are willing to comply with SWBT's request. At least one vendor has even requested that SWBT clearly mark its IDE orders by writing "virtual collocation" plainly across the front of the order, so that it will know when to charge the higher rate.[25]

In the Texas state proceedings, SWBT tried to pass this overtly anticompetitive behavior off as an attempt to protect the manufacturers/vendors of the equipment by ensuring that the "proprietary" levels of the vendor discounts offered to SWBT are not revealed.[26] It should be noted, however, that the issue of the purchase price of IDE in general, and the magnitude of the discounts received by SWBT specifically, is created by SWBT's refusal to conform to the broad industry consensus and offer a $1 sale and repurchase option. It should also be noted that CBT, which has offered to use the discounted prices for IDE when establishing rates, apparently does not share SWBT's view that to do so necessarily involves the disclosure of information that is proprietary to the manufacturers/vendors of the equipment. The Commission should not permit SWBT to engage in this thinly-veiled attempt to ensure that the "current best price" for IDE is

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[24] (...continued)
elected to bill SWBT at contract negotiated prices for all equipment purchased. Responsive letters to SWBT's request, also provided as an attachment to the Rebuttal Testimony of SWBT witness Michael C. Aiunbauh, are attached as Appendix C to these comments.

[25] See Appendix C at 3, Letter from Charles T. Holley, Vice President of Sales, Southwestern Region to Larry Exler, SWBT (May 2, 1995).

[26] For example, see Rebuttal Testimony of Michael C. Aiunbauh at 2-3, in the aforementioned Texas Investigation.

substantially in excess of the price that SWBT must pay when purchasing identical equipment for other uses. Indeed, the problem is especially acute when such other uses include services in direct competition with those provided by TWComm and by other interconnectors.[27]

SWBT has further indicated its unwillingness to purchase equipment from interconnectors,[28] thus nullifying the Commission's attempt to ensure that interconnectors have some ability to avoid excessive rates for IDE by offering to sell the designated equipment to the LEC. An interconnector attempting to utilize SWBT-provided virtual collocation, therefore, is placed in the untenable position of being completely at SWBT's mercy regarding the cost-based rates charged for IDE. SWBT presumably will, as it assures the Commission in its Direct Case, "contact the manufacturer/vendor to obtain the current best prices for the required equipment." Through its request to vendors, however, SWBT has ensured that the quote will be the "current best price" *when purchased as IDE for the purpose of providing virtual collocation*, and that in virtually all instances this price will

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[27] SWBT's efforts to encourage manufacturers/vendors to charge a higher rate for IDE clearly indicate that the Commission's concern that "LECs do not have an incentive to obtain the lowest possible price" was well founded. Virtual Collocation Order, 9 F.C.C.R. at 5188.

[28] For example, a witness for SWBT in the Texas Investigation stated that SWBT would not purchase IDE directly from interconnectors in order to offer either interstate or intrastate virtual collocation, citing the Commission's decisions not to require the LECs to purchase IDE from the interconnectors. See Rebuttal testimony of William C. Deere on behalf of SWBT at 3.

exceed -- by a significant amount -- the "current best price" that SWBT can receive when it is purchasing identical equipment for its own use.[29]

In summary, TWComm again urges the Commission to require the $1 sale and repurchase arrangement to be made available by all LECs. This approach resolves each of the issues associated with the acquisition price of IDE to be used for rate development in a direct and administratively simple manner, without the anticompetitive effects arising from IDE pricing practices of the sort adopted by SWBT. In the alternative, TWComm requests that the Commission act to ensure that interconnectors will pay rates based on the "lowest purchase price reasonably available" by requiring all LECs that do not offer the $1 sale and repurchase option to identify the cost of IDE by using the process proposed by CBT. The CBT process, which bases IDE rates on the lower of (1) the discounted price that CBT receives from vendors (if CBT has a contract with the required manufacturer/vendor), or (2) the price at which the interconnector is willing to sell the

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[29] Consistent with its other attempts to circumvent the Commission's objectives, SWBT has developed a "rationale" for engaging in overtly anti-competitive IDE pricing practices which clearly violate the intent of the Commission's Virtual Collocation Order. In this instance, SWBT has construed the Commission's requirement that LECs base the direct costs of providing interconnector-designated equipment on" the lowest purchase price reasonably available to them to serve an interconnector" (Designation Order at ¶ 15) as a license to impose exorbitant IDE costs, based on price quotes that are significantly above the lowest purchase price reasonably available to SWBT in purchasing equipment for its own use.

equipment to CBT, appears to be consistent with the Commission's intent in the Virtual Collocation Order.[30]

Issue A.2: Charges for Installation of Interconnector-Designated Equipment.

In order to give interconnectors some control over installation costs, the Commission has required LECs that permit outside contractors to enter their central offices to install, maintain, and repair LEC equipment to likewise allow outside contractors to provide these services for IDE.[31] The ability to contract directly with an outside contractor gives an interconnector at least some measure of control over the magnitude of installation costs.

Two of the LECs continue to attempt to circumvent this requirement, however.[32] First, BellSouth proposes to charge a substantial nonrecurring charge for "project management and coordination" that does not include actual IDE installation. BellSouth also proposes to apply this charge for "additional engineering" at its discretion. In its response to the Bureau's information requirement, BellSouth lists the types of labor costs that it includes in each of these charges, but offers no explanation as to why it must be able to apply these additional charges at its discretion. This type of "open ended" rate

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[30] See Virtual Collocation Order, 9 F.C.C.R. at 5188.

[31] Designation Order at ¶ 22 citing Virtual Collocation Order, 9 F.C.C.R. at 5173.

[32] This issue is further discussed in Section III, Issue C.2 below.

structure gives BellSouth an unacceptable amount of control over the costs of its competitors.

Second, SWBT has also attempted to inflate the cost of using outside contractors. SWBT was directed to demonstrate why its proposed tariff language will not result in double recovery of installation costs where an interconnector arranges for an outside contractor to perform the installation. While SWBT's response indicates that such a "double recovery" may not occur, it also demonstrates that, under the SWBT scheme, interconnectors will be wholly unable to control the installation costs that they incur, and must pay the excessive installation rates proposed by SWBT even when the interconnector avails itself of a more efficient alternative.

For example, if an interconnector finds an SWBT-certified contractor who is willing to install the interconnector's IDE for a fee that is less than the tariffed nonrecurring IDE rate, SWBT proposes to permit this outside contractor to perform the installation. SWBT would still charge the interconnector the tariffed nonrecurring rate, however.[33] In other words, while an interconnector can exercise some influence over the selection of the entity performing the installation, it remains completely at SWBT's mercy as to the rate that it must pay. Presumably, if an interconnector finds an outside contractor that can perform the necessary IDE installation more efficiently and at lower cost than SWBT, SWBT will pay the lower rate to the contractor, charge

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[33] See Direct Case of SWBT at 8-9.

the interconnector the higher tariffed rate, and simply pocket the difference.

Issue A.3: Charges for Maintenance and Repair of Interconnector-Designated Equipment.

The ongoing maintenance of IDE represents another example of a cost that may be controlled by the LEC but which must be paid by the interconnector. Those LECs that permit the use of outside contractors for IDE maintenance allow the interconnector to exercise some control of these costs. For example, Ameritech permits the use of outside contractors and does not have a tariffed rate for IDE maintenance. It will nevertheless provide this maintenance on a time and materials basis if requested.[34]

In contrast, SWBT and GTE have proposed tariffed rates for equipment maintenance. GTE has performed an estimate of the labor hours that it expects will be necessary for IDE maintenance, and has developed rates using these estimates. GTE readily acknowledges, however, that this process is not equivalent to the method used for determining maintenance costs for equipment used to provide other services.[35] The process adopted for VEIS creates the opportunity for GTE to artificially inflate the costs of its competitors, and interconnectors have no way to determine the reasonableness of GTE's estimates or the

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[34] Direct Case of Ameritech at 4.

[35] See Direct Case of GTE at 6. Specifically, GTE typically develops a maintenance expense loading factor, based on the historical maintenance expenses associated with equipment in a given account code, expressed on a "per dollar of investment" basis.

procedures used to determine them. The Commission should require GTE to compare the maintenance costs for comparable IDE and equipment used to provide DS1/DS3 services and explain any differences.

SWBT's excessive maintenance charges are a direct result of its use of non-discounted vendor list prices for IDE and refusal to make a $1 sale and repurchase arrangement available. SWBT states that "maintenance and repair are components of SWBT's annual cost factors . . . [T]here are no differences in the application of these ACFs to IDE, nor to equipment used by SWBT to provide services to its customers."[36] While SWBT's statement is literally true, it is completely off target. The creation of SWBT's excessive charge for IDE maintenance (compared to the maintenance charges paid by its DS1 and DS3 customers through their monthly rates) is not caused by the application of different factors, but rather is caused by the application of identical factors to significantly different assumed levels of investment.

In order to calculate maintenance charges for IDE, SWBT applies the maintenance and repair component of its ACF to an investment assumption based on the vendor list price for IDE. When computing the corresponding component of its DS1 or DS3 monthly charge, these factors are multiplied by an investment amount based on the significantly discounted price that SWBT actually pays. The result is that interconnectors must pay more

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[36] Direct Case of SWBT at 9-10.

than SWBT's DS1 and DS3 customers each month for maintenance of identical equipment. These excessive charges are yet another example of SWBT's attempts to artificially inflate the costs of its competitors, and should not be permitted.[37]

Issue A.4: Charges for Cable Installation and Support.

TWComm has previously expressed concern regarding SWBT's outrageous riser tail and cable splice charges. The Bureau explicitly required SWBT to "explain why it is reasonable to charge a rate of $20,687 for this service element when SWBT's direct costs for the element total $7,907."[38] SWBT refused to comply with the Bureau's directive, and merely stated that it had "already provided"[39] its response. Without an adequate justification for a charge that reflects a nearly 300% markup over cost, the Commission should assume that such a rate is unreasonable.[40]

As TWComm pointed out in its 4/4/95 Comments in Phase I of this proceeding, CBT also proposed charges for Riser Cable Space that are excessive when compared to the proposed rates of other LECs. Specifically, CBT proposes a monthly charge of $18.64 *per*

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[37] This problem becomes compounded for every cost component utilizing an ACF applied to investment.

[38] Designation Order at ¶ 34(b).

[39] Direct Case of SWBT at 12.

[40] TWComm has expressed similar concerns regarding BellSouth's higher than average per-cable installation fee. In its Direct Case, BellSouth likewise fails to provide an explanation why its charges must be higher than most of the other LECs. See Direct Case of BellSouth at 4.

foot for Riser Cable Space, in addition to a separate monthly charge of $223.13 per month for Riser Cable and Termination. While the Bureau did not require that CBT provide additional information on this issue, the cost data included in CBT's Direct Cost Information Charts suggest that further investigation of this issue is needed.

For example, page one of CBT's *DS1 Virtual Collocation TRP Function Rates and Priceout Analysis* indicates that CBT must place $331.32 worth of circuit equipment (an assumed $393.88 investment including land and building loadings) *per foot* associated with the Riser Cable Space rate element. There are three potential problems with this assertion. First, it is unclear why a rate element for cable riser space includes circuit equipment. Second, it is unclear why the investment associated with circuit equipment has been expressed on a per foot basis. Clearly, the attempt to recover costs that do not vary by distance on a distance-sensitive basis creates the distinct possibility of errors of over- or under-recovery if the actual distance is not equal to the assumed distance. Third, CBT's Riser Cable & Cable Termination rate element includes substantial ($3,979.00) investment in circuit equipment. If the circuit termination equipment is included in this second rate element, a double recovery appears inevitable. If the circuit equipment investment has been split between these two rate elements, CBT has provided no explanation why this is the case.

Finally, TWComm reiterates its previous concern that the difference between CBT's reported costs and those of other LECs (Ameritech, for example) vastly exceed any differential that could reasonably be explained by regional variations in input costs. CBT's proposed charges for the Cable Riser Space rate element are excessive,[41] Have not been justified, and should not be approved.

Issue A.6: Provisioning Charges.

Each of the LECs includes in its VEIS tariff explicit up-front charges for service order processing, design and other "provisioning" costs. These provisioning costs, which are tariffed under a variety of labels, exceed by a significant amount the similar charges for the provisioning of the LEC's comparable DS1 and DS3 services. As TWComm has pointed out, Ameritech's Management Fee of $3,601.28 and Service Order Charge of $181.70 for VEIS (compared to an Administrative Charge of $50.00 and a Design and Central Office Connection Charge of $225.00 per circuit for its Optinet DS3 service) and BellSouth's

[41] For example, TWComm has been quoted a distance requirement of 350 feet from CBT for a central office where VEIS has been requested. Based on CBT's proposed rates, TWComm would be required to pay almost $80,000 per year (350 ft. x $18.64/ft/mo. x 12 mo.) for Cable Riser Space in this single CBT office. Moreover, CBT's cost studies suggest that over $115,000 in circuit equipment investment will be incurred to accommodate the 350 ft. of Cable Riser Space required to accommodate TWComm's VEIS request.

VEIS Application Fee of $2,848.30 are the most onerous of the LEC charges.[42]

The LECs generally, and Ameritech and BellSouth specifically, argue that these additional charges are necessary to recover their costs of providing VEIS. It has proven impossible for TWComm to ascertain if these costs are reasonable, based on the information provided by the LECs. The Direct Cost Information Charts, for example, provide no supporting documentation for the level of nonrecurring costs reported. Interconnectors should not be required to pay provisioning rates without being given the opportunity to examine the LECs' cost development process and data to determine if these charges are both necessary and reasonable.

Issue A.7: Charges for Power to Interconnector-Designated Equipment.

The LECs take two approaches to calculating power charges for IDE. One approach is to directly estimate IDE power costs and to recover these costs through an explicit power-related rate structure. Ameritech, for example, proposes a nonrecurring Power Delivery rate element to recover equipment, and a recurring Power Consumption rate element for power actually used. The costs of providing power to its DS1 and DS3 services, however, are

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[42] See Petition To Reject Or Partially Suspend Virtual Expanded Interconnection Service Tariffs filed by TWComm in Ameritech Operating Companies Tariff FCC No. 2, et al; Virtual Expanded Interconnection Service Tariffs, Transmittal Nos. 818 and 819, et al. (October 14, 1994) at 29 ("TWComm Petition to Reject").

estimated through the application of a loading factor.[43] BellSouth and CBT utilize a similar approach, based on the direct estimation of IDE power costs and the use of factors for estimating power costs for DS1 and DS3 equipment.[44]

In contrast, Bell Atlantic utilizes a power loading factor, arguing that the cost of providing power to collocation equipment and standard Bell Atlantic equipment should be computed in a similar manner because, "on a unit for unit basis, they consume equivalent amounts of power."[45] SWBT states that it utilizes a similar approach.[46]

Each power cost estimation approach suffers from different shortcomings. The process of estimating power costs separately for IDE creates the opportunity for the LECs to overstate these costs. None of the LECs using this approach has documented how it made such a calculation. The application of power loading factors to develop power costs for both IDE and DS1/DS3 equipment provides an opportunity for the Commission to ensure that interconnectors are being treated in the same manner as the LECs' DS1/DS3 customers. If these factors are applied to different assumed investments, however, the LECs will be able to create

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[43] Direct Case of Ameritech at 9.

[44] Direct Case of BellSouth at 6-7, Direct Case of CBT at 3.

[45] Direct Case of Bell Atlantic at 5.

[46] Direct Case of SWBT at 14.

higher estimates of power costs for IDE than for their DS1/DS3 customers utilizing the same equipment.

TWComm is convinced that Bell Atlantic's statement is essentially correct: on a unit by unit basis, the power requirements for LEC equipment and IDE should be equivalent. The consistent use of a power loading factor offers the greatest opportunity for equitable treatment of interconnectors and LEC retail customers. However, the above-described concern with regard to identification of the correct investment to which to apply the loading factor still must be addressed.

For reasons similar to those described previously regarding maintenance expenses, SWBT's approach is inherently inequitable and should not be approved. If SWBT applies a power loading factor to an assumed investment based on the discounted price that it actually pays for the equipment for DS1/DS3 services, and applies the same power loading factor to an assumed investment based on the vendor's non-discounted list price for the equipment for VEIS, it will report a higher cost for power for IDE than it reports for the same piece of equipment used to provide retail DS1/DS3 services.[47]

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[47] Bell Atlantic indicates at p. 5 of its Direct Case that its applies its power loading factor to the "surrogate collocation equipment investment." If this surrogate is equal to the price paid by Bell Atlantic for the equipment in question, this process will yield the correct power cost to be recovered from interconnectors. If the surrogate investment is greater than the price actually paid by Bell Atlantic, the power cost associated with IDE will be over-stated.

It is necessary, therefore, that the Commission require the LECs to calculate an annual power cost for the circuit termination equipment that they use to provide DS1/DS3 and for IDE by applying their power loading factor to an amount of investment equal to that incurred on a per unit basis in connection with a LEC's DS1/DS3 services (i.e. a price equal to that actually paid by the LEC for an equivalent configuration of equipment used to provide DS1/DS3 services). This cost should be recovered through a monthly rate structure for both interconnectors and retail customers. The power rate may continue to be bundled in other recurring rates for DS1/DS3 services, but should be equal to the explicit power charge to interconnectors. If an LEC argues that the particular type of IDE utilized by the interconnector has higher power requirements than the equipment in use by the LEC, it must bear the burden of demonstrating that differential. Where such a demonstration is made, the rate differential should not exceed the demonstrated difference in power usage.

Issue A.8: Charges for Floor Space.

Floor space charges should be handled in the manner described for power charges above. TWComm has argued that while the LECs should be permitted to recover land and building costs that are calculated using the same loading factor methodology used by the LECs to estimate these costs for their DS1/DS3 services, explicit charges for floor space are merely a remnant

of physical collocation and should not be permitted.[48] Put simply, the only way that interconnectors can determine that they are being treated fairly vis-a-vis the LEC's retail DS1/DS3 customers is if these costs are calculated using the same methodology.

Ameritech, BellSouth, and CBT all indicate that they develop an explicit cost for floor space used by an interconnector, and estimate corresponding costs for their equipment using factors developed for this purpose. For example, BellSouth states that IDE-related costs are estimated and charged on a square-foot basis. In contrast, the costs for floor space in connection with DS1/DS3 services are based on "direct cost loadings for land and buildings. These loadings are calculated by applying appropriate loading factors to the circuit and central office equipment for each service. Similarly, bay and racking, AC power outlet, and miscellaneous equipment costs generated by DS1/DS3 service provision are recovered through the MC&E factor."[49] In order to develop a recurring charge for land, building, and miscellaneous equipment to be charged to interconnectors, the LECs should likewise apply these factors to an assumed investment based on the equipment actually used and the price actually paid by the LEC to provide DS1/DS3 services. As with the application of power-related loading factors, if the LECs argue that the particular type of IDE utilized by the interconnector has higher

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[48] See TWComm Petition to Reject at 31.

[49] Direct Case of BellSouth at 8.

floor space or equipment bay space requirements than the equipment in use by the LEC, they must bear the burden of demonstrating that differential. After such a demonstration is made, any rate differential should not exceed the demonstrated difference in space usage.

III. RATE STRUCTURE OF VEIS TARIFFS

Issue B.1: Nonrecurring Charges for Interconnector-Designated Equipment.

SWBT's and, to a lesser extent, CBT's refusal to offer the $1 sale and repurchase arrangement has created a substantial barrier to entry in the form of up-front charges for interconnectors seeking VEIS.[50] SWBT's arguments in support of the nonrecurring rate structure for IDE are either self-fulfilling or based on false assumptions, making it clear that SWBT's objective when developing this rate structure for VEIS has been to create such an entry barrier.

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[50] While CBT's arguments for the recovery of the capital costs associated with IDE through a nonrecurring rate structure are no more valid than (and in fact are identical to) SWBT's, CBT has indicated a willingness to purchase IDE directly from interconnectors. This arrangement will allow interconnectors to avoid a potentially prohibitive up-front charge that includes both the cost of the equipment and to reduce the effect of excessive overhead loadings. In contrast, SWBT has refused to offer the $1 sale and repurchase arrangement and has further indicated that it is unwilling to purchase IDE directly from an interconnector. If SWBT's proposed rate structure is approved, an unavoidable barrier to entry will be created and the development of competition will be impeded.

1. The recovery of IDE capital costs through a recurring rate structure does not create a financial risk for CBT or SWBT.

CBT supports its proposed nonrecurring rate structure by arguing that there is "substantial risk of stranded investment if the interconnector terminates its collocation service before the equipment cost is recovered."[51] SWBT similarly argues that to recover the capital costs associated with IDE "through recurring charges unnecessarily places SWBT and its customers at the financial risk of third parties."[52]

Both CBT and SWBT clearly have at least two options for avoiding the financial risk that they have identified (to the extent such a risk actually exists). The most straightforward means of avoiding any and all such risk is through the $1 sale and repurchase arrangement which all of the LECs other than SWBT and CBT have embraced.[53] As an additional benefit, the $1 sale

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[51] Direct Case of CBT at 5.

[52] Direct Case of SWBT at 18. To the extent that CBT and SWBT are arguing that it is the act of recovering these IDE-related capital costs over the depreciable life of the equipment that *causes* the purported financial risk, they are simply wrong. The $1 sale and repurchase arrangement entails no financial risk for the LEC, and both CBT and SWBT have had (and continue to have) the opportunity to make such an arrangement available. It is the decision by CBT and SWBT not to make the $1 sale and repurchase arrangement available, therefore, that *causes* any financial risk that may exist. A purported risk that a LEC has, through its own action, created for itself is not a justification of the imposition of a rate structure that will create a substantial barrier to entry.

[53] SWBT's argument that it "has no desire to, nor should it be required to, finance its competitor's operations" (Direct Case of SWBT at 18) is also fully addressed by the adoption of a $1 sale and repurchase arrangement. Similarly, SWBT's assertion (continued...)

and repurchase option does not serve to thwart the Commission's objectives to make VEIS available. In contrast, the decision by CBT and SWBT to purchase the equipment and recover the capital costs through an up-front nonrecurring charge effectively eliminates any financial risk for the LEC but simultaneously makes it unlikely that interconnectors will be able to afford to utilize virtual collocation arrangements. With two options available for the elimination of any financial risk, SWBT and CBT have chosen the option that also allows them to eliminate would-be competitors. Clearly, if the LEC's objective is merely to eliminate any financial risk, both a $1 sale and repurchase arrangement and a nonrecurring rate structure will be equally effective. If the LEC's objective is to eliminate any financial risk *and* to create a barrier to entry for competitors, only the nonrecurring rate structure will be effective.

The existence of this purported financial risk is not a legitimate basis for a nonrecurring rate structure -- with the resulting adverse effects -- if another option for avoiding any such is readily available. If the Commission is not convinced that is has the authority to order that all LECs make a $1 sale and repurchase arrangement available, it should require that CBT and SWBT, if they *choose* to purchase the requested IDE from the

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[53](...continued)
at p. 18 of its Direct Case that its limited capital budget will be potentially depleted by the purchase and capitalization of IDE is also moot if a $1 sale and repurchase arrangement is offered. Clearly, the problems identified by SWBT are not inherent in VEIS and can be avoided; SWBT has in fact chosen to create them.

vendor or pursuant to CBT's alternative interconnector provisioning proposal, to recover the associated capital costs[54] over the depreciable life of the equipment through a recurring rate structure.[55]

2. A nonrecurring charge for IDE is *not* equivalent to physical collocation.

In an attempt to justify its overtly anticompetitive pricing structure, SWBT presents an argument that is nothing short of ludicrous. Specifically, SWBT argues that

> [A]s the Commission is aware, interconnectors have voiced a preference for physical collocation. Under that type of arrangement, the interconnector must purchase, finance, and install their own equipment in a LEC central office. The requirement to pay IDE costs as a one time nonrecurring charge for virtual collocation is fundamentally the same financial arrangement -- designated, dedicated, and installed equipment is paid for by the interconnector upon completion of the collocation arrangement.[56]

First, if it is SWBT's intention to offer interconnectors -- a group of its customers -- the collocation arrangements for which they have "voiced a preference," it should offer physical collocation. Other LECs have chosen to do so. If SWBT wishes to create a rate structure for virtual collocation that emulates the financial arrangement faced by interconnectors in a physical

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[54] This assumes that the IDE purchase price has not been artificially inflated by the LEC.

[55] The recovery of the capital costs associated with IDE over time was a component of the settlement reached in the aforementioned Texas Investigation. SWBT has some experience, at least at the intrastate level, with the recovery of IDE costs through a recurring rate structure.

[56] Direct Case of SWBT at 18.

collocation environment, it must go beyond a mere superficial effort to equate the timing of an interconnector's payment for IDE.

When making this argument, SWBT simply ignores the fact that the cost incurred by an interconnector to acquire IDE-equivalent equipment in a physical collocation environment is substantially less than the nonrecurring rate that SWBT wishes to charge. First, with physical collocation, interconnectors can exercise some control over their costs by negotiating discounts with the manufacturers/vendors of the equipment. As described above, SWBT intends to base its rates for IDE on the non-discounted (i.e. "list") price of the equipment. Second, the price paid by an interconnector to an equipment manufacturer/vendor does not include the significant level of overhead and other loadings built into SWBT's rates. As a result of these key distinctions, an interconnector paying SWBT's proposed nonrecurring charge for IDE will likely pay several times the cost of acquiring the equipment directly.

A significant distinction also exists with regard to the disposition of the designated equipment after an interconnector's VEIS service from SWBT is terminated. With a physical collocation arrangement (and with the $1 sale and repurchase arrangement), the interconnector could remove the equipment from the LEC central office and reuse the equipment elsewhere. The SWBT proposal, however, would require the interconnector to pay for the equipment up front (at a rate which far exceeds the price

at which the interconnector could acquire the equipment directly), and then to abandon the equipment when VEIS is terminated. If the equipment is not reusable by SWBT, it should have no opposition to making the equipment available to the interconnector at a nominal price when VEIS is terminated. If the equipment is reusable, SWBT will be able to use equipment purchased by an interconnector in its own network at no charge. Such a scenario creates incentives for SWBT to seek early termination of an interconnector's VEIS service, and should be avoided.[57]

SWBT's argument that interconnectors should not oppose its proposed nonrecurring rate structure for IDE because "interconnectors have voiced a preference for physical collocation" either ignores the significant differences that exist or is based on a fundamental misunderstanding by SWBT. If the latter is the case, TWComm would like to take this opportunity to clarify for SWBT that its preference for physical collocation is based, at least in part, on a desire to control the acquisition costs of the required equipment and to utilize that equipment for its entire useful life; it is not based simply

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[57] SWBT indicates at p. 19 of its Direct Case that "current plans are for all equipment dedicated to the specific interconnector to be removed from the central office location and not reused by SWBT." If these plans are implemented, an interconnector will pay in full (including overhead and other loadings) for IDE when VEIS is begun, and any remaining useful life of the equipment will simply be wasted when VEIS is discontinued. Such an outcome utterly fails any standard of equity or economic efficiency. If SWBT changes its current plans and decides to reuse the equipment, interconnectors will be forced to provide useful assets to SWBT at no charge.

on a desire to pay for this equipment on an up-front basis (and to have SWBT dispose of the equipment at its discretion).

3. Any financial risk incurred by CBT and SWBT is effectively mitigated by reusability of the equipment.

The issue of reusability is central to the question of whether a LEC incurs financial risk when deploying equipment requested by an interconnector and recovering the associated capital costs through a recurring rate structure based on the depreciable life of the equipment. SWBT's rate structure is based on a "zero reusability" assumption, and it argues that it faces this risk because "current plans are for all equipment dedicated to the specific interconnector to be removed from the central office location and not reused by SWBT."[58] The relevant question, however, is whether SWBT *can* reuse the equipment, not whether SWBT *currently plans* to do so. If SWBT refuses to utilize equipment that is reusable, the financial consequences are a direct result of that choice, and are not caused by an interconnector's decision to discontinue VEIS before the IDE is fully depreciated. An attempt to quantify the risk actually caused by the recovery of IDE-related capital costs over the depreciable life of the equipment must be based on the LEC's ability -- not its willingness -- to reuse the equipment.

CBT's argument more accurately describes the salient question. Specifically, CBT states that this risk "is heightened

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[58] Direct Case of SWBT at 19.

if the equipment is not of a type already used in CBT's network."[59] As TWComm has argued in Phase I of this investigation, the recovery of the capital costs associated with IDE through a nonrecurring rate structure is only justifiable if two conditions are met: (1) if the equipment cannot be used by the LEC to provide other services (i.e., that the LEC has not and does not plan to purchase this particular equipment for its own use), so that the designated equipment in question is truly "non-standard" for the LEC, and (2) if other interconnectors are not requesting and using the IDE in question on a ongoing basis; in other words, the requested equipment is truly "non-standard" for interconnectors.

While it is difficult in the current environment to determine whether a specific type of IDE meets the second condition,[60] it is possible to begin the process of ascertaining whether the first condition obtains for specific types of equipment.

In the Texas Investigation described previously, SWBT provided cost study documentation which indicates the criteria used by its cost analysts to classify a cost as recurring or nonrecurring. SWBT's *Texas Virtual Collocation/Expanded*

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[59] Direct Case of CBT at 5.

[60] Interconnectors can be expected to place additional orders for VEIS after the completion of this investigation. A review of the equipment that is being put into service on an ongoing basis by interconnectors in other regions will make it possible to determine which specific pieces of IDE are "standard" for interconnectors.

Interconnection Incremental Unit Cost Study 1995-1998, dated November 1994, states at p. 3 that the term "nonrecurring cost" refers to (1) the expensed labor efforts to provide service to a customer and includes both installation and disconnect activity, or (2) the cost of equipment purchased for a customer's use *with no practical reusability for SWBT*. SWBT initially presented testimony in support of these criteria. When asked if SWBT would have use for IDE if an interconnector discontinued service, the SWBT witness responded as follows: "probably not. Since much of the interconnector dedicated equipment does not match equipment normally used by SWBT, the Company does not anticipate that it will have any use for it in the provisioning of services to the general body of ratepayers."[61]

TWComm then attempted, through the discovery process, to determine which of the tariffed types of IDE[62] "had no practical usability for SWBT" by requesting that SWBT provide a list of the quantities of each type of tariffed IDE that had been purchased by SWBT for use in its network. SWBT objected to TWComm's data request, but indicated in its objection that

> According to present information, virtually all of the equipment identified in the cost study as "interconnector designated equipment" is being or has been purchased by SWBT.[63]

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[61] Direct Testimony of William C. Deere on behalf of SWBT at 14.

[62] The list of the types of IDE tariffed by SWBT in Texas is attached as Appendix D.

[63] Response of SWBT to Time Warner Communications of Austin, L.P. Motion to Compel at 3.

SWBT went on to identify the listed Fujitsu equipment as the current standard, and the AT&T equipment as a previous standard.

After resolution of the discovery dispute, SWBT provided limited information regarding the types and quantities of the equipment that it has purchased.[64] The first supplement to TWComm's data request (dated 6/19/95) consisted of estimates of the quantity purchased for nine types of equipment. The identified equipment is manufactured by Fujitsu, AT&T, Alcatel, and Tellabs, and the estimates of the quantity purchased range from "approximately 10" to "over 1000." The second supplement to TWComm's data request provided a more accurate count for the quantity of AT&T and Fujitsu equipment purchased during 1993 and 1994. This response indicates a range of quantities purchased by SWBT of 65 units for an AT&T DDM OC-12 to 4443 units for a Fujitsu FLM150 OC-3.

More complete information is needed in order to determine which types of IDE are reusable by SWBT.[65] Based on the information provided during the Texas Investigation, however, it is clear that SWBT has sufficient experience with the equipment manufactured by AT&T, Fujitsu, and Alcatel to reuse this equipment in its network. As a result, SWBT does not incur additional financial risk when purchasing this equipment as IDE,

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[64] SWBT's responses to TWComm's data request are attached as Appendix E.

[65] CBT should be required to provide similar information before it is permitted to declare any type of IDE to be "non-standard" and subject to a nonrecurring rate structure.