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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
Application by SBC Communications Inc.,)	
Pacific Bell Telephone Company, and)	
Southwestern Bell Communications Services,)	WC Docket No. 02-306
Inc. for Provision of In-Region,)	
InterLATA Services in California)	

**DECLARATION OF
DIANE P. TOOMEY
SUSAN M. WALKER
AND MICHAEL KALB
ON BEHALF OF AT&T CORP.**

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**DECLARATION OF
DIANE P. TOOMEY, SUSAN M. WALKER AND MICHAEL KALB
ON BEHALF OF AT&T CORP.**

1. My name is Diane P. Toomey. My title with AT&T is Manager – Performance Measurements for AT&T Communications of California, Inc. My business address is 5858 Horton Street, Emeryville, California 94608. In my current position I am responsible for Operations Support Systems (“OSS”) Performance Measures for AT&T’s Pacific Region Local Services Access Management Organization (“LSAM”). Specifically, I am responsible for the business relationship with SBC regarding performance measures for pre-ordering, ordering, provisioning, maintenance and repair, network management, billing and usage, database updates and interface processes for local products and services. I joined AT&T’s LSAM organization in January 2001.

2. I received a BA degree in Political Science from Santa Clara University, Santa Clara, California. I also received a Masters Degree in International Business from St. Mary’s College in Moraga, California. During my career at AT&T, I have received formal

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training in many telecommunications related subjects including Network Architecture, Statistical Sampling, Data Communications Services and Wireless Communications.

3. I began my career with AT&T in 1978 when I joined its then subsidiary Pacific Bell. At divestiture, in 1983, I moved to AT&T. During my career at AT&T I have held positions in the Sales and Marketing, Regulatory Accounting, Chief Financial Officer (“CFO”) and Law and Government Affairs (“L&GA”) organizations. While in L&GA I managed various dockets in California, Hawaii and Nevada, including serving as a costing subject matter expert in the area of collocation. I have presented testimony to Public Utilities Commissions in California, Hawaii and Nevada on collocation, costing and accounting issues. I also was a member of the California Universal Lifeline Telephone Service Administrative Committee.

4. As a member of the Regulatory Accounting organization, I managed the reporting of AT&T financial results to local regulatory bodies in Alaska, California, Hawaii, Nevada, Oregon and Washington. I also testified or made presentations as a subject matter expert on the proper costing of incumbent local exchange carrier (“ILEC”) wholesale services necessary for CLECs to enter the local market to regulatory bodies in Hawaii, Minnesota, Nebraska and Utah.

5. As a member of the CFO organization, I directed the recovery of AT&T billed revenue from our billing suppliers. In this position, I acquired an extensive knowledge of message recording, billing and vendor contracts. I also led over 10 audits of the billing and collection practices of AT&T’s billing vendors.

6. My name is Susan M. Walker. My business address is 180 Quarterhorse Circle, Reno, Nevada 89506.

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7. My title is Manager – Performance Measurements for AT&T’s Southwestern/Pacific Region Local Services and Access Management Organization. In this position, I have responsibility for managing the business relationship with SBC and the Southwestern Bell Telephone Company (“SWBT”) for all issues related to performance measurement results and related remedy payments SWBT reports each month.

8. In fulfilling these duties, I am actively involved with various SWBT teams that are responsible for working with AT&T as a local service provider. Among the teams and organizations at SWBT with which I have frequent – sometimes daily – contact are:

- SBC/SWBT’s AT&T Account Team;
- SBC/SWBT’s Performance Measurements Team; and
- SWBT’s Local Operations Center (LOC).

9. I am a graduate of the University of Phoenix, where I received a Bachelor of Science degree in Business Administration. I also received a Master’s Certificate in Project Management from Stevens Institute of Technology. I have been employed by AT&T since 1976. In the course of my career at AT&T, I have held various positions in Federal Regulatory Matters, Planning, Engineering, and OSS Development and Local Services & Access Management.

10. My name is Michael Kalb. My business address is AT&T Corp., 900 Routes 200-206 North, Bedminster, New Jersey 07921. I received a Bachelor of Science degree in Physics in 1969 from the Cooper Union. In 1971 I received a Master of Philosophy degree in Physics and in 1974 I received a Ph.D. in Physics, both from the Yale University. I spent the next five years as a Chaim Weitzman Fellow at Yale University and the Center for Theoretical Physics at the Massachusetts Institute of Technology.

11. I was first employed by AT&T in 1979. At that time, I joined Bell Laboratories as a Member of Technical Staff evaluating the performance of voice and data communications systems on telephone networks. This led to numerous published and proprietary works describing quantitative models of performance based on laboratory and live network studies. In 1986, I was promoted to Distinguished Member of Technical Staff after beginning the systematic formulation of relevant domestic and international performance parameters and standards for voice and data. In 1994, I was elected Vice-Chair of T1A1.7, the working group responsible for standardization of performance of voice and data communications on North American telephone networks. My work in this domestic standards body culminated with the production of a ratified technical report on the performance of unbundled loops, as mandated by the Telecommunications Act of 1996 (the "1996 Act"). During this period, I consulted frequently with the Law and Government Affairs area of AT&T in the formulation of the LCUG Service Quality Measurements.

12. In 1999, I moved to the Law and Government Affairs area of AT&T where I continue to apply my expertise to problems associated with the 1996 Act. In my current position as policy analyst at AT&T, one of my responsibilities is to identify and promote AT&T's position on the need for adequate, self-executing performance remedies. In that role, I have been directly involved in the development of AT&T's policy on this subject, represented AT&T in numerous LCUG meetings, participated in state workshops relating to performance measurements and consequences and have met with the Commission and the Department of Justice to provide AT&T's input on a variety of topics relating to performance measurements and incentives.

13. I have represented AT&T and other CLECs in several regulatory proceedings concerning the appropriate statistical methodology to use in an effective performance measures methodology. I have met with the Commission on this issue and have participated in state regulatory workshops and meetings in California, Colorado, Connecticut, District of Columbia, Florida, Georgia, Illinois, Indiana, Louisiana, Maine, Massachusetts, Michigan, Nevada, New Hampshire, New Jersey, New York, Oregon, Rhode Island, Texas, Vermont, Virginia, Washington, and Wisconsin.

I. PURPOSE AND SUMMARY OF DECLARATION

14. The purpose of this declaration is to respond to Pacific's claims that its performance data are accurate and demonstrate checklist compliance, and that its performance incentive plan ("PIP") will assure statutory compliance in the wake of Section 271 relief.

15. First, as discussed in Part II, despite Pacific's allegations to the contrary, the audit that PricewaterhouseCoopers ("PWC") conducted in 1999 and the subsequent work that PWC performed in 2000, do not demonstrate that Pacific's data are accurate. Indeed, the PWC initial audit was so fundamentally flawed that it cannot legitimately be relied upon as a reliable indicator of the integrity of Pacific's data.

16. In this regard, PWC's initial audit report is woefully lacking in detail and provides no meaningful information regarding the methodologies and procedures that PWC ostensibly used to test Pacific's data. Critically, there is no evidence that PWC performed an independent validation of the accuracy of Pacific's input data at the initial collection stage – data that serve as the critical link in the performance monitoring process. There is no evidence that PWC collected any data from the CLECs in order to test the accuracy of Pacific's reported

results. Furthermore, there is no evidence that PWC conducted any systematic testing of Pacific's retail data. For these reasons, PWC's initial audit cannot reasonably be relied upon as proof of the accuracy of Pacific's data. However, even PWC's flawed audit revealed significant problems with Pacific's performance monitoring and reporting processes.

17. Equally specious is Pacific's contention that PWC conducted two "re-audits" of its performance data which further validated the accuracy of Pacific's data. PWC's own reports state explicitly that PWC did not conduct an "audit" of Pacific's systems, but rather conducted agreed-upon procedures engagements in which it evaluated Pacific's assertions regarding the corrective steps it purportedly took in response to observations in the initial audit. PWC's work consisted largely of verifying Pacific's assertions that it had modified or was otherwise following its own procedures and methods in response to PWC's initial audit. Most important, these engagements were not designed to, and did not cure, the fundamental defects in PWC's initial audit which never validated the underlying data serving as the basis for Pacific's reported results.

18. Part II also explains that, contrary to Pacific's claims, the data reconciliations that it participated in with AT&T during 2000 and 2001 cannot reasonably be relied upon by this Commission as evidence that Pacific's performance data are complete, accurate and reliable. Any notion that Pacific's data reconciliations with AT&T in 2000 and 2001 validated the accuracy of Pacific's performance data is flatly contradicted by: (1) the limited scope of the data reconciliations; (2) the inability of the parties to complete the data reconciliation process; and (3) Pacific's own concessions that its reported results were inaccurate. In addition, the data reconciliations upon which Pacific relies were conducted one to

two years ago. However, recent data reconciliations that AT&T has conducted with SWBT in Texas confirm that SWBT has improperly implemented the business rules governing the metrics and unilaterally created a disposition code which has been invoked as the basis for excluding wholesale categories of trouble tickets from SWBT's reported results. Relatedly, the disposition codes that Pacific is presently using in California as the basis for excluding trouble tickets are inconsistent with the business rules and give Pacific virtually unfettered authority to exclude troubles unilaterally. Against this backdrop, there is no sound basis for any finding that Pacific's reported data are trustworthy.

19. Second, as demonstrated in Part III, even accepting at face value Pacific's commercial data – which is plainly unwarranted – Pacific's own reported results show that it has failed to perform at parity and provide CLECs with a meaningful opportunity to compete. For example, Pacific's own data show that it fails to issue timely status notices. Pacific's reported results also show that it fails to perform at parity during the provisioning and maintenance and repair processes.

20. Third, as explained in Part IV, the performance incentive plan will not deter future backsliding in the aftermath of Section 271 relief. Because performance data serve as the basis for remedies calculations, the unreliability of Pacific's data fatally compromises the effectiveness of the performance incentive plan. Furthermore, the fundamental structural defects in the PIP, including a flawed curvilinear payment structure that results in nominal payments for subpar performance, preclude the plan from serving as an effective tool to deter anticompetitive conduct.

II. PACIFIC'S PERFORMANCE DATA ARE UNTRUSTWORTHY.

21. On the basis of the current record, Pacific cannot meet its burden of demonstrating that its data are "meaningful, accurate and reproducible," a fundamental showing in all prior approved Section 271 applications.¹ Pacific contends that the audit conducted by PWC in 1999, so-called "re-audits" conducted by PWC in 2000, and various data reconciliations conducted with AT&T "provide ample assurance that Pacific's performance data are accurate and reliable."² Pacific is wrong on all counts.

A. The PWC Initial Audit Does Not Demonstrate That Pacific's Data Are Accurate.

22. Pacific contends that PWC's initial audit which culminated in the issuance of a final report dated December 30, 1999 ("PWC initial audit report")³ confirms that its data are accurate and reliable. Pacific's arguments are without merit.

23. After a series of collaborative discussions, the CLECs and Pacific agreed that an initial audit should be conducted to "ensure that the individual ILEC reporting procedures are sound and that data collection and reporting are timely, accurate and complete."⁴ On August 31, 1999, the CLECs and Pacific/Nevada Bell issued a Request for Proposal ("RFP") for

¹ *Texas 271 Order*, ¶ 428; *Kansas/Oklahoma 271 Order*, ¶ 278.

² *See Johnson Aff.*, ¶ 200, Application at 89-90.

³ PricewaterhouseCoopers Independent Accountant's Report on Management's Assertions Related to Pacific Bell's Compliance with Certain Requirements of the Joint Partial Settlement Agreement with attached Executive Summary and Observations Report, Pacific Bell, OSS Performance Measurement Examination for the Months of September and October, 1999, December 30, 1999 ("PWC initial audit report") at 2, *Johnson Aff.*, Attach. D.

⁴ *See California OSS OII Performance Measurements, Joint Partial Settlement Agreement ("JPSA")*, Attach. A at 74.

Audit of Pacific/Nevada Bell's OSS Performance Measurement as defined in the Joint Partial Settlement Agreement and Nevada Bell's Performance Measurements.⁵

24. The RFP stated explicitly that "[t]he purpose of the engagement is to perform an Initial Audit to ensure that Pacific/Nevada Bell's reporting procedures are sound and that data collection and reporting are timely, *accurate* and complete."⁶ The RFP also stated that the audit would examine "all reporting requirements for pre-ordering, ordering, provisioning, maintenance, network performance, billing, collocation, database updates, and interfaces, and the associated reporting process as described in the JPSA and the Nevada Stipulations."⁷ Furthermore, the RFP clearly explained that the selected auditor would prepare a final audit report providing "details as to where Pacific/Nevada Bell has met requirements specified in the audit plan."⁸

25. PWC was selected as the auditor after a series of interviews. Based upon the JPSA and RFP, combined with PWC's assurances during the interview process, AT&T expected that PWC would prepare a comprehensive report detailing the basis for all observations and conclusions regarding Pacific's performance measurement processes and data. In fact, during the interview process, AT&T asked PWC whether its final audit report would contain its

⁵ Request for Proposal for Audit of Pacific/Nevada Bell's OSS Performance Measurement as Defined in the Joint Partial Settlement Agreement (JPSA) and Nevada Bell's Performance Measurements as Defined in the Stipulations in Docket No. 97-9022, August 31, 1999.

⁶ *Id.* at 8 (emphasis added).

⁷ *Id.* at 7.

⁸ *Id.* at 9.

testing methodologies, including the statistical methodologies used for random data sampling. PWC's responses led AT&T to believe that its final report would contain such detailed information. As discussed below, PWC's initial audit report was and is wholly inadequate.

26. PWC's initial audit report examined the assertions of Pacific's management regarding its compliance with certain performance measures in the JPSA during September and October 1999. The initial audit report describes four tasks that PWC performed to assess management's assertions regarding Pacific's performance measures processes.

27. First, the initial audit report states that PWC examined planning -- a process that involved, *inter alia*, identifying the business requirements, methodologies and procedures used to calculate performance metrics, as well as the systems and transaction flows in the performance monitoring process. Second, the initial audit report states that PWC compared Pacific's business rules, methods and procedures against the JPSA. Third, the initial audit report claims that PWC examined the controls relating to, *inter alia*, the completeness and accuracy of data inputs. Fourth, the initial audit report states that PWC performed an OSS performance measure review that included an examination of the criteria used to select performance data from OSS systems, metric replication, and an evaluation of the procedures for changes to and version controls for performance results on Pacific's website.⁹ However, the fundamental infirmities in the initial audit report demonstrate that it cannot possibly serve as a reliable indicator of the accuracy and integrity of Pacific's performance measurement processes and data.

⁹ *Id.* at 6-8

28. Verification of the accuracy of reported performance data requires a comprehensive evaluation of all elements in the data collection, monitoring and reporting processing streams. An essential step to any meaningful assessment of the reliability of an ILEC's self-reported data is an evaluation of the accuracy and completeness of the raw data used by the BOC as initial inputs to its performance measurement calculations. Although PWC in its initial audit report, claims that it verified the accuracy of the data underlying Pacific's reported results, the reality is that PWC did nothing of the sort. A critical component of a performance measurement evaluation – independent validation of the accuracy of Pacific's raw data at the initial collection stage – is glaringly omitted from PWC's initial audit report. Conspicuously absent from PWC's initial audit report is any evidence that PWC independently collected data from the CLECs that could have served as a check on the accuracy of Pacific's input data underlying its performance results, or that PWC conducted systematic testing of Pacific's retail data. The lack of such testing is a fatal flaw in PWC's initial audit.

29. Moreover, PWC's initial audit report – which consists of 26 pages – is sorely lacking in detail. The initial audit report fails to describe with any degree of specificity or clarity the methodologies and specifications that PWC used to test management's assertions regarding Pacific's compliance with performance measurement systems and processes. For example, in its initial audit report PWC asserts that it “performed sample substantive testing of transactions.”¹⁰ However, the initial audit report fails to describe the statistical methodology that PWC used to draw a statistically valid sample. Furthermore, in describing its procedures for

¹⁰ *Id.* at 7.

evaluating and recalculating Pacific's performance data, the PWC initial audit report states that PWC "summarized the selected OSS performance measures and then on a test basis compared [its] results to those reported by Pacific Bell management."¹¹ However, the initial audit omits any reference to the replication criteria and tests that PWC used to evaluate and recalculate Pacific's performance results. Notably, unlike KPMG's metrics conducted as part of its Third Party Test of Bell Atlantic's OSS in New York, the PWC initial audit report contains no side-by-side comparisons of the performance results calculated by Pacific and as recalculated by PWC.

30. PWC's bare-bones discussion of the parameters of its metrics replication process is substantially inferior in scope and breadth to the metrics portion of KPMG's Third Party Test Report. Thus, for example, in describing the various techniques and investigative approaches it used when evaluating and recalculating Bell Atlantic's performance results, KPMG:

- explained that it "used standard analysis-of-variance techniques to determine whether the differences in mix of orders had an impact on the metric calculation or on parity in general;"¹²
- discussed the specific statistical tests that it used for "metrics that test averages and metrics that test proportions;"¹³
- described in detail each system log that it examined for discrepancies and identified each discrepancy uncovered;¹⁴

¹¹ *Id.*

¹² KPMG Final Report, POP 8 IV-175, 176.

¹³ *Id.* at POP 8 IV-176

¹⁴ *Id.* at POP 8 IV-182.

- summarized its results “tracing the progress of service requests through ordering and provisioning for a multi-month period [and specifically identifying] the number of [BA-NY’s] records that could not be matched and the explanation provided by BA-NY;”¹⁵
- examined whether other exogenous factors, such as geography, accounted for “statistically significant differences” in performance results;¹⁶ and
- provided charts detailing, on a metric-by-metric basis, the discrepancies between Bell Atlantic’s and KPMG’s calculations on, *inter alia*, the number of transactions or observations, averages and percentages, and standard deviation figures.

31. Even PWC’s inadequate initial audit report identified two areas of material noncompliance with the performance measurements and standards in the JPSA. One of the assertions that PWC evaluated was Pacific’s claim that it “has implemented evaluation practices and procedures to assure specific calculations are consistent with the JPSA.”¹⁷ Noting that “certain supervisory review processes and procedures over the calculation of the performance measures had not been implemented during either of the one month periods ended September 30, 1999 or October 31, 1999,” PWC concluded that this performance failure alone constituted a material instance of noncompliance.¹⁸ In bolstering its conclusion, PWC stated:

There are limited controls around the process of producing the performance measure reports after the point at which the data is captured. In particular, an independent or supervisory review to verify that calculations and changes made to the data are

¹⁵ *Id.* at POP 8 IV-183.

¹⁶ *Id.* at POP 8 IV-184.

¹⁷ *See* List of Management’s Assertions (2b), included in PWC’s initial audit report.

¹⁸ *See* Instances of Material Non-Compliance included in PWC’s initial audit report. *See also* Table 1, Item 31.

appropriate is not adequately performed. We noted errors in several of the reports tested for September and October which might have been detected by an independent review.¹⁹

32. During the initial audit, PWC also assessed whether Pacific implemented appropriate change control procedures to assure that appropriate changes to its data were made, and that its data were tracked properly and available for review on Pacific's web site.²⁰

However, PWC's initial audit report confirmed that Pacific's procedures were inadequate, stating:

adequate change control procedures had not been implemented or maintained to assess that changes [to] the website or changes to the data included on the website are tracked and made available for review during either of the one month periods ended September 30 and October 31, 1999.²¹

33. Moreover, PWC found that the change control/version process used to update changes to performance measures and data on the website was plagued with so many deficiencies that a finding of material noncompliance was plainly warranted:

- 1) Only the most recent CLEC notification message is displayed -- historical logs were not available.
- 2) The reason for reporting was not indicated.
- 3) Notifications were not created for all changes published.
- 4) Notifications were generalized to all CLECs regardless of the effect, or lack thereof, of the reporting to individual CLEC data.²²

¹⁹ *Id.*, Item 31.

²⁰ List of Management's Assertions (2c) included in PWC's initial audit report.

²¹ *See* Instances of Material Non-compliance included in PWC's initial audit report.

²² PWC's initial audit report, Item 25.

34. The PWC initial audit report not only found two material areas of noncompliance, but it also identified what PWC characterized as “observations that could improve the OSS performance measure reporting process.”²³ Significantly, PWC’s suggested improvements were not designed to enhance an otherwise seamless, reliable performance reporting process, but rather were absolutely essential in order to resolve numerous performance monitoring and processing failures. Thus, for example, PWC observed that:

Procedures for assuring that all data feeds for reporting the performance measure should be strengthened. There are not clear procedures for ensuring that all necessary feeds are received completely. As a result, sometimes production data feeds must be reprocessed. Depending on the reason for the change, data might require reprocessing at any point along the processing stream from data capture to posting on the website.²⁴

35. Similarly, in its initial audit report, PWC noted that the lack of controls “over the completeness and accuracy of update[s] to the Oracle database” rendered it difficult for even Pacific to discern whether it had appropriate corrections to its data.²⁵ Additionally, PWC found that, when Pacific calculated its total flow-through rates, it improperly excluded all service reports submitted through CESAR.²⁶

36. PWC’s initial audit report identified other deficiencies in Pacific’s performance measurement processes and procedures. For example, PWC noted that:

²³ PWC’s initial audit report at 8.

²⁴ *Id.* at 9.

²⁵ *Id.*, Item 18.

²⁶ *Id.*, Item 23.

- Pacific's Access Specials Databases "are difficult to secure, putting the integrity of the data at risk."²⁷
- Pacific's processes pose risks to the integrity of its billing data.²⁸
- There were "discrepanc[ies] between the JPSA, Pacific Bell Methods & Procedures, and Pacific Bell's practice" for calculating Performance Measure 43 on system outages.²⁹
- Pacific Bell fails to "report outages occurring and resolved outside of the SBC Help Desk hours."³⁰
- There were discrepancies in Pacific reported results and practices for calculating Performance Measure 20 on trouble reports.³¹
- Because of inadequate tracking mechanisms, CLEC orders submitted by fax "could be received and not processed immediately which would not be reflected in" performance results for Performance Measures 2 and 3 that measure average FOC and reject notice intervals.³²

Thus, even the seriously flawed initial audit report revealed serious problems in Pacific's performance monitoring and reporting processes.

B. PWC's So-called "Reaudits" Do not Demonstrate the Reliability of Pacific's Data.

37. After the initial audit, Pacific engaged PWC to perform additional work.

In describing the work that Pacific performed after the initial audit, Pacific claims that PWC

²⁷ *Id.*, Item 28.

²⁸ *Id.*, Item 35.

²⁹ *Id.*, Item 8.

³⁰ *Id.*, Item 11.

³¹ *Id.*, Item 19.

³² *Id.*, Item 16.

conducted a “May-June 2000 re-audit of Pacific’s data” which culminated in the issuance of a July 7, 2000 audit report,³³ as well as a “supplemental reaudit . . . conducted during late October and early November 2000”³⁴ that resulted in the issuance of a final report dated November 9, 2000. Pacific contends that these so-called “reaudits” also demonstrate that its data are reliable. Johnson Aff., ¶¶ 209, 218. Pacific’s allegations cannot withstand analysis.

38. Pacific’s characterization of the work that PWC performed in the Summer and Fall of 2000 as “reaudits” is highly misleading. The PWC report dated July 6, 2000 states explicitly that PWC performed “agreed-upon procedures engagements” designed solely to evaluate Pacific’s responses to the observations in PWC’s initial audit report.³⁵ PWC also emphasized that it was “not engaged to, and did not, perform an audit or examination, the objective of which would be the expression of an opinion on the procedures and systems implemented or revised based on Pacific Bell management’s responses to the observations.” *Id.* In fact, PWC stated that if it had “performed additional procedures, other matters might have come to [its] attention that would have been reported to” Pacific. *Id.* Thus, by PWC’s own admission, it was not hired to and did not audit or render an opinion on the adequacy of the “procedures” or “systems” that Pacific implemented after the initial audit. According to PWC, the scope of its work was strictly confined to determining whether Pacific implemented the corrective steps it claimed it took in response to the observations in the initial audit report.

³³ Application at 90.

³⁴ Johnson Aff., ¶ 209.

³⁵ See PWC Report of Independent Accountants dated July 7, 2000 at 1, Johnson Aff., Attach. E.

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39. PWC's report dated July 7, 2000 reveals that the work that it performed consisted, in large measure, of verifying Pacific's assertions that it had revised or was otherwise complying with its own methods and procedures in response to the initial audit. Thus, for example, in its July 7, 2000 report, PWC claims that it:

- Confirmed that the M&P for PM5 "were updated without exception."³⁶
- Confirmed that the M&P for PM5 included TIRKS trunk data (*id.* at 4).
- Confirmed that the M&P for PM9 was updated to include "multiple TBCC misses in the denomination of PM9" (*id.* at 5).
- "Confirmed that the testing results were approved through email or signature by the development group responsible for implementing the request" (*id.* at 6).
- "Reviewed the M&P for PM19 . . . and confirmed without exception that the MTAs references have been replaced by ASKME references where applicable" (*id.* at 7).
- "[C]onfirmed that M&P for PM16 . . . included the interconnection trunk data without exception" (*id.* at 9).
- "[C]onfirmed without exception that the updated M&P's included the peer recalculation step" (*id.* at 12).
- "[C]onfirmed without exception that the updated M&P [for PM4] reflected the inclusion of CESAR data with performance calculations" (*id.* at 30).
- "[C]onfirmed that the M&Ps [for PM37 and 38] included the instructions for the exclusion of LOTS transactions" (*id.* at 49).

40. Significantly, this agreed-upon procedures engagement was not designed to and did not correct the fatal defects in the initial audit, including PWC's failure to test independently Pacific's raw data inputs, conduct any reconciliations between Pacific's reported

³⁶ Johnson Aff., Attach. E at 2.

results and data collected independently from CLECs, or conduct any systematic testing of Pacific's retail data.

41. Equally unavailing is Pacific's attempt to characterize the work that PWC performed during the Fall of 2000 as yet another "reaudit" of Pacific's data. *See Johnson Aff.*, ¶ 209. In its report dated November 9, 2000, PWC stated clearly that it conducted an "agreed-upon procedures engagement" and expressly repudiated any notion that its work constituted an "audit."³⁷ During this engagement, PWC, once again, confirmed Pacific's assertions regarding the steps that Pacific purportedly took in response to PWC's initial audit (as well as PWC's June 7, 2000 report). Additionally, during this engagement PWC simply verified Pacific's assertions that it was following its own methods and procedures. Thus, for example, during this engagement, PWC:

- "Confirmed without exception that the M&P updated on 4/14/00, directs the project manager in charge of DS1 requests to document approval of testing results for DSS programming changes" (*id.* at 2).
- "Read the Project in Progress change requests and supporting documentation for the DSS programming changes . . . [and] confirmed that the project manager (and user client) approved testing results through e-mails" (*id.*).
- "Confirmed without exception that . . . executed documentation was in existence" (*id.* at 3).
- "Read the M&P . . . for PM2 and PM3 and confirmed without exception that . . . requirements are documented" (*id.*).
- "Confirmed that the PON log had been signed by area manager" (*id.* at 4).

³⁷ PWC Report of Independent Accountants dated November 10, 2000 at 1, *Johnson Aff.*, Attach. F.

- “Confirmed without exception that SPY was available on the desk tops of the performance measure organization analysts selected” (*id.* at 5).
- “Confirmed without exception that the LOG M&P . . . instructed Maintenance Administration to include the word “PROV” in the remarks section for provisioning fictitious trouble tickets.” (*id.*)

42. Most important, this agreed-upon procedures engagement, as the previous one, was not designed to and did not correct the fundamental infirmities in the initial audit, including PWC’s failure to conduct any verifiable, systematic testing of the data underlying Pacific’s performance results.³⁸ Furthermore, as explained below, as a result of data reconciliations that Pacific and AT&T conducted during the Fall of 2000, Pacific restated its performance results to correct errors in its reported data for AT&T. Because neither the PWC initial audit nor the agreed-upon procedures engagements included any reconciliation of Pacific’s results with those independently collected from CLECs, the defects in Pacific’s data that were

³⁸ Pacific asserts that PWC’s initial audit conclusively demonstrates that its data are accurate. As noted above, the PWC initial audit did not systematically determine if the retail statistical data that Pacific reports on its CLEC website were calculated correctly or whether Pacific’s underlying data are accurate and reliable. For purposes of its Application, Pacific does not rely on – for good reason – the seriously flawed and limited data validation conducted by the TAM in the OSS as proof of the reliability and accuracy of its data. Although the MTP required the TAM to verify the accuracy of all relevant test data contained in Pacific’s reported results, the TAM reviewed only 10 of the 19 measures that the TAM evaluated as part of the functionality test and limited its review to only two months of data (April and July 2000). Even the inadequate and seriously flawed data reconciliation that the TAM conducted (which was limited to Pseudo-CLEC data) uncovered discrepancies that the TAM never reconciled. Indeed, when Pacific was unable to provide information on orders which had been excluded from its results, the TAM simply assumed that Pacific properly excluded such orders. As noted herein, given Pacific’s improper exclusion of orders in Texas, the TAM’s assumption is ill-founded. Furthermore, even the TAM recognized that if “Pacific is unable to verify the appropriate inclusion of all test data satisfying its business rules, the validity of data used in this statistical analysis will be potentially inaccurate.” FR § 3.3 at 34-35. However, Pacific’s refusal to provide the TAM access to its retail data prevented the TAM from conducting critical data reconciliation and analysis. Thus, the integrity and reliability of Pacific’s retail data have never been validated.

revealed during the data reconciliation process were not uncovered and could not have been uncovered by PWC. Thus, there is no sound basis for Pacific's assertions that PWC's audit, coupled with PWC's agreed-upon procedures engagements, prove the accuracy and reliability of its data.

C. The Data Reconciliation Process Does Not Demonstrate the Accuracy of Pacific's Data.

43. There is no merit to Pacific's claim that the data reconciliations conducted with AT&T during 2000 and 2001 are dispositive proof of the accuracy of Pacific's data.³⁹ In this regard, the data reconciliation that Pacific conducted with AT&T during the fall of 2000 cannot legitimately be viewed as a comprehensive, reliable indicator of the integrity of Pacific's data. Although AT&T, as well as other CLECs, proposed that the parties engage in a comprehensive data reconciliation process, Pacific strenuously objected. As a consequence, the data reconciliation that was conducted was limited as to measurement and temporal scope. For example, the reconciliation of AT&T's data involved only four measures covering two months. Given the extremely limited scope of this data reconciliation, Pacific cannot seriously contend that this process, standing alone, validated the accuracy of its performance data.

44. Furthermore, Pacific's description of the data reconciliation that it conducted with AT&T during the Fall of 2000 is incomplete. In discussing the results of the reconciliation of data reported for Measures 9, 15, and 16, Pacific states that "the discrepancies that were identified were generally due to the fact that AT&T and Pacific proceeded on different interpretations of the business rules for these measures." Johnson Aff., ¶ 212. Although it is

certainly true that a number of the discrepancies were never reconciled because of differences between the parties regarding the proper implementation of the business rules governing these measures, it is equally true that, as a result of this data reconciliation process, Pacific restated its performance results for Performance Measures 15 and 16.⁴⁰ Although Pacific omits any reference to these restatements, the fact that Pacific revised its reported results as a result of this process undermines Pacific's contention that its data can be trusted. And, relatedly, because PWC never conducted an ILEC/CLEC data reconciliation, the defects in Pacific's data were not unearthed (and could not have been unearthed) by PWC.

45. Similarly, the data reconciliation that Pacific conducted with AT&T on August 9, 2001 of Pacific's reported results for Performance Measure 16 cannot reasonably be considered as incontrovertible proof that its data are accurate. This data reconciliation also was extremely limited in scope and involved an examination of 23 of AT&T's trouble reports for UNE-P orders that were omitted from Pacific's April 2001 results. AT&T requested a data reconciliation because it had experienced a significant number of no dial tone outages ("NDT") for UNE-P and wanted to ensure that those performance failures were captured in Pacific's reported results. However, as even Pacific concedes, this data reconciliation was never completed. Johnson Aff., ¶ 215. The parties never reconciled six of the 23 trouble reports at issue. However, even the preliminary findings revealed that Pacific inappropriately excluded at

³⁹ See Johnson Aff. ¶¶ 211, 215.

⁴⁰ Measure 15 measures the number of trouble reports that occur from the time the CLEC places an order until the time the order is completed. Measure 16 measures the Percentage of Trouble – 30 days for New Orders.

least 9 of AT&T's UNE-P trouble reports from its performance results. Thus, despite Pacific's suggestions to the contrary, this limited and incomplete data reconciliation does not confirm the reliability of Pacific's data. If anything, the preliminary findings of this process illustrate the dangers of accepting Pacific's reported results at face value.

46. Notably, the data reconciliations upon which Pacific relies were conducted more than one to two years ago. Thus, these data reconciliations obviously did not and could not assess whether Pacific's current data are accurate. AT&T's more recent data reconciliations with SWBT in Texas suggest that Pacific's current reported results in California should be eyed with suspicion.

47. On August 26, 2002, AT&T and SWBT participated in a data reconciliation meeting to discuss the hundreds of trouble tickets that SWBT excluded from its June 2002 Texas performance results for Performance Measurement 39 (Mean Time to Restore) ("PM 39"). In this regard, commencing in May 2002, SWBT started releasing information regarding the number of trouble tickets that it excluded from PM 39. The business rules governing PM 39 in Texas permit SWBT to exclude two categories of trouble tickets from its reported results (*i.e.* subsequent reports and disposition code "13" reports). The current version of the SWBT business rules which describe the code "13" reports which can be excluded from performance results is attached as Attach. 1.

48. Based upon seven months of data that AT&T analyzed, AT&T found that SWBT excluded nine to 12 percent of AT&T's total trouble tickets submitted each month. AT&T's analysis of SWBT's raw data for PM 39 also revealed that disproportionately large volumes of the trouble tickets that SWBT excluded from its reported results were closed to a

Code 1328 (CLEC Report Generated In Error) – a code which SWBT unilaterally created and which is *not* listed as a proper exclusion under the business rules. Indeed, for the month of June 2002 alone, SWBT classified 808 of AT&T's trouble tickets as Code 1328 maintenance tickets. Significantly, SWBT failed to obtain the prior approval of the Texas Public Utilities Commission or the CLECs before unilaterally creating Code 1328 and excluding wholesale categories of orders from its performance results.

49. A performance measurement plan cannot serve its intended purpose if it is subject to unilateral manipulation and redefinition by the BOC. SWBT's decision to exclude orders based upon a disposition code that it unilaterally created in flagrant disregard of the business rules governing the metrics makes a mockery of the performance monitoring and reporting process.

50. Even assuming *arguendo* that SWBT's use of Code 1328 is entirely appropriate – and it is not – SWBT conceded, during the data reconciliation process, that it misclassified 13.7 percent of the 808 tickets as Code 1328 tickets. Thus, SWBT's unilateral redefinition of the business rules in Texas, standing alone, underscores the lack of integrity of the performance monitoring and reporting process. Furthermore, SWBT's admitted misclassification of a substantial volume of AT&T's tickets (under SWBT's own ill-conceived and improper coding system) further highlights the unreliability of the performance monitoring and reporting process.

51. SWBT's improper implementation of the business rules in Texas undermines the reliability of Pacific's performance data in California. Additionally, the

disposition codes that Pacific is presently using in California further demonstrate that Pacific's data must be eyed with suspicion.

52. Under the business rules governing the maintenance and repair metrics in California, Pacific is permitted to exclude "CLEC Caused Troubles." However, the disposition codes that Pacific recently provided to AT&T – which purportedly identify the types of troubles falling under the "CLEC Caused Troubles" category – contain codes for orders which are *not* excludable under the business rules, as well as highly questionable codes which give Pacific virtually unbridled authority to exclude trouble tickets whenever it suits its purposes.

53. Thus, for example, the disposition codes in California which are attached as Attach. 2 show that Pacific excludes troubles "*suspected . . . or determined to be in the Reseller's network or equipment*" (Code 1313); and "*troubles suspected or determined to be in the IEC's network or facility*" (Code 1312) (emphasis added). The mere fact that Pacific can exclude any troubles it "*suspects*" might be caused by the CLEC's network gives Pacific *carte blanche* to classify troubles in any manner it sees fit. Furthermore, although troubles that are found to "test OK" are not excluded under the business rules governing the maintenance and repair metrics in California, Pacific's disposition codes include codes falling within that category.⁴¹

⁴¹ See Attach. 2 Code 1314 ("Applies to those troubles when the CLEC requests a dispatch on a TOK"); 1324 ("Applies when the access/LEC customer requests a dispatch [and] [t]he repair person does not find a trouble on the access/LEC customer's circuit"); 1329 ("Test Asst No Customer Test Results & TOK"); 135* ("Applies on Trouble Reports in the Unbundled Loop (Link) Where the Competitive Local Exchange Carrier (CLEC) Requests a Dispatch, In or Out, and there is No Trouble Found at the P*B Network"); 1352 ("No Pacific Trouble Found – Dispatch Out"); 1354 ("P*B End User Request DISP-IN, No P*B TRO Found"); 1355 ("No Pacific Bell Trouble Found"); 1357 ("No P*B or N*B Trouble Found – Dispatch IN).

54. SWBT's improper implementation of the business rules in Texas, coupled with Pacific's overly broad disposition codes in California, demonstrates that Pacific's reported data cannot be trusted. Based on this pool of evidence, there is no sound basis for any finding that Pacific's data in its Application are "above suspicion."⁴² *Texas 271 Order* ¶ 429.

III. PACIFIC'S PERFORMANCE RESULTS DO NOT DEMONSTRATE CHECKLIST COMPLIANCE.

55. Pacific's self-reported performance data do not demonstrate compliance with the competitive checklist. Even accepting the validity of Pacific's data that are reported – which is unwarranted for the reasons discussed above – Pacific's own performance results in a number of areas show subpar performance. In particular, Pacific's reports show that it has failed to comply with the parity and benchmark standards for numerous measures, including ordering, provisioning and maintenance and repair measures.

A. Ordering and Provisioning

1. Status Notices

56. Ordering and provisioning notices are the means by which Pacific advises CLECs of certain events in the ordering and provisioning process. FOCs advise CLECs that Pacific has accepted a service order and provides CLECs with a committed due date. Jeopardy notices advise CLECs that Pacific cannot meet a confirmed due date. Completion notices advise CLECs that the ordered service has been provisioned.

⁴² Pacific only recently provided exclusion data to AT&T. Because AT&T and Pacific only recently initiated data reconciliation in California, the full breadth and scope of the deficiencies in Pacific's data remain unclear.

57. This Commission has emphasized that receipt of status notices is critical to a CLEC's ability to compete in the marketplace. Thus, for example, in its *New Jersey 271 Order*, the Commission confirmed that the timely receipt of status notices is "[a]n important aspect of a competing carrier's ability to serve its customers at the same quality as a BOC." *New Jersey 271 Order*, ¶ 93.⁴³ Pacific, however, does not provide timely status notices. For example, Pacific does not consistently provide timely jeopardy notices, FOCs, and completion notices. Each of these problems is described below.

58. **Jeopardy Notices.** The Commission has found that the failure of a CLEC to meet the committed due date "is likely to have significant competitive impact on new entrants' ability to compete." *South Carolina 271 Order*, ¶ 130. If Pacific fails to meet the due date and also fails to notify the CLEC, the CLEC will undoubtedly learn of the problem when it is contacted by its dissatisfied customer. To make matters worse, the CLEC will lack sufficient information to address the customer's concerns. Accordingly, the Commission has determined that jeopardy notices are "critical" to a CLEC that has received a committed due date. *Second Louisiana 271 Order*, ¶ 131.

59. Under the business rules governing Measure 6, which measures the timeliness of missed commitment notices, 95 percent of Pacific's missed commitment notices should be issued within 24 hours of the committed due date. However, Pacific has failed to meet this benchmark standard for UNE Platform Port and (8db and 5.5db) Loop field work/no field work. During June 2002, only 60% of Pacific's notices met the benchmark standard. In July

⁴³ See also, e.g., *Texas 271 Order*, ¶¶ 171, 174, 187; *Second Louisiana 271 Order*, ¶ 154; *South*

2002, only 80% of Pacific's notices satisfied the benchmark standard. Johnson Aff., Attach. B, Measure 6 at 31. In August 2002, approximately 60 percent of Pacific's missed commitment notices for these orders satisfied the benchmark standard – a rate approximately 34 percentage points below the benchmark standard. Although Pacific contends that these performance failures are attributable in part, to its failure to track the transaction times properly in this measure, and that it plans to resolve this problem by reprogramming its Decision Support System, this is simply an assumption and a promise which are of no probative value in the context of this proceeding.⁴⁴

60. Similarly, Pacific concedes that, in May, June and July 2002, it failed to meet the benchmark standard under Submeasure 6-50001 (Average Jeopardy Notice Interval – Missed Commitment – UNE Loop 2 wire Digital IDSL capable field work/no field work). Johnson Aff., ¶ 120, n. 67, *id.* Attach. B, Measure 6 at 26. Pacific claims that “these misses were caused by a combination of system issues and manual processing errors.” Johnson Aff., ¶ 120, n. 67. Although Pacific contends that its performance should improve as a result of additional training and “reprogramming of Pacific's Decision Support system,” this is yet another prediction and unfulfilled commitment which is entitled to no weight. *Id.*

Carolina 271 Order, ¶¶ 117, 122, 130; *New York 271 Order*, ¶ 159.

⁴⁴ Pacific also has failed to meet the benchmark standards under Measure 6 for AT&T's and TCG's orders. Pacific made remedy payments to TCG for its performance misses in May and June 2002 for failing the 95% benchmark standard for the return of missed commitment notices for UNE Platform Basic Port and (8db and 5.5 db) Loop field work/no field work orders. Similarly, Pacific also has made remedy payments to AT&T for its failure to meet the benchmark standard under Measure 6 in July 2002.

61. **FOCs.** Pacific has failed to meet the benchmark standards for the timely return of FOCs. In April, May and June 2002, Pacific failed to meet the six hour benchmark standard for the timely return of FOCs for electronically received, manually-handled Resale PBX orders. Johnson Aff., Attach B, Measure 2 (203100) at 9. Thus, for example, in May, Pacific took over 13 hours to return FOCs for Resale PBX orders; and in June, Pacific took over 23 hours to return FOCs for this order category. *Id.*

62. Similarly, Pacific concedes that, in June and July 2002, it failed to meet the six hour benchmark standard for the timely issuance of FOCs for electronically received/manually handled UNE Dark Fiber orders. *See* Johnson Aff., Attach. B, Measure 2 (204003) at 12. In June, Pacific took over 37 hours to return FOCs for this order category, and in July, Pacific took approximately nine hours to return FOCs for this order category. *Id.*

63. **Completion Notices.** Measure 16 assesses the timeliness of Pacific's issuance of Completion Notices to CLECs. Under the business rules governing this measure, a benchmark standard of 95% within 24 hours has been established for completion notices that fallout for manual processing before they are returned to the CLECs. In April, May and June 2002, Pacific failed to meet the 95% standard for Submeasure 18-00401 (Average Completion Notice Interval—Fully Electronic Fallout-LEX/EDI LASR). For example, in April, only 51.77% of these orders met the benchmark standard, and in May, only 87.64% of these orders met the benchmark standard.

2. Installation Performance

64. In order to demonstrate parity for provisioning, Pacific must show that it provisions CLEC orders within the same amount of time and with the same degree of quality that

it provisions the same or comparable services for its retail customers. Pacific's data show it does not provision CLEC orders at parity.

65. Pacific admits that, in June and July, it failed to meet the parity standard for Submeasure 11-10901 (Percent of Due Dates Missed – North-UNE Loop 4 wire Digital 1.544 mbps capable/HDSL). *See Johnson Aff., Attach. B, Measure 11 (1110901) at 3.* According to Pacific's reported results for Submeasure 11-10901, in June, Pacific missed only 1.90 percent of the due dates for its own retail orders, but missed 6.12 percent of CLEC orders for UNE Loop 2 wire Digital 1.544 mbps capable/HDSL. *Id.* In July, although Pacific missed only 1.36 percent of due dates for its retail orders, it missed 4.13 percent of CLEC orders for UNE Loop 2 wire Digital 1.544 mbps capable/HDSL. *Id.*

66. Similarly, Pacific failed to achieve parity for Submeasure 12-10401 which measures the percentage of due dates missed for lack of facilities for UNE Loop 4 wire Digital 1.544 mbpd capable/HDSL orders. According to Pacific's own reported results for this submeasure, in January and February 2002, and from May 2002 through July 2002, Pacific missed the parity standard for this submeasure. *See Johnson Aff., Attach. B, Measure 12 (1210401) at 2.* Indeed, in June and July 2002, Pacific missed the due dates for four times as many CLEC orders in this submeasure than those for Pacific's retail orders.⁴⁵

⁴⁵ In June, no retail orders in this submeasure were missed because of a lack of facilities, however, 4.08 percent of the CLEC orders in this submeasure were missed. Similarly, in July only 0.34 percent of Pacific's retail orders were missed because of a lack of facilities, but 4.13 percent of the CLEC orders in this submeasure were missed. *Johnson Aff., Attach. B, Measure 12 (1210401) at 2.*

B. Maintenance and Repair Performance

67. As part of its obligations to provide nondiscriminatory access to OSS functions, Pacific is required to provide CLECs with nondiscriminatory access to its maintenance and repair systems.⁴⁶ Without such access, “a competing carrier would be placed at a significant competitive disadvantage, as its customer would perceive a problem with a BOC’s network as a problem with the competing carrier’s own network.”⁴⁷

68. The CPUC recognized that whether Pacific’s performance in the area of maintenance and repair provides CLECs with “a meaningful opportunity to compete” is questionable, stating:

While most of Pacific’s rebuttals to the persistent claims that significant aspects of M&R access are not supplied to CLECs as they are for Pacific retail (in substantially the same time and manner, and with the same quality) appear to be credible, actual CLEC performance vis-à-vis Pacific’s actual performance, as evidenced by M&R PM results, do not yet clearly substantiate these rebuttals for key resale business and UNE product PM submeasures. Therefore, whether the sum of the M&R evidence adequately supports a finding that CLECs are being allowed a meaningful opportunity to compete is still an open question.⁴⁸

69. The CPUC’s concerns regarding Pacific’s performance in the area of maintenance and repair was and is well-founded. Assuming, *arguendo*, that the commercial data included in the Application are sufficient to assess Pacific’s performance – and they are not –

⁴⁶ *Georgia/Louisiana 271 Order*, App. D., ¶ 30; *New York 271 Order*, ¶ 212.

⁴⁷ *New Jersey 271 Order*, App. C, ¶ 38, *New York 271 Order*, ¶ 196.

⁴⁸ *See Rulemaking on the Commission’s Own Motion to Govern Open Access to Bottleneck Services and Establish a Framework for Network Architecture Development of Dominant*

even Pacific's current commercial data show that Pacific has failed to provide maintenance and repair services to CLECs within the same time and with the same degree of quality as those for Pacific's retail customers.⁴⁹

70. **Customer Trouble Report Rate.** Pacific concedes that, in June and July, it failed the parity standard for Submeasure 19-93600 which measures the customer trouble report rate for UNE-P. Johnson Aff., Attach. B (1993600) at 7. Pacific's own CLEC aggregate data reported on its website show that, from November 2001 through April 2002 and from June 2002 through August 2002, Pacific failed to meet the parity standard for this measure.⁵⁰

71. **Repeat Troubles.** Submeasure 23-92801 assesses the frequency of repeat troubles within a 30 day period for UNE Loop 2 Wire Digital xDSL capable orders. Pacific acknowledges that, during the period from May to July 2002, it failed to meet the parity standard for this submeasure. In this regard, Pacific notes that the CPUC recently established a parity

Carrier Networks, Decision 02-09-050, dated September 19, 2002, in CPUC Dockets R 93-04-003, I. 93-04-002, R. 95-04-043, and I. 95-04-044 at 54.

⁴⁹ Because AT&T entered the residential market in California on a mass market basis only less than two months ago, AT&T's recent commercial experience is an insufficient basis upon which to evaluate Pacific's performance in the area of maintenance repair. Because troubles may not surface until well after installation of a UNE-P service, several months of commercial data are needed in order to assess Pacific's performance in the area of maintenance and repair.

⁵⁰ Similarly, Pacific's own reported results for AT&T's orders show that from May through August 2002, the customer trouble report rates for AT&T's UNE-P orders were higher than those for retail customers. Thus, for example, in May, only .48% of Pacific retail orders experienced troubles, while 9.09% of AT&T's UNE-P orders experienced such troubles. In June, only .44% of Pacific retail orders experienced such troubles, while 18.18% of AT&T's UNE-P orders experienced troubles. In July, AT&T's trouble report rate for this category of orders was 3.66%, while Pacific's retail trouble report rate was .48%. In August, AT&T's trouble report was 1.25%, while Pacific's retail trouble report rate was 0.47%. In May, June and July, Pacific paid AT&T remedy payments (however meager) for its performance failures under Measure 19, Customer Trouble Report Rate.

standard for Measure 23. Johnson Aff., ¶ 125. According to Pacific, the parity standard for Submeasure 23-92801, during May to July 2002, averaged 12.53%. However, as Pacific concedes, during this period, UNE Loop 2 Wire Digital xDSL capable orders experienced a repeat trouble rate of 19.45 percent. *Id.* Although Pacific contends that it “has developed process improvement plans to improve its maintenance services for CLECs’ xDSL/IDSL loops,” this is simply a paper promise which is entitled to no weight. Johnson Aff., ¶ 126.

72. Pacific’s results also show that, from August 2001 through June 2002, it failed to meet the parity standard for repeat trouble reports for Submeasure 23-94000 (Statewide UNE Loop 2 wire Digital Line Sharing). *See* Johnson Aff., Attach. B Measure 23(2394000) at 8. Thus, for example, in May, approximately 12 percent of Pacific’s retail orders experienced repeat troubles, while 23.90 percent of CLEC orders in this submeasure experienced such troubles. In June, while only 12 percent of Pacific’s retail orders in this submeasure experienced repeat troubles, approximately 20 percent of CLEC orders experienced such troubles. *Id.*

73. Pacific admits that it failed to meet the parity standard in May and June for Submeasure 23-94000 (Frequency of Repeat Troubles in a 30 Day Period—UNE Loop 2 Wire Digital Linesharing). Johnson Aff., Attach. B, Measure 23 (2394000) at 8. In May, only 12.14% of Pacific’s retail loops experienced repeat troubles in a 30-day period, while 23.90% of lineshared loops provided to CLECs experienced such troubles. In June, the difference in the repeat trouble report rate for lineshared loops provided to CLECs and those provided to Pacific’s retail customers was approximately eight percentage points (19.52 vs. 11.79). *Id.* Although Pacific contends that it is in the process of upgrading its “operational processes to improve its

performance” in this area, this is yet another unfulfilled commitment which is of no probative value in the context of this proceeding. Johnson Aff., ¶ 128.

74. Pacific admits that, in May and June, it failed to perform at parity with respect for Submeasure 23-92601 (Frequency of Repeat Troubles in – 30 Day Period – UNE Loop 2/4 wire 8db and 5db). Johnson Aff., ¶ 151. In fact, Pacific’s CLEC aggregate results show that it has failed to perform at parity on this measure from August 2001 through June 2002.⁵¹ Although Pacific contends that it “has developed enhancements to its operational processes meant to improve the timeliness and quality of the trouble resolution process for maintenance of basic UNE loops,” and that it finally met the parity standard in July, one month of satisfactory performance is insufficient to demonstrate stability of performance. Johnson Aff. ¶ 151, Attach. A at 29.

75. **Provisioning Troubles.** Performance Measure 16 measures the percentage of troubles reported within thirty days of installation based upon a parity standard.⁵² Pacific’s results show that, in April and May 2002, it failed to perform at parity for Submeasure 16-05500 (North Resale Centrex). Johnson Aff., Attach. B, Measure 16 (1605500) at 7. In April, only 4.87 percent of Pacific’s retail orders experienced installation troubles, while 13.04 percent of Resale Centrex orders experienced such troubles. *Id.* In May 2002, only 4.71 percent of Pacific’s retail orders experienced installation troubles, while 27 percent of Resale Centrex orders experienced such troubles. *Id.*

⁵¹ See Johnson Aff., Attach. B, Measure 23 (2392601) at 3.

⁵² See OSS OII Performance Measurements, Application, App. C, Tab 71.

76. Additionally, Pacific has failed to meet the parity standard for Submeasure 16-06502 (North UNE Sub Loop 2 wire Digital xDSL capable). *See* Johnson Aff., Measure 16 (1606502) Attach. B at 10. For example, according to Pacific's own reports, in April, only 5.22 percent of Pacific's retail orders in this submeasure experienced installation troubles, while approximately 12 percent of CLEC orders in this submeasure experienced such troubles. In May, 2002, while only 3.93 percent of Pacific's retail orders in this submeasure experienced installation troubles, over 13 percent of CLEC orders in this submeasure experienced installation troubles. Furthermore, in July, 6.12 percent of Pacific's retail orders in this submeasure reported installation troubles, while approximately 14 percent of CLEC orders reported such troubles. *Id.*

77. **Average Time to Restore.** Submeasure 21-98001 measures the average time to restore UNE Line Sharing Loop 2 Wire Digital xDSL. Conceding that its own CLEC aggregate data show that it failed the parity standard for this submeasure, Pacific attempts to diminish the significance of these performance failures by noting that "the performance differences for CLECs was generally limited to a few hours." Johnson Aff., ¶ 128. However, Pacific's own reported results show that it failed the parity standard for this submeasure from December 2001 through June 2002. Johnson Aff., Attach. B, Measure 21 (2198001) at 12. Indeed, in April, the difference in performance results for CLEC lineshared loops and those for Pacific was approximately six hours (13.74 vs. 8.25) and, in May, the difference in performance

results for CLEC lineshared loops and those for Pacific was approximately five hours (14.79 vs. 9.56). *Id.*⁵³

78. Similarly, Pacific admits that, in May, June and July 2002, it failed to perform at parity when restoring troubles reported by CLECs for Submeasure 21-96001 (Average Time to Restore – UNE Loop 4 wire Digital 1.54 mbps capable/HDSL.) Johnson Aff. ¶ 138.

79. From August 2001 through July 2002, Pacific failed to meet the benchmark standards for Submeasure 46-91400 (Statewide LNP Port Out/Out of Service) and Submeasure 46-91500 (Statewide LNP Port Out of Service Affecting). Johnson Aff., Attach B (46-91400, 46-91500) at 2. Under the business rules governing Performance Measure 15A, a benchmark standard of 4.00 hours has been established as the average time to restore provisioning troubles for LNP Port Out. However, Pacific's own reported results for Submeasure 4691500 show that, in June 2002, the average time to restore provisioning troubles for this order category totaled 16.84 hours; and in July, the average time to restore the LNP Port orders totaled 17.25 hours. Similarly, according to Pacific's reported results for this submeasure, it took Pacific approximately 20 hours to restore provisioning troubles reported for this order category; and, in July, it took Pacific approximately 16 hours to restore provisioning troubles reported for these orders. *Id.*

⁵³ From April 2002 through August 2002, Pacific failed to meet the parity standard under Measure 21 (Average Time to Restore) for TCG's UNE Loop 2/4 wire 8db and 5.5 db orders. In each of these months, it took Pacific two hours longer to restore troubles reported by TCG as compared with those of Pacific's retail customers. Pacific also provided remedy payments to TCG as a result of Pacific's performance misses in April, June and July 2002.

**IV. PACIFIC'S PERFORMANCE ASSURANCE PLAN CANNOT
DETER BACKSLIDING.**

80. There is no factual basis for Pacific's claims that its performance incentive plan will assure compliance with its statutory obligations after Section 271 approval. *See* Johnson Aff., ¶ 219. As explained more fully below, the California performance incentive plan provides no meaningful protection against backsliding in the event that Pacific is authorized to provide long distance services.

81. In its *New York 271 Order*, the Commission identified the following key elements in a performance monitoring and enforcement plan that would support a showing "that markets will remain open after grant of the application."⁵⁴

- potential liability that provides a meaningful and significant incentive to comply with the designated performance standards;
- clearly-articulated, pre-determined measures and standards, which encompass a comprehensive range of carrier-to-carrier performance;
- a reasonable structure that is designed to detect and sanction poor performance when it occurs;
- a self-executing mechanism that does not leave the door open unreasonably to litigation and appeal; and
- reasonable assurances that the reported data is accurate.

82. On March 6, 2002, the CPUC approved the California Performance Incentive Plan.⁵⁵ Pacific asserts that the California performance incentive plan satisfies all of the

⁵⁴ *New York 271 Order* ¶ 423.

⁵⁵ Opinion on the Performance Incentives Plan for Pacific Bell Telephone Company entered in the OSS 0II Proceeding (Decision 02-03-023) March 6, 2002 ("*Incentives Decision*"), Application, App. C, Tab 76 at 44. On June 6, 2002, the CPUC issued an order clarifying certain

key criteria identified by this Commission in its *New York 271 Order*. Pacific's assertion is without merit.

A. Pacific's Inaccurate Data Fatally Compromise the Remedy Plan.

83. No performance enforcement plan can be effective unless it is based upon a comprehensive set of measures which produce accurate results, as well as self-executing enforcement mechanisms that can effectively deter a BOC from engaging in anticompetitive conduct after Section 271 entry. The performance enforcement plan presently in place in California cannot possibly serve as an effective tool to assure future statutory compliance.

84. As noted above, the accuracy and reliability of Pacific's performance data remain in serious doubt. Because performance data serve as the point of departure against which remedies are assessed, the unreliability of Pacific's performance data fatally compromises the effectiveness of any performance incentive plan. Even assuming *arguendo* that Pacific's data are accurate and trustworthy – and they are not – the structural defects in Pacific's remedy plan preclude them from serving as effective tools to prevent future backsliding.

B. The Payment Structure is Insufficient to Deter Backsliding.

85. The purpose of a performance assurance plan is to deter the BOC from engaging in anticompetitive behavior, and that objective can only be achieved if the magnitude of the financial consequences of substandard performance by Pacific is greater than the expected value of the gains that Pacific can earn by discriminating against CLECs or denying them a

aspects of the performance incentive plan. OSS OII Proceeding, Modification Clarifying Implementation Details of Performance Incentive Plan for Pacific Telephone Company, D-02.06006 (June 6, 2002).

meaningful opportunity to compete. However, the California performance incentive plan does not operate to provide meaningful penalties for substandard performance.

86. During proceedings before the CPUC, AT&T and other CLECs proposed a linear payment structure under which incentive payments would be scaled based upon, *inter alia*, the percentage of Pacific's performance failures. Thus, for example, under a linear approach, one percent of the payment cap would be paid for a one percent failure rate, two percent of the payment cap would be paid for a two percent failure rate and so forth. In stark contrast, Pacific "proposed [a] curvilinear relationship between payment amounts and performances."⁵⁶ Under Pacific's proposed payment structure, remedies payments did not uniformly increase in proportion to the percentage of performance failures.

87. In its *Incentives Decision*, the CPUC acknowledged that the scaling of remedy payments under the linear approach is "consistent with the FCC's view of incentive payment amounts." (*id.* at 43). Notwithstanding this concession, the CPUC adopted Pacific's proposed curvilinear payment method as the basis upon which to calculate remedy payments. The curvilinear payment structure under the PIP calls for the payment of *zero* to *one* percent of the cap for failure rates ranging from *zero* to *five* percent, and a payment rate of *one* to *four* percent of the cap for a failure rate equal to or greater than *five* percent, but less than *ten* percent.

88. In supporting its Decision, the CPUC stated that the curvilinear payment structure would mitigate the risk of a Type I error (*i.e.* erroneously declaring a lack of parity condition). However, there is nothing in the record that shows that this "mitigation" has any

⁵⁶ *Incentives Decision* at 44.

relation to the quantity of Type I error. Furthermore, that portion of the CPUC's Decision adopting a curvilinear payment structure to mitigate the risk of Type I error is squarely at odds with other parts of the Decision in which the CPUC expressly *rejected* the mitigation proposals advanced by Pacific.⁵⁷ In rejecting Pacific's mitigation proposals, the CPUC stated: there was insufficient evidence to support mitigation provisions designed to mitigate the risk of Type I error; such mitigation provisions could permit Pacific to game the process; and a mitigation plan which excuses substandard performance could "disadvantage[] the CLEC."⁵⁸ The CPUC also indicated that the critical alpha value in the plan "already built in considerable protection against random variation."⁵⁹

89. However, the curvilinear payment structure in the PIP suffers from the same infirmities that compelled the CPUC to reject Pacific's mitigation proposal in the first instance. Because the plan generates meager payments for performance failures that are less than ten percent, the plan operates to excuse substandard performance which necessarily harms CLECs. Moreover, the curvilinear payment structure which results in *de minimis* remedy payments provides no incentives to assure Pacific's compliance with performance standards. Additionally, the plan increases the risk that Pacific could game the process by targeting key performance measures for substandard performance – a potential that is exacerbated by the lack of provisions in the PIP to increase financial consequences for severe failures that could not have

⁵⁷ See, e.g., *Incentives Decision* at 38 ("declin[ing] to adopt a 'forgiveness' mitigation proposal at this time").

⁵⁸ *Id.* at 28. See, also *id.* at 33, Findings of Facts, 51, 53.

⁵⁹ *Id.* at 26, n. 44.

been due to random variation. Furthermore, because the curvilinear payment structure is ostensibly designed to mitigate the risk of Type I error, it ignores the risk of a Type II error (an erroneous finding of parity).

90. Further compounding these errors, the plan includes a special discount feature which permits Pacific to reduce further the paltry remedy payments generated under the plan. If Pacific's failure rate is four percent under Category A and other conditions are met, Pacific can deduct an additional \$60,000 from the total payment amount. *Id.*, App. J, ¶ 3.9.

91. Pacific first implemented the PIP commencing with its April 2002 performance results. However, as the CPUC acknowledged, "Pacific's 'failure rate' for individual CLEC results in Category A was 6.7 percent, and the plan generated bill credits totaling \$673,390.⁶⁰ These bill credits constitute 0.04% of Pacific's monthly net revenue from local exchange. Meager bill credits amounting to less than 1% of monthly net revenues for a 6.7 percent performance failure rate provide no incentive to Pacific to improve its performance and meet parity and benchmark standards. The monetary consequences of such performance failures are plainly dwarfed by the benefits that Pacific can enjoy by providing substandard service to its competitors. Moreover, the very structure of the plan renders it possible for Pacific to provide substandard performance with relative impunity.

CONCLUSION

92. Pacific's performance data and remedy plan provide no support for its claims that it has met its Section 271 obligations. Neither the PWC audit nor PWC's agreed-

⁶⁰ CPUC 2002 271 Decision at 236.

upon procedures engagements (that Pacific erroneously characterizes as audits) can legitimately be relied upon as proof of the accuracy of Pacific's data. PWC never conducted any verifiable testing of the accuracy of the data underlying Pacific's performance reports.

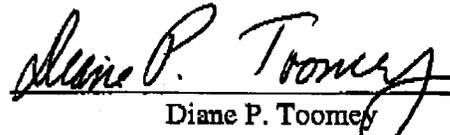
93. Similarly, the data reconciliation processes upon which Pacific relies lend no support to its claims that its current performance results are reliable. These data reconciliations are dated and far too limited in scope to serve as a reliable indicator of the integrity of Pacific's data. However, even the limited data reconciliations upon which Pacific relies revealed that Pacific's data are inaccurate.

94. Importantly, recent data reconciliations that AT&T conducted with SWBT in Texas confirm that SWBT has flouted the business rules governing the metrics and unilaterally created a disposition code which has been used to exclude substantial volumes of data from reported results. Standing alone, SWBT's conduct in Texas undermines the reliability of Pacific's performance data in California. To make matters worse, the disposition codes that Pacific is currently using in California are contrary to the business rules and confer upon Pacific unlimited discretionary authority to exclude any troubles it sees fit. Accordingly, there is no reasonable basis upon which a finding can be made that Pacific's data in its Application are accurate, reliable, and complete.

95. Furthermore, even Pacific's inadequate commercial results are littered with examples of performance failures in any number of areas, including failures on critical maintenance and repair measures. Finally, Pacific's performance incentive plan is structured in such a manner that it does not and cannot operate to provide meaningful penalties for poor performance. For all of these reasons, the Application should be denied.

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

Executed on October 10, 2002



Diane P. Toomey

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

Executed on October 9, 2002

Susan M. Walker

Susan M. Walker

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

Executed on October 9, 2002



Michael Kalb

ATTACHMENT 1

39. Measurement	
Mean time to restore	
Definition:	
Average duration of customer trouble reports from the receipt of the customer trouble report to the time the trouble report is cleared.	
Exclusions:	
<ul style="list-style-type: none"> • Excludes subsequent reports. A subsequent report is one that is received while an existing repair report is open. • Excludes disposition code "13" reports (excludable reports), with the exception of code 1316, unless the report is taken prior to the completion of the service order. 	
Business Rules:	
The clock starts on the date and time SWBT receives a trouble report. The clock stops on the date and time that SWBT personnel clear the repair activity and complete the trouble report in WFA.	
Levels of Disaggregation:	
<p>POTS</p> <ul style="list-style-type: none"> • Business class of service • Residence class of service • Dispatch • No Dispatch • Affecting Service • Out of Service (Diagnostic) <p>UNE Combination</p> <ul style="list-style-type: none"> • Dispatch • No Dispatch • Affecting Service • Out of Service (Diagnostic) 	
Calculation:	Report Structure:
$\Sigma[(\text{Date and time SWBT clears ticket with the CLEC}) - (\text{Date and time ticket received})] \div \text{Total customer trouble reports}$	Reported for POTS Resale trouble reports by CLEC, all CLECs and SWBT.
Measurement Type:	
Tier 1 – High Tier 2 – High	
Benchmark:	
<p>POTS – Parity with SWBT Retail.</p> <p>UNE Combination – Parity with SWBT Business and Residence combined.</p> <p>Out of Service for POTS and UNE Combo will be diagnostic. Damages and assessments will be applied in PM 40.</p>	

PERFORMANCE MEASUREMENTS

Appendix Two

Disposition Codes

The following is a list of Excluded (13) disposition codes.

- 1301 Request for directories
- 1302 Reports received as a result of dual service
- 1303 Request for information reverterive dialing codes – multi-party line
(no longer applicable)
- 1304 CVAS Disconnect or hang up
- 1305 Request for information provided by another department –
Business office, claims, etc.
- 1306 Request for SWBT to locate buried facilities
- 1307 Request to lower or raise wire
- 1308 Report on phone number which is properly disconnected, unassigned
or suspended with disconnect recording on line.
- 1309 Report on feature customer is not being billed for
- 1310 Request to verify busy condition of line
- 1311 Report of non-SWBT plant or facilities
- 1313 Reports due to incorrect network administration records
- 1314 Request that SWBT ground be connected to electric company ground
- 1316 Report on service order activity prior to midnight of completion date
- 1317 Report on incorrect number; Regenerate report on correct number
- 1320 Request from Business Office
- 1321 Customer unable to reach business office
- 1322 Request from vendor for testing
- 1323 Changes in network structure (i.e. 10 digit dialing)
- 1324 Miscellaneous (Commendations, callback request for information only)
- 1335 Customer request service guarantee (tech gave credit)
- 1336 Customer request service guarantee (tech did not give credit)
- 1380 CNA Report Cancel by customer

ATTACHMENT 2

3.14 DISPOSITION CODE 13 - INTER-EXCHANGE
CARRIER/INDEPENDENT COMPANY/LOCAL EXCHANGE
CARRIER/COMPETITIVE LOCAL EXCHANGE CARRIER**

APPLIES WHEN THE CAUSE FOR THE TROUBLE IS NOT IN THE PACIFIC BELL REGULATED PORTION OF A CIRCUIT PURCHASED FROM ONE OF THE ACCESS TARIFFS OR A CIRCUIT THAT ENTERS A LOCAL EXCHANGE CARRIER TERRITORY.

- | | | |
|-------------|---------------------------------|---|
| 131* | INTER-EXCH. CARRIER | ANY INTER-EXCHANGE CARRIER (IEC), END USER, RESELLER OR AGENT ACTING ON ITS BEHALF, THAT PURCHASES A CIRCUIT OFFERED IN THE PACIFIC BELL CPUC 175T OR FCC 128 ACCESS TARIFFS. THE CIRCUIT EITHER CONNECTS DIRECTLY TO AN INTER-LATA FACILITY OR SWITCHES OR MULTIPLEXES TO CIRCUIT THAT LEAVES THE LATA. |
| 1311 | CSB/ICMC FECO | A CSB or ICMC FECO on a trouble determined to be in the equipment, facility or network of a company other than Pacific Bell. |
| 1312 | INTEREXCHANGE CARRIER TROUBLE | Applies to those troubles suspected or determined to be in the IEC's network or facility. |
| 1313 | RESELLER (NOT A BILLING CODE) | Applies to those troubles suspected or determined to be in the Reseller's network or equipment. |
| 1314 | CLEC END USER RESALE (Billable) | Applies to those troubles where the CLEC requests a dispatch on a TOK. There is no trouble found on the P*B network. Per visit charges apply. |
| 1315 | AGENT | Applies to those troubles suspected or determined to be in the access customer's network or facility. |
| 1316 | INDEPENDENT COMPANY/LEC | Applies on trouble reports where the defect is found to be in the Independent Company/LEC. |
| 1317 | PIC SELECTION | Applies when the trouble is found to be caused by the access customer's failure to provide the correct PIC coding. |
| 1318 | IEC/VENDOR | Applies on trouble reports where customer is referred to Interexchange Carrier (ATT, MCI, Sprint, ETC.). |
| 1319 | CLEC END USER RESALE (Billable) | Applies on trouble reports where the CLEC requests a DPO on a TOK and the end user refuses access on the TOK. Per visit charges apply. |
| 1310 | ISOLATED/CLEAR ED | Applies on trouble reports where the defect is isolated to the access service facilities but clears before found. |
| 132* | ACCESS/LEC CUSTOMER REQ | REQUESTS MADE BY THE ACCESS/LEC CUSTOMER THAT MAY OR MAY NOT INVOLVE ADDITIONAL LABOR BILLING. |
| 1322 | CLASS "A" | Applies when the access/LEC customer requests a Class "A" (a physical inspection of all cross connects and equipment) on the access circuit. |

- 1324 DISPATCH (NO P*B TROUBLE FOUND) Applies when the access/LEC customer requests a dispatch. The repair person does not find a trouble on the access/LEC customer's circuit. (No Pacific Bell trouble found.)
- 1326 MAKE BUSY/RELEASE MAKE BUSY Applies when the access/LEC customer requests Pacific Bell to busy out/release the access circuit(s).
- 1327 PLUG-OFF BRIDGE/MJU Applies when the access/LEC customer requests to physically or electronically isolate (or "plug-off") a leg(s) from the bridge/MJU.
- 1328 PATCHING Applies when the access/LEC customer requests the circuit to be patched off its regular facility and onto another facility.
- 1329 TEST ASSIST/NO CUSTOMER TEST RESULTS & TOK Applies when the access/LEC customer requests Pacific Bell to assist in the sectionalization of a trouble condition or the identification of a specific impairment. (Used when customer does not provide test results and no trouble is found on the Pacific Bell Network.)
- 1320 VENDOR MEET Applies when the access/LEC customer requests a premises meeting with Pacific Bell personnel to resolve an access/LEC service problem.
- 133* MISC. **VARIOUS TYPES OF TROUBLE INDICATIONS, MAY OR MAY NOT BE REPORTED BY THE SPECIAL ACCESS CUSTOMER.**
- 1331 NON-SECTIONALIZED REPORTS Applies when the special access customer reports trouble and the trouble has not been sectionalized to the access circuit.
- 1332 PATRON DIRECT REPORTS Applies when the special access customer's customer (patron) reports trouble directly to Pacific Bell.
- 1333 NO AC POWER, SUSPECT CPE, CPE PBX, PATRON CAUSED Applies on trouble reports where the defect is found or determined to be no AC power, suspect CPE, CPE PBX or patron caused at the Access customer's customer (patron) location.
- 1334 PATRON ERROR/MISUSE Applies on trouble reports where patron error or misuse of their equipment (non-Telco provided) causes a problem in the Pacific Bell network and affects the service for them or others.
- 134* ICO/ LOCAL EXCH. CARRIERS **APPLIES ON TROUBLE REPORTS WHERE THE DEFECT IS FOUND OR ISOLATED TO AN ICO/LOCAL EXCHANGE CARRIER SERVING AREA OR OFFICE.**
- 1341 ICO/LEC NO REBATE Applies on trouble reports where the defect is found or isolated to an ICO/Local Exchange Carrier and Pacific Bell does not process a rebate or bill a maintenance of service charge for the ICO/LEC.
- 1342 ICO/LEC REBATE Applies on trouble reports where the defect is found or isolated to an ICO/Local Exchange Carrier and Pacific Bell processes a rebate to the ICO/LEC.
- 1343 ICO/LEC MSC Applies on trouble reports where the defect is found or isolated to an ICO/Local Exchange Carrier and Pacific Bell bills a maintenance of service charge.
- 135* **COMPETITIVE LOCAL EXCHANGE CARRIER (CLEC) APPLIES ON TROUBLE REPORTS IN THE UNBUNDLED LOOP (LINK) WHERE THE COMPETITIVE LOCAL EXCHANGE CARRIER (CLEC) REQUESTS A DISPATCH, IN OR OUT, AND THERE IS NO TROUBLE FOUND AT THE P*B NETWORK.**
- 1352 NO PACIFIC BELL TROUBLE FOUND-DISPATCH-OUT Applies on trouble reports where the CLEC customer requests a dispatch-out and there is no trouble found on the Pacific Bell Network. This applies whether or not there is trouble in the CLEC Network, CPE or inside wire. Per visit billing applies
- 1353 NO ACCESS-DISP-OUT Applies on trouble reports where a dispatch is made and upon arrival at the agreed upon time the customer is either unavailable or denies us access. Per visit billing applies.
- 1354 P*B END USER REQUEST DISP-IN, NO P*B TRO Applies on trouble reports where a P*B end user requests a dispatch-in and there is no trouble found in the Pacific Bell Network. This applies whether or not there is trouble in the CLEC Network.

- FOUND
- 1355 NO PACIFIC BELL TROUBLE FOUND Applies on trouble reports where the CLEC requests cooperative test with PB or NB Tech and no trouble was found on Pacific Bell or Nevada Bell Network.
- 1356 CLEC REQUEST LINE CONDITIONED YELLOW ZONE DSL Applies on trouble reports where CLEC request line conditioning (removal of load coils, excessive bridge tap, and/or repeaters) after ordering yellow zone (YZP) DSL loops using the PSD ordering process. **The "non-conditioning required" DSL service order must be complete. Billing applies on a per element conditioned basis.
- 1357 NO P*B or N*B Trouble Found-Dispatch IN Applies on **Fault Isolation (MLT Shoe) Tests where trouble is isolated to/or no trouble found in the CLEC co-located office equipment on 8db or 5.5db UNE Loop products, and no trouble in Pacific Bell / Nevada Bell network. Billing Applies according to tariff 175 (California) and tariff 1 (Nevada) when appropriate.**
- 1350 VIRTUAL COLLOCATION DISPATCH IN Applies on trouble reports when the CLEC requests a test to be performed, equipment to be changed, added or removed and all work is performed at the CLEC Virtual Collocation equipment.
- 136* PACIFIC BELL SERVICES **APPLIES ON TROUBLE REPORTS FOR PACIFIC BELL SERVICES WHERE TROUBLE IS DETECTED IN THE NON-PACIFIC BELL NETWORK**
- 1361 OUT OF TERRITORY RESALE Applies on trouble reports for Pacific Bell Services where defect is found to be in the resale provider's equipment
- 1362 PACIFIC BELL SERVICES Applies on trouble reports for Pacific Bell Services where defect is caused by ILEC in ILEC Central Office
- 1363 PACIFIC BELL SERVICES Applies on trouble reports for Pacific Bell Services where defect is ILEC caused by ILEC outside plant
- 1364 PACIFIC BELL SERVICES Applies on trouble reports for Pacific Bell Services where defect is ILEC caused by ILEC LNP trouble
- 1365 PACIFIC BELL SERVICES Applies on trouble reports for Pacific Bell Services where defect is caused when the Service Order due date missed by ILEC
- 137* DATA SERVICE PROVIDER **APPLIES ON TROUBLE REPORTS FOR SERVICES PROVIDED BY PACIFIC BELL WHERE TROUBLE IS DETECTED IN THE NON-PACIFIC BELL NETWORK**
- 1374 REFER TO DATA SERVICE PROVIDER Applies on trouble reports where Pacific Bell End User is referred to their Data Service Provider
- 138*/9 * WHOLESALE INSIDE WIRE (WIW) Applies on trouble reports where the defect is found to be in non-regulated inside wire on a resold access line. (All work is done on the End User's side of the protector or demarcation point.) **CAUTION: The End User is NOT your customer - the CLEC is your customer. No statement of labor charges should be used on an Inside Wire job on a re-sold access line.**
- 1382 PER VISIT NTF WIW (Billable) Applies on trouble reports where there is trouble found on the End User's CPE, Wiring or Jacks.
- 1383 NAS WIW Per Month 24 HR Close Applies on trouble reports where there is No Access and the trouble cannot be isolated to the End User's CPE, Wiring or Jacks and the line is covered by the Wholesale IW Per Month Repair Plan.
- 1385 NAS WIW Per Visit (Billable) Applies on trouble reports when there is No Access and the trouble is isolated to the End User's CPE.
- 1386 WIW S/O Work Required Monthly Applies on trouble reports when it has been determined that Service Order work is required. The End User has to be referred back to their CLEC for Authorization to install additional Wiring or Jacks.
- 1387 WIW S/O Work Required Per Visit (Billable) Applies on trouble reports when it has been determined that Service Order work is required. The End User has to be referred back to their CLEC for Authorization to install additional Wiring or Jacks.

- 1391 Per Month WIW Applies on trouble reports where the defect is found in the inside wire on the End User's side of the protector/demarc.
- 1392 Per Month WIW CPE Applies on trouble reports where the defect is found to be in the End User's CPE.
- 1393 Per Month WIW CPE And IW/Jacks Applies on trouble reports where the defect is found to be in the End User's CPE and in their IW or Jacks.
- 1394 Per Visit WIW (*Billable*) Applies on trouble reports where the defect is found in the inside wire on the End User's side of the protector/demarc.
- 1395 Per Visit WIW CPE (*Billable*) Applies on trouble reports where the defect is found to be in the End User's CPE.
- 1396 Per Visit WIW CPE And IW/Jacks (*Billable*) Applies on trouble reports where the defect is found to be in the End User's CPE and in their IW or Jacks.
- 1397 Per Visit WIW Jacks (*Billable*) Applies on trouble reports where the defect is found to be in the End User's Jacks.
- 1398 WIW Warranty Work Applies on trouble reports where the trouble was found to be in the End User's Inside Wire and the repair is under warranty. (90 days)