

A. Despite the Implementation of Its “System and Process Enhancements,” SWBT Still Fails To Update LMOS Records In a Timely Manner.

14. In its current 271 application for Missouri and Arkansas, SWBT contends that it “has now implemented several process enhancements to ensure that CLECs will continue to be able to issue electronic trouble reports in substantially the same time and manner as Southwestern Bell is able to do for its own retail customers.” Application at ii-iii. Thus, according to SWBT, “the problems that CLECs complained of in the past have been rectified, and SWBT has taken steps to prevent their recurrence in the future.” *Id.* at 63. SWBT, however, is incorrect. Although the various actions that SWBT has taken may have removed some of the underlying causes of the LMOS updating problem, it is clear that the problem has not fully been resolved.

15. The purpose of SWBT’s “system enhancements” is to ensure that orders post in the proper sequence. As SWBT notes, an LMOS record will be properly updated only if LMOS first receives a “D” or “disconnect” order (which removes the current service provider, whether SWBT or another LEC) and then receives a “C” or “change” order (which inserts the new service provider and removes the account to the Carrier Access Billing System, or “CABS”). If LMOS receives a “C” order ahead of the corresponding “D” order, the LMOS record will be put into “disconnected” status. LMOS Aff., ¶¶ 10-12. In such circumstances, if a CLEC attempts to open a trouble report electronically for that telephone number, it cannot do so. Instead, TBTA will return the message, “This TN has been disconnected or ported out. No information available.” As a result, the CLEC will be required to submit a trouble manually – *i.e.*, by telephone. *Id.*, ¶ 13.

16. SWBT acknowledges that prior to implementation of the “enhancements,” its systems failed to post “D” and “C” orders in the proper sequence for all UNE-P lines and that, as a result of the improper sequencing, “slightly more than nine percent” of LMOS records for these lines were not properly updated. Application at 65; LMOS Aff., ¶ 14. SWBT, however, asserts that as a result of the implementation of the systems and process improvements it describes – including correcting records in the embedded LMOS database that had erroneously been assigned “disconnected status” – the out-of-sequence posting problem has been corrected. LMOS Aff., ¶¶ 14-26.

17. While SWBT’s system enhancements may have increased the frequency with which “D” and “C” orders are posted to LMOS in the proper sequence, by itself proper order sequencing does not ensure that an LMOS record is properly updated. As SWBT acknowledges, the update to an LMOS line record on a migration to UNE-P is effective *only* after *both* the “D” and “C” orders have been posted to LMOS. LMOS Aff., ¶ 32. Until that happens, the CLEC will be unable to open the trouble ticket electronically. Thus, the timeliness of the LMOS updating process is at least as important as order sequencing. SWBT, for example, admits that if the “D” order posts, but the posting of the “C” order is delayed until a subsequent “cycle,” during that interval a CLEC attempting to open a trouble ticket using TBTA would receive a message that the telephone number has been “disconnected or ported out” – and will be required to submit the trouble ticket manually. *See id.* ¶ 34.

18. Furthermore, even as redesigned, SWBT’s systems do not ensure that LMOS will always receive a “D” order before the “C” order. SWBT concedes that errors in the “D” or “C” orders might cause them to fall out for manual handling. *See* Application at 69;

LMOS Aff., ¶¶ 20 n.10, 27. Thus, if for any reason the “D” order falls out for manual handling and LMOS receives the “C” order, the “C” order will find a working account and fall out for exception processing, since a “C” order cannot be processed in connection with a conversion unless the LMOS line record is in a disconnected state. In such circumstances, a CLEC that attempts to open a trouble ticket electronically via TBTA will receive the message, “Our records indicate this account is not part of your company profile. Do you wish to continue with this transaction?”⁵ If the CLEC clicks “no” in response, it must call in the trouble report manually to SWBT’s Local Operations Center. If the CLEC clicks “yes,” SWBT will investigate and verify whether the CLEC is the actual “owner” of the circuit before it takes action on the trouble report – and, despite AT&T’s requests, SWBT has declined to specify how long it will take to complete its investigation.

19. Although SWBT asserts that the LMOS updating process is timely, AT&T’s experience shows precisely the opposite. As proof of the timeliness of the process, SWBT cites the results of a sample it took of 140 CLEC UNE-P conversion orders completed during July 2001. According to SWBT, almost 75 percent of the LMOS records were complete for trouble reporting purposes on “Day 2” – the second day after conversion (or, stated otherwise, the day after Pacific issued a completion notice for the orders) – and 95 percent of the records were updated by “Day 5.” Application at 71; LMOS Aff., ¶ 37.

⁵ See LMOS Aff., ¶ 33 & n.20 (stating that message will be returned “whenever LMOS does not reflect the CLEC as the service provider” or when CLEC submits trouble report on the service due date); *id.*, ¶ 40 (noting that message which stated that line was not part of AT&T’s company profile “indicat[ed] that LMOS reflected another carrier as the service provider”).

20. AT&T's data, however, show that LMOS records are *not* updated in a timely manner, even after implementation of SWBT's system and process enhancements. To determine the timeliness of the updating process, on July 28, 2001 AT&T attempted to submit trouble tickets via TBTA for all 100 telephone numbers on the AT&T UNE-P orders in Missouri for which AT&T had received a service order completion notice ("SOC") during the week of July 23 - July 27, 2001. However, in the case of 54 of those numbers – all of which involved LSRs with SOC dates of July 25 or later – AT&T received the message, "This TN has been disconnected or ported out. No information available exists." AT&T was able to submit trouble tickets successfully only for telephone numbers included in LSRs with SOC dates more than 3 business days old. Even in the case of those orders with SOC dates more than 3 business days old, AT&T was able to open trouble reports electronically for only 39 of the 46 telephone numbers involved. For the remaining 7 numbers – which involved LSRs with a SOC date of July 23 – AT&T received the message, "Our records indicate this telephone number is not part of your company profile. Do you wish to continue with this transaction?" The results of AT&T's review are set forth in greater detail in Attachment 1 hereto.

21. In other words, in *every* case where AT&T attempted to open a trouble ticket 3 business days or less after completion of the order, it could not do so. Even in those cases where the order had been completed more than 3 business days before, for several of the numbers SWBT returned responses indicating that LMOS did not record AT&T as the owner of the circuit – and, thus, that the LMOS record had not yet been updated.

22. AT&T further confirmed the lack of timeliness of the LMOS updating process on August 29, 2001, when it attempted to open trouble tickets on TBTA for those of its

UNE-P orders in Missouri with SOC dates ranging from August 20 to August 28. Of the 310 telephone numbers listed on those LSRs, 64 involved numbers in LSRs with SOC dates of August 27 or August 28 (Monday and Tuesday, respectively, of the week in which the verification was conducted). For 63 of those 64 numbers, AT&T received the message, “This telephone number has been disconnected or ported out. No information available.” For the one remaining telephone number in those LSRs (which was in an LSR that had been completed on August 28), AT&T received the message, “Our records indicate this telephone number is not part of your company profile. Do you want to continue this transaction?” Of the 239 remaining telephone numbers, which were in LSRs with SOC dates of August 20-24 (and thus had been completed more than 3 business days before), AT&T received the same message concerning the “company profile” for 7 numbers (including one number on an LSR completed on August 20). The results of this review are set forth in greater detail in Attachment 2 hereto.

23. AT&T’s samples demonstrate that LMOS records for Missouri UNE-P customers are not updated until at least 3 business days after completion of the UNE-P conversion – thus leaving a CLEC unable to open the trouble ticket electronically during that time. Even when 5 business days have passed since completion of the LSR, it cannot be assumed that the LMOS record has been updated.⁶ Thus, SWBT’s assertion that the possibility

⁶ Although SWBT points to a review of 63 UNE-P conversions submitted for SWBT’s review on May 25 and July 9 as further evidence of the timeliness of the LMOS updating process, it provides no documentation or underlying detail to support its assertion that more than 70 percent of the numbers updated correctly to LMOS on the same nightly cycle as the “D” order. Application at 71; LMOS Aff., ¶¶ 38-39. In any event, those results are contradicted by AT&T’s experience when it attempted to open trouble tickets on July 28 and August 29 -- weeks after the 63 conversions relied upon by SWBT. Even assuming that SWBT’s analysis of the 63 AT&T numbers is correct, AT&T’s subsequent experience shows that the timeliness of the LMOS updating process has deteriorated since early July.

of delays in updating LMOS record has only a “miniscule” impact on the ability of CLECs to submit trouble tickets electronically (LMOS Aff., ¶ 42) is belied by AT&T’s actual commercial experience.

24. AT&T also performed another analysis of SWBT’s performance in updating LMOS records, reviewing a sample of AT&T’s UNE-P Texas customers. This sample showed different results from those found in Missouri. On August 31, 2001, AT&T attempted to open trouble tickets via TBTA for a sample of all telephone members in UNE-P LSRs in Texas that had corresponding SOC dates of August 24 to August 30. AT&T was able to submit trouble tickets successfully for 62 percent of telephone numbers in LSRs with a SOC date of August 30 and for more than 95 percent of numbers in LSRs with SOC dates of August 28 and 29. Thus, the performance within the first three days of the SOC, while still deficient (since nearly 40 percent of LMOS records had not been updated on the first business day after completion of the order), was substantially better than SWBT’s performance in Missouri, where no LMOS records were updated until at least 3 business days after the SOC date. However, AT&T also rechecked these orders again during the week of September 4, 2001, to determine how quickly orders with errors that had existed for more than 3 business days past the SOC date had been corrected. As of September 7 – which was 9 business days since after the first orders in the sample were submitted – only 45% of the errors had been fixed. Thus, 55% of the errors still existed. These results not only present unexplained differences between the Missouri and Texas data, but also raise serious concerns about the speed with which these errors are corrected.

B. SWBT's Failure To Update LMOS Records In a Timely Manner Is Discriminatory and Anticompetitive.

25. The LMOS updating problem denies parity of access to CLECs, because they cannot achieve resolution of their customers' maintenance and repair problems on the same mechanized, timely basis that SWBT is able to achieve for its own retail customers. When a CLEC attempting to open a trouble ticket electronically on TBTA receives a message that it cannot do so, the CLEC must contact SWBT's Local Operations Center by telephone and request that the necessary services be provided. By contrast, SWBT uses fully electronic systems to submit troubles for its own retail customers.

26. SWBT suggests that the use of manual procedures has no adverse impact on CLECs, because SWBT has generally resolved manually submitted trouble tickets slightly faster than electronically submitted trouble tickets. Application at 71-72; LMOS Aff., ¶¶ 43-47. SWBT's assertions are incorrect. Whatever SWBT's overall performance for CLECs may be, SWBT has generally taken *longer* to open trouble tickets submitted manually by AT&T, because the SWBT maintenance technician often is required to verify provisioning systems to determine whether the number being reported is, in fact, served by AT&T. AT&T attempts to submit trouble reports electronically to SWBT as much as possible precisely because manual processing, by its very nature, is more time-consuming than electronic processing. Indeed, it would be illogical for SWBT to offer – and for CLECs to use – electronic interfaces such as TBTA if SWBT resolved them more expeditiously when they were submitted by telephone.

27. In any event, SWBT's argument misses the point. When LMOS updating problems preclude the submission of an electronic trouble ticket for a particular line, the CLEC will, in effect, be required to submit the trouble ticket twice before it is processed. The CLEC

must first submit the trouble ticket electronically (because only then will it learn from SWBT that it cannot do so) and then manually. Such a process inherently requires more time and resources than that followed by SWBT's retail operations.

28. In fact, *any* delay that would result in later provisioning of repair services to CLECs' customers than to SWBT's retail customers is a denial of nondiscriminatory access to SWBT's maintenance and repair functions. Even assuming that a manually submitted trouble report receives the same commitment time for repair as an electronically submitted report, the repairs requested by a manually submitted report could be delayed if (for example) the SWBT representative declined to undertake the repair because he/she believed that the CLEC requesting the repair was not the true "owner" of the loop.⁷ In fact, when AT&T has previously attempted to phone in trouble tickets on its UNE-P lines, it has often been advised by the SWBT representative that SWBT could not process the order because its records do not reflect that AT&T owns the loop.⁸

29. Moreover, requiring CLECs to follow a manual process exposes them and their customers to an increased likelihood of error that SWBT's retail operations, which use fully

⁷ The processing of the trouble ticket could also be delayed as a result of the verification that SWBT's LOC performs, through SORD, to determine that the telephone number on the trouble ticket is in fact a working number even though it may be shown as "disconnected" in LMOS. *See* LMOS Aff., ¶ 45. Should the LOC disagree with the CLEC that the number is a working number, additional time will be required to resolve the disagreement.

⁸ This problem may also occur when a CLEC submitting a trouble ticket electronically receives the message, "Our records indicate this telephone number is not part of your company profile. Do you wish to continue with this transaction?" Although the CLEC can proceed to submit the trouble ticket electronically by clicking "yes" in response to this inquiry, the LOC will conduct a verification of ownership before it will take action on the trouble ticket. Although such an investigation is an appropriate safeguard to ensure that the CLEC is not submitting a trouble report on another LEC's account, it will nonetheless delay action by SWBT on the ticket, particularly if as a result of the investigation SWBT questions the CLEC's claim of ownership of the circuit.

automated systems to report troubles, do not experience. The use of a manual process also adversely affects the operation of CLECs because it requires the training of numerous personnel to recognize and follow the process. As changes in personnel occur over time, the likelihood of errors in the process, and delays in the provision of service, will only increase. Willard MO 271 Decl., ¶ 22.

30. Manual submission of trouble tickets denies parity and causes competitive harm to CLECs in other ways. Even if, as SWBT suggests, SWBT's LOC can open electronically a trouble ticket reported manually by a CLEC without first correcting the LMOS record (LMOS Aff., ¶ 45), the CLEC cannot determine the status of the trouble report electronically until after the LMOS record has been updated and the trouble report has been closed. Prior to that time, the CLEC can ascertain the status of the trouble report only through the cumbersome process of repeatedly contacting SWBT by telephone.

31. These problems will only worsen as CLECs enter the local exchange market on a mass-market basis, because the number of trouble tickets manually submitted by CLECs will increase accordingly. As the number of manually submitted trouble tickets increase, the performance of SWBT's manual processes will deteriorate.

32. The inability of CLECs to submit trouble tickets electronically will substantially impair a CLEC's ability to compete. As previously stated, the failure of SWBT to update its LMOS records in a timely fashion will preclude CLECs from submitting trouble tickets electronically for at least the first three business days following completion of the order. Most of the troubles that AT&T's customers experience occur within the first 72 hours after provisioning. As a result, at a time when a customer is most likely to experience trouble (*i.e.*, at

the time of, or immediately following, provisioning), the CLEC will be unable to submit an electronic trouble ticket and will instead be required to utilize manual processes – with their attendant risks of delays and error. In order to compete effectively with SWBT, however, a CLEC must be able to show its customers that it can arrange repairs to its customers’ service with the same degree of timeliness, accuracy, and reliability that SWBT provides to its retail customers. If, as a result of the manual processing of the order, repair of the customer’s service is delayed or inadequate, the customer will blame the problem on the CLEC – and might well migrate back to SWBT.

C. The Ernst & Young “Attestation” Provides No Basis For Concluding That SWBT Has Fully Resolved the LMOS Updating Problem.

33. The results of AT&T’s review of the timeliness of LMOS record updating are in no way inconsistent with the Ernst & Young review on which SWBT relies to support its contention that the LMOS updating problem has been fully resolved. *See* Application at iii, 63, 66-69. Any reliance on the Ernst & Young review would be misplaced in any event, because it was commissioned by SWBT and conducted without oversight by any regulatory authority. Kelly Aff., Att. A-1. Moreover, the report and “Scope and Approach” document issued by Ernst & Young not only contain limited details about how the firm conducted its review but also report its results in conclusory terms. The report and “Scope and Approach” document are unaccompanied by supporting documentation (including workpapers) – thus precluding this Commission and the CLECs from making a meaningful verification of the accuracy of Ernst & Young’s conclusions. *Id.*, Atts. A, C.

34. More fundamentally, the Ernst & Young review did not involve an assessment of the timeliness of the LMOS updating process. Ernst & Young focused on whether

the system and procedural changes implemented by SWBT addressed the problem of “out-of-sequence” posting of service orders to the LMOS database, and whether SWBT had updated its embedded LMOS database. *Id.*, ¶ 2 & Att. A, Att. C-3 – C-10.

35. Moreover, the Ernst & Young review did not include an assessment of the effect of LMOS updating errors on the accuracy of the performance data previously reported by SWBT, even though (as described below) SWBT’s own unilateral “recalculation” of such errors revealed that some of those data had erroneously reported parity situations when, in fact, the opposite was true. Even in those limited areas that it did review, Ernst & Young’s conclusions cannot be given any weight, because the methodology that it used was inadequate. For example, although Ernst & Young analyzed whether SWBT had updated its embedded LMOS database (which had included numerous records that had incorrectly identified SWBT as the service provider), it did not test whether, as updated, the database correctly identified the current CLEC service provider associated with UNE-P circuits. *Kelly Aff.*, Att. C-8 and C-9.

36. The limited scope of the Ernst & Young review stands in stark contrast to the LMOS audit ordered by the Texas PUC and negotiated by SWBT with the CLECs in Texas.⁹ In contrast to Ernst & Young’s “attestation,” the Texas LMOS audit will consist of procedures agreed to by SWBT and the CLECs, or ordered by the TPUC. In that audit, CLECs will have broad access to the auditor’s workpapers and to the data used by the auditor, which must report all findings and irregularities without application of any “materiality” standard” like that used by Ernst & Young. Unlike Ernst & Young, the auditor will determine not merely whether SWBT

⁹ See Order No. 33, issued June 1, 2001, in TPUC Project No. 20400, Matrix at 78-79.

updated its embedded LMOS database, but whether it did so *correctly*. Moreover, the auditor will be required to obtain a statistically valid sample of all CLEC and SWBT order types that would trigger an update of that database. The auditor is to review the processing of those orders to “determine the *accuracy* and *timeliness* with which LMOS records are updated” and to identify any differences in the treatment of CLEC and SWBT orders.¹⁰ When the auditor finds that inaccuracies still exist in the database, it will be required to determine why such inaccuracies exist despite SWBT’s prior corrective actions and to identify any additional corrective actions that may be required. In addition, unlike Ernst & Young, the auditor will examine SWBT’s procedures and training regarding the processing of manually submitted trouble tickets. Finally, in contrast to the review conducted by Ernst & Young, the Texas audit will determine the extent to which the LMOS errors have resulted in misstatements in SWBT’s performance data.

D. As a Result of the LMOS Updating Problem, SWBT Has Misstated Its Performance Data.

37. In addition to denying parity of access to CLECs, the LMOS updating problem has resulted in a misstatement of SWBT’s performance data regarding governing trouble report rates. According to the applicable business rules governing SWBT’s performance measurements, LMOS is the source from which CLEC and retail trouble reports are to be counted for purposes of calculating data regarding maintenance and repair.¹¹ Thus, if a trouble

¹⁰ See Order No. 36, issued September 4, 2001, in TPUC Project No. 20400, SWBT Audit Plan at 9 (emphasis added).

¹¹ As previously stated, SWBT describes LMOS as “one of the primary data sources” upon which it relies to develop its maintenance performance measurement results for UNE-P. See *Dysart AK Aff.*, ¶ 113; *Dysart MO Aff.*, ¶ 121.

report submitted by a CLEC is improperly recorded in LMOS, or is not recorded in LMOS at all, the report will not be captured in the reported data for a number of performance measurements – and the data will therefore be misstated. In comments filed with the Texas PUC on April 19, 2001, SWBT stated that the following performance measurements (“PMs”) utilize the LMOS database for reporting purposes:

- The percentage of POTS/UNE-P trouble reports within 10 days of installation (PM 35);
- The percentage of UNE-P trouble reports on the completion date (PM 35.1);
- The number of trouble reports per 100 lines (PM 37);
- Trouble report rate net of installation and repeat reports (PM 37.1);
- The percentage of missed repair commitments (PM 38);
- Mean time to restore (PM 39);
- Percent out of service less than 24 hours (PM 40); and
- Percentage of repeat trouble reports, *i.e.*, the percentage of customer trouble reports received within 10 calendar days of a previous customer report (PM 41).¹²

38. The failure of SWBT to update LMOS has in fact distorted the reported data for these measurements. As SWBT acknowledges, “If the series of activities necessary to update the LMOS database are not performed in the precise sequence required, trouble reports for particular UNE-P loops will be reflected in the performance data for the last service provider listed on the account.” *E.g.*, Dysart AK Aff., ¶113. Thus, to the extent that an LMOS record on a UNE-P line was not updated to reflect the AECN of the CLEC, the CLEC’s trouble report was

not accurately captured in the reported performance data -- and the performance data understate the trouble report rates for CLECs. Furthermore, because an LMOS record that has not been properly updated for a CLEC-served line will continue to list SWBT as the “owner” of the facilities, trouble reports that the CLEC subsequently submitted for that line are likely to be included (incorrectly) in SWBT’s own retail data – and, therefore, SWBT’s retail trouble report rates are *overstated*.

39. Although it may never be possible to determine the precise extent to which SWBT has misstated the trouble report rates, the misstatement may well be substantial. Even in its own unilateral examination conducted in May 2001, SWBT determined that more than 9 percent of the working UNE-P lines in CABS were improperly listed as “disconnected” as LMOS, due to updating errors. Application at 65. The Texas PUC considered the likelihood of substantial error in the reported data to be sufficiently serious that it has ordered an audit of all Texas measures that would be affected by LMOS, and has invited the other four States in the SWBT region to include their performance data in such an audit.¹³

40. Because the LMOS updating problem may have substantially misstated the reported trouble report rates both for CLECs and for SWBT’s retail operations, SWBT’s previously reported performance data for maintenance and repair should be given no weight in any parity analysis. The Commission has long recognized that trouble report rates – including

¹² See Willard MO 271 Decl., ¶ 26 & n.14; *id.*, Att. 5 at 5.

¹³ The Missouri Public Service Commission has ordered SWBT to include Missouri data for those performance measurements affected by the LMOS updating problem, as well as Missouri data for PM 13 (flow-through rates), in the audit ordered by the TPUC. A motion to include such data for Arkansas in that audit is currently pending before (continued . . .)

repeat trouble report rates – are an important tool for determining whether the quality of maintenance and repair work performed for the CLECs by a BOC is at parity with that performed by the BOC for its own retail customers.¹⁴ Any denial of parity to CLECs in this area has both a competitive and a customer impact, since “A competing carrier’s customer may become dissatisfied if the customer experiences frequent service problems, especially repeated troubles.”¹⁵

41. Indeed, SWBT’s own “mathematical analysis” of its previously reported performance data in its current application to reflect the impact of LMOS updating errors makes clear that such data are unreliable. Although it contends that “correcting for this issue had only minimal impact on SWBT’s reported performance results,” SWBT admits that in Missouri, performance for three of the measurements that it analyzed (involving the percentage of trouble reports within 10 days and the percentage of repeat trouble reports) “shifted from in parity to out of parity” for as many as three months of previously reported data. Application at 73; LMOS Aff., ¶ 60. As restated, the data show that, for the twelve-month period from May 2000 through April 2001, SWBT had committed a parity violation (defined as a “Z” factor exceeding 1.7) in 6

the Arkansas Public Service Commission, and is supported by the staff of that agency.

¹⁴ See *Ameritech Michigan Order*, ¶ 212 (requiring submission of data on repeat trouble reports for UNEs in Section 271 applications); *Second BellSouth Louisiana Order*, ¶ 147 (using repeat trouble report rate as indication of BOC’s performance in initial resolution of trouble report); *Bell Atlantic New York Order*, ¶ 222 (“In determining the quality of maintenance and repair work performed by Bell Atlantic for competing carriers, we examine the rate of trouble reported by customers of competing carriers as compared with Bell Atlantic’s own retail customers, as well as the rate of repeat reports of trouble”); *SBC Texas Order*, ¶ 209 (analyzing SWBT’s performance data on trouble report rates to determine comparative quality of maintenance and repair work performed for CLECs and SWBT’s own retail operations); *SBC Kansas/Oklahoma Order*, ¶ 162 (same).

¹⁵ *SBC Texas Order*, ¶ 209.

of those months for PMs 35-11 and PM 35-12, and in five of those months for PM 41-03.

LMOS Aff., Att. L at L-L-6, L-7, and L-10.¹⁶ Finally, regardless of whether they show a shift from in parity to out of parity, SWBT's restated data show that the trouble report rates for CLECs are generally higher, and those for SWBT's retail operations generally lower, than those previously reported. *Id.*, Att. L.

42. SWBT's "recalculation" almost certainly understates the true extent of the effect of LMOS updating errors on its previously reported performance data. For example, SWBT confined its "recalculation" to only 4 performance measurements: PM 35 (percent POTS/UNE-P trouble report within 10 days of installation); PM 37 (trouble report rate); PM 37.1 (trouble report rate net of installation and repeat reports); and PM 41 (percent repeat trouble reports). LMOS Aff., ¶ 58. As previously stated, however, SWBT acknowledged to the TPUC in April that four *additional* performance measurements utilized the LMOS database for reporting purposes: PM 38 (missed repair commitments); PM 39 (receipt to clear duration); PM 40 (percent out of service less than 24 hours); and PM 35.1 (percent UNE-P trouble reports on completion date). SWBT did not recalculate the data for those performance measurements.

43. SWBT now contends that it did not consider these last four PMs in its "recalculation" because (1) "the LMOS issue did not affect how the trouble report was handled" (only that the trouble report was reported for the "wrong" LEC's customer) and therefore would

¹⁶ SWBT's recalculation showed that PM 35-12 in Oklahoma, and PM 35-11 and PM 41-03 in Kansas, shifted from an in-parity to out-of-parity situation for two months of reported data. LMOS Aff., ¶ 60. According to the recalculated data, SWBT has failed to meet the parity standard for PM 35-12 in Oklahoma for 5 of the 12 months involved. *Id.*, Att. L at L-28. In Kansas, for which SWBT's previously reported data had shown no violations for (continued . . .)

not affect PMs 38, 39, and 40; and (2) PM 35.1 is already included within SWBT's analysis of PM 35. *Id.* ¶ 59. Even leaving aside its prior concession to the contrary to the TPUC, SWBT's argument does not withstand scrutiny. Each of these measurements can be affected by LMOS updating errors, because they are calculated using trouble tickets; thus, their accuracy will depend on whether the trouble ticket is reported for the "correct" LEC's customer. SWBT offers no basis for its bold assertion that the LMOS updating errors would have no effect on the data reported for these measurements. Moreover, far from being superfluous, PM 35.1 is an important component of determining the true impact of LMOS failure. PM 35.1 was created in the 2000 six-month review before the TPUC in an effort to capture UNE-P provisioning failures that occur on the day of, and prior to, completion – failures that are not captured anywhere else in the performance measurements. Not only the order sequencing failures that SWBT claims to have corrected, but also the time lag between "D" and "C" order processing that SWBT admits will persist, would likely impact the CLEC's ability to submit day-of-completion trouble reports for capture under PM 35.1.¹⁷

any month of the 12-month period, the restated data show that SWBT committed parity violations in 2 of the first 4 months of 2001. *Id.*, Att. L at L-34, L-38.

¹⁷ SWBT also has not included any performance measurements for line-shared loops that use LMOS as a source of its reported data, even though it recently conceded that at least one such measurement does so. Contrary to its previous representations that only eight performance measurements use the LMOS database for reporting data, SWBT stated in an August 1, 2001 filing with the TPUC that its performance data for PM 59.09, which applies to line-shared UNE loops, is also reported from LMOS. On September 5, 2001, the TPUC approved an order proposed by its Staff which concluded that "SWBT has caused confusion by its series of representations" regarding performance measurements affected by LMOS. The TPUC ordered that the auditor review *all* line sharing performance measurements and determine the extent to which LMOS problem affected those measurements. *See* Proposed Order No. 37 in TPUC Project No. 20400, approved September 5, 2001.

44. On the basis of its “mathematical analysis,” SWBT concludes that LMOS updating errors had “only minimal impact” on its reported data. LMOS Aff., ¶ 60. Even leaving aside the fact that SWBT’s “mathematical analysis” shows that LMOS updating errors *did* impact the data in significant respects, the “analysis” cannot be regarded as an adequate assessment because it is nothing but a mathematical exercise, based on the assumption that an omission rate of approximately 9% was true for all CLECs and for the entire period covered by the restated data. *See id.*, Att. L at L-1 – L-3. In reality, SWBT has adamantly maintained that data reconciliation with individual CLECs is the only means by which the actual extent of the LMOS-related performance data errors can be determined. SWBT has agreed that, if the data reconciliation called for in the Texas audit does not provide a fair basis for estimating the degree of error in previously reported aggregate CLEC data, then “whenever SWBT reports LMOS-related PM data for months prior to June 2001, SWBT will include a notation informing the reader that LMOS related PM data for the months prior to June 2001 contains errors associated with updating LMOS records and that the degree of error in the data is unknown.”¹⁸ Until the Texas audit has been completed and has produced a restatement of LMOS-related performance data, SWBT should be held to the acknowledgement it has made in the Texas audit plan – that its previously reported data for LMOS-related PMs is wrong, and the degree of error is unknown.

¹⁸ Order No. 36, *supra*, TPUC Project No. 20400, SWBT Audit Plan at 14.

II. SWBT'S PERFORMANCE DATA CANNOT BE REGARDED AS A RELIABLE INDICATION OF ITS OSS PERFORMANCE.

45. In my testimony regarding SWBT's first Section 271 application for Missouri, I demonstrated that the performance data that SWBT had presented in support of its application could be given no weight. The accuracy and reliability of those data could not be assumed, since – as SWBT itself had acknowledged – SWBT had misreported performance data on key measures. *See Willard MO 271 Decl., ¶¶ 26-43.* That remains the case today.

46. First, as discussed above, SWBT has not accurately reported data for the performance measures regarding trouble report rates (such as PMs 35, 37 and 41). The “recalculation” of such data that SWBT presents with its present application – even with its limited scope – shows that SWBT has not been reporting such data accurately, and has not included in trouble report rates for CLECs all trouble reports submitted by CLECs. As a result, in a number of situations the “restated” data show an out-of-parity situation, rather than the parity situation previously reported. *See ¶ 41, supra.*

47. Second, SWBT has employed an incorrect methodology to compute PM 13, which measures flow-through for electronic orders. Specifically, SWBT excluded from the denominator of the flow-through calculation any UNE-P order types that were not “MOG-eligible,” even if those orders would flow through SWBT's EASE interface if submitted as a retail order by SWBT. SWBT's exclusion was directly contrary to the requirement of the applicable business rules that the denominator include not only MOG-eligible orders but “orders that would flow through EASE.” As a result of its erroneous exclusion of UNE-P orders that “would flow through EASE,” SWBT's reported data for PM 13 have overstated the rate at which UNE-P orders flow through its system without manual intervention, and may also have

understated the flow-through rate for SWBT's own retail orders. *See* Willard MO 271 Decl., ¶¶ 34-43.

48. The effects of SWBT's incorrect methodology on the reported data are substantial, as the data that it presents in its application demonstrate. In calculating region-wide flow-through rates for May and June 2001, SWBT – in contrast to the PM 13 calculations it performed for previous months – included UNE-P orders that “would flow through EASE” if entered by a SWBT retail representative, even if the orders are not MOG-eligible. As so calculated, the data show that SWBT's region-wide performance was out of parity for *both* May and June 2001 for *both* the LEX and EDI interfaces. *See, e.g.*, Application at 96-97; Lawson MO Aff., ¶¶ 178-182. By contrast, SWBT's previously reported data had not disclosed any parity violations for either EDI or LEX for at least the preceding three months. *Id.*, ¶¶ 181-182. Moreover, the region-wide flow-through rates for May and June were at least 10 percentage points lower for CLECs using LEX, and at least 9 percentage points lower for CLECs using EDI, than those previously reported for April. *Id.*, ¶ 180.

49. The effect of SWBT's incorrect methodology on its reported PM 13 data for orders submitted in Texas only – a State where the vast majority of orders in SWBT's region are submitted – is similarly striking. For the months of April through July 2001, the flow-through rates for Texas (as reported on SWBT's web site) are:

Interface/Month	CLEC Flow-Through Rate	SWBT Flow-Through Rate
LEX		
April 2001	92.8%	88.9%
May 2001	80.4%	89.5%
June 2001	78.2%	89.3%
July 2001	81.9%	88.0%
EDI		
April 2001	96.3%	88.9%
May 2001	87.0%	89.5%
June 2001	84.9%	89.3%
July 2001	86.7%	88.0%

These Texas rates are almost the same as the region-wide rates reported in SWBT’s application. *See* Lawson AK Aff., ¶ 180. Like the region-wide flow-through rates, the Texas rates show a shift from parity to out-of-parity, and a substantial decrease in flow-through rates, between the data for April 2001 (apparently prepared under SWBT’s previous methodology) and the data for the May - July 2001 period (which SWBT apparently prepared by including UNE-P orders that “would flow through to EASE” in its calculation).

50. SWBT attempts to explain the May and June region-wide flow-through data in its application as the result of a “change in the business rules” and to the “interpretation” of those rules by the TPUC. Application at 96-97; Lawson MO Aff., ¶ 179. It is nothing of the sort. SWBT simply applied the methodology that is clearly required by the language of the business rules. SWBT’s prior method of calculating PM 13 data was flatly contrary to that language and to the understanding of both the TPUC and the CLECs. That is why the TPUC has ordered an audit of all PM 13 data for Texas that SWBT has previously reported going back to January 2000. *See* Willard MO 271 Aff., ¶¶ 36-43; Dysart MO Aff., ¶ 45 n.39. SWBT’s May and June 2001 reports may offer the first glimpse of its actual flow-through performance for the last two years. Given the dramatic changes in the April and May data as calculated by SWBT,

the data reported for previous months are likely to show similar changes when recalculated under the TPUC's audit.

51. It is equally likely that, if PM 13 data for Missouri and Arkansas are included in the Texas PUC's audit and properly recalculated by an independent third party under the applicable business rule for PM 13, the recalculated data will show that SWBT's flow-through performance for CLEC orders in those States has been far worse than that already reported.¹⁹ In fact, the data that SWBT has reported for those States *already* shows that its performance is deficient. For example, in Missouri – where orders submitted via the LEX interface account for approximately 90 percent of electronic order volumes – SWBT's flow-through data for LEX as originally reported, showed parity violations for every month from July 2000 through July 2001, with the exception of March and April 2001.²⁰ Moreover, SWBT admits that, if the flow-through data for all months since September 2000 are “restated” to include certain UNE-P order types that it had previously excluded from its calculation because they were not MOG-eligible, SWBT has not met the parity requirement for LEX flow-through for *any* month since September 2000. Dysart MO Aff., ¶ 46. PM 13 data reported by SWBT also show parity violations for orders submitted via the EDI interface for June and July 2001 – in

¹⁹ As previously stated, the Missouri PSC has already ordered that SWBT include Missouri PM 13 data in the audit ordered by the TPUC, and a motion to order SWBT to include Arkansas PM 13 data in the audit is pending before the Arkansas PSC.

²⁰ See Dysart MO Aff., Att. B at B-46. For July 2001, SWBT reported that the flow-through rate was 87.0% for orders submitted via LEX and 90.4% for SWBT's retail operations.

contrast to prior months, where SWBT's reported data showed its performance to be exceeding parity requirements.²¹

52. Similarly, SWBT acknowledges that its flow-through performance for CLECs in Arkansas has been deficient. According to the flow-through data that SWBT has "restated" for the months since last September to include certain UNE-P order types that it had previously excluded from its calculations, flow-through rates for CLECs using LEX have not met the standards for parity performance since September 2000. *Dysart AK Aff.*, ¶ 48.²²

53. SWBT's "restated" data show that it has consistently misreported its performance data in the past in such competitively critical areas as flow-through and trouble report rates. As a result, the performance data on which it currently relies cannot be regarded as reliable reflection of its performance.²³

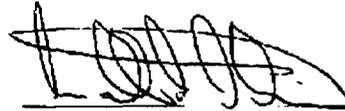
²¹ See *Dysart MO Aff.*, Att. B at B-46. For July 2001, SWBT reported that CLEC orders submitted via EDI had a flow-through rate of 87.8%, as compared with SWBT's retail flow-through rate of 90.4%.

²² When SWBT includes in the denominator of the PM 13 calculation all UNE-P orders that "would flow through EASE" but had previously not been included because they are not MOG-eligible, the previously reported flow-through rate for CLECs should decrease. See *Willard MO Aff.*, ¶ 39. However, with only two exceptions, SWBT's "restated" flow-through rates for EDI between September 2000 and June 2001 for Missouri and Arkansas are either the same as, or actually higher than, those that it previously reported. See *Dysart MO Aff.*, ¶ 45 & Table 2; *Dysart AK Aff.*, ¶ 46 & Table 2. This result, if correct, may reflect the small number of orders (and thus UNE-P orders) submitted over EDI in Missouri, and – to the best of AT&T's knowledge – the lack of any UNE-P activity in Arkansas, together with SWBT's unilateral decision to exclude from its calculations those CLEC orders that generate error codes SD2112 and SD 2029. See, e.g., *Dysart MO Aff.*, ¶ 44.

²³ Like its first Section 271 application for Missouri, SWBT's current application once again points to previous "audits" or reviews of its performance data by third parties such as Ernst & Young and Telcordia as confirmation that its performance data are reliable. See Application at 158; *Dysart MO Aff.*, ¶¶ 155-163; *Dysart AK Aff.*, ¶¶ 158-169. As I have previously shown, however, these "audits" and reviews provide no valid basis for concluding that SWBT's performance data are complete, accurate, and reliable. *Willard MO 271 Aff.*, ¶¶ 44-61.

I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

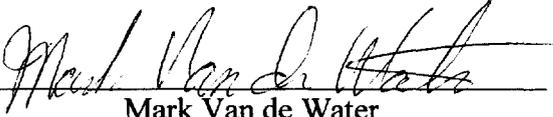
Executed on September 10, 2001



Walter W. Willard

I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on September 07, 2001


Mark Van de Water

Attachment 1

UNE-P TBTA Verification - MO

	SOC Date	# of TNs on SOCs	TBTA Response: OK to Enter Ticket	TBTA Response: #1	TBTA Response: #2
	7/23/2001	25	18	0	7
	7/24/2001	21	21	0	0
>3 Business Days Sub-Total		46	39	0	7
	7/25/2001	3	0	3	0
	7/26/2001	37	0	37	0
	7/27/2001	14	0	14	0
<3 Business Days Sub-Total		54	0	54	0
MO Total		100	39	54	7
Date of TBTA Verification	7/28/2001				
Message #1: "This TN has been disconnected or ported out. No information available."					
Message #2: "Our records indicate this telephone number is not part of your company profile. Do you wish to continue with this transaction?"					

Attachment 2

UNE-P TBTA Verification - MO

	SOC Date	# of TNs on SOCs	TBTA Response: OK to Enter Ticket	TBTA Response: #1	TBTA Response: #2
	8/20/2001	76	75	0	1
	8/21/2001	23	23	0	0
	8/22/2001	46	42	0	4
	8/23/2001	68	66	0	2
	8/24/2001	33	33	0	0
>3 Business Days Sub-Total		246	239	0	7
	8/27/2001	29	0	29	0
	8/28/2001	35	0	34	1
<3 Business Days Sub-Total		64	0	63	1
MO Total		310	239	63	8
Date of TBTA Verification	8/29/2001				
Message #1: "This TN has been disconnected or ported out. No information available."					
Message #2: "Our records indicate this telephone number is not part of your company profile. Do you wish to continue with this transaction?"					