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American National Standard

*for Telecommunications –
Network-to-Customer Installation –
DS1 Metallic Interface*

ANSI T1.403-1995

**DEVELOPED BY
STANDARDS COMMITTEE T1 - TELECOMMUNICATIONS**



Committee T1 - Telecommunications

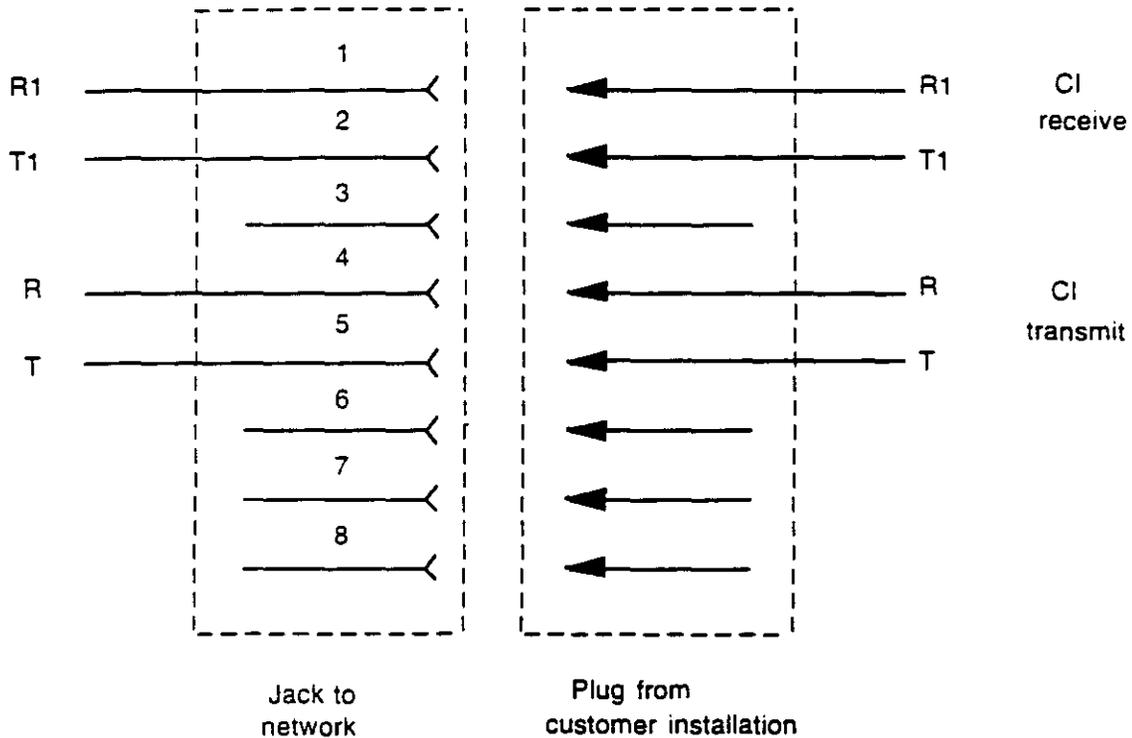
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ANSI American National Standards Institute

11 West 42nd Street
New York, New York
10036

Wiring diagram:



Universal service order code (USOC): RJ48C
 Electrical network connection: Tip/Ring and Tip1/Ring1
 Mechanical arrangement: 8 position miniature modular jack
 Usage: 1.544 Mbit/s access lines
 Interface codes: 04DU9 (all)

Figure 7 - Connector pin assignments (8-position/RJ48C)

10 Connector arrangements

Interconnection at the NI should use one of four Universal Service Ordering Code (USOC) connectors (RJ48C, RJ48X, RJ48M, and RJ48H), as shown in figures 7 through 10. The figures are from T1 Technical Report No. 5. The 8-pin connectors in figures 7 and 8 have the same pin assignments, but the connector in figure 8 provides a physical loop-back when unplugged.

NOTE - The RJ48X connector should be used with caution. When the RJ48X plug is removed from the jack, the zero-loss shorting bars of the jack replace the normal LBO and CI-cable attenuations, which may cause signal levels up to 20.5 dB higher than normal to be sent into the network facility increasing crosstalk into other 1.544 Mbit/s channels.

The 50-pin connectors in figures 9 and 10 are physically the same but have different pin assignments. The pin assignments of figure 10 allow for more circuits.



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking on the Commission's Own Motion to)
Govern Open Access to Bottleneck Services and)
Establish a Framework for Network Architecture) R.93-04-003
Development of Dominant Carrier Networks.)

Investigation on the Commission's Own Motion)
into Open Access and Network Architecture) I.93-04-002
Development of Dominant Carrier Networks.)

OPENING COMMENTS OF PACIFIC BELL (U 1001 C)
ON PROPOSED DECISION OF ALJ McKENZIE DATED MAY 10, 1999

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Date: June 4, 1999

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking on the Commission's Own Motion to Govern Open Access to Bottleneck Services and Establish a Framework for Network Architecture Development of Dominant Carrier Networks.)	R.93-04-003
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OPENING COMMENTS OF PACIFIC BELL (U 1001 C)
ON PROPOSED DECISION OF ALJ MCKENZIE DATED MAY 10, 1999

I. INTRODUCTION

Pacific Bell ("Pacific") hereby provides its opening comments to the proposed decision of ALJ McKenzie, dated May 10, 1999 ("PD"). The PD is a conscientious effort to sort out the complex issues presented by this case. On many issues, it reaches a defensible result. On other issues, adjustments are required. In particular, the proposed prices for transport and switching are too low and will disrupt an operating market.

The PD is correct that this is a period of great uncertainty. Technically speaking, no UNE's currently exist in the wake of the U.S. Supreme Court ruling of January 25, 1999.¹ But the Supreme Court ruling finally put the unbundling debate

¹ AT&T v. Iowa Utilities Bd., 119 S. Ct. 721, 734 (1999).

on meaningful ground. Rather than parsing the words "allows requesting carriers to combine" in the statute, the Court's remand to reconsider the "necessary" and "impair" standards requires a substantive analysis of what constitutes appropriate unbundling on economic and public policy grounds. Unfortunately, the ruling also ensures another three years of litigation. Like the past three years, the Commission's role during this upcoming period of uncertainty will be difficult. What it should not do, however, is add to the uncertainty by unnecessarily disrupting existing markets, as this PD does with its proposed transport and switching UNE prices.

II. THE PD'S PROPOSED UNE PRICES ARE TOO LOW.

The PD basically conducts a rate case using forward looking costs. It answers the question: "What is the absolute minimum we must pay for UNE's?" Apart from being non-compensatory and unfair to Pacific, it applies a uniform minimum mark-up that is blind to the potential effects UNE prices will have on investment incentives and operating markets. The PD thus takes the "bull in the china shop" approach, and does so in at least two ways. First, it undermines incentives for CLECs to invest in facilities. With these prices, there is no reason to invest -- a ubiquitous statewide network can be obtained at the absolute minimum cost using Pacific's facilities. This is not a theoretical problem: One of MFS's current arbitration demands is for the right to purchase, package and resell our UNE's to CLECs, who can then sell the packages as finished services to end-users.²

² Response to Petition of Pacific Bell for Arbitration with MFS/Worldcom, A.99-03-047, Issue 87 (filed April 16, 1999).

The Sawyer testimony in the hearings made the same point. With a 19 percent uniform mark-up, we calculate that CLECs can obtain UNE's to resell a business local call at a 42 percent discount, and a business ZUM call at a 73 percent discount. Likewise, using UNEs CLECs can obtain 55 percent off of switched access, and 41 percent off of transport.³ CLECs using UNE's to serve residential customers enjoy equally large discounts: 64 percent off ZUM calls, 83 percent off our best retail price for toll, and 87 percent off call waiting. At these prices, even carriers with existing networks may prefer to leave their traffic on our network rather than move it over to their own. CLECs in the 271 proceeding sought this flexibility in the routing of intraLATA presubscribed calls.⁴

With these low prices, the Commission returns to the outdated regulatory model of a single public utility network shared by all competitors on an equal basis. This is certainly not consistent with the Supreme Court's view of the Act. The Court dismissed the FCC's unbundling and sharing of the entire local network as "undoubtedly wrong."⁵ As Justice Breyer commented in his concurring and dissenting opinion: "Increased sharing by itself does not automatically mean increased competition. It is in the unshared, not in the shared, portions of the enterprise that meaningful competition would likely emerge. Rules that force firms

³ These calculations assume 10 miles of transport.

⁴ Proposals of MCI Telecommunications Corp., AT&T Communications of California, Inc., and the Competitive Telephone Association (Comptel), Regarding Local Transport Issues Raised in Initial Staff Report, R.95-04-043/I.95-04-044, pp. 2-4 (Aug. 6, 1998); Proposals of MCI Telecommunications Corp., AT&T Communications of California, Inc., and Sprint Communications, Co., L.P. and the Competitive Telephone Association ("Comptel") Regarding Unbundled Switching Issues Raised in Initial Staff Report, filed Aug. 14, 1998 in R.95-04-043/I.95-04-044, pp. 6-7.

⁵ AT&T v. Iowa Utilities Bd., 119 S. Ct. 721, 736 (1999).

to share every resource or element of a business would create, not competition, but pervasive regulation, for the regulators, not the marketplace, would set the relevant terms."⁶ Sharing "beyond that which is essential," he concluded, "may make the game not worth the candle."⁷

In addition to undermining investment incentives, these extremely low switching and transport prices will collapse the margins in Pacific's access services, and ultimately, in its toll services. This result ignores prior Commission efforts to avoid unnecessary arbitrage.⁸ It is also unsustainable.

Further, if put into effect, these low UNE prices will create an entitlement. This will in turn lead to additional market disruption if certain of the UNE's are found ultimately to not meet the "impair" standard. While the FCC's outcome on remand is fairly predictable, it is also evident from the Supreme Court ruling that the Court is not buying the argument that the entire local network meets the "impair" standard. The Commission will not be helping the development of competitive markets by creating entitlements.

Finally, the PD shows no recognition of AT&T's acquisition of the cable television industry. This changes the entire regulatory paradigm. There are now two loops to the customer premises. One of those loops -- AT&T's -- is

⁶ Id. (concurring and dissenting opinion of Justice Breyer).

⁷ Id.

⁸ Rulemaking on the Commission's Own Motion to Govern Open Access to Bottleneck Services and Establish a Framework for Network Architecture Development of Dominant Carrier Networks, 1.93-04-003/1.93-04-002, Order Instituting Rulemaking and Order Instituting Investigation, mimeo pp. 68-9, 73-4 (April 7, 1993) (network element prices to be set to avoid arbitrage); In the Matter of the Petition of AT&T for Arbitration Pursuant to Section 252(b) of the Telecommunication Act of 1996 to Establish an Interconnection Agreement with Pacific Bell, D.96-12-034, mimeo, pp. 11-12 (Dec. 9, 1996).

completely unregulated. The other loop -- Pacific's -- is completely regulated and being unbundled at cost. Thus, the regulatory approaches to these two loops are diametrically opposite. Yet, shortly there will be no rational basis for regulators to treat them differently. Regulators applied symmetrical regulation to the original two cellular providers. The same framework must ultimately prevail here, hopefully in the substantial deregulation of both carriers. In the meantime, the Commission should not worsen the dichotomy between the two regulatory regimes. Yet the minimum uniform mark-up applied by the PD does just that.

A. The PD Errs By Imposing The Minimum Uniform Mark-Up On The Transport UNE.

The most egregious application of the minimum uniform mark-up by the PD is with respect to transport prices. The PD proposes the uniform minimum mark-up without undertaking any analysis that transport is an operating market and is not likely to even be a UNE following the FCC's remand proceeding. The fact that transport is an operating market is beyond dispute. The FCC recognized it in its access charge reform proceeding, as well as in the First Report and Order.⁹ There, the FCC found that interstate dedicated transport tariff rates were based on costs and are therefore a reasonable proxy for transport prices. This Commission has reached the same conclusion. It moved transport to Category II in D.96-03-020. In the PD, it does not find transport to be a monopoly building block.

⁹ In the Matter of Access Charge Reform, CC Docket No. 96-262, et al., First Report and Order, FCC No. 97-158, para. 263 (rel. May 16, 1997) *affirmed by Southwestern Bell Telephone Co., et al. v. F.C.C.*, 153 F.3d 523 (1998); 47 U.S.C. § 251(c)(6); Re Local Competition Implementation, CC Docket Nos. 96-98, 95-185, First Report and Order, FCC No. 96-325, paras. 767, 821 (rel. Aug. 8, 1996).

Recent developments affecting transport increase the already strong likelihood that it will not be a UNE under the "impair" standard. It will be difficult for the FCC (and the courts) to ignore the miles of fiber-optic cabling that has been placed in the business districts of small as well as large towns throughout the state. And, in just the last year, as the hearing record in the collocation phase of OANAD established, Pacific has installed more than 800 additional collocation cages.¹⁰ Where there is collocation, there is very likely to be transport. In addition, on March 31, 1999, the FCC issued a sweeping order requiring ILECs to offer cageless collocation in their central offices by June 1, 1999. Under this ruling, collocation may be ordered in increments of single bays. At this point in time, the only impediment to ubiquitous availability of alternative transport arrangements is a too-low price for transport purchased from the ILEC.

Without considering these recent developments, the Commission set a transport UNE price which provides, by our calculations, for a 54 percent discount off of fixed mileage, an 82 percent discount off of the per-mile charge, and a 12 percent discount off of the entrance facility.¹¹ The overall discount for a total DS-1 circuit comes to 41 percent. A discount this steep causes the investment disincentives and arbitrage opportunities described above.

¹⁰ Mr. Mitchell (for Pacific), 64 Tr. 9342.

¹¹ These calculations assume a 10 mile DS-1 circuit.

B. The PD Also Errs By Imposing The Minimum Uniform Mark-Up On The Switching UNE.

The same situation occurs with respect to unbundled switching. The PD, for imputation purposes, found switching to still be a monopoly building block ("MBB"), although a "closer case" than for unbundled loops.¹² The PD retained MBB status for switching, even though CLECs are buying switches, because alternative switching capability is not available throughout the state, therefore impairing CLECs seeking to offer statewide service.¹³

However, switching has become a much "closer case," as a result of regulatory developments over the past year. Recent actions taken by regulators, and not considered by the PD, resolve the Commission's concern in the PD regarding ubiquitous availability of switching for CLECs. First, as noted with respect to transport, cageless collocation has now been mandated by the FCC. This makes collocation available on a cost-effective basis throughout the state. Where there is collocation, there is a viable opportunity to obtain alternatively-provided transport. And where there is alternative transport, there is a viable means of hubbing traffic to a centrally-located CLEC switch.¹⁴

More importantly, the Commission in Pacific's 271 proceeding has ordered that the "Extended Link" be made available to CLECs.¹⁵ With the Extended

¹² PD, p. 199.

¹³ Id. at 199-200.

¹⁴ Affidavits filed in the FCC's remand proceeding indicate that the number of CLEC switches in California has continued to grow since Dr. Tardiff submitted his testimony. See Huber and Leo, UNE Fact Report Chapter I, submitted by USTA on May 26, 1999 in FCC's Remand proceeding.

¹⁵ D.98-12-069, Appdx. B, mimeo, p. 18.

Link, Pacific will combine, on behalf of the CLEC, a loop UNE with transport to the distant switch of the CLEC's choice. This offering resolves the issue found dispositive by the PD. A CLEC no longer needs unbundled switching to offer statewide service because it can connect the loop it has purchased to its own switch via the Extended Link. Given these recent developments, it is increasingly likely that switching, like transport, will not remain a UNE in all geographic areas.

Again notwithstanding these developments, the PD imposes its uniform minimum prices for the switching UNE. These prices result in discounts of, for example, 55% off of switched access on an average call, and 73% off of an average business ZUM call. These discounts eviscerate CLEC investment incentives in the emerging local exchange market. They will also collapse Pacific's access and toll margins.

The PD rejects Pacific's pricing proposals as unsystematic and giving Pacific too much discretion over prices. It reject Professor Hausman's risk analysis as an improper collateral attack on the TELRIC costing methodology.¹⁶ In light of the important policy issues these prices represent, we find the PD rationale unconvincing. Pacific's pricing proposal is not systematic in the sense that it does not follow a uniform mark-up. But this is not a fault -- prices in Ms. Murray's "real markets" are set through application of business judgment to data such as costs, demand and risk. This is what Pacific's testimony does, and what the PD fails to

¹⁶ PD, pp. 42-5. The PD also argues that Pacific does not face stranding of investment on UNEs because it must already invest under regulatory requirements. *Id.* at 206-7 (FOF's 31-34). The PD errs here because the risk caused by UNEs is in addition to, not coincident with the risk Pacific incurs under its 'carrier of last resort' obligations.

do. The Commission is acting arbitrarily where it applies a uniform mark-up without any consideration of what a "reasonable profit" is for each UNE. The FCC may have endorsed this approach, but that says little about whether it complies with the Act.¹⁷

Likewise, we are unclear how Pacific's pricing proposal gives it too much discretion. The Commission in this decision will be setting prices that will remain in place for three years, stripping Pacific of any discretion at all.

As for Hausman's approach, the PD uses a procedural device to sidestep the important policy issues raised by his testimony. The PD claims -- contrary to prior rulings -- that his testimony is merely a collateral attack on a prior Commission decision. Yet the economic ramifications of the risks allocated by this decision are too important to be brushed off procedurally in favor of a purely mechanical approach. The Commission need not rely solely on Hausman for the severity of this risk. AT&T's economists, testifying against similar unbundling obligations on the AT&T cable network, forcefully state:

It would be against the public interest to subject the parties' last mile broadband data transport facilities to any form of regulation at this time....There are many competitors, including the ILECs, that are actively developing broadband transport services...The xDSL services that are currently being deployed by the incumbent LECs alone constitute a significant and attractive commercial alternative to the internet cable services that TCI and others offer...[The] demand to unbundle broadband transport will engender intrusive

¹⁷ In its initial decision in Iowa Utilities Bd., the Eighth Circuit did not address the substance of the FCC's pricing rules. Iowa Utilities Bd. v. F.C.C., 109 F.3d 418 (8th Cir. 1996). That litigation is yet to come. Pacific reserves the right to assert all rights accruing to it as a result of the continuing litigation of the Act.

regulation of an emerging new service that requires massive entrepreneurial investments and whose marketplace success is far from assured... Forced unbundling with its attendant regulatory uncertainty would likely slow down the investment in the development of broadband last mile investment. Investing under the shadow of uncertain regulatory rules in an innovative service exacerbates the already substantial risks associated with that investment.¹⁸

Rather than ignoring the risks which are inherently obvious from unbundling rules, the Commission should employ the Hausman analysis in setting fair and reasonably-considered rates for transport and switching.

The PD errs by failing to take into account these recent developments, and their likely impact on the status of transport and switching as UNEs under the Act. The PD errs also by failing to consider the costs of disrupting these operating markets where, as here, it is unclear whether transport and switching will remain UNEs.¹⁹ The Commission's stated policy, as contained in the Infrastructure Report, is to promote investment. Yet the regulatory incursion into the transport market ordered by the PD (particularly where there is no apparent reason for it) discourages investment. Beyond these legal problems, it is unclear why the Commission would risk triggering rate increase cases when these elements may no longer be UNEs.

¹⁸ In the Matter of Joint Application of AT&T Corp. and Tele-Communications, Inc. for Transfer of Control to AT&T of Licenses and Authorizations Held by TCI and its Affiliates or Subsidiaries, CC Docket No. 98-178, Declaration of Professors Janusz A. Ordover and Robert W. Willig, attached to AT&T's and TCI's Joint Reply Comments and Joint Opposition to Petitions to Deny or to Impose Conditions, (filed Nov. 13, 1998). Ordover and Willig make no effort to reconcile their compelling argument here that government restrictions can stifle innovation incentives with their previous advocacy of TELRIC pricing for access to ILEC networks.

¹⁹ This Commission is not currently able to designate UNEs on its own authority. Regardless of whether state commissions have this power at all -- we think they don't -- the Commission has not in this case conducted the "necessary and impair" analysis required by the Supreme Court in AT&T v. Iowa Utilities Bd.

The Commission should recognize that its proposed prices will, to use the PD's expression, "cause more harm than good." During this period of uncertainty, the Commission should avoid disrupting the transport and usage markets, just as it has attempted to avoid disrupting CLEC expectations on the recombination issue. The Commission should adopt Pacific's proposed prices for transport and switching pending resolution of the current litigation at the federal level.

Finally, in adjusting transport and switching UNE prices, the Commission should not treat such adjustments as a "zero sum game" in which prices for other UNEs are reduced to maintain an overall revenue level. The Act does not require, and in fact disfavors, a rate case-style pricing technique. Further, the other UNEs are underpriced. For example, the PD's loop UNE prices are on the low end nationally,²⁰ and fail to consider the dual revenue stream from telephone and ADSL available to CLECs purchasing that UNE. The PD's prices for the signaling UNEs fail to take into account the higher prices and profits experienced in the existing market for signaling services.

III. THE PD INCORRECTLY LOWERS THE MARK-UP FOR SHARED AND COMMON COSTS FROM 21 PERCENT TO 19 PERCENT BY DOUBLE COUNTING NON-RECURRING COSTS ALREADY IN THE MARK-UP.

The PD adjusts the shared and common factor purportedly to include UNE non-recurring costs in the denominator of the factor.²¹ The PD proposes to

²⁰ See, e.g., the rates adopted in Texas ranging from \$12.14 to \$13.37. Re Petition of MFS Communications Company, Inc. for Arbitration of Pricing of Unbundled Loops, Arbitration Award, P.U.C.T. Docket Nos. 16189, et al. (P.U.C. of Texas, Dec. 19, 1997).

²¹ PD, p. 54.

add \$375 million of UNE TELRIC non-recurring costs to the denominator, lowering the factor to 19 percent. This adjustment is incorrect since the 21 percent factor approved in the TELRIC decision already includes over \$500 million of non-recurring costs in the denominator.

Pacific identified the non-recurring costs in the denominator of the shared and common allocator in the workpapers Pacific filed on 1/13/97, Tab D-5, page 8, line 17, "1994 Total Regulated Operating Expenses." This sheet includes total regulated non-recurring dollars. Consistently, on page 7 of the same section, the adjustment reflecting the TSLRIC productivity factor of 92.2%, which was applied to the non-recurring costs, is displayed.

By including an additional \$375 million in the denominator, the non-recurring costs are double-counted. The correct calculation would remove the existing \$500 million and replace it with the \$375 million value adopted in D.98-12-079.

IV. THE COMMISSION SHOULD NOT ASSERT OR EXERCISE STATE AUTHORITY TO REQUIRE RECOMBINATIONS.

The PD purports to exercise state authority to order ILECs to continue offering UNE combinations pursuant to their interconnection agreements.²² This assertion of authority is incorrect and unnecessary. It is incorrect because the Supreme Court only prohibited the ILECs from tearing down existing platforms. The prior Eighth Circuit decision relieving ILECs from combining UNE's not already

²² Id. at 124.

part of a platform is still in effect. This is a statutory interpretation which is binding on state commissions.

It is not necessary for the Commission to decide the issue of whether it has independent state authority to require combinations. Pacific has voluntarily agreed to honor interconnection agreements providing for combinations during the pendency of the remand proceeding.²³ See letter dated February 9, 1999, attached hereto as Appendix B. The PD's discussion of the discrimination aspects of combinations therefore disposes of the matter without reaching the question of independent state authority. That issue presumably will be settled in appellate litigation now underway. Since the Commission's result need not rely upon a controversial assertion of state power, that assertion of power should be deleted so as to avoid unnecessary litigation.

V. PRICE FLOOR ISSUES.

A. Switching Should Not Be A Monopoly Building Block.

The PD retains switching as a monopoly building block.²⁴ As noted above, however, the advent of cageless collocation and the Extended Link ends the possibility that switching is an essential facility anywhere in the state. Where there is collocation, any CLEC may purchase a link from the collocated CLEC, then transport the circuit to its own centrally-located switch. Easier yet, any CLEC may purchase an Extended Link from Pacific and route its customer's line to its switch in

³ The PD's discussion at pp. 119-22 and in the scenarios in Appdx. C illustrate that even ordering pre-existing platforms is far from automatic. We note that the approved costs the PD utilizes in Appdx. C do not include the costs for service reps to identify what specific UNE's are being ordered, nor where they are to be delivered to the CLEC.

²⁴ PD, p. 199.

that manner. In the PD, the question was not whether there were switches being purchased by CLECs, but rather whether the CLECs could get to their switch from distant parts of the state. Cageless collocation and the Extended Link both settle this issue.

B. The Price Floors For The Access Line Services Are Incorrect.

Appendix D of the PD sets price floors for certain access line services, including 1MB, 1FR, 1MR, ISDN and COPT. There are two problems with these price floors. First, in identifying the TSLRICs for the ports, the PD only captures the capital costs (e.g., depreciation) associated with the switching component (i.e., the MDF and the switch "plug-in"). No operating expenses (e.g., repair) are captured. To correct this problem, the Commission should add the TELRIC operating expenses to the capital costs shown in the PD.

Second, the contribution calculation for white page listings shows an incorrect price. Although the PD adopts a \$0.40 price for a white page listing, Pacific and the other parties to the interconnection agreements have voluntarily negotiated a "no charge" price for these listings. Since this is a negotiated rate, it will not change when this decision becomes final. The price floor calculation should be corrected to show zero contribution for the white page listing MBB, since there is no charge.²⁵

²⁵ In addition, there is no cost shown for the white page MBB in the contribution calculation. This does not matter if the Commission zeroes out the contribution as we recommend above. However, if the Commission (incorrectly) undertakes an imputation calculation using the \$.40 price, it should deduct the cost.