No. CLECAMSO3-019, dated March 6, 2003. Although SBC claimed in its letter this problem appears to have affected "less than 3,000 transactions over a period of several months", it acknowledged that it was concluding an "additional analysis" to determine the exact number of LLNs sent in error. *Id.*

1251. Thus, according to AT&T, SBC's subsequent explanation for this error is patently illogical,[125] but even if SBC's explanation is correct, its transmission of LLNs to AT&T by fax, along with the erroneous LLNs on partial migrations, represent only the latest of its continuing failures to provide LLNs to CLECs in a satisfactory manner. AT&T contends that these recent failures show that SBC has not properly configured its OSS to provide LLNs as requested and required by the CLECs.

Post to Bill (BCN) Notifications.

1252. In its Direct Affidavits, AT&T explained SBC Illinois' failure, in January 2003, to send some 70,000 'post-to-bill' (PTB) or billing completion notices ("BCNs") to AT&T in response to orders that AT&T sent under the LSOG 5 version of EDI. AT&T Exh. 3.0, ¶ 76. As it explained, a BCN advises a CLEC that the information in the service order has completed its transmission through SBC's legacy systems, and that the service order has been posted to SBC's billing systems, thereby switching the customer's account to the CLEC placing the order. *Id.* The BCN thus notifies the CLEC when it is possible to supplement the customer's order, for example, to change features – a not-uncommon desire on the part of new customers. *Id.*

1253. According to AT&T, prior to the introduction of LSOG 5, CLECs were forced to rely on a service order completion (SOC) notice, which signifies that the order has been processed through SBC's service order processes but not through its billing systems. AT&T Exh. 3.1, ¶ 13. AT&T was forced to wait 3 – 5 business days after receipt of the SOC before sending any changes to the order, to allow for posting of the order to SBC's billing systems.[126] *Id.* CLECs requested this change as part of the Plan of Record collaboratives, and SBC agreed. *Id.*

1254. In SBC Illinois' rebuttal affidavits, AT&T claims that Mr. Cottrell once again attempts to minimize the problem by saying that only AT&T has complained. According to AT&T, Mr. Cottrell observes that AT&T only moved to LSOG 5.0 in December, 2002, and that AT&T got along perfectly well relying on service order completion notices prior to that time. AT&T responds that that only AT&T has raised this problem is not surprising, given that few if any other CLECs have yet moved to LSOG 5. AT&T Exh. 3.1, ¶ 14. AT&T in fact advanced its move to LSOG 5 in part at SBC's urging: SBC contended that LSOG 5 would resolve many of the problems AT&T was experiencing under LSOG 4. *Id.* Be that as it may, according to AT&T, the BCN was an important functionality that the CLECs sought and to which SBC

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[125] SBC has "explained" that the systems it had used to return LLNs to the Test CLEC in BearingPoint's third-party test, which employed "Issue 7" (LSOG 1), did so by fax, and that it had not properly reprogrammed the systems to return LLNs to actual CLECs by electronic interfaces. Issue 7 (LSOG 1) was retired by SBC in September 2002, however, a month before the erroneously-faxed notices commenced.

[126] According to AT&T, if it were to send a supplemental order before the LSR was posted to SBC Illinois' billing systems, AT&T would likely receive a rejection notice indicating that the order was not for an AT&T customer. AT&T Exh. 3.1, ¶ 13 & n. 5. Even with a "holding period," problems could nevertheless arise when the order fell out to manual processing and was further delayed. In fact, AT&T has frequently encountered delays by SBC in posting completed orders to the billing systems. *Id.* It is thus only with LSOG 5 and the BCN that the CLEC gained a reliable indicator that the initial order had been processed through SBC's systems and that it could modify the customer's order.

agreed in the POR for LSOG 5, and SBC has failed to deliver with the requisite quality and consistency. *Id.* Indeed, as Ms. Deyoung and Mr. Willard testify: "SBC's handling of the BCN issue evidences a disregard for the needs of CLECs; it presumes to know CLECs' needs and the manner in which they conduct their operations better than CLECs do." *Id.*

1255. AT&T also respond in rebuttal to SBC Illinois' has suggestion that in lieu of relying on BCNs, AT&T should institute a query process in AT&T's systems, i.e., that it do a post-migration query of the CSR to determine whether posting has been completed. AT&T Exh. 3.1, ¶ 15. But according to Ms. Deyoung and Mr. Willard, the CSR query process proposed by SBC is not a suitable substitute for BCNs, however. *Id.* First of all, the CSR query is a GUI-based functionality in SBC's *pre-ordering* interfaces. It is not a practical *order* tracking tool for CLECs like AT&T, which submit large order volumes. To use this function the CLEC would be required to expend significant manual efforts to match information in the GUI to the status of orders in AT&T's own order management system. If (as occurred in January 2003) AT&T failed to receive tens of thousands of BCNs, it would be extremely expensive and time-consuming for AT&T to use CSR queries to determine the status of each such order. A CLEC using LSOG 5 should not be required to expend additional time and resources to obtain the same information that SBC agreed to provide through BCNs in LSOG 5. *Id.*

1256. SBC Illinois' proposed process, moreover, would only further heighten the discrimination inherent in the OSS access it affords CLECs. To be competitive with SBC Illinois, a CLEC needs the same ability as SBC to submit change orders, and to have those orders provisioned with the same timeliness, accuracy, and reliability that SBC experiences in its retail operations. Unlike CLECs, SBC's retail operations do not need to receive BCNs to determine whether an order has posted to the billing systems and completed its journey through the legacy systems. Instead, SBC's retail representatives have direct, real-time access to such information. When a retail customer requests the addition or deletion of a feature, the SBC retail representative can determine, on the spot, whether the preexisting order has posted and has passed through the legacy systems and can implement the customer-desired change on the date requested by the customer. The BCN is thus itself a "second-best" solution.

1257. Finally, according to AT&T, the "query" process SBC has suggested is but a further impediment to CLEC access to OSS. AT&T Exh., ¶ 17. It would, moreover, be a non-uniform process applicable to the Ameritech region alone. Although AT&T has only recently upgraded to LSOG 5 in the Pacific and Southwest regions, Ms. DeYoung and Mr. Willard testified, "we are not aware of any problems other SBC regions have had in connection with flowing BCNs in accordance with LSOG 5 and the POR commitment." *Id.* According to them, CLECs like AT&T that have operations across the SBC service territory should not be forced to institute and follow different processes for the Ameritech region. That was in fact the rationale behind the SBC merger commitment to develop "uniform and enhanced" OSS across SBC's post-merger thirteen state footprint.

1258. AT&T states that SBC has acknowledged that its failure to send BCNs was a systems problem -- that the root cause of the problem was a flaw in its OSS. AT&T Exh. 3.1, ¶ 18. In an Accessible Letter dated January 29, 2003, SBC admitted that the "issue that prevented the [billing completion] notifications from going out was related to a billing file not being generated properly." SBC stated that the problem had been "corrected as of January 24,

2003."[127] Because the "correction" was installed so recently (SBC finally began to flow the missing BCNs on February 3), it is premature to conclude that it will eliminate the underlying OSS problem.

1259. Moreover, states AT&T, the "way" in which SBC went about attempting to resolve the problem evidences ongoing deficiencies in the OSS. SBC made its "fix" without providing any advance notice to the CLECs of the change that it was making in its OSS. AT&T Exh. 3.1, ¶ 19. In fact, according to AT&T, SBC waited for nearly two months before it advised the CLECs that a problem even existed. *Id.* In its Accessible Letter, SBC admitted that it "discovered on December 5, 2002 that it seemed not all [BCNs] were being distributed." SBC stated that after this "discovery," it "continued to investigate the issue and did determine recently that a correction was required to ensure the process operated properly." *Id.* In other words, SBC grappled with a problem for nearly two months before deciding that CLECs should be told about it – even though SBC was undoubtedly aware of the adverse impact that CLECs would experience from missing or late BCNs. Finally, although SBC announced in the Accessible Letter that it was willing to provide the missing BCNs to CLECs, it became clear that SBC had not even developed a process for providing the BCNs at the time it issued the Letter. See AT&T Exh. 3.0(P), ¶ 76-85.[128]

Change Management.

1260. Finally, AT&T responded in its rebuttal testimony to SBC Illinois' responses regarding its inability to follow its own Change Management Process. In its Direct Affidavits, AT&T discussed numerous order-affecting shortcomings of SBC's OSS traceable to its failure to honor its Change Management Process. As AT&T described, SBC Illinois routinely makes unannounced changes to the OSS without notifying CLECs in advance. When this occurs AT&T, because it is unaware of the change, continues to submit orders using the same methods and procedures that it has previously (and successfully) used to submit orders to SBC. Consequently, AT&T has experienced and continues to experience order rejections and other disruptions of its operations, thereby impairing AT&T's ability to compete in the local service marketplace.

1261. AT&T contends that the examples are many, and the number of affected orders is striking. AT&T Exh. 3.1, ¶ 21. For example, according to AT&T, SBC erroneously rejected 15,000 AT&T orders in November – December 2002 because SBC made an unannounced change in its rules for populating certain fields relating to PIC and LPIC on the LSR without providing advance notice of the change to CLECs. *Id.* Some 10,000 of these orders were also adversely affected by changes that SBC had made (apparently inadvertently) to AT&T's trading partner ID. SBC also erroneously rejected approximately 15,000 of AT&T's orders because

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[127] Accessible Letter No. CLECAMSO3-008, dated January 29, 2003.

[128] According to AT&T, SBC's "offer" to transmit the BCNs reflects an ongoing failure to provide CLECs with adequate assistance. AT&T Exh. 3.1, ¶ 19 & n. 7. Rather than contacting CLECs to arrange an acceptable time for transmission, SBC in its Accessible Letter placed the onus on CLECs to "make arrangements" through their account manager to receive their missing BCNs. *Id.*

SBC had changed its EDI coding without notifying AT&T. In December 2002, approximately 2,800 of AT&T's orders were rejected in error because SBC mistakenly began applying LSOG 5 edits to AT&T's LSOG 4 orders. *Id.* And in January 2003, AT&T experienced yet more order rejections, apparently due to a human error that occurred during an unannounced change by SBC. *Id.*

1262. According to AT&T, SBC Illinois' implementation of systems changes without advance notice to CLECs flatly violates the CMP, which "manages changes to OSS interfaces that affect CLECs' production or test environments." SBC 13-State Uniform Change Management Process, § 3.0. AT&T Exh. 3.1, ¶ 22. These changes include, among other things: (1) Operations Changes, which the CMP defines as "changes to existing functionality that impact the CLEC interface(s) upon SBC's release date for new interface software"; (2) Technology Changes, which the CMP defines as "changes that require CLECs to meet new technical requirements upon SBC's release date"; and (3) changes to add additional functionality. *Id.* [129]

1263. In response, SBC Illinois' witness Cottrell acknowledged that many of the OSS problems discussed by AT&T do in fact relate to change management issues. He rejected, however, AT&T's basic contention that interface-affecting changes must be handled by a CMP-mandated exception notification process, however. See SBC Illinois Exh., 1.2 ¶ 72. Specifically, he states:

1264. Nothing in the CMP precludes SBC Midwest from making changes to its interfaces that do not represent changes to the EDI specifications and business rules to which the CLECs have programmed their interfaces. The exceptions process specifically applies to release requirements, regulatory mandates, and emergency situations and applies when SBC seeks to make a change to those requirements. The exceptions process does not apply to programming undertaken by SBC Midwest to make its systems run more efficiently, or to address defects on its side of the interface, so long as these is no impact to the release requirements and business rules. *Id*.

1265. In AT&T's view, Mr. Cottrell's position cannot be justified by the existing Change Management Process. AT&T notes Mr. Cottrell cites *no provision* of the CMP that supports this position. Moreover, as explained by Ms. DeYoung and Mr. Willard, the above-quoted provisions regarding the Exception Process do not restrict its use to "release requirements, regulatory mandates, and emergency situations." AT&T Exh. 3.1, ¶ 23. They simply state that the process applies when SBC wishes to make a "specified change" without following the requirements of the CMP. *Id.* Nor do the provisions of the CMP regarding its scope anywhere suggest that it is limited to changes to EDI specifications and business rules, and not to the other situations that, according to SBC, fall outside of the CMP's scope. *Id.*

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[129] In Ms. DeYoung's and Mr. Willard's Direct Affidavit, they described the process under CMP whereby SBC may accelerate the notice period to accommodate a need to implement a change on its production systems (or a release change, for that matter) on an expedited basis. *See* AT&T Exh. 3.1, ¶ 22, and n. 8. Specifically, the CMP provides that if "SBC . . . wishes to propose that a specified change . . . be handled on an exception basis, SBC will issue a Release (or Retirement) Requirements Exception Accessible Letter." *Id.* § 6.3.2. The CMP then states that "SBC may proceed to implement the change . . . on an exception basis . . . if there are not outstanding issues, or CLEC objections at the end of the CLEC response cycle." *Id.* § 6.3.2.3.

1266. Mr. Cottrell also describes in his rebuttal affidavit the various incidents, embellishing upon and in some instances taking issue with AT&T's discussion for getting the facts wrong as to the "root cause" of various problems. In response, AT&T states that it can only say that was reported what SBC has told AT&T. As Ms. DeYoung and Mr. Willard testify: "SBC's description of the root causes of many of the problems we described is significantly different from that which it previously provided to AT&T (e.g., that L100/101 had different requirements in LSOG 4 and 5, or that there were actually two mishaps in the TPID errors for L100/101), and in some instances this is the first time SBC has disclosed relevant facts. Standing alone, SBC's inconsistent statements cast doubt on the credibility of the explanations it now provides in its latest affidavit."[130] AT&T Exh. 3.1, ¶ 25. Even if that SBC's latest description of the root causes of each specific problem correct, its explanations simply highlight the instability and inadequacy of its OSS. Mr. Cottrell does acknowledge "certain missteps on its part with regard to the incidents of which AT&T complains. . . ." Cottrell Reb. Aff. ¶ 74. The larger issue is the proper interpretation and implementation of change management, as noted above.

1267. On that point, SBC Illinois has now acknowledged that changes do need to be made on its part. In its Compliance Plan, SBC first proposed to strengthen the notification process by issuing "courtesy accessible letters" in certain circumstances. In subsequent collaboratives in Michigan, however, SBC committed to revise that plan to provide for CMP "Exception" notification in certain instances. Just this past Monday, March 10, 2003, SBC circulated a revised Compliance Plan in Michigan. At this point AT&T states that it is uncertain whether or when SBC Illinois will make a similar proposal in Illinois, and in any event it has not submitted a revised proposal on this record. But as AT&T further notes, from the very brief review that has been possible of the latest Michigan plan, "we can only say that the document raises myriad questions, and it is not at all clear that Ameritech has modified its stance on the proper scope of change management notification requirements at all." AT&T Exh. 3.1, ¶ 26.

1268. Finally, AT&T raises what it considers to be the larger issue: how will SBC Illinois remedy non-compliance with its CMP in the first place. SBC Illinois in this and other areas is attempting to employ a compliance plan mechanism as the answer to any demonstrated failure to meet §271 obligations. But, according to Ms. DeYoung and Mr. Willard: "[A]ny such plan -- even if the text appears adequate -- is only a paper promise, and promises will not suffice. It is only demonstrated, actual compliance that can satisfy the RBOC's checklist obligation. For this or any other compliance proposal, SBC Illinois should be required to implement its plans and demonstrate that they are adequate and effective in operation before it can be said to meet the requirements of §271."

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[130] For example, although did not address in its rebuttal affidavits all of the incidents discussed by Mr. Cottrell, Ms. DeYoung and Mr. Willard did issue with his account of the "G408" problem. *See* SBC Illinois Exh. 1.2, at ¶¶ 81-83. Mr. Cottrell claimed the confusion was caused by SBC Illinois directing AT&T to the wrong documentation (LSOG 5), which, as Ms. DeYoung and Mr. Willard states, did occur. However, once that problem was straightened out, AT&T states that there still remained a discrepancy between two documents where USOC/FID information resides, as we indicated previously. AT&T Exh. 3.1, ¶ 25 & n. 9.

e. McLeodUSA and TDS Metrocom's Position

OSS Testing and Results

1269. McLeodUSA and TDS Metrocom state that the BearingPoint testing of SBC Illinois' OSS is not complete, and that the Commission should not provide a positive Section 271 recommendation to the FCC for SBC Illinois until SBC Illinois has successfully completed the independent third-party testing of its OSS in accordance with the Illinois Master Test Plan. They emphasize that the ability of CLECs to provide local telecommunications services to Illinois retail customers and to compete effectively with SBC Illinois is vitally dependent on the provision and maintenance by SBC of an efficiently functioning OSS that allows CLECs to efficiently order and use UNEs and resale services in competition with SBC Illinois. They state that access to SBC's OSS must be available and operational on a daily basis as well as being accurate and timely. (MTSI-TDS Br., pp. 36-37)

1270. McLeodUSA and TDS Metrocom state that Staff had also concluded that based on the BearingPoint OSS test results to date, SBC Illinois' OSS has not been demonstrated to be performing at a level that supports a positive Section 271 recommendation to the FCC. Staff concluded that based on the BearingPoint testing, SBC Illinois' OSS is not sufficient with respect to the OSS functions of ordering, provisioning, maintenance and repair and billing, with specific evaluation criteria relating to these OSS functions remaining unsatisfied. McLeodUSA and TDS Metrocom also note that Staff concluded that the three months of performance data submitted by SBC Illinois does not demonstrate that SBC provides wholesale service to CLECs in a non-discriminatory manner, and that SBC Illinois is continuing to miss 17 important performance measures. They point out that Staff considered these failures to be significant relative to the development or maintenance of a competitive telecommunications market. McLeodUSA and TDS Metrocom also state that, as Staff has pointed out, SBC Illinois' currently has a strong incentive to demonstrate good performance in order to secure a positive Section 271 recommendation; therefore, if the Commission does not require, at a minimum, that SBC Illinois bring its significant areas of deficient performance into compliance with applicable parity or benchmark requirements, prior to issuing a positive Section 271 recommendation, then the areas of deficient performance may never be satisfactorily addressed. (MTSI-TDS Br., pp. 37-40)

1271. McLeodUSA and TDS Metrocom also state that SBC Illinois' position that its three months of performance data showed it is meeting the Section 271(c) competitive checklist requirements was based on meeting the applicable parity or benchmark standards for a high percentage (87.7%) of the performance measures in two of the three months. McLeodUSA and TDS Metrocom contended that this "test" is too weak. They stated that from the CLECs' perspective, for SBC Illinois to meet the applicable standard for a performance measure for only two out of every three months is not good wholesale service quality. They state that, particularly in light of the fact that SBC Illinois' wholesale service quality performance for the three months for which it chose to present performance data is likely to be "as good as it gets", the Commission ought to require that SBC Illinois' performance satisfy the applicable parity or benchmark standard for three consecutive months for a high percentage of the performance measures, in order to merit a positive Section 271 recommendation. They noted that for the three

months for which it presented performance data, SBC Illinois satisfied the applicable parity or benchmark standard in every month for only about 75% of the performance measures.

1272. Alternatively, these CLECs assert, the Commission could require that SBC Illinois meet the applicable parity or benchmark standard in two of three consecutive months for 100% of the performance measures. However, McLeodUSA and TDS Metrocom also emphasized that, in light of the incomplete state of the BearingPoint performance metrics verification, and the myriad problems with SBC's performance measurement data integrity, calculation and reporting, as disclosed by both the BearingPoint and E&Y reviews, the Commission should not rely on SBC Illinois' September – November 2002 performance measurement data to establish the effectiveness of SBC's OSS or, more generally, its checklist compliance. As Staff has correctly concluded, until SBC Ilinois' performance measurement data can be demonstrated to be accurate and reliable on a consistent basis, those data cannot be relied upon to establish current or future compliance with the competitive checklist requirements. (MTSI-TDS Br., pp. 40-42)

1273. McLeodUSA and TDS Metrocom reiterate that they and other CLECs have placed substantial reliance in the BearingPoint independent third-party OSS testing and performance metrics verification and validation that have been conducted in an open, public manner pursuant to the Illinois Master Test Plan under the close supervision of the Commission Staff, and that this Commission should not arrive at a positive Section 271 recommendation for SBC Illinois until the independent third-party OSS testing process the Commission initiated has been successfully completed. (MTSI-TDS Br., p. 42)

Wholesale Billing

1274. McLeodUSA and TDS Metrocom stated that SBC's wholesale billing systems and processes have not produced accurate and reliable wholesale bills. They stated that they and other CLECs have encountered, and continue to encounter, serious and significant billing problems. TDS Metrocom stated that since it began operations in 1998, it has never received an accurate bill from SBC, and that SBC Illinois has not disputed this fact. TDS Metrocom witness Rod Cox, who was formerly employed by McLeodUSA, described numerous instances of erroneous wholesale billing by SBC that TDS Metrocom has experienced, including failure to bill for, or under-billing of, products or services for extended periods, following by submission of substantial back bills; billing TDS Metrocom for services or products not provided, or that TDS Metrocom is not to be billed for under the parties' interconnection agreement; double-billing; application of incorrect rates; failure to implement price changes on a timely basis; improper application of payments; and failure to provide source or back-up data to support billing adjustments. He stated that McLeodUSA had experienced similar wholesale billing problems when he was employed by McLeodUSA.

1275. McLeodUSA and TDS Metrocom state that although SBC Illinois pointed to the fact that it issues a high volume of wholesale bills, the error rates experienced in SBC's

wholesale bills are unacceptable. They stated that, if SBC cannot consistently and reliably issue accurate bills to its wholesale customers, without the need for frequent error correction and issuance of large back bills covering extended periods of time, then SBC is not providing adequate, nondiscriminatory access to this component of its OSS in a manner that will support sustained competitive activity in its local service markets and meet its obligations (and the preconditions for Section 271 authority) under checklist item 2. They contended that the Commission would clearly find such billing performance by SBC Illinois unacceptable if it were occurring at the retail level. (MTSI-TDS Br., pp. 43-45)

1276. McLeodUSA and TDS Metrocom dispute SBC's contention that no "systemic" problems had been shown to exist within SBC's wholesale billing. They stated that the frequency and variety of billing errors and problems experienced by CLECs, as well as the fact that, according to SBC's explanations of the causes for the various billing problems identified by CLECs, these problems emanate from problems throughout SBC's OSS, demonstrate that SBC's inability to consistently issue accurate bills, without the need for frequent error corrections and back-billings, is indeed systemic. They noted that SBC's announcement that it would conduct a CLEC-by-CLEC review of wholesale bills to identify errors in applying correct rates to the products and services purchased by each CLEC was an acknowledgement of widespread problems, but that even this review was too limited in scope. Further, they stated that from the perspective of an affected CLEC, it does not matter what problem in SBC's OSS causes a billing error or results in a back bill; the impact on the affected CLEC is the same regardless of the underlying root cause. McLeodUSA and TDS Metrocom also stated that although SBC Illinois said that "human error" was the cause of some of the identified billing problems, "human error" can result from employees not receiving adequate training, not having sufficiently clear and detailed written procedures to follow, not receiving adequate supervision, or not being exposed to significant consequences for the commission of errors in job performance. (MTSI-TDS Br., pp. 45-48)

1277. McLeodUSA and TDS Metrocom also take issue with SBC Illinois' assertions that there was no dispute as to the timeliness of usage or billing information provided by SBC Illinois and that Illinois CLECs receive the necessary information from SBC Illinois to correctly bill their customers. They stated that, as detailed in Mr. Cox's affidavits, SBC's wholesale bills have a high frequency of inaccuracy. They pointed out that not only do SBC's wholesale bills consistently contain errors that must be corrected, but, as also detailed in Mr. Cox's affidavits, SBC has issued a number of significant back-billings to TDS Metrocom, covering lengthy prior periods of service. McLeodUSA and TDS Metrocom stated that it is of no value to CLECs that SBC sends CLECs "timely" bills, *i.e.*, that SBC issues the bill for a billing period to the CLEC on or before the scheduled issuance date, if that bill is incomplete or inaccurate, particularly if months later SBC back bills the CLEC for charges that were omitted from, or inaccurately calculated on, the so-called "timely" bill. They stated that inaccurate bills are not "timely", regardless of when they are issued. (MTSI-TDS Br., p. 48)

1278. McLeodUSA and TDS Metrocom state that the persistent recurrence of large back bills from SBC, covering lengthy prior periods of service, has been particularly problematic.

They state that the issuance of large back bills covering lengthy prior periods of service is indicative that SBC is not proactively monitoring its wholesale bills, and lacks an adequate validation process to insure the accuracy of the bills it issues. They state that if SBC's billing systems were reliable and produced accurate wholesale bills, as SBC contends they do, there would be no need for frequent back billings because wholesale bills would be correct when first issued. They also stated that if SBC had a competent process for reviewing and auditing its own bills, then if any errors did occur, they would not go undetected for a year or more before SBC discovered the error and issued a back bill, as has occurred on several occasions.

1279. McLeodUSA and TDS Metrocom describe some of the problems that are engendered for a CLEC when SBC issues a back bill covering a lengthy prior service period. Where wholesale charges from SBC can be billed by a CLEC directly to its retail customers, the receipt of an inaccurate bill from SBC followed many months later by a back-bill for additional charges means any opportunity to recover the wholesale charges from the CLEC's retail customers is lost, either as a matter of customer relations in a competitive marketplace, or because some of the end users who were customers of the CLEC during the period in question are no longer its customers. Even where the back-billed charges are ones that would not have been billed directly to CLEC retail customers, the receipt of large back bills many months after the fact results in a mismatch of revenues and related costs for the CLEC across accounting and reporting periods, and wreaks havoc with financial plans and budgets. (MTSI-TDS Br., pp. 48-50)

1280. McLeodUSA and TDS Metrocom also stated that the problem of back-billings from SBC is compounded by the fact that, in issuing back bills, SBC typically provides no source data to justify the claimed additional charges. They stated that without such source information it is impossible for the CLEC to audit and verify the back-billed charges on SBC's invoice. They also stated that experience has shown that attempting to acquire the necessary back-up information from SBC so that the back-billed charges can be audited and verified, or disputed, is a cumbersome and time-consuming process. They stated that SBC should be, but is not, explaining and justifying its back billings when they are submitted. (MTSI-TDS Br., p. 50)

1281. McLeodUSA and TDS Metrocom also took issue with SBC Illinois' reliance on the fact that it has passed BearingPoint OSS tests relating to billing timeliness and accuracy. McLeodUSA and TDS Metrocom pointed out that Staff witness Weber, the Commission's project manager for the BearingPoint SBC OSS testing, had demonstrated that SBC Illinois' reliance on the BearingPoint test results as validating SBC's wholesale billing timeliness and accuracy is misplaced. Ms. Weber stated that if BearingPoint's test did not reveal a deficiency with SBC Illinois' OSS it does not mean that the OSS is free of problems, deficiencies, or other impediments to proper functioning, because BearingPoint's review of each evaluation criteria was conducted during defined time periods and the scope of BearingPoint's evaluation did not cover all aspects of SBC Illinois' OSS or all business processes that support its OSS. She also noted that the BearingPoint review had limited coverage to the array of billing functions SBC Illinois provides. She further observed that there were no bill reconciliation or dispute functions tested other than having the specific procedures reviewed, and for those billing functions that

were tested it took more than one full year and multiple retests for SBC Illinois to pass the BearingPoint billing tests. Additionally, during the test period, SBC did not apply all rate changes, etc., that usually occur on an account to the BearingPoint "Test CLEC" bills, and therefore this testing did not reflect the day-to-day reality of the business. Finally, she explained that SBC's statement that BearingPoint confirmed that its wholesale bills are clear and auditable is incorrect. (MTSI-TDS Br., pp. 50-51)

1282. McLeodUSA's and TDS Metrocom's witness Mr. Cox also testified that BearingPoint's test program, and the underlying performance measures, have not been sufficient to address the deep-seated deficiencies in SBC's wholesale billing systems and processes. He stated that one reason for this outcome may have been the heavy reliance by BearingPoint, in conducting its billing accuracy testing, on transactions by the "Test CLEC" under a template interconnection agreement, with the result that the transactions used by BearingPoint to test billing accuracy may have been a fairly limited universe of sample CLEC transactions.

1283. For example, the BearingPoint OSS Report specifically notes that because BearingPoint did not submit payments to SBC, no late payment charge activity appeared on bills, or could be evaluated, as a result of transaction activity generated by the Test CLEC; similarly, BearingPoint could not test the accuracy of SBC's application of payments. He stated that many of the billing problems TDS Metrocom has encountered with SBC's billing accuracy would not have been included within the BearingPoint test cases. McLeodUSA and TDS Metrocom also observed that there may have been issues with transparency of the Test CLEC transactions being billed, i.e., that SBC personnel could have known that transactions being billed to the Test CLEC were in fact being billed to the Test CLEC, not to a real CLEC. (MTSI-TDS Br., pp. 51-52)

1284. McLeodUSA and TDS Metrocom also states that the SBC Illinois performance measures relating to billing are not capturing information about such wholesale billing problems as application of incorrect rates, double billing, miscoding and back billing. They cited as an example, PM 14, Billing Accuracy, which measures whether CLEC and retail bills are consistent with billing tables. They stated that this is akin to measuring whether the printed receipt one receives at the grocery store matches the data in the bar code scanner that produced the printed receipt, and that it does nothing to assess whether the price in the scanner is correct or that it matches the posted price for the product (i.e., the tariffed rate for the UNE).

1285. McLeodUSA and TDS Metrocom also notes that although the Michigan Public Service Commission ("MPSC"), in submitting a positive Section 271 recommendation to the FCC for SBC Michigan, relied on the results of the BearingPoint billing tests as the basis for its recommendation, any such reliance on the BearingPoint results here would be contrary to the record in this proceeding, including the conclusions and recommendations of Commission Staff. McLeodUSA and TDS Metrocom concluded that wholesale billing is one area in which actual performance demonstrates that the BearingPoint test results do not accurately depict the unacceptable state of SBC's performance; the record shows that the BearingPoint test results diverge considerably from TDS Metrocom's, McLeodUSA's and other CLECs' real-world

experience with SBC's wholesale billing. McLeodUSA and TDS Metrocom cited Staff witness Weber's conclusion that the Commission needs to be sure that the billing concerns of the CLECs are reconciled before granting a positive Section 271 recommendation. (MTSI-TDS Br., pp. 52-53)

1286. McLeodUSA and TDS Metrocom state that the need to deal with the frequent errors that emanate from SBC's wholesale billing function imposes a considerable cost and resource burden on CLECs. They state that CLECs must expend considerable resources to review and audit SBC's incorrect wholesale bills and dispute questionable or erroneous charges. Mr. Cox testified that in response to the repeated wholesale billing errors it has encountered, and the resultant loss of confidence in the reliability of SBC's wholesale bills that this experience has engendered, TDS Metrocom formed a dedicated billing team comprised of five employees who spend an estimated 30% of their time reviewing SBC bills and disputing billing inaccuracies and improper charges. He stated that TDS Metrocom devotes more than 50 employee-hours every week to review, correct and dispute SBC's invoices. He stated that reviewing and disputing SBC's billing errors imposes a significant administrative burden on TDS Metrocom, and requires it to commit an unreasonable level of resources to reviewing the accuracy of the bills it receives from SBC.

1287. Mr. Cox also stated that based on TDS Metrocom's prior experiences with SBC's billing, TDS Metrocom now has so little confidence in the accuracy of SBC's wholesale bills that when a complete reconciliation of the bill cannot be completed prior to the due date, TDS Metrocom finds itself compelled to delay payment, thereby incurring a late payment charge, in order to have adequate time to fully audit the bill. McLeodUSA and TDS Metrocom stated that the amount of time that CLECs must spend monitoring SBC's bills and disputing them is excessive and time consuming, negatively impacts CLECs' ability to compete with SBC, and gives SBC a competitive advantage. (MTSI-TDS Br., pp. 54-55)

1288. McLeodUSA and TDS Metrocom conclude that because of the state of SBC's wholesale billing systems, SBC Illinois at this time fails competitive checklist item 2, nondiscriminatory access to UNE and OSS, and that SBC Illinois should not receive a positive Section 271 recommendation from the Commission until SBC's wholesale billing problems have been remedied and SBC Illinois has demonstrated that it provides accurate (the first time) and timely wholesale bills to its CLEC customers on a consistent and reliable basis. Specifically, they stated that SBC Illinois should be required to establish and implement a comprehensive and transparent wholesale billing system rehabilitation plan as a condition to receiving a positive Section 271 recommendation from the Commission.

1289. They state that although SBC had filed in this case a Bill Auditability and Dispute Resolution Plan that SBC has submitted in MPSC Case No. U-12320 in response to the direction of the MPSC, this Plan would be a wholly inadequate response to SBC's wholesale billing problems, because the Plan only involves actions that are taken after SBC sends and inaccurate bill, and would not even address the accuracy of the bills themselves. Further, they stated that

SBC's Bill Auditability and Dispute Resolution Plan does nothing to address the problem of back-billing that CLECs frequently experience; does not address the billing performance measurements that are useless in terms of capturing the problems with SBC's wholesale billing systems and processes; and does not provide for any third-party verification of successful implementation of the actions it does encompass. McLeodUSA and TDS Metrocom urged the Commission not to do what the MPSC did and provide a positive Section 271 recommendation before identified problems have been fixed and the corrective action has been verified. (MTSI-TDS Br., pp. 55-57)

1290. McLeodUSA and TDS Metrocom stated that instead of just accepting the Bill Auditability and Dispute Resolution Plan as a solution to SBC's wholesale billing problems, the Commission should require SBC Illinois to implement a comprehensive wholesale billing system rehabilitation plan. They stated that the wholesale billing rehabilitation plan should include comprehensive "root cause" analysis for the problems that have been manifested in SBC's wholesale billing systems and processes. They stated that the root cause analysis should not focus on just the actual billing systems themselves, but should extend into all the OSS components that can result (and have resulted) in erroneous or incomplete information being fed into SBC's wholesale billing systems, and thus in inaccurate wholesale bills.

1291. McLeodUSA and TDS Metrocom state that the wholesale billing rehabilitation plan should include specific corrective action items and target completion dates; should provide for third party review and testing of successful completion and implementation of the corrective actions; should address, among other things, the adequacy of billing-related performance measures to realistically measure and depict SBC's billing performance; and should include a collaborative process to attempt to develop more meaningful billing-related performance measures. Finally, McLeodUSA and TDS Metrocom recommended that the Commission consider holding further evidentiary hearings, prior to issuing a Phase II order, in order to address the severity and specifics of SBC's wholesale billing issues. They stated that such hearings would also be used to develop the details of the wholesale billing rehabilitation plan that SBC Illinois should be required to establish and implement as a condition of receiving a positive recommendation from this Commission on its Section 271 application to the FCC. (MTSI-TDS Br., pp. 57-58)

Special and UNE Circuit Repair Coding Accuracy Plan

1292. McLeodUSA and TDS Metrocom note that SBC Illinois submitted in this case a Compliance Plan for Special and UNE Circuit Repair Coding Accuracy ("Repair Coding Accuracy Plan") that SBC Michigan had submitted in MPSC Case No. U-12320. McLeodUSA and TDS Metrocom stated that the SBC Repair Coding Accuracy Plan is intended to address (among other things) some of the problems that McLeodUSA and TDS Metrocom have encountered with inaccurate coding of trouble tickets by SBC field technicians who are dispatched in response to trouble reports from CLECs or their customers. They noted that in Phase 1 of this docket, Mr. Cox described problems that McLeodUSA has encountered with erroneously coded trouble tickets, resulting in excessive and inappropriate trouble isolation

charges ("TIC") being billed to McLeodUSA; and that in Phase 2, Mr. Cox testified that TDS Metrocom is also encountering similar problems on a recurring basis.

1293. They stated that erroneous coding of trouble tickets results in erroneous billing of maintenance and repair charges to CLECs, as well as erroneous billing of TIC; can result in delays in fixing the problem on the UNE loop serving the end user; and can cause the customer to have a negative impression of the quality of service being provided by the CLEC, which places the CLEC at a competitive disadvantage to SBC; and prevents the CLEC from maintaining an accurate database of trouble reports to enable it to monitor whether the problem recurs for the CLEC's customer. McLeodUSA and TDS Metrocom pointed out that BearingPoint's testing of the accuracy of trouble ticket closure coding for resale, special and UNE circuits resulted in Exception 131, indicating that SBC did not meet accuracy standards for trouble ticket closeout coding in the five SBC Midwest states; and that SBC affiants Cottrell and Kagan acknowledged the existence of incorrect charges for trouble isolation and maintenance, stating that it has been the result of "human error." The Repair Coding Accuracy Plan also concludes that the root cause of incorrect closeout coding has been SBC repair technician error. Under the Repair Coding Accuracy Plan, SBC proposes to address the problem of inaccurate trouble ticket closures primarily through additional training of its repair technicians, and also proposes third-party verification of its actions by BearingPoint. (MTSI-TDS Br., pp. 58-60)

1294. McLeodUSA and TDS Metrocom express agreement with SBC that the root cause of the inaccurate trouble ticket closeout coding has been SBC repair technician error, and that the likely solution to the problem is additional training and management oversight. McLeodUSA and TDS Metrocom stated, however, that SBC's proposed Repair Coding Accuracy Plan shows a total lack of commitment to a long-term solution and that this is a major shortcoming. They stated that the increased training of repair technicians by SBC will only be temporary, and expressed concern that once SBC obtains Section 271 authorization and the BearingPoint review is completed, SBC will terminate the training and management oversight necessary to effectuate an effective long-term solution. McLeodUSA and TDS Metrocom also stated that there will be no mechanism in place to accurately measure SBC's performance over the long term to ensure that the problem has been permanently corrected. They expressed concern about the possibility of backsliding under SBC's Repair Coding Accuracy Plan. (MTSI-TDS Br., p. 60)

1295. McLeodUSA and TDS Metrocom stated that the record shows the problems of inaccurate trouble ticket closeout coding are long-standing and widespread; therefore, a temporary commitment to increased training and oversight will not be sufficient to permanently overcome these problems. They stated that eliminating the long-standing problem of inaccurate trouble ticket closeout coding requires a long-term solution, not a temporary solution, and a long-term commitment to fixing the problem.

1296. McLeodUSA and TDS Metrocom accordingly recommend that the Commission should require the following modifications to SBC's Repair Coding Accuracy Plan: (1) for each

of the next three years, SBC should annually provide the technician training sessions described at page 7 of the Repair Coding Accuracy Plan; (2) for the next three years, SBC should be required to continue the management review and oversight activities described at pages 7-8 of the Repair Coding Accuracy Plan; (3) SBC should also be required to make a commitment to provide additional training that emphasizes correct coding of CLEC trouble tickets as a permanent part of the employee training for new repair technicians. McLeodUSA and TDS Metrocom assert that these proposals will help to insure that SBC does in the future what it should have been doing in the past, namely, properly train and supervise its employees who repair UNE loops serving CLEC customers. (MTSI-TDS Br., p. 61)

g. Z-Tel's Position.

Wholesale Billing.

1297. Looking to the evidence of other CLEC's, Z-Tel contends that SBC Illinois' wholesale bills are inaccurate, and the Company does not provide sufficient information to CLECs to perform reasonable bill audits.

1298. Indeed, Z-Tel sees witnesses Cottrell and Kagan to state that "SBC Midwest continues to address concerns with bill auditability."[131] As evidence of SBC's effort to improve the auditability of its wholesale bills, SBC points to a Draft Improvement Plan for Bill Auditability filed in Michigan. Although Z-Tel welcomes SBC's acknowledgment of bill auditability issues, and Z-Tel looks forward to participating in the Michigan proceeding, SBC's draft Michigan proposal is deficient because it doesn't sufficiently address the systemic problems that are most damaging to CLECs. Moreover, SBC has not even filed its draft plan in Illinois, although Z-Tel expects that SBC would be willing to make such a filing.

1299. In any event, fixing the billing auditability issue as required to satisfy the Section 271 competitive checklist boils down to two types of necessary improvement: (i) system changes and (ii) dispute resolution. Regarding system changes, Z-Tel submits that the Commission should require SBC to include on every CLEC invoice line item a billing reference that points to the underlying controlling document – either an Ameritech tariff or an interconnection agreement – that allows SBC to bill the rate element or USOC. Contrary to the Cottrell/Kagan reply affidavit, SBC does not do this today. In addition, other necessary audit information, such as the end user's telephone number and any CLEC purchase order (*e.g.*, those associated with repair charges and other non-recurring work), should be provided by SBC so that a CLEC can audit its SBC wholesale bill.

1300. The Commission must recognize that SBC has always had an obligation to render an understandable bill – this basic obligation existed even before it ever rolled out its wholesale products. Assertions by SBC that it is difficult to provide a wholesale bill that is accurate and auditable are of no comfort. Had SBC focused on "doing it right the first time," its myriad billing deficiencies simply would not exist. Since that was not

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[131] Cottrell/Kagan Rebuttal, ¶ 12.

done, SBC now has the obligation to make the required system changes or, at the very least, produce cross reference tools that will allow CLECs to efficiently and accurately audit their wholesale bills. Just like the "rate flow-through interconnection agreement amendment," any such billing format changes or related cross-reference tools should be filed in this docket to ensure actual compliance, not just the issuance of another SBC "Accessible Letter."

1301. As for the billing dispute resolution process, the bottom line is that radical improvement is necessary. First, SBC must actually explain why it is rejecting a billing dispute so that a CLEC may independently validate SBC's reasoning. For example, if SBC rejects a CLEC dispute regarding rate application, SBC should be required to provide the CLEC with a reference to a tariff or interconnection agreement that contains what SBC asserts is the correct rate. SBC's current dispute process is very deficient, and does not meet these basic requirements today.[132]

1302. In Z-Tel's view, the Commission should also mandate tight deadlines for SBC to respond to billing disputes. To that end, SBC should be required to respond – with verifiable information – to CLEC billing disputes within 30 days, and formal dispute resolution processes should be completed within 60 days. In Z-Tel's experience, SBC simply does not resolve billing disputes in a timely manner. As one example (of many possible examples), Z-Tel launched formal dispute resolution with SBC on July 30, 2002 with a targeted completion date of September 30, 2002. Z-Tel states that it still has not received a written settlement offer from SBC on its position on key billing issues or on proposed settlement language.

1303. According to Z-Tel, SBC needs some additional incentive to get its billing right, and tight time frames for information and formal billing dispute resolution will go a long way toward that end. The pleadings by all parties demonstrate that billing disputes are recurring in nature and similar billing disputes affect all CLECs. The Commission must incent SBC to fix identified billing problems, otherwise carriers will continue to have to expend substantial resources, including the time and energy of this Commission, on billing disputes.

LINE LOSS NOTIFICATIONS OR LLN.

1304. Z-Tel believes Mr. Ehr to concede in his rebuttal affidavit that SBC continues to have problems providing timely and accurate line loss notifications to CLECs.[133] Indeed, SBC issued an Accessible Letter on March 6, 2003 describing a new batch of recent line loss errors that SBC is investigating.[134] SBC's line loss shortcomings are well documented in this proceeding, and Z-Tel incorporates all of its previous statements regarding line loss in these

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[132] *See* Tab B (Claim Resolution Forms provided by Ameritech fail to: identify the telephone number and accounts that were adjusted; specify the source of the rate charged; specify invoices for which credit was already received; and to identify the telephone number and accounts that were adjusted).

[133] *See*, Phase II Rebuttal Affidavit of James D. Ehr, ¶ 31.

[134] SBC Accessible Letter CLECALL03-XXX (Mar. 6, 2003) (attached hereto as Tab C).

comments. Rather than recite the history of this issue, the fundamental point that the Commission should recognize is that line loss problems continue to emerge and re-emerge even after SBC claims that it has corrected the problems.

1305. In Z-Tel's view, the Commission should adopt the line loss performance recommendations of Staff affiant Ms. Weber.[135] To that end, the Commission should require SBC to demonstrate six consecutive months of satisfactory line loss performance prior to any possible finding that SBC has complied with its obligation to provide nondiscriminatory access to OSS. Neither CLECs nor this Commission should be required to expend additional efforts briefing this issue until such time as SBC demonstrates an on-going pattern of compliance.

h. Commission Review and Conclusion on OSS.

Operations Support Systems, or OSS, refers to the functions of wholesale Pre-ordering, Ordering, Provisioning, Maintenance and Repair and Billing. Efficient OSS functions are vital to a healthy competitive market, and therefore, necessary for Section 271 approval. The Commission's review considers all of the evidence relevant to each of the functions as well as the showings that concern the Change Management Process.

Pre-ordering.

1306. The pre-ordering function includes those activities that a carrier undertakes to gather and verify the information necessary to place an order. With respect to this function, the complaints set out by AT&T and WorldCom are minor and credibly explained away by the Company. Both the BearingPoint results and the performance analysis review, support our view that there are no deficiencies with respect to the pre-ordering function. Stated another way, the record as a whole shows SBC Illinois to provide nondiscriminatory access to the pre-order functions.

Ordering.

<u>The Minor Disputes.</u>

1307. SBC reports that the one outstanding finding by BearingPoint associated with the editing of CLEC orders will be addressed by March 15, 2003. Viewed in this context, the CLEC complaints about order rejection take on minor significance. Moreover, we see that individual CLEC problems, when raised with the Company, are quickly resolved through normal business channels. This type of action is to be condoned.

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[135] ICC Staff Exhibit 31.0, Phase II Affidavit of Nancy B. Weber, ¶ 16.

1308. To the extent that CIMCO and Forte suggest the lack of a certain performance measure that they appear to want, we direct their attention to the well-established forum, i.e., the continuing 6-month collaboratives, where this issue can be raised and considered. Here too, we see that BearingPoints testing in this matter, yielded positive results.

1309. Further, we are informed, BearingPoint used the SBC Illinois service centers of which CIMCO and Forte also complain, and it experienced no problems.

1310. While AT&T appears to take issue with BearingPoint's testing of LSOG 4, without including LSOG 5, its arguments fail to take account of all relevant facts or law. These show that BearingPoint did test the agreed CMP pursuant to which LSOG 5 was implemented. Further, we see no requirement that OSS testing be repeated on each new interface introduced during the course of the test. This is only reasonable, for to require otherwise, testing would never be able to complete.

1311. While still other problems were raised on record, e.g., post to bill notices, we are satisfied that the Company has taken prompt and aggressive actions to identify and fix them with minimal impact to the CLEC. We see no reason but to expect such activity to continue. In short, none of the issues raised by the CLECs demonstrate any defects with the Company's OSS.

The Major Concern - Line Loss Notices (LLNs).

1312. Throughout this investigation, we have given special attention to the Line Loss Notification issue and, indeed, already considered this issue in the Phase I proceeding. At that stage, we took the initiative of requiring certain remedial actions be taken by the Company in order to: a) emphasize the importance we give to this matter; and b) have SBC Illinois work on and resolve the situation at the earliest opportunity. In order to address this serious issue, Staff proposed and we accepted concrete and detailed improvements to the Company's procedures dealing with line loss notifications. The Company agreed to implement each of these improvements, expended a good amount of resources and, in most cases has already completed the implementation of these measures. This has resulted in improved performance, as demonstrated both in the positive BearingPoint test results, and in the marked reduction of line loss notification problems.

1313. In our Phase I Order, we indicated that we would give "substantial weight" to the Company's implementation of Staff's recommendation, and we note favorably that the Company has complied with most of these recommendations. That is not to say, however, that the Company's performance is unblemished or that the problem is fully abated. The CLEC's point to line loss notification issues -- one of which has occurred as recently as March, 2003. While we remain deeply concerned with these issues, it is incumbent upon this Commission to note that, in nearly each case, the Company has acted quickly to analyze and resolve the problem on a business-to-business basis with the CLECs. We consider it vital to encourage this type of cooperative behavior, which inevitably, lends itself to lasting solutions.

1314. So too, although not required for 271 compliance, we note favorably, that the Company has committed to an improvement program which should result in continued overall improvements to this process and we make clear that, unless otherwise directed, the Company

will provide bi-monthly updates to the Commission outlining its activity and its progress in implementing the Line Loss Plan of record as finalized by the Michigan Commission. Our Staff will monitor and keep us informed of the situation. It is on the basis of our total account of the matter that we find the Company's line loss notification procedures to comply with section 271 requirements.

NOTE: Staff should explain in its exceptions, if and how its outstanding Phase I compliance recommendations for LNN remain viable (both in relationship to the Michigan Plan and to the Sec. 271 Performance Plan discussed below).

Provisioning.

1315. Both SBC Illinois' commercial performance results, and the results of the OSS test, demonstrate that it provides nondiscriminatory provisioning. In our overall view, the few issues raised here are not material to overall compliance.

Maintenance.

The Special and UNE Circuit Repair Coding Accuracy Plan.

1316. McLeodUSA and TDS Metrocom note that SBC Illinois submitted in this case a Compliance Plan for Special and UNE Circuit Repair Coding Accuracy ("Repair Coding Accuracy Plan") that SBC Michigan had submitted in MPSC Case No. U-12320. McLeodUSA and TDS Metrocom stated that the SBC Repair Coding Accuracy Plan is intended to address (among other things) some of the problems that McLeodUSA and TDS Metrocom have encountered with inaccurate coding of trouble tickets by SBC field technicians who are dispatched in response to trouble reports from CLECs or their customers.

1317. McLeodUSA and TDS Metrocom have recommended that the Commission require certain modifications to SBC's Repair Coding Accuracy Plan to wit: (1) for each of the next three years, SBC should annually provide the technician training sessions described at page 7 of the Repair Coding Accuracy Plan; (2) for the next three years, SBC should be required to continue the management review and oversight activities described at pages 7-8 of the Repair Coding Accuracy Plan; (3) SBC should also be required to make a commitment to provide additional training that emphasizes correct coding of CLEC trouble tickets as a permanent part of the employee training for new repair technicians. McLeodUSA and TDS Metrocom assert that these proposals are meant to insure that SBC will properly train and supervise the employees who repair UNE loops serving CLEC customers well into the future.

1318. The recommendations put to us by these CLECs appear reasonable. In its exceptions, SBC Illinois will further address and indicate its willingness to accept the proposal.

1319. All total, SBC Illinois' commercial performance results and the results of the OSS test demonstrate that the Company provides nondiscriminatory access to repair and maintenance

functions. The few issues raised in this area are minor, in our view, and do not affect overall compliance

Billing.

1320. The Commission notes, at the outset, that all aspects of SBC Illinois' billing systems were thoroughly reviewed by BearingPoint and virtually all of the billing tests have been resolved satisfactorily. Given that the BearingPoint Master Test Plan was adopted by this very Commission, with input from Staff and the CLECs, and that the BearingPoint test process was heavily monitored by those same parties, the Commission undoubtedly and reasonably attaches substantial weight to the positive overall BearingPoint results. These results, in our view, support a positive overall Section 271 conclusion with respect to billing. Other evidence and concerns appear of record, however, and must be considered by the Commission in determining whether further improvements need be made in these premises.

1321. With respect to billing accuracy, the majority of the issues appear to be related to UNE-P billing and involve rate changes ordered by the Commission in Docket Nos. 00-0700 and 98-0393. SBC Illinois concedes that errors were made but explains that they were limited in scope and resulted to a large degree from confusion over whether CLECs were taking service under contract or tariff. While the Commission accepts these explanations, we remain concerned.

1322. The Commission firmly believes that any billing errors associated with the UNE-P must be corrected. We see that SBC Illinois already has committed to do so. As we understand it, the affected CLECs' billing tables have already been changed where appropriate and the credit process will be handled on a CLEC-by-CLEC basis. SBC Illinois' actions in this regard are appropriate and we hereby direct the Company to report back to the Commission when the current billing situation has been rectified, both with respect to updating CLEC billing tables to ensure that charges are correct on a going forward basis, and to its issuance of credits for past errors.

1323. Information provided by SBC Illinois indicates that the UNE-P related billing errors had resulted from human error and do not reflect any systemic problems inherent in SBC Illinois' billing systems. We accept this showing but nevertheless believe that SBC Illinois needs to improve the "contract management processes" associated with updating rate tables in interconnection agreements to cover the events where this Commission orders changes to SBC Illinois' UNE rates.

1324. In this regard too, the Commission would agree with SBC Illinois that CLECs should not assume that any Commission-ordered rate changes will flow through automatically to the rates in an interconnection agreement. To be sure, the effect of a Commission order is near certain to vary CLEC by CLEC, depending on the specific terms of each individual agreement. Based on the circumstances indicated in the record of this proceeding, CLECs might need to be more diligent in reviewing their interconnection agreements to determine whether further action is required, or permitted, to update UNE rates in their contracts. Effective communication resolves problems but it requires at least two willing participants.

1325. We note SBC Illinois to outline a "five step" program by which it proposes to improve its "contract management process" on a going forward basis relative to these billing issues. Our review indicates that these steps are appropriate and will have the effect of substantially reducing the potential for errors on a going forward basis. The Commission is led to understand that certain of these steps require affirmative action by the CLECs as well. As such, the Commission strongly encourages CLECs with older agreements (particularly ones form the 1997-98 time frame) to take advantage of the process outlined by SBC Illinois, i.e., to update their agreements and eliminate gaps that have contributed to these billing issues. Important to this Commission also, is SBC Illinois' offer to file reports on a bi-monthly basis and we hereby direct the Company to outline the progress made to implement these process improvements accordingly.

1326. With respect to the other billing accuracy issues raised by the CLECs, the Commission fails to find any Section 271 compliance problems. Billing issues associated with the Line Loss Notices should be resolved, given the extensive progress made on line loss notices as developed on record and what we perceive as the Company's resolve to see this through. The remaining billing issues, largely raised by TDS, would appear to be isolated instances. Many, we are told, resulted from one-time conversion projects and many others do not even appear to have affected CLECs in Illinois. As, and even more importantly, we see that most of the billing situations TDS complains of occurred in the past and have been resolved. Overall, we find no current compliance issue that needs to be addressed.

1327. Turning to billing auditability, the Commission is persuaded that SBC Illinois' bill formats are consistent with industry standards and that adequate resources are available to assist CLECs in understanding their bills. To this end, the Commission also relies on BearingPoint's test results that did not find any material problems with bill auditability.

1328. That said, on the whole of the record before us, the Commission believes that the Bill Auditability and Dispute Resolution Plan on record (and that is being implemented in Michigan) is likely to be of benefit to Illinois CLECs. Therefore, the Commission accepts SBC Illinois' commitment to implement the same improvements in Illinois and to file the same progress reports here that are to be filed in Michigan.

1329. The seriousness with which we view and will treat billing concerns and issues on an on-going basis is well reflected in our remaining directives.

1330. For its part, Staff reports that SBC's performance measures with respect to billing are generally satisfactory. There is, however, one exception noted by Staff as significant, i.e., PM17 - timeliness. SBC consistently gives its affiliate more timely bills than it gives the CLECs. According to Staff, this appears to have been a persistent problem over the last year with not much improvement over that time period. As such, Staff recommends that we have SBC Illinois identify the steps that it will take to correct its unsatisfactory performance with respect to PM17 - billing timeliness, implement such plan and demonstrate substantially improved performance six months hence. This recommendation is reasonable in our view and we direct the Company to comply in all particulars.

1331. There is yet another measure we deem prudent and that the Commission here directs.

1332. As already indicated, SBC Illinois will put into effect, for Illinois, the Billing Auditability and Dispute Resolution Plan of record in this proceeding in the manner finalized by the Michigan Commission. To the extent, however, that any CLEC in Illinois did not participate in the Michigan collaboratives on that Plan, SBC-Illinois will accept and further consider that CLEC's input and/or any of our Staff's proposals, on the need to expand the scope or detail of said Auditability Plan. Further, the Company will file a report to this Commission outlining the basis for rejecting or accepting any and all of those recommendations. In that report, it will identify specific dates and timelines for implementing any new corrective tasks.

1333. With this additional effort and commitment by the Company, the Commission believes that the CLECs concerns will be satisfied. It further leaves the Commission able to find that, on the totality of the facts and circumstances, SBC Illinois is benefit of Section 271 approval on this function.

Change Management Process.

1334. A "change management process" contains the methods and procedures by which the BOC conveys information to CLECs concerning the performance of and changes to its OSS. The FCC has established criteria for evaluating a change management plan.[136] In applying those criteria in the recent *Second Georgia/Louisiana 271 Order*, the FCC stated:

> 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.)

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[136] 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").

1335. The Commission finds that the Company meets with its obligations under the Change Management Process ("CMP"). We are particularly persuaded to this end by the fact that the FCC has granted 271 authority to SBC affiliates in California, Missouri and Arkansas, all of which use the same CMP as SBC Illinois. Another convincing factor and relevant to our analysis is the BearingPoint Test Report, which found that the Company satisfied all seven criteria specifically related to CMP.

1336. To be sure, AT&T points to several instances where the Company might have invoked its change management process. But, in considering the Company's explanation that all but one of these instances, did not rise to the level of a change to the interface which would have required the use of the CMP process, we are satisfied. Nevertheless, we caution the Company to ensure that not even one failing be repeated.

1337. While we find that no modifications to the CMP process are required for Section 271 approval, it is significant to our analysis that SBC Illinois has agreed to implement a "CMP Improvement Plan" in Illinois which should improve the overall management of the CMP process and which appears satisfactory to the CLECs concerns. In our review of the record detailing the provisions of the Plan we further observe a particular commitment, such that SBC Midwest will file quarterly progress reports to the Commission for one year starting on April 30, 2003. We will hold SBC Illinois to that commitment. For all of these reasons, we find that the Company has fully complied with its CMP obligations.

Overview and Account of Staff's Recommendations.

1338. While there has been extensive and detailed commentary on particular aspects of the Company's OSS, the Commission's ultimate conclusion on checklist item 2 compliance is based, reasonably, on the totality of the circumstances.

1339. At the outset, we see SBC Illinois' commercial performance results to demonstrate that the Company processes high volumes of commercial transactions with a high rate of success. SBC Illinois has presented a wide array of commercial performance measures, and the vast majority of those measures that relate to OSS have been passed. The few shortfalls in performance are not material to the overall perspective, when taking account of the fact, as we do, that SBC Illinois has committed to enforcing specific action plans in the most important areas. We, however, do direct compliance with each of those commitments.

1340. Without doubt, SBC Illinois, BearingPoint and Hewlett Packard Consulting ("HP"), with the able assistance of the Commission Staff and with full CLEC participation, have successfully engaged in one of the most comprehensive OSS Operational tests in the nation, The BearingPoint independent test results, contrary to what certain of the CLECs would have us believe, persuasively reaffirm the results of commercial performance. Indeed, as we are shown, SBC Illinois fully satisfied 467 of 492, or 94.9% of the applicable test criteria. Of the remaining test criteria, 7 were categorized as "Indeterminate" due to a lack of demand for the product or function under evaluation. If one were to exclude these criteria, SBC Illinois' success rate would increase to 96.3% (467 of 485 applicable test criteria). Further, we are informed, one of the 18 remaining criteria was resolved subsequent to BearingPoint's Report.

1341. So too, of the 17 test criteria now categorized by BearingPoint as "Not Satisfied", the results for twelve (12) were determined by this Commission to be such that no further testing should occur. For the remaining five (5), we would observe that the actual test results are reasonably close to test benchmarks and/or equivalent commercial performance demonstrates little material impact on commercial transactions. Nonetheless, and worthy of note in our analysis, SBC Illinois appears committed to further action to resolve these issues with the Commission per our directive of January 14, 2003. Staff recommends, and we agree, that consistent with our direction on January 14, 2003, SBC Illinois is required to address its areas of deficiency with respect to timeliness of service order completion (SOC) responses (BearingPoint evaluation criteria TVV1-28), accuracy of updates to customer service records or CSRs (BearingPoint evaluation criteria TVV4-27), and accuracy of close out coding on end-to-end trouble faults (BearingPoint evaluation criteria TVV7-14).

1342. To be abundantly clear in these premises, the Commission hereby directs as follows:

> For and each of these matters, i.e., TVV1-28; TVV4-27; and TVV7-14, we expect the Company to commit that it will (a) address the operational deficiencies by July 2003; and (b) that a full and complete good faith effort will be made to have the independent third party provide verification that these deficiencies have been addressed by November 2003. The verification plan, as such, will be proposed by the independent third party and approved by Staff before it is commenced.
>
> Further, with respect to BearingPoint evaluation criteria TVV1-4 and PPR13-4, we expect SBC Illinois to commit to addressing these deficiencies, with verification by an independent third party, and under the same good faith effort, by August 2003.

1343. In looking to the performance measure analysis, we see Staff to conclude that out of 67 measures, the Company passed all but eight (8) measures. Those listed as deficient by Staff are: PMs 7.1; 10.1; 10.2; 10.3; 10.4; 11.1; 13 and MI 13.

1344. On the record, we see that the Company has committed to improving PM 7.1, and the disparity in performance is not significant in our view. So too, we are told, BearingPoint will test under those improvements. We further understand that the standard for PM 10.1 has been revised and, SBC Illinois would have met the revised standard. With respect to PMs 10.2 and 10.3 too, the standard has been revised such that the Company would have met the new standard. In our further review of PMs 10.1, 10.2, 10.3, we also find the difference between standard and performance for these measures to be immaterial to checklist compliance. (We have already considered PM

17 in our Billing function review above). PM MI-2, shows disparity that is not significant in relation to the substance of the measure. Finally, we are told, SBC Illinois implemented as of February 1, 2003, a new process to benefit MI-14. Taking full and complete note of the deficiencies Staff would point out, we are satisfied nonetheless by the Company's explanations and actions in each of these matters.

1345. In quick review, we see that all applicable OSS test criteria either have passed the BearingPoint testing process or are being aggressively pursued. Our assessment of performance shows appropriate and responsible response. Taken collectively, i.e., the OSS testing results and commercial data in Illinois, taken together with the Company's commitment to the completion of testing and the implementaion of improvement plans, clearly support a favorable recommendation to the FCC.

1346. The evidence further shows that many of the allegations set out by the CLECs were and are quickly resolved on a business-to-business basis between the parties. This showing is highly important. Given the complexity of the systems, there will inevitably always be some operational issues that the parties will need to work out. The remedial actions undertaken by the Company serve to demonstrate its continuing commitment to providing nondiscriminatory access to OSS, and give this Commission confidence in its final assessment. In that final analysis, we are strongly moving to a finding of checklist item 2 compliance.

UNE COMBINATIONS.

a. SBC Illinois Position and Evidentiary Case

1347. SBC Illinois explains that, even with the enormous volume of CLEC UNE-P orders (with more than 340,000 UNE-P service orders in the three months in the study period), it has provisioned UNE combinations on a timely basis, and with high quality installations and repairs. UNE-P orders fall into four categories: residential and business, with and without fieldwork. SBC Illinois explains that three of the categories account for nearly all UNE-P orders (about 99.7%), and the fourth category (business UNE-P that requires fieldwork) experiences a small volume of activity (about 0.3%). (SBC Ex. 2.2 (3/3/03 Ehr Rebuttal Aff.) ¶ 66.) For the three categories that account for the vast majority of UNE-P orders, SBC Illinois states that there are no performance disputes, as SBC Illinois' performance results show better-than-parity performance for all three months for timely installations, installation trouble reports, time to restore service, and repeat trouble reports.

1348. SBC Illinois states that the chief issue concerning UNE combinations is limited to the fourth category, business UNE-P that requires field work. SBC Illinois explains that, with respect to this fourth category, it did not meet the parity standard for a limited number of sub-measures, but the shortfalls were insignificant and, given the small volume at issue (about 0.3% of the reported UNE-P volume), do not affect checklist compliance.

1349. SBC Illinois notes that it performed better than parity with respect to the average installation interval for all four UNE-P categories, including business UNE-P that required

fieldwork. While the rate of missed due dates for the fourth category was slightly higher than parity in two months, SBC Illinois explains that the difference was negligible – only about 1%, which translates to only 6 missed due dates in October and 8 in November. (SBC Ex. 2.2 (3/3/03 Ehr Rebuttal Aff.) ¶ 66.) Moreover, SBC Illinois explains, the reported shortfall was caused at least in part by a defect in the process of assigning due dates, whereby such orders were sometimes assigned a date three days early. (Id. ¶ 68.)

1350. SBC Illinois states that it also did not meet the parity standard for the rate of installation trouble reports for the fourth category, but that shortfall was immaterial – SBC Illinois fell short of parity by just 10 installation trouble reports. (SBC Ex. 2.0 1/17/03 Ehr Aff.) ¶ 177.) Further, SBC Illinois explains that it has instituted improved procedures and, as a result, achieved parity performance for December 2002 and January 2003. (SBC Ex. 2.2 (3/3/03 Ehr Rebuttal Aff.) ¶ 69.)

1351. Finally, SBC Illinois notes that it did not meet the parity standard for the trouble report rate for UNE-P business lines (PM 37-04), but explains that CLECs experienced a low trouble report rate for UNE-P business lines (ranging from 0.59 to 0.86 reports per 100 loops), and the shortfalls from parity were immaterial (ranging from 0.04 to 0.11 trouble reports). (SBC Ex. 2.0 (1/17/03 Ehr Aff.) ¶ 179; SBC Ex. 2.2 (3/3/03 Ehr Rebuttal Aff.) ¶ 70.) In any event, SBC Illinois has instituted measures to improve performance, and proposes additional monitoring of PM 37. (SBC Ex. 2.2 (3/3/03 Ehr Rebuttal Aff.) ¶ 70; SBC Ex. 2.3 (Ehr Surrebuttal) ¶ 68.)

b. Commission Conclusion on UNE Phase II Issues.

1352. The Commission finds that SBC Illinois provides CLECs nondiscriminatory access to UNE combinations, including the UNE-P, in accordance with the requirements of checklist item 2. SBC Illinois' performance results show that SBC Illinois is processing a high volume of CLEC UNE-P service orders and achieving, on a whole, better than parity results.

1353. The Commission would note that SBC Illinois' failure to meet a handful of sub-measures relating to business UNE-P with fieldwork orders is not significant overall. According to reasonable analysis standards, as guides the whole of our work, checklist compliance cannot be assessed simply and only by focusing on the few sub-measures that show a shortfall. Here, SBC Illinois' performance results show that it provides CLECs service that is better than parity for more than 99% of UNE-P service orders. Further, there is no useful purpose to simply point out or dwell on a performance shortfall, without also examining, in full, the extent or impact of the shortfall. A failing in and of itself tells nothing, it must be considered in light of all related and relevant facts and circumstances.

1354. As the Commission sees SBC Illinois to explain, the performance shortfalls with respect to business UNE-P with fieldwork were slight and affected a very limited number of UNE-P service orders. Its shortfall in the trouble report rate for UNE-P business lines was also negligible and, considering the low rate of trouble reports experienced by CLECs, insignificant under a big picture view. Taking account of the whole of the showings, the Commission concludes that SBC Illinois has demonstrated checklist compliance with respect to the UNE Platform.

1355. At this point, having considered all the evidence on all the many facets of checklist item 2, the Commission finds SBC Illinois to be compliant in all respects.

C. CHECKLIST ITEM 3 – Access to Poles, etc.

1. Description of Checklist Item

1356. Section 271 (c)(2)(B)(iii) of the Act requires that a 271 Applicant provide:

"[n]ondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates in accordance with the requirements of section 224." 47 U.S.C. Sec. 271 (c)(2)(B)(iii).

2. Standards for Review

1357. The key elements of Section 224 are directed to access and rates.

Access

1358. Section 224(f)(1) states that "[a] utility shall provide a cable television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it." 47 U.S.C. § 224(f)(1). The 1996 Act amended section 224 in several important respects to ensure that telecommunications carriers, as well as cable operators (for whose benefit Section 224 was originally enacted), have access to poles, ducts, conduits, or rights-of-way owned or controlled by utility companies, including LECs. Second BellSouth Louisiana Order, 13 FCC Rcd at 20706, n.574.

1359. Notwithstanding this requirement, section 224(f)(2) permits a utility providing electric service to deny access to its poles, ducts, conduits, and rights-of-way, on a nondiscriminatory basis, "where there is insufficient capacity and for reasons of safety, reliability and generally applicable engineering purposes." 47 U.S.C. § 224(f)(2). The FCC concluded that, although the statutory exception enunciated in section 224(f)(2) appears to be limited to utilities providing electrical service, LECs should also be permitted to deny access to their poles, ducts, conduits, and rights-of-way because of insufficient capacity and for reasons of safety, reliability and generally applicable engineering purposes, provided the assessment of such factors is done in a nondiscriminatory manner. Local Competition First Report and Order, 11 FCC Rcd at 16080-81, para. 1175-77.

Rates

1360. Section 224 also contains two separate provisions governing the maximum rates that a utility may charge for "pole attachments." Section 224(a)(4) defines "pole attachment" as "any attachment by a cable television system or provider of telecommunications service to a pole, duct, conduit, or right-of-way owned or controlled by a utility." 47 U.S.C. § 224(a)(4).

1361. Section 224(b)(1) states that the Commission shall regulate the rates, terms, and conditions governing pole attachments to ensure that they are "just and reasonable." 47 U.S.C. § 224(b)(1). Notwithstanding this general grant of authority, section 224(c)(1) states that "[n]othing in [section 224] shall be construed to apply to, or to give the Commission [FCC] jurisdiction with respect to the rates, terms, and conditions, or access to poles, ducts, conduits and rights-of-way as provided in [section 224(f)], for pole attachments in any case where such matters are regulated by a State." *Id*. § 224(c)(1). The 1996 Act extended the Commission's authority to include not just rates, terms, and conditions, but also the authority to regulate nondiscriminatory access to poles, ducts, conduits, and rights-of-way. *Local Competition First Report and Order*, para. 1232; 47 U.S.C. § 224(f). Absent state regulation of terms and conditions of nondiscriminatory attachment access, the Commission retains jurisdiction.

1362. As of 1992, nineteen states, including Illinois, had certified to the Commission that they regulated the rates, terms, and conditions for pole attachments. See States That Have Certified That They Regulate Pole Attachments, Public Notice, 7 FCC Rcd 1498 (1992); 47 U.S.C. § 224(f).

1363. (Adapted from New Jersey 271 Order, Appendix C with most cites and footnotes omitted.)

3. The State Perspective

1364. Access to poles, ducts and rights of way gives a CLEC the ability to use Ameritech facilities such as telephone poles when building out its network. Obtaining rights of way is often difficult and time consuming; it is thought giving CLECs access to the incumbents poles, ducts, conduit and rights of way will encourage the development of facilities-based competitors. This access also reduces the need to build redundant facilities and encourages more efficient use of the present facilities. The Commission addressed the issue of pricing such access in Docket 98-0397. Order, Docket 98-0397, Illinois Commerce Commission On Its Own Motion Investigation into Rates, Terms and Conditions Applicable to Poles. (August 14, 2001) The Commissions rules regarding pole attachments are found in 83 Ill. Administrative Code Part 315.

4. Evidence, Issues/Positions

a. Ameritech Showing of Compliance

1365. AI asserts that the requirements of Checklist Item 3 help competing carriers to deploy their own facilities (*e.g.*, a cable or other pole attachment) by using the incumbent LEC's poles, ducts, conduits, and rights-of-way (collectively "structure"). Ameritech Illinois maintains that it has a long history of providing access to its poles, ducts and rights-of-way, and has been providing such access at least since the adoption of the Pole Attachment Act (47 U.S.C. § 224) in 1978. Am. Ill. Ex. 20.0 (Stanek Aff). ¶ 5.

1366. According to AI, no party disputes that it meets the requirements of checklist item 3. As such, CLECs can access Ameritech Illinois' poles, ducts, conduits, and rights-of-way pursuant to an ICC-mandated tariff (the "Structure Tariff") or pursuant to Appendix ROW ("Rights-Of-Way"), which has been incorporated into several interconnection agreements approved by the Commission, including those with American Fiber Network, Inc. and MGC Communications, Inc. Id. ¶¶ 4,8. Both Appendix ROW and the Structure Tariff, AI asserts, fully comply with applicable federal and state regulations. Id.

1367. Ameritech Illinois affords nondiscriminatory treatment to all CLECs requesting to attach to Ameritech Illinois' structures. This concept of nondiscrimination is present throughout the structure access process: For example, Ameritech Illinois gives CLECs access to the same structure maps and records that it uses to design its own construction projects (Am. Ill. Ex. 20.0 (Stanek Aff). ¶ 12), evaluates CLEC requests for access to structure by using the same standards that apply to its own use of those facilities (id. ¶ 14), and assigns pole attachment or conduit occupancy space on a nondiscriminatory basis (id. ¶ 15). AI's compliance showing is set out in the testimony of witness Stanek.

b. Staff Position

1368. Based on all available information, the Staff is of the opinion that Ameritech Illinois appears to be in compliance with checklist item number 3. Specifically, it appears that Ameritech offers nondiscriminatory access at just and reasonable rates to the poles, ducts, conduits, and right-of-ways it owns or controls. (Staff Ex. 5.0 at 3). In Docket No. 98-0397, Staff observes, the Commission approved pole attachment rates for Ameritech Illinois. Ameritech Illinois filed tariff sheets implementing those rates on September 15, 2001. Staff Ex. 5.0 at13. Further, Staff notes that the Illinois pricing appendix located in Ameritech's General Interconnection Agreement has pole attachment rates that correspond to the rates found on Ameritech Illinois' tariffs. Id. For all these reasons, Staff is of the opinion that Ameritech Illinois has satisfied the "just and reasonable" rates requirements under Checklist Item 3. Id.

5. The Reply Positions

a. AT&T Reply

1369. AT&T did not raise any issues in conjunction with poles, ducts, conduits and rights-of-way in Phase IA of this proceeding because at the time it filed its testimony, it was unaware of any noncompliance issues. Just recently, however, AT&T has discovered that beginning the end of May 2002, Ameritech has attempted to bill AT&T the $1.69 rate twice a year – or every six months. AT&T notes, however, that the Commission issued an order on August 15, 2001 in Docket No. 98-0397 adopting a just and reasonable rate in accordance with the requirements of section 224 of the federal Act of $1.69 per pole attachment per year.

1370. Due to the newness of this discovery, AT&T has not yet determined whether this is an intentional violation of the Commission's Order, a billing problem, an OSS problem, or something else. If this matter leads to a dispute, AT&T will raise the issue in Phase II of this proceeding. Until this problem is resolved however, AT&T maintains that Ameritech Illinois fails to comply with checklist item (iii).

6. Staff's Proposed Remedial Actions for Checklist Compliance

None.

7. Commission Review and Conclusion

1371. No party or Staff disputes AI's satisfaction of the statutory access requirements at issue. Staff further observes that the Company satisfies the rates standard. To be specific, AI has demonstrated that it is providing nondiscriminatory access to its poles, ducts, conduits and right-of-way at just and reasonable rates, terms, and conditions in accordance with Section 224 of the Act.

1372. AT&T, however, believes there is some type of blunder in billing as based on its recent experience. As such, it asks that we put off a final verdict on this checklist item. The Commission prefers to pursue a different course noting that there is no evidence, only argument alluding to a potential dispute, that may or may not materialize. As such, we will find that AI is in compliance with this checklist item subject only to a contrary showing being provided in Phase II.

Phase II Showings.

8. Review – Phase I Compliance Matters.

9. Phase II Evidence. (Checklist Item 3).

a. SBC Illinois' Position.

1373. SBC Illinois states that during the September - November 2002 study period, it processed *every* CLEC request for access to poles, ducts, conduits, and rights-of-way within the 35-day benchmark. In fact, SBC Illinois processed these requests within an average interval of only 13.5 business days. (SBC Ex. 2.0 (1/17/03 Ehr Aff.) ¶ 96 & Att. F.) Further, SBC Illinois states that it completed every request for make-ready work (work to prepare SBC Illinois' facilities to accommodate a CLEC's access request) and every request for a field survey (used to determine if there is sufficient space to accommodate a CLEC's access request) within the standard interval. (Id.)

1374. SBC Illinois notes that some commenters, without actually contesting SBC Illinois' commercial performance or claiming that they experienced poor service with respect to poles, ducts, conduits, or rights-of-way, contest SBC Illinois' performance *reports* for this checklist item. As E&Y noted in its audit, SBC Illinois measures the time to process requests for access to structures in business days rather than calendar days. (See AT&T Ex. 1.0 (Connolly) ¶ 154.) But, SBC Illinois states, even on a calendar-day approach, it processes CLEC requests on average in fewer than 20 days, and that result is still well within the 35 day benchmark. (SBC Ex. 2.0 (1/17/03 Ehr Aff.) ¶ 96.)

b. CLECs' Position.

1375. No CLEC raised any issues in Phase II specific to checklist item 3

c. Staff's Position.

Performance Measurement Data Analysis

1376. Checklist item 3 concerns access to poles, ducts, conduits, and rights of way interconnection and collocation, and encompasses the following performance measures: PM 105, and 106.

1377. According to Staff, there are two performance measures associated with access to poles, rights-of way, and conduits. These are PM 105 (Percent request processed within 35 days), and PM 106 (Average days required to process a request). SBCI witness James Ehr's conclusion that, although "the volume of CLEC requests was not sufficient to permit statistical

analysis, SBC Illinois still met the benchmark on those requests that were submitted"[1] is consistent with the Staff's conclusions. No Intervenor expert submitted any testimony that contradicts this conclusion. Therefore, Staff has no basis upon which to disagree with SBCI's position that the company has met the requirements for the two performance measures associated with access to poles, rights-of-way, and conduits.

1378. It is Staff's determination that SBC Illinois' reported performance relative to checklist item 3 is satisfactory.

d. Commission Review and Conclusion.

1379. The Commission concludes the SBC Illinois satisfies checklist item 3 by providing "[n]ondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the [BOC] at just and reasonable rates in accordance with the requirements of section 224." 47 U.S.C. § 271(c)(2)(B)(iii). The sole dispute on record relates to AT&T's comment that SBC Illinois' commercial performance reports calculated the time to process requests in business days rather than calendar days. The Commission notes that the dispute is not material to checklist compliance. However the days are counted, neither AT&T nor any other CLEC alleges that SBC Illinois' actual provisioning of access to poles, ducts, conduits, or rights-of-way in any way fails to meet the requirements of checklist item 3. Even if one were to measure the interval in calendar days, SBC Illinois' commercial performance results would still be well within the applicable benchmark.

D. CHECKLIST ITEM 4 – Unbundled Local Loops

1. Description of Checklist Item

1380. Section 271(c)(2)(B)(iv) of the Act, requires that a 271 Applicant provide:

"[l]ocal loop transmission from the central office to the customer's premises, unbundled from local switching or other services." 47 U.S.C. Section 271 (c)(2)(B)(iv).

2. Standards for Review:

1381. The FCC defines "**the loop"** as a transmission facility between a distribution frame, or its equivalent, in an incumbent LEC central office, and the demarcation point at the customer premises. (More simply put, it is the transmission path that extends from an end user's premises up to the incumbent LEC's central office). In its definition, the FCC includes the different types of loops such as, two-wire and four-wire analog voice-grade loops, and the two-wire and four-wire loops that are

[1] SBC EHR Phase II Rebuttal Affidavit at Paragraph 40, Page 17.

conditioned in order to transmit the digital signals needed to provide service such as ISDN, ADSL, HDSL, and DS1-level signals.

1382. To establish compliance with Checklist Item 4, the FCC informs, a BOC must demonstrate that it has "a concrete and specific legal obligation" to furnish loops, and further, that it offers unbundled local loops in the quantities that competitors demand and at an acceptable level of quality. So too, a BOC must provide "nondiscriminatory" access to unbundled loops. More specifically, it must provide access to any functionality of the loop that is requested by a competing carrier unless it is not technically feasible to condition the loop facility to support the particular functionality requested.

1383. In order to provide the requested loop functionality (such as the ability to deliver xDSL services), the BOC may be required to take affirmative steps to condition existing loop facilities so as will enable competing carriers to provide services not currently provided over the facilities. The BOC also must provide competitors with access to unbundled loops regardless of whether the BOC uses digital loop carrier (DLC) technology or similar remote concentration devices for the particular loops sought by the competitor.

1384. The *Line Sharing Order*, released on December 9, 1999, introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL). "HFPL" is defined as "the frequency above the voiceband on a copper loop facility that is being used to carry traditional POTS analog circuit-switched voiceband transmissions." This definition applies whether a BOC's voice customers are served by cooper or by digital loop carrier equipment. Competing carriers should have access to the HFPL at either a central office or at a remote terminal. The HFPL network element, however, is *only* available on a copper loop facility.

1385. Checklist Item 4 also requires a BOC to make "line splitting" available to competing carriers so that competing carriers may provide voice and data service over a single loop. In addition, a BOC must demonstrate that a competing carrier, either alone or in conjunction with another carrier, is able to replace an existing UNE-P configuration used to provide voice service with an arrangement that enables it to provide voice and data service to a customer.

1386. To make its showing, a BOC must demonstrate that:

(a) it has a legal obligation to provide line splitting through rates, terms, and conditions in interconnection agreements; and

(b) it offers competing carriers the ability to order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment, and

combine it with unbundled switching and shared transport.

1387. (Adapted from New Jersey 271 Order, Appendix C, with most cites and footnotes omitted.)

3. The State Perspective

1388. The loop is the transmission path from the end-user to the telephone company's central office. The wires and equipment owned by the telephone company and the wires inside an end-users home are connected together in a small gray box caller a Network Interface Device (NID). This box or NID provides a demarcation between the end-users property and that of the telephone company.

1389. When the transmission path of a loop is cooper, equipment can be added to both ends of the loop (or the cooper portion of the loop) to divide the transmission path into a high frequency path and a low frequency path. The high frequency path is used to transmit data, while the low frequency portion continues to provide voice service. This type of arrangement is called either line sharing or line splitting depending on who is providing the voice service over the loop. If the ILEC is providing the voice service over the loop the arrangement is called line sharing. If a CLEC is providing the voice service over the loop the arrangement is called line splitting.

1390. The unbundling of the high frequency portion of the loop is addressed in Orders FCC 99-355 and FCC 01-026. The DC Circuit Opinion remanded the FCC's line sharing rules in May of 2002.

1391. This Commission has addressed line sharing/line splitting in Dockets 00-0312/0313, 00-0393, and 00-0393. See Arbitration Decision, Docket 00-0312, Covad Communications Company, Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Amendment for Line Sharing to the Interconnection Agreement with Illinois Bell Telephone Company d/b/a (August 17, 2000). Ameritech Illinois, and for an Expedited Arbitration Award on Certain Core Issues, Arbitration Decision, Docket 00-0313 (Consol). Rhythms Links, Inc., Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Amendment for Line Sharing to the Interconnection Agreement with Illinois Bell Telephone Company d/b/a Ameritech Illinois, and for an Expedited Arbitration Award on Certain Core Issues;

1392. Order, Docket 00-0393, Illinois Bell Telephone Company, Proposed Implementation of High Frequency Portion of Loop (HFPL)/Line Sharing Service (Tariffs Filed April 21, 2000) (March 14, 2001) ; Amendatory Order, Docket 00-0393 (May 1, 2001) ; Order on Rehearing, Docket 00-0393 (September 26, 2001); Amendatory Order on Rehearing (October 16, 2001), Docket 00-0393; Order on Second Rehearing, Docket 00-0393 (March 28, 2002).

1393. Loops are made up of three types cable or wire called feeder, distribution, and drop. Feeder cables distribute hundreds of transmission paths over either fiber optic cable or cooper pairs from the central office out to different sections of the area serve by a central office. Feeders terminate to a feeder distribution interface (also called a serving area interface). Multiple distribution cables are connected to a feeder cable at the feeder distribution interface, these distribution cables fan-out to pass every potential customer in area. These distribution cables are connected to pedestals were drop wires are then run to the NID of each customer. Incumbent LECs must offer unbundled access to sub-loops, or portions of the loop, at any accessible point. Accessible points are conventionally thought of as points where these three types of cable connect to each other.

4. Evidence, Issues/Positions

a. Ameritech Showing of Compliance

1394. Ameritech Illinois witnesses Deere, Muhs, Brown, Chapman, Cottrell, and Habeeb have all testified on some facet of this Checklist Item 4.

Furnishing Loops

1395. Pursuant to its interconnection agreements, AI maintains, it has a binding legal obligation to make available all required kinds of loops, including 2-wire and 4-wire analog loops, 2-wire and 4-wire ISDN digital-grade loops, and various 2-wire and 4-wire loops capable of supporting xDSL services. (See Am. Ill. Ex. 5.0 Sch. WCD-1, ¶ 91). AI claims that there is no dispute on this matter.

Nondiscriminatory Access to Stand-Alone Loops

The NID

1396. A "Network Interface Device" AI explains, is the device set at an end user's premises, where the local loop ends. Ameritech Illinois contends that it provides CLECs the ability to obtain and use the Network Interface Device ("NID") under terms and conditions established in interconnection agreements. (Am. Ill. Ex. 5.0 Sch. WCD-1, ¶¶ 76-82). According to AI, a CLEC may connect to the customer's inside wire at Ameritech Illinois' NID at no charge, or it may pay Ameritech Illinois to perform any NID repairs, upgrades, disconnects, or rearrangements as desired. (Id. ¶ 78.) Ameritech Illinois contends that it also provides and connects the NID at no additional charge when CLECs order an unbundled loop. (Id. ¶¶ 79, 81.) There is no dispute, AI contends, with respect to these facts.

Subloop Unbundling

1397. There is also no dispute, AI contends, but that CLECs can order sub-elements of the loop from Ameritech Illinois on an unbundled basis and access these

sub-elements at technically feasible accessible points. (Am. Ill. Ex. 5.0, Sch. WCD-1, ¶¶ 95-98.) And, AI asserts, available sub-elements include all those required by the FCC. (Id. ¶ ¶ 95-118). See UNE Remand Order, ¶¶ 206-229.

Coordinated and Frame Due Time Conversions ("Hot Cuts")

1398. AI defines "hot cut" as the process of transferring an "active" loop (one that is currently being used to serve an end user) from Ameritech Illinois to a requesting CLEC. See New Jersey 271 Order, ¶ 142 n.419. This process. It maintains, involves a coordinated effort taken to move the loop from Ameritech Illinois' switch onto the CLEC's switch. (See Id.; Am. Ill. Ex. 2.0 Brown Direct) Sch. JWB-1, ¶ 62.)

1399. AI notes that to satisfy Checklist Item 4, a BOC "must demonstrate that it provides unbundled loops through hot cuts 'in a manner that offers an efficient competitor a meaningful opportunity to compete,'" and must offer hot cuts "in a timely manner, at an acceptable level of quality, with minimal service disruption, and with a minimum number of troubles following installation." Kansas & Oklahoma 271 Order, ¶¶ 199, 201. According to Ameritech Illinois, it offers a "Coordinated Hot Cut" ("CHC") that meets with these requirements. It was developed after extensive negotiation with CLECs through collaborative workshops, AI contends, and was adopted by the Commission in its January 24, 2001 Order for Docket 00-0592. (AI Ex. 2.1 at 23).

1400. AI notes XO to complain that Ameritech Illinois sometimes changes certain hot cut appointments from a specific time to an "all day" appointment. See XO Ex. 1.0 (Barstow Direct) at 11-12. At the outset, Ameritech Illinois points out that an "all day" appointment only means that the hot cut will take place sometime during the specified day and not that the process will actually take all day to complete. (Tr. 491). And, a specific appointment is changed to an all day appointment, AI explains, only in the limited circumstances where (1) the end user is served over Integrated Digital Loop Carrier ("IDLC") facilities,and (2) the initial order did not indicate that such IDLC facilities are involved. (Am. Ill. Ex. 2.1 at 23; Tr. 606-607). Ameritech Illinois provides CLECs with a "DSL Tracking Tool" and Distribution Area information that allows CLECs to determine in advance which loops are served by IDLC. (Am. Ill. Ex. 5.0 Sch. WCD-1, ¶ 137). Using these tools, AI maintains, a CLEC can determine that the loop it has requested is not eligible for the normal CHC process.

1401. Where the hot cut order does not indicate that IDLC facilities are involved, AI explains, a specific appointment time is assigned. When the Local Operations Center ("LOC") later reviews the order (at least two days before its due date) and discovers that IDLC facilities are involved, the LOC notifies the CLEC that an all day appointment is required. (Am. Ill. Ex. 2.1 at 23). This procedure is perfectly reasonable, AI contends, because (as XO does not even attempt to dispute), more work is required when IDLC is involved than is required under the normal CHC process. (Id. at 23-24.) The complication with IDLC, AI notes, is that the end user does not have a separate line from its premises to Ameritech Illinois' switch; rather, the line travels from the end user's premises to a remote equipment location. (Am. Ill. Ex. 2.1 at 23.) There, the end user's loop is integrated with other loops before extending to Ameritech Illinois' switch. (Id.) A

loop that is integrated into an IDLC facility cannot be transferred directly to a CLEC, AI explains, because the IDLC includes other loops that are not being transferred. Ameritech Illinois must first transfer service to alternate copper facilities that are not on the IDLC. (Id.)

1402. The requesting CLEC, AI explains, still receives reasonable notice of the provisioning timeframe. At the outset, Ameritech Illinois gives the CLEC advance notice of the day that the provisioning will occur. (Tr. 600-601). If such date is inconvenient for the CLEC, Ameritech Illinois will reschedule. (Id.) Further, the LOC calls the CLEC when Ameritech Illinois' technician is en route to the work location, thus giving the CLEC notice that work will soon begin. (Am. Ill. Ex. 2.1 at 24.) Finally, AI notes, the LOC notifies the CLEC when the technician has completed his or her work. (Id.)

1403. While XO alleges that the use of an all day appointment can result in an out-of-service situation for an end user, AI notes that XO provided no examples of this situation actually occurring. It further explains that the use of an all day appointment as opposed to a specific appointment should have no effect on the end user. (Am. Ill. Ex. 2.2 at 14-15; Tr. 488-490.)

Facilities Modification

1404. Sometimes, Ameritech Illinois notes, it finds that the facilities needed to provision an order are not readily available. The Facility Modification process ("FMOD") it employs, however, provides CLECs with ongoing notice as to the status of orders that require additional time or cost, due to the need to modify facilities. (Am. Ill. Ex. 2.0 , Sch. JWB-1, ¶ 53.) This process, AI notes, includes a series of intermediate notices provided after the initial order confirmation and was collaboratively designed by the CLEC community and Ameritech Illinois to ensure the nondiscriminatory treatment of wholesale and retail customers. (Id.; Am. Ill. Ex. 5.0, Sch. WCD-1, ¶¶ 138-148.)

1405. On record, AI observes, is a relatively trivial complaint about the notice of the charges (sometimes termed "special construction charges") associated with "complex modifications." It notes that many facilities modifications are routine and are completed without additional cost. If, however, a complex modification is required, Ameritech Illinois notifies the CLEC of the work required, the time needed to complete that work, and any additional cost involved. (Am. Ill. Ex. 5.0 Sch. WCD-1, ¶ 143). When the charge for a particular complex modification is specified, as in the XO-Ameritech Illinois interconnection agreement, Ameritech Illinois' notice would refer XO to the pricing schedule in their agreement rather than providing an actual dollars and cents figure, as XO apparently wants done.

1406. According to AI, it is as easy for XO to pull out its copy of the agreement and verify a price as it is for an Ameritech Illinois engineer to so verify. Arguably, it is easier, AI asserts, because XO has only a single contract to reference, while Ameritech Illinois' engineers would need to maintain a library of the many interconnection agreements to complete the task. (See Am. Ill. Ex. 2.1 at 20). Moreover, AI contends, a section 271 proceeding is not the place for this type of carrier-specific dispute. In

support of this assertion, it cites to the FCC's language in the New Jersey 271 Order, ¶ 128 (holding that, a section 271 proceeding is an inappropriate forum to "resolve every individual factual dispute between a BOC and each competitive LEC regarding the precise content of the BOC's obligations to each competitor").

1407. AI further notes Staff's assertions that the GIA should define when facilities are "available" and should contain a reference to the FMOD process. (Staff Ex. 3.0 at 73-74). According to AI, however, Staff does not cite any legal authority in support of its proposal.

Loop "Tagging"

1408. AI notes McLeodUSA's testimonial allegations that Ameritech Illinois is not properly "tagging" unbundled local loops at the customer's premises. It is mistaken, AI contends, given that Ameritech Illinois has a well-established and detailed process for "tagging" loops at customer premises such that a CLEC knows which individual loop has been activated for its use. Am. Ill. Ex. 5.0 at 9-10. In particular, Ameritech Illinois notes, it provides "binding post" information that allows a CLEC to identify which of several loops present at a network interface device ("NID") or demarcation point at a customer premises is available for the CLEC's use. When an Ameritech Illinois technician is dispatched to the customer location, AI maintains, the technician physically "tags" the NID or demarcation point with a card that has the binding post information on it. And, AI explains, when no dispatch is made, Ameritech Illinois transmits the binding post information to the CLEC via fax. (Am. Ill. Ex. 5.1 at 15-16).

1409. AI points out that McLeodUSA is the only CLEC to report any problems with this process and Ameritech Illinois has addressed McLeodUSA's concerns by two separate actions. First, on finding that Ameritech Illinois, for a time, had inadvertently used the wrong number to fax binding post information to McLeodUSA, it corrected that problem. (Id. at 16.) Second, Ameritech Illinois and McLeodUSA instituted a special process to ensure proper tagging. In particular, AI explains, McLeod USA was given a special contact to whom it might immediately report any tagging problems and, in addition, a series of bi-weekly meetings were convened to address this matter. These measures appear to have addressed McLeod's issue, AI contends, because as of May 8, 2002, McLeodUSA reported just one loop tagging problem to its special contact. (Am. Ill. Ex. 5.2 at 9-10).

Nondiscriminatory Access to xDSL-Capable Loops Used for Advanced Service

Pre-Ordering Loop Make-Up Information

1410. "Loop qualification," AI explains, refers to the process of obtaining information about a loop's characteristics (such as its length) in order to evaluate whether the loop can support advanced services. (Am. Ill. Ex. 3.0 Sch. CAC-1, ¶¶ 16-17, 22).

1411. AI notes that the FCC requires BOCs "to provide access to loop qualification information as part of the pre-ordering functionality of OSS." Kansas & Oklahoma 271 Order, ¶ 121. Specifically, AI observes, the BOC must "provide competitors with access to all of the same detailed information about the loop that is available to themselves, and in the same time frame, so that a requesting carrier could make an independent judgment at the pre-ordering stage about whether a requested end user loop is capable of supporting the advanced services equipment the requesting carrier intends to install." Id.

1412. As part of the pre-order process for xDSL-capable loops and the HFPL UNE, Ameritech Illinois contends that it provides loop qualification information in full compliance with the UNE Remand Order. (Am. Il. Ex. 3.0 Sch. CAC-1, ¶¶ 12-30). Except for a single issue raised by Staff, AI notes that there is no dispute relative to loop qualification. According to AI, Staff requests Ameritech Illinois to demonstrate that its tariff requires loop qualification information to be provided within five (5) business days or within the interval such information is provided to Ameritech Illinois' affiliates, whichever is less. (Staff Ex. 1.0 at 44). Ameritech Illinois witness Chapman, the Company notes, explained that its tariff already meets that requirement by establishing an interval of three to five business days or the interval such information is provided to Ameritech Illinois' affiliates, whichever is less. (Am. Il. Ex. 3.0 at 3; Ill.C.C. No. 20, Part 19, Section 2, Part 2.5B.1).

1413. Staff' proposal, AI observes, would have the Commission "consider" reducing this interval to three business days across the board, i.e., eliminate the range of *three to five* business days. (Staff Ex. 1.0 at 44-45). The rationale driving this request, AI suggests, is that if Ameritech Illinois can in *some* cases provide loop qualification information within three business days, it should be required to do so in *all* cases.

1414. AI maintains that the FCC has not established any minimum interval within which this information must be provided to the CLEC. The only standard is "parity"; i.e., the information must be provided to the CLEC within the same interval that it is provided to its own retail operations or its advanced services affiliate. Kansas & Oklahoma 271 Order, ¶ 121. Ameritech Illinois meets this standard, it asserts, and the Commission will assess compliance in Phase II. (Am. Il. Ex. Sch. CAC-1, ¶¶ 12-30). For the moment, however, AI views Staff's proposal as unreasonable. Staff has not suggested that there has been any evidence or change in circumstances that warrant a shortening of the period, AI contends, it merely believes the shorter interval to be better. To have the shorter interval become the standard for all cases, AI argues, effectively penalizes Ameritech Illinois for its attempts in meeting the shorter interval whenever possible.

Stand-alone xDSL-Capable Loops

1415. Ameritech Illinois maintains that its ordering process for xDSL-capable loops is, and is shown to be, nondiscriminatory. (Am. Il. Ex. 3.0, Sch. CAC-1, ¶¶ 31-41). It notes, however, AT&T witness Fettig's complaint that Ameritech Illinois had not issued

business rules associated with ordering different types of DSL loops. More specifically, AI observes, Ms. Fettig complained that a forthcoming accessible letter had not been issued by the date of her direct testimony on March 30, 2002. According to Ameritech Illinois, it issued this accessible letter on April 1, 2002, such that this issue is fully resolved. (Am. Il. Ex. 3.1 at 37). Even before the accessible letter was issued, however, Ameritech Illinois maintains that it had standard ordering procedures in place for ordering loops over which a CLEC could provision ADSL, HDSL, or IDSL. In addition, CLECs could provision other forms of DSL that were technically acceptable for deployment over DSL-capable loops. (Am. Il. Ex. 3.1 at 37).

Bridged Tap Conditioning

1416. AI notes XO's complaint that it is difficult to discern Ameritech Illinois' rates for Bridged Tap Conditioning. (XO Ex. 2.0 at 7-8). It points out, however, that Ameritech Illinois is in the process of clarifying the language in the pricing appendix of its Generic Interconnection Agreement. (Am. Il. Ex. 3.1 at 46-47). In addition, and as its witness Thompson testified, a CLEC can use its Ameritech Illinois account manager as a resource to answer any questions relating to this, or any other, day-to-day issue. (Am. Ill. Ex. 12.0, Sch. DAT-1, ¶¶ 8-12).

Line Sharing

1417. AI explains that a single copper loop can simultaneously provide voice service on the low frequency portion of the loop and data services on the high frequency portion of the loop (the "HFPL"). In order to gain access to the HFPL, AI continues, a piece of equipment called a "splitter" is used to divide the data and voice signals moving across a loop, and, in the case of an all-copper loop, the splitter is installed in the central office. Splitters, AI notes, are commercially manufactured products that any telecommunications carrier- including any CLEC - can buy and install itself. See Order at 53, 55; Docket 00-0393, (March 14, 2001).

1418. "Line sharing," AI observes, is defined by the FCC as the situation where an incumbent LEC provides voice service over a loop while a competing LEC provides data service over the high frequency portion of the same loop. In the now-vacated Line Sharing Order, the FCC required ILECs to provide access to the HFPL, which it defined as "the frequency range above the voiceband on a copper loop facility that is being used to carry analog circuit-switched voiceband transmissions." 47 C.F.R. § 51.319(h)(1). According to AI, the FCC limited this obligation to the situation where the incumbent LEC is providing, and continues to provide, analog circuit-switched voiceband services on the particular loop for which the requesting carrier seeks access. 47 C.F.R. § 51.319(h)(3); Line Sharing Order, ¶¶ 70, 72; Texas 271 Order, ¶¶ 324.

1419. Ameritech Illinois and its affiliates developed their HFPL offerings in a collaborative "line sharing trial" that covered all 13 states served by SBC incumbents, AI contends. The terms and conditions of Ameritech Illinois' offering, it asserts, is identical to what is offered in Texas, Kansas, Oklahoma, Arkansas and Missouri (where section 271 approval was granted). (Am. Ill. Ex. 3.0, Sch. CAC-1, ¶ 52). Further, AI maintains,

even though the FCC has expressly found that incumbent LECs need not provide splitters, Ameritech Illinois has "voluntarily" agreed to own, install and lease its splitters on a line-at-a-time basis to CLECs ordering the HFPL. (Id. ¶¶ 55-57).

HFPL-The Fiber-Fed Loops

1420. There is only one situation, AI contends, where the CLECs claim that Ameritech Illinois is not meeting its pre-USTA obligation to provide access to the HFPL .[137] Specifically, AI notes, the CLECs assert that Ameritech Illinois has failed to provide "line sharing to CLECs on fiber-fed loops." (AT&T Ex. 3.0 at 27.) A "fiber-fed loop" AI explains, is one that consist of fiber facilities (such as the various forms of Digital Loop Carrier), extending from the central office to a remote terminal, and copper facilities extending from the remote terminal to the end user's home or business.

1421. AI is unclear as to exactly what obligation the CLECs claim it was subject to under the now-vacated FCC rules. According to AI, AT&T witness Fettig testified during cross examination that AT&T's proposal speaks to the CLECs request for an end-to-end Broadband UNE. (Tr. 1831-1833) If this be the case, AI contends, the complaint is unwarranted because it will provide CLECs with access to the end-to-end Broadband UNE that the Commission ordered in Docket 00-0393, to the extent the applicable facilities are deployed.

1422. AI, however, believes that the CLECs might be suggesting that Ameritech Illinois was required to offer CLECs an "HFPL UNE" extending all the way from the central office to the end user premise on a fiber-fed loop. If this is the case, AI asserts, the CLECs propose a physical impossibility given that the HFPL is, by nature, limited to the high frequency portion of *copper* loop facilities. The FCC made clear, AI claims, that the HFPL exists (and can exist) only on copper facilities, not fiber facilities. As a matter of physical law, it contends, fiber does not provide and does not transmit information via a spectrum of different electrical frequencies.

1423. To be sure, AI observes, the FCC's Rule 319 specifically defined the HFPL UNE as "the frequency range above the voiceband *on a copper loop facility* that is being used to carry analog circuit-switched voiceband transmissions." 47 C.F.R. § 51.319(h)(1) (emphasis added). The FCC also confirmed in the Line Sharing Reconsideration Order that "the high frequency portion of the loop network element is limited by technology, *i.e.*, is only available on a copper loop facility." Id ¶ 10; See also Line Sharing Reconsideration Order ¶ 10,12.

1424. And in the section 271 context, AI notes, the FCC has rejected a similar argument by CLECs that SWBT failed to meet its section 271 obligations because it did not offer CLECs the ability to "line share over fiber-fed loops," finding that such

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[137] While Staff originally raised an issue regarding Ameritech Illinois' compliance with the loop and HFPL provisioning intervals required by section 13-801 of the PUA, AI indicates that Staff now agrees that Ameritech Illinois has met the requirements of checklist item 4 with regard to those issues. (Staff/ Am. Ill. Stipulation No. 3.)

allegations did not affect checklist compliance. Arkansas & Missouri 271 Order, ¶ 105; see also Georgia & Louisiana 271 Order, ¶ 240 n.935.

1425. Because line sharing over the "fiber" portion of a loop is impossible, AI contends that it permits CLECs to:

> (i) access the copper portion of the facility at an accessible subloop access point; and,
>
> (ii) purchase available dark fiber or subloop feeder facilities to transport data transmissions back to the central office a procedure, it notes, that is identical to that found adequate in the Arkansas & Missouri 271 Order (¶ 105). (Am. Ill. Ex. 3.0 Sch. CAC-1, ¶ 79) See also Am. Ill. Ex. 3.1 at 43-44 (citing letter from FCC General Counsel supporting procedure used by Ameritech Illinois.)

1426. As to the rest of its HFPL offering, AI notes, the procedure for fiber-fed loops is identical to the offering that was approved by the FCC in each SWBT state. Accordingly, Ameritech Illinois asserts, it complies with its pre-USTA HFPL unbundling obligation. (See Am. Ill. Ex. 3.0, Sch. CAC-1 ¶¶ 52, 83, 92).

HFPL of Sub-Loops

1427. There is no dispute, AI contends, but that it offers the HFPL of subloops. (Am. Ill. Ex. 3.1 at 46; Am. Il. Ex. 1.2 , Sch. SJA-3D, Section 4.1.5). Staff's sole contention on the matter, it notes, is that Ameritech Illinois must also tariff this offering in order to qualify for section 271 relief.

1428. AI takes issue with Staff's position arguing, at the outset, that there is absolutely no section 271 requirement that the HFPL of subloops (or, for that matter, any product or service) be offered in tariffs. The only section 271-related requirement, AI maintains, is that the ILEC prove that it has a "concrete and specific legal obligation" to provide the item in question, and this requirement is shown to be satisfied.

1429. AI points out that the GIA offers a standard HFPL subloop UNE offering (Am. Ill. Ex. 3.1 at 46) and further notes that at least one CLEC has accepted the GIA and entered into a binding agreement with Ameritech Illinois (Am. Ill. Ex. 1.1 at 5). In each of the five states where SBC operating companies have already won section 271 approval, AI contends, the "concrete and specific legal obligation" to provide UNEs was established by interconnection agreement, and not by tariff.

1430. Further, AI continues, the Line Sharing Order (which is the source of the HFPL unbundling obligation) has been vacated by the USTA Court. There is little sense for this Commission to devote resources to address tariffing for a product whose legal

basis has been eliminated, AI contends, at least until the FCC determines on remand whether the HFPL is to be provided at all.

Line Splitting

1431. "Line splitting," as distinct from line sharing, AI explains, involves an arrangement where, a single CLEC or two partnering CLECs (one providing voice service and one providing data service) provide voice and data services to an end user over a single xDSL-capable unbundled loop. The loop is terminated to a splitter owned and installed by one of the CLECs, and the splitter in turn is connected to the CLEC's DSLAM equipment at the collocation area.

1432. According to AI, line splitting is not a UNE - and was not a UNE even before USTA. The FCC, AI avers, limited the HFPL UNE to the situation in which the incumbent LEC continues to provide voice service over the low-frequency portion of the loop. That prerequisite is by definition, AI contends, inapplicable in line splitting, where CLECs provide both the voice and data service over the loop and the incumbent does not provision any service to the end user.

1433. The incumbent's only obligation, AI claims, was to *permit* CLECs to *engage* in line splitting in the situation where the CLEC (or two partnering CLECs) purchases an unbundled loop and provides its own splitter – there was no actual UNE involved (other than the unbundled loop that the CLEC would lease from Ameritech Illinois) and there were no other situations where ILECs were required to permit line splitting. Texas 271 Order, ¶¶ 324-325; Line Sharing Reconsideration Order, ¶ 19.

1434. Ameritech Illinois contends that it complies with this pre-USTA requirement and, as with line sharing, permits line splitting in a manner identical to the offerings that already have been approved by the FCC for section 271 purposes. (Tr. 399) Texas 271 Order, ¶ 327; Kansas & Oklahoma 271 Order, ¶¶ 220-221; Arkansas & Missouri 271 Order, ¶ 106. Ameritech Illinois further asserts that it will voluntarily continue to permit such line splitting arrangements even though the Line Sharing Order (and as a result the Line Sharing Reconsideration Order, which elaborated on obligations created by the Line Sharing Order) has been vacated.

1435. The issues with respect to line splitting, AI notes, do not really bear on compliance with any FCC order. In reality and by use of strawman argument, AI argues, the CLECs attempt to create new requirements that the FCC and this Commission have already rejected. There is a fundamental difference between line splitting as it was defined by the FCC, AI asserts, and the "line splitting service" that the CLECs contend Ameritech Illinois is required to provide.

1436. AI notes that in the situation where it is engaged in a "line sharing" arrangement with a data CLEC (using a splitter provided by the data CLEC), and the end-user switches voice service from Ameritech Illinois to a voice CLEC desiring to use the "UNE-P," AT&T proposes that Ameritech Illinois be required to "migrate" the end-

user's voice service to what it calls a "UNE-P" arrangement, with the data CLEC's splitter becoming a part of this so-called "UNE-P" arrangement. The UNE-P, AI explains, is comprised of the loop connected directly to the switch port – it is precombined with the splitter. UNE Remand Order, ¶ 12; Line Sharing Order, ¶ 72 n.161; Texas 271 Order, ¶ 218. As such, it is not technically possible to "line share" or "line split" with a UNE-P arrangement. Rather, in order to provide both voice service and data service on a loop that is part of a UNE-P combination, the loop and switch that make up the UNE-P must be disconnected and a splitter installed between the two.

1437. The Commission recognized this technological fact in its Order in Docket 00-0393, AI contends, when it stated that: "Despite AT&T's assertion that Ameritech Illinois will 'rip-apart' a UNE-P end user's working service in order to enable the provision of both voice and data, the record indicates that a temporary physical disconnection is an unavoidable fact. Whenever DSL service is added to an existing voice line, the loop and switch port must be separated (or, as AT&T assets, 'ripped-apart') in order to insert the splitter. This is true regardless of whether the end user's voice service is currently provided through Ameriteh Illinois-provided POTS service or through a CLEC-provided UNE-P voice service." (Order at 54, Dkt. 00-0393, March 14, 2001.) (AT&T Ex. 5.0 at 39-40.)

1438. There are numerous reasons, AI contends, why the CLEC's "line splitting service" proposal is contrary to law, even before USTA. It sets these out as follows:

1439. The CLEC proposal, AI contends would require it to provide CLECs access to the low frequency portion of the loop, so as to provide voice service on any loop used by a data CLEC to provide data service. In other words, Ameritech Illinois contends, it would be required to unbundle the low frequency portion of the loop. But even prior to USTA, the FCC concluded that the low frequency portion of the loop need not be unbundled:

> "In the Line Sharing Order, the FCC unbundled the high frequency portion of the loop when the incumbent LEC provides voice service, *but did not unbundle the low frequency portion of the loop and did not obligate incumbent LECs to provide xDSL service under the circumstances AT&T describes.*" Texas 271 Order, ¶ 330 (emphasis added).

1440. The CLEC proposal also would require Ameritech Illinois to provide unbundled access to the high frequency portion of the loop in situations where Ameritech Illinois is no longer providing voice service on the loop. Prior to USTA, AI contends, the FCC repeatedly held that incumbents need offer the HFPL only in the situation where they provided the end-user's voice service:

- "[I]ncumbent LECs must make available to competitive carriers *only* the high frequency portion of the loop network element on loops on which the

incumbent LEC is also providing analog voice service." Line Sharing Order, ¶ 72 (emphasis added).

- "[I]ncumbents are not required to provide unbundled access to carriers seeking just the data portion of an otherwise unoccupied loop, because line sharing contemplates that the incumbent LEC continues to provide POTS services on the lower frequencies while another carrier provides data services on the higher frequencies." Id.

- "[T]he record does not support extending line sharing requirements to loops that do not meet the prerequisite condition that an incumbent LEC be providing voiceband service on that loop." Id.

- "[I]n the Line Sharing Order, the Commission limited line sharing 'to those instances in which the incumbent LEC is providing, and continues to provide, voice service on the particular loop to which the [competing] carrier seeks access.' In other words, a competing carrier seeking to provide xDSL service using the unbundled high frequency portion of the loop can do so only if the same loop is used by the incumbent LEC to provide voice service to an end user." Line Sharing Reconsideration Order, ¶ 17.

- "[W]e deny AT&T's request for clarification that under the Line Sharing Order, incumbent LECs are not permitted to deny their xDSL services to customers who obtain voice service from a competing carrier where the competing carrier agrees to the use of its loop for that purpose. Although the Line Sharing Order obligates incumbent LECs to make the high frequency portion of the loop separately available to competing carriers on loops where incumbent LECs provide voice service, it does not require that they provide xDSL service when they are not [sic] longer the voice provider." Line Sharing Reconsideration Order, ¶ 26.

1441. The FCC's rules, AI contends, only require incumbent LECs (where technically feasible), to perform the functions necessary to combine unbundled network elements with other unbundled network elements or with elements possessed by the requesting carrier, and even then, only when the requesting carrier is unable to combine the elements itself. 47 C.F.R. § 51.315(c)-(f); First Report and Order, ¶ 294; Verizon, 122 S. Ct. at 1685, 1687.

1442. The CLEC proposal, AI contends, would require it to provide at least one type of "combination" that is outside federal law even prior to USTA. Specifically, AI asserts, the CLECs' proposal would require Ameritech Illinois to combine UNEs (namely, the loop, switch port, and shared transport comprising the UNE Platform) with something that is not a UNE (the splitter). In order for a CLEC leasing the UNE-P, to provide both voice and data service over the loop, AI explains, the switch port and copper loop that made up the UNE-P must be disconnected and recombined with the splitter and any other CLEC advanced services equipment (such as a CLEC DSLAM) to

provide the "shared" use of the loop by both data and voice services. (Am. Ill. Ex. 3.2 at 14; Sch. CAC-6.)

1443. Where the data CLEC provides the splitter in a line sharing arrangement, Ameritech Illinois observes, it has processes in place to migrate (without any service disruption) a line sharing arrangement into a line splitting arrangement so long as the data CLEC agrees to "line split" with the voice CLEC. WorldCom and the other CLECs however, AI notes, propose that it be required to migrate the service even though the data CLEC has not agreed to permit the requesting carrier to use its equipment. See WorldCom Ex. 3.1 at 20 (arguing that WorldCom should not be required to provide Connecting Facility Assignment with a showing that it has permission to use the data CLEC's splitter).

1444. The CLEC proposal, AI contends, would require Ameritech Illinois to permit line splitting in situations beyond where a CLEC (or two partnering CLECs) purchases an entire unbundled loop and provides it own splitter, in conflict with the FCC's pre-USTA decisions in the Texas 271 Order ¶ 324 and Line Sharing Reconsideration Order (¶ 19).

1445. The CLEC proposal, AI contends, would require a data CLEC (whether it be Ameritech Illinois' data affiliate, AADS, or another CLEC with whom Ameritech Illinois is line sharing) to continue providing data service over the HFPL when an end-user transfers its voice service from Ameritech Illinois to a CLEC (WorldCom Ex. 3.1 at 14 (stating that WorldCom "opposes the right of any data CLEC to drop the data merely because the voice provider has changed"), in violation of the FCC's pre-USTA determination on the issue. Line Sharing Order, ¶ 72; Texas 271 Order, ¶¶ 324, 330; Line Sharing Reconsideration Order, ¶ 26. See Sections II.N and III.E for further discussion of AADS.

1446. The CLEC proposal, AI asserts, would inappropriately put Ameritech Illinois in the position of managing the relationship between CLECs engaged in line splitting even though: the CLECs can perform (and are in a better position to perform) this function for themselves; even though Ameritech Illinois has no relationship with the end-user; and, even though the FCC's orders explicitly describe line splitting as a voluntary arrangement involving two CLECs, and coordinated by those CLECs. Line Sharing Reconsideration Order, ¶ 22 (noting that "a formerly line sharing data carrier also could enter into a *voluntary* line splitting arrangement with a new voice carrier," and that the FCC "expect[s] *competing carriers to cooperate* in such an arrangement in order to avoid service disruption for their shared end user customer"). (Am. Ill. Ex. 3.1 at 24-25.)

"Single Order" Processes

1447. For some products or services, Ameritech requires CLECs to submit more than one Local Service Request ("LSR"), with each separate request devoted to a specific step in provisioning the order. WorldCom contests the three-LSR process that is currently used to convert a line sharing arrangement (ILEC provides voice service

and CLEC provides data service on the same loop) to a line splitting arrangement (CLEC provides voice service and the CLEC, or a partnering CLEC, provides data service on the same loop). (WorldCom Ex. 3.0 at 15; Staff Ex. 1.0 at 51.) XO challenges the two-order process for converting a Special Access circuit to an unbundled loop (the first order is an Access Service Request to disconnect the existing circuit; the second is an LSR to install the loop). (XO Ex. 1.0 at 3-6; See also AT&T Ex. 8.1 at 20-21.)

1448. According to AI, the FCC has never required incumbents to implement a single-order process for any product. To the contrary, it has approved Section 271 applications by applicants that used multiple-order processes, despite CLEC objections. Texas 271 Order, ¶¶ 198-200 (finding that SWBT provided nondiscriminatory provisioning of UNE Platform orders, notwithstanding use of a three-order process). In particular, AI notes, the FCC has upheld the use of multiple-order processes for Special Access and line splitting conversions. See Kansas & Oklahoma 271 Order, ¶ 176 ("E.spire argues that SWBT's two-step process for converting access circuits to UNE pricing, which requires a requesting carrier to complete both an ASR and LSR, violates the rules set forth in the Supplemental Order Clarification governing EEL provisioning. We disagree."); New Jersey 271 Order, ¶ 135 ("AT&T claims that Verizon's [two-step] ordering process for line splitting is burdensome . . . . In addition, AT&T charges that this two-step process is discriminatory . . . . We reject these challenges, and find that Verizon's ordering process for line splitting in New Jersey allows efficient competitors a meaningful opportunity to compete.").

1449. AI acknowledges that the FCC has encouraged carriers to work together to resolve line splitting issues, including the CLECs' desire for a single order process. See Line Sharing Reconsideration Order, ¶ 21 ("[W]e encourage incumbent LECs and competing carriers to use existing state collaboratives and change management processes to address, among other issues: developing a single-order process for competing carriers to add xDSL service to UNE-platform voice customers"). To be sure, Ameritech has complied with that recommendation. It is in the process of implementing a single-LSR process for converting an existing UNE-P arrangement into the UNEs necessary for line splitting. (Tr. 382, 425.) This, of course, means that Ameritech's three-LSR process is only an interim solution that allows CLECs to engage in line splitting now, and that a single-order process will be in place by the time a Section 271 application is filed with the FCC. Likewise, while "converting access to a standalone loop" requires two orders, Ameritech has implemented a single-LSR process for converting Special Access to the loop-transport combination known as an EEL. (Am. Ill. Ex. 2.0 at 12-13; Am. Ill. Ex. 2.1 at 16-19; Am. Ill. Ex. 2.1 at 11-12.)

Rejection of WorldCom "Line Splitting" Orders.

1450. The assertions regarding its rejection of WorldCom's "line splitting" orders are, in AI's view, just another facet of WorldCom's attempt to avoid obtaining a data CLEC's permission to use its facilities. According to AI, WorldCom asserts that Ameritech Illinois rejected 778 orders in early 2002 in which WorldCom sought to

migrate the voice service in a line sharing arrangement (where Ameritech Illinois was providing voice service and a data CLEC was providing DSL service) to WorldCom, thereby creating a "line splitting" arrangement. (WorldCom Ex. 3.0 at 14). WorldCom further asserts that Ameritech Illinois refused "to allow customers to choose their voice carrier if they also want to have DSL on their line," and does not allow CLECs to engage in line splitting. (Id. at 15, WorldCom Ex. 3.1 at 14-15). AI maintains that WorldCom is incorrect on all counts.

1451. The orders to which WorldCom refers, AI contends, were rejected because WorldCom did not follow the established ordering procedures posted on the CLEC Online website. (Am. Ill. Ex. 3.1 at 25-28). In each instance, AI maintains, WorldCom sought to provide voice service over a data CLEC's network (that is, by using the data CLEC's splitter), without the data CLEC's permission, which is evidenced on the order form by providing the Connecting Facility Assignment. (Id. at 22, 26, 36; Am. Ex. 3.2 at 20).

1452. Not only did WorldCom seek (778 times) to use another CLEC's network facilities without that CLEC's permission, AI argues, but WorldCom also sought (778 times) to force Ameritech Illinois to violate its own contractual obligations to the data CLECs. (See Am. Ill. Ex. 3.1 at 27). Splitting a line, AI asserts, is inherently a consensual arrangement between CLECs. See Line Sharing Order, ¶ 73 n.163 (noting that if an end user "switches its voice provider from the incumbent LEC to a competitive LEC that provides voice services," the data CLEC "may enter into a voluntary" sharing arrangement with the voice LEC). Ameritech Illinois cannot be held responsible, it argues, for WorldCom's failure to secure permission to use another CLEC's facilities or to follow the proper ordering procedures.

The "End to End Broadband UNE"

1453. Project Pronto is an SBC initiative, AI explains, that is designed (among other things), to bring advanced services using DSL technology to millions of additional customers. On the "customer" side of the network (the portion of the SBC ILEC's network running from the central office to the end user's premises), Project Pronto involves the installation by SBC's ILEC subsidiaries of a new "overlay network consisting of fiber facilities connected to advanced services equipment (including packet switching equipment) and includes installation of such equipment in central offices as well as remote terminals located deeper into the residential neighborhoods of its ILECs' services areas." FCC Project Pronto Order, ¶ 4 and App. B.

1454. Where it is deployed, AI notes, the relevant portion of the Project Pronto DSL architecture (from the central office to the end-user) involves use of the following facilities (Id.):

- Copper distribution pairs from an end-user's premises to a Serving Area Interface ("SAI");

- Copper feeder pairs between an SAI and a Project Pronto remote terminal ("RT");

- "Next Generation" Digital Loop Carrier equipment deployed within the RTs that, among other things, digitizes, packetizes, and aggregates data signals from the end-user customer and provides the capability to offer both voice and data services;

- An ADLU line card, installed in a slot of a Channel Bank Assembly in the NGDLC, which (in conjunction with other NGDLC hardware and software) separates the high-frequency (data) portion of the copper loop from the low-frequency (voice) portion;

- Separate fibers between the RT and the central office for voice and data traffic;

- Asynchronous Transfer Mode ("ATM") packet switches, also referred to as Optical Concentration Devices ("OCDs"), deployed in the CO, which provide packet switching functionality, including routing and aggregation, for directing DSL traffic to the appropriate CLEC; and

- Central Office Terminals ("COTs") used to provide POTS connectivity for voice traffic to the ILEC local switch and/or CLEC collocation equipment.

1455. The CLECs suggest, Ameritech Illinois notes, that it is not in compliance with its section 271 obligations of providing unbundled access to the piece-parts of the Project Pronto DSL architecture or permitting CLECs to "collocate" their own line cards in the Project Pronto NGDLCs. The CLECs are wrong on these counts, AI asserts, because such "unbundling" and "collocation" are not required by either the FCC or by this Commission.

1456. AI points out that the FCC reviewed the planned Project Pronto DSL architecture in a proceeding lasting almost nine months, after which it found that SBC's ILECs (as opposed to their separate data affiliates) could own key components of the new architecture, specifically the NGDLC line cards and the packet switch (or "OCD") in the central office. The FCC, AI contends, required SBC's ILECs to:

> (1) make room in Project Pronto Remote Terminals so that CLECs could collocate their own packet switching DSLAMs, and
>
> (2) provide CLECs with a wholesale end-to-end Broadband Service offering over the Pronto DSL architecture at TELRIC-based prices.

1457. The FCC did not, AI maintains, require SBC's ILECs to unbundle the piece-parts of the Project Pronto DSL architecture or permit CLECs to collocate their

own line cards in the Pronto NGDLCs. Indeed, AI notes, the FCC did not require any unbundling whatsoever in conjunction with the Project Pronto DSL architecture. It only required ILECs to provide an end-to-end Broadband *service.* To this end, AI maintains, the FCC explained that its decision was designed to balance the goals of the 1996 Act by "enabl[ing] competitors to provide advanced services in SBC's territory, while at the same time facilitating deployment [by SBC] of advanced services to the mass market." FCC Project Pronto Order, ¶ 1.

1458. Thereafter, AI contends, the CLECs asked this Commission to require Ameritech Illinois to "unbundle" the integrated Pronto DSL architecture into piece-parts and permit CLECs to "collocate" their own line cards in the new NGDLC equipment. This Commission, however, declined the CLECs' request in Docket No. 00-0393. While its initial order imposed piece-part "unbundling" and line card "collocation" requirements, the Commission subsequently eliminated these requirements after conducting an exhaustive rehearing on the adverse impact such requirements would have on the deployment of new DSL facilities and on advanced services competition. See Order on Rehearing at 36-37, Docket No. 00-0393, Sept.26, 2001. In the end, AI maintains, the Commission ordered Ameritech Illinois to provide unbundled access to the end-to-end Broadband *service*.

1459. Here and now, AI observes, the CLECs would contend that Ameritech Illinois is not in compliance with the checklist because it does not provide unbundled access to Project Pronto "UNEs." According to AI, however, the FCC's Project Pronto Order and the Commission's Order On Rehearing in Docket 00-0393 mean that piece-part unbundling of the Project Pronto DSL facilities and NGDLC line card collocation are not a part of any section 271 checklist item and thus, are not viable disputes for this proceeding.

1460. At most, AI contends, the only Project Pronto "UNE" that arguably could be relevant to the Commission's analysis here is the end-to-end Broadband UNE that it ordered in Docket 00-0393. While it disagrees with the Commission's decision in that docket, and has sought judicial review, Ameritech Illinois avers that it will comply with the Commission's decisions on the issues litigated in Docket 00-0393, to the extent that DSL-capable Project Pronto facilities are deployed.

b. WorldCom Issues/Position

Access to the loop for line splitting via UNE-P

1461. The rule is, WorldCom asserts, that a BOC must demonstrate that it makes line splitting available to competing carriers so that they may provide voice and data service over a single loop. In addition, it claims, a BOC must demonstrate that a competing carrier, either alone or in conjunction with another carrier, is able to replace an existing UNE-P configuration used to provide voice service with an arrangement that enables it to provide voice and data service to a customer.

1462. To make this showing, WorldCom contends, a BOC must demonstrate that it has a legal obligation to provide line splitting through rates, terms, and conditions in interconnection agreements and that it offers competing carriers the ability to order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment, and combine it with unbundled switching and shared transport. (Penn 271 Order Appendix C, para 52).

1463. Further, WorldCom observes, while a BOC may gain section 271 approval without a permanent OSS process for line splitting, the FCC expects that it will implement permanent OSS for line splitting within a short time after approval. (*Id.*, para 89). There are both FCC and Illinois rules, WorldCom notes, requiring that voice and data disruptions be avoided when customers are converted to services provided via line splitting arrangements. See, Line Sharing Reconsideration Order, para 22, and Order at 32-33; Docket 01-0614.

1464. It is uncontested, WorldCom claims, but that Ameritech rejects Worldcom's orders for UNE-P voice service to an end user customer served by a line on which voice and data are provided over that line in a line sharing scenario. Undisputed too, WorldCom asserts, is that Ameritech takes the position that there will be disruption to a customer's service – both voice and data – if Ameritech would provision line splitting voice UNE-P. Finally, WorldCom argues, it is uncontested that Ameritech does not have in place a process or procedure that allows CLECs to order UNE-P voice service provided via line splitting arrangements. For these reasons, WorldCom maintains that AI does not meet compliance with Checklist Item 4.

Line Splitting/Line Sharing

1465. WorldCom contends that thousands of its line-splitting orders have been improperly rejected. In January and February 2002, it notes, Ameritech rejected 778 such orders. (WorldCom Ex. 3.0, at 14-15). These are orders where Ameritech is presently providing voice service to a customer that has DSL service provided by a data CLEC (which could include Ameritech's own data affiliate). WorldCom has issued orders simply to migrate the voice service (while leaving the data service intact) and to serve the customer for voice via UNE-P.

1466. This Commission, WorldCom notes, has required line splitting over UNE-P, and the provisioning of the splitter as a UNE. See Order at 30-32, Docket 01-0614, (June 11, 2002). Thus, where Ameritech's data affiliate provides its own splitter, or where another data CLEC provides its own splitter, Ameritech must allow line splitting over UNE-P. Yet, WorldCom argues, Ameritech has flatly refused to do so.

1467. According to WorldCom, Ameritech has conceded that its proposed version of line splitting would entail some "downtime," due to the requirement of contending with removal and reinstallation of the splitter. The WorldCom method of line splitting for migrations, it asserts, would involve no downtime or disruption of voice or data service. This method, WorldCom contends, complies with the FCC directive that migrations "avoid" voice and data service disruptions.

c. Staff Position and Issues

The Requisite Access to Sub-loops

1468. The rule at hand, Staff notes, is the FCC's determination that a BOC's obligation to offer unbundled loops also includes subloops. (UNE Remand Order, ¶¶ 205, 206, 209 et seq.). As such, Staff contends, BOCs must offer such access to subloops on an unbundled basis, at any technically feasible point. (Id., ¶¶205, 223.) Further, Staff asserts, the rules establish a rebuttable presumption that unbundling of subloops is technically feasible, meaning that the incumbent has the burden of demonstrating that unbundling is not feasible. (Id., ¶223). Staff would note that state utility commissions are the final arbiters of technical feasibility issues, that are raised in Section 252 arbitration proceedings.(Id., ¶¶223-224, 229). As set out by the FCC, Staff observes, "subloops" are defined as portions of the loop that can be accessed at terminals in the incumbent's outside plant. Id., ¶206.

1469. In addition, Staff observes, the FCC's Line Sharing Order requires that Ameritech Illinois unbundle the high frequency portion of the loop (HFPL) UNE where customers are served by DLC facilities, and more specifically, that it provide access to the HFPL at the remote terminal as well as at the central office. See, Line Sharing Order, ¶91.

1470. According to Staff, Ameritech's Tariff No. 20, Part 19, Section 2, 1st Rev. Sheet 14, ¶ 2.3(B), requires a CLEC to submit a bona fide request ("BFR") each time it seeks access to the HFPL UNE at any location other than the central office. (Staff Ex. 1.0 at 13; 46-47). This is inconsistent, Staff claims, with the requirement that Ameritech itself demonstrate technical infeasibility. In Staff's view, the BFR essentially shifts this burden onto a requesting CLEC. (Staff Ex. 1.0 at 47). Accordingly, Staff considers Ameritech's offering out of compliance with federal requirements. As a precondition for endorsement of Ameritech's Section 271 application, Staff recommends that the Commission require Ameritech Illinois to file tariff language providing CLECs access to unbundled sub-loops, at technically feasible points, in addition to the central office. (Staff Ex. 1.0 at 13).

A Single Order Process (for Line-splitting Applications)

1471. Pursuant to the *Line Sharing Reconsideration Order*, Staff asserts, Ameritech Illinois must:

> make all necessary network modifications to facilitate line splitting, including providing nondiscriminatory access to OSS necessary for pre-ordering, ordering, provisioning, maintenance and repair, and billing for loops used in line splitting arrangements. Thus, an incumbent LEC must perform central office work necessary to deliver unbundled

> loops and switching to a competing carrier's physically or virtually collocated splitter that is part of a line splitting arrangement. Line Sharing Reconsideration Order, ¶20

1472. Moreover, Staff notes, incumbent LECs and competing carriers are urged to:

> work together to develop processes and systems to support competing carriers ordering and provisioning of unbundled loops and switching necessary for line splitting. In particular, we encourage incumbent LECs and competing carriers to use existing state collaboratives and change management processes to address, among other issues: developing a single-order process for competing carriers to add xDSL service to UNE platform voice customers; allowing competing carriers to forego loop qualification if they choose to do so (i.e., because xDSL service is already provided on the line); enabling competing carriers to order loops for use in line splitting as a "non-designed" service; and using the same number of cross connections, and the same length of tie pairs for line splitting and line sharing arrangements. Line Sharing Reconsideration Order, ¶21(emphasis added)

1473. According to Staff, Ameritech does not yet employ a single order process for line splitting applications. (Staff Ex. 1.0 at 13-14). A sister state Commission however, Staff notes, recently determined that just such a requirement is proper. According to Staff, the Michigan PSC apprised Ameritech Michigan that it may determine "…that the company is not in compliance with the requirements of the Section 271 checklist..." unless a streamlined order process for line splitting is available.

1474. In particular, Staff points out, the Michigan PSC directs that:

> Ameritech Michigan must take steps to streamline the process for ordering and provisioning the UNE-P when line splitting is involved. The Commission is not persuaded that there is a rational basis for requiring a three-order process for migrating a line sharing to a UNE-P line splitting. In the Commission's view, the service disruption and potential loss of facilities inherent in a three-order process are unnecessary and do not provide the competitor with a reasonable opportunity to compete. Opinion and Order at 10-11, Michigan PSC Case No. U-12320, (December 20, 2001).

1475. Staff recommends, here and now, that the Commission require Ameritech Illinois to employ a single-order process for line-splitting applications before rendering a favorable endorsement of its Section 271 application.

d. AT&T Issues/Position

UNE-P With Line Splitting

1476. AT&T seeks to offer Illinois customers both voice and data services utilizing UNE-P with xDSL capable loops. This past June, it announced local entry for residential customers in Illinois on a UNE-P basis. Yet, AT&T contends, Ameritech continues to refuse to provide UNE-P with line splitting. (Am. Initial Br. at 118-123).

1477. The essence of "line splitting" AT&T informs, is the ability of a "voice" CLEC, by itself or in a partnering arrangement with a "data" CLEC, to offer both voice and data services over one loop. AT&T sees Ameritech to maintain that once the cabling to the CLEC DSLAM is installed for the UNE-P customer, the line splitting arrangement is no longer UNE-P. According to AT&T, Ameritech considers any subsequent changes to this customer a new UNE combination. (See Am. Initial Br. at 118-120). In other words, Ameritech would require the UNE-P carrier to order a *new* loop (even if it turns out to be the existing loop) and a *new* switch port in every case that line splitting is sought. Inherent in this position, AT&T contends, is the certainty that every time a UNE-P customer seeks line splitting, there will be a service disconnection, the potential for an extended period of loss of dial tone, an increased chance of loss of facilities (such as working telephone number, facilities assignment), increased complexity in the ordering process, and a increased numbers of nonrecurring service order charges. (AT&T Ex. 5.0, at 37-38).

1478. AT&T maintains that the Verizon decision renders moot Ameritech's contentions about whether UNE-P remains UNE-P with line splitting, and whether it entails "new" combinations of elements that it (Ameritech) does not have to provide. Whether what is at issue is "new" combinations or not, or whether it entails combinations of ILEC elements with CLEC facilities is irrelevant, AT&T argues, for both are required under the now-governing FCC rules. In the wake of the *Verizon* decision, Ameritech cannot contend in good faith that it is not required to "perform the functions necessary" to combine network elements in conjunction with line splitting, AT&T comments.

1479. The *USTA* decision, AT&T asserts, has no impact on a CLEC's right to engage in line splitting. To the contrary, in its *Line Sharing Reconsideration Order*, the FCC made clear that the obligation to allow carriers to engage in line splitting derived from the rules that "require incumbent LECs to provide competing carriers with access to unbundled loops in a manner that allows the competing carriers 'to provide any telecommunications service that can be offered by means of that element.'" *Line Sharing Reconsideration Order* ¶ 31. The FCC specifically stated that the obligation to provide line splitting did not derive from its *Line Sharing Order*: "independent of the

unbundling obligations associated with the high frequency portion of the loop that are described in the *Line Sharing Order*, incumbent LECs must allow competing carriers to offer both voice and data service over a single unbundled loop." Id. To the extent that loops are available under the *UNE Remand Order*, and they are, AT&T contends, line splitting also is available. The line splitting portion of the *Line Sharing Reconsideration Order,* AT&T contends, was not on appeal before Court and remains unaffected by *USTA*. Ameritech cannot use *USTA* to avoid its obligation to provide line splitting over UNE-P, AT&T argues.

1480. According to AT&T, Ameritech must provide assurances that the UNE-P/Line Splitting Arrangement and the UNE-P/post Line Splitting arrangement (i.e., adding data service to a customer served via UNE-P voice service) are treated as UNE-P, i.e., ordered as UNE-P, maintained as UNE-P, tested as UNE-P, repaired as UNE-P, and charged for as UNE-P. While Ameritech witness Ms. Chapman states in her affidavit that Ameritech will provide line-splitting over UNE-P in the third quarter of 2002, AT&T is skeptical that Ameritech can deliver an error-free offering, even if Ameritech were to deliver this offering on time.

Unbundled loops Provisioned using the NGDLC loop network

1481. Ameritech is required, AT&T contends, to make its loop facilities using NGDLC technology available as unbundled network elements with rates, terms and conditions governed by Sections 251 and 252 of the Act. According to AT&T, however, Ameritech has steadfastly refused to provide competitive carriers with unbundled loops provisioned using the Project Pronto technology. AT&T argues that Ameritech cannot be allowed to avoid its obligation to unbundle UNEs, by use of DLC technology that would create one network for Ameritech, and a very limited, less technologically advanced, inherently unequal network for CLECs.

1482. AT&T recognizes that, SBC's ILEC operating companies offer Broadband Services on a wholesale basis to affiliated and unaffiliated advanced services providers where Project Pronto DSL equipment is deployed. AT&T asserts, however, that Ameritech cannot avoid offering unbundled loops using this new technology simply by offering a resale alternative. The FCC rules, AT&T argues, designate that unbundled network elements are technology independent. meaning that Ameritech cannot avoid provisioning UNE loops to CLECs over its NGDLC loop network.

1483. According to AT&T, CLECs must have access on an unbundled basis to the entire NGDLC loop. The FCC, it observes, defined the unbundled local loop in its UNE Remand Order. Since a loop is defined as a transmission facility between the NID and the MDF or its equivalent, AT&T maintains that the Commission should avoid placing any restrictions on loop unbundling related to 'end-to-end path" requirements and interfaces on either side of the loop. The FCC, it argues, has defined the local loop network element in a forward-looking manner so as to include the deployment of outside plant facilities in the ILEC's network utilizing new technologies. So too, AT&T argues, the FCC defined the local loop as a "transmission facility" and further included various transmission levels, including high capacity loops, in the definition. A transmission

facility, AT&T states, can be copper, fiber, or a hybrid between fiber and copper, such as is the case with loops served over fiber-fed Digital Loop Carriers.

1484. In Docket 00-0393, AT&T observes, this Commission ordered Ameritech Illinois to unbundle the High Frequency Portion of the Loop (HFPL) over its Project Pronto loop architecture. Its business plans however, AT&T argues, require that AT&T have the ability to order the entire DSL capable loop to offer consumers and businesses a package of both voice and data services. Given its business plans, AT&T contends, its data offering must be provided at the equivalent speeds that Ameritech Illinois is offering for AT&T to compete in the Illinois telecommunications marketplace. In the wake of ICC orders in Docket 00-0393, AT&T notes, Ameritech takes the position that it is *only* required to provide access to the *high frequency* portion of those loops.

1485. As a result, AT&T argues, CLECs desiring to offer packages including DSL *and voice services* would be forced to procure a separate loop to provide the voice service even when Ameritech Illinois and its affiliates plan to use the same Pronto (NGDLC) loop facility to offer *DSL and voice* service. A CLEC such as AT&T, needs access to the entire NGDLC loop spectrum so that it can offer voice as well as DSL service to their customers, just as Ameritech Illinois can. Thus, AT&T contends, Ameritech must be held to its obligation to provide the entire Project Pronto loop consistent with the FCC's UNE Remand Order. AT&T further contends that sheer size and scope of Project Pronto, and Ameritech Illinois' unwillingness to unbundle the architecture, make monopolization of the advanced services market a real possibility.

1486. AT&T reasserts that Ameritech's Broadband Service offering is no substitute for the unbundling of Project Pronto. According to AT&T, the Commission must weigh this inferior alternative supply of network elements against the prospect of the Project Pronto elements offered in an unbundled fashion when measuring whether Ameritech Illinois should be required to unbundle the Project Pronto network.

Compliance with the Commission's Order in Docket 00-0393

1487. AT&T contends that the Commission's Order on Rehearing, entered September 26, 2001 in Docket 00-0393, requires Ameritech to file a tariff that "mirrors" the tariff language attached as Appendix A, as modified. As Ameritech witness Johnson admitted, AT&T asserts, nothing in that docket or any other proceeding, serves to relieve Ameritech of its obligations (Tr. 825, 849, 851).

1488. At the hearing, AT&T recalls, Ms. Johnson admitted that there were significant differences. Actually, AT&T maintains, there are more than 60 discrepancies between the two tariffs. And, it contends, AT&T Johnson Cross Exhibits 9 and 10, number, mark in "orange" stain, and cross-reference the missing provisions.

1489. Indeed, AT&T asserts, these exhibits highlight more than 25 instances where Ameritech omitted language that it was required to mirror. (Tr. 836-839; See AT&T Johnson Cross Ex. 9 and Cross Ex. 10). A number of the "missing" provisions,

i.e., paragraphs 4.4, 6.4, 6.6.3, 6.6.4, AT&T argues, would allow a CLEC to provide voice service over the SBC Ameritech Project Pronto network using the UNE-Platform. (Tr. 840-855.)

1490. As Ms. Johnson candidly conceded, AI maintains, all ten of the references to "UNE-P" or the "UNE-Platform" in the tariff Ameritech was required to mirror never made it into the tariff Ameritech filed, thereby depriving CLECs of their Commission-ordered right to provide voice service over the Project Pronto network using the UNE-Platform. (Tr. 848, 863-864.) Contrary to the tariff language it was required to mirror, AT&T argues, not once does Ameritech's tariff contemplate, much less provide for, a voice and data configuration whereby the CLEC voice provider provides local service via the UNE-Platform. According to AT&T, Ameritech also eliminated all provisions from the model tariff requiring Ameritech's business rules, processes and documentation to comply with the Commission's orders in ICC Docket 00-0393. (Tr. 856-857.)

1491. In addition to the missing language, AT&T asserts, there are over 20 places in which Ameritech inserted language that does not exist anywhere in the tariff it was required to mirror. (These new provisions, AT&T explains, are highlighted in "yellow" on AT&T Johnson Cross Ex. 10). As Ms. Johnson testified, many of these provisions contain restrictions on the scope and use of the offerings. For example, the effect of certain of the new provisions is to wholly foreclose CLECs' use of the Project Pronto architecture to provide line splitting, where a CLEC provides an end user's voice service and another CLEC provides the end user's data service. Tr. 853, 861. The whole point of Ameritech's restriction, AT&T argues, is to deny an end user, receiving both voice and high speed data services via the Project Pronto network, of the choice of another voice provider.

1492. Further still, AT&T points out, there are also at least 15 instances in which Ameritech simply changed the language it was ordered to mirror. These language charges, AT&T explains, are marked in "blue" on AT&T Johnson Cross Exs. 9 and 10. Looking to the corresponding place in the Appendix A that Ameritech was required to mirror (AT&T Johnson Cross Ex. 9), AT&T contends, shows the language that Ameritech was actually required to tariff. These exhibits demonstrate, AT&T argues, that Ameritech simply changed the provisioning intervals it was required to tariff and unilaterally gave itself more time in which to provision loop quantities of 20 or more. (Cf. AT&T Johnson Cross Ex. 10, Original sheet 33 with Appendix A to the Commission's Order on Rehearing in ICC Docket 00-0393; AT&T Johnson Cross Ex. 9 at 18).

1493. As such, AT&T contends, Ameritech's end-to-end Broadband UNE offering fails to comply in numerous and significant respects with the Commission's Orders in Docket 00-0393 and, accordingly fails compliance with Checklist Item (iv).

e. XO Issues/Position

Coordinated Hot Cut Process

1494. The purpose of a "coordinated hot cuts" ("CHC"), XO explains, is to have personnel from both Ameritech and XO available to physically move the loop from Ameritech's switch to XO's equipment in its collocation, so that XO can provide service to the customer. In addition, XO notes, conversion translations need to be removed by Ameritech and subscription versions activated in NPAC. The requisite coordination necessary to minimize customer outages, XO asserts, is disrupted when Ameritech changes a CHC set for a specific day and time to an all day appointment.

1495. According to XO, Ameritech's testimony indicates that a CHC is unavailable to a CLEC where the end user's existing facilities reside on Integrated Digital Loop Carrier ("IDLC") service. XO notes Ameritech position that such a conversion requires additional work and an all day appointment, because the existing IDLC facilities cannot be used and the loop must be transferred to a separate copper pair. (AI Ex 2.1 at 23) Ameritech also testified that negotiations are under way to reduce the current 8-hour business day window to a 4-hour window, although to XO's knowledge that change has yet to occur. (Tr. 485.)

1496. Its own witness XO notes, testified that an all day appointment increases the likelihood that the XO customer would be out of service for a significant amount of time during the conversion, due to the lack of coordination. Under Ameritech's all day process, Mr. Barstow explained, its field technician calls the Ameritech LOC to inform it that it is en route to perform the conversion. And, the LOC supposedly calls XO approximately 15 minutes prior to Ameritech's technician performing the work. Ameritech however, XO claims, is not consistently calling to inform XO that its field technician has been dispatched to work the all day conversion. Without such notification, XO contends, it is unable to coordinate the removal of Ameritech switch translations and NPAC subscription activations, and this results in customer downtime.

1497. With respect to the all day window, XO notes Ameritech witness Brown's account that: "[I]t doesn't happen at a given time that you chose. It happens sometime throughout the workday. There's really no difference in the process once we make the call." (Tr.490). Due to the uncertainty in the time of the conversion, XO claims, that customer is likely to be without service for a longer period of time than if that same customer received a CHC.

1498. Aside from the service disruption that falls to its customers, XO contends that it must be in a position to deploy its resources in an inefficient manner. XO notes that, according to Ameritech witness Brown's testimony, Ameritech only commits to performing the work *at some point* during an 8-hour business day. And, he further stated that XO is only provided about 15 minutes of notice before the actual work will begin. Due to the shortness of notice, XO contends, its employees are often left to postpone or delay assisting other customers in order to respond to Ameritech's call.

While XO acts with diligence to respond to Ameritech's call, there are times when it is itself burdened with other commitments. On the whole, XO takes the position that, an all day or eight hour appointment, simply should not be allowed.

1499. On the one hand, it sees AI to maintain that a customer conversion from IDLC requires additional work and an all day appointment, because the existing IDLC facilities cannot be used and a loop must be transferred to a separate copper pair. On the other hand, Ameritech asserts that "there's really no difference in the process once we make the call."(Tr. 490) It is unclear to XO, why Ameritech is unable or unwilling to treat the IDLC situation as a CHC, where the parties agree to a specific appointment time (e.g., Wednesday at 2:00 p.m.). Such a procedure, XO contends, would be more productive and efficient for all parties involved.

1500. XO requests that, as part of any Commission decision rendered in this proceeding, Ameritech be ordered to end the practice of using all day, eight-hour windows for such conversions, be required to adhere to the time commitment it has agreed to, and further, be subject to penalties for failing that commitment.

5. Reply Positions

a. Ameritech Illinois Reply Position

1501. There is no real dispute, AI maintains, as to its offering of traditional, voice-grade loops. There is no basis to AT&T claims that Ameritech Illinois does not provide loops served via NGDLC the Company asserts, because it does offer such loops. (See Am. Ill. Br. at 115-116; AI Reply Br., Section II.D.1(a).

1502. While XO complains about being unable to verify the charges for facilities modification on three loop orders, each one of those orders shows on its face that the charge was zero. (See AI Reply Br. Section II.D.2(b)). Further, Ameritech Illinois already explained why XO's criticisms of the appointment process for certain "hot cuts" of loops are unwarranted. (See Am. Ill. Br. at 106-108). There is also no dispute as to the provision of stand-alone xDSL-capable loops used to provide advanced services. (Id. at 112-113).

1503. According to AI, the bulk of the intervenors' arguments under Checklist Item 4 concern "line splitting," where one CLEC provides voice service and the same or another CLEC also provides data service using the same copper loop. There is no dispute that Ameritech Illinois allows CLECs to use one loop to provide both voice and data service. The dispute at hand, AI contends, concerns the various ordering and provisioning issues associated with line splitting.

1504. Whereas the FCC has defined line splitting as a voluntary arrangement between CLECs (Line Sharing Reconsideration Order, ¶ 22), the CLECs propose that line splitting be turned into some kind of "line splitting via UNE-P" service offered by Ameritech Illinois. Even as the specifics of the CLECs' proposals are far from clear, AI

asserts, it is evident that the CLECs are asking the Commission to impose new requirements (*e.g.*, unbundle the "low frequency portion of the loop") and drastically expand existing requirements (*e.g.*, by eviscerating the FCC's rule that the HFPL UNE need only be provided by a BOC where the BOC is currently providing voice service). (See Am. Ill. Br. at 119-123.)

1505. The CLECs even ask the Commission to impose requirements on third parties, by forcing third-party data providers to enter into non-voluntary line splitting arrangements and to allow voice CLECs to use their splitters without permission. (See Id. at 122-124). In a section 271 proceeding AI asserts, a BOC must show compliance with the FCC's "rules and orders in effect at the time the application was filed." (Kansas & Oklahoma 271 Order, ¶ 18.) According to AI, the CLECs have not seriously disputed Ameritech Illinois compliance with the FCC's current line splitting rules.

Nondiscriminatory Access to Stand-Alone Loops

Access to Fiber-Fed Loops

1506. In response to AT&T's query "whether Ameritech is required under the Act to provide CLECs access to unbundled loops provisioned using the NGDLC loop network," Ameritech Illinois maintains that it does provide access to loops that are served via the NGDLC architecture. To the extent, however, that AT&T seeks access not just to unbundled loops, but to all the piece parts of the Project Pronto architecture, AI relies on the Order in Docket 00-0393 where the Commission declined to order such piece part unbundling.

1507. In other respects, AI considers AT&T to be vague in articulating its demands. For this reason alone, it argues, the Commission should reject AT&T's claims. Ameritech Illinois has established a *prima facie* showing that it provides nondiscriminatory access to unbundled loops and, it asserts, AT&T's inscrutable contentions should not matter in these premises.

Facilities Modification

1508. AI observes XO to have attached three FMOD forms to its testimony in support of its claim that the description of work activity on its FMOD notices is not detailed enough for XO to determine the applicable charges. AI observes that each of these three forms, on their face, show the applicable charges: $0.00 (on each of those forms an "X" appears in the "No Charges" field). It makes no sense, AI contends, to have it provide the detail of a zero price.

Installation of Network Interface Devices-NIDs

1509. There is no dispute, Ameritech Illinois contends, but that it permits nondiscriminatory access to its network interface devices ("NIDs"), the demarcation point between the loop and the customer's inside wiring. (Am. Ill. Br. at 106).

According to AI, Staff's sole contention, is that it does not comply with a state law that mandates NID deployment. As such, AI proceeds to address this matter under the "public interest" test.

Line Splitting

1510. AI contends that there is no dispute regarding standalone xDSL-capable loops, or line sharing, in the situation where it provides voice service to an end user and a data CLEC provides data service to that end user using the same copper loop. The advanced services issues relating to Checklist Item 4, AI notes, concern line "splitting," in the arrangement where a *CLEC* provides voice service and it (or another CLEC) also provides data on the same loop by use of a CLEC-owned splitter. In this situation, Ameritech Illinois points out, it provides no service to the end user.

1511. AI observes there to be some line splitting issues arising from what it considers AT&T's and WorldCom's muddled "line splitting via UNE-P" proposals. As such, AT&T asks "whether Ameritech recognizes and provides UNE-P with line splitting as a current combination of network elements." (AT&T Br. at 108.) Similarly noted, WorldCom asks "whether Ameritech is providing access to the loop in a manner that allows line splitting via UNE-P." (WorldCom Br. at 30.)

1512. AI answers these queries by asserting that it allows CLECs to engage in line splitting as required by the FCC's rules. See Am. Ill. Br. at 118-119.) Whereas AT&T and WorldCom appear to be asking for more, AI maintains, they are unclear as to what this "more" entails. To ensure a clarity of record, and to further demonstrate the flaws of AT&T's and WorldCom's "line splitting with UNE-P" positions, AI sets out the various scenarios under which a CLEC may wish to establish a line splitting arrangement.

- The situation in which Ameritech Illinois provides voice service, and there is no data service.

1513. In this case, Ameritech Illinois asserts, it has procedures in place to "migrate" to a line splitting arrangement, *i.e.*, to separate the existing network elements and insert the splitter and DSLAM that are required for line splitting. These procedures, it maintains, are the same as those used by Ameritech Illinois' affiliates when they received long-distance approval from the FCC in Texas, Kansas, Oklahoma, Arkansas, and Missouri. (See Am. Ill. Br. at 118).

1514. AI perceives AT&T and WorldCom to base their line splitting arguments, in large part, on complaints about potential "service interruption." To this end, AI notes, the Commission has already acknowledged that some service interruption is unavoidable because, in instances where there is no data service, a splitter and "DSLAM must be installed" before the CLEC can engage in line splitting. See Order at 54; Docket 00-0393; March 14, 2001 (recognizing that in this situation "a temporary physical disconnection is an unavoidable fact"). The CLECs' allegations that there

would be no service interruption under their proposals, make no sense to Ameritech Illinois.

- The situation in which "Ameritech Illinois is providing voice service" and a data CLEC is providing data service over the same copper loop (a line sharing arrangement), and a CLEC wishes to "migrate" the voice service away from Ameritech Illinois, thus establishing a line splitting arrangement.

1515. If the splitter being used in the line sharing arrangement is owned by the data CLEC, Ameritech Illinois explains, it has procedures in place whereby voice service can be "migrated" from Ameritech Illinois to a voice CLEC *without service* interruption. (See Am. Ill. Br. at 122). All that the voice CLEC need do in this situation, AI explains, is obtain the data CLEC's permission to use its splitter and the voice CLEC provides Ameritech Illinois evidence of that permission by providing the data CLEC's Connecting Facility Assignment information. (Am. Ill. Br. at 122).

1516. Again, Ameritech Illinois observes, its line splitting procedures are identical to those approved by the FCC in Texas, Kansas, Oklahoma, Arkansas, and Missouri. (See Am. Ill. Br. at 118). AI views WorldCom's complaint about the "rejection" of Line Sharing Reconsideration Orders as nothing more than an attack on the need for gaining the data CLEC's permission. (See WorldCom Br. at 24-25, 30-31). Notably, AI points out, WorldCom does not even mention (much less dispute) Ameritech Illinois' explanation that WorldCom's orders were rejected because WorldCom did not obtain permission to use the data CLEC's splitter. (Am. Ill. Br. at 124).

- The splitter in the preceding illustration might be owned by Ameritech Illinois.

1517. No checklist requirement is implicated in this situation, AI contends, because Ameritech Illinois cannot be required to provide splitters under *federal* law (as the FCC held and this Commission has acknowledged). See Order at 52-59; Docket 00-0393, (March 14, 2001); Texas 271 Order, ¶ 327.

1518. Nevertheless, AI observes that the Commission recently held that Ameritech Illinois must provide splitters as part of a "platform" of network elements under state law, i.e., section 13-801 of the PUA). See, Order at 30; Docket 01-0614, (July 11, 2002). Ameritech Illinois maintains that it has filed a tariff that complies with the Commission's Order in Docket 01-0614, such that even the requirements of state law, have been met.

Single Order Process

1519. According to AI, the only issue that Staff raises with respect to line splitting is the desire for a single order process (instead of a 3-order process) for converting a CLEC's UNE-P service into the UNEs necessary for line splitting. (See Staff Br. at 157).

Although the FCC has never required a single order process for any product, Ameritech Illinois asserts that it has now deployed the single order process described by Staff and suggests that the Commission can confirm that fact in Phase II of this proceeding.

Access to HFPL Subloops

1520. AI notes Staff's assertion that Ameritech Illinois is out of compliance with Checklist Item 4 because its tariff requires a CLEC seeking access to an HFPL subloop *i.e.*, access to the HFPL UNE at a location other than the central office, to submit a bona fide request ("BFR"). Staff is wrong, AI argues, to allege that this somehow violates the "rebuttable presumption that unbundling of subloops is technically feasible."

1521. Ameritech Illinois explains that its GIA offers to provide access to standard HFPL subloops, for which no BFR is required. (See Am. Ill. Ex. 3.0 at 9.) While a BFR may be required for other forms of HFPL subloops that are not available as a standard offering (and for subloops offered under Ameritech Illinois' tariff), that requirement does not in anyway "shift the burden to a requesting CLEC" to prove technical feasibility. See Staff Br. at 155. The BFR (a process that has been repeatedly approved by the Commission), AI maintains, only requires the CLEC to submit enough information so that Ameritech Illinois can determine whether the request is technically feasible to provision. In the event that it were to deny the CLEC access to the requested subloop on the grounds of technical infeasibility, Ameritech Illinois asserts, it would still bear the burden of proof.

1522. AI believes WorldCom to mischaracterize the Order in Docket 01-0614 by stating that the Commission "required line splitting over UNE-P, and the provisioning of the splitter as a UNE." (WorldCom Br. at 25.) To the contrary, AI contends the Commission found that section 13-801 created a brand-new "platform" that includes elements that, like the splitter, are not UNEs at all. The Commission explicitly recognized that the splitter is *not* an *unbundled* network element. It further recognized that a "platform" that includes a splitter is not a *UNE-P*, because (i) the splitter is not an *unbundled* network element, and (ii) the UNE-P consists only of "an unbundled loop, switching functionality and shared transport." Order at 30-31, Docket 01-0614.

1523. Thus, AI asserts, this Commission has already recognized that "line splitting via UNE-P" does not exist, for once a splitter is installed the UNE-P ceases to exist and a new and different "platform" of network elements is created. A CLEC will access the subloop HFPL through its DSLAM, and can place its DSLAM in a number of locations, including inside the remote terminal, adjacent to the remote terminal, or at the serving area interface. (Am. Ill. Ex. 3.0 Sch. WCD-1, ¶¶ 99, 106). Further, the configuration selected by the CLEC will impact Ameritech Illinois' voice service, for Ameritech Illinois will continue to provide voice service using the subloop. The BFR provides Ameritech Illinois the necessary information regarding what configuration the CLEC seeks to use.

The "End-to-end Broadband UNE" and The Order In Docket 00-0393

1524. AI reemphasizes that the FCC reviewed SBC/Ameritech's planned "Project Pronto" architecture in a nine-month proceeding, and issued its Project Pronto Order in 2000. So too, it repeats, this Commission reviewed, reheard, and reheard again, Project Pronto issues in Docket 00-0393, and its final order is now before the federal courts.

1525. AT&T ignores Docket 00-0393 altogether, AI contends, by insisting that "Ameritech Illinois should be required to unbundle the Project Pronto network." (AT&T Br. at 122). As such, AI argues, AT&T is hoping the Commission will disregard Docket 00-0393 and order unbundling of all the various piece parts of the Project Pronto DSL architecture. The FCC and this Commission however, AI notes, have both rejected that request. And, AI argues, AT&T provides no basis for undoing their work. (See Am. Ill. Br. at 125-127).

1526. AI observes AT&T and WorldCom to contend that Ameritech Illinois failed to comply with the Commission's Order in Docket 00-0393, because its compliance tariff did not mimic verbatim an appendix to that order. (AT&T Br. at 147-49; WorldCom Br. at 42-43). This issue, AI maintains, is not an appropriate subject for this proceeding. Ameritech Illinois contends that it filed its compliance tariff in good faith after extensive discussions with Staff, that the Company believed had addressed and resolved all interpretative compliance issues. (Tr. 851-52). Staff is currently reviewing this tariff *again*, AI notes. (Tr.1749). Any new compliance issues can and should be resolved either through this review process or through a separate compliance investigation. The record in this proceeding AI contends, is wholly inadequate to resolve the issues raised by AT&T and they are not appropriate to this proceeding.

1527. In a footnote to its arguments, AI suggests that the differences between Ameritech Illinois' tariff and Appendix A to the Order in Docket 00-0393 reflect the fact that Appendix A was based on a Texas interconnection agreement (not a tariff), which, in turn, resulted from a Texas proceeding that addressed a broader range of issues than the parties raised in Docket 00-0393. (Tr. 842, 846, 848-49, 864). As such, of the so-called "discrepancies" cited by AT&T resulted simply from the need to convert contractual provisions to tariff provisions, to further clarify the Texas provisions, or to make them specific to Ameritech Illinois and its Illinois regulatory obligations. (Tr. 839, 848-49, 850, 856-57, 862-63). The removal of the UNE-P provisions – to which AT&T takes particular exception – reflects the fact that the CLECs did not ask for, much less receive, the "right to provide voice service over the Project Pronto network using the UNE-Platform." (AT&T Br. at 148). Given that the tariff gives CLECs the options of using the "end-to-end UNE" to provide data service only, or to provide voice and data services AI is unclear as to the nature of AT&T complaint. Further, AT&T cites to *nothing* in the text of the Commission's Order in Docket 00-0393 to support its claims that the "right" to provide voice service over Project Pronto was "Commission-ordered." It is well-established that the Commission may not place regulatory obligations on a utility unless such obligations are supported by substantial evidence in the record.

Illinois Central Railroad Co. v. Ill. Commerce Comm., 395 Ill. 303, 313 (1946). Since there was *no* evidence in Docket 00-0393 on the issue of providing voice service over the Project Pronto architecture using the UNE-P, AT&T is essentially arguing that the Commission can ignore the law as long as it attaches overly broad appendices to its orders. That, AI asserts, is not the case.

Non-recurring Rates for "Line Splitting"

1528. AI sees AT&T to assert that Ameritech Illinois has not proposed prices for line splitting. (AT&T Br. at 128-130). On the one hand, AT&T alleges that Ameritech Illinois *should* have separate "line splitting" prices and that the absence of such prices means it does not satisfy the checklist. But on the other hand, AT&T alleges that there should *not* be any separate "line splitting" rates and that Ameritech Illinois does not satisfy the checklist unless line splitting is "charged for [at the same rate] as UNE-P." (AT&T Br. at 112). Neither argument affects checklist compliance in AI's view.

1529. According to AI, AT&T's demand for "line splitting" rates is unfounded. Line splitting is not a UNE, AI contends, but an activity that *CLECs* engage in *using* UNEs provided by Ameritech Illinois, along with a splitter and Digital Subscriber Line Access Multiplexer ("DSLAM") to separate voice and data traffic.[138] (Am. Ill. Ex. 3.1 at 34.) As such, AI asserts, there is not an applicable "charge" for line splitting *per se*. The Company applies the Commission-approved, TELRIC-compliant rates applicable to the underlying UNEs, regardless of how the CLEC uses them. Id. For instance, AI explains, a CLEC purchasing a DSL-capable loop will pay the Commission-approved rate for a DSL-capable loop, whether or not the CLEC uses the loop for line splitting. (Am. Ill. Ex. 3.2 at 31.)[139]

b. AT&T Reply Position

Line Splitting Obligations

1530. According to AT&T, Ameritech contends that its line splitting obligations are limited to those instances where a CLEC (or two partnering CLECs) approaches Ameritech, purchases an unbundled loop and provides its own splitter. It is only in that

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[138] In some cases, a CLEC may engage in line splitting using a splitter provided by Ameritech Illinois. To the extent AT&T is contending that the price for splitters does not comply with TELRIC, its argument fails because a splitter is not an unbundled network element, and need not be priced using the TELRIC pricing rules. See Section II.D.2(a) infra. Thus, the rates for splitters do not bear on compliance with the federal checklist.

[139] AT&T's reference to pricing discussions that have been held in Michigan (AT&T Br. at 129) is inapposite, as those discussions concern pricing for new product offerings (such as a proposed "low frequency portion of the loop" network element) that are not applicable to Illinois. Am. Ill. Ex. 3.2 at 31; Tr. 397.

situation, AT&T perceives AI to argue, is it required to permit the CLEC(s) to engage in line splitting – and not under any other scenarios.

1531. As such, AT&T believes Ameritech to contend that it has no obligation to enable or permit a CLEC to engage in line splitting in the scenario where Ameritech provides the voice service, a data CLEC provides the data service and the end user customer desires to switch its voice service from Ameritech to a UNE-Platform CLEC. Contrary to AI's position, AT&T argues, this is exactly what the Commission ordered Ameritech to do. In Docket 01-0614, AT&T contends, the Commission interpreted Sec. 13-801 of the PUA and concluded that, in those circumstances where Ameritech provides voice service and the end user also subscribes to data service, Ameritech must transfer the voice service, if requested, to a UNE-Platform voice provider with all current features in place and "without any disruption to the end user's services." See Order at 32, Docket 01-0614, (June 11, 2002).

1532. In order to prevent any loss of features or any disruption, AT&T notes, the Commission determined that if Ameritech is providing the splitter, it must continue to do so after the voice service has been migrated. This obligation, AT&T contends, arises pursuant to Section 13-801 of the Illinois Act and was enacted to impose additional state requirements as contemplated by Section 261(c) of the federal Telecommunications Act of 1996.

1533. As such, AT&T argues, this Commission has already rejected each and every one of the arguments made by Ameritech as to why this very line splitting arrangement should be rejected. On this basis, Ameritech has failed to demonstrate that it meets its line splitting obligations and, as such, fails to satisfy Checklist Item 4.

Single Order Process

1534. Noting the arguments set out in Staff's Initial Brief, AT&T agrees that the *Line Sharing Reconsideration Order* urges the incumbent LEC to develop a single order process for competing carriers to add xDSL service to UNE platform voice customers. According to AT&T, however, Ameritech has not demonstrated that it has implemented a single order process for line splitting. Yet, AT&T observes, the Michigan Commission has alerted Ameritech Michigan that it may determine that Ameritech is not in compliance with the requirements of the Section 271 checklist unless it implements such a single order process.

1535. AT&T further observes that the FCC also examined whether the RBOC has implemented a single order process for line splitting in determining whether Section 271 relief is appropriate. In finding Verizon compliant with checklist item (iv) in New Jersey, AT&T asserts, the FCC's conclusion that "Verizon provides nondiscriminatory access to line-splitting in accordance with our rules" relied upon the fact that:

> Verizon began offering new OSS functionality that enables a competitor to submit a single Local Service Request (LSR) to add DSL capability to a loop in an existing UNE-platform

> arrangement while re-using the same network elements, including the loop, if it is DSL-capable. In addition, Verizon implemented the ability for a competitive LEC to convert from line sharing to line splitting using a single LSR, or drop data from a line-splitting arrangement and revert back to UNE-platform with a single LSR. *New Jersey 271 Order*, fn. 462.

1536. According to AT&T, Ameritech has failed to demonstrate that it has implemented a single order process for line splitting and thus fails to comply with Checklist Item 4.

Access To Unbundled Loops Provisioned Using The NGDLC Loop Network

1537. Ameritech ignores the majority of AT&T's technical, legal and policy arguments, AT&T contends, and relies solely on the FCC's *Project Pronto Order* as the basis for refusing to unbundle its Pronto architecture. According to AT&T however, Project Pronto loops, just like any other loops in Ameritech's network, must be made available to CLECs. Ameritech cannot be allowed to avoid its obligation to unbundle UNEs by employing a DLC technology that would create one network for Ameritech, and a very limited, less technologically advanced, inherently unequal network for CLECs.

1538. According to AI, Ameritech is required to make its loop facilities using NGDLC technology available as unbundled network elements with rates, terms and conditions governed by Sections 251 and 252 of the Act. Moreover, the FCC rules designate that unbundled network elements are technology independent. This means that Ameritech cannot avoid provisioning UNE loops to CLECs over its NGDLC loop network. CLECs must have access on an unbundled basis to the entire NGDLC loop.

1539. It is indisputable, AT&T contends, that a Project Pronto "loop" is still a loop. USTA did not vacate the UNE Remand Order, AT&T asserts, so the requirement to provide unbundled access to loops remains in effect, and there is nothing in *USTA* to authorize any retreat from that requirement. To the contrary, *USTA* provides no basis to surmise that the FCC on remand might alter its conclusion that CLECs are impaired without unbundled access to the loop element, and no authority for this Commission to disregard the loop unbundling requirements of the UNE Remand Order in any event.

1540. AT&T claims that Ameritech Illinois' Broadband Service offering is not an adequate substitute for unbundling local loops. And, it asserts, Ameritech Illinois' Broadband Service allowing CLECs to use the DSLAM functionality of the remote terminal is not an adequate substitute for unbundled access. According to AT&T, Ameritech claims that competitors can use such "service" to provide advanced services to end users and its "willingness" to offer these services is essentially an admission that CLECs need access to the functionalities of the entire unbundled loop in the NGDLC architecture. But, AT&T contends access via a "broadband service" does not comport with the mandate of section 251(c) (3) to provide unbundled *network elements* on a

nondiscriminatory basis. Moreover, while Ameritech asserts that the elements or components used in the Broadband Service are *not* UNEs, AT&T maintains that the NGDLC architecture provides nothing more (and nothing less) than a loop.

1541. Ameritech's interpretation of the orders in Docket 00-0393, AT&T argues, is that it is *only* required to provide access to the *high frequency* portion of those loops. As such, CLECs desiring to offer packages including DSL *and voice services* would be forced to procure a separate loop to provide the voice service even when Ameritech Illinois and its affiliates plan to use the same Pronto (NGDLC) loop facility to offer *DSL and voice* service. That is clearly a barrier to competition AT&T argues. CLECs, such as AT&T need access to the entire NGDLC loop spectrum so that they can offer voice as well as DSL service to their customers, just as Ameritech Illinois can. Accordingly, AT&T argues, this Commission must require Ameritech to provide the entire Project Pronto loop consistent with the FCC's UNE Remand Order.

c. Staff Reply Position

HFPL

1542. Staff agrees that AI provisions HFPL in compliance with state law. This agreement however, Staff maintains, is contingent upon AI's submission of a tariff with language that complies with the Section 13-801 Order and the Commission's approval of such tariff. See Stipulation at 3.

d. XO Reply Position

Coordinated Hot Cut Process

1543. XO continues to request that the Commission order AI to cease its practice of all day appointments when the end user's existing facilities reside on IDLC service and follow, instead, its usual CHC process. Contrary to AI's assertions, XO claims, its current process does not provide XO with a reasonable opportunity to prepare for the activity. There is an increased likelihood of service disruption to XO's end user customers under the current situation, XO asserts, and it is also put to the burden of deploying its resources in an inefficient manner.

1544. According to XO, it is only given about 15 minutes of notice prior to the time that AI begins the work, and, in some cases, XO is not notified at all that AI has begun the conversion process. Given the shortness of notice, XO explains, its employees are often required to postpone or delay assisting other customer in order to respond to Ameritech's call. And, as XO witness Barstow testified, the lack of coordination increases the likelihood that the customer will be out of service for a significant time during the conversion.

e. WorldCom Reply Position

Line Splitting

1545. This Commission, it notes, has required Ameritech to allow CLECs to provide voice service via the UNE Platform over lines on which another carrier provides data services over the HFPL. Order at 30-33; Docket 01-0614, (June 11, 2002). And, WorldCom points out, this Commission has also ordered line sharing. Order, Docket 00-0393, (September 26, 2001). WorldCom maintains that these state obligations to provide line sharing and line splitting are unaffected by *USTA*.

1546. According to WorldCom, the USTA court did not vacate the *Line Sharing Order on Reconsideration*, as Ameritech would claim. (Ameritech Br. at 119). And, WorldCom asserts, the *Line Sharing Reconsideration Order* conclusively resolves any question concerning Ameritech's obligation under federal law to allow line splitting (CLEC voice/DLEC data or CLEC voice/same CLEC data) over UNE-P loops. That Order, WorldCom contends, makes clear that the obligation to allow line splitting is an existing legal obligation borne by ILECs and that ILECs therefore must allow competitors to order line splitting immediately, whether or not a fully electronic OSS interfaces capable of handling orders for line splitting are in place. *Line Sharing Reconsideration Order*, ¶ 18; note 36.

HFPL

1547. WorldCom challenges the premise that Ameritech Illinois cannot be required to provide access to the HFPL over the UNE Platform when Ameritech Illinois is not the voice provider as based on the *Line Sharing Order* and *Texas 271* Order. According to WorldCom, the FCC explicitly recognizes the line splitting obligation as such:

> We find that incumbent LECs have a current obligation to provide competing carriers with the ability to engage in line splitting arrangements. The Commission's existing rules require incumbent LECs to provide competing carriers with access to unbundled loops in a manner that allows the competing carrier 'to provide any telecommunications service that can be offered by means of that network element.' [footnote omitted] Our rules also state that '[a]n incumbent LEC shall not impose limitations, restrictions, or requirements on . . . the use of unbundled network elements that would impair the ability of' a competing carrier 'to offer a telecommunications service in the manner' that the competing carrier 'intends.'[footnote omitted] We further note that the definition of 'network element' in the Act does not restrict the services that may be offered by a competing carrier, and expressly includes 'features, functions, and

> capabilities that are provided by means of such facility or equipment.'[footnote omitted] As a result, independent of the unbundling obligations associated with the high frequency portion of the loop that are described in the *Line Sharing Order*, incumbent LECs must allow competing carriers to offer both voice and data service over a single unbundled loop. This obligation extends to situations where a competing carrier seeks to provide combined voice and data services on the same loop, or where two competing carriers join to provide voice and data services through line splitting. *Line Sharing Reconsideration Order*, ¶ 18.

1548. Any argument based on the premise that the line splitter is not a network element is wrong, WorldCom claims, in light of the Illinois Commission's findings in Docket 01-0614. Moreover, where Ameritech has already attached its splitter to an existing loop, it is clear that under federal and state law Ameritech must allow for conversion of line sharing arrangements to line splitting arrangements without disruption to service.

1549. For example, WorldCom notes, in the situation where Ameritech is providing voice over a loop and shares that loop with a DLEC via an Ameritech owned splitter, and if that customer wants to obtain voice service from a CLEC that provides voice service via UNE Platform, the customer can be migrated from Ameritech to the CLEC without any need to separate the loop, port or splitter. This, it argues, is the only way by which to implement the FCC's findings that:

> because no central office wiring changes are necessary in a conversion from line sharing to line splitting, we expect incumbent LECs to work with competing carriers to develop streamlined ordering processes for migrations between line sharing and line splitting that avoid voice and data service disruption and make use of the existing xDSL-capable loop. *Line Sharing Reconsideration Order*, ¶ 22.

1550. There is a similar requirement in Illinois law, WorldCom asserts, that prohibits the disruption of an end user's voice or data service when a customer is converted from a line sharing to a line splitting arrangement. Order at 32-33, Docket 01-0614, (June 11, 2002). WorldCom contends that Ameritech's obligation, to convert line sharing to line splitting arrangements without causing disruption to the end user's services, is clear.

1551. Despite all of the state and federal law requirements, WorldCom argues, the record demonstrates that Ameritech does not currently allow line splitting and has, in fact, rejected large numbers of WorldCom orders for UNE Platform voice service over lines currently served by line sharing arrangements. According to WorldCom, Ameritech rejects Worldcom's orders for UNE Platform voice service to an end user customer served by a line on which voice and data are provided in a line sharing

scenario. Ameritech's attempt to blame such rejections on the involvement of CLEC owned splitters has no foundation in the record, WorldCom argues, in that the hundreds of orders rejected by Ameritech "likely" involved many Ameritech-owned splitters.

1552. Further, WorldCom argues, Ameritech does not have in place a process or procedure that allows CLECs to order UNE Platform voice service provided via line splitting arrangements. As a result, it fails its obligations to provide nondiscriminatory access to local loops as required by the federal Act and Illinois law.

6. Staff's Proposed Remedial Actions for Checklist Compliance

1553. To obtain and favorable finding on Checklist Item 4 Compliance, Staff proposes that:

1 Ameritech Illinois must file tariff language providing CLECs access to unbundled sub-loops at any technically feasible point. AI must employ a single order process for migration of voice and data to competitive carriers.

Ameritech Illinois is in compliance with state law, but should submit a tariff with language pertaining to the aforementioned issue revised to comply with the Commission's Order in Docket 01-0614 and Commission's approval of that tariff.

2 AI also must file TELRIC compliant rates or demonstrate that the interim rates for the following are compliant with TELRIC principles: non-recurring charges for UNE combinations; non-recurring charges for UNEs; recurring UNE charges; unbundled switching and interim shared transport rates (ULS-IST); dark fiber; unbundled sub-loop rates; AIN routing of OS/DA charge; CNAM database access charge; NGDLC UNE platform charge; and OSS modification charge for the HFPL UNE.

7. Commission Review and Conclusions– Checklist Item 4

1554. We examine a number of different matters, as highlighted below, in order to assess AI's compliance with Checklist Item 4.

1555. At the outset, we would note, the Company's provisioning of voice-grade loops is wholly uncontested. It further appears to satisfy its subloop unbundling obligations.

a. Line Splitting

1556. Line splitting is complicated by the differences between federal and state law with respect to the obligations that govern in the various types of arrangements. And, it is equally complicated by the less than clear arguments and positions set out by the parties in this proceeding. In order to lend some clarity, we begin our analysis with a summary of the relevant federal and state orders.

Relevant FCC Orders

The Line Sharing Order

1557. Pursuant to the FCC's Line Sharing Order, an ILEC must: (1) provide unbundled access to the high frequency portion of the loop (HFPL) so that carriers may use those frequencies to provide xDSL-based services; and (2) provide access to OSS necessary to support non-discriminatory pre-ordering, ordering, provisioning, maintenance and testing, and billing for CLECs. The Line Sharing Order specifically discusses line sharing over the copper portion of the local loop, from the customer premises to the ILEC central office. It does not discuss line sharing over fiber-fed DLC systems. This order, however, does not preclude or restrict deployment of other technologically feasible methods of line sharing.

The UNE Remand Order:

1558. The unbundling requirements set forth in the UNE Remand Order, pursuant to § 251 of the Act, are "designed to create incentives for both incumbent and competitive LECs to innovate and invest in technologies and services that will benefit consumers through increased choices of telecommunications services and lower prices." More specifically, the FCC sought to establish unbundling rules "to facilitate the rapid and efficient deployment of all telecommunications services, including advanced services."

1559. Under the FCC's UNE Remand Order, the ILECs are obligated to provide non-discriminatory access to UNEs and OSS. Here, the FCC expressly stated that the ILEC obligation to provide access to OSS for xDSL-based services "falls squarely within an incumbent LEC's duty" under the Telecommunications Act of 1996.

Line Sharing Reconsideration Order:

1560. On January 19, 2001, the FCC released its Line Sharing Reconsideration Order, which modified the Line Sharing Order. Here, the FCC concluded that incumbent LECs must allow competing carriers to offer both voice and data service on a single unbundled loop and that incumbent LECs had an obligation to permit competing carriers to engage in line splitting using the UNE platform, where the competing carrier purchases the entire loop and provides its own splitter. In addition, LECs were required to make all necessary network modifications to facilitate line splitting, including providing

non-discriminatory access to OSS necessary for preordering, ordering, provisioning, maintenance and repair, and billing for loops used in line splitting arrangements. The FCC concluded that incumbent LECs must perform central office work necessary to deliver unbundled loops and switching to a competing carrier's physically or virtually collocated splitter that is part of a line splitting arrangement. Line Sharing Reconsideration Order at paras. 19-20. The FCC went on to note that issues closely associated with line splitting arrangements, including splitter ownership, would be addressed in future ratemakings. Line Sharing Reconsideration Order at para. 13.

1561. The FCC also encourages ILECs and CLECs to use the state collaborative process to: 1) develop single order process for CLECs to add xDSL service to and existing UNE-P voice customer line; 2) allow CLECs to forego loop qualification if xDSL service already provided on line; 3) allow CLECs to order loops for use in line splitting as a "non-designed" service; 4) use the same number of cross connections and the same length of tie pairs for line splitting and line sharing arrangements. Line Sharing Reconsideration Order at par. 21. The FCC states: "Because line splitting is an existing legal obligation, incumbent LECs must allow competitors to order line splitting immediately, whether or not a fully electronic interface is in place." It further indicates that, "[W]e expect Bell Operating Companies to demonstrate, in the context of 271 applications, that they permit line splitting, by providing access to network elements necessary for competing carriers to provide line splitting services." Line Sharing Reconsideration Order at para. 20; fn 36.

1562. Because no central office wiring changes are necessary in a conversion from line sharing to line splitting, the FCC expects ILECs to work with CLECs to develop streamlined ordering processes for migrating from line sharing to line splitting that avoid service disruption and made use of the existing DSL capable loop. Line Sharing Reconsideration Order at para. 22. The ILECs Data Affiliate is not required to provide DSL service on a line where the CLEC provides voice service. Line Sharing Reconsideration Order at para. 26.

Section 271 Orders

1563. On June 30, 2000, in the Texas 271 Order, the FCC discussed some policies with regard to line sharing and line splitting. The FCC did not require SWBT to "prove that it has implemented the loop facility and OSS modifications necessary to accommodate requests for access to the line sharing unbundled network element as required by [the FCC's] December 9, 1999 Line Sharing Order. While the Line Sharing Order technically became effective on February 9, 2000, the FCC acknowledged that it could take as long as 180 days from release of its order for incumbent LECs to develop and deploy the modifications necessary to implement the new obligations. The FCC also found that an incumbent LEC has an obligation to permit CLECs to engage in "line splitting" over UNE-P where the CLEC provides its own splitter.

1564. The FCC further rejected the argument that an incumbent LEC had an obligation to provide the splitter. The FCCs reiterated this finding in its Line Sharing

Reconsideration Order ; the Louisiana & Georgia 271 Order; and in the Missouri and Arkansas 271 Order. The FCC also rejected the augment that the ILEC be required to provide xDSL service to customers who choose a voice service provider other than the ILEC. This decision is repeated in the Louisiana & Georgia 271 Order; and also in the individual Section 271 orders for the states of Alabama, Kentucky, Mississippi, North Carolina, and South Carolina.

1565. A review of the FCC's 271 orders finds that OSS for line splitting was implemented in Verizon's territory on October 20, 2001 and also in Bell South's territory on January 5, 2002.

Illinois Commerce Commission Decisions

1566. On March 14, 2001, this Commission entered the first Order in Docket 00-0393, finding that Ameritech Illinois was not required to provide access to its splitters in order for a CLEC to provide both voice and data service over a loop Id. at 52. In cases where xDSL service is added to a loop some disruption of service will occur in order to insert a splitter (Id. at 53); and the voice CLEC must be responsible for all coordination with the data service provider in a line splitting relationship. (Id at 54). The Commission made findings similar to the FCC in that it did not require Ameritech's data affiliate to continue to provide data service once voice service was switched from Ameritech to a CLEC. Id at 55. The Commission also rejected a proposed requirement to allow line splitting on resold lines. Id at 55. In this first Order for Docket 00-0393, the Commission voiced an expectation regarding OSS for line splitting by stating, "we fully expect Ameritech to undertake the engineering and office upgrades necessary to comply with the FCC' s requirements for OSS in conjunction with FCC ordered line splitting." (Id. p. 56) Regarding pricing issues the Commission set the monthly rate for HFPL at $0 (Id. at p. 86) and OSS modification charges at $0. (Id at p. 88)

1567. On September 26, 2001, the Commission released its first Order on Rehearing in Docket 00-0393. The central issue on rehearing was the feasibility of implementing the unbundling and collocation requirements, regarding the project pronto architecture, of the Commission's March 14th, 2001 Order. In order to address access to the HFPL in the Project Pronto architecture, the Commission ordered Ameritech to file with some modifications, "an interim tariff detailing an end-to-end HFPL UNE based upon the contract terms ordered by the arbitrators in Texas." Order on Rehearing at 36, Docket 00-0393. The implementation of the Texas' Arbitrated terms released Ameritech from its unbundling and collocation requirements, regarding the project pronto architecture, of the Commission's March 14th, 2001 Order.

1568. On October 16th, 2001, the Commission released an Amendatory Order in Docket 00-0393, changing the language of the terms ordered in the September 26, 2001 Order. On March 28, 2002, the Commission released its Second Order on Rehearing in Docket 00-0393, that removed references to DS1 ports in the terms ordered in the September 26, 2001 order; set interm prices for the "HFPL UNE Platform;" addressed requests for new xDSL functionalities on the Project Pronto

architecture; and removed the words "backend systems" from the OSS terms previously ordered by the Commission.

1569. On June 11, 2002, the Commission released its Order in Docket 01-0614, addressing the newly enacted changes to the Public Utilities Act as set out in Section 13-801. The Commission found, "In terms of line-splitting, we agree with Joint CLECs that, when viewed as a whole, the newly enacted legislation contemplates line-splitting with Ameritech owned splitters in at least some contexts." Order at ¶74, Docket 01-0614.

Court Review – the USTA v. FCC Opinion

1570. In the Line Sharing Order, the FCC determined that the high frequency portion of the cooper loop ("HFPL") is a network element that ILECs must provide on an unbundled basis to CLECs that wish to provide digital subscriber line ("DSL") service to their end users for high speed internet access. USTA, at 421.

1571. The Court found the FCC's analysis deficient because it "completely failed to consider the relevance of competition in broadband services coming from cable (and to a lesser extent satellite)". USTA at 428. The Court inferred from the FCC's brief that the FCC had focused solely on DSL providers because Section 251(d)(2)(B) of the Act defines UNEs in terms of services that a CLEC "seeks to offer" – and CLECs seek to offer DSL when they request line sharing. The Court rejected this position as "quite unreasonable" because the "unbundling is not an unqualified good." The Court found that the Commission must "apply some limiting standard, rationally related to the goals of the Act" and "cannot, consistent with the statute, blind itself to the availability of elements outside the incumbent's network". The Court also observed that such "naked disregard of the competitive context" would allow the FCC to inflict costs on the economy under conditions "where it had no reason to think doing so would bring on a significant enhancement of competition". USTA at 429.

1572. The Court thus vacated and remanded the Line Sharing Order stating that a future "order unbundling the high frequency portion of the loop should not be tainted by the sort of errors" that had been identified in the UNE Remand Order. USTA at 429. It rejected the ILECs' claim that "a portion of the spectrum of the loop cannot qualify as a 'network element.'" USTA at 429.

1573. On September 4, 2002, the Court denied Petitions for Rehearing and rehearing *en banc*, but stated that "[t]he vacatur of the Commission's orders is hereby stayed until January 2, 2003". See USTA v. FCC, Order, Nos. 00-1012 and 00-1015 (D.C. Cir. 2002).

The Record and the Law

1574. It is against this legal background that we review, in our own way, the showings and positions with respect to line sharing/line splitting. The Commission finds

it useful to examine Ameritech Illinois' obligations and compliance therewith through a series of factual scenarios.

Scenario A

1575. AI provides voice service but no data service is provided to the customer; the CLEC wins the customer and then orders the line to be converted to UNE-P and connections to a splitter established in order to provide data service. As the Commission found in Docket 00-0393, the loop will need to be disconnected from the switch in order to insert a splitter. It is assumed that the splitter would be owned by a CLEC, because AI has no obligation to provide splitters to CLECs in this situation.

Discussion

1576. The standard of review requires AI to demonstrate that it has a legal obligation to provide line splitting through rates, terms and conditions in interconnection agreements. This issue of rates will be discussed below. In order to show compliance with the terms and conditions portions of its obligation, AI refers to the fact that it provides the same terms and conditions approved by the FCC in SBC's 271 applications in Texas, Kansas, Oklahoma, Arkansas, and Missouri. In our review of the FCC's orders in those dockets, however, it does not appear that any actual line splitting was occurring in those jurisdictions when the 271 applications were made.

1577. In Illinois, both AT&T and WorldCom have expressed an interest in providing line-splitting service. WorldCom has even gone so far as to submit orders for such service. In the presence of actual demand for this service, it is the Commission's preference to examine the actual function of provisioning of the service in order to determine if the terms and conditions obligating AI to provide the service are sufficient.

1578. AI makes reference to a process being implemented in order to provision the services described in Scenario A. AT&T expresses doubt that such process will work. Rather than speculate on this process the Commission will require Ameritech to submit evidence of how the process works, and evidence that it is being provided in a nondiscriminatory manner, in Phase II of this proceeding.

Migration from Line Sharing to Line Splitting

(i) Agreement of Data CLEC to line split

1579. The Commission found in Docket 00-0393 that "[CLECs wanting to line split] must be responsible for all coordination with third party vendors or data services partners." Order Docket 00-0393 at 55. Implicit in this statement is an endorsement of the policy that the data CLEC must be a willing participant in this relationship. WorldCom's apparent desire to line split without the consent of the data CLEC is not the type of situation that would lead to the Commission to find AI deficient on this checklist item.

1580. Turning to the matter of the rejected WorldCom orders, it appears that they were rejected because of the missing authorization information. This, however, has not been conclusively established. As such, AI should present a root cause analysis with findings for the rejection of the 778 Worldcom orders in Phase II of this docket.

1581. As Ameritech well notes, this same issue has been put before the FCC on several occasions and it has found that the refusal of the incumbent's data affiliate (or any data CLEC for that matter) to participate in a line splitting arrangement to be within the data CLEC's rights.

(ii) Single Order Process

1582. Staff initially raised an issue on a single-order process for line-splitting and AT&T joined in on reply argument. While Ameritech would claim that the FCC has never required a single order process, the Commission observes that the FCC has encouraged such a process. Further, the FCC has noted the development of a single order process in many of its 271 decisions where both Verizon and BellSouth developed single order processes in 2001, and early 2002, respectively.

1583. AI now claims to be developing a single order process. A simple claim, however, is not sufficient for our purposes. Ameritech has the burden of presenting evidence to show that it offers a workable single order process. We wait such a showing in Phase II of this proceeding in order to verify the reality of the Company claims.

Scenario B

1584. AI provides voice service and a Data CLEC provides data services. A CLEC wins the voice service of the customer and makes arrangements with the Data CLEC to continue providing data services. The voice CLEC submits an order for the migration of the voice service to UNE-P while the current splitter arrangement remains intact. In this scenario, the data CLEC provides the splitter.

<u>Discussion</u>

1585. AI represents that it will allow this type of migration. According to Ameritech, it meets it obligations in a manner similar to that approved by the FCC in Texas, Oklahoma, Kansas, Arkansas, and Missouri. This Commission, however, prefers and requires a better explanation of how Ameritech migration process actually works.The CLEC appear to suggest that there is separation before items are put back together. This might be problematic if it occurs in the actual provisioning. In a Phase II

showing Ameritech must establish that it offers streamlined processes for migrations between line-sharing and line-splitting that avoid voice and data service disruption in satisfication of the FCC's requirements.

Scenario C

1586. AI provides voice service and a Data CLEC provides data services. A CLEC wins the voice service of the customer and makes arrangements with the Data CLEC to continue providing data services. The voice CLEC submits an order for the migration of the voice service to UNE-P while the current splitter arrangement remains intact. In this scenario, the Ameritech provides the splitter.

Discussion

1587. ILEC provisioning of a splitter is not a federal law requirement. Thus compliance does not need to be shown here. By virtue of our Order in Docket 01-0614, however, and under state law, AI must provide splitters as part of a platform of network elements. At the heart of the CLEC arguments (as made clear in the reply briefs) is their insistence on AI's compliance with our Order in Docket 01-0164. Ameritech indicates that it has filed a tariff to comply with our order for Docket 01-0164. To the extent that the Compliance tariff for Docket 01-0164 meets with our Order, and there is no showing to the contrary, the Company will be found to satisfy this state law requirement, leading in part, to a favorable recommendation on Checklist Item 4. In other words, we await confirmation of the correctness of the compliance tariff for Docket 01-0614 in Phase II.

Pricing for Line Splitting

1588. Apparently AI does not provide a single price for line splitting. According to AI, this is a service, and not a UNE per se, such that a CLEC need only order the network elements at established prices. We see no FCC requirement to be controlling on the matter. AI might do well, however, to collaborate with CLECs and determine what scenarios for line splitting require additional work beyond that encompassed by loop and cross-connection rates.

Project Pronto

1589. While setting out a wealth of argument on Project Pronto**,** AT&T does not, in any way, rely on the FCC's Project Pronto Order.

1590. Simply put, the mostly policy-type arguments that AT&T here presents, either were or should have been provided in these earlier proceedings. Such matters are not open to dispute, or action, in this instance. It is only AI's compliance with this settled authority that concerns the Commission in this proceeding.

Compliance Tariff for Docket 00-0393

1591. To be sure, we see AT&T to contend that AI is not compliant with an Order of this Commission in Docket 00-0393 because its tariff does not exactly mirror the tariff appended to that order. There are two separate problems, however, that fail AT&T's assertions.

1592. (1) AT&T does not offer up or construe any of the narrative text (which discusses and resolves evidentiary matters) in that Order such as would support its contentions. It merely tracks differences between 2 documents, i.e., the Appendix to that Order and the tariff that AI filed in compliance with the Order, outside of any context whatsoever. This type of showing is not probative on the issue.

1593. (2) A failure of compliance with a certain order must be raised and decided in the proper forum. It is not viable for consideration in this type of proceeding. We are not acting as an adjudicatory body in this instance, but in an information gathering capacity.

1594. That said, AT&T has set out a matter of grave concern to this Commission. For present purposes, Ameritech Illinois needs to show that its tariff is compliant with our Order in Docket 00-0393. Until this showing is made, the Company will not meet the standards for provision of loops.

1595. As it stands, the Company and Staff will report to this Commission, in Phase II, on the propriety of Ameritech's compliance tariff for Docket 00-0393 and we urge the parties to resolve their differences in the interim.

Hot Cuts

1596. To its credit, XO's arguments, regarding the all day appointment, get right to the heart of the matter in dispute. It basically asks that the general process be utilized in a specific instance, i.e., when IDLC is involved.

1597. We are led to understand, however, that there are certain complications with IDLC that prevent AI from adhering to the standard hot cuts process that is generally employed. XO does not dispute this fact. As such, we are unable to accord XO its desired relief. This does not, however, preclude the parties from working out some type of different arrangement if at all possible.

1598. In response to our suggestion, AI refers to certain of the testimony indicating the Company's work to develop a 4-hour appointment window to replace the existing 8-hour window for IDLC that XO has put at issue. This work, AI maintains, has been completed, such that SBC-Illinois now offers a 4-hour window for IDLC hot cuts.

1599. The Commission is pleased with this effort, but will require the Company to make a showing on the matter in Phase II.

Facilities Modification

1600. According to XO, SBC-Illinois distinguishes between complex modification and loop conditioning. While the forms at issue do not contain a charge for complex modification, XO claims that there still are charges for loop conditioning. The XO complaint, as such, is that the forms do not offer enough information for it to determine the amount of these charges insofar as they only refer XO to its interconnection agreement or applicable tariff. A reference of this sort is of little value, XO argues, because it fails to include a specific description of the loop conditioning that is required, i.e., the number of impediments and the length of the loop.

1601. As to the two forms XO submitted that relate to loop conditioning, AI maintains that the length of the loop is shown on both. Further, AI asserts, XO overlooks the availability of the loop qualification process that enables CLECs to obtain information regarding the characteristics of a loop before they ever submit an order. To be sure, AI continues, the loop qualification is free, meaning that XO pays nothing.

1602. Given that XO takes no account of the loop qualification process, its complaint is incomplete and, in our view, not viable.

Loop Tagging

1603. The loop tagging issue has apparently been resolved by the action AI describes in its Initial brief, which is not, in any way, disputed by McLeod USA.

Rates for Subloop and Dark Fiber UNEs.

These matters are dealt with under Checklist Item 2.

Remedial Action

1604. Our concerns with respect to the satisfaction of Checklist Item 4 are centered on certain line-splitting matters discussed above and on the compliance tariff for Dockets 00-0393 and 01-0164. We expect the Company to address these concerns to our satisfaction in Phase II together with a showing on resolution of the "hot cuts" issue.

Phase II Showings

8. Review - Phase I Compliance Matters (Checklist Item 4).

a. SBC Illinois Evidence and Position.

The Line- Splitting Scenarios.

1605. According to SBC Illinois, it has made the additional required showings on each of the three line splitting scenarios identified in the Phase I Order. Phase I Order, ¶¶ 941, 946, 948, 950. Before addressing each scenario, SBC Illinois points out that, with the exception of Scenario C (which is only available in Illinois) it provides the same line splitting terms and conditions in Illinois that it offers in California. The FCC reviewed those SBC California line splitting procedures and found them to satisfy the requirements of Section 271. California 271 Order, ¶ 132. For this reason alone, the Company argues, its line splitting procedures fully comply with the requirements of Section 271.

Scenario A:

1606. Scenario "A" applies where a CLEC is currently providing voice service to an end user via UNE-P it purchases from SBC Illinois, and the CLEC elects to engage in line splitting so that it can provide voice and data services to that end user.

1607. Paragraphs 941 and 945 of the Phase I Order requested more detailed information regarding the single order process for line sharing to line splitting, which SBC Illinois provided by explaining that it implemented the single LSR process on August 3, 2002 and announced this to the CLEC community in Accessible Letter CLECAM02-326, provided as Attachment CAC-7. (SBC Ex. 4.0 (1/22/03 Chapman Aff.) ¶ 8.) This order process is fully operational and is documented in the CLEC Online Handbook. Ms Chapman provided relevant excerpts of this Online Handbook with her affidavit, outlining the non-discriminatory order procedures that a CLEC would use when taking advantage of the order process. (See, e.g., SBC Ex 4.0 (1/22/03 Chapman Aff.), Attachment CAC-2.)

1608. Ms. Chapman testifies that SBC Illinois has actually processed orders using this process. SBC Illinois further explains that it provides the single LSR process and the stand-alone UNEs to CLECs in a non-discriminatory manner, i.e., SBC Illinois makes no distinction in the way it processes orders from different CLECs for the UNEs necessary for line splitting. (SBC Ex 4.0 (1/22/03 Chapman Aff.) ¶ 10.)

1609. Staff agrees that SBC Illinois has made the required showing on the single LSR issue, (Staff Ex. 40.0 (Hoagg Rebuttal) ¶ 23), and has no objections to the Company's showing on any of the three scenarios.

1610. Ms. Chapman explains that while "AT&T expresses doubt that such process will work," Phase I Order at ¶ 941, in fact AT&T endorsed this same process when used by SBC California. In the California 271 proceeding, AT&T witness Eva Fettig told the FCC that "This operation [referring to SBC California's single LSR order process], takes an extremely short amount of time and creates no appreciable service disruption." Moreover, Ms. Chapman states that AT&T has used this process in California to process a substantial number of orders. (SBC Il. Ex 4.2 (3/17/03 Chapman Surrebuttal) ¶ 5. In short, she argues, AT&T cannot explain why it endorsed this very process in California, but now objects to it in Illinois.

1611. The Company notes AT&T to argue that SBC Illinois provided no evidence that its UNE-P to line splitting process works. AT&T Ex. 3.1 (DeYoung/Willard) ¶¶ 31-33.) SBC Illinois responds that this argument should not be credited since it simply overlooks the clear testimony and exhibits offered by Ms. Chapman that shows the process is both available and operational today. (SBC Ex 4.2 (3/17/03 Chapman Surrebuttal) ¶ 5.)

1612. AT&T also complains that the single LSR orders processed by SBC Illinois were handled on a managed basis. (AT&T Ex. 3.0 (DeYoung/Willard) ¶ 187.) The Company responds that these orders were managed at the request of the CLEC, not SBC Illinois, and that SBC Illinois should not be faulted for working cooperatively with a CLEC that is seeking assistance when using a new order process. The Company also argues that it made the single LSR process available in August 2002 and that it cannot be penalized because CLECs have not used the process yet for commercial volumes.

1613. In response to AT&T's contention SBC has not made this line splitting order process "widely available anywhere in it's service territory" (AT&T Ex. 3.0 (DeYoung/Willard) ¶ 189), the Company asserts that the single LSR process is available in all 13 states within SBC's service territory. (SBC Ex 4.1 (3/3/03 Chapman Rebuttal) ¶ 7.)

1. Scenario B:

1614. Scenario B involves a CLEC's request to change from an existing line sharing arrangement to a line splitting arrangement. SBC Illinois addresses two issues under this Scenario. First, the Proposed Order asks SBC Illinois to provide additional evidence showing that the 778 orders submitted by WorldCom were indeed rejected due to WorldCom's failure to provide the appropriate authorization from the data CLEC. Phase I Order, ¶ 943. SBC Illinois responds that, at WorldCom's request in April 2001, SBC Illinois performed a root cause analysis of 155 of these requests. In every instance, the reject reason was "Requested change impacts HFP(S)L services owned by another CLEC" -- the code used when a CLEC attempts to submit a request for line splitting without providing the proper authorization from the data CLEC. SBC Illinois provided a spreadsheet containing the information on these orders and stated that all of the 778 orders referenced by WorldCom were rejected for this reason. (SBC Ex. 4.0 (1/22/03 Chapman Aff.) ¶¶ 12-16 and Attachment CAC-4.)

1615. SBC Illinois goes on to explain that the appropriate CLEC order process for this type of request (i.e., line sharing to line splitting) is documented on the CLEC Online website. This portion of the CLEC Online Handbook was provided as Scenario 3 of Attachment CAC-1 to Ms. Chapman's Affidavit. (SBC Ex 4.0 (1/22/03 Chapman Aff.) ¶ 14.) According to SBC

Illinois, WorldCom did not follow this documented process. Instead, WorldCom simply submitted standard UNE-P requests. WorldCom filed nothing in Phase II to contest any of these facts.

1616. The second issue under Scenario B relates to whether SBC Illinois' provisioning process requires a physical separation of the loop, switch port and transport that is serving the end user. SBC Illinois explains that if a CLEC uses the order process that SBC Illinois has made available for this scenario, no physical changes in these network components will occur. (SBC Ex 4.0 (1/22/03 Chapman Aff.) ¶ 16.) SBC Illinois states that the only reason that a physical modification would take place in this situation would be if the CLEC requested that the unbundled elements be terminated to a different collocation.

1617. Staff raised no objection to the Company's processes under Scenario B.

2. Scenario C:

1618. Scenario C applies when (i) SBC Illinois is currently providing voice service to an end user and is providing the high frequency portion of the loop ("HFPL") to a CLEC in a line sharing arrangement, (ii) SBC Illinois is providing the splitter, and (iii) a voice CLEC wins the end user's voice service and makes arrangements with the data provider to enter in to a line splitting arrangement.

1619. SBC Illinois points out that the Proposed Order properly recognizes that there is no federal requirement for SBC Illinois to provide a splitter. Nonetheless, under the Commission's order in Docket 01-0164, SBC Illinois does have a limited obligation to provide a splitter in a line splitting situation when migrating from a line sharing arrangement using an SBC Illinois-owned splitter to a line splitting arrangement using the same SBC Illinois-owned splitter where the data provider remains the same. SBC Illinois describes this situation as "limited" because the vast majority of line sharing in Illinois occurs over CLEC-owned splitters. (SBC Ex 4.0 (1/22/03 Chapman Aff.) ¶ 17.) SBC Illinois explains that it has complied with this obligation and has been making this available since July 11, 2002, as announced in Accessible Letter CLECAM02-311. SBC Illinois adds that the ordering procedures for this offering are posted on SBC Illinois' CLEC Online website, relevant excerpts of which were provided as part of Attachment CAC-1. Nevertheless, SBC Illinois states that it has not yet received any orders for this scenario. (SBC Ex 4.0 (1/22/03 Chapman Aff.) ¶ 17.)

3. Neither Staff nor CLECs raised any specific concerns regarding Scenario C.

4. New Scenarios:

1620. SBC Illinois notes that the CLECs raise issues with respect to two "line splitting" scenarios not addressed in the Phase I Order. The first new issue involves the conversion from a line splitting arrangement back to a voice service. (AT&T Ex. 3.1 (DeYoung Rebuttal) at ¶¶ 34-

37; WorldCom Ex. 3.4 (Lichtenberg Rebuttal) ¶¶ 42, 45).[140] In the situation described, the end user has cancelled the CLEC's DSL Internet service, but the voice service will remain.

1621. As SBC Illinois witness Ms. Chapman explains in paragraphs 19-25 of her Rebuttal Affidavit, (SBC Ex. 4.1), if the requesting CLEC wishes to reuse both the existing DSL-capable loop and the port to provide the remaining voice service, the CLEC may simply connect the loop and port in its collocation arrangement. The CLEC can do this without any SBC Illinois involvement. Alternatively, if the CLEC wishes to provide service in a UNE-P arrangement, it may request that SBC Illinois provision a new UNE-P that combines the existing port with a new voice grade loop. Thus, SBC Illinois contends, CLECs have at least two options to disconnect data service and establish voice-only service.

1622. AT&T objects to using a "new" loop – apparently under the mistaken belief that a DSL-capable loop is the same as a "voice loop." (AT&T Ex. 3.1 (DeYoung/Willard Rebuttal) ¶ 36.) SBC Illinois explains that AT&T is wrong as a technical matter. When SBC Illinois provides UNE-P for basic analog voice service to a CLEC, it uses a "voice-grade" loop, i.e., a loop that meets the technical standards for SBC Illinois voice service. In contrast, when a CLEC orders UNEs to use in a line splitting arrangement, it receives a *DSL-capable* loop, i.e., a non-loaded copper loop that may be used for the provision of DSL service but which does not necessarily meet the technical standard for SBC Illinois voice loops. For this reason, when a CLEC seeks to "convert back" a stand-alone ULS-ST port to UNE-P, SBC Illinois does not use the existing DSL capable loop, but instead provisions a voice grade loop to effectuate the arrangement. (SBC Ex. 4.2 (3/17/03 Chapman Surrebuttal) ¶¶ 9-12.)

1623. The second new issue is AT&T's suggestion that the Commission's Phase I Order requires SBC Illinois to provide additional evidence regarding requests to go from line sharing to line splitting while changing the splitter and data provider. (AT&T Ex. 3.1 (DeYoung/Willard Rebuttal) ¶ 38.) This is simply wrong, SBC Illinois contends, because under both Scenario B and Scenario C, there is no change to the splitter arrangement. "The voice CLEC submits an order for the migration of the voice service to UNE-P while *the current splitter arrangement remains intact*. In this scenario, the data CLEC provides the splitter." Phase I Order, ¶ 947 (Emphasis added). According to SBC Illinois, AT&T's discussion involves an entirely new set of facts where there is a change in the splitter arrangement, and is well outside the scope of the Phase I Order. (SBC Ex. 4.2 (3/17/03 Chapman Surrebuttal) ¶ 13.)

1624. Finally, AT&T argues that SBC Illinois "refuses to provide any information" about the scenario described above. AT&T Ex. 3.1 (DeYoung/Willard Rebuttal) at ¶ 39. SBC Illinois responds that if AT&T has specific operational questions about SBC Illinois' order practices, SBC Illinois will certainly respond to AT&T's questions through its account team. (SBC Ex. 4.2 (3/17/03 Chapman Surrebuttal) ¶ 14.)

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[140] WorldCom claims that SBC Illinois' process for going from line splitting back to UNE-P (what she calls a "disconnection of DSL") requires a 7 day disconnection and the loss of a customer's phone number. The Company points out that this accusation completely overlooks Ms. Chapman's testimony that the process has no such problems. (SBC Ex. 4.1 (3/3/03 Chapman Rebuttal) ¶¶ 19-25.)

Cross Connections, Line Splitters and Minimized Disruption – Docket 0614

1625. Staff asserts that paragraph 968 of the Phase I Order requires SBC Illinois to prove that its compliance tariff in Docket 01-0614 meets three requirements:

(1) provides for cross connections between any UNE-P combination and facilities of any collocated carrier;

(2) provides for the use by CLECs (for line splitting purposes) of existing SBC Illinois' splitters; and

(3) provides for the most efficient processes and mechanisms feasible (consistent with safety and reliability considerations) in order to minimize any technically unavoidable service disruptions and CLEC line splitting arrangements.

(Staff Ex. 28.0 (Hoagg) ¶¶ 27-31.)

1626. SBC Illinois challenges the assertion that *any* of these three proposals are required by the Phase I Order and specifically challenges Staff's assertion that the third item is a requirement of Docket 01-0614. SBC Illinois further points out that the first two issues are moot because SBC Illinois witness Chapman demonstrated in her Rebuttal Affidavit that the Company's tariffs already contain the precise language Staff was looking for. (SBC Ex. 4.1 (3/3/03 Chapman Rebuttal) ¶¶ 16-18. Staff agrees (Staff Ex. 40.0 (Hoagg Rebuttal) ¶ 19), so these issues appear to be closed.

1627. With respect to item 3, however, disagreement remains. SBC Illinois argues that the proposed language is nowhere required in Docket 01-0614. In fact, Staff does not contend that this is an express requirement of Docket 01-0614; rather, Staff argues that this requirement ought to be imposed because it flows from the portion of the Docket 01-0614 Order that requires SBC Illinois to provide a splitter as part of a network element platform. (Staff Ex. 28.0 (Hoagg) ¶ 31.) SBC Illinois argues that this is a unique interpretation of the Docket 01-0614 Order that Staff did not advance in Phase I of this docket.

1628. Moreover, the Docket 01-0614 Order nowhere discusses whether the requirement under 801(d)(6) that "incumbent local exchange carriers should provide the requested network elements platform without any disruption to the end users services" has any relationship whatsoever to the CLEC line splitting situation Staff describes. The Company emphatically asserts that it does not, because a network element platform is distinctly different from a CLEC line splitting arrangement. A network element platform is a combination of UNEs that is provisioned and maintained on an end-to-end basis by SBC Illinois. In contrast, a line splitting arrangement is something the CLEC performs for itself by using SBC Illinois-provided loops and ULS-ST which the CLEC combines and maintains on an end-to-end basis for itself. In short, SBC Illinois argues that there is no support in the Phase I Order or in Docket 01-0614 for Staff's proposal. It is simply not a requirement of Section 271 and should be rejected. The Company also points us to paragraph 18 of our Phase I Order and argues that we are not to "entertain novel issues or reconsider settled issues or to impose new obligations" as proposed by Staff.

1629. In order to respond to Staff's concern, however, SBC Illinois has proposed tariff language that would establish some degree of parity between the Company's provisioning of the UNEs necessary to support a line splitting arrangement on the one hand, and the Company's provisioning of HFPL necessary to support a line sharing arrangement, on the other hand. (SBC Ex. 4.2 (Chapman Surrebuttal) Sch. CAC-8.) According to Ms. Chapman, if this type of language will address all of Staff's line sharing/line splitting concerns (including those discussed below regarding nondiscrimination), SBC Illinois is willing to make those tariff revisions.

"Parity" Between Line Sharing and Line Splitting

1630. Staff takes the position that SBC Illinois is legally obligated to provide two distinct arrangements -- line sharing and line splitting – in parity with one another. (Staff Ex. 40.0 (Hoagg Rebuttal) ¶ 29.)

1631. SBC Illinois contends that no such requirement exists and that the Commission should not go out of its way to create one in this proceeding. According to SBC Illinois, Staff urges the Commission to adopt this as a new requirement under a general "non-discrimination" theory. Id. In SBC Illinois' view, this is not the right time or the right place to consider this new theory. (SBC Ex. 4.2 (Chapman Surrebuttal) ¶¶ 15-16.)

1632. On the merits, SBC Illinois contends that Staff's proposal should be rejected for a variety of reasons. First, Staff's claim that non-discrimination principles require SBC Illinois to treat line sharing (presumably the HFPL UNE) in parity with line splitting (presumably the UNEs that SBC Illinois provides to support line splitting, i.e., DSL-capable loop and ULS-ST port) is overly vague. It is not clear whether Staff is saying that this is a provisioning issue that applies to HFPL and loops, or whether, as AT&T argues, this would require SBC Illinois to achieve parity in "provisioning intervals, disconnection of DSL, ease of ordering, and customer downtime". (AT&T Ex. 3.1 (DeYoung/Willard Rebuttal) ¶ 45.)

1633. Second, SBC Illinois observes that there are significant business and operational differences between line sharing and line splitting. In a line sharing arrangement, SBC Illinois provides the HFPL UNE. In a line splitting arrangement SBC Illinois provides a DSL-capable loop and an unbundled switch port with transport. In a line sharing arrangement, SBC Illinois continues to use the loop to provide retail voice service. By contrast, in a line splitting arrangement, SBC Illinois does not use the loop to provide service. In a line sharing arrangement, the data CLEC is SBC Illinois' customer for the HFPL UNE. In a line splitting arrangement, the data CLEC typically purchases the HFPL from the voice CLEC, who in turns purchases the UNEs from SBC Illinois. In a line sharing arrangement, the data provider may not condition the loop if doing so would degrade the end user's voice service below SBC Illinois' standards. In a line splitting arrangement, on the other hand, the CLECs can do whatever conditioning they like. These distinctions result in practical operational differences in ordering, loop conditioning, trouble reporting and maintenance obligations which prevent the parity standard Staff proposes. (SBC Ex. 4.1 (Chapman Rebuttal) ¶¶ 8-15.)

1634. Third, the DSL-capable loops and ULS-ST ports and transport used to support line splitting – just like other UNEs – are already included in the relevant performance measurements and are subject to remedy payments if provisioning intervals fall below the

required standard. For this reason, imposition of a new standard is unnecessary and Staff's argument that there is a danger that SBC Illinois will take 3 months to provision a loop for line splitting is simply untrue. (Staff Ex. 40.0 (Hoagg Rebuttal) ¶ 28.)

1635. Fourth, Staff implies that line sharing is some special, exclusive relationship between SBC Illinois and its data affiliate, AADS – but according to SBC Illinois this is not at all the case. (Id. ¶ 27.) Line sharing is merely the provision of the HFPL UNE over an existing SBC Illinois retail analog voice line and it is available to all CLECs. SBC Illinois contends Staff is equally wrong to suggest that some special protections are required because SBC Illinois and its data affiliate can offer voice and DSL internet service via line sharing, while the CLECs cannot use line sharing to offer a bundled voice and data offering. (Id. ¶ 28. The FCC has specifically found that ILECs do not have to offer line sharing when they do not provide voice service to the end user on that line. That *right* under FCC rules cannot become the basis for a new *obligation* under state law.

1636. Fifth, Staff argues that its parity standard is needed because "the FCC will phase out CLEC's ability to line share with SBC Illinois beginning this year". (Staff Ex. 40.0 (Hoagg Rebuttal) ¶28.) The Company points out that Staff is getting ahead of itself. Any new requirement in Illinois that is based on the FCC's Triennial Review Order should at least wait until that order is issued so that all parties can assess its impact.

Compliance Tariff for Docket 00-0393

1637. In our Phase I Order, the Commission required SBC Illinois to show that its Broadband UNE tariff complies with our Order in Docket 00-0393. In particular, we asked the Company and Staff to report to us on the propriety of SBC Illinois' compliance tariff and we urged the parties to resolve their differences, if any. Phase I Order, ¶¶ 954-959.

1638. SBC Illinois witness Patricia Fleck explained that SBC Illinois has made a number of recent changes to its Broadband UNE tariff and that, with these changes, there is no question that its tariff fully complies with our orders in Docket 00-0393. (SBC Ex. 5.0 (Fleck Aff.) ¶¶ 5-9.) In any event, SBC Illinois argues, this question is better addressed in Docket 03-0107, a proceeding which the Commission recently initiated to review this very issue. (SBC Ex. 5.1 (Fleck Rebuttal) ¶¶ 3-6.) SBC Illinois informs that this new docket arises from the suspension of an SBC Illinois tariff filing on January 17, 2003 that updated the Broadband UNE offering to more fully comply with the orders in Docket 00-0393. SBC Illinois further notes that in the FCC's February 20th Opening Meeting discussing the forthcoming Triennial Review Order, the FCC adopted new rules that, according to its press release, will provide substantial relief for broadband, including loops utilizing hybrid copper/fiber facilities. (SBC Ex. 5.1 (Fleck Rebuttal) ¶7.)

1639. Staff disagrees with SBC Illinois' analysis of whether the Company's tariff complies with the Commission's requirements in Docket 00-0393, but nonetheless agrees with Ms. Fleck that in light of the tariff investigation initiated in Docket 03-0107, and in light of the FCC's Triennial Review Order, this issue should not be addressed in this proceeding. (Staff Ex. 40.0 (Hoagg Rebuttal) ¶¶ 12-16.)

The Hot Cuts Process.

1640. In response to an issue raised by XO, SBC Illinois described its "hot cut" process, in which a loop is transferred from SBC Illinois to a CLEC on a coordinated basis to minimize down time to the end user. With respect to hot cuts for loops served by integrated digital loop carrier ("IDLC") systems, XO complained of the 8-hour window for the IDLC hot cut process. In response, SBC Illinois indicated that work was underway to develop a 4-hour appointment window to improve the process. At the end of Phase I, we noted that we were pleased with the effort but required a more concrete showing by the Company. Phase I Order, ¶¶ 960-963.

1641. SBC Illinois witness Justin Brown explains that, beginning November 9, 2002, SBC Illinois established a 4-hour commitment/appointment window for hot cuts involving IDLC. Under this new procedure, all coordinated hot cuts related to IDLC are scheduled during the commitment hours of 10:00 AM to 2:00 PM. If a CLEC requires a different 4-hour commitment window, the CLEC can request it by issuing a supplemental copy of a local service request ("LSR"). SBC Illinois states that the procedures surrounding this 4-hour commitment for IDLC hot cuts are set forth in an Accessible Letter dated November 9, 2002 that SBC Illinois provided to the CLEC industry, and according to SBC Illinois these procedures for 4-hour IDLC hot cuts are operational and in place today. (SBC Ex. 9.0 (Brown Aff.) ¶¶ 25-27.) No party to this proceeding disputes the Company's evidence regarding this process improvement.

b. Staff Position on Phase I Compliance Issues

Docket 00-0393 Compliance

1642. Staff notes that we determined in Phase 1 of this docket that SBC should take certain remedial actions In Phase 2 concerning UNE loops:

> Our concerns with respect to the satisfaction of Checklist Item 4 are centered on certain line splitting matters discussed above and on the compliance tariff for Dockets 00-0393 and 01-0164. We expect the company to address these concerns to our satisfaction in Phase II together with a showing on resolution of the "hot cuts" issue.[141]

1643. The Staff further directs our attention to Paragraphs 958 and 959 of the Phase 1 Interim Order in which we require SBC to demonstrate compliance with the Commission's Orders in Docket 00-0393:

> That said, AT&T has set out a matter of grave concern to this Commission. Ameritech Illinois needs to show that its tariff is compliant with our Order in Docket 00 - 0393. Until this showing is made, the company will not meet the standards for provision of loops.

[141] Phase 1 Interim Order On Investigation in Docket 01-0662 at paragraph 968.

> As it stands, the Company and Staff will report to this Commission, in Phase 2, on the propriety of Ameritech's compliance tariff for Docket 00-0393 and we urge the parties to result their differences in the interim. Phase I Order, ¶¶ 958-59

1644. The Staff believes that SBC Illinois witness Pat Fleck makes erroneous assertions concerning SBC's compliance with the Orders in Docket 00-0393. Nonetheless, the Staff notes that, in light of recent FCC actions concerning its Triennial Review (of federal rules governing availability of UNEs), this Commission should not rule on SBC Illinois' compliance with Docket 00-0393 requirements in this proceeding.

1645. The Staff is now of the opinion that the Commission can and should rule on SBC Illinois' compliance with Docket 00-0393 requirements in the newly initiated Docket 03-0107. In Docket 03-0107, a compliance investigation, the Commission can assess any impacts on Docket 00-0393 requirements that arise from the FCC's 2003 Triennial Review Order.

1646. Accordingly, the Staff now recommends that we find that the requirement set forth in paragraph 958 of the Phase I Interim remains vital, but refer this matter to the newly initiated Docket 03-0107. In the Staff's opinion, this would be an adequate resolution of this matter for purposes of Phase II of this proceeding.

Line Splitting – Single Order Process

1647. In Phase 1 of this proceeding, Staff directed our attention to the necessity of a "single order process" to support line splitting by CLECs providing voice service via UNE-P. The Phase 1 Interim Order on Investigation addressed this issue, and concluded as follows:

> AI now claims to be developing a single order process. A simple claim, however, is not sufficient for our purposes. Ameritech has the burden of presenting evidence to show that it offers a workable single order process. We wait such a showing in Phase II of this proceeding in order to verify the reality of the Company claims. Phase 1 Order, ¶ 946

1648. Staff notes SBC witness Chapman to address this issue in her January 22, 2003 affidavit. There, she asserts that SBC's single order process is "fully operational" and that it facilitates CLEC line splitting arrangements. However, the Staff contends that Ms. Chapman presents no evidence to support her claim. The Staff notes that we have already declared, "[a] simple claim is not sufficient for our purposes." Ms. Chapman's affidavit does not, in the Staff's view, provide the "evidence to show that [SBC] offers a workable single order process." Accordingly, the Staff urges further evidence to satisfy this directive. In response to questioning at the February 10, 2003 workshop in this proceeding, Ms. Chapman indicated that only a small

number of orders (approximately 25) have been filled utilizing the single LSR process, and that these were "managed" by SBC. Therefore, as of yet, the Staff is of the opinion SBC has failed to make the required showing that SBC's single LSR process is viable under conditions of normal order flow through.

1649. Ms. Chapman further asserts at paragraph 9 of her January 22, 2003 affidavit that the SBC single LSR process (in conjunction with CLEC cable pre-wiring from a collocation cage to SBC's main distribution frame) enables line splitting in UNE-P provisioning arrangements with "no appreciable service disruption". She asserts that AT&T has endorsed this process in California, and that this process is adequate for Commission purposes in this docket. The Staff professes to no direct knowledge concerning the validity of Ms. Chapman's assertion that AT&T finds the above-described processes acceptable in California, and reserves comment.

1650. Staff's reply directs attention to paragraphs 3 - 7 of Ms. Chapman's March 3, 2003 rebuttal affidavit, wherein she addresses this issue. In Staff's view, Ms. Chapman adequately explains the reasons underlying SBC's management of the orders received thus far, and clarifies that there is no impediment to use of the single order process at commercial volumes. Thus, Staff considers this issue resolved for purposes of Phase II of this proceeding, and recommends that we find SBC Illinois in compliance with the requirements of paragraph 946 of the Phase I Interim Order.

Line Splitting and Parity

1651. Staff observes that, in our Phase I Interim Order, this Commission concluded that SBC must take certain remedial actions to address Commission concerns regarding Checklist Item 4. Specifically, we found that:

> Our concerns with respect to the satisfaction of Checklist Item 4 are centered on certain line-splitting matters discussed above and on the compliance tariff for Dockets 00-0393 and 01-0164. We expect the Company to address these concerns to our satisfaction in Phase II together with a showing on resolution of the "hot cuts" issue.
>
> Phase I Interim Order, ¶ 968 [emphasis added]

1652. Further, we described a major line splitting requirement of the Phase I Interim Order as follows:

> [T]he Commission will require Ameritech to submit evidence of how the process [line splitting via UNE-P and CLEC owned splitters] works, and evidence that it is being provided in a nondiscriminatory manner, in Phase II of this proceeding.

Phase I Interim Order, ¶ 941 [Emphasis added]

1653. The Staff views it as significant that Ms. Chapman presents, in its view, no cogent argument or evidence that the process described (relying upon CLEC cable prewiring) satisfies SBC's obligation to make available the line splitting functionality in a nondiscriminatory manner. In paragraph 10 of her affidavit, Ms. Chapman argues that the above-described SBC practice is nondiscriminatory because "…SBC Illinois makes no distinction in the way it processes orders from different CLECs for the UNEs necessary for line splitting."

1654. This, in the Staff's estimation, fundamentally misses the point concerning SBC's obligations to provision line splitting in a non-discriminatory manner. The Staff views it as essential to a finding of non- discrimination generally is that SBC "treat" CLECs in a manner identical to (or sufficiently comparable to) its own operations or its own affiliate. In this application, SBC must show that parity (or sufficient comparability) exists between the provisioning of line splitting functionality to CLECs and the provisioning of data functionality to SBC's data affiliate (where SBC Illinois provides the voice service component). Staff contends that Ms. Chapman has provided no cogent argumentation or evidence to demonstrate that this requirement (as properly defined) has been satisfied. Unless and until SBC does so, it has not demonstrated that it has met all requirements concerning the provisioning of unbundled local loops.

1655. Accordingly, the Staff recommends that we reject SBC Illinois' erroneous position and hold the company to the proper standard for nondiscrimination in line splitting. That standard is parity between line splitting functionalities provided to CLECs and line-sharing functionalities provided to SBC's own data affiliate (where achievable). For any specific functionalities where parity is not achievable for technical or operational reasons, the proper standard is sufficient comparability. In any event, SBC Illinois should demonstrate comparability sufficient to persuade us that this crucial aspect of SBC's local services market is irreversibly open to competition.

1656. The Staff advises us that modest reflection is sufficient to reveal the fundamental flaw in SBC Illinois' position on this matter. SBC's combined voice/data offering to residential and small business end users is DSL and voice, provided via line sharing with its data affiliate. CLEC offerings that directly compete with this are enabled via line splitting. It should be noted that the FCC will phase out CLECs' ability to line share with SBC Illinois beginning this year, but SBC's ability to line share with its data affiliate (or "line share" with itself if it changes corporate structure to absorb the current data affiliate) will continue.

1657. Further, Staff argues, under SBC's formulation of nondiscrimination, it would be acceptable if it took 3 months to provision line splitting functionalities to CLECs, while it provisioned combined voice/DSL services (in conjunction with its affiliate) to end users in three days. While the Staff acknowledges that this hypothetical may be extreme, it illustrates the fundamental fallacy of SBC's position. SBC Illinois' position is consistent with an ability to discriminate at will against CLEC's attempting to provide (via line splitting) services directly competitive with SBC's combined voice/xDSL services.

1658. Staff notes that SBC Illinois raises two basic arguments to defend its position on this matter, both of which we should be rejected. First, SBC argues that the FCC has not imposed a nondiscrimination requirement on line splitting vis-à-vis line sharing in any previous Section 271 application, and thus we cannot or should not do so here.[142] This argument fails, the Staff argues, because the Commission has determined that it will assess SBC's Section 271 application in light of state specific requirements. The Staff recommends that we determine that sufficient comparability (and parity where achievable) between CLEC line splitting and SBC's own line sharing is essential to any determination we might make that SBC Illinois' local markets are irreversibly open to competition.

1659. Second, the Staff notes that SBC Illinois argues that operational and network differences between line sharing and line splitting render any nondiscrimination requirement between these two arrangements impossible or inappropriate to implement (see Ms. Chapman's rebuttal affidavit, ¶¶9-15). The Staff also urges us to find that this argument fails. From a central office network perspective, these arrangements are directly comparable, if not identical. Ms. Chapman acknowledged this upon questioning at the Phase II transcribed meeting on February 10, 2003, as follows:

> Q. I think you also discuss -- maybe you don't discuss this. But in converting UNE-P to line splitting from, again, a network facility standpoint, what's happening in the central office, what works going on, you'd agree with me that putting aside what carriers doing what, the work that's done is identical to work SBC would do when provisioning SBC branded DSL to its own voice customers?
>
> That is you take the loop to your data affiliate's cage and then cross-connect the voice portion of the loop back to the SBC switch?
>
> A. That is correct.
>
> Tr. at 2642-43

1660. The Staff contends this to mean that if the local loop provisioned in a line splitting arrangement is xDSL-capable, then from a network perspective CLEC line splitting and SBC Illinois' own line sharing arrangements are directly comparable.

1661. Moreover, the Staff indicates the differences between line splitting and line sharing pointed to by SBC Illinois are overstated and arise largely from a faulty premise. Ms.

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[142] ICC Docket No. 01-0662, Phase II Compliance Rebuttal Affidavit of Carol Chapman, March 3, 2003 at par. 15.

Chapman's March 3, 2003 rebuttal affidavit contains the assertion that compliance with the appropriate nondiscrimination standard Staff advocates would:

> [M]ake SBC responsible for the way that two CLECs cooperate to engage in line splitting. In effect, SBC Illinois would be required to act as the middleman between the CLECs so that they would not have to cooperate with each other, and SBC Illinois would handle everything for them. Chapman Rebuttal Affidavit, ¶15

1662. The Staff asserts that, for any CLEC that has agreed to (or acknowledged the need for) a so-called "single customer of record" arrangement to support line splitting, this is an egregious misstatement. For all such carriers, for purposes of ensuring nondiscrimination, the operational relationship between the line splitting CLECs and SBC Illinois will be comparable to the relationship between SBC Illinois and its own line sharing data affiliate.

1663. To the degree that any differences exist between specific aspects or components of line splitting and line sharing that render a parity nondiscrimination standard infeasible, the Staff considers that it is SBC's burden to point these out and demonstrate, that sufficient comparability exists between provisioning of these two arrangements (for such specific aspects). If SBC Illinois fails to do so, the Staff recommends that we find that the crucial requirement set forth in paragraph 941 of our Phase I Interim Order has not been satisfied.

Compliance with the Order in Docket 01-0614

1664. The Staff reminds us that we determined in Phase 1 of this docket that SBC should take certain remedial actions In Phase 2 concerning UNE loops:

> Our concerns with respect to the satisfaction of Checklist Item 4 are centered on certain line splitting matters discussed above and on the compliance tariff for Dockets 00-0393 and 01-0164. We expect the company to address these concerns to our satisfaction in Phase II together with a showing on resolution of the "hot cuts" issue.[143]

1665. The Staff notes SBC has not yet addressed, as we directed it to, the adequacy of its compliance tariff with respect to our Order in Docket 01-0614. The Staff directs the Commission's attention to the Order in Docket 01-0614, which, it claims, sets forth two major requirements concerning line splitting. First, Staff concludes that the only permissible

[143] Phase 1 Interim Order On Investigation in Docket 01-0662, at paragraph 968.

restrictions on the availability and use of cross-connects for line splitting by CLECs involve safety and network reliability:

> The Commission also accepts the Joint CLEC proposal relating to the requirement that Ameritech provide cross connects between the facilities of collocated and non-collocated carriers and rejects Ameritech proposed language that would provide cross connects only between the facilities of collocated carriers as without the requirements of section 13-801(c). Section 13-801(c) plainly requires Ameritech to allow, and provide for, cross connects between a noncollocated telecommunications carrier's network elements platform, or a noncollocated telecommunications carrier's transport facilities, and the facilities of any collocated carrier, consistent with safety and network reliability standards.

At Paragraph 81 of the same Order, it was determined that:

> [We] agrees with the Joint CLECs that Section 13 – 801(c) contemplates the exact type of cross-connects that are necessary to provision line splitting without disrupting the end-users service and to retain the feature [i.e., joint voice and data service] intact. There would seem to be little other utility to CLECs from ordering Ameritech to provide this service except to support line splitting, where one CLEC becomes the voice provider and one CLEC becomes the data provider to an end user that currently has voice and data service over a copper loop.

Finally, in paragraph 83 of this Order, there is language that:

> [T]he network platform, as defined by the Legislature in the new enactments, contemplates Ameritech's provision of splitters and the line splitting arrangement as contemplated by the Joint CLECs. Accordingly the Joint CLECs proposed tariff language on this issue is accepted.

1666. The Joint CLEC proposed tariff language addressing cross-connects, adopted in the Order for Docket 01-0614, states:

> Ameritech Illinois will allow, and at the request of the carrier will provide, cross connects between and UNE-P combination and the facilities of any collocated carrier.

1667. Staff argues that SBC Illinois must now demonstrate, in its March 3, 2003 responsive affidavits, that its current tariff contains specific provision(s) that comply with this requirement.

1668. A second major determination identified by the Staff concerning line splitting was summed up in paragraph 80 of the Order in Docket 01-0614 as follows:

> [A] requesting telecommunications carrier that seeks to provide the customer the same feature as the customer was receiving must be entitled to the use of an existing splitter if the end-users features are to remain intact. This is especially so given the Legislature's requirement that the requesting carrier be provided the platform "without any disruption to the end user's services." The only way that this can be accomplished is if the splitter is part and parcel to the platform. Any other scheme would, of necessity, require some disruption of service.

1669. The Staff argues that, to comply with this directive, SBC's tariff must provide for the use of existing splitters by CLECs seeking to engage in line splitting. Moreover, literal compliance requires that SBC's tariff provide for a seamless transition to line splitting, with no service disruption whatever. It is the Staff's understanding, however, that the involved parties acknowledge that some minimal service disruption is unavoidable for purely technical reasons. Given this, Staff contends that SBC's tariff must, at an absolute minimum:

(1) provide for use by CLECs (for line splitting purposes) of existing SBC splitters; and

(2) provide for the most efficient processes and mechanisms feasible (consistent with safety and reliability considerations) in order to minimize any technically unavoidable service disruptions in CLEC line splitting arrangements.

1670. The Staff's position is that SBC must demonstrate that its tariff contains provisions that adequately address these two issues immediately. In its reply, Staff further notes that compliance with our Orders in Docket 01-0614 requires that SBC Illinois' tariffs:

(a) permit appropriate cross connects between any UNE-P combination and the facilities of any collocated carrier;

(b) provide for the use by CLECs (for line splitting purposes) of existing SBC splitters; and

(c) provide for the most efficient processes and mechanisms feasible (consistent with safety and reliability considerations) in order to minimize any technically unavoidable service disruptions in CLEC line splitting arrangements.

1671. It is the Staff's opinion that SBC Illinois witness Carol Chapman, (in her March 3, 2003 rebuttal affidavit at paragraphs 16 through 18), adequately addresses the obligations set forth in items (a) and (b) above. Ms. Chapman's affidavit, avers the Staff, makes clear that the required and appropriate provisions indeed are present in SBC Illinois' tariff. In the Staff's opinion, these issues are resolved for purposes of this docket. Accordingly, the Staff recommends that the Commission find that SBC complies with these two particular Docket 01-0614 requirements.

1672. With respect to item (c) of paragraph 18 (above), SBC Illinois has not, in the Staff's estimation, demonstrated that its tariff provides for:

> the most efficient processes and mechanisms feasible (consistent with safety and reliability considerations) in order to minimize any technically unavoidable service disruptions in CLEC line splitting arrangements.

1673. Staff draws our attention to how Ms. Chapman addressed this issue in response to questions posed during the Phase II transcribed meeting on February 10, 2003, and specifically to the following exchange:

> Q. I think you also discuss -- maybe you don't discuss this. But in converting UNE-P to line splitting from, again, a network facility standpoint, what's happening in the central office, what works going on, you'd agree with me that putting aside what carriers doing what, the work that's done is identical to work SBC would do when provisioning SBC branded DSL to its own voice customers?
>
> That is you take the loop to your data affiliate's cage and then cross-connect the voice portion of the loop back to the SBC switch?
>
> A. That is correct.

> Q. And you would think that the downtime, the average downtime in provisioning line – UNE-P line splitting or line sharing to your own voice customers using your -- the SBC data affiliate, that the customer downtime on voice should be identical?
>
> A. Yes, it should be equivalent. That's been our practice is to make sure that we handle it the same way.
>
> Tr. at 2642-43

1674. It is the Staff's opinion that Ms. Chapman thus makes clear that SBC recognizes that any technically unavoidable downtime should be equivalent (on average) between line splitting arrangements and SBC's own line sharing arrangements with its data affiliate (i.e., nondiscrimination). She further recognizes that from an operational and performance perspective this equivalency can and should, on average, be achieved. According to Staff, SBC Illinois now simply should demonstrate in its surrebuttal filings that its tariff contains language directly addressing this comparability (in a manner consistent with Ms. Chapman's above response), or add such language to its tariff. If SBC fails to take either action to the our satisfaction, the Staff recommends that we should not find SBC Illinois in compliance with our Docket 01-0614 Orders. In that event also, Staff recommends that we decline to endorse SBC Illinois' Section 271 application.

C AT&T's Position.

Line Splitting.

1675. AT&T submitted the joint direct and rebuttal affidavits of Sarah DeYoung and Walt Willard on the issues concerning line splitting (AT&T Ex. 3.0 and 3.1). In their affidavits, Ms. DeYoung and Mr. Willard detail the significant operational deficiencies of SBC Illinois' line splitting processes. Based on those deficiencies, AT&T's affiants demonstrate that: (1) there is no evidence (through commercial experience or Bearing Point testing) that SBC Illinois' line splitting processes work in practice, and (2) SBC Illinois' line splitting processes, even as described, are unworkable in practice. In addition, AT&T contends that SBC Illinois' line splitting practices are plainly discriminatory, as SBC's versioning policy and other practices severely undercut the ability of voice and data CLECs to use line splitting *with the same ease and in the same manner* as SBC "shares" its voice lines with itself, i.e. via its DSL affiliates.

1676. AT&T explains that it has a keen business interest in line splitting. AT&T, a national voice carrier, and Covad, a national DSL carrier, have entered into a partnership to do just what the FCC contemplated. AT&T Ex. 3.0, ¶ 183. AT&T provides voice service and Covad provides DSL service to AT&T UNE-P customers. AT&T and Covad have sought to "work around" SBC Illinois' requirement that there must be one customer of record (e.g., the voice carrier) in a line splitting situation. AT&T has therefore authorized Covad to use AT&T's Operating Company Number ("OCN") to submit line splitting orders to SBC Illinois on behalf of

existing AT&T voice customers, thereby migrating AT&T UNE-P customers to UNE-P/line splitting arrangements. AT&T will provide the voice service to such customers and will have the primary relationship with the customer, and Covad will offer the data services through the available line splitting capabilities. AT&T retains the billing responsibilities for the customer, and Covad performs the necessary work in its collocation space to provision the customer's DSL service. With this division of responsibilities, AT&T and Covad are preparing to offer this packaged service in Illinois. AT&T Ex. 3.0, ¶ 183.

SBC's Line Splitting Processes Have Not Been Tested.

1677. Like Staff, AT&T concluded that SBC Illinois has provided no reliable commercial experience to demonstrate that its line splitting processes are working in practice. In addition, the third-party testing of SBC Illinois' OSS by Bearing Point also provides no reliable indication of the capability and capacity of those OSS to process, and provision, line splitting orders. In fact, Bearing Point has not tested the "one-order" process to migrate UNE-P to line splitting with UNE-P (Commission Scenario A), which just recently became available. AT&T Ex. 3.0, ¶ 189-90. Thus, AT&T concludes that SBC Illinois cannot credibly claim that it has the capability to provide line splitting until it can demonstrate that it can provision line splitting orders on a commercial basis.

SBC's Line Splitting Process

1678. AT&T's affiants further testified that even based on what we do know about SBC Illinois' line splitting process – and how it will allow the proposed AT&T/Covad line splitting orders – there are serious operational concerns about SBC Illinois' ability to provision such orders on a nondiscriminatory basis.

1679. Chief among AT&T's concerns is SBC' so-called "versioning" policy. AT&T Ex. 3.0, ¶¶ 115-139, 192-196. This "versioning" policy provides that each carrier shall have a unique company name (the "Access Carrier Name Abbreviation" or "ACNA") and OCN for a state. Once a carrier submits an order with its specified ACNA and OCN, all subsequent orders submitted by that OCN must be sent in the same version of EDI used to place the first order. Any order submitted using a different version of EDI is rejected. AT&T Ex. 3.0, ¶¶ 116-117, 119, 192. No other RBOC places a comparable restriction on CLECs. In fact, in the Bell South and Verizon regions, CLECs that submit orders with a single OCN but that have different trading partner IDs can each use a different version of EDI. AT&T Ex. 3.0, ¶ 118.

1680. Operationally, SBC's versioning restriction means that in order for a voice and a data carrier to partner in providing their services, the data carrier must use the voice carrier's OCN to submit line splitting orders. And under SBC's versioning policy, any orders the data carrier places over the EDI gateway will be rejected if it does not use the same version of EDI as the voice carrier. AT&T Ex. 3.0, ¶ 119-120.

1681. Based on the above, AT&T's affiants conclude that SBC's versioning policy is a complete barrier to any voice carrier offering line splitting at competitive volumes in conjunction with any data CLEC. AT&T Ex. 3.0, ¶¶ 120-129, 194-196. According to AT&T, this problem affects all three of the line splitting scenarios identified by the Commission. As simply put by AT&T, it is totally unrealistic for a voice carrier and their data partner to be on the same version of EDI to be able to enter line splitting orders. *Id.* AT&T's Ms. DeYoung and Mr. Willard conclude that SBC's position is commercially unreasonable, makes partnering between CLECs impossible, and violates the FCC's requirement that ILECs make network modifications and provide access to network elements to accommodate line splitting which, by its very nature, involves multiple carriers. *Line Sharing Reconsideration Order,* ¶ 20 & n. 36.

1682. AT&T further explains that SBC Illinois' versioning policy is discriminatory. AT&T Ex. 3.0, ¶ 196. SBC's versioning policy is not a barrier to line sharing by SBC Illinois with its DSL affiliates. And because SBC Illinois retail does not utilize CLEC OSS interfaces, SBC's DSL affiliate does not have to use the same EDI version as SBC to share SBC's voice loops. To comply with its obligations under Section 271, two years after the *Line Sharing Reconsideration Order*, SBC must demonstrate that it can provide line splitting on a commercially reasonable basis without any versioning requirement".

1683. In its rebuttal testimony, AT&T points out that SBC Illinois does not dispute the effect of its versioning policy, but only seeks to make excuses for it. While SBC Illinois is right that this policy has been in existence for some time, it has become particularly acute – and taken on broader 271 implications – in light of the obstacles that it presents to implementation of voice/data CLEC partnering to provide line splitting. AT&T Ex. 3.1, ¶ 43.

SBC's Process for Disconnecting Data Over Line-Split Lines

1684. In its direct testimony, AT&T explains its understanding of SBC Illinois' process for migrating from UNE-P/line splitting to UNE-P (i.e., where the customer cancels CLEC data service but retains CLEC voice service). During the collaborative sessions, SBC Illinois' Ms. Chapman was asked numerous questions concerning how a CLEC could convert existing UNE-P/line splitting to a traditional voice arrangement, with line splitting cross connection being eliminated and the loop and port directly connected. Clearly, the import of those questions was to figure out how AT&T could request that SBC convert a line splitting arrangement back to UNE-P. In those collaboratives, Ms. Chapman gave every indication that such reconfiguration was not possible. Tr. 2654-2658. Indeed, as AT&T noted, despite detailed questioning regarding the same, Ms. Chapman offered no detailed information concerning how a CLEC could request a reconfiguration of the voice-only UNE-P arrangement, except to say that SBC Illinois would not help. In its direct case, AT&T attacked this policy as discriminatory, as SBC retail faces no such obstacles.

1685. In her surrebuttal, AT&T notes, Ms. Chapman supplemented her answer and explained that CLECs could use an existing one-order-process to request a migration from UNE-P with line splitting back to voice-only UNE-P, albeit with a change in the loop. AT&T provided additional comment on this process in its rebuttal testimony. AT&T Ex. 3.1, ¶¶ 36-37. First of all, Ms. Chapman's lack of full disclosure, lack of knowledge, and/or equivocation on this scenario demonstrates that, at best, SBC Illinois is still struggling to define its processes on key line splitting scenarios. AT&T Ex. 3.1, ¶ 35.[144]

1686. In addition, even the process Ms. Chapman now defines – for converting from line splitting to a voice-only UNE-P configuration – is deficient. This is because SBC Illinois refuses to "re-use" the existing and working loop and requires that CLECs order – and pay for – a new loop. AT&T Ex. 3.1, ¶ 36. SBC follows a different scenario when making an identical conversion from line sharing (with its affiliate) to retail POTS service, however. In that case, SBC admits that in all cases it takes down all cross connects and re-uses the existing loop. Tr. 2660-2665. *See also* SBC's Joint Reply Affidavit of Carol Chapman and Mark J. Cottrell filed in FCC/WC Docket No. 03-16 ¶ 10 n.18.[145] This policy starkly disadvantages CLECs by: (1) imposing a loop connection charge -- a charge that is unnecessary seeing that the CLEC has already purchased and paid SBC all associated nonrecurring charges for the existing loop, and (2) imposing a complicated provisioning process that will lead to needless service disruption for CLEC customers – issues that SBC voice/DSL customers will never face. AT&T Ex. 3.1, ¶¶ 36-37. AT&T concludes that SBC is denying CLECs access to unbundled network elements in a manner equal to what it provides to itself, and therefore is violating its nondiscrimination obligations under Section 251.

SBC's Three-Order Process For Converting Line Sharing to Line Splitting (Commission Scenario B).

1687. AT&T's Ms. DeYoung and Mr. Willard also took issue with SBC Illinois' cumbersome three-order-process of converting line sharing to line splitting. AT&T Ex. 3.0, ¶¶ 202-205. As noted by AT&T, the conversion of line sharing to line splitting (Commission Scenario B) should be accomplished via a simple record change. As this Commission found in its Phase 1A Order: "Because no central office wiring changes are necessary in a conversion from line sharing to line splitting, the FCC expects ILECs to work with CLECs to develop streamlined ordering processes for migrating from line sharing to line splitting that avoid service

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[144] Ms. Chapman's lack of full disclosure during the collaboratives should call into question her reliability. Ms. Chapman was one of three SBC witnesses that were found to have provided false testimony to the FCC concerning SBC's OSS capabilities. *See In the Matter of SBC Communications, Inc., Apparent Liability for Forfeiture*, FCC No. 01-308 (rel. Oct. 16, 2001).

[145] *In the Matter of Application of SBC Communication Inc., Michigan Bell Telephone Company, and Southwestern Bell Communications Services, Inc. for Provision of In-Region, InterLATA Services in Michigan,* WC Docket No. 03-16.

disruption and make use of existing DSL capable loop."[146] AT&T details why SBC flunks each of these requirements.

1688. As explained by Ms. Chapman, SBC's process for migrating line sharing to line splitting requires CLECs to navigate through a three-order process including: (1) a disconnect order of the data service, when in fact no such disconnection takes place, (2) an order to connect the xDSL capable loop to the data CLECs cage, when in fact that connection is already in place, and (3) an order to connect the port to the data CLEC's cage, although the port is already so connected. Quite obviously, according to AT&T, each of these three orders is unneeded, and SBC's ordering requirements make ordering the migration cumbersome and unwieldy from a CLEC perspective. AT&T Ex. 3.0, ¶ 202.

1689. In addition, this ordering process raises the probability of disconnection of the customer's voice and/or data while the migration is taking place. This is because the first order in the SBC-three-order-process is a disconnect order. Because these three orders will eventually find their way to an SBC Central Office technician, there is a great risk that the technician will do exactly what the orders tell him/her to do, i.e., disconnect the existing arrangement, thereby resulting in customer loss of voice and data services. AT&T Ex. 3.0, ¶ 203.

1690. AT&T further points out that SBC Illinois' three-order process has another result, which makes the pricing of this migration non-TELRIC based. SBC is proposing to charge CLECs the nonrecurring charges (NRCs) (totaling $4.93) associated with the port and loop service order charges, which are usually charged when SBC is provisioning a stand alone loop or port. That is not the case here. During the Michigan 271 review, the Michigan Commission directed SBC to charge the UNE-P migration charge (of $0.35 in Michigan, $1.02 in Illinois) for line sharing to line splitting migrations, reflecting the fact that both such migrations are pure record changes.[147] AT&T believes that the Illinois Commission should do the same. AT&T Ex. 3.0, ¶ 204.

Other Line Splitting Scenarios.

1691. Although SBC provided information concerning the three line splitting scenario identified by the Commission, AT&T argues that its filings did not define SBC's processes for handling other important line splitting scenarios. Specifically, in its direct case, AT&T had asked that SBC Illinois provide information concerning one other likely line splitting scenario: the conversion of a combined SBC voice/DSL line-shared customer to CLEC combined voice/DSL (via UNE-P/line splitting) – where the customer's data is switching from SBC to the CLEC. Ensuring that this scenario works seamlessly in practice is essential, as it would allow CLECs to compete directly for SBC's bundled voice/DSL customers, as AT&T points out.

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[146] Phase I Order, ¶ 925.

[147] October 3, 2002 Opinion and Order, MSPC Case No. U012320, p. 16.

1692. Instead of providing this information, SBC refused, claims it was beyond the scope of the Commission's Phase I Order. In its rebuttal, AT&T took issue with SBC Illinois' refusal to provide this information, noting that it is vitally important. This scenario allows a CLEC to convert an existing SBC Illinois voice/DSL customer to a bundled CLEC voice/DSL offering. Thus, if CLECs are to compete with SBC, this migration must work with ease. AT&T Ex. 3.1, ¶ 39.

1693. AT&T also notes that in Michigan, SBC Illinois stated its intent to provision this migration using the same three-order process described for Commission Scenario B. As noted above, AT&T believes that process is cumbersome and unnecessary.

b. Docket 00-0393 Compliance

1694. AT&T contends that SBC Illinois has failed to comply with the Commission's Orders in Docket 00-0393 in numerous respects. Notwithstanding the evidence it presented in this docket to support these contentions, AT&T agrees with SBC Illinois that the issue of whether SBC Illinois's end-to-end Broadband UNE tariff complies with the Commission's Orders in ICC Docket 00-0393 should be addressed in ICC Docket 03-0107. The Commission initiated Docket 03-0107 after Phase II of this proceeding was initiated by suspending the end-to-end Broadband UNE tariff revisions filed by SBC Illinois in January of this year and initiating ICC Docket 03-0107 to investigate that tariff. AT&T agrees with SBC Illinois that SBC's compliance with the Commission's Orders in Docket 00-0393 is best addressed in that proceeding.

d. Commission Review and Conclusion.

1695. In our Phase I Interim Order, we directed the Company to make certain specific showings. Here follows our review and assessment of the evidence presented.

The Hot Cuts Process.

1696. Based on SBC Illinois' evidentiary showing, and the lack of any dispute as to that showing, we find that the Company has addressed the IDLC hot cut issue to our satisfaction such that this matter is no longer a concern in this proceeding.

Line-Splitting.

1697. Based on the record, we find that SBC Illinois has made the requisite showings as directed by the Phase I Order. We are particularly persuaded by the fact that SBC Illinois uses

the same line sharing/line splitting processes used in California which were reviewed by the FCC in the California 271 Application and found to comply with Section 271 requirements.

1698. While SBC Illinois has a procedure for Scenario C which was not reviewed by the FCC, that is an additional procedure available to CLECs and in no way detracts from the FCC's endorsement of the procedures for Scenarios A and B. We put great weight on the fact that these procedures, to this extent, have already received FCC 271 approval. Against this backdrop, we now turn to a consideration of each scenario.

1699. With respect to Scenario A, we find that SBC Illinois has demonstrated that it has in place an operational process for the conversion of UNE-P to line splitting and that it administers that process in a nondiscriminatory manner. More important, we find that SBC Illinois has in place a workable single order process for this scenario.

1700. With respect to Scenario B, we find that SBC Illinois has in place a streamlined process for migrations between line sharing and line splitting that avoids voice and data service disruptions and satisfies of the FCC's requirement. In particular, we are persuaded by Ms. Chapman's testimony that SBC Illinois has in place an operational process, and that such process is fully explained in an Accessible Letter and in the CLEC Online Handbook.

1701. Finally, with respect to Scenario C, we find that SBC Illinois complies with the requirements of Docket 01-01614 in that it offers ILEC-provided splitters as part of a platform of network elements, and that such offering is part of its compliance tariff. As a final matter, we note that the Company reports that there are no line splitting-specific charges that are not captured in rates for the individual elements that CLEC use in a line splitting arrangement. For this reason, it is not necessary for this Order to address any unique charges for line splitting.

1702. The Commission rejects the AT&T/WorldCom attempt to input consideration of new line sharing/line splitting scenarios beyond those outlined in the Phase I Order. We were quite clear in the Phase I Order in our identification of those specific scenarios that we directed SBC Illinois to address. These scenarios were based on an extensive Phase I record, on the law, and on a full and fair opportunity for CLECs to raise all line splitting/line sharing issues of concern and to do so in a clear and coherent fashion. Notably, Staff posits no objection to the Company's showing.

1703. In any event, SBC Illinois provides avenues for CLECs to pursue refinement of procedures for new line sharing/line splitting scenarios that they believe need to be addressed. We encourage AT&T to avail itself of this opportunity at the outset. This proceeding, however broad it may be, is not the appropriate place to pursue such issues in the first instance, without exhausting other, and even more effective options. For all of these reasons, we are fully satisfied that SBC Illinois has made the required showings on line splitting/line sharing issues and we require nothing further.