

discretion to give this challenge little weight. In such cases, we will not find that the objecting party persuasively rebuts the *prima facie* showing of TELRIC compliance if the BOC provides a reasonable explanation concerning the issue raised by the objecting party.

44. With these principles in mind and after thoroughly reviewing the record in this application, we find that Michigan Bell's UNE rates in Michigan are just, reasonable, and nondiscriminatory, and satisfy checklist item 2. Before we discuss commenters' arguments and our conclusions, we summarize the pricing proceedings in Michigan.

a. Background

45. The Michigan Commission set UNE rates for Michigan Bell after an extensive review process through several pricing proceedings, as summarized below. The UNE rates in effect have all been approved by the Michigan Commission on a total service long run incremental cost (TSLRIC) basis, consistent with TELRIC methodology.¹²² The Michigan Commission emphasized that its pricing proceedings "were comprehensive, evaluating [Michigan Bell]'s entire Michigan network and all services."¹²³

46. After the issuance of the Commission's *Local Competition First Report and Order*, the Michigan Commission initiated its First Biennial Cost Docket, Case No. U-11280, to review the cost studies underlying Michigan Bell's prices for UNEs, interconnection, resale, and basic local exchange services.¹²⁴ This proceeding culminated in the Michigan Commission's *Generic Cost Order* on July 14, 1997, in which the Michigan Commission evaluated a number of Michigan Bell inputs such as cost of capital, fill factors, depreciation asset lives, nonrecurring charges, and shared and common costs.¹²⁵

47. In the Second Biennial Cost Docket, Case No. U-11831, Michigan Bell submitted new cost studies addressing the network elements that the Michigan Commission and the Commission ordered unbundled at the time of filing, as well as caged, cageless, and virtual

¹²² Michigan Commission Comments at 49; see also *Verizon Pennsylvania Order*, 16 FCC Rcd at 17454, para. 56 (approving Pennsylvania Commission's use of TSLRIC methodology).

¹²³ Michigan Commission Comments at 49.

¹²⁴ Michigan Bell Application, App. L, Tab 3, *In the Matter, on the Commission's Own Motion, to Consider the Total Service Long Run Incremental Costs and to Determine the Prices of Unbundled Network Elements, Interconnection Services, Resold Services, and Basic Local Exchange Services for Ameritech Michigan*, Case No. U-11280 (*Michigan Commission 1997 TSLRIC Proceeding*), Order Initiating Proceedings (Dec. 12, 1996); see also Michigan Bell Application at 31-33; Michigan Commission Comments at 49.

¹²⁵ Michigan Bell Application, App. L, Tab 5, *Michigan Commission 1997 TSLRIC Proceeding*, Opinion and Order (July 14, 1997). Michigan Bell revised its cost studies to conform to the *Generic Cost Order*, after which the Michigan Commission granted partial rehearing in September 1997 and further rehearing in January 1998. See Michigan Bell Application at 31-33; Michigan Bell Application, App. L, Tab 6, *Michigan Commission 1997 TSLRIC Proceeding*, Order Granting Rehearing in Part (Sept. 30, 1997); and Michigan Bell Application, App. L, Tab 7, *Michigan Commission 1997 TSLRIC Proceeding*, Order on Rehearing (Jan. 28, 1998).

collocation and reciprocal compensation.¹²⁶ This proceeding resulted in a final order on August 31, 2000.¹²⁷ As a result of this proceeding, the Michigan Commission required Michigan Bell to revise certain cost studies and implement a new collocation cost model.¹²⁸ The Michigan Commission first established the relevant rates for UNE combinations in this proceeding.¹²⁹

48. The Michigan Commission set rates for other UNEs through a series of proceedings. In response to the Commission's *UNE Remand Order*¹³⁰ and *Line Sharing Order*,¹³¹ the Michigan Commission established costs for new UNEs, including DS3 loops, standard xDSL loop conditioning, loop qualification, subloops, dark fiber, and for the high-frequency portion of the loop UNE in March 2001, in Case No. U-12540.¹³² The Michigan Commission set rates for shared transport in conjunction with unbundled local switching in Case No. U-12622.¹³³ In June 2002, the Michigan Commission established UNE rates for the branding of operator service (OS) and directory assistance (DA) calls, and for the Customer Name Database downloads.¹³⁴

49. The Michigan Commission recently addressed non-recurring charges (NRCs) in the *Second Cost Order*.¹³⁵ For a UNE-P migration, a single NRC must be applied, while for a non-migration installation, Michigan Bell may only charge the NRC for one of the underlying

¹²⁶ See Michigan Bell Application at 33-34.

¹²⁷ Michigan Bell Application, App. L, Tab 10, Opinion and Order, *In the Matter, on the Commission's Own Motion, to Consider the Total Service Long Run Incremental Costs for All Access, Toll, and Local Exchange Services Provided by Ameritech Michigan*, Case No. U-11831 (*Michigan Commission 1999 TSLRIC Proceeding*), Opinion and Order (Aug. 31, 2000) (*Michigan Commission Second Cost Order*); see also Michigan Bell Application, App. L, Tab 8, *Michigan Commission 1999 TSLRIC Proceeding*, Opinion and Order (Nov. 16, 1999); and Michigan Bell Application, App. L, Tab 9, *Michigan Commission 1999 TSLRIC Proceeding*, Opinion and Order (May 3, 2000).

¹²⁸ See Michigan Bell Application at 34.

¹²⁹ See Michigan Bell Application, App. A, Vol. 4, Tab 10, Affidavit of Kelly Ann Fennell (Michigan Bell Fennell Aff.) at paras. 6 and 17. The rates for UNE combinations were also addressed more recently in Case No. U-12320. *Id.* at paras. 7, 18, 44-45.

¹³⁰ *UNE Remand Order*, 15 FCC Rcd 3696.

¹³¹ *Line Sharing Order*, 14 FCC Rcd 20912.

¹³² Michigan Bell Fennell Aff. at para. 13; see also Michigan Bell Application, App. A, Vol. 4, Tab 11, Affidavit of Richard J. Florence (Michigan Bell Florence Aff.) at para. 38; Michigan Bell Application at 34-35.

¹³³ Michigan Bell Fennell Aff. at para. 14; see also Michigan Bell Florence Aff. at para. 39.

¹³⁴ Michigan Bell Fennell Aff. at paras. 13, 16; see also Michigan Bell Application, App. L, Tab 43, *Application of Ameritech Michigan for Approval of Cost Studies Related to Calling Name Database Download and Branding of Operator Services and Directory Assistance Calls Delivered Over Shared Trunks*, Case No. U-13347, Opinion and Order (June 21, 2002).

¹³⁵ See *Michigan Commission Second Cost Order* at 10.

UNEs of the UNE-P – either the loop or the port.¹³⁶ In Case No. U-12320, the Michigan Commission determined that Michigan Bell may assess, as the NRC for a requested new combination, the NRC associated with one of the underlying UNEs comprising either a new UNE-P or a new enhanced extended link (EEL).¹³⁷ With respect to charges for conversion scenarios involving line sharing, the Michigan Commission concluded that when an end user receiving data service via a line sharing arrangement switches to a voice competitive LEC, the voice competitive LEC should pay the same NRC as if it had migrated the voice service to a UNE-P when no line-sharing arrangement is present.¹³⁸ The Michigan Commission also determined that the data competitive LEC would incur whatever costs may be associated with continuing its data service via line splitting with the new voice competitive LEC establishing its data service on a separate loop, or discontinuing its data service.¹³⁹

b. Application of TELRIC Standard

50. Based on the evidence in the record, we find that Michigan Bell's charges for UNEs made available to other telecommunications carriers are just, reasonable, and nondiscriminatory in compliance with checklist item 2. We find that the Michigan Commission followed basic TELRIC principles. As discussed above, the orders of the Michigan Commission provide numerous indicia that it followed a forward-looking approach that is consistent with TELRIC. We find that the Michigan Commission has worked diligently to set UNE rates at TELRIC levels. No commenter raises any checklist item 2 pricing issues in connection with Michigan Bell's UNE rates, except as discussed below.

c. Pricing of Directory Assistance Listings

51. CLECA argues that Michigan Bell does not provide directory assistance listings (DAL) at TELRIC rates.¹⁴⁰ We find that CLECA fails to allege a TELRIC violation that would

¹³⁶ See Michigan Bell Fennell Aff. at paras. 17-18, 41-43; see also *Michigan Commission Second Cost Order* at 10.

¹³⁷ See Michigan Bell Fennell Aff. at paras. 18, 44-45.

¹³⁸ See Michigan Bell Application, App. C, Tab 103, *In the Matter, on the Commission's Own Motion, to Consider Ameritech Michigan's Compliance with the Competitive Checklist in Section 271 of the Federal Telecommunications Act of 1996*, Case No. U-12320, Opinion and Order (Oct. 3, 2002) (*Michigan Line Sharing Order*); see also Michigan Bell Fennell Aff. at para. 19.

¹³⁹ See *Michigan Line Sharing Order* at 16; Michigan Bell Application, App. A, Vol. 1, Tab 5, Affidavit of Carol A. Chapman, at para. 89 (Michigan Bell Chapman Aff.).

¹⁴⁰ Although CLECA did not specifically raise this issue in its supplemental comments in the *Michigan II* proceeding, CLECA incorporated its prior comments by reference. CLECA Supplemental Comments at 24; CLECA Comments at 12-13. However, CLECA did not fully address the issue, instead relying upon arguments in MCI's (f/k/a WorldCom) comments from the *Michigan I* proceeding. CLECA Comments at 12-13. Therefore, to address CLECA's arguments completely, we must consider MCI's comments.

Because SBC does not provide customized routing, the Michigan Commission has required Michigan Bell to provide directory assistance listings as a UNE. MCI Comments at 20, n.45; see also *In the matter, on the* (continued....)

cause Michigan Bell to fail this checklist item.¹⁴¹ Specifically, MCI alleges that the cost study underlying the DAL rates fails to spread the costs across all users of DAL, including Michigan Bell's own retail customers and those of its affiliates.¹⁴² MCI states that Michigan Bell submitted this cost study to the Michigan Commission in December of 1999, and asserts that the Michigan Commission "rejected" the DAL cost study for that reason.¹⁴³ MCI further argues that despite this ruling, Michigan Bell submitted a UNE tariff for DAL in April 2002 based on the same "rejected" cost study.¹⁴⁴ MCI contends that the Michigan Commission then erred by approving the tariffed UNE rate, because it was based on the same December 1999 cost study.¹⁴⁵ MCI has requested that the Michigan Commission reconsider its ruling.¹⁴⁶

52. We find that the Michigan Commission has made a valid determination that DAL prices are compliant, and find no violation of any basic TELRIC principles or any clear errors of fact.¹⁴⁷ The only alleged TELRIC error MCI raises with respect to DAL prices is Michigan Bell's failure to include "its own retail customers and those of its affiliates" in the DAL cost study.¹⁴⁸ As explained by both the Michigan Commission and Michigan Bell, however, because DAL is

(Continued from previous page)

Commission's Own Motion, to Consider SBC's f/k/a Ameritech Michigan, compliance with the Competitive Checklist in Section 271 of the Federal Telecommunications Act of 1996, Case No. U-12320, Opinion and Order at 14-16 (Dec. 20, 2001) (citing UNE Remand Order, 15 FCC Rcd at 3884, para. 444). Michigan Bell emphasizes it does not concede that the Michigan Commission's requirement that Michigan Bell provide DAL at cost-based rates is either lawful or relevant to compliance with section 271. Michigan Bell Reply at 48. We need not reach the issue of whether, under these circumstances, Michigan Bell is required under federal law to provide DAL as a UNE, because, as explained below, Michigan Bell has demonstrated that it is providing DAL at TELRIC-based rates approved via a valid pricing determination through the Michigan Commission, and commenters have not persuasively rebutted that showing.

¹⁴¹ CLECA frames this argument as a violation of checklist item 7, while MCI appears to frame this argument as a UNE pricing issue. See CLECA Comments at 12-13; MCI Comments at 20-22. We conclude that there is no evidence in the record that warrants disapproval of this application based on such contentions, whether couched as a violation of checklist item 2 or of checklist item 7.

¹⁴² Letter from Keith L. Seat, Senior Counsel, Federal Advocacy, MCI, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-16 at 3 (filed Feb. 26, 2003) (MCI February 26 *Ex Parte* Letter) see also MCI Comments at 21 & Attach. D.

¹⁴³ MCI Comments at 21-22 & Attach. E, Attach. F.

¹⁴⁴ *Id.* at 22.

¹⁴⁵ *Id.* (citing Michigan Commission Comments at 108-09).

¹⁴⁶ *Id.*; see also CLECA Comments at Attach. 3 (WorldCom Petition for Rehearing re: DAL Rates, filed with the Michigan Commission on January 24, 2003).

¹⁴⁷ See Michigan Commission Comments at 108-9; Michigan Commission Reply at 7-8 (explaining that issues related to DAL services, including the cost of such services, have been addressed in at least five docketed proceedings before the Michigan Commission and in court appeals of some of the orders issued in those proceedings). See Michigan Commission Reply at 8-10 for a detailed history of the Michigan Commission's proceedings related to DAL and DA services.

¹⁴⁸ MCI Reply at 24; see also MCI February 26 *Ex Parte* Letter at 3; MCI Comments at 21 & Attach. D.

purchased as a complete database by LECs for use in their provision of directory assistance, DAL is a wholesale product with no retail DAL customers. Accordingly, there are no retail customers over which the costs must be spread.¹⁴⁹ Furthermore, MCI is wrong in its contention that the Michigan Commission rejected Michigan Bell's December 1999 DAL cost study. The Michigan Commission only ordered revisions to Michigan Bell's DA services (and not DAL) cost study, which Michigan Bell submitted in October of 2000.¹⁵⁰ Indeed, no party submitted any comments to Michigan Bell's October 2000 cost study, which included changes to the DA services portion of the cost study, but no changes to the DAL portion.¹⁵¹ Accordingly, we find that commenters have failed to demonstrate a violation of checklist item 2.

d. Potential Future Price Increase

53. We reject the argument made by the CLECA that Michigan Bell's proposal to the Michigan Commission to increase its UNE prices precludes a finding of compliance with checklist item 2 or the Act's public interest requirement.¹⁵² The CLECA contends that because the Michigan Commission has opened a proceeding on this issue, the "permanence" of Michigan Bell's UNE rates is an open question, and higher UNE prices may result in a "price squeeze."¹⁵³ There is no evidence that these filings have any impact on the rates currently in place and on which Michigan Bell is relying in support of its application. We have repeatedly held that "a BOC's submission of new cost data in an ongoing rate case does not prove that existing rates are outside a TELRIC range. . . . [W]e perform our section 271 analysis based on the rates before us."¹⁵⁴ Under section 271(d)(6)(A), we have the authority to review any future rate increases implemented by Michigan Bell.¹⁵⁵ If we determine that future rate increases are not TELRIC-compliant, we may suspend the rates, suspend or revoke Michigan Bell's section 271 authority, or impose other penalties.¹⁵⁶

¹⁴⁹ Michigan Commission Reply at 8-9; Michigan Bell Reply at 45-46. The DAL service is different from the Directory Assistance (DA) service, which is offered on both a wholesale and retail basis and provides end user customers with access to individual directory listings from the company's database. Michigan Commission Reply at 8 n. 11; see also Michigan Bell Reply at 45.

¹⁵⁰ Michigan Commission Reply at 8-9; Michigan Bell Reply at 45.

¹⁵¹ Michigan Commission Reply at 9.

¹⁵² CLECA Comments at 21-23.

¹⁵³ *Id.*

¹⁵⁴ *SBC California Order*, 17 FCC Rcd at 25668-69, para. 41; see also *SWBT Texas Order*, 15 FCC Rcd at 18394, para. 87 ("We again conclude that the section 271 process could not function as Congress intended if we adopted a general policy of denying any section 271 application accompanied by unresolved pricing and other intercarrier disputes. . . . If uncertainty about the proper outcome of such disputes were sufficient to undermine a section 271 application, such applications could rarely be granted. Congress did not intend such an outcome.")

¹⁵⁵ 47 U.S.C. § 271(d)(6)(A).

¹⁵⁶ *Id.*

54. Similarly, we reject NALA's argument that SBC's imposition of a flat-rate OSS charge in other states is anticompetitive or discriminatory in Michigan.¹⁵⁷ NALA asserts that SBC imposes a charge of approximately \$3,200 per month for access to OSS in Arkansas, Kansas, Missouri, Oklahoma, and Texas, and that SBC could assess a similar charge in Michigan.¹⁵⁸ As discussed above, we perform our analysis of a BOC's compliance with section 271 on the existing rates in the state at issue. Currently, Michigan Bell does not impose in Michigan the flat-rate OSS charge about which NALA complains. Therefore, the existence of this rate in other SBC states is not a basis for denying Michigan Bell section 271 authorization in Michigan.

2. Access to Operations Support Systems

55. Under checklist item 2 of section 271, a BOC must demonstrate that it provides nondiscriminatory access to its OSS – the systems, databases, and personnel that the BOC uses to provide service to customers.¹⁵⁹ Based on the evidence in the record, we find, as did the Michigan Commission,¹⁶⁰ that Michigan Bell is providing competitors nondiscriminatory access to OSS in compliance with checklist item 2. Consistent with past practice, we consider the entire record, including commercial performance and third-party testing, and focus our review on specific issues in controversy or areas where Michigan Bell fails to satisfy performance standards. As in prior section 271 orders, we do not address every aspect of Michigan Bell's performance where our review of the record satisfies us that Michigan Bell's performance is in compliance with the relevant parity and benchmark performance standards established in Michigan.¹⁶¹ Instead, we focus our discussion on those areas where the record indicates discrepancies in Michigan Bell's performance that might show discrimination. As explained in prior section 271 orders, in making our assessment, we look for patterns of systemic performance disparities that have resulted in competitive harm or that have otherwise denied new entrants a meaningful opportunity to compete. Isolated cases of performance disparity, especially when the margin of disparity is small, generally will not result in a finding of checklist noncompliance.¹⁶²

a. Independent Third-Party Testing

56. As the Commission has held in prior section 271 proceedings, the persuasiveness

¹⁵⁷ NALA Supplemental Comments at 7-8.

¹⁵⁸ *Id.*

¹⁵⁹ *Bell Atlantic New York Order*, 15 FCC Rcd at 3989-90, para. 83.

¹⁶⁰ *See Michigan Commission Comments* at 76.

¹⁶¹ *See, e.g., Qwest Minnesota Order* at para. 15; *SBC California Order*, 17 FCC Rcd. at 25719-20, para. 124); *Verizon Connecticut Order*, 16 FCC Rcd 14147, 14151-52, para. 9; *BellSouth Georgia/Louisiana Order*, 17 FCC Rcd at 9144, para. 219.

¹⁶² *See Qwest Minnesota Order* at para. 18; *Verizon Massachusetts Order*, 16 FCC Rcd 8988, 9055-56, para. 122.

of a third-party OSS review depends upon the conditions and scope of the review.¹⁶³ Based on our review of the evidence in the record describing the test process, and the evaluation that the Michigan Commission offered, we find that the third-party OSS test was broad and objective and provides meaningful evidence that is relevant to our analysis of Michigan Bell's OSS. The results of this test support our finding that Michigan Bell provides nondiscriminatory access to its OSS.

57. In August 2000, the Michigan Commission and Michigan Bell hired BearingPoint to conduct a third-party test of Michigan Bell's OSS.¹⁶⁴ The BearingPoint OSS evaluation covered 498 separate test criteria relating to pre-ordering, ordering, provisioning, maintenance and repair, billing, and relationship management and infrastructure.¹⁶⁵ The BearingPoint review included three major test families: transaction verification and validation, processes and procedures review, and performance metrics audit review.¹⁶⁶ BearingPoint examined documentation provided by Michigan Bell to competitive LECs, reviewed processes and procedures used by Michigan Bell, interviewed Michigan Bell personnel, and submitted test transactions to Michigan Bell.¹⁶⁷ In performing the third-party OSS test, BearingPoint took precautions to maintain the blindness and independence of the testing process. For example, BearingPoint relied on publicly available documents and processes, employed a pseudo-competitive LEC to place orders, arranged for its phone calls with Michigan Bell to be monitored randomly by the Michigan Commission, and conducted weekly conference calls with competitive LECs during which the competitive LECs could obtain information regarding the test process and raise concerns with BearingPoint.¹⁶⁸ The BearingPoint analysis employed a "military-style" test-until-pass methodology.¹⁶⁹ As explained above, competitive LECs participated in the design of the BearingPoint test.¹⁷⁰ Competitive LECs also provided live test cases as the evaluation progressed.¹⁷¹

58. BearingPoint filed its final update on its Michigan OSS Operational tests on April

¹⁶³ See, e.g., *Application by Qwest Communications International, Inc. for Authorization To Provide In-Region, InterLATA Services, in New Mexico, Oregon, and South Dakota*, WC Docket No. 03-11, Memorandum Opinion and Order, 18 FCC Rcd at App. F, para. 31 (*Qwest 3-State Order*); *SBC California Order*, 17 FCC Rcd at 25685, para. 73; *Ameritech Michigan Order*, 12 FCC Rcd at 20659, para. 216.

¹⁶⁴ See Michigan Bell Cottrell Aff. at para. 25. Hewlett Packard Company also participated in the testing. See *id.*

¹⁶⁵ See *supra* paras. 13-40 (discussing the evidentiary case).

¹⁶⁶ See Michigan Bell Cottrell Aff. at para. 26.

¹⁶⁷ See *id.* at para. 30.

¹⁶⁸ See *id.* at para. 32.

¹⁶⁹ See *id.* at para. 34.

¹⁷⁰ See *supra* paras. 13-40 (discussing the evidentiary case); see also Michigan Bell Cottrell Aff. at para. 36.

¹⁷¹ See Michigan Bell Cottrell Aff. at para. 35.

30, 2003. In all, Michigan Bell satisfied 469 out of the 498 applicable test criteria – a success rate of over 94%.¹⁷² We conclude that the BearingPoint results provide important evidence that Michigan Bell is providing nondiscriminatory access to its OSS. Below, we address Michigan Bell's commercial performance with respect to each of the key OSS functions, and any issues raised by commenters in each area.

b. Pre-Ordering

59. We find that Michigan Bell provides carriers in Michigan with nondiscriminatory access to all pre-ordering functions. In this section, we describe Michigan Bell's pre-ordering systems, address its performance, and reject commenters' criticisms regarding the availability of Michigan Bell's pre-ordering interfaces and the accuracy of its loop qualification database.

60. Competing carriers have access to three principal electronic interfaces, including Enhanced Verigate, which is a graphical user interface, as well as EDI and CORBA, which are application-to-application interfaces.¹⁷³ Enhanced Verigate provides competitive LECs with "real time" access to pre-order functionality on a "dial-up" or a "direct connection" basis. EDI and CORBA also provide "real time" access, but on a "direct connection" basis only.¹⁷⁴ Competing carriers are able to use any of the three interfaces to perform all of the key functions identified in prior section 271 orders.¹⁷⁵

61. Performance data show that Michigan Bell generally meets every benchmark and achieves parity with every Michigan Bell retail analog, confirming that competitors enjoy nondiscriminatory access to Michigan Bell's pre-order databases.¹⁷⁶ We also conclude that

¹⁷² Michigan Bell Cottrell/Lawson Supplemental Aff. at para. 5.

¹⁷³ Michigan Bell Cottrell Aff. at para. 108.

¹⁷⁴ See *id.* Dial-up connection is initiated in the same manner that an individual would use to dial into an Internet Service Provider. Direct connection is available to any competitive LEC that provisions a private circuit between its location and Michigan Bell's systems. See *id.* at para. 100.

¹⁷⁵ See *SBC California Order*, 17 FCC Rcd at 25690 para. 81; *SWBT Texas Order*, 15 FCC Rcd at 18427, para. 209. Michigan Bell's pre-ordering systems allow carriers to perform functions required by our section 271 orders and some additional functions. The functions Michigan Bell's pre-ordering systems provide include the ability to: (1) retrieve customer service information (CSIs); (2) validate addresses; (3) select, reserve, and cancel telephone numbers; (4) obtain information on pooled telephone numbers; (5) determine services and features available to a customer; (6) obtain due date availability; (7) access loop qualification information; (8) view a customer's directory listing; (9) determine dispatch availability; (10) retrieve local primary intraLATA carrier and primary interexchange carrier lists; (11) access the Common Language Location Identifier code; (12) verify connecting facility assignments; (13) validate network channels and network channel interfaces; (14) determine order status and provisioning order status; and (15) perform a remote access to call forwarding inquiry. See Michigan Bell Cottrell Aff. at para. 109.

¹⁷⁶ See Michigan Bell Ehr Aff. at paras. 38-39; Michigan Bell Ehr Supplemental Aff. at paras. 3-5; see also App. B. Michigan Bell has submitted actual commercial data for almost 125 submeasures relating to the timeliness, accuracy and availability of Michigan Bell's pre-ordering systems. With almost no exceptions, Michigan Bell satisfies all applicable metrics in the PM 1, PM 4, and PM MI 10 families – which measure timeliness of responses to pre-order queries, the availability of pre-ordering databases, and the incidence of "time-out" transactions – in all five relevant months.

Michigan Bell provides competitive LECs with the information necessary to integrate its pre-ordering and ordering systems. Specifically, Michigan Bell's three pre-ordering interfaces provide "parsed" customer service information pursuant to the guidelines of the ordering and billing forum (OBF) – that is, information divided into identifiable fields.¹⁷⁷ As the Commission previously has held, a BOC's provision of pre-ordering information in a parsed format is a strong indicator that competitive LECs can integrate Michigan Bell's systems.¹⁷⁸ In addition, Michigan Bell explains that the three pre-ordering interfaces offer complete synchronization of every OBF-defined pre-ordering field, and certain additional nondefined pre-ordering fields, with the associated ordering fields.¹⁷⁹

62. *Pre-Ordering Interface Availability.* We reject AT&T's claims that outages it has experienced in Michigan Bell's pre-ordering interfaces demonstrate that competitive LECs do not receive nondiscriminatory access to Michigan Bell's OSS. Specifically, AT&T states that from October 2002 through February 2003, its customer representatives were unable to access the CORBA interface for about 13.5 hours during the final three months of 2002.¹⁸⁰ We agree with Michigan Bell, however, that its performance provides no basis for a conclusion that pre-order outages have produced competitive harm. Michigan Bell's evidence indicates that across all competitive LECs, the CORBA system was down for only about five hours overall during the last three months of 2002.¹⁸¹ Further, performance metric PM 4-17, which measures availability

¹⁷⁷ Michigan Bell Cottrell Aff. at paras. 122-23.

¹⁷⁸ See *SBC California Order*, 17 FCC Rcd at 25690-91, para. 82; *BellSouth Georgia/Louisiana Order*, 17 FCC Rcd at 9078, para. 120.

¹⁷⁹ This means that OBF-defined pre-ordering fields and certain additional fields can be stored and automatically populated on associated ordering fields on the LSR without requiring a competitive LEC to adjust and/or reconfigure characters. See Michigan Bell Cottrell Aff. at para. 124.

¹⁸⁰ See Joint Supplemental Declaration of Sarah DeYoung and Walter W. Willard at para. 99 (AT&T DeYoung/Willard Joint March 15 Decl.), in Letter from Richard E. Young, Counsel for AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission (filed Mar. 25, 2003) (AT&T March 25 *Ex Parte* Letter). In numerous filings, AT&T stated the duration of the CORBA interface's unavailability in terms of "user hours" – a figure derived by multiplying the number of hours for which the interface was unavailable by the number of AT&T representatives logged onto the system. See AT&T Comments at 11-12; AT&T DeYoung/Willard Decl. at paras. 52-53; AT&T Reply Comments at 14; AT&T DeYoung/Willard Reply Decl. at para. 57. AT&T did not provide specific details regarding the calculation of these "user hours." We question the propriety of the "user hours" approach. Multiplying the amount of time the interface was unavailable by the number of AT&T service representatives on duty might provide evidence relevant to the inconvenience suffered by AT&T, but it does not provide useful information as to the availability of the interface itself. Provided Michigan Bell's system has been engineered to handle a sufficient number of users (and we have received no evidence suggesting otherwise), AT&T's user hour calculation would appear to exaggerate the magnitude of the problem.

¹⁸¹ Michigan Bell Cottrell/Lawson Reply Aff. at para. 82. In calculating interface availability, Michigan Bell considers outages that affect only certain aspects of the interface and outages that affect only certain competitive LECs, deriving a weighted average of availability across all competitors. See Michigan Bell March 17 *Ex Parte* Letter, Attach. A at 7. Thus, AT&T's claim that it experienced outages for about 13.5 hours over the final three months of 2002 is consistent with Michigan Bell's claim that on average, that system was down for less than half that amount of time. Indeed, Michigan Bell's evidence suggests that to the extent AT&T experienced more outages than (continued....)

of the CORBA system, indicates that Michigan Bell generally met the relevant benchmark – 99.5 percent availability – in the five relevant months under consideration here.¹⁸² AT&T has not otherwise demonstrated competitive harm – indeed, it has not cited any outages during the months at issue here.¹⁸³ Thus, we conclude that Michigan Bell's pre-ordering interface allows meaningful competition.

63. *Loop Qualification.* We also find, as did the Michigan Commission,¹⁸⁴ that Michigan Bell provides competitive LECs with nondiscriminatory access to loop qualification information.¹⁸⁵ Specifically, we find that Michigan Bell provides competitors with access to all of the same detailed information about the loop that is available to itself and in the same time

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the average competitive LEC, such outages were at least in part attributable to coding errors in AT&T's own systems. *See id.* at 5.

¹⁸² *See* PM 4-17 (OSS Interface Availability – CORBA Pre-Order). We note that in April and June, Michigan Bell missed the relevant 99.5% benchmark by 0.43% and 0.06%, respectively. Such narrow misses are competitively insignificant. AT&T contends that BearingPoint's Exception 188, which found errors in Michigan Bell's documentation for various metrics, prevents reliance on PM 4-17. *See* AT&T DeYoung/Willard Joint March 15 Decl. at para. 97; AT&T Moore/Connolly/Norris Reply Decl. at paras. 32-33. As explained above, however, we do not believe that Exception 188, on its own, casts doubt on the accuracy or reliability of Michigan Bell's performance data. *See supra* para. 31.

¹⁸³ In an *ex parte* filed September 12, 2003, AT&T raises issues regarding more recent CORBA outages. Letter from James P. Young, Counsel for AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission at 2 (filed Sept. 12, 2003) (AT&T September 12 *Ex Parte* Letter). Many of those outages are not within the five-month period of performance under our review. Moreover, as AT&T acknowledges, these outages were brought to our attention too late in the proceeding – just five days prior to the 90-day statutory deadline – for our full consideration of the issue.

¹⁸⁴ Michigan Commission Comments at 88.

¹⁸⁵ *See, e.g.,* PM 1.1 (Avg Response Time for Manual Loop Make-up Information); PM 1.2 (Accuracy of Actual LMU Info Provided for DSL Orders); PM1.3 (Accuracy of Actual LMU Info Provided for DSL Orders); PM 2 (% Responses Received). Although Michigan Bell missed two loop makeup information timeliness metrics for several months, we find that Michigan Bell's overall performance nonetheless remained high. Michigan Bell missed the 95% benchmark for PM 2-42 (% Responses Received within 30 seconds; OSS Interface; Actual LMU Information Requested (5 or less loops searched)) by an average of 11 percentage points for February through May 2003. However, this appears primarily to be attributable to a difficulty in disaggregating the data, and not due to a problem with actual performance. Michigan Bell states that the system changes necessary to monitor performance for searches of five or fewer loops were not in place until April 7, 2003. Michigan Bell Ehr. Supplemental Aff. at para. 19. Thus, searches of more than five loops, which are expected to take longer, were included with the results for searches of five or fewer loops up to that date. Michigan Bell's performance in May, following that correction, showed that it only missed the 95% benchmark by less than 1 percentage point, and it met the benchmark in June. *See* App. B. Given this upward trend, we find the misses to be competitively insignificant. Although Michigan Bell also missed the applicable 95% benchmark for PM 2-43 (% Responses Received within 60 seconds; OSS Interface; Actual LMU Information Requested (greater than 5 loops searched)) by an average of 32 percentage points for April – June 2003, its average performance nonetheless remained better than the 60 second standard. Michigan Bell notes that PM 2-43 accounts for only a small portion of total loop make-up requests, and that the average response time for competitive LECs was seconds in April and 55 seconds in May – better than the 60 second standard. Michigan Bell Ehr Supplemental Reply Aff. para. 20. Accordingly we find these misses to be competitively insignificant.

frame as any of its personnel obtain it.¹⁸⁶

64. We reject TDS Metrocom's criticisms of Michigan Bell's loop qualification performance because those allegations, even if true, would fail to show discrimination. TDS Metrocom maintains that much of Michigan Bell's loop qualification information is inaccurate based on a comparison to data from Michigan Bell's DSL Tracking Inquiry (DTI) application and on TDS Metrocom's own field tests.¹⁸⁷ As an initial matter, Michigan Bell explains that it provides both its advanced services affiliate and unaffiliated competitive LECs access to the same loop qualification information through the same electronic and manual processes.¹⁸⁸ As the Commission has previously held, any inaccuracies or omissions in a BOC's database are not discriminatory to the extent they are provided in the exact same form to both retail and wholesale customers.¹⁸⁹ Moreover, it is not clear that the loop qualification data provided by Michigan Bell is as inaccurate or unreliable as TDS Metrocom alleges. Michigan Bell explains that the outputs of DTI should not be expected to perfectly match Michigan Bell's loop qualification data because DTI is not intended to be used for loop qualification. Instead, DTI is designed to provide only general information about facilities in geographic areas to assist competitive LECs in determining whether those areas theoretically could be suitable for marketing DSL.¹⁹⁰ Michigan Bell further argues that TDS Metrocom overstates alleged discrepancies in actual loop lengths uncovered in TDS Metrocom's "field tests," and that TDS Metrocom fails to consider factors that could account for the limited discrepancies that do exist.¹⁹¹ We therefore conclude that TDS Metrocom's allegations do not warrant a finding of checklist noncompliance.

c. Ordering

65. We find, as did the Michigan Commission,¹⁹² that Michigan Bell satisfies checklist item 2 with regard to ordering. In this section, we first address Michigan Bell's

¹⁸⁶ Michigan Bell Ehr Aff. at paras. 88-93; Michigan Bell Chapman Aff. at paras. 12-26; *see also* PM 1.1 (Avg. Response Time for Manual Loop Make-up Information).

¹⁸⁷ TDS Metrocom Cox Aff. at paras. 22-25.

¹⁸⁸ Michigan Bell Chapman Aff. at paras. 15-21; Michigan Bell Cottrell Aff. at para. 130; Michigan Bell Chapman/Cottrell Reply Aff. at para. 28.

¹⁸⁹ *Qwest 9-State Order*, 17 FCC Rcd at 26345-46, para. 69; *Verizon Massachusetts Order*, 16 FCC Rcd at 9024, para. 66.

¹⁹⁰ Michigan Bell Chapman/Cottrell Reply Aff. at paras. 19-26.

¹⁹¹ *Id.* at para. 27. In addition, while not relying on the new metric, we note that, in the six-month state collaborative, participating competitive LECs and Michigan Bell agreed to suspend PM 1.2 (Accuracy of Actual LMU Info Provided for DSL Orders) and to replace it with a new, modified metric, PM 1.3 (Accuracy of Actual LMU Info Provided for DSL Orders), to measure Michigan Bell's loop make-up information accuracy. Michigan Bell Feb. 28 *Ex Parte* Letter, Exh. B, Attach. A at 8. Moreover, as noted above, Michigan Bell's loop qualification information is not discriminatory. Thus, we need not rely on PM 1.2 in determining Michigan Bell's compliance with checklist item 2.

¹⁹² Michigan Commission Comments at 76.

performance and then discuss commenters' arguments that specific weaknesses in Michigan Bell's ordering performance warrant a finding of checklist noncompliance. These criticisms fall into three categories: (1) receipt of improper rejections; (2) Michigan Bell's requirement that carriers issue separate local service requests (LSRs) for multiple lines on a single account; and (3) Michigan Bell's definition of a "project." In each case, we reject commenters' claims that Michigan Bell is failing to provide nondiscriminatory access to its ordering OSS.

66. *Performance Metrics.* We find that Michigan Bell provides nondiscriminatory access to its ordering systems and processes and generally satisfies the performance standards governing the relevant performance measurements.¹⁹³ As we explain here, Michigan Bell's failures to satisfy a few ordering-related performance measurements for two or more of the five relevant months do not demonstrate discrimination. For example, although Michigan Bell's flow-through metrics reveal some failures to flow retail orders through its mechanized systems at rates matching the flow-through it achieves for its own retail operations, its wholesale flow-through levels remain within the range we have accepted in past applications.¹⁹⁴ Indeed, the flow-through figures at issue here are almost invariably higher than those at issue in several previous successful applications.¹⁹⁵ Moreover, we do not find Michigan Bell's flow-through rates

¹⁹³ Michigan Bell generally satisfies most metrics measuring its performance with regard to ordering functions. These include the PM 5, PM 6, PM 7, and PM 8 families (which report timeliness of completion notice delivery), the PM 10 and PM 11 families (which report timeliness of rejection and jeopardy notices), and the PM 13 family (which report flow-through rates).

¹⁹⁴ See PM 13-01 (Order Process Percent Flow Through - UNE Loops) (showing wholesale flow-through at levels ranging from 94.16% to 97.13%, resulting in failure to meet the 95% benchmark in only one of the five months at issue, by a margin of only 0.84%); PM 13-02 (Order Process Percent Flow Through - Resale) (showing wholesale flow-through at levels ranging from 87.98% to 91.01%, resulting in failures to achieve parity with retail flow-through in each month by margins ranging from 5.98% to 10.07%); PM 13-03 (Order Process Percent Flow Through - UNE-Ps) (showing wholesale flow-through ranging from 94.12% to 97.16%, resulting in a failure to achieve parity in four of the months at issue by a margin ranging from 0.56% to 3.75%); PM 13-04 (Order Process Percent Flow Through - LNP) (showing wholesale flow-through levels ranging from 91.94% to 97.90%, resulting in failure to achieve parity in three months by margins ranging from 1.1% to 5.93%); PM 13-05 (Order Process Percent Flow Through - LSNP) (showing wholesale flow-through levels ranging from 83.60% to 98.93%, resulting in failure to achieve parity in two of the five months at issue by margins ranging from 3.38% to 12.51%); PM 13-06 (Order Process % Flow Through - Line Sharing) (showing wholesale flow-through levels ranging from 90.17% to 97.46%, resulting in failures to achieve parity in two months by margins of 4.37% and 7.88%).

¹⁹⁵ See *Bell Atlantic New York Order*, 15 FCC Rcd at 4039, 4048, paras. 166 n.512, 181 n. 569 (reporting flow-through rates of 59% to 63% for UNEs and 45% to 54% for resale); *Verizon Massachusetts Order*, 16 FCC Rcd at 9013, para. 49 (reporting total flow-through rates of 54% to 67%); *Application by Verizon New England Inc., Bell Atlantic Communications Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in Rhode Island*, CC Docket No. 01-324, Memorandum Opinion and Order, 17 FCC Rcd 3300, App. B (2002) (*Verizon Rhode Island Order*) (reporting resale flow-through rates of 42% to 56% and UNE flow-through rates of 60% to 79%); *Application of Verizon New England, Inc., Bell Atlantic Communications, Inc., (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks, Inc., and Verizon Select Services, Inc., for Authorization Pursuant to Section 271 of the Telecommunications Act of 1996 for Authorization To Provide In-Region, InterLATA Services in Vermont*, CC Docket No. 02-7, Memorandum Opinion and Order, 17 FCC Rcd 7625, App. B (2002) (*Verizon Vermont Order*) (reporting resale flow-through rates of 43% to 51% and UNE flow-through rates of 45% to 58%).

concerning given that it consistently returns timely order confirmations and rejection notices.¹⁹⁶ accurately handles manually processed orders, and is able to scale its systems to process orders at projected future transaction volumes.¹⁹⁷ These factors suggest to us that flow-through problems are not competitively significant. Moreover, Michigan Bell has generally satisfied all metrics reporting jeopardy timeliness in each of the months for which they have been in use.¹⁹⁸ While Michigan Bell has failed to satisfy one measure in two of the four months for which it has existed,¹⁹⁹ we note that its overall installation timeliness performance has been strong.²⁰⁰ and

¹⁹⁶ Michigan Bell satisfied almost all applicable submeasures in the PM 5 family, which assesses FOC timeliness, in each of the five relevant months. Michigan Bell missed the applicable 95% benchmark for PM 5-14 (% FOCs Returned w/in 5 Bus Hrs; Elec Sub Req; Man Processed; UNE-P Simple Res & Bus) by 3.59% in February and by 2.63% in March. These narrow misses are not competitively significant. Michigan Bell missed by a much wider 18% margin in May, but has explained that this miss resulted from the implementation of a new desktop tool designed to produce more accurate FOCs. This new tool apparently increased the time taken to return manually processed FOCs, and this undermined performance in this area. Michigan Bell has since restricted deployment of the application, and uses it primarily to train its employees. See Michigan Bell Ehr Supplemental Reply Aff. at para. 22. Michigan Bell missed the applicable 94% benchmark for PM 5-32 (% FOCs Returned within 24 Clock Hrs; Man Sub Req; Complex Bus (1 to 200 Lines)) by 4% in March, by 0.25% in April, and by 3.09% in June. Michigan Bell emphasizes, though, that volumes for the types of FOCs at issue here are very low, meaning that a relatively small number of late FOCs will result in a failure to meet the benchmark. For example, March performance results reflected only 20 orders, among which two FOCs were late, and April results reflected only 16 orders, among which one FOC was late. See Michigan Bell Ehr Supplemental Aff. at para. 22. Michigan Bell missed the applicable 95% benchmark for PM MI 14-04 (% Completion Notifications Returned w/in 2 Hrs of Completion of Maintenance Trouble Ticket; UNE Loops Electronic) by 2.23% in February, 0.26% in April, and 1.13% in May, and missed the applicable 95% benchmark for PM MI 14-04 (% Completion Notifications Returned w/in 2 Hrs of Completion of Maintenance Trouble Ticket; UNE Loops Electronic) by 2.23% in February, 0.26% in April, and 1.13% in May. These narrow misses are not competitively significant. We note, moreover, that commenters here do not raise concerns about the timeliness of completion notices, suggesting that problems in this regard are not resulting in competitively significant harms.

Michigan Bell also satisfied almost all submeasures in the PM 10 and PM 11 families, which measure timely issuance of rejection notices. Michigan Bell did fail to satisfy three measures regarding timely issuance of rejection notices for two of the months at issue here: PM 10.1-01 (% Mechanized Rejects Returned w/in 1 Hour of Receipt of Order), PM 10.2-01 (% Manual Rejects Received Electronically & Returned w/in 5 Hrs), and PM 10.3-01 (% Manual Rejects Received Manually & Returned w/in 5 Hrs). Michigan Bell explains, however, that those metrics have been discontinued by the Michigan Commission and that performance for these measures is now captured by other measures subject to less stringent time demands. See, e.g., Michigan Bell Ehr Supplemental Aff. at para. 25 n.14. Michigan Bell's performance to date under the revised metrics has generally satisfied the new benchmarks.

¹⁹⁷ See, e.g., PM 10-01 (% Mechanized Rejects Returned Within 1 Hour of Receipt of Reject in MOR); PM 112-1 (% Directory Assistance Database Accuracy for Manual Updates).

¹⁹⁸ PM MI 2-16 (% of Orders Given Jeopardy Notices w/in 24 Hours of the Due Date - UNE-P - NFW) first took effect in March 2003.

¹⁹⁹ Michigan Bell failed to meet the applicable 5% benchmark for PM MI 2-16 (% of Orders Given Jeopardy Notices w/in 24 Hours of the Due Date - UNE-P - NFW) by 17.49% in March and by 2.02% in April, but met the benchmark in May and June, by margins of 3.29% and 3.13%, respectively.

²⁰⁰ Michigan Bell has missed very few submetrics in the PM 28 family, which measures the percentage of installations performed within the customer-requested due date. See, e.g., PM 28-01 (% Installations Completed Within Customer Requested Due Date - POTS - Res - FW); PM 28-02 (% Installations Completed Within Customer (continued....))

conclude that high on-time provisioning performance rates undermine claims of competitive significant harm stemming from untimely jeopardy notices.²⁰¹

67. *Rejections.* We find that Michigan Bell's reject rates are well within the range we have accepted in prior section 271 orders.²⁰² Although AT&T claims that it experienced a high level of rejections between September 2002 and January 2003,²⁰³ we note that for the relevant five-month period, Michigan Bell's performance has generally improved.²⁰⁴ At any rate, as explained in previous section 271 orders, the Commission does not perform a parity or direct benchmark analysis of a carrier's rejection rate, in part because a high rejection rate for one carrier does not necessarily indicate flaws in the BOC's OSS systems or processes, but instead could be attributable to the competitive LEC's own errors.²⁰⁵

68. *Separate LSR Requirement.* We reject AT&T's claim that Michigan Bell's ordering system discriminates by requiring competitive LECs, in some cases, to submit separate LSRs for multiple lines on a single account. The Commission has previously rejected the argument that such behavior constitutes discrimination. In the *BellSouth Georgia/Louisiana Order*, we addressed complaints that BellSouth discriminated by requiring competitive LECs to issue multiple LSRs for orders and accounts with multiple lines, even though it did not require

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Requested Due Date - POTS - Res - No FW); PM 28-03 (% Installations Completed Within Customer Requested Due Date - POTS - Bus - FW). While Michigan Bell has missed the 97% benchmark for PM 28-04 in four of the last five months, it explains that it has assembled a team of wholesale sales support personnel charged with remedying this weakness, and notes that PM 29-04 (% SBC/Ameritech Caused Missed Due Dates - POTS - Bus - No FW) reflects almost no Michigan Bell-caused missed due dates. See Michigan Bell Ehr Supplemental Decl. at para. 165.

²⁰¹ In the *SBC California Order*, we concluded that even where Pacific Bell had missed its benchmark for providing competitors with timely jeopardy notices in each of the five months at issue, no competitive harm resulted, because Pacific Bell maintained high on-time provisioning performance rates. *SBC California Order*, 17 FCC Rcd at 25692-93, para. 84.

²⁰² During the *Qwest 9-State* proceeding, AT&T and other parties argued that Qwest's high overall rejection rate indicated an OSS problem. We explained that high rejection rates do not necessarily demonstrate a problem with the BOC's OSS. Qwest's commercial data showed that about 31% of LSRs submitted over its GUI, and about 22% of LSRs submitted over the EDI interface, were rejected in the relevant months. We found that these rates were within the range found acceptable in prior applications. See *Qwest 9-State Order*, 17 FCC Rcd at 26357, para. 89 n.314. Between February and June 2003, the rate of rejections caused by Michigan Bell errors ranged between 0.14% and 0.23%. These ranges are thus below the rates the Commission found acceptable in the *Qwest 9-State Order*.

²⁰³ See AT&T Comments at 12-16.

²⁰⁴ The rate of Michigan Bell-caused errors was 0.35% in January 2003, 0.23% in February 2003, 0.21% in March 2003, 0.20% in April 2003, 0.14% in May 2003, and 0.16% in June 2003. See PM 9-02 (Percent Rejects - Ameritech Caused Rejects (Re-flowed Orders)).

²⁰⁵ See *SBC California Order*, 17 FCC Rcd at 25691-92, para. 83; *SWBT Texas Order*, 15 FCC Rcd at 18442, para. 176. For example, in the *SWBT Texas Order*, the Commission noted that the order rejections varied widely by individual carrier, from 10.8% to higher than 60%, but concluded that these overall reject rates did not appear to indicate a systemic flaw in the BOC's OSS.

multiple orders for its retail customers.²⁰⁶ The claims raised here are no different, and we therefore cannot conclude here that this process constitutes systematic discriminatory treatment of competitive LEC orders in Michigan.²⁰⁷

69. *Project Definition.* Finally, we are not persuaded that TDS MetroCom's argument that Michigan Bell's "woeful OSS documentation" with regard to the definition of a "Project" precludes approval of this application.²⁰⁸ Specifically, TDS MetroCom states that Michigan Bell had presented to competitive LECs contradictory information regarding whether an order must be processed as a "Project."²⁰⁹ According to TDS Metrocom, several of Michigan Bell's business rules identify Projects as orders for more than 100 lines, but others refer to Michigan Bell's web site for competitive LECs, which defines Projects as orders for more than twenty lines. Michigan Bell claims that this issue was raised during the recently concluded six-month collaborative meeting between it and the competitive LECs.²¹⁰ We agree with Michigan Bell that continued concerns should be addressed in the collaborative forum, not in the context of a section 271 application.

(i) Other Ordering Issues

70. *Line Loss Notification Reports.* We find, as did the Michigan Commission, that Michigan Bell's ability to provide timely, complete, and accurate line loss notifications (LLNs)²¹¹ satisfies the requirements of checklist item 2.²¹² We find that Michigan Bell's evidence about the accuracy, completeness, and timeliness of LLNs in the relevant months reveals an overall high level of performance. Although AT&T cites LLN problems that affected approximately 14,000 LLNs in the SBC Midwest five-state region during the last five months of 2002,²¹³ we do not find

²⁰⁶ See *BellSouth Georgia/Louisiana Order*, 17 FCC Rcd at 9107-08, para. 165. In the *BellSouth Florida/Tennessee Order*, we again rejected the argument that BellSouth unlawfully discriminated against competitive LECs by requiring them to use multiple LSRs for orders and accounts with multiple lines, even where BellSouth's retail division placed those accounts on a single account. See *In the Matter of Application By BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Authorization to Provide In-Region, Interlata Services in Florida and Tennessee*. WC Docket No. 02-307, Memorandum Opinion and Order, 17 FCC Rcd 25828, 25876, para. 101 (2002) (*BellSouth Florida/Tennessee Order*).

²⁰⁷ See AT&T DeYoung/Willard Decl. at paras. 189-93.

²⁰⁸ TDS MetroCom Comments at 21.

²⁰⁹ *Id.* "Projects" are high-quantity orders subject to a special ordering process and a negotiated due date. See *id.*

²¹⁰ See Michigan Bell Ehr Reply Aff. at para. 155.

²¹¹ "Line loss" occurs when a competitive LEC loses a customer to another competitive LEC or to the incumbent LEC. A line loss notification signals to competing carriers that a customer has migrated to another LEC. Michigan Bell Cottrell Aff. at para. 178.

²¹² Michigan Commission Comments at 69.

²¹³ AT&T Comments at 18-19; AT&T DeYoung/Willard Decl. at paras. 110-35; AT&T March 25 Ex Parte Letter at 4-6, Attach.; AT&T DeYoung/Willard Joint March 15 Decl. at paras. 101-39. Michigan Bell did not dispute the number of competitive LEC LLNs affected, but instead argued that, overall, the percentages of missing, inaccurate, (continued....)

that these criticisms merit a denial of Michigan Bell's application. First, these problems fall outside of the relevant five-month period of review for the instant application. Moreover, no commenter points to any line loss problems relating to the time frame under consideration here.²¹⁴ In addition, Michigan Bell demonstrates that almost all of these issues involved isolated incidents, such as human error or one-time system changes, which were unrelated to one another.

71. Moreover, we find Michigan Bell's performance data and the third-party testing demonstrates that it provides competitive LECs with nondiscriminatory access to LLNs.²¹⁵ Michigan Bell's recent performance data for PM MI 13-05 (percent mechanized line loss notifications returned within one day of work completion-all orders) show that it generally meets the 97 percent benchmark.²¹⁶ Moreover, notwithstanding certain limitations in the scope of the

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and untimely LLNs had only minimal competitive significance. Michigan Bell Application at 50; Letter from Geoffrey M. Klineberg, Counsel for Michigan Bell, to Marlene H. Dortch, Secretary, Federal Communications Commission, Attach. A at para. 16 (filed Mar. 14, 2003) (Michigan Bell March 14 *Ex Parte* Letter); see also Letter from Geoffrey M. Klineberg, Counsel for Michigan Bell, to Marlene H. Dortch, Secretary, Federal Communications Commission, Attach. at Table 3, Table 4 (filed Mar. 20, 2003) (Michigan Bell March 20 *Ex Parte* Letter) (arguing that only approximately 4% to 5% of its LLNs were late, incomplete, or inaccurate); see also PM MI 13 (Percent Loss Notifications within 1 Hour of Service Order Completion).

²¹⁴ See *infra* Part IV.B.2.f (addressing MCI's mismatched records allegations). MCI discusses a LLN issue that it recently discovered when it asked Michigan Bell for information on 487 Michigan lines for which MCI was being billed that either were not its lines or for which Michigan Bell should not have transmitted line losses. See MCI Supplemental Lichtenberg Decl. at para. 21. Michigan Bell admitted that, for approximately 75% of those lines, Michigan Bell had sent MCI line losses in error. Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at para. 46. However, all but three of those erroneous LLNs were sent to MCI prior to January 2003. *Id.* Therefore, the vast majority of errors occurred prior to the relevant time period for this application. MCI also claims that Michigan Bell incorrectly sent MCI 414 line loss notifications on June 3, 2003. Letter from Keith Seat, Senior Counsel, Federal Advocacy, MCI, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-138, at 8-9 (filed Sept. 8, 2003) (MCI September 8 *Ex Parte* Letter). According to MCI, these notifications were sent to MCI where it had not actually lost the customer. See *id.* We do not find MCI's allegations to be competitively significant. First, it appears from the record that only 16 of these LLNs involved lines served by MCI. See *id.* at 9; see also Geoffrey M. Klineberg, Counsel to Michigan Bell, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-138, Attach. at 4 (filed Sept. 12, 2003) (Michigan Bell September 12 *Ex Parte* Letter). Second, Michigan Bell states that this incident was the result of a single manual error by one retail service representative. Further, the error was reported and fixed within 10 days after the June performance data results were posted, which, according to Michigan Bell, was the earliest date this type of error could have been discovered. Michigan Bell September 12 *Ex Parte* Letter, Attach. at 4-5. Thus, we find that this was an isolated incident that was resolved in a timely fashion.

²¹⁵ See Michigan Bell Supplemental Application at 27 (stating that in the combined March/April data, 98.94% of all LLNs were sent within one business day, exceeding the 97% benchmark for PM MI 13-05).

²¹⁶ Michigan Bell provided over 99 percent timely LLNs in March 2003; over 98 percent timely LLNs in April 2003; over 97 percent timely LLNs in May 2003; and over 99 percent timely LLNs in June 2003. See PM MI 13-05 (percent mechanized line loss notifications returned within 1 day of work completion-all orders). We note that the metric we rely upon, PM MI 13-05, includes LLNs associated with winbacks. We also note that AT&T challenges the data Michigan Bell provided in its March 14 *Ex Parte* Letter. Letter from Alan C. Geolot, Counsel for AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, Attach. C at 1-2 (filed Apr. 3, 2003) (AT&T April 3 *Ex Parte* Letter). Because we do not rely on the data in Michigan Bell's March 14 *Ex Parte* Letter, and instead rely on the restated PM MI 13-05 data described above, we need not address these allegations.

test cited by AT&T,²¹⁷ BearingPoint's OSS test supports our finding that Michigan Bell provides nondiscriminatory access to LLNs. Although it did not review the format or content of LLNs as received by competitive LECs, BearingPoint did look specifically at Michigan Bell's LLN process and performance, testing whether Michigan Bell prepared LLNs accurately, and testing the number of LLNs that Michigan Bell provided within one hour.²¹⁸ BearingPoint found that Michigan Bell met the relevant 95 percent LLN benchmarks set by BearingPoint, providing 95.6 percent accurate LLNs and 96.2 percent timely LLNs.²¹⁹ We therefore conclude that Michigan Bell generally provides timely, accurate, and complete LLNs.²²⁰

72. For the past year and a half, we note that Michigan Bell has undertaken significant efforts to address its past LLN problems. The Michigan Commission identified LLN problems as a concern more than a year ago, and worked extensively with Michigan Bell to ensure significantly improved LLN performance.²²¹ In evaluating Michigan Bell's performance for

²¹⁷ AT&T DeYoung/Willard Supp. Decl. at paras. 120-23.

²¹⁸ Michigan Bell Application, App. C, Vol. 19a-b, Tab 114, BearingPoint's OSS Evaluation Report, at 936-37.

²¹⁹ *Id.*

²²⁰ Although Michigan Bell's restated performance data do not include several general categories of LLNs, including mechanized LLNs that fall out for manual handling and LLNs associated with line sharing, we find that these exclusions affect only a small number of LLNs. Michigan Bell March 20 *Ex Parte* Letter, Attach. at para. 3, Table 3. Indeed, Michigan Bell demonstrates that each of these categories likely includes only a small number of LLNs, which likely would have an insignificant impact on its performance as a whole. *Id.* at para. 3 and n.5 (stating that the percentage of LLNs that were processed manually for all competitive LECs due to system or service order error averaged less than 0.30% from November 2002 to January 2003); Michigan Bell March 14 *Ex Parte* Letter at 9. We thus reject AT&T's concerns about errors in the raw PM MI 13 data it received. AT&T April 3 *Ex Parte* Letter, Attach. C at 1. Ultimately, we find that Michigan Bell adequately demonstrates that AT&T's concerns do not undermine the reliability of its aggregate results. We also reject AT&T's concerns regarding the accuracy of Michigan Bell's restated PM MI 13 data and its use of the one-day benchmark pursuant to the new PM MI 13. Letter from Amy L. Alvarez, District Manager-Federal Government Affairs, AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission (filed Mar. 19, 2003) (AT&T March 19 *Ex Parte* Letter). We find that Michigan Bell has adequately described the source of this data. Michigan Bell March 14 *Ex Parte* Letter, Attach. at paras. 1-4; Michigan Bell March 28 *Ex Parte* Letter, Attach. C at 4-5. Further, although the restated data rely on new PM MI 13's one day benchmark, rather than the one hour benchmark associated the old PM MI 13, we note that competitive LECs agreed to this benchmark in the latest six-month state collaborative. We also note that a competitive LEC's receipt of an LLN within one day, rather than one hour, is unlikely to significantly increase the likelihood of double billing of the end user.

²²¹ Pursuant to a "Line Loss Communications Plan" approved by the Michigan Commission on March 26, 2003, Michigan Bell now files a monthly report (the "LLN Report") describing the total number of "line loss incidents," including the cause and duration of each incident, the number of LLNs and competitive LECs affected, and the actions taken by Michigan Bell to address the issues. Michigan Commission Order at 6; *see also* Michigan Bell March 13 *Ex Parte*, Attach. D; Michigan Commission March 26 *Ex Parte* Letter. The April, May and June 2003 LLN Reports reveal only a few isolated incidents, which were quickly resolved. For example, the May 2003 LLN Report indicates that there were no reportable LLN incidents in April. Michigan Bell Supplemental Application at 27-28. The June 2003 LLN Report indicates that Michigan Bell delayed the delivery of approximately 120 LLNs to seven competitive LECs in the SBC Midwest region in mid-May. *Id.* Michigan Bell states that this problem was corrected in two days. *Id.* at 28. We are persuaded that these reporting requirements will ensure that Michigan Bell continues to be held accountable for its performance and continues to respond promptly to any unexpected LLN (continued....)

purposes of section 271, the Michigan Commission found that Michigan Bell “has become extremely proactive in trying to immediately address line loss issues” by establishing a team to analyze and correct line loss problems, in addition to implementing additional training for Michigan Bell billing personnel.²²² Michigan Bell also provides evidence that it has been proactive in resolving LLN issues and has implemented several process enhancements to address and prevent missing or incorrect LLNs.²²³ For example, Michigan Bell has conducted several collaborative meetings and workshops with competitive LECs, and as a result of these meetings it has implemented several process enhancements.²²⁴ Altogether, the record reflects that Michigan Bell made significant systems and process changes to address past LLN concerns and prevent future problems, including the creation of a more robust software system and institution of several additional lines of communication with competitive LECs regarding LLN issues.²²⁵

73. We thus find that the historical instances of LLN problems cited by commenters do not demonstrate overall discriminatory LLN performance.²²⁶ In reaching this conclusion, we rely on the performance data demonstrating that Michigan Bell provides timely LLNs. We are also persuaded that Michigan Bell has thoroughly investigated competitive LECs’ claims, and for each incident has identified the root cause and taken corrective action to prevent similar issues from recurring.²²⁷ Nevertheless, we expect that Michigan Bell will continue to work closely with all affected carriers to resolve any outstanding line loss discrepancies.

74. *Billing Completion Notices.* We also find that Michigan Bell provides billing completion notices (BCNs) in a manner that provides competitors a meaningful opportunity to compete.²²⁸ BCNs inform competitors that all provisioning and billing activities necessary to establish service or migrate an end user from one carrier to another are complete, and that the

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problems. We note that AT&T cites several alleged shortcomings in Michigan Bell’s LLN compliance plan. AT&T DeYoung/Willard Supp. Decl. at paras. 124-26. We consider, however, the LLN compliance plan only to the extent that its expanded reporting requirements allow us to more closely review Michigan Bell’s recent LLN performance. Thus, concerns expressed by AT&T regarding alleged shortcomings in the LLN compliance plan do not warrant a finding of checklist noncompliance.

²²² Michigan Commission Comments at 69.

²²³ Michigan Bell Application at 50; *see also* Michigan Bell Cottrell Aff. at paras. 178-94 (describing Michigan Bell’s remedial LLN activities).

²²⁴ Michigan Bell Cottrell Aff. at paras. 87-88. From February 2002 through November 2002 Michigan Bell instituted several systems enhancements that were designed to identify the cause of the LLN errors, and accordingly made EDI software updates to correct the discrepancies. *Id.* at para. 88.

²²⁵ Michigan Bell Cottrell Aff. at paras. 87-88.

²²⁶ AT&T Comments at 18-19; AT&T DeYoung/Willard Decl. at paras. 110-35.

²²⁷ Michigan Bell March 17 *Ex Parte* Letter, Attach. A at 13.

²²⁸ Michigan Bell refers to these notices as “Post to Bill Notifications.” *See* Michigan Bell Reply at 22-23.

competitor can thus begin to bill the customer for service.²²⁹ BCNs are an industry standard feature of the most recent versions of Michigan Bell's EDI interface (known as LSOG 5 and LSOG 6).

75. We reject AT&T's argument that Michigan Bell fails to provide BCNs to competitive LECs in a reliable and consistent manner.²³⁰ AT&T alleges that it has experienced two separate problems since converting to LSOG 5 in December 2002; one concerns Michigan Bell performance during a time period outside of our consideration in this proceeding,²³¹ and the other is related to the database reconciliation discussed in the billing section below.²³² As such, we do not need to consider them here.

76. Michigan Bell, however, does acknowledge a more recent BCN problem that is relevant to the instant application. Specifically, Michigan Bell explains that approximately 107,500 BCNs were delayed in the SBC Midwest region between May 14 and May 22, 2003 due to a software "patch" that was intended to eliminate errors appearing on internal reports.²³³ Michigan Bell states that it corrected the software problem and sent all of the delayed BCNs by close of business on May 23, 2003.²³⁴

²²⁹ See, e.g., *In the Matter of Application by Verizon New England Inc., Verizon Delaware Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in New Hampshire and Delaware*, WC Docket No. 02-157, Memorandum Opinion & Order, 17 FCC Rcd 18660, 18717-18, para. 99 (2002) (*Verizon New Hampshire/Delaware Order*); *Verizon Pennsylvania Order*, 16 FCC Rcd at 17446, para. 43.

²³⁰ In an *ex parte* filed September 12, 2003, AT&T raises an issue regarding the posting of BCNs and Michigan Bell's alleged actions to "win back" end-user customers prior to the posting of BCNs. See AT&T September 12 *Ex Parte* Letter at 2. However, as AT&T acknowledges, the issue was raised too late in the proceeding – just five days prior to the 90-day statutory deadline – for the Commission to give full consideration to the issue.

²³¹ AT&T alleges that Michigan Bell's systems caused a failure of more than 12,000 BCNs in December and January 2003. See AT&T DeYoung/Willard Reply Decl. at para. 67. Michigan Bell contends that in February 2003 it cured the underlying system flaw that delayed those BCNs. See Michigan Bell Cottrell/Lawson Reply Aff. at para. 125.

²³² See *infra*. Part IV.B.2. f. AT&T alleges that Michigan Bell and the other SBC Midwest companies purposely withheld transmission of more than 10,000 BCNs throughout the SBC Midwest region in January, February, and March 2003, while conducting an internal billing reconciliation. See AT&T Reply, Joint Reply Declaration of Sarah DeYoung and Walter W. Willard at paras. 69-70 (AT&T DeYoung/Willard Reply Decl.); Letter from Richard D. Young, Counsel for AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission at 2 (filed Mar. 19, 2003) (AT&T March 19 *Ex Parte* Letter). Michigan Bell responds that it did not delay BCNs during the reconciliation, but instead prevented service orders from posting to CABS during the reconciliation process. Michigan Bell Cottrell/Lawson Supplemental Aff. at para. 46. As soon as service orders posted to CABS, Michigan Bell explains, the BCNs were sent on a timely basis. *Id.*

²³³ Michigan Bell Cottrell/Lawson Supplemental Aff. at para. 50-1. The notification outage was caused by SBC's failure to document and test all possible scenarios affected by the software patch. As a result, an error in the software patch was not discovered prior to implementation. *Id.*

²³⁴ *Id.* at para. 51.

77. We find that Michigan Bell's BCN delay in May does not warrant a denial of this application. We also note that Michigan Bell expediently addressed this issue. Specifically, Michigan Bell removed the patch on May 22, as soon as the problem was confirmed, and sent the delayed BCNs to competitive LECs by May 23.²³⁵ In addition, Michigan Bell's OSS customer support team contacted affected competitive LECs individually. Furthermore, we note that Michigan Bell has taken several steps, including implementing a daily review process of its Local Access Service Request (LASR) reports to quickly identify any BCN delays, to ensure that competitive LECs are provided prompt notice of any issues that may affect the delivery of BCNs.²³⁶ Therefore, because the record reflects that this was an isolated occurrence and that Michigan Bell promptly resolved this BCN issue, we conclude that Michigan Bell's delivery of BCNs provides competitive LECs using Michigan Bell's OSS a meaningful opportunity to compete.

d. Provisioning

78. We find, as did the Michigan Commission,²³⁷ that Michigan Bell satisfies checklist item 2 with regard to provisioning in Michigan. The record demonstrates that Michigan Bell provides nondiscriminatory access to its provisioning systems and processes and consistently satisfies the performance standards for the relevant performance measurements. The third-party test conclusions generally support our findings in this regard.²³⁸

79. *Provisioning Timeliness.* Metrics measuring provisioning timeliness demonstrate, with few exceptions, nondiscriminatory performance by Michigan Bell.²³⁹ For example, the

²³⁵ *Id.*

²³⁶ Michigan Bell Supplemental Application at 24-25; *see also* Michigan Bell Cottrell/Lawson Supplemental Aff. at para. 52.

²³⁷ Michigan Commission Comments at 76.

²³⁸ *See generally* Michigan Bell Dolan/Horst Aff. at Attach. B, C; Michigan Bell Application, App. C, Vol. 19a-b, Tab 114, BearingPoint's OSS Evaluation Report.

²³⁹ Michigan Bell generally met the parity standard for the primary indicator of provisioning timeliness, PM 29 (the percent of Michigan Bell caused missed due dates), with certain *de minimis* exceptions, discussed below. Michigan Bell missed PM 30-04 (percent Ameritech caused missed due dates due to lack of facilities; UNE-P business) from February through June by a relatively small amount, with Michigan Bell missing 9, 16, 20, 17 and 18 due dates respectively; *see also* PM 30-02 (percent Michigan Bell missed due dates due to lack of facilities business for all missed POTS (resale) business orders) (showing 18 total missed due dates from February to June 2003). We also find that the relevance of Michigan Bell's misses in all five months for PM 28-04 (percent POTS business installations completed within a customer requested due date with no field work required) is not competitively significant given the low number of Michigan Bell caused missed due dates, as reflected by the data for PM 29-04 (Michigan Bell caused missed due dates for business loops with no field work required), which Michigan Bell passed all five months. Moreover, we note that Michigan Bell missed the 97% benchmark for PM 28-04 by relatively few installations. For example, Michigan Bell completed 94.73% (1,187) of competitive LECs' 1,253 orders by the requested due dates in March and 400 (91.74%) of competitive LECs' 436 orders by the requested due dates in April. Ehr Supplemental Aff. at n.57. Michigan Bell states that a root cause investigation has identified several factors that have contributed to the out-of-parity performance on PM 28-04. Ehr Supplemental Aff. at n.57. For example, Michigan Bell states that certain complex business wholesale products that are included in the POTS (continued....)

record reflects that Michigan competitive LECs generally encountered a lower percentage of missed due dates that delayed installation by more than 30 days for each of the four types of UNE-P orders, *i.e.*, residence and business installation both with and without field work, than did Michigan Bell's retail POTS residence and business customer orders.²⁴⁰ Michigan Bell also met the standard in three of the last four months for UNE-P installations, for both the field work required and no field work required submetrics, for business customers requesting certain due dates.²⁴¹ We thus find that Michigan Bell's overall performance in meeting due dates demonstrates that Michigan Bell provides nondiscriminatory provisioning timeliness.²⁴² Our conclusion is reinforced by the fact that no commenter expresses concern about Michigan Bell's provisioning timeliness.²⁴³

80. *Provisioning Quality.* Similarly, metrics measuring provisioning quality demonstrate adequate performance, with few exceptions. Specifically, we find that the isolated misses for certain metrics regarding the installation of UNE-P and POTS lines do not indicate a systematic problem warranting a finding of checklist noncompliance.²⁴⁴ We note that overall the

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business submeasure results have standard intervals that were not being taken into account when assessing performance. *Id.* The PM system would determine these non-field work issues to require same day or next day commitment, where the standard interval defined for a no-field work order for these products is longer. Further, Michigan Bell states that it has assembled an ongoing performance management team comprised of wholesale sales support personnel and network personnel to improve performance for PM 28-04. *Id.* We thus find that these misses do not warrant a finding of noncompliance.

²⁴⁰ Ehr Supplemental Aff. at paras 121-23.

²⁴¹ We reject AT&T's argument that we cannot rely on two performance metrics measuring installation timeliness, PM 27 (mean installation interval) and PM 28 (percent POTS/UNE-P installations completed within the customer requested due date) because of problems previously identified by E&Y. AT&T Moore/Connolly/Norris Reply Decl. at para. 56; AT&T Moore/Connolly Decl. at para. 137. Michigan Bell states that it implemented new code to properly exclude internal orders that were previously included in the calculation of these metrics beginning with results for February 2003, *i.e.*, AT&T's argument concerns data that pre-dates our five month review period. Accordingly, we conclude that we are able to rely on Michigan Bell's recent installation timeliness data, which reflect the revised code, in assessing Michigan Bell's performance under these metrics.

²⁴² In its *Michigan I* comments, incorporated by reference in this proceeding, AT&T argues that Michigan Bell's performance in PM 29-07 warrants a finding of checklist noncompliance. AT&T Moore/Connolly Decl. at paras. 151-52. We disagree and find that, because the recent data show that Michigan Bell met the parity standard in four of the last five months, Michigan Bell demonstrates that it provisions UNE-P on a nondiscriminatory basis.

²⁴³ For the other few metrics missed, we agree with Michigan Bell that the difference in performance for competitive LECs versus Michigan Bell customers (or the applicable benchmarks) was slight. Moreover, Michigan Bell argues that missed due date performance more directly reflects the degree of impact to the end customer than the average installation interval. We agree and conclude, as we have in prior section 271 orders, that the missed appointment/installation commitments met metrics, which Michigan Bell passed with very few exceptions, is a more reliable indicator of provisioning timeliness. Based on the installation commitments met data we find that Michigan Bell meets its obligation with respect to timely provisioning. *See, e.g., Qwest 9-State Order*, 17 FCC Rcd at 26402, para. 163.

²⁴⁴ Michigan Bell generally met the relevant standard regarding provisioning quality, with certain *de minimis* exceptions. *See* PM 35 (percent trouble reports within 30 days of installation). For example, although Michigan Bell missed the parity standard for two out of the last five months (February and March) for PM 35-02 (percent (continued....))

misses were slight, and that there were low volumes for several of the metrics. Because we find that Michigan Bell has demonstrated nondiscriminatory performance during the relevant review period, we also reject claims raised during Michigan Bell's prior section 271 application that have largely been resolved or are no longer reflected in the commercial results.²⁴⁵ Lastly, we note that no party raises any new issues in this proceeding regarding Michigan Bell's provisioning quality.²⁴⁶

e. Maintenance & Repair

81. We conclude that Michigan Bell provides nondiscriminatory access to maintenance and repair OSS functions. We find that Michigan Bell has deployed the necessary interfaces, systems, and personnel to enable requesting carriers to access the same maintenance and repair functions that Michigan Bell provides to itself.²⁴⁷

82. We find that Michigan Bell's performance data support a finding of checklist compliance in this area. Specifically, we find that Michigan Bell restores service to competing

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trouble reports within 30 days of installation; POTS; residential; no field work), Michigan Bell met the parity standard for the April, May and June with competitive LECs experiencing lower trouble report rates of 4.52%, 3.43%, and 3.74% versus trouble report rates for Michigan Bell's retail customers of 6.18%, 5.83%, and 6.26% respectively. Michigan Bell also missed the parity standard for four out of five months for PM 35-03 (percent trouble reports within 30 days of installation; POTS; business; field work). The record reflects, however, that Michigan Bell missed the standard for PM 35-03 by relatively few installations. Specifically, with relatively low levels of competitive LEC ordering activity over this period, Michigan Bell missed the standard for parity from February through June 2003 by an average of less than six trouble reports a month out of an average of 90 orders a month. In light of Michigan Bell's overall POTS installation performance, we do not find these misses to be competitively significant. Nonetheless, Michigan Bell states that it is addressing this shortfall by creating a daily report to identify all POTS trouble reports occurring within 30 days of installation for employee coaching opportunities, including additional training on proper use of metallic tests and leakage tests (which identify less noticeable high resistance-type trouble), designed to strengthen the reliability of the network facilities at the time of service order completion.

²⁴⁵ We reject AT&T's argument that these scattered misses warrant a finding of checklist noncompliance. AT&T Moore/Connolly Decl. at paras. 151-52; AT&T DeYoung/Willard Reply Decl. at para. 75; AT&T Moore/Connolly/Norris Reply Decl. at paras. 136-37; AT&T DeYoung/Willard Supp. Decl. at paras. 140-41. We note that Michigan Bell has instituted additional training to fix the root causes of the few remaining provisioning troubles, including reinforcing technicians' use of network testing procedures. Michigan Bell Ehr Aff. at paras. 144-45; Michigan Bell Muhs Aff. at paras. 23-25; Michigan Bell Ehr Reply Aff. at para. 10; Michigan Bell Muhs Reply Aff. at n.15.

²⁴⁶ AT&T raises an issue regarding Michigan Bell's loop provisioning process for new UNE-P orders in an *ex parte* filed on September 12, 2003. See AT&T September 12 *Ex Parte* Letter. However, as AT&T acknowledges in its letter, the issue was raised too late in the proceeding – just five days prior to the 90-day statutory deadline – for the Commission to give full consideration to the issue.

²⁴⁷ *Bell Atlantic New York Order*, 15 FCC Rcd at 4067, para. 211. Michigan Bell provides competing carriers with several options for requesting maintenance and reporting troubles. Competing carriers may use the Electronic Bonding Trouble Administration/Graphical User Interface (EBTA/GUI) and the Electronic Bonding Trouble Administration application to application interface (EBTA). Michigan Bell Cottrell Aff. at para. 197.

carriers' customers in substantially the same time and manner²⁴⁸ and with a similar level of quality²⁴⁹ as it restores service to its own customers, with a few exceptions. Although we note that Michigan Bell missed the parity standard from February to June 2003 for PM 37-04 (trouble report rate; UNE-P business), the overall trouble report rates for Michigan competitive LECs' UNE-P business lines and Michigan Bell's own retail business lines are minimally different by an average of 0.13 over the five month period.²⁵⁰ We find that this small difference between wholesale and retail provisioning quality is unlikely to have adversely affected Michigan competitive LECs, given that overall competitive LECs encountered a low trouble report rate of 0.95 for UNE-P business lines, and that Michigan Bell's performance is generally sufficient across all PM 37 (trouble report rate) submeasures.²⁵¹ The third-party test conclusions also support our finding on functionality.²⁵²

83. We thus reject the general assertions by AT&T and CLECA that Michigan Bell fails to perform repairs in a timely manner.²⁵³ In addition to AT&T's and CLECA's unsupported allegations regarding Michigan Bell's maintenance and repair performance for competitive LECs, CLECA cites Michigan Bell's general maintenance and repair performance for its retail customers as reported in standard Commission data collections, unrelated to section 271.²⁵⁴ As an initial matter, this data does not provide any evidence of discriminatory performance since it

²⁴⁸ Michigan Bell met the relevant parity and benchmark standards regarding timeliness of maintenance and repair, with certain *de minimis* exceptions. See PM 38 (percent missed repair commitments); PM 39 (receipt to clear duration); PM 38-06 (percent missed repair commitments; UNE-P residential; no dispatch); PM 38-05 (percent missed repair commitments; UNE-P residential; dispatch).

²⁴⁹ Michigan Bell generally met the relevant parity and benchmark standards regarding maintenance and repair quality, with a few *de minimis* exceptions described below. See PM 37.1 (trouble report rate net of installation and repeat reports); PM 40 (percent out of service trouble reports); PM 41 (percent repeat reports); PM 42 (percent trouble reports with no access).

²⁵⁰ Michigan Bell also missed the 95% benchmark three out of the five month review period with regard to PM MI 14-04 (percent completion notifications returned within 2 hours of completion of maintenance trouble ticket – UNE Loops – electronic). The record reflects, however, that Michigan Bell's performance is minimally deficient for those months, with the five-month average performance above the 95% benchmark. We note that Michigan Bell missed the 95% benchmark in four months out of the five month review period with regard to PM MI 14-05 (percent completion notifications returned within "X" hours of completion of maintenance trouble ticket – UNE-P – manual next day). We find, however, that in light of Michigan Bell's overall maintenance and repair performance that these isolated misses, which reflect that Michigan Bell has returned approximately 91.5% of these notifications on time, do not warrant a finding of checklist noncompliance.

²⁵¹ See, e.g., PM 37.1 (trouble report rate net of installation and repeat reports) (showing that Michigan Bell met the parity standard for all five months from February 2003 to June 2003 for all four PM 37.1 measurements – POTS business, POTS residence, UNE-P business, and UNE-P residence).

²⁵² Michigan Bell Dolan/Horst Aff. at Attach. B, C; Michigan Bell Application, App. C, Vol. 19a-b, Tab 114, BearingPoint's OSS Evaluation Report, 717-28; 729-52; 1023-25. Michigan Bell failed to satisfy certain BearingPoint test criteria relating to closeout coding, as discussed below.

²⁵³ CLECA Supplemental Comments at 8-10; AT&T Comments at 17.

²⁵⁴ See CLECA Supplemental Comments at 9.

pertains solely to Michigan Bell's performance for retail customers. Further, this data relates to Michigan Bell's performance in 2001, which substantially pre-dates our review period for this section 271 application. Thus, in light of Michigan Bell's overall satisfactory performance in achieving parity of maintenance and repair offerings, we conclude that the commenters' generalized and unsupported allegations do not overcome Michigan Bell's affirmative showing of nondiscriminatory performance and checklist compliance.²⁵⁵

84. Similarly, we reject TDS Metrocom's assertion that Michigan Bell's Electronic Bonding Trouble Administration (EBTA) interface is inadequate because of unspecified "outages and errors."²⁵⁶ Michigan Bell responds that all of the problems with EBTA that TDS Metrocom has brought to its attention were resolved by September 2002.²⁵⁷ Moreover, we note that Michigan Bell's performance data indicate that the EBTA interface has been consistently available, with few outages, for each of the last five months.²⁵⁸

85. We also reject commenters' allegation of discriminatory performance by Michigan Bell regarding closeout codes used to notify competitive LECs of how trouble tickets were resolved. A number of competitive LECs report inaccuracies in Michigan Bell's closeout codes,²⁵⁹ and also note that Michigan Bell failed two BearingPoint evaluation criteria relating to the accuracy of closeout codes.²⁶⁰ As an initial matter, we note that the same technicians handle coding for trouble reports for both wholesale and retail repairs, indicating that closeout coding errors would not necessarily have a discriminatory affect on competitive LECs. Michigan Bell's trouble tickets also include a narrative field that provides greater information about the trouble in addition to any information reflected in the closeout code.²⁶¹ Further, Michigan Bell notes that if

²⁵⁵ *Bell Atlantic New York Order*, 15 FCC Rcd at 3973, para. 50.

²⁵⁶ TDS Metrocom Cox Aff. at paras. 18-19.

²⁵⁷ Michigan Bell Cottrell/Lawson Reply Aff. at para. 130.

²⁵⁸ See PM 4-04 (OSS interface availability; EB/TA); PM 4-05 (OSS interface availability; EB/TA; GUI); see also Michigan Bell Cottrell Aff. at para. 197; Michigan Bell Cottrell/Lawson Reply Aff. at paras. 130-32.

²⁵⁹ AT&T Comments at 17; AT&T DeYoung/Willard Decl. at para. 108; AT&T Moore/Connolly Decl. at para. 148; TDS Metrocom Comments at 23-24; TDS Metrocom Cox Aff. at paras. 27-43; Letter From Mark Jenn, TDS Metrocom, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-16 (filed Mar. 24, 2003) (TDS Metrocom March 24 *Ex Parte* Letter).

²⁶⁰ Michigan Bell Application, App. C, Vol. 19a-b, Tab 114, BearingPoint's OSS Evaluation Report, 780-81. Although BearingPoint's OSS Evaluation Report states that Michigan Bell initially failed the test criteria regarding the accuracy of end-to-end resale closeout code troubles, in addition to certain other closeout code criteria, continued retesting allowed Michigan Bell to achieve a satisfactory result for end-to-end resale closeout coding. Michigan Commission Comments at 70 n.133; see also Michigan Bell Cottrell/Lawson Supplemental Aff. at para. 8 (stating that BearingPoint has now found that Michigan Bell satisfied the evaluation criteria for end-to-end resale closeout coding). Michigan Bell also states that it has implemented several initiatives to improve its coding of trouble reports, including additional training for technicians to reinforce current procedures for coding trouble reports and updating methods and procedures documentation to more accurately record close out coding. *Id.*

²⁶¹ Michigan Bell Application, App. C, Vol. 23, Tab 122, at 52-53.

trouble tickets were being closed when the trouble was not actually fixed, the repeat trouble report rate likely would be high.²⁶² Michigan Bell's performance data, however, shows that it met the relevant standards for repeat trouble report metrics.²⁶³ Michigan Bell also offers an escalation process for competitive LECs to raise concerns about improper trouble ticket coding, which TDS Metrocom has used in the past.²⁶⁴ Lastly, we note that Michigan Bell's policies help ensure that competitive LECs do not face improper charges in such instances.²⁶⁵ We conclude, therefore, that the record reflects that Michigan Bell does not discriminate against competitive LECs with regard to closeout coding.²⁶⁶

86. We likewise do not find a checklist violation in TDS Metrocom's alleged instances of improper conduct by Michigan Bell technicians. For example, TDS Metrocom states that it has received reports of Michigan Bell technicians being rude to customers, disparaging TDS Metrocom, or marketing Michigan Bell services, although it provides little specific information.²⁶⁷ Michigan Bell states that it is aware of five alleged instances of improper discussions between a Michigan Bell technician and a TDS Metrocom customer over the past year in the entire SBC Midwest region.²⁶⁸ Michigan Bell explains that in each case the matter was brought to the technician's attention and appropriate action was taken in accordance with the SBC Code of Conduct.²⁶⁹ We conclude that the incidents cited by TDS Metrocom appear to be isolated occurrences, rather than systemic failures, which we conclude do not demonstrate discriminatory performance.

²⁶² Michigan Bell Muhs Reply Aff. at para. 17.

²⁶³ See PM 41 (percent repeat reports); PM 53 (percent repeat reports); PM 69 (percent repeat reports).

²⁶⁴ Michigan Bell Muhs Reply Aff. at para. 18-23.

²⁶⁵ Specifically, Michigan Bell states that if the technician reports that there was no appearance of a network interface device (NID) at the customer location, Michigan Bell does not impose trouble isolation charges (TICs) for trouble tickets closed as no trouble found (NTF) or as isolated to customer premises equipment. Michigan Bell Muhs Reply Aff. at para. 31.

²⁶⁶ We also note that although TDS Metrocom argues that it sometimes is unable to perform remote testing to check Michigan Bell's repairs due to the lack of a NID. TDS Metrocom Cox Aff. at para. 38. TDS Metrocom also states that Michigan Bell has not installed network interface devices (NIDs), which would allow competitive LECs to conduct remote testing to verify if Michigan Bell technicians have correctly identified and coded the service problem, in many end user premises in Michigan. *Id.* For purposes of section 271 approval, however, although we do require BOCs to offer nondiscriminatory access to their NIDs, we have not previously required BOCs to add new NIDs where not previously installed. *UNE Remand Order*, 15 FCC Rcd at 3801, para. 232; see also, e.g., *Qwest 9-State Order*, 17 FCC Rcd at 26495-96, para. 348. TDS Metrocom, however, does not claim that Michigan Bell fails to offer nondiscriminatory access to existing NIDs.

²⁶⁷ TDS Metrocom Cox Aff. at paras. 36-37, 40-43.

²⁶⁸ Michigan Bell Muhs Reply Aff. at para. 28. For example, at least one dispute involved a technician in Illinois. *Id.*

²⁶⁹ *Id.* at paras. 28-31. Michigan Bell states that violations of the code of conduct can lead to disciplinary action, including suspension or termination of employment. *Id.* at paras. 24-26.

f. Billing

87. Michigan Bell demonstrates that competing carriers have nondiscriminatory access to its billing systems.²⁷⁰ In particular, a BOC seeking section 271 approval must provide two essential billing functions: (1) complete, accurate, and timely wholesale bills; and (2) complete, accurate, and timely reports on the service usage of competing carriers' customers.²⁷¹ Wholesale bills are issued by incumbent LECs to competitive LECs to collect compensation for the wholesale inputs, such as unbundled network elements, used by competitive LECs to provide service to their end users.²⁷² In contrast, service-usage reports generally are issued to competitive LECs that purchase unbundled switching and measure the types and amounts of incumbent LEC services that a competitive LEC's end users use for a limited period of time, usually one day.²⁷³

(i) Wholesale Bills

88. Consistent with prior section 271 orders, a BOC must demonstrate that it provides competing carriers with wholesale bills in a manner that gives competing carriers a meaningful opportunity to compete.²⁷⁴ Michigan Bell submitted evidence of its commercial billing performance, successful third-party testing, and internal billing processes and procedures showing that it can provide complete, accurate, and timely wholesale bills. Michigan Bell also demonstrates that it has substantially resolved the prior mismatch issue between certain UNE-P records in its provisioning and wholesale billing databases that was a central area of contention in the previous proceeding. Notwithstanding this showing, competitive LECs expressed a variety of concerns about the accuracy of Michigan Bell's wholesale bills, the adequacy of its billing processes and procedures, and Michigan Bell's resolution of the UNE-P records mismatch. As discussed below, Michigan Bell responds by showing that it has internal processes to expeditiously address problems as they arise, and that where problems have occurred, they have quickly been addressed. Indeed, one competitive LEC states that it "has seen a marked improvement in the accuracy of [Michigan Bell's] bills" since January 2003, and that any billing problems it has experienced do not appear to "constitute vast, systemic or procedural billing problems. These problems are discreet and independent occurrences in a very complex system."²⁷⁵ Assessing the totality of the circumstances, we find that Michigan Bell's evidence shows that the commenters' concerns are isolated instances of errors typical of high-volume carrier-to-carrier commercial billing, rather than systemic problems, and thus do not find that the

²⁷⁰ *Qwest 9-State Order*, 17 FCC Rcd at 26374, para. 114.

²⁷¹ *Id.* at 26374, para. 115.

²⁷² *Id.* These bills are usually generated for competitive carriers on a monthly basis. *Id.*

²⁷³ *Id.* These bills are usually generated for competitive carriers on a daily basis. *Id.*

²⁷⁴ *Id.*

²⁷⁵ Letter from Connie F. Mitchell, Chief Administrative Officer, VarTec Telecom, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-138 at 2 (filed July 14, 2003) (VarTec July 14 *Ex Parte* Letter). VarTec states that it operates in all five states in the SBC Midwest region. *Id.* at 1.