

SWBT “provides nondiscriminatory access to OSS pre-ordering, ordering, maintenance and repair, and billing functions.” Texas Order ¶ 99.

Despite the extensive testing and real-world use of SWBT's OSS, and its approval by this Commission, a handful of CLECs continue to claim that SWBT's OSS is flawed. Although many of these claims have been raised and rejected in other proceedings, the reply affidavits of William R. Dysart, Elizabeth Ham, Larry K. Mah, Weldon McLaughlin, Brian D. Noland, and David R. Smith respond to each allegation.

Region-Wide OSS. This Commission has found that, where access to a particular checklist item, such as OSS, is provided through region-wide processes, it will consider both region-wide and state-specific evidence in its evaluation of that checklist item.<sup>14</sup> This Commission has said further that it would consider commercial usage in other states where the “OSS are essentially the same throughout [the BOC's] region.” Second Louisiana Order, 13 FCC Rcd at 20655, ¶ 86.<sup>15</sup> SWBT's OSS are not merely “essentially” the same — they are exactly the same.

The OSS available to CLECs in Kansas and Oklahoma are identical to those this Commission reviewed and approved in the Texas Order. See Ham Reply Aff. ¶ 7 & n.5. The record underlying the Texas Order, therefore, 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 were handling commercial volumes of orders. See Texas Order ¶ 99

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<sup>14</sup> See Memorandum Opinion and Order, Application of BellSouth Corp., BellSouth Telecomms., Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana, 13 FCC Rcd 20599, 20637-38, ¶ 56 (1998) (“Second Louisiana Order”).

<sup>15</sup> Accord 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”).

(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). Indeed, after considering written evidence from SWBT and various CLECs, and after conducting a hearing in which SWBT’s witnesses were subjected to cross-examination by CLECs and the OCC Staff, 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 Staff, after considering similar evidence, likewise concluded that “SWBT’s OSS serves SWBT’s five-state region consisting of Texas, Missouri, Oklahoma, Kansas, and Arkansas.” KCC Staff Report at 18.

Ernst & Young LLP recently affirmed, at the conclusion of an evaluation consuming over 12,000 hours, 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); Ernst & Young’s Kelly Aff. ¶ 3. As explained in the Affidavit of Michael Kelly, Ernst & Young conducted an “attestation examination” of SWBT’s contention that its OSS operate region-wide, which is “the highest level of assurance that can be provided on a written assertion” under standards established by the American Institute of Certified Public Accountants. See Ernst & Young’s Kelly Aff. ¶¶ 2, 4; see also Ham Reply Aff. ¶¶ 32-33. DOJ acknowledges that, in conducting its evaluation, it did not take into account the evidence provided in Ernst & Young’s Kelly Affidavit. See DOJ Evaluation at 32 n.97.

Ernst & Young reviewed SWBT’s pre-order and order systems to ensure that they “are utilizing the same programming code (logic) within each application throughout the five state operating region” and “are designed to provide the same functionality regardless of which state

an end user served by a CLEC resides.” See Ernst & Young’s Kelly Aff. Attach. A at 4. It reviewed pre-order and order transactions from each state to ensure that they are processed through the same applications. See id. Finally, Ernst & Young examined SWBT’s documentation to confirm that it is the same throughout SWBT’s region. See id.

Contrary to concerns expressed by WorldCom, Sprint, and DOJ,<sup>16</sup> Ernst & Young found that SWBT’s Dallas and St. Louis data centers are running identical versions of SORD and EASE. See Ernst & Young’s Kelly Aff. Attach. A at 12. As SWBT has long explained, the processors for the regional SORD and EASE systems are the same type of hardware running identical software. See Ham Reply Aff. ¶ 24.

Moreover, because these systems serve both SWBT retail and CLECs, SWBT has always had a significant incentive to ensure that the systems in these data centers remain identical. See id. ¶ 26.<sup>17</sup> Any flaw in updating either the processors or the software would directly affect SWBT’s retail operations. See id.; see also WorldCom Comments at 5 (suggesting that such flaws might occur); Sprint Comments at 56 (same). To ensure uniformity, software development and overall capacity monitoring are both done on a region-wide basis. See Ham Reply Aff. ¶ 29; see also id. ¶ 28 & Attach. H (containing four actual retail and CLEC service orders for Oklahoma, submitted over different interfaces, that show parity for retail and CLEC operations in the St. Louis data center).

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<sup>16</sup> See WorldCom Comments at 5; Sprint Comments at 54-56; DOJ Eval. at 35. Cox Communications (at 8) also asserts, without evidence or elaboration, that SWBT’s OSS are not region-wide.

<sup>17</sup> Accordingly, DOJ incorrectly concludes (at 35) that the SORD processor in St. Louis has not been significantly utilized — the SORD and EASE processors in St. Louis have a long history of processing retail orders for four of SWBT’s five states. See Ham Reply Aff. ¶ 25.

Sprint further contends that even if the electronic systems in St. Louis and Dallas are the same, different people manually process orders in the St. Louis center and, therefore, SWBT's ability to process orders manually in that center must be tested. See Sprint Comments at 56. Contrary to Sprint's belief, no manual processing whatsoever occurs in the St. Louis data center. See Ham Reply Aff. ¶ 24; Noland Reply Aff. ¶ 10; see also DOJ Evaluation at 35-36. Manual processing for orders in all five states in SWBT's region takes place only at the local service center ("LSC"), which has locations in Dallas and Fort Worth, Texas. See Noland Reply Aff. ¶¶ 5-6, 10. Regardless of whether a CLEC order was processed in Dallas or St. Louis, when an order falls out for manual processing, the LSC receives notification through the same exact procedure. See id. ¶ 8.

The DOJ, however, expresses concern that orders CLECs submit in Kansas and Oklahoma may not receive adequate processing in the LSC. See DOJ Evaluation at 35-36. While the LSC has grown substantially since the beginning of this calendar year, see Noland/D. Smith Joint Aff. ¶ 64, the new employees are not deployed exclusively to serve Kansas and Oklahoma CLECs. See Noland Reply Aff. ¶ 11; see also id. ¶¶ 12-19. Moreover, as SWBT explained in its Joint Application, Telcordia and the Texas Commission have recently 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 Noland Aff. ¶ 62; Ham Aff. ¶¶ 37-38; Noland Reply Aff. ¶ 14. In addition, the scalability of SWBT's OSS has been validated by real-world experience: performance actually improved in most cases notwithstanding significant increases in volumes. See Ham Aff. ¶¶ 23-31, 33; Noland Reply Aff. ¶ 12.

Furthermore, manual processing is divided between the LSC facilities by CLEC account, while the work within each facility is organized by product type. Significantly, the work is not divided or handled according to the state in which the ordered service is to be provided. See Noland Reply Aff. ¶ 6 & Attach. A. Therefore, when a CLEC that serves end-users in Texas decides to expand into Kansas or Oklahoma, the same group of LSC employees handling that CLEC's orders for a particular product type provided in Texas will also process that CLEC's orders for the same product type when it is provided in Kansas and Oklahoma. See id. ¶¶ 6-7. In short, the LSC offers CLECs a seamless transition from serving customers in Texas to serving customers throughout SWBT's five-state region.

WorldCom and Sprint also argue that SWBT's OSS are not region-wide because differences in state regulations or product mixes may require CLECs to input different information in different states. See WorldCom Comments at 4-7; Sprint Comments at 54-55. DOJ expresses similar concerns. See DOJ Evaluation at 33-34. But this concern is unfounded. A CLEC can use the EDI interface it established in Texas to submit orders for Kansas and Oklahoma customers; indeed, orders for all three states can be submitted in the same transmission. See Ham Reply Aff. ¶¶ 9-10.<sup>18</sup> Moreover, as demonstrated in Attachment J to the reply affidavit of Elizabeth Ham, a UNE-P order placed over EDI for a customer in Texas looks identical to a UNE-P order placed over EDI for a customer in Oklahoma. See Ham Reply Aff. ¶ 43 & Attach. K (reproducing two such orders submitted by a single CLEC within 30 minutes of each other). Although the Oklahoma order contains, for example, a different address and area

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<sup>18</sup> Indeed, several CLECs are using EDI interfaces developed to serve Texas end-users to place orders in Kansas and Oklahoma, contrary to WorldCom's assertion that it cannot do so. See Ham Reply Aff. ¶ 9 n.8; WorldCom's McMillon & Lichtenberg Decl. ¶ 20.

code than the Texas order, the same would be true of UNE-P orders for a customer in Houston and one in Dallas. See id. ¶ 12.

Whenever a CLEC orders service for a customer in Texas, Kansas, or Oklahoma, it must complete the same, industry-standard LSR. See id. The CLEC must populate the data fields on that LSR from a single set of Universal Service Order Codes (“USOCs”). See id. ¶ 14.

Although not every code will apply in every state — for example, Texas CLECs can order 900/976 toll restriction (USOC “CREXN”), while only 900 toll restriction is available in Kansas and Oklahoma (USOC “CREXK”) — identical services have the same USOCs throughout SWBT’s entire region. See id. There is also a single set of region-wide User Guides and a single set of business rules for each CLEC system, as well as a uniform CLEC Handbook, all of which provide CLECs in each of the five states with the same information on operating those systems. See id. ¶¶ 8, 18 n.17, 19. Of course, SWBT is not claiming that a CLEC providing service in one SWBT state could immediately begin providing service in every other SWBT state without doing any “homework;” CLECs are responsible for accurately filling out their LSRs. See id. ¶¶ 13, 15. But the need to populate different addresses, area codes, or USOCs does not change the fact that the vehicle for transmitting this information — SWBT’s OSS — is the same in every state.

SWBT has historically provided telephone service for the five states in its region through a uniform set of retail systems without ever establishing state-specific interfaces. See Ham Reply Aff. ¶ 22. SWBT operates all of its CLEC-specific pre-ordering and ordering interfaces from a single server, which serves each of the states in its region. See id. ¶ 7. SWBT operates a single set of retail systems that serve both itself and CLECs out of identical servers running identical hardware. See id. ¶¶ 23-24. As Ernst & Young confirmed, CLECs in all five states

have access to the same interfaces, running the same software, and processing orders in the same manner. See Ernst & Young's Kelly Aff. Attach. A at 4-12 & App. 1 at 1. In short, SWBT's OSS are region-wide.

SWBT likewise has a single set of legacy systems, which it leases from outside vendors and implements on a region-wide basis. See Mah Reply Aff. ¶¶ 20-22. As new services, such as those provided to CLECs, have developed, these systems have continued to provide a uniform and systematic method of provisioning those services. See id. ¶ 21. SWBT operates its actual provisioning, maintenance, and repair of customer services — whether wholesale or retail — within its five-state region through a single Network Department. See id. ¶ 8 & Attach. B. That department consists of a single team of employees, who report to the President of SBC Network Services. See id. ¶ 9. The components of the Network Department, which serve all five of SWBT's states, include Central Office Operations (installation, maintenance, and repair of switching and transport facilities and networks), Engineering and Construction (planning, development, and construction of SWBT infrastructure and distribution network), and Installation and Maintenance (installation, repair, and maintenance of customer and company services). See id. ¶¶ 10-12. Training is similarly provided to SWBT employees by a single, region-wide group. See id. ¶ 14. Transactions flow through SWBT's provisioning and maintenance and repair systems in the same manner regardless whether the order is placed by a CLEC or SWBT retail and regardless of the state in which the end-user lives. See id. ¶¶ 23-30.

Although SWBT provides CLECs in its region with identical OSS interfaces and operates under common methods and procedures for its retail, resale, and wholesale operations throughout

its region, SWBT cannot guarantee identical results in each of its five states.<sup>19</sup> Mah Reply Aff. ¶¶ 7-9, 20-22, 31. Not only do customer demographics and preferences differ in each state, but so do physical arrangements at customer locations. See id. ¶ 34. Regulations imposed by local governments on such matters as excavation activities can create differences in SWBT's provisioning of the same service in different states and in different areas of the same state. See id. ¶ 32. Even variations in local weather can impact trouble report rates and SWBT's ability to complete outdoor construction activities within its area on any given day. See id. ¶ 33. Yet each of these factors affects both SWBT retail and CLEC orders equally. Thus, even if results in Kansas and Oklahoma are not the same as in Texas, SWBT is still providing nondiscriminatory access to its OSS.

But there is a further reason for differences in results, which is also wholly beyond SWBT's control. The CLECs that have chosen to enter the market in Kansas and Oklahoma are simply not the same as those that are submitting orders for Texas customers. Indeed, the three CLECs that, combined, account for over 99.5 percent of all UNE-P orders in Texas have chosen, for their own business reasons, not to submit a single UNE-P order in either Kansas or Oklahoma. See Ham Reply Aff. ¶¶ 41-42. Nor have they entered the market to any significant extent in Kansas and Oklahoma through other methods. These three CLECs have the most experience submitting orders over SWBT's OSS and, in line with data that show results increasing with experience, consistently obtain the best results on measures such as flow-through

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<sup>19</sup> SWBT also collects data in the same manner in each state, and these data are used to assess performance based on the same criteria. That the data collection mechanisms and performance criteria are the same, however, does not eliminate the differences discussed in this and the following paragraph. Given that the same criteria are applied to results generated by a myriad of factors, it is natural that results would vary from state to state, region to region, and day to day.

rate and reject percentage.<sup>20</sup> Although their well-crafted orders make up a high percentage of the Texas data, those orders are absent from the Kansas and Oklahoma data. From August through October, for example, the three CLECs with the lowest reject rates (combined 15.4 percent) accounted for 86 percent of all EDI orders in SWBT's region, but for less than 3 percent and 1 percent of all Kansas and Oklahoma EDI orders, respectively. See Ham Reply Aff. Attach. L. By contrast, the remaining CLECs had a combined region-wide reject rate of 43.4 percent during this period. See id. Therefore, the vast majority of the orders placed in Kansas and Oklahoma are being sent by a group of CLECs that are less experienced, overall, than the group sending orders in Texas. Accordingly, it would be surprising if results in all three states were the same.

Contrary to the DOJ's claim, SWBT's application does not present this Commission "with its first opportunity to respond to this form of proof." DOJ Evaluation at 28. From the very first section 271 application, this Commission has looked to region-wide evidence when it found that a BOC's OSS operate on a region-wide basis. In those earlier proceedings, this Commission relied on far less evidence than SWBT has presented in this proceeding in reaching the conclusion that a BOC's OSS operates on a region-wide basis and, therefore, that region-wide evidence is relevant in assessing compliance with this item on the competitive checklist. In the Michigan Order, for example, this Commission found that Ameritech's OSS were region-wide simply because they operated, like SWBT's, "from a single point of contact."<sup>21</sup> In the

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<sup>20</sup> CLECs that operate in multiple states in SWBT's region experience similar flow-through rates in all of the states in which they operate. See Ham Reply Aff. ¶ 52. The data presented in the reply affidavit of Elizabeth Ham demonstrates that while "CLEC B" consistently achieves flow-through rates of 96 percent or better for EDI orders submitted in Kansas, Oklahoma, and Texas, "CLEC D" had identical trouble getting orders to flow through in Kansas, Missouri, and Texas, before seeing its performance improve in all three states simultaneously. See id.

<sup>21</sup> Michigan Order, 12 FCC Rcd at 20626, ¶ 156.

South Carolina Order, this Commission concluded that BellSouth's OSS were region-wide based primarily on evidence submitted by BellSouth itself and the fact that BellSouth, like SWBT, relied in its application on region-wide data.<sup>22</sup> The DOJ also concluded in that proceeding that "BellSouth's processes are operated on a regional, rather than a state-by-state basis" without requiring any third-party testing or evidence more "complete and precise" than BellSouth's own assurances that its OSS are regional.<sup>23</sup> That same evidence, plus further assurances from BellSouth, led this Commission to the same conclusion in the first and second Louisiana Orders.<sup>24</sup>

In this proceeding, SWBT has offered sworn testimony that CLECs in Kansas and Oklahoma have access to OSS that are, in every respect, identical to the OSS offered to CLECs in Texas. The KCC and OCC, upon reviewing this evidence and hearing live testimony on these issues, agreed that SWBT's OSS operate on a region-wide basis.<sup>25</sup> SWBT has further submitted an attestation examination by Ernst & Young that confirms the accuracy of SWBT's claim to operate its OSS on a region-wide basis. In short, SWBT has provided all the evidence this

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<sup>22</sup> South Carolina Order, 13 FCC Rcd at 595, ¶ 100 n.296 (citing BellSouth evidence discussed at 588-89, ¶ 90 & nn.249-52); id. at 593, ¶ 97, 594-95, ¶ 100.

<sup>23</sup> Evaluation of the United States Department of Justice App. A at 7, Application by BellSouth Corp., et al., for Provision of In-Region, InterLATA Services in South Carolina, CC Docket No. 97-208 (FCC filed Nov. 4, 1997) ("DOJ South Carolina Evaluation"); DOJ Evaluation at 36. This Commission also supported its conclusion in the South Carolina Order by citing to this page of the DOJ's evaluation, see 13 FCC Rcd at 594-95, ¶ 100 nn.295-97, as well as to the DOJ's contention that "each of the BOCs generally has deployed a single region-wide [OSS] system." See DOJ South Carolina Evaluation at 15.

<sup>24</sup> Memorandum Opinion and Order, Application by BellSouth Corp., et al. Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Louisiana, 13 FCC Rcd 6245, 6258, ¶ 21 & nn.68-69 (1998) ("First Louisiana Order"); Second Louisiana Order, 13 FCC Rcd at 20655, ¶ 86 & n.245.

<sup>25</sup> See OCC Final Order at 172; KCC Staff Report at 18.

Commission and DOJ have previously found necessary to find that a BOC's OSS are region-wide — and considerably more. Every independent analysis — by the KCC, the OCC, and Ernst & Young<sup>26</sup> — has found that SWBT's OSS operate on a region-wide basis and offer CLECs access to the same OSS that SWBT offers in Texas.<sup>27</sup> There is absolutely no evidence in the record to the contrary. This Commission, therefore, has no reason to discount or otherwise ignore the unrefuted evidence that SWBT has submitted, including the clear results from the Telcordia test, that SWBT provides nondiscriminatory access to its OSS.

Operational Readiness. Because SWBT offers Kansas and Oklahoma CLECs access to the same OSS that this Commission approved in the Texas Order, there is no question that those systems are operationally ready. See Texas Order ¶ 99; Ham Reply Aff. ¶¶ 36-37. In approving SWBT's application in Texas, this Commission relied on region-wide, five-state volume figures and primarily on five-state OSS performance measurements. See Ham Reply Aff. ¶ 36. Those same region-wide volumes have increased by 33 percent from June through October of this year, with orders over EDI increasing by 47 percent. See id. Although WorldCom and Sprint take

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<sup>26</sup> The Affidavit of Michael Kelly and the attached documents provide the information DOJ sought about the scope of the Ernst & Young evaluation. See DOJ Evaluation at 32 n.97. Aspects of SWBT's systems and processes not covered in the Ernst & Young report, see id. at 31 n.96, are addressed in other affidavits that SWBT submits with this brief.

<sup>27</sup> DOJ implies that, in BellSouth's second Louisiana application, the audit it reviewed provided a superior basis for concluding that BellSouth's OSS are region-wide. See DOJ Evaluation at 32 n.97. That audit, however, was a third-party test of the capabilities of BellSouth's OSS, not an analysis of whether it operates on a region-wide basis. See Evaluation of the United States Department of Justice at 36-37, Second Application by BellSouth Corp., et al., for Provision of In-Region, InterLATA Services in Louisiana, CC Docket No. 98-121 (FCC filed Aug. 19, 1998) ("DOJ Second Louisiana Evaluation"). In fact, the DOJ twice relied on region-wide evidence in that evaluation without ever suggesting that anything other than a BOC's assurance was necessary before concluding that its OSS are, in fact, region-wide. See id. at 26 n.48, 28.

issue with the level of commercial usage in Kansas and Oklahoma,<sup>28</sup> this Commission has consistently held that when a particular checklist item, like SWBT's OSS, is provided on a region-wide basis, it "will consider both region-wide and state specific evidence in our evaluation of that checklist item."<sup>29</sup> That region-wide evidence clearly shows that SWBT's OSS are processing commercial volumes of orders.

WorldCom specifically complains that SWBT has processed very few UNE-P orders over EDI in Kansas and Oklahoma.<sup>30</sup> See WorldCom Comments at 3. Yet SWBT is handling hundreds of thousands of UNE-P orders throughout its region, and Texas CLECs can place UNE-P orders in Kansas and Oklahoma over the very same EDI interface they use to place Texas orders. See Ham Reply Aff. ¶¶ 41, 43. Moreover, the three CLECs that account for over 99.5 percent of the UNE-P orders in SWBT's region over the past three months only submit UNE-P orders in Texas. See id. ¶ 42. Their success in placing such orders, however, makes clear that their own business decisions, and not problems with SWBT's OSS, have dictated their choice not to enter the local markets in Kansas and Oklahoma. See id.; see also id. ¶ 43 & Attach. K (showing that UNE-P orders using EDI are exactly the same in Texas and Oklahoma).

Indeed, WorldCom admits that its "UNE-P launch in Texas has been successful," but that it nonetheless "does not intend immediately to enter [Kansas and Oklahoma]." WorldCom Comments at ix; WorldCom's McMillon & Lichtenberg Decl. ¶ 20.<sup>31</sup> As this Commission has

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<sup>28</sup> See WorldCom Comments at 3-4; Sprint Comments at 50-53.

<sup>29</sup> Second Louisiana Order, 13 FCC Rcd at 20637-38, ¶ 56.

<sup>30</sup> Of course, SWBT does not process orders in Kansas or in Oklahoma. Rather, SWBT processes orders for services to be provided to customers located in those states.

<sup>31</sup> AT&T recently announced that, since the Summer of 1999, it has converted 250,000 SWBT customers in Texas to AT&T's local service. See Paul English, Baby Bells Eager to Enter Long-Distance Market, Daily Oklahoman, Dec. 9, 2000.

explained, a BOC's duty to provide nondiscriminatory access to its OSS "does not include the duty to ensure that competing carriers are currently using each and every OSS function."

Michigan Order, 12 FCC Rcd at 20618, ¶ 138. Rather, the BOC must demonstrate, as SWBT has, that "the reason competing carriers are not currently using a particular OSS function is because of the competing carriers' business decisions, rather than the lack of the practical availability of the necessary OSS functions." See id. As Elizabeth Ham explains in her reply affidavit, the same OSS that are processing commercial volumes of UNE-P orders in Texas are available to any CLEC that wishes to provide the same services in Kansas and Oklahoma.<sup>32</sup>

Sprint complains that SWBT has "forced" Kansas and Oklahoma CLECs to rely on manual processing. See Sprint Comments at 49. Yet Sprint offers no evidence to support that claim. In fact, CLECs in those states have been submitting an ever-increasing number of orders electronically. See Region-Wide Performance Measures, attached to Ex Parte Letter from E. Rodriguez, SBC, to Magalie Roman Salas (FCC filed Nov. 27, 2000) ("Nov. 27, 2000 Ex Parte") (PMs 9-01 and 9-02). Moreover, the Snavelly King Report, on which Sprint relies (at 51-52), confirms that the OSS SWBT provides in Kansas are identical to those in Texas and throughout its region. See Consultants' Report on SWBT Performance Measures at 9, Southwestern Bell Telephone Co.-Kansas' Compliance with Section 271 of the Federal Communications Act of 1996, Docket No. 97-SWBT-411-GIT (KCC Aug. 14, 2000), attached to KCC Staff Report (App. C-KS, Tab 259, at 634) ("Snavelly King Report"). Accordingly, that report provides no

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<sup>32</sup> See Ham Reply Aff. ¶ 6; Ernst & Young's Kelly Aff. ¶¶ 6, 7, Attach. A. A Texas CLEC seeking to order UNE-P in Kansas or Oklahoma need only obtain certification in that state and receive a state-specific operating company number. See Ham Reply Aff. ¶ 9.

support for Sprint's implication (at 52-53) that deficiencies in SWBT's electronic OSS are forcing Kansas CLECs to rely on manual processing.

Change Management. 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; see also id. ¶¶ 120, 122, 127-128, 134-135, 144, 146. 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. No CLEC complains in this proceeding about the uniformity or adequacy of SWBT's CMP in Kansas and Oklahoma.

Pre-Ordering. This Commission concluded that SWBT "provides nondiscriminatory access to OSS pre-ordering functions." Texas Order ¶ 147. No CLEC claims to have experienced difficulties accessing those functions, and Ernst & Young confirms that they operate on a region-wide basis. See Ernst & Young's Kelly Aff. Attach. A at 3-4.

Ordering and Provisioning. This Commission, after reviewing SWBT's ability to provide CLECs with access to its OSS ordering functions, found that SWBT has complied with the requirements of section 271. See Texas Order ¶ 169. Although this Commission concluded that "SWBT is providing timely order confirmation notices to competing LECs" and "provides competitors with a meaningful opportunity to compete," id. ¶ 171, CapRock has complained that SWBT's return of firm order confirmations ("FOCs") has been "trending downward in the last few months in Texas." McLeodUSA/CapRock Comments at 30. Specifically, CapRock complains about SWBT's performance on PM 5-01. See id. Attach. A. Yet SWBT has met the 95-percent benchmark in nine of the past twelve months, both in Texas and across its five-state

region. See id.; Ham Reply Aff. ¶ 46; see also Nov. 27, 2000 Ex Parte (PM 5-01, region-wide). In the two months when SWBT missed this benchmark, August and September, its performance was 91.9 percent and 92.3 percent in Texas and 92.5 percent and 93.2 percent across its region. See McLeodUSA/CapRock Comments Attach. A. As explained in the reply affidavit of Elizabeth Ham, and described in SWBT's Joint Application, the performance in those months was affected by a problem with the LASR GUI on August 10, which created a backlog that persisted through September. See Ham Reply Aff. ¶ 46; Noland Reply Aff. ¶ 24; see also Ham Aff. ¶¶ 186, 189; Noland/D. Smith Joint Aff. ¶ 43. In October, when that backlog was no longer an issue, SWBT's performance returned to form, with SWBT returning 98 percent of FOCs within five hours for all CLECs in both Texas and its five-state region. See Ham Reply Aff. ¶ 46; Nov. 27, 2000 Ex Parte (PM 5-01, region-wide); see also Noland Reply Aff. ¶ 24 (noting SWBT's return of FOCs to CapRock during these months); Dysart Reply Aff. ¶¶ 30-31 (same).

Sprint, Allegiance, and McLeodUSA/CapRock complain that SWBT's flow-through rate for orders placed via LEX is not in parity with SWBT's retail operations in Oklahoma. See Sprint Comments at 48 (PM 13-02); Allegiance Comments at 29; McLeodUSA/CapRock Comments at 28. Sprint also complains about the flow-through performance for orders in Kansas submitted over EDI; DOJ expresses similar concerns. See Sprint Comments at 47 (PM 13-03); DOJ Evaluation at 34. Because SWBT offers CLECs access to LEX and EDI on a region-wide basis, region-wide flow-through rates for both CLECs and SWBT retail provide an appropriate comparison measure. See Ham Reply Aff. ¶¶ 55, 59. Those data show CLECs consistently experience superior flow through for orders placed over EDI and EASE, and near parity flow through for orders placed over LEX. See id. In Oklahoma, LEX flow through for individual CLECs shows that those with the most experience are capable of flow-through rates

equal to or above those experienced by SWBT retail. See id. ¶¶ 56-58. Moreover, EDI flow through in Oklahoma, on which this Commission has said it “place[s] greater weight,”<sup>33</sup> has been excellent, exceeding parity for the six month period ending October 2000. See Dysart Reply Aff. ¶¶ 35-36 (overall flow-through rate for Oklahoma EDI, LEX, and EASE orders of 89.9 percent for past six months, which is marginally below 90.2 percent rate for Oklahoma SWBT retail). In Kansas, EDI flow through for individual CLECs again shows that those with the most experience are capable of flow-through rates equal to or above those experienced by SWBT retail. See Ham Reply Aff. ¶¶ 51-54. These CLECs obtain similar flow-through rates regardless of the state in which they submit orders — showing that it is CLEC experience, and not state-specific differences, that account for CLEC flow through in Kansas. See id. ¶ 52. Moreover, in September, EDI flow-through rates in Kansas increased by about 50 percent despite a nearly four-fold increase in order volumes. See Nov. 27, 2000 Ex Parte (PM 13-03, Kansas); see also Dysart Reply Aff. ¶¶ 27-28 (overall flow through rate for Kansas EDI, LEX, and EASE orders of 91.9 percent for past six months, which is better than the 91.7 percent rate for Kansas SWBT retail).

Sprint also claims that reject rates for EDI orders in Kansas are high and, therefore, fail to provide CLECs a meaningful opportunity to compete. See Sprint Comments at 47 (PM 9-02); see also DOJ Evaluation at 34. This Commission has indicated that a BOC will not be accountable for rejects that occur for reasons within a CLEC’s control. See Texas Order ¶ 176. SWBT’s region-wide reject rate for EDI orders has been below 20 percent in each of the past three months. See Ham Reply Aff. ¶ 49. CLECs in Kansas place orders over the same EDI system and have their orders edited by the same LASR system, as do CLECs throughout

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<sup>33</sup> Texas Order ¶ 180 n.489.

SWBT's five-state region. See id. Accordingly, different reject rates among states or among CLECs are due to differences in the quality of the LSRs submitted, not to any differences in the OSS that those CLECs use. See id. ¶¶ 47-48 & Attach. L; Dysart Reply Aff. ¶¶ 21-22. In addition, SWBT returns these rejects rapidly, exceeding the benchmark in Kansas in each of the past six months. See Ham Reply Aff. ¶ 50.

WorldCom claims that a number of its operational concerns with respect to UNE-P conversions are related to SWBT's three-order process. See WorldCom Comments at 7, 12-17. As explained in the Reply Affidavit of Brian Noland, SWBT has taken steps to respond to CLEC concerns about the three-order process. See Noland Reply Aff. ¶ 43; Noland/D. Smith Joint Aff. ¶¶ 51-56 (explaining that the three-order process is the most effective means of enabling CLECs to use all the flexibility and options UNE-P offers); see also Ham Aff. ¶¶ 239-245. Specifically, WorldCom complains first that SWBT returns the incorrect "C" order number on FOCs and service order completions ("SOCs"). See WorldCom Comments at 12-13. In discussions between SWBT and WorldCom, it was determined that these errors occurred on three UNE-P conversions where an end-user was switching from one CLEC to another.<sup>34</sup> See Ham Reply Aff. ¶ 63. SWBT discovered that it had, on these three occasions, sent WorldCom the C order number for the order disconnecting the end-user from the other CLEC, rather than the number for the C order connecting the end-user to WorldCom. See id. SWBT is working, within the parameters of the change management process, to ensure that the correct C order number will be

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<sup>34</sup> Contrary to WorldCom's claims, see WorldCom's McMillon & Lichtenberg Decl. ¶¶ 52-54, SWBT has explained to it that its problems in viewing its UNE-P orders in Order Status have nothing to do with the three-order process, but rather with the way in which WorldCom was using Order Status. See Ham Reply Aff. ¶¶ 60-62. SWBT has offered to provide WorldCom with additional training, if necessary. See id. ¶ 62.

sent in this situation and has provided WorldCom with an interim solution to this problem. See id. ¶¶ 63-64.

WorldCom also claims that SWBT rejects orders for invalid reasons and, again, blames the three-order process. See WorldCom Comments at 13-15; WorldCom's McMillon & Lichtenberg Decl. ¶¶ 58-62. These issues were discussed at the Three-Order Process Workshop and SWBT has taken steps to address the issues raised in WorldCom's comments. See Noland Reply Aff. ¶ 42. Specifically, SWBT has implemented an exception report listing UNE-P conversions that require three service orders, but for which all three orders have not yet issued. See id. Similarly, SWBT has created a report showing those UNE-P conversion orders involving three service orders where the due dates do not match. See id. Both reports provide the LSC with the ability to be proactive in issuing those orders. See id.

WorldCom further contends that the three-order process has resulted in loss of dial tone for its customers; CapRock makes a similar complaint. See WorldCom Comments at 15-17; McLeodUSA/CapRock Comments at 31-33. SWBT conducted detailed analysis of each of the instances of purported trouble submitted by WorldCom, which revealed that not one of those instances implicated or in any way resulted from SWBT's three-order process. See Noland Reply Aff. ¶¶ 39-40.<sup>35</sup> Root cause analysis of the instance of which CapRock complains also revealed that it was not the three-order process, but simple human error. See id. ¶ 41. SWBT set up a weekly conference call with CapRock to address issues that CapRock wishes to bring to

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<sup>35</sup> Of the list of instances WorldCom initially provided to SWBT, WorldCom agreed that 85 percent of those had nothing to do with the three-order process; by its comments, it is clear that WorldCom has unilaterally determined that the remaining 15 percent of those instances must have been caused by the three-order process. See Noland Reply Aff. ¶¶ 39-40.

SWBT's attention; no CapRock representative has presented any issues during the last two scheduled calls. See id.

Service Centers and Manual Handling. A handful of CLECs raise some complaints with respect to SWBT's LSC and SWBT's use of manual handling, each of which this Commission has already found to be satisfactory. See Texas Order ¶¶ 144, 170. In general, it should be noted that SWBT's performance, as indicated through its performance measurements, does not support the claims that there are significant problems with SWBT's LSC, which has more than doubled in size since January 2000 to meet CLEC needs. See Noland/D. Smith Joint Aff. ¶ 64. Moreover, as noted above, Kansas and Oklahoma CLECs have been submitting an increasing number of orders electronically. For those orders that require manual handling, SWBT's LSC and LOC are responsible for providing ordering, billing, provisioning, and maintenance and repair services to CLECs in their provisioning of telecommunication services, and they do so on a nondiscriminatory basis across SWBT's region. See id. ¶¶ 14-22; see also Texas Order ¶¶ 144-146.

SWBT operates a single LSC, which is housed in three facilities in Dallas and Fort Worth, Texas. See Noland Reply Aff. ¶ 5. As noted above, all manual processing of all CLEC orders, regardless of the SWBT state in which the end-user lives, is handled in the Texas-based LSC. See id. ¶ 6. The teams that process CLEC orders are organized by function and by CLEC, but not by state. See id. Therefore, a given CLEC's UNE orders will be processed by the same LSC representatives regardless whether the CLEC's customer lives in Texas, Kansas, or Oklahoma. See id. & Attach. A. All manually submitted LSRs are processed in the same manner. See id. ¶ 7 & Attach. D. All mechanized LSRs that require manual processing are received at the LSC via the LASR GUI system and then distributed to the service representatives

at the appropriate LSC facility depending on the CLEC and the type of service ordered; the state in which the end-user lives, however, has no impact on the handling of the LSR. See id. ¶ 8; see also id. ¶ 9 & Attach. B. Once processed by the LSC, all LSRs, regardless of state, are processed in SWBT's downstream systems. See id. ¶ 8; Mah Reply Aff. ¶¶ 20-27.

Despite SWBT's proven ability to scale its LSC in response to CLEC order volumes, CapRock maintains that SWBT's progress in clearing errors from its internal order exception report demonstrates that SWBT is unable to scale its workforce in times of high volume. See McLeodUSA/CapRock Comments at 30-31. As noted above, SWBT's scalability process has recently been validated by Telcordia and the Texas Commission. Further, contrary to CapRock's claim, this was not an LSC staffing issue. See Noland Reply Aff. ¶ 38. Although SWBT determined that some of those orders should have been processed more efficiently, the orders were cleared by the LSC in early September. See id. LSC representatives continue to monitor CapRock's orders-in-error status on a daily basis and has established standing conference calls with CapRock for this purpose, although CapRock has raised no issues in the past two weeks. See id.

A number of CLECs note that SWBT failed to meet the benchmark from May through September for manually generated reject notifications of 97 percent returns within five hours in both Kansas and Oklahoma. See Sprint Comments at 48 (PM 10-1.01); WorldCom Comments at 14-15; Allegiance Comments at 28; McLeodUSA/CapRock Comments at 27. This Commission, however, recognized that the five-hour standard is "strict" and concluded that "SWBT's ability to return manually-generated rejects in an average of five to eight hours provides efficient competing carriers a meaningful opportunity to compete." Texas Order ¶ 175; Dysart Reply Aff. ¶ 24.

Contrary to WorldCom's claim (at 14-15), SWBT's performance on this benchmark has been improving. For Kansas, performance improved from 75.1 percent in August to 82.9 percent in September and 93.1 percent in October. See Noland Reply Aff. ¶ 22; Dysart Reply Aff. ¶ 25. Although the mean time to return manual rejects rose above 8 hours in August and September – for the first time since February 2000 – the delays in returning those rejects were due to the August 10 LASR problem discussed above. See Noland Reply Aff. ¶ 20; see also Ham Aff. ¶¶ 186, 189; Noland/D. Smith Joint Aff. ¶ 43. In October, the average time to return manual rejects was reduced to 3.6 hours for Oklahoma and 3.2 hours for Kansas, both of which are in line with SWBT's performance on this measure from May through July. See Noland Reply Aff. ¶ 22; Dysart Reply Aff. ¶¶ 25-26 (for May through October, average time to return was 5.5 hours); Nov. 27, 2000 Ex Parte (PM 11.1-01, Kansas). For Oklahoma, the record shows similar improvements from 80.2 percent in August to 82.9 percent in September and then to 94.5 percent in October. See Noland Reply Aff. ¶ 21; Dysart Reply Aff. ¶ 33; see also id. ¶ 34 (for May through October, average time to return manual rejects was 5.22 hours); Nov. 27, 2000 Ex Parte (PM 11.1-01, Oklahoma).

WorldCom complains about SWBT return of jeopardies, claiming there are too many, that they are erroneous, and that they are sent after the FOC due date. See WorldCom Comments at 8-10. The August 10 LASR problem also contributed to the late return of jeopardy notifications in August and September. See Noland Reply Aff. ¶ 26. As to WorldCom's specific allegations, SWBT notes that WorldCom has not provided SWBT with supporting documentation for the jeopardies discussed. See id. ¶ 27. SWBT is, however, aware that during June and August WorldCom's systems were sending duplicate service orders, which resulted in a number of jeopardies being sent to WorldCom. See id. ¶¶ 27-31. Clearing SWBT's systems of

the duplicate orders WorldCom sent also consumed a significant amount of the LSC's time and resources. See id. ¶ 29.

WorldCom also complains about missing and late SOC's. See WorldCom Comments at 10-12. SWBT's LSC is working diligently with WorldCom to resolve this issue. See Noland Reply Aff. ¶ 35. As a result, the LSC has managed to reduce significantly the number of SOC's returned late to WorldCom. See id. SWBT's current performance in returning SOC's to WorldCom for its EDI orders has been well above the 97-percent benchmark in each of the past three months. See id. (performance of 99 percent, 98.5 percent, and 99.3 percent, respectively); see also Noland/D. Smith Joint Aff. ¶¶ 91-92. For Oklahoma, SWBT has met the SOC return benchmark in four of the past six months for orders submitted over both EDI and LEX, with a combined average performance from August through October of 96.3 percent. See Noland Reply Aff. ¶ 33. For Kansas, SWBT has met this benchmark in each of the past six months for LEX orders and two of the past six months for EDI orders; the combined performance from August through October was 97.6 percent. See id. ¶ 34.

Maintenance and Repair. This Commission found that SWBT's options for requesting maintenance and report troubles, including its Toolbar Trouble Administration ("TBTA"), "enable competing carriers to perform the same functions, in the same manner, that SWBT's retail operations perform." Texas Order ¶ 203. SWBT offers CLECs the same maintenance and repair functions throughout its region: TBTA is the exact same system used by SWBT retail; EBTA has long been used by interexchange carriers; and CLECs can always call the LOC and speak to their representative regardless of the state in which their customer resides. See Ham Aff. ¶¶ 259, 267; D. Smith Reply Aff. ¶¶ 3-6. All maintenance requests flow through the same back-end systems, regardless of the manner in which the request was sent to SWBT, whether the

request came from SWBT retail or a CLEC, and regardless of the SWBT state in which the customer resides. See Mah Reply Aff. ¶¶ 28-30. No CLEC has complained that SWBT's maintenance and repair interfaces and processes are not uniform throughout its region.

Billing. SWBT uses the same CRIS and CABS billing systems and processes in all five of its states and all billing is handled by the same personnel, regardless of the state in which the particular end-user customer may reside. See McLaughlin Aff. ¶¶ 3-6. These systems were tested by Telcordia, see id. ¶ 5, and were approved by this Commission, see Texas Order ¶ 210. SWBT uses two similar processes for generating bills: one for CRIS, which is used to create retail and resale bills, and another for CABS, which is used for UNE and access bills. See McLaughlin Reply Aff. ¶¶ 3, 7-8. The pricing data on the rating tables used for CRIS and CABS differ because tariffs and terms of interconnection agreements vary from state to state. See id. ¶¶ 4-6. Nonetheless, the tables for each state reside within the same systems tested in Texas and are processed by its billing systems in the same way, regardless of the state- and CLEC-specific pricing data in the various boxes on those tables. See id. ¶¶ 5-6. Therefore, SWBT's billing OSS, like the remainder of its OSS, are exactly the same throughout its region. As with maintenance and repair, no CLEC suggests otherwise.

Allegiance and CapRock, however, raise complaints about SWBT's compliance with one billing performance sub-measure, claiming that SWBT has not met the parity standard for the "immediately preceding three months for PM 17-01." Allegiance Comments at 28; McLeodUSA/CapRock Comments at 27. The parity "violations" of which these CLECs complain were minimal. See Dysart Reply Aff. ¶ 16. The difference between CLEC and retail performance over a twelve-month period was only one percent (97.6 percent for CLECs versus 98.6 percent for SWBT retail). See id. Moreover, SWBT is unaware of any instance in which

this minor difference in billing performance has had a meaningful impact on any CLEC's opportunity to compete in either Kansas or Oklahoma. See id. ¶ 18.

### **III. LOOP PROVISIONING**

In both Kansas and Oklahoma, SWBT provides nondiscriminatory access to all of the features, functions, and capabilities of the local loop in accordance with the terms of the 1996 Act and the Commission's implementing rules and decisions. Specifically, SWBT has pre-ordering, ordering, and provisioning processes in place that collectively ensure that CLECs receive high-quality loops on a timely basis. Further, in those limited instances in which CLECs report loop troubles, SWBT provides timely and high-quality maintenance and repair services. In response to overwhelming evidence demonstrating SWBT's nondiscriminatory performance in provisioning unbundled loops, CLECs offer nothing but the kind of isolated and unsubstantiated anecdotes that the Commission rejected in the Texas proceedings. As the Commission emphasized there, anecdotal evidence cannot undercut SWBT's "objective performance data that demonstrate that it satisfies the statutory nondiscrimination requirement." Texas Order ¶ 50. SWBT's overall performance in Kansas and Oklahoma, as captured by SWBT's objective and comprehensive measures, clearly satisfies the checklist requirement for the provision of unbundled loops by offering CLECs a meaningful opportunity to compete in the provision of local telecommunications services. See Dysart Reply Aff. ¶¶ 37-58. SWBT will nevertheless address these comments.

#### **A. Hot Cut Loops**

CLEC comments on SWBT's performance in provisioning hot cut loops are noteworthy if only for what they do not claim: in stark contrast to the contentious disputes surrounding SWBT's hot cut performance in Texas, not a single CLEC challenges SWBT's performance in Oklahoma. While a handful of CLECs did file limited comments discussing SWBT's