6. Assessment of SLCs on Derived Channels (ISDN)

The Commission asked for comments on whether the SLC should be charged per channel or per line because Integrated Services Digital Network ("ISDN") can carry more than one channel per line. The Commission also queried whether there should be a cap on SLCs applied to ISDN lines.

BellSouth commented that, as a part of the core rate structure ("CRS") it proposed, SLCs should apply for ISDN lines on a per service basis, *i.e.*, one SLC for Basic Rate ISDN lines and one SLC for Primary ISDN lines. BellSouth added that as a part of the CRS, the Commission should allow the marketplace to determine the particular rate level appropriate for such SLC charges, and should permit LECs to offer alternative rate structures as they may deem appropriate.[26]

The State Consumer Advocates generally supported charging the SLC on a per-channel basis. They stated that this would be technology-neutral, and added that charging on a per-line basis would give incumbent LECs an incentive to keep customers on conventional lines.[27]

Consistent with the GPSC's general opposition to the SLC, the GPSC supports charging SLCs on a per-line rather than per-channel basis for ISDN lines. Increasing or expanding the SLC generally is a step in the wrong direction. In addition, the GPSC continues to urge the Commission to do the primary job of first verifying the costs being recovered, before concerning itself with expanding recovery through end-user rates. Verifying the costs should include determining how much of the costs assigned to the SLC are related to ISDN lines. Moreover, the GPSC has tried to encourage the usage and deployment of a high-tech infrastructure to for the benefit of education and health care services, and economic development generally. The State Consumer Advocates were concerned that charging on a per-line basis would encourage ILECs to keep customers on convention lines, but the alternative of per-channel charges would not provide customers with a price incentive to migrate to ISDN. Assigning additional costs to these high-tech lines would tend to discourage subscribership, providing another reason to limit the SLC charges on ISDN lines.

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[26] BellSouth Comments at 67.

[27] State Consumer Advocates Comments at 64-66.

B. Local Switching

1. Non-Traffic Sensitive Local Switching Costs

The Commission noted that much of local switching costs are non-traffic sensitive, and asked parties to comment on what would be an appropriate, efficient rate structure (NPRM at ¶¶ 71-79).

BellSouth commented that non-traffic sensitive local switching costs, associated with the line port, are related to the provision of universal service, and as such, should be recovered from the new universal service fund. To the extent that the universal service fund does not cover these costs, BellSouth proposed that LECs should be permitted to recover these costs on a per-line basis from interexchange carriers. Flat-rate recovery is also appropriate for all other NTS local switching costs, BellSouth stated, because such costs are related more to the number of lines connected to the switch than to the amount of traffic transversing the switch.[28]

The GPSC has several concerns regarding BellSouth's proposal. First, the universal service fund should not be the first place to look for recovery of any cost element. Second, the assertion that NTS local switching costs are related to the provision of universal service is tantamount to saying that most costs are related to universal service; by contrast, telecommunications costs are related to services (and universal service funding should be reserved for assistance where necessary to cover the high costs of service).

2. Traffic-Sensitive Local Switching Costs

The Commission asked parties to comment whether traffic-sensitive charges could or should be collected through different methods such as "Call Setup Charges" on a per-call basis, rather than either a flat-rated or a per-minute basis. BellSouth commented that the alternatives described in the NPRM, such as call set-up charges, peak/off-peak pricing and others, all clearly point to the need for flexibility in designing or fashioning a rate structure for usage-sensitive local switching charges. The Commission should permit LECs to offer alternative rate structures, to separately price and charge for call set-up, to zone price their local switching service and to offer peak and off-peak pricing.

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[28] BellSouth Comments at 67.

ILECs should be given this flexibility, within the context of the price cap basket and banding constraints, to design rates commensurate with the dictates of the competitive marketplace. This flexibility would also include the option to retain the existing minutes of use rate structure.[29]

AT&T commented that the rate structure for local switching should include port charges and usage-sensitive charges. Moreover, AT&T stated, a combination of a flat-rate and usage charges would best reflect the way costs for local switching are incurred, and would therefore be reasonable. AT&T agreed with the Commission's tentative conclusion that a "significant portion of local switching costs . . . likely do not vary with usage" and, as AT&T, MCI and Ameritech pointed out in the Docket 96-98 proceedings, are driven by the number of lines and trunks connected to the switch. (NPRM at ¶¶ 72-73.) Accordingly, AT&T stated, the local switching rate structure should include both usage-sensitive and flat-rate

Although AT&T has no objection to further refining the recovery of the traffic-sensitive costs of the local switch into a call set-up charge and separate per-minute charges, it does not believe that a separate set-up element is necessary, given that many call set-up costs are now allocated to signaling, and the proposed rate structure for signaling includes signaling message charges for all calls, whether completed or not. Moreover, the Commission did not require a call set-up charge as part of the rate structure for the unbundled local switching rate element, which performs the same function as local switching in access. Thus, AT&T concluded that consistency dictates that a call set-up charge should not be part of the mandatory local switching rate structure.[30]

The GPSC expresses no strong position on these rate structure issues, including the development of call setup charges. Once again, the GPSC urges the Commission to conduct cost verification first before determining rate structures.

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[29] BellSouth Comments at 68.

[30] AT&T Comments at 75-76.

3. Peak/Off-Peak Pricing

AT&T commented that the Commission should avoid peak/off-peak pricing for local switching on the basis that, even if such a price structure could be constructed to reflect the incremental costs of adding traffic at peak hours, it would add an altogether unnecessary level of complexity. AT&T believes there are numerous practical problems associated with peak-sensitive pricing, including the fact that different parts of a given ILEC's network may experience peak traffic volumes at different times, with peak periods differing between business districts and residential areas. AT&T added that, given the relatively small ratio of interstate access to total traffic handled at a local switch, it is unlikely that any benefit of peak-load pricing would outweigh the costs of implementation.

AT&T further commented that for peak-load pricing to result in greater efficiency, the cost differential would have to be reflected in rates paid by end users. However, there are numerous obstacles that make it difficult, if not impossible, for IXCs to adjust their rates to reflect peak/off-peak access charge differentials. These include the fact that peak periods differ among ILEC switches and between ILECs and IXCs, and that Section 254(g) imposes certain rate averaging requirements. AT&T concluded that peak-sensitive pricing should be avoided for all these reasons.[31]

The GPSC does not oppose the use of peak and off-peak pricing, so long as - once again - the Commission first undertakes the cost verification necessary before addressing any rate structure issue. Next, when the Commission establishes ground rules for such rate structures, its primary concern should be establishing cost-based rate structures that prevent anti-competitive pricing.

C. Transport

1. Entrance Facilities and Direct-Trunked Transport Services

The Commission asked for comments on rate structure issues regarding entrance facilities and direct-trunked transport services. (NPRM at ¶ 86.)

[31] AT&T Comments at 77.

BellSouth discussed this in the context of its proposed core rate structure ("CRS") for switched access transport and changes, which it stated should result from reallocation of amounts in the TIC. With respect to entrance facilities and direct-trunked transport services, BellSouth began by stating that it supports a CRS for dedicated transport services of flat-rate charges for entrance facilities between the customer's location and the serving wire center ("SWC") and flat-rate recovery for direct-trunked transport between the SWC and end office ("EO"). In addition, BellSouth stated that a flat-rate structure should apply for dedicated transport between the customer's SWC and any other point designated by the customer, such as an access tandem ("AT"). Distance-sensitive pricing should be based upon the mileage between the locations designated by the customer. For instance, if the customer requests dedicated transport all the way from its SWC to the EO, mileage should be based upon this distance. If the customer requests dedicated transport between the SWC and the AT, or between the SWC and a HUB, then the mileage would be measured based upon those distances, respectively. BellSouth stated that this structure is consistent with the manner in which costs are incurred for traditional switched access dedicated transport services.[32]

BellSouth stated that, in addition to the availability of this structure under the CRS, sufficient flexibility should be afforded for LECs to offer switched transport services utilizing alternative rate structures, as is the case for special access services already. For instance, LECs should be permitted to differentiate transport services based upon whether the customer has control over channel facility assignments ("CFA control"),[33] the extent to which the customer or the LEC actually manages the network, the particular reliability of the service and other aspects which define the functionality of a service. Depending upon how service arrangements are designed, provided, and packaged, different costs can be involved and customers can have legitimate perceptions of such services as functionally different from one another. The Commission should not, however, prescribe rate differentials for such new service offerings as a variety of factors, including not only the particular costs involved but

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[32] BellSouth Comments at 68.

[33] The Commission describes "CFA" as "the actual designation of the routing that a circuit takes within the LEC network." NPRM at n.157. BellSouth disagrees with this definition. "CFA" means "connecting facility assignment." CFA control means control over the assignment of channels terminating at a customer's location to particular time-slots on its terminating facility at that location.

also the market value of the service, should appropriately be the determining factors for each individual LEC.[34]

The GPSC believes that, if the Commission first undertakes the cost verification previously recommended in these reply comments, then the Commission may proceed to evaluate rate structure proposals according to principles of pricing appropriate for an evolving competitive marketplace.

Specifically, the GPSC responds to BellSouth's proposal by noting that it would allow the ILEC to price its services by market value in certain situations. Such pricing may be a natural response to competition. Two appropriate concerns of the regulator in such situations should be: (1) ensuring that downward pricing flexibility does not become "predatory pricing" (thus the competitively-priced rate should not fall below an appropriate measure of incremental costs); and (2) costs left "unrecovered" as a result of competitive lower prices must not be flowed back to be subsidized by purchasers of non-competitive services.

a. <u>Tandem-Switched Transport Services</u>

The Commission asked for comments regarding rate structure and levels for tandem-switched transport services (NPRM at ¶ 87-95.) The Commission also asked (at ¶ 90) for comments on whether it should permit, or require, incumbent LECs to develop peak and off-peak pricing for tandem switching.

BellSouth commented that it supports the elimination of the SWC to EO transport option for tandem-switched transport. The facilities utilized between the SWC and the AT are dedicated to the particular customer ordering the transport, in contrast with the facilities utilized between the AT and the EO which are shared in common for tandem-switched traffic of multiple customers. BellSouth stated that, given the dedicated nature of the transport between the SWC and the AT, flat-rate charges should apply for this component based upon the mileage between the SWC and AT. In contrast, usage-based charges appropriately apply for tandem-switched traffic between the AT and

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[34] BellSouth Comments at 69.

the EO, as such a rate structure appropriately recognizes the shared characteristic of such transport for multiple customers.[35]

BellSouth stated that the Commission should not mandate, as a part of the CRS, that LECs further disaggregate the tandem charge into traffic-sensitive and non-traffic-sensitive components. There are minimal non-traffic sensitive costs associated with tandem switching that could be readily identified. Rather, the Commission should permit LECs the flexibility to disaggregate as they deem appropriate, if the market demand for such further disaggregation arises. Similarly, BellSouth commented that LECs should be permitted, but not required, to offer peak/off-peak pricing and to utilize zone pricing for their for tandem-switched transport service, including the tandem charge, as they deem appropriate.[36]

As to rate levels, BellSouth supported as a part of the CRS a repricing of all components of tandem-switched transport. BellSouth commented that tandem-switched transport between the SWC and the AT should be repriced to reflect switched dedicated transport rates, measured from the SWC to the AT, and should be placed with other switched dedicated transport services for price caps purposes. Tandem-switched transport between the AT and the EO should be repriced to reflect removal from the TIC and reassignment of costs associated with additional multiplexing equipment and use of a lower minutes of use assumption per voice grade trunk. The tandem-switched transport rates should be further adjusted upward to reflect removal of circuit equipment and related cable and wire facilities from the TIC and their reassignment to the host-remote component of switched transport. The tandem charge should be adjusted upward to reflect removal of the 80% tandem cost (excluding CCS/SS7) from the TIC and its reassignment to the tandem charge. The tandem charge should at the same time be adjusted downward to reflect removal of the 20% of the CCS/SS7 costs that were assigned to the tandem.[37] Finally, BellSouth added that 100% of CCS/SS7 costs should be removed to the new signaling rate elements.[38]

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35 BellSouth Comments at 69.

36 BellSouth Comments at 70.

37 BellSouth estimates this amount to be $342,480.

38 BellSouth Comments at 70-71.

Southwestern Bell Telephone ("SWBT") commented that LECs should be permitted the flexibility of peak and off-peak pricing. However, SWBT added that the Commission is correct in its conclusion that there might be practical problems with a rate structure that has peak and off-peak pricing. In the Interconnection Order (at ¶ 756), the Commission identified that "different parts of a given providers' network may experience peak traffic volumes at different times" and that "peak periods may change over time." For these very reasons, SWBT submitted that peak/off-peak pricing is the appropriate pricing structure.[39]

The GPSC does not oppose allowing LECs to develop peak and off-peak pricing. The GPSC further agrees that such pricing should not be required. The LECs should be allowed to develop peak and off-peak pricing based upon their own traffic patterns, and in response to requests they receive in the developing competitive marketplace. In addition, the GPSC further submits that the LECs themselves should not require (and should not be permitted to require) peak and off-peak pricing, at least until the relevant regulatory bodies have had an opportunity to review and approve any such proposals. Therefore, the use of peak and off-peak pricing should be voluntary both for the LECs and for their customers.

The GPSC's reply comments on peak and off-peak pricing remain subject to the proviso that the Commission first must undertake the cost verification necessary before addressing rate structure. Then, when the Commission establishes ground rules for such rate structures, its primary concern should be establishing cost-based rate structures that prevent anti-competitive pricing.

2. Transport Interconnect Charge (TIC)

The Commission asked for comments on how to revise or remove the Transport Interconnect Charge ("TIC"). The Commission identified several ways in which to handle the TIC under its access reform proposals, such as letting market forces exert downward pressure on TIC rates; correcting all misallocations; adopting a combination of these two; and requiring the TIC rates to be lowered and phased out over a period of a few years.

[39] SWBT Comments at 63.

AT&T commented that the Commission should eliminate the transport interconnection charge, adopt a bifurcated rate structure for tandem-switched transport, and retain the current structure for direct-trunked transport and entrance facilities. AT&T stated that after eliminating the CCLC, the other obvious change the Commission should make to bring the Part 69 rules more in line with cost-causation principles is to eliminate the TIC. AT&T explained that, as the Commission acknowledged (NPRM ¶¶ 7, 43-44, 82, 96-97), the TIC is a non-cost-based, non-facilities-based, usage-sensitive charge; it is assessed on all switched access minutes (including expanded interconnection) and accounts for 70 percent (or $2.9 billion) of the ILECs' switched transport revenues. Because the TIC increases per-minute charges paid by IXCs and long distance customers, it encourages bypass of switched access. Moreover, to the extent the TIC recovers costs that are more appropriately recovered by transport facility charges, AT&T asserted that it distorts competition because it allows ILECs to price their transport facilities below cost and thus below the prices charged by transport competitors.

AT&T stated that, because of these substantial flaws, the Court of Appeals has admonished the Commission to "move expeditiously . . . to a cost-based alternative to the RIC, or to provide a reasoned explanation of why a departure from cost-based ratemaking is necessary . . . ."[40] Despite this explicit judicial directive, the Commission's own recognition that pricing of access at forward-looking economic cost best furthers efficiency (*Access Charge Order*, 93 FCC 2d at 251; NPRM ¶ 222), the 13-year transition that the industry has had for transitioning to cost-based transport rates (*CompTel v. FCC*, 87 F.3d at 530), and the fact that the new USF will supply any necessary subsidies (some of which may be recovered through the TIC today), the NPRM (¶¶ 99, 115-18) nonetheless suggested a need for some further TIC transitional mechanism, such as reassigning the most readily identifiable costs in the TIC and phasing out the remainder over three years. AT&T strongly opposed this approach.[41]

AT&T argued that the 1996 Act requires the Commission to remove all implicit subsidies from access, and to price access at TELRIC. Accordingly, using this measurement, all facilities-related costs currently recovered via the TIC will be recovered from the access rate elements set at

[40] Citing *CompTel v. FCC*, 87 F.3d at 532.

[41] AT&T Comments at 79-80.

TELRIC. Any remaining amount must be eliminated from access charges immediately. With the elimination of the TIC, AT&T supported the Commission's basic framework in which the transport rate structure consists of charges for: (1) entrance facilities, (2) direct-trunked transport, and (3) tandem-switched transport. (NPRM ¶ 84.) Flat-rate charges for entrance facilities and direct-trunked transport, which were implemented at the end of 1993 with the restructure of local transport, reflect the way in which costs are incurred because the facilities used to provision these services are dedicated to a particular carrier. Once rates are set at TELRIC, moreover, there should no longer be a need for DS3-to-DS1 benchmark ratios. ILEC proposals to differentiate their services by various criteria, such as whether the IXC or ILEC has facility assignment control, should be justified on the basis of TELRIC support.[42]

BellSouth opposed forcing LECs to remove all TIC amounts entirely, on the basis that the amounts in the TIC are largely the result of historical allocations of costs under the Commission's rules to the interstate jurisdiction and local transport in particular. BellSouth proposed that the Commission reassign certain portions presently in the TIC by reassigning the associated revenue requirements with the specific elements with which such TIC amounts are associated and, for several remaining types of costs in the TIC, a flat, per presubscribed line charge to interexchange carriers (unless otherwise supported by the universal service fund).

BellSouth discussed particular components of the TIC. For example, BellSouth stated that a portion of the costs in the TIC represents 80% of the interstate revenue requirement associated with the tandem switch, and recommended that it be removed from the TIC and recovered from users of tandem switching. BellSouth identified the dollar amount of the 80% revenue requirement (less CCS/STP) as $55,710,080.[43]

BellSouth added that a portion of common channel signaling ("CCS") costs are booked to Category 2 tandem switching. The Commission's LTR Order required that 80% of tandem switching costs be recovered in the TIC. BellSouth recommended that these amounts be removed from the TIC and, together with the 20% signaling costs presently recovered in the tandem charge, recovered

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[42] AT&T Comments at 81.

[43] BellSouth Comments at 72. In its Attachment 5, BellSouth described the methodology used to determine the specific amounts it identified.

through a new rate elements for signaling. BellSouth stated that a portion of the 80% tandem switching costs included in the TIC is attributable to the CCS network, and amounting to $1,369,920.[44]

BellSouth also identified costs presently included in the TIC as a result of the non-cost causative rate structure and assumptions underlying the current rate structure and rates for tandem-switched transport. BellSouth recommended that the resulting amount of $49.2 million be removed from the TIC and recovered through rates charged to purchasers of tandem-switched transport between the AT and the EO.[45]

BellSouth stated that the revenues obtained from users of host-remote switched transport do not recover the full revenue requirement associated with such facilities. BellSouth identified host-remote circuit equipment and related cable and wire facilities and developed a Part 69 "host-remote revenue requirement." BellSouth stated that the resulting amount, $ 4.8 million, should be removed from the TIC and recovered in tandem-switched transport rates.[46]

In addition, BellSouth stated that when a trunk is established to an end office switch, a combination trunk unit-DS1/VG multiplexer is used to terminate DS1s on the switch. These costs are allocated to switched transport through the Separations and Part 69 allocation process, and were not included in the special access rates upon which the switched direct-trunked rates were based. BellSouth identified the occurrence of such trunk ports at analog end offices and calculated associated revenues totaling $6,334,008, and recommended that it be removed from the TIC and recovered through Local Switching rates.[47]

BellSouth calculated additional amounts included in the TIC as a result of occurrences such as cost misallocations, historical averaging, and cost recovery mechanisms. BellSouth stated that

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[44] BellSouth Comments at 72.

[45] BellSouth Comments at 73.

[46] BellSouth Comments at 73.

[47] BellSouth Comments at 74.

these amounts should be summed and billed on a per presubscribed line basis to IXCs, if not recovered through universal service support mechanisms. These amounts are:

- The Commission's Part 36 rules provide that central office equipment ("COE") expenses (Accounts 6210, 6220, and 6230) be apportioned among the LECs' operations on the basis of the separation of combined COE investments (Accounts 2210, 2220, and 2230). BellSouth identified the revenue requirement impact of assigning these expenses based on the specific assets being maintained, as $ 15,052,000.

- The Commission's Part 36 rules require that Category 4.23 Interexchange Circuit Equipment be assigned to categories, and thus to jurisdictions, based on the average cost per termination. BellSouth stated that the distribution of costs to categories and jurisdiction is different when direct identification rather than cost per termination are used to assign Category 4.23 costs, and identified the costs as $84,678,084.

- The remainder of the TIC, $ 55,375,803, is attributable to certain historical events and processes, such as deriving local transport equal access rates (prior to the LTR Order) from a "revenue requirement" predominantly utilizing general categorizing and averaging of costs across technologies, geographical areas (e.g., rural, suburban, urban), services and jurisdictions, with the key drivers being plant investments. Subsequently price caps were established; and the transport restructure resulting from the LTR Order, which repriced switched transport services based upon special access high capacity rates, resulted in the TIC which consisted, to a large extent, of the differences in revenues between the two pricing schemes. Much of the TIC, therefore, represents the averaging of costs across technologies, geographies, and jurisdictions (state and interstate) inherent in the cost allocations rules that determined the equal charge rates.

- BellSouth stated that the use of the historical allocations process would result in a higher cost than the cost amounts that would be produced by a direct identification of local transport costs. The difference in costs is currently in the TIC, even though these costs are actually incurred to provide local services, state services and/or interstate services other than local transport.

- An additional component which BellSouth would remove from the TIC results from the use of special access rates for local transport. The use of special access rates ignored the fact that circuit equipment and cable and wire facilities which serve longer haul switched traffic have an embedded Part 36 cost that is many times the cost developed by using the special access costing methodology. This cost differential has been averaged over the rate charged to all customers as part of the TIC. Most of the longer haul traffic is carried on "interexchange" facilities as defined in the Part 36 categorization rules and are allocated to the Part 69 transport element. BellSouth stated that, if the Commission authorizes reassignment of the TIC amounts from the TIC service band index to other service band indices such as Tandem-Switched Transport, the Commission must also permit LECs to adjust the relevant SBIs to assure that they have opportunity to recover the reassigned costs.

BellSouth concluded that these amounts should be summed and billed on a per presubscribed line basis to interexchange carriers, if not recovered through universal service support mechanisms.[48]

The GPSC notes that the comments excerpted above illustrate the primary jobs that the Commission must perform. First, it is essential that the Commission verify the costs that have been loaded into the TIC (as BellSouth has attempted to do - but the regulatory function must be to conduct an independent verification). Second, the Commission must verify the amount of those costs which should be recoverable on a going-forward basis, consistent with the general principles the GPSC has articulated previously in these reply comments. For example, the Commission must independently verify that unrecovered amounts resulted purely from regulatory restrictions, rather than from competitive marketplace pressures. Third, the Commission must conduct any restructuring in order to establish cost-based rates that avoid anti-competitive pricing. AT&T has charged that the TIC allows ILECs to price transport facilities below cost; this is an example of the questions that the Commission must answer in establishing rate structures that facilitate, rather than hinder competition.

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[48] BellSouth Comments at 74.

3. SS7 Signaling Rate Structure

The present rate structure for recovering Signaling System 7 ("SS7") network costs includes two flat-rated rate elements: a Signal Transfer Point ("STP") port termination charge and a dedicated network access line ("DNAL") charge. 47 C.F.R. § 69.125. The Commission asked for comments on a revised structure with four unbundled charges, modeled after the structure permitted in the Ameritech waiver. (NPRM at ¶ 127.) The four unbundled charges are for the: (1) signal link; (2) STP port termination; (3) signal transport; and (4) signal switching. The Commission also asked parties to comment whether there should be a separate charge for SS7 Call Setup.

AT&T commented that the Commission should adopt its proposed unbundled rate structure for SS7 signaling.[49] BellSouth commented that, as the Commission observed, under the existing Part 69 rules specific rate elements are provided for signaling links and signaling ports, with costs associated with other portions of a LEC's signaling network being recovered through the TIC. BellSouth supports the removal of signaling costs from the TIC and the adoption of an approach which would enable LECs the flexibility to assess charges for signaling services that best suit the manner in which such services are provided. For instance, BellSouth supports the removal of amounts from the TIC which it has identified as signaling costs, as well as a realignment of the 20% of SS7 costs presently in the tandem charge.

BellSouth noted that the Commission has permitted Ameritech to utilize a very disaggregated rate structure for its signaling services. This rate structure may not be supportable in all SS7 environments. BellSouth has particular concerns regarding the ability to measure usage and support administration of the SS7 interconnection elements implemented by Ameritech. Moreover, Ameritech's proposal does not necessarily provide the flexibility to address future signaling services such as open AIN. BellSouth asked the Commission to adopt flexible rules related to SS7 interconnection which will allow each company to implement rates supportable within their network architecture as that architecture evolves in the future. Thus, no single rate structure should be prescribed as a part of the core rate structure ("CRS") which BellSouth proposed.

[49] AT&T Comments at 83-84.

BellSouth stated that, for example, it is planning for a future rearrangement of its signaling network to a more efficient arrangement which would reduce the number of signaling links and STPs utilized and which would render the actual STP locations transparent to the customer. BellSouth foresees a much more efficient arrangement for both a LEC and its customers by reducing both the number of STPs utilized to serve the signaling needs of customers as well as the number of signaling links which customers are required to purchase. Under this arrangement, a customer could gain access to BellSouth's signaling network for all of BellSouth's thirty-eight LATAs using connections to a single STP. Link and port charges would apply. In addition, once the necessary technical capabilities are obtained, BellSouth would likely measure signaling traffic associated with a customer's link with distinct usage charges applying based upon whether the signaling is for call set-up or information transfer (e.g., information from 800 database). This arrangement would be utilized for signaling for calls handled entirely by BellSouth as well as for signaling in connection with calls handled by others, such as alternative tandem switching providers.

BellSouth concluded that, as LECs restructure their existing signaling rate elements into restructured rate elements, the price caps restructure test should be required but not the new services test. A restructure test would show the appropriate amounts being mapped from existing rate elements to the restructured rate elements, and would assure no more revenue than is presently obtained. Moreover, as signaling services become more and more competitive, LECs will have sufficient incentive to provide their own services at reasonable rate levels. BellSouth recommended that signaling services be placed in the tandem-switched transport price caps service category. This would reflect that, for the most part, the signaling network will be shared in common by multiple customers. BellSouth opposed a requirement to separately track signaling service components, such as links and ports, to different service categories. Finally, BellSouth stated that the Commission should permit exogenous cost treatment of the costs associated with the equipment purchased by LECs which is required in order to separately measure call set-up and information transfer type signaling messages.[50]

The GPSC is not opposed to a separate charge for SS7 Call Setup, or any rate structure that tracks cost causation. Once again, however, it is imperative for the Commission first to verify the costs on an independent basis, and the cost amounts that should be recoverable on a going-forward

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[50] BellSouth Comments at 77-79.

basis, consistent with the general principles the GPSC has articulated previously such as competitive and technological neutrality. Third, the Commission must conduct any restructuring in order to establish cost-based rates that avoid anti-competitive pricing.

The pricing flexibility requested by BellSouth calls for the Commission to exercise the two regulatory roles previously discussed, for a competitive environment: (1) ensuring that downward pricing flexibility does not become "predatory pricing" (thus the competitively-priced rate should not fall below an appropriate measure of incremental costs); and (2) costs left "unrecovered" as a result of competitive lower prices must not be flowed back to be subsidized by purchasers of non-competitive services.

IV. OTHER ISSUES

A. Regulation of Terminating Access

The Commission asked for comments on terminating access, including various options for changing the method of recovery. (NPRM at ¶¶ 271-281.)

One of the options would be charging the called party for terminating access; the Commission asked if this would result in abnormalities, such as an increase of uncompleted calls. (NPRM at ¶ 275.) The State Consumer Advocates commented that charging the called party for terminating access very likely would cause unwarranted abnormalities. For one thing, they stated, it is reasonable to expect that the vast majority of end users would remove their name from any published directory, and from directory assistance. If they were going to have to pay for receiving calls, they would want to receive calls only from those whom they have chosen to give their telephone number.

The State Consumer Advocates pointed to the example of cellular service, in which the subscriber typically pays per-minute charges for receiving calls. Most cellular numbers are not included in published directories, undoubtedly because customers do not want to receive calls from anyone other than those to which they have chosen to give their cellular number. Only 18% of all residential cellular calls are calls received by the cellular customers. The remaining 82% are outgoing calls.[51] Obviously, if access charges were imposed on wireline customers for receiving calls, and wireline customers avoided receiving calls as much as the cellular customers now do, the usefulness of the telephone network would be greatly impaired.[52]

The State Consumer Advocates stated that charging for incoming cellular calls has largely resulted from a lack of true competition, with an oligopolistic cellular structure that has existed in the past. As more competition has been introduced, the new wireless services are moving away from charging for received calls. For example, the State Consumer Advocates pointed to Sprint's Spectrum PCS service offering in the Washington, D.C. and Baltimore area, which provides the first minute of incoming calls free. Similar offers now are being made in the Atlanta area; however, the GPSC notes that such offers may merely be encouraging cellular customers to become accustomed to receiving calls (and then paying for them). The GPSC notes that wireline customers are likely to be extremely resistant to paying for receiving calls, and believes that a competitive marketplace would provide customers with a variety of pricing options that would not include special charges for receiving calls. In other words, much of the value of the wireline network is the ability to call other subscribers. Recognizing this, and being aware that facilities-based providers (incumbents and new entrants) can reasonably expect terminating traffic in a reasonable proportion to originating traffic, telecommunications service providers should have a stake in maintaining terminating access at reasonable levels.

BellSouth commented that the Commission should not be overly concerned whether special measures should be adopted in order to prevent a LEC from using bottleneck market power to assess unreasonably high terminating access rates. The Commission had noted that an end user who chooses a service provider will not be paying for terminating access charges on calls received and, thus, will not likely make the choice based upon terminating rates, and that there may not be sufficient controls to prevent potentially excessive terminating access pricing. BellSouth asserted that the availability of interconnection arrangements to alternative providers will act as a sufficient constraint on any potentially excessive terminating access charges. BellSouth stated that it will be "impossible to police which calls coming onto BellSouth's network are local calls and which are access calls and that

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[51] "Reality of Bill and Keep", America's Network, January 1, 1997, page 8.

[52] State Consumer Advocates Comments at 63-64.

providers will attempt to pass off access calls at the lower interconnection rate."[53] BellSouth asserted that a LEC will therefore have the incentive over time to price terminating access at or close to the rates for terminating interconnection arrangements.

BellSouth added that, once it is permitted to offer interexchange service from its own region, it will pay the same price for access, including terminating access, as any other interexchange carrier. Therefore, BellSouth asserted that BOC entry into the interLATA long distance business does not require any special constraints on terminating access charges. BellSouth added that if the Commission adopts the proposals made by BellSouth, the price of terminating access should decrease in any event. However, if the Commission does deem there is a need for additional regulations in this regard, BellSouth offered an asymmetric regulatory approach for originating and terminating access, pricing terminating access at the local interconnection rate and permitting an exogenous rate increase on originating access to offset revenue lost as a result.

Above all, contended BellSouth, if the Commission adopts regulations in this area they should be applied to all LECs, not just incumbent LECs. The problem which the Commission sees, i.e., a market power bottleneck associated with terminating access, has just as much potential to exist with non-incumbents as with incumbents. Indeed, BellSouth stated, there would appear to be no reason to exempt the former from any solution, if one is necessary at all.[54]

AT&T commented that certain changes should be made to the Commission's regulation of terminating switched access charges, particularly insofar as those charges relate to CLECs. Specifically, if a CLEC's terminating switched access charges are set equal to or lower than the local ILEC's charges -- which would be set at long-run incremental cost -- the CLEC's charges should be presumed lawful. To the extent the CLEC wishes to charge a higher rate, however, any amount above the ILEC's rate must be recovered from the CLEC's end user, i.e., the called party, unless the CLEC can demonstrate that the charge is cost-based. AT&T stated that these measures are necessary

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[53] The GPSC notes, however, that BellSouth has negotiated language in its Section 252 interconnection agreements that enable it to determine or find out which traffic is local and which is toll.

[54] BellSouth Comments at 80-82.

to ensure that all interstate access services are priced at long-run incremental costs and do not thwart competition, either for access, or in other markets such as interexchange.[55]

MCI commented generally that, even if competition could develop overnight for access, half of the access charge problem would remain completely unresolved under the market-based approach outlined by the Commission because the market cannot force terminating access charges down to economic cost. This is a problem already being faced by competitive long distance companies. For example, in Arizona, NYNEX is marketing its long distance service by offering lower prices for calls to its home region. The amount of the per minute difference between calls to the NYNEX territory and calls elsewhere is roughly the equivalent of terminating access. This demonstrates a likely price squeeze and, at minimum, a clear price squeeze opportunity. The problem will only get worse if access charges remain inflated and an RBOC is allowed to provide in-region long distance services.

MCI stated that for those territories where the RBOCs are attempting to merge, the potential for this type of price squeeze when a market-based approach is employed will expand even more. One of the primary reasons cited by Bell Atlantic and NYNEX for their merger is the amount of traffic that both originates and terminates in their territories.[56] For calls within their territories, MCI asserted that a market-based approach provides these companies with two price squeeze opportunities, one for terminating access, and a second on origination in areas where local competition has not yet materialized.

According to MCI, the market-based approach may permit inefficient competitors to enter the market while the rates remain "artificially high," while permitting the incumbent to keep its rates far above economic cost. Ultimately, MCI stated, inefficient providers will be forced out of the market if prices are eventually driven to cost. MCI also stated that the problems associated with

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[55] AT&T Comments at 87.

[56] MCI Comments at 33, citing New York Public Service Commission, *In the Matter of Joint Petition of New York Telephone Company, NYNEX Corporation and Bell Atlantic Corporation for a Declaratory Ruling That the Commission Lacks Jurisdiction to Investigate and Approve a Proposed Merger Between NYNEX and a Subsidiary of Bell Atlantic or, in the Alternative, for Approval of the Merger*, Case 96-C-603 et. al., Initial Panel Testimony of New York Telephone Company, NYNEX Corporation and Bell Atlantic Corporation, at 0747.

below-cost pricing of access exist under the market-based approach. Now that the Commission has eliminated the lower bands from the current LEC price cap baskets, MCI argued, an incumbent can engage in predatory pricing. Even if the Commission does not allow prices to fall below TELRIC, MCI stated that the floor becomes "meaningless" once an incumbent LEC is providing in-region long distance service because the incumbent LEC can offer a bundled local/long distance service and the Commission effectively loses the ability to protect against pricing access below cost. MCI stated that many of the resulting anti-competitive cross-subsidy problems would not exist if a prescriptive approach to reform were used.[57]

The GPSC agrees that interstate terminating exchange access is a service provided to the IXCs which utilizes the common line. Therefore it should pay an appropriate amount to cover the common line costs. Of course it should not be set above an appropriate allocation of cost. However, the GPSC urges the Commission to be consistent in its pricing methodologies. For example, terminating access charges should not be set closer to incremental costs (or, at a "lower relative rate of return" as expressed in the days of traditional regulation) than other charges associated with the common line. All services that use the common line should contribute to the costs of that line, using consistent cost methodologies.

The GPSC requests that the Commission defer any restructuring of the recovery of terminating access until it has conducted the cost verification activities previously recommended in these reply comments, applying costing methodologies consistently across services. Once consistent costing has been conducted, the Commission will be able to prevent the owner of bottleneck facilities from charging above the appropriate cost level, because then (and only then) will the Commission have determined how much is too much.

B. Treatment of Interstate Information Services (Internet, Etc.)

The Commission discussed and asked for comments regarding treatment of interstate information services, including Internet providers. (NPRM at ¶¶ 282-290.) The Commission tentatively concluded that information service providers should not be required to pay interstate access charges "as currently constituted." The Commission stated that the mere fact that providers

[57] MCI Comments at 33-35.

of information services use incumbent LEC networks to receive calls from their customers does not mean that such providers should be subject to an interstate regulatory system designed for circuit-switched interexchange voice telephony. (NPRM at ¶ 288.)

BellSouth commented that, given the importance of the Internet in the development of public policy, the Commission should be sure that its telecommunications policy fosters efficient use of the telecommunications network which includes public switched voice traffic as well as Internet traffic. BellSouth added that achieving this goal is more complex than just deciding whether or not to apply access charges. The solution will require far more creative approaches that will necessitate, among other things, consideration of the appropriate jurisdiction for Internet access and the investigation of market-based incentives that would direct Internet traffic to packet-switched networks. Until these types of solutions are explored, changing the ESP exemption might only achieve disrupting the marketplace rather than making it operate more efficiently.[58]

The GPSC does not offer a recommendation on this issue at this time, except to ask the Commission to apply any rules in a competitively and technologically neutral manner and to recognize the distinction between traditionally-defined telecommunications services and Internet services (as discussed in the GPSC's reply comments in the Universal Service Fund proceeding).[59]

C. <u>Other Part 69 Revisions</u>

The Commission asked for comments regarding other Part 69 revisions (NPRM at ¶¶ 291-299.)

1. <u>Equal Access Network Reconfiguration Costs</u>

The Commission asked whether or not it should require LECs to make an exogenous cost decrease to their PCIs to account for the completion of the amortization of equal access network reconfiguration costs on December 31, 1993 (NPRM at ¶ 293). The Commission asked the same

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[58] BellSouth Comments at 82-83.

[59] GPSC Reply Comments, *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, January 10, 1997, at 22-26.

question previously, in its LEC Price Cap performance review proceeding, and found that there was not a sufficient basis to support such a requirement.[60] BellSouth commented that, if there was insufficient support for such a requirement then, there is still insufficient support here. BellSouth added that it should be a sufficient basis to deny exogenous treatment of such costs now given that no exogenous cost increase was permitted at the time LECs' price cap tariffs were initialized.[61]

AT&T commented that the Commission should require price cap ILECs to make the downward adjustment. Although the ILECs have fully recovered the expenses related to equal access conversion and the corresponding rate elements have been removed, AT&T stated that their price cap indices remain improperly inflated because they have not yet been reduced to reflect this fact. As the Commission resolved in the *LEC Price Cap Order*, 5 FCC Rcd. at 6808, expiration of amortizations should result in downward adjustments to the price caps because "it would be unfair to ratepayers who are now bearing the cost of the amortization program if rates were not adjusted downward at the end of the program."[62] AT&T calculated that failure to make this downward adjustment results in an implicit subsidy in excess of $110 million per year for the RBOCs alone.

AT&T added that, for these reasons, retail costs, billing and collection expenses, and equal access conversion costs should be removed from access charges. The same is true of any other implicit subsidies remaining after the modifications to the Commission's Part 69 rate structure rules.[63]

The GPSC is not in a position to calculate these costs. However, in keeping with the GPSC's concern that the Commission should ensure prices reflect costs, the GPSC recommends that the Commission verify whether equal access network configuration costs continue to be reflected and, if so, to make appropriate adjustments.

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[60] *LEC Price Cap Performance Review Order*, 10 FCC Rcd at 9094-9095.

[61] BellSouth Comments at 83-84.

[62] *See also LEC Price Cap Reconsideration Order*, 6 FCC Rcd. 2637, 2673-74 (1991) *aff'd sub nom. National Rural Telecom Ass'n v. FCC*, 988 F.2d 174 (D.C. Cir. 1993).

[63] AT&T Comments at 95.

2. Part 69 Allocation Rules

BellSouth commented that the Commission should eliminate its Part 69 cost allocations rules. BellSouth, as a price cap LEC, does not use these rules for ratemaking purposes. Although BellSouth stated it does presently use such rules for internal purposes such as developing exogenous cost amounts, it asserted that there are other ways in which such amounts can be developed. Moreover, although BellSouth uses the Part 69 cost allocation rules on its ARMIS reports, BellSouth stated that there is no need for the Commission to continue to require such reports or, consequently, the Part 69 allocation rules themselves.[64]

The State Consumer Advocates ("SCA") commented on a related aspect of the Part 69 rules. The Commission had stated that the line card costs and perhaps some other costs of the local switch are NTS costs, and proposed that the NTS portion of the local switch costs be recovered through flat charges. (NPRM at ¶ 72) The Commission proposed that a portion of local switching costs should be recognized as being NTS only for purposes of Part 69, which allocates interstate costs among the interstate baskets. The SCA noted that the Commission did not propose that these NTS local switching costs should be considered NTS for purposes of separating the costs between the interstate and intrastate jurisdictions in Part 36. The SCA stated that this is clearly inconsistent. In 1987, the NTS portion of the local switching equipment costs were separately identified and were separated between jurisdictions using the NTS allocators. However, starting in 1988, the separations procedures were changed so that the NTS portion of the local switching equipment were effectively separated using traffic sensitive allocators. The practical impact of this change was to shift interstate costs into the intrastate jurisdiction. The NTS allocator was approximately 25% interstate,[65] whereas the traffic sensitive allocator was less than 15% interstate. Therefore, the SCA commented, the result of changing the treatment of these NTS costs was to shift significant costs from the interstate to intrastate jurisdiction. The SCA concluded that, if the Commission has now decided to recognize that a portion of local switching costs are NTS, the Commission should recognize that fact for purposes of separations in Part 36 as well as for purposes of rate design. Otherwise the cost treatment is

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[64] BellSouth Comments at 84.

[65] The SCA stated that in the past, the NTS allocator was called the "frozen SPF" which varied state by state, but the nationwide average was more than 25%. Over the transition period, this was converted to the flat 25% gross allocator.

inconsistent and, if implemented, would improperly result in transferring costs from the interstate to the intrastate jurisdiction.[66]

The SCA also noted that throughout the NPRM the FCC made reference to separations changes. The SCA emphasized that the FCC is not authorized to make such separations changes by acting alone, and must refer all such separations issues to a Joint Board.

The SCA commented that one of the reasons the Part 69 analysis is performed is to assure that the cost of a category or subcategory of services includes a reasonable share of the joint and common costs. They pointed to an example of residential local exchange service in the State of Washington being priced several times its incremental cost, so that service will also support a portion of the common line and other joint and common costs: "If USWC were to exit the local residential exchange market, its revenues would decrease by about $14 per customer, and its costs would decrease by about $4.42 per customer."[67]

The GPSC reiterates its fundamental position that the Commission should verify and analysis costs prior to shifting the methods of cost recovery through any transition approaches, restructuring rates, or in this case, changing the allocations process that directly affects allocations of costs between interstate and intrastate jurisdiction. Therefore, if the Part 69 allocation rules aid in that process, they should be retained. In addition, the GPSC urges the Commission to apply the principle of consistency to avoid the types of misallocations charged by the SCA. If the Commission believes, following its analyses of costs, that particular Part 69 allocation rules should be changed, then the Commission can offer its specific recommendations for appropriate review and comment.

3. Other Proposed Part 69 Changes

The Commission questioned whether there are other Part 69 rules which should be revised or eliminated. BellSouth asked the Commission to revise its rules to adopt the Core Rate Structure

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[66] SCA Comments at 31-32.

[67] SCA Comments at 33, also citing page 90, Fifteenth Supplemental Order, Docket No. UT-950200 before the Washington Utilities and Transportation Commission, Commission Decision and Order Rejecting Tariff Revisions; Requiring Refiling, dated April 11, 1996.

("CRS") rules that BellSouth recommended. BellSouth also recommended a thorough review of the Commission's Part 69 rules to discard rules which are no longer necessary, and to revise any remaining rules accordingly. BellSouth's CRS proposal calls for rules revision to permit LECs to adopt alternative rate structures in addition to making the CRS rate elements and rate structure available to customers. BellSouth that, as long as the CRS remains available as a backstop to any potential harm which the Commission might perceive to result from a LEC's exercising such rate structure flexibility, there is no reason to prohibit LECs such flexibility. In general, BellSouth stated that there is no need to add regulations to the Commission's rules at a time when it should be attempting to eliminate rules.[68]

The GPSC notes that this sounds similar to the concept of a Statement of Generally Available Terms and Conditions pertaining to interconnection, unbundling and resale under Section 252(f). The GPSC also reiterates its concerns that any pricing flexibility must be governed by principles that prevent anti-competitive pricing.

The GPSC also asks the Commission to ensure that if it does make any other Part 69 changes, it do so in keeping with the other principles previously discussed in these reply comments, including the need for cost verification, consistency in the methodologies used to ascertain cost-based prices, and facilitation of a transition to competition that benefits the end users by allowing more options and more choices in a competitive marketplace.

V. THE COMMISSION MUST RESPECT STATES' RIGHTS

The GPSC asks that the Commission not attempt to restrict the States in their movement toward more competitive telecommunications markets. This includes, but is not limited to the GPSC's concern expressed earlier about the State commissions possibly being required to evaluate TSLRIC for the use of the Commission in reinitializing LEC price caps. Further, even where the Commission does not directly dictate methodologies for intrastate rates, the Commission should be aware of the example it sets and of complications that can be injected into the separations process, thus affecting intrastate rates.

[68] BellSouth Comments at 84-86.