

prod Brooks to solicit residential customers more aggressively, Brooks has not advertised its residential service widely; indeed, its one newspaper advertisement may be the full extent of its residential marketing in Oklahoma. It thus is not surprising that only a small number of residential customers in Oklahoma have found their way to Brooks' door.

Southwestern Bell has done everything it can to give Brooks and other CLECs the opportunity and ability to serve residential customers consistent with their business plans. Brooks' ability to serve large numbers of residential customers if it wished to do so is confirmed by Brooks' success in capturing thousands of business lines from Southwestern Bell. Brooks acknowledged in last year's section 271 proceedings that it is providing facilities-based telephone exchange service to business customers over its own networks in Oklahoma. See Oklahoma Order, 12 FCC Rcd 8690, ¶ 7. Indeed, Southwestern Bell has ported thousands of telephone numbers to Brooks for Oklahoma business customers now being served over Brooks' own network, and also is providing Brooks hundreds of business lines in Oklahoma on a resale basis. Elizondo Aff. ¶ 28. Brooks thus is "accepting requests for telephone exchange service and serving more than a de minimis number of end-users for a fee" and is providing "an actual commercial alternative" to Southwestern Bell. Michigan Order ¶ 78.⁸

⁸ Because Brooks and at least 7 other CLECs serve thousands of access lines in Oklahoma, this application does not present a situation "where a new entrant may have a commercial presence that is so small that the new entrant cannot be said to be an actual commercial alternative to the BOC, and therefore, not a 'competing provider.'" Michigan Order ¶ 77. In any event, however, the 1996 Act does not include any requirement that a qualifying CLEC under section 271(c)(1)(A) serve any minimum number of customers. Congress rejected metric tests of competition in favor of a clear statutory "test of when markets are open," as the Commission recognized in its Michigan Order. 141 Cong. Rec. S8188, S8195 (daily ed. June 12, 1995) (statement of Sen. Pressler); see Michigan Order ¶ 77.

Furthermore, Brooks satisfies the requirement under section 271(c)(1)(A) that its service be “offered . . . either exclusively over [Brooks’] own telephone exchange service facilities or predominantly over [its] own telephone exchange service facilities in combination with the resale of the telecommunications services” of Southwestern Bell. 47 U.S.C. § 271(c)(1)(A). Brooks’ local network in Tulsa includes 221 route miles of fiber and an operational Lucent 5ESS central office switch. Elizondo Aff. ¶¶ 28, 34. In Oklahoma City, Brooks owns and operates a 44-mile network and a Lucent 5ESS switch. *Id.* ¶ 33. Brooks’ facilities also include thousands of interconnection trunks and dozens of unbundled local loops obtained from Southwestern Bell. *Id.* ¶¶ 28-29. Brooks has collocation arrangements in place with Southwestern Bell in Oklahoma and has directly connected its network to at least 122 different buildings. *Id.* ¶ 28; see also *id.* ¶¶ 62-64 (Southwestern Bell estimates may understate extent of Brooks’ facilities).

Southwestern Bell cannot be certain whether Brooks currently uses direct network connections or unbundled loops to serve residential customers in addition to offering residential service through resale. See *id.* ¶ 29. If Brooks does serve residential customers over its own facilities, then it actually furnishes both residential and business service “exclusively over [its] own telephone exchange service facilities.” 47 U.S.C. § 271(c)(1)(A). In any event, however, Brooks’ effective tariff for local exchange services (as confirmed by Brooks’ own advertisements and representations to the OCC) “offer[s]” exclusively facilities-based service to both business and residential customers, thereby satisfying the second sentence of section 271(c)(1)(A). See Elizondo Aff. ¶ 31 & Attach. C at 3.

Southwestern Bell is eligible to file under Track A for the additional reason that Brooks is providing telephone exchange service to business and residential subscribers “predominantly over [its] own telephone exchange service facilities in combination with the resale of the telecommunications services” of Southwestern Bell. 47 U.S.C. § 271(c)(1)(A). The United States Department of Justice (“DOJ”) has explained that Track A is satisfied when a CLEC furnishes facilities-based service to businesses and resale service to residential customers, at least where “the competitor’s local exchange services as a whole are provided ‘predominantly’ over its own facilities.”⁹ As DOJ has noted, this approach “serves Congress’ twin purpose of maximizing competition in local exchange and interexchange telecommunications markets” by making Track A available when competitors “have a demonstrated ability to operate as facilities-based competitors” but find resale more attractive. DOJ Evaluation Addendum at 3-4.

Brooks satisfies the statutory test outlined by DOJ. Southwestern Bell has provided more than six times as many ported telephone numbers for Brooks’ facilities-based customers as lines for Brooks’ resale customers, which amply satisfies any reasonable definition of predominance. See Elizondo Aff. ¶ 28.

Brooks may not be the only competing Track A carrier in Oklahoma. Dobson has entered into an approved interconnection agreement with Southwestern Bell, is authorized to provide local service, has an approved tariff on file with the OCC, is exchanging local traffic

⁹ Addendum to Evaluation of the United States Department of Justice at 3-4, CC Docket No. 97-121 (May 21, 1997) (“DOJ Evaluation Addendum”); id. at 3 (the statute “does not . . . require that each class of customers (i.e., business and residential) must be served over a facilities-based competitor’s own facilities”); see also Michigan Order ¶ 80 n.177.

with Southwestern Bell over interconnection trunks, and currently provides competitive local service on a facilities basis as well as through resale. See id. ¶¶ 19, 37-41. At least as a reseller, Dobson provides both business and residential service. Id. ¶ 37.

A third CLEC, Cox, has a 120-mile fiber network in Oklahoma City, has hundreds of interconnection trunks and is exchanging local traffic with Southwestern Bell, has had numbers ported for its customers, and has reserved a vast number of telephone numbers for new subscribers. Id. ¶¶ 42-45. With OCC authorization to provide local service and an approved interconnection agreement and approved tariff in hand, Cleek Aff. Sched. 1, Cox also may be a qualifying Track A competitor. See Elizondo ¶ 19.¹⁰

In addition, Brooks, Cox, and Dobson collectively are providing Track A service.¹¹ In the aggregate, these carriers serve both business and residential customers. In satisfaction of the “predominance” requirement of section 271(c)(1)(A), Southwestern Bell has ported more than four times as many telephone numbers to these CLECs for their facilities-based local service as

¹⁰ The OCC and the FCC should require all the CLECs with approved agreements in Oklahoma to submit the information these commissions will need to determine whether those CLECs are providing local service in Oklahoma under the criteria of Track A. Southwestern Bell simply does not have direct access to this critical information, and CLECs have not been willing to provide this information on a voluntary basis.

¹¹ See Michigan Order ¶ 82 (“[W]hen a BOC relies upon more than one competing provider to satisfy section 271(c)(1)(A), each such carrier need not provide service to both residential and business customers. . . . [T]his aspect of section 271(c)(1)(A) is met if multiple carriers collectively serve residential and business customers.”); see also id. ¶ 85 (“[R]equiring one carrier to serve both residential and business customers is not necessary to further Congress’ objectives, because the local market would be as effectively open to competition whether one competitor is serving both residential and business subscribers, or multiple carriers are collectively serving both types of subscribers.”). Brooks and Dobson also collectively qualify as a Track A carrier, without regard to Cox.

it has furnished resale lines. See id. ¶¶ 28, 37, 42.¹² This is another way in which Southwestern Bell satisfies the requirements for filing under Track A.

II. SOUTHWESTERN BELL MAKES INTERCONNECTION AND ACCESS AVAILABLE IN COMPLIANCE WITH THE COMPETITIVE CHECKLIST

This Commission has used its inquiry under the “competitive checklist” of section 271(c)(2)(B) to determine whether “all pro-competitive entry strategies” contemplated by Congress are available to new competitors in the local market. South Carolina Order ¶¶ 10-11. Because the checklist incorporates substantive requirements of section 251, it allows the Commission to verify, through the specific checklist criteria, that all “three paths of entry into the local market — the construction of new networks, the use of unbundled elements of the incumbent’s network, and resale” — are available in practice to CLECs. Id.

¹² If no CLEC qualified under Track A for some reason, the FCC should find that Southwestern Bell qualifies under 47 U.S.C. § 271(c)(1)(B). As it has argued in SBC Communications Inc. v. FCC, No. 97-1425 (D.C. Cir. argued Jan. 9, 1998), Southwestern Bell believes that, after December 8, 1996, Track B is foreclosed only if the Bell company has received a request from a qualifying “competing provide[r]” that actually meets the criteria of Track A as of “the date which is 3 months before the date the company makes its application.” 47 U.S.C. § 271(c)(1)(B). Accordingly, if no CLEC in Oklahoma qualifies under Track A, it necessarily follows that Southwestern Bell had not received any qualifying request as of three months prior to this application and is therefore eligible to file under Track B. In any event, if no CLEC were a qualifying Track A carrier in Oklahoma after all Southwestern Bell has done to fulfill its statutory and regulatory obligations to open its network in Oklahoma and facilitate CLEC entry, this could only be due to the CLECs’ own business plans and intentional delays; CLECs could not then be taking timely, “reasonable steps” to provide the sort of service described in section 271(c)(1)(A). See Oklahoma Order, 12 FCC Rcd at 8719, ¶ 58. Oklahoma customers and Southwestern Bell should not be penalized because CLECs have refused to provide the OCC and Southwestern Bell with “implementation schedules.” The OCC and Southwestern Bell have led the CLECs to water, but they cannot make them drink. Thus, during the 90 day state review process, the OCC should require all CLECs that have requested interconnection to provide the OCC and Southwestern Bell with implementation schedules specifying when they will provide resale and facilities-based local service to residential and business customers in Oklahoma.

Southwestern Bell's offerings to its local competitors in Oklahoma satisfy this requirement. The OCC — which has incorporated the competitive checklist into its own rules, see OAC § 165.55-17-33(3) — determined nearly a year ago that Southwestern Bell makes all 14 items of the competitive checklist available to CLECs. OCC 1997 Comments at 8-10. Market experience in the intervening months bears this out. As explained below, Brooks, Dobson, or any of the other CLECs with approved agreements in Oklahoma can get from Southwestern Bell in a timely and efficient manner the facilities and services they need to provide local service, no matter what statutorily authorized mode of entry the CLEC selects. In ensuring that this is so, Southwestern Bell has incurred “a concrete and specific legal obligation to furnish [each checklist] item upon request” and has done what is necessary to supply those items “in the quantities that competitors may reasonably demand and at an acceptable level of quality.” Michigan Order ¶ 110.

Southwestern Bell is legally obligated under its OCC-approved interconnection agreements and its effective STC in Oklahoma to afford CLECs access to all checklist items. If an item was not included in the terms originally sought by a particular CLEC during negotiations, the CLEC may avail itself of the “most-favored nation” (“MFN”) provision in its agreement to obtain that item on the terms set out in another OCC-approved agreement. See, e.g., Brooks Agreement, § XXIV; Dobson Agreement § XXXII. Or, the CLEC may invoke its MFN provision and/or its statutory right under 47 U.S.C. § 252(i) to opt into the entirety of another OCC-approved agreement. Finally, any CLEC may take items from the STC, whether

or not that CLEC has a prior OCC-approved agreement with Southwestern Bell. See STC at 1-

2.¹³

Actual commercial usage in Oklahoma and elsewhere in Southwestern Bell's five-state region, as well as internal and intercarrier testing, confirm that all checklist items are available today on a nondiscriminatory basis. Finally, consistent with the recommendations of the FCC and DOJ, Southwestern Bell has established more than 50 performance measurements with self-executing damages provisions, which ensure Southwestern Bell's continued compliance with the checklist after it enters the interLATA market.

The following sections (and the affidavits and other materials supporting them) discuss Southwestern Bell's checklist offerings in detail.¹⁴ Part II(A) describes the numerous electronic and manual interfaces CLECs in Oklahoma may utilize to access Southwestern Bell's OSSs, including choices that allow CLECs to use precisely the same systems as Southwestern Bell

¹³. If a CLEC that has an OCC-approved interconnection agreement with Southwestern Bell should request some item from another CLEC's OCC-approved agreement or the STC, Southwestern Bell and the CLEC would 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 STC 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 Southwestern Bell wishes to obtain any item(s) from the STC, it and Southwestern Bell would create and sign a contract for filing and approval by the OCC. The contract would be patterned exactly after the applicable language of the STC, including all terms and conditions associated with the item(s) and any general language necessary to have a complete agreement, such as the term of the contract and definitions of key words and phrases.

¹⁴. Southwestern Bell's satisfaction of the checklist requirements is further detailed in a matrix provided as Appendix D, Tab __, which provides a "roadmap" to affidavits demonstrating compliance with each of the fourteen statutory criteria as well as corresponding federal regulatory requirements.

personnel or, alternatively, to have the CLEC's own proprietary systems "talk" directly with Southwestern Bell's systems.

Part II(B) describes how Southwestern Bell allows CLECs that have no facilities of their own to enter the Oklahoma market by reselling Southwestern Bell's telecommunications services at the wholesale discount established by the OCC in accordance with the Act's requirements.

Part II(C) demonstrates that CLECs that have constructed their own networks can obtain the checklist items they need to compete against Southwestern Bell in Oklahoma. These items include:

- Checklist Item (i): Interconnection;
- Checklist Item (iii): Nondiscriminatory access to poles, ducts, conduits, and rights-of-way;
- Checklist Item (vii): Nondiscriminatory access to 911 and E911 services, directory assistance services, and operator call completion services;
- Checklist Item (viii): White Pages directory listings for CLEC customers;
- Checklist Item (ix): Nondiscriminatory access to telephone numbers;
- Checklist Item (xi): Interim number portability;
- Checklist Item (xii): Local dialing parity; and
- Checklist Item (xiii): Reciprocal compensation for the exchange of local traffic.

Part II(D) discusses Southwestern Bell's offerings to Oklahoma CLECs that wish to use unbundled elements of Southwestern Bell's network. These include, in addition to the above items:

- Checklist Item (ii): UNEs, including UNE combinations that Southwestern Bell voluntarily offers despite not being required to do so under the 1996 Act;
- Checklist Item (iv): Local loops;
- Checklist Item (v): Local transport;
- Checklist Item (vi): Local switching; and
- Checklist Item (x): Nondiscriminatory access to databases and associated signaling necessary for call routing and completion.

Finally, Part II(E) identifies the performance measurements Southwestern Bell has established to provide assurance that the above offerings will remain available on a nondiscriminatory basis for so long as regulators require.

A. Southwestern Bell Is Providing Nondiscriminatory Access to Its Operations Support Systems

SWBT has an especially outstanding record in the area of OSS access, an issue to which the FCC has paid particular attention. SWBT has substantially improved and refined its OSSs, and CLEC usage of those OSSs has expanded significantly, since the FCC reviewed Southwestern Bell's application for interLATA entry in Oklahoma in the Spring of 1997. Southwestern Bell's effort to develop OSSs has been sustained and costly; since enactment of the 1996 Act, Southwestern Bell has spent more than \$25 million to acquire the hardware and increased processing capacity necessary to provide nondiscriminatory access to SWBT's OSS functions, enhance existing systems, and develop new applications. Ham Aff. ¶ 6. These figures in fact understate the magnitude of Southwestern Bell's expenditures, for they do not reflect substantial personnel costs related to OSS access.

Providing nondiscriminatory access to OSSs required Southwestern Bell to develop several new facilities and organizations. For example, to provide CLECs a ready point of entry for direct electronic access to OSSs, Southwestern Bell established a Remote Access Facility that accommodates either dial-up or private-line connections. Id. ¶¶ 8-9. Southwestern Bell simultaneously has ensured that CLECs have access to ample numbers of highly trained personnel for transactions where human involvement is needed or desired by CLECs. Southwestern Bell's Help Desk assists CLECs with any questions or problems encountered while electronically accessing Southwestern Bell's OSS functions, 24 hours per day, 7 days per week. Id. ¶¶ 10-11. The vast majority of CLEC calls to the Help Desk request Southwestern Bell's assistance in resolving problems that have been caused not by any deficiency in Southwestern Bell's systems, but rather by easily corrected problems at the CLEC's end of the interface. Id. ¶ 11. On-line assistance is available as well, utilizing Southwestern Bell's Web site. Id. ¶ 12.

Southwestern Bell also has established a Local Service Center ("LSC") staffed by 735 employees in two locations to provide CLECs with a single point of contact for ordering, provisioning, and billing. The LSC is available to CLECs where they choose not to use wholly mechanized processes, or for complex transactions that are performed manually for Southwestern Bell retail operations and CLECs alike. See generally Lowrance Aff. The LSC is prepared to receive orders electronically or manually by telephone, courier, mail, or facsimile. Id. ¶ 20. The LSC's training procedures and staffing have been designed to anticipate and meet all reasonably foreseeable CLEC demand. Id. ¶¶ 10-12, 30. Similarly, Southwestern Bell's

Local Operations Center (“LOC”) supports provisioning of interconnection, UNEs, and resold services other than “plain old telephone service” (“POTS”),¹⁵ as well as any maintenance and repair functions requested by CLECs. See generally Kramer Aff. The LOC, which had a budget of more than \$5.4 million in 1997, is open to serve CLECs every hour of every day. Id. ¶¶ 7, 8.

Southwestern Bell’s years of hard work in these areas have succeeded. Using the Remote Access Facility, CLECs are able to accomplish transactions with the same level of mechanized processing as Southwestern Bell retail service personnel. Since the Act was passed in February 1996, Southwestern Bell has processed more than 770,000 CLEC service orders, including conversion of nearly 270,000 lines to CLECs on a resale and facilities basis.

Lowrance Aff. ¶ 5; Auinbauh Aff. Sched. 4. Last December alone, Southwestern Bell processed 130,000 CLEC orders in SWBT territory. Auinbauh Aff. Sched. 4. More than 22,000 of the CLEC orders processed by SWBT’s OSSs during 1997 were for the State of Oklahoma. Id.

The LOC has coordinated provisioning of facilities and services for CLECs in comparable volumes, such as 65,000 one- and two-way interconnection trunks (including 6200 trunks in Oklahoma). Auinbauh Aff. Sched. 4; see Kramer Aff. ¶ 5. By the end of 1997, the LOC had processed over 97,000 maintenance requests for Southwestern Bell’s five-state region. Kramer Aff. ¶ 5.

SWBT has ample capacity to meet CLECs’ future demands. An independent audit by Coopers & Lybrand recently concluded not only that SWBT’s systems operate as designed,

¹⁵ Orders for resold POTS are distributed for installation through electronic systems in the same manner as Southwestern Bell retail POTS orders. They therefore do not go through the LOC.

Thorsen Aff. at 24-26, but also that they easily satisfy CLECs' requirements. For example, SWBT has the capacity to process 439,690 orders per month electronically using the LEX and EDI interfaces described below — nine times actual demand in December 1997. Id. at 3, 15. SWBT also has the capacity to process more than 1,000,000 CLEC transactions per month electronically using the EASE interface. Id. at 8, 15. In addition, SWBT is able to process more than 400,000 orders per month manually, yielding a spare capacity of approximately 80% in December 1997. Id. at 14. SWBT's tested capacity is vastly greater than reasonably foreseeable CLEC demand through 1998, id. at 5-15; beyond this, SWBT's electronic and manual processing operations are readily scalable to meet increasing demand in future years, id. at 16-21.

Because they are new and require some investment on the CLECs' part, Southwestern Bell has made special efforts to interest CLECs in using electronic interfaces. For instance, Southwestern Bell offers CLECs free evaluation and "live" access periods of 90 days each, so that CLECs can assess and become familiar with the interfaces. Ham Aff. ¶ 14. For each electronic interface, Southwestern Bell provides CLEC representatives extensive training and written materials including Southwestern Bell's business rules. Id. ¶¶ 15-16; see Auinbauh Aff. ¶¶ 93-101. And Southwestern Bell has taken extensive measures, including commissioning an independent auditor's review, to verify that its electronic interfaces are in fact capable of handling CLEC transactions efficiently at foreseeable volumes. See id. ¶¶ 22-23. As a result of these and other efforts by Southwestern Bell, 34 CLECs currently are accessing SWBT's OSSs electronically via the Remote Access Facility and more than 3400 CLEC user identifications

have been issued. Id. ¶ 9. During the month of December 1997, SWBT processed nearly 50,000 electronic orders for these CLECs. Auinbauh Aff. Sched. 4.

There is no “best” form of access to OSSs, however. As the FCC has recognized, “smaller competing carriers [may] prefer” manual access to OSSs for their own business reasons, even though the very largest carriers may ultimately (but perhaps not immediately) want the most automated process possible. Michigan Order ¶ 137 & n. 333. By offering CLECs their choice of manual interfaces or the electronic interfaces described below (or additional interfaces that may be negotiated with particular CLECs), and not attempting to force CLECs to use particular interfaces favored by Southwestern Bell or regulators, Southwestern Bell has further ensured that new competitors can enter the local market on their own terms.

1. Pre-Ordering

Although there are no industry-standard interfaces for pre-ordering, Southwestern Bell currently offers CLECs in Oklahoma a choice of three “real time” electronic interfaces — Easy Access Sales Environment (“EASE”), Verigate, and DataGate. See STC App. OSS § 2; Ham Aff. ¶¶ 25-41. EASE is the on-line system Southwestern Bell’s own retail service representatives use to accomplish pre-ordering for residential customers with up to five lines and for business customers with up to thirty lines. Ham Aff. ¶ 28. EASE integrates ordering and pre-ordering functions and is available to CLECs for pre-ordering and ordering resold services. Id. ¶¶ 28, 44. As the FCC has noted, such integration of pre-ordering and ordering functions minimizes the need for data entry by CLECs and thus enables CLECs to minimize the number of improperly formatted local service requests they submit. South Carolina Order ¶ 114. Between

July 1997 and January 1998, CLECs successfully entered more than 180,000 service orders directly into EASE. Ham Aff. ¶ 47.

The second interface, Verigate, is a graphical user interface operating on Windows™ that provides CLECs access to pre-ordering capabilities for resold services and UNEs. Id. ¶ 29. Verigate uses displays in plain English and was designed for CLECs that do not want to use EASE but also do not want to develop their own graphical user interface. Id. Verigate became operational in 1996 and performed nearly 115,000 transactions between July 1997 and January 1998, and more than 18,000 in January 1998 alone. Id. ¶ 32. According to an independent auditor, the average response time per transaction has been approximately five seconds for CLECs using Verigate. Id. ¶ 31.

The third electronic interface offered by Southwestern Bell for pre-ordering, DataGate, is an application-to-application interface designed to accommodate the needs of CLECs that have their own graphical user interface(s). Id. ¶ 33. Such interfaces allow CLECs to connect their own OSSs directly to Southwestern Bell's, thereby minimizing the need for manual entry of data by the CLEC. South Carolina Order ¶ 157. AT&T and Ameritech (which competes against Southwestern Bell in St. Louis) are currently using DataGate to retrieve data from Southwestern Bell's systems, and Sprint currently uses it for interexchange carrier services. Ham Aff. ¶ 36. Ample capacity exists for all anticipated CLEC needs: According to the independent audit conducted by Coopers & Lybrand, Verigate is capable of processing 522,000 pre-ordering transactions per month while DataGate can process 593,000 orders per month. Thorsen Aff. at

7. The combined capacity of Verigate and DataGate is approximately 13,272 transactions per hour. Id.

2. Ordering and Provisioning

For ordering and provisioning, Southwestern Bell provides CLECs with a choice of three electronic interfaces — EASE, Electronic Data Interchange (“EDI”) and the Local Service Request Exchange system (“LEX”). See STC App. OSS § 3.2; Ham Aff. ¶¶ 42-80.¹⁶

Using EASE, CLECs may perform conversions, new orders, change orders, outside moves, and disconnects of residential and most business customers. Id. ¶ 44. EASE is precisely the same interface used by Southwestern Bell’s own retail service representatives for ordering and provisioning functions involving these same residential and business customers. Id. Accordingly, CLECs using EASE enjoy electronic access to Southwestern Bell’s OSSs that is exactly the same as that accorded Southwestern Bell’s own service representatives. This includes access to EASE’s on-line user guide functions and more than 1000 internal edits, which help to ensure that, once entered, CLEC orders will flow through Southwestern Bell’s OSSs in

¹⁶ CLECs may also order local interconnection trunks and dedicated facilities using the same Access Services Request process currently employed by interexchange carriers for ordering access services. Ham Aff. ¶ 81. Certain complex services that require extensive design work and are ordered in relatively low quantities may only be ordered through the LSC. Due to the unique and varied nature of these services, Southwestern Bell has never developed an electronic interface for complex business services for its own use. Accordingly, the service order and any subsequent service requests are handled through a paper process, whether the order is generated by Southwestern Bell or a CLEC. Of course, if Southwestern Bell develops any electronic interface for complex services for its own retail representatives, the same enhancements will be made available to CLECs. Id. ¶¶ 84-85.

an error-free fashion. Compare South Carolina Order ¶ 113 (criticizing BellSouth's interface for failing to include adequate error-correction capabilities).

A supplemental interface known as Service Order Retrieval Distribution Supplement ("SORDs") allows CLECs using EASE to supplement or modify pending service orders. This capability has been tested successfully by AT&T. Ham Aff. ¶ 48. If CLECs prefer, however, manual processing of such requests remains available through the LSC. Id.

Southwestern Bell also offers an EDI gateway, an electronic interface which conforms to the national guidelines established by the Ordering and Billing Forum. EDI enables CLECs to submit local service requests and receive electronic acknowledgments, confirmations, and completion status reports, all utilizing the CLEC's own graphical user interface(s). Id. ¶ 49. EDI is available to CLECs for ordering and provisioning resold services, id. ¶ 50, as well as UNEs and UNE combinations for which national guidelines have been written (i.e., loops, switch ports, interim number portability, loop with port, and loop with interim number portability), id. ¶ 51. UNE orders that can be accepted by Southwestern Bell's EDI interface include conversions, new connects, changes, disconnects, outside moves, and records change orders. Id. Southwestern Bell will incorporate ordering and provisioning capabilities for additional resold services and UNEs into its EDI gateway within 120 days of when national guidelines for these features become final. Id. ¶¶ 50-51.

Southwestern Bell has worked closely with CLECs such as AT&T, MCI, and Sprint to make sure they have the information they need to develop interfaces that interact with Southwestern Bell's EDI gateway. Southwestern Bell will continue to do so in the future,

despite frequent failures and delays on the part of the CLECs in implementing EDI ordering. Id. ¶¶ 56-76.

Southwestern Bell [has implemented and is further developing] EDI ordering capabilities that allow UNE orders to flow through to Southwestern Bell's order-processing systems electronically, without any human intervention. Id. ¶¶ 52-53 & Attach. G. Phase 1 of this process, which includes orders for conversions of retail and resold lines and new installations of analog loops and line-side switch ports, [was completed] on April 30, 1998. Id. ¶ 53. The most common UNE orders therefore can be placed without any manual intervention. The timing of two subsequent implementation phases, involving multi-line orders and change activity, will depend upon CLEC demand for EDI and the development of national guidelines. Id. ¶ 54 & Attach. G.

It should be stressed that Southwestern Bell's systems for processing those UNE orders that do not yet flow present no obstacle whatsoever to local competition in Kansas. The LSC has ample manual capacity to process CLECs' UNE orders within the requested due dates. Lowrance Aff. ¶¶ 34-35. Performance measurements are in place which allow CLECs to monitor the provision of UNEs using either EDI or LEX. Dysart Aff. ¶¶ 28-40. Indeed, the CLECs' own conduct establishes that the participation of Southwestern Bell service representatives in processing some UNE orders does not impair "opportunities for meaningful

competition.”¹⁷ Major CLECs such as AT&T are dragging their heels in implementing EDI, which strongly suggests that EASE meets all their current needs. Ham Aff. ¶¶ 53-72.

Finally, Southwestern Bell offers CLECs the LEX system, which is a graphical user interface operating on Windows™ that is based upon the national guidelines promulgated by the Ordering and Billing Forum. *Id.* ¶ 77. LEX will enable CLECs that do not have an EDI capability, but nevertheless wish to use a nationally recognized ordering format, to create and submit service orders electronically. *Id.* LEX has been successfully tested by two CLECs and is currently being used in “live” mode by three CLECs. *Id.* ¶¶ 77-78. Independent testing has determined that LEX and EDI have a combined capacity of approximately 440,000 orders per month, *id.* ¶ 80, far in excess of current and anticipated CLEC usage, Lowrance Aff. ¶ 35; Thorsen Aff. at 14-15.

Once orders have been entered and accepted for processing by Southwestern Bell, CLECs may check the status of those orders through EDI (as noted above) or by using “Order Status,” an application from the Southwestern Bell Toolbar. Order Status is a Southwestern Bell-developed graphical user interface that enables CLECs to access Southwestern Bell’s “back-office” systems in order to pull up service orders and check on their status. Ham Aff. ¶ 82. In addition to CLEC usage, business customers and interexchange carriers use the Order Status application to check on the status of service orders and to verify their completion.

¹⁷ First Report and Order, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd 15499, 15764, ¶ 518 (1996) (“Local Interconnection Order”), modified on recon., 11 FCC Rcd 13042 (1996), vacated in part, Iowa Utils. Bd. v. FCC, 120 F.3d 753 (8th Cir. 1997), cert. granted, Nos. 97-826, 97-829, 97-830, 97-831, 97-1075, 97-1087, 97-1099, 97-1141 (Jan. 26, 1998) .

Southwestern Bell also has developed a mechanized notification system that alerts the CLEC in the event that a due date is in jeopardy. Lowrance Aff. ¶ 27.

3. Maintenance and Repair

Southwestern Bell provides CLECs with a choice of two electronic interfaces for maintenance and repair. These are Trouble Administration (“TA”) from the Southwestern Bell Toolbar and Electronic Bonding Interface (“EBI”). See STC App. OSS § 4; Ham Aff. ¶¶ 87-102; Kramer Aff. ¶¶ 23-25. Of course, if it so desires, a CLEC can instead call the LOC to report any troubles and request maintenance or repairs. Kramer Aff. ¶¶ 26-28.

TA is a graphical user interface currently used by Southwestern Bell’s business customers and interexchange carriers for maintenance and repair. Ham Aff. ¶ 88. It has been enhanced to enable CLECs to submit and check on trouble reports, initiate mechanized loop tests, and receive test results for resold POTS lines and POTS-like UNE combinations. TA also will provide trouble history for POTS lines and UNES. Id. ¶¶ 88-89. Using this information, a CLEC may issue a trouble report (or check the status of an existing trouble report) without any manual intervention on the part of Southwestern Bell representatives. Id. ¶ 91. Southwestern Bell provides interested CLECs with extensive documentation on TA as well as a User Guide that describes in detail each of the functions that are available through TA. Id. ¶ 90. CLEC usage of TA has steadily increased; in January 1998 alone, CLECs used TA to check trouble histories more than 7800 times. Id. ¶ 93.

The second electronic maintenance/repair interface offered to CLECs is EBI, which conforms to national standards and enables CLECs to submit trouble reports and receive trouble

status updates and closure information without any manual intervention by Southwestern Bell.

Id. ¶ 94. Although AT&T, MCI, and Sprint have repeatedly delayed deploying EBI capability for local services, id. ¶¶ 98-102, EBI is in use today for trouble administration of exchange access services, id. ¶ 95. In 1997, more than 28,000 trouble reports (corresponding to approximately 360,000 transactions) were processed using EBI, which has been successfully stress-tested to allow a volume of 4000 trouble reports per day. Id.

4. Billing

For billing, Southwestern Bell provides CLECs with a choice of five different electronic interfaces. See STC App. OSS § 5; Ham Aff. ¶¶ 103-114. Using these interfaces, CLECs may obtain the information necessary to bill their customers, process claims and adjustments, and rectify billing errors, and view Southwestern Bell's bill for services provided to CLECs.

The first billing interface offered by Southwestern Bell, Bill Plus™, provides CLECs with all the information contained in their paper bills as well as a variety of options for manipulating the data that would appear on a paper bill. Id. ¶ 104. Thirty-four CLECs currently are receiving their bills via Bill Plus™. Id.

The second billing interface, EDI, allows CLECs to receive billing data for resold services in an industry standard format. Using this interface, CLECs may analyze and manipulate their billing data electronically. Id. ¶ 105. Southwestern Bell maintains a team of EDI billing specialists that are available to help CLECs use the EDI billing data. Id. ¶ 106.

For UNEs, Southwestern Bell provides an industry-standard Bill Data Tape ("BDT") that allows CLECs to obtain billing data from Southwestern Bell's Carrier Access Billing System

(“CABS”) database using a live connection or the CLEC’s choice of data media. Id. ¶ 107. This system has been used for years by interexchange carriers. Id.

The fourth interface offered by Southwestern Bell is the Bill Information graphical user interface from the Southwestern Bell Toolbar. This interface, which is also used by Southwestern Bell’s own business customers as well as interexchange carriers, allows CLECs to access billing data and other information for both resold services and unbundled network elements. Id. ¶ 108. Information that can be viewed using the Bill Information interface includes sections of the bill, payments and adjustments, subscription reports, and the customer service record. Id.

The final interface, Usage Extract Feed, provides CLECs daily information on usage-sensitive resold services and UNEs in a format that conforms to the national Exchange Message Record standard. Id. ¶ 109. CLECs may, in addition, use the Usage Extract Feed to obtain access usage for originating traffic associated with unbundled switching or POTS-like bundles. Id. ¶ 113. Southwestern Bell has offered this interface since December 1996, and it is currently being used by 15 CLECs. Id. ¶ 109. In the month of January 1998, more than 1.7 million messages were passed to CLECs over the Usage Extract Feed interface. Id. ¶ 114.

Southwestern Bell’s provision of OSS to its competitors meets or exceeds all requirements of the 1996 Act and the Commission’s implementing regulations. Just as important, it amply serves the underlying purpose of OSS access — opening the local market to widespread competition. It has not been easy for Southwestern Bell to construct these new systems in such a short period. Now that Southwestern Bell has succeeded in constructing them,

the remaining question is whether CLECs will make the comparable investments needed to utilize Southwestern Bell's numerous offerings, particularly its electronic interfaces. The answer to that question is uncertain. What is certain, however, is that in the OSS area SWBT is comfortably ahead of its potential CLEC customers, and any delay by the CLECs in utilizing the full range of SWBT's interfaces reflects the CLECs' own business plans and delays in developing their own systems, not any shortcoming of Southwestern Bell's checklist compliance.

B. Resellers Are Able To Enter the Local Market in Oklahoma

There can be no dispute that resellers have access to Southwestern Bell's retail services for resale in accordance with section 271(c)(2)(B)(xiv) and have taken advantage of that access. That checklist provision requires SWBT to make its telecommunication services available for resale in accordance with the provisions of sections 251(c)(4) and 252(d)(3) of the Communications Act. These provisions, in turn, require SWBT to provide its services at wholesale rates, with no unreasonable or discriminatory conditions or limitations. "Wholesale rates" are statutorily defined as the retail rates charged for a service, excluding the portion thereof "attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier." 47 U.S.C. § 252(d)(3)

In complying with these requirements, Southwestern Bell allows CLECs to enter the local market with virtually no investment or delay — a fact confirmed by Southwestern Bell's provisioning of 266,000 resold lines in SWBT's five states (using the same procedures and systems employed in Oklahoma). Resale can be the least expensive option for entering the local

market in its own right — as five operational, “pure” resellers of Southwestern Bell’s local services apparently have decided in Oklahoma. See Elizondo Aff. ¶ 25 (listing number of lines resold by Chickasaw Telecom Services, Dial Tone USA, Intermedia Communications, Dial Tone Savers, and Fast Connections). In addition, resale can be used to supplement facilities-based service, expanding the effective reach of a CLEC’s existing network. This latter approach is being employed by Brooks, Dobson, and ACSI. Id. Collectively, these carriers are reselling 9500 local lines in Oklahoma: 7600 residential and 1900 business lines. Id.

Southwestern Bell’s STC and OCC-approved agreements offer CLECs wholesale rates for any services that Southwestern Bell offers to its retail customers, with the exception of services (such as short-term promotions) that are excluded from resale requirements under Commission regulations. See, e.g., STC App. Resale §§ 1.5, 1.6, & 2.6; Brooks Agreement § X & App. RESALE; Dobson Agreement Attach. Resale & App. Services/Pricing § 14.1; Dobson Resale Agreement §§ II, III; 47 C.F.R. § 51.613. These services are identical to the services Southwestern Bell furnishes its own retail customers, and CLECs are able to sell these services to the same customers as Southwestern Bell in the same manner. Moreover, Southwestern Bell is offering services for resale with no unreasonable or discriminatory conditions or limitations. See Cleek Aff. ¶¶ 32-34.

Southwestern Bell’s discount rate of 19.8 percent was established by the OCC in the AT&T arbitration. The OCC had before it that proceeding a Southwestern Bell cost study performed in accordance with the FCC’s Local Interconnection Order, including portions of that Order later vacated by the Eighth Circuit. Cleek Aff. ¶ 36; Moore Aff. ¶ 42. Although

Southwestern Bell believed the study supported an aggregated resale discount rate of 17.5 percent, the OCC adopted a higher discount rate of 19.8 percent for all services. Cleek Aff. ¶ 36; Moore Aff. ¶ 42. Although not strictly relevant, it also is worth noting that the OCC's 19.8 percent wholesale discount rate falls well within the Commission's now defunct proxy range. See 47 C.F.R. § 51.611 (overruled).

C. Southwestern Bell Has Opened the Local Market in Oklahoma to Facilities-Based Competitors

Southwestern Bell also has satisfied its checklist obligations with respect to facilities-based CLECs. Beyond resale, Congress sought particularly to open the local market to facilities-based entry, for this mode of entry offers the greatest prospect of technological innovation and pervasive competitive rivalry.¹⁸ Largely because of the initiatives of Southwestern Bell in implementing the 1996 Act, such facilities-based competition is a reality in Oklahoma. In Oklahoma City, Brooks, Cox, and Dobson all serve local customers over their own switched fiber-optic networks. Brooks and ACSI have the same sort of competitive facilities in Tulsa. Elizondo Aff. ¶ 22. Each of these networks is interconnected with Southwestern Bell facilities pursuant to an OCC-approved agreement. *Id.* ¶¶ 19, 21; see Cleek Aff. Sched. 1.

These existing networks provide a foundation for extensive local competition in Oklahoma, particularly in the more profitable business market where CLECs have focused their

¹⁸ See, e.g., S. Conf. Rep. No. 104-230, at 147 (1996) (“Conference Report”) (Act drafted to encourage “meaningful facilities-based competition”); *id.* at 1 (Act is “designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies”); 141 Cong. Rec. H8465 (daily ed. Aug. 4, 1995) (statement of Rep. Goodlatte) (1996 Act “gives new entrants the incentive to build their own local facilities-based networks, rather than simply repackaging and reselling the local services of the local telephone company”).

efforts. In the Oklahoma City area, at least 47 percent of Southwestern Bell's business lines are within 500 feet of Brooks, Cox, and Dobson's fiber routes. Elizondo Aff. ¶¶ 22, 62; see also id. ¶ 61. A minimum of 61 percent of Southwestern Bell's business lines in Oklahoma City are within 1000 feet of such routes. Id. ¶ 62. Likewise, in Tulsa about half of Southwestern Bell's business lines are within 500 feet of the Brooks and/or ACSI networks, and roughly three out of five business lines are within 1000 feet of these networks. Id. ¶¶ 22, 66.

Competitors' networks also are well positioned to serve residential customers in Oklahoma. About 27 percent of Southwestern Bell's residential lines in Tulsa are located within 1000 feet of Brooks and ACSI's fiber networks. Id. ¶ 67. In Oklahoma City, Cox's 2000-mile cable network passes over 95% of residential households and currently serves 116,000 cable television subscribers. See id. ¶ 44. Even considering only the fiber-optic networks of Brooks, Cox, and Dobson, 22 percent of all residence customers in Oklahoma City are within 500 feet of a competitive network and 37 percent are within 1000 feet. Id. ¶ 63. Multiple dwelling units ("MDUs") offer an especially attractive residential opportunity for these carriers, as a large number of tenants in a building can be served by bringing the CLEC's network to a single point of demarcation. Id. ¶¶ 68-71. Even if they did not extend their existing networks more than 1000 feet to reach an MDU, CLECs in Oklahoma City could capture \$534,000 of SWBT's residential revenue per month, plus an additional \$248,000 in Tulsa. Id. ¶ 74.

The fact that CLECs such as Brooks and Dobson offer switched local exchange services in Oklahoma serves as powerful empirical evidence that Southwestern Bell is offering these