

provide any of the workpapers with Transmittal 2146 from which it derived its packet switching BSE cost figures, and thus did not comply with Section 61.38 of the Commission's Rules governing packet switching.<sup>129</sup> Southwestern Bell argued that its cost support was adequate because that cost support was similar to the cost support it submitted in conjunction with another packet switching filing in the past, Southwestern Bell's MicroLink II service.<sup>130</sup> The Bureau concluded that the prior packet switching filing cited by Southwestern Bell was not relevant because that cost support was filed under a waiver of our cost support rules.<sup>131</sup>

68. The Bureau has misconstrued Southwestern Bell's packet switching waiver. The BSEs at issue in Transmittal 2146 are new BSEs to be available with Southwestern Bell's MicroLink II service.<sup>132</sup> In the Southwestern Bell Protocol Conversion Waiver Review Order, we found that the detailed cost support requirements of Section 61.38 were not necessary with respect to MicroLink II service, because market conditions at that time made it unlikely that Southwestern Bell would be able to engage in anti-competitive or otherwise improper pricing, and Section 61.38 cost support would be of little value in promoting our pro-competitive policies.<sup>133</sup> Nothing has occurred in the packet switching services market that would lead us to revise these conclusions today. The packet switching services market is still highly competitive. Furthermore, in the Part 69 ONA Order, we have adopted policies which permit competition to an even greater extent than was possible at the time of the Southwestern Bell Protocol Conversion Waiver Review Order.<sup>134</sup> For these reasons, and because none of the intervenors argued against Southwestern Bell's direct case on this issue, we determine that our waiver of Section 61.38 cost support rules for Southwestern Bell's MicroLink II service should be extended to the nine BSEs in Southwestern Bell's Transmittal 2146.<sup>135</sup> We also conclude that the cost support filed by Southwestern Bell for Transmittal 2146, as supplemented by its direct case, is adequate in light of this waiver.

## 2. Southwestern Bell Access Service Request

69. Southwestern Bell plans to require IXCs to submit an access service request (ASR) to order BSA/BSE combinations. In the ONA Investigation Order, the Bureau was concerned that

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<sup>129</sup> ONA Investigation Order, 7 FCC Rod at 1518, para. 36.

<sup>130</sup> ONA Investigation Order, 7 FCC Rod at 1518, para. 35. See Southwestern Bell Telephone Company, Petition for Waiver of Section 64.702 of the Commission's Rules and Regulations to Provide and Market Asynchronous Protocol Conversion on an Unseparated Basis, 5 FCC Rod 161, 162, para. 5 (1990) (Southwestern Bell Protocol Conversion Waiver Review Order). See also Southwestern Bell Telephone Company, Petition for Waiver of Section 64.702 of the Commission's Rules and Regulations to Provide and Market Asynchronous Protocol Conversion on an Unseparated Basis, 2 FCC Rod 20 (Com.Car.Bur. 1987) (Southwestern Bell Protocol Conversion Waiver Order), review denied Southwestern Bell Protocol Conversion Waiver Review Order, 5 FCC Rod 161 (1990).

<sup>131</sup> ONA Investigation Order, 7 FCC Rod at 1518 n.32.

<sup>132</sup> Southwestern Bell Telephone Company, Transmittal 2146 Description and Justification (D&J), at 1-1 (filed Nov, 1, 1991).

<sup>133</sup> Southwestern Bell Protocol Conversion Waiver Review Order, 5 FCC Rod at 164, para. 19.

<sup>134</sup> Specifically, the rules adopted in Part 69 ONA Order were designed to permit BOCs to compete with independent ESPs on an integrated basis, and at the same time prevent BOCs from engaging in unreasonable discrimination. Part 69 ONA Order, 6 FCC Rod at 4525, para. 2.

<sup>135</sup> The Commission has authority to grant waivers on its own motion under Section 1.3 of its rules, 47 CFR § 1.3, if there is "good cause" to do so.

Southwestern Bell's ASR requirement might impose unnecessary additional costs on its customers at the time they order ONA services.<sup>136</sup>

70. Southwestern Bell maintains that use of ASRs is not a new requirement imposed for ONA, but is the standardized vehicle developed by the Ordering and Billing Forum (OBF) that applies to all access services. Southwestern Bell participated in OBF planning for ONA and claims no participant raised objections to using established access ordering procedures for ONA services. Southwestern Bell also states it uses ASRs as tracking documents that enable it to comply with Commission requirements for annual reports on ordering and installation intervals for ONA service ordered by Southwestern Bell affiliates. According to Southwestern Bell, any alternative to ASRs would likely be a burdensome non-automated mechanism.<sup>137</sup> Finally, Southwestern Bell notes that its tariff establishes a procedure for converting customers from feature group services to ONA on July 1, 1993, when feature group services are scheduled to be eliminated. This procedure occurs automatically without requiring customers to submit ASRs.<sup>138</sup>

71. According to Sprint, the OBF was intended to develop a uniform ASR document and procedures, not ONA implementation plans of individual companies. Sprint maintains that the tariff review process, not the OBF, is the proper forum for considering ONA conversion plans.<sup>139</sup>

It is not clear to Sprint why only Southwestern Bell requires ASRs, or why converting from Feature Group service to the equivalent BSEs and BSA involves anything more than a record change.<sup>140</sup> Sprint recalls that it proposed allowing customers to submit letters to BOCs describing which circuits to convert. Sprint also maintains that Southwestern Bell said it might consider accepting ASRs on a per-LATA or a per-customer basis.<sup>141</sup>

72. Southwestern Bell has explained that its tariff permits converting from Feature Group services to the equivalent BSEs and BSA without requiring ASRs. Southwestern Bell has also established that its use of ASRs is a standard method for ordering services, which has been developed in an appropriate industry forum. Southwestern Bell has also shown that taking orders for ONA services without ASRs would be very burdensome, because it would preclude Southwestern Bell from using the computerized procedures it has developed for filling orders for other services. Alternatively, Sprint has not provided a good reason for the Commission to interfere with the OBF and extend regulation into an area in which we have not exercised our jurisdiction. Nor has Sprint explained why automatic conversion at the time Feature Group service offerings are eliminated is not a reasonable alternative. Accordingly, we conclude that Southwestern Bell's use of ASRs does not impose unnecessary additional costs on ONA customers, and that this is not an unreasonable practice.

### 3. Ameritech Call Detail Recording Tariff

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<sup>136</sup> ONA Investigation Order, 7 FCC Rod at 1521, para. 67.

<sup>137</sup> *Id.* at 16-20.

<sup>138</sup> Southwestern Bell Reply at 15. See Part 69 ONA Order, 6 FCC Rod at 4528, para. 20 (Feature Group service offerings are to be eliminated when the BOCs incorporate their BSE rates into their price caps.)

<sup>139</sup> *Sprint Opposition* at 7-8.

<sup>140</sup> *Id.* at 9.

<sup>141</sup> *Id.* at 10 n.12.

73. The Bureau directed Ameritech to explain why its Call Detail Recording (CDR) BSE was not a detariffed billing and collection service. Ameritech argues that, "[w]hile call detail reports may be used for billing and collection purposes, it is not identical to [Ameritech's] billing and collection service."<sup>142</sup> Ameritech asserts that CDR was developed on a Feature Group-specific basis to provide ESPs with specific kinds of call detail they requested in the ONA proceeding. Ameritech maintains that billing and collection service is different because Ameritech's billing and collection service records all the customer's traffic, is not Feature Group-specific, and contains additional call detail necessary for billing purposes.<sup>143</sup> Ameritech also notes that CDR was included in its ONA plan approved by the Commission.<sup>144</sup>

74. We have defined billing and collection as "recording [interexchange carrier (IC)] message detail, aggregating the details to create individual messages (a completed call originated by an IC's end user), applying the IC's rates to such messages, processing these rated messages into customer invoice form, mailing bills, collecting payments, accepting customer deposits, handling customer inquiries and investigating billing evasion activities."<sup>145</sup> This definition does not exclude call detail recording done on a Feature Group-specific basis, or call detail recording tailored to the specific needs of ESPs. Ameritech admits that its CDR service "may be used for billing and collection purposes."<sup>146</sup> For these reasons, we conclude that Ameritech's description of CDR does not adequately distinguish this service from the services we detariffed in the Billing and Collection Order. Therefore, Ameritech is required to remove material regarding CDR service from its tariff.<sup>147</sup>

## B. Non-designated Issues

### 1. Adequacy of SCIS Redaction II

75. Background. The SCIS Disclosure Order ordered Bellcore to make available to intervenors in the investigation a version of SCIS with proprietary information redacted from the model and documentation, and also established procedures by which parties in the ONA

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<sup>142</sup> Ameritech Direct Case at 10.

<sup>143</sup> Id. Ameritech does not specify in its direct case what this additional information is, or what kind of billing it is collected for.

<sup>144</sup> Ameritech Direct Case at 10-11.

<sup>145</sup> Detariffing of Billing and Collection Services, CC Docket No. 85-88, 102 FCC 2d 1150, 1151 n.2 (1986) (Billing and Collection Order). The Commission did retain Title I jurisdiction over call detail recording services, but only until 1989 or conversion to equal access, whichever came later. See Billing and Collection Order, 102 FCC 2d at 1174, Ameritech ONA Tariff Order, 7 FCC Rcd at 261-62, para. 34.

<sup>146</sup> Ameritech Direct Case at 10.

<sup>147</sup> We also note that Ameritech has requested a waiver to withdraw lineside CDR from its ONA plan. Amendments of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, CC Docket No. 89-79, 7 FCC Rcd 811, 812, para. 4 (Com.Car.Bur. 1992). We have stated that we would "not look favorably upon the BOCs' withdrawal of services that were approved in their ONA plans." Filing and Review of Open Network Architecture Plans, CC Docket No. 88-2, Phase I, 6 FCC Rcd 7646, 7653, para. 10 (1991). Thus, Ameritech requested a waiver of the Part 69 ONA Order to withdraw lineside CDR from its tariffs, because it was still conducting tests for that service. The Bureau granted this waiver on a tentative basis pending the outcome of this investigation. The Commission hereby finds Ameritech's petition for waiver regarding this service moot.

tariff investigation may examine this redacted version of SCIS.<sup>148</sup> The redacted model and procedures were expected to permit the maximum extent of public participation in the ONA tariff investigation consistent with adequate protection of proprietary materials.<sup>149</sup>

76. **Pleadings.** Several intervenors assert that the information made available to them does not permit them to fully participate in the investigation.<sup>150</sup> Ad Hoc asserts that more than competitively sensitive information has been redacted.<sup>151</sup> Some parties believe they should be permitted to see SCIS inputs to determine whether they are reasonable.<sup>152</sup> Many intervenors complain that, because they were allowed to examine one version of the model for only one switch type, they were not permitted to see the effect of different SCIS versions or different technology mixes on SCIS outputs.<sup>153</sup> Sprint alleges that there may be "stand alone" modules of SCIS or SCM used to develop BSE rates that were not provided to intervenors.<sup>154</sup>

77. Ad Hoc and Sprint argue that redactions should be unnecessary for intervenors signing nondisclosure agreements.<sup>155</sup> MCI contends that the restriction against signatories to the nondisclosure agreement communicating with each other is unreasonable.<sup>156</sup> Ad Hoc asserts that its examination of Redaction II was unnecessarily hampered by Bellcore's provision of a slow computer, and by software that seemed to "bomb" after five or six SCIS runs.<sup>157</sup> Allnet complains that it was not permitted to examine Redaction II without first giving up Redaction I.<sup>158</sup> Allnet criticizes the Commission for not "ruling" on the reasonableness of Redaction II

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<sup>148</sup> Commission Requirements for Cost Support Material To Be Filed with Open Network Architecture Access Tariffs, 7 FCC Red 1526 (Com.Car.Bur. 1992) (SCIS Disclosure Order).

<sup>149</sup> SCIS Disclosure Order, 7 FCC Red at 1534, para. 42. Some intervenors alleged that, in Bellcore's initial response, both the software and the documentation explaining operation of the software were so deeply redacted as to be seriously deficient. ONA Rescheduling Order, 7 FCC Red at 5307, para. 3. See also MCI Opposition at 29-32. As a result, the Bureau informally encouraged vendors and Bellcore to work toward creating a second redacted model within the general parameters set by the SCIS Disclosure Order. ONA Rescheduling Order, 7 FCC Red at 5307, para. 4. A more complete description of this second redacted model, hereafter referred to as "Redaction II," and the associated nondisclosure agreements, are discussed in the SCIS Disclosure Reconsideration Order, which we adopt today. Commission Requirements for Cost Support Material To Be Filed with Open Network Architecture Access Tariffs, FCC 93-531 (adopted December 2, 1993) (SCIS Disclosure Reconsideration Order).

<sup>150</sup> Sprint Opposition at 1-3; MCI Opposition at 3-4, 33-34; Metromedia Opposition at 4; Ad Hoc Opposition at 6.

<sup>151</sup> Ad Hoc Opposition, Appendix I at 4. See also Sprint Opposition at 5 (details of capital cost calculation and definition of "getting started costs" have been redacted).

<sup>152</sup> Sprint Opposition at 3; MCI Opposition at 28-29; Allnet Opposition at 2-3; Witel Opposition at 20.

<sup>153</sup> Sprint Opposition at 3-5; AT&T Opposition at 9-12; Metromedia Opposition at 9-13; Ad Hoc Opposition, Appendix I at 12-13; Allnet Opposition at 6-7; Witel Opposition at 19.

<sup>154</sup> Sprint Opposition at 5.

<sup>155</sup> Ad Hoc Opposition at 4-6; Sprint Opposition at 7.

<sup>156</sup> MCI Opposition at 33-34.

<sup>157</sup> Ad Hoc Opposition, Appendix I, at 3-4.

<sup>158</sup> Allnet Opposition at 8-9.

prior to the filing of oppositions to direct cases.<sup>159</sup>

78. Discussion. As a threshold matter, we first conclude that the Bureau properly determined that nondisclosure agreements alone would not be sufficient to protect the vendors' competitive interests or the Commission's interests in program effectiveness, and instead relied on the redaction procedures, coupled with the independent auditor's report and staff review. In our decision in the Allnet Order,<sup>160</sup> we recognized that such determinations involve the exercise of the agency's discretionary disclosure authority rather than FOIA requirements, and so deferred consideration of the discretionary procedures adopted in the Bureau's SCIS Disclosure Order to a subsequent order. We have now reviewed the Bureau's discretionary procedures as finally implemented, and in the companion SCIS Disclosure Reconsideration Order approve those procedures.<sup>161</sup> For present purposes we need only emphasize the record statements that vendors would consider withdrawing or limiting their participation in the SCIS model process if proprietary data were disclosed in full subject only to nondisclosure agreements. The serious implications of such a withdrawal for the effective implementation of ONA were described in the Allnet Order.<sup>162</sup> While cited there to support the program effectiveness prong of Exemption 4 of the FOIA, the implications equally support the Bureau's determination as a matter of discretionary disclosure processes, that nondisclosure agreements would not sufficiently safeguard the ONA implementation process that disclosure of sensitive vendor data, subject only to such agreements, should be required.<sup>163</sup>

79. Redaction II resulted from a compromise designed to allow adequate access to SCIS documentation and software by interested parties without revealing proprietary information used in the model.<sup>164</sup> All the SCIS/SCM redactions were necessary to prevent disclosure of information proprietary to the switch vendors or Bellcore.<sup>165</sup> For example, disclosure of certain elements of the SCIS model could reveal switch design information, or could reveal information regarding negotiated switch prices, which switch vendors consider proprietary.<sup>166</sup> The SCIS

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<sup>159</sup> Allnet Opposition at 8-9. The Bureau concluded in the ONA Rescheduling Order that the proper procedural vehicle for comments on the Redaction II process would be oppositions to the BOCs' direct cases. ONA Rescheduling Order, 7 FCC Rcd at 5308, para. 10. Allnet has provided no reason to question this conclusion.

<sup>160</sup> Allnet Order, 7 FCC Rcd 6329 at n. 7.

<sup>161</sup> See n. 149, *supra*. MCI's contention respecting communication between signatories to nondisclosure agreements was also raised in its application for review of the SCIS Disclosure Order, and is considered in the Companion Order.

<sup>162</sup> Allnet Order, 7 FCC Rcd at 6330, para. 17. See also Allnet Communications Services, Inc. (FOIA Control No. 92-149), 8 FCC Rcd 5629 (1993).

<sup>163</sup> Unusual procedures were necessary in the ONA context to enable a degree of intervenor access to these proprietary models and proprietary vendor data, including the requirement of an independent review of the software model. While we cannot rule out the prospect that some subsequent rate development method will entail a similar procedure, carriers should not routinely support proposed rates through the use of proprietary models or data. This entails substantial additional burdens on carriers, intervenors and Commission staff in order to ensure intervenors maximum access consistent with protection of proprietary materials. Therefore, when carriers rely on such materials to support tariff filings, they bear a substantial, initial burden of demonstrating the circumstances that preclude reliance on publicly available data.

<sup>164</sup> Southwestern Bell Reply, Exh. 1 at 1; BellSouth Reply at 21.

<sup>165</sup> PacTel Reply at 3; Southwestern Bell Reply, Exh. 1 at 2; BellSouth Reply at 20; Ameritech Reply, Att. B at 1-2; Bell Atlantic Reply at 3. See also US West Reply at 8-9.

<sup>166</sup> Southwestern Bell Reply, Exh. 1 at 2; NYNEX Reply, App. at 2; Ameritech Reply, Att. B at 1. See also US West Reply at 13-14.

algorithms must also be kept confidential to protect Bellcore's substantial investment in SCIS, and the income it earns from SCIS licensing fees.<sup>167</sup> Moreover, it is not clear that disclosure of algorithms would help intervenors to determine whether the model calculates switching costs properly.<sup>168</sup> Finally, some intervenors purchase switches from AT&T and Northern Telecom, and providing unredacted SCIS access to these intervenors would give them a particular competitive advantage in negotiations over switch prices. This information is so sensitive in this hotly competitive market that the dangers of disclosure outweigh benefits gained in their release.<sup>169</sup>

80. We conclude that the redactions did not prevent interested parties from making a meaningful review of SCIS for purposes of evaluating the ONA tariffs. The intervenors were able to conduct sensitivity analyses, i.e., to examine how changes in SCIS inputs affect SCIS outputs, on most of the relevant SCIS inputs. These sensitivity analyses, in addition to the information in the Andersen Report, enabled the intervenors to raise specific questions regarding the reasonableness of the cost and rate development.<sup>170</sup> For example, intervenors brought to our attention the issue of the age of traffic data and SCIS versions.<sup>171</sup> Intervenors also raised several specific issues regarding US West's SCM model.<sup>172</sup> We conclude that the restrictions placed by Bellcore and US West on the examination of Redaction II permitted intervenors an adequate opportunity for review.<sup>173</sup>

## 2. Adequacy of Andersen Report

81. Several intervenors criticize the Andersen Report as either inaccurate or insufficiently detailed. Wiltel criticizes Andersen for concluding that the costing principles inherent in SCIS are reasonable without describing the standards by which those costing principles were evaluated. Wiltel also contends that Andersen did not discuss alleged inconsistencies between the Average Study option in SCIS and the long run incremental cost analysis SCIS is supposed to produce. Wiltel further notes that Andersen never quantified variation in BSE rates due to differences in actual cost characteristics among BOCs.<sup>174</sup> Metromedia and Wiltel complain that Andersen performed sensitivity analyses on the BSEs of all BOCs on an aggregated basis, rather

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<sup>167</sup> Southwestern Bell Reply, Exh. 1 at 3-4; Ameritech Reply, Att. B at 2; NYNEX Reply, App. at 3-4. See also US West Reply at 9.

<sup>168</sup> Bell Atlantic Reply at 3-4.

<sup>169</sup> NYNEX Reply, App. at 3.

<sup>170</sup> See NYNEX Reply, App. at 4; Ameritech Reply, Att. B at 2; Southwestern Bell Reply, Exh. 1 at 4. See also US West Reply at 9-10.

<sup>171</sup> Supplemental Andersen Report, Exh. 5-6; Wiltel Opposition at 30-31.

<sup>172</sup> Supplemental Andersen Report at Exh. 10; MCI Opposition at 32.

<sup>173</sup> We have established in prior Orders that the information in SCIS is exempt from mandatory public disclosure under Exemption 4 of the Freedom of Information Act. 5 U.S.C. § 552(b)(4). See, e.g., Allnet Communication Services, FOIA Control No. 92-266, Memorandum Opinion and Order, 7 FCC Red 6329 (1992) (Allnet FOIA Reconsideration Order); unheld, Allnet Communications Services, Inc. v. FCC, 800 F.Supp. 984 (D.D.C., 1992), appeal docketed, Allnet Communications Services, Inc. v. FCC, No. 92-5351 (D.C. Cir. September 25, 1992).

<sup>174</sup> Wiltel Opposition at 20-23. See also MCI Opposition, Appendix, at 3-4 (asserting some differences in actual cost characteristics described by Andersen are open to BOC manipulation).

than BOC by BOC.<sup>175</sup> Allnet notes that the Andersen Report found that SCIS/SCM models assume BOCs do not build "more or less capacity than prescribed by engineering rules."<sup>176</sup> Allnet asserts that, because of this assumption, SCIS has little to do with real world costs, and calls this a "fatal flaw" in the model.<sup>177</sup> Allnet alleges that Andersen is biased in favor of the BOCs.<sup>178</sup>

82. Andersen concluded in its report that, although SCIS permits users fairly wide discretion in selecting variables, the SCIS model itself is fundamentally sound. This finding is consistent with the findings of the Commission's review of the SCIS models submitted to us in camera in December 1991.<sup>179</sup> Furthermore, the results of Andersen's analysis were consistent with our conclusions, based on independent staff review, regarding the appropriate treatment for BellSouth's model office development,<sup>180</sup> noncurrent SCIS models and traffic data,<sup>181</sup> average or marginal SCIS studies,<sup>182</sup> and embedded or prospective technology mixes.<sup>183</sup> The staff review process did not duplicate the Andersen effort, but examined proprietary materials from additional or different perspectives. The different emphases of each approach, however, add to the scope of review and enable us to determine, contrary to Allnet's unsupported assertion, that the Andersen study is free of bias.

83. The issues raised by Wiltel regarding sources of BSE rate variation or whether the SCIS Average Study option results in long run rates do not in any way cast doubt on Andersen's conclusion that SCIS is fundamentally sound. In the Supplemental Report submitted at the direction of the Commission staff, Andersen explains in more detail the procedures it used to evaluate SCIS costing principles.<sup>184</sup> We have examined Andersen's supplemental report in light of Commission staff's independent review of the models, and we find this explanation to be adequate. The SCIS model is internally valid; as described above, our concerns and revisions to BOC ratemaking practices involving SCIS-based rates are directed at specific exercises of the discretion afforded carriers by the model, not at the model's internal structure. It is not a criticism of the model proper to constrain the SCIS user's assumptions, or factual inputs, to assure their reasonableness, and we have done so in several respects as summarized in the following paragraph. Finally, Allnet's assertions that BOCs ignore engineering specifications while installing switches, are at best speculative, and do not merit further

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<sup>175</sup> Metromedia Opposition at 13; Wiltel Opposition at 23-29.

<sup>176</sup> Allnet Opposition at 3.

<sup>177</sup> Id.

<sup>178</sup> Allnet Opposition at 2.

<sup>179</sup> SCIS In Camera Order, 7 FCC Red at 524, para. 22.

<sup>180</sup> Section III.B.1. of this Order, supra.

<sup>181</sup> Section III.B.2 of this Order, supra.

<sup>182</sup> Section III.C.1. of this Order, supra.

<sup>183</sup> Section III.D.1. of this Order, supra.

<sup>184</sup> Supplemental Andersen Report, Exh. 1-3.

consideration.<sup>185</sup>

## V. CONCLUSION

84. In this Order, we have: prescribed that BOCs should base their BSE rates on forward-looking technology mixes; limited presumptively reasonable overhead loadings to reasonable levels; directed that the cost of money factor used to compute unit investment be set equal to the authorized rate of return; directed BOCs to use recent SCIS models and traffic studies when performing investment studies; and prohibited non-uniform overhead loadings based on jurisdictional arbitrage. These decisions have significantly reduced the rate variation in BSE rates of different BOCs, but without unduly limiting the flexibility intended and permitted by our new service rules.<sup>186</sup> The remaining rate variation results from genuine cost differences attributable to differences in demand characteristics or service areas, and is not by itself indicative of unreasonable rates.<sup>187</sup>

85. In this Order, we direct Ameritech, Bell Atlantic, NYNEX, Pacific Bell, Nevada Bell, and Southwestern Bell to recalculate their BSE rates using a cost of money factor no higher than 11.25 percent. We require Ameritech and NYNEX to recalculate their BSE rates using a prospective technology mix. We direct BellSouth to adjust its BSE rates to reflect an administrative overhead factor consistent with the ARMIS-based overhead factor described in Attachment C of this Order, or to provide substantial justification for a different approach. We require NYNEX to set its Three Way Calling BSE rate no higher than its total unit costs for that BSE. We direct Ameritech to withdraw its CDR BSE from its tariff. With respect to US West, we have concluded that its BSE rates filed on November 1, 1991, based in part on SCIS and in part on SCM, are inconsistent with the Part 69 ONA Order requiring BSE rates to be developed using a consistent methodology, and with our requirement that up-to-date software be used for investment studies. We also direct US West to recalculate these rates, based on representative model offices, and an administrative overhead factor consistent with the ARMIS-based overhead loading factor test described in Attachment C of this Order, or to provide substantial justification for a different approach.

## VI. ORDERING CLAUSES

86. Accordingly, pursuant to Sections 4(i), 4(j), 201(b), 203(c), 204(a), 205, and 403 of the Communications Act, 47 U.S.C. §§ 154(i), 154(j), 201(b), 203(c), 204(a), 205, and 403, WE FIND that the Open Network Architecture rates of the Ameritech Operating Companies, Bell Atlantic Telephone Companies, BellSouth Telephone Companies, New York Telephone Company and New England Telephone and Telegraph Company, Pacific Bell, Nevada Bell, Southwestern Bell Telephone Company, and US West Communications, Inc., ARE UNLAWFUL for the period those rates were in effect.

87. Accordingly, IT IS ORDERED that Ameritech Operating Companies, Bell Atlantic Telephone Companies, BellSouth Telephone Companies, New York Telephone Company and New England Telephone and Telegraph Company, Pacific Bell, Nevada Bell, Southwestern

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<sup>185</sup> Allnet Opposition at 2.

<sup>186</sup> For a discussion of the relevance of BSE rate variation, see Section III.A. of this Order, *supra*.

<sup>187</sup> Ameritech Reply at 2; PacTel Reply at 1-2; Southwestern Bell Reply at 8; NYNEX Reply at 6; Bell Atlantic Reply at 4.

Bell Telephone Company, and US West Communications, Inc., SHALL FILE tariff revisions reflecting our findings in this investigation, as specified in paragraph 85 of this Order, no later than 10 days from the release date of this Order. For this purpose, we waive Sections 61.58 and 61.59 of the Commission's Rules, 47 C.F.R. §§ 61.58, 61.59, and assign Special Permission No. 93-1163.

88. IT IS FURTHER ORDERED that, pursuant to Sections 4(i) and 205 of the Communications Act, 47 U.S.C. §§ 154(i), 205, WE PRESCRIBE that carriers implementing Open Network Architecture requirements shall base their ratemaking process on their estimate of the prospective (i.e., replacement) investment necessary to provide and maintain these services, rather than embedded or booked costs associated with existing plant.

89. IT IS FURTHER ORDERED that authority is delegated to the Chief, Common Carrier Bureau, as specified herein, to effect the decisions set forth above.

90. IT IS FURTHER ORDERED that the motion to accept late filed pleading, filed by the American Telephone and Telegraph Co., IS GRANTED.

91. IT IS FURTHER ORDERED that the motion to accept late filed pleading, filed by the Metromedia Communications Corporation, IS GRANTED.

92. IT IS FURTHER ORDERED that the motion to accept late filed pleading, filed by the Williams Telecommunications Group, Inc., IS GRANTED.

93. IT IS FURTHER ORDERED that a waiver of Section 61.38 of the Commission's Rules, 47 C.F.R. § 61.38, IS GRANTED to Southwestern Bell Telephone Company with respect to its packet switching BSE rates filed in Transmittal No. 2146.

94. IT IS FURTHER ORDERED that the petition for waiver of the Part 69 ONA Order filed by Ameritech Operating Companies, IS DISMISSED AS MOOT.

95. IT IS FURTHER ORDERED that the investigation and accounting order imposed by the Common Carrier Bureau in CC Docket No. 92-91 IS TERMINATED, with respect to the Ameritech Operating Companies, Bell Atlantic Telephone Companies, BellSouth Telephone Companies, New York Telephone Company and New England Telephone and Telegraph Company, Pacific Bell, Nevada Bell, and Southwestern Bell Telephone Company.

FEDERAL COMMUNICATIONS COMMISSION

*William F. Caton*  
William F. Caton  
Acting Secretary

**APPENDIX A**

**Parties Filing Direct Cases**  
**May 18, 1992**

The Ameritech Operating Companies (Ameritech)  
The Bell Atlantic Telephone Companies (Bell Atlantic)  
The BellSouth Telephone Companies (BellSouth)  
The NYNEX Telephone Companies (NYNEX)  
Pacific Bell  
Nevada Bell  
Southwestern Bell Telephone Company (Southwestern Bell)  
US West Communications, Inc. (US West)

**Parties Filing Supplemental Direct Cases**

Nevada Bell

**Parties Filing Oppositions to Direct Cases**  
**October 16, 1991**

Ad Hoc Telecommunications Users Committee (Ad Hoc)  
Allnet Communication Services, Inc. (Allnet)  
American Telephone and Telegraph Company (AT&T)  
General Services Administration (GSA)  
MCI Telecommunications Corporation (MCI)  
Metromedia Communications Corporation (Metromedia)  
US Sprint Communications Company Limited Partnership (Sprint)  
Williams Telecommunications Group, Inc. (WilTel)

Parties Filing Replies  
November 13, 1992

Ameritech

Bell Atlantic

BellSouth

NYNEX

PacTel (Joint Reply filed by Pacific Bell and Nevada Bell)

Southwestern Bell

US West

## ESTIMATED EFFECT OF COMMISSION ECONOMIC DETERMINATIONS ON BSE RATES AND VARIANCE

DESCRIPTION	MULTILINE HUNT GROUP UCD LINE HUNTING	AUTOMATIC NUMBER IDENTIFICATION	MULTILINE HUNT GROUP	MAKE BUSY KEY
1 ORIGINAL RATES * (LN 10, COL 1)	\$8.18	\$0.000647	\$1.24	\$54.89
2 REVISED RATES (LN 11, COL 1)	\$8.18	\$0.000334	\$1.26	\$44.75
3 DIFFERENCE (LN 2 - LN 1)	0	(\$0.000213)	\$0.02	(\$10.14)
4 PERCENT CHANGE (LN 3 / LN 1)	0	-30%	2%	-18%
5 STATISTICAL VARIANCE; ORIGINAL RATES**	65.97	2.0E-07	0.34	348.30
6 STATISTICAL VARIANCE; REVISED RATES	51.97	.002E-07	0.1	77.85
7 PERCENT CHANGE (LN 6 - LN 4) / LN 4	-21%	-78%	-71%	-70%
8 CONTRIBUTION TO TOTAL BSE REVENUES (\$)	\$61,267	\$32,103,742	\$250,963	\$287,553
9 CONTRIBUTION TO TOTAL BSE REVENUES (%)***	0.18%	94.97%	0.74%	0.85%

## NOTES:

The revised rates include the following revisions where applicable:

1. Cost of money is reduced to 11.25 percent.
2. Voluntary BOC corrections.
3. Prospective switching technology.
4. Current version of SCIS.

\* TRP rates have been adjusted to reflect the same rate structures, e.g., Ameritech for Multiline Hunt Group provides a rate for a group of lines, whereas the other BOCs offer Multiline Hunt Group on a per line basis. For this analysis, Ameritech's rate was adjusted to reflect a per line rate.

\*\* Variance is a statistical measure computed by summing the squares of the difference between individual values and their average and dividing by the number of values.

\*\*\* The total anticipated revenue for all BSEs is \$47,196,178 however the percentages are based on \$33,839,056. The difference results from excluding as an outlier Ameritech's Called Directory Number Delivery VIA 800 NXX BSE with estimated revenues of \$13,357,122.

SOURCE: Independent Review of SCIS/SOM; Supplemental Sensitivity Analysis, January 14, 1983, Runs 1 and 4.

## Attachment C

1. The Common Carrier Bureau has analyzed the data provided by the BOCs in their Open Network Architecture (ONA) filings and in their direct cases in response to the ONA Investigation Order<sup>1</sup> in support of rates for basic service elements (BSEs). These data include investment, direct costs, and overheads associated with providing BSEs on a per unit basis. These data were analyzed as described in this Attachment to assess the reasonableness of the BOCs' BSE rates.

2. The instant order requires that BOCs make various adjustments to their SCIS models and the post-SCIS treatment of investment. The Bureau believes that when the BOCs refile cost support in accordance with these requirements, the unit investments will be reasonable. Moreover, in several instances, we have determined that the direct costs and overheads proposed by the BOCs are overstated.

3. The Bureau evaluated the relationship of direct cost to direct investment for the BSEs.<sup>2</sup> Although we authorized some carrier flexibility in costing methodology in the Part 69/ONA Order<sup>3</sup>, we are concerned that in many instances BOCs provide direct costs ratios that appear higher than their historical levels. We do not find adequate explanation in either the filings or direct cases and we have therefore sought some other method to identify reasonable costs.

4. The most reliable information before us on relationships between direct costs and direct investment is in the ARMIS database. As a basis of comparison, the Bureau computed ratios of direct cost to direct investment from data for the local switching element in ARMIS.<sup>4</sup> While

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<sup>1</sup> See 7 FCC Rcd 1512, Common Carrier Bureau, 1992 (ONA Investigation Order).

<sup>2</sup> Companies are required, as part of their new services showing, to provide us with these ratios.

<sup>3</sup> See 6 FCC Rcd at 4531.

<sup>4</sup> The Bureau computed the direct costs, total costs, and investment from ARMIS using data from ARMIS charts 43-01 and 43-04. Plant costs were developed using plant amounts reported in ARMIS chart 43-04,

the cost categories in ARMIS are not specifically identified as direct costs or overheads, analyses of the costs claimed by the companies reveals that some categories can be identified exclusively as either direct costs or as overheads, while some categories include both kinds of costs.

5. The direct costs for the local switching element in ARMIS include, at a minimum, the plant specific expenses, depreciation, return, and taxes associated with central office equipment, information/origination termination equipment, and cable and wire facilities. Overhead costs include the plant specific expenses, depreciation, return, and taxes associated with general support facilities, and the two categories of expense reported in ARMIS as Customer Operations-Marketing and Corporate Operations expenses. The only other categories of expenses in ARMIS are the Plant Non-specific and Customer Operations-Services categories. These categories in ARMIS contain both direct and overhead expenses. Because these two categories contain both direct and overhead costs, we computed an upper limit of the direct cost to direct investment ratio from this data, assuming all of the costs in these categories is direct cost.

6. Although the ratio of direct costs to direct investment may vary among services in a category, this upper limit should be large enough to capture all but the most unusual cases. Therefore, we believe that this upper limit ratio appears to be the maximum reasonable ratio of direct cost to investment for any individual service included in a category, absent a justification from the company.<sup>5</sup>

7. Reasonable overhead loading factors were estimated in a similar

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computed at the authorized rate of return of 11.25 percent. Taxes were computed at the tax rate implicit in the ARMIS report. Since the ratios derived from ARMIS data appear to be fairly consistent over time, the analysis used data for 1991, the latest year available.

<sup>5</sup> The results, using the ANI BSE as an example, are displayed on the following chart. Refined rates for all BOCs should not reflect direct costs and overheads ratios greater than the upper limits reflected on the chart.

manner. As explained above, there are two categories of costs that contain both direct and overhead costs. We computed an upper limit of overhead cost to total cost from this data, assuming all of the costs in these categories are overhead costs. The ratios of the total costs for BSEs to the direct costs were computed to determine the overhead loadings factors used by the BOCs. We compared these ratios to the upper limit of the ratio of the switching costs to direct switching costs computed from ARMIS.

8. The new services showing allows companies to set their rates at direct costs plus reasonable overhead loadings. We believe the upper limit overhead loading factor computed from ARMIS is the maximum overhead loading which is reasonable, absent further explanation by the companies. Companies have offered no explanation for the need for greater than normal overhead loadings in the case of ONA. Therefore, as explained in text, the companies' overhead loadings will be limited to the benchmark computed from the ARMIS data absent a justification for any greater loadings.

AUTOMATIC NUMBER IDENTIFICATION (ANI) RATIOS FOR DIRECT COSTS & OVERHEADS  
(@ THOUSANDS)

CLASSIFICATION	AMERITECH	BELL ATLANTIC	BELL SOUTH	NEW YORK	NEW ENGLAND	PACIFIC	NEVADA	SOUTHWESTERN	US WEST
1 ANIS DIRECT COST / DIRECT INVESTMENT UPPER LIMIT (LN 33 / 32)	25%	27%	27%	25%	NA	27%	25%	23%	23%
2 BOC DIRECT COSTS / DIRECT INVESTMENT RATIOS FOR ANI (TRP CHART RATIO)	27%	33%	33%	30%	NA	30%	31%	27%	25%
3 ANIS TOTAL COSTS / DIRECT COSTS RATIO UPPER LIMIT (LN 35 / 34)	NA	NA	155%	NA	NA	NA	NA	NA	200%
4 BOC TOTAL COSTS / DIRECT COSTS RATIO FOR ANI (TRP CHART UNIT LN 9 / LN 7)	NA	NA	317%	NA	NA	NA	NA	NA	234%

Attachment C  
Chart