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

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

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

STATE OF TEXAS)
)
CITY OF SAN ANTONIO)

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STRUCTURAL SEPARATION OF ADVANCED SERVICES**

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

1. My name is John Habeeb. My business address is 300 Convent, Room 1998, San Antonio, TX 78205. I am Director-Regulatory and Interconnection for SBC Advanced Solutions, Inc., and its affiliate Ameritech Advanced Data Services of Ohio, Inc. (“AADS”) also using the name SBC Advanced Solutions. I am the same John Habeeb who previously filed affidavits in Case No. 00-942-TP-COI.

PROFESSIONAL EXPERIENCE AND EDUCATIONAL BACKGROUND

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

EXECUTIVE SUMMARY

3. This affidavit has two basic purposes. First, I demonstrate that AADS is “fully operational” in Ohio, which means that: (a) AADS is today utilizing the same Ameritech Ohio processes as are available to, and being used by, unaffiliated CLECs

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to order unbundled loops for non-DSL advanced services; and (b) AADS is today using those same processes to order the high frequency portion of the loop (“HFPL”) and services as are available to CLECs in Ohio.

4. Second, I demonstrate how AADS is meeting all § 251(c) provisions as they relate to AADS’s advanced service offerings.

AADS IS FULLY OPERATIONAL: BACKGROUND

5. In the New York Order, the Commission stated that “we will find it most persuasive if future applicants... make a separate and comprehensive evidentiary showing with respect to the provision of xDSL-capable loops”¹ through either of two methods. One of these methods is “proof of a fully operational separate advanced services affiliate”.² In respect to provisioning xDSL-capable loops, the Commission indicated that the creation of a separate affiliate “may provide significant evidence that a BOC complies with the nondiscrimination requirements of the competitive checklist.”³ According to the Commission, “[p]roviding advanced services through a separate affiliate would reduce the ability of a BOC to discriminate against competing carriers... [b]ecause the BOC’s advanced services affiliate would use the same processes as competitors to conduct such activities as ordering loops, and pay an equivalent price for facilities and services....”⁴

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

² Id.

³ Id., 15 FCC Rcd at 4122-23, ¶ 331.

⁴ Id., 15 FCC Rcd at 4123, ¶ 332.

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6. AADS is currently sufficiently operational to provide assurance that Ameritech Ohio treats its advanced services competitors on a nondiscriminatory basis.
7. In the Kansas/Oklahoma Order, the Commission “rel[ied] on SWBT’s performance towards its separate affiliate, Advanced Solutions, Inc. (ASI), to assist [its] evaluation because SWBT ha[d] provided substantial volumes of line shared loops to its separate affiliate.”⁵ The Commission further concluded that “competing carriers will experience comparable performance as they order line sharing” as that experienced by ASI, based on “SWBT’s showing that orders for line sharing from competing carriers are treated by SWBT precisely as orders from its separate affiliate.”⁶
8. These conclusions also apply in Ohio. AADS’s relationship with Ameritech Ohio in Ohio is similar to ASI’s relationship in Kansas and Oklahoma with Southwestern Bell Telephone Company. AADS orders line sharing, and other unbundled network elements (“UNEs”) and services, from Ameritech Ohio in precisely the same manner as competing carriers.
9. AADS possesses all of the indicia of a “fully operational separate advanced services affiliate”⁷ in Ohio. AADS has been operating as a fully separate advanced services affiliate of Ameritech Ohio since 1993, and adopted the business name SBC Advanced Solutions in 2000. The Public Utility Commission of Ohio (“PUCO”) approved the interconnection agreement between ASI and Ameritech Ohio on August

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

⁶ Kansas/Oklahoma Order at ¶ 219.

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

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11, 1999, and has since approved several amendments to that agreement. Negotiations are underway with Ameritech Ohio on a new agreement.

10. Ameritech Ohio and AADS each had dedicated personnel who represented their respective companies during negotiation of the interconnection agreement and subsequent amendments between AADS and Ameritech Ohio. Each company's personnel will continue to represent their respective companies in ongoing negotiations for amendments to the AADS/Ameritech Ohio interconnection agreements. Separate from Ameritech Ohio, AADS participates in industry meetings and forums as a CLEC. AADS receives information and notification of changes to Ameritech Ohio's network, such as Project PRONTO, through network disclosures and Accessible Letters made available to all CLECs.
11. In order to "minimize any disruption to the efficient and timely delivery of Advanced Services" and "to permit an orderly transition to the steady-state provisioning of Advanced Services," the Merger Conditions provided for several transitional mechanisms.⁸ These transitional mechanisms included the following: (1) Interim Line Sharing until SBC/Ameritech provided line sharing to unaffiliated carriers on a state-by-state basis; (2) Incumbent Local Exchange Carrier ("ILEC") provision of new activations of non-xDSL advanced services until 30 days after the later of the Merger Close Date or the date AADS received all the authorization necessary to provide services on an interstate or intrastate basis; (3) continued ILEC provision of certain advanced services (i.e., Frame Relay) to embedded ILEC customers until a date certain or 30 days after AADS obtained all the authorizations necessary to

⁸ Merger Conditions, 14 FCC Rcd at 14,981, ¶ 4.n.

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provide services on an interstate or intrastate basis; (4) network planning, engineering, design, and assignment services for advanced services equipment for a period of no more than 180 days after Merger Closing Date; (5) ILEC ownership of certain advanced services equipment installed no later than 30 days after Merger Closing Date, provided that if such equipment is used by AADS, it is made available for use by unaffiliated carriers under the same rates, terms and conditions; and, (6) when engaged in any permitted joint marketing, ILEC use of an Operation Support System (“OSS”) interface to access loop information that was not available to unaffiliated carriers for a period of no more than 180 days after the Merger Closing Date.⁹ Most of these transitional mechanisms expired April 5, 2000,¹⁰ and the final transitional mechanisms expired on December 8, 2000.¹¹

12. With respect to ADSL advanced services, the transitional mechanisms of the Merger Conditions permitted Ameritech Ohio to provide Interim Line Sharing to AADS on an exclusive basis, including operation, installation, and maintenance (“OI&M”) functions, until the Commission required SBC/Ameritech to provide line sharing to unaffiliated carriers, although AADS did not avail itself of these services and functions.¹² Thus, under Interim Line Sharing, Ameritech Ohio was permitted to process the order for ADSL service, order the necessary facilities, and perform the necessary OI&M functions on behalf of AADS. Under the Merger Conditions, Ameritech Ohio could continue to provide OI&M functions for AADS on a

⁹ Id., 14 FCC Rcd at 14,982, ¶ 4.n.(1)-(6).

¹⁰ Id.

¹¹ Id., 14 FCC Rcd at 14,992-93, ¶ 15.c.

¹² Id., 14 FCC Rcd at 14,982, ¶ 4.n.(1).

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nondiscriminatory basis, even after Interim Line Sharing ended.¹³ Although the Merger Conditions permitted Ameritech Ohio to provide Network Planning, Engineering, Design and Assignment, including arranging and negotiating for collocation space in Ameritech Ohio's Central Offices, until April 5, 2000 for non-ADSL services and until Line Sharing was provided for ADSL services, AADS in Ohio did not avail itself of these functionalities as it was already operational as AADS with its own OSS systems. AADS in Ohio does not currently collocate Frame Relay and ATM Cell Relay switches in Ameritech Ohio central offices.

13. In its Line Sharing Order, released on December 9, 1999, the Commission determined that the HFPL is an unbundled network element ("UNE") under section 251(c)(3) of the Federal Telecommunications Act of 1996 ("the Act"), and directed ILECs to line share by providing requesting carriers access to the HFPL.¹⁴ The Commission gave ILECs 180 days from the release of its order to accommodate requests for this new unbundled network element.¹⁵ On May 30, 2000, Ameritech Ohio implemented line sharing by making the HFPL available to both unaffiliated CLECs and AADS, although AADS never participated in Interim Line Sharing in Ohio or the other Ameritech states. Thus, Interim Line Sharing under the transitional mechanisms of the Merger Conditions is no longer in effect. AADS is operating in the steady state consistent with paragraph 4 of the Merger Conditions, for the provision of all

¹³ Id.

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

¹⁵ Id., 14 FCC Rcd at 20,921, ¶ 13.

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advanced services.¹⁶ In the steady state, AADS is ordering the HFPL from Ameritech Ohio in a line sharing arrangement, where Ameritech Ohio is providing the traditional POTS voice service and AADS is providing ADSL service to the customer over the same loop.

14. In the steady state, AADS functions in nearly every respect like an unaffiliated carrier for the provision of advanced services. AADS must: (1) perform network planning and engineering functions related to advanced services; (2) use the same interfaces, processes, and procedures as are made available to the CLECs for placing orders for unbundled network elements that are necessary for the provision of advanced services; (3) design the advanced services it wishes to offer; (4) assign the equipment necessary to provide advanced services; (5) create and maintain all records associated with its customers' advanced services account; (6) utilize only those OSS interfaces for ordering unbundled network elements and interconnection services, including line sharing, as are made available to any other CLEC; and, (7) maintain and repair any advanced services equipment it owns or leases (although AADS may contract with Ameritech Ohio for OI&M related to this equipment, provided the same OI&M services are made available to unaffiliated providers of advanced services under the same rates, terms and conditions).¹⁷
15. Paragraph 3 of the Merger Conditions requires AADS to operate as a separate advanced services affiliate of Ameritech Ohio in accordance with the structural, transactional, and non-discrimination requirements of section 272(b), (c), (e), and (g) of the Act with certain exceptions. The exceptions include the following: Ameritech

¹⁶ Merger Conditions, 14 FCC Rcd at 14,974-82, ¶ 4.

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Ohio may provide billing and collection services to AADS on a non-discriminatory basis; Ameritech Ohio may provide OI&M to AADS on a non-discriminatory basis; AADS may use Ameritech Ohio's name, trademarks, or service marks on an exclusive basis; AADS and Ameritech Ohio employees may be located within the same buildings; and, public disclosure of AADS's interconnection agreements with Ameritech Ohio are a replacement for transaction disclosure requirements.¹⁸

16. AADS is not providing ISDN and DS1 based xDSL services. The existence of AADS will, however, ensure nondiscriminatory access to the loops used for such services. Under the Merger Conditions, AADS is required to provide "Advanced Services," which are defined as intrastate and interstate wireline telecommunications services that "rely on packetized technology and have the capability of supporting transmission speeds of at least 56 kilobits per second in both directions."¹⁹ The definition of "Advanced Services" specifically excludes (1) data services that are not primarily based on packetized technology, such as ISDN, (2) x.25-based and x.75-based packet technologies, or (3) circuit switched services regardless of the technology, protocols or speeds.²⁰ The fact that AADS does not provide ISDN or DS1 based xDSL services, (services which are specifically excluded from the Merger Conditions definition of Advanced Services) has no bearing on its "fully operational" status. The relevant issue is not whether AADS is offering the same complement of services as unaffiliated providers of advanced services, but whether, for those

¹⁷ Id.

¹⁸ Id., 14 FCC Rcd at 14,970-74, ¶¶ 3.a-c, f, g, i.

¹⁹ Id., 14 FCC Rcd at 14,969, ¶ 2.

²⁰ Id.

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services AADS offers that require components to be provided by Ameritech Ohio, AADS is ordering access services, interconnection services and/or unbundled network elements utilizing the same Ameritech Ohio processes, procedures, and interfaces as are available to unaffiliated CLECs.

17. Ameritech Ohio also may receive trouble reports and perform related trouble isolation for AADS on a non-discriminatory basis. Thus, AADS will not receive better trouble resolution service for its customers than competing CLECs will receive for their customers. Paragraph 4.j of the Merger Conditions provides that when an Ameritech Ohio local exchange customer contacts Ameritech Ohio, Ameritech Ohio can test the line to see if the trouble is associated with its services.²¹ If Ameritech Ohio determines that the trouble is not associated with its services, it may transfer the trouble report, or refer or transfer the customer to AADS provided that Ameritech Ohio offers the same referral or transfer services to CLECs.²² If the customer is not an Ameritech Ohio customer, but calls Ameritech Ohio to report trouble affecting an Advanced Service, Ameritech Ohio must refer the customer to the advanced services provider, if known.²³ Finally, many of AADS's own employees are dedicated to trouble isolation and resolution related to advanced services, such that AADS will not depend solely on Ameritech Ohio for this service. Moreover, AADS's current plan for trouble resolution for its services includes customers contacting AADS directly as opposed to contacting Ameritech Ohio for trouble isolation and referral for ADSL troubles.

²¹ Id., 14 FCC Rcd at 14,979-80, ¶ 4.j.(1).

²² Id., 14 FCC Rcd at 14,980, ¶ 4.j.(2).

²³ Id., 14 FCC Rcd at 14,980, ¶ 4.j.(3).

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18. The provisioning of xDSL-capable loops requires some manual steps. However, to the extent that AADS and unaffiliated CLECs are both providing services that require the provisioning of xDSL-capable loops, the same manual steps will be required. In addition, Ameritech Ohio has performance measurements that are capable of detecting discrimination in the provisioning of xDSL-capable loops.
19. My conclusion that AADS is sufficiently operational to provide assurance that Ameritech Ohio treats its advanced services competitors on a nondiscriminatory basis is valid for the following reasons: (a) most of the transitional mechanisms provided for in the conditions set forth in the SBC/Ameritech Merger Order²⁴ expired on April 5, 2000; (b) line sharing was available to all providers of advanced services on May 30, 2000 in Ohio; and, (c) to the extent that manual intervention is involved in any of the steps required to provide xDSL capable loops, those manual steps will exist for AADS as well. In any event, performance measurements mandated by the Merger Conditions would reveal any discriminatory treatment by Ameritech Ohio between AADS and the CLECs, if any ever occurred.

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

20. Ameritech Ohio offers CLECs several interfaces for access to its OSS for the pre-ordering, ordering, provisioning, maintenance and repair, and billing functions, which are discussed in the Affidavit of Mark Cotrell.

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

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21. Pre-ordering. Ameritech Ohio offers AADS the same choices available to unaffiliated CLECs for the pre-ordering function, which enables CLECs to obtain loop qualification information: (1) a graphical user interface called Enhanced Verigate; and, (2) an application-to-application interface via an Electronic Data Interchange (“EDI”) transaction. AADS utilizes EDI to obtain loop qualification information.
22. Ordering. AADS has elected to submit orders for access services and UNEs to Ameritech Ohio through EDI for DSL, and through web-based Access Service Requests (“ASRs”) using an Ameritech Ohio interface called ALDIS Gateway for Frame and Cell Relay. AADS utilizes an EDI translator from GE Capital Services (GEIS) to facilitate the EDI mapping and transmission of Local Service Requests (“LSRs”) to Ameritech Ohio. The GEIS translator takes the UNE ordering data and, on an order by order basis, puts that information into the proper format on the LSR required for transmission to Ameritech Ohio. AADS uses ALDIS Gateway to complete ASR orders for Special Access Circuits for Frame Relay and Cell Relay service. AADS utilizes the GEIS translator to order line sharing from Ameritech Ohio. The ALDIS Gateway (web-based order interface) is also generally available to any CLEC for ordering Access Services from Ameritech Ohio.
23. Maintenance and Repair. AADS is using Electronic Bonding Trouble Administration (EBTA) to submit trouble reports, receive updates, and closure on maintenance and repair.

14,964, Appendix C (1999) (“SBC/Ameritech Merger Order”), vacated in part, ASCENT. Appendix C to that order contains the SBC/Ameritech Merger Conditions (“Merger Conditions”).

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24. Billing. AADS billing data in Ohio is invoiced to AADS customers using the Kenan Arbor Billing System, an off-the-shelf billing system purchased by AADS. AADS is not billing end users directly for DSL Transport as the service is sold to ISPs. As more fully explained in my previous affidavits, AADS is also offering DSL Transport to business customers as part of a remote local area network (“RLAN”) arrangement. RLAN customers will be billed directly for this RLAN DSL Transport. Collections service for AADS billing in Ohio is performed by the Ameritech corporate parent under a standard collection arrangement.
25. Attachment A to this affidavit depicts the AADS internally owned and operated systems, the manner in which orders flow through those systems, and how those orders flow across the interfaces with Ameritech Ohio. There are two diagrams, one for DSL Transport and one for Frame Relay and Cell Relay. Attachment B to this affidavit identifies the Ameritech Ohio OSS interfaces that are available to AADS and unaffiliated CLECs for pre-ordering, ordering, provisioning, and maintenance and repair with respect to various AADS products and services. AADS’s generic provisioning systems and flows for advanced services are depicted in Attachment A. When AADS requires special access services from Ameritech Ohio to complete a customer service order, AADS completes an ASR that is transmitted across the Ameritech web-based ALDIS Gateway interface. When AADS requires an HFPL connection for DSL service, AADS completes an LSR that is transmitted across the Ameritech Ohio EDI interface. This is the same EDI interface that is utilized by unaffiliated CLECs to submit LSRs for ordering HFPL for DSL from Ameritech Ohio.

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

26. AADS provisions Frame Relay and Cell Relay services to business customers in Ohio today. AADS orders Special Access Circuits from Ameritech Ohio via their FCC Tariff #2 as inputs used to provision Frame Relay and Cell Relay services. Typically, Frame Relay and Cell Relay networks are comprised of multiple switches interconnected with transport facilities deployed in metropolitan areas. When ordering Special Access, AADS completes an ASR and submits it to Ameritech Ohio utilizing the same processes, procedures, and interfaces as other CLECs. Most CLECs that provide Frame Relay and Cell Relay services in competition with AADS use Special Access to connect their customers' premises to their Frame/Cell relay switch ports. As discussed above, all new requests for Frame Relay and Cell Relay services are processed by AADS utilizing the systems and flows depicted in Attachment A. AADS is processing LSRs in Ohio for UNE loops utilizing the process described above.

AADS'S Use Of HFPL UNES To Provide DSL Transport

27. AADS provisions DSL Transport using the HFPL UNE. AADS orders HFPL UNES from Ameritech Ohio as wholesale inputs used to provision DSL Transport. AADS provides its own splitters in order to separate the HFPL, and does not use splitters provided by Ameritech Ohio. Orders for HFPL UNES are submitted using the EDI translator service discussed above.

28. As discussed above, all AADS requests for the HFPL UNE are submitted by AADS utilizing the systems and flows in Attachment A. AADS is processing LSRs in Ohio for HFPL UNES utilizing the processes described above.

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**AADS'S OFFERINGS UNDER SECTION 251(c) RELATING TO
ADVANCED SERVICES**

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

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

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

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

33. AADS is ready to enter into good faith negotiations with requesting CLECs regarding the § 251(c) items. A Generic Interconnection Agreement for the five Ameritech

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states has been developed and is available from AADS. This Agreement contains binding legal commitments addressing all applicable § 251(c) items as they apply to AADS's advanced services offerings and operations. Interested CLECs may contact the SBC Advanced Solution's Interconnection group in Texas to obtain a copy of this agreement. AADS has recently entered into an Interconnection Agreement with a CLEC, which should be filed shortly with the PUCO.

34. Thus, AADS is negotiating in good faith the terms and conditions of interconnection agreements with all requesting carriers in accordance with § 251(c)(1) and the Commission's rules implementing that subsection.

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

35. As mentioned above, AADS has long been subject to resale in accordance with § 251(b)(1). Thus, the requirement to resell is not new to AADS. What is new is the offer to resell at a wholesale discount its retail services provided to subscribers who are not telecommunications carriers in accordance with § 251(c)(4).

36. Section 251(c)(4) sets forth:

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

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

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

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

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

38. Wholesale Services Sold To ISPs. AADS's business plan focuses significantly on providing DSL Transport to ISPs on a wholesale basis for inclusion in a high-speed Internet service.²⁵ The FCC has clearly and unambiguously held that such offerings are not "retail" services and are not subject to resale under § 251(c)(4).²⁶ AADS will, however, continue to offer these services for resale in accordance with § 251(b)(1). AADS in Ohio has one RLAN customer. This RLAN arrangement is available for resale. To the extent businesses obtain DSL Transport for their own use in an RLAN arrangement, these RLANS will be available for resale.

²⁵ASI currently provides DSL Transport service to more than 400 ISPs, including SBC's ISP affiliate Ameritech Interactive Media Services, Inc.

²⁶ See Second Report and Order, Deployment of Wireline Services Offering Advanced Telecommunications Capability, 14 FCC Rcd 19,237, 19,238 ¶ 3 (1999) ("advanced services sold to Internet Service Providers for inclusion in a high-speed Internet service offering... are inherently different from advanced services made available directly to business and residential end-users, and as such, are not subject to the discounted resale obligations of section 251(c)(4)") ("Advanced Services Second Report and Order"). Similarly, the Commission has made clear that

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39. Retail Customers. AADS offers three retail services, Frame Relay, ATM Cell Relay, and DSL Transport in RLAN arrangements sold to business customers. AADS will offer these services for resale at a wholesale discount. See Generic Interconnection Agreement, Section 11. AADS will manually process requests for resale of these services and arrangements, as discussed in further detail in the “OSS” section below.
40. Customer Service Contracts (CSCs). AADS offers a number of retail services to businesses in CSCs. The services provided as part of CSCs include Frame Relay, ATM Cell Relay, and DSL Transport in RLAN arrangements.
41. AADS will make available for resale at the 20.29 percent wholesale discount rate new CSCs that AADS sells to retail customers. New CSCs may be resold to CLEC customers that are similarly situated to AADS’s retail CSC customer. Although CSCs are limited to specific locations, a similarly situated customer can request a CSC that would be available for resale. See Generic Interconnection Agreement, Section 11.G. These are the same requirements as for resale of CSCs by Ameritech Ohio. For CSCs, AADS will provide manual OSS similar to the manual OSS provided by Ameritech Ohio for large customer CSCs, as discussed further in the OSS section, below.
42. Wholesale Discount. AADS will offer, on an interim basis, the same wholesale discount that has been applied to Ameritech Ohio. That discount rate currently is 20.29 percent. AADS reserves the right, however, to request that the PUCO establish a wholesale discount for AADS’s services based on AADS’s avoided costs consistent with § 252(d)(3). If the PUCO establishes a different wholesale discount for AADS’s

the combination of “regulated telecommunications service [e.g., DSL] with an enhancement, Internet service” is “an unregulated information service.” Id., 14 FCC Rcd at 19,245, ¶ 17.

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services, all resold services will be trued-up to the AADS-specific discount.²⁷ See Generic Interconnection Agreement, Section 11.F.3.

Interconnection (§ 251(c)(2))

43. As mentioned above, AADS already offers interconnection to telecommunication carriers in accordance with Section 251(a)(1). In addition, AADS's new interconnection agreement addresses all of the additional interconnection obligations contained in § 251(c)(2).

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

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

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

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

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

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

45. AADS offers interconnection at its ATM switches at rates established prior to the SBC/Ameritech Merger. Again, because of the dissimilarities between AADS's business and that of Ameritech Ohio, it does not have an extensive number of technically feasible points where carriers could interconnect, or a variety of types of equipment and facilities with which carriers could interconnect. Because of the nature of data networks, ATM switches are the only technically feasible points within

²⁷ In accordance with paragraphs 47-49 of the Merger Conditions, AADS will provide the promotional resale avoided cost discount at the rates set forth in the Merger Conditions (currently 32%) for those telecommunications services that ASI provides at retail to residential end user

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AADS's network where a CLEC could interconnect. The Generic Interconnection Agreement provides for interconnection at ATM switches, and it also provides a process by which the CLECs may request interconnection at any other technically feasible point. See Generic Interconnection Agreement, Sections 16 & 17. If the parties cannot reach agreement on technically feasible points of interconnection, the dispute resolution provisions of the agreement permit the dispute to be submitted to the PUCO for resolution.

46. AADS does not offer point-to-point connections within any local calling area in Ohio, so AADS does not offer exchange service. Instead, all AADS services in Ohio are either interexchange or exchange access services.²⁸

Unbundling (§ 251(c)(3))

47. As with resale and interconnection, AADS's network, service offerings, and customers are limited when compared to Ameritech Ohio, and its unbundling requirements similarly should be limited. AADS's transmission facilities are leased from Ameritech Ohio as well as other carriers, and such facilities are equally available to unaffiliated CLECs from Ameritech Ohio and other carriers.

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

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

²⁸ See Order on Remand, Deployment of Wireline Services Offering Advanced Telecommunications Capability, 15 FCC Rcd 385, 386-87 ¶ 3 (1999) (“We find that when xDSL-based advanced services both originate and terminate ‘within a telephone exchange,’ and provide subscribers with the capability of communicating with other subscribers in that same exchange, they are properly classified as ‘telephone exchange service.’ We also find that xDSL-based advanced services constitute ‘exchange access’ when they provide subscribers with the ability to communicate across exchange boundaries.”). But see *WorldCom v FCC* 00-1002 vacating that conclusion

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The duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252. An incumbent local exchange carrier shall provide such unbundled network elements in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service.

49. Packet Switching. AADS owns packet switches, which include DSLAMs, ATM switches, and Frame Relay Engines that it uses to provide its advanced services. In the UNE Remand Order, the FCC found that access to unbundled packet switching was not required except in certain limited circumstances.²⁹ These limited circumstances require, in part, placement of a DSLAM in a remote terminal.³⁰ All of AADS's packet switches in the State of Ohio are located in Broadband Offices ("BBO") or collocated in Ameritech Ohio Central Offices or, in one instance, in an Ameritech Ohio administrative office. Accordingly, AADS has no packet switches today that would be required to be unbundled under the FCC's rules.
50. In the event that a CLEC requests packet switching in the future and all the elements of the FCC's rule are met, AADS has included language in its agreement that tracks the packet switching unbundling rule. See Generic Interconnection Agreement, Section 28.A.
51. OSS. AADS's OSS is also extremely limited and focus on DSL Transport. AADS was established as a separate advanced services affiliate prior to the SBC/Ameritech

²⁹ Third Report and Order and Fourth Notice of Proposed Rulemaking, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 15 FCC Rcd 3696 (1999) ("UNE Remand Order"); see also Rule 51.319(c)(5).

³⁰ See UNE Remand Order, at ¶ 313 (packet switching requirement is limited to "situations in which the incumbent has placed its DSLAM in a remote terminal"); see also 47 C.F.R. § 51.319(c)(5)(iv).

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Merger Conditions and prior to the passage of the Telecom Act of 1996.; accordingly, AADS's systems were not set up with § 251 and § 252 of that Act, including the need to provide access to its OSS functionality, in mind... It would be extremely costly for AADS to create such an interface at this time. Moreover, given the limited nature of AADS's business and the limited number of customers and arrangements available for resale, it appears that such an interface likely would be of little use to the CLECs

52. Any obligations AADS has to provide access to its OSS functionality on an unbundled basis are limited to the purposes for which such access might be needed by the CLECs for reselling AADS's service. It would make no sense to require unbundling of OSS merely because AADS has OSS. Instead, there should be some reason associated with "the provision of a telecommunications service" for providing access to any OSS functionality. In other words, access to AADS's OSS functionality must be "necessary" in order to secure other services from AADS (resale, UNEs, etc.), and a failure to provide such access must "impair" a CLEC's ability to compete. CLECs would not find it "necessary" to have access unrelated to securing services from AADS, nor would CLECs in any way be "impaired," if they did not have such access.

53. As described above, there are only a few large business customer CSCs available for resale, and AADS's packet switches are not currently required to be unbundled under the FCC's rules. Therefore, AADS's OSS could only be useful for the resale of AADS service. CSCs that are available for resale are not resold through the use of

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mechanized OSS even in Ameritech Ohio, and likewise will not be resold using AADS's OSS.

54. Accordingly, AADS's OSS unbundling obligation is extremely limited. Given the small volume of anticipated resold customers and the unique nature of most of the services, manual systems should be sufficient to serve all CLEC requests for resale in a nondiscriminatory manner and without any impact on competition.

55. Similarly, AADS's OSS will not be needed for interconnection with AADS's network. Establishing interconnection points with AADS will be similar to, but somewhat less involved than, the process of establishing interconnection points with Ameritech Ohio, in large part because AADS does not offer transport facilities, except in those circumstances where AADS offers a bundled port/transport Frame Relay and ATM Cell Relay service. As with Ameritech Ohio, individual points of interconnection will be negotiated between the parties and will not require the use of AADS OSS. However, other parties will provide the entrance facilities used for interconnection, and CLECs will need to order interconnection entrance facilities from Ameritech Ohio or another party (or self provision). Thus, there will be no need to use AADS's OSS for interconnection with AADS's network.

56. AADS will not have significant volumes of pre-ordering, ordering, or maintenance and repair requests for § 251(c) items outside of resale and interconnection, and any of these requests will be handled manually, through negotiation between the parties.

57. For resale, ASI currently offers the OSS functionalities discussed below. CLECs have been notified via Accessible Letter CLECSI01-001 that these OSS functionalities will be changing in the first quarter of 2002.

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58. *Pre-Ordering.* In the pre-ordering process for resale of CSCs, AADS will provide CLECs with information necessary to determine a specific customer's serving arrangements, provided that the CLEC has the customer's consent to access the customer's records. CLECs can request a customer service record or CSC contract manually by calling their account manager, and AADS will provide the customer service record or CSC to the CLEC manually via fax. In order to comply with the FCC's rules governing protection of Customer Proprietary Network Information ("CPNI"), CLECs will need to have authorization from the customer, and to inform AADS that they have the customers' permission to receive such information. As with Ameritech Ohio's OSS, AADS's OSS are not intended to be marketing research tools to identify available resale customers; instead, the CLEC must contact the customer, ask the customer the name of his or her service provider, and secure the customer's consent to access the customer's service record. Because the universe of resale customers is so small, AADS will be able to handle all pre-order inquiries for potential resale of these arrangements on a manual basis.

59. *Ordering.* For DSL Transport, AADS will provide CLECs the option of accessing AADS's existing web-based application—Public User Interface ("PUI"). This system will allow carriers to place preorder and order transactions electronically. AADS already allows ISPs to access PUI in order to place orders with AADS. AADS has a package of training materials that ISPs use to learn how to interface with PUI, and AADS will provide CLECs with those training materials. For resale of other services, AADS will offer manual processing of orders. For Frame and ATM Cell

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Relay services, AADS will use the same ASR manual form previously used by Ameritech Ohio or a web-based version of the manual order form.

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

61. *Billing.* AADS currently invoices each customer (i.e., ISP and RLAN) directly.

AADS does not offer “split billing” to ISPs or their end user customers where the ISP bills their end user customer for internet access and AADS bills the end user customer rather than the ISP for DSL Transport.

Collocation

62. All of AADS’s equipment in the State of Ohio is located on AADS premises or collocated in Ameritech Ohio central offices and in one Ameritech administrative office in Columbus. AADS will permit CLECs to collocate equipment necessary for interconnection (or to obtain access to packet switching in the event it is required) in its nine eligible BBOs in Ohio on a nondiscriminatory basis pursuant to a signed and approved Interconnection Agreement. Currently, there is approximately 5,700 square feet of space available for collocation in those offices. Rates, terms and conditions for collocation in AADS’s BBOs are similar to those offered by Ameritech Ohio. CLECs and AADS today have the same right of access to space in Ameritech Ohio’s central offices.

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Notice Of Network Changes

63. AADS agrees to provide reasonable notice consistent with applicable FCC rules of changes in the information necessary for the transmission and routing of services using AADS's network, as well as of any other changes that would affect the interoperability of ASI's network. See Generic Interconnection Agreement, Section 15B.³¹ AADS has already issued one such notice, as I mentioned previously.

CONCLUSION

64. AADS is "fully operational" in Ohio for the provision of advanced services. As of midnight on April 5, 2000, all of the transitional mechanisms which permitted Ameritech Ohio to provide certain functions on behalf of AADS to permit an "orderly transition to the steady-state"³² came to an end, except for those authorized activities associated with interim line sharing and trouble reporting and isolation pertaining to advanced services (which ended on October 8, 2000). In accordance with the FCC's Line Sharing Order, Ameritech Ohio made line sharing generally available on May 30, 2000, at which time Interim Line Sharing came to an end and AADS continued its operation in the steady-state. In the steady state, AADS is functioning like any other CLEC consistent with the Merger Conditions. AADS is ordering special access for the provisioning of Frame Relay/Cell Relay service, as well as the HFPL UNE for the provision of DSL Transport, utilizing the same processes as the CLECs and paying an equivalent price.

³¹ Section 251(c)(5) is not part of the 271 Checklist, either as an individual checklist item or as part of checklist item (i), Interconnection. Checklist item (i) refers specifically and exclusively to compliance with the § 251(c)(2) interconnection requirement. As such, this section should not be part of the Commission's 271 review. Nonetheless, the Generic Interconnection Agreement contains provisions concerning notice of network changes.

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65. AADS is providing all § 251(c) items as they relate to AADS's provision of advanced services. AADS has entered into and remains ready to enter into a binding legal commitment to meet the relevant § 251(c) items with any CLEC doing business in Ohio.

66. This concludes my affidavit.

³² Merger Conditions, 14 FCC Rcd at 14,981, ¶ 4.n.

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

JOHN S. HABEEB
DIRECTOR-REGULATORY AND
INTERCONNECTION

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

NOTARY PUBLIC