

ANN ARBOR, MICHIGAN  
BLOOMFIELD HILLS, MICHIGAN  
CHICAGO, ILLINOIS

LAW OFFICES  
**DYKEMA GOSSETT**  
PROFESSIONAL LIMITED LIABILITY COMPANY  
124 W. ALLEGAN STREET, SUITE 800  
LANSING, MICHIGAN 48933-1742

DETROIT, MICHIGAN  
GRAND RAPIDS, MICHIGAN  
WASHINGTON, DC

TELEPHONE (517) 374-9100  
FACSIMILE (517) 374-9191  
[WWW.DYKEMA.COM](http://WWW.DYKEMA.COM)

ALBERT ERNST

DIRECT DIAL: (517) 374-9155  
E-MAIL: [AERNST@DYKEMA.COM](mailto:AERNST@DYKEMA.COM)

November 5, 2002

Ms. Dorothy Wideman  
Executive Secretary  
Michigan Public Service Commission  
6545 Mercantile Way, Ste. 7  
Lansing, MI 48911

Re: Case No. U-12320  
WorldCom Response to Ernst & Young Reports and Three Months  
of Performance Data Filed by SBC on October 18, 2002

Dear Ms. Wideman:

Enclosed please find original and fifteen copies of WorldCom Response to the Ernst & Young Reports and the Three Months of Performance Data Filed by SBC on October 18, 2002 in the above-referenced matter. Also enclosed is Proof of Service upon the Parties of Record. Confidential Attachment F is being filed in the enclosed, sealed envelope.

If there are any questions or comments, do not hesitate to contact me.

Sincerely,

DYKEMA GOSSETT PLLC



Albert Ernst

cc: Jim Denniston  
Parties of Record

**STATE OF MICHIGAN**  
**BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter, on the Commission's own motion, )  
to consider **AMERITECH MICHIGAN's** compliance )  
with the competitive checklist in Section 271 of ) Case No. U-12320  
the federal Telecommunications Act of 1996. )  
\_\_\_\_\_ )

**WORLDCOM RESPONSE TO  
THE ERNST & YOUNG REPORTS AND  
THE THREE MONTHS OF PERFORMANCE DATA FILED BY SBC  
ON OCTOBER 21, 2002**

MCImetro Access Transmission Services LLC, Brooks Fiber Communications of Michigan, Inc., and MCI WorldCom Communications, Inc., (hereinafter individually or collectively referred to as "WorldCom" or "MCI", unless indicated otherwise by context), hereby respond to the Ernst & Young (E&Y) reports and the three months of performance data filed by SBC on October 21, 2002:

**INTRODUCTION**

This filing responds to the E&Y Reports and on the three months of performance data that SBC has filed. The E&Y Reports covered the time period of March, April and May 2002, and focused on the quality of SBC performance data. There were two E&Y Reports. The longer report addressed the accuracy and completeness of SBC's PMs for the months of March, April and May 2002 in accordance with the Business Rules associated with those PMs (the E&Y PM Report). The second E&Y report is a single page report which addressed the effectiveness of controls over SBC's process to calculate PMs for the months of March, April and May 2002 (the E&Y Control Report).

SBC filed performance results for June, July and August 2002, which SBC is attempting to use to show that SBC provides parity/non-discriminatory performance (or complies with a benchmark) for most of the performance measurements (PMs).

As set forth in further detail below, the MPSC has set up a two-step process with respect to analysis of PMs in this matter. The first step was to have BearingPoint (f/k/a KPMG Consulting) conduct data analysis replication, and controls analysis and then audit three months of PMs, to ensure that SBC is accurately collecting and storing unprocessed data, correctly processing the data (including properly excluding certain transactions per the business rules associated with the PMS), and accurately calculating PM results and retail analogs. The second step is that after it has been determined that SBC's data is accurate then SBC should produce three months of accurate PM data that show parity/non-discriminatory conduct (or performance that complies with the applicable benchmark). SBC agreed to this two step process in Michigan. It would make no sense to attempt to comply with step 2 without first having completed step 1. (Of course, the Transaction Validation and Verification (TVV) portion of the Master Test Plan validates the existence, functionality, and behavior of the SBC interfaces and processes and test SBC's performance in certain areas. This TVV testing is in addition to the requirement of having three months of accurate PM data showing non-discrimination/parity and/or benchmark level of performance.)

While strong evidence of non-compliance with step 1 is shown in the BearingPoint report dated October 30, 2002, SBC attempts to point to the E&Y Reports to show compliance with step 1. This reliance is misplaced for several key reasons. As set forth in detail below, the E&Y Control Report shows that SBC lacks the necessary controls over its data. Also, E&Y has employed a

substantially less rigorous audit than BearingPoint. As detailed by the empirical results, the E&Y methodology misses a large number of pertinent issues, it takes years under the E&Y methodology to initially spot some of the issues which it does spot, and E&Y has ignored publicly available information demonstrating SBC's non-compliance with having accurate PMs. Further, the "qualified" nature of the E&Y PM Report shows that this report should not be relied upon by the Commission.

The three months of data that SBC filed is insufficient to prove that the metrics collection, retention, processing, and reporting processes show nondiscrimination/parity or conformance with benchmark criteria. As shown above, the first step must be for SBC to have BearingPoint successfully audit SBC's ability to accurately collect and store unprocessed data, process the data, and calculate PM results and retail analogs. Until this is done, the numbers which SBC presents are meaningless. Inaccurate data should not be relied upon by the MPSC in assessing whether SBC provides CLECs with parity/non-discriminatory treatment. Moreover, even when the purported "data" which SBC presents is analyzed, it shows deficient performance by SBC.

**IT IS FIRST IMPORTANT TO ESTABLISH THE ACCURACY OF SBC'S  
PERFORMANCE REPORTS BEFORE RELYING ON THE REPORTS TO GAUGE  
SBC'S PERFORMANCE**

Performance measurements which are not accurate should not be relied upon in measuring performance. Accordingly, it is critical that the accuracy of SBC's performance reports be established before SBC can attempt to rely on its performance reports to gauge its performance or to suggest that it is providing CLECs service within benchmark or at parity with its retail customers (indicating a meaningful opportunity to compete).

The simple notion that establishing the accuracy of the performance measures should precede any SBC performance data filing was readily agreed to by all parties in the collaboratives in this matter. At the collaborative session on May 9, 2000, Mr. Appenzeller and Mr. Lenahan representing SBC stated as follows:

1725

MR. APPENZELLER: Terry Appenzeller,  
23 Ameritech.

24 We are really looking at three things, I  
25 think. We are looking at a review of the collection of  
1726

1 the data and all the processes that Sherry described that  
2 I believe is in the master test plan that KPMG has put  
3 together. And that is what they have done in other  
4 states.

5 There is then a second piece which can  
6 come at a later time which is the review of the actual  
7 performance measurements as they are generated, the three  
8 months of data that we would supply to the Commission for  
9 their review.

10 And then there is a third thing, which is  
11 an annual audit, if needed, subsequent to this test.

. . . .

1728

MR. LENAHAN: This is John Lenahan.

15 Just following up on that and using the  
16 three different events that Terry just referred to.

17 The first, the review of the data  
18 collection, et cetera. I think we assumed that an  
19 evaluation by KPMG would satisfy the requirement for the  
20 first annual audit of our implementation of the  
21 performance measurements. And if that requires then a  
22 separate audit attestation that's not included in this  
23 test, that's probably a nuance that we haven't really  
24 thought about. We had just assumed that that requirement  
1729

1 would be met, assuming successful evaluation of Section  
2 IV.

3 The second set of activities -- the  
4 submission of three months of actual performance results  
5 after the evaluation of those results -- we had always  
6 assumed was with the Commission and not something that was  
7 within the scope of this evaluation.

8 And the third activity, whether there  
9 would be an annual audit like Section IV or whether it  
10 would be modified and whether KPMG would do it or another  
11 auditor would do it is something that we haven't even  
12 really considered as part of this docket.

(See, <http://www.cis.state.mi.us/mpsc/comm/271/271transcriptmay9.pdf>)

It would make no sense to attempt to comply with step 2 (presenting three months of “accurate” performance data) without first having completed step 1 (establishing that the performance data is accurate).

It should be noted that having accurate performance measurement data, and following the business rules associated with the performance measurements, is not only important to show the validity of three months of performance data, but has other importance as well. The FCC has recognized this importance and has ruled that: “SBC's failure to follow the Business Rules could lead to inaccurate and unreliable results which would compromise the Commission's ability to monitor effectively SBC's conduct towards other carriers. . . . In addition, inaccurate results will make it difficult for CLECs to determine independently whether there are discrimination problems. Therefore, we must insist on rigorous adherence to the Carrier-to-Carrier Performance Plan.” Notice of Apparent Liability for Forfeiture, IN THE MATTER OF SBC COMMUNICATIONS, INC. Apparent Liability for Forfeiture File No. EB-00-IH-0432, NAL/Acct. No. 200132080011, DA 00-2858, Adopted: December 19, 2000, Released: December 20, 2000.

Further, in the Texas 271 order, the FCC stated that the “reliability of reported data is critical, “ and “properly validated metrics must be meaningful, accurate and reproducible.” The FCC further noted that, “In particular, the raw data underlying a performance measure must be stored in a secure, stable, and auditable file if we are to accord a remedy plan significant weight.” (Texas 271 order, par. 428).

## **E&Y CONTROL REPORT SHOWS FATAL FLAWS**

SBC is relying on the E&Y Reports to purportedly show compliance with step 1 (that its performance data is accurate), but the E&Y Reports fail to establish this. The E&Y Control Report bluntly noted that:

Our examination disclosed that certain processes used to generate performance measurements, primarily related to the manual collection and processing of data and computer program coding and modifications, did not include certain controls to ensure the accuracy of the reported performance measurements.

This fatal conclusion as to the lack of appropriate controls curtails the need to further address the E&Y Control Report, since it makes clear that SBC's controls are not adequate and that their processes are flawed. If the controls over the data do not work, the data itself cannot be trusted.

### **THE E&Y PM REPORT FAILS TO ESTABLISH THAT THE SBC PERFORMANCE DATA IS ACCURATE**

While strong evidence of non-compliance with step 1 (accuracy of PM data) is shown in the BearingPoint report, SBC attempts to point to the E&Y PM Report to show compliance with step 1. This reliance is misplaced for several key reasons.

*A. E&Y has done a substantially less rigorous systems audit as opposed to the more rigorous performance audit being performed by BearingPoint.*

SBC points to prior reviews which E&Y has prepared on behalf of SBC as part of its merger conditions for the FCC, but fails to note how utterly ineffective these prior E&Y reviews have been. The E&Y reviews for the FCC submitted in September 2001 (covering the year 2000) and September 2002 (covering the year 2001) are attached as Attachments "A" and "B" respectively. These reports, in part, assessed the accuracy of 39 SBC-AIT reported performance measurements. The performance

measure numbers in these reports correspond to Michigan performance measurements which have different identifying numbers. A chart correlating the performance measurement identifying numbers in the E&Y FCC reports with the Michigan performance measurement numbers is attached as Attachment "C".

The chart which is attached as Attachment "D" compares, on the basis of each performance measurement reviewed in the E&Y FCC reports, the assessment by E&Y in its two FCC reports, by E&Y in its E&Y PM Report, and by BearingPoint in the October 30, 2002, Michigan Report. (Thus, this chart only examines 39 of the 150 PMs at issue and thus does not examine the remaining performance measurements at issue in both the E&Y PM Report and in the BearingPoint Report). This chart, in its final column, references page numbers from the most recent BearingPoint report which show non-compliance or indeterminate status as to specific PMs at issue in the chart. For the convenience of the reader, these referenced pages from the BearingPoint report are attached hereto as Attachment "E".

A couple of general trends are readily spotted in this chart (Attachment "D"):

- 1.) The more time which E&Y spends reviewing the performance measurements, the more issues it finds. It takes up to two years or more for E&Y to spot issues, and it still misses a large number of issues even after examining specific PMs over the course of two years.
- 2.) After BearingPoint started its review in this matter and started issuing Observations and Exceptions in year 2001 and 2002, and SBC consequently made restatements to

its reported PMs. This resulted in issues and restatements which E&Y mentioned in its later two reports;

- 3.) Notwithstanding the publicly available BearingPoint documentation showing that SBC has not satisfied many performance measurements, E&Y ignores the evidence shown by BearingPoint. Indeed, E&Y has failed to note in its recent reports what should be pertinent and well documented exceptions to SBC's compliance with the accuracy of its reported PMs. Clearly, E&Y should have used the BearingPoint findings as an additional touch point for its audit, but failed to do so.

It is thus readily apparent that the type of reviews which E&Y has been conducting are weak and ignore even publicly available information showing fundamental flaws in the manner in which SBC collects and stores unprocessed data, processes the data, and calculates PM results and retail analogs. Thus, in the portions of the test which BearingPoint is still conducting (particularly including areas outside of the 39 "FCC" PMs previously reviewed by E&Y) for which E&Y is now reviewing for the first time under its "audit" methodology, the Commission should await the findings of BearingPoint and should have no confidence that E&Y has set forth a comprehensive listing of the applicable and pertinent findings of fundamental weakness in the SBC PMs.

A further weakness in the E&Y methodology is that the number of Michigan transactions which E&Y examined were small. E&Y stated that over the course of its three month review, it reviewed a total of 9000 transactions across the SBC-Ameritech 5 state region, and did not have the information readily available to show the number of Michigan transactions. This amounts to about 3000 transactions per month region-wide, and if Michigan had a proportional share of the sample,

then the Michigan share would be well less than 1500 transaction which E&Y tested per month. This compares to the BearingPoint methodology which is designed to replicate the metrics based on the totality of pertinent data. It also appears that the E&Y definition of a transaction may differ from transactions that CLECs submit via LSRs. BearingPoint begins with the actual LSR submitted by the CLEC. E&Y appears to begin further down the pipeline with a transaction internal to the SBC systems.

Also, E&Y never looked at end to end reporting because it did not issue any transactions and therefore could not completely track any specific order. (BearingPoint, by contrast, has issued its own orders to give it this capability, thus ensuring that the transactions that should have been collected as the starting point of a metric really were included.) E&Y still has not provided information on how they actually picked the transactions that they “audited” or any evidence that these transactions really belong to actual CLECs and resulted in working service.

Based on this, it is clear that the E&Y methodology fails to find numerous and significant defects in the PMs which it attempts to audit. This Commission should not weaken the reliability of the PMs at issue here, and should choose instead to allow SBC to complete the BearingPoint audit of the SBC. The E&Y process has proven itself to be extremely weak and unreliable.

***B. The E&Y PM Report is a ‘qualified’ report as opposed to an ‘unqualified’ report.***

The E&Y PM Report is a "qualified" opinion, not an "unqualified" opinion. A qualified opinion means that E&Y believes that there are unresolved problems with the SBC PMs. If E&Y was satisfied with the SBC systems it would have issued an unqualified report. The other alternative would be for E&Y to issue an “adverse opinion”, but E&Y only would have done this had it believed

that the SBC systems were unable to operate. (Transcript of 10/14/02, <http://www.cis.state.mi.us/mpsc/comm/271/10-14-02transcript.pdf>, at page 4744).

E&Y also stated that it does not examine or grade the systems as a pass or fail – that is up to the Commission.

4788 MR. HORST: Again, we're not reporting on  
4 OSS functionality, we're reporting on the accuracy and  
5 completeness of performance measurements.  
6 We are also not giving passing grades. We  
7 are saying whether the reported performance measurement  
8 results are in compliance with the business rules.  
9 MR. FINEFROCK: If you're not giving  
10 passing grades, how do you assess overall whether or not  
11 to give a qualified or unqualified opinion?  
12 MR. HORST: That's in terms of compliance  
13 with the business rules, and we have reported all the  
14 exceptions that we're aware of in our report. We're not  
15 saying pass or fail. We're saying here are all the  
16 exceptions that we found during our testing.

(<http://www.cis.state.mi.us/mpsc/comm/271/10-14-02transcript.pdf>). Yet, SBC states that the E&Y report means that SBC has passed. Thus, SBC is attempting to use the report for a purpose for which E&Y has expressly stated it is not suited.

There are many “qualifications” or exceptions which E&Y has inserted into its report. These show that the MPSC cannot rely on the E&Y PM Report to show an acceptable level of accuracy and reliability for SBC’s PMs.

### ***Qualifications on the Restatements***

The E&Y PM Report at pages 2-5 has five numbered paragraphs addressing various restatements of PMs for PMs which were reported in March, April, and May 2002. These restatements impacted over 1,020 retail and 1,180 wholesale submeasures. E&Y asserts that it “verified that the process change was implemented” (E&Y PM Report at p. 2), but *E&Y has not*

*verified that the restatements of the PMs are accurate.* (As shown elsewhere, because of the limited sampling conducted by E&Y and because of the failure of E&Y to follow orders from the time they are issued until provisioned, E&Y's process is inherently suspect. The BearingPoint methodology does not suffer from these limitations).

The E&Y PM Report at pages 5-8 has thirteen numbered paragraphs which address other restatements of PMs for PMs which were reported in March, April, and May 2002. Similar to the section at pages 2-4 of the E&Y PM Report, E&Y asserts here that "except where otherwise noted, it "verified that the process change was implemented" (E&Y PM Report at p. 5), but *E&Y has not verified that the restatements of the PMs are accurate.* E&Y is also *not specific as to where it did not validate a process change*, but it appears that where it noted that "manual errors were noted in the recording of the start and end times associated" with a PM (for PM MI 11 at page 7 of the E&Y Report), or where "this issue has not been corrected as of the date of this report (for MP IN 1 at page 8 of the E&Y PM Report), that no validation has even been conducted by E&Y that these process changes have been implemented.

#### ***Qualifications on Prospective Changes***

The E&Y PM Report at pages 8-11 has eighteen numbered paragraphs which address "prospective changes" for PMs reported in error during the evaluation period, *for which no restatements have been issued.* This section covers 31 out of the 150 Michigan general PMs. Thus, during the period for which E&Y conducted an evaluation, more than 20% of the reported PMs were wrong and have not yet been restated to show correct results in this section alone.

### ***Qualifications on the Absence of Restatements***

The E&Y PM Report at pages 11-15 has 32 numbered paragraphs which address “other identified issues” consisting of PMs which were reported in error during the evaluation period which have not been restated. This section covers 80 out of the 150 Michigan general PMs (with many PMs referenced in more than one paragraph). For the sections at pages 8-15 of the E&Y PM Report, 88 out of the 150 general Michigan PMs according to E&Y have reported results which are not valid and for which restatements have not been issued for the time period of the E&Y PM Report.

### ***Qualifications on SBC’s Unilateral “Interpretations” of Business Rules***

Attachment B to the E&Y PM Report consists of 49 numbered paragraphs in eight typed single spaced pages which detail certain “interpretations” for which E&Y obtained the position of SBC management (but without any input from CLECs or Michigan Staff) as to the meaning of certain Business Rules associated with the PMs which are in place. E&Y then used these SBC management “interpretations” to find that SBC’s practices were not in violation of the Business Rules. This is akin to putting the fox in charge of the hen house. Relying on this aberrant and biased methodology, the E&Y PM Report addressed 43 of the 150 distinct general PMs (several more than once) to find compliance on a discrete portion of a Business Rule.

But for this aberrant methodology, SBC would have been found to be in non-compliance with the Business Rules for the issues associated with these PMs. Between the issues in the E&Y Report at pages 8-15, plus the issues in Attachment “B” to the E&Y PM Report, 114 distinct PMs out of the 150 Michigan PMs are at issue as either not being valid (and having not been restated) or being

found valid only because E&Y deferred to the SBC management assertion as to how the Business Rules associated with the PM should be interpreted.

Thus, by E&Y's own analysis, SBC is not in compliance with a large percentage of the PMs, and if SBC management unilateral "interpretations" are not weighed in SBC's favor, then SBC fails over two-thirds of the Michigan PMs. This is certainly a "qualified" audit.

*A "Qualified" Audit is Undesirable*

In the financial world, a "qualified" audit is a black mark which has negative consequences.

As one financial auditor has noted:

Well, it means that a qualified audit opinion sends a message, and that message is that the auditor believes the financial statements, as prepared, are biased towards meeting an objective of the preparer. It may be argued that this is all a reader of the financial statements and auditor's report need understand. Sometimes the reasons behind a disagreement between the preparer and the auditor are not easy to understand. But even without this understanding, the very fact that the auditor, who is independent, disagrees with the preparer, who is biased, should send a strong message that the financial results are not credible." (<http://www.gnb.ca/OAG-BVG/1999v2/text1e.txt>)

E&Y also acknowledged the negative impact of a qualified financial audit.

4780

4 MR. FINEFROCK: In your professional  
5 judgment in a typical year what percentage of Fortune 500  
6 companies are given an unqualified opinion?

7 MR. DOLAN: I would say a very small  
8 percentage of Fortune 500 companies receive a qualified  
9 opinion. The vast majority receive unqualified opinions  
10 with respect to the fairness and accuracy of their  
11 financial statements, yes.

12 MR. FINEFROCK: So when a company receives  
13 a qualified opinion, what does that usually represent to  
14 the company? What are the ramifications typically in the  
15 marketplace?

16 MR. DOLAN: Well, with respect to  
17 financial statement qualifications, depending upon whether  
18 it's an exception to generally accepted accounting  
19 principles or failure to have a disclosure or exceptions  
20 in the report, it has implications in the financial  
21 markets with respect to the nature of the qualifications,  
22 whether it has to do with an error or whether it has to do

23 with an uncertainty.  
24 So there's different types of  
25 qualifications, but in most cases, you know, it's the  
4781

1 exception that companies receive those in the financial  
2 market -- in the public marketplace.

3 MR. FINEFROCK: So a qualified opinion to  
4 a public company is very bad news, is it not?

5 MR. DOLAN: It is not the best news, yes.

6 MR. FINEFROCK: And companies work very,  
7 very strenuously to make sure that they don't get a  
8 qualified opinion; is that correct?

9 MR. DOLAN: That is true.

10 MR. FINEFROCK: Typically when a company  
11 gets a qualified opinion, does its stock price go down?

12 MR. DOLAN: Depending upon the nature of  
13 the qualification, it can go down.

<http://www.cis.state.mi.us/mpsc/comm/271/10-14-02transcript.pdf>

Thus, any “qualified” audit is suspect and has negative implications. Certainly the magnitude and number of exceptions to the E&Y PM Report show that this report can not be relied upon by the Commission to “pass” SBC at this point.

### ***C. Closed and Secret nature of the E&Y Review***

It is evident that the E&Y Reports were the result of a closed process and that there were many other issues not mentioned in its report. It appears that based on the extremely limited discovery which has been allowed here that E&Y noted a large number of areas of potential non-compliance in its "Issues List" which it sent to SBC before E&Y issued its report. This "Issues List" is not part of the E&Y Report and not mentioned in the report. The Issues List is discussed in more detail in Confidential Attachment “F”. CLECs have been allowed only a limited opportunity to view the 61 page single-spaced small font document, but have not been allowed to obtain a copy of the document. Based on the analysis set forth in Confidential Attachment “F” it is clear that the E&Y PM Report is a whitewash of a multitude of SBC failures. Additionally, the Commission should rule

that the "Issues List" is public information and should not be governed by the Amended Protective Agreement in this matter as allowed by paragraph 6 of the Amended Paragraph which is attached as Attachment "G". The Commission should also rule that CLECs can obtain a copy of the Issues List. There is no reason which would justify the denial of this pertinent document to the CLECs.

***D. Conflict of interest***

E&Y has a conflict of interest. E&Y is SBC's corporate auditor and therefore is financially incented to bend to SBC's favor in this matter to keep SBC's business for the other corporate work.

**THREE MONTHS OF PURPORTED DATA  
WHICH SBC HAS FILED IS INSUFFICIENT**

As shown above, the three months of purported "data" which SBC has filed cannot be relied upon because it is not accurate. Having accurate data is the important first step. Until the PM numbers are accurate, the numbers which SBC presents are meaningless. Inaccurate data should not be relied upon by the MPSC in assessing whether SBC provides CLECs with parity/non-discriminatory treatment.

Even when the data which SBC presents is examined, it still shows deficient levels of performance. As a threshold matter, WorldCom takes exception to Mr. Ehr's remarks strewn throughout his testimony that the numerous SBC failures for the mutually agreed upon performance measurements and submeasures do not materially affect competitors or competition, or do not have a practical or material effect on competition in Michigan. It is hardly SBC's place, as the long-time sole incumbent, to judge its breaches of performance and service levels as not materially affecting competitors and their customers.

It remains a frustrating and wholly inappropriate challenge for CLECs to actually try to measure SBC's performance where SBC constantly restates its reported results, as demonstrated by Mr. Ehr's continual statements that restatements of performance results will be made. Also, a recurring theme throughout Mr. Ehr's affidavit is that results were bad because of the low volume of orders for the particular measure or submeasure. WorldCom is concerned that if SBC cannot process orders adequately for a small volume of orders, especially under conditions examined and agreed to by SBC, how will it perform under the pressure of hundreds or thousands of orders for the same product.

Further, the SBC submission of June, July and August performance reports is not reassuring to CLECs, despite the spin SBC tries to put on it by highlighting the percentage of metrics it passed without focusing on how the percent of failed metrics figure in the viability of CLEC business plans.

There is very little analysis of the metrics failed in terms of volumes affected or clustering around certain service delivery metrics. The fact that SBC might be performing near 100% on the 20 metrics selected several years ago as an FCC merger condition as compared to the total that includes newer metrics that CLECs have added because of their current real world business problems also is telling.

Though SBC might paint these failures noted by WorldCom as affecting a small percentage of metrics, this percentage hits critical areas and critical products that should not be minimized by the percentage of passed versus failed slight of hand offered by SBC's metric attachments. Certain of these critical failures in the June, July, and August reports are set forth immediately below.

### ***Flow-Through***

SBC is failing many critical ordering and OSS metrics. The flow-through metric that is in the

remedy plan only covers orders that are “designed” to flow through, and SBC has failed parity for all, and a this 95% standard for nearly all product disaggregations. The total flow through metric is not part of the remedy plan despite being the real barometer of whether the products CLECs primarily order are being programmed to flow through. This total flow through metric shows results generally lower than 80%, which is the total flow through rate for UNEs in the Special Measures section of the New York Performance Assurance Plan. (Verizon New York must meet the 80% total or 95% achieved flow through rate for the calendar quarter or pay \$2.5 million to CLECs (apportioned by market share)).

Only UNE-P (a high-flow through product) has a total flow through rate above 80% (84% generally) and some crucial products like LNP are at a dismal 46% rate. Low flow through rates increase the CLEC’s wait for a FOC (Firm Order Confirmation) or a Reject notice (which can add a day to the order interval if on-time or more if late), increase the opportunity for errors introduced through manual rekeying of information on the CLEC’s LSR, and makes the service quality to CLECs readily degradable.

Mr. Ehr states in his testimony that even though SBC has provided “outstanding flow-through, the last three months of data indicate that SBC Michigan did not meet each of the submeasures of PM 13.” (Para 62) Not only did SBC flunk submeasures of PM 13, SBC flunked just about every submeasure of PM 13.1, Total Order Process % Flow Through, not only for WorldCom but also for all CLECs in the aggregate. That performance is indeed outstandingly disappointing and a cause for concern. With PM 13.1 being solely a diagnostic measurement for which no remedies are attached, CLECs have little hope for improvement.

### ***Order Accuracy***

SBC also is failing timely line loss notices for all months for retail and for June for UNE-P. In hopes of capturing missing loss notification problems in the metrics, CLECs have agreed in the current six-month review to modify the benchmark to a 24 hour (lower standard) interval for timeliness and to add an Average Delay Day metric for the late notifiers. These changes still may not capture the missing line loss notifier problem that has plagued UNE-P CLECs. Also, SBC has refused to increase remedies for the timeliness metric and (add them for Average Delay Day metrics it designed to address the missing notifier problem) for this problem area in collaborative discussions.

Mr. Ehr notes that PM 12's results show improvement. Improvement, real improvement, of course, is to be lauded. However, in this case, the improvement still results in failure, and that is at the parity level, where there is already a certain amount of forgiveness built in to the standard. The Z-factor used in computing results allows SBC to fail more and masks just how bad SBC is still failing to provide parity between its own operations and with CLECs. SBC's processing of orders is not as reliable as Mr. Ehr would have the Commission believe.

### ***Completion Notices***

Completion Notices delivered within 1 day of work completion have been failed and have failed to meet the benchmark (never reaching a rate higher than 78%) for any of the three months. SBC does not provide a billing completion notice, but does have a non-remedied PM for how quickly it clears service order errors closing to billing for CLEC and retail customers. It has been consistently failing this critical metric which tracks the point at which a customer has truly migrated

to the CLEC, the customer's billing has been closed out with SBC, and the daily usage is being sent to the CLEC. This shows that CLECs have a hard time knowing when the customer actually is theirs so that they can address maintenance issues and to bill without concern that the ILEC also will be billing for the same period.

### *Line Loss*

SBC also is failing timely line loss notices for all months for retail and for June for UNE-P. In hopes of capturing missing line loss notification problems in metrics, CLECs have agreed in the current six-month review to modify the benchmark to a 24 hour (lower standard) interval for timeliness, and to add an Average Delay Day metric for the late notifiers. These changes still may not capture the missing line loss notifier problem that has plagued UNE-P CLECs. Also, SBC has refused to increase remedies for the timeliness metric and (add them for Average Delay Day metrics it designed to address the missing notifier problem) for this problem area in collaborative discussions.

There are certainly a large number of missing line losses in August which have not been reflected in SBC's filing. For example, WorldCom's October 7, 2002 filing in this matter (WorldCom October 2002 Update on Line Loss Notification Issue) pointed out that from August 15, 2002 to September 11, 2002, SBC-Ameritech failed to send about 14,000 line loss notifiers to WorldCom region-wide. This provides further confirmation that the data which SBC has filed here is certainly inaccurate.

SBC notes that it failed PM MI 14 for numerous submeasures, but failed to state in its testimony just how badly it did indeed fail for CLECs, and how well it performed for its affiliate.

For one submeasure alone in June, according to the SBC-posted results SBC performed at 80 percent for WorldCom's subsidiary. Yet SBC performed at 100 percent for its affiliate at the same time, exceeding the 95 percent within a specified interval benchmark for its own affiliate. This particular submeasure involves electronic processing, a type of flow through. Thus, upon further and closer examination of the PM results, SBC's previous glowing self report is inaccurate, in this case regarding flow through.

### ***System Availability***

Although improved in August, SBC's System Availability has failed the benchmarks for web Verigate and EDI and CORBA PreOrder for June and July. The critical preordering CSR query metric is being failed for the EDI LSOG 4 and CORBA interface at both the 8 and 13 second interval standards.

### ***Jeopardies***

CLECs also seem to be experiencing more jeopardies than retail customers on orders but for some reason no z score was included. POTS business and Resale Specials with field work were given jeopardies in the 30% range compared to less than 4 percent for retail. Although this is a diagnostic measure with no remedies, it should have included a z score and been reported as a miss.

### ***LNP (Local Number Portability) Orders***

LNP Only and LNP with loop performance is troubling in terms of premature disconnects which are very disruptive to customers and harmful to reputations of CLECs. SBC has failed this PM for all three months for FDT (Frame Due Time - a preferred method for hot cuts), LNP with loops delivery and an August drop off with misses for LNP with loop and LNP only, the later with a failure

rate of 9.8% premature disconnects compared to a benchmark of 2%. Delivering LNP only (for partials of 100 or fewer lines) within industry guideline intervals also failed all three months.

### ***DSL***

DSL performance is spotty at best. Performance in Detroit and Grand Rapids, and SLJ (Saginaw, Lansing, and Jackson) have shown failures in Average Order Completion Interval and Installation Troubles within 30 days. Mean Time to Restore performance for DSL also showed failures during the period.

SBC (in Mr. Ehr's affidavit at paragraphs 89-94) excuses its failure to meet the generous benchmark of PM 55.1 (Average Installation Interval - DSL) of five days for installing DSL, no line sharing, and without conditioning, the easiest and the quickest type of installation, as "just short" of the benchmark. However, at an average installation interval of 6.67 days, SBC is failing the abundant five-day standard by more than 33 percent. SBC further claims in footnote 55 that the current implementation of PMs 55.1, 56 and 58 for DSL lineshare/No Lineshare does not accurately disaggregate results between loops requiring conditioning and those that do not, requiring re-stating. It is very hard for CLECs to discern what actually is being measured, and how, with constant re-statements.

SBC's claim of superior performance with respect to the installation intervals associated with provisioning DSL loops with line sharing, without conditioning, must be dismissed in light of the confusing, contradictory and just plain unreliable data being provided by SBC.

### ***Delay Days***

WorldCom is dubious about SBC's explanation of SBC's failures in meeting appointments

and delay days for new interconnection trunks, both projects and non-projects. SBC argues that its reported performance understates its actual performance because SBC does not report these PMs in situations where the due date has been extended at the request of a CLEC or customer. It then speculates that a significant improvement in its performance would be shown if it kept track of its records to prove that this is the most prevalent reason for “missed appointments” and long delay day averages. If SBC intends to assert that its data would show exclusions if it kept accurate data for these types of changes to the due dates, then it is incumbent upon SBC to report its PMs in this manner and to have the accuracy of its data established as part of the BearingPoint third party test in this matter.

In PM 56, the percent of installations completed within the customer requested due date is low, and SBC’s failure rate is high. The benchmark is only 95 percent in a very generous 7 days, yet the reported data shows SBC performing at a low 76.47 percent for WorldCom. This is a significant failure. SBC also failed this PM for CLECs as an aggregate by more than 7 percent. Competition is materially harmed when customers do not receive service on their requested due date.

### ***DS1 Loop***

DS1 loop provisioning performance, an area where WorldCom is increasing activity, also is showing failures in the major population areas of Detroit, Grand Rapids and SLJ (Saginaw, Lansing, and Jackson), in terms of Average Installation Interval and meeting Customer Requested Due Dates, showing a downward trend for July and August.

### ***Installation Trouble Reports***

For aggregate CLEC results, Installation Trouble Reports in 30 Days performance for POTS

residential (no field work) failed for July and August with a 20.72 (CLEC) and 4.08 (Retail) rate difference in the most recent month. For the same metric, business field work results fell out of parity in August at a rate of 18.18 (CLEC) to 5.91 (retail).

In WorldCom's experience, with the disaggregation of UNE-P, residential class of service, with Field Work, as provided by SBC, SBC's performance ranged from adequate in some markets to far below standard in other markets. It is quite inaccurate for SBC to claim as it did that it has achieved parity during the June 2002-August 2002 period.

***Billing PMs (Paragraphs 67 and 69 of Mr. Ehr's affidavit)***

SBC performed adequately on PM 18, Billing Timeliness (wholesale Bill) and PM19, Daily Usage Feed Timeliness; however, SBC failed miserably and consistently, PM 17, Billing Completeness. SBC notes that its failed performance was still about 84 percent for CLECS. More importantly, the standard is parity, and SBC performed at levels exceeding 99.7 percent for its affiliate.

***PM 55 Average Installation Interval (paragraphs 124-127 of Mr. Ehr's affidavit)***

WorldCom notes that again SBC pleads "small volume of orders" to excuse poor performance, this time with regards to average installation interval and various disaggregations. WorldCom can only hope that SBC is cutting its teeth, so to speak, on these orders so it does not need to plead, "large volume of orders" in the future to excuse inferior performance. These initial customers are very important to CLECs, for it is through word of mouth, through references, that CLECS build and sustain rapport with customers and develop satisfied customers for references. SBC claims that these "slight performance shortfalls likely had little, if any, adverse affects on

competition,” yet these slight shortfalls inconvenience customers and harm CLEC growth.

### **CONCLUSION**

Based on the above, it is clear that the SBC PM data is not accurate. Even if the PM data were accurate, it does not show nondiscriminatory levels of service (or service at benchmark levels if parity measurements are not available). In support of the facts set forth herein, WorldCom attaches the Affidavit of Sherry Lichtenberg as Attachment “H”.

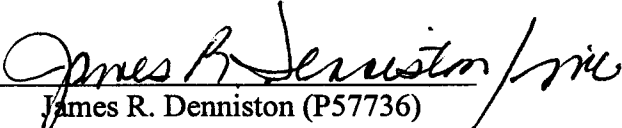
It is essential that SBC have a valid audit showing that its PM reports are accurate. SBC has failed to accomplish this. The E&Y Control Report bluntly concludes that vital controls are lacking. The E&Y PM Report is based on a methodology which has been empirically shown to delay catching PM errors by two years or more, and to totally miss issues even though publicly available information shows these issues. Additionally, the “qualified” nature of the E&Y Reports show that the reports should not be relied upon by the Commission if the Commission is interested in having accurate PMs.

The three months of data supplied by SBC are inaccurate, but even if this data were considered to be accurate, the data shows that CLECs do not receive nondiscriminatory treatment and are most harmed by the performance levels of those PMs which matter most.

The Commission should reject any finding in the E&Y Reports which could be construed as being favorable to SBC. The Commission should reject the three months of performance data filed by SBC.

Respectfully submitted,

WorldCom

By:   
James R. Denniston (P57736)  
205 North Michigan Avenue  
Suite 1100  
Chicago, Illinois 60601  
(312) 260-3190