

To put the views of the participants in the proper context and to establish a foundation for the Department's discussion in this Decision, the following sections summarize each participant's submissions.

A. THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY (SNET)

1. The Stipulation

SNET proposes that the Department adopt in full the Stipulation submitted to the Department on April 7, 1995. According to SNET, the Stipulation represents satisfactory resolution among docket participants of many of the principal issues expected to be addressed by the Department during the instant proceeding. In the view of SNET, adoption by the Department of the Stipulation offers the most expeditious means of codifying those principles into the competitive framework being constructed by this Department. SNET states that the Stipulation embodies the participants' entire agreement on several extremely complex and critical technical issues related to the unbundling and resale of SNET's local service network. SNET represents in its submissions that all of the signatories to the Stipulation agree that the provisions set forth by it provide a reasonable starting point for establishing competition in the Connecticut local service market and warrant the support and approval of the Department. Further, it is SNET's view that because the Stipulation delineates basic operational rules and responsibilities for co-carriers providing local telecommunications service offerings or participating in local service markets, the Department should apply the Stipulation's provisions equally to any and all prospective entrants to the Connecticut market. SNET Brief, pp. 3-4.

2. Interconnection

SNET maintains that in a participative architecture such as that envisioned by both Public Act 94-83 and this Department's earlier decisions, telecommunications providers should have the ability to independently negotiate physical interconnection arrangements for neutral meet point and two-way trunking that reflect the specific interests of the two particular providers.¹¹ SNET suggests in its submissions that it has adhered to that principle in discussions with prospective providers and that it believes it appropriate to accord a CLEC the opportunity to select the type of physical

¹¹ Two-way trunking and neutral meet point are terms used by the industry to describe certain component elements in the network infrastructure. Two-way trunking describes the ability of certain telephone transmission facilities (i.e. trunks) to be automatically used as a bi-directional path for telephone messages on a per call basis. In contrast, one-way trunking permits telephone traffic to be carried either "inward" or "outward" but not both. Two-way trunking is considered by many prospective competitors as a more efficient and more effective type of transmission facility given the general uncertainty in future traffic patterns and call volumes associated with broader competition. It is, therefore, the facility of choice for most competitors. Neutral meet points are those physical locations in the telephone company's transmission and distribution infrastructure where CLECs and others will be permitted to connect their infrastructure with that of the incumbent LEC. The descriptive term "neutral" is a reference to the absence of unwarranted competitive advantage or disadvantage that can be accorded a particular provider by the selection of certain interconnection locations or techniques.

interconnection most appropriate to its particular architecture and strategy. According to SNET, this approach continues to be reflected in its proposals for interconnection and its recommendations on neutral meet point and two-way trunking presented in this proceeding.

Specifically, SNET's proposal provides CLECs the option to interconnect with its network at SNET's tandems and/or SNET end offices. This, according to SNET, offers prospective providers the opportunity to choose, based on forecasted or experienced traffic patterns, the most economic manner and place to interconnect.¹² SNET also expresses its willingness to allow CLECs to physically interconnect to the SNET network at a neutral mutually agreed meet point, noting that a "meet point" is essentially a location from where a CLEC would still have to get to either a tandem or end office, since the termination of the call will always be in a switch. Additionally, SNET proposes to make available to CLECs one-way trunking between CLEC switches and SNET's network as part of a comprehensive interconnection plan.¹³ In doing so, SNET contends that one-way trunking would provide each carrier the technological ability to better control traffic delivered to another carrier than would otherwise be possible with two-way trunking and to better protect the level of service quality available to the CLECs' customers. SNET, therefore, prefers an interconnection architecture built around one-way trunking; it is prepared, however, to offer two-way trunking where it is mutually beneficial and efficient for both it and a CLEC, and where its concerns over the control of the traffic are satisfied. SNET Brief, pp. 22-24; SNET Reply Brief, pp. 9 and 10.

SNET notes some concern over whether terms negotiated between SNET and a CLEC should be the subject of a tariff or a contract. SNET prefers to negotiate

¹² MCI claims that SNET's proposal attempts to set up a different and more costly interconnection arrangement for new entrants. MCI also claims that SNET's proposal is inconsistent with how it treats other incumbent LECs and is inconsistent with other commissions' decisions on this issue. MCI contends that SNET's interconnection proposal could require new entrants to build out to the SNET tandems or end offices thus conforming their networks to SNET's. According to MCI, SNET should not be permitted to limit interconnection points; rather, new entrants should have the same options that are available to existing LECs. MCI Brief, pp. 7 and 8. NECTA states that SNET's willingness to consider meet-point arrangements and two-way trunking is a positive step, but argues that SNET's proposed approach makes SNET the ultimate arbiter of whether such arrangements will be allowed to materialize. NECTA urges the Department to require SNET to allow CLECs to interconnect in whatever way CLECs deem most efficient. NECTA Reply Brief, pp. 7 and 8.

¹³ MCI states that interconnection between local service providers should use the most efficient trunking arrangements. MCI argues that SNET should not be permitted to foreclose the use of two-way trunks, since to force inefficient forms of trunking would impose unnecessary costs on new entrants and their customers. MCI Brief, p. 8. TCG maintains that the Department must require carriers to have the option to interconnect their networks via two-way trunks. According to TCG, carriers will not put more traffic on the switch ports than the ports can handle, and will similarly monitor and deploy their trunk facilities based upon traffic level with a constant eye toward maintaining a competitive record of call blocking. TCG also maintains that the marketplace will encourage all carriers to behave responsibly and to give their customers a high quality of service. Therefore, instead of ordering carriers to install duplicative parallel trunk groups, TCG recommends that the Department require SNET and other carriers to offer both one-way and two-way trunking options to interconnecting carriers. TCG Brief, pp. 14 and 15.

interconnection arrangements between its network and CLECs on the basis of a negotiated contract rather than by use of a tariff.¹⁴ To that end, SNET supports a process whereby all terms and conditions of any private agreement for interconnection would be filed with the Department and would become effective after 10 days. Once effective, the same arrangements would be available to anyone else on identical terms and conditions. Additionally, SNET believes the unbundling process described in the Stipulation addresses the Department's expressed concerns over the necessity for a dispute resolution mechanism. SNET Brief, pp. 24 and 25.

3. Mutual Compensation

SNET requests the Department approve for use by all telecommunications service providers a mutual compensation arrangement plan that will fairly compensate each network participant for the use of its plant infrastructure to terminate a call originating on another provider's network. SNET proposes that the Department adopt a mutual compensation arrangement which utilizes a usage-based formula and an access structure with cost-based rates in order to be both fair and accurate. According to SNET, any mutual compensation arrangement should provide carriers the ability to recover their associated costs of completing the call of another carrier, be consistent in design and compensation level with any existing compensation structure for other services, be structured so as not to foreclose market entry for other facilities-based providers, and be sustainable in an increasingly competitive environment.

SNET's specific mutual compensation proposal is constructed upon a usage-sensitive base, measuring demand from other providers as a function of both minutes of use and the type of network access deemed necessary by the other provider. The compensation methodology envisions joint utilization of certain plant facilities for local access and toll. SNET's proposed methodology is based on its last toll access cost study. SNET May 31, 1995 filing, p. 2. According to SNET, the mutual compensation model it presents in this proceeding mirrors the local exchange access framework established by the telecommunications industry for use by interexchange carriers in accessing their customers via the local exchange carrier network and uses the minutes of use and flat rate transport elements resident in that plan. SNET suggests that by basing the compensation entitlement of each provider on an access structure model, each network provider will be fairly compensated for the actual network components used in completing a call that originates on one provider's network and terminates on another provider's network. SNET further suggests that mutual compensation based on an access structure model accurately reflects the underlying costs characteristics of the associated services (i.e., traffic sensitive costs have usage based rates, while non-traffic sensitive costs have flat rates). SNET proposes under its mutual compensation

¹⁴ OCC and MCI oppose contracts and believe that all arrangements for interconnection and unbundling should be tariffs. TCG prefers contracts, and Sprint and Cablevision, while preferring tariffs, do not oppose contracts whose terms are disclosed and available to all similarly situated CLECs. Cornell Direct Testimony, pp. 24 and 25; Kouroupas Direct Testimony, p. 33; Tr. 5/9/95, pp. 623 and 624, 686, 693 and 694.

plan to establish compensation rates at a point that covers associated costs and provides a reasonable contribution to corporate overhead.

In SNET's view, compensation for incurred cost must be reciprocal if it is to be considered mutual. Under the terms of its proposal, SNET offers to compensate all CLECs that terminate local voice/data traffic which originates on SNET's network at a rate equal to SNET's cost until and unless a particular CLEC files with this Department cost-based tariffs of its own. SNET notes that its proposal makes no assumptions with regard to the relative balance of traffic between carriers; rather, traffic will be determined by the actual end user base of each carrier. SNET, therefore, concludes that its proposal does not allow any CLEC to receive a windfall.

SNET acknowledges that its proposed mutual compensation plan does not distinguish between types of traffic that would or would not be subject to terms of the compensation agreement, but anticipates that the joint use of trunks for local access and toll will make such distinction unnecessary. SNET maintains that its proposed plan satisfies the CLECs' stated goal of combining local and toll traffic on the same plant facilities. SNET states its proposal is based on reporting the percentage of local usage (PLU) versus toll usage on a call by call basis for compensation purposes. According to SNET, its plan recognizes that the market is likely to migrate over time to an arrangement where the differences between local and toll traffic become indistinguishable and rates achieve a level of competitive parity as competing carriers introduce customer specific rate plans. In addition, SNET views its plan as sustainable over time, because the access framework was established by the telecommunications industry, is proven in the competitive environment, is flexible and can adapt to technical and operational changes in the network.

No other participant in this docket has endorsed SNET's mutual compensation proposal. SNET suggests that the lack of support for its plan primarily stems from an apparent confusion about the term "access rates." SNET acknowledges that its current access rates include elements of contribution for the Carrier Common Line (CCL) charge, Information Surcharge, and Residual Interconnection Charges (RIC). SNET asserts that the current prices it charges for access services, therefore, are by design guaranteed to be above cost, whereas an "access structure," which is the basis of this proposal, involves a combination of flat rated and usage prices appropriate to local exchange compensation. According to SNET, a contribution factor is not included in its proposed mutual compensation plan. SNET maintains that if its mutual compensation proposal is reduced to its component elements (minutes of use, based on the access structure, with cost-based rates) and thoroughly analyzed in that context, other participants would have no real basis for disagreement with the proposal. SNET Brief, pp. 4-9; SNET Reply Brief, pp. 2-6.

As discussed in greater detail below, OCC and the CLECs have separately presented mutual compensation proposals for Department consideration and comparison with SNET's proposal. Briefly, while the CLECs' Joint Proposal and the

OCC proposal differ on specifics, both utilize a Bill and Keep (B&K) arrangement¹⁵ with flat rate and minutes of use options. SNET explains that its reservation to B&K compensation models is based on their inherent dependence upon certain assumptions that: (1) traffic requirements placed upon each carrier are roughly equivalent in both directions; (2) the costs incurred by each carrier to perform their respective responsibilities are equal; and (3) local traffic carried by each is physically segregated from their respective toll traffic. According to SNET, it will be virtually impossible for traffic between LECs and CLECs to be balanced in the early stages of local service competition. SNET counters the OCC and CLECs proposals with the contention that, in effect, those proposals will, if adopted, establish an unwarranted SNET subsidy of its competitors by nature of the traffic imbalance that will naturally result from the phased market entry envisioned by most of the prospective providers. SNET further contends that B&K is inappropriate because: it does not encourage prospective or incumbent carriers to configure their networks to terminate traffic in the most efficient manner possible; it will not recognize or equitably compensate network providers in direct proportion to the level of transport and switching support provided by an individual carrier; and it may introduce substantive inaccuracies in the identification and the exchange of toll traffic between carriers.

Additionally, SNET suggests that the flat rate proposals submitted by OCC and the CLECs will not be sustainable over time. According to SNET, as local/toll compensation structures and rates converge, it will be extremely difficult to distinguish between local and toll traffic. SNET dismisses as unlikely the possibility that intrastate and interstate access will evolve to a flat rate structure, contending that a flat rate would not easily accommodate both local and toll. Moreover, SNET claims that a flat rate option is not necessary to address any potential price squeeze between wholesale rates and retail rates. SNET contends that even though the costs underlying a product or service may vary, the price charged to a consumer need not.

SNET also questions provisions in the two counterproposals with regard to administration and billing which would, in its view, impose significant new responsibilities and costs upon SNET. SNET argues that administering the multiple rate structures envisioned by the counterproposals could prove to be a very complex and very expensive proposition to SNET. Because the OCC's and the CLECs' proposals accord each CLEC the right to use a different mutual compensation arrangement at each end office and at each tandem point in SNET's network, the number of potential variables in calculating compensation would contribute significantly to SNET's unplanned cost to comply with the terms of the proposals. Separately, under terms outlined in the CLEC proposal, each new CLEC would be entitled to withdraw its Bill and Keep arrangement after one year and introduce in its place either a flat rate or minutes of use model without penalty or cause. Similarly, SNET maintains that the OCC proposal presents the same administrative difficulties, although it concedes that the OCC proposal attempts to limit SNET's monitoring and tracking responsibilities. In summary, SNET argues that both counterproposals are overly complex in design and

¹⁵ A bill and keep arrangement, in its most simplistic form, means that traffic is exchanged between networks without any compensation among providers.

cumbersome to administer, and entail financial commitments to SNET that exceed any apparent benefit that might be realized from their adoption. SNET Brief, pp. 11-22; SNET Reply Brief, pp. 6-9.

4. Resale

SNET argues that the Department should not require it to offer all of its services on a resale basis. SNET states that, in response to an AT&T request, SNET has formally submitted to the Department for approval a wholesale local service product (consisting of a loop and port, together with the associated functionality) that CLECs can combine with other components and resell to the Connecticut public. According to SNET, the proposed wholesale local service offering publicly attests to SNET's sincere commitment to opening its markets to competition. SNET maintains that its wholesale local service product enables CLECs (both facilities-based providers and non-facilities-based resellers) to meet basic service obligations as part of providing local service as well as to package elements (e.g., SNET vertical features) to create their own unique local service products.

As described in greater detail *infra*, AT&T is of the opinion that SNET's proposal does not go far enough, and that the Department should order SNET to offer all of its services, particularly intraLATA toll, on a resale basis. In contrast, SNET argues against adoption of AT&T's recommendation, stating that: (i) SNET should not be required to resell its competitive services; (ii) SNET would be disadvantaged by unrestricted resale absent an approved universal service fund,¹⁶ (iii) SNET accrues no competitive advantage if SNET restricts its competitive services; and (iv) SNET may face some billing administration problems with unrestricted resale not currently envisioned by SNET.¹⁷ SNET cites to Conn. Gen. Stat. § 16-247b which requires the unbundling of noncompetitive and emerging competitive functions of a telecommunications company's local telecommunications network in support of its argument against being required to offer all of its services for resale. SNET specifically objects to the requirement of resale of intraLATA toll (as supported by AT&T) as it is not

¹⁶ AT&T states that it is opposed to SNET's universal service fund approach. According to AT&T, SNET's universal service fund proposal is self-serving and contrary to the public interest and must be rejected. AT&T Reply Brief, pp. 11 and 12. MCI claims SNET's position is completely without merit. MCI states that whether or not residential service is subsidized has no effect on SNET's ability to offer a below-cost wholesale resale product, because even if residential service is subsidized, SNET will continue to retain all of the revenue from access services and vertical services which purportedly contribute to that subsidy. Consequently, there is no reason why SNET should be permitted to wait until a universal service mechanism is implemented prior to offering a resale product at an appropriate wholesale rate. MCI Brief, p. 35. Sprint concurs and states that the Department should work toward swift resolution of the issues under consideration in this case and address the universal service issue at the appropriate time, thereby avoiding unnecessary delay in the development of competition. Sprint Brief, p. 9.

¹⁷ AT&T contends that SNET's alleged billing problems are directly and solely caused by SNET's refusal to resell its intraLATA toll service. AT&T maintains that SNET's refusal to resell toll service would result in the need for two bills, one for the local carrier and the other for the intraLATA toll carrier. AT&T Reply Brief, p. 18. NECTA questions SNET's concerns over billing given SNET's ability to configure and bill for at least tens (if not hundreds) of different combinations of local exchange services, configurations, and options on millions of individual exchange lines. NECTA Brief, pp. 8 and 9.

by definition a local service nor was it specifically referenced in that context by Public Act 94-83. Moreover, by year-end 1996, SNET projects that all but 3% of the state's access lines will be equal access capable; therefore, there is no real competitive disadvantage to the CLECs if SNET does not include toll in its resale offering. Additionally, SNET contends CLEC resale of SNET intraLATA toll services may be subject to serious technical limitations in the area of service billing. In SNET's view, the possible technical problems in this area may make a resale toll product totally unacceptable to both the public and prospective providers.

SNET further argues that if the Department orders it to resell its competitive services, the Department should similarly order all competitive providers to make available on a resale basis similar services offered on their respective networks as a means to maintain competitive parity. According to SNET, any decision by this Department that does not apply equivalent rules and regulations to similar CLEC offerings would be contrary to the stated intent of Public Act 94-83 to regulate telecommunications services, not providers. SNET states that while it is not anxious to make available all of its services for resale, especially if it means offering IntraLATA toll services to facilities-based service providers, it is willing to negotiate the sale or resale of any component, functionality or service provided by the SNET network. SNET objects, however, to it or any other local service provider being required by this Department to offer all services for resale on an unrestricted basis. Rather, SNET suggests that the demands of a competitive market should define the scope of resale of SNET products. SNET believes its recommendation to be consistent with the intent of Public Act 94-83 and with the expressed positions of some of the other participants in this proceeding. SNET Brief, pp. 25-28; SNET Reply Brief, pp. 19-21.

5. Pricing

SNET proposes that pricing of wholesale local service offerings, unbundled local service elements, and mutual compensation be predicated upon use of total service long run incremental costs (TSLRIC) methodologies and a reasonable contribution to common overhead costs. SNET states that it proposes to price its wholesale local service offering, unbundled local service elements, and mutual compensation plan using such principles and that such an approach is consistent with the Department's June 15, 1995 Decision in Docket No. 94-10-01, DPUIC Investigation into the Southern New England Telephone Company's Cost of Providing Service. Specifically, SNET proposes to price these items above their TSLRIC, including a recovery for a portion of overhead.¹⁸ According to SNET, if it or any other service provider were unable to

¹⁸ AT&T states that SNET's proposal will dramatically impede the development of competition in Connecticut. AT&T also states that SNET's proposal fails to identify cost elements, provides no guidance as to how overhead will be allocated to the individual services, does not recognize that the size of the overhead cannot be determined based on historic cost data, and does not acknowledge that SNET can, and should, recover overhead from all its end-user services. Moreover, according to AT&T, SNET's proposal intentionally obfuscates the real issue, i.e. that competition will not be able to develop if SNET is permitted to price unbundled elements at TSLRIC plus contribution and, at the same time, to price its end-user services that incorporate these elements below the total costs of the individual elements added together. AT&T Brief, pp. 43-45. NECTA states that affordable universal service

recover all of their direct and indirect service costs, they would be out of business, because in a competitive environment, a firm cannot survive by offering services below cost. Accordingly, SNET requests that this Department endorse pricing methodologies and principles that ensure all resold services and mutual compensation plans provide for recovery of the TSLRIC and some portion of overhead. SNET proposes that this pricing principle apply equally to all providers who offer services to another provider on a co-carrier basis. In SNET's view, the price margins resulting from such methodologies and principles, applied on a co-carrier basis, will provide the necessary framework to encourage the extension of facilities-based competition. SNET Brief, pp. 25-31; SNET Reply Brief, pp. 10-17, 21-23.

SNET disagrees with the pricing counterproposal presented by AT&T in this proceeding and recommends that the Department reject it as illogical, insupportable and contrary to prudent economic principles in a competitive environment. As discussed in greater detail *infra*, AT&T asserts that a fair means of calculating the wholesale price for local market resold services would be one which sets the price by reducing SNET's tariffed retail price for bundled local market service by the avoided, long term costs to SNET realized by having a reseller undertake the retail activity. AT&T further proposes that these avoided costs be calculated using the Department's previously approved TSLRIC methodology. SNET counters in its submissions that AT&T's proposal effectively obligates SNET to underwrite AT&T's entry into Connecticut's local service market and virtually guarantees AT&T a profit in doing so. Additionally, SNET contends that AT&T's proposal would require SNET to make available its wholesale local residential service to resellers below its associated TSLRIC cost, forcing SNET to reprice other competitive service offerings above market levels to achieve corporate financial goals. According to SNET, the sources for the potential subsidy envisioned by AT&T's proposal will be greatly reduced, if not totally eliminated, with increased competition by facilities-based providers and resellers. From SNET's viewpoint, the AT&T counterproposal would result in SNET funding resellers' local service business, while such resellers gain significant profits from the sale of other competitive services such as intraLATA toll services.

SNET argues that it is not aware of any economic principle or economic goal that justifies the use of below-cost pricing in a competitive environment. SNET states that AT&T's proposal to resell local exchange service below cost, while pricing unbundled

goals should be accomplished through a direct and impartial subsidy mechanism, not through above-incremental-cost pricing of local termination and unbundled elements. NECTA also states that the Department should address universal service issues through a separate and competitively neutral funding mechanism, rather than by requiring competitors to fund both their own universal service obligations and SNET's through the perpetuation of the embedded subsidies within SNET's existing rate structure. NECTA Brief, p. 12; NECTA Reply Brief, p. 9. Sprint states that any Department approved mutual compensation arrangement should be based on TSLRIC to ensure that CLECs are paying the true cost of terminating traffic. Sprint also states that the mutual compensation proposal supported by the CLECs offers the Department a balanced approach to mutual traffic exchange and is in the public interest. In addition, Sprint contends that SNET's unbundled elements and resale service tariff should be based upon TSLRIC plus a reasonable share of joint and common costs. Sprint contends that rates for unbundled elements and resale service should not, however, include contribution to support universal service. Sprint Brief, pp. 8 and 9.

elements on a TSLRIC basis, including a market based level of contribution to SNET's joint and common costs, raises several economic and legal questions. SNET maintains that to require SNET to sell its resale services below cost would significantly discourage, if not preclude, development of facilities-based competition. SNET also maintains that absent a universal service fund, it would be very difficult, if not impossible, for a facilities-based provider to compete effectively with a reseller that offers a local service product below the provisioning costs SNET incurs in making that service available to the reseller. According to SNET, both results would be contrary to provisions of Public Act 94-83 and the public's interest in promoting broader competition. SNET argues that AT&T's wholesale costing methodology combines certain Department approved TSLRIC principles with relatively speculative discounting techniques. In SNET's opinion, AT&T fails to give reasonable cause for the Department to endorse a blended approach, which is substantively different than the cost methodology approved by the Department in Docket No. 94-10-01.

6. NXX Programming and Administration

SNET proposes in this proceeding that it be permitted to impose a charge on CLECs for the cost it incurs in programming its switches to accommodate new NXX dialing designation codes. SNET proposes to file a joint tariff to recover the costs associated with any NXX programming, whereby any entity requesting the new NXX will compensate the local exchange carrier for costs incurred to modify routing tables and associated databases to recognize, record and properly route requests for the specific NXX within its network. SNET proposes that a CLEC be similarly reimbursed for modifications to its network based upon the number of switching and working lines in the network, such that all LECs and CLECs will be equitably reimbursed in accordance with the level of effort required of each. SNET represents to the Department that its proposed recovery of NXX costs is fair and ensures that the costs incurred in programming NXXs are properly borne by the cost causer, i.e. the entity requesting inclusion of the code into the common switching fabric of the carrier community.

Similarly, SNET proposes that it be allowed to recover costs it incurs in administering NXX codes for all local service providers. According to SNET, the code administrator carries the burden of constructing and maintaining various databases, accommodating the requests and monitoring various types of activity critical to efficient and effective code administration. SNET states that it would support the appointment of a neutral third party to administer NXX code assignment, and that it would have no objection to the Department taking on the role of NXX administrator. In the interim, however, before a neutral third party takes over responsibility for NXX code assignment, it is the opinion of SNET that there remain certain costs involved in the administration and assignment of NXXs which it must continue to bear as the administrator and for which it is entitled to compensation. SNET Brief, pp. 31-33; SNET Reply Brief, pp. 24 and 25.

7. Number Portability

Lastly, SNET argues that incremental costs of providing near-term local number portability via call forwarding should be borne by the service provider requesting the service on behalf of its end-user. SNET states that the signatories to the Stipulation agreed to provide an interim number portability option, including the use of call forwarding capabilities, until such time as an improved approach can be made available by the industry. SNET proposes that a fixed monthly rate be charged to the requesting carrier (including SNET) for each number call forwarded under the interim number portability option pursuant to the terms of the Stipulation. According to SNET, a monthly charge is necessary to fully recover costs associated with providing interim number portability (i.e. the switch memory capacity costs involved in call forwarding a number, which, according to SNET, will increase each time the end user requests that more than one call be forwarded at a time). SNET maintains that imposing the charge will serve to provide economic discipline to service providers and ensure timely removal of the service when it is no longer required. SNET further maintains that requiring the cost-causing provider to assume financial responsibility for recovering these costs, rather than all Connecticut ratepayers, is the most equitable implementation of the interim solution.¹⁹ SNET Brief, pp. 33 and 34.

B. OFFICE OF CONSUMER COUNSEL (OCC)

1. The Stipulation

OCC postulates in its submissions that a primary purpose of Public Act 94-83 is the development and implementation of a competitive local exchange market that is serviced by many providers offering Connecticut consumers innovative and technologically advanced communications services. According to OCC, competition in the local exchange services market will truly be achieved only when every consumer, regardless of whether that consumer subscribes to a local service offering of a CLEC or one of the state's incumbent telephone companies, can send and receive calls transparently to and from any other consumer.

OCC claims that many of the contentious and technical issues resulting from the decision of the Connecticut legislature to open the local exchange market to broader participation were resolved through cooperative and productive negotiations and are embodied in the Stipulation offered to the Department for consideration. According to OCC, the Stipulation represents an accommodation by the various signatories of their

¹⁹ AT&T maintains that the costs of implementing remote call forwarding as an interim step in providing local number portability should be borne by all carriers, SNET and the CLECs. AT&T also maintains that the price for interim number portability should reflect the incremental cost, i.e. TSLRIC, to provide the service. According to AT&T, SNET's proposed charge is not needed to preclude carriers from retaining a remote call forwarding number when an end user changes carriers. AT&T Reply Brief, pp. 35-37. Lightpath states that all local subscribers should bear the cost of interim number portability because both customers and carriers will be receiving the benefits of competition. Lightpath Brief, p. 18. NECTA concurs and states that the costs attendant to local number portability should be spread across all customers and recovered in that manner, and not be recovered exclusively (or even primarily) from CLECs or from CLEC customers. NECTA Reply Brief, pp. 8 and 9.

individual interests. OCC submits that, given the level of support by the docket participants for endorsement of the Stipulation, the Stipulation is in the public interest and should be adopted as policy for the future. OCC Brief, pp. 1-3.

OCC further contends that the availability and affordability of unbundled network elements is fundamental to the CLECs ability to provide efficient and cost-effective local service in a competitive environment. OCC describes the unbundling process as a regulatory effort to identify and segregate the bottleneck (noncompetitive and emerging competitive) components of the local telecommunications network at the most basic level, thereby making available network features deemed essential by all prospective entrants to efficiently offer their services or build their networks without having to acquire network features they do not need. According to OCC, all docket participants agree that network unbundling is in the public's interest and will provide substantial benefits to consumers in the future.

OCC submits that under provisions of the Act, SNET must offer both noncompetitive and emerging competitive local network functions on a nondiscriminatory unbundled basis. According to OCC, in obligating SNET to offer its network functions to CLECs on an unbundled basis, the Act seeks to facilitate and encourage efficient market entry by: eliminating any need for CLECs to construct separate and possibly underutilized infrastructures in advance of any market development activity; continuing the most effective and efficient use of existing LEC networks; and permitting new entrants a choice in the scope and scale of capital investment deemed appropriate for Connecticut by the prospective entrant. OCC offers that while the Stipulation specifically provides for only unbundling loops and ports, it contains a procedure for considering additional unbundling requests that might be deemed appropriate at a future point in time. OCC notes that most of the participants in this proceeding agree that the general availability of unbundled loops and ports envisioned by the Stipulation will be sufficient for CLECs to enter the market in the short run and achieve their respective market share goals. For local competition to be sustained over the long term, however, further unbundling efforts will be necessary and should be recognized in any Department decision. To this end, OCC contends that the signatories to the Stipulation appear relatively satisfied that any disputes regarding the extent to which or the method by which SNET should be required to unbundle its network will be adequately handled through the process established in the Stipulation. Accordingly, OCC commends the Stipulation's provisions on unbundling to the Department for adoption and implementation.

2. Interconnection

It is the OCC's view that an open architecture allowing for interconnection beyond the end office and tandems is essential to encourage entry into the local exchange services market by competitive providers. OCC maintains that in order for local competition to succeed, each CLEC's network and service offerings must be seen by the public to be effortlessly supported by the network infrastructures of SNET, other incumbent LECs, and other CLECs. OCC states that to achieve the seamless network needed to meet the expectations of the market, new entrants must be able to physically

interconnect with the incumbent LEC for origination, termination and exchange of all local service traffic. Meet point interconnection, in the OCC's opinion, affords the CLECs with both flexibility and connectivity in their network architectures. According to OCC, unnecessarily restrictive interconnection requirements at end offices and tandems serve only to require prospective providers to conform their networks to SNET's current architecture and any associated inefficiencies it represents. OCC explains that adoption of such interconnection standards by this Department would impose unnecessary costs and other inefficiencies upon prospective providers and thereby negatively influence a CLEC's decision to enter the local exchange services market. OCC maintains, therefore, that adoption of the meet point interconnection principle will provide new entrants the ability to design and construct their networks in the most innovative and technologically advanced manner possible at the time. Moreover, in the OCC's view, the meet-point interconnection arrangements currently employed among noncompeting LECs provide the model for the open, interconnected and interoperable interconnection framework envisioned by Public Act 94-83 and unburdened by strategic considerations in other proposals.

OCC further argues that, in addition to authorizing meet-point interconnections, the Department must ensure optimal network efficiency in a competitive market and direct SNET to provide two-way trunking to prospective competitors wherever available and practical. OCC contends that two-way trunks offer carriers both technological and economical advantages otherwise unachievable. According to OCC, since two-way trunks can be demonstrated to be a more efficient and cost-effective transmission medium than one-way trunks, SNET should be required to make them available upon request to carry traffic between SNET's and a CLEC's end offices and access tandems. OCC cites to SNET's experience with the other current LECs in the state, The New York Telephone Company (NYTel) and The Woodbury Telephone Company (Woodbury), as evidence that SNET is currently realizing benefits of two-way trunking in its exchange of local traffic with those LECs as well as with long distance service providers. Accordingly, OCC urges the Department to conclude that two-way trunking is critical to efficient and effective interconnection for CLECs and SNET. OCC Brief, pp. 3-5.

3. Mutual Compensation

OCC maintains that the most appropriate and equitable mutual compensation plan for encouraging market entry is a B&K model. According to OCC, while proper physical interconnection arrangements are essential to interoperability among networks, mutual compensation agreements between service providers will have significant influence on a CLEC's decision as to whether, and in what form, to enter the local exchange services market. OCC proposes that prices charged by service providers for terminating traffic on their network that originated on another provider's network be set at levels which do not unduly preclude entry by prospective providers into Connecticut's local service market. OCC argues that in order to sustain market entry and comply with the Act's goals, termination charges must be reciprocally based. Therefore, OCC concludes that the most appropriate and equitable mutual compensation plan is the

B&K model. According to OCC, under a B&K model, carriers pay each other "in kind" for terminations, rather than using cash compensation.

OCC considers the evidence presented in this proceeding as supportive of its view that traffic will, over time, achieve a state of balance among the various networks, making payment transactions between carriers for traffic termination unnecessary and uneconomic. OCC further contends that under any transactional compensation model, carriers would be obligated to make a significant investment in new technology to simply measure traffic and bill and collect for terminations. OCC asserts, therefore, that even in the face of a significant traffic imbalance, B&K may still be more cost efficient than an exchange arrangement which obligates services providers to incur significant costs to administer insignificant amounts of revenue.

OCC contends in its submissions that the mutual compensation methodology proposed by SNET will discourage market entry by potential local service providers and thus retard the development of effective competition. According to OCC, by insisting on use of a transactional compensation approach, SNET would require carriers to develop, implement and incorporate extensive measuring, billing and collecting systems which do not currently exist and thus would require substantial resource commitments to develop. Imposing such capital investment upon prospective providers during the initial phases of competition would, according to OCC, deter many potential providers from entering the Connecticut local service market. OCC Brief, pp. 8-10.

In deference to the views expressed by others in this proceeding, however, OCC proposed some modifications to its initial views on B&K by offering for Department consideration what it believes to be a neutral and balanced compromise mutual compensation proposal (the OCC Proposal). In so doing, OCC represents that its proposal incorporates the stated interests of both SNET and the CLECs and furthers the Act's vision for a competitive environment.

Specifically, the OCC Proposal comprises two parts: the first endeavors to resolve the apparent differences in network architecture between the CLECs and SNET that will affect the termination charges; and the second outlines a set of competitively balanced mutual compensation mechanisms that might be adopted by the Department. The first part of its proposal accepts the fact that, as new entrants, CLECs' networks will seek to take advantage of new technologies and will accordingly be structured differently than SNET's network. Furthermore, OCC accepts as fact that during the initial phases of competition, the CLECs will need to develop and build their networks piece by piece -- a capital-intensive and time-consuming process. OCC contends further that based upon traffic volumes, CLEC end office(s) will initially serve as virtual tandems.²⁰ Therefore, tandem charges should apply to all traffic that is: "(i) conveyed

²⁰ A tandem office represents the second step in a five-level hierarchical switching matrix commonly employed by the telecommunications industry. The tandem office provides common pathways for a defined number of end-offices to other end-offices, other tandem locations and the next hierarchical level of the telephone network. The tandem office concept is a product of economic engineering principles that takes advantage of certain network demand and traffic concentration characteristics to achieve optimal network efficiencies. The concept of virtual tandem reflects an effort to employ

to a CLEC 'switching office'; (ii) terminated at a subscriber connected to that office; but (iii) outside of the local serving area of the SNET end-office in which the 'switching office' resides." OCC asserts that by allowing the new entrants to initially apply tandem charges when they switch local traffic, its proposal recognizes the functional reality that every CLEC switch will satisfactorily function as a tandem office.

In the second part of its proposal, OCC outlines an alternative compensation package. The package envisions a set of transition steps that culminate in a long-term mutual compensation arrangement. According to OCC, its proposal addresses SNET's concerns with the CLECs' Proposal and, at the same time, eliminates many of the inferred disincentives to market entry that others saw in SNET's Proposal. Specifically, OCC proposes that for a period of 18 months after a date certain, providers who have expressed their intent to provide competitive local service offerings will operate under a B&K arrangement. All CLECs proposing to offer local exchange services in a particular market area subsequent to the date certain and within the 18-month time period will operate under a B&K arrangement for at least the first 9 months of that carrier's operations without regard for the expiration of the 18 month initial period. OCC contends that such a start-up period is required to allow sufficient opportunity for prospective entrants to achieve critical mass and for competition to develop in a way that does not disadvantage either the prospective providers or SNET.

OCC further proposes that any CLEC entering the market on or after the expiration date of the initial 18-month period will not be permitted to employ a B&K option and must begin with a "pay-as-you-go / use-as-measured" basis for the first year. Performance data collected by the service providers over the course of the 12 month period will be used to determine the level of traffic imbalance between the carriers and thus the equity of using any B&K model on a future basis. OCC asserts that the proposed periods and associated expiration dates are fair to all providers because the initial CLEC entrants will assume greater financial costs and risks to achieve a competitive position in the local service market than will later entrants. According to OCC, the benefits and disadvantages to CLECs entering the local services market at different phases of competition development should be different and should be reflected in the policies of this Department.

Finally, the OCC Proposal provides opportunity for carriers to measure their traffic patterns during the final two to three months of the allowed B&K period to detect any perceptible imbalances. At such time, carriers will make retroactive payments to the affected carriers where traffic imbalances were evidenced during that period. Retroactive payments will be made on a per-minute basis in accordance with the net traffic to the carrier terminating that traffic. OCC further provides that if both carriers are satisfied that traffic is sufficiently balanced between their respective systems, they may extend the B&K agreement for an additional 12 months or other such mutually agreeable period. At the end of the 12 months, the carriers will again measure their traffic patterns to determine if a mutual compensation arrangement would be more cost

technical advances in both software and transmission technologies to achieve the same economic efficiencies that in the past could only be achieved with prescribed physical architectures.

effective than the Bill and Keep arrangement. At that time, if either carrier finds that the traffic is sufficiently out of balance to warrant a compensation exchange on a going forward basis, the carrier may select one of five different mutual compensation plans. Accordingly, each carrier, whether CLEC or SNET, will have the ability to negotiate the compensation method for its own terminating traffic which best suits its particular needs.

As noted above, OCC proposes five mutual compensation arrangements for use in Connecticut: (i) a toll traffic option separates the billing for termination of intrastate toll traffic and local traffic, with intrastate toll billed at intrastate access tariff rates and local traffic at another rate; (ii) a two-way trunk option apportions the cost of a flat-rated trunk between local and toll traffic, with the proportionate cost of the local traffic then divided among all carriers based on relative usage; (iii) a measured rate option involves a per-minute of use charge that applies to all traffic, with the per-minute rate generally based on TSLRIC costs, excluding local loop contribution, plus a 15% contribution to local loop costs; (iv) a combined rate option which charges a blended per-minute of use rate for both local and intrastate toll traffic terminated at either an end office or tandem office, with the rate calculated first based on the TSLRIC cost for local traffic, without local loop contribution, and second to reflect TSLRIC costs without CCL, RIC and any other contribution in toll and then both calculations combined with a 15% contribution to the local loop; and (v) a flat rate option under which carriers multiply the per-minute of use charge outlined above, by either 120,000 average minutes per month or the carrier's average monthly traffic load.²¹

OCC argues that its proposal strikes a balance between SNET's interests and the CLECs' concerns over entering a local exchange services market without reasonable assurances of economic success. OCC maintains that the mutual compensation mechanisms contained in its proposal treat all carriers with complete reciprocity, recover network costs, contribute to the costs of the local loop, promote economic efficiency, and support development of a competitive environment. OCC also maintains that its proposal protects the public's interests and achieves the Act's goal of promoting the development of effective competition and maximum interoperability. OCC Brief, pp. 5-7, 10-16; OCC Reply Brief, pp. 2-6.

4. Resale

OCC recommends SNET be required to provide unrestricted resale of message toll service and local exchange service. OCC states that resale represents the most effective and efficient mechanism for introducing competition to the Connecticut local

²¹ SNET argues that this flat rate option raises more questions than it answers. According to SNET, it would not be able to agree to the level of 120,000 minutes at the start of competition without some empirical evidence that this level is appropriate. SNET contends that 120,000 minutes of use is not a very high level for an entrant to reach to advantage itself with the flat rate. SNET states that the possibility that the CLECs may be incurring well over 120,000 minutes of use a month raises serious concerns as to whether SNET would recover its costs. SNET further contends that the OCC's flat rate assumes an average amount of usage per trunk per carrier, but it does not accurately reflect the true cost of each carrier.

exchange market, because the CLECs will initially be non-facilities-based carriers. According to OCC, the development of effective competition as a means of providing customers with the widest possible choice of services can only be achieved if SNET is required to provide unlimited resale on a nondiscriminatory basis.

Additionally, OCC proposes that SNET be required to make its residential local service offering available for immediate resale, without waiting for establishment of a universal service fund. OCC recommends that the Department reject SNET's assertions that local residential service resale and universal service funding are intrinsically linked and must be addressed simultaneously. According to OCC, SNET's assertion that local residential rates are below TSLRIC cannot yet be confirmed as no current cost studies have yet been submitted by SNET in response to the Department's Decision in Docket No. 94-10-01. OCC maintains that SNET's concern about under recovery from its lower service offerings is unfounded since it is predicated on assignment by SNET of all loop costs to local services, an allocation methodology explicitly rejected by the Department in Docket No. 94-10-01. Furthermore, OCC suggests that any delay of implementation by the Department of a resale tariff for local residential service, as SNET has proposed, is contrary to the public's interest and, if accepted by the Department as its preferred approach to the issue, would present an unnecessary delay of competitive participation in Connecticut. Additionally, OCC argues that neither the Act nor any of the Department's orders pertaining to local competition correlate the scale or scope of resale of local service offerings of any kind to the establishment of any associated universal service fund. OCC Brief, pp. 20-27; OCC Reply Brief, pp. 6 and 7.

5. Pricing

OCC asserts that the full competitive effect of any unbundling scheme will only be realized if SNET's prices for its unbundled elements are set at levels consistent with the competitive intentions of the Act. OCC states that by encouraging the efficient development of competition, unbundling initiatives will ultimately benefit all providers and all customers. According to OCC, all providers, including SNET, should share proportionately in the administrative costs of offering unbundled network functions as they all derive some economic benefit from the availability of such services. OCC maintains, however, that the Department must ensure that the market price for any such unbundled element does not constitute a barrier to competitive entry and should, therefore, regulate such element similar to the other SNET noncompetitive offerings.

OCC further argues that if one accepts the premise that unbundled service elements represent essential prerequisites to the development of effective and efficient local competition, and that provisions of the Act require that rates be set at nondiscriminatory levels, the market price for SNET's unbundled loops, ports, and other network functions must be set at a level that reflects TSLRIC plus some limited contribution to cover joint and common costs. Furthermore, to ensure against any unwarranted abuse afforded SNET by such a methodology, OCC proposes that SNET's prices for unbundled elements be subjected to an imputation test in order to ensure

against an unrecognized price squeeze.²² In order to avoid any such price squeeze, OCC argues that SNET must be required to impute the price it is permitted to charge for unbundled elements into its retail local exchange rates. OCC further contends that without an imputation requirement, SNET will have the ability to underprice any new competitor in the market. According to OCC, therefore, for competition to develop, SNET cannot be permitted to charge competing providers more for unbundled network functions than it charges its own retail end users. Accordingly, OCC contends that an imputation test is not only a prerequisite to the development of competition in the local exchange market, but is required by provisions of the Act. OCC Brief, pp. 16-20.

6. NXX Programming and Administration

OCC contends that CLECs must be pre-assigned exclusive NXX codes which, in turn, can be used to provide their subscribers with confirmed telephone numbers. OCC asserts in its submissions that NXX codes are not the property of SNET and, therefore, should be available to any and all market participants on a fair and equitable basis. Furthermore, OCC suggests that SNET simply perform the role of conservator over a public resource. Accordingly, OCC recommends that the Department adopt a set of rules and regulations governing the administration of NXX codes such that the distribution of NXX codes are regulated through a neutral and equitable process strong enough to prevent any potential abuse by SNET of its public responsibilities.

OCC suggests in its submissions that a more controversial issue centers on the recurring costs associated with periodically reprogramming each carrier's central office switches as NXX codes are added or reassigned in a dynamic and competitive market. OCC concedes SNET's point that carriers needing new NXX codes (i.e., cost causers) must accept financial responsibility for programming costs, but recommends that the Department not depart from accepted cost allocation methodologies and principles without strong empirical evidence that another methodology is warranted. According to OCC, all local service providers will be required to reprogram their switches to account for any NXX code activated or reassigned if that local service provider expects to provide their end users the ability to seamlessly communicate with every other Connecticut end user. This, in the view of OCC, simply represents a cost of doing business. Consequently, OCC recommends that each carrier bear sole responsibility for costs it will incur in reprogramming its respective switch population. OCC Brief, pp. 27-28.

7. Number Portability

OCC maintains that providing all customers interim number portability is crucial to the development of effective competition in the local service market. OCC contends that independent studies suggest that a substantial portion of current business and residence purchasers will be extremely reluctant to change local service providers if they are unable to retain their current telephone number. OCC also states that in view

²² A price squeeze occurs when a company competing in the market place sells an essential input to another company for more than it charges its own end users for the service.

of the CLECs' immediate need for local number portability to meet the expectations of the market, the Department should require SNET to make Remote Call Forwarding (RCF) and Direct Inward Dialing (DID) services available as interim steps to effective resolution of the number portability issue. OCC notes that while these solutions contain certain drawbacks, they constitute acceptable short-term solutions to the market need. OCC contends that any delay in instituting number portability until a federal solution can be developed and implemented would only serve to delay the introduction of local competition and would be inconsistent with the Act. OCC concedes that SNET will incur some costs in implementing RCF and DID which it is entitled to recover, but argues that interim number portability should not be considered an additional source of revenue for SNET since it is an essential building block to achieving effective competition in the Connecticut market. OCC Brief, pp. 28 and 29.

C. AT&T COMMUNICATIONS OF NEW ENGLAND, INC. (AT&T)

1. The Stipulation

AT&T concurs in its submissions with both SNET and OCC that the proposed Stipulation in this proceeding is in the public interest and should be approved by the Department. AT&T states that among the articulated goals of Public Act 94-83 is the development of effective competition as a means of providing customers with the widest possible choice of services at competitive prices. According to AT&T, the Stipulation is consistent with and supports the principles of the Act. AT&T contends that the Stipulation represents a concerted effort on the part of SNET and various potential competitors to address issues that must be resolved if the legislature's goals for Connecticut's local exchange services market are to be realized. AT&T acknowledges that additional work will be required before CLECs can actually begin to provide service within the local marketplace in Connecticut, but states that the Stipulation is a sound and reasonable starting point and should be endorsed by the Department. AT&T Brief, pp. 5-8.

2. Interconnection

AT&T states that to satisfy public expectations of call completion among carriers, the technical means of interconnection between and among SNET and CLEC networks must be both seamless and transparent to the end-user customer. In AT&T's view, such seamless interconnection will allow CLECs to enter the local exchange marketplace in the most cost effective manner, thereby facilitating competition. AT&T contends that the accomplishment of efficient, seamless call completion will depend on a number of factors: applicable transmission and blocking criteria; the points in the network where interconnection is permitted; the types of trunks SNET makes available for interconnection; and the type of traffic that can be carried over interconnection trunks. With regard to these factors, AT&T recommends that: upon a CLEC request, SNET should make available a higher grade of service which provides less blocking; SNET should be required to make interconnection available at an end office switch, an access tandem, or a mutually agreed upon neutral meet point; SNET should make

available two-way trunking wherever practical; and SNET should be required to interconnect transit traffic in order for CLECs to interconnect with each other's network without the need to construct expensive direct trunking arrangements to and from each other's networks. AT&T Brief, pp. 59-63; AT&T Reply Brief, pp. 33-35.

AT&T maintains that SNET must develop methods and procedures to implement in a timely, efficient and cost effective manner the numerous operational issues that arise in providing local service.²³ While the Stipulation provides that SNET and the CLECs will work cooperatively to develop methods and procedures addressing the numerous operational issues, AT&T recommends that the Department (with industry input) set a date certain to complete each phase, as well as an end date for resolving operational issues. AT&T contends that mechanized interfaces and efficient operational methods and procedures between SNET and the CLECs are essential, particularly for CLECs intending to resell SNET local service to CLEC end-user customers. According to AT&T, mechanized interfaces are significantly more efficient and cost effective than manual interfaces and are necessary for completing service orders, provisioning and meeting customer service requests in an accurate, timely, efficient and cost effective manner. AT&T asserts that mechanized interfaces provide for a more streamlined process and support a consistent and uniform set of detailed specifications to achieve approved levels of quality and performance. Therefore, AT&T recommends the immediate implementation of mechanized interfaces to support the ordering, provisioning, and customer service processes utilized between carriers when providing service in Connecticut.²⁴ AT&T further recommends that SNET should not be granted any form of relaxed regulation, including price caps, until SNET implements mechanized interfaces.²⁵ AT&T Brief, pp. 78-83.

3. Mutual Compensation

²³ Lightpath, while agreeing that it is productive for the industry to develop standards for efficient order processing, argues that mechanized interfaces should only be incorporated where efficient. Lightpath states that it does not agree that all entrants should be required to incorporate these interfaces into their networks if it is not efficient, or technically or economically feasible. Additionally, Lightpath notes that there is insufficient technical information in the record to support a finding that all carriers must have the same interface system. Lightpath Brief, pp. 15 and 16.

²⁴ AT&T further maintains that a full featured network billing arrangement between SNET and the CLECs is necessary to create a level playing field in the local exchange marketplace. According to AT&T, this requires effective methods and procedures for the exchange of billing data between multiple carriers and testing to ensure correct data transmission. AT&T asserts that Customer Account Record Exchange (CARE) interfaces are also required. In AT&T's view, although potential CLECs and the incumbent LEC know the type of data required and how it should be used, the issue is the type of mechanized interface that will be used to exchange information among local marketplace carriers. Therefore, AT&T recommends that SNET and the CLECs develop uniform standards to govern the exchange of CARE records. AT&T also recommends that SNET be required to pass usage records to the CLECs to allow CLECs to bill all of their customers. AT&T Brief, pp. 83-85.

²⁵ SNET states that there is nothing to support tying its alternative regulation plan to mechanized interfaces. Rather, SNET supports the language in the Stipulation that providers work together to cooperatively develop solutions, without unnecessarily involving the Department in these matters. SNET Reply Brief, p. 28.

AT&T criticizes SNET's mutual compensation proposal as self-serving and argues that the proposal ignores the stated needs of co-carriers. According to AT&T, SNET's proposal evidences SNET's intent to turn compensation into an individual profit center. On the other hand, AT&T supports the OCC's Proposal. AT&T explains that the OCC's Proposal resolves two of the most important issues surrounding mutual compensation between the CLECs and SNET. Specifically, AT&T contends that the OCC's Proposal addresses the issue of the price at which mutual compensation arrangements should be set and the actual mechanism by which payment will be made. According to AT&T, the OCC Proposal is a well balanced solution, which addresses the concerns of both SNET and the CLECs in a fair and equitable manner that benefits the Connecticut consumer. Consequently, AT&T supports adoption of the OCC's Proposal as being in the public interest. AT&T Brief, pp. 3 and 4, 46 and 47; AT&T Reply Brief, pp. 20-29, 32 and 33.

4. Resale

AT&T argues that resale represents an important element in the competitive framework envisioned by Public Act 94-83 and should be fully supported by the Department's actions. AT&T further argues that resale of the incumbent local exchange company's services is an efficient and expeditious method for the introduction of competition into the local exchange marketplace and will, in certain instances, be an absolute imperative for prospective entrants if they are to satisfy the Department's requirement in its Decision in Docket No. 94-07-03 that a local service provider serve entire multi-exchange market groupings.

According to AT&T, SNET, while stipulating to resell its basic local service, including vertical features, has refused to resell other regulated services, including intraLATA toll service. In AT&T's view, SNET's resale proposal is a thinly veiled attempt to confine competitive entry to the smallest sphere possible, notwithstanding the specific language and overarching intent of the Connecticut legislature to open the intrastate marketplace to competition. AT&T maintains that SNET's refusal to resell all its regulated services will result in customer confusion and dissatisfaction. Consequently, argues AT&T, a CLECs ability to provide end users with a full line of services in competition with SNET will be adversely impacted and the development of competition will thus be inhibited.²⁶ AT&T further argues that SNET's refusal to offer its intraLATA toll service for resale presents the pure reseller with a particularly acute problem, i.e. the pure reseller has no alternative means of providing intraLATA toll

²⁶ AT&T argues that without fair and full consideration of a family of resale offerings, many potential entrants will not be able to enter the Connecticut marketplace, now or in the future. According to AT&T, the resale principle enables prospective participants to accumulate experience and expertise in the local exchange marketplace, while generating capital to fund facilities-based operation. AT&T maintains that those participants content to remain resellers in the future will serve to compel facilities-based providers to continuously innovate in order to effectively compete with their offerings. AT&T contends that without a workable margin between their wholesale cost of services from SNET and the retail price of SNET's equivalent offerings, prospective resellers have no incentive to enter the Connecticut marketplace and will consider other opportunities elsewhere.

services to its end-user customers.²⁷ Additionally, AT&T maintains that SNET's resale proposal incorrectly assumes that all resellers will have facilities over which to carry 10XXX calls.²⁸ For all these reasons, AT&T asserts that SNET's approach to resale must be rejected if a fair and equitable competitive playing field is to be established. In AT&T's view, therefore, the Department should require SNET to offer all of its regulated services, including those classified as competitive services, for resale. Further, AT&T contends that the Department should require SNET to permit each reseller to purchase from SNET's tariff as the customer of record and to aggregate all of its end-user customers' usage to qualify for volume discounts set forth in the tariff. AT&T states that such requirements for resale are in the public interest. AT&T Brief, pp. 50-57; AT&T Reply Brief, pp. 5-8, 15-18.

AT&T argues that requiring SNET to offer all its regulated services for resale does not require SNET to develop new tariffs for its resale offerings. According to AT&T, CLECs can purchase out of SNET's existing tariffs, provided that the currently tariffed services contain prices that recognize that bulk purchases are less costly for SNET to provide than are smaller volume purchases. AT&T claims that it seeks nothing more than the right to purchase service like any residential and business customer and obtain the existing tariffed discounts. AT&T maintains that it would be unfairly discriminatory to allow SNET to provide such discounts to its end-user customers, while refusing the same discount to its CLEC customers. In those cases where a particular service being purchased for resale does not have sufficient bulk discounts currently within the respective tariff, AT&T recommends that a CLEC petition SNET to provide such discounts in accordance with the petition/dispute resolution process set forth in the Stipulation. For those SNET tariffed services that do not currently reflect an appropriate resale price level, AT&T suggests that SNET simply add the appropriate resale price to its existing retail price for the same service. AT&T maintains that its proposed process, therefore, does not entail an immediate revision to all of SNET's existing tariffed services. Rather, except for those services included in the Stipulation and any others specifically ordered to be made available for resale (e.g., intraLATA toll service), AT&T believes that SNET need not take any action until such time as it receives a written request to purchase a particular service for purposes of resale. Only then would SNET have to revise its tariffs to include an appropriate wholesale price, to the extent such a price was not already present in the applicable tariff. AT&T Brief, pp. 50-59; AT&T Reply Brief, pp. 8-11.

AT&T further asserts that the effective date of SNET's resale local service tariff should not be delayed until a universal service fund is developed as suggested by SNET. AT&T states that SNET has failed to provide any evidence that there is a need for the proposed universal fund or that the public interest will be served by delaying such implementation. In AT&T's opinion, delaying implementation is contrary to the

²⁷ AT&T maintains that pure resellers will thus opt not to enter the local exchange marketplace, if they, unlike SNET and facilities based CLECs, do not automatically receive their end-user customers' intraLATA toll traffic on a 1+ basis.

²⁸ According to AT&T, under the present approach, absent presubscription, the carrier providing the local service automatically carries its end-user customer's 1+ intraLATA toll traffic. AT&T maintains that this should not change simply because the carrier providing the local service does so on a resale basis.

public interest, and if SNET's proposal is adopted, competitive entry by other service providers will be unnecessarily delayed. AT&T maintains that such a result is contrary to the intent of Public Act 94-83 to bring the benefits of competition to Connecticut telecommunications consumers as soon as possible. AT&T argues that it is also contrary to the Department's decision in Docket No. 94-07-04 in which the Department found that SNET's resale of local exchange service is essential to the development of local exchange competition. According to AT&T, the only interest served by SNET's proposed delay is SNET's interest in preserving its monopoly control over the provision of local exchange service for as long as possible. Therefore, AT&T urges the Department to deny SNET's proposal to delay implementation of resale until a universal service fund is developed. AT&T Brief, pp. 35-39.

5. Pricing

AT&T contends that resolution of the issues presented in this case will determine whether and to what degree competition will enter and thrive in the Connecticut local exchange marketplace. Therefore, according to AT&T, the Department should subject SNET to regulatory conditions that will closely parallel those conditions imposed by competitive market forces once they exist and become more potent. AT&T argues that such a Department course of action is most important in the pricing latitude afforded SNET when dealing with potential competitors for its local service resale offering and unbundled network elements and functions. AT&T maintains that if prices approved by the Department for resale and unbundled offerings are not appropriately established, there will be limited competitive entry and little public benefit to show for the efforts of the Department to date.

AT&T refers first to the Department's Decision in Docket No. 94-07-03 in which local service providers are required to serve entire multi-exchange market groupings. AT&T contends that by imposing such an obligation, the initial retail price set by CLECs for local exchange equivalent services will be the sum of expenses to provide network access, conduct marketing, render billing and collection services, administer accounts, etc., plus the wholesale costs of SNET's unbundled elements and resale services. Because of these "reseller costs," AT&T argues that customers in those geographic areas where prospective competitors will be able to offer only resold services will be denied the benefits afforded by the opportunity to choose among providers if resellers are not accorded an economically viable wholesale rate from SNET. As a practical means of ensuring that consumers are not unknowingly disadvantaged by incumbent LEC resale pricing regimes, AT&T proposes that the Department require incumbent LECs to offer all currently available regulated services for resale on a tariffed basis, at wholesale rates, and under terms and conditions that are economically viable for resellers. AT&T contends that the availability of SNET's resale service offerings at economically viable prices will provide a starting point for a more fully competitive local exchange services market in which increasing numbers of facilities-based competitors vie for residential and business end users. AT&T Brief, pp. 8-14.

Further, AT&T argues that any approved price for SNET's intrastate resale service offerings should be equal to SNET's retail price of the equivalent service, less

the maximum, long term costs that SNET will save by having the reseller undertake the retail activity and less any revenues associated with stimulation of SNET's business in consequence of reseller marketing strategies and activities.²⁹ AT&T states that the saved or avoided costs should be calculated using the TSLRIC methodology. According to AT&T, its proposal for the development of wholesale rates will promote competitive entry as quickly as possible, because it does not require a delay while SNET conducts studies to determine its costs to provide instate services on a wholesale basis. AT&T further argues that its proposed methodology will result in reasonable rates for SNET's wholesale instate service offerings that are economically viable for resellers.

AT&T contends that the evidence in this proceeding does not support a finding that any of SNET's local service rates are below their TSLRIC. According to AT&T, the record in this proceeding is silent as to the cost of SNET's local loop. However, AT&T acknowledges that SNET's loop costs will likely represent a sizable portion of SNET's total cost of providing flat rate local service and a few other services. AT&T states that if this is the case, removal of a significant portion of these costs could cause SNET's retail rate to approach, and even to exceed, its cost of providing services such as flat rate service. Additionally, AT&T contends that SNET's cost of providing vertical features is likely to be very low, because SNET's switch engineers have merely to "turn on" an appropriate piece of software that is already built into the switch.

AT&T supports its position that the relationship between SNET's retail rates for local exchange service and pertinent TSLRICs is relevant in determining the appropriate wholesale rate first by contending that SNET remains revenue neutral when providing its services at a wholesale rate as proposed by AT&T.³⁰ AT&T argues that regardless of the level of SNET's retail rates for local exchange service vis-à-vis their underlying cost, the correct base from which to begin building an appropriate wholesale rate remains SNET's retail rates for its local service offerings. AT&T maintains that just because a reseller will resell SNET's products does not deprive SNET of its usual sources of subsidy for these allegedly below cost retail rates. Additionally, AT&T contends that SNET will remain revenue neutral when AT&T purchases intraLATA toll service from SNET's existing tariff, because the revenue available to SNET to fund the subsidy remains intact.³¹

AT&T continues support of its proposed pricing methodology by arguing that it conforms with established economic pricing principles. According to AT&T, these pricing principles recognize that the opportunity cost of providing a service to a CLEC for resale can be negative where the regulated price to the end user is set below the service's TSLRIC. AT&T contends that in such a case, but for the subsidies received

²⁹ SNET argues that to assume a CLEC's marketing efforts alone, without at a minimum evidence of any marketing plans will increase usage, and thus increase SNET's revenues, is highly speculative. SNET also argues that if demand is stimulated, costs are increased along with revenue.

³⁰ SNET claims that there is no evidence in the record that would support a finding that under AT&T's costing approach, SNET would remain revenue neutral.

³¹ According to SNET, if it is required to offer its resale service at a significant discount, all the subsidy vanishes.

from other services to make up for any revenue shortfall, SNET loses money every time it makes a sale of the unprofitably priced service. Consequently, SNET ought to be willing to shed these unprofitable sales to a competitor by charging a price for the necessary input that is actually below that input's TSLRIC.

AT&T further argues that SNET's provision of local service to a reseller is distinctly different than its provision of this service to end users. AT&T maintains that SNET will avoid substantial costs by having resellers do the billing, marketing and customer services as opposed to SNET itself providing these services to end users. AT&T states that SNET's costs for its uncollectibles, billing and collection, service order processing, sales and product marketing expense accounts will be reduced. According to AT&T, while this expense category listing is limited, it is very likely that other expense categories will also be reduced. AT&T asserts that it has performed a study of the costs the Regional Bell Operating Companies (RBOCs) will avoid on a wholesale rather than a retail basis, and that study indicates that on average, avoidable costs would be at least 26%. While acknowledging that SNET's results may vary from the results of the RBOC study, AT&T urges the Department to require SNET to perform a similar study using SNET-specific expense data.

As referenced above, in addition to reflecting the level of avoided costs, AT&T contends that SNET's rates for wholesale local market services must also reflect the effects of increased revenue to SNET as a result of CLEC marketing efforts which stimulate usage for its vertical and toll services. In particular, AT&T states that SNET's wholesale price should be significantly less than its retail rate and should reflect the cross-elastic effects from which SNET will benefit. AT&T contends that under no circumstances should SNET be permitted to use local competition as an opportunity for raising the rates for these services to levels mandated by their underlying costs. According to AT&T, by permitting SNET to increase rates, SNET would benefit but SNET customers would receive no corresponding benefit. Moreover, in AT&T's view, such a rate increase would stymie competitive entry to the detriment of the public and in contravention of the spirit and intent of Public Act 94-83. AT&T Brief, pp. 14-24; AT&T Reply Brief, pp. 2-5.

It is AT&T's view that SNET's proposed local market services resale pricing methodology (i.e., setting rates at TSLRIC plus contribution) will thwart competitive entry and should be rejected.³² AT&T contends that SNET's proposal produces a de facto local exchange rate increase with guaranteed profit for SNET, while it leaves CLECs in a position that requires them to cover the balance of their costs not collected from end-user rates, as well as to cover the additional contribution paid to SNET.

³² Citing its experience with the resale of Rochester Telephone local service, AT&T argues that a wholesale rate which understates the level of avoided costs and revenues generated from stimulated network usage will prevent effective competition from developing. AT&T also argues that without a viable wholesale margin, competitors will not enter and those that do will severely restrict their degree of entry. AT&T maintains that resellers cannot afford to enter a marketplace where they cannot cover expenses and earn a profit. Accordingly, AT&T recommends that the Department not permit competition to be stopped in the Connecticut marketplace and be "infected" with the same impediments as those experienced in the Rochester Telephone marketplace. AT&T Brief, pp. 24-27.

According to AT&T, this scenario creates a significant roadblock to resale competitors entering the local marketplace by placing CLECs in a price squeeze vis-à-vis SNET's retail rate. AT&T contends that SNET's proposed methodology thus forestalls socially desirable competitive entry into the local exchange marketplace. Moreover, AT&T claims that given SNET's proposed pricing methodology, its current dominance in the provision of local services, and its revenue stream from access and toll rates, SNET will be the only carrier positioned to generate the needed subsidy. AT&T argues that SNET should not be creating increased subsidy requirements (i.e., the TSLRIC plus contribution that SNET proposes to charge CLECs for the same services it offers to end users below cost) while claiming to support competitive entry. AT&T Brief, pp. 24-35; AT&T Reply Brief, pp. 29 and 30.

According to AT&T, the pricing of SNET's unbundled network elements, like the pricing of its wholesale local marketplace services, should be governed by a competitive market standard. AT&T states that this standard should mimic the competitive forces that are actually absent or are not adequately developed in the existing local exchange marketplace in Connecticut. AT&T explains that in the case of monopoly unbundled elements, this approach requires that SNET's prices for its unbundled network elements cover SNET's direct cost to provide the unbundled network element plus a competitive, market-based level of contribution to SNET's joint and common costs. AT&T claims that once the prices for monopoly unbundled elements are determined, competition in the provision of end-user services will determine the actual revenues that SNET will earn from all of the available sources, including the sale of unbundled elements. Utilizing this approach, should the Department determine that the overall revenues earned by SNET exceed the legitimate level of SNET's costs, the Department can mandate a reduction in the prices of the unbundled elements to bring revenues closer to the level of relevant costs. Additionally, according to AT&T, if SNET is unable to recover all of the relevant costs, the Department can mandate an increase in the prices of monopoly unbundled elements. AT&T states that the iterative aspect of this procedure requires the regulator to periodically assess, revise and adjust the prices for unbundled elements in response to realized marketplace outcomes.

In AT&T's view, regulation will be required to ensure that: (1) SNET has adequate incentives to reduce the costs of the monopoly basic network elements and functions; (2) SNET has adequate incentives to pass those efficiency gains through to its competitors in terms of lower prices for unbundled elements; (3) SNET has adequate incentives to reduce prices for the end-user services which utilize the monopoly basic network elements, in line with the realized efficiency gains; and (4) consumers do not pay end-user prices that exceed prices that would be realized in an effectively competitive local exchange marketplace. AT&T Brief, pp. 35-45.

6. NXX Programming and Administration

Regarding SNET's NXX proposal, AT&T maintains that SNET should not be permitted to charge for establishing NXXs in its switches. AT&T states that as long as SNET performs the role of number administrator for Connecticut, it should be