

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Ameritech Operating Companies Petition for Pricing Flexibility for Dedicated Transport and Special Access Services	)	WCB/Pricing File No. 05-14
	)	
Southern New England Telephone Company Petition for Pricing Flexibility for Dedicated Transport and Special Access Services	)	WCB/Pricing File No. 05-15
	)	
Southwestern Bell Telephone Company Petition for Pricing Flexibility for Dedicated Transport and Special Access Services	)	WCB/Pricing File No. 05-16
	)	

**ORDER**

**Adopted:** May 25, 2005

**Released:** May 25, 2005

By the Acting Chief, Wireline Competition Bureau:

**I. INTRODUCTION**

1. On February 18, 2005, the Ameritech Operating Companies (Ameritech)<sup>1</sup>, Southern New England Telephone Company (SNET), and Southwestern Bell Telephone Company (SWBT) (collectively SBC) filed petitions seeking pricing flexibility for certain special access and dedicated transport services in several designated geographic markets in their service territories.<sup>2</sup> We received no comments on SBC's petitions. As detailed below, the Commission established the parameters for granting pricing

<sup>1</sup> Ameritech refers to Ameritech Illinois, Ameritech Indiana, Ameritech Michigan, Ameritech Ohio, and Ameritech Wisconsin, collectively.

<sup>2</sup> See Ameritech Petition for Pricing Flexibility, WCB/Pricing File No. 05-14 (filed Feb. 18, 2005) (Ameritech Petition); Southern New England Telephone Company Petition for Pricing Flexibility, WCB/Pricing File No. 05-15 (filed Feb. 18, 2005) (SNET Petition); Southwestern Bell Telephone Company Petition for Pricing Flexibility, WCB/Pricing File No. 05-16 (filed Feb. 18, 2005) (SWBT Petition); *Pleading Cycle Established for SBC Petitions for Pricing Flexibility for Dedicated Transport and Special Access Services*, WCB/Pricing Nos. 05-14, 05-15, 05-16, Public Notice, DA 05-488 (rel. Feb. 24, 2005); see also Letter from Sarah L. Green, Associate Director-Federal Regulatory, SBC, to Marlene H. Dortch, Secretary, Federal Communications Commission, WCB/Pricing Nos. 05-14, 05-15, 05-16 (filed April 25, 2005) (SBC April 25 *Ex Parte* Letter). A list of the specific services for which SBC seeks pricing flexibility can be found in Appendix A. Appendix B sets forth the forms of pricing flexibility (Phase I or Phase II) requested by each company and lists the Metropolitan Statistical Areas (MSAs) and non-MSAs for which the relief is requested.

flexibility for special access and dedicated transport services in its *Pricing Flexibility Order*.<sup>3</sup> In doing so, the Commission recognized the importance of granting pricing flexibility to incumbent local exchange carriers (LECs) as competition develops in the market for interstate access services “to ensure that our own regulations do not unduly interfere with the operation of these markets.”<sup>4</sup> For the reasons that follow, we grant the three petitions filed by SBC.<sup>5</sup>

## II. BACKGROUND

2. To recover the costs of providing interstate access services, incumbent LECs charge interexchange carriers (IXCs) and end users for access services in accordance with the Commission’s Part 69 access charge rules.<sup>6</sup> In the *Access Charge Reform First Report and Order*, the Commission adopted a market-based approach to access charge reform, pursuant to which it would relax restrictions on incumbent LEC pricing as competition emerges.<sup>7</sup> At that time, the Commission deferred resolution of the specific timing and degree of pricing flexibility to a future order.<sup>8</sup> Subsequently, in the *Pricing Flexibility Order*, the Commission provided detailed rules for implementing the market-based approach.<sup>9</sup>

3. The framework the Commission adopted in the *Pricing Flexibility Order* grants progressively greater flexibility to LECs subject to price cap regulation as competition develops, while ensuring that: (1) price cap LECs do not use pricing flexibility to deter efficient entry or engage in exclusionary pricing behavior; and (2) price cap LECs do not increase rates to unreasonable levels for customers that lack competitive alternatives.<sup>10</sup> In addition, the reforms are designed to facilitate the

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<sup>3</sup> See *Access Charge Reform*, CC Docket No. 96-262, Fifth Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 14221 (1999) (*Pricing Flexibility Order*), *aff’d*, *WorldCom, Inc. v. FCC*, 238 F.3d 449 (D.C. Cir. 2001) (*WorldCom*).

<sup>4</sup> *Pricing Flexibility Order*, 14 FCC Rcd at 14224, para. 1.

<sup>5</sup> In the *Pricing Flexibility Order*, the Commission amended its rules expressly to delegate authority to the Chief, Common Carrier Bureau (now called the Wireline Competition Bureau), to act on petitions for pricing flexibility involving special access and dedicated transport services. See 47 C.F.R. § 0.291(h)(1).

<sup>6</sup> 47 C.F.R. Part 69. Part 69 establishes two basic categories of access services: special access services and switched access services. Compare 47 C.F.R. § 69.114 with 47 C.F.R. § 69.106. Special access services employ dedicated facilities that run directly between the end user and an IXC point of presence (POP), the physical plant where an IXC connects its network with the LEC network. Charges for special access services generally are divided into channel termination charges and channel mileage charges. Channel termination charges recover the costs of facilities between the customer’s premises and the LEC end office and the costs of facilities between the IXC POP and the LEC serving wire center. See 47 C.F.R. § 69.703(a). Channel mileage charges recover the costs of facilities (also known as interoffice facilities) between the LEC serving wire center and the LEC end office serving the end user. See *Pricing Flexibility Order*, 14 FCC Rcd at 14226-27, paras. 8-10.

<sup>7</sup> *Access Charge Reform*, CC Docket No. 96-262, First Report and Order, 12 FCC Rcd 15982 (1997) (*Access Charge Reform First Report and Order*), *aff’d*, *Southwestern Bell Tel. Co. v. FCC*, 153 F.3d 523 (8<sup>th</sup> Cir. 1998).

<sup>8</sup> *Access Charge Reform First Report and Order*, 12 FCC Rcd at 15989, para. 14.

<sup>9</sup> *Pricing Flexibility Order*, 14 FCC Rcd at 14225, para. 4.

<sup>10</sup> *Id.* at 14225, para. 3. The Commission instituted price cap regulation for the Regional Bell Operating Companies (RBOCs) and GTE in 1991, and permitted other LECs to adopt price cap regulation voluntarily, subject to certain conditions. *Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, Second Report and Order, 5 FCC Rcd 6786, 6818-20, paras. 262-79 (1990). The *Pricing Flexibility Order* applies only to LECs that are subject to price cap regulation. *Pricing Flexibility Order*, 14 FCC Rcd at 14224, para. 1 n.1.

removal of services from price cap regulation as competition develops in the marketplace, without imposing undue administrative burdens on the Commission or the industry.<sup>11</sup>

4. In keeping with these goals, the Commission established a framework for granting price cap LECs greater flexibility in the pricing of interstate access services once they make a competitive showing, or satisfy certain “triggers,” to demonstrate that market conditions in a particular area warrant the relief they seek. Pricing flexibility for special access and dedicated transport services<sup>12</sup> is available in two phases, based on an analysis of competitive conditions in individual MSAs or non-MSA parts of the study area.<sup>13</sup>

5. Phase I Pricing Flexibility. A price cap LEC that obtains Phase I relief is allowed to offer, on one day’s notice, contract tariffs<sup>14</sup> and volume and term discounts for qualifying services, so long as the services provided pursuant to contract are removed from price caps.<sup>15</sup> To protect those customers that may lack competitive alternatives, a price cap LEC receiving Phase I flexibility must maintain its generally available, price cap-constrained tariffed rates for these services.<sup>16</sup> To obtain Phase I relief, a price cap LEC must meet triggers designed to demonstrate that competitors have made irreversible, sunk investments in the facilities needed to provide the services at issue.<sup>17</sup> In particular, to receive pricing flexibility for dedicated transport and special access services (other than channel terminations to end users), a price cap LEC must demonstrate that unaffiliated competitors have collocated in at least 15 percent of the LEC’s wire centers within an MSA, or have collocated in wire centers accounting for 30 percent of the LEC’s revenues from these services within an MSA.<sup>18</sup> In both cases, the price cap LEC also must show, with respect to *each* wire center, that at least one collocator is relying on transport facilities provided by an entity other than the incumbent LEC.<sup>19</sup>

6. Higher thresholds apply for obtaining Phase I pricing flexibility for channel terminations between a LEC’s end office and an end user customer. A competitor collocating in a LEC end office continues to rely on the LEC’s facilities for the channel termination between the end office and the customer premises, at least initially, and thus is more susceptible to exclusionary pricing behavior by the

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<sup>11</sup> *Pricing Flexibility Order*, 14 FCC Rcd at 14225, para. 3.

<sup>12</sup> For purposes of pricing flexibility proceedings, “dedicated transport services” refer to services associated with entrance facilities, direct-trunked transport, and the dedicated component of tandem-switched transport. *Id.* at 14234, para. 24 n.54. These services are defined in 47 C.F.R. § 69.2(qq) (entrance facilities), § 69.2(oo) (direct-trunked transport), and § 69.2(ss) (tandem-switched transport).

<sup>13</sup> See 47 C.F.R. § 22.909(a) (definition of MSA). See also *Pricing Flexibility Order*, 14 FCC Rcd at 14261, para. 76 (pricing flexibility will be granted to price cap LECs within the non-MSA parts of a study area if they satisfy the applicable triggers throughout that area).

<sup>14</sup> A contract tariff is a tariff based on an individually negotiated service contract. See *Competition in the Interstate Interexchange Marketplace*, CC Docket No. 90-132, Report and Order, 6 FCC Rcd 5880, 5897, para. 91 (1991) (*Interexchange Competition Order*); 47 C.F.R. § 61.3(o). See also 47 C.F.R. § 61.55 (describing required composition of contract-based tariffs).

<sup>15</sup> *Pricing Flexibility Order*, 14 FCC Rcd at 14287-88, para. 122.

<sup>16</sup> *Id.* at 14234-35, para. 24.

<sup>17</sup> *Id.* at 14274, para. 94.

<sup>18</sup> *Id.* at 14274-77, paras. 95-98; 47 C.F.R. § 69.709(b).

<sup>19</sup> 47 C.F.R. § 69.709(b).

LEC.<sup>20</sup> As a result, a price cap LEC must demonstrate that unaffiliated competitors have collocated in at least 50 percent of the LEC's wire centers within an MSA, or have collocated in wire centers accounting for 65 percent of the LEC's revenues from these services within an MSA.<sup>21</sup> Again, the LEC also must demonstrate, with respect to each wire center, that at least one collocator is relying on transport facilities provided by an entity other than the incumbent LEC.<sup>22</sup>

7. Phase II Pricing Flexibility. A price cap LEC that receives Phase II relief is allowed to offer dedicated transport and special access services free from the Commission's Part 69 rate structure and Part 61 price cap rules. The LEC, however, is required to file, on one day's notice, generally available tariffs for those services for which it receives Phase II relief.<sup>23</sup> To obtain Phase II relief, a price cap LEC must meet triggers designed to demonstrate that competition for the services at issue within the MSA is sufficient to preclude the incumbent from exploiting any individual market power over a sustained period. To obtain Phase II relief for dedicated transport and special access services (other than channel terminations to end users), a price cap LEC must demonstrate that unaffiliated competitors have collocated in at least 50 percent of the LEC's wire centers within an MSA, or have collocated in wire centers accounting for 65 percent of the LEC's revenues from these services within an MSA.<sup>24</sup> Higher thresholds apply for obtaining Phase II pricing flexibility relief for channel terminations between a LEC end office and an end user customer. To obtain such relief, a price cap LEC must demonstrate that unaffiliated competitors have collocated in at least 65 percent of the LEC's wire centers within an MSA, or have collocated in wire centers accounting for 85 percent of the LEC's revenues from these services within an MSA.<sup>25</sup> To obtain Phase II relief for dedicated transport and special access service, as well as channel terminations to end users, the LEC also must demonstrate, with respect to each wire center, that at least one collocator is relying on transport facilities provided by an entity other than the incumbent LEC.<sup>26</sup>

8. Competitive Showing. Pricing flexibility may be granted upon the satisfaction of certain competitive showings. An incumbent LEC bears the burden of proving that it has satisfied the applicable triggers for the pricing flexibility it seeks for each MSA.<sup>27</sup> For special access and dedicated transport services, the incumbent must identify: (1) the total number of wire centers in the MSA; (2) the number and location of the wire centers in which competitors have collocated; and (3) in each wire center on which the incumbent bases its petition, the name of at least one collocator that uses transport facilities owned by a provider other than the incumbent to transport traffic from that wire center.<sup>28</sup> In addition to these three requirements, the petitioner must show either: (A) that the percentage of wire centers in which competitors have collocated and use competitive transport satisfies the trigger the Commission adopted with respect to the pricing flexibility sought by the incumbent LEC;<sup>29</sup> or (B) that the percentage of total

<sup>20</sup> *Pricing Flexibility Order*, 14 FCC Rcd at 14279, para. 103.

<sup>21</sup> *Id.* at 14280-81, paras. 105-06; 47 C.F.R. § 69.711(b).

<sup>22</sup> 47 C.F.R. § 69.711(b).

<sup>23</sup> *Pricing Flexibility Order*, 14 FCC Rcd at 14301, para. 153; 47 C.F.R. § 69.727(b)(3).

<sup>24</sup> *Pricing Flexibility Order*, 14 FCC Rcd at 14299, paras. 148-49; 47 C.F.R. § 69.709(c).

<sup>25</sup> *Pricing Flexibility Order*, 14 FCC Rcd at 14235, para. 25; 47 C.F.R. § 69.711(c).

<sup>26</sup> 47 C.F.R. §§ 69.709(c) and 69.711(c).

<sup>27</sup> *Pricing Flexibility Order*, 14 FCC Rcd at 14309, para. 172.

<sup>28</sup> 47 C.F.R. § 1.774(a)(3)(i)-(iii).

<sup>29</sup> 47 C.F.R. § 1.774(a)(3)(iv)(A).

base period<sup>30</sup> revenues that are attributable to the wire centers upon which the petitioner relies satisfies the applicable pricing flexibility triggers.<sup>31</sup>

### III. DISCUSSION

9. SBC has demonstrated compliance with the requirements for Phase I and Phase II pricing flexibility. SBC provided sufficient information to demonstrate that it meets the revenue-based trigger.<sup>32</sup> To make this showing, SBC gathered revenue data from each company's database, which is based on the Carrier Access Billing System (CABS).<sup>33</sup> SBC then attributed these revenues to specific wire centers.<sup>34</sup> The revenues were then assigned either to Dedicated Transport and Special Access services, or to Channel Terminations to the End User services, based upon a combination of service class, rate element, and circuit location.<sup>35</sup>

10. *Ameritech*. Ameritech directly mapped the following rate elements to a wire center: channel terminations and entrance facilities, channel mileage terminations, direct trunked transport (fixed), other recurring charges (e.g., multiplexing), and non-recurring charges (where the wire center was known).<sup>36</sup> For interoffice channel mileage, Ameritech attributed 50 percent of the revenue to each wire center at the two ends of each individual circuit; for SONET rings, the mileage was evenly allocated to the nodes in the ring.<sup>37</sup> For direct trunked transport mileage, Ameritech attributed 50 percent to each wire center at the two ends of each individual circuit.<sup>38</sup> For non-recurring charges where the wire center was not known, revenue was allocated based on channel termination revenue and entrance facility revenue.<sup>39</sup>

11. *SNET and SWBT*. SNET and SWBT directly mapped the following rate elements to a wire center: channel terminations and entrance facilities, fixed channel mileage, direct trunked transport (fixed), other recurring charges (e.g., multiplexing), and, in the case of SNET, SS7 revenue.<sup>40</sup> For interoffice channel mileage, each of the companies attributed 50 percent of the revenue to each wire center at the two ends of each individual circuit.<sup>41</sup> For direct trunked transport mileage, each company likewise attributed 50 percent of the revenue to each wire center at the two ends of each individual

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<sup>30</sup> For price cap LECs, the "base period" is the 12-month period (i.e., the calendar year) ending six months before the effective date of the LECs' annual access tariffs. 47 C.F.R. § 61.3(g).

<sup>31</sup> The revenues applicable to this requirement are those generated by the services for which the incumbent seeks relief. 47 C.F.R. § 1.774(a)(3)(iv)(B).

<sup>32</sup> See Ameritech Petition, App. C; SNET Petition, App. C; SWBT Petition, App. C.

<sup>33</sup> Ameritech Petition, App. D; SNET Petition, App. D; SWBT Petition, App. D.

<sup>34</sup> Ameritech Petition, App. D; SNET Petition, App. D; SWBT Petition, App. D.

<sup>35</sup> Ameritech Petition, App. D; SNET Petition, App. D; SWBT Petition, App. D.

<sup>36</sup> Ameritech Petition, App. D at 4.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*; SBC April 25 *Ex Parte* Letter; revised Ameritech App. D at 4.

<sup>40</sup> SNET Petition, App. D at 4; SWBT Petition, App. D at 4.

<sup>41</sup> SNET Petition, App. D at 4; SWBT Petition, App. D at 4.

circuit.<sup>42</sup> Both companies allocated non-recurring charges based on channel termination revenue and entrance facility revenue.<sup>43</sup>

12. SBC identified those MSAs that qualify for pricing flexibility by: (1) assigning wire centers to individual MSAs and identifying wire centers within each MSA where service providers have obtained collocation with alternative facilities other than SBC-provided transport; (2) calculating end user channel termination revenue, together with all other special access and dedicated transport revenue earned in each MSA; (3) calculating end user channel termination revenue, together with all other special access and dedicated transport revenue, that was attributable to each collocated wire center within the MSA; and (4) calculating the percentage of such revenue earned in the collocated wire centers against the total revenues earned in the MSA.<sup>44</sup>

13. Finally, SBC stated, pursuant to section 1.774(e)(ii) of the Commission's rules, that it provided the required notice to the relevant collocators on which these applications are based.<sup>45</sup>

14. After reviewing SBC's verification method, as described in the petitions and its April 25 *Ex Parte* Letter, together with the data provided in the public and confidential versions of the petitions, we find that SBC has met the applicable triggers in section 1.774 and part 69, subpart H of the Commission's rules.<sup>46</sup> The method used by SBC to capture and assign revenues to particular services and wire centers is consistent with the method the Wireline Competition Bureau has approved in prior SBC pricing flexibility applications.<sup>47</sup> Based upon a review of the information submitted, and having received no opposition to the petitions, we conclude that Ameritech, SNET, and SWBT each has satisfied its burden of demonstrating that it has met the applicable requirements for each of the various services in the MSAs and non-MSAs for which it requests relief.

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<sup>42</sup> SNET Petition, App. D at 4; SWBT Petition, App. D at 4.

<sup>43</sup> SNET Petition, App. D at 4; SWBT Petition, App. D at 4.

<sup>44</sup> Ameritech Petition, App. C; SNET Petition, App. C; SWBT Petition, App. C.

<sup>45</sup> Ameritech Petition, App. E; SNET Petition, App. E; SWBT Petition, App. E.

<sup>46</sup> 47 C.F.R. §§ 1.774 and 69.701-69.731.

<sup>47</sup> See, e.g., *SBC Petition for Pricing Flexibility for Special Access and Dedicated Transport Services*, WCB/Pricing File Nos. 04-09, 04-10, 04-11, 04-12, 04-13, 19 FCC Rcd 10298, 10303-04, paras. 11-15 (Wireline Comp. Bur. 2004).

**IV. ORDERING CLAUSE**

15. Accordingly, IT IS ORDERED that, pursuant to section 1.774 of the Commission's Rules, 47 C.F.R. § 1.774, and the authority delegated by sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91 and 0.291, and the *Pricing Flexibility Order*, the petitions filed by Ameritech, SNET, and SWBT are GRANTED to the extent detailed herein.

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Navin  
Acting Chief, Wireline Competition Bureau

**APPENDIX A**  
**SERVICES QUALIFYING FOR PRICING FLEXIBILITY**

**Ameritech**

**Special Access Basket** (Includes channel terminations between the serving wire center and end user's premises, and the optional features and functions associated with these services.)

Metallic  
Telegraph Grade  
Direct Analog  
Program Audio  
Video (TV Analog, Digital, ASVS, AMVS, WAVS, SCVS)  
AIT Base Rate Service  
AIT DS1  
AIT DS3  
Optical Carrier Network (OCN) 3, 12, 48, 192 Point to Point  
AIT OC-3, 12, 48, 192 Dedicated Ring  
SONET Xpress Service  
GigaMAN (Gigabit Ethernet Metropolitan Area Network)  
Multi-Service Optical Network (MON)

**Trunking Basket** (Includes dedicated transport services (entrance facilities, direct trunked transport, flat-rated portion of tandem switched transport) and the optional features and functions associated with these services.)

Voice Grade  
LT-1  
LT-3  
Switched SONET  
Signaling  
SS7  
Telecom Relay Service



**SNET**

**Special Access Basket** (Includes channel terminations between the serving wire center and end user's premises, and the optional features and functions associated with these services.)

Voice Grade  
Program Audio  
Video  
Digital Data (DDS)  
High Capacity (DS1, DS3)  
SNET SONET Network Services (SSNS)  
Dedicated SONET Ring Service (DSRS)  
Optical Carrier Network (OCN) 3, 12, 48, 192 Point to Point  
GigaMAN (Gigabit Ethernet Metropolitan Area Network)  
Multi-Service Optical Network (MON)

**Trunking Basket** (Includes dedicated transport services (entrance facilities, direct trunked transport, flat-rated portion of tandem switched transport) and the optional features and functions associated with these services.)

Voice Grade  
DS1  
DS3  
SS7  
SNET SONET Network Service (SSNS)  
Dedicated SONET Ring Service (DSRS)

**SWBT**

**Special Access Basket** (Includes channel terminations between the serving wire center and end user's premises, and the optional features and functions associated with these services.)

Metallic  
Telegraph Grade  
Voice Grade  
Program Audio  
Video  
Megalink Data (DDS)  
DovLink  
High Capacity (DS1)  
Megalink Custom (DS3)  
Network Reconfiguration Service (NRS)  
Transport Resource Management (TRM)  
Broadband Circuit Services (BCS)  
Self-Healing Transport Network (STN)  
Relianet  
Dedicated SONET Ring Service (DSRS)  
OC-192 DSRS  
Optical Carrier Network (OCN) 3, 12, 48, 192 Point to Point  
GigaMAN (Gigabit Ethernet Metropolitan Area Network)  
Multi-Service Optical Network (MON)

**Trunking Basket** (Includes dedicated transport services (entrance facilities, direct trunked transport, flat-rated portion of tandem switched transport) and the optional features and functions associated with these services.)

Voice Grade  
DS1  
DS3  
Switched Reliant



• SNET

**PRICING FLEXIBILITY RELIEF FOR DEDICATED TRANSPORT AND SPECIAL ACCESS SERVICES**

<b>MSA</b>	<b>Type of Relief Requested</b>
New Haven, et al., CT	Phase II
New London-Norwich, CT	Phase II

**PRICING FLEXIBILITY RELIEF FOR CHANNEL TERMINATIONS TO END USERS**

<b>MSA</b>	<b>Type of Relief Requested</b>
New Haven, et al., CT	Phase I

• SWBT**PRICING FLEXIBILITY RELIEF FOR DEDICATED TRANSPORT AND SPECIAL ACCESS SERVICES**

<b>MSA</b>	<b>Type of Relief Requested</b>
Lawton, OK	Phase II
McAllen-Edinburg-Mission, TX	Phase II
Memphis, TN-AR-MS	Phase II
Tyler, TX	Phase II
Wichita, KS	Phase II

**PRICING FLEXIBILITY RELIEF FOR CHANNEL TERMINATIONS TO END USERS**

<b>MSA</b>	<b>Type of Relief Requested</b>
Corpus Christi, TX	Phase II
Lawton, OK	Phase II
Memphis, TN-AR-MS	Phase I
Midland, TX	Phase II
Wichita, KS	Phase I