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July 15, 1998

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JUL 15 1998

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

ORIGINAL

Re: In the Matters of American Communications Services, Inc.'s Petition for Declaratory Ruling Regarding Preemption of the Arkansas Telecommunications Regulatory Reform Act of 1997 and MCI Telecommunications Corporation's Petition for Expedited Declaratory Ruling Regarding Preemption of the Arkansas Telecommunications Regulatory Reform Act of 1997, CC Docket No. 97-100

Dear Ms. Salas:

Pursuant to a recent request by Commission staff, attached is a detailed matrix, outlining the decisions made in the Southwestern Bell-AT&T of the Southwest, Inc. arbitration proceeding by the Public Service Commission of Arkansas (PSC). More specifically, the matrix addresses the issues decided in Order No. 13 of the arbitration proceeding.

Should you have any questions concerning the foregoing, do not hesitate to contact me. In accordance with the Commission's rules, an original and two copies are submitted herewith.

Respectfully submitted,

Todd F. Silbergeld

Attachment

cc: Mr. Starr
Mr. Askin

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List ABCDE

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JUL 15 1998

ISSUES DECIDED IN ORDER NO. 13 **Federal Communications Commission**
 (PREPARED BY SOUTHWESTERN BELL TELEPHONE COMPANY IN CC DOCKET NO. 97-160) **Office of Secretary**

ISSUE DESIGNATION			ISSUE DESCRIPTION	WHO PREVAILED IN ORDER NO. 57 (page numbers)	WHO PREVAILED IN ORDER NO. 137 (page numbers)	WHAT WAS THE ARKANSAS PSC'S RATIONALE IN ORDER NO. 13?
PART	TAB	NUMBER				
B	1	3(a) & 8	Whether SWBT should indemnify AT&T against intellectual property claims resulting from AT&T's purchase of UNEs	AT&T (53)	SWBT (8)	Orders Nos. 5 & 11
B	2	1	Whether all SWBT tariff limitations, terms, and conditions apply automatically to resale services purchased by AT&T	AT&T (9-11) SWBT (7)	AT&T (9)	47 USC § 251(c)(4); 47 CFR § 51.613
B	2	2	Whether SWBT must make promotions of 90 days or less available for resale	SWBT (8)	SWBT (9)	47 CFR § 51.613; Ark. Code Ann. § 23-17-409(d)
B	2	3	Whether AT&T may resell Plexar services in a modified form that is different from SWBT's retail offering	AT&T (9-11) SWBT (7)	SWBT (9)	Ark. Code Ann. § 23-17-409(d), (g)
B	2	4	Whether AT&T may aggregate Plexar end users in a shared tenant services arrangement without restrictions	AT&T/SWBT (7)	SWBT (9)	Ark. Code Ann. § 23-17-409(d), (g)
B	2	8	Whether SWBT must customize the routing of operator services and directory assistance calls to AT&T's platforms in a resale environment	SWBT (20)	SWBT (9)	Orders Nos. 5 & 11; Ark. Code Ann. § 23-17-409
B	2	12	Whether SWBT must provide the full complement of ordering and provisioning functionality through electronic interfaces for UNEs and resale	SWBT (19)	SWBT (9)	Orders Nos. 5 & 11; Ark. Code Ann. § 23-17-409

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PART	TAB	NUMBER				
B	2	22	Whether SWBT should be required to pay tandem interconnection rates if AT&T's end office switch functions as a tandem switch	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (9)	Orders Nos. 5 & 11; Ark. Code Ann. § 23-17-409
B	2	23	Whether the Arkansas PSC will determine the rates for reciprocal compensation after the Bill-and-Keep period or whether TELRIC rates apply	THIS ISSUE WAS NOT DEFINITELY RESOLVED	NOT RIPE FOR DECISION	—
B	2	24	Whether reciprocal compensation or access charges should apply for extended area calls	AT&T (38)	AT&T (9)	Order No. 5; Telecommunications Act of 1996
B	3	1	Whether AT&T may combine UNEs with tariffed services and access services	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (9)	Orders Nos. 5 & 11
B	3	3	Whether SWBT may collect intrastate access charges from AT&T when AT&T purchases UNEs	AT&T (56)	SWBT (9)	Ark. Code Ann. §§ 23-17-404(e)(4)(D), -409(f)
B	3	9	Whether reasonable and limited service interruptions should be tolerated when customers change from one provider to another without changing service	SWBT (20)	SWBT (9)	Orders Nos. 5 & 11
B	3	11	Whether SWBT must offer digital cross connect (DCS) as part of dedicated transport at parity with its own access or with access already offered to IXC's	AT&T (30-31)	AT&T (9)	47 USC § 251; <u>Local Competition Order</u> ¶¶ 444,445
B	3	13	Whether SWBT must provide full functionality of UNEs, including intraLATA toll and exchange access	SWBT/AT&T (22)	AT&T (9)	Order No. 5; 47 CFR §§ 51.307, .309

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PART	TAB	NUMBER				
B	3	15	Whether SWBT or AT&T should collect access charges from IXC when AT&T originates and terminates toll calls through SWBT's unbundled local switch	AT&T (22)	AT&T (9)	Order No. 5; 47 USC § 251(c)(3); 47 CFR §§ 51.307, .309
B	3	19	Whether the standard order interval should be two days or five days	SWBT (54)	SWBT (9)	Orders Nos. 5 & 11; Ark. Code Ann. § 23-17-409(f)
B	3	20	Whether a schedule and detailed requirements for implementing electronic interfaces should be included in the Agreement	SWBT (19)	SWBT (9)	Orders Nos. 5 & 11; Ark. Code Ann. § 23-17-409(f)
B	3	22	Whether the Agreement should contain performance standards	SWBT (52)	SWBT (9)	Orders Nos. 5 & 11; Ark. Code Ann. § 23-17-409(f)
B	3	41	Whether SWBT should be allowed to charge for providing a cross-connect to connect 4-wire PRI loops to multiplexer/ dedicated transport facilities	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (9)	Order No. 11; Ark. Code Ann. § 23-17-409(f)
B	App.	Dark Fiber	Whether SWBT should be required to provide dark fiber as an unbundled network element	AT&T (25-28)	SWBT (9)	Order No. 11; Ark. Code Ann. § 23-17-409(f)
B	4	1	Whether SWBT must permit AT&T to collocate its equipment in SWBT's huts or vaults	AT&T (36-37)	SWBT (9)	Orders Nos. 5 & 11; Ark. Code Ann. § 23-17-409(f)
B	5	3	Whether AT&T should have access to building entrance ducts, riser ducts, and central office conduits	SWBT (43)	AT&T (10)	Order No. 5; 47 USC §§ 224, 251; <u>Local Competition Order ¶ 1185</u>
B	5	7	Whether any transfer of SWBT's interest in real or personal property is subject to AT&T's rights under the Poles Appendix	AT&T (44)	AT&T (10)	Order No. 5; 47 USC § 251

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B	5	8	Whether SWBT may limit AT&T's right to conduct its normal business operations except to the extent expressly provided in the Agreement or by law	THIS ISSUE HAD BEEN CONSIDERED RESOLVED	EXCEEDS SCOPE OF ARBITRATION (10)	47 USC § 252(b)(4)(A)
B	5	12	Whether the term "environmental contaminants" should be replaced by the term "hazardous substances" in provision governing liability	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (10)	47 USC § 252(b)(4)(A)
B	5	17	Whether SWBT must establish a methodology for reimbursing AT&T on pro-rata basis by parties benefitting from modification for which AT&T has paid	AT&T (49)	AT&T (10)	Order No. 5; 47 USC § 251
B	5	18	Whether any agreement to indemnify under the Poles Appendix should be governed by the Agreement's terms and conditions	AT&T (50)	AT&T (10)	Order No. 5; 47 USC § 251
B	5	24	Whether SWBT may charge AT&T a "half-duct" rate for inner ducts assigned to or occupied by AT&T	SWBT (51)	SWBT (10)	Orders Nos. 5 & 11; Ark. Code Ann. §§ 23-17-406, -408, -409(f), -411
B	5	25	Whether SWBT may be compensated for ancillary and administrative work performed which is not recoverable as part of the pole attachment fees	SWBT (51)	SWBT (10)	Orders Nos. 5 & 11
B	5	26	Whether the Poles Appendix should include additional terms regarding payment of invoices	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (10)	Orders Nos. 5 & 11
B	5	27	Whether the rates, fees, and charges may be subject to annual rate adjustments, subject to challenge by AT&T	SWBT (51)	SWBT (10)	Orders Nos. 5 & 11

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PART	TAB	NUMBER				
B	5	30(a)-(d)	Whether the terms and conditions regarding assignment of rights under the Poles Appendix apply equally to both parties	THIS ISSUE DOES NOT APPEAR TO HAVE BEEN IN DISPUTE	AT&T (10)	Order No. 5; 47 USC § 251
C	1	1	Whether SWBT must build facilities to provide the UNE or UNE combination for AT&T where it is not available in that area of Arkansas	THIS ISSUE WAS NOT DEFINITELY RESOLVED	"LANGUAGE IN § 1.6 OF PROPOSED CONTRACT IS SUFFICIENT"	—
C	1	2	Whether the entire Agreement may be terminated if modifications required by agency, court, or legislative action are unacceptable to either party.	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (10)	47 USC § 252(b)(4)(A)
C	1	3(b)	Whether liability of either party for third party end user claims would be limited according to the degree of negligence of that party	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (10)	47 USC § 252(b)(4)(A)
C	1	4 & 5	Whether AT&T should indemnify SWBT against third party end user claims, except for gross negligence or intentional or willful misconduct	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (10)	47 USC § 252(b)(4)(A)
C	1	6	Whether special circumstances warrant additional language regarding limitations on liability in particular sections of the Agreement	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (10)	Orders No. 5 & 11

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C	1	7 & 9	Whether AT&T should indemnify SWBT against third parties claiming that the Agreement interferes with their contractual relationships with AT&T and whether the parties must resort to Agreement's dispute resolution procedures whenever renegotiation or modification of the Agreement is required	THESE ISSUES WERE NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (10)	47 USC § 252(b)(4)(A)
C	1	10	Whether the Agreement should contain specific provisions governing local exchange switching/slamming issues or whether the FCC's rules governing slamming by IXCs are appropriate	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (ALTHOUGH, SWBT'S POSITION IS CONSISTENT WITH STATE LAW) (10)	47 USC § 252(b)(4)(A); Ark. Code Ann. § 23-17-411(j)
C	1	11	Whether the Agreement should contain a provision that requires AT&T to indemnify SWBT for damages caused by the release of environmental hazards introduced into the work area by AT&T	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (10)	47 USC § 252(b)(4)(A)
C	2	5	Whether AT&T may aggregate multiple customers on dedicated access facilities notwithstanding express limitations in the access tariff	AT&T (9)	SWBT (10)	Order No. 11; Ark. Code Ann. § 23-17-409(g)
C	2	6	Whether SWBT must forward all local coin calls originating from AT&T's resold lines to specific lines or trunks that AT&T specifies	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (10)	47 USC § 252(b)(4)(A); 47 USC § 276

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PART	TAB	NUMBER				
C	2	7	Whether the rates set forth in the Agreement are interim until the completion of a separate cost docket	SWBT, with modifications (33-34)	EXCEEDS SCOPE OF ARBITRATION (ALTHOUGH ISSUE MUST BE RESOLVED CONSISTENT WITH STATE LAW) (10-11)	Ark. Code Ann. §§ 23-17-406, -408, -409, -411.
C	2	9	Whether SWBT must provide "Feature Group D" for custom routed directory-assistance calls notwithstanding fact that SWBT does not provide it to itself or to any other carrier	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (11)	Orders Nos. 5 & 11
C	2	11	Whether a reseller is entitled to any compensation from the sale of subscriber listing information	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (11)	47 USC § 252(b)(4)(A)
C	2	17	Whether the Local Disconnect Report, which notifies an LSP when its customer changes service to another LSP or to SWBT, should carry a rate of \$.10 or \$.003	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (11)	Ark. Code Ann. §§ 23-17-406, -408, -409, -411
C	2	18	Whether SWBT must carry AT&T's local, intraLATA toll, and interLATA toll traffic in a single trunk group	THIS ISSUE WAS NOT DEFINITELY RESOLVED	AT&T (11)	Order No. 5; 47 CFR 51.309
C	2	21	Whether the reciprocal compensation arrangement applies when AT&T is using UNEs for traffic that is not switched	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (11)	47 USC § 252(b)(4)(A)
C	2	26	Whether the parties should commit themselves to using the percentage local use (PLU) method for estimating minutes of actual use where actual data is unavailable	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (11)	Orders Nos. 5 & 11

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PART	TAB	NUMBER				
C	2	27	Whether SWBT and AT&T must share revenue when providing interconnection services to AT&T's affiliated CMRS providers or whether each company should bill separately	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (11)	47 USC § 252(b)(4)(A)
C	2	28-31	Performance Criteria (various issues)	SWBT (52)	SWBT (11)	Orders Nos. 5 & 11
C	2	32	Whether the rates for the exchange of directory assistance subscriber listing information are permanent or subject to modification by the Arkansas PSC	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (11)	Ark. Code Ann. § 23-17-409(h)
C	2	33	Whether SWBT may charge a fee for NXX migration	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (11)	47 USC § 252(b)(4)(A)
C	2	34	Whether SWBT must deliver a call to AT&T's directory assistance/operator services platform with the signaling and data to AT&T for call completion	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (11)	Orders Nos. 5 & 11
C	2	36	Whether the Agreement should state explicitly that rates for recording are interim and subject to true-up	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (11)	Ark. Code Ann. §§ 23-17-406, -408, -409, -411
C	3	2	Whether SWBT must meet performance standards that it does not currently measure and bear the costs of providing data to AT&T concerning its compliance with those standards	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (11)	Orders Nos. 5 & 11
C	3	4, 4a-4m	Whether SWBT may charge for the features, functionality, and services on the unbundled switch port or whether AT&T is to receive these features at no charge	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (ALTHOUGH ISSUE MUST BE RESOLVED CONSISTENT WITH STATE LAW) (11)	Ark. Code Ann. § 23-17-409

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C	3	5	Whether the Agreement should include deadlines for filling orders for customized routing to AT&T directory assistance and operator services	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (11)	Orders Nos. 5 & 11
C	3	6	Whether the Agreement should recognize a reasonable technical procedure for implementing customized routing for directory assistance services	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (11)	Orders Nos. 5 & 11
C	3	7	Whether the Agreement should permit AT&T to quote its own rates by means of a "0 minus transfer" from a SWBT operator	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (11)	47 USC § 252(b)(4)(A)
C	3	8	Whether the Agreement should contain special limitation of liability and indemnity provisions concerning operator services, directory assistance, and call-related databases	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (11)	Orders Nos. 5 & 11
C	3	9	Whether AT&T may order elements that are already connected and functional when converting a SWBT end-user customer or an AT&T resale customer to service provided by AT&T through UNEs without paying nonrecurring charges	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (11)	Ark. Code Ann. §§ 23-17-406, -408, -409, -411
C	3	10	Whether the Agreement should provide an option to purchase loops both with and without automated testing and monitoring capability	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (11)	Order No. 11

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PART	TAB	NUMBER				
C	3	12	Whether AT&T should be required to correct errors detected in data it submits to SWBT's Line Information Data Base (LIDB) "promptly" or "within a reasonable time"	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (11)	47 USC § 252(b)(4)(A)
C	3	14	Whether SWBT has miscalculated its nonrecurring charges for UNEs	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (11)	Ark. Code Ann. § 23-17-406, -408, -409, -411
C	3	16	For toll-free calls <i>originated</i> by AT&T local customers on a UNE switch, whether AT&T may collect the applicable charges from the IXC who terminates the call to the 800 provider	THIS ISSUE WAS NOT DEFINITELY RESOLVED	AT&T (11)	47 CFR 51.309
C	3	17 & 18	Whether the temporary unbundled local switching rate structure should end on a date certain and whether SWBT should be able to charge a cost-based service order charge	THESE ISSUES WERE NOT DEFINITELY RESOLVED	SWBT (11)	Orders Nos. 5 & 11; Ark. Code Ann. § 23-17-406, -408, -409(e), -411
C	3	21	Whether SWBT should be required to provide AT&T with information about switch service or feature capabilities that are not currently activated and working	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (11)	Orders Nos. 5 & 11
C	3	23	Whether SWBT should inform AT&T when new test systems are introduced and provide AT&T access to such systems	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (11)	Orders Nos. 5 & 11
C	3	24	Whether SWBT must inform AT&T of missed appointments for scheduled <i>maintenance</i> with AT&T end users	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (11)	47 USC § 252(b)(4)(A)

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PART	TAB	NUMBER				
C	3	25	Whether AT&T's language concerning SWBT's guaranteeing meet-point billing data properly belongs in the Billing Attachment	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (11)	47 USC § 252(b)(4)(A)
C	3	26	Whether SWBT must use CABS format when billing mutual compensation	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (11)	Orders Nos. 5 & 11
C	3	27	Whether SWBT must provide customer usage data unrelated to UNEs ordered by AT&T without compensation	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (11)	47 USC § 252(b)(4)(A)
C	3	28	Whether this Agreement should make reference to the Call Flow Document	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (11)	47 USC § 252(b)(4)(A)
C	3	29	Whether SWBT may require AT&T to create a unique signaling point code in its capacity as an LSP	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (11)	47 USC § 252(b)(4)(A)
C	3	30	Whether SWBT must modify the existing data in its LIDB whenever AT&T uses the standard ordering process or when it ports a customer using interim number portability	THIS ISSUE WAS NOT DEFINITELY RESOLVED	EXCEEDS SCOPE OF ARBITRATION (11)	47 USC § 252(b)(4)(A)
C	4	2	Whether SWBT can reserve a limited amount of its own floor space that is not subject to collocation	THIS ISSUE WAS NOT DEFINITELY RESOLVED	SWBT (12)	47 CFR § 51.323
C	4	3	Whether SWBT must allow AT&T to participate with it in determining the technical feasibility of using space	AT&T CONCEDES THAT THIS ISSUE WAS NEVER PRESENTED	SWBT (12)	47 USC § 251; 47 CFR § 51.323

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PART	TAB	NUMBER				
C	4	5	Whether SWBT should be required to provide AT&T a specific price quotation within 35 days or to refund the entire Engineering Design Charge where space is unavailable	AT&T CONCEDES THAT THIS ISSUE WAS NEVER PRESENTED	SWBT (PROPOSED LANGUAGE IN AGREEMENT IS SUFFICIENT) (12)	—
C	4	6	Whether SWBT may bill AT&T not only for floor space, power usage, maintenance, administration, and applicable equipment taxes, but also for unforeseeable costs on a case-by-case basis	SWBT (36)	AT&T (12)	Orders Nos. 5 & 11
C	4	7	Whether SWBT must agree to subject its price quotations to administrative review and permit AT&T to "warehouse" the space while the appeal is pending	SWBT (36)	SWBT (12)	Orders Nos. 5 & 11; Ark. Code Ann. § 23-17-409
C	4	8 - 25	Various collocation issues	AT&T CONCEDES THAT THESE ISSUES WERE NEVER PRESENTED	EXCEEDS SCOPE OF ARBITRATION (12)	47 USC § 252(b)(4)(A)
C	4	26	Whether AT&T is entitled to have the Arkansas PSC resolve disputes over SWBT's trued-up charges for collocation	THIS ISSUE WAS NEVER DEFINITELY RESOLVED	SWBT (12)	Orders Nos. 5 & 11
C	4	27	Whether SWBT must permit collocation bills to be paid within 45 days while requiring all other bills under the Agreement to be paid within 30 days	THIS ISSUE WAS NEVER PRESENTED	SWBT (12)	47 USC § 251(c)(6)
C	4	28 - 57	Additional collocation issues	AT&T CONCEDES THAT THESE ISSUES WERE NEVER PRESENTED	EXCEEDS SCOPE OF ARBITRATION (12)	47 USC § 252(b)(4)(A)

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PART	TAB	NUMBER				
C	5	32	Whether AT&T would have to enter into negotiations for a new agreement within a reasonable time should the Poles Appendix be terminated	THIS ISSUE WAS NEVER PRESENTED	EXCEEDS SCOPE OF ARBITRATION (12)	47 USC § 252(b)(4)(A)
C	5	34	Whether the Poles Appendix should explicitly refer to the Agreement's dispute resolution procedures (DRPs) or whether the DRPs in the Appendix itself are sufficient	AT&T (50)	AT&T (12)	Order No. 5