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Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of	)	
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Tariffs Implementing	)	CC Docket No. 97-250
Access Charge Reform	)	

MEMORANDUM OPINION AND ORDER

Adopted: June 1, 1998 **Released: June 1, 1998**

By the Commission:

I. Introduction

1. Interexchange carriers (IXCs) must purchase interstate access services from local exchange carriers (LECs) in order to provide long-distance telephone service to business and residential telephone customers. Under the Commission's rules, incumbent LECs are regulated as dominant carriers because they have market power in the provision of access services. This Commission regulates the manner in which incumbent LECs provide access in order to prevent that market power from being exercised to the detriment of consumers.

2. On May 16, 1997, the Commission released the *Access Charge Reform Order*,[1] amending the Commission's access charge rules so that access charges better reflect the manner in which the underlying costs are incurred. The reforms and the rate restructuring mandated by that Order involve the most comprehensive changes to the Commission's system of interstate switched access charges since these tariffed charges first were introduced more than ten years ago. Because many of the amended rules took effect on January 1, 1998, the Commission directed incumbent LECs to file implementing tariffs that would be effective on that date. LECs also were required to file tariff revisions, effective January 1, 1998, to comply with (1) the *1997 Annual Access Tariff Investigation Order*,[2] (2) the *Access Charge Reform Third Report and Order*,[3] and (3) revisions necessary to implement the new universal service support mechanisms.[4]

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[1] *Access Charge Reform*, CC Docket No. 96-262, First Report and Order, 12 FCC Rcd 15982 (1997) (*Access Charge Reform Order*); Order on Reconsideration, 12 FCC Rcd 10119 (1997); Second Order on Reconsideration, 12 FCC Rcd 16606 (1997) (collectively, *Access Charge Reform Proceeding*).

[2] *1997 Annual Access Tariff Filings*, Memorandum Opinion and Order, 13 FCC Rcd 3815 (1997) (*1997 Annual Access Tariff Investigation Order*).

[3] *See Access Charge Reform and Transport Rate Structure and Pricing*, CC Docket Nos. 96-262 and 91-213, Third Report and Order, 12 FCC Rcd 22430 (1997) (*GSF Order*).

[4] *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776 (1997); First Quarter 1998 Universal Service Contribution Factors Revised and Approved, CC Docket No. 96-45, Public Notice, DA 97-2623 (rel. Dec. 16, 1997).

3. On December 30, 1997, the Common Carrier Bureau (Bureau) released the *Access Charge Reform Tariffs Suspension Order*,[5] which, *inter alia*, suspended for one day the access tariffs implementing the access charge reform requirements filed by the LECs, imposed an accounting order, and initiated an investigation into the lawfulness of a number of issues raised by these tariff filings. The Bureau concluded that the access tariffs filed by all the price cap LECs raised significant questions of lawfulness that warranted investigation. Those carriers are: Aliant Communications Company (Aliant); Ameritech Operating Companies (Ameritech); Bell Atlantic Operating Companies (Bell Atlantic);[6] BellSouth Telecommunications, Inc. (BellSouth); Cincinnati Bell Telephone Company (Cincinnati Bell); Citizens Telecommunications Companies (Citizens); Frontier Communications of Minnesota and Iowa and Frontier Telephone of Rochester (collectively, Frontier); GTE Telephone Operating Companies (GTOC) and GTE Systems Telephone Companies (GSTC) (collectively GTE); Southern New England Telephone Company (SNET); Southwestern Bell Telephone Company (SWBT), Pacific Bell and Nevada Bell (collectively, SBC); Sprint Local Telephone Companies (Sprint LTCs); and U S West Communications, Inc. (U S West).

4. On January 28, 1998, the Bureau released the *Access Charge Reform Tariffs Designation Order*,[7] which designated for investigation issues regarding: (1) non-primary residential line counts; (2) the demand for lines that are assessed presubscribed interexchange carrier charges (PICCs) and subscriber line charges (SLCs); (3) the adjustment of common line revenues due to the historic understatement of LECs' revenue requirements for the base factor portion of the Common Line basket; (4) the methodology for calculating exogenous cost changes that reflect reallocations of rate elements or partial rate elements; (5) central office equipment (COE) maintenance and marketing exogenous cost adjustments to the transport interconnection charge (TIC); (6) Signalling System 7 (SS7) costs in the tandem-switched transport revenue requirement; (7) the impact on the TIC arising from the use of actual minutes of use (MOU) rather than an assumed 9,000 MOU for circuit loadings after computing tandem-switched transport rates; (8) recalculations of the residual and facilities-based TIC amounts; and (9) recovery of universal service support obligations.

5. Price Cap LECs filed their direct cases on February 27, 1998. Oppositions and comments on these direct cases were filed on March 16, 1998.[8] All of the price cap LECs except for Citizens and SNET filed rebuttal cases on March 23, 1998.[9] On March 25, 1998, the Bureau released a public

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[5] *Tariffs Implementing Access Charge Reform*, Memorandum Opinion and Order, 13 FCC Rcd 163 (1997) (*Access Reform Tariffs Suspension Order*).

[6] In its direct case, Bell Atlantic distinguishes between the access reform tariffs for Bell Atlantic-North and Bell Atlantic-South. In certain sections of this Order, we also distinguish between Bell Atlantic-North and Bell Atlantic-South.

[7] *Tariffs Implementing Access Charge Reform*, CC Docket No. 97-250, Order Designating Issues for Investigation and Order on Reconsideration, DA 98-151 (Com Car. Bur., rel. January 28, 1998) (*Access Reform Tariffs Designation Order*).

[8] Comments on the direct cases were filed by AT&T, MCI and DeltaCom.

[9] On March 23, 1998, the General Services Administration (GSA) filed "Rebuttal Comments." Rebuttal Comments of the General Services Administration, filed March 23, 1998. On March 27, 1998, BellSouth filed a motion to strike GSA's pleading because it responds to the price cap LECs' direct cases, and it was, therefore,

notice establishing a pleading cycle for comments and reply comments based upon revisions to the access charge reform tariffs filed by several price cap LECs after January 1, 1998. AT&T and MCI filed comments pursuant to this public notice on April 2, 1998. On April 8, 1998 Bell Atlantic and Frontier filed replies in response to those comments.[10]

6. We have reviewed the direct cases, comments, and replies filed in response to the *Access Reform Tariffs Designation Order*. Based on our examination of the LECs' tariffs, and the direct cases, comments, and replies, we find that certain of the price cap LECs' access reform tariffs are unreasonable. Specifically, we determine that for Bell Atlantic-South, the Sprint LTCs, and U S West, the current maximum per-minute carrier common line (CCL) charge is unreasonably high due to past understatement of the per-line revenue requirement for that basket. In addition, we find that Pacific Bell and GTE underestimated their non-primary residential line counts, which resulted in unreasonably high per-minute residual charges assessed on IXCs. We also conclude that Ameritech's failure to count inward-only lines as lines that are subject to the flat-rated PICC for purposes of calculating the CCL charge resulted in unreasonably high per-minute residual charges assessed on IXCs. Further, we require that price cap LECs use permitted revenues to calculate the exogenous adjustments required by the *Access Charge Reform Order* because using their Part 69 revenue requirement and an 11.25% rate of return does not remove fully from a price cap basket the permitted revenues associated with each exogenous adjustment. We also determine that some of the price cap LECs did not calculate properly certain exogenous adjustments to the Trunking basket, including the removal of signalling network costs from the transport interconnection charge (TIC), the allocation of marketing and COE maintenance costs among service categories in the Trunking basket, the targeting of productivity factor reductions to the residual TIC, and the use of actual minutes as an allocator for a tandem switching rate element. We further find that some price cap LECs did not justify certain calculations made to implement the new factors for the recovery of universal service fund (USF) obligations.

7. We direct price cap LECs to recalculate their rates in accordance with these findings and to file tariff revisions to reflect the new rates. In addition, we require price cap LECs to make refunds to their customers for overcharges resulting from the lingering effect of past understatement of the per-line revenue requirement for the Common Line basket, the underestimation of non-primary residential line counts, and the exemption of inward-only lines from the assessment of the flat-rated presubscribed IXC charge. We do not, however, require price cap LECs to make refunds for overcharges resulting from the use of a revenue requirement methodology for exogenous cost changes, improper calculations of adjustments to the Trunking basket, and unjustified calculations for allocating USF obligations.

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filed out-of-time. BellSouth's Motion to Strike, filed March 27, 1998. We grant BellSouth's motion to strike GSA's pleading, but it will remain a part of the record in this proceeding, 47 C.F.R. § 1.8, and be treated as an ex parte communication. We grant BellSouth's motion because, although the deadline for filing an opposition or comment on the direct cases was March 16, 1998, GSA filed its pleading on March 23, 1998. GSA did not file a motion for an extension of time, provide any explanation for why it filed its pleading late, and failed to respond to BellSouth's motion to strike. Moreover, GSA's pleading cannot reasonably be characterized as a rebuttal because it does not respond to the comments and oppositions that were filed on March 16, 1998; GSA limits its comments to the direct cases filed by price cap LECs in this proceeding.

[10] See Appendix A for a complete list of the tariffs and pleading filed in this investigation.

II. Common Line Issues

A. Non-Primary Residential Line Issues

1. Background

8. The Commission's rules permit price cap LECs to recover their permitted common line revenues through: (1) a monthly per -line SLC billed to end users; (2) a monthly per-line PICC billed to the IXCs to whom the end user has presubscribed; and (3) a per-minute CCL charge billed to IXCs.[11] Effective January 1, 1998, the SLC cap for non-primary residential lines was increased from $3.50 to $5.00.[12] Permitted interstate common line revenues not recoverable from SLCs because of the caps, may be recovered through PICCs. PICCs are capped at $1.50 for non-primary residential lines and $2.75 for multi-line business (MLB) lines in 1998.[13] For primary residential lines and single-line business lines, the PICC is currently capped at $0.53 per month.[14] The remainder of permitted common line revenues is recoverable through the CCL charge.

9. The Commission's purpose in the *Access Charge Reform Order* was to recover non-traffic sensitive costs through flat fees, such as SLCs and PICCs, and to eliminate implicit cross-subsidies between classes of end users. If price cap LECs' non-primary residential line counts are too low, revenues recoverable through SLCs and PICCs are understated, and the maximum CCL charges is too high. For price cap LECs that no longer have a CCL charge or other per-minute residual charges,[15] the maximum multi-line business PICC is too high and the non-primary residential lines not identified as non-primary make too small a contribution to permitted common line revenues.

10. The Bureau designated for investigation the line counts for primary and non-primary residential lines for all price cap LECs.[16] The Bureau observed that non-primary residential line counts were lower than various published estimates and price cap LEC public statements. The Bureau required the price cap LECs to identify the number of lines[17] in each of the following categories: (1) primary residential lines; (2) single-line business lines; (3) non-primary residential lines; and (4) Basic Rate Interface - Integrated Services Digital Network (BRI-ISDN) lines.[18]

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[11] *Access Charge Reform Order*, 12 FCC Rcd at 16005.

[12] 47 C.F.R. § 69.152(e).

[13] 47 C.F.R. § 69.153(d).

[14] 47 C.F.R. § 69.153(c).

[15] *See* 47 C.F.R. 69.155, 69.156(d)(e).

[16] *Access Reform Tariffs Designation Order*, 13 FCC Rcd at 2255.

[17] Number of lines are reported in price cap LECs' tariffs as demand figures over a twelve month period. In their Tariff Review Plans (TRPs) price cap LECs report the number of lines as the actual number of residential loops times twelve.

[18] *Access Reform Tariffs Designation Order*, 13 FCC Rcd at 2257.

2. Discussion

11. In this section, we calculate the percentage of non-primary residential lines to total residential lines reported by the price cap LECs and compare these percentages with data collected by the Commission Staff, independent studies of additional residential line penetration levels and price cap LEC public statements.[19] Where we find the percentage reported by a price cap LEC to be unreasonable, we use these data to prescribe a corrected count. Based on the analysis described below, we prescribe corrected counts for Pacific Bell and GTE.

12. Percentage of Non-Primary Residential Lines to Total Residential Lines. Figure 1 below presents the residential line count information reported by the price cap LECs in their direct cases separated by: (1) primary residential lines; (2) lifeline lines; (3) non-primary residential lines; and (4) BRI-ISDN lines.[20] The percentage of non-primary residential lines to total residential lines shown in the last column in Figure 1, is calculated as the ratio of the sum of non-primary residential and BRI-ISDN lines over the total residential lines.[21] We use the percentage figures set forth in the last column of Figure 1 in our analysis to determine the efficacy of the price cap LECs' non-primary residential line identification.[22]

[19] The two Commission Staff studies, the Additional Line Study and Excess Residential Loop Study, are based on data filed on the record in this proceeding by the Commission Staff. *See* Letter from David L. Hunt, Staff Attorney, FCC to Magalie Roman Salas, Commission Secretary (dated May 27, 1998). The independent studies and public statements made by price cap LECs were also made part of the record in this proceeding. *Id.*

[20] Single-line business line counts reported by the price cap LECs in their direct cases are identified in Appendix B, Table B-1.

[21] The total number of residential lines is defined as the sum of primary residential lines, lifeline lines, non-primary residential lines, and BRI-ISDN lines.

[22] The majority of price cap LECs stated in their direct cases that to determine the numbers of primary and non-primary residential lines, individual lines per month (usually at the end of the month or some other specific date) were counted from a consistent data base (billing records or through field indicator designations) and summed for 1996. Appendix B, Table B-2 explains the search criteria, time frame and data sources used by each price cap LEC to determine line counts for primary and non-primary residential, single line business and BRI-ISDN lines, and the answers to the hypothetical line count classification exercise we required carriers to submit with their direct case, except for U S West which did not comply.

FIGURE 1

Price Cap LEC Direct Case and Tariff Filing Submission
of Residential Access Lines and Percentage of Additional Lines
(Actual Number of Lines times Twelve)

PRICE CAP LEC	(1) PRIMARY RESIDENTIAL LINES	(2) LIFELINE LINES	(3) NON-PRIMARY RESIDENTIAL LINES	(4) BRI-ISDN LINES	(5) TOTAL RESIDENTIAL LINES (5) = (1) + (2) + (3) + (4)	(6) ADDITIONAL LINES as a % of TOTAL RESIDENTIAL LINES (6) = [(3)+(4)]/(5)
Bell Atlantic - South	140,050,374	515,982	14,127,780	2,189,736	156,883,872	10.40%
Bell Atlantic - North	114,665,434	11,982,847	8,891,924	1,229,234	136,769,439	7.40%
Bell South	161,022,932	2,965,743	15,514,466	426,424	179,929,565	8.86%
GTE	135,203,568	7,114,360	6,851,592	314,184	149,483,704	4.79%
Ameritech	115,893,383	1,911,549	15,859,845	711,668	148,324,741	11.17%
Pacific Bell	87,323,331	28,977,232	2,373,481	813,015	119,487,059	2.67%
US WEST	110,665,848	2,734,332	12,523,500	520,812	126,444,492	10.32%
Southwestern Bell	103,661,796	2,265,840	9,656,712	835,572	116,419,920	9.01%
SPRINT LTC*	59,856,072	577,320	6,031,368	73,908	66,538,668	9.18%
SNET	15,381,848	757,400	1,037,964	34,891	17,212,103	6.23%
Citizens	7,246,531	29,527	234,151	528	7,715,361	3.04%
Frontier	7,169,279	309,427	335,566	76,598	7,890,870	5.22%
CBT	7,418,161	0	477,199	28,536	7,923,896	6.38%
Nevada Bell	2,066,181	61,184	161,748	11,715	2,300,828	7.54%
Aliant	2,075,620	0	99,713	0	2,175,333	4.58%
TOTAL or AVERAGE	1,069,700,358	60,202,743	94,177,009	7,266,821	1,245,499,851	8.14%

* Sprint LTCs' numbers represent a correction made in their Direct Case from their tariff filing of December 17, 1997.

13. We used the above formulation to quantify non-primary line penetration reported by price cap LECs for two reasons. First, both non-primary residential lines and BRI-ISDN lines are subject to higher maximum SLCs and PICCs than primary residential lines. Any additional revenues that could be generated from the collection of these flat fees would lead to lower per-minute CCL charges. Second, including BRI-ISDN lines specifically recognizes a major contributor to the growth in additional lines due to increased Internet and data transmission usage by residential customers.[23] Lifeline lines were included in the count of total residential lines because they are residential lines that require interstate access, are used in the formulation of access charges, and were not included in the direct case residential line counts.[24]

[23] Although BRI-ISDN lines can also be used by single-line business customers, we do not distinguish residential users of BRI-ISDN lines from business users of these lines. Including BRI-ISDN lines, however, for comparison purposes will raise non-primary line penetration levels for price cap LECs with BRI-ISDN lines.

[24] The number of lifeline lines were reported in the price cap LECs access reform tariff filings and taken from their TRPs. *See, e.g.*, TRP CAP-1 Form of Pacific Bell, Attachment ("Calculation of Rate Caps: Demand and Rates, Inputs and Initial Revenue Calculations"), Line 140, filed December 17, 1997. Lifeline lines are not

14. Figure 2 compares the reported percentage of non-primary residential lines to total residential lines, pursuant to the index outlined *supra*, to several sources. These sources are: (1) analyses conducted by the Commission staff based on available data; (2) estimates published by financial institutions of the penetration levels of non-primary residential lines; and (3) price cap LEC public statements. Figure 2 summarizes these data.

included as a component of primary residential lines. For example, Pacific Bell's TRP and SBC's Direct Case both show identical primary residential and single line business (SLB) line counts. See TRP CAP-1 Form of Pacific Bell, Line 100, filed December 17, 1997; SBC Direct Case, Attachment ("Pacific Line Counts"), filed February 27, 1998. *See also*, TRP CAP-1 Form of Pacific Bell, Attachment ("Calculation of Rate Caps: Demand and Rates, Inputs and Initial Revenue Calculations"), Line 150, filed December 17, 1997.

FIGURE 2

PRICE CAP LEC	Direct Case LEC Reported Percentage Non-Primary & BRI-ISDN Lines as Percentage of Total Residential Lines	FCC Additional Line Study Survey w/ 1995 Bill Harvesting Data	FCC Excess Residential Loop Study Study % Excess Res. Loops per Household	Telecom Services 11/13/96 3Q95 - 3Q96	Merrill Brothers 11/28/97 3Q 97	Price cap LEC Public Statements	Salomon Public Statement Date
Ameritech	11.17%	11.55%	12.19%	11.00% - 14.00%	26.00%		
US West	10.32%	11.00%	10.29%	8.00% - 10.00%	13.00%	12.90%	10/27/97
Sprint LTC	9.18%	8.60%	17.00%				
Bell Atlantic - South	10.40%	13.45%	19.12%	15.00% - 19.00%	19.00%	13.00%	3/1/96
BellSouth	8.86%	11.47%	16.86%	9.00% - 11.00%	14.00%	12.03%	1/22/98
Southwestern Bell	9.01%	12.13%	13.55%	11.00% - 12.00%	16.00%		
Bell Atlantic - North		7.40%	10.21%	18.85%	11.00% -		
GTE	4.79%	8.94%	14.77%	11.00% - 14.00%			
SNET	6.23%	11.88%	5.90%				
Independents *	5.09%	10.46%					
(Citizens)	3.04%						
(Frontier)	5.22%						
(Aliant)	4.58%		5.20%				
(CBT)	6.38%		7.33%		10.00%		
(Nevada Bell)	7.54%		17.10%				
Pacific Bell	2.67%	17.61%	19.00%	22.00% - 24.00%	28.00%	20.00%	7/15/96
TOTAL or AVG	8.14%	11.40%	14.70%	12.25% - 14.63%	18.00%		

* Includes Aliant, Frontier, Citizens, and CBT. Nevada Bell is included with the independent LECs due to small sample in the Additional Line Study. Independent LECs in the Additional Line Study's sample also includes rate-of-return LECs.

15. Staff Studies of Primary and Non-Primary Residential Lines. Common Carrier Bureau staff conducted two studies estimating additional residential line penetration. The first study estimated additional line penetration by using extensive survey data on secondary lines (the Additional Line Study). The second Commission staff study estimated additional line penetration levels by quantifying excess residential loops (the Excess Residential Loop Study). The detailed results of these studies are presented in Figure 3.

FIGURE 3

FCC STUDIES

PRICE CAP LEC	EXCESS RESIDENTIAL LOOP STUDY 1995 NECA & Census Data 1995 ARMIS Residential Lines % Excess Residential Loops	Standard Error	ADDITIONAL LINE STUDY PNR and Associates 1995 Bill Harvesting II % Households Additional Lines	Standard Error	Survey Sample Size
Ameritech	12.19%	0.01%	11.55%	0.89%	1,299
Bell Atlantic - South	19.12%	0.01%	13.45%	0.98%	1,219
Bell Atlantic - North	18.85%	0.01%	10.21%	0.88%	1,316
Bell South	16.86%	0.01%	11.47%	0.79%	1,298
GTE	14.77%	0.01%	8.94%	0.96%	999
Nevada Bell*	17.10%	0.09%	6.67%	6.44%	15
Pacific Bell	19.00%	0.01%	17.61%	1.50%	619
SNET	5.90%	0.02%	11.88%	3.22%	101
Southwestern Bell	13.55%	0.01%	12.13%	1.17%	775
SPRINT	17.00%	0.02%	8.60%	1.25%	500
US WEST	10.29%	0.01%	11.00%	0.86%	1,318
Independents**			11.22%	1.04%	927
(Citizens)					
(Frontier)					
(CBT)	7.33%	0.03%	1.41%	1.40%	71
(Aliant)	5.20%	0.05%			
Total or Avg	14.70%	0.00%	11.40%	0.31%	10,457

* Nevada Bell separated from Pacific Bell.
** Independents include Aliant, Frontier, Citizens and CBT.

16. The Additional Line Study is based on nationwide survey information conducted on residential telephone usage, second lines, household demographics, expenditures on telephone service and other telecommunications information. The primary data source for this research is PNR and Associates (PNR)[25] Bill Harvesting studies.[26] The sample relied upon in this study was "Bill Harvesting II," a 1995 survey collected from 10,457 households with telephone service.[27] In addition to answering a series of questions, participants also sent copies of their telephone bills for one month in 1995 to PNR. The Additional Line Study tabulated and analyzed these data by both local exchange

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[25] PNR and Associates is an economic research and consulting firm located at 101 Greenwood Avenue, Suite 502, Jenkinstown, PA 19046, (215) 886-9200. PNR has donated a number of research databases and survey information to the Commission, granting permission for their use and the publication of any results on which they are based.

[26] PNR first conducted a Bill Harvesting Study in 1994. The format was changed for surveys completed in 1995 and 1996 known as "Bill Harvesting II" and "Bill Harvesting III," respectively. Information from these databases have been used by the FCC in numerous publicly available studies. For example, the results from both of these surveys were relied on for the recently issued staff report on market shares for long distance service. *See* Common Carrier Bureau, Industry Analysis Division, *Long Distance Market Shares* (March 1998).

[27] *See* Letter from David L. Hunt, Staff Attorney, FCC to Magalie Roman Salas, Commission Secretary (dated May 27, 1998).

carrier[28] and by state, detailing the percentage of households who identified themselves as having at least one additional line. The national average for additional line penetration was 11.40 percent. Because the survey question did distinguish between households with multiple residential lines had only two lines or more than two lines, the Additional Line Study does not capture any additional lines after the second line in a household.[29] The survey question also did not distinguish residential lines between non-primary or BRI-ISDN. Thus, there is a downward bias in the Additional Line Study estimates to the extent multiple non-primary residential lines exist in a household.

17. The Excess Residential Loop Study calculated total residential loops by taking end-of-year 1995 USF subscriber line counts provided by the National Exchange Carrier Association (NECA) and applying a ratio of residential to non-residential access lines per state based on the Commission's *Statistics of Communications Common Carriers* and 1995 ARMIS reports. This estimate of 108.1 million residential loops, was then compared with the 1990 Census Bureau[30] estimate of 94.2 million households[31] with residential telephone service. The 13.9 million line difference was classified as excess residential loops. Using the 1995 ARMIS data to allocate excess residential lines by state to each carrier, the Excess Residential Loop Study estimated excess residential loops for each price cap

[28] The data set specifically coded or identified the following LECs by name: Ameritech, Bell Atlantic, BellSouth, Cincinnati Bell, GTE, NYNEX, Pacific Telesis, SNET, Southwestern Bell, Sprint, and US West. All other carriers were placed in a data category called Independents and were classified as such unless they were specifically identifiable due to state identification. The figures for price cap LECs such as Aliant, Citizens, and Frontier were, therefore, not fully distinguishable from rate-of-return companies or other carriers in the Additional Line study.

[29] The survey question asked was the following: "Does your household have more than one telephone line (i.e. more than one telephone number)? 1 Yes and 2 No". Those who responded "yes" were counted as a household having <u>one</u> additional line. Those responding "no" were counted as a household that had no additional residential service.

[30] U.S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census, *1990 Census of Population and Housing; Summary Population and Housing Characteristics* (July 1991).

[31] The definition of a household as used by the U.S. Department of Commerce, Bureau of the Census in their 1990 population survey is as follows:

> A household consists of all the persons who occupy a housing unit. A housing unit is a house an apartment, a mobile home, a group of rooms, or a single room that is occupied (or if vacant, is intended for occupancy) as separate living quarters. Separate living quarters are those in which the occupants live and eat separately from any other persons in the building and which have direct access from the outside or through a common hall. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

See, e.g., U. S. Department of Commerce, Economics and Statistics Administration, *1990 Census of Population and Housing;Summary Population and Housing Characteristics; District of Columbia* (July 1991).

LEC. Its national average was 14.70 percent. These results for price cap LECs are also shown in Figure 3.[32]

18. We also compared the price cap LECs' reported non-primary residential line counts with reports made by financial institutions and public statements made by price cap LECs.[33] Merrill Lynch[34] and Salomon Brothers[35] prepared analyses of additional line penetration by price cap LECs and their estimates are included in Figure 2. Public statements made by price cap LECs regarding their additional residential line penetration levels are reported in Figure 2.[36]

19. Analysis of Surrogate Data. We rely primarily upon the Additional Line Study to evaluate price cap LECs' reporting of non-primary residential lines. We find that the Additional Line Study provides a reliable data source for the purpose of determining the reasonableness of price cap LECs' reporting of non-primary lines because it uses a large representative sample[37] of residential phone service households. Moreover, by using a binary method to measure second lines, the study

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[32] *See also*, Letter from David L. Hunt, Staff Attorney, FCC to Magalie Roman Salas, Commission Secretary (May 27, 1998).

[33] In some cases, penetration figures, referenced in these external reports as "additional" or "second" lines may represent a percentage of households or customers that have at least one additional line. We did not rely on these data, however, to prescribe non-primary residential line counts in cases where we found that LECs had reported an unreasonable percentage of these lines.

[34] Merrill Lynch, *Telecom Services, RBOCs & GTE*, Table 3b at 6 (November 13, 1996) (Merrill Lynch Report).

[35] Salomon Brothers, *Cincinnati Bell, Inc. - More than A Phone Company: Billing and Teleservices Drive Growth*, Figure 7 at 11 (November 28, 1997) (Salomon Brothers Report).

[36] These companies are Bell Atlantic, BellSouth, Pacific Bell, and U S West. *See* Figure 2, *supra*. Figures reported by these companies on additional residential line penetration were taken from the following sources: Raymond W. Smith, Chairman, Bell Atlantic, "Creating Shareowner Value in a converged, Post-Legislation Environment," (March 19, 1996); BellSouth, Corporate Information Center News Release,"BellSouth Reports Fifth Consecutive Year of Earnings Growth: Increase in access lines sets fourth annual record in row; Wireless customers worldwide surpass 6 million," (January 22, 1998); Pacific Telesis *Inside Line* "Strong Growth ahead for Pacific Bell," Issue No. 90, (July 15, 1996); U S West, News Center Press Release, "U S West Communications Reports Continued Solid Earnings as it Rolls Out New Products Including First-In-the-Nation PCS Service:Improving Revenues Lead to Double-Digit EPS Growth" (October 27, 1997).

[37] We tested the representative sampling of the data used in the Additional Line Study by comparing it to 1995 ARMIS data. We computed relative percentages of (1) the actual number of 1995 residential lines reported for each price cap LEC within each state from ARMIS, and (2) the 10,457 sample observations taken from Bill Harvesting II. This computation produced concentration levels of residential lines in each state by the price cap LECs and the proportion of lines each state contributes to the price cap LECs' total residential line counts. Using standard correlation statistics both the percentage values and cardinal rankings were highly correlated. We therefore concluded that the Additional Line Study line count information reasonably represents the state or service area proportions within each price cap LEC as to where residential lines are actually located. Accordingly, the figures on additional lines per household would not be proportionally misrepresented in any one state or service area for a price cap LEC.

offers a reasonable and consistent counting procedure that will not over represent the number of additional lines for any carrier. In fact, the Additional Line Study conservatively estimates the number of non-primary residential lines for each price cap LEC for three reasons. First, it counts only one additional line even if a particular household has three or more residential lines. Second, the Additional Line Study relies on 1995 data and the record demonstrates that the number of non-primary residential lines has grown considerably more than primary residential lines since 1995.[38] Finally, the Commission has full knowledge of the data sources, control over study methodology, and has been able to verify the statistical analyses for estimated additional line penetration levels, and will, therefore, rely on its internal research, as compared to outside sources, to evaluate baseline numbers for non-primary residential lines.

20. Additional support for using the Additional Line Study is provided by the Excess Residential Loop Study.[39] The initial purpose of gathering of these data in January 1997, for both the Additional Line and Excess Residential Loop studies, was to determine if there was a relationship between the number of additional residential lines and the level of population concentration. Each study compared their 1995 second line penetration estimates to Census Bureau 1990 percent urban population statistics for each state. Individual regression analyses showed a modest but statistically significant correlation between additional residential lines and percent urban for each data set.[40]

21. Except for a few instances, where insufficient data exist to make a comparison,[41] or, as in SNET's case, only one Commission study shows a lower non-primary residential line penetration level than those reported in the direct cases,[42] most price cap LECs reported percentages in their direct cases that are lower than both the Additional Residential Line and the Excess Residential Loop study results. Given that additional residential phone lines grow at a faster rate than primary residential phone lines, and both FCC studies use 1995 data to make their estimates, the FCC percentages should be lower than the 1996 figures reported by the price cap LECs. We did not expect the results we found. This is particularly significant when comparing the number of non-primary residential lines reported in price cap LECs' direct cases to the Additional Line Study results because of the binary method of classifying the number of additional lines in the Additional Line Study, which tends to undercount non-primary residential lines.

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[38] *See, e.g.*, Merrill Lynch Report, *supra*, at 6; Salomon Brothers Report, *supra*, at 10-11; Pacific Telesis, *Inside Line*, *supra*.

[39] When we directly compared the two staff study results for each state and each price cap LEC using both a correlation and rank correlation statistic, they were correlated at 60 percent.

[40] Regression statistics for these staff studies were made part of the record in this proceeding. *See* Letter from David L. Hunt, Staff Attorney, FCC to Magalie Roman Salas, Commission Secretary (dated May 27, 1998).

[41] Aliant, Nevada Bell, and Cincinnati Bell have relatively small sample sizes when compared to the other price cap LECs and, as explained below, we therefore do not find their non-primary residential line counts to be unreasonable. We also find that the non-primary residential line counts reported by Citizens and Frontier are not unreasonable because the Additional Line Study contains no sample data for these companies.

[42] SNET reports a higher additional line penetration level than was calculated in the Excess Residential Loop Study.

22. The Merrill Lynch and Salomon Brothers percentages support the finding that certain price cap LECs have significantly under-reported their percentage of non-primary residential lines and that the Additional Line Study is reasonable and conservative. The Merrill Lynch Report estimates additional line penetration as a percentage of total residential lines in service.[43] The Salomon Brothers Report measures additional lines as the percentage of "penetration of second or additional lines to a customer's home for such uses as access to the Internet."[44] Merrill Lynch reports second residential line penetration by LEC over five quarters from 1995 and 1996. The Merrill Lynch Report also estimates second line penetration higher than the Additional Line Study, and shows growth in second line penetration by the price cap LECs identified in their Telecom Services analysis.[45] The Salomon Brothers' estimates, included in Figure 2, also show the significant growth levels in additional residential lines beyond those of the previous year as estimated by Merrill Lynch.

23. For the reasons stated above, we rely primarily on the Additional Line Study to determine the reasonableness of the percentage of non-primary residential lines to total residential lines reported by the price cap LECs.

[43] Merrill Lynch Report, Table 3b at 6.

[44] Salomon Brothers Report, *supra*, at 10.

[45] The Merrill Lynch Report states: "We believe this strong growth in vertical services has not only been driven by solid growth in primary residential lines, but also by the growing number of second and third lines being added by US households (i.e. customers continue to augment their home office lines (or additional lines) with call management features and voice mail boxes), which continue to grow the potential vertical service subscriber base." Merrill Lynch Report, *supra*, at 6

FIGURE 4

Additional Line Percentage Comparisons - Direct Case and Staff Study

Col	1	2	3
PRICE CAP LEC	LEC Reported Additional Line Percentages	FCC Additional Line Study Survey Percentages	Percentage of FCC Estimate Identified (Col 1 / Col 2)
SPRINT LTC'S	9.18%	8.60%	106.69%
AMERITECH	11.17%	11.55%	96.75%
U S WEST	10.32%	11.00%	93.77%
BELL ATLANTIC-SOUTH	10.40%	13.45%	77.31%
BELL SOUTH	8.86%	11.47%	77.21%
SWBT	9.01%	12.13%	74.30%
BELL ATLANTIC-NORTH	7.40%	10.21%	72.48%
GTE	4.79%	8.94%	53.64%
SNET	6.23%	11.88%	52.46%
Independents*	5.09%	10.46%	48.65%
PACIFIC BELL	2.67%	17.61%	15.14%
TOTAL or AVERAGE	8.14%	11.40%	71.45%

* Independents are Aliant, Frontier, Citizens, CBT, and Nevada Bell. This Figure does not include these companies individually because we do not have sufficient data to estimate their percentage of non-primary residential lines to total residential lines.

24. <u>Reasonableness of LEC Reported Percentages of Non-Primary Residential Line Percentages</u>. Figure 4 groups price cap LECs based on the difference between the percentage they reported and the percentage estimated by the Additional Line Study. The first group reported between 94 and 106 percent of the percentages identified in the Additional Line Study; the second group reported between 72 and 77 percent; the third group reported between 49 and 54 percent; and the fourth, Pacific Bell reported 15 percent. As explained below, we find that the price cap LECs in the third and fourth groups for which we have sufficient data, (Pacific Bell, GTE, and SNET) reported unreasonably low percentages of non-primary residential lines.

25. We find Pacific Bell's line counts to be unreasonable. Pacific Bell reported non-primary residential line counts of only 2.67 percent, the lowest penetration level reported by any price cap LEC. This estimate is approximately fifteen percentage points lower than the 17.61 percent non-primary residential line count reported by the Additional Line Study for Pacific Bell. Thus, Pacific Bell reported only 15 percent of the non-primary residential lines identified in the Additional Line Study. Further evidence that Pacific Bell's non-primary residential line count of 2.67 percent is unreasonably low can be found in the second line penetration levels for Pacific Bell identified by

Merrill Lynch, 22 percent to 24 percent for 1995-1996, and Salomon Brother's second line estimate of 28 percent for the third quarter of 1997. Additionally, the Excess Residential Loop Study's estimate of excess residential loops per household for Pacific Bell is 19 percent. Furthermore, in a public statement issued by the company on July 15, 1996, Pacific Bell states:

> Through targeted promotions in the consumer market, Pacific Bell has maintained its lead among regional Bell operating companies (RBOCs) in customers with two or more lines. Today, nearly 20 percent of Pacific Bell's residential customers have more than one access line - compared to 14 percent for the next closest RBOC. During the first five months of 1996, the number of new additional lines increased 152 percent compared with new growth during the same period last year.[46] (Emphasis in original.)

Further, as explained in Section II.B, infra, Pacific Bell failed to apply its definition in a way that identified as non-primary the additional residential lines that are billed under the same name and at the same location.

26. We also find that GTE's reported non-primary residential line count of 4.79 percent is unreasonable. This estimate is more than four percentage points lower than the Additional Line Study's estimate of 8.94 percent for GTE. GTE therefore only reported 54 percent of the non-primary residential lines that the Additional Line Study identified for GTE.[47] Further, the Merrill Lynch Report estimates that GTE's second line penetration rose from 11 percent to 14 percent between 1995 and 1996. Finally, the Excess Residential Loop Study indicates excess residential loops per household for GTE of approximately 15 percent.

27. Although SNET is in the third group identified above, we do not have sufficient data to corroborate a finding that SNET reported an unreasonably low percentage of non-primary residential lines when compared to the percentage of lines identified for SNET in the Additional Line Study. This is because SNET reports a higher percentage of additional line penetration than was identified for SNET in the Excess Residential Loop Study and SNET was not included in either the Merrill Lynch or Salomon Brothers studies.

28. Finally, we do not find unreasonable the non-primary residential line counts of Aliant, Frontier, Citizens, CBT, and Nevada Bell because we lack sufficient surrogate data with which to compare the non-primary residential line counts reported by these price cap LECs. Specifically, the Additional Line Study and the Excess Residential Loop Study contain either a small sample size or no data for these price cap LECs. Moreover, the Merrill Lynch Report does not provide estimates for any of these price cap LECs, and the Salomon Brothers Report only has relevant data for one of these five companies, CBT.

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[46] Pacific Telesis, *Inside Line*, *supra*.

[47] We recognize that GTE is located in numerous service areas throughout the country. The Additional Line Study, however, included 999 sample observations for GTE in 26 of the states for which GTE offers residential service. The correlation coefficient between the ARMIS 1995 actual residential line percentage for GTE within each state, and the number of sample observations taken in each state from the Bill Harvesting II data for GTE is 97.05%. This indicates that the Additional Line Study's estimate is a reliable one in terms of distribution of GTE residential lines across service areas.

29. Prescription. We order Pacific Bell and GTE to recalculate their PICC and CCL rates to reflect a non-primary residential line count no lower than 70 percent of the lines identified by the Additional Line Study for these companies. We believe that it is reasonable to prescribe a non-primary residential line count of no lower than 70 percent of the lines identified by the Additional Line Study because, on average, price cap LECs in this investigation reported 71.45 percent of the non-primary lines identified by the Additional Line Study. Further, all other price cap LECs for which we have sufficient data report at least 70 percent of the non-primary lines identified by the Additional Line Study for their company. Accordingly, 70 percent closely approximates both the average among the price cap LECs in this investigation (71.45 percent) and the next lowest reporting of non-primary lines among other price cap LECs (72 percent), nearly all of whom are grouped between 77 percent and 72 percent.

30. We believe that this prescription strikes an appropriate balance among the relevant public interest factors, for several reasons. First, we believe it was reasonable to choose the Additional Line Study as the basis for the non-primary residential line prescriptions in this investigation because this study reflects the results of a large representative sample of residential households. It further provides a conservative estimate of the number of non-primary residential lines, which is corroborated by other data in the record. Second, we balanced relevant public interest factors in prescribing a threshold of 70 percent of the number of lines identified by the Additional Line Study, rather than taking unmodified penetration figures from the study. We chose not to prescribe 100 percent of the non-primary residential lines identified by the Additional Line Study because we recognize that by not adopting definitions for primary and non-primary residential lines there would be variations among price cap LECs in the level of non-primary residential line penetration levels when compared to the definition used in the Additional Line Study.

31. We therefore order Pacific Bell and GTE to increase their non-primary residential line counts so that their counts falls within 70 percent of the number of non-primary lines identified by Additional Line Study. Pacific Bell must, therefore, identify a total of 14,728,373 non-primary residential and BRI-ISDN lines.[48] As a result, Pacific Bell must reclassify at least 11,541,877 of its primary residential lines as non-primary residential lines. GTE must identify a total of 9,351,369 non-primary residential and BRI-ISDN lines by reclassifying at least 2,185,593 primary residential as non-primary residential lines. We require Pacific Bell and GTE to recalculate their CCL rates and file tariff revisions that reflect these adjustments. These price cap LECs also must issue refunds to their customers as required by Section VI of this Order.

B. Definitions of Primary and Non-Primary Residential Lines

1. Background

32. The *Access Charge Reform Order* did not provide a definition of primary and non-primary residential lines. Instead, the Commission initiated a rulemaking proceeding which sought comment on how to define primary and non-primary residential lines.[49] Incumbent LECs, therefore,

[48] As stated earlier, line count numbers are reported in price cap LEC tariffs and herein as yearly demand figures calculated as actual number of lines times twelve.

[49] *Access Charge Reform Order*, 12 FCC Rcd at 16016.

developed their own definitions of primary and non-primary residential lines for purposes of the access reform tariff filings, effective January 1, 1998. In the *Access Reform Tariffs Designation Order*, the Bureau designated for investigation for all price cap LECs, the issue of whether their definitions of primary and non-primary lines were reasonable.[50] The Bureau also tentatively concluded that the definitions used by BellSouth, SNET, and SWBT were unclear and required further elaboration. All three of these price cap LECs filed additional language attempting to clarify their definitions.[51] BellSouth and SNET also filed proposed tariff revisions that include their revised definitions of primary and non-primary residential lines.[52]

2. Discussion

33. We find, for purposes of this investigation, all but one of the definitions of primary and non-primary residential lines used by the price cap LECs are not unreasonable. As explained below, we find unreasonable the definition used by the SBC Companies in cases where it does not identify as non-primary the additional residential lines billed under the same name at the same location. We further find that proposed revised definitions of primary and non-primary residential lines filed by BellSouth and SNET clarify the way they identify primary and non-primary residential lines. We therefore order these companies to revise their tariffs to include these revised definitions.

34. Because we have not defined primary and non-primary residential lines, the price cap LECs were required to select a reasonable definition of primary and non-primary residential lines, and to implement their chosen definitions in a reasonable manner.[53] The residential line definitions adopted by the price cap LECs can be characterized into two broad categories; those that identified and counted primary and non-primary residential lines by location and those who classified residential lines by account.[54]

35. Ameritech and U S West used definitions that identified non-primary residential lines by location. Under this definition, at a given location one line is classified as a primary residential line, and the remaining residential lines are classified as non-primary residential lines, regardless of the number of accounts or telephone bills sent to that location.[55] We find that the "location" definition is not unreasonable because, if applied correctly, it identifies one line at a particular residence as primary, and the remainder non-primary. This definition is, therefore, in keeping with both the

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[50] *Access Reform Tariffs Designation Order* at 2257.

[51] *See* SNET Direct Case at 1-2; BellSouth Direct Case at 5-6; SBC Direct Case at 2.

[52] BellSouth Direct Case at 6-7; SNET Direct Case at Exhibit 1.

[53] *Access Reform Tariffs Designation Order* at 2255.

[54] See Appendix B for a description of price cap LEC line count data sources and sorting criteria that carriers provided in their Direct Cases.

[55] *See, e.g.*, U S West Direct Case at 1-2.

universal service concerns for telephone access as well as the cost-causation principles set forth in the *Access Charge Reform Order*.[56]

36. The remainder of the price cap LECs identified primary and non-primary residential lines by "account." Within the group that used the "account" definition, there were two general methods of identifying non-primary residential lines. Bell Atlantic counted lines at a particular location as primary if they were billed to separate accounts. If one account was associated with more than one line, the additional lines were classified as non-primary. Bell Atlantic went further, however, and examined the subscriber name and address for each account. If it found multiple accounts with the same subscriber name and address, it treated one line in those accounts as primary and the rest as non-primary.[57] We find that application and use of the "account" definition in this manner is not unreasonable for purposes of this investigation, because it should identify, at a minimum, multiple lines billed to the same subscriber at the same location. We find that, at a minimum, definitions of primary and non-primary residential lines should categorize a second residential line as non-primary if the line is billed to the same name at the same location.

37. Another method of identifying non-primary residential lines is the "pure account" methodology used, for example, by SBC Companies. The definition set forth by the SBC Companies is as follows:

> "SWBT considers a line a primary residential line if it is a line with a residence class of service, billed on a single line account. In addition, a line is considered to be a primary residential line if it is a line with a residence class of service that is single account billed as part of a multi-line or multi-party service. A line is considered to be a non-primary residential line if it has a residence class of service, is billed as part of a multi-line or multi-party service and is not the first line on the account as is classified as an additional line is classified as an additional line any time there is at least one working line present at the time it is installed in a single family living unit. For example, if two lines in the same living unit appear on the same bill, the account would be considered multi-line or multi-party service. The first line would be considered primary and the second line would be classified as non-primary. Another example involves two lines in a single-family living unit, but the lines are billed on separate bills. Because both lines would be considered single line service, both would be considered primary."[58]

38. We find that this definition is unreasonable if applied in a way that it does not identify as non-primary the additional residential lines that are billed under the same name and at the same

[56] *Access Charge Reform Order*, 12 FCC Rcd at 16000.

[57] Using customer billing records for New Jersey, Bell Atlantic ran a report which matched and then provided the number of residential additional lines billed to the same billing name customer, at a single service address, on the same account as the primary residential line in order to identify non-primary residential line penetration when using the "account" criterion. This study was used as a surrogate for the proportion of non-primary residential lines in the Bell Atlantic regions. Bell Atlantic Direct Case at Attachment A pages 4-5.

[58] SBC Direct Case at 2-2.

location. If subscribers in a study area with multiple lines consolidate those lines on one bill or to a single account, this method, like Bell Atlantic's method, will identify most of a subscriber's additional lines at a single location as non-primary and, therefore, can be considered reasonable at least until our rulemaking proceeding is complete.[59] If, however, as with Pacific Bell in California, subscribers with multiple lines at the same location are not encouraged to consolidate those lines on to a single account,[60] the "pure account" definition and methodology is patently unreasonable because it fails to identify additional residential lines even when the lines are billed to the same name and location.

39. However, for purposes of determining the reasonableness of the rates in the January 1, 1998 tariffs, we concluded in Section II.A, that the rates are reasonable if a price cap LEC reported percentages of non-primary residential lines that were 70 percent of those found in our Additional Line Study. Some price cap LECs that used the "pure account" definition met this benchmark, possibly because customers with multiple lines at the same location have them consolidated into one account. These companies do not need to adjust their January 1, 1998 rates.

C. PICC and SLC Demand Amounts

1. Background

40. Subscriber line charges (SLCs) are assessed on a per-line basis upon subscribers to local exchange telephone service or Centrex service.[61] Presubscribed interexchange carrier charges (PICCs) are assessed per-line upon the subscriber's presubscribed interexchange carrier (PIC), in part to recover common line revenues not recovered from the SLC.[62] The maximum PICC that can be assessed, subject to the PICC ceiling, is determined by dividing residual common line and other revenues permitted under our price cap rules by access lines.[63]

41. CCL charges are per-minute charges on originating and terminating minutes. The CCL recovers common line revenues not recovered through SLCs and PICCs. The maximum per-minute CCL charge that the price cap LECs can recover is the lower of: (1) the per-minute rate that would recover annual common line permitted revenues less the maximum amounts allowed to be recovered through SLCs and PICCs; or (2) for originating CCL charges, a cap based on charges assessed on originating minutes on December 31, 1997.[64] This determination requires the price cap LECs to

[59] *In re Defining Primary Lines*, CC Docket No. 97-181, Notice of Proposed Rulemaking, 12 FCC Rcd 13647 (1997).

[60] "Pacific does not actively pursue consolidate residential billing. In other words, Pacific does not encourage customers to 'bill on' additional residential lines to existing residential accounts. This could lead to a smaller number of non-primary lines when compared to total residential lines." (sic) Errata to Direct Case of SBC at 2.

[61] *Access Charge Reform Order*, 12 FCC Rcd at 16016; 47 C.F.R. § 69.152(a).

[62] 47 C.F.R. § 69.153(a).

[63] 47 C.F.R. § 69.153.

[64] 47 C.F.R. § 69.154.

include the maximum SLC and PICC revenues they could recover in their calculations, regardless of whether they actually assess those charges. If a price cap LEC does not include all of the lines for which it is permitted to charge a PICC when it makes its calculations, the PICC determined using the formula in section 69.153 will be too high, because residual revenues will be divided by too few lines. If the PICCs are above the PICC caps, the residual used to determine the per-minute CCL charge pursuant to the formula in section 69.154(a) will also be too high. Thus, if the price cap LECs do not include in their maximum PICC and CCL calculations all the lines subject to these charges, the IXCs will be overcharged.

42. The *Access Reform Tariffs Designation Order* tentatively concluded that Ameritech, CBT, and U S West should be required to include in their line counts inward-only lines for their SLC and PICC counts.[65] The Bureau also tentatively concluded that Ameritech failed to include all the Primary Rate Interface - Integrated Services Digital Network (PRI-ISDN) lines in its line count because it assessed five SLCs but only one PICC for PRI-ISDN service.

2. Discussion

43. In its direct case, CBT states that it inadvertently filed tariff language stating that it does not include inward-only lines in its SLC and PICC counts. CBT states that it did, in fact, include inward-only lines in these counts.[66] Upon examination of the data, we find that CBT's explanation is adequate. We require, however, that CBT revise the language in its tariff to eliminate the provision that states it does not include inward-only lines in its SLC and PICC counts.

44. U S West states that it included inward-only lines in its SLC and PICC line counts. U S West states that, although it had not yet billed PICCs to inward-only lines due to an "internal misunderstanding" at the time U S West filed its access reform implementation tariff, this mistake is not reflected in its reported line counts.[67] In fact, because U S West's tariff provides for a PICC on all inward-only lines ordered out of its general exchange tariffs, U S West's SLC and PICC line counts included all such lines. We therefore find U S West did not base its maximum PICC and CCL charge calculation on an undercount of the number of lines.

45. Ameritech argued in its direct case that it does not have to assess a PICC on inward-only lines or include them in its PICC line count because these lines cannot originate calls. The *Access Reform Tariffs Designation Order* tentatively rejected Ameritech's argument.[68] Ameritech has since revised its tariff to include inward-only lines in its PICC count.[69] This tariff became effective on April

[65] *Access Reform Tariffs Designation Order* at 2261.

[66] CBT Direct Case at 4.

[67] U S West Direct Case at 4.

[68] *Access Reform Tariffs Designation Order* at 2260.

[69] Ameritech Transmittal No. 1146, Access Reform Revision, filed March 17, 1998.

1, 1998. Ameritech, however, maintains that its earlier approach was reasonable.[70] We reject Ameritech's argument. There is no provision in the *Access Charge Reform Order* that exempts inward-only lines from being included in either the SLC or PICC count.[71] Although the end user does not originate traffic on inward-only lines, these lines carry interstate traffic, and part of the cost of each of these lines is assigned to the interstate jurisdiction. These lines should, therefore, be included in a price cap LEC's SLC and PICC counts. Ameritech assesses a SLC on inward-only lines, and we find no basis for including these lines in the SLC count but excluding them from the PICC count. Furthermore, our rules provide Ameritech an opportunity to recover PICCs on inward-only lines. For inward-only lines that do not have a PIC, price cap LECs may assess the PICC upon the end-user.[72] DeltaCom argues that assessing a PICC on inward-only lines further complicates the auditing and tracking of this charge.[73] Even if this is true, it does not provide sufficient cause to exclude these lines when calculating the maximum PICC and CCL charges. We therefore order Ameritech to revise its line counts to include inward-only lines in its PICC count. We note that Ameritech, in its March 17 tariff filing, already recalculated its CCL rates for the period starting April 1, 1998.[74] Accordingly, Ameritech must recalculate its CCL rates for the first three months of 1998 to reflect its revised line counts for the purpose of making refunds to its customers in accordance with the requirements of Section VI of this Order.

46. Ameritech, in its December 17, 1998 reply, stated that each PRI-ISDN service offering was assessed five SLCs, but only one PICC for purposes of calculating its maximum CCL charge.[75] Ameritech acknowledges that this representation is incorrect, and that it has always counted an equal number of SLCs and PICCs for each PRI-ISDN offering. We have verified Ameritech's claims by examining its tariff filing, and find therefore that Ameritech reasonably counted SLCs and PICCs for each PRI-ISDN offering.

D. Historical Understatement of the BFP

1. Background

47. In preparing its annual access tariff filing, each incumbent LEC must forecast its common line costs and end user demand levels for the upcoming tariff year. These forecasts, in turn, are used

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[70] Ameritech Transmittal No. 1146, Access Reform Revision, Description and Justification, page 1 (March 17, 1998).

[71] We note that these lines are assessed a SLC, pursuant to section 69.152(a), which states that a SLC is assessed upon end users that subscribe to local exchange service.

[72] 47 C.F.R. § 69.153(b).

[73] DeltaCom Comments at 2.

[74] Ameritech Transmittal No. 1146, Access Reform Revision, Description and Justification, page 1 (March 17, 1998).

[75] Ameritech Direct Case at 6.

to determine the LEC's monthly per-line BFP revenue requirement.[76] The LEC then uses this monthly per-line BFP revenue requirement to set its SLC, subject to certain SLC caps provided in the Commission's rules.[77] A price cap LEC then sets its PICCs and its per-minute CCL charges to recover the difference between its anticipated SLC revenues and the total common line revenues permitted by its price cap.[78]

48. A price cap LEC may be able to improperly increase its overall common line revenues by understating its per-line BFP revenue requirement and calculating correspondingly higher CCL rates. A price cap LEC that has a SLC below the multi-line business (MLB) SLC cap, and that expects growth in minutes-of-use per-line (g) in the upcoming tariff year to exceed $g/2$ from the previous year, can increase its overall common line revenues by understating its per-line BFP revenue requirement because the revenue from higher CCL charges more than offsets the revenue foregone from lower SLCs. In the *1997 Annual Access Tariff Investigation Order*, we concluded that Bell Atlantic-South, Bell-Atlantic-North, GTE, SWBT, the Sprint LTCs, and U S West had unjustly and unreasonably understated their per-line BFP revenue requirement forecasts for tariff year 1997-98, and had tariffed CCL rates that were correspondingly unjustly and unreasonably high. We therefore prescribed per-line BFP revenue requirement forecasts for these LECs.

49. A price cap LEC's maximum CCL charge is determined, in part, by the last calendar year's (base-period's) aggregate common line basket revenues.[79] An improper increase in aggregate common line revenues is carried forward into the following year, increasing future aggregate common line revenues and CCL charges. In the *1997 Annual Tariff Investigation Order*, the Commission stated that for a price cap LEC that routinely develops unbiased per-line BFP revenue requirement forecasts, the price cap formula adjusts the CCL rate in a manner intended to generate the remainder of the common line revenues permitted under price caps not recovered from SLCs.[80] The Commission also stated, however, that an incumbent LEC that has consistently understated its per-line BFP revenue requirement has consistently and correspondingly inflated its maximum CCL rate. A price cap LEC uses its prior year's total common line revenues as the starting point in computing its CCL rate. If the price cap LEC understates its per-line BFP revenue requirement, thereby inflating its aggregate common line revenues in a given year, the price cap formula automatically builds this inflation into its CCL rate for the upcoming year. The increase to a price cap LEC's aggregate common line revenues is compounded each year a price cap LEC understates its per-line BFP revenue requirement. As the effects of this overstatement compound each year, the maximum CCL charge becomes increasingly

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[76] 47 C.F.R. §§ 69.501, 69.502.

[77] For price cap LECs, residential and single-line business SLCs are capped at $3.50 per month, while non-primary residential line SLCs are currently capped at $5.00 per month. The MLB SLC assessed by price cap LECs currently may not exceed $9.00 per month. 47 C.F.R. § 69.152. A price cap LEC's MLB SLC may exceed its monthly per-line BFP revenue requirement forecast only to the extent necessary to recover certain marketing expenses. 47 C.F.R. § 69.156 (permitting price cap LECs to increase the MLB SLC and non-primary residential SLC above the monthly per-line BFP revenue requirement to recover marketing expenses).

[78] 47 C.F.R. §§ 61.46(d-e); 69.153.

[79] 47 C.F.R. §§ 61.45(c), 61.46(d).

[80] *1997 Annual Tariff Investigation Order*, 13 FCC Rcd at 3856.

inflated, generating revenues that exceed the common line revenues intended to be permitted under price caps.[81] Although we acknowledged this effect in the *1997 Annual Tariff Investigation Order*, we did not order reductions to PCIs to remove the lingering effect of historically inflated maximum CCL rates, because the record did not provide sufficient information to allow calculation of such reductions.[82]

50. In the *Access Reform Tariffs Designation Order*, we tentatively concluded that the current maximum CCL rates of Bell Atlantic-South, Bell Atlantic-North, GTE, SWBT, the Sprint LTCs, and U S West were unreasonably high due to past understatement of per-line BFP revenue requirement.[83] We directed each of these carriers to provide, as part of its direct case, a recalculation of its maximum common line revenues, using the CCL Recalculation Methodology employed by AT&T in its December 23 Petition. We sought comment on this proposed methodology. We also sought comment on whether this proposed methodology should be adjusted to account for specific instances in which price cap LECs have priced their CCL charges below the permitted cap or have reduced their PCIs for a tariff year because of sharing. Additionally, we invited price cap LECs to submit alternative methodologies that in their view may present a more accurate calculation of their maximum common line revenues.[84]

2. Discussion

51. In this Order, we require Bell Atlantic-South, Bell Atlantic-North, the Sprint LTCs, GTE, SWBT, and U S West to make adjustments to their maximum permitted CCL rates to remove the effect that the consistent understatement of BFP revenue requirements has on their CCL rates. These price cap LECs must make these recalculations using the AT&T CCL rate recalculation methodology, as modified by this Order.

52. U S West, in its direct case, contends that the adjustment of CCL charges, as contemplated by the *Access Reform Tariffs Designation Order*, would conflict with the Commission's rules.[85] U S West argues that the Commission's rules do not contemplate a true-up process of this kind. Even if the Commission could require a true-up, U S West argues, it must first find the price cap LECs' CCL rates unreasonable and then determine that a reasonable rate requires this adjustment. U S West argues, however, that the Commission has effectively prescribed U S West's CCL rates and it may not now find those rates unreasonable. Further U S West argues that in order for the Commission to find the price cap LECs' CCL rates unreasonable, the Commission must find that only perfect BFP forecasts can produce reasonable rates.[86] In addition, U S West argues that if the

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81 *Id.*

82 *Id.* at 3857.

83 *Access Reform Tariffs Designation Order*, 13 FCC Rcd at 2264.

84 *Access Reform Tariffs Designation Order*, 13 FCC Rcd at 2264.

85 U S West Direct Case at 6.

86 U S West Direct Case at 6-7.

Commission institutes the adjustment contemplated in the *Access Reform Tariffs Designation Order*, "it must either determine the allowable margin for error in the LECs' BFP forecasts, or it must require a true-up to actual BFPs for all LECs, regardless of the accuracy of their forecasts."[87]

53. We reject U S West's assertion that we lack the authority to require price cap LECs to adjust their CCL rates to eliminate any lingering effect of previous understatements of their BFP revenue requirements. Under Section 201(b), we are charged with ensuring the price cap LEC rates are just and reasonable, and in exercising that authority, we have the ability to set just and reasonable rates when we find rates to be unreasonable.[88] The Communications Act empowers us "to determine and prescribe what will be the just and reasonable charge, or the maximum or minimum, or maximum and minimum, charge or charges" these LECs are permitted to impose.[89] We conclude that the current maximum CCL rates of Bell Atlantic-South, Bell Atlantic-North, the Sprint LTCs, GTE, SWBT, and U S West are unreasonably high due to past understatement of per-line BFP revenue requirement, and that they must recalculate their maximum CCL rates and common line revenues using the CCL rate recalculation methodology, as modified by this Order. We are not, in this Order, requiring these companies to refund or adjust their rates to account for the fact that their historic overstatement of BFP resulted in higher CCL rates in any period before January 1, 1998. These price cap LECs have been on notice that this issue is under investigation and that their 1998 rates may need to be adjusted accordingly.

54. U S West asserts that the Commission has "effectively prescribed U S West's CCL rates," and the Commission may not now "find those rates not justified under Section 204(a)."[90] The Commission has not "effectively," or otherwise, prescribed the maximum CCL rates for U S West. In the *1997 Annual Access Tariff Investigation Order*, we found that the CCL rates charged by U S West and several other price cap LECs were unreasonably high due to the understatement of the BFP revenue requirement forecast for the 1997-98 tariff year. We therefore required U S West and other price cap LECs to use the forecasts we prescribed to recalculate their common line rates for the January 1, 1998 through June 30, 1998 period. We further found that U S West and several other price cap LECs had consistently overstated their BFP revenue requirement over the course of several years and had correspondingly inflated their maximum CCL rates. Although prior to the 1997 annual access tariff investigation we allowed tariffs to go into effect that reflected understated BFP revenue requirements and inflated CCL rates, these rates went into effect without an investigation of BFP revenue requirement forecasts. The fact that tariffs were allowed to go into effect with CCL rates that reflected understated BFP revenue requirement forecasts, did not constitute a finding that these forecasts were just and reasonable. It is well established that a Commission decision allowing a tariff

[87] U S West Direct Case at 6.

[88] 47 U.S. C. § 201(b).

[89] 47 U.S.C. § 205(a).

[90] U S West Direct Case at 7-8.