LAW OFFICES
MESSER, CAPARELLO & SELF
A PROFESSIONAL ASSOCIATION

215 SOUTH MONROE STREET, SUITE 701
POST OFFICE BOX 1876
TALLAHASSEE, FLORIDA 32302-1876
TELEPHONE: (850) 222-0720
TELECOPIER: (850) 224-4359
INTERNET: www.lawfla.com

May 28, 2002

**BY HAND DELIVERY**
Ms. Blanca Bayó, Director
The Commission Clerk and Administrative Services
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket No. 990649B-TP

Dear Ms. Bayó:

Enclosed for filing on behalf of AT&T Communications of the Southern States, LLC, Mci WorldCom, Inc., and Florida Digital Network, Inc. are an original and fifteen copies of AT&T, MCI and FDN's Joint Posthearing Brief in the above-referenced docket. Also enclosed is a 3 1/2" diskette with the document on it in Word 97/2000 format.

Please acknowledge receipt of this letter by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely yours,

Tracy W. Hatch

TWH/amb
Enclosures
cc: Parties of Record

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

| | | |
|---|---|---|
| In re: Investigation into pricing of unbundled network elements | ) | Docket No. 990649B-TP |
| | ) | Filed: May 28, 2002 |

**POSTHEARING BRIEF OF AT&T, WORLDCOM, AND FDN**

AT&T Communications of the Southern States, LLC ("AT&T"), WorldCom, Inc., on behalf of its Florida operating subsidiaries MCI WorldCom Communications, Inc., MCImetro Access Transmission Services, LLC, and Intermedia Communications, Inc. (collectively "WorldCom"), and Florida Digital Network, Inc. ("FDN"), through their undersigned counsel, submit this joint posthearing brief. The parties note that this posthearing brief pertains solely to the Verizon portion of the docket. FDN will file a separate posthearing brief regarding Sprint.

**INTRODUCTION**

UNE rate levels are critically important to local competition. Verizon's Florida exchange network is fundamentally an inherited resource, which enjoys substantial economies of scale and scope and may still be a natural monopoly in many respects. One of the core reasons that the Telecommunications Act requires incumbents to offer UNEs is so that these inherited scale and scope economies can be *shared* by all providers. Without access to UNEs, Verizon's exclusive network would provide it essentially an insurmountable advantage. Indeed, the future of local competition is directly related to UNE rates, for these rates will determine whether other entrants are provided access to this critical network resource equal to that which Verizon provides itself.

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**INTRODUCTION**

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Verizon's filing fails to comply with the FCC's pricing rules and is not an open, verifiable and auditable model. Most fundamentally, Verizon's model, the Integrated Cost Model ("ICM"), does not model the least-cost, most-efficient network design and cannot be used to produce UNE rates that comply with the FCC's pricing rules. In general, Verizon's UNE rates proposed in this proceeding are excessively high, are many times higher than Verizon's UNE rates in other jurisdictions, and are significantly higher than UNE prices set for BellSouth in Florida. Verizon's proposals in this case are not only inappropriate, but unconscionable. Verizon is the nation's largest ILEC and should be able to capitalize on the efficiencies of scale and scope afforded by the size of its operations. Given that the former GTE operations now operate as part of Verizon, the studies and rates should be evaluated not just against the FCC's TELRIC standard, but against Verizon filings in other states as well as those of similar large ILECs such as BellSouth. Such comparisons can point the Commission to inconsistencies in company positions that may adversely affect the public interest in Florida. These other rates act as a "sanity check" for the Commission when its sets TELRIC-based rates for Verizon.

Z-Tel's Dr. George Ford performed such a sanity check, and presented the results in his testimony. Dr. Ford's test is based on the method that the FCC uses to assess whether the UNE rates of one carrier pass muster when compared to the approved rates of another carrier in a Section 271 proceeding. Using the exact same out files of the FCC's HCPM cost model the that the FCC uses for its tests to measure uniformly the costs that different carriers incur to provide UNEs, Dr. Ford observed that – while Verizon' *costs* of providing UNEs in Flrodia are roughly the same as BellSouth's corresponding Florida *costs* – in this case Verizon has proposed UNE *rates* that are

orders of magnitude higher than the UNE rates that the Commission has allowed BellSouth to place into effect. (Exh. 9) UNE rates are required to be *cost-based.* Logically, carriers having similar costs would have roughly equivalent UNE rates. Accordingly, the huge disparity in the relationship between costs and rates demonstrated by Dr. Ford's sanity test calls for analysis and explanation. As will be shown in this brief, Verizon has failed to justify the disparity, and has thrown roadblocks in the way of ATT/WorldCom/FDN's efforts to analyze the basis for Verizon's proposed rates. Despite these impediments, the record reveals that Verizon has loaded its model with assumptions that artificially inflate its costs.

The ICM as filed in this proceeding is not auditable. Moreover, certain types of assumptions are embedded in the software program and cannot be altered in order to compare various possible outcome scenarios. Verizon's proposed rates essentially are based on "black box" calculations that have not been audited or verified by Staff or intervenors. This is in stark contrast to other Verizon states, in which Verizon has provided models that are completely open and which can be audited and edited on a cell-by-cell basis.

AT&T/WorldCom/FDN, instead, propose, on an interim basis not subject to true-up, that the Commission apply the rates found in Exhibit 43, GJD-2, for recurring UNEs, which are those that AT&T and WorldCom proposed in the BellSouth 120-day proceeding. For UNE elements not contained in this exhibit, the Commission should apply the rates it determined in its BellSouth UNE Orders. The AT&T/WorldCom rate proposal in Docket No. 990649A-TP is consistent with FCC pricing rules and the UNE prices set for Verizon in other state proceedings, and will encourage the development of

local competition. Given the demographic and geographic structure of Verizon-Florida and BellSouth's Florida territory, it is reasonable to assume that cost-based UNE rates in Verizon's Florida territory should be slightly less than cost-based UNE rates in BellSouth's Florida territory. Further, Verizon is larger than BellSouth and should, therefore, enjoy additional economies of scale in several respects, which should serve to further lower Verizon's forward-looking cost as compared to BellSouth's. Therefore, BellSouth Florida UNE rates, as proposed by AT&T/WorldCom/FDN, should be established for monthly recurring UNE rates on an interim basis not subject to true-up, until a direct determination of TELRIC can be made for Verizon's Florida territory. Verizon's non-recurring rates should be reduced in accordance with the proposal made by Sidney L. Morrison.

## SPECIFIC ISSUES AND POSITIONS

**ISSUE 1:** What factors should the Commission consider in establishing rates and charges for UNEs (including deaveraged UNEs and UNE combinations)?

**AT&T/WCOM/FDN'S Position:** *** The ICM does not model the least-cost, most-efficient network and cannot produce rates that comply with the FCC's pricing rules. Nor is the ICM a transparent, verifiable model, open to review and accommodating changes to inputs and assumptions. Verizon relies on GTE's embedded operations and fails to reflect post-BellAtlantic/GTE merger enviroment. ***

The Telecommunications Act of 1996 provides that state commissions will set just, reasonable and nondiscriminatory rates for interconnection or the lease of network elements based on the cost of providing the network element and may include reasonable profit. (Section 252(d)(1)). Moreover, the rate must be determined without reference to a rate-of-return or other rate-based proceeding. *Id.* The U.S. Supreme Court expressly upheld the FCC's pricing methodology. Verizon Communications, Inc. v. FCC, No. 00-511, 535 U.S. ___, slip op. p. 23, (May 13, 2002) Specifically, the FCC determined that cost of should be the forward-looking economic cost of an element as the sum of the total element long-run incremental cost (TELRIC) of the unbundled network element and a reasonable allocation of forward-looking common costs. (47 C.F.R. §51.505(a)) Further, the FCC decided that the TELRIC should be measured "based on the use of the most efficient telecommunications technology currently available and the lowest cost network configuration, given the incumbent['s] wire centers." (47 C.F.R. §51.505(b)(1))

Essentially, to comply with the FCC's rules and U.S. Supreme Court decisions, the calculation of recurring and nonrecurring costs must be based on how things *should* be done, taking as a given the incumbent's wire centers. There should not be a substantial difference in the TELRIC rates the Commission sets for Verizon-Florida and

those it set for BellSouth. Indeed, the Commission should set lower TELRIC rates for Verizon, for the reasons discussed below.

**Verizon's Proposed Rates Are Incredibly High and Fail to Adequately Account for Merger Savings**

In this proceeding, Verizon-Florida used its ICM to produce its proposed rates for both recurring and nonrecurring UNEs. The rates produced by the ICM are extremely high when compared to rates established in other Verizon states, and by this Commission for BellSouth.

Verizon is the nation's largest ILEC and should be able to capitalize on all the efficiencies of scale and scope afforded by the size of its operations. In particular, those efficiencies should be apparent in Verizon's switching studies, OSS and many other aspects of its operations, just as Verizon promised investors, regulators, and customers when it promoted the benefits of the merger between Bell Atlantic and NYNEX, and then the merger of Bell Atlantic and GTE. (Tr. 534, 1153, 1161) For the merger with GTE, Bell Atlantic estimated that revenue, expense, and capital synergies would be approximately $4.5 billion per year while incurring transition and integration costs of only $1.6 billion over three years. (Tr. 534, Exh. 44, WRF-6) Since the merger, the former GTE companies operate under Verizon management and procedures, and facilities and network equipment are being procured under Verizon contracts. Certainly, the combined company will be able to operate more efficiently by implementing best practices and leveraging its buying powers associated with large volume purchases. (Tr. 1159)

The Commission should expect that the cost studies in this case to be imbued with the economies of scale and scope possessed by the monolithic Verizon, rather than the smaller GTE. Such treatment is essential under TELRIC, because the foundation of TELRIC is that it is forward-looking. The Commission must look forward in its assessment of Verizon-FL as part of the larger Verizon, rather than looking into its past at the old GTE Florida. (Tr. 1153) Given that the former GTE operations now operate as part of Verizon, the Commission should consider Verizon's filings in other states as well as those of similar large ILECs such as BellSouth. Such a comparison would serve to detect obvious attempts to inflate costs, acting as a "sanity check," but ultimately the Commission must set TELRIC-based rates. (Tr. 1160)

For example, for meaningful, widespread competitive local entry, it is essential that the TELRIC rates for UNE loops be set at a rate that encourages rather than discourages local entry. The FCC recognized this in its *Local Competition Order*:

> In some areas, the most efficient means of providing competing service may be through the use of unbundled loops. In such cases, preventing access to unbundled loops would either discourage a potential competitor from entering the local market in that area, thereby denying those consumers the benefits of competition, or cause the competitor to construct unnecessarily duplicative facilities. (Local Competition Order, Para. 378)

Indeed, the following chart demonstrates how out-of-line Verizon's proposal is when comparing it to other statewide average voice-grade loops rates and the rates proposed in this proceeding:

| ILEC and State | Statewide Average Voice Grade Loop Rate[1] |
|---|---|
| Verizon New Jersey | $9.53 |
| SBC California | $9.93 |
| Verizon New York | $11.49 |
| ALEC Proposed | $13.97 |
| Verizon Proposed | $26.19 |

In fact, Verizon's proposal for statewide average voice grade loop rate in this proceeding is more than double the statewide average rate in other states. Similarly, Verizon proposes significantly higher rates for DS1 loops, DSO port, and end office switch usage. (Exh. 61, AHA-4)

Verizon's proposal does not even come close to passing the "red-face" test. For example, the Commission established a switching port rate for BellSouth Florida of $1.17. (Tr. 1259) The Commission did not deaverage ports in BellSouth's vast Florida territory because the cost of switching generally should cost the same. Yet, if Verizon placed the same switch in Tampa, it proposes that a port cost of $3.30 – three times higher! Incredible, considering the switch would be in a similar building, operated by the same types of telecommunications technicians, and central office technicians. Something is clearly wrong.

[1] (Exh. 61, AHA-4); CA DN 01-02-024, *Interim Opinion Establishing Interim Rates for Pacific Bell Telephone Company's Unbundled Loops and Unbundled Switching Network Elements,* issued May 16, 2002; *Order on Unbundled Network Elements Rates,* Case 98-C-1357, issued January 28, 2002, NYPSC; *Order Instituting Verizon Incentive Plan,* Cases 98-C-1357, 00-C-1945, issued Feb. 27, 2002, NYPSC; Verizon-NY UNE Tariff Reflecting All of the New UNE Rates , Verizon New York, Inc., Issued Feb. 19, 2002, effective March 1, 2002.

**Verizon's ICM is not auditable, verifiable and cannot be used to produce TELRIC-compliant rates**

Verizon's ICM is not auditable, is not reliable, does not model the least-cost most efficient network design, and cannot be used to produce UNE rates that are compliant with the FCC's TELRIC pricing rules. (Tr. 1152) The FCC has found that models should be transparent, open and verifiable by Commissions and intervenors. The FCC directed in upcoming cases to be arbitrated by the FCC involving Verizon and three CLECs, computerized cost models must be "submitted in a form that allows the Arbitrator and the parties to alter inputs and determine the effect on cost estimates." (*Procedures Established for Arbitration of Interconnection Agreements between Verizon, AT&T, Cox, and WorldCom,* DA 01-270 (Feb. 1, 2001), Paras. A.2.1.i; A.3.1.c)

Although Mr. Tucek contends that the ICM is open to inspection and review, being open to inspection and review is not the same as being sufficiently open to allow for a complete audit of the model's algorithms and results. (Tr. 721, 1173) Even though the ICM model is relatively easy to run, the purpose of this proceeding is to audit and verify the model, not to establish how user friendly the model is for those who use it for predetermined outputs. Cost analysts, including intervenors and state commissions, can not verify the model itself because it is nearly impossible to audit the algorithms without extraordinary effort. [2]

> Once the model is up and running, I think the model ought to be designed in such a way that when it comes to most fundamental questions of things like fill factors, I don't have to pick up the phone and start begging Verizon, "please show me where is your fill factor in this." That ought to be transparent. (Exh. 28, Ankum Depo. , p. 188)

[2] When a cost analyst seeks information on how to trace investment through the ICM, an essential task for model validation, Verizon's response should not be hire a highly specialized programmer and figure it out for yourself. This does not make for an open, auditable model. (See Tr. 901-905, and see also, Exh. 19, Verizon Response to ATT/MCI Interrogatory No. 52).

Moreover, certain types of assumptions are essentially embedded in the software program and cannot be altered without rewriting and recompiling the programming code. (Tr. 1165) The code is buried deep in the model, and it would take an enormous amount of time to rewrite the code. (Exh. 28, Ankum Depo., pp. 28) In contrast, in New York the models are Excel-based, and users can trace from cell-to-cell what multiplications, divisions, additions, and subtractions are taking place. Moreover, using the New York cost model, a user can audit and edit on cell-by-cell basis. (Exh. 28, Ankum Depo., pp. 29-30, Tr. 1173) The important criterion is the ease with which a cost analyst can audit and validate the model, perform sensitivity runs, and review how the intermediate steps change as a result of the input. *Id.* The importance of open models cannot be overstated: cost analysts simply cannot verify cost study results if they cannot verify the models themselves. (Tr. 1174)

Essentially the model produces grossly out-of-line and produces unrealistic results. Even if the Commission were to grant all of the typical input arguments and standing issues of controversy in the ALECs' favor, the model would still produce results that are unrealistic, because the ICM has been designed so that certain types of assumptions are essentially embedded in the software program and cannot be gathered without rewriting and recompiling the programming code. (Tr. 1293, 1174) Because Verizon's ICM contains embedded, hard-coded "fatal flaws" that fail to comply with the FCC's pricing rules, Verizon's ICM is essentially a useless "black box" with respect to producing TELRIC-compliant UNE rates.

Known defects in the ICM include, but are not limited to, the following items:

**Loop Cost Studies**

First, Verizon's ICM does not model the forward-looking least cost network architecture. The ICM fails to place the remote terminal (RT) as close to the customer as possible to capitalize on the efficiencies of the relatively inexpensive fiber facilities, which results in the model assuming too much copper in the feeder and distribution links. Often, the use of a secondary serving area interface increases the use of copper facilities. This flaw is hard-coded in the ICM and cannot be changed by the Commission or the intervenors. (Tr. 1153, 1154) Thus, this hard-coded flaw is inconsistent with the requirements of the FCC's pricing rules and the U.S. Supreme Court decision upholding them.

Second, another flaw hard-coded in the ICM is that the ICM fails to consider that for larger buildings, it is less expensive to place the RT on the customer premises, thus avoiding the use of expensive copper feeder and distribution facilities. Verizon recognizes the efficiency of this practice in other jurisdictions. (Tr. 1154) This hard-coded flaw fails to meet the requirements of the FCC's pricing rules and U.S. Supreme Court decision upholding those rules.

Third, the length of drop and entrance cables modeled by the ICM is not accurate and is too long. This flaw is also hard-coded in the ICM. (Tr. 1154) This is discussed in more detail in Issue 7. Again, this flaw is inconsistent with TELRIC.

Fourth, the ICM fails to determine the actual location of any customer, unlike BellSouth's BSTLM or the HAI model. Instead, Verizon's ICM erroneously assumes that customers are equally distributed throughout a fixed arbitrary grid which results in

excessive amounts of plant being modeled and placed to locations where no customers exist. (Tr. 1154-1155)

Fifth, Verizon's fill factors are generally too low and do not reflect a forward-looking, least cost network built for a reasonable projection of actual demand and instead includes excessive amounts of spare to serve future customers. (Tr. 1155) This is discussed in greater detail in Issue 7(g).

Sixth, cost studies for digital loop carrier (DLC) based loops should be assumed to be Integrated DLC technologies. Verizon should not use universal service interfaces (channel units) in the studies. (Tr. 1155)

Seventh, Verizon fails to address the concentration ratio on the IDLC, which should be 6:1. Again, this flaw is hard-coded in the ICM and cannot be changed by the Commission or intervenors. (Tr. 1155)

**DS1 Unbundled Loops**

Verizon's proposed rates for DS-1 loops are many times higher than the rates charged by Verizon in other jurisdictions and those charged by other RBOCs. Essentially Verizon's proposed rates are much higher because it assumes low fill factors for its SONET based transport. (Tr. 1155-1156) This is discussed further in Issue 7(g).

**EELS**

As with its proposed DS1 loop rates, Verizon's proposed rates for multiplexing are many times higher than the rates charged by Verizon in other jurisdictions. The source of the inflated costs cannot be determined with certainty because much of the costs are calculated in the "black box" ICM. Most likely a contributing factor concerns

excessively low fill factors for 357c equipment. The fill factors should not be lower than 90%. (Tr. 1156)

**Switching Cost Studies**

Because the GTD-5 is not a forward-looking technology and is not used by Verizon or any ILEC anywhere except for the former GTE territories, it should be eliminated from forward-looking technology mix. (Tr. 1156) Clearly it is inappropriate to use outdated GTD-5 technology in a TELRIC analysis.

Switching cost studies should be based on an appropriate weighting of the high discounts for new switches and low discounts for growth on existing switches rather than the lower growth discounts used by Verizon in its SCIS and COSMOD. (Tr. 1156-1157)

Moreover, Verizon's proposal to require ALECs to purchase features on an *a la carte* basis is generally anticompetitive and serves only to artificially inflate recurring and nonrecurring charges. Monthly switch port charges should include the availability and use of all features. (Tr. 1157)

Switching is analyzed in greater detail in Issue 7(o).

**Nonrecurring Charges**

Nonrecurring charges should be based on forward-looking, least cost processes and should exclude the need for expensive labor-intensive manual processes. (Tr. 1157) NRCs are discussed in Issues 6 and 8.

**Depreciation**

Verizon's proposed depreciation inputs are based on principles rejected by court and Commission precedent and values Verizon could not support. Depreciation is discussed in Issue 7(b).

**Cost of Capital**

Verizon's proposed capital structure and cost of capital are drastically at odds with what this Commission has approved for BellSouth and what other state commissions have approved for Verizon. Cost of Capital is addressed in Issue 7(c).

**ISSUE 2:** (a) What is the appropriate methodology to deaverage UNEs and what is the appropriate rate structure for deaveraged UNEs?

**AT&T/WCOM/FDN'S Position:** *** Verizon's statewide average rate proposal should be rejected. The sprint sponsored de-averaging methodology advocated by the ALEC Coalition should be approved. The Commission must not approve the application of a deaveraging methodology where only a limited number of geographic areas have competitive activity and where it is not economical outside those areas. ***

See discussion under Issue 2(b).

(b) For which of the following UNEs should the Commission set deaveraged rates?

(1) loops (all);
(2) local switching;
(3) interoffice transport (dedicated and shared);
(4) other (including combinations).

**AT&T/WCOM/FDN'S Position:** *** At a minimum, all loops, subloops and UNE combinations containing loops or subloops should be deaveraged. ***

In order to comply with section 252(d)(1)'s requirement that rates be "based on the cost . . . of providing the . . . network element," rates for unbundled network elements must accurately and fully reflect each of the "cost drivers" that have a direct impact on the costs calculated. While this mandate pertains to all unbundled network elements, it is particularly important with respect to unbundled loops. First, new entrant's access to loops at efficient, cost-based rates is critical to the development of local competition. The local loop is the most expensive and difficult portion of the local network to replicate

on a ubiquitous basis. For this reason, many competitors will be forced to rely, in varying degrees, on being able to use the loop facilities of the incumbent LECs. Second, loop costs, perhaps more than the costs for any other element, vary significantly across geographic regions. (Tr. 1244-1245)

The development of cost-based rates requires that these significant geographic variations in costs be accurately and fully reflected in the rates for loops. Therefore, only loop rates that are appropriately geographically de-averaged can be found to be cost-based and in compliance with section 252(d)(1) of the Act. In paragraph 764 of the Local Competition order the FCC stated that:

> de-averaged rates more closely reflect the actual costs of providing interconnection and unbundled elements. Thus, we conclude that rates for interconnection and unbundled elements must be geographically de-averaged.

In paragraph 765 of the Local Competition order, the FCC further concluded that the Act requires at least three "de-averaged" rate zones. (Tr. 1245-1246)

If the loop costs, and hence loop prices, are not de-averaged, the pricing scheme will discourage efficient use of existing resources. It is essential that loop rates accurately reflect an underlying cost that is specific to the geographic area being served. (Tr. 1246-1247) The greater the variance between the underlying UNE costs and UNE prices, the more likely the incumbent LEC will receive an artificial competitive advantage in those geographic areas in which the actual loop costs are less than the adopted rate for loops. Under these circumstances, the ILEC has an artificial cost advantage and, in a competitive setting, can underprice the CLEC for competitive retail service and thereby discourage competition. Moreover, the incumbent LEC will also be able to use a portion of its inflated loop rate to subsidize other services and thereby gain a

competitive advantage over its competitors. In short, if UNE prices do not reflect their TELRIC cost, then the development of competition will be impaired and the ratepayers of Florida will be deprived of an optimally efficient network at competitive prices. (Tr. 1247-1248)

Initially it must be noted that Verizon-FL's proposal for deaveraging must be rejected. Verizon - FL's proposal to price UNEs at a statewide average rate is rooted in its desire to have retail rate deaveraging implemented before UNE deaveraging is implemented. (Tr. 516, 561) Verizon – FL's claim that the Commission is under no obligation to deaverage Verizon – FL's UNE rates at this time is totally without merit. The Commission has already acknowledged that it is required to deaverage UNE rates in at least three geographic areas according to 47 C.F.R. §51.507(f) of the FCC's rules on general rate design requirements for the pricing of interconnection and UNEs (See *May 25, 2001 UNE Order*, page 32-33). Therefore, Verizon – FL's request should be rejected out of hand. (Tr. 516)

As with Verizon-FL's primary proposal, its alternate proposal should also be rejected. This proposal creates three deaveraged zones. Under the alternate proposal, Zone 1 is based upon an average price of $18.94 with the statewide average rate of $22.94 as the ceiling. Approximately 67% of Verizon – FL's lines are priced below the statewide average rate. Zone 2 uses the statewide average rate of $22.94 as the floor and a rate 200% above the statewide average as the ceiling. Zone 3 contains wire centers with costs in excess of 200% of the statewide average. A 200% cost variation standard results in UNE rates that are overly averaged. (Tr. 520) Such wide diaparities between UNE prices and UNE costs clearly will inhibit cost efficient competition and should be

rejected in favor of more appropriate deaveraging methodologies.

The most appropriate starting point for a geographic deaveraging methodology in this proceeding for use with Verizon - FL is that described in Sprint – Florida, Inc. ("Sprint") witness Michael Hunsucker's direct testimony. (Tr. 516) The Sprint methodology applies an objective, measurable standard of cost variation to determining the required number of rate zones. This methodology limits the extent to which costs for a loop provisioned within a given wire center can exceed (or fall below) the average cost of the rate group within which the wire center is placed. The Sprint methodology ensures that no wire center-level loop cost will exceed (or fall short of) the average loop rate within a rate group by more than 20%. (Tr. 516). In addition to complying with the FCC's deaveraging requirements of 47 C.F.R. §51.507, the Sprint rate-banding methodology gives the Commission the flexibility to adjust the number of zones created based upon the percentage of deviation it sets as a benchmark to compare individual wire center costs to activity. (Tr. 517)

Sprint calculated the monthly recurring cost for two-wire loops at the wire center level and then grouped these deaveraged costs into rate bands (price zones) of similar costs. (Tr. 517 )[3] The lower and upper boundary of each rate band was set at –20% and +20% ("± 20%"), respectively, of the average cost of the units in that proposed rate band. If a wire center exceeded these boundaries, it was redistributed into the appropriate rate band. The clear benefit of this process is that it allows cost-zones to be created solely upon underlying costs characteristics, and not due to some artificial grouping of wire

[3] Sprint did not apply its banding methodology separately to each UNE; rather, Sprint based the zones for other UNEs on the wire center breakdown for the 2-wire analog loop.

centers. Further, the Sprint methodology more accurately minimizes the variances between UNE costs and UNE prices that is so critical to efficient and effective competition. The application of the Sprint methodology to Verizon-FL using a 20% range of deviation results in eight rate zones for a two-wire loop four zones for a DS1. (Tr. 518). The deaveraging results are illustrated in Exhibit 45 (WRF-2, and WRF-4).

The ALEC Coalition notes that the Commission previously made a determination that three rate zones were the most reasonable choice for BellSouth in the *May 25, 2001 UNE Order*[4] It made this determination based upon the belief that too many zones would be administratively burdensome and would not be necessary to reflect the level of variation in BellSouth's costs. To the extent that the Commission maintains its preference for three zones, an appropriate illustration of three deaveraged zones for both two-wire loops and DS-1 loops is shown in Exhibit 45 (WRF-3 and WRF-5).

Notwithstanding the Commission's deaveraging decision regarding BellSouth, the FCC made clear when creating 47 C.F.R. §51.507(f), that:

> ... A state may establish more than three zones where cost differences in geographic regions are such that if finds that additional zones are needed to adequately reflect the costs of interconnection and access to unbundled elements. (*Local Competition Order*, FCC 96-325, ¶765)

Clearly, the FCC's overriding concern is that the number of rate zones adequately reflect the differences in provisioning UNEs. It is important to note that the administrative cost to implement more than three rate zones should be minimal since the work required is mostly one-time charges to make programming changes in the ILEC's underlying rate tables within its billing system. Therefore, the administrative costs to implement more

[4] Because of the Commission's determination in the BellSouth phase of this case, Sprint itself has now

than three rate zones would not be burdensome in this instance. (Tr. 519)

The other issue the Commission referred to in its preference for three rate zones was whether more zones are required to reflect the level of variation in BellSouth's costs. If one applies this same evaluation criterion to Verizon – FL's 2-wire loop cost by zone in Exhibit 46, DBT-3, it is readily apparent that more than three rate zones are required.

The Sprint methodology as applied to Verizon's wire center costs is illustrated in Exhibit 45, (WRF-2). Approximately 82% of total lines would be priced below the statewide average cost of $22.94 before common costs are applied, but these lines would be segregated into three zones compared to Verizon's Zone 1. ALEC proposed Zones 1 ($8.93) and 2 ($16.44) would price approximately 22% of Verizon's lines below its Zone 1 rate of $18.94. The remaining 59% of lines priced below the statewide average rate of $22.94 would be placed in Zone 3 at a price of $21.42. Even using the three-zone version of 2-wire loop deaveraging in Exhibit 45 (WRF-3), the results are similar in that 82% of total lines are below the $22.94 statewide average cost and are segregated into two zones rather than the one zone Verizon – FL proposes. It is clear from this that the range of cost differences between wire centers calls for more than three rate zones. (Tr. 520-521) The Commission should generally favor more extensive geographic deaveraging rather than less geographic deaveraging. A greater degree of geographic deaveraging will enhance economic efficiency and the development of competition. A deaveraging methodology that results in a minimal number of wire centers and access lines in zones where the lowest rates are available does not promote competition.

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abandoned the original methodology it proposed in favor of deaveraging into just three zones.

**ISSUE 3:** (a) What are xDSL capable loops?

**AT&T/WCOM/FDN'S Position:** *** xDSL capable loops are loops that are capable of providing xDSL services without any modification. ***

(b) Should a cost study for xDSL-capable loops make distinctions based on loop length and/or the particular DSL technology to be deployed?

**AT&T/WCOM/FDN'S Position:** *** No specific position; however, any cost study for xDSL-capable loops, as well as for any UNE, should be based on the forward-looking economic cost, which assumes the most-efficient telecommunications technology currently available and lowest-cost network configuration. ***

**ISSUE 4:** (a) Which subloop elements, if any, should be unbundled in this proceeding, and how should prices be set?

(b) How should access to such subloop elements be provided, and how should prices be set?

**AT&T/WCOM/FDN'S Position:** *** No specific position at this time; however, any cost study for subloops, as well as for any UNE, should be based on the forward-looking economic cost, which assumes the most-efficient telecommunications technology currently available and lowest-cost network configuration. ***

**ISSUE 5:** For which signaling networks and call-related databases should rates be set?

**AT&T/WCOM/FDN'S Position:** *** No specific position; however, any cost study for signaling networks and call-related databases should be based on the most-efficient telecommunications technology available and lowest-cost network configuration. Verizon's proposed rate structure for these UNEs is unacceptable. The structure should be one price for set-up and transport queries. ***

**ISSUE 6:** Under what circumstances, if any, is it appropriate to recover non-recurring costs through recurring rates?

**AT&T/WCOM/FDN'S Position:** *** Generally, one-time costs incurred for the benefit of one customer are recovered through NRCs. The Commission, however, may require ILECs to recover NRCs through recurring charges, over a reasonable period. Costs incurred for the benefit of many customers or that provide future value should be recovered through recurring rates. ***

The parties agree that a distinguishing characteristic between types of cost recovery is that "(t)he monthly recurring and non-recurring costs [should be] separate costs and reflect different investments and expenses." (Tr. 941) Indeed, investment is different from expense; the former generally should be reflected in recurring, as distinguished from non-recurring, costs. (See Tr. 1089)

The Commission has previously determined that the NRCs to be imposed on ALECs should be "the efficient, one-time costs associated with establishing, disconnecting or rearranging" UNEs. (Order No. PSC-01-1181-FOF-TP, "*BellSouth UNE Order,"* pp. 331-32) As acknowledged by Verizon, the Commission also has recognized that 47 C.F.R. §51.507 (e) allows state commissions "wide latitude" to require ILECs to recover NRCs through recurring charges, over a reasonable period. (Tr.1087, 1090) *BellSouth UNE Order*, pp. 116, 332. The Commission has further held that "non-recurring activities are those that benefit only the specific ALEC." *BellSouth UNE Order*, p. 338.

Verizon agrees that "a company may charge a monthly recurring price for a non-recurring cost where the cost object has a reasonably certain revenue-producing life and is expected to be reusable by different customers." (Tr. 1020) Thus activities associated with a particular ALEC that are not reusable would presumably be recovered by NRCs. Indeed, as Verizon acknowledges, if a non-recurring activity would benefit more than one ALEC or is not "nonreusable" [sic], this Commission has the authority to order recovery of the costs of that activity through recurring rates. (Tr. 1053, 1088) Other instances in which the costs of a non-recurring activity may be recovered through recurring rates

include situations in which an ILEC can make a reasonable prediction as to the average non-recurring costs incurred in providing a UNE. (Tr. 1241)

**ISSUE 7:** What are the appropriate assumptions and inputs for the following items to be used in the forward-looking recurring UNE cost studies?

(a) network design (including customer location assumptions);

**AT&T/WCOM/FDN'S Position:** *** The ICM is rife with flaws including failure to appropriately locate customers which causes excessive modeled plant as well as modeling Verizon's embedded network configuration and embedded technology. The ICM is clearly not TELRIC compliant and must be rejected. ***

The ICM fails to determine the actual location of any customers, and erroneously assumes that customers are equally distributed throughout a fixed arbitrary grid. This results in an excessive amount of plant being modeled and placed to locations where customers do not exist. The ICM fails to consider that for larger buildings, it is less expensive to place the remote terminal on the customer premises, thus avoiding the use of expensive copper feeder and distribution facilities.

Verizon's ICM does not model a TELRIC compliant efficient forward-looking network. The FCC's pricing rules require that TELRIC "should be measured based on the use of the most efficient telecommunications technology currently available and the lowest cost network configuration, given the existing location of the incumbent['s] wire centers." Rule 51.505(b)(1). The principal flaw in Verizon's network architecture is that is that it has been designed to substantially reflect Verizon's embedded network both in terms of embedded technology as well as placement of the network. Verizon's network architecture violates the FCC's TELRIC pricing stricture that only the wire center locations are held constant and everything else is based on the most efficient least cost network technology and configuration. Specifically, Verizon's ICM fails this test in the

following ways: 1) the ICM does not appropriately model DLCs; 2) certain fiber routes are "assigned" in ICM to reflect Verizon's embedded network configuration rather than the ICM building efficient routes; 3) the UDLC modeled by ICM is not the most efficient least cost technology; 4) ICM does not model the forward looking ATM switching that Verizon is actually deploying in its Florida network; 5) ICM inappropriately includes nonforward looking switching technology and excludes certain forward looking switching technology; 6) ICM fails to construct a network to where the demand is actually located- the customers' locations; 7) ICM fails to fully capitalize on the efficiencies of fiber for loops that use DLC systems; 8) ICM fails to recognize the efficiency of placing the RT on the customer premises for larger buildings; 9) the ICM's drop lengths are too long; and 10) ICM's concentration ratios are too low.

DLCs and Fiber Routes Are Inappropriately Modeled

The ICM does not model a network in compliance with TELRIC. DLCs are not modeled by the ICM. The DLC locations are "based on Verizon's existing network in Verizon's Florida serving area." (Tr. 714) (Exh. 25, Tucek Depo. p. 42) Verizon concedes that this is contrary to the FCC's requirement that only the incumbent's wire centers should be based on existing actual locations. (Exh. 25, Tucek Depo. p. 60) Further, Verizon artificially added DLCs as inputs to the ICM to protect its embedded investment. (Tr. 910-911) As stated by Mr. Tucek:

> Well, the DLC input started with the existing DLC locations and in some cases ended there, too, but there were situations in which we wanted to preserve existing feeder routes that we would add additional locations in the model. So we would have a feeder route that we know existed in the network, we had to put a DLC where one did not exist so that ICM would model that feeder route. We felt that was important because feeder routes are a major part of plant investment, particularly replacement cost, and you pick that up in the model by doing that. (Exh. 25, Tucek Depo. p.42)

There can be no disagreement that Verizon has clearly attempted to manipulate the ICM modeling process to insure that it set UNE rates at a high level to protect its embedded network investment. This kind of blatant manipulation is the antithesis of TELRIC's requirement to build an efficient least cost network from the ground up holding only existing wire centers constant. For this reason alone the Verizon's ICM "modeled" network fatally flawed and must be rejected in its entirety.

Modeled DLC is Not Forward Looking

ICM models unintegrated digital loop carrier equipment for its DLCs. (Tr. 882) Unintegrated DLC is inferior and not forward looking technology compared to integrated digital loop carrier technology. IDLC is the most forward looking least cost technology and is already deployed in Verizon's network. IDLC is more efficient and less expensive than non-integrated UDLC. IDLC is what Verizon uses to serve its own retail customers. Modeling UNE prices based on a more expensive less efficient UDLC technology would create a competitive gap as well as violate TELRIC pricing principles. (Tr. 1193) Notwithstanding the controversy regarding whether an unbundled loop can be provisioned over IDLC, Verizon conceded that is it possible to do and pointed out how it can be done, even if on a limited basis at the DS-1 level. (Tr. 782-785) Further, IDLC is and can be used to provide UNE-P. As conceded by Witness Tucek, running the ICM using IDLC would reduce the cost of UNE-P. (Tr. 915) Verizon's use of UDLC must be rejected in favor of using next generation IDLC to price UNEs.

Modeled Switching Inappropriately Includes GTD-5 and Excludes ATM Switching

The majority of switches modeled by the ICM are not forward looking technology but are simply part of Verizon's embedded base. The GTD-5 comprises 72 of 90 of Verizon's wire centers. (Tr. 757) The GTD-5 is not forward looking technology and must be excluded from TERLIC calculations. (Tr. 1222)This is another attempt of Verizon to model its embedded network in violation of TELRIC principles. See Issue 7(o) below for complete discussion. The record clearly shows that Verizon has deployed ATM switching technology in its Florida territory. (Tr. 876) (See Exh. 18) Verizon response to Staff interrogatory 57, 58) ATM technology is forward looking and efficient switching technology, yet Verizon excludes it from its switching technology mix in the ICM.

ICM Fails to Accurately Locate Customers

The ICM does not know the actual location of any demand and "constructs" its network to locations where customers do not exist. Customer locations in the ICM are based on an arbitrary grid system. The ICM assumes that customers are evenly distributed along the road feet[5] within its grid. (Tr. 761, Exh. 25 p. 75) In the Fifth Report and Order on USF (FCC 98-279, October 28, 1998, *Platform Order*), the FCC noted the following about appropriate customer location methodologies when it evaluated the HAI and BCPM models:

> Each model has a method for determining where customers are located. The issues raised are whether to use actual geocode data, to the extent they are available, and what method to use for determining surrogate customer locations where geocode data are not available. **We conclude that HAI's proposal to use actual geocode data, to the extent that they are available, is the preferred approach, and BCPM's proposal that we use road network information to determine customer location where actual data are not available**, provides the most reasonable method for determining customer locations.[6] [emphasis added]

[5] Verizon's calculation of road feet excludes interstate highways, bridges, tunnels and alleys.

[6] *Platform Order*, ¶ 31.

In choosing geocoded data to locate customers, the FCC stated:

> We conclude that a model is most likely to select the least-cost, most-efficient outside plant design if it uses the most accurate data for locating customers within wire centers, and that the most accurate data for locating customers within wire centers are precise latitude and longitude coordinates for those customers' locations. [7]

Significantly, however, Verizon's fails to use geocoded data for customer locations despite the availability of such information. This is particularly disturbing in view of the fact that Verizon's Florida territory has the highest geocoding success rate of all the ILECs in Florida. In contrast to Verizon, BellSouth in its BSTLM cost model "incorporates all of BellSouth geocoded customer and network data" which includes all customer points.[8]

Where geocoded data may not be accurate, then Verizon can use road network information. For instance in the BSTLM, BellSouth chose to employ only addresses that had been successfully geocoded to the address level. Customer locations not geocoded to this high level of accuracy were instead surrogated through use of road network information.[9] Verizon likewise should be required to use available geocoded data to the full extent possible. Once customers are located, the next issue is how they should be grouped. The FCC noted:

> Once customer locations have been identified, each model must determine how to group and serve those customers in an efficient and technologically reasonable manner. A model will most fully comply with the criteria in the Universal Service Order if it uses customer location information to the full extent possible in determining how to serve multiple customers using a single set of electronics. Moreover, the model should strive to group customers in a manner that will allow efficient service. As discussed below, **we conclude that a clustering approach, as first proposed by HAI in this proceeding, is superior to a grid-based methodology in**

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7 *Platform Order*, ¶ 33.
8 *BellSouth UNE Order* at 130-132.
9 Id.

> **modeling customer serving areas accurately and efficiently.** In addition, we conclude that the federal high cost mechanism should use the HCPM clustering module.[10] [emphasis added]

Verizon's Witness Tucek posits that the BSTLM's "is superior to the HAI Model since it does not condense the geocoded locations into clusters before modeling the network." (Tr. 796) Verizon then criticizes the BSTLM because its greater precision in determining customer locations takes 10 hours to complete a model run while pointing out that the ICM will complete a run in 11 minutes. (Tr. 796). It is beyond dispute that clustering customers based on geocoded customer locations is a superior means to locate customers compared to a grid approach. It is further clear the even if a 100 percent successful geocoding rate is not possible, use of some geocoding information is far better than none. Verizon's attempt to sacrifice the precision and accuracy of the BSTLM simply because it would take longer to run than the ICM should be dismissed out of hand. Verizon's use of a grid approach instead of a clustering approach is clearly an inferior means of locating customers and should be rejected. Any determination of Verizon's UNE rates must be based on the most accurate means of locating customers -- a geocoding and clustering approach.

**The Efficiencies of Fiber Facilities**

The ICM model assumes that there is always a portion of the feeder that is copper based even if the loop uses a fiber based DLC system. Further, the ICM model assumes that in many instances there is even a secondary SAI (Serving Area Interface) in addition to the first SAI, thus further increasing the use of copper facilities rather than diminishing it. There is no attempt in the model to place the FDI (with the RT) close to the customer

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10 *Platform Order*, ¶ 42.

and to extend the cheaper fiber facilities so as to conserve on expensive copper facilities. (Tr. 1207)

Verizon concedes that the ICM assumes the use of copper feeder, even though all of the modeled DLCs are fiber fed. (Tr. 797) This is yet another example of an ineffecient network modeled by ICM. In other jurisdictions Verizon recognizes that fiber is relatively cheap as compared to copper. This means that once the decision is made to deploy a fiber based DLC system – as is the case for longer loops – it is important to capitalize on the efficiencies of the fiber and to drive the fiber as deeply into the distribution area as possible so as to minimize the use of expensive copper facilities (feeder and distribution.) (Tr. 1206)

**RT On The Customer Premises**

Verizon's ICM does not model a scenario in which a Remote Terminal (RT) is placed on the customer's premise. (Tr. 800) It is clear from this record that Verizon does actually place RTs on customers' premises. (Exh. 25, p. 42). In other jurisdictions Verizon recognizes that where it concerns larger buildings, it may be more efficient to locate a RT on the customer premises. This eliminates the need for expensive copper feeder and distribution facilities altogether. Further, the RT is cheaply housed on the customer premises and can still be used to serve customers in adjacent buildings. (Tr. 1207)

**Concentration Ratio**

In Verizon's loop cost studies, a large portion of the costs is associated with the fiber based DLC system. The great advantage of using a fiber based DLC system is that it allows traffic to be concentrated onto more efficient facilities. As a result the

concentration ratio is one of the most important cost drives in the loop studies. (Tr.119) The most efficient forward looking DLC is a GR303 DLC based system that has a range of achievable concentration levels from 1:1 to 44:1, based on calling patterns. (Tr. 1200; See Newton's Telecom Dictionary, Copyright 2000 Harry Newton, Published by Telecom Books, an imprint of CMP Media Inc., New York NY 10010, page 382)

The "black-box" nature of the ICM makes it difficult to determine exactly what the concentration ration is in the ICM. The level of concentration is not a user defined input into the model, but is hard-coded into the algorithm. Notwithstanding, Verizon should be ordered to use a concentration ratio of 6:1. (Tr. 1200)

Verizon does not have a great proportion of its loops on fiber. However, on a forward looking basis, it is likely that a far larger portion of customers, specifically residential customers, will be served by fiber particularly in view of fiber/copper breakpoint in Verizon's own studies. (Tr. 1202) If Verizon serves those residential customers with fiber based IDLC, the residential calling pattern would allow for a different concentration ratio than used for business customers. (Tr. 1202)

The effect of the cost study assumptions is that – in contrast to Verizon's real network – a *mix of customers*, consisting of both *business* and *residential* customers, will be served by fiber based DLC systems. Given the concentration ratio for business customers, a mix of residential and business customers will allow a higher concentration ratio. This observation is even more true, if one considers that business customers call mostly during the day (i.e., *the business peak is during the day*) while residential customers call mostly at night (i.e., *the residential peak is in the early evening*). Thus, since business and residential customers are likely to have *two distinct peaks*, their calling

patterns are complimentary and do not crowd out one another: as a result, a higher concentration ratio is possible. (Tr. 1203)

One of the consequences of Verizon's decision to assume larger quantities of fiber deployment for cost study purposes than actually deployed in its real network is that a higher concentration ratio can be achieved. Given that under TELRIC, one must assume a least-cost, forward-looking network, a concentration ratio of 6:1 is appropriate.

***Drop Lengths***

See discussion under Issue 7(k).

(b) depreciation;

**AT&T/WCOM/FDN'S Position:** *** Verizon has failed to meet its burden of proof. The Commission should therefore reject Verizon's proposed lives and salvage values and require Verizon to re-run its cost studies using the range of FCC approved lives and values. Alternatively, the Commission should adopt the lives and values approved for BellSouth in this docket. ***

Apparent from the record is that Verizon's proposed economic lives for technology sensitive accounts are (1) supported by little more than a "feeling" of impending competitive pressures and (2) based on principles at odds with the U.S. Supreme Court's recent TELRIC decision[11] and this Commission's BellSouth decision. Because Verizon has offered inadequate support for its depreciation proposals, the Commission should adopt, as Dr. Ankum recommends, the FCC's prescribed depreciation inputs or, alternatively, the inputs this Commission approved for BellSouth.

Of particular significance to depreciation issues in this case is the U.S. Supreme Court's rationale for rejecting Verizon's arguments against the TELRIC methodology:

> The incumbent's fallback position, that existing rates of depreciation and costs of capital are not even reasonable starting points, is unpersuasive. As to depreciation rates, it is well to start by asking how serious a threat

[11] Verizon Communications, Inc. v. FCC, No. 00-511, 535 U.S. ___(May 13, 2002)

> there may be of galloping obsolescence requiring commensurately rising depreciation rates. The answer does not support the incumbents. The local-loop plant makes up at least 48 percent of the elements incumbents will have to provide . . . and while the technology of certain other elements like switches has evolved very rapidly in recent years, loop technology generally has gone no further than copper twisted-pair wire and fiber optic cable in the past couple of decades. . . . . We have been informed of no specter of imminently obsolescent loops requiring a radical revision of currently reasonable depreciation. This is significant because the FCC found as a general matter that federally prescribed rates of depreciation and counterparts in many States are fairly up to date with the current state of telecommunications technologies as to different elements. [12]

The Court thus dismissed the pivotal assertions Verizon advances here: that loop facilities will rapidly become obsolescent and that the FCC's prescribed rates are dated.

Additionally, the record in this case is utterly devoid of persuasive analysis or corroborating proof to support either of these two Verizon's claims.[13] For instance, as to copper loop/distribution facilities, Verizon could produce no corroborating evidence that it had begun or had budget plans for replacement, had specific replacement strategies, or that its recent retirement or displacement activity suggested substitution. (Exh. 24, p. 18-25, 49)[14] Verizon witness Sovereign brazenly admitted that Verizon placed nearly exclusive reliance on subjective opinion of impending technological change and competitive pressures. (Exh. 24, p.23). Notably, the pressures the witness relied on most were from cable and wireless providers – sources the Supreme Court did not consider worthy of note – and in the BellSouth case, the Commission rejected the assumption of fiber in the loop on a showing much more extensive than the speculation Verizon

12 Verizon Communications, Inc. v. FCC, No. 00-511, 535 U.S. ____ (May 13, 2002)

[13] Although the focus of the discussion herein is on technology sensitive accounts, Verizon witness Sovereign admitted there was no detailed support in the record for building depreciation (Exh. 24, p. 49) or for any of the salvage values proposed. (Exh. 24, p. 53)

presented here. Moreover, both the Commission[15] and the U.S. Supreme Court (as quoted above) have recognized what Dr. Ankum supported (Tr. 1254 – 1255) and Verizon simply refuses to accept: the FCC's prescribed lives and salvage values are not obsolete.

As for Verizon's purported benchmarking "analysis," the ALECs simply remind the Commission what it said in the BellSouth order:

> We believe that without a complete understanding of how competitors determine their life projections, as well as an understanding of each company's equipment and how that equipment is used, an apples-to-apples comparison cannot be made.

*Id.* at p. 171. Since Verizon witness Sovereign did not know how the competitors' data was developed (e.g., Exh. 24, p. 26 - 42), Verizon's benchmarking should be ignored.

The ALECs therefore submit that the only depreciation recommendation supported by the record is Dr. Ankum's.

(c) cost of capital;

**AT&T/WCOM/FDN'S Position:** *** The Commission should reject Verizon's use of a 12.95% cost of capital and should require Verizon to re-run its cost studies using a cost of capital no higher than the 10.24% approved for BellSouth and should be in the range of 8 to 8.5% advocated by Dr. Ford. The Commission should require that equity comprise no more than 60% of Verizon's capital structure. ***

Verizon Florida's proposed overall cost of capital is 414 basis points higher than that approved for Verizon New Jersey, 245 basis points higher than that approved for Verizon New York, and 271 basis points higher than what this Commission approved for BellSouth. (Tr. 1248 – 1251; Order No. PSC-01-1181-FOF-TP, p. 187) Even if one

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[14] These were all factors the Commission considered relevant in the BellSouth decision. ( Order No. PSC-01-1181-FOF-TP at p. 168 – 170).

[15] "We agree . . . the FCC is fully aware of the increasingly competitive telecommunications marketplace . . . . Further, the FCC's prescribed projections lives and retirement patterns reflect shorter lives and higher retirements than indicated by historical statistics." (Order No. PSC-01-1181-FOF-TP at p. 166_.

accepts that some variation for cost of capital among companies and regions may be expected, there can be no acceptance of Verizon Florida's proposal within the realm of reason. Even in the days of rate of return regulation, when a pre-Verizon GTE Florida was a much smaller firm than BellSouth and not part of the largest ILEC in the entire country, a 271 basis point difference in the firms' cost of capital (and a 255 basis point difference in cost of equity) would be inconceivable.

As for Verizon's proposed capital structure, Dr. Ankum points out, as does Dr. Ford, that the Commission rejected the use of a market value capital structure in the BellSouth case. (Tr. 278, 1249) Since Verizon offers no argument or justification for a market value capital structure beyond that previously rejected by the Commission in the BellSouth case,[16] the Commission should likewise reject Verizon's proposed market value capital structure and instead adopt the 40 – 60 debt to equity split recommended by Dr. Ankum, Dr. Ford and Mr. Draper. (Tr. 232, 285, 1249)[17]

Pivotal to Verizon's cost of capital assumptions are its risk assumptions. Chief among these is Verizon's competitive influence assumption – an assumption based only

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[16] Verizon essentially argues, as BellSouth did, that a market value capital structure reflects investor and market expectations and is the only capital structure consistent with a forward-looking cost approach. (see, e.g., Exh. 22, p. 9 – 12) Dr. Vander Weide acknowledged, however, that neither the Act nor FCC rules require a market value capital structure. (Exh. 22, p. 13 – 14) Consistent with his theoretical approach, Dr. Vander Weide argues the irrelevance of actual book capital structure and traditional bond rating agency guidelines and ratios. However, the Commission deemed that these considerations were relevant in the BellSouth case and that, essentially, a forward-looking capital structure is not a license to dilacerate every traditional capitalization principle. Order No. PSC-01-1181-FOF-TP at p. 185 – 186.

[17] Further, consistent with the recommendations of Dr. Ford, Verizon's debt structure should include short-term debt. The Commission included short-term debt in the BellSouth case, and Verizon's rationale for excluding it here is nebulous at best. On the one hand, Dr. Vander Weide claims he is matching long-term debt financing with the long-term asset requirements of building a "complete telecommunications network starting now" (Exh. 22, p. 34), but on the other hand, he relies on an investment assumption with an "optimal time path for replacing the current network with the optimal mix of new technologies" (Exh. 22, p. 46- 47; Tr. 405). He also flatly ignores any going-concern need for working capital. (Exh. 22, p. 32)

on theory and inadequately bolstered by suspect proof. Dr. Vander Weide argues that the TELRIC methodology requires the assumption/replication of a fully competitive market. (Tr. 423; Exh. 22, p. 29) However, if his theory were correct, there would have been no need for the U.S. Supreme Court to opine:

> As for risk-adjusted costs of capital, competition in fact has been slow to materialize in local-exchange retail markets . . . and whether the FCC's assumption about adequate risk adjustment was based on hypothetical or actual competition, it seems fair to say that the rate of 11.25 percent mentioned by the FCC . . . is a "reasonable starting point" for return on equity calculations based on the current lack of significant competition in local-exchange markets.[18]

In other words, there was no required assumption of a fully competitive market for TELRIC cost of capital evaluations. Persuasive reasoning for rejecting Dr. Vander Weide's assumption can also be found in the New York Verizon decision (Tr. 1252). There, the administrative law judge rejected the idea of "basing the cost of capital on a 'fantasy marketplace,' in which the provision of local telephone service is as competitive as the sale of detergent," (Tr. 1252) Further, were the Commission to look to the record for evidence of reality-based competitive pressures, it will find the competition report on which Dr. Vander Weide placed exclusive reliance (Exh. 22, p. 33)[19] is not in the record. In any case, neither Dr. Vander Weide nor that report provide concrete support for the notion that Verizon Florida is now or will be subject to greater competitive activity than BellSouth.

The Commission should reject Verizon's ethereal and unsupported arguments and adopt Dr. Ankum's and Dr. Ford's recommendations as stated in the position statement.

**(d)** tax rates;

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[18] Verizon Communications, Inc. v. FCC, No. 00-511,535 U.S. ____, Slip. Op. p. 50, (May 13, 2002)
[19] Dr. Vander Weide stated he relied on the Commission's Division of Competitive Services 2001 Report on Competition in Telecommunications Markets in Florida.

**AT&T/WCOM/FDN'S Position:** *** No position. ***

(e) structure sharing;

**AT&T/WCOM/FDN'S Position:** *** No position because Verizon's ICM is not a transparent, verifiable, reliable model, and it is not open to review and capable of accommodating changes to inputs and assumptions. ***

(f) structure costs;

**AT&T/WCOM/FDN'S Position:** *** No position because Verizon's ICM is not a transparent, verifiable, reliable model, and it is not open to review and capable of accommodating changes to inputs and assumptions. ***

(g) fill factors;

**AT&T/WCOM/FDN'S Position:** *** The Commission should set Verizon's fill factors according to Exh. 61, AHA-6. Verizon's fill factors are too low, do not reflect a forward-looking, least-cost network built for a reasonable projection of actual demand, and inappropriately include large amounts of spare facilities. ***

Verizon's fill factors are generally too low and do not reflect a forward-looking, least-cost network built for a reasonable projection of actual demand. Verizon has included large amounts of spare facilities to accommodate anticipated growth in demand by future customers, which is inappropriate in a TELRIC setting. Because the ICM's algorithms are cumbersome if not impossible to audit, one cannot determine for the various components of the loop what the fill factors are, and, specifically, how and where in the model the fill factors are applied. (Tr. 1178) There needs to be some way the Commission knows what the rate of utilization is and some way where the Commission has control over what that rate of utilization is so it can adjust that rate of utilization. (*Id. at 193)* In fact, when asked in discovery what the specific rates of utilization were, Verizon responded that it would have to do specialized studies and that it would be too burdensome to do. (*Id. at 40*, Exh. 19, Verizon Response to AT&T/MCI Interrogatory 32) Thus, Verizon is not even willing to identify the rate of utilization on some of the most critical elements in this proceeding – which is one of the most basic questions found in every TELRIC proceeding.

Generally, Verizon's proposed use of low fill factors is discriminatory and anticompetitive. First, Verizon typically lists a large number of considerations to justify low fill factors, assigns values to those considerations, which further reduces the utilization rate. Essentially, Verizon ignores the fact that spare for growth can be used for maintenance and repair, and that spare for repair can be used for maintenance. By making such compounded reductions to the fill factors, Verizon artificially reduces the level of utilization that is possible on various facilities. (Tr. 1179-1180)

Second, ALECs should not be required to pay for spare growth as Verizon's proposed fill factors require. The result of this anticompetitive proposal would be that ALECs would have to pay for facilities placed to serve *Verizon's* future customers. ALECs will be able to use those facilities again, but only after they pay for them again. In contrast, Verizon can use those spare facilities that the ALECs are paying for and at any time use those facilities to compete against the ALECs. (Tr. 1180) ALECs cannot viably compete if they are forced to pay for the very "spare" facilities that Verizon will use to compete against them. (Tr. 1181)

**Verizon's Distribution Fills Are Too Low**

Verizon's ICM reports an average weighted distribution fill of only 38.27%. This extremely low fill factor for distribution facilities appears to demonstrate that Verizon is incorrectly modeling its actual embedded network rather than a forward-looking, least-cost network consistent with TELRIC as required by the FCC's pricing rules and the U. S. Supreme Court. Verizon Communications, Inc. v. FCC., No. 00-511, 535 U.S. ___ (May 13, 2002) Moreover, Verizon also inappropriately includes large amounts of spare

facilities, which is inconsistent with TELRIC principles. (Tr. 1182-1183, *Local Competition Order,* para. 682)

**Verizon's Fills for Drop Facilities Are Too Low**

Verizon's fill on drop facilities is determined as a combination or user inputs and the pre-programmed algorithm of the ICM. Residential and business drops are calculated separately and based on their own assumptions. The fill factor issue is obscured by how the drops are identified. (Tr. 1185)

Specifically, Verizon obscures the level of effective fill because it is not apparent how many residential units are served over the 25-pair cable, without an enormous undertaking that is essentially infeasible for the Commission and intervenors. The ICM assumes that there are 3 drops to every residential unit with 500 residential units or less. For demand units with more than 500 residential units, the model assumes 25 pair entrance facilities, and the model assumes a fill of 50%. (Tr. 1185) Because of the way in which Verizon treats drop facilities, the drop is a very expensive portion of the loop. Thus, the combination of low fills and long drop facilities, which is discussed in Issue 7(k), causes an inappropriate inflation in loop costs.

Accordingly, the Commission should require Verizon to base its loop cost studies on no more than 2 pairs per drop instead of 3. Moreover, the fills on those drops should be no lower than those approved for copper distribution links.

**Verizon's Copper and Fiber Feeder Fills are Too Low**

Verizon again obfuscates the fills on feeder facilities. On average, the number is 93.59%; however, it is entirely unclear how this number is derived and which facilities it

concerns. It is also unclear whether this number includes spare for such reasons as deficient pairs, maintenance, and administration. (Tr. 1186)

TELRIC requires use of forward-looking technology which clearly means that there will be a migration toward fiber-based feeder facilities - little new copper feeder will be placed, and existing copper feeder will grow to its objective 90% fill. (Tr. 1186) Once a copper feeder facility reaches its maximum fill, it will most likely not be reinforced; rather fiber DLC systems will be put in place to accommodate growth.

Accordingly, the Commission should order a copper feeder fill of 85% as the appropriate fill in a forward-looking, least cost network. This is below the objective fill of 90% that already should exist on a large number of routes, but recognizes that on a forward-looking basis, feeder facilities will be reinforced with fiber rather than copper. (Tr. 1187-1188)

**Verizon's Proposed DLC Electronic Fill is Too Low**

The Central Office Terminals (COT) Channel Unit is the facility on which a DS1 or DS0 channel terminates between the COT and the switch (for switched circuits) or between the COT and a collocation space or some other facility for non-switched circuits. The Remote Terminal (RT) Channel Unit is a plug-in card on which the copper-feeder or distribution cables terminate. The cards are inserted in the common equipment of the RT. (Tr. 1188)

A very high rate of utilization can be achieved for Channel Units, because they can be entered into the COTs and RTs as demand emerges. Also, Channel Units can be placed to closely match the total number of end-users that are served by DLC systems.

Therefore, to the extent that there is growth, Channel Units can be placed on very short notice, eliminating the need for anything but a minimal number of spares. This is consistent with Verizon's testimony in other jurisdictions, which states that it places plug-ins to accommodate only six-months of growth. (VZ-MA Rebuttal testimony in Docket 01-02) Thus, if one assumes a 3% growth, then six months of growth would only constitute 1.5% spare plug-ins (which is 3% times 6/12). This implies a fill of 98.5% (100%-1.5%). (Tr. 1189)

Accordingly, the Commission should adopt a fill for channel units of 95%, which, based on the foregoing, is conservative.

Similarly, the RTs are highly scalable pieces of equipment and can be selected to serve customers anywhere from 92 and 2016, and can also be expanded as demand changes. Thus, these expensive pieces of electronics can be run at high levels of utilization. (Tr. 1189) Likewise, the COT can achieve an even higher fill than the RT because it serves possibly up to 5 RTs. This means that depending on the size of the RTs, the COT can be engineered to serve the optimal level of RTs so as to achieve an optimally efficient fill. Thus, when a COT has a low rate of utilization, then more RTs can be added to increase the fill on the COT. (Tr. 1190)

Under Verizon's forward-looking loop design, there will be deployment of fiber-based DLC systems. This means that in the loop cost studies, there are more RTs and COTs than in Verizon's actual network; therefore, these facilities are more easily engineered to achieve a very high level of fill. (Tr. 1190) For example, this is consistent with Verizon's own engineering documents that require that certain types of DLCs (SLC-96) are used new full capacity. (Tr. 1191)

Based on the foregoing, the Commission should establish a 90% level of fill for both COTs and RTs. (Exh. 61, AHA-6)

**Verizon's Fill Factors for DS1 are Inappropriate**

Verizon's proposed rates for DS1 loops far exceed rates for DS1 unbundled loops recently approved by this Commission for BellSouth and far exceed similar rates adopted by other Commissions throughout the country and by nearly 400% in some circumstances. (Tr. 1208; Exh. 61, AHA-9) While, the DS1 loop study is problematic because it allows only for limited auditing,[20] there are a number of problems that substantially overestimate Verizon's actual forward looking costs as proposed. Verizon assumes a very low fill factor for its most prevalent DS1 delivery architecture for DS1 causing the resultant costs to soar far beyond those attributable to other substitutable architectures. (Tr. 1209) As shown in Exhibit 61, AHA-10, Verizon's DS1 loop study reveals that Verizon's use of and abysmally low fills factor renders a more efficient less cost optical transmission technology more expensive than Verizon's most expensive technology for delivering a DS1, a four-wire metallic facility. (Tr. 1212)

There is a fundamental flaw in Verizon's DS1 loop study. Verizon assumes within its model that it will deliver DS1 transmission via OCN facilities, even when it would be cheaper to provide the DS1 via 4-wire metallic facilities. (Tr. 1213) Forcing the use of a more expensive technology clearly violates 'least cost' TELRIC pricing principles. The Commission should require Verizon to correct its error and rerun its model with the assumption that all fiber based "circuit equipment" achieve a fill factor of at least 90 percent.

(h) manholes;

**AT&T/WCOM/FDN'S Position:** *** No position because Verizon's ICM is not a transparent, verifiable, reliable model, and it is not open to review and capable of accommodating changes to inputs and assumptions. ***

(i) fiber cable (material and placement costs);

**AT&T/WCOM/FDN'S Position:** *** No position because Verizon's ICM is not a transparent, verifiable, reliable model, and it is not open to review and capable of accommodating changes to inputs and assumptions. ***

(j) copper cable (material and placement costs);

**AT&T/WCOM/FDN'S Position:** *** No position because Verizon's ICM is not a transparent, verifiable, reliable model, and it is not open to review and capable of accommodating changes to inputs and assumptions. ***

(k) drops;

**AT&T/WCOM/FDN'S Position:** *** Verizon's assumptions for drop length and entrance cables modeled by ICM are not accurate. Because of the problems associated with the ICM discussed in Issue 1, calculations of the average drop length are impracticable. However, the length of the drop and entrance facilities should be deaveraged: 75 feet for Zone 1; 100 feet for Zone 2, and 150 feet for Zone 3. ***

Verizon's assumed drop lengths are too long. The ICM calculates drop lengths per unit demand based on an algorithm that assumes that drop wires and entrance cable (for larger units) terminate at the center of each lot on which a residential or business customer resides. As a result of this algorithm, drop lengths and entrance cable facilities can vary from 15 to nearly 500 feet. (Tr. 1204)

Because Verizon's ICM is not transparent, verifiable, reliable model, and is not open to review and capable of accommodating changes to inputs and assumptions, the ALEC Coalition has not been able to calculate the average length of the drop and entrance cable facilities assumed in the ICM. Because the ICM does have the ability to specify the lengths of the drop and the entrance facilities as user inputs, the ALEC Coalition recommends that the Commission order user defined inputs for the length of

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[20] For example, the file "FLHiCapWtg", sheet "WC DATA" wherein the actual cost results per wire center for DS1 unbundled loops are "hardcoded" such that the analyst is unable to determine their origin or

the drop and entrance facilities. Moreover, the length of the drop and entrance facilities are deaveraged by zone to reflect that the greater density and generally shorter lengths in urban areas. Specifically, Commission should order the lengths to be 75 feet for Zone 1; 100 feet for Zone 2, and 150 feet for Zone 3. (Tr. 1204) These recommendations are consistent with other cost models, and general discussions with outside plant engineers. (Exh. 28, Ankum Depo., pp. 67-68)

(l) network interface devices;

**AT&T/WCOM/FDN'S Position:** *** No position. ***

**(m)**digital loop carrier costs;

**AT&T/WCOM/FDN'S Position:** *** Verizon's ICM DLC costs are inflated due to too low fill factors, inappropriate network architecture and inappropriate concentration ratios.***

As noted above in the discussion of Issue 7(a), Verizon's DLC costs suffer from numerous flaws. Next Generation IDLC technology, not UDLC technology as Verizon proposed, is the least-cost, forward-looking technology. Verizon's studies fail to reflect an appropriate concentration ratio for IDLC-based loops. The ICM inappropriately assumes that DLC equipment is placed beyond a predetermined fiber-copper cross-over point; however, this assumption cannot be easily changed within the ICM. Moreover, the ICM fails to place the remote terminal as close to the customer as possible to capitalize on the efficiencies of the relatively inexpensive fiber facilities, and therefore assumes too much copper in the feeder and distribution links. Further, the ICM hard-codes the use of a secondary serving area interface, which increases the use of copper facilities. See response to Issue 7a for more complete discussion of each of these items.

(n) terminal costs;

**AT&T/WCOM/FDN'S Position:** *** No position. ***

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discern the manner by which they are calculated. (Tr. 1209)

(o) switching costs and associated variables;

**AT&T/WCOM/FDN'S Position:** *** GTD-5 is not forward looking and should be excluded from switch cost calculations. Verizon's *a la carte* rate proposal for switch features is anticompetitive and inflates recurring and non-recurring charges. Monthly switch port charges should include the use of all features. Verizon's own forward-looking network architecture for voice and data includes ATM switching and transport. ***

GTD-5

Verizon's switching cost studies suffer from several fatal flaws. Verizon proposes to use a mix of switches that include switches form the world's larger switch vendors, Lucent and Nortel, but also GTD-5 switches originally produced by GTE. The predominant switch is the GTD-5 switches. The GTD-5 is not forward looking least cost technology as required by the FCC's TELRIC pricing requirements. The GTD-5 is not used by Verizon elsewhere (other than in former GTE companies), nor is the switch used by any other large ILECs. It should not be included in the forward-looking, least cost switch technology mix. The Commission recognized this in Order No. PSC-99-0068-TP wherein the Commission, in its generic proceeding to determine the cost of providing basic local service found that the GTD-5 was not forward looking switching technology and required that it be excluded from the switching cost calculations. The basis of the Commission's decision was that it was not likely that any carrier would purchase a GTD-5 on a forward looking basis. *Id.* at 231-232. This is still true. While Verizon still purchases GTE-5 switches, these switches are used only as remotes not as a stand alone switch or host. (Tr. 898) Verizon purchases GTD-5s as remotes because it must do to insure technical compatibility with their GTD-5 host switches. The GTD-5 should not be included in the forward looking, least cost switch technology mix.

Florida is not the only state in which the GTD-5 has been rejected as not being suitable for TELRIC pricing. This contention is supported, for example, by the Texas

Public Utility Commission. In PUC Docket No. 14943 (released on July 29, 1996), the TPUC made the following findings of fact, numbered 46-49: 1) the current manufacturer of the GTD-5 is concentrating on providing support functions to maintaining the switches in operation; 2) the GTD-5 switch is not included in GTE's five year investment planning horizon; 3) the GTD-5 switch cannot support ISDN service; 4) except for ordering a remoter switch to connect to an existing GTD-5, GTE (now Verizon) would not buy a GTD-5 switch today, but would buy either a Lucent 5ESS of a Nortel DMS series switch; and 5) the GTD-5 cannot support ISDN service. The Commission should recognize that the TPUC made this finding about six years ago – if the GTD-5 was not forward-looking then, it is hard to imagine that it is forward-looking now. (Tr. 1223)

The Commission should order Verizon to remove – for cost study purposes –the GTD-5 from the technology mix.

***Weighting of New and Growth Discounts***

Switch vendor contracts have a bifurcated price/discount structure. Different prices apply for facilities when the switch is initially placed and put into service than for facilities that are placed to accommodate growth. To determine Verizon's switch investments for TELRIC modeling purposes, it is of utmost importance that switch discounts used to calculate switching costs be based on cutover discounts or "new lines." (Tr. 1224) Under a TELRIC scenario – in which the network is newly constructed based on existing contracts – existing lines must be valued at the cutover prices. (Tr. 1228)

Section 51.505(b) of the FCC's pricing rules provides:

> (b) *Total element long-run incremental cost.* The total element long-run incremental cost of an element is the forward-looking cost over the long run of the *total quantity of the facilities and functions* that are directly attributable to, or reasonably identifiable as

> incremental to, such element, calculated taking as a given the incumbent LEC's provision of other elements. (Emphasis added.)

This point was further emphasized in paragraph 685 of the FCC Local Competition Order, where the Commission adopted a scorched node approach:

> 685. We, therefore, conclude that the forward-looking pricing methodology for interconnection and unbundled network elements should be based on costs that assume that *wire centers will be placed at the incumbent LEC's current wire center locations*, but that the reconstructed local network will employ the most efficient technology for reasonably foreseeable capacity requirements.

Under the FCC's TELRIC standards, the most efficient switching technology in conjunction with the total expected demand must be used to determine UNE prices.

In a case directly on point, the U.S. District Court of Delaware just recently stated that the larger cut-over discounts are appropriate under the TELRIC methodology. Specifically, the court stated:

> Indeed, Bell's own expert witness admitted in testimony before the Hearing Examiners that the Local Competition Order "says rip every switch out. All of them... Every switch in the network, rip them out. Leave the ... wire center location where they [sic]are. And build the network that you would build today to serve the demand." First SGAT Report, p 31, at 16 (J.A. 1325) (quoting testimony of William E. Taylor). [FN17]
>
> *In the long-run (a period of time that varies according to the technology at issue), an efficient and rational competitor would replace all of its existing switches with the most current technology and receive the bulk-rate discounts*. Viewed in this light, Bell's proposed switch costs, which it premised upon the *smaller add-on discounts* for which it will qualify "in the coming years," looks only to the *short-run.* The Hearing Examiners correctly concluded that Bell's cost analysis was "deficient in that it does not reflect a long-run approach, but rather a series of short-run cost estimates." First Report p 33, at 18 (J.A. 1327). Therefore, the court shall affirm the Commission's SGAT Order as it relates to switch discounts. (Emphasis added.) (BELL ATLANTIC-DELAWARE, INC., Plaintiff, v. Robert J. McMAHON, Chairman, et al., Defendants. AT & T Communications of Delaware, Inc., Plaintiff,v. Bell Atlantic-Delaware, Inc., et al., Defendants. No. 97-511-SLR, 97-616-SLR. United States District Court, D. Delaware. Jan. 6, 2000).

Finally, the FCC has itself expressly ruled that:

> [T]he suggestions of Ameritech, Bell Atlantic, BellSouth, GTE, and Sprint that the costs associated with purchasing and installing switching equipment upgrades should be included in our cost estimates. The model platform we adopted is intended to use the most cost-effective, forward-looking technology available at a particular period in time. ***The installation costs of switches estimated above reflect the most cost-effective forward-looking technology*** for meeting industry performance requirements. Switches, augmented by upgrades, may provide carriers the ability to provide supported services, but do so at greater costs. Therefore, such augmented switches do not constitute cost-effective forward-looking technology." (FCC Docket No. 99-304, para. 317) (Emphasis added.)

Verizon's switching cost studies clearly fail the TELRIC standards. In its switching studies Verizon has inappropriately included the discounts it receives for growth lines. (Tr. 810) This has skewed Verizon's analysis heavily toward the expensive facilities that are placed to accommodate growth. As a result, Verizon's switch investments are greatly overstated. This in turn will cause a significant overstatement in UNE switching rates. (Tr. 1226) Accordingly, Verizon's switching cost inputs must be modified to reflect discounts based only on cutover lines.

While the ALEC Coalition does not recommend that any growth lines be included in the switching cost studies, if the Commission rejects the FCC's scorched node TELRIC method, which requires Verizon's switch related cost studies to be based on the cutover prices, the Commission should adjust Verizon's approach to reflect a more appropriate weighing of the cutover and growth lines. The appropriate method to calculate the weighing is the following formula:

$$\frac{\text{PV(cutover price x number cutover lines)} + \text{PV(growth price x number of growth lines)}}{\text{sum of cutover and growth lines}}$$

Exhibit 61, AHA-3, provides calculations of determining the weighing of growth and cutover lines using this method. (Tr. 1231)

Feature Costs

Verizon's feature costs are artificially inflated and ignore that the switch resources to run the features are already part of the switch and should properly be included in the monthly port charges.

Typically, feature costs are recovered in monthly port charges. The reason is that most of the feature costs are non-traffic sensitive costs and as such are most efficiently recovered on a non-measured basis. In any event, Verizon typically recovers its feature costs in either the monthly charges for the unbundled port or in the per-minute of use charges for unbundled switching. Most importantly, in other jurisdictions, the cost for *all* features is included in either the port or the per-minute of use charges so that the CLEC can offer the entire bundle of features to its customers without incremental charges for individual features. This practice is also true for the other RBOCs, SBC, BellSouth and Qwest. By contrast, here in Florida, Verizon is proposing to offer switch features on an *a la carte* basis. (Tr. 1235-1236)

Verizon proposal is an attempt to impose a price structure on CLECs that is completely contrary to Verizon's underlying cost structure for the provision of UNEs. The proposal is highly anticompetitive and is contrary to TELRIC principals and must be rejected. (Tr. 1236) When Verizon purchases a switch it purchases the hardware and the associated hardware needed to provide the needed switching and features functions. The costs incurred by Verizon for a switch are for the hardware and for the right to use fees for software. The cost of switch features is intertwined in the fabric of the switch

software and is most efficiently recovered in the monthly port charges. There are little or no usage related costs associated with features. (Tr. 1236)

Verizon's proposal is cumbersome and imposes artificial costs. By forcing ALECs to order features on an individual basis, both the recurring and nonrecurring costs are artificially increased. The Commission should order Verizon to include all features in the monthly port costs. Further, given that Verizon is the largest ILEC in the country and must be able to avail itself of switching facilities at costs no higher than those incurred by BellSouth. (Tr. 1237) The Commission should reject Verizon's feature rates altogether and adopt switch rates no higher than those just recently adopted by the Commission for BellSouth. This recommendation is reasonable in view of Verizon's proposal for a rate structure and associated cost studies for features that can only be construed as deliberately anticompetitive.

(p) traffic data;

**AT&T/WCOM/FDN'S Position:** *** No position. ***

(q) signaling system costs;

**AT&T/WCOM/FDN'S Position:** *** No position. ***

(r) transport system costs and associated variables;

**AT&T/WCOM/FDN'S Position:** *** No position. ***

(s) loadings;

**AT&T/WCOM/FDN'S Position:***** No position as to the appropriateness of Verizon's loading factors other than our review of Verizon's workbooks containing loading factors for loop material and placement cost calculations indicates that Verizon has provided no explanation of how these loading factors were derived. ***

(t) expenses;

**AT&T/WCOM/FDN'S Position:** *** Verizon overstated the maintenance and support factors for recurring UNE costs by overstating operating expenses using a "tops-down" methodology, and overstates investment values used to calculate capital carrying costs of support assets. The Commission should require Verizon to use a forward-looking "bottoms-up" approach for expenses needed to operate and support a forward-looking network. ***

Verizon – FL has overstated its maintenance and support factors in developing UNE recurring costs. Maintenance and support factors are typically calculated by dividing expenses incurred in maintaining and supporting the network and related operations (the numerator) by the investment in the network and related operations that generates those expenses (the denominator). The resulting ratio represents the relationship between expenses and investment that can be applied against future investment to estimate future expenses required to support that investment. Verizon has overstated its maintenance and support factors in three important ways. (Tr. 527)

First, Verizon overstates the operating expenses used to calculate the numerator by inappropriately relying on a tops-down methodology which starts with book expenses and then incorporates a series of adjustments for accounting–based normalization entries, removal of certain non-forward looking costs such as analog switching, retail avoided costs and costs recovered through other studies such as NRCs and Billing and Collection. (Tr. 527-528) The proper way to derive forward-looking expenses would be through a bottoms-up determination of the expenses needed to operate and support a forward-looking network. This would take into account the configuration and quantity of assets needed in the network and the appropriate level of staffing and support assets required to operate that network. It would also exclude those costs that should not be part of a wholesale UNE recurring cost study. (Tr. 528)

Second, Verizon overstates the investment values used to calculate the capital carrying costs of support assets. These inflated capital carrying costs are then combined with other operating expenses to form the numerator portion of the expense-to-investment ratio.

Verizon – FL applies C. A. Turner Plant Indices to its book investment to bring it up to replacement cost (Exh. 50; Attachments J.1 – J.4 in the ICM Expense supporting documentation). The Turner indices are simply tools to identify the relative change in price over a period of time. They do not identify whether the same quantity or type of investment would be required in a forward-looking construct. Therefore, application of a price index alone is insufficient to make investment forward-looking. (Tr. 529)

Verizon – FL applies the C. A. Turner indices to support investment contained in USOA accounts 2111 through 2124 (see Attachment K in Verizon – FL's ICM Expense supporting documentation). The net effect of this process is to increase support investment from $472,473,000 to $610,896,842, which is a 29% increase. Verizon – FL then applies its annual cost factors for (1) depreciation and cost of capital, (2) income taxes and (3) property taxes to calculate annual general support expenses. (Tr. 529)

These annual general support expenses then flow to the schedule where maintenance, support and common costs are compiled (Exh. 50, Attachment O in the ICM Expense supporting documentation). Based on Verizon – FL's allocation of support and direct expenses to its various direct cost pools and common costs, 63% of the overstatement caused by the C. A. Turner indices ends up in the numerator of the maintenance and support factor calculation. The remaining 37% of this overstatement ends up in the common cost expense amount used in the common cost factor calculation. (Tr. 529-530) The Commission should reject Verizon – FL's use of the C. A. Turner indices because this methodology does not consider what physical quantity or type of support asset is necessary in a forward-looking construct. Instead, the C.A. Turner indices only serve to inflate the current embedded base of assets to today's prices. (Tr. 530) Consequently, the Commission should require Verizon –

FL to recalculate its annual support costs using a forward-looking investment base to calculate forward-looking support costs and using appropriate capital cost factors for depreciation and cost of capital as recommended above. Clearly the forward looking investment base should be less than its current book investment.

Third, Verizon – FL inappropriately reduces the investment level in the denominator of the factor by replacing the investment used to generate the existing level of expenses with modeled investment calculated by the ICM. Verizon does this through its calibration process which reduces the denominator portion of the expense-to investment ratio calculation by substituting the investment calculated within its cost model ("ICM Investment") for the level of investment that produced the expense used in the numerator portion of the ratio. (Exh. 18, Response to Staff Interrogatory to Verizon No. 53) Using the calibrated ICM investment in the in the expense-to-investment ratio overstates the maintenance support factors by 43% if ARMIS (book) investment is used in the denominator and by 64% if Turner-adjusted investment is used in the denominator. (Tr. 532)

Verizon's unwarranted reduction in the denominator through "calibration" increases the fraction, or cost factor, that is applied against the ICM Investment, which increases the annual recurring costs of each UNE. (Tr. 531) Verizon's reduction of the denominator through "calibration" is inappropriate principally because it is wrong to use the output of the same model you are using to determine a factor that will then be applied as an input against that output to calculate recurring expenses. (Tr. 531) This is circular logic at best. Consistency demands that like terms are used in the numerator and the denominator. If Verizon – FL chooses to use its calculation of forward-looking investment in the denominator, it must use a forward-looking determination of expenses

in the numerator. Accordingly, the Commission should reject Verizon's calibration option in the ICM.

(u) common costs;

**AT&T/WCOM/FDN'S Position:** *** The Commission should reject Verizon's CC factor and require Verizon to: 1) properly account for its merger savings; 2) base CC factor on total regulated revenue with smaller allocation of common costs to UNE loops; 3) apply CC factor to deaveraged rates as a percentage; and 4) to remove costs adverse to ALECs from factor. ***

Under the FCC's pricing rules, the forward-looking economic cost of a UNE equals the sum of 1) the TELRIC; and 2) a reasonable allocation of common costs. 47 C.F.R. §51.505(a). In the *Local Competition Order*, the FCC concluded: "forward-looking common costs shall be allocated among elements and services in a reasonable manner consistent with the pro-competitive goals of the 1996 Act." (Para. 696) Essentially, the FCC provided guidance regarding two methodologies that it considers reasonable in the calculation of common costs. One methodology uses a fixed allocator to allocate common costs. The other methodology, however, would allocate only a relatively small share of common costs to certain critical network elements such as a local loop and collocation that are essentially bottleneck facilities and most difficult for new entrants to replicate promptly. *Id.*

In this proceeding, Verizon proposes what appears to be an excessively high common cost allocator of 14.09%, which would be applied as a fixed allocator to all UNEs. This allocator generally appears high, considering that Verizon is now one of the largest ILECs in the country. (Tr. 535) This factor as proposed by Verizon is the result of dividing common costs by direct costs. (Tr. 535) In the past, Verizon's predecessor,

GTE, had proposed to use total regulated revenue in the denominator. (Tr. 650-656) If Verizon were to use the same formula that it proposed in Michigan to determine the common cost allocator for this proceeding, the fixed allocator would be 13.06%. (Tr. 656-657, Exh. 48) In comparison, this Commission adopted BellSouth's proposed common cost factor of 6.24%, which is less than half of Verizon's proposal. (*BellSouth UNE Order*, pp. 324-236)

Moreover, Verizon did not even consider the alternative cost recovery method suggested by the FCC in paragraph 696 of its *Local Competition Order.* Under the second methodology, a company would allocate only a relatively small share of common costs to certain network elements, such as the loop, that are considered bottleneck facilities. Indeed, the FCC found that allocation of common costs using this second methodology "ensures that the prices of network elements that are least likely to be subject to competition are not artificially inflated by a large allocation of common costs." *Local Competition Order,* para. 696. The Commission should consider requiring Verizon to allocate a smaller portion of common costs to UNE loops, which are bottleneck facilities.

Verizon advocates recovering a uniform amount of common costs for a particular UNE regardless of the deaveraged zone costs, thereby spreading common cost recovery equally over each deaveraged zones. (Tr. 585-586) This practice is inconsistent with the concept of deaveraging costs where higher cost areas bear the cost required to serve that area. Common cost recovery should be treated no differently than direct and shared costs that have to be deaveraged. If Verizon chooses to use a fixed allocator methodology to recover common costs, it should apply this allocator to the deaveraged TELRIC costs, not

just to the statewide average TELRIC of a UNE. Otherwise, the consequence of Verizon's proposal is an unjustified overstatement of its Zone 1 costs. (Tr. 537) Accordingly, the Commission should require Verizon to recalculate its deaveraged rates by applying the common cost allocator as a percentage of each zone.

Further, Verizon should be prohibited from including lobbying, legal, and regulatory costs in Verizon's common cost recovery to the extent they are incurred in way that is adverse to ALECs' interests. (Tr. 537) Although Verizon removed about 15% of its external relations and legal expense in its Wholesale Adjust 1 Factor, it fails to remove from UNE rates expenses attributable to litigation and other actions adverse to the efforts of ALECs. The Commission, however, should exclude expenses attributable to litigation, and other actions adverse to ALECs for two reasons: 1) the legal, lobbying, and regulatory efforts exerted by incumbents such as Verizon are generally expended for the benefit of the incumbent such as Verizon; and 2) the ALECs incur their own costs such as these, which are not recovered, in whole or in part, from the incumbents. It is fundamentally unfair to require ALECs to support legal, lobbying, and regulatory costs that are typically used against them. (Tr. 538) Indeed, Verizon would even include the cost of the outside counsel used in this very proceeding as part of the fixed allocator it proposes to apply to all UNEs paid for by the ALECs. (Tr. 661) The only allowable costs should be those associated with normal company operations and compliance with administrative requirements of state commissions such as tariff filings. If the Commission were to order Verizon to remove expenses spent litigating and lobbying against ALEC interests, Verizon's common cost factor would decline from 14.06% to

12.97%. Moreover, the common cost factor also requires further reduction to account for the broader savings from the Bell Atlantic/GTE merger. (Tr. 538)

(v) other.

**AT&T/WCOM/FDN'S Position:** No position at this time regarding EELs because Verizon's ICM is not a transparent, verifiable, reliable model, and it is not open to review or capable of accommodating changes to inputs and assumptions.

**ISSUE 8:** What are the appropriate assumptions and inputs for the following items to be used in the forward-looking non-recurring UNE cost studies?

(a) network design;
(b) OSS design;
(c) labor rates;
(d) required activities;
(e) mix of manual versus electronic activities;
(f) other.

**AT&T/WCOM/FDN'S Position:** *** Verizon's model and studies are impracticable to use, and include unreasonable and unsupported values, assumptions and work times. Verizon's NRCs are largely attributable to manual processes and substantially exceed those of other ILECs. Verizon's NRCs for ordering and provisioning activities should be reduced by approximately 50% and 66%, respectively. ***

In order to comply with TELRIC rules and the Supreme Courts decision, the calculation of nonrecurring cost must be based on how things **should** be done. As such, there should not be a large disparity between how a company like Verizon should do things versus how a company like BellSouth should do things. This means, there should not be a substantial difference in the TELRIC for nonrecurring costs for these two companies. The least cost most efficient way of provisioning a UNE on the least cost most efficient network design for each company is likely to be very similar. In fact, given Verizon Florida's geographically concentrated territory, it should be expected that Verizon's TELRIC for NRCs will be less than BellSouth's. (Tr. 507) With this as the

foundation, the Commission must ask why then are Verizon's proposed nonrecurring charges so much more than the NRCs it has approved for BellSouth?

The answer can be found in how Verizon developed its proposed NRCs. There are three, overarching problems with Verizon's proposed NRCs. First, third parties cannot properly manipulate the inputs to Verizon's model, which makes it impossible to conduct a necessary sensitivity analysis. Changing one value in the model may affect multiple rate elements, and may result in outputs that are absurd. (Tr. 1129) Even Verizon, for all its rhetoric regarding the ALECs' attempts to use the model, agrees that it is "very difficult" to modify the times in the work sampling study without changing the number of observations. (Exh. 26,Richter Depo., pp. 53-54; see Tr. 1323-28)

Second, Verizon's study contains systemic methodological errors. (Tr. 1304-05) Verizon estimated its non-recurring costs for ordering and provisioning using a hodgepodge of inputs from unidentified subject matter experts ("SMEs"), drive time surveys, time and motion studies and work sampling. Some of these methods used a complex series of calculations to indirectly derive work times and the prevalence of certain activities that had not been directly measured. (Tr. 1308-09; Exh. 66) Moreover, the *frequency* that certain activities occur, after having been derived as a result of one ostensibly impartial study method, were then adjusted by Verizon's SMEs.[21] (Tr. 1310) Consequently, some of the studies are almost certainly infused with bias. There also is little if any documentation submitted with the studies to support Verizon's assumptions. (Tr. 1306) None of the methods employed by Verizon has been statistically validated by

[21] See also "Verizon-Florida Inc.'s Response to AT&T and MCI's First Set of Interrogatories," No. 46, p. 29 (Exh. 19) and "Verizon-Florida Inc.'s Responses to Staff's Sixth Set of Interrogatories (Nos. 129-187), No. 167, p. 17 (Exh. 18).

evidence submitted in this docket, and the inputs thus derived are not auditable by the Commission or other third parties.[22] (See Exh. 26, Richter Depo., p. 16)

Third, all of the methods assumed by Verizon for its studies themselves have their basis in thecompany's current practices and procedures – in particular, its lack of mechanization - as a given. The cost recovery that Verizon seeks is premised on the present status of its OSS (Tr. 1074-75), which "dictate the activities to be performed and the quality of the services offered." (Tr. 986) Hence Verizon depends on its "actual," current, embedded practices, which "have not changed as a result of the Bell Atlantic/GTE merger" and still rely excessively on manual rather than mechanized processes. (See Tr. 987, 1049, 1053, 1105) This result occurs because Verizon has put on blinders and refuses to look at, let alone consider, its retail practices or its practices in the former Bell Atlantic and NYNEX territories, as well as BellSouth's UNE rates and cost studies or the status of mechanization in the BellSouth region or the industry generally. (Tr. 1105-12, 1119-20, 1123-25, 1307-08, 1314)

Consequently, Verizon's proposed non-recurring rates, which are grossly disproportionate to BellSouth's NRCs or even what Verizon has agreed to with ALECs in interconnection agreements, are neither credible nor verifiable. (Tr. 1104-13, 1133-34, 1307; Exh. 58) NRCs instead must be based on forward-looking, least-cost processes and exclude the need for expensive labor-intensive manual processes.[23] (Tr. 1157, 1241-44) Verizon Communications, Inc. v. FCC. Thus the Commission necessarily must look

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[22] Mr. Richter testified at his deposition that "I'm sure the statistical vintage that may be put on there could be figured out. I don't personally know –" (Exh. 26, Richter Depo., p. 16)

[23] The FCC's pricing rules, upheld by the Supreme Court on May 13, 2002, do not permit an ILEC "to recover more than the total forward-looking economic cost of providing the applicable element." 47

to the ALECs' countervailing proposals, which specifically recalculate several of Verizon's proposed charges, and reduce other proposed ordering and provisioning NRCs by approximately 50% and 66%, respectively. (Tr. 1304-06, 1312-15, 1322-44; Exh. 65)

Were it not for cost considerations and the lack of repetition in Verizon's embedded processes (further indicating inefficiencies and the lack of mechanization in Verizon's OSS), Verizon might have used a time and motion study to estimate its proposed NRCs for ordering. Instead, Verizon conducted "work sampling" in 1999, at one of Verizon's three National Market Centers ("NMCs"), which process local service requests ("LSRs") submitted by ALECs. Work sampling is an unusual and arcane combination of work observations, input from unidentified SMEs and mathematical calculations. Unlike a time and motion study, which directly measures the duration of certain activities, work sampling indirectly attempts to estimate the time and prevalence of ordering activities. (Tr. 1093; Exh. 26, Richter Depo., p. 10)

The differences between the approaches are apparent from the first step of the work sampling process. This step consisted of observations over several days of a sample Verizon work group. (Tr. 1096-97) Unlike, however, a time and motion study (in which the duration of activities is observed), the observations of the sample group were made every fifteen minutes. (Richter Depo., p. 12) Verizon assumed that the activities performed during the four times per hour that its employees were being observed reflect the activities being performed by those employees during the periods when they were not unobserved. Even if one accepts this assumption as valid (and there is no evidence that such is the case, beyond Verizon's bald assertion), SMEs reviewed, and could change,

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C.F.R. §51.507 (e). The "forward-looking economic cost" of an element equals its TELRIC. 47 C.F.R.

the inputs. Presumably the SMEs knew the purpose of information they were asked to provide; i.e., they had been told to provide estimates that would be used to derive rates to be charged Verizon's competitors.

After observations had been made of a stage in the ordering process, the number of observations was multiplied by the "predescribed" factor of "15," to derive the "direct minutes" for that stage. (Tr. 1095-97, 1309, 1311) The estimate thus derived, however, is not a "direct" measure of employee activity, since it does not equate to the duration of the activity being observed. (Tr. 1097; Exh. 26, Richter Depo., p. 17). Hence Verizon divided a "hard-coded" value by the total "direct minutes" for all stages of the ordering process, to derive an "indirect percent" for use in its calculations. (Exh. 66) This "hard-coded" value, referred to by Verizon as "indirect time," was supplied independently of the observations. Apparently, Verizon decided that "SMEs" should review the frequency of activities, and estimated times, for activities *not* observed. (Tr. 1310) The value thus obtained for "indirect time" cannot be independently verified or audited by the Commission or an ALEC. (Tr. 1310-11) Verizon maintains that this value must be used in its calculations, since Verizon maintains there are activities that were not observed. This assertion, however, conflicts with the assumption, discussed above, that the observations already reflect the activities being performed by employees during the periods when they were not unobserved. (See Exh. 26, Richter Depo., p. 16) Moreover, the instructions to the SMEs are unknown; for instance, Verizon does not indicate whether the SMEs were told that the same network designed for recurring costs should be used for nonrecurring costs, or that they should assume a forward-looking network.

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§51.505 (a). An ILEC's UNE rates must comply with Sections 505 and 507. 47 C.F.R. §51.503 (b).

Presumably the SMEs understood all too well the use of the information they were asked to provide, thus defeating the purpose of making independent observations of work activities.

To determine the "total minutes" for each stage of the ordering process, the "direct minutes" was multiplied by (1 + "indirect percent"). (Exh. 66) The final calculation in Verizon's "work sampling" determined the "minutes per order" for each step in the ordering process. To derive this value, "total minutes" was divided by "activity volume." "Activity volume" was the volume of service orders recorded for the group of service representatives that were monitored during the work sampling. The assumption was that the activity volumes "correspond" to the observations taken during the study, to capture the actual amount of time spent by the Verizon employees on each task.

The resulting figure, "minutes per order," was used by Verizon to determine its proposed non-recurring rates for ordering activities. Hence this figure in every instance involving ordering is the result of an indirect method, utilizing a mix of work sampling and extraneous "SME" opinion, with an overall result that cannot be independently verified. (Exh. 66)

Compounding these problems is Verizon's presupposition that its proposed NRCs should not assume that *any* ordering process for *any* UNE is fully mechanized. Instead, Verizon assumes either "manual" or "semi-mechanized" ordering processes. "Manual" means that an LSR is faxed by an ALEC, then input by a Verizon representative into

Verizon's electronic "gateway," SIGs,[24] or otherwise handled. "Semi-mechanized" means that the LSR is transmitted electronically by the ALEC into its gateway (or the Internet) with SIGs. In either case, one or more steps in the ordering process are not automated on Verizon's end of the process. There is no type of UNE – including UNE-P - that can be ordered by an ALEC using a fully mechanized system.[25] (Tr. 1063, 1066-67, 1133, 1314; Exh. 26, Richter Depo., p. 38) Indeed, even with an electronic LSR submitted by an ALEC, "(a) Verizon customer service representative ...will determine the complexity of the order", before the LSR is electronically processed. (Tr. 940) Thus even for electronically-submitted LSRs, a Verizon representative will likely (if not inevitably) intervene in the process. (Tr. 1063) Although Verizon did not introduce such evidence, it is likely that a large proportion of LSRs submitted to it electronically are *designed* to fallout, even in the absence of "ALEC error." (See Tr. 1072-73) In comparison, 7% of basic and complex orders submitted to BellSouth fallout for manual handling because of system design. *BellSouth Cost Order*, p. 424. These differences explain, in part, the gross disparities in NRCs between those proposed by Verizon and those adopted for BellSouth.[26] (Tr. 1307; Exh. 58)

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[24] Verizon's "Secure Integrated Gateway System." According to Verizon, an LSR passes through SIGs, is sent on to the LSR Ordering System, which "resides on" SIGS. The LSR is then sent to the Work Flow Manager, which sends it to LSR Edit Engine. If errors that prevent a service order from being issued are encountered, then the LSR is rejected back to the Work Flow Manager and is transmitted back to the ALEC in the same manner in which it was received. If there are no errors, or at least no "soft" errors, then the LSR Edit Engine translates the data on the LSR into the National Operations Collection Vehicle ("NOCV"). If there are "soft" errors, the LSR also flows back to the Work Flow Manager and is sent to the Work Distributor, which automatically assigns the LSR to a NMC representative to obtain error correction. Hard errors are rejected back to the ALEC. It is apparent that additional edits in the front end of the OSS process, which would be appropriate assumptions for a forward-looking cost study, could eliminate or reduce costly errors. (Tr. 1324)

[25] Verizon does not even propose electronic ordering of line sharing or line splitting. (See Exh. 57)

[26] For example, for the UNE-P, Verizon proposes a $16.63 semi-mechanized ordering charge, plus a service connection fee of $1.89. No OSS charge is added at this time. BellSouth imposes a $1.62 non-

Verizon did make adjustments to its non-recurring cost study to account for fallout. (Tr. 1311). Those adjustments, however, assume too much fallout, because they are based on Verizon's current, embedded practices, not on forward-looking economic cost assumptions. (Tr. 947, 991) For example, Verizon assumes that only *40%* of UNE Exchange-Basic orders – the *most simple* orders resulting from LSRs submitted to it – are generated without human intervention (i.e., flow-through) when LSRs are sent electronically by ALECs. (Tr. 947) Moreover, these kinds of assumptions largely are not supported by data in Verizon's studies.[27] (Tr. 1312, 1317) Verizon also apparently assumes that *any* error made by an ALEC is the latter's fault; the lack of mechanization is not itself considered to be a cause of fallout.[28] Yet it is axiomatic that, assuming OSS is properly functioning, the greater the degree of human intervention, the greater the number of errors that occur, whether by ALECs or the ILEC, and, thereby, the greater the extent fallout will occur. (Tr. 1070-71, 1073-75)

Indeed, Verizon's evidence – with the exception of the "efficiency factor," which is arbitrarily determined, lacks supporting documentation, and is not based primarily on

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recurring rate for ordering, which *includes* an OSS per order charge. This is not to suggest, here or elsewhere in this brief, that BellSouth's non-recurring charges are non-discriminatory or reasonable. Instead, the comparisons are made to illustrate the outrageousness of Verizon's proposals.

[27] Interestingly, manual and semi-mechanized orders receive the *same* adjustment (i.e., the same percentage) by Verizon for flow-through applied for order processing for unbundled loops. (Tr. 1067) The reason is that Verizon measures flow-through only from the time the *order* is *created*. Thus Verizon does *not* measure flow-through from the time the LSR is submitted by the ALEC *until after it has been input* into SIGs, has passed the front-end edits and has moved into NOCV for generation of an order. (Tr 1067-71; Exh. 26, Richter Depo., p. 40) By that time, the LSR, which may or may not have been faxed to Verizon, and may or not have been rejected to the ALEC or manually handled by Verizon to fix certain "soft errors," has already traversed much of Verizon's "mechanized" OSS. Thus there are no assumptions and no data pertaining to the mechanization, or lack of effective mechanization, earlier in the process.

[28] Although Verizon provides no figures for ALEC fall out for error, BellSouth's figure for ALEC fall-out for error assumed 3% for "basic" orders, and 50% for "complex" orders. *BellSouth UNE Order*, p. 424.

technological improvements[29] (Tr. 1317) - is devoid of any discussion with respect to potential process improvements.[30] Yet Verizon does not dispute that, for example, other ILECs, like SBC, have achieved 95%-99% flow-through. (Tr. 993, 1312) It is obvious that Verizon relied for its flow-through assumption on its current systems, which dictate reliance on manual systems.

Hence Verizon assumed, for numerous steps throughout its processes, that verification by its employees is necessary to ensure that no errors occur. (Tr. 1075) Indeed, Verizon assumed that review of the LSR is required in *every* step of Verizon's UNE ordering process. Even a semi-mechanized order that goes through SIGs merely "reduce[s]," but does not eliminate, this requirement.[31] This perceived need to verify the accuracy of an order at each of the several steps in Verizon's OSS is passed along by Verizon to ALECs in the form of increased NRCs. A forward-looking cost study, on the other hand, would tend to minimize human intervention.

Verizon maintains that the ALECs' assumption of a higher flow-through rate gives ALECs incentives to not build out their OSS. The lower the flow-through rate that one assumes for Verizon, however, the less there is incentive for ALECs to improve their systems and reduce errors, because Verizon is charging ALECs for systems that rely on manual rather than electronic processes. More importantly (from the standpoint of

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29 "The major factor driving productivity improvement is increased proficiency gained by the NMC Representatives." "Verizon Florida Inc.'s Responses to Staff's Seventh Set of Interrogatories (Nos. 188-215), No. 204, p. 6 (Exh. 18).

30 To the extent that an ALEC *must* submit an order manually – because of the lack of developed mechanized systems - a Verizon representative *must* populate fields within SIGs. This in itself creates opportunities for error. (See Tr. 1078)

31 See "Verizon Florida Inc.'s Responses to Staff's Sixth Set of Interrogatories (Nos. 129-187), No. 150, p. 10 (Exh. 18).

determining UNE rates), the *lower* the flow-through percentage to be determined by the Commission as applicable to Verizon, the *greater* the incentive will be to Verizon to *improve* its systems. Indeed, if this Commission were in effect to apply a lower flow-through percentage to BellSouth than to Verizon, then BellSouth (all other things being equal) would have a greater incentive than Verizon to make its systems more efficient, because BellSouth would not be recovering costs for manual processing to the same extent as Verizon. Stated differently, in such an event Verizon would be rewarded (and BellSouth, relatively speaking, would be punished) for inefficiencies that handicap ALECs. (Tr. 1243)

Verizon also in its NRCs for ordering has inappropriately included costs for certain functions and facilities. For example, Verizon states that it has already provided ALECs with "the ability to query in an electronic format all information necessary to process a pre-ordering request". (Tr. 946, 1079) With this ability, an ALEC would be able to independently verify an address or determine the available services at a customer's location, whether or not the ALEC subsequently would submit an LSR. (Tr. 999, 1079) Yet Verizon for purposes of its studies "bundles" preordering with ordering, by including preordering as a component cost of the NRCs for ordering UNEs.[32] (Tr. 1031,1078-80) But preordering should take place electronically by ALECs, independently of Verizon's current or subsequent actions. (Tr. 1080) Nevertheless, Verizon proposes to charge ALECs for preordering even when they are performing the

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[32] This is because "(t)ypically an ALEC will fax a request to Verizon seeking the desired information, and Verizon representatives will manually enter the data into SIGs." (Tr. 998) Then, a "temporary order" will be created in NOCV. (Tr. 998-99) If an ALEC "typically" faxes a request to Verizon for preordering data when Verizon has ostensibly developed an electronic interface for ALECs to use, this in itself raises questions about the efficacy and status of development of Verizon's systems.

preordering function themselves, or are forced to use Verizon's manual systems because of the extent to which Verizon has not mechanized its preordering information. (Tr. 1318) This results in redundant "costs" being passed to ALECs in the form of increased NRCs.[33]

Other inefficiencies and redundancies abound in Verizon's systems, which it carries over into its cost studies. When manually receiving an order, for example, a Verizon representative enters data from the LSR into a tracking system. (Tr. 1000) Separately, the Verizon representative manually enters the *same* information into the ordering interface (which is SIGs). Verizon maintains that "(t)he tracking system is designed to provide an ALEC with the order number and date, and thus does not contain all of the information contained within a LSR order." Id. Yet this provides no justification for redundant costs. Although Verizon also volunteers that it is not cost-efficient to develop a means to interface between SIGs and the tracking system, id., here as elsewhere there is no evidence that any cost-benefit study was done. Verizon has merely assumed that these must be separate activities, because that is how its systems are set up currently. Hence Verizon proposes to charge ALECs for its past decision to maintain the accuracy of separate databases. (Tr. 1316-17)

Verizon also proposes to charge ALECs with regard to certain shared and fixed costs of its NMCs. (Tr. 1081-82) The NMCs process only orders for wholesale and UNEs; i.e., ALEC orders only. Verizon has several more retail customer service centers than NMCs. (Tr. 1008) Some of the equipment and personnel in these centers could be

allocated for other functions, particularly when not in use regarding ALEC orders. (See Tr. 1086) Moreover, only those ALEC orders that relate to the former GTE territory (now referred to as "Verizon-West") are processed by the NMCs. Hence no retail orders, or ALEC orders relating to the former Bell Atlantic or NYNEX territories, are handled by the NMCs, and Verizon makes no adjustments in its studies to consider the economies of scope or scale that might otherwise result if the NMCs were otherwise employed. (Tr. 1082-83)

Verizon has also overstated the NMCs' "cost."[34] Verizon's stale/dated figures from 1996 (Tr. 1083) - eons ago, considering the pace of technological change since the Telecommunications Act was enacted - include embedded costs for recruiting personnel, relocations, computers, phones, furniture, fixtures, and buildings. Verizon's studies also assume its proposed cost of capital and financial reporting lives (Tr. 1320), which as discussed elsewhere are excessive and unreasonable. Moreover, given that some of the costs for the NMCs recur over time, as well as Verizon's own admission that "reusable" assets that benefit more than one ALEC meet the criteria for recurring cost recovery (see Issue 6, above), a reasonable projection of such costs, assuming appropriate economies of scope and scale, would be recovered through recurring rates. (Richter Depo., p. 23; Tr. 1031, 1083-85) Certainly some of these costs are similar in nature to common costs (Exh. 26, Richter Depo., p. 27), which are recovered over time from recurring rates

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[33] Similarly, connection charges should not include the cost for connection **and** disconnection. There should be a separate disconnection fee, and that fee should only be accessed to the cost-causer, i.e. the LEC who requested the disconnection.

[34] Verizon's evidence is conflicting as whether it has provided an estimated cost or an "actually incurred" figure. (Tr. 1034; Exh. 26, Richter Depo., p. 19) Either way, the "costs" were determined as of a fixed time and no productivity improvements were assumed. (Exh. 26, Richter Depo., pp. 19-20) Hence Verizon has not assumed TELRIC for purposes of its study.

generally. (Tr. 1085) Hence Verizon's proposed NRCs, to the extent they include the "cost" of its NMCs, are inappropriately calculated, and should be rejected. (Tr. 1319, 1320-22)

To estimate provisioning rates, Verizon multiplied labor rates by various estimates by SMEs, time and motion studies, field surveys, and the like. (Tr. 943, 1097-98) For some specific activities – for example, field work – Verizon used several different "methods" of estimating work times, which were then subject to "adjustment" by SMEs, just as was the case with ordering activities. (Tr. 1099-1100) As was also the case with regard to its estimates of the rates for ordering activities, Verizon assumed its current embedded practices and procedures, which rely excessively on manual activities, as a given.[35] Verizon has an extensive number of systems and groups that support provisioning. (Tr. 1097-98) It is clear from the cost studies that Verizon assumes that its employees must perform an inordinately large number of tasks relating to a large number of these systems, when those tasks could be automated or the systems and groups could be condensed. Many of these systems appear to overlap; for example, it appears that Verizon assumes its technicians enter the same data in multiple systems. Hence the same deficiencies exist with regard to Verizon's provisioning estimates as exist with respect to its ordering estimates.

Moreover, the industry has designed equipment to test circuits, but the efficiencies to be gained by using this equipment are not reflected in Verizon's studies. (Tr. 1340, 1342) In other respects Verizon consistently overestimates the time needed to

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[35] For example, in the case of field technicians, the studies conducted in Illinois in 1997 consisted of timing the connecting and disconnecting of jumpers. Verizon, however, unlike BellSouth has not deployed COSMIC frames. COSMIC frames would have sped the process. (Tr. 1003)

establish service. (Tr. 1340-44) In some cases there is no need for a "service connection"; e.g., as regards UNE-P migration on an "as is" basis. But Verizon nonetheless proposes such a fee, at several times the rate imposed for BellSouth. Once again, automated processes are largely not reflected in Verizon's cost studies.

With improvements in systems and the use of economies of scale and scope the ALECs *should* see a steady stream of rate cases lowering the costs to order and provision UNEs. Much of the advancement in technology in recent years has been directed at improving cost effectiveness by the use of computer technology. One would not expect to see these developments become stagnant in one sector of the telecommunications industry, while continuing to advance in the rest of the industrial world. Yet Verizon's position is that its embedded, GTE systems, processes, and past decisions with respect to deploying personnel and equipment, must be accepted as a given. This is unacceptable, particularly so in the wake of Verizon Communications, Inc. v. FCC. Finally, Verizon demands that the Commission assume that consumers in the Tampa Bay and surrounding areas (for this is the practical effect of Verizon's advocacy directed against ALECs) are not entitled to even the same potential as consumers in BellSouth's territory to realize lower costs and greater choice. Verizon brazenly seeks to be rewarded for its, arrogance, as well as its intentional or unintentional inefficiencies, and to be thus assured that it will not have to develop the systems and practices that will assist in the development of competition, or even that BellSouth must develop. The result Verizon insists upon would turn the Telecommunications Act of 1996, which was designed to foster competition, on its head. The Commission should not allow this to occur. Instead, the

Commission should reduce Verizon's proposed NRCs to reasonable levels, as proposed by the ALECs.

**ISSUE 9:** (a)What are the appropriate recurring rates (averaged or deaveraged as the case may be) and non-recurring charges for each of the following UNEs?

(1) 2-wire voice grade loop;
(2) 4-wire analog loop;
(3) 2-wire ISDN/IDSL loop;
(4) 2-wire xDSL-capable loop;
(5) 4-wire xDSL-capable loop;
(6) 4-wire 56 kbps loop;
(7) 4-wire 64 kbps loop;
(8) DS-1 loop;
(9) high capacity loops (DS3 and above);
(10) dark fiber loop;
(11) subloop elements (to the extent required by the Commission in Issue 4);
(12) network interface devices;
(13) circuit switching (where required);
(14) packet switching (where required);
(15) shared interoffice transmission;
(16) dedicated interoffice transmission;
(17) dark fiber interoffice facilities;
(18) signaling networks and call-related databases;
(19) OS/DA (where required).

**AT&T/WCOM/FDN'S Position:** *** The Commission should set Verizon's recurring UNE rates as proposed in Exhibit 43, GJD-2, and the remaining UNEs as approved in the *Florida BellSouth UNE* Orders. These rates should be interim, not subject to true-up until a direct TELRIC determination is made. NRCs should be set as recommended in Issue 8. ***

As discussed in Issue 1, Verizon's ICM filed in this proceeding is not capable of producing rates that comply with the FCC's minimum UNE pricing rules or this Commission's previous UNE pricing decisions. Moreover, Verizon's proposed rates are excessively high, were not determined in accordance with the FCC's UNE pricing rules, are inconsistent with UNE prices for other Verizon states, and with rates established for

BellSouth in Florida, and will not encourage the development of local competition. (Tr. 506)

Accordingly, the Commission should set Verizon's recurring UNE rates as proposed in Exhibit 43, GJD-2, and set the remaining Verizon recurring UNEs at the rates approved by the Commission for BellSouth in Order No. PSC-01-1181-FOF-TP, issued May 25, 2001, and Order No. PSC-01-2132-PCO-TP, issued October 29, 2001 (collectively the "FL BellSouth UNE Orders"). The Commission should establish these monthly recurring UNE rates on an interim basis, not subject to true-up, until a direct determination of TELRIC can be made for Verizon-FL's territory.

The U.S. Supreme Court explicitly upheld the FCC's pricing rules, which require UNE rates to be set equal to that of the least cost most efficient provider of service given the territory being served and taken as a given the location of the existing wire centers. The ILEC that actually serves that territory and the current cost structure of the ILEC is not particularly relevant to the determination of UNE rates. How the least cost most efficient carrier would function in this territory given location of existing wire centers is all that matters in the development of UNE rates. (Tr. 507)

Likewise, the Commission should expect that areas with similar characteristics should have similar cost-based UNE rates. Given the demographic and geographic structure of Verizon-FL and BellSouth Florida territory, it is reasonable to assume that cost-based UNE rates in Verizon-FL territory should be slightly less than the cost-based UNE rates of BellSouth Florida. (Tr. 507) Because BellSouth generally operates in an area that should be higher cost than Verizon, the BellSouth Florida rates are at least the upper limit for what the TELRIC rates should be for Verizon-FL. (Exh. 28, Ankum

Depo., p. 90) Also, Verizon is a larger company than BellSouth and therefore should enjoy additional economies of scale in Administrative, Systems, Common Costs, Shared Cost and Procurement as compared to BellSouth, which should serve to further lower Verizon's forward-looking cost as compared to BellSouth's. (Tr. 507) Thus, the use of BellSouth's rates would produce conservative, high rates for Verizon-FL. (Tr. 507) Therefore, the Commission should adopt on an interim basis rates proposed in Exhibit 43, GJD-2, and in the FL BellSouth UNE Orders for the remaining Verizon UNEs until such time that a direct determination of TELRIC can be made for Verizon-FL.

These interim rates should not be subject to true-up; otherwise, the uncertainty created by making rates subject to true-up places a risk premium on all business planes from an ALEC business perspective. Making the rates interim and subject to true-up would reward Verizon for its obstructionist practices and would thwart the development of local competition. (Tr. 508) Because the legislature has directed the Commission to encourage the development of local competition, these UNE rates should not be subject to true-up. (Section 364.01, Florida Statutes)

For non-recurring rates for the unbundled loop (exchange-basic-initial/ ordering and service connection), unbundled port (exchange-basic-initial/ ordering and service connection) and EEL (initial/ ordering and service connection), the Commission should set rates as recommended in Issue 8.

(b) Subject to the standards of the FCC's Third Report and Order, should the Commission require ILECs to unbundle any other elements or combinations of elements? If so, what are they and how should they be priced?

**AT&T/WCOM/FDN'S Position:** *** The Commission should order Verizon to offer unbundled combinations consistent with FCC Rules 51.315(c) – (f). Further, if the Commission investigates a new broadband UNE, the investigation should cover all Florida ILECs.***

In its Third Report and Order,[36] the FCC declined to define the EEL as a separate network element and declined to reinstate rules 51.315(c)-(f) while those rules were under review by the Eight Circuit Court of Appeals. In upholding the rules and reversing the Eighth Circuit, the U.S. Supreme Court rejected the ILECs arguments that the rules were contrary to the plain meaning of the Act or an unreasonable interpretation. As to the latter point, the Court opined:

> [W]e found Rule 315(b) reasonable because it prevented incumbents from dismantling existing combinations to sabotage competitors . . . whereas here we deal not with splitting up but with joining together. We think, nonetheless, that the additional combination rules reflect a reasonable reading of the statute, meant to remove practical barriers to competitive entry in to local-exchange markets while avoiding serious interference with incumbent network operations.[37]

These "practical barriers to competitive entry" the Court references have largely been in place since the Act was passed in 1996. Verizon admits it has not and will not provide UNEs in a combined state "where UNEs are not already combined" (Tr. 602 – 609). Because of the extraordinary delay in Verizon's providing ALECs combination services – thereby impeding the ALECs' market penetration efforts -- the Commission should require Verizon to immediately provide UNE combinations as required by the Court-approved FCC rules.

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[36] Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, rel. November 5, 1999.
[37] Verizon Communications, Inc. v. FCC, No.. 00-511, 535 U.S. ____, Slip Op. p. 64, (May 13, 2002)

Additionally, the record in this case reveals that Verizon does not (1) offer a product whereby ALEC UNE-L or UNE-P voice service may be offered over the same line as Verizon high-speed data service or (2) generally offer to ALECs packet switching as a UNE. In Docket No. 010098-TP, the Commission found that BellSouth's refusing high-speed data service to ALEC voice customers was a barrier to competition. In the BellSouth phase of this case, AT&T and MCI proposed the Commission investigate creating a new broadband UNE. Accordingly, if the Commission does initiate such an investigation, all Florida ILECs should be included in the review.

**ISSUE 10:** What is the appropriate rate, if any, for customized routing?

**AT&T/WCOM/FDN'S Position:** *** No position. ***

**ISSUE 11(a):** What is the appropriate rate if any, for line conditioning, and in what situations should the rate apply?

**AT&T/WCOM/FDN'S Position:** *** There is no need to impose any recurring or nonrecurring line conditioning charges on loops that are less than 18,000 feet in length. Moreover, it would never be appropriate to recover any incremental line conditioning investment through a nonrecurring charge. ***

The FCC's UNE Remand Order states that a forward-looking network would not require voice-enhancing devices (i.e., disturbers such as load coils and repeaters) on loops of 18,000 feet or shorter. Any cost recovery for line conditioning, including non-recurring costs, must comply with the FCC's TELRIC pricing rules. Thus, there is no cost-based need to impose any recurring or nonrecurring line conditioning charges on loops that are less than 18,000 feet in length. Moreover, it would never be appropriate to recover any incremental line conditioning investment through a nonrecurring charge.

**ISSUE 11(b):** What is the appropriate rate, if any, for loop qualification information, and in what situations should the rate apply?

**AT&T/WCOM/FDN'S Position:** *** No position. ***

**ISSUE 12:** Without deciding the situations in which such combinations are required, what are the appropriate recurring and non-recurring rates for the following UNE combinations:

(1) "UNE platform" consisting of: loop (all), local (including packet, where required) switching (with signaling), and dedicated and shared transport (through and including local termination);

**AT&T/WCOM/FDN'S Position:** *** The Commission should set Verizon's recurring and nonrecurring rates as recommended in Issues 8 and 9. Verizon's proposal is inappropriate for reasons discussed throughout this brief. Moreover, Verizon's insistence on using UDLC technology instead of IDLC technology creates rates that are highly inappropriate for UNE-P, as discussed more completely in Issue 7(m). ***

(2) "extended links," consisting of:

(1) loop, DSO/1 multiplexing, DS1 interoffice transport;
(2) DS1 loop, DS1 interoffice transport;
(3) DS1 loop, DS1/3 multiplexing, DS3 interoffice transport.

**AT&T/WCOM/FDN'S Position:** *** Regarding EELs, Verizon's rates for multiplexing are a multiple of those charged by other ILECs and by Verizon itself in other jurisdictions. The source of the inflated costs cannot be determined with certainty. See also position for Issue 12(1). ***

Verizon proposes that "the rate for each EEL UNE combination be the sum of the individual loop, transport and multiplexing rates for each of the individual UNEs that make up the combination." (Tr. 606-607) This approach will lead to over recovery by Verizon for the functions it provides when is provisions an EEL. (Tr. 1216)

When an ALEC purchases an EEL it is actually purchasing a transmission path that will in most circumstances reach from a customer's premises, through Central Office A and ultimately to Central Office B. When compared to an ALEC purchasing an unbundled loop, multiplexing (or cross-connection), and interoffice transport separately, the facilities provisioned and the manner by which they are provisioned will likely vary substantially with costs varying accordingly. (Tr. 1216) For example, consider an

unbundled loop that currently serves a customer using a digital loop carrier architecture. If an ALEC were to order that unbundled loop on a stand-alone basis, Verizon would terminate that unbundled loop via a 2-wire analog jumper directed to the ALEC's collocation space. In doing so, Verizon would include in the cost of that unbundled loop the central office terminal ("COT") costs of the digital loop carrier system required to multiplex the signal associated with that individual loop (likely from a DS1 transmission embedded in an OC3 bitstream) into a DS0 equivalent (the COT would also do the digital to analog conversion necessary to arrive at an analog 2-wire interface). (Tr. 1216-1217) These COT costs are a substantial component of Verizon's 2-wire unbundled loop rate.

Consider where the ALEC purchases the same loop and instead of terminating that loop in its collocation space the ALEC chooses to combine that loop with interoffice transport for purposes of gathering that loop at a distant central office (i.e., and EEL arrangement). In such a circumstance, there would be no need for Verizon to de-multiplex that original signal from its original DS1 or OC3 format (or to execute a digital to analog conversion) because that signal will simply be loaded onto a central office facility (of at least that bandwidth) for delivery to the distance central office). Because the signal need not be converted at this point to an analog, 2-wire electrical signal for delivery to the collocation space, costs can be saved. If Verizon were to demultiplex and convert the DS0 signal representing the ALECs unbundled loop used in the EEL arrangement, it would simply be required to re-multiplex and convert the signal again before it could ready the signal for interoffice transmission. (Tr. 1217) This would be duplicative and inefficient. Further, many ALECs will aggregate individual DS0 unbundled loops at a Verizon central office, multiplex those DS0s onto a higher

bandwidth trunk (likely DS1) and transport those DSOs across the interoffice network in bulk. In doing so, they will, at the terminating central office, receive those DS0 signals representing individual unbundled loops, at a DS1 or higher level. In this circumstance, no de-multiplexing or digital to analog conversion is necessary. The cost savings associated with avoiding these actives is one of the greatest benefits of the EEL arrangement. (Tr. 1218) Unfortunately, Verizon's proposal to simply add the individual UNE rates together to arrive at EEL rates negates any of these benefits by allowing Verizon to recover costs that it never incurs (multiplexing and conversion) instead of passing savings associated with avoiding these costs onto the ALEC in lower rates. (Tr. 1218)

It is important to note that Verizon did not even attempt to refute any of the ALEC's arguments regarding the failure of the "sum of the individual UNEs" pricing for EEL combinations. Accordingly, EEL combinations can not be priced at the sum of the individual UNEs. Verizon should be required to undertake an individual TELRIC study for at least the most common EEL arrangements (i.e., DS0 loop-DS1 interoffice transport, DS1 loop-DS1 transport and DS1 loop-DS3 transport). Likewise, Verizon should be required to establish rates for EELs recognizing any cost reductions associated with purchasing the respective elements in combination. This should also be true of the rates for all combinations including UNE-P. It is also worthy to note that BellSouth has established UNE combinations rates in the manner advocated here.

Notwithstanding the problems noted above, another problem with the prices for EEL combinations is the excessive level of Verizon's proposed multiplexing rates. Comparing Verizon's proposed rates with those approved for other carriers across the

country raises serious concern. For example, Verizon proposes a monthly recurring rate of $517.71 per month for DS3 to DS1 multiplexing. By comparison, BellSouth is allowed to charge $211.19 for this same function. (See Order No. PSC-01-2051-FOF-TP, Docket No. 990649-TP, page 51). Likewise, Verizon in New Jersey is allowed to charge $364.60. (See NJ Board of Public Utilities, Docket No. TO00060356, Attachment , page 3 of 5) Ameritech Michigan charges $262.31. (See Ameritech tariff M.P.S.C. No. 20R, Part 19, Section 12, 2nd Revised Sheet No. 27) Again, Verizon's proposed rate exceeds the average of these comparable rates offered by other carriers by approximately 185%. This kind of disparity is telling on the propriety of Verizon's proposed rates. It defies logic to suggest that Verizon's mutiplexing costs could possibly exceed those carriers noted above by so much. It is probable that the problem lies with the previously discussed low fill factors. (Tr. 1220) Accordingly, the Commission should order Verizon to extend our recommended finding that a 90% fill factor for all 357c equipment (central office non-switch equipment) is a reasonable assumption that must be instituted by Verizon throughout its studies including its multiplexing analysis.

**ISSUE 13:** When should the recurring and non-recurring rates and charges take effect?

**AT&T/WCOM/FDN'S Position:** ***The ALECs' advocated rates in Issues Nos. 8 and 9(a) should be effective on the date of the Commission's order. Any other approved rates should become effective as ordered in the BellSouth phase of this case, provided neither party to a negotiation causes undue delay. ***

A suitable effective date for new UNE rates must insure equitable treatment of the parties, should take account of practical implementation issues, and, ultimately, has to accord proper weight to the Act's goal of promoting competition.[38]

For services already under contract, Verizon claimed the ability to implement new rates in as little as 20 days of a Commission vote (since final orders are typically issued within 20 days of a vote). Verizon witness Trimble testified:

> Unless the particular contract specifies otherwise, recurring and nonrecurring rates for service already provided under the contract should take effect on the date the Commission issues its final order prescribing the permanent UNE rates for Verizon Florida. At that time, Verizon Florida will inform the ALECs of any rate changes by distributing notices of revised rates or by posting them on Verizon's website. . . . . If a rate for a particular UNE is established in this proceeding, but a CLECs current interconnection agreement does not include that UNE, the CLEC is not entitled to the UNE until the parties execute an appropriate amendment.

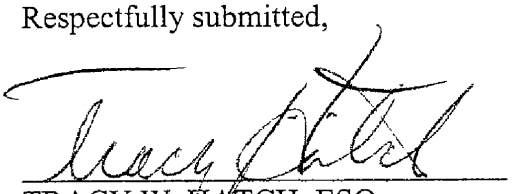
(Tr. 609-610) However, Verizon does not square this testimony with the Commission's decision in the BellSouth phase of this case, where new rates would only become effective upon approval of new or amended interconnection agreements, giving both ILEC and ALEC opportunity to adjust systems and services for the forthcoming changes during a negotiation process. Further, Mr. Trimble's testimony cannot be squared with Verizon's position in the Prehearing Order, where Verizon implies it should simply implement new rates by notice whenever it is ready.

The Commission has a broad range of authority for ordering an effective date. If the Commission accepts the ALECs arguments that Verizon's cost model was not open and verifiable and Verizon's proposed rates should be outright rejected, the Commission

[38] As an initial matter, the ALECs agree that for a given UNE or service, new recurring and new nonrecurring rates should have the same effective date.

should order Verizon to implement the ALECs' proposed rates on the date the Commission issues its final order for those services under contract as of the date of the Order. This should motivate Verizon to provide proper and adequate proof of its costs in a subsequent phase of this proceeding. Otherwise, the Commission should order an effective date consistent with what it ordered in the BellSouth case, provided, however, that if either party to negotiation causes undue delay, the Commission may require an earlier implementation date as to specific parties.

Respectfully submitted,



TRACY W. HATCH, ESQ.
FLOYD R. SELF, ESQ.
MESSER, CAPARELLO, & SELF, P.A.
Post Office Box 1876
Tallahassee, FL 32303-1876
(850) 222-0720

Attorneys for AT&T Communications of the Southern States, LLC

Donna Canzano McNulty, Esq.
WorldCom, Inc.
325 John Knox Road
The Atrium Bldg., Ste. 105
Tallahassee, FL 32303
(850) 422-1254

and

Kennard B. Woods, Esq.
WorldCom, Inc.
6 Concourse Parkway, Ste. 3200
Atlanta, GA 30328
(770) 284-5497

Attorneys for WorldCom, Inc.

Matthew Feil, Esq.
Florida Digital Network, Inc.
390 North Orange Avenue, Suite 2000
Orlando, Florida 32801
(407) 835- 0460

Attorney for Florida Digital Network, Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the following parties by Hand Delivery (*), and/or U. S. Mail this 28th day of May, 2002.

Jason Fudge, Esq.*
Division of Legal Services, Room 370
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Nancy B. White
c/o Nancy H. Sims
BellSouth Telecommunications, Inc.
150 South Monroe Street, Suite 400
Tallahassee, FL 32301

Claudia Davant-DeLoach, Esq.
AT&T
101 N. Monroe St., Suite 700
Tallahassee, FL 32301

Virginia Tate, Esq.
AT&T
1200 Peachtree St., Suite 8068
Atlanta, GA 30309

Jeffrey Whalen, Esq.
John Fons, Esq.
Ausley Law Firm
P.O. Box 391
Tallahassee, FL 32302

Michael A. Gross
Vice President, Regulatory Affairs
& Regulatory Counsel
Florida Cable Telecommunications Assoc., Inc.
246 E. 6th Avenue
Tallahassee, FL 32301

Kimberly Caswell
Verizon Select Services
FLTC-0007
8800 Adamo Drive
Tampa, FL 33619

Donna McNulty, Esq.
WorldCom
The Atrium Building, Suite 105
325 John Knox Road
Tallahassee, FL 32303

Mr. Brian Sulmonetti
WorldCom, Inc.
6 Concourse Parkway, Suite 3200
Atlanta, GA 30328

Marc W. Dunbar, Esq.
Pennington, Moore, Wilkinson, Bell &
Dunbar, P.A.
P.O. Box 10095
Tallahassee, FL 32302-2095

Charles J. Rehwinkel
Sprint-Florida, Incorporated
MC FLTHO0107
P.O. Box 2214
Tallahassee, FL 32399-2214

Mark Buechele
Supra Telecom
1311 Executive Center Drive, Suite 200
Tallahassee, FL 32301

Carolyn Marek
Vice President of Regulatory Affairs
Southeast Region
Time Warner Communications
233 Bramerton Court
Franklin, TN 37069

Ms. Wanda Montano
US LEC of Florida, Inc.
6801 Morrison Blvd
Charlotte, NC 28211-3599

Vicki Kaufman, Esq.
Joe McGlothlin, Esq.
McWhirter, Reeves, McGlothlin,
Davidson, Rief & Bakas, P.A.
117 S. Gadsden Street
Tallahassee, FL. 32301

Patrick Wiggins
Charles Pellegrini
Katz, Kutter Law Firm
106 East College Avenue, 12th Floor
Tallahassee, FL 32301

Richard D. Melson
Hopping Green Sams & Smith, P.A.
P.O. Box 6526
Tallahassee, FL 32314

BlueStar Networks, Inc.
Norton Cutler/Michael Bressman
5 Corporate Centre
801 Crescent Centre Drive, Suite 600
Franklin, TN 37067

Mr. John Spilman
Broadslate Networks of Florida, Inc.
585 Loblolly Lane
Charlottesville, VA 22903-7656

William H. Weber
Senior Counsel
Covad Communications Company
1230 Peachtree Street, NE, 19th Floor
Atlanta, GA 30309

Florida Digital Network, Inc.
390 North Orange Avenue, Suite 2000
Orlando, Florida 32801

Mr. Don Sussman
Network Access Solutions Corporation
Three Dulles Tech Center
13650 Dulles Technology Drive
Herndon, VA 20171-4602

Rodney L. Joyce
Shook, Hardy & Bacon LLP
600 14th Street, NW, Suite 800
Washington, DC 20005-2004

Michael Sloan
Swidler & Berlin
3000 K Street, NW #300
Washington, DC 20007-5116

George S. Ford
Z-Tel Communications, Inc.
601 S. Harbour Island Blvd.
Tampa, FL 33602-5706

Lisa Korner Butler
Vice President Regulatory & Industry Affairs
Network Plus, Inc.
41 Pacella Park Drive
Randolph, MA -2368

Andrew O. Isar
Miller Isar, Inc.
7901 Skansie Avenue, Suite 240
Gig Harbor, WA 98335

Nanette Edwards
ITC^DeltaCom
4092 S. Memorial Parkway
Huntsville, AL 35802

Tracy W. Hatch