this issue.[289] Verizon conducted a review of sample MetTel data as well as its own data, and identified four scenarios in which MetTel's allegations that misdirected or late usage could have occurred were, for the most part, mistaken.[290] Verizon asserted that the facts behind these scenarios provide empirical refutation of MetTel's analysis.[291] The Board heard live testimony specifically on this issue,[292] and both MetTel and Verizon filed post-hearing briefs that addressed these issues.[293] Therefore, the Board had a sufficient record, and there is nothing to show that the Board acted unreasonably in agreeing with Verizon and finding that Verizon is performing its completion notifier obligations satisfactorily.[294]

106. Moreover, while our 90-day review does not permit us to act as the exclusive fact-finder here, especially when such an inquiry would require us to undertake a PON-by-PON analysis, MetTel's summarized data submissions do not persuade us that Verizon's completion notifiers are inaccurate. First, according to MetTel, usage based on the Daily Usage File

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[289] *See* Appendix C at para. 2 (stating that the Commission has discretion in each section 271 proceeding to determine the amount of weight to give the state commission's verification). Verizon filed a reply declaration in the state proceeding specifically to address MetTel's concerns. Letter from Clint Odom, Verizon, to William Caton, Acting Secretary, Federal Communications Commission, CC Docket No. 01-347 (filed February 22, 2002), Document Appendix, Tab 6, Verizon Reply Declaration in Response to Metropolitan Telecommunications, Docket No. TO01090541 (filed with New Jersey Board Nov. 19, 2001) (Verizon NJ I Feb. 22 *Ex Parte* Letter, New Jersey Reply Decl., Tab 6).

[290] Verizon NJ I Feb. 22 *Ex Parte* Letter, New Jersey Reply Decl., Tab 6 at paras. 18-21. First, and predominantly, according to Verizon, MetTel continues to migrate end-users to platform service without changing the long distance or local PIC to MetTel at the time of the initial migration. *See also* Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 38 (stating that Verizon's review of October PONs revealed that less than half requested that the PIC be changed to MetTel). Second, Verizon may have won back the customer shortly after the initial migration. *See id.* (finding that over 15% of the PONs listed by MetTel for October had either been won back to Verizon or had migrated to another competitive LEC). Third, for a very small group of PONs where MetTel was migrating an existing competitive LEC UNE loop end user to MetTel UNE-platform service, Verizon concedes that there were a few examples in MetTel's data where this migration was not handled smoothly by Verizon, and could have resulted in delayed usage to MetTel. Fourth, Verizon recognized that there were some PONs where a Verizon error resulted in end users being PIC'd incorrectly to MetTel, although the trouble ticket process can address these errors, and their incidence is low. *See* PR-6-02-3140 (% Installation Troubles Reported Within 7 Days - Platform) (ranging from 0.14% to a high of .0.50% from April through November 2001, and always less than retail).

[291] Verizon NJ I Feb. 22 *Ex Parte* Letter, Tab 6, at para. 21.

[292] Verizon NJ I Application, App. B, Vol. 7a-b, Tab 11.

[293] *See* Verizon NJ I Feb. 22 *Ex Parte* Letter at 2; Verizon NJ I Feb. 25 *Ex Parte* Letter, Document Appendix, Tabs 10, 12; Verizon NJ I Application, App. B, Vol. 8, Tabs 13 and 14.

[294] New Jersey Board NJ I Comments at 34. MetTel implies that the New Jersey Board improperly viewed the usage issue as a billing issue by discussing it in the Billing section of its Consultative Report, MetTel Feb. 1 *Ex Parte* Letter at 24, but no such organizational criticism undermines the merits of the Board's findings. We are also encouraged by Verizon's commitment to meet with MetTel to review the trouble tickets submitted by MetTel for New York, Pennsylvania, and New Jersey that claim no usage. Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 39.

(DUF)[295] for a significant percentage of customers starts significantly later than usage as indicated by the notifiers, and sometimes not at all.[296] Specifically, MetTel asserts that where there is no indication of usage in the DUF within three days of the issuance of a BCN, the notifier is "false" and unreliable.[297] Using this assumption, MetTel has found that 39 percent of end user migrations to MetTel in November and December 2001 were not completed as per the BCN.[298] We do not accept MetTel's argument that a lack of usage for three days following the issuance of a BCN necessarily proves that the notifier is faulty. Such delayed usage appears to be more the exception than the rule, and moreover, there are several plausible explanations for customer usage to begin several days after migration at the DUF.[299] We are thus not persuaded that such a lack of usage is a reliable proxy for a conclusion that notifiers are inaccurate. Further, Verizon has reviewed records for the nearly 1,000 billing telephone numbers for which MetTel submitted trouble tickets for missing usage in New Jersey.[300] In 75 percent of these cases, Verizon either found usage at some point in time or MetTel agreed that no usage was due. For the remaining 251 cases, Verizon did not find usage and did not detect any problem. We take comfort in the further investigation that Verizon has undertaken for the remaining accounts where missing usage was reported.[301] If this remaining reconciliation effort demonstrates that Verizon's systems are deficient, we will not hesitate to take action pursuant to section 271(d)(6).[302]

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[295] The DUF is the cumulative record of the total customer usage of a competitive LEC. *Verizon Pennsylvania Order*, 16 FCC Rcd at 17426, para. 14.

[296] MetTel NJ I Comments at 9-14. For example, MetTel alleges that Verizon's explanation that a lack of usage in many instances arising from winbacks soon after migration to MetTel is suspect. According to MetTel, even under this "quick winback" operational scenario, at least some usage should take place. MetTel NJ I Comments at 11.

[297] *See* MetTel NJ II April 15 *Ex Parte* at Attachment 1, at 16-17; MetTel NJ II Reply at 7.

[298] MetTel NJ II April 15 *Ex Parte* at Attachment 1, p.18. MetTel also reports that for the January 1 – May 23, 2002 timeframe, over 14% of all orders migrated to MetTel did not register usage in the first three days after the completion date. MetTel NJ II May 14 *Ex Parte* Letter at 3. MetTel also conducted an analysis of the converse scenario – usage after loss of line (LOL) – and reports that it received usage past the effective migration date for over 31% of the lines which MetTel lost to another carrier. MetTel NJ II June 4 *Ex Parte* Letter at 2-3 (covering the January 1- May 27, 2002 period).

[299] *See supra* at n.290.

[300] Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at para. 27; Verizon NJ II McLean/Wierzbicki/ Webster/Canny Decl. at para. 32.

[301] Verizon explains that 62% of the payphone accounts where usage was supposedly missing were actually in a seasonal suspend status, and that 4% had been disconnected. Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at para. 28. Verizon also investigated the locations of a sample of 41 of the remaining coin account telephone numbers, and found that these locations either had no phone (28 numbers); had phones, but the phone was not working (7 numbers); had phones that were not MetTel's (5 numbers); or was a MetTel phone but had a phone number other than the one submitted (1 phone). Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at para. 28.

[302] 47 U.S.C. § 271(d)(6).

107. Second, MetTel submits data that purport to show that usage has accumulated when it should not. Specifically, MetTel claims that it had received usage on 88 lines after it submitted an order to suspend the line for non-payment (SNP) and received a BCN.[303] However, Verizon's research indicates that for 73 of these lines, MetTel had actually submitted a later order to restore the line, and that first usage came *after* the restoral order was submitted.[304] For the remainder of the lines, Verizon's investigation reveals similar explanations for usage.[305] Based on the record before us, we are satisfied that the results of these inquiries address MetTel's concerns about the accuracy of usage accumulation.

108. Third, MetTel claims that its examination of the DUF indicates errors in provisioning the presubscribed interexchange carrier (PIC) on an end user's account.[306] We are satisfied with Verizon's explanation that these concerns do not reveal systemic OSS failure that would lead us to find checklist non-compliance. Verizon points out several plausible circumstances where the usage records could reflect a different carrier identification other than

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[303] *See* MetTel NJ II Comments, Attachment 7.

[304] Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at para. 29.

[305] For example, Verizon won back eleven of the lines, but because a suspended line cannot be migrated, Verizon restored the lines solely in preparation for migration. Such restorals are generally for one day or less prior to the win-back disconnect order for the competitive LEC losing the customer. *Id.* In addition, three of the lines were complex Centrex lines that are not designed for service suspension. *Id.* Although MetTel complains that its inability to block these lines to suspend service indicates that the BCN is "false" and that Verizon's recognition of an "improper" PCN is indicative of the problem, MetTel has been aware of this limitation in New York since 2000, and the limitation on a discrete set of offerings is the same in New Jersey as in New York and other states that the Commission has already approved under section 271. *See* MetTel NJ II May 14 *Ex Parte* Letter at 3; MetTel NJ II June 13 *Ex Parte* Letter at 2. Because the inability to suspend Centrex lines is applicable to both retail and wholesale customers, we do not make a finding of discrimination. *See* Verizon NJ II May 17 *Ex Parte* Letter at 7. Further, although MetTel alleges that Verizon has been restoring accounts an average of two days prior to migration rather than one day, we note that no other party makes such a claim. *See* MetTel NJ II June 13 *Ex Parte* Letter at 2. Moreover, it appears that this issue may again represent primarily a dispute over the application of the relevant business rules.

[306] MetTel NJ II Reply at 11-13. According to MetTel, 9.7% of PIC change transactions indicate usage to a predesignated carrier other than the one indicated on the BCN, and MetTel verifies the PIC change by examining Cat 11 (Carrier Access Usage) records. MetTel NJ I Feb. 1 *Ex Parte* Letter at 12-13. MetTel recently supplemented its analysis of the Cat 11 records for November and December 2001 with an analysis of those records for the January-March 2002 time period. MetTel NJ II May 14 *Ex Parte* Letter at 3. MetTel submits that Verizon's performance has been deteriorating, based upon its review of whether the first call subsequent to the issuance of a BCN reflecting the change to MetTel's Carrier Identification Code (CIC) did in fact go to the proper presubscribed carrier. *See* Verizon NJ II May 17 *Ex Parte* Letter at 6 (noting that MetTel claims that 46 percent of first calls examined were not routed to MetTel's CIC for March 2002). Further supplementing this data, MetTel also reports that over 21 percent of New Jersey lines reflecting calls to a presubscribed carrier were not correctly provisioned during the first quarter of 2002. MetTel NJ II June 10 *Ex Parte* Letter at 3-4. Reiterating this argument, MetTel submits an additional filing on the progress of its reconciliation with Verizon, and reports that it continues to find fault with Verizon's investigation. MetTel NJ II June 18 *Ex Parte* Letter at 5-7.

the predesignated carrier shown on the BCN,[307] and also reports the results of specific investigations that it undertook which contradict MetTel's claims.[308] Despite the presence of other UNE-platform providers in operating New Jersey, the record does not indicate that any of these carriers share MetTel's reported difficulties. We also find it significant that no other commenter complained about the issue. We recognize, however, that the data reconciliation process between MetTel and Verizon is still ongoing and not complete. If at the end of the process the reconciliation indicates that Verizon has violated our rules, we will take appropriate action.

109. Although we recognize that the notifier accuracy issues raised by MetTel appear to be more than just a few isolated incidents, we find it significant that, proportionally, the number of customers impacted has been relatively low, and is thus not competitively significant. As a general matter, such cases are more appropriately handled as a carrier-to-carrier dispute. However, we also view the manner in which Verizon handles these issues with the competing carriers to be a factor in our decision here. Therefore, we emphasize that our approval is based not only on the substantive explanations that Verizon has determined through detailed investigation, but also the thoroughness of the investigative process itself, which demonstrates Verizon's commitment to ensuring nondiscrimination.[309]

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[307] *See* Verizon NJ I Feb. 25 *Ex Parte* Letter (MetTel Issues) at II.C; Verizon NJ II McLean/Wierzbicki/Webster/Canny Decl. at para. 33. These scenarios include calls to a toll-free number; casually dialed numbers (dial-arounds); and terminating usage. In its review of MetTel's January 2002 usage records, Verizon found that 12.4% of MetTel's migration PONs did not request MetTel's usual carrier as the PIC, and that 76.8% of the usage records for the telephone numbers associated with these migration orders appropriately contained carrier IDs other than the PIC ID that MetTel specified (*e.g.*, toll-free calls, casually dialed calls, terminating usage). Verizon NJ II McLean/Wierzbicki/Webster/Canny Decl. at para. 34.

[308] In another review, Verizon examined trouble tickets submitted between December 1, 2001 and February 28, 2002 for UNE-platform lines that were determined to be switch translation problems. Of the more than 25,000 platform lines provisions, Verizon received only 145 trouble reports that were determined to be switch translation problems, a trouble rate below 1 percent. Of the switch translation trouble reports, the narrative text identified only 7 of them as having PIC problems. Verizon NJ II McLean/Wierzbicki/Webster/Canny Decl. at para. 35. For March 2002, of the more than 7,000 platform line provisions, Verizon received only 2 PIC-related installation trouble reports, and only 80 trouble reports that were determined to be central office problems. Verizon NJ II May 17 *Ex Parte* Letter at 6.

[309] We are not convinced by MetTel's argument that Verizon improperly excluded certain "project" PONs from its performance measurement calculations, particularly for the time from SOP to BCN. MetTel NJ II Reply at 17-18; MetTel NJ II May 14 *Ex Parte* Letter at 2. Specifically, MetTel objects to Verizon's calculation of OR-4-09 without including 3500 PONs associated with a "project" to migrate coin telephones from another LEC to MetTel. MetTel NJ II Reply at 17-18 (citing Verizon NJ II April 15 *Ex Parte* Letter at 5 n.1). MetTel admits that it signed an agreement to exclude project orders from certain performance measurements, but Verizon and MetTel disagree about the scope of the exclusion. *E.g.*, MetTel NJ II June 13 *Ex Parte* Letter at 6-7. In light of the expedited nature of this proceeding and the apparent lack of an explicit provision in the business rules to cover migration projects, we do not find that MetTel project data must be included in measurement OR-4-09. Our acceptance of Verizon's performance data here is not meant to preclude MetTel or any other carrier from challenging Verizon's calculation of project data, or any other interpretation of the Carrier-to-Carrier Guidelines, before the New Jersey Board, the New York Public Service Commission Carrier-to-Carrier Working Group, or any other forum.

(b) Timeliness of Order Completion Notifiers

110. Although we recognize that Verizon has not consistently met the state-established performance thresholds performance in delivering completion notices in the aggregate, we find that the timeliness concerns raised by MetTel and AT&T do not warrant a finding of checklist non-compliance. In addition to MetTel's disputes regarding the accuracy of Verizon's PCNs and BCNs, MetTel and AT&T raise challenges over the timeliness with which Verizon provisions PCNs and BCNs.[310] Both criticize Verizon's shortcomings in meeting the benchmark for certain performance metrics that measure the interval between the time an order has been recorded at the SOP and the time Verizon generates a notifier at the gateway and sends the order to the competitor's interface.[311] In addition, MetTel has also placed into the record several statistical charts which purport to show deficiencies in BCN timeliness based on MetTel's own data.[312] Nevertheless, we find that Verizon has sufficiently improved its performance and undertaken modifications to improve its systems, and that its overall performance is sufficient to allow an efficient competitor a meaningful opportunity to compete.

111. Our analysis of order completion notices relies heavily on the performance measures that the New Jersey Board developed through a collaborative process with the carriers to determine order processing timeliness, and we place substantially less reliance on alternative statistical measures submitted by either Verizon or MetTel. Verizon's performance for most of the completion notifier metrics from November, 2001 through February, 2002 has been strong,[313] and despite misses for certain BCN metrics, we are not persuaded that they warrant a finding of checklist non-compliance. For the last four months, although Verizon missed the BCN timeliness benchmark for UNEs (97 percent by noon of the next business day) in two of the months, the scores were over 95 percent in both instances,[314] near-misses which we do not find competitively significant in the context of the other performance data. Verizon's improved performance also eliminates the concerns about completion notifiers that AT&T raised in its objections to NJ I and incorporates into this proceeding. AT&T complains that near-misses from July-November 2001 with an aberrantly low score for October indicates inadequate

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[310] In Section III.B.2.a, above, we address separately MetTel's related questions concerning the accuracy of Verizon's measurement of the timeliness of its generation of order completion notifiers.

[311] *See* AT&T NJ I Kirchberger/Nurse/Kamal Decl. at paras. 97-98; MetTel NJ II Comments at 5. A gateway connects the BOC's OSS to a competing carrier's own OSS. *See Bell Atlantic New York Order*, 15 FCC Rcd 3953, 3992 at para. 87 n.212.

[312] *See, e.g.*, MetTel NJ I Feb.1 *Ex Parte* Letter ; MetTel NJ II April 15 *Ex Parte* Letter, Attachment at 9-28.

[313] For example, Verizon scored above 99% for both UNE and resale PCN provisioning, OR-4-05 (Work Completion Notice – % On Time) (95% by next business day), and has provisioned resale BCNs above the benchmark of 97% within three business days, OR-4-09-2000 (% SOP to Bill Completion w/in 3 Business Days).

[314] For November, 2001 and January, 2002, Verizon's scores for OR-4-02 (Completion Notice - % on Time) were 95.24 and 96.00, respectively.

performance.[315] In our review of this application, we rely on Verizon's performance for the relevant review period, November 2001 through March 2002 and find this performance to be consistent with its past performance.

112. After reviewing Verizon's aggregate performance data in provisioning timely order completion notifiers to all carriers, we next address MetTel's allegations and examine the timeliness with which Verizon issues these notifiers to MetTel. As explained below, upon review of Verizon's performance specific to MetTel, we conclude that Verizon does not discriminate against MetTel with regard to the timeliness of its order completion notifiers.

113. Despite alternative proposals from both Verizon and MetTel, we nevertheless defer to the performance measurement standards set by the New Jersey Board, including the benchmark of three business days for the SOP-to-Billing Completion in the New Jersey Carrier-to-Carrier Guidelines.[316] Verizon criticizes the three-day interval as being unduly short, because the standard bill cycle in New Jersey is three business days per month, with some four-day cycles.[317] During this cycle, a customer's account is "frozen" and the systems cannot update an account, including migrations to a new service provider and feature changes to an existing customer's service.[318] Verizon states that this cycle is the same in New Jersey as in Pennsylvania, and that because we determined in the *Verizon Pennsylvania Order* that four days was a reasonable benchmark for this metric, it is appropriate to use such a standard here.[319] While we did find that Verizon's reliance on a four-day benchmark was reasonable in that Order, we only accepted Verizon's reliance on that standard in the absence of a metric to track BCNs that was approved by the Pennsylvania Commission.[320] Here, we look to the measurement that the New Jersey Board adopted.

114. In relying on the New Jersey business rules, we also place little weight on MetTel's comparison of the timeliness with which it receives order completion notices in New Jersey against Pennsylvania. In particular, MetTel submits a comparison of systems transactions that shows that it takes an average of one day for its BCNs and PCNs to be received in New

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[315] AT&T NJ I Kirchberger/Nurse/Kamal Decl. at paras. 97-107 (citing a 75.91 score for OR-4-02-3000 for October).

[316] *See* OR-4-09. For an explanation of our preference for the metrics resulting from industry-wide participation, see paragraph 100, above.

[317] Verizon NJ II McLean/Wierzbicki/Webster/Canny Decl. at para. 11.

[318] *See* Verizon NJ II McLean/Wierzbicki/Webster/Canny Decl. at para. 19. During a migration between competitive LECs, the billing systems are unable to update accounts during any one of three different monthly billing cycles -- the wholesale billing cycle of either competitive carrier, or the billing cycle for the retail end-user. *See* Verizon NJ II April 15 *Ex Parte* Letter at 4-5.

[319] Verizon NJ II McLean/Wierzbicki/Webster/Canny Decl. at para. 19 (citing *Verizon Pennsylvania Order* at para. 44).

[320] *Verizon Pennsylvania Order*, 16 FCC Rcd at 17446-47, para. 44.

Jersey, as opposed to none in Pennsylvania and New York,[321] and claims that its completion notices take twice as long to arrive in New Jersey as in Pennsylvania.[322] However, even if Verizon's timeliness in issuing notifiers varies from state to state, where performance is at or better than benchmark standards in both states, we do not make a finding of discrimination.[323]

115. With regard to Verizon's performance in providing BCNs to MetTel specifically, as we discussed above, we rely on the data that Verizon has submitted in this Application and that it has compiled in response to its obligations under the New Jersey Carrier-to-Carrier Guidelines. Verizon undertook a special study which shows that 95 percent of MetTel's BCNs were generated within five business days for November 2001, and improved to within four for December 2001 and January 2002.[324] Accordingly, we do not accept MetTel's assertion that Verizon takes over 31 days to complete 95 percent of BCNs after the work has been completed.[325]

116. While Verizon does not meet the three-day benchmark for BCNs with regard to MetTel, this is not sufficient to result in a finding of checklist non-compliance. These disparities have improved for December and January to be within one day, and appear to be attributable for the time to clear post-completion discrepancies for certain PONs.[326] Moreover, we find the absolute number of orders affected not to be competitively significant, and that such lesser deficiencies may be appropriately addressed by remedies contained in the Incentive Plan. Our finding that Verizon's systems and processes demonstrate nondiscrimination also rests in part on Verizon's efforts to work closely with MetTel to fix any problems.

117. Finally, we also take comfort in a change that Verizon made to its order processing systems on March 18, 2002, just prior to filing this application. Specifically, Verizon changed the daily sequencing of orders assembled by the SOP so that disconnect orders precede new connect orders. Verizon expects this change in sequencing protocol to reduce the time it takes to generate a BCN for an LSR that involves a migration with these internal service orders.[327] Depending upon the mix of UNE-platform orders submitted each month, Verizon

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[321] MetTel NJ I Feb. 1 *Ex Parte* Letter, OSS Issues Chart 2A: System Transaction Comparison.

[322] MetTel NJ I Feb. 1 *Ex Parte* Letter at 6.

[323] *See* Verizon NJ I Feb. 25 *Ex Parte* Letter (MetTel Issues) at I.A.3 (arguing that so long as the notifications are timely, as they are here, then the comparative timeliness is not relevant).

[324] Verizon NJ II McLean/Wierzbicki/Webster/Canny Decl. at para. 21; Verizon NJ I Feb. 25 *Ex Parte* Letter at I.B.3.

[325] *See* MetTel NJ I Feb.1 *Ex Parte* Letter at 6.

[326] Verizon NJ II McLean/Wierzbicki/Webster/Canny Decl. at para. 21; Verizon NJ I Feb. 25 *Ex Parte* Letter at I.B.3. More specifically, the one extra day in these two months may be attributed to late notices for eight orders in November and nine orders in December, which are not indicative of a systemic problem. *Id.* In addition, we note that the hold status for bill cycle updates may also be a factor.

[327] Verizon NJ II April 4 *Ex Parte* Letter at 2.

believes that this sequencing change could improve BCN timeliness for those orders affected by up to 24 hours.[328]

(iii) Notifier Trouble Tickets

118. We find that Verizon administers notifier trouble tickets in a manner that provides a competitor with a meaningful opportunity to compete. As a check on missing notifiers, notifier trouble tickets play an important role in tracking and communicating the status of order processing to competing carriers. When a competitive LEC expects to receive a status notifier from Verizon but fails to do so, it may contact Verizon's Wholesale Customer Care Center (WCCC) to open a notifier trouble ticket, and then submit a file containing specified information about the relevant PONs to the WCCC.[329] Using the same trouble ticket (or PON exception) process that has been in place when the Commission granted 271 approval in Massachusetts, Connecticut, and Pennsylvania, Verizon responds to a competitive LEC's submission of a PON exception by providing the status of each PON listed on the trouble ticket.[330] This is the same process for "clearing" delayed or missing notifiers that Verizon began in New York in February 2000, and that the Commission relied on in June 2000 in determining that Verizon had satisfied the performance objective of the March 9, 2000 Consent Decree.[331] If the requested notifier or a later notifier has been generated, Verizon's policy is to resend the notifier within three business days.

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[328] Verizon expects the change will reduce the time for migration order types involving a "disconnect" order and "new connect" order. Verizon NJ II April 4 *Ex Parte* Letter at 2. At the close of business each business day, Verizon's SOP creates a file with all internal service orders that were work completed that day to be processed during a nightly batch process. Verizon NJ II April 4 *Ex Parte* Letter at 1. A batch process reads and processes a file of input records through programs that process in a defined sequence, beginning with the first record and ending with the last. Verizon NJ II April 4 *Ex Parte* Letter at 2. A single local service request from a competitive LEC may generate multiple internal service orders. *Id.*; Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 31. The internal service orders also update the billing systems, which also use a batch process. Verizon NJ II McLean/Wierzbicki/Webster/Canny Decl. at para. 15; Verizon NJ II April 4 *Ex Parte* Letter at 2. In assembling the service orders for the SOP's batch processing, Verizon's legacy systems used a sort sequencing protocol that would process connect orders ahead of disconnect orders. Verizon NJ II April 4 *Ex Parte* Letter at 2. However, the billing system does not allow a new connect order to be processed before a disconnect order, so the system would process the new connect order, but "re-cycle" the disconnect order, placing it in a sort sequence that allowed it to be processed during the next batch process.

[329] Verizon NJ I McLean/Wierzbicki/Webster Decl. at para. 158.

[330] Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 59; Verizon NJ I Feb. 22 *Ex Parte* Letter (MetTel Issues) at III.A.

[331] Verizon NJ I Feb. 25 *Ex Parte* Letter (MetTel Issues) at III.A; *see New York Telephone Company (d/b/a Bell Atlantic-New York)*, Consent Decree, 15 FCC Rcd 5415 (2000) (*New York Consent Decree*). *See* Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 60; Verizon Feb. 25 *Ex Parte* Letter (MetTel Issues) at III.A.; Verizon NJ I Feb. 22 *Ex Parte* Letter, New Jersey Reply Decl., Tab 6 at para. 23. The Consent Decree resulted from an investigation by the Commission that focused on Bell Atlantic's problems associated with lost or mishandled orders. *New York Consent Decree*, 15 FCC Rcd at 5415 para. 1.

119. The New Jersey Board does not require Verizon to track its responses to trouble tickets, and we have noted that the absence of a particular metric is not fatal to the ability of an applicant to demonstrate checklist compliance.[332] Without a Board-approved measurement, MetTel alleges that Verizon does not respond to notifier trouble tickets in a commercially viable timeframe because it does not resolve trouble tickets within three days. Specifically, MetTel alleges that Verizon only resolved 88 percent of MetTel trouble tickets within three days.[333] MetTel argues that the *New York Consent Decree* benchmark of clearing missing notifier trouble tickets within three business days[334] is the only standard in this area, and Verizon "fails miserably" under it.[335]

120. In evaluating Verizon's performance data, we look at the totality of Verizon's responsiveness to trouble tickets, and do not rely specifically on either the definitions or performance standards associated with the trouble ticket clearance measurement that the Commission relied on in finding Verizon to have complied with the 2000 Consent Decree.[336] We

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[332] *Verizon Pennsylvania Order*, 16 FCC Rcd at 17446, para. 43. More recently, we note that effective February 1, 2002, the New York Public Service Commission implemented a performance measurement under which Verizon should resolve 95% of its PON Notifier Exceptions within 3 business days, and 99% within 10 business days. *Order Modifying Existing and Establishing Additional Inter-Carrier Service Quality Guidelines*, Case 97-C-0139 (NYPSC Oct. 29, 2001) at Attachment 1, Section G. Pursuant to that metric, a PON notifier exception is considered "resolved" when Verizon has either sent the requested notifier or subsequent notifier, requested the competitor to resubmit the PON if no notifier has been generated, or taken one of three other steps. *Id.* at Attach. 1, Section G, OR-XX PON Notifier Exception Resolution Timeliness. Specifically, the other three steps for resolution are when Verizon has completed the investigation showing the next action is a competitor's action and that the competitor has been sent or resent the notifier; has completed work that will allow the PON to proceed to the next step in the business process, and sent the appropriate notifier to the competitor; or has notified the competitor that the confirmed due date plus the notifier production interval has not yet passed for requested PON notifier and provided the current work status of the PON. *Id.* This definition is substantially similar to the definition of "resolved" that Verizon has presented in this proceeding. Namely, Verizon deems a trouble ticket to be "resolved" if it takes a corrective action; if it determines that the competitive LEC must take the corrective action and Verizon communicates that finding to the competitive LEC; or if it determines the sought notifier will never exist. Verizon Feb. 25 *Ex Parte* Letter (MetTel Issues) at III.A.1, III.B; *see also* Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 60.

[333] MetTel NJ II April 15 *Ex Parte* Letter at Attachment, p. 29; MetTel NJ II May 14 *Ex Parte* Letter, Supplemental Decl. of Elliott Goldberg at 1 (correcting information for the period August through December 2001, not including September or October 27-31). Two examples of notifiers that will never come into existence are listed below in footnote 341.

[334] In agreeing to the Consent Decree in New York, Verizon agreed to a metric based upon the percentage of missing notifier trouble ticket PONs cleared within 3 business days. *New York Consent Decree*, Appendix A, 15 FCC Rcd at 5425.

[335] MetTel NJ II April 15 *Ex Parte* Letter at 4. MetTel also questions the timeliness and accuracy of Verizon's responses to trouble tickets, accusing Verizon of improperly creating a dichotomy between "clearing" and "solving" a notifier trouble ticket in order to improve its score on trouble ticket metrics. MetTel Comments at 14-15; MetTel *Ex Parte* at Slides 18-19.

[336] We are aware that MetTel sought the adoption of a three-day standard for notifier trouble ticket resolution in the underlying state proceeding, but the New Jersey Board specifically noted that MetTel failed to demonstrate why it (continued....)

accord substantial weight to the New Jersey Board's factual findings that Verizon does meet its responsibilities in administering trouble tickets,[337] and combined with KPMG's testing of this aspect of OSS and the available performance data, we find that Verizon's OSS systems are in compliance with the checklist.[338] Using data generated through a special study, Verizon reports that it has cleared all PONs submitted in New Jersey within three business days. Specifically, of the approximately 490,000 PONs submitted in New Jersey, competitive LECs submitted exception trouble tickets (for a notifier believed to be delayed or missing) for only 454 PONs. All of these PONs were cleared within three business days,[339] and also were resolved on average in less than four business days.[340] Thus, we are persuaded that MetTel's claims of improper resolution are overstated, and do not warrant a finding that Verizon's OSS systems are not in compliance with the checklist.[341] Further, even MetTel recognizes that Verizon has improved in this area, resolving over 96% of missing trouble ticket notifiers in New Jersey in three business days for March and April 2002.[342] We find that, absent a state-sanctioned performance measurement and standard, combined with the relatively low number of notifier trouble tickets submitted and in upward trend in timely resolution, Verizon's performance in administering trouble tickets is sufficient for the purpose of checklist compliance.

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should conclude that three days is the reasonable commercial standard. New Jersey Board NJ I Comments at 42. Similarly, we do not rely on the current trouble ticket resolution measurement used in New York.

337 *Id.*

338 New Jersey Board NJ I Comments at 42; KPMG Final Report at 43-48, 114-16.

339 Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 63.

340 Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at para. 34.

341 Verizon points to two categories of trouble tickets submitted by MetTel and resolved by Verizon where MetTel wrongly believes it is entitled to a notifier that may not exist: (1) requested notifiers for orders that were rejected (negatively acknowledged) by the EDI interface and never submitted into the SOP; (2) requests for notifiers where MetTel had already cancelled the order, but its systems or processes failed to record the cancellation. Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 61; Verizon NJ I Feb. 25 *Ex Parte* Letter (MetTel Issues) at III.A.1. Further, we also disregard MetTel's criticism that "Verizon required 39+ days to resolve 87% of MetTel trouble tickets." MetTel NJ I Feb. 1 *Ex Parte* Letter at 14. Because a trouble ticket may contain hundreds of PONs and is not closed until every PON is resolved, a per-ticket analysis is misleading. Verizon represents that from August to December 2001 it resolved 90% of the PONs on MetTel's trouble tickets within four business days and 100% with 30 business days. Verizon NJ I Feb. 25 *Ex Parte* Letter (MetTel Issues) at III.D.

342 MetTel NJ II June 7 *Ex Parte* Letter at 1. MetTel compares this high score in New Jersey with an 88% and 74% scores in New York and Pennsylvania, respectively, as evidence that Verizon as evidence of "special handling" that "favored New Jersey items." *Id.* at 1-2; *see also id.* at 2 ("Merely shifting resources temporarily in order to demonstrate 'good numbers' to the Commission is deceptive and counterproductive.) We cannot agree with MetTel that such performance results necessarily demonstrate that Verizon is prioritizing New Jersey trouble tickets ahead of others.

d. Wholesale Billing

121. The Commission has established in past section 271 orders that, as part of its OSS showing, a BOC must demonstrate that competing carriers have nondiscriminatory access to its billing systems.[343] As the Commission has held previously, BOCs must provide two essential billing functions: (1) complete, accurate and timely reports on the service usage of competing carriers' customers, which Verizon records in the DUF; and (2) complete, accurate, and timely wholesale bills.[344] Service usage reports 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 user-customers use, typically measured in minutes of use, for a specific period of time (usually one day).[345] An incumbent LEC issues wholesale bills to competitive LECs to collect compensation for the wholesale inputs, such as UNEs, purchased by competitive LECs from the incumbent LEC, to provide service to their end users. These bills are usually generated on a monthly basis, and allow competitors to monitor the costs of providing service.[346]

122. We find that Verizon complies with its obligation to provide nondiscriminatory access to its billing functions on the basis of its provision of: (1) timely and accurate service usage data to competitive LECs; and (2) wholesale billing in a manner that provides competing carriers with a meaningful opportunity to compete.[347] No party raises any issues with Verizon's provision of service usage data to competitive LECs; and based on the evidence in the record, we find that Verizon's provision of the DUF meets its obligations in this regard. Several parties, however, raise issues with Verizon's provision of wholesale billing, which we discuss below. Specifically, a number of parties dispute the accuracy of the wholesale bill, based on both the BOS BDT format and the retail format.[348] AT&T also asserts that evidence provided by Verizon

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[343] Appendix C at para. 39.

[344] *Verizon Pennsylvania Order*, 16 FCC Rcd at 17425, para. 13.

[345] *Id.*

[346] *Id.*

[347] Appendix C at para. 39.

[348] AT&T NJ II Comments at 19, 21-23; Joint Commenters NJ II Comments at 4; Metro Teleconnect NJ II Comments at 3. Verizon operates two systems to generate bills for resale and UNEs. The Customer Record Information System (CRIS) generates bills for UNE-platforms, resale offerings, and some UNEs, such as loops; the Carrier Access Billing System (CABS) generates bills for access services, collocation, and the remaining UNEs, such as switching. Verizon NJ I McLean/Wierzbicki/Webster Decl. at para. 108; *Verizon Pennsylvania Order*, 16 FCC Rcd at 17428, para. 17. Verizon can then use these systems to provide a competitive LEC with either a "retail-formatted" bill or a "BOS BDT" bill. Although a retail-formatted bill can be transmitted to competitive LECs in a variety of media, Verizon usually prints its retail-formatted wholesale bills on paper. *Verizon Pennsylvania Order*, 16 FCC Rcd at 17428, para. 17. Regardless of the medium, Verizon's retail-formatted bill cannot be easily transferred to a computer spreadsheet or other electronic system that allows for computer auditing. *Id.* at para. 17 n.51. We refer to "paper billing" and "retail-formatted billing" interchangeably. In contrast, a BOS BDT bill appears in the industry-standard Billing Output Specification (BOS) Bill Data Tape (BDT) format that permits a (continued....)

in this application is insufficient to demonstrate the accuracy of the BOS BDT format.[349] In addition, AT&T alleges that Verizon's BOS BDT bill does not conform to industry standards and therefore cannot be considered "readable and auditable."[350] Although we review the timeliness and accuracy of both bill formats, the primary focus of our review is on Verizon's BOS BDT bill format due to its compliance with industry standards and the need for electronic billing once wholesale volumes reach a certain threshold.[351] We note that no party directly challenged the timeliness of Verizon's wholesale bills, and we find that Verizon demonstrates that it is providing both bill formats on a timely basis.[352]

123. Verizon employs the same billing systems in New Jersey as it does in Pennsylvania,[353] where our evidentiary finding that Verizon's wholesale bills were checklist compliant was a "close call,"[354] and many of the issues commenters raise in New Jersey are similar to the issues raised in Pennsylvania. Accordingly, we agree with the Department of Justice that the competitive experience in New Jersey is informed by that of Pennsylvania.[355] We recognize, however, that while the billing *systems* in New Jersey and Pennsylvania are identical, the overall billing *processes* differ. In particular, while the billing software used to store and update the customer service records is the same, account establishment and updates are applied from service orders that are created by different SOPs.[356] We cannot, therefore, merely rely on our previous review of Verizon's billing system in Pennsylvania to make our finding here.

124. The Commission has held that a BOC must provide a wholesale bill that is "readable, auditable and accurate" to satisfy its checklist obligations.[357] As an initial matter, we find that Verizon has made a sufficient showing that both its retail-formatted and BOS BDT bills are accurate, and we reject assertions by AT&T that KPMG's failure to test the BOS BDT bill format fatally undermines Verizon's showing.[358] To demonstrate the accuracy of its retail-

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wholesale carrier to use computer software to readily audit the data. We refer to "electronic billing" and "BOS BDT billing" interchangeably.

349 AT&T NJ II Reply at 12-13, n.15.

350 AT&T NJ II Comments at 19-21; AT&T NJ II Kamal Decl. at paras. 14-21.

351 *See Verizon Pennsylvania Order*, 16 FCC Rcd at 17432, n.80; *Local Competition Order*, 11 FCC Rcd at 15767-68, paras. 525, 527.

352 *See* BI-2-01-2030 (Timeliness of Carrier Bill).

353 Verizon NJ I Application at 66.

354 *Verizon Pennsylvania Order*, 16 FCC Rcd. at 17427, para. 15.

355 Department of Justice NJ II Evaluation at 5.

356 Verizon NJ I Feb. 25 *Ex Parte* Letter at 3.

357 *Verizon Pennsylvania Order*, 16 FCC Rcd at 17431, para. 22.

358 *See* AT&T NJ II Reply at 12-13, n.15; NJDRA NJ II Reply at 8-9.

formatted bill, Verizon relies on the successful test of that format by KPMG.[359] Because the BOS BDT bill was not part of the KPMG third-party test, Verizon must rely on other evidence to demonstrate the accuracy of the BOS BDT bill format.[360]

125. We find that Verizon demonstrates the accuracy of the BOS BDT bill format based on the limited commercial performance data available from its use in New Jersey, and consistent with our findings in the *Verizon Pennsylvania Order*, the PwC attestation that Verizon's BOS BDT bills are consistent with the retail format.[361] Our concerns are satisfied by the recent performance data, by the low and decreasing number of discrepancies between the electronic and paper bills,[362] and by PwC's attestation that the BOS BDT bills in September contained a *de minimis* amount of erroneous charges.[363] Further, we find that Verizon has adequately demonstrated the accuracy of the BOS BDT bill by having PwC attest that it is reconcilable against the retail-formatted bill, which KPMG had previously found reconcilable

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[359] KPMG Final Report at 347-52.

[360] Verizon implemented its BOS BDT bill in April 2001, but did not make it available as a "bill of record" until September 2001, shortly after KPMG concluded its test. Verizon NJ I McLean/Wierzbicki/Webster Decl. at para. 113. According to AT&T, the timing of this announcement raises "serious questions" as to whether Verizon delayed it to avoid KPMG's test of the BOS BDT bill. AT&T NJ I Kirchberger/Nurse/Kamal NJ I Decl. at para. 52. We accept Verizon's explanation that it enhanced the quality assurance process of the BOS BDT bill process during June and July, and was unable to commit to making its BOS BDT bill the bill of record until it completed its programming of certain New Jersey products in August. Verizon NJ I February 25 *Ex Parte* Letter at 5.

[361] In considering Verizon's showing in Pennsylvania, the Commission did not rely on certain billing accuracy metrics that compared billing dispute settlement amounts against monthly billed totals, as a number of parties, including Verizon, asserted that they were flawed measures. *Verizon Pennsylvania Order*, 16 FCC Rcd at 17445, n.157. We similarly do not rely on such metrics, including New Jersey BI-3-01, in reaching our decision here. Specifically, Verizon explains that the numerator for BI-3-01 (Percent Billing Adjustments – Including Charges Adjusted Due to PCDs) is the total amount of dollars credited to competitive LECs as a result of billing errors in the reporting month, regardless of when the competitive LECs submitted the claim for the error or when the errors occurred. Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 45. Therefore, by comparing what could be credits relating to multiple months against the denominator of the current charges billed to competitive LECs, this metric can be misleading with regard to the reporting month. Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at paras. 48-51; Verizon Guerard/Canny/DeVito NJ I Reply Decl., Att. 3, Pennsylvania BI-2-02 (Timeliness of Carrier Bill – Electronic – BOS BDT Format).

[362] PwC found that for September bills, the absolute value of the manual adjustments of the balancing records inserted into all BDTs measured against the paper bills was only 0.72%, expressed as a percentage of the total current charges. Verizon NJ I Bluvol/Kumar Suppl. Decl. at para. 86; Verizon NJ I McLean/Wierzbicki/Webster Decl. at para. 117. Verizon performed the same examination for October bills, and found that the absolute value has been further reduced to 0.52%. Verizon NJ I McLean/Wierzbicki/Webster Decl. at para. 117, Att. 16. This amount dropped to less than 0.5% for November and December 2001. Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 51.

[363] Verizon NJ I Bluvol/Kumar Suppl. Decl. at para. 6; Verizon NJ I McLean/Wierzbicki/Webster Decl. at para. 117. Specifically, PwC found that (1) taken as a percent of the total charges on wholesale bills, inappropriate taxes were 0.17 of the total; (2) no directory advertising appeared in the form of carrier usage; and (3) no usage appeared on as resale usage on UNE-platform accounts. *Id.*

with the DUF. This indirect comparison results from the combination of PwC's comparison between the BOS BDT bill and the retail-formatted bill with KPMG's comparison of the retail-formatted bill against the DUF. The Commission has accepted this type of indirect evaluation previously.[364] Since the retail-formatted bill has been tested for accuracy by KPMG, and PwC has reconciled the BOS BDT bill against the retail-formatted bill, it is reasonable to assume that the BOS BDT bill is also reconcilable with the DUF. As with all OSS functions, although we must judge Verizon's wholesale billing at the time of its application, we recognize that access to OSS is an evolutionary process and we expect that Verizon continue its efforts to improve its wholesale billing as industry standards evolve.

126. Several competitive LECs assert that their commercial experience shows that Verizon's systems produce recurring or "systemic" inaccuracies in its wholesale bills.[365] AT&T claims that its retail-formatted bills contain inappropriate charges for retail services[366] and the Joint Commenters and Metro Teleconnect both claim that "as much as 20 percent of the charges" are incorrect.[367] Metro Teleconnect claims generally that its disputes with Verizon "currently total almost $3 million."[368] As an initial matter, we note that no commenter has put forth the type of detailed analysis of its wholesale billing dispute with Verizon that was present in our review of Verizon's application for section 271 authority in Pennsylvania.[369] The general assertions made by the Joint Commenters and Metro Teleconnect are not persuasive because they lack additional explanation as to the types of errors that make up the alleged "20 percent" incorrect charges on their wholesale bills, and because both parties fail to clarify the actual percentage of their current wholesale bills that they have properly put into dispute with Verizon. As we stated in the *Verizon Pennsylvania Order*, "we recognize, as a practical matter, that high-volume, carrier-to-carrier commercial billing cannot always be perfectly accurate."[370] We cannot, without

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[364] *Verizon Pennsylvania Order*, 16 FCC Rcd at 17440-41, paras. 35-36.

[365] AT&T NJ II Comments at 19, 21-23; Joint Commenters NJ II Comments at 4; Metro Teleconnect NJ II Comments at 3. We note that AT&T refers to ATX comments in NJ I. However, as noted above, ATX neither renewed those comments in this proceeding nor filed new allegations concerning alleged inaccuracies in Verizon's wholesale billing in this proceeding. *See supra* n. 22. ATX's comments in NJ I, therefore, are not relevant to our findings in this Order.

[366] Letter from Amy L. Alvarez, AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 02-67 (filed April 26, 2002) (AT&T NJ II Apr. 26 *Ex Parte* Letter); AT&T NJ II Comments at 21-22; AT&T NJ II Kamal Decl. at para. 25-27. AT&T alleges that, based on the appearance of inappropriate retail charges, approximately 2-3% of its wholesale bill is inaccurate.

[367] Joint Commenters NJ II Comments at 4-5; Metro Teleconnect NJ II Comments at 4-5. Both commenters also assert that Verizon has "inconstent[ly applied] the 32% initial promotional discount to which Verizon agreeds as part of its merger conditions." *See, e.g.*, Metro Teleconnect NJ II Comments at 4.

[368] Metro Teleconnect NJ II Comments at 4-5.

[369] *See Verizon Pennsylvania Order*, 16 FCC Rcd at 17433-37, paras. 25-29.

[370] *Id.* at 17434, n. 93.

further evidence find that the parties have demonstrated systemic inaccuracies in Verizon's wholesale bills that would require a finding of checklist noncompliance.

127. We also do not find AT&T's showing to be persuasive. AT&T alleges only one type of recurring wholesale bill error, namely, that Verizon includes inappropriate retail charges for vertical features, such as call waiting, on its wholesale bills.[371] AT&T, however, at best demonstrates that such errors occur on approximately two to three percent of its wholesale bills, which is well within the level of error the Commission concluded was acceptable in the *Verizon Pennsylvania Order*.[372] Without additional evidence demonstrating that Verizon's billing accuracy performance in New Jersey is materially worse than it was in Pennsylvania at the time of Verizon's application in Pennsylvania, or that Verizon's performance in Pennsylvania has materially deteriorated since our grant of section 271 authority in that state, we are unable to find that Verizon's billing performance in New Jersey does not provide competing carriers a meaningful opportunity to compete.

128. Finally, we address AT&T's allegations that Verizon's BOS BDT bill does not comply with industry standards.[373] Verizon explains that the issues raised by AT&T are in fact deviations that are allowed under the industry standard and for which Verizon has provided clear documentation.[374] AT&T also acknowledges that Verizon has made attempts to comply with AT&T's specific requests regarding the BOS BDT bill.[375] We find that Verizon complies with its obligation to provide clear documentation and assistance to AT&T regarding the BOS BDT bill, and that AT&T provides insufficient evidence to support its claim that Verizon does not offer a "readable and auditable" electronic bill format or that Verizon's BOS BDT bill impermissibly deviates from accepted industry standards. Moreover, AT&T's assertions regarding Verizon's

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[371] AT&T NJ II Comments at 21-22; AT&T NJ II Kamal Decl. at para. 25-27.

[372] AT&T NJ II Apr. 26 *Ex Parte* Letter at 3; AT&T NJ II Kamal Decl. at para. 26. *See Verizon Pennsylvania Order*, 16 FCC Rcd at 17433-34, paras. 25-26. In addition, the amount of the bill placed in dispute by AT&T represents an amount that may be higher than the ultimate amount in error. *See id.* at n.97. *See also* Department of Justice NJ II Evaluation at 7 ("The evidence, however, suggests that these inaccuracies do not represent a substantial portion of the carrier bill."); Letter from Clint Odom, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 02-67 (filed May 17, 2002) (Verizon NJ II May 17 *Ex Parte* Letter) (Verizon concludes from its review of AT&T's February wholesale bill that the total dollar amount of the erroneous vertical features charges was less than 1% of AT&T's bill.)

[373] AT&T NJ II Comments at 19-22. AT&T alleges that contrary to industry standards, Verizon uses telephone numbers instead of circuit numbers, as the field identifies for directory listings on customer service records for UNE loops. AT&T also alleges certain other technical deviations from the BOS BDT standard, such as improper use of the "X99" code. AT&T NJ II Apr. 26 *Ex Parte* Letter at 1-3; AT&T NJ II Reply at n.12; AT&T NJ II Kamal Decl. at paras. 16-18.

[374] Verizon explains that it provides the appropriate Field Identifier (FID) in Customer Service Records (CSR) for UNE loop and directory listing orders. It also explains that its use of the X99 code is valid under OBF guidelines. Verizon NJ II May 17 *Ex* Parte Letter at 1-2; Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at paras. 41-45.

[375] AT&T NJ II Comments at 20; AT&T NJ II Kamal Decl. at paras. 16, 20.

implementation of the BOS BDT bill format are a fact-specific, carrier-to-carrier dispute concerning AT&T's use of Verizon's BOS BDT bill. As the Commission has stated in prior proceedings, given the statutory period for our review, the section 271 process simply could not function if we were required to resolve every individual factual dispute between a BOC and each competitive LEC regarding the precise content of the BOC's obligations to each competitor.[376]

129. In addition, although not a basis for our decision here, we take added comfort in the special measures that the New Jersey Board announced to ensure nondiscriminatory access to electronic billing.[377] In particular, the New Jersey Board declared that it would condition its approval of Verizon's 271 application on Verizon's retention of the current manual review and balancing procedures until it satisfies the Board's staff that manual balance records are unnecessary to produce adequately balanced BOS BDT bills for competitive LECs.[378] Further, the New Jersey Board conditioned its findings of OSS compliance on the requirement that, effective February 2002, Verizon include two additional billing metrics in the New Jersey Carrier-to-Carrier Guidelines and the New Jersey Incentive Plan, identical to those that Verizon voluntarily agreed to adopt in Pennsylvania.[379]

e. Order Flow-Through and Reject Rate

130. We conclude, as did the New Jersey Board, that Verizon's electronic processing of orders is sufficient to provide carriers with a meaningful opportunity to compete.[380] Flow-

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[376] *See, e.g.*, *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6355, para. 230.

[377] New Jersey Board NJ I Comments at 41.

[378] The number of manual adjustments to balance the records inserted into BDTs against the retail-formatted bills in Pennsylvania and New Jersey, expressed as a percentage of the total current charges, has been improving since the issuance of the *Verizon Pennsylvania Order*. For Pennsylvania, the manual adjustments have dropped to below 0.5% starting in September 2001; in New Jersey, the adjustments have fallen from 0.5% in November and December 2001 to 0.48% in January 2002, 0.44% in February 2002 and 0.28% in March 2002. Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at Att. 12; Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 51, Att. 10.

[379] In the *Verizon Pennsylvania Order*, the Commission found these two measures represented important new steps to discourage wholesale billing errors and to ensure that any errors that occur are resolved as quickly as possible. *Verizon Pennsylvania Order*, 16 FCC Rcd at 17444-45, para. 41. We note that Verizon provided New Jersey data using Pennsylvania billing metrics BI-3-04 and BI-3-05 for November and December in its application. Verizon acknowledged 17 out of 17 billing claims on time for November and 8 out of 10 for December. *See* Pennsylvania BI-3-04 (Percentage Billing Claims Acknowledged Within Two Business Days). In November, Verizon resolved 10 of 11 billing claims within 28 days after acknowledgement, and 18 out of 18 in December. *See* Pennsylvania BI-3-05 (Percentage CLEC Billing Claims Resolved Within 28 Calendar Days After Acknowledgement). Although not all of these figures reach the 95% benchmark for these metrics, we accord them little weight due to the small sample size. Since the BOS BDT bill was unavailable as a bill of record prior to September, and no carrier signed up for that billing format in New Jersey until October, there is no relevant data prior to November.

[380] New Jersey Board NJ I Comments at 33-34 (citing KPMG Final Report at 153-59). *See Verizon Pennsylvania Order*, 16 FCC Rcd at 17449, para. 48; *see BellSouth Louisiana II Order*, 13 FCC Rcd at 20670-71, para. 107.

through measures the number of orders that are electronically processed by an incumbent LEC's OSS without the need for manual intervention.[381] Consistent with previous section 271 orders, we do not examine flow-through measures in isolation, but as "one indicium among many of the performance of Verizon's OSS."[382] Indeed, we review flow-through rates in conjunction with several other factors in order to assess the BOC's overall ability to provide access to its ordering functions in a nondiscriminatory manner.[383] Accordingly, where other evidence demonstrates that the BOC's OSS is able to process competing carrier's orders at reasonably foreseeable commercial volumes, it is not necessary to focus our analysis solely on flow-through rates.[384] As discussed above, Verizon demonstrates that it provides timely order confirmation and reject notices.[385] In addition, Verizon demonstrates that it processes both resale and UNE orders accurately.[386] Finally, we note that the New Jersey Board concluded that Verizon's systems and processes were "ready for increased UNE order volumes."[387]

131. AT&T asserts, nevertheless, that Verizon's flow-through and order reject rates constitute discriminatory treatment, particularly as compared to Verizon's performance in other states where it has received section 271 authority.[388] In particular, AT&T points to the contrast

[381] Verizon measures three flow-through rates: total flow-through, achieved flow-through, and simple flow-through. The total flow-through rate measures the percentage of valid orders processed directly without manual intervention without excluding those orders Verizon has not yet designed its systems to process electronically. The achieved flow-through rate measures the percentage of valid orders that are designed to flow through that actually do flow through, and simple flow-through evaluates the percentage of valid orders for basic POTS services that flow-through. New Jersey Carrier-to-Carrier Guidelines at 41.

[382] *Verizon Massachusetts Order*, 16 FCC Rcd at 9030, para. 77 (quoting *Bell Atlantic New York Order*, 15 FCC Rcd at 4034, para. 161).

[383] Specifically, these factors include the BOC's ability to: (1) accurately process manually handled orders; (2) timely return order confirmations and reject notices; and (3) the overall scalability of its systems and processes. *See BellSouth Georgia/Louisiana Order* at para. 143; *Verizon Pennsylvania Order*, 16 FCC Rcd at 17449, para. 48; *Verizon Massachusetts Order*, 16 FCC Rcd at 9010, para. 43; *SWBT Texas Order*, 15 FCC Rcd at 18443-44, para. 179; *Bell Atlantic New York Order*, 15 FCC Rcd at 4034-35, paras. 161-163; *BellSouth Louisiana II Order*, 13 FCC Rcd at 20671, para. 108.

[384] *See Bell Atlantic New York Order*, 15 FCC Rcd at 4034, para. 162.

[385] *See* discussion *supra* paras. 98-101.

[386] *See* 01-3000 (% Accuracy – Orders – UNE) (96.85, 96.65); OR-6-02-3000 (% Accuracy – Opportunities – UNE) (99.32, 99.80); OR-6-03-3000 (% Accuracy – Local Service Request Confirmations – UNE) (0.02, 0.00); OR-6-01-2000 (% Accuracy – Orders – Resale) (97.70, 96.66); OR-6-02-2000 (% Accuracy – Opportunities – Resale) (99.64, 99.72); OR-6-03-2000 (%t Accuracy – Local Service Request Confirmations – Resale) (0.00, 0.02). *See also* Verizon NJ I McLean/Wierzbicki/Webster Decl. at para. 23; *Bell Atlantic New York Order*, 15 FCC Rcd at 4042, para. 171 (concluding that there is no reliable evidence that Bell Atlantic's manual processing of orders *per se* injects a level of error that prevents efficient competitors a meaningful opportunity to compete).

[387] New Jersey Board NJ I Comments at 33-34; KMPG Final Report at 153-59.

[388] AT&T NJ II Comments at 27-29. AT&T criticizes both Verizon's total and achieved flow-through performance data. *Id.*

between Verizon's flow-through performance in New Jersey versus its performance in New York, Massachusetts, and Pennsylvania.[389]

132. We reject AT&T's assertions. We generally find the achieved flow-through measure is the most indicative of the BOC's ability to electronically process orders and we look at this measure as evidence of potential discrimination. In New Jersey, while Verizon's achieved flow-through rate for UNEs has been below the 95 percent standard set by the New Jersey Board, there nevertheless, has been a consistent, upward trend in the rate, reaching 85.34 percent in January, 89.82 percent in February and 90.50 percent in March 2002.[390] Even if we look beyond achieved flow-through to total flow-through rates and order reject rates, we note that Verizon's performance appears to show an improving trend.[391] Moreover, we note that KPMG's OSS test included an examination of Verizon's ability to electronically process service orders in varying mixes of order types at reasonably foreseeable commercial volumes and that KPMG and the New Jersey Board found Verizon's performance satisfactory.[392]

133. Finally, we generally do not find mere state to state comparisons regarding flow-through and order reject rates to be persuasive. We have previously found that the mix of order types submitted in each state can vary widely and this variation can have a significant impact on the proportion of orders that will be handled on a flow-through basis. We have previously found that it would not be appropriate to attribute such a wide range of results entirely to Verizon.[393]

134. As we noted above, flow-through and order reject rates are not solely dispositive of the BOC's ability to process orders in a nondiscriminatory manner. We find that the positive trends in both Verizon's flow-through and order reject rates, along with Verizon's overall

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[389] AT&T NJ II Comments at 27-29 (incorporating AT&T NJ I Kirchberger/Nurse/Kamal Decl. at para. 65).

[390] *See* OR-5-02-200- (% Flow Through – Achieved – Resale) (94.20, 93.81). Although we do not demand a specific level of flow-through performance in reviewing a section 271 application, we do not intend to suggest that the New Jersey Board's use of a benchmark standard for flow-through performance is not a valid tool for the Board's role in monitoring and enforcing Verizon's ongoing local competition obligations under federal and state law.

[391] Verizon's total flow-through rate continues to improve, reaching more than 50% in February 2002. Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at para. 5. *See* OR-5-01-3000 (% Flow-Through – Total). Verizon's total flow-through for January 2002 dropped to 35.78%; however, Verizon explains that competitive LEC order volume spiked dramatically that month because Verizon completed a one-time project, and the types of orders included in that project were not designed to flow-through its OSS. *See* Verizon NJ II Reply at 30; Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at para. 5. The percentage of UNE orders rejected continues its overall downward trend, decreasing from 47.22% in November 2001 to 38.39% in February 2002. *See* OR-3-01-3000 (POTS Special Services Aggregate – % Reject). We have previously relied on improvements in performance to indicate non-discriminatory OSS. *See, e.g., Verizon Pennsylvania Order*, 16 FCC Rcd at 17433-34, para. 26.

[392] KPMG Final Report at 153-59; New Jersey Board NJ I Comments at 33-34.

[393] *Verizon Pennsylvania Order*, 16 FCC Rcd at 17450, para. 49. For example, Verizon presented evidence that the UNE flow-through rate for individual competitive LECs from August to October 2001 ranged from under 5% to over 90%. Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at Att. 2.

performance in providing service order information in a timely and accurate manner and KPMG's findings regarding the scalability of Verizon's OSS are sufficient to demonstrate checklist compliance.

f. Other Issues

135. AT&T claims that Verizon's ordering process for line splitting is burdensome, because a requesting carrier must submit an LSR to migrate the customer for voice service and later submit a second LSR to add the line splitting arrangement.[394] In addition, AT&T charges that this two-step process is discriminatory because Verizon's retail operations can request both voice and data service for a single orders.[395] We reject these challenges, and find that Verizon's ordering process for line splitting in New Jersey allows efficient competitors a meaningful opportunity to compete. Verizon uses the same process for line splitting in New Jersey that it uses in other states and which the Commission has previously found to be checklist-compliant.[396] In addition, Verizon has recently implemented additional OSS functionalities to facilitate the availability of various line splitting scenarios, including the ability for a data LEC to add DSL capability to a loop in an existing UNE-platform arrangement.[397] Although no carrier had submitted an order for this functionality as of February, 2001, we recently found it to be checklist-compliant and are further satisfied with the results of Verizon's internal tests.[398]

C. Checklist Item 4 – Unbundled Local Loops

136. Section 271(c)(2)(B)(iv) of the Act requires that a BOC provide "[l]ocal loop transmission from the central office to the customer's premises, unbundled from local switching or other services."[399] We conclude, as did the New Jersey Board, that Verizon provides unbundled local loops in accordance with the requirements of section 271 and our rules.[400] Our

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[394] AT&T NJ I Kirchberger/Nurse/Kamal Decl. at paras. 43-48. While Verizon has recently implemented a single LSR OSS capability for competitive LECs to add line splitting to a UNE-platform arrangement to migrate from a line sharing arrangement, Verizon NJ I Application at 39-40, AT&T notes that this new process has not been tested, has never been used in New Jersey, and does not apply to other forms of line splitting migration. AT&T NJ I Kirchberger/Nurse/Kamal Decl. at paras. 45-46.

[395] AT&T NJ I Kirchberger/Nurse/Kamal Decl. at para. 44.

[396] Verizon NJ I Lacouture/Ruesterholz Decl. at para. 151; *see, e.g.*, *Verizon Vermont Order* at para. 55; *Verizon Rhode Island Order*, 17 FCC Rcd at 3343-44, para. 90.

[397] Letter from Clint E. Odom, Verizon, to William Caton, Acting Secretary, Federal Communications Commission, CC Docket No. 01-347 (filed Feb. 19, 2002) (Verizon Feb. 19 *Ex Parte* Letter).

[398] *See* Verizon NJ II May 21 *Ex Parte* Letter at 1; *Verizon Rhode Island Order*, 17 FCC Rcd at 3343-44, para. 90.

[399] 47 U.S.C. § 271(c)(2)(B)(iv).

[400] *See* New Jersey Board NJ I Comments at 45-49; New Jersey Board NJ II Comments at 2. The Department of Justice concluded that there are no "material non-price obstacles to competition in New Jersey." Department of Justice NJ I Evaluation at 5; *see also* Department of Justice NJ II Evaluation at 2 n.2.

conclusion is based on our review of Verizon's performance for all loop types, which include, as in past section 271 orders, voice grade loops, hot cut provisioning, xDSL-capable loops, digital loops, and high capacity loops, and our review of Verizon's processes for line sharing and line splitting. As of February 2002, competitors in New Jersey have acquired from Verizon and placed into use approximately 59,000 stand-alone loops (including DSL loops), and about 51,000 loops provided as part of network element platforms that include switching and transport elements.[401]

137. Consistent with prior section 271 orders, we do not address every aspect of Verizon's loop performance where our review of the record satisfies us that Verizon's performance is in compliance with the relevant performance standards established by the New Jersey Board.[402] Instead, we focus our discussion on those areas where the record indicates discrepancies in performance between Verizon and its competitors. In making our assessment, we review performance measurements comparable to those we have relied upon in prior section 271 orders, primarily those associated with measuring the timeliness and quality of loop provisioning and loop maintenance and repair.[403] As in past section 271 proceedings, in the course of our review, 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.[404] Isolated cases of performance disparity, especially when the margin of disparity is small, generally will not result in a finding of checklist noncompliance.[405]

138. As an initial matter, we recognize that during the relevant November-March period, Verizon fails to achieve parity performance for several loop types under the average completed interval metric.[406] Although one commenter points to Verizon's performance under this metric as evidence of Verizon's discrimination against competitive LECs, we find that this performance does not warrant a finding of checklist noncompliance. Specifically, we do not rely

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[401] *See* Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 4. As of February, 2002, Verizon had in service approximately 44,500 stand-alone competitive LEC POTS loops, 400 high capacity DS-1 loops, 15,000 DSL-capable loops, 2,600 2-wire digital loops and 1,800 line sharing arrangements. *See* Verizon NJ II Lacouture/Ruesterholz Reply Decl. at paras. 5, 27, 36, 48, 59; Letter from Clint E. Odom, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-67 (filed May 6, 2002) (Verizon NJ II May 6 *Ex Parte* Letter); Letter from Clint E. Odom, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-67 (filed May 9, 2002) (Verizon NJ II May 9 *Ex Parte* Errata Letter).

[402] *See, e.g., Verizon Connecticut Order*, 16 FCC Rcd at 14151-52, para. 9.

[403] *See Verizon Massachusetts Order*, 16 FCC Rcd at 9078-79, para. 162.

[404] *See id.* at 9055-56, para. 122.

[405] *See id.*

[406] Verizon's performance under the PR-2 metric, which measures the time it takes Verizon to complete orders for service, indicates that for at least one month during the relevant period there was a longer average completed interval for voice grade loops, hot cuts, xDSL capable loops, and high capacity loops provided to competitive LECs.

on Verizon's performance under the average completed interval metric as a measure of Verizon's timeliness in provisioning unbundled loops. We conclude, as we have in prior section 271 orders, that the average completed interval metric is not the most accurate measure of provisioning timeliness.[407] Instead we find that the missed appointment metric is a more reliable indicator of provisioning timeliness because it measures Verizon's performance in provisioning loops at the scheduled time that competitive LECs request. We also find that performance under the missed appointment metric, unlike the average completed interval metric, cannot be skewed by competitive LEC customers that request installation intervals beyond the standard interval.[408] Therefore, consistent with previous section 271 orders, we place greater weight on Verizon's performance under the missed appointment metric as a measure of provisioning timeliness for all loop types.[409]

139. *Voice Grade Loops.* We find that Verizon provisions voice grade loops in a nondiscriminatory manner. We note that voice grade loops comprise the overwhelming majority of loops ordered by competitive LECs in New Jersey.[410] Verizon states that, as of February 2002, it has provided competing carriers in New Jersey with approximately 44,500 voice-grade (i.e., Plain Old Telephone Service (POTS)) loops on a stand-alone basis.[411]

140. We note that Verizon's performance in provisioning voice grade loops has met the relevant parity standard throughout the November-March period with respect to timeliness and quality. Specifically, Verizon achieves parity for all relevant months under the missed

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[407] *See Verizon Massachusetts Order*, 16 FCC Rcd at 9038-39, para. 92; *Bell Atlantic New York Order*, 15 FCC Rcd at 4061-64, paras. 203-205. *See also* Verizon NJ I Application at 27 n.28; Verizon NJ I Lacouture/Ruesterholz Decl. at paras. 81-82.

[408] For similar reasons, our analysis does not rely on the average offered interval as the most reliable measure of provisioning timeliness. We note that the New York Commission has issued a decision eliminating the average interval completed PR-2 measure from the Carrier-to-Carrier Performance Reports in accordance with a decision by the New York Carrier Working Group. *See* Verizon NJ I Application App. J, Tab 18 (New York Commission Service Quality Order) at 3. The Carrier Working Group agreed to eliminate this metric because, among other reasons, other metrics capture performance in this area: PR-1 captures the provisioning interval offered, while PR-3 (Percent Completed Within X Days) and PR-4 (Missed Appointments) adequately measure success meeting the promised interval. *See id.* at 3. In past orders, we have accorded much weight to the judgment of collaborative state proceedings and encouraged carriers to work together in such fora to resolve metrics and other issues. *See , e.g., Verizon Massachusetts Order*, 16 FCC Rcd at 9057, para. 126.

[409] *See Bell Atlantic New York Order*, 15 FCC Rcd at 4103, para. 288; *see also Verizon Massachusetts Order*, 16 FCC Rcd at 9037-39, paras. 91-92 (regarding use of missed appointments in resale analysis). In the *Bell Atlantic New York Order*, the Commission found the rate of missed installation appointments to be the most accurate indicator of Bell Atlantic's ability to provision unbundled loops. *See Bell Atlantic New York Order*, 15 FCC Rcd at 4103, para. 288. We note that the rate of on time performance under PR 9-01 captures provisioning timeliness for hot cuts in essentially the same manner as missed appointments under PR 4. *See* PR 9-01 (Percent On Time Performance – Hot Cut).

[410] *See supra* n.401.

[411] *See* Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 5.

appointment metric, which we rely on to measure provisioning timeliness.[412] Verizon also achieves parity for all relevant months under the provisioning quality metric that measures the percentage of installation troubles reported within 30 days.[413] Furthermore, Verizon's performance for repair and maintenance timeliness under the mean time to repair metric also demonstrates parity during the November-March period.[414]

141. AT&T states that, during the relevant period, Verizon only achieves parity in February with respect to one repair and maintenance metric that we traditionally rely on, the repeat trouble report rate.[415] However, consistent with statements made in its Rhode Island section 271 application, Verizon explains that performance results under this metric may be skewed by the presence of misdirected dispatches that result in overstated repeat troubles.[416] Verizon states that in October, 2001, the New York Commission revised the guidelines for the repeat trouble report rate to account for this problem. Verizon provides performance results for New Jersey using the revised guidelines and urges us to rely on these results instead.[417] Consistent with our analysis in the Rhode Island 271 Order, we agree that the revised metric more accurately reflects Verizon's performance, and find that when Verizon's performance under this metric is recalculated to account for misdirected dispatches, the difference in performance provided to Verizon retail and competitive LECs is not competitively significant.[418]

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[412] *See* PR 4-04-3113 (% Missed Appointment – Verizon – Dispatch). *See also Verizon Massachusetts Order*, 16 FCC Rcd at 9065-66, para. 141; *Verizon Pennsylvania Order*, 16 FCC Rcd at 17463, para. 80 n.278. As discussed above, we find that Verizon's performance under the missed appointment metric serves as an adequate measure of provisioning timeliness. *See supra* para. 137.

[413] *See* PR 6-01-3112 (% Installation Troubles Reported Within 30 Days – Loop).

[414] *See* MR 4-01/02/03-3112 (Mean Time to Repair – Total/Loop/Central Office Trouble – Loop.

[415] *See* AT&T NJ II Comments at 28. Repeat trouble reports for Verizon retail customers were observed at rates of 17.82%, 18.88%, 17.83%, 17.22% and 17.91%, respectively, during the relevant November-March period. *See* MR 5-01-3112 (% Repeat Reports Within 30 Days). The percentage of repeat trouble reports observed under this metric for competitive LEC customers during the same period was 25.76%, 26.44%, 24.30%, 18.08% and 18.95%. *Id.*

[416] *See* Verizon NJ I Lacouture/Ruesterholz Decl. at para. 88; Verizon NJ II Lacouture/Ruesterholz Reply Decl. at paras. 11, 13.

[417] *See* Verizon NJ I Lacouture/Ruesterholz Decl. at para. 88; *see also* New York Commission Service Quality Order at 4-5. In its order, the New York Commission modified the guidelines for the MR-5 measure to eliminate the so-called "double-trouble" phenomenon, which occurs when a competitive LEC misdirects Verizon to dispatch a technician either inside or outside the central office and no trouble is found. *See* New York Commission Service Quality Order at 4. Verizon explains that when this occurs, the trouble ticket must be closed and the competitive LEC must initiate a second ("double") trouble ticket directing dispatch in the opposite direction. *See* Verizon NJ I Lacouture/Ruesterholz Decl. at para. 88; Verizon NJ II Lacouture/Ruesterholz Decl. at para. 11.

[418] *See Verizon Rhode Island Order*, 17 FCC Rcd at 3342, para. 85. Applying the business rules adopted in New York to the instant proceeding, Verizon's adjusted repeat trouble report rate from November to February would be approximately 19.32%, 19.66%, 18.31% and 14.02%, respectively, for competitive LECs, and 17.82%, 18.88%, (continued....)

142. *Hot Cut Activity.* We find that Verizon is providing voice grade loops through hot cuts in New Jersey in a nondiscriminatory manner.[419] Verizon has satisfied its benchmark for on time performance for hot cuts for each month of the relevant November-March period.[420] Although Verizon's installation quality performance for hot cuts is not reported in the New Jersey Carrier-to-Carrier Performance Reports, Verizon does provide a calculation of its performance under the New York guidelines. Verizon states that its installation quality performance has consistently been better than the two percent New York benchmark for trouble reports received within seven days of installation.[421]

143. AT&T claims that the disparity in Verizon's performance under the average interval completed metric for hot cuts indicates that Verizon discriminates against competitive LECs in the provisioning of unbundled loops.[422] We disagree. For the reasons stated above, we believe that the missed appointment metric (in this case, on time performance) is a more probative indicator of provisioning timeliness than the average completed interval.[423]

(Continued from previous page)
17.83% and 17.22% for the retail comparison group. *See* Verizon NJ I Lacouture/Ruesterholz Reply Decl. at para. 10, Tab 6; Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 12, Attach. 1.

[419] The hot cut process is designed to move a POTS loop that is in service from Verizon's switch to a competitive LEC's switch. *See* Verizon NJ I Lacouture/Ruesterholz Decl. at para. 91. This process requires a coordinated effort by Verizon and a competing carrier, and includes a number of steps that the parties must take before the actual hot cut is performed. *Id.* at 91-92. These steps include pre-wiring a cross-connection from the competitive LEC's collocation arrangement to Verizon's main distribution frame prior to the actual committed date and time of the migration or cut. *Id.* at 92. A competitive LEC can request that each voice grade hot cut be scheduled for completion during a specific appointment window, with the objective being that the customer be out-of-service for no more than five minutes. *Id.* at 91. Alternatively, if the competitive LEC wants to hot cut a large group of lines, the entire group can be handled on a project basis, where Verizon's technician coordinates with the competitive LEC's technician to cut one loop right after another in a particular central office. *Id.*

[420] *See* PR 9-01-3114 (% On Time Performance – Hot Cut), Verizon Application II App. B, Tab 2 at 172. As discussed above, we note that the rate of on time performance may serve as an accurate indicator of timely provisioning in the context of hot cut loops. *See supra* n.408; *see also* Verizon NJ I Lacouture/Ruesterholz Reply Decl. at para. 12; Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 15.

[421] Verizon shows that from November-February it received trouble reports within seven days of installation for an average of only 0.83% of the hot cuts installed. Troubles for competitive LEC hot cuts were reported within seven days of installation in New Jersey at a rate of 0.51 in November, 0.96 in December, 1.22 in January, and 0.79 in February. *See* Verizon NJ I Lacouture/Ruesterholz Reply Decl. at para. 13 and Attach. 8; Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 16 and Attach. 2.

[422] *See* AT&T NJ I Comments at 23; AT&T NJ II Comments at 28. From November to February, Verizon fails to achieve parity under the PR 2-01-3111 (Average Interval Completed – Total No Dispatch) metric. Verizon's average interval completed for competitive LECs was 6.23, 5.47, 5.36, 4.94 and 5.10 respectively during the relevant November-March period. The average interval completed for Verizon retail was 2.62, 3.66, 2.44, 1.82 and 2.75 during the same period.

[423] *See supra* para. 138.

144. *xDSL-Capable Loops.* We find that Verizon demonstrates that it provides stand-alone xDSL-capable loops in a nondiscriminatory manner. Verizon makes xDSL-capable loops available in New Jersey under approved interconnection agreements,[424] and provides timely order confirmation notices to competitors.[425] Verizon's performance for all relevant months under the missed appointment metric indicates that Verizon provisions xDSL loops in a timely manner.[426] With respect to installation quality, Verizon also maintained parity during the relevant months under the installation quality measure.[427] For almost every month during the relevant period, Verizon also maintained parity for measures of repair and maintenance timeliness and quality.[428]

145. We reject AT&T's contention that Verizon's performance in recent months, with respect to the average interval offered and completed, indicates discriminatory performance in the provisioning of 2-wire xDSL loops where no dispatch is required.[429] As discussed above, we find Verizon's performance under the missed appointment metric to be a more probative indicator of Verizon's provisioning timeliness.[430]

146. *Digital Loops.* We find that Verizon provisions digital loops to competitors in a nondiscriminatory fashion in New Jersey. As an initial matter, we note that digital loops only represent a small number of the total loops provided by Verizon in New Jersey.[431] We find that Verizon provided digital loops to competitors in a timely manner throughout the relevant

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[424] Verizon NJ I Lacouture/Ruesterholz Decl. at para. 74.

[425] *See* OR 1-04-3342 (% on Time LSRC < 6 Lines – Electronic – No Flow-Through).

[426] *See* PR 4-04-3342 (% Missed Appointments – Verizon – Dispatch).

[427] *See* PR 6-01-3342 (% Installation Troubles Reported Within 30 Days).

[428] *See* MR 4-02/03-3342 (Mean Time to Repair – Loop/Central Office); MR 5-01-3342 (% Repeat Reports Within 30 Days). Verizon maintains parity under the MR 5-01 metric for all months during the relevant period except March, when repeat reports occurred at a rate of 21.08% for Verizon retail and 28.00% for competitive LECs.

[429] AT&T NJ I Comments at 23; AT&T NJ I Comments App. C, Kirchberger/Nurse/Kamal Decl. at para. 114; AT&T NJ II Comments at 28. *See also* PR 1-01-3342 (Average Interval Offered – Total No Dispatch); PR 1-02-3342 (Average Interval Offered – Total Dispatch); PR 2-01-3342 (Average Interval Completed – Total No Dispatch); and PR 2-02-3342 (Average Interval Completed – Total Dispatch).

[430] *See supra* para. 138. Verizon also notes that under the October 2001 Guidelines, the New Jersey BPU eliminated the retail comparison group standard for 2-wire xDSL loops with respect to the PR 1-01/02 Average Interval Offered measures. *See* Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 47; Verizon NJ I Guerard/Canny/DeVito Decl. at para. 72.

[431] Verizon states that, as of the end of February 2002, it had a total of approximately 2,600 2-wire digital loops in service. Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 48. According to Verizon, competitive LECs typically order 2-wire digital loops when DSL loops are not available, and the volume of digital loops that Verizon has provided has steadily declined. Verizon NJ I Lacouture/Ruesterholz Reply Decl. at para. 37; Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 48. Verizon states that in February 2002, it provisioned only about 70 2-wire digital loops in New Jersey. Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 48.

period.[432] Verizon also achieves parity from November through March, with respect to the measure of installation quality we have traditionally relied on which measures the percent of installation troubles reported within 30 days.[433]

147. In addition, we find that Verizon's maintenance and repair performance is nondiscriminatory. For example, Verizon achieved parity performance throughout the relevant period with respect to maintenance and repair timeliness under the mean time to repair metric.[434] Verizon also maintained parity performance during the relevant period for every month except February with respect to a measure of maintenance and repair quality – the percentage of repeat trouble reports within 30 days.[435] We note that Verizon's performance under this measure indicates a large disparity in February with respect to the percentage of repeat reports observed for competitive LECs and Verizon retail.[436] Verizon explains, however, that the small sample size of competitive LEC trouble reports observed in February contributed to the wide fluctuation in performance under this measure.[437] Moreover, we find that this one month disparity is not competitively significant and does not warrant a finding of checklist noncompliance, given that Verizon returns to parity performance under this measure in March.[438]

148. *High Capacity Loops.* Given the totality of the evidence, we find that Verizon's performance with respect to high capacity loops does not result in a finding of noncompliance for checklist item 4. Verizon states that, as of February 2002, competitive LECs have in service in New Jersey approximately 400 high capacity DS-1 loops, and no high capacity DS-3 loops, provided by Verizon.[439] Verizon also states that high capacity loops are available in New Jersey under interconnection agreements, and that unbundled access to these loops is offered in the same manner as in other Verizon states the Commission has found to be checklist compliant.[440]

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[432] *See* PR 4-04-3341 (% Missed Appointments – Verizon – Dispatch) indicating parity performance for all relevant months. As discussed above, we find that Verizon's performance under the missed appointment metric is a better indicator of Verizon's provisioning timeliness than performance under the average completed interval metric. *See supra* para. 138.

[433] *See* PR 6-01-3341 (% Installation Troubles Reported Within 30 Days) indicating a lower percentage of installation troubles reported for competitive LECs in November, and performance at statistical parity in December, January, February and March.

[434] *See* MR 4-01-3341 (Mean Time To Repair – Total).

[435] *See* MR 5-01-3341 (% Repeat Reports Within 30 Days).

[436] *See id.*, indicating a rate, in February, of 16.84 for Verizon retail and 40.91 for competitive LECs.

[437] *See* Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 58. Verizon states that additional factors affecting the February results include an administrative error in the maintenance center, and the inability to reach a competitive LEC for a cooperative test. *Id.*

[438] *See* MR 5-01-3341 (% Repeat Reports Within 30 Days).

[439] Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 27.

[440] Verizon NJ I Lacouture/Ruesterholz Decl. at para. 98.

According to Verizon, high capacity loops represent only about 0.4 percent of all unbundled loops provisioned to competitors in New Jersey.[441]

149. Verizon's performance under the missed installation appointment metric suggests that Verizon has generally been timely in the provisioning of high capacity loops.[442] Verizon achieved parity for repair and maintenance timeliness under the mean time to repair metric for three of the five relevant months.[443] Verizon's performance with respect to repair and maintenance quality also indicates parity for four of the five months during the relevant period.[444]

150. We recognize, however, that Verizon does not achieve parity during the relevant period other than in February with respect to the installation quality metric, the percentage of installation troubles reported within 30 days.[445] Verizon contends that this measure may not be an accurate indicator of its performance because the retail group for this metric (Verizon retail) does not provide a meaningful comparison.[446] For example, Verizon explains that the retail comparison group for this measure includes a large percentage of DS-0 loops, which are less complicated to provision than DS-1 loops.[447] Verizon also argues that the small number of installation trouble reports received during the relevant period for high capacity loops, interoffice facilities, and loop/transport combinations are too few to provide meaningful performance

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[441] Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 27.

[442] *See* PR 4-01-3200 (Missed Appointment – Verizon – Total), which indicates that Verizon achieved parity for every month of the relevant period. We note that Verizon's performance with respect to DS-1 loops is not separately reported on New Jersey Carrier-to-Carrier Performance Reports. Verizon's performance for DS-1 loops is included, however, in the New Jersey metrics for special services, which include high capacity loops, interoffice facilities, and loop/transport combinations. *See* Verizon NJ I January 22 *Ex Parte* Letter at 1; Verizon NJ II Lacouture/ Ruesterholz Reply Decl. at para. 29.

[443] *See* MR 4-01-3200 (Mean Time to Repair – Total). Although Verizon appears to miss parity in November with a mean time to repair of 5.09 for Verizon retail and 8.40 for competitive LECs, low competitive LEC volumes make it difficult to draw strong conclusions regarding this data. Verizon's performance improves to achieve parity in December, January and February. Verizon does, however, miss parity in March with a mean time to repair of 5.36 for Verizon retail and 8.80 for competitive LECs.

[444] *See* MR 5-01-3200 (% Repeat Reports Within 30 Days). Although there appears to be a disparity in the rate of repeat trouble reports in November, we do not find this disparity to be competitively significant in light of Verizon's parity of performance in the following four months. *See* Verizon NJ II Application App. B, Tab 2, at 235.

[445] *See* PR 6-01-3200 (% Installation Troubles Reported Within 30 Days). Installation troubles reported within 30 days occurred for Verizon retail customers and competitive LEC customers at respective rates of 2.14% and 11.11% in November; 1.71% and 6.90% in December; 1.89% and 8.96% in January; 2.92% and 4.07% in February; and 3.18% and 7.41% in March. *See id.*; Verizon NJ I Guerard/Canny/DeVito Reply Decl. at Attach. 1, page 31; Verizon NJ II Application App. B, Tab 2 at 208.

[446] *See* Verizon NJ I Mar. 6 *Ex Parte* Letter at 2.

[447] *See id.*

results, and are "not as reliable an indicator of checklist compliance."[448] We do not find that Verizon's performance with respect to troubles reported within thirty days warrants a finding of checklist noncompliance, given that high capacity loops represent less than one percent of the unbundled loops that Verizon provides to competitors in New Jersey, and in light of Verizon's generally good performance under the other measures of high capacity loop provisioning, maintenance, and repair discussed above.[449]

151. XO Communications argues that Verizon unreasonably requires XO to submit test orders for high capacity loops before live orders will be accepted.[450] We note, however, that Verizon denies that it has refused to accept XO high capacity loop orders without prior testing.[451] Because XO's assertions concerning this matter are merely conclusory and not supported by any specific evidence, we cannot find that they warrant a finding of checklist noncompliance. XO and Allegiance also argue that Verizon rejects competitive LEC UNE orders under its "no facilities" policy when any "necessary" facilities are unavailable.[452] Verizon explains that it provides unbundled high capacity loops where facilities are available, and that it will also provide competitive LECs with unbundled high capacity loops where not all necessary facilities are available, but the central office common equipment and equipment at the end user's location necessary to create a high capacity loop can be accessed.[453] This is the same policy the Commission found not to expressly violate the Commission's unbundling rules in our Verizon

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[448] Verizon NJ I January 22 *Ex Parte* Letter at 3 (citing *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6254, para. 36.). Verizon states that it received approximately 6 installation trouble reports in November, 4 in December, 6 in January, and 5 in February. *See* Verizon NJ I Lacouture/Ruesterholz Reply Decl. at para. 20; Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 29.

[449] We also note that commenters did not criticize Verizon's high capacity loop performance under this measure.

[450] XO NJ I Comments at 14.

[451] Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 13.

[452] XO NJ I Comments at 15-17; Allegiance NJ II Comments at 2-5. Allegiance also argues that Verizon has contacted Allegiance customers directly after Allegiance places an order for high capacity loops to determine whether facilities are available and that Verizon has updated customers on the status of available facilities, but has not provided the same information to Allegiance. Allegience NJ II Comments at 4-5. In response, Verizon indicates that it has contacted Allegiance executive management regarding this issue and expects to resolve any miscommunication through further training of Verizon and Allegiance personnel. *See* Verizon NJ II Lacouture/ Ruesterholz Reply Decl. at para. 35. We expect that Verizon will resolve this issue in a business-to-business manner.

[453] Verizon NJ I Lacouture/Ruesterholz Reply Decl. at para. at 22-23; Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 34. Specifically, Verizon states that it will install the appropriate high capacity card in the spare slots or ports of the equipment, and perform cross connection work between the common equipment and the wire or fiber facility between the central office and the customer premises. Verizon states that it will correct conditions on an existing copper facility that could affect transmission characteristics, and terminate the high capacity loop in the appropriate network interface device at the customer premises, such as a Smart Jack or a Digital Cross Connect (DSX). Verizon NJ I Lacouture/Ruesterholz Reply Decl. at para. at 22-23; Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 34.

Pennsylvania Order.[454] Accordingly, we decline to find that these allegations warrant a finding of checklist noncompliance.

152. *Line Sharing and Line Splitting*. We find that Verizon demonstrates that it provides nondiscriminatory access to the high frequency portion of the loop, and access to network elements necessary for competing carriers to provide line splitting.[455] Verizon provides line sharing pursuant to its interconnection agreements and in accordance with our rules.[456] Verizon states that it provides line sharing to competitive LECs using substantially the same methods and procedures as in the other states where the Commission has found Verizon to be checklist compliant.[457] According to Verizon, it had in service approximately 1,800 line sharing arrangements in New Jersey as of February 2002.[458] We note that Verizon generally has met the relevant performance standards for provisioning, maintaining and repairing line-shared loops for competitors in New Jersey.[459] We also note that commenters in this proceeding do not criticize Verizon's performance with regard to the provisioning, maintenance and repair of line shared loops.

153. We find that Verizon also provides nondiscriminatory access to line-splitting in accordance with our rules.[460] Verizon provides carriers that purchase line splitting with access to the same pre-ordering capabilities as carriers that purchase unbundled DSL loops or line sharing.[461] In addition, working with competitive LECs through the New York DSL

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[454] *See Verizon Pennsylvania Order*, 16 FCC Rcd at 17470, para. 92.

[455] *See supra* n.26.

[456] *See* Verizon NJ I Lacouture/Ruesterholz Decl. at paras. 131-132.

[457] *Id.* at para. 132 (citing to *Verizon Massachusetts Order*, 16 FCC Rcd at 9081, para. 165; *Verizon Connecticut Order*, 16 FCC Rcd at 14157-58, para. 23; *Verizon Pennsylvania Order*, 16 FCC Rcd at 17467-68, para. 88).

[458] Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 59; Verizon NJ II May 6 *Ex Parte* Letter at 1; Verizon NJ II May 9 *Ex Parte* Errata Letter at 1.

[459] Verizon achieved parity in November, December, January and March during the relevant period and missed only about 2% of competitive LEC non-dispatch line sharing provisioning appointments in February (PR 4-05-3343 (% Missed Appointment – Verizon – No Dispatch). The quality of Verizon competitive LEC line sharing installations under PR 6-01-3343 (% Installation Troubles Reported Within 30 Days) was at parity with Verizon retail during this period. Verizon appears to maintain parity for almost every month during the relevant period under standards for maintenance and repair on which we traditionally rely, but it is difficult to draw further conclusions, given the low competitive LEC volumes observed under these measures. *See* MR 4-02/03-3343 (Mean Time to Repair – Loop/Central Office Trouble); MR 5-01-3343 (% Repeat Reports Within 30 Days).

[460] *See Line Sharing Reconsideration Order*, 16 FCC Rcd at 2111, para. 20 n.36. Verizon states, however, that it has not provided any competitive LEC line splitting arrangements through February 2002. *See* Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 59.

[461] Competitive LECs have a choice of submitting pre-ordered queries over the Web GUI, EDI, or CORBA electronic interfaces. *See* Verizon NJ I McLean/Wierzbicki/Webster Decl. Attach. 2 at 12. Verizon confirms that the line splitting ordering process for competitors is at parity with Verizon's retail provisioning. Regardless of (continued....)

Collaborative, Verizon implemented a permanent OSS process for line splitting on October 20, 2001, throughout the Verizon East territory, including New Jersey.[462] As discussed above in our section on OSS, we note that AT&T raises challenges to Verizon's ordering process for line splitting, but we find that this process allows competitors a meaningful opportunity to compete.[463] Accordingly, we find that Verizon complies with the requirements of this checklist item with respect to its line sharing and line splitting processes.

IV. OTHER CHECKLIST ITEMS

A. Checklist Item 1 – Interconnection

154. Section 271(c)(2)(B)(i) requires a BOC to provide equal-in-quality interconnection on terms and conditions that are just, reasonable, and nondiscriminatory in accordance with the requirements of sections 251 and 252.[464] Based on our review of the record, we conclude as did the New Jersey Board, that Verizon complies with the requirements of this checklist item.[465] In reaching this conclusion, we have examined Verizon's performance in providing collocation and interconnection trunks to competing carriers, as we have done in prior section 271 proceedings.[466] We note that no commenter faults Verizon's interconnection quality or timeliness, and that the New Jersey Board found that Verizon provides equal-in-quality

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whether voice and data are provided through line splitting or line sharing by Verizon retail and VADI, the voice service must be established first, and a second order must be submitted to order DSL. *See* Verizon NJ II June 20 *Ex Parte* Letter at 2.

[462] Specifically, Verizon began offering new OSS functionality that enables a competitor to submit a single Local Service Request (LSR) to add DSL capability to a loop in an existing UNE-platform arrangement while re-using the same network elements, including the loop, if it is DSL-capable. In addition, Verizon implemented the ability for a competitive LEC to convert from line sharing to line splitting using a single LSR, or drop data from a line-splitting arrangement and revert back to UNE-platform with a single LSR. *See* Verizon NJ I Lacouture/Ruesterholz Decl. at para. 159; *see also* Verizon NJ I McLean/Wierzbicki/Webster Decl. Attach. 2 at 12-13. As of November 30, 2001, Verizon had received 34 commercial line splitting orders from competitive LECs (utilizing the new line splitting OSS capabilities) outside of the pilot. None of these orders were submitted in New Jersey. *See* Verizon NJ I Lacouture/Ruesterholz Decl. at para. 159.

[463] *See supra* para. 135.

[464] 47 U.S.C. § 271(c)(2)(B)(i). *See* Appendix C at para. 17.

[465] For example, among other measurements, interconnection quality was measured in NP 1-01 (% Final Trunk Group Blockage), and interconnection timeliness was measured in PR 4-01 (Missed Installation Appointments) and in PR 2-09 (Average Installation Intervals); *see* Verizon NJ I Lacouture/Ruesterholz Decl. at para. 12. Consistent with the absence of comments by parties, the interconnection metrics identify no areas of concern.

[466] *See, e.g.*, *Verizon Massachusetts Order*, 16 FCC Rcd at 9092-95, 9098, paras. 183-87, 195. Verizon states that it has modified its New Jersey collocation offering to comply with the Commission's *Collocation Remand Order* and has filed amendments to both its federal and state collocation tariffs to reflect the new order. Verizon also states that its collocation offering meets the requirements of its September 14, 2001 consent decree with the Commission to assure that Verizon complies with the information posting requirements of the Commission's collocation rules.

interconnection on terms and conditions that are just and reasonable and in accordance with the section 271.[467]

155. Although several commenters assert that Verizon does not permit interconnection at a single point per LATA, we conclude that the evidence presented does not demonstrate a violation of our existing rules.[468] Specifically, Verizon has demonstrated that it has entered into at least one interconnection agreement in New Jersey that allows a competing carrier to interconnect at a single *physical* point in a LATA.[469] Although certain contract language proposed by Verizon in interconnection negotiations and arbitration proceedings in New Jersey might raise potential compliance issues with our current rules governing reciprocal compensation if it were the only terms available to competing carriers in New Jersey, our review is necessarily limited to present issues of compliance.[470]

B. Checklist Item 8 – White Pages Directory Listings

156. Section 271(c)(2)(B)(viii) requires a BOC to provide "[w]hite page directory listings for customers of the other carrier's telephone exchange service."[471] Based on the evidence in the record, we conclude, as did the New Jersey Board,[472] that Verizon satisfies the requirements of checklist item 8.[473]

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[467] New Jersey Board NJ I Comments at 17-18. We note that, although AT&T filed testimony before the New Jersey Commission regarding the adequacy of Verizon's collocation performance, the New Jersey Board found that the procedures Verizon uses to provide collocation are consistent with the law. AT&T does not discuss collocation in New Jersey in its comments or reply comments.

[468] *See* AT&T NJ I Comments at 29-32, Cavalier NJ II Comments at 3-6. The commenters generally assert that Verizon improperly distinguishes between the physical point of interconnection (POI) and the point at which the parties are responsible for facilities cost and compensation for transport and termination under Section 251(b)(5), thereby improperly shifting costs from Verizon to the competitive LEC.

[469] *See Petition of Cablevision Lightpath – NJ, Inc. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Verizon New Jersey Inc.*, Docket No. TO01080498, *Arbitrator's Recommended Decision* at 18-19, 28, 30 (Dec. 12, 2001) (adopted by the New Jersey BPU on January 9, 2002).

[470] *See SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6357-58, paras. 234-35. We note that the Commission has requested comment on certain issues concerning the allocation of financial responsibility for interconnection facilities in the *Intercarrier Compensation NPRM*. *See Developing a Unified Intercarrier Compensation Regime*, 16 FCC Rcd 9610, 9634-35, para. 72; 9650-52, paras. 112-14 (2001). In general, our current reciprocal compensation rules preclude an incumbent LEC from charging carriers for local traffic that originates on the incumbent LEC's network. These rules also require that an incumbent LEC compensate the other carrier for transport and termination of local traffic that originates on the network facilities of such other carrier. 47 C.F.R. § 51.701.

[471] 47 U.S.C. § 271(c)(2)(B)(viii).

[472] New Jersey Board NJ I Comments at 64.

[473] Verizon NJ I Application at 51; Verizon NJ I Lacouture/Ruesterholz Decl. at paras. 267-285. Verizon states that it provides competitors with access to directory listings in New Jersey in the same manner as it does in other (continued....)

157. One commenter, XO, alleges that Verizon does not meet the requirements of this checklist item, because Verizon employs manual processing for certain types of directory listing requests from competitive LECs.[474] We reject, for the same reasons articulated in the *Pennsylvania 271 Order*, that such manual processing gives rise to a *per se* violation of this checklist item.[475] XO further claims that Verizon's manual approach has resulted in numerous unnecessary errors to "as is" requests (*i.e.*, where no change is requested from an existing Verizon directory listing).[476] The New Jersey Board, however, found that XO presented no evidence in support of its claims, and XO provides no additional evidence in this proceeding.[477] Finally, XO asserts that the timeframe provided for review of the Listings Verification Report ("LVR") is not sufficient for it to review and correct all errors prior to publication.[478] Verizon asserts that it provides competitive LECs with thirty business days to review the LVR and that it also provides ongoing electronic access to directory listings that allows competitive LECs to review and make corrections at any time.[479] We find, based on the evidence presented in this record, that Verizon provides sufficient opportunity to competitive LECs to review and correct errors in their directory listings.[480]

C. Checklist Item 13 – Reciprocal Compensation

158. Section 271(c)(2)(B)(xiii) of the Act requires BOCs to enter into "[r]eciprocal compensation arrangements in accordance with the requirements of section 252(d)(2)."[481] In turn, section 252(d)(2)(A) specifies the conditions necessary for a state commission to find that

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states where it has been approved for Section 271 authority. Verizon NJ I Application at 51. We also note that KPMG reviewed Verizon's provision of directory listings and found that Verizon provides accurate listings to competitive LECs. KPMG Final Report at 229; *see also* Verizon NJ I Lacouture/Ruesterholz Decl. at para. 284.

[474] XO states that the practical effect of Verizon's policy is to subject the majority of competitors' directory listings to re-typing by Verizon's National Marketing Center personnel before the order is actually submitted to Verizon Directory Services. XO NJ I Comments at 10-11.

[475] *Verizon Pennsylvania Order*, 16 FCC Rcd at 17482-83, para. 117; *see generally Bell Atlantic New York Order*, 15 FCC Rcd at 3992, paras. 83-84, 87-89; *Ameritech Michigan Order*, 12 FCC Rcd at 20616-18, paras. 137-38, and 20638, para. 180.

[476] XO asserts that Verizon manually processes (*i.e.*, retypes the order) the following order types: (1) an order involving migration from Verizon facilities to competitive LEC facilities; (2) an order with greater than six lines; (3) an order that modifies directory listings; or (4) an order deemed "complex." XO NJ I Comments at 10.

[477] New Jersey Board NJ I Comments at 64.

[478] XO NJ I Comments at 13.

[479] Verizon NJ I Lacouture/Ruesterholz Decl. at paras. 280-82.

[480] *Verizon Pennsylvania Order*, 16 FCC Rcd at 17481-82, para. 115.

[481] 47 U.S.C. § 271(c)(2)(B)(xiii).

the terms and conditions for reciprocal compensation are just and reasonable.[482] We conclude that Verizon provides reciprocal compensation as required by checklist item 13.

159. Cavalier alleges that Verizon refuses to provide compensation for Verizon-originated traffic that Cavalier carries from the physical interconnection point to Cavalier's switch.[483] We note that the New Jersey Board found that Verizon complies with its obligations to provide reciprocal compensation for transportation and termination of local calls to competing carriers in New Jersey.[484] On the record before us, we agree. Verizon acknowledges the existence of a billing dispute with Cavalier concerning the obligation to pay Cavalier both reciprocal compensation and for use of interLATA transmission facilities.[485] Verizon contends, however, that Cavalier is "attempting to charge Verizon twice for the same thing."[486] This billing dispute concerning conflicting interpretations of an interconnection agreement should be resolved by the New Jersey Board.[487] As we have stated in prior section 271 orders, "section 271 does not compel us to preempt the orderly disposition of intercarrier disputes by the state commissions."[488]

160. AT&T and XO also argue that Verizon's refusal to pay reciprocal compensation for Internet-bound traffic violates checklist item 13.[489] The Commission previously determined that whether a BOC pays reciprocal compensation for Internet-bound traffic "is not relevant to compliance with checklist item 13."[490] In addition, as the New Jersey Board stated, allegations "that [competitive LECs] are entitled, under their interconnection agreements, to reciprocal compensation for Internet-bound traffic are already the subject of pending complaint proceedings . . . . [and] will be resolved by the Board in due course."[491] There is no evidence on the record

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[482] *Id.* § 252(d)(2)(A).

[483] Cavalier NJ II Comments at 3-4. Cavalier also characterizes this claim as showing non-compliance with checklist item 1, but we have already found that Verizon satisfies that item. *See supra* paras. 154-55.

[484] New Jersey Board NJ I Comments at 73. *See also New Jersey BPU Final UNE Rate Order* at 250-52.

[485] *See* Verizon NJ I Lacouture/Ruesterholz Reply Decl. at para. 65.

[486] *Id.*

[487] Cavalier's allegations are also the subject of an ongoing proceeding in Delaware, where Cavalier's switch is located. Cavalier NJ II Comments at 3-5 & n.1. As stated above, we decline to interfere with an ongoing state proceeding that is expected to resolve a dispute over an interconnection agreement.

[488] *Verizon Pennsylvania Order*, 16 FCC Rcd at 17484, para. 118.

[489] AT&T NJ I Comments at 41-42; XO NJ I Comments at 4-6.

[490] *Verizon Connecticut Order*, 16 FCC Rcd at 14177, para. 67. *Accord Verizon Pennsylvania Order*, 16 FCC Rcd at 17484, para. 119; *Verizon Massachusetts Order*, 16 FCC Rcd at 9108-09, para. 215.

[491] New Jersey Board NJ I Comments at 73. *See also New Jersey BPU Final UNE Rate Order* at 252; *Verizon Pennsylvania Order*, 16 FCC Rcd at 17484, para. 118.

before us that warrants our interfering with these ongoing state proceedings. We therefore reject XO and AT&T's claims concerning reciprocal compensation for Internet-bound traffic.[492]

D. Checklist Item 14 – Resale

161. Section 271(c)(2)(B)(xiv) of the Act requires that a BOC make "telecommunications services . . . available for resale in accordance with the requirements of section 251(c)(4) and section 252 (d)(3)."[493] Based on the record in this proceeding, we conclude as did the New Jersey Board, that Verizon satisfies the requirements of this checklist item in New Jersey.[494]

162. Metro Teleconnect and Joint Commenters allege that Verizon unreasonably requires resellers to either purchase call blocking services or be liable for casual, third-party, and collect call charges incurred by their end users. Metro Teleconnect and Joint Commenters claim that such a policy impermissibly shifts risks and costs to the reseller from Verizon.[495] In addition, because Verizon's services will not block certain types of calls, including calls from interexchange carriers that have not opted to participate in Verizon's screening process, commenters contend that Verizon effectively requires resellers to pay for both ineffective call blocking services and for all calls that are not blocked.[496] Metro Teleconnect and Joint Commenters argue that such policies do not comply with Verizon's obligations under checklist item 14.

163. We reject these claims and agree with Verizon that its resale policies do not impermissibly shift risks and costs from Verizon to resellers.[497] As Verizon has explained, it offers resellers both a call blocking service, which restricts an end user's ability to make 10-10XXX intraLATA calls, and a Toll Billing Exception screening service, which restricts an end user's ability to accept collect and third-party or third-number calls.[498] Verizon has also

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[492] For the same reasons, we reject XO's additional argument that Verizon improperly amended an interconnection agreement in violation of the Commission's *Reciprocal Compensation Order*. *See* XO NJ I Comments at 7 (citing *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Inter-Carrier Compensation for ISP-Bound Traffic*, CC Docket Nos. 96-98 and 99-68, Order on Remand and Report and Order, FCC 01-131 (rel. April 18, 2001) (*Reciprocal Compensation Order*). The D.C. Circuit's ruling in *WorldCom, Inc. v. FCC*, No. 01-1218, 2002 WL 832541 (D.C. Cir. May 3, 2002), does not affect this conclusion.

[493] 47 U.S.C. § 271(c)(2)(B)(xiv). *See* Appendix C at para. 67.

[494] Verizon has a concrete and specific legal obligation in its interconnection agreements and tariffs to make its retail services available for resale to competing carriers at wholesale rates. *See* Verizon NJ I Application at 55; Verizon NJ II Lacouture/Ruesterholz Decl. at para. 331.

[495] Metro Teleconnect NJ II Comments at 5; Joint Commenters NJ II Comments at 5.

[496] Metro Teleconnect NJ II Comments at 6; Joint Commenters NJ II Comments at 6.

[497] Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at paras. 66-67.

[498] *Id.* at paras. 67-68.

explained that not all operator service providers and interexchange carriers have opted to participate in the Toll Billing Exception screening process. As a result, Verizon cannot guarantee that all such calls made by end users will be prevented by subscription to this service.[499] We agree with Verizon, however, that the absence of such a guarantee should not place responsibility for charges associated with such calls on Verizon. A reseller, like any other telecommunications carrier – including Verizon, with respect to its retail customers – is responsible for the charges incurred by its own end users. Therefore, we find Verizon's policy in this case is not unreasonable.

E. Remaining Checklist Items

164. In addition to showing compliance with the statutory requirements discussed above, an applicant for section 271 authority must demonstrate that it complies with checklist item 3 (access to poles, ducts, and conduits),[500] item 5 (transport),[501] item 6 (switching),[502] item 7 (911/E911, directory assistance, and operator services),[503] item 9 (numbering administration),[504] item 10 (databases and associated signaling),[505] item 11 (number portability),[506] and item 12 (local dialing parity).[507] Based on the evidence in the record, we conclude as did the New Jersey Board, that Verizon demonstrates that it is in compliance with checklist items 3, 5, 6, 7, 9, 10, 11, and 12 in New Jersey.[508] None of the commenting parties challenge Verizon's compliance with these checklist items.

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[499] *Id.* at para. 68. It is the resellers' obligation to inform their end users that Verizon's Toll Billing Exception service is not a guaranteed block, and that some calls may go through and will be billed accordingly.

[500] 47 U.S.C. § 271(c)(2)(B)(iii).

[501] *Id.* § 271(c)(2)(B)(v).

[502] *Id.* § 271(c)(2)(B)(vi).

[503] *Id.* § 271(c)(2)(B)(vii).

[504] *Id.* § 271(c)(2)(B)(ix).

[505] *Id.* § 271(c)(2)(B)(x).

[506] *Id.* § 271(c)(2)(B)(xi).

[507] *Id.* § 271(c)(2)(B)(xii).

[508] Verizon NJ I Application at 48 (item 3), 45-46 (item 5), 43-45 (item 6), 48-50 (item 7), 52 (item 9), 52-53 (item 10), 53-54 (item 11), and 54 (item 12); Verizon NJ I Lacouture/Ruesterholz Decl. at paras. 218-232 (item 3), paras. 188-206 (item 5), 168-87 (item 6), 233-266 (item 7), 286-289 (item 9), 290-315 (item 10), 316-320 (item 11), and 321-326 (item 12). *See* Appendix B.

V. SECTION 272 COMPLIANCE

165. Section 271(d)(3)(B) provides that the Commission shall not approve a BOC's application to provide interLATA services unless the BOC demonstrates that the "requested authorization will be carried out in accordance with the requirements of section 272."[509] Based on the record, we conclude that Verizon has demonstrated that it will comply with the requirements of section 272.[510] Significantly, Verizon provides evidence that it maintains the same structural separation and nondiscrimination safeguards in New Jersey as it does in Pennsylvania, New York, Connecticut, and Massachusetts – states in which Verizon has already received section 271 authority.[511] No party challenges Verizon's section 272 showing.[512]

VI. PUBLIC INTEREST ANALYSIS

166. Apart from determining whether a BOC satisfies the competitive checklist and will comply with section 272, Congress directed the Commission to assess whether the requested authorization would be consistent with the public interest, convenience, and necessity.[513] At the same time, section 271(d)(4) of the Act states that "[t]he Commission may not, by rule or

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[509] 47 U.S.C. § 271(d)(3)(B); Appendix C at paras. 68-69.

[510] *See* Verizon NJ I Application at 71-76; Verizon NJ I Application App. A, Vol. 3, Tab E, Declaration of Susan C. Browning, at para 4 (Verizon NJ I Browning Declaration). As noted *infra* at Section VI.C, issues concerning premature marketing of Verizon long distance service in New Jersey arose late in this proceeding. On Day 83 of the 90-day review period, AT&T filed an *ex parte* suggesting that Verizon's marketing conduct violated Section 272(g)(2) of the Act, 47 U.S.C. § 272(g)(2). *See Reply of AT&T Corp. in Support of Motion for Emergency Relief*, WC Docket No. 02-67, at 4 and 10 (filed June 17, 2002). We take no position on the validity of AT&T's section 272(g) claims here. Instead, we defer any enforcement action pending the outcome of the Enforcement Bureau's investigation of this matter. *See infra* at paras. 188-190.

[511] *Verizon Pennsylvania Order*, 16 FCC Rcd at 17486, para. 124; *Verizon Connecticut Order*, 16 FCC Rcd at 14178-79, para. 73; *Verizon Massachusetts Order*, 16 FCC Rcd at 9114-17, paras. 226-31; *Bell Atlantic New York Order*, 15 FCC Rcd at 4152-61, paras. 401-21; Verizon NJ I Application at 71-76; Verizon NJ I Browning Decl. at paras. 4- 17.

[512] PricewaterhouseCoopers completed the first independent audit of Verizon's section 272 compliance pursuant to section 53.209 of the Commission's rules. *See* Letter from PricewaterhouseCoopers LLP to Magalie Roman Salas, Secretary, Federal Communications Commission (June 11, 2001) (transmitting audit report). While the audit raises issues that may require further investigation, the audit results, standing alone, are insufficient to establish whether Verizon is in compliance with section 272. Parties were required to submit comments on the audit report no later than January 24, 2002. *See Accounting Safeguards Under the Telecommunications Act of 1996*, CC Docket No. 96-150, DA 01-2670, Order (rel. Nov. 15, 2001) (extending deadline for filing comments). On February 6, 2002, the independent auditor submitted the unredacted audit report and supplemental report. The Commission granted an extension of time for submitting comment on Verizon's section 272(d) biennial audit report. *See Accounting Safeguards Under the Telecommunications Act of 1996*, CC Docket No. 96-150, DA 02-372, Order (rel. Feb. 15, 2002) (extending deadline for filing comments). Because the Commission will not have had the opportunity to complete its own review of the audit results before it is required to issue a decision on this section 271 application, it would be premature to consider the audit as evidence of shortcomings in Verizon's section 272 compliance.

[513] 47 U.S.C. § 271(d)(3)(C); Appendix C at paras. 70-71.

otherwise, limit or extend the terms used in the competitive checklist set forth in subsection (c)(2)(B)."[514] Accordingly, although the Commission must make a separate determination that approval of a section 271 application is "consistent with the public interest, convenience, and necessity," it may neither limit nor extend the terms of the competitive checklist of section 271(c)(2)(B). Thus, the Commission views the public interest requirement as an opportunity to review the circumstances presented by the application to ensure that no other relevant factors exist that would frustrate the congressional intent that markets be open, as required by the competitive checklist, and that entry will serve the public interest as Congress expected.

167. We conclude that approval of this application is consistent with the public interest. From our extensive review of the competitive checklist, which embodies the critical elements of market entry under the Act, we find that barriers to competitive entry in New Jersey's local exchange market have been removed, and that the local exchange market is open to competition. We further find that the record confirms the Commission's view that BOC entry into the long distance market will benefit consumers and competition if the relevant local exchange market is open to competition consistent with the competitive checklist.[515]

168. We disagree with commenters who assert that we must, under our public interest standard, consider a variety of other factors as evidence that the local market is not yet truly open to competition, despite checklist compliance.[516] For example, some commenters argue that low levels of residential competition in New Jersey indicate that Verizon's application is premature.[517] We note that Congress specifically declined to adopt a market share or other, similar test for BOC entry into long distance.[518] Given an affirmative showing that the competitive checklist has been satisfied, low customer volumes or the failure of any number of companies to enter the market in and of themselves do not necessarily undermine that showing. As the Commission has stated in previous section 271 orders, factors beyond the control of the BOC, such as individual competitive LEC entry strategies, can explain low levels of residential competition.[519]

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[514] 47 U.S.C. § 271(d)(4).

[515] *See SWBT Texas Order*, 15 FCC Rcd at 18558-89, para. 419.

[516] Those factors include the level of competitive LEC market share, the level of competition in all geographic regions in New Jersey, the financial strength of competitive LECs, and the failure of other BOCs to enter the market in New Jersey. *See, e.g.,* AT&T NJ I Comments at 32-40; AT&T NJ II Comments at 29; NJCTA NJ I Comments at 4; NJCTA NJ II Reply at 6; NJDRA NJ I Comments at 28-29; NJDRA NJ II Comments at 17-18; Sprint NJ I Comments at 4-11; Sprint NJ II Comments at 2-3; WorldCom NJ I Comments at 5-8.

[517] AT&T NJ I Comments at 47; NJDRA NJ I Comments at 28-29; Sprint NJ I Comments at 11; NJDRA NJ I Reply at 3; NJCTA NJ II Reply at 6.

[518] *See, e.g., Ameritech Michigan Order*, 12 FCC Rcd at 20585, para. 77; *Sprint v. FCC*, 274 F. 3d at 553-54.

[519] *See Verizon Pennsylvania Order*, 16 FCC Rcd 17487, para. 126.

A. Price Squeeze Analysis

169. Commenters allege the existence of a price squeeze in New Jersey that, they assert, compels a finding that the grant of Verizon's NJ II application is not in the public interest.[520] As an initial matter, no commenter argues that the $35 hot cut rate in New Jersey effects a price squeeze on competitors.[521] XO does contend, however, that the Commission must determine whether Verizon's *previous* hot cut rates of $159.76 and $233.13 constitute a price squeeze.[522] In addition, AT&T re-asserts its NJ I argument that Verizon's UNE rates effect a price squeeze, are discriminatory, and violate checklist item two.[523] WorldCom also incorporates by reference its NJ I argument that the profit margin available to competitors in the New Jersey residential market is insufficient and constitutes a price squeeze.[524] We do not find any of these price squeeze arguments to be persuasive.

170. XO bases its contention that we must evaluate Verizon's previous hot cut rates on the claim that there are material differences between the New Jersey's $35 hot cut rate and New York's $35 hot cut rate. XO specifically alleges that the $35 rate in New Jersey, unlike that in New York, is merely a temporary credit.[525] There is no evidence that the specific hot cut terms in New York differ significantly from those in New Jersey.[526] In fact, as Verizon recently announced, the $35 hot cut rate in New Jersey will remain in effect for at least two years, until March 1, 2004, just as in New York.[527] We therefore reject commenters' argument that that there are material differences between the New Jersey and New York hot cut rates that would warrant

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[520] In our *Vermont Order*, we noted that the Commission intends to release an order addressing the issues posed in *Sprint v. FCC*, 274 F.3d 549 (D.C. Cir. 2001), concerning how we should consider allegations of a price squeeze in section 271 proceedings. *Verizon Vermont Order* at para. 66. We also stated that, because we have not yet addressed the issues remanded by the court, we would consider the specific allegations presented by the parties in that application. *Id.* We follow the same approach in this application. We also incorporate by reference our discussion in the *Vermont Order* of *FPC v. Conway*, 426 U.S. 271 (1976). *See Verizon Vermont Order* at para. 67.

[521] While AT&T claims that the $35 hot cut rate in New Jersey does not comply with TELRIC, *see* AT&T NJ II Comments at 7-9, AT&T does not argue that this rate constitutes a price squeeze. In addition, the Joint Commenters state, without support or elaboration, that Verizon's prices for call blocking services constitute a price squeeze. Joint Commenters NJ II Comments at 9. We reject this unsupported statement, which is contained in a single sentence in the conclusion of the Joint Commenter's comments. *See id.*

[522] XO NJ II Comments at 5 n.13.

[523] AT&T NJ I Comments at 42-43.

[524] WorldCom NJ I Comments at 6 & n.4.

[525] XO NJ II Comments at 3-4.

[526] Contrary to commenters' claims, *see, e.g., id.* at 4 n.10 and AT&T NJ II Comments at 9-10, the existence of a global settlement in New York does not demonstrate that the hot cut rate terms and conditions differ from those in New Jersey.

[527] Verizon NJ II May 8 *Ex Parte* Letter at Attach. 3.

disapproval of the NJ II application,[528] and we also decline to conduct a price squeeze analysis using Verizon's previous hot cut rates of $159.76 and $233.13.[529]

171. We also reject the UNE price squeeze arguments of AT&T and WorldCom from NJ I, which they incorporate by reference in NJ II.[530] Both commenters make related arguments concerning the allegedly insufficient profit margin available to them in the residential telephone market in New Jersey. AT&T specifically claims that Verizon's UNE prices "effect a price squeeze that prevents UNE-based competitors from earning sufficient margins to provide local service economically in competition with Verizon, by imposing wholesale costs on Verizon's competitors that render it impossible for them to offer a retail service that would be price competitive."[531] Similarly, WorldCom argues that "[t]here is a serious price squeeze in New Jersey" because, even in the most favorable zone, "the gross margin between a CLEC's revenues and telco costs using UNE-P would be only $7.44 per line each month, which is not sufficient to cover a company's internal costs of more than $10 per line each month."[532]

172. Significantly, neither commenter claims that it cannot earn a positive gross margin in New Jersey. WorldCom concedes that residential profit margins in the state range from $7.44 to $3.85 and that the statewide average is $5.62.[533] WorldCom suggests, however, that the margin must be at least $10.00 but provides no cost and other data to support that assertion. As we have noted previously, conducting a price squeeze analysis requires a determination of what a "sufficient" profit margin is.[534] Resolving that issue requires more than simply determining what is sufficient for a particular carrier. Although WorldCom alleges that it requires at least $10.00 per line to cover its internal costs, we are concerned here not with WorldCom's own particular profit margin requirements, but with sufficient profit for an efficient competitor. The evidence before us demonstrates that competitive LECs in New Jersey can realize positive margins in 100 percent of the state and that the statewide average gross margin is $5.62. There is no record evidence before us that these profit margins are inadequate for an efficient competitor. Thus, the

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[528] *See, e.g.*, XO NJ II Comments at 4 n.10; AT&T NJ II Reply at 5 n.5. For the same reasons, we also reject the NJDRA's contention that Verizon's $35 hot cut rate in New Jersey is "tenuous at best and possibly illusory." NJDRA NJ II Reply at 4.

[529] We similarly dismiss commenters' claims asserted in NJ I, which they incorporated by reference in NJ II, that the $158.76 and $233.13 hot cut rates effect a price squeeze on competitors. *See* AT&T NJ I Comments at 13; XO NJ I Comments at 17-21.

[530] AT&T NJ II Comments at 1 n.1; WorldCom NJ II Comments at i.

[531] AT&T NJ I Comments at 42.

[532] WorldCom NJ I Comments at 6.

[533] *Id.*

[534] *Verizon Vermont Order* at para.70; *Verizon Massachusetts Order*, 16 FCC Rcd at 9008-09, para. 41.

evidence submitted by WorldCom is inadequate for us to determine that a price squeeze exists in the New Jersey residential market.[535]

173. We also note that the New Jersey Board itself considered allegations of a price squeeze in the New Jersey residential market. During a November 20, 2001 state hearing, staff of the New Jersey Board presented evidence that the average residential customer generates approximately $30.00 in monthly revenue.[536] New Jersey Board staff noted that local competitors such as AT&T who are also long distance carriers would receive net access savings or revenues.[537] "As CLEC[s], [companies such as AT&T] would be providing local service to their customer[s] and they would then also be receiving access payments from long-distance carriers and/or they would not be paying access revenues to the ILEC."[538] After subtracting UNE-platform costs from estimated monthly residential rates, staff of the New Jersey Board determined that competitors could expect to earn a monthly gross profit of approximately $6.50.[539] According to the staff, this figure is "probably understated, but it's certainly indicative of an illustrative calculation that a CLEC could utilize in order to be able to decide whether it wants to enter the residential market here in New Jersey en masse."[540] New Jersey Board Commissioner Butler concluded that the staff's price squeeze analysis addressed any "excuse that these [UNE-platform] rates are higher than the income that the competitor would realize if they came in and sold service to a local customer."[541] We commend the New Jersey Board's independent analysis of the price squeeze issue and find that it provides additional support for our conclusion that commenters have not established the existence of a price squeeze in New Jersey.

174. AT&T also contends that its evidence of a price squeeze also establishes that Verizon's New Jersey UNE rates are discriminatory in violation of checklist item two.[542] As

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[535] AT&T submits no cost or other evidence in support of its profit margin claim, and we therefore reject it.

[536] *Board's Review of Unbundled Network Elements, Rates, Terms, and Conditions of Bell-Atlantic-New Jersey, Inc.*, Docket No. TO0060356, *Transcript of Board Meeting* at 33, 39-40 (Nov. 20, 2001).

[537] *Id.* at 34.

[538] *Id.*

[539] *Id.* at 35.

[540] *Id.*

[541] *Id.* at 39.

[542] AT&T NJ I Comments at 43; Letter from Robert W. Quinn, Jr., Vice President, Federal Government Affairs, AT&T, to William F. Caton, Acting Secretary, Federal Communications Commission (March 1, 2002) (AT&T NJ I March 1 *Ex Parte* Letter) at 8 (stating that, if "high-end UNE rates foreclose UNE purchasers from economically providing residential competition, then . . . Verizon is engaged in 'discrimination,' and it has not satisfied checklist item two even if the UNE rates . . . fall within some range of cost-based rates"). We do not agree that evidence of a price squeeze necessarily demonstrates discriminatory rates in violation of checklist item two. This is because, as the D.C. Circuit recognized, "the residential market may not be attractive to competitors even if UNE costs are at the lower end of the TELRIC (assuming it to have a material range)." *Sprint v. FCC*, 274 F.3d at 556 (citations (continued....)

discussed above, we conclude that AT&T has not established the existence of a price squeeze in the residential market. AT&T submits no other price squeeze analysis in support of this claim. Accordingly, we need not decide whether the existence of a price squeeze in the residential market would constitute a separate violation of checklist item two.[543]

175. For the reasons stated above, we reject commenters' allegations of a price squeeze and 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 the public interest standard or as discrimination in violation of checklist item two.

B. Assurance of Future Compliance

176. As set forth below, we find that the Incentive Plan (IP) currently in place in New Jersey provides assurance that the local market will remain open after Verizon receives section 271 authorization. We find that the plan falls within a zone of reasonableness and is likely to provide incentives that are sufficient to foster post-entry checklist compliance. In prior orders, the Commission has explained that one factor it may consider as part of its public interest analysis is whether a BOC would have adequate incentives to continue to satisfy the requirements of section 271 after entering the long distance market.[544] Although it is not a requirement for section 271 authority that a BOC be subject to such performance assurance mechanisms, the Commission previously has stated that the existence of a satisfactory performance monitoring and enforcement mechanism would be probative evidence that the BOC will continue to meet its section 271 obligations after a grant of such authority.[545] The IP, in combination with the New Jersey Board's active oversight of the IP and its stated intent to undertake a comprehensive review to determine whether modifications are necessary, provides additional assurance the local market will remain open.[546]

177. In prior section 271 orders, the Commission has generally reviewed plans modeled after either the New York or the Texas plans.[547] However, the Commission has also

(Continued from previous page)
omitted). For example, "[i]n many states, . . . higher business rates subsidize some residential rates, and, consequently, certain residential services are priced below cost." *Verizon Vermont Order* at para. 68.

[543] *Accord id.* at para. 72.

[544] *See, e.g., Verizon Pennsylvania Order*, 16 FCC Rcd. at 17487-88, para. 127.

[545] *Ameritech Michigan Order*, 12 FCC Rcd at 20748-50, paras. 393-398. We note that in all of the previous applications that we have granted to date, the applicant was subject to an enforcement plan administered by the relevant state commission to protect against backsliding after BOC entry into the long-distance market.

[546] NJ Incentive Plan at 23.

[547] *See, e.g., Verizon Connecticut Order*, 16 FCC Rcd at 14181, para. 76; *Verizon Massachusetts Order*, 16 FCC Rcd at 9120, para. 238; *SWBT Texas Order*, 15 FCC Rcd at 18560, para. 421; *Bell Atlantic New York Order*, 15 FCC Rcd at 4166-67, para. 433.

approved plans that are not modeled on either of those two plans.[548] As the Commission has stated in prior orders, we recognize that states may create plans that ultimately vary in their strengths and weaknesses as tools for post-section 271 authority monitoring and enforcement.[549]

178. We conclude that the New Jersey IP provides incentives to foster post-entry checklist compliance. As in prior section 271 orders, our conclusions are based on a review of several key elements in any performance remedy plan: total liability at risk in the plan; performance measurement and standards definitions; structure of the plan; self-executing nature of remedies in the plan; data validation and audit procedures in the plan; and accounting requirements.[550] We note that the New Jersey IP does not impose an absolute cap on the Verizon's potential liability.[551] The amount of credits and payments due to competitive LECs under the IP increases with the severity and duration of a failure to meet performance standards, and with the number of competitive LECs affected.[552] Under the New Jersey IP, most payments to competitive LECs are based the difference between Verizon's actual performance for that competitive LEC and the applicable standard, rather than overall performance to competitive LECs on an aggregate basis compared to the applicable standard.[553] We also note that the New Jersey IP includes provisions that impose penalties on Verizon for submitting incomplete or revised reports and/or reports found to require revision.[554]

179. As the Commission has stated in prior orders, the IP is not the only means of ensuring that Verizon continues to provide nondiscriminatory service to competing carriers.[555] Moreover, in addition to the monetary payments at stake under this plan, Verizon faces other consequences if it fails to sustain an acceptable level of service to competing carriers, including enforcement provisions in interconnection agreements, federal enforcement action pursuant to section 271(d)(6), and remedies associated with antitrust and other legal actions.

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548 *See Verizon Pennsylvania Order*, 16 FCC Rcd at 17488-89, paras. 128-129.

549 *See id.* at 17488, para. 128.

550 *See, e.g., Verizon Massachusetts Order*, 16 FCC Rcd at 9121-24, paras. 240-47; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6377-81, paras. 273-78.

551 IP Order at 21.

552 NJ Board NJ I Comments at 76.

553 NJ Incentive Plan at 3. Therefore, Verizon may have to pay a penalty to one competitive LEC even if it meets the overall performance standard.

554 IP Order at 22.

555 *See Bell Atlantic New York Order*, 15 FCC Rcd at 4165, para. 430; *SWBT Texas Order*, 15 FCC Rcd at 18560, para. 421; *Verizon Pennsylvania Order* 16 FCC Rcd at 17489, para. 130.

180. AT&T contends that the IP will not be effective at deterring poor performance.[556] AT&T contend that Verizon's performance reports, which the IP uses to determine poor performance, are inaccurate, incomplete, and untrustworthy.[557] We disagree.[558] The metrics adopted by the New Jersey Board are comprised of a combination of metrics in effect in Pennsylvania and New York, states where the Commission has already granted Verizon section 271 authority.[559] We take further comfort in the provisions in the IP which impose penalties for late, inaccurate, or incomplete performance reports.[560]

181. We disagree with AT&T's further assertions that the IP will not deter backsliding due to a variety of deficiencies: (1) the IP contains no penalty for low total flow-through rates; (2) the penalties in the IP are too low or are not correctly correlated with the severity of competitive harm; (3) the IP relies on flawed statistical analysis; (4) Verizon has improperly excluded "projects" in the IP and Carrier-to-Carrier (C2C) Reports;[561] and (5) the IP contains an overbroad *force majeure* provision that places the burden on the competing LEC to challenge Verizon's invocation of the provision.[562] First, although we acknowledge that the IP does not contain penalties for total flow-through, the IP does contain penalties for Verizon's failure to meet achieved flow-through targets of 95 percent for both resale and UNEs.[563] Second, the IP also provides for penalties that increase in severity with the number of misses.[564] Third, the statistical methodology chosen by the New Jersey Board is substantially similar to the methodologies used in other states in which Verizon has received section 271 approval. Fourth, whether special "projects" should be excluded from the C2C reports or the IP is best dealt with as part of the state's oversight of the performance measurements and incentive plan. As discussed above, we find that, at least for purposes of this application, Verizon's performance

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[556] AT&T NJ I Comments at 25-26; MetTel NJ I Comments at 4-5; AT&T NJ I Reply at 23. MetTel NJ II Reply at 17-18.

[557] AT&T NJ I Comments at 25-26.

[558] *See supra* Section III.2.B.2 for further discussion.

[559] NJ Board NJ I Comments at 80.

[560] NJ Board NJ I Comments at 81.

[561] MetTel also claims that the exclusion for projects in the Carrier-to-Carrier Reports means that Verizon's performance data is flawed. *See* MetTel NJ II Reply at 17-18.

[562] AT&T NJ I Bloss/Nurse Decl. at paras. 28-37; AT&T NJ I Reply at 30; AT&T NJ II Comments at 29-30; *See* MetTel NJ II Reply at 17-18 for additional comments on exclusions for "projects".

[563] "Achieved flow-through" measures the percentage of valid order received through the electronic ordering interface (EDI, Web GUI) that are designed to flow through that actually do flow through, but excluding those orders that do not flow through due to competitive LEC errors. "Total flow-through" measures the percentage of valid orders received through the electronic ordering interfaces (EDI, Web GUI) and processed directly to the service order processor without manual intervention. *See* New Jersey C2C Guidelines at 41.

[564] NJ Incentive Plan at 1.

data are generally reliable and reflective of Verizon's wholesale performance.[565] Finally, we agree with Verizon that the *force majeure* conditions available in the New Jersey plan are not materially different from the comparable provisions of the New York and Pennsylvania plans, which the Commission has previously found to provide incentives to foster post-entry checklist compliance.[566]

C. Other Issues

182. Commenters raise several other concerns which they contend support a finding that a grant of this application is not in the public interest.[567] Based on the record before us, we are unable to find that Verizon's processes or practices in the areas raised by commenters have such an anti-competitive impact as to raise public interest concerns necessitating withholding of section 271 approval.

183. The NJDRA contends that approval of Verizon's application for section 271 authority is not in the public interest without first requiring structural separation of Verizon's retail and wholesale operations.[568] However, the Act does not require structural separation as a condition to section 271 approval, and we do not require it here.

184. In addition, Allegiance alleges that Verizon engages in anti-competitive practices that make it difficult for competitors to enter or continue in the New Jersey market.[569] In support of this generalized claim, Allegiance recounts the experience of a single customer.[570] Consistent

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[565] *See supra*, Section III.B.2.b for further discussion.

[566] In the event of a *force majeure* event, Verizon will pay the appropriate remedy under the IP into an escrow account. Interested parties must request that the New Jersey Board institute an appropriate proceeding to resolve the dispute within 30 days after the monthly report. Verizon NJ I Appl., App. J, Tab 2 at 168. Verizon notes that the amount of time interested parties have to file with the New Jersey Board is longer in New Jersey than in New York or Pennsylvania. Verizon NJ I Feb. 19 *Ex Parte* Letter at 3.

[567] *See* Allegiance NJ II Comments at 5-7; NJDRA NJ I Comments at 33; XO NJ I Comments at 26-27; *see also* Joint Commenters NJ II Comments at 7-8, alleging that Verizon does not provide access to almost 12% of its residential access lines. Verizon's testimony that it has provided access to 88.8% of its residential access lines through collocation arrangements does not mean that Verizon has denied competitive LECs access to 12% of its lines. *See Application of Verizon New Jersey Inc. for FCC Authorization to Provide In-Region InterLATA Service in New Jersey*, New Jersey BPU Docket No. TO01090541, Checklist Declaration on Behalf of Verizon New Jersey Inc., at para. 75.

[568] NJDRA NJ I Comments at 33. We note that the New Jersey Board is considering structural safeguards in a pending case. New Jersey Board NJ I Comments at 87.

[569] Allegiance NJ II Comments at 5-7.

[570] *Id.*

with our section 271 precedent, we find that such anecdotal evidence is not sufficient to demonstrate that this application is not in the public interest.[571]

185. Similarly, XO uses anecdotal evidence to support its claim that Verizon imposes barriers on "CLEC-to-CLEC migrations."[572] Currently, the Commission has no specific rules regarding such migrations; however, they must be executed in accordance with Verizon's general duty of non-discrimination. To the extent that XO believes specific rules are now required, it may file a petition for rulemaking or seek specific rules at the state level. Indeed, as XO notes, the New York Public Service Commission has already starting working on such rules.[573] However, we find that XO has not submitted sufficient evidence for us to conclude that granting this application is not in the public interest.

186. We also disagree with commenters who argue that the Access New Jersey program must be available to participation by carriers other than Verizon as a precondition to satisfying the public interest requirements of section 271.[574] Access New Jersey was established through an agreement reached in April 1997 by the New Jersey Board, Verizon, the Department of Education, and NJDRA. The program allows schools and libraries to receive heavily discounted internet services through Verizon. XO argues that these discounts create barriers to entry in the schools and libraries market.[575] Section 271 review is not the appropriate forum for resolving this issue; rather, Congress established section 253 as the appropriate vehicle for parties to challenge state or local laws that create barriers to competitive entry.[576]

187. We also disagree with commenters' arguments concerning Verizon's declaration of a *force majeure* event in New Jersey following the events of September 11.[577] XO also claims that Verizon is not reporting its compliance with applicable performance standards in New Jersey.[578] As Verizon has not insisted on applying *force majeure* conditions in New Jersey, we do not believe XO's comments in this respect warrant a finding that granting this application is contrary to the public interest.

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[571] *See, e.g., SWBT Texas Order* 15 FCC Rcd at 18375, para. 50.

[572] XO NJ I Comments at 26-27.

[573] *Id.* at 27.

[574] *Id.* at 24-26.

[575] *Id.* at 25.

[576] 47 U.S.C. § 253(c).

[577] XO NJ I Comments at 22-23 (arguing that it would not be consistent with the public interest to grant this application while Verizon is operating under a *force majeure* declaration, as Verizon may be excused from meeting its contractual obligations to competitors while operating under such conditions).

[578] *Id.*

188. Finally, we note that Verizon recently disclosed that it had engaged in two incidents of premature mail solicitations offering long distance service in New Jersey. According to Verizon, approximately 558,000 New Jersey customers received such a solicitation.[579] AT&T subsequently filed a motion seeking an investigation of Verizon's premature marketing of long distance service in New Jersey, issuance of a "standstill order" directing Verizon to immediately cease and desist from advertising long distance service in New Jersey, and denial of this application on the grounds that Verizon has not met the public interest standard of section 271(d)(3)(C) due to these solicitation incidents.[580]

189. Upon learning of the mailings, Verizon notified the Commission and began taking corrective action, including mailing Western Union letters to affected customers to inform them that the direct mailings and bill inserts had been sent erroneously and that Verizon was not yet authorized to provide long distance service.[581] Verizon also began developing additional internal safeguards to prevent incidents of this nature from occurring in the future.[582] Verizon contends that, even if a customer were to call to request long distance service in New Jersey, its customer service representatives have been trained to respond that Verizon is not authorized to provide such service.[583] In addition, Verizon claims – and AT&T has not disputed – that, if a customer service representative were to submit an order to provide Verizon long distance service in New Jersey prior to FCC approval of this application, any long distance calls placed by the customer would be blocked and would not go through because the long distance affiliate's switching equipment has not been modified to allow such calls to be completed.[584]

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[579] *See* Letter from Dee May, Asst. Vice President, Federal Regulatory, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-67 (filed May 31, 2002) (Verizon NJ II May 31 *Ex Parte* Letter); Letter from Dee May, Asst. Vice President, Federal Regulatory, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-67 (filed June 12, 2002) (Verizon NJ II June 12 *Ex Parte* Letter.

[580] *Motion of AT&T Corp. for Emergency Relief*, WC Docket No. 02-67, at 4-5 (filed June 13, 2002). Shortly thereafter, AT&T supplemented its motion with affidavits from two of its employees, one alleging that Verizon had engaged in telephone solicitation for its unauthorized New Jersey long distance service, and the other providing documentation of a confirmed order placed for Verizon long distance service in New Jersey on June 17, 2002, seven days prior to the statutory deadline for review of this application. *See* Letter from Robert H. Quinn, Jr., Vice President, Governmental Affairs, AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-67 (filed June 14, 2002) (AT&T NJ II June 14 *Ex Parte* Letter), attaching Declaration and Affidavit of Dilshad Khawaja, Ph.D.; Letter from Robert H. Quinn, Jr., Vice President, Governmental Affairs, AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-67 (filed June 17, 2002) (AT&T NJ II June 17 *Ex Parte* Letter), attaching Declaration and Affidavit of Michael C. Lamb.

[581] Verizon NJ II May 31 *Ex Parte* Letter at 1-2; *Verizon's Reply to AT&T's Motion for Emergency Relief*, WC Docket No. 02-67, at 3-4 (filed June 14, 2002).

[582] *Verizon's Reply to AT&T's Motion for Emergency Relief* at 4.

[583] Verizon NJ II June 12 *Ex Parte* Letter at 1.

[584] *Id.*

190. We recognize that potential violations of federal telecommunications law could be relevant to the section 271 inquiry.[585] Given the facts presented here, however, because the allegations do not relate to the openness of the local telecommunications markets to competition, we reject AT&T's argument that we should deny or delay this application under the public interest standard.[586] As a result, the Commission need not make any further determination here. Instead, we defer any enforcement action pending the outcome of the Enforcement Bureau's investigation of this matter. Regardless of what enforcement action we may take in the future, BOCs should not market long distance service in an in-region state prior to receiving section 271 approval from the Commission for that particular state, and we remind Verizon and all BOCs to exercise caution in this regard.

VII. SECTION 271(d)(6) ENFORCEMENT AUTHORITY

191. Section 271(d)(6) of the Act requires Verizon to continue to satisfy the "conditions required for . . . approval" of its section 271 application after the Commission approves its application.[587] Thus, the Commission has a responsibility not only to ensure that Verizon is in compliance with section 271 today, but also that it remains in compliance in the future. As the Commission has already described the post-approval enforcement framework and its section 271(d)(6) enforcement powers in detail in prior orders, it is unnecessary to do so again here.[588]

192. Working with the New Jersey Board, we intend to closely monitor Verizon's post-approval compliance for New Jersey to ensure that Verizon does not "cease[] to meet any of the conditions required for [section 271] approval."[589] We stand ready to exercise our various statutory enforcement powers quickly and decisively in appropriate circumstances to ensure that the local market remains open in New Jersey.

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[585] *See Ameritech Michigan Order*, 12 FCC Rcd at 20749-50, para. 397 ("Because the success of the market opening provisions of the 1996 Act depend, to a large extent, on the cooperation of incumbent LECs, including the BOCs, with new entrants and good faith compliance by such LECs with their statutory obligations , evidence that a BOC has engaged in a pattern of discriminatory conduct or disobeying federal and state telecommunications regulations would tend to undermine our confidence that the BOC's local market is, or will remain, open to competition once the BOC has received interLATA authority.").

[586] *See, e.g., Bell Atlantic New York Order*, 15 FCC Rcd 4126-27, para. 340; *Verizon Massachusetts Order*, 16 FCC Rcd at 9107, para. 211.

[587] 47 U.S.C. § 271(d)(6).

[588] *See, e.g., SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6382-84, paras. 283-85; *SWBT Texas Order*, 15 FCC Rcd at 18567-68, paras. 434-36; *Bell Atlantic New York Order*, 15 FCC Rcd at 4174, paras. 446-53; *see also* Appendix C.

[589] 47 U.S.C. § 271(d)(6)(A).

193. In the course of this proceeding, we have given Verizon's billing system close scrutiny, as have the New Jersey Board, the Department of Justice, and other commenters.[590] We will continue to monitor Verizon's OSS performance closely, especially its performance associated with notifiers, wholesale billing, and electronic order processing. As the Department of Justice recommends, in light of the relative lack of commercial usage of Verizon's OSS systems in New Jersey and Verizon's reliance on a similar manual reconciliation process in New Jersey as in Pennsylvania, we will closely monitor Verizon's wholesale billing performance in New Jersey following section 271 approval, as we are doing in Pennsylvania.[591] We are prepared to use our authority under section 271(d)(6) if evidence shows that recent improvements in Verizon's OSS performance have not been maintained.

194. Consistent with prior section 271 orders, we require Verizon to report to the Commission all New Jersey carrier-to-carrier performance metrics results and Incentive Plan monthly reports, beginning with the first full month after the effective date of this Order, and for each month thereafter for one year, unless extended by the Commission.[592] These results and reports will allow us to review Verizon's performance on an ongoing basis to ensure continued compliance with the statutory requirements. We are confident that cooperative state and federal oversight and enforcement can address any backsliding that may arise with respect to Verizon's entry into the New Jersey.

VIII. CONCLUSION

195. For the reasons discussed above, we grant Verizon's application for authorization under section 271 of the Act to provide in-region, interLATA services in the state of New Jersey.

IX. ORDERING CLAUSES

196. Accordingly, IT IS ORDERED that, pursuant to sections 4(i), 4(j), and 271 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j) and 271, Verizon's application to provide in-region, interLATA service in the state of New Jersey, filed on March 26, 2002, IS GRANTED.

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[590] *See* New Jersey Board NJ I Comments at 40-41; Department of Justice NJ I Evaluation at 5-6 n.21; Department of Justice NJ II Evaluation at 5-9; AT&T NJ I Comments at 22.

[591] Department of Justice NJ II Evaluation at 7 and n.27 (citing *Verizon Pennsylvania Order*, 16 FCC Rcd at 17445, at para. 42).

[592] These reports should include the electronic billing metrics identical to those reported in Pennsylvania.

197. IT IS FURTHER ORDERED that this Order SHALL BECOME EFFECTIVE July 3, 2002.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

LIST OF COMMENTERS

Commenter	Abbreviation
Allegiance Telecom of New Jersey, Inc.	Allegiance
Association of Communications Enterprises	ASCENT
AT&T Corp.	AT&T
Cavalier Telephone Mid-Atlantic, L.L.C.	Cavalier
Metro Teleconnect Companies, Inc.	Metro Teleconnect
Metropolitan Telecommunications	MetTel
National ALEC Association and Prepaid Communications Association (filing jointly)	Joint Commenters
New Jersey Board of Public Utilities	New Jersey Board
New Jersey Division of the Ratepayer Advocate	NJDRA
Sprint Communications Company L.P.	Sprint
WorldCom, Inc.	WorldCom
XO Communications, Inc.	XO

Reply Commenter	Abbreviation
AT&T Corp.	AT&T Reply
Conversent Communications of New Jersey, LLC	Conversent Reply
Metropolitan Telecommunications	MetTel Reply
New Jersey Cable Telecommunications Association	NJCTA Reply
New Jersey Division of the Ratepayer Advocate	NJDRA Reply
Verizon New Jersey Inc., *et al.*	Verizon Reply
WorldCom, Inc.	WorldCom Reply

Appendix B

New Jersey Performance Metrics

All data included here are taken from the New Jersey Carrier-to-Carrier Reports. This table is provided as a reference tool for the convenience of the reader. No conclusions are to be drawn from the raw data contained in this table. Our analysis is based on the totality of the circumstances, such that we may use non-metric evidence, and may rely more heavily on some metrics more than others, in making our determination. The inclusion of these particular metrics in this table does not necessarily mean that we relied on all of these metrics nor that other metrics may not also be important in our analysis. Some metrics that we have relied on in the past and may rely on for a future application were not included here because there was no data provided for them (usually either because there was no activity, or because the metrics are still under development). Metrics with no retail analog provided are usually compared with a benchmark. Note that for some metrics during the period provided, there may be changes in the metric definition, or changes in the retail analog applied, making it difficult to compare the data over time.

AGGREGATE METRICS

Metric No.	Metric Name
Preorder and OSS Availability:	
PO-1-01	Ave Resp Tm – Customer Service Record
PO-1-02	Ave Resp Tm – Due Date Availability
PO-1-03	Ave Resp Tm – Address Validation
PO-1-04	Ave Resp Tm – Product and Service Availability
PO-1-05	Ave Resp Tm – Tel Number Availability and Reservation
PO-1-06	Ave Resp Tm – Facility Availability – (ADSL Loop Qual)
PO-1-07	Ave Resp Tm – Rejected Query
PO-1-09	Parsed CSR
PO-1-10	Parsed CSR – CLEC Total
PO-2-01	OSS Interface Availability – Total
PO-2-02	OSS Interface Availability – Prime Time
PO-2-03	OSS Interface Availability – Non–Prime Time
PO-8-01	% On–Time – Manual Loop Qualification
PO-8-02	% On–Time – Engineering Record Request
OR-1-02	% On Time LSRC – Flow–Through
OR-1-04	% On Time LSRC < 6 Lines – Electronic – No Flow–Through
OR-1-06	% On Time LSRC >= 6 Lines – Electronic – No Flow–Through
OR-1-08	% On Time LSRC < 6 Lines – Fax
OR-1-10	% On Time LSRC >= 6 Lines – Fax
OR-1-11	Average Firm Order Confirmation (FOC) Time <=192 Forecasted Trunks
OR-1-12	% On Time FOC <= 192 Forecasted Trunks
OR-1-13	% On Time Design Layout Record (DLR)
OR-1-19	% On Time Response – Request for inbound (VZ–CLEC augment)

Metric No.	Metric Name
MR-1-01	Average Response Time – Create Trouble
MR-1-02	Average Response Time – Status Trouble
MR-1-03	Average Response Time – Modify Trouble
MR-1-04	Average Response Time – Request Cancellation of Trouble
MR-1-05	Average Response Time – Trouble Report History (by TN/Circuit)
MR-1-06	Average Response Time – Test Trouble (POTS Only)
Change Management, Billing, OS/DA, Interconnection and Collocation:	
PO-4-01	% Chng Mngmnt Ntcs & Chng Mngmnt Cnfrmtns sent on Time – (Combined Types 1–5)
BI-1-02	% DUF in 4 Business Days
BI-2-01	Timeliness of Carrier Bill
BI-3-01	% Billing Adjustments – Including Charges Adjusted Due to PCDs
BI-3-03	% Billing Adjustments – Excluding Charges Adjusted Due to PCDs
BI-4-01	% Usage Accuracy
BI-4-02	% Corrected Usage Records Delivered on Time
BI-5-01	% Accuracy of Mechanized Bill Feed
BI-6-01	% Completeness of Usage Charges – Including PCD Delayed Charges
BI-6-02	% Completeness of Usage Charges – Excluding PCD Delayed Charges
BI-7-01	% Completeness of Fractional Recurring Charges – Including PCD Delayed Charges
BI-7-02	% Completeness of Fractional Recurring Charges – Excluding PCD Delayed Charges

Metric No.	Metric Name
BI-8-01	% Completeness of Non–Recurring Charges – Including PCD Delayed Charges
BI-8-02	% Completeness of Non–Recurring Charges – Excluding PCD Delayed Charges
NP-1-01	% FTG Exceeding Blocking Standard
NP-1-02	% FTG Exceeding Blocking Standard (No Exceptions)
NP-1-03	Number Dedicated FTG Exceeding Blocking Standard – 2 Months
NP-1-04	Number Dedicated FTG Exceeding Blocking Standard – 3 Months
NP-2-01	% On Time Response to Request for Collocation (Physical, SCOPE, CCOE, Virtual)
NP-2-02	Average Interval – Physical Collocation
NP-2-03	Average Interval – SCOPE
NP-2-04	Average Interval – CCOE – VZ Equipment is Secure
NP-2-05	Average Interval – CCOE – VZ Equipment is Unsecured
NP-2-06	Average Interval – Virtual Collocation
NP-2-07	% On Time (Physical, SCOPE, CCOE, Virtual)
NP-2-08	Average Delay Days (Physical, SCOPE, CCOE, Virtual)
Ordering:	
OR-2-02	% On Time LSR Reject – Flow–Through
OR-2-04	% On Time LSR Reject < 6 Lines – Electronic – No Flow Through
OR-2-06	% On Time LSR Reject >= 6 Lines – Electronic – No Flow–Through
OR-2-08	% On Time LSR Reject < 6 Lines – Fax
OR-2-10	% On Time LSR Reject >= 6 Lines – Fax
OR-2-11	Average Trunk ASR Reject Time <= 192 Forecasted Trunks
OR-2-12	% On Time Trunk ASR Reject <= 192 Forecasted Trunks
OR-3-01	% Rejects
OR-4-02	Completion Notice – % On Time
OR-4-05	Work Completion Notice – % On Time
OR-4-09	% SOP to Bill Completion w/in 3 Business Days
OR-5-01	% Flow Through – Total

Metric No.	Metric Name
OR-5-02	% Flow Through – Simple
OR-5-03	% Flow Through – Achieved
OR-6-01	% Accuracy – Orders
OR-6-02	% Accuracy – Opportunities
OR-6-03	% Accuracy – LSRC
Provisioning:	
PR-1-09	Average Interval Offered – Total
PR-2-01	Average Interval Completed – Total No Dispatch
PR-2-02	Average Interval Completed – Total Dispatch
PR-2-03	Average Interval Completed – Dispatch (1–5 Lines)
PR-2-04	Average Interval Completed – Dispatch (6–9 Lines)
PR-2-05	Average Interval Completed – Dispatch (>= 10 Lines)
PR-2-06	Average Interval Completed – DS0
PR-2-07	Average Interval Completed – DS1
PR-2-08	Average Interval Completed – DS3
PR-2-09	Average Interval Completed
PR-2-18	Average Interval Completed – Disconnects
PR-4-01	% Missed Appointment – Verizon
PR-4-02	Average Delay Days
PR-4-04	% Missed Appt. – VZ – Dispatch
PR-4-05	% Missed Appt. – VZ – No Dispatch
PR-4-07	% On Time Performance – LNP
PR-4-09	% Missed Appt. – VZ – Standard Interval (W Coded) Orders –Total
PR-4-10	% Missed Appt. – VZ – Std. Int. (W Coded) Orders – Dispatch
PR-4-11	% Missed Appt. – VZ – Std. Int. (W Coded) Orders – No Dispatch
PR-4-14	% Completed On Time – With DD–2 Test Rslts, with 800 #& Serial#
PR-4-15	% Completed On Time – With DD–2 Test Rslts, with 800 # & with/without Serial #
PR-4-16	% Completed On Time – Without DD–2 Test,with 800 # & Serial #

Metric No.	Metric Name
PR-4-17	% Completed On Time – Without DD–2 Test Rslts, with 800 # & with/without Serial #
PR-4-18	% Completed On Time – Without DD–2 Test Rslts, without 800 # & without Serial #
PR-5-01	% Missed Appointment – Verizon – Facilities
PR-5-02	% Orders Held for Facilities > 15 Days
PR-5-03	% Orders Held for Facilities > 60 Days
PR-6-01	% Installation Troubles reported within 30 Days
PR-6-02	% Installation Troubles reported within 7 Days
PR-6-03	% Inst. Troubles reported w/ in 30 Days - FOK/TOK/CPE
PR-8-01	% Open Orders in a Hold Status > 30 Days
PR-8-02	% Open Orders in a Hold Status > 90 Days
PR-9-08	Average Duration of Service Interruption
Maintenance and Repair:	
MR-2-01	Network Trouble Report Rate
MR-2-02	Network Trouble Report Rate – Loop
MR-2-03	Network Trouble Report Rate – Central Office
MR-2-04	% Subsequent Reports
MR-2-05	% CPE/TOK/FOK Trouble Report Rate
MR-3-01	% Missed Repair Appointment – Loop
MR-3-02	% Missed Repair Appointment – Central Office
MR-3-03	% Missed Repair Appointment — CPE /TOK/FOK
MR-4-01	Mean Time To Repair – Total
MR-4-02	Mean Time to Repair - Loop Trouble
MR-4-03	Mean Time To Repair – Central Office Trouble
MR-4-04	% Cleared (all troubles) within 24 Hours
MR-4-05	% Out of Service > 2 Hours
MR-4-06	% Out of Service > 4 hours
MR-4-07	% Out of Service > 12 hours
MR-4-08	% Out of Service > 24 Hours
MR-5-01	% Repeat Reports within 30 Days

DISAGGREGATED METRICS

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
PRE-ORDERING & OSS AVAILIBILITY												
PO-1 - Response Time OSS Pre-Ordering Interface												
PO-1-01-6020	Ave Resp Tm – Customer Service Record – EDI	1.24	2.98	0.22	3.08	0.18	3.05	0.17	2.95	0.18	2.93	
PO-1-01-6030	Ave Resp Tm – Customer Service Record – CORBA	1.24	0.97	0.22	0.98	0.18	1.28	0.17	1.00	0.18	0.95	
PO-1-01-6050	Ave Resp Tm – Customer Service Record – Web GUI	1.24	2.84	0.22	2.67	0.18	2.69	0.17	2.61	0.18	2.69	
PO-1-02-6020	Ave Resp Tm – Due Date Availability – EDI	2.36	4.70	2.03	4.60	2.04	4.58	2.05	4.73	2.05	4.64	
PO-1-02-6030	Ave Resp Tm – Due Date Availability – CORBA	2.36	NA	2.03	NA	2.04	2.73	2.05	NA	2.05	2.72	
PO-1-02-6050	Ave Resp Tm – Due Date Availability – Web GUI	2.36	4.74	2.03	4.53	2.04	4.72	2.05	4.49	2.05	4.61	
PO-1-03-6020	Ave Resp Tm – Address Validation – EDI	5.84	6.71	5.53	7.58	5.85	7.20	5.77	6.06	5.59	6.25	
PO-1-03-6030	Ave Resp Tm – Address Validation – CORBA	5.84	6.18	5.53	6.30	5.85	5.57	5.77	5.42	5.59	3.72	
PO-1-03-6050	Ave Resp Tm – Address Validation – Web GUI	5.84	5.94	5.53	5.58	5.85	5.79	5.77	5.70	5.59	5.77	
PO-1-04-6020	Ave Resp Tm – Product and Service Availability – EDI	15.92	NA	10.82	NA	11.47	NA	11.25	NA	11.14	NA	
PO-1-04-6030	Ave Resp Tm – Product and Service Availability – CORBA	15.92	NA	10.82	NA	11.47	NA	11.25	NA	11.14	NA	
PO-1-04-6050	Ave Resp Tm – Product and Service Availability – Web GUI	15.92	13.55	10.82	13.41	11.47	13.71	11.25	13.57	11.14	14.10	
PO-1-05-6020	Ave Resp Tm – Tel Number Availability and Reservation – EDI	8.27	7.79	6.33	8.29	6.66	9.73	6.58	5.66	6.36	8.52	
PO-1-05-6030	Ave Resp Tm – Tel Number Availability and Reservation – CORBA	8.27	6.23	6.33	NA	6.66	3.27	6.58	NA	6.36	3.88	
PO-1-05-6050	Ave Resp Tm – Tel Number Availability and Reservation – Web GUI	8.27	6.67	6.33	6.39	6.66	6.38	6.58	6.27	6.36	6.44	
PO-1-06-6020	Ave Resp Tm – Facility Availability – (ADSL Loop Qual) – EDI	13.30	4.03	12.55	4.17	12.57	3.93	12.49	4.11	12.36	4.06	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
PO-1-06-6030	Ave Resp Tm – Facility Availability – (ADSL Loop Qual) – CORBA	13.30	NA	12.55	NA	12.57	NA	12.49	2.37	12.36	2.58	
PO-1-06-6050	Ave Resp Tm – Facility Availability – (ADSL Loop Qual) – Web GUI	13.30	4.47	12.55	4.30	12.57	4.43	12.49	4.21	12.36	4.32	
PO-1-07-6020	Ave Resp Tm – Rejected Query – EDI	0.26	2.15	0.03	2.17	0.02	2.26	0.02	2.30	0.02	2.31	
PO-1-07-6030	Ave Resp Tm – Rejected Query – CORBA	0.26	0.67	0.03	0.64	0.02	0.59	0.02	0.58	0.02	0.61	
PO-1-07-6050	Ave Resp Tm – Rejected Query – Web GUI	0.26	2.94	0.03	2.70	0.02	2.83	0.02	2.83	0.02	2.70	
PO-1-09-6020	Parsed CSR – EDI	1.24	2.02	0.22	2.09	0.18	2.06	0.17	1.96	0.18	1.99	
PO-1-09-6030	Parsed CSR – CORBA	1.24	0.33	0.22	0.31	0.18	0.34	0.17	0.34	0.18	0.36	
PO-2 - OSS Interface Availability												
PO-2-01-6030	OSS Interface Availability – Total – CORBA – Pre–Ordering		99.99		99.94		100.0		100.0		99.99	
PO-2-01-6040	OSS Interface Availability – Total – Web – GUI – Maintenance		99.43		99.48		99.39		99.45		99.15	
PO-2-01-6060	OSS Interface Availability – Total – Electronic Bonding – Maintenance		100.0		100.0		100.0		100.0		100.0	
PO-2-02-6020	OSS Interface Availability – Prime Time – EDI – Pre–Ordering		100.0		99.99		100.0		99.84		99.99	
PO-2-02-6030	OSS Interface Availability – Prime Time – CORBA – Pre–Ordering		100.0		99.90		100.0		100.0		100.0	
PO-2-02-6040	OSS Interface Availability – Prime Time – Web GUI – Maintenance		99.87		100.0		99.83		99.84		99.50	
PO-2-02-6050	OSS Interface Availability – Prime Time – Web GUI – Pre–Ordering		99.92		100.0		99.80		99.82		99.65	
PO-2-02-6060	OSS Interface Availability – Prime Time – Electronic Bonding – Maintenance		100.0		100.0		100.0		100.0		100.0	
PO-2-03-6030	OSS Interface Availability – Non–Prime Time – CORBA – Pre–Ordering		99.97		99.99		100.0		100.0		99.99	
PO-2-03-6040	OSS Interface Availability – Non–Prime Time – Web GUI – Maintenance		98.70		98.67		98.66		98.75		98.55	
PO-2-03-6060	OSS Interface Availability – Non–Prime Time – Electronic Bonding – Maintenance		100.0		100.0		100.0		100.0		100.0	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
PO-4 - Timeliness of Chng Mngmnt Notices & Confirmations												
PO-4-01-6600	% Chng Mngmnt Ntcs & Chng Mngmnt Cnfrmtns sent on Time – (Combined Types 1–5)		100.0		100.0		100.0		100.0		100.0	1
PO-8 - Manual Loop Qualification												
PO-8-01-2000	% On–Time – Manual Loop Qualification		99.76		100.0		99.61		100.0		66.67	1
PO-8-02-2000	% On–Time – Engineering Record Request		NA		NA		NA		NA		NA	
Trouble Reporting (OSS)												
MR-1 - Response Time OSS Maintenance Interface												
MR-1-01-6040	Average Response Time – Create Trouble – Web GUI	7.12	3.95	8.55	4.18	11.22	3.84	8.19	3.71	8.62	3.82	
MR-1-01-6060	Average Response Time – Create Trouble – Electronic Bonding	7.12	9.07	8.55	11.92	11.22	11.77	8.19	13.18	8.62	15.89	
MR-1-02-6040	Average Response Time – Status Trouble – Web GUI	1.01	0.45	1.27	0.41	1.88	0.39	3.94	3.42	4.41	4.21	
MR-1-02-6060	Average Response Time – Status Trouble – Electronic Bonding	1.01	0.21	1.27	0.20	1.88	0.21	3.94	0.20	4.41	0.23	
MR-1-03-6040	Average Response Time – Modify Trouble – Web GUI	7.12	NA	8.55	0.44	11.22	7.85	8.19	NA	8.40	3.97	
MR-1-03-6060	Average Response Time – Modify Trouble – Electronic Bonding	7.12	6.30	8.55	6.74	11.22	7.27	8.19	6.82	8.40	8.36	
MR-1-04-6040	Average Response Time – Request Cancellation of Trouble – Web GUI	8.73	5.38	10.06	4.13	12.61	7.55	9.49	8.16	9.77	5.75	
MR-1-04-6060	Average Response Time – Request Cancellation of Trouble – Electronic Bonding	8.73	NA	10.06	NA	12.61	NA	9.49	NA	9.77	NA	
MR-1-05-6040	Average Response Time – Trouble Report History (by TN/Circuit) – Web GUI	0.52	1.56	0.45	1.67	0.42	1.34	0.34	1.12	0.34	1.06	
MR-1-05-6060	Average Response Time – Trouble Report History (by TN/Circuit) – Electronic Bonding	NEF	NEF	NEF	NEF	NEF	NEF	NEF	NEF	NEF	NEF	
MR-1-06-6040	Average Response Time – Test Trouble (POTS Only) – Web Gui	48.07	48.81	50.11	41.11	51.56	42.78	52.05	41.15	53.37	43.48	
MR-1-06-6060	Average Response Time – Test Trouble (POTS Only) – Electronic Bonding	48.07	51.77	50.11	59.10	51.56	48.00	52.05	59.92	53.37	47.76	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
BILLING												
BI-1 - Timeliness of Daily Usage Feed												
BI-1-02-2030	% DUF in 4 Business Days		99.16		99.07		99.37		99.37		75.99	
BI-2 - Timeliness of Carrier Bill												
BI-2-01-2030	Timeliness of Carrier Bill		100.0		100.0		100.0		100.0		100.0	
BI-2-01-2000	Timeliness of Carrier Bill											
BI-3 - Billing Accuracy												
BI-3-01-2030	% Billing Adjustments – Including Charges Adjusted Due to PCDs	1.64	0.93	1.22	1.15	1.24	10.88	0.81	0.72	1.48	0.62	
BI-3-03-2030	% Billing Adjustments – Excluding Charges Adjusted Due to PCDs	1.60	0.92	1.16	1.15	1.19	10.88	0.79	0.72	1.43	0.62	
BI-4 - DUF Accuracy												
BI-4-01-2030	% Usage Accuracy		100.0		100.0		100.0		100.0		100.0	
BI-4-02-2030	% Corrected Usage Records Delivered on Time		NA		NA		NA		NA		NA	
BI-5 - Accuracy of Mechanized Bill Feed												
BI-5-01-2030	% Accuracy of Mechanized Bill Feed		100.0		100.0		100.0		100.0		100.0	
BI-6 - Completeness of Usage Charges												
BI-6-01-2030	% Completeness of Usage Charges – Including PCD Delayed Charges	99.85	99.78	99.30	99.90	99.99	99.99	100.0	100.0	99.99	100.0	
BI-6-02-2030	% Completeness of Usage Charges – Excluding PCD Delayed Charges	99.85	99.78	99.32	99.90	99.99	99.99	100.0	100.0	99.99	100.0	
BI-7 - Completeness of Fractional Recurring Charges												
BI-7-01-2030	% Completeness of Fractional Recurring Charges – Including PCD Delayed Charges	66.94	93.81	74.62	93.04	97.15	97.98	37.38	93.92	58.89	35.80	
BI-7-02-2030	% Completeness of Fractional Recurring Charges – Excluding PCD Delayed Charges	68.13	95.96	76.53	93.71	97.84	99.45	34.04	93.46	60.08	33.83	
BI-8 - Non-recurring Charge Completeness												
BI-8-01-2030	% Completeness of Non–Recurring Charges – Including PCD Delayed Charges	86.99	99.10	90.32	99.73	99.94	99.99	99.54	99.91	98.32	99.50	
BI-8-02-2030	% Completeness of Non–Recurring Charges – Excluding PCD Delayed Charges	86.76	99.35	92.42	99.87	99.93	99.99	99.53	99.91	98.54	99.48	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
POTS & Pre-qualified Complex												
OR-1 - Order Confirmation Timeliness												
OR-1-02-2320	% On Time LSRC – Flow–Through		96.88		99.33		99.99		99.47		98.48	
OR-1-04-2320	% On Time LSRC < 6 Lines – Electronic – No Flow–Through		97.98		98.17		98.59		98.40		99.18	
OR-1-06-2320	% On Time LSRC >=6 Lines – Electronic – No Flow–Through		99.67		98.74		99.74		99.66		99.76	
OR-1-08-2320	% On Time LSRC < 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-1-10-2320	% On Time LSRC >= 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-2 - Reject Timeliness												
OR-2-02-2320	% On Time LSR Reject – Flow–Through		98.36		99.72		99.93		99.55		99.56	
OR-2-04-2320	% On Time LSR Reject < 6 Lines – Electronic – No Flow–Through		99.23		98.92		99.45		99.66		99.65	
OR-2-06-2320	% On Time LSR Reject >= 6 Lines – Electronic ¬No Flow–Through		99.65		100.0		100.0		99.68		100.0	
OR-2-08-2320	% On Time LSR Reject < 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-2-10-2320	% On Time LSR Reject >=6 Lines – Fax		NA		NA		NA		NA		NA	
Complex Services - 2 Wire Digital												
OR-1 - Order Confirmation Timeliness - Requiring Loop Qualification												
OR-1-04-2341	% On Time LSRC < 6 Lines – Electronic – No Flow–Through		100.0		100.0		100.0		100.0		100.0	
OR-1-06-2341	% On Time LSRC >= 6 Lines – Electronic – No Flow–Through		100.0		100.0		100.0		100.0		100.0	2,3,4,5
OR-1-08-2341	% On Time LSRC < 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-1-10-2341	% On Time LSRC >= 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-2 - Reject Timeliness - Requiring Loop Qualification												
OR-2-04-2341	% On Time LSR Reject < 6 Lines – Electronic – No Flow–Through		100.0		100.0		100.0		100.0		100.0	
OR-2-06-2341	% On Time LSR Reject >= 6 Lines – Electronic – No Flow–Through		100.0		100.0		88.89		100.0		100.0	4,5
OR-2-08-2341	% On Time LSR Reject < 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-2-10-2341	% On Time LSR Reject >= 6 Lines – Fax		NA		NA		NA		NA		NA	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
Complex Services - 2 Wire xDSL												
OR-1 - Order Confirmation Timeliness - Requiring Loop Qualification												
OR-1-04-2342	% On Time LSRC < 6 Lines – Electronic – No Flow–Through		NA		NA		NA		NA		NA	
OR-1-06-2342	% On Time LSRC >= 6 Lines – Electronic – No Flow–Through		NA		NA		NA		NA		NA	
OR-1-08-2342	% On Time LSRC < 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-1-10-2342	% On Time LSRC >= 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-2 - Reject Timeliness - Requiring Loop Qualification												
OR-2-04-2342	% On Time LSR Reject < 6 Lines – Electronic – No Flow–Through		NA		NA		NA		NA		NA	
OR-2-06-2342	% On Time LSR Reject >= 6 Lines – Electronic – No Flow–Through		NA		NA		NA		NA		NA	
OR-2-08-2342	% On Time LSR Reject < 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-2-10-2342	% On Time LSR Reject >= 6 Lines – Fax		NA		NA		NA		NA		NA	
Special Services												
OR-1 - Order Confirmation Timeliness												
OR-1-04-2214	% On Time LSRC < 6 Lines – Non DS0, DS1, DS3 – Electronic – No Flow–Through		100.0		100.0		100.0		100.0		100.0	
OR-1-06-2210	% On Time LSRC >=6 Lines –DS0 – Electronic – No Flow–Through		NA		NA		NA		NA		NA	
OR-1-06-2211	% On Time LSRC >=6 Lines –DS1 – Electronic – No Flow–Through		NA		NA		NA		NA		100.0	5
OR-1-06-2213	% On Time LSRC >=6 Lines –DS3 – Electronic – No Flow–Through		NA		NA		NA		NA		NA	
OR-1-06-2214	% On Time LSRC >=6 Lines – Non DS0, DS1, DS3 – Electronic – No Flow–Through		100.0		87.50		100.0		100.0		100.0	1,2,3
OR-1-08-2214	% On Time LSRC < 6 Lines – Non DS0,DS1, & DS3 – Fax		NA		NA		NA		NA		NA	
OR-1-10-2210	% On Time LSRC >= 6 Lines –DS0– – Fax		NA		NA		NA		NA		NA	
OR-1-10-2211	% On Time LSRC >= 6 Lines –DS1– – Fax		NA		NA		NA		NA		NA	
OR-1-10-2213	% On Time LSRC >= 6 Lines –DS3– – Fax		NA		NA		NA		NA		NA	
OR-1-10-2214	% On Time LSRC >= 6 Lines – Non DS0, DS1, DS3 – Fax		NA		NA		NA		NA		NA	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
OR-2 - Reject Timeliness												
OR-2-04-2200	% On Time LSR Reject < 6 Lines – Electronic – No Flow–Through		100.0		100.0		100.0		99.10		100.0	
OR-2-06-2200	% On Time LSR Reject >= 6 Lines – Electronic – No Flow–Through		100.0		100.0		100.0		100.0		100.0	
OR-2-08-2200	% On Time LSR Reject < 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-2-10-2200	% On Time LSR Reject >=6 Lines – Fax		NA		NA		NA		NA		NA	
POTS / Special Services - Aggregate												
OR-3 - Percent Rejects												
OR-3-01-2000	% Rejects		24.78		21.53		19.48		22.05		19.91	
OR-4 - Timeliness of Completion Notification												
OR-4-02-2000	Completion Notice – % On Time		97.38		99.05		99.22		99.19		99.07	
OR-4-05-2000	Work Completion Notice – % On Time		99.91		100.0		100.0		99.92		100.0	
OR-5 - Percent Flow-Through												
OR-5-01-2000	% Flow Through – Total		80.90		79.79		82.79		80.08		80.03	
OR-5-03-2000	% Flow Through – Achieved		94.20		93.81		94.77		93.98		94.66	
OR-6 - Order Accuracy												
OR-6-01-2000	% Accuracy – Orders		96.06		96.14		97.70		96.66		98.75	
OR-6-02-2000	% Accuracy – Opportunities		99.66		99.62		99.64		99.72		99.90	
OR-6-03-2000	% Accuracy – LSRC		0.08		0.09		0.00		0.02		0.02	
POTS - Provisioning - Total												
PR-2 - Average Completed Interval												
PR-2-04-2100	Average Interval Completed – Dispatch (6–9 Lines)	6.45	3.75	5.52	1.60	7.06	2.22	6.01	2.00	5.84	2.00	1,2,4,5
PR-2-05-2100	Average Interval Completed – Dispatch (>= 10 Lines)	7.41	3.20	7.23	2.00	7.59	4.33	6.14	3.80	6.18	1.00	1,2,3,4,5
PR-4 - Missed Appointments												
PR-4-02-2100	Average Delay Days – Total	3.50	2.66	3.36	1.93	2.24	5.04	3.58	2.07	2.48	1.77	
PR-4-04-2100	% Missed Appt. – VZ – Dispatch	11.27	2.97	11.86	3.37	10.74	3.83	11.55	5.88	11.08	4.20	
PR-4-05-2100	% Missed Appt. – VZ – No Dispatch	0.65	0.26	0.99	0.61	0.66	0.15	0.79	0.17	0.73	0.22	
PR-4-10-2100	% Missed Appt. – VZ – Standard Interval (W Coded) Orders – Dispatch	11.38	3.28	11.81	2.74	10.62	3.38	11.57	5.77	11.40	4.71	
PR-4-11-2100	% Missed Appt. – VZ – Standard Interval (W Coded) Orders – No Dispatch	0.63	0.22	0.73	0.63	0.66	0.11	0.64	0.17	0.71	0.18	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
PR-6 - Installation Quality												
PR-6-01-2100	% Installation Troubles reported within 30 Days	5.40	5.28	5.57	4.98	4.61	6.00	4.72	5.23	4.86	5.06	
PR-6-02-2100	% Installation Troubles reported within 7 Days	3.63	3.46	3.70	3.43	3.12	4.19	3.12	3.48	3.23	3.25	
PR-6-03-2100	% Installation Troubles reported within 30 Days – *FOK/TOK/CPE*	3.96	3.26	3.72	2.51	3.12	3.17	3.23	3.16	3.35	3.02	
PR-8 - Open Orders in a Hold Status												
PR-8-01-2100	% Open Orders in a Hold Status > 30 Days	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
PR-8-02-2100	% Open Orders in a Hold Status > 90 Days	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
POTS - Business												
PR-2 - Average Completed Interval												
PR-2-01-2110	Average Interval Completed – Total No Dispatch	2.62	1.20	3.66	0.99	2.44	1.05	1.82	1.20	2.75	1.32	
PR-2-03-2110	Average Interval Completed – Dispatch (1–5 Lines)	4.24	2.37	4.41	2.78	4.35	2.89	4.18	2.26	4.33	3.38	
POTS - Residence												
PR-2 - Average Completed Interval												
PR-2-01-2120	Average Interval Completed – Total No Dispatch	1.07	1.18	1.23	1.11	0.98	1.00	0.88	0.54	0.78	1.34	
PR-2-03-2120	Average Interval Completed – Dispatch (1–5 Lines)	4.11	2.55	4.26	2.51	4.10	2.61	4.08	2.64	4.04	2.74	
Complex Services - 2 Wire Digital												
PR-2 - Average Completed Interval												
PR-2-01-2341	Average Interval Completed – Total No Dispatch	6.00	NA	6.00	NA	6.00	NA	6.00	NA	6.20	NA	
PR-2-02-2341	Average Interval Completed – Total Dispatch	6.03	6.00	6.48	10.50	6.04	NA	6.17	NA	6.18	6.00	1,2,5
PR-4 - Missed Appointment												
PR-4-02-2341	Average Delay Days – Total	2.33	NA	3.73	1.00	2.57	3.00	1.77	NA	2.53	NA	2,3
PR-4-04-2341	% Missed Appt. – VZ – Dispatch	8.04	0.00	7.38	18.18	6.45	0.00	8.74	0.00	7.36	0.00	1,4,5
PR-4-05-2341	% Missed Appt. – VZ – No Dispatch	0.21	0.00	1.10	0.00	0.79	12.50	0.30	0.00	1.80	0.00	1,3,4
PR-4-10-2341	% Missed Appt. – VZ – Std. Int. (W Coded) Orders – Dispatch	9.56	0.00	9.23	12.50	7.99	0.00	10.88	0.00	10.52	0.00	1,2,4,5
PR-4-11-2341	% Missed Appt. – VZ – Std. Int. (W Coded) Orders – No Dispatch	0.24	0.00	1.32	0.00	0.86	6.67	0.36	0.00	2.02	0.00	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
PR-6 - Installation Quality												
PR-6-01-2341	% Installation Troubles reported within 30 Days	5.58	27.27	4.76	8.33	4.93	0.00	5.21	0.00	5.22	14.29	4,5
PR-6-03-2341	% Inst. Troubles reported w/ in 30 Days – FOK/TOK/CPE	5.19	0.00	3.96	8.33	3.01	35.71	4.08	0.00	6.29	42.86	4,5
PR-8 - Open Orders in a Hold Status												
PR-8-01-2341	% Open Orders in a Hold Status > 30 Days	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	4
PR-8-02-2341	% Open Orders in a Hold Status > 90 Days	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	4
Complex Services - 2 Wire xDSL												
PR-2 - Average Completed Interval												
PR-2-01-2342	Average Interval Completed – Total No Dispatch	4.62	NA	4.20	NA	3.98	NA	3.33	NA	3.21	NA	
PR-2-02-2342	Average Interval Completed – Total Dispatch	4.74	NA	5.25	NA	4.65	NA	3.63	NA	3.50	NA	
PR-4 - Missed Appointment												
PR-4-02-2342	Average Delay Days – Total	7.74	3.00	7.72	NA	2.92	NA	8.83	NA	1.76	NA	1
PR-4-04-2342	% Missed Appt. – VZ – Dispatch	7.47	100.0	6.12	NA	5.92	0.00	4.09	NA	5.41	NA	1,3
PR-4-05-2342	% Missed Appt. – VZ – No Dispatch	0.52	0.00	1.46	0.00	0.22	0.00	0.28	0.00	0.06	0.00	1,2,3,5
PR-4-10-2342	% Missed Appt. – VZ – Std. Int. (W Coded) Orders – Dispatch	8.39	100.0	7.95	NA	7.54	NA	6.04	NA	7.36	NA	1
PR-4-11-2342	% Missed Appt. – VZ – Std. Int. (W Coded) Orders – No Dispatch	0.45	0.00	0.44	0.00	0.49	0.00	0.35	0.00	0.07	0.00	1,2,3, 4,5
PR-6 - Installation Quality												
PR-6-01-2342	% Installation Troubles reported within 30 Days	12.84	0.00	11.58	7.14	6.95	0.00	3.59	0.96	3.16	2.27	
PR-6-03-2342	% Inst. Troubles reported w/ in 30 Days – FOK/TOK/CPE	10.11	0.00	8.93	0.00	5.67	2.00	2.85	3.85	2.66	0.00	
PR-8 - Open Orders in a Hold Status												
PR-8-01-2342	% Open Orders in a Hold Status > 30 Days	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,2,3,5
PR-8-02-2342	% Open Orders in a Hold Status > 90 Days	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,2,3,5
POTS & Complex Aggregate												
PR-2 - Average Completed Interval												
PR-2-18-2103	Average Interval Completed – Disconnects	3.29	1.10	3.37	1.20	2.82	1.23	3.23	1.59	3.53	1.82	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
Special Services - Provisioning												
PR-2 - Average Completed Interval												
PR-2-01-2200	Average Interval Completed – Total No Dispatch	7.50	17.24	7.97	3.00	7.89	NA	10.92	5.25	14.71	13.20	4
PR-2-02-2200	Average Interval Completed – Total Dispatch	6.80	7.00	8.87	5.00	9.35	8.00	9.45	5.00	17.06	15.20	1,2,3, 4,5
PR-2-06-2210	Average Interval Completed – DS0	5.58	NA	7.60	2.00	8.10	NA	13.44	NA	16.33	NA	2
PR-2-07-2211	Average Interval Completed – DS1	7.43	20.27	9.21	3.00	9.04	NA	9.58	6.00	15.01	30.20	2,4,5
PR-2-08-2213	Average Interval Completed – DS3	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	
PR-2-18-2200	Average Interval Completed – Disconnects	11.49	4.72	8.23	4.10	7.16	6.80	11.45	5.00	15.11	4.81	4
PR-4 - Missed Appointments												
PR-4-01-2200	% Missed Appt. – VZ – Total	8.86	13.43	2.52	4.35	4.25	12.12	3.85	6.90	4.01	7.44	
PR-4-02-2200	Average Delay Days – Total	7.26	2.33	3.88	2.00	6.97	2.38	7.87	11.50	6.77	2.33	2,3,4
PR-4-09-2200	% Missed Appt. – VZ – Standard Interval (W Coded) Orders –Total	8.82	0.00	3.21	0.00	4.30	7.14	3.96	0.00	4.01	0.00	
PR-6- Installation Quality												
PR-6-01-2200	% Installation Troubles reported within 30 Days	2.14	0.00	1.71	4.17	1.89	1.79	2.92	5.88	3.18	0.00	
PR-6-03-2200	% Installation Troubles reported within 30 Days – FOK/TOK/CPE	1.02	0.00	1.32	0.00	0.90	1.79	0.73	0.00	1.63	0.00	
PR-8 - Open Orders in a Hold Status												
PR-8-01-2200	% Open Orders in a Hold Status > 30 Days	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
PR-8-02-2200	% Open Orders in a Hold Status > 90 Days	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
POTS - Maintenance												
MR-2 - Trouble Report Rate												
MR-2-02-2100	Network Trouble Report Rate – Loop	0.90	0.87	0.98	0.86	0.95	1.01	0.83	0.85	1.00	1.01	
MR-2-03-2100	Network Trouble Report Rate – Central Office	0.11	0.07	0.15	0.07	0.12	0.10	0.10	0.07	0.10	0.08	
MR-2-04-2100	% Subsequent Reports	8.04	6.01	8.12	8.43	6.24	6.98	5.90	10.22	5.91	8.16	
MR-2-05-2100	% CPE/TOK/FOK Trouble Report Rate	0.81	0.55	0.86	0.52	0.82	0.59	0.69	0.52	0.77	0.59	
MR-3 - Missed Repair Appointments												
MR-3-01-2100	% Missed Repair Appointment – Loop	16.52	8.65	19.89	12.07	17.70	12.18	18.87	12.17	19.87	13.51	
MR-3-02-2100	% Missed Repair Appointment – Central Office	14.50	24.37	23.47	29.66	10.81	16.48	7.73	8.62	6.71	8.09	
MR-3-03-2100	% Missed Repair Appointment — CPE /TOK/FOK	9.83	11.90	15.05	14.35	9.26	9.27	9.01	6.36	9.03	8.47	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
MR-4 - Trouble Duration Intervals												
MR-4-01-2100	Mean Time To Repair – Total	20.58	16.84	23.43	19.71	20.55	17.75	21.97	18.38	22.69	19.58	
MR-4-02-2100	Mean Time to Repair – Loop Trouble	21.77	16.93	24.94	19.85	22.02	18.18	23.71	18.99	24.28	20.32	
MR-4-03-2100	Mean Time To Repair – Central Office Trouble	10.80	15.77	13.45	17.91	9.30	13.62	7.97	11.02	7.50	10.39	
MR-4-04-2100	% Cleared (all troubles) within 24 Hours	74.46	82.99	67.39	75.95	73.54	78.95	71.00	79.92	68.13	76.97	
MR-4-06-2100	% Out of Service > 4 hours	78.07	69.63	80.76	74.68	77.65	69.91	79.46	74.53	83.50	81.79	
MR-4-07-2100	% Out of Service > 12 hours	61.11	58.86	64.89	64.44	62.08	59.01	64.31	63.40	68.31	68.34	
MR-4-08-2100	% Out of Service > 24 Hours	23.64	16.08	29.39	21.99	23.90	20.17	25.85	18.61	29.05	22.82	
MR-5 - Repeat Trouble Reports												
MR-5-01-2100	% Repeat Reports within 30 Days	17.82	20.48	18.88	20.75	17.83	20.73	17.22	20.47	17.91	18.64	
Complex Services - 2 Wire Digital												
MR-2 - Trouble Report Rate												
MR-2-02-2341	Network Trouble Report Rate – Loop	0.52	0.41	0.48	0.32	0.47	0.38	0.48	0.31	0.52	0.18	
MR-2-03-2341	Network Trouble Report Rate – Central Office	0.14	0.14	0.15	0.05	0.15	0.20	0.15	0.07	0.15	0.04	
MR-2-04-2341	% Subsequent Reports	14.62	20.00	10.97	27.27	11.56	10.34	11.71	5.56	14.75	16.67	
MR-2-05-2341	% CPE/TOK/FOK Trouble Report Rate	0.88	0.36	0.86	0.43	0.88	1.35	0.79	0.29	0.86	0.38	
MR-3 - Missed Repair Appointments												
MR-3-01-2341	% Missed Repair Appointment – Loop	43.14	83.33	45.80	64.29	47.27	70.59	48.35	71.43	39.74	50.00	5
MR-3-02-2341	% Missed Repair Appointment – Central Office	41.12	50.00	32.20	0.00	34.48	55.56	30.63	33.33	31.86	50.00	1,2,4,5
MR-3-03-2341	% Missed Repair Appointment — CPE /TOK/FOK	34.95	37.50	26.28	26.32	32.50	30.00	30.65	46.15	29.26	17.65	
MR-4 - Trouble Duration Intervals												
MR-4-01-2341	Mean Time To Repair – Total	23.67	38.52	23.87	33.50	25.73	20.24	25.45	27.22	21.72	15.07	
MR-4-02-2341	Mean Time to Repair – Loop Trouble	25.24	43.35	26.82	35.90	29.26	23.05	26.80	30.90	24.15	4.38	5
MR-4-03-2341	Mean Time To Repair – Central Office Trouble	17.80	24.03	14.64	16.66	14.59	14.94	21.05	10.03	13.32	57.83	1,2,4,5
MR-4-04-2341	% Cleared (all troubles) within 24 Hours	63.19	58.33	64.89	56.25	63.49	61.54	65.68	64.71	69.58	90.00	
MR-4-07-2341	% Out of Service > 12 hours	53.87	73.33	61.78	87.50	62.72	73.33	60.69	76.92	52.69	0.00	2,5
MR-4-08-2341	% Out of Service > 24 Hours	35.92	33.33	35.91	50.00	34.49	46.67	35.11	38.46	27.96	0.00	2,5
MR-5 - Repeat Trouble Reports												
MR-5-01-2341	% Repeat Reports within 30 Days	13.78	16.67	14.99	12.50	14.73	19.23	16.84	11.76	17.10	0.00	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
Complex Services - 2 Wire xDSL												
MR-2 - Trouble Report Rate												
MR-2-02-2342	Network Trouble Report Rate – Loop	1.68	2.71	1.73	2.60	1.73	0.92	1.51	0.87	1.72	0.85	
MR-2-03-2342	Network Trouble Report Rate – Central Office	0.28	0.34	0.33	0.65	0.34	0.00	0.25	0.00	0.26	0.00	
MR-2-04-2342	% Subsequent Reports	13.52	10.00	10.85	0.00	9.29	0.00	7.77	0.00	8.07	25.00	3,4,5
MR-2-05-2342	% CPE/TOK/FOK Trouble Report Rate	1.82	1.02	1.77	0.32	1.75	1.83	1.43	1.45	1.61	0.85	
MR-3 - Missed Repair Appointments												
MR-3-01-2342	% Missed Repair Appointment – Loop	20.82	37.50	24.15	37.50	21.13	0.00	21.50	0.00	23.15	33.33	1,2,3, 4,5
MR-3-02-2342	% Missed Repair Appointment – Central Office	25.95	0.00	30.51	0.00	20.51	NA	14.25	NA	14.21	NA	1,2
MR-3-03-2342	% Missed Repair Appointment – CPE /TOK/FOK	13.77	0.00	19.51	0.00	13.59	16.67	11.87	0.00	12.54	33.33	1,2,3, 4,5
MR-4 - Trouble Duration Intervals												
MR-4-01-2342	Mean Time To Repair – Total											
MR-4-02-2342	Mean Time to Repair – Loop Trouble	25.73	24.48	29.61	26.08	26.72	15.43	27.21	29.91	27.96	26.29	1,2,3, 4,5
MR-4-03-2342	Mean Time To Repair – Central Office Trouble	21.37	21.82	19.91	8.09	18.22	NA	14.36	NA	13.18	NA	1,2
MR-4-04-2342	% Cleared (all troubles) within 24 Hours	65.07	55.56	59.27	80.00	66.18	100.0	63.74	66.67	62.15	66.67	3,4,5
MR-4-07-2342	% Out of Service > 12 hours	72.56	75.00	75.53	77.78	73.58	66.67	74.91	100.0	77.67	66.67	1,3,4,5
MR-4-08-2342	% Out of Service > 24 Hours	33.04	37.50	39.38	22.22	32.29	0.00	34.52	33.33	35.11	33.33	1,3,4,5
MR-5 - Repeat Trouble Reports												
MR-5-01-2342	% Repeat Reports within 30 Days	21.43	0.00	22.13	0.00	20.23	0.00	19.99	0.00	21.08	33.33	3,4,5
Special Services - Maintenance												
MR-2 - Trouble Report Rate												
MR-2-01-2200	Network Trouble Report Rate – Total	0.17	0.00	0.16	0.43	0.20	0.30	0.17	0.41	0.17	0.08	
MR-2-05-2200	% CPE/TOK/FOK Trouble Report Rate	0.24	0.33	0.24	0.82	0.24	0.97	0.22	0.70	0.25	0.42	
MR-4 - Trouble Duration Intervals												
MR-4-01-2200	Mean Time To Repair – Total	5.09	NA	5.90	3.14	5.26	4.92	5.02	4.01	5.36	2.96	3,5
MR-4-02-2200	Mean Time to Repair – Loop Trouble – Specials	6.29	NA	7.98	4.19	6.74	3.20	6.71	4.55	7.03	3.92	2,3,4,5
MR-4-04-2200	% Cleared (all troubles) within 24 Hours	98.72	NA	97.26	100.0	98.06	100.0	98.36	100.0	97.92	100.0	3,5
MR-4-06-2200	% Out of Service > 4 hours – Specials	46.47	NA	49.31	33.33	48.54	50.00	46.71	25.00	48.08	0.00	3,4,5
MR-4-07-2200	% Out of Service > 12 hours – Specials	5.77	NA	11.17	0.00	7.91	16.67	6.91	0.00	7.85	0.00	3,4,5

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
MR-4-08-2200	% Out of Service > 24 Hours – Specials	1.28	NA	2.75	0.00	1.94	0.00	1.64	0.00	2.08	0.00	3,4,5
MR-5 - Repeat Trouble Reports												
MR-5-01-2200	% Repeat Reports within 30 Days	19.39	NA	15.61	30.00	18.31	42.86	15.60	20.00	18.27	0.00	3,5
UNBUNDLED NETWORK ELEMENTS (UNEs)												
POTS Loop/Pre-Qualified Complex/LNP												
OR-1 - Order Confirmation Timeliness												
OR-1-02-3331	% On Time LSRC – Flow–Through		98.87		99.95		99.71		99.14		99.61	
OR-1-04-3331	% On Time LSRC < 6 Lines – Electronic – No Flow–Through		97.03		99.23		97.44		98.36		98.23	
OR-1-06-3331	% On Time LSRC >=6 Lines – Electronic		98.36		99.28		99.44		99.78		99.21	
OR-1-08-3331	% On Time LSRC < 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-1-10-3331	% On Time LSRC >= 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-2 - Reject Timeliness												
OR-2-02-3331	% On Time LSR Reject – Flow–Through		99.19		99.74		100.0		100.0		99.75	
OR-2-04-3331	% On Time LSR Reject < 6 Lines – Electronic – No Flow–Through		97.82		97.70		99.06		98.59		98.82	
OR-2-06-3331	% On Time LSR Reject >= 6 Lines – Electronic		98.72		100.0		100.0		100.0		99.54	
OR-2-08-3331	% On Time LSR Reject < 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-2-10-3331	% On Time LSR Reject >=6 Lines – Fax		NA		NA		NA		NA		NA	
POTS Platform												
OR-1 - Order Confirmation Timeliness												
OR-1-02-3140	% On Time LSRC – Flow–Through		99.50		99.44		100.0		99.56		99.80	
OR-1-04-3140	% On Time LSRC < 6 Lines – Electronic – No Flow–Through		97.58		98.64		98.16		98.03		98.14	
OR-1-06-3140	% On Time LSRC >=6 Lines – Electronic – No Flow–Through		100.0		99.64		100.0		100.0		99.66	
OR-1-08-3140	% On Time LSRC < 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-1-10-3140	% On Time LSRC >= 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-2 - Reject Timeliness												
OR-2-02-3140	% On Time LSR Reject – Flow–Through		98.72		100.0		100.0		98.10		99.16	
OR-2-04-3140	% On Time LSR Reject < 6 Lines – Electronic – No Flow–Through		98.88		99.00		98.71		98.68		99.26	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
OR-2-06-3140	% On Time LSR Reject >= 6 Lines – Electronic – No Flow–Through		100.0		100.0		99.66		100.0		100.0	
OR-2-08-3140	% On Time LSR Reject < 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-2-10-3140	% On Time LSR Reject >=6 Lines – Fax		NA		NA		NA		NA		NA	
Complex Services - 2 Wire Digital												
OR-1 - Order Confirmation Timeliness - Requiring Loop Qualification												
OR-1-04-3341	% On Time LSRC < 6 Lines – Electronic – No Flow –Through		99.31		100.0		100.0		100.0		98.82	
OR-1-06-3341	% On Time LSRC >=6 Lines – Electronic – No Flow–Through		NA		NA		NA		NA		NA	
OR-1-08-3341	% On Time LSRC < 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-1-10-3341	% On Time LSRC >= 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-2 - Reject Timeliness - Requiring Loop Qualification												
OR-2-04-3341	% On Time LSR Reject < 6 Lines – Electronic – No Flow–Through		100.0		100.0		100.0		100.0		100.0	
OR-2-06-3341	% On Time LSR Reject >= 6 Lines – Electronic – No Flow–Through		NA		NA		NA		NA		NA	
OR-2-08-3341	% On Time LSR Reject < 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-2-10-3341	% On Time LSR Reject >=6 Lines – Fax		NA		NA		NA		NA		NA	
Complex Services - 2 Wire xDSL												
OR-1 - Order Confirmation Timeliness - Requiring Loop Qualification												
OR-1-04-3342	% On Time LSRC < 6 Lines – Electronic – No Flow –Through		99.42		100.0		97.87		99.17		97.67	
OR-1-04-3343	% On Time LSRC < 6 Lines - Electronic - No Flow -Through		97.37		96.88		100.0		100.0		100.0	
OR-1-06-3342	% On Time LSRC >=6 Lines – Electronic – No Flow–Through		NA		NA		NA		NA		NA	
OR-1-06-3343	% On Time LSRC >=6 Lines - Electronic - No Flow-Through		NA		NA		NA		NA		NA	
OR-1-08-3342	% On Time LSRC < 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-1-10-3342	% On Time LSRC >= 6 Lines – Fax		NA		NA		NA		NA		NA	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
OR-2 - Reject Timeliness - Requiring Loop Qualification												
OR-2-04-3342	% On Time LSR Reject < 6 Lines – Electronic – No Flow–Through		100.0		100.0		100.0		100.0		100.0	
OR-2-04-3343	% On Time LSR Reject < 6 Lines - Electronic - No Flow-Through		100.0		100.0		100.0		100.0		100.0	3
OR-2-06-3342	% On Time LSR Reject >= 6 Lines – Electronic – No Flow–Through		NA		NA		NA		NA		NA	
OR-2-06-3343	% On Time LSR Reject >= 6 Lines - Electronic - No Flow-Through		NA		NA		NA		NA		NA	
OR-2-08-3342	% On Time LSR Reject < 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-2-10-3342	% On Time LSR Reject >=6 Lines – Fax		NA		NA		NA		NA		NA	
Special Services												
OR-1 - Order Confirmation Timeliness												
OR-1-04-3214	% On Time LSRC < 6 Lines – Non DS0, DS1, DS3 – Electronic – No Flow–Through		95.35		100.0		100.0		100.0		100.0	4,5
OR-1-06-3210	% On Time LSRC >=6 Lines –DS0 – Electronic – No Flow–Through		NA		NA		NA		NA		NA	
OR-1-06-3211	% On Time LSRC >=6 Lines –DS1 – Electronic – No Flow–Through		100.0		100.0		NA		NA		76.77	1,2
OR-1-06-3213	% On Time LSRC >=6 Lines –DS3 – Electronic – No Flow–Through		NA		NA		NA		NA		89.13	
OR-1-06-3214	% On Time LSRC >=6 Lines – Non DS0, DS1, DS3 – Electronic – No Flow–Through		100.0		100.0		100.0		100.0		NA	1,2,3,4
OR-1-08-3214	% On Time LSRC < 6 Lines – Non DS0,DS1, & DS3 – Fax		NA		NA		NA		NA		NA	
OR-1-10-3210	% On Time LSRC >= 6 Lines –DS0 – Fax		NA		NA		NA		NA		NA	
OR-1-10-3211	% On Time LSRC >= 6 Lines –DS1 – Fax		NA		NA		NA		NA		NA	
OR-1-10-3213	% On Time LSRC >= 6 Lines –DS3 – Fax		NA		NA		NA		NA		NA	
OR-1-10-3214	% On Time LSRC >= 6 Lines – Non DS0, DS1, DS3 – Fax		NA		NA		NA		NA		NA	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
OR-2 - Reject Timeliness												
OR-2-04-3200	% On Time LSR Reject < 6 Lines – Electronic – *No Flow Through*		85.93		85.00		72.35		91.94		100.0	5
OR-2-06-3200	% On Time LSR Reject >= 6 Lines – Electronic – No Flow-Through		100.0		100.0		100.0		NA		95.27	1,2
OR-2-08-3200	% On Time LSR Reject < 6 Lines – Fax		NA		NA		NA		NA		NA	
OR-2-10-3200	% On Time LSR Reject >=6 Lines – Fax		NA		NA		NA		NA		NA	
POTS / Special Services - Aggregate												
OR-3 - Percent Rejects												
OR-3-01-3000	% Rejects		47.22		40.86		35.55		38.39		40.21	
OR-4 - Timeliness of Completion Notification												
OR-4-02-3000	Completion Notice – % On Time		95.24		97.30		96.00		97.11		95.10	
OR-4-05-3000	Work Completion Notice – % On Time		100.0		100.0		100.0		100.0		100.0	
OR-4-09-3000	% SOP to Bill Completion w/in 3 Business Days		94.52		97.94		91.12		95.43		91.88	
OR-5 - Percent Flow-Through												
OR-5-01-3000	% Flow Through – Total		47.84		51.35		35.78		53.95		52.72	
OR-5-02-3000	% Flow Through – Simple		47.06		51.01		31.29		52.00		51.16	
OR-5-03-3000	% Flow Through – Achieved		82.83		77.93		85.34		89.82		90.50	
OR-6 - Order Accuracy												
OR-6-01-3000	% Accuracy – Orders		97.71		97.92		96.85		96.65		97.25	
OR-6-02-3000	% Accuracy – Opportunities		97.29		99.26		99.32		99.80		99.88	
OR-6-03-3000	% Accuracy – Local Service Request Confirmation		0.02		0.02		0.02		0.00		0.00	
POTS - Provisioning												
PR-2 - Average Completed Interval												
PR-2-01-3111	Average Interval Completed – Total No Dispatch – Hot Cut Loop	2.62	6.23	3.66	5.47	2.44	5.36	1.82	4.94	2.75	5.10	
PR-2-01-3122	Average Interval Completed – Total No Dispatch – Other (Switch & INP)	2.62	0.00	3.66	NA	2.44	3.08	1.82	3.21	2.75	2.46	1
PR-2-01-3140	Average Interval Completed – Total No Dispatch – Platform	2.62	1.59	3.66	1.54	2.44	1.64	1.82	1.42	2.75	1.49	
PR-2-03-3112	Average Interval Completed – Dispatch (1–5 Lines) – Loop	4.24	4.56	4.41	5.86	4.35	5.59	4.18	6.33	4.33	5.20	2,4,5

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
PR-2-03-3140	Average Interval Completed – Dispatch (1–5 Lines) – Platform	4.24	2.75	4.41	2.39	4.35	3.08	4.18	2.41	4.33	3.53	
PR-2-04-3112	Average Interval Completed – Dispatch (6–9 Lines) – Loop	6.45	NA	5.52	NA	7.06	6.00	6.01	18.00	5.84	6.00	3,4,5
PR-2-04-3140	Average Interval Completed – Dispatch (6–9 Lines) – Platform	6.45	2.00	5.52	1.50	7.06	3.50	6.01	1.57	5.84	1.67	1,2,3, 4,5
PR-2-05-3112	Average Interval Completed – Dispatch (>= 10 Lines) – Loop	7.41	NA	7.23	9.00	7.59	NA	6.14	8.50	6.18	NA	2,4
PR-2-05-3140	Average Interval Completed – Dispatch (>= 10 Lines) – Platform	7.41	2.00	7.23	2.00	7.59	2.25	6.14	2.83	6.18	2.00	1,2,3, 4,5
PR-4 - Missed Appointments												
PR-4-02-3100	Average Delay Days – Total	3.50	3.50	3.36	4.13	2.24	14.05	3.58	3.73	2.48	1.91	
PR-4-04-3113	% Missed Appointment – Verizon – Dispatch – Loop New	11.27	3.03	11.86	2.38	10.74	1.82	11.55	1.11	11.08	1.50	
PR-4-04-3140	% Missed Appointment – Verizon – Dispatch – Platform	11.27	3.49	11.86	8.24	10.74	5.19	11.55	3.18	11.08	8.05	
PR-4-05-3123	% Missed Appointment – Verizon – No Dispatch – Other than Platform & Hot Cut	0.65	0.00	0.99	0.00	0.66	0.00	0.79	0.79	0.73	0.00	
PR-4-05-3140	% Missed Appointment – Verizon – No Dispatch – Platform	0.65	0.25	0.99	0.22	0.66	0.44	0.79	0.33	0.73	0.23	
PR-4-07-3540	% On Time Performance – LNP		97.80		98.62		95.59		96.43		95.82	
PR-4-10-3113	% MA – VZ – Std. Interval (W Coded) Orders – Disp. – Loop New	11.38	0.00	11.81	0.00	10.62	3.13	11.57	7.14	11.40	0.00	
PR-4-10-3140	% MA – VZ – Std. Interval (W Coded) Orders – Disp. – Platform	11.38	4.55	11.81	7.89	10.62	7.69	11.57	2.04	11.40	2.86	
PR-4-11-3123	% MA – VZ – Std. Interval (W Coded) Orders – No Disp. – Other than Platform & Hot Cut	0.63	0.00	0.73	0.00	0.66	0.00	0.64	2.50	0.71	0.00	2
PR-4-11-3140	% MA – VZ – Std. Interval (W Coded) Orders – No Disp. – Platform	0.63	0.44	0.73	0.28	0.66	0.53	0.64	0.35	0.71	0.18	
PR-6 - Installation Quality												
PR-6-01-3112	% Installation Troubles reported within 30 Days – Loop	5.40	1.97	5.57	2.25	4.61	2.18	4.72	1.90	4.86	2.37	
PR-6-01-3140	% Installation Troubles reported within 30 Days – Platform	5.40	1.10	5.57	0.68	4.61	0.97	4.72	1.02	4.86	1.33	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
PR-6-02-3112	% Installation Troubles reported within 7 Days – Loop	3.63	0.90	3.70	1.19	3.12	1.28	3.12	1.23	3.23	1.31	
PR-6-02-3140	% Installation Troubles reported within 7 Days – Platform	3.63	0.37	3.70	0.32	3.12	0.28	3.12	0.40	3.23	0.62	
PR-6-03-3112	% Installation Troubles reported within 30 Days – FOK/TOK/CPE – Loop	3.96	3.60	3.72	3.85	3.12	3.08	3.23	2.01	3.35	2.42	
PR-6-03-3121	% Installation Troubles reported within 30 Days – FOK/TOK/CPE – Other	3.96	NA	3.72	2350	3.12	38.82	3.23	70.41	3.35	70.09	2
PR-8 - Open Orders in a Hold Status												
PR-8-01-3100	% Open Orders in a Hold Status > 30 Days	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
PR-8-02-3100	% Open Orders in a Hold Status > 90 Days	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
PR-9 - Hot Cuts												
PR-9-08-3520	Average Duration of Service Interruption		11.56		18.63		19.59		22.43		8.01	5
Complex Services - 2 Wire Digital												
PR-2 - Average Completed Interval												
PR-2-01-3341	Average Interval Completed – Total No Dispatch	6.00	NA	6.00	NA	6.00	NA	6.00	NA	6.20	0.00	5
PR-2-02-3341	Average Interval Completed – Total Dispatch	6.03	5.57	6.48	5.00	6.04	5.00	6.17	5.60	6.18	16.50	1,2,3, 4,5
PR-4 - Missed Appointments												
PR-4-02-3341	Average Delay Days – Total	2.33	2.00	3.73	3.50	2.57	2.00	1.77	NA	2.53	1.50	1,2,3,5
PR-4-04-3341	% MA – VZ – Dispatch	8.04	0.00	7.38	1.75	6.45	1.30	8.74	0.00	7.36	0.00	
PR-4-05-3341	% MA – VZ – No Dispatch	0.21	NA	1.10	NA	0.79	NA	0.30	NA	1.80	NA	
PR-4-10-3341	% MA – VZ – Std. Interval (W Coded) Orders – Dispatch	9.56	8.93	9.23	2.50	7.99	1.72	10.88	0.00	10.52	1.82	
PR-6 - Installation Quality												
PR-6-01-3341	% Installation Troubles reported within 30 Days	5.58	5.19	4.76	8.62	4.93	6.33	5.21	5.56	5.22	5.68	
PR-6-03-3341	% Inst. Troubles reported w/ in 30 Days – FOK/TOK/CPE	5.19	10.39	3.96	6.90	3.01	5.06	4.08	8.33	6.29	0.00	
PR-8 - Open Orders in a Hold Status												
PR-8-01-3341	% Open Orders in a Hold Status > 30 Days	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
PR-8-02-3341	% Open Orders in a Hold Status > 90 Days	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
Complex Services - 2 Wire xDSL												
PR-2 - Average Completed Interval												
PR-2-01-3342	Average Interval Completed – Total No Dispatch	4.62	5.83	4.20	3.60	3.98	4.25	3.33	6.00	3.21	5.40	1,2,3, 4,5
PR-2-01-3343	Average Interval Completed – Total No Dispatch		3.12	4.20	3.04	3.98	3.02	3.33	3.01	3.21	3.48	
PR-2-02-3342	Average Interval Completed – Total Dispatch	4.74	5.72	5.25	5.57	4.65	5.44	3.63	5.59	3.50	5.65	
PR-2-02-3343	Average Interval Completed – Total Dispatch		3.22	5.25	3.14	4.65	3.09	3.63	3.00	3.50	3.11	2
PR-4 - Missed Appointments												
PR-4-02-3342	Average Delay Days – Total	9.02	1.70	3.00	2.50	8.95	1.25	11.32	1.20	7.60	2.00	2,3,4,5
PR-4-02-3343	Average Delay Days – Total		1.00	7.72	1.00	2.92	6.00	8.83	4.50	1.76	NA	1,2,3,4
PR-4-04-3342	% MA – VZ – Dispatch	7.47	0.00	6.12	0.00	5.92	0.31	4.09	0.00	5.41	0.24	
PR-4-04-3343	% MA – VZ – Dispatch		3.57	6.12	6.25	5.92	5.88	4.09	0.00	5.41	0.00	
PR-4-05-3342	% MA – VZ – No Dispatch											
PR-4-05-3343	% MA – VZ – No Dispatch		NA	1.46	0.00	0.22	0.00	0.28	2.25	0.06	0.00	
PR-4-10-3342	% MA – VZ – Std. Interval (W Coded) Orders – Dispatch		3.14	7.95	1.97	7.53	1.79	6.04	1.27	7.36	0.33	
PR-4-11-3342	% MA – VZ – Std. Interval (W Coded) Orders – No Dispatch		1.49	0.44	0.00	0.49	0.00	0.35	3.30	0.07	0.00	
PR-4-14-3342	% Completed On Time – With DD–2 Test Rslts, with 800 #& Serial#		100.0		99.70		98.72		97.27		97.88	
PR-6 - Installation Quality												
PR-6-01-3342	% Installation Troubles reported within 30 Days	10.42	8.36	10.19	4.06	9.87	6.93	9.60	7.43	9.20	5.05	
PR-6-01-3343	% Installation Troubles reported within 30 Days		1.23	11.58	0.00	6.95	1.15	3.59	0.56	3.16	0.47	
PR-6-03-3342	% Inst. Troubles reported w/ in 30 Days – FOK/TOK/CPE	10.11	5.79	8.93	6.67	5.67	4.82	2.85	8.11	2.66	7.34	
PR-6-03-3343	% Inst. Troubles reported w/ in 30 Days - FOK/TOK/CPE	10.11	7.41	8.93	10.53	5.67	4.60	2.85	3.35	2.66	6.13	
PR-8 - Open Orders in a Hold Status												
PR-8-01-3342	% Open Orders in a Hold Status > 30 Days	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
PR-8-01-3343	% Open Orders in a Hold Status > 30 Days		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
PR-8-02-3342	% Open Orders in a Hold Status > 90 Days	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
PR-8-02-3343	% Open Orders in a Hold Status > 90 Days		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
POTS & Complex Aggregate												
Special Services - Provisioning												
PR-2 - Average Completed Interval												
PR-2-01-3200	Average Interval Completed – Total No Dispatch	7.50	NA	7.97	NA	7.89	NA	10.92	NA	14.71	NA	
PR-2-02-3200	Average Interval Completed – Total Dispatch	6.80	13.25	8.87	14.00	9.35	15.29	9.45	11.00	17.06	13.86	1,2,3
PR-2-06-3210	Average Interval Completed – DS0	5.58	NA	7.60	NA	8.10	6.67	13.44	7.00	16.33	6.00	3,4,5
PR-2-07-3211	Average Interval Completed – DS1	7.43	13.00	9.21	14.00	9.04	13.00	9.58	9.33	15.01	14.67	1,2,3,5
PR-2-08-3213	Average Interval Completed – DS3	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	
PR-2-09-3510	Average Interval Completed – EEL	7.43	13.33		12.00		19.00		12.75		13.14	1,2,3, 4,5
PR-4 - Missed Appointments												
PR-4-01-3200	% Missed Appointment – Verizon – Specials	8.86	0.00	2.52	4.76	4.25	5.56	3.85	4.76	4.01	8.82	
PR-4-01-3510	% Missed Appointment – Verizon – EEL	8.80	4.35	2.99	0.00	3.06	8.00	2.19	1.82	3.53	15.22	
PR-4-01-3530	% Missed Appointment – Verizon – IOF	NA	0.00	NA	0.00	NA	0.00	NA	0.00	NA	0.00	1,2,3,5
PR-4-02-3200	Average Delay Days – Specials	7.26	NA	3.88	1.00	6.97	11.00	7.87	1.00	6.77	3.67	2,3,4,5
PR-4-02-3510	Average Delay Days – EEL	5.10	2.00	4.24	NA	2.63	4.50	4.05	4.00	6.79	2.71	1,3,4,5
PR-4-02-3530	Average Delay Days – IOF	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	
PR-4-09-3200	% MA – Verizon – Standard Interval (W Coded) Orders – Specials	8.82	0.00	3.21	0.00	4.30	0.00	3.96	6.25	4.01	20.00	1,2
PR-4-09-3510	% MA – Verizon – Standard Interval (W Coded) Orders – EEL	9.80	16.67	4.40	0.00	3.03	25.00	0.81	9.09	2.46	17.65	1,2,3
PR-4-09-3530	% MA – Verizon – Standard Interval (W Coded) Orders – IOF	NA	NA	NA	0.00	NA	0.00	NA	0.00	NA	0.00	2,3,4,5
PR-6 - Installation Quality												
PR-6-01-3200	% Installation Troubles reported within 30 Days	2.14	11.11	1.71	6.90	1.89	8.96	2.92	4.07	3.18	7.41	
PR-6-03-3200	% Installation Troubles reported within 30 Days – FOK/TOK/CPE	1.02	0.00	1.32	3.45	0.90	0.00	0.73	2.44	1.63	0.93	
PR-8 - Open Orders in a Hold Status												
PR-8-01-3200	% Open Orders in a Hold Status > 30 Days	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
PR-8-02-3200	% Open Orders in a Hold Status > 90 Days	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
POTS - Maintenance												
MR-2 - Trouble Report Rate												
MR-2-02-3112	Network Trouble Report Rate – Loop	0.90	0.63	0.98	0.59	0.95	0.61	0.83	0.55	1.00	0.60	
MR-2-02-3140	Network Trouble Report Rate – Platform	0.90	0.80	0.98	0.76	0.95	0.83	0.83	0.69	1.00	0.77	
MR-2-03-3112	Network Trouble Report Rate – Central Office – Loop	0.11	0.03	0.15	0.06	0.12	0.02	0.10	0.04	0.10	0.05	
MR-2-03-3140	Network Trouble Report Rate – Central Office – Platform	0.11	0.28	0.15	0.25	0.12	0.24	0.10	0.22	0.10	0.16	
MR-2-04-3112	% Subsequent Reports – Loop	8.04	0.00	8.12	0.00	6.24	0.00	5.90	0.00	5.91	0.00	
MR-2-04-3140	% Subsequent Reports – Platform	8.04	5.29	8.12	4.59	6.24	6.69	5.90	13.43	5.91	19.92	
MR-2-05-3112	% CPE/TOK/FOK Trouble Report Rate – Loop	0.81	0.98	0.86	0.90	0.82	0.83	0.69	0.68	0.77	0.70	
MR-2-05-3140	% CPE/TOK/FOK Trouble Report Rate – Platform	0.81	0.82	0.86	0.71	0.82	0.65	0.69	0.57	0.77	0.58	
MR-3 - Missed Repair Appointments												
MR-3-01-3112	% Missed Repair Appointment – Loop	16.52	9.29	19.89	6.69	17.70	10.51	18.87	7.94	19.87	6.74	
MR-3-01-3140	% Missed Repair Appointment – Platform	16.52	18.05	19.89	27.39	17.70	27.78	18.87	20.87	19.87	22.61	
MR-3-02-3112	% Missed Repair Appointment – Central Office – Loop	14.50	13.33	23.47	34.62	10.81	25.00	7.73	5.26	6.71	8.33	3
MR-3-02-3140	% Missed Repair Appointment – Central Office – Platform	14.50	21.74	23.47	39.22	10.81	23.81	7.73	2.74	6.71	12.50	
MR-3-03-3112	% Missed Repair Appointment — CPE /TOK/FOK – Loop	9.83	6.18	15.05	9.76	9.26	6.90	9.01	2.86	9.03	3.34	
MR-3-03-3140	% Missed Repair Appointment — CPE /TOK/FOK – Platform	9.83	22.79	15.05	31.29	9.26	20.24	9.01	11.11	9.03	10.68	
MR-4 - Trouble Duration Intervals												
MR-4-01-3112	Mean Time To Repair – Total – Loop	20.58	19.39	23.43	18.25	20.55	17.13	21.97	15.54	22.69	15.92	
MR-4-01-3140	Mean Time To Repair – Total – Platform	20.58	21.69	23.43	25.01	20.55	23.51	21.97	17.53	22.69	19.01	
MR-4-02-3112	Mean Time to Repair – Loop Trouble – Loop	21.77	19.76	24.94	18.13	22.02	17.30	23.71	16.06	24.28	16.38	
MR-4-02-3140	Mean Time to Repair – Loop Trouble – Platform	21.77	23.61	24.94	26.03	22.02	25.07	23.71	20.57	24.28	20.83	
MR-4-03-3112	Mean Time To Repair – Central Office Trouble – Loop	10.80	12.50	13.45	19.48	9.30	11.26	7.97	8.63	7.50	10.51	3

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
MR-4-03-3140	Mean Time To Repair – Central Office Trouble – Platform	10.80	16.12	13.45	21.86	9.30	18.17	7.97	7.92	7.50	10.10	
MR-4-04-3112	% Cleared (all troubles) within 24 Hours – Loop	74.46	79.66	67.39	80.68	73.54	85.21	71.00	85.98	68.13	82.68	
MR-4-04-3140	% Cleared (all troubles) within 24 Hours – Platform	74.46	75.42	67.39	62.50	73.54	69.89	71.00	77.23	68.13	77.25	
MR-4-06-3140	% Out of Service > 4 hours – Platform	78.07	77.05	80.76	82.44	77.65	78.95	79.46	74.76	83.50	80.88	
MR-4-07-3112	% Out of Service > 12 hours – Loop	61.11	59.91	64.89	59.56	62.08	53.47	64.31	47.98	68.31	55.65	
MR-4-07-3140	% Out of Service > 12 hours – Platform	61.11	68.03	64.89	70.99	62.08	64.74	64.31	60.00	68.31	63.24	
MR-4-08-3112	% Out of Service > 24 Hours – Loop	23.64	17.97	29.39	19.56	23.90	13.86	25.85	15.66	29.05	18.83	
MR-4-08-3140	% Out of Service > 24 Hours – Platform	23.64	24.59	29.39	35.88	23.90	28.95	25.85	26.67	29.05	21.69	
MR-5 - Repeat Trouble Reports												
MR-5-01-3112	% Repeat Reports within 30 Days – Loop	17.82	25.76	18.88	26.44	17.83	24.30	17.22	18.08	17.91	18.95	
MR-5-01-3140	% Repeat Reports within 30 Days – Platform	17.82	12.29	18.88	18.75	17.83	17.20	17.22	13.86	17.91	16.93	
Complex Services - 2 Wire Digital												
MR-2 - Trouble Report Rate												
MR-2-02-3341	Network Trouble Report Rate – Loop	0.52	0.81	0.48	0.67	0.47	1.05	0.48	0.64	0.52	0.67	
MR-2-03-3341	Network Trouble Report Rate – Central Office	0.14	0.12	0.15	0.19	0.15	0.14	0.15	0.10	0.15	0.03	
MR-2-04-3341	% Subsequent Reports	14.62	0.00	10.97	0.00	11.56	0.00	11.71	0.00	14.75	0.00	
MR-3 - Missed Repair Appointments												
MR-3-01-3341	% Missed Repair Appointment – Loop	43.14	14.29	45.80	4.76	47.27	6.45	48.35	5.26	39.74	5.00	
MR-3-02-3341	% Missed Repair Appointment – Central Office	41.12	0.00	32.20	16.67	34.48	25.00	30.63	0.00	31.86	0.00	1,2,3, 4,5
MR-4 - Trouble Duration Intervals												
MR-4-01-3341	Mean Time To Repair – Total	23.67	27.89	23.87	17.06	25.73	21.50	25.45	20.71	21.72	21.29	
MR-4-02-3341	Mean Time to Repair – Loop Trouble	25.24	30.95	26.82	16.99	29.26	20.43	26.80	21.76	24.15	21.52	
MR-4-03-3341	Mean Time To Repair – Central Office Trouble	17.80	6.46	14.64	17.30	14.59	29.77	21.05	14.08	13.32	16.77	1,2,3, 4,5
MR-4-07-3341	% Out of Service > 12 hours	53.87	76.67	61.78	44.00	62.72	69.70	60.69	73.68	52.69	63.16	
MR-4-08-3341	% Out of Service > 24 Hours	35.92	36.67	35.91	20.00	34.49	27.27	35.11	31.58	27.96	21.05	
MR-5 - Repeat Trouble Reports												
MR-5-01-3341	% Repeat Reports within 30 Days	13.78	21.88	14.99	14.81	14.73	14.29	16.84	40.91	17.10	9.52	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
Complex Services - 2 Wire xDSL												
MR-2 - Trouble Report Rate												
MR-2-02-3342	Network Trouble Report Rate – Loop		0.79	1.21	0.72	1.28	0.80	1.10	0.58	1.27	0.72	
MR-2-02-3343	Network Trouble Report Rate – Loop		0.00	1.21	0.00	1.28	0.00	1.10	0.00	1.27	0.05	
MR-2-03-3342	Network Trouble Report Rate – Central Office		0.06	0.17	0.06	0.20	0.11	0.15	0.05	0.15	0.05	
MR-2-03-3343	Network Trouble Report Rate – Central Office		0.13	0.17	0.00	0.20	0.06	0.15	0.06	0.15	0.00	
MR-3 - Missed Repair Appointments												
MR-3-01-3342	% Missed Repair Appointment – Loop		9.93	24.15	7.21	21.13	11.54	21.50	10.20	23.15	12.07	
MR-3-01-3343	% Missed Repair Appointment – Loop		NA	24.15	NA	21.13	NA	21.50	NA	23.15	0.00	5
MR-3-02-3342	% Missed Repair Appointment – Central Office		33.33	30.51	20.00	20.51	13.33	14.25	0.00	14.21	0.00	4
MR-3-02-3343	% Missed Repair Appointment – Central Office		25.00	30.51	NA	20.51	0.00	14.25	0.00	14.21	0.00	1,3,4,5
MR-4 - Trouble Duration Intervals												
MR-4-01-3342	Mean Time To Repair – Total											
MR-4-02-3342	Mean Time to Repair – Loop Trouble		22.82	29.61	21.20	26.72	24.57	27.21	20.45	27.96	20.79	
MR-4-02-3343	Mean Time to Repair - Loop Trouble		NA	29.61	NA	26.72	NA	27.21	NA	27.96	75.92	5
MR-4-03-3342	Mean Time To Repair – Central Office Trouble		14.57	19.91	21.30	18.22	13.46	14.36	9.48	13.18	12.95	4
MR-4-03-3343	Mean Time To Repair – Central Office Trouble		19.98	19.91	NA	18.22	11.43	14.36	7.50	13.18	1.03	1,3,4,5
MR-4-04-3343	% Cleared (all troubles) within 24 Hours		50.00	59.27	NA	66.18	66.67	63.74	100.0	62.15	50.00	1,3,4,5
MR-4-07-3342	% Out of Service > 12 hours		62.76	75.53	53.70	73.58	62.96	74.91	51.65	77.67	61.32	
MR-4-07-3343	% Out of Service > 12 hours		66.67	75.53	NA	73.58	33.33	74.91	0.00	77.67	0.00	1,3,4,5
MR-4-08-3342	% Out of Service > 24 Hours		25.52	39.38	28.70	32.29	31.85	34.52	20.88	35.11	26.42	
MR-4-08-3343	% Out of Service > 24 Hours		33.33	39.38	NA	32.29	33.33	34.52	0.00	35.11	0.00	1,3,4,5
MR-5 - Repeat Trouble Reports												
MR-5-01-3342	% Repeat Reports within 30 Days		14.00	22.13	14.05	20.23	13.10	19.99	16.98	21.08	28.00	
MR-5-01-3343	% Repeat Reports within 30 Days		0.00	22.13	NA	20.23	0.00	19.99	0.00	21.08	50.00	1,3,4,5
Special Services - Maintenance												
MR-2 - Trouble Report Rate												
MR-2-01-3200	Network Trouble Report Rate	0.17	2.59	0.16	1.70	0.20	1.42	0.17	2.22	0.17	2.72	
MR-2-05-3200	% CPE/TOK/FOK Trouble Report Rate	0.24	2.22	0.24	2.04	0.24	2.07	0.22	2.41	0.25	3.43	
MR-4 - Trouble Duration Intervals												
MR-4-01-3200	Mean Time To Repair – Total	5.09	8.40	5.90	8.70	5.26	4.39	5.02	5.70	5.36	8.80	1
MR-4-02-3200	Mean Time to Repair – Loop Trouble	6.29	7.58	7.98	8.99	6.74	4.94	6.71	5.58	7.03	13.34	1,2
MR-4-04-3200	% Cleared (all troubles) within 24 Hours	98.72	90.48	97.26	93.33	98.06	100.0	98.36	95.65	97.92	93.55	1

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
MR-4-06-3200	% Out of Service > 4 hours	46.47	60.00	49.31	46.15	48.54	50.00	46.71	37.50	48.08	45.83	1
MR-4-07-3200	% Out of Service > 12 hours	5.77	15.00	11.17	23.08	7.91	0.00	6.91	6.25	7.85	12.50	1
MR-4-08-3200	% Out of Service > 24 Hours	1.28	10.00	2.75	7.69	1.94	0.00	1.64	0.00	2.08	8.33	1
MR-5 - Repeat Trouble Reports												
MR-5-01-3200	% Repeat Reports within 30 Days	19.39	9.52	15.61	26.67	18.31	15.38	15.60	17.39	18.27	16.13	1
TRUNKING												
Ordering												
OR 1 - Order Confirmation Timeliness												
OR-1-11-5020	Average Firm Order Confirmation (FOC) Time <=192 Forecasted Trunks		5.78		0.67		3.56		5.73		3.47	
OR-1-12-5020	% On Time FOC <= 192 Forecasted Trunks		77.78		100.0		100.0		90.91		98.25	2
OR-1-13-5000	% On Time Design Layout Record (DLR)		37.50		0.00		60.00		100.0		100.0	1,2,3,5
OR-1-19-5020	% On Time Response – Request for inbound (VZ–CLEC augment) <=192 Forecasted Trunks		100.0		100.0		100.0		100.0		NA	1,2,3,4
OR-1-19-5030	% On Time Response – Request for inbound (VZ–CLEC augment) > 192 Forecasted Trunks		100.0		NA		100.0		NA		NA	1,3
OR-2 - Reject Timeliness												
OR-2-11-5020	Average Trunk ASR Reject Time <= 192 Forecasted Trunks		5.20		2.50		2.00		2.00		NA	
OR-2-12-5020	% On Time Trunk ASR Reject <= 192 Forecasted Trunks		100.0		100.0		100.0		100.0		NA	1,2,3,4
Provisioning												
PR-1 - Average Interval Offered												
PR-1-09-5020	Average Interval Offered – Total <= 192 Forecasted Trunks	12.44	12.33	13.72	12.00	13.08	11.17	12.44	12.50	10.45	9.00	1,2,3,5
PR-1-09-5030	Average Interval Offered – Total > 192 Forecasted & Unforecasted	10.32	7.12	13.03	10.45	11.16	10.45	12.24	7.63	12.28	11.57	5
PR-2 - Average Interval Completed												
PR-2-09-5020	Average Interval Completed – Total <= 192 Forecasted Trunks	8.67	17.00	13.88	NA	14.45	14.00	10.67	12.50	13.09	NA	1,3,4
PR-2-09-5030	Average Interval Completed – Total > 192 Forecasted & Unforecasted	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
PR-4 - Missed Appointment												
PR-4-01-5000	% Missed Appointment – Verizon – Total	1.25	0.06	0.75	0.00	0.00	0.92	0.90	0.92	1.53	0.64	
PR-4-02-5000	Average Delay Days – Total	22.80	1.00	2.67	NA	NA	1.33	3.80	2.00	5.25	2.00	I
PR-4-09-5000	% MA – VZ – Std. Interval (W Coded) Orders –Total	0.00	0.00	0.00	NA	0.00	0.00	0.00	0.00	12.50	NA	
PR-5 - Facility Missed Orders												
PR-5-01-5000	% Missed Appointment – Verizon – Facilities	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
PR-5-02-5000	% Orders Held for Facilities > 15 Days	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
PR-5-03-5000	% Orders Held for Facilities > 60 Days	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
PR-6 - Installation Quality												
PR-6-01-5000	% Installation Troubles reported within 30 Days	0.02	0.02	0.06	0.00	0.02	0.00	0.07	0.00	0.02	0.00	
PR-6-03-5000	% Inst. Troubles reported within 30 Days – FOK/TOK/CPE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
PR-8 - Average Days Held on Pending Orders												
PR-8-01-5000	% Open Orders in a Hold Status > 30 Days	0.25	0.00	0.25	0.00	0.42	0.00	0.01	0.00	0.00	0.00	
PR-8-02-5000	% Open Orders in a Hold Status > 90 Days	0.00	0.00	0.25	0.00	0.10	0.00	0.00	0.00	0.00	0.00	
Maintenance												
MR-2 - Trouble Report Rate												
MR-2-01-5400	Network Trouble Report Rate – Total	0.01	0.01	0.01	0.02	0.01	0.01	0.02	0.00	0.01	0.01	
MR-4 - Trouble Duration Intervals												
MR-4-01-5000	Mean Time To Repair – Total	2.19	1.73	3.14	2.27	9.56	3.80	2.87	3.22	3.03	2.94	
MR-4-04-5000	% Cleared (all troubles) within 24 Hours	100.0	100.0	100.0	100.0	91.38	100.0	100.0	100.0	94.74	96.43	
MR-4-05-5000	% Out of Service > 2 Hours	31.58	37.50	68.42	39.29	58.62	40.74	33.80	28.57	26.32	17.86	
MR-4-06-5000	% Out of Service > 4 hours	13.16	6.25	15.79	12.50	34.48	29.63	22.54	21.43	10.53	7.14	
MR-4-07-5000	% Out of Service > 12 hours	0.00	0.00	0.00	1.79	17.24	7.41	4.23	14.29	5.26	3.57	
MR-4-08-5000	% Out of Service > 24 Hours	0.00	0.00	0.00	0.00	8.62	0.00	0.00	0.00	5.26	3.57	
MR-5 - Repeat Trouble Report Rates												
MR-5-01-5400	% Repeat Reports within 30 Days	5.26	9.38	10.53	7.14	17.24	18.52	25.35	21.43	18.42	7.14	

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
NETWORK PERFORMANCE												
NP-1 - Percent Final Trunk Group Blockage												
NP-1-01-5000	% FTG Exceeding Blocking Standard – Common Final Trunks		1.47		0.98		1.71		0.98		0.98	
NP-1-01-5400	% FTG Exceeding Blocking Standard – Dedicated Final Trunks		0.70		0.00		0.00		1.34		0.00	
NP-1-02-5000	% FTG Exceeding Blocking Standard (No Exceptions) – Common Final Trunks		1.47		0.98		1.71		0.98		0.98	
NP-1-02-5400	% FTG Exceeding Blocking Standard (No Exceptions) – Dedicated Final Trunks		11.27		10.96		9.40		10.74		6.25	
NP-1-03-5400	Number Dedicated FTG Exceeding Blocking Standard – 2 Months		0.00		1.00		0.00		0.00		0.00	
NP-1-04-5400	Number Dedicated FTG Exceeding Blocking Standard – 3 Months		0.00		0.00		0.00		0.00		0.00	
NP-2 - Collocation Performance												
NP-2-01-6110	% On Time Response to Request for Collocation (Physical, SCOPE, CCOE, Virtual) –New		NA		100.0		100.0		NA		100.0	2,3,5
NP-2-01-6120	% On Time Response to Request for Collocation (Physical, SCOPE, CCOE, Virtual) – Augment		100.0		100.0		100.0		100.0		100.0	1,2,3,5
NP-2-02-6110	Average Interval – Physical Collocation – New		96.00		NA		105.00		NA		NA	1,3
NP-2-02-6120	Average Interval – Physical Collocation – Augment		99.25		105.00		NA		6.92		72.50	1,2,5
NP-2-03-6110	Average Interval – SCOPE – New		93.25		NA		105.00		104.57		NA	1,3,4
NP-2-03-6120	Average Interval – SCOPE – Augment		104.50		105.00		NA		67.00		29.00	1,2,4,5
NP-2-04-6110	Average Interval – CCOE – VZ Equipment is Secure – New		NA		NA		NA		NA		NA	
NP-2-04-6120	Average Interval – CCOE – VZ Equipment is Secure – Augment		NA		64.00		NA		NA		73.00	2,5

Metric Number	Metric Name	November		December		January		February		March		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
NP-2-05-6110	Average Interval – CCOE – VZ Equipment is Unsecured – New		NA		NA		NA		NA		NA	
NP-2-05-6120	Average Interval – CCOE – VZ Equipment is Unsecured – Augment		NA		NA		NA		NA		NA	
NP-2-06-6110	Average Interval – Virtual Collocation – New		NA		43.00		39.00		NA		NA	2,3
NP-2-06-6120	Average Interval – Virtual Collocation – Augment		75.00		38.00		47.50		68.50		NA	1,2,3,4
NP-2-07-6110	% On Time (Physical, SCOPE, CCOE, Virtual) – New		100.0		100.0		100.0		100.0		NA	1,2,4
NP-2-07-6120	% On Time (Physical, SCOPE, CCOE, Virtual) – Augment		100.0		100.0		100.0		100.0		100.0	2,3,5
NP-2-08-6110	Average Delay Days (Physical, SCOPE, CCOE, Virtual) – New		NA		NA		NA		NA		NA	
NP-2-08-6120	Average Delay Days (Physical, SCOPE, CCOE, Virtual) – Augment		NA		NA		NA		NA		NA	

Abbreviations: NA = No Activity.
UD = Under Development.
NEF = No Existing Functionality
blank cell = No data provided.
VZ = Verizon retail analog. If no data was provided, the metric may have a benchmark.

Notes: 1 = Sample Size under 10 for November.
2 = Sample Size under 10 for December.
3 = Sample Size under 10 for January.
4 = Sample Size under 10 for February.
5 = Sample Size under 10 for March.

Appendix C
Statutory Requirements

I. STATUTORY FRAMEWORK

1. The 1996 Act conditions BOC entry into the market for provision of in-region interLATA services on compliance with certain provisions of section 271.[1] BOCs must apply to the Federal Communications Commission (Commission or FCC) for authorization to provide interLATA services originating in any in-region state.[2] The Commission must issue a written determination on each application no later than 90 days after receiving such application.[3] Section 271(d)(2)(A) requires the Commission to consult with the Attorney General before making any determination approving or denying a section 271 application. The Attorney General is entitled to evaluate the application "using any standard the Attorney General considers appropriate," and the Commission is required to "give substantial weight to the Attorney General's evaluation."[4]

2. In addition, the Commission must consult with the relevant state commission to verify that the BOC has one or more state-approved interconnection agreements with a facilities-based competitor, or a Statement of Generally Available Terms and Conditions (SGAT), and that either the agreement(s) or general statement satisfy the "competitive checklist."[5] Because the Act does not prescribe any standard for the consideration of a state commission's verification under section 271(d)(2)(B), the Commission has discretion in each section 271 proceeding to determine

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[1] For purposes of section 271 proceedings, the Commission uses the definition of the term "Bell Operating Company" contained in 47 U.S.C. § 153(4).

[2] 47 U.S.C. § 271(d)(1). For purposes of section 271 proceedings, the Commission utilizes the definition of the term "in-region state" that is contained in 47 U.S.C. § 271(i)(1). Section 271(j) provides that a BOC's in-region services include 800 service, private line service, or their equivalents that terminate in an in-region state of that BOC and that allow the called party to determine the interLATA carrier, even if such services originate out-of-region. *Id.* § 271(j). The 1996 Act defines "interLATA services" as "telecommunications between a point located in a local access and transport area and a point located outside such area." *Id.* § 153(21). Under the 1996 Act, a "local access and transport area" (LATA) is "a contiguous geographic area (A) established before the date of enactment of the [1996 Act] by a [BOC] such that no exchange area includes points within more than 1 metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the AT&T Consent Decree; or (B) established or modified by a [BOC] after such date of enactment and approved by the Commission." *Id.* § 153(25). LATAs were created as part of the Modification of Final Judgment's (MFJ) "plan of reorganization." *United States v. Western Elec. Co.*, 569 F. Supp. 1057 (D.D.C. 1983), *aff'd sub nom. California v. United States*, 464 U.S. 1013 (1983). Pursuant to the MFJ, "all [BOC] territory in the continental United States [was] divided into LATAs, generally centering upon a city or other identifiable community of interest." *United States v. Western Elec. Co.*, 569 F. Supp. 990, 993-94 (D.D.C. 1983).

[3] 47 U.S.C. § 271(d)(3).

[4] *Id.* § 271(d)(2)(A).

[5] *Id.* § 271(d)(2)(B).

the amount of weight to accord the state commission's verification.[6] The Commission has held that, although it will consider carefully state determinations of fact that are supported by a detailed and extensive record, it is the FCC's role to determine whether the factual record supports the conclusion that particular requirements of section 271 have been met.[7]

3. Section 271 requires the Commission to make various findings before approving BOC entry. In order for the Commission to approve a BOC's application to provide in-region, interLATA services, a BOC must first demonstrate, with respect to each state for which it seeks authorization, that it satisfies the requirements of either section 271(c)(1)(A) (Track A) or 271(c)(1)(B) (Track B).[8] In order to obtain authorization under section 271, the BOC must also show that: (1) it has "fully implemented the competitive checklist" contained in section 271(c)(2)(B);[9] (2) the requested authorization will be carried out in accordance with the requirements of section 272;[10] and (3) the BOC's entry into the in-region interLATA market is "consistent with the public interest, convenience, and necessity."[11] The statute specifies that, unless the Commission finds that these criteria have been satisfied, the Commission "shall not approve" the requested authorization.[12]

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6 *Bell Atlantic New York Order*, 15 FCC Rcd at 3962, para. 20; *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended*, CC Docket No. 97-137, 12 FCC Rcd 20543, 20559-60 (1997) (*Ameritech Michigan Order*). As the D.C. Circuit has held, "[a]lthough the Commission must consult with the state commissions, the statute does not require the Commission to give State Commissions' views any particular weight." *SBC Communications Inc. v. FCC*, 138 F.3d 410, 416 (D.C. Cir. 1998).

7 *Ameritech Michigan Order*, 12 FCC Rcd at 20560; *SBC Communications v. FCC*, 138 F.3d at 416-17.

8 47 U.S.C. § 271(d)(3)(A). *See* Section III, *infra*, for a complete discussion of Track A and Track B requirements.

9 *Id.* §§ 271(c)(2)(B), 271(d)(3)(A)(i).

10 *Id.* § 272; *see Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905 (1996) (*Non-Accounting Safeguards Order*), *recon.*, Order on Reconsideration, 12 FCC Rcd 2297 (1997), *review pending sub nom., SBC Communications v. FCC*, No. 97-1118 (D.C. Cir., filed Mar. 6, 1997) (held in abeyance pursuant to court order filed May 7, 1997), *remanded in part sub nom., Bell Atlantic Telephone Companies v. FCC*, No. 97-1067 (D.C. Cir., filed Mar. 31, 1997), *on remand*, Second Order on Reconsideration, FCC 97-222 (rel. June 24, 1997), *petition for review denied sub nom. Bell Atlantic Telephone Companies v. FCC*, 113 F.3d 1044 (D.C. Cir. 1997); *Implementation of the Telecommunications Act of 1996; Accounting Safeguards Under the Telecommunications Act of 1996*, Report and Order, 11 FCC Rcd 17539 (1996).

11 47 U.S.C. § 271(d)(3)(C).

12 *Id.* § 271(d)(3); *see SBC Communications, Inc. v. FCC*, 138 F.3d at 416.

II. PROCEDURAL AND ANALYTICAL FRAMEWORK

4. To determine whether a BOC applicant has met the prerequisites for entry into the long distance market, the Commission evaluates its compliance with the competitive checklist, as developed in the FCC's local competition rules and orders in effect at the time the application was filed. Despite the comprehensiveness of these rules, there will inevitably be, in any section 271 proceeding, disputes over an incumbent LEC's precise obligations to its competitors that FCC rules have not addressed and that do not involve *per se* violations of self-executing requirements of the Act. As explained in prior orders, the section 271 process simply could not function as Congress intended if the Commission were required to resolve all such disputes as a precondition to granting a section 271 application.[13] In the context of section 271's adjudicatory framework, the Commission has established certain procedural rules governing BOC section 271 applications.[14] The Commission has explained in prior orders the procedural rules it has developed to facilitate the review process.[15] Here we describe how the Commission considers the evidence of compliance that the BOC presents in its application.

5. As part of the determination that a BOC has satisfied the requirements of section 271, the Commission considers whether the BOC has fully implemented the competitive checklist in subsection (c)(2)(B). The BOC at all times bears the burden of proof of compliance with section 271, even if no party challenges its compliance with a particular requirement.[16] In demonstrating its compliance, a BOC must show that it has a concrete and specific legal obligation to furnish the item upon request pursuant to state-approved interconnection agreements that set forth prices and other terms and conditions for each checklist item, and that it is currently furnishing, or is ready to furnish, the checklist items in quantities that competitors may reasonably demand and at an acceptable level of quality.[17] In particular, the BOC must demonstrate that it is offering interconnection and access to network elements on a

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[13] *See SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6246, para. 19; *see also American Tel. & Tel. Co. v. FCC*, 220 F.3d 607, 631 (D.C. Cir. 2000).

[14] *See Procedures for Bell Operating Company Applications Under New Section 271 of the Communications Act*, Public Notice, 11 FCC Rcd 19708, 19711 (1996); *Revised Comment Schedule For Ameritech Michigan Application, as amended, for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Services in the State of Michigan*, Public Notice, DA 97-127 (rel. Jan. 17, 1997); *Revised Procedures for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, 13 FCC Rcd 17457 (1997); *Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, DA 99-1994 (rel. Sept. 28, 1999); *Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, DA 01-734 (CCB rel. Mar. 23, 2001) (collectively "271 Procedural Public Notices").

[15] *See, e.g.*, *SWBT Kansas/Oklahoma Order* 16 FCC Rcd at 6247-50, paras. 21-27; *SWBT Texas Order*, 15 FCC Rcd at 18370-73, paras. 34-42; *Bell Atlantic New York Order*, 15 FCC Rcd at 3968-71, paras. 32-42.

[16] *See SWBT Texas Order*, 15 FCC Rcd at 18374, para. 46; *Bell Atlantic New York Order*, 15 FCC Rcd at 3972, para. 46.

[17] *See Bell Atlantic New York Order*, 15 FCC Rcd at 3973-74, para. 52.

nondiscriminatory basis.[18] Previous Commission orders addressing section 271 applications have elaborated on this statutory standard.[19] First, for those functions the BOC provides to competing carriers that are analogous to the functions a BOC provides to itself in connection with its own retail service offerings, the BOC must provide access to competing carriers in "substantially the same time and manner" as it provides to itself.[20] Thus, where a retail analogue exists, a BOC must provide access that is equal to (i.e., substantially the same as) the level of access that the BOC provides itself, its customers, or its affiliates, in terms of quality, accuracy, and timeliness.[21] For those functions that have no retail analogue, the BOC must demonstrate that the access it provides to competing carriers would offer an efficient carrier a "meaningful opportunity to compete."[22]

6. The determination of whether the statutory standard is met is ultimately a judgment the Commission must make based on its expertise in promoting competition in local markets and in telecommunications regulation generally.[23] The Commission has not established, nor does it believe it appropriate to establish, specific objective criteria for what constitutes "substantially the same time and manner" or a "meaningful opportunity to compete."[24] Whether this legal standard is met can only be decided based on an analysis of specific facts and circumstances. Therefore, the Commission looks at each application on a case-by-case basis and considers the totality of the circumstances, including the origin and quality of the information in the record, to determine whether the nondiscrimination requirements of the Act are met.

A. Performance Data

7. As established in prior section 271 orders, the Commission has found that performance measurements provide valuable evidence regarding a BOC's compliance or noncompliance with individual checklist items. The Commission expects that, in its *prima facie* case in the initial application, a BOC relying on performance data will:

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[18] *See* 47 U.S.C. § 271(c)(2)(B)(i), (ii).

[19] *See SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6250-51, paras. 28-29; *Bell Atlantic New York Order*, 15 FCC Rcd at 3971-72, paras. 44-46.

[20] *SWBT Texas Order*, 15 FCC Rcd at 18373, para. 44; *Bell Atlantic New York Order*, 15 FCC Rcd at 3971, para. 44.

[21] *Bell Atlantic New York Order*, 15 FCC Rcd at 3971, para. 44; *Ameritech Michigan Order*, 12 FCC Rcd at 20618-19.

[22] *Id.*

[23] *SWBT Texas Order*, 15 FCC Rcd at 18374, para. 46; *Bell Atlantic New York Order*, 15 FCC Rcd at 3972, para. 46.

[24] *Id.*

a) provide sufficient performance data to support its contention that the statutory requirements are satisfied;

b) identify the facial disparities between the applicant's performance for itself and its performance for competitors;

c) explain why those facial disparities are anomalous, caused by forces beyond the applicant's control (e.g., competing carrier-caused errors), or have no meaningful adverse impact on a competing carrier's ability to obtain and serve customers; and

d) provide the underlying data, analysis, and methodologies necessary to enable the Commission and commenters meaningfully to evaluate and contest the validity of the applicant's explanations for performance disparities, including, for example, carrier specific carrier-to-carrier performance data.

8. The Commission has explained in prior orders that parity and benchmark standards established by state commissions do not represent absolute maximum or minimum levels of performance necessary to satisfy the competitive checklist. Rather, where these standards are developed through open proceedings with input from both the incumbent and competing carriers, these standards can represent informed and reliable attempts to objectively approximate whether competing carriers are being served by the incumbent in substantially the same time and manner, or in a way that provides them a meaningful opportunity to compete.[25] Thus, to the extent there is no statistically significant difference between a BOC's provision of service to competing carriers and its own retail customers, the Commission generally need not look any further. Likewise, if a BOC's provision of service to competing carriers satisfies the performance benchmark, the analysis is usually done. Otherwise, the Commission will examine the evidence further to make a determination whether the statutory nondiscrimination requirements are met.[26] Thus, the Commission will examine the explanations that a BOC and others provide about whether these data accurately depict the quality of the BOC's performance. The Commission also may examine how many months a variation in performance has existed and what the recent trend has been. The Commission may find that statistically significant differences exist, but conclude that such differences have little or no competitive significance in the marketplace. In such cases, the Commission may conclude that the differences are not meaningful in terms of statutory compliance. Ultimately, the determination of whether a BOC's performance meets the statutory requirements necessarily is a contextual decision based on the totality of the circumstances and information before the Commission.

9. Where there are multiple performance measures associated with a particular checklist item, the Commission would consider the performance demonstrated by all the measurements as a whole. Accordingly, a disparity in performance for one measure, by itself,

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[25] *See SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6252, para. 31; *SWBT Texas Order*, 15 FCC Rcd at 18377, para. 55 & n.102.

[26] *See Bell Atlantic New York Order*, 15 FCC Rcd at 3970, para. 59.

may not provide a basis for finding noncompliance with the checklist. The Commission may also find that the reported performance data are affected by factors beyond a BOC's control, a finding that would make it less likely to hold the BOC wholly accountable for the disparity. This is not to say, however, that performance discrepancies on a single performance metric are unimportant. Indeed, under certain circumstances, disparity with respect to one performance measurement may support a finding of statutory noncompliance, particularly if the disparity is substantial or has endured for a long time, or if it is accompanied by other evidence of discriminatory conduct or evidence that competing carriers have been denied a meaningful opportunity to compete.

10. In sum, the Commission does not use performance measurements as a substitute for the 14-point competitive checklist. Rather, it uses performance measurements as valuable evidence with which to inform the judgment as to whether a BOC has complied with the checklist requirements. Although performance measurements add necessary objectivity and predictability to the review, they cannot wholly replace the Commission's own judgment as to whether a BOC has complied with the competitive checklist.

B. Relevance of Previous Section 271 Approvals

11. In some section 271 applications, the volumes of the BOC's commercial orders may be significantly lower than they were in prior proceedings. In certain instances, volumes may be so low as to render the performance data inconsistent and inconclusive.[27] Performance data based on low volumes of orders or other transactions are not as reliable an indicator of checklist compliance as performance based on larger numbers of observations. Indeed, where performance data are based on a low number of observations, small variations in performance may produce wide swings in the reported performance data. It is thus not possible to place the same evidentiary weight upon – and to draw the same types of conclusions from – performance data where volumes are low, as for data based on more robust activity.

12. In such cases, findings in prior, related section 271 proceedings may be a relevant factor in the Commission's analysis. Where a BOC provides evidence that a particular system reviewed and approved in a prior section 271 proceeding is also used in the proceeding at hand, the Commission's review of the same system in the current proceeding will be informed by the findings in the prior one. Indeed, to the extent that issues have already been briefed, reviewed and resolved in a prior section 271 proceeding, and absent new evidence or changed circumstances, an application for a related state should not be a forum for re-litigating and reconsidering those issues. Appropriately employed, such a practice can give us a fuller picture of the BOC's compliance with the section 271 requirements while avoiding, for all parties

[27] The Commission has never required, however, an applicant to demonstrate that it processes and provisions a substantial commercial volume of orders, or has achieved a specific market share in its service area, as a prerequisite for satisfying the competitive checklist. *See Ameritech Michigan Order*, 12 FCC Rcd at 20585, para. 77 (explaining that Congress had considered and rejected language that would have imposed a "market share" requirement in section 271(c)(1)(A)).

involved in the section 271 process, the delay and expense associated with redundant and unnecessary proceedings and submissions.

13. However, the statute requires the Commission to make a separate determination of checklist compliance for each state and, accordingly, we do not consider any finding from previous section 271 orders to be dispositive of checklist compliance in current proceedings. While the Commission's review may be informed by prior findings, the Commission will consider all relevant evidence in the record, including state-specific factors identified by commenting parties, the states, the Department of Justice. However, the Commission has always held that an applicant's performance towards competing carriers in an actual commercial environment is the best evidence of nondiscriminatory access to OSS and other network elements.[28] Thus, the BOC's actual performance in the applicant state may be relevant to the analysis and determinations with respect to the 14 checklist items. Evidence of satisfactory performance in another state cannot trump convincing evidence that an applicant fails to provide nondiscriminatory access to a network element in the applicant state.

14. Moreover, because the Commission's review of a section 271 application must be based on a snapshot of a BOC's recent performance at the time an application is filed, the Commission cannot simply rely on findings relating to an applicant's performance in an anchor state at the time it issued the determination for that state. The performance in that state could change due to a multitude of factors, such as increased order volumes or shifts in the mix of the types of services or UNEs requested by competing carriers. Thus, even when the applicant makes a convincing showing of the relevance of anchor state data, the Commission must examine how recent performance in that state compares to performance at the time it approved that state's section 271 application, in order to determine if the systems and processes continue to perform at acceptable levels.

III. COMPLIANCE WITH ENTRY REQUIREMENTS – SECTIONS 271(c)(1)(A) & 271(c)(1)(B)

15. As noted above, in order for the Commission to approve a BOC's application to provide in-region, interLATA services, a BOC must first demonstrate that it satisfies the requirements of either section 271(c)(1)(A) (Track A) or 271(c)(1)(B) (Track B).[29] To qualify for Track A, a BOC must have interconnection agreements with one or more competing providers of "telephone exchange service . . . to residential and business subscribers."[30] The Act states that "such telephone service may be offered . . . either exclusively over [the competitor's] own telephone exchange service facilities or predominantly over [the competitor's] own telephone exchange facilities in combination with the resale of the telecommunications services of another

[28] *See SWBT Texas Order*, 15 FCC Rcd at 18376, para. 53; *Bell Atlantic New York Order*, 15 FCC Rcd at 3974, para. 53.

[29] *See* 47 U.S.C. § 271(d)(3)(A).

[30] *Id.*

carrier."[31] The Commission concluded in the *Ameritech Michigan Order* that section 271(c)(1)(A) is satisfied if one or more competing providers collectively serve residential and business subscribers.[32]

16. As an alternative to Track A, Section 271(c)(1)(B) permits BOCs to obtain authority to provide in-region, interLATA services if, after 10 months from the date of enactment, no facilities-based provider, as described in subparagraph (A), has requested the access and interconnection arrangements described therein (referencing one or more binding agreements approved under Section 252), but the state has approved an SGAT that satisfies the competitive checklist of subsection (c)(2)(B). Under section 271(d)(3)(A)(ii), the Commission shall not approve such a request for in-region, interLATA service unless the BOC demonstrates that, "with respect to access and interconnection generally offered pursuant to [an SGAT], such statement offers all of the items included in the competitive checklist."[33] Track B, however, is not available to a BOC if it has already received a request for access and interconnection from a prospective competing provider of telephone exchange service.[34]

IV. COMPLIANCE WITH THE COMPETITIVE CHECKLIST – SECTION 271(c)(2)(B)

A. Checklist Item 1 – Interconnection

17. Section 271(c)(2)(B)(i) of the Act requires a section 271 applicant to provide "[i]nterconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1)."[35] Section 251(c)(2) imposes a duty on incumbent LECs "to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network . . . for the transmission and routing of telephone exchange service and exchange access."[36] In the *Local Competition First Report and Order*, the Commission concluded that interconnection referred "only to the physical linking of two networks for the

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[31] *Id.*

[32] *See Ameritech Michigan Order*, 12 FCC Rcd at 20589, para. 85; *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20633-35, paras. 46-48.

[33] 47 U.S.C. § 271(d)(3)(A)(ii).

[34] *See Ameritech Michigan Order*, 12 FCC Rcd at 20561-62, para. 34. Nevertheless, the above-mentioned foreclosure of Track B as an option is subject to limited exceptions. *See* 47 U.S.C. § 271(c)(1)(B); *see also Ameritech Michigan Order*, 12 FCC Rcd at 20563-64, paras. 37-38.

[35] 47 U.S.C. § 271(c)(2)(B)(i); *see Bell Atlantic New York Order*, 15 FCC Rcd at 3977-78, para. 63; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640, para. 61; *Ameritech Michigan Order*, 12 FCC Rcd at 20662, para. 222.

[36] 47 U.S.C. § 251(c)(2)(A).

mutual exchange of traffic."[37] Section 251 contains three requirements for the provision of interconnection. First, an incumbent LEC must provide interconnection "at any technically feasible point within the carrier's network."[38] Second, an incumbent LEC must provide interconnection that is "at least equal in quality to that provided by the local exchange carrier to itself."[39] Finally, the incumbent LEC must provide interconnection "on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms of the agreement and the requirements of [section 251] and section 252."[40]

18. To implement the equal-in-quality requirement in section 251, the Commission's rules require an incumbent LEC to design and operate its interconnection facilities to meet "the same technical criteria and service standards" that are used for the interoffice trunks within the incumbent LEC's network.[41] In the *Local Competition First Report and Order*, the Commission identified trunk group blockage and transmission standards as indicators of an incumbent LEC's technical criteria and service standards.[42] In prior section 271 applications, the Commission concluded that disparities in trunk group blockage indicated a failure to provide interconnection to competing carriers equal-in-quality to the interconnection the BOC provided to its own retail operations.[43]

19. In the *Local Competition First Report and Order*, the Commission concluded that the requirement to provide interconnection on terms and conditions that are "just, reasonable, and nondiscriminatory" means that an incumbent LEC must provide interconnection to a competitor in a manner no less efficient than the way in which the incumbent LEC provides the comparable

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[37] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, 15590, para. 176 (1996) (*Local Competition First Report and Order*). Transport and termination of traffic are therefore excluded from the Commission's definition of interconnection. *See id.*

[38] 47 U.S.C. § 251(c)(2)(B). In the *Local Competition First Report and Order*, the Commission identified a minimum set of technically feasible points of interconnection. *See Local Competition First Report and Order*, 11 FCC Rcd at 15607-09, paras. 204-11.

[39] 47 U.S.C. § 251(c)(2)(C).

[40] *Id.* § 251(c)(2)(D).

[41] *Local Competition First Report and Order*, 11 FCC Rcd at 15613-15, paras. 221-225; *see Bell Atlantic New York Order*, 15 FCC Rcd at 3978, para. 64; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20641-42, paras. 63-64.

[42] *Local Competition First Report and Order*, 11 FCC Rcd at 15614-15, paras. 224-25.

[43] *See Bell Atlantic New York Order*, 15 FCC Rcd at 3978, para. 64; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20648-50, paras. 74-77; *Ameritech Michigan Order*, 12 FCC Rcd at 20671-74, paras. 240-45. The Commission has relied on trunk blockage data to evaluate a BOC's interconnection performance. Trunk group blockage indicates that end users are experiencing difficulty completing or receiving calls, which may have a direct impact on the customer's perception of a competitive LEC's service quality.

function to its own retail operations.[44] The Commission's rules interpret this obligation to include, among other things, the incumbent LEC's installation time for interconnection service[45] and its provisioning of two-way trunking arrangements.[46] Similarly, repair time for troubles affecting interconnection trunks is useful for determining whether a BOC provides interconnection service under "terms and conditions that are no less favorable than the terms and conditions" the BOC provides to its own retail operations.[47]

20. Competing carriers may choose any method of technically feasible interconnection at a particular point on the incumbent LEC's network.[48] Incumbent LEC provision of interconnection trunking is one common means of interconnection. Technically feasible methods also include, but are not limited to, physical and virtual collocation and meet point arrangements.[49] The provision of collocation is an essential prerequisite to demonstrating compliance with item 1 of the competitive checklist.[50] In the *Advanced Services First Report and Order*, the Commission revised its collocation rules to require incumbent LECs to include shared cage and cageless collocation arrangements as part of their physical collocation offerings.[51] In response to a remand from the D.C. Circuit, the Commission adopted the *Collocation Remand Order*, establishing revised criteria for equipment for which incumbent LECs must permit collocation, requiring incumbent LECs to provide cross-connects between collocated carriers, and establishing principles for physical collocation space and configuration.[52] To show

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[44] *Local Competition First Report and Order*, 11 FCC Rcd at 15612, para. 218; *see also Bell Atlantic New York* Order, 15 FCC Rcd at 3978, para. 65; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20642, para. 65.

[45] 47 C.F.R. § 51.305(a)(5).

[46] The Commission's rules require an incumbent LEC to provide two-way trunking upon request, wherever two-way trunking arrangements are technically feasible. 47 C.F.R. § 51.305(f); *see also Bell Atlantic New York Order*, 15 FCC Rcd at 3978-79, para. 65; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20642, para. 65; *Local Competition First Report and Order*, 11 FCC Rcd 15612-13, paras. 219-20.

[47] 47 C.F.R. § 51.305(a)(5).

[48] *Local Competition First Report and Order*, 11 FCC Rcd at 15779, paras. 549-50; *see Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41, para. 61.

[49] 47 C.F.R. § 51.321(b); *Local Competition First Report and Order*, 11 FCC Rcd at 15779-82, paras. 549-50; *see also Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41, para. 62.

[50] 47 U.S.C. § 251(c)(6) (requiring incumbent LECs to provide physical collocation); *Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41, paras. 61-62.

[51] *Deployment of Wireline Services offering Advanced Telecommunications Capability*, First Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 4761, 4784-86, paras. 41-43 (1999), *aff'd in part and vacated and remanded in part sub nom. GTE Service Corp. v. FCC*, 205 F.3d 416 (D.C. Cir. 2000), *on recon.*, *Collocation Reconsideration Order*, 15 FCC Rcd 17806 (2000); *on remand, Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Fourth Report and Order, 16 FCC Rcd 15435 (2001) (*Collocation Remand Order*), *petition for recon. pending.*

compliance with its collocation obligations, a BOC must have processes and procedures in place to ensure that all applicable collocation arrangements are available on terms and conditions that are "just, reasonable, and nondiscriminatory" in accordance with section 251(c)(6) and the FCC's implementing rules.[53] Data showing the quality of procedures for processing applications for collocation space, as well as the timeliness and efficiency of provisioning collocation space, help the Commission evaluate a BOC's compliance with its collocation obligations.[54]

21. As stated above, checklist item 1 requires a BOC to provide "interconnection in accordance with the requirements of sections 251(c)(2) *and* 252(d)(1)."[55] Section 252(d)(1) requires state determinations regarding the rates, terms, and conditions of interconnection to be based on cost and to be nondiscriminatory, and allows the rates to include a reasonable profit.[56] The Commission's pricing rules require, among other things, that in order to comply with its collocation obligations, an incumbent LEC provide collocation based on TELRIC.[57]

22. To the extent pricing disputes arise, the Commission will not duplicate the work of the state commissions. As noted in the *SWBT Texas Order*, the Act authorizes the state commissions to resolve specific carrier-to-carrier disputes arising under the local competition provisions, and it authorizes the federal district courts to ensure that the results of the state arbitration process are consistent with federal law.[58] Although the Commission has an independent statutory obligation to ensure compliance with the checklist, section 271 does not compel us to preempt the orderly disposition of intercarrier disputes by the state commissions, particularly now that the Supreme Court has restored the Commission's pricing jurisdiction and has thereby directed the state commissions to follow FCC pricing rules in their disposition of those disputes.[59]

23. Consistent with the Commission's precedent, the mere presence of interim rates will not generally threaten a section 271 application so long as: (1) an interim solution to a

(Continued from previous page)

[52] *See Collocation Remand Order*, 16 FCC Rcd at 15441-42, para. 12.

[53] *Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20643, para. 66; *BellSouth Carolina Order*, 13 FCC Rcd at 649-51, para. 62.

[54] *Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41, paras. 61-62.

[55] 47 U.S.C. § 271(c)(2)(B)(i) (emphasis added).

[56] *Id.* § 252(d)(1).

[57] *See* 47 C.F.R. §§ 51.501-07, 51.509(g); *Local Competition First Report and Order*, 11 FCC Rcd at 15812-16, 15844-61, 15874-76, 15912, paras. 618-29, 674-712, 743-51, 826.

[58] *See SWBT Texas Order*, 15 FCC Rcd at 18394, para. 88; *see also* 47 U.S.C. §§ 252(c), (e)(6); *American Tel. & Tel Co. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999) (*AT&T v. Iowa Utils. Bd.*).

[59] *SWBT Texas Order*, 15 FCC Rcd at 18394, para. 88; *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. at 377-86.

particular rate dispute is reasonable under the circumstances; (2) the state commission has demonstrated its commitment to the Commission's pricing rules; and (3) provision is made for refunds or true-ups once permanent rates are set.[60] In addition, the Commission has determined that rates contained within an approved section 271 application, including those that are interim, are reasonable starting points for interim rates for the same carrier in an adjoining state.[61]

24. Although the Commission has been willing to grant a section 271 application with a limited number of interim rates where the above-mentioned three-part test is met, it is clearly preferable to analyze a section 271 application on the basis of rates derived from a permanent rate proceeding.[62] At some point, states will have had sufficient time to complete these proceedings. The Commission will, therefore, become more reluctant to continue approving section 271 applications containing interim rates. It would not be sound policy for interim rates to become a substitute for completing these significant proceedings.

B. Checklist Item 2 – Unbundled Network Elements[63]

1. Access to Operations Support Systems

25. Incumbent LECs use a variety of systems, databases, and personnel (collectively referred to as OSS) to provide service to their customers.[64] The Commission consistently has found that nondiscriminatory access to OSS is a prerequisite to the development of meaningful

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[60] *SWBT Texas Order*, 15 FCC Rcd at 18394, para. 88; *see also Bell Atlantic New York Order*, 15 FCC Rcd at 4091, para. 258 (explaining the Commission's case-by-case review of interim prices).

[61] *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6359-60, para. 239.

[62] *See Bell Atlantic New York Order*, 15 FCC Rcd at 4091, para. 260.

[63] We note that the United States Court of Appeals for the District of Columbia Circuit recently opined in two relevant Commission decisions, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696 (1999) (*Local Competition Order*) and *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order in CC Doc. No. 98-147 and Fourth Report and Order in CC Doc. No. 96-98, 14 FCC Rcd 20912 (1999) (*Line Sharing Order*). *USTA v. FCC*, 290 F.3d 415 (D. C. Cir. 2002). The court's decision addressed both our UNE rules and our line sharing rules. The Commission is currently reviewing its unbundled network elements rules, *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 16 FCC Rcd 2278 (2001), and recently extended the reply comment date to allow parties to incorporate their review and analysis of the D.C. Circuit's recent decision. *Wireline Competition Bureau Extends Reply Comment Deadline for Wireline Broadband and Triennial Review Proceedings*, Public Notice, DA 02-1284 (May 29, 2002). Further, the court stated that "the *Line Sharing Order* must be vacated and remanded." *Id.* The court also stated that it "grant[ed] the petitions for review and remand[ed] the *Line Sharing Order* and the *Local Competition Order* to the Commission for further consideration in accordance with the principles outlined." *Id.*

[64] *Id.* at 3989-90, para. 83; *BellSouth South Carolina Order*, 13 FCC Rcd at 585.

local competition.[65] For example, new entrants must have access to the functions performed by the incumbent's OSS in order to formulate and place orders for network elements or resale services, to install service to their customers, to maintain and repair network facilities, and to bill customers.[66] The Commission has determined that without nondiscriminatory access to the BOC's OSS, a competing carrier "will be severely disadvantaged, if not precluded altogether, from fairly competing" in the local exchange market.[67]

26. Section 271 requires the Commission to determine whether a BOC offers nondiscriminatory access to OSS functions. Section 271(c)(2)(B)(ii) requires a BOC to provide "nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)."[68] The Commission has determined that access to OSS functions falls squarely within an incumbent LEC's duty under section 251(c)(3) to provide unbundled network elements (UNEs) under terms and conditions that are nondiscriminatory and just and reasonable, and its duty under section 251(c)(4) to offer resale services without imposing any limitations or conditions that are discriminatory or unreasonable.[69] The Commission must therefore examine a BOC's OSS performance to evaluate compliance with section 271(c)(2)(B)(ii) and (xiv).[70] In addition, the Commission has also concluded that the duty to provide nondiscriminatory access to OSS functions is embodied in other terms of the competitive checklist as well.[71] Consistent with prior orders, the Commission examines a BOC's OSS performance directly under checklist items 2 and 14, as well as other checklist terms.[72]

27. As part of its statutory obligation to provide nondiscriminatory access to OSS functions, a BOC must provide access that sufficiently supports each of the three modes of competitive entry envisioned by the 1996 Act – competitor-owned facilities, UNEs, and resale.[73] For OSS functions that are analogous to those that a BOC provides to itself, its customers or its

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[65] *See Bell Atlantic New York Order*, 15 FCC Rcd at 3990, para. 83; *BellSouth South Carolina Order*, 13 FCC Rcd at 547-48, 585; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20653.

[66] *See Bell Atlantic New York Order*, 15 FCC Rcd at 3990, para. 83.

[67] *Id.*

[68] 47 U.S.C. § 271(c)(2)(B)(ii).

[69] *Bell Atlantic New York Order*, 15 FCC Rcd at 3990, para. 84.

[70] *Id.*

[71] *Id.* As part of a BOC's demonstration that it is "providing" a checklist item (*e.g.*, unbundled loops, unbundled local switching, resale services), it must demonstrate that it is providing nondiscriminatory access to the systems, information, and personnel that support that element or service. An examination of a BOC's OSS performance is therefore integral to the determination of whether a BOC is offering all of the items contained in the competitive checklist. *Id.*

[72] *Id.* at 3990-91, para. 84.

[73] *Id.* at 3991, para. 85.

affiliates, the nondiscrimination standard requires the BOC to offer requesting carriers access that is equivalent in terms of quality, accuracy, and timeliness.[74] The BOC must provide access that permits competing carriers to perform these functions in "substantially the same time and manner" as the BOC.[75] The Commission has recognized in prior orders that there may be situations in which a BOC contends that, although equivalent access has not been achieved for an analogous function, the access that it provides is nonetheless nondiscriminatory within the meaning of the statute.[76]

28. For OSS functions that have no retail analogue, the BOC must offer access "sufficient to allow an efficient competitor a meaningful opportunity to compete."[77] In assessing whether the quality of access affords an efficient competitor a meaningful opportunity to compete, the Commission will examine, in the first instance, whether specific performance standards exist for those functions.[78] In particular, the Commission will consider whether appropriate standards for measuring OSS performance have been adopted by the relevant state commission or agreed upon by the BOC in an interconnection agreement or during the implementation of such an agreement.[79] If such performance standards exist, the Commission will evaluate whether the BOC's performance is sufficient to allow an efficient competitor a meaningful opportunity to compete.[80]

29. The Commission analyzes whether a BOC has met the nondiscrimination standard for each OSS function using a two-step approach. First, the Commission determines "whether the BOC has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and whether the BOC is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them."[81] The

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[74] *Id.*

[75] *Id.* For example, the Commission would not deem an incumbent LEC to be providing nondiscriminatory access to OSS if limitations on the processing of information between the interface and the back office systems prevented a competitor from performing a specific function in substantially the same time and manner as the incumbent performs that function for itself.

[76] *See id.*

[77] *Id.* at 3991, para. 86.

[78] *Id.*

[79] *Id.* As a general proposition, specific performance standards adopted by a state commission in an arbitration decision would be more persuasive evidence of commercial reasonableness than a standard unilaterally adopted by the BOC outside of its interconnection agreement. *Id.* at 20619-20.

[80] *See id.* at 3991-92, para. 86.

[81] *Id.* at 3992, para. 87; *Ameritech Michigan Order*, 12 FCC Rcd at 20616; *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20654; *BellSouth South Carolina Order*, 13 FCC Rcd at 592-93. In making this determination, the Commission "consider[s] all of the automated and manual processes a BOC has undertaken to provide access to OSS functions," including the interface (or gateway) that connects the competing carrier's own operations support systems to the BOC; any electronic or manual processing link between that interface and the (continued....)

Commission next assesses "whether the OSS functions that the BOC has deployed are operationally ready, as a practical matter."[82]

30. Under the first inquiry, a BOC must demonstrate that it has developed sufficient electronic (for functions that the BOC accesses electronically) and manual interfaces to allow competing carriers equivalent access to all of the necessary OSS functions.[83] For example, a BOC must provide competing carriers with the specifications necessary for carriers to design or modify their systems in a manner that will enable them to communicate with the BOC's systems and any relevant interfaces.[84] In addition, a BOC must disclose to competing carriers any internal business rules[85] and other formatting information necessary to ensure that a carrier's requests and orders are processed efficiently.[86] Finally, a BOC must demonstrate that its OSS is designed to accommodate both current demand and projected demand for competing carriers' access to OSS functions.[87] Although not a prerequisite, the Commission continues to encourage the use of industry standards as an appropriate means of meeting the needs of a competitive local exchange market.[88]

31. Under the second inquiry, the Commission examines performance measurements and other evidence of commercial readiness to ascertain whether the BOC's OSS is handling current demand and will be able to handle reasonably foreseeable future volumes.[89] The most probative evidence that OSS functions are operationally ready is actual commercial usage.[90]

(Continued from previous page)
BOC's OSS (including all necessary back office systems and personnel); and all of the OSS that a BOC uses in providing network elements and resale services to a competing carrier. *Ameritech Michigan Order*, 12 FCC Rcd at 20615; *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20654 n.241.

82 *See Bell Atlantic New York Order*, 15 FCC Rcd at 3992, para. 88.

83 *Id.* at 3992, para. 87; *see also Ameritech Michigan Order*, 12 FCC Rcd at 20616, para. 136 (The Commission determines "whether the BOC has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and whether the BOC is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them."). For example, a BOC must provide competing carriers the specifications necessary to design their systems interfaces and business rules necessary to format orders, and demonstrate that systems are scalable to handle current and projected demand. *Id.*

84 *Id.*

85 Business rules refer to the protocols that a BOC uses to ensure uniformity in the format of orders and include information concerning ordering codes such as universal service ordering codes (USOCs) and field identifiers (FIDs). *Id.*; *see also Ameritech Michigan Order*, 12 FCC Rcd at 20617 n.335.

86 *Bell Atlantic New York Order*, 15 FCC Rcd at 3992, para. 88.

87 *Id.*

88 *See id.*

89 *Id.* at 3993, para. 89.

90 *Id.*

Absent sufficient and reliable data on commercial usage, the Commission will consider the results of carrier-to-carrier testing, independent third-party testing, and internal testing in assessing the commercial readiness of a BOC's OSS.[91] Although the Commission does not require OSS testing, a persuasive test will provide us with an objective means by which to evaluate a BOC's OSS readiness where there is little to no evidence of commercial usage, or may otherwise strengthen an application where the BOC's evidence of actual commercial usage is weak or is otherwise challenged by competitors. The persuasiveness of a third-party review, however, is dependent upon the qualifications, experience and independence of the third party and the conditions and scope of the review itself.[92] If the review is limited in scope or depth or is not independent and blind, the Commission will give it minimal weight. As noted above, to the extent the Commission reviews performance data, it looks at the totality of the circumstances and generally does not view individual performance disparities, particularly if they are isolated and slight, as dispositive of whether a BOC has satisfied its checklist obligations.[93] Individual performance disparities may, nevertheless, result in a finding of checklist noncompliance, particularly if the disparity is substantial or has endured for a long time, or if it is accompanied by other evidence of discriminatory conduct or evidence that competing carriers have been denied a meaningful opportunity to compete.

a. Relevance of a BOC's Prior Section 271 Orders

32. The *SWBT Kansas/Oklahoma Order* specifically outlined a non-exhaustive evidentiary showing that must be made in the initial application when a BOC seeks to rely on evidence presented in another application.[94] First, a BOC's application must explain the extent to which the OSS are "the same" – that is, whether it employs the shared use of a single OSS, or the use of systems that are identical, but separate.[95] To satisfy this inquiry, the Commission looks to whether the relevant states utilize a common set of processes, business rules, interfaces, systems and, in many instances, even personnel.[96] The Commission will also carefully examine third party reports that demonstrate that the BOC's OSS are the same in each of the relevant states.[97] Finally, where a BOC has discernibly separate OSS, it must demonstrate that its OSS reasonably

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[91] *Id.*

[92] *See id.*; *Ameritech Michigan Order*, 12 FCC Rcd at 20659 (emphasizing that a third-party review should encompass the entire obligation of the incumbent LEC to provide nondiscriminatory access, and, where applicable, should consider the ability of actual competing carriers in the market to operate using the incumbent's OSS access).

[93] *See SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6301-02, para. 138.

[94] *See id.* at 6286-91, paras. 107-18

[95] *See id.* at 6288, para. 111.

[96] The Commission has consistently held that a BOC's OSS includes both mechanized systems and manual processes, and thus the OSS functions performed by BOC personnel have been part of the FCC's OSS functionality and commercial readiness reviews.

[97] *See SWBT Kansas/Oklahoma Order*, *id.* at 6287, para. 108.

can be expected to behave in the same manner.[98] Second, unless an applicant seeks to establish only that certain discrete components of its OSS are the same, an applicant must submit evidence relating to *all* aspects of its OSS, including those OSS functions performed by BOC personnel.

b. Pre-Ordering

33. A BOC must demonstrate that: (i) it offers nondiscriminatory access to OSS pre-ordering functions associated with determining whether a loop is capable of supporting xDSL advanced technologies; (ii) competing carriers successfully have built and are using application-to-application interfaces to perform pre-ordering functions and are able to integrate pre-ordering and ordering interfaces;[99] and (iii) its pre-ordering systems provide reasonably prompt response times and are consistently available in a manner that affords competitors a meaningful opportunity to compete.[100]

34. The pre-ordering phase of OSS generally includes those activities that a carrier undertakes to gather and verify the information necessary to place an order.[101] Given that pre-ordering represents the first exposure that a prospective customer has to a competing carrier, it is critical that a competing carrier is able to accomplish pre-ordering activities in a manner no less efficient and responsive than the incumbent.[102] Most of the pre-ordering activities that must be undertaken by a competing carrier to order resale services and UNEs from the incumbent are analogous to the activities a BOC must accomplish to furnish service to its own customers. For these pre-ordering functions, a BOC must demonstrate that it provides requesting carriers access that enables them to perform pre-ordering functions in substantially the same time and manner as

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[98] *See id.* at 6288, para. 111.

[99] In prior orders, the Commission has emphasized that providing pre-ordering functionality through an application-to-application interface is essential in enabling carriers to conduct real-time processing and to integrate pre-ordering and ordering functions in the same manner as the BOC. *SWBT Texas Order*, 15 FCC Rcd at 18426, para. 148.

[100] The Commission has held previously that an interface that provides responses in a prompt timeframe and is stable and reliable, is necessary for competing carriers to market their services and serve their customers as efficiently and at the same level of quality as a BOC serves its own customers. *See Bell Atlantic New York Order*, 15 FCC Rcd at 4025 and 4029, paras. 145 and 154.

[101] *See Bell Atlantic New York Order*, 15 FCC Rcd at 4014, para. 129; *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20660, para. 94 (referring to "pre-ordering and ordering" collectively as "the exchange of information between telecommunications carriers about current or proposed customer products and services or unbundled network elements or some combination thereof"). In prior orders, the Commission has identified the following five pre-order functions: (1) customer service record (CSR) information; (2) address validation; (3) telephone number information; (4) due date information; (5) services and feature information. *See Bell Atlantic New York Order*, 15 FCC Rcd at 4015, para. 132; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20660, para. 94; *BellSouth South Carolina Order*, 13 FCC Rcd at 619, para. 147.

[102] *Bell Atlantic New York Order*, 15 FCC Rcd at 4014, para. 129.

its retail operations.[103] For those pre-ordering functions that lack a retail analogue, a BOC must provide access that affords an efficient competitor a meaningful opportunity to compete.[104] In prior orders, the Commission has emphasized that providing pre-ordering functionality through an application-to-application interface is essential in enabling carriers to conduct real-time processing and to integrate pre-ordering and ordering functions in the same manner as the BOC.[105]

(i) Access to Loop Qualification Information

35. In accordance with the *UNE Remand Order*,[106] the Commission requires incumbent carriers to provide competitors with access to all of the same detailed information about the loop that is available to the incumbents,[107] and in the same time frame, so that a competing carrier can make an independent judgment at the pre-ordering stage about whether an end user loop is capable of supporting the advanced services equipment the competing carrier intends to install.[108] Under the *UNE Remand Order*, the relevant inquiry is not whether a BOC's retail arm accesses such underlying information but whether such information exists anywhere in a BOC's back office and can be accessed by any of a BOC's personnel.[109] Moreover, a BOC may not "filter or digest" the underlying information and may not provide only information that is useful in provisioning of a particular type of xDSL that a BOC offers.[110] A BOC must also

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[103] *Id.*; *see also BellSouth South Carolina Order*, 13 FCC Rcd at 623-29 (concluding that failure to deploy an application-to-application interface denies competing carriers equivalent access to pre-ordering OSS functions).

[104] *Bell Atlantic New York Order*, 15 FCC Rcd at 4014, para. 129.

[105] *See id.* at 4014, para. 130; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20661-67, para. 105.

[106] *UNE Remand Order*, 15 FCC Rcd at 3885, para. 426 (determining "that the pre-ordering function includes access to loop qualification information").

[107] *See id.* At a minimum, a BOC must provide (1) the composition of the loop material, including both fiber and copper; (2) the existence, location and type of any electronic or other equipment on the loop, including but not limited to, digital loop carrier or other remote concentration devices, feeder/distribution interfaces, bridge taps, load coils, pair-gain devices, disturbers in the same or adjacent binder groups; (3) the loop length, including the length and location of each type of transmission media; (4) the wire gauge(s) of the loop; and (5) the electrical parameters of the loop, which may determine the suitability of the loop for various technologies. *Id.*

[108] As the Commission has explained in prior proceedings, because characteristics of a loop, such as its length and the presence of various impediments to digital transmission, can hinder certain advanced services technologies, carriers often seek to "pre-qualify" a loop by accessing basic loop makeup information that will assist carriers in ascertaining whether the loop, either with or without the removal of the impediments, can support a particular advanced service. *See id.*, 15 FCC Rcd at 4021, para. 140.

[109] *UNE Remand Order*, 15 FCC Rcd at 3885-3887, paras. 427-431 (noting that "to the extent such information is not normally provided to the incumbent's retail personnel, but can be obtained by contacting back office personnel, it must be provided to requesting carriers within the same time frame that any incumbent personnel are able to obtain such information.").

[110] *See SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6292-93, para. 121.

provide loop qualification information based, for example, on an individual address or zip code of the end users in a particular wire center, NXX code or on any other basis that the BOC provides such information to itself. Moreover, a BOC must also provide access for competing carriers to the loop qualifying information that the BOC can itself access manually or electronically. Finally, a BOC must provide access to loop qualification information to competitors within the same time intervals it is provided to the BOC's retail operations or its advanced services affiliate.[111] As the Commission determined in the *UNE Remand Order*, however, "to the extent such information is not normally provided to the incumbent's retail personnel, but can be obtained by contacting back office personnel, it must be provided to requesting carriers within the same time frame that any incumbent personnel are able to obtain such information."[112]

c. Ordering

36. Consistent with section 271(c)(2)(B)(ii), a BOC must demonstrate its ability to provide competing carriers with access to the OSS functions necessary for placing wholesale orders. For those functions of the ordering systems for which there is a retail analogue, a BOC must demonstrate, with performance data and other evidence, that it provides competing carriers with access to its OSS in substantially the same time and manner as it provides to its retail operations. For those ordering functions that lack a direct retail analogue, a BOC must demonstrate that its systems and performance allow an efficient carrier a meaningful opportunity to compete. As in prior section 271 orders, the Commission looks primarily at the applicant's ability to return order confirmation notices, order reject notices, order completion notices and jeopardies, and at its order flow-through rate.[113]

d. Provisioning

37. A BOC must provision competing carriers' orders for resale and UNE-P services in substantially the same time and manner as it provisions orders for its own retail customers.[114] Consistent with the approach in prior section 271 orders, the Commission examines a BOC's provisioning processes, as well as its performance with respect to provisioning timeliness (i.e.,

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[111] *Id.*

[112] *UNE Remand Order*, 15 FCC Rcd at 3885-3887, paras. 427-31.

[113] *See SWBT Texas Order*, 15 FCC Rcd at 18438, para. 170; *Bell Atlantic New York Order*, 15 FCC Rcd at 4035-39, paras. 163-66. The Commission examines (i) order flow-through rates, (ii) jeopardy notices and (iii) order completion notices using the "same time and manner" standard. The Commission examines order confirmation notices and order rejection notices using the "meaningful opportunity to compete" standard.

[114] *See Bell Atlantic New York*, 15 FCC Rcd at 4058, para. 196. For provisioning timeliness, the Commission looks to missed due dates and average installation intervals; for provisioning quality, the Commission looks to service problems experienced at the provisioning stage.

missed due dates and average installation intervals) and provisioning quality (i.e., service problems experienced at the provisioning stage).[115]

e. Maintenance and Repair

38. A competing carrier that provides service through resale or UNEs remains dependent upon the incumbent LEC for maintenance and repair. Thus, as part of its obligation to provide nondiscriminatory access to OSS functions, a BOC must provide requesting carriers with nondiscriminatory access to its maintenance and repair systems.[116] To the extent a BOC performs analogous maintenance and repair functions for its retail operations, it must provide competing carriers access that enables them to perform maintenance and repair functions "in substantially the same time and manner" as a BOC provides its retail customers.[117] Equivalent access ensures that competing carriers can assist customers experiencing service disruptions using the same network information and diagnostic tools that are available to BOC personnel.[118] Without equivalent access, a competing carrier would be placed at a significant competitive disadvantage, as its customer would perceive a problem with a BOC's network as a problem with the competing carrier's own network.[119]

f. Billing

39. A BOC must provide nondiscriminatory access to its billing functions, which is necessary to enable competing carriers to provide accurate and timely bills to their customers.[120] In making this determination, the Commission assesses a BOC's billing processes and systems, and its performance data. Consistent with prior section 271 orders, a BOC must demonstrate that it provides competing carriers with complete and accurate reports on the service usage of competing carriers' customers in substantially the same time and manner that a BOC provides such information to itself, and with wholesale bills in a manner that gives competing carriers a meaningful opportunity to compete.[121]

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[115] *Id.*

[116] *Id.* at 4067, para. 212; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20692; *Ameritech Michigan Order*, 12 FCC Rcd at 20613, 20660-61.

[117] *Bell Atlantic New York Order*, 15 FCC Rcd at 4058, para. 196; *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20692-93.

[118] *Bell Atlantic New York Order*, 15 FCC Rcd at 4058, para. 196.

[119] *Id.*

[120] *See SWBT Texas Order*, 15 FCC Rcd at 18461, para. 210.

[121] *See id.*; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6316-17, at para. 163.

g. Change Management Process

40. Competing carriers need information about, and specifications for, an incumbent's systems and interfaces to develop and modify their systems and procedures to access the incumbent's OSS functions.[122] Thus, in order to demonstrate that it is providing nondiscriminatory access to its OSS, a BOC must first demonstrate that it "has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and . . . is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them."[123] By showing that it adequately assists competing carriers to use available OSS functions, a BOC provides evidence that it offers an efficient competitor a meaningful opportunity to compete.[124] As part of this demonstration, the Commission will give substantial consideration to the existence of an adequate change management process and evidence that the BOC has adhered to this process over time.[125]

41. The change management process refers to the methods and procedures that the BOC employs to communicate with competing carriers regarding the performance of, and changes in, the BOC's OSS.[126] Such changes may include updates to existing functions that impact competing carrier interface(s) upon a BOC's release of new interface software; technology changes that require competing carriers to meet new technical requirements upon a BOC's software release date; additional functionality changes that may be used at the competing carrier's option, on or after a BOC's release date for new interface software; and changes that may be mandated by regulatory authorities.[127] Without a change management process in place, a BOC can impose substantial costs on competing carriers simply by making changes to its systems and interfaces without providing adequate testing opportunities and accurate and timely notice and documentation of the changes.[128] Change management problems can impair a competing carrier's ability to obtain nondiscriminatory access to UNEs, and hence a BOC's compliance with section 271(2)(B)(ii).[129]

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[122] *Bell Atlantic New York Order*, 15 FCC Rcd at 3999-4000, para. 102; *First BellSouth Louisiana Order*, 13 FCC Rcd at 6279 n.197; *BellSouth South Carolina Order*, 13 FCC Rcd at 625 n.467; *Ameritech Michigan Order*, 12 FCC Rcd at 20617 n.334; *Local Competition Second Report and Order*, 11 FCC Rcd at 19742.

[123] *Bell Atlantic New York Order*, 15 FCC Rcd at 3999, para. 102.

[124] *Id.* at 3999-4000, para. 102

[125] *Id.* at 4000, para. 102.

[126] *Id.* at 4000, para. 103.

[127] *Id.*

[128] *Id.* at 4000, para. 103.

[129] *Id.*

42. In evaluating whether a BOC's change management plan affords an efficient competitor a meaningful opportunity to compete, the Commission first assesses whether the plan is adequate. In making this determination, it assesses whether the evidence demonstrates: (1) that information relating to the change management process is clearly organized and readily accessible to competing carriers;[130] (2) that competing carriers had substantial input in the design and continued operation of the change management process;[131] (3) that the change management plan defines a procedure for the timely resolution of change management disputes;[132] (4) the availability of a stable testing environment that mirrors production;[133] and (5) the efficacy of the documentation the BOC makes available for the purpose of building an electronic gateway.[134] After determining whether the BOC's change management plan is adequate, the Commission evaluates whether the BOC has demonstrated a pattern of compliance with this plan.[135]

2. UNE Combinations

43. In order to comply with the requirements of checklist item 2, a BOC must show that it is offering "[n]ondiscriminatory access to network elements in accordance with the requirements of section 251(c)(3)."[136] Section 251(c)(3) requires an incumbent LEC to "provide, to any requesting telecommunications carrier . . . nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms and conditions that are just, reasonable, and nondiscriminatory."[137] Section 251(c)(3) of the Act also requires incumbent LECs to provide UNEs in a manner that allows requesting carriers to combine such elements in order to provide a telecommunications service.[138]

44. In the *Ameritech Michigan Order*, the Commission emphasized that the ability of requesting carriers to use UNEs, as well as combinations of UNEs, is integral to achieving Congress' objective of promoting competition in local telecommunications markets.[139] Using

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[130] *Id.* at 4002, para. 107.

[131] *Id.* at 4000, para. 104.

[132] *Id.* at 4002, para. 108.

[133] *Id.* at 4002-03, paras. 109-10.

[134] *Id.* at 4003-04, para. 110. In the *Bell Atlantic New York Order*, the Commission used these factors in determining whether Bell Atlantic had an adequate change management process in place. *See id.* at 4004, para. 111. The Commission left open the possibility, however, that a change management plan different from the one implemented by Bell Atlantic may be sufficient to demonstrate compliance with the requirements of section 271. *Id.*

[135] *Id.* at 3999, para. 101, 4004-05, para. 112.

[136] 47 U.S.C. § 271(c)(2)(B)(ii).

[137] *Id.* § 251(c)(3).

[138] *Id.*

[139] *Ameritech Michigan Order*, 12 FCC Rcd at 20718-19; *BellSouth South Carolina Order*, 13 FCC Rcd at 646.

combinations of UNEs provides a competitor with the incentive and ability to package and market services in ways that differ from the BOCs' existing service offerings in order to compete in the local telecommunications market.[140] Moreover, combining the incumbent's UNEs with their own facilities encourages facilities-based competition and allows competing providers to provide a wide array of competitive choices.[141] Because the use of combinations of UNEs is an important strategy for entry into the local telecommunications market, as well as an obligation under the requirements of section 271, the Commission examines section 271 applications to determine whether competitive carriers are able to combine network elements as required by the Act and the Commission's regulations.[142]

3. Pricing of Network Elements

45. Checklist item 2 of section 271 states that a BOC must provide "nondiscriminatory access to network elements in accordance with sections 251(c)(3) and 252(d)(1)" of the Act.[143] Section 251(c)(3) requires incumbent LECs to provide "nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory."[144] Section 252(d)(1) requires that a state commission's determination of the just and reasonable rates for network elements shall be based on the cost of providing the network elements, shall be nondiscriminatory, and may include a reasonable profit.[145] Pursuant to this statutory mandate, the Commission has determined that prices for UNEs must be based on the total element long run incremental cost (TELRIC) of providing those elements.[146] The Commission also promulgated rule 51.315(b), which prohibits incumbent LECs from separating already combined elements before providing them to competing carriers, except on request.[147] The Commission has

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[140] *BellSouth South Carolina Order*, 13 FCC Rcd at 646; *see also Local Competition First Report and Order*, 11 FCC Rcd at 15666-68.

[141] *Bell Atlantic New York Order*, 15 FCC Rcd at 4077-78, para. 230.

[142] *Id.* The Supreme Court, on May 13, 2002, upheld the Commission's combination rules, finding that the requirement "is consistent with the Act's goals of competition and nondiscrimination, and imposing it is a sensible way to reach the result the statute requires." *Verizon Communications Inc. v. FCC*, 122 S.Ct. 1646, 1687 (2002) (*Verizon v. FCC*).

[143] 47 U.S.C. § 271(c)(2)(B)(ii).

[144] *Id.* § 251(c)(3).

[145] 47 U.S.C. § 252(d)(1).

[146] *Local Competition First Report and Order*, 11 FCC Rcd at 15844-46, paras. 674-79; 47 C.F.R. §§ 51.501 *et seq.*; *see also Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147, and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98*, Third Report and Order and Fourth Report and Order, 14 FCC Rcd 20912, 20974, para. 135 (*Line Sharing Order*) (concluding that states should set the prices for line sharing as a new network element in the same manner as the state sets prices for other UNEs).

[147] *See* 47 C.F.R. § 51.315(b).

previously held that it will not conduct a *de novo* review of a state's pricing determinations and will reject an application only if "basic TELRIC principles are violated or the state commission makes clear errors in factual findings on matters so substantial that the end result falls outside the range that the reasonable application of TELRIC principles would produce."[148]

46. Although the U.S. Court of Appeals for the Eighth Circuit stayed the Commission's pricing rules in 1996,[149] the Supreme Court restored the Commission's pricing authority on January 25, 1999, and remanded to the Eighth Circuit for consideration of the merits of the challenged rules.[150] On remand from the Supreme Court, the Eighth Circuit concluded that while TELRIC is an acceptable method for determining costs, certain specific requirements contained within the Commission's pricing rules were contrary to Congressional intent.[151] The Eighth Circuit stayed the issuance of its mandate pending review by the Supreme Court.[152] The Supreme Court, on May 13, 2002, upheld the Commission's forward-looking pricing methodology in determining costs of UNEs and "reverse[d] the Eighth Circuit's judgment insofar as it invalidated TELRIC as a method for setting rates under the Act."[153] Accordingly, the Commission's pricing rules remain in effect.

C. Checklist Item 3 – Poles, Ducts, Conduits and Rights of Way

47. Section 271(c)(2)(B)(iii) requires BOCs to provide "[n]ondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the [BOC] at just and reasonable rates in accordance with the requirements of section 224."[154] Section 224(f)(1) states

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[148] *Bell Atlantic New York Order*, 15 FCC Rcd at 4084, para. 244; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6266, para. 59.

[149] *Iowa Utils. Bd. v. FCC*, 120 F.3d 753, 800, 804, 805-06 (8th Cir. 1997).

[150] *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999). In reaching its decision, the Court acknowledged that section 201(b) "explicitly grants the FCC jurisdiction to make rules governing matters to which the 1996 Act applies." *Id.* at 380. Furthermore, the Court determined that section 251(d) also provides evidence of an express jurisdictional grant by requiring that "the Commission [shall] complete all actions necessary to establish regulations to implement the requirements of this section." *Id.* at 382. The Court also held that the pricing provisions implemented under the Commission's rulemaking authority do not inhibit the establishment of rates by the states. The Court concluded that the Commission has jurisdiction to design a pricing methodology to facilitate local competition under the 1996 Act, including pricing for interconnection and unbundled access, as "it is the States that will apply those standards and implement that methodology, determining the concrete result." *Id.*

[151] *Iowa Utils. Bd. v. FCC*, 219 F.3d 744 (8th Cir. 2000), *petition for cert. granted sub nom. Verizon Communications v. FCC*, 121 S. Ct. 877 (2001).

[152] *Iowa Utils. Bd. v. FCC*, No. 96-3321 *et al.* (8th Cir. Sept. 25, 2000).

[153] *Verizon v. FCC*, 122 S.Ct. at 1679.

[154] 47 U.S.C. § 271(c)(2)(B)(iii). As originally enacted, section 224 was intended to address obstacles that cable operators encountered in obtaining access to poles, ducts, conduits, or rights-of-way owned or controlled by utilities. The 1996 Act amended section 224 in several important respects to ensure that telecommunications carriers as well (continued....)

that "[a] utility shall provide a cable television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it."[155] Notwithstanding this requirement, section 224(f)(2) permits a utility providing electric service to deny access to its poles, ducts, conduits, and rights-of-way, on a nondiscriminatory basis, "where there is insufficient capacity and for reasons of safety, reliability and generally applicable engineering purposes."[156] Section 224 also contains two separate provisions governing the maximum rates that a utility may charge for "pole attachments."[157] Section 224(b)(1) states that the Commission shall regulate the rates, terms, and conditions governing pole attachments to ensure that they are "just and reasonable."[158] Notwithstanding this general grant of authority, section 224(c)(1) states that "[n]othing in [section 224] shall be construed to apply to, or to give the Commission jurisdiction with respect to the rates, terms, and conditions, or access to poles, ducts, conduits and rights-of-way as provided in [section 224(f)], for pole attachments in any case where such matters are regulated by a State."[159] As of 1992, nineteen states, including Connecticut, had certified to the Commission that they regulated the rates, terms, and conditions for pole attachments.[160]

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as cable operators have access to poles, ducts, conduits, or rights-of-way owned or controlled by utility companies, including LECs. *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20706, n.574.

[155] 47 U.S.C. § 224(f)(1). Section 224(a)(1) defines "utility" to include any entity, including a LEC, that controls "poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications." 47 U.S.C. § 224(a)(1).

[156] 47 U.S.C. § 224(f)(2). In the *Local Competition First Report and Order*, the Commission concluded that, although the statutory exception enunciated in section 224(f)(2) appears to be limited to utilities providing electrical service, LECs should also be permitted to deny access to their poles, ducts, conduits, and rights-of-way because of insufficient capacity and for reasons of safety, reliability and generally applicable engineering purposes, provided the assessment of such factors is done in a nondiscriminatory manner. *Local Competition First Report and Order*, 11 FCC Rcd at 16080-81, paras. 1175-77.

[157] Section 224(a)(4) defines "pole attachment" as "any attachment by a cable television system or provider of telecommunications service to a pole, duct, conduit, or right-of-way owned or controlled by a utility." 47 U.S.C. § 224(a)(4).

[158] 47 U.S.C. § 224(b)(1).

[159] *Id.* § 224(c)(1). The 1996 Act extended the Commission's authority to include not just rates, terms, and conditions, but also the authority to regulate nondiscriminatory access to poles, ducts, conduits, and rights-of-way. *Local Competition First Report and Order*, 11 FCC Rcd at 16104, para. 1232; 47 U.S.C. § 224(f). Absent state regulation of terms and conditions of nondiscriminatory attachment access, the Commission retains jurisdiction. *Local Competition First Report and Order*, 11 FCC Rcd at 16104, para. 1232; 47 U.S.C. § 224(c)(1); *see also Bell Atlantic New York Order*, 15 FCC Rcd at 4093, para. 264.

[160] *See States That Have Certified That They Regulate Pole Attachments*, Public Notice, 7 FCC Rcd 1498 (1992); 47 U.S.C. § 224(f).

D. Checklist Item 4 – Unbundled Local Loops

48. Section 271(c)(2)(B)(iv) of the Act, item 4 of the competitive checklist, requires that a BOC provide "[l]ocal loop transmission from the central office to the customer's premises, unbundled from local switching or other services."[161] The Commission has defined the loop as a transmission facility between a distribution frame, or its equivalent, in an incumbent LEC central office, and the demarcation point at the customer premises. This definition includes different types of loops, including two-wire and four-wire analog voice-grade loops, and two-wire and four-wire loops that are conditioned to transmit the digital signals needed to provide service such as ISDN, ADSL, HDSL, and DS1-level signals.[162]

49. In order to establish that it is "providing" unbundled local loops in compliance with checklist item 4, a BOC must demonstrate that it has a concrete and specific legal obligation to furnish loops and that it is currently doing so in the quantities that competitors demand and at an acceptable level of quality. A BOC must also demonstrate that it provides nondiscriminatory access to unbundled loops.[163] Specifically, the BOC must provide access to any functionality of the loop requested by a competing carrier unless it is not technically feasible to condition the loop facility to support the particular functionality requested. In order to provide the requested loop functionality, such as the ability to deliver xDSL services, the BOC may be required to take affirmative steps to condition existing loop facilities to enable competing carriers to provide services not currently provided over the facilities. The BOC must provide competitors with access to unbundled loops regardless of whether the BOC uses digital loop carrier (DLC) technology or similar remote concentration devices for the particular loops sought by the competitor.

50. On December 9, 1999, the Commission released the *Line Sharing Order*, which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL).[164] HFPL is defined as "the frequency above the voiceband on a copper loop facility that is being used to carry traditional POTS analog circuit-switched voiceband transmissions." This definition applies whether a BOC's voice customers are served by cooper or by digital loop carrier equipment. Competing carriers should have access

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[161] 47 U.S.C. § 271(c)(2)(B)(iv).

[162] *Local Competition First Report and Order*, 11 FCC Rcd at 15691, para. 380; *UNE Remand Order*, 15 FCC Rcd at 3772-73, paras. 166-67, n.301 (retaining definition of the local loop from the *Local Competition First Report and Order*, but replacing the phrase "network interconnection device" with "demarcation point," and making explicit that dark fiber and loop conditioning are among the features, functions and capabilities of the loop).

[163] *SWBT Texas Order*, 15 FCC Rcd at 18481-81, para. 248; *Bell Atlantic New York Order*, 15 FCC Rcd at 4095, para. 269; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20637, para. 185.

[164] *See Line Sharing Order*, 14 FCC Rcd at 20924-27, paras. 20-27; *see also* n.63 at C-12 *supra*.

to the HFPL at either a central office or at a remote terminal. However, the HFPL network element is *only* available on a copper loop facility.[165]

51. To determine whether a BOC makes line sharing available consistent with Commission rules set out in the *Line Sharing Order*, the Commission examines categories of performance measurements identified in the *Bell Atlantic New York* and *SWBT Texas Orders*. Specifically, a successful BOC applicant could provide evidence of BOC-caused missed installation due dates, average installation intervals, trouble reports within 30 days of installation, mean time to repair, trouble report rates, and repeat trouble report rates. In addition, a successful BOC applicant should provide evidence that its central offices are operationally ready to handle commercial volumes of line sharing and that it provides competing carriers with nondiscriminatory access to the pre-ordering and ordering OSS functions associated with the provision of line shared loops, including access to loop qualification information and databases.

52. Section 271(c)(2)(B)(iv) also requires that a BOC demonstrate that it makes line splitting available to competing carriers so that competing carriers may provide voice and data service over a single loop.[166] In addition, a BOC must demonstrate that a competing carrier, either alone or in conjunction with another carrier, is able to replace an existing UNE-P configuration used to provide voice service with an arrangement that enables it to provide voice and data service to a customer. To make such a showing, a BOC must show that it has a legal obligation to provide line splitting through rates, terms, and conditions in interconnection agreements and that it offers competing carriers the ability to order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment, and combine it with unbundled switching and shared transport.[167]

E. Checklist Item 5 – Unbundled Local Transport

53. Section 271(c)(2)(B)(v) of the competitive checklist requires a BOC to provide "[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services."[168] The Commission has required that BOCs provide both dedicated and shared transport to requesting carriers.[169] Dedicated transport consists of BOC transmission

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[165] *See Deployment of Wireline Services offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order on Reconsideration in CC Docket No. 98-147, Fourth Report and Order on Reconsideration in CC Docket No. 96-98, 16 FCC Rcd 2101, 2106-07, para. 10 (2001).

[166] *See generally SWBT Texas Order*, 15 FCC Rcd at 18515-17, paras. 323-329 (describing line splitting); 47 C.F.R. § 51.703(c) (requiring that incumbent LECs provide competing carriers with access to unbundled loops in a manner that allows competing carriers "to provide any telecommunications service that can be offered by means of that network element").

[167] *See SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6348, para. 220.

[168] 47 U.S.C. § 271(c)(2)(B)(v).

[169] *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20719, para. 201.

facilities dedicated to a particular customer or carrier that provide telecommunications between wire centers owned by BOCs or requesting telecommunications carriers, or between switches owned by BOCs or requesting telecommunications carriers.[170] Shared transport consists of transmission facilities shared by more than one carrier, including the BOC, between end office switches, between end office switches and tandem switches, and between tandem switches, in the BOC's network.[171]

F. Checklist Item 6 – Unbundled Local Switching

54. Section 271(c)(2)(B)(vi) of the 1996 Act requires a BOC to provide "[l]ocal switching unbundled from transport, local loop transmission, or other services."[172] In the *Second BellSouth Louisiana Order*, the Commission required BellSouth to provide unbundled local switching that included line-side and trunk-side facilities, plus the features, functions, and capabilities of the switch.[173] The features, functions, and capabilities of the switch include the basic switching function as well as the same basic capabilities that are available to the incumbent LEC's customers.[174] Additionally, local switching includes all vertical features that the switch is capable of providing, as well as any technically feasible customized routing functions.[175]

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[170] *Id.* A BOC has the following obligations with respect to dedicated transport: (a) provide unbundled access to dedicated transmission facilities between BOC central offices or between such offices and serving wire centers (SWCs); between SWCs and interexchange carriers points of presence (POPs); between tandem switches and SWCs, end offices or tandems of the BOC, and the wire centers of BOCs and requesting carriers; (b) provide all technically feasible transmission capabilities such as DS1, DS3, and Optical Carrier levels that the competing carrier could use to provide telecommunications; (c) not limit the facilities to which dedicated interoffice transport facilities are connected, provided such interconnections are technically feasible, or restrict the use of unbundled transport facilities; and (d) to the extent technically feasible, provide requesting carriers with access to digital cross-connect system functionality in the same manner that the BOC offers such capabilities to interexchange carriers that purchase transport services. *Id.* at 20719.

[171] *Id.* at 20719, n.650. The Commission also found that a BOC has the following obligations with respect to shared transport: (a) provide shared transport in a way that enables the traffic of requesting carriers to be carried on the same transport facilities that a BOC uses for its own traffic; (b) provide shared transport transmission facilities between end office switches, between its end office and tandem switches, and between tandem switches in its network; (c) permit requesting carriers that purchase unbundled shared transport and unbundled switching to use the same routing table that is resident in the BOC's switch; and (d) permit requesting carriers to use shared (or dedicated) transport as an unbundled element to carry originating access traffic from, and terminating traffic to, customers to whom the requesting carrier is also providing local exchange service. *Id.* at 20720, n.652.

[172] 47 U.S.C. § 271(c)(2)(B)(vi); *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20722. A switch connects end user lines to other end user lines, and connects end user lines to trunks used for transporting a call to another central office or to a long-distance carrier. Switches can also provide end users with "vertical features" such as call waiting, call forwarding, and caller ID, and can direct a call to a specific trunk, such as to a competing carrier's operator services.

[173] *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20722, para. 207.

[174] *Id.*

[175] *Id.* at 20722-23, para. 207.

55. Moreover, in the *Second BellSouth Louisiana Order*, the Commission required BellSouth to permit competing carriers to purchase UNEs, including unbundled switching, in a manner that permits a competing carrier to offer, and bill for, exchange access and the termination of local traffic.[176] The Commission also stated that measuring daily customer usage for billing purposes requires essentially the same OSS functions for both competing carriers and incumbent LECs, and that a BOC must demonstrate that it is providing equivalent access to billing information.[177] Therefore, the ability of a BOC to provide billing information necessary for a competitive LEC to bill for exchange access and termination of local traffic is an aspect of unbundled local switching.[178] Thus, there is an overlap between the provision of unbundled local switching and the provision of the OSS billing function.[179]

56. To comply with the requirements of unbundled local switching, a BOC must also make available trunk ports on a shared basis and routing tables resident in the BOC's switch, as necessary to provide access to shared transport functionality.[180] In addition, a BOC may not limit the ability of competitors to use unbundled local switching to provide exchange access by requiring competing carriers to purchase a dedicated trunk from an interexchange carrier's point of presence to a dedicated trunk port on the local switch.[181]

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

57. Section 271(c)(2)(B)(vii) of the Act requires a BOC to provide "[n]ondiscriminatory access to – (I) 911 and E911 services."[182] In the *Ameritech Michigan Order*, the Commission found that "section 271 requires a BOC to provide competitors access to its 911 and E911 services in the same manner that a BOC obtains such access, *i.e.*, at parity."[183] Specifically, the Commission found that a BOC "must maintain the 911 database entries for competing LECs with the same accuracy and reliability that it maintains the database entries for

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[176] *Id.* at 20723, para. 208.

[177] *Id.* at 20723, para. 208 (citing *Ameritech Michigan Order*, 12 FCC Rcd at 20619, para. 140).

[178] *Id.*

[179] *Id.*

[180] *Id.* at 20723, para. 209 (citing the *Ameritech Michigan Order*, 12 FCC Rcd at 20705, para. 306).

[181] *Id.* (citing the *Ameritech Michigan Order*, 12 FCC Rcd at 20714-15, paras. 324-25).

[182] 47 U.S.C. § 271(c)(2)(B)(vii). 911 and E911 services transmit calls from end users to emergency personnel. It is critical that a BOC provide competing carriers with accurate and nondiscriminatory access to 911/E911 services so that these carriers' customers are able to reach emergency assistance. Customers use directory assistance and operator services to obtain customer listing information and other call completion services.

[183] *Ameritech Michigan Order*, 12 FCC Rcd at 20679, para. 256.

its own customers."[184] For facilities-based carriers, the BOC must provide "unbundled access to [its] 911 database and 911 interconnection, including the provision of dedicated trunks from the requesting carrier's switching facilities to the 911 control office at parity with what [the BOC] provides to itself."[185] Section 271(c)(2)(B)(vii)(II) and section 271(c)(2)(B)(vii)(III) require a BOC to provide nondiscriminatory access to "directory assistance services to allow the other carrier's customers to obtain telephone numbers" and "operator call completion services," respectively.[186] Section 251(b)(3) of the Act imposes on each LEC "the duty to permit all [competing providers of telephone exchange service and telephone toll service] to have nondiscriminatory access to . . . operator services, directory assistance, and directory listing, with no unreasonable dialing delays."[187] The Commission concluded in the *Second BellSouth Louisiana Order* that a BOC must be in compliance with the regulations implementing section 251(b)(3) to satisfy the requirements of sections 271(c)(2)(B)(vii)(II) and 271(c)(2)(B)(vii)(III).[188] In the *Local Competition Second Report and Order*, the Commission held that the phrase "nondiscriminatory access to directory assistance and directory listings" means that "the customers of all telecommunications service providers should be able to access each LEC's

[184] *Id.*

[185] *Id.*

[186] 47 U.S.C. §§ 271(c)(2)(B)(vii)(II), (III).

[187] *Id.* § 251(b)(3). The Commission implemented section 251(b)(3) in the *Local Competition Second Report and Order*. 47 C.F.R. § 51.217; *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392 (1996) (*Local Competition Second Report and Order*) *vacated in part sub nom. People of the State of California v. FCC*, 124 F.3d 934 (8th Cir. 1997), *overruled in part, AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999); *see also Implementation of the Telecommunications Act of 1996: Provision of Directory Listings Information under the Telecommunications Act of 1934*, Notice of Proposed Rulemaking, 14 FCC Rcd 15550 (1999) (*Directory Listings Information NPRM*).

[188] While both sections 251(b)(3) and 271(c)(2)(B)(vii)(II) refer to nondiscriminatory access to "directory assistance," section 251(b)(3) refers to nondiscriminatory access to "operator services," while section 271(c)(2)(B)(vii)(III) refers to nondiscriminatory access to "operator call completion services." 47 U.S.C. §§ 251(b)(3), 271(c)(2)(B)(vii)(III). The term "operator call completion services" is not defined in the Act, nor has the Commission previously defined the term. However, for section 251(b)(3) purposes, the term "operator services" was defined as meaning "any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call." *Local Competition Second Report and Order*, 11 FCC Rcd at 19448, para. 110. In the same order the Commission concluded that busy line verification, emergency interrupt, and operator-assisted directory assistance are forms of "operator services," because they assist customers in arranging for the billing or completion (or both) of a telephone call. *Id.* at 19449, para. 111. All of these services may be needed or used to place a call. For example, if a customer tries to direct dial a telephone number and constantly receives a busy signal, the customer may contact the operator to attempt to complete the call. Since billing is a necessary part of call completion, and busy line verification, emergency interrupt, and operator-assisted directory assistance can all be used when an operator completes a call, the Commission concluded in the *Second BellSouth Louisiana Order* that for checklist compliance purposes, "operator call completion services" is a subset of or equivalent to "operator service." *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20740, n.763. As a result, the Commission uses the nondiscriminatory standards established for operator services to determine whether nondiscriminatory access is provided.

directory assistance service and obtain a directory listing on a nondiscriminatory basis, notwithstanding: (1) the identity of a requesting customer's local telephone service provider; or (2) the identity of the telephone service provider for a customer whose directory listing is requested."[189] The Commission concluded that nondiscriminatory access to the dialing patterns of 4-1-1 and 5-5-5-1-2-1-2 to access directory assistance were technically feasible, and would continue.[190] The Commission specifically held that the phrase "nondiscriminatory access to operator services" means that "a telephone service customer, regardless of the identity of his or her local telephone service provider, must be able to connect to a local operator by dialing '0,' or '0 plus' the desired telephone number."[191]

58. Competing carriers may provide operator services and directory assistance by reselling the BOC's services, outsourcing service provision to a third-party provider, or using their own personnel and facilities. The Commission's rules require BOCs to permit competitive LECs wishing to resell the BOC's operator services and directory assistance to request the BOC to brand their calls.[192] Competing carriers wishing to provide operator services or directory assistance using their own or a third party provider's facilities and personnel must be able to obtain directory listings either by obtaining directory information on a "read only" or "per dip" basis from the BOC's directory assistance database, or by creating their own directory assistance database by obtaining the subscriber listing information in the BOC's database.[193] Although the

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[189] 47 C.F.R. § 51.217(c)(3); *Local Competition Second Report and Order*, 11 FCC Rcd at 19456-58, paras. 130-35. The *Local Competition Second Report and Order's* interpretation of section 251(b)(3) is limited "to access to each LEC's directory assistance service." *Id.* at 19456, para. 135. However, section 271(c)(2)(B)(vii) is not limited to the LEC's systems but requires "nondiscriminatory access to . . . directory assistance to allow the other carrier's customers to obtain telephone numbers." 47 U.S.C. § 271(c)(2)(B)(vii). Combined with the Commission's conclusion that "incumbent LECs must unbundle the facilities and functionalities providing operator services and directory assistance from resold services and other unbundled network elements to the extent technically feasible," *Local Competition First Report and Order*, 11 FCC Rcd at 15772-73, paras. 535-37, section 271(c)(2)(B)(vii)'s requirement should be understood to require the BOCs to provide nondiscriminatory access to the directory assistance service provider selected by the customer's local service provider, regardless of whether the competitor; provides such services itself; selects the BOC to provide such services; or chooses a third party to provide such services. *See Directory Listings Information NPRM.*

[190] *Local Competition Second Report and Order*, 11 FCC Rcd at 19464, para. 151.

[191] *Id.* at 19464, para. 151.

[192] 47 C.F.R. § 51.217(d); *Local Competition Second Report and Order*, 11 FCC Rcd at 19463, para. 148. For example, when customers call the operator or calls for directory assistance, they typically hear a message, such as "thank you for using XYZ Telephone Company." Competing carriers may use the BOC's brand, request the BOC to brand the call with the competitive carriers name or request that the BOC not brand the call at all. 47 C.F.R. § 51.217(d).

[193] 47 C.F.R. § 51.217(C)(3)(ii); *Local Competition Second Report and Order*, 11 FCC Rcd at 19460-61, paras. 141-44; *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Provision of Directory Listing Information Under the Communications Act of 1934, as amended*, Third Report and Order, Second Order on Reconsideration, and Notice of Proposed Rulemaking, 14 FCC Rcd 15550, 15630-31, paras. 152-54 (1999); *Provision of Directory Listing* (continued....)

Commission originally concluded that BOCs must provide directory assistance and operator services on an unbundled basis pursuant to sections 251 and 252, the Commission removed directory assistance and operator services from the list of required UNEs in the *UNE Remand Order*.[194] Checklist item obligations that do not fall within a BOC's obligations under section 251(c)(3) are not subject to the requirements of sections 251 and 252 that rates be based on forward-looking economic costs.[195] Checklist item obligations that do not fall within a BOC's UNE obligations, however, still must be provided in accordance with sections 201(b) and 202(a), which require that rates and conditions be just and reasonable, and not unreasonably discriminatory.[196]

H. Checklist Item 8 – White Pages Directory Listings

59. Section 271(c)(2)(B)(viii) of the 1996 Act requires a BOC to provide "[w]hite pages directory listings for customers of the other carrier's telephone exchange service."[197] Section 251(b)(3) of the 1996 Act obligates all LECs to permit competitive providers of telephone exchange service and telephone toll service to have nondiscriminatory access to directory listing.[198]

60. In the *Second BellSouth Louisiana Order*, the Commission concluded that, "consistent with the Commission's interpretation of 'directory listing' as used in section 251(b)(3), the term 'white pages' in section 271(c)(2)(B)(viii) refers to the local alphabetical directory that includes the residential and business listings of the customers of the local exchange provider."[199] The Commission further concluded, "the term 'directory listing,' as used in this section, includes, at a minimum, the subscriber's name, address, telephone number, or any combination thereof."[200] The Commission's *Second BellSouth Louisiana Order* also held that a

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Information Under the Communications Act of 1934, as amended, First Report and Order, 16 FCC Rcd 2736, 2743-51 (2001).

[194] *UNE Remand Order*, 15 FCC Rcd at 3891-92, paras. 441-42.

[195] *UNE Remand Order*, 15 FCC Rcd at 3905, para. 470; *see generally* 47 U.S.C. §§ 251-52; *see also* 47 U.S.C. § 252(d)(1)(A)(i) (requiring UNE rates to be "based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the ... network element").

[196] *UNE Remand Order*, 15 FCC Rcd at 3905-06, paras. 470-73; *see also* 47 U.S.C. §§ 201(b), 202(a).

[197] 47 U.S.C. § 271(c)(2)(B)(viii).

[198] *Id.* § 251(b)(3).

[199] *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20748, para. 255.

[200] *Id.* In the *Second BellSouth Louisiana Order*, the Commission stated that the definition of "directory listing" was synonymous with the definition of "subscriber list information." *Id.* at 20747 (citing the *Local Competition Second Report and Order*, 11 FCC Rcd at 19458-59). However, the Commission's decision in a later proceeding obviates this comparison, and supports the definition of directory listing delineated above. *See Implementation of the Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, CC Docket No. 96-115, Third Report and Order; *Implementation of the Local Competition Provisions* (continued....)

BOC satisfies the requirements of checklist item 8 by demonstrating that it: (1) provided nondiscriminatory appearance and integration of white page directory listings to competitive LECs' customers; and (2) provided white page listings for competitors' customers with the same accuracy and reliability that it provides its own customers.[201]

I. Checklist Item 9 – Numbering Administration

61. Section 271(c)(2)(B)(ix) of the 1996 Act requires a BOC to provide "nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers," until "the date by which telecommunications numbering administration, guidelines, plan, or rules are established."[202] The checklist mandates compliance with "such guidelines, plan, or rules" after they have been established.[203] A BOC must demonstrate that it adheres to industry numbering administration guidelines and Commission rules.[204]

J. Checklist Item 10 – Databases and Associated Signaling

62. Section 271(c)(2)(B)(x) of the 1996 Act requires a BOC to provide "nondiscriminatory access to databases and associated signaling necessary for call routing and completion."[205] In the *Second BellSouth Louisiana Order*, the Commission required BellSouth to demonstrate that it provided requesting carriers with nondiscriminatory access to: "(1) signaling networks, including signaling links and signaling transfer points; (2) certain call-related databases necessary for call routing and completion, or in the alternative, a means of physical access to the signaling transfer point linked to the unbundled database; and (3) Service Management Systems (SMS)."[206] The Commission also required BellSouth to design, create, test, and deploy Advanced Intelligent Network (AIN) based services at the SMS through a

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of the Telecommunications Act of 1996, CC Docket No. 96-98, Second Order on Reconsideration; *Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended*, CC Docket No. 99-273, FCC 99-227, Notice of Proposed Rulemaking, para. 160 (rel. Sept. 9, 1999).

[201] *Id.*

[202] 47 U.S.C. § 271(c)(2)(B)(ix).

[203] *Id.*

[204] *See Second Bell South Louisiana Order*, 13 FCC Rcd at 20752; *see also Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (2000); *Numbering Resource Optimization*, Second Report and Order, Order on Reconsideration in CC Docket No. 99-200 and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200, CC Docket Nos. 96-98; 99-200 (rel. Dec. 29, 2000); *Numbering Resource Optimization*, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200 (rel. Dec. 28, 2001).

[205] 47 U.S.C. § 271(c)(2)(B)(x).

[206] *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20753, para. 267.

Service Creation Environment (SCE).[207] In the *Local Competition First Report and Order*, the Commission defined call-related databases as databases, other than operations support systems, that are used in signaling networks for billing and collection or the transmission, routing, or other provision of telecommunications service.[208] At that time the Commission required incumbent LECs to provide unbundled access to their call-related databases, including but not limited to: the Line Information Database (LIDB), the Toll Free Calling database, the Local Number Portability database, and Advanced Intelligent Network databases.[209] *In the UNE Remand Order*, the Commission clarified that the definition of call-related databases "includes, but is not limited to, the calling name (CNAM) database, as well as the 911 and E911 databases."[210]

K. Checklist Item 11 – Number Portability

63. Section 271(c)(2)(B) of the 1996 Act requires a BOC to comply with the number portability regulations adopted by the Commission pursuant to section 251.[211] Section 251(b)(2) requires all LECs "to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission."[212] The 1996 Act defines number portability as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another."[213] In order to prevent the cost of number portability from thwarting local competition, Congress enacted section 251(e)(2), which requires that "[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission."[214] Pursuant to these statutory provisions, the Commission requires LECs to offer interim number portability "to the extent technically feasible."[215] The Commission also requires LECs to gradually replace interim number

[207] *Id.* at 20755-56, para. 272.

[208] *Local Competition First Report and Order*, 11 FCC Rcd at 15741, n.1126; *UNE Remand Order*, 15 FCC Rcd at 3875, para. 403.

[209] *Id.* at 15741-42, para. 484.

[210] *UNE Remand Order*, 15 FCC Rcd at 3875, para. 403.

[211] 47 U.S.C. § 271(c)(2)(B)(xii).

[212] *Id.* at § 251(b)(2).

[213] *Id.* at § 153(30).

[214] *Id.* at § 251(e)(2); *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20757, para. 274; *In the Matter of Telephone Number Portability*, Third Report and Order, 13 FCC Rcd 11701, 11702-04 (1998) (*Third Number Portability Order*); *In the Matter of Telephone Number Portability*, Fourth Memorandum Opinion and Order on Reconsideration, 15 FCC Rcd 16459, 16460, 16462-65, paras. 1, 6-9 (1999) (*Fourth Number Portability Order*).

[215] *Fourth Number Portability Order*, 15 FCC Rcd at 16465, para. 10; *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8409-12, paras. 110-16 (1996) (*First Number Portability Order*); *see also* 47 U.S.C. § 251(b)(2).

portability with permanent number portability.[216] The Commission has established guidelines for states to follow in mandating a competitively neutral cost-recovery mechanism for interim number portability,[217] and created a competitively neural cost-recovery mechanism for long-term number portability.[218]

L. Checklist Item 12 – Local Dialing Parity

64. Section 271(c)(2)(B)(xii) requires a BOC to provide "[n]ondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3)."[219] Section 251(b)(3) imposes upon all LECs "[t]he duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service with no unreasonable dialing delays."[220] Section 153(15) of the Act defines "dialing parity" as follows:

> [A] person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications services provider of the customer's designation.[221]

65. The rules implementing section 251(b)(3) provide that customers of competing carriers must be able to dial the same number of digits the BOC's customers dial to complete a local telephone call.[222] Moreover, customers of competing carriers must not otherwise suffer

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[216] *See* 47 C.F.R. §§ 52.3(b)-(f); *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20758, para. 275; *First Number Portability Order*, 11 FCC Rcd at 8355, 8399-8404, paras. 3, 91; *Third Number Portability Order*, 13 FCC Rcd at 11708-12, paras. 12-16.

[217] *See* 47 C.F.R. § 52.29; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20758, para. 275; *First Number Portability Order*, 11 FCC Rcd at 8417-24, paras. 127-40.

[218] *See* 47 C.F.R. §§ 52.32, 52.33; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20758, para. 275; *Third Number Portability Order*, 13 FCC Rcd at 11706-07, para. 8; *Fourth Number Portability Order* at 16464-65, para. 9.

[219] Based on the Commission's view that section 251(b)(3) does not limit the duty to provide dialing parity to any particular form of dialing parity (*i.e.*, international, interstate, intrastate, or local), the Commission adopted rules in August 1996 to implement broad guidelines and minimum nationwide standards for dialing parity. *Local Competition Second Report and Order*, 11 FCC Rcd at 19407; *Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket No. 95-185, Further Order On Reconsideration, FCC 99-170 (rel. July 19, 1999).

[220] 47 U.S.C. § 251(b)(3).

[221] *Id.* § 153(15).

[222] 47 C.F.R §§ 51.205, 51.207.

inferior quality service, such as unreasonable dialing delays, compared to the BOC's customers.[223]

M. Checklist Item 13 – Reciprocal Compensation

66. Section 271(c)(2)(B)(xiii) of the Act requires that a BOC enter into "[r]eciprocal compensation arrangements in accordance with the requirements of section 252(d)(2)."[224] In turn, pursuant to section 252(d)(2)(A), "a state commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless (i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier; and (ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls."[225]

N. Checklist Item 14 – Resale

67. Section 271(c)(2)(B)(xiv) of the Act requires a BOC to make "telecommunications services . . . available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3)."[226] Section 251(c)(4)(A) requires incumbent LECs "to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers."[227] Section 252(d)(3) requires state commissions to "determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier."[228] Section 251(c)(4)(B) prohibits "unreasonable or discriminatory conditions or limitations" on service resold under section 251(c)(4)(A).[229] Consequently, the Commission concluded in the *Local Competition First Report and Order* that resale restrictions are presumed to be unreasonable unless the LEC proves to the state commission that the restriction is reasonable and nondiscriminatory.[230] If an incumbent LEC makes a service available only to a

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[223] *See* 47 C.F.R. § 51.207 (requiring same number of digits to be dialed); *Local Competition Second Report and Order*, 11 FCC Rcd at 19400, 19403.

[224] 47 U.S.C. § 271(c)(2)(B)(xiii).

[225] *Id.* § 252(d)(2)(A).

[226] *Id.* § 271(c)(2)(B)(xiv).

[227] *Id.* § 251(c)(4)(A).

[228] *Id.* § 252(d)(3).

[229] *Id.* § 251(c)(4)(B).

[230] *Local Competition First Report and Order*, 11 FCC Rcd at 15966, para. 939; 47 C.F.R. § 51.613(b). The Eighth Circuit acknowledged the Commission's authority to promulgate such rules, and specifically upheld the sections of the Commission's rules concerning resale of promotions and discounts in *Iowa Utilities Board*. *Iowa* (continued....)

specific category of retail subscribers; however, a state commission may prohibit a carrier that obtains the service pursuant to section 251(c)(4)(A) from offering the service to a different category of subscribers.[231] If a state creates such a limitation, it must do so consistent with requirements established by the Federal Communications Commission.[232] In accordance with sections 271(c)(2)(B)(ii) and 271(c)(2)(B)(xiv), a BOC must also demonstrate that it provides nondiscriminatory access to operations support systems for the resale of its retail telecommunications services.[233] The obligations of section 251(c)(4) apply to the retail telecommunications services offered by a BOC's advanced services affiliate.[234]

V. COMPLIANCE WITH SEPARATE AFFILIATE REQUIREMENTS – SECTION 272

68. Section 271(d)(3)(B) requires that the Commission shall not approve a BOC's application to provide interLATA services unless the BOC demonstrates that the "requested authorization will be carried out in accordance with the requirements of section 272."[235] The Commission set standards for compliance with section 272 in the *Accounting Safeguards Order* and the *Non-Accounting Safeguards Order*.[236] Together, these safeguards discourage and facilitate the detection of improper cost allocation and cross-subsidization between the BOC and

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Utils. Bd. v. FCC, 120 F.3d at 818-19, *aff'd in part and remanded on other grounds, AT&T v. Iowa Utils. Bd.*, 525 U.S. 366 (1999). *See also* 47 C.F.R. §§ 51.613-51.617.

[231] 47 U.S.C. § 251(c)(4)(B).

[232] *Id.*

[233] *See, e.g., Bell Atlantic New York Order*, 15 FCC Rcd at 4046-48, paras. 178-81 (Bell Atlantic provides nondiscriminatory access to its OSS ordering functions for resale services and therefore provides efficient competitors a meaningful opportunity to compete).

[234] *See Verizon Connecticut Order*, 16 FCC Rcd 14147, 14160-63, paras. 27-33 (2001); *Association of Communications Enterprises v. FCC*, 235 F.3d 662 (D.C. Cir. 2001).

[235] 47 U.S.C. § 271(d)(3)(B).

[236] *See Implementation of the Accounting Safeguards Under the Telecommunications Act of 1996*, CC Docket No. 96-150, Report and Order, 11 FCC Rcd 17539 (1996) (*Accounting Safeguards Order*), Second Order On Reconsideration, FCC 00-9 (rel. Jan. 18, 2000); *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905 (1996) (*Non-Accounting Safeguards Order*), *petition for review pending sub nom. SBC Communications v. FCC*, No. 97-1118 (filed D.C. Cir. Mar. 6, 1997) (held in abeyance May 7, 1997), First Order on Reconsideration, 12 FCC Rcd 2297 (1997) (*First Order on Reconsideration*), Second Order on Reconsideration, 12 FCC Rcd 8653 (1997) (*Second Order on Reconsideration*), *aff'd sub nom. Bell Atlantic Telephone Companies v. FCC*, 131 F.3d 1044 (D.C. Cir. 1997), Third Order on Reconsideration, FCC 99-242 (rel. Oct. 4, 1999) (*Third Order on Reconsideration*).

its section 272 affiliate.[237] In addition, these safeguards ensure that BOCs do not discriminate in favor of their section 272 affiliates.[238]

69. As the Commission stated in the *Ameritech Michigan Order*, compliance with section 272 is "of crucial importance" because the structural, transactional, and nondiscrimination safeguards of section 272 seek to ensure that BOCs compete on a level playing field.[239] The Commission's findings regarding section 272 compliance constitute independent grounds for denying an application.[240] Past and present behavior of the BOC applicant provides "the best indicator of whether [the applicant] will carry out the requested authorization in compliance with section 272."[241]

VI. COMPLIANCE WITH THE PUBLIC INTEREST – SECTION 271(D)(3)(C)

70. In addition to determining whether a BOC satisfies the competitive checklist and will comply with section 272, Congress directed the Commission to assess whether the requested authorization would be consistent with the public interest, convenience, and necessity.[242] Compliance with the competitive checklist is itself a strong indicator that long distance entry is consistent with the public interest. This approach reflects the Commission's many years of experience with the consumer benefits that flow from competition in telecommunications markets.

71. Nonetheless, the public interest analysis is an independent element of the statutory checklist and, under normal canons of statutory construction, requires an independent determination.[243] Thus, the Commission views the public interest requirement as an opportunity to review the circumstances presented by the application to ensure that no other relevant factors exist that would frustrate the congressional intent that markets be open, as required by the competitive checklist, and that entry will therefore serve the public interest as Congress expected.

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[237] *Non-Accounting Safeguards Order*, 11 FCC Rcd at 21914; *Accounting Safeguards Order*, 11 FCC Rcd at 17550; *Ameritech Michigan Order*, 12 FCC Rcd at 20725.

[238] *Non-Accounting Safeguards Order*, 11 FCC Rcd at 21914, paras. 15-16; *Ameritech Michigan Order*, 12 FCC Rcd at 20725, para. 346.

[239] *Ameritech Michigan Order*, 12 FCC Rcd at 20725, para. 346; *Bell Atlantic New York Order*, 15 FCC Rcd at 4153, para. 402.

[240] *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20785-86, para. 322; *Bell Atlantic New York Order*, 15 FCC Rcd at 4153, para. 402.

[241] *Bell Atlantic New York Order*, 15 FCC Rcd at 4153, para. 402.

[242] 47 U.S.C. § 271(d)(3)(C).

[243] In addition, Congress specifically rejected an amendment that would have stipulated that full implementation of the checklist necessarily satisfies the public interest criterion. *See Ameritech Michigan Order*, 12 FCC Rcd at 20747 at para. 360-66; *see also* 141 Cong. Rec. S7971, S8043 (June. 8, 1995).

Among other things, the Commission may review the local and long distance markets to ensure that there are not unusual circumstances that would make entry contrary to the public interest under the particular circumstances of the application at issue.[244] Another factor that could be relevant to the analysis is whether the Commission has sufficient assurance that markets will remain open after grant of the application. While no one factor is dispositive in this analysis, the overriding goal is to ensure that nothing undermines the conclusion, based on the Commission's analysis of checklist compliance, that markets are open to competition.

[244] *See Second BellSouth Louisiana Order*, 13 FCC Rcd at 20805-06, para. 360 (the public interest analysis may include consideration of "whether approval . . . will foster competition in all relevant telecommunications markets").

Statement of
Commissioner Michael J. Copps

Re: Application by Verizon New Jersey, Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance (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 Jersey (WC Docket No. 02-67)

Just last week, we granted Verizon's application to provide long-distance services in Maine. That application was a strong one that raised relatively few issues and I commend Verizon and the Maine Public Utilities Commission for their efforts to open the local markets to competition. That decision demonstrated yet again that consumers in rural states benefit as greatly as anyone from the expanded competition contemplated by the Telecommunications Act of 1996.

Today, we grant Verizon's application to provide long-distance services in New Jersey. This application raised several more significant issues, focusing primarily on the pricing of network elements, and in particular the rates for unbundled switching, and on the operations support systems. It is thus a more difficult call.

In fact, the Commission recognized serious questions about the calculation of switching costs. For example, the Commission found there were serious concerns about calculating switch costs based on 251 business days. Although we approve this application due to a comparison to a benchmark rate from another state, I expect that the New Jersey Board will examine these pricing issues and correct any errors that were made in calculating the rates. For the operations support systems, our expectation is that Verizon will continue to work cooperatively with other carriers to reconcile data and to address any issues that develop. To the extent that backsliding occurs or evidence of systemic problems surfaces, the Commission and our state colleagues must be prepared to take action to ensure that carriers continue to meet their statutory market-opening obligations.

Finally, I was troubled by Verizon's actions to market its long-distance services prior to the grant of this application in violation of the law. We note that Verizon has taken steps to communicate its error to every customer that received the announcement. I caution other applicants not to jump the gun or to presume to predict a decision of this Commission.