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January 31, 2000

REDACTED – FOR PUBLIC INSPECTION

Via hand delivery

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D. C. 20554

RECEIVED  
JAN 31 2000  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: CC Docket No. 00-04

Dear Ms. Salas:

Enclosed for filing in the above-referenced docket are confidential exhibits to the Affidavits of Matthew Wall and Michael Smith, which are part of the comments of Covad Communications Co. Covad is also filing these Affidavits in a redacted form. These documents are being provided pursuant to the Protective Order released January 10, 2000 in this proceeding.

Any parties seeking access to these documents should contact the undersigned at 202-220-0407.

Very truly yours,

Thomas M. Koutsky  
Vice President  
Federal Regulatory Affairs

cc: Audrey Wright

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

**RECEIVED**  
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OFFICE OF THE SECRETARY

\_\_\_\_\_)  
In the Matter of )  
 )  
Application by SBC Communications Inc., )  
Southwestern Bell Telephone Company, And )  
Southwestern Bell Communications Services, )  
Inc., d/b/a Southwestern Bell Long Distance )  
For Provision of In-Region InterLATA )  
Services in Texas )  
\_\_\_\_\_)

CC Docket No. 00-04

**DECLARATION OF MICHAEL SMITH ON BEHALF OF  
COVAD COMMUNICATIONS COMPANY**

## **DECLARATION OF MICHAEL SMITH**

1. My name is Michael Smith. I am over 18 years of age and am competent to give this declaration. The facts stated in this Declaration are true and correct according to my personal knowledge.

2. Since August 9, 1999, I have served as Service Delivery Lead in the Atlanta, Georgia office of Covad Communications Company ("Covad"). As Service Delivery Lead, I am responsible for ordering the unbundled loops from Southwestern Bell Telephone Company ("SWBT") that Covad requires to provide xDSL services to business and consumers in Texas. Covad presently submits orders to SWBT for unbundled loops in Austin, Houston, Dallas, Fort Worth, and San Antonio.

### **Summary**

3. This affidavit provides the following information:

- A description of SWBT's pre-ordering process for DSL-capable loops;
- A description of SWBT's ordering process for DSL-capable loops;
- An explanation of the DSL OSS data gathered by Covad and SWBT at the request of the Public Utility Commission of Texas ("Texas Commission").

### **Summary of SWBT's DSL Loop Ordering Process**

4. Covad began placing orders for DSL-capable loops under the terms of the Interim Agreement between Covad and SWBT in August 1999. According to the document entitled "Covad Job Aid for DSL Capable UNE Loops" provided to Covad by Ms. Nahora Horton of SWBT, SWBT requires Covad to submit loop orders manually by facsimile. A true and correct copy of this document is attached to this affidavit as Exhibit

MS-1 ("SWBT Job Aid"). This process is consistent with statements in SWBT's Local Service Ordering Requirements (LSOR), Issue 3.4, May 1, 1999, Sections 1.1 and 1.2. A true and correct copy of excerpts from the SWBT LSOR are attached to this affidavit as Exhibit MS-2. For example, Section 1.1 of SWBT's LSOR states:

The ordering forms contained in the LSOR should be faxed to Southwestern Bell Telephone's Local Service Center (LSC) until electronic interfaces are implemented between Southwestern Bell Telephone and the CLEC.

5. Covad did not agree that the ordering process dictated by SWBT complies with SWBT's obligations under the Interim Agreement between the parties, the Memorandum of Understanding submitted to the Texas Commission in the 271 Collaborative Project, or the Federal Telecommunications Act of 1996 ("FTA"). Covad uses the ordering process dictated by SWBT because no viable alternative supplier of unbundled network elements exists in Texas. Thus, compliance with SWBT's ordering process was necessary to avoid any further delay of Covad's entry into the Texas market.

6. At the time I joined Covad, I understand that Covad had decided to pursue the rapid joint development of an EDI system for use with SWBT. Because Covad had expected the parties to implement this EDI system quickly, I understand that Covad limited its use of SWBT mechanized systems to address and central office verification through SWBT's Verigate product. Thus, Covad has been submitting orders to SWBT manually via facsimile, as required by SWBT's LSOR Procedures and SWBT's DSL Ordering Guidelines. (*See Exs. MS-1 & MS-2*)

7. In October 1999, however, Covad realized that the parties' joint development of an EDI system required more time than expected. As a result, Covad determined that the interim use of SWBT's LEX ordering system may be necessary. By this time, however, several members of SWBT's Account Team, including SWBT's Account Team Manager, had been replaced by different SWBT employees. Similarly, most of the Covad's California employees originally working with SWBT's Account Team had been reassigned and replaced by new regional hires. Thus, Covad sought new passcodes and the latest version of the software to allow Covad's new hires to access SWBT's mechanized systems, including LEX. The parties discussed the availability of SWBT's latest version of LEX at their meeting in late October 1999.

8. On November 7, 1999, pursuant to the parties' discussions at the meeting in late October, Covad requested the latest version of LEX and appropriate passcodes from SWBT's new Account Manager, Barbara Toivonen. A true and correct copy of that request and SWBT's response is attached to this affidavit as Exhibit MS-3. Ms. Toivonen's response to the request did not provide the necessary passcodes or software.

9. SWBT failed to provide the appropriate LEX passcodes and training to Covad until January 21, 2000, approximately two and one-half months after Covad's request. Therefore, all of Covad's loop orders submitted to SWBT in Texas up to and including January 10, 2000 were submitted manually.

10. SWBT's manual DSL loop ordering process generally consisted of eleven (11) manual steps: (1) Covad's verification of the end-user's address and central office; (2) Covad's entering of the ordering information into the loop service request form ("LSR") provided by SWBT; (3) Covad's faxing the LSR to SWBT's Local Service

Center; (4) SWBT's confirmation of its receipt of the order; (5) SWBT's re-entry of the information on the LSR into SWBT's ordering database; (6) SWBT's qualification of the loop; (7) SWBT's faxing of its response to Covad's order (i.e., either a "reject" notice or notice of pending installation date); (8) if the loop order is rejected, Covad's manual re-entry of information on a supplemental LSR, authorizing conditioning or agreeing to accept a loop that does not comply with SWBT internal standards; (9) Covad's refaxing of the supplemental LSR to SWBT; (10) SWBT's manual re-entry of the supplemental LSR information; (11) SWBT's faxing of its response to Covad's supplemental LSR. This description is consistent with SWBT's "LSR Order Flow for DSL Capable Loops," included in the SWBT Job Aid. (Ex. MS-1 at 4.) I understand that when loop orders are placed through LEX, the overall process for executing orders remains unchanged, with the exception that submissions by fax are replaced by submissions through LEX. None of Covad's loop orders in Texas are submitted through an electronic data interface ("EDI").

### **Pre-Ordering**

11. Presently, SWBT's limits its pre-ordering processes to verification of the end-user's address and central office. To gain access to this information, Covad uses SWBT's dial-up tool named "Verigate." Verigate, however, does not provide Covad with access to loop make-up information. Indeed, under the present process, Covad does not have access to loop make-up information before it submits an order.

12. The lack of pre-qualification information inevitably delays the provisioning of Covad's loop order. Under the present process, Covad must submit the order as

requested by the end-user and wait at least 3 – 5 business days for SWBT to perform the loop qualification.

### **Ordering**

13. To prepare a loop order, Covad enters the ordering information into SWBT's LSR form, which Covad stores on its system as a Microsoft Excel spreadsheet. A true and correct copy of SWBT's blank LSR form is attached hereto as Exhibit MS-4. As part of the LSR form, SWBT's Job Aid requires Covad to designate which SWBT power spectral density ("PSD") mask corresponds to the service Covad intends to provide over the loop. (Ex. MS-1 at 1) ("The CLEC must indicate the desire[d] PSD # on the LSR via the NC/NCI codes.") As stated in the SWBT document, "Interim DSL UNE Loop Order Provisions," the SWBT PSD masks include:

- PSD #1—Very Low-Band Symmetric Data (VLS);
- PSD #2—Low-Band Symmetric Data (LS);
- PSD #3—Mid-Band Symmetric Data (MS);
- PSD #4—High-Band Symmetric Data (HBS);
- PSD #5—High-Band Asymmetric Data (Current ADSL standard T1.413)
- PSD #6—Very High-Band Data (VHB);
- PSD #7—Short Reach Very High-Band Symmetrical Data (SRVHS).

14. SWBT does not require a PSD number for DSL loop orders. A true and correct copy of page 1 of SWBT's Interim DSL UNE Loop Order Provisions is attached to this affidavit as Exhibit MS-5. A SWBT document entitled "DSL Technologies"

further describes SWBT's PSD mask spectrum management system. A true and correct copy of SWBT's DSL Technologies is attached to this affidavit as Exhibit MS-6.

15. After entering the data into the LSR Excel spreadsheet, Covad prints the LSR form and faxes the form to SWBT's Local Service Center ("LSC") for processing. A true and correct copy of a completed SWBT LSR form is attached to this affidavit as Exhibit MS-7. Within 24 hours, Covad expects to receive a faxed confirmation of receipt from SWBT for each order.

16. Upon receiving Covad's order, I understand that SWBT re-enters the information on the order into its database. Within 3- 5 business days (3 – 7 calendar days) of SWBT's receipt of Covad's order, Covad expects to receive from SWBT either an order "reject" notice or a firm order confirmation ("FOC") notifying Covad of the planned date for installation of the loop. If SWBT does not reject Covad's initial order, Covad expects the SWBT to deliver the loop within 5 – 8 business days from SWBT's receipt of the LSR.

17. SWBT, however, rejects most of Covad's initial loop orders. As shown by the data submitted to the Texas Commission, (*see* Exs. MS-10 & 11), most of SWBT's order rejections are "due to length"—i.e., the service Covad intends to provision over the requested loop (as indicated by the required "PSD Mask" field) violates SWBT's internal spectrum management length limitations. A true and correct copy of a Reject Notice is attached to this affidavit as Exhibit MS-8. When SWBT eventually delivers these loops, however, Covad services function satisfactorily, contrary to the standards dictated by SWBT. As shown by Exhibit MS-8, SWBT may also reject a Covad order if (1) the order is submitted incorrectly, (2) the loop requires conditioning, (3) the end-user is

served over a pair gain system or a DAML, or (4) the loop does not qualify due to spectrum “disturbers.”

18. If SWBT rejects Covad’s order “due to length” or because conditioning is required, Covad immediately re-types a supplemental LSR form and re-sends the order to SWBT by facsimile, stating that Covad requests a loop that does not qualify by SWBT internal standards or that Covad requests conditioning shown available on qualification results. This is consistent with the process described in SWBT’s Job Aid:

When loop qualification results are received by the LSC, if the loop qualifies for the level of service requested on the LSR, a DSL Capable Loop order will be issued. If not, the LSR will be rejected pending a supplemental LSR that either (1) changes requested speed to a qualified speed, (2) requests conditioning shown available on qualification results, or (3) requests a DSL Capable Loop that does not qualify by SWBT standards.

(Ex. MS-1 at 1 ¶ 9.)

19. Importantly, if SWBT rejects Covad’s original order “due to length,” SWBT requires Covad to submit its supplemental LSR with a due date of 15 business days **after** SWBT receives the supplemental LSR, even if no actual conditioning (i.e., the removal of bridged tap or load coils) is required. We discovered this SWBT requirement in August and September 1999 only through significant trial-and-error and discussions with our SWBT account representatives. As a result, most of Covad’s loop orders are delayed by up to 10 business days (14 calendar days) simply because they do not comply with SWBT’s internal spectrum management standards (i.e., SWBT’s PSD masks). In

addition, this SWBT requirement means that all Covad supplemental LSRs must contain a new “due date”, giving the appearance that Covad has requested a due date for this particular loop outside of the interval contained in Covad’s Interconnection Agreement with SWBT.

20. Within 3 – 5 business days after Covad submits the supplemental LSR form, Covad expects to receive a FOC from SWBT that is 15 business days from the date Covad submitted the supplemental LSR. If facilities do not exist for Covad’s loop request, SWBT does not notify Covad until the end of the 15 business-day interval.

**SWBT’s Initial Denial of Covad’s Loop Orders  
Due to SWBT’s Selective Feeder Separation (“SFS”) Scheme**

21. In August 1999, Covad began placing orders for DSL-capable loops under the terms of the Interim Agreement between Covad and SWBT. Under paragraph 5.8 of the Interim Agreement, SWBT agreed “that COVAD’s order for a DSL Capable Loop will not be delayed by any lack of availability of a specific binder group or spectrum exhaust . . .” Contrary to this agreement, however, SWBT denied the majority of the first several loop orders placed by Covad “for disturbers,” indicating that SWBT’s spectrum management scheme would not allow the deployment of the requested DSL service.

22. After receiving notification of its violation of the Interim Agreement, SWBT modified its ordering procedures to “spoof” its spectrum management system, allowing Covad’s orders to be processed. As a result, Covad must endure the inefficient two-tiered ordering process described above: Covad not only must submit an original loop order, but also must supplement that order when SWBT’s SFS system rejects the order as “non-standard.” Covad requested SWBT to revise this unnecessary and inefficient

process on October 11, 1999. A true and correct copy of this request is attached as Exhibit MS-9. As of January 28, 2000, SWBT has not honored Covad's request.

**Explanation of the DSL OSS Data Gathered By Covad and SWBT**

23. Pursuant to a request by the Texas Commission, Covad and SWBT jointly gathered and submitted data on this ordering process in the Fall of 1999. As the Declaration of Christopher Goodpastor describes more fully, I understand that Telcordia's review of SWBT's processes concluded in July 1999, before Covad began to offer services in Texas.

24. In October 1999, the Texas Commission requested Covad to gather data showing the interval between Covad's submission of a loop order to SWBT and SWBT's return of a firm order commitment for installation of that loop. The Texas Commission requested the data for orders placed during two specific periods of time: (1) September 28 – October 8, 1999, and (2) October 25 – October 27, 1999. Covad retains ordering information in its database and paper files. Using this information, I gathered and compiled the data requested by the Commission according to the procedures outlined in the document entitled "MCI Worldcom Retest Monitoring Process Guidelines." I understand that representatives of the OSS test auditor, Telcordia, Inc., were invited to visit Covad's Atlanta office to monitor the collection of data, but declined this invitation. Covad ultimately submitted this data to the Commission on October 29, 1999.

25. In response to the November 5, 1999 memorandum from the Administrative Law Judge in the Texas 271 Collaborative Project, representatives of Covad and SWBT met to reconcile the data collected for the periods described above. The parties reconciled the data to the extent possible. A true and correct copy of the reconciled data

is attached to this declaration as confidential Exhibit MS-10 (“Reconciled Data”). As described below, Covad and SWBT agreed on most of the data in the Reconciled Data table.

26. In addition, Covad compiled additional data regarding the ordering process that the parties could not agree to include in the Reconciled Data. A true and correct copy of this data is attached to this declaration as confidential Exhibit MS-11 (“Additional Data”). The information contained in the Reconciled Data and the Additional Data is true and correct to the best of my knowledge.

27. The Reconciled Data consists of information for loop orders placed by Covad with SWBT. The Reconciled Data includes the following information:

- **PON No.**—The purchase order number used by both Covad and SWBT;
- **City**—The city in which Covad requested the loop;
- **No. of Lines**—The number of loops requested with each order;
- **SWBT Mask Type**—The SWBT power spectral density (“PSD”) mask to which the service corresponds, if any.
- **Initial LSR**—The date on which Covad submitted its first complete and correct order for the loop. The parties excluded incomplete or incorrect LSRs from this field;
- **Response**—SWBT’s response to Covad’s Initial LSR (i.e., either “reject” or “firm order confirmation”);

- **Reject Recv'd**—If SWBT rejected Covad's Initial LSR, the date on which Covad received SWBT's rejection;
- **FOC Recv'd**—The date on which Covad received a "Firm Order Confirmation" from SWBT, *i.e.*, the date on which SWBT provided Covad with a due date for the installation of the loop;
- **NA**—The field is not applicable;
- **NYR**—The information is not yet received from SWBT.

The parties agreed on most of the information in the Reconciled Data table. A cell containing two entries indicates that the parties could not agree on that information for the particular order. In this situation, Covad's data is expressed in standard type and SWBT's data is expressed in italics.

28. The parties also mutually agreed to exclude the following data from the Reconciled Data:

- **PONs Requiring a Downgrade of Service Speed**—If a Covad loop order is rejected and the service requested by the end-user must be downgraded to a slower speed, Covad notifies the customer, giving the customer up to seven business days to respond. If the customer chooses to accept the downgraded service, Covad issues a new PON to SWBT. If the customer does not accept the downgraded service, Covad does not respond to the "reject" notice initially provided by SWBT. Because this process requires a significant time interval that is attributable to the end-user, the parties agreed to exclude this

data, recognizing that the data may not accurately reflect the timeliness of SWBT's response to an LSR submitted by Covad.

- **PONs For Which Covad's Response to a SWBT "Reject" Exceeded Three (3) Business Days**—One (1) PON in the original data requested by the Texas Commission involved a situation in which Covad's response to a SWBT "reject" notice exceeded three business days (i.e., Covad submitted a supplemental LSR four business days after receiving the reject notice). Because this response exceeded the amount of time that Covad typically requires to respond to a reject notice, the parties agreed to exclude information regarding this PON from the Reconciled Data. Covad submitted most of its supplemental LSRs in response to SWBT's reject notices on either the day it received the reject notice or the following business day;
- **PONs With Intervening Incorrect Supplemental LSRs**—Upon receiving a reject notice from SWBT, Covad occasionally submitted a supplemental LSR that was either incorrect or incomplete. Because the time required to reject and supplement the intervening incorrect LSR may not be attributable to SWBT, the parties agreed to exclude PONs involving an intervening incorrect LSR from the Reconciled Data.

Importantly, the Reconciled Data does **not** include information regarding the frequency with which SWBT installed the loop by the stated due date.

29. The Additional Data contains the same information provided in the Reconciled Data, but also includes the following information:

- **Days to Receive Reject**—If SWBT rejected Covad’s Initial LSR, the number of calendar days between SWBT’s receipt of Covad’s Initial LSR and the date on which Covad received SWBT’s notice of rejection;
- **Days to Receive FOC (“Firm Order Confirmation”)**—The number of calendar days between SWBT’s receipt of Covad’s Initial LSR and the date on which SWBT provided Covad with a scheduled due date for the installation of the loop;
- **Days Initial LSR to Due Date**—The number of calendar days between SWBT’s receipt of Covad’s Initial LSR and the date of SWBT’s scheduled installation of the loop;
- **Conditioning Interval Required by SWBT**—Whether SWBT required Covad to submit the LSR under the 15 business day provisioning interval reserved for loops that require conditioning;
- **Actual Conditioning Necessary**—Whether conditioning of the loop (*i.e.*, the removal of bridged tap, load coils or other intervening equipment) was actually performed by SWBT;
- **SWBT’s Reason for Reject**—The reason for the rejection of Covad’s Initial LSR, according to SWBT.

Again, the Additional Data does **not** include information regarding the frequency with which SWBT installed the loop by the stated due date.

### Summary of the OSS Data

30. Overall, Covad submitted OSS data for 83 loop orders corresponding to 45 customer requests for SDSL, 30 customer requests for IDSL, and 8 customer requests for ADSL. According to this data, over 73 % of Covad's loop orders corresponding to customer requests for ADSL and SDSL services were initially rejected by SWBT, requiring Covad to supplement the order before SWBT would process it, as described below. In addition, for over 35 % of Covad's orders corresponding to customer requests for SDSL, SWBT required Covad to endure a 15 business day (21 calendar day) conditioning interval when no actual conditioning was performed (*i.e.*, SWBT's "reject" notices do not show that removal of intervening equipment was required to provision the service). This results in unnecessary provisioning delays for Covad's SDSL services that SWBT's DSL services apparently do not experience.

31. According to Covad's data, SWBT required an average of 5.8 days to provide loop make-up data when it claimed such information was necessary to provision an SDSL order. SWBT required an average of 8.6 days from the submission of a complete and correct LSR to provide a FOC when a loop order corresponds to SDSL. The average interval between SWBT's receipt of a loop order corresponding to SDSL and the committed date for installation of the loop is 23.6 days. Importantly, this data does **not** show the average interval for *actual installation* of the loop.

32. For ADSL, SWBT required an average of 6.7 days to provide loop make-up data when SWBT contends such information is necessary to provision the order. SWBT required an average of 7.6 days to provide a FOC for orders corresponding to requests for ADSL. The average interval between SWBT's receipt of a loop order corresponding

and correct LSR to provide a FOC when a loop order corresponds to SDSL. The average interval between SWBT's receipt of a loop order corresponding to SDSL and the committed date for installation of the loop is 23.6 days. Importantly, this data does not show the average interval for *actual installation* of the loop.

28. For ADSL, SWBT required an average of 6.7 days to provide loop make-up data when SWBT contends such information is necessary to provision the order. SWBT required an average of 7.6 days to provide a FOC for orders corresponding to requests for ADSL. The average interval between SWBT's receipt of a loop order corresponding to ADSL and the committed date for installation of the loop is 24.3 days. Importantly, this data does not show the average interval for *actual installation* of the loop.

29. Using the data submitted to the Texas Commission, Covad calculated SWBT's performance under the Texas Commission's Performance Measure 5 (% FOC Received Within 24 Hours) and Performance Measure 55.1 (Average Installation Interval—Calendar Days). The results of these calculations are shown below.

| % FOC Received<br>in 24 Hours | Avg. Installation Interval<br>Conditioned Loops | Avg. Installation Interval<br>Unconditioned Loops |
|-------------------------------|---|---|
|                               |   |   |

  
 Michael Smith      1/31/2000

**DECLARATION OF MICHAEL SMITH ON BEHALF OF  
COVAD COMMUNICATIONS COMPANY**

**CONFIDENTIAL**

**MS-8**

**Reject Notice**

**Redacted**

**DECLARATION OF MICHAEL SMITH ON BEHALF OF  
COVAD COMMUNICATIONS COMPANY**

**CONFIDENTIAL**

**MS-10**

**Covad-SWBT Reconciled Loop Ordering Data**

**Redacted**

**DECLARATION OF MICHAEL SMITH ON BEHALF OF  
COVAD COMMUNICATIONS COMPANY**

**CONFIDENTIAL**

**MS-11  
Covad Additional Loop Ordering Data**

**Redacted**