

Exhibit No.:

Issue: Transport

Witness: Sean Minter

Sponsoring Party: AT&T Communications of
the Southwest, Inc., TCG
Kansas City, Inc., and
TCG St. Louis, Inc.

Type of Exhibit: Rebuttal Testimony

Case No.: TO-2004-0207

**AT&T COMMUNICATIONS OF THE SOUTHWEST, INC.,
TCG KANSAS CITY INC., AND TCG ST. LOUIS, INC.**

REBUTTAL TESTIMONY

OF

SEAN MINTER

(NONPROPRIETARY VERSION)

TO-2004-0207

March 1, 2004

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1 **I. INTRODUCTION OF WITNESS AND PURPOSE OF TESTIMONY**

2 **Q. PLEASE STATE YOUR FULL NAME AND BUSINESS ADDRESS.**

3 A. My name is Vishal Sean Minter. My business address is 1222 Granger Dr., Allen,
4 Texas 75013.

5 **Q. HAVE YOU FILED DIRECT TESTIMONY IN THIS PROCEEDING?**

6 A. Yes. On January 12, 2004, I filed direct testimony on behalf of AT&T
7 Communications of the Southwest, Inc., TCG Kansas City, Inc., and TCG St.
8 Louis, Inc. (“AT&T”). In that testimony, I sought to summarize the bases for the
9 FCC’s national findings in its Triennial Review Order (“TRO”) that CLECs are
10 impaired without unbundled access to ILEC dedicated transport and high-capacity
11 loops, to explain the “trigger” analyses authorized by the FCC under which a
12 complaining party may go before a state commission and seek to demonstrate that
13 *actual deployment* of CLEC facilities justifies a finding of non-impairment on
14 particular dedicated transport routes or to particular customer locations, at specific
15 capacities. Those trigger analyses, properly construed, provide the framework for
16 this proceeding. I also provided an overview of the limited alternative test
17 provided in the TRO under which a challenger may seek to show that the
18 *potential deployment* of CLEC facilities on a particular route or to a particular
19 location may permit a finding of non-impairment, even though actual deployment
20 on that route or to that location fails to satisfy either trigger.

21 **Q. WHAT IS THE PURPOSE OF THIS REBUTTAL TESTIMONY?**

22 A. The purpose of this testimony is to assist the Commission in determining whether,
23 under the trigger analyses set forth in the *Triennial Review Order* (TRO), CLECs

1 would be impaired in the absence of unbundled Dedicated Transport on the
2 identified, contested routes within Missouri. I also will reply to SBC's assertions
3 that the Commission should find non-impairment as a matter of "potential
4 deployment" on those routes for which evidence of actual deployment is found to
5 fail the trigger tests. In both regards, I respond to the direct testimony of SBC
6 witness J. Gary Smith regarding transport.

7 With respect to the trigger analyses, my rebuttal testimony first sets out, in section
8 II below, the appropriate selection criteria to be used to determine if a candidate
9 meets the FCC's qualifications necessary for a carrier to be "counted" in the
10 trigger analysis. This section explains the specific tests I have used to apply the
11 TRO analyses, following the framework set out in my direct testimony. In section
12 III, I then analyze whether those routes that SBC identifies as trigger candidates
13 meet the selection criteria. In performing this analysis, I have relied upon publicly
14 available data and CLEC responses to the Bench Requests, as well as my
15 examination of Mr. Smith's testimony and exhibits. In this portion of the
16 testimony, I draw from the available data and make assessments as to whether a
17 route or carrier satisfies particular requirements of the self-provisioning and
18 wholesale triggers under the standards set forth in the TRO.

19 I conclude in section IV by responding to SBC's potential deployment claims
20 related to transport. Separately, I am submitting rebuttal testimony regarding
21 high-capacity loops.

1 **Q. DO ANY LIMITATIONS EXIST ON YOUR ABILITY TO DEAL**
2 **COMPREHENSIVELY WITH THE TRIGGER ANALYSIS IN THIS**
3 **TESTIMONY?**

4 A. Yes. To date, AT&T does not have access to data responses from certain carriers,
5 such as Level 3 and McLeodUSA. Consequently, I have treated as an unknown
6 whether those carriers may satisfy a trigger requirement on any of the contested
7 routes. More importantly, it is my understanding that AT&T is yet to receive any
8 responses from SBC Missouri to AT&T's data requests that comprehensively
9 inquired into the support for and development of Mr. Smith's testimony, and the
10 routes and trigger candidates he identifies. Those responses were due Thursday,
11 February 26, 2004, to my understanding, but SBC has advised AT&T that no
12 responses will be forthcoming until after the deadline for filing rebuttal testimony.
13 As a result, I have had no opportunity to examine what SBC regards as the
14 supporting data for Mr. Smith's testimony, which makes up the SBC's entire
15 direct case on transport. To the extent relevant data is forthcoming, I reserve the
16 right to present it at the time provided for surrebuttal testimony in this case.

17 **Q. YOU HAVE NOT MENTIONED CENTURYTEL. ARE YOU**
18 **RESPONDING TO ANY CLAIMS BY CENTURYTEL?**

19 A. I understand that CenturyTel, which initially indicated that it would contest
20 impairment for a small number of routes, has withdrawn the pre-filed direct
21 testimony of its witness. I further understand that counsel for CenturyTel has
22 confirmed to counsel for AT&T that, with the withdrawal of that testimony,
23 CenturyTel will not seek any findings of non-impairment in this phase of the

1 proceeding and has effectively withdrawn from the proceeding as it related to
2 dedicated transport and high-capacity loops. Accordingly, I have not addressed
3 the routes initially designated by CenturyTel. Should any CenturyTel routes
4 somehow be brought back into this proceeding, I reserve the right to address them
5 at that time.

6 **Q. PLEASE SUMMARIZE YOUR ANALYSIS AND CONCLUSIONS.**

7 A. After review of the available evidence from SBC and those carriers for whom
8 discovery or other data is available, I have identified one Missouri route on which
9 one competing carrier self-provides some level of dedicated transport, but none
10 where 3 carriers do so, out of the routes which SBC contests on this basis. I also
11 conclude that the available data fails to establish the capacity level of transport
12 being provided and one or more additional elements of the self-provisioning
13 trigger for this routes. With respect to the wholesale trigger, I conclude again that
14 there is but one Missouri route on which the available data establishes that one
15 competing carrier offers some form of wholesale dedicated transport between
16 SBC Missouri central offices, but none on which 2 competing carriers offer
17 wholesale dedicated transport. For the one route with a single wholesale provider,
18 the available data again does not establish the capacity level of transport offered
19 and other elements of the wholesale trigger analysis. Accordingly, on the basis of
20 the currently available data in this proceeding, I conclude that neither trigger has
21 been satisfied for any of the contested routes. I also disagree with SBC's
22 contention that this inadequate evidence of actual deployment may be treated as
23 sufficient evidence of potential deployment to reverse the FCC's national findings

1 of impairment as applied to these routes. That contention would render the
2 triggers irrelevant and is entirely lacking in factual support.

3 **Q. SHOULD IT SURPRISE THE COMMISSION THAT THERE IS SO**
4 **LITTLE INDICATION OF CLECS SELF-PROVIDING OR OFFERING**
5 **WHOLESALE DEDICATED TRANSPORT BETWEEN SBC CENTRAL**
6 **OFFICES?**

7 A. No. While CLECs are collocated in a substantial number of SBC central offices
8 in Missouri, and some have installed fiber facilities to a significant fraction of
9 their collocations, the primary use of those facilities is to provide connections to
10 CLEC switches and points of presence, where aggregate traffic levels at the
11 central office warrant construction of such facilities in lieu of paying for special
12 access from SBC. Competitors' principal use of unbundled ILEC dedicated
13 transport, on the other hand, is to backhaul UNE loop traffic out of one central
14 office to reach a central office that is connected to the ILEC's local switch or IP
15 network. Thus, for example, AT&T's fiber-fed collocation arrangements at SBC
16 Missouri central offices all serve as entrance facilities to AT&T's switch, rather
17 than connecting collocations to one another, as Mr. Giovannucci and Mr.
18 Grossmann explain in detail in their rebuttal. That configuration fits common
19 CLEC needs. Passing traffic directly back and forth between two ILEC COs, in
20 volumes large enough to warrant construction of fiber facilities or even significant
21 modification of existing facilities, does not. The result is that CLEC local
22 networks typically will be either physically or electronically configured in a hub-

1 and-spoke pattern – a central-point-to-any-point pattern, as Mr. Grossmann and
2 Mr. Giovannucci describe it, not an any-point-to-any-point pattern.

3 I have illustrated the difference graphically in Attachment VSM-R-1 for the
4 AT&T network in the St. Louis area. Taking the central office locations where
5 Mr. Smith identifies as AT&T fiber-fed collocations, I illustrate the fully-meshed
6 network implicit in Mr. Smith's hypothesis that any two fiber-fed collocation
7 arrangements must provide dedicated transport between them (Attachment VSM-
8 R-1A), and contrast it with the configuration of entrance facilities that AT&T
9 actually has provisioned, as described by Mr. Grossmann and Mr. Giovannucci
10 (Attachment VSM-R-1B).¹ Because the latter picture is the way that CLEC
11 networks are typically provisioned, physically or electronically, to meet CLEC
12 needs, the resulting lack of CLEC-provided dedicated transport between SBC
13 Missouri offices is to be expected, and is not surprising.

14 **II. DEDICATED TRANSPORT TRIGGER CRITERIA**

15 **Q. IS APPLYING EITHER THE SELF-PROVISIONING OR WHOLESALE**
16 **TRIGGER TEST A SIMPLE MATTER OF IDENTIFYING CLEC**
17 **COLLOCATION FACILITIES AT PAIRS OF SBC CENTRAL OFFICES?**

18 A. Absolutely not. Identifying carriers that are actively providing Dedicated
19 Transport between two ILEC central offices (CLLIs) is more than a simple
20 counting exercise of collocations with fiber entrance facilities. Indeed, if the
21 trigger analysis were intended as an entirely mechanical task, there would have

¹ These diagrams illustrate how AT&T has connected its facilities, but the paths shown on the maps do not depict the actual locations of the AT&T fiber rings over which these connections are created.

1 been no need for the FCC conclude that it should be conducted by state
2 commissions, which the FCC found are best positioned “to gather and assess the
3 information” necessary to make such determinations. TRO at p. 10.

4 **Q. HOW DO YOU PROPOSE THE TRIGGER TEST SHOULD BE**
5 **CONDUCTED?**

6 A. On any route on which an ILEC challenges the national finding of impairment,
7 the TRO directs state commissions to first apply defined triggers based on
8 objective data.

9 In this testimony, I will analyze each route separately based upon whether SBC
10 claimed that the route met the wholesale trigger, self provisioning trigger or both.

11 **A. Review of Self Provisioning Trigger Tests**

12 **Q. HOW SHOULD THE COMMISSION EVALUATE SBC’S CLAIMS THAT**
13 **PARTICULAR ROUTES SATISFY THE SELF-PROVISIONING**
14 **TRIGGER?**

15 A. I explained the requirements of the FCC’s self-provisioning trigger analysis at
16 pages 18-27 of my direct testimony. In order to apply each of those requirements
17 in a practical fashion to the available data here, I propose to examine each route
18 and/or carrier applying a set of four tests, some of which include sub-tests.

19 Before this Commission could reverse the national finding of impairment as to a
20 particular route and find that CLECs are not impaired without unbundled access
21 to dedicated transport on that route at specific capacity levels, it should require
22 definitive proof that three or more carriers pass all of the tests below.

Dedicated Transport and Dark Fiber Self Provisioning Analysis	
Test 1	Are the carriers identified by SBC unaffiliated with SBC and each other?
Test 2	Have the carriers identified by SBC verified the existence of their collocation at the wire centers (CLLIs) claimed by SBC?
Test 3	Do the carriers currently have in service and plan to continue in service self provisioned Dedicated Transport at the specified capacity levels on the routes specified by SBC?
Test 4	For each contested route, is the Carrier's self provided Dedicated Transport that is in service equivalent to ILEC Dedicated Transport?

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For every route, three carriers must pass each test to consider the route for non-impairment. TRO ¶ 405. Since SBC has challenged the finding of impairment, it is SBC's responsibility to provide the data necessary to satisfy the tests above. If for any of the tests above, the available data from SBC and CLECs does not definitively establish that a particular carrier passes the applicable test for a route, my analysis will show the results of that test as "To Be Determined" (TBD).

Under the extraordinary time pressures and peculiar circumstances of this proceeding, in which discovery must be conducted simultaneously in many states across the country due to parallel proceedings all on the same FCC-prescribed timetable, information may continue to be collected and presented for the Commission's consideration at hearing that is not yet available to me or other witnesses. However, at the end of the day, if definitive information on an item

1 remains lacking, then any of the routes with test results of TBD should be
2 disqualified.

3 **Q. WHAT ARE THE QUESTIONS ASSOCIATED WITH TEST 1**
4 **DESCRIBED ABOVE?**

5 A. Test 1 is simply a screen to verify that the carriers that are put forth by SBC as
6 carriers on any route on which SBC seeks a reversal of impairment are
7 unaffiliated with SBC and each other. TRO ¶ 408. The only question asked in
8 Test 1 is as follows:

Question 1-1	Is the Carrier unaffiliated with the ILEC and other carriers on this list?
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10 **Q. WHAT ARE THE QUESTIONS ASSOCIATED WITH TEST 2**
11 **DESCRIBED ABOVE?**

12 A. Test 2 attempts to determine whether the carrier does in fact agree that it has an
13 active collocation facility at the specified SBC wire centers (CLLIs) as claimed by
14 SBC. The only question asked in Test 2 is as follows:

Question 2-1	Has the Carrier verified the existence of its collocation at the wire centers (CLLIs) specified by SBC?
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16 **Q. WHAT ARE THE QUESTIONS ASSOCIATED WITH TEST 3**
17 **DESCRIBED ABOVE?**

18 A. Test 3 examines the data provide by the carriers themselves to determine if they
19 currently have in service and plan on continuing in service Dedicated Transport at
20 the specific capacity levels on the specific routes as claimed by SBC. See Minter

1 Direct at 22. The particular emphasis in each sub-test appears in bold print in the
2 chart that follows. Following the chart, I have provided brief notes on the focus
3 of each of the sub-tests.

Question 3-1	Does Carrier with verified collocation facilities at CLLI A and CLLI Z currently Self Provide DS3 Dedicated Transport between CLLI A and CLLI Z?
Question 3-2	Does Carrier with verified collocation facilities at CLLI A and CLLI Z currently have unused Dark Fiber connected from its collocation at CLLI A to its collocation at CLLI Z?
Question 3-3	(For Carriers that pass Test 3-1) Has Carrier self provisioned Dedicated Transport at the following capacity levels between CLLI A and CLLI Z? (1-12 DS3s; >12 DS3s; OCn)
Question 3-4	Is the Carrier's Self Provided Dedicated Transport between CLLI A and CLLI Z more than an incidental use of fiber facilities which were deployed for a different purpose?
Question 3-5	Is the Carrier likely to continue using the route listed? (i.e. transport is not in the process of being disconnected or decommissioned)

4
5 Question 3-1 screens out carriers that deny that they have self provisioned
6 facilities in place on the specific route as claimed by SBC, or whom the evidence
7 otherwise shows do not have such facilities. This question screens out, for
8 example, carriers who explain that the facilities they may have in place at A and Z
9 do not allow for, or are not provisioned to, provide dedicated transport between
10 the A and Z locations. As further discussed below, this test eliminates carriers
11 who have deployed and provisioned entrance facilities between their collocation
12 arrangements at either end of the route and their local switch or point of presence,
13 but have not provided a direct, dedicated connection between the A and Z
14 locations. *See* Minter Direct at 22-23. This test will eliminate, for example,

1 AT&T as a trigger candidate on every contested route, because all of its local
2 transport facilities are deployed and provisioned as entrance facilities.

3 Question 3-2 screens out carriers that deny that they have, or for whom the
4 evidence otherwise shows that they do not have, self provisioned unused dark
5 fiber connected to and between the collocation facilities as identified by SBC.

6 Question 3-3 focuses on the capacity of the self provisioned Dedicated Transport
7 route confirmed by each carrier on the specific listed route. For the DS3 self-
8 provisioning trigger, it is essential to keep in mind that the TRO limited CLEC
9 access to UNE dedicated transport on a route to no more than 12 DS3s.

10 Accordingly, the only relevant self-deployment is deployment of dedicated
11 transport at or below the 12 DS3 level on a route; a CLEC who deploys more
12 DS3s than that, or is providing dedicated transport at an OC3 level or higher,
13 provides no evidence that CLECs with a need for 12 DS3s or fewer can
14 economically self-deploy such transport. TRO ¶¶ 388-89, 410; Minter Direct at
15 20-21.

16 Question 3-4 disqualifies carriers on specific routes if the only reason that the self
17 provisioned route exists is because the carriers built the specific fiber or transport
18 that is used on that route for another purpose (e.g. a fiber route that connects a
19 carriers customer directly to its switch). The specific Dedicated Transport route
20 may only be in service incidentally if the fiber built for another purpose happened
21 to pass each of the CLLIs. Again, such facilities would not address the capability
22 of self-deployment for a CLEC whose need is for dedicated transport between A
23 and Z at a capacity of 12 DS3s or below.

1 Questions 3-5 disqualifies those carriers on specific routes that may currently be
2 using self provisioned Dedicated Transport but plan on migrating or discontinuing
3 the use of its self provisioned dedicated transport.

4 **Q. WHAT ARE THE QUESTIONS ASSOCIATED WITH TEST 4**
5 **DESCRIBED ABOVE?**

6 A. Test 4 attempts to determine if the self provisioned transport used by a carrier is
7 equivalent to the specific unbundled Dedicated Transport capacity level at which
8 SBC claims the route is not impaired. For example, a carrier that provisions
9 Gigabit Ethernet for itself over fiber facilities should not be counted as a trigger
10 on the specific route as Gigabit Ethernet is not equivalent to a DS3. The only
11 question asked in Test 4 is as follows:

Question 4-1	Is Carrier's self provided Dedicated Transport equivalent to ILEC Dedicated Transport?
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13 **B. Review of Wholesale Trigger Tests**

14 **Q. HOW SHOULD THE COMMISSION EVALUATE SBC'S CLAIMS THAT**
15 **THE WHOLESALE TRIGGER TEST IS SATISFIED ON PARTICULAR**
16 **DEDICATED TRANSPORT ROUTES?**

17 A. I explained the requirements of the FCC's wholesale trigger analysis at pages 28-
18 33 of my direct testimony. In order to apply each of those requirements in a
19 practical fashion to the available data here, I propose to examine each route and/or
20 carrier applying a set of five tests, some of which include sub-tests. Before this
21 Commission could reverse the national finding of impairment as to a particular

1 route and find that CLECs are not impaired without unbundled access to
2 dedicated transport on that route at specific capacity levels, it should require
3 definitive proof that two or more carriers pass all of the tests below.

Dedicated Transport and Dark Fiber Wholesale Analysis	
Test 1	Are the carriers identified by SBC unaffiliated with SBC and each other?
Test 2	Has the carrier identified by SBC verified the existence of its collocations at the wire centers (CLLIs) claimed by SBC?
Test 3	Is the carrier actively offering and planning to continue to offer Wholesale Dedicated Transport and/or Wholesale Dark Fiber at the specified capacity levels on the routes specified by SBC?
Test 4	Is the Carrier's wholesale Dedicated Transport Service or Dark Fiber Transport generally available through tariffs or standard (not ICB) contracts for each route?
Test 5	Is the Carrier operationally ready to support a volume wholesale Dedicated Transport or Dark Fiber Transport business (e.g. with OSS and admin capabilities)

4 For every route, two carriers would have to pass each test to consider the route for
5 non-impairment. The same proof requirements I described with respect to the
6 self-provisioning trigger should apply to each wholesale trigger test as well.

7 **Q. WHAT ARE THE QUESTIONS ASSOCIATED WITH TEST 1**
8 **DESCRIBED ABOVE?**

9 A. Test 1 is again a screen to verify that the carriers that are put forth by SBC as
10 carriers on any route on which SBC seeks a reversal of impairment are

1 unaffiliated with SBC and each other. The only question asked in Test 1 is as
2 follows:

Question 1-1	Is the Carrier unaffiliated with the ILEC and other carriers on this list?
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4 **Q. WHAT ARE THE QUESTIONS ASSOCIATED WITH TEST 2**
5 **DESCRIBED ABOVE?**

6 A. Test 2 attempts to determine whether the carrier does in fact agree that it has an
7 active collocation facility at the specified SBC wire centers (CLLIs) as claimed by
8 SBC. The only question asked in Test 2 is as follows:

Question 2-1	Has the Carrier verified the existence of its collocation at the wire centers (CLLIs) specified by SBC?
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10 **Q. WHAT ARE THE QUESTIONS ASSOCIATED WITH TEST 3**
11 **DESCRIBED ABOVE?**

12 A. Test 3 examines the data provide by the carriers themselves to determine if they
13 are actively offering and plan on continuing to offer wholesale Dedicated
14 Transport and/or Dark Fiber transport at the specific capacity levels on the
15 specific routes as claimed by SBC. The particular emphasis in each sub-test
16 appears in bold print in the chart that follows. Following the chart, I have
17 provided brief notes on the focus of each of the sub-tests.

Question 3-1	Is Carrier with verified collocation facilities at CLI A and CLI Z actively offering, on an immediately available basis, Wholesale Dedicated Transport at the specified capacity level on each route listed?
Question 3-2	Is Carrier with verified collocation facilities at CLI A and CLI Z actively offering, on an immediately

	available basis, Wholesale Dark Fiber to other carriers between CLLI A and CLLI Z?
Question 3-3	(For Carriers that pass Test 3-1 or 3-2) Does Carrier have adequate transport capacity between the CLLIs listed to meet CLEC demand for Dedicated Transport or Dark Fiber Transport?
Question 3-4	(For Carriers that pass Test 3-1 or 3-2) Does Carrier have collocation terminations (CFA) sufficient to interconnect to all CLECs without transport at the following capacity levels?
Question 3-5	(For Carriers that pass Test 3-1 or 3-2) Does Carrier have access to cost based cross connections provided by the ILEC at CLLI A and CLLI Z?
Question 3-6	(For Carriers that pass Test 3-1 or 3-2) Is Carrier likely to continue actively offering wholesale dedicated transport service or wholesale dark fiber transport on route listed?
Question 3-7	(For Carriers that pass Test 3-1) Is Carrier's Dedicated Transport equivalent to SBC Dedicated Transport?

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2 Question 3-1 screens out carriers that deny that they offer wholesale dedicated
3 transport on the specific routes as claimed by SBC, or for whom the evidence
4 otherwise establishes that they do not offer or provide such transport. Parallel to
5 question 3-1 for the self-provisioning trigger, this test eliminates carriers who may
6 offer some form of wholesale transport service, but not wholesale dedicated
7 transport between the endpoints of the contested route.

8 Question 3-2 screens out carriers that deny that they offer wholesale Dark Fiber
9 on the specific routes as claimed by SBC, or whom the evidence otherwise shows
10 do not offer or lack the facilities in place to offer such service.

11 Question 3-3 focuses on the capacity available on the wholesale Dedicated
12 Transport or Dark Fiber route confirmed by each carrier on the specific listed
13 route. This question only applies to carriers that do in fact provide wholesale

1 Dedicated Transport or wholesale Dark Fiber on a contested route. If a carrier's
2 transport capacity on the specified route would only permit it to provide dedicated
3 transport in limited quantities, the carrier would not meet the requirement that its
4 wholesale offering be "widely available." TRO ¶ 414.

5 Question 3-4 focuses on the capacity of the wholesale carrier to interconnect to
6 other carriers at the listed SBC CLLIs. Again, this question only applies to
7 carriers otherwise shown to provide wholesale Dedicated Transport or wholesale
8 Dark Fiber on a particular route. Without adequate termination capacity (CFA)
9 available in its collocations, a carrier could not satisfy any wholesale demand for
10 DS3s or Dark Fiber and should be disqualified as a wholesale trigger for routes
11 containing the specific CLLIs.

12 Questions 3-5 disqualifies those carriers and locations where the evidence does
13 not establish the availability of CLEC-to-CLEC cross connections in sufficient
14 quantity and at cost-based charges, from the ILEC. *See* Minter Direct at 32-33.

15 Questions 3-6 disqualifies those carriers on specific routes that may currently be
16 providing wholesale Dedicated Transport or Dark Fiber but plan to discontinue
17 offering those wholesale services on the specific route. TRO ¶ 415 n. 1284.

18 Questions 3-7 attempts to determine if the wholesale Dedicated Transport or Dark
19 Fiber service provided by a carrier is equivalent in cost, quality and maturity to
20 the specific unbundled Dedicated Transport capacity level or Dark Fiber for
21 which SBC claims the route is not impaired. For example, a carrier that
22 provisions wholesale DS3 Dedicated Transport with a service level that provides
23 no guarantee of repair or maintenance services should be disqualified as a

1 wholesale trigger candidate. Dedicated Transport that a CLEC may purchase out
2 of a CLLI may carry all of the CLECs customers served by that CLLI and
3 therefore any degradation in service for a CLEC has the potential to affect
4 hundreds if not thousands of customers. While service quality and terms need not
5 exactly match the ILEC’s dedicated transport under the TRO (§ 414), the TRO
6 requires that the competing wholesale dedicated transport be “comparable in
7 quality.” 47 C.F.R. § 51.319(e)(2)(B).

8 **Q. WHAT ARE THE QUESTIONS ASSOCIATED WITH TEST 4**
9 **DESCRIBED ABOVE?**

10 A. Test 4 attempts to determine if a carrier’s wholesale Dedicated Transport service
11 or Dark Fiber Transport is widely available. As previously discussed, this
12 requirement implies the availability of service through a standard contract or
13 tariff, not an unspecified willingness to negotiate terms or discuss possible
14 services. Minter Direct at 32. The only question asked in Test 4 is as follows:

Question 4-1	Is the Carrier's wholesale Dedicated Transport Service or Dark Fiber Transport generally available through tariffs or standard (not ICB) contracts for each route?
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16 **Q. WHAT ARE THE QUESTIONS ASSOCIATED WITH TEST 5**
17 **DESCRIBED ABOVE?**

18 A. Test 5 looks at whether any carrier being considered as a wholesale Dedicated
19 Transport or wholesale Dark Fiber trigger on any route is capable of supporting a
20 volume wholesale business if ILEC Dedicated Transport is eliminated. It is
21 critical to competitive carriers that they be able to deal with carriers that would be

1 replacing the ILEC efficiently and are able to get service levels that do not put
2 them at a disadvantage to the ILEC in the retail services. Minter Direct 32-33.

Question 5-1	Is the Carrier operationally ready to support a volume wholesale Dedicated Transport or Dark Fiber Transport business (e.g. with OSS and admin capabilities)
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4 **Q. ONCE THE TESTS ABOVE HAVE BEEN COMPLETED, HOW SHOULD**
5 **THE COMMISSION PROCEED?**

6 A. Once the results of applying the tests and sub-tests described above are
7 determined for each contested route, the Commission should determine whether
8 any carriers on those specific routes have successfully passed all five tests. If
9 there are fewer than three carriers that pass all five tests on any route under the
10 self provisioning tests, then the trigger is not met, and the finding of impairment
11 remains. If there are fewer than two carriers that pass all five tests on any route
12 under the wholesale tests, then the trigger is not met, and the finding of
13 impairment remains. However, if there are three or more qualifying self
14 provisioning trigger carriers or two or more wholesale trigger carriers on any
15 specific route at a specified capacity level, then the commission is authorized
16 under the TRO to enter a finding of non-impairment as to that particular route at
17 the specified capacity level for which the trigger was satisfied. An appropriate
18 transition plan would be required for any routes as to which the Commission
19 reached a finding of non-impairment. *See* Minter Direct at 35-38 (recommending
20 basic transition plan elements).

III. APPLICATION OF TESTS TO TRIGGER ROUTES

A. Self Provisioning

Q. WHAT CARRIERS HAS SBC IDENTIFIED AS POTENTIAL TRIGGER CANDIDATES FOR ROUTES UNDER THE SELF PROVISIONING TRIGGER?

A. The carriers named in TABLE SP-1 are taken from the list of carriers SBC identified as self-provisioning trigger candidates in the Direct Testimony of J. Gary Smith.

TABLE SP-1

ALLEGIANCE
AT&T
CENTURYTEL
LEVEL 3
MCLEODUSA
MCI
QWEST
XO
XSPEDIUS

Q. WHAT ARE THE RESULTS OF THE APPLICATION OF TEST 1 FOR THE CARRIERS LISTED IN TABLE SP-1?

A Test 1 consists of only one question. The question is provided below and a summary of the responses by carrier are set out in TABLE SP-2.

Question 1-1: Is the Carrier unaffiliated with the ILEC and other carriers on this list?

TABLE SP-2

Self Provisioning Test 1	1-1: Is the Carrier unaffiliated with the ILEC and other carriers on this list?		
Carrier	YES	NO	TBD
ALLEGIANCE		X	
AT&T	X		
CENTURYTEL	X		
LEVEL 3	X		
MCLEOD	X		
MCI	X		
QWEST	X		
XO		X	
XSPEDIUS	X		

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2 XO Communications obtained court approval to acquire substantially all of the
3 assets of Allegiance Telecom on February 19, 2004. It is anticipated that this
4 acquisition will be completed prior to a commission ruling in this case and these
5 carriers should be considered affiliated for the purposes of this proceeding. I will
6 be evaluating both of these carriers separately for all tests. To the extent both XO
7 Communications and Allegiance Telecom pass as self providers or wholesalers on
8 any route that passes all of the tests, then I will consider them as a single entity for
9 that route.

10 **Q. WHAT ARE THE RESULTS OF THE APPLICATION OF TEST 2 FOR**
11 **THE CARRIERS LISTED IN TABLE SP-1?**

12 A Test 2 consists of only one question. The question is provided below and a
13 summary of the responses by carrier are set out in TABLES SP-3 THRU SP-11
14 Question 2-1: Has the Carrier verified the existence of its collocation at the wire
15 centers (CLLIs) specified by SBC?

1

****START HIGHLY CONFIDENTIAL TABLES ****

2

****TABLE SP-3 ALLEGIANCE RESULTS****

SBC Listed Collocation for Carrier	Confirmed by Allegiance	
CLLI	Yes	No
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	

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****TABLE SP-4 AT&T RESULTS****

SBC Listed Collocation for Carrier	Confirmed by AT&T	
CLLI	Yes	No
[REDACTED]		X
[REDACTED]		X
[REDACTED]		X
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	

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****TABLE SP-5 CENTURYTEL RESULTS****

SBC Listed Collocation for Carrier	Confirmed by CenturyTel	
CLLI	Yes	No
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD

7

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****TABLE SP-6 LEVEL 3 RESULTS****

SBC Listed Collocation for Carrier	Confirmed by Level 3	
CLLI	Yes	No
██████████	TBD	TBD
██████████	TBD	TBD

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****TABLE SP-7 MCLEOD RESULTS****

SBC Listed Collocation for Carrier	Confirmed by McLeod	
CLLI	Yes	No
██████████	TBD	TBD
██████████	TBD	TBD
██████████	TBD	TBD
██████████	TBD	TBD
██████████	TBD	TBD

4

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****TABLE SP-8 MCI RESULTS****

SBC Listed Collocation for Carrier	Confirmed by MCI	
CLLI	YES	NO
██████████		X
██████████		X
██████████		X
██████████	X	
██████████	X	
██████████	X	
██████████	X	
██████████	X	
██████████	X	
██████████	X	
██████████	X	
██████████	X	
██████████	X	

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****TABLE SP-9 QWEST RESULTS****

SBC Listed Collocation for Carrier	Confirmed by Qwest	
---------------------------------------	--------------------	--

CLLI	Yes	No
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD

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****TABLE SP-10 XO RESULTS****

SBC Listed Collocation for Carrier	Confirmed by XO	
CLLI	Yes	No
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	

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****TABLE SP-11 XSPEDIUS RESULTS****

SBC Listed Collocation for Carrier	Confirmed by Xspedius	
CLLI	Yes	No
[REDACTED]		X
[REDACTED]		X
[REDACTED]		X
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	

5

6

Allegiance and XO

7

Both of these carriers confirmed they were collocated in every CLLI listed by

8

SBC in its Direct Testimony.

9

CenturyTel, Level 3, McLeod and Qwest

1 I have not had access to any data associated with the carriers above to be able to
2 confirm or deny any CLLIs, routes, capacity, or the like. The tables above for
3 these carriers therefore show To Be Determined (TBD) under each column.
4 Lacking relevant data associated with these carriers, responses to all additional
5 questions for these carriers is TBD.

6 AT&T, MCI and Xspedius

7 All of these carriers showed a discrepancy in the collocations identified by SBC
8 compared to the collocations these carriers identify as in service. As shown in the
9 tables below, the reduction in CLLIs for these carriers has a significant impact on
10 the collocation counting provided by SBC. In the case of Xspedius, using the data
11 provided by the actual carrier reduced the number of routes that qualify for further
12 examination under the self-provisioning trigger as to this candidate by 70%.

13 ****TABLE SP-11A****

SBC Routes for AT&T		Carrier removed from Route due to Collocation Validation	
CLLI A	CLLI Z	Yes	No
██████████	██████████	X	
██████████	██████████	X	
██████████	██████████	X	
██████████	██████████	X	
██████████	██████████	X	
██████████	██████████	X	
██████████	██████████		X
██████████	██████████		X
██████████	██████████		X
██████████	██████████		X
██████████	██████████		X
██████████	██████████		X

[illegible]

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****TABLE SP-11B****

[illegible]

		X
		X
		X
		X
		X
		X
		X
		X
		X
		X
		X
		X

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****TABLE SP-11C****

SBC Collocations for Xspedius		Carrier removed from Route due to Collocation Validation	
CLLI A	CLLI Z	Yes	No
		X	
		X	
		X	
		X	
		X	
		X	
		X	
			X
			X
			X

3

4 **Q. WHAT ARE THE RESULTS OF THE APPLICATION OF TEST 3 FOR**

5 **THE CARRIERS LISTED IN TABLE SP-1?**

6 A. The results of applying Test 3, Questions 3-1 through 3-5 can be seen in Tables

7 SP-13 through SP-19.

1 Question 3-1: Does Carrier with verified collocation facilities at CLLI A and
2 CLLI Z currently Self Provide DS3 Dedicated Transport between CLLI A and
3 CLLI Z?

4 Allegiance Telecom

5 The data below is based on Allegiance Telecom's response to SBC Missouri
6 Third Request for Information DR 14. Based on Allegiance Telecom's response,
7 Allegiance Telecom can be eliminated as a trigger on all routes on which
8 Allegiance has verified its collocation presence in CLLI A and CLLI Z as listed in
9 Table SP-12 below.

****TABLE SP-12****

Self Provisioning Test 3		3-1 : Does Carrier with verified collocation facilities at CLLI A and CLLI Z currently Self Provide DS3 Dedicated Transport between CLLI A and CLLI Z?			
CLLI A	CLLI Z	Carrier	YES	NO	TBD
██████	██████	██████		X	
██████	██████	██████		X	
██████	██████	██████		X	
██████	██████	██████		X	
██████	██████	██████		X	
██████	██████	██████		X	
██████	██████	██████		X	
██████	██████	██████		X	
██████	██████	██████		X	
██████	██████	██████		X	
██████	██████	██████		X	
██████	██████	██████		X	
██████	██████	██████		X	
██████	██████	██████		X	
██████	██████	██████		X	
██████	██████	██████		X	

1 AT&T

2 The data below is based on AT&T's responses to SBC's Data Requests to MO
3 CLECs. Based on AT&T's responses, AT&T can be eliminated as a trigger on all
4 routes on which AT&T has verified its collocation presence in CLLI A and CLLI
5 Z as listed in Table SP-13 below. As previously discussed, and as explained in
6 more detail in the joint rebuttal testimony of Mr. Giovannucci and Mr.
7 Grossmann, this result follows from the fact that all of AT&T's fiber transport
8 facilities deployed to these collocation arrangements have been deployed and
9 provisioned as entrance facilities between individual central offices and the
10 AT&T local switch, and are not providing any direct, dedicated transport of traffic
11 between central offices. Indeed, as Mr. Giovannucci and Mr. Grossmann explain,
12 the great majority of these collocation arrangements are on fiber rings that include
13 only one central office, so that pairs of these AT&T collocations are not even on
14 the same fiber ring. This same factor – the deployment of entrance facilities – is
15 likely to explain why many CLECs who have extended fiber facilities to multiple
16 SBC collocations are not providing dedicated transport between those offices.

****TABLE SP-13****

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****TABLE SP-14****

Self Provisioning Test 3

3-1 : Does Carrier with verified collocation facilities at CLLI A and CLLI Z currently Self Provide DS3 Dedicated Transport between CLLI A and CLLI Z?

3 XO

4 The data below is based on XO's responses to SBC's First and Second Data
5 Requests. Based on XO's responses, XO does not have any routes that qualify
6 under this test as shown in Table SP-15 below.

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****TABLE SP-15****

Self Provisioning Test 3		3-1 : Does Carrier with verified collocation facilities at CLLI A and CLLI Z currently Self Provide DS3 Dedicated Transport between CLLI A and CLLI Z?			
CLLI A	CLLI Z	Carrier	YES	NO	TBD
██████████	██████████	██████████		X	
██████████	██████████	██████████		X	
██████████	██████████	██████████		X	
██████████	██████████	██████████		X	
██████████	██████████	██████████		X	
██████████	██████████	██████████		X	
██████████	██████████	██████████		X	
██████████	██████████	██████████		X	
██████████	██████████	██████████		X	
██████████	██████████	██████████		X	
██████████	██████████	██████████		X	
██████████	██████████	██████████		X	
██████████	██████████	██████████		X	
██████████	██████████	██████████		X	
██████████	██████████	██████████		X	

2

3 Xspedius

4 The data below is based on Xspedius' Supplemental Responses to SBC Missouri's

5 Data Requests, SBC 4-9. Based on Xspedius' responses, Xspedius does not have

6 any routes that qualify under this test as shown in Table SP-16 below.

7

****TABLE SP-16****

Self Provisioning Test 3		3-1 : Does Carrier with verified collocation facilities at CLLI A and CLLI Z currently Self Provide DS3 Dedicated Transport between CLLI A and CLLI Z?			
CLLI A	CLLI Z	Carrier	YES	NO	TBD
██████████	██████████	██████████		X	
██████████	██████████	██████████		X	

1
2 CenturyTel, Level 3, McLeod, and Qwest
3 Based on lack of data, all of the responses to the above carriers for Question 3-1
4 are To Be Determined (TBD).
5 Question 3-2: Does Carrier with verified collocation facilities at CLLI A and
6 CLLI Z currently have unused Dark Fiber connected from its collocation at CLLI
7 A to its collocation at CLLI Z?
8 The responses to this question are summarized below in TABLE SP-16.

9 ****TABLE SP-16****

Self Provisioning Test 3		3-2 : Does Carrier with verified collocation facilities at CLLI A and CLLI Z currently have unused Dark Fiber connected from its collocation at CLLI A to its collocation at CLLI Z?		
Route	Carrier	YES	NO	TBD
			X	
			X	
				X
				X
				X
			X	
				X
			X	
			X	

10
11 CenturyTel, Level 3, McLeod, and Qwest
12 Based on lack of data, all of the responses to the above carriers for Question 3-2
13 are To Be Determined (TBD).
14 Allegiance, AT&T, MCI, XO and Xspedius

1 Based on discovery responses noted for Question 3-1, all of the carriers above did
2 not have Dark Fiber connected from CLLI A to CLLI Z on any route claimed by
3 SBC.

4 Question 3-3: (For Carriers that pass Test 3-1) Has Carrier self provisioned
5 Dedicated Transport at the following capacity levels between CLLI A and CLLI
6 Z?

7 MCI was the only carrier that passed Test 3-1. The route for which MCI passed
8 Question 3-1 as well as the response to Question 3-3 is shown in Table SP-17
9 below.

10 ****TABLE SP-17****

Self Provisioning Test 3		3-3: (For Carriers that pass Test 3-1) Has Carrier self provisioned Dedicated Transport at the following capacity levels between CLLI A and CLLI Z?			
CLLI A	CLLI Z	Carrier	1-12 DS3s	13+ DS3s	OC(n)
			TBD	TBD	Y

11 MCI
12 MCI discovery responses show that MCI has optical facilities between CLLI A
13 and CLLI Z. Therefore since MCI does self provision on this route, OC(n) is
14 considered a Yes. However I was not able to determine from information
15 provided by MCI or SBC whether MCI self provisions Dedicated Transport on
16 this route at any particular DS3 level and therefore the response for DS3 capacity
17 for MCI on this route is TBD.

18 **ALL OTHER CARRIERS**

19 All other carriers either did not pass Test 3-1. Available data also may not have
20 allowed me to apply the test.

1 Question 3-4: (For Carriers that pass Test 3-1) Is the Carrier's Self Provided
2 Dedicated Transport between CLLI A and CLLI Z more than an incidental use of
3 fiber facilities which were deployed for a different purpose?
4 MCI was the only carrier that passed Test 3-1. The route for which MCI passed
5 Question 3-1 as well as the response to Question 3-4 is shown in Table SP-18
6 below.

7 ****TABLE SP-18****

Self Provisioning Test 3		3-4: (For Carriers that pass Test 3-1) Is the Carrier's Self Provided Dedicated Transport between CLLI A and CLLI Z more than an incidental use of fiber facilities which were deployed for a different purpose?			
CLLI A	CLLI Z	Carrier	YES	NO	TBD
					X

8
9 MCI
10 MCI and SBC did not provide information sufficient to allow me to make a
11 judgment on Question 3-4 and therefore the route shown for MCI is TBD.
12 ALL OTHER CARRIERS
13 All other carriers either did not pass Test 3-2. Available data also may not have
14 allowed me to apply the test.
15 Question 3-5: (For Carriers that pass Test 3-1) Is the Carrier likely to continue
16 using the route listed? (i.e. transport is not in the process of being disconnected or
17 decommissioned)
18 MCI was the only carrier that passed Test 3-1. The route for which MCI passed
19 Question 3-1 as well as the response to Question 3-5 is shown in Table SP-19
20 below.

1

****TABLE SP-19****

Self Provisioning Test 3		3-5: (For Carriers that pass Test 3-1) Is the Carrier likely to continue using the route listed? (i.e. transport is not in the process of being disconnected or decommissioned)			
CLLI A	CLLI Z	Carrier	YES	NO	TBD
					X

2

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MCI

4

MCI and SBC did not provide information sufficient to allow me to make a

5

judgment on Question 3-5 and therefore the route shown for MCI is TBD.

6

ALL OTHER CARRIERS

7

All other carriers either did not pass Test 3-1. Available data also may not have

8

allowed me to apply the test.

9

Q. WHAT ARE THE RESULTS OF THE APPLICATION OF TEST 4 FOR

10

THE CARRIERS LISTED IN TABLE SP-1?

11

A. Test 4 consists of only one question. The question is provided below and a

12

summary of the responses by carrier are set out in TABLE SP-20.

13

Question 4-1: Is Carrier's self provided Dedicated Transport equivalent to ILEC

14

Dedicated Transport?

15

MCI is the only carrier that potentially qualified with a Dedicated Transport route.

16

The response for that route is shown below in Table SP-21.

17

****TABLE SP-20****

Self Provisioning Test 4		4-1: Is Carrier's self provided Dedicated Transport equivalent to ILEC Dedicated Transport?			
CLLI A	CLLI Z	Carrier	YES	NO	TBD

****END HIGHLY CONFIDENTIAL TABLES****

MCI

Neither MCI nor SBC provided information to show that the Dedicated Transport service being self provided by MCI was equivalent to SBC Dedicated Transport.

Therefore, the response to Question 4-1 is TBD.

Q. DO YOU HAVE ANY CONCLUSIONS REGARDING THE ROUTES CLAIMED BY SBC AS MEETING THE SELF PROVISIONING TESTS?

A. Yes, based on the data that I have provided above, it is clear that non-impairment has not been established, based on the available data, for any of the routes claimed by SBC under the Self Provisioning Trigger. Attachment SP-SUMMARY shows the results of all tests, by capacity level, for every route confirmed by any carrier as being a route on which it self provisions Dedicated Transport. As can be seen, a single route was confirmed by MCI as having Self Provisioned Dedicated Transport. However, even this route did not have enough information as to its capacity level as well as satisfactory responses to several Questions in Tests 3, 4 and 5, and only one carrier potentially qualified as providing dedicated transport on that route. Therefore I conclude that, based on the available data, the national finding of impairment should remain intact for all routes contested by SBC on the basis of this trigger.

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TABLE W-2

Wholesale Test 1	1-1: Is the Carrier unaffiliated with the ILEC and other carriers on this list?		
Carrier	YES	NO	TBD
ALLEGIANCE		X	
AT&T	X		
CENTURYTEL	X		
LEVEL 3	X		
MCLEOD	X		
MCI	X		
QWEST	X		
XO		X	
XSPEDIUS	X		

2

3 **Q. WHAT ARE THE RESULTS OF THE APPLICATION OF TEST 2 FOR**
4 **THE CARRIERS LISTED IN TABLE W-1?**

5 A. Test 2 consists of only one question. The question is provided below and a
6 summary of the responses by carrier are set out in TABLES W-3 THRU W-11

7 Question 2-1: Has the Carrier verified the existence of its collocation at the wire
8 centers (CLLIs) specified by SBC?

9 ****START HIGHLY CONFIDENTIAL TABLES****

1

****TABLE W-3 ALLEGIANCE RESULTS****

SBC Collocations for Carrier CLLI	Confirmed by Allegiance	
	Yes	No
██████████	X	
██████████	X	
██████████	X	
██████████	X	
██████████	X	
██████████	X	
██████████	X	
██████████	X	

2

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****TABLE W-4 AT&T RESULTS****

SBC Collocations for Carrier CLLI	Confirmed by AT&T	
	Yes	No
██████████		X
██████████		X
██████████		X
██████████	X	
██████████	X	
██████████	X	
██████████	X	
██████████	X	
██████████	X	
██████████	X	
██████████	X	
██████████	X	

4

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****TABLE W-5 CENTURYTEL RESULTS****

SBC Collocations for Carrier CLLI	Confirmed by CenturyTel	
	Yes	No
██████████	TBD	TBD
██████████	TBD	TBD
██████████	TBD	TBD

6

1

****TABLE W-6 LEVEL3 RESULTS****

SBC Collocations for Carrier CLLI	Confirmed by Level 3	
	Yes	No
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD

2

3

****TABLE W-7 MCLEOD RESULTS****

SBC Collocations for Carrier CLLI	Confirmed by McLeod	
	Yes	No
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD

4

5

****TABLE W-8 MCI RESULTS****

SBC Collocations for Carrier CLLI	Confirmed by MCI	
	Yes	No
[REDACTED]	X	
[REDACTED]		X
[REDACTED]		X
[REDACTED]		X
[REDACTED]		X
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	

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****TABLE W-9 QWEST RESULTS****

SBC Collocations for Carrier CLLI	Confirmed by Qwest	
	Yes	No
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD
[REDACTED]	TBD	TBD

2

3

4

****TABLE W-10 XO RESULTS****

SBC Collocations for Carrier CLLI	Confirmed by XO	
	Yes	No
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	

5

6

****TABLE W-11 XSPEDIUS RESULTS****

SBC Collocations for Carrier CLLI	Confirmed by Xspedius	
	Yes	No
[REDACTED]		X
[REDACTED]		X
[REDACTED]		X
[REDACTED]		X
[REDACTED]	X	
[REDACTED]	X	
[REDACTED]	X	

7

Allegiance and XO

1 Both of these carriers confirmed they were collocated in every CLLI listed by
2 SBC in its Direct Testimony.
3 CenturyTel, Level 3, McLeod and Qwest
4 As under self-provisioning, based on lack of available data associated with these
5 carriers, responses to all questions for these carriers is TBD.
6 AT&T, MCI and Xspedius
7 All of these carriers showed a discrepancy in the collocations identified by SBC
8 compared to the collocations these carriers identify as in service. As shown in the
9 tables below, the reduction in CLLIs for these carriers has a significant impact on
10 the collocation counting provided by SBC. In the case of Xspedius, using the data
11 provided by the actual carrier reduced the number of routes that qualify for further
12 examination under the self-provisioning trigger as to this candidate by 80%.

13 ****TABLE W-11A****

SBC Routes for AT&T		Route affected by Collocation Validation	
CLLI A	CLLI Z	Yes	No
██████████	██████████	X	
██████████	██████████	X	
██████████	██████████	X	
██████████	██████████	X	
██████████	██████████	X	
██████████	██████████	X	
██████████	██████████		X
██████████	██████████		X
██████████	██████████		X
██████████	██████████		X
██████████	██████████		X
██████████	██████████		X
██████████	██████████		X
██████████	██████████		X
██████████	██████████		X

		X
		X
		X
		X
		X
		X
		X
		X
		X
		X
		X
		X
		X
		X
		X
		X
		X

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TABLE W-11B

SBC Collocations for MCI		Route affected by Collocation Validation	
CLLI A	CLLI Z	Yes	No
			X
			X
			X
			X
			X
			X
		X	
		X	
		X	
		X	
		X	
		X	
		X	
		X	
		X	
		X	
		X	
		X	
		X	
			X

			X
			X
			X
			X
			X

1

2 **Q. WHAT ARE THE RESULTS OF THE APPLICATION OF TEST 3 FOR**
3 **THE CARRIERS LISTED IN TABLE W-1?**

4 A. The results of applying Test 3, Questions 3-1 through 3-7 can be seen in Tables
5 W-12 through W-19.

6 Question 3-1: Is Carrier with verified collocation facilities at CLLI A and CLLI Z
7 actively offering, on an immediately available basis, Wholesale Dedicated
8 Transport at the specified capacity level on each route listed?

9 Allegiance Telecom

10 The data below is based on Allegiance Telecom's response to SBC Missouri
11 Third Request for Information DR 14. Based on Allegiance Telecom's response,
12 Allegiance Telecom can be eliminated as a trigger on all routes on which
13 Allegiance has verified its collocation presence in CLLI A and CLLI Z as listed in
14 Table W-12 below.

15 ****TABLE W-12****

Wholesale Test 3		3-1: Is Carrier with verified collocation facilities at CLLI A and CLLI Z actively offering, on an immediately available basis, Wholesale Dedicated Transport at the specified capacity level on each route listed?		
CLLI A	CLLI Z	Carrier	DS1	DS3
			No	No
			No	No
			No	No

			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No

1

2 MCI

3 The data below is based on MCI's responses to SBC's Data Requests to MO

4 CLECs. Based on MCI's response to SBC DR 4-01, MCI does have one route

5 that qualifies under this test as shown in Table W-14 below.

6 ****TABLE W-14****

Wholesale Test 3		3-1: Is Carrier with verified collocation facilities at CLLI A and CLLI Z actively offering, on an immediately available basis, Wholesale Dedicated Transport at the specified capacity level on each route listed?		
CLLI A	CLLI Z	Carrier	DS1	DS3
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No

			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No
			No	No

1

2 Xspedius

3 The data below is based on Xspedius' Supplemental Responses to SBC Missouri's

4 Data Requests, SBC 4-9. Based on Xspedius' responses, Xspedius does not have

5 any routes that qualify under this test as shown in Table W-16 below.

6 ****TABLE W-16****

Wholesale Test 3		3-1: Is Carrier with verified collocation facilities at CLLI A and CLLI Z actively offering, on an immediately available basis, Wholesale Dedicated Transport at the specified capacity level on each route listed?		
CLLI A	CLLI Z	Carrier	DS1	DS3
			No	No
			No	No
			No	No

7

8 CenturyTel, Level 3, McLeod, and Qwest

9 Based on lack of available data, all of the responses for the above carriers for

10 Question 3-1 are To Be Determined (TBD).

1 Question 3-2: Is Carrier with verified collocation facilities at CLLI A and CLLI Z
 2 actively offering, on an immediately available basis, Wholesale Dark Fiber to
 3 other carriers between CLLI A and CLLI Z?

4 The responses to this question are summarized below in TABLE W-16.

5
 6 ****TABLE W-16****

Wholesale Test 3		3-2: Is Carrier with verified collocation facilities at CLLI A and CLLI Z actively offering, on an immediately available basis, Wholesale Dark Fiber to other carriers between CLLI A and CLLI Z?			
Route	Carrier	YES	NO	TBD	
[REDACTED]	[REDACTED]		X		
[REDACTED]	[REDACTED]		X		
[REDACTED]	[REDACTED]			X	
[REDACTED]	[REDACTED]			X	
[REDACTED]	[REDACTED]			X	
[REDACTED]	[REDACTED]		X		
[REDACTED]	[REDACTED]			X	
[REDACTED]	[REDACTED]		X		
[REDACTED]	[REDACTED]			X	

7
 8 Question 3-3: (For Carriers that pass Test 3-1 or 3-2) Does Carrier have adequate
 9 transport capacity between the CLLIs listed to meet CLEC demand for Dedicated
 10 Transport or Dark Fiber Transport?

11 The responses to this question are summarized below in TABLE W-17.

12 ****TABLE W-17****

Wholesale Test 3		3-3: (For Carriers that pass Test 3-1 or 3-2) Does Carrier have adequate transport capacity between the CLLIs listed to meet CLEC demand for Dedicated Transport or Dark Fiber Transport?				
CLLI A	CLLI Z	Carrier	DS1	DS3	Dark Fiber	

			TBD	TBD	NA
--	--	--	-----	-----	----

1

2 MCI

3 MCI discovery responses show that MCI does provide wholesale DS1 and DS3
4 Dedicated Transport on this route. However, there is no data for me to draw a
5 conclusion as to whether MCI has adequate capacity to meet CLEC demand if a
6 finding of non-impairment is made. Therefore the response for DS1 and DS3
7 capacity for MCI on this route is TBD. MCI does state that it does not provide
8 wholesale Dark Fiber on the route, and therefore the response for Dark Fiber is
9 NA (Not Applicable).

10 ALL OTHER CARRIERS

11 All other carriers did not pass either Test 3-1 or Test 3-2. Available data also may
12 not have allowed me to verify any routes or capacity levels for these carriers.

13 Question 3-4: (For Carriers that pass Test 3-1 or 3-2) Does Carrier have
14 collocation terminations (CFA) sufficient to interconnect to all CLECs without
15 transport at the following capacity levels?

16 The responses to this question are summarized below in TABLE W-18.

17 ****TABLE W-18****

Wholesale Test 3		3-4: (For Carriers that pass Test 3-1 or 3-2) Does Carrier have collocation terminations (CFA) sufficient to interconnect to all CLECs without transport at the following capacity levels?			
CLLI A	CLLI Z	Carrier	DS1	DS3	Dark Fiber
			TBD	TBD	NA

18

19 MCI

1 MCI discovery responses show that MCI does provide wholesale DS1 and DS3
2 Dedicated Transport on this route. However, available data does not enable me to
3 draw a conclusion as to whether MCI has adequate CFA capacity at its SBC
4 collocations to interconnect to meet CLEC demand for Dedicated Transport on
5 this route upon a finding of non-impairment. Therefore the response for DS1 and
6 DS3 capacity for MCI on this route is TBD. MCI does state that it does not
7 provide wholesale Dark Fiber on the route, and therefore the response for Dark
8 Fiber is NA (Not Applicable).

9 ALL OTHER CARRIERS

10 All other carriers did not pass either Test 3-1 or Test 3-2. Available data also may
11 not have allowed me to verify any routes or capacity levels for these carriers.

12 Question 3-5: (For Carriers that pass Test 3-1 or 3-2) Does Carrier have access to
13 adequate, cost based cross connections provided by the ILEC at CLLI A and
14 CLLI Z?

15 The responses to this question are summarized below in TABLE W-19.

16 **TABLE W-19**

Wholesale Test 3		3-5: (For Carriers that pass Test 3-1 or 3-2) Does Carrier have access to adequate, cost based cross connections provided by the ILEC at CLLI A and CLLI Z?				
CLLI A	CLLI Z	Carrier	DS1	DS3	FIBER	
			TBD	TBD	NA	

17
18 MCI

19 Neither MCI or SBC have provided data to show that MCI can get cost based
20 cross connects in the CLLIs identified in TABLE W-19. Therefore the response

1 for DS1 and DS3 cross connects is TBD. MCI does state that it does not provide
2 wholesale Dark Fiber on the route therefore the response for Dark Fiber is NA
3 (Not Applicable).

4 ALL OTHER CARRIERS

5 All other carriers did not pass either Test 3-1 or Test 3-2. Available data also may
6 not have allowed me to verify any routes or capacity levels for these carriers.

7 Question 3-6: (For Carriers that pass Test 3-1 or 3-2) Is Carrier likely to continue
8 actively offering wholesale dedicated transport service or wholesale dark fiber
9 transport on route listed?

10 MCI was the only carrier that passed Test 3-1. The route for which MCI passed
11 Question 3-1 as well as the response to Question 3-6 is shown in Table W-20
12 below.

13 **TABLE W-20**

Wholesale Test 3		3-6: (For Carriers that pass Test 3-1 or 3-2) Is Carrier likely to continue actively offering wholesale dedicated transport service or wholesale dark fiber transport on route listed?				
CLLI A	CLLI Z	Carrier	DS1	DS3	Dark Fiber	
			TBD	TBD	NA	

14

15 MCI

16 MCI did not provide information sufficient to allow me to make a judgment on
17 Question 3-6 and therefore DS1 and DS3 shown for MCI is TBD. MCI does not
18 offer Dark Fiber and therefore Dark Fiber is shown as NA.

19 ALL OTHER CARRIERS

1 All other carriers did not pass either Test 3-1 or Test 3-2. Available data also may
2 not have allowed me to verify any routes or capacity levels for these carriers.

3 Question 3-7: (For Carriers that pass Test 3-1) Is Carrier's Dedicated Transport
4 equivalent to SBC Dedicated Transport?

5 MCI is the only carrier that qualified with a Dedicated Transport route. The
6 response for the qualifying route is shown below in Table W-21.

7 **TABLE W-21**

Wholesale Test 3		3-7: (For Carriers that pass Test 3-1) Is Carrier's Dedicated Transport equivalent to SBC Dedicated Transport?		
CLLI A	CLLI Z	Carrier	DS1	DS3
			TBD	TBD

8

9 MCI

10 Neither MCI nor SBC provided information to show that the wholesale Dedicated
11 Transport service being offered by MCI was equivalent to SBC Dedicated
12 Transport. Therefore, the response to Question 4-1 is TBD.

13 **Q. WHAT ARE THE RESULTS OF THE APPLICATION OF TEST 4 FOR**
14 **THE CARRIERS LISTED IN TABLE W-1?**

15 Test 4 consists of only one question. The question is provided below and a
16 summary of the responses by carrier are set out in TABLE W-22.

17 Question 4-1: Is the Carrier's wholesale Dedicated Transport Service or Dark
18 Fiber Transport generally available through tariffs or standard (not ICB) contracts
19 for each route?

1 MCI is the only carrier that qualified with either a Dedicated Transport or Dark
2 Fiber route. The response for the qualifying route is shown below in Table W-22.

3 ****TABLE W-22****

Wholesale Test 4	4-1: Is the Carrier's wholesale Dedicated Transport Service or Dark Fiber Transport generally available through tariffs or standard (not ICB) contracts for each route?		
Carrier	DS1	DS3	Dark Fiber
█	TBD	TBD	TBD

4
5 MCI

6 Neither MCI nor SBC have provided information to show that the wholesale
7 Dedicated Transport service being offered by MCI is available through tariffs or
8 standard (not ICB) contracts. Therefore, the response to Question 4-1 is TBD.

9 **Q. WHAT ARE THE RESULTS OF THE APPLICATION OF TEST 5 FOR**
10 **THE CARRIERS LISTED IN TABLE W-1?**

11 Test 5 consists of only one question. The question is provided below and a
12 summary of the responses by carrier are set out in TABLE W-23.

13 Question 5-1: Is the Carrier's wholesale Dedicated Transport Service or Dark
14 Fiber Transport generally available through tariffs or standard (not ICB) contracts
15 for each route?

16 MCI is the only carrier that qualified with either a Dedicated Transport or Dark
17 Fiber route. The response for MCI is shown below in Table W-23.

18 ****TABLE W-23****

Wholesale Test 5	5-1: Is the Carrier operationally ready to support a volume wholesale Dedicated Transport or Dark Fiber Transport business (e.g. with OSS and admin capabilities)		
Carrier	DS1	DS3	Dark Fiber
████	TBD	TBD	TBD

1 ****END HIGHLY CONFIDENTIAL TABLES****

2 **Q. DO YOU HAVE ANY CONCLUSIONS REGARDING THE ROUTES**
3 **CLAIMED BY SBC AS MEETING THE WHOLESALE TESTS?**

4 A. Yes. The available data does not establish non-impairment under the wholesale
5 trigger analysis for any of the routes contested by SBC. Attachment W-

1

1 SUMMARY shows the results of all tests, by capacity level, for every route
2 confirmed by any carrier as being a route on which it is actively offering
3 wholesale Dedicated Transport. A single route was confirmed by MCI.
4 However, available data did not provide information as to the available capacity
5 on that route as well as satisfactory responses to several Questions in Tests 3, 4
6 and 5 and only one carrier potentially qualified as offering wholesale dedicated
7 transport on that route. Therefore I conclude that, based on the available data, the
8 national finding of impairment should remain intact for all routes contested by
9 SBC on the basis of this trigger..

10 **IV. SBC'S POTENTIAL DEPLOYMENT CLAIMS ARE**
11 **INCONSISTENT WITH THE TRO AND UNSUPPORTED BY**
12 **ROUTE-SPECIFIC OR LOCATION-SPECIFIC FACTS**

13 **A. The Potential Deployment Test Is Demanding and Location-Specific**

14 **Q. PLEASE DESCRIBE WHAT IS MEANT BY POTENTIAL**
15 **DEPLOYMENT.**

16 **A.** At the end of its discussions of the self-provisioning triggers for dedicated
17 transport and high-capacity loops, the FCC provides that incumbents may attempt
18 to demonstrate that no impairment exists on a specific route (for dedicated
19 transport at a particular capacity) or to a specific customer location (for loops at a
20 particular capacity), even though neither trigger has been satisfied. TRO ¶¶ 335,
21 410. In authorizing this inquiry into what is frequently called “potential
22 deployment,” the FCC emphasized that “actual competitive deployment is the
23 best indicator that requesting carriers are not impaired” and that its self-

1 provisioning “quantitative trigger is the *primary* vehicle through which non-
2 impairment findings will be made.” *Id.* at ¶410 (emphasis added). However,
3 because the trigger does not address the “potential” ability of CLECs to deploy
4 facilities *along a particular route* (or to a particular location), the FCC provided
5 that a state “must consider and may also find no impairment *on a particular route*
6 that it finds is suitable for ‘multiple, competitive supply,’ but along which this
7 trigger is not facially satisfied.” *Id.* (emphasis added); *see also* ¶ 335 (high-
8 capacity loops).

9 **Q. CAN AN ILEC MAKE A GENERAL CLAIM FOR POTENTIAL**
10 **DEPLOYMENT, SUCH AS A CLAIM THAT NO IMPAIRMENT EXISTS**
11 **FOR ALL BUILDINGS SERVED OUT OF A WIRE CENTER?**

12 A. No. The FCC’s language is clear that potential deployment claims must be
13 location- or route-specific, as illustrated in the preceding quote.

14 **Q. WHAT MUST SBC DEMONSTRATE FOR THE COMMISSION TO**
15 **CONSIDER A POTENTIAL DEPLOYMENT CLAIM FOR HIGH**
16 **CAPACITY LOOPS OR TRANSPORT?**

17 A. SBC must demonstrate *for each specific customer location and route* that,
18 contrary to the FCC’s impairment determination, multiple competitive providers
19 could, but have chosen not to, overcome the significant operational and economic
20 barriers identified by the FCC as impairments. In other words, there must be a
21 location-specific showing that it would be economical for competitive providers
22 to incur the fixed and sunk costs of deploying the facilities needed to provide (a)
23 12 or fewer DS3 dedicated transport circuits, or dark fiber transport, on a

1 particular route, or (b) a single or two DS3 loops, or dark fiber loops, to an
2 individual location.

3 **Q. WHAT ARE THE FACTORS THAT SBC MUST DEMONSTRATE TO**
4 **THE COMMISSION TO SATISFY THE POTENTIAL DEPLOYMENT**
5 **TEST FOR SPECIFIC DEDICATED TRANSPORT ROUTES?**

6 A. For dedicated transport, the factors that the Commission must evaluate for
7 transport include the following characteristics:

8 Local engineering costs of buildings and utilizing transmission
9 facilities;
10 The cost of underground or aerial laying of fiber;
11 The cost of equipment needed for transmission;
12 Installation and other necessary costs involved in setting up
13 service;
14 Local topography such as hills and rivers;
15 Availability of reasonable access to rights-of-way;
16 The availability or feasibility of alternative transmission
17 technologies with similar quality and reliability;
18 Customer density or addressable market; and
19 Existing facilities-based competition.

20 *TRO* ¶ 410.

21 **Q. WHAT ARE THE FACTORS THAT SBC MUST DEMONSTRATE TO**
22 **THE COMMISSION TO SATISFY THE POTENTIAL DEPLOYMENT**
23 **TEST FOR HIGH CAPACITY LOOPS TO A SPECIFIC CUSTOMER**
24 **LOCATION?**

25 A. In paragraph 335 of the *TRO*, the FCC requires that “when conducting its
26 customer location specific analyses, a state must consider and may also find no
27 impairment at a particular customer location even when this trigger has not been
28 facially met *if* the state commission finds that no material economic or operational

1 barriers at a customer location preclude competitive LECs from economically
2 deploying loop transmission facilities to that particular customer location at the
3 relevant loop capacity level. In making a determination that competitive LECs
4 *could* economically deploy loop transmission facilities at that location at the
5 relevant capacity level, the state commission must consider numerous factors
6 affecting multiple CLECs' ability to economically deploy facilities at that
7 particular customer location.” (emphasis added) The TRO then provides a
8 minimum list of the following factors:

- 9 Evidence of alternative loop deployment at that particular customer
- 10 location;
- 11 Local engineering costs of building and utilizing transmission
- 12 facilities;
- 13 The cost of underground or aerial laying of fiber or copper;
- 14 The cost of equipment needed for transmission;
- 15 Installation and other necessary costs involved in setting up
- 16 service;
- 17 Local topography such as hills and rivers;
- 18 Availability of reasonable access to rights-of-way;
- 19 Building access restrictions/costs; and
- 20 Availability/feasibility of similar quality/reliability alternative
- 21 transmission technologies at that particular location.

22 TRO ¶ 335.

23 Each of these characteristics listed above for loops and transport must be
24 evaluated in the potential deployment analysis. For that reason, an ILEC that
25 claims CLECs are not impaired without access to UNEs in serving a specific
26 route will need to introduce evidence with respect to each factor that demonstrates
27 that the factor alone, or in combination with others, does not operate as a barrier
28 to CLECs' ability to deploy the facilities in question.

1 **Q. WITH RESPECT TO BOTH HIGH CAPACITY LOOPS AND**
2 **DEDICATED TRANSPORT, WHAT SORT OF EVIDENCE MUST THE**
3 **ILEC OFFER WITH RESPECT TO CAPACITY LEVELS?**

4 A. Any evidence an ILEC presents on potential deployment will necessarily have to
5 address the limitations on the availability of UNEs that are *already built in* to the
6 FCC’s new unbundling rules. Thus, with respect to loops, the factual showing
7 and analysis concerning potential deployment needs to explain how CLECs are
8 not impaired in their ability to deploy dark fiber loops or up to two DS3 loops at a
9 specific customer location. TRO ¶ 324. Similarly, with respect to transport, the
10 analysis must reflect the FCC’s decision that CLECs are impaired without
11 unbundled access to dark fiber transport and twelve or fewer DS3s of transport
12 along any given transport route. TRO ¶ 388.

13 **Q. IS IT LIKELY THAT MOST ILECS COULD MAKE A COMPELLING**
14 **SHOWING OF THIS SORT?**

15 A. No. The FCC requires a rational (i.e., investor-quality) business case analysis for
16 particular locations or routes based upon the conditions faced by two specific
17 carriers (for loops) or three specific carriers (for transport). While it may be
18 possible that one such carrier has not taken advantage of an opportunity to reduce
19 its costs while gaining control over its own destiny, it strains credibility that
20 multiple such situations would be identified in any one place.

21 Indeed, the potential deployment test should be regarded as a narrow exception to
22 the trigger requirements which rarely will be met. FCC Commissioner Abernathy
23 described the test to Congress as follows: “With respect to interoffice transport

1 ... [t]he Commission also authorized states to find, based on their consideration of
2 various economic factors, an absence of impairment where a route is served by
3 fewer than two wholesalers or three total carriers, but such findings will constitute
4 a narrow exception to the rule."² The Commissioner's logic applies equally to
5 high-capacity loops.

6 **B. SBC's Potential Deployment Transport Claims**

7 **Q. HAVE YOU REVIEWED SBC'S TESTIMONY CONCERNING THE**
8 **APPLICATION OF THE POTENTIAL DEPLOYMENT ANALYSIS TO**
9 **DEDICATED TRANSPORT?**

10 A. Yes, I have reviewed the direct testimony of J. Gary Smith regarding transport at
11 pages 37-42.

12 **Q. WHAT WERE THE CONCLUSIONS OF THE POTENTIAL**
13 **DEPLOYMENT ANALYSIS AS PROVIDED BY SBC.**

14 A. SBC has asserted that the 43 transport routes that it claims satisfy either the self-
15 provisioning and/or wholesale triggers should also receive non-impairment
16 findings from the Commission on the basis of potential deployment. JG Smith
17 Direct – Transport at 38-39 (limiting claims to routes where SBC claims the
18 triggers are met).

² Commissioner Abernathy's Responses to Post-Hearing Questions for the Record on the Triennial Review Proceeding from the Subcommittee on Telecommunications and the Internet, submitted in a March 17, 2003 letter from Commissioner Abernathy to Hon. Fred Upton, Subcommittee Chair, at page 1 of the attachment.

1 **Q. WHAT IS THE BASIS FOR SBC’S ASSERTION THAT THESE ROUTES**
2 **SATISFY THE POTENTIAL DEPLOYMENT ANALYSIS FOR**
3 **DEDICATED TRANSPORT?**

4 A. SBC simply asserts that since, under its view of the evidence, at least two
5 competing providers have deployed some sort of fiber facilities to collocation
6 arrangements at each end of the route, potential deployment along these routes is
7 possible. The essence of SBC’s position seems to be that evidence of actual
8 deployment that falls short of satisfying the trigger requirements is nevertheless
9 sufficient proof, without more, to demonstrate potential deployment.

10 **Q. DO YOU BELIEVE THAT SBC’S POTENTIAL DEPLOYMENT**
11 **ANALYSIS FOR DEDICATED TRANSPORT IS PROPER?**

12 A. Absolutely not. SBC’s approach would effectively overwrite the trigger
13 requirements with an “any evidence of actual deployment” test. Instead of
14 addressing the *potential deployment* questions authorized by the FCC for
15 instances in which the triggers are not met, SBC focuses exclusively on evidence
16 of actual facilities deployment that by definition has failed to satisfy the trigger
17 requirements. (To the extent the Commission determines that one or both triggers
18 are satisfied for a particular route, it will enter a finding of non-impairment, in the
19 absence of supervening barriers, so the potential deployment test will never be
20 reached for such routes). If evidence of actual facilities deployment that is
21 inadequate to satisfy the triggers is sufficient to find non-impairment under the
22 potential deployment test, then the triggers are rendered meaningless. This cannot
23 be a proper approach to the potential deployment test. Indeed, it contradicts the

1 TRO's express emphasis that "this [self-provisioning] quantitative trigger is the
2 primary vehicle through which non-impairment findings will be made." TRO ¶
3 410.

4 Second, the fact that *some* carriers have some facilities deployed to the A and Z
5 locations of a particular route (albeit not enough carriers, or not the required
6 facilities, to satisfy either triggers) says nothing about the ability of *other* carriers
7 to deploy facilities along the route economically, particularly for the limited
8 purpose of providing no more than 12 DS3 dedicated transport circuits. Thus,
9 SBC's claims do not speak to the requirement that it demonstrate a particular
10 route is suitable for "multiple, competitive supply." *Id.* SBC cannot satisfy the
11 potential deployment analysis unless it can show that multiple carriers have the
12 potential to self-provision transport at the quantities of capacity levels that would
13 otherwise be available as UNEs.

14 Finally, as I have explained above in my critique of both the self-provisioning and
15 wholesale triggers, SBC has greatly overstated the number of existing dedicated
16 transport routes of competing providers. A key reason that many CLEC facilities
17 connected to the collocations in SBC central offices do not satisfy the triggers is
18 the fact that those facilities are deployed and provisioned as entrance facilities that
19 connect CLEC collocations directly to CLEC switches, not collocations to one
20 another, and thus do not provide dedicated transport. Absent a finding that there
21 are qualifying dedicated transport routes, neither the self provisioning or the
22 potential deployment tests can be met. Moreover, a CLEC cannot simply flip a
23 switch and convert these facilities into dedicated transport routes. Mr.

1 Giovannucci and Mr. Grossman describe in their rebuttal testimony the network
2 additions and modifications that would be required in order to provide dedicated
3 transport between two ILEC central offices to which a CLEC currently has
4 provisioned entrance facilities, the inefficient sacrifice of ring capacity that would
5 result from creating dedicated point-to-point transport circuits within a CLEC's
6 fiber ring facilities, and the unlikelihood that the potential revenues associated
7 with such transport would justify the expense and loss of capacity on any given
8 route, particularly for the purpose of providing 12 or fewer DS3 dedicated
9 transport circuits. SBC addresses neither the costs of reconfiguring CLEC
10 facilities, nor the revenue opportunities that might justify incurring those costs.
11 SBC nowhere attempts to show, on a route-specific or even more general basis,
12 that, even for a CLEC that may have extended some fiber facilities to an A and Z
13 location, credible revenue opportunities would justify the cost of reconfiguring or
14 adding to its facilities to create 12 or fewer DS3 dedicated transport circuits.

15 **Q. HAS SBC PRESENTED ANY DEMONSTRATION THAT THE ROUTES**
16 **MEET THE FCC'S REQUIREMENTS FOR ECONOMIC VIABILITY, OR**
17 **THAT THEY HAVE CONSIDERED THE NINE FACTORS OUTLINED**
18 **BY THE FCC?**

19 A. Not in any meaningful way. Mr. Smith's discussion of the factors specified by
20 the FCC is confined to a set of conclusory remarks on pages 39-42 of his direct
21 testimony. With respect to carriers who do not already have facilities at both ends
22 of a route, Mr. Smith says nothing about whether they have the potential to deploy
23 dedicated transport on that route. He says nothing about whether such a carrier

1 could overcome any of the factors that the Commission is required to consider –
2 e.g., cost factors, topography, right of way, addressable market. On this basis
3 alone, any potential deployment claims for these routes should be rejected.

4 Instead, Mr. Smith limits his discussion of potential deployment to carriers who
5 (he asserts) already have extended some fiber facilities to collocation
6 arrangements at either end of the contested routes.³ As to those carriers, he makes
7 no effort to quantify, even generically, the cost of modifying or augmenting
8 existing facilities to provide dedicated transport between the A and Z offices, the
9 resulting loss of ring capacity, nor the hypothetical revenue opportunities that
10 might justify such activity and costs. As Mr. Giovanucci and Mr. Grossmann
11 have shown, more than “multiplexing” is required. For the great majority of
12 office combinations where AT&T is collocated, for example, the A and Z offices
13 are on different fiber rings, and the modifications and activity that would be
14 required to create dedicated transport between the two offices are more extensive.
15 Before the Commission could conclude that a carrier who has facilities at an A
16 and Z location has the *potential* to economically augment and modify those
17 facilities so as to deploy dedicated transport between A and Z, it would have to be
18 presented with evidence that specifically identifies the CLEC facilities in place at
19 A and Z today, the particular modifications and/or additions required in order to
20 provide for dedicated transport between the two, the revenues or cost savings that
21 the CLEC could be expected to derive from provisioning dedicated transport that

³ My self-provisioning Test 2 above identifies those central office combinations for which the evidence actually confirms that competing carriers have fiber-fed collocation arrangements at either end. The set of routes to which Mr. Smith’s analysis applies would actually be limited to routes that pass Test 2.

1 would be sufficient to justify deployment at a 12 DS3 level or below, and the
2 absence of undue adverse consequences (loss of capacity) to the CLEC's existing
3 facilities from the modifications required to provide for dedicated transport. None
4 of this is present here, for any route.

5 **Q. SO WHAT DO YOU CONCLUDE ABOUT SBC'S POTENTIAL**
6 **DEPLOYMENT ANALYSIS FOR DEDICATED TRANSPORT?**

7 A. I have concluded that SBC has not satisfied its burden of proving potential
8 deployment at any capacity level for any of the 43 routes for which it seeks such a
9 finding. Accordingly, the FCC's national finding of impairment should remain
10 intact.

11 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

12 A. Yes, it does.