

any technically feasible point within Nevada Bell's network.'" Staff and BCP witnesses also confirmed that the quality of interconnection provided by Nevada Bell to competitive providers is at least equal to that Nevada Bell provides to itself, its affiliates and any other carrier.'" Staff likewise concluded that the rates, terms and conditions offered by Nevada Bell are just, reasonable and nondiscriminatory.¹³⁸ Moreover, no competitive provider seriously challenged Nevada Bell's showing of compliance with Checklist Item 1. The evidence, in short, establishes that Nevada Bell satisfies the requirements of Checklist Item 1.

2. Standard

121. Section 271(c)(2)(B)(i) of the Act obligates Nevada Bell to provide "[i]nterconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1)."¹³⁹ Section 251(c)(2), in turn, obligates Nevada Bell "to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network for the transmission and routing of telephone exchange service and exchange access."¹⁴⁰ To demonstrate compliance with Section 251(c)(2), Nevada Bell must show that it satisfies three requirements for the provision of interconnection. First, Nevada Bell must demonstrate that it provides interconnection "at any technically feasible point within the [Company's] network."¹⁴¹ Second, Nevada Bell must establish that the interconnection service it provides to CLECs is "at

¹³⁶ See Exhibit 153, Phase II-B Supplemental Direct Testimony of Yasuji Otsuka ("Otsuka Phase II-B Supplemental Direct") at 15, lines 8 - 25; see also Exhibit 19, Joint Direct Testimony of Michael J. Friduss and Charles A. Hempfling at 21, lines 17- 20 ("Friduss/Hempfling Direct").

¹³⁷ See Exhibit 153, Phase II-B Otsuka Supplemental Direct at 3, line 27 - 4, line 15 (relying on Nevada Bell and Pacific Bell performance measurement results); see also Exhibit 19, Friduss/Hempfling Direct at 22, lines 9 - 23 (noting that, as of July 2000, Nevada Bell had provisioned 4 one-way trunks from Nevada Bell to CLECs and 7,006 two-way trunks using the "same equipment, interfaces and technical criteria and service standards Nevada Bell uses for its own trunks, but stating that a final determination of "nondiscrimination requires and analysis of performance measures. . ." in Phase II).

¹³⁸ See Exhibit 152, Phase II-B Direct Testimony of Yasuji Otsuka at 12, line 17 - 25 (stating that collocation rates are reasonable) & 13, line 26 - 14, line 10 (stating Nevada Bell provides interconnection at TELRIC rates) ("Otsuka Phase II-B Direct"); see also Otsuka Phase II-B Supplemental Direct at 3, lines 7 - 9 (stating that Nevada Bell provides interconnection to CLECs in a nondiscriminatory manner)

¹³⁹ 47 U.S.C.A. § 271(c)(2)(B)(i); see Bell Atlantic New York Order ¶ 63; Second Bell/South Louisiana Order, ¶ 61; Ameritech Michigan Order ¶ 222.

¹⁴⁰ 47 U.S.C.A. § 251(c)(2)(A).

¹⁴¹ 47 U.S.C.A. § 251(c)(2)(B). In the Local Competition First Report and Order, the Commission identified a minimum set of technically feasible points of interconnection. See First Report and Order, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, FCC 96-325, CC Docket No. 96-98, ¶¶ 204-211 (rel. Aug. 8, 1996) ("Local Competition First Report and Order" or "Local Competition Order").

least equal in quality to that provided by [Nevada Bell] to itself.”¹⁴² Third, Nevada Bell must demonstrate that it provides interconnection “at rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms of the agreement and the requirements of [section 251] and section 252.”¹⁴³

3. Analysis

a. Nevada Bell provides interconnection trunking for CLECs that is at least equal in quality to the services it provides to itself, and at rates, terms and conditions that are just and reasonable

(1) CLECS can interconnect at any technically feasible point within the Company's network

122. Competing carriers may choose any technically feasible method and interconnection at a particular point on the incumbent LEC’s network.¹⁴⁴ Technically feasible methods of interconnection include, but are not limited to, physical and virtual collocation and meet point arrangements.¹⁴⁵ New entrants may select a single point at which to exchange traffic with the ILEC and cannot be required to transport traffic to less convenient or efficient interconnection points.¹⁴⁶ However, because competing carriers usually must compensate an ILEC for any additional cost incurred by providing interconnection, competitors have an incentive to make economically efficient decisions about where to connect.¹⁴⁷

123. Based upon the record, Nevada Bell offers four methods of interconnection in accord with this aspect of compliance with Checklist Item 1.¹⁴⁸ These methods include: (i) fiber meet method (“Fiber Meet”); (ii) physical collocation method of interconnection; (iii) virtual

¹⁴² 47 U.S.C.A. § 251(c)(2)(C).

¹⁴³ Id. § 251(c)(2)(D).

¹⁴⁴ Local Competition Order ¶¶ 549-50

¹⁴⁵ 47 C.F.R. § 51.321(b); Local Competition Order ¶¶ 549-50.

¹⁴⁶ Id.

¹⁴⁷ Local Competition Order ¶ 209.

¹⁴⁸ See Exhibit 70, Rebuttal Testimony of William C. Deere at 6 (“In fact, as described in paragraphs 11 through 29 of my draft affidavit, the CLEC may choose from five methods of interconnection.”) (“Deere Rebuttal Testimony”); see also Exhibit 5, Direct Testimony of William C. Deere and Draft Affidavit ¶¶ 11–13 (“Deere Direct”).

¹⁴⁹ CLECs can use the Fiber Meet method at any mutually agreeable, economically and technically feasible point between the CLECs’ premises and Nevada Bell’s tandem or end office. See Exhibit 5, Deere Direct Testimony ¶ 14; see also Exhibit 4 Direct Testimony of Curtis L. Hopfinger and Draft Affidavit at CLH Attachment

collocation method of interconnection; and, (iv) leasing of Nevada Bell facilities.¹⁵⁰ In addition, Nevada Bell and a CLEC can agree to use any other technically feasible method of interconnection, through the bona fide request process (“BFR process”).¹⁵¹ Each of the fiber meet designs is available at the trunk side of the local switch, the trunk connection points of a tandem switch, central office cross-connect points, out-of-band signaling transfer points, and points of access to unbundled network elements.¹⁵² Nevada Bell does not mandate the point of interconnection; rather, CLECs can interconnect at “any or all of these points.””

124. Nevada Bell has shown that it allows CLECs to interconnect at a single (or, if they choose, more than one) technically feasible point of interconnection and, therefore, complies with this element of Checklist Item 1.¹⁵⁴ Staffs testimony corroborates these facts.¹⁵⁵

(2) CLECs receive interconnection that meets the equal in quality requirement

125. To implement the equal-in-quality requirement in section 251, an ILEC must design and operate its interconnection facilities to meet “the same technical criteria and service standards” that are used for the interoffice trunks within the incumbent LEC’s network.” Trunk group blockage and transmission performance measurement standards are probative of the applicant’s technical criteria and service standards.¹⁵⁷ Trunk blockage data consequently provides reliable evidence that a 271 applicant meets the “equal-in-quality” requirement of Checklist Item 1.¹⁵⁸

A320 (CIA Appendix NIM, ¶ 3.4) (“Hopfinger Direct”). If a CLEC interconnects with Nevada Bell using the Fiber Meet method, the parties will jointly engineer and operate a single SONET transmission system. Exhibit 5, Deere Direct at ¶ 15; see also Exhibit 4 Hopfinger Direct at CLH Attachment A320 (CIA Appendix NIM ¶ 3.4.4).

¹⁵⁰ Id.

¹⁵¹ See Exhibit 70 Deere Rebuttal at 6; see also Exhibit 4 Hopfinger Direct at CLH Attachment A (CIA Appendix NIM ¶ 3.5.1); see also Exhibit 5, Deere Direct at ¶ 13.

¹⁵² Exhibit 5, Deere Direct at ¶ 21. Nevada Bell has not yet received a request from a competitive provider to interconnect at the line-side of the local switch. However, Nevada Bell will provide interconnection to a competitive LEC at that point upon request. Exhibit 5, Deere Direct at 22.

¹⁵³ Id.

¹⁵⁴ See SBC Texas Order ¶ 76.

¹⁵⁵ See Exhibit 152, Otsuka Phase 11-B Direct at 13.

¹⁵⁶ Local Competition Order ¶¶ 221-225; Appendix F ¶ 18.

¹⁵⁷ Id. ¶¶ 224-25; Appendix F ¶ 18.

¹⁵⁸ See Ameritech Michigan Order ¶¶ 240-45. Trunk group blockage indicates that end users are experiencing difficulty completing or receiving calls, which may have a direct impact on the customer’s perception of a competitive LEC’s service quality.

126. Nevada Bell designs and operates its interconnection facilities to meet "the same technical criteria and service standards" that are used for the interoffice trunks within its network. To ensure that CLECs receive interconnection that is at least equal in quality to that which Nevada Bell provides to itself, Nevada Bell uses "the same facilities, interfaces technical criteria, and service levels that Nevada Bell provides to its own retail operations." Moreover, "All trunk forecasting and servicing for the local and intraLATA trunk groups is based upon the same industry standard objectives that Nevada Bell uses for its own trunk groups." This evidence demonstrates that Nevada Bell meets this aspect of Checklist Item 1.

127. The quantitative data buttresses that showing. Performance Measurement 24 data, which reflect the percent of blocking on common trunks, establishes that Nevada Bell designs and operates interconnection facilities to meet the same technical criteria and service standards that Nevada Bell uses for the interoffice trunks within its network.¹⁶¹ The Commission, therefore, believes the FCC will find that Nevada Bell meets the equal-in-quality requirement of Section 251

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¹⁵⁹ Exhibit 5, Deere Direct ¶ 33; see also id. ¶ 30 ("The access Nevada Bell provides to points of interconnection is equal in quality as defined by 41 C.F.R. § 51.321, to what Nevada Bell provides to itself, except where requested otherwise. Such access meets the same technical criteria and standards used in Nevada Bell's network for comparable arrangements.").

¹⁶⁰ Id. ¶ 41. Paragraphs 41 through 59 of Mr. Deere's draft affidavit explain in detail the trunk forecasting and servicing standards that Nevada Bell follows.

¹⁶¹ For the months of April through August, 2001, Nevada Bell reported no blocking on common interoffice trunks. Exhibit 144, Supplemental Rebuttal Testimony of Gwen S. Joluison, GSJ Attachment K, PM 24 ("Johnson Supplemental Rebuttal"). PM 25 reports blockage on dedicated interconnection trunk groups that carry traffic from the Nevada Bell end-office or tandem to a CLEC switch. See Exhibit 140, Gleason/Johnson Direct at TCG/GSJ Attachment A-162. Nevada Bell has no data under PM 25. While Dr. Otsuka draws a negative inference from the fact that Nevada Bell only had four one-way interconnection trunk groups in service as of May 2000, he fails to consider the nature of the service at issue – one-way trunking – and the size of Nevada Bell's local exchange market. Indeed, as of August, 2001, there were only 63 one-way interconnection trunk groups in service in Pacific Bell's service territory. See Exhibit 144, Johnson Supplemental Rebuttal, GSJ Attachment L, PM 25, Sub-measure 2500700. This type of interconnection arrangement – one-way trunking -- needs to be established only "[w]here the actual or projected traffic demand between a CLEC switch and a Nevada Bell End Office [or tandem] equals or exceeds 24 trunks . . ." See Exhibit 5, Deere Direct ¶ 37. CLECs, moreover, prefer more economically efficient two-way trunking arrangements. See SBC Texas Order, 69 n. 143 ("This is significant because where a competitive LEC does not carry a sufficient amount of traffic to justify separate one-way trunks, an incumbent LEC must accommodate two-way trunking upon request wherever technically feasible. Refusing to provide two-way trunking would raise costs for new entrants and create a barrier to entry.").

(3) Nevada Bell's interconnection rates, terms and conditions are just, reasonable, and nondiscriminatory

128. The requirement to provide interconnection on terms and conditions that are "just, reasonable, and nondiscriminatory" means that Nevada Bell must provide interconnection to CLECs "in a manner no less efficient than the way in which the [Company] provides the comparable function to its own retail operations."¹⁶² Performance measurement results that report the installation time for interconnection service¹⁶³ and the provisioning of two-way trunking arrangements,¹⁶⁴ provide relevant evidence under this aspect of the Checklist Item 1.¹⁶⁵ Repair time for troubles affecting interconnection trunks is useful for determining whether a 271 applicant provides interconnection service under "terms and conditions that are no less favorable than the terms and conditions" the applicant provides to its own retail operations."¹⁶⁶

129. Nevada Bell provides interconnection services to CLECs using "the same facilities, interfaces, technical criteria, and service levels" that it uses to provide service to its own retail customers, which ensures that interconnection services are available to CLECs "under nondiscriminatory and reasonable terms and conditions and at the same level of quality that [it] provides comparable to itself and its affiliates."¹⁶⁷ Performance measurement data corroborate this point. Between May and August of 2001, Nevada Bell did not miss a single due date when provisioning interconnection services for CLECs.¹⁶⁸ The Regional OSS California specific data provide additional evidence that Nevada Bell complies with Checklist Item 1. The data indicate that the Regional OSS consistently provides above parity interconnection service to CLECs,

¹⁶² Local Competition Order at ¶ 218; Appendix F ¶ 19

¹⁶³ 47 C.F.R. § 51.305(a)(5).

¹⁶⁴ The FCC's rules require an incumbent LEC to provide two-way trunking upon request, wherever two-way trunking arrangements are technically feasible. 47 C.F.R. § 51.305(f).

¹⁶⁵ See generally Appendix F 119

¹⁶⁶ 47 C.F.R. § 51.305(a)(5); Appendix F ¶ 19.

¹⁶⁷ Exhibit 5, Deere Direct ¶ 33.

¹⁶⁸ Exhibit 144, Johnson Supplemental Rebuttal, GSJ Attachment K, PM 11, submeasure 1105900.

missing substantially fewer due dates,¹⁶⁹ and repairing troubles more quickly for CLECs than retail operations.¹⁷⁰

130. After reviewing all of the relevant data, Staff concluded that Nevada Bell meets the requirements of Checklist Item 1. Between August and September 2000, Staff performed a “nondiscrimination analysis on more recent and an expanded data set, including Pacific Bell’s performance data.” Staff’s analysis “confirmed “Nevada Bell provides interconnection to CLECs in a nondiscriminatory manner.”¹⁷² The CPUC’s decision of September 19, 2002, further buttresses Staff’s analysis. In that order, the CPUC found,

[T]hat Pacific provides trunking consistent with the requirements of §§ 251(c)(2) and 252(d)(1); that is, at any technically feasible point, at least equal in quality to that provided to itself, and at reasonable nondiscriminatory rates. In sum, we conclude that Pacific has satisfied the requirements of Checklist Item 1. and we so verify.¹⁷³

Because the operation support systems that CLECs operating in Nevada and California utilize are the same,¹⁷⁴ the CPUC’s conclusion is relevant to this Commission’s compliance assessment. The weight of the evidence - Nevada Bell’s testimony, Nevada Bell’s performance data, the Regional OSS California specific data, Staff’s testimony, and the CPUC’s decision – establish that Nevada Bell complies with Checklist Item 1

(4) Issues raised by Staff, BCP and Competitive Providers

131. As explained above, Staff verified that Nevada Bell complies with Checklist Item 1. One competitive provider, WorldCom, claims that Nevada Bell “does not let CLECs choose the [point of interconnection].”¹⁷⁵ WorldCom, based upon that assertion, argues that

¹⁶⁹ Exhibit 144, Johnson Supplemental Rebuttal, GSJ Attachment L, PM 11, submeasure 1105990 (Bay Region), PM 11, submeasure 111800 (North Region), PM 11, submeasure 117700 (LA Region) and PM 11, submeasure 1123600 (South Region).

¹⁷⁰ See Exhibit 144, Johnson Supplemental Rebuttal, GSJ Attachment L, PM 21, submeasure 2197500 (statewide-average time to restore)

¹⁷¹ See Exhibit 153 Otsuka Supplemental Phase II-B at 2.

¹⁷² Id. at 3.

¹⁷³ California Order at 31

¹⁷⁴ See Section III(C) *supra*.

¹⁷⁵ Exhibit 14, Munoz Direct at 10, line 19. 4 point of interconnection or interface is the location where two carriers exchange traffic.

Nevada Bell does not meet the requirements of Checklist Item 1.¹⁷⁶ WorldCom's argument fails because the foundation upon which it is built is not supported.

132. WorldCom's argument focuses upon only one form of interconnection. By focusing on one form of interconnection, WorldCom ignores not only the other forms of interconnection, but also provisions of the Generic Interconnection Agreement ("GIA") that demonstrate Nevada Bell allows competitive providers to designate the POI. The GIA offers competitive providers with several interconnection options.¹⁷⁷ These options, including importantly, the BFR process, and when considered together (as they must be), provide CLECs with "the option of determining the most efficient and convenient interconnection point" subject only to "technical feasibility."¹⁷⁸ The provisions of the GIA, which have been approved by the Commission,¹⁷⁹ demonstrate that Nevada Bell allows CLECs to designate a single, efficient point of interconnection.¹⁸⁰

133. Additionally, WorldCom argues that Nevada Bell's interconnection policies also require CLECs to transport traffic to inefficient or less convenient points of interconnection.¹⁸¹ This argument also is unsupported.

134. Paragraph 2.8 of the Network Interconnection Methods Appendix ("NIM") simply states the obvious and exclusive method for Nevada Bell and a CLEC to exchange traffic where the CLEC chooses to interconnect with the Company through physical collocation in a Nevada Bell end office. When a CLEC chooses to interconnect through physical collocation at a Nevada Bell end office, Nevada Bell and the CLEC must establish a path (or trunk) to the CLEC's collocation space to exchange traffic. However, "a CLEC does not need to collocate to

¹⁷⁶ See *id.* at 9.

¹⁷⁷ See Exhibit 69, *Hopfinger Rebuttal* at 15.

¹⁷⁸ *Id.* at 15

¹⁷⁹ See *id.* at 4-7 & 8

¹⁸⁰ See *U.S. West Communications, Inc. v. Jennings*, 46 F. Supp 2d 1004, 1022 (D. Ariz. 1999) (upholding interconnection agreement similar to the GIA, which agreement permitted a "single point of interconnection (at the tandem switch) per [LATA]"); Exhibit 69, *Hopfinger Rebuttal* at 15; Exhibit 70, *Decre Rebuttal* at 6 (discussing methods of interconnection and explaining CLEC may choose to interconnect where it wishes subject only to technical feasibility).

¹⁸¹ Exhibit 14, *Munoz Direct* at 11

obtain interconnection.””“ CLECs can interconnect with Nevada Bell through the meet-point method or any other technically feasible means.¹⁸³ Even if a competitive provider has collocated telecommunications equipment in Nevada Bell’s facilities, the “CLEC is not limited to interconnection solely through collocation.”¹⁸⁴ A CLEC that has collocated equipment in a Nevada Bell central office could also “interconnect through a fiber meet” arrangement.¹⁸⁵

135. WorldCom’s arguments fail to make the distinction between collocating for the purpose of obtaining access to UNEs and exchanging traffic (interconnection). As Mr. Deere explained.

But again, even here, don’t confuse interconnection with transport. Interconnection says this is where we interconnect our two networks. You interconnect out here in the middle of a fiber meet. That doesn’t deal with how you then transport traffic to individual offices. They are two separate things.

So it might be that you say, yes, we will do a mid span meet for interconnection, and then I’ll bring all this traffic to the tandem. But I may have enough traffic going to a specific end office, specific, not Pacific, specific end office that would make it economically reasonable, not only economic[ally] reasonable but preferable to then run direct end office trunks to that office. And in doing so, you might want to terminate them and probably would want to terminate them in a collocation space you had there.”“

Section ¶ 2.8 of the GIA does not, as WorldCom suggests, require CLECs to use collocation space for direct trunking purposes. However, if a CLEC chooses to establish its point of interconnection at its collocation cage, the CLEC must establish a trunking arrangement to transport traffic

136. Perhaps most important with respect to WorldCom’s claims on this subject is the fact that beyond the theoretical, this CLEC, a facilities-based provider actually competing in

¹⁸² See Exhibit 69, Hopfinger Rebuttal at 15.

¹⁸³ See Exhibit 4, Hopfinger Direct at CLH Attachment A314-A326 (GIA, Appendix N1M); see also Exhibit 69, Hopfinger Rebuttal at 15-16.

¹⁸⁴ See Exhibit 69, Hopfinger Rebuttal at 16.

¹⁸⁵ See Id.

¹⁸⁶ See Transcript of Proceeding, Vol. 7 at 911-12.

Nevada Bell's service territory, failed to identify any actual impediments to its interconnection with Nevada Bell's network.¹⁸⁷

b. Nevada Bell's collocation offerings satisfy the requirements of the Act

(1) Overview

137. Nevada Bell complies with the collocation requirements of Checklist Item 1. The Commission has reviewed and approved the terms, conditions and rates in the Nevada Bell Collocation Tariff (the "Collocation Tariff"), which includes provisions for caged, cageless, shared caged and adjacent structure on-site and off-site collocation,¹⁸⁸ space availability; types of equipment that may be collocated; and provisions for obtaining other collocation arrangements that have been demonstrated to be technically feasible. At the time the Petition **was** filed, the Collocation Tariff was pending approval of the Commission.¹⁸⁹ Even though that tariff had not been approved, Nevada Bell offered CLECs the option of obtaining collocation under the terms, conditions and rates contained therein."''

138. In addition, at the time the Petition was filed, Nevada Bell offered to make collocation available to a CLEC by negotiating the terms and conditions entirely within an interconnection agreement, or by opting into an existing interconnection agreement.¹⁹¹ In that regard, Nevada Bell also explained that because it had entered into binding interconnection agreements with CLECs, which included provisions for caged, cageless, shared caged and adjacent structure collocation, Nevada Bell's collocation terms, conditions, and rates were legally binding and could not be changed without review by the Commission or the FCC.¹⁹²

139. The Commission has subsequently completed its review and approval of the terms and conditions contained in the Collocation Tariff, as well, it has adopted a full suite of TELRIC

¹⁸⁷ See generally Exhibit 14, Munoz Direct; Exhibit 145 Munoz Phase II-B Direct.

¹⁸⁸ See Section II(B)(4) supra, for a discussion of the proceedings in which the Commission conducted its review and approval of the terms, conditions and rates in the Nevada Bell Collocation Tariff (P.U.C.N. Tariff C19-A, §§ 19.1 through 19.42).

¹⁸⁹ See Exhibit 4, Hopfinger Direct ¶ 26.

¹⁹⁰ See Id.

¹⁹¹ See id., Hopfinger Direct ¶ 27-28.

¹⁹² See id., Hopfinger Direct ¶¶ 27-28.

rate elements that have been incorporated into the Collocation Tariff.¹⁹³ The terms, conditions and rates in the Collocation Tariff, moreover, mirror in many respects the Missouri collocation tariff,¹⁹⁴ which the FCC found to be in compliance with Checklist Item 1.¹⁹⁵ Like the Missouri tariff, the Collocation Tariff implements the requirements contained in the Advanced Services First Report and Order and the Advanced Services Reconsideration Order.

(2) Standard

140. Section 271(c)(2)(B)(i) of the Act requires the BOC to provide equal-in-quality interconnection on terms and conditions that are just, reasonable and nondiscriminatory in accordance with the requirements of section 251 and 252.¹⁹⁶ Section 251(c)(6) requires ILECs to "provide, at rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carriers, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations."

141. In the Local Competition Order, the FCC adopted specific rules to implement the collocation requirements of Section 251(c)(6).¹⁹⁸ In the Advanced Services Order, the FCC adopted additional rules, which among other things, required that ILECs make available additional forms of physical collocation known as shared and cageless collocation

¹⁹³ See Section II(B)(4) supra, for a discussion of the proceedings in which the Commission conducted its review and approval of the terms, conditions and rates in the Nevada Bell Collocation Tariff (P.U.C.N. Tariff C19-A, §§ 19.1 through 19.42).

¹⁹⁴ Compare, e.g., P.U.C.N. Tariff C19-A, § 19.0.1 with SWBT Missouri Collocation Tariff § 6.1 (describing the forms of collocation offered).

¹⁹⁵ See Memorandum Opinion and Order, Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Arkansas and Missouri, CC Docket No. 01-194 (rel. Nov. 16, 2001), ¶ 92.

¹⁹⁶ See SBC Texas Orders, 61

¹⁹⁷ 47 U.S.C. § 251(c)(6)

¹⁹⁸ 47 C.F.R. §§ 51.321, 51.323; see Local Competition Order ¶¶ 555-617. These rules were upheld by the Eighth Circuit in Iowa Utilities Board v. FCC, 120 F.3d 753, 818 (8th Cir. 1997), affirmed in part and reversed in part sub nom Iowa Util. Bd. 119 S.Ct. 721

arrangements.¹⁹⁹ In addition, these new rules require that ILECs make adjacent collocation arrangements available when space is legitimately exhausted in a particular ILEC premises.²⁰⁰

132. The Advanced Services Reconsideration Order established additional collocation rules in a few select areas, including the requirement that, in the event of a collocation denial on the grounds a CLEC's equipment does not meet safety standards, the ILEC must provide a list of equipment the ILEC locates at a particular premises, together with an affidavit attesting that all such equipment meets or exceeds the safety standard that the ILEC contends the competitor's equipment fails to meet. The Advanced Services Reconsideration Order further requires that "[a]n incumbent LEC must allow a requesting telecommunications carrier reasonable access to its selected collocation space during construction."²⁰¹

(3) Analysis

143. Nevada Bell provides collocation *as one means of* obtaining interconnection and access to network elements on an unbundled basis consistent with Section 251(c)(6), and the corresponding FCC rules.²⁰² Nevada Bell ensures that CLECs may collocate the equipment necessary to interconnect with its network on Nevada Bell's premises. Nevada Bell makes its collocation offerings available through the Collocation Tariff, through which a CLEC may apply for collocation space even while its state certification is pending or prior to obtaining a final approved interconnection agreement.²⁰³ In the alternative, a CLEC may obtain collocation by negotiating the terms and conditions within an interconnection agreement or opt into the terms and conditions of another CLEC's existing interconnection agreement with Nevada Bell."

(A) Physical Collocation

144. In a physical collocation arrangement, a competitor leases space at a LEC's premises for its equipment. The competing provider has physical access to this space to install,

¹⁹⁹ Advanced Services Order ¶ 41

²⁰⁰ Id. ¶ 44.

²⁰¹ See 47 C.F.R. § 51.321(f).

²⁰² See Exhibit 4, Hopfinger Direct ¶ 26; see also P.U.C.N. Tariff C-19A § 19.3.3.

²⁰³ See Exhibit 4, Hopfinger Direct ¶ 26; see also P.U.C.N. Tariff C-19A § 19.5.1

²⁰⁴ See Exhibit 4, Hopfinger Direct ¶ 26.

maintain, and repair its equipment.²⁰⁵ Through the Collocation Tariff, Nevada Bell offers Caged Physical Collocation as one of several options to CLECs.²⁰⁶ The Caged Collocation option provides the collocator with an individual enclosure that may be as small as the minimum size sufficient to house and maintain a single rack or bay of equipment."²⁰⁷

145. In the Local Competition Order, the FCC required that an ILEC "provide to a requesting telecommunications carrier technical information about [its] network facilities to allow the requesting carrier to achieve interconnection" ²⁰⁸ Nevada Bell provides CLECs with the information necessary to complete the construction of a collocation arrangement consistent with this requirement. A CLEC obtaining physical collocation from Nevada Bell is provided access through the CLEC Online website to a copy of the Interconnector's Collocation Services Handbook for Physical Collocation in Nevada.²⁰⁹ In addition, collocation installation details are contained in Nevada Bell's technical publications, which are incorporated by reference into the Collocation Tariff."²¹⁰

146. In the Advanced Services ———, the FCC required that ILECs allocate the costs of preparing a premises for collocation among potential collocators, rather than making the first collocator in a premises responsible for all site preparation and safety costs."²¹¹ Under the Collocation Tariff, Nevada Bell provides floor space and a cage enclosure, and the associated preparation and security charges, in increments as small as one foot."²¹² Nevada Bell specifically notified CLECs of the availability of collocation in increments of less than 50 square feet

²⁰⁵ See Advanced Services Order ¶ 19 n. 21

²⁰⁶ See Exhibit 4, Hopfinger Direct ¶ 42.

²⁰⁷ See Id., Hopfinger Direct ¶ 42; see also P.U.C.N. Tariff C-19A § 19.6.1

²⁰⁸ See 47 C.F.R. § 51.305(g)

²⁰⁹ See Exhibit 4, Hopfinger Direct Testimony ¶ 40.

²¹⁰ P.U.C.N. Tariff C-19A § 19.10.1. Any disputes regarding revisions to or **implementation** of the technical publications applying to physical collocation **arrangements** will be resolved by use of (1) mediation, (2) any **dispute** resolution process promulgated by the Nevada Commission, or (3) any other **method** mutually agreed to by the parties. P.U.C.N. Tariff C-19A § 19.10.2.1

²¹¹ Advanced Services Order ¶ 51. The D.C. Circuit upheld this **aspect of the FCC's** rules. GTE v. FCC, 205 F.3d at 427.

²¹² Exhibit 4, Hopfinger Direct Testimony ¶ 42; see also P.U.C.N. Tariff C-19A § 19.6.1.1

through an accessible letter issued on February 29, 2000.²¹³ Through this policy, CLECs in Nevada are assured that the first collocator in a premises does not bear the entire cost of site preparation and security.

147. In the Advanced Service Order, the FCC also enhanced its collocation rules to require an ILEC to make shared, cageless and adjacent collocation arrangements available to requesting carriers.²¹⁴ Nevada Bell makes physical collocation in each of the forms required by the FCC.

(B) Shared Collocation

148. In a shared physical collocation arrangement, two or more CLECs share caged collocation space pursuant to terms and conditions agreed to by the CLECs.²¹⁵ Using language that mirrors the FCC's language, the Collocation Tariff defines this as "caged collocation space shared by two or more collocators pursuant to terms and conditions agreed to and between the Collocators."²¹⁶ Nevada Bell prorates the charges for site conditioning and construction of the shared cage and allocates the charges to each collocator based on the percentage of total space utilized by each collocator or as otherwise agreed among the collocators.²¹⁷ Nevada Bell does not limit the requesting CLEC's ability to contract with other CLECs to share a collocation cage in a sublease-type arrangement. Nevada Bell permits each CLEC to order UNEs and to provision service from that shared collocation space, regardless of whether that CLEC was the original collocator.²¹⁸ The first collocator in an area is not responsible for the entire cost of site preparation and security. Rather, each collocator will only be responsible for its pro rata share of these costs based on the square footage of space used by each collocator.²¹⁹

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²¹³ Exhibit 4, Hopfinger Direct Testimony ¶ 42, at 17. The accessible letter states, "Collocators may also request a smaller Caged or Shared Cage Collocation arrangement (less than 50 square feet) by submitting an Application for Physical Collocation and selecting the 'Caged' or 'Shared Cage' option." Id.

²¹⁴ Advanced Services Order ¶¶ 41-44.

²¹⁵ Id. ¶ 41; see also 47 C.F.R. § 51.323(k)(1)

²¹⁶ P.U.C.N. Tariff C-19A § 19.7.1.

²¹⁷ Exhibit 4, Hopfinger Direct Testimony ¶ 43; P.U.C.N. Tariff C-19A § 19.6.1.1(B).

²¹⁸ Exhibit 4, Hopfinger Direct Testimony ¶ 44; P.U.C.N. Tariff C-19A § 19.6.1.1(B).

²¹⁹ Exhibit 4, Hopfinger Direct Testimony ¶ 46, at 18; P.U.C.N. Tariff C-19A § 19.19.2(B)(2).

(C) Cageless Collocation

149. In a caged physical arrangement, a competitive LEC leases and has direct physical access to caged space at the incumbent LEC’s structure for its equipment. Cageless physical collocation eliminates the cage surrounding the CLEC’s equipment.²²⁰

(D) Adjacent Collocation

150. In adjacent physical collocation, the CLEC’s equipment is located within a controlled environmental vault or similar structure that the CLEC or its contractor constructs on property leased from the ILEC.²²¹ To the extent technically feasible, when space is legitimately exhausted in Nevada Bell’s central office, CLECs may physically collocate on Nevada Bell’s property in adjacent controlled environmental vaults or similar structures that Nevada Bell uses to house telecommunications equipment. If interior space in the central office becomes available, Nevada Bell will allow the CLEC to relocate its equipment from an adjacent facility into the interior space.” In addition, the Collocation Tariff provides that when space is legitimately exhausted, and the collocater’s adjacent on-site space is not within 50 feet, the collocater has the option of using an adjacent off-site arrangement.²²³ If on-site interior space becomes available, Nevada Bell will allow the CLEC to relocate its equipment from an adjacent facility into the interior space.

(E) Additional Requirements of the Advanced Services Order

151. In addition to requiring the additional forms of physical collocation described above, the FCC’s Advanced Services Order also specified requirements in the areas of CLEC access to collocated equipment, space exhaustion procedures, nondiscriminatory space reservation, and CLEC equipment safety standards.

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²²⁰ See 47 C.F.R. § 51.323(k)(2).

²²¹ See *Id.* § 51.323(k)(3).

²²² Exhibit 4, Hopfinger Direct Testimony ¶ 47, at 18; P.U.C.N. Tariff C-19A § 19.6.1.1(D)

²²³ P.U.C.N. Tariff C-19A § 19.6.1.1(D).

i. CLEC access to collocated equipment

152. In the Advanced Services Order, the FCC required ILECs to allow collocators to access their equipment on a 24-hour-a-day, seven-day-a-week, basis.²²⁴ In full compliance with this requirement, through the Collocation Tariff, Nevada Bell ensures that collocators have access to their equipment twenty-four hours a day, seven days a **week**, without need for any security escort for all forms of physical collocation – caged, shared, cageless and adjacent.²²⁵ In the Advanced Services Reconsideration Order, the FCC extended this requirement to further require that “[a]n incumbent LEC must allow a requesting telecommunications carrier reasonable access to its selected collocation space during construction.”²²⁶ The Collocation Tariff provides in the pertinent provision that “[c]ollocators will also have reasonable access to their selected collocation space during construction.”²²⁷

ii. Space exhaustion procedures

153. Physical collocation of CLEC equipment is available in Nevada Bell’s premises wherever technically feasible and where space permits.” In the event that Nevada Bell receives an application for physical collocation, where there is not sufficient space available to meet that request in that particular central office, Nevada Bell provides the CLEC and the Commission a letter within 10 days of the submission of the completed application.

154. Concurrently with the letter, Nevada Bell will provide under seal to the CLEC and Commission: (1) the central office common language identifier; (2) the identity of the requesting Collocator, including the amount of space requested by the Collocator; (3) the total amount of space at the premises; (4) floor plans documented as provided for in Section 3.8 of the Interconnector’s Collocation Services Handbook; (5) identification of switch turnaround plans and other equipment removal plans and timelines, if any; (6) central office

²²⁴ Advanced Services Order ¶ 49

²²⁵ See Exhibit 4, Hopfinger Direct Testimony ¶ 60

²²⁶ 47 C.F.R. § 51.321(f).

²²⁷ See Advanced Services Reconsideration Order ¶ 60; P.U.C.N. Tariff C-19A § 19.6.1.2(E). Nevada Bell also provides collocators with reasonable access to restroom facilities and parking. P.U.C.N. Tariff C-19A § 19.6.1.2(F).

²²⁸ See Exhibit 4, Hopfinger Direct Testimony ¶ 26

rearrangement/expansion plans, if any; and (7) a description of other plans, if any, that may relieve space exhaustion.”” In addition, Nevada Bell maintains a publicly available document on the Internet at <https://clec.sbc.coin> that identifies any premises that have been identified to be full. Nevada Bell updates this document within 10 days of the date a premise is determined to be out of physical collocation space.””

155. As provided in the Collocation Tariff, if space is not available to accommodate the CLEC’s request, the CLEC may request a tour of the premises. This tour will be scheduled within five business days from the date the written request for such a tour is received from the CLEC. If the CLEC believes, based on the inspection tour, that the denial of space is unsupportable, the CLEC so advises Nevada Bell. The CLEC and Nevada Bell then each concurrently prepare a report detailing findings of the inspection tour. The reports are to be concurrently served on each other and submitted to the Commission no later than 45 days following the filing of the request for space. The burden of proof is on Nevada Bell to justify the basis for any denial of collocation requests.””

(iii) Nondiscriminatory space reservation

156. In the Advanced Services Order, the FCC “specif[ied] that neither an incumbent LEC nor any incumbent LEC affiliate may reserve space for future use on preferential terms.”²³² The Collocation Tariff provides nondiscrimination standards for space reservation, as well as requirements regarding Nevada Bell’s ability to reserve space for its own equipment.²³³ In order to maximize the amount of space available for physical collocation, Nevada Bell will, upon reasonable request by a collocator or upon order of the Commission, remove obsolete unused equipment from premises that have no space available.²³⁴

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²²⁹ Id. § 19.6.2(A).

²³⁰ Id. § 19.6.2(B).

²³¹ P.U.C.N. Tariff C-19A § 19.6.2(A).

²³² Advanced Services Order ¶ 53; see also 47 C.F.R. § 51.323(f)

²³³ P.U.C.N. Tariff C-19A § 19.2 (defining “Legitimately Exhausted”)

²³⁴ P.U.C.N. Tariff C-19A § 19.6.2(B).

(iv) CLEC equipment safety standards

157. In the Advanced Services Order, the FCC specifically ruled that an ILEC could require that a collocating CLEC's equipment satisfy the Telcordia (formerly Bellcore) Network Equipment and Building Specifications ("NEBS") Level 1 safety standards to the same extent that the ILEC applies these requirements to its own equipment.²³⁵ In accord with that ruling, the Collocation Tariff requires that a CLEC's equipment must satisfy the NEBS Level 1 safety standards to the same extent that Nevada Bell applies these requirements to its own equipment. If there are disputes concerning safety standards, the Collocation Tariff provides for dispute resolution and formal complaint processes.²³⁶

158. In addition, in the Advanced Services Order, the FCC specifically ruled that in the event an ILEC denied collocation of a CLEC's equipment on the basis of safety standards, then the ILEC must within five business days provide a list of all ILEC equipment located in the premises, along with an affidavit attesting that all such equipment meets the safety standard that the ILEC contends the CLEC's equipment fails to satisfy.²³⁷ In addition, in the Advanced Services Reconsideration Order, the FCC further specified the information that must be contained in such an affidavit, ruling as follows:

This affidavit must set forth in detail: the exact safety requirement that the requesting carrier's equipment does not satisfy; the incumbent ILEC's basis for concluding that the requesting carrier's equipment does not meet this safety requirement; and the incumbent ILEC's basis for concluding why collocation of equipment not meeting this safety requirement would compromise network safety.²³⁸

The Collocation Tariff incorporates these procedures and standards.²³⁹

(F) Virtual Collocation

159. Regardless of the availability of physical collocation, Nevada Bell also provides virtual collocation.²⁴⁰ In a virtual collocation arrangement, the competitor designates the

²³⁵ Advanced Services Order ¶ 35
²³⁶ P.U.C.N. Tariff C-19A § 19.10.1
²³⁷ Advanced Services Order ¶ 36
²³⁸ 47 CFR § 51.323(b).
²³⁹ P.U.C.N. Tariff C-19A § 19.10.1.
²⁴⁰ See Exhibit 4, Hopfinger Direct ¶ 60.

equipment to be placed at the incumbent LEC's premises. The competing provider, however, does not have physical access to the incumbent's premises. Instead, the equipment is under the physical control of the incumbent LEC, and the incumbent is responsible for installing, maintaining, and repairing the competing provider's equipment.²⁴¹

160. Nevada Bell uses the same engineering practices for virtually collocated equipment as it does for its own similar equipment in determining the placement of equipment and routes for all connecting cabling between collocation equipment.''' Under the Collocation Tariff, the CLEC furnishes the equipment, which is then engineered and installed by a mutually agreed upon vendor. The collocator may select this installation vendor for the virtually collocated equipment.'''

161. Under traditional virtual collocation, Nevada Bell will maintain and repair virtually collocated equipment, upon notification by the collocator and availability of spare parts as provided by the collocator, using the same standards that Nevada Bell uses for maintaining and repairing its own equipment.''' Under certain circumstances presented in the non-traditional form of virtual collocation offered by Nevada Bell, that is, in Controlled Environmental Vaults ("CEVs"), huts, and cabinets where physical Collocation space is not available, a Collocator may opt for virtual collocation wherein the Collocator maintains and repairs the virtually collocated equipment.''' Nevada Bell also may, at its option, elect to offer this maintenance alternative *in* one or more of its central offices and in one or more of its CEVs, huts, and cabinets where physical collocation space is available.'''

162. In addition to the forms of physical and virtual collocation described above, Nevada Bell will consider requests for other collocation arrangements. The Collocation Tariff provides that Nevada Bell "will provide other collocation arrangements that have been demonstrated to be technically feasible. Deployment by any ILEC of a collocation arrangement

²⁴¹ Advanced Services Order ¶ 19 n. 21

²⁴² See Exhibit 4 Hopfinger Direct ¶ 63; P.U.C.N. Tariff C-19A § 19.29.

²⁴³ See Exhibit 4, Hopfinger Direct ¶ 63; P.U.C.N. Tariff C-19A § 19.23.1(C).

²⁴⁴ See Exhibit 4, Hopfinger Direct ¶ 64, at 23-24; P.U.C.S. Tariff C-19A § 19.23

²⁴⁵ P.U.C.N. Tariff C-19A § 19.37

²⁴⁶ P.U.C.N. Tariff C-19A § 19.23.

gives rise to a rebuttable presumption in favor of a CLEC seeking collocation in [Nevada Bell's] Eligible Structures that such an arrangement is technically feasible."²⁴⁷ The Collocation Tariff also provides for the use of a microwave transmission medium as an entrance facility to collocation where technically and structurally feasible.²⁴⁸

(G) Processing Collocation Requests (Ordering and Provisioning)

(i) Preordering

163. Prior to submitting an application for physical collocation, a CLEC may request a report that indicates the available collocation space in a particular Nevada Bell premises. After receiving that request, Nevada Bell provides a report to the requesting CLEC specifying: (1) the amount of collocation space available; (2) the number of current collocators; (3) any modifications in the use of the space since the last report; and (4) measures Nevada Bell is taking, if any, to make additional space available.²⁴⁹

(ii) Ordering

164. The FCC indicated, in the Advanced Services Order, that 10 days was a reasonable amount of time within which to inform a new entrant whether its collocation application is accepted or denied."²⁵⁰ In accordance with this standard, the Collocation Tariff provides that Nevada Bell will generally notify a collocator whether its request for collocation space has been granted or denied due to a lack of space within 10 days of submission of the completed application."²⁵¹ Intervals providing confirmed price and construction deadlines run concurrently with the 10-day notification interval for available space depending on the number

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²⁴⁷ P.U.C.N. Tariff C-19A § 19.6.1.1(F)
²⁴⁸ Exhibit 4, Hopfinger Direct Testimony ¶ 48; P.U.C.N. Tariff C-19A § 19.8.1
²⁴⁹ P. U. C. Tariff C-19A § 19.6.2(B).
²⁵⁰ Advanced Services Order ¶ 55.
²⁵¹ P.U.C.N. Tariff C-19A § 19.6.1.1.1.

of applications submitted by one CLEC at one time.”

(iii) Provisioning

165. Once Nevada Bell confirms the applicable rates, the entire quotation, including the provisioning interval, is forwarded to the CLEC. Once the quotation is provided, the requesting CLEC has up to 65 business days to either accept or reject Nevada Bell's estimate and proposed provisioning interval for physical collocation.²⁵³

166. For physical collocation (including caged and shared), Nevada Bell provides a 90-day construction turnaround for space within its premises that has been designated as "active collocation space."²⁵⁴ In the Advanced Services Reconsideration Order, the FCC specifically stated that an ILEC may request that a state commission adopt different intervals: "A state could set its own standard by statute, through an existing or future rulemaking order, by enforcing a state tariff, or by applying the precedent of a state arbitration decision. An ILEC, of course, may petition a state to extend the application processing and provisioning interval deadlines in specific circumstances (e.g., conditioning space in a premises is particularly difficult).” In approving the Collocation Tariff, the Commission approved Nevada Bell's request for an additional 30 days to prepare space unconditioned to support telecommunications equipment in a manner contemplated by the FCC. Accordingly, the Collocation Tariff provides that for space that has not been conditioned, 30 days is added to the interval to reflect the engineering and

²⁵² Section 19.6.1.4 of the Collocation Tariff now provides that the Intervals providing confirmed price and construction deadlines are determined as follows:

| Number of Applications By One Collocator | Quotation Interval |
|---|---------------------------|
| 1-5 | 10 calendar days |
| 6-10 | 15 calendar days |
| 11-15 | 20 calendar days |
| 16-20 | 25 calendar days |

Should a collocator submit 21 or more applications within 10 days, the quotation interval is increased by five days for every five additional applications or fraction thereof.

²⁵³ See Exhibit 4, Hopfinger Direct ¶ 34; P.U.C.N. Tariff C-19A § 19.6.1.3(B).

²⁵⁴ The term "Active Collocation Space" is defined in the Collocation Tariff to mean the space within an Eligible Structure which can be designated for physical collocation and which has sufficient telecommunications infrastructure systems, including power. Any other space is referred to in the Collocation Tariff as "Other (Inactive) Collocation Space." See P.U.C.N. Tariff C-19A § 19.2.

²⁵⁵ Advanced Services Reconsideration Order ¶ 22

construction time necessary to convert inactive space to active collocation space.”” The Collocation Tariff also contains quotation intervals and implementation intervals for virtual collocation, which are similar to those for physical collocation.²⁵⁷

B. Checklist Item 2 – Unbundled Network Elements

1. Overview

167. Nevada Bell has demonstrated that it provides nondiscriminatory access to network elements. The Company offers unbundled network elements at cost-based rates. CLECs have nondiscriminatory access to all of the functions of Nevada Bell’s operating support systems. Competitors can and have successfully built application-to-application interfaces that allow them access to the full suite of Nevada Bell’s system functions, including those that the FCC has indicated are necessary catalysts to competition: (i) pre-ordering, (ii) ordering, (iii) provisioning, (iv) maintenance and repair, and (v) billing functions. In sum, the weight of Nevada Bell’s testimony, Nevada Bell’s performance results, Pacific Bell’s performance results, the California OSS Test, and the CPUC’s Final Decision on Pacific Bell’s 271 Filing (“California Order”) lead to the following conclusions: Nevada Bell has deployed the necessary systems and personnel to provide CLECs nondiscriminatory access to each of the necessary OSS functions; Nevada Bell is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them; and, the Regional OSS are operationally ready.

2. Standard

168. Nevada Bell must demonstrate that it provides nondiscriminatory access “to network elements in accordance with the requirements of section 251(c)(3) and 252(d)(1).”²⁵⁸ The FCC has identified a number of UNEs, including OSS, that Nevada Bell must make

²⁵⁶ See Exhibit 4, Hopfinger Direct ¶ 35; P.U.C.N. Tariff C-19A § 19.6.1

²⁵⁷ P.U.C.N. Tariff C-19A § 19.28.1

²⁵⁸ 47 U.S.C.A. § 271(c)(2)(B)(ii)