the network element in question -- assuming that the LEC continues to provide all of its other services and functionalities. The only forward-looking costs that are excluded from an element's TSLRIC are those that would continue to exist if the entire element were not produced and all other elements continued to be produced.[29]

Because TSLRIC is a long-run methodology, virtually all direct costs, including costs that are fixed in the short run, are included in its calculation.[30] Thus, the TSLRIC of a network element includes both the fixed equipment costs associated with that element and the normal competitive return to the capital that must be invested in order to supply that element.

TSLRIC is not a marginal cost approach that would disregard substantial portions of LEC costs. To the contrary, unbundled BNF TSLRIC models developed in state proceedings have provided for the calculation and recovery of, inter alia, such costs as land, buildings, furniture, switching equipment, cable, wire, circuit equipment, motor vehicles, conduit, power, research

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[29] TSLRIC costs do, of course, exclude the strategic investments in facilities unnecessary for telephony services described, supra.

[30] This differs from a simple long run incremental cost which only measures the additional cost caused by an increase in demand for an existing service while ignoring service-specific fixed costs.

and development, and marketing, engineering, accounting, finance, legal, and procurement staffs.[31]

TSLRIC therefore provides a very good proxy for the competitive-market outcome. Prices would be based on TSLRIC if competition in the provision of local-exchange telecommunications services was effective and adequate, because TSLRIC reflects all volume-sensitive costs as well as the fixed costs directly associated with the BNF in question (including the costs entailed in provisioning for future asset needs in amounts consistent with anticipated market demands for the BNF in question).

Thus, TSLRIC pricing allows the incumbent LECs' provision of interconnection and unbundled BNFs to mimic competitive markets, forcing each carrier to compete in providing telephony services based upon its efficiency in providing services that are attractive to consumers, and thereby fostering economically efficient purchase versus facilities-based entry decisions with respect to each discrete network element. Allowing incumbent LECs to price network elements above TSLRIC,

[31] Even costs like those associated with centralized accounting and legal departments that might at first glance appear "shared" or "common," are, in large part, directly attributable to particular network elements (and thus properly included in TSLRIC costs). That is because staffing levels and associated benefits would plainly be reduced, and those costs avoided, if, for example, a LEC stopped providing the loop (and indeed many such staff members are directly assigned to particular lines of business or functionalities).

by contrast, would facilitate price squeezes.[32] TSLRIC is the most rational pricing mechanism for telephony services.[33]

TSLRIC is also compensatory. When prices approximate the competitive cost level, market participants will earn revenues sufficient to recover their operating costs and to provide the financing necessary to carry out their forward-looking investment decisions, thereby permitting the investments they need to replace depreciating assets as warranted by the state of demand. TSLRIC can provide such reasonable compensatory earnings through its cost of capital component that corresponds to the competitive rate of return on necessary investments.

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32 This would be true even if the incumbent LEC were subject to a perfectly enforceable imputation requirement, because the LEC could price its retail service exactly at the sum of its above-cost, but imputed, network element input rate and its other retail costs, thereby enjoying a comfortable margin over its real costs while rivals forced to match the incumbents' retail price would earn no margin at all.

33 Again, it is critical that the Commission make clear that the costs at issue are the costs of providing telephony services, not the costs associated with strategic LEC investments in facilities designed to provide other services (e.g., broadband facilities and overdesigned official network) or excess facilities targeted at future demand that may develop from the growth internet-basd services or of second lines for fascimile machines and computers. The LECs are, of course, free to make such investments, but the costs of those non-telephony-based decisions have no place in carrier-to-carrier interconnection rates. For this reason, the Commission should neither be surprised nor concerned to find that TSLRIC-based rates will fall significantly short of recovering all LEC investments.

In the CMRS/LEC Interconnection NOI, the Commission did recognize one potential difficulty associated with a TSLRIC pricing mandate -- TSLRIC pricing of services that share fixed facilities may, under some circumstances, result in large-scale under-recovery of facilities costs, because those facilities would continue to exist even if one of the services that uses them was discontinued. See id. at ¶ 48. This problem will not arise here, however, so long as the Commission mandates TSLRIC cost studies at the level of the natural facilities-based groupings of network elements of loop, switching, transport, and signalling. Each of these groupings is a discrete physical element of the local network, and thus there will be few (if any) shared facilities costs not recovered through TSLRIC pricing.[34]

Of course, even TSLRIC rates for interconnection and unbundled BNFs set at the groupings level would include no contribution to common overheads shared between the unbundled network elements as a whole and an incumbent LEC's retail services. But this too is of no practical consequence here.

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[34] Once the TSLRIC costs of the facilities-based groupings are determined, the relevant facilities portion of the TSLRIC costs would be assigned to the individual network elements that utilize those facilities. Thus, for example, the TSLRIC of transport facilities would be assigned to dedicated transport, switched transport, and access tandems consistent with general principles of cost causation with which both the Commission and the States have vast experience.

Precisely because the TSLRIC approach comprehensively addresses the long run impact of the discontinuance by an incumbent LEC of an entire network element grouping, there are very few costs that are truly fixed -- indeed, AT&T estimates that less than one percent of LEC costs would fall into this shared overhead category. And even that small amount is not all at risk. The incumbent LECS, like every other provider of retail service, will retain the ability to recover all competitively-justifiable, forward-looking overhead costs through retail rates to the customers they retain.[35] Further, the incumbent LECs' enormous asymmetric information advantages (and their incentives to inflate cost estimates) likely mean that their actual interconnection and unbundled BNF rates will exceed true TSLRIC by more than enough to fully recover the fraction of a percent that remains an issue.[36] In any event, as noted above, any

[35] If the incumbents' current overhead levels are too high to be sustained in the new competitive environment, that merely reflects excess that has only survived because of their protected monopoly status. In this regard, TSLRIC pricing has the additional salutary effect of placing the most competitive pressure on these joint and common costs as soon as possible, resulting in lower retail rates to end users. The Act envisions competitive retail markets, and no firm in a competitive market is assured of recovery of its excessive overhead costs.

[36] AT&T is confident that the amounts at issue are relatively insignificant, but AT&T encourages the Commission to invite further comment relating to the magnitudes of the few specific categories of costs actually shared between retail and carrier-to-carrier services on a forward-looking, least-cost basis.

supplemental recovery mechanism to address shared overheads (and AT&T does not believe that any such mechanism is warranted) should be competitively neutral in collection and distribution and unrelated to BNF or interconnection pricing. Any other approach would undermine the very competitive benefits the Act seeks to engender.

C. Issues Related To Rate Structure And Mechanisms For The Recovery Of TSLRIC Costs

Establishing an efficient methodology for determining the costs of unbundled network elements that is consistent with the Act is by far the most important pricing issue encompassed within the Commission's § 251 mandate. A secondary consideration, but one that is nonetheless of considerable importance, is establishing sound guidelines for how the costs identified by the chosen costing methodology should be recovered through individual charges and rates. This is largely a question of identifying the appropriate "billable unit."

AT&T recommends that the Commission prescribe a uniform rate structure -- i.e., permissible types of charges and general priniciples for deriving those charges -- for each network element. An efficient uniform national framework to guide individual rate structure negotiations and proceedings is necessary both to facilitate uniform ordering and provisioning procedures and to discourage strategic pricing structures designed to disadvantage the incumbent LECs' local service rivals.

The Commission should, at a minimum establish the general principles it expects to govern the determination of rate structures. Most fundamentally, consistent with well-recognized cost recovery standards, the Commission should explain that "just and reasonable" network element rates will reflect the principle of cost causation.[37] This will generally require an identification of the cost drivers for each network element.[38] AT&T's analyses indicates that the vast majority of unbundled network elements costs are not usage sensitive, however, and thus fixed or flat rates for those elements will generally be appropriate.

The cost of a switch, for example, generally is a function of three factors: the number of lines connecting to the switch, the number of trunks terminating on the switch, and busy hour usage. The majority of those switch costs are line and trunk-driven. Under strict principles of cost causation, most of

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[37] See CMRS Order at ¶ 42 ("we believe that costs should be recovered in a manner that reflects the way they are incurred").

[38] The necessary cost causation analyses will in many cases be accomplished through the TSLRIC study itself, which requires design of the most efficient means of providing the functionality in question and thus necessarily addresses the design (and cost) drivers.

the TSLRIC costs of LEC switches should therefore be recovered through fixed line and trunk charges to carriers purchasing the switching element. And even with respect to usage-sensitive costs, the efficiency argument in favor of usage-sensitive rates may be outweighed in certain circumstances by the costs of actually measuring and billing usage.[39] Ease of administration and equitable risk sharing principles may similarly favor simplified fixed rate structures -- that nonetheless are at least generally consistent with cost causation principles -- in other circumstances as well. AT&T encourages the Commission to invite comment on how the cost causation principle can efficiently be applied to each BNF.[40]

Cost causation may also require that rates for some network elements be geographically deaveraged to reflect

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[39] For example, it may be reasonable to recover usage-based switching costs through incremental flat-rate charges on the monthly rates for line and trunk terminations on the switch. Costs could be allocated between line and trunk terminations based on average intraswitch and interswitch traffic loads respectively. Indeed, trunk terminations in particular correlate closely with interoffice switching loads.

[40] AT&T fully supports equitable risk sharing principles designed to reflect the unbundled environment in which all users of the incumbent LECs' existing networks should bear some portion of the risks associated with demand forecasting. In this regard, AT&T notes that a number of well-defined and useful mechanisms have been developed to address risk-sharing principles, and AT&T encourages the Commission to invite comment on fixed rates, volume and term discounts and other risk-sharing mechanisms that might be applied in this context.

geographic cost differences. Loop costs, for example, may differ significantly in urban and rural areas. Existing TSLRIC costing models sponsored by the incumbent LECs as well as AT&T and other potential LEC rivals have the capability of accounting for these cost differences in calculating TSLRIC costs.[41] Both the BCM and Hatfield TSLRIC models use six geographic loop pricing zones to reflect these cost differences. AT&T would support the use of that approach (on a State-by-State basis) or any other reasonable approach consistent with the key constraints of reasonable variation within each zone and ease of administration of the approach as a whole. It is critically important to recognize, however, that geographic deaveraging on the cost side can only be consistent with the competitive goals of the Act if geographical deaveraging also occurs at the retail level.[42]

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41 See, e.g., Notice of Proposed Rulemaking and Order Establishing Joint Board, Federal-State Joint Board on Universal Service at ¶¶ 30-32, CC Docket No. 96-45 (March 8, 1996) (discussing and seeking comment on, inter alia, the "Benchmark Costing Model" or "BCM" sponsored by U.S. West, NYNEX, Sprint and MCI). Both of the leading TSLRIC costing models, the BCM model sponsored by U.S. West, NYNEX, Sprint and MCI and the Hatfield model sponsored by AT&T and MCI, calculate loop costs for each of the literally hundreds of thousands of census blocks in the United States, assign each such block to a representative zone (i.e., line density of 100-500 lines/square kilometer), average the costs within each zone, and use that average cost for each of the census blocks assigned to that zone.

42 The most efficient solution, of course, would be simply to allow retail rates to reflect costs -- i.e., to let prices for the less than 20% of lines that are currently priced below cost to rise to cost. In certain circumstances, however, the Act may

D. Pricing Interconnection

As the Act makes clear, separate additional charges for the physical interconnection between ILEC and CLEC facilities may be appropriate in some circumstances. As with network elements, however, both economic theory and the plain language of the Act require that such charges be cost-based. Thus, for example, a separate interconnection charge may be appropriate where a CLEC purchases ILEC loop facilities to reflect the costs associated with connecting the CLEC's switch to the ILEC's loop plant. The Commission should clarify, however, that under no circumstances should such an interconnection charge exceed the actual incremental costs incurred by the ILEC to make the requested physical interconnection.

In addition, it is essential that the Commission explain that when combinations of adjacent network elements are ordered and used in the same manner and through the same existing element-to-element interconnections used by the ILEC, only one interconnection charge would apply -- where the CLEC's facilities

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(..continued)

constrain the ability of regulators to implement that solution. Accordingly, the Commission should make clear (both here and in its universal service proceeding) that subsidies will be deaveraged on the same basis as unbundled network element rates and will be portable -- i.e., the local service provider that wins the customer and provides service to that customer below cost will receive the subsidy.

actually physically interconnect with the LEC network. Thus, for example, if a CLEC were to provide its own loop plant and purchase the ILEC's upstream unbundled network elements, a single interconnection charge would apply at the point of physical interconnection between the ILEC switch and the CLEC loop, and that charge would not exceed the actual incremental cost of providing the requested interconnection.

III. **Total Service Resale Under Section 251(c)(4)**

Section 251(c)(4)(A) of the Act establishes the duty of an ILEC "to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers." Section 251(c)(4)(B) flatly prohibits the ILECs from imposing "unreasonable or discriminatory conditions or limitations upon the resale of such telecommunications services." The only exception to this prohibition is that States may, to the extent consistent with Commission regulations established in its interconnection rulemaking, "prohibit a reseller that obtains at wholesale rates a telecommunications service that is available at retail only to a category of subscribers from offering such service to a different category of subscribers." Id. Finally, Section 252(d)(3) contains additional guidance on "wholesale rate"; it provides that "[f]or the purposes of section 251(c)(4), a state commission shall determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier."

As it has with respect to Sections 251(c)(2) and (c)(3), Congress has directed the Commission to "establish regulations implementing the requirements" of Section 251(c)(4).

See Sec. 251(d). Indeed, the express language of 251(c)(4)(B) contemplates regulations to be prescribed by the Commission, with which States and ILECs must comply. Sound policy reasons, in addition to the language of the statute, amply justify Commission rules implementing the resale duties imposed on ILECs by Section 251(c)(4).

Specifically, although the purposes of the Act cannot be achieved absent the development of effective facilities-based competition, total service resale is critically important, both as a means quickly to bring at least some of the benefits of competition to consumers, and as a springboard to facilities-based entry. Such resellers utilize many of their own inputs, including customer service and end-user billing and marketing, to meet customer demand, and these inputs may be more efficiently provided by the reseller. Second, resale places additional pressure on the ILEC to price its services rationally to minimize the ability of new entrants to engage in price arbitrage. Third, resale permits new entrants to compete in high-cost areas and for low income subscribers through the implicit flow-through of universal service funds received by the ILEC and incorporated into retail and wholesale rates as defined by Section 252(d)(3).

More fundamentally, total service resale enables competitors to establish a presence in the market and begin to win customers. In view of significant entry barriers to the provision of local exchange services, including the ILECs' entrenched positions and the need for CLECs to incur enormous sunk costs in duplicating network facilities, regulatory rules that prudently minimize the risk exposure and capital requirements associated with the development of local exchange competition will serve the public interest. As it did in the interexchange market, resale can provide a starting point for a competitive local exchange in which an increasing number of facilities-based providers ultimately vie with each other for residential and business end users. In short, total service resale is the first step in establishing a competitive market for local service.

To ensure that total service resale can produce these benefits, the Commission should do two things. First, the Commission should confirm that the prohibition on unreasonable or discriminatory conditions, restrictions, or limitations on resale means what it says. This is necessary to stop the LECs from engaging in strategic behavior to limit their obligations under Section 251(c)(4) in ways that that are clearly inconsistent with the letter and spirit of the Act. At a minimum, the Commission should adopt the following rules:

- An ILEC's duty under Section 251(c)(4) applies to <u>any</u> telecommunications service that the LEC offers at <u>retail</u>. Among other things, this rule would prohibit ILECs from imposing any restriction on "ancillary" local telecommunications services, such as Caller ID and other CLASS features, on the basis that they are not "tariffed." It would also prohibit ILECs from imposing any restriction on the resale of a local telecommunications service on the ground that it is purportedly (or actually) priced below cost.[43] Such a rule would likewise prevent ILECs from preventing a reseller from combining two or more services in a package offered to end users.

- Once offered to customers on a retail basis, no ILEC may deny to resellers a service or feature by the simple artifice of withdrawing such services or features from its retail offerings; at a minimum, end-user customers of the reseller who are using or have ordered the service or feature should be grandfathered.

- No ILEC may deny a reseller the opportunity to purchase services for resale based on the reseller's purported failure to comply with state certification rules; compliance with reasonable state certification requirements is a matter for the state commission.[44]

- No ILEC may deny a carrier the opportunity to purchase a service for resale based on concerns relating to the ILEC's revenue base.

In addition, the Commission should implement the second sentence of (c)(4) by making clear that States may not limit the end-user customers or category of such customers to whom a reseller may

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[43] The creation of an exception to an ILEC's obligation under (c)(4) for retail services priced below cost not only conflicts with the Act, but is not required to advance any legitimate policy. First, unless and until access charges are reformed, ILECs will continue to receive the implicit subsidies incorporated in today's access rates. Second, for customers served by resellers under (c)(4), the ILEC will be regarded as the "Eligible Carrier" and receive the explicit subsidy created under Section 254 to fund the below-cost rates provided to such customers.

[44] U S WEST, for example, has indicated that it believes it has no obligation under the Act to negotiate with a carrier which has not been certified by the state to provide local service.

provide a service obtained at wholesale rates, except that States may consider and impose such restrictions where the non-discounted retail price of the service is below its TSLRIC. There is simply no legitimate reason to preclude a reseller from providing to any customer or category of customer any retail service offered by the ILEC which does not receive explicit universal service support.[45]

Second, the Commission should establish rules applicable to the "wholesale rates" required by Section 251(c)(4)(A).[46] Under Section 252(d)(3), wholesale rates are to be determined on the basis of retail rates less avoided costs.[47]

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[45] Finally, to the extent that a State commission adopts geographically deaveraged cost zones, and universal service support is limited to only certain geographic high-cost zones, any restrictions on the resale of these services should also be limited to those geographic cost zones that are explicit recipients of the funds.

[46] Although the States, in the absence of agreement between carriers, will actually determine the wholesale rates pursuant to the formula described in this Section, the requirement of a "wholesale rate" is a part of Section 251. Accordingly, the Commission has the duty and authority under Section 251(d) to establish regulations relevant to the determination of that rate.

[47] This section provides: "For the purposes of section 251(c)(4), a State commission shall determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier" (emphasis added). The Act's use of the phrase "will be avoided" indicates Congress' intent to impose an obligation on ILECs to act reasonably to extract all costs associated with the competitive retail function. Without an obligation to subtract

Like the "cost-based" rates required under other provisions of the Act for network elements and interconnection, the FCC's role here is not to actually set actual rates or even their components (e.g., the wholesale discount), but to adopt rules that would guide negotiations, mediations and arbitrations required under Sections 251(c)(1) and 252(a) and (b).[48] Such rules should include provisions on how to define the "retail" price, and how to calculate the "wholesale" discount.

The Commission should define the retail price as the price at which ILEC provides a telecommunications service to non-carrier subscribers. Thus, the retail price would include all discounts offered to end users, regardless of amount, type (e.g., term or volume) or duration (e.g., promotions). Wholesale tariffs for new services must be filed for simultaneous effectiveness with tariffs for new retail services.

The Commission should also establish the following principles with respect to the calculation of the wholesale

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(..continued)

such costs from the retail price, the ILEC's competitors would be in the untenable position of funding the ILEC's response to that competition.

[48] In state proceedings, the ILEC should have the burden of proof for its proposed wholesale rates. The ILEC and any other party must be required to submit evidence in support of its position, including but not limited to cost studies and benchmark studies developed by outside consultants.

discount, which is defined in the Act as an amount equivalent to the "marketing, billing, and collection and <u>other costs</u> that will be avoided" by the ILEC in its wholesale capacity. At a minimum, the following expense categories should be included in the calculation of avoided costs:

(a) Uncollectibles.

(b) Network Support Expense. That portion of network support expenses (including Motor Vehicle, Aircraft, Special Purpose Vehicles, Garage Work Equipment, and Other Work Equipment) associated with customer-facing retail functions that the new entrant will assume.

(c) General Support Expense. That portion of general support expenses, including Land and Building, Furniture and Artwork, Office Equipment, and General Purpose Computer, associated with the provision of retail functions to be assumed by the reseller.

(d) Depreciation Expense. Those depreciation expenses associated with assets used exclusively in the provision of retail functions, and a portion of such expenses associated with assets used partly in the provision of retail functions.

(e) Marketing Expense. All direct marketing expenses, including Product Marketing, Sales, Advertising, and related costs.

(f) Customer Services. Costs associated with, but not necessarily limited to, initiating customer orders, maintaining and billing customer accounts, collecting and investigating customer accounts, and instructing customers.

(g) Executive and Planning Expense, Total General and Administrative Expense. A prorated share of these expenses attributable to avoided costs.

(h) Operating Federal Income Taxes; Operating State and Local Income Taxes; Operating Other Taxes. That portion of operating income and other taxes avoided because they are incurred as a result of retail activities to be assumed by the reseller.

(i) Other Interest Deductions. The portion of interest expenses associated with retail functions, e.g., interest on customer deposits.

(j) Total Returns. A portion of the ILEC's total returns, defined as the difference between operating revenues and the sum of operating expenses and taxes, to reflect the use of support capital in providing retail functions.

Finally, the Commission should mandate a further discount to reflect the market value of any degradation in service in the event the service being provided for resale is not in all respects the equal of that provided to non-carrier subscribers.[49] The statutory language providing that wholesale rates be determined "on the basis of" retail rates less costs to be avoided is sufficiently flexible to permit such a discount.

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[49] AT&T contends that differences in service should not be tolerated without good cause shown by the ILEC. The additional discount that may be established under this proposal should only be established when a degradation in service is unavoidable for significant technical reasons.

EXISTING INTERCONNECTION AGREEMENTS BETWEEN LECs MUST BE FILED AND THE TERMS MADE AVAILABLE TO OTHER CARRIERS

Section 252(a)(1) of the Act provides that "any interconnection agreement negotiated before the date of enactment of the Telecommunications Act of 1996" between an incumbent LEC and any telecommunications carrier "shall be submitted to the State commission under subsection (e) of this section." Section 252(e)(2)(A), in turn, empowers the State commission to reject such a pre-existing agreement to the extent it "discriminates against a telecommunications carrier not a party to the agreement." Finally, Section 252(i) mandates that "any interconnection, service, or network element provided under an agreement approved under this section" be made available "to any other requesting telecommunications carrier upon the same terms and conditions . . . ."

It could not be clearer from these provisions that incumbent LECs who have entered into interconnection agreements with other LECs in adjacent or nearby territories for the interchange and termination of local and "local toll" traffic between them are required to submit those agreements to the State commissions. More fundamentally, the terms of those agreements must be made available without discrimination to any requesting carrier likewise seeking to exchange or terminate local and local toll traffic.

AT&T understands that there are many such agreements, typically between larger LECs (e.g., Bell Atlantic of Virginia) and smaller independent companies ("ICOs") serving scattered areas within and around the Bell Atlantic territory. The agreements are necessary to accommodate the flow of traffic between customers in the LEC and ICO territories. AT&T further understands that there are similar agreements in place between larger LECs and smaller ICOs providing for the interconnection with, or access to, various elements of the LEC network. A typical such agreement, for example, would allow the ICO to use the LEC access tandem, signaling system or 800 database system for routing calls originating in the ICO territory.

The relevance of these agreements to the plain language and clear purpose of the Act is obvious. At a minimum, the terms and conditions under which a large LEC already interconnects with another LEC provides a needed "baseline" for prospective new local competitors -- both in facilitating meaningful negotiations (and providing useful information to State commissions in arbitrating or approving new agreements), and in affording prospective entrants at least the "safety net" of existing terms and conditions while they pursue their own negotiations.

Keeping these agreements out of the process established by Section 252 of the Act not only violates the plain words of the statute, but would subvert all legitimate objectives of public policy and the antitrust laws. These agreements for interconnection or access to network elements and functions, between LECs in the same exchange areas or within the same state, are precisely the kinds of agreements that the Act seeks to foster and to make available to all comers. Indeed, the only conceivable "rationale" for not subjecting these agreements to the Section 252 process is that the agreements are implicitly (or explicitly?) available only to LECs who agree not to compete against each other. Such a condition would contravene the core purposes of the Act as surely as it would Section 1 of the Sherman Act.

AT&T is actively seeking to have State commissions and large LECs take the steps necessary to make the terms of thes pre-existing interconnection agreements public and generally available. However, AT&T expects (and is already encountering) significant resistance from the large LECs, particularly with respect to the nondiscrimination duty. Although AT&T believes that LECs who refuse AT&T's requests are subject to liability for violation of the Act, the public interest in competition will not be served merely by encouraging costly, after-the-fact litigation. Instead, the Commission should make explicit that a LEC cannot be in compliance with Section 252 (and, therefore, with Sections 251(c)(2)(D), 251(c)(3), and 271(c)(2)(B)) unless it has submitted all pre-existing interconnection agreements to the State commission and offered the same terms to any requesting carrier.

EXHIBIT C

AMERITECH INTERNATIONAL

Bell Atlantic International, Inc

02162

SUBMISSION TO AUSTEL

ON THE

ECONOMIC AND COMMERCIAL

ISSUES

OF

INTERCONNECTION

BY

AMERITECH INTERNATIONAL, INC.

AND

BELL ATLANTIC INTERNATIONAL, INC.

ECONOMIC AND COMMERCIAL ISSUES OF INTERCONNECTION

1. AUSTEL would welcome comments on definitional issues and the overall way charges may be structured.

1.1 As a general principle the pricing of interconnection should be set at a level which is not more than the direct incremental cost. It will be essential to establish a clear basis for determining what these costs are. Irrespective of how pricing is arrived at, it must be set at a level which offers the second carrier a reasonable opportunity to earn a fair return within a defined period of time.

1.2 In order to achieve economic efficiency, costing should be based on the current or future cost of capital rather than historical cost.

1.3 The interconnection regime should support to the greatest degree possible economically efficient investment outcomes so as to ensure that efficiencies can be achieved for the benefit of consumers.

1.4 The Community Service Obligations (CSO's) of Telecom/OTC, to the extent applicable to the second carrier, should be clearly and separately identified in Telecom/OTC's pricing arrangements. The level of the CSO component of Telecom/OTC's prices should also take account of any CSO's the second carrier may have.

2. AUSTEL seeks comments on the criteria to be used in developing principles. Furthermore, AUSTEL seeks views on the framework of principles that interested parties see as desirable.

2.1 Any interconnection regime should be based on these principles:

(a) there should be reciprocity between carriers involved;

(b) carrier to carrier arrangements and carrier to reseller arrangements need to be able to be implemented on a commercial basis;

(c) the interconnection regime must strike an appropriate balance between encouraging a desirable level of facility investment by the second carrier, on the one hand, and discouraging the wasteful duplication of facilities, on the other hand. It is important to encourage new network investment where it is at a lower cost than existing facilities or introduces new technology or new customer facilities;

(d) interconnection pricing should be conducive to optimal capacity planning and utilisation on a national basis and encourage rational, non-volatile and long term pricing behaviour; and

(e) there must be a mechanism for efficient determination of disputes concerning interconnection.

2.2 We agree with the pricing principles set out in paragraph 19 of AUSTEL's discussion paper.

3. AUSTEL has sought submitters' detailed views on charging methodologies. AUSTEL has requested submitters to address both their preferred approach and their rationale for their recommendations.

3.1 We refer to our comments in paragraphs 1.1 to 1.4.