including unbundled loops for advanced services. As the FCC's recent Texas Order makes clear, SWBT has resolved both of these critical issues in a way that meets all regulatory requirements and, just as important, ensures the irreversible openness of local markets in Kansas and Oklahoma.

SWBT has taken these steps on a region-wide basis. Throughout its five-state service area, SWBT provides access to UNEs under equivalent terms and conditions, and it offers CLECs access to the same OSS. These legal obligations and systems were sufficient to meet the requirements for section 271 relief in Texas, and they are sufficient to meet those requirements in both Kansas and Oklahoma as well.

A. SWBT Offers CLECs Nondiscriminatory Access to its OSS

This Commission has consistently found that nondiscriminatory access to OSS is a prerequisite to the development of meaningful local competition. See, e.g., Texas Order ¶ 92; New York Order, 15 FCC Rcd at 3989-90, ¶ 83. In the Texas proceeding, this Commission reviewed SWBT's change management process and the pre-ordering, ordering, provisioning, maintenance and repair, and billing functions available to CLECs. Despite criticism from various CLECs, this Commission concluded, as to each of the subjects under review, that SWBT provides CLECs with nondiscriminatory access: "SWBT has demonstrated that it provides nondiscriminatory access to its OSS." See id. ¶¶ 99, 105, 147, 169, 194, 201, 210. The OSS that this Commission reviewed and approved in the Texas Order are the very same systems, interfaces, resources, and procedures that SWBT provides to CLECs in Kansas, in Oklahoma, and throughout its five-state region. See Ham Aff. ¶¶ 13-17.[31]

[31] SWBT expects that a number of CLECs will repeat arguments, previously pressed on the Kansas and Oklahoma state commissions, that SWBT's systems are not, in fact, regional. These same CLECs, however, uniformly raised issues encountered in their Texas operations in

After conducting hearings during which this precise issue was debated, the OCC concluded unambiguously that "[t]he same OSS systems, processes, and procedures in place in Texas are used in Oklahoma, and the Commission is not persuaded by the claims to the contrary." OCC Final Order at 172. The KCC's Staff also concluded that "SWBT's OSS serves SWBT's five-state region consisting of Texas, Missouri, Oklahoma, Kansas and Arkansas." KCC Staff Report at 18. Each system that SWBT provides to CLECs for pre-ordering and ordering operates on a single, region-wide server. See Ham Aff. ¶ 13. CLECs also access a single set of retail systems. See id. ¶ 15. The procedures for making pre-ordering inquiries and placing orders through those systems are the same in each of SWBT's five states: for example, a CLEC in Oklahoma can pull up a Customer Service Record in the same manner and in the same format as CLECs in Texas, Kansas, Arkansas, and Missouri. See id. ¶ 14. Similarly, the systems and procedures for requesting maintenance and repair and for meeting CLECs' billing needs are uniform through SWBT's five-state region. See McLaughlin Aff. ¶¶ 4, 5, 8 (App. A, Tab 16); Noland/D. Smith Joint Aff. ¶¶ 99-105.[32] SWBT also manages and operates its OSS centrally: there is one Information Services Call Center, one Mechanized Customer Production Support Center, one CLEC Support Team, one Center for Learning offering a uniform selection of classes, and one LOC serving SWBT's region. See Ham Aff. ¶¶ 16, 92; Noland/D. Smith Joint Aff. ¶¶ 18-22. Likewise, a CLEC in Kansas or Oklahoma contacting the LSC places a call

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those other proceedings, implicitly conceding that the same systems operate throughout SWBT's five-state region. See Ham Aff. ¶ 12.

[32] In an independent review of the OSS interfaces that SWBT makes available to the CLECs, Ernst & Young LLP recently affirmed that the same OSS are utilized throughout SWBT's five-state operating region. See Report of Independent Accountants (Ernst & Young LLP Oct. 24, 2000) (App. G, Tab 44).

to the Texas-based centers, just as do CLECs in Texas, and CLECs in all SWBT states speak with the same employees at the LSC. See Noland/D. Smith Joint Aff. ¶¶ 14-17.

This Commission has previously held that, when a BOC "provides access to a particular checklist item through a region-wide process, such as its OSS," it will consider both region-wide and state-specific evidence in its evaluation of that checklist item.[33] The record underlying the Texas Order is particularly probative in these proceedings because this Commission approved SWBT's application in Texas on the basis of region-wide evidence that SWBT's OSS was handling commercial volumes of orders. See Texas Order ¶ 99 (basing its findings "primarily on evidence in the record of SWBT's actual performance"); Ham Aff. ¶¶ 13, 18, 20-21 (explaining that commercial volumes for SWBT's ordering and pre-ordering interfaces have always been furnished on a five-state basis). That same region-wide evidence, in addition to evidence specific to Kansas and Oklahoma discussed below, supports the conclusion that CLECs have nondiscriminatory access to SWBT's OSS in Kansas and Oklahoma, just as in Texas.

Third-Party Testing. Certain of SWBT's OSS were subjected to months of functional and capacity testing by an independent third party supervised by the Texas Commission. Telcordia found that SWBT's systems process CLEC transactions in a nondiscriminatory fashion and can do so at reasonably foreseeable levels of demand. Upon review of that testing procedure, this Commission concluded that "the results of Telcordia's test, in certain areas, provide meaningful evidence that is relevant to our analysis of SWBT's OSS." Texas Order ¶ 104. To the extent this Commission relied on the results of that test in approving SWBT's

[33] Second Louisiana Order, 13 FCC Rcd at 20637, ¶ 56; see Memorandum Opinion and Order, Application of BellSouth Corp. et al., Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In South Carolina, 13 FCC Rcd 539, 593, ¶ 97 (1997) ("South Carolina Order"); Michigan Order, 12 FCC Rcd at 20626, ¶ 156.

application in Texas, the same results support this joint application for Kansas and Oklahoma. See Ham Aff. ¶ 10 n.5. Additionally, process improvements due to that review of SWBT's OSS have been implemented on a region-wide basis. See id. ¶ 5.

In addition to the testing reviewed by this Commission, Telcordia has since conducted further testing of the scalability of SWBT's OSS at the request of the Texas Commission. See Noland/D. Smith Joint Aff. ¶ 62. Following this supplemental review, both Telcordia and the Texas Commission concluded that SWBT's scalability procedures are based on sound engineering concepts and that, applying the procedures currently in place, SWBT should be able to meet CLEC demand over the planning horizon. See id.; Ham Aff. ¶¶ 37-38. In addition, the scalability of SWBT's OSS has been validated by real-world experience. By the time this Commission approved SWBT's application in Texas, CLEC volumes on SWBT's interfaces exceeded the forecasted volumes for the first quarter of 2000 used in the original Telcordia test. See Ham Aff. ¶ 30. SWBT, however, was able to scale its systems to meet this demand with no measurable reduction in performance; indeed, performance actually improved in most cases despite the increased volumes. See id. ¶¶ 23-31, 33; see also Texas Order ¶ 183 (finding that "SWBT has maintained on-time performance for key functions notwithstanding steadily-increasing daily order volumes").

This Commission has explained that the "most probative evidence that OSS functions are operationally ready is actual commercial usage." Texas Order ¶ 98. Absent such data, this Commission "will consider the results of . . . independent third-party testing . . . in assessing the commercial readiness of a BOC's OSS." Id. There can be no doubt, however, that SWBT's OSS are currently handling commercial volumes of transactions, thereby precluding the need for third-party testing. See Ham Aff. ¶ 22. The same region-wide figures on which this

Commission relied in the Texas Order demonstrate that SWBT's OSS, which operate uniformly throughout Kansas, Oklahoma, Texas, Missouri, and Arkansas, are handling commercial volumes. Accordingly, and as the OCC and the KCC's Staff found, for those aspects of SWBT's OSS that this Commission approved in the Texas Order on the basis of commercial volumes of usage, there is no need for further third-party testing of allegedly Kansas- or Oklahoma-specific OSS. See OCC Final Order at 174; KCC Staff Report at 18-19.

Change Management Process. In the Texas Order, this Commission found that "SWBT has instituted a change management process that will help to ensure that changes to SWBT's OSS interfaces do not impede a carrier's ability to access critical OSS functions." Texas Order ¶ 99; accord id. ¶ 110. This Commission gave special notice to certain aspects of that process, such as the "go/no go" vote, "whereby competing carriers can decide whether or not to implement a new release." Id. ¶ 112; accord id. ¶ 116. This Commission further found that SWBT's documentation, notification procedures, testing environment, training, technical assistance, and help desk are all adequate to permit an efficient carrier a meaningful opportunity to compete. These conclusions were based on CLECs' experiences and Telcordia's testing. See id. ¶¶ 120, 122, 127-128, 134-135, 144, 146; see also Ham Aff. ¶¶ 40-41, 45, 47-53, 63-64, 77-80, 86-99; Noland/D. Smith Joint Aff. ¶¶ 14-22, 167-169. Finally, this Commission found that "SWBT generally has adhered to the reasonable timeframes set forth in its change management plan," a conclusion based "on the evidence in the record and Telcordia's findings." Texas Order ¶ 128.

The change management process ("CMP") that this Commission validated in the Texas Order is the same process presently in place in Kansas and Oklahoma. See Ham Aff. ¶ 39; OCC Final Order at 175; KCC Staff Report at 27-28. Every CLEC certified in Kansas and Oklahoma

can participate in SWBT's evolving CMP, and most of these CLECs participated in the development of SWBT's CMP in Texas. See Ham Aff. ¶ 43. Indeed, if anything, SWBT's CMP has improved since this Commission approved the Texas application. For example, SWBT is putting in place a performance measure (PM 123) that will gauge the timeliness and compliance of SWBT's CMP notices and that will apply in Texas, Kansas, and Oklahoma. See id. ¶¶ 42 & n.26, 54; Texas Order ¶ 126 (noting lack of such a measure). SWBT's testing environment has enabled an increasing number of CLECs to achieve production status. See Ham Aff. ¶¶ 65, 69-70. SWBT has also implemented "versioning" for major and "dot" releases and now supports two versions of software for the EDI ordering and the EDI/CORBA pre-ordering interfaces. See id. ¶¶ 72-73; Texas Order ¶¶ 115-116 (approving SWBT's CMP despite lack of versioning). All CLECs using EDI took advantage of this versioning when it was first offered in the August 12, 2000, EDI/LASR release, and have reported no problems related to versioning. See Ham Aff. ¶ 73; see also id. ¶ 74 (explaining that SWBT has long provided versioning for DataGate).

SWBT has improved its technical assistance for CLECs through the creation, on October 2, 2000, of a Mechanized Customer Production Support Center designed to provide CLECs with a single point of contact for some functions currently handled by the LSC as well as for other new functions. See id. ¶¶ 81-85. SWBT has also updated the OSS documentation it provides to CLECs. See id. ¶ 46. Finally, SBC is in the process of implementing a 13-state CMP in cooperation with CLECs in all SBC regions. See id. ¶ 44. SWBT has agreed to inform CLECs of changes to its legacy systems through the 13-state CMP and, in the interim, to notify CLECs of such changes within the SWBT region. See id. ¶¶ 55-56.

SWBT's Systems. CLECs can place orders with SWBT through the most advanced OSS interfaces in the industry, with a wider range of options than the 1996 Act or Commission rules

require. SWBT has developed a wide selection of electronic systems dedicated exclusively to processing wholesale customers' local service transactions, while also providing CLECs direct access to the principal electronic systems used to process SWBT's retail transactions. See id. ¶ 4. Going beyond the bare minimum level of access required by federal law, SWBT has spent $61 million to develop, test, and implement a range of systems that fit CLECs' varying service requirements and varying levels of technical sophistication. See id. SWBT's electronic systems are complemented by organizations and procedures developed specifically to serve CLECs. Because these electronic and manual systems are managed and operated on a five-state basis, all the process improvements, enhancements, and testing that resulted from the exhaustive OSS review throughout the Texas proceeding apply fully to Kansas and Oklahoma. See id. ¶ 5.

1. Pre-Ordering

In reviewing the pre-ordering functions that SWBT provides to CLECs, this Commission concluded

> that SWBT demonstrates that it provides nondiscriminatory access to OSS pre-ordering functions. Specifically, we find that SWBT demonstrates that: (i) competing carriers successfully have built and are using application-to-application interfaces to perform pre-ordering functions; (ii) competing carriers are able to integrate pre-ordering and ordering interfaces; (iii) its pre-ordering systems provide reasonably prompt response times; [and] (iv) these interfaces are consistently available in a manner that affords competitors a meaningful opportunity to compete . . . .

Texas Order ¶ 147.[34] Kansas and Oklahoma CLECs have access to the same pre-ordering functions and interfaces – EDI, CORBA, DataGate, Verigate, and EASE – that this Commission reviewed in the Texas proceeding. See Ham Aff. ¶¶ 115-119. In light of the previously

[34] This Commission's final conclusion, that "SWBT offers nondiscriminatory access to OSS pre-ordering functions associated with determining whether a loop is capable of supporting xDSL advanced technologies," Texas Order ¶ 147, is discussed below. See Part II.C, infra.

demonstrated, and extensively tested, performance of these systems, as well as their continuing availability and performance, there can be no question that SWBT provides nondiscriminatory access to its pre-ordering OSS functions.

DataGate, an application-to-application electronic interface, has been available to CLECs in Kansas and Oklahoma 100 percent of the time for three of the past four months. See id.; Dysart Aff. Attachs. A & B (PM 4-01.1) (App. A, Tab 18); September Data Joint Aff. Attachs. A & B (App. A-Supp.); see also Texas Order ¶ 164. DataGate's average response times have likewise exceeded the relevant benchmarks for each of the past four months for 13 of the 14 performance measurements; on the fourteenth (PM 2-07, relating to average response time for PIC-DataGate), SWBT met the benchmark in three of the past four months. See Dysart Aff. Attachs. A & B (PMs 1-01 to 1-07, 2-01 to 2-07); September Data Joint Aff. Attachs. A & B; see also Ham Aff. ¶ 124; Texas Order ¶ 163. Five CLECs have access to DataGate in SWBT's five-state region, including two that are certified to do business in Kansas and/or Oklahoma. See Ham Aff. ¶ 124; Texas Order ¶ 151. The capacity of DataGate has been tested by Telcordia and validated by commercial usage – DataGate processed more than 1.6 million pre-ordering transactions in August 2000, representing over one-seventh of the more than 10.7 million such transactions that DataGate processed in the prior 36 months. See Texas Order ¶ 151 n.407; Ham Aff. ¶ 124.

Although this Commission approved SWBT's Texas application based on SWBT's provision of nondiscriminatory access to DataGate, SWBT also provides CLECs with access to EDI and CORBA, which offer industry-standard interfaces that can be integrated with SWBT's EDI ordering gateway. See Ham Aff. ¶¶ 120-121; Texas Order ¶¶ 149-151. As of August 2000, there were at least seven CLECs using either the EDI or CORBA pre-ordering gateway to send

commercial orders, and five of these are certified to do business in Kansas and/or Oklahoma. See Ham Aff. ¶ 122. Another three CLECs are testing EDI or CORBA pre-ordering for future production. See id.

As of August, 151 CLECs have access to Verigate in SWBT's five-state region, including 62 certified to do business in Kansas and 45 certified to operate in Oklahoma. See id. ¶ 127. That system, with one exception, has met availability and performance benchmarks in at least two of the past three months. See September Data Joint Aff. Attachs. A & B (PMs 1-08 to 1-13, 2-08 to 2-13, 4-01.2). Between July 1997 and August 2000, it had processed more than 7.5 million orders, including more than 1.06 million in August alone. See Ham Aff. ¶ 127. Finally, CLECs can also use EASE, the same system used by SWBT retail, and experience the exact same levels of service for pre-ordering that SWBT provides to its retail customers. See Dysart Aff. ¶ 61; Ham Aff. ¶ 129.

2. Ordering and Provisioning

In reviewing the ordering and provisioning OSS that SWBT provides to CLECs, this Commission concluded

> that SWBT demonstrates, with performance data and other evidence, that it provides nondiscriminatory access to the key aspects of a BOC's ordering systems, as identified in our prior section 271 orders. Specifically, SWBT has shown that: (i) it is able to return timely order confirmation and rejection notices; (ii) its systems flow-through a high percentage of orders without manual handling, at a rate that is comparable overall to the flow-through rate for its retail services; (iii) the mechanized orders that do not flow-through are handled in a reasonably prompt and accurate manner; (iv) the mechanized and manual components of its ordering systems are scalable to accommodate increasing demand; (v) it provides jeopardy notices in a nondiscriminatory manner; and (vi) it provides timely order confirmation notices.

Texas Order ¶ 170; see also id. ¶ 195 ("[W]e find that SWBT provides competitive LECs and its retail operations with equivalent access to information on available service installation dates.").[35] Like the rest of SWBT's OSS, its ordering and provisioning interfaces and procedures apply on a region-wide basis; Kansas and Oklahoma CLECs, therefore, have the same access to the same features of SWBT's OSS for ordering and provisioning EDI, LEX, SORD, and EASE[36] – that were approved in the Texas Order. See Ham Aff. ¶¶ 150, 152-153, 155. Accordingly, and in light of SWBT's current performance and improvements, it is clear that SWBT provides nondiscriminatory access to its OSS for ordering and provisioning for CLECs operating in Kansas and Oklahoma.

As of August, 29 CLECs, including 15 certified to do business in Kansas and/or Oklahoma, are using EDI for ordering. See id. ¶ 158. At least seven of those have submitted order requests in Kansas and Oklahoma. See id. Another eight CLECs are testing EDI for implementation. See id. EDI handled more than 413,000 CLEC orders in August 2000. See id. ¶ 159. At least two CLECs in SWBT's region have integrated EDI and DataGate, including one that is currently placing orders in Kansas and Oklahoma. See id. ¶¶ 132-135; see also Texas Order ¶¶ 154-161.

[35] This Commission rejected the claim that SWBT's "three order process" is inherently discriminatory and found that the process does not impede carriers' ability to compete. See Texas Order ¶¶ 198-200. In any case, SWBT's LSC has instituted additional training and incorporated new documentation into its existing Methods and Procedures to improve its service even further. See Noland/D. Smith Joint Aff. ¶ 56.

[36] SWBT also continues to provide other ordering-related interfaces to all CLECs operating within its region. See Ham Aff. ¶¶ 173-182. The capabilities of one of those interfaces, Order Status, are superior to those provided to SWBT's retail operations. See id. ¶ 178.

More than 120 CLECs have access to LEX – SWBT's Windows™-based graphical user interface ("GUI") – in SWBT's five-state region, including 53 certified to do business in Kansas and 36 certified in Oklahoma. From February 1998 through August 2000 these CLECs created over 1.07 million orders via LEX. See Ham Aff. ¶¶ 160, 162.

Sixty CLECs in SWBT's region have requested access to SORD, including 28 certified to do business in Kansas and 24 certified in Oklahoma. See id. ¶ 166. Seven of these CLECs have attended SORD training, including two certified in Kansas and/or Oklahoma. See id. Finally, 87 CLECs in SWBT's region have access to EASE for residential and/or business orders, including 32 certified in Kansas and 32 in Oklahoma. See id. ¶ 172. From July 1997 through August 2000, CLECs successfully entered more than 1.84 million service orders directly into EASE. See id.

Firm Order Confirmations. This Commission concluded, based on SWBT's having met the benchmark of 95 percent return of Firm Order Confirmations ("FOCs") for residential and simple business orders within five hours of order submission on a region-wide basis, that "SWBT is providing timely order confirmation notices to competing LECs in Texas that use EDI and LEX for resale and UNE-P ordering." Texas Order ¶ 171; see also Ham Aff. ¶ 184 n.57. As noted above, the EDI and LEX systems used by Texas CLECs are identical to the systems used by Kansas and Oklahoma CLECs.

SWBT has continued to meet the benchmark for returning 95 percent of FOCs for residential and simple business orders placed through EDI within five hours. In Kansas, SWBT effectively met this benchmark for orders placed through EDI and LEX in each of the past three months, with average return times ranging from 0.7 to 2.3 hours. See September Data Joint Aff. Attach. B (PMs 5-01, 5-07, 6-01, 6-07). In Oklahoma, SWBT met this benchmark for orders

placed through EDI in each of the past four months, returning more than 98 percent of the orders within five hours in each month, with return times averaging two hours or less. See Dysart Aff. Attach. A (PMs 5-07, 6-07); September Data Joint Aff. Attach. A.

SWBT met the benchmark for LEX orders in Oklahoma in two of the last four months, returning timely FOCs for 96.8 percent and 96.4 percent of orders in June and July, respectively, although performance fell to 90.8 percent and 91.9 percent of orders in August and September. See Dysart Aff. Attach. A (PM 5-01); September Data Joint Aff. ¶ 12 & Attach. A. Over the past 12 months, SWBT returned 94.9 percent of FOCs on LEX orders within five hours; when orders submitted manually and over EDI are considered, SWBT timely returned 95.7 percent and 97.7 percent of FOCs on all orders in August and September, respectively. See September Data Joint Aff. ¶ 12.

SWBT's lower-than-normal FOC returns in August and September were the result of a problem that affected LASR on August 10. See Ham Aff. ¶¶ 186, 189; Noland/D. Smith Joint Aff. ¶ 43. A program LASR uses to manage the internal processing of transactions prevented the other processes within LASR from running. See Ham Aff. ¶ 187. Although SWBT implemented a fix to the malfunctioning program on August 11, this problem coincided with the loading and testing of the August 12, 2000 EDI/LASR release. See Noland/D. Smith Joint Aff. ¶ 43. The LSC has access to LASR at all times except during the testing and loading of a new release. The unfortunate coincidence of the outage on August 10 occurring just before the August 12 EDI/LASR release resulted in a backlog of activity that the LSC was unable to clear immediately and that affected SWBT's manual return of FOCs, SOCs, rejects, and jeopardies. See id. SWBT continues to monitor the program that malfunctioned and has revised the other LASR programs to minimize the chance that a similar problem will occur. See Ham Aff. ¶ 187.

Finally, for manually submitted residential and simple business orders, SWBT has met the benchmark in each of the past four months in both Kansas and Oklahoma, returning FOCs for more than 95 percent of orders within 24 hours. See Dysart Aff. Attachs. A & B (PM 5-13); September Data Joint Aff. Attachs. A & B.

Reject Notifications. In the Texas Order, this Commission concluded that SWBT provided CLECs with mechanically and manually generated reject notices "in a manner that allows competing LECs a reasonable opportunity to compete." Texas Order ¶ 174. Specifically, this Commission noted that SWBT had consistently satisfied the one-hour standard for timely return of mechanically generated reject notices. See id. This Commission further found that "SWBT's performance with respect to manually-generated rejects satisfies the nondiscrimination standard." Id. ¶ 175. Even though this Commission recognized that SWBT had not met the Texas Commission's "strict five hour standard," it determined that SWBT's ability to return such rejects "in an average of five to eight hours provides efficient competing carriers a meaningful opportunity to compete, particularly in light of the fact that most rejects are mechanically-generated and are returned in under an hour." Id. This Commission also found that the variety in reject rates for different CLECs "strongly implies that the care a competing carrier takes in submitting its orders makes a significant difference in the rate at which its orders are rejected"; therefore, the overall reject rates "do not appear to indicate flaws in SWBT's OSS." Id. ¶ 176.

Again, Kansas and Oklahoma CLECs receive mechanically and manually generated rejects through the same systems that this Commission reviewed. See Ham Aff. ¶ 193. Data from across SWBT's region and from Kansas and Oklahoma demonstrate that SWBT continues to provide CLECs with timely reject notification and that most rejects are returned electronically. See Noland/D. Smith Joint Aff. ¶ 38. Across its five-state region, SWBT has returned at least 99

percent of mechanically generated rejects for EDI and LEX within one hour for June, July and August. See Ham Aff. ¶ 193. In Kansas and Oklahoma, SWBT has returned more than 98 percent of mechanically generated rejects over EDI and LEX within one hour in each of the past four months. See id.; September Data Joint Aff. Attachs. A & B (PMs 10-01, 10-02).

In Oklahoma, SWBT nearly met the "strict five hour standard" for manual rejects in June and July 2000, returning 94.3 percent and 93.6 percent within five hours, respectively, with average return times of 3.05 hours each month. See Dysart Aff. ¶ 60 & Attachs. A (PM 10.1-01) & C (PM 11.1-01); Noland/D. Smith Joint Aff. ¶ 40. In Kansas, SWBT returned 87.8 percent and 87.4 percent of manual rejects within five hours during those months, with average return times again below five hours, at 4.2 hours and 3.7 hours, respectively. See Noland/D. Smith Joint Aff. ¶ 40; Dysart Aff. Attachs. B (PM 10.1-01) & D (PM 11.1-01). SWBT's performance in returning manual rejects in August and September in both Oklahoma and Kansas, however, was affected by the problem, discussed above, with LASR on August 10. See Noland/D. Smith Joint Aff. ¶ 43; September Data Joint Aff. ¶¶ 13-15, 23-25. In those months, SWBT returned 80.2 percent and 82.0 percent of manual rejects in Oklahoma and 75.1 percent and 82.9 percent of manual rejects in Kansas; average return times were 6.76 hours and 10.72 hours in Oklahoma and 8.32 hours and 8.62 hours in Kansas. See Dysart Aff. ¶ 60 & Attach. D (PM 11.1-01); Noland/D. Smith Joint Aff. ¶¶ 40, 44; September Data Joint Aff. ¶¶ 14, 23. Even with the August LASR problem, SWBT has returned manual rejects in both states in an average time of five to eight hours from May through September 2000. See Dysart Aff. ¶¶ 60, 70 & Attach. C (PM 11.1-01); Noland/D. Smith Joint Aff. ¶ 44; September Data Joint Aff. ¶¶ 14, 23. This one-time LASR problem, therefore, does not alter the overall conclusion, reached by both the OCC

and the KCC, approving the findings of its Staff, that SWBT returns manual rejects to CLECs in a manner that provides them with a meaningful opportunity to compete.[37]

Reject rates across SWBT's five-state region have been steadily improving, with rates dropping from 31.6 percent to 25 percent from May through August 2000 for all orders through EDI and LEX. See Ham Aff. ¶ 196; see also id. ¶¶ 197-198. Although SWBT provides CLECs in Kansas and Oklahoma with access to the same systems and procedures used throughout its region, reject rates continue to vary widely for different CLECs in those states, which suggests that it remains true, as this Commission recognized in the Texas proceeding, that a carrier's care in composing orders continues to determine reject rates. See id. ¶¶ 199-200. As it demonstrated in the Texas proceeding, SWBT remains able to return the bulk of all rejects within one hour and, for manual rejects, to provide them in an average of five to eight hours.

Flow Through. Although this Commission recognized that "a BOC's ability to return timely order confirmation and rejection notices, accurately process manually handled orders, and scale its systems is more relevant and probative . . . than a simple flow-through analysis," Texas Order ¶ 181, it also concluded that "the flow-through rate reported by SWBT indicates that SWBT's systems are capable of achieving high overall levels of order flow-through," id. ¶ 180. Specifically, this Commission noted that, of those orders that were not rejected, 96 percent of EDI orders designed to flow through did so. See id. ¶ 180 & n.490. This Commission also found that SWBT "has procedures in place to ensure the accuracy of [its] manual [order] processes," id. ¶ 182, and that evidence from SWBT's performance data and the Telcordia test

[37] See OCC Final Order at 177; Second Addendum to Staff's Report at 8, Southwestern Bell Telephone Co. – Kansas' Compliance with Section 271 of the Federal Telecommunications Act of 1996, Docket No. 97-SWBT-411-GIT (KCC filed Sept. 28, 2000) (App. C – KS, Tab 288).

demonstrated that SWBT will be able to accommodate reasonably foreseeable increases in order volumes, id. ¶ 183.[38] The systems and procedures that this Commission found capable of achieving high levels of order flow through and ensuring accurate manual processing in the Texas proceeding are the same systems and procedures in place in Kansas and Oklahoma. SWBT continues to provide high levels of order flow through across its five-state region and within Kansas and Oklahoma.

CLECs using EASE have consistently achieved flow-through rates above, or well-above, parity with SWBT retail, both across SWBT's region and in Kansas and Oklahoma specifically. See Ham Aff. ¶¶ 170-171, 212. CLECs throughout SWBT's region also experience high flow-through rates for orders submitted through EDI; the rates from May through August were in excess of that experienced by SWBT retail. See id. ¶¶ 206, 208; Dysart Aff. ¶ 72. In Oklahoma, SWBT provided better-than-parity flow through for EDI for three of the last four months and effectively met parity in the fourth. See Ham Aff. ¶ 210; Dysart Aff. ¶¶ 61, 63; September Data Joint Aff. Attach. A (PM 13-03). In Kansas, flow through for EDI was well above parity in July 2000; although SWBT has missed parity in three of the past four months, the September results have improved. See Ham Aff. ¶ 209; Dysart Aff. ¶ 72; September Data Joint Aff. Attach. B (PM 13-03). Data for individual CLECs not only reveal wide variations, but also demonstrate that, with the documentation, support, and training provided by SWBT, CLECs can obtain consistently high flow through for EDI orders. See Ham Aff. ¶¶ 215-216, 218. This Commission has repeatedly held that BOCs are not responsible for orders that fail to flow

[38] As explained above, the scalability of SWBT's systems has since been validated by processing commercial volumes in excess of those forecast in the Telcordia test and by subsequent testing at the direction of the Texas Commission. See Part II.A, supra.

through due to competing carriers' mistakes. See Texas Order ¶ 179; New York Order, 15 FCC Rcd at 4038-40, ¶¶ 166-167; Second Louisiana Order, 13 FCC Rcd at 20673-74, ¶ 111.

Flow through in SWBT's five-state region for LEX orders was in excess of parity in May 2000 and roughly equivalent to that experienced by SWBT retail in June through August 2000. See Ham Aff. ¶ 208 & n.72. LEX flow through in Kansas and Oklahoma was close to parity for each of the past four months, with the exception of August in Oklahoma, where low volumes of orders explain the LEX flow-through rate. See id. ¶¶ 209-210; Dysart Aff. ¶ 62; September Data Joint Aff. Attachs. A & B (PM 13-02). Nonetheless, LEX flow through from September 1999 through August 2000 in SWBT's region was 90 percent for CLECs and 90.6 percent for SWBT retail, an insignificant difference. See Dysart Aff. ¶ 62. Again, individual CLEC data show wide disparities in flow-through levels, suggesting that SWBT's systems are not the cause of any disparity in flow through. See Ham Aff. ¶¶ 217-218.

Jeopardy Notifications. SWBT provides CLECs with two types of jeopardy notices – "no facilities available" notifications and "other" jeopardies for orders submitted via EDI and LEX through LASR GUI. This Commission has found that SWBT provides such jeopardies "in a nondiscriminatory manner." Texas Order ¶ 184. That conclusion applies with equal force to SWBT's return of jeopardies to Kansas and Oklahoma CLECs, because SWBT uses exactly the same processes and interfaces as in Texas. See Ham Aff. ¶¶ 219-220; Noland/D. Smith Joint Aff. ¶¶ 65-66. Indeed, jeopardies continue to be returned on a minimal percentage of carriers' orders. See Noland/D. Smith Joint Aff. ¶¶ 65, 68-69; Texas Order ¶ 185.

Service Order Completion Notices. This Commission has concluded that "SWBT provides order completion notification in a nondiscriminatory manner," Texas Order ¶ 187, based on SWBT's "level of overall performance, and the steady improvement in LEX

performance," id. ¶ 188. SWBT's performance has improved since this Commission reviewed it in the Texas proceeding. In Oklahoma, SWBT met the benchmark for service order completion ("SOC") returns within one day of work completion for EDI and LEX orders in four and three of the past six months, respectively. See September Data Joint Aff. ¶ 21; Noland/D. Smith Joint Aff. ¶ 90. SWBT's overall average performance on this measure for EDI and LEX orders over the past three months is 96.7 percent. See September Data Joint Aff. ¶ 21.

In Kansas, SWBT met the benchmark for orders submitted via EDI in three of the past six months. See id. ¶ 26. Dysart Aff. ¶ 69 & Attach. D (PM 7.1-02). SWBT met the benchmark for LEX orders in each of the last six months. See September Data Joint Aff. ¶ 26. When EDI and LEX orders are considered together, SWBT returned 97.8 percent of SOCs within one day of work completion from July through September. See id. SWBT, therefore, provides CLECs with timely returns of SOCs, such that an efficient carrier has a reasonable opportunity to compete. See also Ham Aff. ¶¶ 222-225 (explaining that SWBT has also consistently met the benchmark for timely return of completion notices within one hour of SORD completion in its five-state region and in Kansas and Oklahoma).

3. Maintenance and Repair

After reviewing SWBT's maintenance and repair OSS functions, this Commission found

> that SWBT has deployed the necessary interfaces, systems, and personnel to enable requesting carriers to access the same maintenance and repair functions that SWBT provides to itself. We then conclude that SWBT's systems allow carriers to access those functions in substantially the same time and manner as SWBT's retail operations.

Texas Order ¶ 201.[39] This Commission further found that SWBT "responds to competing carrier requests for maintenance and repair inquiries in substantially the same time as it does for itself." Id. ¶ 205. Kansas and Oklahoma CLECs have access to the same maintenance and repair functions and interfaces – through Toolbar Trouble Administration ("TBTA"), Electronic Bonding Trouble Administration ("EBTA"), and manual reporting of trouble to the LOC – that this Commission reviewed and approved in the Texas Order. See Ham Aff. ¶¶ 256-257.

As a result of an enhancement implemented throughout SWBT's region in March 2000, TBTA now permits CLECs to create trouble reports on or after the service order date. See id. ¶ 263; Texas Order ¶ 204 & n.568. Today, 148 CLECs have access to TBTA, including 58 CLECs certified to do business in Kansas and 44 CLECs certified in Oklahoma. See Ham Aff. ¶ 265. Although most CLECs have chosen to submit trouble reports by calling the LOC, CLECs are using TBTA in significant volumes, particularly to request and receive mechanized loop testing ("MLT"). See id. In August 2000, 52 CLECs used the MLT function of TBTA for more than 120,000 transactions to test lines; in all, CLECs used TBTA to perform more than 215,115 maintenance and repair transactions that month. See id.

AT&T, Sprint, and MCI WorldCom use EBTA for interexchange access services, and Sprint and MCI WorldCom use it for local service as well. See id. ¶ 267. EBTA is also handling sizeable volumes of trouble reports, processing 27,947 trouble reports (representing 424,079 transactions) in August 2000. See id. ¶ 268. Moreover, EBTA has been "stress tested" in a

[39] This Commission also concluded that "SWBT restores service to customers of competing carriers in substantially the same time and manner as it restores service to its own customers. . . . [and] performs maintenance and repair work for customers of competing carriers at substantially the same level of quality that it provides to its own customers." Texas Order ¶ 201. These issues are discussed in other checklist items.

prototype environment to allow the creation of 4,000 trouble reports per day, more than 25 times current volumes. See id.

4. Billing

Based on its assessment of SWBT's billing processes and its Texas performance data, this Commission concluded that "SWBT provides nondiscriminatory access to its billing functions." Texas Order ¶ 210. In particular, this Commission noted that the performance data indicated that "SWBT's actual commercial performance consistently satisfied the[] standards for usage data timeliness and accuracy." Id. ¶ 211. Further, this Commission concluded that "SWBT does not discriminate against competing carriers in the provision of wholesale bills." Id. ¶ 212. SWBT provides Kansas and Oklahoma CLECs with the same five billing options – BillPlus™, EDI 811 for resale, Carrier Access Billing System ("CABS") Bill Data Tape ("BDT") for UNEs, Bill Information, and Usage Extract Feed – that it provides to Texas CLECs and that this Commission has already approved. See Ham Aff. ¶ 271; McLaughlin Aff. ¶¶ 4, 5, 8. Each of the five interfaces is currently in commercial use. See Ham Aff. ¶¶ 272-282. These systems were also exhaustively tested and validated by Telcordia. See McLaughlin Aff. ¶ 36.

SWBT's performance data demonstrate that it continues to provide CLECs with nondiscriminatory access to billing functions.[40] For example, SWBT has met or exceeded parity for each of the three billing accuracy measurements in at least 12 of the past 13 months. See Dysart Aff. ¶ 64; September Data Joint Aff. Attachs. A & B (PMs 14-01 to 14-03). SWBT has

[40] As explained in the Affidavit of William R. Dysart, SWBT has provided state-specific data for two of its billing-related performance measurements (PMs 15-01, 18-01) since February 2000. See Dysart Aff. ¶ 64 n.54. The other such measurements (PMs 14-01 to 14-03, 16-01, 17-01, 19-01) are provided on a region-wide basis. See id.

also met the benchmarks for timely and accurate transmission of usage records for at least eight of the last nine months, including each of the last four. See Dysart Aff. Attachs. A & B (PMs 16-01, 19-01); September Data Joint Aff. Attachs. A & B; McLaughlin Aff. ¶ 14. In Kansas and Oklahoma, SWBT has met the benchmarks for accurate transmission of mechanized bills and timely transmission of wholesale bills for each of the past four months, with 100-percent rates for each benchmark in each state in each month. See Dysart Aff. Attachs. A & B (PMs 15-01, 18-01); September Data Joint Aff. Attachs. A & B; McLaughlin Aff. ¶¶ 31-33.

Overlapping Billing. This Commission concluded that "SWBT 'posts' competing LECs' orders to its billing systems in a manner that gives efficient competitors a meaningful opportunity to compete." Texas Order ¶ 191. Specifically, this Commission noted that "SWBT has consistently posted over 98 percent of carriers' orders to its billing systems in time for the next billing cycle." Id.; see also id. ¶ 191 & n.529 (acknowledging that SWBT was "slightly out-of-parity" but concluding that the "slight difference" of 0.8 percent is not "competitively significant" and does not "reflect[] a systemic problem in SWBT's OSS"). SWBT continues to post, on average, 98 percent of competitors' orders in time for the next billing cycle, with a slight difference parity of 0.6 percent, which is less than that approved in the Texas proceeding. See Dysart Aff. ¶ 65.

As explained in the Affidavit of Weldon McLaughlin, the only way to avoid some overlap in billing when a customer changes local service providers is to restrict consumer choice severely by forcing customers to change service providers only on their SWBT billing date. See McLaughlin Aff. ¶¶ 21-22. SWBT has mechanical procedures in place to handle the overlapping billing that occurs when customers change providers on days other than their SWBT billing date. See id. ¶ 23. SWBT also has a Posting Order Service Team (formerly the Error Resolution

Team) that focuses solely on clearing errors on completed orders that for some reason cannot post for proper billing. See Noland/D. Smith Joint Aff. ¶¶ 93-95. In reviewing these same procedures in the Texas proceeding, this Commission concluded that there was "insufficient evidence of double billing . . . to indicate that SWBT's systems process for updating its billing records is discriminatory." Texas Order ¶ 192.

B. SWBT Exceeds the 1996 Act's Requirements in Offering CLECs Access to Pre-Combined Network Elements and Has Satisfied the FCC's New UNE-Related Requirements

This Commission has "emphasized that the ability of requesting carriers to use unbundled network elements, as well as combinations of unbundled network elements, is integral to achieving Congress' objective of promoting competition in local telecommunications markets." Id. ¶ 215. The Commission endorses the use of UNE combinations as a competitive entry strategy because it "provides a competitor with the incentive and ability to package and market services in ways that differ from the BOCs' existing service offerings in order to compete in the local telecommunications market." Id. At the same time, however, it believes that "combining the incumbent's unbundled network elements with [CLECs'] own facilities encourages facilities-based competition and allows competing providers to provide a wide array of competitive choices." Id. SWBT affords CLECs in Kansas and Oklahoma a full and nondiscriminatory opportunity to use both of these entry strategies.

SWBT has provisioned more than 20,800 unbundled loops in Kansas and almost 10,000 unbundled local loops in Oklahoma, each of which represents at least one customer line served by a CLEC on a facilities basis. J.G. Smith/Johnson Joint Aff. Attach. A. Of these provisioned loops, almost 3,900 in Kansas and more than 3,600 in Oklahoma have been provisioned to CLECs on a stand-alone basis, for combination with CLECs' own switching and other facilities.

Id. The remaining loops have been provisioned with unbundled switching as part of a pre-assembled UNE Platform (i.e., use of SWBT's end-to-end local network to serve a particular line, at cost-based UNE rates). Id. SWBT not only provides CLECs nondiscriminatory access to UNEs on an unbundled basis in compliance with the 1996 Act and all applicable FCC rules, but also assembles certain previously uncombined network elements for CLECs. Sparks Aff. ¶¶ 110, 113 (App. A, Tab 13). As the Eighth Circuit recently reaffirmed, SWBT therefore goes above and beyond what the Act itself requires. See Iowa Utils. Bd. v. FCC, 219 F.3d 744, 758-59 (8th Cir. 2000) ("Iowa Utils. Bd. II"), petitions for cert. pending, Nos. 00-511 (U.S. filed Oct. 4, 2000), 00-555 (U.S. filed Oct. 10, 2000), 00-587 (U.S. filed Oct. 13, 2000), 00-590 (U.S. filed Oct. 13, 2000) & 00-602 (U.S. filed Oct. 16, 2000).

The K2A and the O2A both require SWBT to provide each of the Commission's original Rule 319 elements,[41] with the limited exception of operator services and directory assistance, which SWBT provides as required by section 251(b)(3) and which the UNE Remand Order[42] eliminated from the list of required UNEs. See Sparks Aff. ¶ 84; K2A Attach. 6 – UNE; O2A Attach. 6 – UNE. Under the K2A and the O2A, SWBT agrees to provide these UNEs at the rates approved by the respective state commissions, both to CLECs providing service to business customers (for two years from the date the agreements were approved) and to CLECs providing

[41] First Report and Order, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd 15499, 15683-775, ¶¶ 366-541 ("Local Competition Order"), modified on recon., 11 FCC Rcd 13042 (1996), vacated in part, Iowa Utils. Bd. v. FCC, 120 F.3d 753 (8th Cir. 1997) ("Iowa Utils. Bd. I"), aff'd in part, rev'd in part sub nom. AT&T Corp. v. Iowa Utils. Bd., 525 U.S. 366 (1999), decision on remand, Iowa Utils. Bd. v. FCC, 219 F.3d 744 (8th Cir. 2000), petitions for cert. pending, Nos. 00-511 & 00-587; see also 47 C.F.R. § 51.319 (1998) ("Rule 319").

[42] Third Report and Order and Fourth Further Notice of Proposed Rulemaking, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 15 FCC Rcd 3696 (1999) ("UNE Remand Order").

service to residential customers (for three years) – assuming timely approval by this Commission of this joint application. Sparks Aff. ¶ 84. If the Commission grants this joint application, CLECs in Kansas and Oklahoma can be certain that elements currently available will remain available for these terms notwithstanding pending regulatory and court proceedings. The K2A and the O2A additionally provide CLECs a means to obtain any additional UNEs required by the FCC or identified by the KCC or the OCC through arbitration. Id.; K2A Attach. 6 – UNE, § 14.5; O2A Attach. 6 – UNE, § 14.5.

SWBT is in full compliance with all requirements established in the FCC's UNE Remand proceeding. See Texas Order ¶¶ 28-32. The K2A and the O2A reflect new requirements in the UNE Remand Order that became effective in February and May 2000. See Sparks Aff. ¶¶ 87-92. For example, the K2A and the O2A offer CLECs access to dark fiber, subloop unbundling, local switching, tandem switching, signaling networks, call-related databases, line conditioning, and information on loop qualification. Id. ¶¶ 89-91. SWBT provisions all UNEs, including the new UNEs, using the same proven systems, policies, and procedures it has developed in provisioning tens of thousands of UNEs since the passage of the 1996 Act. Id. ¶ 92.

SWBT provides these UNEs in accordance with all FCC and statutory requirements. SWBT has developed rates that comply with the TELRIC methodology as previously articulated by this Commission. Id. ¶¶ 164, 182. Accordingly, SWBT provides CLECs even lower rates than they would be eligible to receive under the 1996 Act, as recently interpreted by the Eighth Circuit. See Iowa Utils. Bd. II, 219 F.3d at 749-51.

The prices in the K2A were established at either a KCC-determined level; interim prices, subject to true-up pending further KCC review; prices from an existing KCC-approved interconnection agreement; prices established by the Texas Commission, subject to true-up; or

interim prices, subject to true-up if requested by a CLEC. Sparks Aff. ¶ 163. The KCC determined recurring UNE prices based on a TELRIC methodology, i.e., a determination of forward-looking economic costs plus a uniform allocation of joint and common costs. Id. ¶ 165. SWBT's non-recurring charges for individual network elements in Kansas remain compliant with the requirements of section 252(d)(1), as those cost-based rates do not include any cost recovery for combining elements. Id. ¶ 169. However, since the KCC has not made a final determination regarding the non-recurring charges for network elements, the K2A reflects an interim non-recurring charge of zero dollars subject to true up for the migration of existing SWBT services to preexisting UNE-P combinations (which consists of a two-wire analog loop, analog switch port, and a loop-to-switch-port cross-connect). That is, until the KCC completes its review, when a CLEC requests a pre-existing UNE-P combination, the non-recurring charges for each of these individual UNEs will be set at zero. Under the K2A, when a CLEC in Kansas converts a SWBT retail customer to its service provided via UNEs, the CLEC will be charged only the appropriate service order charge. Id.

Similarly, the prices in the O2A were established in one of the following ways: by incorporating OCC-determined rates; be setting interim prices based on Oklahoma-specific TELRIC costs, subject to true-up pending further OCC review; by adopting prices from an existing OCC-approved interconnection agreement; or by adopting prices established by the Texas Commission, subject to true-up. Id. ¶ 181. The OCC-approved prices for UNEs are based on forward-looking cost. Id. ¶¶ 182-183. And, as in Kansas, SWBT's non-recurring charges for individual network elements do not include any cost recovery for combining elements. Id. ¶ 187. The O2A reflects an interim non-recurring charge of $0 for the migration of existing SWBT services to UNEs, and only a service order charge will apply. This arrangement is offered on an

interim basis, subject to true-up until the ultimate outcome of a review of these costs by the OCC. Until the OCC completes its review, when a CLEC requests a pre-existing UNE-P combination (consisting of a two-wire analog loop, analog switch port, and a loop-to-switch-port cross-connect), the non-recurring charges for each of these individual UNEs will be set at zero dollars on an interim basis subject to a true up. Id.

SWBT is also in compliance with the FCC's Line Sharing Order.[43] Indeed, as a result of its "significant development and operational resources devoted to planning for competing carrier access to the high frequency portion of the loop," Texas Order ¶ 322, SWBT was in full compliance with the Line Sharing Order in advance of the FCC's implementation date, Chapman Aff. ¶ 60 (App. A, Tab 3); see pp. 49-50, infra. Moreover, SWBT exceeds the FCC's requirements by providing the splitter for a CLEC at the CLEC's request. See Chapman Aff. ¶ 68. SWBT makes line sharing available to Kansas and Oklahoma CLECs in an optional amendment to the K2A and the O2A, respectively, that fully complies with the Line Sharing Order. Sparks Aff. ¶¶ 104-106; OCC Final Order at 169; KCC Staff Report at 62. In addition, CLECs may obtain terms and conditions for digital subscriber line ("xDSL")-capable loops and line sharing from SBC's 13-state generic interconnection agreement. Sparks Aff. ¶ 107.

SWBT also complies with the FCC's recent order requiring incumbent LECs to use their best efforts to obtain coextensive third-party intellectual property rights for CLECs using UNEs.[44] See Texas Order ¶¶ 229-230. The K2A and the O2A require SWBT to comply with

[43] See Third Report and Order in CC Docket No. 98-147, Fourth Report and Order in CC Docket No. 96-98, Deployment of Wireline Services Offering Advanced Telecommunications Capability, 14 FCC Rcd 20912, 20982-83, ¶ 161 (1999) ("Line Sharing Order"); Sparks Aff. ¶¶ 104-106.

[44] See Memorandum Opinion and Order, Petition of MCI for Declaratory Ruling that New Entrants Need Not Obtain Separate License or Right-to-Use Agreements Before Purchasing

the Intellectual Property Order, see K2A General Terms and Conditions §§ 7.3.2-7.3.8; O2A General Terms and Conditions §§ 7.3.2-7.3.8; see also Sparks Aff. ¶ 124. In Kansas, SWBT and the KCC Staff agreed upon language for the K2A that complies with the FCC Order. Sparks Aff. ¶ 125. As a result of the hearing in Oklahoma, SWBT revised the O2A. The OCC concluded that the revised language in the O2A "will permit CLECs a reasonable opportunity to compete in the Oklahoma local exchange market. Based on the record in this Cause, the [OCC found] that Southwestern Bell is using its best efforts to negotiate with its vendors to obtain coextensive intellectual property rights on behalf of competing carriers that lease UNEs from Southwestern Bell." OCC Final Order at 170-71; see also KCC Staff Report at 41 (concluding that amended language is "consistent with the FCC's [Intellectual Property Order]").

Part V of this Brief discusses in detail SWBT's offerings of access to unbundled loops, the Network Interface Device ("NID"), switching, transport, and signaling and call-related databases, under the appropriate checklist items. In that section, we describe the various ways CLECs can obtain SWBT's UNEs in combination.

First, SWBT will combine certain UNEs for CLECs when requested to do so. Sparks Aff. ¶ 110. SWBT has made combinations – including certain new UNE combinations that are not now required under federal law – available to all CLECs in Kansas and Oklahoma on a legally binding basis through the K2A, the O2A, and arbitrated interconnection agreements. Id. ¶¶ 110, 115-120; see K2A Attach. 6 – UNE, §§ 14.2, 14.3, 14.4, 14.7; O2A Attach. 6 – UNE, §§ 14.2, 14.3, 14.4, 14.7. SWBT does not separate requested UNEs that SWBT currently

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Unbundled Elements, CC Docket No. 96-98, CCB Pol. 97-4, FCC 00-139 (rel. Apr. 27, 2000) ("Intellectual Property Order"); see also Order on Reconsideration, Implementation of Infrastructure Sharing Provisions in the Telecommunications Act of 1996, CC Docket No. 96-237, FCC 00-140 (rel. Apr. 27, 2000).

combines in its network unless asked to do so by the CLEC. Sparks Aff. ¶ 108. SWBT will also combine particular network elements that are not already combined when requested to do so, including new loop to switch port combinations (the "UNE Platform") and, under certain conditions, loop to interoffice transport combinations (the "Enhanced Extended Loop" or "EEL").[45] The FCC has already approved the conditions under which SWBT provides the EEL. See Texas Order ¶¶ 224-228.

When a CLEC orders UNEs that are already combined, SWBT does not charge a Central Office Access Charge ("COAC") for such existing combinations. Sparks Aff. ¶¶ 168, 186; K2A Attach. 6 – UNE, § 14.2; O2A Attach. 6 – UNE, § 14.2. Combinations of UNEs that do not already exist in SWBT's network and that require new work to assemble fall outside the pricing requirements of sections 251 and 252, and SWBT charges the COAC in addition to other applicable UNE charges. See Sparks Aff. ¶¶ 168, 186; Iowa Utils. Bd. II, 219 F.3d at 758-59.

Second, SWBT has developed and spelled out in detail a number of offerings that enable CLECs to combine UNEs for themselves. Deere Aff. ¶¶ 173-187 (App. A, Tab 4); Sparks Aff. ¶ 111; K2A Attach. 6 – UNE; O2A Attach. 6 – UNE. As discussed in Part V.A, infra, SWBT makes various collocation arrangements – including caged, shared caged, cageless, and virtual collocation – available to Kansas and Oklahoma CLECs for interconnection and access to UNEs. See Sparks Aff. ¶¶ 34-82; K2A Attach. 13 – Ancillary Functions; O2A Attach. 13 – Ancillary

[45] Sparks Aff. ¶¶ 110, 117-120; see also Memorandum Opinion and Order, Applications of Ameritech Corp., Transferor, and SBC Communications Inc., Transferee, For Consent to Transfer Control, 14 FCC Rcd 14712, 14875, ¶ 393 (1999) ("SBC/Ameritech Merger Order") (provision of UNE Platform for service to residential customers). The K2A and the O2A have been modified to reflect the recent findings of the FCC regarding the use of network elements to provide access services. Sparks Aff. ¶¶ 102-103.

Functions; Texas Order ¶ 217. Where space for physical collocation is not available, SWBT also permits CLECs to collocate their equipment in adjacent controlled environmental vaults or similar structures, under the same nondiscriminatory terms as traditional physical collocation. Sparks Aff. ¶ 58. In addition, SWBT will provide interested CLECs in both Kansas and Oklahoma access to a secured frame room or cabinet (if space is not available for a room) that is set aside for accomplishing the necessary connections. Id. ¶¶ 121-123. Thus, CLECs are not required to own or operate any equipment of their own to combine SWBT's UNEs. Id. ¶ 123. Facilities-based CLECs in Kansas and Oklahoma can also use these same methods to combine SWBT's network elements with their own facilities.

The materials and procedures used by SWBT to provide UNEs for combination by CLECs have been tested in actual practice by SWBT, as well as by collocated CLECs. See Deere Aff. ¶ 173; Texas Order ¶ 218 n.604. SWBT has developed methods and procedures for new combinations of specific UNEs, including the EEL. See Sparks Aff. ¶¶ 115-120; K2A Attach. 6 – UNE, § 14.7.1; K2A Attach. 6 – UNE, § 14.7.1; see also Part V.E, infra (discussing EELs as part of Checklist Item 5).

CLECs are not restricted to these methods of combining UNEs, but may request other technically feasible methods of access that are consistent with the provisions of the 1996 Act and other governing statutes and decisions. See Deere Aff. ¶ 84; K2A Attach. 6 – UNE, § 2.22; O2A Attach. 6 – UNE, § 2.22.

C. SWBT Provides CLECs Nondiscriminatory Access to Unbundled Loops for Their Advanced Services

The market for xDSL services is embryonic in both Kansas and Oklahoma. Indeed, until March 2000 in Kansas and May 2000 in Oklahoma, there had not been sufficient (ten or more) inquiries or orders for xDSL-capable loops in any month to provide a statistically significant

portrait of SWBT's performance on a single xDSL-specific measure. While xDSL-capable loop orders have been accelerating in both states, the absolute number of orders remains comparatively small. Nevertheless, SWBT has in place the same processes and procedures for the pre-ordering, ordering, and provisioning of xDSL-capable loops and related services in Kansas and Oklahoma as it does in Texas. See Chapman Aff. ¶ 2. These systems have been tested through commercial usage in both Kansas and Oklahoma, offering "competing carrier[s] nondiscriminatory access to xDSL-capable loops." Texas Order ¶ 284.

Furthermore, Southwestern Bell has implemented a fully operational separate affiliate for the provision of all advanced services. SBC Advanced Solutions Inc. ("ASI") became SBC's exclusive provider of new interstate advanced services in Oklahoma on January 27, 2000, and in Kansas on March 16, 2000. See Brown Aff. ¶ 7 (App. A, Tab 8). ASI began providing new intrastate advanced services on February 16 in Kansas and on March 8 in Oklahoma, and became the provider of record for SWBT embedded customers on those same days. Id. ASI uses the same ordering and provisioning systems and procedures that CLECs use when ASI requires unbundled loops, thus providing additional assurance that the available systems and procedures allow CLECs a meaningful opportunity to compete. Id. ¶ 12. Since line sharing became operational throughout SWBT's region on May 30, 2000, ASI orders the high-frequency portion of the loop ("HFPL") using the same interfaces used by other CLECs. Id. ¶¶ 10-11. ASI is operating in accordance with structural separation and nondiscrimination rules that were approved by this Commission in both the SBC/Ameritech Merger Order and the New York Order. See generally Brown Aff.; Ramsey Aff. (App. A, Tab 21). Having reached the "steady state" operationally, ASI's independent operations provide further guarantees that there is a level playing field in the market for advanced services in Kansas and Oklahoma.

Processes for Ordering xDSL-Capable Loops. SWBT's xDSL-ordering processes allow CLECs to offer their customers any type of xDSL service, subject only to national industry standards for spectrum management. Chapman Aff. ¶ 4. These processes have been fine tuned through extensive collaboration with the data CLECs under the supervision of the Texas Commission staff.

For pre-ordering, SWBT provides CLECs access to the very same on-line database that ASI uses to obtain loop "qualification" information, in satisfaction of all nondiscrimination obligations. See id. ¶ 21; Cullen Aff. ¶ 4 (App. A, Tab 14); Ham Aff. ¶ 136; Texas Order ¶ 165. This loop "qualification" process provides CLECs with real-time electronic access to detailed information regarding the suitability of particular loops for xDSL services. See Chapman Aff. ¶ 17.[46] SWBT provides real-time access to any actual loop make-up information contained in the SWBT databases, including the actual loop length and the presence of any xDSL-disturbing devices. See id. ¶ 30; Ham Aff. ¶ 136. When the actual loop make-up information does not appear in SWBT's electronic database, SWBT provides "designed" loop make-up information.[47]

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[46] All CLECs, including ASI, use a DataGate service called LSP Access to obtain information from the Loop Qualification database and from the Loop Facility Assignment and Control System (or LFACS). Although ASI and the other CLECs each use DataGate services to access SWBT's Customer Record Information System ("CRIS") and PREMIS, they invoke these DataGate services in slightly different ways. Whereas ASI utilizes CRIS Access and PREMIS Access to interact with the corresponding back-office systems, CLECs use the DataGate LSP Access Service to interact with both the CRIS and PREMIS systems. See Cullen Aff. ¶¶ 11-13. CLECs thereby save on the programming costs that would be incurred in developing software code for multiple DataGate services. Id. ¶ 12. This difference will soon disappear, however, because Version 1.7 of the performance-measurement plan now requires SWBT to measure separately the pre-order response time to ASI requests, and neither CRIS Access nor PREMIS Access is capable of measuring such response times. SWBT will, therefore, require ASI to use either the DataGate LSP Access Service or EDI/CORBA by December of this year. Id. ¶ 15.

[47] "Designed" loop make-up information is based upon the standard design for the longest loop serving the end user's distribution area. See Chapman Aff. ¶ 19.

See Chapman Aff. ¶ 30; Ham Aff. ¶ 136. In that instance, CLECs have the option of requesting electronically that SWBT's engineering personnel perform a manual paper search for the actual loop make-up information. See Chapman Aff. ¶¶ 20, 30-31; Ham Aff. ¶ 136. Once again, CLECs have access to the same information as SBC's retail operations, in the same manner and within the same time frames. See Chapman Aff. ¶ 33; Ham Aff. ¶ 136.

To obtain loops for their advanced services, Kansas and Oklahoma CLECs use ordering and provisioning systems and processes that are largely the same as those used to provision ordinary, stand-alone (i.e., uncombined) unbundled loops. Chapman Aff. ¶ 3. These order flows and interfaces were held to be nondiscriminatory in the Texas proceedings. Id. ¶ 8. Furthermore, to ensure nondiscriminatory access, ASI utilizes the same systems. See Brown Aff. ¶¶ 17-22. SWBT engineering personnel satisfy orders without regard to their source, such that the loop provisioning interval for CLECs is also the same as or shorter than the equivalent interval for ASI. See Chapman Aff. ¶¶ 50-51. Conditioning unbundled loops for xDSL service similarly involves fieldwork performed by trained SWBT technicians, using time-tested procedures. Id.

CLECs have the option of selecting the precise conditioning (i.e., loop preparation) they desire and can even pre-order whatever conditioning turns out to be necessary to provision their desired service over a given loop. See id. ¶ 44. All necessary conditioning for loops of 12,000 feet or less is performed automatically and without charge. Id. ¶¶ 45, 48. In Oklahoma, all other rates for conditioning are currently under review by the OCC, and the OCC has announced its intention to establish "a procedural schedule . . . in PUD 200000192, for the expeditious determination of permanent rates regarding loop conditioning." OCC Final Order at 162; see also Sparks Aff. ¶ 189. To encourage the rapid development and adjudication of supporting cost

studies, the OCC also has set a six-month time limit for the recovery of interim charges; if permanent rates are not established within six months, SWBT will be unable to recover any conditioning charges until those rates are set. See Jones Aff. ¶ 8. Interim charges from an existing OCC-approved interconnection agreement are contained in Attachment 25 to the O2A. Sparks Aff. ¶ 189. In Kansas, all other rates for conditioning have been set at zero, and, except for conditioning performed on loops of less than 15,000 feet, are subject to true-up. See id. ¶ 171; K2A Attach. 25 – DSL.

Line Sharing. SWBT has implemented line sharing in Kansas and Oklahoma in accordance with FCC requirements, affording both data CLECs and SBC's ASI affiliate the same opportunity to share the high-frequency portion of a SWBT voice line.

After the Line Sharing Order was released, SWBT offered to conduct a collaborative line-sharing trial in each of the SWBT, Pacific Bell, Ameritech, and SNET operating regions. See Chapman Aff. ¶ 62. The goal of the trial was to identify and understand the key aspects of operating in a line-sharing environment in order to facilitate the development of workable line-sharing arrangements. Id. ¶¶ 64-65. In the SWBT region – which includes Kansas and Oklahoma – Covad, NorthPoint, Rhythms, IP Communications, Allegiance, and ASI actively participated in the trials. A number of additional parties, including AT&T and MCI WorldCom, were passive participants. See Sparks KCC Supplemental Aff. Attach. B. ¶ 7 (Cruz Supplemental Aff.) (App. C – KS, Tab 204, at 2183-84). Two network architectures were used in the trials. The first involved CLECs' purchasing, installing, owning, and maintaining a splitter in their collocation arrangements. The second architecture used in the trial involved SWBT's voluntarily purchasing, installing, inventorying, maintaining, and leasing splitters. See id. ¶¶ 13-14. As a result of these efforts, SWBT was able to be in full compliance with the Line Sharing

Order on May 30, 2000 – a full week in advance of the FCC's implementation date. See Chapman Aff. ¶ 60. Moreover, SWBT has voluntarily agreed to provide a splitter at the CLEC's request.[48]

SWBT makes line sharing available to CLECs in an optional amendment to the K2A and the O2A that fully complies with the Line Sharing Order. See Sparks Aff. ¶ 104 & Attachs. C-KS & C-OK. Any CLEC seeking alternative terms can initiate negotiations with SWBT, and can request expedited dispute resolution with the appropriate state commission of any remaining dispute 45 days after SWBT's response to a request for new terms. See id. ¶ 106. CLECs may also obtain terms and conditions for xDSL-capable loops and line sharing from SBC's 13-state generic interconnection agreement. See id. ¶ 107.[49]

The pre-ordering, ordering, and provisioning processes for the HFPL UNE are nearly identical to those for an xDSL-capable loop. See Chapman Aff. ¶¶ 3, 57-58, 71-97; Cullen Aff. ¶ 8. Kansas and Oklahoma CLECs can utilize the same pre-ordering interface to obtain real-time loop make-up information for stand-alone or shared loops, and to order a manual look-up if only designed information is available. See Chapman Aff. ¶¶ 71-75. This detailed, customer-specific information permits the data CLEC to determine whether it can provide DSL service to a particular end user via either the HPFL UNE or a stand-alone loop. See id. ¶¶ 26, 29, 74. The

[48] See Ex Parte Letter from Austin Schlick to Magalie Roman Salas at 2 (FCC filed June 6, 2000) ("Although not obligated to do so, in response to CLEC requests, SBC has agreed to provide splitters in the incumbent LEC/CLEC line-sharing arrangement. SBC's current splitter deployment schedule, which responds to current CLEC requests, can serve approximately 700,000 shared lines across 1,450 central offices in 13 states and is targeted to be complete this coming August.").

[49] Seven Kansas CLECs have signed interconnection agreements for line sharing with SWBT, as have six Oklahoma CLECs. See Chapman Aff. ¶ 60. Nevertheless, not a single CLEC in Kansas or Oklahoma submitted an order for line sharing in September. See September Data Joint Aff. ¶¶ 39-40.

ordering process differs only to the extent that the data CLEC must identify the SWBT end user's telephone number for line sharing and specify the desired arrangement for the line splitter. See id. ¶ 58. As with any other UNE, CLECs can submit HFPL orders either manually or electronically and can utilize either SORD, LEX, or EDI. See Cullen Aff. ¶¶ 16-20.

Performance in Provisioning xDSL-Capable Loops. In the Texas Order, the FCC commended the Texas Commission for developing comprehensive measures to assess SWBT's performance in provisioning xDSL-capable loops and related services in Texas. See Texas Order ¶ 283. In this application, SWBT relies upon those same comprehensive performance measures to demonstrate that it provides nondiscriminatory access to xDSL-capable loops and related services to CLECs in Kansas and Oklahoma. The individual disaggregated measures, more than 20 in all, detail SWBT's xDSL-capable loop performance in five categories: (i) average installation interval; (ii) missed installation appointments; (iii) quality of provisioned xDSL-capable loops; (iv) timeliness and quality of xDSL loop maintenance and repair; and (v) access to pre-ordering and ordering information.[50] See Dysart Aff. ¶ 105.

SWBT's comprehensive performance data unequivocally demonstrate that SWBT provides nondiscriminatory access to xDSL-capable loops and related services, and consequently that Oklahoma and Kansas CLECs have a meaningful opportunity to compete in the market for advanced services. SWBT's performance is excellent for four of the five categories, consistently meeting or exceeding the relevant benchmark or parity standard. Specifically, in both Kansas and Oklahoma, SWBT installs xDSL-capable loops for CLECs that are at least of the same quality as those provisioned for its own advanced services affiliate and generally provisions such loops within less time. See id. ¶¶ 106-107, 117-121; September Data Joint Aff. ¶ 44. SWBT

[50] See New York Order, 15 FCC Rcd at 4123-24, ¶ 334; Texas Order ¶ 282.

also offers Kansas and Oklahoma CLECs access to the same pre-ordering loop make-up information and in the same time and manner as that available to ASI. See Dysart Aff. ¶ 125; September Data Joint Aff. ¶ 47. SWBT processes CLEC LSRs expeditiously, returning FOCs within 24 hours for 97.6 percent of all xDSL orders in Oklahoma and 95.7 percent of all xDSL orders in Kansas. See Dysart Aff. ¶¶ 126-127.[51] Finally, SWBT provides data CLECs with quality and timely maintenance and repair service for xDSL-capable loops, again in parity with that provided to ASI. See id. ¶¶ 122-124; September Data Joint Aff. ¶¶ 45-46.

There is but one category – missed installation appointments – where SWBT has been out of parity during the last two months, and even there the disparity is largely artificial. ASI continues to order ADSL service through line sharing, over the same line that SWBT already provisions voice service to the end user customer. Accordingly, with line sharing, ASI does not need to order a separate UNE loop. Despite the fact that CLECs actively sought to have this Commission order incumbent LECs to provide line sharing as an unbundled network element, and that line sharing has been equally available to CLECs since May 30, 2000, data CLECs continue to provision xDSL service exclusively by ordering separate xDSL-capable loops. As in Texas, when a UNE loop is unavailable in Kansas and Oklahoma, SWBT will miss an installation due date – a situation that rarely arises for ASI because it typically provisions service over a customer's existing voice line. As CLECs decide to take advantage of line-sharing capabilities, they will, by definition, be providing service over existing lines. Therefore, the number of missed-installation appointments caused by a lack of facilities will necessarily

[51] In September, SWBT returned FOCs within 24 hours for 94.8 percent of all xDSL orders in Oklahoma and 98.5 percent of all xDSL orders in Kansas.

decline. See Dysart Aff. ¶¶ 109, 112-113. Moreover, in absolute terms, CLECs continue to receive xDSL-capable loops in less time than does ASI. See id. ¶¶ 107, 109.

SWBT takes its performance responsibilities extremely seriously and is working hard to improve its performance for this category of measurements. Moreover, SWBT will be reporting September results based upon Version 1.7 of the performance-measurement plan, in which SWBT's performance in meeting installation appointments for xDSL-capable loop orders will be measured against a 95-percent benchmark.[52] SWBT has also begun to dispatch technicians prior to the installation date in order to address facilities problems. September Data Joint Aff. ¶ 43. For these reasons, SWBT anticipates that the results for October will meet the benchmark standard. In the meantime, SWBT's otherwise excellent performance in provisioning xDSL-capable loops and related services demonstrates both that SWBT provides nondiscriminatory access and that CLECs have a meaningful opportunity to compete in the market for advanced services.

Performance in Provisioning BRI ISDN Loops. While the absolute number of BRI ISDN loops ordered by competing carriers in Kansas and Oklahoma remains small, and insufficient to provide a statistically significant result for several SWBT performance measurements, the data that are available demonstrate that SWBT provides CLECs a meaningful opportunity to compete. As in Texas, SWBT provisions CLEC orders for BRI ISDN loops in Kansas and Oklahoma in less time than for SWBT's own retail customer orders. See Dysart Aff. ¶ 129. SWBT also meets substantially more installation appointments for CLEC BRI ISDN loop orders in Kansas and Oklahoma than for its own retail customer orders. See id. ¶¶ 137-139. Moreover, when

[52] See Dysart Aff. Attach. F, at 101. Version 1.7 disaggregates xDSL loop and HFPL installation data. SWBT's performance in meeting HFPL installation appointments will continue to be assessed through a parity measure.

appointments are missed, the average delay days for CLEC BRI ISDN loop orders are comparable to or less than the delay days encountered by SWBT retail customers. See id. ¶ 140. SWBT also has performed necessary maintenance and repair work for CLEC BRI ISDN loops in substantially the same time and manner as for retail BRI loops in both Kansas and Oklahoma. See id. ¶¶ 135-136.

As the Commission recognized in its Texas Order, "the fact that competing carriers use BRI loops for IDSL service . . . makes provisioning work more difficult than that required for the ISDN service that SWBT provisions using BRI loops." Texas Order ¶ 301. Though SWBT has been working closely with data CLECs and industry vendors to resolve the problems, the technical incompatibility of some CLEC-provisioned IDSL service with the industry-standard BRI ISDN loop that SWBT offers via the Marconi DISC*S DLC system still operates as a drag on SWBT's overall performance rates for trouble reports. SWBT has reached a tentative agreement with Marconi for compliance testing of the new SCU-131 plug-in cards designed to make the DISC*S system fully compatible with IDSL. See Chapman Aff. ¶ 55. SWBT has also spent more than a million dollars buying new test sets and upgrading existing ones to ensure that it can fully test BRI ISDN loops ordered for IDSL service. Id. ¶ 56. Once fully implemented, SWBT expects these changes to improve markedly CLECs' ability to provision IDSL service over BRI ISDN loops. In the meantime, SWBT continues to perform workarounds and network redesigns that enable CLECs to provide IDSL service. Accordingly, SWBT provides nondiscriminatory access to BRI loops in both Kansas and Oklahoma, offering data CLECs a meaningful opportunity to compete.

SWBT's Broadband Service Offering. On September 8, 2000, the Commission agreed to modify the terms of the SBC/Ameritech Merger Conditions so as to allow SBC's incumbent

LECs to own, operate, and install the plug-in cards and associated Optical Concentration Devices ("OCDs") integral to SBC's Project Pronto infrastructure deployment.[53] Through the deployment of Next Generation Digital Loop Carrier ("NGDLC") architecture and a massive investment in additional fiber facilities, SBC will eliminate the distance limitations than hinder DSL functionality and extend the availability of DSL services to 20 million customers who could not be served under the existing network architecture. As the Commission explained, SBC's incumbent LECs will provide a broadband service offering on a wholesale basis to affiliated and unaffiliated advanced services providers. See Modification Order ¶ 30. All carriers, including ASI, can purchase this wholesale service on the same nondiscriminatory terms, and through use of the same pre-ordering and ordering systems. By December 7, 2000, SBC additionally will offer a combined voice and data broadband offering on a wholesale basis. In each instance, SBC has agreed to price the service offering in accord with the methodology applicable to UNEs.

The Modification Order, as the Commission emphasized, did not alter SBC's incumbent LECs' section 251 obligations, nor did it affect the necessary evidentiary burdens of section 271. See id. ¶¶ 9, 30. Likewise, the Modification Order did not "revise or restrict [the Commission's] existing definition of the local loop or the subloop network elements." Id. ¶ 29. Because neither the approval nor the deployment of Project Pronto affects SWBT's existing obligations under the 1996 Act and the FCC's implementing rules, Project Pronto should have no bearing upon this proceeding. As the Commission made abundantly clear in the New York Order and the Texas Order, and as it successfully argued to the D.C. Circuit in review of the New York Order in

[53] See Second Memorandum Opinion and Order, Application of Ameritech Corp., Transferor, and SBC Communications Inc., Transferee, For Consent to Transfer Control, CC Docket No. 98-141, ASD File No. 99-49, FCC 00-336, ¶ 30 (rel. Sept. 8, 2000) ("Modification Order") ("We take no position on whether SBC's Broadband Offering is subject to sections 251-252 or any other provisions of the Act.").

AT&T Corp. v. FCC, 220 F.3d 607 (D.C. Cir. 2000), a section 271 proceeding is not an appropriate forum for the resolution of interpretive disputes or industry-wide questions of general applicability. Texas Order ¶¶ 22-27. Nor is it appropriate for the Commission to create additional obligations, as SWBT need not "demonstrate compliance with new local competition obligations that were unrecognized at the time the application was filed." Id. ¶ 27. SWBT's broadband offering is neither a UNE nor a combination of UNEs. See Chapman Aff. ¶¶ 125-131. The mere fact that SWBT's broadband service offering is new should not impede SWBT's checklist compliance. See Texas Order ¶ 329 (recent development will not undercut demonstrated checklist compliance). The public interest in the rapid deployment of advanced services would be severely disserved if incumbent carriers were forced to choose between investment in new technology and application for section 271 approval.

III. SOUTHWESTERN BELL'S ENTRY INTO THE INTERLATA SERVICES MARKET IN KANSAS AND OKLAHOMA WILL PROMOTE COMPETITION AND FURTHER THE PUBLIC INTEREST

Under section 271, this Commission is required to determine whether interLATA entry "is consistent with the public interest, convenience, and necessity." 47 U.S.C. § 271(d)(3)(C). SWBT's provision of interLATA services in Kansas and Oklahoma easily satisfies this requirement.

This Commission concluded in its Texas Order "that approval of this application is consistent with the public interest. In reaching this determination, [this Commission found] that compliance with the competitive checklist is itself a strong indicator that long distance entry is consistent with the public interest. This approach reflects the Commission's many years of experience with the consumer benefits that flow from competition in telecommunications