

that the EnView system simulates pre-order transactions for all active pre-ordering interfaces;<sup>453</sup> mirrors the type of transactions performed by Bell Atlantic retail representatives during retail service hours; and captures the entire time that the transaction passes through Bell Atlantic systems, including the firewall. Even though evidence of actual pre-order response time would also be useful for our analysis, we conclude that the EnView system is a suitable measure of the time that a carrier or retail representative's pre-order request traverses Bell Atlantic's systems. As more carriers access Bell Atlantic's pre-ordering systems through EDI and CORBA, however, we encourage the New York Commission to continue to work with Bell Atlantic and competing carriers to ensure that the EnView simulation system continues to accurately reflect Bell Atlantic's retail operations (in terms of variability of transactions and service hours) and capture response times properly.

150. We further find that, in addition to accommodating current demand, Bell Atlantic demonstrates that its pre-ordering systems and interfaces are scalable to handle reasonably foreseeable demand volumes.<sup>454</sup> We base our conclusion on Bell Atlantic's current performance and KPMG's findings. We find that Bell Atlantic processed more than 1.3 million pre-ordering transactions from January through July 1999, with more than 200,000 processed in July alone.<sup>455</sup> In addition, KPMG found that Bell Atlantic's pre-ordering interfaces and systems are capable of handling projected year-end 1999 volumes.<sup>456</sup> KPMG also evaluated Bell Atlantic's network architecture and found that its systems have sufficient capacity to meet expected future usage volumes.<sup>457</sup>

151. We also reject assertions by AT&T and MCI WorldCom that Bell Atlantic is not providing parsed CSR responses in competitive timeframes.<sup>458</sup> As discussed above, parsed CSR functionality is necessary for carriers to integrate CSR data into their own back office systems. Because Bell Atlantic's retail representatives do not retrieve parsed CSRs, Bell Atlantic must provide access to parsed CSR functionality that affords an efficient competitor a meaningful

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<sup>453</sup> Although Bell Atlantic does not yet report CORBA pre-order response times, in light of the nascency of that interface and Bell Atlantic's reporting of the alternative EDI-9 interface, failure to report CORBA performance data does not preclude a finding that Bell Atlantic is meeting its pre-order OSS checklist requirements.

<sup>454</sup> See New York Commission Comments at 40.

<sup>455</sup> Bell Atlantic Application at 38. Furthermore, in response to commenters' claims that the pre-ordering interfaces are deficient, Bell Atlantic notes that the interfaces handled more than 283,000 pre-order transactions in September. Bell Atlantic Reply at 32; Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 5.

<sup>456</sup> See KPMG Final Report at POP5 IV-102 (showing daily pre-order submission volume of 3,400 for the EDI functional evaluation; 10,500 for the EDI normal volume tests; and 13,200 for the EDI peak volume test); see also *id.*, at POP6 IV-139, 145 (showing submission of 15,269 pre-order requests in a 4-hour period during EDI stress test). During the stress test, KPMG found that Bell Atlantic's pre-order systems were able to maintain operability at levels up to 119 percent above the baseline established for peak volume testing, which represents a 50-percent increase over normal daily volume. KPMG Final Report at POP6 IV-149.

<sup>457</sup> See KPMG Final Report at POP13 IV-300-314 (scalability review of interfaces and architecture).

<sup>458</sup> AT&T Crafton/Connolly Reply Aff. at paras. 37-38; MCI WorldCom Comments at 29; MCI WorldCom Reply at 19.

opportunity to compete.

152. As an initial matter, we recognize that, for parsed CSR retrieval, unlike other pre-ordering transactions, Bell Atlantic must perform the additional step of parsing CSR information into identifiable fields prior to sending the information to the carrier. In light of this extra processing step, Bell Atlantic and competing carriers agreed in the Carrier-to-Carrier collaborative that the performance standard applicable to other pre-ordering response times should be modified for parsed CSR retrieval.<sup>459</sup> Specifically, in late September, Bell Atlantic agreed to measure the timeliness of parsed CSR information according to a standard of "parity with retail unparsed CSR plus ten seconds," based on simulated transactions.<sup>460</sup> Moreover, in the present proceeding, MCI WorldCom supports a similar ten-second standard for parsed CSR retrieval.<sup>461</sup> Accordingly, we find that, for purposes of our analysis, a performance standard of parity with unparsed CSR retail response time plus ten seconds is a reasonable and appropriate measure of whether Bell Atlantic processes parsed CSR inquiries in a manner that allows an efficient carrier a meaningful opportunity to compete.

153. Performance data indicates that Bell Atlantic provides timely access to parsed CSRs. In response to commenters' claims regarding parsed CSR timeliness, Bell Atlantic submitted data on reply showing that in early October Bell Atlantic took, on average, 7.42 seconds to respond to parsed CSR inquiries.<sup>462</sup> Although AT&T and MCI WorldCom assert that it takes much longer to receive parsed CSR responses,<sup>463</sup> in view of the general and conclusory nature of their assertions, we have no confidence that the claimed longer response times are attributable to Bell Atlantic and not to delay in AT&T's or MCI WorldCom's own systems.<sup>464</sup>

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<sup>459</sup> See Bell Atlantic Nov. 24 *Ex Parte* Letter at 2.

<sup>460</sup> See Bell Atlantic Dowell/Canny Reply Decl. at para. 13. The New York Commission recently adopted "parity with retail unparsed CSR plus tens seconds" as a performance standard for parsed CSR retrieval. *NYPSC Additional Guidelines Order* at 15; see also New York Commission Reply at 17. Although this standard was not formally adopted by the New York Commission until November 5, 1999, given that Bell Atlantic committed to the standard in collaborative meetings in late September and that we find the measure to be reasonable, we do not believe that we are precluded from independently relying on this standard for purposes of our analysis.

<sup>461</sup> See MCI WorldCom Comments at 29; MCI WorldCom Reply at 18 (indicating that MCI WorldCom can presently operate in a competitive market if Bell Atlantic meets a 10-second standard for parsed CSR retrieval).

<sup>462</sup> Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 21, Attach. A (listing daily average parsed CSR response time for October 5 through October 14, 1999).

<sup>463</sup> MCI WorldCom asserts generally that it takes between 10 to 15 seconds during the day (9:00 a.m. to 5:00 p.m.) and 20 to 40 seconds in the evening (6:00 p.m. to 9:00 p.m.) to receive responses for its parsed CSR inquiries. MCI WorldCom Reply at 19. See also MCI WorldCom Comments at 29; MCI WorldCom Lichtenberg/Sivori Decl. at para. 62 (claiming that it experiences intervals of between 15 and 20 seconds for parsed CSRs). AT&T claims that "response times on CORBA have been as long as 45 seconds in some instances," but notes that "CORBA has been in commercial production for too short a time for AT&T to provide comprehensive data." AT&T Crafton/Connolly Reply Aff. at para. 38.

<sup>464</sup> See Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 21 (noting that Bell Atlantic has no ability to measure what happens on MCI WorldCom's side of the firewall, and that MCI WorldCom personnel have informed Bell Atlantic that they have experienced problems on MCI WorldCom's side of the firewall).

Accordingly, we find these allegations insufficient to refute Bell Atlantic's performance data. We therefore conclude that the record evidence demonstrates that Bell Atlantic is processing parsed CSRs in a manner that affords competitors a meaningful opportunity to compete.

154. *Interface Availability.* We conclude that Bell Atlantic demonstrates that its interfaces<sup>465</sup> are available in a manner that affords an efficient competitor a meaningful opportunity to compete.<sup>466</sup> A stable, reliable pre-ordering interface is necessary for competing carriers to market their services and serve their customers as efficiently and at the same level of quality that Bell Atlantic provides to itself. The Commission previously has found that the unavailability of an interface could directly and negatively affect a carrier's interaction with its customers.<sup>467</sup>

155. Bell Atlantic measures EDI interface availability 24 hours a day using the EnView emulation system.<sup>468</sup> Based on the Carrier-to-Carrier collaborative proceeding, the New York Commission established a performance standard requiring that Bell Atlantic's interfaces be available at least 99.5 percent of their scheduled availability during prime-time hours, using simulated responses.<sup>469</sup> As an initial matter, we find that the designation of prime time hours from 6:00 a.m. to 12:00 a.m., Monday through Saturday, appropriately captures critical hours in which competing carriers access the interfaces. Given the broad designation of prime time, we find the 99.5-percent standard a reasonable and appropriate measure of whether Bell Atlantic's interfaces are sufficiently available to afford an efficient competitor a meaningful opportunity to compete. Although competing carriers may also input pre-order transactions outside of these hours, we find it unlikely that they will have a customer on the line during those hours. For this reason, minor interface downtime during non-prime time hours is not as likely to deprive an efficient competitor of a meaningful opportunity to compete.<sup>470</sup> We therefore find that Bell Atlantic's interface availability during non-prime time hours is a less important indicator of its ability to provide

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<sup>465</sup> In this section we evaluate the availability of Bell Atlantic's interfaces for all functionality, including the EDI, Web GUI and CORBA for pre-ordering, ordering, and maintenance and repair functions.

<sup>466</sup> See New York Commission Comments at 41 (concluding that Bell Atlantic is providing satisfactory interface availability). With respect to its back office pre-ordering systems, Bell Atlantic states that it periodically takes these systems out of service for routine maintenance, during which time they are equally unavailable to competing carriers as well as Bell Atlantic's retail representatives. We find no evidence on the record that Bell Atlantic discriminates in the availability of its back office pre-ordering systems.

<sup>467</sup> See *BellSouth South Carolina Order*, 12 FCC Rcd at 637-38.

<sup>468</sup> Bell Atlantic Dowell/Canny Decl. at paras. 25-27, Attach. A at 8-9.

<sup>469</sup> See Bell Atlantic Dowell/Canny Decl. Attach. B at 8. We are further encouraged by, but our decision does not rely on, the New York Commission's recent modifications to the methodology used to calculate interface availability. See *NYPSC Additional Guidelines Order*, at 15-16 (reporting that Bell Atlantic will include actual outages reported by carriers as well as outages captured by the EnView simulations, change the EnView system to send transactions on average every six minutes rather than fifteen, and make available for inspection by carriers its logs of carrier-reported outages).

<sup>470</sup> We also note that Bell Atlantic performs necessary maintenance on the interfaces during non-prime time. Bell Atlantic Miller/Jordan Decl. at para. 26.

nondiscriminatory access to its OSS functions.<sup>471</sup>

156. We base our conclusion that Bell Atlantic's interfaces are sufficiently available on performance data from July through September 1999 showing that Bell Atlantic's interfaces were generally available as scheduled.<sup>472</sup> For prime time hours, the EDI interface was available 100 percent of its scheduled time in July and August 1999, and 99.94 percent in September.<sup>473</sup> During non-prime time, the EDI interface was available 99.9 percent of its scheduled time in June and 100 percent in July and August.<sup>474</sup> Although the availability dropped to 97.01 percent in September,<sup>475</sup> because we place less emphasis on this metric, we do not consider unavailability for three percent of non-prime time hours to present a barrier to an efficient competitor's ability to meaningfully compete by completing transactions in a timely manner.

157. We also base our conclusion on KPMG's verification that Bell Atlantic's interfaces are consistently available during scheduled hours of operation. Despite noting some instances of connectivity interruption or system unavailable error messages, KPMG found that Bell Atlantic's EDI and Web GUI interfaces for pre-ordering and ordering were "consistently available."<sup>476</sup> Furthermore, in its limited test of parsed CSR functionality, KPMG did not experience any outages or system unavailable errors.<sup>477</sup> We also note that, following the KPMG test results, Bell Atlantic improved its File Transfer Protocol (FTP) process to resend files automatically and to alarm Bell Atlantic support staff if FTP transmissions are not successful.<sup>478</sup> Given the evidence in the record, we reject claims by AT&T and MCI WorldCom that Bell Atlantic's interfaces are not available sufficiently to afford competitors a meaningful opportunity to compete.<sup>479</sup>

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<sup>471</sup> We note that the New York Commission did not establish a performance standard for non-prime time. See Bell Atlantic Dowell/Canny Decl. Attach. B at 8-9.

<sup>472</sup> Because Bell Atlantic began reporting availability for the EDI interface in July, we do not rely on earlier data in this section.

<sup>473</sup> Bell Atlantic Dowell/Canny Decl. Attach. D at 73, 84, 96 (metric PO-2-02 for June, July and August 1999); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 1 (metric PO-2-02 for September 1999). In June, Bell Atlantic reported interface availability only for the EIF interface.

<sup>474</sup> Bell Atlantic Dowell/Canny Decl. Attach. D at 73, 84, 96 (metric PO-2-03 for July and August 1999).

<sup>475</sup> Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 1 (metric PO-2-03 for September 1999).

<sup>476</sup> See KPMG Final Report at POP5 IV-106, 110-111 (noting some "sporadic and not routinely experienced" disconnections of the EDI ordering interface). During its functional evaluation of the Web GUI, KPMG did not experience any outages or down time for pre-ordering capability, although it did experience some temporary outages for ordering capability. See KPMG Final Report at POP2 IV-34; POP2 IV-37.

<sup>477</sup> KPMG Final Report at POP5 IV-135.

<sup>478</sup> Bell Atlantic Miller/Jordan Decl. at para. 28.

<sup>479</sup> Although commenters report periodic interface outages, they fail to assert that the reported outages are not captured in the relevant performance measurements. For example, MCI WorldCom states that it has experienced "periodic failures" of the EDI pre-ordering interface. MCI WorldCom Comments at 28; MCI WorldCom Lichtenberg/Sivori Decl. at paras. 61, 139-40; MCI WorldCom Reply at 19-20 (indicating that the EDI pre-

## f. Ordering

158. In this section we address Bell Atlantic's ability to provide access to its OSS ordering functions to competing carriers.<sup>480</sup> We conclude that Bell Atlantic demonstrates that it provides nondiscriminatory access to its ordering systems in accordance with the requirements of section 271. In addition, we find that Bell Atlantic shows that its systems will be able to meet reasonably foreseeable commercial volumes in the future. We note that the New York Commission also concludes that Bell Atlantic is able to satisfactorily process orders and that its ordering systems are scalable.<sup>481</sup> We also conclude that Bell Atlantic satisfies its obligation to provide access to order status and jeopardy information, to the extent it is available, in a nondiscriminatory manner. Finally, we conclude that Bell Atlantic provides nondiscriminatory access to order completion notification.

### (i) Background

159. Bell Atlantic's interfaces provide competing carriers with electronic access for a full range of ordering functionality.<sup>482</sup> Competing carriers may place service orders with Bell Atlantic over either an EDI interface or a Web GUI. As of the filing date of this application, six carriers were using EDI for ordering and three were in the certification process, which is a precursor to the use of EDI.<sup>483</sup> In addition, over 100 competing carriers were using the Web GUI at the time of filing.<sup>484</sup> Once an order is received, Bell Atlantic responds with either a "Local Service Request Confirmation" (order confirmation) notice or a "Local Service Request Rejection" (order rejection) notice.<sup>485</sup> These notices are important because they provide information to a competing carrier about whether its order has been accepted, or whether it has

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ordering interface was down 11 times from September 3 through October 19); MCI WorldCom Lichtenberg/Sivori Reply Decl. at para. 10, Attach. 1. In addition, AT&T claims that since it began using CORBA for commercial production in October, the interface has failed on a number of occasions. When CORBA was down, AT&T used the Web GUI to conduct pre-order transactions. AT&T Crafton/Connolly Reply Aff. at paras. 34, 89-94.

<sup>480</sup> Ordering functions for DSL capable loops are addressed in the DSL discussion of Checklist Item 4, *infra*, at section V.D.2.c.

<sup>481</sup> New York Commission Comments at 16 (concluding that Bell Atlantic has demonstrated its ability to "satisfactorily process orders" and that its "automated and manual processes are scalable.").

<sup>482</sup> See Bell Atlantic Application at 40. KPMG Final Report at POP5 IV-111 (Test P5-8) ("BA-NY system or representative provides required order transaction functionality").

<sup>483</sup> Bell Atlantic Miller/Jordan Decl. at para. 35. Of the six competing carriers using EDI for ordering functions, multiple carriers are using it to order UNEs and resale services. See *id.*; Letter from Dee May, Director, Federal Regulatory Affairs, Bell Atlantic, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket 99-295 (filed December 17, 1999) (listing carriers using EDI for UNE and resale service ordering).

<sup>484</sup> Bell Atlantic Miller/Jordan Decl. at para. 35.

<sup>485</sup> Bell Atlantic Miller/Jordan Decl. at para. 34; New York Commission Comments at 41. An order is confirmed when it is accepted into Bell Atlantic's Service Order Processor and rejected when it contains certain kinds of errors. Bell Atlantic Miller/Jordan Decl. at para. 41.

been rejected and requires resubmission.<sup>486</sup>

160. Bell Atlantic generates order confirmation and rejection notices as a result of either mechanized or manual processing of orders, and returns them electronically over the GUI or EDI interface regardless of how they were processed.<sup>487</sup> Bell Atlantic's operations support systems generate a mechanized order confirmation or rejection notice automatically (*i.e.*, without human intervention) if the order is able to "flow-through."<sup>488</sup> For orders that do not flow-through, Bell Atlantic generates order confirmation and rejection notices after the order is manually processed by Bell Atlantic wholesale representatives. The Carrier-to-Carrier guidelines, which were established by the New York Commission in conjunction with Bell Atlantic and the competing carriers, require the return of 95 percent of *mechanized* order confirmation and rejection notices within two hours of submission to Bell Atlantic, and 95 percent of *manually* processed order confirmation and rejection notices under ten lines within 24 hours of submission.<sup>489</sup> We find that this standard, developed as a result of a collaborative proceeding including Bell Atlantic and competing carriers, is generally a reasonable measure of whether Bell Atlantic processes orders in a manner that provides an efficient competing carrier with a meaningful opportunity to compete.<sup>490</sup>

<sup>486</sup> *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20678, 20680; see Bell Atlantic Application at 40.

<sup>487</sup> Bell Atlantic Miller/Jordan Decl. at paras. 38-43. Bell Atlantic will accept resale and UNE POTS orders only over either EDI or the Web GUI. Bell Atlantic Dowell/Canny Decl. Attach. B at 17, 20. In contrast, for non-POTS UNE orders and interconnection trunk orders, Bell Atlantic will accept facsimile and mail orders in addition to accepting orders over EDI or the Web GUI. *Id.*

<sup>488</sup> Bell Atlantic Miller/Jordan Decl. at para. 41; see Bell Atlantic Miller/Jordan Decl. Attach. D at 1. A competing carrier's orders "flow-through" if they are transmitted electronically through the gateway and accepted into Bell Atlantic's back office ordering systems without manual intervention. *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20671; see also Bell Atlantic Dowell/Canny Decl. Attach. B at 79 (defining "mechanized flow-through" as "[o]rders received electronically through the ordering interface (DCAS) and requiring no manual intervention to be entered into the SOP"). Although under this definition a "rejected" order does not "flow-through," some commenters in this proceeding refer generally to orders that are mechanically processed by Bell Atlantic's systems without human intervention as "flowing-through." Bell Atlantic has designed its system to flow-through certain order types. Bell Atlantic Miller/Jordan Decl. at para. 38. Order types that are not designed to flow-through will drop out of Bell Atlantic's systems for manual processing. Bell Atlantic Miller/Jordan Decl. at para. 42. Moreover, for orders containing certain types of errors, such as mis-typed address information, Bell Atlantic has designed the system to direct the order for manual correction by Bell Atlantic representatives, rather than rejecting the order. Bell Atlantic Miller/Jordan Decl. at para. 41.

<sup>489</sup> Bell Atlantic Dowell/Canny Decl. Attach. B at 17, 21. These standards apply only for UNE and resale POTS orders under ten lines and certain "pre-qualified" complex orders under ten lines. Bell Atlantic Dowell/Canny Decl. Attach. B at 17, 21. The New York Commission established a 48 hour standard for manually processed resale and UNE special services orders under 10 lines, and a 72 hour standard for all manually processed resale and UNE orders of greater than or equal to ten lines. Bell Atlantic Dowell/Canny Decl. Attach. B at 17, 21. We do not analyze Bell Atlantic's performance for such orders because the relative volumes of orders in these categories are too low to make a meaningful judgment.

<sup>490</sup> In prior orders the Commission concluded that ordering functions for unbundled network elements have no retail analogue. *Ameritech Michigan Order*, 12 FCC Rcd at 20619. In contrast, the Commission has previously found that resale ordering functions have a retail analogue and, as such, BOCs must provide resale ordering functions to competing carriers in substantially the same time and manner as the incumbent performs that function for itself. *Ameritech Michigan Order*, 12 FCC Rcd at 20616. In this application, the New York Commission has

As demonstrated below, Bell Atlantic generally meets these standards, and where Bell Atlantic has fallen short of the standards, the shortfall has not been significant.

(ii) Discussion

161. As an initial matter, we find that, unlike prior section 271 orders where the Commission began its analysis of access to ordering functions with a discussion of order “flow-through rates,” a number of factors present in this application weigh against doing so here.<sup>491</sup> Specifically, in prior orders the Commission asserted that the “substantial disparity between the flow-through rates of the [applicant] and those of competing carriers, on its face, demonstrate[d] a lack of parity.”<sup>492</sup> To the extent that these prior statements could be read to suggest that flow-through rates standing alone are a conclusive measure of nondiscriminatory access to ordering functions, we now clarify that when presented with circumstances like those in the instant record it is unnecessary to focus on order flow-through rates to the same degree we have in past orders.<sup>493</sup> As explained below, the record in this proceeding indicates that Bell Atlantic’s provision of access to its ordering functions is substantially better than in any other prior application. When considered in the context of such performance, we find that it would be inappropriate to consider order flow-through rates as the sole indicia of parity.

162. The Commission has, in part, used order flow-through as a potential indicator of a wide range of problems that underlie a determination of whether a BOC provides nondiscriminatory access to its OSS. Where, as in this application, other evidence shows that such problems do not exist, however, it is unnecessary to center our analysis on flow-through rates.<sup>494</sup> For example, in the *Second BellSouth Louisiana* order, the Commission expressly found that the low order flow-through in the record was indicative of deficiencies in a BOC’s systems for which the Commission also had other independent record evidence, including: (1) the failure to provision orders in a timely manner, (2) the failure to provide competing carriers with

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established benchmark standards to measure Bell Atlantic’s ability to provide order status notices to competitors in a timely fashion, as it concluded that there are no retail analogues for ordering in Bell Atlantic’s system. New York Commission Comments at 42. These benchmarks apply to both UNEs and resale. Bell Atlantic Dowell/Canny Decl. Attach. B at 17, 21. We find that the New York Commission’s benchmarks, which were established in a collaborative proceeding, provide a reasonable means of comparison for purposes of the instant proceeding.

<sup>491</sup> See, e.g., *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20670-71; *First BellSouth Louisiana Order*, 13 FCC Rcd at 6263; *BellSouth South Carolina Order*, 13 FCC Rcd at 599.

<sup>492</sup> *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20670; *First BellSouth Louisiana Order*, 13 FCC Rcd at 6263; *BellSouth South Carolina Order*, 13 FCC Rcd at 599.

<sup>493</sup> *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20670-71; *First BellSouth Louisiana Order*, 13 FCC Rcd at 6263; *BellSouth South Carolina Order*, 13 FCC Rcd at 599.

<sup>494</sup> Commenters argue that Bell Atlantic’s flow-through rates are insufficient and therefore fail to satisfy section 271. AT&T Comments at 16-17; Choice One Comments at 11; MCI WorldCom Comments at 10; NY Attorney General Comments at 12-13; NorthPoint Comments at 14; see Covad Comments at 29-30. Because we conclude that, under the facts of this application, we need not focus on flow-through rates, we find that such arguments are not dispositive of our analysis.

complete, up-to-date, business rules and ordering codes; (3) the lack of integration between pre-ordering and ordering functions; and (4) the failure to provide order status notices electronically.<sup>495</sup> We have also used flow-through rates as an indicator of a BOC's ability to process competing carriers' orders, at reasonably foreseeable commercial volumes, in a nondiscriminatory manner.<sup>496</sup> Flow-through rates, therefore, are not so much an end in themselves, but rather are a tool used to indicate a wide range of possible deficiencies in a BOC's OSS that may deny an efficient competitor a meaningful opportunity to compete in the local market.

163. Unlike the BOC systems we examined in prior orders, none of the specific deficiencies that we have previously associated with low flow-through rates is present in Bell Atlantic's systems. As discussed above, Bell Atlantic provides virtually all order status notices electronically,<sup>497</sup> provides complete, up-to-date, business rules and ordering codes,<sup>498</sup> makes integrated pre-ordering and ordering interfaces available through EDI,<sup>499</sup> and, as discussed below, provisions orders in a timely fashion.<sup>500</sup> Moreover, as discussed more fully below, we find that Bell Atlantic scales its system as volumes increase, and demonstrates its ability to continue to do so at reasonably foreseeable volumes. As a result, in this application flow-through has significantly less value as an indicator of deficiencies of Bell Atlantic's OSS. Thus, a different analysis is warranted. Specifically, in light of the facts and circumstances of this application, we conclude that Bell Atlantic's overall ability to return timely order confirmation and rejection notices, accurately process manually handled orders, and scale its systems is more relevant and probative for analyzing Bell Atlantic's ability to provide access to its ordering functions than a simple flow-through analysis. We note that this approach is consistent with the New York Commission's view that Bell Atlantic's order flow-through is not the only indicator of Bell Atlantic's ability to process orders in a nondiscriminatory fashion or to meet significant increases in order volumes.<sup>501</sup>

**(a) Unbundled Network Element Orders**

164. We find that Bell Atlantic demonstrates that it is providing nondiscriminatory

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<sup>495</sup> *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20671; *First BellSouth Louisiana Order*, 13 FCC Rcd at 6259-70, 77; *BellSouth South Carolina Order*, 13 FCC Rcd at 597-611.

<sup>496</sup> *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20671; *see Performance Measurements NPRM*, 13 FCC Rcd at 12850 (flow-through rate "serves as a yardstick to evaluate whether an incumbent LEC's OSS is capable of handling reasonably foreseeable commercial volumes of orders").

<sup>497</sup> *See discussion supra* paras 160.

<sup>498</sup> *See discussion supra* paras. 127, 131. *See also* Bell Atlantic Miller/Jordan Decl. at paras. 87-91.

<sup>499</sup> *See discussion supra* paras. 137-39.

<sup>500</sup> *See discussion infra* paras. 173-210; *see also* paras. 287-88, 292-98.

<sup>501</sup> New York Commission Reply at 11. We note that the New York Commission focused its analysis of Bell Atlantic's ordering functions on on-time order processing. New York Commission Comments at 44; New York Commission Reply at 11.

access to its OSS ordering functions for unbundled network elements (*i.e.*, UNE-loop and UNE-platform). We note that Bell Atlantic supports its application with Carrier-to-Carrier performance data, which aggregates UNE-loop and UNE-platform data, and the New York Commission based its initial comments on this aggregated data.<sup>502</sup> Although we analyze Bell Atlantic's provision of ordering access using primarily aggregated UNE data, we conclude that our analysis would yield the same results were we to examine disaggregated data.<sup>503</sup> In recent months Bell Atlantic has met, or has come very close to meeting, the strict benchmark standards for on-time processing of unbundled network element orders established in the Carrier-to-Carrier proceeding.<sup>504</sup> According

<sup>502</sup> Bell Atlantic Dowell/Canny Decl. Attach. D at 78, 90, 102 (metrics OR-1 and OR-2); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 7; New York Commission Comments at 43. In contrast, the Department of Justice submitted data disaggregated by UNE-loop and UNE-platform for the first time in its evaluation. Department of Justice Evaluation at 15 n.28 (noting that Bell Atlantic provided Department of Justice with "supplemental data disaggregating its UNE-L and UNE-P performance" after filing its section 271 application and that "[t]o the Department's knowledge, these data have not been provided to the Commission, the NYPSB or the CLEC community for review.") On reply and in subsequent *Ex Partes*, the New York Commission submitted analyses of the Carrier-to-Carrier data in aggregated and disaggregated form. New York Commission Reply at 13; *id.* at Exh. 1; Letter from Penny Rubin, Managing Attorney, New York Department of Public Service, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket 99-295 (filed December 7, 1999) (New York Commission Dec. 7 *Ex Parte* Letter) (resale data and aggregated UNE data); Letter from Penny Rubin, Managing Attorney, New York Department of Public Service, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket 99-295 (filed Dec. 2, 1999) (New York Dec. 2 *Ex Parte* Letter) (disaggregated UNE-loop and UNE-platform data).

<sup>503</sup> For example, as the New York Commission has shown, Bell Atlantic is able to provide order confirmation and rejection notices for UNE-loop and UNE-platform in a manner that provides efficient competitors a meaningful opportunity to compete even when disaggregated data is considered. New York Commission Reply Evaluation, Exh. 1 (showing, for example, that in September Bell Atlantic delivered order confirmation and rejection notices on time 89% of the time for UNE-loop and 94% for UNE-platform). In contrast, the Department of Justice concluded that Bell Atlantic has not met its obligation to provide order confirmation and rejection notices in a timely manner for UNE-loops and UNE-platform. Department of Justice Evaluation at 15, 31-32. After careful consideration of the Department of Justice's evaluation we conclude, however, that the evidence demonstrates that Bell Atlantic is providing nondiscriminatory access to its ordering functions for both UNE-loops (including hot cuts) and UNE-platform. In addition to the reasons discussed more fully in this section, we note that our conclusions are based, in part, upon September performance data submitted by both Bell Atlantic and the New York Commission that the Department of Justice did not discuss in its evaluation. *See, e.g.*, Department of Justice Evaluation at 16 & n.29, 31-32 & n.86. Thus, although we recognize that there may be circumstances in which we find it appropriate to examine disaggregated data in the context of analyzing the ordering access a BOC provides to competing carriers, those circumstances do not present themselves in this application.

<sup>504</sup> In June, July, August and September respectively, Bell Atlantic returned 98, 97, 99, and 89 percent, of mechanized order confirmation notices within two hours, and 80, 80, 88, and 89 percent of manually processed order confirmation notices within 24 hours. Bell Atlantic Dowell/Canny Decl. Attach. D at 78, 90, 102 (metrics OR-1-02 and 1-04); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 7 (same); Letter from Dee May, Director, Federal Regulatory Group; Bell Atlantic, to Magalie Salas, Secretary, Federal Communications Commission, CC Docket No. 99-295, Attach. at 2 (filed Dec. 17, 1999) (Bell Atlantic Dec. 17, 1999 *Ex Parte* Letter correcting September data). For those same months, respectively, Bell Atlantic returned 86, 87, 94 and 93 percent of mechanized order rejection notices within two hours, and 71, 71, 83 and 91 percent of manually processed order rejection notices within 24 hours. Bell Atlantic Dowell/Canny Decl. Attach. D at 78, 90, 102 (metrics OR-2-02, 2-04); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 7 (same); Bell Atlantic December 17, 1999 *Ex Parte* Letter correcting September data, Attach. at 2. On December 17, 1999, Bell Atlantic filed an *ex parte* letter correcting data for September that it filed as part of the Carrier-to-Carrier reports, which Bell Atlantic submitted

to the New York Commission's own calculations, Bell Atlantic's performance in providing on-time order confirmation and rejection notices, whether manually processed or mechanized, was about 94 percent for August and September and has been trending upwards.<sup>505</sup> Similarly, in recent months Bell Atlantic's average time for returning an order confirmation or rejection notice, whether manual or mechanized, was between six and eight hours and has also been improving.<sup>506</sup> We note that even when orders are manually processed by Bell Atlantic, competing carriers are still receiving their order status notices electronically and, for nearly all of their orders, within twenty-four hours of placing the order. Notably, Bell Atlantic has improved its on-time performance despite the fact that monthly volumes of UNE orders have increased from over 8,600 orders in January to almost 70,000 orders in September.<sup>507</sup> Accordingly, we find that Bell Atlantic's ability to process nearly all competing carrier UNE orders in under 24 hours, and a majority of such orders within two hours of submission, provides an efficient competing carrier with a meaningful opportunity to compete. Should Bell Atlantic's performance deteriorate, however, we will be prepared to take appropriate enforcement action.

165. We note that Bell Atlantic's ability to process such large order volumes in a timely fashion is in stark contrast to any BOC's performance the Commission has considered in previous section 271 proceedings.<sup>508</sup> The record indicates that Bell Atlantic is able to process orders more

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on reply. Bell Atlantic explains that it did not properly conform to a change, first instituted in September, in the way the New York Commission required Bell Atlantic to classify certain orders (affecting metrics OR-1-01 through 1-04 and OR-2-01 through 2-04). *Id.* at 1. This reclassification caused Bell Atlantic's performance in September to show an anomalous dip that does not reflect a change in Bell Atlantic's actual performance when compared to prior months. Letter from Dee May, Director, Federal Regulatory Group; Bell Atlantic, to Magalie Salas, Secretary, Federal Communications Commission, CC Docket No. 99-295 at 1-2 (filed December 17, 1999) (Letter explaining September correction).

<sup>505</sup> New York Commission Reply, Exh. 1, page 1; New York Commission Reply at 11; New York Commission Dec. 7 *Ex Parte* Letter (88, 88, 94, and 94 percent of all UNE orders received confirmation or rejection notices on time during June, July, August and September, respectively). AT&T also asserts that Bell Atlantic's performance in providing "order acknowledgments" for orders placed over the EDI interface declined in September. AT&T Crafton/Connolly Aff. at para. 257. We note, however, that we have never required the provision of acknowledgements for the purposes of satisfying section 271.

<sup>506</sup> On average, for June, July, August, and September Bell Atlantic returned order confirmation notices in 8.48, 8.84, 6.16, and 6.46 hours, respectively, and order rejection notices in 16.28, 12.63, 8.12, and 6.20 hours, respectively. These averages were calculated by Commission staff from the Carrier-to-Carrier data provided by Bell Atlantic. Bell Atlantic Dowell/Canny Decl. Attach. D at 78, 90, 102 (metrics OR-1 and OR-2); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 7 (same); Bell Atlantic Dec. 17, 1999 *Ex Parte* Letter correcting September data, Attach at 2.

<sup>507</sup> New York Commission Dec. 7 *Ex Parte* Letter (Total UNE order volumes: January (8,612), February (15,442), March (19,796), April (39,427), May (45,136), June (72,121), July (58,575), August (64,350), September (69,791)).

<sup>508</sup> For example, in the *Ameritech Michigan Order* the Commission observed, over the course of the first four months of 1997, that Ameritech received almost 20,000 resale orders over its EDI interface for the state of Michigan. 12 FCC Rcd at 20629-30 (Ameritech represented that it received 19,671 orders over EDI and accepted, and processed, 17,789 of those orders). In the *BellSouth South Carolina Order* we noted that BellSouth received, on a region-wide basis for one month, 6,715 resale orders through its EDI interface. 13 FCC Rcd at 596. In contrast, in the month of September in the state of New York alone Bell Atlantic processed almost 20,000 resale

quickly than other BOCs in prior section 271 proceedings. For example, in the *Second BellSouth Louisiana Order* the Commission noted that BellSouth only returned order confirmation notices, on average, over 18 to 19 hours after it received an order, and over 21 to 27 percent of such notices were returned beyond a 24 hour interval.<sup>509</sup> In contrast, in recent months Bell Atlantic has returned order confirmation notices, on average, within about five to eight hours and, as discussed above, returns nearly all order confirmation and rejection notices within 24 hours.<sup>510</sup>

166. Even considering Bell Atlantic's flow-through,<sup>511</sup> however, we conclude that the

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orders, over half of which were received over EDI, and 70,000 UNE orders, almost 50,000 of which were received over EDI. Letter from Dee May, Director, Federal Regulatory Affairs, Bell Atlantic, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket 99-295 at 2 (filed November 17, 1999) (listing volumes by individual carriers over EDI and GUI interfaces); see New York Commission Dec. 7 *Ex Parte* Letter. Virtually all of the orders not received over EDI are received over the GUI.

<sup>509</sup> *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20681, para. 122 & n.420. Bell Atlantic's performance is also significantly better than the BOC performance described in other section 271 orders. We note that this is the first time the Commission has done a full analysis of UNE ordering in a section 271 order. We conclude, however, that our precedent regarding resale ordering is generally applicable to UNE ordering. For example, in the *Ameritech Michigan Order*, between 14 and 45 percent of order confirmation notices were not returned to competing carriers within three days and, based upon monthly averages, it took as many as six days to return rejection notices to competing carriers. *Ameritech Michigan Order*, 12 FCC Rcd at 20643. Evidence in the record in the *South Carolina Order* indicated that carriers did not receive 38 to 90 percent of their order confirmation notices in 24 hours, and for one carrier it took on average up to 7 days from submission to receive such notices. *BellSouth South Carolina Order*, 13 FCC Rcd at 608. The evidence in the *First BellSouth Louisiana Order* showed that BellSouth only returned between 20 to 62 percent of competing carrier orders confirmation notices within 24 hours, and for one carrier it took an average of 3.5 workdays to receive an order confirmation. *First BellSouth Louisiana Order*, 13 FCC Rcd at 6268-69. In the *Second BellSouth Louisiana Order*, for electronically submitted orders for resale residential service, BellSouth returned a reject notice on average somewhere between 2 and 8 days after it received an order, depending on the month. *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20679-80. Further, over 37 percent of such notices were returned beyond a 24 hour interval. *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20679-80. For manually submitted orders for resale residential service, the average reject notice interval was 1.61 days, and over 63 percent of such notices were returned beyond a 24 hour interval. *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20679-80.

<sup>510</sup> We also note that, unlike Bell Atlantic, which returns rejection and order confirmation notices over electronic interfaces, in prior applications BellSouth returned some notices by facsimile. *First BellSouth Louisiana Order*, 13 FCC Rcd at 6262; *BellSouth South Carolina Order*, 13 FCC Rcd at 598-99. Electronic notifications are superior to faxed notifications because they are quicker and do not require competing carriers to manually reenter information from the notice into their OSS.

<sup>511</sup> Bell Atlantic has asserted that retail flow-through is a "misnomer" for its systems. Bell Atlantic Miller/Jordan Decl. at para. 57; Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 37. Specifically, Bell Atlantic claims it is a misnomer because "every retail order must be typed by a BA-NY representative in order to enter it into the service order processor." Bell Atlantic Miller/Jordan Decl. at para. 57; Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 37. Moreover, the New York Commission has agreed that there is not a retail analogue for Bell Atlantic's systems. New York Commission Comments at 42 ("Since there is no retail analogue in Bell Atlantic-NY's retail system, ordering metrics are 'absolute standard' metrics."). In the alternative, Bell Atlantic argues on Reply that an evaluation of all its October retail orders shows that 61.5% of its retail orders "flow-through." Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 39; see also *id.* Attach. E. Because this number is derived from an evaluation of data from the entire month of October, and therefore post-dates the comment filing date, we accord it no weight. Given New York and Bell Atlantic's conclusion that a

Carrier-to-Carrier flow-through rate is not reflective of the actual flow-through capabilities of Bell Atlantic's systems.<sup>512</sup> The record shows that Bell Atlantic's systems are *capable* of providing high levels of order flow-through, but are dependent, in part, on the performance of competing carriers to achieve high rates. We first examine commercial usage data because it is the most probative evidence that Bell Atlantic's ordering systems are operationally ready.<sup>513</sup> To obtain the most accurate picture of a competing carrier's ability to access Bell Atlantic's ordering functions we look to the actual flow-through rates of individual carriers. Flow-through rates disaggregated by carrier show that the rates for competing carriers submitting UNE-platform orders in September range from about 1 to 83 percent.<sup>514</sup> Similarly, the rates for carriers submitting UNE-loop orders range from about 1 to 74 percent in September.<sup>515</sup> Because all competing carriers interface with the same Bell Atlantic system, this wide range of results strongly implies that the competitors, rather than Bell Atlantic, are largely responsible for any "poor" UNE flow-through performance. For example, one such cause is competing carrier error. Bell Atlantic manually corrects certain types of errors in competing carrier orders, rather than rejecting such orders.<sup>516</sup> The New York Commission found that over 30 percent of the orders that fail to flow-through are caused by such errors.<sup>517</sup> In its evaluation, the New York Commission attributes the "bulk" of the competing carrier errors to typographical errors and notes that such errors should be eliminated with the implementation of integrated pre-order and order interfaces.<sup>518</sup>

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retail analogue does not exist, and in absence of a credible retail analogue in the record, we find that for purposes of this application Bell Atlantic must demonstrate that the access it provides to its ordering functions offers an efficient carrier a meaningful opportunity to compete.

<sup>512</sup> The Carrier-to-Carrier reports indicate that overall UNE orders flowed-through 59.28 percent and 62.81 percent of the time for August and September, 1999, respectively. Bell Atlantic Dowell/Canny Decl. Attach. D at 102 (metric OR-5-01); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 7 (same).

<sup>513</sup> *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20655; *BellSouth South Carolina Order*, 13 FCC Rcd at 593; *Ameritech Michigan Order*, 12 FCC Rcd at 20618.

<sup>514</sup> Letter from Dee May, Director, Federal Regulatory Affairs, Bell Atlantic, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket 99-295, Attach 1 (filed November 19, 1999) (Bell Atlantic Nov. 19 *Ex Parte* Letter) (listing volumes and flow-through rates by individual carriers for UNE-platform and UNE-loop). Indeed, we note that those carriers submitting among the largest volumes of orders have achieved high flow-through rates.

<sup>515</sup> Bell Atlantic Nov. 19 *Ex Parte* Letter.

<sup>516</sup> Bell Atlantic Miller/Jordan Decl. at para. 60; Bell Atlantic Miller/Jordan Reply Decl. at para. 36. The Commission has recognized in previous orders that there are limited circumstances in which manual intervention is appropriate. *BellSouth South Carolina Order*, 13 FCC Rcd at 599, 107. We find that manually correcting and processing orders containing errors instead of rejecting them is one such circumstance. Bell Atlantic notes that if it were to reject such orders instead of correcting them, its flow-through rates would be much higher than currently reported. Bell Atlantic Miller/Jordan Reply Decl. at para. 36 (projected 75% flow-through for UNEs).

<sup>517</sup> New York Commission Comments at 46; *see also* Bell Atlantic Application at 43 n.37.

<sup>518</sup> New York Commission Comments at 46 n.2. The New York Commission also concludes that flow-through suffers as competing carriers enter the market, and hire and train new employees. New York Commission Reply at 13.

167. In prior orders the Commission has noted that a BOC is not accountable for flow-through problems that are attributable to competing carriers' errors.<sup>519</sup> The Commission has previously rejected BOCs' claims that competing carrier "error" caused orders to be rejected or to fail to flow-through because we could not make a judgment regarding how many of the errors the BOC attributed to the competing carriers should have been assigned to the BOC for failure to provide clear business rules or integrated pre-ordering and ordering interfaces.<sup>520</sup> We find that the record in this application demonstrates that Bell Atlantic's integration of its interfaces and timely and up-to-date business rules supports Bell Atlantic and the New York Commission's contention that such competing carrier errors are attributable to the actions of competing carriers. Based upon this evidence, we find that the bulk of these "errors" can be properly attributed to competing carriers that, for example, choose not to integrate their interfaces, do not adequately train and manage their employees, or do not invest in the necessary systems.

168. Second, KPMG's test also supports our conclusion that Bell Atlantic's systems are capable of achieving high rates of order flow-through. KPMG tested the ability of EDI and GUI orders to flow from competing carriers through the interface into the Bell Atlantic ordering system without human intervention.<sup>521</sup> KPMG's test shows that Bell Atlantic's systems can achieve UNE-platform flow-through rates of over 99 percent and UNE-loop flow-through of over 85 percent for orders designed to flow-through.<sup>522</sup> KPMG also found that over 99 percent of all UNE orders designed to flow-through did so at stress volume levels.<sup>523</sup> Although higher than the rates reflecting commercial usage, we conclude that KPMG's test indicates that Bell Atlantic's systems are capable of achieving high levels of flow-through.<sup>524</sup>

169. Although we recognize that the Department of Justice and commenters assert that the level of manual processing in Bell Atlantic's system suggests that Bell Atlantic's systems are not scalable, we believe that the totality of the evidence demonstrates Bell Atlantic's systems are scalable.<sup>525</sup> In addition to showing its systems are handling current volumes of UNE orders in a

<sup>519</sup> *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20674. *First BellSouth Louisiana Order*, 13 FCC Rcd at 6263.

<sup>520</sup> *See BellSouth South Carolina Order*, 13 FCC Rcd at 601-02.

<sup>521</sup> KPMG Final Report POP7 IV-150.

<sup>522</sup> Bell Atlantic Miller/Jordan Decl. at para. 61 (citing KPMG Report POP7 IV-160 (Test P7-2)). Certain types of orders are not designed to flow-through, such as complex orders that require manual handling.

<sup>523</sup> KPMG Final Report POP IV-160 (Test P7-2); *see also* New York Commission Reply at 12; Bell Atlantic Reply at 16.

<sup>524</sup> The New York Commission noted that although the KPMG's results show a higher level of flow-through performance than Bell Atlantic's metrics, the difference "was anticipated and is easily explained." New York Commission Reply at 12. As the New York Commission explained, flow-through in the real commercial environment "is affected by such factors as ordering errors, pending orders, features not intended to flow-through, and the market entry learning curve; and one therefore would expect it to be lower." New York Commission Reply at 12.

<sup>525</sup> Department of Justice Evaluation at 32; AT&T Comments at 20; MCI WorldCom Comments at 16; *see* Choice One Comments at 11.

nondiscriminatory manner, we find that Bell Atlantic demonstrates that its ordering systems will be able to handle reasonably foreseeable commercial volumes of such orders in a nondiscriminatory manner. We base our conclusion on Bell Atlantic's performance and the KPMG Final Report. As discussed above, Bell Atlantic has shown its ability to manually process orders in a timely and accurate fashion. As the New York Commission points out, Bell Atlantic has a track record of commercial performance that shows its ability to process orders in a timely fashion while demand increases.<sup>526</sup> For example, as noted above, despite tremendous increases in monthly UNE order volumes from over 8,600 orders in January to almost 70,000 orders in September, Bell Atlantic has consistently increased its overall UNE on-time performance for the processing of order status notices.<sup>527</sup> Moreover, as discussed above, actual carrier data and KPMG's test shows that Bell Atlantic's systems are *capable* of achieving high levels of UNE order flow-through.<sup>528</sup> Thus, contrary to the Department of Justice's assertions, we conclude that the evidence discussed above supports a finding that Bell Atlantic's ordering systems will be able to handle reasonably foreseeable commercial volumes of competing carrier orders in a nondiscriminatory manner and, as such, provides competing carriers a meaningful opportunity to compete. Finally, we note that Bell Atlantic's recent commitment to implement improvements to its OSS demonstrates that Bell Atlantic will continue to scale its systems to accommodate the expected increase in competing carrier UNE-platform order volumes.<sup>529</sup>

170. Moreover, Bell Atlantic has shown its commitment to maintain, and even improve upon, its current level of performance. Although not determinative of this issue, our confidence that Bell Atlantic's systems are scalable also stems, in part, from Bell Atlantic's commitment to working with competing carriers to increase their individual order flow-through performance and reduce the number of rejection notices they receive. For example, Bell Atlantic has committed to initiate monthly workshops to address order quality.<sup>530</sup> At these workshops, Bell Atlantic will provide generic examples of orders that failed to meet flow-through criteria and suggested steps

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<sup>526</sup> See New York Commission Reply at 11-12.

<sup>527</sup> See, e.g., New York Commission Dec. 7 *Ex Parte* Letter (Total UNE order volumes: January (8,612), February (15,442), March (19,796), April (39,427), May (45,136), June (72,121), July (58,575), August (64,350), September (69,791)).

<sup>528</sup> KPMG Final Report POP IV-160 (Test P7-2); see also New York Commission Reply at 12; Bell Atlantic Reply at 16.

<sup>529</sup> Specifically, Bell Atlantic proposed a series of enhancements to further reduce the manual processing of UNE-platform orders. In its proposal, Bell Atlantic presented the New York Commission with a three-phase plan to increase the percentage of electronically processed UNE-platform orders. Bell Atlantic Dowell/Canny Reply Decl. Attach. B at 36. As we have stated previously, "the development of OSS functions is not a static process, and we encourage and expect [a BOC] to make improvements to its operations support systems, even after it has filed a section 271 application." *Ameritech Michigan Order*, 12 FCC Rcd at 20624. We recognize, of course, that there is a fundamental difference between making improvements to OSS access that, at the time of the filing of the application, meets the nondiscriminatory requirement, and taking or proposing post-filing remedial measures to try to bring the OSS access into compliance during the pendency of the application. *Id.* We find that Bell Atlantic's proposed improvements are the former, not the latter.

<sup>530</sup> Bell Atlantic Dowell/Canny Reply Decl. Attach. B at 39 (Affidavit submitted on behalf of Bell Atlantic to New York Commission on October 8, 1999).

for improving orders.<sup>531</sup> Bell Atlantic believes this will “serve to improve [competing carrier] order quality, reduce [order] rejects, and improve the overall flow-through rate.”<sup>532</sup> In addition, Bell Atlantic has committed to work with competing carriers on an individual basis to address their specific and unique order quality concerns.<sup>533</sup> We are encouraged by these proposed refinements as they indicate an intention on the part of Bell Atlantic to further enhance the scalability of its OSS systems, thereby ensuring that it will continue to process orders in a timely and accurate manner.

171. We also come to a different conclusion than the Department of Justice and commenters with regard to Bell Atlantic’s accuracy for manually processed orders.<sup>534</sup> Although we recognize that manually processed orders are more prone to error than orders that are processed automatically, there is no reliable evidence that this is the case in the instant application or that Bell Atlantic’s manual processing of orders injects a level of error that prevents efficient competitors a meaningful opportunity to compete. Bell Atlantic measures the accuracy of its manual processes in at least two ways: (1) accuracy of order confirmation notices (order confirmation accuracy); and (2) overall accuracy of competing carrier orders entered into its service order processor (service order accuracy).

172. Bell Atlantic’s order confirmation accuracy metric is obtained by comparing certain fields in an order submitted by a competing carrier with the order confirmation notice issued by a Bell Atlantic representative.<sup>535</sup> In recent months, Bell Atlantic’s performance metrics range between 95 and 99 percent accuracy for UNE order confirmation notices.<sup>536</sup> AT&T and the Department of Justice, however, claim that Bell Atlantic’s order confirmation accuracy for loop orders is not accurately reflected in this metric.<sup>537</sup> Specifically, the Department of Justice notes that during a July Technical Conference before the New York Commission, Bell Atlantic stated that its rate of returning accurate order confirmation notices for loop orders at the time was

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<sup>531</sup> Bell Atlantic Dowell/Canny Reply Decl. Attach. B at 39 (Affidavit submitted on behalf of Bell Atlantic to New York Commission on October 8, 1999)

<sup>532</sup> Bell Atlantic Dowell/Canny Reply Decl. Attach. B at 39 (Affidavit submitted on behalf of Bell Atlantic to New York Commission on October 8, 1999)

<sup>533</sup> Bell Atlantic Dowell/Canny Reply Decl. Attach. B at 39 (Affidavit submitted on behalf of Bell Atlantic to New York Commission on October 8, 1999)

<sup>534</sup> Department of Justice Evaluation at 31-32; AT&T Comments at 19; NorthPoint Comments at 13.

<sup>535</sup> Bell Atlantic Dowell/Canny Decl. at para. 53.

<sup>536</sup> Bell Atlantic reported order confirmation accuracy of 99.54, July 97.97, August 98.39, and September 95.08 percent for June, July August, and September, respectively. Bell Atlantic Dowell/Canny Decl. Attach. D at 79, 91, 102 (metric OR 6-03); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 7 (same).

<sup>537</sup> AT&T makes extensive claims regarding LSRC accuracy with respect to UNE loop orders. AT&T Meek Aff. at paras. 35-41. The Department of Justice similarly raises concerns in this regard, arguing that the high level of inaccurate confirmations returned by Bell Atlantic imposes significant costs and delays upon competing carriers. Department of Justice Evaluation at 17.

between 60 and 70 percent.<sup>538</sup> AT&T alleges that data AT&T compiled shows that between June 21 and August 31 Bell Atlantic returned inaccurate order confirmation notices for more than 50 percent of hot cut loop orders.<sup>539</sup> In the face of this discrepancy, we rely upon the New York Commission's conclusion that the disparity results in part from disagreement regarding the information that should be included in the order confirmation notices because the New York Commission has had greater opportunity to analyze this issue in the context of the collaborative process.<sup>540</sup> Moreover, in its reply comments, Bell Atlantic states that subsequent improvements to its process for returning order confirmation notices caused it to reach levels of order confirmation accuracy for loop orders of more than 95 percent since the July Technical Conference.<sup>541</sup> We are also satisfied that AT&T's claims have been largely remedied by the parties' agreement to include specific information in order confirmation notices for loop orders.<sup>542</sup> Contrary to the Department of Justice, we therefore find that, based upon all the relevant record evidence, AT&T's claims do not warrant a finding that Bell Atlantic's order confirmation accuracy rate for loop orders is commercially significant.

173. The Department of Justice and commenters also assert that Bell Atlantic's "service order accuracy" metric shows that Bell Atlantic is unable to accurately process manual orders.<sup>543</sup> This metric compares the order submitted by a competing carrier with the completed Bell Atlantic service order.<sup>544</sup> The metric is compiled each business day by Bell Atlantic from an audit of a random sample of orders.<sup>545</sup> Bell Atlantic contends the metric is flawed because it attributes to Bell Atlantic as errors all differences between the original competing carrier order and the order information entered in its service order processor.<sup>546</sup> Thus, according to Bell Atlantic, this metric

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<sup>538</sup> Department of Justice Evaluation at 16; see Bell Atlantic Application, App. C, Vol. 59, Tab. 890 at 3956.

<sup>539</sup> AT&T Meek Aff. at paras. 95.

<sup>540</sup> New York Commission Comments at 81 n.3.

<sup>541</sup> Bell Atlantic Reply at 8; Bell Atlantic Dowell/Canny Reply Decl. at para. 35.

<sup>542</sup> See New York Commission Comments at 81 n.3.

<sup>543</sup> Bell Atlantic Dowell/Canny Decl. Attach. D at 102 (metric OR 6-01) (August (59.28%)); Bell Atlantic Reply Dowell/Canny Decl. Attach. C at 7 (metric OR 6-01) (September (41.52%)).

<sup>544</sup> Bell Atlantic Dowell/Canny Decl. at para. 37.

<sup>545</sup> Bell Atlantic Dowell/Canny Decl. at para. 37. Members of Bell Atlantic's "Quality Management Team" examine the selected orders and compare twelve specified field identifiers in the service orders with corresponding information in the orders placed by competing carriers. *Id.* Bell Atlantic then reports the percent of orders that match completely. *Id.* Bell Atlantic also reports the percent of the *fields* with errors (i.e., "percent opportunities"). *Id.* Bell Atlantic's performance for the percent opportunities metric has been significantly better than for order accuracy. For example, Bell Atlantic reported performance in August and September of 93.18 percent and 90.58 percent, respectively. Bell Atlantic Dowell/Canny Decl. Attach. D at 102 (metric OR 6-02); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 7 (same). We find that this performance further supports Bell Atlantic's assertion that it manually processes orders accurately.

<sup>546</sup> Bell Atlantic Dowell/Canny Reply Decl. at para 38. Bell Atlantic notes that some orders are handled manually because there is an error in the order submitted by the competing carrier. *Id.* When this happens, the Bell Atlantic wholesale representative corrects the error manually. *Id.* Bell Atlantic claims that the resulting

actually counts as Bell Atlantic errors those cases where Bell Atlantic has fixed an error in a competing carrier order.<sup>547</sup>

174. In support of its contention that this metric is flawed, on reply, Bell Atlantic submitted an analysis of a random sample of orders.<sup>548</sup> We are persuaded by Bell Atlantic's analysis that its service order accuracy metric is flawed and that its actual level of service order accuracy is significantly higher than reflected in its performance data. We believe that Bell Atlantic's position is further buttressed by its performance on the installation quality performance metrics, which measure, among other things, whether the services requested by the end user were accurately installed.<sup>549</sup> These metrics show that Bell Atlantic has consistently provided service with very low levels of reported installation troubles, as compared to the service it provides its own customers.<sup>550</sup> Given the totality of the evidence described above, including Bell Atlantic's analysis and its performance on the installation quality metrics, we find that Bell Atlantic's accuracy in processing manual orders is sufficient to provide competing carriers with a meaningful opportunity to compete.

175. Moreover, we do not share the Department of Justice's concern about the rate of competing carrier orders rejected by Bell Atlantic.<sup>551</sup> Bell Atlantic has reported that on average it

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differences between the original order and the corrected order are attributed to Bell Atlantic as errors merely because the order submitted by the competing carrier and the order entered by Bell Atlantic into its service order processor do not match. *Id.* Moreover, Bell Atlantic asserts that the process of translating competing carrier orders into the service order processor may result in "a literal mis-match of information" between the order submitted by the competing carrier and the order entered in the service order processor even when the end result is that the order is provisioned as requested. *Id.* For example, as Bell Atlantic explains, a single package ordering code on an order placed by a competing carrier may require translation into multiple ordering codes for entry into Bell Atlantic's service order processor. *Id.* Bell Atlantic further claims that the low rate is due, in part, to the fact that members of its "Quality Management Team" who compile the data have not yet "mastered the intricacies of the order process and, as such, are not properly attributing errors." *Id.* at para. 39. Bell Atlantic began reporting data for this metric in August 1999. Bell Atlantic Dowell/Canny Decl. at para. 53.

<sup>547</sup> Bell Atlantic Dowell/Canny Decl. at para 38.

<sup>548</sup> Bell Atlantic Dowell/Canny Decl. at para 38; *id.* Attach. G. The analysis consisted of a random sample of August orders identified as containing errors. Bell Atlantic Reply Dowell/Canny Aff., para 40-41; Letter from Dee May, Director, Federal Regulatory Affairs, Bell Atlantic, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket 99-295 at 1 (filed December 13, 1999). Each order was listed with the original error identified. Bell Atlantic Dowell/Canny Decl. at para 38; *id.* Attach. G. Based upon this analysis, Bell Atlantic should have received a score of 87 percent for service order accuracy. Bell Atlantic Dowell/Canny Decl. at para. 41.

<sup>549</sup> Bell Atlantic Dowell/Canny Decl. at para 74 (Installation quality metrics are "additional measures of service order accuracy, since an end user will report a trouble if a service is not installed accurately.").

<sup>550</sup> See, e.g., Bell Atlantic Dowell/Canny Decl. Attach. D at 80, 92, 104 (metrics PR-6-01, 6-02, 6-03); Bell Atlantic Reply Dowell/Canny Decl. Attach. C at 9 (same); but see AT&T Crafton/Connolly Aff. at para. 112 (speculating that "errors alone *could* result in provisioning inaccuracies . . . for more than 15 percent of all CLEC UNE orders").

<sup>551</sup> Department of Justice Evaluation at 30. See also AT&T Crafton/Connolly Aff. at paras. 103-04 (Bell Atlantic's rejection rates are "commercially unreasonable").

rejected between about 27 and 34 percent of the UNE orders that it received during June through September.<sup>552</sup> Although the Department of Justice recognized that Bell Atlantic is not responsible for orders that are rejected because of competing carrier error, it expressed concern that some of the rejections may occur for reasons within Bell Atlantic's control.<sup>553</sup> Ultimately, the Department of Justice concluded that it did not have sufficient information to determine the extent to which Bell Atlantic is, if at all, responsible for the level of rejected orders.<sup>554</sup> We note, however, that in reaching its conclusion the Department of Justice did not discuss the evidence submitted by Bell Atlantic revealing that order rejections greatly vary on an individual carrier basis from 3 percent to greater than 70 percent.<sup>555</sup> We agree with Bell Atlantic that this wide variation in the individual rates strongly implies that the care a competing carrier takes in submitting its orders makes a significant difference in the rate at which its orders are rejected.<sup>556</sup> Accordingly, because we conclude the average rejection rate is overstated, we do not accord it as significant weight in this application as the other factors discussed in this section, such as Bell Atlantic's overall ability to return order confirmation and rejection notices, accurately process manually handled orders, and scale its systems.

176. We also conclude that AT&T and MCI's assertions that they have not received order confirmation or rejection notices for all of their orders are insufficient to rebut Bell

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<sup>552</sup> For June, July, August, and September, respectively, Bell Atlantic rejected 28.69, 34.01, 33.65, and 32.14 percent of competing carrier orders. Bell Atlantic Dowell/Canny Decl. Attach D at 79, 91, 102 (metric OR-3-01); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 7 (same).

<sup>553</sup> Department of Justice Evaluation at 30 ("Many of these orders are undoubtedly rejected because of errors committed by [competing carriers], for which Bell Atlantic should not be held responsible.").

<sup>554</sup> Department of Justice Evaluation at 30.

<sup>555</sup> Bell Atlantic Miller/Jordan Decl. at para. 42; Bell Atlantic Miller/Jordan Reply Decl. at para. 33; *id.* Attach. C at 7-12 (showing monthly rejection rates and order volumes by carrier for June through August 1999). We note that many carriers placing among the highest order volumes have been able to achieve rejection rates well below the average rate reported by Bell Atlantic in the Carrier-to-Carrier metrics. Bell Atlantic Miller/Jordan Reply Decl. Attach. C at 7-12. This is in contrast to the circumstances in prior section 271 applications where we concluded that a BOC had not shown that order rejections were attributable to competing carrier error. For example, in the *BellSouth South Carolina Order* we concluded that BellSouth had not shown that the level of order rejections for carriers using the EDI interface was attributable to competing carrier error, in part, because every competing carrier attempting to use the interface was experiencing high order rejection rates, Bell South was not providing competing carriers with adequate business rules, and BellSouth failed to provide integrated pre-ordering and ordering interfaces. *BellSouth South Carolina Order*, 13 FCC Rcd at 600-01. None of these factors is present in this application.

<sup>556</sup> Bell Atlantic Miller/Jordan Reply Decl. at para. 33. Both AT&T and Z-Tel assert that Bell Atlantic issues spurious rejection notices. AT&T Crafton/Connolly Decl. Attach. 18; Z-Tel Comments at 19. Bell Atlantic asserts that "the vast majority" of the rejections were not spurious, but resulted from the submission of incorrect orders. Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 47. No other commenters have raised this issue. Moreover, neither AT&T nor Z-Tel has provided specific evidentiary support for their claims. As such, we are unable to find, based upon these claims, that Bell Atlantic has failed to comply with the requirements of this checklist item.

Atlantic's evidence showing compliance with the requirements of this checklist item.<sup>557</sup> Although we do not discount the importance of receiving an order confirmation or rejection notice for every order, the present record, including AT&T and MCI's claims, does not indicate that, to the extent any lapses exist, such failures are a systemic problem.<sup>558</sup> Rather, they appear to be isolated problems attributable to either Bell Atlantic or the commenters. We note that we do not hold Bell Atlantic to a standard of perfection. If it were a systemic problem occurring for a significant number of orders, however, it would warrant a finding of noncompliance.

177. Thus after careful consideration of the evaluations of the Department of Justice and the New York Commission, as well as of the commenters, we find that the record demonstrates that Bell Atlantic provides nondiscriminatory access to its ordering functions for UNEs. Although our conclusion differs from that reached by the Department of Justice, we reach it by focusing, in part, on the timely return of order confirmation and rejection notices. Unlike the Department of Justice and various commenters, we place less importance on flow-through rates than in past orders because the deficiencies that we have previously associated with low flow-through rates are not present in Bell Atlantic's systems.<sup>559</sup> Moreover, as explained above, we agree with the New York Commission that Bell Atlantic has shown that it is able to handle significant increases in order volumes and will be able to continue to do so at reasonably foreseeable order volumes. We also find that Bell Atlantic is able to manually process orders in an accurate manner.<sup>560</sup> Finally, as noted above, the Department of Justice explicitly did not analyze Bell Atlantic's application under the competitive checklist of section 271(c)(2)(B) as we are required to do. Accordingly, we find that Bell Atlantic's overall ability to return timely order confirmation and rejection notices, accurately process manually handled orders, and scale its systems supports a finding that Bell Atlantic offers competing carriers a meaningful opportunity to compete.

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<sup>557</sup> AT&T Connolly/Crafton Aff. at para. 258 (asserting that AT&T did not receive order confirmation or rejection notices for 1% of its orders in August and 9% in September); MCI WorldCom Lichtenberg/Savori Reply Decl. at para. 19 (contending that MCI WorldCom did not receive order confirmations for 28 and 374 orders in August and September, respectively). No other commenters have raised this issue.

<sup>558</sup> There is no evidence in the record that shows, or even indicates, that Bell Atlantic's systems and interfaces, and not the competing carriers', are responsible for the failure of competing carriers to receive order confirmations.

<sup>559</sup> Department of Justice Evaluation at 29-30 (expressing concern that Bell Atlantic's "heavy reliance" on manual processing increases competing carrier costs and creates significant risk of customer-affecting service problems when order volumes increase); AT&T Comments at 15-22; Choice One Comments at 11; MCI WorldCom Comments at 9-19; NY Attorney General Comments at 11-13; NorthPoint Comments at 13-16; *see* Covad Comments at 29-30.

<sup>560</sup> The Department of Justice also asserts that manual processing of orders increases the costs of competing carriers, and that such cost "may impair the competitive vitality of competing carriers." Department of Justice Evaluation at 32. We conclude, however, that the record does not support a finding that such an impairment would occur. Although AT&T has asserted specific costs associated with various potential Bell Atlantic failures, we are unable to conclude that such costs are accurate and that an efficient competitor would be subjected to them. AT&T Crafton/Connolly Aff Attach. 2. Although significant costs associated with a BOC's manual processing of competing carrier orders might prevent an efficient competitor a meaningful opportunity to compete, the evidence in the record does not support such a conclusion.

**(b) Resale Ordering**

178. We also find that Bell Atlantic demonstrates that it is providing nondiscriminatory access to its OSS ordering functions for resale services and, therefore, provides efficient competitors a meaningful opportunity to compete.<sup>561</sup> As an initial matter, we note that there are virtually no objections from commenters to Bell Atlantic's provision of access to its ordering functions for resale services. Moreover, neither the Department of Justice nor the New York Commission found problems with Bell Atlantic's provision of access to its resale service ordering functions.<sup>562</sup>

179. Although we recognize that the rate of flow-through of resale orders was an area of major concern in prior orders, as we explain above, it is of less concern here given the absence of the deficiencies that we have previously found to be associated with low order flow-through rates and Bell Atlantic's significantly better performance than seen in prior section 271 applications. Rather, we conclude that Bell Atlantic's overall ability, in light of the facts and circumstances of this application, to return timely confirmation and rejection notices accurately process manually handled orders, and process reasonably foreseeable commercial volumes in a nondiscriminatory manner is more relevant and probative for analyzing Bell Atlantic's provision of access to its ordering functions for resale services than a simple flow-through analysis. Thus, given these circumstances and evidence of other performance measures indicating that the access Bell Atlantic provides to its ordering functions offers efficient competitors a meaningful opportunity to compete, we place less emphasis on flow-through rates in this order than we have in prior orders.

180. In recent months Bell Atlantic has met, or has come very close to meeting, the strict benchmark standards set in the New York Carrier-to-Carrier proceeding. As discussed

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<sup>561</sup> Although we have previously analyzed resale flow-through performance under the "substantially same time and manner" standard, we are unable to do so in this application. See, e.g., *First BellSouth Louisiana Order*, 13 FCC Rcd at 6259 (finding that BellSouth "failed to demonstrate that it is offering competing carriers the ability to order services for resale on a nondiscriminatory basis, i.e., within substantially the same time and manner as the BOC provides the service to itself"). As discussed above, unlike other BOCs that provided retail flow-through data in prior applications, Bell Atlantic has asserted that retail flow-through is a "misnomer" for its systems. Bell Atlantic Miller/Jordan Decl. at para. 57; Bell Atlantic Miller/Jordan/Zanfina Reply Decl. at para. 37. Moreover, the New York Commission has agreed that there is not a retail analogue in Bell Atlantic's systems. New York Commission Comments at 42 ("Since there is no retail analogue in Bell Atlantic-NY's retail system, ordering metrics are 'absolute standard' metrics."). Thus, given New York and Bell Atlantic's conclusion that a retail analogue does not exist, and in absence of a credible retail analogue in the record, we find that for purposes of this application Bell Atlantic must demonstrate that the access it provides to its ordering functions offers an efficient carrier a meaningful opportunity to compete.

<sup>562</sup> Department of Justice Evaluation at 12 ("While Bell Atlantic's wholesale performance to resellers has not been perfect, the Department does not believe that there are performance deficiencies that are significantly impeding entry by resellers."); New York Commission Comments at 16 (concluding that Bell Atlantic has demonstrated its ability to "satisfactorily process orders" and that its "automated and manual processes are scalable."). We also note that although we have previously recognized the continuing need for all three of the competitive modes of entry, we also stated that we "continue to believe, however, that the ability of unbundled network elements, including various combinations of unbundled network elements, is integral to achieving Congress' objective of promoting rapid competition . . ." See also *UNE Remand Order* at para. 5.

above, the Carrier-to-Carrier guidelines require the return of 95 percent of *mechanized* order confirmation and rejection notices within two hours of submission to Bell Atlantic, and 95 percent of *manually* processed order confirmation and rejection notices under ten lines within 24 hours of submission.<sup>563</sup> Bell Atlantic has met, or has come close to meeting, these standards in recent months.<sup>564</sup> According to the New York Commission's own calculations, this means that Bell Atlantic returned between 93 and 97 percent of all order confirmation and rejection notices on time for the months of June through September.<sup>565</sup> We note that Bell Atlantic's average performance for returning an order confirmation or rejection notice, whether manual or mechanized, in recent months was between approximately four and seven hours.<sup>566</sup> Bell Atlantic has achieved this reliable performance while resale order volumes have ranged from 14,000 orders to 23,000 orders monthly from January through September.<sup>567</sup> Finally, we note that Bell Atlantic's ability to process relatively large volumes of orders in a timely and wholly electronic fashion is significantly better than the performance of the other BOCs in prior applications.<sup>568</sup> Accordingly, we find that Bell Atlantic's ability to process nearly all competing carrier resale orders in under 24 hours, and nearly half of such orders within two hours of submission, provides a competing carrier with a meaningful opportunity to compete. Should Bell Atlantic's performance deteriorate, however, we will be prepared to take appropriate enforcement action.

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<sup>563</sup> Bell Atlantic Dowell/Canny Decl. Attach B at 17, 21.

<sup>564</sup> Bell Atlantic Dowell/Canny Decl. Attach D at 74, 86, 98 (metrics OR-1 and OR-2); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 3 (same); Bell Atlantic Dec. 17, 1999 *Ex Parte* Letter correcting September data, Attach at 2. In June, July, August, and September, Bell Atlantic returned 98, 97, 99, and 99 percent, respectively, of mechanized order confirmation notices within two hours and 94, 93, 95, and 85 percent, respectively, of manually processed order confirmation notices within 24 hours. Bell Atlantic Dowell/Canny Decl. Attach D at 74, 86, 98 (metrics OR-1-02 and 1-04); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 3 (same); Bell Atlantic Dec. 17, 1999 *Ex Parte* Letter correcting September data, Attach at 2. Moreover, for mechanized rejection notices for those same months, Bell Atlantic returned 98, 98, 100, and 99 percent within two hours, respectively, and 96, 92, 93, and 91 percent, respectively, of manual rejection notices within 24 hours. Bell Atlantic Dowell/Canny Decl. Attach D at 74, 86, 98 (metrics OR-2-02 and 2-04); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 3 (same); Bell Atlantic Dec. 17, 1999 *Ex Parte* Letter correcting September data, Attach at 2. Although the September data in this footnote was also affected by the correction described in the UNE section above its effect was only marginal.

<sup>565</sup> New York Commission Dec. 7 *Ex Parte* Letter (Bell Atlantic returned 97, 95, 97 and 93 percent of its order confirmation and rejection notices on time for June, July, August, and September, respectively).

<sup>566</sup> On average for June, July, August, and September Bell Atlantic returned order confirmation notices in 5.27, 6.53, 6.27, and 7.25 hours, respectively, and order rejection notices in 4.20, 5.98, 5.31, and 6.25 hours, respectively. These averages were calculated by Commission staff from the Carrier-to-Carrier data provided by Bell Atlantic. Bell Atlantic Dowell/Canny Decl. Attach. D at 74, 86, 98 (metrics OR-1 and OR-2); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 3 (same); Bell Atlantic Dec. 17, 1999 *Ex Parte* Letter correcting September data.

<sup>567</sup> New York Commission Dec. 7 *Ex Parte* Letter (stating resale service volumes as follows: January (14,206), February (14,457), March (21,833), April (20,974), May (20,702), June (17,787), July (16,885), August (17,549), September (22,856)).

<sup>568</sup> See *supra* para. 165.

181. Even considering Bell Atlantic's flow-through performance,<sup>569</sup> however, we find that Bell Atlantic is providing an efficient competitor a meaningful opportunity to compete. As we concluded in our discussion of UNE ordering, the record shows that the average flow-through rate provided in the Carrier-to-Carrier reports do not reflect the actual flow-through capabilities of Bell Atlantic's systems. An examination of flow-through rates of individual competing carriers ordering resale services from Bell Atlantic show flow-through rates in September ranging from about one to 82 percent.<sup>570</sup> Because all carriers ordering resale services from Bell Atlantic interface with the same Bell Atlantic systems, we conclude that this wide range of results for competitors strongly implies that competitors are likely more responsible for low average flow-through performance than Bell Atlantic.<sup>571</sup> Moreover, the KPMG Final Report supports a finding that Bell Atlantic's systems are capable of high flow-through for resale orders, as KPMG found that over 99 percent of all resale orders designed to flow-through did so at normal and stress levels.<sup>572</sup>

182. We also find that Bell Atlantic demonstrates that it is capable of providing nondiscriminatory access to its resale ordering functions at reasonably foreseeable volumes. Although, as mentioned above, Bell Atlantic processes significant volumes of resale orders, the record does not indicate an upward trend in those monthly volumes.<sup>573</sup> We do not believe that the volumes of resale orders are likely to grow to the same degree as we expect volumes of UNE orders to increase in the foreseeable future. As the Department of Justice recognized, resale service in New York is principally used as a "transitional tool on the way to facilities based competition."<sup>574</sup> Thus, because we do not expect monthly volumes of resale orders to increase

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<sup>569</sup> The Carrier-to-Carrier reports indicate that on average resale orders flowed-through 53.77, 54.02, 45.97, and 51.60 percent of the time for June, July, August, and September, 1999, respectively. Bell Atlantic Dowell/Canny Decl. Attach. D at 74, 86, 98 (metric OR-5-01); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 3 (same).

<sup>570</sup> Bell Atlantic Nov. 23 *Ex Parte* Letter (listing volumes and flow-through rates by individual carriers for resellers).

<sup>571</sup> We note that factors under competing carrier control, such as failing to integrate pre-ordering and ordering interfaces, adequately train and manage their employees, or invest in the necessary systems, will have significant impacts on competing carrier flow-through rates.

<sup>572</sup> KPMG Final Report at POP7 IV-150 (Test P7-1).

<sup>573</sup> See Department of Justice Evaluation at 11-12; New York Commission Dec. 7 *Ex Parte* Letter (listing total volumes by month for resale services).

<sup>574</sup> Department of Justice Evaluation at 11 (quoting Bell Atlantic Application Taylor Decl. at para. 43). The Department of Justice further described the resale entry strategy as follows:

[s]pecifically resale allows CLECs—especially those that serve the more lucrative business market—to build a customer base with minimal investment while they construct their own network facilities. Resale allows those CLECs that cannot justify the cost of investing in their own network facilities, such as those serving the less lucrative residential market, the ability to offer local exchange service as part of a bundled package of telecommunications services that "one-stop shopping" customers demand. Thus, although resale alone is not likely to be a major avenue for competitive entry, particularly for serving

substantially above the volumes that Bell Atlantic has shown it is currently capable of processing in a manner that provides competitors with a meaningful opportunity to compete, we are satisfied that Bell Atlantic will meet future demand for reasonably foreseeable volumes of resale orders. Moreover, we note that Bell Atlantic has shown its willingness and ability to accommodate the needs of its wholesale customers as their needs grow increasingly complex.<sup>575</sup> Should our predictive judgment concerning future volumes of resale orders prove inaccurate, and should Bell Atlantic's performance in processing such orders deteriorate, we fully expect to take appropriate enforcement action.

183. Finally, as we concluded in our discussion of UNE ordering, we find that Bell Atlantic demonstrates adequate performance with respect to order accuracy and order rejection for resale services. First, the Carrier-to-Carrier data indicate that Bell Atlantic has consistently provided service with very low levels of reported installation troubles, as compared to the service it provides its own customers,<sup>576</sup> and accurate order confirmation notices.<sup>577</sup> Moreover, for the reasons discussed above with regard to UNE ordering, we disregard Bell Atlantic's low reported performance for service order accuracy.<sup>578</sup> Second, we find that Bell Atlantic's overall rejection rate for resale orders more accurately reflects the particular capabilities of individual competing carriers, rather than deficiencies in Bell Atlantic's systems. The Carrier-to-Carrier rejection rates for resale orders in recent months indicate that, on average, Bell Atlantic rejects between about 23 and 31 percent of resale orders submitted by competing carriers.<sup>579</sup> When examined on an individual carrier basis, however, rejection rates vary from three to 73 percent.<sup>580</sup> As we

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the residential market, the number of resale line in service continues to grow in New York.

Department of Justice Evaluation at 11-12.

<sup>575</sup> See, e.g., Letter from Dee May, Director, Federal Regulatory Affairs, Bell Atlantic, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket 99-295, Attach 1 (filed December 7, 1999) ("To handle the increase in complex [resale] orders, Bell Atlantic is modifying its staffing needs to meet the new work requirements.").

<sup>576</sup> Bell Atlantic Dowell/Canny Decl. Attach. D at 75, 87, 99 (metric OR-6-03); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 3 (same).

<sup>577</sup> For June, July, August, and September, respectively, Bell Atlantic's order confirmation accuracy performance was 95.10, 91.04, 95.11, and 96.30 percent. Bell Atlantic Dowell/Canny Decl. Attach. D at 74, 86, 98 (metric OR-6-03); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 3 (same).

<sup>578</sup> See *supra* paras. 173-74. For August and September, Bell Atlantic reported service order accuracy performance of 70.37 and 56.90 percent, respectively. Bell Atlantic Dowell/Canny Decl. Attach. D at 98 (metric OR-6-01); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 3 (same). Bell Atlantic began reporting this metric in August.

<sup>579</sup> Specifically, on average Bell Atlantic rejected 30.59, 30.43, 29.39, and 23.50 percent of competing carrier orders in June, July, August, and September. Bell Atlantic Dowell/Canny Decl. Attach. D at 74, 86, 98 (metric OR-3-01); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 3 (same).

<sup>580</sup> Bell Atlantic Miller/Jordan Aff. at para. 42; Bell Atlantic Miller/Jordan Reply Decl at para. 33; *id.* Attach. C at 1-7 (showing monthly rejection rates and order volumes by carrier for June through August 1999).

concluded for UNE rejection rates, we find that this wide variation in individual rates strongly implies that the ability of a competing carrier to submit accurate orders significantly affects the rate at which its orders are rejected. Because we conclude the average rejection rate is overstated, we do not accord it as significant weight in this application as the other factors discussed in this section. Rather, it is Bell Atlantic's overall ability to return timely order confirmation and rejection notices, accurately process manually handled orders, and scale its systems that supports our finding that Bell Atlantic affords competitors a meaningful opportunity to compete.

(c) Jeopardies

184. We conclude that Bell Atlantic makes order status and "jeopardy" information (*i.e.*, notice that a service installation due date will be missed) available to competing carriers in a nondiscriminatory manner. Bell Atlantic explains that it makes this information available to competing carriers in several ways. First, it provides electronic access to jeopardy notices contained in Open Query System reports, which are generated three times daily from its Work Force Administration (WFA) system.<sup>581</sup> The WFA system is updated by field technicians and reflects whether an order is pending, has been completed, or has been (or will be) missed.<sup>582</sup> Competitors thus can retrieve this information and "determine whether there is a problem on a given order."<sup>583</sup> Bell Atlantic also indicates that competing carriers may check on the status of an order in WFA or in the Service Order Processor (SOP) through the pre-ordering interfaces, or by calling one of Bell Atlantic's dispatch centers.<sup>584</sup> Like their counterparts at competing carriers, Bell Atlantic's retail representatives also must take steps to determine whether there is any indication that an appointment will be missed, or has been missed. Specifically, Bell Atlantic states that its retail representatives may check the status of an order by querying the WFA system, by querying SOP, or by calling a dispatch center.<sup>585</sup>

185. We conclude that the order status and jeopardy information system created by Bell Atlantic for wholesale orders is nondiscriminatory because it allows competing carriers to access order status and "jeopardy" information, to the extent that it is available, in substantially the same

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<sup>581</sup> See Bell Atlantic Application at 44; Bell Atlantic Miller/Jordan Decl. at para. 67; see also Letter from Robert W. Quinn, Director, Federal Government Affairs, AT&T, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket No. 99-295 at 57 (filed Dec. 15, 1999) (AT&T Dec. 15 *Ex Parte* Letter).

<sup>582</sup> See Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 50; Bell Atlantic Nov. 24 *Ex Parte* Letter at 6-7.

<sup>583</sup> Bell Atlantic Application at 44.

<sup>584</sup> See Bell Atlantic's Miller/Jordan Decl. at para. 18; Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 50.

<sup>585</sup> See Bell Atlantic Nov. 24 *Ex Parte* Letter at 6. Bell Atlantic also states that its dispatch centers receive Open Query System reports on a daily basis and, based on information contained in these reports, call customers to reschedule appointments when an appointment has been missed. See *id.* Because competing carriers also have access to these reports, they would be able to reschedule missed appointments in the same manner.

time and manner as Bell Atlantic's retail operations can access such information.<sup>586</sup> We thus disagree with AT&T's suggestion that Bell Atlantic's inability to *actively* provide electronic jeopardy notices, instead of merely providing access to such information, reflects discriminatory access to its ordering functionality.<sup>587</sup> We also disagree with NorthPoint's suggestion that Bell Atlantic must create a process for providing "notice *before* the due date that it is going to miss the due date."<sup>588</sup> Although we recognize that a system designed to deliver jeopardy notification well in advance of missed appointments would lessen the impact of such misses, we reiterate that the standard sought in this instance is *nondiscriminatory access* to Bell Atlantic's OSS. Accordingly, we do not require Bell Atlantic to establish a system for creating and delivering jeopardy notifications to competing carriers that is superior to the system Bell Atlantic has for its own retail representatives or customers.

186. Although Bell Atlantic does not actually deliver jeopardy notices to competing carriers with respect to provisioning resale services, individual UNEs and UNE-P, we note that it has established a mechanism for actively providing such notices in connection with its hot cut process. Under the "due date minus two" procedure, Bell Atlantic is required to check for a competing carrier's dial tone two days before a hot cut due date and promptly to notify the carrier if there is a problem.<sup>589</sup> The New York Commission recognizes that this "allows the [competitive LEC] the opportunity to notify its customer of potential delay and, if necessary, postpone the due date."<sup>590</sup> We commend Bell Atlantic for developing this "due date minus two" jeopardy process, and find that it appears to be critical to the proper functioning of the hot cut process.

#### (d) Completion Notices

187. We conclude that Bell Atlantic provides order completion notification in a manner that affords an efficient competitor a meaningful opportunity to compete.<sup>591</sup> An order completion

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<sup>586</sup> In particular, we find that the regular access to Open Query System reports, in addition to real-time access to order status information through SOP and WFA, allows competing LECs access to obtain information about pending orders in substantially the same time as Bell Atlantic's retail operations.

<sup>587</sup> See AT&T Comments at 22; AT&T Reply at 28; AT&T Crafton/Connolly Aff. at paras. 152-158; see also AT&T Dec. 15 *Ex Parte* Letter at 57.

<sup>588</sup> See NorthPoint Comments at 16-17; see also Prism Comments at 12; Z-Tel Comments at 15.

<sup>589</sup> See New York Commission Comments at 88; Bell Atlantic Application at 70; Bell Atlantic Reply at 10.

<sup>590</sup> See New York Commission Comments at 88.

<sup>591</sup> The Commission has indicated in prior section 271 orders that a BOC should provide order completion notification in substantially the same time and manner as it provides such information to its retail operations. See *First BellSouth Louisiana Order*, 13 FCC Rcd at 6264-65; *BellSouth South Carolina Order*, 13 FCC Rcd at 603. See also *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20685-86 (instructing BOCs to provide competing carriers with order completion notices "in a timely and accurate manner."). In this case, however, Bell Atlantic represents that it does not provide any completion notification to its own retail representatives, and the New York Commission similarly concluded that order completion notification lacks a retail analogue. See Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 52 (explaining that if a retail representative "has some need to check on a particular feature, he or she would pull up the customer's CSR or the service order."); New York Commission Comments at 42 (indicating that ordering metrics have no retail analogue). Given the New York Commission and