

DRAFT

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

In the Matter of)
)
Application by SBC Communications Inc.,)
Michigan Bell Telephone Company d/b/a)
Ameritech Michigan and Southwestern Bell) CC Docket No. _____
Communications Services, Inc. d/b/a Ameritech)
Long Distance for Provision of In-Region)
InterLATA Services in Michigan)

**AFFIDAVIT OF JOHN S. HABEEB
ON BEHALF OF AMERITECH**

STATE OF TEXAS)
)
COUNTY OF BEXAR)

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STRUCTURAL SEPARATION OF RETAIL ADVANCED SERVICES**

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I, John S. Habeeb, being of lawful age and duly sworn upon my oath, do hereby depose and state based upon information and belief as follows:

1. My name is John Habeeb. My business address is 300 Convent, Room 1998, San Antonio, TX 78205. I am Director-Regulatory and Interconnection for SBC Advanced Solutions, Inc., and its affiliate Ameritech Advanced Data Services of Michigan, Inc. (AADS) also using the name SBC Advanced Solutions, hereinafter referred to collectively as ASI.

PROFESSIONAL EXPERIENCE AND EDUCATIONAL BACKGROUND

2. I began my career with SWBT in 1975 in Outside Plant Operations. From 1979 through 1988, I continued my career in Valuations and Separations. From 1989 to 1993, I worked as an Internal Auditor for the National Exchange Carrier Association (NECA/BellCore) in New Jersey. In 1993, I joined Southwestern Bell's Industry Analysis group in Austin, Texas where I was responsible for the accumulation and analyses of data relative to state and national regulatory/legislative issues dealing with telecommunications. In 2000, my organization was structured as part of SBC's corporate regulatory strategy group where I was responsible for strategy on state and national regulatory/legislative issues. I was appointed to my current position on May 1, 2001. I am responsible for regulatory matters for ASI. I have a Bachelor of Business Administration degree from Texas A&M-Kingsville, Kingsville, Texas.

EXECUTIVE SUMMARY

3. This affidavit has two basic purposes. First, I demonstrate that ASI is “fully operational” in Michigan, which means that: (a) ASI is today utilizing the same Ameritech Michigan processes as are available to, and being used by, unaffiliated CLECs to order unbundled loops for non-DSL advanced services; and (b) ASI is today using those same processes to order the high frequency portion of the loop (“HFPL”) and services as are available to CLECs in Michigan and the other states in which ASI operates. .
4. Second, I demonstrate how ASI is meeting all § 251(c) obligations that apply to SBC’s advanced services offerings.

ASI IS FULLY OPERATIONAL: BACKGROUND

5. In the New York Order, the Commission stated that “we will find it most persuasive if future applicants... make a separate and comprehensive evidentiary showing with respect to the provision of xDSL-capable loops”¹ through either of two methods. One of these methods is “proof of a fully operational separate advanced services affiliate”.² In respect to provisioning xDSL-capable loops, the Commission indicated that the creation of a separate affiliate “may provide significant evidence that a BOC complies with the nondiscrimination requirements of the competitive checklist.”³ According to the Commission, “[p]roviding advanced services through a separate affiliate would reduce the ability of a BOC to discriminate against competing

¹ Memorandum Opinion and Order, Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region InterLATA Service in the State of New York, 15 FCC Rcd 3953, 4122, ¶ 330 (1999) (“New York Order”).

² Id.

carriers... [b]ecause the BOC's advanced services affiliate would use the same processes as competitors to conduct such activities as ordering loops, and pay an equivalent price for facilities and services...."⁴

6. ASI is currently sufficiently operational to provide assurance that Ameritech Michigan treats its advanced services competitors on a nondiscriminatory basis.
7. In the Kansas/Oklahoma Order, the Commission "rel[ie]d on SWBT's performance towards its separate affiliate, Advanced Solutions, Inc. (ASI), to assist [its] evaluation because SWBT ha[d] provided substantial volumes of line shared loops to its separate affiliate."⁵ The Commission further concluded that "competing carriers will experience comparable performance as they order line sharing" as that experienced by ASI, based on "SWBT's showing that orders for line sharing from competing carriers are treated by SWBT precisely as orders from its separate affiliate."⁶
8. These conclusions also apply in Michigan. ASI operations in Michigan are similar to its operations in Kansas and Oklahoma and ASI orders line sharing, and other unbundled network elements and services, from Ameritech Michigan in precisely the same manner as competing carriers.
9. ASI possesses all of the indicia of a "fully operational separate advanced services affiliate"⁷ in Michigan. Its affiliate, AADS, has been operating as a fully separate

³ Id., 15 FCC Rcd at 4122-23, ¶ 331.

⁴ Id., 15 FCC Rcd at 4123, ¶ 332.

⁵ Memorandum Opinion and Order, at ¶ 215, Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma, CC Docket No. 00-217, FCC 01-29 (rel. Jan. 22, 2001) ("Kansas/Oklahoma Order").

⁶ Kansas/Oklahoma Order at ¶ 219.

⁷ New York Order, 15 FCC Rcd at 4122, ¶ 330.

advanced services affiliate of Ameritech Michigan since 1993, and adopted the business name SBC Advanced Solutions in 2000. The Michigan Public Service Commission (“PSC”) approved the interconnection agreement between ASI and Ameritech Michigan on December 16, 1999, and has approved several amendments to that agreement, most recently on April 17, 2001.⁸

10. Ameritech Michigan and ASI each had dedicated personnel who represented their respective companies during negotiation of the interconnection agreement and subsequent amendments between ASI and Ameritech Michigan. Each company’s personnel will continue to represent their respective companies in ongoing negotiations for amendments to the ASI/Ameritech Michigan interconnection agreements. Separate from Ameritech Michigan, ASI participates in industry meetings and forums as a CLEC. ASI receives information and notification of changes to Ameritech Michigan’s network, such as Project PRONTO, through the same network disclosures and Accessible Letters as are made available to all unaffiliated CLECs.
11. In order to “minimize any disruption to the efficient and timely delivery of Advanced Services” and “to permit an orderly transition to the steady-state provisioning of Advanced Services,” the Merger Conditions provided for several transitional mechanisms.⁹ These transitional mechanisms included the following: (1) Interim Line Sharing until SBC/Ameritech provided line sharing to unaffiliated carriers on a state-by-state basis; (2) Incumbent Local Exchange Carrier (“ILEC”) provision of

⁸ Order, In the Matter of the Request for Commission Approval of an Interconnection Agreement between Ameritech Advanced Data Services of Michigan and Ameritech Michigan, Case No. U-12107 (MPSC rel. Dec. 16, 1999) (App. B, SBC/ASI).

⁹ Merger Conditions, 14 FCC Rcd at 14,981, ¶ 4.n.

new activations of advanced services until 30 days after ASI received all the authorization necessary to provide services on an interstate or intrastate basis; (3) continued ILEC provision of certain advanced services (i.e., Frame Relay) to embedded ILEC customers until a date certain or 30 days after ASI obtained all the authorizations necessary to provide services on an interstate or intrastate basis; (4) network planning, engineering, design, and assignment services for advanced services equipment for a period of no more than 180 days after Merger Closing Date; (5) ILEC ownership of certain advanced services equipment installed no later than 30 days after Merger Closing Date, provided that if such equipment is used by ASI, it is made available for use by unaffiliated carriers under the same rates, terms and conditions; and, (6) when engaged in permitted joint marketing, ILEC use of an Operation Support System (“OSS”) interface to access loop information that was not available to unaffiliated carriers for a period of no more than 180 days after the Merger Closing Date.¹⁰ Finally, pursuant to paragraphs 3.h and 4.j of the Merger Conditions, Ameritech Michigan may receive and process Advanced Service related trouble reports and perform related trouble isolation for ASI on an exclusive basis for up to 12 months.¹¹ Most of these transitional mechanisms expired April 5, 2000,¹² and the final transitional mechanisms expired on December 8, 2000.¹³

12. With respect to ADSL advanced services, the transitional mechanisms of the Merger Conditions permitted Ameritech Michigan to provide Interim Line Sharing to ASI on

¹⁰ Id., 14 FCC Rcd at 14,982, ¶ 4.n.(1)-(6).

¹¹ Id., 14 FCC Rcd at 14,973, ¶ 3.h, 14,979-80, ¶ 4.j.

¹² Id.

¹³ Id., 14 FCC Rcd at 14,992-93, ¶ 15.c.

an exclusive basis, including operation, installation, and maintenance (“OI&M”) functions, until the Commission required SBC/Ameritech to provide line sharing to unaffiliated carriers.¹⁴ Thus, under Interim Line Sharing, Ameritech Michigan was permitted to process the order for ADSL service, order the necessary facilities, and perform the necessary OI&M functions on behalf of ASI. Under the Merger Conditions, Ameritech Michigan could continue to provide OI&M functions for ASI on a nondiscriminatory basis, even after Interim Line Sharing ended.¹⁵ Although the Merger Conditions permitted Ameritech Michigan to provide Network Planning, Engineering, Design and Assignment, including arranging and negotiating for collocation space in Ameritech Michigan’s Central Offices, until April 5, 2000 for non-ADSL services and until Line Sharing was provided for ADSL services, ASI in Michigan did not avail itself of these functionalities as it was already operational as AADS with its own OSS systems. In addition, its first collocation application was submitted to Ameritech Michigan on August 15, 1997 for DSL service for the University of Michigan in Ann Arbor. ASI in Michigan does not currently collocate Frame Relay and ATM Cell Relay switches in Ameritech Michigan central offices.

13. In its Line Sharing Order, released on December 9, 1999, the Commission determined that the HFPL is an unbundled network element (“UNE”) under section 251(c)(3) of the Federal Telecommunications Act of 1996 (“the Act”), and directed ILECs to line share by providing requesting carriers access to the HFPL.¹⁶ The Commission gave

¹⁴ Id., 14 FCC Rcd at 14,982, ¶ 4.n.(1).

¹⁵ Id.

¹⁶ Third Report and Order in CC Docket No. 98-147, Fourth Report and Order in CC Docket No. 96-98, Deployment of Wireline Services Offering Advanced Telecommunications Capability, 14 FCC Rcd 20,912 (1999) (“Line Sharing Order”).

ILECs 180 days from the release of its order to accommodate requests for this new unbundled network element.¹⁷ On May 30, 2000, Ameritech Michigan implemented line sharing by making the HFPL available to both unaffiliated CLECs and ASI, although ASI never participated in Interim Line Sharing in Michigan or the other Ameritech states. Thus, Interim Line Sharing under the transitional mechanisms of the Merger Conditions is no longer in effect and ASI is operating in the steady state consistent with paragraph 4 of the Merger Conditions, for the provision of all advanced services.¹⁸ In the steady state, ASI is ordering the HFPL from Ameritech Michigan in a line sharing arrangement, where Ameritech Michigan is providing the traditional POTS voice service and ASI is providing ADSL service to the customer over the same loop.

14. In the steady state, ASI functions in nearly every respect like an unaffiliated carrier for the provision of advanced services. ASI must: (1) perform network planning and engineering functions related to advanced services; (2) use the same interfaces, processes, and procedures as are made available to the CLECs for placing orders for unbundled network elements that are necessary for the provision of advanced services; (3) design the advanced services it wishes to offer; (4) assign the equipment necessary to provide advanced services; (5) create and maintain all records associated with its customers' advanced services account; (6) utilize only those OSS interfaces for ordering unbundled network elements and interconnection services, including line sharing, as are made available to any other CLEC; and, (7) maintain and repair any advanced services equipment it owns or leases (although ASI may contract with

¹⁷ Id., 14 FCC Rcd at 20,921, ¶ 13.

Ameritech Michigan for OI&M related to this equipment, provided the same OI&M services are made available to unaffiliated providers of advanced services under the same rates, terms and conditions).¹⁹

15. Paragraph 3 of the Merger Conditions requires ASI to operate as a separate advanced services affiliate of Ameritech Michigan in accordance with the structural, transactional, and non-discrimination requirements of section 272(b), (c), (e), and (g) of the Act with certain exceptions. The exceptions include the following: ASI and Ameritech Michigan may engage in joint marketing up to and including the taking of an order, and certain customer care functions after the sale; Ameritech Michigan may provide billing and collection services to ASI on a non-discriminatory basis; Ameritech Michigan may provide OI&M to ASI on a non-discriminatory basis; ASI may use Ameritech Michigan's name, trademarks, or service marks on an exclusive basis; ASI and Ameritech Michigan employees may be located within the same buildings; and, public disclosure of ASI's interconnection agreements with Ameritech Michigan are a replacement for transaction disclosure requirements.²⁰

16. ASI will not be providing ISDN and DS1 based xDSL services. The existence of ASI will, however, ensure nondiscriminatory access to the loops used for such services. Under the Merger Conditions, ASI is required to provide "Advanced Services," which are defined as intrastate and interstate wireline telecommunications services that "rely on packetized technology and have the capability of supporting

¹⁸ Merger Conditions, 14 FCC Rcd at 14,974-82, ¶ 4.

¹⁹ Id.

²⁰ Id., 14 FCC Rcd at 14,970-74, ¶¶ 3.a-c, f, g, i.

transmission speeds of at least 56 kilobits per second in both directions.”²¹ The definition of “Advanced Services” specifically excludes (1) data services that are not primarily based on packetized technology, such as ISDN, (2) x.25-based and x.75-based packet technologies, or (3) circuit switched services regardless of the technology, protocols or speeds.²² The fact that ASI does not provide ISDN or DS1 based xDSL services has no bearing on its “fully operational” status. The relevant issue is not whether ASI is offering the same complement of services as unaffiliated providers of advanced services, but whether, for those services ASI offers that require components to be provided by Ameritech Michigan, ASI is ordering access services, interconnection services and/or unbundled network elements utilizing the same Ameritech Michigan processes, procedures, and interfaces as are available to unaffiliated CLECs.

17. Ameritech Michigan also may receive trouble reports and perform related trouble isolation for ASI. Nevertheless, ASI will not receive better trouble resolution service for its customers than competing CLECs will receive for their customers. Paragraph 4.j of the Merger Conditions provides that when an Ameritech Michigan local exchange customer contacts Ameritech Michigan, Ameritech Michigan can test the line to see if the trouble is associated with its services.²³ If Ameritech Michigan determines that the trouble is not associated with its services, it may transfer the trouble report, or refer or transfer the customer to ASI provided that Ameritech

²¹ Id., 14 FCC Rcd at 14,969, ¶ 2.

²² Id.

²³ Id., 14 FCC Rcd at 14,979-80, ¶ 4.j.(1).

Michigan offers the same referral or transfer services to CLECs.²⁴ If the customer is not an Ameritech Michigan customer, but calls Ameritech Michigan to report trouble affecting an Advanced Service, Ameritech Michigan must refer the customer to the advanced services provider, if known.²⁵ Finally, many of ASI's own employees are dedicated to trouble isolation and resolution related to advanced services, such that ASI will not depend solely on Ameritech Michigan for this service. Moreover, ASI's current plan for trouble resolution for ADSL services includes customers contacting ASI directly as opposed to contacting Ameritech Michigan for trouble isolation and referral for ADSL troubles.

18. The provisioning of xDSL-capable loops requires some manual steps. However, to the extent that ASI and unaffiliated CLECs are both providing services that require the provisioning of xDSL-capable loops, the same manual steps will be required. In addition, Ameritech Michigan has performance measurements that are capable of detecting discrimination in the provisioning of xDSL-capable loops.

19. My conclusion that ASI is sufficiently operational to provide assurance that Ameritech Michigan treats its advanced services competitors on a nondiscriminatory basis is valid for the following reasons: (a) most of the transitional mechanisms provided for in the conditions set forth in the SBC/Ameritech Merger Order²⁶ expired on April 5, 2000; (b) line sharing was available to all providers of advanced services

²⁴ Id., 14 FCC Rcd at 14,980, ¶ 4.j.(2).

²⁵ Id., 14 FCC Rcd at 14,980, ¶ 4.j.(3).

²⁶ Memorandum Opinion and Order, Applications of Ameritech Corp., Transferor, and SBC Communications Inc., Transferee, For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 301(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95 and 101 of the Commission's Rules, 14 FCC Rcd 14,712,

on May 30, 2000 in Michigan; and, (c) to the extent that manual intervention is involved in any of the steps required to provide xDSL capable loops, those manual steps will exist for ASI as well. In any event, performance measurements mandated by the Merger Conditions would reveal any discriminatory treatment by Ameritech Michigan between ASI and the CLECs, if any ever occurred.

ASI Utilizes The Same Ameritech Michigan Interfaces As Unaffiliated CLECs To Order UNE Loops And The High Frequency Portion Of The Loop

20. Ameritech Michigan offers CLECs several interfaces for access to its OSS for the pre-ordering, ordering, provisioning, maintenance and repair, and billing functions, which are discussed in the Affidavit of Mark Cottrell.
21. Pre-ordering. Ameritech Michigan offers ASI the same choices available to unaffiliated CLECs for the pre-ordering function, which enables CLECs to obtain loop qualification information: (1) a graphical user interface called Enhanced Verigate; and, (2) an application-to-application interface via an Electronic Data Interchange (“EDI”) transaction. ASI utilizes EDI to obtain loop qualification information.
22. Ordering. ASI has elected to submit orders for access services and UNEs to Ameritech Michigan through EDI for DSL, and through web-based Access Service Requests (“ASRs”) using an Ameritech Michigan interface called ALDIS Gateway for Frame and Cell Relay. ASI in Michigan utilizes an EDI translator from GE Capital Services (GEIS) to facilitate the EDI mapping and transmission of Local Service Requests (“LSRs”) to Ameritech Michigan. The GEIS translator takes the

14,964, Appendix C (1999) (“SBC/Ameritech Merger Order”), vacated in part, ASCENT.

UNE ordering data and, on an order by order basis, puts that information into the proper format on the LSR required for transmission to Ameritech Michigan. ASI uses ALDIS Gateway to complete ASR orders for Special Access Circuits for Frame Relay and Cell Relay service. ASI utilizes the GEIS translator to order line sharing from Ameritech Michigan. The ALDIS Gateway (web-based order interface) is also generally available to any CLEC for ordering Access Services from Ameritech Michigan.

23. Maintenance and Repair. ASI in Michigan is using Electronic Bonding Trouble Administration (EBTA) to submit trouble reports, receive updates, and closure on maintenance and repair of special access services (Frame Relay and Cell Relay) received from Ameritech Michigan. ASI in Michigan is submitting trouble reports, receiving updates and closure on maintenance and repair of UNEs via a manual process. Conversion to EBTA for UNEs is planned for later this year.
24. Billing. ASI billing data in Michigan is invoiced to ASI customers using the Kenan Arbor Billing System, an off-the-shelf billing system purchased by ASI. ASI in Michigan does not bill end users directly for DSL service as the service is sold only to ISPs. Collections service for ASI billing in Michigan is performed by the Ameritech corporate parent under a standard collection arrangement.
25. Attachment A to this affidavit depicts the ASI internally owned and operated systems, the manner in which orders flow through those systems, and how those orders flow across the interfaces with Ameritech Michigan. There are two diagrams, one for DSL and one for special access services. Attachment B to this affidavit identifies the

Appendix C to that order contains the SBC/Ameritech Merger Conditions (“Merger Conditions”).

Ameritech Michigan OSS interfaces that are available to ASI and unaffiliated CLECs for pre-ordering, ordering, provisioning, and maintenance and repair with respect to various ASI services. ASI's generic provisioning systems and flows for advanced services are depicted in Attachment A. When ASI requires special access services from Ameritech Michigan to complete a customer service order, ASI completes an ASR that is transmitted across the Ameritech web-based ALDIS Gateway interface. When ASI requires an HFPL connection for DSL service, ASI completes an LSR that is transmitted across the Ameritech Michigan EDI interface. This is the same EDI interface that is utilized by unaffiliated CLECs to submit LSRs for ordering HFPL for DSL from Ameritech Michigan.

ASI's Use of Special Access To Provision Frame And Cell Relay

26. ASI provisions Frame Relay and Cell Relay services to consumers in Michigan today. ASI orders Special Access Circuits from Ameritech Michigan via their FCC Tariff #2 as inputs used to provision Frame Relay and Cell Relay services. Typically, Frame Relay and Cell Relay networks are comprised of multiple switches interconnected with transport facilities deployed in metropolitan areas. A single Frame/Cell Relay switch, located in a given wire center (the Frame/Cell wire center) frequently serves customers in both the wire center in which it is located and other wire centers located in the general vicinity of the Frame/Cell wire center. When ordering Special Access, ASI completes an ASR and submits it to Ameritech Michigan utilizing the same processes, procedures, and interfaces as other CLECs. Most CLECs that provide Frame Relay and Cell Relay services in competition with ASI use Special Access to connect their customers' premises to their Frame/Cell relay switch ports. As

discussed above, all new requests for Frame Relay and Cell Relay services are processed by ASI utilizing the systems and flows depicted in Attachment A. ASI is processing LSRs in Michigan for UNE loops utilizing the process described above.

ASI's Use Of HFPL UNEs To Provide DSL Transport

27. ASI provisions DSL Transport using the HFPL UNE. ASI orders HFPL UNEs from Ameritech Michigan as wholesale inputs used to provision DSL Transport. ASI provides its own splitters in order to separate the HFPL, and does not use splitters provided by Ameritech Michigan. Orders for HFPL UNEs are submitted using the EDI translator service discussed above.
28. As discussed above, all ASI requests for the HFPL UNE are submitted by ASI utilizing the systems and flows in Attachment A. ASI is processing LSRs in Michigan for HFPL UNEs utilizing the processes described above.

**ASI'S COMPLIANCE WITH SECTION 251(c) OBLIGATIONS
RELATING TO ADVANCED SERVICES**

29. Since the 1996 Act became effective, ASI in Michigan did not consider itself an "incumbent LEC" subject to the terms of Section 251(c), nor did any CLEC claim that ASI in Michigan was an incumbent LEC subject to the provisions of Section 251(c). Recently, however, in ASCENT, the Court vacated that portion of the SBC/Ameritech Merger Order that "authorizes exemption of advanced services provided through the Order's prescribed affiliate structure from the obligations imposed on incumbent local exchange carriers by 47 U.S.C. § 251(c)." ²⁷ The Court's

²⁷ *Association of Communications Enterprises v. Federal Communications Commission*, No. 99-1441, 2001 U.S. App. LEXIS 217 (D.C. Circuit January 9, 2001)

mandate in the ASCENT case was issued on March 6, 2001. As a result, ASI has taken the appropriate steps to comply with Section 251 (c).

30. ASI currently owns the advanced services assets and provides all advanced services for SBC in Michigan. Thus, ASI will meet the § 251(c) obligations applicable to advanced services in Michigan.
31. ASI, to the extent it operates as a local exchange carrier, has been complying with all applicable § 251(b) duties, and, to the extent it operates as a telecommunications carrier, with all § 251(a) duties. Thus, ASI has permitted resale of its telecommunications services, and has resale agreements with telecommunications carriers in accordance with § 251(b)(1) requirements. ASI has interconnected with other telecommunications carriers such as Ameritech and GTE in accordance with § 251(a)(1).
32. There are six § 251(c) items: negotiation of interconnection agreements in good faith; interconnection; access to unbundled network elements; resale; notice of network changes; and collocation. ASI has developed a generic Interconnection Agreement (“ICA”) that demonstrates how ASI will be providing these items as they relate to the § 271 checklist. The remainder of this affidavit explains how ASI will comply with the § 251(c) duties relating to advanced services.

Negotiation Of Interconnection Agreements (§ 251(c)(1))

33. Section 251(c)(1) sets forth:

The duty to negotiate in good faith in accordance with section 252 the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (5) of subsection (b) and this subsection. The requesting telecommunications carrier also has the duty to negotiate in good faith the terms and conditions of such agreements.

34. ASI is ready to enter into good faith negotiations with requesting CLECs regarding the § 251(c) items. A Generic Interconnection Agreement for the five Ameritech states has been developed and is available from ASI. This Agreement contains binding legal commitments addressing all applicable § 251(c) items as they apply to SBC's advanced services offerings and operations. Interested CLECs may contact the ASI Interconnection group in Texas to obtain a copy of this agreement.
35. Thus, ASI is negotiating in good faith the terms and conditions of interconnection agreements with all requesting carriers in accordance with § 251(c)(1) and the Commission's rules implementing that subsection.

Resale Of Retail Services (§ 251(c)(4))

36. As mentioned above, ASI already has entered into resale agreements in accordance with § 251(b)(1). Thus, the requirement to resell is not new to ASI. What is new is the requirement to resell at a wholesale discount its retail services provided to subscribers who are not telecommunications carriers in accordance with § 251(c)(4).
37. Section 251(c)(4) sets forth:

The duty (A) to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers; and

(B) not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of such telecommunications service, except that a State commission may, consistent with regulations prescribed by the Commission under this section, prohibit a reseller that obtains at wholesale rates a telecommunications service that is available at retail only to a category of subscribers from offering such service to a different category of subscribers.

38. Of course, ASI provides only a limited set of services – high speed advanced data services – to a very limited base of customers. As such, it is significantly different

from Ameritech Michigan, which provides a panoply of services to the general public throughout its operating territories. ASI's business plan is focused primarily on providing advanced services on a wholesale basis to other service providers, particularly Internet Service Providers ("ISPs"). Some of ASI's services, like the services offered today by many advanced services providers, are not retail services offered directly to subscribers, and therefore are not subject to § 251(c)(4). ASI's current service offerings in Michigan are:

- Wholesale DSL Transport Services;
- Retail Frame Relay and ATM Cell Relay Services Provided To Business Customers; and,
- Retail Customer Service Contracts ("CSCs") Provided to Business Customers, including Frame Relay, ATM Cell Relay, and/or DSL Transport Services Provided To Business Customers Under CSCs.

39. Wholesale Services Sold To ISPs. ASI's primary business plan focuses on providing DSL Transport services to ISPs on a wholesale basis for inclusion in a high-speed Internet service.²⁸ The Commission has clearly and unambiguously held that such offerings are not "retail" services and are not subject to resale under § 251(c)(4).²⁹ ASI will, however, continue to offer these services for resale in accordance with § 251(b)(1). ASI in Michigan has no retail end user (i.e., residential or small business) DSL Transport customers. To the extent large businesses obtain DSL

²⁸ ASI currently provides DSL Transport service to more than 400 ISPs, including SBC's ISP affiliate Ameritech Interactive Media Services, Inc.

²⁹ See Second Report and Order, Deployment of Wireline Services Offering Advanced Telecommunications Capability, 14 FCC Rcd 19,237, 19,238 ¶ 3 (1999) ("advanced services sold to Internet Service Providers for inclusion in a high-speed Internet service offering... are inherently different from advanced services made available directly to business and residential end-users, and as such, are not subject to the discounted resale obligations of section 251(c)(4)") ("Advanced Services Second Report and Order"). Similarly, the Commission has made clear that the combination of "regulated telecommunications service [e.g., DSL] with an enhancement, Internet service" is "an unregulated information service." Id., 14 FCC Rcd at 19,245, ¶ 17.

Transport for their own use, these services would be available for resale along with other CSCs.

40. Retail Customers. ASI provides two retail services, Frame Relay and ATM Cell Relay. ASI will offer these services for resale at a wholesale discount. See Generic Interconnection Agreement, Section 11. ASI will manually process requests for resale of Frame Relay Services, as discussed in further detail in the “OSS” section below.
41. Customer Service Contracts (CSCs). ASI offers a number of retail services to businesses in CSCs. The services provided as part of CSCs include Frame Relay, ATM Cell Relay, and DSL Transport.
42. ASI will offer CSCs to any similarly situated customer that meets the terms and conditions of that particular arrangement. ASI will make CSCs available for resale at a 3.39% wholesale discount without triggering liability for termination charges provided that there are no changes in the terms and conditions of the original contract and the original contract is assumed in writing. Although CSCs are limited to specific locations, a similarly situated customer can request a CSC that would be available for resale. See Generic Interconnection Agreement, Section 11.H. These are the same requirements as for resale of CSCs by Ameritech Michigan. For CSCs, ASI will provide manual OSS similar to the manual OSS provided by Ameritech Michigan for large customer CSCs, as discussed further in the OSS section, below.
43. Wholesale Discount. ASI will offer, on an interim basis, the same wholesale discount that has been applied to Ameritech Michigan. That discount rate currently is 18.15 percent, or 3.39 percent for assumed, unchanged CSCs. ASI reserves the right,

however, to request that the Michigan PSC establish a wholesale discount for ASI's services based on ASI's avoided costs consistent with § 252(d)(3). If the Michigan PSC establishes a different wholesale discount for ASI's services, all resold services will be trued-up to the ASI-specific discount.³⁰ See Generic Interconnection Agreement, Section 11.F.3.

Interconnection (§ 251(c)(2))

44. As mentioned above, ASI already provides interconnection to telecommunication carriers in accordance with Section 251(a)(1). Thus, interconnection is not new to ASI; however, ASI's new interconnection agreement addresses all of the additional interconnection obligations contained in § 251(c)(2).

45. Section 251(c)(2) sets forth:

The duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network--

(A) for the transmission and routing of telephone exchange service and exchange access;

(B) at any technically feasible point within the carrier's network;

(C) that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection; and

(D) on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of this section and section 252.

46. ASI offers interconnection at its ATM switches at rates established prior to the SBC/Ameritech Merger. Again, because of the dissimilarities between ASI's business and that of Ameritech Michigan, it does not have an extensive number of

³⁰ In accordance with paragraphs 47-49 of the Merger Conditions, ASI will provide the promotional resale avoided cost discount at the rates set forth in the Merger Conditions (currently 32%) for those telecommunications services that ASI provides at retail to residential end user

technically feasible points where carriers could interconnect, or a variety of types of equipment and facilities with which carriers could interconnect. Because of the nature of data networks, ATM switches are the only technically feasible points within ASI's network where a CLEC could interconnect. The Generic ICA provides for interconnection at ATM switches, and it also provides a process by which the CLECs may request interconnection at any other technically feasible point. See Generic Interconnection Agreement, Sections 16 & 17. If the parties cannot reach agreement on technically feasible points of interconnection, the dispute resolution provisions of the agreement permit the dispute to be submitted to the Michigan PSC for resolution.

47. ASI does not provide point-to-point connections within any local calling area in Michigan, so ASI does not provide exchange service. Instead, all ASI services in Michigan are either interexchange or exchange access services.³¹

Unbundling (§ 251(c)(3))

48. As with resale and interconnection, ASI's network, service offerings, and customers are limited when compared to Ameritech Michigan, and its unbundling requirements similarly should be limited. The only "network elements" that ASI owns are advanced services equipment and limited OSS. ASI's transmission facilities (including the high frequency portion of loops, interoffice transport, etc.) are

customers that are subject to the Merger Condition requirements. See Merger Conditions, 14 FCC Rcd at 15018-19, ¶¶ 47-49; Generic Agreement, 11F1.

³¹ See Order on Remand, Deployment of Wireline Services Offering Advanced Telecommunications Capability, 15 FCC Rcd 385, 386-87 ¶ 3 (1999) ("We find that when xDSL-based advanced services both originate and terminate 'within a telephone exchange,' and provide subscribers with the capability of communicating with other subscribers in that same exchange, they are properly classified as 'telephone exchange service.' We also find that xDSL-based advanced services constitute 'exchange access' when they provide subscribers with the ability to

purchased from Ameritech Michigan as well as other carriers, and such facilities are equally available to unaffiliated CLECs from Ameritech Michigan and other carriers.

49. Section 251(c)(3) sets forth:

The duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, 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 in accordance with the terms and conditions of the agreement and the requirements of this section and section 252. An incumbent local exchange carrier shall provide such unbundled network elements in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service.

50. Packet Switching. The only telecommunications equipment owned by ASI are packet switches – DSLAMs, ATM switches, and Frame Relay Engines. In the UNE Remand Order, the Commission found that access to unbundled packet switching was not required except in certain limited circumstances.³² These limited circumstances require, in part, placement of a DSLAM in a remote terminal.³³ All of ASI’s packet switches in the State of Michigan are located in Broadband Offices (“BBO”) or collocated in Ameritech Michigan Central Offices or, in one instance, in an Ameritech Michigan work center. Accordingly, ASI has no packet switches today that would be required to be unbundled under the FCC’s rules.

51. In the event that a CLEC requests packet switching in the future and all the elements of the Commission’s rule are met, ASI has included language in its agreement that

communicate across exchange boundaries.”). But see *WorldCom v FCC* 00-1002 vacating that conclusion

³² Third Report and Order and Fourth Notice of Proposed Rulemaking, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 15 FCC Rcd 3696 (1999) (“UNE Remand Order”); *see also* Rule 51.319(c)(5).

tracks the packet switching unbundling rule. See Generic Interconnection Agreement, Section 28.A. OSS. ASI's OSS is also extremely limited and focuses on its largest service – DSL Transport. AADS of Michigan was established as a separate advanced services affiliate prior to the SBC/Ameritech Merger Conditions. According to the terms of those conditions, provided that it received assets or employees from the SBC/Ameritech ILECs and operated consistent with the conditions, the ILECs' obligations under § 251 and § 252 were not expected to apply to ASI, including the need to provide access to its OSS functionality. It would be extremely costly for ASI to create such an interface at this time. Moreover, given the limited nature of ASI's business and the limited number of customers and arrangements available for resale, it appears that such an interface likely would be of little use to the CLECs.

52. Any obligations ASI has to provide access to its OSS functionality on an unbundled basis are limited to the purposes for which such access might be needed by the CLECs for reselling ASI's service. It would make no sense to require unbundling of OSS merely because ASI has OSS. Instead, there should be some reason associated with "the provision of a telecommunications service" for providing access to any OSS functionality. In other words, access to ASI's OSS functionality must be "necessary" in order to secure other services from ASI (resale, UNEs, etc.), and a failure to provide such access must "impair" a CLEC's ability to compete. CLECs would not

³³ See UNE Remand Order, at ¶ 313 (packet switching requirement is limited to "situations in which the incumbent has placed its DSLAM in a remote terminal"); see also 47 C.F.R. § 51.319(c)(5)(iv).

find it “necessary” to have access unrelated to securing services from ASI, nor would CLECs in any way be “impaired,” if they did not have such access.

53. As described above, there are only a few large business customer CSCs available for resale, and ASI’s packet switches are not currently required to be unbundled under the FCC’s rules. Therefore, ASI’s OSS could only be useful for the resale of ASI services. CSCs that are available for resale are not resold through the use of mechanized OSS even in Ameritech Michigan, and likewise will not be resold using ASI’s OSS.
54. Accordingly, ASI’s OSS unbundling obligation is extremely limited. Given the small volume of anticipated resold customers and the unique nature of most of the services, manual systems should be sufficient to serve all CLEC requests for resale in a nondiscriminatory manner and without any impact on competition.
55. Similarly, ASI’s OSS will not be needed for interconnection with ASI’s network. Establishing interconnection points with ASI will be similar to, but somewhat less involved than, the process of establishing interconnection points with Ameritech Michigan, in large part because ASI does not provide transport facilities, except in those circumstances where ASI-North offers a bundled port/transport Frame Relay and ATM Cell Relay service. As with Ameritech Michigan, individual points of interconnection will be negotiated between the parties and will not require the use of ASI OSS. However, other parties will provide the entrance facilities used for interconnection, and CLECs will need to order interconnection entrance facilities from Ameritech Michigan or another party (or self provision). Thus, there will be no need to use ASI’s OSS for interconnection with ASI’s network.

56. ASI will not have significant volumes of pre-ordering, ordering, or maintenance and repair requests for § 251(c) items outside of resale and interconnection, and any of these requests will be handled manually, through negotiation between the parties.
57. For resale, ASI will offer the OSS functionalities discussed below.
58. *Pre-Ordering.* In the pre-ordering process for resale of CSCs, ASI will provide CLECs with information necessary to determine a specific customer's serving arrangements, provided that the CLEC has the customer's consent to access the customer's records. CLECs can request a customer service record or CSC contract manually by calling a service center, and ASI will provide the customer service record or CSC to the CLEC manually via fax. In order to comply with the Commission's rules governing protection of Customer Proprietary Network Information ("CPNI"), CLECs will need to have authorization from the customer, and to inform ASI that they have the customers' permission to receive such information. As with Ameritech Michigan's OSS, ASI's OSS are not intended to be marketing research tools to identify available resale customers; instead, the CLEC must contact the customer, ask the customer the name of his or her service provider, and secure the customer's consent to access the customer's service record. Because the universe of resale customers is so small, ASI will be able to handle all pre-order inquiries for potential resale of these arrangements on a manual basis.
59. *Ordering.* For DSL Transport services, ASI will provide CLECs the option of accessing ASI's existing web-based application—Public User Interface ("PUI"). This system will allow carriers to place preorder and order transactions electronically. ASI already allows ISPs to access PUI in order to place orders with ASI. ASI has a

package of training materials that ISPs use to learn how to interface with PUI, and ASI will provide CLECs with those training materials. For resale of other services, ASI will offer manual processing of orders. For Frame and ATM Cell Relay services, ASI will use the same ASR manual form previously used by Ameritech Michigan or a web-based version of the manual order form.

60. *Maintenance & Repair.* ASI in Michigan offers customers (i.e., ISPs) the ability to submit requests for repair and maintenance via the PUI. ASI will permit CLECs to interface with this system. CLECs also will be able to contact ASI directly via an 800 number in order to request repair and maintenance.

61. *Billing.* ASI in Michigan currently invoices each customer (i.e., ISP/NSP) directly. ASI in Michigan does not offer “split billing” to ISPs or their end user customers where the ISP bills their end user customer for Internet access and ASI bills the end user customer rather than the ISP for DSL service.

Collocation

62. All of ASI’s equipment in the State of Michigan is located on ASI premises or collocated in Ameritech Michigan central offices and in one Ameritech work center in West Marquette. ASI will permit CLECs to collocate equipment necessary for interconnection (or to obtain access to packet switching in the event it is required) in its twelve BBOs in Michigan on a nondiscriminatory basis pursuant to a signed and approved Interconnection Agreement. Currently, there is approximately 6,000 square feet of space available for collocation in those offices. Rates, terms and conditions for collocation in ASI’s BBOs are similar to those offered by Ameritech Michigan.

CLECs and ASI today have the same right of access to space in Ameritech Michigan's central offices.

Notice Of Network Changes

63. ASI agrees to provide reasonable notice consistent with applicable FCC rules of changes in the information necessary for the transmission and routing of services using ASI's network, as well as of any other changes that would affect the interoperability of ASI's network. See Generic Interconnection Agreement, Section 15B.³⁴

CONCLUSION

64. ASI is "fully operational" in Michigan for the provision of advanced services. As of midnight on April 5, 2000, all of the transitional mechanisms which permitted Ameritech Michigan to provide certain functions on behalf of ASI to permit an "orderly transition to the steady-state"³⁵ came to an end, except for those authorized activities associated with interim line sharing and trouble reporting and isolation pertaining to advanced services (which ended on October 8, 2000). In accordance with the Commission's Line Sharing Order, Ameritech Michigan made line sharing generally available on May 30, 2000, at which time Interim Line Sharing came to an end and ASI began operating in the steady-state. In the steady-state, ASI is functioning like any other CLEC consistent with the Merger Conditions. ASI is

³⁴ Section 251(c)(5) is not part of the 271 Checklist, either as an individual checklist item or as part of checklist item (i), Interconnection. Checklist item (i) refers specifically and exclusively to compliance with the § 251(c)(2) interconnection requirement. As such, this section should not be part of the Commission's 271 review. Nonetheless, the Generic Interconnection Agreement contains provisions concerning notice of network changes.

³⁵ Merger Conditions, 14 FCC Rcd at 14,981, ¶ 4.n.

ordering special access for the provisioning of Frame Relay/Cell Relay service, as well as the HFPL UNE for the provision of DSL Transport, utilizing the same processes as the CLECs and paying an equivalent price.

65. ASI is complying with all § 251(c) items as they relate to SBC's provision of advanced services. ASI is ready to enter into a binding legal commitment to comply with the relevant § 251(c) items with any CLEC doing business in Michigan.

66. This concludes my affidavit.

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

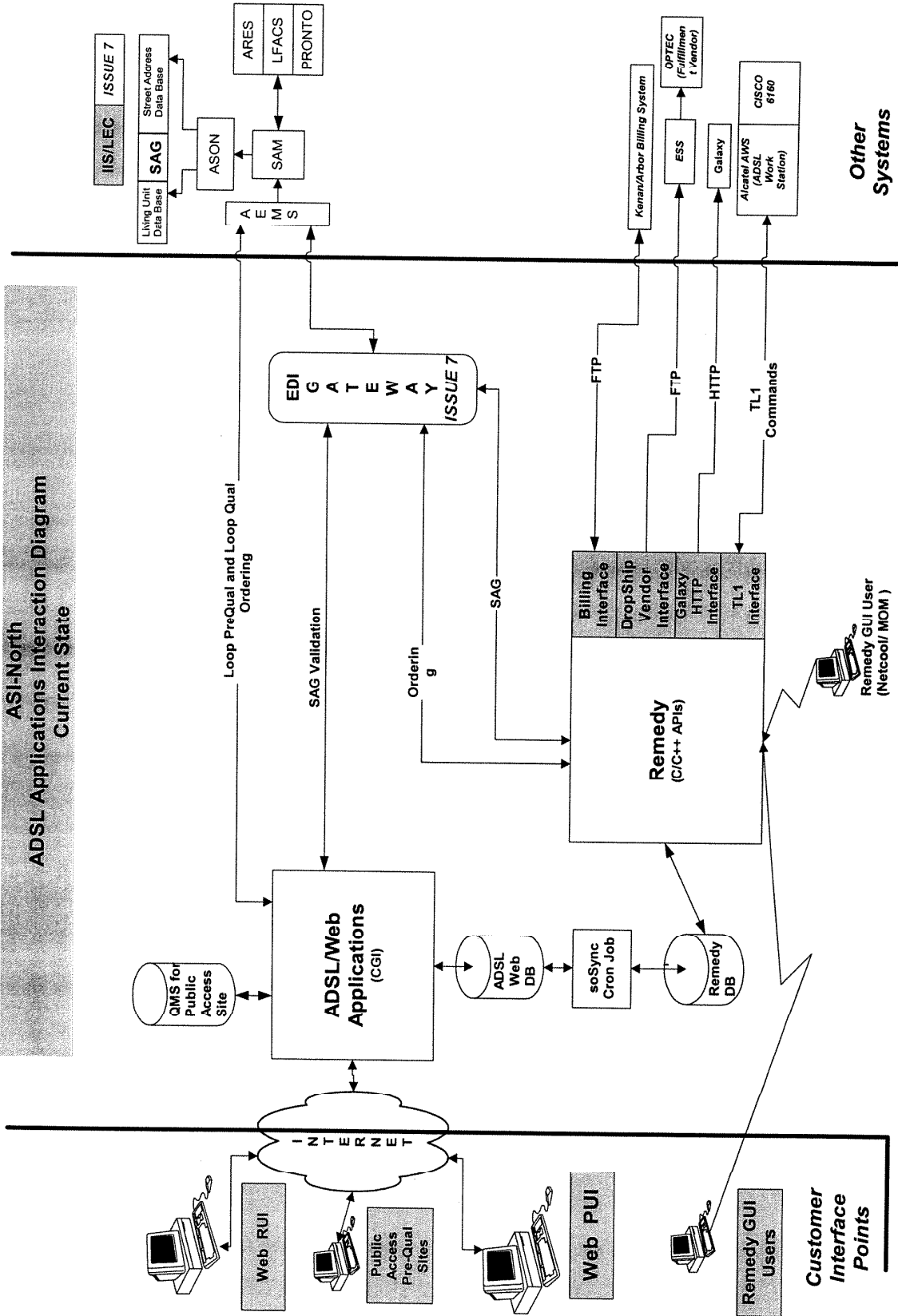
JOHN S. HABEEB
DIRECTOR-REGULATORY AND
INTERCONNECTION

Subscribed and sworn before me on this _____ day of _____ 2001.

NOTARY PUBLIC

Habeeb Affidavit - Attachment A

ASI-North ADSL Applications Interaction Diagram Current State



May 14, 2001

Habeeb Affidavit-Attachment B

	<u>Pre-Ordering</u>	<u>Ordering</u>	<u>Provisioning</u>	<u>Maintenance and Repair</u>	<u>Billing</u>	<u>Facilities</u>
<u>ASI Product</u>						
Frame Relay	N/A	Remedy	Remedy	Remedy	Kenan Arbor	UNE Loop (4 Wire digital and DS-1) Special Access
Ameritech Interfaces utilized by ASI and CLECs	ALDIS Gateway	ALDIS Gateway	ALDIS Gateway	Electronic Bonding Trouble Administration	N/A	
Cell Relay	N/A	Remedy	Remedy	Remedy	Kenan Arbor	UNE loop (4 Wire digital and DS-1) Special Access
Ameritech Interfaces utilized by ASI and CLECs	ALDIS Gateway	ALDIS Gateway	ALDIS Gateway	Electronic Bonding Trouble Administration	N/A	
Virtual-Point Of Presence (V-POP)/Dial Access Service (DAS)	N/A	Remedy	Remedy	Remedy	Kenan Arbor	UNE loop (4 Wire digital and DS-1) Switched Access Special Access
Ameritech Interfaces utilized by ASI and CLECs	ALDIS Gateway	ALDIS Gateway	ALDIS Gateway	Electronic Bonding Trouble Administration	N/A	
Asymmetrical Digital Subscriber Loop (ADSL)	Public User Interface (PUI)	PUI Remedy	Remedy	PUI Remedy	Kenan Arbor	UNE Line Sharing and Unbunbled Loop
Interfaces utilized by ASI and CLECs	EDI Enhanced Verigate	EDI	EDI	Manual EBTA (future)	N/A	