Although few Arkansas CLECs select the FDT process, SWBT's performance in the provisioning of FTD conversions has been excellent. Specifically, from April through June 2001, SWBT completed 100 percent of FDT conversions (for orders of fewer than ten lines) within one hour, far exceeding the 90-percent standard previously approved by this Commission. See id. ¶ 35; Texas Order, 15 FCC Rcd at 18489, ¶ 264; New York Order, 15 FCC Rcd at 4114-15, ¶ 309. During that same time period, SWBT completed 100 percent of FDT conversions without a premature disconnect and without a PTR. See D. Smith AR Aff. ¶¶ 37-39. Finally, SWBT received no trouble reports within seven days of FDT conversions completed between April and June 2001. See D. Smith AR Aff. ¶ 42.

Missouri. SWBT's performance in the provisioning of CHC in Missouri easily satisfies the criteria approved by the Commission for demonstrating compliance with this checklist item. See D. Smith MO Aff. ¶¶ 33-43. Specifically, between April and June 2001, SWBT completed 99.4 percent of CHC conversions (for orders of fewer than ten lines) in Missouri within the one-hour time frame. Id. ¶ 35. These results far exceed the 90-percent standard applied previously. During that same time period, SWBT completed all CHC conversions without a single premature disconnect and 99.33 percent without a PTR, again well above the 95-percent rate for service outages articulated by the Commission. See D. Smith MO Aff. ¶¶ 36-39. Finally, using the data collected for PM 59 (Percent Installation Reports (Trouble Reports) Within 30 Days (I-30) of Installation), SWBT has calculated trouble reports received on CHC and FDT conversions within seven days of installation (I-7). SWBT received trouble reports within seven days of installation for only 1.43 percent of CHC conversions completed between April and June 2001, easily meeting the two-percent benchmark applied by this Commission in the New York Order. See D. Smith MO Aff. ¶ 42.

SWBT's performance in the provisioning of FTD hot cuts in Missouri also satisfies the criteria approved by the Commission for demonstrating compliance with this checklist item. Specifically, from April through June 2001, SWBT completed 98.94 percent of FDT conversions (for orders of fewer than ten lines) within one hour, far exceeding the 90-percent standard approved by this Commission previously. See id. ¶ 35; Texas Order, 15 FCC Rcd at 18489, ¶ 264; New York Order, 15 FCC Rcd at 4114-15, ¶ 309. During that same time period, SWBT completed 100 percent of FDT conversions without a premature disconnect and 99.82 percent without a PTR, well above the 95-percent rate for service outages articulated by the Commission. See D. Smith MO Aff. ¶¶ 37-39. Finally, SWBT received trouble reports within seven days for only 1.7 percent of FDT conversions completed between April and June 2001, in line with the two-percent benchmark established by this Commission in the New York Order. See D. Smith MO Aff. ¶ 42.

E. Checklist Item 5: Unbundled Local Transport

Section 271(c)(2)(B)(v) of the competitive checklist requires SWBT to offer "[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services." 47 U.S.C. § 271(c)(2)(B)(v); see also 47 C.F.R. § 51.319(d). SWBT provides access in Missouri to both dedicated interoffice transport and shared (common) transport consistent with the Commission's unbundling requirements. Deere MO Aff. ¶¶ 126-146; Deere AR Aff. ¶¶ 126-146; Sparks MO Aff. ¶¶ 115-119; Sparks AR Aff. ¶¶ 112-116; M2A Attach. 6 – UNE, § 8.0; A2A Attach. 6 – UNE, § 8.0. In addition to these standard offerings, a CLEC may obtain new or additional unbundled transport elements through the Special Request process. Deere MO Aff. ¶ 145; Deere AR Aff. ¶ 145. The terms and conditions for local

transport in the M2A and the A2A are substantially the same as those in the K2A and O2A. Deere MO Aff. ¶ 146; Deere AR Aff. ¶ 146.

Dedicated Transport. Dedicated transport is available at standard transmission speeds of up to OC-48, and is available between wire centers or switches owned by SWBT, a CLEC, or third parties acting on behalf of a CLEC. Deere MO Aff. ¶¶ 131-132; Deere AR Aff. ¶¶ 131-132. Higher speeds will be provided as they are deployed in SWBT wire centers. Deere MO Aff. ¶ 132; Deere AR Aff. ¶ 132. SWBT also permits CLECs to use dark fiber as an unbundled element to provide dedicated transport. Deere MO Aff. ¶ 135; Deere AR Aff. ¶ 135; Sparks MO Aff. ¶¶ 116-117; Sparks AR Aff. ¶¶ 113-114.

SWBT provides cross-connections necessary to extend dedicated transport facilities to points of access designated by a CLEC. See Deere MO Aff. ¶ 144; Deere AR Aff. ¶ 144. In addition, SWBT offers CLECs the use of its Digital Cross-Connect System – which allows CLECs to exchange signals between high-speed digital circuits without returning the circuits to analog electrical signals – with the same functionality that SWBT provides its IXC customers. Deere MO Aff. ¶¶ 136-143; Deere AR Aff. ¶¶ 136-143.

Shared Transport. In accordance with the "shared transport" requirements of the Commission's UNE Remand Order, SWBT makes available shared (or "common") transport between SWBT central office switches, between SWBT tandem switches, and between SWBT tandem switches and SWBT central office switches. Sparks MO Aff. ¶ 119; Sparks AR Aff. ¶ 116; Deere MO Aff. ¶ 130; Deere AR Aff. ¶ 130. This shared transport offering enables CLECs to have their traffic carried on the same transport facilities that SWBT uses for its own traffic. Sparks MO Aff. ¶ 119; Sparks AR Aff. ¶ 116; Deere MO Aff. ¶ 130; Deere AR Aff. ¶ 130. CLECs using shared transport have access to the same routing tables that SWBT uses for

its retail operations. Deere MO Aff. ¶ 155; Deere AR Aff. ¶ 155. CLECs may also use shared transport to provide interexchange access to IXCs for traffic to and from the CLEC's end-user customers. Sparks MO Aff. ¶ 119; Sparks AR Aff. ¶ 116.

Performance. Available data confirm that CLECs have nondiscriminatory access to dedicated and shared transport elements. For example, in Missouri SWBT has consistently performed in parity under PMs 58-07, 62-07, 65-06, and 69-06 (respectively, Trouble Reports Within 30 Days of Install, Average Delay Days for Missed Due Dates, Trouble Report Rate, and Percent Repeat Trouble Reports for DS1 Dedicated Transport). See Dysart MO Aff. ¶¶ 127-130; see also id. ¶ 131 (PM 58-13, Percent SWBT-Caused Missed Due Dates – DS-3 Dedicated Transport); see also Final Missouri PSC Order at 81 (concluding that SWBT's dedicated and shared transport offerings satisfy this checklist requirement). Available Arkansas data tell a similar story. See Dysart AR Aff. ¶¶ 119-122.

F. Checklist Item 6: Unbundled Local Switching

SWBT also satisfies section 271(c)(2)(B)(vi), which requires that a BOC provide local switching unbundled from transport, local loop transmission, or other services. SWBT provides CLECs unbundled switching capability with the same features and functionality available to SWBT's own retail operations, in a nondiscriminatory manner. Deere MO Aff. ¶¶ 147-188; Deere AR Aff. ¶¶ 147-188. This offering is proven through actual commercial provisioning, as SWBT has furnished more than 58,000 unbundled switch ports in Missouri, and more than 5,600 in Arkansas, mostly in combination with unbundled local loops. See Tebeau MO Aff. Attach. A; J.G. Smith AR Aff. Attach. A. The terms and conditions for local switching in the M2A and the A2A are the same as those in the K2A and O2A and include the provision of packet switching in

accordance with the UNE Remand Order. Deere MO Aff. ¶¶ 148, 162; Deere AR Aff. ¶¶ 148, 162.

Available Facilities and Functions. SWBT provides requesting carriers access to line-side and trunk-side switching facilities, plus the features, functions, and capabilities of the switch. Deere MO Aff. ¶¶ 150-152; Deere AR Aff. ¶¶ 150-152; Sparks MO Aff. ¶ 120; Sparks AR Aff. ¶ 117; see also Second Louisiana Order, 13 FCC Rcd at 20722-23, ¶¶ 207-209; Texas Order, 15 FCC Rcd at 18520-21, ¶¶ 336-338. SWBT's offerings include, among other things, the connection between a loop termination and a switch line card, Deere MO Aff. ¶ 150; Deere AR Aff. ¶ 150, the connection between a trunk termination and a trunk card, Deere MO Aff. ¶ 151; Deere AR Aff. ¶ 151, all vertical features the switch is capable of providing, Deere MO Aff. ¶¶ 152, 159; Deere AR Aff. ¶¶ 152, 159, and any technically feasible routing features, Deere MO Aff. ¶ 153; Deere AR Aff. ¶ 152.

SWBT also provides CLECs access to all call origination and completion capabilities of the switch, including capabilities for intraLATA and interLATA calls. Deere MO Aff. ¶ 154; Deere AR Aff. ¶ 154. Unbundled packet switching and unbundled tandem switching also are available. Deere MO Aff. ¶¶ 162-168; Deere AR Aff. ¶¶ 162-168. SWBT provides CLECs with the necessary cross-connects for local switching. Deere MO Aff. ¶¶ 172-187; Deere AR Aff. ¶¶ 172-187.

Customized Routing. SWBT provides two methods by which CLECs using unbundled local switching may have calls "custom routed" according to their own specifications. These are Advanced Intelligent Network ("AIN") and line class codes. See Deere MO Aff. ¶¶ 156-157; Deere AR Aff. ¶¶ 156-157. The standard method is based on AIN technology. Deere MO Aff. ¶ 156; Deere AR Aff. ¶ 156. In a few low-volume applications where AIN is not technically

feasible (such as for hotel/motel services, certain coin services, and ports using voice-activated dialing), SWBT employs line class codes ("LCC") to custom-route CLEC calls. Deere MO Aff. ¶ 157; Deere AR Aff. ¶ 157. SWBT has thus far received no orders for customized routing using LCCs and does not expect to receive such orders in any sizable volumes. Deere MO Aff. ¶ 158; Deere AR Aff. ¶ 158.

G. Checklist Item 7: Nondiscriminatory Access to 911, E911, Directory Assistance, and Operator Call Completion Services

In the Texas Order, the Commission held that SWBT satisfied the requirements of 47 U.S.C. § 271(c)(2)(B)(vii) by making emergency, directory assistance ("DA"), and operator services ("OS") available to carriers that wanted them. See 15 FCC Rcd at 18524-25, ¶ 344, 18527, ¶ 349. Accord Kansas/Oklahoma Order ¶ 255. Because SWBT offers 911, OS, and DA services in Missouri and Arkansas on the same terms and conditions as in Texas, Kansas, and Oklahoma and employs substantially the same systems, processes, and procedures to provide those services across its region, SWBT also satisfies this checklist item in Missouri and Arkansas. See generally Deere MO Aff. ¶¶ 189-231; Deere AR Aff. ¶¶ 189-210; Rogers MO Aff. ¶¶ 8-50 (App. A – MO, Tab 20); Rogers AR Aff. ¶¶ 8-50 (App. A – AR, Tab 19); Dysart MO Aff. ¶¶ 134-136 & Attach. K (discussing Missouri E911 and OS/DA performance measures); Dysart AR Aff. ¶ 125-128 & Attach. K (discussing Arkansas E911 and OS/DA performance measures).[94]

[94] SWBT is also in compliance with this Commission's recently issued order concerning Directory Listing Information under the 1996 Act. See First Report and Order, Provision of Directory Listing Information Under the Telecommunications Act of 1934, As Amended, 16 FCC Rcd 2736 (2001) ("Directory Listings Order"). SWBT allows all CLECs nondiscriminatory access to its DA listings, as well as third party DA providers that are acting as agents or independent contractors for CLECs. Rogers MO Aff. ¶ 27 n.31; Rogers AR Aff. ¶ 27 n.31; Directory Listings Order, 16 FCC Rcd at 2744, ¶ 14, 2748, ¶ 27.

During the course of the initial Missouri proceedings, one commenter alleged that SWBT accesses its 911 database on terms different than its competitors.[95] For the reasons described in the Missouri Affidavits of William C. Deere and Linda G. Yohe, these claims are entirely without merit. See Deere MO Aff. ¶¶ 212-223; Yohe MO Aff. ¶¶ 56-58 (App. A – MO, Tab 26).

Moreover, there is simply no legal basis to raise concerns about 911 issues in this proceeding. The commenter raising this claim is not operating as a CLEC in Missouri and has not pointed to any instance where SWBT has failed to comply with its obligations under Checklist Item 7 in Missouri. Indeed, none of the anecdotal evidence to which the commenter pointed in support of its claims involves conduct in Missouri. This Commission has stated that applications for section 271 relief occur on a state-by-state basis, and issues of compliance with checklist items in other states are not relevant to a determination as to whether the BOC meets a requirement in the state in which it is seeking relief. See Texas Order, 15 FCC Rcd at 18528, ¶ 351 ("WorldCom's argument that SWBT's out-of-state directory assistance services are priced at an anticompetitive level is not relevant to a determination of whether SWBT meets checklist item 7 in Texas. For purposes of the instant application, we consider only whether SWBT meets the requirements of section 271 in the State of Texas.").

The commenter made a number of additional arguments in an attempt to convince this Commission to require SWBT to provide 911 services through a separate section 272 affiliate.[96] These arguments are meritless for several reasons. First, this Commission has already decided to

[95] See generally Comments of SCC Communications Corp. ("SCC Comments") & Affidavit of Cynthia Clugy ("SCC Clugy Aff."), CC Docket No. 01-88 (FCC filed May 4, 2001).

[96] See SCC Comments at 6-7.

forbear from any requirement to create a separate affiliate for the provision of 911 services.[97] Second, a section 271 application proceeding is simply not the appropriate forum to argue that SWBT has somehow failed to comply with the terms of the Commission's E911 Forbearance Order. Third, the only anecdotal allegation that SWBT is not providing nondiscriminatory access to its listings involves the commenter's claim that it lacks access to SWBT's selective routers. But the FCC has already ruled that access to E911 routing information has no bearing on its decision to grant forbearance. See E911 Forbearance Order, 13 FCC Rcd at 2647, ¶ 37. Moreover, SWBT and the commenter are currently negotiating in Texas over access to selective routing. See Deere MO Aff. ¶ 225. This section 271 proceeding is simply not the appropriate time and place to address the commenter's selective routing concerns.

Finally, the commenter is wrong to suggest that the M2A is flawed because it fails to accommodate the concerns of competitive providers of 911 database services.[98] Because the commenter is a provider of 911 database services to CLECs and not a CLEC itself, the M2A simply does not apply to its business. The commenter has a separate contractual arrangement with SWBT that is specifically designed for competitive 911 service providers like the commenter and includes many conditions and terms not available in the M2A. See Deere MO Aff. ¶ 231. To the extent that the commenter has issues with the interoperability agreement, it should take those up in the appropriate forum.

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[97] Memorandum Opinion and Order, Bell Operating Cos. Petitions for Forbearance from the Application of Section 272 of the Communications Act of 1934, as Amended, to Certain Activities, 13 FCC Rcd 2627 (1998) ("E911 Forbearance Order").

[98] See SCC Clugy Aff. ¶ 10.

H. Checklist Item 8: White Pages Directory Listings

Section 271(c)(2)(B)(viii) requires SWBT to provide "[w]hite pages directory listings for customers of the other carrier's telephone exchange service." 47 U.S.C. § 271(c)(2)(B)(viii). In the Texas Order, the Commission found that SWBT satisfied the requirements of this checklist item. See 15 FCC Rcd at 18529, ¶ 355. Commenters in the Kansas/Oklahoma proceeding provided no evidence to counter this finding, and the Commission reiterated its assertion that "SWBT satisfies the requirements of checklist item 8." Kansas/Oklahoma Order ¶ 247. Since SWBT provides access to White Pages directory listings in Missouri and Arkansas using substantially the same procedures and processes as in Texas, Kansas, and Oklahoma, SWBT also satisfies this checklist item in Missouri and Arkansas. See Rogers MO Aff. ¶¶ 3-7, 51-69; Rogers AR Aff. ¶¶ 3-7, 51-69.

I. Checklist Item 9: Nondiscriminatory Access to Telephone Numbers

When it served as Central Office ("CO") Code Administrator in its region, SWBT satisfied the requirements of 47 U.S.C. § 271(c)(2)(B)(ix) by following number administration guidelines published by the Industry Numbering Committee. See generally Mondon MO Number Admin. Aff. (App. A – MO, Tab 17); Mondon AR Number Admin. Aff. (App. A – AR, Tab 17). Pursuant to those industry-standard procedures, SWBT assigned 194 NXX central office codes representing 1.94 million telephone numbers to 16 CLECs in Missouri, see Mondon MO Number Admin. Aff. ¶ 13, and 15 NXX central office codes representing 150,000 telephone numbers to seven CLECs in Arkansas, see Mondon AR Number Admin. Aff. ¶ 13. SWBT utilized identical standards and procedures for processing all number requests, regardless of the requesting party, and charged no fees for activating CO codes. SWBT did not turn down any requests for NXX code assignments except in the course of implementing jeopardy plans for

number conservation that had been developed by the applicable state commission with interested industry participants. See Mondon MO Number Admin. Aff. ¶¶ 13-14; Mondon AR Number Admin. Aff. ¶¶ 13-15.

On February 1, 1999, Lockheed Martin assumed CO code administration responsibilities in both Missouri and Arkansas, and SWBT has had no responsibility for number administration since that time. See Mondon MO Number Admin. Aff. ¶ 18; Mondon AR Number Admin. Aff. ¶ 19. Although it is no longer a CO code administrator, and no longer performs any functions with regard to number administration or assignment, SWBT, as a service provider, continues to adhere to numbering administration rules and regulations established by the various regulatory agencies. See Mondon MO Number Admin. Aff. ¶ 18; Mondon AR Number Admin. Aff. ¶ 19. The Missouri and Arkansas PSCs have each concluded that SWBT has satisfied this checklist requirement. See Final Missouri PSC Order at 83; 2000 Consultation Report at 21.

J. Checklist Item 10: Nondiscriminatory Access to Databases and Associated Signaling Necessary for Call Routing and Completion

Checklist Item 10 requires a BOC to provide "[n]ondiscriminatory access to databases and associated signaling necessary for call routing and completion." 47 U.S.C. § 271(c)(2)(B)(x). In the Texas Order, this Commission held that SWBT satisfied this checklist item, and the Commission reiterated that finding in the Kansas/Oklahoma Order. Texas Order, 15 FCC Rcd at 18532, ¶ 364; Kansas/Oklahoma Order ¶ 255. Because SWBT provides signaling and call-related databases on the same terms and conditions, employing substantially the same relevant systems, processes, and procedures in Missouri and Arkansas as it does in Texas, Kansas, and Oklahoma, SWBT provides nondiscriminatory access to signaling and call-related databases in Missouri and Arkansas. Deere MO Aff. ¶¶ 232-286; Deere AR Aff. ¶¶ 211-265.

K. Checklist Item 11: Number Portability

In the Texas Order, the Commission held that SWBT was providing both permanent number portability and interim number portability in conformance with the requirements of this checklist item. 15 FCC Rcd at 18535, ¶ 371. The Commission reached the same conclusion with respect to Kansas and Oklahoma. Kansas/Oklahoma Order ¶ 255. Because number portability is provided using the same systems and processes throughout the five-state SWBT region, SWBT's compliance in Texas, Kansas, and Oklahoma effectively demonstrates that it satisfies this requirement in Missouri and Arkansas as well. See Mondon AR Number Port. Aff. (App. A – AR, Tab 16); Mondon MO Number Port. Aff. (App. A – MO, Tab 16); Final Missouri PSC Order at 84-85; 2000 Consultation Report at 22.

In accordance with Checklist Item 11, CLECs have ported 250,000 numbers from SWBT in Missouri and more than 90,000 numbers from SWBT in Arkansas through the end of June 2001. See Mondon MO Number Port. Aff. ¶ 6; Mondon AR Number Port. Aff. ¶ 6. Whether ported with unbundled local loops or on a stand-alone basis, these numbers were ported in a timely and efficient manner, without unreasonable service disruptions. In Missouri and Arkansas, SWBT has met 100 percent of the LNP-related performance benchmarks for which statistically significant data is available in at least two of the last three months. See Dysart MO Aff. ¶¶ 138-139 & Attach. A; (PMs); Dysart AR Aff. ¶¶ 130-133 & Attach A.

L. Checklist Item 12: Local Dialing Parity

SWBT provides nondiscriminatory access to services and information that are necessary to allow local dialing parity in Missouri and Arkansas on the same terms and conditions using the same procedures and processes it uses in Texas, Kansas, and Oklahoma. See Deere MO Aff. ¶¶ 297-301; Deere AR Aff. ¶¶ 276-280. This Commission found that Southwestern Bell has

satisfied this checklist item in Texas, Kansas, and Oklahoma, see Texas Order, 15 FCC Rcd at 18537, ¶ 375; Kansas/Oklahoma Order ¶ 255, therefore SWBT also satisfies this checklist item in Missouri and Arkansas.

M. Checklist Item 13: Reciprocal Compensation for the Exchange of Local Traffic

Traffic exchanged between SWBT and CLECs serves as one measure of actual local competition. Consistent with sections 271(c)(2)(B)(xiii) and 252(d)(2), SWBT facilitates such exchanges by entering into just and reasonable reciprocal compensation arrangements for transport and termination of local traffic on the other carrier's network. In the Kansas/Oklahoma Order, based on the options offered to CLECs under the K2A and the O2A, the Commission found that SWBT satisfied this checklist item. See Kansas/Oklahoma Order ¶ 249. The options available under the A2A and M2A are the same as those available under the K2A and O2A. Interconnection agreements in Missouri and Arkansas contain negotiated rates for the mutual exchange of local traffic, as well as rates and terms that have been established by the Missouri PSC and the Arkansas PSC through arbitration. See Sparks MO Aff. ¶ 124; Sparks AR Aff. ¶ 123.

Pursuant to these reciprocal compensation arrangements, in Missouri, SWBT has received 172 million minutes of traffic from CLECs since January 1, 1997; CLECs have received more than 1.2 billion minutes of traffic – both local and ISP-bound – from SWBT. Tebeau MO Aff. Attach. A. In Arkansas, SWBT has received 220 million minutes of traffic from CLECs since January 1, 1997; CLECs have received more than 1.2 billion minutes of traffic – both local and ISP-bound – from SWBT. See J.G. Smith AR Aff. Attach. A. This traffic has been accurately accounted for, and the appropriate parties have been compensated at lawful rates. See Sparks MO Aff. ¶¶ 131-132; Sparks AR Aff. ¶¶ 126-127.

Rates. In the M2A and the A2A, SWBT offers alternative arrangements for reciprocal compensation. See Sparks MO Aff. ¶ 124; Sparks AR Aff. ¶ 123. One alternative is bill-and-keep; the second option is to negotiate and, if necessary, arbitrate terms governing reciprocal compensation while operating under the other terms of the M2A. Sparks MO Aff. ¶¶ 125-126; Sparks AR Aff. ¶¶ 124-125. In addition to the options available under the M2A, the Missouri PSC and the Arkansas PSC have established rates for transport and termination as described in the Affidavits of Rebecca L. Sparks. See Sparks MO Aff. ¶ 124; Sparks AR Aff. ¶ 123; M2A Attach. 12 – Compensation; A2A Attach. 12 – Compensation.

Usage Data. For CLECs using SWBT's unbundled local switching, SWBT provides call detail records needed to obtain reciprocal compensation for calls from SWBT and other unbundled switch-based CLEC end users. Sparks MO Aff. ¶ 133; Sparks AR Aff. ¶ 128. Calls originating from a third-party, facilities-based carrier and terminating to the CLEC, however, are identified in usage recordings simply as being routed to SWBT's assigned telephone numbers. Sparks MO Aff. ¶ 133; Sparks AR Aff. ¶ 128. In light of industry difficulties in developing a process for exchanging records under this scenario, SWBT has satisfied checklist requirements by implementing a surrogate mechanism with other carriers that credits CLECs for reciprocal compensation on calls terminated from third-party, switch-based providers. Sparks MO Aff. ¶ 134; Sparks AR Aff. ¶ 129; see Second Louisiana Order, 13 FCC Rcd at 20736, ¶ 233.

N. Checklist Item 14: Resale

SWBT's resale offerings allow CLECs to enter the local market in Arkansas and Missouri with virtually no investment or delay. This is confirmed not just by the orders of the Arkansas and Missouri commissions, see 2000 Consultation Report at 23-24; Final Missouri PSC Order at 86, but also by the presence of CLECs reselling more than 34,000 lines in

Arkansas, see J.G. Smith AR Aff. ¶ 35 & Table 7, and more than 94,000 lines in Missouri, see Tebeau MO Aff. ¶ 35 & Table 7. The Arkansas PSC, by approving the modified A2A, incorporated the Kansas wholesale discount of 21.6 percent. See A2A Attach. 1 – Resale, App. Services/Pricing § 14.1; Allis AR Aff. ¶ 45. The Missouri PSC has established a wholesale discount rate of 19.2 percent applicable to all services except operator services and 13.9 percent for operator services. First Arbitration Order at 3; see B. Smith MO Aff. ¶ 40. These discounts have been incorporated into the M2A. See M2A Attach. 1 – Resale, App. Services/Pricing § 14.1; Sparks MO Aff. ¶ 161.

The telecommunications services that Southwestern Bell provides CLECs for resale are identical to the services that Southwestern Bell furnishes its own retail customers. See Sparks AR Aff. ¶ 131; Sparks MO Aff. ¶ 22. Southwestern Bell offers wholesale discounts on promotional offerings lasting more than 90 days. See Sparks AR Aff. ¶ 135; A2A Attach. 1 – Resale, § 4.2; Sparks MO Aff. ¶ 141; M2A Attach. 1 – Resale, § 4.2. For retail services that Southwestern Bell offers to a limited group of customers (such as grandfathered services), Southwestern Bell allows resale to the same group of customers to which it sells the services, in accordance with 47 C.F.R. § 51.615. See Sparks AR Aff. ¶ 136; Sparks MO Aff. ¶ 142. Southwestern Bell's customer-specific proposals are available for resale to similarly situated customers without triggering termination liability charges or transfer fees to the end user. See Sparks AR Aff. ¶ 138; A2A Attach. 1 – Resale, App. Services/Pricing § 16.0; Sparks MO Aff. ¶ 144; M2A Attach. 1 – Resale, § 1.3.

Arkansas. SWBT's Arkansas resale performance has been outstanding. Indeed, SWBT has achieved parity or the relevant benchmark in at least two out of the last three months for 37 out of 38 submeasures that directly track resale service. See Dysart AR Aff. ¶ 135. CLECs

generally receive resold services faster than SWBT's retail operations, they experience a comparable number of missed due dates, and they have a lower trouble report rate. See id. ¶¶ 136-142 & Tables 6-8. Clearly, SWBT provides CLECs in Arkansas a meaningful opportunity to compete via resale.

Missouri. With respect to POTS resale, SWBT has missed fewer due dates for CLECs than it misses for its own retail operations. See Dysart MO Aff. Attach. B (PMs 29-01 to 29-04). Resold services are of the same quality as SWBT's retail services, and CLEC resale customers generally report post-provisioning troubles no more frequently than SWBT's retail customers report such troubles. See id. ¶ 142 & Table 6 (PMs 37-01 and 37-02).

Notwithstanding SWBT's superior performance on resale, SWBT fell short of parity in PM 35-08 (Percent Trouble Reports on C Orders within ten days – NFW - Business) during May and June when the percentage of trouble reports for "no field work" business loops was not statistically equivalent between the CLECs and SWBT in Missouri. SWBT had achieved parity for this measure during each of the nine months (July 2000 – February 2001) prior to the first parity miss in March. See Dysart MO Aff. Attach. B (PM 35-08). In addition, over the past 12 months, CLECs have experienced a slightly lower trouble report rate compared to SWBT – 1.33 percent as opposed to 1.35 percent. Id. The results of this measure do not indicate a provisioning problem for business resold lines used by Missouri CLECs. See Dysart MO Aff. ¶ 150.

Finally, as discussed in detail above, see supra Part III, SWBT and its advanced services affiliate make available for resale at the appropriate wholesale discount all advanced telecommunications services that they offer at retail. ASI has negotiated and entered into an interconnection agreement with Logix in both Arkansas and Missouri to offer advanced services

under terms and conditions that are consistent with section 251(c). See ASI- Logix Agreement – MO; ASI-Logix Agreement – AR.

VI. SOUTHWESTERN BELL'S ENTRY INTO THE INTERLATA SERVICES MARKET IN MISSOURI AND ARKANSAS 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 Missouri and Arkansas easily satisfies this requirement. See Final Missouri PSC Order at 87 (concluding that "there is no serious dispute that SWBT's entry into the long-distance market will likely help to drive the rates paid by residential and small-business consumers closer to the costs of providing service and increase consumer choice for long-distance services").[99]

This Commission concluded in its Kansas/Oklahoma 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 years of experience with the consumer benefits that flow from competition in telecommunications markets." Kansas/Oklahoma Order ¶ 266.[100] The Commission has long

[99] The Arkansas PSC concluded that it would not address the public interest inquiry because this Commission is not required under section 271(d)(3) to consult with the state commission regarding this issue. See 1998 Consultation Report at 30.

[100] See also Texas Order, 15 FCC Rcd at 18557-58, ¶ 416; New York Order, 15 FCC Rcd at 4164, ¶ 428 ("BOC entry into the long-distance market will benefit consumers and competition if the relevant local exchange market is open to competition consistent with the competitive checklist. As a general matter, [this Commission] believe[s] that additional competition in telecommunications markets will enhance the public interest."); Michigan Order, 12 FCC Rcd at 20741-42, ¶ 381 ("BOC entry into the long-distance market will further Congress' objectives of promoting competition and deregulation of telecommunication

recognized that the benefits of new entry in long distance presumptively outweigh any risk of harm.[101] That presumption is especially apt when applied to this Joint Application. MCI's merger with WorldCom effectively eliminated the only facilities-based entrant into the interLATA market since the breakup of the Bell System. The need for SWBT to enter and energize the interLATA markets in both Arkansas and Missouri has never been more acute.

A. Consumers Clearly Benefit from Bell Company Entry into the In-Region, InterLATA Market

Uniform historical experience confirms the benefits of in-region, interLATA entry by the BOCs; Texas and New York were the first examples, and now Kansas, Oklahoma, and Massachusetts provide additional evidence. SBC can now provide customers with a single source for local and long-distance service, placing significant pressure on the competition to provide lower prices, enhanced services, and greater quality. See generally Tebeau MO Aff. ¶¶ 36-44; J.G. Smith AR Aff. ¶¶ 36-44. Survey after survey has shown customers' confusion and frustration with telephone bills.[102] SBC's primary long-distance service plan offers

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markets."); Memorandum Opinion and Order, Application of 360° Communications Co., Transferor, and ALLTEL Corp., Transferee, for Consent to Transfer Control of 360° Communications Co. and Affiliates, 14 FCC Rcd 2005, 2017, ¶ 26 (1998).

[101] See Report and Order, Inquiry into Policies to Be Followed in the Authorization of Common Carrier Facilities to Provide Telecommunications Service Off the Island of Puerto Rico, 2 FCC Rcd 6600, 6604, ¶ 30 (1987) ("plac[ing] a burden on any entity opposing entry by a new carrier into interstate, interexchange markets to demonstrate by clear and convincing evidence that [additional] competition would not benefit the public"); Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking, MTS and WATS Market Structure, 81 F.C.C.2d 177, 201-02, ¶ 103 (1980) (Commission will "refrain from requiring new entrants to demonstrate beneficial effects of competition in the absence of a showing that competition will produce detrimental effects").

[102] See SBC Communications to Launch Long Distance Service in Texas, Bus. Wire, July 7, 2000 ("Seventy-eight percent of those surveyed incorrectly believe the average amount paid per minute for a long-distance call is between 5 and 14 cents. According to a recent survey by Gartner Group, the average consumer is paying 22 cents a minute for long distance.").

customers a low per-minute charge with no monthly minimum or monthly recurring charges.[103] Numerous studies have documented the consumer savings as a result of section 271 approval. A recent St. Louis Post-Dispatch article estimated the potential consumer savings in Missouri to be about $383 million.[104] The Telecommunications Research and Action Center, an independent research group, recently performed a detailed study on the effects of Verizon's entry in New York and concluded that consumers were saving up to $700 million a year as a result of greater competition.[105]

Despite the accrual of enormous consumer benefits in the states for which section 271 relief has been granted, the three major IXCs – AT&T, WorldCom, and Sprint – still control on average 85 percent of the residential long-distance market in states without section 271 relief.[106]

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[103] See Paul Davidson, Long-Distance Phone Carriers Left Hanging: Vicious Competition, Tech Revolution Push Traditional Firms Out of the Loop, USA Today, Nov. 2, 2000, at 1B ("Unlike their long-distance rivals, the Bells impose no monthly fees on plans that range from 6 cents to 10 cents a minute."); Jennifer Files, Texas-Based Phone Company Changes Focus from Acquisitions to Customer Service, San Jose Mercury News, Dec. 10, 2000 ("Whatever plan they pick, Southwestern Bell's long-distance subscribers can't really lose – its highest rate for calls from a subscriber's home is 9 cents a minute – far below AT&T's basic rate of 29.5 cents a minute.").

[104] See Steve Pociask, We've Come a Long Way . . . But Regulatory Barriers Have Placed the Future on Hold, St. Louis Post-Dispatch, Dec. 27, 2000, at B7 ("[R]egulatory barriers that protect long-distance companies from competition are costing residential consumers dearly. In fact, by my estimate, the long-distance prohibition in Missouri results in a $383 million overpayment by telecommunications consumers to long-distance companies, or about 30 percent of long-distance expenditures in the state.").

[105] See Telecommunications Research and Action Center, 15 Months After 271 Relief: A Study of Telephone Competition in New York 8-9 (Apr. 25, 2001) ("An average consumer that switched to Verizon for long-distance service will save between $3.67 and $13.94 a month . . . [P]hone competition has brought up to $700 million of savings to New York consumers.").

[106] See Industry Analysis Div., FCC, Statistics of the Long Distance Telecommunications Industry Table 24 (Jan. 2001).

In Missouri, the three major IXCs control 83 percent of the residential long-distance market; and 77 percent of the residential long-distance market in Arkansas.[107]

Recent behavior of the three major IXCs reinforces the FCC's conclusion that concentration in the long-distance market "remain[s] high based on the standards used by the Department of Justice."[108] AT&T, MCI WorldCom, and Sprint all recently implemented an additional fee for the convenience of a single bill.[109] Mark Cooper of the Consumer Federation of America rebuked this new charge, "[i]t's an outrage . . . . You can't just unilaterally change prices like that. It reflects a complete disrespect for the consumer."[110] Consumers were hit even harder when AT&T recently raised its basic rate by as much as 11 percent. AT&T's basic rate is now 30 cents per minute for weekday calls and 25 cents per minute for weeknight calls – 28 million of AT&T's 60 million residential customers pay this basic rate.[111] In comparison, SBC's equivalent long-distance rate in Texas, Kansas, and Oklahoma is only ten cents per minute.[112]

With simpler long-distance rates and the convenience of one all-inclusive telephone bill, the 271-approved BOCs have attracted an unexpectedly high number of customers. After only ten days of service in Texas, SBC signed up 150,000 long-distance customers.[113] SBC had 1.7

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[107] See id.

[108] See id. at 15.

[109] See Suzanne King, Sprint Angers Consumer Watchdogs by Quietly Implementing Charge, Kansas City Star, Apr. 13, 2001.

[110] See id.

[111] See Bloomberg News, AT&T to Raise Some Rates by as Much as 11 Percent, N.Y. Times, June 2, 2001, at C4.

[112] See SBC, Southwestern Bell Long Distance, at http://www.swbell.com/Products_Services/Residential/ProdInfo_1/1,1973,187-0-6-3-15,00.html.

[113] See Bruce Meyerson, SBC and Sprint Top Wall Street Forecasts for April-June

million long-distance lines in Texas after six months, and 2.1 million lines after only nine months.[114] Twelve months after entry in Texas and four months after entry in Oklahoma and Kansas, SBC had 2.8 million long-distance lines in service.[115] Verizon, who emphasizes simple low-rate long-distance plans, signed up approximately 1.9 million long-distance lines during its first fifteen months of service in New York and 253,000 during its first two months of service in Massachusetts.[116]

On March 5, 2001, two days before Southwestern Bell's scheduled launch of long-distance service in Kansas and Oklahoma, AT&T announced a special deal exclusively for its long-distance customers in Kansas and Oklahoma. AT&T customers in these two states automatically received a special AT&T customer service greeting while placing a call and thirty free minutes of long-distance calling. The promotion in Oklahoma and Kansas by AT&T "is

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Quarter, Associated Press, July 20, 2000; Bruce Hight, SW Bell Will Start Selling Long-Distance on Monday; AT&T, WorldCom, Austin American Statesmen, July 7, 2000, at A1 (quoting Sam Simon, Chairman, Telecommunications Research & Action Center, who noted that "Bell Atlantic's entry into long-distance – and the entry of AT&T and MCI among others, into local – has lowered costs and lowered rates for consumers, generally across the board").

[114] See Michael J. Balhoff, et al., Legg Mason – Equity Research, Section 271 Relief: Bells Race IXCs/Each Other for New Markets/Revenues Table 4 (June 24, 2001).

[115] See SBC, Investor Briefing 7 (July 25, 2001), at http://www.sbc.com/Investor/Financial/Earning_Info/docs/2Q_IB_FINAL_Color.pdf.

[116] See Michael J. Balhoff, et al., Legg Mason – Equity Research, Section 271 Relief: Bells Race IXCs/Each Other for New Markets/Revenues Table 4 (June 24, 2001); see also Verizon Press Release, Verizon Communications Second Quarter Earnings Highlighted by Strong Long-Distance and Wireless Sales, July 31, 2001, at http://newscenter.verizon.com/proactive/newsroom/release.vtml?id=59168.

part of the first broader application of this innovative technology."[117] AT&T also offered this promotion in Massachusetts within weeks after Verizon received 271 approval there.[118]

As the Commission's own recent Local Telephone Competition report confirms, "[s]tates with long-distance approval show [the] greatest competitive activity."[119] Soon after SWBT entered the long-distance market in Oklahoma – in March 2001 – AT&T began marketing its Digital Broadband fixed wireless package of local, long-distance, and high-speed data service to residential customers in Oklahoma City and Tulsa.[120] AT&T claims its fixed wireless rates in Oklahoma "will be 30 percent less expensive than the traditional local exchange companies."[121] Birch Telecom, a CLEC providing service to business in over 28 markets, responded to SWBT's entry into the Kansas and Oklahoma markets by extending its bundled local/long-distance service to residential customers in ten Kansas cities and two Oklahoma cities.[122] And Sprint followed by expanding its fixed wireless Internet service to residential and business customers in

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[117] See AT&T Press Release, AT&T Long Distance Customers in Kansas Get the Message: Thanks for Your Loyalty (Mar. 5, 2001) at http://www.att.com/press/item/0,1354,3701,00.html; AT&T Press Release, AT&T Long Distance Customers in Oklahoma Get the Message: Thanks for Your Loyalty (Mar. 5, 2001) at http://www.att.com/press/item/0,1354,3702,00.html.

[118] See AT&T Press Release, Bay State AT&T Long Distance Customers Get the Message: Thanks for Your Loyalty (May 14, 2001) at http://www.att.com/press/item/0,1354,3816,00.html.

[119] See FCC News Release, Federal Communications Commission Releases Latest Data on Local Telephone Competition (May 21, 2001).

[120] See D.R. Stewart, AT&T Local Service on Way, Tulsa World, June 7, 2001 (quoting Ben Kahrnoff, president of the southwest region for AT&T Digital Broadband).

[121] See id.

[122] See Birch Telecom Press Release, Choice in Local Residential Phone Service Offered in Kansas, Missouri and Oklahoma (Apr. 24, 2001), at http://www.birch.com/newreleases/042401.shtml.

Oklahoma City, and bundling this Internet service with special discounts on long-distance service.[123]

In response to SBC's entry into the long-distance market in Texas, incumbent long-distance carriers such as AT&T, MCI WorldCom, and Sprint began to offer discounts on their regular long-distance plans and in-state long-distance rates to customers who signed up for local service. To attract local customers in Texas, AT&T offers super discount rates on calls to Mexico for Texans who sign up for AT&T's residential local service.[124] Called AT&T's Local One Rate–Texas, this plan has 700,000 customers (approximately 12 percent of SBC's residential lines in Texas).[125] MCI WorldCom's residential local offerings consist of three specially designed local/long-distance bundles marketed under the name "One Company Advantage."[126] MCI WorldCom reaffirmed its aggressive drive to attract local customers: "MCI WorldCom continues to sign up new customers in Texas . . . . 'We're very committed to local phone service. . . .'"[127]

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[123] Sprint Press Release, Sprint to Expand High-Speed Internet Service Area in Oklahoma City (June 22, 2001), at http://www3.sprint.com/PR/CDA/PR_CDA_Press_Releases_Detail_PF/1,1586,2860,00.html.

[124] See AT&T, AT&T Texas Local-Mexico Border Plan, at http://www.att.com/border_plan/ (visited July 30, 2001). In response to AT&T's promotional Mexico rates, SBC rolled out an even less expensive package for callers to Mexico – SBC SuperMexico 60 and SuperMexico 180. See SWBT Press Release, Southwestern Bell Long Distance Introduces New Calling Plans to Mexico (Mar. 12, 2001), at http://www.swbell.com/About/NewsCenter/ShowRelease/0,1018,20010312-01,00.html?NID=.

[125] See PR Newswire, Michigan's Open Telecommunications Market Drives Growing Competition, May 15, 2001.

[126] See MCI WorldCom, MCI WorldCom Local Phone Service: Texas, at http://www.mci.com/home_family/products_services/local/tx_splash.shtml (visited July 30, 2001).

[127] See Tom Fowler, Telecom Issues Come Calling, Houston Chronicle, Jan. 7, 2001, at 1 (quoting MCI WorldCom spokeswoman Leland Prince).

Activity following 271 approval confirms that the benefits of section 271 relief extend far beyond the long-distance market. Chairman Powell recently commented, "[w]e see a correlation between the process for approving applications and growing robustness in the markets."[128] Indeed, the granting of section 271 relief has led competitors to increase substantially their commitment to local competition. For example, in the period from July 2000 through June 2001 – a period encompassing 11 months after approval of Southwestern Bell's Texas 271 application – the amount of local competition in Texas (as reflected by specific competitive indicators) grew considerably: total CLEC lines grew to over three million; the lines captured by facilities-based competitors grew by 58 percent to over 2.9 million; unbundled stand-alone loops increased by 66 percent to approximately 143,000; and UNE Platforms increased by an astounding 156 percent to 1,210,000.[129] See also Tebeau MO Aff. ¶ 37 & Table 8. Growth of local competition in New York following 271 approval was similar: lines served by CLECs doubled from 1.5 million at the end of 1999 to three million at the end of 2000, increasing CLEC market share in New York to over 20 percent.[130] Commenting on the effects of increased competition in New York, the Consumer Federation of America & Consumers Union calculated that "[p]rices for both local

[128] See Rodney L. Pringle, Powell Says Innovation Will Drive Telecom Upswing, Communications Today, June 6, 2001.

[129] See James D. Ellis, Senior Executive Vice President and General Counsel, SBC Communications Inc., Written Statement on Implementation of the 1996 Act and Impact on Competition Table 1, Before the Subcommittee on Antitrust, Committee on the Judiciary, United States Senate (May 2, 2001).

[130] See New York State Public Service Commission, Analysis of Local Exchange Service Competition in New York State 3 (data and statistics as of Dec. 31, 2000), at http://www.dps.state.ny.us/telanalysis.htm.

and long-distance service have dropped substantially (approximately 20 percent for those who shop)."[131]

In other attempts to retain long-distance customers, AT&T, MCI WorldCom, and Sprint made Texas the main laboratory for deployment of alternative local loop facilities and advanced services. Former Chairman Kennard commented, "We have witnessed a dynamic market for broadband services develop as a result of the opening of local markets in Texas and New York."[132] Texas was one of the earliest test grounds for AT&T's cable telephone service; on the same day SWBT began offering long-distance services in Texas, AT&T Broadband offered one free month of local service to new cable telephony customers.[133] All three of the major interexchange carriers are deploying fixed wireless networks to provide broadband access and residential telephone services. In parts of Texas, AT&T uses a fixed wireless system to offer customers a local/long-distance/high-speed Internet access package.[134] The service began in the Dallas/Fort-Worth area with 2,800 residential customers in the summer of 2000; in one year AT&T expanded the service to a number of new cities, including Houston, and now serves

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[131] See Consumer Federation of America & Consumers Union, Lessons from 1996 Telecommunications Act 10 (Feb. 2001).

[132] William E. Kennard, Chairman, FCC, Statement Before the Committee on the Judiciary United States House of Representatives on H.R. 1686 – the "Internet Freedom Act" and H.R. 1685 – the "Internet Growth and Development Act" (July 18, 2000), at http://www.house.gov/judiciary/kenn0718.htm.

[133] AT&T Broadband spokeswoman Sarah Duisik commented on how AT&T has spent nearly $200 million in Dallas to upgrade cable networks to offer two-way transmission. See Jim Landers, Faster, Faster: Americans Clamor for High-Speed Net; FCC to Release Data on Spread of Broadband Services, Dallas Morning News, Aug. 3, 2000, at 22A.

[134] See Technology Briefs, Dallas Morning News, Feb. 28, 2001, at 2D ("AT&T Corp. changed the name Tuesday of its fixed wireless service in North Texas to AT&T Wireless Digital Broadband. The service will cost $29.35 a month for unlimited local and long-distance calls within Texas.").

almost 20,000 residential lines.[135] In Dallas, MCI WorldCom offers a new alternative to wireline voice and Internet service with Multichannel Multipoint Distribution Service technology.[136] And Sprint developed a high-speed wireless Internet service, using line-of-sight technology, that is now available to business and residential customers in Houston.[137] In addition to cable and wireless Internet options, AT&T recently announced major improvements to its networks serving several Texas cities, including upgrading its fiber network to OC-192 (ten gigabits per second).[138]

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[135] See Sixth Report, Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services, FCC 01-192, at A-8 (rel. July 17, 2001).

[136] See MCI WorldCom Press Release, MCI WorldCom Adds Dallas to "Fixed Wireless" Service Trials (Apr. 5, 2000) ("MCI WorldCom today announced Dallas as the fifth market for test cutting-edge wireless technology which soon will offer customers a new, competitive alternative for high-speed, broadband service. The Dallas trial is the latest step in MCI WorldCom's overall strategic efforts to offer high-speed, broadband services using radio spectrum designated for an advanced technology known as Multichannel Multipoint Distribution Service (MMDS)."), at http://www.worldcom.com/about_the_company/press_releases/display.phtml?cr/20000405.

[137] See Tom Fowler, Sprint Has Wireless Net Access, Houston Chronicle, Oct. 3, 2000; Sprint Press Release, Sprint to Expand Fixed Wireless Service Area in Houston (June 26, 2001), at http://www3.sprint.com/PR/CDA/PR_CDA_Press_Releases_Detail_PF/1,1586,2909,00.html.

[138] See AT&T Press Release, AT&T Offers Austin Business Customers Local Service Choice (Dec. 5, 2000) ("In a move to enhance the suite of local voice and data services it offers business customers, AT&T has completed a $10 million enhancement of its high-speed local network serving the Austin area."), at http://www.att.com/press/item/0,1354,3527,00.html; AT&T Press Release, AT&T Offers San Antonio Business Customers Local Service Choice (Dec. 5, 2000) ("AT&T has completed an $11 million enhancement of its high-speed local network serving the San Antonio area. The company is aggressively targeting the lucrative $110 billion-plus local services marketplace nationwide with promotional offers."), at http://www.att.com/press/item/0,1354,3526,00.html; AT&T Press Release, AT&T Offers Houston Business Customers Local Service Choice (Nov. 29, 2000) ("AT&T has completed a $100 million enhancement of its high-speed local network serving the Houston area"), at http://www.att.com/press/item/0,1354,3501,00.html; AT&T Press Release, AT&T Offers Dallas/Fort Worth Business Customers Local Service Choice (Oct. 19, 2000) ("AT&T is