

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Application by SBC Communications Inc.,	)	
Nevada Bell Telephone Company, and	)	WC Docket No. 03 -10
Southwestern Bell Communications Services,	)	
Inc., for Authorization To Provide In-Region,	)	
InterLATA Services in Nevada	)	
	)	
	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: April 14, 2003**

**Released: April 14, 2003**

By the Commission: Commissioners Martin and Adelstein issuing separate statements;  
Commissioner Copps concurring and issuing a statement.

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### I. INTRODUCTION

1. On January 14, 2003, SBC Communications Inc. and its subsidiaries, Nevada Bell Telephone Company, and Southwestern Bell Communications Services, Inc. (collectively, Nevada Bell or Applicant) filed this application pursuant to section 271 of the Communications Act of 1934, as amended,<sup>1</sup> for authority to provide in-region, interLATA service originating in the State of Nevada.<sup>2</sup> We grant Nevada Bell's application in this Order based on our conclusion that Nevada Bell has taken the statutorily required steps to open its local exchange markets in Nevada to competition.

2. Nevada Bell serves only a portion of the lines in Nevada, and its serving area is characterized by low population density and few urban centers.<sup>3</sup> Nevada Bell serves just over 371,000 access lines in an area encompassing approximately 48,000 square miles.<sup>4</sup> Even

<sup>1</sup> We refer to the Communications Act of 1934, as amended by the Telecommunications Act of 1996 and other statutes, as the Communications Act or the Act. *See* 47 U.S.C. §§ 151 *et seq.* We refer to the Telecommunications Act of 1996 as the 1996 Act. *See* Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

<sup>2</sup> *See Application by SBC Communications Inc., Nevada Bell Telephone Company, and Southwestern Bell Communications Services, Inc. for Provision of In-Region, InterLATA Services in Nevada*, WC Docket No. 03-10 (filed Jan. 14, 2003) (Nevada Bell Application).

<sup>3</sup> Nevada Bell Application at 7.

<sup>4</sup> *Petition for Review and Approval of the Draft Application by SBC Communications, Inc., Nevada Bell Telephone Company and Southwestern Bell Communications Services, Inc. d/b/a Nevada Bell Long Distance, for Provision of In-Region InterLATA Services in Nevada*, Recommendation in Support of Nevada Bell Telephone (continued....)

including the most populous city, Las Vegas, which is not in Nevada Bell's serving area, Nevada is one of the most sparsely populated states in the nation.<sup>5</sup>

3. In granting this application, we wish to acknowledge the effort and dedication of the Nevada Public Utilities Commission (Nevada Commission), for the significant time and effort expended in overseeing Nevada Bell's implementation of the requirements of section 271. The Nevada Commission reviewed Nevada Bell's section 271 compliance in open proceedings with ample opportunities for participation by interested third parties. In addition, it adopted a comprehensive Performance Measurement Plan, as well as a Performance Incentives Plan (PIP) designed to create a financial incentive for post-entry compliance with section 271.<sup>6</sup> As the Commission has recognized, state proceedings demonstrating a commitment to advancing the pro-competitive purpose of the Act serve a vitally important role in the section 271 process.<sup>7</sup>

## II. BACKGROUND

4. In the 1996 amendments to the Communications Act, Congress required that the Bell Operating Companies (BOCs) demonstrate compliance with certain market-opening requirements contained in section 271 of the Act before providing in-region, interLATA long distance service. Congress provided for Commission review of BOC applications to provide such service in consultation with the affected state and the Attorney General.<sup>8</sup>

(Continued from previous page) \_\_\_\_\_

Company's Application to the Federal Communications Commission for Provision of In-Region, InterLATA Services in Nevada, P.U.C.N. Docket No. 00-7031, at 26 (Dec. 17, 2002) (*Nevada Commission Order*).

<sup>5</sup> Nevada Bell Application at 7; Nevada Bell Application App. A, Vol. 5, Tab 19, Affidavit of J. Gary Smith, (Nevada Bell Smith Aff.) at para. 4; *Nevada Commission Order* at 26. See also Federal Communications Commission, *Statistics of Communications Common Carriers*, Tables 2.1 and 2.4 (2002).

<sup>6</sup> Nevada Bell Application App. A, Vol. 3, Tab 11, Affidavit of Daniel O. Jacobsen (Nevada Bell Jacobsen Aff.) at para. 40; *Nevada Commission Order* at 207-13.

<sup>7</sup> See, e.g., *Application of Verizon New York Inc., Verizon Enterprise Solutions, Verizon Global Networks Inc. and Verizon Select Services, Inc. for Authorization To Provide In-Region, InterLATA Services in Connecticut*, CC Docket No. 01-100, Memorandum Opinion and Order, 16 FCC Rcd 14147, 14149, para. 3 (2001) (*Verizon Connecticut Order*); *Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) and Verizon Global Networks Inc. for Authorization To Provide In-Region, InterLATA Services in Massachusetts*, CC Docket No. 01-9, Memorandum Opinion and Order, 16 FCC Rcd 8988, 8990, para. 2 (2001) (*Verizon Massachusetts Order*).

<sup>8</sup> The Commission has summarized the relevant statutory framework in prior orders. See, e.g., *Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, CC Docket No. 00-217, Memorandum Opinion and Order, 16 FCC Rcd 6237, 6241-42, paras. 7-10 (2001) (*SWBT Kansas/Oklahoma Order*), *aff'd in part, remanded in part sub nom. Sprint Communications Co. v. FCC*, 274 F.3d 549 (D.C. Cir. 2001); *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 No. 99-295, Memorandum Opinion and Order, 15 FCC Rcd 3953, 3961-63, paras. 17-20 (1999) (*Bell Atlantic New York Order*), *aff'd, AT&T Corp. v. FCC*, 220 F.3d 607 (D.C. Cir. 2000).

5. On July 24, 2000, Nevada Bell filed its draft section 271 application to provide in-region, interLATA service, with the Nevada Commission. Because of the Nevada Commission's reliance on Pacific Bell's operations support system (OSS) testing in California, the Nevada Commission divided the proceeding into two phases.<sup>9</sup> The first phase encompassed hearings and a collaborative workshop only upon those checklist items that did not rely on the result of OSS testing in California.<sup>10</sup> The second phase, commenced after the completion of the California OSS testing, encompassed checklist items that relied on the California results.<sup>11</sup> In addition, after the release of the California OSS test results in December 2000, Nevada Bell engaged Pricewaterhouse Coopers (PwC) to attest that Nevada Bell's and Pacific Bell's OSS met the "sameness" standards set out in the *SBC Kansas/Oklahoma Order*.<sup>12</sup>

6. On December 17, 2002, the Nevada Commission released its recommendation concluding that Nevada Bell had successfully complied with the 14 checklist items set out in section 271. The Nevada Commission also determined that Nevada Bell had demonstrated the "sameness" of its OSS with that of Pacific Bell in California, utilizing the roadmap and standard established by the Commission.<sup>13</sup> On the issue of whether Nevada Bell satisfied the requirements of section 271(c)(1)(A) (Track A), the Nevada Commission noted that Nevada Bell

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<sup>9</sup> Nevada Bell Jacobsen Aff. at para. 52; *Nevada Commission Order* at 18.

<sup>10</sup> Phase One hearings were conducted in October through early December 2000. The issues addressed included the following topics: State Regulatory Background; Number Administration; Wholesale Account Management; Poles, Ducts, Conduits and Rights-of-Way; Billing; Operator Services/Directory Assistance/White Pages; State of Competition; Network; and Wholesale Policy. In December 2000, after completion of the hearings, parties participated in a collaborative process that was facilitated by Nevada Commission staff, and focused mainly on checklist items three (Poles, Ducts, Conduits and Rights-of-Way), nine (Numbering Administration), twelve (Local Dialing Parity) and thirteen (Reciprocal Compensation). Nevada Bell Jacobsen Aff. at para. 53.

<sup>11</sup> Phase Two of the Nevada Commission proceedings was further subdivided into two subphases: A and B. The hearing in Phase Two-A was conducted on April 9, 10, and 11, 2001, and covered the following topics: Public Interest; Accounting Safeguards; Economic Impacts; and Section 272 Compliance. Nevada Bell Jacobsen Aff. at para. 54; *Nevada Commission Order* at 22. The Nevada Commission conducted the hearing in Phase Two-B on October 22, 2001, which covered the following topics: Structural Separation of Advanced Services; Wholesale Provisioning of Advanced Services; Performance Measures and Incentives; Operations Support Systems; Local Number Portability; and "Sameness" of OSS between California and Nevada. At the hearing, the participating parties presented an oral stipulation of the parties which, among other things, requested that the Nevada Commission close the evidentiary record by accepting the testimony that had been filed, and reserve an exhibit number for the document to be issued by the California Commission as the final order on Pacific Bell's section 271 application or a final decision on Pacific Bell's OSS. The stipulation also provided that upon Nevada Bell filing this exhibit, the parties would file briefs and reply briefs on the entire Nevada section 271 proceeding. Nevada Bell Jacobsen Aff. at para. 58; *Nevada Commission Order* at 24.

<sup>12</sup> Nevada Bell Jacobsen Aff. at para. 61.

<sup>13</sup> *Nevada Commission Order* at 52; see also *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6288-91, paras. 111-16; *Application by SBC Communications Inc., Pacific Bell Telephone Company, and Southwestern Bell Communications Services Inc., for Authorization To Provide In-Region, InterLATA Services in California*, WC Docket No. 02-306, Memorandum Opinion and Order, 17 FCC Rcd 25650, 25685-90, paras. 72-80 (2002) (*Pacific Bell California Order*).

had made the showing that at least two facilities-based competitive local exchange carriers (LECs) provide primarily facilities-based service to business carriers, and several competing carriers provide service to residential subscribers pursuant to resale.<sup>14</sup> Although the Nevada Commission expressed its belief that such a showing would satisfy the requirements of Track A, it deferred that determination to this Commission.<sup>15</sup>

7. The Department of Justice filed its evaluation on February 21, 2003, recommending approval of the Nevada Bell application.<sup>16</sup> The Department of Justice concludes that, given the levels of entry in Nevada for business customers, the absence of any evidence that Nevada Bell has behaved anticompetitively, and the evidence concerning Pacific Bell's California OSS, opportunities are available for competitive carriers to serve business customers in Nevada.<sup>17</sup> The Department of Justice also concludes that, based on the absence of competitive carrier complaints in this proceeding, and the evidence concerning Pacific Bell's California OSS, Nevada Bell has fulfilled its obligations to open its markets to residential competition.<sup>18</sup> On the issue of whether Nevada Bell has satisfied the statutory requirements of Track A, the Department of Justice "defer[s] to the Commission's expert judgment in interpreting its own statute."<sup>19</sup>

### III. PRIMARY ISSUES IN DISPUTE

8. In a number of prior orders, the Commission discussed in considerable detail the analytical framework and particular legal showing required to establish checklist compliance.<sup>20</sup> In this Order, we rely upon the legal and analytical precedent established in those prior orders. In addition, we include comprehensive appendices containing performance data and the statutory framework for evaluating section 271 applications.<sup>21</sup> In reviewing this application, we examine

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<sup>14</sup> Nevada Commission Order at 53.

<sup>15</sup> Nevada Commission Order at 55.

<sup>16</sup> Department of Justice Evaluation at 2. Section 271(d)(2)(A) requires us to give "substantial weight" to the Department of Justice's evaluation. 47 U.S.C. § 271(d)(2)(A).

<sup>17</sup> Department of Justice Evaluation at 6.

<sup>18</sup> Department of Justice Evaluation at 6.

<sup>19</sup> Department of Justice Evaluation at 7.

<sup>20</sup> See, e.g., *Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services Inc., d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996, To Provide In-Region, InterLATA Services in Texas*, CC Docket No. 00-65, Memorandum Opinion and Order, 15 FCC Rcd 18354, 18359-61, 18365-78, paras. 8-11, 21-40, 43-58 (2000) (*SWBT Texas Order*); *Bell Atlantic New York Order*, 15 FCC Rcd at 3961-63, 3966-69, 3971-76, paras. 17-20, 29-37, 43-60; see also Appendix D.

<sup>21</sup> See generally Appendices B (Nevada Performance Data), C (California Performance Data), and D (Statutory Requirements). See also *Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in* (continued...)

performance data as reported in monthly performance reports reflecting service in the period of September 2002, through January 2003.

9. We focus in this Order on the issues in controversy in the record. Accordingly, we begin by addressing whether we should waive our procedural rules and consider Nevada Bell's late-filed evidence regarding Track A, and whether the application qualifies for consideration under Track A. Next, we address checklist item two (Unbundled Network Elements, or UNEs), checklist item four (unbundled local loops) and checklist item one (interconnection). The remaining checklist items 3 and 5 through 14 are discussed only briefly, as they received no attention from commenting parties. We also discuss issues concerning compliance with section 272 and the public interest requirements.

#### A. Complete-As-Filed Waiver

10. Before evaluating Nevada Bell's compliance with the requirements of section 271, we discuss why we accord evidentiary weight to the Nevada Bell survey and affidavits regarding the broadband Personal Communications Service (PCS) provider Cricket Communications that Nevada Bell filed on day 31 to support its Track A arguments. The Commission maintains certain procedural requirements governing BOC section 271 applications.<sup>22</sup> In particular, the "complete-as-filed" requirement provides that when an applicant files new information after the comment date, the Commission reserves the right to start the 90-day review period again or to accord such information no weight in determining section 271 compliance.<sup>23</sup> We maintain this requirement to afford interested parties a fair opportunity to comment on the BOC's application, to ensure that the Attorney General and the state commission can fulfill their statutory consultative roles, and to afford the Commission adequate time to evaluate the record.<sup>24</sup> The Commission can waive its procedural rules,

(Continued from previous page) \_\_\_\_\_  
*Rhode Island*, CC Docket No. 01-324, Memorandum Opinion and Order, 17 FCC Rcd 3300, Apps. B, C, and D (2002) (*Verizon Rhode Island Order*); *Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Arkansas and Missouri*, CC Docket No. 01-194, Memorandum Opinion and Order, 16 FCC Rcd 20719, Apps. B, C, and D (2001) (*SWBT Arkansas/Missouri Order*); *Application of 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, Memorandum Opinion and Order, 16 FCC Rcd 17419, 17508-545, Apps. B and C (2001) (*Verizon Pennsylvania Order*).

<sup>22</sup> See *Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, DA 01-734 (CCB rel. Mar. 23, 2001) (*Mar. 23, 2001 Public Notice*).

<sup>23</sup> See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6247, para. 21.

<sup>24</sup> See *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 No. 97-137, Memorandum Opinion and Order, 12 FCC Rcd 20543, 20572-73, paras. 52-54 (1997) (*Ameritech Michigan Order*).

however, “if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.”<sup>25</sup>

11. For reasons discussed below, we waive the complete-as-filed requirement pursuant to Nevada Bell’s request<sup>26</sup> to the extent necessary to consider Nevada Bell’s late-filed Track A evidence. We first conclude that the special circumstances before us warrant a deviation from the general rules for consideration of late-filed information. Nevada Bell responded to criticism in the record regarding its showing as to whether Cricket Communications’ broadband PCS offering satisfied the requirements of Track A.<sup>27</sup> We note that Nevada Bell responded expeditiously to such criticisms by submitting explanatory evidence with regard to Cricket Communication’s market presence in Nevada and whether Nevada customers were substituting Cricket’s service for their wireline telephone service.

12. This is not a situation in which the BOC has attempted to maintain high rates or other anticompetitive conditions only to modify the rates or terms at the last minute in order to gain section 271 approval. The evidence Nevada Bell submitted was factual in nature, and existed regardless of whether and when Nevada Bell commissioned the study to discern the extent of Cricket’s market presence. Thus, this appears to be a case where the Applicant has submitted additional evidence to respond quickly and positively to concerns raised in the record, rather than strategically delayed taking actions necessary to comply with the statute at the expense of commenting parties and Commission staff. Moreover, the evidence Nevada Bell submitted was straightforward to evaluate. Because the evidence was filed on day 31, the Bureau had sufficient time to place the evidence on public notice and request comments specific to the evidence submitted.<sup>28</sup> The Department of Justice was able to consider this evidence<sup>29</sup> and parties to the proceeding were able to file comments on the additional Track A evidence, allowing the Commission to fully evaluate this evidence in considering Nevada Bell’s application.<sup>30</sup> Indeed, no party objected to the late-filed nature of the evidence and the only party submitting reply comments addressed Nevada Bell’s Track A evidence.<sup>31</sup> Thus, we see no reason to believe that submission of Nevada Bell’s Track A evidence in any way prejudiced any party to the proceeding or diminished the ability of the Commission to evaluate the application.<sup>32</sup>

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<sup>25</sup> *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969); *see also* 47 U.S.C. § 154(j); 47 C.F.R. § 1.3.

<sup>26</sup> Nevada Bell Track A Reply at 15.

<sup>27</sup> *See* WorldCom Comments at 5-7.

<sup>28</sup> *Comments Requested Regarding SBC’s Track A Reply Comments in Connection with SBC’s Pending Section 271 Application*, Public Notice, DA 03-461 (WCB rel. Feb. 14, 2003).

<sup>29</sup> Department of Justice Evaluation at 7-8.

<sup>30</sup> *See* WorldCom Reply Comments at 5-8.

<sup>31</sup> *See* WorldCom Reply Comments at 5-8.

<sup>32</sup> *See, e.g., Verizon Rhode Island Order*, 17 FCC Rcd at 3307, para. 9.

Under these circumstances, we believe that consideration of Nevada Bell's additional evidence better serves the Commission's interest in ensuring a fair and orderly 271 process than restarting the 90-day clock.

13. We also conclude that grant of this waiver will serve the public interest and thus will satisfy the second element of the waiver standard described above. Grant of this waiver credits Nevada Bell's affirmative response to questions in the record concerning its Track A evidentiary showing and its otherwise persuasive section 271 application. In addition, grant of this waiver permits the Commission to act on this section 271 application quickly and efficiently, without the delays inherent in restarting the 90-day clock. Given that interested parties have had an opportunity to comment on this evidence, we do not believe that the public interest would be served in this instance by strict adherence to our procedural rules.

#### **B. Compliance With Section 271(c)(1)(A)**

14. In order for the Commission to approve a BOC's application to provide in-region, interLATA services, the BOC must first demonstrate that it satisfies the requirements of either section 271(c)(1)(A) (Track A) or section 271(c)(1)(B) (Track B).<sup>33</sup> To meet the requirements of Track A, a BOC must have interconnection agreements with one or more competing providers of "telephone exchange service ... to residential and business subscribers."<sup>34</sup> In addition, 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."<sup>35</sup> The Commission has concluded that section 271(c)(1)(A) is satisfied if one or more competing providers collectively serve residential and business subscribers,<sup>36</sup> and that unbundled network elements are a competing provider's "own telephone exchange service facilities" for purposes of section 271(c)(1)(A).<sup>37</sup> The Commission has further held that a BOC must show that at least one "competing provider" constitutes "an actual commercial alternative to the BOC,"<sup>38</sup> which a BOC can do by demonstrating that the provider serves "more than a *de*

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<sup>33</sup> 47 U.S.C. § 271(c)(1); Appendix D at paras. 15-16.

<sup>34</sup> *Id.*

<sup>35</sup> 47 U.S.C. § 271(c)(1)(A).

<sup>36</sup> *Ameritech Michigan Order*, 12 FCC Rcd at 20589, para. 85; *see also Application by BellSouth Corporation, et al., Pursuant to Section 271 of the Communications Act of 1934, as Amended, To Provide In-Region, InterLATA Services in Louisiana*, CC Docket No. 98-121, Memorandum Opinion and Order, 13 FCC Rcd 20599, 20633-35, paras. 46-48 (1998) (*BellSouth Second Louisiana Order*).

<sup>37</sup> *Ameritech Michigan Order*, 12 FCC Rcd at 20598, para. 101.

<sup>38</sup> *Application by SBC Communications Inc., Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services in Oklahoma*, CC Docket No. 97-121, Memorandum Opinion and Order, 12 FCC Rcd 8685, 8695, para. 14 (1997) (*SWBT Oklahoma Order*).



*minimis* number” of subscribers.<sup>39</sup> The Commission has held that Track A does not require any particular level of market penetration and the United States Court of Appeals for the District of Columbia has affirmed that the Act “imposes no volume requirements for satisfaction of Track A.”<sup>40</sup>

15. We conclude that Nevada Bell satisfies the requirements of Track A in Nevada. The Nevada Commission, although it developed a factual record and believed Nevada Bell satisfied Track A, deferred the issue of Nevada Bell’s compliance with Track A requirements to the Commission.<sup>41</sup> Nevada Bell relies on interconnection agreements with Advanced Telecom Group, WorldCom, and Cricket Communications in support of its Track A showing.<sup>42</sup> These interconnection agreements are “...binding agreements that have been approved under section 252 specifying the terms and conditions under which [Nevada Bell] is providing access and interconnection to its network facilities ...”<sup>43</sup> as required under section 271(c)(1)(A). We find that Advanced Telecom Group and WorldCom each serve more than a *de minimis* number of business end users predominantly over their own facilities and represent “actual commercial alternatives” to Nevada Bell for business telephone exchange services.<sup>44</sup> As we explain further below, we find that Cricket Communications, a PCS provider, serves more than a *de minimis* number of residential users over its own facilities and, for purposes of section 271 compliance, represents an actual commercial alternative to Nevada Bell for residential telephone exchange services.<sup>45</sup>

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<sup>39</sup> *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6257, para. 42; *see also Ameritech Michigan Order* 12 FCC Rcd at 20585, para. 78.

<sup>40</sup> *Sprint v. FCC*, 274 F.3d at 553-54; *see also SBC Communications Inc. v. FCC*, 138 F.3d 410, 416 (D.C. Cir. 1998) (“Track A does not indicate just how much competition a provider must offer in either the business or residential markets before it is deemed a ‘competing’ provider.”).

<sup>41</sup> *Nevada Commission Order* at 55. The Nevada Commission concluded that WorldCom and ATG provide facilities-based service to business customers and that other carriers provide resale service to residential customers. *Id.*

<sup>42</sup> Nevada Bell Jacobson Aff., Attach. D; Nevada Bell Smith Aff. at para. 5.

<sup>43</sup> 47 U.S.C. § 271(c)(1)(A).

<sup>44</sup> Nevada Bell Smith Aff. at para. 5; Nevada Bell Smith Aff., Attach. D (*citing confidential information*). Nevada Bell estimates that competing LECs now serve at least 37,700 business access lines in Nevada. Nevada Bell Smith Aff. at para. 10.

<sup>45</sup> Because we conclude that Nevada Bell has satisfied Track A through its showing for Cricket Communications, we do not need to determine whether the other competitive carriers Nevada Bell cites serve more than a *de minimis* number of residential subscribers sufficient to satisfy Track A. Nevada Bell Smith Aff at paras. 11-13; Nevada Bell Supplemental Track A Reply at 5-8, 11-13; Nevada Bell Supplemental Track A Reply, Reply Affidavit of J. Gary Smith at paras. 4-9 (*Nevada Bell Smith Reply Aff.*); Department of Justice Evaluation at 7-9; *see contra* WorldCom Comments at 2; WorldCom Reply at 1-5; Letter from Keith Seat, Senior Counsel – Federal Advocacy, WorldCom, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-10, at 1 (filed Mar. 25, 2003) (WorldCom Mar. 25 *Ex Parte* Letter).

## 1. Broadband PCS Constitutes Telephone Exchange Services for Purposes of Section 271(c)(1)(A)

16. The Commission has previously determined that broadband PCS<sup>46</sup> satisfies the statutory definition of a telephone exchange service for section 271(c)(1)(A) purposes, and that broadband PCS may form the basis of a Track A finding.<sup>47</sup> In the *BellSouth Second Louisiana Order*, the Commission found that the broadband PCS service at issue there constitutes a telephone exchange service for purposes of Track A, notwithstanding the different technical configuration, service characteristics, and service charges of broadband PCS and wireline service.<sup>48</sup> Similarly, here we find that Cricket Communications' residential broadband PCS offering in Nevada also is a "telephone exchange service" for purposes of Track A.<sup>49</sup> The Commission recognized at that time that broadband PCS provides some advantages and disadvantages over wireline telephone services. For instance, consumers may be willing to pay a premium for broadband PCS in light of the benefits of mobility.<sup>50</sup> We reject WorldCom's argument that the price premium for broadband PCS or the technical differences between broadband PCS service and traditional wireline service (e.g., slower transmission speed for data or inability to have multiple handsets for the same phone number) should exclude a consideration of broadband PCS as a telephone exchange service for Track A purposes.<sup>51</sup> The limitations listed by WorldCom are not new limitations to broadband PCS and were features of the BellSouth broadband PCS service that the Commission concluded in 1998 constituted a telephone exchange service for purposes of section 271(c)(1)(A).<sup>52</sup> As in the *BellSouth Second Louisiana Order*, while there are certain technical and functional differences between broadband PCS and wireline exchange service we conclude, based on the current record, that these differences are not sufficient to prevent Cricket's broadband PCS offering from fitting within the definition of telephone exchange service for purposes of section 271. Nor do we see any other reason to reconsider our finding that a Track A compliance can be based on a broadband PCS provider.

17. In the *BellSouth Second Louisiana Order*, the Commission determined that to satisfy Track A, a BOC must show that consumers are using broadband PCS in lieu of and not as

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<sup>46</sup> Broadband PCS refers to mobile telephony service authorized in the 1850-1910 and 1930-1990 MHz bands. 47 C.F.R. § 24.200.

<sup>47</sup> *BellSouth Second Louisiana Order*, 13 FCC Rcd at 20606, 20622-23, paras. 11, 29-30.

<sup>48</sup> *BellSouth Second Louisiana Order*, 13 FCC Rcd at 20622, para. 29.

<sup>49</sup> *BellSouth Second Louisiana Order*, 13 FCC Rcd at 20622-23, paras. 29-30.

<sup>50</sup> *BellSouth Second Louisiana Order*, 13 FCC Rcd at 20624, para. 32.

<sup>51</sup> WorldCom Comments at 6-7; WorldCom Reply at 7; WorldCom Mar. 25 *Ex Parte* Letter at 2-3.

<sup>52</sup> Nevada Bell Track A Reply at 9; WorldCom Comments at 6-7. See *BellSouth Second Louisiana Order*, 13 FCC Rcd at 20621-22, 20624, paras. 28-29, 32.

a supplement to their wireline telephone service.<sup>53</sup> The Commission found that relevant evidence could include studies identifying customers that had used broadband PCS in lieu of wireline service, as well as marketing efforts by broadband PCS providers designed to induce replacement of wireline service with broadband PCS service.<sup>54</sup> The Commission noted that the persuasive value of any study would depend upon the quality of the survey and statistical methodology used in the study.<sup>55</sup> The Commission also indicated that a survey used for this purpose should include a question asking the respondent whether he or she subscribes to a wireline service or should otherwise verify that the subscriber does not have a wireline service.<sup>56</sup>

## 2. Nevada Bell's Broadband PCS Evidence

18. We find that the evidence submitted by Nevada Bell adequately demonstrates that more than a *de minimis* number of Cricket customers use their service in lieu of wireline telephone service. The record shows that Cricket's marketing efforts stress that its product is a substitute for residential local telephone service. Further, we find that Nevada Bell's survey also demonstrates that Cricket customers use Cricket service in lieu of wireline telephone service. In particular, we find that the survey was random, contains statistical analysis of sufficient quality to allow us to rely on it for the purpose of showing compliance with Track A, and suffers from none of the fundamental flaws discussed in the *BellSouth Second Louisiana Order*.<sup>57</sup>

19. Nevada Bell's Track A showing relies upon a description of similarities between Cricket's broadband PCS and traditional wireless service, a survey of Cricket's customers in Nevada,<sup>58</sup> and examples of Cricket Communications' marketing strategy.<sup>59</sup> Cricket

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<sup>53</sup> *BellSouth Second Louisiana Order*, 13 FCC Rcd at 20623-24, paras. 31-32. The Commission recognized that it may be difficult to determine whether a customer subscribes to broadband PCS as a complement to a wireline service or in place of a second line. *BellSouth Second Louisiana Order*, 13 FCC Rcd at 20623-24, para. 31, n.71.

<sup>54</sup> *BellSouth Second Louisiana Order*, 13 FCC Rcd at 20623-24, paras. 31-32.

<sup>55</sup> *BellSouth Second Louisiana Order*, 13 FCC Rcd at 20624, para. 32.

<sup>56</sup> *BellSouth Second Louisiana Order*, 13 FCC Rcd at 20628, para. 39.

<sup>57</sup> *BellSouth Second Louisiana Order*, 13 FCC Rcd at 20625-28, paras. 35-39.

<sup>58</sup> Nevada Bell Smith Aff. at paras. 14-21; Nevada Bell Supplemental Track A Reply Comments at 8-11; Nevada Bell Supplemental Track A Reply, Tab 1, Reply Affidavit of J. Gary Smith, at paras. 10-16 (*Nevada Bell Smith Reply Aff.*) Nevada Bell Supplemental Track A Reply, Tab 2, Keith Frederick Affidavit, at paras. 6-24 (*Nevada Bell Frederick Aff.*).

<sup>59</sup> The Commission has recognized in other contexts that substitution between wireless and local telephony service has increased, and that some broadband PCS carriers, and in particular Cricket Communications, have purposefully designed their service packages to compete directly with wireline local telephone service. *See In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order and Second Further Notice of Proposed Rulemaking, FCC 02-329, para. 21 (rel. Dec. 13, 2002); Federal Communications Commission, Seventh Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, FCC 02-179, at 32-36 (2002) (*Seventh CMRS Competition Report*); Federal Communications Commission, Sixth Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial (continued....)

Communications is a facilities-based broadband PCS provider operating in Reno, Sparks, and Carson City, Nevada.<sup>60</sup> As noted in Leap Wireless' (Cricket Communications' parent) press releases and Securities and Annual Report, Cricket service is marketed as a "landline replacement."<sup>61</sup> As with residential wireline service, subscribers to Cricket pay a flat monthly fee for unlimited local calling from its service area in Nevada and for unlimited incoming calls, pay additional per-minute charges for outgoing long distance calls, and may subscribe to vertical features for an additional monthly charge.<sup>62</sup> We note that newspaper ads encourage consumers to replace their home phones with Cricket service and that the home web-page for Cricket directly markets this service as a substitute for residential local telephone service with a large print header inviting subscribers to "Get this home phone free."<sup>63</sup> We find that, consistent with the *BellSouth Second Louisiana Order*, this evidence is persuasive in demonstrating that broadband PCS is being used to replace wireline service in Nevada.

20. In addition to Cricket's marketing materials, Nevada Bell submits the results of a large, random telephone survey of Cricket's subscribers in Nevada conducted by FrederickPolls.<sup>64</sup> We find the quality of that survey and the statistical methodology of the survey sufficient to establish that Cricket Communications is an actual commercial alternative to Nevada Bell for purposes of Track A compliance and that more than a *de minimis* number of consumers use Cricket broadband PCS service in lieu of Nevada Bell's local wireline telephone service.<sup>65</sup> The FrederickPolls survey is consistent with the evidentiary framework established by the Commission in the *BellSouth Second Louisiana Order*. The Commission found that the persuasive value of any study of broadband PCS and wireline service competition would depend upon the quality of the survey and statistical methodology used in the study.<sup>66</sup>

(Continued from previous page)

Mobile Services, FCC 01-192, at 32-34 (2001) (*Sixth CMRS Competition Report*). We note that Leap Wireless, Cricket Communications' parent, reports that it has succeeded as a landline substitute as 26% of its customers do not subscribe to any traditional landline phone service at home, and that its customers use approximately 1,200 minutes per month, more than triple the industry average for PCS and cellular customers. Letter from Laurie Itkin, Director – Government Affairs, Leap Wireless, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 95-116, at 2 (filed Feb. 25, 2003).

<sup>60</sup> Nevada Bell Smith Aff. at para. 17; Nevada Bell Frederick Aff. at 5.

<sup>61</sup> Nevada Bell Smith Aff, Attach. D (Leap Wireless 2001 Annual Report); *Leap Reports Results for Third Fiscal Quarter of 2002* (Nov, 13, 2002); *Leaping over Landline: Leap Leads Wireline Displacement Trend*, (June 24, 2002).

<sup>62</sup> Nevada Bell Smith Aff. at para. 15-17; Nevada Bell Frederick Aff. at para. 5 n.1.

<sup>63</sup> Nevada Bell Smith Aff, at 17, Nevada Bell Smith Aff., Attach E. We also take administrative notice that Cricket's website invites subscribers to "Get this home phone free." <http://www.cricketcommunications.com> (visited Feb. 27, 2002).

<sup>64</sup> Nevada Bell Frederick Aff. at para. 6-7.

<sup>65</sup> Nevada Bell Frederick Aff. at paras. 8-24.

<sup>66</sup> *BellSouth Second Louisiana Order*, 13 FCC Rcd at 20624, para. 32.

21. First, consistent with the framework established in the *BellSouth Second Louisiana Order*, the survey asks directly whether the Cricket billpayers have a wireline phone service in their home.<sup>67</sup> Specifically, the survey measures two types of replacement by Cricket users: (1) Cricket billpayers who do not now have wireline telephone service in their homes and (2) Cricket billpayers who do not now have wireline telephone service in their homes and had subscribed to such service prior to deciding to initiate Cricket service.<sup>68</sup> We reject WorldCom's criticism that respondents did not understand that the term "wireline" referred to traditional local telephone service because the word is immediately followed by the phrase "local telephone service in their home."<sup>69</sup> There is no reason to believe that the respondents, who are consumers of wireless phone service, are incapable of understanding the difference between wireless phone service, wireline phone service, and a cordless wireline phone. Moreover, if the respondent was unsure of what the term meant, the phrase "wireline local telephone service" was defined.<sup>70</sup>

22. Second, the FrederickPolls survey is based on a randomly-selected sample of Cricket customers in Nevada.<sup>71</sup> Third, we find that the survey results themselves establish a sufficient number of individuals to satisfy Track A requirements, eliminating the need to extrapolate from the survey results to the larger population of Cricket customers. In this respect, the survey conducted by FrederickPolls is significantly different than the survey proffered by BellSouth in the *Louisiana II proceeding*.<sup>72</sup> We conclude that the survey respondents that stated that they do not have a local wireline telephone in their home are sufficient to establish that Cricket is a commercial alternative to Nevada Bell and that more than a *de minimis* number of

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<sup>67</sup> *BellSouth Second Louisiana Order*, 13 FCC Rcd at 20627-28, para. 39; Nevada Bell Frederick Aff. at para. 12; Nevada Bell Frederick Aff., Attach. B.

<sup>68</sup> Nevada Bell Frederick Aff. at para. 6.

<sup>69</sup> WorldCom Reply at 6; WorldCom Mar. 25 *Ex Parte* Letter at 5. We further reject WorldCom's arguments that the survey improperly suggested to the respondents that they had disconnected their wireline phone. See WorldCom Mar. 25 *Ex Parte* Letter at 5. As we state above, we find that the survey asked direct questions as required by the *BellSouth Second Louisiana Order*.

<sup>70</sup> Wireline local telephone service was defined as, "dial-tone phone service provided by your local phone company that allows you to make and receive phone calls by plugging your home phone into a wall-jack." Nevada Bell Frederick Aff., Attach. B; Nevada Bell Supplemental Track A Reply at 6-7; Nevada Bell Frederick Aff., at para. 11.

<sup>71</sup> Cricket has been assigned 40,000 telephone numbers in Nevada Bell's service territory. Eight thousand telephone numbers were randomly selected from these 40,000 numbers. Calls were placed to these telephone numbers during the first week in February. Nevada Bell Frederick Aff. at paras. 9-12. The Commission has recognized that the randomness of any survey will be affected to some extent by the unwillingness of some parties to participate. *BellSouth Second Louisiana Order*, 13 FCC Rcd at 20627, para. 37, n.86.

<sup>72</sup> FrederickPolls determined that, of the 1,841 survey respondents, 912 Cricket customers do not currently have wireline telephone service in their homes, and 345 of the 912 customers indicated that they previously had wireline local telephone service that was disconnected or terminated because they decided to have a Cricket phone. Nevada Bell Frederick Aff. at paras. 19-23; Nevada Bell Frederick Aff., Attach. C at 1-5.

Cricket customers use Cricket in lieu of local wireline telephone service in Nevada for purposes of Track A compliance.<sup>73</sup>

23. We reject WorldCom's argument that, in the *BellSouth Second Louisiana Order*, the Commission sought a higher incidence of consumers using broadband PCS in lieu of wireline telephony than FrederickPolls survey indicates.<sup>74</sup> The *BellSouth Second Louisiana Order* specifically excludes any discussion of a minimum level of substitution or replacement, and specifically notes that there is no market share test for entry under Track A.<sup>75</sup> As noted above, the Commission found that the most persuasive evidence is evidence that consumers are actually subscribing to broadband PCS in lieu of wireline service. Nevada Bell provides such evidence here.

24. We further reject WorldCom's attempt to extrapolate the Commission's criticism of a study submitted in BellSouth's second Louisiana application to support a conclusion here that the Commission was looking for a higher incidence of substitution than the FrederickPolls survey indicates.<sup>76</sup> In the *BellSouth Second Louisiana Order*, the Commission *did not* reject BellSouth's consumer studies because the number of survey respondents or the estimated number of consumers was too low. One study submitted by BellSouth was rejected because there were no assurances that the respondents were representative of the population which the survey sought to characterize (broadband PCS users in Louisiana), and the study disguised the complementary nature of the services.<sup>77</sup> The other study submitted by BellSouth was rejected because the study was based on a price comparison of local wireline service and broadband PCS service that the Commission found flawed.<sup>78</sup>

25. In contrast, the survey submitted in the instant application is based on a relatively large sample of Cricket customers in Nevada and purports only to make predictions about

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<sup>73</sup> We reject WorldCom's suggestion that Cricket's future is somewhat uncertain because it has recently been delisted from NASDAQ as there are no indications that Cricket is no longer operating in the market. Nevada Bell Track A Reply at 11n.6; WorldCom Comments at 6; WorldCom Reply at 7-8.

<sup>74</sup> WorldCom Reply at 6-7; WorldCom Mar. 25 *Ex Parte* Letter at 2.

<sup>75</sup> *BellSouth Second Louisiana Order*, 13 FCC Rcd at 20623-32, paras. 31-43. We, therefore, also reject WorldCom's argument that the Commission should use standards other than section 271 statutory analysis to evaluate the ability of Cricket Communications to satisfy Track A. WorldCom Mar. 25 *Ex Parte* Letter at 4.

<sup>76</sup> WorldCom Reply at 6-7.

<sup>77</sup> "Because the survey respondents were self-selected, rather than randomly selected, there can be no assurance that the respondent or their responses to the survey questions are generally representative of PCS customers in New Orleans ... Further, there is no evidence that the New Orleans respondents are similar to the state-wide PCS user population ... In order to be considered persuasive, future studies of this type should use a random sample or explain why the study results are meaningful without a random sample." *BellSouth Second Louisiana Order*, 13 FCC Rcd at 20627, para. 37. See also *id* at 20625-28, paras. 35-39.

<sup>78</sup> *BellSouth Second Louisiana Order*, 13 FCC Rcd at 20629-30, paras. 41-42.

Cricket customers in Nevada.<sup>79</sup> We see no reason to believe that the survey respondents are not representative of Cricket customers in Nevada. Moreover, the Commission found the type of survey submitted in the instant application to be persuasive because it shows actual consumer behavior,<sup>80</sup> and unlike the surveys submitted in the BellSouth second Louisiana application this survey does not hide the complementary nature of the services. Thus, we reject WorldCom's contention that the Commission sought a larger number of customers that substitute broadband PCS for wireline service than what is established by the survey submitted in the instant application.<sup>81</sup> Accordingly, we find Nevada Bell compliant with Track A because it has demonstrated that Cricket Communications is an actual commercial alternative to Nevada Bell that serves more than a *de minimis* number of consumers in Nevada.

26. We note that the Cricket Communications directly markets this service as a substitute for residential local telephone service asking potential subscribers "is it a home phone or a mobile phone?"<sup>82</sup> We find that, consistent with the *BellSouth Second Louisiana Order*, this evidence is persuasive in demonstrating that broadband PCS is marketed and provided as a replacement for wireline service in Nevada.<sup>83</sup> Therefore, based on the entirety of the record in this proceeding, we find that Cricket is an actual commercial alternative to Nevada Bell's residential telephone service in Nevada, and that Cricket provides service to more than a *de minimis* number of residential subscribers in Nevada for purposes of establishing Track A compliance under section 271. We note that our consideration of Cricket Communications for Track A compliance does not mean that *all* Nevada Bell residential telephone exchange service consumers view the Cricket service as a commercial alternative to Nevada Bell's telephone exchange service. Our consideration is limited for the purposes of section 271 compliance.

### C. Checklist Item 2 – Unbundled Network Elements

27. Checklist item two of section 271 states that a BOC must provide "nondiscriminatory access to network elements in accordance with sections 251(c)(3) and 252(d)(1)" of the Act.<sup>84</sup> 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."<sup>85</sup> Section

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<sup>79</sup> FrederickPolls randomly selected 8,000 telephone numbers from the pool of 40,000 telephone numbers assigned to Cricket in Nevada. Surveys were completed by 1,841 billpayers. Nevada Bell Frederick Aff. at paras. 8-10, 18.

<sup>80</sup> *BellSouth Second Louisiana Order*, 13 FCC Rcd at 20624, para. 32.

<sup>81</sup> WorldCom Reply at 6-7.

<sup>82</sup> Nevada Bell Smith Reply Aff. at 13.

<sup>83</sup> *BellSouth Second Louisiana Order*, 13 FCC Rcd at 20623-24, para. 31.

<sup>84</sup> 47 U.S.C. § 271(c)(2)(B)(ii).

<sup>85</sup> 47 U.S.C. § 251(c)(3).

252(d)(1) provides that a state commission's determination of the just and reasonable rates for network elements must be nondiscriminatory, based on the cost of providing the network elements, and may include a reasonable profit.<sup>86</sup> Pursuant to this statutory mandate, the Commission has determined that prices for UNEs must be based on the total element long run incremental cost (TELRIC) of providing those elements.<sup>87</sup>

28. In applying the Commission's TELRIC pricing principles in this application, we do not conduct a *de novo* review of a state's pricing determinations.<sup>88</sup> We will, however, reject an application 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."<sup>89</sup> We note that different states may reach different results that are each within the range of what a reasonable application of TELRIC principles would produce. Accordingly, an input rejected elsewhere might be reasonable under the specific circumstances here.

## 1. Pricing Unbundled Network Elements

### a. Background

29. *UNE Recurring Cost Proceedings.* The state proceedings that produced Nevada Bell's recurring rates for local loop, network interface device (NID), switching (local and tandem) and interoffice transmission (transport), and signaling commenced in September 1996, and concluded in July 2000.<sup>90</sup> These proceedings consisted of two phases: the model selection phase, and the inputs selection phase.

30. The Nevada Commission conducted proceedings and evidentiary hearings for its model selection phase during 1997. Nevada Bell filed its own econometric telecommunication network models and studies. The Nevada Commission, however, adopted the Hatfield (HAI) model submitted by AT&T as the model platform for developing UNE costs.<sup>91</sup> After selecting

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<sup>86</sup> 47 U.S.C. § 252(d)(1).

<sup>87</sup> See *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, 15844-47, paras. 674-79 (1996) (*Local Competition Order*); 47 C.F.R. §§ 51.501-.515. The Supreme Court has upheld the Commission's forward-looking pricing methodology in determining the costs of UNEs. *Verizon Communications Inc. v. FCC*, 122 S. Ct. 1646, 1679 (2000).

<sup>88</sup> *Verizon Pennsylvania Order*, 16 FCC Rcd at 17453, para. 55 (citations omitted); see also *Sprint v. FCC*, 274 F.3d at 556 ("When the Commission adjudicates § 271 applications, it does not – and cannot – conduct *de novo* review of state rate-setting determinations. Instead, it makes a general assessment of compliance with TELRIC principles.").

<sup>89</sup> *Verizon Pennsylvania Order*, 16 FCC Rcd at 17453, para. 55.

<sup>90</sup> *Nevada Commission Order* at 28-31.

<sup>91</sup> See *Nevada Commission Order* at 28-29.



the HAI model, the Nevada Commission conducted evidentiary hearings to determine the appropriate state-specific input values and assumptions during the summer of 1998.<sup>92</sup>

31. On February 1, 1999, the Nevada Commission adopted its first pricing order establishing the UNE recurring rates for Nevada Bell.<sup>93</sup> In this order, the Nevada Commission concluded that it employed a TELRIC methodology, and “succeeded in identifying inputs and obtaining TELRIC estimates” for Nevada Bell, consistent with the Commission’s UNE pricing methodologies and principles.<sup>94</sup>

32. On May 3, 1999, Nevada Bell filed a petition with the First Judicial District Court of the State of Nevada for the judicial review of the *Nevada Commission Pricing Order I*. This state litigation was removed to federal court, the U. S. District Court, District of Nevada, by AT&T.<sup>95</sup> On July 19, 2000, the court approved a settlement. Pursuant to the settlement agreement, the Nevada Commission has initiated a proceeding to reexamine UNE rates.<sup>96</sup> While this proceeding is pending, the UNE recurring rates established by the Nevada Commission using the HAI model remain in place.<sup>97</sup>

33. *UNE Non-Recurring Cost (NRC) Proceedings*. On December 15, 1999, Nevada Bell and AT&T filed competing NRC studies.<sup>98</sup> Subsequently, the parties began settlement discussions. The proceedings were resolved in two steps. First, the parties agreed to use as the nonrecurring rates for Nevada Bell the rates that resulted from the NRC proceedings before the

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<sup>92</sup> *Nevada Commission Order* at 29.

<sup>93</sup> *Nevada Commission Order* at 30; *In re Filing of Nevada Bell’s Unbundled Network Element (UNE) Cost Study*, P.U.C.N. Docket No. 98-6004 (Feb. 1, 1999) (*Nevada Commission Pricing Order I*). On May 11, 1999, the Nevada Commission modified certain aspect of the *Nevada Commission Pricing Order I*. See *In re Filing of Nevada Bell’s Unbundled Network Element (UNE) Cost Study*, P.U.C.N. Docket No. 98-6004 (May 11, 1999) (*Nevada Commission Pricing Order II*).

<sup>94</sup> *Nevada Commission Pricing Order I* at 19.

<sup>95</sup> *Nevada Commission Order* at 30.

<sup>96</sup> *Nevada Commission Order* at 30.

<sup>97</sup> *In re Petition of Nevada Bell Telephone Company for an Order Commencing a Proceeding to Determine New Costs and Rates for Unbundled Network Elements*, P.U.C.N. Docket No. 00-7012 (Mar. 19, 2001) (*Nevada Commission Pricing Order V*).

<sup>98</sup> See *Nevada Commission Order* at 31; *In re Filing by Nevada Bell of its Unbundled Network Elements (UNE) Nonrecurring Cost Study pursuant to the Order issued in Docket No. 98-6004*, P.U.C.N. Docket No. 99-12033, *Filing by AT&T Communications of Nevada, Inc. of its Nonrecurring Cost Study for Unbundled Network Elements (UNEs) purchased from Nevada Bell pursuant to the Order issued in Docket No. 98-6004*, P.U.C.N. Docket No. 99-12034, *Petition of Nevada Bell for Review and Approval of Its Cost Study and Proposed Rates for Conditioning Digital Subscriber Line (DSL) Loops*, P.U.C.N. Docket No. 00-4001 (consolidated), Order (Oct. 4, 2000) (*Nevada Commission Pricing Order III*).

California Commission.<sup>99</sup> The Nevada Commission approved the parties' stipulation, and thereby adopted final nonrecurring rates for most of Nevada Bell's UNEs.<sup>100</sup>

34. Second, with respect to nonrecurring rates for the remaining Nevada Bell's UNEs, the Nevada Commission conducted six days of evidentiary hearings, taking testimony from nine different witnesses, which comprised over 650 pages of transcripts and 39 hearing exhibits. On November 20, 2000, the Nevada Commission approved with specific modifications Nevada Bell's UNE NRC, loop qualification, and DSL line conditioning studies.<sup>101</sup>

35. *Interim rates.* In the above-described proceedings, the Nevada Commission established final recurring and nonrecurring rates for the majority of Nevada Bell's UNE offerings. Nevada Bell states that, in addition to those UNE offerings, Nevada Bell had a limited number of UNE offerings for which the Nevada Commission has not yet established final recurring and nonrecurring rates.<sup>102</sup> Nevada Bell has filed rates for these UNEs, and these rates have not been challenged. These rates are interim and subject to true-up pending the determination of final rates as part of the Nevada Commission's ongoing reexamination of UNE rates.<sup>103</sup>

#### **b. Discussion**

36. Based on the evidence in the record, we find that Nevada Bell's UNE rates are just, reasonable, and nondiscriminatory as required by section 251(c)(3), and are based on cost plus a reasonable profit as required by section 252(d)(1). Thus, Nevada Bell's UNE rates satisfy checklist item two.

37. The Nevada Commission conducted extensive pricing proceedings to establish wholesale rates for UNEs.<sup>104</sup> It approved recurring rates by using a Nevada specific version of

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<sup>99</sup> *Nevada Commission Pricing Order III* at 2. See also Nevada Bell Application App. A, Vol. 5, Tab 16, Affidavit of Thomas G. Ries (Nevada Bell Ries Aff.) at para. 74-81.

<sup>100</sup> See *Nevada Commission Pricing Order III* at 3.

<sup>101</sup> *In re Filing by Nevada Bell of its Unbundled Network Elements (UNE) Nonrecurring Cost Study Pursuant to the Order Issued in Docket No. 98-6004*, P.U.C.N. Docket No. 99-12033, *Petition of Nevada Bell for Review and Approval of its Cost Study and Proposed Rates for Conditioning Digital Subscriber Line (DSL) Loops*, P.U.C.N. Docket No. 00-4001 (consolidated), Order (Nov. 20, 2000) (*Nevada Commission Pricing Order IV*).

<sup>102</sup> See Nevada Bell Ries Aff. at para. 15.

<sup>103</sup> See *Nevada Commission Order* at 78; Nevada Bell Ries Aff. at para. 91; Nevada Bell Jacobson Aff. at para. 31.

<sup>104</sup> *Nevada Commission Order* at 28-33, 78-79; *Nevada Commission Pricing Order I* at 22-24 (establishing recurring UNE rates); *Nevada Commission Pricing Order II* at 6 (modifying recurring UNE rates set in *Nevada Commission Pricing Order I*); *Nevada Commission Pricing Order III* at 3-4 (establishing nonrecurring rates); *Nevada Commission Pricing Order IV* at 11-12 (establishing additional non-recurring rates); *Nevada Commission Pricing Order V* at 2-3 (initiating a new proceeding to reexamine UNE rates). See also Department of Justice Evaluation at 2.

the HAI model advocated by AT&T. Competitive LECs agreed to the vast majority of the nonrecurring rates. The Nevada Commission concluded that Nevada Bell's UNE rates are just, reasonable, and nondiscriminatory as required by section 251(c)(3), and satisfy the requirements of checklist item two.<sup>105</sup> No party alleges that Nevada Bell's rates are inconsistent with TELRIC, or that the Nevada Commission committed TELRIC errors. Based on this record, we find that Nevada Bell has met its burden to show that its prices for UNEs satisfy the statutory mandate.

38. WorldCom alleges that Nevada Bell's UNE rates are high and exceed a benchmark comparison to the rates in California.<sup>106</sup> WorldCom does not, however, allege any specific TELRIC errors. Where our review consists of a stand-alone analysis of a BOC's rates, we do not engage in any benchmark comparison. Rather, we review the state's rate-setting methodology on its own merits. Our analysis is complete if it reveals that there are no basic TELRIC violations or clear errors on substantial factual matters.<sup>107</sup> There is no allegation in the record that the Nevada Commission committed TELRIC errors, nor does our own independent analysis reveal any inconsistencies with TELRIC principles as we have established and applied them. Thus, we need not perform a benchmark comparison to determine TELRIC compliance.<sup>108</sup> To do otherwise would undermine the importance of state-specific, independent analysis of rates for UNEs. It is important to recognize both that costs may vary between states and that state commissions may reach different reasonable decisions on matters in dispute while correctly applying TELRIC principles.<sup>109</sup> Accordingly, we find that Nevada Bell's current UNE rates satisfy the requirements of checklist item two.

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<sup>105</sup> *Nevada Commission Order at 78-79; Nevada Commission Pricing Order I at 6-10.*

<sup>106</sup> WorldCom Comments at 8.

<sup>107</sup> *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, Memorandum Opinion and Order, 17 FCC Rcd 9018, 9034, paras. 24-25 (*BellSouth Georgia/Louisiana Order*); *Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in Vermont*, CC Docket No. 02-7, Memorandum Opinion and Order, 17 FCC Rcd 7625, 7639, para. 26 (*Verizon Vermont Order*); *Verizon Rhode Island Order*, 17 FCC Rcd at 3320, para. 38-39; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6276, para. 82; *Application by Verizon New Jersey Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in New Jersey*, CC Docket No. 02-67, Memorandum Opinion and Order, 17 FCC Rcd 12275, 12295, para. 49 (*Verizon New Jersey Order*). See also *WorldCom v. FCC*, 308 F.3d 1, 4 (D.C. Cir. 2002).

<sup>108</sup> Benchmarking is used for the limited purpose of providing confidence that a rate, despite its potential TELRIC errors, falls within the range that a reasonable application of TELRIC would produce. Failure to meet a benchmark, by itself, is not evidence that a state commission failed to reasonably apply TELRIC in setting UNE rates. See *BellSouth Georgia/Louisiana Order*, 17 FCC Rcd at 9035, para. 25.

<sup>109</sup> See e.g., *BellSouth Georgia/Louisiana Order*, 17 FCC Rcd at 9034-35, paras. 24-25; *Verizon Vermont Order*, 17 FCC Rcd at 7639, para. 26; *Verizon New Jersey Order*, 17 FCC Rcd at 12285, para. 17. See also *AT&T Corp. v. FCC*, 220 F.3d at 615.

## 2. Operations Support Systems

39. Based on the evidence in the record, we find, as did the Nevada Commission,<sup>110</sup> that Nevada Bell provides nondiscriminatory access to its OSS in Nevada.<sup>111</sup> As we discuss below, Nevada Bell has shown that evidence concerning its OSS in California, which the Commission previously found to satisfy the requirements of checklist item two, should be considered in this proceeding.<sup>112</sup> No commenter has raised any concerns with Nevada Bell's OSS or with its reliance on evidence regarding California's OSS in this proceeding. We therefore discuss here the relevance of California's systems, and those performance areas involving minor discrepancies that require further consideration.

### a. Relevance of California's OSS

40. Consistent with our precedent, Nevada Bell relies in this application on evidence concerning its California OSS.<sup>113</sup> Specifically, Nevada Bell asserts that Pacific Bell's OSS in California are substantially the same as its OSS in Nevada and, therefore, evidence concerning Pacific Bell's OSS in California is relevant and should be considered in our evaluation of the Nevada OSS.<sup>114</sup> To support its claim, Nevada Bell submits a report from PricewaterhouseCoopers (PwC).<sup>115</sup> PwC evaluated the OSS functionality made available to support competitive LEC activity in Nevada and California in order to attest to Nevada Bell management's assertions that the OSS interfaces in Nevada and California are identical, and the personnel and work center facilities supporting the OSS "employ the same processes" in Nevada

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<sup>110</sup> See *Nevada Commission Order* at 76.

<sup>111</sup> See Nevada Bell Application at 28-39; see generally Nevada Bell Application App. A, Vol. 3, Tab 10, Joint Affidavit of Stephen D. Huston and Beth Lawson (Nevada Bell Huston/Lawson Aff.); Nevada Bell Application App. A, Vol. 4a, Tab. 12, Affidavit of Gwen S. Johnson (Nevada Bell Johnson Aff.).

<sup>112</sup> *Pacific Bell California Order*, 17 FCC Rcd at 25685-707, paras. 72-101; see also *Verizon Rhode Island Order*, 17 FCC Rcd at 3329-35, paras. 58-71.

<sup>113</sup> See Appendix D at para. 32.

<sup>114</sup> See Nevada Bell Application at 29-30; see also Nevada Bell Huston/Lawson Joint Aff. at para. 13; *SWBT Kansas/Oklahoma Order* 16 FCC Rcd at 6239, 6253-54, 6286, paras. 3, 35-36, 107. In the *Pacific Bell California Order*, the Commission conducted a thorough analysis of the Cap Gemini Ernest & Young and General Electric Global Exchange Services testing of Pacific Bell's OSS functionalities. Specifically, the Commission evaluated Pacific Bell's ability to provide competitive LECs in California with nondiscriminatory access to pre-ordering, ordering, provisioning, maintenance and repair, and billing functionalities. The Commission held that the third-party test was broad and objective and supported the finding that Pacific Bell provided nondiscriminatory access to its OSS. See *Pacific Bell California Order*, 17 FCC Rcd at 25685, para. 73.

<sup>115</sup> See Nevada Bell Application App. C, Tab 51, Joint Declaration of Theodore V. Schaefer and James J. Murphy, on behalf of Pricewaterhouse Coopers, *Petition for Review and Approval of Draft Application by SBC Communications Inc., et al., for Provision of In-Region, InterLATA Services in Nevada*, Docket No. 00-7031 (May 10, 2001) (PwC Decl.). See also *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6286, para. 107 (under the Commission's analysis, a BOC should support its claim of "sameness" through the submission of an attestation letter and a supplemental report from a third-party consultant).

as in California.<sup>116</sup> Nevada Bell also submits declaratory evidence that competitive LECs operating in Nevada territory use common interfaces and gateway systems throughout the 13-state operating region.<sup>117</sup> We note that no commenter has raised any issues with respect to checklist item two, or suggested that evidence of Pacific Bell's OSS should not be considered in this proceeding. We find that Nevada Bell, through the PwC Report and its declarations, provides evidence that the OSS in California are substantially the same as the OSS in Nevada and, therefore, evidence concerning the OSS in California is relevant and should be considered in our evaluation of Nevada Bell's OSS in Nevada. Accordingly, when volumes in Nevada are too low to yield meaningful information concerning Nevada Bell's compliance with the competitive checklist, we examine data reflecting Pacific Bell's performance in California.

### **b. Pre-Ordering**

41. We conclude that Nevada Bell demonstrates that it provides nondiscriminatory access to its OSS pre-ordering functions. As discussed below, we find that while Nevada Bell's performance data demonstrate a few scattered disparities for pre-ordering activity, such disparities do not constitute a significant impact on competitive entry in Nevada, and as such, do not warrant a finding of checklist noncompliance.<sup>118</sup>

42. Nevada Bell states that over the relevant five-month data period, the pre-ordering interfaces in Nevada generally met or exceeded the benchmarks for all but one of the sub-measurements established by the Nevada Commission pertaining to competitive LEC pre-ordering transactions.<sup>119</sup> Specifically, Nevada Bell acknowledges that it failed to meet the benchmark standard in Nevada for average response time to obtain telephone numbers for its Verigate interface in four out of the five relevant months.<sup>120</sup> Nevada Bell argues that new functionality and additional lookups for telephone numbers, as requested by competitive LECs,

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<sup>116</sup> See PwC Decl. at 6-10. After reviewing the electronic components of the OSS, PwC confirmed that, with the exception of four flow-through items confirmed by Nevada Bell's management assertion, Nevada Bell and Pacific Bell are served by the same OSS or served by discernibly separate OSS that are identical or behave the same. The four flow-through items include orders for: Resale Conversions "As Is/With Changes"; certain resale services; 5db Loop Conversions "As Specific"; and "New Connects" for DS1 loops. With respect to the manual components of the OSS, PwC and Nevada Bell confirmed that the similarities between the states will produce similar results. See *Nevada Commission Order* at 45.

<sup>117</sup> Nevada Bell Huston/Lawson Aff. at para. 5. Nevada Bell states that a uniform system has been established throughout SBC's 13-state region since implementation of the Uniform and Enhanced Plan of Record (U&E POR).

<sup>118</sup> Nevada Bell Johnson Aff. at para. 55 n.17. See Appendix B; PM 1 (NV Average Response Time).

<sup>119</sup> Nevada Bell Application at 31. Nevada Bell states that its pre-ordering interfaces generally met or exceeded the benchmarks for all but one of the sub-measurements established by the Nevada Commission for responsiveness to competitive LEC pre-ordering transactions other than the loop qualification sub-measures.

<sup>120</sup> See PM 1-107101 (Average Response Time (to Pre-Order Queries) Mechanized Verigate – Request for Telephone Number).

contributed to the additional response time and poor performance results of this measurement.<sup>121</sup> In addition, Nevada Bell provides that during the relevant five-month period, the average response times afforded to competitive LECs relative to this pre-order query type were approximately three seconds beyond the benchmark established by the Nevada Commission.<sup>122</sup> In light of these explanations, and recognizing that no commenter raised any issues regarding Nevada Bell's pre-ordering OSS, we conclude that Nevada Bell provides access to its pre-ordering functionality in a manner that allows competitive LECs a meaningful opportunity to compete.

### c. Ordering and Provisioning

43. Based on the evidence in the record, we find that Nevada Bell provides competitive LECs with access to OSS ordering and provisioning functions, on a timely and consistent basis and in a manner that allows these carriers a meaningful opportunity to compete, with few exceptions.<sup>123</sup> As stated above, however, Nevada Bell's performance data demonstrate generally low volumes for Nevada's ordering and provisioning functionality over the relevant five-month period.<sup>124</sup> We therefore examine data reflecting Pacific Bell's performance in California as a means of assessing Nevada Bell's compliance with this checklist item. Our analysis indicates that while Pacific Bell fails to satisfy the relevant benchmark and parity standard for several performance measurements, we find that these misses generally are isolated and slight, and thus do not warrant a finding of checklist noncompliance. Two metrics relating

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<sup>121</sup> Nevada Bell Huston/Lawson Aff. at para. 23. SBC implemented a Uniform and Enhanced Plan of Record (U&E POR) throughout its 13 state region. Nevada Bell argues that the U&E POR additional functions, such as providing telephone number pooling status and supporting true telephone number reservation, require more processing for the inquiry, which increases the overall turnaround time. Nevada Bell also notes that to accommodate the enhanced capabilities provided by this pre-order query type, it plans to propose a benchmark change to 95% within 10 seconds for 2003. *See* Nevada Bell Johnson Aff. at para. 55, n.18.

<sup>122</sup> Nevada Bell Johnson Aff. at para. 55. We note that the average response time afforded to competitive LECs relative to this pre-order query type was approximately 7.5 seconds, which was just a few seconds beyond the benchmark of 4.5 seconds. In addition, we note that, with the exception of November, there was an improving trend over the relevant five-month period with Nevada Bell meeting the benchmark standard in January.

<sup>123</sup> *See* Appendix B; *see also* PM 2 (NV Average FOC/LSC Notice Interval); PM 2 (CA Average FOC/LSC Notice Interval); PM 3 (CA Average Reject Notice Interval); PM 6 (CA Average Jeopardy Notice Interval); PM 15a (CA Average Time to Restore Provisioning Troubles – Service Order Completion); and PM 16 (CA Percentage Troubles in 30 Days for Special Service Orders). We acknowledge that Nevada Bell has encountered some difficulties in its flow-through performance. We note, however, that the Commission has stated that flow-through is not the sole indicator of non-discriminatory OSS. Specifically, the Commission found that a BOC's ability to return timely order confirmation and rejection notices, accurately process manually handled orders, and scale its system is more relevant than a single flow-through analysis. *See BellSouth Georgia/Louisiana Order* 17 FCC Rcd at 9092, para. 143; *Bell Atlantic New York Order*, 15 FCC Rcd at 4034-35, para. 162. The Nevada Bell application demonstrates that Nevada Bell returns timely order confirmation and reject notices, accurately processes manually handled orders, and scales its system. *See* Nevada Bell Johnson Aff. at para. 75.

<sup>124</sup> *See supra* para. 40.

to Pacific Bell's ordering and provisioning functionality in California, however, warrant further discussion, which we provide below.<sup>125</sup>

44. First, we note that Pacific Bell failed to meet the benchmark standard in California in three out of the five relevant months for returning timely Firm Order Confirmations (FOC) for electronically received UNE-P orders.<sup>126</sup> Nevada Bell argues that Pacific Bell's performance failures on this metric for two of the relevant months were caused by a series of system failures experienced by one major competitive LEC on its own electronic interfacing system.<sup>127</sup> Given this evidence, and recognizing that Pacific Bell's performance disparities are slight for this metric, we find that these misses do not warrant a finding of checklist noncompliance.

45. Second, as in previous section 271 orders, we give substantial weight to missed commitment measures as an indicator of provisioning timeliness.<sup>128</sup> We note that Pacific Bell failed to provide competitive LECs with timely notices that it would miss a scheduled installation date, and the performance data show that it has fallen short of the benchmark standard for this measure for each of the five relevant months for UNE-P.<sup>129</sup> However, the missed committed due dates were a very small percentage of competitive carriers' total UNE-P orders completed in California. Furthermore, as we determined in the *Pacific Bell California Order*, Pacific Bell demonstrated timely performance for total UNE-P orders completed for each

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<sup>125</sup> See PM 2-202200 (CA Average FOC/LSC Notice Interval UNE-P); and PM 6-652000 (CA Average Jeopardy Notice Interval – Missed Commitment – UNE-P).

<sup>126</sup> See PM 2-202200 (CA Average FOC/LSC Notice Interval UNE-P). Pacific Bell missed the .33 minute benchmark standard for September, October, and November. The competitive LEC results for September, October, November, December, and January were 0.42, 0.40, 0.50, 0.23, and 0.23, respectively. We note Nevada Bell's assertion that it consistently met or exceeded the applicable benchmark standard for measure 2. However, Nevada Bell's Average FOC Notice Interval for UNE-P – PM 202201 demonstrates extremely low volumes. As such, we are obligated to look to Pacific Bell's performance measures for this ordering provision. See Nevada Bell Johnson Aff. at para. 63.

<sup>127</sup> Letter from Colin S. Stretch, SBC Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-10, Attach. at 6 (filed Feb. 19, 2003) (SBC Feb. 19 *Ex Parte* Letter). The Applicant claims that the system problems of one competitive LEC continued over a number of weeks in late September and early October. Nevada Bell states that Pacific Bell attempted to work with this particular competitive LEC to ensure a progressive flow of orders once its interface system was again functional. However, on more than one occasion, the competitive LEC sent a large volume of backlogged service requests in a very short time frame, thus slowing processing on Pacific Bell's side of the ordering interface. Nevada Bell contends that, upon reviewing the data, the particular competitive LEC agreed that its actions were the primary cause of the performance shortfalls in September and October.

<sup>128</sup> See *Pacific Bell California Order*, 17 FCC Rcd at 25692-94, paras. 84-85. See also *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6307-08, paras. 147-49.

<sup>129</sup> See Appendix C, PM 6-652000 (CA Average Jeopardy Notice Interval – Missed Commitment – UNE-P). Jeopardy notices alert customers when Pacific Bell misses a committed due date, and Pacific Bell should provide 95% of missed commitment notices to competitors within 24 hours.

of the relevant months.<sup>130</sup> Accordingly, we find that Nevada Bell, pursuant to its own performance and the performance of Pacific Bell in California, provides competitive LECs with sufficient access to the ordering and provisioning functions of its OSS.

#### **d. Maintenance and Repair**

46. We conclude that Nevada Bell provides competitive LECs with nondiscriminatory access to maintenance and repair OSS functions in substantially the same time and manner as Nevada Bell's retail operation, and restores services to competing carriers' customers in substantially the same time and manner and with a similar level of quality as it restores service to its own customers.<sup>131</sup> Furthermore, we find that Nevada Bell satisfied the applicable parity or benchmark standard for each major performance measurement with few exceptions.<sup>132</sup>

47. As noted above, however, in light of Nevada Bell's generally low volumes for its performance measures, we supplement our analysis using Pacific Bell's maintenance and repair functionality in California in order to ensure checklist compliance in Nevada.<sup>133</sup> A review of these measures indicates that Pacific Bell has missed parity in California for certain UNE-P maintenance troubles during the relevant five-month period.<sup>134</sup> The Applicant acknowledges

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<sup>130</sup> Total UNE-P orders completed for this period were 124,691 in September, 188,198 in October, 170,602 in November, 190,692 in December, and 208,251 in January. Appendix C, PM 11 (CA Percent of Due Dates Missed, UNE-P.) Based on these data, Pacific Bell missed less than 1% of committed due dates during the period of September through January 2002. As we stated in the *Pacific Bell California Order*, we view Pacific Bell's performance issuing timely missed commitment notices within the broader context of Pacific Bell's high rate of on-time performance provisioning UNE-P orders, and therefore do not find these disparities to be competitively significant. See *Pacific Bell California Order*, 17 FCC Rcd at 25692-93, para. 84.

<sup>131</sup> See *BellSouth Georgia/Louisiana Order*, 17 FCC Rcd at 9111, para. 169; *Bell Atlantic New York Order*, 15 FCC Rcd at 4067, para. 211.

<sup>132</sup> See Appendix B.

<sup>133</sup> See *supra* para. 40. We note, that an evaluation of Pacific Bell's California performance measurements is supplemental to our Nevada Bell analysis of checklist compliance. As such, less weight may be provided towards California's performance measurement analysis. We nevertheless find Pacific Bell's explanations of its performance failures to be both helpful and satisfactory in our analysis of Nevada Bell's application.

<sup>134</sup> See PM 19 (CA Customer Trouble Report Rate); PM 20 (CA Percentage of Customer Trouble Not Resolved Within Estimated Time); PM 21 (CA Average Time to Restore); PM 23 (CA Frequency of Repeat Troubles in 30-Day Period). Pacific Bell missed parity all five of the relevant months for PM 1993600. The comparable percentages were 0.71, 0.89, 1.43, 1.32, and 1.14 for competitive LECs, and 0.47, 0.49, 0.73, 0.71, and 0.69 for Pacific Bell. Pacific Bell also missed parity for November and January for PM 20-2097201. The comparable percentages for November and January were 18.25 and 15.79 for competitive LECs and 15.63 and 14.95 for Pacific Bell, respectively. Furthermore, Pacific Bell missed all five of the relevant months for PM 21-2197401. The comparable percentages were 9.11, 8.32, 17.29, 16.14, and 12.87 for competitive LECs, and 7.52, 7.37, 14.91, 15.21, and 11.98 for Pacific Bell. Finally, Pacific Bell missed all five of the relevant months for PM 23-2393600. The comparable percentages were 9.15, 8.65, 8.71, 10.34, and 11.21 for competitive LECs, and 7.18, 7.7, 7.13, 8.76, and 9.21 for Pacific Bell. We note in the *Pacific Bell California Order*, that the Department of Justice raised concerns with Pacific Bell's failure to achieve parity with respect to these three metrics. After thoroughly (continued...)



these disparities, and argues that UNE-P maintenance troubles in California are significantly affected by the manner in which the parity comparison currently is defined in the maintenance performance measures.<sup>135</sup> For example, the Applicant states that a parity comparison of UNE-P maintenance services with retail business services in California affects Pacific Bell's ability to achieve parity for the Average Time to Restore UNE-P sub-measure.<sup>136</sup> As a response to this problem, the Applicant states that Pacific Bell has implemented prioritization of competitive LEC UNE-P troubles, paying special attention to those troubles that might be carried over to the next business day.<sup>137</sup> After analyzing Pacific Bell's performance on this measurement, we find that the disparity in California for the Average Time to Restore reflects a minimal percentage difference between competitive LECs and Pacific Bell's retail customers. As such, we find these misses to be competitively insignificant, and that lack of parity does not warrant a finding of checklist noncompliance.

48. Finally, we recognize that Pacific Bell's performance measurement for Frequency of Repeat Troubles in a 30-Day Period for UNE-P has failed to meet parity with the retail analogue all five of the relevant months.<sup>138</sup> The Applicant acknowledges the performance disparity, and states that, as of December 2002, Pacific Bell has implemented new procedures for

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examining Pacific Bell's performance, we determined that those misses were not competitively significant. Similarly, we find these misses are not competitively significant in this instance. We will, however, continue to monitor Pacific Bell's performance in this area for compliance with the conditions of approval in this order. *See Pacific Bell California Order* 17 FCC Rcd at 25695, para. 87.

<sup>135</sup> *See Nevada Bell Application App. A, Vol. 5, Tab 13, Joint Affidavit of Richard J. Motta and Richard P. Resnick (Nevada Bell Motta/Resnick Aff.)*. Nevada Bell admits that the issue regarding UNE-P maintenance troubles in California has significantly contributed to parity shortfalls for measure 19 – Customer Trouble Report Rate -- and for measure 21 – Average Time to Restore. Nevada Bell explains that Pacific Bell has proposed a change to the analogue for all UNE-P provisioning and maintenance measures to “all retail POTS services.” Nevada Bell claims that had Pacific Bell assessed parity for UNE-P services against the total base of retail services, parity would have been achieved in each of the past three months. *Id.* at para. 20.

<sup>136</sup> *See PM 21-2197401(CA Average Time to Restore – UNE Platform-Basic Port and (8db and 5.5db) Loop)*. Nevada Bell states that Pacific Bell has analyzed the results for this sub-measure and found that for UNE-P services, troubles were reported about 20% of the time after 5:00p.m., while for the retail analogue, business POTS, trouble reports were submitted after 5:00p.m. only 10% of the time. According to Nevada Bell, the significance of this finding is that troubles reported near the end of the business day are less likely to be resolved the same day and more frequently carried over to the next day for resolution. As a result, Nevada Bell concludes that on average, trouble restoral times will be slightly longer for residential services as compared to business services. *See Nevada Bell Motta/Resnick Aff.* at para. 23.

<sup>137</sup> *See Nevada Bell Motta/Resnick Aff.* at para. 24. The Applicant states that from September 2002 through November 2002, average restoral times for basic UNE-P services in California were one to three hours longer than for the retail analogue. While this difference is unlikely to have compromised competitive LECs' opportunities to compete, the Applicant states that it has sought to mitigate the effects of the disparity. As such, it has implemented the prioritization of competitive LEC UNE-P troubles.

<sup>138</sup> *See PM 23-2393600 (CA Frequency of Repeat Troubles in 30-Day Period-UNE-P)*. Pacific Bell missed parity all five of the relevant months. The comparable percentages were 9.15, 8.65, 8.71, 10.34, and 11.21 for competitive LECs, and 7.18, 7.57, 7.13, 8.76, and 9.21 for Pacific Bell.

both repeated troubles associated with features on the UNE-P service and troubles on the UNE-P facility.<sup>139</sup> Given the generally acceptable performance for all other categories of maintenance and repair and the absence of complaints about these categories in this record or before the Nevada Commission, and recognizing the small percentage disparity with this measurement, we find that these slight performance issues do not warrant a finding of checklist noncompliance. However, we will continue to monitor performance measurements in this area for compliance with the conditions of approval in this order. Should we find that performance disparities continue to exist or grow worse, we will not hesitate to initiate enforcement mechanisms under section 271(d)(6) of the Act.

#### IV. OTHER CHECKLIST ITEMS

##### A. Checklist Item 4 – Unbundled Local Loops

49. Section 271(c)(2)(B)(iv) of the Act requires that a BOC provide “[l]ocal loop transmission from the central office to the customer’s premises, unbundled from local switching or other services.”<sup>140</sup> Based on the evidence in the record,<sup>141</sup> we conclude, as did the Nevada Commission,<sup>142</sup> that Nevada Bell provides unbundled local loops in accordance with the requirements of section 271 and our rules. We also note that no commenter challenges Nevada Bell’s showing on this checklist item or the California evidence that it relies upon.

50. As of January 2003, competitors have acquired and placed into use approximately 7,200 stand-alone loops (including DSL loops) from Nevada Bell in Nevada.<sup>143</sup> Consistent with prior section 271 orders, we do not address every aspect of an applicant’s loop performance where our review of the record satisfies us that the applicant’s performance complies with the parity and benchmark measures established by the state at issue, in this case Nevada.<sup>144</sup> Instead,

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<sup>139</sup> The Applicant describes the new procedures as follows: To ensure that feature-related troubles are resolved on the initial trouble report, when troubles of this type are reported, Pacific Bell’s technicians will first verify that the feature is provisioned in its switch. If it is not, Pacific Bell’s technicians will then provision the feature. If the feature does appear in the switch, technicians will test in the central office to validate that the feature is functional. If the feature appears not to be working at the central office, a switch translations technician will “refresh” the feature in the main memory of the switching machine. The feature will then be verified to ensure it is working correctly before the trouble ticket is closed.

<sup>140</sup> 47 U.S.C. § 271(c)(2)(b); *see also* Appendix D at paras. 48-52 (regarding requirements under checklist item four).

<sup>141</sup> *See* Nevada Bell Application at 40-53; *see generally* Nevada Bell Johnson Aff.; Nevada Bell Application App. A, Vol. 1, Tab 2, Affidavit of Carol A. Chapman (Nevada Bell Chapman Aff.); *see also* Appendices B, C.

<sup>142</sup> *See Nevada Commission Order* at 137.

<sup>143</sup> *See* Nevada Bell Application at 41 (noting that Verizon had provisioned approximately 750 loops in Vermont and BellSouth had provisioned 3,841 loops in Kentucky and 6,258 loops in Mississippi at the time those BOCs filed their section 271 applications for those states); Nevada Bell Smith Aff. Attach. A, D.

<sup>144</sup> *See Verizon Connecticut Order*, 16 FCC Rcd at 14151-52, para. 9.

we focus our discussion on those areas where the record indicates discrepancies in performance between the Applicant and its competitors. In making our assessment, we look for patterns of systemic performance disparities that have resulted in competitive harm or that have otherwise denied new entrants a meaningful opportunity to compete.<sup>145</sup> Isolated cases of performance disparity, especially when the margin of disparity is small, generally will not result in a finding of checklist noncompliance.<sup>146</sup>

51. In applying this analysis to the instant record, we find that, in the few instances where there were disparities in Nevada Bell's performance measures,<sup>147</sup> Nevada Bell's order volumes with respect to certain categories of loops, or order volumes with respect to a specific metric for a certain category of loop, may be too low to provide meaningful data for our analysis.<sup>148</sup> As discussed above,<sup>149</sup> where we have no meaningful data reflecting Nevada Bell's performance, we examine the performance of its affiliate, Pacific Bell, in California.

52. *Voice-Grade Loops.* We conclude, as did the Nevada Commission,<sup>150</sup> that the Applicant demonstrates that it provides nondiscriminatory access to voice-grade loops. Given the low number of orders in Nevada, we examine Pacific Bell's performance in California.

53. Pacific Bell experienced performance disparities for Frequency of Repeat Troubles within 30 Days for voice-grade loops in three of the five months at issue in this proceeding.<sup>151</sup> This metric measures the percentage of customers that report line troubles within 30 days of a prior trouble report.

54. However, the performance disparities are minor, and Pacific Bell met parity in January. Moreover, even Pacific Bell's retail affiliate's customers continue to experience a large number of repeat troubles.<sup>152</sup> In addition, in instances where competitive LECs have submitted

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<sup>145</sup> See *Verizon Massachusetts Order*, 16 FCC Rcd at 9055-56, para. 122.

<sup>146</sup> See *Verizon Massachusetts Order*, 16 FCC Rcd at 9055-56, para. 122.

<sup>147</sup> See Appendix B.

<sup>148</sup> A small handful of observations may cause seemingly large variations in performance measures. See *Verizon Massachusetts Order*, 16 FCC Rcd at 8988, para. 93 n.296

<sup>149</sup> See discussion in *Section III.C.2.a* above.

<sup>150</sup> See *Nevada Commission Order* at 139-143.

<sup>151</sup> See PM 23-2392601 (CA Frequency of Repeat Troubles within 30 days). The comparable percentages of repeat troubles were 8.39, 9.17, 8.80, 10.19 and 9.76 for competitive LECs and 7.15, 7.47, 7.10, 8.76, and 9.27 for Pacific Bell's retail affiliate in September, October, November, December, and January respectively. Pacific Bell failed to meet parity for this metric in October, November, and December.

<sup>152</sup> For the period of September through January, the disparity between Pacific Bell's performance for the competitive LECs and for Pacific Bell's retail affiliate was 1.34%. See Appendix C; Nevada Bell Feb. 19 *Ex Parte* Letter Attach. at 6; compare *Pacific Bell California Order*, 17 FCC Rcd at 25721, para. 127 n.459 (noting the minor discrepancy of 1.95% in Pacific Bell's performance on this performance measure in August 2002).

trouble reports, Pacific Bell has achieved parity in the measure Average Time to Restore in all but one month from September 2002 to January 2003, and in that one month where parity was not met, the disparity was only 0.17 hours.<sup>153</sup> Finally, we note that Pacific Bell has committed to taking concrete steps to improve its performance on this metric.<sup>154</sup> According to the Applicant, since implementing these steps, “Pacific Bell has seen a reduction in repeat trouble reports on basic UNE loops of over 20%.”<sup>155</sup> Thus, as in the California section 271 proceeding, we find that these performance disparities do not warrant a finding of checklist noncompliance.

55. *High-Capacity Loops.* Based on the evidence in this record, we find, as did the Nevada Commission, that Nevada Bell provides non-discriminatory access to high-capacity loops.<sup>156</sup> Given the low number of orders in Nevada, as noted above, we examine Pacific Bell’s performance in California. While the record reveals a number of performance disparities in Pacific Bell’s California performance measures, we find that these disparities are slight, some disparities were caused by one-time unusual events, and Pacific Bell has taken steps to improve performance.

56. In our review of the record, we find disparities in Pacific Bell’s California performance in the following categories: (1) Percent of Orders Given Jeopardy Notice; (2) Percent of Due Dates Missed, and Percent of Due Dates Missed Due to Lack of Facilities; and

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<sup>153</sup> See PM 21-2195401 (CA Average Time to Restore).

<sup>154</sup> Specifically, Pacific Bell had implemented a new Fault Isolation Test (FIT) that enables Pacific Bell technicians to interact directly with the competitive LECs in order to get a more complete, accurate description of the trouble, and consequently permits Pacific Bell and the competitive LEC to determine where in the two companies’ networks the trouble lies and to solve the trouble so that it is not as likely to reoccur. See *Pacific Bell California Order*, 17 FCC Rcd at 25721, para. 127 n.457. See also Nevada Bell Feb. 19 *Ex Parte Letter Attach.* at 6. In addition, since April 2002, Pacific Bell states that it provides more training for tracking and dispatch of maintenance troubles, has upgraded its dispatch system so that competitive LECs receive priority dispatch from field technicians, ensures that dispatched field technicians have expertise to resolve the service problem, and reviews all competitive LEC trouble tickets daily to ensure that no trouble tickets are delayed due to administrative error. See *Pacific Bell California Order*, 17 FCC Rcd at 25721, para. 127 n.457; see also Nevada Bell Feb. 19 *Ex Parte Letter Attach.* at 6 n.5.

<sup>155</sup> Nevada Bell Feb. 19 *Ex Parte Letter Attach.* at 6. Nevada Bell states that, before the FIT process was deployed, from January 2002 to March 2002, competitive LECs suffered repeat trouble rates for basic UNE loops averaging 12.25%. From April 2002, when FIT was fully deployed, through December 2002, repeat trouble rates have averaged around 9.4%. See *id.* Attach. at 6 n.5.

<sup>156</sup> See *Nevada Commission Order* at 146.

(3) Average Time To Restore, and Frequency of Repeat Troubles in a 30-Day Period.<sup>157</sup> We address these performance measures in order.<sup>158</sup>

57. First, in the relevant five-month data period for the instant application, Pacific Bell missed parity in the Percentage of Orders Given Jeopardy Notices for three months.<sup>159</sup> The Applicant states that these performance measures do not accurately represent the number of orders that were actually in jeopardy.<sup>160</sup> According to the Applicant, Pacific Bell's software provisioning system sent jeopardy notices to competitive providers automatically whenever an order required special handling on Pacific Bell's part.<sup>161</sup> This occurred even though the due date of these special orders was not, in fact, subject to being missed. On December 8, 2002, Pacific Bell upgraded its provisioning program to address this issue.<sup>162</sup> Although Pacific Bell's original software showed a disparity for December, the upgraded system showed that parity was met for that month.<sup>163</sup> Pacific Bell also met parity in January.<sup>164</sup>

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<sup>157</sup> See Appendix C; PM 5-523300 (CA Percent of Orders Given Jeopardy Notice) (measuring the number of placed orders for which Pacific Bell sent a notice that completion of the order by the promised due date was in jeopardy); PM 11 (CA Percent of Due Dates Missed); PM 12 (CA Percent of Due Dates Missed Due to Lack of Facilities); PM 21-2195801 (CA Average Time to Restore) (measuring how long it takes Pacific Bell to complete a competitive LEC trouble ticket); PM 23-2392801 (CA Frequency of Repeat Troubles in a 30-Day Period) (measuring the percentage of customer trouble reports within 30 days of a prior customer trouble report).

<sup>158</sup> We also found slight disparities in the length of time it takes Pacific Bell, upon request from a competitive LEC, to qualify loops during the pre-ordering stage. See PM 1-105600 (CA Average Time to Pre-Order Mechanical Loop Qualification Actual – Verigate); PM 1-106007 (CA Average Time to Pre-Order Mechanical Loop Qualification Actual – EDI-CORBA). However, the disparity in Pacific Bell's performance for these manual searches was only a matter of seconds, and we find it to be not competitively significant. See Appendix C.

<sup>159</sup> PM 5-523300 (CA Percentage of Orders Given Jeopardy Notices). The comparable percentage numbers of orders given jeopardy notices were 6.33, 9.07, 8.17, 5.72, and 4.75 for competitive LECS and 4.38, 4.10, 4.06, 5.92, and 5.20 for September, October, November, December, and January for Pacific Bell's retail analogue respectively.

<sup>160</sup> Nevada Bell Feb. 19 *Ex Parte* Letter Attach. at 1.

<sup>161</sup> Nevada Bell Feb. 19 *Ex Parte* Letter Attach. at 1. "Special handling" is necessary whenever a facilities request falls out of the automatic assignment process and must be manually handled, as in instances where fieldwork may be required to complete an order. See *id.*

<sup>162</sup> Nevada Bell Feb. 19 *Ex Parte* Letter Attach. at 1.

<sup>163</sup> Nevada Bell Feb. 19 *Ex Parte* Letter Attach. at 1. The Applicant states that it does not have appropriate data to restate the months of September through November for Pacific Bell's performance on these measures. Pacific Bell failed to meet the 95% benchmark for giving advance notice that an order might not be completed by its due date in November and December. PM 6-648200 (CA Average Jeopardy Notice Interval). The benchmark required that notice be given three hours before close of business 95% of the time that jeopardy notices were issued. Pacific Bell failed that standard by scoring 67, 78, and 75% in November, December, and January respectively. To place these numbers in perspective, however, the Applicant states that, in November and December, Pacific Bell installed over 1000 DS1 loop orders, and only 15 of those missed their due dates. Nevada Bell Feb. 19 *Ex Parte* Letter Attach. at 1. Of these 15 jeopardies, notices on only four were not sent out within three hours of the committed due date. Nevada Bell Feb. 19 *Ex Parte* Letter Attach. at 1-2. In January, Pacific Bell installed over 580 DS1 loop orders, and of that number, only seven were placed in jeopardy. Letter from Colin S. Stretch, counsel for Nevada Bell, to (continued....)

58. Second, Pacific Bell experienced performance disparities for (a) Percent of Due Dates Missed, and (b) Percent of Due Dates Missed Due to Lack of Facilities. As a preliminary matter, we note that the discrepancy in performance is minimal.<sup>165</sup> More importantly, the Applicant states that each month's miss was due to one-time events that distorted that month's metric numbers. For example, for the month of November, the Applicant states that heavy rains in the Northern California area caused an unusually high number of loops to fail.<sup>166</sup> Again in January 2003, Northern California suffered not only heavy rains, but the Applicant was also prevented by holiday construction restrictions to gain access to underground facilities in order to complete orders.<sup>167</sup> Given the slight disparity in the performance figures and the unique

(Continued from previous page) \_\_\_\_\_  
Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-10, Attach. A, at 1 (filed March 11, 2003) (Nevada Bell Mar. 11 *Ex Parte* Letter).

<sup>164</sup> See Appendix C.

<sup>165</sup> For PM 11 (CA Percent of Due Dates Missed), the comparable percentages of due dates missed were 1.96, 2.83, 3.12, 3.59, and 2.41% for the competitive LECs and 3.13, .57, 1.00, 1.28, and .79% for Pacific Bell's retail affiliate for the months of September, October, November, December and January respectively. For this measure, Pacific Bell failed to achieve parity in October, November, December, and January. For PM 12 (CA Percent of Due Dates Missed Due to Lack of Facilities), the percentage of due dates missed was .98, 1.19, 1.66, 2.39, and 2.07% for the competitive LECs and .72, .14, .28, .85, and 1.11% for Pacific Bell's retail affiliate for the months of September, October, November, December, and January, respectively. For this measure, Pacific Bell failed to reach parity in October, November, December and January.

<sup>166</sup> The Applicant explains in more detail:

Each [California] shortfall was due to an independent event affecting discreet market areas. In October, missed due dates in the North region caused the performance shortfall. This was the only month among the last five months in which Pacific's performance in the North region did not achieve parity. In November, heavy rains in the Bay region contributed to a higher than usual number of bad cable facilities, causing a slightly higher miss rate for DS1 loops. Pacific did not miss either PM 11 or PM 12 for DS1 loops in the Bay region in any other month in 2002. Finally, in December, issues associated with late engineering designs in the LA region for DS1 loops caused a performance shortfall in that region. As in the Bay region, this was the first time in 2002 that Pacific's LA region performance for PMs 11 and 12 fell short of parity. Even apart from the isolated nature of these performance shortfalls, in absolute terms Pacific's performance provisioning DS1 loops has been strong. In the months of September through December, the percentage of due dates missed for DS1 loops was never greater than 3.6%.

Nevada Bell Feb. 19 *Ex Parte* Letter Attach. at 2.

<sup>167</sup> The Applicant explains further:

In the North[ern California] region, Pacific [Bell] missed nine due dates, all as a result of lack of facilities. Two of the misses were due to the California Highway Department's holiday restrictions, which did not allow access to needed underground facilities during the first few days of January 2003. Another two misses were due to wet cables from the late December rains. Three misses were generated because needed construction work was so extensive that it could not be completed by the committed due date. The final two misses represent orders that were missed due to a Customer Not Ready ("CNR") condition. Though Pacific [Bell] was ready to install these orders on time, the orders were shown as "misses" because they initially were placed in jeopardy status early on the due date, due to a lack of facilities.

Nevada Bell Mar. 11 *Ex Parte* Letter Attach. B at 3.

circumstances surrounding each month's performance, we find no indication of discriminatory conduct. We note that, on February 20, 2003, the Commission announced in its *Triennial Review* proceeding that it will address competitive LEC requests that may require new facilities.<sup>168</sup> Although no commenter challenged the Applicant's showing of nondiscrimination in the performance measure Percent of Due Dates Missed Due to Lack of Facilities, in the wake of the *Triennial Review Order*, a competitive LEC may assert arguments of discrimination in a section 271(d)(6) complaint proceeding, where there is an opportunity to build a complete record.<sup>169</sup>

59. Third, Pacific Bell experienced performance disparities in the Average Time to Restore metric<sup>170</sup> and the Frequency of Repeat Troubles in 30-Day Period metric.<sup>171</sup> These measures gauge how quickly Pacific Bell repairs a competitive LEC's customer problem and what percentage of customer trouble reports are made within 30 days of a prior trouble report.

60. The Applicant argues that the general underlying basis for these disparities is the difference in Pacific Bell's ability to test loops provided to competitive LECs as opposed to its ability to test loops provided to its retail affiliate.<sup>172</sup> The Applicant states that its ability to resolve a customer's trouble in a timely fashion, and to prevent a recurrence of the trouble, depends in part on the competitive LEC's ability to identify troubles on its DSL service before submitting a trouble report to Nevada Bell or Pacific Bell.<sup>173</sup> The Applicant states that if the competitive LEC were to test xDSL loops for potential problems prior to provisioning, the number of customer troubles would decline in the first instance, thereby diminishing the number of repeat trouble reports. In addition, potential problems would be identified early in the process, thereby reducing Pacific Bell's average time to restore.<sup>174</sup>

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<sup>168</sup> The *Triennial Review Order* will be released in the near future. A press release issued by the Commission at the time it voted on the *Triennial Review* item states that incumbent LECs "are required to make routine network modifications to UNEs used by requesting carriers where the requested facility has been constructed" and that incumbent LECs are required "to condition loops for the provision of xDSL services." See *FCC Adopts New Rules For Network Unbundling Obligation Of Incumbent Local Phone Carriers*, CC No. 01-338, Press Release (Feb. 20, 2003), Attach. at 3.

<sup>169</sup> *Application by Verizon Maryland Inc., Verizon Washington, D.C. Inc., Verizon West Virginia Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in Maryland, Washington, D.C., and West Virginia*, WC Docket No. 02-384, Memorandum Opinion and Order, FCC 03-57, para. 122 (rel. Mar. 19, 2003) (*Verizon MD/D.C./WVA Order*).

<sup>170</sup> PM 21-2195801 (CA Average Time to Restore UNE Lp 2w xDSL); PM 21-2196001 (CA Average Time To Restore UNE Lp 4w Dig HDSL).

<sup>171</sup> PM 23-2392801 (CA Frequency of Repeat Troubles UNE Lp 2w xDSL).

<sup>172</sup> Nevada Bell Mar. 11 *Ex Parte* Letter Attach. at 1.

<sup>173</sup> See Nevada Bell Feb. 19 *Ex Parte* Letter Attach. at 3.

<sup>174</sup> See Nevada Bell Feb. 19 *Ex Parte* Letter Attach. at 3.

61. In September 2002, Pacific Bell began signal testing all DSL-capable loops for competitive LECs and Pacific Bell's retail affiliate, testing for both continuity of the loop and whether a data signal can be passed on the circuit.<sup>175</sup> Pacific Bell states that it will also perform synchronization tests for DSL service, if the competitive LEC provides test modems to Pacific Bell for the testing.<sup>176</sup> As a result of these new testing procedures, the Applicant states that repeat trouble reports have been reduced from levels of 18 to 25 percent for the January to August 2002, time frame to levels of 16 to 18 percent for September to December 2002.<sup>177</sup>

62. However, we note with concern that, from September 2002 through January 2003, the percentage numbers of repeat troubles for competitive LECs climbed from 16.69 percent to 22.73 percent. The disparity in recurring troubles for Pacific Bell's retail affiliate and the recurring troubles for the competitive LECs widened from 4.43 percent in September 2002, to 9.51 percent in January 2003.<sup>178</sup> The Applicant argues that this increase in recurring competitive LEC troubles in January 2003, was due to wet weather conditions.<sup>179</sup> In addition, the apparent disparity in this measurement of recurring troubles is due, the Applicant states, to the types of recurring troubles that are measured.<sup>180</sup>

63. The heavy January rains, the Applicant states, caused an increase in recurring *physical* failures of entire loops.<sup>181</sup> For the competitive LECs, this increase is reflected in PM 23-2392801. For its retail affiliate, the Applicant states that an increase in the physical failure of its loops is reflected in voice-loop recurring trouble performance measurements.<sup>182</sup> Our review

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<sup>175</sup> See Nevada Bell Feb. 19 *Ex Parte* Letter Attach. at 3.

<sup>176</sup> See Nevada Bell Feb. 19 *Ex Parte* Letter Attach. at 3. To date, only Pacific Bell's retail affiliate has provided test modems for synchronization testing. See *id.*

<sup>177</sup> See Nevada Bell Feb. 19 *Ex Parte* Letter Attach. at 3.

<sup>178</sup> PM 23-2392801 (CA Frequency of Repeat Troubles UNE Lp 2w xDSL). The comparable percentage numbers of repeat troubles were 16.69, 17.84, 17.71, 17.60, and 22.73% for the competitive LECs and 12.09, 13.13, 12.36, 13.10, and 13.22% for Pacific Bell's retail affiliate. Pacific Bell failed to meet parity in September, October, November, December, and January.

<sup>179</sup> Nevada Bell Mar. 11 *Ex Parte* Letter Attach A at 1. The Applicant states that 72% of the repeat troubles were resolved at the cable facility. *Id.* at Attach A at 2.

<sup>180</sup> The Applicant explains that, for purposes of this performance measure, the retail analogue for xDSL loops that it provides to competitive LECs are line shared loops that Pacific Bell shares with its retail affiliate. Nevada Bell Mar. 11 *Ex Parte* Letter Attach A at 1. The Applicant states that PM 23-2392801 measures a recurring problem for its retail affiliate's line shared loop when there is a recurring trouble with only the data portion of the loop. If there is a trouble with the entire line shared loop that affects both the voice and data portions, the trouble is reported under a performance metric that gauges recurring troubles for voice, not data. Nevada Bell Mar. 11 *Ex Parte* Letter Attach A at 2.

<sup>181</sup> Nevada Bell Mar. 11 *Ex Parte* Letter Attach A at 1.

<sup>182</sup> Nevada Bell Mar. 11 *Ex Parte* Letter Attach A at 2.



of a performance measurement reflecting recurring troubles of statewide residential POTs confirms a slight increase in Pacific Bell's retail affiliate's recurring trouble rate.<sup>183</sup>

64. The record also demonstrates that, even though Pacific Bell continues to suffer a disparity in its Average Time to Restore xDSL trouble tickets, it shortened its average time to restore competitive xDSL trouble tickets by 3.47 hours between December 2002, and January 2003.<sup>184</sup> In light of this improvement, the overall minimal disparity in the average time to repair customer trouble reports,<sup>185</sup> Pacific Bell's explanation of the January 2003, recurring trouble performance measures, and Pacific Bell's new offerings to trouble test xDSL capable loops prior to provisioning, we do not find any evidence of discrimination with regard to high-capacity loops.

65. *Line Sharing and Line Splitting.* Based on the evidence in the record, we find, as did the Nevada Commission, that Nevada Bell demonstrates that it provides nondiscriminatory access to the high frequency portion of the loop.<sup>186</sup> Given the low number of orders in Nevada, as noted above, we examine Pacific Bell's performance in California. To the extent that there were discrepancies in Pacific Bell's California performance with regard to line sharing and line splitting trouble reports after provisioning, such discrepancies do not appear to be competitively significant.<sup>187</sup> Moreover, as discussed in the high-capacity loop section above, Pacific Bell's new line testing procedures have lowered the percentage of trouble reports.<sup>188</sup>

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<sup>183</sup> See PM 23-2391600 (CA Frequency of Repeat 30 Day Troubles: Statewide Resale Residential POTS). On this performance measure, Pacific Bell's affiliate's repeat trouble rate increased from 11.22% to 12.46% from December 2002, to January 2003. The repeat trouble rate for competitive LECS on this performance measure increased from 6.52% to 10.3% during this same period.

<sup>184</sup> See PM 21-2195801 (CA Average Time to Restore UNE Lp 2w xDSL), the comparable numbers (in hours taken to restore service) were 12.32, 10.87, 16.69, 18.16, and 14.69 for the competitive LECs and 12.50, 9.86, 13.17, 14.12, and 12.01 for Pacific Bell's retail affiliate for the months of September, October, November, December, and January. Pacific Bell failed to meet parity in October, November, December, and January. See also PM 21-2196001 (CA Average Time to Restore UNE Lp 4w Dig HDSL). In the months submitted in this proceeding, Pacific Bell's performance (in hours taken to restore service) was 4.28, 3.88, 4.85, 3.91, and 3.25 for competitive LECs and 3.14, 3.10, 4.45, 4.46, and 3.62 for the Pacific Bell affiliate for the months September, October, November, December, and January. Pacific Bell failed to meet parity in September, October, November, and January.

<sup>185</sup> The disparity in the Average Time to Restore a DSL problem was in most months a matter of hours. See *Pacific Bell California Order*, 17 FCC Rcd at 25723, para. 130 n. 467 (noting that two hours difference in repair time for competitive LECs and Pacific Bell's retail affiliate was minimal).

<sup>186</sup> See *Nevada Commission Order* at 152-53.

<sup>187</sup> See PM 16 (CA Percentage Troubles within 30 Days for Special Services Orders). Pacific Bell failed to meet parity for this performance measure during October, November, December, and January. For this measure, the comparable percentages of troubles with special orders were 2.08, 3.47, 2.95, 3.32, and 2.84 for the competitive LECs and 1.87, 2.31, 1.94, 3.08, and 1.78 for Pacific Bell's retail affiliate for the months September, October, November, December, and January. Pacific Bell missed parity for September, October, November, December, and January for CA Customer Trouble Report Rate. See 19-1994100 (CA Customer Trouble Report Rate). For this (continued...)

## B. Checklist Item 1—Interconnection

66. Section 271(c)(2)(B)(i) requires the BOC to provide equal-in-quality interconnection on terms and conditions that are just, reasonable, and nondiscriminatory in accordance with the requirements of sections 251 and 252. Based on our review of the record, we conclude, as did the Nevada Commission, that Nevada Bell complies with the requirements of this checklist item.<sup>189</sup> In reaching this conclusion, we have examined Nevada Bell's performance with respect to collocation and interconnection trunks, as the Commission has done in prior section 271 proceedings. When analyzing Nevada Bell's showing, we first review Nevada performance data for measures where there are sufficient commercial volumes. However, for other measures, where volumes are low, we look to California data.

(Continued from previous page)

measure, the comparable percentages of trouble rates were .69, .95, .67, .64 and .8 for the competitive LECs and .42, .48, .43, .43 and .45 for Pacific Bell's retail affiliate for the months September, October, November, December, and January. In addition, Pacific Bell missed parity for October, November, and December for CA Frequency of Repeat Troubles in a 30-Day Period. *See* PM 23-2394000 (CA Frequency of Repeat Troubles in 30-Day Period). For this measure, the comparable percentages of repeat troubles were 14.44, 18.60, 17.65, 19.04, and 18.5 for the competitive LECs and 12.09, 13.13, 12.36, 13.10, and 13.22 for Pacific Bell's retail affiliate for the months of September, October, November, December, and January. Pacific Bell failed to meet parity in October, November, December, and January.

<sup>188</sup> The Applicant states Pacific Bell's efforts have reduced repeat trouble reports for competitive LEC line shared loops. *See* Nevada Bell Feb. 19 *Ex Parte* Letter Attach. at 3. According to the Applicant, repeat reports for line shared loops have gone down from 18 to 24% in the months January through August 2002, to 14.5 to 19% in the September to December 2002, timeframe. *See id.*

<sup>189</sup> *See Nevada Commission Order* at 55-56. *See also Verizon Massachusetts Order*, 16 FCC Rcd at 9092-95, paras. 183-87, 9097-98, paras. 194-95. We note that Nevada Bell met the parity standard for the vast majority of interconnection performance measures for which there was sufficient volume. *See* Appendix B. For performance measures with low volumes, we note that Pacific Bell met the parity standard for the vast majority of interconnection performance measures in California. *See* Appendix C. The one performance measure for which Nevada Bell failed to meet the benchmark standard in Nevada was the Percent Blocking of Common Trunks measure. *See* PM 24-240010 (NV Percent Blocking on Common Trunks). For that performance measure, Nevada Bell failed the benchmark standard four of the five months reported by having between 3 and 6% of common trunks blocked, when the benchmark standard is 2%. Nevada Bell explains that for the misses in September and October, the trunk blockages were due in part to a one-time routing error on the part of a Nevada Bell employee, and in part due to overflow traffic onto the Nevada Bell common transport network from one competitive LEC. *See* Nevada Bell Application App. A, Vol. 1, Tab 5, Affidavit of William C. Deere (Nevada Bell Deere Aff.) at paras. 34-42; *see also* Nevada Bell Feb. 19 *Ex Parte* Letter Attach. at 6. Nevada Bell further explains that the performance shortfall in December was caused by a high volume of traffic from a telemarketer occurring for one hour on one day of the month, and the performance failure in January was also caused by a single trunk group being blocked greater than the objective level. Because of the small number of trunk groups in Nevada, Nevada Bell claims that significant overflow from even one competitive LEC can cause customer-affecting blocking levels on the network. Accordingly, Nevada Bell is requesting some modifications to this performance measure. Nevada Bell Feb. 19 *Ex Parte* Letter Attach. at 6; *see also* Nevada Bell Mar.11 *Ex Parte* Letter Attach B at 9. We note that no competitive carriers commented on this performance or suggested that they were negatively affected by the common trunk blockage during these months. After evaluating Nevada Bell's explanations, we find that these misses do not overcome Nevada Bell's showing of checklist compliance.

67. We reject the allegations of several paging carriers that Nevada Bell should fail this checklist item because it has refused to provide interconnection facilities and has charged these paging companies inappropriately for the delivery of interconnection services.<sup>190</sup> In response to these comments, Nevada Bell claims that it has provided all of the commenting carriers with interconnection facilities.<sup>191</sup> Because Nevada Bell claims that these facilities are underutilized, it contends that it has not provided additional trunking requested by the paging carriers at issue. Instead, it has offered to work with the carriers to determine whether any additional trunking is needed.<sup>192</sup> On the issue of billing paging carriers improperly, Nevada Bell claims that the charges at issue include those that incumbent LECs may charge paging carriers for facilities utilized for various services (*e.g.*, transit traffic and wide area calling services).<sup>193</sup> Nevada Bell further claims that it has sought to negotiate interconnection agreements with the paging carriers that would resolve the issue of whether any refunds are owed and would address the question of what charges Nevada Bell is entitled to bill on a going-forward basis.<sup>194</sup> According to Nevada Bell, the paging carriers have not been willing to engage in negotiations. In addition, Nevada Bell states that although it has submitted bills to these paging carriers, it has not taken adverse action against them for failure to pay the disputed charges.<sup>195</sup> These paging carrier comments do not seem to suggest any systemic failure on the part of Nevada Bell, but instead appear to be carrier-specific complaints concerning Nevada Bell's conduct. As the Commission has found in prior section 271 proceedings, we find that the complaint process is the more appropriate forum to examine these types of carrier-specific factual disputes.<sup>196</sup> Indeed, at least two of the paging companies indicate that they have initiated some sort of enforcement action before both the Commission and the Nevada Commission against Nevada Bell.<sup>197</sup> We would foreclose a possible resolution of this issue by the Nevada Commission were we to find that this issue warrants a finding of checklist noncompliance, and we decline to do so.

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<sup>190</sup> See Edwards Industries Comments; January Communications Comments; Nevada Microwave Comments; NRTN Comments; and Satellite Page Comments. Specifically, Edwards Industries, Nevada Microwave, and NRTN claim that Nevada Bell has refused to provide interconnection services. Edwards Industries, January Communications, NRTN, and Satellite Page also claim that Nevada Bell has been billing inappropriately for the delivery of interconnection services.

<sup>191</sup> Nevada Bell Application Supplemental Reply, Reply Affidavit of Daniel O. Jacobsen (Nevada Bell Jacobsen Reply Aff.), at paras. 10, 13-14.

<sup>192</sup> Nevada Bell Jacobsen Reply Aff. at paras. 10,14.

<sup>193</sup> Nevada Bell Jacobsen Reply Aff. at para. 6.

<sup>194</sup> Nevada Bell Jacobsen Reply Aff. at para. 8.

<sup>195</sup> Nevada Bell Jacobsen Reply Aff. at para. 8.

<sup>196</sup> As the Commission has found in past proceedings, the section 271 process simply could not function if we were required to resolve every interpretive dispute between a BOC and each competitive carrier about the precise content of the BOC's obligations to its competitors. See, *e.g.*, *SWBT Texas Order*, 15 FCC Rcd at 18366-67, 18541, paras. 22-27, 383; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6355, para. 230.

<sup>197</sup> See Edwards Industries Comments at 2; January Communications Comments at 2.

### C. Remaining Checklist Items (3, 5-14)

68. In addition to showing that it is in compliance with the requirements discussed above, an applicant under section 271 must demonstrate that it complies with checklist item 3 (access to poles, ducts, and conduits),<sup>198</sup> item 5 (transport),<sup>199</sup> item 6 (unbundled local switching),<sup>200</sup> item 7 (911/E911 access and directory assistance/operator services),<sup>201</sup> item 8 (white pages directory listings),<sup>202</sup> item 9 (numbering administration),<sup>203</sup> item 10 (databases and associated signaling),<sup>204</sup> item 11 (number portability),<sup>205</sup> item 12 (local dialing parity),<sup>206</sup> item 13 (reciprocal compensation),<sup>207</sup> and item 14 (resale).<sup>208</sup> Based on the evidence in the record, we conclude, as did the Nevada Commission, that Nevada Bell demonstrates that it is in compliance with these checklist items in Nevada.<sup>209</sup> None of the commenting parties challenge Nevada Bell's compliance with these checklist items.

### V. SECTION 272 COMPLIANCE

69. Section 271(d)(3)(B) provides that the Commission shall not approve a BOC's application to provide interLATA services unless the BOC demonstrates that the "requested authorization will be carried out in accordance with the requirements of section 272."<sup>210</sup> Based

<sup>198</sup> 47 U.S.C. § 271(c)(2)(B)(iii).

<sup>199</sup> 47 U.S.C. § 271(c)(2)(B)(v).

<sup>200</sup> 47 U.S.C. § 271(c)(2)(B)(vi).

<sup>201</sup> 47 U.S.C. § 271(c)(2)(B)(vii).

<sup>202</sup> 47 U.S.C. § 271(c)(2)(B)(viii).

<sup>203</sup> 47 U.S.C. § 271(c)(2)(B)(ix).

<sup>204</sup> 47 U.S.C. § 271(c)(2)(B)(x).

<sup>205</sup> 47 U.S.C. § 271(c)(2)(B)(xi).

<sup>206</sup> 47 U.S.C. § 271(c)(2)(B)(xii).

<sup>207</sup> 47 U.S.C. § 271(c)(2)(B)(xiii).

<sup>208</sup> 47 U.S.C. § 271(c)(2)(B)(xiv). We note that, regarding advanced services, Nevada Bell provides the same resale offerings in Nevada as Pacific Bell provides and we approved in California. *See Nevada Bell Application at 64; Pacific Bell California Order*, 17 FCC Rcd at 25713-15, paras. 110-15.

<sup>209</sup> Nevada Bell Application at 39-40 (checklist item 3), 54-55 (checklist item 5), 56-57 (checklist item 6), 57-59 (checklist item 7), 59-60 (checklist item 8), 60 (checklist item 9), 60-61 (checklist item 10), 61-63 (checklist item 11), 63 (checklist item 12), 63-64 (checklist item 13), and 64-67 (checklist item 14); *Nevada Commission Order* at 133-36 (checklist item 3), 156-61 (checklist item 5), 161-66 (checklist item 6), 166-75 (checklist item 7), 175-79 (checklist item 8), 179-81 (checklist item 9), 181-87 (checklist item 10), 187-93 (checklist item 11), 193-95 (checklist item 12), 195-97 (checklist item 13), and 197-205 (checklist item 14).

<sup>210</sup> 47 U.S.C. § 271(d)(3)(B); Appendix D at paras. 68-69.

on the record, we conclude that Nevada Bell has demonstrated that it will comply with the requirements of section 272.<sup>211</sup> Significantly, Nevada Bell provides evidence that it maintains the same structural separation and nondiscrimination safeguards in Nevada as it does in California.<sup>212</sup> No party challenges Nevada Bell's section 272 showing.<sup>213</sup>

## VI. PUBLIC INTEREST

70. Apart from determining whether a BOC satisfies the competitive checklist of section 271 and will comply with section 272, Congress directed the Commission to assess whether the requested authorization would be consistent with the public interest, convenience, and necessity.<sup>214</sup> At the same time, section 271(d)(4) of the Act states in full that “[t]he Commission may not, by rule or otherwise, limit or extend the terms used in the competitive checklist set forth in subsection (c)(2)(B).”<sup>215</sup> Accordingly, although the Commission must make a separate determination that approval of a section 271 application is “consistent with the public interest, convenience, and necessity,” it may neither limit nor extend the terms of the competitive checklist of section 271(c)(2)(B). The Commission views the public interest requirement as an opportunity to review the circumstances presented by the application to ensure that no other relevant factors exist that would frustrate the congressional intent that markets be open, as required by the competitive checklist, and that entry will serve the public interest as Congress expected.

71. We conclude that approval of this application is consistent with the public interest. From our extensive review of the competitive checklist, which embodies the critical elements of market entry under the Act, we find that barriers to competitive entry in the local exchange markets have been removed and the local exchange markets in Nevada today are open to competition. We further find that the record confirms our view, as noted in prior section 271 orders, that BOC entry into the long distance market will benefit consumers and competition if

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<sup>211</sup> See Nevada Bell Application at 77-78; Nevada Bell Application App. A, Vol. 1, Tab 1, Affidavit of Joe Carrisalez (Nevada Bell Carrisalez Aff.); Nevada Bell Application App. A, Vol. 2a-c, Tab 8, Affidavit of Robert L. Henrichs (Nevada Bell Henrichs Aff.); Nevada Bell Application App. A, Vol. 5, Tab 20, Affidavit of Linda G. Yohe (Nevada Bell Yohe Aff.).

<sup>212</sup> See Nevada Bell Carrisalez Aff. Attach. A at para. 5; Nevada Bell Henrichs Aff. Attach. C at para. 9; Nevada Bell Yohe Aff. Attach. A at para. 7. See also *Pacific Bell California Order*, 17 FCC Rcd at 25731-33, paras. 145-46; *SWBT Arkansas/Missouri Order*, 16 FCC Rcd at 20780-81, paras. 122-23; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6370-74, paras. 256-65; *SWBT Texas Order*, 15 FCC Rcd at 18548-57, paras. 394-415.

<sup>213</sup> Ernst & Young has completed the first independent audit of SBC's section 272 compliance pursuant to section 53.209 of the Commission's rules, 47 C.F.R. § 53.209. See Letter from Brian Horst, Partner, Ernst & Young, to Marlene H. Dortch, Secretary, Federal Communication Commission (Sept. 16, 2002) (transmitting audit report). Although the audit raises issues that may require further investigation, the audit results, standing alone, are insufficient to establish whether Nevada Bell is in compliance with section 272.

<sup>214</sup> 47 U.S.C. § 271(d)(3)(C); Appendix D at paras. 70-71.

<sup>215</sup> 47 U.S.C. § 271(d)(3)(C).

the relevant local exchange market is open to competition consistent with the competitive checklist. Moreover, in the absence of any arguments made, or evidence presented by commenters to the contrary, we find no reason to depart from this general assumption.

72. In addition, we find that the Nevada Commission's PIP provides further assurances that Nevada Bell will keep the local exchange markets open.<sup>216</sup> Although it is not a requirement for section 271 approval that a BOC be subject to such post-entry performance assurance mechanisms, such mechanisms are probative evidence that the BOC will continue to keep the local exchange markets open in the public interest.<sup>217</sup>

73. We have examined key aspects of Nevada's PIP and find that the plan is likely to provide incentives that are sufficient to foster post-entry checklist compliance. As in prior section 271 orders,<sup>218</sup> we find present in the Nevada Commission plan the following elements necessary for a successful performance assurance plan: total liability at risk in the plan for failure to meet performance measurements; structure of the plan; self-executing nature of remedies of the plan; data validation and audit procedures of the plan; and accounting requirements.<sup>219</sup> The Nevada Commission will also, from time to time, reexamine and amend performance measures and the incentive plan to ensure that they reflect changes in the telecommunications industry.<sup>220</sup> No commenter has argued or presented evidence that the Nevada incentives plan is in any way deficient in continuing to protect the public interest embodied in section 271.

## VII. SECTION 271(d)(6) ENFORCEMENT AUTHORITY

74. Section 271(d)(6) of the Act requires Nevada Bell to continue to satisfy the "conditions required for . . . approval" of its section 271 application after the Commission approves its application.<sup>221</sup> Thus, the Commission has a responsibility not only to ensure that Nevada Bell is in compliance with section 271 today, but also that it remains in compliance in the future. As the Commission has already described the post-approval enforcement framework

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<sup>216</sup> See *Pacific Bell California Order*, 17 FCC Rcd at 25738, para. 160 n. 570. We note that in all of the applications granted by the Commission, the applicant was subject to a performance assurance plan designed to protect against backsliding from its section 271 obligations once the BOC enters the long distance market.

<sup>217</sup> See *Pacific Bell California Order*, 17 FCC Rcd at 25738, para. 160 n. 571; *Verizon New Jersey Order*, 17 FCC Rcd at 12362, para. 176; *Ameritech Michigan Order*, 12 FCC Rcd at 20748-50, paras. 393-98.

<sup>218</sup> See *Pacific Bell California Order*, 17 FCC Rcd at 25738-39, para. 161; *Verizon Massachusetts Order*, 16 FCC Rcd at 9121-25, paras. 240-47; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6377-81, paras. 273-78.

<sup>219</sup> See *Nevada Commission Order* at 207-13; Nevada Bell Application at 76-77; Nevada Bell Johnson Aff. at paras. 201-08, 211-12, 215.

<sup>220</sup> See *Nevada Commission Order* at 209-10; see also *Pacific Bell California Order*, 17 FCC Rcd at 25739-40, para. 163 (noting with approval that the California Commission would continue to review that state's performance measures and incentives plans and make "adjustments and modifications to the components, if necessary").

<sup>221</sup> 47 U.S.C. § 271(d)(6).

and its section 271(d)(6) enforcement powers in detail in prior orders, it is unnecessary to do so again here.<sup>222</sup>

75. Working in concert with the Nevada Commission, we intend to monitor closely Nevada Bell's post-approval compliance for Nevada to ensure that Nevada Bell does not "cease[] to meet any of the conditions required for [section 271] approval."<sup>223</sup> We stand ready to exercise our various statutory enforcement powers quickly and decisively in appropriate circumstances to ensure that the local market remains open in Nevada. We are prepared to use our authority under section 271(d)(6) if evidence shows market opening conditions have not been maintained.

76. We require Nevada Bell to report to the Commission all Nevada carrier-to-carrier performance measure results and PIP reports beginning with the first full month after the effective date of this Order, and for each month thereafter for one year unless extended by the Commission. These results and reports will allow us to review, on an ongoing basis, Nevada Bell's performance to ensure continued compliance with the statutory requirements. We are confident that cooperative state and federal oversight and enforcement can address any backsliding that may arise with respect to Nevada Bell's entry into the Nevada long distance market.<sup>224</sup>

## VIII. CONCLUSION

77. For the reasons discussed above, we grant Nevada Bell's application for authorization under section 271 of the Act to provide in-region, interLATA services in the State of Nevada.

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<sup>222</sup> See, e.g., *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6382-84, paras. 283-85; *SWBT Texas Order*, 15 FCC Rcd at 18567-68, paras. 434-36; *Bell Atlantic New York Order*, 15 FCC Rcd at 4174, paras. 446-53.

<sup>223</sup> 47 U.S.C. § 271(d)(6)(A).

<sup>224</sup> See, e.g., *Bell Atlantic-New York, Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York*, Order, 15 FCC Rcd 5413, 5413-23 (2000) (adopting consent decree between the Commission and Bell Atlantic that included provisions for Bell Atlantic to make a voluntary payment of \$3,000,000 to the United States Treasury, with additional payments if Bell Atlantic failed to meet specific performance standards and weekly reporting requirements to gauge Bell Atlantic's performance in correcting the problems associated with its electronic ordering systems).

**IX. ORDERING CLAUSES**

78. Accordingly, IT IS ORDERED that, pursuant to sections 4(i), 4(j), and 271 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 271, Nevada Bell's application to provide in-region, interLATA service in the State of Nevada, filed on January 14, 2003, IS GRANTED.

79. IT IS FURTHER ORDERED that this Order SHALL BECOME EFFECTIVE April 25, 2003.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary



## APPENDIX A

## Commenters in WC Docket No. 03-10

Commenters

Alliance for Public Technology  
Edwards Industries  
Department of Justice  
January Communications  
Nevada Radio Telephone Network  
Nevada Microwave  
Nevada Public Utilities Commission  
State of the Arts Communications and Electronics  
REC Networks  
WorldCom, Inc.

Abbreviation

APT  
Edwards Industries  
Department of Justice  
January Communications  
NRTN  
Nevada Microwave  
Nevada Commission  
Satellite Page  
REC  
WorldCom

Reply Commenters

Nevada Bell  
WorldCom, Inc.

Abbreviation

Nevada Bell  
WorldCom

## Appendix B

### Nevada Performance Metrics

Except where noted, the data included here are taken from the Nevada performance reports provided by Nevada Bell, calculated according to the Nevada Performance Measurement Plan as of 9/12/02. This table is provided as a reference tool for the convenience of the reader. No conclusions are to be drawn from the raw data contained in this table. Our analysis is based on the totality of the circumstances, such that we may use non-metric evidence, and may rely more heavily on some metrics more than others, in making our determination. The inclusion of these particular metrics in this table does not necessarily mean that we relied on all of these metrics, or that other metrics may not also be important in our analysis. Some metrics that we have relied on in the past and may rely on for a future application were not included here because there was no data provided for them (usually either because there was no activity, or because the metrics are still under development).

Metrics with no retail analog provided are usually compared with a benchmark. Note that for some metrics during the period provided there may be changes in the metric definition, or changes in the retail analog applied, making it difficult to compare data over time.

**Performance Metric Categories**

Metric Number	Metric Name
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***Pre-Ordering***

1	Average Response Time (to Pre-Order Queries)
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***Ordering***

2	Average FOC Notice Interval
3	Average Reject Notice Interval
4	Percentage of Flow-Through Orders

***Provisioning***

5	Percent of Orders Jeopardized
6	Jeopardy Notices Returned by the Required Interval
7	Completed Interval
8	Percent Completed Within Standard Interval as a Percentage On-Time
9	Coordinated Customer Conversion
9a	Frame Due Time (FDT) Conversions as a Percentage on Time
10	LNP Network Provisioning
11	Percent of Due Dates Missed
12	Percent Company Missed Due Dates Due to Lack of Facilities
13	Delay Order Interval to Completion Date
14	Held Order Interval
15	Provisioning Trouble Reports
15a	Average Time to Restore Provisioning Troubles
16	Percent Troubles in 30 Days for New Orders (Specials)
17	Percent Troubles in 10 Days for New Orders (Non-Specials)
18	Average Completion Notice Interval

***Maintenance***

19	Customer Trouble Report Rate
20	Percent of Customer Trouble not Resolved within Estimated
21	Average Time to Restore
22	POTS Out of Service Less Than 24 Hours

Metric Number	Metric Name
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23	Frequency of Repeat Troubles in 30-Day Period
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***Network Performance***

24	Percent Blocking on Common Trunks
25	Percent Blocking on Interconnection Trunks
26	NXX Loaded by LERG Effective Date

***Billing***

38	Usage Timeliness
30	Wholesale Bill Timeliness
31	Usage Completeness
32	Recurring Charge Completeness
33	Non-Recurring Charge Completeness
34	Bill Accuracy
35	Billing Completion Notice Interval

***Database Updates***

37	Database Update Interval
38	Percent Database Accuracy
39	E911/911 MS Database Update Interval

***Collocation***

40	Time to Respond to a Collocation Request
41	Time to Provide a Collocation Arrangement

***Interfaces***

42	Percent of Time Interface is Available
44	Center Responsiveness

## Nevada Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	
<b>Pre-Ordering</b>												
<b><i>1 - Average Response Time (to Pre-Order Queries)</i></b>												
1 - 103300	Man Fax: Req for CSR	100.00		96.00		100.00		100.00		100.00		
1 - 105101	K1023: Man Qual - All Other Products	0.39	10.52	1.21	5.32	2.64	7.71	0.85	3.85	1.44	7.52	abcde
1 - 105102	K1023: Man Qual - xDSL & Line Sharing Loops	1.25	0.82	0.43	1.02	1.08	0.99	0.65	1.21	0.77	0.46	abcde
1 - 107001	Mech Verigate: Add Verif	1.57		1.94		2.75		1.93		1.82		
1 - 107101	Mech Verigate: Request TN	7.27		7.09		8.21		6.32		4.44		
1 - 107201	Mech Verigate: Request CSR	3.60		3.65		6.21		5.06		4.36		
1 - 107301	Mech Verigate: Svc Avail	0.86		0.96		1.95		0.81		0.84		
1 - 107500	Mech Verigate: Rej/Fail Inq	2.58		3.61		9.84		1.84		3.81		
1 - 107501	Mech Verigate: Dispatch Req/Fac Avail	nd		nd		nd		nd		5.91		abcde
1 - 107700	Mech Lp Qual: Verigate Mech Lp Qual Actual	13.43	9.48									
1 - 107702	Mech Lp Qual: Verigate Mech Lp Qual Actual			100.00		98.46		92.65		93.18		
1 - 107800	Mech Loop Qual: Verigate Mech Loop Qual Design	4.34	3.69									a
1 - 107802	Mech Loop Qual: Verigate Mech Loop Qual Design			100.00		100.00		100.00		100.00		b
1 - 108001	Mech EDI/COBRA: Address Verification	5.19		3.00		nd		1.43		nd		a cde
1 - 108101	Mech EDI/COBRA: Request TN	1.62		5.30		nd		2.66		nd		abcde
1 - 108201	Mech EDI/COBRA: Request CSR	1.90		2.27		3.22		0.70		0.86		
1 - 108500	Mech EDI/COBRA: Rej/Fail Inq	1.39		2.04		1.27		0.95		0.77		
<b>Ordering</b>												
<b><i>2 - Average FOC Notice Interval</i></b>												
2 - 200101	Elect/Elect - Resale Res POTS	0.05		0.04		0.04		0.04		0.05		
2 - 200201	Elect/Elect - Resale Bus POTS	0.02		0.02		0.03		0.03		0.02		abcd
2 - 201101	Elect/Elect - UNE 2/4w (8db & 5.5db) Weight 2/4w Anal Lp (incl Coin/Anal PBX)	0.02		0.04		0.02		0.03		0.02		
2 - 201201	Elect/Elect - UNE Lp 2w Dig ISDN Cap	0.02		0.02		nd		nd		0.02		abcde
2 - 201301	Elect/Elect - UNE Lp 2w Dig xDSL Cap (A,H,I,S)	0.02		0.05		0.02		0.04		0.02		
2 - 201403	Elect/Elect - UNE Lp 4w Dig 1.544 mbpd Cap/HDSL	0.02		0.02		0.02		0.04		0.02		a cde
2 - 202201	Elect/Elect - UNE Pltfrm Basic Port & (8db & 5.5db)	0.19		0.14		0.15		0.18		nd		abcde
2 - 204004	Elct Man- UNE Voice-Grade Lp - Enhance Extend	nd		nd		2.12		0.68		2.65		abcde
2 - 204005	Elct Man- UNE 4w Dig DS1 Lp - Enhance Extend	1.58		0.33		1.42		1.87		1.33		abcd
2 - 205301	Man-Man- Resale Res POTS	1.39		1.77		2.21		1.41		1.64		
2 - 205401	Man-Man- Resale Bus POTS	2.89		2.68		3.02		2.54		2.44		
2 - 205600	Man-Man- Resale Centrex	2.44		2.68								

## Nevada Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	
2 - 206101	Man-Man- Resale Specials					3.66		2.57		2.91		
2 - 206600	Man-Man- UNE 4w Dig 1.544 mbps Cap/HDSL (DS1 Lp)	nd		nd		6.78		nd		nd		abcde
2 - 207302	Man-Man- UNE Ded Transport DS3	nd		nd		8.17		nd		nd		abcde
2 - 207801	Projects All Systems- Projects	100.00		100.00		100.00		100.00		nd		abcde
2 - 207802	Projects All Systems- Proj Interconnect Trks	1.79		nd								b
2 - 207804	Projects All Systems- Proj Interconnect Trks-New					100.00		100.00		100.00		cde
2 - 208105	Elect/Elect- High Bandwidth Line Share UNE	0.02		0.02		0.02		0.02		0.02		abcde
2 - 208205	Elect/Man- High Bandwidth Line Share UNE	2.92		1.62		2.58		nd		0.85		a cde
2 - 209000	Interconnect Trks- Interconnect Trks - New (in days)	0.00		2.67		2.00		nd		3.00		abcde
2 - 209100	Interconnect Trks- Interconnect Trks - Augment (in days)	1.20		1.55		2.00		0.25		1.55		a cd
2 - 211405	Elect/Elect- UNE EELS - DS1	0.02		0.02		nd		nd		0.02		abcde
2 - 212500	Elect/Elect- LNP Simple	0.02		0.02		0.02		0.02		0.08		abcde
2 - 212700	Elect/Man- Resale Res POTS	1.11		1.01		1.29		1.14		1.32		
2 - 212800	Elect/Man- Resale Bus POTS	1.79		1.75		1.66		1.97		2.27		a cd
2 - 213100	Elect/Man- Resale PBX	nd		3.33								ab
2 - 213501	Elect/Man- Resale Specials					2.77		2.27		2.04		cd
2 - 213601	Elect/Man-UNE 2/4w (8db&5.5db) weighted 2/4w Anal Lp (incl Coin/Anal PBX)	1.83		1.76		2.81		1.50		1.23		
2 - 213800	Elect/Man- UNE Lp 2w Dig ISDN Cap	1.76		1.72		nd		nd		3.18		abcde
2 - 213900	Elect/Man- UNE Lp 2w Dig xDSL Cap (A,H,I,S)	5.22		2.24		1.94		1.71		1.54		
2 - 214000	Elect/Man- UNE Lp 4w Dig 1.544 mbps Cap	1.47		2.07		1.74		1.56		0.94		
2 - 214702	Elect/Man- UNE Ded Trnspt - DS3	1.40		nd		nd		nd		nd		abcde
2 - 214800	Elect/Man- UNE Pltfrm Basic Port & (8db & 5.5db) Basic Loop	6.86		nd		nd		nd		2.32		abcde
2 - 215101	Elect/Man- Standalone LNP	1.69		1.84		2.58		1.77		1.68		
2 - 216300	Elect/Man- UNE 2/4w (8db & 5.5db) wt 2/4w Anal Lp (incl Coin/Anal PBX)	nd		nd		2.10		nd		nd		abcde
2 - 217700	Man/Man- Standalone LNP	6.28		nd		nd		nd		nd		abcde
<b>3 - Average Reject Notice Interval</b>												
3 - 300201	Elct:LEX-CLEO/LASR Stand Alone Dir List Sytax (edit engine) Rej Notice	0.03		0.09		0.04		0.03		0.08		de
3 - 300202	Elct/Elct: LEX CLEO/LASR Othr Fac Base/UNE Syntax (edit eng) Rej Not	0.02		0.02		0.02		0.02		0.02		

## Nevada Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	
3 - 300301	Elct: Elct/Elct:LEX-CLEO/LASR Resale Syntax (edit eng) Rej Not	0.07		0.10		0.05		0.07		0.05		
3 - 300401	Elct/Elct:EDI-CLEO/LASR Othr Fac Base UNE Syntax (edit eng) Rej Not	0.15		nd		nd		0.15		0.15		bcde
3 - 300700	Elct Man:LEX-CLEO/LASR:(Exc to LSC) Facilities Content Errs	2.39		1.63		1.40		1.41		1.82		
3 - 300800	Elct Man:LEX-CLEO/LASR:(Exc to LSC) Resale Content Errs	1.66		0.94		1.74		1.32		1.59		cd
3 - 300900	Elct Man:EDI-CLEO/LASR:Otr Fac Base/UNE Content Errs (otr edits)Rej Ntc	2.71		1.70		nd		3.92		1.64		abcde
3 - 301300	Man-Man:CESAR Facilities Content Errors	2.57		2.06		2.66		2.41		2.37		
3 - 310100	Elect/Man: Fac Content Errors (otr edits) Rej Not	nd		nd		nd		3.65		2.05		abcde
3 - 320000	Projects: Projects	100.00		100.00		100.00		100.00		100.00		bcde
<b>4 - Percent of Flow-Through Orders</b>												
4 - 410400	LEX/EDI LASR FTE:Standalone LNP-Svc Migration w/chgs	42.11		8.70		10.00		7.14		9.68		
4 - 410500	LEX/EDI LASR FTE:UNE Lp 8db wt 2w anal bas-New Svc Install	70.00		86.96		71.43		75.00		77.78		
4 - 410700	LEX/EDI LASR FTE:UNE Lp 2w dig xDSL cap-New Svc Install	86.67		75.00		54.55		76.00		70.45		
4 - 410801	LEX/EDI LASR FTE:UNE Lp 4w dig (1.544 mbps cap) New Svc Install	0.00		0.00		0.00		0.00		0.00		a
4 - 410900	LEX/EDI LASR FTE:UNE 8db wt 2w anal bas-Svc Disconnect	48.21		69.23		29.23		29.03		40.74		
4 - 411100	LEX/EDI LASR FTE:UNE Lp 2w dig ISDN-Svc	33.33		20.00		50.00		nd		nd		abcde
4 - 411200	LEX/EDI LASR FTE:UNE Lp 2w dig xDSL cap-Svc Disconnect	0.00		9.52		21.43		50.00		20.00		
4 - 411300	LEX/EDI LASR FTE:UNE Lp 4w dig(1.544 mbps)-Svc Disconnect	88.89		58.82		100.00		54.55		100.00		a e
4 - 411500	LEX/EDI LASR FTE:LNP w/Loop-Svc Migration w/chgs	nd		18.75		41.03		33.33		20.00		a
4 - 411700	LEX/EDI LASR FTE:UNE Platform(Loop & Prt)-Svc Disconnect	66.67		100.00		100.00		100.00		nd		abcde
4 - 412000	LEX/EDI LASR FTE:UNE Platform(Loop w/Prt)-Chg Activities	0.00		nd		nd		100.00		nd		abcde

## Nevada Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	
4 - 412100	LEX/EDI LASR FTE:Hgh Bndwdt Line Share-New Svc Install	100.00		100.00		50.00		nd		100.00		abcde
4 - 412200	LEX/EDI LASR FTE:Hgh Bndwdt Line Share-Svc Disconnect	0.00		0.00		0.00		100.00		40.00		a cd
4 - 412300	LEX/EDI LASR FTE:UNE Lp 2w dig IDSL cap-Svc Disconnect	0.00		0.00		0.00		0.00		0.00		cde
4 - 412400	LEX/EDI LASR FTE:UNE EELs-Voice Grade-Svc Disconnect	nd		nd		0.00		0.00		nd		abcde
4 - 412600	LEX/EDI LASR FTE:UNE EELs-DS1-Svc Disconnect	100.00		100.00		nd		0.00		100.00		abcde
4 - 412700	LEX/EDI LASR FTE:UNE EELs-DS1-New Svc Install	0.00		0.00		0.00		0.00		0.00		abcde
4 - 420501	LEX/EDI LASR FTE: Resale Res POTS-New Svc Install	26.58		30.49		37.04		33.87		26.39		
4 - 420601	LEX/EDI LASR FTE:Resale Res POTS-Chg Activities	75.00		83.33		100.00		100.00		25.00		abcde
4 - 420701	LEX/EDI LASR FTE:Resale Res POTS-Svc Disconnect	100.00		100.00		98.28		98.78		97.37		
4 - 420801	LEX/EDI LASR FTE:Resale Res POTS-Svc Mig w/out chgs	100.00		nd		0.00		nd		nd		abcde
4 - 421201	LEX/EDI LASR FTE:Resale Bus POTS-New Svc Install	0.00		0.00		0.00		0.00		nd		abcde
4 - 421301	LEX/EDI LASR FTE:Resale Bus POTS-Chg Activities	50.00		100.00		80.00		100.00		100.00		abcde
4 - 421401	LEX/EDI LASR FTE:Resale Bus POTS-Svc Disconnect	nd		100.00		66.67		nd		100.00		abcde
4 - 421501	LEX/EDI LASR FTE:Resale Bus POTS-Svc Migration w/out	100.00		nd		50.00		50.00		46.67		abcd
4 - 421601	LEX/EDI LASR FTE:Resale Bus POTS-Svc Migration w/chgs	0.00		0.00		nd		nd		0.00		abcde
4 - 430100	LEX/EDI LASR:UNE Lp 8db wt 2 w anal basic-New Svc Install	70.00		86.96		71.43		75.00		77.78		
4 - 430300	LEX/EDI LASR:UNE Lp 8db wt 2 w anal basic-Svc Disconnect	48.21		69.23		29.23		29.03		40.74		
4 - 430401	LEX/EDI LASR:UNE Lp 8db wt 2 w anal basis-Move Activites	0.00		nd		nd		nd		0.00		abcde
4 - 431300	LEX/EDI LASR:UNE Lp 2w dig ISDN-New Svc Install	nd		0.00		nd		nd		0.00		abcde
4 - 431500	LEX/EDI LASR:UNE Lp 2w dig ISDN cap-Svc Disconnect	33.33		20.00		50.00		nd		nd		abcde
4 - 431700	LEX/EDI LASR:UNE Lp 2w dig xDSL cap-New Svc Install	86.67		75.00		54.55		76.00		70.45		
4 - 431800	LEX/EDI LASR:UNE Lp 2w dig xDSL cap-Chg	nd		nd		nd		100.00		0.00		abcde

## Nevada Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	
4 - 431900	LEX/EDI LASR:UNE Lp 2w dig xDSL cap-Svc Disconnect	0.00		9.52		21.43		50.00		20.00		
4 - 432100	LEX/EDI LASR:UNE Lp 2w dig IDSL cap-New Svc	0.00		0.00		0.00		0.00		0.00		abcde
4 - 432200	LEX/EDI LASR :UNE Lp 2w dig IDSL cap-Chg	nd		0.00		nd		nd		nd		abcde
4 - 432300	LEX/EDI LASR:UNE Lp 2w dig IDSL cap-Svc	0.00		0.00		0.00		0.00		0.00		cde
4 - 432500	LEX/EDI LASR:UNE 4w dig(1.544 mbps cap)-New Svc Install	0.00		0.00		0.00		0.00		0.00		a
4 - 432700	LEX/EDI LASR:UNE Lp 4w dig(1.544 mbps cap)-Svc Disconnect	88.89		58.82		100.00		54.55		100.00		a e
4 - 432813	LEX/EDI LASR:UNE EELs-Voice -New Svc Install	nd		nd		nd		nd		0.00		abcde
4 - 432814	LEX/EDI LASR:UNE Vce Grde Lp-Enhance Extend-Chg Act	nd		nd		nd		nd		0.00		abcde
4 - 432815	LEX/EDI LASR:UNE Vce Grd Lp-Enhanc Extnd-Svc Disconnects	nd		nd		0.00		0.00		nd		abcde
4 - 432817	LEX/EDI LASR:UNE EELs DS1-New Svc Install	0.00		0.00		0.00		0.00		0.00		abcde
4 - 432819	LEX/EDI LASR:UNE 4w dig DS1 Lp-Enhance Extnd-Svc Dis	100.00		100.00		nd		0.00		100.00		abcde
4 - 432841	LEX/EDI LASR:UNE 4 w dig DS1 Lp-Enhance Ext-Move Act	0.00		nd		nd		nd		nd		abcde
4 - 432900	LEX/EDI LASR:Standalone LNP-Svc Migration w/chgs	42.11		8.70		10.00		7.14		9.68		
4 - 433000	LEX/EDI LASR:LNP w/Loop-Svc Migration w/chgs	nd		18.75		41.03		33.33		20.00		a
4 - 433200	LEX/EDI LASR:UNE Platform(Loop & Prt)-Chg Activities	0.00		nd		nd		100.00		nd		abcde
4 - 433300	LEX/EDI LASR:UNE Platform(Loop & Prt)-Svc Disconnect	66.67		100.00		100.00		100.00		nd		abcde
4 - 433600	LEX/EDI LASR:High Bndwdth Line Share-New Svc Install	100.00		100.00		50.00		nd		100.00		abcde
4 - 433700	LEX/EDI LASR:High Bndwdth Line Sharing-Svc Disconnect	0.00		0.00		0.00		100.00		40.00		a cd
4 - 433800	LEX/EDI LASR:UNE 2 Wire Digital Line Sharing-Chg Act	0.00		nd		nd		nd		nd		abcde
4 - 440100	% Flo-Thru Ords EXACT:Interconnect Trks-New and Aug	nd		nd		0.00		nd		0.00		abcde
4 - 440200	% Flo-Thru Ords EXACT:Interconnect Trks-Chg Activities	0.00		0.00		nd		nd		0.00		abcde



## Nevada Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	
4 - 440300	% Flo-Thru Ords EXACT:Interconnect Trks-Interconnect Trunks	nd		0.00		0.00		nd		nd		abcde
4 - 450101	LEX/EDI LASR:Resale Res POTS-New Svc Install	26.58		30.49		37.04		33.87		26.39		
4 - 450201	LEX/EDI LASR:Resale Res POTS-Chg Activites	75.00		83.33		100.00		100.00		25.00		abcde
4 - 450301	LEX/EDI LASR:Resale Res POTS-Move Activities	0.00		0.00		nd		0.00		0.00		abcde
4 - 450401	LEX/EDI LASR:Resale Res POTS-Svc Disconnect	100.00		100.00		98.28		98.78		97.37		
4 - 450601	LEX/EDI LASR:Resale Res POTS-Svc Migration w/chgs	100.00		nd		0.00		nd		nd		abcde
4 - 450701	LEX/EDI LASR:Resale Bus POTS-New Svc Install	0.00		0.00		0.00		0.00		nd		abcde
4 - 450801	LEX/EDI LASR:Resale Bus POTS-Chg Activities	50.00		100.00		80.00		100.00		100.00		abcde
4 - 451001	LEX/EDI LASR:Resale Bus POTS-Svc Disconnect	nd		100.00		66.67		nd		100.00		abcde
4 - 451101	LEX/EDI LASR:Resale Bus POTS-Svc Mig w/chgs as spec	0.00		0.00		nd		nd		0.00		abcde
4 - 451201	LEX/EDI LASR:Resale Bus POTS-Svc Migration w/out chgs	100.00		nd		50.00		50.00		46.67		abcd
4 - 451307	LEX/EDI CLEO:Resale Centrex-Chg Act	nd		nd		nd		0.00		0.00		abcd
4 - 451308	LEX/EDI CLEO:Resale Centrex-Move Act	nd		nd		nd		0.00		0.00		abcde
4 - 451309	LEX/EDI CLEO:Resale Centrex-Svc Disconnects	nd		nd		nd		nd		0.00		abcde
4 - 451310	LEX/EDI CLEO:Resale Centrex-Svc Mig w/chgs	nd		nd		0.00		0.00		0.00		abcd
4 - 451311	LEX/EDI CLEO:Resale Centrex-Svc Mig w/out chgs	nd		nd		nd		0.00		0.00		abcde
4 - 451316	LEX/EDI CLEO:Resale PBX-Svc Mig w/chgs	nd		0.00		nd		nd		nd		abcde
<b>Provisioning</b>												
<b>5 - Percent of Orders Jeopardized</b>												
5 - 551900	LEX/CLEO - Resale Res POTS	0.00	0.67	0.45	0.46	1.79	0.52	2.34	0.42	0.47	0.58	
5 - 552000	LEX/CLEO - Resale Bus POTS	0.00	0.98	0.00	0.56	0.00	1.25	0.00	1.21	0.00	0.74	
5 - 552200	LEX/CLEO - Resale Centrex	0.00	1.40	1.31	0.71							
5 - 552400	LEX/CLEO - Resale PBX	nd	0.00	0.00	0.00							ab
5 - 552801	LEX/CLEO - Resale Specials					1.28	0.95	5.26	0.95	1.99	0.97	
5 - 552900	LEX/EDI LASR-UNE 2/4w 8db&5.5db wt 2/4w Anal Lp FW/NFW	0.00	1.22	0.00	1.19	0.00	2.24	0.00	2.85	4.65	1.38	
5 - 553100	LEX/EDI LASR - UNE Lp 2 w Dig ISDN Cap LOF	nd	0.00	0.00	1.61	nd	3.30	nd	3.23	0.00	0.00	abcde
5 - 553300	LEX/EDI LASR- UNE Lp 2 w Dig IDSL Cap FW/NFW	0.00	0.00	0.00	1.61	0.00	3.30	0.00	3.23	0.00	0.00	abcde
5 - 553501	LEX/EDI LASR-UNE Lp 2 w Dig xDSL Cap FW/NFW	0.00		7.14		8.33		0.00		0.00		
5 - 553701	LEX/EDI LASR-UNE Lp 2 w Dig xDSL Line Share Cap-Cond FW/NFW					0.00	0.52	0.00	0.98	0.00	1.03	cde

## Nevada Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	
5 - 553900	LEX/EDI LASR-UNE Lp 2 w Dig xDSL Lne Shar Cap-Non-Cond FW/NFW	0.00	2.71	0.00	1.02							
5 - 554100	LEX/EDI LASR-UNE Lp 4 w Dig 1.544 mbps Cap/HDSL FW/NFW	3.70	1.69	0.00	0.00	0.00	0.00	0.00	2.78	0.00	0.00	
5 - 554800	LEX/EDI LASR - UNE Ded Trnspt DS3 FW/NFW	nd	n/a	nd	n/a	0.00	n/a	nd	n/a	nd	n/a	abcde
5 - 555201	EELs Voice Grade					nd		0.00		0.00		cde
5 - 555203	EELs DS1					0.00		0.00		0.00		cde
5 - 555300	LEX/EDI LASR - EELS DS1 - New	0.00		0.00								ab
5 - 555900	LEX/EDI LASR-UNE Pltfrm Bas Prt/8db&5.5db Lp FW/NFW	0.00	0.98	0.00	0.56	0.00	1.25	0.00	1.21	nd	0.74	abcde
5 - 556300	LEX/EDI LASR - Interconnect Trks	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	d
<b>6 - Jeopardy Notices Returned by the Required Interval</b>												
6 - 640000	Whlsle-Assign: Resale Res POTS	nd		nd		nd		100.00		100.00		abcde
6 - 640100	Whlsle-Assign: Resale Bus POTS	nd		100.00		nd		nd		nd		abcde
6 - 641001	Whlsle-Assign: Resale-Specials					100.00		nd		nd		cde
6 - 641600	Whlsle-Assign:UNE Lp 2 w dig xDSL Cap FW/NFW	nd		100.00		100.00		nd		nd		abcde
6 - 641800	Whlsle-Assign:UNE Lp 2/4 w 8db&5.5db wt 2/4 w Anal Cn/Anal PBX FW/NFW	nd		nd		nd		nd		100.00		abcde
6 - 644300	Whlsle-Install: Resale Res POTS	100.00		100.00		100.00		100.00		nd		abcde
6 - 644400	Whlsle-Install: Resale Bus POTS	nd		100.00		nd		nd		nd		abcde
6 - 644500	Whlsle-Install: Resale Centrex	100.00		100.00								ab
6 - 645101	Whlsle-Install: Resale Specials					nd		100.00		100.00		cde
6 - 645800	Whlsle-Install:UNE Lp 2w Dig xDSL Cap	nd		nd		100.00		nd		nd		abcde
6 - 646000	Whlsle-Install: UNE Lp 2/4 w 8db&5.5db wt 2/4 w Anal Coin/Anal PBX FW/NFW	100.00		nd		nd		nd		nd		abcde
6 - 648200	Whlsle-Install:UNE Lp 4 w Dig 1.544 mbps Cap/HDSL FW/NFW	100.00		nd		nd		nd		nd		abcde
6 - 648500	Whlsle-Miss Commit: Resale Res POTS	nd		100.00		nd		50.00		nd		abcde
6 - 650001	Whlsle-Miss Commit:UNE Lp 2w Dig IDSL Cap	nd		nd		nd		100.00		nd		abcde
6 - 650200	Whlsle-Miss Commit:UNE Lp 2/4w 8db&5.5db wt 2/4w Anal Coin/Anal PBX FW/NFW	100.00		nd		nd		nd		nd		abcde
<b>7 - Completed Interval</b>												
7 - 702600	Resale Res POTS fld wk	0.93	2.00	1.00	1.65	0.94	1.85	2.00	1.82	0.67	1.66	de
7 - 702700	Resale Res POTS no fld wk	0.44	0.77	0.44	0.78	0.45	0.81	0.42	0.81	0.40	0.74	

## Nevada Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	
7 - 702800	Resale Bus POTS fld wk	1.00	1.65	0.00	1.57	nd	2.61	nd	2.03	nd	1.64	abcde
7 - 702900	Resale Bus POTS no fld wk	2.00	0.61	0.50	0.57	0.33	0.65	0.20	0.39	0.00	0.77	abcde
7 - 703200	Resale CTX fld wk	1.42	1.42	1.00	1.27							
7 - 703300	Resale CTX no fld wk	0.45	0.57	0.60	0.73							
7 - 704501	Resale Specials Field Work					1.25	2.19	1.64	3.01	0.71	2.24	c
7 - 704502	Resale Specials No Field Work					0.50	0.93	0.68	1.14	0.72	0.76	
7 - 704703	UNE loop 2/4 w Analog 8db & 5.5 loop w/out LNP	1.00	1.65	1.00	1.57	1.00	2.61	1.00	2.03	0.50	1.64	abcde
7 - 704704	UNE loop 2/4 w Analog 8db & 5.5 loop w/LNP	nd		100.00		nd		100.00		nd		abcde
7 - 704801	UNE Lp 2 w Dig ISDN Cap	nd	6.55	5.00	7.17	nd	7.60	nd	10.25	5.00	6.00	abcde
7 - 704904	UNE Lp 2 w Dig IDSL Cap	5.00	6.55	3.80	7.17	5.00	7.60	6.50	10.25	7.00	6.00	abcde
7 - 704910	UNE Lp 2 w Dig xDSL Cap - Conditioned	nd		0.00		10.00		10.00		10.00		abcde
7 - 704911	UNE Lp 2 w Dig xDSL Cap - Non-Conditioned	5.00		2.33		5.50		5.00		5.00		abcde
7 - 705001	UNE Lp 4 w Dig 1.544 mbps Cap/HDSL	6.00	11.78	6.19	10.08	5.43	11.64	5.92	13.57	7.00	14.50	a e
7 - 705707	UNE EELs DS1 - New	5.00		5.50								ab
7 - 705713	UNE EELs Voice Grade					nd		nd		10.00		cde
7 - 705714	UNE EELs DS1					7.00		7.00		7.00		cde
7 - 705800	UNE Basic Port/8dB	0.00	1.01	nd	0.92	0.00	1.30	0.00	0.81	nd	1.06	abcde
7 - 705900	Interconnect Trunks	nd	n/a	12.00	7.71	13.00	57.75	13.33	39.71	24.00	124.80	abcde
7 - 706202	UNE Lp 2 w Dig xDSL Line Share - Non-Conditioned	3.00	3.01	3.00	3.00	3.00	3.00	nd	3.04	3.00	3.00	abcde
<b>8 - Percent Completed within Standard Interval as a Percentage On-Time</b>												
8 - 801900	Resale CTX	100.00	97.98	100.00	98.77							
8 - 802301	Resale Specials					100.00	98.88	93.94	99.24	96.00	98.34	
8 - 802601	UNE Lp 2 w Dig ISDN Cap	nd	100.00	100.00	83.33	nd	80.00	nd	100.00	100.00	100.00	abcde
8 - 802704	UNE Lp 2 w Dig IDSL Cap	100.00	100.00	100.00	83.33	100.00	80.00	100.00	100.00	75.00	100.00	abcde
8 - 802710	UNE Lp 2 w Dig xDSL Cap - Conditioned	nd		100.00		100.00		100.00		100.00		abcde
8 - 802711	UNE Lp 2 w Dig xDSL Cap - Non-Conditioned	100.00		100.00		100.00		100.00		100.00		abcde
8 - 802800	UNE Lp 4 w Dig 1.544 mbpd cap/HDSL	100.00	100.00	100.00	96.30	100.00	100.00	100.00	92.86	100.00	93.75	a e
8 - 803407	UNE EELs DS1 - New	100.00		100.00								ab
8 - 803413	UNE EELs Voice Grade					nd		nd		100.00		cde
8 - 803414	UNE EELs DS1					100.00		100.00		100.00		cde
8 - 803600	Interconnect Trunks	nd	n/a	100.00	100.00							ab
8 - 803610	Interconnect Trunks					100.00	25.00	100.00	100.00	100.00	6.67	cde
8 - 803702	UNE Lp 2 w Dig xDSL Line Share - Non-Conditioned	100.00	99.77	100.00	99.86	100.00	100.00	nd	99.66	100.00	99.79	abcde
<b>9 - Coordinated Customer Conversion</b>												

## Nevada Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	
9 - 910400	% On-Time:Coord Conversion Bus	100.00	85.16	100.00	88.11							
9 - 910401	% On-Time:Coord Conversion Res/Bus					100.00	85.47	100.00	86.34	66.67	76.83	
9 - 910500	% On-Time:Coord Conversion Port Out	100.00	62.50	100.00	100.00							
9 - 910501	% On-Time:Coord Conversion Port Out-bnchmrk					100.00		100.00		100.00		
<b>9a - Frame Due Time (FDT) Conversions as a Percentage on Time</b>												
9a - 4510200	LNP	100.00		100.00		100.00		nd		100.00		ab de
<b>10 - LNP Network Provisioning</b>												
10 - 1010101	Whlsle LNP Ntwk Prov Fail	0.00		0.00		0.00		0.00		0.00		
<b>11 - Percent of Due Dates Missed</b>												
11 - 1102600	Resale Res POTS field work	0.00	2.55	0.00	1.78	0.00	1.94	9.09	1.81	0.00	2.16	e
11 - 1102700	Resale Res POTS no field work	0.00	0.02	0.00	0.00	0.00	0.02	0.00	0.02	0.00	0.02	
11 - 1102800	Resale Bus POTS field work	0.00	1.58	0.00	2.05	0.00	1.70	0.00	2.01	nd	1.16	abcde
11 - 1102900	Resale Bus POTS no field work	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
11 - 1103200	Resale Centrex field work	2.63	1.53	0.00	0.68							
11 - 1103300	Resale Centrex no field work	0.00	0.25	0.00	0.22							
11 - 1104501	Resale Specials field work					0.00	1.15	0.00	1.00	0.00	1.57	
11 - 1104502	Resale Specials no field work					0.00	0.51	0.00	0.84	0.00	0.39	
11 - 1104701	UNE Loop 2/4 wire analog 8db & 5.5 dp Loop	3.03	1.58	0.00	2.05	0.00	1.70	0.00	2.01	0.00	1.16	
11 - 1104801	UNE Loop 2 wire Digital ISDN capable	nd	0.00	0.00	4.35	nd	2.63	nd	0.00	0.00	0.00	abcde
11 - 1104904	UNE Loop 2 wire Digital IDSL capable	0.00	0.00	0.00	4.35	0.00	2.63	0.00	0.00	0.00	0.00	a cde
11 - 1104910	UNE Loop 2 wire Digital xDSL capable	0.00		0.00		0.00		0.00		0.00		
11 - 1105001	UNE Lp 4 w Dig 1.544 mbps capable/HDSL	0.00	0.00	0.00	2.86	0.00	0.00	0.00	0.00	5.88	4.55	
11 - 1105602	UNE Dedicated Trnsprt DS3 field work/no field work	nd	n/a	nd	n/a	0.00	n/a	nd	n/a	nd	n/a	abcde
11 - 1105710	UNE EELs DS1 - New	16.67		0.00								ab
11 - 1105716	UNE EELs Voice Grade					nd		nd		0.00		cde
11 - 1105717	UNE EELs DS1					0.00		0.00		0.00		cde
11 - 1105800	UNE Basic Port/8db	0.00	0.73	nd	0.86	0.00	0.71	0.00	0.67	nd	0.48	abcde
11 - 1105900	Interconnect Trunks	0.00	80.00	0.00	0.00	0.00	75.00	0.00	0.00	0.00	93.33	cd
11 - 1106002	UNE Loop 2w dig xDSL Line Share-Non-Conditioned	0.00	0.20	0.00	0.19	0.00	0.00	nd	0.45	0.00	0.19	bcde
<b>12 - Percent Company Missed Due Dates Due to Lack of Facilities</b>												
12 - 1202600	Resale Res POTS fld wk	0.00	2.30	0.00	1.54	0.00	1.67	9.09	1.64	0.00	1.99	e
12 - 1202700	Resale Res POTS no fld wk	0.00	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
12 - 1202800	Resale Bus POTS fld wk	0.00	1.32	0.00	0.58	0.00	1.36	0.00	1.34	nd	0.87	abcde
12 - 1202900	Resale Bus POTS no fld wk	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	

## Nevada Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	
12 - 1203200	Resale CTX fld wk	0.00	0.92	0.00	0.34							
12 - 1203300	Resale CTX no fld wk	0.00	0.00	0.00	0.00							
12 - 1204501	Resale Specials field work					0.00	0.86	0.00	0.67	0.00	0.52	
12 - 1204502	Resale Specials no field work					0.00	0.34	0.00	0.00	0.00	0.00	
12 - 1204701	UNE Lp 2/4 w Analog 8db & 5.5 db Lp	3.03	1.32	0.00	0.58	0.00	1.36	0.00	1.34	0.00	0.87	
12 - 1204801	UNE Lp 2 w Dig ISDN Cap	nd	0.00	0.00	0.00	nd	0.00	nd	0.00	0.00	0.00	abcde
12 - 1204901	UNE Lp 2 w Dig ISDL Cap	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	a cde
12 - 1204910	UNE Lp 2 w Dig xDSL Cap	0.00		0.00		0.00		0.00		0.00		
12 - 1205001	UNE Lp 4 w Dig 1.544 mbps Cap/HDSL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	5.88	0.00	
12 - 1205102	UNE Ded Trnsprt DS3 fld wk/no fld wk	nd	n/a	nd	n/a	0.00	n/a	nd	n/a	nd	n/a	abcde
12 - 1205207	UNE EELs DS1 - New	16.67		0.00								ab
12 - 1205210	UNE EELs DS1					0.00		0.00		0.00		cde
12 - 1205300	UNE Basic Port/8dB	0.00	0.61	nd	0.25	0.00	0.57	0.00	0.45	nd	0.36	abcde
12 - 1205400	Interconnect Trunks	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	cd
12 - 1205500	UNE Lp 2 w Dig ADSL Line Sharing					0.00	0.00	nd	0.00	0.00	0.06	cde
12 - 1205502	UNE Lp 2 w Dig xDSL Line Share - Non-Conditioned	0.00	0.00	0.00	0.06							b
<b>13 - Delay Order Interval to Completion Date</b>												
13 - 1314410	Resale Res POTS 1-30 Days					nd		7.00		nd		cde
13 - 1314413	Resale Res POTS					nd	19.68	7.00	8.74	nd	11.75	cde
13 - 1317701	UNE Lp 2/4 w Anal 8db & 5.5 db 1-30 Days	3.00	6.40	nd	6.50							ab
13 - 1318510	UNE Lp 4w Dig 1.544 mbpd cap/HDSL 1-30 Dys					nd		nd		29.00		cde
13 - 1318513	UNE Lp 4w Dig 1.544 mbpd cap/HDSL					nd	n/a	nd	n/a	29.00	n/a	cde
13 - 1318910	UNE EELs DS1 New 1-30 Days	3.00		nd								ab
<b>14 - Held Order Interval</b>												
14 - 1411400	Resale Res POTS	nd	99.76	28.00	97.36	58.00	112.20	nd	125.68	nd	140.58	abcde
14 - 1413307	UNE EELS - DS1 - New	nd		43.00								ab
14 - 1413500	Interconnect Trunks	nd	44.85	nd	72.67	4.00	105.83	nd	130.67	nd	151.31	abcde
<b>15 - Provisioning Trouble Reports</b>												
15 - 1510800	Resale OOS	0.00	0.14	0.00	0.12	0.63	0.15	0.00	0.13	0.00	0.06	
15 - 1510900	Resale Svc Affecting	0.00	0.06	0.00	0.23	0.00	0.10	0.00	0.07	0.00	0.05	
15 - 1511101	UNE Loop (excl xDSL) OOS	0.00	0.14	0.00	0.12	0.00	0.15	0.00	0.13	1.33	0.06	
15 - 1511102	UNE Loop (excl xDSL) Svc Affecting	0.00	0.06	0.00	0.23	0.00	0.10	0.00	0.07	0.00	0.05	
15 - 1511103	UNE Loop (excl xDSL) TBCC Out of Svc	nd		0.00		0.00		0.00		nd		ab e
15 - 1511104	UNE Loop (excl xDSL) FDT Svc Affecting	nd		0.00		0.00		0.00		nd		ab e

## Nevada Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	
15 - 1511105	UNE Loop (excl xDSL) FDT OOS	0.00		0.00		0.00		nd		0.00		cde
15 - 1511106	UNE Loop (excl xDSL) FDT Svc Affecting	0.00		0.00		0.00		nd		0.00		cde
15 - 1511107	UNE Loop XDSL Cap OOS	0.00	n/a	0.00	n/a	0.00	n/a	0.00	n/a	0.00	n/a	
15 - 1511108	UNE Loop xDSL Cap Svc Affect	0.00	n/a	0.00	n/a	0.00	n/a	0.00	n/a	0.00	n/a	
15 - 1511501	Prov Trbl Rep: LNP Port Out - OOS	0.00		0.00		0.00		0.00		0.00		
15 - 1511502	Prov Trbl Rep: LNP Port Out Svc Affecting	0.00		0.00		0.00		0.00		0.00		
<b>15a - Average Time to Restore Provisioning Troubles</b>												
15a - 4610800	Resale OOS	nd	16.18	nd	6.57	0.82	7.44	nd	7.05	nd	8.58	abcde
15a - 4610900	Resale Svc Affect	1.28	6.51	nd	5.44	nd	4.59	nd	7.39	nd	6.59	abcde
15a - 4611000	UNE Lp (excl xDSL) OOS					nd	7.44	nd	7.05	1.17	8.58	cde
<b>16 - Percent Troubles in 30 Days for New Orders (Specials)</b>												
16 - 1601800	Resale Centrex	4.03	2.73	2.14	4.85							
16 - 1602410	Resale Specials					2.14	3.15	1.06	3.78	2.99	3.25	
16 - 1602701	UNE Lp 2 wire Dig ISDN cap	nd	0.00	0.00	0.00	nd	0.00	nd	0.00	100.00	0.00	abcde
16 - 1602810	UNE Lp 2 wire Dig xDSL cap	0.00		3.13		17.24		5.41		3.92		
16 - 1602900	UNE Lp 4 wire Dig 1.544 mbpd cap/HDSL	0.00	2.44	3.70	2.38	3.57	10.53	7.41	0.00	5.88	4.00	
16 - 1603502	UNE Ded Transport - DS3	nd	n/a	nd	n/a	0.00	n/a	nd	n/a	nd	n/a	abcde
16 - 1603506	UNE EELs DS1 - New	nd		nd		nd		nd		0.00		abcde
16 - 1603508	UNE EELs DS3 - New	0.00		0.00		0.00		0.00		0.00		abcde
16 - 1604200	Interconnection Trunks	0.00	190.00	0.00	75.00	0.00	225.00	0.00	600.00	0.00	20.00	cd
16 - 1605200	UNE Lp 2 w Dig xDSL Line Sharing	0.00	1.76	0.00	1.91	0.00	1.58	100.00	3.22	0.00	2.72	bcde
<b>17 - Percent Troubles in 10 Calendar Days for New Orders (Non-Specials)</b>												
17 - 1710700	Resale Res POTS	0.60	2.51	2.78	1.94	2.42	1.83	1.22	2.19	1.45	1.99	
17 - 1710800	Resale Bus POTS	0.00	2.47	9.68	2.40	3.57	1.86	5.88	1.24	0.00	0.99	
17 - 1711100	UNE Lp 2/4 w Anal 8db & 5.5db Lp	0.00	4.52	9.30	5.23	0.00	2.73	0.00	3.00	0.00	0.87	
17 - 1711400	UNE Lp 2/4 w Anal 8db&5.5db Lp TBCC	nd		0.00		0.00		0.00		0.00		ab e
17 - 1711600	UNE Platform-Basic Port & Loop	0.00	2.47	0.00	2.40	0.00	1.86	0.00	1.24	nd	0.99	abcde
17 - 1711700	LNP	0.00		0.00		0.00		0.00		0.00		
<b>18 - Average Completion Notice Interval</b>												
18 - 1800101	Fully Electronic-LEX/EDI LASR	100.00		100.00		99.34		100.00		99.79		
18 - 1800401	Fully Elec Fallout - LEX/EDI LASR (% w/in 24 hrs)	100.00		100.00		100.00		100.00		100.00		abcd
18 - 1800502	Fallout Level- LEX/EDI LASR	1.65										
18 - 1800900	ALL Other Int- Manual Fax	99.46		99.47								
18 - 1800901	ALL Other Int- Manual Fax					97.91		99.66		98.38		

## Nevada Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	
18 - 1801000	All Other Int- EXACT (% w/in 24 hrs)	100.00		100.00								
18 - 1801001	All Other Int- EXACT (% w/in 24 hrs)					100.00		100.00		100.00		de
<b>Maintenance</b>												
<b>19 - Customer Trouble Report Rate</b>												
19 - 1991600	Stwde Resale Res POTS	0.23	0.60	0.61	0.73	0.79	0.70	0.55	1.12	0.74	0.67	
19 - 1991700	Stwde Resale Bus POTS	2.55	0.35	0.25	0.36	0.52	0.43	0.72	0.49	0.24	0.39	
19 - 1991900	Stwde Resale Centrex	0.09	0.23	0.29	0.32							
19 - 1992410	Stwde Resale Specials					0.29	0.36	0.20	0.50	0.20	0.32	
19 - 1992603	Stwde UNE Loop 2/4 wire 8db & 5.5db loop	0.18	0.33	0.36	0.34	0.08	0.41	0.25	0.46	0.12	0.35	
19 - 1992703	Stwde UNE Loop 2 wire Digital ISDN capable	0.00	3.44	0.00	3.77	0.00	3.80	0.00	3.81	0.68	5.08	
19 - 1992802	Stwde UNE Loop 2 wire Dig xDSL cap - Non-Std	0.00		0.00		0.00		0.00		0.00		abcde
19 - 1992804	Stwde UNE Loop 2 wire Digital xDSL capable	0.23		0.23		1.39		0.58		0.34		
19 - 1992904	Stwde UNE Loop DS3	0.00	n/a	100.00	n/a	0.00	n/a	0.00	n/a	0.00	n/a	abcde
19 - 1992910	Stwde UNE Loop 4 wire Digital 1.544 mbpd	0.86	1.04	1.72	1.98	1.30	1.81	1.90	2.10	2.07	1.68	
19 - 1993501	Stwde UNE Dedicated Transport - DS1	0.00	1.04	6.25	1.98	0.00	1.81	0.00	2.42	0.00	1.68	
19 - 1993502	Stwde UNE Dedicated Transport - DS3	0.00	n/a	0.00	n/a	0.00	n/a	0.00	n/a	0.00	n/a	abcde
19 - 1993504	Stwde UNE Dark Fiber	0.00		0.00		0.00		0.00		0.00		abcde
19 - 1993505	Stwde UNE EELs - Voice Grade	0.00		0.00		0.00		0.00		1.61		
19 - 1993506	Stwde UNE EELs - DS1	1.33		1.30		2.50		0.00		1.23		
19 - 1993600	Stwde Platform - Basic Port & Loop	0.00	0.35	0.00	0.36	0.00	0.43	5.26	0.49	0.00	0.39	
19 - 1993700	Stwde Interconnection Trunks	0.00	0.09	0.01	0.05	0.00	0.06	0.00	0.08	0.00	0.06	
19 - 1993801	Stwde LNP (Port Out)	0.00		0.00		0.00		0.00		0.00		
19 - 1993900	Stwde NXX Code Openings	0.00	0.00	0.00	0.00							
19 - 1993910	Stwde NXX Code Openings					0.00		0.00		0.00		
19 - 1994200	Stwde UNE Loop 2 wire Digital xDSL Line Sharing	0.00	0.45	0.00	0.46	0.00	0.50	1.18	0.66	0.00	0.50	
<b>20 - Percent of Customer Trouble not Resolved within Estimated Time</b>												
20 - 2093100	Stwde Resale Res POTS dispatched	0.00	6.06	0.00	5.12	0.00	4.56	0.00	7.37	0.00	5.38	ab de
20 - 2093200	Stwde Resale Res POTS not disp	0.00	0.00	0.00	1.41	nd	0.00	0.00	3.13	0.00	1.56	abcde
20 - 2093300	Stwde Resale Bus POTS dispatched	37.50	9.15	0.00	2.67	0.00	10.11	0.00	12.75	0.00	4.46	abcde
20 - 2093400	Stwde Resale Bus POTS not disp	0.00	33.33	nd	0.00	nd	0.00	nd	0.00	nd	14.29	abcde
20 - 2093700	Stwde Resale Centrex dispatched	0.00	5.32	0.00	4.69							a
20 - 2093800	Stwde Resale Centrex not dispatched	nd	0.00	0.00	0.00							ab
20 - 2094810	Stwde Resale Specials dispatched					0.00	13.38	0.00	16.67	6.67	19.69	
20 - 2094811	Stwde Resale Specials not disp					0.00	18.18	nd	19.35	nd	9.68	cde

## Nevada Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	
20 - 2095201	Ste UNE Lp 5.5db 2/4 w anlg assrd nt disp	10.00	9.59	10.53	2.03	0.00	9.50	8.33	11.62	0.00	2.65	c e
20 - 2095401	Stwde UNE Lp 2 wire Dig ISDN cap	nd	81.82	nd	75.00	nd	25.00	nd	50.00	0.00	56.25	abcde
20 - 2095605	Stwde UNE Loop 2 wire Dig xDSL	0.00	11.11	0.00	8.06	0.00	5.48	0.00	11.11	0.00	12.20	ab de
20 - 2095803	Stwde UNE Loop DS3	nd	n/a	0.00	n/a	nd	n/a	nd	n/a	nd	n/a	abcde
20 - 2095811	Stwde UNE Lp 4 w Dig 1.544 mbpd cap/HDSL	100.00	46.15	50.00	48.00	66.67	34.78	55.56	38.46	40.00	38.10	abcd
20 - 2097001	Stwde UNE Dedicated Transport-DS1	nd	46.15	100.00	48.00	nd	34.78	nd	33.33	nd	38.10	abcde
20 - 2097005	Stwde UNE EELsVoice Grade	nd		nd		nd		nd		100.00		abcde
20 - 2097006	Stwde UNE EELs DS1	100.00		0.00		100.00		nd		0.00		abcde
20 - 2097201	Ste UNE Pltform Bas Pt & 8db & 5.5db Lp	nd	9.62	nd	2.53	nd	9.63	50.00	12.32	nd	4.88	abcde
20 - 2097300	Stwde Interconnect Trunks	nd	19.35	100.00	5.88	nd	21.74	nd	12.90	nd	36.36	abcde
20 - 2098001	Ste UNE Lp 2 w Dig xDSL Lne Shar disp	nd	11.11	nd	8.06	nd	5.48	0.00	11.11	nd	12.20	abcde
<b>21 - Average Time to Restore</b>												
21 - 2192900	Stwde Resale Res POTS disptchd	2.03	11.89	7.77	10.98	7.31	12.77	18.89	16.23	2.62	12.59	ab de
21 - 2193000	Stwde Resale Res POTS not disptchd	0.20	3.43	0.03	3.68	nd	4.92	0.15	9.40	0.15	4.97	abcde
21 - 2193100	Stwde Resale Bus POTS disptchd	6.25	7.75	1.10	5.65	3.20	7.86	1.97	8.55	3.57	7.74	abcde
21 - 2193200	Stwde Resale Bus POTS not disptchd	0.08	11.69	nd	0.32	nd	3.65	nd	1.76	nd	3.37	abcde
21 - 2193500	Stwde Resale CTX disptchd	15.16	5.65	4.04	8.45							a
21 - 2193600	Stwde Resale CTX not disptchd	nd	0.89	0.96	14.28							ab
21 - 2194810	Stwde Resale Specials dispatched					1.90	10.65	4.13	7.75	10.84	8.55	
21 - 2194811	Stwde Resale Specials not dispatched					2.83	2.93	nd	3.58	nd	2.43	cde
21 - 2195401	Stwde UNE 2/4 w 8db & 5.5 db Loop	12.83	7.64	4.85	5.29	2.13	7.84	4.18	8.48	1.73	7.38	a c e
21 - 2195601	Stwde UNE Lp 2 w Dig ISDN capable	nd	7.77	nd	9.05	nd	7.77	nd	4.61	2.83	4.80	abcde
21 - 2195805	Stwde UNE Lp 2 w Dig xDSL cap	1.93	7.60	3.57	8.57	6.09	7.94	4.69	12.12	2.05	11.68	abcde
21 - 2196001	Stwde UNE Lp 4 w Dig 1.544 mbpd cap/HDSL	7.70	6.49	4.52	4.98	6.95	5.19	9.05	3.78	4.02	3.56	abcd
21 - 2196003	Stwde UNE Lp DS3	nd	n/a	2.33	n/a	nd	n/a	nd	n/a	nd	n/a	abcde
21 - 2197201	Stwde UNE Ded Transpt DS1	nd	6.49	15.32	4.98	nd	5.19	nd	3.65	nd	3.56	abcde
21 - 2197205	Stwde UNE EELS Voice Grade	nd		nd		nd		nd		23.47		abcde
21 - 2197206	Stwde UNE DS1	9.22		1.07		7.58		nd		3.65		abcde
21 - 2197401	Stwde UNE Pltform Basic Port & 8db & 5.5 db Lp	nd	7.83	nd	5.35	nd	7.63	30.45	8.30	nd	7.56	abcde
21 - 2197500	Stwde Interconnect Trunks	nd	24.38	88.98	8.46	nd	19.64	nd	8.28	nd	10.90	abcde
21 - 2197601	Stwde LNP (Port Out)	nd		nd		nd		5.22		nd		abcde
21 - 2198404	Stwde UNE Line Sharing Lp 2 w Dig xDSL	nd	7.60	nd	8.57	nd	7.94	3.02	12.12	nd	11.68	abcde
<b>22 - POTS Out of Service Less Than 24 Hours</b>												
22 - 2290300	Stwde Resale Bus POTS	100.00	92.86	100.00	100.00	100.00	92.93	100.00	90.00	nd	95.56	abcde



## Nevada Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	
22 - 2290400	Stwide Resale Res POTS	100.00	94.47	100.00	95.81	100.00	92.52	83.33	78.62	100.00	92.94	abcde
22 - 2290501	Stwide UNE Lp 2/4 wire anal 8db & 5.5db Lp	50.00	92.31	100.00	100.00	100.00	92.78	100.00	90.09	100.00	95.35	abcde
<b>23 - Frequency of Repeat Troubles in 30-Day Period</b>												
23 - 2391600	Statewide Resale Res POTS	0.00	7.96	0.00	8.88	0.00	9.30	0.00	6.86	0.00	9.64	ab d
23 - 2391700	Statewide Resale Bus POTS	0.00	5.13	0.00	6.33	0.00	5.88	0.00	7.04	0.00	7.23	abcde
23 - 2391900	Statewide Resale CTX	12.50	1.96	12.00	5.59							a
23 - 2392410	Statewide Resale Specials					0.00	10.73	22.22	10.53	5.88	12.66	
23 - 2392601	Statewide UNE Loop 2/4 wire 8db & 5db Lp	10.00	5.48	0.00	6.08	25.00	5.59	7.69	7.50	0.00	6.54	c e
23 - 2392701	Statewide UNE Lp 2 wire Digital ISDN Cap	nd	18.18	nd	58.33	nd	33.33	nd	33.33	0.00	37.50	abcde
23 - 2392805	Statewide UNE Loop 2 w Dig xDSL cap	50.00		0.00		8.33		0.00		33.33		ab de
23 - 2392901	Statewide UNE Loop 4 wire Digital 1.544 mbpd	75.00	23.08	0.00	28.00	16.67	26.09	11.11	23.08	10.00	28.57	abcd
23 - 2392902	Statewide UNE Loop DS3	nd	n/a	0.00	n/a	nd	n/a	nd	n/a	nd	n/a	abcde
23 - 2393501	Statewide UNE Ded Trnsprt - DS1	nd	23.08	0.00	28.00	nd	26.09	nd	23.33	nd	28.57	abcde
23 - 2393505	Statewide UNE EELS - Voice Grade	nd		nd		nd		nd		0.00		abcde
23 - 2393506	Statewide UNE EELS - DS1	0.00		0.00		0.00		nd		0.00		abcde
23 - 2393600	Statewide UNE Platform-Basic Port & Loop	nd	5.13	nd	6.33	nd	5.88	50.00	7.04	nd	7.23	abcde
23 - 2393700	Statewide Int Connct Trnks	nd	12.90	0.00	35.29	nd	17.39	nd	19.35	nd	8.70	abcde
23 - 2394100	Statewide UNE Lp 2 wire Dig xDSL Line Sharing	nd	3.70	nd	3.17	nd	6.85	0.00	10.00	nd	12.20	abcde
<b>Network Performance</b>												
<b>24 - Percent Blocking on Common Trunks</b>												
24 - 2400100	Common Trunks	5.13		5.71		0.00		5.56		3.23		
<b>26 - NXX Loaded by LERG Effective Date</b>												
26 - 2600200	Whlsle	nd	n/a	nd	n/a	100.00	n/a	nd	n/a	nd	n/a	ab de
<b>Billing</b>												
<b>28 - Usage Timeliness</b>												
28 - 2800200	Resale	1.19	2.38	1.21	2.25	1.13	2.43	1.18	2.61	0.98	2.30	
28 - 2800300	Unbundled	1.39	2.38	1.34	2.25	1.25	2.43	1.52	2.61	1.28	2.30	
28 - 2800500	Meet Pt	0.99	2.38	0.90	2.25	0.89	2.43	0.94	2.61	0.53	2.30	
<b>30 - Wholesale Bill Timeliness</b>												
30 - 3000100	Resale	nd		nd		100.00		100.00		100.00		abcde
30 - 3000200	Unbundled	100.00		100.00		100.00		100.00		100.00		
30 - 3000300	Fac/Int Cnct	100.00		100.00		100.00		100.00		100.00		
<b>31 - Usage Completeness</b>												
31 - 3100200	Resale	99.90	99.81	99.87	99.83	99.98	98.97	100.00	99.81	99.82	99.73	

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Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	
31 - 3100300	Unbundled	99.19	99.81	99.41	99.83	99.94	98.97	100.00	99.81	98.96	99.73	
31 - 3100400	Fac/Int Cnct	100.00		100.00		100.00		100.00		100.00		
<b>32 - Recurring Charge Completeness</b>												
32 - 3200200	Resale	92.56	95.42	96.72	95.34	96.12	93.56	95.40	96.87	99.07	97.68	
32 - 3200300	UNE POTS	100.00	95.42	100.00	95.34	100.00	93.56	53.85	96.87	100.00	97.68	c e
32 - 3200400	UNE Other	97.39		96.54		99.21		98.92		100.00		
32 - 3200500	Fac/Int Cnct	100.00		100.00		100.00		100.00		100.00		
<b>33 - Non-Recurring Charge Completeness</b>												
33 - 3300200	Resale	96.54	87.54	97.22	84.62	99.21	87.53	94.92	86.22	98.76	83.38	
33 - 3300300	UNE POTS	100.00	87.54	100.00	84.62	100.00	87.53	60.00	86.22	100.00	83.38	c e
33 - 3300400	UNE Other	97.30		97.67		98.79		98.97		100.00		
<b>34 - Bill Accuracy</b>												
34 - 3400401	Resale Usage	100.00	99.89	100.00	99.89	100.00	99.90	100.00	99.91	99.42	99.89	
34 - 3400501	Resale Recurring	99.94	99.94	100.00	99.93	99.94	99.93	100.00	99.94	99.95	99.93	
34 - 3400601	Resale Non-Recurring	100.00	99.80	100.00	99.82	100.00	99.74	100.00	99.85	100.00	99.84	
34 - 3400701	UNE POTS Usage	100.00	99.89	100.00	99.89	100.00	99.90	100.00	99.91	100.00	99.89	
34 - 3400801	UNE POTS Recurring	100.00	99.94	100.00	99.93	100.00	99.93	100.00	99.94	100.00	99.93	
34 - 3400901	UNE POTS Non-Recurring	100.00	99.80	100.00	99.82	100.00	99.74	100.00	99.85	100.00	99.84	
34 - 3401001	UNE Other Usage	100.00		100.00		100.00		100.00		100.00		
34 - 3401101	UNE Other Recurring	100.00		99.28		98.56		100.00		100.00		
34 - 3401201	UNE Other Non-Recurring	100.00		100.00		99.28		100.00		100.00		
34 - 3401301	Fac/Interconnect Usage	98.41		100.00		98.55		100.00		99.96		
34 - 3401401	Fac/Interconnect Recurring	100.00		100.00		100.00		100.00		100.00		
34 - 3401501	Fac/Interconnect Non-Recurring	100.00		100.00		100.00		100.00		100.00		
<b>35 - Billing Completion Notice Interval</b>												
35 - 3500100	Local Wholesale	96.40		96.74		96.04		95.42				
35 - 3500300	LASR/WFM									96.56		
<b>Database Updates</b>												
<b>37 - Database Update Interval</b>												
37 - 3700200	Loc Whlse Prod-Svc Ord Gen UpDts	3.08	4.66	2.16	4.52	3.39	4.98	2.38	4.74	1.81	4.46	
37 - 3700250	Loc Whlse Prod-Svc Ord Gen UpDts to LIDB	0.06	0.16	0.04	0.11	0.04	0.15	0.06	0.12	0.05	0.09	
37 - 3700300	Loc Whlse Prod Direct Gtwy UpDts	100.00		100.00		100.00		100.00		100.00		
<b>38 - Percent Database Accuracy</b>												

## Nevada Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	CLEC Result	N*B	
38 - 3800200	Loc Whlsle Prod- Svc Ord Gen UpDts	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	
38 - 3800500	Loc Whlsle Prod- Svc Ord Gen UpDts	98.61	94.19	93.77	92.87	97.58	94.09	99.22	94.87	98.81	94.65	
38 - 3800700	Loc Whlsle Prod- Ord Gen LIDB Updts	96.44	99.51	99.56	99.52	98.52	99.38	98.09	99.63	98.61	99.53	
<b>39 - E911/911 MS Database Update Interval</b>												
39 - 3900200	Loc Whlsle Prod- Svc Ord Gen UpDts	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	
<b>Collocation</b>												
<b>40 - Time to Respond to a Collocation Request</b>												
40 - 4000300	Spce Avail & Prc & Sched Quote-ICB-10 dys					100.00		nd		nd		cde
<b>Interfaces</b>												
<b>42 - Percent of Time Interface is Available</b>												
42 - 4200700	Wholesale Datagate	99.99		99.87		99.80		99.93		100.00		
42 - 4200800	Wholesale WEBVERIGATE	99.98		99.88		99.72		99.89		99.93		
42 - 4200900	Wholesale WEBTOOLBAR	99.79		98.36		99.88		100.00		99.36		
42 - 4201000	Wholesale WEBLEX	99.98		99.69		100.00		99.96		99.55		
42 - 4201300	Wholesale EDI/Ordering	100.00		100.00		100.00		100.00		100.00		
42 - 4201400	Wholesale PRAF	100.00		100.00		100.00		100.00		97.08		
42 - 4201500	Wholesale SORD	99.42	99.42	99.61	99.61	100.00	100.00	99.98	99.98	99.77	99.77	
42 - 4201700	Wholesale EDS TELIS/EXACT	100.00		100.00		100.00		100.00		100.00		
42 - 4201800	EBTA GUI	99.44		99.99		99.97		99.98		100.00		
42 - 4201900	EDI/CORBA/Pre-Order	99.98		99.86		99.84		99.94		99.99		
42 - 4202000	NDM/EXACT	100.00		100.00		100.00		100.00		100.00		
42 - 4202100	TBTA	100.00		100.00		100.00		100.00		100.00		
42 - 4202200	EBTA	98.66		99.77		99.85		99.97		100.00		
<b>44 - Center Responsiveness</b>												
44 - 4400200	Rpr Ctr Local Wlsle Prod	6.43	12.07	3.99	11.92	6.27	13.85	3.98	17.22	4.40	10.88	
44 - 4400300	Ord Ctr Local Wlsle Prod	5.92		6.41		6.86		5.33		5.71		

Abbreviations: n/a - not available.  
nd - denotes 'no data' or no CLEC requests to measure.

Blank space means data are not available.

Notes: a - for September, CLEC sample size was less than 10.  
b - for October, CLEC sample size was less than 10.  
c - for November, CLEC sample size was less than 10.  
d - for December, CLEC sample size was less than 10.  
e - for January, CLEC sample size was less than 10.

## Appendix C

### California Performance Metrics

Except where noted, the data included here are taken from the California performance reports provided by Pacific Bell, calculated according to the California OSS OII Performance Measurements (Joint Partial Settlement Agreement) business rules as of 6/27/02. This table is provided as a reference tool for the convenience of the reader. No conclusions are to be drawn from the raw data contained in this table. Our analysis is based on the totality of the circumstances, such that we may use non-metric evidence, and may rely more heavily on some metrics more than others, in making our determination. The inclusion of these particular metrics in this table does not necessarily mean that we relied on all of these metrics, or that other metrics may not also be important in our analysis. Some metrics that we have relied on in the past and may rely on for a future application were not included here because there was no data provided for them (usually either because there was no activity, or because the metrics are still under development).

Metrics with no retail analog provided are usually compared with a benchmark. Note that for some metrics during the period provided there may be changes in the metric definition, or changes in the retail analog applied, making it difficult to compare data over time.

Performance Metric Categories

Metric Number	Metric Name
<b>Pre-Ordering</b>	
1	Average Response Time (to Pre-Order Queries)

<b>Ordering</b>	
2	Average FOC/LSC Notice Interval
3	Average Reject Notice Interval
4	Percentage of Flow-Through Orders

<b>Provisioning</b>	
5	Percentage of Orders Jeopardized
6	Average Jeopardy Notice Interval
7	Average Completed Interval
8	Percent Completed Within Standard Interval
9	Coordinated Customer Conversion
9a	Frame Due Time (FDT) Conversions as a Percentage on Time
10	LNP Network Provisioning
11	Percent of Due Dates Missed
12	Percent of Due Dates Missed Due to Lack of Facilities
13	Delay Order Interval to Completion Date (For Lack of Facilities)
14	Held Order Interval
15	Provisioning Trouble Reports (Prior to Service Order Completion)
15a	Average Time to Restore Provisioning Troubles (Service Order Completion)
16	Percentage Troubles in 30 Days for Special Services Orders
17	Percentage Troubles in 10 Days for Non-Special Orders
18	Completion Notice Interval

<b>Maintenance</b>	
19	Customer Trouble Report Rate
20	Percentage of Customer Trouble Not Resolved Within Estimated Time
21	Average Time to Restore
22	POTS Out of Service Less Than 24 Hours

Metric Number	Metric Name
23	Frequency of Repeat Troubles in 30-Day Period

<b>Network Performance</b>	
24	Percent Blocking on Common Trunks
25	Percent Blocking on Interconnection Trunks
26	NXX Loaded by LERG Effective Date

<b>Billing</b>	
38	Usage Timeliness
30	Wholesale Bill Timeliness
31	Usage Completeness
32	Recurring Charge Completeness
33	Non-Recurring Charge Completeness
34	Bill Accuracy
35	Billing Completion Notice Interval
36	Accuracy of Mechanized Bill Feed

<b>Database Updates</b>	
37	Average Database Update Interval
38	Percent Database Accuracy
39	E911/911 MS Database Update

<b>Collocation</b>	
40	Time to Respond to a Collocation Request
41	Time to Provide a Collocation Arrangement

<b>Interfaces</b>	
42	Percent of Time Interface is Available
44	Center Responsiveness

## California Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
<b>Pre-Ordering</b>												
<i>1 - Average Response Time (to Pre-Order Queries)</i>												
1 - 103300	Man Fax/Req for CSR	97.66		99.97		99.96		99.83		99.88		
1 - 103500	K1023: xDSL Loop Qual	4.22	19.98	7.61	15.57	3.21	11.88	5.70	16.98	2.76	14.62	
1 - 103501	K1023: Manual K1023	7.67	7.26	5.46	24.86	6.63	11.24	10.10	8.00	7.38	10.33	
1 - 104101	CSR Datagate: Rndtrp	1.23		1.27		0.61		0.60		0.56		
1 - 104400	Rej/Fail Inq Datagate: Rndtrp	0.80		0.65		0.36		0.59		0.48		
1 - 104501	Addr Verif Verigate: Rndtrp	1.74		1.68		2.64		2.19		1.95		
1 - 104502	Disp Rqrd/Fac Avail Verigate: Rndtrp	5.95		4.89		4.85		4.77		4.37		
1 - 104601	TN Verigate: Rndtrp	4.78		4.78		5.42		4.70		3.72		
1 - 104701	CSR Verigate: Rndtrp	3.53		3.09		3.26		3.04		2.70		
1 - 104801	Svc Avail Verigate: Rndtrp	0.92		0.93		1.18		0.77		0.71		
1 - 104901	Svc Appt Sch Verigate: Rndtrp	2.24		2.11		2.55		2.73		2.48		
1 - 105000	Rej/Fail Inq Verigate: Rndtrp	2.45		3.34		5.39		2.34		2.31		
1 - 105600	Mech Loop Qual Actual - Verigate: Rndtrp	13.66	10.66	11.13	9.98	10.71	10.09	11.62	10.33	11.98	10.41	
1 - 105700	Mech Loop Qual Design - Verigate: Rndtrp	3.25	4.37	3.40	3.00	4.34	3.77	3.23	3.99	3.19	3.28	
1 - 106000	Addr Verif EDI-CORBA: Rndtrp	1.62		1.35		1.39		1.45		1.25		
1 - 106002	TN EDI-CORBA: Rndtrp	4.02		3.26		2.77		2.86		2.75		
1 - 106003	CSR EDI-CORBA: Rndtrp	1.47		2.85		1.92		0.67		0.98		
1 - 106005	Svc Appt Sch EDI-CORBA: Rndtrp	2.11		1.63		1.75		1.77		1.58		
1 - 106006	Rej/Fail Inq EDI-CORBA: Rndtrp	3.64		2.62		2.04		1.43		1.85		
1 - 106007	Mech Loop Qual Actual - EDI-CORBA: Rndtrp	15.68	12.17	13.58	10.30	13.05	16.24	12.59	16.21	12.30	10.66	
1 - 106008	Mech Loop Qual Design - EDI-CORBA: Rndtrp	2.89	2.75	2.79	2.95	3.53	3.72	2.70	3.24	2.83	3.11	
<b>Ordering</b>												
<i>2 - Average FOC/LSC Notice Interval</i>												
2 - 200200	Elct Resale Bus	0.14		0.06		0.03		0.03		0.04		
2 - 201101	Elct 8.0 dB and 5.5 dB Loop	0.08		0.08		0.07		0.07		0.09		
2 - 201200	Elct 2 Digital ISDN	0.11		0.06		0.05		0.04		0.02		a c e
2 - 201300	Elct 2 Digital xDSL	0.16		0.17		0.70		0.15		0.17		
2 - 201400	Elct 4 Digital 1.544 mbpd HDSL	0.10		0.09		0.28		0.08		0.14		
2 - 201404	Elct UNE EELs - Voice Grade	0.13		0.08		0.08		0.06		0.07		
2 - 201405	Elct UNE EELs - DS1	0.14		0.10		0.09		0.09		0.10		
2 - 202200	Elct UNE Platform Basic	0.42		0.40		0.50		0.23		0.23		
2 - 202500	Elct PNP	0.03		0.04		0.09		0.04		0.03		

## California Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
2 - 202700	Elct Man-Resale Res POTS	1.15		2.11		1.28		1.99		2.21		
2 - 202800	Elct Man-Resale Bus POTS	2.51		1.71		1.61		1.82		1.85		
2 - 202900	Elct Man-Resale ISDN BRI	2.38		3.02		3.02		1.56		1.89		cde
2 - 203000	Elct Man-Resale Centrex	2.28		2.13		2.48		1.64		1.73		
2 - 203100	Elct Man-Resale PBX	3.02		2.84		2.24		1.50		2.33		d
2 - 203200	Elct Man-Resale DDS	nd		nd		nd		nd		8.08		abcde
2 - 203300	Elct Man-Resale DS1/ISDN-PRI	nd		nd		nd		2.87		4.27		abcde
2 - 203601	Elct Man-8.0 dB and 5.5 dB Loop	2.15		2.24		2.77		2.61		2.39		
2 - 203800	Elct Man-2 Digital ISDN	2.03		1.96		2.17		1.83		2.16		
2 - 203900	Elct Man-2 Digital xDSL	2.50		2.06		2.08		2.17		2.18		
2 - 204000	Elct Man-4 Digital 1.544 mbpd HDSL	1.86		2.14		2.17		2.07		1.59		
2 - 204001	Elct Man-4 Digital DS3 Loop	5.02		4.83		1.49		2.84		5.53		abcde
2 - 204003	Elct Man- UNE Dark Fiber	nd		3.86		nd		nd		nd		a cde
2 - 204004	Elct Man- UNE EELs - Voice Grade	1.51		1.50		1.60		1.92		1.57		
2 - 204005	Elct Man- UNE EELs - DS1	1.85		1.96		2.16		1.71		1.34		
2 - 204006	Elct Man- UNE EELs - DS3	2.17		1.84		3.94		2.00		2.23		abcde
2 - 204701	Elct Man-UNE Dedicated Trnsprt DS1	8.92		4.12		3.02		2.46		2.20		
2 - 204702	Elct Man-UNE Dedicated Trnsprt DS3	2.96		3.10		2.82		2.31		2.07		
2 - 204800	Elct Man-UNE Platform Basic	3.00		2.61		2.87		2.54		2.28		
2 - 204802	Elct Man-UNE Platform - Specials	3.90		3.93		1.67		nd		3.31		abcde
2 - 205100	Elct Man-PNP	1.64		1.57		1.88		2.09		1.91		
2 - 205300	Man-Man Resale Res POTS	2.38		3.24		2.56		3.20		5.15		
2 - 205400	Man-Man Resale Bus POTS	3.22		3.23		3.95		4.11		4.18		
2 - 205500	Man-Man Resale ISDN BRI	17.35		6.88		nd		nd		4.92		abcde
2 - 205600	Man-Man Resale Centrex	5.07		5.19		3.75		4.70		3.94		
2 - 205700	Man-Man Resale PBX	7.35		4.39		17.17		4.71		11.38		abcde
2 - 205900	Man-Man Resale DS1/ISDN-PRI	3.20		nd		2.25		nd		3.17		abcde
2 - 206201	Man-Man 8.0 dB and 5.5 dB Loop	3.89		3.88		4.64		5.47		5.39		cde
2 - 206401	Man-Man 4 Digital DS3 Loop	nd		9.42		2.52		nd		nd		abcde
2 - 206403	Man-Man UNE Dark Fiber	4.79		nd		nd		nd		nd		abcde
2 - 206404	Man-Man UNE EELs - Voice Grade	nd		3.40		nd		nd		8.95		abcde
2 - 206405	Man-Man UNE EELs - DS1	3.78		3.35		1.77		2.30		4.07		bcde
2 - 206500	Man-Man 2 Digital xDSL	3.55		4.29		nd		nd		nd		cde
2 - 206600	Man-Man 4 Digital	3.03		4.38		9.46		3.80		2.36		cd

## California Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
2 - 207302	Man-Man UNE Dedicated Trnsprt DS3	nd		1.93		nd		10.50		2.00		abcde
2 - 207400	Man-Man UNE Platform Basic	3.62		3.68		4.85		2.75		3.29		b
2 - 207402	Man-Man UNE Platform Specials	nd		nd		nd		4.16		nd		abcde
2 - 207700	Man-Man PNP	4.12		3.24		4.25		6.80		4.97		
2 - 207801	Projects - All Other Products	99.39		97.06		91.42		91.89		96.35		
2 - 207802	Projects - Interconnection Trks-days	2.48		3.62		2.46		5.38		3.01		
2 - 207902	Days-Held & Denied Intercnnect Trks	52.00	n/a	nd	n/a	nd	n/a	nd	n/a	nd	n/a	abcde
2 - 208000	Elct 2 Digital Line Sharing	0.18		0.17		0.47		0.16		0.15		
2 - 208100	Elct Man-2 Digital Line Sharing	2.53		2.05		2.19		2.38		2.46		
2 - 208200	Man-Man 2 Digital Line Sharing	nd		nd		nd		nd		3.52		abcde
2 - 208301	Interconn Trunks New	2.98		2.88		3.30		2.33		4.28		
2 - 208302	Interconn Trunks Augment	3.09		3.15		3.19		2.85		2.63		
<b>3 - Average Reject Notice Interval</b>												
3 - 300200	Elct:LEX-CLEO/LASR Facilities Syntax	0.04		0.04		0.07		0.04		0.04		
3 - 300201	Elct:LEX-CLEO/LASR Directory Listings Syntax	0.07		0.07		0.05		0.05		0.06		
3 - 300300	Elct:LEX-CLEO/LASR Resale Syntax	0.07		0.07		0.06		0.05		0.05		
3 - 300400	Elct:EDI-CLEO/LASR Facilities Syntax	0.36		0.33		1.24		0.20		0.23		
3 - 300500	Elct:EDI-CLEO/LASR Resale Syntax	0.21		0.33		0.22		0.19		0.20		
3 - 300501	Elct:EDI-CLEO/LASR Directory Listings Syntax	0.51		0.42		0.98		0.35		0.23		
3 - 300700	Elct Man:LEX-CLEO/LASR (Exc to LSC) Facilities	2.94		1.88		2.56		2.88		1.86		
3 - 300800	Elct Man:LEX-CLEO/LASR (Exc to LSC) Resale Content Errs	1.67		1.91		1.09		1.54		2.55		
3 - 300900	Elct Man:EDI-CLEO/LASR (Exc to LSC) Facilities Content Errs	2.52		2.33		2.55		2.24		2.02		
3 - 301000	Elct Man:EDI-CLEO/LASR (Exc to LSC) Resale Content Errs	10.45		1.11		1.28		1.47		2.02		
3 - 301200	Man-Man:FAX Resale Content Errs	3.94		3.20		2.84		3.76		2.78		
3 - 301300	Man-Man:FAX Facilities Content Errs	3.68		4.49		3.91		3.35		4.92		
3 - 301400	Elct:LEX-CLEO/LASR Line Sharing Syntax	0.02		0.02		0.05		0.02		0.02		
3 - 301500	Elct:EDI-CLEO/LASR Line Sharing Syntax	0.18		0.15		0.19		0.14		0.14		
3 - 301600	Elct Man:LEX-CLEO/LASR (Exc to LSC) Line Sharing	2.25		1.93		2.12		2.48		2.02		
3 - 301700	Elct Man:EDI-CLEO/LASR (Exc to LSC) Line Sharing	1.95		1.67		1.74		1.72		1.78		
3 - 310100	Elct Man:EXACT Facilities Content Errs	1.76		2.36		1.97		2.44		1.91		
3 - 310200	Man-Man:EXACT Facilities Content Errs	nd		nd		3.39		nd		nd		abcde



## California Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
3 - 320000	Projects - All Other Products	100.00		100.00		97.78		82.31		100.00		
<b>4 - Percentage of Flow Through Orders</b>												
4 - 410100	LEX/EDI LASR FTE:8.0 dB Svc Migration w/chgs	0.00		0.00		0.00		0.61		0.00		
4 - 410300	LEX/EDI LASR FTE:2 Digital xDSL-Svc Migration w/chgs	nd		0.00		nd		nd		0.00		abcde
4 - 410400	LEX/EDI LASR FTE:Standalone LNP-Svc Migration w/chgs	55.00		53.85		51.56		54.65		57.93		
4 - 410500	LEX/EDI LASR FTE:UNE 8.0 dB-New Svc Install	70.93		71.69		72.92		69.11		78.97		
4 - 410600	LEX/EDI LASR FTE:5.5 dB-New Svc Install	0.00		25.00		0.00		87.50		75.00		abcde
4 - 410700	LEX/EDI LASR FTE:2 Digital xDSL-New Svc Install	65.15		66.92		48.33		46.19		60.04		
4 - 410800	LEX/EDI LASR FTE:UNE 4 Digital(1.544 mbps)-New Svc Install	62.04		64.61		53.96		46.06		59.54		
4 - 410900	LEX/EDI LASR FTE:UNE 8.0 dB-Svc Disconnect	44.20		62.81		76.80		69.19		77.65		
4 - 411000	LEX/EDI LASR FTE:UNE 5.5 dB-Svc Disconnect	17.65		31.25		51.72		45.45		50.00		
4 - 411100	LEX/EDI LASR FTE:2 Digital ISDN-Svc Disconnect	3.95		13.41		5.05		2.90		12.26		
4 - 411200	LEX/EDI LASR FTE:UNE 2 Digital xDSL-Svc Disconnect	38.80		60.92		57.32		61.61		65.60		
4 - 411300	LEX/EDI LASR FTE:UNE 4 Digital(1.544 mbps)-New Svc Install	74.77		78.80		78.13		75.93		79.69		
4 - 411500	LEX/EDI LASR FTE:LNP w/Loop-Svc Migration w/chgs	31.15		24.67		29.06		32.63		26.15		
4 - 411600	LEX/EDI LASR FTE:UNE Platform(Loop w/Prt)-New Svc Install	53.81		51.88		50.88		50.88		52.52		
4 - 411700	LEX/EDI LASR FTE:UNE Platform(Loop w/Prt)-Svc Disconnect	93.75		93.12		93.57		93.59		92.74		
4 - 411800	LEX/EDI LASR FTE:UNE Platform(Loop w/Prt)-Svc Migration w/chgs	83.09		87.50		82.34		84.62		82.58		
4 - 412000	LEX/EDI LASR FTE:UNE Platform(Loop w/Prt)-Chg Activities	78.38		81.82		80.72		81.51		85.05		
4 - 412100	LEX/EDI LASR FTE:UNE 2w Dig Line Sharing Loop-New Svc Install	87.25		92.86		77.50		84.24		94.41		
4 - 412200	LEX/EDI LASR FTE:UNE 2w Dig Line Sharing Loop-Svc Disconnect	65.21		66.36		80.95		84.36		83.14		
4 - 412300	LEX/EDI LASR FTE:UNE Lp 2w Dig IDSL cap	68.40		68.83		70.61		72.42		71.98		
4 - 412400	LEX/EDI LASR FTE:UNE EELs Voice - Svc Disconnect	35.00		21.43		42.11		42.11		52.00		
4 - 412500	LEX/EDI LASR FTE:UNE EELs DS1 - New Svc Install	57.51		54.76		44.44		7.66		7.51		

## California Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
4 - 412600	LEX/EDI LASR FTE:UNE EELs DS1 - Svc Disconnect	56.78		69.83		72.90		72.81		55.68		
4 - 412700	LEX/EDI LASR FTE:UNE EELs Voice - New Svc Install	50.00		80.00		0.00		20.00		100.00		abcde
4 - 412900	LEX/EDI LASR FTE:UNE Platform(Loop w/Prt)-Move Activities					5.42		5.42		6.19		
4 - 413000	LEX/EDI LASR FTE:UNE 2w Dig Line Sharing Loop-Svc Migration w/chgs					0.00		1.00		44.23		
4 - 420501	LEX/EDI LASR FTE:Resale Res POTS-New Svc Install	69.67		67.94		64.87		72.96		72.04		
4 - 420601	LEX/EDI LASR FTE:Resale Res POTS-Chg Activities	94.21		92.96		87.33		86.52		89.33		
4 - 420701	LEX/EDI LASR FTE:Resale Res POTS-Svc Disconnect	99.02		99.21		98.06		96.30		97.51		
4 - 420801	LEX/EDI LASR FTE:Resale Res POTS-Svc Migration w/out chgs	75.10		94.94		91.18		83.93		88.00		
4 - 420901	LEX/EDI LASR FTE:Resale Res POTS-Svc Migration w/chgs	17.38		7.05		12.20		1.41		1.24		
4 - 421201	LEX/EDI LASR FTE:Resale Bus POTS-New Svc Install	31.88		20.74		13.33		10.12		19.35		
4 - 421301	LEX/EDI LASR FTE:Resale Bus POTS-Chg Activities	85.96		75.58		70.88		74.51		77.24		
4 - 421401	LEX/EDI LASR FTE:Resale Bus POTS-Svc Disconnect	44.54		30.05		61.78		70.21		68.34		
4 - 421501	LEX/EDI LASR FTE:Resale Bus POTS-Svc Migration w/out chgs	9.48		2.52		33.02		36.14		24.53		
4 - 421601	LEX/EDI LASR FTE:Resale Bus POTS-Svc Migration w/chgs	7.69		12.68		8.97		8.47		14.71		
4 - 430100	LEX/EDI LASR:8.0 dB-New Svc Install	70.93		71.69		72.92		69.11		78.97		
4 - 430200	LEX/EDI LASR:8.0 dB-Chg Activities	0.00		0.00		0.25		0.00		0.00		
4 - 430300	LEX/EDI LASR:8.0 dB-Svc Disconnect	44.20		62.81		76.80		69.19		77.65		
4 - 430400	LEX/EDI LASR:8.0 dB-Svc Migration w/chgs	0.00		0.00		0.00		0.61		0.00		
4 - 430401	LEX/EDI LASR:8.0 dB-Move Activities	0.00		0.00		0.00		0.00		0.00		
4 - 430900	LEX/EDI LASR:5.5 dB-New Svc Install	0.00		25.00		0.00		87.50		75.00		abcde
4 - 431000	LEX/EDI LASR:5.5 dB-Chg Activities	0.00		nd		0.00		nd		0.00		abcde
4 - 431100	LEX/EDI LASR:5.5 dB-Svc Disconnects	17.65		31.25		51.72		45.45		50.00		
4 - 431201	LEX/EDI LASR:5.5 dB-Move Activities	0.00		nd		nd		nd		nd		abcde
4 - 431300	LEX/EDI LASR:2 Digital ISDN-New Svc Install	nd		0.00		nd		nd		0.00		abcde
4 - 431400	LEX/EDI LASR:2 Digital ISDN-Chg Activities	nd		nd		0.00		0.00		nd		abcde
4 - 431500	LEX/EDI LASR:2 Digital ISDN-Svc Disconnect	3.95		13.41		5.05		2.90		12.26		
4 - 431601	LEX/EDI LASR:2 Digital ISDN-Move Activities	0.00		nd		nd		nd		nd		abcde
4 - 431700	LEX/EDI LASR:2 Digital xDSL-New Svc Install	65.15		66.92		48.33		46.19		60.04		

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Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
4 - 431800	LEX/EDI LASR:2 Digital xDSL-Chg Activities	0.00		0.00		0.00		9.68		5.00		
4 - 431900	LEX/EDI LASR:2 Digital xDSL-Svc Disconnect	38.80		60.92		57.32		61.61		65.60		
4 - 432000	LEX/EDI LASR:2 Digital xDSL-Svc Migration w/chgs	nd		0.00		nd		nd		0.00		abcde
4 - 432001	LEX/EDI LASR:2 Digital xDSL-Move Activities	0.00		0.00		0.00		nd		0.00		abcde
4 - 432100	LEX/EDI LASR:2 Digital IDSL-New Svc Install	0.00		0.00		0.00		0.00		0.00		
4 - 432200	LEX/EDI LASR:2 Digital IDSL-Chg Activities	0.00		0.00		0.00		0.00		0.00		b
4 - 432300	LEX/EDI LASR:2 Digital IDSL-Svc Disconnect	68.40		68.83		70.61		72.42		71.98		
4 - 432400	LEX/EDI LASR:2 Digital IDSL-Svc Migration w/chgs	nd		nd		nd		nd		0.00		abcde
4 - 432401	LEX/EDI LASR:2 Digital IDSL-Move Activities	0.00		nd		0.00		0.00		nd		abcde
4 - 432500	LEX/EDI LASR:4 Digital (1.544 mbps)-New Svc Install	62.04		64.61		53.96		46.06		59.54		
4 - 432600	LEX/EDI LASR:4 Digital (1.544 mbps)-Chg Activities	0.00		20.00		0.00		33.33		0.00		abcde
4 - 432700	LEX/EDI LASR:4 Digital (1.544 mbps)-Svc Disconnect	74.77		78.80		78.13		75.93		79.69		
4 - 432801	LEX/EDI LASR:4 Digital DS3 Lp-New Svc Install	0.00		0.00		0.00		0.00		0.00		abcde
4 - 432803	LEX/EDI LASR:4 Digital DS3 Lp-Svc Disconnect	nd		0.00		nd		nd		0.00		abcde
4 - 432813	LEX/EDI LASR: UNE EELs VG-New Svc Install	50.00		80.00		0.00		20.00		100.00		abcde
4 - 432814	LEX/EDI LASR: UNE EELs VG-Chg Activities	nd		0.00		0.00		0.00		nd		abcde
4 - 432815	LEX/EDI LASR: UNE EELs VG-Svc Disconnect	35.00		21.43		42.11		42.11		52.00		
4 - 432817	LEX/EDI LASR: UNE EELs DS1-New Svc Install	57.51		54.76		44.44		7.66		7.51		
4 - 432818	LEX/EDI LASR: UNE EELs DS1-Chg Activities	0.00		25.00		0.00		0.00		0.00		abcd
4 - 432819	LEX/EDI LASR: UNE EELs DS1-Svc Disconnect	56.78		69.83		72.90		72.81		55.68		
4 - 432820	LEX/EDI LASR: UNE EELs DS1-Svc Migration w/chgs	nd		nd		nd		nd		0.00		abcd
4 - 432821	LEX/EDI LASR: UNE EELs DS3-New Svc Install	0.00		0.00		0.00		nd		0.00		abcde
4 - 432823	LEX/EDI LASR: UNE EELs DS3-Svc Disconnect	0.00		nd		nd		0.00		0.00		abcde
4 - 432829	LEX/EDI LASR: 4 Digital (1.544 mbps)-Move Activities	0.00		nd		0.00		0.00		0.00		abcde
4 - 432832	LEX/EDI LASR: UNE EELs VG-Move Activities	nd		nd		nd		nd		0.00		abcde
4 - 432833	LEX/EDI LASR: UNE EELs DS1-Move Activities	0.00		nd		0.00		nd		0.00		abcde
4 - 432900	LEX/EDI LASR: Standalone PNP-Svc Migration w/chgs	55.00		53.85		51.56		54.65		57.93		
4 - 433000	LEX/EDI LASR: PNP w/Loop-Svc Migration w/chgs	31.15		24.67		29.06		32.63		26.15		
4 - 433100	LEX/EDI LASR: UNE Platform(8db Loop w/Prt)-New Svc Install	53.81		51.88		50.88		50.88		52.52		
4 - 433200	LEX/EDI LASR: UNE Platform(8db Loop w/Prt)-Chg Activities	78.38		81.82		80.72		81.51		85.05		
4 - 433300	LEX/EDI LASR: UNE Platform(8db Loop w/Prt)-Svc Disconnect	93.75		93.12		93.57		93.59		92.74		

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Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
4 - 433400	LEX/EDI LASR: UNE Platform(8db Loop w/Prt)-Svc Migration w/chgs	83.09		87.50		82.34		84.62		82.58		
4 - 433600	LEX/EDI LASR: UNE Platform(8db Loop w/Prt)-Move Activities	0.00		0.00		5.42		5.42		6.19		
4 - 433601	LEX/EDI LASR: UNE Platform(8db Loop w/PBX Prt)-New Svc Install	nd		nd		0.00		nd		0.00		abcde
4 - 433602	LEX/EDI LASR: UNE Platform(8db Loop w/PBX Prt)-Chg Activities	nd		nd		0.00		0.00		0.00		abcde
4 - 433603	LEX/EDI LASR: UNE Platform(8db Loop w/PBX Prt)-Svc Disconnect	nd		nd		0.00		nd		nd		abcde
4 - 433604	LEX/EDI LASR: UNE Platform(8db Loop w/PBX Prt)-Svc Migration w/chgs	0.00		0.00		nd		nd		0.00		abcde
4 - 433606	LEX/EDI LASR: UNE Platform(5.5db Loop w/PBX Prt)-New Svc Install	nd		nd		nd		0.00		nd		abcde
4 - 433607	LEX/EDI LASR: UNE Platform(5,5db Loop w/PBX Prt)-Chg Activities	nd		0.00		nd		0.00		0.00		abcde
4 - 433609	LEX/EDI LASR: UNE Platform(5.5db Loop w/PBX Prt)-Svc Migration w/chgs	0.00		0.00		0.00		0.00		0.00		a cd
4 - 433614	LEX/EDI LASR: UNE Platform(8db Loop w/PBX DID Prt)-Svc Migration w/chgs	nd		nd		nd		nd		0.00		abcde
4 - 433616	LEX/EDI LASR: UNE Platform(5.5db Loop w/PBX DID Prt)-New Svc Install	nd		nd		0.00		nd		nd		abcde
4 - 433619	LEX/EDI LASR: UNE Platform(5.5db Loop w/PBX DID Prt)-Svc Migration w/chgs	0.00		nd		nd		nd		0.00		abcde
4 - 433620	LEX/EDI LASR: UNE Platform(5.5db Loop w/PBX DID Prt)-Move Activities	nd		nd		0.00		nd		nd		abcde
4 - 433626	LEX/EDI LASR: UNE Platform(ISDN PRI Port & Loop)-New Svc Install	nd		nd		0.00		nd		0.00		abcde
4 - 433644	LEX/EDI LASR: UNE Platform(8db Loop w/Cntrx Prt)-Chg Activities	0.00		0.00		0.00		0.00		0.00		ab d
4 - 433645	LEX/EDI LASR: UNE Platform(8db Loop w/Cntrx Prt)-Svc Disconnect	nd		nd		0.00		0.00		0.00		abcde
4 - 433646	LEX/EDI LASR: UNE Platform(8db Loop w/Cntrx Prt)-Svc Migration w/chgs	0.00		0.00		0.00		0.00		0.00		

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Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
4 - 433700	LEX/EDI LASR: Hi Bandwidth Line Sharing UNE-New Svc Install	87.25		92.86		77.50		84.24		94.41		
4 - 433800	LEX/EDI LASR: Hi Bandwidth Line Sharing UNE-Svc Disconnect	65.21		66.36		80.95		84.36		83.14		
4 - 433900	LEX/EDI LASR: Hi Bandwidth Line Sharing UNE-Chg Activities	0.00		0.00		0.00		0.00		0.00		
4 - 433901	LEX/EDI LASR: Hi Bandwidth Line Sharing UNE-Svc Migration w/chgs	0.00		0.00		0.00		1.00		44.23		
4 - 440100	EXACT:Interconnect Trks-New and Aug	0.00		0.00		0.00		0.00		0.00		
4 - 440200	EXACT:Interconnect Trks-Chg Activities	0.00		0.00		0.00		0.00		0.00		b
4 - 440300	EXACT:Interconnect Trks-Svc Disconnect	0.00		0.00		0.00		0.00		0.00		
4 - 440601	EXACT:UNE Dedicated Trnsprt DS1-New Svc Install	0.00		0.00		0.00		0.00		0.00		bc
4 - 440602	EXACT:UNE Dedicated Trnsprt DS1-Chg Activities	nd		nd		nd		0.00		nd		abcde
4 - 440603	EXACT:UNE Dedicated Trnsprt DS1-Svc Disconnect	0.00		0.00		0.00		0.00		0.00		abcde
4 - 440604	EXACT:UNE Dedicated Trnsprt DS3-New Svc Install	0.00		0.00		0.00		0.00		0.00		e
4 - 440605	EXACT:UNE Dedicated Trnsprt DS3-Chg Activities	nd		0.00		nd		0.00		nd		abcde
4 - 440606	EXACT:UNE Dedicated Trnsprt DS3-Svc Disconnect	0.00		0.00		0.00		0.00		0.00		
4 - 440610	EXACT:UNE Dark Fiber - New Svc Install	nd		nd		0.00		0.00		nd		abcde
4 - 440611	EXACT:UNE Dark Fiber - Chg Activities	0.00		nd		nd		nd		nd		abcde
4 - 450101	LEX/EDI LASR: Resale Res POTS-New Svc Install	69.67		67.94		64.87		72.96		72.04		
4 - 450201	LEX/EDI LASR: Resale Res POTS-Chg Activities	94.21		92.96		87.33		86.52		89.33		
4 - 450301	LEX/EDI LASR: Resale Res POTS-Move Activities	0.00		0.00		0.00		0.00		0.00		
4 - 450401	LEX/EDI LASR: Resale Res POTS-Svc Disconnect	99.02		99.21		98.06		96.30		97.51		
4 - 450501	LEX/EDI LASR: Resale Res POTS-Svc Migration w/chgs	17.38		7.05		12.20		1.41		1.24		
4 - 450601	LEX/EDI LASR: Resale Res POTS-Svc Migration w/out chgs	75.10		94.94		91.18		83.93		88.00		
4 - 450701	LEX/EDI LASR: Resale Bus POTS-New Svc Install	31.88		20.74		13.33		10.12		19.35		
4 - 450801	LEX/EDI LASR: Resale Bus POTS-Chg Activities	85.96		75.58		70.88		74.51		77.24		
4 - 450901	LEX/EDI LASR: Resale Bus POTS-Move Activities	0.00		0.00		0.00		0.00		0.00		
4 - 451001	LEX/EDI LASR: Resale Bus POTS-Svc Disconnect	44.54		30.05		61.78		70.21		68.34		
4 - 451101	LEX/EDI LASR: Resale Bus POTS-Svc Migration w/chgs	7.69		12.68		8.97		8.47		14.71		
4 - 451201	LEX/EDI LASR: Resale Bus POTS-Svc Migration w/out chgs	9.48		2.52		33.02		36.14		24.53		
4 - 451307	LEX/EDI CLEO:Resale Centrex-Chg Activities	0.00		0.00		0.00		0.00		0.00		

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Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
4 - 451308	LEX/EDI CLEO:Resale Centrex-Move Activities	nd		nd		0.00		0.00		nd		abcde
4 - 451309	LEX/EDI CLEO:Resale Centrex-Svc Discnnect	0.00		0.00		0.00		0.00		0.00		abcde
4 - 451310	LEX/EDI CLEO:Resale Centrex-Svc Migration w/chgs	0.00		0.00		0.00		0.00		0.00		
4 - 451311	LEX/EDI CLEO:Resale Centrex-Svc Migration w/out	0.00		0.00		0.00		0.00		0.00		c
4 - 451312	LEX/EDI CLEO:Resale PBX-New Svc Install	nd		0.00		0.00		nd		nd		abcde
4 - 451313	LEX/EDI CLEO:Resale PBX-Chg Activities	0.00		0.00		0.00		0.00		0.00		abcde
4 - 451314	LEX/EDI CLEO:Resale PBX-Move Activities	nd		nd		nd		0.00		nd		abcde
4 - 451315	LEX/EDI CLEO:Resale PBX-Svc Discnnect	0.00		0.00		0.00		0.00		0.00		a de
4 - 451316	LEX/EDI CLEO:Resale PBX-Svc Migration w/chgs	0.00		0.00		0.00		0.00		0.00		abcde
4 - 451317	LEX/EDI CLEO:Resale PBX-Svc Migration w/out chgs	nd		0.00		0.00		nd		0.00		abcde
4 - 451326	LEX/EDI CLEO:Resale DS1-Move Activities	nd		nd		0.00		0.00		0.00		abcde
4 - 451329	LEX/EDI CLEO:Resale DS1-Svc Migration w/out chgs	nd		nd		nd		nd		0.00		abcde
4 - 451333	LEX/EDI CLEO:Resale ISDN PRI-Svc Discnnect	nd		nd		0.00		0.00		nd		abcde
4 - 451348	LEX/EDI LASR: Resale ISDN BRI-New Svc Install	0.00		0.00		0.00		0.00		0.00		abcde
4 - 451349	LEX/EDI LASR: Resale ISDN BRI-Chg Activities	0.00		0.00		0.00		0.00		nd		bcde
4 - 451351	LEX/EDI LASR: Resale ISDN BRI-Svc Discnnect	0.00		0.00		0.00		0.00		0.00		a de
4 - 451353	LEX/EDI LASR : Resale ISDN BRI-Svc Migration w/out chgs	nd		0.00		nd		0.00		0.00		a cde
4 - 460004	LEX/EDI LASR: UNE Basic Prt Analog-Svc Migration w/chgs	nd		nd		0.00		nd		nd		abcde
<b>Provisioning</b>												
<b><i>5 - Percentage of Orders Jeopardized</i></b>												
5 - 521900	Resale Residential POTS	0.03	0.70	0.13	0.83	0.27	0.61	0.40	0.71	0.28	0.76	
5 - 522000	Resale Business POTS	0.00	0.87	0.16	1.20	0.60	1.79	0.35	1.92	0.58	1.85	
5 - 522100	Resale ISDN BRI	0.00	4.38	3.57	4.10	16.67	4.06	20.00	5.92	10.00	5.20	a cd
5 - 522200	Resale Centrex	0.00	1.94	0.00	2.29	2.94	1.48	0.00	3.72	1.05	2.13	
5 - 522400	Resale PBX	0.00	0.38	0.00	0.39	0.00	0.54	0.00	0.71	0.00	0.47	c
5 - 522600	Resale DS1	nd	0.11	nd	0.00	nd	0.28	0.00	0.67	0.00	0.47	abcde
5 - 522900	UNE (8db and 5.5db) field wk/no field wk	0.50	2.23	0.51	3.03	1.01	4.35	0.93	4.86	0.91	4.71	
5 - 523100	UNE Loop 2w Dig ISDN capable field wk/no field wk	0.00	4.38	0.00	4.10	0.00	4.06	0.00	5.92	33.33	5.20	abcde
5 - 523300	UNE Loop 2w Dig IDSL capable field wk/no field wk	6.33	4.38	9.07	4.10	8.17	4.06	5.72	5.92	4.75	5.20	
5 - 523500	UNE Loop 2w Dig xDSL capable field wk/no field wk	2.12		1.84		1.99		1.85		2.17		
5 - 523700	UNE Loop 2w Dig Ln Shrg cap-conditioned-field wk/no field wk	2.22	0.00	1.79	0.00	0.00	0.00	0.00	100.00	8.89	0.00	

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Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
5 - 523900	UNE Loop 2w Dig Ln Shrg cap-nonconditioned-field wk/no field wk	0.35	1.14	0.29	1.09	0.55	1.95	0.42	1.33	0.66	1.49	
5 - 524100	UNE Loop 4w Dig 1.544 mpbs cap/HDSL field wk/no field wk	1.16	0.11	0.60	0.00	1.05	0.28	1.39	0.67	0.91	0.47	
5 - 524300	UNE Loop DS3 field wk/no field wk	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	cde
5 - 524500	UNE Port Non-Spcls field wk/no field wk	nd	0.31	nd	0.37	0.00	0.40	nd	0.58	nd	0.35	abcde
5 - 524700	UNE Ded Transport DS1 field wk/no field wk	0.00	0.11	0.00	0.00	0.00	0.28	0.00	0.67	0.00	0.47	
5 - 524800	UNE Ded Transport DS3 field wk/no field wk	0.00	0.00	0.00	0.00	0.00	0.00	1.20	0.00	0.00	0.00	
5 - 525000	UNE Dark Fiber field wk/no field wk	0.00		0.00		0.00		0.00		nd		a cde
5 - 525200	EELs Voice Grade-Conv	0.00		0.00		0.00		0.00		0.00		
5 - 525300	EELs DS1-New	3.31		1.08		0.78		0.00		0.93		
5 - 525400	EELs DS1-Conv	nd		nd		0.00		nd		nd		abcde
5 - 525500	EELs DS3-New	0.00		0.00		0.00		0.00		0.00		abcde
5 - 525900	UNE Platform Basic Port and Loop field wk/no field wk	0.02	0.87	0.02	1.20	0.08	1.79	0.08	1.92	0.10	1.85	
5 - 526000	UNE Platform Spcls Port and Loop field wk/no field wk	0.00	0.32	0.00	0.00	0.00	0.98	0.00	0.94	0.00	0.00	abcd
5 - 526300	Interconnection Trunks	1.09	24.37	1.36	24.17	0.17	0.84	0.18	0.40	0.56	2.71	
<b>6 - Average Jeopardy Notice Interval</b>												
6 - 640000	Whlsle Assgnmnt-Resale Res POTS	100.00		100.00		100.00		100.00		100.00		abcde
6 - 640100	Whlsle Assgnmnt-Resale Bus POTS	nd		100.00		100.00		nd		nd		abcde
6 - 641300	Whlsle Assgnmnt-UNE 2w Dig LS Loop-NonConditioned	100.00		nd		nd		nd		nd		abcde
6 - 641600	Whlsle Assgnmnt-UNE Loop 2w Dig xDSL cap field wk/no field wk	100.00		100.00		100.00		100.00		100.00		abcde
6 - 641601	Whlsle Assgnmnt-UNE Loop 2w Dig IDSL cap field wk/no field wk	100.00		100.00		100.00		100.00		100.00		abcd
6 - 641800	Whlsle Assgnmnt-UNE Lp 2/4w (8db and 5.5db) analog field wk/no field wk	100.00		100.00		100.00		100.00		100.00		
6 - 643600	Whlsle Assgnmnt-UNE Plat Basic Port and Loop field wk/no field wk	100.00		100.00		100.00		100.00		100.00		ab de
6 - 644300	Whlsle Install-Resale Res POTS	100.00		100.00		100.00		100.00		100.00		
6 - 644400	Whlsle Install-Resale Bus POTS	100.00		100.00		100.00		100.00		100.00		abcde
6 - 644500	Whlsle Install-Resale Centrex	100.00		100.00		100.00		nd		100.00		abcde
6 - 645100	Whlsle Install-Resale ISDN BRI	nd		nd		nd		100.00		100.00		abcde
6 - 645400	Whlsle Install-UNE 2w Dig LS Loop-Conditioned	100.00		100.00		nd		nd		100.00		abcde
6 - 645500	Whlsle Install-UNE 2w Dig LS Loop-NonConditioned	100.00		100.00		100.00		100.00		100.00		abcde

## California Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
6 - 645600	Whlsle Install-UNE Loop 2w Dig ISDN cap field wk/no field wk	nd		nd		nd		nd		100.00		abcde
6 - 645800	Whlsle Install-UNE Loop 2w Dig xDSL cap field wk/no field wk	100.00		100.00		100.00		100.00		100.00		
6 - 645801	Whlsle Install-UNE Loop 2w Dig IDSL cap field wk/no field wk	100.00		100.00		98.41		100.00		96.77		
6 - 646000	Whlsle Install-UNE Lp 2/4w (8db and 5.5db) analog field wk/no field wk	100.00		100.00		98.11		96.30		94.12		
6 - 646800	Whlsle Install-UNE Ded Transport DS3 field wk/no field wk	nd		nd		nd		100.00		nd		abcde
6 - 647200	Whlsle Install-EELs DS1-New	85.71		100.00		100.00		nd		100.00		bcde
6 - 647800	Whlsle Install-UNE Plat Basic Port and Loop field wk/no field wk	97.87		100.00		97.35		94.87		89.77		
6 - 648200	Whlsle Install-UNE Loop 4w Dig 1.544 cap/HDSL field wk/no field wk	92.31		90.00		66.67		77.78		75.00		cde
6 - 648500	Whlsle Misssd Comm-Resale Res POTS	82.05		96.36		97.78		93.18		94.67		
6 - 648600	Whlsle Misssd Comm-Resale Bus POTS	100.00		90.91		100.00		75.00		85.71		a cde
6 - 648700	Whlsle Misssd Comm-Resale Centrex	nd		100.00		100.00		nd		nd		abcde
6 - 649300	Whlsle Misssd Comm-Resale ISDN BRI	nd		100.00		nd		nd		nd		abcde
6 - 649600	Whlsle Misssd Comm-UNE 2w Dig LS Loop-Conditioned	100.00		nd		100.00		100.00		100.00		abcde
6 - 649700	Whlsle Misssd Comm-UNE 2w Dig LS Loop-NonConditioned	100.00		100.00		87.50		100.00		92.59		abc
6 - 649800	Whlsle Misssd Comm-UNE Loop 2w Dig ISDN cap field wk/no field wk	nd		nd		nd		nd		100.00		abcde
6 - 650000	Whlsle Misssd Comm-UNE Loop 2w Dig xDSL cap field wk/no field wk	100.00		100.00		100.00		100.00		90.00		
6 - 650001	Whlsle Misssd Comm-UNE Loop 2w Dig IDSL cap field wk/no field wk	85.71		88.89		96.88		94.74		84.09		
6 - 650200	Whlsle Misssd Comm-UNE Lp 2/4w (8db and 5.5db) analog field wk/no field wk	89.13		93.10		95.35		90.38		92.11		
6 - 651400	Whlsle Misssd Comm-EELs DS1-New	nd		100.00		100.00		100.00		nd		abcde
6 - 651500	Whlsle Misssd Comm-EELs DS1-Conv	nd		nd		100.00		nd		nd		abcde
6 - 652000	Whlsle Misssd Comm-UNE Plat Basic Port and Loop field wk/no field wk	63.78		51.83		85.64		87.35		86.38		



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Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
6 - 652400	Wholesale Missd Comm-UNE Loop 4w Dig 1.544 cap/HDSL field wk/no field wk	100.00		100.00		100.00		85.71		100.00		abcde
<b>7 - Average Completed Interval</b>												
7	Resale Residential POTS field work	0.68	1.44	0.92	1.45	1.28	2.04	1.41	2.14	1.34	2.24	
7	Resale Residential POTS no field work	0.07	0.69	0.12	0.68	0.16	0.83	0.10	0.72	0.18	0.82	
7	Resale Business POTS field work	2.19	2.15	1.46	2.17	1.63	2.73	1.31	2.78	2.11	2.48	
7	Resale Business POTS no field work	0.55	0.73	0.30	0.72	0.37	0.87	0.54	0.85	0.45	0.82	
7	Resale ISDN BRI field work	nd	9.24	7.00	8.77	7.00	8.73	13.00	9.63	15.00	9.41	abcde
7	Resale Centrex field work	3.00	4.19	2.73	3.97	2.88	4.08	5.50	4.26	2.86	7.38	a cd
7	Resale Centrex no field work	1.08	1.68	1.13	1.35	0.68	1.19	1.27	1.32	0.58	1.40	
7	Resale PBX field work	1.33	6.58	nd	7.36	nd	7.87	nd	6.52	nd	8.74	abcde
7	Resale PBX no field work	1.00	5.04	1.00	6.30	9.67	6.01	12.00	4.62	5.00	6.19	abcde
7	UNE Loop 2 wire Digital Line Sharing - Conditioned	8.94	10.00	10.15	10.00	10.16	10.00	10.00	n/a	10.07	n/a	
7	UNE Loop 2 wire Digital Line Sharing - Non Conditioned	3.00	3.03	3.01	3.03	3.00	3.03	3.00	3.03	3.01	3.03	
7	Resale DS1 field work	nd	13.08	nd	11.29	nd	14.20	23.00	23.28	nd	10.54	abcde
7	Resale DS1 no field work	nd	8.95	nd	10.31	nd	11.25	nd	9.70	5.00	9.31	abcde
7	UNE Loop 2/4 wire analog 8db and 5.5db loop without LNP	1.57	1.84	1.55	1.93	1.23	2.58	1.38	2.63	1.20	2.77	
7	UNE Loop 2/4 wire analog 8db and 5.5db loop with LNP	100.00		99.91		99.62		99.71		99.69		
7	UNE Loop 2 wire Digital ISDN capable	5.00	9.51	8.33	9.27	nd	9.67	nd	10.19	7.00	10.48	abcde
7	UNE Loop 2 wire Digital xDSL capable - Conditioned	100.00		87.50		nd		nd		50.00		bcde
7	UNE Loop 2 wire Digital xDSL capable - Non Conditioned	99.49		99.22		99.03		99.20		99.24		
7	UNE Loop 2 wire Digital IDSL capable	7.15	9.51	7.61	9.27	7.54	9.67	7.69	10.19	8.15	10.48	
7	UNE Loop 4 wire Digital 1.544 mbpd capable/HDSL	6.77	12.45	6.44	11.17	6.77	13.92	6.86	21.82	6.81	10.31	
7	UNE Port Non Specials	nd	0.73	nd	0.72	1.00	0.87	nd	0.85	nd	0.82	abcde
7	UNE Dedicated Transport - DS1- Field Work/No field work	7.00	12.45	6.80	11.17	7.00	13.92	7.00	21.82	6.78	10.31	abcde
7	UNE Dark Fiber	nd		nd		35.00		nd		nd		abcde
7	UNE EELs Voice Grade - Conversion	nd		3.00		3.33		3.00		48.00		abcde
7	UNE EELs DS1 - New	6.62		6.81		7.11		7.01		6.87		
7	UNE Platform - Basic Port and (8db and 5.5db) Basic Loop - Field Work/No Field Work	0.15	1.18	0.14	1.18	0.22	1.48	0.25	1.45	0.28	1.37	
7	Interconnection Trunks	19.20	42.75	20.77	24.97	19.83	37.87	18.18	33.29	19.43	29.52	

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Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
7	UNE Platform Special Port/8db and 5.5db Loop - field work/no field work	5.50	5.35	nd	7.44	10.00	6.79	nd	6.28	12.00	8.35	abcde
<b>8 - Percent Completed within Standard Interval</b>												
8	Resale ISDN BRI	nd	78.73	100.00	97.27	100.00	97.39	0.00	92.83	nd	98.72	abcde
8	Resale PBX	100.00	87.42	100.00	98.37	100.00	95.92	100.00	94.91	100.00	97.62	abcde
8	Resale Centrex	100.00	96.53	97.14	97.77	100.00	98.32	89.47	97.83	100.00	98.57	
8	Resale DS1	nd	95.89	nd	97.98	nd	99.35	100.00	99.09	100.00	98.13	abcde
8	UNE Loop 2 wire Digital Line Sharing - Conditioned	100.00	100.00	95.00	100.00	96.00	100.00	100.00	n/a	96.43	n/a	
8	UNE Loop 2 wire Digital Line Sharing - Non Conditioned	99.89	99.29	99.90	99.23	99.83	99.13	99.83	99.06	99.82	99.18	
8	UNE Loop 2 wire Digital ISDN capable	100.00	95.61	100.00	95.62	nd	95.89	nd	86.69	0.00	97.43	abcde
8	UNE Loop 2 wire Digital xDSL capable - Conditioned	90.00		87.50		nd		nd		50.00		bcde
8	UNE Loop 2 wire Digital xDSL capable - Non Conditioned	99.49		99.22		99.03		99.20		99.35		
8	UNE Loop 2 wire Digital IDSL capable	97.45	95.61	96.05	95.62	97.26	95.89	93.65	86.69	94.56	97.43	
8	UNE Loop 4 wire Digital 1.544 mbpd capable/HDSL	97.52	95.89	98.38	97.98	97.64	99.35	96.56	99.09	96.96	98.13	
8	UNE Dedicated Transport DS1	100.00	95.89	100.00	97.98	100.00	99.35	100.00	99.09	100.00	98.13	abcde
8	UNE Dedicated Transport DS3	nd	n/a	nd	n/a	nd	n/a	100.00	n/a	nd	n/a	abcde
8	UNE Dark Fiber	nd		nd		100.00		nd		nd		abcde
8	UNE EELs Voice Grade - Conversion	100.00		100.00		100.00		100.00		100.00		abcde
8	UNE EELs DS1 - New	95.52		95.88		87.27		97.22		97.06		
8	UNE Platform Special Port and Basic Loop	100.00	90.48	nd	98.41	100.00	94.69	100.00	96.23	100.00	95.74	abcde
8	Interconnection Trunks	98.69	89.29	100.00	100.00	100.00	72.73	97.93	70.59	100.00	95.65	
<b>9 - Coordinated Customer Conversion</b>												
9 - 990400	Bus	98.91	74.62	99.60	78.37	99.51	77.92	99.35	79.23	100.00	78.86	
9 - 990500	Port Out	100.00	75.00	100.00	56.41	100.00	40.00	100.00	88.57	100.00	77.78	
<b>9a - Frame Due Time (FDT) Conversions as a Percentage on Time</b>												
9a - 4590000	Basic Lps	98.32		97.19		96.87		97.34		95.01		
9a - 4590100	Basic Lps w/LNP	96.46		96.52		96.86		97.88		97.21		
9a - 4590200	Stwde LNP only	100.00		99.92		100.00		99.99		100.00		
<b>10 - LNP Network Provisioning</b>												
10 - 1090101	Whlsle PNP Ntwk Prov Fail	0.01		0.01		0.02		0.00		0.05		
<b>11 - Percent of Due Dates Missed</b>												
11	Resale Residential POTS field work	1.07	4.57	2.60	4.51	2.14	5.14	3.16	5.83	3.63	6.96	
11	Resale Residential POTS no field work	0.02	0.17	0.04	0.11	0.08	0.11	0.04	0.09	0.12	0.12	

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Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
11	Resale Business POTS field work	3.80	4.35	3.05	4.50	2.63	4.72	3.42	5.30	4.46	5.47	
11	Resale Business POTS no field work	0.00	0.44	0.09	0.17	0.00	0.17	0.00	0.17	0.62	0.17	
11	Resale ISDN BRI field work	0.00	5.21	12.50	3.28	0.00	3.89	100.00	6.34	0.00	4.96	a cde
11	Resale ISDN BRI no field work	0.00	3.02	0.00	1.16	nd	1.20	nd	1.97	nd	0.35	abcde
11	Resale Centrex field work	0.00	3.59	1.56	3.71	0.00	3.06	0.00	4.44	0.00	3.70	
11	Resale Centrex no field work	0.00	1.02	2.27	1.23	0.00	0.59	0.00	0.60	0.00	0.63	
11	Resale PBX field work	0.00	1.15	0.00	1.34	nd	1.63	0.00	1.05	0.00	1.73	abcde
11	Resale PBX no field work	0.00	1.77	50.00	0.50	0.00	0.99	0.00	0.52	0.00	0.70	abcde
11	UNE Loop 2 wire Digital Line Sharing - Conditioned	0.00	0.00	4.17	0.00	3.57	0.00	0.00	0.00	6.45	0.00	
11	UNE Loop 2 wire Digital Line Sharing - Non Conditioned	0.12	0.83	0.13	0.87	0.16	1.02	0.13	1.06	0.25	1.11	
11	Resale DS1 field work	nd	3.43	nd	0.66	nd	0.96	0.00	1.46	nd	0.93	abcde
11	Resale DS1 no field work	nd	1.50	nd	0.00	nd	1.33	nd	0.00	0.00	0.00	abcde
11	UNE Loop 2/4 wire analog 8db and 5.5db loop	0.37	4.36	0.34	4.50	0.57	4.75	0.78	5.31	0.46	5.49	
11	UNE Loop 2 wire Digital ISDN capable	0.00	5.53	0.00	3.52	0.00	4.23	0.00	6.61	100.00	5.35	abcde
11	UNE Loop 2 wire Digital xDSL capable	0.53		0.95		0.96		0.70		0.86		
11	UNE Loop 2 wire Digital IDSL capable	2.91	5.53	5.39	3.52	3.49	4.23	9.78	6.61	9.23	5.35	
11	UNE Loop 4 wire Digital 1.544 mbpd capable/HDSL	1.96	3.13	2.83	0.57	3.12	1.00	3.59	1.28	2.41	0.79	
11	UNE Loop DS3	0.00	2.08	0.00	0.00	0.00	0.00	0.00	0.00	0.00	7.41	abcde
11	UNE Port Non Specials	nd	0.44	nd	0.17	0.00	0.17	nd	0.17	nd	0.17	abcde
11	UNE Dedicated Transport - DS1 Field Work/no field work	0.00	3.13	0.00	0.57	0.00	1.00	0.00	1.28	0.00	0.79	
11	UNE Dedicated Transport - DS3 Field Work/no field work	0.00	2.08	0.00	0.00	0.00	0.00	1.67	0.00	0.00	7.41	
11	UNE Dark Fiber	0.00		100.00		0.00		0.00		nd		abcde
11	UNE EELs Voice Grade - Conversion	0.00		0.00		0.00		0.00		0.00		a cde
11	UNE EELs DS1 - New	2.61		3.69		6.19		0.91		1.08		
11	UNE EELs DS3 - New	0.00		0.00		0.00		nd		0.00		abcde
11	UNE Platform - Basic Port and (8db and 5.5db) Basic Loop - Field Work/No Field Work	0.05	1.91	0.06	1.82	0.10	1.93	0.11	2.07	0.13	2.18	
11	Interconnection Trunks	0.61	12.53	0.42	17.92	0.37	34.66	0.63	8.96	0.74	18.65	
11	UNE Platform Special Port and 8db and 5.5db Loop - Field Work/no field work	0.00	1.02	nd	0.82	0.00	0.93	0.00	0.51	0.00	0.64	abcde
<b>12 - Percent Due Dates Missed Due to Lack of Facilities</b>												
12	Resale Residential POTS field work	0.68	2.82	1.73	2.98	1.20	3.26	2.15	3.61	2.57	4.27	
12	Resale Residential POTS no field work	0.00	0.03	0.00	0.00	0.02	0.01	0.00	0.01	0.00	0.01	
12	Resale Business POTS field work	3.80	2.58	3.05	3.09	1.75	3.07	2.56	3.34	3.57	3.59	

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		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
12	Resale Business POTS no field work	0.00	0.13	0.00	0.01	0.00	0.01	0.00	0.01	0.00	0.01	
12	Resale ISDN BRI field work	0.00	3.43	12.50	2.74	0.00	1.78	40.00	4.28	0.00	3.99	a cde
12	Resale ISDN BRI no field work	0.00	0.32	0.00	0.00	nd	0.27	nd	0.30	nd	0.00	abcde
12	Resale Centrex field work	0.00	1.91	0.00	2.62	0.00	1.68	0.00	2.40	0.00	2.41	
12	Resale Centrex no field work	0.00	0.05	0.00	0.03	0.00	0.01	0.00	0.03	0.00	0.01	
12	Resale PBX field work	0.00	0.38	0.00	0.69	nd	0.93	0.00	0.47	0.00	1.64	abcde
12	Resale PBX no field work	0.00	0.00	0.00	0.00	0.00	0.09	0.00	0.00	0.00	0.00	abcde
12	UNE Loop 2 wire Digital Line Sharing - Conditioned	0.00	0.00	4.17	0.00	3.57	0.00	0.00	0.00	6.45	0.00	
12	UNE Loop 2 wire Digital Line Sharing - Non Conditioned	0.10	0.62	0.12	0.64	0.12	0.74	0.11	0.81	0.22	0.87	
12	Resale DS1 field work	nd	0.86	nd	0.16	nd	0.16	0.00	0.97	nd	1.31	abcde
12	Resale DS1 no field work	nd	0.00	nd	0.00	nd	1.33	nd	0.00	0.00	0.00	abcde
12	UNE Loop 2/4 wire analog 8db and 5.5db loop	0.35	2.59	0.30	3.09	0.54	3.09	0.72	3.35	0.44	3.61	
12	UNE Loop 2 wire Digital ISDN capable	0.00	3.66	0.00	2.85	0.00	1.98	0.00	4.55	100.00	4.36	abcde
12	UNE Loop 2 wire Digital xDSL capable	0.42		0.95		0.74		0.63		0.71		
12	UNE Loop 2 wire Digital IDSL capable	2.26	3.66	4.47	2.85	3.14	1.98	7.83	4.55	7.66	4.36	
12	UNE Loop 4 wire Digital 1.544 mbpd capable/HDSL	0.98	0.72	1.19	0.14	1.66	0.28	2.39	0.85	2.07	1.11	
12	UNE Loop - DS3	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	3.70	abcde
12	UNE Dedicated Transport DS1 Field Work/no field work	0.00	0.72	0.00	0.14	0.00	0.28	0.00	0.85	0.00	1.11	
12	UNE Dedicated Transport DS3 Field Work/no field work	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	3.70	
12	UNE EELs DS1 - New	1.74		2.76		2.65		0.45		1.43		
12	UNE EELs DS3 - New	0.00		0.00		0.00		nd		0.00		abcde
12	UNE Platform - Basic Port and (8db and 5.5db) Basic Loop - Field Work/No Field Work	0.02	1.05	0.01	1.19	0.05	1.19	0.04	1.25	0.07	1.37	
12	Interconnection Trunks	0.00	0.25	0.00	0.32	0.00	2.17	0.00	0.48	0.56	1.04	
12	UNE Platform Special Port/8db and 5.5db Loop-field work/no field work	0.00	0.09	nd	0.24	0.00	0.23	0.00	0.11	0.00	0.45	abcde
<b>13 - Delay Order Interval to Completion Date (For Lack of Facilities)</b>												
13 - 1394500	Resale Bus POTS 1-30 Days	7.33	6.56	4.00	6.20	4.50	6.40	3.67	8.46	8.75	7.39	abcde
13 - 1394800	Resale ISDN BRI 1-30 Days	nd	9.75	9.00	8.44	nd	5.93	6.00	10.37	nd	10.75	abcde
13 - 1394900	Resale ISDN BRI 31-90 Days	nd	49.00	nd	57.25	nd	n/a	56.00	39.00	nd	36.60	abcde
13 - 1395901	UNE 2 w Dig Line Sharing Cond 1-30 Days	nd	n/a	5.00	n/a	4.00	n/a	nd	n/a	13.50	n/a	abcde
13 - 1395904	UNE 2 w Dig Line Sharing Non Cond 1-30 Days	3.20	6.23	8.71	6.07	2.80	5.39	5.57	5.65	5.65	5.79	abcd
13 - 1395905	UNE 2 w Dig Line Sharing Non Cond 31-90 Days	nd	34.00	nd	38.00	nd	40.25	nd	35.80	36.00	40.07	abcde
13 - 1397701	UNE lp 8db and 5.5db 2/4 w 1-30 Days	5.08	6.56	6.73	6.21	6.14	6.40	5.91	8.49	5.93	7.42	

## California Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
13 - 1397702	UNE lp 8db and 5.5db 2/4 w 31-90 Days	nd	40.67	40.00	46.30	nd	43.50	43.00	45.31	48.00	47.39	abcde
13 - 1398001	UNE lp 2 w Dig ISDN cap 1-30 Days	nd	9.75	nd	8.44	nd	5.93	nd	10.25	4.00	10.75	abcde
13 - 1398301	UNE lp 2 w Dig IDSL cap 1-30 Days	10.79	9.75	7.37	8.44	8.29	5.93	8.48	10.25	8.22	10.75	
13 - 1398302	UNE lp 2 w Dig IDSL cap 31-90 Days	32.00	49.00	nd	57.25	nd	n/a	nd	39.00	44.50	36.60	abcde
13 - 1398310	UNE lp 2 w Dig xDSL cap	9.17		9.25		5.30		4.89		9.38		a de
13 - 1398400	UNE lp 4 w Dig 1.544 mbpd cap/HDSL 1-30 Days	8.75	9.50	9.88	4.00	6.75	1.00	6.64	12.38	7.42	6.67	abc
13 - 1398500	UNE lp 4 w Dig 1.544 mbpd cap/HDSL 31-90 Days	49.50	59.00	nd	n/a	nd	66.00	nd	51.00	nd	n/a	abcde
13 - 1398910	UNE EELs DS1 New 1-30 Days	3.50		10.67		12.33		25.00		10.75		abcde
13 - 1399000	UNE Plat Basic Port and Lp 1-30 Days	3.40	6.56	3.96	6.20	4.15	6.40	3.87	8.46	4.57	7.39	
13 - 1399100	UNE Plat Basic Port and Lp 31-90 Days	nd	41.76	33.00	46.30	nd	43.50	nd	45.31	42.17	47.35	abcde
13 - 1399300	Interconnection Trunks 1-30 Days	nd	7.00	nd	n/a	nd	1.50	nd	6.00	1.00	10.00	abcde
<b>14 - Held Order Interval</b>												
14 - 1491400	Resale Res POTS	82.00	32.50	19.00	28.81	3.00	29.19	71.00	38.28	0.00	36.05	abcde
14 - 1491500	Resale Bus POTS	4.00	38.65	23.00	30.19	28.50	29.11	15.00	36.26	nd	37.02	abcde
14 - 1491600	Resale ISDN BRI	nd	19.56	9.00	14.16	39.00	34.00	nd	14.33	nd	27.05	abcde
14 - 1492401	UNE lp 8db and 5.5db 2/4 w anlg	7.33	34.08	22.50	19.09	15.94	18.64	22.20	21.64	34.50	23.35	ab de
14 - 1492600	UNE lp 2 w Dig xDSL cap	9.80		21.00		nd		nd		nd		abcde
14 - 1492602	UNE lp 2 w Dig IDSL cap	7.00	13.55	17.15	10.04	25.33	23.20	11.60	13.33	5.50	26.94	a cde
14 - 1492700	UNE lp 4 w Dig 1.544 mbps cap/HDSL	14.00	24.28	52.00	233.00	28.25	95.50	40.40	146.60	72.25	56.43	abcde
14 - 1493307	UNE EELs DS1-New	4.50		4.00		nd		nd		nd		abcde
14 - 1493400	UNE Basic Port and Lp	9.38	38.65	20.76	30.19	26.76	29.11	25.56	36.26	20.57	37.02	
14 - 1493602	UNE lp 2 w Dig Line Sharing-Non Conditioned	6.00	10.59	nd	8.87	nd	9.88	14.00	10.15	6.50	8.12	abcd
<b>15 - Provisioning Trouble Reports (Prior to Service Order Completion)</b>												
15 - 1590800	Resale Out of Svc	0.02	0.07	0.02	0.09	0.09	0.12	0.13	0.12	0.03	0.07	
15 - 1590900	Resale Svc Affctng	0.00	0.07	0.02	0.10	0.02	0.11	0.03	0.11	0.03	0.08	
15 - 1591110	UNE lp Out of Svc	0.14	0.07	0.28	0.09	0.27	0.12	0.19	0.12	0.14	0.07	
15 - 1591120	UNE lp Svc Affctng	0.06	0.07	0.05	0.10	0.10	0.11	0.04	0.11	0.04	0.08	
15 - 1591501	LNP Out of Svc	0.13		0.26		0.32		0.28		0.37		
15 - 1591502	LNP Svc Affctng	0.12		0.16		0.28		0.23		0.20		
15 - 1591600	UNE lp 2 w Dig Line Sharing Out of Svc	0.00	0.00	0.85	0.00	0.00	0.00	0.31	0.99	0.00	0.00	
15 - 1591700	UNE lp 2 w Dig Line Sharing Svc Affctng	0.00	0.00	0.00	0.00	0.00	0.00	0.16	0.00	0.00	0.00	
15 - 1591701	UNE Platform Out of Svc	0.00	0.07	0.04	0.07	0.09	0.11	0.07	0.11	0.05	0.07	
15 - 1591702	UNE Platform Svc Affctng	0.00	0.07	0.03	0.09	0.04	0.10	0.04	0.10	0.04	0.08	
<b>15a - Average Time to Restore Provisioning Troubles (Service Order Completion)</b>												

## California Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
15a - 4690800	Resale OOS	24.65	18.07	36.20	8.55	20.64	22.74	18.75	19.21	7.39	20.74	abcde
15a - 4690900	Resale Svc Aff	nd	13.50	1.11	5.62	2.17	9.23	33.81	14.74	1.18	6.83	abcde
15a - 4691110	UNE Loop OOS	1.81	18.07	13.09	8.55	7.10	22.74	7.54	19.21	1.94	20.74	b
15a - 4691120	UNE Loop Svc Aff	1.82	13.50	1.99	5.62	2.41	9.23	2.05	14.74	10.42	6.83	de
15a - 4691400	LNP Port Out OOS	22.73		5.47		24.92		15.60		17.25		b
15a - 4691500	LNP Port Out Svc Aff	7.84		5.00		26.29		5.73		4.03		b e
15a - 4691501	UNE Loop 2w DLS OOS	nd	n/a	1.17	0.60	nd	n/a	nd	n/a	nd	n/a	abcde
15a - 4691502	UNE Loop 2w DLS Svc Aff	nd	n/a	1.11	4.54	nd	n/a	nd	n/a	nd	4.30	abcde
15a - 4691503	UNE Platform OOS	14.39	18.75	9.01	7.87	23.65	18.98	23.99	20.86	12.83	10.70	a
15a - 4691504	UNE Platform Svc Aff	6.90	14.29	7.10	7.10	19.77	19.80	37.78	15.74	14.28	12.07	a
<b>16 - Percent Troubles in 30 Days for Special Services Orders</b>												
16	Resale ISDN BRI	0.00	4.18	0.00	3.79	0.00	5.04	0.00	4.42	0.00	3.46	a cde
16	Resale Centrex	10.26	5.19	2.86	5.03	4.17	5.23	5.13	5.22	4.00	4.42	
16	Resale PBX	0.00	1.29	0.00	1.52	0.00	1.86	0.00	1.23	0.00	1.27	abc e
16	UNE Loop 2 wire Digital Line Sharing	2.08	1.87	3.47	2.31	2.95	1.94	3.32	2.08	2.84	1.78	
16	Resale DS1	nd	10.46	nd	10.74	nd	10.04	0.00	8.55	0.00	12.01	abcde
16	UNE Loop 2 wire Digital ISDN capable	0.00	0.00	25.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	abcde
16	UNE Loop 2 wire Digital xDSL capable	5.39		5.89		6.19		5.42		5.47		
16	UNE Loop 4 wire Digital 1.544 mbpd capable/HDSL	11.76	12.21	11.00	12.48	10.58	11.47	8.44	9.62	5.09	13.68	
16	UNE Loop - DS3	0.00	4.76	20.00	4.62	0.00	4.44	0.00	9.68	0.00	0.00	abcde
16	UNE Dedicated Transport - DS1	7.41	10.46	3.85	10.74	0.00	10.04	2.08	8.55	4.55	12.01	
16	UNE Dedicated Transport - DS3	6.10	2.08	3.61	3.90	1.30	3.92	4.94	7.50	0.00	0.00	
16	UNE Dark Fiber	0.00		0.00		0.00		0.00		nd		abcde
16	UNE EELs - Voice Grade	0.00		4.00		0.00		0.00		0.00		a
16	UNE EELs - DS1	4.35		4.59		5.26		5.77		5.48		
16	UNE EELs - DS3	0.00		0.00		0.00		nd		0.00		abcde
16	UNE Platform Special Port/8db and 5.5db Loop	0.00	0.28	150.00	0.26	40.00	0.72	0.00	0.48	0.00	0.41	abcde
16	Interconnection Trunks	3.67	18.80	0.83	17.92	0.37	34.66	0.63	8.96	0.93	39.90	
<b>17 - Percentage Troubles in 10 Days for Non-Special Orders</b>												
17 - 1790700	Resale Res POTS	1.42	2.03	1.73	1.74	2.20	2.39	1.71	2.18	1.30	2.07	
17 - 1790800	Resale Bus POTS	0.86	2.22	1.45	2.04	1.17	2.40	1.44	2.22	1.86	2.22	
17 - 1791100	UNE Lp 2/4w 8db and 5.5db	2.95	4.63	2.64	2.51	3.26	2.74	2.64	2.75	2.96	2.26	
17 - 1791300	UNE Lp 2/4w 8db and 5.5db FDT	1.00		1.00		1.98		1.28		1.20		
17 - 1791400	UNE Lp 2/4w 8db and 5.5db TBCC	2.64		1.45		2.73		1.76		2.40		

## California Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
17 - 1791500	UNE Port Non Spels	nd	0.73	nd	1.84	0.00	2.22	nd	1.96	nd	0.38	abcde
17 - 1791600	UNE Plat Basic Port and Loop	0.67	2.22	0.84	2.04	1.10	2.40	0.91	2.22	0.78	2.22	
17 - 1791700	LNP	0.14		0.07		0.18		0.06		0.15		
<b>18 - Completion Notice Interval</b>												
18 - 1800101	Elec LEX/EDI LASR	99.97		99.97		99.02		99.90		99.89		
18 - 1800401	Elec Fallout LEX/EDI LASR	94.93		97.19		96.88		96.53		95.09		
18 - 1800502	Fallout Level LEX/EDI LASR	0.16		0.13		0.13		0.12		0.12		
18 - 1800700	% w/in 24 hrs All Othr Int CESAR	93.06		95.00		92.65		98.44		100.00		
18 - 1800800	% w/in 24 hrs All Othr Int LTD	99.78		99.54		99.71		100.00		95.41		
18 - 1800900	% w/in 24 hrs All Othr Int EXACT	99.75		99.15		99.25		98.99		99.12		
<b>Maintenance</b>												
<b>19 - Customer Trouble Report Rate</b>												
19 - 1991600	Resale Res POTS	0.82	0.89	0.86	0.92	1.33	1.79	1.42	1.79	1.36	1.55	
19 - 1991700	Resale Bus POTS	0.27	0.47	0.34	0.49	0.45	0.73	0.37	0.71	0.33	0.69	
19 - 1991800	Resale ISDN BRI	0.17	0.96	0.17	1.18	0.00	1.09	0.58	1.02	0.78	1.15	
19 - 1991900	Resale CTX	0.44	0.26	0.22	0.28	0.71	0.34	0.63	0.32	0.46	0.35	
19 - 1992000	Resale PBX	0.11	0.10	0.25	0.13	0.06	0.12	0.03	0.14	0.09	0.16	
19 - 1992100	Resale DDS	0.00	2.56	0.00	2.69	0.00	3.14	0.00	3.17	0.00	3.21	abcde
19 - 1992200	Resale DS1	0.00	3.29	0.00	3.64	0.00	4.19	0.00	4.05	2.86	3.85	
19 - 1992300	Resale DS3	0.00	1.34	0.00	2.05	0.00	2.13	0.00	2.30	0.00	1.22	abcde
19 - 1992400	Resale VGPL/DS0	0.00	1.05	0.00	1.04	0.00	1.22	0.00	1.25	0.00	1.19	abcde
19 - 1992603	UNE lp 8db and 5.5db 2/4 w	0.35	0.44	0.37	0.46	0.64	0.67	0.51	0.65	0.48	0.64	
19 - 1992702	UNE lp 2 w Dig ISDN cap	0.35	0.86	0.18	1.08	0.12	0.98	0.26	0.93	0.55	1.06	
19 - 1992801	UNE lp 2 w Dig xDSL cap	0.73		0.81		0.96		0.99		0.96		
19 - 1992904	UNE lp DS3	0.00	1.34	7.69	1.97	7.14	2.06	0.00	2.23	0.00	1.15	
19 - 1992910	UNE lp 4 w Dig 1.544 mbps cap/HDSL	2.90	3.17	2.76	3.53	4.28	4.05	4.04	3.93	2.68	3.72	
19 - 1993501	UNE Ded Trnspt DS1	0.82	3.29	0.56	3.64	0.38	4.19	1.00	4.05	0.40	3.85	
19 - 1993502	UNE Ded Trnspt DS3	0.46	1.34	0.38	2.05	0.38	2.13	0.42	2.30	0.26	1.22	
19 - 1993504	UNE Dark Fiber	0.00		0.00		33.33		0.00		0.00		abcde
19 - 1993505	UNE EELs Voice Grade	0.43		1.15		0.54		1.43		0.36		
19 - 1993506	UNE EELs DS1	2.14		1.67		2.34		2.95		2.22		
19 - 1993507	UNE EELs DS3	nd		0.00		0.00		0.00		0.00		a
19 - 1993600	Plat Basic Port and Lp	0.71	0.47	0.89	0.49	1.43	0.73	1.32	0.71	1.14	0.69	
19 - 1993602	Plat Spcl Port and Lp	nd	0.10	8.89	0.11	4.44	0.08	0.00	0.11	0.00	0.12	a

## California Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
19 - 1993700	Int Connet Trnks	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	
19 - 1993801	PNP (Port Out)	0.00		0.00		0.00		0.00		0.00		
19 - 1993900	NXX Code Open	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
19 - 1994100	UNE lp 2 w Dig Line Sharing	0.69	0.42	0.95	0.48	0.67	0.43	0.64	0.43	0.80	0.45	
<b>20 - Percentage of Customer Trouble Not Resolved Within Estimated Time</b>												
20 - 2093100	Resale Res POTS disptchd	3.32	6.82	1.42	6.14	8.23	15.87	10.00	17.05	11.46	17.52	
20 - 2093200	Resale Res POTS not disptchd	2.44	1.29	0.00	1.28	0.00	3.37	0.00	2.99	2.08	1.79	
20 - 2093300	Resale Bus POTS disptchd	5.94	8.11	11.28	7.76	13.02	16.43	15.09	17.97	11.29	15.81	
20 - 2093400	Resale Bus POTS not disptchd	0.00	2.65	15.38	2.05	0.00	2.50	0.00	3.76	7.69	2.45	d
20 - 2093500	Resale ISDN BRI disptchd	nd	21.69	nd	15.59	nd	24.14	0.00	31.60	0.00	27.68	abcde
20 - 2093600	Resale ISDN BRI not disptchd	0.00	11.13	0.00	6.75	nd	8.05	0.00	11.18	0.00	7.04	abcde
20 - 2093700	Resale CTX disptchd	3.57	9.07	25.00	8.79	13.79	13.49	7.14	15.73	29.03	13.16	
20 - 2093800	Resale CTX not disptchd	7.14	3.92	0.00	3.05	0.00	3.77	16.67	4.31	0.00	4.07	bc e
20 - 2093900	Resale PBX disptchd	0.00	19.70	0.00	14.41	0.00	19.32	0.00	24.50	50.00	23.08	abcde
20 - 2094000	Resale PBX not disptchd	nd	13.00	0.00	21.23	nd	20.39	nd	17.74	0.00	19.51	abcde
20 - 2094400	Resale DS1 not disptchd	nd	7.84	nd	9.04	nd	11.50	nd	9.45	0.00	8.52	abcde
20 - 2095201	UNE lp 8db and 5.5db	8.62	7.98	9.10	7.57	18.41	16.13	14.92	17.65	12.09	15.42	
20 - 2095401	UNE lp 2 w Dig ISDN cap	33.33	26.19	33.33	8.57	50.00	12.34	25.00	19.25	12.50	14.44	abcde
20 - 2095601	UNE lp 2 w Dig xDSL cap	14.70	13.89	12.93	12.18	18.64	17.49	23.43	19.81	20.46	16.08	
20 - 2095801	UNE lp 4 w Dig 1.544 mbps cap/HDSL	38.80	26.85	28.85	27.47	32.86	34.56	29.44	32.36	23.69	29.85	
20 - 2095803	UNE lp DS3	nd	5.88	0.00	11.54	0.00	3.57	nd	9.68	nd	6.25	abcde
20 - 2097001	UNE Ded Transpt DS1	36.84	26.56	16.67	27.21	12.50	34.43	18.18	32.48	0.00	29.74	c e
20 - 2097002	UNE Ded Transpt DS3	41.67	5.88	20.00	11.11	10.00	3.45	9.09	9.38	0.00	5.88	e
20 - 2097004	UNE Dark Fiber	nd		nd		100.00		nd		nd		abcde
20 - 2097005	UNE EELs Voice Grade	0.00		53.85		66.67		37.50		0.00		a c e
20 - 2097006	UNE EELs DS1	40.66		35.71		36.55		34.52		35.94		
20 - 2097201	UNE Pltform Basic Port and Loop	6.87	7.56	7.11	7.19	18.25	15.63	17.39	17.16	15.79	14.95	
20 - 2097202	UNE Pltform Spcl Port and Loop	nd	37.19	100.00	44.53	100.00	37.76	nd	44.19	nd	52.45	abcde
20 - 2097300	Int Connet Trnks	9.56	6.31	10.00	3.55	7.06	6.13	4.04	10.28	2.52	5.35	
20 - 2097401	PNP (port out)	0.11		0.38		0.10		0.00		0.00		ab
20 - 2097600	NXX Code Open not disptchd	nd	0.00	0.00	0.00	0.00	0.00	nd	0.00	0.00	0.00	abcde
20 - 2097801	UNE Line Sharing lp 2w Dig xDSL	13.08	13.89	5.62	12.18	12.81	17.49	14.14	19.81	11.88	16.08	
<b>21 - Average Time to Restore</b>												
21 - 2192900	Resale Res POTS disptchd	12.40	17.80	10.06	15.24	30.64	38.57	30.19	35.79	20.99	27.12	



## California Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
21 - 2193000	Resale Res POTS not disptchd	1.97	2.95	1.08	2.38	3.67	10.80	4.57	9.25	0.84	3.69	
21 - 2193100	Resale Bus POTS disptchd	6.42	8.22	8.49	8.10	16.84	15.73	10.89	15.99	8.95	12.76	
21 - 2193200	Resale Bus POTS not disptchd	1.03	1.98	8.21	1.41	1.34	2.48	0.86	3.31	7.19	1.82	d
21 - 2193300	Resale ISDN BRI disptchd	nd	18.74	nd	14.74	nd	17.98	6.23	27.33	7.88	21.39	abcde
21 - 2193400	Resale ISDN BRI not disptchd	2.00	3.83	2.58	2.30	nd	2.71	2.18	2.99	2.82	2.96	abcde
21 - 2193500	Resale CTX disptchd	5.65	7.96	6.39	7.94	11.99	12.53	9.77	13.40	13.42	11.12	
21 - 2193600	Resale CTX not disptchd	4.14	2.93	1.64	1.86	1.54	2.10	3.30	2.44	0.77	2.52	bc e
21 - 2193700	Resale PBX disptchd	3.20	9.98	2.53	10.03	6.13	13.80	2.85	17.18	23.88	13.05	abcde
21 - 2193800	Resale PBX not disptchd	nd	3.27	nd	5.85	nd	6.77	nd	7.05	0.60	5.66	abcde
21 - 2194100	Resale DDS disptchd	0.83	6.94	nd	5.65	nd	8.12	nd	11.97	nd	7.25	abcde
21 - 2194400	Resale DS1 not disptchd	nd	1.54	nd	1.55	nd	1.86	nd	1.77	0.38	1.59	abcde
21 - 2195401	UNE lp 8db and 5.5db 2/4 w	6.32	7.92	7.45	7.79	15.60	15.43	10.72	15.68	8.87	12.36	
21 - 2195601	UNE lp 2 w Dig ISDN cap	24.40	14.93	4.70	5.80	6.48	6.97	16.59	12.02	7.30	9.10	abcde
21 - 2195801	UNE lp 2 w Dig xDSL cap	12.32	12.50	10.87	9.86	16.69	13.17	18.16	14.12	14.69	12.01	
21 - 2195802	UNE Sublp 2 w Dig xDSL cap	nd	n/a	17.70	n/a	nd	n/a	nd	n/a	nd	n/a	a cde
21 - 2196001	UNE lp 4 w Dig 1.544 mbps cap/HDSL	4.28	3.14	3.88	3.10	4.85	4.45	3.91	4.46	3.25	3.62	
21 - 2196003	UNE lp DS3	nd	1.20	3.28	1.63	0.08	0.90	nd	1.63	nd	0.63	abcde
21 - 2197201	UNE Ded Transpt DS1	5.13	3.12	1.56	3.08	2.21	4.44	2.21	4.42	0.68	3.60	c e
21 - 2197202	UNE Ded Transpt DS3	3.48	1.20	2.06	1.69	1.55	0.89	0.94	1.62	1.27	0.59	e
21 - 2197204	UNE Dark Fiber	nd		nd		13.28		nd		nd		abcde
21 - 2197205	UNE EELs Voice Grade	8.13		12.85		24.07		22.13		6.68		a c e
21 - 2197206	UNE EELs DS1	3.99		4.31		5.81		6.50		4.14		
21 - 2197401	UNE Pltform Basic Port and Loop	9.11	7.52	8.32	7.37	17.29	14.91	16.14	15.21	12.87	11.98	
21 - 2197402	UNE Pltform Spel Port and Loop	nd	5.66	12.25	8.31	nd	7.01	nd	13.42	nd	7.52	abcde
21 - 2197500	Int Connct Trnks	5.85	7.50	11.07	4.52	8.13	10.21	3.82	12.60	6.24	6.57	
21 - 2197601	PNP (port out)	0.43		3.02		2.01		4.97		4.05		
21 - 2197800	NXX Code Open not disptchd	nd	1.19	1.81	1.39	1.51	0.74	nd	0.89	1.38	1.10	abcde
21 - 2198001	UNE Line Sharing lp 2w Dig xDSL	10.71	12.50	7.05	9.86	11.50	13.17	13.46	14.12	10.53	12.01	
<b>22 - POTS Out of Service Less Than 24 Hours</b>												
22 - 2290300	Resale Bus POTS	100.00	95.46	94.23	94.55	82.00	83.65	90.32	81.98	95.79	87.22	
22 - 2290400	Resale Res POTS	90.42	88.30	94.42	89.74	60.19	55.80	60.03	57.77	74.48	66.34	
22 - 2290501	UNE lp 2/4 w 8db and 5.5db analog	97.55	95.44	95.29	94.52	87.40	83.51	92.05	81.89	94.69	87.24	
22 - 2290700	UNE Platform	98.04	95.46	96.94	94.55	87.54	83.65	85.83	81.98	90.10	87.22	
<b>23 - Frequency of Repeat Troubles in 30-Day Period</b>												

## California Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
23 - 2391600	Resale Res POTS	7.07	8.19	4.75	8.18	7.27	8.59	6.52	11.22	10.30	12.46	
23 - 2391700	Resale Bus POTS	11.63	7.18	10.00	7.57	7.18	7.13	8.24	8.76	9.15	9.21	
23 - 2391800	Resale ISDN BRI	0.00	20.39	0.00	15.78	nd	14.35	33.33	15.23	0.00	16.87	abcde
23 - 2391900	Resale CTX	11.36	7.44	9.52	7.29	9.38	6.40	10.91	7.87	10.26	7.96	
23 - 2392000	Resale PBX	0.00	10.68	0.00	8.68	0.00	9.37	0.00	10.91	0.00	9.13	abcde
23 - 2392200	Resale DS1	nd	23.39	nd	23.26	nd	24.16	nd	26.49	100.00	24.57	abcde
23 - 2392601	UNE Loop 8db and 5.5db 2/4 w	8.39	7.15	9.17	7.47	8.80	7.10	10.19	8.76	9.76	9.27	
23 - 2392701	UNE Loop 2 wire Digital ISDN Capable	0.00	20.32	66.67	15.23	0.00	14.47	0.00	15.50	0.00	16.87	abcde
23 - 2392801	UNE Loop 2 wire Digital XDSL Capable	16.69	12.09	17.84	13.13	17.71	12.36	17.60	13.10	22.73	13.22	
23 - 2392901	UNE Loop 4 wire Digital 1.544 mbps capable/HDSL	28.71	23.55	23.08	23.35	23.73	23.92	24.63	26.32	26.77	24.77	
23 - 2392902	UNE Loop DS3	nd	23.53	0.00	26.92	0.00	17.86	nd	16.13	nd	18.75	abcde
23 - 2393501	UNE Ded Trnsprt DS1	26.32	23.39	8.33	23.26	12.50	24.16	13.64	26.49	0.00	24.57	c e
23 - 2393502	UNE Ded Trnsprt DS3	25.00	23.53	10.00	29.63	30.00	20.69	18.18	15.63	14.29	17.65	e
23 - 2393504	UNE Dark Fiber	nd		nd		0.00		nd		nd		abcde
23 - 2393505	UNE EELs Voice Grade	40.00		23.08		33.33		25.00		0.00		a c e
23 - 2393506	UNE EELs DS1	20.33		21.43		18.27		24.60		21.35		
23 - 2393600	UNE Plat Basic port and loop	9.15	7.18	8.65	7.57	8.71	7.13	10.34	8.76	11.21	9.21	
23 - 2393602	UNE Plat Spcl port and loop	nd	5.79	0.00	3.05	0.00	9.00	nd	8.46	nd	4.90	abcde
23 - 2393700	Int Connet Trnks	14.71	8.48	16.43	6.45	10.47	11.88	12.12	12.90	10.08	11.47	
23 - 2393801	PNP (Port Out)	0.44		0.13		0.00		0.10		0.00		ab
23 - 2393900	NXX Code Open	nd	0.00	0.00	0.00	25.00	0.00	nd	0.00	0.00	0.00	abcde
23 - 2394000	UNE Loop 2 wire Digital Line Sharing	14.44	12.09	18.60	13.13	17.65	12.36	19.04	13.10	18.50	13.22	
<b>Network Performance</b>												
<b>24 - Percent Blocking on Common Trunks</b>												
24 - 2400100	Common Trnks	0.93		1.23		1.62		0.54		0.90		
<b>25 - Percent Blocking on Interconnection Trunks</b>												
25 - 2500700	CLEC Int Cmnet Trnks	0.00	n/a	0.00	n/a	0.00	n/a	0.00	n/a	0.00	n/a	
25 - 2500702	ILEC Tandem Off to CLEC End Off	0.00	n/a	0.00	n/a	0.00	n/a	0.00	n/a	0.00	n/a	
<b>26 - NXX Loaded by LERG Effective Date</b>												
26 - 2600200	Whlsle	100.00	100.00	100.00	100.00	100.00	100.00	nd	n/a	nd	n/a	de
<b>Billing</b>												
<b>28 - Usage Timeliness</b>												
28 - 2800200	Resale	1.46	2.53	1.43	2.42	1.36	2.46	1.48	2.76	1.23	2.48	

## California Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
28 - 2800300	Unbundled	1.52	2.53	1.46	2.42	1.42	2.46	1.57	2.76	1.32	2.48	
28 - 2800500	Meet Pt	1.57	2.53	1.30	2.42	1.13	2.46	1.38	2.76	0.86	2.48	
<b>30 - Wholesale Bill Timeliness</b>												
30 - 3000100	Resale	100.00		100.00		100.00		100.00		100.00		
30 - 3000200	Unbundled	100.00		100.00		89.57		100.00		100.00		
30 - 3000300	Fac/Int Cnnct	100.00		100.00		96.37		100.00		100.00		
<b>31 - Usage Completeness</b>												
31 - 3100200	Resale	99.81	99.51	99.78	99.01	99.69	99.60	99.90	99.55	99.94	99.53	
31 - 3100300	Unbundled	99.65	99.51	99.88	99.01	99.82	99.60	99.83	99.55	99.91	99.53	
31 - 3100400	Fac/Int Cnnct	99.95		99.94		99.91		99.99		99.75		
<b>32 - Recurring Charge Completeness</b>												
32 - 3200200	Resale	97.35	92.25	98.16	93.10	97.92	92.48	96.46	93.41	98.87	93.67	
32 - 3200300	UNE POTS	91.32	92.25	99.91	93.10	99.90	92.48	99.82	93.41	99.70	93.67	
32 - 3200400	UNE Other	99.39		99.54		99.22		99.41		99.45		
32 - 3200500	Fac/Int Cnnct	98.70		92.76		99.96		99.77		99.99		
<b>33 - Non-Recurring Charge Completeness</b>												
33 - 3300200	Resale	95.97	70.42	98.01	87.15	97.50	87.92	85.25	86.74	98.51	86.48	
33 - 3300300	UNE POTS	92.99	70.42	99.91	87.15	99.90	87.92	99.81	86.74	99.88	86.48	
33 - 3300400	UNE Other	99.50		99.62		99.55		99.50		99.48		
33 - 3300500	Fac/Int Cnnct	100.00		99.96		99.97		100.00		100.00		
<b>34 - Bill Accuracy</b>												
34 - 3400402	Resale Usage	99.94		99.95		99.97		99.87		99.85		
34 - 3400502	Resale Recur	99.85		99.86		99.98		99.96		99.98		
34 - 3400602	Resale Non-Recur	99.73		99.61		99.42		98.94		99.31		
34 - 3400610	Resale Combined	94.32	99.76	98.82	99.73	96.11	99.68	95.35	99.72	99.81	99.62	
34 - 3400702	UNE POTS Usage	100.00		98.47		99.91		100.00		100.00		
34 - 3400802	UNE POTS Recur	100.00		100.00		100.00		100.00		99.99		
34 - 3400902	UNE POTS Non-Recur	100.00		98.45		97.68		99.97		99.93		
34 - 3400910	UNE POTS Combined	100.00	99.76	98.69	99.73	98.32	99.68	99.99	99.72	99.99	99.62	
34 - 3401002	UNE Other Usage	100.00		100.00		100.00		100.00		99.68		
34 - 3401102	UNE Other Recur	100.00		100.00		99.98		99.99		100.00		
34 - 3401202	UNE Other Non-Recur	100.00		99.99		99.98		99.98		99.99		
34 - 3401210	UNE Other Combined	100.00		99.99		99.97		99.98		99.69		
34 - 3401302	Fac/Int Cnnct Usage	100.00		100.00		100.00		97.10		99.56		

## California Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
34 - 3401402	Fac/Int Cnct Recur	100.00		100.00		100.00		100.00		100.00		
34 - 3401502	Fac/Int Cnct Non-Recur	100.00		100.00		100.00		100.00		100.00		
34 - 3401510	Fac/Int Cnct Combined	100.00		100.00		100.00		97.10		99.56		
<b>35 - Billing Completion Notice Interval</b>												
35 - 3500100	Resale	99.19		98.96		99.42		98.92		98.43		
<b>Database Updates</b>												
<b>37 - Average Database Update Interval</b>												
37 - 3700200	Loc Whlsle Prod Svc Ord Gen UpDts	1.95	4.98	1.92	5.21	1.94	5.64	1.96	5.35	1.99	5.05	
37 - 3700250	Loc Whlsle Prod Svc Ord Gen UpDts LIDB	0.01	0.12	0.02	0.15	0.01	0.11	0.01	0.13	0.01	0.12	
37 - 3700300	Loc Whlsle Prod Direct Gtwy UpDts	99.99		100.00		99.98		100.00		99.99		
<b>38 - Percent Database Accuracy</b>												
38 - 3800200	Loc Whlsle Prod DA/List Svc Ord Gen UpDts	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	
38 - 3800500	Loc Whlsle Prod E911 Svc Ord Gen UpDts	96.79	94.06	98.31	93.44	98.33	94.70	98.43	94.51	98.04	94.69	
38 - 3800700	Loc Whlsle Prod LIDB Svc Ord Gen UpDts	99.77	99.35	99.53	99.00	99.71	99.26	99.83	99.37	99.69	99.24	
<b>39 - E911/911 MS Database Update</b>												
39 - 3900200	Loc Whlsle Prod Svc Ord Gen UpDts	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	
39 - 3900300	Loc Whlsle Prod Direct Gtwy UpDts	100.00		100.00		100.00		100.00		100.00		
<b>Collocation</b>												
<b>40 - Time to Respond to a Collocation Request</b>												
40 - 4000100	Space Avail w/in 15 Days	100.00		100.00		100.00		100.00		100.00		cde
40 - 4000200	Price & Sched w/in 15 Days	100.00		100.00		100.00		100.00		100.00		
<b>41 - Time to Provide a Collocation Arrangement</b>												
41 - 4100100	New % w/in Tariff Int	100.00		nd		nd		100.00		100.00		bcde
41 - 4100200	Augment % w/in 80 Days	100.00		100.00		100.00		100.00		100.00		b
<b>Interfaces</b>												
<b>42 - Percent of Time Interface is Available</b>												
42 - 4200700	Resale Datagate	99.99		99.87		99.80		99.93		100.00		
42 - 4200800	Resale WEBVERIGATE	99.98		99.88		99.72		99.89		99.93		
42 - 4200900	Resale WEBTOOLBAR	99.79		98.36		99.88		100.00		99.36		
42 - 4201000	Resale WEBLEX	99.98		99.69		100.00		99.96		99.55		
42 - 4201300	Resale EDI Ordering	100.00		100.00		100.00		100.00		100.00		
42 - 4201400	Resale PRAF	100.00		100.00		100.00		100.00		97.08		
42 - 4201500	Resale SORD	99.42	99.42	99.61	99.61	100.00	100.00	99.98	99.98	99.77	99.77	

## California Performance Metric Data

Metric Number	Metric Name and Disaggregation	Sept. 2002		Oct. 2002		Nov. 2002		Dec. 2002		Jan. 2003		Notes
		CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	CLEC Result	P*B	
42 - 4201700	Resale NDM to EXACT	100.00		100.00		100.00		100.00		100.00		
42 - 4201800	Resale EBTA GUI	99.44		99.99		99.97		99.98		100.00		
42 - 4201900	Resale EDI/CORBA Pre-Order	99.98		99.86		99.84		99.94		99.99		
42 - 4202000	Resale BDS/Telis to EXACT	100.00		100.00		100.00		100.00		100.00		
42 - 4202100	Resale TBTA (Trouble Admin)	100.00		100.00		100.00		100.00		100.00		
42 - 4202200	Resale EBTA (App to App)	98.66		99.77		99.85		99.97		100.00		
<b>44 - Center Responsiveness</b>												
44 - 4400200	Rpr Ctr Local Wlsle Prod	10.37	13.94	11.69	14.81	21.96	68.84	13.31	41.44	13.46	25.55	
44 - 4400300	Ord Ctr Local Wlsle Prod	9.90		6.53		7.92		7.48		10.07		
44 - 4400400	Rpr Ctr Provisioning Center	76.97		84.29		75.56		81.86		68.83		

Abbreviations: n/a - not available.  
 nd - denotes 'no data' or no CLEC requests to measure.

Blank space means data are not available.

Notes: a - for September, CLEC sample size was less than 10.  
 b - for October, CLEC sample size was less than 10.  
 c - for November, CLEC sample size was less than 10.  
 d - for December, CLEC sample size was less than 10.  
 e - for January, CLEC sample size was less than 10.

## Appendix D Statutory Requirements

### I. STATUTORY FRAMEWORK

1. The 1996 Act conditions BOC entry into the market for provision of in-region interLATA services on compliance with certain provisions of section 271.<sup>1</sup> BOCs must apply to the Federal Communications Commission (Commission or FCC) for authorization to provide interLATA services originating in any in-region state.<sup>2</sup> The Commission must issue a written determination on each application no later than 90 days after receiving such application.<sup>3</sup> Section 271(d)(2)(A) requires the Commission to consult with the Attorney General before making any determination approving or denying a section 271 application. The Attorney General is entitled to evaluate the application “using any standard the Attorney General considers appropriate,” and the Commission is required to “give substantial weight to the Attorney General’s evaluation.”<sup>4</sup>

2. In addition, the Commission must consult with the relevant state commission 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 (SGAT), and that either the agreement(s) or general statement satisfy the “competitive checklist.”<sup>5</sup> Because the Act does not prescribe any standard for the consideration of a state commission’s verification under section 271(d)(2)(B), the Commission has discretion in each section 271 proceeding to

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<sup>1</sup> For purposes of section 271 proceedings, the Commission uses the definition of the term “Bell Operating Company” contained in 47 U.S.C. § 153(4).

<sup>2</sup> 47 U.S.C. § 271(d)(1). For purposes of section 271 proceedings, the Commission utilizes the definition of the term “in-region state” that is contained in 47 U.S.C. § 271(i)(1). Section 271(j) provides that a BOC’s in-region services include 800 service, private line service, or their equivalents that terminate in an in-region state of that BOC and that allow the called party to determine the interLATA carrier, even if such services originate out-of-region. *Id.* § 271(j). The 1996 Act defines “interLATA services” as “telecommunications between a point located in a local access and transport area and a point located outside such area.” *Id.* § 153(21). Under the 1996 Act, a “local access and transport area” (LATA) is “a contiguous geographic area (A) established before the date of enactment of the [1996 Act] by a [BOC] such that no exchange area includes points within more than 1 metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the AT&T Consent Decree; or (B) established or modified by a [BOC] after such date of enactment and approved by the Commission.” *Id.* § 153(25). LATAs were created as part of the Modification of Final Judgment’s (MFJ) “plan of reorganization.” *United States v. Western Elec. Co.*, 569 F. Supp. 1057 (D.D.C. 1983), *aff’d sub nom. California v. United States*, 464 U.S. 1013 (1983). Pursuant to the MFJ, “all [BOC] territory in the continental United States [was] divided into LATAs, generally centering upon a city or other identifiable community of interest.” *United States v. Western Elec. Co.*, 569 F. Supp. 990, 993-94 (D.D.C. 1983).

<sup>3</sup> 47 U.S.C. § 271(d)(3).

<sup>4</sup> *Id.* § 271(d)(2)(A).

<sup>5</sup> *Id.* § 271(d)(2)(B).

determine the amount of weight to accord the state commission's verification.<sup>6</sup> The Commission has held that, although it will consider carefully state determinations of fact that are supported by a detailed and extensive record, it is the FCC's role to determine whether the factual record supports the conclusion that particular requirements of section 271 have been met.<sup>7</sup>

3. Section 271 requires the Commission to make various findings before approving BOC entry. In order for the Commission to approve a BOC's application to provide in-region, interLATA services, a BOC must first demonstrate, with respect to each state for which it seeks authorization, that it satisfies the requirements of either section 271(c)(1)(A) (Track A) or 271(c)(1)(B) (Track B).<sup>8</sup> In order to obtain authorization under section 271, the BOC must also show that: (1) it has "fully implemented the competitive checklist" contained in section 271(c)(2)(B);<sup>9</sup> (2) the requested authorization will be carried out in accordance with the requirements of section 272;<sup>10</sup> and (3) the BOC's entry into the in-region interLATA market is "consistent with the public interest, convenience, and necessity."<sup>11</sup> The statute specifies that, unless the Commission finds that these criteria have been satisfied, the Commission "shall not approve" the requested authorization.<sup>12</sup>

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<sup>6</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 3962, para. 20; *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended*, CC Docket No. 97-137, 12 FCC Rcd 20543, 20559-60 (1997) (*Ameritech Michigan Order*). As the D.C. Circuit has held, "[a]lthough the Commission must consult with the state commissions, the statute does not require the Commission to give State Commissions' views any particular weight." *SBC Communications Inc. v. FCC*, 138 F.3d 410, 416 (D.C. Cir. 1998).

<sup>7</sup> *Ameritech Michigan Order*, 12 FCC Rcd at 20560; *SBC Communications v. FCC*, 138 F.3d at 416-17.

<sup>8</sup> 47 U.S.C. § 271(d)(3)(A). See Section III, *infra*, for a complete discussion of Track A and Track B requirements.

<sup>9</sup> *Id.* §§ 271(c)(2)(B), 271(d)(3)(A)(i).

<sup>10</sup> *Id.* § 272; see *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905 (1996) (*Non-Accounting Safeguards Order*), *recon.*, Order on Reconsideration, 12 FCC Rcd 2297 (1997), *review pending sub nom.*, *SBC Communications v. FCC*, No. 97-1118 (D.C. Cir., filed Mar. 6, 1997) (held in abeyance pursuant to court order filed May 7, 1997), *remanded in part sub nom.*, *Bell Atlantic Telephone Companies v. FCC*, No. 97-1067 (D.C. Cir., filed Mar. 31, 1997), *on remand*, Second Order on Reconsideration, FCC 97-222 (rel. June 24, 1997), *petition for review denied sub nom.* *Bell Atlantic Telephone Companies v. FCC*, 113 F.3d 1044 (D.C. Cir. 1997); *Implementation of the Telecommunications Act of 1996; Accounting Safeguards Under the Telecommunications Act of 1996*, Report and Order, 11 FCC Rcd 17539 (1996).

<sup>11</sup> 47 U.S.C. § 271(d)(3)(C).

<sup>12</sup> *Id.* § 271(d)(3); see *SBC Communications, Inc. v. FCC*, 138 F.3d at 416.

## II. PROCEDURAL AND ANALYTICAL FRAMEWORK

4. To determine whether a BOC applicant has met the prerequisites for entry into the long distance market, the Commission evaluates its compliance with the competitive checklist, as developed in the FCC's local competition rules and orders in effect at the time the application was filed. Despite the comprehensiveness of these rules, there will inevitably be, in any section 271 proceeding, disputes over an incumbent LEC's precise obligations to its competitors that FCC rules have not addressed and that do not involve *per se* violations of self-executing requirements of the Act. As explained in prior orders, the section 271 process simply could not function as Congress intended if the Commission were required to resolve all such disputes as a precondition to granting a section 271 application.<sup>13</sup> In the context of section 271's adjudicatory framework, the Commission has established certain procedural rules governing BOC section 271 applications.<sup>14</sup> The Commission has explained in prior orders the procedural rules it has developed to facilitate the review process.<sup>15</sup> Here we describe how the Commission considers the evidence of compliance that the BOC presents in its application.

5. As part of the determination that a BOC has satisfied the requirements of section 271, the Commission considers whether the BOC has fully implemented the competitive checklist in subsection (c)(2)(B). The BOC at all times bears the burden of proof of compliance with section 271, even if no party challenges its compliance with a particular requirement.<sup>16</sup> In demonstrating its compliance, a BOC must show that it has a concrete and specific legal obligation to furnish the item upon request pursuant to state-approved interconnection agreements that set forth prices and other terms and conditions for each checklist item, and that it is currently furnishing, or is ready to furnish, the checklist items in quantities that competitors may reasonably demand and at an acceptable level of quality.<sup>17</sup> In particular, the BOC must demonstrate that it is offering interconnection and access to network elements on a

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<sup>13</sup> See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6246, para. 19; see also *American Tel. & Tel. Co. v. FCC*, 220 F.3d 607, 631 (D.C. Cir. 2000).

<sup>14</sup> See *Procedures for Bell Operating Company Applications Under New Section 271 of the Communications Act*, Public Notice, 11 FCC Rcd 19708, 19711 (1996); *Revised Comment Schedule For Ameritech Michigan Application, as amended, for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Services in the State of Michigan*, Public Notice, DA 97-127 (rel. Jan. 17, 1997); *Revised Procedures for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, 13 FCC Rcd 17457 (1997); *Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, DA 99-1994 (rel. Sept. 28, 1999); *Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, DA 01-734 (CCB rel. Mar. 23, 2001) (collectively "271 Procedural Public Notices").

<sup>15</sup> See, e.g., *SWBT Kansas/Oklahoma Order* 16 FCC Rcd at 6247-50, paras. 21-27; *SWBT Texas Order*, 15 FCC Rcd at 18370-73, paras. 34-42; *Bell Atlantic New York Order*, 15 FCC Rcd at 3968-71, paras. 32-42.

<sup>16</sup> See *SWBT Texas Order*, 15 FCC Rcd at 18374, para. 46; *Bell Atlantic New York Order*, 15 FCC Rcd at 3972, para. 46.

<sup>17</sup> See *Bell Atlantic New York Order*, 15 FCC Rcd at 3973-74, para. 52.



nondiscriminatory basis.<sup>18</sup> Previous Commission orders addressing section 271 applications have elaborated on this statutory standard.<sup>19</sup> First, for those functions the BOC provides to competing carriers that are analogous to the functions a BOC provides to itself in connection with its own retail service offerings, the BOC must provide access to competing carriers in “substantially the same time and manner” as it provides to itself.<sup>20</sup> Thus, where a retail analogue exists, a BOC must provide access that is equal to (i.e., substantially the same as) the level of access that the BOC provides itself, its customers, or its affiliates, in terms of quality, accuracy, and timeliness.<sup>21</sup> For those functions that have no retail analogue, the BOC must demonstrate that the access it provides to competing carriers would offer an efficient carrier a “meaningful opportunity to compete.”<sup>22</sup>

6. The determination of whether the statutory standard is met is ultimately a judgment the Commission must make based on its expertise in promoting competition in local markets and in telecommunications regulation generally.<sup>23</sup> The Commission has not established, nor does it believe it appropriate to establish, specific objective criteria for what constitutes “substantially the same time and manner” or a “meaningful opportunity to compete.”<sup>24</sup> Whether this legal standard is met can only be decided based on an analysis of specific facts and circumstances. Therefore, the Commission looks at each application on a case-by-case basis and considers the totality of the circumstances, including the origin and quality of the information in the record, to determine whether the nondiscrimination requirements of the Act are met.

#### A. Performance Data

7. As established in prior section 271 orders, the Commission has found that performance measurements provide valuable evidence regarding a BOC’s compliance or noncompliance with individual checklist items. The Commission expects that, in its *prima facie* case in the initial application, a BOC relying on performance data will:

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<sup>18</sup> See 47 U.S.C. § 271(c)(2)(B)(i), (ii).

<sup>19</sup> See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6250-51, paras. 28-29; *Bell Atlantic New York Order*, 15 FCC Rcd at 3971-72, paras. 44-46.

<sup>20</sup> *SWBT Texas Order*, 15 FCC Rcd at 18373, para. 44; *Bell Atlantic New York Order*, 15 FCC Rcd at 3971, para. 44.

<sup>21</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 3971, para. 44; *Ameritech Michigan Order*, 12 FCC Rcd at 20618-19.

<sup>22</sup> *Id.*

<sup>23</sup> *SWBT Texas Order*, 15 FCC Rcd at 18374, para. 46; *Bell Atlantic New York Order*, 15 FCC Rcd at 3972, para. 46.

<sup>24</sup> *Id.*

- a) provide sufficient performance data to support its contention that the statutory requirements are satisfied;
- b) identify the facial disparities between the applicant's performance for itself and its performance for competitors;
- c) explain why those facial disparities are anomalous, caused by forces beyond the applicant's control (e.g., competing carrier-caused errors), or have no meaningful adverse impact on a competing carrier's ability to obtain and serve customers; and
- d) provide the underlying data, analysis, and methodologies necessary to enable the Commission and commenters meaningfully to evaluate and contest the validity of the applicant's explanations for performance disparities, including, for example, carrier specific carrier-to-carrier performance data.

8. The Commission has explained in prior orders that parity and benchmark standards established by state commissions do not represent absolute maximum or minimum levels of performance necessary to satisfy the competitive checklist. Rather, where these standards are developed through open proceedings with input from both the incumbent and competing carriers, these standards can represent informed and reliable attempts to objectively approximate whether competing carriers are being served by the incumbent in substantially the same time and manner, or in a way that provides them a meaningful opportunity to compete.<sup>25</sup> Thus, to the extent there is no statistically significant difference between a BOC's provision of service to competing carriers and its own retail customers, the Commission generally need not look any further. Likewise, if a BOC's provision of service to competing carriers satisfies the performance benchmark, the analysis is usually done. Otherwise, the Commission will examine the evidence further to make a determination whether the statutory nondiscrimination requirements are met.<sup>26</sup> Thus, the Commission will examine the explanations that a BOC and others provide about whether these data accurately depict the quality of the BOC's performance. The Commission also may examine how many months a variation in performance has existed and what the recent trend has been. The Commission may find that statistically significant differences exist, but conclude that such differences have little or no competitive significance in the marketplace. In such cases, the Commission may conclude that the differences are not meaningful in terms of statutory compliance. Ultimately, the 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 the Commission.

9. Where there are multiple performance measures associated with a particular checklist item, the Commission would consider the performance demonstrated by all the measurements as a whole. Accordingly, a disparity in performance for one measure, by itself,

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<sup>25</sup> See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6252, para. 31; *SWBT Texas Order*, 15 FCC Rcd at 18377, para. 55 & n.102.

<sup>26</sup> See *Bell Atlantic New York Order*, 15 FCC Rcd at 3970, para. 59.

may not provide a basis for finding noncompliance with the checklist. The Commission may also find that the reported performance data are affected by factors beyond a BOC's control, a finding that would make it less likely to hold the BOC wholly accountable for the disparity. This is not to say, however, that performance discrepancies on a single performance metric are unimportant. Indeed, under certain circumstances, disparity with respect to one performance measurement may support a finding of statutory noncompliance, particularly 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.

10. In sum, the Commission does not use performance measurements as a substitute for the 14-point competitive checklist. Rather, it uses performance measurements as valuable evidence with which to inform the judgment as to whether a BOC has complied with the checklist requirements. Although performance measurements add necessary objectivity and predictability to the review, they cannot wholly replace the Commission's own judgment as to whether a BOC has complied with the competitive checklist.

#### **B. Relevance of Previous Section 271 Approvals**

11. In some section 271 applications, the volumes of the BOC's commercial orders may be significantly lower than they were in prior proceedings. In certain instances, volumes may be so low as to render the performance data inconsistent and inconclusive.<sup>27</sup> Performance data based on low volumes of orders or other transactions are not as reliable an indicator of checklist compliance as performance based on larger numbers of observations. Indeed, where performance data are based on a low number of observations, small variations in performance may produce wide swings in the reported performance data. It is thus not possible to place the same evidentiary weight upon – and to draw the same types of conclusions from – performance data where volumes are low, as for data based on more robust activity.

12. In such cases, findings in prior, related section 271 proceedings may be a relevant factor in the Commission's analysis. Where a BOC provides evidence that a particular system reviewed and approved in a prior section 271 proceeding is also used in the proceeding at hand, the Commission's review of the same system in the current proceeding will be informed by the findings in the prior one. Indeed, to the extent that issues have already been briefed, reviewed and resolved in a prior section 271 proceeding, and absent new evidence or changed circumstances, an application for a related state should not be a forum for re-litigating and reconsidering those issues. Appropriately employed, such a practice can give us a fuller picture of the BOC's compliance with the section 271 requirements while avoiding, for all parties

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<sup>27</sup> The Commission has never required, however, an applicant to demonstrate that it processes and provisions a substantial commercial volume of orders, or has achieved a specific market share in its service area, as a prerequisite for satisfying the competitive checklist. See *Ameritech Michigan Order*, 12 FCC Rcd at 20585, para. 77 (explaining that Congress had considered and rejected language that would have imposed a "market share" requirement in section 271(c)(1)(A)).

involved in the section 271 process, the delay and expense associated with redundant and unnecessary proceedings and submissions.

13. However, the statute requires the Commission to make a separate determination of checklist compliance for each state and, accordingly, we do not consider any finding from previous section 271 orders to be dispositive of checklist compliance in current proceedings. While the Commission's review may be informed by prior findings, the Commission will consider all relevant evidence in the record, including state-specific factors identified by commenting parties, the states, the Department of Justice. However, the Commission has always held that an applicant's performance towards competing carriers in an actual commercial environment is the best evidence of nondiscriminatory access to OSS and other network elements.<sup>28</sup> Thus, the BOC's actual performance in the applicant state may be relevant to the analysis and determinations with respect to the 14 checklist items. Evidence of satisfactory performance in another state cannot trump convincing evidence that an applicant fails to provide nondiscriminatory access to a network element in the applicant state.

14. Moreover, because the Commission's review of a section 271 application must be based on a snapshot of a BOC's recent performance at the time an application is filed, the Commission cannot simply rely on findings relating to an applicant's performance in an anchor state at the time it issued the determination for that state. The performance in that state could change due to a multitude of factors, such as increased order volumes or shifts in the mix of the types of services or UNEs requested by competing carriers. Thus, even when the applicant makes a convincing showing of the relevance of anchor state data, the Commission must examine how recent performance in that state compares to performance at the time it approved that state's section 271 application, in order to determine if the systems and processes continue to perform at acceptable levels.

### **III. COMPLIANCE WITH ENTRY REQUIREMENTS – SECTIONS 271(c)(1)(A) & 271(c)(1)(B)**

15. As noted above, in order for the Commission to approve a BOC's application to provide in-region, interLATA services, a BOC must first demonstrate that it satisfies the requirements of either section 271(c)(1)(A) (Track A) or 271(c)(1)(B) (Track B).<sup>29</sup> 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."<sup>30</sup> 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

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<sup>28</sup> See *SWBT Texas Order*, 15 FCC Rcd at 18376, para. 53; *Bell Atlantic New York Order*, 15 FCC Rcd at 3974, para. 53.

<sup>29</sup> See 47 U.S.C. § 271(d)(3)(A).

<sup>30</sup> *Id.*

of another carrier.”<sup>31</sup> The Commission concluded in the *Ameritech Michigan Order* that section 271(c)(1)(A) is satisfied if one or more competing providers collectively serve residential and business subscribers.<sup>32</sup>

16. As an alternative to Track A, Section 271(c)(1)(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.”<sup>33</sup> 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.<sup>34</sup>

#### IV. COMPLIANCE WITH THE COMPETITIVE CHECKLIST – SECTION 271(c)(2)(B)

##### A. Checklist Item 1 – Interconnection

17. 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).”<sup>35</sup> Section 251(c)(2) imposes a duty on incumbent LECs “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.”<sup>36</sup> In the *Local Competition First Report and Order*, the Commission concluded that interconnection referred “only to the physical linking of two networks for the

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<sup>31</sup> *Id.*

<sup>32</sup> See *Ameritech Michigan Order*, 12 FCC Rcd at 20589, para. 85; see also *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20633-35, paras. 46-48.

<sup>33</sup> 47 U.S.C. § 271(d)(3)(A)(ii).

<sup>34</sup> See *Ameritech Michigan Order*, 12 FCC Rcd at 20561-62, para. 34. Nevertheless, the above-mentioned foreclosure of Track B as an option is subject to limited exceptions. See 47 U.S.C. § 271(c)(1)(B); see also *Ameritech Michigan Order*, 12 FCC Rcd at 20563-64, paras. 37-38.

<sup>35</sup> 47 U.S.C. § 271(c)(2)(B)(i); see *Bell Atlantic New York Order*, 15 FCC Rcd at 3977-78, para. 63; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640, para. 61; *Ameritech Michigan Order*, 12 FCC Rcd at 20662, para. 222.

<sup>36</sup> 47 U.S.C. § 251(c)(2)(A).

mutual exchange of traffic.”<sup>37</sup> Section 251 contains three requirements for the provision of interconnection. First, an incumbent LEC must provide interconnection “at any technically feasible point within the carrier’s network.”<sup>38</sup> Second, an incumbent LEC must provide interconnection that is “at least equal in quality to that provided by the local exchange carrier to itself.”<sup>39</sup> Finally, 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.”<sup>40</sup>

18. To implement the equal-in-quality requirement in section 251, the Commission’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.<sup>41</sup> In the *Local Competition First Report and Order*, the Commission identified trunk group blockage and transmission standards as indicators of an incumbent LEC’s technical criteria and service standards.<sup>42</sup> In prior section 271 applications, the Commission 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.<sup>43</sup>

19. In the *Local Competition First Report and Order*, the Commission 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

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<sup>37</sup> *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, 15590, para. 176 (1996) (*Local Competition First Report and Order*). Transport and termination of traffic are therefore excluded from the Commission’s definition of interconnection. *See id.*

<sup>38</sup> 47 U.S.C. § 251(c)(2)(B). In the *Local Competition First Report and Order*, the Commission identified a minimum set of technically feasible points of interconnection. *See Local Competition First Report and Order*, 11 FCC Rcd at 15607-09, paras. 204-11.

<sup>39</sup> 47 U.S.C. § 251(c)(2)(C).

<sup>40</sup> *Id.* § 251(c)(2)(D).

<sup>41</sup> *Local Competition First Report and Order*, 11 FCC Rcd at 15613-15, paras. 221-225; *see Bell Atlantic New York Order*, 15 FCC Rcd at 3978, para. 64; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20641-42, paras. 63-64.

<sup>42</sup> *Local Competition First Report and Order*, 11 FCC Rcd at 15614-15, paras. 224-25.

<sup>43</sup> *See Bell Atlantic New York Order*, 15 FCC Rcd at 3978, para. 64; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20648-50, paras. 74-77; *Ameritech Michigan Order*, 12 FCC Rcd at 20671-74, paras. 240-45. The Commission has relied on trunk blockage data to evaluate a BOC’s interconnection performance. Trunk group blockage indicates that end users are experiencing difficulty completing or receiving calls, which may have a direct impact on the customer’s perception of a competitive LEC’s service quality.

comparable function to its own retail operations.<sup>44</sup> The Commission's rules interpret this obligation to include, among other things, the incumbent LEC's installation time for interconnection service<sup>45</sup> and its provisioning of two-way trunking arrangements.<sup>46</sup> 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.<sup>47</sup>

20. Competing carriers may choose any method of technically feasible interconnection at a particular point on the incumbent LEC's network.<sup>48</sup> 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.<sup>49</sup> The provision of collocation is an essential prerequisite to demonstrating compliance with item 1 of the competitive checklist.<sup>50</sup> In the *Advanced Services First Report and Order*, the Commission revised its collocation rules to require incumbent LECs to include shared cage and cageless collocation arrangements as part of their physical collocation offerings.<sup>51</sup> 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

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<sup>44</sup> *Local Competition First Report and Order*, 11 FCC Rcd at 15612, para. 218; *see also Bell Atlantic New York Order*, 15 FCC Rcd at 3978, para. 65; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20642, para. 65.

<sup>45</sup> 47 C.F.R. § 51.305(a)(5).

<sup>46</sup> The Commission's rules require an incumbent LEC to provide two-way trunking upon request, wherever two-way trunking arrangements are technically feasible. 47 C.F.R. § 51.305(f); *see also Bell Atlantic New York Order*, 15 FCC Rcd at 3978-79, para. 65; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20642, para. 65; *Local Competition First Report and Order*, 11 FCC Rcd 15612-13, paras. 219-20.

<sup>47</sup> 47 C.F.R. § 51.305(a)(5).

<sup>48</sup> *Local Competition First Report and Order*, 11 FCC Rcd at 15779, paras. 549-50; *see Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41, para. 61.

<sup>49</sup> 47 C.F.R. § 51.321(b); *Local Competition First Report and Order*, 11 FCC Rcd at 15779-82, paras. 549-50; *see also Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41, para. 62.

<sup>50</sup> 47 U.S.C. § 251(c)(6) (requiring incumbent LECs to provide physical collocation); *Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41, paras. 61-62.

<sup>51</sup> *Deployment of Wireline Services offering Advanced Telecommunications Capability*, First Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 4761, 4784-86, paras. 41-43 (1999), *aff'd in part and vacated and remanded in part sub nom. GTE Service Corp. v. FCC*, 205 F.3d 416 (D.C. Cir. 2000), *on recon.*, *Collocation Reconsideration Order*, 15 FCC Rcd 17806 (2000); *on remand, Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Fourth Report and Order, 16 FCC Rcd 15435 (2001) (*Collocation Remand Order*), *petition for recon. pending*.

collocated carriers, and establishing principles for physical collocation space and configuration.<sup>52</sup> To show compliance with its collocation obligations, a BOC must have processes and procedures in place to ensure that all applicable collocation arrangements are available on terms and conditions that are “just, reasonable, and nondiscriminatory” in accordance with section 251(c)(6) and the FCC’s implementing rules.<sup>53</sup> 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.<sup>54</sup>

21. As stated above, checklist item 1 requires a BOC to provide “interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1).”<sup>55</sup> 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.<sup>56</sup> The Commission’s pricing rules require, among other things, that in order to comply with its collocation obligations, an incumbent LEC provide collocation based on TELRIC.<sup>57</sup>

22. To the extent pricing disputes arise, the Commission 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.<sup>58</sup> Although the Commission has an independent statutory 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 the Commission’s pricing jurisdiction and has thereby directed the state commissions to follow FCC pricing rules in their disposition of those disputes.<sup>59</sup>

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<sup>52</sup> See *Collocation Remand Order*, 16 FCC Rcd at 15441-42, para. 12.

<sup>53</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20643, para. 66; *BellSouth Carolina Order*, 13 FCC Rcd at 649-51, para. 62.

<sup>54</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41, paras. 61-62.

<sup>55</sup> 47 U.S.C. § 271(c)(2)(B)(i) (emphasis added).

<sup>56</sup> *Id.* § 252(d)(1).

<sup>57</sup> See 47 C.F.R. §§ 51.501-07, 51.509(g); *Local Competition First Report and Order*, 11 FCC Rcd at 15812-16, 15844-61, 15874-76, 15912, paras. 618-29, 674-712, 743-51, 826.

<sup>58</sup> See *SWBT Texas Order*, 15 FCC Rcd at 18394, para. 88; see also 47 U.S.C. §§ 252(c), (e)(6); *American Tel. & Tel Co. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999) (*AT&T v. Iowa Utils. Bd.*).

<sup>59</sup> *SWBT Texas Order*, 15 FCC Rcd at 18394, para. 88; *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. at 377-86.



23. Consistent with the Commission's precedent, the mere presence of interim rates will not generally threaten a section 271 application so long as: (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.<sup>60</sup> In addition, the Commission 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.<sup>61</sup>

24. Although the Commission 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.<sup>62</sup> At some point, states will have had sufficient time to complete these proceedings. The Commission 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.

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<sup>60</sup> *SWBT Texas Order*, 15 FCC Rcd at 18394, para. 88; *see also Bell Atlantic New York Order*, 15 FCC Rcd at 4091, para. 258 (explaining the Commission's case-by-case review of interim prices).

<sup>61</sup> *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6359-60, para. 239.

<sup>62</sup> *See Bell Atlantic New York Order*, 15 FCC Rcd at 4091, para. 260.

## B. Checklist Item 2 – Unbundled Network Elements<sup>63</sup>

### 1. Access to Operations Support Systems

25. Incumbent LECs use a variety of systems, databases, and personnel (collectively referred to as OSS) to provide service to their customers.<sup>64</sup> The Commission consistently has found that nondiscriminatory access to OSS is a prerequisite to the development of meaningful local competition.<sup>65</sup> For example, new entrants must have access to the functions performed by the incumbent's OSS in order to formulate and place orders for network elements or resale services, to install service to their customers, to maintain and repair network facilities, and to bill customers.<sup>66</sup> The Commission has determined that without nondiscriminatory access to the BOC's OSS, a competing carrier "will be severely disadvantaged, if not precluded altogether, from fairly competing" in the local exchange market.<sup>67</sup>

26. Section 271 requires the Commission to determine whether a BOC offers nondiscriminatory access to OSS functions. Section 271(c)(2)(B)(ii) requires a BOC to provide

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<sup>63</sup> We note that the United States Court of Appeals for the District of Columbia Circuit recently opined on two relevant Commission decisions, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696 (1999) (*UNE Remand Order*) and *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order in CC Doc. No. 98-147 and Fourth Report and Order in CC Doc. No. 96-98, 14 FCC Rcd 20912 (1999) (*Line Sharing Order*). *USTA v. FCC*, 290 F.3d 415 (D. C. Cir. 2002), cert. denied sub nom *WorldCom, Inc., et al. v. United States Telecom Ass'n, et al.*, 2003 WL 1448388, 71 USLW 3416 (March 24, 2003). The court's decision addressed both our UNE rules and our line sharing rules. Further, the court stated that "the *Line Sharing Order* must be vacated and remanded." *USTA v. FCC*, 290 F.3d at 429. The court also stated that it "grant[ed] the petitions for review[] and remand[ed] the *Line Sharing Order* and the *Local Competition Order* to the Commission for further consideration in accordance with the principles outlined." *Id.* at 430. On September 4, 2002, the D.C. Circuit denied petitions for rehearing filed by the Commission and others. See *Order*, Nos. 00-1012 and 00-1015 (D.C. Circuit, filed Sept. 4, 2002). On February 20, 2003, the Commission took action to revise its rules concerning incumbent LECs' obligations to make available elements of their networks on an unbundled basis to requesting carriers. *FCC Adopts New Rules For Network Unbundling Obligations Of Incumbent Local Phone Carriers*, News Release, (rel. Feb. 20, 2003) (announcing adoption of an Order on Remand and Further Notice of Proposed Rulemaking in CC Docket No. 01-338, *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*) (*Triennial Review News Release*). We note, however, that, in determining whether a BOC applicant has satisfied the requirements of section 271, the Commission evaluates an applicant's compliance with the competitive checklist as developed in the Commission's local competition rules and orders in effect at the time the application was filed.

<sup>64</sup> *Id.* at 3989-90, para. 83; *BellSouth South Carolina Order*, 13 FCC Rcd at 585.

<sup>65</sup> See *Bell Atlantic New York Order*, 15 FCC Rcd at 3990, para. 83; *BellSouth South Carolina Order*, 13 FCC Rcd at 547-48, 585; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20653.

<sup>66</sup> See *Bell Atlantic New York Order*, 15 FCC Rcd at 3990, para. 83.

<sup>67</sup> *Id.*

“nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1).”<sup>68</sup> The Commission 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.<sup>69</sup> The Commission must therefore examine a BOC’s OSS performance to evaluate compliance with section 271(c)(2)(B)(ii) and (xiv).<sup>70</sup> In addition, the Commission has also concluded that the duty to provide nondiscriminatory access to OSS functions is embodied in other terms of the competitive checklist as well.<sup>71</sup> Consistent with prior orders, the Commission examines a BOC’s OSS performance directly under checklist items 2 and 14, as well as other checklist terms.<sup>72</sup>

27. As part of its statutory obligation to provide nondiscriminatory access to OSS functions, a BOC must provide access that sufficiently supports each of the three modes of competitive entry envisioned by the 1996 Act – competitor-owned facilities, UNEs, and resale.<sup>73</sup> 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 is equivalent in terms of quality, accuracy, and timeliness.<sup>74</sup> The BOC must provide access that permits competing carriers to perform these functions in “substantially the same time and manner” as the BOC.<sup>75</sup> The Commission has recognized in prior orders that there may be situations in which a BOC contends that, although equivalent access has not been achieved for

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<sup>68</sup> 47 U.S.C. § 271(c)(2)(B)(ii).

<sup>69</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 3990, para. 84.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* As part of a BOC’s demonstration that it is “providing” a checklist item (*e.g.*, unbundled loops, unbundled local switching, resale services), it must demonstrate that it is providing nondiscriminatory access to the systems, information, and personnel that support that element or service. An examination of a BOC’s OSS performance is therefore integral to the determination of whether a BOC is offering all of the items contained in the competitive checklist. *Id.*

<sup>72</sup> *Id.* at 3990-91, para. 84.

<sup>73</sup> *Id.* at 3991, para. 85.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.* For example, the Commission would not deem an incumbent LEC to be providing nondiscriminatory access to OSS if limitations on the processing of information between the interface and the back office systems prevented a competitor from performing a specific function in substantially the same time and manner as the incumbent performs that function for itself.

an analogous function, the access that it provides is nonetheless nondiscriminatory within the meaning of the statute.<sup>76</sup>

28. For OSS functions that have no retail analogue, the BOC must offer access “sufficient to allow an efficient competitor a meaningful opportunity to compete.”<sup>77</sup> In assessing whether the quality of access affords an efficient competitor a meaningful opportunity to compete, the Commission will examine, in the first instance, whether specific performance standards exist for those functions.<sup>78</sup> In particular, the Commission will consider whether appropriate standards for measuring OSS performance have been adopted by the relevant state commission or agreed upon by the BOC in an interconnection agreement or during the implementation of such an agreement.<sup>79</sup> If such performance standards exist, the Commission will evaluate whether the BOC’s performance is sufficient to allow an efficient competitor a meaningful opportunity to compete.<sup>80</sup>

29. The Commission analyzes whether a BOC has met the nondiscrimination standard for each OSS function using a two-step approach. First, the Commission determines “whether the BOC has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and whether the BOC is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them.”<sup>81</sup> The Commission next assesses “whether the OSS functions that the BOC has deployed are operationally ready, as a practical matter.”<sup>82</sup>

30. Under the first inquiry, a BOC must demonstrate that it has developed sufficient electronic (for functions that the BOC accesses electronically) and manual interfaces to allow

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<sup>76</sup> *See id.*

<sup>77</sup> *Id.* at 3991, para. 86.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.* As a general proposition, specific performance standards adopted by a state commission in an arbitration decision would be more persuasive evidence of commercial reasonableness than a standard unilaterally adopted by the BOC outside of its interconnection agreement. *Id.* at 20619-20.

<sup>80</sup> *See id.* at 3991-92, para. 86.

<sup>81</sup> *Id.* at 3992, para. 87; *Ameritech Michigan Order*, 12 FCC Rcd at 20616; *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20654; *BellSouth South Carolina Order*, 13 FCC Rcd at 592-93. In making this determination, the Commission “consider[s] all of the automated and manual processes a BOC has undertaken to provide access to OSS functions,” including the interface (or gateway) that connects the competing carrier’s own operations support systems to the BOC; any electronic or manual processing link between that interface and the BOC’s OSS (including all necessary back office systems and personnel); and all of the OSS that a BOC uses in providing network elements and resale services to a competing carrier. *Ameritech Michigan Order*, 12 FCC Rcd at 20615; *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20654 n.241.

<sup>82</sup> *See Bell Atlantic New York Order*, 15 FCC Rcd at 3992, para. 88.

competing carriers equivalent access to all of the necessary OSS functions.<sup>83</sup> For example, a BOC must provide competing carriers with the specifications necessary for carriers to design or modify their systems in a manner that will enable them to communicate with the BOC's systems and any relevant interfaces.<sup>84</sup> In addition, a BOC must disclose to competing carriers any internal business rules<sup>85</sup> and other formatting information necessary to ensure that a carrier's requests and orders are processed efficiently.<sup>86</sup> Finally, a BOC must demonstrate that its OSS is designed to accommodate both current demand and projected demand for competing carriers' access to OSS functions.<sup>87</sup> Although not a prerequisite, the Commission continues to encourage the use of industry standards as an appropriate means of meeting the needs of a competitive local exchange market.<sup>88</sup>

31. Under the second inquiry, the Commission examines performance measurements and other evidence of commercial readiness to ascertain whether the BOC's OSS is handling current demand and will be able to handle reasonably foreseeable future volumes.<sup>89</sup> The most probative evidence that OSS functions are operationally ready is actual commercial usage.<sup>90</sup> Absent sufficient and reliable data on commercial usage, the Commission 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.<sup>91</sup> Although the Commission does not require OSS testing, a persuasive test will provide us with 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 by competitors. The persuasiveness of a third-party review, however, is dependent upon the qualifications, experience and independence of the third party

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<sup>83</sup> *Id.* at 3992, para. 87; *see also Ameritech Michigan Order*, 12 FCC Rcd at 20616, para. 136 (The Commission determines "whether the BOC has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and whether the BOC is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them."). For example, a BOC must provide competing carriers the specifications necessary to design their systems interfaces and business rules necessary to format orders, and demonstrate that systems are scalable to handle current and projected demand. *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> Business rules refer to the protocols that a BOC uses to ensure uniformity in the format of orders and include information concerning ordering codes such as universal service ordering codes (USOCs) and field identifiers (FIDs). *Id.*; *see also Ameritech Michigan Order*, 12 FCC Rcd at 20617 n.335.

<sup>86</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 3992, para. 88.

<sup>87</sup> *Id.*

<sup>88</sup> *See id.*

<sup>89</sup> *Id.* at 3993, para. 89.

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

and the conditions and scope of the review itself.<sup>92</sup> If the review is limited in scope or depth or is not independent and blind, the Commission will give it minimal weight. As noted above, to the extent the Commission 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.<sup>93</sup> Individual performance disparities may, nevertheless, result in a finding of checklist noncompliance, particularly 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.

**a. Relevance of a BOC's Prior Section 271 Orders**

32. The *SWBT Kansas/Oklahoma Order* specifically outlined a non-exhaustive evidentiary showing that must be made in the initial application when a BOC seeks to rely on evidence presented in another application.<sup>94</sup> First, a BOC's application must explain the extent to which the OSS are "the same" – that is, whether it employs the shared use of a single OSS, or the use of systems that are identical, but separate.<sup>95</sup> To satisfy this inquiry, the Commission looks to whether the relevant states utilize a common set of processes, business rules, interfaces, systems and, in many instances, even personnel.<sup>96</sup> The Commission will also carefully examine third party reports that demonstrate that the BOC's OSS are the same in each of the relevant states.<sup>97</sup> Finally, where a BOC has discernibly separate OSS, it must demonstrate that its OSS reasonably can be expected to behave in the same manner.<sup>98</sup> Second, unless an applicant seeks to establish only that certain discrete components of its OSS are the same, an applicant must submit evidence relating to *all* aspects of its OSS, including those OSS functions performed by BOC personnel.

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<sup>92</sup> See *id.*; *Ameritech Michigan Order*, 12 FCC Rcd at 20659 (emphasizing that a third-party review should encompass the entire obligation of the incumbent LEC to provide nondiscriminatory access, and, where applicable, should consider the ability of actual competing carriers in the market to operate using the incumbent's OSS access).

<sup>93</sup> See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6301-02, para. 138.

<sup>94</sup> See *id.* at 6286-91, paras. 107-18

<sup>95</sup> See *id.* at 6288, para. 111.

<sup>96</sup> The Commission has consistently held that a BOC's OSS includes both mechanized systems and manual processes, and thus the OSS functions performed by BOC personnel have been part of the FCC's OSS functionality and commercial readiness reviews.

<sup>97</sup> See *SWBT Kansas/Oklahoma Order*, *id.* at 6287, para. 108.

<sup>98</sup> See *id.* at 6288, para. 111.

**b. Pre-Ordering**

33. A BOC must demonstrate that: (i) it offers nondiscriminatory access to OSS pre-ordering functions associated with determining whether a loop is capable of supporting xDSL advanced technologies; (ii) competing carriers successfully have built and are using application-to-application interfaces to perform pre-ordering functions and are able to integrate pre-ordering and ordering interfaces;<sup>99</sup> and (iii) its pre-ordering systems provide reasonably prompt response times and are consistently available in a manner that affords competitors a meaningful opportunity to compete.<sup>100</sup>

34. The pre-ordering phase of OSS generally includes those activities that a carrier undertakes to gather and verify the information necessary to place an order.<sup>101</sup> Given that pre-ordering represents the first exposure that a prospective customer has to a competing carrier, it is critical that a competing carrier is able to accomplish pre-ordering activities in a manner no less efficient and responsive than the incumbent.<sup>102</sup> Most of the pre-ordering activities that must be undertaken by a competing carrier to order resale services and UNEs from the incumbent are analogous to the activities a BOC must accomplish to furnish service to its own customers. For these pre-ordering functions, a BOC must demonstrate that it provides requesting carriers access that enables them to perform pre-ordering functions in substantially the same time and manner as its retail operations.<sup>103</sup> For those pre-ordering functions that lack a retail analogue, a BOC must provide access that affords an efficient competitor a meaningful opportunity to compete.<sup>104</sup> In

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<sup>99</sup> In prior orders, the Commission has emphasized that providing pre-ordering functionality through an application-to-application interface is essential in enabling carriers to conduct real-time processing and to integrate pre-ordering and ordering functions in the same manner as the BOC. *SWBT Texas Order*, 15 FCC Rcd at 18426, para. 148.

<sup>100</sup> The Commission has held previously that an interface that provides responses in a prompt timeframe and is stable and reliable, is necessary for competing carriers to market their services and serve their customers as efficiently and at the same level of quality as a BOC serves its own customers. *See Bell Atlantic New York Order*, 15 FCC Rcd at 4025 and 4029, paras. 145 and 154.

<sup>101</sup> *See Bell Atlantic New York Order*, 15 FCC Rcd at 4014, para. 129; *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20660, para. 94 (referring to “pre-ordering and ordering” collectively as “the exchange of information between telecommunications carriers about current or proposed customer products and services or unbundled network elements or some combination thereof”). In prior orders, the Commission has identified the following five pre-order functions: (1) customer service record (CSR) information; (2) address validation; (3) telephone number information; (4) due date information; (5) services and feature information. *See Bell Atlantic New York Order*, 15 FCC Rcd at 4015, para. 132; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20660, para. 94; *BellSouth South Carolina Order*, 13 FCC Rcd at 619, para. 147.

<sup>102</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 4014, para. 129.

<sup>103</sup> *Id.*; *see also BellSouth South Carolina Order*, 13 FCC Rcd at 623-29 (concluding that failure to deploy an application-to-application interface denies competing carriers equivalent access to pre-ordering OSS functions).

<sup>104</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 4014, para. 129.

prior orders, the Commission has emphasized that providing pre-ordering functionality through an application-to-application interface is essential in enabling carriers to conduct real-time processing and to integrate pre-ordering and ordering functions in the same manner as the BOC.<sup>105</sup>

**(i) Access to Loop Qualification Information**

35. In accordance with the *UNE Remand Order*,<sup>106</sup> the Commission requires incumbent carriers to provide competitors with access to all of the same detailed information about the loop that is available to the incumbents,<sup>107</sup> and in the same time frame, so that a competing carrier can make an independent judgment at the pre-ordering stage about whether an end user loop is capable of supporting the advanced services equipment the competing carrier intends to install.<sup>108</sup> Under the *UNE Remand Order*, the relevant inquiry is not whether a BOC's retail arm accesses such underlying information but whether such information exists anywhere in a BOC's back office and can be accessed by any of a BOC's personnel.<sup>109</sup> Moreover, a BOC may not "filter or digest" the underlying information and may not provide only information that is useful in provisioning of a particular type of xDSL that a BOC offers.<sup>110</sup> A BOC must also provide loop qualification information based, for example, on an individual address or zip code of the end users in a particular wire center, NXX code or on any other basis that the BOC provides such information to itself. Moreover, a BOC must also provide access for competing carriers to the loop qualifying information that the BOC can itself access manually or electronically. Finally, a BOC must provide access to loop qualification information to competitors within the same time intervals it is provided to the BOC's retail operations or its

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<sup>105</sup> See *id.* at 4014, para. 130; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20661-67, para. 105.

<sup>106</sup> *UNE Remand Order*, 15 FCC Rcd at 3885, para. 426 (determining "that the pre-ordering function includes access to loop qualification information").

<sup>107</sup> See *id.* At a minimum, a BOC must provide (1) the composition of the loop material, including both fiber and copper; (2) the existence, location and type of any electronic or other equipment on the loop, including but not limited to, digital loop carrier or other remote concentration devices, feeder/distribution interfaces, bridge taps, load coils, pair-gain devices, disturbers in the same or adjacent binder groups; (3) the loop length, including the length and location of each type of transmission media; (4) the wire gauge(s) of the loop; and (5) the electrical parameters of the loop, which may determine the suitability of the loop for various technologies. *Id.*

<sup>108</sup> As the Commission has explained in prior proceedings, because characteristics of a loop, such as its length and the presence of various impediments to digital transmission, can hinder certain advanced services technologies, carriers often seek to "pre-qualify" a loop by accessing basic loop makeup information that will assist carriers in ascertaining whether the loop, either with or without the removal of the impediments, can support a particular advanced service. See *id.*, 15 FCC Rcd at 4021, para. 140.

<sup>109</sup> *UNE Remand Order*, 15 FCC Rcd at 3885-3887, paras. 427-431 (noting that "to the extent such information is not normally provided to the incumbent's retail personnel, but can be obtained by contacting back office personnel, it must be provided to requesting carriers within the same time frame that any incumbent personnel are able to obtain such information.").

<sup>110</sup> See *SWBT Kansas Oklahoma Order*, 16 FCC Rcd at 6292-93, para. 121.



advanced services affiliate.<sup>111</sup> As the Commission determined in the *UNE Remand Order*, however, “to the extent such information is not normally provided to the incumbent’s retail personnel, but can be obtained by contacting back office personnel, it must be provided to requesting carriers within the same time frame that any incumbent personnel are able to obtain such information.”<sup>112</sup>

### c. Ordering

36. Consistent with section 271(c)(2)(B)(ii), a BOC must demonstrate its ability to provide competing carriers with access to the OSS functions necessary for placing wholesale orders. For those functions of the ordering systems for which there is a retail analogue, a BOC must demonstrate, with performance data and other evidence, that it provides competing carriers with access to its OSS in substantially the same time and manner as it provides to its retail operations. For those ordering functions that lack a direct retail analogue, a BOC must demonstrate that its systems and performance allow an efficient carrier a meaningful opportunity to compete. As in prior section 271 orders, the Commission looks primarily at the applicant’s ability to return order confirmation notices, order reject notices, order completion notices and jeopardies, and at its order flow-through rate.<sup>113</sup>

### d. Provisioning

37. 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.<sup>114</sup> Consistent with the approach in prior section 271 orders, the Commission examines a BOC’s provisioning processes, as well as its performance with respect to provisioning timeliness (i.e., missed due dates and average installation intervals) and provisioning quality (i.e., service problems experienced at the provisioning stage).<sup>115</sup>

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<sup>111</sup> *Id.*

<sup>112</sup> *UNE Remand Order*, 15 FCC Rcd at 3885-3887, paras. 427-31.

<sup>113</sup> See *SWBT Texas Order*, 15 FCC Rcd at 18438, para. 170; *Bell Atlantic New York Order*, 15 FCC Rcd at 4035-39, paras. 163-66. The Commission examines (i) order flow-through rates, (ii) jeopardy notices and (iii) order completion notices using the “same time and manner” standard. The Commission examines order confirmation notices and order rejection notices using the “meaningful opportunity to compete” standard.

<sup>114</sup> See *Bell Atlantic New York*, 15 FCC Rcd at 4058, para. 196. For provisioning timeliness, the Commission looks to missed due dates and average installation intervals; for provisioning quality, the Commission looks to service problems experienced at the provisioning stage.

<sup>115</sup> *Id.*

**e. Maintenance and Repair**

38. A competing carrier that provides service through resale or UNEs remains dependent upon the incumbent LEC for maintenance and repair. Thus, as part of its obligation to provide nondiscriminatory access to OSS functions, a BOC must provide requesting carriers with nondiscriminatory access to its maintenance and repair systems.<sup>116</sup> To the extent a BOC performs analogous maintenance and repair functions for its retail operations, it must provide competing carriers access that enables them to perform maintenance and repair functions “in substantially the same time and manner” as a BOC provides its retail customers.<sup>117</sup> Equivalent access ensures that competing carriers can assist customers experiencing service disruptions using the same network information and diagnostic tools that are available to BOC personnel.<sup>118</sup> Without equivalent access, a competing carrier would be placed at a significant competitive disadvantage, as its customer would perceive a problem with a BOC’s network as a problem with the competing carrier’s own network.<sup>119</sup>

**f. Billing**

39. A BOC must provide nondiscriminatory access to its billing functions, which is necessary to enable competing carriers to provide accurate and timely bills to their customers.<sup>120</sup> In making this determination, the Commission assesses a BOC’s billing processes and systems, and its performance data. Consistent with prior section 271 orders, a BOC must 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, and with wholesale bills in a manner that gives competing carriers a meaningful opportunity to compete.<sup>121</sup>

**g. Change Management Process**

40. Competing carriers need information about, and specifications for, an incumbent’s systems and interfaces to develop and modify their systems and procedures to

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<sup>116</sup> *Id.* at 4067, para. 212; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20692; *Ameritech Michigan Order*, 12 FCC Rcd at 20613, 20660-61.

<sup>117</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 4058, para. 196; *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20692-93.

<sup>118</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 4058, para. 196.

<sup>119</sup> *Id.*

<sup>120</sup> *See SWBT Texas Order*, 15 FCC Rcd at 18461, para. 210.

<sup>121</sup> *See id.*; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6316-17, at para. 163.

access the incumbent's OSS functions.<sup>122</sup> Thus, in order to demonstrate that it is providing nondiscriminatory access to its OSS, a BOC must first demonstrate that it "has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and . . . is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them."<sup>123</sup> By showing that it adequately assists competing carriers to use available OSS functions, a BOC provides evidence that it offers an efficient competitor a meaningful opportunity to compete.<sup>124</sup> As part of this demonstration, the Commission will give substantial consideration to the existence of an adequate change management process and evidence that the BOC has adhered to this process over time.<sup>125</sup>

41. The change management process refers to the methods and procedures that the BOC employs to communicate with competing carriers regarding the performance of, and changes in, the BOC's OSS.<sup>126</sup> Such changes may include 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.<sup>127</sup> Without a change management process in place, a BOC can impose substantial costs on competing carriers simply by making changes to its systems and interfaces without providing adequate testing opportunities and accurate and timely notice and documentation of the changes.<sup>128</sup> Change management problems can impair a competing carrier's ability to obtain nondiscriminatory access to UNEs, and hence a BOC's compliance with section 271(2)(B)(ii).<sup>129</sup>

42. In evaluating whether a BOC's change management plan affords an efficient competitor a meaningful opportunity to compete, the Commission first assesses whether the plan is adequate. In making this determination, it assesses whether the evidence demonstrates: (1) that information relating to the change management process is clearly organized and readily

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<sup>122</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 3999-4000, para. 102; *First BellSouth Louisiana Order*, 13 FCC Rcd at 6279 n.197; *BellSouth South Carolina Order*, 13 FCC Rcd at 625 n.467; *Ameritech Michigan Order*, 12 FCC Rcd at 20617 n.334; *Local Competition Second Report and Order*, 11 FCC Rcd at 19742.

<sup>123</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 3999, para. 102.

<sup>124</sup> *Id.* at 3999-4000, para. 102.

<sup>125</sup> *Id.* at 4000, para. 102.

<sup>126</sup> *Id.* at 4000, para. 103.

<sup>127</sup> *Id.*

<sup>128</sup> *Id.* at 4000, para. 103.

<sup>129</sup> *Id.*

accessible to competing carriers;<sup>130</sup> (2) that competing carriers had substantial input in the design and continued operation of the change management process;<sup>131</sup> (3) that the change management plan defines a procedure for the timely resolution of change management disputes;<sup>132</sup> (4) the availability of a stable testing environment that mirrors production;<sup>133</sup> and (5) the efficacy of the documentation the BOC makes available for the purpose of building an electronic gateway.<sup>134</sup> After determining whether the BOC's change management plan is adequate, the Commission evaluates whether the BOC has demonstrated a pattern of compliance with this plan.<sup>135</sup>

## 2. UNE Combinations

43. In order to comply with the requirements of checklist item 2, a BOC must show that it is offering “[n]ondiscriminatory access to network elements in accordance with the requirements of section 251(c)(3).”<sup>136</sup> 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.”<sup>137</sup> Section 251(c)(3) of the Act 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.<sup>138</sup>

44. In the *Ameritech Michigan Order*, the Commission 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.<sup>139</sup> 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

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<sup>130</sup> *Id.* at 4002, para. 107.

<sup>131</sup> *Id.* at 4000, para. 104.

<sup>132</sup> *Id.* at 4002, para. 108.

<sup>133</sup> *Id.* at 4002-03, paras. 109-10.

<sup>134</sup> *Id.* at 4003-04, para. 110. In the *Bell Atlantic New York Order*, the Commission used these factors in determining whether Bell Atlantic had an adequate change management process in place. *See id.* at 4004, para. 111. The Commission left open the possibility, however, that a change management plan different from the one implemented by Bell Atlantic may be sufficient to demonstrate compliance with the requirements of section 271. *Id.*

<sup>135</sup> *Id.* at 3999, para. 101, 4004-05, para. 112.

<sup>136</sup> 47 U.S.C. § 271(c)(2)(B)(ii).

<sup>137</sup> *Id.* § 251(c)(3).

<sup>138</sup> *Id.*

<sup>139</sup> *Ameritech Michigan Order*, 12 FCC Rcd at 20718-19; *BellSouth South Carolina Order*, 13 FCC Rcd at 646.

in the local telecommunications market.<sup>140</sup> 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.<sup>141</sup> 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 Commission 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.<sup>142</sup>

### 3. Pricing of Network Elements

45. Checklist item 2 of section 271 states that a BOC must provide "nondiscriminatory access to network elements in accordance with sections 251(c)(3) and 252(d)(1)" of the Act.<sup>143</sup> 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."<sup>144</sup> 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.<sup>145</sup> Pursuant to this statutory mandate, the Commission has determined that prices for UNEs must be based on the total element long run incremental cost (TELRIC) of providing those elements.<sup>146</sup> The Commission also

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<sup>140</sup> *BellSouth South Carolina Order*, 13 FCC Rcd at 646; *see also Local Competition First Report and Order*, 11 FCC Rcd at 15666-68.

<sup>141</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 4077-78, para. 230.

<sup>142</sup> *Id.* In *Iowa Utilities Board v. FCC*, 219 F.3d 744 (8th Cir. 2000), the Eighth Circuit had vacated the Commission's "additional combinations" rules (47 C.F.R. Sections 51-315(c)-(f)). However, on May 13, 2002, the Supreme Court reversed the Eighth Circuit with respect to those rules and remanded the case to the court of appeals "for further proceedings consistent with this opinion." *Verizon Communications Inc. v. FCC*, 535 U.S. 467, 539. *See also id.* at 1683-87. In response, the Eighth Circuit, on August 21, 2002, vacated its prior opinion insofar as it had vacated the pertinent combinations rules and denied the petitions for review with respect to those rules. *Iowa Utilities Board v. FCC*, 8th Circuit Nos. 96-3321, *et al.*, Judgment, filed August 21, 2002.). *See also Competitive Telecommunications Association v. FCC*, 309 F. 3d 8 (2002) (affirming the Commission's interim decision to limit the ability of competitive local exchange carriers to gain access to a network element combination known as the enhanced extended link).

<sup>143</sup> 47 U.S.C. § 271(c)(2)(B)(ii).

<sup>144</sup> *Id.* § 251(c)(3).

<sup>145</sup> 47 U.S.C. § 252(d)(1).

<sup>146</sup> *Local Competition First Report and Order*, 11 FCC Rcd at 15844-46, paras. 674-79; 47 C.F.R. §§ 51.501 *et seq.*; *see also Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, and *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Report and Order, 14 FCC Rcd 20912, 20974, para. 135 (*Line Sharing Order*) (concluding that states should set the prices for line sharing as a new network element in the same manner as the state sets prices for other UNEs).

promulgated rule 51.315(b), which prohibits incumbent LECs from separating already combined elements before providing them to competing carriers, except on request.<sup>147</sup> The Commission has previously 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."<sup>148</sup>

46. Although the U.S. Court of Appeals for the Eighth Circuit stayed the Commission's pricing rules in 1996,<sup>149</sup> the Supreme Court restored the Commission's pricing authority on January 25, 1999, and remanded to the Eighth Circuit for consideration of the merits of the challenged rules.<sup>150</sup> On remand from the Supreme Court, the Eighth Circuit concluded that while TELRIC is an acceptable method for determining costs, certain specific requirements contained within the Commission's pricing rules were contrary to Congressional intent.<sup>151</sup> The Eighth Circuit stayed the issuance of its mandate pending review by the Supreme Court.<sup>152</sup> The Supreme Court, on May 13, 2002, upheld the Commission's forward-looking pricing methodology in determining 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."<sup>153</sup> Accordingly, the Commission's pricing rules remain in effect.

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<sup>147</sup> See 47 C.F.R. § 51.315(b).

<sup>148</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 4084, para. 244; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6266, para. 59.

<sup>149</sup> *Iowa Utils. Bd. v. FCC*, 120 F.3d 753, 800, 804, 805-06 (8<sup>th</sup> Cir. 1997).

<sup>150</sup> *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999). In reaching its decision, the Court acknowledged that section 201(b) "explicitly grants the FCC jurisdiction to make rules governing matters to which the 1996 Act applies." *Id.* at 380. Furthermore, the Court determined that section 251(d) also provides evidence of an express jurisdictional grant by requiring that "the Commission [shall] complete all actions necessary to establish regulations to implement the requirements of this section." *Id.* at 382. The Court also held that the pricing provisions implemented under the Commission's rulemaking authority do not inhibit the establishment of rates by the states. The Court concluded that the Commission has jurisdiction to design a pricing methodology to facilitate local competition under the 1996 Act, including pricing for interconnection and unbundled access, as "it is the States that will apply those standards and implement that methodology, determining the concrete result." *Id.*

<sup>151</sup> *Iowa Utils. Bd. v. FCC*, 219 F.3d 744 (8<sup>th</sup> Cir. 2000), *petition for cert. granted sub nom. Verizon Communications v. FCC*, 121 S. Ct. 877 (2001).

<sup>152</sup> *Iowa Utils. Bd. v. FCC*, No. 96-3321 *et al.* (8<sup>th</sup> Cir. Sept. 25, 2000).

<sup>153</sup> *Verizon v. FCC*, 535 U.S. 467, 523. On August 21, 2002, the Eighth Circuit implemented the Supreme Court's mandate with respect to the Commission's TELRIC pricing rule by vacating its prior opinion insofar as it had invalidated that rule and by denying the petitions for review of that rule. *Iowa Utilities Board v. FCC*, 8th Circuit Nos. 96-3321, *et al.*, Judgment, filed August 21, 2002.

### C. Checklist Item 3 – Poles, Ducts, Conduits and Rights of Way

47. Section 271(c)(2)(B)(iii) requires BOCs to provide “[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.”<sup>154</sup> 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.”<sup>155</sup> 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.”<sup>156</sup> Section 224 also contains two separate provisions governing the maximum rates that a utility may charge for “pole attachments.”<sup>157</sup> 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.”<sup>158</sup> 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 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.”<sup>159</sup> As of 1992, nineteen

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<sup>154</sup> 47 U.S.C. § 271(c)(2)(B)(iii). As originally enacted, section 224 was intended to address obstacles that cable operators encountered in obtaining access to poles, ducts, conduits, or rights-of-way owned or controlled by utilities. The 1996 Act amended section 224 in several important respects to ensure that telecommunications carriers as well as cable operators 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.

<sup>155</sup> 47 U.S.C. § 224(f)(1). Section 224(a)(1) defines “utility” to include any entity, including a LEC, that controls “poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications.” 47 U.S.C. § 224(a)(1).

<sup>156</sup> 47 U.S.C. § 224(f)(2). In the *Local Competition First Report and Order*, the Commission 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, paras. 1175-77.

<sup>157</sup> 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).

<sup>158</sup> 47 U.S.C. § 224(b)(1).

<sup>159</sup> *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*, 11 FCC Rcd at 16104, para. 1232; 47 U.S.C. § 224(f). Absent state regulation of terms and conditions of nondiscriminatory attachment access, the Commission retains jurisdiction. *Local Competition First Report and Order*, 11 FCC Rcd at 16104, para. 1232; 47 U.S.C. § 224(c)(1); *see also Bell Atlantic New York Order*, 15 FCC Rcd at 4093, para. 264.

states, including Connecticut, had certified to the Commission that they regulated the rates, terms, and conditions for pole attachments.<sup>160</sup>

#### **D. Checklist Item 4 – Unbundled Local Loops**

48. Section 271(c)(2)(B)(iv) of the Act, item 4 of the competitive checklist, requires that a BOC provide “[l]ocal loop transmission from the central office to the customer’s premises, unbundled from local switching or other services.”<sup>161</sup> The Commission has defined 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. This definition includes different types of loops, including two-wire and four-wire analog voice-grade loops, and two-wire and four-wire loops that are conditioned to transmit the digital signals needed to provide service such as ISDN, ADSL, HDSL, and DS1-level signals.<sup>162</sup>

49. In order to establish that it is “providing” unbundled local loops in compliance with checklist item 4, a BOC must demonstrate that it has a concrete and specific legal obligation to furnish loops and that it is currently doing so in the quantities that competitors demand and at an acceptable level of quality. A BOC must also demonstrate that it provides nondiscriminatory access to unbundled loops.<sup>163</sup> Specifically, the BOC must provide access to any functionality of the loop requested by a competing carrier unless it is not technically feasible to condition the loop facility to support the particular functionality requested. 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 to enable competing carriers to provide services not currently provided over the facilities. The BOC 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.

50. On December 9, 1999, the Commission released the *Line Sharing Order*, which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL).<sup>164</sup> HFPL is defined as “the frequency above the

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<sup>160</sup> See *States That Have Certified That They Regulate Pole Attachments*, Public Notice, 7 FCC Rcd 1498 (1992); 47 U.S.C. § 224(f).

<sup>161</sup> 47 U.S.C. § 271(c)(2)(B)(iv).

<sup>162</sup> *Local Competition First Report and Order*, 11 FCC Rcd at 15691, para. 380; *UNE Remand Order*, 15 FCC Rcd at 3772-73, paras. 166-67, n.301 (retaining definition of the local loop from the *Local Competition First Report and Order*, but replacing the phrase “network interconnection device” with “demarcation point,” and making explicit that dark fiber and loop conditioning are among the features, functions and capabilities of the loop).

<sup>163</sup> *SWBT Texas Order*, 15 FCC Rcd at 18481-81, para. 248; *Bell Atlantic New York Order*, 15 FCC Rcd at 4095, para. 269; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20637, para. 185.

<sup>164</sup> See *Line Sharing Order*, 14 FCC Rcd at 20924-27, paras. 20-27; see also n.63 at C-12 *supra*.



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 copper or by digital loop carrier equipment. Competing carriers should have access to the HFPL at either a central office or at a remote terminal. However, the HFPL network element is *only* available on a copper loop facility.<sup>165</sup>

51. To determine whether a BOC makes line sharing available consistent with Commission rules set out in the *Line Sharing Order*, the Commission examines categories of performance measurements identified in the *Bell Atlantic New York* and *SWBT Texas Orders*. Specifically, a successful BOC applicant could provide evidence of BOC-caused missed installation due dates, average installation intervals, trouble reports within 30 days of installation, mean time to repair, trouble report rates, and repeat trouble report rates. In addition, a successful BOC applicant should provide evidence that its central offices are operationally ready to handle commercial volumes of line sharing and that it provides competing carriers with nondiscriminatory access to the pre-ordering and ordering OSS functions associated with the provision of line shared loops, including access to loop qualification information and databases.

52. Section 271(c)(2)(B)(iv) also requires that a BOC demonstrate that it makes line splitting available to competing carriers so that competing carriers may provide voice and data service over a single loop.<sup>166</sup> 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. To make such a showing, a BOC must show 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.<sup>167</sup>

#### **E. Checklist Item 5 – Unbundled Local Transport**

53. Section 271(c)(2)(B)(v) of the competitive checklist requires a BOC to provide “[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from

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<sup>165</sup> See *Deployment of Wireline Services offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order on Reconsideration in CC Docket No. 98-147, Fourth Report and Order on Reconsideration in CC Docket No. 96-98, 16 FCC Rcd 2101, 2106-07, para. 10 (2001).

<sup>166</sup> See generally *SWBT Texas Order*, 15 FCC Rcd at 18515-17, paras. 323-329 (describing line splitting); 47 C.F.R. § 51.703(c) (requiring that incumbent LECs provide competing carriers with access to unbundled loops in a manner that allows competing carriers “to provide any telecommunications service that can be offered by means of that network element”).

<sup>167</sup> See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6348, para. 220.

switching or other services.”<sup>168</sup> The Commission has required that BOCs provide both dedicated and shared transport to requesting carriers.<sup>169</sup> Dedicated transport consists of BOC transmission facilities dedicated to a particular customer or carrier that provide telecommunications between wire centers owned by BOCs or requesting telecommunications carriers, or between switches owned by BOCs or requesting telecommunications carriers.<sup>170</sup> Shared transport consists of transmission facilities shared by more than one carrier, including the BOC, between end office switches, between end office switches and tandem switches, and between tandem switches, in the BOC’s network.<sup>171</sup>

#### F. Checklist Item 6 – Unbundled Local Switching

54. Section 271(c)(2)(B)(vi) of the 1996 Act requires a BOC to provide “[l]ocal switching unbundled from transport, local loop transmission, or other services.”<sup>172</sup> In the *Second BellSouth Louisiana Order*, the Commission required BellSouth to provide unbundled local switching that included line-side and trunk-side facilities, plus the features, functions, and capabilities of the switch.<sup>173</sup> The features, functions, and capabilities of the switch include the

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<sup>168</sup> 47 U.S.C. § 271(c)(2)(B)(v).

<sup>169</sup> *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20719, para. 201.

<sup>170</sup> *Id.* A BOC has the following obligations with respect to dedicated transport: (a) provide unbundled access to dedicated transmission facilities between BOC central offices or between such offices and serving wire centers (SWCs); between SWCs and interexchange carriers points of presence (POPs); between tandem switches and SWCs, end offices or tandems of the BOC, and the wire centers of BOCs and requesting carriers; (b) provide all technically feasible transmission capabilities such as DS1, DS3, and Optical Carrier levels that the competing carrier could use to provide telecommunications; (c) not limit the facilities to which dedicated interoffice transport facilities are connected, provided such interconnections are technically feasible, or restrict the use of unbundled transport facilities; and (d) to the extent technically feasible, provide requesting carriers with access to digital cross-connect system functionality in the same manner that the BOC offers such capabilities to interexchange carriers that purchase transport services. *Id.* at 20719.

<sup>171</sup> *Id.* at 20719, n.650. The Commission also found that a BOC has the following obligations with respect to shared transport: (a) provide shared transport in a way that enables the traffic of requesting carriers to be carried on the same transport facilities that a BOC uses for its own traffic; (b) provide shared transport transmission facilities between end office switches, between its end office and tandem switches, and between tandem switches in its network; (c) permit requesting carriers that purchase unbundled shared transport and unbundled switching to use the same routing table that is resident in the BOC’s switch; and (d) permit requesting carriers to use shared (or dedicated) transport as an unbundled element to carry originating access traffic from, and terminating traffic to, customers to whom the requesting carrier is also providing local exchange service. *Id.* at 20720, n.652.

<sup>172</sup> 47 U.S.C. § 271(c)(2)(B)(vi); *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20722. A switch connects end user lines to other end user lines, and connects end user lines to trunks used for transporting a call to another central office or to a long-distance carrier. Switches can also provide end users with “vertical features” such as call waiting, call forwarding, and caller ID, and can direct a call to a specific trunk, such as to a competing carrier’s operator services.

<sup>173</sup> *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20722, para. 207.

basic switching function as well as the same basic capabilities that are available to the incumbent LEC's customers.<sup>174</sup> Additionally, local switching includes all vertical features that the switch is capable of providing, as well as any technically feasible customized routing functions.<sup>175</sup>

55. Moreover, in the *Second BellSouth Louisiana Order*, the Commission required BellSouth to permit competing carriers to purchase UNEs, including unbundled switching, in a manner that permits a competing carrier to offer, and bill for, exchange access and the termination of local traffic.<sup>176</sup> The Commission also stated that measuring daily customer usage for billing purposes requires essentially the same OSS functions for both competing carriers and incumbent LECs, and that a BOC must demonstrate that it is providing equivalent access to billing information.<sup>177</sup> Therefore, the ability of a BOC to provide billing information necessary for a competitive LEC to bill for exchange access and termination of local traffic is an aspect of unbundled local switching.<sup>178</sup> Thus, there is an overlap between the provision of unbundled local switching and the provision of the OSS billing function.<sup>179</sup>

56. To comply with the requirements of unbundled local switching, a BOC must also make available trunk ports on a shared basis and routing tables resident in the BOC's switch, as necessary to provide access to shared transport functionality.<sup>180</sup> In addition, a BOC may not limit the ability of competitors to use unbundled local switching to provide exchange access by requiring competing carriers to purchase a dedicated trunk from an interexchange carrier's point of presence to a dedicated trunk port on the local switch.<sup>181</sup>

#### **G. Checklist Item 7 – 911/E911 Access and Directory Assistance/Operator Services**

57. Section 271(c)(2)(B)(vii) of the Act requires a BOC to provide “[n]ondiscriminatory access to – (I) 911 and E911 services.”<sup>182</sup> In the *Ameritech Michigan*

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<sup>174</sup> *Id.*

<sup>175</sup> *Id.* at 20722-23, para. 207.

<sup>176</sup> *Id.* at 20723, para. 208.

<sup>177</sup> *Id.* at 20723, para. 208 (citing *Ameritech Michigan Order*, 12 FCC Rcd at 20619, para. 140).

<sup>178</sup> *Id.*

<sup>179</sup> *Id.*

<sup>180</sup> *Id.* at 20723, para. 209 (citing the *Ameritech Michigan Order*, 12 FCC Rcd at 20705, para. 306).

<sup>181</sup> *Id.* (citing the *Ameritech Michigan Order*, 12 FCC Rcd at 20714-15, paras. 324-25).

<sup>182</sup> 47 U.S.C. § 271(c)(2)(B)(vii). 911 and E911 services transmit calls from end users to emergency personnel. It is critical that a BOC provide competing carriers with accurate and nondiscriminatory access to 911/E911 services so that these carriers' customers are able to reach emergency assistance. Customers use directory assistance and operator services to obtain customer listing information and other call completion services.

*Order*, the Commission found that “section 271 requires a BOC to provide competitors access to its 911 and E911 services in the same manner that a BOC obtains such access, *i.e.*, at parity.”<sup>183</sup> Specifically, the Commission found that a BOC “must maintain the 911 database entries for competing LECs with the same accuracy and reliability that it maintains the database entries for its own customers.”<sup>184</sup> For facilities-based carriers, the BOC must provide “unbundled access to [its] 911 database and 911 interconnection, including the provision of dedicated trunks from the requesting carrier’s switching facilities to the 911 control office at parity with what [the BOC] provides to itself.”<sup>185</sup> Section 271(c)(2)(B)(vii)(II) and section 271(c)(2)(B)(vii)(III) require a BOC to provide nondiscriminatory access to “directory assistance services to allow the other carrier’s customers to obtain telephone numbers” and “operator call completion services,” respectively.<sup>186</sup> Section 251(b)(3) of the Act imposes on each LEC “the duty to permit all [competing providers of telephone exchange service and telephone toll service] to have nondiscriminatory access to . . . operator services, directory assistance, and directory listing, with no unreasonable dialing delays.”<sup>187</sup> The Commission concluded in the *Second BellSouth Louisiana Order* that a BOC must be in compliance with the regulations implementing section 251(b)(3) to satisfy the requirements of sections 271(c)(2)(B)(vii)(II) and 271(c)(2)(B)(vii)(III).<sup>188</sup> In the *Local Competition Second Report and Order*, the Commission

<sup>183</sup> *Ameritech Michigan Order*, 12 FCC Rcd at 20679, para. 256.

<sup>184</sup> *Id.*

<sup>185</sup> *Id.*

<sup>186</sup> 47 U.S.C. §§ 271(c)(2)(B)(vii)(II), (III).

<sup>187</sup> *Id.* § 251(b)(3). The Commission implemented section 251(b)(3) in the *Local Competition Second Report and Order*. 47 C.F.R. § 51.217; *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392 (1996) (*Local Competition Second Report and Order*) vacated in part sub nom. *People of the State of California v. FCC*, 124 F.3d 934 (8th Cir. 1997), overruled in part, *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999); see also *Implementation of the Telecommunications Act of 1996: Provision of Directory Listings Information under the Telecommunications Act of 1934*, Notice of Proposed Rulemaking, 14 FCC Rcd 15550 (1999) (*Directory Listings Information NPRM*).

<sup>188</sup> While both sections 251(b)(3) and 271(c)(2)(B)(vii)(II) refer to nondiscriminatory access to “directory assistance,” section 251(b)(3) refers to nondiscriminatory access to “operator services,” while section 271(c)(2)(B)(vii)(III) refers to nondiscriminatory access to “operator call completion services.” 47 U.S.C. §§ 251(b)(3), 271(c)(2)(B)(vii)(III). The term “operator call completion services” is not defined in the Act, nor has the Commission previously defined the term. However, for section 251(b)(3) purposes, the term “operator services” was defined as meaning “any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call.” *Local Competition Second Report and Order*, 11 FCC Rcd at 19448, para. 110. In the same order the Commission concluded that busy line verification, emergency interrupt, and operator-assisted directory assistance are forms of “operator services,” because they assist customers in arranging for the billing or completion (or both) of a telephone call. *Id.* at 19449, para. 111. All of these services may be needed or used to place a call. For example, if a customer tries to direct dial a telephone number and constantly receives a busy signal, the customer may contact the operator to attempt to complete the call. Since billing is a necessary part of call completion, and busy line verification, emergency interrupt, and operator-assisted directory assistance can all be used when an operator completes a call, the Commission concluded in the *Second BellSouth Louisiana Order* that (continued....)

held that the phrase “nondiscriminatory access to directory assistance and directory listings” means that “the customers of all telecommunications service providers should be able to access each LEC’s directory assistance service and obtain a directory listing on a nondiscriminatory basis, notwithstanding: (1) the identity of a requesting customer’s local telephone service provider; or (2) the identity of the telephone service provider for a customer whose directory listing is requested.”<sup>189</sup> The Commission concluded that nondiscriminatory access to the dialing patterns of 4-1-1 and 5-5-5-1-2-1-2 to access directory assistance were technically feasible, and would continue.<sup>190</sup> The Commission specifically held that the phrase “nondiscriminatory access to operator services” means that “a telephone service customer, regardless of the identity of his or her local telephone service provider, must be able to connect to a local operator by dialing ‘0,’ or ‘0 plus’ the desired telephone number.”<sup>191</sup>

58. Competing carriers may provide operator services and directory assistance by reselling the BOC’s services, outsourcing service provision to a third-party provider, or using their own personnel and facilities. The Commission’s rules require BOCs to permit competitive LECs wishing to resell the BOC’s operator services and directory assistance to request the BOC to brand their calls.<sup>192</sup> Competing carriers wishing to provide operator services or directory assistance using their own or a third party provider’s facilities and personnel must be able to obtain directory listings either by obtaining directory information on a “read only” or “per dip” basis from the BOC’s directory assistance database, or by creating their own directory assistance

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for checklist compliance purposes, “operator call completion services” is a subset of or equivalent to “operator service.” *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20740, n.763. As a result, the Commission uses the nondiscriminatory standards established for operator services to determine whether nondiscriminatory access is provided.

<sup>189</sup> 47 C.F.R. § 51.217(c)(3); *Local Competition Second Report and Order*, 11 FCC Rcd at 19456-58, paras. 130-35. The *Local Competition Second Report and Order*’s interpretation of section 251(b)(3) is limited “to access to each LEC’s directory assistance service.” *Id.* at 19456, para. 135. However, section 271(c)(2)(B)(vii) is not limited to the LEC’s systems but requires “nondiscriminatory access to . . . directory assistance to allow the other carrier’s customers to obtain telephone numbers.” 47 U.S.C. § 271(c)(2)(B)(vii). Combined with the Commission’s conclusion that “incumbent LECs must unbundle the facilities and functionalities providing operator services and directory assistance from resold services and other unbundled network elements to the extent technically feasible,” *Local Competition First Report and Order*, 11 FCC Rcd at 15772-73, paras. 535-37, section 271(c)(2)(B)(vii)’s requirement should be understood to require the BOCs to provide nondiscriminatory access to the directory assistance service provider selected by the customer’s local service provider, regardless of whether the competitor; provides such services itself; selects the BOC to provide such services; or chooses a third party to provide such services. See *Directory Listings Information NPRM*.

<sup>190</sup> *Local Competition Second Report and Order*, 11 FCC Rcd at 19464, para. 151.

<sup>191</sup> *Id.* at 19464, para. 151.

<sup>192</sup> 47 C.F.R. § 51.217(d); *Local Competition Second Report and Order*, 11 FCC Rcd at 19463, para. 148. For example, when customers call the operator or calls for directory assistance, they typically hear a message, such as “thank you for using XYZ Telephone Company.” Competing carriers may use the BOC’s brand, request the BOC to brand the call with the competitive carriers name or request that the BOC not brand the call at all. 47 C.F.R. § 51.217(d).

database by obtaining the subscriber listing information in the BOC's database.<sup>193</sup> Although the Commission originally concluded that BOCs must provide directory assistance and operator services on an unbundled basis pursuant to sections 251 and 252, the Commission removed directory assistance and operator services from the list of required UNEs in the *UNE Remand Order*.<sup>194</sup> Checklist item obligations that do not fall within a BOC's obligations under section 251(c)(3) are not subject to the requirements of sections 251 and 252 that rates be based on forward-looking economic costs.<sup>195</sup> Checklist item obligations that do not fall within a BOC's UNE obligations, however, still must be provided in accordance with sections 201(b) and 202(a), which require that rates and conditions be just and reasonable, and not unreasonably discriminatory.<sup>196</sup>

#### H. Checklist Item 8 – White Pages Directory Listings

59. Section 271(c)(2)(B)(viii) of the 1996 Act requires a BOC to provide “[w]hite pages directory listings for customers of the other carrier’s telephone exchange service.”<sup>197</sup> Section 251(b)(3) of the 1996 Act obligates all LECs to permit competitive providers of telephone exchange service and telephone toll service to have nondiscriminatory access to directory listing.<sup>198</sup>

60. In the *Second BellSouth Louisiana Order*, the Commission concluded that, “consistent with the Commission’s interpretation of ‘directory listing’ as used in section 251(b)(3), the term ‘white pages’ in section 271(c)(2)(B)(viii) refers to the local alphabetical directory that includes the residential and business listings of the customers of the local exchange provider.”<sup>199</sup> The Commission further concluded, “the term ‘directory listing,’ as used

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<sup>193</sup> 47 C.F.R. § 51.217(C)(3)(ii); *Local Competition Second Report and Order*, 11 FCC Rcd at 19460-61, paras. 141-44; *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Provision of Directory Listing Information Under the Communications Act of 1934, as amended*, Third Report and Order, Second Order on Reconsideration, and Notice of Proposed Rulemaking, 14 FCC Rcd 15550, 15630-31, paras. 152-54 (1999); *Provision of Directory Listing Information Under the Communications Act of 1934, as amended*, First Report and Order, 16 FCC Rcd 2736, 2743-51 (2001).

<sup>194</sup> *UNE Remand Order*, 15 FCC Rcd at 3891-92, paras. 441-42.

<sup>195</sup> *UNE Remand Order*, 15 FCC Rcd at 3905, para. 470; *see generally* 47 U.S.C. §§ 251-52; *see also* 47 U.S.C. § 252(d)(1)(A)(i) (requiring UNE rates to be “based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the ... network element”).

<sup>196</sup> *UNE Remand Order*, 15 FCC Rcd at 3905-06, paras. 470-73; *see also* 47 U.S.C. §§ 201(b), 202(a).

<sup>197</sup> 47 U.S.C. § 271(c)(2)(B)(viii).

<sup>198</sup> *Id.* § 251(b)(3).

<sup>199</sup> *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20748, para. 255.

in this section, includes, at a minimum, the subscriber's name, address, telephone number, or any combination thereof."<sup>200</sup> The Commission's *Second BellSouth Louisiana Order* also held that a BOC satisfies the requirements of checklist item 8 by demonstrating that it: (1) provided nondiscriminatory appearance and integration of white page directory listings to competitive LECs' customers; and (2) provided white page listings for competitors' customers with the same accuracy and reliability that it provides its own customers.<sup>201</sup>

### **I. Checklist Item 9 – Numbering Administration**

61. Section 271(c)(2)(B)(ix) of the 1996 Act requires a BOC to provide “nondiscriminatory access to telephone numbers for assignment to the other carrier’s telephone exchange service customers,” until “the date by which telecommunications numbering administration, guidelines, plan, or rules are established.”<sup>202</sup> The checklist mandates compliance with “such guidelines, plan, or rules” after they have been established.<sup>203</sup> A BOC must demonstrate that it adheres to industry numbering administration guidelines and Commission rules.<sup>204</sup>

### **J. Checklist Item 10 – Databases and Associated Signaling**

62. Section 271(c)(2)(B)(x) of the 1996 Act requires a BOC to provide “nondiscriminatory access to databases and associated signaling necessary for call routing and completion.”<sup>205</sup> In the *Second BellSouth Louisiana Order*, the Commission required BellSouth to demonstrate that it provided requesting carriers with nondiscriminatory access to: “(1) signaling

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<sup>200</sup> *Id.* In the *Second BellSouth Louisiana Order*, the Commission stated that the definition of “directory listing” was synonymous with the definition of “subscriber list information.” *Id.* at 20747 (citing the *Local Competition Second Report and Order*, 11 FCC Rcd at 19458-59). However, the Commission’s decision in a later proceeding obviates this comparison, and supports the definition of directory listing delineated above. *See Implementation of the Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information*, CC Docket No. 96-115, Third Report and Order; *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Second Order on Reconsideration; *Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended*, CC Docket No. 99-273, FCC 99-227, Notice of Proposed Rulemaking, para. 160 (rel. Sept. 9, 1999).

<sup>201</sup> *Id.*

<sup>202</sup> 47 U.S.C. § 271(c)(2)(B)(ix).

<sup>203</sup> *Id.*

<sup>204</sup> *See Second Bell South Louisiana Order*, 13 FCC Rcd at 20752; *see also Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (2000); *Numbering Resource Optimization*, Second Report and Order, Order on Reconsideration in CC Docket No. 99-200 and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200, CC Docket Nos. 96-98; 99-200 (rel. Dec. 29, 2000); *Numbering Resource Optimization*, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200 (rel. Dec. 28, 2001).

<sup>205</sup> 47 U.S.C. § 271(c)(2)(B)(x).

networks, including signaling links and signaling transfer points; (2) certain call-related databases necessary for call routing and completion, or in the alternative, a means of physical access to the signaling transfer point linked to the unbundled database; and (3) Service Management Systems (SMS).”<sup>206</sup> The Commission also required BellSouth to design, create, test, and deploy Advanced Intelligent Network (AIN) based services at the SMS through a Service Creation Environment (SCE).<sup>207</sup> In the *Local Competition First Report and Order*, the Commission defined call-related databases as databases, other than operations support systems, that are used in signaling networks for billing and collection or the transmission, routing, or other provision of telecommunications service.<sup>208</sup> At that time the Commission required incumbent LECs to provide unbundled access to their call-related databases, including but not limited to: the Line Information Database (LIDB), the Toll Free Calling database, the Local Number Portability database, and Advanced Intelligent Network databases.<sup>209</sup> In the *UNE Remand Order*, the Commission clarified that the definition of call-related databases “includes, but is not limited to, the calling name (CNAM) database, as well as the 911 and E911 databases.”<sup>210</sup>

#### **K. Checklist Item 11 – Number Portability**

63. Section 271(c)(2)(B) of the 1996 Act requires a BOC to comply with the number portability regulations adopted by the Commission pursuant to section 251.<sup>211</sup> Section 251(b)(2) requires all LECs “to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.”<sup>212</sup> The 1996 Act defines number portability as “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”<sup>213</sup> In order to prevent the cost of number portability from thwarting local competition, Congress enacted section 251(e)(2), which requires that “[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a

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<sup>206</sup> *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20753, para. 267.

<sup>207</sup> *Id.* at 20755-56, para. 272.

<sup>208</sup> *Local Competition First Report and Order*, 11 FCC Rcd at 15741, n.1126; *UNE Remand Order*, 15 FCC Rcd at 3875, para. 403.

<sup>209</sup> *Id.* at 15741-42, para. 484.

<sup>210</sup> *UNE Remand Order*, 15 FCC Rcd at 3875, para. 403.

<sup>211</sup> 47 U.S.C. § 271(c)(2)(B)(xii).

<sup>212</sup> *Id.* at § 251(b)(2).

<sup>213</sup> *Id.* at § 153(30).



competitively neutral basis as determined by the Commission.”<sup>214</sup> Pursuant to these statutory provisions, the Commission requires LECs to offer interim number portability “to the extent technically feasible.”<sup>215</sup> The Commission also requires LECs to gradually replace interim number portability with permanent number portability.<sup>216</sup> The Commission has established guidelines for states to follow in mandating a competitively neutral cost-recovery mechanism for interim number portability,<sup>217</sup> and created a competitively neutral cost-recovery mechanism for long-term number portability.<sup>218</sup>

#### L. Checklist Item 12 – Local Dialing Parity

64. Section 271(c)(2)(B)(xii) requires a BOC to provide “[n]ondiscriminatory 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).”<sup>219</sup> Section 251(b)(3) imposes upon all LECs “[t]he duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service with no unreasonable dialing delays.”<sup>220</sup> Section 153(15) of the Act defines “dialing parity” as follows:

[A] person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that

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<sup>214</sup> *Id.* at § 251(e)(2); *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20757, para. 274; *In the Matter of Telephone Number Portability*, Third Report and Order, 13 FCC Rcd 11701, 11702-04 (1998) (*Third Number Portability Order*); *In the Matter of Telephone Number Portability*, Fourth Memorandum Opinion and Order on Reconsideration, 15 FCC Rcd 16459, 16460, 16462-65, paras. 1, 6-9 (1999) (*Fourth Number Portability Order*).

<sup>215</sup> *Fourth Number Portability Order*, 15 FCC Rcd at 16465, para. 10; *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8409-12, paras. 110-16 (1996) (*First Number Portability Order*); *see also* 47 U.S.C. § 251(b)(2).

<sup>216</sup> *See* 47 C.F.R. §§ 52.3(b)-(f); *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20758, para. 275; *First Number Portability Order*, 11 FCC Rcd at 8355, 8399-8404, paras. 3, 91; *Third Number Portability Order*, 13 FCC Rcd at 11708-12, paras. 12-16.

<sup>217</sup> *See* 47 C.F.R. § 52.29; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20758, para. 275; *First Number Portability Order*, 11 FCC Rcd at 8417-24, paras. 127-40.

<sup>218</sup> *See* 47 C.F.R. §§ 52.32, 52.33; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20758, para. 275; *Third Number Portability Order*, 13 FCC Rcd at 11706-07, para. 8; *Fourth Number Portability Order* at 16464-65, para. 9.

<sup>219</sup> Based on the Commission’s view that section 251(b)(3) does not limit the duty to provide dialing parity to any particular form of dialing parity (*i.e.*, international, interstate, intrastate, or local), the Commission adopted rules in August 1996 to implement broad guidelines and minimum nationwide standards for dialing parity. *Local Competition Second Report and Order*, 11 FCC Rcd at 19407; *Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket No. 95-185, Further Order On Reconsideration, FCC 99-170 (rel. July 19, 1999).

<sup>220</sup> 47 U.S.C. § 251(b)(3).

customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications services provider of the customer's designation.<sup>221</sup>

65. The rules implementing section 251(b)(3) provide that customers of competing carriers must be able to dial the same number of digits the BOC's customers dial to complete a local telephone call.<sup>222</sup> Moreover, customers of competing carriers must not otherwise suffer inferior quality service, such as unreasonable dialing delays, compared to the BOC's customers.<sup>223</sup>

#### **M. Checklist Item 13 – Reciprocal Compensation**

66. Section 271(c)(2)(B)(xiii) of the Act requires that a BOC enter into “[r]eciprocal compensation arrangements in accordance with the requirements of section 252(d)(2).”<sup>224</sup> In turn, pursuant to section 252(d)(2)(A), “a state commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless (i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier; and (ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.”<sup>225</sup>

#### **N. Checklist Item 14 – Resale**

67. Section 271(c)(2)(B)(xiv) of the Act requires a BOC to make “telecommunications services . . . available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3).”<sup>226</sup> Section 251(c)(4)(A) requires incumbent LECs “to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers.”<sup>227</sup> Section 252(d)(3) requires state commissions to “determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange

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<sup>221</sup> *Id.* § 153(15).

<sup>222</sup> 47 C.F.R §§ 51.205, 51.207.

<sup>223</sup> *See* 47 C.F.R. § 51.207 (requiring same number of digits to be dialed); *Local Competition Second Report and Order*, 11 FCC Rcd at 19400, 19403.

<sup>224</sup> 47 U.S.C. § 271(c)(2)(B)(xiii).

<sup>225</sup> *Id.* § 252(d)(2)(A).

<sup>226</sup> *Id.* § 271(c)(2)(B)(xiv).

<sup>227</sup> *Id.* § 251(c)(4)(A).

carrier.”<sup>228</sup> Section 251(c)(4)(B) prohibits “unreasonable or discriminatory conditions or limitations” on service resold under section 251(c)(4)(A).<sup>229</sup> Consequently, the Commission concluded in the *Local Competition First Report and Order* that resale restrictions are presumed to be unreasonable unless the LEC proves to the state commission that the restriction is reasonable and nondiscriminatory.<sup>230</sup> If an incumbent LEC makes a service available only to a specific category of retail subscribers, however, a state commission may prohibit a carrier that obtains the service pursuant to section 251(c)(4)(A) from offering the service to a different category of subscribers.<sup>231</sup> If a state creates such a limitation, it must do so consistent with requirements established by the Federal Communications Commission.<sup>232</sup> In accordance with sections 271(c)(2)(B)(ii) and 271(c)(2)(B)(xiv), a BOC must also demonstrate that it provides nondiscriminatory access to operations support systems for the resale of its retail telecommunications services.<sup>233</sup> The obligations of section 251(c)(4) apply to the retail telecommunications services offered by a BOC’s advanced services affiliate.<sup>234</sup>

## V. COMPLIANCE WITH SEPARATE AFFILIATE REQUIREMENTS – SECTION 272

68. Section 271(d)(3)(B) requires that the Commission shall not approve a BOC’s application to provide interLATA services unless the BOC demonstrates that the “requested authorization will be carried out in accordance with the requirements of section 272.”<sup>235</sup> The Commission set standards for compliance with section 272 in the *Accounting Safeguards Order* and the *Non-Accounting Safeguards Order*.<sup>236</sup> Together, these safeguards discourage and

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<sup>228</sup> *Id.* § 252(d)(3).

<sup>229</sup> *Id.* § 251(c)(4)(B).

<sup>230</sup> *Local Competition First Report and Order*, 11 FCC Rcd at 15966, para. 939; 47 C.F.R. § 51.613(b). The Eighth Circuit acknowledged the Commission’s authority to promulgate such rules, and specifically upheld the sections of the Commission’s rules concerning resale of promotions and discounts in *Iowa Utilities Board v. FCC*, 120 F.3d at 818-19, *aff’d in part and remanded on other grounds*, *AT&T v. Iowa Utils. Bd.*, 525 U.S. 366 (1999). *See also* 47 C.F.R. §§ 51.613-51.617.

<sup>231</sup> 47 U.S.C. § 251(c)(4)(B).

<sup>232</sup> *Id.*

<sup>233</sup> *See, e.g., Bell Atlantic New York Order*, 15 FCC Rcd at 4046-48, paras. 178-81 (Bell Atlantic provides nondiscriminatory access to its OSS ordering functions for resale services and therefore provides efficient competitors a meaningful opportunity to compete).

<sup>234</sup> *See Verizon Connecticut Order*, 16 FCC Rcd 14147, 14160-63, paras. 27-33 (2001); *Association of Communications Enterprises v. FCC*, 235 F.3d 662 (D.C. Cir. 2001).

<sup>235</sup> 47 U.S.C. § 271(d)(3)(B).

<sup>236</sup> *See Implementation of the Accounting Safeguards Under the Telecommunications Act of 1996*, CC Docket No. 96-150, Report and Order, 11 FCC Rcd 17539 (1996) (*Accounting Safeguards Order*), Second Order On Reconsideration, FCC 00-9 (rel. Jan. 18, 2000); *Implementation of the Non-Accounting Safeguards of Sections 271* (continued....)

facilitate the detection of improper cost allocation and cross-subsidization between the BOC and its section 272 affiliate.<sup>237</sup> In addition, these safeguards ensure that BOCs do not discriminate in favor of their section 272 affiliates.<sup>238</sup>

69. As the Commission stated in the *Ameritech Michigan Order*, compliance with section 272 is “of crucial importance” because the structural, transactional, and nondiscrimination safeguards of section 272 seek to ensure that BOCs compete on a level playing field.<sup>239</sup> The Commission’s findings regarding section 272 compliance constitute independent grounds for denying an application.<sup>240</sup> Past and present behavior of the BOC applicant provides “the best indicator of whether [the applicant] will carry out the requested authorization in compliance with section 272.”<sup>241</sup>

## VI. COMPLIANCE WITH THE PUBLIC INTEREST – SECTION 271(D)(3)(C)

70. In addition to determining whether a BOC satisfies the competitive checklist and will comply with section 272, Congress directed the Commission to assess whether the requested authorization would be consistent with the public interest, convenience, and necessity.<sup>242</sup> Compliance with the competitive checklist is itself a strong indicator that long distance entry is consistent with the public interest. This approach reflects the Commission’s many years of experience with the consumer benefits that flow from competition in telecommunications markets.

71. Nonetheless, the public interest analysis is an independent element of the statutory checklist and, under normal canons of statutory construction, requires an independent

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*and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905 (1996) (*Non-Accounting Safeguards Order*), petition for review pending sub nom. *SBC Communications v. FCC*, No. 97-1118 (filed D.C. Cir. Mar. 6, 1997) (held in abeyance May 7, 1997), First Order on Reconsideration, 12 FCC Rcd 2297 (1997) (*First Order on Reconsideration*), Second Order on Reconsideration, 12 FCC Rcd 8653 (1997) (*Second Order on Reconsideration*), *aff’d sub nom. Bell Atlantic Telephone Companies v. FCC*, 131 F.3d 1044 (D.C. Cir. 1997), Third Order on Reconsideration, FCC 99-242 (rel. Oct. 4, 1999) (*Third Order on Reconsideration*).

<sup>237</sup> *Non-Accounting Safeguards Order*, 11 FCC Rcd at 21914; *Accounting Safeguards Order*, 11 FCC Rcd at 17550; *Ameritech Michigan Order*, 12 FCC Rcd at 20725.

<sup>238</sup> *Non-Accounting Safeguards Order*, 11 FCC Rcd at 21914, paras. 15-16; *Ameritech Michigan Order*, 12 FCC Rcd at 20725, para. 346.

<sup>239</sup> *Ameritech Michigan Order*, 12 FCC Rcd at 20725, para. 346; *Bell Atlantic New York Order*, 15 FCC Rcd at 4153, para. 402.

<sup>240</sup> *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20785-86, para. 322; *Bell Atlantic New York Order*, 15 FCC Rcd at 4153, para. 402.

<sup>241</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 4153, para. 402.

<sup>242</sup> 47 U.S.C. § 271(d)(3)(C).

determination.<sup>243</sup> Thus, the Commission views the public interest requirement as an opportunity to review the circumstances presented by the application to ensure that no other relevant factors exist that would frustrate the congressional intent that markets be open, as required by the competitive checklist, and that entry will therefore serve the public interest as Congress expected. Among other things, the Commission may review the local and long distance markets to ensure that there are not unusual circumstances that would make entry contrary to the public interest under the particular circumstances of the application at issue.<sup>244</sup> Another factor that could be relevant to the analysis is whether the Commission has sufficient assurance that markets will remain open after grant of the application. While no one factor is dispositive in this analysis, the overriding goal is to ensure that nothing undermines the conclusion, based on the Commission's analysis of checklist compliance, that markets are open to competition.

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<sup>243</sup> In addition, Congress specifically rejected an amendment that would have stipulated that full implementation of the checklist necessarily satisfies the public interest criterion. *See Ameritech Michigan Order*, 12 FCC Rcd at 20747 at para. 360-66; *see also* 141 Cong. Rec. S7971, S8043 (June. 8, 1995).

<sup>244</sup> *See Second BellSouth Louisiana Order*, 13 FCC Rcd at 20805-06, para. 360 (the public interest analysis may include consideration of "whether approval . . . will foster competition in all relevant telecommunications markets").

## STATEMENT OF COMMISSIONER KEVIN J. MARTIN

*Re: Application by SBC Communications Inc., Nevada Bell Telephone Company, and Southwestern Bell Communications Services, Inc., for Authorization To Provide In-Region, Inc., for Authorization To Provide In-Region, InterLATA Services in Nevada (WC Docket No. 03-10)*

Today we grant SBC authority to provide in-region, interLATA service originating in the State of Nevada. I commend the Nevada Public Utilities Commission for their hard work.

The Commission approves SBC's application in Nevada based on the Commission's precedent in the *BellSouth Second Louisiana Order*<sup>1</sup>. Under that decision, a BOC can satisfy its market-opening requirements by showing that consumers are using broadband PCS as a substitute for wireline telephone service. This showing can be demonstrated in the form of: (i) surveys identifying customers that had used broadband PCS in lieu of wireline service; and (ii) evidence of marketing efforts by broadband PCS providers designed to induce replacement of wireline service with broadband PCS service.

I have some trepidation with the Commission's decision and precedent in the *BellSouth Second Louisiana Order*. First, I would prefer a more comprehensive and timely filed survey. Moreover, our finding of Track A compliance relies solely on the presence of just one PCS provider. Given that this provider has just filed for Chapter 11 bankruptcy protection, I have some concerns with the long-term health of competition in Nevada. At this point, however, no evidence exists indicating that the PCS provider has stopped offering or providing service in the state.

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<sup>1</sup> See *Application by BellSouth Corporation, et al., Pursuant to Section 271 of the Communications Act of 1934, as Amended, To Provide In-Region, InterLATA Services in Louisiana*, CC Docket 98-121, Memorandum Opinion and Order, 13 FCC Rcd 20599, 20633-35 (1998)(*BellSouth Second Louisiana Order*).

**SEPARATE STATEMENT OF  
COMMISSIONER JONATHAN S. ADELSTEIN**

*Re: Application by SBC Communications, Inc., Nevada Bell Telephone Company, and Southwestern Bell Communications Services, Inc., for Authorization to Provide In-Region, InterLATA Services in Nevada*

I approve the Commission's Order to grant section 271 relief to SBC Communications, Inc. to provide long distance service in Nevada. I would like to commend the Nevada Public Utilities Commission and the FCC's Wireline Competition Bureau for their excellent and diligent work in bringing this item to the Commission.

Today, the Commission grants section 271 relief to SBC Communications, Inc., to provide long distance services in the state of Nevada based on our finding that SBC satisfies "Track A" of Section 271. Track A requires that one or more competing providers collectively serve business and residential subscribers using their own telephone exchange service facilities. I am somewhat concerned about relying on the existence of broadband PCS competition in demonstrating the presence of competition under Track A. However, our precedent, in the *BellSouth Second Louisiana Order*, clearly states that broadband PCS satisfies the definition of a telephone exchange service for purposes of Section 271(c)(1)(A). And the Commission specifically found that the most persuasive evidence of competition between PCS and wireline local telephony is evidence that customers are actually subscribing to PCS in lieu of wireline service. SBC has established such a connection in this proceeding.

To disrupt this precedent and find that SBC has not satisfied the Track A analysis with the presence of wireline PCS competition would be to effectively create a "Catch 22" for the company. Under Commission precedent, the company would not be able to satisfy Track B, either. The Commission in the *BellSouth South Carolina Order* found that Track B may only be satisfied if a State Commission certifies that "the only provider or providers making such a request have (i) failed to negotiate in good faith as required by section 252, or (ii) violated the terms of an agreement approved under Section 252 by the provider's failure to comply, within a reasonable period of time, with the implementation schedule contained in such agreement." The State Commission has not so certified.

Simply stated, this Commission has clearly established precedent under both Track A and Track B. The RBOCs have relied on that precedent in filing for their Section 271 approval. In this particular case, if we were to overturn the Track A precedent and determine that SBC must use Track B, we would be holding SBC hostage to the business plans of its competitors.

Such a result would penalize the consumers in Nevada. Our decisions are meant to ensure that consumers have access to telecommunications services at reasonable rates. Our section 271 analysis is ultimately about bringing choice to consumers. If we were to eschew our Track A analysis precedent, the citizens of Nevada might not have the opportunity for greater choice among long distance providers for a very long time. This

means they might not have access to lower rates, new calling plans or packages to which many others now have access. On this basis, given that possibility, I support relying on the existence of broadband PCS service to demonstrate the Track A compliance, consistent with the Commission's precedent.



**SEPARATE STATEMENT OF  
COMMISSIONER MICHAEL J. COPPS,  
CONCURRING**

Re: *Application by SBC Communications Inc., Nevada Bell Telephone Company, and Southwestern Bell Communications Services, Inc., for Authorization to Provide In-Region, InterLATA Services in Nevada*

I write separately to explain the reason that I concur in this Order granting SBC's application to provide long-distance service in Nevada.

Let me begin by noting that SBC has made significant progress in opening local business markets in Nevada to competition. The Nevada Public Utilities Commission also has worked hard to promote competition in the state. I commend both SBC and the Nevada Public Utilities Commission for their efforts.

The key issue in this proceeding has been compliance with the Track A requirement of section 271. There appears to be little, if any, facilities-based wireline competition for residential subscribers in Nevada. Nonetheless, the majority finds that SBC meets Track A's presence of a facilities-based competitor requirement on the basis of wireless competition. The majority goes even further when they suggest that a particular wireless carrier's service is a substitute for local wireline service. I am troubled by this aspect of the decision. I question whether such a far-reaching conclusion properly is based on the very limited survey evidence presented in this application. When we conclude that wireless service is a commercial alternative to wireline service in the instant context we may impact Commission efforts to define competitive markets in other contexts. These include, but are by no means limited to, merger reviews, unbundling analyses and determinations of dominant carrier status.

Furthermore, it strikes me as premature to decide that wireline and wireless services are more than complementary. Important differences exist in service quality, ubiquity, truth-in-billing rules and number portability practices. A determination that the services should be treated as commercial alternatives has large implications for both the wireless and wireline industries, and I am not yet ready to make the judgment that the majority makes herein.

Today's Order, however, is not written on a blank slate. SBC reasonably relied on Commission precedent when it presented evidence of wireless competition to support its Track A showing in Nevada. Under these circumstances, it would be unfair to penalize the applicant in the present proceeding for difficulties I have with the majority's application of the Commission's prior decisions. For this reason, I concur.