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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

April 28, 2000

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth St. SW, Suite TW-A325
Washington, DC 20554

Re: Application by SBC Communications, Inc., for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Services in Texas, CC Docket No. 00-65

Dear Ms. Salas:

On April 26, 2000, undersigned counsel transmitted to the Commission the Comments of NorthPoint Communications, Inc. ("NorthPoint") in the above-referenced proceeding. Footnote 12 of those Comments cites the transcript of the March 28, 2000 Plan of Record Collaborative Session. An excerpt of the transcript should have been included as Appendix B to the Comments, but it was inadvertently omitted from the submission.

Accordingly, enclosed for filing are an original, six copies and a diskette copy of the corrected version of NorthPoint's Comments. In addition to including Appendix B, the enclosed submission corrects minor clerical errors. Please accept this late-filed submission as the official version of NorthPoint's Comments and disregard the April 26, 2000 filing.

Please date stamp the additional copy provided herewith for that purpose and return the same to the bearer. Thank you for your assistance.

Sincerely,

Valerie Yates

No. of Copies rec'd 0+6
List ABCDE

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

In the Matter of	)	
	)	
	)	
Application by SBC Communications Inc.	)	
Pursuant to Section 271 of the	)	
Telecommunications Act of 1996 to Provide	)	CC Docket 00-65
In-Region InterLATA Services in Texas	)	

Comments of

NorthPoint Communications, Inc.

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Dated: April 28, 2000

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

In the Matter of	)	
	)	
Application by SBC Communications Inc. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region InterLATA Services in Texas	)	CC Docket 00-65

Comments of

NorthPoint Communications, Inc.

I. Introduction and Summary

NorthPoint Communications, Inc. (NorthPoint) filed comments urging the Commission to reject Southwestern Bell Telephone (SWBT) Company's previous application to provide in-region, interLATA service in Texas.[1] In those comments, NorthPoint demonstrated that SWBT's application fell short because, on its face, SWBT's attempt to demonstrate compliance with the Telecommunication Act's market opening mandates were facially, and seriously, flawed. For example, in its performance measures, the cornerstone of SWBT's application, SWBT had failed to account for a majority of NorthPoint loop orders and had failed to adequately reflect existing market conditions in Texas.[2] In SWBT's "refreshed" and second application, SWBT has

[1] *See* NorthPoint Comments in CC Docket No. 00-4, filed Jan. 31, 2000; NorthPoint Reply Comments in CC Docket No. 00-4, filed Feb. 22, 2000.

[2] *See* NorthPoint Comments in CC Docket No. 00-4 at 7-13; *see also* Comments of the United States Department of Justice at 2.

"cleaned up" its presentation to remove facial errors and obvious inconsistencies from its attempt to demonstrate compliance. But this facelift is just that, a superficial change in the presentation.[3] Underlying SWBT's application, and not reflected in the "performance data" upon which SWBT relies so heavily but which SWBT refuses to reconcile with its own customers, is the continued poor state of affairs in Texas with regard to the provisioning of DSL-capable loops and related support. Because SWBT persists in failing to meet the statutory requirements for the provision of interLATA service, NorthPoint files these comments to urge rejection of SWBT's second, premature, application.

SWBT's second try at interLATA authority comes too quickly after its first attempt – indeed so quickly that any claims by SWBT that it has addressed failures identified just four months ago cannot be taken seriously. On DSL issues, SWBT's Second Application fixes the obvious errors in its performance measurements identified by NorthPoint and other competitive LECs, but SWBT has resisted attempts by its customers, like NorthPoint, to verify the accuracy or reality of the performance reports by engaging in cooperative analysis or third-party tests.[4] So while these numbers are no longer obviously erroneous, they are no more credible than before and cannot form a sufficient basis to declare that SWBT has met its obligations under the Act.

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[3] *See* Letter from James D. Ellis, *et al*, SBC Communications Inc., to Magalie Roman Salas, FCC, in CC Docket No. 00-4 (dated April 5, 2000) ("Second Application").

Indeed, in its Second Application, SWBT does not even attempt to demonstrate that the problems identified by NorthPoint in its previous comments have been cured. In fact, many of the problems with SWBT's DSL ordering capability discussed in NorthPoint's first round of comments continue to plague NorthPoint's DSL loop orders today. SWBT's processes are still highly manual and fraught with delays and errors. These manual processes result in repeated extensions of due dates, missed appointments and failed customer expectations – none of which are captured in SWBT's sparkling performance report. Given this stark duality – between the reality of Texas competition and SWBT's claimed performance – SWBT's refusal to reconcile data cooperatively means that no party, including this Commission, can accurately assess the actual state of affairs in Texas.

Like its last application, SWBT in this application continues to rely on future promises such as the Plan of Record, the Texas DSL Arbitration and line sharing implementation to bridge the significant discrimination gap identified by competitive LECs. But these promises – in addition to being a legally insufficient basis for SWBT's application – are unreliable. Repeated and unilateral delays, course-changes and policy revisions on SWBT's part have pushed the date when the fruits of line sharing, the Plan of Record, and the Texas DSL Arbitration might be obtained into a future that is murky at best.

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[4] By comparison, on the eve of its application for 271 authority, Bell Atlantic-New York engaged in, and continues to engage in, a daily, order-by-order review of NorthPoint loop orders to ensure that Bell Atlantic and NorthPoint are working from the same song sheet. This review has helped immeasurably in understanding and fixing provisioning problems in New York, and has ensured that, regardless of the parties' relative views on the market conditions in New York, everyone has an accurate grasp of the facts. In Texas, the absence of any similar cooperation and the absence of any third-party verification of SWBT's marvelous performance claims leaves this Commission without any basis for evaluating SWBT's proclamation of its own shining success in meeting the Act's requirements.

Because SWBT has failed to demonstrate based on reliable and verified data that its performance is sufficient under the Act, and because SWBT continues to rely on future promises to cure continued discrimination, SWBT's application must be denied.

II. SWBT's New Application Masks Continued Problems, Rather than Demonstrating Changed Performance

A. SWBT Has Not Produced Solutions to NorthPoint's Concerns Over the Manual and Error-Prone DSL Ordering Processes in Texas

As described in NorthPoint's Comments in CC Docket No. 00-4, SWBT maintains a manual ordering process for DSL loops that frustrates competitive LECs and inhibits competition, making robust, commercial and widespread broadband competition impossible in Texas. The attached affidavit of Jessica Lewandowski describes the process and its multiple points of failure. This is the DSL loop ordering process for NorthPoint today. And while SWBT has begun some process changes to implement the Texas DSL Arbitration, the Plan of Record and line sharing, except for some minor improvement in the intervals and reliability for loop qualification, NorthPoint's ordering experience has not changed since SWBT's application four months ago.

Even before SWBT filed its original 271 application, NorthPoint began working to attempt to improve SWBT's processes. Though numerous meetings, letters and conference calls have produced a somewhat clearer view of where SWBT's processes fail, these extensive discussions have yielded no meaningful fixes. (Lewandowski at ¶¶ 10-16). For example, SWBT's initial "solution" to its persistent inability to handle properly NorthPoint's orders was to assign to a single employee the job of "fixing" and catching SWBT errors in the handling of NorthPoint's loops. That employee has since retired, has not been replaced, and her band-aid "fixes" have vanished.

That SWBT's processes are in need of revision is demonstrated by SWBT itself. As a result of the Texas Commission's threat to impose monetary penalties, SWBT in mid-February convened a task force to improve DSL provisioning, and that task force made 54 process improvement recommendations. (Chapman/Dysart ¶¶ 65, 66). None are implemented and final.

The performance data submitted by SWBT as the cornerstone of its application simply fails to reflect these realities. For example, NorthPoint receives invalid rejects of NorthPoint's orders due to manual errors on the part of SWBT's customer service representatives. (Lewandowski at ¶¶ 5-6, 14). Often these errors force NorthPoint to supplement its order so that SWBT's service representatives can continue to process the order, even if the reject was SWBT's fault. (Lewandowski at ¶ 16). This supplement in turn revises the loop installation due date, pushes service delivery farther out, and frustrates long-suffering subscribers awaiting their competitive broadband service. While these system-forced extensions allow SWBT to enjoy extended provisioning intervals, they frustrate NorthPoint's customers and undermine the competitive market, but do not get reflected as a missed due date or delay in SWBT's performance measurements.

The inaccuracy of SWBT's loop qualification data also undermines the integrity of SWBT's performance data. Either on the loop installation due date, or very close to the due date, SWBT often discovers that a loop requires de-conditioning, (e.g. removal of load coils), though it had previously set a due date with the assumption that no de-conditioning was needed. With this discovery, SWBT will reject the loop order back to NorthPoint, requiring that NorthPoint supplement the order with a full ten-day provisioning interval for a conditioned loop. (Lewandowski at ¶ 14). At the point the order is rejected, it has been pending with SWBT for at

least several days. The requirement that NorthPoint supplement the order actually restarts the clock for the purpose of performance measurements and SWBT's late notice is not tallied as a miss. As a practical matter, this means that the loop is ordered twice: once as a loop without de-conditioning work, and again as a loop requiring de-conditioning work. Double ordering loops is burdensome, slow, and unnecessary; it frustrates customers and competitors alike, but is reflected by SWBT as "timely" in its performance measurements.

In the face of SWBT's conflicting performance claims, NorthPoint has repeatedly requested cooperation from SWBT to reconcile its order data, to ensure both carriers have the same understanding of the process and the issues that need to be addressed.[5] Up until this week, SWBT has refused to work with NorthPoint to reconcile data. (Lewandowski at ¶ 12). Given the inability to verify SWBT's performance measurements, and the manual intervention that is preventing NorthPoint from properly tracking orders, SWBT's performance measurements are not an adequate barometer of SWBT's compliance with the 271 checklist or the opportunity to compete in Texas. Without verifiable performance measurements, or detailed written process improvement plans with committed implementation dates, NorthPoint cannot address those issues with SWBT that prevent full-blown DSL competition in Texas.

B. Promised Improvements Have Not Yet Materialized and Are Behind Schedule

SWBT relies on promises, rather than results as a supplement to its application vis-à-vis continued discrimination against competitors who require DSL unbundled loops. For example, SWBT argues that implementation of line sharing and the Plan of Record will repair

discriminatory treatment of DSL competitive LECs in Texas. But SWBT's own comments suggest that these paper promises will prove unreliable.

1. SWBT Is Delaying CLEC Line Sharing While It Accelerates Its Own DSL Deployment

While SWBT claims in its application that line sharing will be "generally available" to end pervasive discrimination in the provisioning of DSL loops to competitors in Texas by May, SWBT's actions suggest a different story. SWBT witness Chapman points to the timely implementation of the FCC Line Sharing Order as the solution to the lack of parity between SWBT's retail and competitor's DSL service[6] – a discriminatory situation that has permitted SWBT to accelerate its own deployment while crippling competitors' ability to meet consumer demand in Texas.[7] In its Second Application, SWBT claims that admittedly deficient "temporary arrangements" (e.g. pervasive discrimination against competitors DSL offerings that result from SWBT's inability to provision stand-alone DSL-capable loops effectively) will be remedied by the general availability of line sharing in Texas by the end of May. (Second

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[5] NorthPoint has been exchanging daily progress reports on DSL loop orders with Bell Atlantic since September 1999, in order to reconcile data and mutually agree on process improvements. Bell Atlantic was cooperative and willing to implement the reports at NorthPoint's request. As a result of this effort and other contemporaneous work, NorthPoint has seen sustained improvement of its ordering and provisioning processes.

[6] Chapman/Dysart at ¶¶ 8, 10, 32, 35. For example, Ms. Chapman's affidavit states, "As a result of this difference [in line sharing capability] however, CLECs cannot be guaranteed of using an existing, already-tested and trouble free loop for their DSL services. They must deploy a second line that may not yet exist or be hitherto untested." (*Ibid.* at ¶ 8) SWBT also recognizes that several of the performance measurements do not adequately capture the current DSL installation picture since it is an "apples to oranges" comparison without competitive LEC line sharing. (*Ibid.* at ¶ 32) Finally, SWBT acknowledges that lack of facilities is a major concern for competitive LECs, but not for SWBT's retail service, because of the competitive LECs' inability to take advantage of line sharing (*Ibid.* at ¶ 35).

[7] SWBT claims that it can install "only" 3,000 DSL orders a day in its region, far more than all of the other DSL competitors combined can do in a week. T. Wallack, *Fast DSL Is Slow To Install, Backlogged orders for Internet Access*, San Francisco Chronicle, April 26, 2000.

Application at 13). But implementation schedules have not been finalized, and recent proposals by SWBT push implementation deadlines to the end of August. The continued delays imposed by SWBT, combined with the failure to meet the FCC's line sharing deadline, bely SWBT's claim that the Commission can rely on future performance, including timely implementation of line sharing, to end the discrimination in Texas.

Indeed, SWBT's "road to line sharing" has been rocky at best. SWBT has only recently unveiled its proposed network architecture for line sharing and it does not include the reasonable menu of options the competitive LECs have requested. (Cruz at ¶¶ 25-27; Lewandowski at ¶ 23). Moreover, SWBT has only recently unveiled its proposed rates for line sharing. (Lewandowski at ¶ 23). These delays, and SWBT's lack of cooperation in designing architecture and rates for line sharing, force delays and last-minute accommodations in competitors' implementation plans and delay the ultimate benefits of line sharing to consumers.

In its most recent attempt to foil competitors' attempts to serve consumers quickly with shared-line DSL, SWBT has announced that it will withdraw its agreement to enter into interim line sharing arrangements with competitive LECs while the competitive LECs and SWBT negotiate and possibly litigate some of the finer points of a final line sharing amendment. SWBT's refusal to enter into interim agreements is a 180-degree change from its policy up to that point. Many competitive LECs, including NorthPoint, were in the process of negotiating interim agreements until SWBT made its unilateral announcement. Now competitive LECs are forced to either take SWBT's unilateral, one-sided (and roundly unacceptable) contract proposal or delay their market entry until arbitration is complete, which could be as much as four or five months from the date an arbitration request is filed. SWBT's "bait and switch" policy on interim line

sharing agreements undermines the FCC rules and will unnecessarily delay the arrival of robust residential broadband competition in Texas.

SWBT has admitted that it will not – and does not plan to – abide by its commitment to the Commission to deliver line sharing by May 2000. (Second Application at 13, Cruz at ¶ 17). SWBT recently unveiled its proposed schedule for line sharing availability throughout its region, and despite its promises to the FCC of a May date, this proposal will not complete line sharing implementation until the end of August 2000.[8] (Cruz at ¶ 18; Lewandowski at ¶ 27).

2. *OSS Improvements Required by the Plan of Record and Texas DSL Arbitration Are Not Yet Complete*

SWBT holds itself out as being in compliance with its statutory obligations to provide nondiscriminatory access to OSS by reference to its intention to comply with the Plan of Record. (Chapman/Dysart at ¶ 97; Cruz at ¶¶ 32-38). But SWBT cannot be allowed to rely on its ongoing implementation of the Plan of Record so long as competitive LECs continue to suffer from discriminatory pre-order and ordering systems in Texas.

Indeed, the simple fact is: SWBT's current pre-order and ordering processes have been ruled discriminatory. The UNE Remand Order, and the Texas DSL Arbitration: (1) determined that SWBT's current manual loop qualification process was discriminatory and did not provide competitive LECs with a meaningful opportunity to compete; and (2) required SWBT to provide

[8] SWBT's proposed August schedule is available to competitive LECs that wish to use an incumbent LEC-owned and controlled splitter. Although not clear from its pronouncements, SWBT's claim of readiness by May was only available to competitive LECs purchasing their own splitters and placing the splitters inside their collocation cages. (Cruz at ¶¶ 17-18) Most recently, however, SWBT has announced that it may not even be able to accommodate those competitive LECs that purchase and place their own splitters by June. (Lewandowski at ¶ 26)

real time access, on a pre-order basis, to a full range of actual loop make-up information.[9] (Chapman/Dysart at ¶ 97). Until these problems that underlie the determination of discrimination are *actually* remedied, SWBT cannot demonstrate compliance with the Act.

Indeed, SWBT's "implementation" of the Plan of Record itself is a cause of worry. SWBT's pre-ordering and ordering processes have been constantly changing over the past several months as a result of the Plan of Record requirements. These changes have made the new mechanized interfaces unreliable and impossible to use for any significant order volume. For example, beginning March 18, 2000, competitive LECs had the ability to submit mechanized requests for designed loop make-up information through a GUI interface.[10] (Chapman/Dysart at ¶ 97). But, there were serious problems with this software release that caused it to be unusable. (Lewandowski at ¶ 31). As a result, NorthPoint has only been able to use this mechanized ability very recently, for only a small number of orders, so it has effectively been unavailable to date.

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[9] *See* Arbitration Award, *Petition of Rhythms Links, Inc. for Arbitration to Establish an Interconnection Agreement with Southwestern Bell Telephone Company*, Docket No. 20226, *Petition of DIECA Communications, Inc. d/b/a Covad Communications Company for Arbitration of Interconnection Rates, Terms, Conditions, and Related Arrangements with Southwestern Bell Telephone Company*, Docket No. 20272, November 30, 1999 ("Texas Arbitration Award") at page 74. ("The Arbitrators find that competitive parity can only be reached with respect to loops used to provide xDSL services if CLECs are provided with real-time access to actual loop makeup information that they can then use to provide their services to their customers."); *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, CC Docket No. 96-98, FCC 99-238 (rel. November 5, 1999) ("UNE Remand Order") at ¶ 428.

[10] "Designed" loop make-up information is different than actual loop make-up information. Designed data provide information for the standard design for the longest loop in the end user's distribution area. (Cruz at ¶ 37). Designed data indicates what the loop *should* look like, taking into account industry standards and SWBT standards for outside loop plant. "Actual" loop make-up information uses outside plant records to develop records for specific loops. Instead of a guess, it is information about the actual loop going to a particular end-user premises. Because the performance of DSL is dependent on loop characteristics, it is critical that competitive LECs have access to actual loop make-up information, as opposed to designed data.

SWBT is far from finished with this process. Another round of changes is scheduled to go into effect on April 29, 2000. (Cruz at ¶ 38; Lewandowski at ¶ 32). Inevitably there will be bugs in these new systems too, and it will likely be a few months before competitive LECs know whether these changes will have satisfied the UNE Remand and Texas DSL Arbitration requirements for non-discriminatory access to pre-ordering and ordering processes. Therefore, SWBT cannot use this process as evidence of its current compliance with these obligations, and its further obligation under the Act.

Moreover, several competitive LECs have called into question the adequacy of SWBT's cooperation in the Plan of Record implementation. While there have been numerous meetings and collaboratives as part of the Plan of Record, and some agreements between the parties, the competitive LECs, including NorthPoint, filed a notice of status with the FCC on April 3, 2000 noting that SWBT appears to have acted in bad faith during the process. The competitive LECs recounted a laundry list of problems, including the fact that SWBT had refused to distribute relevant documents prior to important meetings, had seemingly waited until the last minute to prepare for any collaborative session, failed to provide sufficient information and background to its workshop participants, failed to provide requested information and documentation, failed to provide personnel with adequate authority or understanding to address legitimate competitive LEC issues, and reversed its policy on several previously agreed-to issues.[11] The competitive LECs have requested FCC intervention and arbitration for a number of key issues in the Plan of

[11] *See* Notification of Final Status of Advanced Services OSS Plan of Record, *In re Applications of AMERITECH CORP. Transferor, and SBC COMMUNICATIONS INC., Transferee, For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95 and 101 of the Commission's Rules,* CC Docket No.98-141, April 3, 2000 at pp. 8-12. ("Plan of Record Notice") Real-time access to loop make-up information is also required by the SBC-Ameritech merger conditions and the Plan of Record.

Record. SWBT's reliance on the Plan of Record as a basis for assuming future compliance, (Chapman/Dysart at ¶ 97; Cruz at ¶¶ 32- 38) cannot be taken seriously.

C. Advanced Solutions, Inc. Cannot be Used As a Proxy for Compliance with the Act

The Commission cannot rely on the existence of SWBT's affiliate, Advanced Solutions, Inc. (ASI) to ensure that SWBT does not discriminate against DSL competitive LECs. The existence of a separate affiliate only allows the detection of unlawful discrimination to the extent that the affiliate and DSL competitive LECs sell similar types of DSL products that require access to the same unbundled network elements and utilize the same OSS. Where competitors differentiate their service offerings, the separate affiliate's usefulness as a measure of parity is substantially diminished. This is particularly true for NorthPoint, which offers an SDSL service on stand-alone loops, whereas the affiliate's ADSL product is offered primarily on shared lines.

As described in NorthPoint's previous comments, OSS and provisioning differ in significant ways for the two products. SWBT provides loop qualification information in a format that is useful for providers of ADSL service, but not for competitive providers of a differentiated service, such as ADSL. Thus, Lincoln Brown's statement in his Supplemental Affidavit that loop pre-qualification information is available from CPSOS adds no new information, and certainly is not evidence of non-discriminatory access to OSS.[12] Mr. Brown does not state that the loop pre-qualification information available from CPSOS satisfies either the UNE Remand requirement or the Texas DSL Arbitration requirement that SWBT provide

real-time access to loop make-up data, and until those requirements are satisfied, SWBT continues to discriminate in favor of its own ADSL service, whether provided directly or through ASI.

In his supplemental affidavit, Lincoln Brown acknowledges that ASI will not reach a "steady state" until line sharing is available to DSL competitive LECs. (Brown at ¶ 12). During the period preceding the "steady state" provisioning of line sharing, SWBT performs all line sharing functions on behalf of ASI, exactly in the manner that SWBT performed line sharing for itself prior to the creation of the affiliate. Because ASI itself is not ordering any line shared loops, does not provision its own services, and is yet to achieve any "steady state" whereby it might prove to be an indicia or benchmark of competitive performance, attempts to rely on the Affiliate are simply premature.[13]

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[12] Brown at ¶ 18. In fact, SWBT stated during the Plan of Record proceedings that CPSOS will be going away and that while CPSOS is available to competitive LECs for pre-ordering, it is used by the affiliate for ordering and order status as well. *See* Plan of Record Notice at 17-18, and Transcript from Plan of Record Collaborative Session 3, March 28, 2000 at pp. 903-904.

[13] SWBT's artificial commitment that ASI will order 280 stand-alone loops per month, as a benchmark for the discrimination that competitive carriers suffer in being required to order such loops to deliver service, really means nothing. SWBT does not indicate that these loops are for real customers, will be tested, de-conditioned, and provisioned on a time-sensitive basis, will be provisioned through arms'-length ordering systems, or that they will be used to provide any of the variety of services offered by competitors. Indeed, the fact that SWBT pledges to create what is in effect a hobbled step-child as a barometer of competitor's opportunities in Texas is, in itself, sufficient indication that SWBT has failed to address the significant problems that make stand-alone loop provisioning such a poor substitute for shared-line loops.

III. SWBT Must Complete Fundamental Changes to Its DSL Ordering and Provisioning System Before It Can Be Granted Long Distance Authority

Before it is permitted to provide interLATA service in Texas, SWBT must make fundamental changes to its DSL ordering and provisioning system and complete basic steps required for compliance with the Act.

Specifically:

(1) SWBT must provide non-discriminatory access to OSS systems that are scalable and eliminate manual processing errors;

(2) SWBT must implement flow-through for all DSL-capable loops, beginning immediately with all DSL loops shorter than 12,000 feet;

(3) SWBT must stop "straight-arming" its own customers' attempts to reconcile SWBT performance claims with actual performance by exchanging and reconciling daily information on loop order status with SWBT;

(4) SWBT must implement line sharing in a timely manner and in full compliance with the FCC and relevant state commission requirements, including providing DSL competitive LECs with the ability to order line-shared loops under interim terms and conditions, pending resolution of final issues; and

(5) SWBT must provide real-time, electronic access to actual loop make-up information during pre-ordering.

Finally, and perhaps most importantly, SWBT's process and improvements and OSS capabilities must be subject to third party testing and validation of SWBT's compliance with the requirements described above before SWBT attempts to demonstrate that it has complied with the requirements of the Telecommunications Act.

RESPECTFULLY SUBMITTED,

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April 28, 2000

CERTIFICATE OF SERVICE

I, Valerie Yates, do hereby certify that on this 28th day of April, 2000, I caused a copy of the foregoing Comments of NorthPoint Communications, Inc. to be served upon each of the parties listed on the attached Service List by messenger and first class mail, postage prepaid.

Valerie Yates

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In-Region InterLATA Services in Texas	)	

AFFIDAVIT OF JESSICA LEWANDOWSKI

1. My name is Jessica Lewandowski. I am a Senior Manager, Local Exchange Carrier ("LEC") Relations for NorthPoint Communications, Inc. My business address is 303 Second Street, San Francisco, CA 94107. I have previously submitted an affidavit before this Commission, in CC Docket No. 00-4, on January 31, 2000.
2. In this Affidavit, I will discuss Southwestern Bell Telephone Company's ("SWBT's") current process for Digital Subscriber Line ("DSL")-capable loop ordering and NorthPoint's attempt to work with SWBT to address serious operational issues and requests for increased mechanization and flow-through of the ordering process. I will also address NorthPoint's operational concerns about and problems it has experienced with the implementation process of line sharing capability in the SBC territory and the implementation of the initial steps in SWBT's Plan of Record.
3. In my previous Affidavit, I described SWBT's ordering process as it existed in January. While the process is generally the same, in this affidavit I will highlight specific points where manual intervention by SWBT's service representatives and provisioning

technicians cause weaknesses in the system and prevent NorthPoint from scaling its orders.

SWBT's DSL Loop Ordering Process

4. NorthPoint's ordering process consists of these steps:

- NorthPoint submits a DSL loop order through a mechanized interface called Electronic Data Interexchange ("EDI").[1] This order must specify a designated Power Spectral Density ("PSD") mask for the DSL service NorthPoint intends to place on the loop. SWBT requires that NorthPoint order each DSL-capable loop by entering an order code that reflects a permutation of the loop-type, service to be delivered, speed, and loop length; [2]
- The EDI gateway system does a very cursory, mechanized review of the NorthPoint order and automatically rejects the order back to NorthPoint for obvious typographical errors or missing information;
- Once NorthPoint submits a "clean" order through EDI, the order drops out of SWBT's mechanized systems and onto the desk of a SWBT service representative in the Local Service Center ("LSC") for review;
- A group of service representatives is assigned to review DSL service orders. An order is rejected and sent back to NorthPoint if the service representative finds errors with the order; [3]
- SWBT's service representatives then re-type NorthPoint's orders from the EDI ordering interface into SWBT's own loop ordering systems;

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[1] As of April 17, 2000, NorthPoint began to use EDI as its ordering interface with SWBT in Texas. The fact that NorthPoint has moved from the mechanized LEX GUI interface to EDI does not affect my discussion of ordering issues that follows. A common misunderstanding is that using EDI makes an order "flow through." This is not the case. Once NorthPoint's loop orders pass through the EDI ordering gateway and the initial mechanized system edits, the order still drops out of SWBT's systems for manual handling and retyping into SWBT's systems.

[2] Although SWBT claims to have implemented the Texas DSL Arbitration by creating, in the interconnection agreement language, generic xDSL definitions for unbundled DSL loop types (rather than listing separate loop types for each of the PSD standards), NorthPoint's loop ordering process has not changed to reflect the change in contract language. (Chapman/Dysart at ¶92.) SWBT has not made any proposal that would allow NorthPoint to order a single DSL-capable loop.

[3] In my previous affidavit I indicated that NorthPoint's orders were being rejected if they did not meet the requirements for a specific DSL type. NorthPoint is now consistently using the "as-is" code on all of its DSL loop orders so that SWBT will not reject an order merely because it is too long for the type of DSL NorthPoint indicated on the order form.

- Once a NorthPoint order passes the service representatives, it sits idle while SWBT's engineers perform a manual loop qualification to review the physical characteristics of the loop and return that information back to the service representatives;
- The LSC then returns the loop qualification information to NorthPoint via fax or email. If the loop qualification reveals that the particular loop needs de-conditioning (*e.g.,* removal of load coils to enable DSL to be carried on the loop), is served only by fiber, or is too long to support the requested DSL service, then NorthPoint must supplement the order and change the due date, even though the order has already been with SWBT for at least three days.
- Once SWBT performs the loop qualification, the order begins to move through the provisioning process. SWBT's Local Operations Center ("LOC") is responsible for provisioning the loop.

5. This multi-step process has several points of manual intervention that cause unnecessary rejects and delays in the process. The first point of manual intervention and frequent breakdown in the system is that the LSC service representatives must manually review the order for possible errors. NorthPoint experiences numerous invalid rejects and multiple rejects sent to NorthPoint serially, not simultaneously, during this step. These rejects force NorthPoint to supplement the order, sometimes with multiple supplements, thereby causing delay and moving the order's due date back, sometimes several weeks. SWBT's retail service ADSL orders do not go through the same, painstaking process, thereby giving their orders an advantage.
6. The second point of manual intervention comes when SWBT's service representatives manually re-key every NorthPoint loop order into their own legacy ordering systems. Humans inevitably make mistakes and these errors cause NorthPoint's orders to be rejected, further delaying the orders, despite the fact that SWBT errors are the cause of the reject. Once again, SWBT's retail service representatives have direct access to SWBT's legacy ordering systems and directly enter their orders. SWBT's retail orders do not get re-keyed into the system, thereby greatly reducing the chance of reject.

7. SWBT's manual loop qualification process is the third point of manual intervention and breakdown in the system. While SWBT has begun to phase out the manual loop qualification process for DSL orders, until SWBT has loaded all of its outside plant records into databases, competitive LECs will continue to need some manual loop qualification. Not only does the manual nature of the engineering records research take time, but the LSC returns the loop qualification to NorthPoint via fax or email. As I described in my previous affidavit, NorthPoint has on numerous occasions received the wrong loop qualification or no loop qualification at all. SWBT has recently implemented a new loop qualification procedure that will diminish the required manual intervention in this process. However, in light of the problems with this new process described below, NorthPoint is still currently using the manual loop qualification process.

8. The fifth breakdown in the system comes when NorthPoint's loop order moves to SWBT's LOC, the organization responsible for loop assignment and provisioning. Because the LOC and LSC use different internal systems to track NorthPoint's loop orders, and because the LOC has no mechanized system to communicate problems with NorthPoint's loop order back to the LSC, communication about the status of NorthPoint's loop orders is inefficient and inconsistent. Consequently, when the LOC discovers a problem with a particular loop that it is provisioning for NorthPoint, the LOC does not properly communicate that problem to the LSC, which in turn does not tell NorthPoint. If NorthPoint does receive status on an order, it is usually via a phone call. This makes it impossible to accurately track the status of hundreds of orders NorthPoint currently has pending with SWBT in Texas and prevents NorthPoint from properly communicating the status of orders to its users. As a consequence, some of NorthPoint's customers wait

hours for the appearance of a SWBT loop installation technician, only to be disappointed when no SWBT technician arrives, and no current information on their loop order is available from NorthPoint. These problems are damaging to NorthPoint's reputation and inconvenience NorthPoint's customers.

9. NorthPoint has tried to work with its SWBT account team to address the concerns over the extensively manual and error-prone processes, many of which are the direct cause of the problems NorthPoint raised in its initial filing. By working with SWBT, NorthPoint has clarified some of its original concerns and uncovered new concerns, but has yet to resolve the vast majority of its issues.

NorthPoint's Attempts to Work with SWBT

10. NorthPoint's account team, and other SWBT representatives have agreed with NorthPoint that parts of SWBT's DSL ordering process frequently do not work as designed and acknowledged that NorthPoint has been raising valid issues. Indeed, these SWBT representatives have met with NorthPoint repeatedly, both in person and on conference calls, to try to resolve these issues. Unfortunately, even though both NorthPoint and SWBT have been working to fix the DSL processes since they were implemented in September, a number of problems continue to plague NorthPoint's orders and SWBT has yet to produce a concrete, written plan of action with specific deadlines and verifiable results. In fact, NorthPoint's efforts to find systemic solutions to create a scalable DSL ordering process have been frustrated. The following paragraphs describe NorthPoint's experiences over the past few months and highlight some of the problems NorthPoint has encountered.

11. **SWBT's initial solution came down to a single LSC employee.** When NorthPoint met with several high-level SWBT representatives in February, SWBT acknowledged several problems with the manual handling of DSL orders in the LSC. However, SWBT assured NorthPoint that these problems would be addressed by new policies and procedures implemented by one of the managers of the LSC. Even though many of these "new" policies consisted of phone calls and faxes from this one particular manager and her small group of service representatives informing NorthPoint of order status, rejects and jeopardies and working with NorthPoint on specific escalations, after that meeting NorthPoint worked closely with the single manager assigned to address DSL processes and NorthPoint's orders began to move through the LSC in a more efficient manner. Unfortunately for NorthPoint and for SWBT, this single LSC manager retired from the company and left a gaping hole in SWBT's processes. The improvements that NorthPoint noticed as a result of her individual attention to each order quickly disappeared and NorthPoint is back to square one with the LSC today.

12. **SWBT has refused to work with NorthPoint to reconcile order data.** During its meetings and conference calls with SWBT, NorthPoint has consistently requested an opportunity to reconcile specific orders to try and diagnose and fix operational problems. NorthPoint's proposal was to have both NorthPoint and SWBT closely track orders on a daily or weekly basis for a specific period of time, making note of each event with these orders. NorthPoint and SWBT would then compare notes and learn from each order to