

271(c)(1)(A); or (2) no CLEC so qualified prior to the 3-month filing “window” Congress provided in subsection (B);<sup>15</sup> or (3) Southwestern Bell otherwise complies with the requirements of subsection (B).

**B. SWBT Is Providing Interconnection and Access in Compliance with the Act’s “Competitive Checklist”**

Subsection 271(d)(3)(A) allows a Bell company to satisfy the final part of Congress’ test for open local markets — the competitive checklist — by relying upon “access and interconnection provided pursuant to subsection (c)(1)(A)” or “access and interconnection generally offered pursuant to a statement under subsection (c)(1)(B).” § 271(d)(3)(A)(i), (ii). A Bell company’s decision as to how it will satisfy section (c)(1) does not narrow its options for showing compliance with the checklist. Regardless of how it fulfills the requirements of subsection (c)(1), the applicant may rely upon a statement of terms and conditions, or state-approved agreements, or both, to show compliance with the checklist. This accords with the reality that CLECs can gain access to checklist elements under SWBT’s Statement as well as under the terms of their own negotiated agreements and, by virtue of “most favored nation”

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<sup>15</sup> Subsections (A) and (B) are not mutually exclusive. While subsection (B) is available during a specific time period — when “no such provider [described in (A)] has . . . requested access and interconnection . . . [by] the date that is 3 months before the date the [BOC] seeks interLATA authorization” § 271(c)(1)(B) — subsection (A) is available at any time that its requirements are met. If a Bell company that has an effective statement of terms and conditions also has implemented a state-approved agreement with a qualifying CLEC, but that CLEC only qualified, or requested access, within the prior three months, then the Bell company may apply for interLATA entry under subsection (A) and subsection (B). That is the case here, because Brooks Fiber commenced its facilities-based service on January 15 of this year.

("MFN") clauses, under the terms of other CLECs' OCC-approved agreements as well. See also § 251(i).<sup>16</sup>

Of course, Brooks Fiber and other CLECs likely will not need or want to take every checklist item from SWBT. This presents no obstacle to showing compliance with the checklist. In the first place, all checklist items are offered to CLECs in Oklahoma under SWBT's Statement. Furthermore, a Bell company "provides access" to its facilities and services through an interconnection agreement when the CLEC has a contractual right to obtain the facilities and services, whether or not they are taken. This follows from Congress' specification that Bell companies must provide access to network facilities and services under an interconnection agreement — not necessarily the facilities and services themselves — as a condition of interLATA entry. Likewise, it accords with Congress' use of the term "provide," which means, inter alia, "make available."<sup>17</sup> Indeed, the House and Senate conferees on the 1996 Act expected that the

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<sup>16</sup> If a CLEC that has an OCC-approved interconnection agreement with SWBT should request, via its MFN clause, to obtain some item from the Statement or another CLEC's OCC-approved agreement, SWBT anticipates that it and the CLEC would promptly create and sign a contract addendum for filing and approval by the OCC. The addendum would be patterned exactly after the applicable language of the Statement or the second OCC-approved agreement, including all terms and conditions associated with the desired item. If a CLEC in Oklahoma lacking an interconnection agreement with SWBT wishes to obtain any item(s) from SWBT's Statement, SWBT anticipates that it and the CLEC would promptly create and sign a contract for filing and approval by the OCC. The contract would be patterned exactly after the applicable language of SWBT's Statement, including all terms and conditions associated with that item(s) and any general language necessary to have a complete agreement (e.g., term of the contract, definitions of key words and phrases, etc.).

<sup>17</sup> Random House Unabridged Dictionary 1556 (2d ed. 1993) (App. Vol II, Tab 4); see American Heritage Dictionary 997 (2d College ed. 1985) (same) (App. Vol II, Tab 4). In common usage, for example, a host who passes around hors d'oeuvres at a party has "provided" food, even if his guests choose not to indulge. So too may a Bell company "provide" access to (for example) interoffice trunks, without regard to whether a particular CLEC ultimately chooses to use those

presence of a competitor that buys only some network elements, but not others, from the Bell company would allow the Bell company to seek interLATA authority. See supra n.13 & accompanying text.

The nonsensical consequences of interpreting the Act as requiring competitors actually to take all checklist items confirm the error of this approach.<sup>18</sup> The more complete a competitor's network, the less it needs from the incumbent. A competitor's ability to compete without relying upon the incumbent to obtain a particular facility or service signals, if anything, greater competition in the local market. Furthermore, if actually furnishing all fourteen items were the standard, incumbent interexchange carriers that enter the local exchange on a facilities basis might be able to keep a Bell company out of the interLATA business simply by refusing to utilize a particular checklist service or feature.

Against this background, it is demonstrated below that SWBT has satisfied all fourteen checklist requirements in Oklahoma not only through the comprehensive offerings of its Statement, but also through its OCC-approved agreements with Brooks Fiber and other CLECs.

*Checklist Items (1) & (2): Interconnection and Access to Network Elements*

Subsections 271(c)(2)(B)(i) and (ii) require SWBT to provide interconnection with its network facilities and access to unbundled network elements, in accordance with the requirements of sections 251(c)(2), 251(c)(3), and 252(d)(1) of the Communications Act.

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trunks.

<sup>18</sup> See Armstrong Paint & Varnish Works v. Nu-Enamel Corp., 305 U.S. 315, 333 (1938) (courts should "construe statutes so as to avoid results glaringly absurd"); In re Nofziger, 925 F.2d 428, 434 (D.C. Cir. 1991) (same).

Sections 251(c)(2) and 252(d)(1) require SWBT to provide interconnection: (A) "for the transmission and routing of telephone exchange service and exchange access;" (B) "at any technically feasible point;" (C) "that is at least equal in quality" to what SWBT provides itself; (D) "on rates, terms and conditions that are just, reasonable, and nondiscriminatory;" and (E) based upon cost plus a "reasonable profit." Sections 251(c)(3) and 252(d)(1) require SWBT to provide access to unbundled network elements: (A) "at any technically feasible point;" (B) "on rates, terms and conditions that are just, reasonable, and nondiscriminatory;" and (C) based upon cost plus a "reasonable profit."

In the Local Interconnection Order,<sup>19</sup> the Commission adopted rules interpreting the interconnection requirements of section 251(c)(2). These rules require SWBT to make interconnection available for unbundled access to, at a minimum, the following independent network elements: local loops; the network interface device ("NID"); switching; interoffice transmission facilities; signaling networks and call-related databases; operations support systems ("OSS") functions; and operator services and directory assistance facilities. 47 C.F.R. § 51.319.

1. SWBT's Statement satisfies sections 251(c)(2), 251(c)(3), and 252(d)(1) and applicable Commission regulations by offering local interconnection, of equal quality, at any technically feasible point, at cost-based rates.

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<sup>19</sup> First Report and Order, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 15499 (1996) ("Local Interconnection Order").

Section II.B of the Statement provides several alternative methods of interconnection, including physical collocation, virtual collocation, and SONET-based interconnection. SWBT will provide other technically feasible methods of interconnection upon request pursuant to section II.B.4 of the Statement. The details of SWBT's mid-span fiber interconnection and physical collocation offerings are set out in Appendix NIM to the Statement. Physical collocation is provided in a manner consistent with Commission rules and the OCC's decision on collocation issues in the AT&T arbitration. Statement § II.B.2; see Deere Aff. ¶¶ 16-18, 20. Virtual collocation and SONET-based interconnection are offered in accordance with SWBT's interstate access service tariff, Tariff F.C.C. No. 73.<sup>20</sup> See Deere Aff. ¶ 20. Interconnection is available at the line side or trunk side of the local switch, the trunk connection points of a tandem switch, central office cross-connect points, out-of-band signaling transfer points, and points of access to unbundled network elements. Id. ¶ 14.

To ensure equal quality, interconnection with CLECs will be accomplished using the same facilities, interfaces, technical criteria, and service standards as SWBT uses for its own internal operations. Id. ¶ 25 However, CLECs also have the option of requesting interconnection that is of greater or lesser quality, if technically feasible. Statement § II.B.4. In addition, requesting carriers may interconnect with SWBT using facilities leased from SWBT. Deere Aff. ¶ 22. Or, a CLEC that is already collocated in a SWBT central office may use that collocation arrangement for local exchange interconnection. Id.

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<sup>20</sup> To the extent that the Commission's virtual collocation requirements exceed the terms of Tariff F.C.C. No. 73, SWBT will of course abide with all applicable requirements.

Appendix NIM to the Statement details available trunking arrangements from the CLEC to SWBT (for traffic originated by the CLEC), and from SWBT to the CLEC (for traffic terminated over the CLEC's network). SWBT will use standard Bellcore trunk traffic engineering methods to ensure that all interconnection trunking is managed in the same manner as SWBT's own trunk groups. See Statement App. ITR § E; Deere Aff. ¶¶ 26-34.

As more fully demonstrated in the Affidavits of Dale Kaeshoefer and William Deere, the Statement also makes available to CLECs the full range of unbundled network elements identified in the Commission's rules in a manner consistent with the Act. Appendix UNE details SWBT's offerings of unbundled network elements. SWBT provides requesting CLECs non-discriminatory access to network elements on an unbundled basis at any technically feasible point. See Statement App. UNE § 2.0. Elements specifically provided for in the Statement include elements associated with NIDs, local loops, local and tandem switching, operator services and directory assistance, interoffice transport, signaling networks and call-related databases, and cross-connects. Statement App. UNE §§ 3.0 through 11.0.

Additional network elements not specifically provided for in the Statement are available through SWBT's Bona Fide Request ("BFR") process, where technically feasible. Deere Aff. ¶¶ 57-60; Kaeshoefer Aff. ¶¶ 33-35. This process, described in section 2.16 of Appendix UNE to the Statement, allows CLECs to request modifications to existing network elements, as well as additional elements. SWBT will conclude a preliminary analysis of the technical feasibility of the request and prepare a preliminary report for the requesting carrier within thirty days of receiving the request, except in extraordinary circumstances. Statement App. UNE § 2.16.5. If

the CLEC authorizes further development, SWBT will, within a maximum of ninety days from receipt of authorization, provide a final quote that will include proposed price and implementation terms. Id. § 2.16.8. The CLEC may cancel its request at any time but remains responsible for SWBT's reasonable development costs incurred up to cancellation Id. § 2.16.3.

As set out in Appendix UNE, SWBT does not impose any limitations, restrictions, or requirements on requests for or use of an unbundled network element that are inconsistent with the Act or Commission rules or would impair a CLEC's ability to provide telecommunications service in the manner it intends. See 47 C.F.R. § 51.309(a); Deere Aff. ¶¶ 35-56; Kaeshoefer Aff. ¶¶ 28, 37. SWBT provides access to the facilities or functionality of an unbundled network element separately from access to other elements and for a separate charge as directed by section 51.307(d) of the Commission's rules. See Kaeshoefer Aff. ¶ 27; Deere Aff. ¶ 40. While allowing CLECs to obtain exclusive use of an unbundled network facility and to use the features, functions, or capabilities for a set period of time, Deere Aff. ¶ 43; Kaeshoefer Aff. ¶ 29, SWBT nevertheless retains the obligation to maintain, repair, or replace unbundled network elements. See 47 C.F.R. § 51.309(c); Statement App. UNE § 2.5; Kaeshoefer Aff. ¶ 29. Indeed, SWBT's LSPC enables CLECs to place maintenance and repair orders by telephone or directly through electronic data interfaces, twenty-four hours a day, seven days a week. See Kramer Aff. (discussing LSPC); Ham (OSS) Aff. ¶¶ 36-38 (discussing OSS systems for maintenance and repair).

The Statement also addresses the rates at which interconnection and unbundled access will be provided. Consistent with the Commission's recognition that interim rates are a practical

necessity (see Local Interconnection Order ¶¶ 22, 767), SWBT included in its Statement the interim rates that were approved by the OCC in the AT&T arbitration. See Cause No. PUD 960000218, Order 407704, at 4, adopting the November 13, 1996 Report and Recommendations, at 20 (App. Vol. II, Tab 9). Generally, these rates were derived based on a forward-looking cost study, or by adopting tariffed or contractual rates that are themselves cost-based.<sup>21</sup> Kaeshoefer Aff. ¶¶ 18-19; Moore Aff. ¶¶ 8-25 (describing cost studies).<sup>22</sup> The same approach was followed with respect to rates for elements that were not included in the AT&T arbitration.

2. CLECs such as Brooks Fiber may avail themselves of the above-described Statement provisions. In addition, however, SWBT's OCC-approved interconnection agreements independently allow Brooks Fiber to obtain the first two checklist items. The Brooks Fiber Agreement enables Brooks Fiber to interconnect with each SWBT access tandem and each SWBT local tandem (or end office subtending that local tandem). See Brooks Fiber Agreement, § II.A.1.a. The Agreement specifically describes the unbundled loop, loop cross connect, switched port, local switching and local switched transport elements SWBT will furnish upon request. See Brooks Fiber Agreement, Appendix UNC at 1. SWBT also agrees that "[u]pon request . . . [it] shall provide" additional network components. Brooks Fiber Agreement, § VIII.

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<sup>21</sup> SWBT's Statement includes rates for items such as access to Common Channel Signaling/Signaling System 7 and unbundled transport which are equivalent to rates found in SWBT's access tariffs. For interstate services, the Commission has allowed these rates to go into effect and, as determined by the Commission, they are currently at or close to economic cost levels. See Local Interconnection Order, ¶¶ 782, 821 & n.1947, 825.

<sup>22</sup> To avoid delay in setting rates, SWBT used TELRIC-based cost studies consistent with the Commission's pricing rules despite the Eighth Circuit's stay of those rules. In doing so, SWBT has not waived any legal right to have prices reflect actual costs.

The rates specified in the Brooks Fiber Agreement, which were negotiated prior to the AT&T arbitration, are in most cases the same as or lower than the rates provided for in the Statement. The Brooks rates and terms are available to other CLECs on a non-discriminatory basis under section 252(i) of the Communications Act. See Kaeshoefer Aff. ¶ 10.

In addition, the Brooks Fiber Agreement contains an MFN clause that requires SWBT to make available to Brooks Fiber either all the terms SWBT makes available to another CLEC pursuant to an OCC-approved interconnection agreement, or specific provisions of an OCC-approved agreement that relate to interconnection rates, access to unbundled network elements, resale, collocation, number portability, access to rights-of-way, cellular traffic, white pages, operator services, or directory assistance. Brooks Fiber Agreement, § XXIV; see Kaeshoefer Aff. ¶ 10. For example, Brooks Fiber will have access to the terms of the ICG and Sprint Agreements, which require SWBT to provide access, upon request and to the extent technically feasible, to additional unbundled network elements in accordance with the 1996 Act. See ICG Agreement, § 9.3.1. Exhibit A, Network Element and Interconnection Bona Fide Request, § 1 (App. Vol. III, Tab 4); Sprint Agreement, Attach. 6, § 2.0 (App. Vol. III, Tab 5).

The access and interconnection available to Brooks Fiber is equal in quality to that SWBT provides to itself and meets the same technical criteria and standards used for a comparable arrangement in SWBT's network. Kaeshoefer Aff. ¶¶ 24, 36; Deere Aff. ¶ 25. Access also is being provided on terms that are just, reasonable, and nondiscriminatory as required by section 251(c)(2)(D). Kaeshoefer Aff. ¶ 24. The rates in the Brooks Fiber Agreement for Network Interconnection were found by the OCC to be just, reasonable and

nondiscriminatory.<sup>23</sup> Moreover, by virtue of its MFN clause, Brooks Fiber has access to the provision of the ICG Agreement that states that SWBT will (1) provide unbundled network elements in accordance with section 252(d), ICG Agreement, § 9.3.1, and (2) price additional, unbundled network elements according to the requirements of Section 252(d)(1) unless the parties explicitly and mutually agree otherwise. *Id.* at p. 59; ICG Agreement, Exhibit A, Network Element and Interconnection Bona Fide Request, § 1. Brooks Fiber also could invoke the rates of the Sprint Agreement, which are the same as those found in SWBT's Statement and are consistent with the OCC's Order in the AT&T arbitration. *See* Sprint Agreement, Attach. 6, Appendix Pricing—UNE.

3. SWBT's unbundling of OSS functions bears particular mention. Pursuant to its Statement and agreements, SWBT provides CLECs with "at least equivalent electronic access" to its OSS functions, by giving them precisely the same electronic interfaces that SWBT provides "to itself, its customers, or other carriers."<sup>24</sup> SWBT also has developed alternative interfaces for CLECs that do not want to employ any of the methods SWBT's retail service representatives use, lack the resources to utilize electronic interfaces, or have their own applications or graphic user interfaces.

SWBT began the planning process for providing nondiscriminatory access to its OSS functions in the Fall of 1995. SWBT has performed extensive work in developing new

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<sup>23</sup> Cause No. PUD 960000256, Order No. 406237, at 3, 4-5 (App. Vol III, Tab 2).

<sup>24</sup> Second Order on Reconsideration, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Dkt No. 96-98, FCC 96-476 at ¶ 9 (rel. Dec. 13, 1996).

interfaces, enhancing front-end systems, and modifying its back-office systems to accommodate the needs of CLECs. SWBT has set up and is operating its Local Service Provider Service Center and a Local Service Provider Center, which collectively provide CLECs a single point of contact for purposes of pre-ordering, ordering, provisioning, maintenance and repair, and billing as they relate to resold services, interconnection, and unbundled network elements. Lowrance Aff. ¶¶ 6-14; Kramer Aff. ¶¶ 6-16. In addition, SWBT has established a Remote Access Facility to provide CLECs with direct electronic access to OSS functions through either a dial-up or private-line connection. Ham (OSS) Aff. ¶¶ 9-13. Finally, SWBT has created a Help Desk to assist CLECs with any questions or problems encountered while electronically accessing SWBT's OSS functions. Ham (OSS) Aff. ¶¶ 13-17. As of January 1997, SWBT had spent \$7.4 million on these efforts. For 1997, SWBT has budgeted approximately \$18 million. See Ham (OSS) Aff. ¶ 9; Lowrance Aff. ¶ 6; Kramer Aff. ¶ 8.

SWBT offers CLECs multiple ways to access its OSS functions, to suit their particular business needs. First, SWBT provides CLECs with precisely the same access that is available to SWBT's retail service representatives. SWBT also offers CLECs several alternative forms of access to each OSS function, which provide electronic access on a dial-up or direct connection basis without manual intervention. Ham (OSS) Aff. ¶¶ 18-35. Finally, CLECs can deal with the LSPSC and LSPC on a manual basis by telephone, and also may deal with the LSPSC by facsimile. Lowrance Aff. ¶ 12; Kramer Aff. ¶¶ 12-14. CLECs thus can choose the interfaces that best meet their needs, whether completely manual or electronic, or a combination thereof.

For pre-ordering, SWBT offers CLECs a choice of three electronic "real time" interfaces

— Easy Access Sales Environment ("EASE"), Verigate, and DataGate. See Statement App. OSS § 2; Ham (OSS) Aff. ¶¶ 20-25, 53-55.

- EASE is the on-line system that is currently used by SWBT's own retail service representatives in pre-ordering for both residence and business customers. It is available to CLECs for pre-ordering resold services. EASE has processed as many as 91,000 SWBT retail service orders in a single day.
- Verigate is a SWBT graphic user interface operating on Windows™, designed for CLECs that do not want to use EASE, but also do not want to develop their own graphic user interface. It provides pre-ordering capabilities for resold services and unbundled network elements. Verigate became operational in 1996 and performed 3,552 transactions per month as of December 1996.
- DataGate is a SWBT gateway providing CLECs that have their own graphic user interface with pre-ordering capabilities for resold services and unbundled network elements. DataGate currently is used to process an average of 350,000 transactions per day.

For ordering and provisioning, SWBT currently provides CLECs with a choice of two electronic interfaces — EASE and an Electronic Data Interchange ("EDI") gateway. See Statement App. OSS § 3.0; Ham (OSS) Aff. ¶¶ 26-35, 51.

- EASE is currently used by SWBT's own retail service representatives in ordering and provisioning for both residence and business customers.
- EDI is an electronic interface, conforming to national standards, that enables CLECs to construct and submit orders utilizing their own graphic user interface. It is available to CLECs for ordering and provisioning resold services, as well as unbundled network elements for which national standards have been written (i.e., local loops, switch ports, and interim number portability). Ham (OSS) Aff. ¶ 29. SWBT will incorporate ordering and provisioning capabilities for other unbundled network elements into its EDI gateway as soon as national standards are defined and approved. SWBT's EDI gateway can handle up to 50,000 transactions per hour. It was built to support requests for resold services based on receipt of 100,000 resale service requests per quarter and to support requests for unbundled network elements based on receipt of nearly 300,000 requests during 1997.

- SWBT is developing for CLECs a third interface, the Local Service Request EXchange ("LEX") system, which will be available during the second quarter of 1997. LEX is a graphic user interface operating on Windows™ that also is based upon national standards. LEX will enable CLECs that do not have an EDI capability to create and submit service orders electronically.

Once orders have been entered and accepted for processing by SWBT, CLECs may check the status of those orders through "Order Status," a fixture of the SWBT Toolbar. The Toolbar (formerly referred to as Customer Network Administration or "CNA") is a SWBT-developed graphic user interface that enables CLECs to access its "back-office" systems in order to pull up service order requests and check on their status. Ham (OSS) Aff. ¶¶ 38, 55-57. SWBT's business customers and interexchange carriers currently use the Order Status fixture of the Toolbar to check on the status of service orders and to verify their completion.

For maintenance and repair, SWBT provides CLECs with a choice of two electronic interfaces. These are Trouble Administration ("TA") from the SWBT Toolbar and Electronic Bonding Interface ("EBI"). See Statement App. OSS § 4; Ham (OSS) Aff. ¶¶ 36-38, 57.

- TA is currently used by SWBT's business customers and interexchange carriers. It has been enhanced to enable CLECs electronically to submit and check on trouble reports, initiate mechanized loop tests and receive test results for resold plain old telephone service ("POTS") lines without initiating a trouble report. TA also will provide trouble history for those POTS lines.
- EBI is an electronic interface conforming to national standards, which enables CLECs to submit trouble reports and receive trouble status updates and closure information. EBI processed approximately 288,000 transactions in 1996.

For billing, SWBT provides CLECs with a choice of four electronic interfaces. See Statement App. OSS § 5; Ham (OSS) Aff. ¶¶ 39-44.

- Bill Plus™ is essentially a paper bill in electronic format. CLECs can receive their monthly bill on a diskette or downloaded to their computer systems, and can manipulate the data contained on the bill.
- EDI provides CLECs with direct access to SWBT's Customer Record Information System, so that they can receive in an electronic format the data that would appear on their paper bill for resold services. SWBT will also provide CLECs, on a negotiated basis, with direct access to its Carrier Access Billing System through EDI, to receive in electronic format the data that would appear on a paper bill for unbundled network elements.
- CNA is used by SWBT's own business customers and long distance carriers.<sup>25</sup> It provides CLECs with on-line access to the billing information for both resold services and unbundled network elements that would appear on a paper bill, and enables them to perform a variety of activities with their billing information.
- The fourth interface, Usage Extract Feed, provides CLECs electronically with daily information on the usage billed to their accounts, in a format that conforms to the national standard Exchange Message Record standard.

Southwestern Bell's provision of OSS to its competitors meets or exceeds all requirements of the Act and the Commission's implementing regulations. It affords CLECs access for all functions that is at least equal to the access SWBT personnel themselves have. Southwestern Bell's extraordinary commitment of time and resources to OSS unbundling fully satisfies all requirements for in-region, interLATA entry.

*Checklist Item (3): Nondiscriminatory Access to Poles, Ducts, Conduits, and Rights-of-Way*

Section 271(c)(2)(B)(iii) directs SWBT to provide nondiscriminatory access to poles, ducts, conduits, and rights-of-way it owns or controls at just and reasonable rates in accordance with the requirements of section 224 of the Communications Act. SWBT has provided access to

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<sup>25</sup> CNA for billing will be migrated to the SWBT Toolbar by the third quarter of 1997. Ham (OSS) Aff. ¶ 43.

telecommunications carriers and cable television systems in accordance with section 224 since long before enactment of the 1996 Act and it continues to do so today.

1. SWBT's Statement confirms that "[u]pon request, SWBT shall provide non-discriminatory access to the poles, ducts, conduits, and rights-of-way it owns or controls" on standard terms that are just and reasonable. Statement at 13. The procedures and methods by which SWBT provides nondiscriminatory access are found in Appendix POLE to the Statement. As described in the accompanying Affidavit of James Hearst, these procedures meet all statutory and Commission requirements. Hearst Aff. ¶¶ 19-81. SWBT is currently furnishing telecommunications carriers (including CLECs, interexchange carriers, cable companies, and other competitors) with access to approximately 33,000 duct feet of conduits and ducts and 116,000 poles in the State of Oklahoma. Id. ¶ 4.

The formulas, methodology, and procedures used by SWBT in determining the rates to be charged for such access were established by the Commission. See Amendment of Rules and Policies Governing the Attachment of Cable Television Hardware to Utility Poles, 2 FCC Rcd 4387 (1987), recon., 4 FCC Rcd 468 (1989). The Commission requires a LEC to charge rates determined under the Commission's formula, established by the relevant state authority, or set through negotiations with cable operators. See Hearst Aff. ¶¶ 5-10 (discussing § 224); 2 FCC Rcd at 4387 ¶ 2; 4396-97 ¶ 71; 4 FCC Rcd at 472 ¶ 39. In accordance with these permitted procedures, SWBT's Statement adopts rates that were established by the OCC in the AT&T arbitration. Hearst Aff. ¶¶ 74-81. The rates adopted by the OCC for use of SWBT's poles and conduits are consistent with the requirements of section 224. Id.

2. In addition to providing such nondiscriminatory access under its Statement, SWBT has bound itself contractually to make available to Brooks Fiber nondiscriminatory access to SWBT's poles, ducts, conduits, and rights-of-way in accordance with the provisions of section 224. Brooks Fiber Agreement § VII. By virtue of its MFN clause, Brooks Fiber also is able to obtain the rates provided for in SWBT's other OCC-approved agreements. Under the ICG Agreement, SWBT must provide ICG with access to the poles, ducts, conduits, and rights-of-way it owns or controls at rates, terms, and conditions that are consistent with section 224 and "at least as favorable as those contained in any SWBT . . . pole attachment agreement." ICG Agreement § 16.0.

*Checklist Item (4): Unbundled Local Loops*

Section 271(c)(2)(B)(iv) requires SWBT to provide local loop transmission from the central office to the customer's premises unbundled from local switching or other services. As noted in Part II(A), supra, both SWBT's Statement and its agreement with Brooks Fiber make local loop transmission available on an unbundled basis in compliance with section 51.319 of the Commission's rules. Standard unbundled local loops available to CLECs include two- and four-wire loops supporting analog and digital communication. See Deere Aff. ¶ 62; Kaeshoefer Aff. ¶ 41.

*Checklist Item (5): Unbundled Local Transport*

Section 271(c)(2)(B)(v) requires SWBT to provide local transport from the trunk side of SWBT's switch unbundled from switching or other services. Local transport facilities allow communications between wire centers or switches. Kaeshoefer Aff. ¶ 43; Deere Aff. ¶ 64. As

discussed above, SWBT's Statement and the Brooks Fiber Agreement make common and dedicated interoffice transport available as unbundled network elements. See Kaeshoefer Aff. ¶¶ 44-45; Deere Aff. ¶¶ 67-71. Indeed, Brooks Fiber currently is using intraLATA/local trunks obtained from SWBT in Oklahoma. Butler Aff. ¶ 4.

*Checklist Item (6): Unbundled Local Switching*

Section 271(c)(2)(B)(vi) requires SWBT to provide local switching unbundled from transport, local loops, or other services. The Commission's rules require further unbundling of local and tandem switching capabilities. 47 C.F.R. § 51.319(c)(2).

1. SWBT's Statement meets all of these requirements. Kaeshoefer Aff. ¶¶ 46-49; Deere Aff. ¶¶ 72-80; Statement App. UNE § 5.0. Under the Statement, CLECs can obtain line-side and trunk-side facilities as well as the features, functions, and capabilities of the switch. Id. § 5.1. Available elements include the basic switching functions of connecting lines to lines, lines to trunks, trunks to lines, and trunks to trunks. In addition, CLECs have access to the same basic capabilities that are offered to SWBT retail customers (such as dial tone, signaling, operator services, and directory assistance) and to all vertical features the switch is capable of providing. Access to unbundled local switching is provided through switch ports, with three standard ports available to CLECs and other port types available through the BFR process. See id. § 5.9 (offering analog line port, ISDN basic rate interface port, and ISDN primary rate interface trunk side port). SWBT will transfer the customer's local service in the same interval it transfers customers between interexchange carriers if the transfer requires only a software change. See 47 C.F.R. § 51.319(c)(ii). Tandem switching is available pursuant to section 6.0 of Appendix UNE.

2. The Brooks Fiber Agreement also provides unbundled access to local switching.

Brooks Fiber Agreement, App. UNC at 1. In addition, by virtue of its MFN clause Brooks Fiber has access to all of the specific switching arrangements that SWBT makes available to other CLECs pursuant to an OCC-approved agreement. These include those set out in the Sprint Agreement, which gives Sprint (and therefore Brooks Fiber) access to, among other things, "all vertical features that the switch is capable of providing, including . . . any technically feasible customized routing functions." Sprint Agreement, Attach. 6 at § 5.1; but see Sprint Agreement § 4.2 (calling for revision of terms in accordance with appellate decisions regarding implementation of Local Interconnection Order).

*Checklist Item (7): Nondiscriminatory Access to 911, E911, Directory Assistance, and Operator Call Completion Services*

Section 271(c)(2)(B)(vii) directs SWBT to provide nondiscriminatory access to 911 and E911 services, directory assistance ("DA") services, and operator call completion services.

1. SWBT's Statement satisfies these obligations. The affidavits of Richard K. Keener, Dale Kaeshoefer, and William Deere describe in detail the services being offered by SWBT under the Statement. See Keener Aff. ¶¶ 7-30; Kaeshoefer Aff. ¶¶ 50, 51; Deere Aff. ¶¶ 82-86. The Statement provides CLEC customers, on a nondiscriminatory basis, the type of 911 and E911 access selected by the local government in their area. Deere Aff. ¶ 82.

The Statement's DA provisions allow CLECs to obtain nondiscriminatory access to DA and DA call completion services. Statement § VI.E. Under Appendix Direct, SWBT offers CLECs the opportunity to access the same directory listing information that is available to SWBT's DA operators. App. Direct § 1. SWBT will make such direct access available to

requesting telecommunications carriers on an individual-case basis ("ICB") as indicated in Appendix Pricing Schedule (at 4).<sup>26</sup> SWBT will provide the above DA services with no unreasonable dialing delays.

SWBT's operator call completion services include fully- and semi-automated call processing, operator-assisted call processing, line status verification, busy line interrupt, operator transfer service, emergency call handling, CLEC-specific branding, and rate information. App. OS. As with DA services and pursuant to Commission rules, SWBT will brand operator services in the CLEC's name. Statement OS § II.I. Rates for these operator services are listed in Appendix Pricing Schedule. SWBT will provide the services with no unreasonable dialing delays.

SWBT did not have the technical capability to offer branding of DA and operator services for resellers when the Commission issued its Local Interconnection Order in August, 1996. Keener Aff. ¶¶ 16-19. In the AT&T Arbitration, the parties agreed that SWBT should complete implementation of this capability by June 30, 1997. Id. SWBT has installed the necessary software well before that deadline, and now is able to make reseller branding available. Id. ¶ 18. SWBT also offers branding of DA and operator call completion services to facilities-based CLECs. Id. ¶ 17.

2. The Brooks Fiber Agreement similarly obligates SWBT to provide nondiscriminatory access to 911 and E911 services. See Brooks Fiber Agreement, § VI.A. This contractual

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<sup>26</sup> All non-ICB services either have a cost-based rate or are currently offered at no charge; ICB services will have cost-based rates.

obligation is spelled out in considerable detail in an addendum to the Brooks Fiber Agreement entitled "Appendix 911." The Brooks Fiber Agreement further provides Brooks Fiber with nondiscriminatory access to DA services and operator call completion services. See Brooks Fiber Agreement, § VI.D, App. DA. SWBT has agreed to provide Brooks Fiber with nondiscriminatory access to various other operator services, including Line Status Verification and Busy Line Interrupt. See Brooks Fiber Agreement, § VI.F, App. OS. SWBT is currently furnishing 911 services, DA services, and operator call completion services pursuant to the Agreement. Keener Aff. ¶¶ 9, 14; Kaeshoefer Aff. ¶ 50.

*Checklist Item (8): White Pages Directory Listings*

Section 271(c)(2)(B)(viii) requires SWBT to provide White Pages directory listings for the customers of competing CLECs.

1. SWBT's Statement satisfies this requirement. See Baker-Oliver Aff. ¶¶ 9-24. It makes available White Pages listings for customers of both resellers and facilities-based carriers, as if they were SWBT customers. Statement § VI.C & App. WP; see Baker-Oliver Aff. ¶¶ 5-14. The listing options include enhanced residential listing products such as Signature listing, Lines of Distinction, and Personality Logos. Baker-Oliver Aff. ¶ 10. SWBT will intersperse CLEC listings with the listings of SWBT customers, unless the CLEC prefers to have its customers listed in a separate section of the White Pages directory. Statement App. WP § I.D.

The Statement offers delivery of a copy of the White Pages directly to the customers of resellers and, at the option of a facilities-based CLEC, either to the CLEC or directly to its customers. Statement App. WP § III.A; Baker-Oliver Aff. ¶ 12. In addition, CLECs themselves

may choose to be included on an informational page listing carrier-specific contact information.

Statement App. WP § I.G; Baker-Oliver Aff. ¶ 13.

2. The Brooks Fiber Agreement also provides nondiscriminatory access to SWBT's White Pages directory listing and distribution services. See Brooks Fiber Agreement, § VI.C App. WP. In Appendix WP to the Brooks Fiber Agreement, SWBT has agreed to include the listings of Brooks Fiber's customers in its White Pages directories and to deliver directories to those customers. See also Brooks Fiber Agreement, App. Resale at 13. SWBT also has agreed to furnish Brooks Fiber an informational page in the White Pages directory and to include Brooks Fiber's specific information (i.e., business office, residence office, repair bureau, etc.) on an "index-type" informational page. Brooks Fiber Agreement, App. WP § I.G. at 2.

*Checklist Item (9): Nondiscriminatory Access to Telephone Numbers*

Pursuant to section 271(c)(2)(B)(ix), SWBT must provide CLECs with nondiscriminatory access to telephone numbers for assignment to their customers until telecommunications numbering administration guidelines, plans, or rules are established. SWBT has met this requirement. In fulfilling its role as the Central Office Code Administrator within its five-state operating service area, SWBT has followed industry-established guidelines promulgated under the auspices of the Commission. Adair Aff. ¶¶ 11-22.

SWBT's Statement continues this practice, guaranteeing compliance not only with section 271(c)(2)(B)(ix), but also with any guidelines issued by the Commission until such time as numbering administration is taken over by a neutral third party. Statement § IV; Adair Aff. ¶¶ 21-22; Kaeshoefer Aff. ¶ 54. SWBT also has participated in the Commission's North American

Numbering Council and supported its efforts to transfer number administration functions to a neutral third party. Adair Aff. ¶¶ 20-22.

SWBT has agreed with Brooks Fiber that, to the extent that it serves as the Central Office Code Administrator for the Brooks Fiber's service areas in Oklahoma, it will work with Brooks Fiber in a neutral and nondiscriminatory manner, consistent with regulatory requirements, with respect to Brooks Fiber's requests for the assignment of central office codes ("NXXs") for purposes of assigning telephone numbers to Brooks Fiber's customers. See Brooks Fiber Agreement § IV.B. As of April 1, 1997, SWBT had assigned 11 central office codes to CLECs in the State of Oklahoma, Adair Aff. ¶ 18, including a number of codes to Brooks Fiber. Id.

*Checklist Item (10): Nondiscriminatory Access to Databases and Associated Signaling Necessary for Call Routing and Completion*

Section 271(c)(2)(B)(x) requires SWBT to provide CLECs with nondiscriminatory access to databases and associated signaling necessary for call routing and completion. The Commission's implementing regulations also require SWBT to provide nondiscriminatory access to signaling networks and call-related databases. 47 C.F.R. § 51.319(e). SWBT exceeds this requirement by providing unbundled access to signaling and various databases as noted in the discussion of checklist item (2), above.

In particular, SWBT's Statement provides unbundled access to its Toll Free Calling (800 and 888) Database on non-discriminatory terms. Appendix 800 to the Statement offers CLECs optional number translation, call validation, and call routing features in addition to stand-alone database access. See Statement App. 800 §§ I, II.B. The Brooks Fiber Agreement likewise

provides the requisite access to the Toll Free Calling database. Brooks Fiber Agreement App. SS7 Attach. 6.

*Checklist Item (11): Interim Number Portability*

Section 271(c)(2)(B)(xi) requires SWBT to provide CLECs with interim number portability ("INP"), either through remote call forwarding ("RCF"), direct inward dialing ("DID"), or other comparable arrangements, until the Commission issues regulations pursuant to section 251 to ensure permanent number portability. See also 47 C.F.R. §§ 42.3(a), (b), 42.7(a), 42.9; Baker-Oliver Aff. ¶¶ 15-22. Implementation of permanent number portability is scheduled to begin in Oklahoma in the third quarter of 1998. Kaeshoefer Aff. ¶ 59.

1. SWBT's Statement provides INP in compliance with SWBT's statutory and regulatory obligations. See Baker-Oliver Aff. ¶¶ 15-22; Kaeshoefer Aff. ¶¶ 57; Deere Aff. ¶ 112. SWBT offers CLECs a choice of RCF or DID arrangements. Statement App. Port §§ II.E, II.F. When a CLEC assigns to its end-user one of its own telephone numbers, SWBT's switches continue to route calls that are dialed to the customer's old SWBT telephone number to the end-user. Baker-Oliver Aff. ¶ 16. SWBT intends to seek recovery of the costs of providing INP accordance with Commission rules when final, effective rules are in place. Statement App. Port § II.G; Kaeshoefer Aff. ¶ 58. In the interim, SWBT will track INP costs and may true-up and back-bill CLECs depending on how cost recovery issues ultimately are resolved. Statement App. Port § II.G; Kaeshoefer Aff. ¶ 58; Deere Aff. ¶ 115. SWBT has also requested proceedings before the OCC to determine a method of interim cost recovery. Kaeshoefer Aff. ¶ 58.

2. SWBT makes INP available to Brooks Fiber pursuant to the Brooks Fiber Agreement.

Kaeshoefer Aff. ¶ 59; Brooks Fiber Agreement, § IX, App. PORT. Through its MFN clause, Brooks Fiber also has access to number portability arrangements that SWBT makes available to any other CLEC under an OCC-approved interconnection agreement. See, e.g., ICG Agreement, § 14.1 (SWBT to provide INP using RCF and DID); Sprint Agreement Attachments 14 (same) & 12 (compensation). Brooks Fiber has received INP for "several customers."<sup>27</sup>

*Checklist Item (12): Local Dialing Parity*

Section 271(c)(2)(B)(xii) requires SWBT to provide CLECs with nondiscriminatory access to services and information that are necessary to allow local dialing parity in accordance with section 251(b)(3). See also 47 C.F.R. § 51.207 (equal number of digits). The Commission has noted its expectation "that local dialing parity will be achieved upon implementation of the number portability and interconnection requirements of section 251." Second Report and Order and Memorandum Opinion and Order, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Dkt No. 96-98, FCC 96-333, at ¶ 71 (rel. Aug. 8, 1996).

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<sup>27</sup> Reply Comments of Brooks Fiber Communications of Oklahoma, Inc. and Brooks Fiber Communications of Tulsa, Inc. at 2 (OCC filed Mar. 25, 1997) (App. Vol. IV, Tab. 28). Before the OCC, Brooks Fiber cited incidents in which its customers temporarily did not receive incoming calls through call forwarding. As Southwestern Bell has explained, this problem was caused by Brooks Fiber's mistaken submission of orders to SWBT's retail business office rather than to the LSPSC, which handles CLEC orders. This error appears to be an isolated event. SWBT has made extraordinary efforts to ensure that its ordering procedures are easy to follow and familiar to CLECs. Indeed, SWBT gave Brooks Fiber written materials and undertook face-to-face meetings and instruction for this purpose. See Reply Comments of Southwestern Bell Telephone Company in Support of Commission Endorsement of Full InterLATA Competition in Oklahoma at 54-55 (OCC filed Mar. 25, 1997) (App. Vol. IV, Tab 27).

As described above, SWBT's Statement and its agreement with Brooks Fiber offer requesting CLECs access to the information necessary to implement local dialing parity, as well as nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listings with no unreasonable dialing delays. Kaeshoefer Aff. ¶¶ 60-62; Deere Aff. ¶¶ 116-118. Indeed, the Brooks Fiber Agreement guarantees that "when customers of SWBT and Brooks have the same exchange boundaries, these customers will be able to dial the same number of digits when making a 'local' call." Brooks Fiber Agreement, § VI. B., VI.B.1; See Kaeshoefer Aff. ¶ 61. By virtue of its MFN clause, Brooks Fiber also has access to other OCC-approved agreements and their dialing parity provisions. See, e.g., Sprint Agreement § 49.1 (guaranteeing dialing parity and equal call quality); USLD Agreement, § VI. B., (App. Vol. III, Tab 7) ICG Agreement, §§ 15.1, 15.2, (guaranteeing dialing parity in accordance with the Act).

*Checklist Item (13): Reciprocal Compensation for the Exchange of Local Traffic*

Section 271(c)(2)(B)(xiii) requires SWBT to agree, under section 251(d)(2), to just and reasonable terms and conditions that provide for mutual and reciprocal recovery by SWBT and the CLEC of the costs associated with transporting and terminating calls that originate on the other carrier's network. SWBT's Statement fulfills this checklist requirement. Statement § III. SWBT offers reciprocal rates for both tandem office-based and end office-based transport and termination of local traffic originating on the other carrier's network, in accordance with section 252(d)(2) and the Commission's stayed pricing rules. Kaeshoefer Aff. ¶¶ 63-64; Moore Aff. ¶¶ 8-25 (discussing cost studies). SWBT also has fully complied with this statutory requirement in its interconnection agreement with Brooks Fiber and other OCC-approved agreements to