COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department of Telecommunications and Energy upon its own motion pursuant to Section 271 of the Telecommunications Act of 1996 into the Compliance Filing of New England Telephone and Telegraph d/b/a Bell Atlantic – Massachusetts as part of its application to the Federal Communications Commission for entry into the in-region interLATA (long distance) telephone market	)	DTE 99-271

JOINT DECLARATION OF SHERRY LICHTENBERG,
KAREN KINARD AND WILLIAM M. DRAKE
On Behalf of WorldCom, Inc.

Based on our personal knowledge and on information learned in the course of our duties, we, Sherry Lichtenberg, Karen Kinard and William M. Drake, declare as follows:

1. My name is Sherry Lichtenberg. I am Senior Manager, Product Development, for WorldCom, Inc. ("WorldCom"). My duties include designing, managing and implementing WorldCom's provision of local telecommunications services to residential customers on a mass market basis in Massachusetts and nationwide, including operations support systems and facilities testing. I have nineteen years experience in the telecommunications market, four years with WorldCom and fifteen years with AT&T. Prior to joining WorldCom, I was Pricing and Proposals Director for AT&T Government Markets, Executive Assistant to the President, and Staff Director for AT&T Government Markets.

2. My name is Karen Kinard. I am a Senior Staff Member in WorldCom's National Carrier Policy and Planning organization. I am responsible for performance measurement

development for WorldCom, and I was a key developer of the Local Competition Users' Group's version 7 Service Quality Measurement document released in August 1998. I have also been WorldCom's lead representative in carrier-to-carrier performance measurement and remedy discussions in New York, Pennsylvania, New Jersey, Illinois, Michigan, Ohio, Indiana, North Carolina, Florida, Louisiana and Arizona. I have also testified in Massachusetts and Virginia on performance remedies and metric issues.

3. My name is William M. Drake. I am Senior Engineer II for WorldCom. I have been with WorldCom (and prior to that with MCI) for 13 years. I have been in the telephony business since 1972. I began with MCI as a technical trainer with digital cross connect systems. After that, I became an engineer in MCI's advanced technology labs. Today, I am a member of WorldCom's Global Access Technology and Development Group, and my principal duties include evaluation of new technologies and services as they apply to local access both domestically and internationally. Part of my duties also include supporting WorldCom's regulatory efforts, both domestically and internationally.

I. INTRODUCTION

4. The purpose of this Joint Declaration on behalf of WorldCom is to respond to certain claims made by New England Telephone and Telegraph d/b/a Bell Atlantic - Massachusetts ("BA-MA") in its recently filed Supplemental Comments and affidavits and to describe the several ways in which BA-MA has not fully complied with the fourteen point "competitive checklist" set forth in section 271 of the Telecommunications Act of 1996 ("Act").

5. Specifically, this Joint Declaration will address:

- The reasons BA-MA's DSL and line sharing offering is unreasonable and highly discriminatory;

- BA-MA's discriminatory policy of refusing to unbundle loops served by integrated digital loop carriers ("IDLC") systems;

- The reasons BA-MA's Enhanced Extended Link ("EEL") offering is highly discriminatory and does not fulfill BA-MA's obligations with regard to access to unbundled network elements ("UNEs");

- BA-MA's discrimination in the provision of UNE DS3s by refusing to provide the same end-to-end testing for UNE DS3s that it does for special access; and

- Why BA-MA's existing performance metrics and remedies do not adequately ensure that BA-MA is providing parity service to CLECs and do not adequately deter BA-MA from discriminating after receiving 271 approval.

II. BA-MA'S DSL OFFERING IS HIGHLY DISCRIMINATORY AND ANTI-COMPETITIVE

6. As discussed below, there are a number of significant reasons why BA-MA's proposed DSL and line sharing offering is highly discriminatory and, therefore, fails to satisfy the competitive checklist. But no fact is more persuasive than the following – out of the approximate 4.5 million access lines in Massachusetts, BA-MA provisioned *only* 4,000 digital 2-wire loops (ADSL *and* ISDN) for all CLECs in the entire first quarter of 2000.[1] The meager number of DSL orders placed in Massachusetts demonstrates the highly discriminatory nature of BA-MA's DSL offering, and begins to the tell the story why current conditions in Massachusetts do not allow WorldCom and other CLECs to offer DSL service here.

A. THE DSL LOOP QUALIFICATION AND CONDITIONING CHARGES THAT BA-MA PROPOSES TO CHARGE COMPETITORS ARE GROSSLY EXCESSIVE

7. BA-MA's proposed rates, terms and conditions for DSL and line sharing are set forth in a tariff filed with the Department on May 5, 2000 (commonly referred to as Tariff 17). This

[1] *See* Checklist Affidavit ¶ 193.

tariff has never gone into effect and, for all practical purposes, DSL and line sharing are not yet available to WorldCom and other CLECs. On May 25, 2000, the Department suspended Tariff 17 until September 18, 2000, concluding that further investigation and proceedings were necessary. WorldCom is encouraged by the Department's decision to suspend Tariff 17 and open a new docket. Nonetheless, WorldCom remains seriously concerned that BA-MA will again propose rates, terms and conditions for DSL and line sharing that are unreasonable, highly discriminatory and impede DSL competition in Massachusetts.

8. One anti-competitive aspect of BA-MA's proposed DSL tariff offering is the loop qualification and conditioning rates, which are inflated and a substantial impediment to competition in Massachusetts. BA-MA's proposed loop qualification and conditioning charges are nearly identical to those initially proposed by Bell Atlantic in New York, which the New York Public Service Commission roundly rejected and reduced by 70 percent pending reconsideration in a new cost proceeding. Nonetheless, BA-MA has remained undeterred by these developments in New York and proposed similarly inflated rates in Massachusetts. These rates make it impossible for CLECs to compete meaningfully for DSL customers in the state.

9. A simple comparison of BA-MA's proposed loop qualification and conditioning charges in Massachusetts and the interim rates adopted by the Texas Public Service Commission and charged by Southwestern Bell ("SWBT") illustrate how super-inflated BA-MA's proposed charges are. For example, BA-MA proposes to charge competitors in Massachusetts

$910.35 to remove a single load coil from loops between 21,000 and 27,000 feet.[2] For the same activity in Texas, the charge is only $40.55.[3] Meanwhile, to remove a single bridged tap from a loop less than 18,000 feet, BA-MA proposes to charge $250.60.[4] SWBT's rate in Texas is only $17.62.[5]

10. In addition to these exorbitant conditioning charges, BA-MA proposes to charge competitors $671.23 for an "Engineering Work Order" every time the competitor orders a loop that requires conditioning.[6] There is no "Engineering Work Order" charge in Texas.

11. Finally, BA-MA proposes substantial charges whenever a loop does not qualify for BA-MA's limited DSL offering or the loop is not contained in BA-MA's mechanized loop qualification database. In either instance, BA-MA insists that it must manually search its records to find and provide competitors with detailed information about the loop.[7] Such information is critical if CLECs are to determine what type of DSL service can be provisioned for a particular customer. But for a "manual loop qualification" query, which provide only *some* of the information that competitors need, BA-MA proposes to charge $113.67.[8] And if the competitor requires *detailed and complete*

---

[2]*See* DTE MA No. 17, Part M ¶ 2.5.4.

[3]*See* Arbitration Award, Public Utility Commission of Texas, Docket Nos. 20226, 20272 (Nov. 30, 1999), at 100 (attached hereto as Exh. A).

[4]*See* DTE MA No. 17, Part M ¶ 2.5.4.

[5]*See* Arbitration Award, Public Utility Commission of Texas, Docket Nos. 20226, 20272 (Nov. 30, 1999), at 100.

[6]*See* DTE MA No. 17, Part M ¶¶ 2.5.4, 5.4.2.

[7]*See id.*, Part M ¶ 5.4.2.

[8]*See id.*, Part M ¶ 2.5.4.

loop makeup information, BA-MA requires an "engineering query" and proposes to charge $147.91 for this activity.[9] In Texas, SWBT charges nothing for these manual queries.[10]

B. BA-MA UNREASONABLY CHARGES COMPETITORS FOR COOPERATIVE TESTING

12. BA-MA also charges competitors a non-recurring rate of $33.81 per link for cooperative testing of DSL-qualified and digital designed links.[11] The only reason there is cooperative testing in the first place is that BA-MA was unable to deliver working DSL-qualified and digital designed links in compliance with its contractual obligations without such testing. The cooperative testing charge is in addition to the internal costs CLECs already incur to participate in the testing and other costs CLECs incur as a result of BA-MA's poor performance. CLECs should not have to pay BA-MA's costs to correct its own shortcomings (at no fault of the CLECs) and BA-MA's insistence they do whenever cooperative testing is needed is highly unreasonable and discriminatory. Indeed, BA-MA will have every incentive to provide competitors with poor service if it can do so at no cost to itself.

C. BA-MA DOES NOT PROVIDE REAL-TIME MECHANIZED ACCESS TO LOOP MAKEUP INFORMATION CRITICAL TO THE PROVISIONING OF DSL SERVICES

13. Another serious barrier to the provision of DSL services in Massachusetts is BA-MA's refusal to commit to provide nondiscriminatory access to *all* loop make-up information on a

---

[9] *See id.*

[10] *See* Arbitration Award, Public Utility Commission of Texas, Docket Nos. 20226, 20272 (Nov. 30, 1999), at 76 (stating that "[u]ntil a real-time loop makeup database is operational . . . SWBT shall provide CLECs with manually-derived loop makeup information upon request at no charge").

[11] *See* DTE MA No. 17, Part M ¶ 2.5.4; *id.* Part E ¶ 5.4.7.B.

real-time, mechanized basis. The preordering processes currently proposed by BA-MA do not provide this necessary functionality.

14. BA-MA touts in its recently filing that it presently offers CLECs mechanized access to a loop qualification database in 93% of its central offices with collocation or subject to pending collocation orders.[12] There is less to this claim, however, than meets the eye. Among other things, the mechanized database BA-MA offers fails to provide competitors with any of the loop makeup information they need to determine what type of DSL service is appropriate for a particular customer. Instead, the database merely indicates whether or not the loop can support BA-MA's limited ADSL retail offering and the "Total Length" of the loop which, as explained below, is not useful.

15. Thus, BA-MA's mechanized database does not provide information about every loop, but rather only information about loops without load coils, which typically includes loops under 18,000 feet.[13] However, as technology develops and companies push the distance limitations and speed capabilities of DSL, CLECs will need loop makeup information on all loops, regardless of length, to determine what type of service they can offer. Even today, certain types of DSL can work on loops of greater than 18,000 feet.

16. The mechanized database also does not include working loop length. The database only provides the length that an MLT capacitance test yield (the "Total Length"), which is a length that includes any bridged taps that are present. However, the length measurement that CLECs need is the "Working Loop Length," which is the loop length from central office to customer location

---

[12] *See* Checklist Affidavit ¶ 212.

[13] Design specifications call for load coils to be added only to loops that are longer than 18,000 feet.

without bridged taps. The Working Loop Length is critical because it dictates the speed of transmission that CLEC can offer their customers and, therefore, determines what types of services can be offered.

17. By not providing this information, and instead providing only the Total Length, BA-MA inserts uncertainty and a level of inaccuracy into the loop length measurement that will often leave a CLEC without enough information to decide what types of DSL service it can offer. For example, if the Working Loop Length of a loop is 12,000 feet and the loop includes 2,500 feet of bridged tap, BA-MA's limited database will show a length of 14,500 feet for this loop. This is too long to provide HDSL service at 1.544 Mbps. However, if the loop qualification database provided the Working Loop Length of 12,000 feet, as well as the presence and length of bridged taps, CLECs would get the true picture – that with the removal of the bridged taps they could provide that level of HDSL service. There is no way to determine this from BA-MA's current limited mechanized database.

18. Finally, BA-MA's mechanized database does not include most critical loop makeup information. The database does not provide any information about bridged taps or load coils, electronics, digital loop carrier, length-by-gauge and gauge changes, presence of other interferers, and availability of alternative facilities. This information is critical because it dictates what variety of DSL service CLECs can offer their customers and at what speeds they can offer service. Instead, the database only specifies, via a "Y/N" indicator, whether a loop is qualified for BA-MA's ADSL retail service – meaning that the loop is 18,000 feet or less in Total Length (including any bridged taps), has no load coils (BA-MA does not remove load coils for its retail service), and is a clean copper loop with

no other impediments to DSL service (BA-MA does not "condition" loops for its retail service by removing load coils, electronics, etc.).

19. CLECs need all of this loop makeup information for all loops, regardless of length, on a real-time, mechanized basis. This will enable CLECs to tell the customer whether, when, and how it can provide DSL service. Real-time access is critical because when a customer calls a CLEC to inquire about DSL service, the customer will be on the line and the CLEC needs instant access to all information about the technical makeup of the customer's loop in order to rapidly and easily determine the best possible service for the customer and inform the customer of this.

20. BA-MA's mechanized database does not presently meet this critical need. Thus, CLECs must resort to BA-MA's manual processes – a "manual query" and an "engineering query" – to obtain the necessary loop makeup information. These manual processes are not even close to real-time. Indeed, BA-MA offers to conduct these manual inquiries over a period of several days (2 days for manual queries and 3 days for engineering queries) and, as mentioned earlier, at a great expense – $113.67 for a manual query and, if this is insufficient, $147.91 for an engineering query.

21. Bell Atlantic has conceded in other states, however, that its existing internal databases retain virtually all of the loop makeup information that competitors are requesting. For example, Bell Atlantic has indicated in New York that its Loop Facility Assignment and Control ("LFACs") database has fields that enable it to retain the following information: presence, number and location of bridged taps; presence of load coils; length by gauge, number of gauge changes; presence of pair gain devices, DLC or DAMLs; and whether alternative facilities are available.[14] In addition, Bell

[14]In Pennsylvania, the commission has ordered Bell Atlantic to provide real-time access to its loop makeup information on an electronic, fully-automated basis. The commission has stated that this access "can most easily be accomplished by providing CLECs with access to existing electronic

Atlantic's Trunk Interoffice Record Keeping System ("TIRKS") retains the presence of T1 circuits in specific cable complements.

22. In New York, Bell Atlantic has committed to provide access to CLECs to loop makeup information resident in LFACs, as it is required to do by the Federal Communications Commission ("FCC"). The FCC specifically stated in its UNE Remand Order that, "we expect that incumbent LECs will be updating their electronic database for their own xDSL deployment and, to the extent their employees have access to the information in electronic format, that same format should be made available to new entrants via electronic interface."[15] Bell Atlantic has not made a similar firm commitment in Massachusetts and, therefore, is not in compliance with the FCC's order.[16]

23. Providing CLECs electronic access to these internal electronic databases is definitely technically feasible. Indeed, other incumbent local exchange carriers have done so. On April 29, 2000, SWBT rolled out real-time electronic access to all loop makeup information contained in its internal electronic systems through Verigate and DataGate/EDI.

D. BA-MA DOES NOT PROVIDE LINE SHARING OVER DLC LOOPS

---

databases that contain the relevant data, such as LFACs." Opinion and Order, Docket Nos. P-00991648, P-00991649 (Aug. 26, 1999), at 115 (attached hereto as Exh. B).

[15]In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd. at 3926 (Nov. 5, 1999) ("UNE Remand Order") at ¶ 429. The FCC further stated that the relevant inquiry is not whether BA-MA's retail representatives have access to the underlying loop qualification information, but rather "whether such information exists anywhere within the incumbent's back office and can be accessed by any of the incumbent LEC's personnel." *Id.* at ¶ 430.

[16]BA-MA mentions in its Supplemental Comments that a sub-committee of the New York collaborative has been investigating various possibilities, but at no point does BA-MA firmly commit to adopt any resolution in New York of this issue into Massachusetts. *See* Supplemental Comments at 72-73.

24. BA-MA fails to include in its proposed tariff any provision for line sharing over loops served by digital loop carrier ("DLC"), despite the fact that the FCC now requires that BA-MA and other incumbents provide "unbundled access to the high frequency portion of the loop at the remote terminal, as well as the central office" for loops that include DLC.[17] This is technically feasible today, and is best done through line sharing through an IDLC via the ATM pipe. In fact, this is how it is done in SBC's Project Pronto, which has a component for deploying Next Generation Digital Loop Carriers that will, through the deployment of fiber and ATM capacity, eliminate the loop length and qualification limitations traditionally associated with DSL.

25. Bell Atlantic also has definite plans to provision DSL-based services to its customers, and is currently upgrading the DLC equipment throughout its local networks to facilitate the provisioning of DSL-based services over DLC. Nonetheless, BA-MA does not commit in its proposed tariff in Massachusetts to permit line sharing over DLC. This is not only discriminatory, but a direct violation of the FCC orders.[18]

III. BA-MA DOES NOT PROVIDE CLECS WITH UNBUNDLED ACCESS TO LOOPS SERVED BY INTEGRATED DIGITAL LOOP CARRIER FACILITIES

26. BA-MA also fails to satisfy the competitive checklist because it refuses to provide CLECs with unbundled access to loops served by IDLC technology. Instead, BA-MA reassigns CLEC customers to loops with copper or universal digital loop carrier ("UDLC") feeder

---

[17]FCC Revision of the Commission's Rules Specifying the Portions of the Nation's Local Telephone Networks that Incumbent Local Telephone Companies Must Make Available to Competitors, Federal Register, April 11, 2000 (Volume 65, Number 70).

[18]BA-MA also fails in its Tariff 17 to offer the critical option of allowing CLECs access to a splitter owned by BA-MA, especially in circumstances where the CLEC is serving customers through UNE-P and does not otherwise have equipment in BA-MA's wire center. *See* DTE MA No. 17, Part E ¶ 2.5.1.B. This is anti-competitive and unfair to CLECs and their customers.

systems, when that customer was previously served by BA-MA with IDLC.[19] This is highly discriminatory because a loop served by IDLC has distinct and significant technical advantages over copper pairs and loops served by UDLC. In particular, substitution of copper pairs for IDLC can result in noticeable degradation in voice quality (i.e., hisses and cracks that were not present when BA-MA was providing services over IDLC) and a noticeably slower modem bit-rate when transferring data. Meanwhile, substitution of UDLC for IDLC results in multiple analog-digital conversions at the Central Office which causes customers to experience much slower modem speeds (i.e., in some cases, a reduction from 56 Kbps to 28.8 Kbps). BA-MA offers no evidence to dispute these facts and, instead, simply points out that transmission performance can be affected by a number of factors. *See* Checklist Affidavit ¶ 236. While this is undoubtedly so, one of those factors is the reassignment of loops from IDLC to copper or UDLC facilities.

27. Thus, a CLEC will be unable to provide a migrating customer, who was previously served by BA-MA with IDLC, with the same standard of service that BA-MA previously provided that customer. This will leave the customer unhappy with his new service and will likely result in the customer deciding to migrate back to BA-MA. Such a practice is highly discriminatory and anti-competitive.

28. BA-MA's only retort appears to be that with the technology *currently deployed in its network*, it is not technically feasible to unbundle loops served by IDLC. *See* Checklist Affidavit ¶ 228. However, BA-MA openly concedes that on going forward basis it will

[19]BA-MA also transfers migrating CLEC customers to alternate UDLC or copper facilities when the customer's loop is served by optical remote switching module ("ORM"), which is usually connected to the central office by high-speed IDLC facilities. *See id.* ¶¶ 63-68. For the same reasons discussed in this section, BA-MA's insistence that these customers must be moved off IDLC facilities to UDLC or copper pairs is highly discriminatory and anti-competitive.

be deploying in Massachusetts forward-looking Next Generation IDLC, which contains the GR-303 integrated interface.[20] Indeed, as far back as November 1998, Bell Atlantic stated that GR-303, or Next Generation Digital Loop Carrier technology, was "currently being deployed by BA-NY on a forward-looking basis."[21] And BA-MA refuses to make this new technology available to CLECs at it is deployed in their network.

29. GR-303 technology allows four technically feasible methods to unbundle IDLC-served loops and provide CLECs with non-discriminatory access to customers served by IDLC: (1) Multiple Switch Hosting; (2) Integrated Network Architecture (INA); (3) Digital Cross-Connect System (DCS) Grooming; and (4) Side-Door Grooming. *See* MCI WorldCom White Paper, Unbundling Digital Loop Carriers" (March 1999) (attached to Joint Declaration of Dr. August H. Ankum and Vijetha Huffman on Behalf of WorldCom, Inc. as Exhibit G).

30. Despite these capabilities of GR-303, BA-MA makes no commitment in Massachusetts to provide CLECs with unbundled IDLC loops even where it has installed the GR-303 architecture. Its failure to do so is highly discriminatory and anti-competitive.

31. BA-MA also makes a number of other points which it says disproves WorldCom's contention that reassigning a customer served by IDLC to copper or UDLC is discriminatory. However, each of these points is specious. For example, BA-MA states that 87% of BA-MA's customers are currently served by copper and UDLC loops. *See* Checklist Affidavit ¶ 234.

---

[20]*See* Response DTE-MCIW 2-59, 2-60 and Response DTE-WorldCom 4-9.

[21]Report of Bell Atlantic-New York on the Feasibility of Alternative Means for Implementing Central Office Cross-Connections, NYPSC Case 95-C-0657 *et al.* (Nov. 23, 1998) ("Bell Atlantic Feasibility Report") at 4 (attached as Att. 5 to Joint Declaration of Annette Guariglia, Karen Kinard, Sherry Lichtenberg and Arlene Ryan on Behalf of MCI WorldCom, Inc.).

But this simply demonstrates that 13% of BA-MA's current customers (hundreds of thousands) will experience unnecessarily degraded service if they decide to migrate to a competitor because their current IDLC loop will be reassigned to copper pairs or UDLC facilities. This is a significant amount of customers in Massachusetts.

32. Moreover, BA-MA's assertion that IDLC loops are constructed with 12,000 feet of copper in the distribution portion of the loop is irrelevant. *See* Checklist Affidavit ¶ 234. It is the lack of IDLC in the *feeder* portion of the loop that causes the degradation. Finally, the fact that CLECs are demanding copper loops for DSL is also irrelevant. DSL adds electronics to copper loops to make them high speed. But the copper loops that BA-MA offers to competitors in place of IDLC do not include these electronics and, in any event, the customers who will be affected are not requesting DSL. *See id.*

IV. BA-MA'S EEL OFFERING IS DISCRIMINATORY AND DOES NOT FULFILL BA-MA'S OBLIGATIONS WITH REGARD TO ACCESS TO UNES

33. BA-MA's EEL offering was proposed in its suspended Tariff 17 and, therefore, for all practical purposes is not yet available to WorldCom and other CLECs.

34. Nonetheless, BA-MA's EEL offering continues to contain a number of discriminatory restrictions and costs which demonstrate that BA-MA still has a long way to go to fulfill the requirements of the section 271 checklist. First, BA-MA's EEL offering does not comply with the FCC's June 2, 2000 Supplemental Order Clarification.[22] The Supplemental Order Clarification requires that BA-MA permit a CLEC to obtain an EEL when the CLEC provides a "significant amount

[22]In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Supplemental Order Clarification, CC Docket No. 96-98, FCC 00-183 (rel. June 2, 2000).

of local exchange service" to a particular customer, which occurs in three alternative circumstances. *See id.* ¶ 22. BA-MA's EEL offering includes the first two alternatives, but fails to include the third alternative – that the CLEC certifies that "at least 50 percent of the activated channels on a circuit are used to provide originating and terminating local dialtone service and at least 50 percent of the traffic on each of these local dialtone channels is local voice traffic, and that the entire loop facility has at least 33 percent local voice traffic." *Id.* at ¶ 22(3). *See* DTE MA No. 17, Part B ¶ 13.3.1.A.

35. Second, BA-MA's EEL offering does not yet comply with this Department's March 24, 2000 order (of which BA-MA has sought reconsideration). Particularly unjustified and discriminatory is BA-MA's continuing insistence that orders for the loop and transport portions of an EEL be placed successively, with loop orders not to be placed until transport has been provisioned and turned up.[23] The Department rejected this requirement in its March 24, 2000 order, requiring BA-MA to allow CLECs to order an EEL with one order. As the Department recognized, requiring two separate orders to be placed unjustifiably requires CLECs to incur multiple service order processing costs and will undoubtedly increase the time before an EEL is fully provisioned. Moreover, given this Department ruling, there is absolutely no justification for a two-order requirement for the conversion of existing special access service, which the tariff on its face does not appear to exclude. There is no legitimate justification for this requirement, and until BA-MA drops it, it cannot be found to be providing EELs in a nondiscriminatory fashion.

36. Finally, even if the problems with the terms of the EEL offering were remedied, WorldCom has reason to doubt that BA-MA is in fact prepared to provide EELs in a timely and accurate fashion. On April 24, 2000, WorldCom placed a single EEL test order in New York, seeking

[23] *See* DTE MA No. 17, Part B ¶ 13.4.1.B.

a single DS3 transport to be combined with a T-1 loop. As of June 1, WorldCom had not received a FOC relating to that order despite escalating the matter within Bell Atlantic. As WorldCom's requested due date had already passed, Bell Atlantic in June requested that WorldCom resubmit the order. Bell Atlantic indicated that at the time that WorldCom placed the original order, it lacked personnel who were adequately trained to handle such an order. Bell Atlantic asked WorldCom to indicate in the project field of the resubmitted order the fact that this was an EEL order and the city it was to serve, to assist Bell Atlantic personnel in processing the order. WorldCom resubmitted the order pursuant to these instructions on June 23, 2000, with a requested due date of August 1. As of July 6, WorldCom was awaiting a FOC on the order.

37. Thus, nearly three months after WorldCom place *a single* test order, Bell Atlantic cannot provision a single EEL. With this failure to process even one order, BA-MA cannot credibly argue that it is able to provision EELs on a nondiscriminatory basis.

V. BA-MA DISCRIMINATES IN PROVISIONING UNE DS3S

38. WorldCom has also experienced discrimination in at least two instances in BA-MA's provisioning of UNE DS3s. BA-MA has refused to employ the same testing and turn-up procedures when supplying UNE DS3 circuits to WorldCom as it does when the same circuits are provided under its Special Access tariff. When WorldCom orders a Special Access DS-3, the BA-MA technician at the end point of the circuit calls WorldCom's implementation contact, and the two then test the circuit for acceptance. This direct testing facilitates cooperation between the BA-MA technician and WorldCom in isolating any problems.

39. BA-MA refuses to use this same, straightforward process when WorldCom orders a UNE DS3, instead interjecting an intermediary into the process. The BA-MA technician

telephones a BA-MA coordinator, who in turn telephones WorldCom. WorldCom thus does not have direct contact with a BA-MA technician to test the new circuit and isolate any problems; rather, it must relay any issues it finds back through the BA-MA coordinator. This cumbersome process frequently results in significant delays in obtaining a usable circuit, with WorldCom forced to make multiple telephone calls to BA-MA personnel to isolate the circuit problems.

VI. BA-MA'S EXISTING PERFORMANCE METRICS AND REMEDIES DO NOT ADEQUATELY ENSURE THAT BA-MA IS PROVIDING PARITY SERVICE TO CLECS AND DO NOT ADEQUATELY DETER BA-MA FROM BACKSLIDING AFTER 271 APPROVAL

40. In comments filed on April 25, 2000 and May 23, 2000 in D.T.E. 99-271, WorldCom addressed the reasons why BA-MA's proposed comprehensive plan of performance and remedial measures does not adequately protect CLECs from discriminatory performance and backsliding after 271 approval. In particular, WorldCom explained that:

- BA-MA's Performance Assurance Plan ("PAP") improperly limits and distorts remedy calculations through a flawed and overly complex scoring system.
- BA-MA's PAP and Change Control Assurance Plan contain maximum remedy amounts that provide inadequate incentives to prevent discrimination.

WorldCom's refers the Department to its previously filed comments for a detailed discussion of these issues. Below, WorldCom will address a few additional issues related to performance metrics and remedies raised by BA-MA in its recent filing.

A. BA-MA'S CURRENT PERFORMANCE METRICS DO NOT ADEQUATELY MEASURE OR PROVIDE ADEQUATE REMEDIES FOR TRUNK BLOCKING CAUSED BY BA-MA

41. BA-MA states in paragraph 41 of its Checklist Affidavit that a significant portion of trunk blocking in Massachusetts is due to CLECs' inability to provide switch hooks to which

BA-MA can interconnect its inbound trunks (trunks carrying traffic from BA-MA's network to a CLEC's network). WorldCom, for one, has not experienced a shortage of switch hooks in Massachusetts. In the Boston area, however, BA-MA itself has exhausted the switch hook capacity at many of its existing end offices, which has necessitated the building of new tandems to handle additional capacity. In WorldCom's experience, therefore, it has been Bell Atlantic's inability to keep up with the growth demands occasioned by even minimal market entry by competitors that has led to delays in the provisioning of inbound CLEC trunks.

42. In light of this fact, it is especially problematic that current performance metrics do not adequately measure or provide adequate remedies for trunk blocking caused by BA-MA. The *only* measure of whether BA-MA is providing sufficient interconnection trunks to carry traffic from its network to a CLEC network (referred to here as "inbound" trunking) is the NP-1, Percent Final Trunk Group Blockages, metric. However, in its current form, even this metric is woefully inadequate to deter BA-MA from significant blocking final trunk groups.

43. The NP-1 metric is deficient because it only takes note of blockage on a final trunk group if the blockage exceeds the 3 percent level. Meanwhile, industry standards for trunk blockage (and thus the level to which BA-MA likely engineers its own trunks) are substantially lower. Thus, a CLEC-bound trunk can exceed the blockage rates for comparable BA-MA internal trunks and not be captured in the measure.

44. In the meantime, even when blocking exceeds the 3 percent level, penalties are very unlikely to be invoked because they are tied to the same trunk having exceeded the 3 percent blocking threshold for 3 consecutive months. Thus, as long as BA-MA puts out fires by tending to

trunks once they block, it will never be assessed penalties. For all of these reasons, the NP-1 metric and penalty do not adequately protect CLECs from discriminatory conduct by BA-MA.

45. Noticeably absent is any metric that measures the time between the date a CLEC requests that BA-MA install new inbound trunks and the date, if any, on which those trunks are actually installed. The "standard intervals" that BA-MA touts in its recent filing do not apply to this type of transaction.

46. Such a metric is necessary because getting inbound trunks in a timely fashion is as critical – if not more critical – than installing trunks from WorldCom's network to BA-MA's network (referred to here as "outbound" trunks). After all, at the moment BA-MA's customers constitute the vast majority of local phone customers. Thus, when a CLEC is seeking to add new customers, it must be assured that all of BA-MA's customers will be able to call its own customers. This is especially the case when a CLEC's customers are large businesses and ISPs, who regularly receive huge volumes of calls. Moreover, because the total CLEC customer base is so much smaller than BA-MA's, CLECs place relatively few orders with BA-MA to provision trunks outbound from the CLECs' networks to BA-MA's (and thus carrying traffic initiated by the CLEC's customers). Rather, the vast majority of its trunk "orders" are actually requests to BA-MA to increase BA-MA's trunking inbound to the CLEC's network.

47. Therefore, if BA-MA does not respond quickly to a CLEC request that it increase the trunking capacity linking its network to the CLEC's, the CLEC cannot guarantee its customers that BA-MA's customers will be able to reach them. This is severely discriminatory and impedes WorldCom and other CLECs' entry into local markets.

B. OTHER PROBLEMS WITH BA-MA PERFORMANCE METRICS AND REMEDIES

48. BA-MA states in its recent filing that most CLECs in Massachusetts use its Web GUI interface. *See* Supplemental Comments at 136. Critically, it is difficult for CLECs to measure how this interface is performing because BA-MA does not measure the Web GUI interface's response time. BA-MA should measure GUI responses by queries and error or rejected messages and use the parity plus 7 seconds standard from the metrics ordered in Pennsylvania. If KPMG finds that the 7 seconds standard unreasonable, it can be lowered at a later time. Indeed, the Pennsylvania PUC has ruled that the Web GUI standard be reduced to parity plus 4 seconds in a year.

49. WorldCom also is concerned about BA-MA's claims about Average Completion Interval metrics and CLEC errors in X coding. BA-MA was supposed to have automated the X coding for longer than standard intervals in February 2000. BA-MA's claims that continuing problems are due to order mix should be rectified by further disaggregation so orders of similar intervals are compared. *See* Measurements Affidavit, at ¶ 68. Further, BA-MA must provide more information on why its retail analog for EEL interoffice facilities is inappropriate and why only a subset of special orders were analogous. *See id.*, ¶ 128.

50. BA-MA also needs to describe what was changed to "correct" its delay day calculations for provisioning metrics. WorldCom is only aware of one change in New York for delay days – i.e., stopping the calculation for any missed due date with the new due date when the CLEC caused the new due date to be missed. But WorldCom believes that change was already in effect before the timing of the change described in BA-MA's affidavit. *See id.*, ¶ 78. Even if this is the same

change, CLECs or KPMG needs to be able to review the data to see if the time shaved off the delay day metric was due to their error.

51. Finally, many of the metrics critical to CLECs – hot cuts, DSL Installation troubles, and various EELs metrics, are still under development. These should be reported for a sufficient period of time in order to allow CLECs to review them before BA-MA is allowed into long distance. BA-MA has been missing the DSL critical measures and flow through special measures in New York, and WorldCom does not believe the reporting has been finalized to the degree in Massachusetts to determine if BA-MA also is having problems in these areas. WorldCom reserves the right to address these issues further as more data and further clarification of metric changes described in the affidavit are made available.

52. This concludes our Joint Declaration.