

1 two subjects elsewhere in the interconnection agreements proposed by either
2 MCI Worldcom or SWBT.

3 **Q. IN ORDER TO EXPAND FURTHER ON THE FUNDAMENTAL DIFFERENCE**
4 **BETWEEN THE PARTIES, PLEASE EXPLAIN WHAT IS MEANT BY A “POINT**
5 **OF INTERCONNECTION”?**

6 A. In his direct testimony, SWBT witness Robert Jayroe addresses the technical
7 aspects of a Point of Interconnection (POI). As SWBT witness Jayroe explains, a
8 POI is a point in the network where the parties deliver Interconnection traffic to
9 each other, and also serves as a demarcation point between the facilities that
10 each Party is responsible for providing.

11 **Q. IS SWBT ATTEMPTING TO DICTATE WHERE THE POINT OF**
12 **INTERCONNECTION IS TO OCCUR?**

13 A. No. SWBT is not attempting to dictate the Point of Interconnection. SWBT
14 believes that the parties should negotiate an interconnection arrangement
15 whereby each party will bear an appropriate share of the related investment for
16 the provision of its interconnection facilities. SWBT's proposed language best
17 captures the concept that multiple POIs may be necessary to ensure appropriate
18 facilities/costs burdens by the respective companies. In many cases, multiple
19 POIs will be necessary to balance the facilities investment and provide the best
20 technical implementation of interconnection requirements within an exchange
21 area. The disparity that can occur absent a mutual agreement as to the location
22 of POIs is addressed further the direct testimony of SWBT witness Jayroe. It
23 stands to reason that the Parties should negotiate the architecture for each POI
24 to mutually minimize and equalize investment.

1 **Q. DOES MCI WORLDCOM RECOGNIZE THE BENEFIT OF CONFERRING WITH**
2 **SWBT CONCERNING THE POI?**

3 A. Yes. MCI Worldcom, in its proposed interconnection agreement, Appendix NIM,
4 Section 4, Responsibilities of the Parties, paragraph 4.6, added new language
5 that states:

6 "The Parties agree prior to establishment of any new POIs
7 that they will meet to confer about the POI. Once agreement
8 is reached, the Parties will memorialize such agreement as
9 to POI locations in an exchange of letters."

10

11 **Q. WHAT IS YOUR RECOMMENDATION TO THIS COMMISSION CONCERNING**
12 **THE POI ISSUE AS STATED IN THE RECITAL PARAGRAPHS?**

13 A. The Commission should order that the recital paragraph contain language
14 proposed by SWBT which recognizes that the location of the POI is mutually
15 agreed upon. Not only does mutual agreement contribute to mutually minimizing
16 and equalizing the Parties' investment, but it conforms to MCI Worldcom's added
17 language to Appendix NIM.

18 **Q. THE LANGUAGE MCI WORLDCOM SEEKS TO DELETE ALLOWS FOR THE**
19 **PURCHASE OF NETWORK ELEMENTS SEPARATELY OR IN**
20 **COMBINATIONS AS CURRENTLY COMBINED. WHAT IS MCI**
21 **WORLDCOM'S OBJECTION?**

22 A. MCI Worldcom does not want to be limited to purchasing Unbundled Network
23 Elements (UNE) separately, or as currently combined in SWBT's network.
24 Instead, MCI Worldcom seeks to have SWBT perform new combinations of
25 UNEs, as evidenced elsewhere in the contract language proposed by MCI
26 Worldcom. Therefore, MCI Worldcom objects to SWBT's proposed recital
27 language, as it would result in a direct conflict with other contract provisions it
28 proposes.

1 Q. PLEASE IDENTIFY SOME OF THE CONTRACT PROVISIONS WHERE MCI
2 WORLDCOM SEEKS TO HAVE SWBT COMBINE UNES AND TO WHICH
3 SWBT OBJECTS?

4 A. References to SWBT's combining of UNEs appear in numerous places
5 throughout MCI Worldcom's proposed agreement. There are several contract
6 provisions where MCI Worldcom attempts to expand SWBT's obligations
7 regarding UNEs, including creating new combinations of UNEs. For example in
8 General Terms and Conditions (GT&C), paragraph 1.1, MCI Worldcom's
9 language states:

10 "This Agreement sets forth the terms, conditions and prices
11 under which SWBT agrees to provide (a) services for resale
12 (hereinafter referred to as Resale services), (b) unbundled
13 Network Elements, or combinations of such Network
14 Elements (Combinations)..." (at page 3, GT&C) (emphasis
15 added)

16 Although SWBT agrees that it is obligated not to separate UNEs that are
17 interconnected and functional when requested by MCI Worldcom (pre-existing
18 combinations), SWBT is not required to create new combinations of UNEs. This
19 language, along with MCI Worldcom's objection to SWBT's proposed language
20 could be read as an attempt by MCI Worldcom to require SWBT to provide new
21 combinations.

22 Additionally, paragraph 1.2 of this same GT&C section as proposed by MCIW
23 provides that:

24 "1.2 The Network Elements, Combinations or Resale
25 services provided pursuant to this Agreement may be
26 connected to other Network Elements, Combinations or
27 Resale services provided by SWBT or to any network
28 components provided by MCI WorldCom itself or by any
29 other vendor. Subject to the requirements of this Agreement,
30 MCI WorldCom may at any time add, delete, relocate or
31 modify the Resale services, Network Elements or
32 Combinations purchased hereunder." (at page 3, GT&C)
33 (emphasis added)

1 Here again, MCI Worldcom offers language that greatly expands on SWBT's
2 obligations in regard to UNEs. SWBT is only required to provide pre-existing
3 combinations of UNEs. In addition, even when MCI Worldcom performs the work
4 to combine UNEs, MCI Worldcom may only combine UNEs with other UNEs or
5 with its own facilities. UNEs may not be connected to SWBT services, except
6 collocation. The Texas Commission examined this same issue in the Second
7 Mega-Arbitration¹ and reached the conclusion that UNEs may not be connected
8 to SWBT services.

9
10 **Q. WHAT OTHER MAJOR AREA IN MCI WORLDCOM'S PROPOSED**
11 **CONTRACT WOULD REQUIRE SWBT TO COMBINE UNES.**

12 A. The second major area where MCIW seeks to have SWBT combine UNEs is
13 found in MCI Worldcom's proposed Attachment UNE. As an example, MCI
14 Worldcom's language in the "General Terms and Conditions" section of
15 Attachment UNE, paragraph 2.4 indicates that SWBT will allow the ordering of
16 UNEs individually, or in combination with any other network element. While this
17 is not a complete list of occurrences, further examples of the combining issue are
18 found in MCI Worldcom's proposed Attachment UNE in paragraphs 14.2, 14.3,
19 14.4, and 14.7, as well as other portions of the contract that support Attachment
20 UNE, such as Appendix Pricing and Attachment 7: Ordering and Provisioning of
21 Unbundled Network Elements.

22 **Q. DOES SWBT HAVE ANY OBLIGATION TO PROVIDE NEW COMBINATIONS**
23 **OF UNES?**

24 A. No. As the FCC recently acknowledged in the UNE Remand Order², the Eighth
25 Circuit Court vacated the FCC's rules Section 51.315 C-F and is considering
26 whether those rules should be reinstated. The FCC has declined to require
27 ILECs to make new combinations of UNEs.

¹ Add footnote cite

² FCC 99-238, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, CC Docket No. 96-98

1 **Q. DOES SWBT AGREE TO PROVIDE NEW COMBINATIONS OF UNES?**

2 A. SWBT has proposed contract language that embodies the FCC's requirements to
3 provide UNEs in a manner that allows MCI Worldcom to combine those UNEs to
4 provide a telecommunications service. In addition, consistent with FCC Rule
5 51.315(b), SWBT will not separate UNEs that are interconnected and functional
6 unless requested by MCI Worldcom to do so. However, SWBT does not agree to
7 make new combinations of UNEs. If MCI Worldcom wishes to have SWBT
8 combine UNEs on its behalf, MCI Worldcom may accept the terms for UNEs
9 available in the Texas 271 Agreement as provided by the Texas Commission in
10 Order No. 55 in Project 16251.

11 **Q. MCI WORLDCOM REPRESENTS IN ITS FILING THAT THE LANGUAGE**
12 **USED IN GT&C PARAGRAPH 1.1 AND MUCH OF ATTACHMENT UNE IS**
13 **LANGUAGE FROM THE TEXAS 271 AGREEMENT (T2A). DOES SWBT**
14 **AGREE THAT THE MCI WORLDCOM PROPOSED LANGUAGE AND THE**
15 **T2A PROVISIONS ARE THE SAME?**

16 A. No. Although the text of MCI Worldcom's proposed language can be found word
17 for word in the T2A, the T2A is a comprehensive document and, by Commission
18 order³, contains legitimately related terms and conditions that combine to make
19 the whole. MCI Worldcom selectively omitted from its own language those
20 provisions that would have incorporated the T2A's legitimately related terms and
21 conditions. The resulting document presented by MCI Worldcom does not create
22 the same obligations for the Parties as does the T2A, regardless of the fact that
23 identical words happen to appear in certain portions of both agreements.
24 Accordingly, there is no conflict with SWBT making the terms of the T2A
25 available to CLECs who accept those terms as ordered by the Texas
26 Commission, while objecting to MCI Worldcom's proposed which deletes critical
27 legitimately related terms and conditions. MCI Worldcom not only refuses to
28 accept legitimately related terms and conditions as determined by this

³ CREATE FOOTNOTE TO CITE TO DOCKET 16251, ORDER 55

1 Commission, but also expressly pleads that MCI Worldcom "is not 'MFN'ing' into
2 any part or subpart of the Texas 271 Agreement." (MCI Worldcom reply to
3 SWBT's petition, page 3)

4 **Q. WHAT IS YOUR RECOMMENDATION TO THIS COMMISSION CONCERNING**
5 **THE COMBINING ISSUE FOR THE RECITAL PARAGRAPHS?**

6 A. The Commission should order that the recitals, and the entire interconnection
7 agreement conform to SWBT's proposed language which clarifies that new
8 combinations of UNEs are not included in the agreement, and that UNEs are to
9 be purchased separately or as already combined.

10 **Q. WHAT ARE THE PARTIES PROPOSING FOR THE TERM OF THE**
11 **AGREEMENT? (ISSUE 3)**

12 A. MCI Worldcom has proposed a three-year term. SWBT has proposed a one year
13 term, with the contract extending unless one Party notifies the other within 180
14 days of expiration that the contract is not to be extended.

15 **Q. WHY IS A ONE-YEAR TERM APPROPRIATE?**

16 A. The telecommunications industry is rapidly changing. This includes advances in
17 technology and corresponding market responses. As technology and market
18 conditions change, either SWBT or MCI Worldcom could be unnecessarily
19 restricted to outdated and perhaps onerous terms and conditions for the duration
20 of the term of the new agreement. SWBT believes that its one-year term
21 proposal reasonably meets the needs of both parties by providing each party the
22 necessary flexibility in today's changing telecommunications world. If no
23 changes in the contract are needed, then the contract may continue after the
24 expiration of its term if neither party provides the other with written notice of its
25 intent not to extend the term.

26 **Q. ARE THERE OTHER ISSUES RELATED TO THE TERM OF THE**
27 **AGREEMENT?**

1 A. Yes. If the Commission determines that MCI Worldcom may include terms and
2 conditions taken from the T2A, then the term associated with those terms and
3 conditions should be the contract term contained in the T2A.

4 **Q. IS SWBT'S LANGUAGE REGARDING CORPORATE NAME CHANGES AND**
5 **REIMBURSEMENT OF COSTS FOR NAME CHANGES REASONABLE?**
6 **(ISSUE 5)**

7 A. Yes. There are a number of work activities that must take place when a CLEC
8 changes its name. These activities are necessary in order to ensure that all
9 records (Billing, Maintenance, Branding, etc.) are updated. These activities
10 include: programming required to update the mechanized service order systems,
11 coordinating and performing database pulls for the affected accounts, and
12 updating those accounts. Consequently, the labor and expense to ensure that all
13 systems have been updated can be significant. SWBT has no control over when,
14 or how often, a CLEC will choose to change its name. Therefore, it would be
15 unfair to permit CLECs that cause the costs (by changing names) to avoid those
16 real costs they cause by shifting them to SWBT. Under SWBT's proposed
17 language, SWBT will negotiate the appropriate charges for making the updates.

18 **Q. MCI WORLDCOM RAISES AN ISSUE CONCERNING THE TERMINATION**
19 **PROVISIONS OF THE CONTRACT AND SEEKS TO CLARIFY THAT**
20 **FAILURE TO PAY "UNDISPUTED CHARGES", RATHER THAN "CHARGES",**
21 **MAY BE GROUNDS FOR TERMINATION. DOES SWBT AGREE WITH MCI**
22 **WORLDCOM'S ADDITIONAL LANGUAGE? (ISSUE 11)**

23 A. SWBT agrees that service should not be terminated for failure to pay legitimately
24 disputed amounts, so long as the parties are pursuing resolution fo the dispute
25 according to the terms of the agreement. Accordingly, SWBT does not object to
26 MCI Worldcom's insertion of the word "undisputed" in the first sentence of 10.1.
27 This should resolve MCI Worldcom's concern that service would not be
28 terminated for failure to pay disputed amounts.

1 However, the other changes MCI Worldcom proposes to paragraph 10.1 should
2 be denied. MCI Worldcom's modifications in the second sentence of paragraph
3 10.1 of the General Terms & Conditions (GT&C) create a conflict with paragraph
4 9.4.1 of this same section. MCI Worldcom attempts to define the word "Unpaid"
5 as being those charges due and undisputed. Thus, to follow MCI Worldcom's
6 logic, MCI Worldcom would be required to pay, on a timely basis, only the
7 undisputed charges. Paragraph 9.4.1 of the GT&C section requires payment for
8 all amounts when due, including unresolved disputed amounts. The second
9 sentence of 10.1 conflicts with the agreed to provision of 9.4.1 and MCI
10 Worldcom's proposed changes to the original language as found in the T2A
11 should be denied.

12 **Q. SHOULD MCI WORLDCOM BE ALLOWED TO OBTAIN THE BENEFITS OF**
13 **THE T2A WITHOUT ASSUMING THE RELATED OBLIGATIONS? (ISSUE 13)**

14 A. Absolutely not. The T2A was determined by the Commission to be an integrated
15 set of terms and conditions, many of which exceed SWBT's obligations under the
16 Telecommunications Act of 1996 (FTA). For this reason, the Commission has
17 clearly articulated how CLECs may obtain the T2A, or portions thereof. MCI
18 Worldcom should not be allowed to ignore this Commission's clear direction by
19 demanding T2A terms without accepting all of the related terms.

20 **Q. MCI WORLDCOM ASSERTS THAT SWBT IS INAPPROPRIATELY**
21 **ATTEMPTING TO IMPOSE RESTRICTIONS ON A CLEC'S ABILITY TO**
22 **RESALE SWBT'S TELECOMMUNICATIONS SERVICES. IS THIS TRUE?**
23 **(ISSUE 22)**

24 A. No. SWBT has proposed language that MCI Worldcom shall not use a resold
25 service to avoid the rates, terms and conditions of SWBT's corresponding retail
26 tariff. SWBT follows these same rates, terms and conditions when it sells the
27 retail service to its end users. This language prevents MCI Worldcom from using
28 resale services to provide service to itself. This language is also intended to
29 prevent MCI Worldcom from using resale to violate tariff provisions such as the

1 prohibition against selling residential service to businesses. Accordingly, this
2 Commission should allow the inclusion of SWBT's language as filed in its
3 proposed contract to remain as is. (Appendix Resale, paragraph 2.6)

4 **Q. SHOULD MCI WORLDCOM RELY ON SWBT TO PROVIDE THE**
5 **EMERGENCY PUBLIC AGENCY TELEPHONE NUMBERS? (ISSUE 25 AND**
6 **31)**

7 A. No. MCI Worldcom seeks to propose, as its own language, a provision that
8 exists in the T2A whereby SWBT agrees to provide emergency public agency
9 (e.g., police, fire, ambulance) telephone numbers used by SWBT in each NPA-
10 NXX. The attendant indemnification language also found in this T2A provision
11 protects SWBT from any claims or damages, which is recognition that SWBT is
12 performing a service on behalf of the CLEC. While SWBT recognizes this
13 obligation as existing within the T2A agreements, SWBT has no obligation to
14 perform this administrative service in contracts outside of the T2A. As MCI
15 Worldcom, by its own admission, is not adopting any portion of the T2A, SWBT
16 does not agree to provide this administrative function to MCI Worldcom. There
17 is no requirement that SWBT to perform administrative functions that the CLEC
18 can perform for itself. Further, there is no method established in MCI
19 Worldcom's proposed contract that would reimburse SWBT for its costs in
20 providing this administrative service. The Commission should reject MCI
21 Worldcom's proposed language concerning SWBT's providing the emergency
22 public agency telephone numbers shown in Issues 25 and 31 from the Disputed
23 Issues List.

24 **Q. WHAT CHANGES SHOULD BE MADE TO THE DEFINITION OF LOCAL**
25 **LOOP, GIVEN THE FEDERAL COMMUNICATIONS COMMISSION'S (FCC)**
26 **UNE REMAND ORDER? (ISSUE 28)**

27 A. SWBT agrees that the definition of local loop should be updated to reflect the
28 FCC's UNE remand order. However, MCI Worldcom's suggested language is
29 not sufficient to correctly describe the obligation. MCI Worldcom proposes an
30 incomplete definition for local loop. In Attachment UNE, paragraph 4.1 (definition
31 of local loop) MCI Worldcom proposes:

1 "...and includes all features, functions, and capabilities of the
2 transmission facilities, including dark fiber and the attached
3 electronics."

4 **Q. WHY IS MCI WORLDCOM'S SUGGESTED LANGUAGE INCOMPLETE?**

5 A. Among other things, the FCC's rules provide additional clarification to the terms
6 "local loop" and "attached electronics". The FCC's clarification should be
7 incorporated into the contract to clearly specify what is being offered within the
8 definition of "local loop".

9 **Q. HOW DOES SWBT PROPOSE TO MODIFY THE DEFINITION OF LOCAL
10 LOOP?**

11 A. SWBT proposes that the Commission order the following definition for
12 Attachment UNE, paragraph 4.1 to clarify and define the local loop and SWBT's
13 obligations to provide same: (the additional language SWBT proposes to add the
14 MCI Worldcom's definition is shown by bold type)

15 **Local Loop**

16 4.1 Definition: **Pursuant to applicable FCC rules**, a local
17 loop unbundled network element is a dedicated
18 transmission facility between a distribution frame (or
19 its equivalent) in a SWBT central office and **the loop**
20 **demarcation point** at an end user customer
21 premises. **Where applicable, the local loop**
22 **includes all wire within multiple dwelling and**
23 **tenant buildings and campuses that provides**
24 **access to customer premises wiring, provided**
25 **such wire is owned and controlled by SWBT.** The
26 local loop network element includes all features,
27 functions and capabilities of the transmission facility,
28 including dark fiber and attached electronics (**except**
29 **those electronics used for the provision of**
30 **advanced services, such as Digital Subscriber**
31 **Line Access Multiplexers), and line conditioning.**
32 **The local loop includes, but is not limited to, DS1,**
33 **DS3, fiber, and other high capacity loops to the**
34 **extent required by applicable law.**

1 **Q. MCI WORLDCOM SUGGESTS THAT SWBT BE REQUIRED TO PROVIDE OC-**
2 **LEVEL LOOPS AS AN UNBUNDLED NETWORK ELEMENT. DOES SWBT**
3 **CONCUR THAT IT HAS AN OBLIGATION TO PROVIDE OC-LEVEL**
4 **UNBUNDLED LOOPS ? (ISSUE 29)**

5 A. No. SWBT witness John Lube further discusses this issue in his direct
6 testimony. In the UNE Remand Order, the FCC defined loops as “a transmission
7 facility between a distribution frame (or its equivalent) in an incumbent LEC
8 central office and the loop demarcation point at an end-user customer
9 premises...”.⁴ Further in Paragraph 176 of this same order, the FCC commented
10 on the fact that high-capacity loops “retain the essential characteristic of the loop:
11 they transmit a signal from the central office to the subscriber, or vice versa.” Yet
12 in their discussion, the FCC did not provide for an unbundled OC (optical)-level
13 loop. The FCC discussion of OC-level facilities was discussed in the context of
14 dedicated transport, as evidenced by Appendix C of the UNE Remand Order, at
15 Rule 51.319(d)(1)(A).

16 **Q. BASED MCI WORLDCOM’S FILING, IS THERE STILL AN ISSUE RELATED**
17 **TO INDIVIDUAL COST BASED CHARGES FOR SPECIAL CONSTRUCTION**
18 **WORK ASSOCIATED WITH ACCESS TO UNES? (ISSUE 35)**

19 A. No. MCI Worldcom in its filing essentially has requested that SWBT do all of MCI
20 Worldcom’s work associated with providing new combinations of UNEs. As I
21 explained earlier in this testimony, SWBT has no obligations to perform this work.
22 In its proposed contract, MCIW proposes to utilize the Texas Collocation Tariff as
23 its only means to access UNEs. Certainly, SWBT agrees to the inclusion of the
24 Texas Collocation Tariff for MCI Worldcom’s proposed contract. There are other
25 methods available for accessing UNEs, but apparently MCI Worldcom has not
26 raised those methods as an issue. However, should MCI Worldcom wish to
27 discuss other methods of access with SWBT, SWBT is willing to do so.

1 **Q. IS IT APPROPRIATE TO INCLUDE LANGUAGE DESCRIBING THE**
2 **LEGITIMATELY RELATED TERMS AND CONDITIONS THAT WILL APPLY**
3 **TO CLECS THAT CHOOSE TO ADOPT MCI WORLDCOM'S AGREEMENT?**
4 **(ISSUES 63 AND 83)**

5 A. Yes. The language in question in DPL Issues 63 and 83 specifically describes
6 the legitimately related terms and conditions should other CLECs choose to
7 adopt Appendix NIM (Issue 63) and/or Appendix ITR (Issue 83). This language
8 has absolutely no impact to MCI Worldcom, but provides clarity for CLECs
9 choosing to adopt these sections of MCI Worldcom's agreement. However, in an
10 effort to address MCI Worldcom's concern with SWBT's proposed language,
11 SWBT is offering amore narrowly constructed provision below:

12 **NOTE: LEGAL TO PROVIDE**

13 This new language notifies other parties that SWBT and MCI Worldcom
14 acknowledge that the terms and conditions of Appendixes NIM and ITR are
15 legitimately related to each other and to the General Terms and Conditions. This
16 should address MCI Worldcom's concerns with the language taken from the T2A.

17 **Q. MCI WORLDCOM RAISES THE ISSUE OF "ANCILLARY TRUNKING" FOR**
18 **911 CALLS, MASS CALLING TRAFFIC, AND OS/DA CALLS AND SEEKS TO**
19 **IMPOSE UPON SWBT THE OBLIGATION TO COMBINE THIS TRAFFIC**
20 **WITHIN THE SAME FIBER MEET INTERCONNECTION FACILITY AS LOCAL**
21 **EXCHANGE TRAFFIC. PLEASE EXPLAIN SWBT'S OBJECTION TO THIS**
22 **PROPOSAL? (ISSUES 49 AND 50)**

23 A. When the parties agree to the use of fiber meet point arrangements, SWBT
24 believes that it should not be required to allow MCI Worldcom to use a facility
25 that is partially provided by SWBT for any purpose other than the mutual
26 exchange of local traffic. If MCIW is allowed to place other services, such as 911

⁴ FCC 99-238, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, CC Docket No. 96-98, Appendix C, Section 51.319 (a)(1)

1 trunks and OS/DA trunks on a meet-point fiber interconnection arrangement,
2 SWBT could be forced to bear costs which should be born by MCI Worldcom.

3
4 Ancillary services are not the mutual exchange of traffic, but rather services
5 provided to MCI Worldcom. MCI Worldcom should be required to bear the cost
6 of these services and not allowed to shift these costs to SWBT by requiring
7 SWBT to provide a portion of the facility that carries ancillary services. As noted
8 in the direct testimony of SWBT witness Mr. Robert Jayroe, MCI Worldcom
9 should be required to provide their own trunking facility from the MCI Worldcom
10 switch to the destination switch for this ancillary traffic.

11
12 **Q. IS SWBT'S POSITION SUPPORTED BY FCC RULES?**

13
14 A. Yes. In its First Report and Order in Docket 96-98, paragraph 553 discusses
15 interconnection between ILECs and CLECs and states:

16 "New entrants will request interconnection pursuant to
17 section 251(c)(2) for the purpose of exchanging traffic with
18 incumbent LECs. In this situation, the incumbent and the
19 new entrant are co-carriers and each gains value from the
20 interconnection arrangement."
21

22 Clearly, when MCI Worldcom's end user customer dials 911 or dials for operator
23 assistance or for directory assistance, that end user customer is not attempting to
24 contact a SWBT end user customer. Therefore, there is no exchange of traffic in
25 this situation, and SWBT and MCI Worldcom are not operating as co-carriers.
26 Accordingly, MCI Worldcom must undertake the process of providing appropriate
27 trunks to transport its own traffic for these ancillary services.

28
29 **Q. WHY SHOULD MCIW BE REQUIRED TO HAVE A POI IN EACH EXCHANGE**
30 **AREA? (ISSUE 58)**

31 A. In accordance with FCC 47 CFR, Section 51.305 (Interconnection), SWBT is
32 required to interconnect for the transmission and routing of telephone exchange
33 traffic, exchange access traffic or both. As explained by SWBT witness Jayroe,

1 MCI Worldcom's objection to having a POI in each local exchange area would
2 likely result in SWBT providing the transport for calls originated anywhere within
3 a LATA to a single MCI Worldcom POI for termination. Additionally, SWBT
4 would be required to pay MCI Worldcom local compensation for the termination
5 of these calls. SWBT's proposal of having a single POI in each exchange where
6 MCI Worldcom wants to provide local service logically results in the parties
7 providing only the transport needed in order to exchange local traffic between the
8 networks. MCI Worldcom's proposal would unfairly shift the cost of transporting
9 local calls to and from MCI Worldcom's switch.

10 **Q. WHY DOES SWBT PROPOSE TO INCLUDE "NON-EXEMPT" ESP'S IN**
11 **LANGUAGE THAT ADDRESSES "LOST DATA" MEET POINT BILLING**
12 **PROCEDURES? (ISSUE 92)**

13 A. The FCC has an open proceeding which may address compensation for ESP
14 traffic. The exempt status for ESP's could be lifted or modified by the FCC in this
15 proceeding. SWBT believes that if the ESP traffic becomes "non-exempt" it
16 should be subject to these provisions. SWBT's proposed inclusion of "non-
17 exempt ESP's" has no effect on the contract as long as the FCC's ESP
18 exemption stays in place.

19 **Q. MCI WORLDCOM PROPOSES LANGUAGE TO ATTACHMENT 15-E911**
20 **THAT SWBT AGREES TO WORK EXPEDITIOUSLY TO CORRECT ANY**
21 **INTERNAL PROCESSING ERRORS IN SWBT'S DATABASES THAT**
22 **SUPPORT E-911. IS THIS PROVISION NECESSARY? (ISSUE 102)**

23 A. No. SWBT works expeditiously to correct any errors, and is required to do this
24 for public safety reasons. The contract contains liability language in the General
25 Terms and Conditions section that should alleviate MCI Worldcom's concern.

26 **Q. SHOULD THE WALLER CREEK ARBITRATION DECISION ON THE USE OF**
27 **DARK FIBER BE INCORPORATED INTO THIS CONTRACT? (ISSUE 124)**

1 A. No. Although the Commission has previously ruled on whether dark fiber
2 provided as an unbundled element may be used to provide access services to
3 other carriers, the Commission considered this issue prior to recent FCC actions.
4 On November 24, 1999 the FCC issued its UNE Remand Supplemental Order⁵
5 which specifically limits when a carrier may use loop and transport to provide
6 access services pending the FCC's final action on its Fourth Further Notice of
7 Proposed Rule Making. The FCC committed to complete this action by June 30,
8 2000. At this point, the Commission should allow the FCC to complete the
9 Fourth Further Notice of Proposed Rule Making and not address this issue here.
10 Once the FCC completes its Fourth Further Notice of Proposed Rule Making,
11 SWBT will be obligated to comply with that ruling when it becomes effective.

12 **Q. WHY SHOULD THE INTERCONNECTION AGREEMENT WHICH RESULTS**
13 **FROM THIS ARBITRAION INCLUDE SWBT'S PROPOSED LANGUAGE**
14 **ADDRESSING PAYPHONE COMPENSATION? (ISSUE 134)**

15 A. SWBT filed its suggested language in its proposed contract as Section 3.9 of
16 Appendix Resale. This section allows SWBT to satisfy is obligation to pay
17 Payphone Compensation as prescribed by the FCC in Implementation of the Pay
18 Telephone Reclassification and Compensation Provisions of the
19 Telecommunications Act of 1996, fcc Docket No. 96-128, Report and Order,
20 paragraph 86 (1996).

21 **Q. PLEASE DESCRIBE SWBT'S PROPOSED PAYPHONE COMPENSATION**
22 **METHOD.**

23 A. SWBT proposes to satisfy its obligation to pay Payphone Compensation to
24 Payphone Service Providers (PSP) who are customers of MCI Worldcom by
25 paying the Payphone Compensation to MCI Worldcom who will then forward the
26 Payphone Compensation to the PSPs.

⁵ CC Docket No. 96-98, FCC 99-370 Supplemental Order, Released November 24, 1999 ("UNE Remand Supplemental Order")

1 **Q. IN THE RESALE SITUATION, IS IT REASONABLE FOR SWBT TO CREDIT**
2 **MCI WORLDCOM THE PAYPHONE COMPENSATION AND EXPECT MCI**
3 **WORLDCOM TO FORWARD IT TO THE PSP?**

4 A. Yes. It is reasonable for MCI Worldcom as the reselling local service provider to
5 pass through credits directly to PSPs due compensation. When MCI Worldcom
6 purchases a resold line and makes that line available to a PSP, SWBT's retail
7 and, more specifically, billing relationship with the PSP is severed, assuming
8 there was an existing relationship. In the resold context, SWBT does not know to
9 whom the resold line has been sold (i.e., the ultimate end user). MCI Worldcom
10 as SWBT's wholesale customer and billing party, pays SWBT monthly charges
11 for the resold line as well as any usage, taxes, surcharges, et cetera. Thus, MCI
12 Worldcom, as the reseller CLEC, is in the best position to charge and credit (as
13 appropriate for per-call compensation) its PSP customer as it already remits a bill
14 containing monthly recurring charges and/or credits to the PSP.

15 In a resale arrangement, SWBT will bill MCI Worldcom for the resold PSP/coin
16 lines and will also delineate on the bills the "credits" due for Payphone
17 Compensation (along with any other debits or credits for any billable items, i.e.,
18 usage).

19 **Q. WHAT UNE LOOP, QUALIFICATION, CONDITIONING AND CROSS-**
20 **CONNECT RATES FOR xDSL SHOULD BE INCORPORATED IN THE MCIW**
21 **AGREEMENT? (ISSUE 135c)**

22 A. SWBT proposes that rates as ordered by the Commission in Dockets 20226 and
23 20272 be applied on an interim basis, subject to true-up, until the Commission
24 approves permanent xDSL rates based on SWBT cost studies.

25
26 **Q. ACCORDING TO MCI WORLDCOM'S PROPOSED CONTRACT LANGUAGE,**
27 **DURING THE 12 MONTHS FOLLOWING AGREEMENT APPROVAL, MCI**
28 **WORLDCOM WOULD BE FREE TO ORDER LOOPS FOR IMPLEMENTING**
29 **LOOP TECHNOLOGIES NOT PRESUMED ACCEPTABLE FOR**

1 **DEPLOYMENT, WITHOUT MAKING A SHOWING TO THE COMMISSION.**
2 **WHAT IS SWBT'S POSITION ON THIS PROPOSAL FROM MCI WORLDCOM?**
3 **(ISSUE 135a)**

4 A. SWBT's position on this issue is a reasonable one. SWBT requests that if MCI
5 Worldcom wishes to introduce a technology that does not conform to existing
6 industry standards and has not been approved by an industry standards body,
7 the FCC or a state commission, the burden should be on MCIW to demonstrate
8 that its proposed deployment meets the threshold for a presumption of
9 acceptability and will not significantly degrade the performance of other
10 advanced services or traditional voice band services.

11
12 SWBT does not believe that MCIW should be allowed during a 12-month period
13 to use loops obtained from SWBT to implement new xDSL technology that has
14 not been tested and approved by an industry standards body, such as American
15 National Standards Institute (ANSI), or a regulatory commission. If MCIW can
16 demonstrate to the Commission that the loop technology will not significantly
17 degrade the performance of other advanced services or traditional voice band
18 services, then SWBT would provide the loop, per MCI Worlccom's request.

19
20 **Q. MCI WORLDCOM'S PROPOSED CONTRACT LANGUAGE ON THE 12-**
21 **MONTH PERIOD IS TAKEN FROM THE T2A. WHY IS THIS NOT**
22 **APPROPRIATE LANGUAGE FOR AN MCI WORLDCOM-SWBT**
23 **AGREEMENT?**

24 A. Although more than 70 carriers in Texas have adopted the T2A, complete with all
25 its terms and conditions, MCI Worldcom has not done so. Instead, MCI
26 Worldcom is attempting to receive special treatment by picking and choosing
27 only certain sections from the T2A for its agreement with SWBT. Subverting the
28 Commission-approved T2A process in this manner should not be allowed.
29 Therefore, SWBT recommends that the Commission order that the
30 interconnection agreement resulting from this arbitration exclude provisions that
31 were specifically created for the T2A. Examples of such provisions are found in

1 sections 4.3 and 4.4 of MCI Worldcom's proposed Attachment 25. Obviously, if
2 MCI Worldcom should decide to accept the T2A in its entirety (as a number of
3 other companies have done), or accept Attachment 25: DSL as a portion of the
4 T2A with its related terms and conditions, then these provisions would not be in
5 question.
6

7 **Q. WITHIN WHAT TIME PERIOD SHOULD SWBT SUPPLY MCIW WITH**
8 **ORDERING PROCEDURES AFTER MCI WORLDCOM REQUESTS A LOOP**
9 **CAPABLE OF SUPPORTING A NEW xDSL TECHNOLOGY?**

10 A. SWBT will meet an MCI Worldcom request for this work involving a new
11 technology within fifteen business days. Once again, MCI Worldcom is trying to
12 gain special consideration from the T2A – but without taking its related terms and
13 conditions. MCIW is requesting a shorter time period, ten business days, which
14 SWBT has agreed to only in context of the T2A. However, MCI Worldcom, by its
15 own pleading, has not chosen to adopt the T2A, or portions thereof, and its
16 request should be rejected.
17

18 **Q. MCI WORLDCOM ASSERTS THAT SWBT SHOULD NOT BE ALLOWED TO**
19 **DEPLOY ANY NEW xDSL TECHNOLOGY FOR SWBT'S RETAIL**
20 **OPERATIONS, AN AFFILIATE'S RETAIL OPERATIONS OR A THIRD PARTY**
21 **UNTIL SWBT HAS MADE ORDERING PROCEDURES, RATES, TERMS AND**
22 **CONDITIONS FOR THE RELATED UNBUNDLED LOOP TYPE AVAILABLE**
23 **TO MCI WORLDCOM.**

24 A. SWBT does not offer advanced services, including xDSL services, in Texas.
25 Instead, consistent with the FCC's Order in CC Docket No. 98-141 ("Merger
26 Conditions Order"), SBC has established a separate affiliate that owns advanced
27 services equipment and provides advanced services. Because SWBT does not
28 provide advanced services, MCI Worldcom's proposal is not appropriate.
29

1 In addition, SWBT provides access to UNEs on a non-discriminatory basis. Any
2 UNE access we provide to a CLEC in Texas will be stipulated in an
3 interconnection agreement approved by the Commission. Under 252(i) of the
4 Act, MCI Worldcom has the ability to obtain any interconnection, service or
5 network element under the same terms and agreements that SWBT is providing
6 to another CLEC through a Commission-approved agreement.

7

8 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

9 A. Yes, it does.

SANDRA L. LEWIS

Work Experience and Educational Background

I have been employed by SWBT since 1968 and have served in various jobs in the marketing, operations staff, external affairs and wholesale marketing departments.

From 1968 to 1984, I held a number of positions in residential consumer marketing and was responsible for all aspects of customer service. This included day-to-day management and supervision of employee teams responsible for sales results, service order entry and completions, collections and overall quality of customer satisfaction levels. I also held various staff assignments where I coordinated methods and procedures and implementation activities for various functions.

From 1984 to 1989 I managed a centralized organization that oversaw SWBT Texas operational activities and also managed the state customer appeals organization, ensuring that appeals from Texas customers to executives and regulatory bodies were resolved.

From 1989 to 1997 I was assigned to the Company's external affairs department to manage Texas municipal relations. In this assignment I interfaced with multiple SWBT departments to develop and implement a new contract for municipal management of SWBT's use of public rights-of-ways. I negotiated with many Texas municipalities to develop appropriate ordinances for municipal right-of-way management.

In December 1997, I accepted a position in SWBT's wholesale marketing organization with responsibility for coordinating wholesale market issues being addressed by state and federal regulators, including rule makings and state arbitrations.

Prior to my employment with Southwestern Bell Telephone, I attended Abilene Christian University in Abilene, Texas, but did not complete a degree plan.

MCI WORLDCOM
APRIL 14, 2000

DOCKET NO. 21791

PETITION OF SOUTHWESTERN	§	PUBLIC UTILITY COMMISSION
BELL TELEPHONE COMPANY	§	
FOR ARBITRATION WITH MCI	§	
WORLDCOM COMMUNICATIONS,	§	
INC. PURSUANT TO SECTION	§	
252(B)(1) OF THE FEDERAL	§	
TELECOMMUNICATIONS ACT	§	
OF 1996	§	OF TEXAS

MCI WORLDCOM'S
REBUTTAL TESTIMONY OF MICHAEL BEACH

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PETITION OF SOUTHWESTERN	§	PUBLIC UTILITY COMMISSION
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OF 1996	§	OF TEXAS

MCI WORLDCOM'S
REBUTTAL TESTIMONY OF MICHAEL BEACH

Q. Please state your name.

A. Michael A. Beach

Q. Are you the same Michael Beach who filed direct testimony in this proceeding.

A. Yes.

Q. What is the purpose of your rebuttal testimony.

A. I will respond on behalf of MCI Worldcom (MCIW) to direct testimony of Southwestern Bell Telephone Company (SWBT) witnesses. In particular I will address the testimony of Sandra L. Lewis and the impact the SWBT proposals she presents in direct testimony will have on MCIW's local service business and on customers of competitive services in Texas. I will also address SWBT's position on issue 122.c, that they will not provide loop-transport combinations referred to as Enhanced Extended Links or EELs.

Q. SWBT witness, Sandra L. Lewis, beginning on page 3 of her direct testimony, raises concerns regarding combined network elements. What effect will the SWBT proposal to provide combined network elements to competitive local exchange carriers (CLECs) only when they are "pre-existing combinations" have in Texas (Issue No. 122.a)?

A. Ms. Lewis' testimony describes how SWBT believes the Federal Communications Commission (FCC) requirement to provide combined network elements applies only when those elements "are currently combined in SWBT's

network." On page 6 of her direct testimony, Ms. Lewis defines "new combinations" as any combination of elements other than "UNE's that are interconnected and functional when requested by MCI Worldcom (pre-existing combinations.)" MCIW disagrees with this reading of the FCC rule. Instead, SWBT is required to combine network elements that they ordinarily combine in their network. Thus a loop and port combination must be provided by SWBT even when that particular loop and that particular port are unused at the present time by SWBT in the provision of its own service. MCIW witness Don Price, in his testimony, provides further support for MCIW's understanding of this requirement based on current law.

Q. How does the SWBT position on combinations impact customer of competitive local carriers, such as MCIW?

A. MCIW begins providing residential local service in Texas this month, using combined network elements obtained from SWBT. MCIW would not realistically be able to continue providing this service if the SWBT proposal for combinations were contained in our new contract, once that contract went into effect. MCIW would be relegated to providing service only to customers who already have SWBT local service by converting that service to MCIW, as is. In that case, SWBT would have already combined network elements in place and therefore would provide them, unchanged, to MCIW for the provision of local service. However, if that same customer wanted to add an additional line, SWBT would not provide combined network elements to MCIW in order to serve that customer need under Ms. Lewis' proposed approach.

A strict reading of SWBT's proposal would also prevent a customer from obtaining changes in their residential service that is provided by MCIW using combined network elements as these changes would not be "pre-existing" in SWBT network for that customer at that time. Taken to its obvious conclusion, the SWBT position on combination would require that any Texas customer who wants to obtain local service from a CLEC using SWBT combined network elements must first obtain service from SWBT and then have the CLEC convert the "pre-existing" service elements to the CLEC. Obviously the SWBT position

on combination would severely constrain customer choice and harm the development of local competition and should be rejected.

Q. SWBT witness Ms. Lewis, at page 14 in direct testimony, opposes the MCIW request to include provisions for optical level loops in the new contract (Issue Nos. 28 and 29). Can you comment?

A. Yes. SWBT should not be allowed to refuse to provide optical level loops to MCIW and provisions for those connections should be included in the contract to allow MCIW to better serve our customer needs. An obvious fact within the industry is the ever-growing end user demand for additional bandwidth. While this requirement impacts all segments of the market, including residential, business and wireless communications, it is most prevalent in the business community. This additional bandwidth is used for a wide array of applications supporting voice, video and data. As a result, more and more carriers, including SWBT, are deploying broadband networks, primarily using fiber optic transport and associated electronics. This allows the deployment of DS3 and OC-level services, often directly to the customer premise.

There can be no question that these DS3 and OC-level loops are of higher capacity than the typical copper loop. Ms. Lewis, in direct testimony, quotes from the FCC when it defines a high capacity loop as a connection used to "transmit a signal from the central office to the subscriber, or vice-versa." This is precisely the function performed by DS3 or OC-level loops when used by SWBT for their own services and precisely the function MCIW seeks to provide when obtaining these high capacity, unbundled loops from SWBT. Just as SWBT is working to expand the bandwidth available to their end users, so are MCIW and other CLECs who rely, in many instances, on SWBT connections to provide service to their local customers. Don Price describes the status of regulatory policy that requires SWBT to provide high capacity loops, including dark fiber, DS3 and OC-level capacity. SWBT should not be allowed to hinder MCIW's (and other CLEC's) ability to meet end user demand by refusing to provide these high capacity connections where they are available while at the same time using these capabilities for their own services.