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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
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Application by SBC Communications Inc.,	)	
Southwestern Bell Telephone Company, and	)	CC Docket No. 00-4
Southwestern Bell Communications Services,	)	
Inc. d/b/a Southwestern Bell Long Distance	)	
for Provision of In-Region, InterLATA	)	
Services in Texas	)	

REPLY DECLARATION OF SARAH DeYOUNG

ON BEHALF OF

AT&T CORPORATION

Filed February 22, 2000

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REPLY DECLARATION OF SARAH DeYOUNG
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1. My name is Sarah DeYoung. I have previously filed a Declaration in this proceeding on behalf of AT&T Corporation ("AT&T") addressing, among other things, the failure of Southwestern Bell Telephone Company ("SWBT") to provide AT&T -- and all other competitive local exchange carriers ("CLECs") -- non-discriminatory access to unbundled loops ("UNE Loops") and number portability through a "hot cut" process in compliance with SWBT's statutory obligations. See Declaration of Sarah DeYoung, Exhibit D to the Comments of AT&T Corp. in Opposition to Southwestern Bell Telephone Company's Section 271 Application for Texas ("DeYoung Decl.").

2. The purpose of my Declaration is to address (a) the incorrect conclusion reached by the Public Utility Commission of Texas ("TPUC") in its evaluation of SWBT's Section 271 Application that SWBT's measure 114.1 captures all service outages occurring during the hot cut process; and (b) the ex parte submission

SWBT filed with the Federal Communications Commission (the "Commission") on January 21, 2000, in which SWBT, among other things, provides selected, unverified December hot cut performance data for all Texas CLECs for its uncoordinated frame due time ("FDT") and coordinated hot cut ("CHC") processes (hereafter SWBT's "Hot Cut Ex Parte").

I. INTRODUCTION

3. At the Open Meeting approving SWBT's Section 271 proposed application, TPUC Chairman Wood emphasized that hot cuts are "a key process for facilities-based competition to work,"[1] a conclusion similarly reached by the Department of Justice ("DOJ") in its recent evaluation of SWBT's Application. DOJ Eval. at 27 ("The use of unbundled loops is an important component of CLECs' efforts to provide service to small and medium-sized business customers.").[2]

4. Despite its recognition of the importance of hot cuts to local competition in Texas, the TPUC erroneously concluded that SWBT had met its statutory obligations in this area by relying on faulty SWBT data.

5. Specifically, the TPUC relied heavily on SWBT's reported "on-time" performance of CHC loop cutovers, which was based on a sampling of hot cut orders over the period August through October supposedly compiled in compliance with SWBT's recently adopted measure 114.1. Critical to the TPUC's conclusion was its

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[1] Dec. 16, 1999 TPUC Open Meeting Tr. at 56 [Appendix to TPUC Evaluation ("TPUC Eval."), Vol. 2, Tab 4].

[2] Evaluation of the United States Department of Justice, filed Feb. 14, 2000 in CC Docket No. 00-4 (hereafter "DOJ Eval.").

determination that measure 114.1 captures all customer service outages that occur during the hot cut process.

6. As shown below (in Section II), the TPUC's critical assumption is fundamentally wrong. Measure 114.1 does not capture service outages caused by SWBT's premature loop cuts -- i.e., outages arising because SWBT cut the loop before the start time. Nor does measure 114.1 capture outages due to defective loop cuts -- i.e., outages caused by SWBT's provisioning errors during the cutover that are first identified after SWBT declares the cutover complete and before the CLEC accepts the loop cutover.

7. I show (in Section III, below) that SWBT's unverified December FDT and CHC hot cut performance data confirms my prior conclusion that SWBT cannot provision hot cuts consistent with its statutory obligations. SWBT's ex parte submission, the first time in which it discloses any data on FDT orders, reveals that its loop cutover of FDT orders resulted in 9.8% of all CLECs' loops losing service for an unacceptably prolonged duration (and far in excess of the Commission's "fewer than 5%" outage benchmark). On CHC orders, SWBT reports an 82.2% "on-time" cutover performance for CHC loops, which once again fails to meet the Commission's 90% performance standard. Similarly, SWBT's December data (SWBT's first disclosure of trouble report rates specifically for CHC and FDT orders) demonstrates an unacceptably poor quality of loop provisioning, with 2.88% and 2.18% of FDT and CHC loops, respectively, experiencing trouble within 10 days of installation -- a rate that not only exceeds the Commission's "fewer than 2%" standard, but is consistent with other evidence of SWBT's continuing poor loop provisioning over the past several months.

8. As for SWBT's promise in its ex parte submission to begin reporting FDT performance data in March 2000, that promise obviously cannot satisfy SWBT's burden of demonstrating present compliance with the competitive checklist. Moreover, as discussed below, implementation of measures 114.1 and 115 for FDT hot cuts is inadequate to capture discriminatory performance.

9. Finally, while SWBT's December data is revealing, SWBT's disclosures are burdened by continuing doubts over the accuracy of its internal, unverified data. For example, SWBT's claims of improved data collection processes not only are untested, but appear hollow in light of the manual "quick-fixes" SWBT has implemented. Similarly, proven flaws in its November CHC hot cut performance data (as well as material errors in its August through October data) render incredible SWBT's assertion that its December data is accurate. The persistent questions over the integrity of SWBT's hot cut performance data strongly caution against relying upon that unverified data in resolving such a competitively significant issue as SWBT's Section 271 Application.

II. UNEXPECTED SERVICE OUTAGES CAUSED BY SWBT'S PROVISIONING ERRORS ARE NOT CAPTURED BY PERFORMANCE MEASURE 114.1 AND UNDISPUTED EVIDENCE OF SUCH EXTENSIVE OUTAGES IS IGNORED BY THE TPUC AND SWBT

10. In Bell Atlantic,[3] the Commission held that "evidence indicating that fewer than five percent of hot cuts resulted in service outages" constituted a "minimally acceptable" showing of checklist compliance. Bell Atlantic ¶ 309. Service

[3] In the Matter of Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York, CC Docket No. 99-295, Memorandum Opinion and Order, FCC 99-285 (rel. Dec. 22, 1999)(hereafter "Bell Atlantic").

outage rates were one of three criteria the Commission evaluated in determining that Bell Atlantic's hot cut performance satisfied its statutory obligations.

11. Contrary to the claims of the TPUC, SWBT's measure 114.1 fails to captures unexpected service outages experienced by CLECs' customers caused by SWBT's (a) premature loop cuts -- i.e., cuts executed before the authorized start time that result in outages; and (b) defective loop cuts -- i.e., provisioning errors made during the loop cutover (e.g., wiring errors) that result in outages first identified after the loop cutover is completed but before the loop is accepted by the CLEC. Moreover, both SWBT (in its Application and its ex parte submission) and the TPUC (in its evaluation) fail to address undisputed evidence presented by the AT&T/SWBT PPIG task force that such outages are extensive and exceed the Commission's "minimally acceptable" performance level.

A. Service Outages Caused By SWBT's Premature and Defective Loop Cuts Are Not Captured By Measure 114.1

12. In its evaluation, the TPUC explained that late in its review of SWBT's proposed Section 271 application, it determined that SWBT's existing hot cut performance measures -- i.e., measure 114 (covering premature loop cuts) and measure 115 (covering delayed cut starts) -- failed to fully capture SWBT-caused service outages occurring during a loop cutover. See TPUC Eval. at 57. According to the TPUC, SWBT's measure 114.1 was designed to fill that void:

> "As more CLECs entered the market and gained commercial experience, they expressed concerns over preventing extended outages during the conversion process. The T2A as approved on October 13, 1999, did not contain a performance measure to capture outages. In order to address that issue, the Texas Commission established a new performance measure, PM-114.1, *Loop Disconnect/Cross Connect Interval*, in December 1999 to measure the entire provisioning interval for coordinated hot cuts."

13. Measure 114.1, however, which was adopted without CLEC comment on the day that SWBT's proposed Section 271 application was approved, fails to accomplish that purported goal.[4] Rather, measure 114.1 only addresses the loop cutover interval -- and thus fails to capture service outages caused by premature loop cuts and by defective loop cuts.[5]

14. The scope of measure 114.1 is plain on its face. The business rules governing measure 114.1 -- which, through today, apply only to CHC hot cuts -- state that the measure governs the "time from the start of the conversion to the cross connect completion time." More specifically, the business rules provide that the "clock starts when the CLEC calls the SWBT LOC to start the conversion and ends when the SWBT technician completes the cross connect to the CLEC facilities."[6]

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[4] As the record reflects, the TPUC approved measure 114.1 at its Open Meeting on December 16, 1999, without public comment or participation by CLECs. See Dec. 16, 1999 TPUC Open Mtg. Tr. at 20 [TPUC Eval., App. Vol. 2, Tab 4]. Although the TPUC suggests in its evaluation that the need for a cutover interval had only recently been identified, the record shows that CLECs had consistently sought such a measure since at least 1998. See DeYoung Decl. ¶ 128 & n.88. Moreover, far from proposing a prolonged 2 hour measure (such as SWBT's measure 114.1 provides), CLECs sought a 1 hour cutover interval measure for CHC hot cuts similar to the ones adopted in California and in the SBC/Ameritech merger conditions. Id. SWBT, however, had consistently opposed CLECs' requested cutover measure (id.), which prompted Chairman Wood to observe that there was a "hole" in SWBT's proposed application. Nov. 4, 1999 TPUC Open Mtg. Tr. at 122 [id., Attach. 23]. Nevertheless, SWBT delayed until December 14 -- the very eve of the TPUC's approval of SWBT's proposed Section 271 application -- to propose its measure 114.1 and present its unverified sampling of cutover interval performance data, thereby denying CLECs (with the TPUC's tacit approval) an opportunity to comment on SWBT's submission.

[5] Notably, in addition to an appropriate cutover interval measure, AT&T had also sought, since early September 1999, the implementation of a measure to capture service outages due to SWBT's defective cuts. See Comments of AT&T of the Southwest, Inc. on Texas Performance Measures Business Rules Version 1.6, dated Sept. 14, 1999, filed in TPUC Project No. 16251, at attached matrix pages 29-30 [Appendix C to SWBT's Application ("SWBT App. C") at Tab 1790]. SWBT, however, consistently opposed such measures. See, e.g., Letter dated Sept. 17, 1999 from SWBT's Mr. Horn to TPUC, filed in TPUC Project No. 16251, attachment at 22 [id. at Tab 1803].

[6] See Business Rules, measure 114.1, included in SWBT's T2A amendments, Attach. 17,

15. With respect to FDT hot cuts, although SWBT has promised (as discussed further below) to report its FDT hot cut performance under measure 114.1 beginning in March 2000, it has yet to tailor the existing business rules to the FDT process. Such revisions are necessary because, unlike the CHC process, the FDT process does not require the CLEC to call SWBT to authorize the start of the cutover; instead, SWBT is supposed to commence the loop cutover, without prior coordination with the CLEC, at the confirmed date and time for the start of the hot cut (i.e., the "frame due time"). See DeYoung Decl. ¶ 42. Presumably, for FDT hot cuts, SWBT will provide that the "clock starts" for measure 114.1 at the frame due time and continues to run, like the existing business rules provide, until SWBT's frame technician calls the LOC to notify it that the loop cutover is complete.

16. Based on the definition of the cutover interval set forth (or for FDT hot cuts, presumably to be set forth) in the business rules, it is clear that measure 114.1 only captures some, but by no means all, unexpected services outages occurring during the loop conversion.[7] First, measure 114.1 does not appear to capture customer service

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filed Jan. 7, 2000 in TPUC Project No. 16251 [SWBT App. C at Tab 2034]. The sample CHC cutover interval data for August through October that SWBT presented in its Application was supposedly prepared consistent with these rules. As Mr. Dysart explained, the cutover interval for the sample data "was computed based on the time the CLEC called the LOC to start the conversion and the time the Central Office technician called to notify the LOC that the work was complete." Dysart Aff. ¶ 654 [Affidavit of William R. Dysart, ("Dysart Aff."), attached as Appendix A-5 to SWBT's Section 271 Application, at Tab 1]. Similarly, the cutover interval data SWBT presents in its ex parte submission was supposedly computed consistent with the business rules governing measure 114.1. Hot Cut Ex Parte at 1.

[7] Even with respect to those outages which measure 114.1 is designed to address -- i.e., outages occurring during the cutover interval beginning with the start of the loop cut and ending with the completion of the loop cut -- defects in the business rules prevent measure 114.1 from adequately capturing the full extent of such outages. As discussed in my prior Declaration, because the business rules for CHC hot cuts prematurely terminate the cutover interval before the LOC notifies the CLEC that the cutover is completed -- which is a necessary step before the

outages due to SWBT's premature loop cuts -- i.e., for CHC hot cuts, loop cuts begun by SWBT before it receives authorization from the CLEC to commence the cut; and for FDT hot cuts, loop cuts begun by SWBT before the frame due time.[8] Second, measure 114.1 does not capture service outages due to SWBT's defective loop cuts that are first identified after the loop cutover is completed but before the loop cutover is accepted by the CLEC.[9] Nor does any other performance measure. Measure 114.1 plainly does not capture such outages because the business rules provide that the cutover interval ends when SWBT's frame technician determines the cutover is completed and so informs the LOC. Thus, on a CHC hot cut, if the CLEC -- after receiving notice from SWBT that the

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CLEC can activate the NPAC and place its customer back in service -- measure 114.1 ignores the additional time required to complete the CHC loop cutover (and the additional delay a CLEC's customer experiences) and thus overstates SWBT's cutover performance. Moreover, measure 114.1's use of a 2 hour cutover interval to assess SWBT's performance is unwarranted not only as a technical matter, but also because it will impede CLECs' ability to compete. DeYoung Decl. ¶¶ 145-56. Even if these defects in the business rules were revised in a manner AT&T believes appropriate, however, measure 114.1 would still not capture service outages caused by premature and defective loop cuts, for the reasons discussed above.

[8] Because the business rules for measure 114.1 do not explicitly specify how premature loop cuts are addressed and because no one outside of SWBT has examined the raw data underlying its summary cutover statistics, it is impossible to definitively conclude that measure 114.1 excludes premature loop cuts. Nevertheless, it is likely that such premature loop cuts are excluded because measure 114.1 begins the cutover interval when SWBT receives authorization to start a CHC loop cut (or, for an FDT order, presumably at the frame due time) and thus there is no basis under measure 114.1 to calculate a cutover interval begun prematurely.

Of course, if SWBT is including premature loop cuts within measure 114.1, it is most likely not counting those cuts as "misses." For example, if a loop cut was prematurely begun 60 minutes before the authorized (or scheduled) start time and completed within 60 minutes, SWBT probably would count the loop cut as "timely" under measure 114.1 -- even though the customer had unexpectedly lost service for 60 minutes.

[9] SWBT's defective loop cuts physically occur, of course, during the cutover interval. However, they are not necessarily identified by SWBT during the cutover. Presumably, if they are discovered during the cutover, SWBT's frame technician will address them -- which may result in a prolonged cutover interval. However, as discussed more fully below, defective loop cuts are often not identified by SWBT during the loop cutover and become apparent only after the cutover is completed when, for example, the CLEC's testing of the customer's loop reveals that the customer is out of service.

cutover is complete and after activating the NPAC to port the customer's number -- discovers (for example through testing the loop) that the customer is out of service, the service outage will not be caught by measure 114.1.[10]

17. Similarly, on an FDT order, if a CLEC learns after the cutover is completed[11] (for example, upon testing of the customer's loop) that the customer remains out of service due to a defective loop cut, the service outage will not be captured by measure 114.1.

18. Not surprisingly, the failure of a cutover interval measure to capture post-cutover service outages due to defective cuts is not unique to SWBT's measure 114.1. In Bell Atlantic, the Commission determined that Bell Atlantic's cutover interval measure also failed to capture such post-cutover service outages and that the omission served to overstate the quality of Bell Atlantic's reported cutover performance. Bell Atlantic ¶ 301 n. 959 (finding that defective loop cuts result in service outages and

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[10] For example, if SWBT completed the loop cutover on a CHC hot cut in less than 2 hour but then, after declaring the cutover completed, the CLEC's loop testing determined that the customer was out of service due to a defective cut, the order would be counted as timely under measure 114.1 (assuming its 2 hour grace period applied), despite the outage suffered by the customer. Conversely, if SWBT required 3 hours to complete the loop cutover on a CHC hot cut, but then the CLEC's testing determined that the loop cut was defective, the hot cut would be deemed untimely by measure 114.1, but the outage suffered by the customer after the cutover was completed would still go undetected.

[11] Unlike the CHC process which requires SWBT to notify the CLEC that the cutover has been completed (so that the CLEC can activate the NPAC), the FDT process does not require such notification (since the CLEC, under the FDT process, is required to activate the NPAC at the frame due time). Accordingly, on an FDT order, the CLEC cannot always be certain that the cutover has been completed when testing the loop after the expiration of the 30 minute cutover window. Indeed, in AT&T's experience (as confirmed by the PPIG task force), it has often been the case that when loop testing showed a lack of service, calls to SWBT revealed that the cutover has not yet been started. In other instances, however, SWBT has reported that the cutover was complete and further investigation revealed a defective loop cut as the cause of the outage. Regardless of when the CLEC learns of the cutover completion, however, SWBT will plainly know when it completed the cutover and accordingly, outages identified after SWBT has deemed the cutover completed will not be caught by measure 114.1.

that, if a loop was timely, but defectively cutover, "the hot cut would be scored as having been on-time, although the customer suffered a disruption of service").

19. Not only are service outages due to defective loop cuts not caught by measure 114.1, but they are also not captured by any other existing performance measure. Thus, SWBT has explicitly acknowledged that service outages occurring prior to a CLEC's acceptance of a loop cutover are excluded from SWBT's trouble report performance measure for new UNE loop installations (i.e., measure 59, trouble reports within 30 days of installation).[12] Accordingly, unless a CLEC accepts a loop cutover it knows to be defective -- a decision not only unlikely but operationally inappropriate[13] -- such post-cutover outages will not be captured by measure 59 or indeed, any other measure.[14]

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[12] See Statement of SWBT's Mr. Dysart, TPUC Docket No. 21000, Oct. 1, 1999 Workshop Tr. at 17, 33, 35 [DeYoung Decl., Attach. 9]; Business Rules, measure 59 (measure "excludes trouble report received on due date before service order completion")[Dysart Aff., Attach. A]; TPUC Staff Memorandum, Business Rules for Performance Measures, dated September 23, 1999, filed in TPUC Project No. 16251 at matrix p. 32, 45 (measures 35 and 59 exclude reported trouble where service order completion notice not yet created)[SWBT App. C at Tab 1808].

[13] Because SWBT's provisioning and trouble repair personnel are divided into two separate organizations, it is far more efficient for a CLEC to continue working with SWBT's provisioning personnel to cure the defective cutover and place its customer in service than to accept the loop cutover and have to wait for SWBT's trouble repair department to address the problem.

[14] The only performance measures that might address hot cut orders experiencing post-cutover service outages are various installation measures -- e.g., measures 55, 56, 58, 60-63. As I have previously discussed, however, because those measures focus on whether SWBT installed an order by the confirmed due date, they can mask discriminatory performance since a CLEC's hot cut order may suffer a post-cutover service outage lasting the entire day but still not be reported under the installation measure if the problem is resolved (and the cutover accepted by the CLEC) by the close of the due date. See DeYoung Decl. ¶ 247.

20. In sum, there is a "gap" in SWBT's performance measures which permits service outages caused by SWBT's defective loop cuts to go unreported,[15] thereby allowing SWBT to overstate the quality of its hot cut performance.[16] Moreover, as discussed below, both SWBT (in its Application and ex parte submission) and the TPUC (in its evaluation) have ignored that omission -- despite undisputed evidence presented by the AT&T/SWBT PPIG task force showing that the number of service outages on CHC and FDT orders caused by SWBT's provisioning errors far exceeds the "minimally acceptable" performance level set by the Commission in Bell Atlantic.

B. Both SWBT and the TPUC Ignore Undisputed Evidence of SWBT Caused Service Outages On CHC and FDT Hot Cuts

1. SWBT and the TPUC ignore service outages on CHC hot cuts

21. In its Application, SWBT's discussion of its CHC hot cut performance focused on the period August through October and SWBT limited its analysis of service outages to (a) its reported performance under measure 114 (premature loop cuts) and (b) its "on-time" performance of the loop cutover, based on a selected

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[15] Notably, unlike Bell Atlantic, SWBT has not even proposed -- and indeed, as discussed above, has resisted -- adopting a performance measure which would capture service outages due to defective loop cuts, although its affiliate BOC, Pacific Bell, has adopted just such a measure. See Bell Atlantic ¶ 303 n.965; New York State Carrier-to-Carrier Guidelines Performance Standards and Reports, dated Nov. 15, 1999, filed in NY PSC Case 97-C-0139 at PR-9-04 (adopting performance measure for percentage of defective hot cuts, defined as lines "where the CLEC identifies a problem on the line and notifies BA before the order is completed") [Attachment 25 to DeYoung Decl.]; California OSS OII Performance Measurements, Joint Partial Settlement Agreement, Appendix B, dated Sept. 7, 1999, Performance Measure 15 (measuring "percent of troubles that are reported ... during the provisioning process"), attached hereto as Attachment 1.

[16] In contrast to outages caused by defective cuts, SWBT has adopted a performance measure (measure 114) designed to capture premature cuts. However, because SWBT's reported performance data for measure 114 throughout the period August to November (and perhaps today) is unreliable (see DeYoung Decl. ¶¶ 209-40), SWBT has effectively failed to disclose the extent of service outages caused by either premature or defective cuts.

sampling of CHC hot cuts which supposedly were measured consistent with measure 114.1.[17] SWBT Brief at 98-99. The TPUC similarly restricted its analysis to the same evidence presented by SWBT. TPUC Eval. at 58-59.

22. As demonstrated above, however, measure 114.1 does not capture outages resulting from premature or defective loop cuts. Those are precisely the outages captured by the PPIG task force's analysis of AT&T's CHC orders. Yet, both SWBT and the TPUC ignored the evidence of service outages captured by the PPIG task force.[18]

23. As I previously showed, the PPIG task force found that the level of service outages caused by SWBT's premature and defective loop cuts far exceeded the "minimally acceptable" performance level set by the Commission.[19] DeYoung Decl. ¶¶

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[17] Although SWBT also presented evidence concerning its performance under measure 115 (delayed cuts starts), that data, as I previously showed, is unreliable. DeYoung Decl. ¶¶ 131-39, 209-40. Moreover, as discussed below, a delayed cut start on a CHC hot cut will not result in a service outage.

[18] Although, as noted above, both SWBT and the TPUC examined service outages due to SWBT's premature loop cuts, their analysis relied exclusively on SWBT's reported performance data for measure 114, which, as I previously showed, is entirely untrustworthy. See DeYoung Decl. ¶¶ 209-40. Moreover, wholly apart from the fact that measure 114.1 fails to capture service outages due to premature and defective loop cuts, the reliance by SWBT and the TPUC on SWBT's cutover performance statistics (supposedly compiled consistent with measure 114.1) was unreasonable because (a) measure 114.1's 2 hour cutover interval is inappropriate; (b) measure 114.1 prematurely terminates the loop cutover interval and thereby overstates SWBT's performance; and (c) SWBT's statistical analysis lacked integrity and thus its reported results are unreliable. Id. ¶¶ 145-58.

[19] As I discussed in my prior Declaration (¶¶ 85-86), the outages on CHC orders identified and reported by the PPIG task force were limited to those caused by premature loop cuts (where SWBT cut the loop prior to the authorized start time) and defective loop cuts (where SWBT's provisioning error caused an outage that was identified after SWBT had notified AT&T that the loop cutover was completed and after AT&T had activated the NPAC to port the customer's number but before AT&T had accepted the loop cutover). Thus, the service outages examined by the PPIG task force are separate from -- and not captured by -- SWBT's measures 114.1, for all the reasons discussed above.

83-90. Moreover, as reflected in the table below, the overwhelming majority of service outages were due to defective loop cuts.[20]

SWBT-Caused Service Outages (CHC)

	Order Volume	% Service Outages (premature and defective loop cuts)	% Service Outages (defective loop cuts only)
August	XXXX	5.1%	4.4%
September	XXXX	11.4%	10.2%
October	XXXX	9.3%	8.4%

24. As these reconciled results reflect, the level of service outages due to SWBT's defective loop cuts are unacceptably high. Moreover, as I previously discussed, the PPIG task force found that the defective loop cuts arise for a variety of reasons -- including wiring errors, malfunctioning equipment and erroneous CFA assignments -- that reflect systemic errors in SWBT's hot cut processes, including SWBT's failure to follow the agreed-upon pre-installation test procedures. Id. ¶¶ 105-12. The nature of these systemic errors strongly suggests that SWBT's defective loop cuts have affected not only AT&T, but all other CLECs' hot cut orders as well. Indeed, other CLECs have reported the same types of SWBT-caused provisioning errors on their hot cuts as the PPIG task force found on AT&T's orders. Id. As a result, the failure of

[20] The figures in the table were taken directly from the reconciled results of the PPIG task force as reported in Attachment 2 to the Joint Affidavit of Mark Van De Water and Robert J. Royer, sworn to Dec. 16, 1999, filed in TPUC Project No. 16251 [Attachment 8 to DeYoung Decl.]. I have distinguished outages due to premature and defective loop cuts based on the "root cause" categories identified in that Attachment. Id. (identifying outages due to premature loop cuts under categories 3 and 4 and outages due to defective provisioning under categories 1-2, 5-24). As discussed in my prior Declaration, AT&T believes that the reconciled PPIG task force results understate, for a variety of reasons, the extent of outages caused by SWBT's poor provisioning. DeYoung Decl. ¶¶ 88-89.

SWBT and the TPUC to address the outages identified by the PPIG task force -- and to consider similar outages suffered by other CLECs' customers -- renders their conclusions about SWBT's hot cut performance meaningless.

25. Moreover, in its recent ex parte submission, SWBT has continued to ignore service outages caused by its defective loop cuts, rendering its December data incomplete -- and thus inconclusive. Although SWBT notes in its ex parte submission that service outages due to SWBT's premature CHC loop cuts are captured by its measure 114 (which would be true if SWBT's data was accurate), SWBT's ex parte submission contains no discussion of outages caused by defective loop cuts. Rather, SWBT simply provides data (supposedly assembled consistent with measure 114.1) concerning its ability to timely complete loop cutovers -- data that, for the reasons discussed above, does not reflect service outages due to defective cutovers. The fact that SWBT has not presented any service outage data means that its ex parte submission -- like its Application -- provides a wholly insufficient evidentiary basis to assess the quality of its CHC hot cut performance.[21]

2. SWBT and the TPUC ignore service outages on FDT hot cuts

26. As I showed in my prior Declaration, SWBT failed to submit, in its Application, any commercial evidence concerning its ability to perform FDT hot cuts -- and thus simply ignored service outages caused by its premature and defective loop cuts.

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[21] Notably, unlike the August through October period at issue in SWBT's Application, the PPIG task force has not yet determined for AT&T's November and December CHC hot cut orders the percentage of service outages caused by SWBT's premature and defective loop cuts. The primary reason for the delay is that the task force members have been unable to jointly reconcile the total number of CHC hot cut orders and lines completed by SWBT for AT&T in each month. As discussed below, SWBT's inability to generate an accurate order and line count for completed CHC hot cuts is one of several issues casting doubt on the accuracy of SWBT's

DeYoung Decl. ¶¶ 53-55. Similarly, the TPUC's evaluation barely mentions the FDT process and offers no evidence concerning SWBT's commercial performance. TPUC Eval. at 59.

27. SWBT's failure to present any evidence concerning its ability to perform FDT hot cuts in an accurate, reliable and timely manner is, as the DOJ has found, "cause for concern" -- particularly given SWBT's admission that the FDT process offers the only potentially viable means for switch-based CLECs to obtain commercial access to the small business and residential markets and because, as shown by SWBT's ex parte submission, CLECs are beginning to employ the FDT process more often than the CHC process. DOJ Eval. at 34.

28. The "concern" expressed by the DOJ is equally applicable to the December FDT data submitted by SWBT in its ex parte filing. Thus, while SWBT's December data is notable since it represents the first time SWBT has disclosed any performance data on its FDT process, the analytical value of the data is blunted by the fact that SWBT has entirely ignored service outages caused by its provisioning errors.

29. First, although SWBT promises in its ex parte submission to begin reporting in March 2000 FDT hot cuts under measure 114 (premature loop cuts), SWBT fails to reveal the number of December FDT hot cuts that suffered service outages due to premature loop cuts.[22] Second, SWBT also fails to disclose the number of December

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internal December data.

[22] Notably, a number of CLECs commenting on SWBT's Application reported that their FDT hot cuts have been plagued by SWBT's premature loop cuts -- premature cuts that have gone unreported in SWBT's performance reports. See Competitive Telecommunications Association Comments ("CompTel Comments") at 15-17; Affidavit of Mitch Elliott on behalf of NTS Communications ¶¶ 17-22 [CompTel Comments Ex. C]; Affidavit of Jere Thompson on behalf of CapRock Communications ¶¶ 18-21 [CompTel Comments Ex. B].

FDT hot cuts that experienced service outages due to SWBT's defective loop cuts. Thus, although SWBT presents data (supposedly compiled pursuant to measure 114.1) concerning its FDT "on-time" loop cutover performance, that data does not capture -- for the reasons discussed above -- service outages caused by SWBT's premature and defective loop cuts. As discussed in my initial Declaration, the PPIG task force found that on AT&T's December FDT orders, SWBT-caused provisioning errors resulted in 33.3% of AT&T's customers unexpectedly losing service for prolonged periods. DeYoung Decl. ¶¶ 65-70. Twenty-five percent of those outages (or 8.3% of AT&T's FDT orders) were caused by SWBT's premature and defective loop cuts. Id. ¶ 70 n.51.[23]

30. Furthermore, it is plain that SWBT's poor provisioning of FDT hot cuts continues to cause CLECs' customers to suffer unexpected service outages. For example, due to a programming defect in a software upgrade SWBT installed on its

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[23] For the sake of clarity, it is important to note that the PPIG task force's analysis of SWBT-caused provisioning errors on AT&T's orders employed a slightly different approach for FDT and CHC orders. For FDT orders, the PPIG task force determined that an unexpected outage occurred (a) due to premature cuts; and (b) whenever a loop cutover had not been successfully completed within the 30 minute cutover window -- regardless of whether that was because SWBT had failed to begin the cutover on time (which, under SWBT's December cutover interval data, I assume would be caught as a loop cutover not completed within 30 minutes) or because the cutover proved defective upon AT&T's loop testing after SWBT had completed the cutover (an outage which would not be captured by SWBT's December cutover data, as discussed above). The PPIG task force employed that approach because, as discussed further below, the FDT process places a customer out of service immediately at the start of the cutover. Accordingly, whenever a FDT cutover is not completed within 30 minutes, the customer experiences an unexpected service outage -- whatever the cause of that outage may be.

In contrast, as discussed above, on CHC hot cuts, the PPIG task force only defined unexpected outages as occurring due to (a) premature cuts; and (b) defective cuts, where the outage was first identified after SWBT had declared the cutover completed and AT&T had activated the NPAC to port the customer's number and before AT&T had accepted the loop cutover. The PPIG task force's evaluation of CHC loop cuts did not consider (or determine outages based upon) the amount of time which passed between SWBT's start of the loop cut and its notification to AT&T that the cutover had been completed. The PPIG task force used that approach because on a CHC hot cut, as discussed further below, a customer will not necessarily experience an unexpected service outage simply because the cutover was not completed on time.

switches in early February, SWBT's RCMAC systems executed the "disconnect" function on AT&T's (and other CLECs') FDT hot cut orders days in advance of the confirmed frame due time. (The specific programming error is discussed in my accompanying joint reply Declaration with Nancy Dalton.) As a result, SWBT's systems prematurely stripped the customers' translations from SWBT's switches, resulting in the customers immediately losing service.

31. AT&T first learned of these premature outages not from SWBT, but from its irate future customers who blamed AT&T for the unexpected service outages. AT&T immediately alerted SWBT, who, after several days, was able to affect a temporary solution to the problem.

32. Despite nearly two weeks of investigation, SWBT still has been unable to confirm the precise number of AT&T's future customers who prematurely lost service due to SWBT's software error (and AT&T cannot independently determine that number because some future customers may have called SWBT, rather than AT&T, to complain of the service outage). At this point, however, it appears that at least 25 of AT&T's future customers (and an unknown number of other CLECs' customers) suffered premature outages on their FDT orders. Moreover, although the duration of those outages appears to have varied, some were extensive.

33. For example, attached hereto as Attachment 2 is the Declaration of XXXXXXXXXXXXX, the owner of XXXXXXXXXXXXX in Dallas, whose phone service was prematurely disconnected due to SWBT's software error, resulting in the loss of service for most of the business day. XXXXXXX reports that, due to the loss of service, not only was he unable to service his customers' cars (because his time was

monopolized trying to restore phone service), but his customers could not contact him. Indeed, according to XXXXXXXXX, his customers received a disconnect message when calling his business, leading some to believe that XXXXXX "had gone out of business", which XXXXXXXX observes "is not the impression I want my customers to form when they try to contact me." Attachment 2 at ¶ 6.

34. XXXXXX's unfortunate experience illustrates the serious, adverse impact that even relatively brief periods of service outage have on AT&T's small business customers. Indeed, because of the continuing service outages that its customers have experienced on FDT orders, AT&T made the business decision in early February to cease ordering hot cuts using the FDT process. The fact that SWBT's provisioning errors have compelled AT&T to abandon the FDT process demonstrates that SWBT's FDT process is not commercially viable.

III. SWBT'S UNVERIFIED DECEMBER DATA CONFIRMS THAT SWBT CANNOT PROVISION FDT AND CHC HOT CUTS IN A COMMERCIALLY REASONABLE MANNER

35. While ignoring service outages caused by premature and defective loop cuts, SWBT presents, in its ex parte filing, selected, internal December data concerning its provisioning of CHC hot cuts and, for the first time, FDT hot cuts. As discussed below, even assuming its data is accurate (which is doubtful), SWBT's December data confirms the conclusion I reached in my prior Declaration that SWBT cannot provision hot cuts in a commercially reasonable manner.

A. SWBT's Loop Cutover Data Shows Unacceptable Performance

36. In its ex parte submission, SWBT reports performance data for its cutover of FDT and CHC loops, which was supposedly collected pursuant to the business rules governing measure 114.1. Hot Cut Ex Parte at 1-2. SWBT's December data

(assuming it is reliable) confirms that SWBT cannot satisfy the "minimally acceptable" level of performance required by the Commission.

1. SWBT's December data shows that its FDT process causes unacceptably high levels of customer service outage

37. SWBT's cutover interval data shows that SWBT completed only 90.2% of FDT loop cutovers within the 30 minute cutover window -- which means that 9.8% of CLECs' loops (and an unreported number of CLECs' customers[24]) remained out of service beyond 30 minutes.[25] Moreover, according to SWBT, 6.2% of all FDT loops remained without service for over an hour and 4.9% remained without service for over 2 hours. See Hot Cut Ex Parte at 2.[26]

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[24] SWBT's decision to disclose only the number of loop cutovers -- rather than the number of FDT orders completed -- limits any meaningful analysis of the competitive significance of SWBT's untimely cutover performance, as the DOJ has noted. See DOJ Eval. at 32 n.85. As I have previously discussed, customers focus on whether their entire order -- rather than simply a portion of it -- has been completed in the time period promised. Accordingly, if only a portion of their requested lines are cutover on time, customers will tend to view the entire order as being late -- and blame the CLEC for the late delivery. See DeYoung Decl. ¶¶ 90 n.63, 144 n.95. Although SWBT's own data shows that it failed to perform at the "minimally acceptable" level required by the Commission, the adverse impact of SWBT's performance on CLECs may be far more significant that SWBT's data already reveals.

[25] As noted above, SWBT does not identify the point when it began to measure the start of the loop cutover on an FDT order. My discussion assumes that SWBT measured the cutover period as beginning at the scheduled frame due time. If SWBT employed some other starting point (such as when its frame technician actually began work on the loop cut, whether before or after the frame due time), then the extent of CLECs' customers' service outage could be significantly greater than SWBT has represented.

[26] While SWBT has reported its cutover performance in two separate tables -- one which supposedly includes "CLEC-Caused Misses" and one which excludes such misses -- the discussion in the text employs the figures from the former table because SWBT's own business rules for measure 114.1 do not authorize any "exclusion" for supposed CLEC caused misses. See Business Rules, measure 114.1, included in SWBT's T2A amendments, Attach. 17, filed Jan. 7, 2000 in TPUC Project No. 16251 [SWBT App. C at Tab 2034]. Moreover, it is apparent that the exclusions SWBT seeks to apply are entirely inappropriate. Thus, based on the definition of the cutover interval in measure 114.1's business rules, conduct by a CLEC -- such as a late authorization call or the cancellation of a cutover -- could not cause a "miss" under SWBT's measure, because the cutover interval does not start until the CLEC authorizes the cut. Similarly, while SWBT seeks to exclude "misses" due to a "wiring/equipment problem", those problems

38. SWBT's 9.8% performance figure thus far exceeds the Commission's "minimally acceptable" performance level of less than 5% service outages. See Bell Atlantic ¶ 309. Moreover, SWBT should not be heard to argue that its FDT performance should be governed by the Commission's 90% "on-time" loop cutover performance level, rather than its less than 5% outage rate benchmark.[27] As discussed below, such an argument confuses the nature of a CHC and an FDT hot cut and the different risk of service outage each process poses.

39. In a CHC hot cut, SWBT is not supposed to begin the loop cutover until it receives authorization from the CLEC and the CLEC should not activate the NPAC (which ports the customer's phone number) until SWBT provides notice that the cutover has been completed. See DeYoung Decl. ¶ 40. Although the CLEC's customer must be prepared to be without service for 1 hour (the prescribed length of the cutover window), the customer will not lose service until SWBT physically begins the loop cutover process. For that reason, a late CHC cutover (although inconveniencing a customer who expected service to be delivered when promised) may not necessarily cause a customer to suffer an unexpected, prolonged outage.[28] For example, if SWBT delays starting the loop cutover for 1 hour and then completes it within the next 1/2 hour

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should have previously been identified had SWBT properly performed the agreed-upon pre-installation test procedures and thus it would be inappropriate to exclude a prolonged cutover simply because SWBT failed to perform its obligations.

[27] I address below any claim by SWBT that its FDT process should be governed by a 2 hour -- rather than a 30 minute -- cutover window.

[28] Of course, depending on the reason for the prolonged cutover, a late CHC cutover can cause an extended service outage. For example, if SWBT, after beginning the loop cutover, experiences provisioning problems, the customer will be out of service until the problem is resolved. In addition, if SWBT timely completes the loop cutover but fails to promptly notify the CLEC, the CLEC will not know to activate the NPAC and thus the customer will be unable to receive calls until the CLEC learns of the completed cutover and ports the customer's number.

(which means the cutover was 1/2 hour late), the customer will remain in service for that entire first hour.

40. The same is not true for an FDT order. On an FDT order, SWBT is supposed to begin the loop cutover at the confirmed frame due time while the CLEC simultaneously (although without prior coordination) is supposed to activate the NPAC -- either one of which actions will take the customer out of service. Id. ¶¶ 42-43. Accordingly, even if one party (such as SWBT) delays performing its task, the other party will likely proceed on schedule and, as a result, the customer will lose service at the scheduled start time for the FDT cut and remain out of service until both the loop cutover is successfully completed and the customer's number is ported.

41. The fact that the FDT process results in a customer immediately losing service at the cutover start time means that a late FDT cutover -- i.e., a cutover lasting longer than 30 minutes -- represents one type of unexpected service outage (although, as discussed above, outages can be caused by premature and defective loop cuts as well). Thus, for example, if SWBT (perhaps due to a delay in starting the cutover) completes an FDT order 1 hour late -- i.e., 1 and 1/2 hours after the scheduled frame due time -- the customer has been out of service for 1 hour longer than expected.

42. Because a late FDT cutover is the same as an unexpected service outage, it is readily apparent that the Commission's less than 5% service outage level is the appropriate benchmark to apply to FDT orders. In Bell Atlantic, the Commission's primary concern with the hot cut process was the risk that it "will result in an end-user customer's loss of service for more than a brief period." Bell Atlantic ¶ 309. The Commission approved a 90% "on-time" cutover performance level for Bell Atlantic's hot

cut process -- which was essentially similar to SWBT's CHC process[29] -- in recognition, perhaps, of the fact that late cutovers did not necessarily result in prolonged, unexpected service outages. In contrast, for hot cuts that plainly did result in such outages, the Commission clearly found that a hot cut outage rate of less than 5% was the "minimally acceptable" level of performance.

43. The Commission's holding in Bell Atlantic plainly dictates that the same outage rate should apply to FDT hot cuts not completed within the 30 minute cutover window. Indeed, as the DOJ found, service outages on FDT hot cuts "are immediately and significantly impacting to the typical, small business end-user customer, who loses phone service during the business day." DOJ Eval. at 35. Moreover, given the competitive significance of the FDT process to CLECs' ability to access the small business and residential markets, it is essential that the number of customers suffering unexpected service outages be held to an absolute minimum so that CLECs are afforded a meaningful opportunity to compete.

44. In sum, based on the standard set by the Commission, it is plain from SWBT's own data that its December FDT provisioning -- which reflects an outage rate of at least 9.8% -- fails to provide a "minimally acceptable" level of performance.

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[29] See Bell Atlantic UNE Hot Cut with LNP Process flow chart at 4-5 (requiring the CLEC to call Bell Atlantic prior to the scheduled cut time to authorize the cutover and requiring Bell Atlantic, after the cutover is completed, to notify the CLEC so that the CLEC can activate the NPAC)[Attachment 7 to the Affidavit of Jack Meek on Behalf of AT&T Corp., attached as Exhibit J to the Comments of AT&T in Opposition to Bell Atlantic's Section 271 Application for New York, filed Oct. 19, 1999 in CC Docket No. 99-295].

2. SWBT's December data confirms that SWBT cannot complete CHC loop cutovers in a timely manner

45. In contrast to an FDT hot cut, loop cutovers on a CHC hot cut are governed by the Commission's 90% "on-time" performance standard for the reasons addressed above. SWBT's December data confirms that SWBT has once again failed to satisfy the Commission's "minimally acceptable" performance standard -- just as its own data showed that it failed to satisfy the Commission's standard in August and October.[30] See DeYoung Decl. ¶¶ 140-41.

46. Indeed, SWBT's December data is notable not only for the poor performance it reflects, but also for the fact that, for the first time, SWBT's analysis is based (supposedly) on all the CHC hot cuts it performed, rather than on simply a sampling of those hot cuts (as it provided in its Application). Since that perspective is illuminating, I present below SWBT's reported results for August through October as well as its December data:

[30] Notably, as with its FDT cutover data, SWBT presents its CHC cutover data in terms of loops, rather than orders, and thereby potentially understates the competitive impact of its untimely cutover performance.

Percentage of CHC Hot Cuts Timely Completed[31]

	< 60 min.	Total Cuts Performed	Total Cuts Examined
August	82%	3,111	456
September	92%	4,134	206
October	87%	2,980	398
December	82.2%	1,284	1,284

47. One obvious conclusion to be drawn from SWBT's December data is that it has once again failed to satisfy the Commission's "minimally acceptable" 90% "on-time" cutover performance level[32] -- despite the fact that SWBT's measure prematurely terminates the cutover window and thus ignores additional delay that the CLEC and its customers potentially suffer.[33] Moreover, if SWBT's performance statistics from its sampling of August through October CHC hot cuts are to be believed, its December performance materially declined in the face of substantially falling volumes.

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[31] For the source of the data supplied in the above chart, see DeYoung Decl. ¶ 140 & n.94 and SWBT's Hot Cut Ex Parte at 2. With respect to SWBT's December data, I have used the figures from SWBT's table that includes supposed CLEC-caused misses, for the reasons discussed above.

[32] Although SWBT may contend that its performance should be assessed against a 2 hour cutover interval, I have previously shown that SWBT's proposed 2 hour interval is inappropriate and that a 1 hour cutover interval should apply. DeYoung Decl. ¶¶ 145-54.

[33] As previously discussed, SWBT's measure 114.1 terminates the loop cutover when its frame technician notifies the LOC that the cutover is completed and thus excludes the last step in the CHC cutover process -- i.e., the LOC's notification of the CLEC that the cutover is completed. The measure thus ignores the potential delay in the CLEC's ability to activate the NPAC and place its customer back in service. DeYoung Decl. ¶¶ 155-56. See also DOJ Eval. at 32 n.84 (emphasizing that SWBT's measure 114.1 prematurely terminates the loop cutover interval on a CHC hot cut before the cutover process is completed).

48. However, an equally plausible explanation for the difference between SWBT's August through October data and its December data is that the figures SWBT presented in its Application were based on its extrapolation of performance results from a non-randomized sample of hot cuts -- resulting in a conclusion that had no statistical integrity and was wholly untrustworthy, as I previously suggested. DeYoung Decl. ¶¶ 157-58.

49. Regardless of whether the Commission therefore chooses to reject the data SWBT supplied in its Application or to consider it, the fact remains that SWBT has not shown -- either in its Application or its ex parte submission -- that it can perform loop cutovers on CHC hot cuts at the "minimally acceptable" level required by the Commission.

B. SWBT's Trouble Report Data Shows Unacceptably Poor Loop Provisioning

50. In Bell Atlantic, the Commission held that fewer than 2% trouble reports on newly installed hot cuts constituted a "minimally acceptable" level of performance. Bell Atlantic ¶ 309. SWBT's reported December performance for its FDT and CHC hot cuts is far worse. Thus, SWBT reports (assuming that its data is accurate) that 2.88% of its FDT hot cuts and 2.18% of its CHC hot cuts completed in December experienced trouble within the first 10 days of installation. Hot Cut Ex Parte at 2.

51. Notably, SWBT suggests that, because its data reports trouble within the first 10 days of installation, it is likely that its performance satisfies the Commission's benchmark, which looked at trouble reports within the first 7 days of installation. SWBT, however, ignores the fact that the Commission set its "minimally acceptable" level of performance for trouble reports at "fewer than two percent", Bell

Atlantic ¶ 309, and that Bell Atlantic had reported that its highest trouble report rate was 1.26% -- i.e., significantly less than SWBT's December performance.[34] Id. ¶ 300 n. 956.

52. Moreover, it is important to recognize that the Commission found Bell Atlantic's trouble report rate acceptable only in combination with other evidence of adequate loop provisioning quality -- i.e., less than 5% unexpected service outages due to provisioning errors. Id. ¶¶ 302, 309. Here, as discussed above, SWBT has failed to present any data with respect to (a) on FDT orders, service outages caused by its premature or defective loop cuts and (b) on CHC orders, service outages caused by its defective loop cuts (and its reported data on premature loop cuts is questionable). Accordingly, SWBT's attempt to demonstrate compliance with the Commission's standards based upon its trouble report rate alone is insufficient.

53. Yet another flaw in SWBT's Application illustrated by its ex parte submission is the fact that SWBT's December data represents the first time it has separately disclosed trouble report rates for its FDT and CHC hot cuts. While SWBT included in its Application its reported performance under measure 59, that measure fails to separately disaggregate loops converted under the FDT and CHC processes and the reported data includes trouble reports on newly installed loops.

54. Nevertheless, measure 59 is a good indicator of the quality of SWBT's FDT and CHC hot cut provisioning, at least with respect to AT&T's orders,

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[34] The calculated manner in which SWBT has presented its data also raises strong doubts concerning the inference it seeks to draw. Thus, although well aware of the Commission's Bell Atlantic analysis, SWBT nevertheless chose to present, in its ex parte filing, data for trouble reports within 10 days of installation -- even though that data is not subject to any adopted Texas performance measure and thus SWBT had to internally develop the data specifically for its ex parte submission. The fact that SWBT intentionally chose to present a 10 day trouble report rate rather than a 7 day rate suggests that SWBT's performance at 7 days would no more satisfy the

because throughout the period August through December, AT&T has consistently ordered over XX% of its UNE loops through either FDT or CHC hot cut conversions. Moreover, although the 30 day period applicable under measure 59 is an appropriate interval to consider -- as found by both the TPUC (in approving measure 59) and the Commission[35] -- AT&T has been able to calculate (based on raw performance measure data provided by SWBT) the number of trouble reports filed within the first 7 days of installation for the months of October through December. The trouble report rate for AT&T is as follows:[36]

Commission's standard than does its 10 day trouble report rate.

[35] As the Commission has noted, trouble reports within 30 days of installation are "indicative of the quality of network components supplied by the incumbent LEC." Bell Atlantic ¶ 222 n. 711 (summarizing Performance Measurements NPRM, 13 FCC Rcd at 12854).

[36] The data in the table below for the 30 day trouble report rates and volumes is taken directly from SWBT's reported data for AT&T under measure 59 (8 db loops), which I have aggregated from SWBT's geographically disaggregated published reports; SWBT's published data for AT&T under measure 59 is attached as Attachment 19 to my initial Declaration. The 7 day trouble report rate is based on an analysis of the raw data provided to AT&T by SWBT for its measure 65 (percent of trouble reports per month). As explained in my prior Declaration, I used the raw data for measure 65 because it contained the necessary informational fields to calculate the elapsed time from installation to trouble report filing, which were missing from the raw data SWBT had provided AT&T for its measure 59 reports. DeYoung Decl. ¶ 124 n.81. My analysis of the measure 65 raw data for October and November is attached as Attachments 20 and 21 to my prior Declaration, while my analysis of the measure 65 raw data for December is attached hereto as Attachment 3.

	% Trouble Reports (30 days of installation)	% Trouble Reports (7 days of installation)	Volume of Installed Circuits
August	1.4%	data not available	XXXXX
September	4.1%	data not available	XXXXX
October	9.5%	7%	XXXXX
November	3.5%	3%	XXXXX
December	9.9%	4%	XXXXX

55. As this data shows, in the 4 months from September through December, AT&T's newly converted FDT and CHC loops have consistently experienced -- without regard to fluctuations in volume -- an unacceptably high level of trouble reports within the first 30 days of installation. Moreover, during at least the 3 months from October through December, the trouble report rate within the first 7 days of installation of AT&T's FDT and CHC loops exceeded the Commission's "minimally acceptable" level of performance. SWBT's trouble report rate for AT&T -- in combination with SWBT's December trouble report rate for all CLECs -- plainly demonstrates that SWBT cannot provision FDT and CHC hot cuts consistent with its statutory obligations.

C. SWBT's Promised FDT Performance Measures Do Not Satisfy CLECs' Competitive Requirements

56. In my prior Declaration, I showed that, through the date of its Application, SWBT had resisted adopting any performance measures concerning the loop cutover on an FDT hot cut, deferring consideration of all proposed measures until the TPUC's 6 month review in April 2000. See DeYoung Decl. ¶¶ 249, 254. In an abrupt reversal of its position, SWBT has now promised to begin reporting (starting in March

2000) performance data for FDT hot cuts under measures 114, 114.1 and 115. Hot Cut Ex Parte at 1. SWBT's promise to adopt new performance measures in the future cannot, of course, satisfy its burden of demonstrating present compliance with Section 271's competitive checklist. Moreover, SWBT's proposal with respect to measure 115 is inadequate and its use of measure 114.1 will prove competitively harmful, as discussed below.

57. SWBT's proposed measure 115 is inadequate because it only captures hot cuts where SWBT delayed (by at least 30 minutes) the start of the loop cutover. Although such delayed cut starts do cause a service outage on FDT hot cuts, they are only one of several problems that can cause prolonged customer service outages. For example, if SWBT begins a loop cutover on time, but fails to complete the cutover within 30 minutes, the customer will suffer an unexpected service outage -- but that outage will not be captured by measure 115. Similarly, if SWBT timely begins a loop cutover and completes it within 30 minutes but, upon testing, it is determined that the loop cut was defective, the customer will remain out of service -- but the outage will again not be captured by measure 115.

58. SWBT's measure 114.1 is equally unacceptable. In the first instance, it is entirely unclear how SWBT intends to apply its measure 114.1. Thus, as discussed above, the business rules for measure 114.1 were designed for CHC hot cuts and it is uncertain how SWBT will tailor the start time for the cutover interval to the FDT process. In addition, because measure 114.1 terminates the loop cutover interval when SWBT's frame technician notifies the LOC of the completed cutover, measure 114.1 will not capture (for the reasons discussed above) service outages due to defective loop cuts --

a substantial, customer affecting issue ignored by SWBT's existing (and proposed) measures.

59. Equally troubling is the fact that SWBT apparently intends to measure its cutover performance according to the 2 hour interval set forth in measure 114.1 -- rather than the 30 minute cutover window afforded by the FDT process. I have previously discussed, in connection with the CHC process, why the use of a 2 hour benchmark is completely inappropriate. DeYoung Decl. ¶¶ 148-54. Use of a 2 hour interval for the FDT process is similarly unacceptable.

60. As a technical matter, because the cutover does not require more than a 2 second interval (according to SWBT),[37] SWBT plainly does not require more than the 30 minute cutover window already afforded by the FDT process. Moreover, allowing SWBT a 2 hour cutover period will substantially undermine the supposed competitive advantages of the FDT process. As I have previously discussed, SWBT has advocated the use of the FDT process because its streamlined procedures supposedly offer switch-based CLECs the only viable means to obtain commercial access to the small business and residential markets. Id. ¶¶ 44-47. If SWBT is permitted 2 hours to complete an FDT hot cut, any efficiencies associated with the FDT process -- along with its supposed competitive advantages -- will disappear.

61. Furthermore, as previously discussed, the use of a 2 hour cutover interval will impede CLECs' ability to market their services, because customers will be loath to lose service for 25% of their normal business hours as the price for switching

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[37] See Affidavit of Candy R. Conway ("Conway Aff.") ¶ 87 [Appendix A-4, Tab 3 to SWBT's Application].

local service providers. Id. ¶¶ 149-51. Indeed, the problem is worse for FDT hot cuts than CHC hot cuts. Thus, with a CHC hot cut, the customer must be prepared to lose service during the cutover window -- but will, in fact, only be out of service once SWBT begins the loop cutover. In contrast, with an FDT hot cut, because the CLEC is required to activate the NPAC at the frame due time, the customer loses services for as long as it takes to complete the cutover. Because measure 114.1 affords SWBT the luxury of not completing the loop cutover until 2 hours after the frame due time, it exposes every new customer to the risk of losing service for 2 solid hours. Such extended service outages -- which will go undetected by measure 114.1 -- will entirely forestall CLECs' commercial entry into the small business and residential markets.

D. SWBT's Internal December Data Has Not Been Verified and Is Not Trustworthy

62. In its ex parte submission, SWBT assures the Commission that its December performance data is accurate and invites the Commission to rely upon it in evaluating SWBT's Application. SWBT, however, has made those same representations in the past concerning its performance data and been proven wrong. There is no reason to believe that its present claims are any more reliable.

63. Indeed, in its Application, SWBT asserted that its "methods and procedures for collecting performance data allow for accurate reporting" and that its performance measures "provides certainty that inadequate performance will be detected." Dysart Aff. ¶¶ 5, 70. In fact, as I showed in my prior Declaration, just the opposite was true.

64. Thus, as previously discussed, the AT&T/SWBT joint reconciliation project, conducted under the auspices of the TPUC, found that, throughout

August through at least November, SWBT's manual procedures for collecting and reporting hot cut performance data were fundamentally flawed and thus SWBT's reported performance data for at least measures 58, 114 and 115 -- for AT&T and all CLECs -- was materially inaccurate and untrustworthy. DeYoung Decl. ¶¶ 131-39, 209-43. Moreover, SWBT has conceded those very flaws, acknowledging (in stark contrast to its self-congratulatory rhetoric) that its LOC technicians recorded the start and stop times on hot cuts -- i.e., the times critical to the proper reporting of measures 114 and 115 -- on a "random" basis "due to varying proficiency levels among technicians responsible for recording this information." Dysart Aff. ¶ 653 & Hot Cut Ex Parte at 1.

65. Despite its conceded history of flawed performance measure reporting, SWBT now claims in its ex parte submission that all its prior data collection problems have been cured and that its December data is trustworthy. SWBT, however, has effected its purported solutions after the close of the TPUC's review of SWBT's proposed application. As a result, there has not been any TPUC sanctioned review of SWBT's "improved" data collection processes or its December data -- such as the one conducted by the AT&T/SWBT joint reconciliation project that discovered the material flaws in both SWBT's collection processes and its reported performance data.

66. Nevertheless, despite the fact that SWBT's claims have not been tested in the Texas state proceeding, there is sufficient evidence in the record to raise strong doubts concerning the integrity of SWBT's December data. First, the only "improvement" in its data collection process that SWBT identifies in its ex parte submission concerns the recording of start and stop times on hot cuts -- which affects measures 114, 114.1 and 115. According to SWBT, that process improvement --

implemented "[a]s of the end of November and beginning with December data" -- was limited to providing SWBT's LOC technicians with "two job aids on the logging procedures to make sure that information including the start and stop time is documented for each cutover." Hot Cut Ex Parte at 1.

67. What SWBT fails to mention, however, is that its improved manual training was intended as nothing more than an interim "quick-fix" pending SWBT's implementation of a far more elaborate, mechanized data collection process that was not scheduled for deployment until at least January 2000. See DeYoung Decl. ¶¶ 238-40. Not only has SWBT's manual "quick-fix" not been tested, but there is no reason to believe that the limited training SWBT provided in the last week of November and its distribution of two "job aids" materially improved the demonstrably poor quality of SWBT's prior manual data collection efforts. Accordingly, the integrity of SWBT's reported "on-time" cutover interval performance -- as well as its published performance data under measures 114 and 115 -- for December is highly suspect.

68. Yet another concern with SWBT's December data relates to the accuracy of the total number of loops SWBT reportedly cutover. For example, SWBT claims in its ex parte submission that there were a total of 1,284 CHC loop cuts performed in December -- which is the same volume figure as SWBT reports for its aggregate performance under measures 114 and 115.[38] Although SWBT asks the Commission to trust that figure, it is indisputable that in the immediate preceding month,

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[38] See SWBT aggregated performance data for measures 114 and 115 [Feb. 1, 2000 letter from Austin C. Schlick to the Commission, enclosing SWBT's "performance measure tracking/chart results for January 1999 through December 1999, presented on a state-wide basis for Texas" (hereafter SWBT's "Ex Parte December Aggregate Performance Measure Data Submission")].

SWBT's reported CHC volume figure was materially incorrect. Thus, in its ex parte submission, SWBT claims that 2,375 CHC loop cuts were performed in November, a figure that is repeated in Ms. Conway's Affidavit (at ¶ 79). Hot Cut Ex Parte at 1. Nevertheless, in its aggregate performance data for measures 114 and 115, SWBT reported that only 1,137 CHC loop cuts had been performed in November.[39]

69. While SWBT's claims concerning its November performance are thus internally inconsistent, it is also clear that its aggregate volume figure of 1,137 CHC loop cuts reported under measure 114 and 115 is materially incorrect. SWBT's aggregate reported CHC loop cut figure for November is, of course, nothing more than the sum of all the reported performance data for each individual CLEC, including AT&T. SWBT's reported data for AT&T, however, was substantially inaccurate, as I previously discussed. DeYoung Decl. ¶ 240 n.156. Thus, whereas SWBT's published performance data for AT&T under measures 114 and 115 reported that XXX CHC hot cuts had been performed in the Houston area, SWBT now admits that its published report was in error and claims that there were XXXXX CHC loop cuts completed for AT&T in November in the Houston area.[40]

70. Assuming SWBT's restated figures for AT&T are correct, SWBT's aggregate reported CHC figures for November must necessarily be incorrect. Moreover, because SWBT's published figures for AT&T were wrong (as SWBT

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[39] See SWBT aggregated performance data for measures 114 and 115, reported in SWBT's Ex Parte December Aggregate Performance Measure Data Submission.

[40] SWBT's November reported performance measure data for AT&T for measures 114 and 115 are included within Attachment 35 to my prior Declaration. SWBT's concession that its reported November performance measure figures are incorrect is contained in an email, dated February 9, 2000 from SWBT's Ms. Huser to AT&T's Ms. Yee, attached hereto as Attachment 4.

concedes), it follows that SWBT's reported figures for other CLECs most likely were also wrong.

71. Furthermore, AT&T does not even believe that SWBT's restated CHC loop cut figures are, in fact, correct. Indeed, as noted above, the PPIG task force has been unable -- despite several weeks of effort -- to reconcile the total number of CHC orders or loops completed for AT&T in November (and December as well). Not only does SWBT's data substantially conflict with AT&T's internal order and loop count, but AT&T's review of SWBT's data has found that SWBT often confuses CHC with FDT orders, confuses AT&T's orders with other CLECs' orders and confuses AT&T's Texas orders with AT&T's orders placed in other states.

72. In the face of these obvious flaws affecting its reported CHC volume figures for November, SWBT's claim that its December CHC volume figures are correct is simply not credible. Certainly, SWBT alleged process improvements discussed in its ex parte submission provide no assurance that its December data is any more accurate than its flawed November data. Thus, because those purported improvements relate only to the recording of start and stop times on hot cuts, they have no bearing on SWBT's ability to accurately report the total number of CHC hot cuts it completed. Moreover, in light of the inability of the PPIG task force to reconcile AT&T's CHC order and loop count for December (for the reasons discussed above), AT&T has no confidence in SWBT's reported December figures.

73. The fact that SWBT's December volume figures are likely wrong means that all of SWBT's December hot cut performance data may be wrong. Thus, the cutover volume figures underlie SWBT's statistics reported in its ex parte submission for

its loop cutover performance under measure 114.1 and its trouble report rate -- as well as for its reported performance under measures 114 and 115. If SWBT's volume figures are wrong, then so is all of SWBT's performance data.

74. The problems identified above with SWBT's December data are only some of the concerns that AT&T has with respect to the integrity and accuracy of SWBT's data -- concerns that AT&T might have been able to pursue more fully had SWBT's December data been subjected to the type of detailed reconciliation efforts conducted under the TPUC's auspices.[41] Nevertheless, these concerns are of sufficient magnitude to warrant against the Commission relying upon SWBT's December data in evaluating its Section 271 Application. As the DOJ recommended, "[b]ecause of the limitations of time and information, and because of the critical need to protect the fairness and efficacy of the Commission's process for reviewing section 271 applications", review of post-Application data "should *not* be attempted in connection with the current application." DOJ Eval. at 3.

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[41] For example, if AT&T had been able to examine the raw data underlying SWBT's summary December figures (or at least the data for AT&T's orders), it could have determined whether SWBT was properly measuring the appropriate start and stop times on its FDT and CHC hot cuts. Similarly, AT&T has found, with respect to measure 59, that if an order experiences more than one trouble report within the initial 30 day period, SWBT excludes from its measure all reports beyond the initial report, thereby understating the number of trouble reports within the first 30 days. Because AT&T has been unable to review the raw data underlying SWBT's ex parte submission, it has been unable to determine whether SWBT similarly excluded multiple trouble reports in compiling its FDT and CHC December trouble report data. Furthermore, SWBT's disclosure (Hot Cut Ex Parte at 3) that 41.1% of all 8 db and 5 db UNE Loops were obtained by CLECs in December through a "Conversion Without FDT or CHC" appears dubious (and worthy of further scrutiny) because SWBT's own policy statement provides that UNE Loops may not be converted -- regardless of whether the conversion is coordinated with number portability -- except through the FDT or CHC processes. See SWBT Accessible Letter No. CLEC99-092, dated July 15, 1999 [Conway Aff., Attach. J].

IV. CONCLUSION

75. For the reasons discussed in my initial Declaration and further presented above, SWBT has failed to show -- in both its Application and its ex parte submission -- that it can provision UNE Loop hot cuts at the "minimally acceptable" level of performance required by the Commission.

FCC DOCKET CC NO. 00-4
REPLY DECLARATION OF SARAH DeYOUNG

I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Sarah DeYoung

Executed on February 21, 2000