

**ATTACHMENT 14 TO DECLARATION OF  
C. MICHAEL PFAU AND JULIE S. CHAMBERS**

OCT 28 1999

AT&T  
10/27/99

RECEIVED  
OCT 27 11 21 AM '99  
COMMUNICATIONS SECTION

TABLE OF CONTENTS

PROJECT NO. 16251

INVESTIGATION OF	§	
SOUTHWESTERN BELL TELEPHONE	§	PUBLIC UTILITY COMMISSION
COMPANY'S ENTRY INTO THE	§	
INTERLATA TELECOMMUNICATIONS	§	OF TEXAS
MARKET	§	

AFFIDAVIT OF RUSSELL MORGAN  
ON BEHALF OF  
AT&T COMMUNICATIONS OF THE SOUTHWEST, INC.

Page

Affidavit of Russell Morgan on Behalf of  
AT&T Communications of the Southwest, Inc.

2

List of Files:

G:\Law\michelle\16251\Affidavits1099\Morgan.doc

Original + 22

cc: Katherine D. Farroba, ALJ  
Donna Nelson, Assistant General Counsel  
All parties of record

RM-1

1904

**PROJECT NO. 16251**

INVESTIGATION OF §  
SOUTHWESTERN BELL TELEPHONE § PUBLIC UTILITY COMMISSION  
COMPANY'S ENTRY INTO THE §  
INTERLATA TELECOMMUNICATIONS § OF TEXAS  
MARKET §

**AFFIDAVIT OF RUSSELL MORGAN  
ON BEHALF OF  
AT&T COMMUNICATIONS OF THE SOUTHWEST, INC.**

Mark Witcher  
Michelle Bourianoff  
AT&T COMMUNICATIONS OF THE SOUTHWEST,  
INC.  
919 Congress Avenue, Suite 1500  
Austin, Texas 78701-2444  
Telephone: 512-370-1083

Kathleen M. LaValle  
Patrick R. Cowlshaw  
COHAN, SIMPSON, COWLISHAW & WULFF, L.L.P.  
2700 One Dallas Centre  
350 North St. Paul  
Dallas, Texas 75201  
Telephone: 214-754-0215

**ATTORNEYS FOR  
AT&T COMMUNICATIONS OF THE SOUTHWEST,  
INC.**

TABLE OF CONTENTS

I.	INTRODUCTION AND QUALIFICATIONS	4
II.	PURPOSE AND SUMMARY	5
III.	DISCUSSION	5

PROJECT NO. 16251

INVESTIGATION OF §  
SOUTHWESTERN BELL TELEPHONE § PUBLIC UTILITY COMMISSION  
COMPANY'S ENTRY INTO THE §  
INTERLATA TELECOMMUNICATIONS § OF TEXAS  
MARKET §

AFFIDAVIT OF RUSSELL MORGAN  
ON BEHALF OF  
AT&T COMMUNICATIONS OF THE SOUTHWEST, INC.

I. INTRODUCTION AND QUALIFICATIONS

1. My name is Russell Morgan. My business address is 5501 L.B.J. Freeway, Suite 800, Dallas, Texas 75240. I am currently employed as Regional Vice-President, Southwest Region.

2. I have worked in the Southwest Region since 1996 on a variety of local service entry and long distance competition matters, including AT&T's negotiations with SWBT and GTE under the federal Telecommunications Act. I began my career in telecommunications with Pacific Telephone in 1973 and moved to AT&T in 1983. While at AT&T, I have held a wide range of positions in long distance product development and marketing. My last position before coming to the Southwest Region was as Division Manager – Retention for AT&T's Consumer Long Distance business unit. My work in that position included managing a vulnerability model designed to identify the characteristics of customers who were likely to leave AT&T and developing and testing offers. I also managed AT&T's marketing response to the Southern New England Telephone "end-to-end" (local and long distance) offer, including development and

implementation of an integrated advertising and promotion campaign to retain AT&T customers.

3. As a result of these activities and my previous background, I am generally familiar with the interconnection, pricing, operational and systems issues that have arisen as AT&T has both entered and attempted to enter local exchange markets in the Southwest Region. I have previously filed an Affidavit in this proceeding.

## II. PURPOSE AND SUMMARY

4. The purpose of this affidavit is to discuss the serious implications for the still emerging competitive local voice market in Texas raised by the manner in which SBC is providing, and plans to provide, high-speed data service in Texas. AT&T has expended significant effort for over three years, in partnership with this Commission, in an attempt to establish the conditions necessary for it and other CLECs to be able to compete in the local market. AT&T has serious concerns that these efforts will be thwarted because of SBC's ability to tie up a significant and growing segment of the market and effectively isolate them from competition—those customers interested in obtaining high-speed data services.

## III. DISCUSSION

5. SWBT is aggressively marketing high speed data services through its ongoing DSL rollout. By the end of the second quarter, SBC had deployed DSL service in 380 central offices and offered the service to approximately 8 million DSL-capable homes and businesses in California, Texas, Kansas and Missouri. See SBC Second Quarter Earnings Report at 5. As of June 1999, SBC had 32,000 DSL customers in those states. *Id.* SBC has stated publicly in investor briefings a goal of 200,000 DSL

subscribers by the end of the year. *Id.* SBC has also announced its intent to offer voice-over-ADSL service, which will provide four additional voice lines, in addition to a DSL line and a primary voice line, all over a single line, next year *SBC Launches \$6 Billion Initiative to Transform it into America's Largest Single Broadband Provider*, October 18, 1999 Press Release at 4.

6. In order to capitalize on the trend of customers to migrate from traditional access lines to data circuits, SBC recently announced a \$6 billion initiative known as "Project Pronto." Project Pronto is designed to provide an estimated 77 million Americans, about 80% of SBC's customers in its Ameritech, PacBell, SWBT and SNET territories, with always-on, high-speed voice, data and video services via faster DSL services by the end of 2002. At the conclusion of Project Pronto, SBC approximates that 1400 central offices will be equipped with DSL technology and it will have installed or upgraded 25,000 neighborhood broadband gateways. Project Pronto delivers on Chairman Ed Whitacre's vision of a "rapidly changing marketplace where traditional dialtone is still a staple service, but where millions of our customers will demand the convenience, productivity, availability and reliability of our broadband service—service which we call 'e-tone.'" *SBC Launches \$6 Billion Initiative to Transform it into America's Largest Single Broadband Provider*, October 18, 1999 Press Release, at p. 2.

7. James Gallemore, executive vice president of strategic marketing and planning for SBC has described e-tone as "a powerful way to retain and attract customers in an increasingly competitive market." Press Release at 5. "SBC will be first to market, ahead of competitors." *Id.* These words are especially ominous in light of recent experience AT&T has encountered as part of its commercial entry into the UNE-P market in Texas. AT&T is concerned that because of SWBT's policies surrounding the provision of ADSL service, SBC will be the *only* company able to market voice and data services together.

8. In September, an AT&T employee who had local phone service and ADSL service from SWBT on that same loop attempted to switch his local service to AT&T. After his local service was successfully converted to AT&T, the customer was contacted by SWBT to inform him that they would either have to disconnect his ADSL service, or if he wanted to retain his ADSL service, he would have to switch his local service back to SWBT. A copy of the letter from SWBT to the customer informing him of that situation is attached hereto as Exhibit RM-1.

9. This policy by SWBT of requiring customers to disconnect their ADSL service if they wish to switch their voice service away from SWBT threatens the very existence of the emerging competitive market in Texas. The 32,000 plus ADSL customers that SBC currently has are virtually locked up via the "bundling" requirement that ADSL customers must use SWBT for local voice service. Given the aggressive marketing plans of SBC vis-à-vis high speed data services, the "bundling" of regulated and unregulated services will tie up larger and larger segments of the local service marketplace. Because the FCC's Order approving the SBC/Ameritech merger conditions allows SWBT to line share with its SBC DSL affiliate but does not require it to line share with other CLECs, SWBT will have the unmatched advantage of protecting their monopoly local voice service because it can ensure that unregulated DSL service provided by its affiliate will only be available in conjunction with their local voice product.

10. The Commission has previously addressed an analogous situation in this proceeding. During the hearing last year, evidence was introduced that when a customer who had SBC voice mail service switched its local phone service from SWBT to another local service provider, the customer's voice mail service was interrupted. Accordingly, the Commission recommended in connection with Checklist Item 14 that "SWBT shall develop procedures to assure that the provision of voice mail and other unregulated services provided by a SWBT affiliate will continue uninterrupted during the transition

from one local telephone provider to another.” See June 1, 1998 Order, Checklist Item 14, Recommendation No. 1. During the collaborative process, SWBT and its voice mail affiliate Southwestern Bell Messaging Services Incorporated implemented procedures that allowed voice mail to remain working during and after the conversion of a SWBT end user subscriber’s local telephone service to a CLEC utilizing resale. Staff noted that the implementation of these procedures by SWBT with regard to voice mail “eliminat[ed] a barrier that may have caused some degree of competitive harm” and that no party could come up with services other than voice mail where the disconnection issue was a problem. In fact, several AT&T local customers continue to use Southwestern Bell Voice Messaging Service in conjunction with our local voice UNE-P product. Final Staff Status Report at 106.

11. Although Staff found that SWBT had met the recommendation as it related to resale, CLECs raised concerns during the collaborative process that there were no procedures in place to prevent the interruption of affiliate provided services, such as voice mail, when the CLEC provided service over the UNE-Platform. See Final Staff Status Report at 105. The Staff concluded that issues regarding the seamless transfer of affiliate provided services in the UNE-P context were more appropriately addressed under the public interest recommendations. Final Staff Status Report at 106.

12. During this year as SWBT has rolled out its DSL service, it has become clear that high speed data services is another unregulated or enhanced service provided by a SWBT affiliate that poses a real risk of competitive harm if steps are not taken to insure that provision of the service continues uninterrupted during and after the transition from one local voice telephone provider to another. And this evaluation of the public interest concerns is certainly the appropriate time for the Commission to consider the impact when the alternate local provider provisions service over UNE-P. The Commission should require SWBT to develop a proposal, as it did for its voice mail product, that

would allow a customer's DSL service to remain working both during and after the conversion of a customer to a CLEC.

13. Additionally, AT&T would encourage the Commission to examine requiring SWBT to develop a UNE-Platform order type which accomodates both the voice platform and high speed data service. AT&T believes such an order to be feasible, and can be done in a manner which prevents a "hot cut" arrangement that interrupts a customer's local telephone service. Given the reality that the primary means of providing local competitive alternatives to the mass residential market in Texas in the near term is by the use of UNE-P, and given SWBT's aggressive marketing of its DSL service to those same residential customers, the development of such an order type is crucial to prevent local competition from dying in its infancy.

14. The ability for a customer to retain their ADSL service during and after a change in local phone provider and the development of a UNE-P order type which allows the provision of high speed data and local service are fundamental and necessary conditions to protect the emerging competitive local services market in Texas.

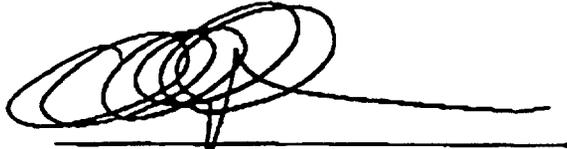
15. This concludes my affidavit.

VERIFICATION

STATE OF TEXAS  
COUNTY OF DALLAS

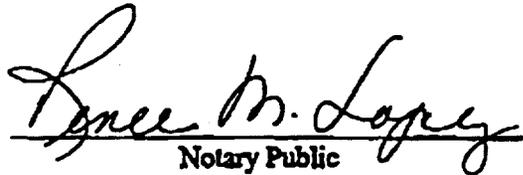
§  
§  
§

I, R.D. MORGAN, of lawful age, being first duly sworn, now state: that I am authorized to provide the foregoing statement on behalf of AT&T; that I have read the foregoing statement and the information contained in the foregoing is true and correct to the best of my knowledge and belief.



R. D. Morgan  
Vice President  
AT&T Southwestern States Local Services  
Organization

SUBSCRIBED AND SWORN TO BEFORE ME this 27<sup>th</sup> day of October, 1999.



Notary Public

My commission expires:  
July 15, 2002



September 21, 1999

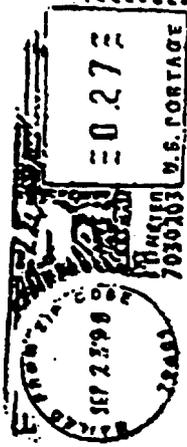
Robert S. Smith  
3824 Shorecrest Dr.  
Dallas, Tx 75209

Dear Mr. Smith;

We regret to inform you that we will have to disconnect the ADSL from your line September 28<sup>th</sup> if we do not hear from you by that date. We would be glad to welcome you back with Southwestern Bell to enable us to continue to provide the ADSL service.

Sincerely,  
Sandy  
1 888 792-3751

RM-11

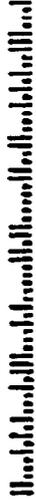


PRESORTED  
FIRST CLASS

Southwestern Bell Telephone  
2010 Avenue R, Room 400  
Lubbock, Texas 79411



*Mr. Robert S. Smith  
3824 Shorecrest Dr.  
Dallas, Tx 75209*



AUTO 75209

**ATTACHMENT 15 TO DECLARATION OF  
C. MICHAEL PFAU AND JULIE S. CHAMBERS**

**PROJECT NO. 16251**

INVESTIGATION OF	§	
SOUTHWESTERN BELL TELEPHONE	§	PUBLIC UTILITY COMMISSION
COMPANY'S ENTRY INTO THE	§	
INTERLATA TELECOMMUNICATIONS	§	OF TEXAS
MARKET	§	

**AFFIDAVIT OF RUSSELL MORGAN  
ON BEHALF OF  
AT&T COMMUNICATIONS OF THE SOUTHWEST, INC.**

Mark Witcher  
Michelle Bourianoff  
AT&T COMMUNICATIONS OF THE SOUTHWEST,  
INC.  
919 Congress Avenue, Suite 900  
Austin, Texas 78701-2444  
Telephone: 512-370-1083

Kathleen M. LaValle  
Patrick R. Cowlshaw  
COHAN, SIMPSON, COWLISHAW & WULFF, L.L.P.  
2700 One Dallas Centre  
350 North St. Paul  
Dallas, Texas 75201  
Telephone: 214-754-0215

**ATTORNEYS FOR  
AT&T COMMUNICATIONS OF THE SOUTHWEST,  
INC.**

**TABLE OF CONTENTS**

I.	INTRODUCTION AND QUALIFICATIONS	RM-4
II.	PURPOSE AND SUMMARY	RM-5
III.	DISCUSSION	RM-6

**PROJECT NO. 16251**

INVESTIGATION OF	§	
SOUTHWESTERN BELL TELEPHONE	§	PUBLIC UTILITY COMMISSION
COMPANY'S ENTRY INTO THE	§	
INTERLATA TELECOMMUNICATIONS	§	OF TEXAS
MARKET	§	

**AFFIDAVIT OF RUSSELL MORGAN  
ON BEHALF OF  
AT&T COMMUNICATIONS OF THE SOUTHWEST, INC.**

**I. INTRODUCTION AND QUALIFICATIONS**

1. My name is Russell Morgan. My business address is 5501 L.B.J. Freeway, Suite 800, Dallas, Texas 75240. I am currently employed as Regional Vice-President, Southwest Region.

2. I have worked in the Southwest Region since 1996 on a variety of local service entry and long distance competition matters, including AT&T's negotiations with SWBT and GTE under the federal Telecommunications Act. I began my career in telecommunications with Pacific Telephone in 1973 and moved to AT&T in 1983. While at AT&T, I have held a wide range of positions in long distance product development and marketing. My last position before coming to the Southwest Region was as Division Manager – Retention for AT&T's Consumer Long Distance business unit. My work in that position included managing a vulnerability model designed to identify the characteristics of customers who were likely to leave AT&T and developing and testing offers. I also managed AT&T's marketing response to the Southern New England Telephone "end-to-end" (local and long distance) offer, including development and

implementation of an integrated advertising and promotion campaign to retain AT&T customers.

3. As a result of these activities and my previous background, I am generally familiar with the interconnection, pricing, operational and systems issues that have arisen as AT&T has both entered and attempted to enter local exchange markets in the Southwest Region. I have previously filed an Affidavit in this proceeding.

## **II. PURPOSE AND SUMMARY**

4. The purpose of this affidavit is to seek two specific actions by this Commission that are necessary to assure that Texans receive the full benefits of opening SBC's local markets to competition whether the customer seeks voice services, advanced services or both. The two actions are as follows:

(1) Require that, when a voice CLEC migrates a customer from SBC to a UNE-P architecture that, unless the retail customer directs otherwise, the then existing line sharing arrangements not be withdrawn; and

(2) Require that SBC expeditiously deploy nondiscriminatory procedures that not only enable line sharing between SBC and data CLECs but enable voice CLECs employing a UNE-P architecture to engage in voluntary line sharing (or use of their own assets supporting advanced services).

Without continued Commission leadership in addressing the emerging advanced service data market, SBC's announced marketing strategy may insulate a significant and growing segment of its customer base from competition—those customers interested in obtaining advanced services - before even a competitive Texas market for voice services has taken hold. The open-market objectives of section 251 and 271 of the

federal Act must not be undercut by SBC's possibly self-serving focus upon advancing section 706 objectives.

### III. DISCUSSION

Experience in the telecommunications marketplace is showing that advanced service offerings will become increasingly critical to successful competition for a portion of the residential and small business markets. The explosive growth of the Internet, due to e-commerce and the ready access to information and entertainment, coupled with the rapid deployment of enabling technology such as DSL, has dramatically expanded the number and types of customers who are interested in and can feasibly be provided with advanced services such as integrated voice and high speed internet access.

SBC's own actions make the importance of this growing market clear. SBC is aggressively marketing advanced services based upon its widespread ADSL rollout. By the end of the second quarter of this year, SBC had deployed ADSL service in 380 central offices and had the infrastructure to offer combined voice and advanced service services to approximately 8 million homes and businesses in California, Texas, Kansas and Missouri. See SBC Second Quarter Earnings Report at 5. Indeed, the SBC base of customers has more than tripled from 32,000 customers to over 100,000 DSL customers in just 3 months with an announced goal of 200,000 DSL subscribers by the end of the year. Id; Press Release; SBC First to Surpass 100,000 DSL Subscribers (Nov. 4, 1999). Such success by SBC in supporting DSL deployment is in stark contrast to the number of UNE-L and UNE-P customers placed in service in Texas since 1996.

Clearly, recent regulatory actions have recognized the growing import of advanced services and the needs of data CLECs when entering the marketplace.

Unfortunately, these actions have largely ignored the potential impact of this proliferation of data services on entrants initially pursuing a voice strategy prior to the local services market being irreversibly open to competition. Over the last nine months, and more particularly over the last several weeks, the FCC has issued several orders that should, if implemented properly and enforced, reduce some of the entry barriers for data CLECs.<sup>1</sup> The Advanced Services Order requires ILECs to make additional collocation space available and expressly permitted CLECs to self-deploy equipment associated with advanced service offerings. The same order also established spectrum compatibility rules thereby removing unnecessary limitations upon equipment and service deployment. Furthermore, the UNE Remand Order clarified that ILECs are expressly required to condition loops so that requesting carriers can provide advanced services. It also requires that all loop qualification information that an ILEC possesses must be made available on a nondiscriminatory basis to a requesting CLEC so that the CLEC may make its own determinations with regard to whether or not a loop meets the criteria for advanced service deployment.

This Commission has also been active in addressing mechanisms designed to facilitate data CLEC market entry. Throughout this year, the PUC has presided over the Covad/Rhythms arbitration regarding access to the unbundled DSL capable loop and taken numerous positive steps to facilitate advanced service availability to Texans through sources other than the incumbent LEC.

---

<sup>1</sup> *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Federal Communications Commission, CC Docket No. 98-147, First Report and Order (March 18, 1999) (hereafter *Advanced Services Order*); *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Federal Communications Commission, CC Docket No. 96-98, Third Report and Order (November 5, 1999) (hereafter *UNE Remand Order*).

The steps necessary to facilitate advanced services deployment, however, are as yet incomplete. As the Department of Justice correctly observed “the most economically efficient means for CLECs to serve a large segment of customers in the foreseeable future may be through the use of combinations of unbundled elements, with or without use of some of the competitive local exchange carriers’ (“CLECs”) own facilities.”<sup>2</sup> Care must therefore be exercised that the viability of the UNE-Platform is complemented rather than constrained by actions directed at facilitating deployment of advanced data services. The UNE-Platform offers a CLEC an early and broad market entry capability, affords economies of scale similar to those of the incumbent, and provides a rational transition path to a facilities based network. As such, a CLEC is not faced with an immediate requirement to collocate, to deploy switches or establish a ubiquitous transport network. Equally important is that customers won from the incumbent can migrate to competitive carriers promptly and with minimal disruption. All or most of these advantages may be rendered moot, at least for a growing segment of Texans, if the Commission does not establish certain simple but important ground rules now.

It is increasingly apparent that customers – including residential customers – are seeking voice and Internet access that is delivered in a cost-effective manner. James Gallemore, executive vice president of strategic marketing and planning for SBC has described e-tone, its broadband service offering, as “a powerful way to retain and attract customers in an increasingly competitive market.” Press Release at 5. “SBC will be first to market, ahead of competitors.” *Id.* AT&T is concerned, however, that SWBT’s current

---

<sup>2</sup> *In the Matter of Application by BellSouth Corporation, et al. For Provision of In-Region, InterLATA Services in South Carolina*, Federal Communications Commission, CC Docket No. 97-208, Evaluation of the United States Department of Justice at 20 (Nov. 4, 1997) (hereafter “BellSouth South Carolina DOJ Evaluation”).

policies surrounding UNE-P and the provision of ADSL service, if left unchecked, will result in significant reduction in the vitality and opportunity of competitors in Texas.

In September, an AT&T employee who had local phone service and ADSL service from SWBT (on that same loop) switched the local voice service to AT&T. Not surprisingly, the voice service was transferred to AT&T and the SBC-provided ADSL capability continued to operate as it had prior to the local voice service migration to AT&T's UNE-P architecture. What concerns AT&T and what AT&T asks this Commission to address is the post transfer, market inhibiting actions taken by SBC. The customer in question was contacted directly by SWBT and told that either the ADSL service must be disconnected, or if the ADSL service was still desired, the local voice service must be re-established with SWBT. A copy of the letter from SWBT to the customer informing him of that situation is attached hereto as Exhibit RM-1.

It is undisputed that SBC has a huge embedded base of voice customers and that the local services market is neither fully nor irreversibly open to competition. Given that monopoly position and the fact that SBC's support of data CLECs can also be described as, at best, dilatory, with the ensuing delays permitting SBC to broadly deploy its own DSL assets in advance of its potential competitors, AT&T asks that the Commission not tolerate policies and procedures of SWBT that limit competition such as the one outlined above.<sup>3</sup> There is no pro-competitive policy that is advanced by this position of SBC.

---

<sup>3</sup> The Commission has previously addressed a similar situation in this proceeding. During the 271 hearing last year, evidence was introduced that when a customer who had SBC voice mail service switched its local phone service from SWBT to another local service provider, the customer's voice mail service was interrupted. Accordingly, the Commission recommended in connection with Checklist Item 14 that "SWBT shall develop procedures to assure that the provision of voice mail and other unregulated services provided by a SWBT affiliate will continue uninterrupted during the transition from one local telephone provider to another." See June 1, 1998 Order, Checklist Item 14, Recommendation No. 1. During the collaborative process, SWBT and its voice mail affiliate Southwestern Bell Messaging Services Incorporated implemented procedures that allowed voice mail

The FCC's Order approving the SBC/Ameritech merger conditions allows SWBT to line share with its SBC DSL affiliate. The recent FCC "Line Sharing Order" obligates SBC (and all other ILECs) to engage in line sharing with interested data CLECs. Neither order, however, addresses the treatment of a line where SBC provides both the local voice service and the ADSL capability but the customer seeks to change to an alternate local voice service provider. Absent further regulatory action, SWBT will have the unmatched advantage of a base of subscribers to its monopoly local voice service that cannot switch to an alternative provider because the DSL service provided by its affiliate will only be made available in conjunction with SBC's local voice product.

Rapid deployment of advanced services must not occur to the detriment of local voice service competition. This Commission can help assure that the viability of UNE-P as an entry strategy is not threatened because the incumbent establishes an unbreakable link that the customer cannot sever. Likewise the Commission can help assure that the viability of UNE-P as a market entry vehicle is not practically limited because SBC refuses or is slow to develop procedures to support the addition of advanced service capabilities to a UNE-P line. Reasonable accommodations are both feasible -- as demonstrated by the migration to AT&T local service that SWBT sought to rescind -- and necessary to allow customers to either retain advanced services added to the POTS lines of the incumbent or to add advanced service data capabilities at the time of migration or after they change their local voice service to a CLEC employing UNE-P. Absent intervention, CLECs employing a UNE-P market entry strategy may be relegated to competing for only a subset of SBC's embedded monopoly base of customers to whom

---

to remain working during and after the conversion of a SWBT end user subscriber's local telephone service to a CLEC utilizing resale.

SBC has not yet successfully marketed DSL capabilities. Even worse, CLECs employing UNE-P could be restricted, due to SBC policy rather than due to technical limitations, to competing based on a "voice only" offering. UNE-P entrants must not be foreclosed (whether by action or inaction on the part of the ILEC) from competing for the entire embedded base of ILEC customers, including those who have already elected to subscribe to advanced data services provided by the ILEC.

Use of the UNE-P architecture by a CLEC to provide local voice service is directly analogous to SBC providing such service on an existing POTS line. There has been no demonstration nor could one be made that adding advanced service functionality to UNE-P is any more complicated or any less technically feasible than is adding it to an operating SBC POTS line. Furthermore, the operational procedures to add such capabilities need not be more disruptive to the retail customer of the CLEC than for the voice customer of SBC.

The FCC has already found that the Act requires that ILECs establish procedures that facilitate CLECs adding ADSL functionality to an operating POTS lines of the incumbent. In those instances in which a CLEC seeks to engage in voluntary line sharing, which is not precluded by the FCC, the incumbent must also be obligated to establish efficient and nondiscriminatory supporting procedures. Such support must specifically allow ADSL functionality to be retained when migration to UNE-P occurs and facilitate adding ADSL capability to a UNE-P line whether it is added at the time of migration or subsequent to migration.

It is important to note that none of the preceding steps require the unbundling of data UNEs, in contravention of the UNE Remand order. The CLEC who provides voice

service using UNE-P is not the underlying provider of the data capability (unless that CLEC deploys its own advanced services assets) and is not employing any data switching element(s) of the incumbent. Instead, the voice CLEC, by necessity, would enter into a “voluntary” line sharing arrangement with the pre-existing provider of data capabilities<sup>4</sup> (in the case of the migration of the SBC voice service where line sharing already existed) or with a “data” CLEC that deploys the supporting assets when the advanced service capability is added after migration.

If the SBC data affiliate is truly operating on an arms length basis with SBC, then a customer’s choice of underlying voice service provider should be immaterial and the existing DSL service could and should be readily deliverable either independently or in conjunction with the customer’s new voice service provider (the data affiliate would presumably be engaging in line sharing with SBC).<sup>5</sup> It is logical to conclude that a reasonable business arrangement could be established between the existing advanced service provider and the CLEC winning the local voice service from the incumbent. If such an arrangement could not be established within a reasonable amount of time (as determined by the Commission), then either party should have the option of petitioning the Commission for expedited resolution. Such accommodation should be able to be established on a company-by-company, not on a customer-by-customer basis, other than in exceptional situations. Furthermore, once competition has matured within the state, the Commission could always revisit the requirement that, at the option of the voice

---

<sup>4</sup> In Texas, until six months after the FCC’s approval of the Ameritech merger conditions, SWBT will likely remain the provider of data services. After that time, SWBT’s advanced services affiliate, will provide data services.

<sup>5</sup> The Application for a Certificate of Operating Authority that SBC’s advanced services affiliate has filed in Texas indicates that it does not intend to provide POTS service, which would by necessity require it to line share with SWBT.

CLEC supplanting the incumbent's voice service, pre-existing line sharing continue uninterrupted.

Just as regulatory oversight can help assure that a choice for local voice service is not denied to those customers who have been the first to embrace advanced services, it can help assure that the market opening potential for UNE-P is not limited. Accordingly, the Commission should direct SBC to develop the supporting operational capability necessary to add advanced service capability for CLECs employing UNE-P. Because of the close analogy to line sharing mandated on the part of the incumbent, such procedures are clearly both technically feasible and readily deployable as corollary work to satisfying the line sharing mandate. These procedures, without question, must be demonstrated to be nondiscriminatory whether compared to the line sharing support delivered to data CLECs in the aggregate or compared to the support delivered to SBC's own data affiliate.

Nondiscriminatory support procedures are not limited to pre-ordering, ordering and provisioning but extend to all support areas. Maintenance and repair procedures must exist that permit detection and isolation of troubles between the provider of the voice and the advanced service capability. Billing arrangements must exist that permit the UNE-P provider to seamlessly transfer voice service and that do not adversely impact the end-user customer. Finally, cost-based prices must be established for any physical work actually performed or assets that must be deployed (e.g., splitters and tie pair) by SBC to support these capabilities. Before SBC can be deemed to be providing nondiscriminatory support to UNE-P or data CLECs in a line sharing mode, all of the above processes must be in place, and this Commission must have the ability to confirm the quality, timeliness and completeness of those processes.

During 1999, as SWBT has rolled out its DSL service, it has become clear that advantages due to its pre-existing position as virtually the sole provider of local voice service are further enhanced by its sales of high speed data services. Serious harm to local voice service competition may occur if steps are not taken now to limit SBC's ability to maintain its local monopoly. The Commission should require SWBT to promptly develop and implement nondiscriminatory procedures that allow a retail customer of SBC to continue existing DSL service, even if that customer elects to use a voice service provider other than SBC. Because UNE-P is the primary near term means of establishing competitive local service alternatives for the Texas mass residential market, and in light of SWBT's aggressive marketing of its DSL service to its retail local service customers, the development of procedures to add advanced service capabilities cannot be left to the discretion of SBC.

This concludes my affidavit.

**ATTACHMENT 16 TO DECLARATION OF  
C. MICHAEL PFAU AND JULIE S. CHAMBERS**

-----Original Message-----

From: BONHAM, PATRICIA (SWBT) [<mailto:pb9348@txmail.sbc.com>]  
Sent: Wednesday, January 05, 2000 10:19 AM  
To: sminter@ip-communications.net  
Subject: Response to email and current action items  
Importance: High

> Sean:  
>  
> In response to your previous email (original message) and  
confirming our  
> conversation on 1/4/00:  
>  
> Your message:  
>  
> A current SWBT retail voice customer would like to purchase  
both Voice and  
> DSL from IP Communications.  
>  
> 1. IP Communications would like to order a special "hot cut"  
of that  
> customer's existing loop and port in combination to our  
collocation.  
>  
> 2. IP Communications will provide the splitter and do the  
splitting of  
> the voice and data.  
>  
> It is my understanding that SWBT does not support such orders.  
>  
> My response:  
>  
> If IP wants to provide voice and DSL, and plan to provide the  
voice using  
> the UNE switch port offering, there is no line-shared product  
available  
> at this time.  
>  
> However, a process is being developed to offer the following:  
>  
> Convert an existing retail customer to UNE 8 db loop to  
collocation  
> (reusing existing loop facilities) and a new UNE switch port.  
Both the  
> switch port and the loop would terminate at IP's collocation  
cage. IP is

> responsible for connecting the loop and the port and would also have the  
> splitter at the collocation. IP could request a coordinated hot cut if  
> they would like to minimize down time.  
> Once the 8 db loop is in place, IP could request to change the loop to an  
> xDSL capable loop that supports ADSL (the DSL technology that allows voice  
> and data to be transmitted over the same loop.)  
>  
> Please plan to try one order on a friendly account as a test sample before  
> issuing multiple orders. Please alert the LSC when IP is ready to release  
> the order. This process that will attempt to reuse the existing loop  
> facilities may prevent the need for IP to dispatch a tech for rewiring.  
>  
> The other outstanding issues from our meeting:  
>  
> Send in letter to start negotiations - IP  
> Check web site availability date of the 13 state Agreement and advise -  
> Pat  
> Check on reuse of existing loop for DSL - Pat  
> Check collocation generic MOKA Agreement requirement in lieu of  
> Interconnection Agreement - Pat  
>  
> Howard contacted me this morning to advise that:  
> 1. He is an attorney.  
> 2. He asked that I add to action items from yesterday to verify SWBT's  
> position on UNE rates ICB vs. TBD.  
>  
> Sean, for future meetings when Howard is present, I will have my legal  
> representative in attendance, too.  
>  
> Thanks,  
>  
> Pat Bonham  
> Account Manager - LPAT  
> Office: 214 464-8710  
> FAX: 214 464-1486

> Email: pb9348@txmail.sbc.com  
>

DCDOCS:165017.1(3JBT01!.DOC)

**ATTACHMENT 17 TO DECLARATION OF  
C. MICHAEL PFAU AND JULIE S. CHAMBERS**

-----Original Message-----

From: BANNECKER, BOB G (SWBT) [ <mailto:rb5422@txmail.sbc.com>  
<<mailto:rb5422@txmail.sbc.com>> ]

Sent: Tuesday, January 18, 2000 9:40 AM

To: Chambers, Julie S, NLSSS

Subject: RE: question...

Julie,

These questions are not ones SWBT would address as they go beyond SWBT's involvement. They look to be questions on how AT&T would design/engineer services they are trying to provide. That is not something SWBT should respond to.

Please call if you have any questions.

Thanks,

Robert Bannecker

Account Manager - Industry Markets  
Southwestern Bell Telephone Company  
311 So. Akard, Rm. 630.08  
Dallas, TX 75202  
214-464-1053 - Office  
214-858-0281 - Fax  
888-961-8352 - Pager  
[rb5422@txmail.sbc.com](mailto:rb5422@txmail.sbc.com) - E-Mail

-----Original Message-----

From: Chambers, Julie S, NLSSS [ <mailto:jschambers@att.com>  
<<mailto:jschambers@att.com>> ]

Sent: Wednesday, January 12, 2000 6:35 PM

To: BANNECKER, BOB G (SWBT)

Subject: RE: question...

Bob,

Sorry for any confusion -- I do know that a processes exists for ordering

xDSL capable loops --

However, I would like additional details on the following:

1) establishing a UNE-P line to SWBT with cross-connects to the DSL provider

2) adding xDSL to an existing UNE-P line.  
Also -- assume collocation is already in place.  
If you have any questions -- let me know!

Talk with you tomorrow,  
Julie

-----Original Message-----

From: BANNECKER, BOB G (SWBT) [ <mailto:rb5422@txmail.sbc.com>  
<<mailto:rb5422@txmail.sbc.com>> ]

Sent: Wednesday, January 12, 2000 9:50 AM

To: Chambers, Julie S, NLSSS

Subject: RE: question...

Julie:

First, we need to make sure AT&T realizes the unbundled DSL loop is not a "service." SWBT is only providing AT&T access to the loop, and then AT&T puts the electronics on it to make it DSL capable. To order a DSL loop, generically speaking, a CLEC is only required to submit an LSR for such loop. The LSR kicks off a loop qualification process, and depending on the information the CLEC gets back from the loop qualification, the CLEC then has a choice as to whether or not to proceed with the DSL order. If AT&T wishes to mix data and voice together, it will be AT&T's responsibility to do that. AT&T would be required to combine the voice from their switch (or, AT&T possibly could cross-connect a port off a SWBT switch), and then combine the two together back out to the end-user. Ordering procedures for the unbundled DSL loop are covered in the CLEC handbook UNE section 1 of the CLEC Website. Please call if you have any other questions.

Thanks,  
Robert Bannecker

Account Manager - Industry Markets  
Southwestern Bell Telephone Company  
311 So. Akard, Rm. 630.08  
Dallas, TX 75202  
214-464-1053 - Office  
214-858-0281 - Fax  
888-961-8352 - Pager  
rb5422@txmail.sbc.com - E-Mail

-----Original Message-----

From: Chambers, Julie S, NLSSS [ <mailto:jschambers@att.com>  
<<mailto:jschambers@att.com>> ]  
Sent: Tuesday, January 11, 2000 7:16 PM  
To: BANNECKER, BOB G (SWBT)  
Subject: question...  
Importance: High

Bob,

This is not for our issues log -- but will probably lead to further discussion...

Could you help me understand what the proper procedures would be to order and provision xDSL service (not SWBT's) for data with AT&T's UNE loop and port for voice?

If I could ask for a response within the next week, that would be very helpful! I know we have a lot of open issues out there...and of course, here's one more!!

Thanks,

Julie Chambers  
(972) 778-5584

**ATTACHMENT 18 TO DECLARATION OF  
C. MICHAEL PFAU AND JULIE S. CHAMBERS**

### LSR REJECT FORM

Today's Date: 01/19/2000 Order Type DSL  
PON 2143636960 CLEC IP COMM  
CLEC CONTACT SEAN MINTER  
LSC REP NAME MELISSA MARTINEZ

REJECT REASON:

LSR REQUEST & REMARKS ARE CONFLICTING

---

---

---

AECN 4694  
RECIPT DATE 01/18/2000 RECIPT TIME 356P  
REJECT DATE 01/19/2000 REJECT TIME 100P  
ENDUSER NAME BOB COHAN  
LSR NUMBER MANUAL

**LSR REJECT FORM**

Today's Date: 01/19/2000 Order Type DSL  
PON 9722708515 CLEC IP COMM  
CLEC CONTACT SEAN MINTER  
LSC REP NAME MELISSA MARTINEZ

REJECT REASON:  
LSR REQUEST & REMARKS ARE CONFLICTING

---

---

---

AECN 4694  
RECIPT DATE 01/18/2000 RECIPT TIME 356P  
REJECT DATE 01/19/2000 REJECT TIME 100P  
ENDUSER NAME WILLIAM GARVIN  
LSR NUMBER MANUAL

### LSR REJECT FORM

Today's Date: 01/19/2000 Order Type DSL  
PON 2142211155-1 CLEC IP COMM  
CLEC CONTACT SEAN MINTER  
LSC REP NAME MELISSA MARTINEZ

REJECT REASON:  
LSR REQUEST & REMARKS ARE CONFLICTING

---

---

---

AECN 4694  
RECIPT DATE 01/18/2000 RECIPT TIME 356P  
REJECT DATE 01/19/2000 REJECT TIME 100P  
ENDUSER NAME BRIAN MAUPIN  
LSR NUMBER MANUAL

### LSR REJECT FORM

Today's Date:	<u>01/19/2000</u>	Order Type	<u>DSL</u>
PON	<u>9722966198</u>	CLEC	<u>IP COMM</u>
CLEC CONTACT	<u>SEAN MINTER</u>		
LSC REP NAME	<u>MELISSA MARTINEZ</u>		

REJECT REASON:

LSR REQUEST & REMARKS ARE CONFLICTING

AECN	<u>4694</u>		
RECIEPT DATE	<u>01/18/2000</u>	RECIEPT TIME	<u>357P</u>
REJECT DATE	<u>01/19/2000</u>	REJECT TIME	<u>100P</u>
ENDUSER NAME	<u>JIM BARNES</u>		
LSR NUMBER	<u>MANUAL</u>		