

(B) The Company provisions xDSL capable loops in a timely manner

325. Nevada Bell's performance data indicate that the Company provisions xDSL loops to CLECs in a nondiscriminatory manner. Between April and June, 2001, the average completion interval for both conditioned and unconditioned xDSL capable loops was 6.08, 5.67, and 5.30 days, respectively.⁶⁵² In July and August, 2001, Nevada Bell began reporting completion intervals for conditioned and unconditioned xDSL capable loops separately; in July and August, the completion interval for conditioned loops was less than 6 days, while the interval for unconditioned loops in August was 5 days.⁶⁵³ Furthermore, during the three-month period between June and August, 2001, Nevada Bell did not miss a single xDSL due date.⁶⁵⁴ Nevada Bell's average completion interval and percentage of "due dates missed" data provide substantial evidence that an efficient CLEC has a meaningful opportunity to compete.⁶⁵⁵ Pacific Bell's performance results confirm that the Regional OSS, available to both Nevada and California CLECs, provides competing carriers with nondiscriminatory access to xDSL loops.⁶⁵⁶

⁶⁵² See Exhibit 144, Johnson Supplemental Rebuttal, GSJ Attachment K, PM 7, Submeasure 704900. During that same period, ASI did not order any xDSL loops. Id. Exhibit 144 at 40. Accordingly, Nevada Bell did not report a parity standard against which the Commission could judge its performance.

⁶⁵³ See Exhibit 144, Johnson Supplemental Rebuttal, CSJ Attachment K, PM 7, Submeasures 704901 & 704902).

⁶⁵⁴ See Exhibit 144, Johnson Supplemental Rebuttal at 40. In April, Nevada Bell missed 1.72 percent of 58 due dates and in May the Company missed 3.85 percent of 25 due dates. See Exhibit 144, Johnson Supplemental Rebuttal, GSJ Attachment K, PM 11, Submeasure 110.1900.

⁶⁵⁵ See, e.g., Verizon Massachusetts Order ¶ 139 n. 434 (concluding that Verizon's average completion interval performance showed nondiscriminatory treatment where interval ranged from 0.7 to 9.7 days). In contrast to Verizon, Nevada Bell's other provisioning performance metric data – percentage completed within the standard interval – further indicate that the Company provisions xDSL capable loops in a timely manner. Compare Exhibit 144, Johnson Supplemental Rebuttal, GSJ Attachment K, PM 8, Submeasures 802700, 802701 & 802704 (indicating that Nevada Bell consistently provisions more than 95 percent of both conditioned and unconditioned xDSL loops within the standard interval) with Verizon Massachusetts Order ¶ 141 n. 440 (noting that competing carriers contested Verizon's claim of Checklist compliance by pointing to "yet another measure of on-line performance, the percentage of xDSL loops completed within the standard interval of 6 days," where Verizon's performance ranged from 62.1 to 72.9 percent of xDSL orders within the standard interval).

As of August 2001, Pacific Bell had more than 120,000 xDSL capable loops in service Exhibit 144, Johnson Supplemental Rebuttal at 40. Pacific Bell's provision data – i.e., average completion and missed due date data – provide additional evidence that the Regional OSS provisions xDSL capable loop orders in a nondiscriminatory manner. Between June and August 2001, Pacific Bell's average completion interval for both conditioned and unconditioned loops averaged less than 7 days. Id. During that same period, Pacific missed just one percent or less of committed due dates. Id.

⁶⁵⁶ California Order at 153 n. 213 & 154 (reviewing results of five performance metrics and concluding that Pacific Bell's provisioning of xDSL capable loops is more than satisfactory).

326. Nevada Bell's performance data likewise demonstrates that the Company provisions IDSL and ISDN UNE loops in a nondiscriminatory manner." " Nevada Bell's provisioning results for ISDN and IDSL capable loops "are excellent for months having data, except in July, where one IDSL loop order was delayed seven days for a lack of facilities."⁶⁵⁸ The California PUC's conclusion that Pacific Bell satisfies the requirements of Checklist Item 3 further supports a finding by this Commission that Nevada Bell's Regional OSS affords CLECs nondiscriminatory access to unbundled loops." "

(C) Quality

327. Nevada Bell's performance data show that the Company provides xDSL, TDSL and ISDN capable loops to CLECs at a level of installation quality that meets the requirements of Checklist Item 4. In making this determination, the FCC will focus upon Nevada Bell's PM 16 (Troubles in Thirty Days from Completion) results including xDSL and ISDN loops as "indicative of the quality of network components supplied by [Nevada Bell]."⁶⁶⁰

328. Between June and August, 2001, Nevada Bell's data reflect that just six trouble tickets were reopened for the 174 xDSL capable loop orders completed.⁶⁶¹ While "retail" data is not available because ASI has not ordered stand-alone xDSL capable loops, the data reflect that the xDSL capable loops provisioned by Nevada Bell are of high quality. The data demonstrate compliance with this aspect of the competitive checklist." " Moreover, between June and August, 2001, Nevada Bell did not receive a single trouble report within 30 days on any of the

⁶⁵⁷ IDSL and ISDN provisioning data (completed interval and percentage of due dates missed) are compared to provisioning data for ISDN services provided to Nevada Bell's retail customers.

⁶⁵⁸ See Exhibit 144, Johnson Supplemental Rebuttal at 41. More specifically, the average completed interval for ISDN and IDSL capable orders consistently was shorter for CLECs than for Nevada Bell's retail operations. See Exhibit 144, Johnson Supplemental Rebuttal, GSJ Attachment K, PM 7, Submeasures, 704800, 704801 & 704904. Nevada Bell also missed fewer CLEC due dates. Id., Exhibit 144, PM 11, Submeasures PM 1104800, 1104801 & 1104904.

⁶⁵⁹ California Order at 131-58.

⁶⁶⁰ See, e.g., SBC Texas Order ¶ 299.

⁶⁶¹ See Exhibit 144, Johnson Supplemental Rebuttal at 40-41

⁶⁶² Compare Exhibit 144, Johnson Supplemental Rebuttal, GSJ Attachment K, PM 16, Submeasure 1602800 (reporting zero percent trouble within 30 days of xDSL new orders in June and July and 7.59 percent in August) with Verizon Massachusetts Order ¶ 146 ("During the period of September through November 2000 competitive CLECs experienced installation quality troubles at a rate of 7.0 percent compared to 2.3 percent for Verizon retail.") (footnote omitted).

ISDN lines provided to CLECs.⁶⁶³ These results demonstrate that Nevada Bell provides xDSL and ISDN-capable loops to CLECs in a nondiscriminatory manner, fully satisfying the requirements of Checklist Item 4.

(D) Nevada Bell maintains and repairs xDSL and ISDN-capable loops for CLECs in compliance with the requirements of Checklist Item 4

329. The FCC also considers whether a 271 applicant maintains and repairs xDSL-capable loops for CLECs in a manner sufficient to meet the requirements of Checklist Item 4.⁶⁶⁴ Two performance metrics inform the FCC's decision on this aspect of checklist compliance: the mean time to repair and repeat trouble metrics.⁶⁶⁵

330. The quantitative data establishes that Nevada Bell maintains and repairs xDSL, IDSL and ISDN loops in a timely manner and at an acceptable level of quality. While "parity" data is not available, Nevada Bell has consistently resolved CLEC troubles in a timely fashion. The average time to restore service on xDSL UNE loops was just under three hours in June, 2001, and 29 hours in August, 2001, with an average of about 16 hours for the three-month period.⁶⁶⁶ "Pacific Bell's performance was similar, with an average time to restore service of 16 hours for the same time period."⁶⁶⁷ Repeat trouble rates also demonstrate compliance with Checklist Item 4, with CLEC's reporting repeat troubles on 14.29, 21.43 and 15.38 percent of xDSL-capable lines in June, July, and August of 2001 respectively.⁶⁶⁸ The CPUC's finding that

⁶⁶³ See Exhibit 144, Johnson Supplemental Rebuttal, GSI Attachment K, PM 16, Submeasures 1602700 & 1602701

⁶⁶⁴ See, e.g., SBC Texas Order ¶ 303.

⁶⁶⁵ See SBC Texas Order ¶ 304 (evaluating timeliness and quality of maintenance and repair functions by referencing mean time to repair and repeat trouble rates); see also Verizon Massachusetts Order ¶ 149 ("In analyzing Verizon's maintenance and repair functions we continue to rely primarily upon the mean time to repair and repeat trouble rate measures identified in the Bell Atlantic and SBC Texas Orders.").

⁶⁶⁶ See Exhibit 144, Johnson Supplemental Rebuttal at 43, lines 7-8. It is also important to note that CLECs reported trouble on less than three percent of the xDSL UNE loops in service between June and August 2001 Exhibit 144, Johnson Supplemental Rebuttal at 42-43. CLEC's operating in Pacific's territory reported trouble on an even smaller percentage (one) of xDSL lines during that same period. Exhibit 144, Johnson Supplemental Rebuttal at 43, lines 2-4.

⁶⁶⁷ Exhibit 144, Johnson Supplemental Rebuttal at 43, lines 8-9.

⁶⁶⁸ Compare Exhibit 144, Johnson Supplemental Rebuttal at 43, lines 12-14 with Verizon Massachusetts Order ¶ 153 (noting that CLECs experienced an average repeat trouble rate of about 16 percent between September and December 2000).

the Regional OSS' overall "provisioning of xDSL is more than satisfactory,"⁶⁶⁹ further supports the conclusion that Nevada Bell maintains and repairs xDSL capable loops in a nondiscriminatory fashion.

331. Nevada Bell's maintenance and repair results for ISDN UNE loops have been excellent. CLECs reported trouble on less than 2 percent of the almost 200 ISDN capable UNE loops in service in June, 2001.⁶⁷⁰ In July and August, CLECs did not submit any trouble tickets for this type of loop. More important, the average time to restore service on ISDN capable UNE loops provided to CLEC customers was 12.7 hours, which was far shorter than the 30.45-hour interval provided to Nevada Bell's retail customers."⁶⁷¹ Finally, when CLECs experience trouble on ISDN-capable lines they generally do not experience additional troubles after a visit from a Nevada Bell service technician."⁶⁷² Pacific Bell's performance buttresses the conclusion that the Regional OSS provides maintenance and repair functions for xDSL and ISDN-capable loops in a timely fashion and at an acceptable level of quality."⁶⁷³

(3) Nevada Bell provisions, maintains and repairs high capacity loops for CLECs in substantially the same time and manner as it does for its retail customers.

(A) Nevada Bell provides DS1 UNE loops to CLECs in a timely manner

332. As of August 2001, CLECs had over 200 DS1 UNE loops in service within Nevada Bell's local exchange territory. Nevada Bell provides DS1 UNE loops to CLECs in substantially the same time as its retail operations. Between June and August, 2001, average installation intervals for CLECs were shorter than those provided to its own retail operations.⁶⁷⁴ Between April and June, 2001, Nevada Bell provisioned DS1 UNE loop orders in approximately

⁶⁶⁹ California Order at 154.

⁶⁷⁰ See Exhibit 144, Johnson Supplemental Rebuttal at 43, lines 16-19.

⁶⁷¹ Id., Exhibit 144 at 44, lines 5-7. Maintenance performance for the ISDN UNE loop product for Pacific Bell has also been consistent, with all maintenance sub-measures meeting the parity standard each month between June and August 2001.

⁶⁷² See Exhibit 144, Johnson Supplemental Rebuttal, GSJ Attachment K, PM 23, Submeasure 2392701

⁶⁷³ Exhibit 144, Johnson Supplemental Rebuttal at 44, lines 7-12; see California Order at 158.

⁶⁷⁴ Id., Johnson Supplemental Rebuttal at 44, lines 18-19, n.101. During June, July and August 2001, the average intervals were 12.4, 11.3 and 16.6 days for CLEC orders, compared to 22.4, 17.0, and 26.0 days for retail customers. Id., Johnson Supplemental Rebuttal at 44 n. 101.

9 days for CLECs and 18 days for its retail operations.⁶⁷⁵ In July and August, the average installation interval again was shorter for CLECs than it was for retail operations. Other provisioning timeliness data - the percentage of due dates missed - reveals equally nondiscriminatory performance. From January to June, 2001, Nevada Bell missed about 6 percent of due dates for CLEC DSI orders and 9 percent of due dates for its analogous retail operations.⁶⁷⁶ These data show that Nevada Bell delivers DSI UNE loops to CLECs in substantially the same time and manner as it does for its retail operations.⁶⁷⁷ Nevada Bell likewise satisfied the parity standard for PM 11 (Percentage of Due Dates Missed).⁶⁷⁸ Collectively, these results demonstrate that the Company provides high capacity loops at the levels demanded by CLECs in a timely manner.

333. Pacific Bell's performance provides further evidence that the Regional OSS provides in a nondiscriminatory manner. As of August, 2001, Pacific Bell had provisioned more than twelve thousand DSI loops.⁶⁷⁹ Between June and August, 2001, the average installation intervals for CLECs were shorter than those provided Pacific Bell's retail customers, and Pacific Bell missed less than three percent of the due dates for CLEC DSI UNE loop orders.⁶⁸⁰ Recognizing that the Regional OSS' provisions high capacity loops to CLECs in substantially the same time and manner as it does for retail operations, the CPUC concluded that Pacific Bell has satisfied Checklist Item 4.⁶⁸¹

(B) Nevada Bell delivers high capacity loops at an acceptable level of quality

334. The FCC will examine the percentage of troubles reported on high capacity lines within 30 days of installation. Between June and August, 2001, Nevada Bell did not receive any

⁶⁷⁵ See Exhibit 133, Resnick Rebuttal-Proprietary at 7, lines 11-12.

⁶⁷⁶ See Exhibit 133, Resnick Rebuttal-Proprietary at 7, lines 13-11.

⁶⁷⁷ See generally Exhibit 133, Johnson Rebuttal-Proprietary at *Id.* lines 15-16 (noting that performance for CLECs in the aggregate is consistent with that for ATG)

⁶⁷⁸ *Id.*, Exhibit 143, Johnson Rebuttal-Proprietary at 41-15.

⁶⁷⁹ *Id.*, Exhibit 143, Johnson Rebuttal-Proprietary at 45, lines 9-11

⁶⁸⁰ *Id.*, Exhibit 143, Johnson Rebuttal-Proprietary at 45, lines 12-15.

⁶⁸¹ California Order at 158.

provisioning trouble reports.” Pacific Bell satisfied the provisioning trouble report standard in June and July, but missed it in August, 2001.⁶⁸³ Overall, these results demonstrate that the Regional OSS delivers high capacity loops at an acceptable level of quality in accord with the requirements of Checklist Item 4

(C) Nevada Bell offers CLECs nondiscriminatory access to maintenance and repair functions for high capacity loops

335. For the period reviewed, CLECs reported trouble on DSI UNE loops infrequently.⁶⁸⁴ However, in June, Nevada Bell did not resolve 3 of 5 trouble tickets within the estimated time.” Upon investigation Nevada Bell found that all three misses were on the same trouble ticket. This condition resulted from problems that can arise in maintaining high capacity circuits. Nevada Bell also missed PM 21 (Average Time to Restore) in July, 2001 because the same ticket (of a total of three) required a complete rebuild of the circuit, taking 193 hours. Nevada Bell, however, met the parity standard June through August for repeat trouble reports.”

336. Pacific Bell’s maintenance process for DSI UNEs was flawless, with parity standards met for all sub-measures June through August, 2001. Indeed, the trouble report rate for DSI UNEs was less than 4 percent during the period for the more than 12,000 in service. Overall, Nevada Bell and Pacific Bell’s performance data demonstrate that Nevada Bell maintains and repairs DSI loops in a nondiscriminatory manner.

(4) Line sharing

337. Nevada Bell unbundles and offers CLECs nondiscriminatory access to the High Frequency Portion of the Loop (“HFPL”) UNE, also known as “line-sharing,” as required by the FCC. Line sharing allows a CLEC to provide data services using the same copper loop over which Nevada Bell provides voice service to the customer. Nevada Bell developed its line-sharing offering through an SBC-wide collaborative process involving CLECs and other SBC

⁶⁸² Id., Exhibit 143, Johnson Rebuttal-Proprietary at 45, lines 4-6.

⁶⁸³ Id., Johnson Rebuttal-Proprietary at 45, lines 16-17.

⁶⁸⁴ Id., Johnson Supplemental Rebuttal, GSJ Attachment K, PM 19, Submeasure 1992900.

⁶⁸⁵ Id., Johnson Supplemental Rebuttal, GSJ Attachment K, PM 20, Submeasure 2095801.

⁶⁸⁶ Id., Johnson Supplemental Rebuttal at 36

operating companies, including Pacific Bell.”” In addition, the Company offers line splitting “in the same manner as that approved by the FCC in Texas, Kansas and Oklahoma.”⁶⁸⁸ Line splitting allows a CLEC to purchase an xDSL-capable loop and provide voice and data service or, in conjunction with a partner CLEC, provide either voice or data service.⁶⁸⁹ These offerings – line sharing and line splitting – are delivered using the same pre-ordering, ordering and provisioning systems as Pacific Bell.””

338. **As** of August, 2001, in Nevada, CLECs other than ASI had not ordered the HFPL UNE. “Pacific Bell, however, had over 30,000 line sharing arrangements with CLECs as of August, 2001.”⁶⁹¹ **As** the CPUC found, “[a] complete analysis of the currently available service information and performance results shows that Pacific Bell provides the CLECs with nondiscriminatory access to its network systems for pre-ordering, ordering and provisioning of DSL services.””” Because Nevada Bell and Pacific Bell use the same network systems for pre-ordering, ordering and provisioning, including line sharing and line splitting, the CPUC’s conclusion that “Pacific’s provisioning of xDSL is more than satisfactory” is equally applicable to Nevada Bell.

c. Issues raised by the Staff, BCP and Competitive Providers

(1) Timeliness of basic UNE loops

339. WorldCom and the Staff both claimed that Nevada Bell fails to provide UNE basic loops to competitive providers in a timely manner.”” They ground their claims on the results of PM 7. However, we must look to the other performance measurements that assess the timeliness of the provisioning process.”” First, the approach fails to consider Nevada Bell’s overall performance with respect to loops, which is the focus of the FCC’s analysis. **As** explained above, Nevada Bell’s other performance measurement results demonstrate that the

⁶⁸⁷ Exhibit 110, Chapman Supplemental Direct at 4

⁶⁸⁸ Id. at 7.

⁶⁸⁹ Id. at 5.

⁶⁹⁰ See id. at 4 (“SBC’s policies with respect to line splitting have been implemented on a 13-state basis.”)

⁶⁹¹ Exhibit 144, Johnson Supplemental Rebuttal at 38, lines 17-19.

⁶⁹² California Order at 153.

⁶⁹³ See Exhibit 152, Otsuka Direct Phase II-B; see also Exhibit 146, Vivien/Oliver Direct at 12.

⁶⁹⁴ See id., Otsuka Direct Phase II-B Otsuka at 17

Company provisions UNE loops in a timely manner. Second, even focusing on basic UNE loops, Dr. Otsuka ignores other PM results that measure the timeliness of Nevada Bell's provisioning process; namely, they fail to consider the results of PM 11, which tracks the percentage of due dates missed.

340. Third, and most important. WorldCom and the Staff do not consider the construction of PM 7. Under PM 7, Nevada Bell's provisioning performance for CLECs is compared to a retail analog— Business POTS (fielded orders), which Nevada Bell usually provisions to retail customers in about two days.⁶⁹⁵ While Nevada Bell strives to install basic UNE loops for CLECs in the same two-day interval, most basic UNE loops ordered by CLECs also include LNP.⁶⁹⁶ LNP provisioning necessarily requires a three-day provisioning interval.⁶⁹⁷ Since many UNE basic loop orders also include LNP, Nevada Bell generally cannot meet the statistical parity standard. But these "failures" do not, as the Staff and others suggested, reflect a systematic problem in Nevada Bell's provisioning processes. Rather, the "failures" simply reflect the fact that work performed by Nevada Bell for CLECs differs from the work that it must perform in provisioning Business POTS to its retail customers. The issues raised by WorldCom and the Staff are insufficient to conclude that Nevada Bell does not satisfy Checklist Item 4.⁶⁹⁸

341. WorldCom also claimed that "performance failures for the maintenance of services provided to CLECs by Nevada Bell are . . . significant, especially for 'CLECs in the aggregate.'" ⁶⁹⁹ WorldCom's claim, which is grounded on the selective use of data and a selective view of performance metrics, lacks merit.

342. WorldCom questions the timeliness of Nevada Bell's maintenance and repair services, stating, "[f]or example, for performance measure 20 (Percent of Customer Troubles Not Resolved Within the Estimated Time), the miss rates for Basic UNE loops were. in April, 2001,

⁶⁹⁵ See Exhibit 144, Johnson Supplemental Reburial at 34.

⁶⁹⁶ See *id.*, Johnson Supplemental Rebuttal at 1-1-35.

⁶⁹⁷ *Id.* (explaining that the regional Number Portability Activation Center ("NPAC"), an independent, third party organization, requires three days to schedule and activate number porting).

⁶⁹⁸ See SBC Kansas/Oklahoma Order, ¶ 209 & n. 606 (stating that SBC's persistent failure to meet a parity measure "most likely stems from difference in the mix of work performed").

⁶⁹⁹ See Exhibit 147, Vivien/Oliver-Proprietary at 12, lines 10-11.

22 percent and in May, 2001. 11 percent.”⁷⁰⁰ WorldCom does not mention, however, that Nevada Bell provided parity service 8 out of the 10 months between October, 2000 and August, 2001.⁷⁰¹

343. Moreover, by using PM 20 as the sole indicia of timeliness, WorldCom fails to acknowledge that Nevada Bell has consistently restored service on basic UNE loops faster for CLECs than it has for its own retail operations.”⁷⁰² In fact, in April and May, 2001, the two months when Nevada Bell failed the parity test under PM 20, the Company still provided parity service under PM 21 (Average Time to Restore). The average time to restore service in April was 2.46 hours for CLEC dispatched tickets and 0.38 hours for nondispatched trouble tickets compared to 8.68 hours for Nevada Bell's retail customers; in May, Nevada Bell restored service on 16 CLEC trouble tickets in 3.37 hours compared to 6.74 hours for Nevada Bell's retail operations.⁷⁰³ In light of Nevada Bell's overall, long-term performance for CLECs, WorldCom's assertions are without merit. The facts instead demonstrate that Nevada Bell provides maintenance services to CLECs in a nondiscriminatory manner.⁷⁰⁴

344. WorldCom also questioned the quality of Nevada Bell's maintenance and repair services, arguing that in March and May, 2001, WorldCom's repeat trouble rate exceeded the parity standard.”⁷⁰⁵ Notwithstanding WorldCom's assertion to the contrary, Nevada Bell provided parity service in March, 2001.⁷⁰⁶ For CLECs in the aggregate, the repeat trouble rate on UNE basic loops consistently is lower than that for Nevada Bell's retail operations, with the

⁷⁰⁰ Id., Vivien/Oliver Direct-Proprietary at 12, lines 11-14.

⁷⁰¹ See Exhibit 143, Johnson Rebuttal-Proprietary at 15; Exhibit 142 Johnson Rebuttal CSJ Attachment H, PM 20, Submeasures 2094900 & 209500; Exhibit 144, Johnson Supplemental Rebuttal, GSJ Attachment K, PM 20, Submeasure PM 2095201. WorldCom also neglects to mention that, “[f]or WorldCom, Nevada Bell's performance on this submeasure was perfect for all six months.” Exhibit 143, Johnson Rebuttal-Proprietary at 15.

⁷⁰² See Exhibit 144, Johnson Supplemental Rebuttal, CSJ Attachment K, PM 21, Submeasures 2195100, 2195200, & 2195401; see also Exhibit 142, Johnson Rebuttal, GSJ Attachment H, PM 21, Submeasures 2195100 & 2195200.

⁷⁰³ See Exhibit 144, Johnson Supplemental Rebuttal FSJ Attachment K, PM 21, Submeasures 2195100, 2195200, & 2195401.

⁷⁰⁴ See Verizon Massachusetts Order ¶ 149 (“In analyzing Verizon's maintenance and repair Functions we continue to rely primarily upon the mean time to repair and repeat trouble rate measures identified in the Bell Atlantic and SBC Texas Orders.”).

⁷⁰⁵ See Exhibit 147, Vivien/Oliver Direct-Proprietary at 12, lines 17-19.

⁷⁰⁶ See Exhibit 143, Johnson Rebuttal-Proprietary at 16.

only exception in the eight months ended in August, 2001, being January.⁷⁰⁷ These results demonstrate that Nevada Bell consistently provides nondiscriminatory maintenance and repair services for UNE loops.

(2) Loop qualification information

345. See *supra* Section V(8) for a discussion of the issues raised by other parties. As explained, CLECs have access to complete loop qualification information.

E. Checklist Item 5 – Local Transport

I. Overview

346. The evidence of record shows that Nevada Bell consistently provides local transport unbundled from switching and other services at an acceptable level of quality and in quantities that CLECs demand. The Commission, therefore, believes the FCC should find that Nevada Bell satisfies Checklist Item 5.

a. Standard

347. Section 271(c)(2)(B)(v) requires Nevada Bell to provide “[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services;”⁷⁰⁸ this obligation encompasses providing dedicated and shared transport to requesting carriers.⁷⁰⁹ Dedicated transport consists of transmission facilities dedicated to a particular customer or carrier that provide telecommunications between wire centers owned by Nevada Bell or requesting telecommunications carriers, or between switches owned by the Company or requesting telecommunications carriers.⁷¹⁰ Shared transport consists of transmission facilities

⁷⁰⁷ See Exhibit 1? Johnson Rebuttal–Proprietary at 16, see also Exhibit 144, Johnson Supplemental Rebuttal at 38.

⁷⁰⁸ 47 U.S.C.A. § 271(c)(2)(B)(v)

⁷⁰⁹ See Second BellSouth Louisiana Order ¶ 201

⁷¹⁰ See id. ¶ 201, n.649. A BOC has the following obligations with respect to dedicated transport: (a) provide unbundled access to dedicated transmission facilities between BOC central offices or between such offices and serving wire centers (“SWCs”); between SWCs and interexchange carriers points of presence (“POPs”); between tandem switches and SWCs, end offices or tandems of the HOC, and the wire centers of BOCs and requesting carriers; (b) provide all technically feasible transmission capabilities such as DS1, DS3, and Optical Carrier levels that the competing carrier could use; (c) not limit the facilities to which dedicated interoffice transport facilities are connected, provided such interconnections are technically feasible, or restrict the use of unbundled transport facilities; and (d) to the extent technically feasible, provide requesting carriers with

shared by more than one carrier, including Nevada Bell, between end office switches, between end office switches and tandem switches, and between tandem switches, in the Company's network.⁷¹¹

3. Analysis

a. Nevada Bell provides common and shared transport in compliance with the Act

348. Nevada Bell offers both common and shared transport, unbundled from local switching and other services, to all competitive providers. Under the GIA, and interconnection agreements approved by the Commission, CLECs may obtain shared transport consistent with the requirements of Rule 319.⁷¹² CLECs likewise can obtain unbundled dedicated transport.⁷¹³ Dedicated transport is available to CLECs at the following speeds: DS1, DS3, OC3, OC12, and OC 48.⁷¹⁴ Higher speeds will be made available to CLECs as Nevada Bell deploys such facilities.⁷¹⁵

349. Nevada Bell also offers a digital cross-connect system to requesting carriers as part of UNE dedicated transport.” CLECs also may purchase any technically feasible method of multiplexing in conjunction with UNE transport.” Finally, Nevada Bell provides dark fiber

access to digital cross-connect system functionality in the same manner that the BOC offers such capabilities to interexchange carriers that purchase transport services. *Id.* ¶ 201, n.651

⁷¹¹ See *id.* ¶ 201, n.650. The FCC also found that a BOC has the following obligations with respect to shared transport: (a) provide shared transport in a way that enables the traffic of requesting carriers to be carried on the same transport facilities that a BOC uses for its own traffic; (b) provide shared transport transmission facilities between end office switches, between its end office and tandem switches, and between tandem switches in its network; (c) permit requesting carriers that purchase unbundled shared transport and unbundled switching to use the same routing table that is resident in the BOC's switch; and (d) permit requesting carriers to use shared (or dedicated) transport as an unbundled element to carry originating access traffic from, and terminating traffic to, customers to whom the requesting carrier is also providing local exchange service. *Id.* ¶ 201, n.652

⁷¹² See Exhibit 5, *Deere Direct* ¶ 95; see also Exhibit 4, *Hopfinger Direct*, ¶ 91; see also Exhibit 69, *Hopfinger Rebuttal* at 6; see also Exhibit 4, *Hopfinger Direct* at CLH Attachment A498-A499 & A521- A522 (GIA UNE Appendix 2.2 & 10.6).

⁷¹³ See Exhibit 5, *Deere Direct* ¶¶ 98 - 100; see also Exhibit 4, *Hopfinger Direct*, ¶ 91; see also Exhibit 69, *Hopfinger Rebuttal* at 6; see also Exhibit 4, *Hopfinger Direct* at CLH Attachment A498 & A522 (GIA UNE Appendix §§ 2.2 & 11).

⁷¹⁴ See Exhibit 5, *Deere Direct* ¶ 99. see also Exhibit 4, *Hopfinger Direct* at CLH Attachment A523 (GIA UNE Appendix § 11.3.2).

⁷¹⁵ See Exhibit 5, *Deere Direct* ¶ 100; see also Exhibit 4, *Hopfinger Direct* at CLH Attachment A523 (GIA UNE Appendix § 11.3.2).

⁷¹⁶ *Id.* § 11.5

⁷¹⁷ *Id.* § 11.3.3.3; Exhibit 5, *Deere Direct* ¶ 102.

in the dedicated interoffice transport segment of the network as an UNE,⁷¹⁸ as well as UNE loop dark fiber,⁷¹⁹ and sub-loop dark fiber.” Nevada Bell, in short, is legally obligated to provide interoffice transport in accord with Rule 319

b. Nevada Bell provisions, maintains and repairs unbundled transport products in a nondiscriminatory manner

350. The evidence of record demonstrates that Nevada Bell consistently provisions, maintains, and repairs, dedicated and shared transport services to CLECs, in quantities that the CLECs may reasonably demand and at an acceptable level of quality. As of August, 2001, CLECs had not yet ordered unbundled local transport in large quantities; hence, the quantitative data reflect performance on less than 20 such products. Where Nevada Bell has data, however, the Company's performance for provisioning and maintenance of unbundled local transport demonstrates that CLECs regularly enjoy nondiscriminatory access to unbundled transportation products.⁷²¹ Nevada Bell satisfied every benchmark and parity standard for every submeasure relating to transport service between June and August, 2001.⁷²² Nevada Bell provisioned every CLEC dedicated transport order within the standard interval in July, 2001,⁷²³ and likewise did not miss a single due date.⁷²⁴ Nevada Bell did not receive a single trouble report for dedicated transport products between May and August, 2001.⁷²⁵

351. These PM results demonstrate that when Nevada Bell receives orders for dedicated transport products, Nevada Bell consistently fills those orders in a timely manner. In addition, Nevada Bell consistently provides quality products, and rarely receives trouble reports. The Regional OSS' California specific performance results confirm this conclusion. In California, Pacific Bell has provisioned over five thousand unbundled local transport products.

⁷¹⁸ Interoffice dark fiber is “deployed, unlit fiber optic cables” that run between two different Nevada Bell central offices and terminates on a fiber or equivalent distribution frame in the central offices. Exhibit 4, Hopfinger Direct at CLH Attachment A525-A526 (GIA UNE Appendix § 12.1 & 12.2); Exhibit 5, Deere Direct ¶ 103.

⁷¹⁹ Exhibit 4, Hopfinger Direct at CLH Attachment A526 (GIA UNE Appends § 12.3.2).

⁷²⁰ Id.

⁷²¹ See Exhibit 144, Johnson Supplemental Rebuttal at 55.

⁷²² See id.

⁷²³ See id. Johnson Supplemental Rebuttal, GSJ Attachment K, IM 8. Submeasure 803401

⁷²⁴ See id. Johnson Supplemental Rebuttal, GSJ Attachment K, PM 11, Submeasures 1105601 & 1105602.

⁷²⁵ See id. Johnson Supplemental Rebuttal, GSJ Attachment K, PM 19. Submeasures 1993501 & 1993502.

For June, July, and August, 2001, Pacific Bell achieved parity or met the benchmark for the three-month period for every provisioning and maintenance sub-measure associated with unbundled local transport except three.”⁷²⁶ This performance demonstrates compliance with Checklist Item 5.⁷²⁷

c. Issues raised by Staff, BCP, or Competitive Providers

352. Staff concluded that Nevada Bell satisfied Checklist Item 5. Dr. Otsuka reviewed Nevada Bell’s performance results for PM 7, PM 8, PM 11, PM 14, PM 16, and PM 19, as those results relate to the timeliness and quality of the company’s provisioning, maintenance and repair of local transport products.⁷²⁸ “While Nevada Bell’s provision of service to CLECs exceed[ed]” parity, Staff relied upon Pacific Bell’s performance results because Staff believed Nevada Bell’s “sample sizes” were too small.⁷²⁹

353. Pacific Bell’s performance results certainly do, as Staff concluded, confirm that Nevada Bell provisions, maintains and repairs transport products in a timely manner and at an acceptable level of quality.⁷³⁰ Nevada Bell’s sample sizes, however, are not “too small” to demonstrate that Nevada Bell meets Checklist Item 5. In Texas, which has some 10 million access lines, “[t]he relevant state performance measures (disaggregated into various submeasures) indicate very few months and regions where more than 10 data points were recorded.”⁷³¹ Yet, the FCC was “persuaded that SWBT’s data concerning missed due dates for interoffice facilities shows that its provision of transport to competitive LECs is

⁷²⁶ See id., Johnson Supplemental Rebuttal at 55 n.137. In July, Pacific Bell missed PM 14 (Held Order Interval) when one order was held for 29 days. In June, Pacific Bell missed PM 16 when 3 orders experienced troubles within 30 days of installation. Also, in June, Pacific Bell missed the average time to restore maintenance measure, PM 21, for UNE Dedicated Transport DS3.

⁷²⁷ See SBC Texas Order ¶ 333.

⁷²⁸ See Exhibit 152, Phase II-B Otsuka Direct at 12-22.

⁷²⁹ Id. at 22; see also Exhibit 153, Phase II-B Otsuka Supplemental Direct at 4.

⁷³⁰ See, e.g., Exhibit 144, Johnson Supplemental Rebuttal. GSJ Attachment L. PM 803401 (Percentage Completed within Standard Interval). PM 1105704 (Percent Due Dates Missed). PM 2097001 & PM 2097002 (Percentage of Trouble Not Resolved within Estimated Time). PM 2393501 & PM 2393502 (Frequency of Repeat Troubles in a 30 Day Period).

⁷³¹ Id. ¶ 333 n.923 (“Performance data for January through April generally indicate[d] fewer than 10 data points”).

nondiscriminatory.”⁷³² The FCC’s analysis in Texas, a state with 30 times the number of access lines in Nevada, recognizes that even a small number of commercial transactions is sufficient where the number of transactions is small because of the nature of the service.

354. More important, as was the case in Texas under the PM&IP, Nevada Bell pays damages and assessments for substandard performance even if the sample sizes are small.⁷³³ Nevada Bell’s sample sizes simply reflect the nature of the service, the size of Nevada Bell’s local exchange market, and the granularity of Nevada Bell’s PM&IP. While the sample size is not large, even Staff has acknowledged that low volumes for some products should be “expected due to the nature of the service . . . and the size of the market that Nevada Bell serves”⁷³⁴ Thus, while Pacific Bell’s performance confirms that Nevada Bell satisfies Checklist Item 5, it is important to recognize that Nevada Bell’s sample sizes show that the Company provisions quality transport products in quantities that CLECs reasonably demand.

355. ATG, one of the most active competitive providers in Nevada Bell’s territory, did not raise any operating issues relating to local transport in its direct case.⁷³⁵ WorldCom, another active CLEC, also did not express any operating concerns relating to local transport during its direct case.⁷³⁶ During the cross-examination of Messrs. Decre and Hopfinger, however, CLECs attempted to raise an issue relating to Checklist Item 5. Specifically, with respect to dark fiber that a CLEC could use as interoffice facilities, CLECs questioned the propriety of language in the GIA allowing Nevada Bell to reclaim dark fiber under certain circumstances.⁷³⁷ Nevada Bell, however, can adopt reasonable limitations governing access to dark fiber. Indeed, the FCC

⁷³² Id.
⁷³³ Id.
⁷³⁴ Exhibit 152, Orsuka Direct Testimony Phase 2B at 13, lines 4 – 7 (discussing collocation arrangements).
⁷³⁵ See Exhibit 17, Thomas Direct (Redacted) at 38.
⁷³⁶ See generally Exhibit 14, Munoz Direct.
⁷³⁷ See, e.g., Transcript of Proceeding, Vol. 7 at 1007-8.
Dark fiber can be obtained under Section 12 either as interoffice dark fiber, see Exhibit 4, Hopfinger Direct at CLH Attachment A – 525, or as loop fiber. Id., Exhibit 4 at CLH Attachment A-526. The limitations on CLEC access to dark fiber found in Section 12.4 (the 25 percent limitation) and the provisions defining Nevada Bell’s ability to reclaim dark fiber found in Section 12.7 (the reclamation provisions) of the UNE Appendix to the GIA apply equally to interoffice and loop fiber.

has concluded that state commissions may establish reasonable limits governing dark fiber if ILECs can show that they need to maintain fiber reserves.'''

356. Other state commissions have reviewed and approved similar provisions governing CLEC access to dark fiber.''' Each one of those states – Texas, Kansas and Oklahoma – has obtained relief under Section 271 of the Act. Moreover, the GIA's provisions limiting a CLECs' access to dark fiber allow Nevada Bell to fulfill its regulatory obligations as the provider of last resort.''' In light of these circumstances, it is apparent the GIA's limitations on CLECs access to dark fiber are consistent with the Act and the UNE Remand Order.

357. In sum, all of the evidence points in one direction. Nevada Bell's witnesses testified that Nevada Bell provides nondiscriminatory access to unbundled local transport. The quantitative data corroborate this conclusion. The California Order provides additional evidence that Nevada Bell satisfies the requirements of Checklist Item 5.⁷⁴¹ Finally, after reviewing all of the data, Staff reached the same conclusion

F. Checklist Item 6 – Local Switching

1. Overview

358. Nevada Bell fully complies with Checklist Item 6, offering CLECs nondiscriminatory access to unbundled local switching. The Company's GIA obligates Nevada Bell to provide the full complement of unbundled switching products, including access to both line and trunk-side switching facilities as well as all of the features, functions and capabilities of the switch. CLECs who purchase unbundled switching from Nevada Bell can choose to have calls custom routed according to their specifications. Finally, Nevada Bell delivers billing information and usage records so that CLECs can collect from their customers all retail, exchange access and reciprocal compensation charges related to these capabilities.

^{-ix} See UNE Remand Order ¶ 199.

⁷³⁹ See Transcript of Proceeding, Vol. 7 at 1014 (stating that Texas reviewed and approved a provision in the T2A limiting a single CLEC to 25 percent of the spare dark fiber in a network segment); Exhibit 70. Deerc Rebuttal at 12

⁷⁴⁰ See NEV. ADMIN. CODE § 704.6802 (2001).

⁷⁴¹ See California Order at 165.

2. Standard

359. Section 271(c)(2)(B)(vi) requires a BOC to provide “[l]ocal switching unbundled from transport, local loop transmission, or other services.”⁷⁴² This requirement includes an obligation to provide access to line-side and trunk-side facilities, plus the features, functions, and capabilities of the switch.⁷⁴³ The features, functions, and capabilities of the switch include the basic switching function as well as the same basic capabilities that are available to the incumbent LEC’s customers.”⁷⁴⁴ Nevada Bell’s obligation to provide unbundled local switching also extends to the vertical features that the switch is capable of providing, as well as any technically feasible customized routing functions.⁷⁴⁵

360. Nevada Bell must allow competing carriers to purchase unbundled switching in a manner that permits the carrier to offer and bill for exchange access and the termination of local traffic.⁷⁴⁶ Measuring daily customer usage for billing purposes requires essentially the same OSS functions for both competing carriers and incumbent LECs; therefore, Nevada Bell must demonstrate that it provides equivalent access to billing information.⁷⁴⁷ The ability of an incumbent to provide billing information necessary for a CLFC to bill for exchange access and termination of local traffic is an aspect of unbundled local switching.⁷⁴⁸

361. The Company must also make available trunk ports on a shared basis and routing tables resident in Nevada Bell’s switch, as necessary to provide access to shared transport functionality.⁷⁴⁹ The Company may not limit the ability of competitors to use unbundled local switching to provide exchange access by requiring competing carriers to purchase a dedicated

⁷⁴² 47 U.S.C.A. § 271(c)(2)(B)(vi); see also Second BellSouth Louisiana Order ¶ 207. A switch connects end user lines to other end user lines, and connects end user lines to trunks used for transporting a call to another central office or to a long-distance carrier. Switches can also provide end users with “vertical features” such as call waiting, call forwarding, and caller ID, and can direct a call to a specific trunk, such as to a competing carrier’s operator services.

⁷⁴³ Second BellSouth Louisiana Order ¶ 207.

⁷⁴⁴ Id.

⁷⁴⁵ Id. ¶ 207.

⁷⁴⁶ Id. ¶ 208.

⁷⁴⁷ Id. ¶ 208 (citing Ameritech Michigan Order ¶¶ 140, 330-31).

⁷⁴⁸ Id.

⁷⁴⁹ Id. at ¶ 209 (citing Ameritech Michigan Order ¶ 306).

trunk from an interexchange carrier's point of presence to a dedicated trunk port on the local switch.⁷⁵⁰

3. Analysis

362. Nevada Bell complies with Checklist Item 6. Nevada Bell is obligated to provide (i) line-side and trunk-side facilities, (ii) basic switching functions, (iii) vertical features, (iv) customized routing, (v) shared trunk ports, (vi) unbundled tandem switching, (vii) usage information for billing exchange access, and (viii) usage information for billing reciprocal compensation. The Commission believes the FCC should find that Nevada Bell satisfies Checklist Item 6

a. Nevada Bell's unbundled switching offering encompasses both line and trunk-side facilities

363. Nevada Bell's local switching element encompasses both line and trunk-side facilities. The line-side facilities for example, connect a loop terminating at a main distribution frame and a switch line card.⁷⁵¹ Trunk-side facilities include, for example, the connection between the trunk termination point at a trunk-side cross-connect panel and a trunk card.⁷⁵² Nevada Bell's interconnection agreements, including its generic interconnection offering, bind Nevada Bell to offer competing carriers access to these network elements.⁷⁵³

b. Nevada Bell allows CLECs nondiscriminatory access to basic functions and the vertical features of the switch

364. The Nevada Bell's switching offering includes both the basic functions and the vertical features residing in the switch. Thus, CLECs using unbundled switching can connect lines to lines, lines to trunks, trunks to lines, and trunks to trunks.⁷⁵⁴ The element also contains the following basic capabilities that are available by Nevada Bell: telephone number, dial tone, signaling, access to 9-1-1, operator services, directory assistance, and other features and

⁷⁵⁰ Id. (citing Ameritech Michigan Order ¶¶ 324-25)

⁷⁵¹ See Exhibit 5, Deere Direct ¶ 111

⁷⁵² Id., Deere Direct ¶ 112.

⁷⁵³ See id., Deere Direct at 110-12; see also Exhibit 4, Hopfinger Direct at CLH Attachment A518-A522, § 10 (GIA Appendix UNE).

⁷⁵⁴ See Exhibit 5, Deere Direct ¶ 113.

functions.''' Furthermore, CLECs purchasing unbundled switching obtain all of the vertical capabilities residing in the switch, which include custom calling, CLASS features (features based on the transport of the Calling Party Number), CENTREX-like features, and any other technically feasible customized routing, blocking/screening, or recording functions.⁷⁵⁶

c. CLECs can access Nevada Bell's common transport network or choose customized routing

365. Except as required to fulfill CLEC requests for customized routing, Nevada Bell routes all local calls on the Company's common network to the appropriate trunk or lines for call originating transport.⁷⁵⁷ Nevada Bell applies the same routing criteria for CLEC calls that it uses for its own calls.⁷⁵⁸ When the CLEC purchases unbundled common transport, the local switching element routes the calls appropriately, and the CLEC is not required to purchase a trunk port to access the common transport network element.⁷⁵⁹ Alternatively, CLECs may elect to route calls in a specific or customized manner.'''

d. Nevada Bell provides tandem switching in full compliance with the Act

366. Nevada Bell also allows CLECs to purchase unbundled tandem switching in full compliance with the Act. Tandem switching provides trunk-to-trunk connections for local calls between two end offices, including end office facilities owned by two different CLECs.⁷⁶¹ Tandem switching is defined as (1) trunk-connect facilities, including but not limited to, the connection between trunk terminations at a cross-connect panel and a switch trunk card; (2) the basic switching function of connection trunks to trunks; and, (3) all technically feasible functions that are centralized in tandem switches (as distinguished from separate end office switches),

⁷⁵⁵ See Exhibit 4, Hopfinger Direct ¶ 94 ("This includes the ability for end users served by the CLEC using unbundled switching to **originate and receive** intraLATA and interLATA calls" in the same manner as Nevada Bell's customers); see also Exhibit 5, Deere Direct ¶ 127.

⁷⁵⁶ Exhibit 5, Deere Direct ¶ 113.

⁷⁵⁷ Id., Deere Direct ¶ 113.

⁷⁵⁸ Id.

⁷⁵⁹ Id., Deere Direct ¶ 116.

⁷⁶⁰ Id., Deere Direct ¶ 117.

⁷⁶¹ Exhibit 5, Deere Direct ¶ 122; see also Exhibit 4, Hopfinger Direct at CLH Attachment A522 (GIA Appendix UNE § 10.7).

including, but not limited to, call recording, the routing of calls to operator services, and signaling conversion features.⁷⁶² To the extent signaling is SS7, the Company's unbundled tandem switching offering presenes CLASS features and caller ID as traffic is processed."

e. Nevada Bell delivers a full complement of timely and accurate billing infomiation so that CLECs can collect retail, exchange access and reciprocal compensation charges

367. Finally, the Company provides CLECs with a full complement of billing data. This includes "the information necessary to bill their end-user customers for their customers' usage of the switch."⁷⁶⁴ CLECs also receive information necessary to bill interexchange carriers for access to the CLECs end-user.'" Lastly, Nevada Bell provides CLECs with rhe infomiation needed to bill interconnecting LECs, including Nevada Bell, for the exchange of local traffic.⁷⁶⁶ **As** explained in Section V(B) above, CLECs receive accurate billing information in a timely nianner

f. Issues raised by Staff, BCP, or competitive providers

368. Staff confirmed that interconnection agreements approved by the Commission obligate Nevada Bell to provide "a local switching element that includes both line side and trunk side facilities including the features, functions and capabilities of the switch."⁷⁶⁷ Mr. Galloway's testimony refutes ATG's claim that the Nevada Bell does not have a specific legal obligation to provide unbundled switching.⁷⁶⁸ In September, 2001, Staff concluded that Nevada Bell provides unbundled local switching to CLECs in a nondiscriminatory manner.⁷⁶⁹

⁷⁶² 47 C.F.R. § 51.319(c)(2).

⁷⁶³ Exhibit 5, Deere Direct ¶ 123.

⁷⁶⁴ Exhibit 4, Hopfinger Direci ¶ 94

⁷⁶⁵ Id.

⁷⁶⁶ Id.

⁷⁶⁷ Exhibit 82, Galloway Direct ai 6. While Mr. Galloway could not "recommend a finding that Bell has complied with this requirement," id. his reasoning for doing so is flawed. Mr. Galloway refused to make such a recommendation because competitive providers had failed to provide any evidence of discriminatory conduct. See id. ("Discovery was issued to CLECs but Staff did not receive any responses."). The lack of evidence of discriminatory conduct means that Nevada Bell's evidence is uncontroverted and, therefore, provides a sufficient basis for recommending to the FCC that the Company satisfies this element of the competitive checklist.

⁷⁶⁸ See Exhibit 17, Thomas Direct ai 38 (asserting that Nevada Bell failed to demonstrate compliance with Checklist Items 5 and 6 because Mr. Hopfinger's testimony "relies exclusively on offerings contained in the GIA, which does not reflect a specific legal obligation to provide these network elements").

⁷⁶⁹ See Exhibit 153, Phase II-B Otsuka Supplemental Direci ai 3.

369. Competitive providers once again did not raise any compliance issues in their direct cases; however, CLECs did attempt to raise issues relating to Checklist Item 6 during cross-examination of Messrs. Deere and Hopfinger. WorldCom's counsel asked Messrs. Deere and Hopfinger if Nevada Bell had accommodated WorldCom's request to "make available customized routing using Feature Group D signaling?" While WorldCom's questions inferred that its request was technically feasible at the time of the hearing, testing at that time had not shown that WorldCom's proposal was technically feasible.'-' This line of questioning fails to justify a recommendation of noncompliance. Consequently, the Commission believes that Nevada Bell permits CLECs to purchase unbundled switching in a manner that permits CLECs to offer, and bill for, exchange access and the termination of local traffic.⁷⁷²

G. Checklist Item 7 – 911 and E911 Services & Directory Assistance/Operator Services

1. Overview

370. Nevada Bell complies with both prongs of Checklist Item 7. It satisfies Checklist Item 7 (i) by providing CLECs access to 911 and E911 services in the same means as Nevada Bell obtains access. Nevada Bell satisfies the requirements of Checklist Item 7 (ii) and (iii) by making directory assistance ("DA") and operator Services ("OS") available to carriers that want them.

2. Standard

371. **911 and E911 Services.** Section 271(c)(2)(B)(vii) of the Act requires a BOC to provide "[n]ondiscriminatory access to – (1) 911 and E911 services."⁷⁷³ Section 271 requires Nevada Bell to provide competitors access to its 911 and E911 services in the same manner that it obtains such access, *i.e.*, at parity.⁷⁷⁴ Nevada Bell "must maintain the 911 database entries for

⁷⁷⁰ Transcript of Proceeding, Vol. 7 at 895

⁷⁷¹ See id. at 897.

⁷⁷² See Section V(8) supra.

⁷⁷³ 47 U.S.C.A. § 271(c)(2)(B)(vii)(I). 911 and E911 services transmit calls from end users to emergency personnel. A BOC must provide competing carriers with accurate and nondiscriminatory access to 911/E911 services so that these carriers' customers are able to reach emergency assistance. Customers use DA and OS to obtain customer listing information and other call completion services.

⁷⁷⁴ Ameritech Michigan Order ¶ 256.

competing LECs with the same accuracy and reliability that it maintains the database entries for its own customers."*** For facilities-based carriers, the Company must provide "unbundled access to [its] 911 database and 911 interconnection, including the provision of dedicated trunks from the requesting carrier's switching facilities to the 911 control office at parity with what [Nevada Bell] provides to itself."*** Section 271(c)(2)(B)(vii)(II) and section 271(c)(2)(B)(vii)(III) require Nevada Bell to provide nondiscriminatory access to "directory assistance services to allow the other carrier's customers to obtain telephone numbers" and "operator call completion services," respectively.⁷⁷⁷ Section 251(b)(3) of the Act imposes on each LEC "the duty to permit all [competing providers of telephone exchange service and telephone toll service] to have nondiscriminatory access to . . . operator services, directory assistance, and directory listing, with no unreasonable dialing delays."⁷⁷⁸

372. **Directory Assistance/Operator Services.** The FCC has concluded that a BOC must be in compliance with the regulations implementing section 251(b)(3) to satisfy the requirements of sections 271(c)(2)(B)(vii)(II) and 271(c)(2)(B)(vii)(III).⁷⁷⁹ In the Local Competition Order, the FCC held that the phrase "nondiscriminatory access to directory assistance and directory listings" means that "the customers of all telecommunications service

⁷⁷⁵

Id.

⁷⁷⁶

Id.

⁷⁷⁷

47 U.S.C.A. §§ 271(c)(2)(B)(vii)(II), (III).

⁷⁷⁸

Id. § 251(b)(3). The FCC implemented section 251(b)(3) in the Local Competition Second Report and Order. See 47 C.F.R. § 51.217.

⁷⁷⁹ While both sections 251(b)(3) and 271(c)(2)(B)(vii)(II) refer to nondiscriminatory access to "directory assistance," section 251(b)(3) refers to nondiscriminatory access to "operator services," while section 271(c)(2)(B)(vii)(III) refers to nondiscriminatory access to "operator call completion services." 47 U.S.C.A. §§ 251(b)(3), 271(c)(2)(B)(vii)(III). The term "operator call completion services" is not defined in the Act, nor has the FCC previously defined the term. However, for section 251(b)(3) purposes, the term "operator services" was defined as meaning "any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call." Local Competition Second Report and Order ¶ 110. In the same order the FCC concluded that busy line verification, emergency interrupt, and operator-assisted directory assistance are forms of "operator services," because they assist customers in arranging for the billing or completion (or both) of a telephone call. Id. ¶ 111. All of these services may be needed or used to place a call. For example, if a customer tries to direct dial a telephone number and constantly receives a busy signal, the customer may contact the operator to attempt to complete the call. Since billing is a necessary part of call completion, and busy line verification, emergency interrupt, and operator-assisted directory assistance can all be used when an operator completes a call, the FCC concluded that for checklist compliance purposes, "operator call completion services" is a subset of or equivalent to "operator service." Second BellSouth Louisiana Order ¶ 240. n 763. As a result, the FCC uses the nondiscriminatory standards established for operator services to determine whether nondiscriminatory access is provided.

providers should be able to access each LEC's directory assistance service and obtain a directory listing on a nondiscriminatory basis, notwithstanding: (1) the identity of a requesting customer's local telephone service provider; or (2) the identity of the telephone service provider for a customer whose directory listing is requested."⁷⁸⁰ The FCC concluded that nondiscriminatory access to the dialing patterns of 4-1-1 and 5-5-5-1-2-1-2 to access directory assistance were technically feasible, and would continue." The FCC specifically held that the phrase "nondiscriminatory access to operator services" means that "a telephone service customer, regardless of the identity of his or her local telephone service provider, must be able to connect to a local operator by dialing '0,' or '0plus' the desired telephone number.""

373. Competing carriers may provide OS and DA by either reselling the BOC's services or by using their own personnel and facilities to provide these services. The FCC's rules require BOCs to permit CLECs who want to resell the BOC's operator services and directory assistance to request the BOC to brand their calls." Competing carriers wishing to provide operator services or directory assistance using their own facilities and personnel must be able to obtain directory listings either by obtaining directory information on a "read only" or "query-by-query" basis from the BOC's directory assistance database, or by creating their own directory assistance database by obtaining the subscriber listing information in the BOC's DA database.⁷⁸⁴

⁷⁸⁰ 47 C.F.R. § 51.217(c)(3); Local Competition Second Report and Order ¶¶ 130-35. The Local Competition Second Report and Order's interpretation of section 251(b)(3) is limited "to access to each LEC's directory assistance service." Id. at ¶ 135. However, section 271(c)(2)(B)(vii) is not limited to the LEC's systems but requires "nondiscriminatory access to . . . directory assistance to allow the other carrier's customers to obtain telephone numbers." 41 U.S.C.A. § 271(c)(2)(B)(vii). Combined with the FCC's conclusion that "incumbent LECs must unbundle the facilities and functionalities providing operator services and directory assistance from resold services and other unbundled network elements to the extent technically feasible." Local Competition Order ¶¶ 535-37, section 271(c)(2)(B)(vii)'s requirement should be understood to require the BOCs to provide nondiscriminatory access to the directory assistance service provider selected by the customer's local service provider, regardless of whether the competitor provides such services itself, selects the BOC to provide such services, or chooses a third party to provide such services.

⁷⁸¹ Local Competition Second Report and Order; 151

⁷⁸² Id. ¶ 112.

⁷⁸¹ 47 C.F.R. § 51.217(d); Local Competition Second Report and Order ¶ 148. For example, when customers call the operator or calls for directory assistance, they typically hear a message, such as "thank you for using XYZ Telephone Company." Competing carriers may use the BOC's brand, request the BOC to brand the call with the competitive carriers name or request that the BOC not brand the call at all. 47 C.F.R. § 51.217(d).

⁷⁸⁴ 47 C.F.R. § 51.217(c)(3)(ii); Local Competition Second Report and Order ¶¶ 141-44.

374. Although the FCC originally concluded that BOCs must provide directory assistance and operator services on an unbundled basis pursuant to sections 251 and 252, the FCC removed directory assistance and operator services from the list of required unbundled network elements in the Local Competition Third Report and Order.⁷⁸⁵ Checklist item obligations that do not fall within a BOC's obligations to provide UNEs are not subject to the requirements of sections 251 and 252, including the requirement that rates be based on forward-looking economic costs.⁷⁸⁶ Checklist item obligations that do not fall within a BOC's UNE obligations, however, still must be provided in accordance with sections 201(b) and 202(a), which require that rates and conditions be just and reasonable, and not unreasonably discriminatory.⁷⁸⁷

3. Analysis

375. **911 and E911 services.** Generally, a BOC's 911 services allow its telephone subscribers quick access to emergency assistance. A BOC's E911 service allows a governmental agency responding to an emergency call to receive the name and location of the caller. The FCC has found first that "section 271 requires a BOC to provide competitors access to its 911 and E911 services in the same manner that a BOC obtains such access, i.e., at parity."⁷⁸⁸ Second, the FCC has found that Checklist Item 7 requires a BOC to "maintain the 911 database entries for competing LECs with the same accuracy and reliability that it maintains the database entries for its own customers."⁷⁸⁹ Finally, for facilities-based carriers, a BOC must provide "unbundled access to [its] 911 database and 911 interconnection, including the provision of dedicated trunks from the requesting carrier's switching facilities to the 911 control office at parity with what [the

⁷⁸⁵ UNE Remand Order ¶¶ 441-42.

⁷⁸⁶ Id. ¶ 470. See generally 47 U.S.C.A. §§ 251-52; see also 47 U.S.C.A. § 252(d)(1)(A)(i) (requiring UNE rates to be "based on the cost (determined without reference to a rare-or-recur or other rate-based proceeding) of providing the ... network element").

⁷⁸⁷ UNE Remand Order ¶¶ 470-73; see also 47 U.S.C.A. §§ 201(b), 202(a).

⁷⁸⁸ SBC Texas Order ¶ 343.

⁷⁸⁹ Id.

BOC] provides to itself."*** The evidence of record demonstrates, as Staff confirmed, that Nevada Bell meets each of these three prongs of the FCC's analysis.

376. First, Nevada Bell provides CLECs with *parity access* to 911 and E911 services.⁷⁹¹ Both Nevada Bell and the CLECs in Nevada receive their 911 and E911 services from Pacific Bell.⁷⁹² Pacific Bell provides and maintains the 911 Database Management System ("911 DMS").⁷⁹³ For each 911 call received, the 911 data for Nevada Bell and Nevada CLECs are transmitted from the database to the Public Safety Answering Point ("PSAP") via the Automatic Location Identification ("ALI") retrieval system, which is a redundant system located in Northern and Southern California.⁷⁹⁴ Nevada Bell maintains an E911 Control Office, and provides CLECs with a description of the geographic area and the PSAPs served by that office.⁷⁹⁵ CLECs in Nevada may obtain parity access to the 911 and E911 system pursuant to the terms of the GIA.⁷⁹⁶

377. Second, Nevada Bell maintains database entries of CLECs' customers with the same *accuracy and reliability* that it maintains the database entries for Nevada Bell's own customers. CLECs process their own facilities-based customer records and updates through the MS Gateway.⁷⁹⁷ CLEC resale records and Nevada Bell customer records are processed through the SORD System.⁷⁹⁸ CLECs have on-line access to confirm the accuracy of both their resale and facilities-based customer records.⁷⁹⁹ Moreover, Nevada Bell has established two performance measurements (PM 38 (Percentage Data Accuracy) and PM 39 (E911/911 MS Database Update Average)) to assess the accuracy of CLECs' database updates.⁸⁰⁰ Nevada

790

Id.

791

Exhibit 5, Deere Direct ¶¶ 130-51

792

Exhibit 5, Deere Direct ¶ 145.

793

Exhibit 5, Deere Direct ¶ 167.

794

Exhibit 5, Deere Direct ¶ 147.

795

Exhibit 5, Deere Direct ¶ 167

796

Exhibit 4, Hopfinger Direct at CLH Attachment A231-A244 (GIA Appendix 91 I); Exhibit 5, Deere Direct

797

¶ 146; see also Exhibit 80, Yaple Testimony at 15

798

See Exhibit 5, Deere Direct ¶ 150. Facilities-based CLECs typically connect their **own database** errors, but upon request Nevada Bell's Data Integrity Unit ("DIU") will perform error correction services for **such CLECs.** Id.

799

See Exhibit 5, Deere Direct ¶ 149.

800

See Exhibit 5, Deere Direct ¶ 155.

800

See, e.g., Exhibit 144, Johnson Supplemental Rebuttal, CSJ Attachment K. PMs 38 & 39.

Bell’s performance results for these two performance measures confirm the systematic completion of error-free database entries for CLECs, and the timeliness of 911 database updates.”” In this regard, Staff confirmed that from October through March 2001. “Nevada Bell’s service performance to CLECs has met or exceeded its service performance to its own retail operations.”⁸⁰²

378. Third, Nevada Bell provides CLECs with unbundled access to the 911 database, and interconnection including dedicated trunks from a CLEC’s switching facilities to the Nevada Bell Control Office, on a parity basis. Because Nevada Bell does not have access to calling and blockage data on CLEC-originating trunks, CLECs must determine the number of dedicated E911 trunks they require and place timely orders for new trunks.⁸⁰³ Nevada Bell, however, will maintain dedicated E911 circuits according to a CLEC’s specifications.”

379. **Directory Assistance (DA)/Operator Services (OS).** Sections (II) and (III) of Checklist Item 7 require a BOC to provide nondiscriminatory access to “directory assistance services to allow the other carrier’s customers to obtain telephone numbers” and “operator call completion services.”⁸⁰⁵ The FCC has concluded that to satisfy the requirements of Checklist Item 7 (II) and (III), a ROC must be in compliance with the regulations implementing Section 251(b)(3) of the Act. Section 251(b)(3) imposes the duty to permit all competing providers of telephone exchange service and telephone toll service to have “nondiscriminatory access” to “operator services, directory assistance, and directory listings, with no unreasonable dialing delays.”⁸⁰⁶

380. “Nondiscriminatory access” to operator services (“OS”) requires that “a telephone service customer, regardless of the identity of his or her local telephone service provider, must be

⁸⁰¹ Indeed, Nevada Bell’s performance for PM 38 (Percentage Data Accuracy) and PM 39 (E911/911 MS Database Update Average) consistently met the absolute parity standard for June, July and August 2001. See Exhibit 144, Johnson Supplemental Rebuttal, GSJ Attachment K, **PM 38**

⁸⁰² Exhibit 152, Phase II-B Otsuka Direct at 6.

⁸⁰³ Exhibit 5, Deere Direct ¶ 168.

⁸⁰⁴ Id.

⁸⁰⁵ 47 U.S.C.A. §§ 271(c)(2)(B)(vii)(II), (III). Generally, customers use directory assistance and operator services to obtain customer listing information and other call completion services.

⁸⁰⁶ Id. § 251(b)(3). The FCC implemented section 251(b)(3) in its Local Competition Second Report and Order see 47 C.F.R. § 51.217.

able to connect to a local operator by dialing '0,' or '0 plus' the desired telephone number."⁸⁰⁷

With respect to DA and **DA** listings, "nondiscriminatory access" means that the customers of all telecommunications service providers should be able to access DA service by dialing through the same dialing arrangements and obtain DA listings on a nondiscriminatory basis, notwithstanding: (1) the identity of a requesting customer's local telephone service provider; or (2) the identity of the telephone service provider for a customer whose directory listing is requested."⁸⁰⁸

381. Consistent with the FCC's requirements, Nevada Bell's offerings allow both facilities-based and resale CLECs to provide OS/DA services offered either by Nevada Bell,"" or a third-party OS/DA provider." Where a CLEC elects to have Nevada Bell provide its OS/DA services, CLEC end-users obtain OS/DA through the same dialing arrangements used by Nevada Bell's end-users,⁸¹¹ and OS calls from CLEC customers are processed by the same system and personnel, and in the order they are received, as OS calls from Nevada Bell customers – ensuring that CLEC customers receive the same performance as Nevada Bell customers."

382. Nevada Bell allows CLECs wishing to provide OS/DA services using their own facilities to obtain DA listings either by obtaining directory information on a "read only" or

⁸⁰⁷ Local Competition Second Report and Order ¶ 112 (emphasis added).

⁸⁰⁸ 47 C.F.R. § 51.217(c)(3); Local Competition Second Report and Order ¶¶ 130-35. The Local Competition Second Report and Order's interpretation of section 251(b)(3) is limited "to access to each LEC's directory assistance service." Id. ¶ 135. However, section 271(c)(2)(B)(vii) is not limited to the LEC's systems but requires "nondiscriminatory access to . . . directory assistance to allow the other carrier's customers to obtain telephone numbers." 47 U.S.C.A. § 271(c)(2)(B)(vii). Combined with the FCC's conclusion that "incumbent LECs must unbundle the facilities and functionalities providing operator services and directory assistance from resold services and other unbundled network elements to the extent technically feasible." Local Competition Order ¶¶ 535-37, section 271(c)(2)(B)(vii)'s requirement should be understood to require the BOCs to provide nondiscriminatory access to the directory assistance service provider selected by the customer's local service provider, regardless of whether the competitor provides such services itself, selects the BOC to provide such services, or chooses a third party to provide such services.

⁸⁰⁹ Nevada Bell's OS include fully automated call processing, semi-automated call processing, station-to-station operator handled calls, line status verification, busy line interrupt, operator transfer and other miscellaneous operator services. See Exhibit 39, Rogers Direct ¶ 18. Nevada Bell's DA services include **DA**, and express call completion. Id. CLECs wishing to resell these OS/DA services are able to brand their calls in accord with 47 C.F.R. § 51.217(d). See id., Rogers Direct ¶ 25.

⁸¹⁰ See Exhibit 39, Rogers Direct ¶¶ 9-10.

⁸¹¹ See id., Rogers Direct ¶ 41.

⁸¹² See id., Rogers Direct ¶ 41; Exhibit 140, Gleason Johnson Direct ¶ 45 (explaining that the parties to the joint stipulations concluded that performance measures to assess Nevada Bell's performance with respect to OS/DA were unnecessary as these processes provided parity by design).

“query-by-query” basis from the Nevada Bell’s DA database, or by creating their own DA database by obtaining the directory listing information, via a one-time bulk download with daily updates, of the listed Nevada Bell DA listings.⁸¹³ Resale and facilities-based CLECs can “custom route” their end-user calls to a provider other than Nevada Bell.⁸¹⁴ The FCC has found that where an ILEC, such as Nevada Bell, provides customized routing, OS/DA are competitive services that the TLEC need not provide on an unbundled basis.⁸¹⁵ Accordingly, Nevada Bell wholesale OS/DA services, including branding, are offered at “market-based pricing, not cost-based pricing.”⁸¹⁶

4. Issues raised by Staff, BCP, or competitive providers

383. WorldCom raised concerns with two aspects of Nevada Bell’s OS/DA offerings. First, WorldCom alleged that it is “discriminatory” for Nevada Bell to restrict WorldCom’s use of Nevada Bell’s DA listings to the local service area in Nevada, and thus not allow WorldCom to share such listings with its affiliates in order to provide nationwide DA services.” In response, Nevada Bell pointed out that it does not allow its affiliates or CLECs to use its local listings to provide nationwide DA service.⁸¹⁸ Instead, if an affiliate or a CLEC wants to provide

⁸¹³ See 17 C.F.R. § 51.217(c)(3)(ii). See Exhibit 39, Rogers Direct ¶¶ 30-31 (explaining that CLECs who provide their own DA services can obtain direct, nondiscriminatory access to Nevada Bell’s DA database, obtaining listing information by searching the same DA database on a query-by-query basis in the same format that Nevada Bell’s DA operators use, and that Nevada Bell provides DA listings in bulk with daily updates to CLECs that want to utilize Nevada Bell’s DA listings to provide DA services to their own customers).

⁸¹⁴ See Exhibit 39, Rogers Direct ¶¶ 9-10.

⁸¹⁵ Although the FCC originally concluded that BOCs must provide directory assistance and operator services on an unbundled basis pursuant to sections 251 and 252, the FCC removed directory assistance and operator services from the list of required unbundled network elements in the Local Competition Third Report and Order, UNE Remand Order ¶¶ 441-42. Checklist item obligations that do not fall within a BOC’s obligations to provide unbundled network elements are not subject to the requirements of sections 251 and 252, including the requirement that rates be based on forward-looking economic costs. Id. ¶ 470; see generally 47 U.S.C.A. §§ 251-52; see also 47 U.S.C.A. § 252(d)(1)(A)(i) (requiring UNE rates to be “based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the . . . network element”). Checklist item obligations that do not fall within a BOC’s UNE obligations, however, still must be provided in accordance with sections 201(b) and 202(a), which require that rates and conditions be just and reasonable, and not unreasonably discriminatory. UNE Remand Order ¶¶ 470-73; see also 47 U.S.C.A. §§ 201(b), 202(a).

⁸¹⁹ See SBC Texas Order ¶ 350; Exhibit 64, Vandagriff Rebuttal, at 3.

⁸¹⁷ See Exhibit 14, Munoz Direct at 30-31; see also Transcript of Proceeding, Vol. 7, at 806-7.

⁸¹⁸ See Exhibit 64, Vandagriff Rebuttal at 5-6. Mr. Vandagriff also testified that Nevada Bell does not currently provide nationwide DA service. See Transcript of Proceeding, Vol. 7, at 835.

nationwide DA service, then they may access Nevada listings from a national database maintained by a third-party consistent with FCC requirements.⁸¹⁹

384. Second, WorldCom asserted that the "flavors" of customized routing offered by Nevada Bell are incompatible with the method that WorldCom wishes to use.⁸²⁰ On this basis, WorldCom argued that the Nevada Bell's offering of customized routing was "discriminatory."⁸²¹ In response, Nevada Bell explained that the method that WorldCom wishes to use is as of yet unproven – in fact, as of October, 2000, WorldCom was continuing to test the use of its proposed method.⁸²² Moreover, Nevada Bell agreed that if and when WorldCom establishes that its proposed method is technically feasible, then Nevada Bell will work with WorldCom to implement that method.⁸²³

385. In summary, Nevada Bell addressed the two concerns raised by WorldCom with respect to Sections (II) and (III) of Checklist Item 7. Moreover, Staff requested that CLECs provide any information indicating that Nevada Bell has not satisfied any of the requirements of Checklist Item 7.⁸²⁴ Having received no response from the CLECs, and having concluded its own evaluation, Staff recommended that the Commission find that Nevada Bell has demonstrated full compliance with these requirements of Checklist Item 7.⁸²⁵ In summary, the

//

//

/

⁸¹⁹ See Memorandum Opinion and Order. In the Matter of Petition of U S WEST Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance. CC Docket No. 97-172, Petition of U S WEST Communications, Inc. for Forbearance. CC Docket No. 97-172, The Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105 (1999) (U.S. WEST NDA Forbearance Order).

⁸²⁰ See Exhibit 14, Munoz Direct at 29-30.

⁸²¹ See Exhibit 14, Munoz Direct at 30.

⁸²² See Exhibit 70, Deere Rebuttal at 11-17.

⁸²³ See id., Deere Rebuttal at 17; see also Transcript of Proceeding Vol. 7 at 902-3 (Mr. Deere testifying that Nevada Bell "offer[s] customized routing today. We offer it to other companies today, and they use it today, but they're using a different method than what WorldCom wants. If WorldCom can give us the information to let us make a method work, then we will offer it to them.").

⁸²⁴ See Exhibit 80, Yaple Direct at 16.

⁸²⁵ See Exhibit 152, Phase II-B Otsuka Direct at 6.

Commission agrees with Staffs recommendation and concludes that Nevada Bell has demonstrated that it fully complies with the requirements Sections (I), (II) and (III) of Checklist Item 7.

H. Checklist Item 8 – White Pages Directory Listings

1. Overview

386. Section 271(c)(2)(B)(viii) requires a BOC to provide “[w]hite pages directory listings for customers of the other carrier's telephone exchange service.”⁸²⁶ Section 251(b)(3) of the Act obligates all LECs to permit competitive providers of telephone exchange service and telephone toll service to have nondiscriminatory access to directory listings.⁸²⁷ Nevada Bell complies with these requirements of Checklist Item 8.

~~2.~~ — Standard

387. The FCC has concluded that, “consistent with the FCC’s interpretation of ‘directory listing’ as used in section 251(b)(3), the term ‘white pages’ in section 271(c)(2)(B)(viii) refers to the local alphabetical directory that includes the residential and business listings of the customers of the local exchange provider.”⁸²⁸ The FCC has further concluded, “the term ‘directory listing,’ as used in this section, includes, at a minimum, the subscriber's name, address, telephone number, or any combination thereof.”⁸²⁹ The FCC has also held that a BOC satisfies the requirements of checklist item 8 by demonstrating that it: (1) provides nondiscriminatory appearance and integration of white page directory listings to

⁸²⁶ 47 U.S.C.A. § 271(c)(2)(B)(viii)

⁸²⁷ Id. § 251(b)(3).

⁸²⁸ Second BellSouth Louisiana Order ¶ 255.

⁸²⁹ Id. In the Second BellSouth Louisiana Order, the FCC stated that the definition of “directory listing” was synonymous with the definition of “subscriber list information.” Id ¶ 252 (citing the Local Competition Second Report and Order ¶ 137). However, the FCC’s decision in a recent proceeding obviates this comparison, and supports the definition of directory listing delineated above. See Implementation of the Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information, CC Docket No. 96-115, Third Report and Order: Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Second Order on Reconsideration, Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended, CC Docket No. 99-273, FCC 99-227, Notice of Proposed Rulemaking, ¶ 160 (1999)

competitive LECs' customers; and (2) provides white page listings for competitors' customers with the same accuracy and reliability that it provides its own customers.⁸³⁰

388. Checklist item 8 requires a BOC to provide "[w]hite pages directory listings for customers of the other carrier's telephone exchange service." Nevada Bell satisfies this checklist item by listing CLECs' customers in Nevada Bell's White Pages directories on the same basis as Nevada Bell's own customers,⁸³² arranging for CLEC customers to receive copies of these directories in a nondiscriminatory manner during the annual distribution of newly published books,⁸³³ and establishing procedures that minimize the potential for errors in the listings provided to CLECs' customers.⁸³⁴ In addition, Nevada Bell has consistently met or exceeded the prescribed performance standards for the sub-measures associated with White Pages directory listings.⁸³⁵

3. Analysis

389. The FCC has concluded that a BOC satisfies the requirements of Checklist Item 8 by demonstrating that it provides: (1) nondiscriminatory appearance and integration of white page directory listings to CLECs' customers; and (2) white page listings for CLECs' customers with the same accuracy and reliability that it provides its own customers.⁸³⁶ In this regard, the term "white pages" refers to the local alphabetical directory that includes the residential and business listings of the customers of the local exchange provider.⁸³⁷ The term "directory listing" includes the "subscriber's name, address, telephone number, or any combination thereof."⁸³⁸

⁸³⁰ Id. ¶ 253.

⁸³¹ 47 U.S.C.A. § 271(c)(2)(B)(viii).

⁸³² See Exhibit 39, Rogers Direct ¶¶ 43-46.

⁸³³ See id., Rogers Direct ¶ 47.

⁸³⁴ See id., Rogers Direct ¶¶ 52-60.

⁸³⁵ Nevada Bell's performance results for PM 37 (Average Database Update Intervals) and PM 38 (Percentage Data Accuracy) met the absolute parity standard for June, July, and August, 2001. See Exhibit 144, Johnson Supplemental Rebuttal, GSJ Attachment K, PMs 37 & 38, see also Exhibit 15?, Phase II-B Otsuka Direct at 7.

⁸³⁶ Id. ¶ 253.

⁸³⁷ Second BellSouth Louisiana Order ¶ 255.

⁸³⁸ Id. In the Second BellSouth Louisiana Order, the FCC stated that the definition of "directory listing" was synonymous with the definition of "subscriber list information." Id. ¶ 252 (citing the Local Competition Second Report and Order ¶ 137). However, the FCC's decision in a recent proceeding obviates this comparison, and

390. *Nondiscriminatory appearance and integration of white page listings.* The listings Nevada Bell provides to CLECs' customers are identical to, and fully integrated with, Nevada Bell's customers' listings. Nevada Bell makes White Pages listings available for the end users of both resale and facilities-based CLECs.⁸³⁹ Such CLECs have the same listing options for their customers as Nevada Bell offers to its retail customers.⁸⁴⁰ Facilities-based CLECs may choose whether to have their customers' listings interspersed or printed separately from Nevada Bell's listings.⁸⁴¹ In addition, Nevada Bell will transmit facilities-based CLECs' listings to third-party directory publishers at a CLEC's request.⁸⁴² Through July, 2000, Nevada Bell has provided CLECs in Nevada with more than 3,151 White Pages listing records.⁸⁴³ Staff confirmed that the actual listings of CLEC customers are fully integrated with and indistinguishable to the listings of Nevada Bell customers in the Nevada Bell White Pages.⁸⁴⁴

391. *Nondiscriminatory accuracy and reliability of white page listings.* Nevada Bell also has in place procedures to ensure that CLECs' customers are able to receive directory listings containing the "names, addresses and telephone numbers" with the same accuracy and reliability as Nevada Bell's customers. In this regard, Nevada Bell provides CLECs with instructions for obtaining a White Pages listing, along with publishing schedules and deadlines, in the CLEC Handbook, which is accessible on the Company's website (<https://clec.sbc.com>).⁸⁴⁵ These instructions describe the proper format for submitting subscriber listing information, and explain the procedures for updating the directory listings database.⁸⁴⁶

supports the definition of directory listing delineated above. See Implementation of the Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, CC Docket No. 96-115, Third Report and Order; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Second Order on Reconsideration; Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended, CC Docket No. 99-273, FCC 99-227, Notice of Proposed Rulemaking ¶ 160 (1999).

⁸³⁹ See Exhibit 39, Rogers Direct ¶ 43.

⁸⁴⁰ Id. ¶ 44.

⁸⁴¹ Id.

⁸⁴² Id. ¶ 55.

⁸⁴³ Id. ¶ 44.

⁸⁴⁴ See Exhibit 80, Yaple Direct at 10 7-8 (verifying that CLCC end user listings were interspersed alphabetically in the 1999-2000 Nevada Bell White Pages directory); id. (stating that it is not possible to ascertain which listings are for Nevada Bell end users and which are for CLEC end users).

⁸⁴⁵ See Exhibit 39, Rogers Direct ¶¶ 50-51 & at 26-27, ¶¶ 56-58.

⁸⁴⁶ Id. ¶ 59 see also Exhibit 41 (White Pages Listings User Guide).

4. Issues raised by Staff, BCP or Competitive Providers

392. ATG raised concerns regarding the inclusion of its customers in the Nevada Bell White Pages. Specifically, ATG alleged that it had initially received conflicting information regarding the listings help desk support for Nevada CLECs.⁸⁴⁷ ATG also asserted that it had been unable to confirm the format of certain listings until only days before the publishing deadline.” Finally, ATG represented that it had not been notified of a difference between the way Nevada and California CLECs must format listings – Nevada CLECs must use the “NV” state-specific identifier when submitting their directory listings in Nevada.⁸⁴⁹

393. In response to ATG’s concerns, Nevada Bell clarified that the listing help desk does support both Nevada and California CLECs,⁸⁵⁰ and further assembled a “Fix-It-Team” to address Nevada Bell listing issues different from those of Pacific Bell.”⁸⁵¹ In addition, Nevada Bell pointed out (hat there are at least four alternative methods by which a CLEC can confirm the content and format of their directory listings – ranging from a confirmation file accessible on the Listing Gateway on-line OSS within **24** hours of the submission of a listing, to a final extraction report accessible on the Listing Gateway on-line OSS that is made available to CLECs at the same time it is available to Nevada Bell.⁸⁵² Finally, Nevada Bell explained that the “difference” in listing format between Nevada and California (i.e., Nevada CLECs must include an “NV” designation in their listing submissions) is specified in the on-line CLEC handbook,” and had been communicated to Nevada CLECs, including ATG, on several occasions.““

394. In summary, Nevada Bell responded to the concerns of ATG regarding the inclusion of ATG’s customers’ listings in the White Pages directory. More importantly, Staff testified that the best test for Nevada Bell’s accurate and reliable inclusion of CLECs’ customers would be the “real world” test – whether CLECs actually voiced concerns over inaccurate

⁸⁴⁷ See Exhibit 80, Yaple Direct at 11; see also Exhibit 17, Thomas Direct at 41-42.

⁸⁴⁸ See id

⁸⁴⁹ See Transcript of Proceeding, Vol. 4 at 601-602.

⁸⁵⁰ See Exhibit 80, Yaple Direct at 11; see also Transcript of Proceeding, Vol. 3 at 445-46.

⁸⁵¹ See Exhibit 80, Yaple Direct at 11

⁸⁵² See Exhibit 64, Vandagriff Rebuttal at 8-11; see also Transcript of Proceeding, Vol. 5 at 643-45.

x i See Transcript of Proceeding, Vol. 5 at 651; see also Exhibit 48 (User Guides and Tech Pubs), at 3

854 See Transcript of Proceeding, Vol. 5 at 650-53

listings after the publication of the 2000-2001 Nevada Bell directory.⁸⁵⁵ That publication date has come and gone, and Staff has confirmed that it received no complaints from CLECs.⁸⁵⁶ The Commission agrees with Staff's recommendation and concludes that Nevada Bell has demonstrated that it fully complies with the requirements of Checklist Item 8.⁸⁵⁷

I. Checklist Item 9 – Numbering Administration

1. Overview

395. Nevada Bell complies with Section 271(c)(2)(B)(ix) by having provided “nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers,” until “the date by which telecommunications numbering administration, guidelines, plan, or rules are established.”⁸⁵⁸ The checklist mandates compliance with “such guidelines, plan, or rules” after they have been established.⁸⁵⁹ A BOC must demonstrate that it adheres to industry numbering administration guidelines and FCC rules.” Nevada Bell has complied, and continues to comply with these requirements of Checklist Item 9.

2. Standard

396. Section 271(c)(2)(B)(ix) of the Act requires a BOC to provide “nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers,” until “the date by which telecommunications numbering administration, guidelines, plan, or rules are established.”⁸⁶¹ A BOC must comply with “such guidelines, plan, or rules” after they have been established.⁸⁶² Accordingly, the FCC has concluded that in order to satisfy

⁸⁵⁵ See Exhibit SO, *Yapple Direct* at 12 lines 7-24.

⁸⁵⁶ See Exhibit 152, *Phase II-B Otsuka Direct* at 6-7.

⁸⁵⁷ *Id.*

⁸⁵⁸ 47 U.S.C.A. § 271(c)(2)(B)(ix)

⁸⁵⁹ *Id.*

⁸⁶⁰ See *Second Bell South Louisiana Order* ¶¶ 262-65; see also *Numbering Resource Optimization, Report and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 7574 (2000); *Numbering Resource Optimization, Second Report and Order, Order on Reconsideration* in CC Docket No. 99-200 and *Second Further Notice of Proposed Rulemaking* in CC Docket No. 99-200, CC Docket Nos. 96-98; 99-200, 16 FCC Rcd 306 (2000).

⁸⁶¹ 47 U.S.C.A. § 271(c)(2)(B)(ix).

⁸⁶² *Id.*