and (b) Customer Information related to a ~~Reseller~~n LCI User that is to be treated as Confidential Information by Bell Atlantic pursuant to Section 14.1(b). If the Recipient loses or makes an unauthorized disclosure of the Discloser's Confidential Information, it shall notify the Discloser immediately and use reasonable efforts to retrieve the lost or improperly disclosed information.

14.7 The requirements of this Section 14 shall not apply to Confidential Information:

(a) which was in the possession of the Recipient free of restriction prior to its receipt from the Discloser;

(b) after it becomes publicly known or available through no breach of this Agreement by the Recipient, the Recipient's Affiliates, or the directors, officers, employees, Agents, or contractors, of the Recipient or the Recipient's Affiliates;

(c) after it is rightfully acquired by the Recipient free of restrictions on its disclosure;

(d) after it is independently developed by the Recipient; or

(e) to the extent the disclosure is required by Applicable Law, a court, or governmental agency; provided, the Discloser has been notified of the required disclosure promptly after the Recipient becomes aware of the required disclosure, the Recipient undertakes reasonable lawful measures to avoid disclosing the Confidential Information until the Discloser has had reasonable time to seek a protective order, and the Recipient complies with any protective order that covers the Confidential Information to be disclosed.

14.8 Each Party's obligations to safeguard Confidential Information disclosed prior to expiration, cancellation or termination of this Agreement shall survive such expiration, cancellation or termination.

14.9 Confidential Information shall remain the property of the Discloser, and the Discloser shall retain all of the Discloser's right, title and interest in any Confidential Information disclosed by the Discloser to the Recipient. Except as otherwise expressly provided elsewhere in this Agreement, no license is granted by this Agreement with respect to any Confidential Information (including, but not

limited to, under any patent, trademark, or copyright), nor is any such license to be implied, solely by virtue of the disclosure of any Confidential Information.

14.10 Each Party agrees that the Discloser would be irreparably injured by a breach of this Section 14 by the Recipient, the Recipient's Affiliates, or the directors, officers, employees, Agents or contractors of the Recipient or the Recipient's Affiliates, and that the Discloser shall be entitled to seek equitable relief, including injunctive relief and specific performance, in the event of any breach of the provisions of this Section 14. Such remedies shall not be deemed to be the exclusive remedies for a breach of this Section 14, but shall be in addition to any other remedies available at law or in equity.

14.11 The provisions of this Section 14 shall be in addition to and not in derogation of any provisions of Applicable Law, including, but not limited to, 47 U.S.C. § 222, and are not intended to constitute a waiver by a Party of any right with regard to protection of the confidentiality of information of the Party or its customers provided by Applicable Law. In the event of a conflict between a provision of this Section 14 and a provision of Applicable Law, the provision of Applicable Law shall prevail.

14.12 Bell Atlantic's use and disclosure of Customer Information related to an LCI User which is generated by Bell Atlantic in the performance of this Agreement shall be subject to the restrictions provided by Applicable Law (including, but not limited to, Section 222 of the Act, 47 U.S.C. § 222).

15. CONTINGENCIES

Neither Party shall be liable for any delay or failure in performance by it which results from strikes, labor slowdowns, or other labor disputes, fires, explosions, floods, earthquakes, volcanic action, delays in obtaining or inability to obtain necessary services, facilities, equipment, parts or repairs thereof, power failures, embargoes, boycotts, unusually severe weather conditions, revolution, riots or other civil disturbances, war or acts of the public enemy, acts of God, or causes beyond the Party's reasonable control. In providing Bell Atlantic Retail Telecommunications Services that are affected by a contingency described in this Section 15, to the extent required by Applicable Law, Bell Atlantic shall act in a

51.311 and 51.313) and technically feasible, Bell Atlantic shall provide a Bell Atlantic OSS Service to LCI such that:

(a) the quality of the Bell Atlantic OSS Service, as well as the quality of the access to the Bell Atlantic OSS Service, will be the Same as that which Bell Atlantic provides to other Telecommunications Carriers requesting access to the Bell Atlantic OSS Service; and

(b) the quality of the Bell Atlantic OSS Service, as well as the quality of the access to the Bell Atlantic OSS Service, will be Equal in quality to that which Bell Atlantic provides to itself.

As used in this Section 34.3, "Equal" and "Same" mean that there is no statistically significant difference in quality.

34.4 Bell Atlantic shall provide to LCI the performance measurement reports listed in Exhibit III. ~~Such~~LCI agrees that the information included in these reports shall be treated by LCI as Confidential Information of Bell Atlantic under Section 14~~.~~; provided that, such information may be reported by LCI to the Commission, the Federal Communications Commission, or courts of competent jurisdiction, under cover of a protective order ~~Notwithstanding the preceding sentence and Section 14, commencing four (4) months after LCI begins to purchase Bell Atlantic Services for use by LCI to provide service to LCI Users on a general commercial basis, the reports may be used and disclosed by LCI for the purposes of enforcing LCI's rights under Applicable Law and this Agreement. In making any such disclosure, LCI shall make reasonable efforts to preserve the confidentiality of the reports while they are in the possession of any person to whom they are disclosed, including, but not limited to, by requesting a governmental entity to whom the reports are disclosed to treat them as confidential~~agreed upon by LCI and Bell Atlantic.

35. SURVIVAL

Any liabilities or obligations of a Party for acts or omissions of the Party prior to the termination, cancellation or expiration of this Agreement, any liabilities or obligations of a Party under any provision of this Agreement regarding indemnification or defense, Customer Information, confidential information, or limitation or exclusion of liability, and any liabilities or obligations of a Party under any provision of this Agreement which by its terms is contemplated to survive (or be

LCI International®
Worldwide Telecommunications

Anne K. Bingaman
Senior Vice President
President, Local
Telecommunications Division

May 23, 1997

VIA FAX

Mr. James R. Young
General Counsel
Bell Atlantic
1310 N. Courthouse Rd.
Arlington, VA 22201

Dear Jim,

Since my first telephone call to you (I left a long voice mail) on Wednesday, May 7, 1997, my three-page letter to you on Wednesday, May 14, 1997, and repeated requests by Susan Lord to Bell Atlantic lawyers for an answer to my May 14th letter, there has been what I can only characterize as deafening silence from you and Bell Atlantic on my serious concern about Bell Atlantic's insistence on stringent confidentiality provisions for OSS performance standards.

As I have told you personally on several occasions since February, 1997, LCI wants to proceed immediately with EDI testing and selling by resale in Bell Atlantic territory. We have had no problem reaching such agreements with BellSouth, NYNEX, and Ameritech; only Bell Atlantic has been held up, over three months of negotiations. I am told by my lawyers that only two issues remain, the confidentiality agreement on OSS standards (which I am told you continue to insist on), and a related issue which arises under our EDI test agreement. Until both are signed, LCI is stymied in its efforts to develop EDI interfaces with Bell Atlantic, or to begin selling by resale in Bell Atlantic territory.

To get this stage of our business relationship behind us, my proposal to you is that we proceed immediately to sign all five state agreements our lawyers have negotiated, with the clauses in these two areas as Bell Atlantic insists upon them, but with the stated understanding that LCI will take such steps as are necessary to have these issues resolved promptly by one or more state commissions or the FCC .

TAB J-1

8180 Greensboro Drive • McLean, Virginia 22102 • 703-610-4877 • Fax: 703-610-4878

If this is acceptable to you, I would like to hear from you today if at all possible. Please call me or dictate a short response if this is acceptable. As stated, we will sign the contracts on your terms, with a right by LCI to seek a ruling from one or more governmental agencies to resolve our disagreement on these issues.

Thank you very much.

Sincerely,

Anne Bingaman

Anne K. Bingaman

AKB:slg

TAB J-2

K

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: IMPLEMENTATION OF THE TELECOMMUNICATIONS ACT OF 1996; BELL ATLANTIC - PENNSYLVANIA'S ENTRY INTO IN-REGION INTERLATA SERVICES UNDER SECTION 271	:	Docket No. M-960840

DECLARATION OF ROBERT J. KIRCHBERGER
ON BEHALF OF
AT&T COMMUNICATIONS OF PENNSYLVANIA, INC.

1. My name is Robert J. Kirchberger. My business address is 131 Morristown Road, Basking Ridge, New Jersey. Currently, I am a director in AT&T's Law and Government Affairs organization for the Atlantic Region.

2. I have over 27 years experience in the telecommunications industry -- 10 years with New Jersey Bell and 17 years with AT&T. Over the years, I have held positions of increasing responsibility in a number of areas, including management of local repair service centers and local switching offices, development of technical and tariff support for pricing and marketing of both New Jersey Bell's and AT&T's services, and management of customized offerings. From 1995 to November, 1996, I had business management responsibility for the Atlantic Region local services organization. In that capacity, I served as the lead pricing negotiator for the AT&T-Bell Atlantic negotiations for a local interconnection agreement.

3. The purpose of my affidavit is to respond to the claims of Bell Atlantic regarding the progress it has made toward providing competitive local exchange carriers (CLECs) with nondiscriminatory access to its operations support systems (OSS) as required by

TAB K-1

Section 251(c)(3) of the Telecommunications Act of 1996 (1996 Act). As demonstrated below, Bell Atlantic still has a long way to go before it will be able to provide CLECs with workable and nondiscriminatory access to its operations support systems. In the first place, the OSS interfaces being proposed by Bell Atlantic are not presently available; that is, they are not yet deployed or tested or otherwise in a state of operational readiness. Indeed, all that Bell Atlantic even claims in this proceeding with respect to OSS access is that it will provide such access at some undefined time in the future. In addition, the OSS access that Bell Atlantic proposes to provide initially to CLECs falls far short in several significant respects of providing CLECs with the parity of access required by the 1996 Act. Most significantly, Bell Atlantic's proposed ordering procedure is not mechanized. Rather, it requires Bell Atlantic employees to manually rekey all CLEC orders for input into its service order processing systems – a procedure that amounts to nothing more than the equivalent of communication by facsimile, which the FCC has expressly found to be insufficient. Further, Bell Atlantic has offered no evidence that the OSS access it proposes to provide will have sufficient capacity to handle the volume of CLEC requests that can reasonably be expected to occur in a multi-carrier competitive local exchange market. Finally, Bell Atlantic has made no showing that the OSS access it proposes to provide to CLECs will be nondiscriminatory – that is, equivalent to the access that Bell Atlantic provides to itself.

I. THE NEED FOR NONDISCRIMINATORY ACCESS TO OPERATIONS SUPPORT SYSTEMS

4. "Operations support systems" are the computer-based systems and databases that telecommunications carriers use to provide a number of essential customer and business support functions, including (1) pre-ordering (e.g., identifying the customer's existing

TAB K-2

service and the availability of new services and features, address verification, the assignment of new telephone numbers, ascertaining the need for a site visit and the due date for service installation), (2) ordering, (3) provisioning, (4) maintenance and repair, and (5) billing for the sale or resale of telecommunications services. Operations support systems also include local account maintenance systems by which a carrier can update other information regarding its local customers, such as a change in the customer's long distance carrier.

5. The establishment of efficient electronic interfaces and procedures for the exchange of information between the operations support systems of Bell Atlantic and AT&T and other CLECs is absolutely essential for the development of competition in the provision of local services. AT&T and other CLECs entering local markets in Pennsylvania on a large scale will be highly dependent upon their ability efficiently to obtain local services and unbundled network elements from Bell Atlantic, which will depend in turn upon the efficient exchange of information between AT&T and Bell Atlantic relating to all the OSS functions described above. Without nondiscriminatory access to Bell Atlantic's operations support systems, large-scale, broad-based entry by CLECs into local markets in Pennsylvania will be delayed or foreclosed, and consumers will be denied the benefits of competition in local telephone services -- choice, new and innovative services, and lower prices.

6. The FCC has found that nondiscriminatory access to operations support systems of the incumbent LECs is "critical to the ability of other carriers to compete," stating that:

> "[I]f competing carriers are unable to perform the functions of pre-ordering, ordering, provisioning, maintenance and repair, and billing for network elements and resale services in substantially the same time and manner that an incumbent can for itself, competing

TAB K-3

> carriers will be severely disadvantaged, if not precluded altogether, from fairly competing. Thus providing nondiscriminatory access to these support systems functions, which would include access to the information such systems contain, is vital to creating opportunities for meaningful competition."[1]

The FCC further found that "providing nondiscriminatory access to operations support systems functions is technically feasible," and it ordered that such nondiscriminatory access must be provided by January 1, 1997.[2]

7. The FCC subsequently denied petitions to defer this requirement of nondiscriminatory access to operations support systems.[3] Although the Commission stated it would not initiate enforcement actions against incumbent LECs "that are making good faith efforts to provide [nondiscriminatory OSS] access within a reasonable period of time," it reaffirmed that "access to OSS functions is a critical requirement"; that such access must be "at least equivalent" or "equal to" the access that the incumbent LEC provides to itself; and that "incumbent LECs that do not provide access to OSS functions, in accordance with the First Report and Order, are not in full compliance with Section 251."[4]

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1 First Report and Order, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98 (released August 8, 1996) (First Report and Order), at ¶ 518.

2 Id. at ¶¶ 520, 523.

3 Second Order on Reconsideration, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98 (released December 13, 1996).

4 Id. at ¶¶ 9-11.

TAB K-4

II. THE REQUIREMENTS FOR NONDISCRIMINATORY ACCESS TO OPERATIONS SUPPORT SYSTEMS

8. In order to establish that it has fully implemented its obligation to provide CLECs with nondiscriminatory access to its operations support systems, Bell Atlantic must show: (1) that OSS interfaces are deployed, cover all OSS functions and are in a state of full operational readiness for both wholesale services and unbundled network elements, (2) that its proposed OSS interfaces, systems, procedures and personnel are adequate to handle the magnitude of the CLEC requests that can reasonably be anticipated to occur in a multi-carrier competitive market, and (3) that the OSS access being provided to CLECs is "nondiscriminatory" in that it is equivalent in terms of availability, accuracy and timeliness to the access that Bell Atlantic provides to itself. Bell Atlantic has met none of these requirements.

III. LACK OF OPERATIONAL READINESS

9. As Bell Atlantic has conceded in other jurisdictions, the development of operationally ready electronic interfaces between two operations support systems is a complex and difficult undertaking.[5] It requires not only the development of interfaces and the publication of interface specifications, but a showing that CLECs are actually able to use the interfaces to obtain the information and functionalities contained in Bell Atlantic's operations support systems and databases. Operational readiness can only be established, therefore, by evidence that CLECs have been able to process large volumes of transactions over the interface in an accurate, reliable and timely manner.

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[5] See Direct Testimony of Donald E. Albert, filed November 4, 1996, in Notice of Investigation. Local Exchange Competition for Telecommunications Services, N.J. Bd. Pub. Util. Docket No. TX95120631, p. 21 (stating that providing access to unbundled operations support systems "is a monumentally complex task").

TAB K-5

10. Bell Atlantic does not even contend at this time that it has deployed operationally ready OSS interfaces for all OSS functions for its resale services and unbundled network elements. Rather, Bell Atlantic states only that it "will provide competing carriers access to its operations support systems" at some undefined time in the future. Albert Decl. ¶ 65 (emphasis added). Such vague promises of future access obviously do not satisfy Bell Atlantic's OSS access obligations.

11. With respect to its proposed ordering interface, Bell Atlantic states that only the "initial development" of an interface has been completed and that the interface "is now being tested" by Bell Atlantic. Moreover, Bell Atlantic states that the mechanization of processing local service requests (LSRs) will only be "implemented by order type (e.g. basic residential service), with the most common order types mechanized first" and that "it will probably be several years . . . before all LSR types are mechanized." Albert Decl. ¶ 67 (emphasis added). This admission is confirmed by Bell Atlantic's recent statements in Docket No. P-00961137. There, Bell Atlantic admitted that its implementation of mechanized access to its ordering systems "will proceed in two phases" and that "it may be several years" before Bell Atlantic will be capable of processing all CLEC orders on a mechanized basis.[6]

12. Similarly, with respect to its proposed billing interfaces, Bell Atlantic candidly concedes that its interfaces are not in a state of operational readiness. Instead, Bell Atlantic states that it is still "conducting an operational test to validate the production capabilities of the billing system." Albert Decl. ¶ 70.

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6 Bell Atlantic - Pennsylvania, Inc. Reply Comments, Petition of Bell Atlantic - Pennsylvania, Inc. for Approval of a Statement of Generally Available Terms and Conditions, Docket No. P-00961137 (filed February 5, 1997), pp. 7-8.

TAB K-6

13. Bell Atlantic's own statements, therefore, indicate that its systems are not operationally ready. Moreover, the evidence required to demonstrate that Bell Atlantic's interfaces are capable of processing large volumes of transactions in an accurate, reliable and timely manner can only be obtained through thorough end-to-end integration testing of Bell's proposed OSS interfaces.

14. The mere development of an interface and the publication of technical specifications is not enough. Interface specifications, standing alone, generally do not provide sufficient information to enable systems to interface with each other. Even when industry standards are used, those standards are often defined to allow flexibility in the design of systems. Different companies may apply the standards differently. Further, each company will have its own unique methods and procedures, system design parameters, and other policies and practices, referred to as "business rules," that are essential to the functioning of its systems. These business rules are not generally reflected in the technical specifications, but they are crucial to the successful use of a systems interface. Both parties must understand how data will be "packaged" within messages that cross the interface, the identity of the data elements that will and will not be provided, the sequence of messages that will be exchanged, the "edits" that are programmed into the systems, and the business activities that will occur in response to particular messages. Without full knowledge and compliance with both the interface specifications and business rules, CLECs will not be able to communicate and interact with Bell Atlantic's systems, and essential transactions will not take place as intended. Problems of this sort can only be uncovered in the course of comprehensive integration testing.

TAB K-7

15. Because AT&T recognizes that adequate systems testing is imperative, it has repeatedly throughout its negotiations with Bell Atlantic stressed the importance of comprehensive end-to-end service readiness testing for both the purchase of resold services and unbundled network elements. At a meeting in early November, 1996, in response to AT&T's request to test systems in January, Bell Atlantic told AT&T that it would not be ready to test unbundled elements systems at that time. Further, it stated that resources for such testing might be difficult to obtain, and that the timing of the total services resale testing that AT&T had also requested would affect the timing of the unbundled elements testing.

16. AT&T presented a comprehensive test plan to Bell Atlantic on November 19, 1996. AT&T's proposal was designed to test all phases of the data flows that must be exchanged in the wholesale environment. Because Bell Atlantic had told AT&T that it would not be ready to test unbundled elements in January, AT&T's test proposal focused on total services resale testing first. AT&T's test plan was designed to assess all data flows through the systems architecture to ensure that, under a variety of different scenarios, AT&T customer service orders could be processed and provisioned, and the resulting service maintained and billed. To ensure smooth systems interaction, such testing was to include all data element flows, including the initiation of the transaction by AT&T, the movement of the data elements through AT&T's operations support systems, the transmission of information across the interface to Bell Atlantic, the processing of the data within Bell Atlantic's operations support systems, and, per industry standards, the subsequent return of data to AT&T, as well as escalation procedures and contingent manual processes.

TAB K-8

17. AT&T presented its service readiness test plan proposal to Bell Atlantic at a seven hour meeting on November 19, 1996. During that meeting, Bell Atlantic representatives listened to AT&T's proposal and appeared receptive to it. When asked at the end of the meeting whether Bell Atlantic would accept the proposal, Bell Atlantic's representatives stated that they wanted some time to review the proposal with senior management and to add some of Bell Atlantic's own testing requirements. As a result, Bell Atlantic suggested that the companies meet in another week or two.

18. The very next day, however, on November 20, 1996, Bell Atlantic sent AT&T a letter inviting AT&T to a December 17, 1996 "Resale Seminar." That letter revealed that Bell Atlantic had decided to use only one test partner for the entirety of the region, that it had intended to determine unilaterally who its test partner would be, and that it had prepared its own test plan and schedule. None of this information had been disclosed to AT&T at its meeting with Bell Atlantic the day before.

19. At the December 17 seminar, Bell Atlantic revealed that it had selected as its test partner USN, a small business-only reseller which has no customers in Bell Atlantic's territory and only approximately 70 employees worldwide. At the time that USN was selected, it was not authorized to provide local service anywhere in Bell Atlantic's territory, and it only received authorization on February 17, 1997 to provide local service in Maryland, where the test is being conducted.[7] Bell Atlantic asserted that USN was "randomly" chosen by Coopers &

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[7] Bell Atlantic's choice of a Maryland test partner is also peculiar because it had previously told AT&T that its preference was to test its systems in Pennsylvania where its systems were the most up to date and closest to Bellcore standards, and that it might have operational difficulties in the old C&P Telephone territories.

TAB K-9

Lybrand from a pool of candidates that had been deemed qualified. See also Albert Decl. ¶ 71 (stating that Bell Atlantic is conducting an operational readiness test with "a randomly selected reseller"). However, USN also happens to be the test partner for OSS interfaces chosen by Ameritech.

20. Since the December 17 seminar, Bell Atlantic has not disclosed any details about or results of its testing with USN. Bell Atlantic has not even disclosed what OSS functions or interfaces are being tested, or what kinds of service order types or volumes are involved. Although Bell Atlantic had initially stated that the test results would be made publicly available in February, no test results have been released to date. Despite repeated requests, Bell Atlantic has not to date produced any intermediate test results, and it has provided no more study documentation than a cursory one page summary of the test plan. Moreover, Bell Atlantic's representatives have told AT&T on more than one occasion that the test was not going well and that it was running about a month behind schedule.

21. Significantly, what Bell Atlantic has also admitted is that no USN customers are involved in the testing, and that all of the test participants are Bell Atlantic customers that are being "loaned" to USN solely for purposes of the test, and they will remain customers of Bell Atlantic when the tests are completed. These facts make clear that this supposed "reseller test" is nothing more than a "self test" by Bell Atlantic of its own systems. Thus, even if Bell did release the test results, it would show nothing about the ability of Bell Atlantic's systems to interface with CLECs. To this day, Bell Atlantic has still not provided AT&T with the interfaces necessary for testing.

TAB K-10

22. On February 10, 1997, on the same day that it filed its supplemental report with the Commission alleging compliance with Section 271, Bell Atlantic finally accepted AT&T's test proposal, which had not changed from AT&T's November proposal. That testing is now scheduled to begin later this month. However, in response to AT&T's repeated requests that the companies also conduct service readiness testing for unbundled network element orders, Bell Atlantic has stated only that it "currently expects to have the capability" to process such orders by May 1, 1997.[8] Without even having the capability to test orders for unbundled network elements until, at the earliest, May 1, 1997, it is difficult to comprehend how Bell Atlantic can believe that it is in compliance with this checklist requirement.

23. Even Bell Atlantic's eleventh hour agreement to conduct testing with AT&T is tenuous. AT&T's test plan proceeds in a number of phases. For example, the purpose of Phase "0" is to conduct connectivity testing; Phase 1 concentrates on pretesting in a preproduction environment; and Phase 2 is full blown service readiness testing, which is designed to simulate a full production environment. Bell Atlantic representatives, however, have vacillated about whether Bell Altantic would be willing to proceed to Phase 2 of the test until there is a signed interconnection agreement with AT&T, a requirement that is both unnecessary and entirely within Bell Atlantic's control. Further, in a draft of the testing agreement that was forwarded to AT&T last week, Bell Atlantic is now seeking to add some requirements that threaten the current testing schedule.[9]

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[8] Letter from Jae Bradley, Bell Atlantic, to Jim Cottingham, AT&T, dated February 27, 1997.

[9] See page 2 of Attachment A to Bell Atlantic's draft of the proposed Testing (continued...)

TAB K-11

IV. THE LACK OF PARITY OF ACCESS TO OPERATIONS SUPPORT SYSTEMS

24. In additional to the acknowledged lack of operational readiness of the OSS interfaces proposed by Bell Atlantic, it is clear even from the cursory descriptions provided that the interfaces which Bell Atlantic proposes to provide initially to CLECs will not provide parity of access required by the 1996 Act. This deficiency is obvious in Bell Atlantic's description of its proposed interfaces for the ordering and provisioning of service resale. Although the FCC has ordered incumbent LECs to provide electronic interfaces for machine-to-machine communications by CLECs,[10] the interfaces presently being proposed by Bell Atlantic will not permit CLECs to communicate with Bell Atlantic's ordering and provisioning systems at all. Rather, those interfaces will only enable a CLEC to submit orders to Bell Atlantic's "Competitive LEC Sales and Service [Center] (CSSC) representatives," who will then manually input the orders into Bell Atlantic's service order processing system. Albert Decl. ¶ 67. In other words, the data that a CLEC keys in on its side of the interface will be received by a Bell Atlantic employee via terminal or printer, who will then manually rekey the order into Bell Atlantic's systems. Thus, a CLEC's customer order will be processed twice -- once by the CLEC agent and then again by a Bell Atlantic representative. Moreover, Bell Atlantic states that a fully "mechanized" process will not be available for all types of CLEC orders for "several years." Id. Thus, for several years there will be no electronic connection or communication at all between the CLEC and Bell Atlantic operations support systems. With this arrangement, Bell cannot

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9 (...continued)
Agreement (imposing a 60 day advance notice requirement for certain information for Phase 2 of the test).

10 See First Report and Order, ¶ 523.

TAB K-12

even maintain any pretense of parity, since Bell Atlantic's own local service orders are entered directly into its service order processing system by the Bell Atlantic representative who is dealing with the customer with no further human intervention.

25. This proposed CLEC ordering procedure amounts to nothing more than the equivalent of communication of orders by facsimile, a procedure expressly rejected by the FCC as "obviously" inadequate to meet the obligation of incumbent LECs to provide nondiscriminatory electronic access to their operations support systems. The FCC found that where an incumbent LEC's customer service representatives have direct electronic access to OSS systems, the incumbent LEC "must provide the same access to competing providers," and "[o]bviously, an incumbent that provisions network resources electronically does not discharge its obligation under section 251(c)(3) by offering competing providers access that <u>involves human intervention</u>, such as facsimile-based ordering." First Report and Order, ¶ 523.

26. The repetitious manual processing of CLEC orders required by Bell Atlantic is also a serious concern because it will delay the ordering and provisioning process for CLECs, including the receipt of firm order confirmations or order rejections. This arrangement will prevent the CLEC agent from receiving prompt notification of the status of service orders and will preclude CLECs from making edits or corrections to orders to avoid order rejection while the customer is still "on-line." Thus, unlike Bell Atlantic representatives, CLECs will have to call the customer back to correct orders that Bell Atlantic's systems have rejected. The manual retyping required by Bell Atlantic's proposed arrangement also greatly increases the potential for error in the processing of CLEC orders. Further, it will not be apparent to a CLEC's customers that these problems are caused by Bell Atlantic, but they will instead be perceived to

TAB K-13

be the fault of the CLEC. The manual reprocessing of CLEC orders proposed by Bell Atlantic can thus be expected to seriously jeopardize the ability of CLECs to win and retain local customers. Finally, AT&T's inability to receive prompt order rejections will make it impossible for AT&T to engage in error elimination analysis during testing to determine whether the errors were caused by AT&T's own systems. This, in turn, will make it impossible for AT&T to correct any such systems problems.

27. Manual processing is particularly troublesome for market entry on the broad scale planned by AT&T, because experience shows that manual processes are incapable of handling large volumes of transactions in a consistent, accurate, and timely fashion, and are thus likely to preclude Bell Atlantic from delivering timely and efficient services. For example, when manual processes had to be employed at divestiture due to order fallout, a nationwide backlog of order processing brought ordering to a standstill across the country.[11] Capacity should be evaluated by analogy to the long distance market, where currently more than 50 million customers nationwide change carriers each year. Similar turnover can be expected in local services markets when competition takes hold. In order to make local competition a reality, it is imperative that AT&T and other large-scale potential CLECs have confidence that Bell Atlantic will be able to handle large volumes of customer orders for changes in their local service provider. Here, however, Bell Atlantic has not committed to any minimum staffing levels to perform the required rekeying of CLEC orders.

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11 See, e.g., Telecommunications Reports, pp. 4-6 (May 21, 1984); id., pp. 8-10 (March 19, 1984); id., p. 3 (March 12, 1984).

TAB K-14

28. Bell Atlantic does not dispute that fully electronic OSS interfaces requiring no manual intervention are technically feasible, as the FCC found. See First Report and Order, ¶ 520. Moreover, incumbent LECs, including Bell Atlantic, have provided such fully electronic machine-to-machine, system-to-system interfaces to interexchange carriers for many years in connection with interLATA access services.

29. Recognizing the inadequacy and obvious lack of parity presented by its proposed manual reprocessing of CLEC local service orders, Bell Atlantic states in its filing that it is "developing" a capability to input CLEC orders directly into its service order processing system on a "mechanized basis," but readily admits that it will be "several years" before all local service request types are mechanized. Albert Decl. ¶ 67. Moreover, Bell Atlantic provides no details about how this "mechanized" access will work. Nor does it say when this mechanized access will become available to CLECs even for simple basic residential service orders.

30. As an alternative to waiting several years for mechanized access to Bell Atlantic's operations support systems through its proposed electronic gateway, Bell Atlantic claimed in Docket No. P-00961137 that it will provide "direct access to its service order processing systems to AT&T and any other CLEC that requests such access," thereby enabling CLECs to input service orders directly into Bell Atlantic's systems without using the proposed gateway and without the manual reprocessing of their service orders by Bell Atlantic.[12] This offer is completely disingenuous. AT&T requested such direct OSS access in November 1996. Bell Atlantic's initial response was to try to convince AT&T that it really did not want such

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12 See Bell Atlantic - Pennsylvania, Inc. Reply Comments, Petition of Bell Atlantic - Pennsylvania, Inc. for Approval of a Statement of Generally Available Terms and Conditions, Docket No. P-00961137 (filed February 5, 1997), p. 8.

TAB K-15

direct OSS access. When pressed, Bell Atlantic informed AT&T in February that such access was not presently available, that Bell Atlantic would need to "mediate" any such direct CLEC access, and that the development of the necessary hardware and software would be expected to take about a year.

31. In addition to the proposed manual processing of all CLEC orders by Bell Atlantic, Bell Atlantic has insisted that all CLEC orders will be processed only in batches at 30-minute intervals. When contrasted to the real time processing which Bell Atlantic provides for its own service orders, this batch processing of CLEC orders is clearly not parity. Moreover, the delay in the processing of CLEC orders could affect the timeliness of the provisioning of CLEC orders, particularly if a provisioning day is closed out during the 30-minute interval by intervening Bell Atlantic orders.

32. Bell Atlantic has also stated that firm order confirmations will not be sent to CLECs until 24 hours after the order is sent to Bell Atlantic. By contrast, Bell Atlantic's own customer service representatives receive notice that their orders have been accepted (or rejected) by Bell Atlantic's service order processing systems immediately. Thus, Bell Atlantic's representatives will be able to confirm orders with their customers during the initial contact, while CLEC representatives will have to call back the customer at least 24 hours later to provide order confirmation.

33. Bell Atlantic has further stated that it will be unable to provide a daily usage feed for CLEC customers in less than 72 hours. CLECs such as AT&T cannot provide timely and accurate bills without such daily usage feeds. As a result of this 72-hour delay, service for a new CLEC customer cannot be provisioned by Bell Atlantic in less than three days

TAB K-16

– a limitation that does not apply to the provisioning of service for Bell Atlantic's own customers.

34. The many delays in the ordering and provisioning of CLEC orders under Bell Atlantic's proposals will not only prevent CLECs from completing provisioning in the same time frames as Bell Atlantic, but will also mean that CLECs will not know the status of orders that are in jeopardy. If the provisioning of an order is in jeopardy, the CLEC might not even know that there is a problem until it is too late to notify the customer and reschedule the installation.

V. THE ADEQUACY OF CAPACITY TO MEET CLEC REQUIREMENTS

35. In addition to failing to show that it has actually deployed fully tested, operationally ready interfaces for all OSS functions and for all services and unbundled network elements, Bell Atlantic has failed to show that the OSS interfaces and other access procedures which it proposes will have adequate capacity to handle the volume of CLEC orders and other service requests that can reasonably be expected to occur as local markets become competitive. This is particularly important because multiple carriers will likely enter the local services market. Bell Atlantic has provided no information about the capacity of its systems or the volumes of CLEC transactions it will be able to process through its systems.

36. Adequate load carrying capacity is an essential aspect of establishing the operational readiness of Bell Atlantic's proposed interfaces and related OSS access procedures. An interface or service order processing procedure that operates satisfactorily at low volumes but "chokes" the processing flow for CLEC service orders at actual market volumes will place Bell Atlantic's competitors and their customers at a severe disadvantage.

TAB K-17

37. As discussed above, a particular concern in this regard is the 100 percent level of manual intervention which Bell Atlantic proposes to rely on to enter all CLEC local service orders. This process will be exceedingly tedious and time consuming, and as competition develops in local markets, the volume of orders from all CLECs can be expected to increase sharply.[13] As a result, Bell Atlantic's OSS access proposal poses a high risk of order backlogs and service delays for CLECs.

VI. THE MEASUREMENT OF NONDISCRIMINATORY ACCESS TO OPERATIONS SUPPORT SYSTEMS

38. Even if the fully electronic OSS interfaces which Bell Atlantic proposes to develop and deploy in the future were in a state of operational readiness, that would not establish that Bell Atlantic was providing AT&T and other CLECs with nondiscriminatory access to its operations support systems. Bell Atlantic must show more than that it is providing the CLECs with access to its operations support systems; it must show that the access being provided is nondiscriminatory.

39. A large CLEC like AT&T has a large pre-existing customer base that is already being served through the use of advanced electronic operations support systems. In order to maintain its reputation in the market for providing quality service to all customers requesting service, AT&T must be prepared from the outset to serve large numbers of customers and to handle orders of all levels of complexity. AT&T's customers will not accept an inferior product. In order to be an effective competitor in the provision of local services and provide the

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13 Such problems were experienced by AT&T in Rochester, New York, as a result of Rochester Telephone's attempt to manually process CLEC local service orders. See First Report and Order, ¶ 508.

TAB K-18