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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Deployment of Wireline Services Offering Advanced Telecommunications Capability	)	CC Docket No. 98-147
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98
Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorization from Ameritech Corporation, Transferor to SBC Communications, Inc., Transferee	)	CC Docket No. 98-141
Common Carrier Bureau and Office of Engineering and Technology Announce Public Forum on Competitive Access to Next-Generation Remote Terminals	)	NSD-L-00-48 DA 00-891

JOINT REPLY COMMENTS OF

NETWORK PLUS, INC.,
NETWORK TELEPHONE CORPORATION, &
WALLER CREEK COMMUNICATIONS, INC. d/b/a
PONTIO COMMUNICATIONS CORPORATION

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TABLE OF CONTENTS

Page

I. CLECs Have Demonstrated Repeatedly and Irrefutably That ILECs Refuse To Provide Reasonable, Non-Discriminatory Access to UNEs 2

II. Access to Unbundled Subloops and Remote Terminals Must Be Provided On Reasonable and Non-Discriminatory Terms 5

III. With Ample Performance Data Available, the Commission Should No Longer Postpone Consideration of Federal Performance Standards 7

IV. Conclusion 10

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Network Plus, Inc. ("Network Plus"), Network Telephone Corporation ("Network Telephone") and Waller Creek Communications, Inc. d/b/a Pontio Communications Corporation ("Pontio") (collectively "Commenters"), by their undersigned counsel, hereby submit reply comments to address and to refute specific claims raised by incumbent local exchange carriers ("ILECs") in this proceeding.

I. CLECs Have Demonstrated Repeatedly and Irrefutably That ILECs Refuse To Provide Reasonable, Non-Discriminatory Access to UNEs

Commenters are compelled to respond to ILEC assertions that unbundled network elements (UNEs) are provisioned on a reasonable, non-discriminatory basis.[1] Over the past few years, competitive local exchange carriers (CLECs) have expended significant resources participating in federal and state proceedings to furnish examples of ILEC failures to provide access to UNEs on a reasonable and nondiscriminatory basis. ILECs cannot continue to ignore the serious problems that plague the ordering and provisioning mechanisms offered to CLECs. To refute ILEC claims, Commenters provide this Commission with specific, documented evidence of ILEC failures to provision UNEs on a non-discriminatory basis and to provide non-discriminatory access to ordering mechanisms. This evidence provides just a sample of what CLECs deal with on a daily basis when trying to provide communications services to the public.

Commenters have experienced discriminatory treatment from ILECs in numerous provisioning areas such as service order updates, number assignments for new service, missed due dates and outages. For example, a customer requested new numbers from Network Telephone with specific NXX codes. BellSouth's order processing software, Local Exchange Navigator System ("LENS"), would not allow Network Telephone to reserve the numbers. BellSouth gave the customer the numbers in "less than 10 minutes" according to the customer (*see* Exhibit A, which is submitted under Declaration). In another case, Network Telephone submitted an order to BellSouth

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[1] Bell Atlantic Comments at 11-15; BellSouth Comments at 3-4; GTE Comments at 4-10; U S West Comments at 3-7; and SBC Comments at 5-12.

on April 12, 2000. On April 14th, Network Telephone received a firm order commitment (FOC) date of April 19th. Network Telephone lost this customer when BellSouth offered to install the service for the customer by April 17th. Due to the substandard provisioning mechanisms provided by BellSouth to Network Telephone, BellSouth was able to keep its customers. Network Telephone provides additional examples of BellSouth provisioning failures in Exhibit A attached hereto.[2] Please note that this list is not exhaustive, but rather illustrative.

Network Plus has also experienced discriminatory provisioning treatment from BellSouth. Most recently, a Florida customer requested service from Network Plus whereby Network Plus submitted an order to BellSouth to move service from one location to another. Network Plus placed the order to request new service to a specific Florida address. The customer's desired due date was June 19, 2000. BellSouth requested (queried) for additional information and clarification from Network Plus several times. On June 13th, the order was queried for missing information in the dual service field. On June 20th, Network Plus was queried for illegible hand writing and, for a second time, alleged missing pages. On June 22nd, the order was queried because BellSouth claimed it could not find the customer's address. At this point, Network Plus had missed the customer's desired due date and the customer decided to return its service to BellSouth. The customer contacted Network Plus to inform Network Plus that BellSouth installed the service in only 3 days. Network Plus checked the BellSouth LENs address verification and found the system to reflect the original address provided by Network Plus. Apparently, BellSouth had the address and the query to Network Plus

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[2] Customer names and billing telephone numbers have been redacted to ensure privacy and preserve confidentiality.

was not necessary. This is yet another example of BellSouth's discriminatory provisioning process that serves to benefit the wrongdoer, BellSouth.

Pontio has experienced discriminatory, substandard provisioning from SWBT including, but not limited to, lengthy delays in receiving loops, lost service orders, late facility check responses, invalid reject notices, untimely service escalations, and late design layout record (DLR) production by SWBT. For example, Pontio frequently receives invalid reject notices with respect to DS1 orders for various reasons, such as invalid ACTL (Access Carrier Terminal Location), invalid due date, invalid CFA/APOT (Carrier Facilities Assignment/Access Point of Termination), etc. that are due to SWBT input error, poor training (or lack thereof) of SWBT Local Service Center Representatives, SWBT's process breakdowns, etc. These invalid rejects by SWBT usually result in service delays by SWBT and delays in Pontio's ability to provide timely service to its customers. (*see* example listed in Declaration of Brian DeHaven attached as Exhibit B). Pontio's complaints to SWBT are often ignored. This example is just one of many experienced on a daily basis by CLECs. The inadequate provisioning by ILECs such as SWBT enables ILECs to maintain their customer base and cause CLECs to lose interested customers requesting service.

From just the examples provided herein, it is clear that ILECs are failing to provide CLECs with non-discriminatory access to provisioning mechanism and access to UNEs. SBC's claim that CLECs can seek redress from sections 202 and 208 of the Act and state enforcement proceedings is irrelevant. A staggering number of incidents occur on a daily basis across the country. The regulatory and legal system could not handle such a deluge of complaints. Furthermore, resorting to federal or state commissions or courts for each violation is not economically feasible for most

CLECs. Moreover, while one incident is significant to the carrier that spends significant resources to obtain a customer then only to loose the customer due to the discriminatory action of the incumbent carrier, that one incident would not seem adequate to submit to a court or commission. Thus, sections 202 and 208 of the Act and state enforcement mechanisms are not the correct venue for such a large number of violations effecting a large number of competitors. ALTS picked the correct avenue, the only avenue to address such large-scale grievances.

II. Access to Unbundled Subloops and Remote Terminals Must Be Provided On Reasonable and Non-Discriminatory Terms

ILECs claim that the Commission's rules regarding non-discriminatory access to subloops are clear and that the Commission need not do more.[1] ILECs assert that they provide subloop "access" to competitive carrier; however, the "terms" under which a CLEC can gain access to subloops equates to no access at all. Furthermore, should a CLEC gain access to subloops, the ILECs limit the type of subloops available and the services a CLEC may provide over such facilities. The subloop and remote terminal rules adopted in the *UNE Remand Order* were premised on a determination that the Act requires ILECs to provide CLECs with meaningful access to end-users served by DLCs. Commenters urge the Commission to ensure meaningful access by clarifying that ILECs must provide reasonable access to subloops and remote terminals, offer any type of subloop available, and allow CLECs to provide any service technically feasible over the facilities.

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[1] Bell Atlantic Comments at 17; GTE Comments at 11; SBC Comments at 11; U S West Comments at 8.

As stated, the "terms" under which an ILEC will permit a CLEC to gain access to subloops and remote terminals are so unreasonable that such access equates to no access at all. For example, Bell Atlantic has agreed to allow access to the sub-loop and remote terminal as long as the CLEC executes an Interconnection Amendment prepared by Bell Atlantic. This Interconnection Amendment imposes unreasonable terms on CLECs. For instance, Bell Atlantic allows itself up to sixty (60) days to respond to a sub-loop application submitted by a competitive carrier. In addition to the *sixty days just to get a response on the application*, there is no defined time for actual provisioning. Therefore, a CLEC could wait indefinitely to gain access to the sub-loop and remote terminal, which is clearly unreasonable. The Interconnection Amendment also imposes penalties on the CLEC if a service technician is erroneously dispatched; however, no reciprocal provision exists for a CLEC to recoup costs if Bell Atlantic fails to show up when expected.

In addition to imposing unreasonable terms on access to subloops and remote terminals, ILECs also attempt to restrict which subloop a CLEC may access and to limit the services provided over the facilities. The *UNE Remand Order* requires ILECs to provide access to "any portion of the loop that is technically feasible to access at terminals in the incumbent LEC's outside plant,"[2] and CLECs are entitled to make effective use of these subloops for voice or data traffic either through the collocation in remote terminals, acquisition of DSL-capable copper bypass loops, or purchasing packet-switching as a UNE on a line at a time basis. Despite the claims by ILECs in their comments that they are complying with these requirements, the various CLEC comments illustrate that some

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[2] 47 C.F.R. § 51.319(a)(2).

ILECs have placed unwarranted limitations on the availability of subloops by refusing to provide all types of subloops, including fiber subloops, subloops to be used for voice services, and subloops between the remote terminal and central office.[3] Furthermore, the ALTS Petition and CLEC comments emphasized concerns that meaningful access to DLC-served customers should include the ability to offer numerous integrated services. ILECs prefer to limit the DSL market to residential ADSL in order to protect its POTS and T-1 services.

CLECs have been unable to negotiate reasonable terms for access to subloops with ILECs. Some CLECs have initiated litigation against Bell Atlantic in New York to resolve these and other issues related to sub-loop unbundling, remote terminal collocation and line sharing. CLECs should not be forced to expend resources litigating these issues with ILECs on a state-by-state basis in light of the Commission decision that CLECs are entitled to reasonable and non-discriminatory access. Commenters submit that it is vital that the Commission clarify its mandate that ILECs provide access to subloops and remote terminals by establishing reasonable and non-discriminatory standards to ensure access and by confirming that CLECs may access any type of sub-loop and provide any service technically feasible.

III. With Ample Performance Data Available, the Commission Should No Longer Postpone Consideration of Federal Performance Standards

As demonstrated above, ILECs fail to successfully provision UNEs to CLECs on a non-discriminatory, reasonable basis. Furthermore, despite Commission mandate that ILECs must provide access to an element, such as the sub-loop, ILECs develop unilateral terms and conditions

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[3] *See*, e.g., Rhythms Comments at 15-16.

that effectively vitiate the Commission mandate. Clarification and elaboration by the Commission on minimum performance standards will ensure that access to UNEs as mandated by the Commission becomes a reality for CLECs on a daily basis.

The Commission should not be deterred by ILEC claims that establishment of such provisioning guidelines belong to state commissions.[4] In *AT&T Corporation v. Iowa Utilities Board*, the Supreme Court held that "§ 201(b) explicitly gives the FCC jurisdiction to make rules governing matters to which the 1996 Act applies."[5] The Court found that the Commission has rulemaking authority to "carry out the 'provisions of this [Communications] Act,' which include §§ 251 and 252, added by the Telecommunications Act of 1996."[6] The terms and conditions necessary to ensure unbundled access to network elements are unequivocally within section 251 of the Act.[7] The Supreme Court noted that while state commissions are given certain roles under the 1996 Act, the Commission is not precluded from issuing rules to guide the state commissions.[8]

The Commission has noted that it may adopt federal regulations that:

> Facilitate administration of sections 251 and 252, expedite negotiations and arbitrations by narrowing the potential range of dispute where appropriate to do so, offer uniform interpretations of the law that might not otherwise emerge until after years of litigation, *remedy significant imbalances in bargaining power, and establish*

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[4] Bell Atlantic Comments at 11; GTE Comments at 6; U S West Comments at 2; SBC Comments at 22.

[5] *AT&T Corporation v. Iowa Utilities Board*, 525 U.S. 366, 380 (1999) ("*Iowa Utilities Board*").

[6] *Id.*

[7] 47 U.S.C. § 251(c)(3).

> *the minimum requirements necessary to implement the nationwide competition* that Congress sought to establish.[9]

While the Commission has heretofore refrained from implementing federal performance standards, the decision was not based on any intent to leave the establishment of performance standards solely to the states. The FCC stated:

> [A]lthough we believe that it is appropriate to consider how performance standards might be used, we tentatively conclude that it is premature at this time for us to propose specific standards. We understand that several states are considering performance standards and encourage states in these efforts. Nevertheless, we do not believe that we have developed a sufficient record to consider proposing performance standards at this time. There is little in the current record to explain how such standards would be used as a method of evaluating compliance with statutory requirements. Moreover, any model performance standards should be grounded in historical experience to ensure that such standards are fair and reasonable. Because our present record lacks the necessary historical data, we believe that it would be premature for us to develop standards at this point. We tentatively conclude, therefore, that we should *postpone consideration of performance standards until the parties have had an opportunity to consider how they would be used and have been able to review actual performance data over a period of time.*[10]

In light of the actual performance data available, the Commission should no longer postpone consideration of federal performance standards. The numerous examples provided by Commenters today is only a sample of the vast amount of data produced over the past few years by CLECs in section 271 proceedings, merger proceedings, other federal local competition proceedings and the records before the various state commissions that have begun to review performance standards. The

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[9] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, FCC 96-325, ¶ 41 (1996)("*Local Competition Order*") (emphasis added).

[10] *Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance*, CC Docket No. 98-56, 13 FCC Rcd. 12817 at ¶ 125 (1998) ("*Performance Measurement Order*") (emphasis added).

extensive data available demonstrates a need for federal standards and provides the Commission with ample evidence upon which to craft federal performance standards.

IV. Conclusion

For the reasons stated above, Commenters urge the Commission to establish a federal standard for each stage of the loop provisioning process so that the pro-competitive provisions of the Telecommunications Act can be implemented and American consumers can reap the benefits of competition.

Respectfully submitted,

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PONTIO COMMUNICATIONS CORPORATION

Dated: July 10, 2000

EXHIBIT A

PROBLEMS WITH BELLSOUTH ORDER PROCESSING
SAMPLES FROM MARCH, APRIL AND MAY, 2000

CUSTOMER SERVICE RECORDS ARE NOT UPDATED				
Redacted	LA	000429rey02	Redacted	FOC due date of 5/3. CSI did not update until 5/15 and we could not verify order. 12 days to update.
Redacted	FL	00042538701	Redacted	FOC due date of 5/12. Called BST on 5/25 as CSI had not updated and we could not verify order had been worked. BST said it was "hung up in the system." CSI updated on 5/26. Order had been worked on 5/12. 14 days to update.
Redacted	LA	00412366-11	Redacted	FOC due date of 4/18. Checked with BST on 5/3 and told the order was still showing "pending." CSI updated on 5/10, showing order worked on 4/18. 22 days to update.
Redacted	LA	991129041000	Redacted	FOC due date of 1/11/00. CSI did not update until 4/18/00 after numerous escalations. NTC could not confirm correct order for 3 months. 97 days to update.
Redacted	LA	0051129203	Redacted	Disconnect worked 5/12. CSI did not update until 5/15. BST indicates it is a LENS problem with no fix available. 3 days to update.
Redacted	FL	00042434102	Redacted	Order to bring customer to NTC submitted 4/24 with due date of 4/24 on FOC. The order did not post due to a BST processing error. Order posted 5/2. Eight day delay before NTC could confirm customer's order had been correctly worked.
Redacted	FL	000424341-05	Redacted	Order placed 4/24 with due date of 4/27. CSI did not update until 5/9. Twelve day delay before NTC could confirm customer's order had been correctly worked.
Redacted	FL	000419-340-02	Redacted	Order placed 4/19 with FOC date of 4/20. Order was worked but system did not update until 4/28 due to LENS error. Eight days to confirm order.
Redacted	FL	000420341-03	Redacted	FOC date of 4/20. CSI did not update until 4/28 due to an error in the system. Eight days to confirm order
Redacted	MS	000405341-02	Redacted	Order placed 4/5 with due date of 4/10. Completed 4/10. CSI updated 4/12 and showed usage package left off each line. BST said would correct 4/12. LENS problem would not allow adding usage packages. BST finally forced addition on 4/14. CSI updated to show addition on 4/18. Eight days to final resolution.
Redacted	FL	000505341-01	Redacted	Order placed 5/5, worked 5/9. Called BST to confirm order and was told it was complete and CSR would update within 24 hours. CSR updated 6/16. Seven days.
Redacted	AL	000403341-05	Redacted	Order placed 4/3, worked 4/10. CSI did not update until 4/17. 7 day delay.
Redacted	MS	000411341-01	Redacted	Order placed 4/11, worked 4/14. CSI did not update until 4/24. 10 day delay .
Redacted	FL	000328216-06	Redacted	Order placed 3/28. Order was worked on 3/30. CSI did not update until 4/4. Seven days to confirm order.

BST NOT PROVIDING EQUAL SERVICE TO CLEC				
Redacted	FL	0051703300	Redacted	Customer requested new numbers with specified NXXs. LENS would not allow us to reserve the numbers. Bell gave her the numbers "in less than 10 minutes" and we lost the customer.
Redacted	MS	000412277-03	Redacted	Placed order 4/12, FOC received 4/14 with due date of 4/19. Lost customer. BST installed for customer on 4/17.
CLARIFIED IN ERROR				
Redacted	MS	00030626507	Redacted	3/6 order for an additional directory listing. Multiple invalid clarifications resulting in 24 days for the order to be processed. NTC has extensive documentation of various problems.
Redacted	MS	00051726501	Redacted	Request for telephone directories returned, saying must go through BAPCO. Called BST and they agreed clarification was in error.
Redacted	MS	00042829212	Redacted	Order for transfer of service placed 4/28 with requested due date of 5/2. On 5/2 BST clarified for a listing error on DLR. Verified in CLEC ordering guide that the clarification was in error. FOC issued 5/3 with due date of 5/8. CSI did not update until 5/15. Six day connection delay, 7 day CSI update delay.
Redacted	FL	00032826506	Redacted	3/28 placed order to add call forwarding to a toll-free number. 3/30 received clarification that "feature not offered w/o memory call." BST said that the clarification was invalid and it would be worked. Later that day a clarification was issued for "activity type." Customer went back to BST.
Redacted	MS	000410277-04	Redacted	Order to add usage package returned stating "USOC not valid". Called BST and told that the order was valid and they will have it released..
Redacted	FL	00046277-01	Redacted	Received clarification on order to delete call waiting. BST said no idea why it was clarified. Order worked as scheduled.
Redacted	MS	522029000	Redacted	Clarification stated FA field should be populated with a C and to resubmit. Ordering guide says C should not be used.
Redacted	LA	000307366-25	Redacted	Order placed on 3/7 to change service to NTC. BST did not have service address on customer record, clarified back to NTC. Referred to BST supervisor. Worked 3/9. 2 day delay.
Redacted	LA	000307366-29	Redacted	Order placed 3/7. Clarified in error as invalid Q account. BST advised LENS is suppose to change the BAN number, the provisioner cannot change it.
Redacted	LA	000315366-07	Redacted	Order placed on 3/15 to change service to NTC. BST did not have service address on customer record, clarified back to NTC. Referred to BST. Worked 3/17. 2 day delay.
Redacted	NC	000531366-07	Redacted	Order placed on 5/31 for new RCF line. 6/2 received clarification for not having PIC and LPIC on the order. Called BST and was told it should say "none" on LPIC, not "N/A". The basic class of service does not have an LPIC therefore N/A is appropriate. BST called back and said they would pull the order out of clarification and work it.

MISSED DUE DATES				
Redacted	FL	00051538703	Redacted	FOC due date of 5/15. Not worked and NTC contacted BST. BST said the system put the order in error status (without notification to CLEC) due to jack installation. The order did not involve jacks. BTC corrected order with a completion date of 5/16. One day delay.
Redacted	FL	00033126502	Redacted	Placed order 3/31 with FOC due date of 3/31 to add/delete features. On 4/5 there was no CSI update and BST said the order hadn't completed and they would work it 4/5. Order was worked 4/5 but 4/7 CSI indicated it was completed 3/31. Five day delay.
Redacted	FL	0050929204	Redacted	FOC due date 5/12 for service transfer. Transfer not completed until 5/15. Three day delay.
Redacted	MS	00031626508	Redacted	FOC due date of 3/21 to delete usage package 1 and add usage package 2. 3/22 order listed as complete – pkg. 1 deleted but pkg. 2 not added. BST said would correct. Checked on 3/27 and correction not made. Escalated. 3/30 still not corrected. 4/3 customer record indicated pending status. Order completed on 4/5 and posted on 4/6. However, FOC shows completion date as 3/21 – the date to which BST said it would adjust billing. Two week delay.
Redacted	MS	00031026503	Redacted	FOC due date of 3/15. Completed, but usage package2 was not on CSI. BST said would correct. On 3/17 posted as completed, but usage package 1 was added instead of package 2. On 3/20, the CSI showed both usage packages added. On 3/21 the order was finally corrected. Six day delay.
Redacted	FL	00032126504	Redacted	FOC due date of 3/24 to delete lines from hunt sequence. Order was not worked until 4/03. Nine day delay.
Redacted	LA	00031526501	Redacted	Customer requested change to non-pub with no transfer of calls message. FOC due date 3/17. On 3/20 the old number was referring calls. BST said FOC date was wrong and the order would be worked on 3/20. On 3/21 correct message was on the line. Four day delay
Redacted	FL	000411277-03	Redacted	FOC due date 4/18. NTC checked on 4/26 as CSI had not updated. BST advised that the due date was changed to 4/25 because the number wasn't in the wire center and a corrected FOC should have been sent. Received corrected FOC on 4/26 with new number and completion date of 4/25. CSI updated 4/27. Seven day delay.
Redacted	LA	000405033005	Redacted	FOC due date 4/12 for conversion as is. Order worked 4/24. CSI updated 4/28. 12 day delay on order, 4 day delay on CSI.
Redacted	MS	00042429203	Redacted	FOC due date 4/26. CSI updated on 4/28 and a feature was not added as ordered. Called BST and the feature was added on 4/28. CSI updated on 5/1. 2 day delay.

MISSED DUE DATES (continued)				
Redacted	FL	000504341-01	Redacted	Order placed 5/4 for switch as is. Checked on order 5/9 and BST said there was a problem in the system and they would try to work the order. Order worked on 5/10. Six day delay.
Redacted	LA	00050129203	Redacted	Order placed 5/1 for transfer of service. FOC due date 5/8. Order not worked. BST said FOC due date was type and it should have been 5/9. Called customer on 5/10 and she still did not have service. BST worked on 5/10. CSI indicates incorrectly that the order was worked on 5/9. Two-day outage beyond FOC date.
OUTAGES				
Redacted	FL	0051226503,04	Redacted	FOC due date of 5/17 for both PONs. Customer reported no dial tone on 5/17. It appears the PONS were not worked together. BST resequenced to flow through together. Service outage to customer – 8 hours.
Redacted	FL	00050329201	Redacted	Order submitted 5/3 to change to non-pub and add voice mail. Due date 5/5. BST issued the customer a new number instead of making change. NTC escalated and problem was corrected on 5/5. Also, voice mail was not connected until 5/8 – 3 days late.
Redacted	FL	000504277-05	Redacted	Order worked 5/8 with incorrect call forwarding number. BST acknowledged the order was worked incorrectly and said order would have to be cancelled and reworked. New FOC issued with 5/10 due date. Two-day outage.
Redacted	FL	000329226504	Redacted	Placed order for new install with hunting on 3/29. Received FOC on 4/4 with 4/7 due date. On 4/10 NTC received notification of pending facilities with new due date of 5/10. BST did not return calls from 5/3/ to 5/9. On 5/9 hunting was worked in the switch, causing 1st line to roll over to 2nd line, which had not been installed. Line was not installed until 5/12. CSI updated 6/2. 43 days for new line, 3 days outage due to hunting problem, 21 days for CSI to update.

NUMBER ASSIGNMENT PROBLEMS				
NAME	ST	PON	BTN	DETAIL
Redacted	FL	00032816-04	Redacted	NTC reserved number, placed order, FOC showed number reserved, NTC found number assigned to another CLEC. NTC forced to take a new number from BST
Redacted	MS	00427216-02 00424457-01	Redacted	NTC reserved number, PON due date 4/28, initial order rejected "assignable order" due to BST "run time error", and number reserved already a working number. Order resubmitted and given due date of 5/3.
Redacted	FL	004175051000	Redacted	NTC reserved number. 4/20 FOC gave due date 4/25 with reserved number. On 4/26, BST said number was taken and NTC would have to resubmit order. BST gave new connection date of 4/27.
Redacted	FL	000328216-06	Redacted	Order placed 3/28, FOC shows assignable order. BST said the number we reserved was given to another CLEC. FOC dated 3/31 still shows incorrect number. BST confirmed new number in 3/31 fax.
Redacted	FL	000328216	Redacted	Received FOC and completion notice showing reserved BTN. Order worked 3/30. However, a new BTN was assigned , and was not provided to NTC until 3/31.
Redacted	FL	000317033006	Redacted	Order placed 3/17. FOC received 3/20 with 3/21 due date. On 3/31, NTC checked on order to determine why not completing. BST said the installed number was different from the number on the FOC, and gave the installed number at that time.
Redacted	FL	000502024000	Redacted	5/2 LENS down so NTC did paper order using a quick serv number. Clarified on 5/3 saying number was currently in service. On 5/4, sent request to assign new number. BST said did not receive. Resent 5/5. Received FOC 5/8 due 5/11.

NTC – Network Telephone Corporation
PON – Purchase Ordering Number
FOC – Firm Order Commitment
CSI – Customer Service Information [Record]

DECLARATION

I declare under penalty of perjury that the foregoing information submitted by Network Telephone Corporation is true and correct.

Executed on July 7, 2000.

Brent E. McMahan
Vice President, Regulatory and Government Affairs
Network Telephone Corporation
815 S. Palafox Street
Pensacola, Florida 32501

EXHIBIT B

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
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DECLARATION OF BRIAN DEHAVEN

I, Brian DeHaven, state as follows:

1. I am Director of Provisioning for Waller Creek Communications, Inc., doing business as Pontio Communications Corporation ("Pontio"). My business address is 1801 North Lamar, Suite M, Austin, Texas 78701. At Pontio, my responsibilities include overseeing Pontio's negotiations and business dealings with respect to loop provisioning by incumbent local exchange carriers ("ILECs"), implementation of access to unbundled network elements, as well as general interconnection issues. As a result, I have considerable experience dealing with issues related to loop provisioning by ILECs.

2. The purpose of my declaration is to supplement comments made before the Federal Communications Commission (the "Commission") pursuant to the Commission's Public Notice (dated May 24, 2000) concerning the "Association for Local Telecommunications Services Petition for Declaratory Ruling: Broadband Loop Provisioning."

3. Lengthy delays that Pontio experiences in receiving loops and other unbundled network elements (UNEs) from SWBT materially adversely effect Pontio's business and ability to provide competitive services. Pontio is precluded from providing competitive services to consumers if Pontio does not know when it will receive loops from SWBT. Loops are essential to expanding Pontio's footprint in order to serve customers. Customers are unwilling to wait for Pontio without having some idea as to our projected in-service dates.

4. In order for Pontio to fulfill its business plan, and in light of provisioning problems experienced by Pontio enumerated below, SWBT and other ILECs must be subject to national loop provisioning standards, including standards for pre-ordering, orders, and order rejects. The Commission should establish federal penalties for non-compliance with such national standards in order to ensure compliance by and other ILECs.

5. Pontio has previously complained to Southwestern Bell Telephone Company ("SWBT") regarding SWBT's poor performance in loop provisioning. Pontio has repeatedly experienced the following problems in preordering and ordering related to the procurement of loops from SWBT.

Lost Manual Orders

- Southwestern Bell frequently claims that they have not received the faxed copy of orders and supplements, even though Pontio has a fax confirmation. When Pontio re-faxes the order, along with the fax confirmation with the original requested due date, SWBT often rejects the order for invalid due date, resulting in a lengthy escalation process. Also, SWBT will only allow a due date for the service that is based on a standard due date interval that begins with when SWBT finally acknowledges that they have received the order. This results in substantial service delivery delays. The Commission should establish penalties for failure to promptly process manual orders when the CLEC is able to show a fax confirmation of the order.

Late Facility Check Responses

- Prior to accepting orders for DS3 UNEs, entrance facilities, or dark fiber, SWBT will determine the availability of facilities to be able to fill any such orders. These are "facility checks." SWBT agreed to provide Pontio with facility check responses within five (5) business days for feeder fiber (non-interoffice dark fiber). However, the average verbal response time from Southwestern Bell for feeder fiber availability has been thirteen point nine (13.9) business days. This average could be much higher if Pontio had not constantly escalated and pushed SWBT to provide responses. The end result of such poor service is that Pontio is unable to tell customers if it is possible to provide service in any consistent or timely manner. The Commission should require ILECs to provide facility checks within five (5) business days and establish penalties for when the ILECs fail to meet this interval.

Invalid Reject Notices

- Pontio frequently receives invalid reject notices with respect to DS1 UNEs for various reasons, such as invalid ACTL (Access Carrier Terminal Location), invalid due date, invalid CFA/APOT (Carrier Facilities Assignment/Access Point of Termination), etc. that are due to SWBT input error, poor training (or lack there of) of SWBT LSC (Local Service Center) Service Representatives, SWBT's process breakdowns, etc. These invalid rejects by SWBT usually result in service delivery delays by SWBT, and delays in Pontio's ability to provide service to its customers in a timely manner.

Untimely Escalation

- SWBT response times to escalation calls are slow and sometimes no response is ever received. Pontio may eventually receive a response, but only after a lengthy escalation process. The Commission should establish escalation standards as suggested by Pontio in initial comments.

Late DLRs

- After an order for a UNE is placed and the ILEC sends the Firm Order Commitment (FOC), the ILEC will provide a Design Layout Record (DLR) to the CLEC that provides a general description of the ILEC's design with relevant circuit information. DLRs are not being received on a timely basis, and in some cases not at all. A lengthy escalation call often has to take place in order to obtain the DLR in these situations. The Commission should establish standards that will assure DLRs are provided on a timely basis.

Pursuant to 47 C.F.R. § 1.16, I declare under penalty of perjury that the fore going is true and correct. Executed on: July 10, 2000.

Brian D. DeHaven

Brian D. DeHaven

CERTIFICATE OF SERVICE

I, Joyce A. Gustavson, hereby certify that on this 10th day of July 2000, copies of the foregoing Reply Comments were delivered by hand delivery and First-Class Mail to the persons listed on the attached list.

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