Reply Affidavit of Carol A. Chapman

PACIFIC BELL TELEPHONE COMPANY

December 8, 2000
# CHAPMAN REPLY AFFIDAVIT

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INTRODUCTION AND PURPOSE

1. My name is Carol A. Chapman. I am employed as Associate Director - Wholesale Marketing for Southwestern Bell Telephone Company, an incumbent local exchange carrier affiliated with Pacific Bell Telephone Company (“Pacific”).

2. On September 29, 2000, I filed an affidavit in this proceeding in response to the Assigned Commissioner’s Ruling dated September 15, 2000. In that affidavit, I explained Pacific’s compliance with the FCC’s Third Report and Order in CC Docket No. 98-147 and the Fourth Report and Order, CC Docket No. 96-98, FCC 99-355 (rel. Dec. 9, 1999) (the “Line Sharing Order”) and this Commission’s decision in the line sharing arbitration, see D.00-09-074, (Sep. 21, 2000). On October 13, 2000, the Office of Ratepayer Advocates (“ORA”), the CLEC Coalition, and IP Communications (“IP”) filed comments responding to my affidavit. Pursuant to the Assigned Administrative Law Judge’s Ruling dated December 1, 2000, the purpose of this affidavit is to respond to the comments filed on October 13, 2000.

PRE-ORDERING FOR LINE SHARING

3. IP asserts that Pacific provides incomplete loop qualification data. IP Reply at 7-9. Pacific provides all

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1 Rhythms Links, Inc.; WorldCom, Inc.; AT&T Communications of California, Inc.; PacWest Telecomm, Inc.; ICG Telecom Group, Inc.; and Sprint Communications Company L.P. (“CLEC Coalition”).
loop qualification information in its databases to CLECs, including ASI, on a non-discriminatory basis. The specific items provided in response to loop qualification requests were requested by CLECs. On May 27, 2000, Pacific deployed DSL loop qualification pre-ordering enhancements that provide CLECs the 11 data information elements (numbers 1-11 below). An additional 34 (12-45 below) items will be provided when Pacific has the information available in its systems. This brings the total to 45 data-information elements Pacific provides CLECs to enable them to determine whether they want to provide DSL service to a customer: (1) loop length (includes both the feeder pair (F1) and the distribution pair to the customer’s terminal (F2)), (2) loop length by segment, (3) length by gauge, (4) 26 gauge equivalent loop length (calculated), (5) presence of load coils, (6) quantity of load coils (if applicable), (7) presence of bridged taps, (8) length of bridged taps (if applicable), (9) presence of pair gain/Digital Loop Carrier (“DLC”), (10) qualification status of the loop based on the CLEC specified Power Spectral Density mask (“PSD”),\(^2\) (11) source of data – actual or designed, (12) location of load coils, (13) presence of repeaters, (14) type of repeaters, (15) location of repeaters, (16) quantity of repeaters, (17) type of plant (aerial or buried), (18) type of loop

\(^2\)If no PSD class is specified, the default PSD is class 5 (ADSL). In any case, the CLEC is not required to specify its desired PSD on its loop qualifications requests.
(copper or fiber), (19) availability of spare facilities, (20) location of bridged tap, (21) quantity of bridged taps by occurrence, (22) location of bridged tap by occurrence, (23) quantity of range extenders, (24) location of range extenders, (25) location of pair gain devices, (26) type of DLC, (27) location of DLC, (28) quantity of DLC, (29) presence of Digital Added Main Line ("DAML"), (30) presence of disturbers in same or adjacent binder groups, (31) loop medium, (32) whether the loop originates at a Remote Switching Unit ("RSU"), (33) location of RSU, (34) type of remote RSU, (35) resistance zone (36) whether the loop originates at an ADSL Capable Remote Terminal ("RT") (37) whether the loop originates at a non-ADSL Capable RT, (38) indicator of whether ADSL capable RT is available, (39) target date of when ADSL capable RT will be deployed; (40) location of ADSL capable RT by address; (41) location of ADLS capable RT by CLLI; (42) location of non-ADSL capable RT by address; (43) location of non-ADSL capable RT by CLLI, (44) wire center code, and (45) taper code.

4. Further, IP contends that Pacific improperly screens loop qualification information. IP Reply at 7. Pacific’s loop qualification processes operate in a non-discriminatory manner. Regardless of whether loop qualification information is requested by ASI or an unaffiliated CLEC, the loop qualification process simply follows the same process as the loop assignment process. Thus, Pacific’s loop qualification responses are obtained by performing a
query to Pacific’s loop assignment system, LFACS, which is primarily a provisioning system. When a loop qualification query is submitted by the CLEC, LFACS performs the same type of query it would perform to select a loop for assignment during the provisioning process. This query utilizes the same assignment logic used when provisioning the loop. Likewise, when responding to manual look-up requests, Pacific identifies a non-loaded copper loop for an xDSL-capable or HFPL UNE order.

5. As with any type of service, whether provisioned as a retail service or an unbundled network element, loop assignment – and, hence, loop qualification information – is determined based upon the necessary service characteristics of the requested service. Pacific does not review and evaluate each possible loop to determine which would be “best” for any service. It simply assigns a loop that meets the design requirements for the requested service type. This network administration process is necessary for Pacific to efficiently manage the wide variety of services coexisting in the network.

6. LFACS looks for a non-loaded copper facility to suit the CLEC’s needs. If LFACS finds such a facility, it returns this information to the CLEC. If LFACS does not find such a facility, it checks for a loaded copper facility and runs the Line and Station Transfer (“LST”). When an LST is run, the system, where possible, reuses the part of the actual loop providing voice between the RT and the end user
location and associates that part with a new, different feeder loop from the central office to the RT so that the reconstructed loop is now DSL capable. The CLEC thereby receives information on a DSL-capable loop that did not previously exist in the network. Were Pacific to provide only information on the loops currently available, CLECs would not be provided with information on the loops that could be reconfigured to support DSL. In these situations, this would result in turning down service to customers who would otherwise have been able to receive service. Because Pacific’s loop qualification system mirrors its provisioning system, Pacific is able to provide the information based upon how the loop would be assigned if provisioned.

7. IP claims that Pacific does not provide CLECs "real time" access to all loop pre-qualification and loop qualification information contained in Pacific’s electronic databases. IP Reply at 7. Pacific’s obligation is to provide loop qualification data in a non-discriminatory manner. Thus, during the recent six-month review of Pacific’s performance measurements, the parties agreed upon a parity standard for the measurement of loop qualification requests, both mechanized and manual. October 2000 data shows that CLECs are receiving mechanized loop qualification data in 5.75 seconds and manual loop qualification data in 6.08 hours. Both figures are better than parity. Thus, mechanized and manual data are provided in a non-discriminatory manner.
8. IP makes a number of claims regarding the impact of inaccurate loop make-up data. IP believes, for instance, that Pacific should absorb any costs that a CLEC may incur accessing Pacific’s OSS to obtain loop qualification information, or requesting a manual loop qualification assessment, if that information should prove incorrect. IP Reply at 11. Under Decision 00-09-074, Pacific does not charge CLECs for electronic loop qualification; therefore, Pacific is not imposing any costs for accessing OSS in this situation. D.00-09-074, mimeo, pp. 7-8. Furthermore, IP misunderstands Pacific’s obligation in this respect. Pacific need not – indeed, could not – ensure that all loop qualification information is accurate. Rather, Pacific must provide non-discriminatory access to the information available in its databases. As explained in my September 29, 2000, affidavit, paras. 17-20, Pacific does exactly that.

9. The loop qualification information available in Pacific’s systems is no more (or less) accurate for ASI than it is for CLECs. The standard for loop qualification information is parity, not perfection. Certainly, Pacific's information is sufficiently accurate to provision thousands of orders a month as Pacific is doing. Furthermore, the information that resides in Pacific's databases was never intended for the purpose of providing DSL. DSL is such an attractive product partly because it offers high-speed, broadband service over existing facilities using existing
databases. The positive side of this is that broadband services can be provided to many customers without redesigning the network and placing new facilities as was previously the case. As a result of utilizing facilities originally designed for POTS service, data providers can make broadband services affordable for the mass market. However, for the same reasons that DSL is so attractive to data providers—readily available existing network facilities—it also creates challenges associated with utilizing a facility designed and inventoried for POTS service for a more particular, broadband service. CLECs want the best of both worlds. They want the pre-existing network, but they also want ILECs to be obligated to revamp their entire inventory in order to accommodate the CLECs’ business plans. The FCC has never even hinted at such a requirement. Rather, the FCC requires non-discrimination.

10. IP also notes that the Texas PUC adopted a loop information accuracy performance measure. IP Reply at 11. The inference IP draws is that the ILEC in all cases should bear any costs that result from inaccurate loop qualification information. But the measure in Texas was not designed to (and does not) undo billable loop conditioning requirements or charges for mechanized or manual loop make-up requests from CLECs. In any event, in the six-month periodic review of performance measures in California, the CLECs did not express a need for a loop information accuracy measure (though the parties did
develop a measure to track response times to loop qualification requests).

11. The CLEC Coalition alleges that Pacific’s “red, yellow, green” pre-ordering system is insufficient to satisfy the FCC’s OSS pre-ordering requirements. CLEC Coalition Reply at 7. This allegation reflects a misunderstanding of what Pacific provides. As explained in my initial affidavit, both the “red, yellow, green” indicator and the designed loop make-up information have been made available as a supplement to the detailed actual loop make-up information available in Pacific’s electronic and manual records.

12. The CLEC Coalition also questions how Pacific has been able to process large volumes of line sharing orders when actual loop make-up information is not available electronically in many cases. CLEC Coalition Reply at 8-9. As explained in my affidavit dated September 29, 2000 (¶ 19), the limited availability of electronic actual loop make-up information is precisely the reason that Pacific has input, and made available, electronic designed loop make-up information for all of its loops.

13. Although designed loop make-up information is not the same as actual loop make-up information, in many cases designed loop make-up is sufficient for a data provider to make a business decision to provide DSL service to an end user. For instance, consider a particular CLEC that knows its DSL service will work well on loops up to 18,000 feet long. If the designed loop make-up information for a particular
address indicates that the loop is only 10,000 feet long, the CLEC would be able to make a business decision to serve that customer without going through the additional step of obtaining actual loop make-up information. However, if the designed loop make-up information showed that the loop was 18,000 feet long, the same CLEC might request a manual look-up of the plant records before making a business decision on a borderline loop. In either case, the CLEC (whether affiliated with Pacific or not) must decide whether to proceed based on information available electronically or to electronically request a manual loop qualification. Pacific’s performance measure data indicates that CLECs are receiving manual loop make-up data in a matter of hours (6.08 hours in October), not days, regardless of the three-to-five day commitment made by Pacific.

14. The CLEC Coalition states SBC has admitted that manual loop request data once gathered is stored in a separate database for a mere 90 days. CLEC Coalition Reply at 9. They claim that this practice allows Pacific to charge each CLEC, or even the same CLEC, more than once for a manual look-up if the second request occurs beyond the 90 days. Upon the completion of a manual loop make-up request, Pacific does create a temporary record of the information that is stored for 90 days. The sole purpose of the temporary record, however, is to provide an electronic record of the results of the manual loop qualification that requesting CLECs may
access until Pacific permanently updates its back-end systems. The temporary record assures that the data is available for immediate use. Once Pacific’s back-end systems are updated, the data remains permanently available to the CLECs through mechanized OSS.

ORDERING FOR LINE SHARING

15. IP complains of outages resulting from the use of a manual process on a small number of unspecified orders, and a backlog of other orders while it waits for Pacific to develop flow-through LSR and provisioning processes. IP Reply at 6. But IP has never previously complained to Pacific regarding any line-sharing orders; indeed, IP has not submitted any line-sharing orders in California. In fact, IP’s Certificate of Public Convenience and Necessity was approved on September 7, 2000 – barely a month before it filed comments in this proceeding – and IP has not yet signed a line sharing amendment in California.

16. In any event, IP is simply wrong to suggest that Pacific has not implemented flow-through for line sharing orders (as is the CLEC Coalition, which makes a similar claim, CLEC Coalition Reply at 9). In fact, a high percentage of line-sharing orders flow-through Pacific’s systems. In October 2000, 73% of eligible, new-connect line sharing orders flowed through.

17. IP complains that Pacific has not designed flow through for one particular type of line sharing order: CLEC-to-CLEC conversions. IP Reply at 6. But the FCC in the Line
Sharing Order (¶ 100) recognized that manual workarounds of certain types of orders would be required on an interim basis while ILECs undertook the extraordinarily complex task of modifying their OSS to support line sharing. Flow-through for new connect orders has been prioritized, which IP acknowledges has been implemented. IP Reply at 6. Moreover, the timing of implementation of flow-through for particular types of orders will be addressed in the Interface Change Management Process. See D.99-11-026 (Nov. 4, 1999) regarding the Interface Change Management Process.

18. The CLEC Coalition complains that Pacific rejects any LSR that does not match the criteria specified in the loop qualification information in Pacific’s databases. CLEC Coalition Reply at 9. When submitting an order for either xDSL-capable loops or HFPL UNEs, CLECs have three options. The CLEC may instruct Pacific to process the order only if the loop make-up indicates the loop meets industry standard criteria for the requested service; the CLEC may instruct Pacific to process the order even if the loop make-up indicates the loop does not meet industry standard criteria; or the CLEC may instruct Pacific to process the order and condition the loop. In any case, there is no additional provisioning charge if the CLEC resubmits the LSR. This order process is identical to the order process
for xDSL-capable loops already approved by the FCC in the Texas 271 Order.³

ACCESS TO DATABASES

19. The CLEC Coalition asserts that Pacific has not provided CLECs with electronic access to all loop information available to Pacific personnel as required in the CPUC line-sharing proceeding. CLEC Coalition Reply at 10-12. Pacific has repeatedly explained that the CLECs, including ASI, have access to all of the information available in Pacific’s databases. The Arbitrator ordered that “ILECs should make available to CLEC, all data contained in LPACs, PACS, TIRKS, APTOS, IFGS, DSTS, and other relevant systems, with the exception of ASOS” and Pacific is providing that access.⁴ Nor does Pacific unilaterally determine what information would be useful to CLECs. As listed above in paragraph 3, Pacific provides CLEC with the data elements that the CLECs specifically identified as important.

20. The CLEC Coalition continues to complain that ASI has access to the Advanced Services Order System (“ASOS”). CLEC Coalition Reply at 13. Contrary to the CLEC Coalition’s characterization, however, ASOS is not a “DSL flow-through system,” and ASOS is not a Pacific system.

³ In the Matter of Application of SBC Communications to Provide In-Region, InterLATA Services in Texas, CC Dkt. No. 00-65, Memorandum Opinion and Order, FCC No. 00-238 (rel. June 30, 2000) ("Texas 271 Order"), at ¶¶ 172, 251-252, 282-318.

ASOS is a front-end software product that ASI customer service representatives use to input information into ASI systems. ASOS was developed by the Information Technology Organization in SBC Services - a non-incumbent, non-regulated affiliate in SBC Communications, Inc. - specifically for ASI and at ASI’s direction. Pacific did not direct this development, nor did it incur costs associated with it. Pacific has no ownership rights in ASOS.

21. This Commission has already concluded that the CLECs are not entitled to ASOS. In Line Sharing FAR, the Commission stated:

CLCs ask for access to the Advanced Services Ordering System (ASOS) used by Pacific and ASI. This request is denied. ASOS is a front-end ordering system developed by ASI to take initial orders from customers for advanced services. It is not used to order wholesale services from Pacific. It was developed by ASI, and it does not belong to Pacific, nor is it being provided by Pacific. Pacific can market ASI services under the terms of FCC orders. No other CLC is entitled to have Pacific market its services. Other CLCs have developed their own customer ordering systems.\[5\]

Further, the Report states “ILECs are not directed to implement any electronic interfaces not already in place, and are not directed to provide access to ASOS.” \[Id.\] at 107.

\[5\] Line Sharing FAR, pp. 41-42.
LINE SHARING MISCELLANEOUS ISSUES

22. IP complains about the scope of SBC’s line sharing trial. IP Reply at 2. As explained in my previous affidavit, Pacific began holding line sharing collaboratives in January of this year, then conducted a line sharing trial in March through May, both before the FCC’s mandated deadline for making line sharing available.

23. The objectives of both the trial and the collaboratives were to work cooperatively with CLECs in the development of Pacific’s line sharing offering and to gain actual experience in the ordering and provisioning flows for line sharing prior to the date line sharing was made generally available. Pacific implemented both the collaboratives and the trial on a completely voluntary basis, and continues to have voluntary collaborative meetings on a bi-weekly basis. IP is an active participant in these meetings.

24. IP has made issue of the fact that Pacific did not address every conceivable line sharing scenario during the trial. This is an accurate statement, although not for the reasons implied by IP. Due to the expedited implementation schedule set by the FCC in the Line Sharing Order, the trial participants, including Pacific, simply did not have the luxury to fully develop and implement every type of ordering scenario in the context of the trial. Also, it is not practical as part of a trial to test every conceivable scenario. Instead, Pacific worked cooperatively with CLECs
to develop the most essential scenarios during the trial, prior to the FCC’s deadline.

25. Once Pacific made line sharing commercially available (in advance of the FCC’s deadline), Pacific turned to actual “real life” operational issues in order to further refine its line sharing offerings. Thus, Pacific continued to work with the CLECs through the bi-weekly collaboratives to develop additional line sharing scenarios. This type of work effort was expressly foreseen by the FCC in the Line Sharing Order. In fact, ILECs raised concerns to the FCC that the CLECs would not be satisfied with the interim manual work-arounds necessary to implement line sharing in time to meet the deadline for commercial deployment. The FCC rejected these concerns based upon representations from CLECs that they would not complain about interim manual work-arounds.6

26. IP also claims that Pacific is unable to provision line sharing orders at commercially viable volumes. IP Reply at 2, 5. To the contrary, as I described in my September 29 affidavit (¶ 15), Pacific is provisioning line sharing at commercial volumes, and Pacific is processing such volumes today. Since June 2000, Pacific has seen a sharp increase of line sharing orders from CLECs. In October 2000 alone, Pacific provisioned approximately 79,000 line sharing orders.

6 Line Sharing Order at ¶ 100.
27. IP cites (but does not specify or support) problems it claims to have experienced with a different ILEC, in a different state, using ILEC-owned splitters. IP Reply at 4; see also ORA Reply at 3. IP further notes that ASI does not use ILEC-owned splitters and thereby concludes that the Commission cannot rely on data showing the level of service Pacific provides to ASI. IP Reply at 5. But ASI’s decision to use its own splitters is an option available to any CLEC. Indeed, ASI is not the only CLEC in California that uses its own splitters. As described in my September 29 affidavit (¶ 13 n.3), Pacific voluntarily offers CLECs the option of using Pacific-owned splitters to engage in line sharing with Pacific. But it is up to each CLEC to decide whether to avail itself of that option, and Pacific’s willingness to extend such an option certainly cannot be counted against its compliance with the Line Sharing Order.

28. Moreover, Pacific’s data affiliate submits line sharing orders in the exact same manner and through the exact same interfaces as any other CLEC. Once the order has been received, it flows through all of the exact same provisioning systems and is worked by the exact same personnel who would work any other CLEC line sharing order. Furthermore, Pacific’s performance data includes loops provisioned using both ILEC-owned and CLEC-owned splitters (including non-ASI splitters).
29. In addition, IP alleges that Pacific’s HFPL rates are unreasonable. IP Reply at 6 n.8. The interim rates offered by Pacific for HFPL are the rates established on an interim basis by this Commission. D.00-09-074, mimeo, pp. 7-8. The appropriate final rate for this unbundled network element will be established by this Commission in the second phase of the line sharing proceeding.

30. The CLEC Coalition claims that Pacific has not addressed issues which have resulted in emergency messages sent to CLECs. CLEC Coalition Reply at 10; id. at Att. B n.39. The accessible letter referenced by the CLECs (CLECCS00-172, dated October 6, 2000) involves an emergency error update for EDI/LSR and has nothing to do with line sharing. Pacific’s policy is to send out accessible letters discussing emergency updates for all new releases and such letters fully explain the issues regarding each new release.

PROJECT PRONTO AND PACIFIC’S BROADBAND SERVICE

31. IP asserts that Project Pronto is required to be unbundled under the FCC’s orders. IP Reply at 14. In his affidavit, Mr. Lube explains why this assertion is incorrect, and further explains why, as a result, Project Pronto has no bearing on the Section 271 checklist compliance.

32. IP further alleges Pacific did not specifically design Project Pronto for the benefit of CLECs. IP Reply at 19-20. Yet it is SBC – and SBC alone – that bears the
investment cost of Project Pronto. Without bearing any of the upfront investment costs, CLECs seek to dictate how Pacific spends its money on an ongoing basis. IP provides no support for its assertion that it is entitled to make such decisions on behalf of SBC and its shareholders, and there is none.

33. The FCC has clearly recognized the importance of encouraging investment in network initiatives to support advanced services, stating:

> We are also committed to ensuring that incumbent LECs are able to make their decisions to invest in, and deploy, advanced telecommunications services based on market demand and their own strategic business plans, rather than on regulatory requirements. We intend to take deregulatory steps towards meeting this goal in a subsequent order.\(^7\)

The FCC went on to state:

> We intend to address, in a future order, other specific forms of regulatory relief that may be needed to stimulate investment and deployment of advanced services by incumbents or new entrants, or whether other changes to the Commission’s local competition rules may facilitate deployment of advanced services by competing carriers.\(^8\)

These statements directly contradict the positions taken by IP in this proceeding. IP would have every network investment subject to new and ever-broadening regulatory

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\(^8\) Id. at ¶ 7.
requirements; would disallow ILECs from making investment decision based upon their own business plans; and would discourage any future investment by making such investments unattractive.

34. The CLEC Coalition and ORA allege Pacific offers the Broadband Service offering as a stand-alone agreement, not as an amendment to an interconnection agreement. They also claim this Commission implicitly granted them a right to negotiate and arbitrate the xDSL over Project Pronto offering. CLEC Coalition Reply at 17-18; ORA Reply at 3-4.

35. The Commission required Pacific to make terms and conditions available for the Broadband Service and Pacific has done so by filing its offering with the Commission on September 18, 2000. The CLECs did not protest Pacific’s offering at the time it was filed. Additionally, Pacific's September 18 filing states that "the Broadband Service interim agreement is not offered in the context of an interconnection agreement negotiated under Sections 251/252(c)(2) of the Telecommunications of 1996 because Pacific has no obligation to file the Broadband Service interim agreement under the Act."\(^9\) There was no finding by the Commission that this service is a UNE, and neither the FCC nor this Commission has found that the service meets the necessary and impair standard. See Lube Affidavit ¶ 34, 50-56. Although as Mr. Lube explains, the Broadband Service is not a UNE, Pacific will offer it as a standalone

service agreement or as an amendment to an interconnection
agreement.

36. The offering of the Broadband Service as an amendment to an
interconnection agreement is merely for convenience,
however, and does not transform the offering into a UNE.
Indeed, Pacific offers numerous non-UNE services — such as
inside wire maintenance — pursuant to interconnection
agreement amendments. Similarly, according to the FCC’s
directions in its Project Pronto Order\textsuperscript{10} (¶ 25), existing
procedures for interconnection agreements provide a ready
forum through which to resolve issues related to pricing of
the Broadband Service.

37. IP also claims that Pacific’s Project Pronto offering would
require CLECs to collocate at each Serving Area Interface
(“SAI”), in order to access the copper subloop, at a cost
of $500,000 per SAI. IP Reply at 23. This is simply wrong.
As part of the voluntary commitments contained in the
Project Pronto Order, Pacific has made available the
Engineering Controlled Splice (“ECS”) that will enable
CLECs to access the copper subloops for each of the SAIs by
simply collocating at the RT, eliminating the need to
collocate at each SAI.

\textsuperscript{10} In the Matter 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 310(d) of the
Communications Act and Parts 5, 22, 24, 25, 63, 90, 95, and 101 of the
Commission’s Rules, CC Dkt. No. 98-141, Second Memorandum Opinion and Order,
FCC No. 00-336 (rel. Sep. 8, 2000) (“Project Pronto Order”).
38. In addition, IP’s estimates of the cost of collocation at the SAI are vastly exaggerated. Although the costs will vary depending upon the site, SBC estimates that the collocation costs for RT collocation (providing access to all SAIs served by the RT) would frequently be under $20,000 – a far cry from the $500,000 per SAI price that IP quotes.

39. In a similar vein, IP claims that the DS3 connection from the Broadband Service makes it financially unrealistic. IP Reply at 22 n.28. Once again, this argument does not stand up to scrutiny. Assuming that a CLEC would anticipate 50 customers to collocate in a central office, the cost of the DS3 is not significant. Furthermore, if a DS1 connection was utilized in conjunction with the Broadband Service, a CLEC with more than a mere 15 customers would require a second DS1 connection which, when combined with the first, would cost more than the DS3 connection.

40. IP alleges that Project Pronto is designed to serve the residential and small business markets so that, absent unbundling, it will be difficult for CLECs to enter these markets. IP Reply at 22. In its Project Pronto Order, the FCC found that the opposite was true:

In particular, we find that SBC’s proposal should affirmatively and identifiably promote the rapid deployment of advanced services in a pro-competitive manner, thereby serving the goals of section 706. Granting SBC permission will speed the deployment of ADSL service availability to 77 million consumers within
three years. In particular, SBC’s Project Pronto will eliminate the distance limitations that prevent many consumers from obtaining DSL services today, and allow consumers served by remote terminals to receive DSL service where they otherwise would not. Millions of consumers that presently do not have access to advanced services thus will benefit from advanced services capabilities throughout SBC’s service territory. Granting SBC’s request to allow its incumbent LECs to own this equipment will allow SBC’s Advanced Services Affiliate (and other carriers) to begin offering service to these consumers sooner than otherwise would be the case. In addition, SBC’s proposal enables competing carriers to effectively resell SBC’s ADSL service, and thereby provides these CLECs with an immediate opportunity to compete against SBC in the mass market.\(^{11}\)

41. Because Project Pronto is an overlay network investment, rather than a replacement of the embedded network, none of the existing unbundling options available to CLECs today are altered in any way. Instead, CLECs are able to continue to utilize all currently available unbundled elements and take advantage of SBC’s investment through SBC’s voluntary offering of the Broadband Service.

42. Likewise, Project Pronto will not limit CLEC options in new neighborhoods. Current engineering design standards frequently do not support central office-based DSL technologies for end user locations that are more than 12,000 feet from the central office due to the use of digital loop carrier systems. These are precisely the end user locations that will benefit from Project Pronto.

\(^{11}\) Id. at ¶ 23 (citations omitted).
Again, Project Pronto provides CLECs with opportunities that would not be available otherwise.

43. Project Pronto creates new business opportunities for CLECs. Under the Project Pronto architecture, data CLECs will be able to provide high-speed data service to millions of new customers that they might not have been able to serve previously. At the same time, data CLECs will retain all of the existing options available today including obtaining xDSL-capable loops, line sharing, and sub-loop unbundling.

44. This new market opportunity is particularly important to DSL providers. In today’s environment, the availability of cable modems far surpasses the availability of DSL technologies. This type of massive network investment is necessary for the continued growth and development of DSL-based technologies. Without widespread marketing availability, the incentive for new innovations decreases.

LINE SPLITTING

45. The CLEC Coalition incorrectly alleges that because Pacific does not provide a splitter as part of the UNE-platform, Pacific does not allow “line splitting” in accordance with the FCC’s requirements. Coalition at 21-22. Line splitting is simply the shared use of an unbundled loop for the provision of voice and data services. The splitter separates the voice and data frequencies. The data portion of the line is then routed to the data CLEC’s Digital
Subscriber Line Access Multiplexer ("DSLAM"). The splitter may itself be integrated into the DSLAM.

46. Pacific’s existing offerings satisfy the FCC’s line splitting requirements. Pacific allows a CLEC to purchase an xDSL-capable loop from Pacific and then provide both voice and data services over the loop. If desired, the CLEC may purchase UNE switching to provide voice services. A single CLEC may choose to use the loop to provision both data and voice services, or one CLEC could provide voice service and another CLEC could provide data service.

47. In the Texas 271 Order, the FCC squarely held that this exact same offering satisfies the Line Sharing Order:

> [I]ncumbent LECs have an obligation to permit competing carriers to engage in line splitting over the UNE-P where the competing carrier purchases the entire loop and provides its own splitter. The record reflects that SWBT allows competing carriers to provide both voice and data services over the UNE-P. For instance, if a competing carrier is providing voice service over the UNE-P, it can order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment and unbundled switching combined with shared transport to replace its UNE-P with a configuration that allows provisioning of both data and voice service. SWBT provides the loop that was part of the existing UNE-P as the unbundled xDSL-capable loop, unless the loop that was used for the UNE-P is not capable of providing xDSL service.

48. The CLEC Coalition’s complaint is not with Pacific’s line sharing offering, but rather with the scope of the FCC’s

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13 Texas 271 Order at ¶ 325.
rules. The CLEC Coalition would have this Commission create a new requirement that ILECs provide a splitter at a CLECs' request when the CLEC orders the UNE-P. That proposal is squarely contradicted by the FCC's rulings. As noted, the FCC has held that incumbent LECs have an obligation "to permit competing carriers to engage in line splitting over the UNE-P" and its use is restricted to "where the competing carrier purchases the entire loop and provides its own splitter."14 Nor can this proposal be considered part of Pacific's obligation to provide the UNE-P. In this proposed configuration, the UNE-P would cease to exist. By definition, the platform is a pre-existing combination of UNEs. Under the CLECs' proposal, the UNEs must be uncombined and reconfigured. Once the UNE-P is uncombined, it is no longer a platform, but separate UNE elements. Moreover, as the FCC recognized in the UNE Remand Order,15 splitter functionality does not meet the "necessary and impair" standard and therefore is not subject to unbundling under section 251(c)(3).16

49. The CLEC Coalition notes that Pacific voluntarily agreed to provide splitters where it continues to provide a customer's voice service. CLEC Coalition at 22. But as this Commission has already recognized, that offering is

14 Id. (emphasis added).
16 Id. at ¶ 308 and n. 234.
“discretionary, not mandatory.” Pacific’s willingness to extend a voluntary offer that goes beyond the scope of existing rules cannot be bootstrapped into creating new rules that go beyond the scope of that voluntary offer. In any event, the circumstances of Pacific’s voluntary offer are fundamentally different. Pacific’s willingness to provide splitters where it provides voice service makes perfect sense – when Pacific is the voice provider, Pacific has a direct relationship with the end user customer for voice service and with the data provider with whom it shares the line. In contrast, in a line splitting scenario, such as that proposed by the CLECs, Pacific would not have a direct relationship with the end user or with the data provider at all. Yet the CLECs would nevertheless put the burden on Pacific to coordinate service installation and maintenance and repair (with two different CLECs), creating serious coordination problems in provisioning and maintaining service. Those proposed obligations – to configure and service a network solely on behalf of CLECs – are exactly the type that the Eighth Circuit has definitively concluded may not be imposed under the 1996 Act.18

50. At bottom, there is simply no competitive justification for imposing this requirement on Pacific. As the FCC found in

17 Line Sharing FAR, p. 22; see also id. at 23, 89; D.00-09-074, mimeo, pp. 6, 23, 26, 31 (Finding of Fact No. 13).
the UNE Remand Order, ILECs and CLECs are both in the early stages of deploying advanced services equipment, so Pacific does not have any preexisting equipment in place that gives it an advantage. It is for this reason among others that the FCC has steadfastly refused to define the splitter as a UNE (notwithstanding the CLEC Coalition’s unsupported claims to the contrary). Moreover, Pacific is not itself providing advanced services; rather, ASI, a CLEC, purchases and installs its own splitters under the same terms and conditions as any other CLEC. All CLECs have the same opportunities as ILECs to purchase this type of equipment.

19 See UNE Remand Order at ¶ 308 and 324.
I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed in Dallas, Texas this 7th day of December 2000.

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Carol Chapman