

base tariff fails to include important Commission requirements.³⁵⁷ Specifically, MCI argues that the central data base tariff should set forth procedures to ensure that Resporgs coordinate entry into the data base of service orders with the carriers that will receive traffic or lose traffic because of those service orders. MCI complains that that issue is currently only covered by the guidelines. MCI also argues that there are inconsistencies between the central data base tariff and the guidelines and that such discrepancies could confuse access purchasers.³⁵⁸

d. Reply

222. The BOCs argue that items in the guidelines that are not covered in the tariff address procedures that govern relationships between Resporgs and customers and do not involve Resporg access to the central data base at all.³⁵⁹ They argue that the procedures that Resporgs must follow in dealing with their customers should not be contained in the tariff.

e. Discussion

223. The development of the industry guidelines for 800 number administration has substantially advanced the provision of 800 data base service by allowing the different segments of the industry to reach a consensus on procedures that address the many issues that have arisen during the development of this new service. We encourage this process to continue. The current central data base tariff, however, purports to incorporate the guidelines into the tariff by reference. While the tariff does state that it will govern in the event of any conflict between the tariff and the guidelines, it does not clarify the legal status or enforceability of the voluntary guidelines. We find such ambiguous tariff language to be unreasonable. The guidelines have provided detailed guidance for LECs, IXC's and Resporgs about how to handle issues relating to the portability of 800 numbers. For example, the guidelines establish different statuses for 800 numbers, such as "assigned," "reserved" and "disconnected" and define such details as how long a number can be kept in a particular status.³⁶⁰ The guidelines may be amended from time to time by the industry committee. If those changes are incorporated by reference and become legally binding on Resporgs, it could alter the tariff without review by the Commission. Alternatively, if incorporation of these guidelines into the tariff does not make them legally binding on Resporgs, then there appears to be nothing to be gained from this incorporation. Therefore, we will require the

³⁵⁷ MCI Opposition at 73, citing *Comptel Petition Order*, 8 FCC Rcd at 1428.

³⁵⁸ MCI Opposition at 74 (stating, for example, that the central data base tariff strictly prohibits the assignment of an 800 number to more than one subscriber but the guidelines contain explanatory definitions and limited exceptions that allow shared use in some instances).

³⁵⁹ BOC Reply at 1.

³⁶⁰ Guidelines for 800 Data Base, Issue 2.0, at 4-5 (November 9, 1992).

BOCs to remove the provisions incorporating these guidelines by reference into the central data base tariff.

224. The Commission did specifically require the central data base tariff to include standards to ensure that the Resporgs coordinate the placement of service orders with the carriers that are affected by them.³⁶¹ The central data base tariff, however, contains provisions requiring the Resporg to notify directly and obtain the acceptance of any IXC to which traffic for a specific 800 number will be routed.³⁶² We find those provisions to be reasonable and adequate to meet the Commission's requirement.

4. Changes In Resporg Procedures

a. Background

225. Only one Resporg has the authority to access the central data base to change the customer records and reroute traffic for any one particular 800 number. Originally, when an 800 service subscriber designates a new Resporg to handle its 800 number, authority for the new Resporg to access the data base is achieved by contacting the old Resporg and asking it to make the change. Some IXCs objected to having to rely on a competing IXC to change the identity of the Resporg so that traffic for a particular 800 number could be routed to a new IXC. In response to IXC requests, the Commission ordered in the *NASC Change Order*³⁶³ that the NASC administrator enter changes in the central data base upon proper written authorization from the 800 service customer.³⁶⁴ Procedures implementing this requirement are outlined in the central data base tariff.³⁶⁵ IXCs challenge the central data base tariff provisions implementing this requirement as time consuming, expensive and fraught with the potential for error.

b. LEC Pleadings

226. The BOCs argue that the current procedures governing changes in an 800 service customer's Resporg are satisfactory. The BOCs argue that the Commission need not become involved with issues when a responsible industry forum has already addressed the

³⁶¹ *Comptel Petition Order*, 8 FCC Rcd at 1428.

³⁶² *See* BOC Tariff F.C.C. No. 1, Section 2.3.1.

³⁶³ *NASC Change Order*, 8 FCC Rcd at 1845.

³⁶⁴ *Id.* at 1844.

³⁶⁵ Bell Operating Companies' Tariff F.C.C. No. 1, Transmittal No. 3 (Apr. 23, 1993).

issues.³⁶⁶ They also state that specific tariff provisions are reasonable. First, the tariff provides that the NASC will process requests to change a Respong within an interval negotiated between the NASC and the requesting Respong. When an incumbent Respong transfers the authority to access the central data base for a particular 800 number to another Respong, the tariff requires it to do so within two business days. The BOCs' direct cases originally argued that, for Respong changes performed by the NASC, an unspecified negotiated interval was necessary if a high volume of change requests overburdened the resources of the NASC. The BOCs stated that they would make appropriate revisions to the tariff if experience showed that performance within a fixed time limit was feasible.³⁶⁷ In their reply, the BOCs contend that the NASC has processed 95.2 percent of its change in Respong requests within two business days of receipt and that the accuracy rate for changes in Respong has been 99.91 percent. Therefore, they argue, requests for changes in Respongs are being handled promptly even though the tariff does not mandate that the change be made within a specific time period. Second, the BOCs argue that the NASC should not be required to check whether the change in Respong is authorized by the 800 service customer. Rather, they argue that the correct way to prevent a Respong from making an unauthorized Respong change would be to place liability on the receiving Respong that requested the change.³⁶⁸ Third, the BOCs state that the industry has already decided to allow requests for changes in Respong to be given to the NASC by facsimile transmission in emergency situations and that, for security reasons, the mailing requirements of the tariff are of paramount importance.³⁶⁹ The BOCs state that they generally cannot check the identity of the end-user customer because the customer record in the central data base generally contains no information about the end user, just the identity of the IXC. The BOCs state that the mailing process is intended to require the new Respong to prepare accurately a Respong change request when it is being sent to the NASC.³⁷⁰

c. Oppositions

227. MCI argues that the processes that the NASC has implemented are so time consuming, expensive, and fraught with the potential for error that Respongs have been reluctant to use them. MCI requests that the Commission require the NASC to enter a change in Respong within two business days because that is the standard that the central data

³⁶⁶ BOC Reply at 2.

³⁶⁷ BOC Direct Case at 12.

³⁶⁸ BOC Reply at 3.

³⁶⁹ *Id.*

³⁷⁰ Letter from Jo Ann Goddard, Director, Federal Regulatory Relations, Pacific, to William F. Caton, Acting Secretary, FCC (Aug. 8, 1994) (*ex parte* letter discussing the mailing requirement for Respong change requests to the NASC).

base tariff sets when a Respong is asked directly to make a change. MCI also protests the NASC requirement that the acquiring Respong certify that it has the written authorization of the customer to make the change and argues that the NASC should use verification procedures that are similar to those used with outbound sales.³⁷¹ MCI specifically cites as unreasonable the central data base tariff requirement that the acquiring Respong mail a written change request to the NASC. MCI argues that Resporgs should be permitted to submit change requests by facsimile, electronically or via computerized batches of update records.³⁷² MCI also filed a petition with the Commission, requesting that "proper written authorization" for Respong changes should include the procedures that, according to our *PIC Change Order*, LECs must accept to verify a customer request to change its primary interexchange carrier (PIC).³⁷³

d. Discussion

228. Regarding the issue of whether the NASC should be required to process a Respong-change requests within a specified length of time, we note that the BOCs have indicated a willingness to make changes in Respong within a fixed time period, and experience has shown that the NASC already makes the vast majority of Respong changes within the two business days currently required in the central data base tariff. We find, however, that the current standard is unnecessarily vague and creates a potential for harming Resporgs because it could easily be applied in a discriminatory manner. We therefore require the BOCs, within sixty days of the date of this Order, to file tariff revisions that include accelerated procedures for accepting Respong change requests. The tariffs shall include a tariff provision that will require the NASC to make Respong changes within a specified number of days.

³⁷¹ MCI Opposition at 78.

³⁷² *Id.* at 79.

³⁷³ See Policies and Rules Concerning Changing Long Distance Carriers, Report and Order, 7 FCC Rcd 1038 (1992) (*PIC Change Order*); 47 CFR § 64.110 (the order and rule required IXCs to employ one of four authorized verification methods ["PIC change procedures"] before submitting PIC change requests to LECs: written authorization from the customer; electronic authorization when the customer calls a toll-free number and records information on a voice response unit; oral authorization from the customer obtained by an independent third party operating in a separate location from the telemarketing representative; or the mailing of an information package to the customer and allowing a 14-day waiting period before submitting the PIC changes to the LEC). *Id.* at 1045.

5. Other Central Data Base (SMS) Tariff Terms and Conditions

a. LEC Pleadings

229. The BOCs characterize as reasonable the tariff provision offering to provide the Resporg a credit if it cannot access the central data base because of an unscheduled outage that exceeds three hours. The BOCs argue that the central data base processes orders for changes in 800 service programs and does not actually transport calls. Therefore, a customer's 800 service is not generally affected when the central data base is out of service. The BOCs say that there are other ways to make changes on an emergency basis during outages, such as contacting the regional data base operators and asking them to enter traffic changes.³⁷⁴

230. Central data base charges are normally billed based on the Resporg customer's actual usage. However, the tariff provides that the BOCs can issue estimated bills in the event of the lack of adequate computer information and data³⁷⁵ and that Resporgs will be first billed on an estimated basis based on the previous month's charges, and an adjusted bill will be sent "with auditable detail...as soon as feasible."³⁷⁶ This procedure is to be used when billing detail is not available from the central data base billing system. The BOCs argue that these provisions are also reasonable. The BOCs also state that it would be inappropriate for the central data base tariff to restrict the sale of vertical features by LECs because that would regulate transactions between LECs and 800 service customers for services not provided through the central data base tariff.³⁷⁷

b. Oppositions

231. MCI argues that there is a need to have the central data base available twenty-four hours a day and a service outage threshold of three hours before a credit allowance is provided is too high. It also objects to the central data base tariff provisions that allow the central data base to charge the Resporgs based on estimated billings. MCI argues that the central data base should be required to document the services purchased by the Resporg prior to expecting payment.³⁷⁸ MCI also complains that the central data base tariff does not

³⁷⁴ BOC Reply at 7.

³⁷⁵ BOC Tariff F.C.C. No. 1, Section 2.4.1(H).

³⁷⁶ BOC Reply at 8.

³⁷⁷ *Id.* at 4.

³⁷⁸ MCI Opposition at 75.

incorporate the Commission's prohibition against the sale of vertical features by the LECs to parties who do not directly purchase intrastate 800 services from the LECs.³⁷⁹

c. Discussion

232. First, we find that the provision that grants a pro rata credit to an IXC when the central data base is unavailable for use for an unscheduled period of greater than three hours is not unreasonable.³⁸⁰ This is especially true because an outage of the central data base does not prevent 800 traffic from being correctly routed, it merely temporarily prevents a Resporgs from entering new customer records or changing existing ones in the central data base. Also, the impact of an outage may be mitigated because Resporgs could seek the assistance of regional data base operators to enter routing changes during emergency outages.

233. Second, we find that the LECs may not charge Resporgs based on estimated billings. The BOCs justify the estimated bill process as a way of maintaining revenue flow when their billing systems do not provide timely data. We find that it is not reasonable for the central data base tariff to impose the burden of estimated bills on Resporgs when, as the BOCs acknowledge, such bills would only be necessary if there is a problem in obtaining transactional details from the central data base. We also find that the commitment to provide actual bills as soon as reasonably possible is unreasonably vague.

234. Third, the central data base is not responsible for enforcing the Commission's policies on the sale of vertical features to end-users and we will not require that provisions governing sale of vertical features be included in the central data base tariff. It would not be appropriate to put limitations that apply to LECs in the central data base tariff. Therefore, of the other issues raised with respect to central data base tariff terms and conditions, we only find unreasonable that provision permitting the central data base to bill Resporgs based on estimated transactions, with vague promises to reconcile the bills at some future date. The BOCs are required to modify these provisions to provide that Resporgs will be billed for actual, rather than estimated, usage.

6. Reasonableness of Costs and Cost Allocations

a. Statement of the Issue

235. The Commission has required that access to the central data base by Responsible Organizations, Resporgs, be provided under tariff. Consequently, the BOCs

³⁷⁹ *Id.* at 74.

³⁸⁰ See BellSouth Tariff F.C.C. No. 1, Section 2.4.4 (B)(3) (for switched access service, directory assistance access service and Line Information Data Base (LIDB) access service usage sensitive rate elements, no credit shall be allowed for an interruption of less than 24 hours).

have tariffed their rates for these Resporg services. The BOCs supported those rates by filing cost support as required under Section 61.38 of the rules. The *Designation Order* designated the issue of whether the BOCs' rates, cost allocations and demand estimates for their central data base tariff are reasonable.³⁸¹ In their petitions against the central data base tariff transmittal, petitioners questioned whether the BOCs had properly allocated central data base costs between the tariffed Resporg services and other services, such as the untariffed regional data base updating service provided to regional data base operators. Also, petitioners have questioned whether the BOCs provide proper cost support and further questioned the assumptions, such as demand forecasts, labor wage rates, depreciation and tax expenses, that the BOCs used in developing their rates for these services. The BOCs subsequently revised their tariffed rates to reflect adjustments in costs and demand based on their experience over the initial 13.5 months of operations.³⁸²

b. LEC Pleadings

236. The BOCs' described the cost allocation methods used to allocate costs to specific rate elements for items such as the operation of the Kansas City Data Center and the NASC. The BOCs analyzed the nature of each cost, *e.g.*, investment or expense, recurring or non-recurring, hardware or software, and developed allocation factors designed to recover costs from cost causers. The BOCs then allocated the costs among the Resporg services and the regional data base operators.³⁸³ Southwestern allocates the Kansas City Data Center costs among Resporg services and the regional data base operators in the same manner as the BOCs allocate costs for their cost items.³⁸⁴ The BOCs argue that the same allocation procedures are followed for both ongoing costs and for the data center costs, which, they contend, is logical because the cost components and usage characteristics are identical for both types of costs.³⁸⁵

³⁸¹ *Designation Order*, 8 FCC Rcd at 5137.

³⁸² See BOC Tariff F.C.C. No.1, Transmittal No. 7, which revised the rates for central data base service and was made a part of this investigation.

³⁸³ BOC Direct Case at 15-16; BOC Direct Case, Appendix 1, Attachment 1; Southwestern Direct Case, Exhibit D at 30-33.

³⁸⁴ BOC Reply at 16-17, *citing* BOC Direct Case, Appendix 1, Attachment 1.

³⁸⁵ BOC Reply at 16.

237. The BOCs explain that the allocation factor they use for allocating software maintenance costs³⁸⁶ is reasonable because maintenance for existing software is influenced by the size of the program. Larger programs (1) tend to be more difficult to maintain and (2) require more maintenance to interact with existing software and with new or modified software. High costs are incurred for software when existing programs are modified or replaced. Therefore, if a BOC could forecast these changes, it could predict maintenance costs more precisely. The BOCs maintain that because it is difficult to predict reliably software modification or additions, allocations based on lines of code are practical and reasonable.

238. The BOCs state that they allocated central computer processing costs based on the actual measurement of central computer usage. These measurements were based on a study of computer transactions over a 30-day period. This study was used to quantify the relative use of computer processing capacity by each of the central data base functions. The BOCs maintain that their computer-processing cost-allocation factor, based on relative use of the computer processor, is accurate and reflects cost-causation principles.³⁸⁷

239. The BOCs in their subsequent rate revisions reduced their tariffed rates for six rate elements and raised the rate for Customer Reports. The most significant change (in terms of revenue impact) was a reduction from \$0.75 to \$0.70 per 800 number for the Customer Record administration charge. The BOCs made the reductions to reflect a 31 percent increase in demand over the original estimate. To accommodate the additional demand, the BOCs state they were required to make additional expenditures for the Kansas City data center of \$6.85 million, which included \$4.47 million for computer processing costs, \$1.3 million for storage capacity and \$1.08 million for network equipment and facilities. The increase in actual demand over the forecasted demand resulted in over-recovery of revenue for the first 13.5 months of operations. The BOCs have reduced their future revenue requirements to reflect the initial over-recovery, with the exception of \$3.56 million, an amount equal to one month's billing. The BOCs claim that the \$3.56 million is required as working capital to prevent a negative cash flow resulting from the time lag between costs billed to DSMI and revenues received by DSMI from central data base customers.

c. Oppositions

240. MCI argues that the BOCs have failed to explain the basis on which costs were included for changes that enabled the data center to provide national 800 service, including

³⁸⁶ The BOCs allocate software maintenance costs among various software programs based on the relative number of lines of code in each program. BOC Direct Case at Attachment 1, p. 2.

³⁸⁷ BOC Reply at 17.

ongoing costs, stating that the BOCs only provide results.³⁸⁸ MCI questions the BOCs' use of lines of code to allocate the data center upgrade and software support costs. MCI also questions whether there is a correlation between lines of code and the effort necessary to support software. MCI further challenges the BOCs' use of an analysis of computer transactions to allocate computer processing costs among services.³⁸⁹

241. In its opposition to the rate revisions in Transmittal No. 7,³⁹⁰ MCI reiterates its earlier arguments that the majority of the central data base costs are incurred for the Kansas City data center, and that the original costs appear excessive.³⁹¹ MCI also contends that the cost support provided by the BOCs to justify their revised rates provides insufficient explanation for the additional costs. MCI is concerned that the BOCs in their cost assumptions fail to consider economies of scale, *i.e.*, increases in demand resulting in smaller incremental increases in costs.³⁹² Finally, MCI argues that the \$3.56 million the BOCs claim they require for working capital is based on speculation and therefore the BOCs provide insufficient cost support to meet the Commission's requirements. MCI argues the Commission should require the BOCs to reduce their central data base costs by \$3.6 million.³⁹³

242. Allnet claims that the BOCs discriminate against Resporgs because the central data base tariff offers the same functionality at different rates for Resporgs and regional data base owners. Allnet cites, as an example, a non-recurring rate charged to Resporgs for activating a Mechanized Generic Interface³⁹⁴ that is not imposed on regional data base operators. Allnet also argues that because most of the costs are allocated to the Resporgs, the BOCs' direct case reveals a bias toward loading costs on the tariffed services.³⁹⁵ Allnet

³⁸⁸ MCI Opposition at 66-67.

³⁸⁹ *Id.* at 69-70.

³⁹⁰ *See* note 21, *supra*.

³⁹¹ MCI Petition Against Transmittal No. 7 at 1-2.

³⁹² *Id.* at 3.

³⁹³ *Id.*

³⁹⁴ The Mechanized Generic Interface facilitates the transfer of number administration and customer record administration data between the central data base and the Resporgs' computer systems. The interface was developed specifically for a small number of Resporgs whose high volumes of activity can be handled more efficiently with a mechanized interface.

³⁹⁵ Allnet Opposition at 11, *citing* BOC Direct Case at 25, Table A.

claims that the BOCs did not provide sufficient cost detail for it to determine whether costs are reasonable.

243. Allnet also criticizes Southwestern's actions in reclassifying a majority of its Kansas City Data Center costs from regulated to unregulated books of account.³⁹⁶

d. Replies

244. The BOCs deny Allnet's claim that rates charged to Resporgs and regional data base operators for the same service differ. The BOCs maintain that the two separate rate structures are different because the services provided to Resporgs and regional data base operators are different. The BOCs argue that some central data base services are used only by regional data base operators, some services are used only by Resporgs, and some services are used by both classes of customers. The BOCs maintain that those services used by both classes of customers are offered under consistent terms, conditions and prices. The BOCs claim that they provide sufficient cost support and explanations to justify their cost allocations between tariffed and non-tariffed services. The BOCs argue that Allnet's claim, that costs recovered from Resporgs are excessive, is incorrect. The BOCs maintain that the costs are allocated between Resporgs and the regional data base operators on the basis of the amount of resources and services each group consumes.³⁹⁷

245. The BOCs, in their reply supporting Transmittal No. 7, state that the central data base costs are fully documented in their Direct Case. The BOCs maintain that the extra expenditures shown in their cost support for their revised rates reflect additional computer processing and storage capacity required to support a 40 percent increase in demand over the original projections. The BOCs maintain that the 32 percent increase in costs supports a 40 percent increase in demand and, therefore, reflects economies of scale.³⁹⁸ The BOCs state that their requirements for working capital are not based on speculation but are derived from 13.5 months of experience and that \$3.56 million is reasonable. The BOCs explain that the timing of the revenues received from their customers and the timing of the bills due to subcontractors often result in bills that must be paid before revenues are collected from customers. The BOCs maintain that to pay their bills on time they must maintain working capital in the amount of \$3.56 million.³⁹⁹

246. Southwestern contends that its decision to provide some services on an unregulated basis was consistent with the Commission's requirement that services incidental

³⁹⁶ Allnet Opposition at 12.

³⁹⁷ BOC Reply at 11.

³⁹⁸ BOC Reply to MCI Petition against Transmittal No. 7 at 3.

³⁹⁹ *Id.* at 4-5.

to the provision of unregulated service may remain regulated (provided revenues for these services do not exceed 1 percent). Southwestern maintains that when the Kansas City Data Center began marketing these services, the services no longer qualified for regulated treatment and were reclassified as nonregulated.⁴⁰⁰

e. Discussion

247. The complexity of computer programs is often measured in lines of code. The BOCs have demonstrated that there is some correlation between the size of programs and the amount of time required to maintain those programs. Although MCI questions the BOCs' use of relative lines of code to allocate software maintenance costs, MCI has neither shown that the resulting factors yield unreasonable results, nor suggested a more appropriate factor. One alternative to the BOC's approach would be a time and motion study. The study, however, would be of limited usefulness because the relative amounts of software programming labor devoted to maintaining various software programs are unlikely to remain uniform over time. We therefore find that the BOCs' allocation of computer maintenance costs based on relative lines of code of the software programs to be maintained is reasonable.

248. The BOCs developed an allocation methodology based on relative use that allocated or directly assigned the central data base costs to each of the services. To develop allocation factors, the BOCs analyzed each cost item individually to determine its relationship to specific rate elements. For computer processing costs, the BOCs performed a 30-day study of the actual transactions processed by the computer and used this study as a basis for allocating computer processing costs among the services supported by the computer. This method of allocating costs based on relative use of each service appears reasonable and no party has suggested a more reasonable method for allocating the computer processing costs. We find this method to be accurate, direct and reflective of cost causation principles. We therefore find that the BOCs' allocation of central processor costs based on relative use is reasonable.

249. The BOCs originally tariffed central data base service as a new service. The service was new because no entity had ever offered this service or any similar service before. Based on 13.5 months of actual experience, the BOCs now seek to revise their rates. In support of their rate revisions, the BOCs show that demand for central data base services has increased 40 percent over the level originally anticipated. This unanticipated increase in demand requires additional computer processing capacity and additional data storage capacity. According to the BOCs, these additional capacity requirements result in costs of \$6.85 million, which represents an increase of approximately 32 percent over the \$21.27 million originally forecast for 1994. The BOCs have provided explanations and data that

⁴⁰⁰ Southwestern Reply at 20-21; *see also* Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities, 2 FCC Rcd 1298, 1308 (1987) (*Separation of Regulated and Nonregulated Activities Order*).

show a substantial increase in demand and additional equipment requirements. The result is rate reductions for virtually all of the central data base rate elements.

250. A result of their underestimating demand is that the BOCs, during the initial 13.5 months of central data base service, over-recovered costs. In the cost support for their rate revisions, the BOCs use the additional revenue to offset their central data base costs except for \$3.56 million, which the BOCs use to establish a reserve of working capital. The BOCs provide an explanation of the billing cycles for their customers and the billing cycles of the subcontractors that perform services essential to central data base service. The BOCs also explain that DSMI sets rates that allow it to recover its costs on a revenue-neutral basis and therefore must establish a reserve to have sufficient working capital to pay its bills on time. The amount of working capital, \$3.56 million, represents one month's revenues for DSMI. We believe that a business should have sufficient working capital to pay its bills in a timely fashion and that holding an amount equal to one month's revenues is a sound business policy. We will therefore not require the BOCs to reduce their central data base costs by an additional \$3.56 million.

251. The BOCs are required to support their rates under section 61.38 of the rules.⁴⁰¹ We have reviewed the BOCs' cost support and find that the information and data provided by the BOCs in their direct case and in the Description and Justification for their rate revisions in Transmittal No. 7 comply with the requirements of Section 61.38. The information and data provided in Transmittal No. 7 are based on 13.5 months of actual experience and support reductions in rates for central data base services. We therefore find that the revisions filed under Transmittal No. 7 do not result in unreasonable rates.

252. The Communications Act prohibits unreasonable discrimination between "like" services.⁴⁰² In considering whether discrimination exists, we analyze the facts based on a three part test: (1) are the two services "like" within the meaning of the Communications Act; (2) is there a disparity in the rates for the two services; and (3) if so, is this rate disparity reasonable.⁴⁰³

⁴⁰¹ Under Section 61.38 of the Commission's rules, 47 C.F.R. § 61.38, for a new or changed service, LECs must provide: (1) a 12-month projection of costs for a new service or a 12-month cost-of-service study for the most recent 12-month period for an existing service; (2) a study containing a projection of costs for a representative period; (3) estimates of the traffic and revenues of the new or changed service including estimates of the effects of the new service on traffic and revenues of other services; and (4) workpapers that contain underlying data and information and a clear explanation of how the workpapers relate to the cost requirements.

⁴⁰² 47 U.S.C. § 202.

⁴⁰³ See, e.g., *MCI Telecommunications Corp. v. FCC*, 842 F.2d 1296, 1307 (D.C. Cir. 1988).

253. The first part of the discrimination analysis is to determine whether the two services are like. Allnet claims that discrimination exists because Mechanized Generic Interface service must be purchased by Resporgs, and no charge for this service exists for regional data base operators. Allnet does not explain how, or why, regional data base operators would use this service. The BOCs in their Description and Justification⁴⁰⁴ state that this capability was developed specifically to meet the needs of a small number of Resporgs whose high volume of activity can be handled more efficiently with a mechanized interface. The BOCs offer the following services to regional data base operators: (1) central data base access, (2) Service Establishment, (3) Translations and Validations, and (4) Data Base Administration and Support. The BOCs offer the following services to Resporgs: (1) central data base access, (2) Service Establishment, (3) Customer Records Administration, and (4) Mechanized Generic Interface. A comparison of the services shows that the BOCs and the Resporgs both use central data base access and Service Establishment services. The rate elements in the original filing were identical for each rate element except for the central data base access per 9.6 kilobits per second -- dedicated access rate element, for which the LECs paid slightly more (approximately .5 percent) than the Resporgs.⁴⁰⁵ Further, on March 31, 1994 the BOCs filed revisions to their central data base tariff to reduce their Service Establishment and central data base access rates.

254. Allnet's claim fails to meet the first part of the analysis. Allnet has not shown that Mechanized Generic Interface service is "like" a service offered to regional data base operators. Resporgs and regional data base operators originally paid the same rates for the services that are offered to Resporgs and to regional data base operators. Further, Resporgs recently received a rate reduction that includes the rates for services used by LECs and Resporgs. There is therefore no basis for Allnet's claim that rates for services offered to the regional data base operators are unreasonably discriminatory.⁴⁰⁶

255. Allnet also argues that the BOCs have shown a bias toward loading costs on tariffed Resporg services. The costs identified in the BOCs' direct case for tariffed services are significantly higher in aggregate than the costs allocated to services provided under contract to regional data base operators. The fact that there is a disparity between the respective aggregate costs, however, is not necessarily an indicator that some of those costs

⁴⁰⁴ See Bell Operating Companies' Tariff F.C.C. No. 1, Transmittal No. 3, dated Apr. 23, 1993, Description and Justification at 10.

⁴⁰⁵ There is a slight difference in the central data base access charge for 9.6 kilobits per-second dedicated access. Regional data base operators are charged \$2,194.57 per month, while Resporgs are charged \$2,183.70.

⁴⁰⁶ BOC Reply at 10.

should more properly be recovered from regional data base operators rather than Resporgs.⁴⁰⁷ The BOCs have shown that most of the costs incurred are for services offered to Resporgs. For example, the highest costs incurred by the BOCs are for Customer Records Administration service, a Resporg service. This service accounts for approximately 68 percent, or \$101 million, of total central data base costs for 5 years.⁴⁰⁸ The costs incurred include costs associated with providing the service, *i.e.*, costs for data storage and computer processing to establish, modify or discontinue a record, including general support services for users and for system support and administration. The BOCs have documented the costs they expect to incur for tariffed Resporg service and for services provided to regional data base operators.⁴⁰⁹ Having reviewed the BOCs' submissions, we find that their allocation of costs among services based on relative use is reasonable.

256. Regarding Southwestern's classification of the data processing services provided to the central data base, the Commission's rules require that BOCs record costs associated with unregulated services in accounts specifically designated for that purpose. The Commission required LECs to reclassify such services from regulated to nonregulated accounts if, in the aggregate, they produced more than 1 percent of the LEC's total revenues.⁴¹⁰ Therefore, Southwestern's decision to reclassify as nonregulated the data processing services provided to the central data base is consistent with our rules.

7. Affiliate Transactions

a. Description of Issue

257. Commenters have argued that transactions between Southwestern and DSMI, between DSMI and the BOCs, and between Bellcore and the BOCs fail to comply with the Commission's affiliate transactions rules.

⁴⁰⁷ We note that because the contract costs are treated as exogenous by the regional data base operators, those contract costs will flow through the regional data base operators to customers who use tariffed switched access services. Thus, an argument could also be made against allocating excessive costs under contract that would eventually be borne by switched access customers.

⁴⁰⁸ BOC Direct Case, Attachment I, Appendix 1, Exhibit 8, page 2.

⁴⁰⁹ *Id.*, Attachment I, Appendix 1 at Exhibit 1.

⁴¹⁰ *Separation of Regulated and Nonregulated Activities Order 2* FCC Rcd at 1308.

b. Background

258. Section 32.27(d) of the Commission's rules⁴¹¹ governs purchases of services between a regulated LEC and its affiliate.⁴¹² When either the affiliate or the regulated LEC is selling services to the other, it must price those services at prevailing company prices, if the services are also sold to unregulated customers, or at fully distributed costs if the regulated LEC or the affiliate is the only customer.⁴¹³ One of the primary transactions that falls under the affiliate transactions rules is between the BOCs, acting through DSMI,⁴¹⁴ and Southwestern, which provides the data center that actually houses the central data base. The BOCs projected that the expenditures for these data processing services will have a net present value of \$78 million over 5 years. Bellcore also develops and maintains software pursuant to agreements with the BOCs and, in addition, it provided some of the initial software for the central data base.⁴¹⁵

c. LEC Pleadings

259. Southwestern operates, under contract, the computer that contains the central data base as part of its Kansas City data center. The BOCs and Southwestern all argue that

⁴¹¹ 47 C.F.R. § 32.27(d).

⁴¹² Section 32.9000 of the Commission's Rules, 47 C.F.R. § 32.9000, defines "affiliated companies" as "companies that directly or indirectly through one or more intermediaries, control or are controlled by, or are under common control with, the accounting company." It defines "control" as "the possession of, directly or indirectly, of the power to direct or cause the direction of the management and policies of a company...."

⁴¹³ The rules provide three valuation methods to govern such purchases of services: tariffed rates; prevailing company prices; and fully distributed costs. Services provided to an affiliate pursuant to tariff must be recorded at tariffed rates. If the provider of a non-tariffed service also provides substantial amounts of the service to non-affiliates, the carrier must record the service at the price non-affiliates pay, which is also referred to as a prevailing company price. All other affiliate services must be recorded at the providers' fully distributed costs. The rules do not use estimated fair market value as a valuation method for services. See Amendment of Parts 32 and 64 of the Commission's Rules to Account for Transactions Between Carriers and Their Nonregulated Affiliates, 8 FCC Rcd 8071 (1993) (*Affiliate Transaction Notice*).

⁴¹⁴ Southwestern Direct Case at 40 (contract for data center services will be between Southwestern and the other BOCs, all acting by and through their duly authorized representative, DSMI).

⁴¹⁵ The BOCs project that these software expenses will have a net present value of \$32.4 million over a five-year period.

the affiliate transactions rules do not apply to Southwestern's transactions with the central data base. Southwestern argues that the Kansas City data center is a nonregulated line of business providing services to DSMI and claims that the affiliate transactions rules apply only to transactions between a carrier providing regulated services and an affiliate. Southwestern says that a carrier providing a nonregulated service need not comply with the affiliate transaction rule for nonregulated functions.⁴¹⁶ The BOCs argue that the BOCs, through DSMI, are purchasing data processing services from Southwestern for the central data base. They therefore argue that this is not an affiliate transaction because the BOCs do not purchase substantially all of their services from Southwestern and they are not affiliates of Southwestern. However, Southwestern concedes that the data processing services it provides to Bellcore through its Kansas City Data Center are affiliate transactions.⁴¹⁷ Further, the BOCs argue, the services DSMI provides to the BOCs are provided to numerous unaffiliated entities.⁴¹⁸

260. Notwithstanding these arguments, Southwestern argues that its costs charged to the central data base are reasonable, because it has priced its Kansas City data center services based on fully distributed costs and has purchased equipment for the center through a competitive bidding process. The BOCs state that the contract for central data base support services was not put out for competitive bid because of the short time frame that the BOCs had to deploy the 800 data base and central data base services and because of the expertise that Southwestern already had in the field. Now that data base access has been successfully completed, the BOCs have announced that they intend to issue a Request For Proposals to contract for a permanent service provider for the services Southwestern now provides.⁴¹⁹

261. The BOCs agree that the transactions for software between Bellcore and the BOCs are subject to the affiliate transactions rules. They further contend that Bellcore's charges for software support are based on fully distributed costs and are reasonable.⁴²⁰ The BOCs claim that MCI and Allnet rely on different interpretations of the same rule, Section 32.27(d) of the Commission's Rules,⁴²¹ and they argue that neither MCI nor Allnet

⁴¹⁶ Southwestern Reply at 20, *citing* United Telephone System Companies' Permanent Cost Allocation Manuals for the Separation of Regulated and Non-Regulated Costs, 7 FCC Rcd 4384, 4385-86 (Com. Car. Bur. 1992).

⁴¹⁷ Southwestern Reply at 20.

⁴¹⁸ BOC Reply at 12.

⁴¹⁹ *Id.* at 14.

⁴²⁰ *Id.* at 13.

⁴²¹ 47 C.F.R. § 32.27(d).

demonstrates that the BOCs have violated the rules by purchasing services from Southwestern and Bellcore.⁴²²

d. Oppositions

262. MCI states that most of the costs for the central data base service arise from the affiliate transactions with Southwestern and Bellcore.⁴²³ MCI disputes the BOCs' claim that they have no incentive to pay more for services offered by Southwestern than those provided by a third party. MCI argues that both Bellcore and Southwestern also sell services to the BOCs, which support communications services other than 800 data base query service. MCI argues that, because our price cap rules restrict the BOCs' ability to raise prices to recover such costs, the BOCs have an incentive to allocate the costs to basic 800 data base service because they have been allowed exogenous treatment for some of the costs of providing that service.⁴²⁴ MCI says that the BOCs offer little information about how they account for these affiliate transactions. MCI states that Southwestern has not demonstrated that the costs are reasonable or that the costs are incurred solely for the provision of central data base services in conjunction with 800 data base operations.⁴²⁵ MCI also alleges that Bellcore's charges to the BOCs for \$32.4 million⁴²⁶ for central data base software support⁴²⁷ is also an affiliate transaction and that the BOCs have not adequately supported the reasonableness of this \$32.4 million figure. According to MCI, the Commission should require the BOCs to provide evidence that the costs paid to Southwestern and Bellcore are appropriate for recovery through 800 data base and are no higher than the LECs would have paid for those services had they been provided from another contractor selected on a competitive basis.⁴²⁸

⁴²² BOC Reply at 12.

⁴²³ MCI Opposition at 63.

⁴²⁴ *Id.*

⁴²⁵ *Id.* at 64.

⁴²⁶ See BOC Direct Case, Attachment 2 at Exhibit 2, WK1 (lists the net present value of the projected expenditures to Bellcore for software support for the central data base).

⁴²⁷ "Software support" includes system software maintenance, testing of new features and new releases, problem resolution, development of enhancements, application and user support including documentation, and performance and capacity monitoring and planning. See BOC Direct Case at 28 (Bellcore acts as agent for the BOCs).

⁴²⁸ MCI Opposition at 69.

e. Discussion

263. Affiliate transactions with respect to the central data base fall into three groups. The first consists of the services Southwestern provides DSMI. We do not agree with the BOCs' claim that this is a transaction between Southwestern and the other BOCs. DSMI is a party to the contract and the BOCs cannot eliminate its role by characterizing it as merely the agent for the BOCs. Further, Southwestern concedes that the contract for its data center services is an affiliate transaction between Southwestern and Bellcore. Because DSMI's owner, Bellcore, is a Southwestern affiliate, DSMI also is a Southwestern affiliate. Therefore, all services, including nonregulated services, that Southwestern provides to DSMI are subject to the Commission's affiliate transaction rules.⁴²⁹ Those rules control how carriers record their affiliate transactions on the accounts they maintain under the Commission's Uniform System of Accounts.⁴³⁰ The rules require a carrier to record the services it provides to or obtains from affiliates at tariffed rates when applicable, at prevailing company prices when the provider of the services also provides substantial amounts of them to non-affiliates, or, absent a tariffed rate or prevailing company price, at fully-distributed costs.⁴³¹ Those costs must be calculated in accordance with the standards and procedures the Commission has prescribed for apportioning carrier costs between regulated and nonregulated activities.⁴³²

264. For purposes of the affiliate transactions rules, we will treat Southwestern's provision of data processing services for the central data base as a transaction between DSMI and Southwestern.⁴³³ In its comments, Southwestern states that it prices the services the Kansas City Data Center provides DSMI at their fully distributed costs. In its cost allocation manual, however, Southwestern states that it provides "Computer Bureau Service" to

⁴²⁹ Section 32.27(d) of the Commission's rules, 47 C.F.R. § 32.27(d); *Joint Cost Order*, 2 FCC Rcd at 1136; Bell Atlantic Telephone Companies' Permanent Cost Allocation Manual for the Separation of Regulated and Nonregulated Costs, 5 FCC Rcd 2551, 2552 (1990); *see also* *Affiliate Transactions Notice*, 8 FCC Rcd at 8108.

⁴³⁰ Section 32.27(d) of the Commission's rules, 47 C.F.R. § 32.27(d).

⁴³¹ *Affiliate Transactions Notice*, 8 FCC Rcd at 8074.

⁴³² Section 32.27(d) of the Commission's rules, 47 C.F.R. § 32.27(d); *see also* Section 64.901 of the Commission's rules, 47 C.F.R. § 64.901.

⁴³³ Southwestern characterizes the transaction for its data center services as one between Southwestern and the other BOCs, with DSMI only acting as the "duly authorized representative" for the other BOCs. Southwestern Direct Case at 40; *see also* BOC Direct Case at 18.

Bellcore at a "negotiated price."⁴³⁴ Since Southwestern actually provides these services to DSMI, we require it to revise its cost manual to state this. In addition, it is unclear whether the "negotiated price" Southwestern records for these transactions reflects fully distributed cost calculations that comply with our rules. We, therefore, require Southwestern to revise its cost manual to state whether it records the services it provides DSMI at fully distributed costs calculated in accordance with Commission rules and, if not, the methodology it uses. If Southwestern has been using a methodology that does not comply with the rules, Southwestern shall also adjust its books to the extent necessary to account correctly for the services Southwestern's Kansas City Data Center has provided DSMI and report any such adjustments to the Commission. Southwestern shall take each of these steps within 30 days of this Order's release.

265. The second group of affiliate transactions consists of services DSMI provides the BOCs. DSMI provides these services at either tariffed rates or pursuant to contract. Because DSMI is an affiliate of each of the BOCs, their cost allocation manuals should list DSMI as an affiliate, list the services they provide to or obtain from DSMI as affiliate transactions, and describe the services' nature, terms, and frequency.⁴³⁵ A review of those manuals reveals that the BOCs treat the services they receive from DSMI inconsistently. US West, NYNEX and Southwestern disclose both tariffed services and services recorded at fully-distributed costs. Only US West provides sufficient detail about the nature of its services. Ameritech, Pacific and BellSouth indicate that they receive only tariffed services from DSMI, and Bell Atlantic lists no transactions with DSMI. To correct these problems, we require Ameritech, Bell Atlantic, BellSouth, NYNEX, Pacific and Southwestern to revise their cost manuals to bring their treatment of services received from DSMI into compliance with the affiliate transactions rules. These revisions will also be due 30 days from this Order's release.

266. The third group of affiliate transactions is Bellcore's provision of software and software maintenance to the BOCs. The BOCs concede that these transactions are subject to the affiliate transactions rules. The BOCs are disclosing in their cost allocation manuals that they purchase software systems and support from Bellcore at fully-distributed costs. Therefore, these transactions comply with the requirements of Section 32.27(d) of the Commission's Rules.⁴³⁶

⁴³⁴ Southwestern Bell Telephone Company, Cost Allocation Manual, at V-7.

⁴³⁵ Section 64.903(a)(3)-(4) of the Commission's rules, 47 C.F.R. § 64.903(a)(3)-(4).

⁴³⁶ 47 C.F.R. § 32.27(d).

8. Allocation to Interstate Jurisdiction

a. Background

267. Part 32 of the Commission's Rules establishes a Uniform System of Accounts that specifies the manner in which LECs are required to book their investment and expenses. The BOCs filed a petition for waiver requesting that they be excused from complying with Part 32 of the Commission's Rules so that each BOC would not have to account for a portion of the revenue and expenses associated with the central data base on its own books. In the alternative, the BOCs propose that these costs be recorded only on the books of DSMI, a Bellcore subsidiary created to administer the central data base.⁴³⁷ That petition is currently pending. The accounting treatment accorded the costs associated with the central data base is directly relevant to the allocation of these costs between the interstate and intrastate jurisdictions, because the Part 36 separations procedures are keyed to the account categories specified in Part 32.

b. BOC Pleadings

268. The *Designation Order* designates the issue of whether the BOCs' cost allocations for the central data base were reasonable. One of the cost allocations that affects the rates for the central data base is the allocation between the interstate and intrastate jurisdictions. The BOCs argue that whether the underlying 800 numbers are used for interstate or intrastate calls is not relevant. They contend that 100 percent of the costs of the central data base should be classified jurisdictionally as interstate because "the normal communication from the (central data base) user to the data base in Kansas City is an interstate communication."⁴³⁸ The BOCs argue that the Commission never addressed the issue of the jurisdictional nature of the central data base. They claim that, if the BOCs were required to split costs for the central data base between the interstate and intrastate jurisdictions, they would have to file tariffs in fifty states to recover the intrastate portion of the costs, which, they argue, would be inefficient and time-consuming. In order to make the allocation between the interstate and intrastate jurisdictions, the BOCs argue they would have to make completely arbitrary allocations of central data base transactions to either the interstate jurisdiction or to one of several intrastate jurisdictions. They argue that, because it is extremely difficult or impossible to identify the jurisdictional nature of many central data base transactions, the allocation of central data base costs as a whole would be inherently arbitrary. The BOCs also claim that, if access to the central data base were tariffed at the state level, they would be required to determine which state tariff would apply to a particular

⁴³⁷ See Public Notice, Regional Bell Operating Companies Files Petition for Waiver to Account for 800 Service Management System Services, 9 FCC Rcd 1407 (1994).

⁴³⁸ BOC Reply at 19.

change in Resporg transactions, which would again be completely arbitrary⁴³⁹ when traffic to a single 800 number is split between two or more intrastate jurisdictions.⁴⁴⁰ The BOCs point out that the existing separations rules do not apply to them as a group of companies, but rather to individual LECs.

269. The BOCs argue that the function provided by the central data base is purely administrative and is used only for the assignment of 800 numbers. Further, the BOCs state that, because each BOC does not directly incur the central data base costs within the BOC's operations, these costs are not reflected on the individual BOC's books of account or subject to Part 36 jurisdictional assignment.⁴⁴¹ The BOCs contend that, for each activation of an 800 number for which a tariffed charge is assessed, only one tariff can apply, even if that 800 number provides interstate service as well as intrastate service in several states.⁴⁴² At least one BOC, however, acknowledges using the central data base to provide Resporg service on an intrastate basis.⁴⁴³

c. Oppositions

270. MCI argues that the central data base system has been used and can continue to be used for wholly intrastate, combined interstate and intrastate, as well as wholly intrastate 800 numbers. Thus, MCI argues, direct and total assignment to the interstate jurisdiction is inappropriate. MCI argues that the LECs should be required to allocate a portion of the central data base costs to the intrastate jurisdiction.⁴⁴⁴

⁴³⁹ *Id.* at 18.

⁴⁴⁰ It is possible for a customer to have a single 800 number that simultaneously provides interstate service and intrastate service. For example, the number 800 NEW-CARS could be activated and advertised on a national basis with the 800 calls routed to the nearest participating car dealer. In such a situation, much of the traffic to each participating dealer would be intrastate. Such a number would have different routing instructions entered into the central data base for the territory of each participating dealer.

⁴⁴¹ BOC Reply at 19.

⁴⁴² *Id.* at 20.

⁴⁴³ US West Reply at 16 n.37 and 18 n.43; *see also* US West Clarification at 1-3 (filed May 17, 1994) (US West provides Resporg services for some 800 numbers that carry both interstate 800 service, provided by a cooperating IXC, and intra LATA 800 service, provided by US West).

⁴⁴⁴ MCI Opposition at 62.

d. Discussion

271. The Commission has found, in the *Comptel Petition Order*, that the central data base access service provided to Resporgs is a common carrier service under Title II of the Communications Act⁴⁴⁵ and must be offered pursuant to tariff.⁴⁴⁶ We find in this Order that the costs included in the cost support for the central data base tariff subject to this investigation are reasonable, based on the cost support that the BOCs have provided.

272. We do not believe, however, that the BOCs have applied the correct test for determining how the costs of this service should be allocated. The key to determining the jurisdiction to which a call is assigned is the nature of the communication itself.⁴⁴⁷ In the present case, the Resporgs are connected to the central data base by data lines, either dedicated or dial-up, through which they reserve numbers and enter changes in customer records. In turn, the central data base is connected to the regional data bases by dedicated lines and downloads updated data base information to them on a daily basis. This interaction between the central data base and the regional data bases is essential for the routing of all 800 traffic, whether the traffic to a particular 800 number is entirely interstate, entirely intrastate or composed of both interstate and intrastate calls. The BOCs assert that the jurisdictional nature of the central data base should be determined by the jurisdictional nature of the data lines that connect the Resporgs to the central data base. They claim that the "normal communication" from the Resporg to the central data base is interstate. We do not agree that the "normal" nature of traffic over the data lines that connect Resporgs with the central data base is the correct standard for determining the jurisdictional nature of the costs for the central data base service. Acceptance of the BOCs' argument would lead us to conclude that communications between Resporgs and the central data base within the state where the central data base is located are not "normal," an illogical conclusion that we decline to reach.

273. The BOCs have not asserted that there are no dedicated intrastate lines between Resporgs and the central data base. Moreover, 80 percent of the Resporgs' links⁴⁴⁸ to the

⁴⁴⁵ 47 U.S.C. § 201, *et. seq.*

⁴⁴⁶ *Comptel Petition Order*, 8 FCC Rcd at 1426.

⁴⁴⁷ Petition for Emergency Relief and Declaratory Ruling Filed by the BellSouth Corporation, 7 FCC Rcd 1619 (1993).

⁴⁴⁸ Resporgs can obtain access to the central data base either through dedicated or shared common lines. Dedicated lines are only used to carry data between a fixed Resporg location and the central data base without an intervening switch. Shared common lines connect the Resporg to the central data base when the Resporg dials a designated number and the call is routed through one or more switches to the central data base. Unlike dedicated lines, a shared commo

central data base are shared lines⁴⁴⁹ and the BOCs provide no explanation of how they could determine the origin of traffic on those links and, hence, the jurisdictional nature of that traffic. It is clear that at least some of the traffic between Resporgs and the central data base will not cross state lines and thus, even under the test proposed the BOCs, they have failed to show that the central data base service is entirely interstate.⁴⁵⁰ The fact that a Resporg may access the central data base on an intrastate or interstate basis has no bearing on whether it is using the central data base to support interstate or intrastate 800 service. For example, US West acts as a Resporg for intrastate 800 service although the data lines that connect it to the central data base are undoubtedly interstate. Thus, we find that the jurisdictional nature of the data lines that the Resporgs use to access the central data base is irrelevant to a determination of whether the central data base is a purely interstate service.

274. We agree, however, with the BOCs that central data base services are a new kind of service for which it may be difficult to determine the jurisdictional nature.⁴⁵¹ With regard to the central data base, a customer record can control a single 800 number that simultaneously provides interstate service and intrastate service in more than one state. Likewise, the activation or change charge can apply to a transaction that simultaneously impacts service in multiple jurisdictions. In most instances, it would be difficult for the central data base administrator to determine, at the time the transaction occurred, whether the change affects the interstate or intrastate jurisdiction, or both, and which tariffed charge should apply if the central data base service were tariffed at both the federal and state levels. We find that it would be inappropriate to attempt to determine jurisdiction based on the jurisdictional nature of the Resporg traffic to and from the central data base or of the underlying 800 service traffic.

line can be used by a Resporg to connect to the central data base from virtually any location. A Resporg can change locations from session to session using such shared common lines. Therefore, while it is generally possible to determine the geographical origin of Resporg communications to the central data base over dedicated lines, it is much more difficult to determine the geographical origin of Resporg traffic using the central data base.

⁴⁴⁹ BOC Direct Case, Attachment 1, Appendix 1, Exhibit 9 of 10 (the BOCs project demand for 12,527 dial-up lines, 2,490 dedicated 9.6 kilobits per second links and 595 dedicated 56 kilobits per second links).

⁴⁵⁰ Applications for Review of the Common Carrier Bureau's Letter of Interpretation Regarding the Certification of the Role of Direct Assignment in the Jurisdictional Separations Process, 8 FCC Rcd 1558, 1562 n.34 (1993) (direct assignment to the interstate jurisdiction of the costs of providing a switched service is proper only when the service handles only interstate or only intrastate traffic and therefore is jurisdictionally pure).

⁴⁵¹ See Amendments of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, 6 FCC Rcd 4524, 4535-36 (1991).

275. The primary purpose of the central data base is to store information and to make that information available to carriers routing 800 traffic. Given the many ways the Resporgs access the central data base and the difficulty in determining the jurisdictional nature of the underlying 800 traffic supported by the central data base, we find it reasonable to assign all of the costs of that data base to the federal jurisdiction. The Resporgs are the only parties that will incur tariffed charges for central data base services. Thus, the Resporgs, and not the general body of interstate rate payers, are the parties that will be affected by this assignment and, therefore, we see no harm that could arise from this assignment of costs to the interstate jurisdiction. Moreover, the central data base was created to implement a federal policy initiative, the establishment of the 800 data base system for the routing associated with all 800 service calls, and for the portability of 800 numbers. Therefore, even though the costs incurred in offering the tariffed services offered to Resporgs through the central data base shall be subject to the Part 36⁴⁵² separations process, no state has undertaken tariff regulation of the central data base services for Resporgs. In the absence of such state regulation, we will permit the assignment of all those costs to the interstate jurisdiction. Thus, we will allow the BOCs to assign all of the costs of providing the central data base service directly to the interstate jurisdiction, provided that this assignment does not result in the double recovery of costs relating to the central data base service through charges put in place at the state level. If any state requires the BOCs to file a tariff for the central data base that would result in costs being reassigned to the intrastate jurisdiction, we would require the BOCs to revise their rates to reflect those reductions in their interstate costs.

IV. JOINT APPLICATION FOR REVIEW

A. BACKGROUND

276. Bellcore has developed several cost models that the LECs use to determine the investment required to produce one unit of output for each of the discrete functions provided by a computer.⁴⁵³ In the ONA proceeding,⁴⁵⁴ many of the LECs used a Bellcore-developed cost model to analyze, for example, how much switch investment was needed to provide automatic number identification (ANI). That model is the Signalling Cost Information System (SCIS) model.

⁴⁵² 47 C.F.R. Part 36.

⁴⁵³ The models are used to calculate investment when a piece of equipment provides multiple services and its cost must be allocated among them. The allocation is done on the basis of cost per unit of output. In the present investigation, a unit of output might be one basic 800 data base query or one translation to the "plain old telephone" (POTS) number. If equipment provides only one service, a model need not be used because no allocation is necessary.

⁴⁵⁴ Commission Requirements for Cost Support Material to be Filed with Open Network Architecture Tariffs, 7 FCC Rcd 1526 (Com. Car. Bur. 1992) (*SCIS Disclosure Order*).

277. In the 800 data base investigation, all of the petitioners except US West initially used the Common Channel Signalling Cost Information System (CCSCIS) model to develop the investment for their vertical features. This model is similar to the SCIS model but analyzes the equipment in the SS7 network. SCIS is an interactive computer system that calculates the investment costs for 800 services supported by switch technologies from five manufacturers.⁴⁵⁵ SCIS can calculate investment costs on either an average or marginal cost basis for a single switching office, or for a group of switching offices. These SCIS developed investment costs become the basis for calculating the costs that ultimately become the basis for rates.⁴⁵⁶ US West used its own Switching Cost Model (SCM) to develop such investments. In the *Designation Order*, the Bureau concluded that LECs should not be permitted to rely on undisclosed cost support material.⁴⁵⁷ The Bureau concluded that the 800 data base investigation was distinguishable from the investigation of open network architecture (ONA) rates, in which we permitted LECs to rely in part on undisclosed computer models to develop cost support information for ONA rates. The Bureau determined that for development of 800 data base rates, LECs did not need to rely exclusively on computer models.⁴⁵⁸ In particular, the Bureau noted that we allowed LECs to rely on partially undisclosed cost support in the ONA investigation because the use of the model in question was necessary to identify the costs for services developed through the discrete and intricate functions performed by a switch. The Bureau found no comparable need in the context of 800 data base basic rates because three LECs developed their basic rates without a computer model.⁴⁵⁹

278. The Bureau's *Designation Order*,⁴⁶⁰ therefore, gave price cap LECs two options for disclosing the cost support associated with their 800 data base service tariffs. Under the first option, a LEC could use a computerized cost model to develop costs in its direct case but had to disclose that model on the record. Alternatively, a LEC could develop its costs using another method, provided that it disclosed on the record the support

⁴⁵⁵ The manufacturers are AT&T Technologies Inc., Ericsson Network Systems Inc., Northern Telecom Inc., Siemens Public Switching Systems Inc. and Stromberg-Carlson.

⁴⁵⁶ Costs include capital costs, *i.e.*, depreciation and return on investment; other costs, *i.e.*, maintenance and administration; and overhead costs, *i.e.*, marketing and corporate operations expenses.

⁴⁵⁷ *Designation Order*, 8 FCC Rcd at 5135-36.

⁴⁵⁸ *Id.* at 5135 n.24, citing *SCIS Disclosure Order*, 7 FCC Rcd 1526 .

⁴⁵⁹ *Designation Order*, 8 FCC Rcd at 5135 n.24.

⁴⁶⁰ *Id.* at 5132.

materials.⁴⁶¹ The LECs filed three petitions requesting waiver of the cost disclosure requirement.⁴⁶² The petitions for waiver proposed in the alternative that the cost models not be filed on the public record but that a limited disclosure be made to interested parties that signed protective agreements. The Bureau denied these petitions in its *800 Cost Disclosure Order* because granting them would limit interested parties' participation in the 800 data base investigation and deprive the Commission of those parties' insights into the cost models.⁴⁶³ In denying the LECs' petitions, the Bureau identified a third alternative LECs could use: if a LEC still wanted to rely on its proprietary cost model it could protect the model's confidentiality from full public disclosure but it would have to disclose that model fully to interested parties if those parties signed protective agreements.⁴⁶⁴

279. US West had also previously filed a petition for reconsideration of these disclosure requirements.⁴⁶⁵ The legal and factual arguments in the petition for reconsideration and US West's later contingent petition for waiver were identical. That petition for waiver incorporated the petition for reconsideration by attaching it as an exhibit and the petition for waiver added no new legal or factual arguments. As noted in paragraph 278, the arguments in the petition for waiver were disposed of by the Bureau in the *800 Cost Disclosure Order*.⁴⁶⁶

280. On March 2, 1994, five of the Bell Operating Companies (the petitioners) filed a joint application for review⁴⁶⁷ of the *800 Cost Disclosure Order*. Five parties filed oppositions⁴⁶⁸ to the joint application for review, and the petitioners filed reply comments. The petitioners do not contest the Bureau's conclusion that alternative methods of cost support are available to calculate exogenous costs for basic query services. Their entire

⁴⁶¹ *Id.* at 5135-36

⁴⁶² *See* note 25, *supra*.

⁴⁶³ *800 Cost Disclosure Order*, 9 FCC Rcd at 715.

⁴⁶⁴ *Id.* at 718.

⁴⁶⁵ Petition for Clarification or, in the Alternative, Reconsideration, filed by US West (Aug. 18, 1993) (*US West Petition for Reconsideration*) (requesting the Bureau to reconsider its *800 Cost Disclosure Order*).

⁴⁶⁶ *800 Cost Disclosure Order*, 9 FCC Rcd at 715.

⁴⁶⁷ Application for Review, filed Mar. 2, 1994, by Ameritech, Bell Atlantic, Pacific Bell, NYNEX and US West (Joint Application); *see also* note 27, *supra*.

⁴⁶⁸ *See* note 28, *supra*.