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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
Forward-Looking Mechanism for High Cost Support for Non-Rural LECs	)	CC Docket No. 97-160
Common Carrier Bureau Seeks Comment on Model Platform Development	)	DA 98-1587

OPPOSITION OF AT&T CORP. TO
PETITIONS FOR RECONSIDERATION AND CLARIFICATION

Mark C. Rosenblum
Peter H. Jacoby
Room 3245H1
295 North Maple Avenue
Basking Ridge, New Jersey 07920
(908) 221-4243

David L. Lawson
James P. Young
Scott M. Bohannon
1722 I Street, N.W.
Washington, D.C. 20006
(202) 736-8000

Attorneys for AT&T Corp.

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TABLE OF CONTENTS

Page

INTRODUCTION AND SUMMARY 2

ARGUMENT 4

I. The Commission's Adoption Of A "Synthesis" Cost Model Platform Is Procedurally Proper And Supported In The Record 4

II. The Petitioners Identify No Inconsistencies Between The *Fifth Report And Order* And The Requirements Of The Communications Act Or The Commission's Previous Universal Service Orders 8

III. Petitioners Miscellaneous Claims That The Synthesis Model Is "Wrong" Simply Repeat Their Previous Arguments And Do Not Conceivably Warrant Reconsideration 15

IV. The Commission Should Reject The "Clarifications" Sought By Bell Atlantic 16

CONCLUSION 18

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OPPOSITION OF AT&T CORP. TO
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Pursuant to the Commission's Public Notice,[1] AT&T Corp. ("AT&T") hereby submits its opposition to petitions for reconsideration and clarification of the Commission's Fifth Report and Order, *Federal-State Joint Board on Universal Service*, DA 98-279, 1998 WL 751153 (Oct. 28, 1998) ("*Fifth Report and Order*"), filed by the Bell Atlantic telephone companies ("Bell Atlantic"), BellSouth Corporation ("BellSouth"), GTE Service Corporation ("GTE"), and SBC Communications, Inc ("SBC").

[1] Public Notice, *Federal-State Joint Board on Universal Service*, Petitions For Reconsideration And Clarification Of Action In Rulemaking Proceedings, CC Docket No. 96-45, 1998 WL 892973 (Dec. 23, 1998).

INTRODUCTION AND SUMMARY

Over the past two years, the Commission has offered a virtually unprecedented number of opportunities for members of the telecommunications industry and the general public to comment on the principles that should govern its universal service cost mechanism as well as the specific details of models proffered to perform that task. Despite numerous rounds of comments, public notices, formal workshops, and informal *ex parte* meetings, Bell Atlantic and GTE now fault the Commission's decision in the *Fifth Report and Order* to adopt a "synthesis" cost model comprised of "the best elements from each of the three models currently in the record" because, they brazenly claim, they did not have adequate notice or opportunity to comment on the model. As discussed in Section I, however, the Commission has made abundantly clear from the outset of this proceeding that, instead of selecting one of the proposed cost models "as is," it might create a synthesized model. Indeed, the Commission has asked the parties to discuss how components of the HAI, BCPM, and HCPM models could best be combined. Bell Atlantic and GTE have commented many times on *all* components of the synthesis model and have had the opportunity to comment on the synthesizing process. They cannot, therefore, legitimately claim a lack of notice or opportunity to scrutinize the model. Moreover, petitioners' criticism of the Commission's laudable efforts to improve the synthesis model following release of the *Fifth Report and Order* is particularly inappropriate given that much of the post-endorsement evolution has been urged *by the petitioners*.

Petitioners also raise a number of allegations that the synthesis model is inconsistent with the Communications Act and the Commission's universal service policies. As shown in Section II, most of these claims already have been presented to the Commission, which properly found them without merit based on substantial record evidence. For example, SBC and GTE shamelessly attempt to replace forward-looking cost pricing with embedded cost pricing even

though state and federal agencies have rejected their arguments time and time again. Further, petitioners attack the synthesis model's *platform* by criticizing its *inputs* despite the *Fifth Report and Order's* unambiguous statement that input issues will be resolved in future proceedings. In particular, GTE and BellSouth insist that the model is not open to review and verification because it uses PNR's geocode data. But the source of geocode data, the Commission expressly stated, is an input issue not resolved in the *Fifth Report and Order*. Further, GTE, true to form, has regurgitated the same laundry list of supposed model defects it shrieks at every available opportunity. But the parties to this proceeding have demonstrated repeatedly that GTE's claims are invariably premised on erroneous factual assertions.

In Section III, AT&T rebuts the petitioners' claim that the synthesis model is imprecise. Once again, most of their claims are based on input values, improper application of forward-looking cost principles, and false factual premises. More fundamentally, however, the petitioners' attempt to set perfection as the standard the synthesis model must meet to survive arbitrary and capricious review is entirely misguided. *All* cost estimation methods are imperfect. The Commission's duty here, then, was to make the best of several imperfect submissions. Further, despite numerous opportunities, the petitioners still have not proffered any statistically valid analysis demonstrating that, for example, loop estimation methods produce significant inaccuracies, nor have they ever provided alternative methods that provide more accurate results.

Finally, as shown in Section IV, the Commission should reject Bell Atlantic's proposed "clarifications." It would be improper for the Commission to adopt additional criteria for use in selecting a cost mechanism when the Commission has already chosen a model. Even if it made sense to consider additional criteria at this juncture, the Commission's decision not to use the incumbent LECs' embedded network design parameters to verify the parameters in a forward-

looking, efficient design was supported by substantial record evidence and sound economics. In addition, the Commission should not reach out beyond this proceeding and prohibit the use of the selected cost model for other purposes when the Commission has expressly refrained from endorsing this synthesis model for anything but estimating universal service support costs.

ARGUMENT

I. The Commission's Adoption Of A "Synthesis" Cost Model Platform Is Procedurally Proper And Supported In The Record.

Bell Atlantic (at 2-7) and GTE (at 7-14) ignore both the facts and the law in claiming that the Commission violated notice and comment requirements in endorsing its "synthesis" cost model comprised of "the best elements from each of the three models currently in the record." *Fifth Report and Order*, ¶ 4. Indeed, one would be hard-pressed to identify an agency proceeding in which interested parties had *more* notice and opportunity to comment than Bell Atlantic, GTE and others had here in the nearly two year process of detailed public notices, multiple rounds of comments, formal workshops and informal *ex parte* meetings that led to the *Fifth Report and Order*.

GTE's own description of the proceedings is instructive. By the May 1997 issuance of the Commission's First Report and Order in the universal service docket,[2] GTE notes, the Commission had already "conducted a four-month investigation into BCPM, HAI and TECM, conducted public workshops on the workings of the models, and reviewed the comments, analyses and evidence submitted by interested parties." GTE at 4. In July 1997, the Commission issued a detailed further notice, followed, in GTE's words, by "15 months of

[2] First Report and Order, *Federal-State Joint Board on Universal Service*, 12 FCC Rcd. 8776, (1997) ("*Universal Service Order*").

exhaustive review and comment" on the structure, algorithms and assumptions associated with each component of the BCPM model, the HAI model and the HCPM model sponsored by the Commission's staff. GTE at 6-7; *see also* GTE at 10 ("The Commission rightly gave GTE and (all other parties) several months to analyze each version of those models after they had been publicly filed"). And GTE leaves out that, during this period the Commission's Common Carrier Bureau held numerous public workshops and released four *additional* public notices providing specific recommendations and seeking comment on the very issues GTE raises again here,[3] that GTE (and the other petitioners) submitted no less than ten separate sets of comments and supporting evidence, that GTE and others were given further opportunities to explain their concerns directly to the Commission's staff,[4] and that the public record in this proceeding was supplemented with orders and evidence from additional state cost model proceedings in which petitioners had participated.[5] In short, the claim of inadequate notice and comment is absurd on its face.

Bell Atlantic and GTE complain that the Commission's synthesis model is a "new model" that the Commission never made available for public comment. The reality, however, is

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[3] *See* Public Notice, Guidance to Proponents of Cost Models in Universal Service Proceeding: Switching, Interoffice Trunking, Signaling, and Local Tandem Investment, DA 97-1912, 13 FCC Rcd. 5884 (Sep. 3, 1997); Public Notice, Guidance to Proponents of Cost Models in Universal Service Proceeding: Customer Location and Outside Plant, DA 97-2372, 12 FCC Rcd. 18340 (Nov. 13, 1997); Public Notice, Common Carrier Bureau Requests Further Comment On Selected Issues Regarding The Forward-Looking Economic Cost Mechanism For Universal Service Support, DA 98-848, 13 FCC Rcd. 9346, 9347 (May 4, 1998) ("we wish to give parties the opportunity to update their comments"); Public Notice, Common Carrier Bureau Seeks Comment On Model Platform Development, DA 98-1587, 1998 WL 458414 (Aug. 7, 1998).

[4] *See, e.g.*, GTE Sept. 17, 1998 ex parte meeting.

[5] *See* Public Notice, Common Carrier Bureau Seeks Comment on State Forward-Looking Cost Studies for Universal Service Support, DA 98-1055, 19XX WL 503678 (rel. June 4, 1998).

that each of the principal components that make up the synthesis platform was lifted from one of the three publicly-noticed models that the petitioners concede were available for exhaustive review and comment.[6] And Bell Atlantic and GTE did, in fact, file extensive comments on each of the synthesis model components ultimately endorsed by the Commission. Indeed, as discussed below, those comments leveled the same baseless criticisms that Bell Atlantic and GTE now contend warrant yet another comment cycle.[7] *See also* Order, *Federal-State Joint Board on Universal Service*, Forward-looking Mechanism for High Cost Support for Non-Rural LECs, DA 98-2567, 1998 WL 879827, ¶ 3 n. 9 (rel. Dec. 17, 1998) ("*GTE Data Request Order*") ("All of these models have been available to all interested parties on the record throughout this proceeding").

Nor can Bell Atlantic and GTE credibly feign surprise that the Commission combined components from the three models rather than endorsing a single model "as is." As the Commission noted in the *Fifth Report and Order*, it gave *express* notice that a possible outcome "would be development of a hybrid or synthesis model that combines selected components of different models with additional components and algorithms drawn from other sources." *Fifth Report and Order*, ¶ 17. *See also* Further Notice of Proposed Rulemaking, *Federal-State Joint*

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[6] Thus, for the outside plant design, the synthesis platform combines the HAI approach of using actual geocode data, where available, to determine customer location, the BCPM approach of using road network information to locate customers when geocode data is unavailable, and the HCPM algorithm for grouping customers (which both Bell Atlantic and GTE hailed as preferable to the other models' "clustering" approaches, *see* Bell Atlantic Comments at 2 (filed Aug. 28, 1998); GTE comments at 17 (filed Aug. 28, 1998), and designing outside plant to reach those customers. With respect to the other two principal components, the switching and interoffice transport module and the expense module, the synthesis platform adopts the HAI approach. *See Fifth Report and Order,* ¶¶ 75, 91.

[7] Thus, GTE's claim (at 11 n.33) that its right to judicial review is prejudiced because it will be unable to cite any record evidence critical of the Commission's synthesis model is a makeweight.

Board on Universal Service, CC Docket No. 96-45, 12 FCC Rcd. 18514, ¶¶ 35-36 (July 18, 1997).

To be sure, the Commission has continued to refine the synthesis model since its adoption in the *Fifth Report and Order*. But that is as it should be: "the task of establishing a model to estimate forward-looking costs is a dynamic process that will need to be reviewed and adjusted periodically." *Fifth Report and Order*, ¶ 13. Moreover, petitioners' criticism of the Commission's laudable efforts to make the synthesis model platform as open, user-friendly and error-free as possible is particularly inappropriate given that much of the post-endorsement evolution has been urged *by the petitioners*.

In all events, petitioners' theory that notice and comment requirements obligate the Commission to restart the notice and comment clock any time it determines that selecting some mix of the parties' proposals is preferable to endorsing one party's position in its entirety is not the law. Rather, as the principal authority cited by GTE makes clear, the relevant inquiry is whether commenters would have knowledge that the issue in which they were interested was "on the table," *American Medical Ass'n* v. *United States*, 887 F.2d 760, 768 (7th Cir. 1989). Here, the Commission undeniably placed the possibility of a synthesis model composed of components of the BCPM, HAI and HCPM models "on the table," and it gave interested parties every opportunity to comment on that issue.[8]

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[8] *See also, e.g.*, Further Notice of Proposed Rulemaking, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 12 FCC Rcd. 18514, ¶¶ 35-36 (1997); Public Notice, Guidance to Proponents of Cost Models in Universal Service Proceeding: Switching, Interoffice Trunking, Signaling, and Local Tandem Investment, DA 97-1912, 13 FCC Rcd. 5884, 5885 n.7 (1997); Public Notice, Guidance to Proponents of Cost Models in Universal Service Proceeding: Customer Location and Outside Plant, DA 97-2372, 12 FCC Rcd. 18340, 18341 (1997); Public Notice, Common Carrier Bureau Seeks Comment On Model Platform Development, DA 98-1587, 1998 WL 458414, *2 n.4 (Aug. 7, 1998).

GTE's claim (at 14-15) that the synthesis model is not supported in the record, because it was not created until after the record closed, rests on the same false premise. The synthesis model is, as its label suggests, a synthesis of selected components of the three publicly-noticed models, and, as GTE concedes, literally "thousands of pages of comments and other evidence pertain" to those models and their components. GTE at 15. GTE cannot dispute that each of the Commission's choices among competing proposals and evidence – *e.g.*, the choice to prefer actual geocoded location data over cruder measures of customer location -- that produced the synthesis model is well-supported in the record. Indeed, GTE is unable to identify even one instance in which the Commission adopted a contested model component, assumption or algorithm based on "inadequate data" or "secret data" (GTE at 14). In sum, petitioners' procedural attacks are entirely lacking in substance -- the synthesis cost model platform is a logical outgrowth of the notice and comment process and finds more than adequate support in the record.

II. The Petitioners Identify No Inconsistencies Between The *Fifth Report And Order* And The Requirements Of The Communications Act Or The Commission's Previous Universal Service Orders.

Petitioners strain mightily to identify an inconsistency between the synthesis model approach and some requirement of the Communications Act or the Commission's own universal service policies. None of these claims has merit. In each case, the conclusion of inconsistency rests on a clear misreading of the *Fifth Report and Order*, the Act or *Universal Service Order* provision to which it is being compared, or both. In particular, petitioners display a troubling inability to recognize "the division the Commission drew between 'platform' issues – which relate to the fixed assumptions, algorithms, and logic and the other 'moving parts' that determine the network structure that the model will consider in estimating costs – and 'inputs' issues –

which relate to values that an individual using the model can vary." Order, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, ¶ 5 (Dec. 17, 1998)

The Act. SBC and GTE repeat their long-discredited arguments that the synthesis model violates the Act simply because it relies on forward-looking economic cost (or "FLEC"), rather than their "actual" embedded costs. These claims range from the nonsensical notion that the Commission must ensure that "FLEC costs should accurately reflect embedded costs" (SBC at 4) to the shamelessly results-oriented suggestion that the Commission "should provide for a true-up which would compare [model] results to actual or embedded costs as a reasonableness check." *Id.*; *see also* GTE at 4. The simple answer is the one that regulators and courts nationwide have unanimously given to petitioners and their brethren in the countless proceedings in which they have made such arguments: the pro-competition Act certainly permits (and may require) the use of forward-looking costs rather than an embedded cost approach that "provides the wrong signals to potential market entrants." *Fifth Report and Order*, ¶ 10; *see also, e.g.*, *Universal Service Order*, ¶¶ 224-25; Joint Board Second Recommended Decision, *Federal-State Joint Board on Universal Service,* FCC 98J-7, 1998 WL 814511, ¶ 27 (Nov. 25, 1998) ("[w]e continue to believe that federal high cost support should be based on forward-looking economic costs"); *Southwestern Bell Tel. Co.* v. *AT&T Communications, Inc.*, 1998 WL 657717, *10-13 (W.D. Tex. Aug. 31, 1998); *GTE S., Inc.* v. *Morrison*, 6 F. Supp. 2d 517, 529 (E.D. Va. 1998); *MCI Telecomms. Corp.* v. *Pacific Bell*, No. C 97-0670 SI, slip op. at 7 (N.D. Cal. Sept. 29, 1998).

BellSouth fares no better with its odd assertion that the synthesis model's expense module (taken from the HAI model) is inconsistent with 47 U.S.C. § 214(e), which requires eligible telecommunications carriers "to advertise the availability of such services and the charges therefor using media of general distribution," because the expense module fails to

include these "non-discretionary" marketing expenses. BellSouth at 5. But the *Fifth Report and Order* adopts only the logic and algorithms of the HAI expense module; it says nothing at all about what level of marketing (or any other) expenses is appropriate as an *input* to that module. Rather, as the *Fifth Report and Order* – and the many public notices in this proceeding -- make absolutely clear, such *input* issues are to be addressed in the ongoing input phase of the cost model proceeding. BellSouth will have every opportunity there to attempt to persuade the Commission that: (i) carriers will need to expend significant sums informing customers about the availability of supported services that virtually every potential customer already purchases, and (ii) the fact that § 214(e) requires a carrier both to offer and to advertise the services included in the definition of universal service throughout its service area in order to be eligible to receive federal universal service funding necessarily means that that such marketing expenses constitute a cost of providing universal service that other carriers must fund. Indeed, BellSouth is already pursuing this very issue in the input proceedings. *See* Letter from Richard M. Sbaratta to Magalie Roman Salas (Dec. 16, 1998) (arguing for inclusion of additional marketing expenses as input to synthesis cost model).

The Commission's Universal Service Policies. GTE claims that the synthesis cost model platform endorsed in the *Fifth Report and Order* is inconsistent with several of the ten cost model criteria the Commission established in the *Universal Service Order*. Like BellSouth, GTE largely focuses on input issues that were not even resolved in the *Fifth Report and Order* (and remain open). And even where GTE's claims of inconsistency target issues that the Commission actually addressed in the *Fifth Report and Order*, those claims are invariably premised on erroneous factual assertions that have already been raised and discredited.

GTE first argues that the Commission's adoption of an 18,000 foot maximum loop length renders the synthesis model inconsistent with the first *Universal Service Order* criterion, because 18,000 foot loops cannot support high-speed services and thus "impede[] the provision of advanced services." GTE at 17-18 (quoting *Universal Service Order*, ¶ 250). GTE and other LECs made the same argument in their comments.[9] As AT&T and MCI demonstrated, the claim is doubly flawed: (1) in fact, it is well established that 18,000 foot loops *can* support high-speed services including ISDN and some forms of ADSL,[10] and (2) the later-generation ADSL services cited by the LECs are not even *available* today to most customers, much less within the "core" services that will be supported by universal service support mechanisms, *see Universal Service Order*, ¶ 61. Based on this evidence, the Commission correctly rejected GTE's claim. *See Fifth Report and Order*, ¶¶ 68-70.[11]

GTE finds a second inconsistency between the first criterion and the synthesis model in the model's supposed failure to produce wire center line count and loop length results that mirror the LECs' actual wire center line counts and loop lengths. *See* GTE at 18-19. With respect to

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[9] *See, e.g.*, *Fifth Report and Order*, ¶ 69 n. 131.; *see also* Public Notice, Common Carrier Bureau Requests Further Comment On Selected Issues Regarding The Forward-Looking Economic Cost Mechanism For Universal Service Support, DA 98-848, 12 FCC Rcd. 9346, 9349 (May 4, 1998) ("In particular, we seek comment on the type and cost of line cards required to serve loops between 12,000 and 18,000 feet from a DLC remote terminal")

[10] *See* Reply Comments of AT&T Corp. on State Universal Service Cost Studies, pp. 11-12 (filed July 9, 1998) ("Reply Comments of AT&T") (citing record evidence demonstrating the feasibility of providing ADSL services using the engineering specifications adopted in the synthesis model); GTE Comments at n. 37 (acknowledging that 18,000 foot loops could carry at least 1.5 megabits per second -- far beyond the capabilities currently available to customers).

[11] GTE's claim that the synthesis model violates the first *Universal Service Order* criterion by using "obsolete" copper-based T-1 DLC technology is likewise both a rehash and wrong. Copper T-1 DLC is being deployed today and is by no means an obsolete technology. *See Fifth Report and Order*, ¶¶ 61-66 ("HCPM also considers the relative costs of placing various feeder technologies (fiber or T-1 on copper) and selects the most economical technology").

line counts, GTE faults the Commission for a problem of GTE's own making. As AT&T and MCI have previously explained, there is nothing about the synthesis model that prevents it from producing wire center counts equal to actual wire center counts – so long as accurate and verifiable wire center line count data for each service (*e.g.*, primary and secondary residence, single line business, multiline business, public and special) are available. The problem, of course, is that GTE and other LECs have, to date, refused to make that data publicly available. *See, e.g.*, Reply Comments of AT&T at 6-7. With respect to loop lengths, the cited criterion requires only that a "model's *average* loop length should *reflect* the incumbent carrier's actual average loop length." *Universal Service Order*, ¶ 250. GTE's own affiant concedes that the equality GTE incorrectly sets as the standard is not essential, *see* Dippon Aff., and GTE offers neither theory nor evidence demonstrating that the synthesis model, once populated with suitable input data, will not produce average loop lengths that appropriately "reflect" actual average loop lengths.

GTE's claim (at 19) that the synthesis model violates the second *Universal Service Order* criterion, that "every network function or element have an associated cost," by excluding certain operations support systems, testing and trunk installation labor costs, cannot be taken seriously as GTE identifies neither the specific costs it asserts are missing nor the methodology behind its determination that those costs should be, but are not, reflected. Certainly, no broad reading of these claims could be credited. AT&T notes, for example, that because the synthesis model's expense module begins with the LECs' own ARMIS data, such expenses will be reflected to the extent the LECs have recorded them in the appropriate ARMIS accounts.[12] Similarly, the

[12] HIP Appendix C at 158-59.

synthesis model's estimation of fiber placement costs includes a capitalized labor component.[13] To the extent GTE's quibbles instead merely are over the absolute amounts of particular expense module inputs, those concerns can be addressed in the input phase of this proceeding.[14]

GTE again merely repeats arguments it made in its comments with its mistaken claim that a cost model violates the *Universal Service Order's* sixth criterion unless it builds to *all* housing units, whether or not they are occupied (or even built). *See* GTE at 20. The sixth criterion merely clarifies that multi-line businesses must be supported; it nowhere addresses the issue of unoccupied households. *See Universal Service Order,* ¶ 250. Moreover, the commenters (including some LECs) overwhelmingly supported the Commission's determination that the appropriate universe of households for universal service purposes is households with telephones. As the North Dakota PSC noted, GTE's preferred approach of including unoccupied houses – including "ghost towns" in rural counties, where as many as one third of existing housing units are unoccupied – would "distort the results, especially in rural areas," thereby dramatically overstating the need for support. *See* Comments of North Dakota Public Service Commission at 1-2 & Table 1; Reply Comments of AT&T at 11-12.

Equally spurious are GTE's and BellSouth's claims that the synthesis model violates criteria 8 and 9, which require a universal service cost model to be available for review and subject to verification of its assumptions and engineering principles. Petitioners "support" this claim principally with attacks on the geocoded customer location data that is provided by PNR

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[13] HIP Section 3.4.2 at 59-60.

[14] GTE also claims that the FCC Model fails to include the costs of "certain SS7 signaling links." Again, the Commission has no way of evaluating GTE's claim, since neither GTE nor its affiants identify the signaling links to which they are referring. *See* GTE at 19; Murphy Aff., ¶¶ 79-80; Dippon Aff., ¶ 33.

and Associates, and that petitioners claim is not available for their review. Petitioners again stray to input issues that were not resolved in the *Fifth Report and Order*. As the Commission clearly stated: "while we conclude that the federal mechanism should use geocoded data to the extent available, we do not in this Order adopt a particular source of geocode data." *Fifth Report and Order*, ¶ 34. Petitioners can (and undoubtedly will) pursue their campaign against the PNR data at the input stage, *see id.* ("a reasonable source of verifiable geocode data can be determined at the inputs stage of this proceeding"), but complaints about that (and other) input data are out of bounds at this stage. Further, the PNR data *is* available for petitioners' review (indeed, they concede they have already reviewed it). In this regard, the notion that a $3,000/day charge creates a significant barrier to a multi-billion dollar corporation seeking billions of dollars in universal support is ridiculous (*see* BellSouth at 4), but PNR has agreed to make geocoded data available for only the cost of shipping. *GTE Data Request Order*, ¶ 9 & n.34. Finally, GTE and BellSouth do not even need the PNR data to run or evaluate the synthesis model. Rather, "an analysis of the model platform's logic can be conducted through studying the model source code and the documentation of the model's algorithms." *GTE Data Request Order*, ¶ 9. Moreover, other geocode data is available "from a number of sources." *Id.* Indeed, "carriers such as GTE could easily create geocoded customer location data by running their customer billing address list through widely available software programs that convert addresses to geocodes." *Id.*[15]

[15] GTE has informed the Commission that it already geocodes customer locations. *Fifth Report and Order*, ¶ 34 n. 73.

III. Petitioners Miscellaneous Claims That The Synthesis Model Is "Wrong" Simply Repeat Their Previous Arguments And Do Not Conceivably Warrant Reconsideration.

Petitioners raise numerous ways in which the synthesis model is, in their view, imprecise. As in the multiple rounds of comments in this proceeding, these claims (and most of the claims raised here are the same ones made in the comments) are almost invariably targeted at input issues,[16] based on flawed views of forward-looking cost estimation,[17] or false factual premises.[18] More fundamentally, however, the LECs' attempts to set perfection as the standard the synthesis model must meet to survive arbitrary and capricious review are entirely misguided. The Commission's choice here was not between a perfect model and an imperfect one. Cost models (as all models) are, by definition, imperfect, being simplified mechanisms to estimate things that cannot be measured directly. The Commission's task was to make the best of several imperfect submissions – any one of which was, however, preferable to the existing embedded cost-based high cost fund. Thus, petitioners gain nothing in speculating that the synthesis model could be improved – petitioners had every opportunity to offer specific, workable alternatives, but, in their zeal to avoid *any* forward-looking cost estimation, they simply chose not to do so.

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[16] For example, GTE erroneously claims that the FCC switching module ignores busy season switch and trunk design principles. GTE at 22. But those "principles" are reflected in inputs to the switching module and thus should be addressed in the input phase of the proceeding.

[17] GTE affiant Zhang (at ¶¶ 15-17), for example, complains that synthesis model does not estimate costs of the individual switch types that LECs have deployed in different wire centers. But the purpose of forward-looking cost estimation is not to replicate the LECs' existing networks or cost structures, but to estimate based upon the best publicly available data what an efficient competitor would spend on switching capacity today.

[18] GTE is simply wrong, for example, in claiming that the synthesis model employs a line to trunk ratio of 24:1, which GTE claims is four times the industry standard and thus not a reasonable engineering assumption. *See* GTE at 21-22. GTE appears to have misread the outputs of the HAI module used by the synthesis model, dividing total lines by only the number

(. . . continued)

A good example of this latter flaw in the petitioners approach is their claim that the synthesis model is likely to be inaccurate at the wire center level because road factor and rectilinear routing to approximate loop lengths are imprecise in some circumstances. GTE and others have repeated that claim like a mantra throughout these proceedings. The critical facts, however, are that, despite repeated invitations, the LECs have never been able to show in any statistically valid way that these methods of loop estimation produce significant inaccuracies and, more importantly, have never offered any alternative solution that provides more accurate results. The story is the same with respect to each of the other supposed imperfections petitioners identify here.

IV. The Commission Should Reject The "Clarifications" Sought By Bell Atlantic.

Bell Atlantic asks the Commission to "clarify" its standards for establishing the validity of a cost proxy model by endorsing a view Bell Atlantic concedes the Commission specifically "rejected" in the *Fifth Report and Order* – *i.e.*, that "outside plant design parameters should be verified by comparing the design of the model networks in specific locations to the design of incumbent LECs' existing plant in those locations." *Fifth Report and Order*, ¶ 66 & n.118. There is no conceivable basis for the about-face that Bell Atlantic seeks. As the Commission recognized, "the design of the existing networks . . . may not represent the least-cost, most efficient design." *Id.*, ¶ 66. Indeed, the "LECs' existing plant . . . was designed and built in a monopoly environment, and therefore may not reflect the economic choices faced by an efficient provider in a competitive market" *Id.* But even if Bell Atlantic's proposed clarification did not directly conflict with a core ruling of the *Fifth Report and Order*, there is no longer any need to

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(continued . . .)
of dedicated transport switched trunks, rather than the much larger (and relevant) total trunk figure that would include common and direct switched trunks.

establish criteria for the evaluation of competing cost model platforms – the Commission has already selected the synthesis model.

The Commission should likewise reject Bell Atlantic's request that the Commission reach out beyond the scope of this proceeding and prohibit the use of the selected cost model for any other purpose. The *Fifth Report and Order* does not endorse the synthesis model for any other purpose and, indeed, expressly notes that the Commission has not *considered* the validity of its selected model for purposes other than universal service. *See Fifth Report and Order*, ¶ 12 ("the selection of the synthesis platform is based solely on our evaluation of its performance for determining non-rural carriers' forward-looking costs for universal service purposes. We have not evaluated it for any other purpose"). Given that the Commission has not evaluated the synthesis model for other purposes, it is difficult to conceive the basis upon which Bell Atlantic would have the Commission opine that the model is not useful for other purposes.[19]

[19] Bell Atlantic's substantive complaints about the use of the synthesis model for network element costing purposes are easily answered. Bell Atlantic complains, for example, that vertical features costs are not included in the synthesis model. That is untrue. To the extent LECs are buying switches today that do have vertical features (as they are), these costs are included in the HAI switching module incorporated in the synthesis model. Further, to the extent such costs were not properly reflected in the universal service input data, alternative input values for network element purposes could easily address this (as well as costs of ISDN cards and other advanced services costs).

CONCLUSION

For the foregoing reasons, the Commission should deny the petitions for reconsideration and clarification.

Respectfully submitted,

AT&T CORP.

Mark C. Rosenblum /smb

Mark C. Rosenblum
Peter H. Jacoby
Room 3245H1
295 North Maple Avenue
Basking Ridge, New Jersey 07920
(908) 221-4243

David L. Lawson
James P. Young
Scott M. Bohannon
1722 I Street, N.W.
Washington, D.C. 20006
(202) 736-8000

Attorneys for AT&T Corp.

January 15, 1999

CERTIFICATE OF SERVICE

I, Scott M. Bohannon, do hereby certify that on this 15th day of January, 1999, I caused a copy of the foregoing Opposition of AT&T Corp. to Petitions for Reconsideration and Clarification to be served upon each of the parties listed on the attached Service List by U.S. First Class mail, postage prepaid.

/s/ Scott M. Bohannon

Scott M. Bohannon

SERVICE LIST

Honorable William E. Kennard
Chairman
FEDERAL COMMUNICATIONS COMMISSION
445 12th Street, SW
Washington, DC 20554

Honorable Gloria Tristani
Commissioner
FEDERAL COMMUNICATIONS COMMISSION
445 12th Street, SW
Washington, DC 20554

Honorable Susan Ness
Commissioner
FEDERAL COMMUNICATIONS COMMISSION
445 12th Street, SW
Washington, DC 20554

Honorable Harold Furchtgott-Roth
Commissioner
FEDERAL COMMUNICATIONS COMMISSION
445 12th Street, SW
Washington, DC 20554

Honorable Julia Johnson
Chairman
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Gerald Gunter Building
Tallahassee, FL 32399-0850

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Commissioner
GEORGIA PUBLIC SERVICE COMMISSION
244 Washington Street, SW
Atlanta, GA 30334-5701

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Chairman
FEDERAL COMMUNICATIONS COMMISSION
445 12th Street, SW
Washington, DC 20554

Honorable Laska Schoenfelder
Commissioner
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
State Capitol
500 East Capitol Street
Pierre, SD 57501-5070

Martha S. Hogerty
MISSOURI OFFICE OF PUBLIC COUNCIL
301 West High Street
Suite 250
P.O. Box 7800
Jefferson City, MO 65102

Tom Boasberg
Office of the Chairman
FEDERAL COMMUNICATIONS COMMISSION
445 12th Street, SW
Washington, DC 20554

Charles Bolle
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
State Capitol
500 East Capitol Street
Pierre, SD 57501-5070

Deonne Bruning
NEBRASKA PUBLIC SERVICE COMMISSION
300 The Atrium
1200 N Street
P.O. Box 94927
Lincoln, NE 68509-4927

James Casserly
Commissioner Ness' Office
FEDERAL COMMUNICATIONS COMMISSION
445 12th Street, SW
Washington, DC 20554

Rowland Curry
TEXAS PUBLIC UTILITY COMMISSION
1701 North Congress Avenue
P.O. Box 13326
Austin, TX 78701

Bridget Duff
State Staff Chair
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0866

Kathleen Franco
FEDERAL COMMUNICATIONS COMMISSION
445 12th Street, SW
Washington, DC 20554

Paul Gallant
FEDERAL COMMUNICATIONS COMMISSION
445 12th Street, SW
Washington, DC 20554

Emily Hoffnar
Federal Staff Chair
FEDERAL COMMUNICATIONS COMMISSION
Accounting and Audits Division
Universal Service Branch
2100 M Street, NW
Room 8617
Washington, DC 20554

Lori Kenyon
ALASKA PUBLIC UTILITIES COMMISSION
1016 West Sixth Avenue
Suite 400
Anchorage, AK 99501

Debra M. Kriete
PENNSYLVANIA PUBLIC UTILITIES COMMISSION
North Office Building, Room 110
Commonwealth and North Avenue
P.O. Box 3265
Harrisburg, PA 17105-3265

Sandra Makeef
IOWA UTILITIES BOARD
Lucas State Office Building
Des Moines, IA 50319

Philip F. McClelland
PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE
1425 Strawberry Square
Harrisburg, PA 17120

Thor Nelson
COLORADO OFFICE OF CONSUMER COUNSEL
1580 Logan Street
Suite 610
Denver, CO 80203

Barry Payne
INDIANA OFFICE OF CONSUMER COUNSEL
100 North Senate Avenue
Room N501
Indianapolis, IN 46204-2208

Timothy Peterson
Deputy Division Chief
FEDERAL COMMUNICATIONS COMMISSION
Accounting and Audits Division
2100 M Street, NW
Room 8613
Washington, DC 20554

James B. Ramsay
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS
1100 Pennsylvania Avenue, NW
P.O. Box 684
Washington, DC 20044-0684

Brian Roberts
CALIFORNIA PUBLIC UTILITIES COMMISSION
505 Van Ness Avenue
San Francisco, CA 94102

Kevin Schwenzfeier
NEW YORK STATE DEPT. OF PUBLIC SERVICE
3 Empire State Plaza
Albany, NY 12223

Tiane Sommer
GEORGIA PUBLIC SERVICE COMMISSION
244 Washington Street, SW
Atlanta, GA 30334-5701

Sheryl Todd (plus 8 copies)
FEDERAL COMMUNICATIONS COMMISSION
Accounting and Audits Division
Universal Service Branch
2100 M Street, NW
Room 8611
Washington, DC 20554

Margot Smiley Humphrey
KOTEEN & NAFTALIN
1150 Connecticut Avenue, NW
Suite 1000
Washington, DC 20036

IRWIN, CAMPBELL & TANNENWALD
1730 Rhode Island Avenue, NW
Suite 200
Washington, DC 20036

Joe D. Edge
DRINKER, BIDDLE & REATH
901 15th Street, NW
Suite 900
Washington, DC 20005

Robert A. Mazer
VINSON & ELKINS
1455 Pennsylvania Avenue, NW
Washington, DC 20004-1008

Michael S. Pabian
Larry A. Peck
AMERITECH
2000 West Ameritech Center Drive
Room 4H86
Hoffman Estates, IL 60196-1025

Lawrence W. Katz
BELL ATLANTIC
1320 North Court House Road
8th Floor
Arlington, VA 22201

Joseph DiBella
BELL ATLANTIC
1300 I Street, NW
Suite 400 West
Washington, DC 20005

M. Richard Sutherland
Richard M. Sbaratta
BELLSOUTH
1155 Peachtree Street, NE
Suite 1700
Atlanta, GA 30309-3610

David N. Porter
Vice President - Government Affairs
WORLDCOM
1120 Connecticut Avenue, NW
Suite 400
Washington, DC 20036

Gail L. Polivy
GTE SERVICE CORPORATION
1850 M Street, NW
Suite 1200
Washington, DC 20036

John F. Raposa
GTE SERVICE CORPORATION
600 Hidden Ridge Drive
HQE03J27
Irving, Texas 75038

Bernard A. Nigro, Jr.
Thomas W. Mitchell
Christopher S. Huther
COLLIER, SHANNON, RILL & SCOTT
3050 K Street, N.W.
Washington, DC 20007

Robert B. McKenna
US WEST, INC.
1020 19th Street, NW
Suite 700
Washington, DC 20036

Jay C. Keithley
SPRINT CORP.
1850 M Street, NW
Suite 1110
Washington, DC 20036

Robert M. Lynch
Roger K. Toppens
Hope Thurott
SBC COMMUNICATIONS, INC.
One Bell Center
Room 3524
St. Louis, MO 63101

Jeffrey S. Linder
Suzanne Yelen
WILEY, REIN & FIELDING
1776 K Street, NW
Washington, DC 20006

Kathleen Q. Abernathy
AIRTOUCH COMMUNICATIONS
1818 N Street, NW
Suite 800
Washington, DC 20036

Cynthia B. Miller
FLORIDA PUBLIC SERVICE
COMMISSION
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Adam Golodner
RURAL UTILITIES SERVICE
Deputy Administrator
1400 Independence Avenue, SW
Washington, DC 20250

Stephen L. Goodman
NORTHERN TELECOM
HALPRIN TEMPLE GOODMAN &
SUGRUE
1100 New York Avenue, NW
Suite 650 East Tower
Washington, DC 20005

John G. Lamb, Jr.
NORTHERN TELECOM
2100 Lakeside Boulevard
Richardson, TX 75081-1599

Dennis Crawford
MONTANA PUBLIC SERVICE
COMMISSION
P.O. Box 202601
Helena, MT 59620-2601

Frank E. Landis
NEBRASKA PUBLIC SERVICE
COMMISSION
300 The Atrium
1200 N Street
Lincoln, NE 68508

Eve Kahao Gonzalez
LOUISIANA PUBLIC SERVICE
COMMISSION
P.O. box 91154
Baton Rouge, LA 70821-9154

Milton Higa
HAWAII PUBLIC SERVICE
COMMISSION
465 South King Street
Room 103
Honolulu, HI 96813

Robert Bennink
Director and General Counsel
NORTH CAROLINA UTILITIES
COMMISSION
430 North Salisbury Street
Raleigh, NC 27603

SOUTH CAROLINA PUBLIC SERVICE
COMMISSION
111 Doctors Circle
P.O. Box 11649
Columbia, SC 29211

Edward A. Garvey
Chairman
MINNESOTA PUBLIC UTILITIES
COMMISSION
121 7th Place East
Suite 350
St. Paul, MN 55101

MICHIGAN PUBLIC SERIVCE
COMMISSION
6545 Mercantile Way
Lansing, MI 48911

Jason Hendricks
Rasha Yow
Chris Graves
ILLINOIS COMMERCE
COMMISSION
P.O. Box 19280
Springfield, IL 62794-9280

Executive Director
KENTUCKY PUBLIC SERVICE
COMMISSION
730 Schenkel Lane
Frankfort, KY

Tom Wilson
WASHINGTON UTILITIES &
TRANSPORTATION COMMISSION
1300 Evergreen Park Drive, SW
Olympia, WA 98504-7250

Phoebe Isales
PUERTO RICO PUBLIC SERVICE
COMMISSION
235 Arterial Hostos Avenue
Capital Center
North Tower, Suite 901
San Juan, Puerto Rico 00918-1453

Brian J. Cohee
INDIANA UTILITIES REGULATORY
COMMISSION
302 W. Washington St.
Suite E306
Indianapolis, IN 46204

Maureen A. Scott
ARIZONA CORPORATION
COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

Joel B. Shiftman
MAINE PUBLIC UTILITIES
COMMISSION
242 State Street
18 State House Station
Augusta, Maine 04333-0018

Dr. Ben Johnson
BEN JOHNSON ASSOCIATES
1234 Timberlane Road
Tallahassee, FL 32312

Chris Frentrup
MCI TELECOMMUNICATIONS
CORP.
1801 Pennsylvania Avenue, NW
Washington, DC 20006

Michele C. Farquhar
David L. Sieradzki
HOGAN & HARTSON, L.L.P.
555 13th Street, NW
Washington, DC 20554