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JUN 23 2000  
FEDERAL COMMUNICATIONS COMMISSION

June 23, 2000

**Ex Parte Submission**

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

Re: CC Docket No. 00-65 / Application of SBC Communications Inc., et al.,  
for Provision of In-region InterLATA Services in Texas

Dear Ms. Salas:

At the request of staff for Commissioner Furchtgott-Roth, AT&T hereby submits the following information and supporting attachments to provide evidence as to four issues: (1) SBC's obligation to provide UNE-P/DSL pursuant to the existing AT&T/SWBT interconnection agreement; (2) SBC's refusal to provide UNE-P/DSL; (3) the unavailability to AT&T of SBC's promotional loop discounts for non-UNE-P CLECs offering residential service; and (4) provisions in AT&T's interconnection agreement that are violated by SBC's restriction on the use of UNEs for access services.

**I. UNE-P/DSL And The AT&T/SWBT Interconnection Agreement**

AT&T has previously described SBC's refusal to provide AT&T with reasonable and nondiscriminatory terms, conditions, and procedures for providing both voice and data services over unbundled loops obtained as part of the UNE-platform (hereafter, "UNE-P/DSL"). AT&T has also shown that SBC's attempt to limit its DSL-related obligations to line-sharing with data LECs will seriously harm competition for voice services. And AT&T has demonstrated that SBC's refusal violates its obligations under the Telecommunications Act, the Sherman Act, and the Commission's rules governing unbundled network elements, and that SBC – by ensuring that it is the only carrier effectively able to mass-market a package of voice and DSL service to residential customers – will thereby perpetuate its local monopoly for all customers who desire such a package and leverage that monopoly into the long distance market.

In this submission, we further show that SBC's refusal to provide UNE-P/DSL also violates SBC's obligations under the terms of its Interconnection Agreement with AT&T, as set forth, most notably, in the General Terms and Conditions and in Attachments 6 and 7 of the

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Interconnection Agreement (governing unbundled network elements, and the ordering and provisioning of unbundled network elements, respectively). The following examples, quoted in pertinent part, and followed by a brief explanatory note in brackets stating their relevance to this issue, are illustrative:

\* \* \* \* \*

From the General Terms and Conditions:

§ 55.1: **“At the request of AT&T and pursuant to the requirements of the Act, SWBT will offer . . . Network Elements to AT&T on an unbundled basis on rates, terms, and conditions set forth in this Agreement that are just, reasonable, and non-discriminatory.”**

[This general condition – directly applicable to the provision of unbundled network elements – expressly incorporates into this interconnection agreement SBC’s obligation to provide just, reasonable, and nondiscriminatory access to UNEs under § 251(c)(3). It establishes that SBC’s obligations with respect to UNEs under the interconnection agreement are co-extensive with those under the Act, that SBC is bound by its interconnection agreement to provide the same “just, reasonable, and nondiscriminatory” access to UNEs that the Act requires, and that AT&T has consistently argued throughout these proceedings that SBC has failed to provide.]

From Attachment 6 of AT&T/SWBT Interconnection Agreement:

§ 2.2: **“AT&T may combine any unbundled Network Element with any other element without restriction. . . .”**

[SBC’s refusal to permit AT&T to obtain the UNE-Platform when AT&T also seeks to provide data service is a “restriction” on AT&T’s ability to obtain UNE combinations.]

§ 2.3: **“AT&T may use one or more Network Elements to provide any technically feasible feature, function, or capability that such Network Element(s) may provide.”**

[It is technically feasible for AT&T to use the loops obtained through UNE-P to provide customers with DSL features, functions, and capabilities; SBC has not disputed technical feasibility.]

§ 2.4: **“SWBT will provide AT&T access to the unbundled Network Elements provided for in this Attachment, including combinations of Network Elements, without restriction.”**

[See note to § 2.2, above.]

§ 2.4.1: **“When AT&T orders unbundled Network Elements in combination, and identifies to SWBT the type of telecommunications service it intends to deliver to its end-user customer through that combination (e.g., POTS, ISDN), SWBT will provide the requested elements with all the functionality, and with at least the same quality of**

**performance and operations systems support (ordering, provisioning, maintenance, billing and recording) that SWBT provides through its own network to its local exchange service customers receiving equivalent service, unless AT&T requests a lesser or greater quality of performance through the Special Request process. . . .”**

[This provision confirms AT&T’s intention to use combinations of UNEs to provide not just plain old telephone service (“POTS”) but also to provide different “type[s] of telecommunications service[s],” of which DSL unquestionably is one. In that circumstance, this provision expressly obligates SWBT to provide the requested elements with “all the functionality” that “SWBT provides through its own network to its local exchange service customers receiving equivalent service.” SWBT’s refusal to supply combinations with the loop functionality – i.e., the splitter – needed to deliver DSL service, which SBC’s own customers receive, violates this provision. Equally important, SWBT’s insistence on breaking apart existing loop-switch combinations in order for CLECs to offer voice-plus-DSL will increase the risk of disrupting the customer’s voice service during the transition from SBC to the CLEC; thus, under SBC’s approach, the *voice service* that CLECs would be able to offer their customers who opt for DSL would not have “the same quality of performance” as the voice service that SWBT provides its customers who add DSL.]

From Attachment 7 of AT&T/SWBT Interconnection Agreement:

**§ 1.5: “For all unbundled Network Elements and Combinations ordered under this Agreement, SWBT will provide pre-order, ordering and provisioning services equal in quality and speed . . . to the services SWBT provides to its end users for an equivalent service. When UNEs are ordered in combination, for example, loop and switch port, the service must be supported by all the functionalities provided to SWBT’s local exchange service customers.”**

[When AT&T orders UNE-P, SBC must support that order by providing the requisite ordering and provisioning services so that AT&T can offer its customers “all the functionalities” – including use of the high frequency portion of the loop for DSL – that SBC is able to offer its local exchange customers.]

\* \* \* \* \*

In short, these provisions demonstrate that SBC’s obligations under its interconnection agreement with AT&T are fully commensurate with the obligations that the Act and this Commission’s rules impose on incumbent LECs generally, and that AT&T has previously argued at length that SBC is violating by refusing to provide UNE-P/DSL. The AT&T/SWBT Interconnection Agreement is included in its entirety in Appendix B to SBC’s initial section 271 application filed on January 10, 2000 (CC Docket 00-4). For the Commission’s convenience, *Attachment A* to this ex parte submission sets forth those terms from Attachments 6 and 7 and from the General Terms and Conditions quoted above.

## **II. Evidence of SBC’s Refusal To Provide UNE-P/DSL**

SBC's interconnection agreement with AT&T thus obligates SBC to provide AT&T with access to and procedures for UNE-P/DSL, and AT&T has been seeking UNE-P/DSL, both in formal testimony before the TPUC, and in direct contacts with SBC, since October 1999. Although at one point SBC represented to the Commission that "AT&T is free to offer both voice and data service over the UNE Platform" (SBC Reply Br. 37 n.19), both before and after that representation, SBC has repeatedly refused to provide AT&T with the ability to add DSL service to voice services provided over UNE-P. For example:

On October 27, 1999, AT&T formally requested development of "a UNE-Platform order type which accommodates both the voice platform and high speed data service." Morgan 10/27 Aff. ¶ 13, attached to Pfau/Chambers 1/31 Decl. as Att. 14. On November 19, 1999, AT&T renewed its request for "efficient and nondiscriminatory supporting procedures" for UNE-P/DSL. See Morgan 11/19 Aff. p. 11, attached to Pfau/Chambers 1/31 Decl. as Att. 15.

SBC repeatedly rejected AT&T's requests for procedures to add DSL (whether provided by SBC or by a CLEC) to a UNE-P line. For example, on November 2, 1999, SBC witnesses testifying before the TPUC did not deny that adding SWBT's DSL to a UNE-P line was technically feasible but stated that SBC would not provide it. See Pfau/Chambers 1/31/00 Decl. ¶ 31 & n.29, and Att. 13 at 365-71. Similarly, on January 18, 2000, SBC responded to a series of specific requests for procedures to order UNE-P/DSL, with DSL provided by a cooperating data LEC, and claimed that such requests are "not something SWBT should respond to." See id. ¶¶ 38-39 & nn. 36-37 and Atts. 16, 17. SBC subsequently rejected test orders from AT&T's cooperating data carrier. See ¶ 40 & Att. 18.

SBC refused even to negotiate AT&T's proposed amendments to the AT&T/SWBT interconnection agreement regarding UNE-P/DSL. AT&T provided SBC with proposed amendments on February 24, 2000 that set forth in detail SBC's obligations with respect to adding DSL to UNE-P. A copy of this proposal and a short explanatory affidavit documenting SBC's refusal to negotiate were filed as attachments to AT&T's confidential ex parte letter in this proceeding dated March 3, 2000; for the Commission's convenience, a copy of the proposal, and the Declaration of Michelle S. Bourianoff to which it was attached, are also attached hereto as *Attachment B*.

SBC then prepared and filed with this Commission proposed amendments to the T2A that explicitly deny competing carriers the ability to add DSL to UNE-P. For example, § 4.7.4 of SBC's proposed amendments to Attachment 25 of the T2A states that the high frequency portion of the loop needed for data services "is not available in conjunction with a combination of network elements known as the platform or UNE-P." See Auinbauh Supp. Aff. (submitted by SBC on 4/5/00) at Attachment A, § 4.7.4; see also id. at § 4.7.5 (attached hereto for the Commission's convenience as *Attachment C*).

SBC confirmed its refusal to provide UNE-P/DSL in its Supplemental Reply comments (see, e.g., Auinbauh Supp. Reply Aff ¶ 12) and continues to stand by its position today. Most recently, SBC confirmed its position that Attachment 25 of the T2A (pertaining to line sharing) should not be amended except to provide for “line sharing as it has been defined by the FCC,” and that “AT&T’s proposals should be rejected by the [TPUC] as being outside the scope of the FCC’s unbundling requirements.” Direct Testimony of Carol Chapman, filed by SWBT on June 15, 2000, in TPUC Docket No. 22315, at 10-11 (attached hereto as *Attachment D*).

### **III. Promotional Rates For Unbundled Loops**

In AT&T’s Supplemental Comments filed April 26, 2000, AT&T showed that SBC’s promotional discount rates for unbundled loops, which SBC selectively makes available (pursuant to its merger conditions) only to non-UNE-P carriers who are providing service to residential customers, is discriminatory in violation of the Act. AT&T Supp. Br. at 62-64. These promotional discounts also violate AT&T’s interconnection agreement with SWBT, which requires SWBT to provide UNEs “on rates, terms, and conditions set forth in this Agreement that are just, reasonable, and nondiscriminatory.” See General Terms and Conditions § 55.1, reproduced at *Attachment A* hereto.

### **IV. SBC’s Use Restrictions Violate Its Interconnection Agreement**

AT&T also demonstrated in its Supplemental Comments (at 59-62) that SBC’s restriction on the use of certain unbundled network elements, which prohibits their use for access services, violates section 251(c)(3). In particular, SBC’s position, as reflected in its proposed amendments to the T2A, is that “[u]nbundled DS1 and DS3 subloops may not be employed in combination with transport facilities to replace special access facilities.” Auinbauh Supp. Aff., Att. C., Amendment UNE to T2A § 4.6.8. That is a violation of § 251(c)(3), which requires incumbent LECs to provide unbundled elements “for the provision of a telecommunications service.” 47 U.S.C. § 251(c)(3); see 47 U.S.C. § 153(43).

SBC’s imposition of such use restrictions also conflicts with several of the terms of its interconnection agreement noted above in Part I.<sup>1</sup> For example, SBC’s use restriction violates:

§ 55.1 of the General Terms and Conditions, which requires SBC to provide UNEs “on rates, terms, and conditions set forth in this Agreement that are just, reasonable, and nondiscriminatory”;

§ 2.2 of Attachment 6, which allows AT&T to combine UNEs “without restriction”;

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<sup>1</sup> SBC’s use restriction also is inconsistent with § 2.2 of Attachment 6 of the T2A, which provides that “CLEC may use UNEs as provided for in the Second Order on Appeal in the Waller Creek proceedings . . . [which] provides that ‘with one transitional condition, WCC can use UNE dark fiber (or other UNEs) to carry traffic for any other telecommunications provider regardless of who is serving the retail, local end user customer.’”

§ 2.3 of Attachment 6, which allows AT&T to “use one or more Network Elements to provide any technically feasible feature, function, or capability that such Network Element(s) may provide.”

§ 2.4 of Attachment 6, which provides AT&T with “access to the unbundled Network Elements provided for in this Attachment, including combinations of Network Elements, without restriction.”

An original and one copy of this letter and attachments are being submitted pursuant to Section 1.1206 (b) of the Commission’s rules. Please insert one copy into the public record of CC-Docket No. 00-65.

Respectfully submitted,



Frank Simone

List of Attachments:

- A: Excerpts of AT&T/SWBT Interconnection Agreement
- B: Declaration of Michelle S. Bourianoff and Attachment (AT&T’s Proposed Language for Interconnection Agreement)
- C: SBC Amendment to Attachment 25 of T2A (originally filed as Att. A to Auinbauh Supp. Aff.).
- D: Direct Testimony of Carol Chapman (filed with TPUC 6/15/00 by SBC)

- cc:
- D. Attwood
  - K. Dixon
  - J. Goldstein
  - H. Walker
  - S. Whitesell
  - L. Strickling
  - M. Carey
  - J. Jennings
  - M. Egler
  - A. Wright

# **Attachment A**

AT&T ex parte, June 23, 2000

CC Docket No. 00-65, Application of SBC Communications Inc., et al.,  
for Provision of In-region InterLATA Services in Texas

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

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

CC Docket No. \_\_\_\_\_

**APPLICATION BY SBC COMMUNICATIONS INC.  
FOR PROVISION OF IN-REGION, INTERLATA SERVICES  
IN TEXAS**

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**APPENDIX B**

**Tab 60 (AT&T Communications Agreement)**

**INTERCONNECTION AGREEMENT - TEXAS**

This Interconnection Agreement - Texas (Agreement) is between AT&T Communications of the Southwest Inc. a Delaware Corporation, having an office at 5501 LBJ Freeway, Dallas, Texas 75240, and Southwestern Bell Telephone Company (SWBT), a Missouri corporation, having an office at 1010 Pine Street, St. Louis, Missouri 63101. (collectively the Parties).

WHEREAS, pursuant to the Telecommunications Act of 1996 (the Act), the Parties wish to establish terms for the resale of SWBT services and for the provision by SWBT of Interconnection, unbundled Network Elements, and Ancillary Functions as designated in the Attachments hereto.

NOW, THEREFORE, in consideration of the premises and the mutual covenants of this Agreement AT&T and SWBT hereby agree as follows:

**1.0 INTRODUCTION**

- 1.1 This Agreement sets forth the terms, conditions and prices under which SWBT agrees to provide (a) services for resale (hereinafter referred to as Resale services), (b) unbundled Network Elements, or combinations of such Network Elements (Combinations), (c) Ancillary Functions and (d) Interconnection to AT&T. This Agreement also sets forth the terms and conditions for the interconnection of AT&T's network to SWBT's network and reciprocal compensation for the transport and termination of telecommunications.
- 1.2 The Network Elements, Combinations or Resale services provided pursuant to this Agreement may be connected to other Network Elements, Combinations or Resale services provided by SWBT or to any network components provided by AT&T itself or by any other vendor. Subject to the requirements of this Agreement, AT&T may at any time add, delete, relocate or modify the Resale services, Network Elements or Combinations purchased hereunder.
- 1.3 During the term of this Agreement, SWBT will not discontinue, as to AT&T, any Network Element, Combination, or Ancillary Functions offered to AT&T hereunder. During the term of this Agreement, SWBT will not discontinue any Resale services or features offered to AT&T hereunder except as provided in Attachment 1: Resale hereto and subject to the provisions of Section 30.2 of the General Terms and Conditions of this Agreement. This Section is not intended to impair SWBT's ability to make changes in its Network, so long as such changes are consistent with the Act and do not result in the discontinuance of the offerings of Network Elements, Combinations, or Ancillary Functions made by SWBT to AT&T as set forth in an during the terms of this Agreement.

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Interconnection Agreement-TX  
General Terms and Conditions  
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inquire about the other Party's services or products; and (ii) do not in any way disparage or discriminate against the other Party or its products or services.

**51.0 Disclaimer of Warranties**

51.1 TO THE EXTENT CONSISTENT WITH ITS OBLIGATIONS UNDER THE ACT, SWBT MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR INTENDED OR PARTICULAR PURPOSE WITH RESPECT TO SERVICES PROVIDED HEREUNDER.

**52.0 No Waiver**

52.1 AT&T's agreement herein to accept less than fully operational electronic interfaces to operations support systems functions on and after January 1, 1997, will not be deemed a waiver of Section 251(c)(3) of the Act to receive such interfaces on that date.

**53.0 Definitions**

53.1 For purposes of this Agreement, certain terms have been defined in this Agreement to encompass meanings that may differ from, or be in addition to, the normal connotation of the defined word. Unless the context clearly indicates otherwise, any term defined or used in the singular will include the plural. The words "will" and "shall" are used interchangeably throughout this Agreement and the use of either connotes a mandatory requirement. The use of one or the other will not mean a different degree of right or obligation for either Party. A defined word intended to convey its special meaning is capitalized when used. Other terms that are capitalized and not defined in this Agreement will have the meaning in the Act.

**54.0 Resale**

54.1 At the request of AT&T, and pursuant to the requirements of the Act, any telecommunications service that SWBT currently provides or hereafter offers to any customer in the geographic area where SWBT is the incumbent LEC will be made available to AT&T by SWBT for Resale in accordance with the terms, conditions and prices set forth in this Agreement. Specific provisions concerning Resale are addressed in Attachment 1: Resale, and other applicable Attachments.

**55.0 Unbundled Network Elements**

55.1 At the request of AT&T and pursuant to the requirements of the Act, SWBT will offer in the geographic area where SWBT is the incumbent LEC Network Elements to AT&T on

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Interconnection Agreement-TX  
General Terms and Conditions  
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an unbundled basis on rates, terms and conditions set forth in this Agreement that are just, reasonable, and non-discriminatory. Specific Provisions concerning Unbundled Network Elements are addressed in Attachment 6: Unbundled Network Elements, and other applicable Attachments.

**56.0 Ordering and Provisioning, Maintenance, Connectivity Billing and Recording, and Provision of Customer Usage Data**

56.1 In connection with its Resale of services to AT&T, SWBT agrees to provide to AT&T Ordering and Provisioning Services, Maintenance services, Connectivity Billing and Recording services and Provision of Customer Usage Data services pursuant to the terms specified in Attachments 2, 3, 4 and 5, respectively.

56.2 In connection with its furnishing Unbundled Networks Elements to AT&T, SWBT agrees to provide to AT&T Ordering and Provisioning Services, Maintenance services, Connectivity Billing and Recording services and Provision of Customer Usage Data services pursuant to the terms specified in Attachments 7, 8, 9 and 10, respectively.

**57.0 Network Interconnection Architecture**

57.1 Where the Parties interconnect their networks, for purposes of exchanging traffic between their networks, the Parties agree to utilize the interconnection methods specified in Attachment 11: Network Interconnection Architecture. SWBT expressly recognizes that this provision and said Attachment are in no way intended to impair in any way AT&T's right to interconnect with unbundled Network Elements furnished by SWBT at any technically feasible point within SWBT's network, as provided in the Act.

**58.0 Compensation for Delivery of Traffic**

58.1 The Parties agree to compensate each other for the transport and termination of traffic as provided in Attachment 12: Compensation.

**59.0 Ancillary Functions**

Ancillary Functions may include, but are not limited to, Collocation, Rights-of-Way, Conduit and Pole Attachments. SWBT agrees to provide Ancillary Functions to AT&T as set forth in Attachment 13: Ancillary Functions.

**60.0 Conforming Amendments**

60.1 SWBT and AT&T have already entered into an interconnection agreement in Texas which has been approved by the Texas Public Utility Commission and on file with the

04/09/99

**ATTACHMENT 6: UNBUNDLED NETWORK ELEMENTS****1.0 Introduction**

This Attachment 6: Unbundled Network Elements to the Agreement sets forth the unbundled Network Elements that SWBT agrees to offer to AT&T. The specific terms and conditions that apply to the unbundled Network Elements are described below. The price for each Network Element is set forth in Appendix Pricing - Unbundled Network Elements, attached hereto.

**2.0 General Terms and Conditions**

2.1 SWBT will permit AT&T to designate any point at which it wishes to connect AT&T's facilities or facilities provided by a third party on behalf of AT&T with SWBT's network for access to unbundled Network Elements for the provision by AT&T of a telecommunications service. If the point designated by AT&T is technically feasible, SWBT will make the requested connection.

2.2 AT&T may combine any unbundled Network Element with any other element without restriction. Unbundled Network Elements may not be connected to or combined with SWBT access services or other SWBT tariffed service offerings with the exception of tariffed collocation services. This paragraph does not limit AT&T's ability to permit DXCs to access ULS for the purpose of originating and/or terminating interLATA and intraLATA access traffic or limit AT&T's ability to originate and/or terminate interLATA or intraLATA calls using ULS consistent with Section 5 of this attachment. Further, when customized routing is used by AT&T, pursuant to Section 5.2.4 of this Attachment, AT&T may direct local, local operator services, and local directory assistance traffic to dedicated transport whether such transport is purchased through the access tariff or otherwise.

2.3 AT&T may use one or more Network Elements to provide any technically feasible feature, function, or capability that such Network Element(s) may provide.

2.4 SWBT will provide AT&T access to the unbundled Network Elements provided for in this Attachment, including combinations of Network Elements, without restriction. AT&T is not required to own or control any of its own local exchange facilities before it can purchase or use Unbundled Network Elements to provide a telecommunications service under this Agreement. SWBT will allow AT&T to order each Network Element individually or in combination with any other Network Elements, pursuant to Attachment 7, in order to permit AT&T to combine such Network Elements with other Network Elements obtained from

## Attachment UNE-TX

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SWBT or with network components provided by itself or by third parties to provide telecommunications services to its customers, provided that such combination is technically feasible and would not impair the ability of other carriers to obtain access to other unbundled network elements or to interconnect with SWBT's network. Any request by AT&T for SWBT to provide a type of connection between Network Elements that is not currently being utilized in the SWBT network and is not otherwise provided for under this Agreement will be made in accordance with the Special Request process described in Section 2.22.

- 2.4.1 When AT&T orders unbundled Network Elements in combination, and identifies to SWBT the type of telecommunications service it intends to deliver to its end-user customer through that combination (e.g., POTS, ISDN), SWBT will provide the requested elements with all the functionality, and with at least the same quality of performance and operations systems support (ordering, provisioning, maintenance, billing and recording), that SWBT provides through its own network to its local exchange service customers receiving equivalent service, unless AT&T requests a lesser or greater quality of performance through the Special Request process. For example, loop/switch port combinations ordered by AT&T for POTS service will include, without limitation, MLT testing, real time due date assignment, dispatch scheduling, service turn-up without interruption of customer service, and speed and quality of maintenance, at parity with SWBT's delivery of service to its POTS customers served through equivalent SWBT loop and switch ports. Network element combinations provided to AT&T by SWBT will meet all performance criteria and measurements that SWBT achieves when providing equivalent end-user service to its local exchange service customers (e.g., POTS, ISDN).
- 2.5 For each Network Element, to the extent appropriate, SWBT will provide a demarcation point (e.g., an interconnection point at a Digital Signal Cross Connect or Light Guide Cross Connect panels or a Main Distribution Frame) and, if necessary, access to such demarcation point, as the Parties agree is suitable. However, where SWBT provides contiguous Network Elements to AT&T, SWBT may provide the existing interconnections.
- 2.6 Various subsections below list the Network Elements that AT&T and SWBT have identified as of the Effective Date of this Agreement. SWBT will upon request of AT&T and to the extent technically feasible provide AT&T additional Network Elements or modifications to previously identified Network Elements for the provision by AT&T of a telecommunications service. Such requests will be processed in accordance with the Special Request process.
- 2.7 Subject to the terms herein, SWBT is responsible only for the installation, operation and maintenance of the Network Elements it provides. SWBT is not

**ATTACHMENT 7: ORDERING AND PROVISIONING**  
**UNBUNDLED NETWORK ELEMENTS**

- 1.0 General Requirements**
- 1.1 SWBT will provide pre-order, ordering and provisioning services to AT&T associated with unbundled Network Elements ("UNEs"), pursuant to the requirements set forth in this Attachment 7: Ordering and Provisioning - Unbundled Network Elements.
- 1.2 Charges for the relevant services provided under this Attachment are included in Appendix Pricing-UNE to Attachment 6.
- 1.3 AT&T may order, and SWBT will fill orders, for Unbundled Network Elements as defined in Attachment 6. Multiple individual Elements may be requested by AT&T from SWBT on a single Local Service Request (LSR) for a specific customer, without the need to have AT&T send an LSR for each Element.
- 1.4 (Intentionally left blank.)
- 1.5 For all unbundled Network Elements and Combinations ordered under this Agreement, SWBT will provide pre-order, ordering and provisioning services equal in quality and speed (speed to be measured from the time SWBT receives the service order from AT&T) to the services SWBT provides to its end users for an equivalent service. When UNEs are ordered in combination, for example, loop and switch port, the service must be supported by all the functionalities provided to SWBT's local exchange service customers. This will include but is not limited to, MLT testing by January 1, 1998, Dispatch scheduling by March 31, 1998, and Real time Due Date assignment by March 31, 1998. The ordering and provisioning to support these services will be provided in an efficient manner which meets the performance metrics SWBT achieves when providing the equivalent end user services to an end user.
- 1.6 SWBT and AT&T agree to work together in the Order and Billing Forum (OBF) and the Telecommunications Industry Forum (TCIF) to establish and conform to uniform industry standards for electronic interfaces for pre-order, ordering and provisioning. Neither Party waives any of its rights as participants in such forums in the implementation of the standards.
- 1.7 AT&T and SWBT will use two types of orders to establish local service capabilities based upon a UNE architecture:

## **Attachment B**

AT&T ex parte, June 23, 2000

CC Docket No. 00-65, Application of SBC Communications Inc., *et al.*,  
for Provision of In-region InterLATA Services in Texas

# **Confidential-Not For Public Inspection**

AT&T ex parte, June 23, 2000

CC Docket No. 00-65, Application of SBC Communications Inc., *et al.*,  
for Provision of In-region InterLATA Services in Texas

## **Attachment C**

AT&T ex parte, June 23, 2000

CC Docket No. 00-65, Application of SBC Communications Inc., *et al.*,  
for Provision of In-region InterLATA Services in Texas

**Aninbauh Supplemental Affidavit-Attachment A**

FROM AT&T LAW DEPT

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AMENDMENT NO. \_\_\_\_  
TO THE  
INTERCONNECTION AGREEMENT – TEXAS  
EFFECTIVE \_\_\_\_\_  
BETWEEN  
SOUTHWESTERN BELL TELEPHONE COMPANY  
AND  
CLEC

WHEREAS, SOUTHWESTERN BELL TELEPHONE COMPANY (“SWBT”) and \_\_\_\_\_ (“CLEC”) entered into an Interconnection Agreement – Texas pursuant to an Order of the Public Utility Commission of Texas in Project No. 16251 and to the agreement of the Parties, which became effective \_\_\_\_\_ (“the Agreement”); and

WHEREAS, Paragraph 18.1 of the Agreement permits the Parties to mutually amend the Agreement in writing; and

WHEREAS, the FCC published in the Federal Register on January 10, 2000 the FCC’s Third Report and Order in CC Docket No.98-147 and Fourth Report and Order in CC Docket No. 96-98 (rel. December 9, 1999) (the “Line Sharing Order”); and

WHEREAS, the parties wish to amend Attachment 25: xDSL of the Agreement to incorporate the Line Sharing Order by amending the following sections as indicated. All other sections remain unchanged;<sup>1</sup>

NOW THEREFORE the Parties agree as follows:

I. Attachment 25: xDSL amended as follows:

Attachment 25: xDSL (Section 2) is amended as follows:

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<sup>1</sup> Additions are indicated by boldface type; deletions by strikethrough.

- 2.5 A sub-loop unbundled network element is an existing spare portion of the loop that can be accessed at accessible points on the loop. An accessible point on the loop is where technicians can access the wire or fiber within the cable without removing a splice case to reach the wire or fiber within including any technically feasible point near the customer premises, such as the pole or pedestal, the NID, or the minimum point of entry (MPOE) to the customer premises, the feeder distribution interface (FDI), where the trunk line, or "feeder" leading back to the central office and the "distribution" plant branching out to the subscribers meet, the Main Distributing Frame (MDF), the Remote Terminal (RT), the Serving Area Interface (SAI), and Terminal (underground or aerial).
- 2.6 "High Frequency Portion of the Loop" ("HFPL") is defined as the frequency above the voice band on a copper loop facility that is being used to carry traditional POTS analog circuit-switched voice band transmissions. The FCC's Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98 (rel. December 9, 1999) (the "Line Sharing Order") references the voice band frequency of the spectrum as 300 to 3000 Hertz (and possibly up to 3400 Hertz) and provides that DSL technologies which operate at frequencies generally above 20,000 Hertz will not interfere with voice band transmission. SWBT shall only make the HFPL available to CLEC in those instances where SWBT also is providing retail POTS (voice band circuit switched) service on the same local loop facility to the same end user.
- 2.7 "Plan of Record for Pre-Ordering and Ordering of xDSL and other Advanced Services" ("Plan of Record" or "POR") refers to SBC's December 7, 1999 filing with the FCC, including any subsequent modifications or additions to such filing.
- 2.8 A "Splitter" is a device that divides the data and voice signals concurrently moving across the loop, directing the voice traffic through copper tie cables to the switch and the data traffic through another pair of copper tie cables to multiplexing equipment for delivery to the packet-switched network. The Splitter may be directly integrated into the Digital Subscriber Line Access Multiplexer (DSLAM) equipment or may be externally mounted.
- 2.9 "Digital Subscriber Line Access Multiplexer" ("DSLAM") is a piece of equipment that splits voice (low band) and data (high band) signals carried over a twisted copper pair. The voice signal is transmitted toward a circuit switch, and the data from multiple lines is combined in a packet or cell format and is transmitted to a packet switch, typically ATM or IP.

Attachment 25: xDSL (Section 3) is amended as follows:

- 3.4.3 Notwithstanding any other provision of this Appendix, each Party, whether a CLEC or SWBT, agrees that should it cause any non-standard xDSL technologies to be deployed or used in connection with or on SWBT facilities, the Party ("Indemnifying Party") will pay all costs associated with any damage, service interruption or other telecommunications service degradation, or damage to the other Party's ("Indemnitee") facilities. Notwithstanding any other provision of this Appendix, each Party ("Indemnifying Party") shall release, defend and indemnify the other Party ("Indemnitee") and hold Indemnitee harmless against any Loss or claim made by the Indemnifying Party's end-user arising out of the negligence or willful misconduct of the Indemnitee, its agents, its end users, contractors, or others retained by such Party, in connection with Indemnitee's provision of splitter functionality under this Appendix.**
- 3.4.4 For any technology, CLEC's use of any SWBT network element, or its own equipment or facilities in conjunction with any SWBT network element, will not materially interfere with or impair service over any facilities of SWBT, its affiliated companies or connecting and concurring carriers involved in SWBT services, cause damage to SWBT's plant, impair the privacy of a communications carried over SWBT's facilities or create hazards to employees or the public. Upon reasonable written notice and after a reasonable opportunity to cure, SWBT may discontinue or refuse service if CLEC violates this provision, provided that such termination of service will be limited to CLEC's use of the element(s) causing the violation. Subject to Section 6.4.3 for HFPL, SWBT will not disconnect the elements causing the violation if, after receipt of written notice and opportunity to cure, the CLEC demonstrates that their use of the network element is not the cause of the network harm. If SWBT does not believe the CLEC has made the sufficient showing of harm, or if CLEC contests the basis for the disconnection, either Party must first submit the matter to dispute resolution under the Dispute Resolution Procedures set forth in this Appendix. Any claims of network harm by SWBT must be supported with specific and verifiable supporting information.**
- 3.5.1 Covered Claim: Indemnifying Party will indemnify, defend and hold harmless Indemnitee from any claim for damages, including but not limited to direct, indirect or consequential damages, made against Indemnitee by any telecommunications service provider or telecommunications user (other than claims for damages or other losses made by an end-user of Indemnitee for which Indemnitee has sole responsibility and liability, including but not limited to claims by end**

users of one Party arising out of the other Party's provision of splitter functionality), arising from, the use of such non-standard xDSL technologies by the Indemnifying Party, or Indemnifying Party's provision of splitter functionality under this Attachment, or the Indemnifying Party's (i.e., CLEC's) retention of the loop used to provide the HFPL when the end user terminates voice service from Indemnitee (i.e., SWBT) and Indemnitee is requested by another telecommunications provider to provide a voice grade service or facility to the end user.

3.5.2 Indemnifying Party is permitted to fully control the defense or settlement of any Covered Claim, including the selection of defense counsel. Notwithstanding the foregoing, Indemnifying Party will consult with Indemnitee on the selection of defense counsel and consider any applicable conflicts of interest. Indemnifying Party is required to assume all costs of the defense and any damages resulting from the use of any non-standard xDSL technologies in connection with or on Indemnitee's facilities or Indemnifying Party's provision of splitter functionality under this Attachment, or the Indemnifying Party's (i.e., CLEC's) retention of the loop used to provide the HFPL when the end user terminates voice service from Indemnitee (i.e., SWBT) and Indemnitee is requested by another telecommunications provider to provide a voice grade service or facility to the end user, and Indemnitee will bear no financial or legal responsibility whatsoever arising from such claims.

3.5.3 Indemnitee agrees to fully cooperate with the defense of any Covered Claim. Indemnitee will provide written notice to Indemnifying Party of any Covered Claim at the address for notice assigned herein within ten days of receipt, and, in the case of receipt of service of process, will deliver such process to Indemnifying Party not later than 10 business days prior to the date for response to the process. Indemnitee will provide to Indemnifying Party reasonable access to or copies of any relevant physical and electronic documents or records related to the deployment of non-standard xDSL technologies used by Indemnitee in the area affected by the claim, or Indemnifying Party's provision of splitter functionality under this Attachment, all other documents or records determined to be discoverable, and all other relevant documents or records that defense counsel may reasonably request in preparation and defense of the Covered Claim. Indemnitee will further cooperate with Indemnifying Party's investigation and defense of the Covered Claim by responding to reasonable requests to make its employees with knowledge relevant to the Covered Claim available as witnesses for preparation and participation in discovery and trial during regular weekday business hours. Indemnitee will promptly notify Indemnifying Party of any settlement communications, offers or proposals received from claimants.

3.5.4 Indemnitee agrees that Indemnifying Party will have no indemnity obligation under 3.5.1, and Indemnitee will reimburse Indemnifying Party's defense costs, in any case in which Indemnifying Party's technology is determined not to be the cause of any Indemnitee liability, and in any case in which Indemnifying Party's provision of splitter functionality under this Attachment is determined not to be the cause of any Indemnitee liability.

### **3.8 General Terms And Conditions Relating To The High Frequency Portion Of The Loop**

3.8.1 SWBT will provide a HFPL for CLEC to deploy xDSL technologies presumed acceptable for deployment or non-standard xDSL technologies as defined in this Attachment. SWBT will not impose limitations on the transmission speeds of xDSL services; provided, however, SWBT does not guarantee transmission speeds, available bandwidth nor imply any service level. Consistent with the Line Sharing Order, CLEC may only deploy xDSL technologies on the HFPL that do not interfere with analog voice band transmission.

3.8.2 SWBT shall not deny CLEC's request to deploy any xDSL technology over the HFPL that is presumed acceptable for deployment unless SWBT has demonstrated to the state commission in accordance with FCC orders that CLEC's deployment of the specific technology will significantly degrade the performance of other advanced services or traditional voice band services.

3.8.3 In the event the CLEC wishes to introduce a technology on the HFPL that has been approved by another state commission or the FCC, or successfully deployed elsewhere, the CLEC will provide documentation describing that action to SWBT and the state commission before or at the time of its request to deploy such technology within SWBT. The documentation will include the date of approval or deployment, any limitations included in its deployment, and a sworn attestation that the deployment did not significantly degrade the performance of other services.

3.8.4 In the event the CLEC wishes to introduce a technology on the HFPL that does not conform to existing industry standards and has not been approved by an industry standards body, the FCC, or a state commission, the CLEC accepts and acknowledges its burden to demonstrate that its proposed deployment meets the threshold for a presumption of acceptability and will not, in fact, significantly

degrade the performance of other advanced services or traditional voice band services.

Attachment 25: xDSL (Section 4) is amended as follows:

**4.7 Unbundled xDSL-Capable Loop Offerings – HFPL**

**4.7.1 DSL-Capable Loops: SWBT will provide xDSL loops as set forth in this Attachment. CLEC will, at the time of ordering, notify SWBT as to the Power Spectrum Density (PSD) mask of the technology the CLEC will deploy.**

**4.7.1.1 2-Wire xDSL Loop: A 2-wire xDSL loop for purposes of this section, is a copper loop over which a CLEC may provision various DSL technologies. A copper loop used for such purposes will meet basic electrical standards such as metallic connectivity and capacitive and resistive balance, and will not include load coils, mid-span repeaters or excessive bridged tap (bridged tap in excess of 2,500 feet in length). However removal of load coils, repeaters or excessive bridged tap on an existing loop is optional, subject to conditioning charges, and will be performed at CLEC's request. The unbundled HFPL will be provided for qualifying technologies on this loop.**

**4.7.1.2 Sub-Loop: In locations where SWBT has deployed: (1) Digital Loop Carrier systems and an uninterrupted copper loop is replaced with a fiber segment or shared copper in the distribution section of the loop; (2) Digital Added Main Line ("DAML") technology to derive multiple voice-grade POTS circuits from a single copper pair; or (3) entirely fiber optic facilities to the end user, SWBT will make the following options available to CLEC:**

**4.7.1.3 Where spare copper facilities are available, and the facilities meet the necessary technical requirements for the provisioning of DSL, the CLEC has the option of requesting SWBT to make copper facilities available (subject to Section 4.7.6 below).**

**4.7.1.4 The CLEC has the option of collocating a DSLAM in SWBT's Remote Terminal ("RT") at the fiber/copper interface point, pursuant to collocation terms and conditions. When the CLEC collocates its DSLAM at**

SWBT RTs, SWBT will provide CLEC with unbundled access to sub-loops to allow CLEC to access the copper wire portion of the loop.

- 4.7.1.5 Where the CLEC is unable to obtain spare copper loops necessary to provision a DSL service, and SWBT has placed a DSLAM in the RT, SWBT will unbundle and provide access to its DSLAM. SWBT is relieved of this requirement to unbundle its DSLAM if it permits the CLEC to collocate its DSLAM in the RT on the same terms and conditions that apply to SWBT's own DSLAM. The rates set forth in Appendix PRICING shall apply to this sub-loop.
- 4.7.1.6 When SWBT is the provider of the retail POTS analog voice service on the same loop to the same end-user, HFPL access will be offered on loops that meet the loop requirements as defined in Sections 4.7.1.1 and 4.7.1.2 above. The CLEC will provide SWBT with the type of technology it seeks to deploy, at the time of ordering, including the PSD of the technology the CLEC will deploy. If the technology does not have a PSD mask, CLEC shall provide SWBT with a technical description of the technology (including power mask) for inventory purposes.
- 4.7.1.7 xDSL technologies may only reside in the higher frequency ranges, preserving a "buffer zone" to ensure the integrity of voice band traffic.
- 4.7.2 When SWBT traditional retail POTS services are disconnected at the request of the end user or when POTS service is suspended due to "denial for non-pay", SWBT will notify the CLEC that the broadband service will be converted from a Line Sharing Circuit, or HFPL, to a full stand alone UNE loop or will be disconnected at CLEC's option.
- 4.7.3 SWBT shall be under no obligation to provide multi-carrier or multi-service line sharing arrangements as referenced in FCC 99-35, paragraph 75.
- 4.7.4 HFPL is not available in conjunction with a combination of network elements known as the platform or UNE-P (including loop and switch port combinations) or unbundled local switching or any arrangement where SWBT is not the retail POTS provider.