1, 1995. BellSouth's treatment of central office equipment and outside plant used jointly to provide cable service and telephone service complies with the requirement of Part 64 that such allocations be based on usage. Because the cost of that joint plant is not traffic sensitive[33], BellSouth's method relies on another indicator of usage: the forecasted count of circuits provided to subscribers to cable service and to telephone service.[34]

BellSouth allocates these joint costs at the study area (state) level, where allocations are easier to administer and review than at exchange or lower level. The investment information for allocating such joint costs is not maintained at the exchange level. Recording costs on an exchange-by-exchange basis would be costly and burdensome. BellSouth allocates joint central office equipment and outside plant costs based on the greatest forecasted usage of the joint plant for cable service in succeeding three-year period, as Part 64 requires. This approach is administratively efficient and simple and is independent of specific technologies.

The Commission should not establish a ceiling on the amount of costs that may be

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[33] The Notice incorrectly states that "usage-based methods would require the allocation of non-traffic sensitive costs on a traffic sensitive basis." Notice, ¶ 30. Traffic is not the only indicator of usage.

[34] BellSouth does not contend that its approach is an economically efficient method, but only that it is preferable to other arbitrary methods. The economic literature is clear that joint costs are most efficiently recovered according to the elasticities of demand of the various products and services that the joint and common costs support. See, e.g., William J. Baumol and J. Gregory Sidak, Toward Competition In Local Telephony at 33 et seq. (MIT Press: 1994). The Notice unfortunately appears to reject economic efficiency in favor of preconceived, but unjustified, notions of what would constitute good public policy. See Notice, ¶ 41, where the Commission incorrectly equates demand-based allocations of joint costs with the bearing of "the costs or risks of competitive ventures."

assigned to regulated activities.[35] Competition and price caps will keep telephone prices at reasonable levels. The Commission bases the suggestion of a cost allocation ceiling on the assumption that the "the provision of telephony under the hybrid system, therefore, should be less costly than under the current stand-alone telephony system."[36] The Commission's reasoning is flawed. It presupposes that today's narrow-band telephone services will be the only regulated telephony services provided on hybrid networks. It fails to account for the rapidly growing demand for new telecommunications services, particularly broadband telecommunications services. This demand drives network technology and costs. Regulated telephony customers both cause increased costs and also benefit from the wide array of new communications services available over advanced networks. A ceiling on regulated cost allocation would not permit LECs to account for their costs in accord with how customers' use of their networks changes over time.

The Notice tentatively concludes that the Commission should "prescribe a fixed factor for allocating loop plant common costs ..."[37] BellSouth disagrees. This tentative conclusion is a startling and unexplained reversal of the position previously taken by the Commission.

> Part 64, for the most part, does not prescribe cost categories or allocation factors. Rather, each carrier selects, subject to public comment and Commission review, the cost pools and allocators it needs to identify the costs of all of its nonregulated activities. The Commission chose this approach because it believed that the mix of nonregulated activities and the organizational structure would vary widely from carrier to carrier, and that a single, prescribed manual could not adequately encompass the

[35] Notice, ¶ 36.
[36] Notice, ¶ 35.
[37] Notice, ¶ 41.

> possible variations. No party has shown that video dialtone-related nonregulated products and services will exhibit, initially, less variety than other nonregulated activities, or will be more amenable to uniform treatment.[38]

The Notice cites no evidence that circumstances have changed, to make nonregulated video activities "more amenable to uniform treatment."

A mandatory fixed factor could not take into account the growing differences among LECs, their markets, and their networks. Nor could it take into account rapidly changing technology and market conditions. If mandatory fixed factors produced reasonable results, it would be entirely by accident. There is no data or formula available that will enable the Commission to prescribe fixed factors without being totally arbitrary and capricious or to predict the effect of such factors on LECs or their customers.

Fixed factors only appear to be simple to administer. Even LECs that aggressively enter the cable services business on integrated networks will continue to have huge investments in plant that is suitable for joint use, but that is not so used, and for which there are no plans and no available capacity for joint use. Thus, a fixed factor that applied to all fiber in a study area, for example, could overallocate massive amounts of plant to nonregulated accounts. Such a result could only be avoided by keeping detailed records, perhaps at the wire center level, of the specific plant that is used jointly, so that it could be placed in a separate cost pool. It would be arbitrary and capricious to assume that all of the LECs' fiber cable is available to carry video signals and should be subject to nonregulated allocation. The fact that fiber cable in parts of Atlanta is transporting video signals does not support the allocation of fiber cable

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[38] VDT Order, ¶ 180.

investment in Savannah, Biloxi, or even the rest of Atlanta. Thus, any reasonable application of a fixed factor would have to be performed below the study-area level and would impose heavy recordkeeping burdens, which are not now necessary. BellSouth's approach, on the other hand, can be applied at the study-area level without additional burdens.

Network technology is rapidly evolving and the future is uncertain. The LECs' respective networks are too different and are changing too fast for mandated fixed factors to yield reasonable results or to be administratively efficient.

B. The Notice Underestimates The Need For Spare Capacity For Regulated Services.

The Notice is wrong in predicting that much spare fiber capacity in the network will be used exclusively for nonregulated activities[39] and that additional cost allocation methodologies are required. BellSouth anticipates significant future fiber capacity requirements for regulated services. For example, dial-up connections to various data services, particularly Internet connections, which would use traditional regulated telephony will utilize significant capacity. Indeed, added main lines for data connections are a significant part of access line growth for BellSouth. Deployment of loop fiber is a natural evolution for telephony as the costs of the fiber and the associated electronics becomes cheaper. Furthermore, the incremental installation cost of additional capacity is negligible. Thus, deployment of fiber for future utilization is a prudent engineering and business decision for the telephone business and is directly beneficial to telephone customers. No, additional methodologies are need to allocate spare capacity.

[39] Notice, ¶ 52.

C. The Notice Confuses "Imputation" Of Pole Attachment And Conduit Rental Rates With Cost Allocation.

The Notice incorrectly relates the allocation of pole and conduit costs between regulated and nonregulated activities to Section 224(g)'s requirement that "[a] utility that engages in the provision of telecommunications services or cable services shall impute to its costs of providing such services (and charge any affiliate, subsidiary, or associate company engaged in the provision of such services) an equal amount to the pole attachment rate for which such company would be liable under this section."[40] Imputation and cost allocation are not the same thing. If, however, the Notice had correctly equated these concepts, the Act would have settled the issue that the Notice so tortuously discusses at paragraph 56. If imputation and cost allocation were the same, any allocation of pole and conduit costs beyond the imputed amount would be inconsistent with Section 224(g). Because, however, they are not the same, Section 224(g) provides no reason for any allocation of such costs other than what LECs have in their CAMs. The Notice suggests no other reason for a change.

VI. Conclusion

Reliance on cost allocations is regressive. It looks backward to rate-of-return regulation. It underrates the effectiveness of price cap regulation and the impact of competition in local telecommunications markets. Continued reliance on regulatory tools of the past will hinder the development of competition, unfairly penalize incumbent LECs for investing to meet the full range of future communications needs, and waste public and private resources. The perpetuation of cost allocation rules disregards the

[40] 1996 Act §703(7) codified in part as 47 U.S.C. §224(g).

Commission's duty to forbear from applying any unnecessary regulation.

The Commission's desire to find a regulatory mechanism that confers additional benefits of economies of scope on telephone customers should not be the controlling objective in this proceeding. Such potential benefits are minuscule compared to the benefits that telephone and cable customers will reap from unregulated competition. Thus, the Commission's primary consideration should be whether its action will promote infrastructure development and encourage vigorous competition between telephone companies, cable companies, and others The Notice is overly concerned with short-term goals of cost allocations and manifests virtually no faith in the procompetitive forces that Congress has unleashed

Respectfully submitted,

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