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February 18, 2000

By Hand

David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

Re: Proceeding to Establish "Permanent Prices" for Interconnection and Unbundled Network Elements
Docket No. 97-01262

Dear Mr. Waddell:

Pursuant to the February 4, 2000, Notice, please find enclosed the original and thirteen copies of AT&T's Reply Comments on the proposed revised cost studies. Copies have been served upon counsel for all parties of record as indicated on the attached certificate of service.

If you have questions, please call me.

Sincerely,

Jim Lamoureux

Jim Lamoureux

Encls.

cc: Counsel for all Parties of Record (w/encls.)

POSTED 2-18-00

BEFORE THE
TENNESSEE REGULATORY AUTHORITY

In Re: Petition to Convene A Contested Case Proceeding to Establish Permanent Prices for Interconnection and Unbundled Elements	))))	Docket No. 97-01262

AT&T'S REPLY COMMENTS
ON REVISED BELLSOUTH COST STUDIES

Pursuant to the February 4, 2000, Order issued by the Hearing Officer in this proceeding, AT&T Communications of the South Central States, Inc. ("AT&T") submits the following Reply Comments on the cost studies filed by BellSouth Telecommunications, Inc. ("BellSouth") on December 1, 1999, and the Comments filed by BellSouth on January 20, 2000, and January 31, 2000, in this proceeding.

First, BellSouth has made no comments whatsoever on AT&T's and MCI's cost studies filed December 1, 1999, in compliance with the TRA's January 25, 1999, November 3, 1999, and November 19, 1999, Orders, and BellSouth should not be permitted to do so in its Reply Comments filed today. As set forth in the TRA's December 13, 1999, Order, the purpose of the January 20th filings was to provide comments on the cost studies filed on December 1, 1999. Since BellSouth chose not to do so, the TRA should accept BellSouth's silence as agreement that AT&T's and MCI's December 1, 1999, cost studies conform to the TRA's orders.

As to BellSouth's January 20th and January 31st filings, there is actually very little of any substance to which to respond. Indeed, while BellSouth initially assures the TRA that BellSouth "will not reiterate" its prior "questions" as to the TRA's ordered adjustments to BellSouth's cost studies, the clear purpose of BellSouth's comments is an assault on the TRA's January 25, 1999, and November 3, 1999, Orders. However, rather than directly challenge the TRA's decisions as to the cost models themselves, BellSouth now "questions" the wisdom of the TRA's decisions by complaining about the results of the TRA's decisions in terms of the output of BellSouth's cost studies.

The TRA should see BellSouth's comments for what they are—thinly veiled motions for reconsideration—and reject them in their entirety. The adjustments made by the TRA to BellSouth's cost studies are thoroughly supported by the record in this proceeding. In fact, the adjustments made by the TRA reflect a middle ground of the adjustments recommended by AT&T (and other parties) and the cost studies as originally filed by BellSouth. Indeed, the TRA had ample support in the record to adjust BellSouth's cost studies even further. Moreover, the TRA has already acted upon BellSouth's request that the TRA reconsider its decisions, and, in some cases, the TRA granted BellSouth's requests. The TRA should stand firm by its earlier decisions, should delay this proceeding no more, and should proceed to establish permanent cost-based UNE rates in Tennessee based on its prior decisions.[1]

Concerning what little substance there is in BellSouth's comments, the TRA should adjust the UNE cost studies BellSouth filed on December 1, 1999, as recommended by AT&T and MCI in their January 20, 2000, Comments. With respect to

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1 The stay of the FCC's UNE deaveraging rule has been lifted. As a result, the TRA is required to establish geographically deaveraged UNE rates by May 2, 2000. In other states which have adopted statewide average UNE rates using BellSouth's cost studies, AT&T and BellSouth have been able to compromise on a method of deaveraging to allow those states to meet the FCC's May 2nd deadline. AT&T anticipates that a similar compromise could be reached for Tennessee. However, the TRA must issue its final order establishing statewide average rates soon, so that the parties can then begin discussions concerning deaveraging in sufficient time to meet the May 2nd deadline.

drop lengths, OSS recovery, and vertical features, BellSouth simply failed to comply with the TRA's January 25, 1999, and November 3, 1999, orders. Thus the "facts or logic" underlying AT&T's and MCI's comments are the decisions of the TRA, plain and simple. BellSouth should not be permitted to ignore those decisions simply because, in its own mind, those decisions produce rates which are "too low." The TRA should order BellSouth to comply with the TRA's decisions concerning drop lengths, OSS recovery, and vertical features.

With respect to loop-switching UNE combinations, there is no dispute now, four years after the Act was passed, that BellSouth is legally obligated to provide CLECs with UNE combinations at cost-based rates. Moreover, there is no dispute that IDLC is forward-looking efficient technology. This is reflected in both the TRA's January 25, 1999, and its November 3, 1999, decisions. The TRA's November 3, 1999, Order specifically required BellSouth to file cost studies reflecting the provision of IDLC, not some percentage of IDLC. ("[C]ost-based rates for IDLC should be submitted as part of the compliant cost studies. These rates should be based on the per channel costs of a virtual loop and port being provided over IDLC.") No provision was made in the TRA's order for the continued inclusion of some amount of UDLC in BellSouth's cost studies. The ***only*** application of the TRA's Order that is consistent with its finding that IDLC is forward-looking efficient technology is the use of 100% IDLC in BellSouth's loop-switching UNE combination cost studies.

Thus, BellSouth's assertion that AT&T's comments are not based on "facts or logic" is sorely misplaced. The facts and the logic of AT&T's comments are well-grounded in the law and in the voluminous record of this proceeding and the actual

Orders of the TRA on this subject. Once again, BellSouth's "alarm" that the TRA's Orders might produce rates which are "too low" in now way dispels the fact that those Orders are consistent with the law and the record of this proceeding.

Additionally the "facts and logic" of AT&T's comments are supported by orders of the Georgia and North Carolina commissions. In its decision on revised cost studies for loop-switching UNE combinations filed by BellSouth, the North Carolina Utilities Commission adopted revisions to BellSouth's cost studies providing for 100% IDLC, ***as agreed to by BellSouth***, based upon the recommendation of the Public Staff. *Order Ruling on Comments and Reply Comments filed Regarding the Cost Studies* at 7-11, Docket No. P-100, Sub 133d, In the matter of General Proceeding to Determine Permanent Pricing for Unbundled Network Elements (Jan. 28, 2000)(Attachment A). In Georgia, in a proceeding devoted specifically to determining the rates for UNE combinations, the Georgia Public Service Commission ordered BellSouth to file revised cost studies providing for 98% IDLC. *Order* at 19, Docket No. 10692-U, In re: Generic Proceeding to Establish Long-Term Pricing Policies for Unbundled Network Elements (Feb. 1, 2000)(Attachment B). AT&T's comments concerning IDLC are thus supported not only by the record of this proceeding, the FCC's rules, and the TRA's orders, but also by recent decisions of the North Carolina and Georgia commissions.

With respect to GR-303, the North Carolina commission declined to rule on the issue, based on its conclusion that the record did not contain adequate evidence to render a decision. *Attachment A* at 11. That is certainly not the case here, however, in which the issue of GR-303 was specifically addressed by Mr. Carter in his testimony. Indeed, not only is Mr. Carter's testimony concerning GR-303 uncontroverted in the record of this proceeding, it is supported by BellSouth's own Loop Deployment Directives, which are also a part of the record in this proceeding. There is ample record in this proceeding to support AT&T's recommendation that BellSouth's loop-switching UNE combination cost studies should be revised to incorporate 100% GR-303 IDLC.

The Georgia Public Service Commission ordered BellSouth to revise its loop-switching UNE combination cost studies to reflect 20% GR-303 IDLC and 80% TR-008 IDLC, based on BellSouth deployment trends of GR-303 in its network. *Attachment B* at 19. However, as AT&T and MCI discussed in their January 20, 2000, Comments, the FCC's pricing rules specifically <u>prohibit</u> establishing prices using cost studies "based on ***existing network design*** and ***technology that are currently in operation***," *First Report and Order ¶ 684*, and on "historical . . . system configurations, and operating procedures." *First Report and Order* ¶ 632. The FCC's pricing rules require that cost studies reflect the costs "a carrier ***would incur in the future.***" *First Report and Order* ¶ 683, based on "***the most efficient technology available***." *First Report and Order* ¶ 690.

Based on the record of this proceeding, BellSouth is required under the FCC's TELRIC pricing rules to use 100% GR-303 IDLC in its loop-switching UNE combination cost studies.[2] Consistent with AT&T's and MCI's January 20, 2000, Comments, the TRA should modify BellSouth's proposed recurring loop-switching UNE combination prices to reflect the proper assumption that <u>all</u> (100%) DLC loops are served

[2] BellSouth's assertion that AT&T's and MCI's Comments should have been the subject of a motion for reconsideration is incorrect. The TRA's Orders are clear. AT&T and MCI could not have known that BellSouth did not intend to comply with them until after BellSouth submitted its revised cost studies. Thus, it was entirely appropriate for AT&T and MCI to discuss in their comments concerning revised cost studies BellSouth's failure to comply with the TRA's Orders.

by IDLC, and that all such IDLC is GR-303.[3]

The remainder of BellSouth's comments boil down to a complaint that adoption of its cost studies would result in UNE prices that are "too low." There simply is no basis for this assertion, however, and the TRA should refuse to sanction BellSouth's continued efforts to thwart the promotion of robust competition in Tennessee. The fact that the outputs of BellSouth's cost studies are now lower than the outputs of the Hatfield Model proves nothing more than the fact that the two models are based on different principles and operate differently. It does not, in any way, demonstrate that the TRA has somehow erred in its adjustments to BellSouth's cost studies.

Similarly, the fact that the outputs of BellSouth's cost studies are now lower than the FCC's proxies for Tennessee proves nothing. The FCC made clear that its proxies were "price ***ceilings***" for UNE rates, and that state commissions should "revise those prices on a going-forward basis" consistent with the TELRIC pricing principles established by the FCC. 61 Fed. Reg. 169 at 45557 ¶ 536 (Aug. 29, 1996), *see also* ¶ 538 ("The proxies that we establish represent the price ceiling or price ranges for the particular element on an averaged basis."). The purpose of the FCC's proxies was to lessen "regulatory burdens" and to establish UNE rates "more quickly and facilitating competition on a reasonable and efficient basis." *Id.* at ¶ 537.

The FCC was very clear that its proxies were "interim only. They will apply only until a state sets rates in arbitrations on the basis of an economic cost study, or until we promulgate new proxies based on economic cost models." *Id.* at ¶ 541. As to loops in

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3 Moreover, even if the TRA does not agree with AT&T at all on this issue, there still appears to be an error in the spreadsheets in BellSouth's cost studies. Despite BellSouth's claims, it appears that BellSouth's cost studies actually still assume 100% UDLC and 0% IDLC, in clear violation of the TRA's January 25, 1999, and November 3, 1999, Orders..

particular, the FCC proxies were only to "be used by a state commission until it is able either to complete a cost study or to ***evaluate and adopt the results of a cost study or studies submitted in the record***." *Id.* at ¶ 543 (emphasis added). That is precisely what the TRA is doing in this proceeding. The rules against which the TRA's Orders must be "reconciled" are the FCC's TELRIC pricing rules, and, as long as the TRA follows the FCC's TELRIC pricing principles, it should not be concerned that the application of those principles results in prices below the proxy rates established by the FCC.

There is even less credence to BellSouth's "alarm" that the outputs of its cost studies in Tennessee would produce the lowest rate for a two-wire loop in BellSouth's region. If the TRA adopts the rates produced by BellSouth's cost studies, it should be proud that it will have established the lowest UNE rates in BellSouth's region. Despite BellSouth's feigned "alarm," the TRA should be proud of its leadership role in fostering robust competition. As AT&T said in 1998 in its Post-Hearing Brief, this case is all about competition. The purpose of the federal Act, the FCC's rules, and the 1995 Tennessee Telecommunications Act is to foster competition. Five years after the Tennessee Act and four years after the federal Act, that competition for local customers remains nascent. The TRA should do all it can to ensure that such competition develops and flourishes in Tennessee. Adoption of the lowest UNE rates in BellSouth's region certainly would signal the TRA's steadfast and continuing commitment to such competition.

Moreover, adoption of the rates from BellSouth's Tennessee cost studies as adjusted by the TRA would not be inconsistent with the "just and reasonable" standard in the Act. The TRA's legal obligation under the federal Act and the FCC's rules is to adopt UNE prices based on the forward looking economic cost of each element, which reflects the use of the most efficient technology available and the lowest cost network configuration. 47 C.F.R. § 51.505. As long as the TRA can defend that its adjustments to BellSouth's cost studies—and thus the rates produced by those cost studies—comply with the FCC's TELRIC principles, the TRA can sustain its burden of proving that those rates are just and reasonable as required by the federal Act.

CONCLUSION

The TRA should turn a deaf ear to BellSouth's hollow protestations that the rates of its cost studies as adjusted by the TRA are "too low." In setting UNE rates, the TRA must follow the FCC's TELRIC pricing rules. If doing so produces UNE rates lower than the UNE rates in other states, then the TRA should be proud of its leadership role in promoting the development of competition in Tennessee. Consistent with that leadership role, as well as the federal Act, the Tennessee Act, the FCC's rules, and the record of this proceeding, the TRA should either adjust the prices proposed by BellSouth or order BellSouth to adjust its cost studies to produce prices in accordance with the TRA's orders, as discussed in AT&T's and MCI's January 20, 2000, Comments.

Respectfully submitted,

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Attorney for AT&T Communications of the South Central States, Inc.

February 18, 2000

NASHVILLE, TENNESSEE

In Re: Contested Case Proceeding to Establish Final Cost Based Rates for Interconnection and Unbundled Network Elements

Docket No: 97-01262

CERTIFICATE OF SERVICE

I, James P. Lamoureux, hereby certify that I have served a copy of the foregoing to the following counsel of record via U. S. First Class Mail, postage paid, this 18th day of February, 2000.

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Attachment A

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. P-100, SUB 133d

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of General Proceeding to Determine Permanent Pricing for Unbundled Network Elements	)))	ORDER RULING ON COMMENTS AND REPLY COMMENTS FILED REGARDING THE COST STUDIES

BY THE COMMISSION: On August 18, 1999, the Commission issued its Order Ruling on Motions for Reconsideration and Clarification and Comments (Reconsideration Order) in this docket. Said Reconsideration Order required BellSouth Telecommunications, Inc. (BellSouth), Carolina Telephone and Telegraph Company (Carolina), Central Telephone Company (Central), and GTE South, Inc. (GTE) to file new and revised cost studies, supporting documentation, and rates for unbundled network elements (UNEs) and interconnection. The Reconsideration Order further required the Public Staff, not later than 60 days from the date of the Reconsideration Order, to either concur in the accuracy of the incumbent local exchange company (ILEC) filings or file comments setting forth any areas of disagreement with those filings.

On November 16, 1999, the Public Staff filed its comments on the ILECs' new and revised cost studies. The Public Staff outlined several areas where the Public Staff believes the ILECs' cost studies do not adhere to the Reconsideration Order. The Public Staff commented that none of the Companies have completely satisfied the requirements of the Reconsideration Order. Additionally, on November 16, 1999, AT&T Communications of the Southern States, Inc. (AT&T) and MCI WorldCom, Inc. (MCI WorldCom) filed comments on the new and revised cost studies filed by BellSouth with a corrected version of the third page of the comments filed on November 17, 1999. Specifically, AT&T and MCI WorldCom outlined several concerns they have on the loop-port combination cost studies filed by BellSouth in response to the Reconsideration Order. Further, on November 16, 1999, comments were filed by BlueStar Networks, Inc., Business Telecom, Inc., Covad Communications, ICG Telecom Group, Inc., Intermedia Communications, Inc., Interpath Communications, Inc., KMC Telecom, Inc., and TriVergent Communications (collectively the New Entrants) with AT&T and MCI WorldCom (AT&T, MCI WorldCom and the New Entrants are collectively referred to as the Joint Commenters). The Joint Commenters maintained that the collocation cost studies filed by the ILECs on September 17, 1999, are entirely inconsistent with the Federal Communications Commission's (FCC's) Pricing Rules and, in turn, with the Commission Reconsideration Order.

By Order dated November 18, 1999, the Presiding Commissioner requested that the Public Staff, AT&T, MCI WorldCom, the New Entrants, BellSouth, Carolina, Central, and GTE meet as soon as possible to discuss the November 16, 1999 comments in a good-faith effort to resolve the areas of supposed deficiencies as outlined in the comments prior to filing replies to said comments. The Presiding Commissioner also noted in the Order that on November 4, 1999, the Commission issued an Order Scheduling Hearing for the Purpose of Developing Geographically Deaveraged UNE Rates. The procedural schedule adopted by the Commission assumed that final UNE cost studies would be completed by December 15, 1999. Therefore, the Presiding Commissioner adopted an expedited schedule for the filing of replies to the November 16, 1999 comments with replies from each of the parties referenced above by no later than Monday, December 6, 1999. The Presiding Commissioner requested that said replies address each supposed deficiency outlined in the November 16, 1999 comments of AT&T, MCI WorldCom, the Joint Commenters, and the Public Staff and that each party should note in its reply any of the supposed deficiencies which were resolved in the informal meeting.

Reply comments were filed on December 6, 1999, by AT&T and MCI WorldCom, BellSouth, Carolina and Central, GTE, the Joint Commenters, and the Public Staff. After analyzing the reply comments received, it appears that the parties have come to an agreement on the following Findings of Fact from the Commission's August 18, 1999 Order: Numbers 1, 4, 6, 8, 9, 10, 11, 14, 15, 17, 19, 34, and 35b. For Finding of Fact No. 22, the New Entrants have reached agreement with BellSouth and are still discussing the issue with Carolina and Central. Further, for Finding of Fact No. 23, the Public Staff has resolved its dispute with GTE, however AT&T and MCI WorldCom are still discussing the Finding of Fact with BellSouth. It appears that the parties have <u>not</u> reached agreement on the following Findings of Fact: Numbers 2, 16, 21, 27, 28, 30, 31, and 33. The comments and reply comments on the disputed Findings of Fact are presented below along with the Commission's resolution of these issues. Additionally, the Public Staff has recommended that Finding of Fact No. 34 be amended and this matter is also addressed below.

<u>FINDING OF FACT NO. 2</u>

<u>FINDING OF FACT NO. 2</u>: The proposed rate additives to recover historical and/or stranded costs are inconsistent with both the Telecommunications Act of 1996 and current state regulatory policy which is premised on price plan regulation.

<u>Initial Comments</u>

AT&T and MCI WorldCom: AT&T and MCI WorldCom did not address this Finding of Fact in their initial comments.

Joint Commenters: The Joint Commenters stated that GTE does not appear to be in compliance with this Finding of Fact.

Public Staff: The Public Staff did not address this Finding of Fact in its initial comments.

Reply Comments

AT&T and MCI WorldCom: AT&T and MCI WorldCom did not address this Finding of Fact in their reply comments.

BellSouth: BellSouth did not address this Finding of Fact in its reply comments.

Carolina/Central: Carolina/Central did not address this Finding of Fact in their reply comments.

GTE: GTE stated that its charge does not recover historical or stranded costs, rather it is designed to recover forward-looking transitional costs incurred as a result of the Act. GTE further stated that the UNE Loop prices set forth in GTE's Pricing Exhibit contain the costs of unbundling existing loops that are served by integrated pair gain devices. GTE stated that its proposed rates are designed to recover the additional cost of unbundling associated with integrated pair gain devices on a monthly per loop basis. GTE argued that under its proposal, a monthly recurring, per-line rate (i.e., the "Additional Cost of Unbundling" rate) was added to the price of all unbundled loops. GTE maintained that by spreading the recovery of these costs over all CLPs who order unbundled loops, the proposed rate for each 2-wire loops is $4.11 higher than it otherwise would have been. GTE argued that its proposed method of cost recovery is preferable because its facilitates CLP entry by spreading the costs of unbundling loops served by an integrated pair gain device over all UNE loops sold. GTE stated that this method results in a state-wide uniform UNE price and also affords ease of administration for both CLP and LEC personnel. GTE argued that its proposed method would also aid CLPs in developing business plans for new market entry since they will be dealing with known prices. GTE offered an alternative, but in its opinion less desirable, method of recovering the cost of a CLP requesting GTE to unbundle loops served by an integrated pair gain device. GTE proposed recovering all of the associated costs on a per occurrence basis from the requesting CLP. GTE argued that this method is basically a de facto geographic deaveraging process since the majority of requests to unbundle loops that are served by integrated pair gain devices would be in rural areas. GTE stated that the costs would be recovered through a nonrecurring charge, on an "as incurred" basis from the requesting CLP. GTE, however, stated that this method could significantly limit the incentives for local competition in rural areas.

Joint Commenters: The Joint Commenters[1] stated in reply comments that the FCC's Pricing Rules prohibit a recovery of costs arising from GTE's embedded network as suggested by GTE in its "Additional Cost of Unbundling" rate element. The Joint Commenters recommended that the Commission require GTE to omit its "Additional Cost of Unbundling" rate element.

Public Staff: The Public Staff stated in its reply comments that the New Entrants had stated in their initial comments that GTE had not complied with the requirement that ILECs may not apply UNE rate additives in order to recover historical and/or stranded costs. The Public Staff stated that a review of GTE's data response to the New Entrants indicates that the cost GTE is including (the "Additional Cost of Unbundling") is associated with installing D4 channel banks to enable a single loop to be unbundled from an existing Integrated Digital Loop Carrier (IDLC) facility. The Public Staff further noted that the "Additional Cost of Unbundling" charge appears to be designed to recover the additional costs associated with unbundling these loops as allowed by the FCC's First Interconnection Order. The FCC's First Interconnection Order at Paragraph 384 states:

> We find that it is technically feasible to unbundle IDLC-delivered loops. One way to unbundle an individual loop from an IDLC is to use a demultiplexer to separate the unbundled loop(s) prior to connecting the remaining loops to the switch. Commenters identify a number of other methods for separating out individual loops from IDLC facilities, including methods that do not require demultiplexing. Again, the costs associated with these mechanisms will be recovered from requesting carriers.

The Public Staff maintained that it believes that there are issues as to whether the proposed "Additional Cost of Unbundling" rate complies with the FCC's requirements in the First Interconnection Order that it be based upon total element long-run incremental cost (TELRIC) principles and that the cost be recovered from the requesting carrier. Further, the Public Staff pointed out that GTE's response to the New Entrant's data request is that the addition of the D4 channel banks represents the least-cost, most-efficient means of providing unbundled loops on its existing IDLC facilities. The Public Staff stated that it is unaware of any evidence in the record to contradict GTE's claims. However, the Public Staff argued that GTE's proposed "Additional Cost of Unbundling" rate would apply to all loops, not just those being unbundled from IDLC facilities. The Public Staff believes that this is inappropriate and inconsistent with the

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[1] AT&T does not join the New Entrants and MCI WorldCom in the reply comments on this Finding of Fact.

FCC's First Interconnection Order. The Public Staff concluded that to the extent that GTE's study has weighted the cost of unbundling a loop from IDLC facilities over all of its existing loops, the Commission should expect a substantially higher UNE rate for loops unbundled from IDLC facilities, but the additive GTE has proposed for all loops would no longer be applicable.

CONCLUSIONS

Based on the comments and reply comments received on this issue, it appears that the area of contention revolves around interpretation of the FCC's First Interconnection Order. Paragraph 384 states that an ILEC can separate out individual loops from IDLC facilities and recover the cost from requesting carriers. GTE apparently has interpreted "requesting carriers" as all carriers that request a loop from GTE, whether unbundled from IDLC facilities or not. The Public Staff apparently believes that the FCC intended the cost to be recovered only from those carriers requesting loops unbundled from IDLC facilities. The Commission believes that the Public Staff's interpretation of the FCC's First Interconnection Order appears reasonable since the referenced paragraph is only discussing loops that are unbundled from IDLC facilities; therefore, it appears reasonable that the term "requesting carriers" refers only to those carriers requesting loops unbundled from IDLC facilities. The Commission finds that GTE should refile its cost studies to reflect recovery of the "Additional Cost of Unbundling" only from the cost of loops unbundled from IDLC facilities.

FINDING OF FACT NO. 16

FINDING OF FACT NO. 16: The ILECs' proposed shared and common cost factors, adjusted for the effects of changes to the annual cost factors -- cost of capital, capital structure, depreciation rates, and effective tax rates -- are reasonable and appropriate and should be adopted. GTE's common cost study should be modified to exclude public telephone revenues and expenses.

Initial Comments

AT&T and MCI WorldCom: AT&T and MCI WorldCom did not address this Finding of Fact in their initial comments.

Joint Commenters: The Joint Commenters expressed uncertainty as to whether BellSouth is in compliance with the Finding of Fact in their initial comments.

Public Staff: The Public Staff does not believe that GTE has complied with the requirements of this Finding of Fact. Instead of simply removing the public telephone revenues and expenses from its common cost study, GTE appears to have performed a new study to show a common cost factor of 15%. Simply removing the public telephone revenues and expenses as pointed out by the Public Staff in earlier comments does not change the 14% common cost factor as originally recommended by GTE.

Reply Comments

AT&T and MCI WorldCom: AT&T and MCI WorldCom did not address this Finding of Fact in their reply comments.

BellSouth: BellSouth did not address this Finding of Fact in its reply comments.

Carolina/Central: Carolina/Central did not address this Finding of Fact in their reply comments.

GTE: GTE stated that it believes that it has complied with the requirements of this Finding of Fact. GTE stated that the common cost factor, or fixed allocator, is a function of the percentage of wholesale common costs to total costs. As changes are made to TELRIC costs or the wholesale common costs, the common cost factor necessarily changes according to GTE. Therefore, GTE stated, GTE's compliance with the Commission's mandated changes to cost inputs resulted in a change to the common cost factor. GTE argued that this is an appropriate result, consistent with the cost input changes and, therefore, should be upheld by the Commission.

Joint Commenters: The Joint Commenters did not address this Finding of Fact in their reply comments.

Public Staff: The Public Staff stated in its reply comments that it disagrees with GTE as to whether the common cost factor is correct. The Public Staff stated that the methodology used by GTE to calculate its common cost factor relies upon the TELRIC costs for UNEs. The Public Staff stated that the Commission's findings in the December 10, 1998, Original Order and the August 18, 1999, Reconsideration Order in this docket resulted in changes to the TELRIC costs for GTE's UNEs. The Public Staff maintained that GTE flowed these changes through its common cost factor calculation and as a result, the common cost factor included in the studies filed by GTE in response to the Original Order and the Reconsideration Order has differed from the common cost factor of 14% approved by the Commission in the Original Order. The Public Staff stated that its February 24, 1999, and March 18, 1999, comments pointed out that the cost study filed by GTE in response to the Original Order did not reflect the common cost factor required by the Commission. Further, the Public Staff maintained, the calculation of the common cost factor included public telephone revenue and expenses. The Public Staff recommended that GTE be required to exclude public telephone revenues and expenses from its common cost factor calculation. The Public Staff stated that it has excluded these revenues and expenses and confirmed that the resulting common cost factor is indeed 14%.

CONCLUSIONS

Based on the comments and reply comments and the previous Orders issued by the Commission in this proceeding, the Commission adopts the Public Staff's proposal in this regard and finds that GTE should exclude public telephone revenues and expenses from its common cost factor calculation. The Commission notes that the Public Staff has asserted that it has calculated the common cost factor after excluding public telephone revenues and expenses and confirmed that the resulting factor is 14%.

FINDINGS OF FACT NOS. 21, 31, AND 33

FINDING OF FACT NO. 21: The nonrecurring charges proposed by the ILECs, subject to certain modifications and adjustments, are reasonable and appropriate for recovering their respective nonrecurring costs associated with providing UNEs and interconnection. The ILECs should submit combined loop-port TELRIC-based costs studies with inputs based on deploying Digital Loop Carrier (DLC) technology in an integrated fashion and provide the nonrecurring charges for such loop-port combinations. Further, BellSouth should be required to revise its nonrecurring costs such that they reflect annual cost factors incorporating depreciation rates consistent with Finding of Fact No. 8, as discussed herein.

FINDING OF FACT NO. 31: While collocation is a legally permissible way for an ILEC to provide a CLP access to UNEs, an ILEC may not, except upon request, physically separate requested network elements that the ILECs currently combines and require a CLP to collocate in order to recombine those elements. The ILECs should submit TELRIC-based cost studies showing the cost of the various loop-port combinations that have not been separated.

FINDING OF FACT NO. 33: The ILECs should not be required to combine unbundled elements for CLPs, but the ILECs should be prohibited, except upon request, from separating requested network elements that they currently combine themselves. The ILECs should submit combined loop-port TELRIC-based cost studies with inputs based on deploying DLC technology in an integrated fashion.

Initial Comments

AT&T and MCI WorldCom: AT&T and MCI WorldCom stated that BellSouth has not properly revised its loop-port cost studies to reflect TELRIC. AT&T and MCI WorldCom stated that BellSouth has not properly revised its loop-port cost studies to allow for the provision of IDLC technology. AT&T and MCI WorldCom argued that BellSouth's cost studies assume that some loops are served on copper, and some are served on DLC systems. Of the DLC loops, AT&T and MCI WorldCom argued, some loops are assumed to be on IDLC (70%) and the remaining DLC loops (30%) are assumed to be on UDLC. Further, AT&T and MCI WorldCom argued that BellSouth assumes that all IDLC loops are TR-008 IDLC and that none are GR-303 IDLC. AT&T and MCI WorldCom recommended that the Commission modify BellSouth's proposed loop-port combination rates to reflect the proper assumption that all DLC loops are served by GR-303 IDLC. Further, AT&T and MCI WorldCom argued that BellSouth did not correctly convert the nonrecurring disconnect costs for loops and ports to recurring costs. In converting nonrecurring costs to recurring costs, BellSouth calculated a charge per service order, which reflects a BellSouth assumption of 1.45 loops and ports per order. In calculating the cost per loop and port, AT&T and MCI WorldCom asserted that BellSouth should have divided its cost by 1.45, in order to arrive at the proper amount per loop and per port. They also argued that certain inputs to BellSouth's nonrecurring loop-port combination cost study are unsubstantiated. Additionally, AT&T and MCI WorldCom maintained that BellSouth did not include in its cost study certain revisions it made to its cost studies in Georgia to reflect the advance of forward-looking technology.

Joint Commenters: The Joint Commenters did not address these Findings of Fact in their initial comments.

Public Staff: The Public Staff stated that except as noted in its initial comments regarding Findings of Fact Nos. 7, 28, and 30, the Public Staff believes that BellSouth, Carolina, Central, and GTE have complied with Finding of Fact No. 21. For Findings of Fact Nos. 31 and 33, the Public Staff stated that BellSouth filed studies reflecting two-wire voice-grade loop-port and two-wire voice-grade loop/DID port combinations and it appears that BellSouth reflected some integrated DLC technology in calculating the rates for the combinations. The Public Staff stated that the studies reflect a mix of 70% integrated and 30% universal DLC technology. Additionally, the Public Staff stated that the cost study filed by Carolina/Central assumed the use of IDLC technology for all loops served by digital loop carriers. Therefore, the Public Staff maintained that Carolina/Central have complied with these Findings of Fact. Further, the Public Staff stated that it does not appear that GTE's cost studies reflect 100% integrated DLC technology in calculating the rates for the combinations. The Public Staff stated that GTE instead used a type of DLC technology based upon defaults contained in its

Integrated Cost Model (ICM) in which the expected demand determines the type of DLC technology.

Reply Comments

AT&T and MCI WorldCom: AT&T and MCI WorldCom stated in their reply comments that BellSouth confirmed at the November 30, 1999 meeting, of the loops it serves on DLC, only 70% are assumed to be on IDLC, while the remaining loops (30%) are assumed to be on UDLC. AT&T and MCI WorldCom asserted that there is no serious dispute that the least-cost, most-efficient, forward-looking technology for loops is IDLC; even BellSouth's internal directives, as referenced in AT&T and MCI WorldCom's initial comments on this issue in response to BellSouth's cost studies, advocate IDLC as the forward-looking technology. AT&T and MCI WorldCom argued that UDLC provides inferior service, requires unnecessary investment and generates unnecessary operating expenses. AT&T and MCI WorldCom stated that IDLC efficiently and at least-cost integrates a digital signal directly into forward-looking digital switches. AT&T and MCI WorldCom stated that BellSouth's cost studies do not comply with the FCC's rules, or with the Commission Orders. AT&T and MCI WorldCom recommended that the Commission adjust BellSouth's proposed prices to reflect 100% IDLC. Further, AT&T and MCI WorldCom stated in reply comments that with respect to the type of technology that should be assumed with the use of IDLC, there is no legitimate issue whether GR-303 IDLC technology is forward-looking, cost-saving technology. AT&T and MCI WorldCom stated that it is uncontroverted that GR-303 technology is currently available and that BellSouth's own internal guidance to its engineers specify GR-303 IDLC as forward-looking technology. AT&T and MCI WorldCom stated that BellSouth, however, assumes that all IDLC loops are TR-008 IDLC and that none is GR-303 IDLC. AT&T and MCI WorldCom asserted that TR-008 is 20-plus year old technology that was not designed for today's digital networks. AT&T and MCI WorldCom concluded that since GR-303 ILC is forward-looking and is currently available, BellSouth is required under the FCC's TELRIC pricing rules to assume its use in its cost studies. AT&T and MCI WorldCom calculated and provided the impact of including the proper TELRIC technology in BellSouth's loop-port cost studies for 2-wire voice grade loop-port combinations.

BellSouth: BellSouth stated in its reply comments that it believes that its cost studies are correct and disagrees with AT&T and MCI WorldCom's claims that BellSouth has not properly converted the nonrecurring disconnect costs for stand-alone loops and ports to recurring costs. However, BellSouth did agree with AT&T and MCI WorldCom that this disconnect cost should have been divided by 1.45, which BellSouth did not do. BellSouth agreed to submit the documentation reflecting the calculation and proposed corrected rate elements. Further, BellSouth stated in its reply comments that AT&T and MCI WorldCom's concerns about differences between the combination cost studies

BellSouth has filed in this proceeding and cost studies filed by BellSouth earlier in 1999 in Georgia are misguided. BellSouth argued that the studies in Georgia reflect a different fallout rate and were "new" studies reflecting updated costs which were required to comply with directives in the Georgia proceeding. BellSouth stated that this Commission did not direct BellSouth to update all of the inputs to the study in its compliance filings, and it would have been inappropriate for BellSouth to have done so. Additionally, BellSouth stated in its reply comments that because IDLC technology results in the direct integration of a loop into the switch, it is not appropriate to include IDLC in determining the cost of stand-alone elements. BellSouth asserted that its studies reflect a mix of 70% IDLC and 30% universal digital loop carrier technology, since BellSouth deploys universal DLC in its network today and will continue to do so for the foreseeable future. BellSouth further stated that although it believes that assuming a mix of integrated and universal DLC is most consistent with the realities of network design. BellSouth will agree to modify its combination cost studies to reflect 100% IDLC as proposed by the Public Staff. However, BellSouth stated that it disagrees with AT&T and MCI WorldCom's proposal that BellSouth's cost studies also be adjusted to assume that all BellSouth's IDLC loops are served by GR-303. BellSouth stated that while GR-303 is a newer technology, and may eventually replace TR-008 during the next ten years, assuming 100% deployment of GR-303 today simply ignores reality. BellSouth argued that deploying GR-303 would not make economic sense in all circumstances, as even AT&T has acknowledged. BellSouth further stated that AT&T and MCI WorldCom do not identify the inputs they changed to BellSouth's cost model to ostensibly reflect GR-303 requirements. BellSouth stated that the reason they did not do so is relatively straightforward -- it is not possible to take into account GR-303 requirements by simply changing a handful of inputs to BellSouth's cost model, as AT&T and MCI WorldCom suggest. BellSouth argued that such a change would require the cost models to be overhauled. BellSouth asserted that there is no reason for the Commission to require BellSouth to engage in such an exercise, particularly when assuming 100% deployment of GR-303 ignores the existing and projected deployment of such technology, even on a going-forward basis.

Carolina/Central: Carolina/Central did not address these Findings of Fact in their reply comments.

GTE: GTE stated that at the November 30, 1999 meeting it stated that GTE did, in fact, use 100% integrated DLC in its cost studies and that the Public Staff agreed and that this is no longer an issue. However, GTE stated, with regard to the type of IDLC utilized, i.e., TR-008 versus GR-303, GTE stated that it used a mix of these technologies and that as a result of this clarification, GTE believes that this issue has been resolved.

Joint Commenters: The Joint Commenters did not address these Findings of Fact in their reply comments.

Public Staff: For Finding of Fact No. 21, the Public Staff stated that BellSouth and GTE have not fully complied with this Finding of Fact and that disagreements are discussed in Findings of Fact Nos. 31 and 33. For Findings of Fact Nos. 31 and 33, the Public Staff stated in reply comments that the remaining issue under these Findings of Fact involves the proper mix of IDLC technology to use in the cost studies. The Public Staff maintained that there are two protocols of IDLC technology -- TR-008 and GR-303. The Public Staff stated that TR-008 has been available for a number of years, while GR-303 is a fairly recent innovation. The Public Staff stated that as it understands the issue, the basic benefit of GR-303 IDLC is that it allows for more concentration of lines than TR-008 IDLC. The Public Staff argued that theoretically the use of GR-303 could result in an increase in efficiency and a lower per line cost, but in practice, it is unclear that a reasonable fill for each GR-303 system can be attained. The Public Staff concluded that it does not believe that there is sufficient evidence in the record at this time for the Commission to conclude that GR-303 IDLC is the least-cost or most-efficient technology for use in North Carolina. The Public Staff stated that it is likely that some mix of the two technologies would be appropriate for cost calculations. However, the Public Staff concluded that until a more complete record is established, the Commission should not dictate the type of IDLC technology to be used in the cost studies and that this issue should be reopened in the next iteration of UNE rates, after the deaveraging process is completed. Finally, the Public Staff stated that GTE is using 100% IDLC deployment in its cost studies and BellSouth has agreed to refile its studies using 100% IDLC.

CONCLUSIONS

The Commission notes that the issue of using GR-303 or TR-008 has only recently arisen out of comments and has not been litigated during the course of this proceeding. Therefore, the Commission does not believe that there is adequate evidence to make a decision in this regard. Hence, the Commission concludes that until a more complete record is established on the appropriate IDLC protocol to be used, the Commission will not dictate the type of IDLC technology to be used in the cost studies. Further, the Commission notes that it will address this issue in the next iteration of UNE rates after the geographic deaveraging phase of the docket is complete. Additionally, the Commission does not find it appropriate to require BellSouth to reflect certain revisions in its cost studies which were included in BellSouth's Georgia cost studies. The Commission believes that the Georgia cost studies were based on a complete record on this issue in Georgia which is not necessarily the record before the Commission here in North Carolina. Finally, the Commission notes that it appears that all ILECs have either previously reflected in their cost studies or have now agreed to reflect in their cost studies 100% IDLC.

FINDINGS OF FACT NOS. 27, 28, AND 30

FINDING OF FACT NO. 27: The ILECs should file TELRIC-based cost studies for physical and virtual collocation.

FINDING OF FACT NO. 28: BellSouth's proposed application fee for physical collocation is excessive and should be reduced to its current tariffed rate of $3,850.

FINDING OF FACT NO. 30: GTE's revised collocation rates should be adopted, and GTE is required to refile its intrastate tariff and include the simple, moderate, and complex classifications of its North Carolina offices in which collocation is offered.

The Commission rescinded Findings of Fact Nos. 28 and 30 in its August 18, 1999 Reconsideration Order.

Initial Comments

AT&T and MCI WorldCom: AT&T and MCI WorldCom did not address these Findings of Fact in their initial comments.

Joint Commenters: The Joint Commenters stated that all three ILECs used embedded costs to derive collocation prices, and not TELRIC. Further, the Joint Commenters stated that neither BellSouth nor Sprint proposed rates for cageless, shared or adjacent collocation as required by the FCC in its First Interconnection Order.

Public Staff: The Public Staff did not address these Findings of Fact in its initial comments.

Reply Comments

AT&T and MCI WorldCom: AT&T and MCI WorldCom did not address these Findings of Fact in their reply comments.

BellSouth: BellSouth stated in its reply comments that its collocation cost studies are TELRIC-based and consistent with the FCC's pricing rules, notwithstanding the Joint Commenters' claims to the contrary. BellSouth maintained that its collocation cost studies capture the forward-looking cost expected to be incurred in providing both physical and virtual collocation. BellSouth stated that its cost studies are consistent with the FCC's rules, which cannot be said about the Joint Commenters' collocation proposals. BellSouth argued that the Joint Commenters' comments appear to represent little more than a thinly veiled attempt to have the Commission take yet another look at the AT&T and MCI WorldCom Collocation Cost Model. BellSouth did state that it is preparing a cost study for adjacent collocation that BellSouth intends to submit as part of the Commission's generic collocation cost docket.

Carolina/Central: Carolina/Central stated in their reply comments that Carolina/Central have not used any embedded or book type costs in their collocation cost study. Carolina/Central stated that although not an FCC requirement, Carolina/Central are advocating in the Commission's generic collocation docket that space used in an incumbent's central office for administrative purposes also be made available for collocation. Further, Carolina/Central stated that it is appropriate for the collocating party to pay pro-rata any costs over and above the forward-looking cost of providing conditioned central office space. Carolina/Central argued that despite the Joint Commenters' grandiose arguments, there are no specific instances of embedded costs or double recovery of costs in Carolina/Central's collocation cost studies. Additionally, Carolina/Central stated that with respect to cageless collocation, the floor space rates found in the "Floor Space/Roof Space/Transmitter Space" section of Carolina/Central's collocation cost study is applicable to both cageless and caged collocation. Carolina/Central stated that their interpretation of the FCC's rules is that caged collocation space rate structures cannot vary between single and shared collocators, and therefore no separate or special shared caged collocation rates should exist. Further, Carolina/Central maintained that they have calculated the total DC power service costs as a monthly rate per fuse amp. However, Carolina/Central stated, BellSouth has not quoted a total rate because it has not stated an installation cost. Therefore, Carolina/Central stated, the Joint Commenters are inappropriately comparing Carolina/Central's total cost "apple", to BellSouth's partial cost "orange". Carolina/Central also maintained that the engineering and installation hours used in Carolina/Central's electronic cross-connect study are unsubstantiated and actually compare similarly to the inputs used in AT&T and MCI WorldCom's model. Carolina/Central recommended that the Commission transfer these final collocation costing issues to the Commission's generic collocation docket so that the UNE proceeding can be concluded expeditiously.

GTE: GTE stated that its collocation rates are TELRIC-based and meet North Carolina Commission and the FCC requirements. GTE stated that the elements included in the site modification charges are necessary, appropriate and reflect the recovery of costs incurred to provide collocation service arrangements to CLPs and other collocators. GTE argued that its collocation rates reflect standard cost/rates to provide the various components of collocation necessary to satisfy the specific requested collocation. GTE argued that these rates are not on an individual case basis (ICB) but rather are the rates applied to the dimensions of the respective collocation arrangements.

Joint Commenters: The Joint Commenters stated in reply comments that there is overwhelming evidence that the ILECs' cost studies are not TELRIC. The Joint

Commenters maintained that the collocation cost studies of all three ILECs assume the use of current, embedded central office design (and investment) and develop costs associated with modifying that central office for purposes of accommodating multi-carrier use. Additionally, the Joint Commenters stated that FCC Rule 51.505(b)(1) requires the "lowest cost network configuration" and that the central office would be designed from its inception with multiple collocation in mind to meed this requirement. The Joint Commenters stated that none of the ILECs have incorporated these forward-looking assumptions into their collocation cost studies. Further, the Joint Commenters stated that the FCC's pricing rules prohibit ICB pricing as noted by the Public Staff at the November 30, 1999 meeting. Therefore, the Joint Commenters urged the Commission to reject BellSouth's space preparation ICB rates. Finally, the Joint Commenters maintained that the FCC's *Advanced Services Order* requires ILECs to make available several alternative forms of collocation including cageless, shared, and adjacent collocation. The Joint Commenters stated that neither BellSouth nor Carolina/Central's cost studies included rates for these alternative forms of collocation and the Commission should order these companies to file these studies and rates. Finally, the Joint Commenters recommended that a new proceeding is necessary to fully examine new collocation cost studies and suggested that the Commission review these studies in the ongoing collocation generic docket.

Public Staff: The Public Staff stated in its reply comments that it believes that the ILECs' collocation rates are based on TELRIC cost studies, and that these cost studies generally satisfy the FCC's requirements that rates be based on "forward-looking economic cost." The Public Staff further stated that it is unaware of any ICB rates included in the collocation studies other than the space preparation rates which BellSouth has agreed to change.

CONCLUSIONS

The Commission notes that it first required TELRIC-based collocation cost studies in its August 18, 1999 Order. It appears from the comments filed that there is considerable debate whether the collocation cost studies filed by the ILECs in response to the Commission's August 18, 1999 Order are indeed TELRIC-based. The Commission believes that this issue is of great significance in the future development of local competition in the State. Therefore, the Commission is deferring the issue of final collocation rates to its generic docket on collocation - Docket No. P-100, Sub 133j - in order to fully examine and consider the ILECs' collocation cost studies as recommended by Carolina/Central and the Joint Commenters. However, the Commission concludes that the collocation rates filed by the ILECs on September 17, 1999, should be used as the interim collocation rates until final rates are established by the Commission.

FINDING OF FACT NO. 34

FINDING OF FACT NO. 34: The proposals of BellSouth and GTE to apply the unbundled network element rates for local switching and transport to interconnection are reasonable and appropriate. Carolina/Central are allowed to apply their UNE rates to interconnection for tandem switching, DS1 dedicated transport, DS3 dedicated transport and common transport. The Commission will address the appropriateness of the interconnection rates proposed by Carolina/Central on July 30, 1999 in a future Order.

Initial Comments

AT&T and MCI WorldCom: AT&T and MCI WorldCom did not address this Finding of Fact in their initial comments.

Joint Commenters: The Joint Commenters did not address this Finding of Fact in their initial comments.

Public Staff: The Public Staff stated that in the cost study filed by Carolina/Central, the local switching rate was separated into a monthly port charge and a usage-sensitive charge. Carolina/Central requested the Public Staff to base its review on the cost studies included in that filing as opposed to the filing made with the Commission on July 30, 1999, and the Public Staff agreed. The Public Staff stated that based upon its review it recommends that the Commission amend Finding of Fact No. 34 to read: "The proposals of BellSouth and GTE to apply the unbundled network element rates for local switching and transport to interconnection are reasonable and appropriate. Carolina/Central's request to apply their UNE rates to interconnection for tandem switching, local switching, DS1 dedicated transport, DS3 dedicated transport and common transport is also reasonable and appropriate."

Reply Comments

AT&T and MCI WorldCom: AT&T and MCI WorldCom did not address this Finding of Fact in their reply comments.

BellSouth: BellSouth did not address this Finding of Fact in its reply comments.

Carolina/Central: Carolina/Central did not address this Finding of Fact in their reply comments.

GTE: GTE did not address this Finding of Fact in its reply comments.

Joint Commenters: The Joint Commenters did not address this Finding of Fact in their reply comments.

Public Staff: The Public Staff stated in its reply comments that no party has disagreed with its recommended amendment to Finding of Fact No. 34.

CONCLUSIONS

The Commission anticipated in its August 18, 1999 Order that it would address the appropriateness of the interconnection rates proposed by Carolina/Central on July 30, 1999 in a future Order. Apparently, Carolina/Central requested the Public Staff to review the appropriateness of its interconnection rates based on its September 17, 1999 cost studies. The Public Staff based its review on the September 17, 1999 cost studies as opposed to the filing made with the Commission on July 30, 1999. After its review, the Public Staff recommended that the Commission revise Finding of Fact No. 34 to read, "The proposals of BellSouth and GTE to apply the unbundled network element rates for local switching and transport to interconnection are reasonable and appropriate. Carolina/Central's request to apply their UNE rates to interconnection for tandem switching, local switching, DS1 dedicated transport, DS3 dedicated transport and common transport is also reasonable and appropriate." No party disagreed with the Public Staff's recommended amendment. The Commission finds it appropriate to amend Finding of Fact No. 34 as proposed by the Public Staff.

FURTHER CONCLUSIONS

On December 16, 1999, the Public Staff filed its comments on the remaining outstanding loop-port cost studies of BellSouth. BellSouth filed cost studies on November 16, 1999 reflecting monthly recurring and nonrecurring rates for 2-wire ISDN digital grade loop with 2-wire ISDN digital line side port; 4-wire DS1 digital loop with 4-wire ISDN DS1 digital trunk port; and 4-wire DS1 digital loop with 4-wire DID trunk port combinations. The Public Staff stated in its comments that BellSouth reflected the same mix of 70% integrated and 30% universal DLC technology as used in the studies filed on September 17, 1999. Consistent with its previous recommendation, the Public Staff recommended that the Commission require BellSouth to revise its loop-port combination cost studies filed on November 16, 1999 to reflect 100% integrated DLC technology along with analog switch terminations for copper loops and digital switch terminations for carrier ports. Further, the Public Staff stated that it is its understanding that BellSouth's cost studies reflect the utilization of TR-008 type integrated DLC technology and the Public Staff still recommends that the Commission not dictate the type of IDLC technology to be used until a more complete record is established.

The Commission has reviewed the Public Staff's December 16, 1999 comments as outlined above and finds it appropriate to adopt the Public Staff's recommendations to (1) require BellSouth to reflect 100% IDLC and (2) not dictate the type of IDLC technology to be used until a more complete record is established, consistent with the Commission's previous conclusions regarding the September 17, 1999 cost studies.

IT IS, THEREFORE, ORDERED as follows:

1. That BellSouth, Carolina/Central, and GTE shall, not later than February 11, 2000, file new and revised cost studies, supporting documentation, and rates for unbundled network elements and interconnection. Said filings shall fully incorporate and reflect the modifications, adjustments, and conclusions set forth in this Order and all of the areas of agreement reached between the parties. BellSouth, Carolina/Central, and GTE shall coordinate fully with the Public Staff in order to ensure the accuracy of their filings. The Public Staff shall, not later than February 28, 2000, either concur in the accuracy of the ILEC filings or file comments setting forth any areas of disagreement with those filings.

2. That the cost studies and supporting documentation shall be filed by the ILECs in electronic form and shall, upon request, be provided to all parties subject to previous restrictions on disclosure of information for which proprietary treatment has been requested.

3. That, after approval by the Commission, the rates filed pursuant to this Order shall be deemed permanent prices pursuant to Section 252(d) of TA96 for purposes of replacing interim prices contained in existing interconnection agreements and BellSouth's SGAT.

4. That BellSouth, GTE, and Carolina/Central shall, not later than February 28, 2000, file proposals to refund the difference between revenues collected for services provided under interim prices subject to true-up and revenues that would have been collected under the permanent prices established in this docket

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of January, 2000.

NORTH CAROLINA UTILITIES COMMISSION

Geneva S. Thigpen

Geneva S. Thigpen, Chief Clerk

bc012400.01

Attachment B

COMMISSIONERS:

STAN WISE, CHAIRMAN
ROBERT B. BAKER, JR.
DAVID L. BURGESS
BOB DURDEN
LAUREN "BUBBA" MCDONALD, JR.

DEBORAH K. FLANNAGAN
EXECUTIVE DIRECTOR

HELEN O'LEARY
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G.P.S.C.

DOCKET NO. 10692-U

ORDER

In re: Generic Proceeding to Establish Long-Term Pricing Policies For Unbundled Network Elements

BY THE COMMISSION:

The Georgia Public Service Commission ("Commission") initiated this docket to establish long-term pricing policies for combinations of Unbundled Network Elements (UNEs) and to establish recurring and nonrecurring rates for particular combinations of UNEs.

I. INTRODUCTION

A. Background

On December 4, 1996, the Commission issued its Order on the AT&T Petition for Arbitration. In that Order, the Commission set interim rates for unbundled network elements (UNEs). The Commission stated in the AT&T Arbitration Order: "The Commission further rules that it shall conduct a generic proceeding to develop appropriate long-term pricing policies regarding recombination of unbundled capabilities." Docket 6801-U, AT&T Arbitration Order, p. 52.

On December 6, 1996, the Commission issued a Procedural and Scheduling Order to consider cost-based rates in Docket 7061-U, In Re: Review of Cost Studies, Methodologies, and Cost-Based Rates for Interconnection and Unbundling of BellSouth Telecommunications Services. The Commission issued its final order in that case on December 16, 1997 setting permanent rates for stand-alone UNEs. In its order, the Commission stated: "The Commission reaffirms its corollary decision in Docket 6801-U that it shall conduct a generic proceeding to develop long-term pricing policies regarding recombination of UNEs. . . . Indeed, the Commission notes that this proceeding is not, and was not intended to be the 'Generic Proceeding' to develop appropriate long-term pricing policies regarding recombination of unbundled capabilities that was envisioned in the Commission's December 4, 1996 order ruling on Arbitration in docket 6801-U." Docket 7061-U, UNE Cost Order, pp. 48-49.

Various parties have continued to show an interest in this issue. For example, on April 10, 1998, AT&T filed a petition with this Commission to commence a generic proceeding to establish long-term pricing policies for UNEs. See Docket 9097-U. On January 23, 1999, MCIMetro Access Transmission Services, LLC, filed a complaint against BellSouth to obtain DS1 Loop - Transport combinations at UNE prices. See Docket 6865-U.

On January 25, 1999, the Supreme Court issued its decision in AT&T Corporation v. Iowa Utilities Board, 119 S.Ct. 721 (1999). This matter had come before the Supreme Court on writs of certiorari from the decision of the Eighth Circuit Court of Appeals which had vacated portions of the Federal Communications Commission's First Report and Order issued on August 8, 1996. Among other provisions, the Eighth Circuit had vacated FCC Rule 315(b) which prohibited ILECs from separating elements which are already combined. The Supreme Court reversed the Eighth Circuit on this issue, reinstating Rule 315(b). The Supreme Court affirmed the ruling of the Eighth Circuit that CLECs can provide local service relying solely on the elements in an incumbent's network. The Supreme Court ruled, however, that the FCC did not adequately consider the "necessary and impair" standard in determining which network elements incumbents must provide to CLECs. As a result, the Supreme Court vacated the FCC's Rule 319.

On September 15, 1999, the Federal Communications Commission (FCC) completed its reconsideration of Rule 319, adopting its Third Report and Order and Fourth Further Notice of Proposed Rulemaking (Third Report and Order), Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98. The FCC's written order was released on November 5, 1999. In this Third Report and Order, the FCC revised, in light of the Supreme Court's order, the list of the network elements that ILEC must provide on an unbundled basis and issued a new Rule 319. The FCC ruled that the following elements must be unbundled: Loops, subloops, network interface device (NID), circuit switching, interoffice transmission facilities, signaling and call-related databases, and operations support systems (OSS). For circuit switching, the FCC ruled that Incumbent LECs must offer unbundled access to local circuit switching, except for switching used to serve business users with four or more lines in FCC access density zone 1 (the densest areas) in the top 50 Metropolitan Statistical Areas (MSAs), provided that the incumbent LEC provides non-discriminatory, cost-based access to the enhanced extended link (EEL, a combination of an unbundled loop, multiplexing/concentrating equipment, and dedicated transport.). The FCC ruled that, pursuant to section 51.315(b) of the FCC's rules, incumbent LECs are required to provide access to combinations of loop, multiplexing/concentrating equipment and dedicated transport if they are currently combined. The FCC did not readdress whether an incumbent LEC must combine network elements that are not already combined in the network, because that issue is pending before the Eighth Circuit Court of Appeals. Finally, the FCC sought comment on the legal and policy bases for precluding requesting carriers from substituting dedicated transport for special access entrance facilities.

On November 24, 1999, the FCC issued a Supplemental Order to its Third Report and Order. In this Supplemental Order, the FCC modified its conclusion in paragraph 486 of the Third Report and Order to allow incumbent LECs to constrain the use of combinations of unbundled loops and transport network elements as a substitute for special access service. Supplemental Order, ¶ 4. IXCs may not convert special access services to combinations of unbundled loops and transport network elements, whether or not the IXCs self-provide entrance facilities, unless the IXC uses the combination "to provide a significant amount of local exchange service, in addition to exchange access service, to a particular customer." Id. at ¶ 5.

B. Statement of Proceeding

On May 18, 1999, the Commission issued its Procedural and Scheduling Order that set forth the scope of the hearing in this matter. The Scheduling Order stated that the purpose of this proceeding was to establish long-term pricing policies for combinations of Unbundled Network Elements (UNEs). The Scheduling Order stated that the Commission would set recurring and non-recurring rates for certain combinations of UNEs. In addition, it stated that the Commission would set pricing policies for combinations of UNEs generally. Finally, the Scheduling Order stated that the Commission would consider, and parties testimony should address, the following issues:

1. How should the recurring and nonrecurring charges for UNEs combinations be determined?

2. What are the appropriate recurring and nonrecurring charges for the following combinations:

    i. DS1 Loop - Transport combination
    ii. 2-wire analog loop-port combination

3. What other UNE combinations have CLECs requested from BellSouth and what are the appropriate recurring and nonrecurring charges for these combinations?

The Scheduling Order provided that any party submitting a cost study was required to provide comprehensive and complete work papers that fully disclosed and documented the process underlying the development of each of its economic costs, including the documentation of all judgments and methods used to establish every specific assumption employed in each cost study. The Scheduling Order required that the work papers clearly and logically represent all data used in developing each cost estimate, and be so comprehensive as to allow others initially unfamiliar with the studies to replicate the methodology and calculate equivalent or alternative results using equivalent or alternative assumptions. The Scheduling Order required that the work papers be organized in such a manner as to clearly identify and document all source data and assumptions, including investment, expense, and demand data assumptions.

BellSouth and AT&T filed cost studies in this proceeding. BellSouth presented recurring and non-recurring cost studies which used basically the same methodology adopted by the Commission in its December 16, 1997 Order in Docket 7061-U. Most, but not all, of the adjustments that were ordered by the Commission in Docket 7061-U were incorporated into the new studies. AT&T presented the HAI Model 5.1 (HAI or Hatfield) for a limited number of the recurring costs and the AT&T and MCI Non-Recurring Cost Model for a limited number of the non-recurring costs. For those costs, not covered by its models, AT&T recommended that use BellSouth's cost studies with modifications.

In hearings commencing July 13, 1999, the Commission heard testimony from witnesses for AT&T Communications of the Southern States (AT&T), Inc., BellSouth Telecommunications, Inc. (BellSouth), the Competitive Telecommunications Association (Comptel), the United States Department of Defense and All Other Federal Executive Agencies (collectively referred to as DOD), Excel Telecommunications, Inc. (Excel), Intermedia Communications, Inc. (Intermedia), MCI WorldCom, Inc. (MCI WorldCom), Sprint Communications Company, L.P. (Sprint), and Qwest Communications (Qwest). After the conclusion of the hearings, the Commission received closing briefs from interested parties. In addition to receiving briefs from most of the parties sponsoring witnesses, the Commission received briefs from the Consumers' Utility Counsel Division (CUCD), ICG Telecom Group, Inc. (ICG), and NEXTLINK Georgia, Inc. (NEXTLINK).

As discussed above, on November 5, 1999, the FCC issued its Third Report and Order. On December 7, 1999, the Commission issued its Order Setting Briefing Schedule which allowed any interested parties to file briefs addressing the impact of the FCC's Third Report and Order on the issues in this case. The Commission received Briefs from AT&T, BellSouth, Certain Facilities-Based CLECs (Focal Communications Corp. of Georgia, ICG, Intermedia, and NEXTLINK), CUCD, KMC Telecom, Inc. and KMC Telecom II, Inc. (KMC), MCI, and Sprint.

C. Jurisdiction

Under the Federal Telecommunications Act of 1996 (Federal Act), State Commissions are authorized to set rates and pricing policies for interconnection and access to unbundled elements. In addition to its jurisdiction of this matter pursuant to Sections 251 and 252 of the Federal Act, the Commission also has general authority and jurisdiction over the subject matter of this proceeding, conferred upon the Commission by Georgia's Telecommunications and Competition Development Act of 1995 (Georgia Act), O.C.G.A. §§46-5-160 *et seq.*, and generally O.C.G.A. §§ 46-1-1 *et seq.*, 46-2-20, 46-2-21, and 46-2-23.

II. FINDINGS AND CONCLUSIONS

A. UNE Combinations Generally

Before determining the actual rates for any combinations of unbundled network elements, the Commission must address certain underlying issues. In particular, the Commission must determine the scope of BellSouth's obligation to provide combinations of UNEs and the applicable pricing standards that apply to combinations of UNEs.

1. Rule 319 / Necessary and Impair Standard

In January 1999, the Supreme Court ruled that the FCC did not adequately consider the "necessary and impair" standard in determining which network elements incumbent LECs must provide to CLECs. As a result, the Supreme Court vacated the FCC's Rule 319. In the hearings held before this Commission, BellSouth argued that this Commission should consider the necessary and impair standard in making its determination. Since the hearing was held, the FCC has completed its reconsideration of Rule 319 and specified a national list of UNEs that ILECs must provide: Loops, subloops, network interface device (NID), circuit switching[1], interoffice transmission facilities, signaling and call-related databases, and operations support systems (OSS).

For UNEs on the national list, there is no need for this Commission to consider the necessary and impair standard since the FCC already made that determination. Indeed, the FCC stated that the goals of the Act would better be served if network elements are not removed from the national list on a state-by-state basis, at this time. The FCC order did recognize that state commissions are authorized to require incumbent LECs to unbundle additional elements as long as the obligations are consistent with the requirements of section 251. Accordingly, this Commission would apply the necessary and impair standard to the extent it considered a request to expand the unbundling requirements under the Federal Act. Since this Commission is not expanding the national list in this order, there is no need for this Commission to undertake such an analysis. Some CLECs have requested that the Commission define the enhanced extended link (EEL) as a UNE. Joint Supplemental Brief of Certain Facilities-Based CLECs, p. 7. The EEL is a UNE combination consisting of a loop, transport and a cross-connect. Like the FCC, the Commission declines to define the EEL itself as a UNE. Third Report and Order, ¶ 478. However, as discussed below, CLECs can obtain at UNE rates combinations of UNEs that BellSouth ordinarily combines in its network.

[1] For circuit switching, the FCC ruled that Incumbent LECs must offer unbundled access to local circuit switching, except for switching used to serve business users with four or more lines in FCC access density zone 1 in the top 50 Metropolitan Statistical Areas (MSAs), provided that the incumbent LEC provides non-discriminatory, cost-based access to the enhanced extended link.

2. Applicability of FCC Rules to Pricing UNE Combinations

In its First Report and Order, the FCC had required that prices for unbundled network elements be developed using the TELRIC methodology. The Eighth Circuit had vacated the FCC's pricing rules on the grounds that pricing was outside of the FCC's jurisdiction and was reserved for the states. The Supreme Court overturned the Eighth Circuit on this issue, ruling that the FCC had jurisdiction to design a pricing methodology that the States must use. Since it had determined that the FCC lacked the jurisdiction to require a particular pricing methodology, the Eighth Circuit never reached the issue of whether TELRIC complies with the Act. The Supreme Court remanded this issue back to the Eighth Circuit. The FCC's pricing rules have been reinstated by the Supreme Court and are currently in effect pending the Eighth Circuit's review of TELRIC.[2]

BellSouth had argued in this proceeding that while "the FCC was very specific to establish pricing rules for the provision of individual UNEs. The FCC did not establish pricing rules to govern the provision of currently combined UNEs." (Pre-filed Direct Testimony of Varner, p. 24). The Commission disagrees.

The FCC's pricing rules provide:

Rule 51.501 Scope.

(a) The rules in this subpart apply to the pricing of network elements, interconnection, and methods of obtaining access to unbundled network elements, including physical collocation and virtual collocation.
(b) As used in this subpart, the term "element" includes network elements, interconnection, and methods of obtaining access to unbundled elements.

Rule 51.503 General Pricing Standard.

(a) An incumbent LEC shall offer elements to requesting carriers at rates terms and conditions that are just, reasonable and nondiscriminatory.
(b) An incumbent LEC's rates for each element it offers . . . shall be established, at the election of the state commission-
    (1) pursuant to the forward-looking economic cost-based pricing methodology set forth in §§51.505 and 51.511 of this part; or
    (2) consistent with the proxy ceilings and ranges set forth in §51.513 of this part.
(c) The rates that an incumbent LEC assesses for elements shall not vary

2 As discussed below, the portion of the pricing rules which requires geographic deaveraging has been stayed by the FCC.

> on the basis of the class of customers served by the requesting carrier, or on the type of service that the requesting carrier purchasing such elements uses them to provide.

The rules clearly apply to the pricing of all network elements. Nowhere in the rules does the FCC imply that they apply only to network elements that are physically separated from other network elements. The rules do refer to "unbundled" elements; however, the Supreme Court specifically rejected BellSouth's argument that the term unbundled means physically separated:

> Nor are we persuaded by the incumbents' insistence that the phrase "on an unbundled basis" in §251(c)(3) means "physically separated." The dictionary definition of "unbundled" (and the only definition given, we might add) matches the FCC's interpretation of the word: "to give separate prices for equipment and supporting services." Webster's Ninth New Collegiate Dictionary 1283 (1985).

Iowa Board, (Emphasis added).

In its Third Report and Order, the FCC made it clear that it considered its pricing rules for UNEs to be applicable to combinations of UNEs. Third Report and Order ¶¶ 480 and 486. Based on the FCC's statements in its Third Report and Order, BellSouth has stated that "[w]hile the merits of the FCC's pricing rules are currently on appeal, BellSouth will provide currently combined network elements at cost-based rates in accordance with the FCC's TELRIC pricing rules." BellSouth's Brief on the Impact of the FCC's Third Report and Order, p. 8.

The Commission finds that the FCC pricing rules do apply to combinations of network elements.

3. Reasonable Profit

The cost model that BellSouth presented in this proceeding includes the return on equity which this Commission adopted in Docket 7061-U. Thus, the costs that the model generates includes as profit a reasonable return on BellSouth's investment. In addition to the costs plus profit generated by its cost model, however, BellSouth has argued that its rates should include an additional sum, which it refers to as a "reasonable profit." BellSouth argues that the "reasonable profit" for a 2-wire analog loop-port combination should be an additional recurring charge of $9.19. For a 4-wire DS1 loop-transport combination, BellSouth argues that it should be an additional $78.25. While BellSouth's cost models generate costs for other combinations, it has not recommended a rate or an amount of "reasonable profit" for them.

In Docket 7061-U, the Commission addressed the issue of the meaning of the term "reasonable profit" as it is used in 47 U.S.C. § 252(d)(1)(B). The Commission stated:

> The Commission does not accept BellSouth's assertion that the "reasonable profit" referred to in 47 U.S.C. § 252(d)(1)(B) means a profit over and above the cost including cost of capital. . . . [T]he Commission notes that BellSouth's interpretation would run counter to established pricing principles that the reasonable profit is incorporated within the concept of cost of capital.

Order in Docket 7061-U, p. 24. The Commission hereby reaffirms its finding in Docket 7061-U.

BellSouth argued that the best way to provide for a reasonable profit is to set the price of currently combined UNEs at the resale rate. BST's Brief, p. 24. While this Commission previously ruled that UNE combinations that replicate a retail service should be priced as resale, in light of the court decisions rejecting BellSouth's arguments that UNE combinations are, or should be treated as, resale, this position is no longer tenable. The Eighth Circuit rejected the ILEC argument that when a CLEC uses only leased network elements to provide a service that the wholesale rate should apply. Instead, the Eighth Circuit affirmed the FCC's "all elements" rule, ruling that even when a CLEC used only leased elements to provide service, the elements would be priced at the cost-based rates, not the wholesale rate. 120 F.3d at 814. The Supreme Court affirmed the Eighth Circuit's holding on the "all elements" rule. The Supreme Court went even further. When it reinstated Rule 315(b), the Court explicitly recognized that this rule would allow CLECs to lease a complete, preassembled network at cost-based rates (assuming the list of elements under Rule 319 was not changed). As the Court stated:

> Rule 315(b) forbids an incumbent to separate already-combined network elements before leasing them to a competitor. As they did in the Court of Appeals, the incumbents object to the effect of this rule when it is combined with others before us today. TELRIC allows an entrant to lease network elements based on forward-looking costs, Rule 319 subjects virtually all network elements to the unbundling requirement, and the all-elements rule allows requesting carriers to rely only on the incumbent's network in providing service. <u>When Rule 315(b) is added to these, a competitor can lease a complete, preassembled network at (allegedly very low) cost-based rates.</u>
>
> The incumbents argue that this result is totally inconsistent with the 1996 Act. They say that it not only eviscerates the distinction between resale and unbundled access, but that it also amounts to Government-sanctioned regulatory arbitrage. Currently, state laws require local phone rates to include a "universal service" subsidy. Business customers, for whom the cost of service is relatively low, are charged significantly above cost to subsidize service to rural and residential customers, for whom the cost of service is relatively high. Because this universal-service subsidy is built into retail rates, it is passed on to carriers who enter the market through the resale provision.

Carriers who purchase network elements at cost, however, avoid the subsidy altogether and can lure business customers away from incumbents by offering rates closer to cost. This, of course, would leave the incumbents holding the bag for universal service.

As was the case for the all-elements rule, our remand of Rule 319 may render the incumbents' concern on this score academic. Moreover, §254 requires that universal-service subsidies be phased out, so whatever possibility of arbitrage remains will be only temporary. In any event, we cannot say that Rule 315(b) unreasonably interprets the statute.

Iowa Board, (Emphasis added).

While BellSouth proposed several other alternative theories which it claimed could be used to calculate its proposed "reasonable profit" of $9.19, no such calculation appears in the record. BellSouth merely makes a conclusory statement as to what its reasonable profit should be without any showing of how it arrived at the number. In addition, as discussed in the prior section, the FCC's UNE pricing rules apply to UNE combinations. BellSouth's "reasonable profit" proposals are contrary to FCC rules that prohibit the consideration of certain factors when setting rates:

§ 51.505(d) Factors that may not be considered. The following factors shall not be considered in a calculation of the forward-looking economic cost of an element:

(1) Embedded costs. Embedded costs are the costs that the incumbent LEC incurred in the past and that are recorded in the incumbent LEC's book of accounts.
(2) Retail costs. Retail costs include the costs of marketing, billing, collection, and other costs associated with offering retail telecommunications services to subscribers who are not telecommunications carriers, described in § 51.609 of this part.
(3) Opportunity costs. Opportunity costs include revenues that the incumbent LEC would have received for the sale of telecommunications services, in the absence of competition from telecommunications carrier that purchase elements.
(4) Revenues to subsidize other services. Revenues to subsidize other services include revenues associated with elements or telecommunications service offerings other than the element for which a rate is being established.

Based on the above, the Commission rejects BellSouth's so-called reasonable profit adjustment.

4. Currently Combines

FCC Rule 315 addressed combinations of unbundled network elements. Rule 315(b) provides:

Except upon request, an incumbent LEC shall not separate requested network elements that the incumbent currently combines.

Emphasis added. BellSouth has interpreted the term "currently combines" as "currently combined." BellSouth defines the term to mean those elements "that are physically in a combined state as of the time the CLEC requests them and which can be converted to UNEs on a 'switch as is' or 'switch with changes' basis. . . . Currently combined elements only include loops, ports, transport or other elements that are currently installed for the existing customer that the CLEC wishes to serve." BellSouth's Posthearing Brief, p. 9. The CLECs have interpreted the term to mean elements that are typically combined in the ILECs network, even if the particular elements being ordered are not actually combined at the time the order is placed.

When the Supreme Court reinstated Rule 315(b), it stated its understanding of the intent of the rule:

> The reality is that §251(c)(3) is ambiguous on whether leased network elements may or must be separated, and the rule the Commission has prescribed is entirely rational, finding its basis in §251(c)(3)'s nondiscrimination requirement. As the Commission explains, it is aimed at preventing incumbent LECs from "disconnect[ing] previously connected elements, over the objection of the requesting carrier, not for any productive reason, but just to impose wasteful reconnection costs on new entrants." Reply Brief for Federal Petitioners 23. It is true that Rule 315(b) could allow entrants access to an entire preassembled network. In the absence of Rule 315(b), however, incumbents could impose wasteful costs on even those carriers who requested less than the whole network. It is well within the bounds of the reasonable for the Commission to opt in favor of ensuring against an anticompetitive practice.

Iowa Board.

It appears clear that the Supreme Court believed that at least one major purpose of Rule 315(b) was to prevent the incumbent from ripping apart elements which were already connected to each other. The Commission agrees that at the very least, Rule 315(b) requires BellSouth to provide combinations of elements that are already physically connected to each other regardless of whether they are currently being used to serve a particular customer. The Supreme Court, however, did not state that it was reinstating Rule 315(b) only to the extent it prohibited incumbents from ripping apart elements currently physically connected to each other. It reinstated Rule 315(b) in its entirety, and it did so based on its interpretation of the nondiscrimination language of Section 251(c)(3). See Third Report and Order, ¶¶ 481 and 482.

Indeed, the Ninth Circuit Court of Appeals has recently ruled that it "necessarily follows from AT&T that requiring [the ILEC] to combine unbundled network elements is not inconsistent with the Act . . . the Act does not say or imply that network elements may only be leased in discrete parts." U.S. West Communications v. MFS Intelenet, Inc. 1999 WL 799082, *7 (9th Cir. Oct. 9, 1999). In response to U.S. West's argument that the Eighth Circuit's invalidation of FCC Rules 315(c)-(f) required the Ninth Circuit to conclude that a state commission's order requiring an ILEC to provide combinations violates the Act, the Ninth Circuit stated:

> The Supreme Court opinion . . . undermined the Eighth Circuit's rationale for invalidating this regulation. Although the Supreme Court did not directly review the Eighth Circuit's invalidation of § 51.315(c)-(f), its interpretation of 47 U.S.C. § 251(c)(3) demonstrates that the Eighth Circuit erred when it concluded that the regulation was inconsistent with the Act. We must follow the Supreme Court's reading of the Act despite the Eighth Circuit's prior invalidation of the nearly identical FCC regulation.

Id.

Rule 315(b), by its own terms, applies to elements that the incumbent "currently combines," not merely elements which are "currently combined." In the FCC's First Report and Order, the FCC stated that the proper reading of "currently combines" is "ordinarily combined within their network, in the manner which they are typically combined." First Report and Order, ¶ 296. In its Third Report and Order, the FCC stated that it was declining to address this argument at this time because the matter is currently pending before the Eighth Circuit. Third Report and Order, ¶ 479.[3] Accordingly, the only FCC interpretation of "currently combines" remains the literal one contained in the First Report and Order. The Commission finds that "currently combines" means ordinarily combined within the BellSouth network, in the manner which they are typically combined.[4] Thus, CLECs can order combinations of typically combined elements, even if the particular elements being ordered are not actually physically connected at the time the order is placed. However, in the event that the Eighth Circuit Court of Appeals determines that ILECs have no legal obligation to combine UNEs under the Federal Act, the Commission will reevaluate its decision on this issue. The Commission further finds that the particular loop/port and loop/transport combinations at issue in this case are

3 While the FCC declined to address this argument again in its Third Report and Order, significantly the FCC did not disavow the position it took in the First Report and Order. BellSouth argues that "the FCC made clear that 'currently combined' elements are those elements physically combined as of the time the CLEC requests them and which can be converted to UNEs on a 'switch as is' or 'switch with changes basis." BellSouth's Brief on Impact of Third Report and Order, p. 5. The FCC, however, was not stating that Rule 51-315(b) is limited only to currently combined elements. Instead, the FCC was stating that since, at the least, Rule 51-315(b) includes currently combined elements, and since when a CLEC purchases special access the elements are currently combined, that even under the more restrictive "currently combined" interpretation, CLECs would be able to convert special access to loop-transport combinations at UNE rates. Third Report and Order ¶ 480.

4 BellSouth's argument that the cost studies it presented in this matter are based on its definition of "currently combined" is discussed below in Section II.B.4, below.

ordinarily combined in BellSouth's network.

Based on the FCC's Third Report and Order, even if this Commission were to limit the definition of "currently combines" to the more restrictive "currently combined" interpretation, CLECs would still be able to obtain and use the same UNE combinations. The process of obtaining them would be more cumbersome, however, and would serve no purpose except to complicate the ordering process and impede competition. According to the FCC, CLECs can purchase services such as special access and resale even when the network elements supporting the underlying service are not physically connected at the time the service is ordered. At the point when the CLEC begins to receive such service, the underlying network elements are necessarily physically connected. The CLECs can then obtain such currently combined network elements as UNE combinations at UNE prices. Third Report and Order, ¶¶ 480, 486. The Commission finds that even assuming arguendo that "currently combines" means "currently combined," rather than go through the circuitous process of requiring the CLEC to submit two orders (e.g., one for special access followed by another to convert the special access to UNEs) to receive the UNE combination, the process should be streamlined to allows CLECs to place only one order for the UNE combination.

5. BellSouth's Proposed Restrictions

BellSouth had proposed in its testimony in this matter numerous restrictions on the use of UNE combinations. These proposed restrictions included:

- Combinations would be available for only two years, beginning only after BellSouth obtains Section 271 approval;
- Customers must be in service for six months before they may be served through a UNE combination;
- Combinations would only be available in the areas defined by BellSouth rate groups 2 and 5;
- Loop/Transport combinations must terminate on a CLEC circuit-switched, local voice switch;
- Loop/Transport combinations can only be used to provide local voice switched service.
- Loop/Transport combinations cannot be used by the entrant to provide special access service; and,

BellSouth's justification for proposing these restrictions was that they were necessary to create "the appropriate economic incentives." BellSouth's Posthearing Brief, p. 27. BellSouth also stated that the restrictions were necessary "to ensure that the use of combinations does not stifle the growth of competition." Id. at 31.

As previously discussed, BellSouth is required by the Federal Act and the FCC's rules to allow CLECs to purchase combinations of UNEs. Further, the nondiscriminatory provisions of the Federal Act and the FCC's rules are applicable to such combinations. With a limited exception discussed below, BellSouth's proposed restrictions would violate the Federal Act and the FCC's rules.

Section 251(c)(3) of the Act establishes:

> The duty to provide, to any requesting telecommunications carrier for the provision of telecommunications service, nondiscriminatory access to network elements.

Emphasis Added. More specifically, FCC Rule 51.309(a) provides:

> An incumbent LEC shall not impose limitations, restrictions or requirements on requests for, or the use of unbundled network elements that would impair the ability of a requesting telecommunications carrier to offer a telecommunications service in the manner the requesting telecommunications carrier intends.

Emphasis added. Accordingly, except as discussed below, the Commission rejects BellSouth's proposed restrictions on the use of UNE combinations.

One of BellSouth's proposed restrictions was that Loop/Transport combinations cannot be used by the entrant to provide special access service. On November 24, 1999, the FCC issued a Supplemental Order to its Third Report and Order. In this Supplemental Order, the FCC modified its conclusion in paragraph 486 of the Third Report and Order to now allow incumbent LECs to constrain the use of combinations of unbundled loops and transport network elements as a substitute for special access service. Supplemental Order, ¶ 4. IXCs may not convert special access services to combinations of unbundled loops and transport network elements, whether or not the IXCs self-provide entrance facilities, unless the IXC uses the combination "to provide a significant amount of local exchange service, in addition to exchange access service, to a particular customer." Id. at ¶ 5. Accordingly, the Commission finds that in order for a CLECs to use a loop/transport combination to provide special access service, the CLEC must provide a significant amount of local exchange service over the combination. Such CLECs must "self-certify that they are providing a significant amount of local exchange service over combinations of unbundled loops and transport network elements" in order to convert special access facilities to UNE pricing. Id. at footnote 9. The FCC did not find it to be necessary for ILECs and requesting carriers to undertake auditing processes to monitor whether requesting carriers are using UNEs solely to provide exchange access service. Id. The Commission finds that BellSouth shall not make auditing a precondition to converting special access to UNEs; thus the conversion of facilities will not be delayed. The Commission finds, however, that BellSouth shall be allowed to audit CLEC records in order to verify the type of traffic being transmitted over EELs. If, based on its audits, BellSouth concludes that a CLEC is not providing a significant amount of local exchange traffic over the facilities, BellSouth may file a complaint with this Commission.

6. Commercial Agreements

BellSouth has stated that it is willing to make certain UNE combinations available to CLECs through "Commercial Agreements." BellSouth claims that these commercial agreements are not subject to Commission review or approval. As explained in the prior sections, BellSouth has an obligation under the Act to provide elements that it currently combines to CLECs at cost-based rates. A review of the Commercial Agreements filed with the Commission in this matter indicates that the combinations provided under the Commercial Agreements include combinations of elements that BellSouth currently combines. In addition, the combinations provided under the Commercial Agreements include combinations that are analogous to services that could be purchased at resale rates or under an existing tariff.

All interconnection agreements must be submitted to the Commission for approval. Section 252(e)(1). For negotiated agreements, the primary purpose of this requirement is so that the Commission can insure that the agreement does not "discriminate against a telecommunications carrier not a party to the agreement" and to insure that "implementation of the agreement [is consistent] with the public interest." Section 252(e)(2)(a)(i) and (ii). Obviously, the Commission cannot fulfill its obligations if it cannot even look at the agreements.[5] Accordingly, the Commission finds that BellSouth's commercial agreements are subject to Commission review and approval.

B. Cost Study Methodology and Major Assumptions

Both BellSouth and AT&T filed cost studies in this proceeding. BellSouth presented recurring and non-recurring cost studies which used basically the same methodology adopted by the Commission in its December 16, 1997 Order in Docket 7061-U. Most, but not all, of the adjustments that were ordered by the Commission in Docket 7061-U were incorporated into the new studies. AT&T presented the HAI Model 5.1 for a limited number of the recurring costs and the AT&T and MCI Non-Recurring Cost Model for a limited number of the non-recurring costs. For those costs not covered by its models, AT&T recommended that use BellSouth's cost studies with modifications. Other parties to this proceeding have recommended that the Commission make various adjustments to the proffered models.

5 Certainly, BellSouth cannot seriously suggest that the Commission simply ignore allegations that BellSouth is giving more favorable rates to CLECs that agree not to invest in facilities in Georgia than to those that do invest in Georgia. This is particularly the case where, for all practical purposes, BellSouth is simply selling a UNE combination at a rate other than the cost-based rate or is providing a resale discount other than the avoided cost discount set by the Commission.

1. Openness and Documentation

The Scheduling Order provided that any party submitting a cost study was required to provide comprehensive and complete work papers that fully disclosed and documented the process underlying the development of each of its economic costs, including the documentation of all judgments and methods used to establish every specific assumption employed in each cost study. The Scheduling Order required that the work papers clearly and logically represent all data used in developing each cost estimate, and be so comprehensive as to allow others initially unfamiliar with the studies to replicate the methodology and calculate equivalent or alternative results using equivalent or alternative assumptions. The Scheduling Order required that the work papers be organized in such a manner as to clearly identify and document all source data and assumptions, including investment, expense, and demand data assumptions.

BellSouth contends that AT&T has failed to support the basic underpinnings of the HAI Model and has failed to submit the documentation required by the Scheduling Order. BellSouth's Posthearing Brief, pp. 40- 42.

PNR and Associates (PNR) generated data for AT&T that was used to create inputs to the HAI cost proxy model for AT&T. In essence, when customers cannot be located by a mailing address (e.g., a customer has a rural P.O. Box), PNR uses mathematical processes to place the customers in surrogate locations. The customers are grouped into "clusters." This grouping process is considered by PNR to be a proprietary process. The clusters are then reconfigured to "serving areas." This process is also considered to be proprietary.

These processes are relevant to the Hatfield model because Hatfield builds its hypothetical network to these "serving areas." Since loop length is a major cost driver, the distribution of customers can greatly affect the costs generate by a model. BellSouth sought access to the PNR processes and data to determine whether the model designs these serving areas in a way that reflects the way customers are actually distributed and, if it does not, whether this results in an understatement of the costs. As BellSouth has stated, however, "AT&T has not produced a single document, study, or report that in any way validates or verifies the geocoding and clustering work performed by PNR for purposes of Hatfield version 5.1, even though AT&T was specifically requested to do so by BellSouth." BellSouth's Posthearing Brief, pp. 40-41.

AT&T, not BellSouth, must carry the burden of proof in regards to the HAI model. It is AT&T's responsibility to demonstrate to this Commission that its model produces costs in a well-reasoned way based on data shown to be reliable. See Docket 5825-U, January 20, 2000 Order. As the Commission's Order in Docket 7061-U demonstrated, when adopting a cost model, the Commission must weigh various competing factors, including, but not limited to, openness. Order in Docket No. 7061, p. 16. The Commission finds that AT&T has not adequately supported the basic underpinnings of the Hatfield Model in this proceeding. The Commission finds that while some of the principles used in constructing the Hatfield model are useful to consider in evaluating and in making adjustments to BellSouth's model, the Hatfield model itself has not been demonstrated to be a reliable method for computing the cost-based rates.

2. Conformance with TELRIC

CLECs have alleged that because the BellSouth models are premised on an assumption of the existing network configuration, while the FCC's pricing rules require the use of a "scorched node" network configuration, that the Commission should not use the BellSouth models. The Commission's options in this matter are limited to accepting or adjusting the competing models presented to it. As discussed in the prior section, from the standpoint of documentation in the record, AT&T's network configuration is essentially pulled out of thin air. In contrast, BellSouth's network configuration has verifiable underpinnings that have an objective basis. The Commission has previously approved the use of this model and has found it to be reliable, consistent, and accurate in computing forward-looking costs. The Commission finds that the costs generated by the BellSouth models, with the proper modifications and inputs, best reflect the forward-looking costs of UNE Combinations.

In addition, because HAI Model 5.1 and the AT&T and MCI Non-Recurring Cost Model only produce costs for a limited number of UNEs, even if the Commission were to approve the use of such models, the Commission would still have to use the BellSouth models for the remaining elements. Even without the openness problem discussed above, the Commission would not be inclined to use two completely different sets of methodologies to compute the costs of different UNE.

Most importantly, however, after reviewing the costs generated by the various models using different sets of inputs, the Commission is of the opinion that the decisions most effecting the costs generated are the inputs and adjustments used, rather than the choice of the basic model itself. As AT&T demonstrated, when BellSouth's recurring cost model is modified to include AT&T's proposed inputs, the cost generated for a 2-wire analog loop/port UNE combination, $11.94, is virtually identical to the HAI cost of $11.75. AT&T's Post hearing Brief, p. 19. Regardless of which model the Commission selected, the Commission would need to adjust the model and modify the inputs. The Commission has selected to use the BellSouth model and has made adjustments which reduce the costs generated by that model. However, even if the Commission were to choose the HAI model, it could not do so without modifications.[6] It appears that, after all the necessary adjustments were made, the costs ultimately produced by either model to would be very similar.

3. Geographic Deaveraging

Some parties in this proceeding have recommended that the Commission geographically deaverage UNE rates. See DOD Brief, pp. 8-10. In Docket No. 7061-U, the Commission found that it should not implement geographical deaveraging until it addressed universal service. At the time the Order in Docket 7061-U was issued, Rule 51.507, which required geographic deaveraging, had been stayed by the Eighth Circuit. While the Supreme Court's Iowa decision resulted in reinstating

6 For example, while the Commission finds that the BellSouth model does not use enough IDLC, the HAI model's use of 100% GR-303 IDLC is also inappropriate.

the FCC's pricing rules, the FCC itself subsequently stayed Rule 507. Since Rule 507 is stayed until this spring, the Commission currently has no obligation to set deaveraged UNE rates. The Commission intends to deaverage UNE rates at the appropriate time.

4. Nonrecurring Costs

Nonrecurring costs are one-time charges associated with UNEs. For example, costs associated primarily with the ordering and provisioning of UNEs are reflected as nonrecurring charges for such elements. In Docket 7061-U, the Commission approved the use of BellSouth's non-recurring cost model, subject to certain modifications. The Commission finds that the non-recurring costs generated by the BellSouth models best reflect the appropriate cost-based non-recurring charges. The key assumptions underlying the AT&T nonrecurring model are flawed; thus, the costs generated by that model are suspect. For example, the model assumes that BellSouth's current OSS can be transformed to permit a fallout rate of only 2 percent, even though BellSouth has not achieved that kind of flowthrough for its own orders. Further, it assumes that not a single CLEC order will require manual handling by BellSouth due to CLEC error. Finally, it is not consistent with the HAI model. Post-hearing Brief of BellSouth, pp. 42-45.

BellSouth has stated that its cost studies presented in this matter are based on its definition of "currently combined." Direct Testimony of Mr. Varner, p, 10; Direct Testimony of Ms. Caldwell, pp. 8, and 12-14. MCI WorldCom argued that the results of the BellSouth cost studies are not a result of the application of BellSouth's definition of currently combined; instead, they are the result of no longer assuming that elements must be physically separated and recombined in a collocation space. See Rebuttal Testimony of Mr. Wood, pp. 15-17. The Commission finds that BellSouth's recurring cost models are not impacted by BellSouth's definition of currently combined; and, as discussed elsewhere in this order, the Commission finds that, subject to certain modifications, the recurring rate for UNE combinations should be set using BellSouth's model. The Commission also finds that BellSouth's non-recurring cost models should be used to set the nonrecurring costs for those UNE combinations where the UNEs are currently in place. However, the non-recurring costs generated by BellSouth's model may be inappropriate for those UNE combinations where the elements are not, in fact, currently in place. The Commission finds, on an interim basis, that for those UNE combinations where the elements are not currently in place, the nonrecurring charge for such UNE combinations shall be the sum of the stand-alone NRCs of the UNEs which make up the combination. These interim rates shall be subject to true-up. Within 45 days of the date of this order, BellSouth shall file a cost study for nonrecurring charges for such new UNE combinations. The Commission shall conduct a review of the cost study.

C. Input Assumptions

1. Inputs Set in Docket No. 7061-U.

In Docket 7061-U, the Commission adopted a pricing methodology and resulting cost-based rates for the unbundling of BellSouth's network elements. As part of that proceeding, the Commission made several findings regarding the appropriate model inputs to be used in determining UNE rates. The Commission has taken judicial notice of the administrative record in Docket 7061-U during the hearing in this matter. Tr. 1019.

Many of the model inputs that the Commission adopted in Docket 7061-U have already been incorporated into the model that BellSouth has filed in this proceeding. For example, BellSouth has used the Commission approved rate of return and the plant lives and depreciation rates as prescribed by the FCC for BellSouth's operations in Georgia. The Commission finds that, except as otherwise specified in this order, all input adjustments to the BellSouth model which the Commission made in Docket 7061-U shall be approved for purposes of this proceeding and shall be properly incorporated into BellSouth's model.

2. Loop Sample and the inclusion of ESSX

In Docket 7061-U, the Commission recognized that the length of loops and their types of construction are major cost drivers. Order in Docket 7061-U, p. 34. Thus, the Commission rejected BellSouth's omission of shorter business-type loops, including ESSX, because exclusion of these shorter loops would result in an overstatement of loop costs. Order in Docket 7061-U, pp. 36-37. In the cost study filed in this case, BellSouth incorporated PBX trunks in its loop sample, but did not incorporate ESSX Service loops. Tr. at 431. AT&T and MCI argue that the ESSX loops should be included. The Commission agrees that ESSX should be included in the loop sample. BellSouth currently combines the loop and port used to provide ESSX service and this UNE combination should be available for use by the CLEC to provide the customer with local service. Rebuttal Testimony of Mr. Don Wood, pp. 24-25.

Including ESSX loops results in two adjustments to the TELRIC Calculator. Adding in the ESSX loops results in a reduction of the average cost of business loops since ESSX loops tend to be shorter. Adding in the ESSX loops also increases the total number of business loops by 367,997 (Docket 7061-U, BellSouth's response to Staff's Third Data Request, Item No. STF-3-5), thus increasing the proportion of business loops to total loops. Since business loops are cheaper than residential loops, as the percentage of business loops increases, the average loop cost decreases. The Commission finds that adding ESSX loops requires modifying BellSouth's model to reflect 68% residential loops and 32% business loops. This adjustment would result in a $0.55 decrease to the 2-wire loop/port UNE combination price.

3. Integrated Digital Loop Carrier (IDLC)/GR-303 IDLC

BellSouth's model assumes that 49% of digital loop carrier (DLC) loops are served by IDLC. AT&T and MCI argue that BellSouth's model should be adjusted so that all DLC loops are served by IDLC. BellSouth counters by arguing that an assumption of 100% IDLC ignores the realities of network design since BellSouth states that it will continue to deploy universal DLC in its network for the foreseeable future. Tr. 346. While the Commission agrees that an assumption of 100% IDLC ignores the realities of network design, the Commission finds that the percentage of IDLC currently assumed by BellSouth is not forward-looking. The Commission finds that BellSouth's model should be adjusted to reflect 98% IDLC. This adjustment would result in a $0.71 decrease to the 2-wire loop/port UNE combination price.

AT&T also advocates that BellSouth's cost studies be adjusted so as to assume GR-303 for all IDLC loops. BellSouth states that currently less than 1% of its access lines are served by GR-303, while 99% are served on TR-008. BellSouth states that it still deploys TR-008 in its network and will continue to do so throughout the study period. Tr. at 336. Bellcore estimated that, in 1997, 16% of BellSouth's lines were GR303 capable digital loop carriers. Tr. 372. BellSouth's model assumes 0% GR-303. While GR-303 is the forward-looking technology, the Commission finds that the replacement of TR-008 will be too gradual to warrant modifying BellSouth cost study to assume 100% GR-303 at this time. On the other hand, since GR-303 is already being deployed on a limited basis by BellSouth and is the forward-looking technology, 0% is also inappropriate. Based on its review of the evidence, the Commission finds that BellSouth's model should be modified to reflect 20% GR-303. This would result in a $0.18 decrease to the 2-wire loop/port UNE combination price.[7]

4. Rate Design for Switch Features (Vertical Features)

In Commission Docket 7061-U, the Commission reaffirmed its earlier decision in the AT&T-BellSouth arbitration (Docket No. 6801-U), that there should be no additional, separate charges for switch features. The Commission found "that switch vertical features should not be priced separately as individual elements, but should instead be incorporated within the unbundled switch port element." Docket 7061-U, Order, p. 39. The Commission noticed this proceeding to determine pricing for UNE combinations, not to revisit its decision on vertical features. In any event, the Commission finds no reason to change its prior decision on this matter. Accordingly, the Commission does not approve BellSouth's proposed additional costs for switch features. This would result in a $4.28 decrease to the 2-wire loop/port UNE combination price.

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7 AT&T had proposed an adjustment to the TELRIC Calculator to make up for the lack of using GR-303 in multiplexer inputs. See Rebuttal of Donovan, pp. 21-22. The adjustment, which assumes 100% GR-303, resulted in a reduction in the price of $0.91. Based on AT&T's reasoning, an assumption of 20% GR-303 results in a reduction of $0.18 (0.20 × 0.91 -- 0.18).

D. Rates For Combinations of Network Elements

1. Electronic versus Manual Orders

BellSouth has proposed different non-recurring charges for electronic orders versus manual orders. It does not appear that any party has objected to separately pricing orders based on the type of order. More importantly, the Commission finds that manual orders are more expensive for BellSouth to process than electronic orders. Accordingly, the Commission approves BellSouth's proposal to price manual orders and electronic orders separately.

2. Pricing of Specific UNE Combinations

Based on the adjustments discussed above, the Commission hereby approves the recurring and non-recurring rates for certain combinations of UNEs.

a. 2-wire loop/port UNE combination.

The Commission has made the following adjustments to BellSouth's proposed rate for the 2-wire loop/port UNE combination:

(i).	Eliminate Reasonable Profit Additive	$9.19
(ii).	Eliminate Vertical Feature Additive	$4.28
(iii).	Adjust for addition of ESSX loops	$0.55
(iv).	Adjust for use of 98% IDLC	$0.71
(v).	Adjust for use of 20% GR-303	$0.18

These adjustments result in a total recurring cost for 2-wire loop/port combination of $14.34. As discussed above, this combination (sometimes referred to as UNE-Platform or UNE-P) shall be available statewide and shall not be subject to the restrictions proposed by BellSouth in this matter.

As discussed above, the Commission finds that BellSouth's non-recurring cost model should be used to set the nonrecurring costs for those UNE combinations where the UNEs are currently in place. Accordingly, the nonrecurring cost for an existing 2-wire loop/port combination is $2.01 when ordered electronically. The non-recurring charges for additional orders and for manual orders for existing 2-wire loop/port combinations are set forth in Attachment A hereto.

The non-recurring costs generated by BellSouth's model may be inappropriate for those UNE-P combinations where the elements are not, in fact, currently in place. The Commission finds, on an interim basis, that for those UNE-P combinations where the elements are not currently in place, the nonrecurring charge for such UNE combinations shall be the sum of the stand-alone NRCs of the UNEs which make up the combination. These interim rates shall be subject to true-up. Within 45 days of the date of this order, BellSouth shall file a cost study for nonrecurring charges for such UNE combination. The Commission shall conduct a review of the cost study.

b. Loop/Transport Combinations.

BellSouth computed recurring and non-recurring costs for various loop/transport combinations:

2-wire voice grade extended loop with DS1 Dedicated Interoffice Transport;
4-wire voice grade extended loop with DS1 Dedicated Interoffice Transport;
4-wire 56 or 64 kbps extended digital loop with Dedicated DS1 Interoffice Transport;
Extended 2-wire VG Dedicated Local Channel with Dedicated DS1 Interoffice Transport;
Extended 4-wire VG Dedicated Local Channel with Dedicated DS1 Interoffice Transport;
Extended 4-wire DS1 Digital Loop with Dedicated DS1 Interoffice Transport;
Extended 4-wire DS1 Digital Loop with Dedicated DS3 Interoffice Transport; and,
Extended DS1 Dedicated Local Channel with Dedicated DS3 Interoffice Transport.

As discussed above, BellSouth had proposed a "reasonable profit" additive of $78.25 for the 4-wire DS1 loop-transport combination, which the Commission has disallowed.

The Commission finds that BellSouth shall provide these loop/transport combinations to CLECs. These combinations shall be available statewide and shall not be subject to the restrictions proposed by BellSouth in this matter except as specifically set forth in this order. The recurring rates for such combinations, whether currently in place or new, are set forth in Attachment A. BellSouth's non-recurring cost models should be used to set the nonrecurring costs for those loop/transport combinations where the UNEs are currently in place. These non-recurring charges are set forth in Attachment A hereto.

On an interim basis, for those loop/transport combinations where the elements are not currently in place, the nonrecurring charge for such UNE combinations shall be the sum of the stand-alone NRCs of the UNEs which make up the combination. These interim rates shall be subject to true-up. Within 45 days of the date of this order, BellSouth shall file a cost study for nonrecurring charges for such new loop/transport combinations. The Commission shall conduct a review of the cost study.

3. Pricing of UNE Combinations Not Costed In This Proceeding

To the extent that CLECs seek to obtain other combinations of UNEs that BellSouth ordinarily combines in its network which have not been specifically priced by this Commission when purchased in combined form, the Commission finds that the CLEC can purchase such UNE combinations at the sum of the stand-alone prices of the UNEs which make up the combination. If the CLEC is dissatisfied with using the sum of the stand-alone rates, the CLEC is free to pursue the bona fide request process with BellSouth to seek a different rate.

III. CONCLUSION AND ORDERING PARAGRAPHS

The Commission finds and concludes that the rates, terms and conditions as discussed in the preceding sections of this Order should be adopted for the interconnection with and unbundling of BellSouth's telecommunications services in Georgia, pursuant to Sections 251 and 252 of the Telecommunications Act of 1996 and Georgia's Telecommunications and Competition Development Act of 1995.

WHEREFORE IT IS ORDERED, that all findings, conclusions, statements, and directives made by the Commission and contained in the foregoing sections of this Order are hereby adopted as findings of fact, conclusions of law, statements of regulatory policy, and orders of this Commission.

ORDERED FURTHER, the cost-based rates determined by the Commission in this Order are established as the rates for BellSouth's unbundled network elements. BellSouth shall submit such compliance filings as are necessary to reflect and implement the rates and policies established by this Order. BellSouth shall file a revised Statement of Generally Available Terms and Conditions (SGAT) reflecting and implementing the rates and policies established by this Order and reflecting the unbundling requirements of the FCC's Third Report and Order within thirty (30) days of the date of this Order.

ORDERED FURTHER, that, as set forth in the body of this Order, BellSouth shall file the cost studies for those loop/port and loop/transport combinations that are not currently in place within 45 days of the date of this Order.

ORDERED FURTHER, the Commission shall reevaluate the availability of UNEs every three years in a manner consistent with the Third Report and Order.

ORDERED FURTHER, that if the Eighth Circuit Court of Appeals determines that ILECs have no legal obligation to combine UNEs under the Federal Act, the Commission will reevaluate its decision with regard to the requirement that BellSouth provide combinations of typically combined elements where the particular elements being ordered are not actually physically connected at the time the order is placed. Further, this docket shall remain open in the event the FCC's rules are modified to mandate different requirements for Enhanced Extended Links.

ORDERED FURTHER, that a motion for reconsideration, rehearing, or oral argument or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission.

ORDERED FURTHER, that jurisdiction over these matters is expressly retained for the purpose of entering such further Order or Orders as this Commission may deem just and proper.

The above by action of the Commission in Administrative Session on the 1st day of February, 2000.

Helen O'Leary

Helen O'Leary
Executive Secretary

02/01/00

Date

Bob Durden

Bob Durden
Chairman

2/1/00

Date

			Non		Non-Recurring		
Cost Element		Recurring	Recurring	First	Additional	Initial	Subsequ
M.0	ENHANCED OPTIONAL DAILY USAGE FILE (EODUF)						
M.1	Enhanced Optional Daily Usage File						
M.1.1	Enhanced Optional Daily usage File: Message Processing, Per Message	$0.0034555					
P.0	UNBUNDLED LOOP COMBINATIONS						
P.1	2-WIRE VOICE GRADE LOOP WITH 2-WIRE LINE PORT						
P.1.1	2-Wire Voice Grade Loop	$12.55					
P.1.2	Exchange Port - 2-Wire Line Port	$1.79					
P.1.3	2-Wire Voice Grade Loop / Line Port Combination - Non-recurring Costs			$2.01	$0.3108		
P.1.4	2-Wire Voice Grade Loop / Line Port Combination - Incremental Cost - Manual Svc Order vs. Electronic			$33.67	$7.66		
P.6	2-WIRE VOICE GRADE EXTENDED LOOP WITH DS1 DEDICATED INTEROFFICE TRANSPORT						
P.6.1	2-Wire Voice Grade Loop	$17.89					
P.6.2	Interoffice Transport - Dedicated - DS1 - Per Mile	$0.3008					
P.6.3	Interoffice Transport - Dedicated - DS1 - Facility Termination	$63.39					
P.6.4	Interoffice Transport - Dedicated DS1 System	$18.23					
P.6.5	2-Wire Voice Grade Extended Loop / DS1 Interoffice Combination - Non-recurring Costs			$12.97	$11.27		
P.6.6	2-Wire Voice Grade Extended Loop / DS1 Interoffice Combination - Incremental Cost - Manual vs. Electronic			$45.46	$15.72		
P.6.8	Interoffice Transport - Voice Grade Plug-In	$2.20					
P.6.791	2-Wire Voice Grade Extended Loop / DS1 Interoffice Combination - Non-recurring Costs - Disconnect			$12.61	$12.61		
P.7	4-WIRE VOICE GRADE EXTENDED LOOP WITH DS1 DEDICATED INTEROFFICE TRANSPORT						
P.7.1	4-Wire Voice Grade Loop	$28.58					
P.7.2	Interoffice Transport - Dedicated - DS1 - Per Mile	$0.3068					
P.7.3	Interoffice Transport - Dedicated - DS1 - Facility Termination	$63.39					
P.7.4	Interoffice Transport - Dedicated DS1 System	$18.23					
P.7.5	4-Wire Voice Grade Extended Loop / DS1 Interoffice Combination - Non-recurring Costs			$12.97	$11.27		
P.7.6	4-Wire Voice Grade Extended Loop / DS1 Interoffice Combination - Incremental Cost - Manual vs. Electronic			$45.46	$15.72		
P.7.8	Interoffice Transport - Voice Grade Plug-In	$2.87					
P.7.791	4-Wire Voice Grade Extended Loop / DS1 Interoffice Combination - Non-recurring Costs - Disconnect			$12.81	$12.41		
P.8	4-WIRE 56 OR 64 KBPS EXTENDED DIGITAL LOOP WITH DEDICATED DS1 INTEROFFICE TRANSP(						
P.8.1	4-Wire 56 or 64 Kbps Digital Grade Loop	$30.72					
P.8.2	Interoffice Transport - Dedicated - DS1 - Per Mile	$0.2068					
P.8.3	Interoffice Transport - Dedicated - DS1 - Facility Termination	$63.39					
P.8.4	Interoffice Transport - Dedicated DS1 System	$18.23					
P.8.5	4-Wire 56 or 64 kbps Extended Loop / DS1 Interoffice Combination - Non-recurring Costs			$12.97	$11.27		
P.8.6	4-Wire 56 or 64 kbps Extended Loop / DS1 Interoffice Combination - Incremental Cost - Manual vs. Electronic			$45.48	$15.72		
P.8.8	Interoffice Transport - Voice Grade Plug-In	$1.08					

Attachment A

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Cost Element	Recurring	Non Recurring	Non-Recurring First	Non-Recurring Additional	Initial	Subsequ
P.8.79 4-Wire 56 or 64 kbps Extended Loop / DS1 Interoffice Combination - Non-recurring Costs - Disconnect			$12.61	$12.61		
P.9 EXTENDED 2-WIRE VG DEDICATED LOCAL CHANNEL WITH DEDICATED DS1 INTEROFFICE TRAN						
P.9.1 Local Channel - Dedicated - 2-Wire Voice Grade	$16.28					
P.9.2 Interoffice Transport - Dedicated - DS1 - Per Mile	$0.3058					
P.9.3 Interoffice Transport - Dedicated - DS1 - Facility Termination	$63.30					
P.9.4 Interoffice Transport - Dedicated DS1 System	$16.23					
P.9.5 Extended 2-wire Voice Grade Dedicated Local Channel / DS1 Interoffice Combination - Non-recurring Costs			$12.97	$11.27		
P.9.6 Extended 2-wire Voice Grade Dedicated Local Channel / DS1 Interoffice Combination - Incremental Cost - Ma			$45.46	$15.72		
P.9.8 Interoffice Transport - Voice Grade Plug-In	$2.20					
P.9.79 Extended 2-wire Voice Grade Dedicated Local Channel / DS1 Interoffice Combination - Non-recurring Costs -			$12.61	$12.61		
P.10 EXTENDED 4-WIRE VG DEDICATED LOCAL CHANNEL WITH DEDICATED DS1 INTEROFFICE TRAN						
P.10.1 Local Channel - Dedicated - 4-Wire Voice Grade	$17.18					
P.10.2 Interoffice Transport - Dedicated - DS1 - Per Mile	$0.3058					
P.10.3 Interoffice Transport - Dedicated - DS1 - Facility Termination	$63.30					
P.10.4 Interoffice Transport - Dedicated DS1 System	$18.23					
P.10.5 Extended 4-wire Voice Grade Dedicated Local Channel / DS1 Interoffice Combination - Non-recurring Costs			$12.97	$11.27		
P.10.6 Extended 4-wire Voice Grade Dedicated Local Channel / DS1 Interoffice Combination - Incremental Cost - Ma			$45.46	$15.72		
P.10.8 Interoffice Transport - Voice Grade Plug-In	$2.67					
P.10.71 Extended 4-wire Voice Grade Dedicated Local Channel / DS1 Interoffice Combination - Non-recurring Costs-			$12.61	$12.61		
P.11 EXTENDED 4-WIRE DS1 DIGITAL LOOP WITH DEDICATED DS1 INTEROFFICE TRANSPORT						
P.11.1 4-Wire DS1 Digital Loop	$80.68					
P.11.2 Interoffice Transport - Dedicated - DS1 - Per Mile	$0.3058					
P.11.3 Interoffice Transport - Dedicated - DS1 - Facility Termination	$63.30					
P.11.4 Extended 4-wire DS1 Digital Loop / DS1 Interoffice Combination - Non-recurring Costs			$12.97	$11.27		
P.11.5 Extended 4-wire DS1 Digital Loop / DS1 Interoffice Combination - Incremental Cost - Manual vs. Electronic			$45.46	$15.72		
P.11.8 Extended 4-wire DS1 Digital Loop / DS1 Interoffice Combination - Non-recurring Costs - Disconnect			$12.61	$12.61		
P.13 EXTENDED 4-WIRE DS1 DIGITAL LOOP WITH DEDICATED DS3 INTEROFFICE TRANSPORT						
P.13.1 4-Wire DS1 Digital Loop	$80.48					
P.13.2 Interoffice Transport - Dedicated - DS3 - Per Mile	$4.46					
P.13.3 Interoffice Transport - Dedicated - DS3 - Facility Termination	$717.60					
P.13.4 Interoffice Transport - Dedicated DS3 System	$202.91					
P.13.5 Extended 4-Wire DS1 Digital Loop / DS3 Dedicated IOF Transport - Non-recurring Costs			$12.97	$11.27		
P.13.6 Extended 4-Wire DS1 Digital Loop / DS3 Dedicated IOF Transport - Incremental Cost - Manual vs. Electronic			$45.46	$15.72		
P.13.8 Interoffice Transport - DS1 Card or W-DCS port	$0.6670					
P.13.71 Extended 4-Wire DS1 Digital Loop / DS3 Dedicated IOF Transport - Non-recurring Costs - Disconnect			$12.61	$12.61		
P.14 EXTENDED DS1 DEDICATED LOCAL CHANNEL WITH DEDICATED DS3 INTEROFFICE TRANSPORT						
P.14.1 Local Channel - Dedicated - DS1	$38.57					
P.14.2 Interoffice Transport - Dedicated - DS3 - Per Mile	$4.46					
P.14.3 Interoffice Transport - Dedicated - DS3 - Facility Termination	$717.60					

	Cost Element	Recurring	Non Recurring	Non-Recurring First	Non-Recurring Additional	Initial	Subsequent
P.14.4	Interoffice Transport - Dedicated DS3 System	$202.91					
P.14.5	Extended 4-wire DS1 Dedicated Local Channel / DS3 Interoffice Combination - Non-recurring Costs			$12.97	$11.27		
P.14.6	Extended 4-wire DS1 Dedicated Local Channel / DS3 Interoffice Combination - Incremental Cost - Manual vs.			$45.46	$15.72		
P.14.8	Interoffice Transport - DS1 Card or W-DCS port	$0.6670					
P.14.71	Extended 4-wire DS1 Dedicated Local Channel / DS3 Interoffice Combination - Non-recurring Costs - Discon			$12.61	$12.61		
F.0	OPERATIONAL SUPPORT SYSTEMS						
F.1	OPERATIONAL SUPPORT SYSTEMS						
F.1.2	OSS OLEC Daily Usage File: Recording, Per Message	$0.0001275					
F.1.3	OSS OLEC Daily Usage File: Message Processing, Per Message	$0.0082548					
F.1.4	OSS OLEC Daily Usage File: Message Distribution, Per Magnetic Tape Provisioned	$28.85					
F.1.5	OSS OLEC Daily Usage File: Data Transmission (CONNECT:DIRECT), Per Message	$0.0000434					
L.0	ACCESS DAILY USAGE FILE (ADUF)						
L.1	Access Daily Usage File (ADUF)						
L.1.1	ADUF, Message Processing, per message	$0.0135327					
L.1.2	ADUF, Message Distribution, per Magnetic Tape provisioned	$28.85					
L.1.3	ADUF, Data Transmission (CONNECT:DIRECT), per message	$0.0000434					